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**United Nations Permanent Forum on Indigenous Issues
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Agenda Item 4(a): Implementation of the Declaration on the Rights of Indigenous peoples

INTERVENTION DELIVERED BY Katie Kiss ON BEHALF OF the Aboriginal and Torres Strait Islander Social Justice Commissioner, a member of the Australian Human Rights Commission

Thank you Mr Chairperson.

The Australian Human Rights Commission is pleased to address this intervention on the implementation of the Declaration on the Rights of Indigenous Peoples (the Declaration) in Australia.

The Aboriginal and Torres Strait Islander Social Justice Commissioner is a statutory appointment to the National Human Rights Institution of Australia – the Australian Human Rights Commission. The Social Justice Commissioner monitors the enjoyment and exercise of human rights by Aboriginal and Torres Strait Islander Australians. The Special Rapporteur has referred to this as an excellent model for National Human Rights Institutions.

In his 2010 Social Justice Report, tabled in the Australian Parliament, the newly appointed Social Justice Commissioner Mick Gooda outlined his agenda for his five year term. In that report, he committed to being guided by the Declaration in the performance of his statutory functions. He stated his intention to work with the Australian Governments and Aboriginal and Torres Strait Islander peoples and their organisations to develop a national implementation strategy for the Declaration; and said that he would monitor and report on Australian Governments' performance using the Declaration as an objective guide.

Last year the Social Justice Commissioner released a range of community education materials on the Declaration designed to empower Aboriginal and Torres Strait Islander peoples, communities and organisations to exercise their human rights. These materials were predominantly funded by international non-government organisations and have been well received throughout Australia.

The Australian Government indicated its support for the Declaration in April 2009. It is disappointing that since this time there has been limited engagement with Indigenous peoples to secure a strategic commitment by the Government to develop a national framework for the implementation of the Declaration.

However, the Australian Government has committed support for the establishment of the National Congress of Australia's First Peoples which goes some way to providing a national mechanism for effective engagement with Aboriginal and Torres Strait Islander peoples; and we have seen bi-partisan support for a process to recognise Aboriginal and Torres Strait Islander peoples in our national Constitution.

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While these are welcome initiatives, the Australian Human Rights Commission is of the view that States should be applying a holistic and co-ordinated approach to achieving the ends of the Declaration. For this to be achieved, we must now move beyond the rhetoric of support and calls for implementation, to the development of a detailed plan of action to implement and raise awareness and understanding about the Declaration. Of course this must be done in consultation with Indigenous peoples.

Key components that should be included in a national implementation strategy include:

- the development of an overarching framework agreement with key priorities for action – these could be drawn from the main themes of the Declaration
- a staged plan for the progressive realisation of agreed priorities and targets, guided by the overarching framework
- inter-governmental commitment led by the highest level of government in the State
- an integrated monitoring and reporting framework that can be used to report on compliance with various United Nations bodies on progress.¹

This is particularly relevant for the Australian Government as it is intimately related to the recently announced National Human Rights Framework, which includes the development of a national action plan; human rights education; and scrutiny of legislation mechanisms for human rights compliance; as well as the consolidation of all national anti- discrimination law.

The commitment by the Australian Government to reform key aspects of the Australian Public Service also offers a significant opportunity for the principles of the Declaration to reform the ways that Governments work with Aboriginal and Torres Strait Islander peoples. This commitment includes the provision of education for public servants on human rights standards, as well as the revision of the values of the Australian Public Service.

This is an initiative that all States could include in their national strategies to implement the Declaration at the domestic level.

The Australian Human Rights Commission is currently advocating for the Australian Government to enter into a formal dialogue with Aboriginal and Torres Strait Islander peoples to negotiate an implementation Framework. The Commission believes it is incumbent upon the Australian Government and all States to ensure the Declaration is effectively incorporated into all initiatives relevant to Indigenous peoples and implemented in its entirety.

¹ Australian Government, *Developing a National Disability Strategy for Australia, Access Inclusion Participation – Discussion paper for consultation, October 2008* (2008). At: http://www.fahcsia.gov.au/sa/disability/pubs/policy/Documents/nds_discussion_paper/default.htm (viewed 9 May 2011).

We recommend that the Permanent Forum:

1. Urge all States to create an independent statutory office to monitor the exercise and enjoyment of Indigenous people's human rights, and promote the understanding and implementation of the Declaration.
2. Recommend that the Economic and Social Council work closely with the Human Rights Council and the Expert Mechanism on the Rights of Indigenous Peoples to develop detailed practical guidance that inform State processes in the development of strategies to implement the Declaration at the national and community levels.
3. Urge all States to enter a formal dialogue with Indigenous peoples, and their National Human Rights Institutions, in consultation with the Special Rapporteur on the Rights of Indigenous Peoples, to design and develop National Implementation Frameworks for the Declaration that includes monitoring and evaluation, and annual reporting as to the progress of such implementation.
4. Urge all States to provide financial and technical assistance to Indigenous peoples and organisations to assist them to fully realise their human rights in accordance with article 39 of the Declaration. In particular to:
 - support Indigenous peoples' effective engagement in the development of a national implementation framework;
 - build capacity at the community level to raise awareness and understanding about the rights contained with the Declaration;
 - empower Indigenous peoples and their organisations to work with States to implement the framework within their communities.