



Australian
Human Rights
Commission

United Nations Permanent
Forum on Indigenous Issues
16th Session Questionnaire

**AUSTRALIAN HUMAN RIGHTS COMMISSION SUBMISSION TO THE
SECRETARIAT OF THE PERMANENT FORUM ON INDIGENOUS ISSUES**

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1 Introduction

1. This information is provided by the Australian Human Rights Commission to the Secretariat of the United Nations Permanent Forum on Indigenous Issues for their report to the 16th Session to be held 24 April to 5 May 2017.
2. The Global Alliance of National Human Rights Institutions Sub-Committee on Accreditation has recently re-accredited the Commission as an 'A status' national human rights institution (NHRI) established and operating in full compliance with the Paris Principles. Information about the Commission can be found at: www.humanrights.gov.au.
3. In preparing the information, the Commission has drawn principally upon the work of the office of the Aboriginal and Torres Strait Islander Social Justice Commissioner, including the Deputy Commissioner. The Social Justice Commissioner has a statutory responsibility to report annually to the Commonwealth Attorney-General on the enjoyment and exercise of human rights by Aboriginal and Torres Strait Islander peoples and on the operation of the *Native Title Act 1993*¹, and recommends action that should be taken to ensure these rights are observed.²
4. Information on the responsibilities and advocacy of the Social Justice Commissioner can be found at: <https://www.humanrights.gov.au/our-work/aboriginal-and-torres-strait-islander-social-justice>.

2 Commission participation in the United Nations Permanent Forum on Indigenous Issues

5. The Commission has participated extensively in the work of the United Nations Permanent Forum on Indigenous Issues (UNPFII) since its first session in 2002.
6. At the 15th Session of the UNPFII, the Australian Human Rights Commission along with other NHRI's within the Asia-Pacific region jointly advocated support for General Assembly Resolution A/RES/70/163 of 2015. This called for enhanced participation of NHRIs compliant with the Paris Principles and to support their independent contribution to United Nations fora in New York.
7. Other recommendations made by the Commission during the 15th Session of the UNPFII advocated for member states within UNPFII to:
 - establish an independent Indigenous Commissioner role within their NHRI, where they exist, to monitor and protect the rights of Indigenous Peoples underpinned by the United Nations Declaration on the Rights of Indigenous Peoples (UNDRIP).
 - commit to engaging in a meaningful dialogue with Indigenous peoples and their National Human Rights Institutions, where they exist, to design and develop National Strategies to give full effect to the UNDRIP which includes monitoring and evaluation and annual reporting as to the progress of such implementation.

8. The Commission supports the outcome document of the World Conference on Indigenous Peoples in September 2014 and intends to continue to participate in the UNPFII and to share information, promote good practice and advocate for the rights of Aboriginal and Torres Strait Islander peoples.

3 Issues related to conflict, peace and resolution for Indigenous peoples

9. The Commission responded to the Secretariat of the UNPFII Questionnaire for the UNPFII 15th Session on this issue.³ There remains significant unfinished business in the national healing and reconciliation process in Australia.
10. All past and current Social Justice Commissioners have noted that the practice of dispossession and assimilation of Aboriginal and Torres Strait Islander peoples has created many ongoing problems. There is an undeniable and urgent need for healing in Indigenous communities broken by the removal of Indigenous children, separation of families, family violence, incarceration, suicide, alcohol and drug abuse.
11. Recent statistics in Australia show that Aboriginal and Torres Strait Islander women in particular are hospitalised for family violence related assault at 32 times the rate of non-Indigenous women.⁴ The most common offence for which Aboriginal and Torres Strait Islander prisoners are held in custody are from 'acts intended to cause injury'.⁵ The Commission has reported to the UN on violence against Aboriginal and Torres Strait Islander women,⁶ and to Commonwealth Inquiries.⁷
12. During Australia's appearance before the Universal Periodic Review (UPR) in 2015, the Commission recommended to the UPR Working Group that the National Plan to Reduce Violence Against Women and their Children reflect the diversity of women, and include sustained funding, and independent monitoring and evaluation.⁸ Several of the recommendations made to Australia at this review concerned violence against women and their children and in particular Aboriginal and Torres Strait Islander women and children.⁹
13. The Social Justice Commissioner has also reported to the Australian Government on matters addressing issues of family violence,¹⁰ and lateral violence.¹¹ The 2003 and 2007 Social Justice Reports also include the experiences of Indigenous women incorporated within family violence.
14. While promising practices and learnings in holistic approaches to healing are emerging in Australia, particularly with the establishment of the National Aboriginal and Torres Strait Islander Healing Foundation in 2009, there are lessons to be learned from over a decade of healing work in other nation States, in particular Canada.
15. The Social Justice Commissioner will continue to engage with the Australian Government, Indigenous Communities and the international community to promote positive practices in healing and promote safe dialogue to address acts of violence.

4 Indigenous Human Rights Defenders

16. The Special Rapporteur on the situation of human rights defenders visited Australia in October 2016. The Special Rapporteur's end of mission statement expressed a number of concerns for human rights defenders notably that 'many indigenous human rights defenders still experience severe disadvantages compared with non-indigenous defenders. They are marginalised and unsupported by state and territory governments. This situation is compounded by the tendency of the central government to use the federal system as limitation on its ability to exercise responsibility for supporting indigenous rights defenders'.¹²
17. The Special Rapporteur is expected to report to the Human Rights Council on his Australian country visit in 2017.
18. The Special Rapporteur on the Rights of Indigenous Peoples is also expected to visit Australia in 2017.

5 Commission contribution to the achievement of the United Nations Declaration on the Rights of Indigenous Peoples

19. The UNDRIP is a cornerstone of the Commission's advocacy in relation to the human rights of Aboriginal and Torres Strait Islander peoples and the following principles guide its work and performance of its statutory functions:¹³
- self-determination¹⁴
 - participation in decision-making, free, prior and informed consent, and good faith¹⁵
 - respect for and protection of culture¹⁶
 - equality and non-discrimination.¹⁷
20. The Commission has undertaken a number of nationally significant activities in relation to the promotion and implementation of the UNDRIP, such as:
- The development of a manual for NHRIs on the UNDRIP and a blended learning course (online and face-to-face) jointly by the Australian Human Rights Commission, the Asia Pacific Forum of National Human Rights Institutions and the Office of the United Nations High Commissioner for Human Rights.¹⁸
 - In partnership with the National Congress of Australia's First Peoples, the Commission held a series of community, government, business and non-government dialogue meetings to raise awareness and understanding of the UNDRIP. A concise set of papers on the UNDRIP have been designed by the Commission to engage with Australian audiences. Information on the Declaration Dialogues is available here: <https://www.humanrights.gov.au/our-work/aboriginal-and-torres-strait-islander-social-justice/publications/declaration-dialogue> and here <http://declaration.humanrights.gov.au/>

21. The Commission has continued to advocate via *Social Justice and Native Title Reports* and other avenues to review existing legislation, policies and programmes for conformity with the UNDRIP. In particular, it has advocated for the inclusion of the UNDRIP in the definition of human rights in the *Human Rights (Parliamentary Scrutiny) Act 2011 (Cth)*.
22. The Commission also supports the Indigenous Property Rights Project, which is led by Aboriginal and Torres Strait Islander peoples to address barriers to development on the Indigenous Estate. This is consistent with Article 26 of the UNDRIP, which states that *Indigenous Peoples have the right to own, use and control their lands, waters and other resources. Governments shall recognise and protect these lands, waters and resources*.

6 Universal Periodic Review

23. During the 2015 Universal Periodic Review (UPR) of Australia's record on human rights, 290 recommendations were received from 104 Country participants. Forty-five (15%) recommendations concerned the rights of Aboriginal and Torres Strait Islander peoples.¹⁹
24. The Australian Government's commitment to the UPR process provides a promising opportunity to give effect to the UNDRIP through the monitoring and tracking of commitments on the rights of Aboriginal and Torres Strait Islander peoples.
25. Chapter 4 of the *Social Justice and Native Title Report 2016*²⁰ reflects on the role of the UNDRIP as the compass to guide the future work of Aboriginal and Torres Strait Islander communities and non-government organisations. The *Report* outlines a number of case studies that demonstrate how Aboriginal and Torres Strait Islander peoples and representative bodies might develop their own indicators for monitoring progress in relation to the UPR over the next four years.
26. The Australian Government has committed to work with the Commission to develop a publicly accessible monitoring process for UPR recommendations. The Commission believes such a monitoring mechanism can be of great value to Aboriginal and Torres Strait Islander peoples to leverage policy and implementation.
27. Submissions by the Commission transmitted to the Human Rights Council included the following recommendations:
- **Supporting representative bodies:** Government provide adequate funding to the National Congress and to Indigenous legal aid.
 - **Constitutional recognition:** Government finalise a model for constitutional recognition, following engagement of Indigenous peoples.
 - **Equality and closing the gap:** Government, working with Indigenous peoples, redouble efforts to achieve the Closing the Gap targets, and

implement the recommendations of the Close the Gap Campaign's *Progress and Priorities Report 2015*.

- **Violence against Indigenous women:** Government implement the National Plan to Reduce Violence Against Women and their Children with a consideration of the needs of Aboriginal and Torres Strait Islander women; include adequate and sustained funding for appropriate programs and services; and include adequate funding for independent monitoring and evaluation.
- **Access to justice:** Government adopt targets and introduce justice reinvestment trials to reduce Indigenous incarceration rates; adopt measures to improve access to justice for people with disabilities; develop alternative care arrangements where people are found unfit to plead for reasons including cognitive impairment or acquired brain injury; expand the use of diversionary programs for juveniles; raise the minimum age of criminal responsibility; and cease detention of children in adult facilities.²¹

28. The Commission will be actively involved in submissions and attending sessions in relation to Australia's key periodic appearances before treaty bodies in 2017, which are:

- Committee on Economic, Social and Cultural Rights, 30 - 31 May 2017, Geneva
- Committee on Civil and Political Rights, 16 October - 3 November 2017, Geneva
- Committee on the Elimination of Racial Discrimination, 20 November - 8 December 2017, Geneva

7 Commission contribution to the promotion and protection of Indigenous peoples human rights and current social justice priorities

29. The following information details specific activities of the Commission with respect to the promotion and protection of the rights of Indigenous peoples:

(a) *Social Justice and Native Title Reports*

30. The Social Justice Commissioner's *Social Justice and Native Title Reports* are structured around principles of self-determination, equality and non-discrimination, respect for culture, and participation and have influenced Australian public policy in a number of ways. For example, as a result of the *Social Justice Report 2005* findings and recommendations, the following national action occurred:

- In 2006, the *Close the Gap Campaign* to achieve Indigenous health equality was launched. The Campaign Steering Committee members represent some of Australia's peak Aboriginal and Torres Strait Islander and non-Indigenous health bodies, health professional bodies and human rights organisations. To date, over 200,000 Australians have formally pledged their support to the campaign.²²

- In 2008, the Australian Government agreed to six ambitious targets to address the disadvantage faced by Indigenous Australians in life expectancy, child mortality, education and employment.²³ Unprecedented government investment to Closing the Gap in Indigenous disadvantage was also achieved.
- Since 2009, Australia has celebrated an annual National Close the Gap Day. In 2015, over 850 community events involving more than 150,000 Australians were held on the day.²⁴

31. Information on the Campaign, reports and resources is available here: <https://www.humanrights.gov.au/our-work/aboriginal-and-torres-strait-islander-social-justice/projects/close-gap-indigenous-health>.

32. Previous *Native Title Reports*, also consider how governance provides a foundation that enables Aboriginal and Torres Strait Islander peoples to realise their social, cultural and economic development aspirations highlighting how effective, culturally relevant and legitimate Indigenous governance over lands, territories and resources needs to incorporate the human rights set out in the UNDRIP.²⁵

33. The *Native Title Report 2013* in particular looks back on 20 years of native title in Australia and the role of the Social Justice Commissioner. The Report provides a snapshot of developments and contributions of previous Social Justice Commissioners in the key areas of native title over a 20 year period.²⁶

34. Further information on the *Social Justice and Native Title Reports* is available here: <https://www.humanrights.gov.au/our-work/aboriginal-and-torres-strait-islander-social-justice/projects/social-justice-and-native>.

(b) *20th year Anniversary of the National Inquiry into the Separation of Aboriginal and Torres Strait Islander Children from their families*

35. The *Australian Human Rights Commission Act 1986* (Cth) provides the Commission with the power to hold public inquiries into human rights issues of national importance and make recommendations to address discrimination and breaches of human rights.

36. A significant inquiry conducted prior to the adoption of the UNDRIP was the *National Inquiry into the Separation of Aboriginal and Torres Strait Islander Children from their families* (1997) (also known as the Bringing Them Home Report).²⁷ The impact and outcomes of the Inquiry continue to influence law and public policy. The Inquiry found that ‘between one in three and one in ten Indigenous children were forcibly removed from their families and communities between 1910 and 1970.’²⁸ The report includes a comprehensive account of the laws, practices and policies which resulted in the forced separation of Indigenous children from their families, the consequences of removal, detailed accounts on the experiences of those children removed, and the alarming issue of contemporary separation. 54 Recommendations were made which included consideration of grounds for reparation and services for those affected.

37. Following the Inquiry, national action to address the issue included:

- Establishment of State based family tracing and reunion services, known as Link-Up Services, to assist Indigenous Australians separated by their families as a result of past Government policies and practices²⁹
- The *Apology to Australia's Indigenous peoples* (2008)³⁰
- The establishment of the Aboriginal and Torres Strait Islander Healing Foundation (2009) to address the grief and trauma associated with the harmful history of child removal and the intergenerational impacts of removal.³¹

38. Despite this, Aboriginal and Torres Strait Islander children are over represented in child protection and out-of-home care system. Current statistics indicate that Aboriginal and Torres Strait Islander children are 9.5 times more likely to be in out-of-home-care than non-Indigenous children.³²

39. As 2017 marks the 20th anniversary of the Bringing Them Home Report, the Commission will be commemorating the occasion by advocating the historical practices and policies which removed children from their families does not occur again and will consider ways to advocate for the issues Indigenous children face who are currently in care.

40. Further information on the Inquiry is available here:

<https://www.humanrights.gov.au/our-work/aboriginal-and-torres-strait-islander-social-justice/publications/bringing-them-home-stolen>

(c) *Indigenous Property Rights and Economic Development*

41. A number of key challenges face Indigenous Australians, particularly when it comes to the full realization of rights under various land rights and native title legislation.

42. In 2015/2016, the Social Justice Commissioner, convened a number of Roundtables on Economic Development and Indigenous Property Rights. The meetings identified options for addressing the challenges Aboriginal and Torres Strait Islander peoples experience in creating economic development opportunities without limiting native title or land rights. These challenges include barriers that prevent the leveraging of property rights, be they communal, inalienable rights under native title or through land rights schemes.³³

43. A draft framework to advance a renewed dialogue between the Australian Government and Aboriginal and Torres Strait Islander peoples about their traditional lands, culture and options for economic development is currently being developed.

44. Information about Indigenous Property Rights can be found here:

<https://www.humanrights.gov.au/our-work/aboriginal-and-torres-strait-islander-social-justice/projects/indigenous-property-rights>

(d) *Constitutional Recognition of Aboriginal and Torres Strait Islander peoples*

45. Recognising Aboriginal and Torres Strait islander peoples in the Australian Constitution has been a substantial focus of the Social Justice Commissioner and is outlined in a number of *Social Justice and Native Title Reports*.³⁴

46. The office of the Social Justice Commissioner has also been actively involved in promoting this issue via:

- submissions to the Joint Select Committee on Constitutional Recognition of Aboriginal and Torres Strait Islander people.³⁵
- The appointment of the Social Justice Commissioner to the Australian Government Expert Panel on Constitutional Recognition of Aboriginal and Torres Strait Islander peoples (the Expert Panel) in 2010 which provided their final report in 2012 recommending a number of options for constitutional change.³⁶
- The appointment of the former Social Justice Commissioner to the Referendum Council in 2015 which was established to develop the model and wording of recognition of Australia's First Peoples within the Australian Constitution.³⁷

47. The Commission has recommended in the *Social Justice and Native Title Report 2016* that the Australian Government supports the outcomes of the national consultations conducted by the Referendum Council which are currently underway and will extend into 2017.³⁸

48. The Commission will be working closely with the Australian government and Indigenous peoples, communities and stakeholders to provide expertise and guidance to support a human rights based approach to the Constitutional recognition of Australia's First Peoples.

49. The Commission notes that the rich discussion about constitutional recognition have provided fertile ground for the re-emergence of a conversation about a formal agreement between the Australian Government and Aboriginal and Torres Strait Islander peoples.

(e) *Indigenous Incarceration and Justice Reinvestment*

50. This year marked the 25th Anniversary of the Royal Commission into Aboriginal Deaths in Custody³⁹ however the number of Aboriginal and Torres Strait Islander people in prison has increased by nearly 84% over the last decade.⁴⁰

51. Despite currently being only 2% of the total Australian population aged over 18 years, Aboriginal and Torres Strait Islander prisoners represent over a quarter (27 %) of all prisoners in Australia.⁴¹

34. The overrepresentation of Aboriginal and Torres Strait Islander peoples as both victims and offenders in the criminal justice system remains one of the

most glaring disparities between Aboriginal and Torres Strait Islander Australians and non-Indigenous Australians.

35. The Commission has advocated that the solution to this issue lies in focusing on creating safer communities where violence is not tolerated, where victims have access to the entire spectrum of support services and where the emphasis is on the prevention of crime and violence occurring in the first place.
36. To achieve this, the Commission has identified as urgent priorities adopting justice reinvestment programs as a mechanism to address the disproportionate incarceration of Aboriginal and Torres Strait Islander peoples.⁴² Justice reinvestment diverts a portion of the funds for imprisonment to local communities where there is a high concentration of offenders. The money that would have been spent on imprisonment is reinvested into services that address the underlying causes of crime in these communities, such as parenting programs, early education and care, youth mentoring, numeracy and literacy programs, training and employment pathways.

(f) *Violence against Indigenous Women and Children*

52. In 2014/2015, the hospitalization rates for Aboriginal and Torres Strait Islander women for family violence related assaults was 32 times the rate for non-Indigenous females.⁴³
53. This issue remains a national crisis. Indigenous women, men and children must be included in national discussions to appropriately identify and address violence.
54. The Commission has reported on this issue in a number of Social Justice Reports and the Deputy Social Justice Commissioner made a video statement to the 33rd regular session of the Human Rights Council on the causes and consequences of violence against Indigenous women and girls including those with disabilities.⁴⁴
55. The Special Rapporteur on violence against women, its causes and consequences is also expected to visit Australia in 2017.

(g) *Other activities*

56. The Commission also carries out other activities which promote and protect the rights of Aboriginal and Torres Strait Islander peoples. The following provides a selection of these activities:
- The Commission's statutory functions under the *Racial Discrimination Act 1975* (Cth), and related initiatives such as the *National Racism Strategy* and the *Racism. It Stops With Me* campaign.⁴⁵ Information on the Strategy and the this campaign is available here: <https://www.humanrights.gov.au/our-work/race-discrimination>
 - Under the *Australian Human Rights Commission Act 1986* (Cth), the Commission has a statutory function to investigate and conciliate

complaints made under federal human rights and discrimination law. Complaints made by Aboriginal and Torres Strait Islander people often concern individual and systemic forms of discrimination. In 2015/2016 the Commission received 249 complaints made by Aboriginal and Torres Strait Islander people. The majority (54%) of those complaints were about racial discrimination.⁴⁶

57. To contact the Social Justice Commissioner, email Kirsten Gray, Adviser to the Social Justice Commissioner at kirsten.gray@humanrights.gov.au

¹ See *Native Title Act 1993* at <https://www.legislation.gov.au/Details/C2016C00748> (viewed 14 December 2016).

² *Australian Human Rights Commission Act 1986* (Cth) s 46C(1)(a); *Native Title Act 1993* (Cth) s 209.

³ Australian Human Rights Commission submission to the Secretariat of the Permanent Forum on Indigenous Issues, *United Nations Permanent Forum on Indigenous Issues 15th Session Questionnaire*, 8 February 2016. At <http://www.un.org/esa/socdev/unpfii/documents/2016/National-HR/Response-Australia.pdf> (viewed 16 December 2016).

⁴ Australian Productivity Commission, *Overcoming Indigenous Disadvantage: Key Indicators Report 2016*, <http://www.pc.gov.au/research/ongoing/overcoming-indigenous-disadvantage/2016#thereport> (viewed 14 December 2016).

⁵ Australian Bureau of Statistics, (2014) *Prisoners in Australia, Aboriginal and Torres Strait Islander Prisoners*, 4517.0. At <http://www.abs.gov.au/ausstats/abs@.nsf/Lookup/by%20Subject/4517.0~2014~Main%20Features~Aboriginal%20&%20Torres%20Strait%20Islander%20prisoner%20characteristics~10007> (viewed 5 February 2016)

⁶ Australian Human Rights Commission, *Australia's Universal Periodic Review on human rights – Annual Progress Reports*. At <https://www.humanrights.gov.au/australias-universal-periodic-review-human-rights> (viewed 4 February 2016).

⁷ Australian Human Rights Commission, Submission No 57 to Senate Standing Committee on Community Affairs, Parliament of Australia, *Inquiry into violence, abuse and neglect against people with disability in institutional and residential settings*, 11 February 2015, 3. At http://www.aph.gov.au/Parliamentary_Business/Committees/Senate/Community_Affairs/Violence_abuse_neglect (viewed 5 February 2016); Australian Human Rights Commission, Submission 41 to the Senate Finance and Public Administration Reference Committee, *Inquiry into Domestic Violence and Gender Inequality*, 4 April 2016. At http://www.aph.gov.au/Parliamentary_Business/Committees/Senate/Finance_and_Public_Administration/DV_and_Gender_Inequality (viewed 14 December 2016).

⁸ Australian Human Rights Commission, Submission Under the Universal Periodic Review Process, 7[20]. At <https://www.humanrights.gov.au/submissions/australia-s-second-universal-periodic-review> (viewed 5 February 2016).

⁹ Human Rights Council Working Group on the Universal Periodic Review, *Draft report of the Working Group on the Universal Periodic Review: Australia*, Twenty-third session, UN Doc A/HRC/WG.6/23/L.11 20, 20 November 2015. At <http://www.upr-info.org/en/review/Australia> (viewed 5 February 2016).

¹⁰ William Jonas, *Social Justice Report 2003*, Human Rights and Equal Opportunity Commission (2003), 155-191; Tom Calma, *Social Justice Report 2007*, Human Rights and Equal Opportunity Commission (2007), 7-18, Mick Gooda, *Social Justice Report 2011*, Australian Human Rights Commission (2011), ch 2, 50-98.

¹¹ Mick Gooda, *Social Justice Report 2011*, Australian Human Rights Commission (2011), 50-98.

¹² Michel Forst, United Nations Special Rapporteur on the situation of human rights defenders: visit to Australia, End of mission statement, 18 October 2016.

¹³ *United Nations Declaration on the Rights of Indigenous Peoples*, GA Resolution 61/295, UN Doc A/RES/61/295 (2007). At <http://www.ohchr.org/EN/Issues/IPeoples/Pages/Declaration.aspx> (viewed 3 February 2016).

- ¹⁴ *United Nations Declaration on the Rights of Indigenous Peoples*, GA Resolution 61/295, UN Doc A/RES/61/295 (2007), arts , 4, 5, Preamble 16, 17. At <http://www.ohchr.org/EN/Issues/IPeoples/Pages/Declaration.aspx> (viewed 3 February 2016).
- ¹⁵ *United Nations Declaration on the Rights of Indigenous Peoples*, GA Resolution 61/295, UN Doc A/RES/61/295 (2007), arts 18, 19, 5, 10, 11(2), 27, 28, 29, 32(2), 41, 46. At <http://www.ohchr.org/EN/Issues/IPeoples/Pages/Declaration.aspx> (viewed 3 February 2016).
- ¹⁶ *United Nations Declaration on the Rights of Indigenous Peoples*, GA Resolution 61/295, UN Doc A/RES/61/295 (2007), arts (1), 31, 11(1), 11(2), 12(1), 13(1), 15(1), Preamble 3, 7, 10, 11. At <http://www.ohchr.org/EN/Issues/IPeoples/Pages/Declaration.aspx> (viewed 3 February 2016).
- ¹⁷ *United Nations Declaration on the Rights of Indigenous Peoples*, GA Resolution 61/295, UN Doc A/RES/61/295 (2007), arts 8(1)(e), 9, 15(2), 21(1), 22(2), 44, 46(3), Preamble 5, 9, 18, 22. At <http://www.ohchr.org/EN/Issues/IPeoples/Pages/Declaration.aspx> (viewed 3 February 2016).
- ¹⁸ Asia Pacific Forum of National Human Rights Institutions and the Office of the United Nations High Commissioner for Human Rights, *The United Nations Declaration on the Rights of Indigenous Peoples: A Manual for National Human Rights Institutions*, August 2013. At <http://www.ohchr.org/EN/Issues/IPeoples/Pages/Publications.aspx> (viewed 14 December 2016); Asia Pacific Forum of National Human Rights Institutions, *Promoting and protecting the rights of indigenous peoples* (2016). At <http://www.asiapacificforum.net/support/training/indigenous-peoples/> (viewed 14 December 2016).
- ¹⁹ Australian Human Rights Commission, Australia's Universal Periodic Review on human rights. At <https://humanrights.gov.au/australias-universal-periodic-review-human-rights> (viewed 5 February 2016).
- ²⁰ Gillian Triggs and Robynne Quiggin, *Social Justice and Native Title Report 2016*, Australian Human Rights Commission (2016) https://www.humanrights.gov.au/sites/default/files/document/publication/AHRC_SJNTR_2016.pdf (viewed 13 December 2016).
- ²¹ Gillian Triggs and Robynne Quiggin, *Social Justice and Native Title Report 2016*, Australian Human Rights Commission (2016) 149-150.
- ²² Oxfam, Close the Gap Campaign. At <https://www.oxfam.org.au/what-we-do/indigenous-australia/close-the-gap/> (viewed 14 December 2016)
- ²³ Council of Australian Governments, Closing the Gap in Indigenous Disadvantage, At https://www.coag.gov.au/closing_the_gap_in_indigenous_disadvantage (viewed 14 December 2016).
- ²⁴ Oxfam, National Close the Gap Day, At <https://www.oxfam.org.au/what-we-do/indigenous-australia/national-close-the-gap-day/> (viewed 14 December 2016)
- ²⁵ Mick Gooda, *Native Title Report 2012*, Australian Human Rights Commission (2012), ch 2.
- ²⁶ Mick Gooda, *Social Justice and Native Title Report 2013*, Australian Human Rights Commission (2013), ch 2, 70-84.
- ²⁷ Human Rights and Equal Opportunity Commission, *Bringing them Home: Report of the National Inquiry into the Separation of Aboriginal and Torres Strait Islander Children from their Families* (1997). Also known as the Brining them Home Report.
- ²⁸ Australian Human Rights Commission, *Bringing them Home Community Guide 2007* <https://www.humanrights.gov.au/bringing-them-home-community-guide-2007-update> (viewed 14 December 2016)
- ²⁹ Australian Institute of Aboriginal and Torres Strait Islander Studies, Link Up Services <http://aiatsis.gov.au/research/finding-your-family/link-services> (viewed 3 February 2016)
- ³⁰ Kevin Rudd, Former Prime Minister of Australia, (2008) Apology to Australia's Indigenous Peoples. At <http://www.australia.gov.au/about-australia/our-country/our-people/apology-to-australias-indigenous-peoples> (viewed 14 December 2016)
- ³¹ The Healing Foundation. At <http://healingfoundation.org.au/> (viewed on 14 December 2016)
- ³² Australian Institute of Family Studies, *Child protection and Aboriginal and Torres Strait Islander children*, CFCA Resource Sheet (October 2016). At <https://aifs.gov.au/cfca/publications/child-protection-and-aboriginal-and-torres-strait-islander-children> (viewed 14 December 2016).
- ³³ Australian Human Rights Commission, Indigenous Property Rights. At <https://www.humanrights.gov.au/our-work/rights-and-freedoms/projects/indigenous-leaders-roundtable-economic-development-and>
- ³⁴ Mick Dodson, *Social Justice Report 1995*, Human Rights and Equal Opportunity Commission (1995) 70-77; Mick Gooda, *Social Justice Report 2010*, Australian Human Rights Commission (2010) 29-63; Mick Gooda, *Social Justice Report 2011*, Australian Human Rights Commission (2011) 31-35; Mick Gooda, *Social Justice Report 2012*, Australian Human Rights Commission (2012) 38-44; Mick Gooda, *Social Justice and Native Title Report 2013*, Australian Human Rights Commission (2013) 43-47; Mick Gooda, *Social Justice and Native Title Report 2014*,

Australian Human Rights Commission (2014) 33-36; Mick Gooda, *Social Justice and Native Title Report 2015*, Australian Human Rights Commission (2015) 31-34.

³⁵ Australian Human Rights Commission, Submission 55 to the Joint Select Committee on Constitutional Recognition of Aboriginal and Torres Strait Islander Peoples, Parliament of Australia, 31 January 2015. At

http://www.aph.gov.au/Parliamentary_Business/Committees/Joint/Constitutional_Recognition_of_Aboriginal_and_Torres_Strait_Islander_Peoples/Constitutional_Recognition (viewed 14 December 2016).

³⁶ Report of the Expert Panel, *Recognising Aboriginal and Torres Strait Islander Peoples in the Constitution*, (2012). At http://www.recognise.org.au/wp-content/uploads/shared/uploads/assets/3446_FaHCSIA_ICR_report_text_Bookmarked_PDF_1_2_Jan_v4.pdf (viewed 14 December 2016).

³⁷ Parliament of Australia, *Joint Select Committee on Constitutional Recognition of Aboriginal and Torres Strait Islander Peoples*. At

http://www.aph.gov.au/Parliamentary_Business/Committees/Joint/Constitutional_Recognition_of_Aboriginal_and_Torres_Strait_Islander_Peoples (viewed 14 December 2016).

³⁸ *Social Justice and Native Title Report 2016*, Australian Human Rights Commission (2016), recommendation 9.

³⁹ Royal Commission into Aboriginal Deaths in Custody. At

<http://www.austlii.edu.au/au/other/IndigLRes/rciadic/> (viewed 14 December 2016).

⁴⁰ Australian Bureau of Statistics (2013), *Prisoners in Australia 2012*, 4517.0. At

<http://www.abs.gov.au/ausstats/abs@.nsf/Products/A91DA889C3E80BA4CA257B3C000DCCC1> (viewed 14 December 2016)

⁴¹ Australian Bureau of Statistics, *Prisoners in Australia* (2015) ABS Cat No 4517.0. At

<http://www.abs.gov.au/ausstats/abs@.nsf/Lookup/by%20Subject/4517.0~2015~Main%20Features~Prisoner%20characteristics.%20Australia~28> (14 December 2016)

⁴² Australian Human Rights Commission, *Submission to the Senate Legal and Constitutional Affairs Committee Inquiry into the value of a justice reinvestment approach to criminal justice in Australia*. At http://www.humanrights.gov.au/sites/default/files/20130313_jr.pdf (viewed 14 December 2016). Senate Legal and Constitutional Affairs Committee, *Value of a justice reinvestment approach to criminal justice in Australia* (2013). At

http://www.aph.gov.au/Parliamentary_Business/Committees/Senate/Legal_and_Constitutional_Affairs/Completed_inquiries/2010-13/justicereinvestment/report/index (viewed 14 December 2016); House of Representatives Standing Committee on Aboriginal and Torres Strait Islander Affairs, *Doing Time, Time for Doing: Indigenous youth in the criminal justice system* (June 2011). At

http://www.aph.gov.au/Parliamentary_Business/Committees/House_of_Representatives_Committees?url=atsia/sentencing/report.htm (viewed 14 December 2016); See generally Australian Human Rights Commission, *Social Justice Reports 2009-2013*. At <https://www.humanrights.gov.au/publications/aboriginal-and-torres-strait-islander-social-justice?source=our-work> (viewed 14 December 2016).

⁴³ Australian Productivity Commission, *Overcoming Indigenous Disadvantage: Key Indicators 2016*. At <http://www.pc.gov.au/research/ongoing/overcoming-indigenous-disadvantage/2016#thereport> (viewed 14 December 2016).

⁴⁴ Robynne Quiggin, Address to the 33rd session of the United Nations Human Rights Council panel on the causes and consequences of violence against women and girls, Australian Human Rights Commission, 20 September 2016. At <https://www.youtube.com/watch?v=gOy-mdXFptA> (14 December 2016).

⁴⁵ Australian Human Rights Commission, Race Discrimination, 'National anti-racism strategy and Racism. It stops with me campaign'. At <https://www.humanrights.gov.au/our-work/race-discrimination/projects/national-anti-racism-strategy-and-racism-it-stops-me-campaign> (viewed 4 February 2016)

⁴⁶ Gillian Triggs and Robynne Quiggin, *Social Justice and Native Title Report 2016*, Australian Human Rights Commission (2016), Appendix 2, 172.