



# Just In Time

CLRI(NSW) Social Justice Committee

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## Rights: enshrine or quarantine?

### Introduction

Debates have recently emerged about whether or not Australia should instate a Bill of Rights, to enshrine the human rights of all Australian citizens in law. Meanwhile, since mid-2007 the rights of Aboriginal Australians, living on Aboriginal land in the Northern Territory (NT), have been set aside to make way for the Northern Territory Emergency Response (NTER), otherwise known as the Intervention.

There is a great deal of irony in the simultaneous occurrence of these two legal and political phenomena in Australia. We may be forced to question whether the rights of certain Australians are given preference over others, purely on the basis of race.

In 1975 the Racial Discrimination Act (RDA) was created to protect Australians from discrimination on the basis of race. Rather than ensuring that the measures taken in the Intervention were in accordance with the RDA, the Government chose instead to set aside the Act.

It is very easy to become confused when discussing the Intervention. There is a broad spectrum of opinions and some conflicting facts and figures about the Intervention's programs and their effects.

In order to help us understand the NTER, we talked to Tom Calma, the Aboriginal and Torres Strait Islander Social Justice Commissioner and Race Discrimination Commissioner, at the Australian Human Rights Commission (AHRC).

This issue of Just in Time attempts to provide a clear perspective on the Intervention in an endeavour to understand its complexities. There will always be conflicting opinions about this issue and its continuing ramifications in the NT, but the hope is that the following will provide a simple explanation based on facts rather than ideology.

### In the beginning...

In the long and controversial two years that have passed since the beginning of the NTER, the original reason for its existence may have been forgotten. The abuse of children has since found to be, while a serious issue, not the emergency situation portrayed in 2007. Indeed, it is other issues such as housing and teacher shortages, alcohol and substance dependence, and poor health standards that have come to be the focus of the Intervention. A holistic approach is being taken to address the shameful living circumstances faced by many Aboriginal people in the NT. While this is a positive movement, the way in which the Intervention measures have been conducted thus far have caused even greater difficulties.

From the outset, the deferral of the RDA casts a grim light on the ethical fabric of the NTER. While the problems targeted in the Intervention affect predominantly Aboriginal communities, they are not always problems *arising* from Aboriginal people, and they do not affect *all* Aboriginal people. Take, for example the seminal issue of child abuse. In many cases, the abuse of Aboriginal children was committed by visiting contract workers of non-Aboriginal descent, yet it has been Aboriginal men who have been vilified. Not all Aboriginal people have children or have contact with vulnerable children, yet all suffer under the same restrictions imposed by the Intervention. The fact that the Intervention applies alike to those who are implicated in these issues and those who are not, simply because they are Aboriginal, seems to be a clear case of racial discrimination. At this point in our history, are Australians prepared to tolerate this?

The programs initiated through the Intervention have mixed results but while they defy the basic human right to live without racial discrimination, they will always be unjust at their core.

## What can I say?

When discussing the Intervention it can be hard for non-Aboriginal people, who are removed from the situation, to provide an opinion that does justice to the multitude of responses found within Aboriginal communities. What *can* be said without doubt is that a solution to the inequalities faced by Indigenous Australians cannot be reached through the breach of their human rights. The most fundamental change we can ask of our Government is that they immediately re-instate the RDA and the Northern Territory Anti-Discrimination Act. Thankfully, plans are in place to do so. There are, though two years too late, glimmers of hope that the Intervention can be turned into a positive thing for Aboriginal people across the NT. Jenny Macklin, the Federal Minister for Indigenous Affairs, is leading consultations in the NT, where members of affected communities can have their say about the NTER. It is hoped that these in-depth consultations will lead to positive changes to the structure of the Intervention. Some basic changes suggested by Tom Calma are:

- § The immediate re-instatement of all anti-discrimination acts
- § Making schemes such as Income Management voluntary
- § Developing all further policy and programs through direct consultations with Aboriginal people, and with the involvement of Aboriginal people in their implementation.

The AHRC (then known as the Human Rights and Equal Opportunity Commission) 2007 Social Justice Report contains an in-depth review of the NTER, written by Tom Calma, and contains a ten-point action plan for amending it so that it complies with human rights. After almost two years, this document is still a relevant and helpful guide to understanding the human rights implications of the Intervention.

## Moving forward

During the interview, Mr Calma was asked how ordinary people could best act to change the Intervention into something positive. He responded with lots of ideas for positive action, and especially encouraged Catholics, noting that many religious organisations have already shown support for Indigenous people. We recommend that you gather together with your community to achieve some of the following:

- § Devote some time in a Mass or community meeting to talk about the Intervention. Through

an open discussion you can de-mystify the Intervention and, hopefully, take action together.

- § Get in touch with a community in the NT and share your own stories with them. Some form of cultural exchange can be a great way to make a positive impact.
- § If you have connections to a primary school, suggest that they get involved with the **Wakakirri** performance and arts festival, which has an outback program that links with children in remote Aboriginal communities. They can be supported through participation but also through donations.
- § CLRI(NSW) currently has a number of postcards that outline our desired changes to the Intervention. If you see one of these in your congregation, we recommend that you add your name to it and post it off!

## Web Links



We recommend that you visit the following sites for more information and links to ways that you can help!

**You can read Tom Calma's analysis of the Intervention and human rights in HREOC's 2007 Social Justice Report online:**

[http://www.humanrights.gov.au/social\\_justice/sj\\_report/sjreport07/index.html](http://www.humanrights.gov.au/social_justice/sj_report/sjreport07/index.html)

**This Close the Gap Community Guide can be a great resource when taking community action. See its suggestions for involvement on page 8:**

[http://www.humanrights.gov.au/social\\_justice/health/ctg\\_community.pdf](http://www.humanrights.gov.au/social_justice/health/ctg_community.pdf)

**To learn more about Wakakirri and get your school involved visit:**

<http://www.wakakirri.com>

**Writing to your local member is always a positive step. Find your member's contact details here:**

<http://www.aph.gov.au/whoswho/index.htm>

**To read past issues of Just in Time visit the CLRI(NSW) website:**

<http://www.clrinsw.org>

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