

Australia
Submission to the UN Universal Periodic Review
37th Session of the Working Group
02 November - 13 November 2020

Situation of Human Rights for Aboriginal and Torres Strait Islanders Peoples

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This submission is on behalf of Stockholm Human Rights Lab (SHRL), a non-aligned and collaborative think tank working to protect and promote human rights through research, advocacy, and empowering grassroots activism. SHRL has a particular interest in the welfare and human rights of indigenous peoples and ethnic minorities.

Introduction

1. In the five years since the previous UPR review, the collective lives of Aboriginal and Torres Strait Islanders (“Aboriginal and TSI” or “First Peoples”) have significantly deteriorated, due in large part to the unwillingness of the Australian government to protect and promote indigenous peoples’ rights and address endemic discrimination and disparities. This submission highlights some of the key human rights issues that pertain to Aboriginal and TSI, analyses the progress on recommendations made by member states during the UPR 2nd Cycle and makes recommendations for the 3rd Cycle. It will cover specific issues concerning the administration of government policies, racial discrimination, and the rights of Aboriginal and TSI women and children.

2. The Australian government has failed to take genuine and meaningful steps to secure the rights of First Peoples, decades have past and endless cycles Royal Commission of Inquiries, reports and government initiatives¹ have been unable to address entrenched disparities. The legacies of dispossession, slavery², the Stolen Generation, genocide³, intergenerational trauma, severed spiritual and cultural connect to traditional territory, forced assimilation, discrimination and marginalisation are ubiquitous within the lives of First Peoples today. These historical grievances are unresolved and have manifested in disturbing fractures in social cohesion, drug and alcohol abuse, poverty, domestic violence, homelessness, incarceration, and the inability to access healthcare, food and water. In response to these problems, the government has adopted paternalistic top-down approach that lacks consultation and undermines self-determination, such as the Indigenous Advancement Strategy (IAS), Intervention/Stronger Futures and Closing the Gaps.⁴ An urgent and meaningful shift is needed from these policies to ones that champion indigenous peoples’ rights, in partnership and reconciliation, to achieve belated state-building and empower Aboriginal peoples’ right to self-determination.

Domestic Law

3. During the 2nd Cycle of the UPR, Australia supported a recommendation by India to “*Ensure adequate consultations with indigenous peoples in the formulation of policies affecting them*”⁵ but an appreciable and consistent commitment to this statement is lacking within Australia’s domestic legal framework, which does not adequately remediate First Peoples’ historical exclusion from state-building. *Aboriginal and Torres Strait Islander Act 2005* recognises self-determination and government directives recognise the United Nations Declaration on the Rights of Indigenous Peoples (UNDRIP) but there is no overarching checks on legislative compliance with indigenous peoples’ rights, nor is there a Bill of Rights or Federal Act securing human rights.⁶

4. Aboriginal and TSI have never ceded sovereignty and enjoy common law native title rights⁷ but the Native Title Act 1993 has narrowed defined native title claims. Uninterrupted and continuous use of land must be established, even in spite of difficulties tracing usage after historical forced removal and dispossession.⁸ Claims are often protracted, due to complex processes and overlapping legal jurisdictions.⁹ Additionally, valid native title claims can be subverted in favour of mining interests and compulsory acquisition for a third party’s benefit without compensation or requiring free, prior and informed consent of Aboriginal and TSI peoples.¹⁰ The Australian Human Rights Commission (AHRC) has repeatedly stressed the importance of including free, prior and informed consent in the Native Title Act but this has not occurred – even given the numerous opportunities during reforms and amendments of the Act.¹¹ Under the UNDRIP States must consult, in good faith, in order to obtain free and informed consent prior to any project affecting indigenous territories.¹²

5. During the reporting period the Government enacted the Native Title Amendment (Indigenous Land Use Agreements) Act 2017, which further streamlines the ability for the extraction industry to

get access to indigenous lands without unanimous collective consent of First Peoples based upon traditional decision-making processes.¹³ Significant steps need to be taken to harmonising the Native Title Act and other legislation with the UNDRIP, which must include protecting First Peoples' right to land and recourses. For instance, in Borroloola, activists have called for compliance with the UNDRIP after the McArthur River mine contaminated the community's water supply.¹⁴

6. At both previous UPR Cycles, Australia supported recommendations¹⁵ and made a voluntary pledged to hold a referendum to enable constitutional recognition for First Peoples, but two federal elections have passed without a referendum, even though the Referendum Council report recommending a constitutional change.¹⁶ Additionally, in 2017, 250 Aboriginal and TSI delegates called drafted the *Uluru Statement from the Heart* calling upon the government and Australian people to recognise their spiritual sovereignty, realise rights through a treaty, reconciliation and Makarrata¹⁷. The Australian government has effectively rejected this, with little political will or enthusiasm to realise this vision.¹⁸

International Law

7. There striking contrast between the Australian government's external pronouncements in favour of human rights and realisation of these rights, caused by lack of accountability at all levels of government. Australia is party to most core human rights treaties but holds important reservations and has not ratified the Optional Protocols for ICESCR¹⁹ which hampers the realisation of First Peoples' rights, especially women, children, and those with disabilities. The Australian Courts give primacy to domestic law, and may consider Australia's international legal obligations only where ambiguities or inconsistencies within domestic law allow for a consistent reading of international law.²⁰ At a domestic level, human rights are often rendered perfunctory, as meaningful application of the law is directly contradicted by State, Territory and Federal Law. At international law, Australia may not invoke domestic law to shield it from performing its treaty obligations.²¹

8. After voting against the UNDRIP, the Australian government became a signatory and committed to adopting measures to ensure its implementation within domestic law and policy.²² However, during the UPR 2nd Cycle, Australia did not support the three recommendations to properly implement the UNDRIP – renewed commitments are needed.²³

9. Among other guarantees, the UNDRIP ensures indigenous peoples':

Freedom and equality²⁴;

Freedom from discrimination²⁵;

Right to self-determination through determining their political status and free pursuit of economic,

Social and cultural development²⁶;

Autonomy and self-government in internal and local affairs²⁷;

Freedom from removal of children²⁸;

Freedom from forced assimilation or destruction of culture²⁹;

Freedom from forced removal from land and relocation without free, prior and informed consent³⁰;

Fair and just compensation and option of return if relocated³¹;

Right to practice and realise culture³² and pass on traditions to future generations³³;

Right to participation in decision-making that affects them, through their chosen representatives³⁴;

Right to be consulted, in good faith, in order to obtain free, prior and informed consent before adopting and implementing legislative or administrative measures that may affect them³⁵;

10. International customary norms recognising the right to consultation, self-determination³⁶ and the UN Charter recognises the rights of indigenous peoples' to equal rights and self-determination.³⁷ Ultimately, there has been a conscious repudiation of applicability of international legal norms concerning the rights of indigenous peoples within domestic law. There are countless instances over the reporting period where the Australian government has failed to respect the above principles.

Administration of Policies Aimed at Aboriginal and TSI

11. During the 2nd Cycle of the UPR, Australia supported a recommendation by Peru to “*Continue to support indigenous institutions that bring cohesion to communities, such as the National Congress of the First Peoples of Australia [NCFPA].*”³⁸ NCFPA, along with Aboriginal and TSI Peak Organisations united in the Redfern Statement to call on the incumbent federal government to listen to First Peoples' strategies and institutions to solve systemic disparities, but these were largely ignored.³⁹ The Australian government explicitly defunded the NCFPA, severing a vital connection between indigenous voices and the federal government, instead opting for government hand-picked advisors.⁴⁰ Additionally, essential community services are being defunded rapidly, among them is the National Family Violence Prevention Legal Services (NFVPLS) which provides voice for Aboriginal and TSI women who experience domestic violence and facilitates the 'Closing the Gaps' policy.⁴¹ One advocate for NFVPLS feels the voices of women are being 'silenced'.⁴² This commitment is further undermined given the federal budget saw \$35 billion in income tax cuts, while the NFVPLS' budget is \$244,000.⁴³ During the report period, the Western Australian government had intended, without consultation, to close 150 of the 274 remote Aboriginal communities due to loss of federal funding, threatening livelihoods and spiritual and cultural connection to land.⁴⁴

12. During the 2nd Cycle of the UPR, Australia supported a recommendation by Nicaragua to “*Continue paying special attention to the implementation of national policies for marginalized or vulnerable social groups, including migrant children, aboriginals and disabled persons.*”⁴⁵ Yet, the Australian National Audit Office found of the IAS Fund allocated for First Peoples was left unevaluated, mismanaged, and had unreasonable high administration costs, with Aboriginal community-run organisations receiving only half of the allotted funding.⁴⁶

13. The Australian government has failed to take a genuine audit of historical grievances of aboriginal peoples and to provide remedies. A clear example of this is stolen wages, where First Peoples' wages and benefits were funnelled through government schemes in the late 19th and 20th century the government withheld and misappropriated wages and benefits owed to First Peoples, defrauded an estimated AU\$500 million in Queensland alone. For Queensland, a class action cases have been settled at significantly lower than this figure.⁴⁷ There is no knowledge of the full extent of the fraud and no federal compensation program to return the funds.⁴⁸ Additionally, while the 2008 National Apology for the Stolen Generation was a profound step towards reconciliation, it is merely symbolic unless real and meaningful steps are taken to address intergenerational trauma and disparities. Continued support of organisations, such as the Healing Foundation and indigenous-run organisations is encouraged.⁴⁹ Currently, only three States have reparation schemes for the Stolen Generation – a federal approach is needed.

14. Evidence based research shows that investing in Aboriginal and TSI-run organisations and initiatives, such as Aboriginal Ranger Program⁵⁰ and Indigenous Police⁵¹, are more successful and build stronger communities. However, the prevailing approach to the administration of policies

directed at ameliorating hardships is grossly misdirected, unable to reach those most in need and ultimately failing to furnish results.⁵² This approach has created an endless cycles of government inquiries, reports and initiatives have done little to improve the lives of Aboriginals and TSI or have actively worked against them, evidenced by the stagnation in meeting the government's "Close the Gaps" targets.⁵³ Pat Turner, Aboriginal activist and chair of the coalition of peaks says "*We know what will work best for our communities and the prime minister even acknowledges in this report that our voice was the missing ingredient*" and her greatest concern is the complacency and cynicism this breeds.⁵⁴

Racial Discrimination

15. During the second Cycle of the UPR, Australia supported a recommendation by Bolivia to "*Reinforce measures against acts of racism, discrimination, xenophobia and intolerance.*"⁵⁵ Yet, incidents of racism have rapidly increased.⁵⁶ The state of entrenched racial discrimination in Australia is deep-rooted and has manifested in the continuation of underlying disparities between First Peoples and non-indigenous Australians. The government is unwilling to adequately challenge racism, for instance, politicians have called Aboriginal and TSI "lazy parents"⁵⁷, "addicted to drugs and grog"⁵⁸ and "noble savages."⁵⁹ Stereotypes of First Peoples as violent, dangerous, culturally inferior, welfare profiteers, negligent parents, are perpetuated in media and online, contributing to differential treatment and projected onto policy decisions and within society at large.⁶⁰

16. Institutional racism directly affects how Aboriginal and TSI interactions with government services, for instance, Miss Dhu (an Aboriginal woman) was arrested for unpaid fines and later died in Police custody from injuries sustained from domestic violence. Officers and healthcare professionals believed her to be a drug user and faking symptoms, after two separate visits to the hospital, which the Coroner found would not have occurred if she were white and middleclass.⁶¹ A further examples are the oppressive neo-colonial social security policies, such as the Cashless Debit Card scheme which quarantines 80% of funds which restricts spending and is disproportionately applied to Aboriginal and TSI.⁶² The Australian Parliamentary Joint Committee on Human Rights has repeatedly stated the scheme "*unjustifiably limit rights to social security, private and family life, equality and non-discrimination*"⁶³

17. The Community Development Program (CDP) requires welfare recipients in remote communities to undertake work or training in order to access social security payments, with First Peoples heavily overrepresented (80%) in the program and in financial penalties resulting from non-compliance, further plunging them into poverty.⁶⁴ The formation of the CDP did not adequately include First Peoples, breaching rights under ICERD and UNDRIP.⁶⁵

18. One in three Aboriginal and TSI has experienced verbal racial abuse within the last six months⁶⁶ and 3 in 4 regularly experience racial prejudice.⁶⁷ Under the UNDRIP, States must take effective measures, in consultation and cooperation, to combat prejudice, eliminate discrimination and promote tolerance.⁶⁸ During the review period, the Section 18c of the RDA has unjustly come under attack for quelling free speech, the government launched an inquiry and proposed amendments which would allow forms of hate speech.⁶⁹ While the amendments did not enter into law, this severely undermines First Peoples' trust in the government.

Women

19. At the last UPR, Australia supported a recommendation by Singapore to "*Ensure the effective implementation of the National Plan to Reduce Violence against Women and their Children, in particular to protect Aboriginal and Torres Strait Islander women, culturally and linguistically diverse*

women, and women with disabilities".⁷⁰ Yet, violence against Aboriginal and TSI women is at crisis level and in a state of non-compliance with CEDAW.⁷¹ Inadequate funding for the National Action Plan to Reduce Violence against Women and their Children⁷² is a backwards step in combating violence against women. Aboriginal women are 34 times more likely to be hospitalised as a result of domestic violence and 10 times more likely to be murdered in a violent assault.⁷³ As much as 40 percent of women are turned away due to lack of resources, with some not reporting violence for fear of their children being removed.⁷⁴ Article 22 of the UNDRIP requires States to place particular attention on the rights and special needs of women, recognising the intersectional discrimination and marginalisation they face. A gendered and indigenous approach is needed to strengthen the agency of Aboriginal and TSI women.

Children

20. Since the last UPR, the situation for indigenous children has deteriorated. Yet, Australia supported the recommendation by Greece to *"Further promote protection of the rights of the child, giving emphasis to Indigenous Children."*⁷⁵ Yet, Aboriginal and TSI children have higher infant mortality rates⁷⁶, be removed from parents, in juvenile detention, lack of food security and inadequate education.⁷⁷ Removal rates of indigenous children is 36 percent of all removals, up from 20 percent a decade previous.⁷⁸ Given intergenerational trauma as a result of the Stolen Generation, the grief of child separation is devastating on parents and is linked to mental illness and substance abuse.⁷⁹ There is a prevailing distrust in government authorities prevents children from receiving support, engagement with First Peoples in early intervention programs are essential to remedy disparities.⁸⁰

Incarceration

21. During the last Cycle of the UPR, Australia supported Ireland's recommendation to *"Continue to work, in partnership with Aboriginal and Torres Strait Islander communities, to reduce indigenous incarceration rates"*.⁸¹ Yet, Aboriginal and TSI peoples remain the most incarcerated peoples on earth, disproportionately represented in overall prison number within all demographic indicators experiencing racism, physical and verbal abuse.⁸² Half of all juveniles under youth justice supervision are First Peoples, being 23 times more likely to be in detention than non-indigenous youth.⁸³ The Royal Commission into the Protection and Detention of Children in the Northern Territory found detention facilities not fit for accommodation or rehabilitation, including children being racially and verbally abused, deprived of food and water, subjected to humiliating and degrading treatment, inappropriate use of force and isolation for up to 21 hours a day.⁸⁴ Additionally, 432 First Peoples have died in prisons since 1991, many of these preventable.⁸⁵ The Special Rapporteur on the rights of indigenous peoples laments that lack of political will to address incarceration of First Peoples, *"...despite that key measures for improvement have been repeatedly identified by a string of national and state inquiries, royal commissions, coroners' reports and international human rights monitoring mechanisms."*⁸⁶

Recommendations to the Australian government:

- Ratify ILO Convention no.169, and fully commit, implement and realise the principles of the UNDRIP;
- Lift the reservations on the CRC⁸⁷
- Protect and actively promote indigenous knowledge, culture, art, language and traditions through mainstreaming and education for all Australians;

- Actively promote electoral engagement of indigenous communities and remove blocks and impediments for indigenous engagement in the electoral system;
- Implement the findings of the Referendum Council and conduct a referendum on Aboriginal and TSI inclusion into the Constitution of Australia at the next federal election;
- Realise self-determination, through engagement and consultation on *The Uluru Statement from the Heart*;
- Establish a Makarrata Commission, and investigate the establishment of an indigenous legislative body;
- Provide funding to restore the National Congress of Australia's First Peoples and address the recommendations in the Redfern Statement; and
- Give full legal effect to international legal instruments within domestic law, including but not limited to, the nine core human rights treaties and optional protocols.

¹ Non-exhaustive list of reports, inquiries, and commissions: "Royal Commission into Aboriginal Deaths in Custody", "Bringing them Home - Report and Reconciliation: Australia's Challenge: the final report of the Council for Aboriginal Reconciliation", "Change the Record Coalition's Blueprint for Change", Indigenous Advancement Strategy, "Northern Territory Royal Commission into the Protection and Detention of Children in the Northern Territory", "National Aboriginal and Torres Strait Islander Health Plan 2013-2023", "National plan to Reduce Violence against Women and their Children 2010-2022", Government of Western Australia "Regional Reform Service: Resilient Family – Stronger Communities", "Not now, not ever: Putting an end to domestic and family violence in Queensland", Aboriginal and Torres Strait Islander Commission (dissolved in 2005), Rosalind Kidd "Hard Labour, Stolen Wages – National Report on Stolen Wages", ANTaR (2007).

² Wayne Bergmann WA Kimberley history shows plain evidence of Aboriginal exploitation and slavery", 19 June 2020 <https://nit.com.au/wa-kimberley-history-shows-plain-evidence-of-aboriginal-exploitation-and-slavery>/<https://www.abc.net.au/news/2020-06-12/pm-apologises-offence-caused-slavery-comments-clarifies-remarks/12348716>

Rosalind Kidd "Hard Labour, Stolen Wages – National Report on Stolen Wages", ANTaR (2007).

³ UN Report of the Special Rapporteur on the rights of indigenous peoples on his visit to Australia (2010) A/HRC/15/37/Add.4. Available at <https://documents-dds-ny.un.org/doc/UNDOC/GEN/G10/138/87/PDF/G1013887.pdf?OpenElement>

⁴ While the Closing the Gaps targets are laudable, the methods to reach these goals lacks proper engagement and consultation with indigenous communities

⁵ Report of the Working Group on the Universal Periodic Review, UN Human Rights Council, A/HRC/31/14/Add.1 - Para. 28 (Recommendation 136.89). Available at: <https://www.ohchr.org/EN/HRBodies/UPR/Pages/AUIndex.aspx>

⁶ <https://www.ag.gov.au/rights-and-protections/human-rights-and-anti-discrimination/human-rights-scrutiny/public-sector-guidance-sheets/right-self-determination>. AHRC "How are human rights protected in Australia law?", 27 March 2019. Available at <https://humanrights.gov.au/our-work/rights-and-freedoms/how-are-human-rights-protected-australian-law>.

⁷ *Mabo and others v Queensland (No 2)* [1992] HCA 23; (1992) 175 CLR 1 F.C. 92/014 (3 June 1992)

⁸ Native Title Act 1993. SR 2016 para 99. CERD, Decision 2 (54) on Australia – Concluding Observations/Comments, 18 March 1999, 6, UN Doc CERD/C/54/MISC.40/rev.2, [13].

⁹ UN Report of the Special Rapporteur on the rights of indigenous peoples on her visit to Australia (8 August 2017), A/HRC/36/46/Add.2.

¹⁰ Roberts, S. "Teoh v Minister for Immigration: The High Court Decision and the Government's Reaction to it" [1995] AUJHRights 10; (1995) 2(1) Australian Journal of Human Rights 135.

¹¹ Australian Human Rights Commission "Exposure Draft Native Title Legislation Amendment Bill 2018 Submission to the Attorney-General's Department", 31 January 2019. Available at <https://www.ag.gov.au/sites/default/files/2020-05/Australian-Human-Rights-Commission.PDF>

¹² Article 32 (2) UNDRIP

¹³ Young, Stephan M. "Native Title Amendment (Indigenous Land Use Agreements) Act 2017 (Cth): Relying on human rights to justify a legalised form of colonial dispossession?", Indigenous Law Bulletin 2017 8(30).

¹⁴ <https://indigenousx.com.au/warburdar-bununu-our-stories-our-songs-will-shield-our-water/>

¹⁵ Australia supported a recommendation from Guatemala during the 1st cycle to “Launch a constitutional reform process to

better recognize and protect the rights of the Aboriginals and Torres Strait Islanders which would include a framework covering the principles and objectives of the United Nations Declaration on the Rights of Indigenous Peoples and would take into account the opinions and contributions of indigenous peoples” Report of the Working Group on the Universal Periodic Review, UN Human Rights Council, A/HRC/17/10 (Recommendation 86.107.). Available at:

<https://www.ohchr.org/EN/HRBodies/UPR/Pages/AUIndex.aspx>

During the second cycle Australia Supported a recommendation by Georgia to “Advance efforts towards the recognition of Indigenous Australians as Australia’s First People in Australia’s Constitution” Report of the Working Group on the Universal Periodic Review, UN Human Rights Council, A/HRC/31/14/Add.1 - Para.28 (Recommendation 136.74). Available at:

<https://www.ohchr.org/EN/HRBodies/UPR/Pages/AUIndex.aspx>

¹⁶ Final Report of the Referendum Council, 30 June 2017. Available at <https://www.referendumcouncil.org.au/>

¹⁷ Yolngu term meaning “the resumption of normal relations after a period of hostilities.”

¹⁸ Deborah Snow “Rediscovering the ‘Heart’: How Uluru statement got bogged in detail”, *Sydney Morning Herald*, 26

January 2019. Available at <https://www.smh.com.au/national/rediscovering-the-heart-how-uluru-statement-got-bogged-in-detail-20190125-p50tm3.html> <https://www.smh.com.au/politics/federal/sad-day-turnbull-government-rejects-indigenous-referendum-proposal-20171026-gz8mpj.html>

¹⁹ Nor have they ratified International Convention on the Protection of the Rights of All Migrant Workers and Members of Their Families, the International Convention for the Protection of All Persons from Enforced Disappearance, the Optional Protocol to the Convention on the Rights of the Child on a communications procedure and the Optional Protocol to the International Covenant on Economic, Social and Cultural Rights. See

https://treaties.un.org/Pages/ViewDetails.aspx?src=TREATY&mtdsg_no=IV-3-a&chapter=4&clang=en

²⁰ *Minister of State for Immigration and Ethnic Affairs v Ah Hin Teoh* [1995] HCA 20; (1995) 128 ALR 353.

²¹ According to Article 27 of the Vienna Convention on the Law of Treaties of 1969, a state cannot use the provisions of its own law or deficiencies in that law to answer a claim against it for breaching its obligations under international law.

²² <https://www.ag.gov.au/rights-and-protections/human-rights-and-anti-discrimination/human-rights-scrutiny/public-sector-guidance-sheets/right-self-determination> <https://www.abc.net.au/news/2009-04-03/aust-adopts-un-indigenous-declaration/1640444>

²³ Report of the Working Group on the Universal Periodic Review, UN Human Rights Council, A/HRC/31/14/Add.1 - Para. 28 (Recommendation 136.84). Available at: <https://www.ohchr.org/EN/HRBodies/UPR/Pages/AUIndex.aspx> “Adhere to the

United Nations Declaration on the Rights of Indigenous Peoples” (Senegal), Report of the Working Group on the Universal Periodic Review, UN Human Rights Council, A/HRC/31/14/Add.1 - Para. 28 (Recommendation 136.85). Available at:

<https://www.ohchr.org/EN/HRBodies/UPR/Pages/AUIndex.aspx> “Develop in partnership with Aboriginal and Torres Strait Islander peoples a National Strategy to give effect to the United Nations Declaration on the Rights of Indigenous Peoples, and to facilitate the constitutional recognition of Aboriginal Australians” (Estonia), Report of the Working Group on the Universal Periodic Review, UN Human Rights Council, A/HRC/31/14/Add.1 - Para. 28 (Recommendation 136.86). Available at: <https://www.ohchr.org/EN/HRBodies/UPR/Pages/AUIndex.aspx> “Develop, in partnership with indigenous communities, a national strategy to implement the United Nations Declaration on the Rights of Indigenous Peoples” (Hungary).

²⁴ Non-exhaustive list of key provisions. Article 2 UNDRIP

²⁵ Article 2 UNDRIP

²⁶ Articles 3 and 20, 31, 34 UNDRIP

²⁷ Article 4 UNDRIP

²⁸ Article 7(2) UNDRIP

²⁹ Article 8 UNDRIP

³⁰ Article 10 UNDRIP

³¹ Articles 10 and 28 UNDRIP

³² Articles 11 and 12 UNDRIP

³³ Article 13 UNDRIP

³⁴ Article 18 UNDRIP

³⁵ Article 19 UNDRIP. Also other rights - Right to improve their social conditions, with State assistance;

Right to strengthen their distinctive spiritual relationship with traditional lands and resources;

Right to own, use, develop and control land with legal recognition;

Right to traditional modes of land tenure, conservation and protection of environment;

Right to determine their identity;

Receive financial assistance to realise the UNDRIP; and

Realise the UNDRIP through legislation.

³⁶ Anaya, J. “*International Human Rights and Indigenous Peoples: The Move Towards the Multicultural State*”, *Arizona Journal of International and Comparative Law*, Vol. 21, No.1. (2004). *Case of the Kichwa Indigenous People of Sarayaku v. Ecuador*, IACTHR, judgment of 27 June 2012. §164. *Apirana Mahuika et al. v. New Zealand* (Seventieth session, 2000), U.N. Doc. CCPR/C/70/D/547/1993, November 15, 2000.

³⁷Article 1(2) UN Charter

³⁸ Report of the Working Group on the Universal Periodic Review, UN Human Rights Council, A/HRC/31/14/Add.1 - Para. 28

(Recommendation 136.87). Available at: <https://www.ohchr.org/EN/HRBodies/UPR/Pages/AUIndex.aspx>

³⁹ The Redfern Statement. Available at <https://antar.org.au/campaigns/redfern-statement>

⁴⁰ <https://www.smh.com.au/national/unacceptable-indigenous-funding-cuts-a-breach-of-faith-20191210-p53ip6.html>

⁴¹ nationalfvpls.org <https://www.abc.net.au/news/2019-12-06/aboriginal-domestic-violence-survivors-peak-body-defunded/11773066>

⁴² Ibid

⁴³ Ibid

⁴⁴ <https://www.theguardian.com/australia-news/2016/jul/14/fears-western-australia-will-close-remote-indigenous-communities-by-stealth> <https://www.abc.net.au/news/2015-03-24/federal-review-reveals-192-communities-deemed-unsustainable/6343570>

⁴⁵ Report of the Working Group on the Universal Periodic Review, UN Human Rights Council, A/HRC/31/14/Add.1 - Para. 28 (Recommendation 136.123). Available at: <https://www.ohchr.org/EN/HRBodies/UPR/Pages/AUIndex.aspx>

⁴⁶ Jacqueline Breen and Gavin Coote “Audit finds \$5 billion indigenous Advancement Strategy not properly evaluated”, ABC News, available at <https://www.abc.net.au/news/2019-06-19/indigenous-advancement-strategy-ias-audit-measure-government/11222554>

<https://www.abc.net.au/news/2015-05-05/majority-of-indigenous-grants-go-to-non-aboriginal-organisations/6444534> https://www.aph.gov.au/About_Parliament/Parliamentary_Departments/Parliamentary_Library/FlagPost/2019/August/Compensation_payments_to_Indigenous_Australians

⁴⁸ Rosalind Kidd “Hard Labour, Stolen Wages – National Report on Stolen Wages”, ANTAR (2007)

⁴⁹ <https://healingfoundation.org.au/>

⁵⁰ Aboriginal Ranger Program available at <https://www.dbca.wa.gov.au/parks-and-wildlife-service/aboriginal-ranger-program>

⁵¹ <https://www.theguardian.com/australia-news/2020/jun/05/show-respect-and-listen-scenes-from-australias-first-indigenous-run-police-station>

⁵² Evidenced in the failure to meet Closing the Gaps Targets. Available at <https://www.pmc.gov.au/news-centre/indigenous-affairs/closing-gap-2020>

⁵³ Ibid.

⁵⁴ <https://www.theguardian.com/australia-news/2020/feb/12/closing-the-gap-doomed-to-fail-without-aboriginal-peoples-input-leaders-say>

⁵⁵ Report of the Working Group on the Universal Periodic Review, UN Human Rights Council, A/HRC/31/14/Add.1 - Para. 28 (Recommendation 136.137). Available at: <https://www.ohchr.org/EN/HRBodies/UPR/Pages/AUIndex.aspx>

⁵⁶ All Together Now, “Racism in Australia”. Available at <https://alltogethernow.org.au/racism-in-australia/>.

⁵⁷ Australian Senate Debate 12/02/2020 available through Hansard at https://parlinfo.aph.gov.au/parlInfo/download/chamber/hansards/6d3cecce-e382-4533-95dc-ace9493aca24/toc_pdf/Senate_2020_02_12_7498_Official.pdf;fileType=application%2Fpdf

⁵⁸ Australian Senate Debate 12/02/2020 available through Hansard at https://parlinfo.aph.gov.au/parlInfo/download/chamber/hansards/6d3cecce-e382-4533-95dc-ace9493aca24/toc_pdf/Senate_2020_02_12_7498_Official.pdf;fileType=application%2Fpdf

⁵⁹ <https://www.abc.net.au/news/2016-03-04/dennis-jensen-robert-isaacs-noble-savages-stoush/7222708>

⁶⁰ All Together Now report “Social Commentary and racism in 2019”, November 2019. Available at www.alltogethernow.org.au. UN Report of the Special Rapporteur on the rights of indigenous peoples on her visit to Australia (8 August 2017), A/HRC/36/46/Add.2. <https://indigenoux.com.au/how-should-media-outlets-handle-racist-comments/>

⁶¹ Barter, A., Eggington, D. “Institutional Racism, the Importance of Section 18C and the Tragic Death of Miss Dhu”, Indigenous Law Bulletin Jan-March, Vol.8, Issue 28.

⁶² Human Rights Law Centre “Preventing technology from entrenching inequality : Submission to the United Nations Special Rapporteur on extreme poverty and human rights”, 20 May 2019. Available at www.hrlc.org.au. http://www.natsils.org.au/portals/natsils/submission/NATSILS_HRLC%20submission_CDC%20Expansion%20Bill%202019.pdf?ver=2019-03-19-173205-627

⁶⁴ Dr Shelley Bielefeld (Griffith Law School), Submission to the United Nations Special Rapporteur on Extreme Poverty and Human Rights”, 17 May 2019. Available at <https://www.ohchr.org/EN/Issues/Poverty/Pages/DigitalTechnology.aspx>

⁶⁵ Ibid.

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(https://treaties.un.org/pages/ViewDetails.aspx?src=TREATY&mtdsg_no=IV-11&chapter=4&clang=_en#EndDec)