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## **Submission by**

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## **Background**

The Mission of the Office for Justice and Peace is:

1. To help educate and give leadership to the Catholic and wider community in the Gospel message of justice and in the social teachings of the Catholic Church;
2. To work for justice in local, national and international structures; and
3. To seek to assist, and work with, victims of injustice wherever possible;

The Church will support the cause of all indigenous peoples who seek a just and equitable recognition of their identity and their rights; and ... the aspirations of indigenous people for a just solution to the complex question of the alienation of their lands.<sup>1</sup>

## **Introduction**

In the latter half of the second millennium the Indigenous peoples of Australia came to know the revelation of God in the person of his Son, Jesus Christ, however from earliest times our Indigenous brothers and sisters “were moved by the divine presence in the riches of nature and culture”<sup>2</sup>

On 22 November 2001, the late Holy Father, Blessed John Paul II declared to the world, the Post-Synodal, Apostolic Exhortation *Ecclesia in Oceania*. The revealed truths within are universal in time and place. *Ecclesia in Oceania* forms part of the great treasure, which is the Social Doctrine of the Church.

This submission of the Melbourne Catholic Office for Justice and Peace, is a response to support the just cause of our Indigenous brothers and sisters, particularly those residing in the Northern Territory.

<sup>1</sup> *Ecclesia in Oceania* Post-Synodal Apostolic Exhortation, Pope John Paul II, Vatican 2001.

<sup>2</sup> *Ibid*, para 28

## Submission

Speaking on human rights, Pope John Paul II declared in *Ecclesia in Oceania*, the following:

*“(We are) keen that the people of Oceania become still more conscious of human dignity, which is based on the fact that all are created in God's image. Respect for the human person entails respect for the inviolable rights that flow from a person's dignity. All basic rights are prior to society and must be recognised by it. Failure to respect the dignity or rights of another person is contrary to the Gospel and destructive of human society. The Church encourages young people and adults to respond effectively to injustice and to the failure to respect human rights, some of which are either under threat in Oceania or need to be more widely respected.”<sup>3</sup>*

In particular, when addressing the issue of Australia's Indigenous peoples, Pope John Paul II declared:

*Unjust economic policies are especially damaging to indigenous peoples, young nations and their traditional cultures; and it is the Church's task to help indigenous cultures preserve their identity and maintain their traditions. The Synod strongly encouraged the Holy See to continue its advocacy of the United Nations Declaration on the Rights of Indigenous Peoples.*

*A special case is that of the Australian Aborigines whose culture struggles to survive. For many thousands of years they have sought to live in harmony with the often harsh environment of their "big country"; but now their identity and culture are gravely threatened.*

*Governments are encouraged to pursue with still greater energy programmes to improve the conditions and the standard of living of indigenous groups in the vital areas of health, education, employment and housing.<sup>4</sup>*

In making this submission on the proposed *Strong Futures in the Northern Territory Bill 2011*, this Office relies upon the entire body of knowledge and the principles that form the Social Doctrine of the Church.

The Compendium of the Social Doctrine of the Church defines the following principles:

### 1. Imago Dei.

God created humans in his own image and likeness. God places the human creature at the centre and summit of the created order. Therefore “being in the image of God the human individual possesses the dignity of a person, who is not just something, but someone. The individual is capable of self-knowledge, of self-possession and of freely giving him/herself and entering into communion with other persons.<sup>5</sup>

A just society can become a reality only when it is based on the respect of the transcendent dignity of the human person. The person represents the ultimate end of society... It is therefore necessary that public authorities keep careful watch so that restrictions placed on freedom or any onus placed on personal activity will never be harmful to personal dignity, thus guaranteeing the effective practicability of human rights.<sup>6</sup>

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<sup>3</sup> *Ecclesia in Oceania* Post-Synodal Apostolic Exhortation, Pope John Paul II, Vatican 2001. Para 26

<sup>4</sup> *Ibid* Para 28

<sup>5</sup> *Compendium of the Social Doctrine of the Church* Vatican 2004 Para 108

<sup>6</sup> *Compendium of the Social Doctrine* para132-133

An authentic moralisation of social life will never be possible unless it starts with people and has people as its point of reference. ... It is the task of everyone, and in a special way of those who hold various forms of political, judicial or professional responsibility with regard to others, to be the watchful conscience of society and the first to bear witness to civil social conditions that are worthy of human beings.<sup>7</sup>

## 2. Common Good.

The principle of the common good, to which every aspect of social life must be related if it is to attain its fullest meaning, stems from the dignity, unity and equality of all people. ... The common good indicates the sum total of social conditions which allow people, either as groups or as individuals, to reach their fulfilment more fully and more easily. ... Just as the moral actions of an individual are accomplished in doing what is good, so too the actions of a society attain their full stature when they bring about the common good.

A society that wishes and intends to remain at the service of the human being at every level is a society that has the common good – the good of all people and of the whole person – as its primary goal. The responsibility for attaining the common good, besides falling to individual persons, belongs also to the State, since the common good is the reason that the political authority exists.<sup>8</sup>

## 3. Subsidiarity.

It is impossible to promote the dignity of the person without showing concern for the family, groups, associations ... local territorial realities; in short, for that aggregate of economic, social, cultural, ... professional and political expressions to which people spontaneously give life and which make it possible for them to achieve effective social growth. ... Just as it is gravely wrong to take from individuals what they can accomplish by their initiative and industry and give it to the community, so also it is an injustice and at the same time a grave evil and disturbance of right order to assign to a greater and higher association what lesser and subordinate organisations can do.<sup>9</sup>

The characteristic implication of subsidiarity is participation, which is expressed essentially in a series of activities by means of which the citizen, either as an individual or in an association with others, whether directly or through representation, contributes to the cultural, economic, political and social life of the civil community to which he belongs. Participation is a duty to be fulfilled consciously by all, with responsibility and with a view to the common good.<sup>10</sup>

The Stronger Futures in the Northern Territory Bill 2011 and two related bills should, in our submission, be measured against these principles.

The provisions of the Bills should respect the inherent and God-given dignity of each person. The human rights of each and every person must be maintained, guarded and enhanced.

Measures within the existing legislation that demean or detract from the human dignity of our Indigenous brothers and sisters should be identified and revoked forthwith. It is difficult to imagine

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<sup>7</sup> *Compendium of the Social Doctrine of the Church* Vatican 2004 para 134

<sup>8</sup> *Ibid* para 164

<sup>9</sup> *Ibid* para 186

<sup>10</sup> *Ibid* para 189

the acceptance by non-Indigenous Australians of signage found at the entrance to Indigenous communities such as Santa Theresa. (Appendix 1)

A number of questions are raised by the proposed legislation;

1. Does the Stronger Futures in the Northern Territory Bill 2011 and two related bills have the support of those to whom it would apply? Does the Bill have the support of community leaders and elders. This Office is aware of at least one significant body of Northern Territory Community Leaders and Elders who reject the Stronger Futures Report which underpins this current Inquiry (Appendix 2).
2. Does the proposed Bill enhance or detract from our Indigenous brothers and sisters control over their own communities and their right to self-determination?
3. Does the legislation focus on providing support and encouragement as befitting the human dignity of our Indigenous brothers and sisters or does it serve only to provide punitive regulations?
4. Does the proposed Bill acknowledge the cultural strengths within Indigenous communities?
5. Has a fair, proper and extensive analysis of the effects of the initial Northern Territory National Emergency Response (NTNER) been carried out?
6. Have the concerns expressed by the United Nations in relation to the suspension of the Racial Discrimination Act to accommodate the NTNER, been addressed?
7. Does the proposed legislation make provision so as to accommodate customary law and cultural practice in such matters as bail applications and sentencing within criminal proceedings?
8. Have the communities most affected by the quarantining of social security payments been consulted and involved in decision-making, in so far as the principle of subsidiarity provides.
9. Does either the NTNER or the proposed Bill address the concerns or adopt the recommendations of the Little Children are Sacred Report?

### **Conclusion.**

It would seem entirely appropriate, and respectful of the rights of our Indigenous brothers and sisters, that any proposed legislation to be enacted for the Northern Territory, or indeed and Australian state or territory, should acknowledge and promote the inherent and God-given dignity of each person.

Indigenous communities themselves, should as far as practicable, and is just, be involved in the governance of their own communities.

Nothing within the proposed legislation should act in such a manner as to detract from the common good.

### **Prepared by:**

Mark Clarke  
Executive Officer,  
5th February 2012



Signage at the entrance to Santa Theresa, Northern Territory

**Melbourne 4 October, 2011**

## **Statement by Northern Territory Elders and Community Representatives**

### **No More! Enough is Enough!**

United First People's Law men and women who are born leaders representing people of Prescribed Areas in the Northern Territory make this statement. Once again, they have gathered to openly discuss the future of our generation who have been subjugated by the lies and innuendo of the Federal Government, set out in the Stronger Futures document (October 2011).

The Stronger Futures report has created a lot of anger and frustration due to the lack of process and the ignorant way in which the views of the people have been reported. We therefore reject this report.

We will not support an extension of the Intervention legislation. We did not ask for it. In fact we call for a genuine Apology from the Federal Government for the hurt, embarrassment, shame and stigma, and for the illegal removal of the Racial Discrimination Act. It is our intention to officially call upon Government for reparation.

The recent consultations report shows that Government has failed to take seriously our concerns and feelings. This report is simply a reflection of pre-determined policy decisions. This is shown clearly by the absence of any commitment to bilingual learning programmes as well as the proposal to introduce welfare cuts and fines to parent of non-attending school children. Once again a punitive policy that is neither in the best interests of the child or the family.

Blanket measures have been central to the Northern Territory Intervention and have been the source of much distress. Where there are problems, they must be addressed on a case by case basis and preferably with the assistance through the appropriate community channels.

Since August 2007 till 2011, more than 45,000 First Nations Peoples living in the Prescribed Areas were traumatised when a Bill was passed through both Houses of Parliament (The House of Representatives and the Senate).

This legislation suspended the *Racial Discrimination Act 1975* to put in place the Northern Territory Emergency Response. The Australian Greens were the only party to oppose the legislation.

These actions have placed Australia in breach of its international treaty obligations to the First Nations Peoples. Respectful discussion and negotiation with community elders did not take place before the introduction of the Intervention.

Discussions on a diplomatic basis are essential. There are elders in every Aboriginal Nation invested by the authority of the majority. These are the people with whom Minister Macklin should be negotiating, rather than with the chosen few, as has been her habit.

There has NEVER been acquiescence in the taking of our lands by stealth. Aboriginal people are sovereign people of this Nation. The process that will lead to legal recognition of customary law should be immediately commenced.

We believe that there should be an honest and comprehensive treaty negotiation with the Australian Government and facilitated by the United Nations.

We have a right under international law to self determination and after almost five years of the oppression of the Intervention, we demand that Government hand back to us control over our communities and provide adequate Government, long-term funding to ensure the future of Homelands.

Community Councils have suffered from years of underfunding. The same is happening today with the Shires that have been imposed on us. There is a lack of funding for our Core Service. There is no capacity for Aboriginal communities to engage in long-term services planning without the certainty of long-term funding.

We have had enough! We need our independence to live our lives and plan our futures without the constant oppression and threats which have become central to the relationship between Government and Aboriginal communities in the Northern Territory. We will not support policies that have not been negotiated with all elders of Prescribed communities and we will not support an extension of the Intervention, or an Intervention under other names.

Since the Apology and since reconciliation, the level of incarceration of Aboriginal men has increased three-fold; our families are being punished for failure to attend a foreign school design; our capacity to govern our own lives has been totally disempowered; Aboriginal youth suicide rates in the Northern Territory are higher than anywhere else in Australia; and our people have been demonized, labelled and branded. This is not what an apology is and it is not reconciliation. These outcomes are the very opposite to their intent.

Australia is in breach of its international treaty obligations to the first nation's people through its membership to the United Nations in the elimination of racial discrimination.

We as leaders of the Northern Territory acknowledge other peoples' views. We acknowledge that some may agree and some may disagree with parts or all of the 'intervention'; whatever the name the Government chooses to call it. The only right we now have left is to remain silent.

We as Aboriginal people call on the international community to hold Australia to account for its continuing crimes against humanity for its treatments of its first nation's people. Again, we say to our visits by the Minister's department; this is not consultation. Proper consultation is about listening and inviting and including the views of Aboriginal and Torres Strait Islander people. Consultation is about outcomes that are progressive and agreeable to all parties.

The future is based on our children having a quality education, but to date this continues to be a systemic failure. A quality education for our people needs to include:

- Bilingualism in schools to be returned and strengthened to ensure our children learn their traditional languages, dialects and cultural knowledge.
- Attendances need to be rewarded, rather than children and families being punished for non-attendance.
- Aboriginal teachers in classrooms and school educational leadership roles are essential to building quality, localized schooling programs. This means also equal pay and entitlements, rewards and opportunities consistent with their important roles.
- Curriculum needs to change and reflect traditional knowledge not just for Aboriginal and Torres Strait Islander children, but importantly for the broader Australian population who know very little about their own first peoples.
- Aboriginal teachers need to be treated fairly and equally to their non-Aboriginal counterparts in delivering quality education to our children. This includes the opportunity to tell oral stories of Kinship, Creation Stories, and about important cultural knowledge and skills.

Failure to accept these views and work seriously toward their inclusion will simply mean more of the same.

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Rosalie Kunoth-Monks OAM

Japata Ryan

Harry Nelson

Djapirri Murunggirritj

Barbara Shaw

Yananymul Mununggurr