

Christian Brothers Community

Feb 14, 2012

Committee Secretary
Senate Standing Committees on Community Affairs
PO Box 6100
Parliament House
Canberra ACT 2600
Australia

Dear Committee Secretary,

As part of its Universal Periodic Review before the Human Rights Council in Geneva, in January 2011, Australia accepted the following recommendations relating to what was called the 'Northern Territory Emergency Response' and other Indigenous issues:

[In the following citations, the colour coding has been added as a guide. **Green** indicates a recommendation accepted without comment, **blue** one accepted with a comment (I have provided the comment in *italics*) and **yellow** as a recommendation accepted in part by the Australian Government.]

86.24. Fully implement the Racial Discrimination Act and the revision of federal laws to be compatible with the United Nations Declaration on the Rights of Indigenous Peoples (Norway);

The Racial Discrimination Act 1975 has been fully reinstated in relation to the Northern Territory Emergency Response as of 31 December 2010. The Australian Government supports promotion of and respect for the principles in the Declaration on the Rights of Indigenous Peoples, and considers that current federal laws are consistent with the spirit of the Declaration.

86.25. Consider reinstating, without qualification, the Racial Discrimination Act into the arrangements under the Northern Territory Emergency Response and any subsequent arrangement (Canada);

The Racial Discrimination Act 1975 has been fully reinstated in relation to the Northern Territory Emergency Response as of 31 December 2010.

86.26. Consult with Aboriginal and Torres Strait Islander people, and take into consideration the guidelines proposed by the Australian Human Rights Commission before considering suspension of the Racial Discrimination Act for any future intervention affecting the Aboriginal and Torres Strait Islander people (Slovenia);

The Australian Government will continue to consult with Indigenous peoples regarding the application of the Racial Discrimination Act 1975.

The Australian Government also committed itself to accepting the following recommendations on consultation with Aboriginal people:

86.107. Launch a constitutional reform process to better recognize and protect

the rights of the Aboriginals and Torres Strait Islanders which would include a framework covering the principles and objectives of the UN Declaration on the Rights of Indigenous Peoples and would take into account the opinions and contributions of indigenous peoples (Guatemala);

The Australian Government is committed to pursuing recognition of Indigenous peoples in the Australian Constitution and has appointed an Expert Panel to develop options and lead a wide-ranging national public consultation and engagement program.

86.108. Include in its national norms recognition and adequate protection of the culture, values and spiritual and religious practices of indigenous peoples (Bolivia);

Where appropriate in law and in policy, the Australian Government will continue to recognise and protect the culture and heritage of Indigenous peoples.

86.109. Promote the inclusion and participation of indigenous peoples and Torres Strait Islanders in any process or decision-making that may affect their interests (Bolivia);

The Australian Government recognises the importance of engaging in good faith consultation with Indigenous peoples in relation to decisions that affect them. See recommendation 110.

86.110. Strengthen efforts and take effective measures with the aim of ensuring enjoyment of all rights for indigenous people, including participation in decision-making bodies at all levels (Bosnia and Herzegovina);

The National Congress of Australia's First Peoples will provide a central mechanism with which government, the corporate and community sectors can engage and partner on reform initiatives.

86.111. Ensure that its legislation allows for processes of consultations in all actions affecting indigenous peoples (Mexico);

The Australian Government recognises the importance of engaging in good faith consultation with Indigenous peoples in relation to decisions that affect them. No legislative barriers to consultation have been identified.

86.112. Continue to engage with the Aboriginal population and Torres Strait Islanders and ensure the equal protection of their fundamental rights (Indonesia);

86.113. Increase the participation of the Aboriginal and Torres Strait Islanders communities in the process of closing the gap in opportunities and life outcomes (Austria);

86.114. Continue the implementation of policies aimed at improving the living standards of indigenous peoples and take all the necessary measures to eradicate discrimination against them (France);

86.115. Continue its efforts to narrow the gap in opportunities and life outcomes between indigenous and non-indigenous Australians (Singapore);

86.116. Intensify its on-going efforts to close the gap in opportunities and life outcomes between Indigenous and non-Indigenous peoples, especially in the areas of housing, land title, healthcare, education and employment (Thailand);

86.117. Continue addressing effectively the socio-economic inequalities for indigenous people (Jordan);

86.118. Carry out, in consultation with the communities concerned, a comprehensive assessment of the effectiveness of actions and strategies aimed at improving socio-economic conditions of indigenous peoples and if necessary correct these actions (Belgium);

The Council of Australian Governments Reform Council will provide a comprehensive report each year on progress against relevant targets.

86.119. Take immediate legal measures to remove restrictions against access of indigenous women and children to appropriate health and education services and employment opportunities (Islamic Republic of Iran);

No legal impediments to access have been identified.

86.120. Continue efforts to increase the representation of indigenous women in decision making posts (Morocco);

In the light of these Australian Government commitments, to be reviewed in 2015 by the Human Rights Council, I oppose the extension of the 'Northern Territory Intervention' through the proposed and so-called 'Stronger Futures' legislation. Several important Indigenous bodies, including the National Congress of Australia's First Peoples and the National Aboriginal and Torres Strait Islander Ecumenical Commission of the National Council of Churches, oppose the proposed legislation. This say to me immediately the appropriate consultation has not taken place, and there is no structure in place to ensure such consultation is ongoing.

The proposed legislation and related media statements speak of 'ongoing partnership' with Indigenous people. I cannot see this occurring and I can see serious opposition by Indigenous people, directly and indirectly affected by this proposed legislation.

The initial 'intervention' repeated the classic mistakes of nineteenth century policy towards Australia's Indigenous peoples, in its top-down, paternalistic and discriminatory methods, plus the usual media manipulation of public opinion. In the twenty-first century, I would expect basic democratic principles, such as equal treatment before the law, participation in decision-making, and Indigenous rights, to be respected.

There is a professional approach to child protection in Australia which is effective both in prevention and intervention. This only needs cross-cultural principles (including the necessary consultation) to be effective in any group in Australian society. The 'NT Intervention' has proved an alarming outburst of colonialism in a society that now condemns such practices.

I urge you to repeal this proposed legislation, but first, subject it to independent review by international human rights experts.

Yours sincerely,

Br Moy Hitchen cfc