NOTES

FIFTY THOUSAND YEARS OLD AND STILL FIGHTING FOR RIGHTS:
THE CONTINUING STRUGGLE OF AUSTRALIA’S INDIGENOUS POPULATION

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I. INTRODUCTION

"'The Government doesn’t make it easy for you to change your life,'" says Rosemary. "'They should help us more.'" Rosemary Maraltadj is an Aboriginal Australian teenager living in the remote village of Kalumburu. She realized that she would face a dead-end future if she remained at home, so she sought the help of the Australian Army Assistance Program, one of several initiatives that serve to better the lives of Australia’s indigenous population. A staff member found Rosemary a decent job and training in a metropolitan area, but other indigenous Australians have not been so lucky. This underrepresented sector of Australia’s population faces “entrenched indigenous disadvantage” as a result of the discrimination and disenfranchisement that has continued from the time Australia was first settled.

This Note considers the history of Australia’s indigenous population and the recent suspension of Australia’s Racial Discrimination Act (RDA), a move that effectively legalized race-based discrimination. The RDA was suspended as part of a government “Intervention” into the Aborigine communities in Australia’s Northern Territory. This Note further addresses Australia’s recent adoption of the United Nations Declaration on the Rights of Indigenous Peoples (DRIP), and recommends that Australia act in accordance with the principles in the DRIP and reinstate the RDA by repealing those parts of the Intervention legislation that violate the suspended law.

2 See id. (Kalumburu is a remote village in northwestern Australia).
3 Id.
4 Id.
5 Id.
6 Ian J. McNiven, Colonial Diffusionism and the Archaeology of External Influences on Aboriginal Culture, in THE SOCIAL ARCHAEOLOGY OF AUSTRALIAN INDIGENOUS SOCIETIES 85, 88 (Bruno David et al. eds., 2006) (“Unilinear evolutionary models of the nineteenth and early twentieth century, for example, presented by anthropologists and archaeologists... have largely served to preserve the status quo; to keep Aboriginal Australians and Tasmanians in their place—as dependent, ‘conquered’ peoples, largely divorced from land, society, economy and their past.”).
Part II focuses on the history of indigenous discrimination in Australia and its continuing effects on today’s Aborigines. Part III considers the discriminatory effects of the Intervention legislation, known as the Northern Territory National Emergency Response Act (NTNERA), and recommends that Australia repeal the NTNERA and reinstate the RDA. Part IV discusses the DRIP’s implications and shows how the recent adoption of this international declaration should positively impact Australia’s indigenous population, if and when further implemented. Part V discusses the additional actions the Australian government must take to conform its existing laws to the DRIP, and the broader consequences of adopting an international solution to a national problem.

II. HISTORY OF AUSTRALIA’S ABORIGINES AND RACIAL DISCRIMINATION

The indigenous population of Australia is thought to be more than 30,000 years old, although more recent discoveries suggest that humans first arrived on the continent 50,000—or even as many as 60,000—years ago. Diseases brought to the continent by European settlers caused Australia’s native population to dwindle, and displacement of indigenous peoples continued until the 1850s. The indigenous population hovered around 93,000 when the Australian Constitution was enacted in 1901, compared to the non-indigenous population of 3.8 million at that time.

9 Peter Veth, Social Dynamism in the Archaeology of the Western Desert, in THE SOCIAL ARCHAEOLOGY OF AUSTRALIAN INDIGENOUS SOCIETIES 242, 242 (Bruno David et al. eds., 2006) (“A review of sites from [Australia’s] Western Desert covering the last 30,000 years . . . inevitably leads to the conclusion that [indigenous] societies have been anything but conservative and unchanging.”); Australian Explorer, Australian History, http://www.australiaexplorer.com.australian_history.htm (last visited Mar. 5, 2010) (“The first settlers are thought to have arrived around 50,000 years ago.”).

10 See JOHN MULVANEY & JOHANN KAMMINGA, PREHISTORY OF AUSTRALIA 1–2 (2nd ed., 2d prtg. 1999) (stating that by 1973, “[t]he earliest known occupation [of Australia] exceeded . . . 40,000 years” and that today, “new [carbon] dating techniques hint at 60,000 years or more since people first stepped ashore”). However, these most recent approximations “remain hints to be authenticated.” See also Richard G. Roberts et al., Thermoluminescence Dating of a 50,000-Year-Old Human Occupation Site in Northern Australia, 345 NATURE 153, 153–56 (1990), available at http://www.nature.com/nature/journal/v345/n6271/abs/345153a0.html (stating that researchers “now report thermoluminescence (TL) dates that suggest the arrival of people between 50 and 60 [thousand years ago] in northern Australia”).


12 Id.
The enormous disparity between the two populations may help to explain why the Constitution granted very few rights to Aborigines at the time. Aborigines were not considered Australian citizens until 1967, when a national referendum granted them citizenship and the right to vote. The 1967 referendum also changed the constitutional provision that had, until that point, required the government to pass laws that would affect Aborigines and other Australians differently.

Today, Australian Aborigines are commonly referred to as the "Stolen Generation" or the "Lost Children" due to the widespread practice of taking (predominantly female) Aboriginal children away from their families and forcing them into domestic service. This government-supported practice continued until 1969.

Aborigines faced immense race-based discrimination throughout the twentieth century. In 1934, Australia enacted the Aborigines Act, under which Aborigines could be "removed" at will to a "reserve" or "aboriginal institution," and refusal to comply was a violation of law, punishable by fine or imprisonment. For those who chose to "assimilate" it was not until 1949 that they were given the right to vote in federal Commonwealth elections, and

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14 See State Library of Victoria, The 1967 Referendum, http://www.slv.vic.gov.au/ergo/the_1967_referendum (last visited Mar. 5, 2010) (quoting Section 51, paragraph xxvi of the Australian Constitution, which stated, "The Parliament shall, subject to this Constitution, have power to make laws for the peace, order, and good government of the Commonwealth with respect to the people of any race, other than the aboriginal people in any State, for whom it is deemed necessary to make special laws").


17 Id. ("Under a scheme devised by the New South Wales Aborigines Protection Board and lasting from the 1880s until 1969, many hundreds of Aboriginal girls were indentured into servitude for wealthy families in Sydney and effectively cut off from their own communities.").

18 Id.

19 See, e.g., Racism No Way, Key Dates, http://www.racismnoway.com.au/library/history/keydates/index-1900s.html (last visited Mar. 5, 2010) (stating that in 1936, under the amended Western Australia Aborigines Act, the government could take Aborigines "into custody without trial or appeal and prevent them from entering prescribed towns without a permit"). Further, segregation of schools, hospitals, and theaters continued until the 1960s. Id.

20 Aborigines Act, 1934, § 17 (Austl.).

21 Id. § 49.
not until 1962 that the vote was extended to all Aborigines. In 1975, Australia passed the Racial Discrimination Act (RDA), prohibiting discrimination on the grounds of "race, colour, descent or national or ethnic origin." Until now, the most recent governmental attempt at facilitating administrative protections for Aborigines emerged in the form of the Aboriginal and Torres Strait Islander Commission (ATSIC), a national representative body for Aborigines created in 1989.

The Parliament of Australia initially formed ATSIC in response to complaints that existing Aboriginal representative bodies "did not go far enough in giving decision-making power in Aboriginal affairs to Aborigines." ATSIC, a government-funded organization, acted "to ensure maximum participation of Aboriginal and Torres Strait Islander people in government policy formulation and implementation[,] to promote indigenous self-management and self-sufficiency[,] to further indigenous economic, social and cultural development[,] and to ensure co-ordination of Commonwealth, state, territory and local government policy affecting indigenous people." The ATSIC was to carry out these objectives by advising the Australian government on indigenous issues, advocating for indigenous rights, and administering government-funded indigenous programs and services in the areas of health, education, and employment.

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22 See Introduction, in CITIZENSHIP AND INDIGENOUS AUSTRALIANS: CHANGING CONCEPTIONS AND POSSIBILITIES, supra note 13, at 14 (stating that in 1949, the Commonwealth Electoral Act was amended to give voting rights to "Aboriginal people who had served in the military and those who had the right to vote in State elections"). The Commonwealth Electoral Act was again amended in 1962 to extend the federal vote to all Aboriginal people. Id.

23 Racial Discrimination Act, 1975, § 9(1) (Austl.).


26 See id. at 8 (citing the ATSIC Act, § 3).

27 Id.
Though the blueprint for ATSIC was promising, problems arose within the first few years of its existence; the organization was criticized for a lack of accountability in relation to funding and management, as well as corruption amongst its leaders. Further, Aborigines themselves viewed the agency as a body with no real control, imposing no significant improvements on the lives of Australia’s indigenous population.

Because ATSIC positions were limited to those candidates on the Australian electoral ballot, and not the separate Aborigine ballot, many Aborigines did not see this body as their own. As a result, many Aborigines declined to vote in ATSIC elections. H.C. Coombs, a member of the Council of Aboriginal Affairs (ATSIC’s predecessor body) reported in 1996 that “[t]he formation of ATSIC has also not offered any significant transfer of authority or improvement in indigenous political and economic power or bargaining capacity. ATSIC has no access to information, knowledge, research capacity or objective advice except through the existing bureaucracy which is responsible to, and controlled by, the government.” ATSIC was finally dissolved in 2004 when it was “scrapped by the [Australian Prime Minister John] Howard government,” becoming “merely the latest policy fiasco in a long history of similar failures.”

Based on such failures of the past, problems still abound for Aborigines today, and the Australian government must determine how best to combat these

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28 See id. at 14 (noting that “[i]t is often assumed that ATSIC is unaccountable, that its processes are not transparent, that its funds are subject to mismanagement, and subsequently, that ATSIC is both inefficient and incompetent” and also that ATSIC’s “culture is one of ‘waste, corruption and nepotism’”).


30 Id.

31 See JOEL WRIGHT, SUBMISSION TO SENATE SELECT COMMITTEE ON THE ADMINISTRATION OF INDIGENOUS AFFAIRS 2, 4 (2004), available at http://www.aph.gov.au/senate/committee/indigenousaffairs_ctte/submissions/sub207.pdf (noting that “ATSIC elections were in essence, elections to determine local, regional and national representatives to manage the delivery of supplementary welfare services and not necessarily the political representatives of Indigenous people,” and that “up to 60% of Indigenous eligible voters did not vote at ATSIC or general elections for the decade after ATSIC was established”).


33 H.C. Coombs & C.J. Robinson, Remembering the Roots: Lessons for ATSIC, in SHOOTING THE BANKER: ESSAYS ON ATSIC AND SELF-DETERMINATION, supra note 32, at 1, 12.


35 Foley, supra note 29.
issues. The Australian Democratic Labor Party recently conceded that "[t]he lack of indigenous representation and the absence of indigenous voices from public debates are a serious concern." Aborigines remain at a disadvantage compared to other Australians in terms of life expectancy and face a higher incidence of sexual abuse and incarceration, problems that are likely linked to the poverty that widely affects these communities. Findings of sexual abuse among the Northern Territory’s indigenous population led the Australian government to pass its most controversial legislation in recent years: the Northern Territory National Emergency Response Act (NTNERA).

III. THE “INTERVENTION”: THE NORTHERN TERRITORY NATIONAL EMERGENCY RESPONSE ACT

A. What Started It All: The “Little Children Are Sacred” Report


37 A 2006 report showed that 70% of Aboriginal adults die before the age of sixty-five, as compared to only 20% of non-Aboriginal Australians. Roger Maynard, Bleak Picture of Aboriginal Life Expectancy, GUARDIAN (U.K.), June 21, 2006, http://www.guardian.co.uk/world/2006/jun/21/australia. The study cited possible causes as “[o]vercrowded housing, unsafe drinking water and poor sanitary conditions,” as well as “poor nutrition, obesity, smoking, alcohol and substance abuse” among Aborigines. Id.; see also Oxfam Australia, Close the Gap, http://www.oxfam.org.au/explore/indigenous-australia/close-the-gap (last visited Mar. 6, 2010) (advertising the current national campaign in Australia to “close the gap” between life expectancy rates for Aborigines and other Australians).


40 Northern Territory National Emergency Response Act, 2007 (Austl.).

41 REX WILD & PATRICIA ANDERSON, N. TERR. BD. OF INQUIRY INTO THE PROTECTION OF ABORIGINAL CHILDREN FROM SEXUAL ABUSE, LITTLE CHILDREN ARE SACRED (2007) [hereinafter LITTLE CHILDREN ARE SACRED REPORT], available at http://www.inquiriesac.nt.gov.au/pdf/bipacsca_final_report.pdf. In 2006, allegations of child sexual abuse among Aborigines led Australia’s Northern Territory to create the Board of Inquiry into the Protection of Aboriginal Children from Sexual Abuse (the Board). Id. at 5. A year later, the Board issued this report, explaining that “[t]here is nothing new or extraordinary in the allegations of sexual abuse of Aboriginal children in the Northern Territory. What is new, perhaps, is the publicity
Sacred" (the Report). The Report uncovered previously unreported incidents of sexual abuse among Aborigines and made recommendations for immediate government action.

The Report explains that child sexual abuse is not an isolated issue, but is instead a "symptom[ ] of a breakdown of Aboriginal culture and society." It also states, "the cumulative effects of poor health, alcohol, drug abuse, gambling, pornography, unemployment, poor education and housing and general disempowerment lead inexorably to family and other violence and then on to sexual abuse of men and women and, finally, of children." The Report communicates a general tone of urgency, which may help to explain why the government responded so quickly and with such an extreme measure as the NTNERA:

> Unless a firm commitment to success is undertaken immediately, a further generation is likely to be lost.

> We make a special plea for prompt consideration and acceptance of the principal tenets of the report as a matter of extreme urgency.

> It is necessary that this process of recovery begin NOW.

> ... It's time for some brave action.

B. The Intervention

In response to the Report, the NTNERA legislation (NTNERA or Intervention) is targeted at preventing sexual abuse of indigenous children by indigenous adults. The NTNERA is part of a "legislative package" that also

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43 LITTLE CHILDREN ARE SACRED REPORT, supra note 41, at 5.

44 Id. at 12.

45 Id. at 6.

46 Id.

47 Gruenstein, supra note 38, at 468.
includes other acts, such as the Families, Community Services & Indigenous Affairs & Other Legislation Amendment (NT Emergency Response & Other Measures) Act of 2007, and the Social Security & Other Legislation Amendment (Welfare Payment Reform) Act.

The Report was published in April 2007, and the government enacted the NTNERA on August 21 of the same year. One author commented, "The quick passage of the [NTNERA] ensured that there was little room for discussion or opportunity for indigenous peoples to participate in developing the proposed legislation," arguing at the time that the NTNERA likely violated the UN’s International Convention on the Elimination of All Forms of Racial Discrimination (the Convention) because of its hasty passage without informed consent from Australia’s Aborigines. Since then, at least one UN official has confirmed that the suspension of the RDA is, in fact, discrimination in violation of the Convention.

It is important to note that even the authors of the Report disapprove of the Australian government’s response in what they see as an overreaching NTNERA. Critics stated that the Howard administration, responsible for the Intervention, "[i]gnor[ed] nearly all of the reports’ [sic] suggestions and suspend[ed] the Racial Discrimination Act of 1975 (RDA) that protects against racially biased legislation, . . . impos[ing] paternalistic restrictions on Northern Territory Aboriginal communities."

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48 Id.
49 Id.
50 Id. at 480.
51 Id. at 480–81.
53 See DEP’T OF PARLIAMENTARY SERVICES (Austl.), NORTHERN TERRITORY NATIONAL EMERGENCY RESPONSE BILLS 2007, at 4–5 (Interim Bills Digest No. 18, Aug. 7, 2007) [hereinafter Interim Bills Digest No. 18], available at http://www.aph.gov.au/library/Pubs/bd/2007-08/08bd018.pdf (stating that “the authors of the report have indicated their discontent with the federal Government’s response [in the form of the NTNERA],” and that while “there appears to be very little overlap between the 97 recommendations of the [Little Children Are Sacred] report and the [NTNERA] . . . [t]he Federal Government has said that it is responding to the issue raised in the [Little Children Are Sacred] report, not to its recommendations”).
C. Substantive Provisions of the NTNERA

One controversial provision of the NTNERA is the ban on alcohol and pornography in Aborigine areas as opposed to all other areas, and the compulsory government “leases” (takings) of Aborigine lands.\(^5^5\) The NTNERA prohibits the sale and consumption of alcohol in certain “prescribed areas” (i.e., indigenous communities) in the Northern Territory,\(^5^6\) the area with the most highly concentrated indigenous population,\(^5^7\) and allows the government to take five-year leases over indigenous lands.\(^5^8\)

The land-lease provisions of the NTNERA are reminiscent of early-twentieth century legislation setting aside lands for use as indigenous reserves and for indigenous institutions.\(^5^9\) The current provisions allow the federal government to “carry out any activity on or in relation to the leased land consistent with fulfillment of the object of the [NTNERA].”\(^6^0\) The above measures are discriminatory because they apply exclusively to indigenous people and not to all Australians.\(^6^1\)

Another controversial provision of the NTNERA is compulsory income management, or “quarantining” the welfare of Northern Territory Aborigines.\(^6^2\)

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\(^5^5\) See Gruenstein, supra note 38, at 471 (noting that the provisions banning alcohol and pornography and authorizing compulsory leases are likely to violate the Racial Discrimination Convention).

\(^5^6\) Northern Territory National Emergency Response Act, 2007, § 2(12)(2) (Austl.) (outlawing the import, possession, or consumption of alcohol within an “area”); see also Gruenstein, supra note 38, at 468.

\(^5^7\) Norimitsu Onishi, Facing a Crisis, Aborigines Stage Interventions of Their Own, N.Y. TIMES, July 5, 2009, at A6.


\(^5^9\) Aborigines Act, 1934 §§ 14–16 (Austl.).

\(^6^0\) 2007 NATIVE TITLE REPORT, supra note 58, at 192.

\(^6^1\) See Press Release, Oxfam Australia, Thousands of Australians Call for Reinstatement of Racial Discrimination Act in the Northern Territory (Sept. 18, 2008), http://www.oxfam.org.au/media/releases/campaigns-and-advocacy?p’1947 [hereinafter Thousands of Australians] (explaining that “provisions [in the NTNERA] such as the quarantining of welfare payments are applied solely on the basis of the race of the welfare recipient”). The property law implications of such provisions are beyond the scope of this Note. Instead, these provisions are addressed in terms of their discriminatory effects and their invalidity under the DRIP.

\(^6^2\) See Gruenstein, supra note 38, at 491 (quoting a speech by the Minister for Families, Communities and Indigenous Affairs stating that the Intervention legislation “allow[es] the government to withhold ‘[a] substantial slice of welfare payments [to] be quarantined for food and other necessities’ ”).
This includes a policy of linking monetary incentives to school attendance, so that Aborigine parents who do not send their children to school will face a cut in welfare income. Another main component of the welfare provisions limits Aboriginal welfare recipients (not any other Australian welfare recipients) to certain merchants who will take their funds, ostensibly to limit the purchase of alcohol. Some Aborigines see this as overreaching, in that this new rule is not commensurate with the evil sought to be cured, and punishes all Aborigines for the sins of a few. “The basis of it, that because you’re black you need to have your welfare quarantined, is not a fair policy,” said Clare Martin, Chief Executive of the Australian Council of Social Service, “[a]nd there are many Aboriginal people in the [Northern] Territory who have been managing their money very well for all their lives.”

Such unequal treatment epitomizes race-based discrimination under Australia’s existing international obligations. The UN International Convention on the Elimination of All Forms of Racial Discrimination provides that welfare (financial assistance) is one of the fundamental civil rights to be enjoyed by all, regardless of race.

Critics of the NTNERA claim it is disproportionate to the problem of child sexual abuse and that the goal of protecting children is a guise for harsh, discriminatory measures. It is easy to see why critics of the NTNERA call it overreaching since many of the above provisions bear little connection to the problem of sexual abuse among Aborigines.

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64 See Onishi, *supra* note 57 (“Welfare recipients suspected of child neglect can have 70 percent of their benefits restricted to paying for essentials like food, rent and utilities, a strategy intended to reduce their purchase of alcohol.”).

65 See Thousands of Australians, *supra* note 61 (explaining that “[b]ecause of the blanket approach to welfare quarantining, many indigenous people are deeply humiliated at requirements placed on them such as being compelled to use store cards in lieu of cash”).

66 Karvelas, *supra* note 63.


69 See Gruenstein, *supra* note 38, at 468, 483 (stating that the NTNERA “goes well beyond directly targeting the high levels of sexual abuse of children in the [Northern Territory]” and that “it is arguable whether the Howard administration was acting in good faith when it disguised the far-reaching reforms [of the NTNERA] as an effort to combat sexual abuse of children”).

70 Id. at 468 (arguing that “[w]hile . . . Prime Minister [Howard] relied on the [Little Children Are Sacred] report to justify the legislation, there is little correlation between the
D. Suspension of the RDA

The NTNERA is controversial for infringing upon basic human rights of Aborigines; for example, it arguably limits the "fundamental right to racial equality."71 Perhaps most disturbing, the overall NTNERA initiative, commonly referred to in Australia as the "Intervention," contains multiple provisions allowing for the exemption of any NTNERA actions from Australia's Racial Discrimination Act of 1975 (RDA).72 This exemption effectively suspends the RDA as it relates to Aborigines.73 Thus, if enacted in the name of the NTNERA, racially discriminatory actions are currently valid under Australian law. The suspension of the RDA has allowed for measures targeted only at Aborigine communities, and not the rest of the Northern Territory.74 This unequal treatment presents a frightening prospect for an already underrepresented and marginalized minority population.

The NTNERA explains how it can implement discriminatory regulations, citing a loophole in the RDA for "special measures," those that draw lines based on race yet are "legitimate to promote the position of members of a particular race when that race is disadvantaged."75

This Note argues that the suspension of the RDA is not a legitimate "special measure" in that it does more harm than good to the disadvantaged Aborigine minority, and is thus a discriminatory action under international agreements report’s recommendations and the [NTNERA]”).

73 SUBMISSION TO SENATE, supra note 71, ¶ 5.
75 See Bills Digest No. 28, supra note 72, at 22–23 (noting that “[s]pecial measures are also referred to as ‘affirmative action’ or ‘positive discrimination’ ” and that such measures “are generally kept in place until the group affected has been able to reach ‘substantive’ equality with other members of the community”).
such as the DRIP. The NTNERA is explicit in acknowledging its implementation of discriminatory measures, though it couches those measures in terms of “indirect discrimination.”

Special measures, while perhaps legitimately needed, bring with them the risk of unlimited authority and discrimination. The potential for such abuse is evident through statements that the NTNERA is to be immune from judicial scrutiny: "The provisions of this Bill will preclude judicial scrutiny of the question as to whether the measures qualify as a special measure." Further, in suspending the RDA, the NTNERA also includes discriminatory provisions not classified as special measures, thus reducing the accountability of the government for its discriminatory acts. There is similarly no limit imposed by the Australian Constitution: it contains no bill of rights or anything comparable. The Australian government has been less than diplomatic in its response to cries of discrimination: soon after the suspension of the RDA, then-Prime Minister John Howard admitted that the government’s plan “does push aside the role of the territory to some degree” but suggested that the goal of

76 Id. at 22. “The proposed Act treats people differently on the grounds of race (the reliance on geographic location as the feature differentiating among Australian residents would fall within the definition of prohibited ‘indirect discrimination’—i.e. the geographic feature will predominantly affect members of a particular race.” Id.

77 Northern Territory National Emergency Response Act, 2007, §§ 132-133 (Austl.) (“The provisions of this Act, and any acts done under or for the purposes of those provisions, are, for the purposes of the Racial Discrimination Act 1975, special measures . . . . The provisions of this Act are intended to apply to the exclusion of a law of the Northern Territory that deals with discrimination so far as it would otherwise apply.”). The only exception offered is that these provisions “do not apply to a law of the Northern Territory so far as the Minister determines, by legislative instrument, that the law is a law to which [these provisions] do not apply.” Id. § 133 (emphasis added). Thus, the NTNERA does not provide a role for the courts in evaluating the legitimacy of this legislation.

78 Interim Bills Digest No. 18, supra note 53, at 22; see also Gruenstein, supra note 38, at 491 (stating that Australia’s “government acknowledges that the provisions [of the NTNERA] are discriminatory but it attempts to preempt judicial scrutiny by claiming that they are ‘special measures’ for the purposes of Australia’s Racial Discrimination Act”).

79 See Interim Bills Digest No. 18, supra note 53, at 24 (“In this Bill the government is not relying on the proposed Act’s definition of itself as containing only special measures. It is also suspending the central operative provision of the RDA prohibiting race discrimination.”).

80 See Al-Kateb v. Godwin (2004) 219 C.L.R. 562, 594 (Austl.) (“Eminent lawyers who have studied the question firmly believe that the Australian Constitution should contain a Bill of Rights which substantially adopts the rules found in the most important of the international human rights instruments. It is an enduring — and many would say a just — criticism of Australia that it is now one of the few countries in the Western world that does not have a Bill of Rights.”).

The United Nations eventually took action to reprimand Australia for such human rights violations, giving it a negative report card in May of 2009:

The Committee [on Economic, Social and Cultural Rights] remains concerned that some of the Northern Territory Intervention measures adopted by [Australia] in response to the 2007 Little Children are Sacred report, are inconsistent with the Covenant rights, in particular with the principle of non-discrimination, and have a negative impact on the realisation of the rights of indigenous peoples. The Committee notes with regret that the Northern Territory Intervention measures were adopted without sufficient and adequate consultation with the indigenous peoples concerned.\footnote{U.N. Econ. & Soc. Council [ECOSOC], Comm. on Econ., Soc. & Cultural Rights, Consideration of Reports Submitted by States Parties Under Articles 16 and 17 of the Covenant, ¶ 15, U.N. Doc. E/C.12/AUS/CO/4 (May 22, 2009).}

Further, in August 2009, the United Nations' Special Rapporteur on indigenous rights, Professor James Anaya, completed an eleven-day visit to Australia to assess Aboriginal needs.\footnote{RDA Bypass Discriminatory: UN Indigenous Expert, NAT'L INDIGENOUS TIMES (Austl.), Aug. 20, 2009, available at http://www.nit.com.au/news/story.aspx?id=18482.} At the beginning of the visit, when "[a]sked if the suspension [of the RDA] was "undeniably discriminatory" Prof [sic] Anaya said . . .: ‘On its face, yes. But I’m not expressing a conclusion about whether or not that’s justified at this time . . ."\footnote{Id.} At the end of his visit, Professor Anaya gave Australia what some called, "[b]y United Nations standards[,] a flogging of colonial proportions."\footnote{Id.}

Australian Aborigines are currently calling for the reinstatement of the RDA.\footnote{Chris Graham, Facing up to Our Racism: A UN Perspective on the Northern Territory Intervention, NAT'L INDIGENOUS TIMES (Austl.), Aug. 28, 2009, available at http://www.nit.com.au/news/story.aspx?id=18509.} One group of Aborigines have requested that they be granted

\footnote{See, e.g., Press Release, Paddy Gibson, Stop the NT Intervention, NT Communities to Protest Opening of Parliament 2009 (Dec. 22, 2008), http://stopthereintervention.org/facts/press-releases/nt-communities-protest-opening-parliament-09 (stating, "[p]eople from NT Aboriginal communities are preparing to take their protest directly to the federal government on the first day
“refugee” status by the UN, based on the discrimination they have faced under the Intervention. Though there have been promises to reinstate the RDA in the 2010 spring legislative session, the government has already placed limitations on that promise. The Australian government needs to reinstate the RDA, without limitations, and needs to follow through with its current plans to support the formation of a new representative body for Aborigines. Further, the Australian Parliament should amend the RDA to do away with the “special measures” provision, a loophole that has proven more harmful than helpful.

Just as the NTNERA almost certainly violates the UN International Convention on the Elimination of All Forms of Racial Discrimination, it likely stands in violation of the DRIP now that Australia has adopted this document. Australia should, in keeping with its recent covenants with the UN, protect its minority citizens by ceasing the discriminatory measures contained in the NTNERA and reinstate the RDA.

IV. THE UN DECLARATION ON THE RIGHTS OF INDIGENOUS PEOPLES

A. Australia’s Initial Rejection of the DRIP

Following a long road to adoption, the UN Declaration on the Rights of Indigenous Peoples (DRIP) was passed by the United Nations on September 13, 2007. While Australia had actively participated in its
drafting, it ultimately voted not to endorse the DRIP, along with Canada, the United States, and New Zealand—the only other UN member states to do so. The DRIP requires informed consent from indigenous people, which includes consultation with these groups before a member state passes legislation affecting them. At the time the DRIP was ratified by the UN, the Australian government under then-Prime Minister John Howard feared the informed consent provision would amount to a “veto” power in the hands of its Aborigines.

Despite the final UN vote, both the Australian Democratic Party as well as the Green Party voiced their support of the DRIP at the time. Once it became clear that Australia would likely vote against the DRIP at the UN, many Democrats spoke out, reprimanding their fellow statesmen:

Australia as a nation has failed its Indigenous peoples terribly over centuries . . . . That is our legacy, that is our record . . . . This covenant provides an opportunity for the Australian government to say, in conjunction with the global community, ‘We recognise these as fundamental rights for indigenous peoples and we will seek to commit to them.’

On the other hand, Australian lawmakers opposing the DRIP pointed to its “rushed” implementation, referring not to the two-decade UN drafting process, but instead to the limited period of time between presentation of the

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93 See Senator Marise Payne, Speech During Matters of Urgency Debate Concerning United Nations Draft Declaration on the Rights of Indigenous Peoples, in SENATE: PARLIAMENTARY DEBATES (Austl.), Sept. 10, 2007, at 53 (noting, “in the development of the declaration itself, which has been in play now for over a decade, Australia has been intimately and constructively involved in that process”).

94 See International Work Group for Indigenous Affairs, Declaration on the Rights of Indigenous Peoples, http://www.iwgia.org/sw248.asp (last visited Mar. 6, 2010) (noting there were “only 4 negative votes cast (Canada, Australia, New Zealand, United States)”).

95 See DRIP, supra note 8, art. 19 (“States shall consult and cooperate in good faith with the indigenous peoples concerned through their own representative institutions in order to obtain their free, prior and informed consent before adopting and implementing legislative or administrative measures that may affect them.”).

96 Payne, supra note 93, at 53–54.


98 Id. at 52.

final draft and the final UN vote.\textsuperscript{100} Marise Payne, a senator from New South Wales, identified her "key concerns" regarding the substantive provisions of the DRIP as it would apply to Australia.\textsuperscript{101} Among Payne's concerns was the idea of indigenous self-determination and the potential that this would be misconstrued, leading indigenous groups to believe they would not be subject to the government of their state.\textsuperscript{102} Conservatives and Senator Payne also opposed the DRIP's policies on prior informed consent, as it "implie[d] to some readers" that indigenous people would have a "right of veto" over any federal matters affecting them.\textsuperscript{103} Conservative Australians also feared the provisions of the DRIP would place "customary [Aborigine] law in a superior position to national law."\textsuperscript{104}

As one pro-DRIP Senator stated, however, the DRIP "does not actually bind any country of the world to take particular action. What it does is bind countries to look within their own programs of law to respect and acknowledge the rights of indigenous people."\textsuperscript{105}

At the time Australia initially declined to endorse the DRIP, some lawmakers reprimanded their nation for the negative message this move sent to the international community and to Australia's indigenous people. One DRIP supporter, Senator Trish Crossin, stated:

[T]he government's response is disappointing but not unexpected. Essentially, what they are saying is that they will not be supporting this declaration because it does not line up with their policy on Indigenous affairs. We have seen that unfold quite dramatically in the last three months in relation to the Northern Territory.\textsuperscript{106}

\textsuperscript{100} Payne, supra note 93, at 53–54.
\textsuperscript{101} Id.
\textsuperscript{102} Id.
\textsuperscript{103} Id. at 54.
Senator Ursula Stephens, from New South Wales, similarly characterized Australian opposition to the DRIP as "another very shameful moment for Australia,"\textsuperscript{107} in which DRIP opponents "continue... to point out worst-case scenarios rather than interpreting the provisions of the draft declaration in good faith."\textsuperscript{108}

**B. The Road to Endorsement of the DRIP**

In September of 2007, the same month that saw Australia’s negative vote on the DRIP, Australian political candidate Kevin Rudd declared to the UN General Assembly that he would lead Australia in supporting the DRIP if he came to power.\textsuperscript{109} Rudd was sworn in as Australia’s new prime minister shortly thereafter, on December 3, 2007.\textsuperscript{110} However, it took until April of 2009 for Rudd to follow through on his promise.\textsuperscript{111}

For the first two years of the Rudd administration, change came in the form of public apologies\textsuperscript{112} for past wrongs such as the forcible taking of Aborigine children from their parents\textsuperscript{113} and state-sponsored “assimilation” practices.\textsuperscript{114}


\textsuperscript{108} Id. at 57.


\textsuperscript{111} See Australia to Support UN Indigenous Rights Declaration, ABC News (Austl.), Mar. 26, 2009, http://www.abc.net.au/news/stories/2009/03/26/2527177.htm (stating that Australia would change its position on the DRIP on April 3, 2009, and that the “decision to support the declaration... was part of the Rudd Government’s election promises”).

\textsuperscript{112} Kevin Rudd, Prime Minister of Austl., Apology to Australia’s Indigenous Peoples (Feb. 13, 2008) (transcript), available at http://www.aph.gov.au/house/rudd_speech.pdf (proposing the creation of a “joint policy commission” for Aborigine affairs, and recommending, “[i]f this commission operates well... [to then] work on the further task of constitutional recognition of the first Australians”).

\textsuperscript{113} Id. (“To the Stolen Generations, I say the following: as Prime Minister of Australia, I am sorry.”).

\textsuperscript{114} See id. (admitting that the forcible taking of Aborigine children from their families was a policy “taken to such extremes by some in administrative authority that the forced extractions of children of the so called ‘mixed lineage’ were seen as part of a broader policy of dealing with
Rudd's apology in February 2008 was especially momentous in light of the fact that former Prime Minister Howard had refused to make such an apology during his eleven years in office.\(^{115}\) However, without actions to back up the apology, "sorry" seemed like an empty word.\(^{116}\)

In February 2008, Australian Foreign Affairs Minister Stephen Smith stated there was a chance the government would reverse its position on the DRIP.\(^{117}\) How this change would take effect, however, was still unclear, as Smith stated a reversal might be as easy as "simply let[ting] our view be known."\(^{118}\) Despite these words of hope, however, the Australian Senate voted down a motion in September 2008 that would have changed Australia's position to one of support for the DRIP at the UN General Assembly meeting in October 2008.\(^{119}\)

**C. Australia's Official Change of Position**

Despite the set-backs in late 2008, Australia finally decided to change its stance, choosing to endorse the DRIP after its initial decline to do so. This about-face came on April 3, 2009,\(^{120}\) on the heels of international criticism of Australia's human rights policies, including a scathing March 2009 review by


\(^{118}\) Id.


the UN Committee for the Elimination of Racial Discrimination. Reports further indicated that the DRIP endorsement was part of the Rudd Administration’s goal of fulfilling its campaign promises.

Though no immediate changes took place as a result of Australia’s support of the DRIP, one Aboriginal leader, Tom Calma, stated, “The Declaration could be put to immediate use in Australia by providing guidance and articulating minimum standards to help the government in addressing some of the discriminatory elements remaining in the Northern Territory intervention.” While the DRIP creates no new rights for indigenous peoples in Australia, it does bring together their existing rights into one cohesive document, and “lays out the minimum standards for the ‘survival, dignity and well being of Indigenous Peoples.’”

Despite Australia’s recent adoption of the DRIP, Australia still needs to change its national policies on indigenous affairs in order to bring itself into alignment with this important document. Though the DRIP is non-binding, many of its articles are actually legally binding as these are lifted from the Convention on Civil and Political Rights and the Convention on Economic, Social and Cultural Rights. The Declaration does not set new international standards on human rights. It merely interprets International Human Rights Law as it applies to the specific situations of indigenous peoples as distinct peoples.

121 See Thalia Anthony, United Nations Committee Finds Australia in Breach of Obligations, http://blogs.usyd.edu.au/thaliaanthony/2009/03/ (Mar. 19, 2009, 15:17 EST) (“The Committee referred especially to Article 2(2) [of the International Convention on the Elimination of All Forms of Racial Discrimination, which Australia ratified in 1975] that special measures ‘shall in no case entail . . . unequal or separate rights for different racial groups.’ This signals to the government that its efforts to convey the Intervention as a special measure are actually a breach of international law.”).

122 Australia to Support UN Indigenous Rights Declaration, supra note 111.


Further, "[t]he [DRIP] [was] expected to eventually become a convention and then binding international law within a few years."126 The UN made progress towards the goal of making the DRIP international law on December 13, 2008, when the U.N. Human Rights Council passed a resolution establishing the Expert Mechanism on the Rights of Indigenous Peoples (the Mechanism).127 The Mechanism is an enforcement body which will work to actually implement the policies outlined in the DRIP.128 This recent resolution was deemed "[t]he first substantial step in the effort to make the declaration law."129

In a world where human rights violations are normally considered a problem limited to developing countries, Australia has yet to prove that it is up to speed with the times.130 Perhaps most embarrassing for Australia is that it held out until public criticism reached its height before endorsing the DRIP, a

129 Toensing, supra note 127.
document which only "sets minimal standards on how countries should treat indigenous peoples."\textsuperscript{131} Unless Australia aligns its policies with those of the DRIP, the country will continue in its failure to extend even the most basic rights to its indigenous people.

V. STEPS TOWARD TOMORROW: WHERE AUSTRALIA SHOULD GO FROM HERE

A. Reinstate the RDA and Put a Halt to the Intervention

At the end of his recent visit to Australia, UN Special Rapporteur James Anaya emphasized the importance of the DRIP and instructed Australia to do more in light of its recent endorsement of the document:

The [DRIP] expresses the global consensus on the rights of indigenous peoples and corresponding state obligations on the basis of universal human rights. I recommend that the Government undertake a comprehensive review of all its legislation, policies, and programmes that affect Aboriginal and Torres Strait Islanders in light of the [DRIP].\textsuperscript{3}

An appropriate starting point for instating the minimal standards of human rights would be to reverse the Intervention legislation and reinstate the RDA. Instead of making more public apologies to its indigenous people, Australia needs to take action. Continuing down the current path of protecting indigenous people from themselves at the expense of freedom from discrimination can only lead to more problems within the Aboriginal population. Although the Australian government may argue that the discriminatory measures imposed by the Intervention are necessary as "special measures," these measures actually violate international law, as noted above.\textsuperscript{133} Significantly, there is no proof that the Intervention has resulted in any actual improvement in conditions among Aborigines.\textsuperscript{134}

\textsuperscript{131} Taliman, supra note 126.
\textsuperscript{133} See supra notes 74–82 and accompanying text.
The Aboriginal community has made its voice heard in opposition to the Intervention, calling for the reinstatement of the RDA. However, Prime Minister Rudd has voiced his opposition to such recommendations. In response to proposed compromises, such as allowing indigenous communities to “opt in or opt out” of the Intervention, Prime Minister Rudd stated: “This Government is not into rolling the clock back to some sort of ancient business-as-usual approach to dealing with the challenges of indigenous Australia. Most of them failed. We are on with the business of what works. And it will be a completely new approach.”

The discriminatory effects of the Intervention approach have been criticized by many. Northern Land Council chairman Wali Wunun Gmurra stated, “By suspending this important law [the RDA], the previous Australian government told the rest of the country and the world that it was okay to treat Aboriginal people in the Northern Territory as museum exhibits and that we are less than human and this is an insult.” Again, this sentiment was confirmed by the UN Special Rapporteur, James Anaya, who at the end of his visit to Australia reported:

Any special measure that infringes on the basic rights of indigenous peoples must be narrowly tailored, proportional and necessary to achieve the legitimate objectives being pursued. . . . In my view, the Northern Territory emergency response is not. These measures overtly discriminate against Aboriginal peoples, infringe on their right of self-determination and stigmatise already stigmatised communities.

Instead of further marginalizing this group of people, the Australian government should work to find practical and non-discriminatory solutions to the very real problems of poverty, alcoholism, and sexual abuse within its indigenous population.

during-Stolen-Generations.html (stating that the “military-style intervention in the Northern Territory ordered by the former Prime Minister John Howard . . . [has] done little to improve life in Australia’s diverse Aboriginal communities”).

135 See Thousands of Australians, supra note 61 (explaining that a group of 4,000 Aborigines and non-Aborigines signed a petition to Parliament on the matter).


137 Id.

138 Robinson, supra note 52.
There is evidence, however, that unless and until Aborigines gain representation in government, they will remain at a disadvantage. Mal Brough, the politician behind the Intervention, criticized the recent UN assessment of the Intervention, stating:

I get very annoyed when I hear people pontificating about human rights when today there will be children sitting out there in abject squalor with diseases they don’t have to have, inadequate education, poor nutrition and poor access to health and we have some nicety about human rights legislation . . . .

This attitude among white government officials, that human rights are not a priority related to practical concerns, is unacceptable.

Discriminatory effects aside, the Intervention simply is not working. As one commentator further noted, “Yes, the intervention is racially discriminatory—even [Mal] Brough concedes that. But it also happens to be failing miserably.” As early as 2008, reports showed that the “one size fits all” legislation behind the Intervention was already failing to produce results. There would seem, then, to be no reason to continue to implement this program, one that furthers discriminatory policies and has produced few, if any, positive results.

B. A New Representative Body

Any solutions should, as stated in the DRIP, be made in accordance with informed consent, and Aboriginal people should be involved in any legislation concerning them, just as all Australians are guaranteed a voice through

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139 Id.
140 Graham, supra note 85.
142 See Chris Graham, Racist, Not Working: UN Bashes NT Intervention, CRIKEY (Austl.), Aug. 28, 2009, http://www.crikey.com.au/2009/08/28/racist-and-not-working-un-calls-us-on-our-intervention/ (“The alcohol bans have not stopped the grog . . . . The extraordinary coercive powers (and millions of dollars) handed to the Australian Crime Commission (ACC) to target child abusers have not resulted in the capture of a single paedophile [sic] . . . . The income management has also resulted in near starvation and demonstrable harm to Aboriginal people . . . [and the ‘tens of millions’ that John Howard outlined would be spent on the NT intervention has blown out to more than $1 billion.”).
143 DRIP, supra note 8, art. 18 (“Indigenous peoples have the right to participate in decision-making in matters which would affect their rights, through representatives chosen by themselves in accordance with their own procedures, as well as to maintain and develop their own
representation in the legislature. Notably, because there have only been two Aboriginal senators in the Australian Parliament, enforcement of provisions in the DRIP that would allow for greater indigenous input into government, such as the right to informed consent, is badly needed. As of 2009, indigenous Australians had “suffered from the absence of a national body for five years,” since the dissolution of ATSIC in 2004.

In August of 2009, Tom Calma, the Aboriginal and Torres Strait Islander Social Justice Commissioner, submitted a proposal for a new indigenous body to Indigenous Affairs Minister Jenny Macklin. The Australian Government, in accepting the proposal, assured that it would “not create another ATSIC,” backing this promise with the mandate that applicants for an initial strategy session “had to be an Aboriginal and/or Torres Strait Islander.” By November 2009, the new council was approved as the National Congress of
Australia's First Peoples (First Peoples). The government stated at that time that the "[p]rocesses necessary for the establishment of the representative body will begin immediately and continue throughout 2010 with a fully operational body expected to be in place by January 2011." The list of proposed functions for the First Peoples does not include legislative powers. Similarly, Calma has stated that the new representative body would not be formally linked to government except through some initial funding. The advantage of this independence seems to be that the indigenous body would not "be subject to threats of being abolished like ATSIC was in the Parliament." However, "[t]he new body," it has been stated, "would not be responsible for any service delivery and would only have advisory powers." Arguably, then, it is difficult to see how the new group will have any real impact on government decision-making, or how this will prevent further indigenous marginalization. The initial proposal was criticized by those who feel certain it will not be truly representative of remote indigenous communities. As one indigenous leader stated, "I think the Canberra [government seat] Aboriginal perspective is just as potentially out of touch with the real world of Aboriginal people as the Canberra whitefella perspective... I fear an elected body which will lobby and advocate but not actually decide anything[,] will be just another high-powered talkfest."

Meanwhile, others have proposed that the solution should be simply to elect more indigenous people to the Australian Parliament. However, this is a

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151 Update November 2009, supra note 149.
152 Id.
153 See id. (noting that the three function of the First Peoples will be "formulating policy and advice," "advocacy and lobbying," and helping "monitor and evaluate government performance").
154 Id. ("The Government has announced funding of $29.2 million for the new representative body to provide appropriate support during its very important establishment phase and the early years of its operation."); Emma Rodgers, Calma Urges Support for ATSIC Replacement, ABC NEWS (Austl.), Aug. 27, 2009, http://www.abc.net.au/news/stories/2009/08/27/2668710.htm.
156 Rodgers, supra note 154.
157 Berkovic & Rintoul, supra note 146; see also Anderson Sceptical About Post-ATSIC Body, ABC NEWS (Austl.), Aug. 28, 2009, http://www.abc.net.au/news/stories/2009/08/28/2669505.htm (stating that the independent Member for MacDonnell, Alison Anderson, says she does not think anyone from remote areas will make it onto the board").
possibility that has existed for years, and yet there have been only two Aborigine representatives elected—this suggests that another solution is needed. Prior to the formation of the First Peoples, one proposal was to “set aside seats in Parliament” for indigenous leaders, though it is unclear how this suggestion would be implemented. Perhaps the answer is to set aside a percentage of seats, based on the percentage of indigenous people in the Australian population, and hold elections for those seats. While this practice is inconsistent with Western ideals of democracy, it is consistent with Australia’s ideal of “special measures” or affirmative action for disadvantaged minority groups. This may not be a perfect solution, but it would provide Aborigines with a guaranteed voice in government and a say in the laws that affect them. Further, this policy is consistent with the DRIP’s mandate of informed consent for laws affecting indigenous peoples.

Additionally, reform of existing government aid programs is needed. Notably, the biggest flaw in existing indigenous aid programs is that, while the government has provided funding, much of the funding gets “chewed up,” either by consultations and reports, or by the various levels of administration between the grass-roots needs and the top-level authorities. The Northern “Territory government has consistently failed to spend its allocation of [grant] money from Canberra as intended . . . . In services to indigenous communities alone, the Territory government has on average underspent by 54%.” The Australian government granted $3 billion towards programs in 2009, a “significant portion” of which “was either underspent or the result of creative accounting.”

159 See sources cited supra note 145.
163 Barass, supra note 161.
One former director of social and economic policy in the Northern Territory stated, "There are way too many programs, and the high administration costs in delivering them makes them almost certain to fail. . . . The NT government sometimes chews up to 40[%] of the costs. Transaction costs on the ground are also unbelievably debilitating." These programs can be streamlined, and many eliminated, to increase the effectiveness of government aid. James Anaya, UN Special Rapporteur on Indigenous Affairs, stated in his recent address to Australia, "In particular, it is essential to provide continued funding to programmes that have already demonstrated achievements." Those programs that are stagnant or redundant, on the other hand, should be cut. None of this can be accomplished without a central indigenous body to oversee the administration of government funds and services.

What is needed, both to work towards solving the problems facing Australia’s Aborigines and to bring Australia into compliance with the DRIP, is a body of indigenous advisors in Parliament, not outside of government, who will have an actual impact on the laws affecting Aborigines.

VI. CONCLUSION

Australia’s belated adoption of the DRIP highlights how far Australia lags behind other UN member states in its position on human rights. Some have hinted that the adoption of the DRIP, which came at a time of international criticism of Australia’s handling of indigenous affairs, was only a symbolic act that will do little to actually improve indigenous conditions. If for no other reason than the most shallow, Australia has benefited by adopting the DRIP in order to cure its lost favor in the public eye. Now, however, the Australian government needs to take action to actually bring its policies into alignment with the DRIP, showing that its adoption of the DRIP was not just a symbolic gesture.

The Intervention legislation and the suspension of the RDA is an overreaching act of government that violates Australia’s international
obligations under the DRIP. Further, the Intervention, from the very beginning, has borne little practical connection to the purpose for which it was supposedly intended. As one RDA supporter put it, "Racial discrimination does not improve the lives of children, nor does violating international human rights standards." Further, the Intervention has been a set-back for long-awaited Aborigine rights:

The announcement of the NT intervention was met with an almost audible collective sigh of despair across much (but not all) of Aboriginal Australia. In an instant, another weight was placed on Aboriginal communities, spelling a potential end to the progress made in generations of struggle for acknowledgement and recognition of Aboriginal people’s right to have some control over the future of their families and communities.172

At the very least, Australia should reinstate the RDA and go about the Intervention in other, more viable ways, such as providing more funding for health care and education among its Aborigine population, and limiting welfare quarantines only to parents who actually neglect their children, instead of all Aborigine parents.

Finally, Australia needs a representative body made up of Aborgines that can serve to bridge the gap between people in remote indigenous communities and the Australian government. Although the formation of the First Peoples is a step forward, ideally, such a representative body would be part of Parliament, instead of a marginalized group that might have only nominal effects on policy.

Australia has the potential for an about-face from its current position on indigenous affairs. Already, through the recent adoption of the DRIP and hopefully through potential reinstatement of the RDA, Australia can give its Aboriginal population what they have long been waiting for—action to back up the promises of their government.

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171 Thousands of Australians, supra note 61 (quoting Rodney Dillon, Indigenous Rights Coordinator for Amnesty International Australia).
