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Second International Decade of the World's Indigenous People

JOINT STATEMENT DELIVERED BY NEIL GILLESPIE
ON BEHALF OF:

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National Native Title Council Limited
NSW Aboriginal Land Council
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Madam Chairperson, my name is Neil Gillespie and I present this Intervention on behalf of the Indigenous Peoples Organisations of Australia represented at the Forum.

The United Nations General Assembly established a Second Decade for the World's Indigenous People, which began on 1 January 2005 and concludes in 2015. The Second Decade is a focal point for all United Nations activity on Indigenous peoples over the next 10 years and provides a guide and encourages action by States.

The United Nations established the Second Decade because several of the key objectives of the First Decade had not been achieved. Principal among these was the failure to finalise and adopt the Declaration on the Rights of Indigenous Peoples in the First Decade and an acknowledgement that renewed commitment and action is required by the international community.

The key five objectives of the Second Decade set out how the United Nations General Assembly intends that the goal of strengthening Indigenous participation in all decisions that affect our lives, lands and identities. These objectives include:

- I. Promoting non-discrimination and inclusion of Indigenous peoples in the implementation and evaluation of processes regarding laws, policies, resources, programmes and projects;
- II. Promoting participation of Indigenous peoples in decisions affecting them including the principle of free, prior and informed consent;
- III. Redefining development policies that depart from a vision of equity including respect for the culture and language of Indigenous peoples;
- IV. Adopting targeted policies, programmes, projects and budgets for the development of Indigenous peoples, and
- V. Developing strong monitoring mechanisms and accountability in the implementation of legal, policy and operational frameworks for the protection of Indigenous peoples and improvement of their lives.

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There are two areas that I will address in this Intervention to the Permanent Forum.

The first is in health services and housing. The Second Decade recommends that States adopt a rights-based approach to the provision of community-based and culturally appropriate healthcare services and housing. It is sad to report that there have been minimal improvements in these areas over the last 40 years in Australia. Recent studies show that Indigenous Australians continue to die 18 years earlier than non-Indigenous people and as a first world nation, our Indigenous peoples continue to have life expectancy similar to that in less developed nations. Significant health disparities persist in the areas of diabetes, heart disease and childhood eye and ear infections.

The housing and environmental infrastructure situation for Indigenous communities is in crisis. Statistics show that in many remote communities, up to 17 people are often resident in two bedroom homes. The UN Special Rapporteur for Housing, Miloon Kothari, visited Australia in 2006 and was distressed by what he saw and experienced in Indigenous communities.

Even after the Special Rapporteur's observations, the Australian Government has decided to abolish 600 of Australia's 616 Indigenous Controlled Housing Organisations and to 'mainstream' this housing stock. Madam Chairperson this makes no sense when the mainstream housing authorities are already unable to meet non-Indigenous housing demand.

Of particular note is that earlier this year Oxfam and the Australian Medical Association called upon the Australian Government to address the appalling state of Indigenous health and housing.

The second area I wish to highlight is the basic human right of access to justice. The Second Decade provides for States to integrate traditional systems of justice and protection and promotion of human rights into national legislation.

It is with a sad heart that I report that the Australian Government continues to pursue an agenda that ignores customary and traditional systems within the wider justice system, which is adding significantly to the incarceration rates of Indigenous peoples. It recently passed legislation to remove judges' discretion in criminal cases to take into account an offender's cultural background when determining their sentence. The effect of this amendment runs counter to the non-discriminatory provisions of the Convention on the Elimination of Racial Discrimination.

Australia's Indigenous peoples account for less than 3% of the total population yet Indigenous men account for over 20% of those incarcerated, while the rates for women are even higher. The underlying causes of the over-representation of Indigenous peoples in the justice system are directly related to our social and economic disadvantage, as well as past racially discriminatory practices such as the forcible removal of Indigenous children from their families. Racially based contemporary policing practices also contribute to the disproportionately high rates at which our children and youth come into contact with the criminal justice system and ultimately enter our prisons.

Indigenous legal aid is funded significantly below the levels for mainstream legal aid. For example over the last 11 years Indigenous legal aid has increased approximately 3%, compared to mainstream legal aid which has increased about 120%. This disparity in legal aid funding is denying Indigenous Australians access to justice enjoyed by the wider community.

Madam Chairperson, we are concerned that there is an unwillingness on the part of our Government to genuinely recognise, respect and value the cultural distinctiveness of Australia's First Peoples, and this contributes significantly to our ongoing disadvantage. In Australia there continues to be a blame game by the Government, and by this I mean blaming those disadvantaged for being disadvantaged.

The Australian Government has a legal responsibility to provide adequate and culturally appropriate services to Indigenous peoples as a party to the International Covenant on Economic, Social and Cultural Rights (ICESCR). As a first step, the Australian Government must develop, in partnership with Indigenous peoples, the benchmarks, timelines and indicators to measure the progressive realisation of Indigenous human rights. This is essential to ensure the Australian Government can be held accountable.

Madam Chairperson the Australian Indigenous Delegation recommends that the Permanent Forum:

- 1) Strongly supports the immediate adoption without amendment of the Declaration on the Rights of Indigenous Peoples as adopted by the United Nations Human Rights Council;**
- 2) Urge States, particularly those developed nations which endorsed the Second Decade, to provide sufficient resources to the Second Decade Fund to achieve the 5 goals of the Decade.**
- 3) Urge all States, particularly developed nations, to provide for the recognition and integration of customary and traditional laws within domestic justice systems to ensure that indigenous peoples have culturally appropriate access to justice; and**
- 4) Call on all States which have ratified ICESCR to develop, in partnership with indigenous peoples, the benchmarks, timelines and indicators to measure progressive realisation of Indigenous human rights. All services and programs must be developed and delivered in a non-discriminatory and culturally appropriate manner, and with adequate resources to achieve the agreed goals.**