



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

12 February 2018

**Close the Gap & Apology are band-aid measures  
– a far cry from treaties & decolonisation**

Ghillar, Michael Anderson, Convenor of the Sovereign Union, last surviving member of the founding four of the Aboriginal Embassy and Leader of the Euahlayi Nation said from Goodooga today:

**“I don’t believe a modern treaty process will get any further than the National Aboriginal Conference (NAC) did, unless Sovereign First Nations declare sovereign independence through UDIs and force decolonisation through a united front. Understandably, First Nations’ assertions of sovereignty have been honed in the intervening 30 plus years. I constantly remind our people that our reality is we hold the continental Common Law, but are occupied by a foreign power ruling in right of the British Crown. Until this changes through decolonisation, Close the Gap, Apology and other government policies remain as band aid measures.”**

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Statement in full:

“So long as a Rhodes Scholar is running this country the vested interests of the British Crown are paramount and remain in line with mining magnate Cecil Rhodes’ legacy of educating scholars to run and exploit a country for Britain’s benefit. PM Malcolm Turnbull, a Rhodes Scholar with a Bachelor of Civil Law from Brasenose College, Oxford is the latest agent of the coloniser to ensure First Nations’ inherent sovereign rights to lands, waters and natural resources are quashed.

This is consistent with Turnbull’s continuing fiasco of the Closing the Gap agenda, which has clearly failed, despite minor improvements announced today. In reality, the Turnbull government wants to either abandon the Close the Gap program, or water down the targets, despite recent recommendations from the UN Committee for the Elimination of Racial Discrimination (CERD), to do otherwise and properly engage with ‘Indigenous people’.

[ <http://www.abc.net.au/news/2018-02-08/closing-the-gap-review-finds-policy-effectively-abandoned-by-gov/9405100> ] & [ <https://www.theguardian.com/australia-news/2018/feb/08/closing-the-gap-turnbull-rejects-claims-government-has-abandoned-strategy> ]

Turnbull may talk about ‘refreshing’ Close the Gap to appear in line with the CERD recommendations of 2017, but fails to provide the requested ‘disaggregated data’ for a proper evaluation. In fact, the Turnbull government is belligerently ignoring the CERD’s 2017 findings, which were strategically released on Boxing Day, 26 December 2017. CERD was highly critical of Australia’s treatment of First Nations and Peoples and failure to address remedies.

[http://tbinternet.ohchr.org/\\_layouts/treatybodyexternal/Download.aspx?symbolno=CERD/C/AUS/CO/18-20&Lang=En](http://tbinternet.ohchr.org/_layouts/treatybodyexternal/Download.aspx?symbolno=CERD/C/AUS/CO/18-20&Lang=En)

At para 19 the CERD states:

19. ... despite statements by the State Party that it rejects the principle of *terra nullius* grounded in the “discovery discourse”, the State party continues to conduct its relations with indigenous peoples, in a manner that is not reconcilable with their rights to self-determination and to own and control their lands and natural resources.

Once again the CERD recommends Australia ‘enter into good faith treaty negotiations’ [para20]. This is, in fact, a recognition of First Nations’ pre-existing and continuing sovereignty because the only meaning of treaty in modern international law is an agreement between sovereign Nations.

The CERD also recommends ‘**that the State party move urgently to effectively protect the land rights of indigenous peoples**, including by amending the Native Title Act 1993, with a view to lowering the standard of proof required and simplifying the applicable procedures. It also urges the State party to ensure that the principle of **free, prior and informed consent** is incorporated into the Native Title Act 1993 and into other legislation, as appropriate, and fully implemented in practice.’ [ CERD/C/AUS/CO/18-20 ] (emphasis added)

To break the current impasse and to locate a constructive pathway forward for First Nations Peoples and the State and Federal Governments, they would be best placed to start from the National Aboriginal Conference (NAC) platform, which underpinned the Treaty negotiations, in the early 1980s. Logically, it is the appropriate launching pad from which to commence a future program to negotiate a Comprehensive Deed of Settlement. The work has been done. A framework had been established by the NAC on numerous fronts.

The assertion of First Nations sovereignty reached the point where former PM Malcolm Fraser’s legal team realised that by recognising Aboriginal sovereignty, all the colonial laws would be invalidated. This resulted in the Commonwealth government attempting to re-brand the process from ‘Treaty’ to ‘Makarratta’ in order to remove the contentious issue of sovereignty and to deal with a framework more in line with a domestic treaty, compact or agreement.

Malcolm Fraser did clarify that we don’t need to Treaty to do what is fundamentally right and are basic Human Rights. As a result of the NAC’s efforts, some basic services were delivered to our people, e.g. Home and Community Care (HACC), return of skeletal remains; return of cultural material from museums, just to name a few.

With the experience of being the NAC Director of the Treaty Research for four years, I am witnessing now a regurgitation of what was already done and people are still trying to understand it. This historical repetition and regurgitation is what makes our people angry at the grassroots, because, as they have said over and over, our Peoples have been researched to death to establish progressive thinking and future planning, but it seems every time we get a new generation they want to start it all over again.

As the Yuin Elder, Ossie Cruse, said, “We’ve past this post twice before!”

This is why our communities disengage – because they’ve already been past that post.

The NAC's reports and Treaty research that were done well over 30 years ago now need to be gathered up and revised to suit this modern day, but the majority of the foundational principles are still the same.

I don't believe a modern treaty process will get any further than the NAC did, unless Sovereign First Nations declare independence through UDIs and force decolonisation through a united front. Understandably, First Nations' assertions of sovereignty have been honed in the intervening 30 plus years. I constantly remind our people that our reality is we hold the continental Common Law, but are occupied by a foreign power ruling in right of the British Crown. Until this changes through decolonisation, Close the Gap, Apology and other government policies remain as band aid measures.

In 1983 a draft National Land Rights framework was put to the Fraser government during the NAC negotiations on a Treaty or Treaties. By 1984 the NAC had resolved to change from the re-brand 'Makarratta' back to the word 'Treaty', which could embrace the individual sovereignties of First Nations. Having done this, it was also resolved by the NAC Treaty Subcommittee that the national framework that we were developing must not usurp the right of each Nation to negotiate their own individual Treaty. To take away this right would make the NAC no better than the British invaders. It was not the NAC's right to negotiate a single national Treaty, because one-size shoe does not fit all. To do otherwise is to commit a major wrongdoing against our Nations and their Peoples.

Now to address one key historical issue – shutting down the NAC Treaty process.

Prior to the Federal election of 1983, former Prime Minister Malcolm Fraser, instructed his cabinet to go through this proposed National Land Rights framework, after which he supported it in principle. He recommended that the NAC now take this to the State and Territory governments for their consideration. This was a major achievement at that time, but two events derailed the process. One, Fraser lost the election and the resources promised for negotiations with States and Territories to advance the Treaty process never eventuated. (By the way the late Malcolm Fraser was not a Rhodes Scholar!)

Secondly, it was Fraser's support for the National Land Rights framework that caused the late Nugget Coombs to set up opposition through the establishment of the Federation of Land Councils, which was to argue later that it was better placed to advance National Land Rights than the NAC.

Nugget Coombs obstructed the NAC Treaty process and used his Aboriginal protégées in the Federation of Aboriginal Land Councils to shut off the NAC and orchestrated a major political coupe to end the NAC Treaty process.

The late PM Fraser lost the 1983 election to Bob Hawke's Labor party, an election former Labor Opposition Leader, Bill Hayden, said that even the Drover's Dog could have won, after he was railroaded by the Bob Hawke juggernaut.

Interestingly enough, PM Bob Hawke gave tacit support to the National Land Rights framework after his election. This is reflected in a statement by his Aboriginal Affairs Minister, the late Clyde Holding on National Land Rights:

The Government's objective and responsibility are to see a consistent national approach in each of the States and Territories towards the goal of Aboriginal Land Rights. The Government is looking to the adoption of a uniform package of principles, given historic differences and differences in the size of the States and proportion of Aboriginal population in them.

I have said that the Government sees five fundamental goals in relation to Aboriginal land rights which I have summarised as being:

- (a) Aboriginal Land to be held under inalienable freehold title;
- (b) the protection of Aboriginal sites;
- (c) Aboriginal control in relation to mining on Aboriginal land;
- (d) Access to mining royalty equivalents; and
- (e) Compensation for lost land to be negotiated.

Clyde Holding was true to his word, initially, when he, as the Federal Minister for Aboriginal Affairs, and Mr Lyall Munro Snr., Chairman of the NAC, met in one of the NSW Parliamentary meeting rooms with the late Frank Walker, who was the NSW Attorney-general and Minister for Aboriginal Affairs. Also present at this meeting were the late Charles Perkins, representing the Federal Dept. of Aboriginal Affairs; the late Edward 'Ted' Simpson, who was the NSW NAC Branch Chairman; and myself as the Director of the NAC Treaty Research.

We were disappointed that Frank Walker held his position and said that his Land Rights model for NSW was better than what the NAC was proposing, and between the NAC and Clyde Holding a significant confrontation occurred. We stressed that the Aboriginal people of NSW would be the losers under Frank Walker's model.

We walked out of this meeting agreeing to disagree and Clyde Holding made the point that he would raise the NAC framework and model for National Land Rights at the COAG (Council of Australian Governments) meetings in the future and include the NAC in these discussions as formal delegates to COAG, because he saw the NAC as equal to any State government with the same interests and needs as the people of the other States and Territories.

<http://nationalunitygovernment.org/content/word-treaty-value-historical-insights>

After the shutting down of the NAC, all went quiet for a period, then in 1985 the late Kevin Gilbert, with others, sought to revive the Treaty process as a way of educating grassroots, through the Treaty 88 campaign, on their inherent sovereign rights. Running interference to the Treaty 88 sovereignty agenda was Nugget Coombs' Treaty Committee calling for a 'treaty within Australia by Australians' (not legally possible!). Kevin Gilbert emphasised that Sovereign Treaties are able to affirm sovereignty and are overseen by the Vienna Convention on the Law of Treaties, under which treaties are invalid if they breach fundamental human rights.

PDF: [http://kevingilbert.org/pdf/Kevin-Gilbert-Aboriginal\\_Sovereignty-Book.pdf](http://kevingilbert.org/pdf/Kevin-Gilbert-Aboriginal_Sovereignty-Book.pdf)  
<http://kevingilbert.org/content/kevin-gilberts-ebooks>

Despite the fanfare at Barunga, NT, on 12 June 1988 when PM Bob Hawke accepted the Barunga Statement calling for a Treaty, it needs to be said that Bob Hawke had no intention

of pursuing a Treaty, because it meant that there was a need to deal with the truth of colonialism in order to settle the First Nations/British conflict. In fact, he betrayed his own Aboriginal Affairs Minister, Clyde Holding, in the process.

Not only did Bob Hawke immediately retreat - the very next day - on his Barunga promise to negotiate a Treaty, but also, he commenced a covert operation that witnessed a rise in Aboriginal opposition to bring down major organisations that were becoming economically strong and which were providing a pathway to true self-determination at the community level.

What can be said is that former PM Bob Hawke was not the true Trade Unionist, the man of the people, that he professed to be. When one studies the role of Cecil Rhodes and the British Crown's power circles, it will be clearly understood as to why Rhodes Scholars, such as Bob Hawke, Tony Abbott and now PM Malcolm Turnbull, fight to protect the rights of the ruling class here in Australia for and on behalf of the British Crown.

In the case of Moree and Walgett, the white business opposition lobbied extensively behind the scene and aided and abetted 'Uncle Toms' within the local Aboriginal community to create opposition and major character assassinations, which enabled bureaucrats to question the overall operation and management of those organisations. The 'Uncle Toms' did nothing to replace what they destroyed and they became like the proverbial bird on the biscuit tin – outside looking in on a destroyed community and they benefited in no way whatsoever.

The Hawke administration facilitated the defunding and closing down of hundreds of successful Aboriginal Community-based organisations, which included amongst others affordable housing companies that had vast land-holding interests in those towns – a job former PM Howard finished when he took office and withdrew \$400 million from self-determining organisations. Our communities have never recovered.

Treaties will not prevent this from recurring. Only proper First Nations' independent governance will prevent this from happening ever again.

The Land Councils failed all those years ago in advancing what they said the NAC would not be able to achieve. Do they really believe that their current operations as Native Title Service organisations, under the *Native Title Act*, are truly achieving Land Rights and economic advancement for our people, without any encumbrance by governments?

I think not.

The irony of the Federation of Land Council's interference is that it has resulted in these regional Land Councils now being vested with the responsibility of being the representative bodies under the *Native Title Act*. These Land Councils are now the registered Native Title Services funded by the Commonwealth government to do their people over.

The NSW State Land Council, on the other hand, made a very mature decision to remove themselves from this responsibility, because it was an inconsistent approach to Land Rights in NSW, given the Land Council had its own capacities under the *NSW Land Rights Act 1983* to claim all Crown Lands in NSW, also the only land that could be claimed under a Native Title claim. In effect, the NSW State Land Council would have been competing against itself for ownership of these lands, or 'the bundle of rights' under *Native Title Act*.

The Magnificent Seven and the B-team, who negotiated the *Native Title Act* with former PM Keating, were clearly oblivious to the medieval land tenure system of the occupying states, where feudalism is a centralised land ownership program, in which all the land is owned by the monarch. Because they did not understand this feudal land tenure system, the Magnificent Seven, through their ignorance, permitted such a legislative system to be put in place in Australia. When we look at these feudal laws, we do not own the land, we only get to access it and in some cases, use it. The ultimate owner of the land under current colonial law continues to be the monarch, through the Australian parliament, which rules in right of that Crown.

Wake up people! Stop being deceived and being treated as a child-like race!

It is no wonder that the current Rhodes Scholar in power, PM Turnbull, oversaw \$800 million dollars (plus) being spent on a make-believe constitutional reform package for First Nations Peoples, while maintaining a protectionist regime around the British Crown's vested interests in the Federated colonies of Australia.

An 'Indigenous Voice' to parliament that can be ignored and disregarded is meaningless. Congress has shown that! The 'Apology', ten years old today, is only one step in the process of Reparation for gross violations of human rights and currently First Nations children are being removed/kidnapped at an accelerating rate.

<http://nationalunitygovernment.org/content/time-fully-import-law-against-genocide-family-matters-national-crisis>

<http://nationalunitygovernment.org/content/reparation-needed-first-nations-peoples-can-move>

I predict that PM Turnbull will now spend many more millions running the moderates around in circles till he finally comes up with the package *he wants* – a package that *appears* to be an Aboriginal initiative, but suits the agenda of the colonial aristocracy. I guarantee it won't be acceptable to First Nations and Peoples, who are now asserting their independent sovereignty.

First Nations and Peoples must define our strategy, adopt it and stick with it.

Ghillar

Michael Anderson

Convenor of Sovereign Union of First Nations and Peoples in Australia

and Head of State of the Euahlayi Peoples Republic

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# BACKGROUND:

## **EXTRACT from Committee for the Elimination of All Forms of Racial Discrimination (CERD) Concluding Observations 26 December 2017 [ CERD/C/AUS/CO/18-20 ]**

[http://tbinternet.ohchr.org/\\_layouts/treatybodyexternal/Download.aspx?symbolno=CERD/C/AUS/CO/18-20&Lang=En](http://tbinternet.ohchr.org/_layouts/treatybodyexternal/Download.aspx?symbolno=CERD/C/AUS/CO/18-20&Lang=En)

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### **C. Concerns and recommendations**

#### Human rights framework

5. The Committee regrets the State party's decision not to adopt a federal human rights act, as recommended during the national human rights consultation of 2009. While noting the role of the Parliamentary Joint Committee on Human Rights in scrutinizing the compatibility of existing legislation and draft bills with international human rights treaties to which Australia is a party, the Committee is however concerned that the recommendations of the Joint Committee are often not given due consideration by legislators.

6. **The Committee recommends that the State party take appropriate measures, including through the adoption of a human rights act, to strengthen protection of human rights and give full legal effect to the provisions of the Convention. The Committee also recommends that the State party strengthen legislative scrutiny processes to ensure the compatibility of its legislation with international human rights treaties. The Committee further recommends that the State party adopt and implement a human rights action plan.**

#### Implementation of the Convention

7. The Committee is concerned that protection against racial discrimination is still not guaranteed by the Constitution, in accordance with article 4 of the Convention, and that sections 25 and 51 (xxvi) of the Constitution in themselves raise issues of racial discrimination. While noting the existence of anti-discrimination legal provisions at State level, the Committee remains concerned that the Convention is not fully incorporated into the State party's domestic legal order and about the inconsistency of anti-discrimination legislation across States. Furthermore, it is concerned that the Racial Discrimination Act 1975 (Cth) does not have primacy over other legislation and includes a provision on special measures that is not in compliance with article 2 (2) of the Convention.

8. **The Committee recommends that the State party take the necessary measures to ensure full incorporation of the Convention into its legal order. The Committee reiterates its previous recommendation that the State party take measures to ensure that the Racial Discrimination Act 1975 (Cth) prevail over all other legislation that may be discriminatory on the grounds set out in the Convention (see CERD/C/AUS/CO/15-17, para. 10) and that the definition and scope of special measures be brought into line with article 2 (2) of the Convention and its general recommendation No 32 (2009) on the meaning and scope of special measures in the Convention.**

#### Reservation

9. The Committee expresses concern that the State party continues to maintain a reservation on article 4 (a) of the Convention, which negatively impacts the sanctioning of racial hatred and redress for victims, within the context of the persistence in the State party of racially motivated acts against indigenous peoples, people of African descent and Africans, South Asians, refugees, asylum seekers and migrants.

10. **The Committee urges the State party to reconsider its position and withdraw its reservation to article 4 (a) of the Convention, particularly in light of sections 80.2 (A) and 80.2 (B) of the Commonwealth Criminal Code Act (1995), which criminalize hate-related violence.**

#### Disaggregated data

11. The Committee, while noting the information provided by the delegation on measures taken during the period under review to collect statistics that are specific to ethnicity, remains concerned that those statistics do not allow a comprehensive appraisal of the enjoyment of economic and social rights, such as housing, education, employment and health care, disaggregated by ethnic groups and indigenous peoples (art. 1).

12. **Bearing in mind the guidelines for reporting under the Convention (see CERD/C/2007/1, para. 7) and recalling its general recommendation No. 24 (1999) concerning article 1 of the Convention, the Committee recommends that the State party collect and provide updated statistical data on the ethnic composition of its population, allowing respondents to questionnaires about identity to choose the ethnic group to which they feel they belong. It should also provide statistical data, disaggregated by sex, on the socioeconomic situation and representation in education, employment, health, housing and public and political life of ethnic groups and indigenous peoples, in order to provide it with an empirical basis to evaluate the equal enjoyment of rights under the Convention.**

#### Rise of racism in the State party

13. The Committee notes the State party's definition of multiculturalism and social cohesion and appreciates the implementation of the National Anti-racism Strategy. The Committee is, however, concerned that expressions of racism, racial discrimination and xenophobia, including in the public sphere, in political debates and in the media, are on the rise.

The Committee also expresses concern that migrants, notably Arabs and Muslims, asylum seekers and refugees, as well as Africans and people of African descent, South Asians and indigenous peoples, are particularly affected by racist hate speech and violence (art. 4).

14. **The Committee urges the State party to ensure that measures related to combating racism are implemented effectively in collaboration with grass-roots organizations and community representatives that are active in the fight against racism and racial discrimination. To that end, the State party must ensure that all such measures, including the National Anti-racism Strategy, are adequately funded. Recalling its general recommendation No. 35 (2013) on combating racist hate speech, the Committee also recommends that the State party:**

(a) **Reconsider the antiterrorism and national security clauses of the multicultural policy, “Multicultural Australia: united, strong, successful”, as they may lead to practices prohibited under the Convention, such as ethnic and racial profiling by law enforcement officers and agencies, targeting in particular Arabs and Muslims;**

(b) **Increase its measures to combat racist hate speech and xenophobic political discourse, and ensure that public officials not only refrain from such speech but also formally reject and condemn hate speech, in order to promote a culture of tolerance and respect;**

(c) **Ensure that anti-discrimination provisions, notably sections 18 (C) and 18 (D) of the Racial Discrimination Act 1975, (Cth), are effectively applied by law enforcement officials, thereby conveying a clear message that manifestations of racial discrimination and racism will not be treated with impunity;**

(d) **Put an end to racist hate speech expressed in the print and electronic media and encourage the media to adopt a code of good conduct containing provisions against racism and racial discrimination;**

(e) **Intensify efforts to raise the awareness of the public, civil servants and law enforcement officials of the importance of cultural diversity and inter-ethnic understanding;**

(f) **Study and implement the recommendations put forward by the Special Rapporteur on contemporary forms of racism, racial discrimination, xenophobia and related intolerance following his mission to Australia (A/HRC/35/41/Add.2);**

(g) **Provide detailed information in its next report on the impact of the measures taken to combat racial discrimination and racism.**

#### Complaints of racial discrimination

15. The Committee is concerned about the limited number of racial discrimination cases brought before the courts, which is reportedly attributed to the costs of court proceedings and burden of proof requirements. Such a situation seems to be further exacerbated by the State party’s reservation on article 4 (a) of the Convention (arts. 2 and 6).

16. **Recalling its general recommendation No. 31 (2005) on the prevention of racial discrimination in the administration and functioning of the criminal justice system, the Committee calls on the State party to:**

(a) **Remove persistent barriers to access to justice by victims of racial discrimination, including by reversing the burden of proof in civil proceedings involving racial discrimination;**

(b) **Provide updated disaggregated statistics and detailed information on the number and types of complaints about racial discrimination reported to the penal, civil and administrative bodies and to the police, and their outcomes, including convictions or disciplinary measures handed down and compensation to victims;**

(c) **Reinforce the support, including financial support, provided to the Australian Human Rights Commission with a view to enabling it to discharge its functions more effectively, including the investigation of complaints brought under the Racial Discrimination Act 1975 (Cth);**

(d) **Undertake public education campaigns on the rights enshrined in the Convention and the domestic legislation under which those rights can be invoked, on the work of the Australian Human Rights Commission and on the methods for filing complaints of racial discrimination.**

#### Indigenous peoples — “Closing the gap” strategy

17. The Committee is greatly concerned about the persisting challenges and discrimination faced by indigenous peoples in all aspects of their life. It notes the adoption of the “Closing the gap” strategy in 2008, but regrets the under resourcing and low level of its implementation with only one of the seven targets being on track. While noting the figures provided during the dialogue on government expenditures on issues relating to indigenous peoples, the Committee regrets the lack of information on the impact of such allocations and in particular on whether such allocations are sufficient to fulfil the rights and meet the needs of indigenous peoples.

18. **Recalling its general recommendation No. 23 (1997) on the rights of indigenous peoples, the Committee calls upon the State party to urgently introduce a paradigm shift in its dealing with indigenous peoples and to demonstrate the necessary political will to ensure that aspirational plans and programmes become a reality. The Committee recommends that the State party ensure that the process of refreshing the “Closing the gap” strategy be carried out in genuine consultation with indigenous peoples, their representatives, and non-governmental organizations, especially those working on the elimination of racial discrimination, through the design, implementation, monitoring and evaluation of the strategy. The State party must also ensure that the strategy and other institutional measures with an impact on indigenous peoples are adequately funded to meet their objectives. The Committee requests that the State provides detailed updates on the impact and results of such measures in its next periodic report.**

#### Constitutional recognition of indigenous peoples

19. While taking note of the information provided by the delegation on the difficulties associated with carrying out a constitutional referendum, the Committee regrets that despite long-standing demands by indigenous peoples, their legal status is still not enshrined in the Constitution. Moreover, despite statements by the State party that it rejects the principle of

*terra nullius*, grounded in the “discovery discourse”, the State party continues to conduct its relations with indigenous peoples, in a manner that is not reconcilable with their rights to self-determination and to own and control their lands and natural resources. The Committee is also concerned that the National Congress of Australia’s First Peoples and community-controlled programmes and organizations and programmes and organizations controlled by indigenous peoples are underfunded.

20. **The Committee recommends that the State party accelerate its efforts to implement the self-determination demands of indigenous peoples, as set out in the “Uluru Statement from the heart” of May 2017, including by taking steps towards extraconstitutional recognition of indigenous peoples, establishing a meaningful mechanism that enables their effective political participation and entering into good faith treaty negotiation with them. The Committee also requests that the State party:**

- (a) **Increase the funds allocated to the National Congress of Australia’s First Peoples;**
  - (b) **Increase support, including financial support, to indigenous-led programmes and organizations providing services to indigenous peoples, which is necessary to enable them to discharge their functions effectively.**
- Indigenous land rights

21. The Committee is concerned that after centuries of conflict and negotiations over their traditional land rights, the claims of indigenous peoples to land remain unresolved. Despite the Committee’s previous recommendation (see CERD/C/AUS/CO/15-17, para. 18), the Native Title Act remains a cumbersome tool that requires indigenous claimants to provide a high standard of proof to demonstrate ongoing connection with the land. The Committee is also concerned about information that extractive and development projects are carried out on lands owned or traditionally used by indigenous peoples without seeking their prior, free and informed consent.

22. **The Committee recommends that the State party move urgently to effectively protect the land rights of indigenous peoples, including by amending the Native Title Act 1993, with a view to lowering the standard of proof required and simplifying the applicable procedures. It also urges the State party to ensure that the principle of free, prior and informed consent is incorporated into the Native Title Act 1993 and into other legislation, as appropriate, and fully implemented in practice. Furthermore, the Committee recommends that the State party respect and apply the principles enshrined in the United Nations Declaration on the Rights of Indigenous Peoples and consider adopting a national plan of action to implement those principles. The State party is also encouraged to reconsider its position and ratify the International Labour Organization Indigenous and Tribal Peoples Convention, 1989 (No. 169).**

Socioeconomic situation of indigenous peoples

23. The Committee is deeply concerned that indigenous peoples continue to experience high levels of discrimination across all socioeconomic indicators, including education, health care, employment and housing. Among other things, the Committee is concerned about the low life expectancy, low level of school attainment and high dropout rates at all school levels, and poor housing conditions, including overcrowding, especially for those living in the Northern Territory, where the homelessness rate is nearly 15 times the national average. The Committee is also concerned that indigenous peoples, including those living in remote areas, face discrimination in access to social security benefits, notably through the mandatory income-management scheme and the community development programme. The Committee is also concerned about the reportedly high rate of suicide among indigenous peoples, and in particular lesbian, gay, bisexual, transgender, queer and intersex individuals. The Committee is further concerned about the lack of specific programmes for indigenous peoples with disabilities.

24. **The Committee recommends that the State:**

- (a) **Effectively implement well-resourced policies that aim to improve the socioeconomic situation of indigenous peoples, including the Remote Housing Strategy (2016); the National Aboriginal and Torres Strait Islander Health Plan 2013–2023; the Remote School Attendance Strategy; and the National Partnership Agreement on Universal Access to Early Childhood Education;**
- (b) **Adopt and implement other adequately resourced programmes, including specific programmes for indigenous peoples with disabilities, in consultation with them, and increase support for, and investment in, indigenous community-controlled health services and programmes that promote indigenous employment in the health sector;**
- (c) **Reconsider the mandatory income-management scheme, which in effect disproportionately affects indigenous peoples, maintain only an opt-in income-management scheme and remove discriminatory conditions in access to social security benefits by claimants living in remote areas, the vast majority of whom are indigenous;**
- (d) **Collect data disaggregated by ethnicity, indigenous peoples, age, gender, disability, sexual orientation and gender identity, on the extent of suicide and report on the measures adopted to address it.**

Indigenous children

25. The Committee is deeply concerned about the high proportion of indigenous children in contact with the criminal justice system, some of them at a very young age. It is also concerned about the ill-treatment suffered by juveniles, especially indigenous children, and the conditions in which they are held, including but not only in the Northern Territory. The Committee is deeply troubled to learn about the abuses committed at the Don Dale youth detention facility and welcomes its closure, while being aware that there may be other such facilities in other areas of the State party. The Committee is further concerned that indigenous children face a higher risk of being removed from their families and placed in alternative care facilities, many of which are not culturally appropriate and in which, too often, they also face abuse.

26. **The Committee recommends that the State party address the problems of the high rate of incarceration and placement in alternative care of indigenous children, in consultation with indigenous peoples. The Committee also recommends that the State party:**

- (a) **Raise the minimum age for criminal liability to an internationally agreed age, as recommended by the Human Rights Committee (see CCPR/C/AUS/CO/6, para. 44);**

(b) **Develop alternatives to detention and introduce effective diversion programmes in all states and territories and repeal any mandatory imprisonment for children;**

(c) **Immediately improve places of detention for juveniles in all states and territories and implement the recommendations of the Royal Commission into the Protection and Detention of Children in the Northern Territory, and launch an effective criminal investigation into the human rights abuses that have occurred, with a view to bringing the alleged perpetrators to justice, punishing them appropriately, if convicted, and compensating the victims;**

(d) **Ensure adequate, culturally appropriate and accessible legal services for indigenous peoples, including by increasing funding to Aboriginal and Torres Strait Islander legal services and Aboriginal family violence prevention legal services;**

(e) **Effectively address the overrepresentation of indigenous children in alternative care, including by developing and implementing a well-resourced national strategy in partnership with indigenous peoples, increase investment for family support services at state and territory levels, and ensure that well-resourced community-led organizations can provide child and family support services with a view to reducing child removal rates;**

(f) **Consider establishing commissioners for indigenous children in each state and territory.**

Indigenous women

27. The Committee is concerned that indigenous women experience intersecting forms of discrimination. Indigenous women and girls face higher rates of domestic violence and abuse compared to non-indigenous women and constitute the fastest-growing prison population group across Australia.

28. **Recalling its general recommendation No. 25 (2000) on gender-related dimensions of racial discrimination, the Committee:**

(a) **Reiterates the recommendation spelled out by the Special Rapporteur on violence against women, its causes and consequences, following her mission to Australia in February 2017, to adopt a specific national action plan on violence against indigenous women and on gender equality, supported with appropriate special measures that would accelerate the advancement of those women and girls;**

(b) **Recommends that the State party address the already high rate of and alarming increase in the incarceration of indigenous women and girls, and ensure the refreshed “Closing the gap” strategy includes criminal justice targets, focusing on reducing the imprisonment rates of indigenous peoples, notably women and children;**

(c) **Calls on the State party to adhere to the United Nations Rules for the Treatment of Women Prisoners and Non-custodial Measures for Women Offenders (Bangkok Rules).**