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INTERVENTIONS PRESENTED BY NSWALC DELEGATION AT THE SECOND SESSION OF THE EXPERT MECHANISM ON THE RIGHTS OF INDIGENOUS PEOPLE – GENEVA, SWITZERLAND

**Item 3: Studies on the Right to Education.**

**Presenter: Geoff Scott – Statement on behalf of the New South Wales Aboriginal Land Council (NSWALC)**

Thank you madam Chair;

I wish initially to thank my fellow delegates and congratulate you on your election. The study is a significant step forward and provides much needed focus on the education of Indigenous people.

The following comments are provided on behalf of the New South Wales Aboriginal Land Council.

I will not repeat the points and contributions of my colleagues but add supplementary comments

I would wish to provide some comments to provide some context to the environment which exists in Australia today which has a direct bearing on the Right to Education.

Whilst the Australian Government has made a number of creative initiatives to target the unacceptable disparity between the Indigenous people of Australia and non Indigenous Australians, we remain concerned that these initiatives have been developed to the exclusion of Indigenous people.

The Australian Government with the agreement of the opposition, that is all the major political parties in 2004 abolished the Representative body of Australia's Indigenous people and to this day remains a blight on the relationship between the Indigenous people of Australia and the Australian government, although I should note that measures are currently in negotiation to correct this fundamental stain on the relationship.

In addition the Racial Discrimination Act (the Australian domestic mechanism for the implementation of the Convention on the Elimination of All Forms of Racial Discrimination remains suspended in relation to the a substantial number of Indigenous communities in the Northern territory of Australia, 73 in fact, again a stain on the relationship in Australia and a cause of ongoing concern.

The Indigenous people of Australia have been held in impotent isolation whilst the government determines who it will consult with in respect of policy and programs for Indigenous people.

We continue to see the inconsistent application and efforts in respect of Bilingual languages in Australia and specifically in the Northern Territory and the recent moves by the Northern Territory Government to outlaw the practice of bilingual schooling in the

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Northern Territory, an action which we view with concern and roundly condemn as short-sighted and a concession to populism.

I applaud the recent announcement by the Australian Government identifying additional resources to support and protect Indigenous languages.

The key points made in the report are precisely relevant to the position of Indigenous peoples in Australia.

I also wholeheartedly concur with the conclusion of the Special Rapporteur that;

*the full enjoyment of the right to education as recognized in international human rights law is not a reality for most Indigenous peoples, and that the main impediments to this right are discrimination and lack of equal access to education,*

this succinctly identifies the reality of Australia today.

One point of caution whilst supporting the vital focus on education is that we must be vigilant to ensure that government does not divert resources and attention away from other Indigenous areas to support education initiatives. A "drive", on one singular area can result in an undermining of effort in other vital areas, education is important and unquestionably the underpinning strategy for progress, but it cannot be to the detriment of other areas.

The circumstance that we find ourselves in Australia, is a constitutional arrangement where "responsibility" for Indigenous people is one shared, between the National jurisdictions on one hand and state and territory jurisdictions on the other, very unclear and has resulted in blatant political maneuverings, cost shifting and blame being apportioned by each jurisdiction to the other, it is reality in which Indigenous peoples in Australia live. We welcome the Australian government commitment to address this phenomena.

The Commonwealth government has focused all new effort on the remote communities in Australia to date, people who are in dire need and existing in appalling circumstances and requiring urgent attention, but to ignore the other 75% of the Indigenous people in Australia shall not result in to level of change, progress and outcome required.

The other vital aspect of education which has been one of the failures of state effort in the past has been the environment in which Indigenous people live, if you do not have adequate housing, do not have adequate health, do not have adequate security then the chance of being able to capitalise on specific education initiatives are problematic, the approach must be to ensure that effort is cognisant of the many factors that are required to achieve sustainable progress.

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Education must be delivered in the context of the "right to development" to move the Indigenous people of Australia to a position where we can make to claims on the benefits that society has to offer.

Much of the effort has been to provide "cold resources", to provide the physical infrastructure, but has not been matched by the "hot resourcing" to develop and educate

people. If government reads the messages from this forum and considers the positions and reports then we may have some hope of sustainable positive change.

We do not want to revert to the policies of the recent Howard government which sought behavioural change, invoking "Shared Responsibility Agreements" where communities had to agree to certain behaviours as a pre requisite to receiving citizenship services, one case in point was the community of Balgo in Western Australia in which the community had to sign an agreement to ensure that children washed their faces before they could get a fuel bowser, and in the community of Wadeye when children turned up for school there were not enough classrooms or teachers, a study found that for every dollar spent on the education of a non Indigenous child in the Northern Territory, only 47 cents was spent on the education of an Indigenous child. No other group of people in Australia have been subject to such policies.

The current Government is pursuing a similar policy approach by requiring Indigenous people to lease their land back to the government for 40 to 99 years, before the government will provide basic citizenship rights, such as housing, education and health services and programs.

We welcome the belated endorsement of the Declaration on the Rights of Indigenous People by the Australian Government and look forward to negotiating with the government of Australia the domestic implementation of the Declaration, Australia is the only western democracy without a Bill of Rights, the Declaration of the Rights of Indigenous people will provide a mechanism for advocating for rights in such a inadequate rights environment. Indigenous peoples should not be subject to the machinations or transitory benevolence or epiphany of the government of the day, we should expect better.

We look forward to the creation of a relationship founded on trust respect and honesty with the Australian Government of course unpinned by the Declaration on the Rights of Indigenous People and welcome the focus on the Right to Education.

Thank You.