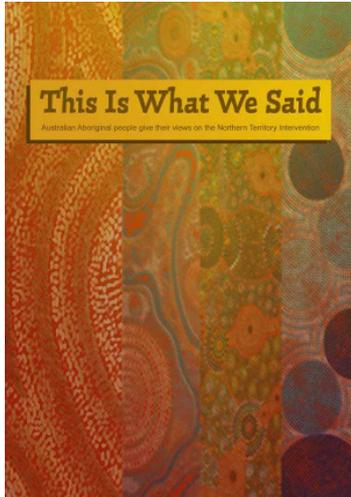


This Is What We Said:

Australian Aboriginal people give their views on the Northern Territory Intervention



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71 pages, hard cover book with Aboriginal cover design

21 photographs by Canberran documentary maker Eleanor Gilbert of Enlightning Productions

Compiled and published by 'concerned Australians'

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This excellent book of high quality is beautiful visually and emotionally. It is a slim, hard cover volume of such power that it cannot fail to touch the reader.

'*This Is What We Said*', published by 'concerned Australians' in February 2010, conveys the views of Australian Aboriginal people living under the Northern Territory Intervention - in their own words.

Background

Lead up to the NT Intervention

In June 2007 Prime Minister John Howard and his Indigenous Affairs Minister Mal Brough announced that the federal government would send the army into Aboriginal communities in the Northern Territory in response to the Northern Territory Government's Report "Ampe Akelyernemane Meke Mekarle", better known as the "*Little Children are Sacred*" Report¹. This report had been written in response to allegations of widespread child sexual abuse in the Northern Territory. Mr. Howard called the situation "akin to a national emergency" and introduced a sweep of draconian measures under the claimed objective of "saving the children". The Northern Territory National Emergency Response Act 2007 (NTNER), or more commonly known as the NT Intervention, was legislation that was concocted within days introducing a huge amount of "Special Measures" – emergency response legislation that had some drastic changes and impact on the lives on the Aboriginal communities affected by it. About 500 pages of legislation had been drafted within 48 hours by Prime Minister John Howard, former Indigenous Affairs Minister Mal Brough and two senior bureaucrats. However, the Act did not mention once the word "child protection". It was rushed through the Senate in a matter of days, treating it as sufficiently urgent as to not require meaningful Parliamentary consideration nor Aboriginal consultation.

¹ Anderson, P. and Wild, R. (Co-Chairs). 2007. *Ampe Akelyernemane Meke Mekarle "Little Children are Sacred"*. http://www.inquirysaac.nt.gov.au/pdf/bipacsa_final_report.pdf.

Human rights situation in Australia

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”.²

Human rights breaches by the NT Intervention

The Northern Territory Emergency Response (NTER) and associated measures contravene Australia’s human rights obligations under both Australian and international law. 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.³

At the conclusion of his visit to Australia on 27 August 2009, United Nations Special Rapporteur on the situation of human rights and fundamental freedoms of indigenous people, Professor James Anaya stated “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.”⁴

The Social Justice Report 2007 states that “The description of the NT measures as an ‘emergency’ situation does not exempt the government from its human rights obligations.”⁵

Suspension and reinstatement of the Racial Discrimination Act 1975 (Cth)

When introducing the NTER legislation, the Howard government suspended the Racial Discrimination Act (RDA). The measures of the NTER would not have been possible without this suspension. The Rudd government continued the suspension of the RDA and it had promised to finally reinstate it by October 2009.

In order to make the NT Intervention compliant with the RDA, the government proposed changes to the legislation, disguising the still discriminatory measures as “special measures” for the benefit of Aboriginal people.

According to international law Aboriginal people have the right to decide whether or not they accept any such special measures. The United Nations Declaration on the Rights of Indigenous Peoples (UNDRIP) that was adopted by the United Nations General Assembly in September 2007 includes “*free, prior and informed consent*” in six of its 46 articles.

² Aboriginal and Torres Strait Islander Social Justice Commissioner. 2009. *2008 Social Justice Report*. Page 40. Australian Human Rights Commission, Sydney NSW 2001.

³ 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>.

⁴ UNHCHR. 2009. *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.unhchr.ch/hurricane/hurricane.nsf/0/313713727C084992C125761F00443D60?opendocument>.

⁵ 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.

The so-called “consultations”

For the government being able to justify continuing compulsory income management measures claiming them to be “special measures” and enabling the process of reinstating the RDA, it had embarked on a so-called consultation process in 2009, spending large sums of money engaging in the process of extensive consultations across the Northern Territory. 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.

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. 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.”⁶ There have not been genuine consultations in real partnership with Aboriginal peoples as can be seen from the ‘*Will they be heard?*’ report.

‘Will they be heard?’ report

The ‘*Will they be heard? – a response to the NTER Consultations June to August 2009*’⁷ report launched in November 2009 contains transcripts of consultations undertaken by the Federal Government in three Aboriginal communities in the Northern Territory – namely Utopia, Bagot and Ampilatwatja. 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?

Follow up from the report

As Sarah Burnside wrote, the ‘*Will they be heard?*’ report “was lengthy, well-researched and persuasively argued. Unfortunately, in the soundbite-heavy discourse that characterises the Australian political scene, it seems to have been largely ignored.”⁸

The book ‘*This Is What We Said*’ follows on from the ‘*Will they be heard?*’ report. Using pictures and quotations taken from footage of actual NTER consultations at Bagot, Ampilatwatja, Utopia and Yirrkala between June and August 2009, this book provides a graphic account of the depth of frustration and despair of many Aboriginal people in the Northern Territory regarding the Intervention. “The anger and hurt expressed by those consulted is palpable: ‘We’re not naughty

⁶ *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.

⁷ Nicholson, A., Behrendt, L., Vivian, A., Watson, N. and Harris, M. 2009. *Will they be heard? - a response to the NTER Consultations June to August 2009*. http://intranet.law.unimelb.edu.au/staff/events/files/Willtheybeheard_Report.pdf

⁸ Burnside, S. 2010. *Indigenous voices examine the Intervention*. <http://www.eurekastreet.com.au/article.aspx?aid=19471>.

children'; 'We are not second-class citizens!'; 'why are we being punished?' The residents of these prescribed communities express shame and distress at being implicitly judged and found wanting by the Federal Government. A man from Bagot states: 'I am a qualified teacher and you are telling me how to run my life, how to look after my wife, how to look after my children, that is what the ... intervention means to me'.⁹

'This is what we said'

This book, a shorter and more accessible collection of statements by community members from Arlparra/Utopia, Ampilatwatja, Bagot and Yirrkala, also contains photographs taken during the 2009 NTER consultations. It starts with an introduction summarizing the history of the NT Intervention. Next is some brief information about the aforementioned four communities, followed by direct quotes from community members taken from the same consultative process. Then quotes are grouped according to several aspects of the NTER legislation, namely Income Management, Alcohol and Pornography Restrictions, and Five Year Leases. Also included are quotes on the Intervention from other well-known Australians and abridged statements from two UN Special Rapporteurs who visited the communities in 2009. The book concludes with a note about the government's intention to continue the NT Intervention with only minor changes.

This important book reveals a desire for locally based solutions, rather than applying a top down approach. A Bagot Community resident suggested: "Surely it would make more sense for somebody to be available here in the community, and to go out to each house and say, look you know, you've gone to bits and you might need help, you know."¹⁰ Another resident remarked that the government "should have come and sat down and set up a program, set up a big plan how of what the problem is ... sit down with us and then we can work it out together..."¹¹

"Aboriginal people are often spoken and written about; those in remote communities have been the focus of relentless commentary in the past few years. *'This Is What We Said'* provides an opportunity to do some of the talking."¹²

As Professor Anaya points out, the stigmatisation is overt. "These measures overtly discriminate against Aboriginal peoples, infringe their right of self-determination and stigmatize already stigmatized communities."¹³ Many community members in the book comment on the 'blue signs' at the entrance to the communities which forbid alcohol and pornography. An Ampilatwatja resident stated "You pointing the finger at us! Whitefella they see that sign and they think 'they must be really bad with that pornography' ... Yet you can still go into a newsagent in Tennant Creek, adult bookshops and so on and buy all the materials there, but not here" and "I think you can go to Canberra and you can buy even worse books [pornography, Ed.]..." asking regarding mainstream Australia "Do they have blue signs there as well?"¹⁴

"Community members express their scepticism as to any progress made since 2007 on the initial rationale of the Intervention — the prevention of child sexual abuse. One Bagot

⁹ Burnside, S. 2010. *Indigenous voices examine the Intervention*.

<http://www.eurekastreet.com.au/article.aspx?aeid=19471>.

¹⁰ 'concerned Australians'. 2010. *This Is What We Said: Australian Aboriginal people give their views on the Northern Territory Intervention*. East Melbourne VIC. p 39.

¹¹ 'concerned Australians'. 2010. *This Is What We Said: Australian Aboriginal people give their views on the Northern Territory Intervention*. East Melbourne VIC. p 18.

¹² Burnside, S. 2010. *Indigenous voices examine the Intervention*.

<http://www.eurekastreet.com.au/article.aspx?aeid=19471>.

¹³ UNHCHR. 2009. *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/0/313713727C084992C125761F00443D60?opendocument>.

¹⁴ 'concerned Australians'. 2010. *This Is What We Said: Australian Aboriginal people give their views on the Northern Territory Intervention*. East Melbourne VIC. p 45.

community resident noted 'nobody has come back and told us or gave us any results or anything like that'. Another asked 'where are the arrests and evidence of abuse?' A resident of Ampilatwatja is quoted as asking: 'You give us proof, some evidence on how many people have been locked up since the Intervention started'.¹⁵

The book puts on record some views about the NT Intervention that were expressed by Aboriginal people during the NTER consultations between June and August 2009. The justification to leave the controversial 'special measures' in place on the grounds that Aboriginal people agreed to it during the consultation is difficult to uphold on the strength of comments among which those of the Laynhapuy Homeland Mala Leaders at Yirrkala are particularly striking:

*"The problems our people face can be addressed through programs and funding targeted on a needs basis alone, under the Closing the Gap policy. We should not be subjected to special measures that separate us out or impose things on us without agreement. Our responses to your questions in this consultation must not be used by the Australian Government to argue for the continuation of the NTER, Intervention or justify what has been done to date."*¹⁶

It is therefore tragic that legislation, passed in Parliament on 21 June 2010, pays scant attention to the views expressed by many Aboriginal people during this consultations process.

Giving Aboriginal people a voice

Giving voice to Aboriginal people from the Northern Territory is fairly uncommon. *'This Is What We Said'* is essential reading as it is mainly a book of quotes from Aboriginal people giving their own views on the Intervention. Therefore this book provides a wonderful opportunity to receive authentic information about what Aboriginal people really think about the Intervention. "The Intervention has generated a great deal of heat; there has been much debate about who can speak with authority on it. Hopefully the voices of the people quoted in *'This Is What We Said'* are not lost in the din."¹⁷ This beautiful book is so vital as it emphasizes the importance of respecting human rights towards Aboriginal people and makes it very clear just how negatively the NTER measures affect and impact Aboriginal people. One illustration by an Arlparra/Utopia resident "We're the first Australians! And we will not lie down and take orders when we are not committing a crime. What the Northern Territory Intervention is doing, as far as we are concerned, is dividing us from our white brothers and sisters."¹⁸ and another one by a Bagot Community resident: "...look into your own backyards before you condemn us, you know. We are just a people without no name, and, of course, the government is going to still target us, regardless, unless we get our rights back as Aboriginal people of this land, and the First Nation. And, unless we get that back, there is no hope for Aboriginal people, because the government will still condemn us every way they can" as well as: "Well, is it because that we have no status, no name to our ...our being Aboriginal, where is the rights for us? Is it because of that? So that they could do what they wanted to do with Aboriginal people only. Is that the reason why they done it?"¹⁹

¹⁵ Burnside, S. 2010. *Indigenous voices examine the Intervention*.
<http://www.eurekastreet.com.au/article.aspx?aeid=19471>.

¹⁶ 'concerned Australians'. 2010. *This Is What We Said: Australian Aboriginal people give their views on the Northern Territory Intervention*. East Melbourne VIC. p 54.

¹⁷ Burnside, S. 2010. *Indigenous voices examine the Intervention*.
<http://www.eurekastreet.com.au/article.aspx?aeid=19471>.

¹⁸ 'concerned Australians'. 2010. *This Is What We Said: Australian Aboriginal people give their views on the Northern Territory Intervention*. East Melbourne VIC. p 27.

¹⁹ 'concerned Australians'. 2010. *This Is What We Said: Australian Aboriginal people give their views on the Northern Territory Intervention*. East Melbourne VIC. p 18.

'This Is What We Said' reflects the views of Aboriginal people in NT communities affected by the Intervention. They were prepared to share their feelings of distress and despair with others. It is highly essential that all of us hear their voices and really genuinely listen to what they are telling us.

As Christine Fejo-King, Chairperson of the National Coalition of Aboriginal and Torres Strait Islander Social Workers Association, so eloquently pointed out at the Canberra book launch on 11 February 2010: "Give people a choice and support them where necessary to manage their money, but do not disempower and shame us more than you already have and are currently doing. This book is a collection of quotes from members of communities directly affected by the Northern Territory intervention, and other concerned Australians. As such it is very powerful, as it gives voice to those who have been marginalised and whose voices have been silenced and unheard. It is very important that all voices be heard on this issue, not just those privileged by the government. By hearing all sides of the story a balanced understanding might be had by the wider Australian population. You may think that this issue only concerns Aboriginal peoples of the Northern Territory however, it is an issue that should concern all Australians ... May the voices of the people who speak within it be heard loudly and clearly, may what they have said not fall on deaf ears. I join my voice with the voice of Irene Fisher in urging you all 'to read the book so that you too can help take it from a whisper to a loud roar that will reverberate across this great country of ours and bring about equality for all Australians."²⁰

Summary

'This Is What We Said' is an excellent resource to introduce the reader to the NT Intervention, to receive an overview of the NT Intervention, to find out more about the impact of the NTER and related policies on Aboriginal people as well as a summary of the United Nations' position. References and links provide the opportunity to explore the Intervention more in-depth. Above all, the voices expressing their pain and honest feelings in this book trigger the readers' compassion. They will most likely be inspired to learn more about the Intervention and what they can do to support human rights for Aboriginal people. If enough people – especially politicians and policy makers - would read this book, the Intervention would be over rather sooner than later.

Raising awareness about human rights issues

This beautiful book will hopefully contribute to raise people's awareness about the impacts of the NT Intervention measures, especially about the human rights violations under which so many Aboriginal people currently live.

Every person concerned about the existence of human rights, respect and dignity for their fellow human beings is strongly encouraged to read the book *'This Is What We Said'*. The book provides a unique insight into what Aboriginal people really think about the NT Intervention. It is highly important that these views are heard for they differ vastly from what is often portrayed in the media.

²⁰ Fejo-King, C. 2010. *This Is What We Said*" - Book launch – Canberra - Feb 11th 2010. http://stoptheintervention.org/uploads/files_to_download/Book-This-Is-What-We-Said/Book-launch-speeches-Feb-10.pdf.