



# AUSTRALIA

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## Human Rights Council - 24th Regular Session

### Item 5

#### **Australian statement on Indigenous peoples (extractive industries and access to justice)**

**18 September 2013**

Australia reiterates its position that following its 7 September general election the previous government has continued in its caretaker role between the election and the appointment of the new government.

Australia thanks the Special Rapporteur and members of the Expert Mechanism on the Rights of Indigenous Peoples for their important work on Indigenous issues, including recent reports on extractive industries, and access to justice. We were pleased that Mr Mick Gooda, Australia's Aboriginal and Torres Strait Social Justice Commissioner, was able to participate in the interactive dialogue between the UN, regional and national mechanisms on Indigenous peoples during the sixth session of the Expert Mechanism.

The extractive industries are a prominent sector of the Australian economy, and we note in this context the legislative requirement under the *Native Title Act 1993* for mining or exploration on Indigenous land to take account of Indigenous peoples' native title rights. The Act establishes the 'right to negotiate' which requires the miner, developer or Government to negotiate with the registered native title party 'in good faith' for at least six months, with a view to obtaining their agreement prior to certain acts being done on that land.

In addition, most Australian state and territories have Indigenous land rights legislation which provides for Indigenous ownership of land through various forms of tenure. For example, in the Northern Territory, land under the *Aboriginal Land Rights Act (Northern Territory) 1976* (ALRA) is communally held inalienable freehold title and traditional Aboriginal landowners have a right of veto over mineral exploration on their land.

Where mining occurs on ALRA land in the Northern Territory, an amount equal to the royalties received by the Government is credited to the Aboriginal Benefits Account (ABA). Funds from the ABA are distributed to organisations representing affected Aboriginal landowners, to Northern Territory Land Councils, and to other organisations to fund initiatives of benefit to Aboriginal people living in the Northern Territory.

The Special Rapporteur's report on access to justice acknowledges that overrepresentation of Indigenous peoples in the criminal justice system is a global concern. Australia has a range of prevention, diversion, rehabilitation and restorative justice projects which attempt to address this overrepresentation. It also has Aboriginal and Torres Strait Islander Legal Services which provide advice, duty lawyers, casework and representation in criminal, family and civil law matters.

Australia has an overarching National Indigenous Law and Justice Framework, which has evaluated the effectiveness of programs that attempt to address the over-representation of Indigenous people in the criminal justice system. These include Aboriginal sentencing courts

and conferences, night patrols, programs targeting diversion and offender support/reintegration.

Australia is committed to improving education, health and employment for Indigenous Australians, the lack of which often contributes to the overrepresentation of Indigenous Australians in the criminal justice system.

Australia would be interested to hear about mechanisms that have been successful in other States in reducing levels of violence and incarceration among Indigenous peoples.