



**Sovereign Union of First Nations and Peoples in Australia**  
*Asserting Australia's First Nations Sovereignty into Governance*  
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MEDIA RELEASE

1 August 2016

***Why Australia refuses to ratify UN Convention on Torture***

Ghillar, Michael Anderson, Convenor of the Sovereign Union, last surviving member of the founding four of the Aboriginal Embassy and Head of State of the Euahlayi Peoples Republic said from Goodooga, northwest NSW today:

PM Turnbull's Royal Commission into juvenile justice in Northern Territory is a cowardly act by a Prime Minister, who is ducking for cover in an attempt to protect his Minister, Nigel Scullion, from being scrutinised by the national and international community, which has been shocked into total disbelief at what was shown on Australian National TV by ABC *Four Corners* report 'Australia's Shame' on Monday 25 August 2016. We thank Cara Meldrum Hana for her investigative journalism skills to expose graphically what had been ignored by the authorities for so long.

Need independent monitoring of correctional facilities

We welcome the UN Human Rights Commission's urgent response to the exposure of horrific abuse of children in detention at Don Dale by *Four Corners* at a press briefing by the Spokesperson for the UN High Commissioner for Human Rights: Rupert Colville on 29 July 2016:

... The treatment these children have been subjected to could amount to a violation of the Convention on the Rights of the Child and the Convention Against Torture and Other Cruel, Inhuman and Degrading Treatment, to which Australia is a party.

Article 37 of the CRC stipulates that "every child deprived of liberty shall be treated with humanity and respect for the inherent dignity of the human person, and in a manner which takes into account the needs of persons of his or her age."

The announcement by the Government of an investigation into youth detention in the Northern Territory is an important step. We encourage the Government to extend the scope of the investigation beyond the Northern Territory in order to establish that such appalling treatment is not taking place in any other place of detention in Australia. We call on the authorities to identify those who committed abuses against the children and to hold them responsible for such acts. The children who were abused at Don Dale should receive psychosocial rehabilitation to overcome the trauma they have suffered. Compensation should also be provided.

We also call on Australia to ratify the Optional Protocol to the Convention against Torture. This important instrument focuses on the prevention of torture. Under the Protocol, Australia would establish a National Preventive Mechanism which conducts regular visits to all places of detention in the country. Events at Don Dale clearly show the immediate need to establish such a system of regular visits to ensure that what happened at Don Dale never happens again in Australia.

I now ask the question: Can Australia's refusal to ratify the Optional Protocol to the International Convention against Torture and Other Cruel, Inhuman or Degrading Treatment now be better understood? Australia signed the Optional Protocol in 2009 but has never ratified it to bring it into domestic law.

The very fact that torture is an international crime must now be looked at in such a way so as to prosecute the perpetrators, including the State Ministers for perpetrating a crime against humanity. NT Attorney-General, John Elferink MLA, and his gestapo-styled staff cannot be exempt from prosecution for what an international criminal act. These people who perpetrated this wonton and deliberate abuse of children must be prosecuted with the full force of the law. There can be no exemptions from what is a criminal act. There is an expected duty of care and they failed.

### No confidence in Royal Commissioner, former chief justice Brian Martin, not impartial

Turnbull's immediate announcement of confining the Royal Commission into Juvenile Justice to the Northern Territory and that the Royal Commissioner is to be headed by NT Supreme Court former chief justice Brian Martin, brings shudders of 'justice denied' across the Aboriginal communities.

The fact is we could have no confidence that former Chief Justice Martin is impartial and independent.

To his credit Brian Martin has now quit his appointment and has admitted there may have been a conflict of interest in respect to his daughter Joanna having worked as a justice adviser to former Attorney-General Delia Lawrie from 2009 until 2011, a period covered by the scope of the royal commission. This now reinforces our opposition to his selection, but there are other matters he had not admitted to, for example, he presided over the case of the murder of 33 year old Kwementyaye Ryder in Alice Springs on 25 July 2009:

The brief facts are these: On July 25, 2009, Kwementyaye Ryder was walking home in the early morning hours when a group of five young white men set upon him. As he lay defenceless on the ground, Mr Ryder was kicked repeatedly in the face and had a bottle smashed over the back of his head.

He died at the scene from massive haemorrhaging of his brain.

A short time earlier, the five men - Anton Kloeden, Joshua Spears, Glen Swain, Timothy Hird and Scott Doody - had been driving up and down the dry Todd River bed, where Aboriginal people sleep, terrorising black campers.

They drove their vehicle at high speed at numerous Aboriginal people, even running over the swag of one very elderly Aboriginal man.

The boys also discharged a replica firearm at the campers, and hurled racial abuse. Following the killing, all five men evaded police for a week. When they were finally brought in for questioning, they provided false alibis.

In August 2009, the five young men entered the Northern Territory criminal justice system facing charges of murder, and multiple counts of recklessly endangering life.

Somehow, a few months later, they emerged pleading guilty to manslaughter.

All of the reckless endangerment charges had been dropped, save for one count levelled against the driver, Anton Kloeden.

During sentencing, the judge, Chief Justice Brian Martin, described the boys in glowing terms. While acknowledging the Aboriginality of the victims was probably a factor in the crimes, Chief Justice Martin accepted that the youths' actions in the river bed immediately preceding the killing were just as described by their legal counsel - a bit of 'hooning'.

Chief Justice Martin described the killing of Mr Ryder as being at the lowest end of the scale of manslaughter.

"Manslaughter by negligence," he called it.

... For their crimes, these boys received prison terms ranging from just 12 months to four years. [ <http://www.abc.net.au/news/2010-07-20/35382> ]

### Suicides

Having learnt from these children what has been going on, I go so far as to suggest that we need to investigate all recent youth suicides to compare how many had suffered in detention centres such as Don Dale. I believe that many of these children have committed suicide because they did not want to continue to experience this horrific abuse and they could see no way to avoid it and death was the easier way out. We now call upon Aboriginal and Torres Strait Islander families who have acted to prevent their children from suicide to come forward so that we can create a national dialogue of the immense psychological trauma that these children have been dealing with all this time. They need help and we need to help them and their families

We do know that there are rumours afloat that suggest that there is a deliberate attempt for governments to break the will and determination of Aboriginal people and they cowardly attack our youth. This is not new by any means. It is a well-known fact among Aboriginal people that beyond the Blue Mountains an unseen storm is raging out of control. An example of this determined assault upon the Aboriginal population can be best seen when we look at communities such a Walgett, in northwest NSW, where the police department has recently built a police station for 80 police in a community that has a total population of around 2000, if that, and a regional population of approx 25000. The question must be asked is: Is why is such a massive number of police necessary? As Aboriginal people we know very well what the police operations in towns like Walgett are like. The question Aboriginal people ask constantly is: Why are our kids being targeted by the full force of Australian policing law? We can only draw one conclusion and that is our children, in many cases, are being criminalised not for what they do, but for who they are.

Aboriginal people are now more susceptible to being accused of criminal activity than any other group in Australia, and the disproportional representation of Aboriginal people in custody cannot be ignored any longer.

### Scourge of colonialism must end

It is sad to think that Australia's scourge of colonialism continues to pervade the Australian society. It shocks me and many of my Aboriginal colleagues to think that white Australia has not been able to overcome the horrors of their past colonial experience. The Australian colonial administration commenced, as its identity, with 'infuse an universal terror' into the Aboriginal population:

That we were to cut off and bring in the heads of the slain; for which purpose hatchets and bags would be furnished. ... that against this tribe he [Phillip] was determined to strike a decisive blow, in order at once to convince them of our superiority and to infuse an universal terror, ...

Watkin Tench, Detachment leader, December 1790

[ [Flannery](#) Tim 1996, 1788: *Comprising A Narrative of the Expedition to Botany Bay and A Complete Account of the Settlement at Port Jackson: Watkin Tench*, The Text Publishing Company, Melbourne, p. 168. ]

As it was said by the man who perpetrated the massacres near Brewarrina against my People: It is better to have an Aborigine fear you than to love you.'

What will it take for Australians to free themselves from their past ?

The cowardly act of Malcolm Turnbull to restrict the terms of reference to the NT only demonstrates that he does know that there is a much deeper problem than he cares to admit. I have no doubt that his colleagues around the table have pleaded with him not to go beyond the NT.

We have not even mentioned what is being done to Aboriginal people in WA and to this end we must as a people demand that all governments to take this matter seriously, which means that there can be no holding back and the torture and abuse across the continent must end, not only for the children but also for the adults in incarceration, especially women and mothers.

Aboriginal people are under attack and have been for a very long time. The time has come when we must say: Enough is enough. We know Royal Commissions can be ineffective. We only have to look at the Royal Commission into Deaths in Custody, in which no person in authority was charged with a crime, the vast majority of the recommendations have never been implemented and the incarceration of adults is rapidly increasing.

We have reached a point where Aboriginal people have made a concerted effort to liberate and free themselves from tyranny. Australia must understand that as Aboriginal people we know that we are under attack by a government, which is determined to destroy our will to be self-determining with our own political and economic futures and to be free of the scourge of colonialism that continues to haunt our very lives.

Aboriginal people fear for the safety of our children because the current Australian political regime understands that our current fight back against the tyrannical regime that Australia serves up to its population are belligerent warmongers who will do whatever it takes to destroy Aboriginal people. It must be a horrible feeling to be in the shoes of Australian politicians when they are questioned about the treatment of Aboriginal people by the international community. We have seen the lies that they serve up in the international community but, because of diplomacy, we cannot get outside intervention to correctly scrutinise the internationally recognised wrongdoings by the Australian government and the covert and subtle genocidal practices that are being perpetrated.

If the Australian government is serious in its quest to correct the injustices we have witnessed on the ABC *Four Corners*, then let an independent group of Aboriginal Elders be part of this inquiry. Let us have access to the children in the detention centres. Let us talk to our children so that we do not have a coverup of the real issues that our people are confronted with. We ask for the Turnbull government to be innovative and brave. We want to have access to our children and we want free and unimpeded access to these correctional institutions.

We call upon PM Turnbull to make this possible. They are our children and the administrators have violated a trust and a duty of care and we cannot permit anybody to argue the sickening repeated argument that if Aboriginal people looked after their children in the first place there would be no need for this type of inquiry. We know this argument is coming and it is not an acceptable excuse for anyone to hide behind a cowardly statement such as this.

NT Chief Minister, Adam Giles, to step down

I call on NT Chief Minister, Adam Giles, to immediately step down from his position and we ask him never to repeat that he has Aboriginal blood in his veins. Adam Giles is nothing but an agent of the Crown and doing its bidding. This is what we call tyranny disguised. Giles has had to retract his first statement that he knew nothing of the horrific abuse and had to admit the tear gassing of children in solitary confinement with nowhere to run happened at Don Dale on his watch. We also

know that he and Minister Bess Price voted for the new legislation that authorised the use of the chair known as a 'mechanical restraint'.

On the NT Hansard record of 2010 Giles said words to the effect that: All the bad people should be thrown into a concrete hole and I don't care if it breaches UN Conventions, but when the ABC tried to access the statement it had been deleted from the Hansard record and Giles refused to provide them with a copy. He admitted publicly that he had refused the permission.

As recently as 28 July 2016 Giles stated that he had worked hard to improve the justice system. We can only wonder what it was like before. We know that he and Minister Bess Price voted for the new legislation that authorised the use of the chair known as a 'mechanical restraint' and the use of cable ties for restraining children. How can he consider that these measures and 'paperless arrests' could possibly 'improve' the justice system?

With further egg on his face, Giles has had to withdraw his government's counter claim of \$160 000 for damages done by two detainees, whose lawyers are suing for compensation for their young clients.

#### Questionable role of Mick Gooda, Aboriginal and Torres Strait Islander Social Justice Commissioner

It is also totally insulting for our Aboriginal and Torres Strait Islander communities to see crocodile tears being shed by a person, Mick Gooda, who has the capacity to conduct his own inquiry as Aboriginal and Torres Strait Islander Social Justice Commissioner.

The findings of evidence-based inquiries were produced by two NT Children's Commissioners, who reported on the horrific abuse at Don Dale Youth Detention Centre. The most recent report was released in August 2015 and covered the abuse exposed by *Four Corners* on 25 August 2016.

There was the Vita Review of the NT Youth Detention System in early 2015 which found that '... youth detention facilities in the Northern Territory are struggling to maintain service level standards.' and also the Carney review of the NT Juvenile justice system in 2011.

The question that needs to be asked is: was Mick Gooda made aware of these reports? If not, then attention needs to be thrown on the complete inadequacies of the status and effectiveness of Australia's Human Rights Commission.

#### Questionable role of Tim Wilson, former Commissioner for Human Rights

I am also shocked into disbelief that the former Commissioner for Human Rights, Tim Wilson, did not commence his own independent inquiry, but rather left it to perpetrators to carry on the abuse of children.

It is not acceptable for politicians, now to say they did not know of the torture and abuse in the juvenile detention centres. No amount of excuse can be found to suggest any type of reasoning for what has been done, and may still be continuing.

Call it for what it is. These are a criminal acts perpetrated on children that must be prosecuted, but Aboriginal people are being told constantly that the forced removal of the children is 'in their best interest' and detention is for their own good because they get a free feed, shower and a bed.

Ghillar Michael Anderson

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## BACKGROUND:

FULL TEXT of UN HRC press briefing:

### **Press briefing notes on Gambia and Australia**

Spokesperson for the UN High Commissioner for Human Rights: Rupert Colville

Location: Geneva

Date: 29 July 2016

... We are shocked by the video footage that has emerged from Don Dale youth detention centre in the Northern Territory in Australia, showing children as young as 10, many of whom are Aboriginal children, being held in inhumane conditions and treated cruelly. Some children were held in isolation for extended periods, sometimes for several weeks, in hot and dark cells with no access to fresh air or running water. In one incident, six children were tear-gassed by prison guards. The videos, from 2014, show another child hooded and strapped to a chair for several hours. Others are shown being repeatedly assaulted and stripped naked. According to the children's testimony, these abuses took place over several years. Most of the children who were held at the detention facility are deeply traumatized. The treatment these children have been subjected to could amount to a violation of the Convention on the Rights of the Child and the Convention Against Torture and Other Cruel, Inhuman and Degrading Treatment, to which Australia is a party.

Article 37 of the CRC stipulates that "every child deprived of liberty shall be treated with humanity and respect for the inherent dignity of the human person, and in a manner which takes into account the needs of persons of his or her age."

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- See more at: <http://www.ohchr.org/EN/NewsEvents/Pages/DisplayNews.aspx?NewsID=20323&LangID=E#sthash.cUXXvchX.dpuf>