

The Law Society's latest response to the Commonwealth Government intervention

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MEDIA RELEASE

Thursday 9 August 2007

Federal Government Emergency Response

The Law Society Northern Territory has again called upon the Prime Minister and the Minister for Indigenous Affairs to heed the recommendations of the 'Little Children are Sacred' Report, rather than rushing through its legislative package aimed at Northern Territory Indigenous communities.

"At the end of June, we welcomed the fact that action was being taken to address sexual and substance abuse," Law Society President, Allison Robertson said today.

"But we also expressed our concern then, that many of the 'Little Children are Sacred' recommendations were being overlooked," Ms Robertson said.

The introduction and seemingly inevitable passage of the Federal Government's legislative measures, which now detail the so-called emergency response, does nothing to allay those concerns, according to Ms Robertson.

"The government's approach involves a fundamental breach of democratic convention and process, and that is something all Australians should be concerned about.

"The haste with which these provisions are being rammed through Federal Parliament raises serious questions as to the government's commitment to proper democratic process.

"The legislative package is some 500 pages in three bills, covering topics as diverse as alcohol management, acquisition of interests in land, changes to welfare payments, bail and sentencing considerations, and the permit system," said Ms Robertson.

Some of the Society's particular areas of continuing concern, after preliminary consideration of the bills, include:-

- The unsatisfactory nature of the compensation arrangements in relation to the compulsory acquisition of land, and the avoidance of the *Racial Discrimination Act*, which mean Northern Territory Indigenous communities have fewer rights than other Australians.
- The Commonwealth's serious attack on self-government in the Northern Territory.
- The creation of a separate legal regime for Indigenous people in the Northern Territory, in relation to bail and sentencing, through the ban on consideration of cultural background and customary law.
- The continuing lack of any real linkage between alterations to the permit system and a reduction in the problems of sexual and substance abuse, although noting that the permit system has not been completely removed.

"Such significant issues deserve much greater consideration through proper consultation with all stakeholders," Ms Robertson said.

It's all been said before

By Rex Wild QC, Co-author of the 'Little Children are Sacred' report

On Thursday 21 June 2007, I was informed by a close friend of Commonwealth intervention in respect of Aboriginal children. I was told, "John Howard is taking over the Territory".

The week, and month, that has followed since, has involved me and Pat Anderson in fielding numerous calls from the media. In my case, at least, it has provided that 15 seconds (or so) of fame that Andy Warhol allocated to each of us. The most commonly asked question, although put somewhat differently at times, is 'what do you think of the Commonwealth Government's response to your report?'

Background

The Board of Inquiry, of which Pat Anderson and I were the co-chairs, was created by the Northern Territory Government in August 2006, to research and report on allegations of sexual abuse of Aboriginal children. The Chief Minister asked us to investigate concerns about serious child sexual abuse in Aboriginal communities. It was established to find better ways to protect Aboriginal children from sexual abuse. The qualifications for us as co-chairs may be debated. I was the recently retired Northern Territory Director of Public Prosecutions and a lawyer of nearly 40 years experience. Pat is an Alyawarr woman who brought many years of experience working with Aboriginal people, especially in Indigenous health areas, and was well known as a strong supporter of disadvantaged people.

The Inquiry was asked to:

- study how and why Aboriginal children were being abused,



Rex Wild QC, Co-author of the 'Little Children are Sacred' report

focusing on unreported cases;

- identify problems with the way the Government responds to and attempts to protect Aboriginal children from abuse;
- look at how Government Departments and other agencies can better work together to protect and help children;
- look into how the Government can better support and educate Aboriginal communities to prevent child sexual abuse.

The Inquiry collected information by listening, learning and drawing on existing knowledge to find better ways to protect Aboriginal children and support their families. Handling such a sensitive issue was challenging, and we therefore created settings where people felt safe and found it easier to talk with us. It was suggested that we would have great difficulty in getting people to talk at all about such difficult, emotional and sensitive issues. We were pleasantly surprised that we were able to break

down many of those barriers with what we thought was a patient, tolerant and sensitive approach. During a period of six months or so we travelled all over the Territory gathering feedback from more than 260 meetings with individuals, agencies and organisations. We visited 45 communities to talk with local people, and received 65 written submissions. An expert reference group was appointed to assist the Inquiry. The reference group was an important resource to the Inquiry, offering valuable advice and support. It comprised a small group, each of whom was an expert in his or her own field, and gave generously of their knowledge and provided encouragement and support to the Board.

It is important to note, and a significant basis of our final recommendations, that we were able to obtain such assistance from Aboriginal people. In the acknowledgements section of our Report we noted, 'Finally, we would like to thank the Aboriginal people of the Northern Territory who received us into their communities and shared with us the benefits of their wisdom, experience and knowledge and, in some cases, their sorrow.'

We collated and considered the material we had obtained over the period of our investigations and then put together a presentation which was made at four regional meetings. These were held at the four major urban centres and we invited Aboriginal leaders from the communities to speak with us. The purpose of this was to test the water, as it were, with the various propositions and concepts that had come to us, and get some consen-

sus. This, in fact, was achieved to a very large degree.

The upshot of this entire endeavour was that the recommendations which were finally moulded were a synthesis of the ideas given to us by Aboriginal people, such that they accept responsibility both for the problems and the solutions to them.

The findings

Eventually our findings were shaped into 97 recommendations which we provided to the Chief Minister. Underlying those findings was the common view that sexual abuse of Aboriginal children was occurring largely because of the breakdown of Aboriginal culture and society, and the consequent dysfunctionality of communities. The following important findings were made:

- Child sexual abuse is serious, widespread and often unreported.
- Most Aboriginal people are willing and committed to solving problems and helping their children. They are also eager to better educate themselves.
- Aboriginal people are not the only victims and not the only perpetrators of sexual abuse.
- Much of the violence and sexual abuse occurring in Territory communities is a reflection of past, current and continuing social problems which have developed over many decades.
- The combined effects of poor health, alcohol and drug abuse, unemployment, gambling, pornography, poor education and housing, and a general loss of identity and control have contributed to violence and to sexual abuse in many forms.
- Existing government programs to help Aboriginal people break the cycle of poverty and violence need to work better. There is not enough coordination and communication between government

departments and agencies, and this is causing a breakdown in services and poor crisis intervention. Improvements in health and social services are desperately needed.

- Programs need to have enough funds and resources and be a long-term commitment.

We were very conscious of the fact that other bodies had looked at the same problems that confront the Northern Territory, and that recommendations made by them were not receiving as much attention as they deserved. The problems were obvious and, in our view, the solutions did not involve the application of rocket science.

The recommendations

It is clear that child sexual abuse is a complex and deep seated problem that, in our view, requires urgent, dedicated and collective action from the entire community. The recommendations we made were intended to offer advice to the Government (it being recalled that our report was to the Northern Territory Government) on how it could best support and empower communities to prevent child sexual abuse now and in the future. In our report we highlighted a number of action areas which in our view hold the key to success.

- Education
- A Range of education campaigns
- A sustained fight against alcohol abuse
- Family and Community Services (FACS) and the Police
- Family support services
- Empowerment of Aboriginal communities
- The need for a Commissioner for Children and Young People

In framing the recommendations, we were conscious of, and referred to, the critical importance of Governments committing to genuine consultation with Aboriginal people in designing initiatives for

Aboriginal communities, whether these be in remote, regional and urban settings. Thus, the thrust of the recommendations (which were designed to advise the Northern Territory Government on how it could help support communities to effectively prevent and tackle child sexual abuse) is for there to be consultation with, and ownership by, the communities, of those solutions. The underlying dysfunctionality where child sexual abuse flourishes, needs to be attacked and the strength returned to Aboriginal people. It was our view that prevention was the key concept to be developed. We understood the necessity to deal with offenders and perpetrators where they were identified but that the underlying root causes needed to be attacked and eradicated. We accepted that this might take a long period of time. Our recommendations nevertheless provided for some short-term and immediate steps.

Our first and third recommendations involved leadership. They were in these terms:

1. That Aboriginal child sexual abuse in the Northern Territory be designated as an issue of urgent national significance by both the Australian Government and Northern Territory Governments. That 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.
3. That the Northern Territory and Australian Governments develop long-term funding programs that do not depend upon election cycles nor are limited by short-term outcomes or overly bureaucratic reporting conditions and strictures.

Presentation of the report

It was always our hope, in presenting the report to the Chief Minister, that it would find its way to Canberra and hopefully land on the Prime Minister's desk. It is obvious, from our perspective, that this was a matter of national significance and required the co-operation of the Commonwealth and Territory Governments (and, as it turns out, other Governments throughout Australia). Immediately after the 'launch', there was a burst of media interest and both Pat and I spoke separately, and together, to the media. We saw it as part of our role as the co-chairs of the Inquiry to ensure that the recommendations and findings were given substantial coverage. It was important, in our view, that the goodwill established with the Aboriginal people, and the exposure of the curse of sexual abuse, be used as the basis and starting point for an attack upon it.

It was our earnest wish that the matter would receive sufficient national coverage to interest the Prime Minister and his Government in addressing it as a matter of urgency. We posed this question: 'In Australian Government terms, the money is clearly available. What is required is committed long-term funding. So the question we pose for the Northern Territory Government and Australian Government (the latter holding the bigger chequebook) is what will it take to make you, on behalf of the people of the Territory and Australia, realise the national shame and racial disorder existing in this lucky country, and what will you do about it?'

The Commonwealth response

It is against the whole of this background that we have considered the response that has been made by the Commonwealth

Government. So, although we as the co-authors of the report were 'very, very happy that our report had landed on the Prime Minister's desk', and it had played some part apparently in him deciding to do something about the plight of Aboriginal people, it seems to us that it has missed the central point of our recommendations. The first recommendation, set out above, was absolutely clear. No solution should be imposed from above. We regarded it as of critical importance that Governments commit to genuine consultation with Aboriginal people in designing initiatives for their communities. That was a recommendation in line with what every other study prior to that time had found. That is, that community involvement of Indigenous people with the Government should be designed as a bottom-up rather than top-down approach. When the Prime Minister and his Indigenous Affairs Minister initially announced their emergency response, which included the imminent mobilisation of the military, they had no specific consultation with, as we understand it, the Northern Territory Government and certainly not with the authors of the report.

Many communities throughout Australia have, of course, welcomed intervention. It is consistent with the desires of communities that there be attention given to the underlying causes of the malaise. One of the central tenets of our recommendations was that this whole procedure required the co-operation of the three major stakeholders (the two Governments and the Aboriginal communities) and that the predominant role of the Commonwealth would be to provide the funding necessary.

I was reported accurately in the media at the end of June in this way:

'Wild is still reeling from the impact his report appears to have

had, and desperate to ensure that its effects will be lasting;

"Pat Anderson and I are very, very happy our report landed on the Prime Minister's desk and has been part of him deciding to do something about the plight of Aboriginal people," he says. "But if the funding doesn't follow the police and the army... it will all be a complete waste of time".

We sincerely hope that this is not the case but that, as we expressed in our report, no Aboriginal child will at any future time suffer from sexual abuse

If the Commonwealth response, as it is inevitably modified during coming months, achieves this result, then we will be very content. That result will be fortuitous and quite unforeseen, but nevertheless most welcome.

**The September/
October edition of
Balance will focus
on Information
Technology (IT).**

Contributions from interested parties are invited.

The deadline for contributions is Monday 10 September.

Follow up articles on the 'Little Children are Sacred' report and NT National Emergency Response are also welcome.

Please contact Rebecca on 8981 5104 or publicrelations@lawsocnt.asn.au to discuss your contribution