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Senate Standing Committee on Community Affairs  
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February 2010

Committee Secretary

**Re: Inquiry into the amending bills concerning the NT Intervention**

Dear Senate Community Affairs Committee,

The Northern Territory Emergency Response (NTER), also called NT Intervention, and associated measures contravene Australia's human rights obligations under both Australian and international law. They clearly fail to meet the necessary requirements in order to be classed as special measures.

In order to make the NT Intervention compliant with the Racial Discrimination Act 1975 (Cth), the government is now proposing to extend income management nationally, disguising discrimination as "special measures" for the benefit of Aboriginal people thereby enabling them to continue their racist policies. It will still be Aboriginal people who will be disproportionately affected. In addition income management will then also discriminate against class, i.e. affect only certain disadvantaged groups on social welfare payments. Non-Aboriginal people will only have their welfare payments quarantined if they are considered to be disadvantaged whereas everyone in the 73 Aboriginal communities in the NT has been deemed to be disadvantaged. According to international law, Aboriginal people have the right to decide whether or not they accept any such special measures, but unfortunately most Aboriginal people are not consulted prior to the announcement of any policies like these.

It seems to me that many Australians are not fully aware of and at best confused about the proposed new legislation of extending compulsory income management across the nation as well as the major negative implications of the new legislation (which would considerably change the nature of the Australian income security system), nor does it appear to have been properly explained.

For reasons of all the huge negative implications and impacts of the top-down, blanket approach of the NTER measures on Aboriginal peoples as further outlined in the attached paper, I urge you to take immediate action on the following points regarding the NTER:

- Immediate and unconditional reinstatement of the RDA 1975.
- No compulsory income management for Aboriginal peoples nor compulsory income management to be extended nationally. Rather provide the possibility for people who may wish to get on income management to be able to do so on a voluntary basis
- Instead provide financial counselling and other services where necessary
- Genuine and real consultations in partnership with Aboriginal peoples by respecting their wishes, observing international treaties including their "free, prior and informed consent"

- Allow and respect Aboriginal communities to come up with their own solutions, driven by their own communities
- Self-determination, not assimilation, the opportunity for Aboriginal peoples to make their own decisions
- No more defunding of successful Aboriginal community initiatives and programmes
- No further compulsory acquisition of Aboriginal land nor coercion of Aboriginal peoples into signing away their land for any number of years
- Just terms compensation where land has already been compulsorily acquired
- Recognition of Aboriginal peoples right to collectively own, occupy and enjoy their traditional territories as an inherent right arising from prior occupation – as has been recognized by the international community
- Instead of pushing Aboriginal people off their approximately 600 remote homeland communities in the NT (forcing them to move from their ancestral lands) by investing in and providing basic services for only up to 20 larger 'Territory Growth Towns', increase investment and services in homelands which create healthy lands, healthy communities and healthy people
- No radioactive nuclear waste to be dumped on Aboriginal land, including the NT, without the full consensus of all traditional owners
- Aboriginal controlled housing, jobs and services for all communities
- Equality and equal opportunities, services and human rights for all Aboriginal peoples as for any other Australian
- No phasing out of bilingual education in the NT, otherwise Aboriginal culture and identity will be destroyed, leading to linguistic genocide
- Remove all signs regarding pornography and alcohol bans and no other signs to be publicly displayed without the explicit consent of the Aboriginal communities concerned
- Report specific objective improvements in health and education statistically, not just anecdotally, providing real evidence-based outcomes for any government initiative considered to be for the “benefit” of Aboriginal peoples

Thank you very much for your kind attention and consideration of my submission.

Sincerely,

Sabine Kacha

# **Inquiry into Social Security and Other Legislation Amendment (Welfare Reform and Reinstatement of Racial Discrimination Act) Bill 2009 and the Families, Housing, Community Services and Indigenous Affairs and Other Legislation Amendment (2009 Measures) Bill 2009 along with the Families, Housing, Community Services and Indigenous Affairs and Other Legislation Amendment (Restoration of Racial Discrimination Act) Bill 2009**

## **Human Rights and the NT Intervention**

Australia has gross limitations of human rights protections and there are by no means sufficient human rights protections entrenched in the Australian Constitution. Neither does Australia have a Human Rights Act to protect the rights of its citizens. As stated in the 2008 Social Justice Report by the Aboriginal and Torres Strait Islander Social Justice Commissioner “In 2008, Australia remains the only democratic country in the world without a national bill of rights or charter of rights in some form. We have not implemented in domestic legislation more than half of the international legal obligations that we have undertaken to respect through ratifying international human rights treaties”.<sup>1</sup>

Article 5 of the *International Covenant of Civil and Political Rights* to which Australia is a signatory enshrines the principle that any one human right shall not be breached in order to promote the enjoyment of another human right, i.e. there is no hierarchy of ‘more important’ and ‘less important’ rights. As the Social Justice Report 2007 explains further “In relation to the NT intervention, the implication of this should be clear: it is **not** appropriate to seek to justify discriminatory measures on the basis that they are undertaken in furtherance of another right (such as addressing violence). Human rights law requires that solutions be found that respect and protect *both* rights. The relevant human rights issues raised by the NT intervention can be categorised into the following broad thematic areas:

- Equality before the law, non-discrimination and special measures;
- Rights to be free from violence and abuse;
- Rights to effective participation in decision-making and self-determination;
- Accountability and transparency measures in the implementation of rights; and
- Justifiable limits on the protection of rights (such as in times of public emergency).”<sup>2</sup>

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<sup>1</sup> Aboriginal and Torres Strait Islander Social Justice Commissioner, 2009, *2008 Social Justice Report*, page 40, Australian Human Rights Commission, Sydney NSW 2001.

<sup>2</sup> Social Justice Report 2007, Chapter 3: The Northern Territory ‘Emergency Response’ intervention – A human rights analysis, [http://www.humanrights.gov.au/social\\_justice/sj\\_report/sjreport07/chap3.html](http://www.humanrights.gov.au/social_justice/sj_report/sjreport07/chap3.html).

The Apology by the Rudd government is welcome, but future government apologies will be needed, because under the NT Intervention, Australia is in breach of a staggering 25 articles – more than half - of the United Nations Declaration on the Rights of Indigenous Peoples (UNDRIP). Of the Universal Declaration of Human Rights, which Australia endorsed decades ago, the intervention breaches almost half of the 30 articles. In its article “The intervention: a battalion of human rights breaches” of 2 October 2008, the National Indigenous Times (NIT) presents an excellent and detailed analysis of an appalling high number of breaches of the Declaration’s articles on several fronts, e.g. RDA, IM, absence of consultations.<sup>3</sup>

At the conclusion of his visit to Australia on 27 August 2009, United Nations Special Rapporteur, Professor James Anaya voiced his concerns about the income management regime, imposition of compulsory leases, and community-wide bans on alcohol consumption and pornography. Indigenous Affairs Minister Jenny Macklin continued to defend the Northern Territory Intervention as necessary to protect the rights of vulnerable people, especially children, after Professor Anaya’s criticism it is racist.<sup>4</sup> Professor Anaya agreed “that affirmative measures by the Government to address the extreme disadvantage faced by indigenous peoples and issues of safety for children and women are not only justified, but they are in fact required under Australia’s international human rights obligations.” However, contrary to Minister Macklin’s views, Professor Anaya goes on to say “any such measure must be devised and carried out with due regard of the rights of indigenous peoples to self-determination and to be free from racial discrimination and indignity. In this connection, any special measure that infringes on the basic rights of indigenous peoples must be narrowly tailored, proportional, and necessary to achieve the legitimate objectives being pursued. In my view, the Northern Territory Emergency Response is not. In my opinion, as currently configured and carried out, the Emergency Response is incompatible with Australia’s obligations under the Convention on the Elimination of All Forms of Racial Discrimination and the International Covenant on Civil and Political Rights, treaties to which Australia is a party, as well as incompatible with the Declaration on the Rights of Indigenous Peoples, to which Australia has affirmed its support.”<sup>5</sup>

## **Suspension of the Racial Discrimination Act 1975 (Cth)**

The measures of the NTER would not have been possible without the suspension of the Racial Discrimination Act 1975 (Cth).

The claim by both the Government, and by the Leader of the Opposition in the House of Representatives on 6 August 2007, that the proposed legislation is consistent with the Racial

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<sup>3</sup> National Indigenous Times, 2 Oct 2008, The intervention: a battalion of human rights breaches, Issue 163, <http://www.nit.com.au/story.aspx?id=16231>.

<sup>4</sup> Online parliamentary correspondent Emma Rodgers, ABC News, Intervention protects vulnerable: Macklin, <http://www.abc.net.au/news/stories/2009/08/28/2670036.htm>.

<sup>5</sup> Statement of the Special Rapporteur on the situation of human rights and fundamental freedoms of indigenous people, James Anaya, as he concludes his visit to Australia, 27 August 2009, <http://www.unhcr.ch/hurricane/hurricane.nsf/view01/313713727C084992C125761F00443D60?opendocument>.

Discrimination Act (RDA) is another problem with the discriminatory nature of the NT Intervention. In its submission to the inquiry by the Senate Standing Committee on Legal and Constitutional Affairs into the Northern Territory National Emergency Response Bills, the Law Council of Australia correctly notes, that “if such claim were correct, the Government and its advisers would not have considered it necessary to suspend the operation of the RDA.”<sup>6</sup>

The federal NTER legislation introduced measures to address sexual abuse of children and family violence in 73 prescribed Indigenous communities in the NT in 2007. However, protecting children can be achieved without discrimination and without infringing other human rights - the government did not have to suspend the RDA in order to protect children from sexual abuse and family violence. Where is the evidence that compulsory income management protects children’s rights and prevents sexual abuse of children? The suspension of the RDA means Aboriginal people have no right to appeal. It should be the right of an Aboriginal person as for any other Australian citizen to appeal.

An Intervention that relies on the suspension of the very Act designed to protect people from racism, makes a mockery of any claim that it is for the benefit of Aboriginal people.<sup>7</sup>

In January 2009 Aboriginal peoples subject to the measures of the NTER legislation made an appeal to the International Committee for the Elimination of Racial Discrimination (CERD) in form of a “Request for Urgent Action. CERD adjudged the Northern Territory intervention laws to be a breach of international law and “notes with concern that the Racial Discrimination Act was suspended as a necessity to enact the measures contained in the NTER.”<sup>8</sup>

## **Reinstatement of the RDA**

The Rudd government continues the suspension of the Racial Discrimination Act that was introduced by the Howard government in June 2007 and it had promised to finally reinstate it by October 2009. However, as no steps had been taken to reinstate the RDA as promised, the Greens introduced legislation in the Senate on 29 October 2009 to have the RDA reinstated immediately and unconditionally. Despite the Greens move and contrary to the current government’s promise, the RDA is currently still being suspended and with the introduction of the new legislation is likely to remain that way until at least the end of 2010. In order to make the NT Intervention compliant with the RDA, the government is now proposing to extend income management nationally, disguising discrimination as “special measures” for the benefit

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<sup>6</sup> Law Council of Australia, Submission to the Senate Standing Committee on Legal and Constitutional Affairs, 9 August 2007, Northern Territory National Emergency Response Legislation, [http://www.aph.gov.au/Senate/committee/legcon\\_ctte/completed\\_inquiries/2004-07/nt\\_emergency/submissions/sub52.pdf](http://www.aph.gov.au/Senate/committee/legcon_ctte/completed_inquiries/2004-07/nt_emergency/submissions/sub52.pdf).

<sup>7</sup> Human Rights Day Statement, 13 December 2008, <http://www.stoptheintervention.org/>.

<sup>8</sup> STATEMENT BY LES MALEZER, CHAIRPERSON OF THE FOUNDATION FOR ABORIGINAL AND ISLANDER RESEARCH ACTION, 18 March 2009, Australia promises to end racial discrimination, <http://sydney.indymedia.org.au/story/australia-promises-end-racial-discrimination>.

of Aboriginal people thereby enabling them to continue their racist policies. It will still be Aboriginal people who will be disproportionately affected. In addition income management will then also discriminate against class, i.e. affect only certain disadvantaged groups on social welfare payments. Non-Aboriginal people will only have their welfare payments quarantined if they are deemed to be disadvantaged whereas everyone in the 73 Aboriginal communities in the NT has been deemed to be disadvantaged. According to international law Aboriginal people have the right to decide whether or not they accept any such special measures, but unfortunately most Aboriginal people are not consulted prior to the announcement of any policies like these. "The legislation now before the Parliament perpetuates discrimination by providing neither relief from, nor redress for, discriminatory action already taken under the intervention. It allows measures such as race-based compulsory income management to continue, unchanged, until mid 2011. Moreover, it provides no guarantee that the amended intervention legislation would be bound by the RDA, an important omission given that a constitutional power to make race-based law exists but entrenched protection against racial discrimination does not. That the same government that delivered the Apology to the Stolen Generations and endorsed the Declaration on the Rights of Indigenous Peoples should still be developing and implementing policy without the free, prior and informed consent of those affected can only be a matter for profound disillusionment."<sup>9</sup>

## Special measures

The National Native Title Council (NNTC) does not accept that the protection of "special measures" can justify critical aspects of the NTER legislation, especially the compulsory acquisition of five-year leases over Aboriginal land. NNTC finds the claimed justification of the provisions of the NTER Act, and of acts done under or for the purposes of those provisions, as "special measures" for the purposes of the RDA highly problematic. "Article 1(4) of CERD provides that special measures are: *"measures taken for the **sole purpose of securing adequate advancement** of certain racial or ethnic groups or individuals requiring such protection as may be necessary in order to **ensure equal enjoyment or exercise of human rights** and fundamental freedom, provided that such measures do not lead to the maintenance of separate rights for different racial groups and that they shall not be continued after the objectives for which they were taken have been achieved "* (emphasis added)...And as Brennan J observed in *Gerhardy v Brown* (1985) 159 CLR 70: *"A special measure must have the sole purpose of securing advancement, but what is "advancement"? ... The purpose of securing advancement for a racial group is not established by showing that the branch of government or the person who takes the measure does so for the purpose of conferring what it or he regards as a benefit for the group if the group does not seek or wish to have the benefit. The wishes of the beneficiaries for the measure are of great importance (perhaps essential) in*

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<sup>9</sup> Robyn Seth-Purdie, 15 February 2010, Discrimination as usual for Australia's Indigenous policy, <http://www.onlineopinion.com.au/view.asp?article=10047>.

*determining whether a measure is taken for the purpose of securing their advancement. The dignity of the beneficiaries is impaired and they are not advanced by having an unwanted material benefit foisted on them.*"<sup>10</sup>

Similarly to the NTER legislation measures having been declared "special measures", they continue to be called "special measures" under the proposed new laws.

## Consultation process

In order to justify the continuation of compulsory income management measures claiming them to be "special measures" and enabling the process of reinstating the RDA, the government had embarked on a so-called consultation process from June to September 2009, spending large sums of money engaging in the process of extensive consultations across the Northern Territory. It is my belief that the government failed to listen to what was said by Aboriginal people during the consultations. During many consultations known public servants explained to the local Aboriginal people the benefits of the income management measures and did not ask them whether they wished compulsory income management to continue, instead asking whether they would prefer an opt-in, opt-out system or the continuation of compulsory income management. It is doubtful that the complex proposed new legislation was explained properly. The "*Will they be heard?*"<sup>11</sup> report launched in November 2009 contains transcripts of three consultations undertaken by the Federal Government in three Aboriginal communities in the Northern Territory. It also looked at other community reports and five government regional reports from the same consultative process seeking the views of representatives from all prescribed communities in the Northern Territory. The report reveals that Aboriginal people were voicing strong opposition to compulsory income management and other NTER measures. The Greens Senator had asked for other transcripts from the government's consultations to be publicly released, but they were denied. This raises the question if the government's claims' that the majority of Aboriginal people like income management are correct. If there was nothing to hide, why would the transcripts not be released? The book "*This Is What We Said*" is a follow-up to the "*Will they be heard?*" report. Using pictures and quotations taken from footage of actual consultations at Bagot, Ampilatwatja, Utopia and Yirrkala, it provides a graphic account of the depth of frustration and despair of many Aboriginal people in the Northern Territory regarding the Intervention. Even the supposedly independent report from CIRCA who had done work in the area for the government, outlined many difficulties encountered in the consultation processes.

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<sup>10</sup> The National Native Title Council submission to the Northern Territory Emergency Response Review, Racial Discrimination Act 1975 (CTH), [http://www.nterreview.gov.au/subs/nter\\_review\\_report/141\\_national\\_native\\_title\\_council/141\\_National\\_Native\\_Title\\_Council\\_4.htm](http://www.nterreview.gov.au/subs/nter_review_report/141_national_native_title_council/141_National_Native_Title_Council_4.htm).

<sup>11</sup> Will they be heard? Report, a response to the NTER Consultations June to August 2009, <http://www.socialpolicyconnections.com.au/Portals/3/docs/wil%20they%20be%20heard%20report%20nov%2009.pdf>.

Members of the Prescribed Area Peoples' Alliance have stated among other things from their 18-19 June 2009 meeting: "We feel shame. This policy is continuing to put us down. There is no consultation. People need to have ownership over decisions that affect their community. Jenny Macklin says she is talking to people in the communities, but everytime we invite her to come meet with us she refuses. Proper consultation is government coming to our homelands or communities, sitting down with us without a time limit and listen and talk to us face to face. Listen to our ideas. Talk to us properly. What we want. Come out to our homeland."<sup>12</sup>

Therefore I strongly encourage every person concerned about the existence of human rights, respect and dignity for their fellow human beings to look at the "*Will they be heard?*" report and read the book "*This Is What We Said*" containing quotes of what Aboriginal people have really said during the consultation process. It is highly important that these views are heard.

### Importance of "Free, prior and informed consent"

While the Rudd government has finally expressed its support for the United Nations Declaration on the Rights of Indigenous Peoples on 3 April 2009 – "Today, Australia joins the international community to affirm the aspirations of all Indigenous peoples"<sup>13</sup> – the RDA was to be reinstated by October 2009. This now leaves only three of the four States who originally voted against the legally non-binding United Nations Declaration on the Rights of Indigenous Peoples that was adopted by the United Nations General Assembly in September 2007. The issue of "**free, prior and informed consent**" is included in six of UNDRIP's 46 articles. Yet in its support statement for UNDRIP, the Minister said that "While there is continuing international debate about the meaning of 'free, prior and informed consent', we will consider any future interpretations in accordance with Article 46."<sup>14</sup> The document "UN experts welcome Australia's endorsement of the UN Declaration on the Rights of Indigenous Peoples" states that "the rights recognized in the Declaration constitute the minimum standards for the survival, dignity and well-being of the indigenous peoples of the world" and that "The main challenge for Member States is to ensure that the Declaration is implemented at national and regional levels, in consultation and cooperation with indigenous peoples, including through the adoption of appropriate policies and legislation."<sup>15</sup> Unfortunately, the above has not been the case through the intervention as there have not been genuine consultations in real partnership with Aboriginal peoples as can be seen from the "*Will they be heard?*" report nor has the RDA been reinstated yet.

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<sup>12</sup> ONE VOICE' GATHERING IN DARWIN, PRESCRIBED AREA PEOPLES ALLIANCE STATEMENT 18-19 JUNE 2009, Stop the Intervention: Self-Determination not Assimilation, <http://rollbacktheintervention.wordpress.com>.

<sup>13</sup> The Hon Jenny Macklin MP, Minister for Families, Housing, Community Services and Indigenous Affairs, 3 April 2009, Statement on the United Nations Declaration on the Rights of Indigenous Peoples, [http://www.jennymacklin.fahcsia.gov.au/internet/jennymacklin.nsf/content/un\\_declaration\\_03apr09.htm](http://www.jennymacklin.fahcsia.gov.au/internet/jennymacklin.nsf/content/un_declaration_03apr09.htm).

<sup>14</sup> The Hon Jenny Macklin MP, Minister for Families, Housing, Community Services and Indigenous Affairs, 3 April 2009, Statement on the United Nations Declaration on the Rights of Indigenous Peoples, [http://www.jennymacklin.fahcsia.gov.au/internet/jennymacklin.nsf/content/un\\_declaration\\_03apr09.htm](http://www.jennymacklin.fahcsia.gov.au/internet/jennymacklin.nsf/content/un_declaration_03apr09.htm).

<sup>15</sup> UN experts welcome Australia's endorsement of the UN Declaration on the Rights of Indigenous Peoples, [http://www.un.org/esa/socdev/unpfii/documents/Australia\\_endorsement\\_UNDRIP.pdf](http://www.un.org/esa/socdev/unpfii/documents/Australia_endorsement_UNDRIP.pdf).



## Income Management

One of the most controversial measures of the NT Intervention and of serious concern are the income management measures that control how a person spends their money. Under income management 50% of welfare payments to Aboriginal people is set aside and managed by Centrelink to prevent spending money on alcohol, pornography and cigarettes. This significantly interferes with a person's right to privacy and with the way people manage their life thereby creating dependency on the government and impacting Aboriginal people negatively. Sunrise Health documented in late 2007 a number of instances in which the roll out affected people's capacity to purchase food at all. The Australian Human Rights Commission is also concerned about "the retrospective application of parts of social security legislation and the exclusion of some aspects of social security administrative decisions from review."<sup>16</sup> The discriminatory aspect of the blanket approach to income management is that it is applied to all Aboriginal Australians on welfare living in the Prescribed Areas, regardless of whether they have worked all their life, live a responsible life, drink alcohol at all, are pensioners, their children attend school, or they do not even have children. They are all being subjected to the demeaning need of having to go to the Centrelink office and spend hours outside the office waiting for somebody from Centrelink to help them "manage" their income. This policy is applied to those Aboriginal people based on their race.

\$88 million of taxpayers' money alone went to making the initial administrative changes in Centrelink to facilitate the welfare quarantining, but not one dollar was spent in the intervention on any of the types of programs that have been proven to engage Aboriginal children in schools as Professor Behrendt pointed out during the Juanita Nielson Lecture on 1 June 2009.<sup>17</sup>

Store cards and basics cards were distributed to Aboriginal people through which access to quarantined money is controlled. There were huge problems with the cards and at times they did not work, they could be used only in certain stores - in stores segregated queues were started, being reminiscent of apartheid. People living on outstations have to travel sometimes hundreds of kilometres into a town to access their income management, most of their money is spent on fuel or hiring others to take them, alternatively they have to spend about \$200 one-way for a taxi. Only the person owning the card can go to Centrelink to access money, if you fall ill then you cannot access your money. All of these aspects of income management appear to be extremely discriminatory.

## Housing failure

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<sup>16</sup> Australian Human Rights Commission, February 2009, Let's Talk About Rights, National Human Rights Consultation Toolkit, [www.hreoc.gov.au/letstalkaboutrights/downloads/HRA\\_ATSI.doc](http://www.hreoc.gov.au/letstalkaboutrights/downloads/HRA_ATSI.doc).

<sup>17</sup> Speech by Prof. Larissa Behrendt, 1 June 2009, Juanita Nielson Lecture, 2009 - Indigenous people and human rights: a litmus test for social policy, <http://lee.greens.org.au/index.php/index.php/index.php/content/view/2962/113/>.

Some people say that there are people who would forfeit their human rights for services. But it could be argued why Aboriginal people could not have basic services without having to forego their human rights. Through the NT Intervention, Aboriginal land has been compulsorily acquired for five years in order to urgently build houses desperately needed to address severe overcrowding in Aboriginal communities as well as refurbish existing houses. So far only two houses have been completed only after 2 ½ years into the NT Intervention. The Strategic Indigenous Housing and Infrastructure Program (SIHIP) has shown to be big failure. Does any non-Aboriginal person have to forfeit their human rights for basic services such as appropriate housing, education, etc?

## Education

"The right to education in mother tongue continues to be violated in Australia. Indigenous literacy outcomes are directly related to Aboriginals' access to their own culture, history and languages, and books in indigenous languages for students whose first language is not English, are rare. The Northern Territory government recently announced a move towards a more 'English-only' form of education, which represents a patent breach of the right of indigenous peoples to some form of education in their own languages where practicable."<sup>18</sup>

## Impact on people's lives

The NTER legislation has a catastrophic impact on the lives and the rights of Aboriginal people. The Australian Indigenous Doctors' Association (AIDA) gave some scathing evidence in its submission to the Northern Territory Emergency Response Review Board. It "reported on a health impact assessment currently under way which indicates that the NTER has created a feeling of 'collective existential despair' – feelings characterised by a 'widespread sense of helplessness, hopelessness and worthlessness, and experienced throughout entire community(s)'."<sup>19</sup> AIDA is also concerned about the evidence showing some community members having experienced extreme hunger or 'starvation'.<sup>20</sup> Most of the Aboriginal townships were seized for five years, the permit system (which gains entry into Aboriginal communities) was removed opening up homelands and reducing Aboriginal people's power to protect their sacred sites. "I could find no evidence of the proposed measures being connected in any way to child sex abuse" said Prof John Altman from the ANU in a report prepared for Oxfam. "There may even be some risk of exacerbating the situation if the permit system is relaxed," Prof Altman warned."<sup>21</sup>

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<sup>18</sup> Minority Rights Group International, State of the World's Minorities and Indigenous Peoples 2009 - Australia, 16 July 2009, available at: <http://www.unhcr.org/refworld/docid/4a66d9c1c.html>.

<sup>19</sup> Report of the NTER Review Board, October 2008, Chapter 2 - Assessment of key elements, [http://www.nterreview.gov.au/docs/report\\_nter\\_review/ch2.htm](http://www.nterreview.gov.au/docs/report_nter_review/ch2.htm).

<sup>20</sup> The Australian Indigenous Doctors' Association (AIDA), Submission to the Northern Territory Emergency Response Review Board, [http://www.aida.org.au/pdf/submissions/Submission\\_8.pdf](http://www.aida.org.au/pdf/submissions/Submission_8.pdf).

<sup>21</sup> ANTaR Victoria, The Intervention under Rudd: Are we any closer to protecting Aboriginal Children in NT?, <http://www.antarvictoria.org.au/ntintervention.html>.

Aboriginal peoples have been imposed with restrictions without their consent, being subjected to the extraordinary powers of police and star chamber criminal investigative powers as well as the government business managers. They should “have the right to expect the same level of law and order provision as every other Australian, but it should not exist as an emergency response, rather communities should be afforded proper policing and protection at all times.”<sup>22</sup> Their health, employment and community governance initiatives have been undermined. Successful Aboriginal community initiatives like the women’s night patrol in Yuendumu or rehabilitation programs have been defunded, all these measures leading to further disempowering Aboriginal peoples.

As Social Justice Commissioner Tom Calma has said, “I am a firm believer that many of the answers to Indigenous problems can be found in Indigenous communities. Please remember, from self respect comes dignity, and from dignity comes hope.”<sup>23</sup>

On the occasion of the second marking of the NT Intervention, members of the Prescribed Area Peoples’ Alliance have met from 18-19 June 2009 and said the following which is part of a longer statement: “Everybody else has their rights. Aboriginal people aren’t recognised. They don’t want to listen to us because they want our land...The government says they support the Declaration on the Rights of Indigenous Peoples but they haven’t made it legal. The government has to make it legal. All Aboriginal people are being treated as second class citizens.... We are who we are. They want to make Aboriginal people into white people...Our culture and lore would be lost. If we go the white man way and they don’t recognise our culture they control you by the laws they make. The Intervention is an attack on Aboriginal people’s identity. White law is not working otherwise we wouldn’t be sitting here talking about the Intervention...We shouldn’t have separate Aboriginal policies. Racism cuts us away. It feels like we’re not citizens of Australia. People discriminate against us in every way. We don’t have our rights. We went through racism and hardship at school in the old days, and today our children are still going through that. There is still a lot of prejudice. The government is running us down altogether under the Intervention. It’s demeaning to us. We want the government to reinstate the Racial Discrimination Act (1975). Human rights for all. Empower the law, bring it out in the open. Bringing back the Racial Discrimination Act will empower us again. The government will only give you a house if you sign a lease. Our houses are broken down...They want the minerals that are in the sacred lands right across the territory. They want to take the town camps now but there are always strings attached. The government will control the country then. We want to stay in control. We need to work together. We don’t want the government to take over our communities and camps. The government is only promising housing to a few

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<sup>22</sup> GetUp!, What you should know about the Northern Territory Intervention, [http://www.getup.org.au/files/campaigns/intervention\\_fact\\_sheet.pdf](http://www.getup.org.au/files/campaigns/intervention_fact_sheet.pdf).

<sup>23</sup> Tom Calma, Aboriginal and Torres Strait Islander Social Justice Commissioner, HREOC, 31 March 2008, Speech Essentials for Social Justice: Protecting Indigenous children, Launch of the Social Justice Report 2007 and Native Title Report 2007, [http://www.humanrights.gov.au/about/media/speeches/social\\_justice/2008/20080331launch\\_sjrnr07.html](http://www.humanrights.gov.au/about/media/speeches/social_justice/2008/20080331launch_sjrnr07.html).

communities who sign leases. All the rest miss out. It's causing argument and division between communities. We are all in this together. We want housing without signing a lease."<sup>24</sup> The human rights of Aboriginal peoples are yet again breached as this policy of surrendering your leases in return for houses applies only to Aboriginal peoples.

National Indigenous Times editor Chris Graham writes: "The Secretary General of Amnesty International has likened conditions in Central Australia to the poorest parts of Africa and Asia, and described the gap between rich and poor in this country as the most stark she's even seen. Irene Khan -- the head of the world's largest human rights organisation -- ... described the poverty before her as a "tragedy" and a "...I would tell the Australian people to call on those values of fairness to [consider] whether it is fair that in a country as wealthy as Australia, as well developed as Australia, there should be such disparity and equality."<sup>25</sup>

## Conclusion

The Rudd government stresses the importance of evidence-based policies. However there is no compelling evidence that compulsory income management actually does improve the lives of Aboriginal peoples, instead there are indications for it to be destructive. Even one of the Government's NTER Review Board's key recommendations in its report released in 2008 was for income management to be voluntary.<sup>26</sup> As has been frequently noted by people like Professor Altman, ANU in his submission: "There is no evidence, either from Australia or overseas, that punishing and demeaning the poor and the vulnerable, and in the case of the NT Intervention the ethnically different, through draconian measures like income management makes a difference. Indeed, first-hand experience I have had in NT prescribed communities suggests that if anything such measures have resulted in community disempowerment and demoralisation."<sup>27</sup> In fact the Productivity Commission report released in 2009 reveals that the "Gap" is actually not *closing*, but in fact *widening* since the inception of the Intervention.

Future generations and the international community may be judging the passing of blatantly discriminatory laws and a continuous failing of Aboriginal people. All Australians will be diminished if we are unable to achieve dignity, respect, equality and social justice for the first peoples of this beautiful country.

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<sup>24</sup> ONE VOICE' GATHERING IN DARWIN, PRESCRIBED AREA PEOPLES ALLIANCE STATEMENT 18-19 JUNE 2009, Stop the Intervention: Self-Determination not Assimilation, <http://rollbacktheintervention.wordpress.com/?s=prescribed+area+peoples>.

<sup>25</sup> National Indigenous Times editor Chris Graham, 16 November 2009, Climate Change & Justice, Aboriginal Australia like the poorest of Africa, <http://siriveland.wordpress.com/2009/11/17/aboriginal-australia-like-the-poorest-of-africa/>.

<sup>26</sup> Report of the NTER Review Board, <http://www.nterreview.gov.au/report.htm>.

<sup>27</sup> Professor Jon Altman, Inquiry into Indigenous Welfare Reform and Reinstatement of the RDA, [http://www.aph.gov.au/senate/committee/clac\\_cte/soc\\_sec\\_welfare\\_reform\\_racial\\_discrim\\_09/submissions/sub5\\_0.pdf](http://www.aph.gov.au/senate/committee/clac_cte/soc_sec_welfare_reform_racial_discrim_09/submissions/sub5_0.pdf).