

Rudd should defend his legacy, not Bligh's law

By Noel Pearson

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Tony Abbott's bill to protect Aboriginal property rights in Queensland is truly liberal

LAST Monday evening the Leader of the Opposition, Tony Abbott, tabled his Wild Rivers (Environmental Management) Bill 2010 in the House of Representatives. The private member's bill is described as "an act to protect the interests of Aboriginal traditional owners in the management, development and use of native title land situated in wild river areas, and for related purposes".

The bill is short. It consists of seven sections, the key provision of which is Section 5, which states: "The development or use of native title land in a wild river area cannot be regulated under the relevant Queensland legislation unless the Aboriginal traditional owners of the land agree."

Section 6 is a transitional provision that provides for existing wild river declarations to continue until such time as a fresh declaration is made with the agreement of the Aboriginal traditional owners of the land.

If no such agreement is made then the declaration ceases to apply after six months.

As well as being short the bill is also sweet.

It would restore a just outcome for Aboriginal traditional owners who hold native title in areas where the Queensland government has imposed wild river declarations, and where further declarations are proposed.

Why is this bill just?

First, by requiring the Queensland government to come to agreement with Aboriginal communities in relation to rivers on their lands, the state's most impoverished people will be able to negotiate proper benefits.

These can include employment, training, investment support for tourism developments and guarantees for other appropriate economic development opportunities. The Bligh government has offered beads and trinkets.

Second, the bill will enable the commonwealth government's policy goal of closing the gap in indigenous disadvantage to be achieved. Without the opportunity of economic development, the wide gap in social and economic conditions of Aboriginal Australians will never be closed.

Third, those Aboriginal landowners who want and support wild river declarations can immediately make an agreement with the Queensland government. State politicians and the Wilderness Society claim there are traditional owners who want wild rivers. Such people will be free to make agreements with the Queensland government. Given the opportunity to negotiate the terms of such agreements, I expect these traditional owners will want to ensure that they are guaranteed proper benefits from such declarations.

Fourth, this bill is utterly consistent with the letter and intent of the International Declaration on the Rights of Indigenous Peoples, to which Australia became a party on April 3 last year.

It is to the great credit of the Coalition under Abbott that it is prepared to honour Aboriginal native title rights to land: not just in the way the Bligh government conceives of native title, as a mere cultural right to hunt, fish and pick berries from the land, but to use their land for economic purposes.

Some people will say that Abbott and the Coalition are just pulling a stunt and are being hypocrites about Aboriginal rights. The battles over the Wik 10-point plan in the 1990s justifies such scepticism.

But I think Abbott is genuinely motivated in this case.

I am convinced the Coalition under Abbott is less motivated by any new-found commitment to the international declaration than by a conviction property rights are at stake here. After all, property rights are a central principle of liberal philosophy.

The leap forward that Abbott has undertaken here is that he has extended respect for property rights to Australian Aborigines. Black land rights are now treated as equally important to white land rights.

On the eve of the second anniversary of the Prime Minister's historic apology to the Stolen

Generations, Abbott has reminded Kevin Rudd of the commitments he gave two years ago when he said: “Unless the great symbolism of reconciliation is accompanied by an even greater substance, it is little more than a clanging gong.”

God-botherers like the Leader of the Opposition and myself readily identify the Prime Minister’s allusion to St Paul’s first letter to the Corinthians: “If I speak in the tongues of men and of angels, but have not love, I am only a resounding gong or a clanging cymbal.”

Most people will not realise that the lands in Cape York Peninsula that are the subject of the wild rivers controversy were granted to Aboriginal communities under legislation designed by Rudd when he headed the Queensland public service in the early 1990s. Indeed, Rudd had moved to provide land justice to traditional owners before the High Court decided the Mabo case.

My first official job was to work for Rudd on the development of Queensland land rights legislation in 1991. The Bligh government’s wild rivers laws dishonour the justice achieved by the Prime Minister early in his career in public life. The onus falls on him now to take action to require the Bligh government to restore the property rights of Aboriginal landowners so that they can make free and informed agreements about their land and enjoy the few and limited opportunities they have for a future.

There are win-win opportunities for Aboriginal rights and environmental protection available here, provided that it is founded on the principle of agreement.

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