**United Nations Permanent Forum on Indigenous Issues**

**Tenth Session - New York**

**16-27 May 2011**

**Agenda Item 4(b): Dialogue with the Special Rapporteur on the rights of Indigenous peoples**

**JOINT INTERVENTION DELIVERED BY MR BRIAN WYATT ON BEHALF OF:**

Aboriginal and Torres Strait Islander Women’s Legal Service (ATSIWLS)

Aboriginal Legal Rights Movement of South Australia (ALRM)

Aboriginal Legal Service Western Australia (ALSWA)

Aboriginal Medical Service of Western Sydney (AMSWS)

Aboriginal Medical Services Association of the Northern Territory (AMSANT)

Foundation for Aboriginal and Islander Research and Action (FAIRA)

Gugu Badhum Ltd.

National Aboriginal Community Controlled Health Organisation (NACCHO)

National Indigenous Higher Education Network (NIHEN)

National Native Title Council (NNTC)

Office of the Aboriginal and Torres Strait Islander Social Justice Commissioner

Urapuntja Aboriginal Corporation (Utopia Community)

Victorian Aboriginal Legal Service (VALS)

Thank you Madam Chairperson,

The Indigenous Peoples Organisations (IPO) Network of Australia is pleased to address this intervention on our dialogue with the Special Rapporteur on the rights of Indigenous peoples (the Special Rapporteur). The Special Rapporteur visited Australia for the first time in August 2009 and tabled his report at the 15th Session of the Human Rights Council in September 2010.

In his Report on Australia, the Special Rapporteur provided a historical and contemporary analysis of the situation of Aboriginal and Torres Strait Islander peoples. In regards to historical injustices, it noted acts of genocide and dispossession of lands, territories and resources. In regards to contemporary injustices, the Report expressed concerns about the lack of effective participation processes for Indigenous peoples in Australia and the need for a more integrated approach to addressing disadvantage and oppression, especially in regards to social and economic indicators including health, education, employment and income, housing, women, children and families and the administration of justice. It also raised concerns about the lack of an integrated approach in government programs relating to matters including self-determination, remote service delivery and homelands.

The Australian Government provided a statement in response to the Special Rapporteur’s Report on 20 September 2010 and engaged in an interactive dialogue with the Special Rapporteur at the 65th Session of the United Nations General Assembly by the Third Committee in October 2010. That response and dialogue focused on:

* the Government’s commitment to the Close the Gap strategy;
* the reinstatement of the *Racial Discrimination Act* and consultations in relation to the Northern Territory Emergency Response;
* the establishment of the Expert Panel on the Constitutional Recognition of Aboriginal and Torres Strait Islander Peoples; and
* the establishment of the National Congress of Australia’s First Peoples.

Whilst we acknowledge the positive steps that have been taken in these four initiatives, we do still have concerns.

First is the lack of accountability in responding to the recommendations and interacting with the IPO. For example, the Special Rapporteur’s Report was never tabled in Australia’s Parliament. As his visit was an official country visit, this should be a means by which the Government is accountable to the Australian People and Parliament.

Second is that there has been no comprehensive practical response to the recommendations noted above. Of the 38 recommendations, very few have been implemented nor have there been steps taken towards their implementation.

As such we urge all Governments who have committed to support the Declaration on the Rights of Indigenous Peoples (the Declaration) to utilise the position of the Special Rapporteur; work in conjunction with the Special Rapporteur and Indigenous peoples to identify areas that require attention; and develop strategies that inform domestic activities to address these concerns, particularly in the development of a national implementation framework for the Declaration.

The Special Rapporteur has also recently visited Australia at the invitation of the New South Wales Aboriginal Land Council to talk specifically with Aboriginal peoples about the Declaration. This engagement with the Special Rapporteur is critical in achieving the ends of the Declaration at the national and community level.

We thank the Special Rapportuer for his continued support for the Aboriginal and Torres Strait Islander peoples of Australia and hope to continue this positive working relationship.

**We recommend that the Permanent Forum through the Economic and Social Council:**

1. **encourage member States to utilise the UN Special Mechanisms to enhance the work they are doing on progressing the rights of Indigenous peoples;**
2. **develop a proposal for the Human Rights Council to formally request a response from States subject to country or thematic reports by the Special Rapporteur, which includes a catalogued response to recommendations in the reports when they are tabled at the Human Rights Council;**
3. **encourage member States subject to a Special Rapporteur country report, to formally respond through domestic mechanisms, such as tabling the report and the State’s response, in their Parliament;**
4. **encourage member States to support Indigenous peoples in providing shadow reports to the Human Rights Council on all official visits by Special Mechanisms; and**
5. **recommend the Human Rights Council require States to provide a progress report, which contains measurable outcomes, on the implementation of recommendations made by the Special Rapporteur during any country or thematic visit, during each States’ Universal Periodic Review.**