

Investigating the ‘intervention’

Social Issues briefing #067, 15/8/2007.

Everyone has been stretched over the past few weeks by the Commonwealth Government’s intervention into the affairs of remote Northern Territory (NT) indigenous communities. It has taken us some time to produce a briefing on this matter as we waited to see events unfold.

So many complex issues have emerged that this briefing will have the limited aim of summarising the details, listing some opinions for and against the Government’s action, and offering some provisional suggestions. As always, these suggestions invite further thoughtful reflection together, along with indigenous people, in light of the Scriptures.

Who are the NT indigenous communities? A snapshot (2001 data):

- The Aboriginal population in remote communities has grown by approximately 40% in twenty years.
- Aboriginal people make up 30% of NT’s population and 12.5% of the national indigenous population.
- 38% of the Territory’s Aboriginal population are children under 15 years.
- The Territory has 641 discrete Aboriginal communities, including:
 - Nine towns of 1,000 – 2,000 people;
 - Fifty communities with populations ranging from 200-999 people; and
 - 570 small communities of less than 200 people.
- 72% of the NT’s Aboriginal population live on Aboriginal land outside major towns
- A majority do not have good access to mainstream services, e.g.:
 - 54% of remote communities have no local health clinic; or
 - 99% of remote communities have no substance abuse service.

What triggered the Commonwealth Government’s action?

On 8th August, 2006 the Northern Territory Chief Minister Clare Martin appointed Pat Anderson (an Alyawarr woman with years of experience working in Indigenous health) and Rex Wild QC (former NT Director of Public Prosecutions) to head up ‘an Inquiry into the Protection of Aboriginal Children from Sexual Abuse’.

The Inquiry gathered feedback from 262 meetings with individuals, agencies and organisations, visited 45 communities and received 65 written submissions, and a draft copy of their Report given to the Chief Minister on 30 April 2007. The Chief Minister released the final 316 page report, called *Ampe Akelyernemane Meke Mekarle: Little Children are Sacred*, on 15 June 2007.

According to the report, good education and decreased alcohol consumption are two key factors needed to prevent child abuse. Its other ninety-seven recommendations included the need for:

- NT Police and NT Family and Community Services (FACS) to work more closely together and with communities to build trust;
- an advice hotline so anyone concerned about possible child sexual abuse can call someone for confidential information and advice;
- empowerment of Aboriginal communities, through mechanisms such as community justice groups;
- the appointment of a Commissioner for Children and Young People who can focus on the interests and well-being of children and young people; and
- a range of education campaigns on child abuse, as well as the impact of alcohol, pornography and gambling on communities, families and children.

What was the Federal Government’s response?

Six days after the report’s release, the Federal Government announced a ‘national emergency response’ (now referred to as an ‘intervention’) to protect NT Aboriginal children. In his media release of 21 June, Minister The Hon. Mal Brough said that the:

‘... immediate nature of the Australian Government’s response reflects the very first recommendation of the *Little Children are Sacred* report into the protection of Aboriginal children from child abuse in the Northern Territory which said: “That Aboriginal child sexual abuse in the Northern territory be designated as an issue of urgent national significance by both the Australian and Northern Territory Governments ...”.’

A sweeping series of changes were outlined for ‘prescribed communities’, including:

- restriction of access to alcohol and X-rated pornography;
- welfare reforms to redirect cash from substance abuse and toward children;
- use of the welfare system to enforce school attendance;
- increasing policing;
- scrapping of the permit system (by which entry to Aboriginal land has been regulated);
- Federal Government acquisition of townships;
- community clean-ups through work-for-the-dole;
- market rents and ‘normal tenancy arrangements’ to improve housing conditions; and
- improved governance of government business.

On 6 August 2007 Minister Brough announced details of the legislation to be introduced into parliament on 7 August. The legislation comprised five Bills. According to the Government, these include: measures for alcohol restriction; computer auditing, to detect prohibited pornographic material; better management of community stores, to deliver healthier and more affordable food; five year leases upon some communities, to enable better management of investments and improved living conditions; land tenure changes allowing town camps, to become ‘suburbs’; a Government Business Manager appointed to various Aboriginal townships, to manage and implement the emergency measures; and removal of customary law as a relevant mitigating factor for bail and sentencing conditions.

The *Northern Territory National Emergency Response Bill 2007* and four related Bills passed through House of Representatives on 7 August, and are being debated in the Senate as we write this briefing. The Bills are likely to have been passed by the time you read this.

How does this response compare to the Report’s recommendations?

The Minister’s media release does not quote the whole of the Report’s first recommendation, which continues:

“... and both governments immediately establish a collaborative partnership with a Memorandum of Understanding to specifically address the protection of Aboriginal children from sexual abuse. It is critical that both governments commit to genuine consultation with Aboriginal people in designing initiatives for Aboriginal communities.”

The Government’s responses, it can safely be said, do not specifically implement the recommendations in the Report. According to Pat Anderson, one of the authors of the Report, “There is not a single action that the Commonwealth has taken ... that has corresponded with a single recommendation.” As far as we are aware, the Government would not dispute this analysis. For some, the Government has not adequately consulted the relevant stakeholders; but for others, further consultation would prevent the immediate action the situation requires.

Noel Pearson, recounting the view of another indigenous leader, observes that ‘social functionality in indigenous communities made the recent intervention by conservative leaders inevitable. Of course the conservative leaders would ultimately intervene ... and it is hardly surprising that their plan is shaped by their conservative ideology.’ Whatever we think of Pearson’s recommendations, his comment succinctly states the obvious: that a conservative government is engaging in a conservative practice of government. The hard question (and Christians have never agreed upon the answer) is whether this approach to governance is the preferred approach.

What have been the criticisms of the Federal intervention?

- A lack of consultation has produced a 'top down' approach, which means that implementation lacks sufficient detail at key points, and/or is not sensitive to various local differences between communities.
- Government intervention has not provided for consultation with the people who will be directly affected and ironically "fosters a passive system of policy development and service delivery while at the same time criticising Indigenous peoples for being passive recipients of government services!" (Tom Calma)
- There is an unclear relationship between the partial removal of the permit system, the acquisition of townships through five year leases, and the solution to child abuse.
- Compulsory redirection of welfare payments is discriminatory, since no such measure is applied to non-Aboriginal welfare recipients.
- The legislation seeks to 'sidestep' the *Racial Discrimination Act* (says HREOC).
- Members of Parliament were only given twenty-four hours to digest some 500 pages of legislation, and the Senate not much longer. The hastily conceived legislation, with minimal Senate review, could result in legal challenges and further delays.

What arguments are offered in support of the intervention?

- A tough stance is being taken to stop child abusers, which will open the way for children to prosper and for communities to begin rebuilding their lives.
- Swift and decisive emergency action is needed for the protection of the powerless, in this case, children.
- The intervention seeks to tackle the context of these abuses by addressing more general and longstanding lawlessness and disorder.
- The intervention offers the opportunity to make decisive inroads into substance abuse.
- Territorial jurisdiction has been slow and ineffective.
- Mistakes will undoubtedly be made; but it is more important that immediate action be taken than to wait until some ideal response is crafted.

Some provisional suggestions

Location. It should be noted that States may have similar significant problems in their own backyards that are not being addressed (e.g. some argue that NSW has not taken sufficient action on its own Government report entitled *Breaking the Silence*.) Clearly, whatever problems affect Territorial communities need to be addressed for all similarly affected Australians.

Means versus ends. Critical analysis of intervention is politically stifled by the rhetorical charge that opponents are 'soft on child abuse.' But no serious participant in this discussion seeks to defend or maintain the sexual abuse of children. One of the defining features of modern Western polity is its determination to expect the proper care of children by adults. This concern has driven the Report, drives the Federal response, and is not disputed by the Government's critics. The argument is over whether the best means are being employed to that end. Christians can helpfully clarify when arguments are about the best means to an agreed end, and challenge any misunderstandings, or excessive attacks, upon either the Government or its opponents.

Force. For NT Anglican Bishop Greg Thompson, 'extreme measures imposed on Indigenous communities without negotiation and an agreed implementation strategy will inevitably create immeasurable confusion, distress, and anger.' Clearly, 'immeasurable confusion, distress, and anger' would not be a positive step towards a peacefully ordered community, which is the proper goal of a government. To what extent, then, is it appropriate for governments to use forceful measures in order to govern anyone?

Liberal societies rightly agonise over the extent to which a government should force anyone to do anything. This agonising has its roots in the West's Christian origins. Governments 'bear the sword' (Rom. 13:4) to protect those who suffer injustice, particularly the weak and vulnerable, because they are precious to God. (Oddly though, so too are perpetrators; therefore even while

we make judgments against them, we keep caring for them.) But Christians have always known that laws and rules ‘are of no value in checking the indulgence of the flesh’ (Col. 2:23). Legal force is always seriously limited, then, in its effects upon attitudes, behaviours and community life. We have also been told of many indigenous Christians scattered throughout Territorial communities who testify to Jesus Christ and his word changing their inner world, and so their relationships, far more than external legal force.

The compulsory redirection of welfare payments is a case in point. This measure gives the recipient less choice about the use of the money, while making the money less available to adult substance abusers. This approach needs to be compared to systems of voluntary redirection, which have been reported as successful. But several arguments are raging around the welfare system in this context, which are beyond our scope here.

Consultation. Governments are in the business of setting the conditions under which human communities can prosper, but there are limits to what any government can achieve. The interaction between a person, their community, and a government is quite complex. Each community has people who are trying to raise children well, but the environment they find themselves in can make this task difficult. Today’s Northern Territory communities have seen many failures at all levels over many decades. Close attention therefore must be paid to policy ideas made by people ‘on the ground’—those within and close to these communities.

Perhaps we should imagine the recent Federal Government intervention as a form of ‘emergency field surgery’—a rapid response, with limited instruments, to save a patient. But it is a blunt instrument, and the ultimate solution will be complex and multi-faceted. With a view to this eventual end, perhaps the Government *and* its opponents need to keep answering the following questions of themselves, and we Christians may humbly put these questions to them, fully conceding that we don’t know all the facts:

Questions to Government:

1. Is government being honest about its limitations?
 - a) Is it clear on what forcefulness can, and cannot, achieve in people’s lives?
 - a) Has it taken enough notice of local knowledge concerning what will and won’t work, and what has and hasn’t worked, on the ground in each place?
2. Does government have long-term proposals for the self-sustaining health and good order of these remote communities, a genuine process of review, and an appropriate exit-strategy?
3. Is government honest about those failures in indigenous communities that have occurred because productive pilot programs have not been maintained long-term?

Questions to its opponents:

1. Are opponents honest about some of the intractable problems facing indigenous communities, and willing to concede the failures of some previous strategies?
2. Are opponents willing to suggest at what points force is necessary or in-order (or do they believe that all government use of force is evil)?
3. In what way can they encourage government in its efforts while at the same time suggesting improvements?

There is undoubtedly more to be said on this extraordinarily taxing matter. As always, we are acutely aware of our lack of expertise, and we will seek to learn from those who know more. But we hope this summary and these suggestions might assist the kind of discussion that ultimately helps all those who care for the NT’s children.

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Sources:

Ampe Akelyernemane Meke Mekarle – Little Children are Sacred
Inquiry into the Protection of Aboriginal Children from Sexual Abuse
<http://www.nt.gov.au/dcm/inquiryisaac/index.html>

Northern Territory national emergency response Bills 2007—interim Bills Digest
<http://www.aph.gov.au/library/pubs/bd/2007-08/08bd018.pdf>
(quotation from Tom Calma cited on p. 7)

The Hon. Mal Brough—Media Release: 'National emergency response to protect Aboriginal children in the NT.'
http://www.facsia.gov.au/Internet/Minister3.nsf/content/emergency_21june07.htm

Noel Pearson, 'Action only way forward.' *The Australian* July 07, 2007
<http://www.theaustralian.news.com.au/story/0,20867,22030022-7583,00.html>

'Authors of report "devastated"' (6 August, 2007)
<http://www.theage.com.au/text/articles/2007/08/05/1186252546287.html>

Further Reading:

ATSI Social Justice Commissioner Tom Calma to the National Press Club (4 July, 2007)
http://www.hreoc.gov.au/speeches/social_justice/2007/pressclub_20070704.html

Initial Responses of some NT indigenous groups to the NT Intervention
http://www.ilc.unsw.edu.au/news_&_events/documents/CollectedResponsesNT.pdf

'Aborigines lose welfare right appeal' (7 August, 2007) –
<http://www.theage.com.au/news/national/aborigines-lose-welfare-appeal-right/2007/08/06/1186252630128.html?page=fullpage#contentSwap1>

HREOC Media Release (8 August, 2007)
http://www.hreoc.gov.au/media_releases/2007/53_07.html

Prime Minister John Howard, ABC *Lateline* 21/06/2007
'PM criticises inaction of states on Indigenous child abuse'
<http://www.abc.net.au/lateline/content/2007/s1958659.htm>

Minister defends takeover of town camps:
http://www.facsia.gov.au/internet/minister3.nsf/content/clare_martin_7aug07.htm

'NT intervention Bill deserves a smooth passage'
<http://www.theaustralian.news.com.au/story/0,25197,22200058-16382,00.html>

Report of the Indigenous Funding Inquiry 2001
http://www.cgc.gov.au/state_finances_inquiries/report_of_the_indigenous_funding_inquiry_2002

Richard Trudgen, *Why Warriors Lie Down and Die*. Darwin: Aboriginal Resource and development Services Inc., 2000.

Media release from Anglicare NT – Bishop Greg Thompson
<http://www.anglicare.asn.au/news/agencynews/SexualAbuseNTBishopJune07.pdf>

Sydney Anglicare supports NT intervention:
http://your.sydneyanglicans.net/mediareleases/anglicare_sydney_clarifies_aboriginal_stance/

Bishop Greg Thompson has spoken on behalf of Anglicare NT to question whether the best means are being employed. The CEO of Anglicare Sydney has voiced his support for the Prime Minister. These responses may convey the impression that the two 'Anglicare' positions are in opposition; but neither disputes the need for action and consultation, and Anglicare NT only alleges limitations in the Government's chosen method.

Note: This paper is intended to assist discussion and may be corrected or revised in future. Short responses to social.issues@moore.edu.au are very welcome, but the SIE cannot guarantee a reply. To access this free regular briefing, visit <http://www.sydneyanglicans.net/socialissues> and to receive it by email, follow the link '[Sign up for our free weekly briefing!](#)' Visit <http://sie.moore.edu.au>, our second website, for other material.

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