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Ecole Instrument De La Paix (EIP)
National Aboriginal and Torres Strait Islander Legal Services (NATSILS) Statement
to 17th Session of the Human Rights Council 8 May 2011

Thank you Mr President.

EIP on behalf of The National Aboriginal and Torres Strait Islander Legal Services (NATSILS) welcome the Australian Government's response to the recommendations made during its Universal Periodic Review.

The NATSILS are the peak national body in Australia for law and justice issues affecting Aboriginal and Torres Strait Islander peoples.

The NATSILS are concerned that the Government's response is misleading in parts as it has accepted many recommendations on the basis that they are already reflected in existing laws and policies when arguably they are not.

For example, the Government has not fully reinstated the Racial Discrimination Act in the context of the Northern Territory 'Intervention', has not implemented the recommendations of the Special Rapporteur on the rights of Indigenous peoples, and has not ensured that current federal laws are consistent with the Declaration on the Rights of Indigenous Peoples.

The NATSILS are frustrated that the Government has accepted recommendations relating to Aboriginal and Torres Strait Islander incarceration rates on the basis that measures to address these already exist. This is simply not the case for if effective measures were in place the rate of incarceration would not be increasing. Incarceration rates are exacerbated by the continued underfunding of the NATSILS and the limits this places on Aboriginal and Torres Strait Islander peoples' access to legal assistance.

The Government's central strategy for addressing incarceration rates is the National Indigenous Law and Justice Framework yet no funding is attached to this framework, it requires no specific action to be taken, and it is not enforceable.

The NATSILS hold concerns about the Government's acceptance of recommendations about ensuring the independence of investigations into police misconduct, use of force and deaths in custody on the basis that measures to ensure these currently exist. Concerns regarding the independence of investigations are just some of those which were raised by the recommendations of the Royal Commission into Aboriginal Deaths in Custody, which 20 years on remain largely unimplemented. The disregard for these recommendations means that more Aboriginal and Torres Strait Islander peoples will continue to face racism in their contact with the justice system and are at a much greater risk of dying in custody.

The NATSILS welcome the Government's commitment to ratify the Optional Protocol to the Convention Against Torture and hope that a National Preventative Mechanism will provide some recourse.

The Government's decision to reject the recommendation to establish a national compensation scheme for the Stolen Generations will be devastating for Aboriginal and Torres Strait Islander peoples. This rejection disregards Aboriginal and Torres Strait Islander peoples' fundamental right to equality before the law and the right to restitution for past wrongs.

The NATSILS are also disappointed that the Government has again rejected introducing a Human Rights Act. This recommendation has been made many times by UN human rights institutions and national consultations have shown that it has significant support amongst the Australian public.

However, the NATSILS welcome the Government's commitment to formally consider becoming a party to ILO 169 and encourage the Government to become a party to the Convention as soon as possible.

