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**United Nations Permanent Forum on Indigenous Issues
Tenth Session – New York
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**Agenda Item 8 (b): Special Rapporteur's study on forced
labour and Indigenous Peoples**

Joint IPO Intervention Delivered by Josie Guy on Behalf:

Thank you Madam Chair

The Indigenous Peoples Organisations (IPO) of Australia are pleased to provide this intervention on forced labour. We support our brother's and sisters in Bolivia on which the Special Rapporteur has undertaken a study on. Forced and slave labour is an issue that impacts on many Indigenous peoples.

In Australia, Indigenous people have been and continue to be excluded from the Australian economy. The result is widespread inter-generational poverty.

In Australia, this is a contentious political issue. Rae Norris states in her book 'The More Things Change: The origins and impact of Australian Indigenous economic exclusion' that "[t]he scarcity of data in regard to income is of itself a matter of concern as it does not allow inequities in the economic status of Indigenous Australians compared to others to be fully appreciated."¹ (Norris 2010, p178)

'Absolute poverty' in Aboriginal communities is real, confronting and unacceptable. Its history is embedded in the continuous theft and control of land and resources from the beginning of colonisation in 1788 through to today where the government is now forcing Aboriginal people to lease back their land. Government is taking land in exchange for housing and basic services for businesses and government offices with leases for terms ranging from five, 40 and even 99 years.

The roots of successive government actions lie in their unshakeable belief that Aboriginal people are inadequate and incapable of managing their own affairs. We are depicted as fundamentally irresponsible, especially with handling money and protecting our children and therefore many of us are in need of guidance, control and intervention.

¹ Norris, R 2010 The More Things Change: The origins and impact of Australian Indigenous economic exclusion (PostPressed, Brisbane)

Whether it was herding our people onto reserves, taking our children away from their mothers and families or the recent creation of service hub towns, the result has been the same: our people are still working for rations and below-award wages.

From 1848 through to the 1970's, under the segregation and assimilation policies, Aboriginal people were forced to work for rations on cattle and sheep stations, in sheds and abattoirs, in homes as servants and child-minders. Generally our people were underpaid or sometimes not paid at all and in many instances they were subjected to cruel, inhumane and degrading treatment.

These payments were often sent to missions, pastoralists and home owners who had Aboriginal people working for them, via trust and savings accounts, who often kept these payments. When welfare rights for Aboriginal peoples began to be introduced in the late 1960s (including child endowment, maternity allowance and old age, disability, widows, unemployment and war pensions), these entitlements were also taken. Much of that money was misappropriated, which today is collectively known as the 'Stolen Wages'.

Article 21 of the Declaration on the Rights of Indigenous Peoples states that, Indigenous Peoples have the right, without discrimination, to the improvement of their economic and social conditions. In addition, 21.2 confers that States shall take effective measures and where appropriate special measures to ensure continuing improvement of the economic and social conditions.

The Australian Senate conducted an Inquiry into this called: "Unfinished Business: Indigenous Stolen Wages", the report was released in December 2006.² The Committee made six key recommendations, including the establishment of compensation schemes in relation to the withholding, underpayment and non-payment of Indigenous wages and welfare entitlements in Western Australia, the Northern Territory, the Australian Capital Territory, South Australia, Tasmania and Victoria. Some four and a half years later, most of the recommendations have not been implemented and in the States and Territories listed above, we still wait for compensation schemes. NSW and Queensland State Governments established limited repayment schemes that paid only a small portion of these missing wages.

Since 1975 the government introduced the Community Development Employment Program commonly known as CDEP. Again, Aboriginal people were forced to work outside the normal industrial relations system for a wage that was equivalent to unemployment benefits.

Today, the Government has confirmed the racist view that Aboriginal people are inadequate, incapable and irresponsible. The CDEP is now part of the

² See: http://www.aph.gov.au/senate/committee/legcon_ctte/completed_inquiries/2004-07/stolen_wages/report/index.htm.

Criminal law and the judicial defence of Indigenous Peoples rights

Previous Australian Governments have enforced a policy specifically targeted at Indigenous People that saw the removal of Indigenous children from their family and community constructs and placed into institutions where cultural practice, beliefs and language were stripped. The Indigenous children subject to this policy are commonly known as the 'Stolen Generations'. The removal of children and the theft of culture has manifested itself in trans-generational trauma exposing new generations of Indigenous youth to dysfunctional family units, an early exposure to violence, alcohol, illicit substances and the risk of further removal from the family unit by modern welfare agencies. Although the High Court has found that the government policy of removal was intended to be made in the best interests of Indigenous people, the practical effect was that it was in breach of the United Nations Genocide Convention as it blatantly enforced:

- the removal and transfer of children of a racial group in a manner calculated to bring about a group's physical destruction in whole or in part;
- actions likely to cause serious mental harm to members of a racial or ethnic group; and
- the deliberate infliction on a racial group of conditions of life calculated to bring about its physical destruction in whole or in part.

It is fortunate that Indigenous Australians are a strong and resilient people, however, the effects of these policies are still felt by countless Indigenous people particularly where those families are unable to find their family groups and the their connection to culture has been damaged beyond repair. Actions must be taken to redress the damage caused by these policies.

Recommendations

The Indigenous Peoples Organisation Network of Australia recommends that the Permanent Forum:

1. conduct, or recommend to the Special Rapporteur on the Rights of Indigenous Peoples, or other UN Special Mechanism conduct, a thematic study on the recognition of Indigenous Peoples in the national constitutions of Member States, to be presented at the Permanent Forum in 2013;
2. urge all states to develop comprehensive strategies to encourage strong participation of Indigenous peoples in local economies;
3. urge the all states to ensure Indigenous peoples' rights to self-determination as set out under the UN Declaration on the Rights of Indigenous Peoples are protected in strategies designed to improve Indigenous economic independence;
4. urge all States to establish a restorative justice process similar to the South African Truth and Reconciliation Commission to address the historical and contemporary injustices against Indigenous peoples, including forced labour;
5. urge all States to establish National Compensation Tribunals for stolen generations and wages of Indigenous peoples;
6. urge all States to disaggregate all information and data pertaining to Indigenous Peoples in order to develop more meaningful and effective policies that impact on Indigenous Peoples,
7. That all States include within the scope of forced labour definition and related

responses the impact of 'covert or systemic forced labour' whereby States impose draconian penalties that compel Indigenous peoples into employment that is menial, is contracted to a welfare benefit, is in the guise of mutual responsibility and obligation, short term, requires hard manual labour, does not build the capacity of the person or community, has no future prospects, duplicates or facilitates the abrogation of the State to deliver vital services and basic human rights and is undignified' ;

8. urge all states to adequately fund and resource Indigenous people to establish and run services that assist in dealing with the trans-generational trauma inflicted upon Indigenous peoples as a result of previous government removal policies including specific counselling and family support services; and
9. urge all states to implement legislative protection for Indigenous people's rights to access and benefit sharing including a compensation fund for indigenous peoples where damage has occurred due to exploitation of natural resources.