

**UNITED NATIONS UNIVERSAL PERIODIC REVIEW
SHADOW REPORT 2015:
INDIGENOUS SPECIFIC RESPONSES**

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Australia's 2011 UPR Responses:

INDIGENOUS SPECIFIC RESPONSES

With the Law Society of Western Australia's Comments 2015

Recommendation 2011	Stance 2011	Explanation 2011	LSWA Comments 2015
86.1. Ratify as soon as possible the Optional Protocol to the Convention against Torture or other Cruel, Inhuman or Degrading Treatment or Punishment (OP-CAT)	Accepted	The Australian Government is working with States and Territories to take the necessary steps towards ratifying the Optional Protocol.	Reaffirm that the Australian Government is to ratify, as soon as possible, the Optional Protocol to the Convention against Torture or other Cruel, Inhuman or Degrading Treatment or Punishment (OP-CAT).
86.11. Ratify ILO Convention No. 169 and incorporate it into its national norms;	Accepted-in-part	Australia cannot commit to becoming party to the CED or ILO169, but will formally consider becoming a party to these treaties.	Reaffirm that the Australian Government is to ratify the ILO Convention No. 169 and incorporate it into its national norms.
86.13. Withdraw its reservations to the Convention on the Rights of the Child (CRC);	Accepted-in-part	Australia will systematically review its reservations to human rights treaties, having regard to whether reservations remain necessary.	Reaffirm that the Australian Government is to withdraw its reservations to the Convention on the Rights of the Child (CRC).
86.16. Lift its reservations to the following international conventions: the ICERD, the Convention on the Elimination of All Forms of Discrimination against Women, the International Covenant on Civil and Political Rights and the CRC;	Accepted-in-part	Australia will systematically review its reservations to human rights treaties, having regard to whether reservations remain necessary.	Reaffirm that the Australian Government is to lift its reservations to the following international conventions: the ICERD, the Convention on the Elimination of All Forms of Discrimination against Women, the International Covenant on Civil and Political Rights and the CRC.
86.19. Incorporate its international obligations under human rights instruments into domestic law;	Accepted-in-part	The Australian Government incorporates international obligations into domestic law to the extent considered necessary, noting that some obligations are reflected in policy.	Reaffirm that the Australian Government is to incorporate its international obligations under human rights instruments into domestic law.

Recommendation 2011	Stance 2011	Explanation 2011	LSWA Comments 2015
86.21. Strengthen its human rights framework by establishing a comprehensive legislative scheme for all human rights (Timor-Leste);	Accepted-in-part	Measures introduced under Australia's Human Rights Framework will require that a statement of compatibility with Australia's human rights obligations is provided for all new federal legislation.	Reaffirm that the Australian Government is to strengthen its human rights framework by establishing a comprehensive legislative scheme for all human rights.
86.22. Consider a comprehensive Human Rights Act as recommended by the National Human Rights Consultative Committee	Rejected	The Australian Government considers that existing mechanisms, together with new requirements under Australia's Human Rights Framework, provide for the protection and promotion of human rights. It does not intend to introduce a Human Rights Act.	Reaffirm that the Australian Government is to consider a comprehensive Human Rights Act as recommended by the National Human Rights Consultative Committee.
86.23. Focus on nationwide enforcement of its existing anti-discrimination law, plan adequately for nationwide implementation, especially as it relates to discrimination against Indigenous persons;	Already reflected	Australia accepts the recommendation on the basis it is reflected in existing laws or policies and Australia will continue to take steps to achieve relevant outcomes.	Reaffirm that the Australian Government is to focus on nationwide enforcement of its existing anti-discrimination law, plan adequately for nationwide implementation, especially as it relates to discrimination against Indigenous persons.
86.24. Fully implement the Racial Discrimination Act and the revision of federal laws to be compatible with the United Nations Declaration on the Rights of Indigenous Peoples;	Accepted-in-part	<p>The Racial Discrimination Act 1975 has been fully reinstated in relation to the Northern Territory Emergency Response as of 31 December 2010.</p> <p>The Australian Government supports promotion of and respect for the principles in the Declaration on the Rights of Indigenous Peoples, and considers that current federal laws are consistent with the spirit of the Declaration.</p>	<p>Reaffirm that the Australian Government is to revise federal laws so as to be compatible with the United Nations Declaration on the Rights of Indigenous Peoples.</p> <p>Affirm that the Senate Standing Committee for the Scrutiny of Bills continue and its mandate to include the United Nations Declaration on the Rights of Indigenous Peoples.</p>
86.25. Consider reinstating, without qualification, the Racial Discrimination Act into the arrangements under the Northern Territory Emergency Response and any subsequent arrangement;	Accepted	The Racial Discrimination Act 1975 has been fully reinstated in relation to the Northern Territory Emergency Response as of 31 December 2010.	The Racial Discrimination Act 1975 has been fully reinstated in relation to the Northern Territory Emergency Response as of 31 December 2010.

Recommendation 2011	Stance 2011	Explanation 2011	LSWA Comments 2015
86.26. Consult with Aboriginal and Torres Strait Islander people, and take into consideration the guidelines proposed by the Australian Human Rights Commission before considering suspension of the Racial Discrimination Act for any future intervention affecting the Aboriginal and Torres Strait Islander people;	Accepted	The Australian Government will continue to consult with Indigenous peoples regarding the application of the Racial Discrimination Act 1975.	<p>Reaffirm that the Australian Government is to consult with Aboriginal and Torres Strait Islander people, and take into consideration the guidelines proposed by the Australian Human Rights Commission before considering suspension of the Racial Discrimination Act for any future intervention affecting the Aboriginal and Torres Strait Islander people.</p> <p>Affirm that the manner of consultation is to be:</p> <ol style="list-style-type: none"> 1. Culturally appropriate; 2. Substantive; 3. Aboriginal peoples are to be active participants; and 4. In relation to any decision making process, that consent is to be free, prior and informed.
86.27. Facilitate the provision of sufficient funding and staffing for the Human Rights Commission and different commissioners, including the recently appointed Commissioner against racial discrimination (Bolivia);	Accepted	The Australian Government will continue to adequately fund the Australian Human Rights Commission. Australia recently announced funding for a standalone Race Discrimination Commissioner, in addition to the new position of an Age Discrimination Commissioner.	Reaffirm that the Australian Government is to facilitate the provision of sufficient funding and staffing for the Human Rights Commission and different commissioners, including the recently appointed Commissioner against racial discrimination.
86.28. Establish a National Children's Commissioner to monitor compliance with the CRC;	Accepted-in-part	The Australian Government is currently exploring a possible role for a national children's commissioner.	<p>Recommend the instituting of a National Aboriginal and Torres Strait Islander Commissioner for Children and Young People.</p> <p>Noting, there is a Commissioner for Aboriginal Children and Young People in Victoria.</p>
86.32. Develop a comprehensive poverty reduction and social inclusion strategy, which would integrate economic, social and cultural rights;	Accepted-in-part	The Australian Government's social inclusion agenda promotes economic, social and cultural rights, including by reducing disadvantage and increasing social, civic and economic participation.	Reaffirm that the Australian Government is to develop a comprehensive poverty reduction and social inclusion strategy, which would integrate economic, social and cultural rights.

Recommendation 2011	Stance 2011	Explanation 2011	LSWA Comments 2015
86.35. Follow-up on the implementation of recommendations of human rights mechanisms (Austria);	Already reflected	Australia accepts the recommendation on the basis it is reflected in existing laws or policies and Australia will continue to take steps to achieve relevant outcomes.	Reaffirm that the Australian Government is to follow-up on the implementation of recommendations of human rights mechanisms.
86.36. Consider implementing the recommendations of human rights treaty bodies and special procedures concerning Indigenous people;	Already reflected	Australia accepts the recommendation on the basis it is reflected in existing laws or policies and Australia will continue to take steps to achieve relevant outcomes.	Reaffirm that the Australian Government is to consider implementing the recommendations of human rights treaty bodies and special procedures concerning Indigenous people.
86.37. Implement the recommendations made by the UN Special Rapporteur on the rights of Indigenous people after his visit in 2009;	Accepted-in-part	The Australian Government has already implemented many recommendations of the Special Rapporteur, including fully reinstating the Racial Discrimination Act 1975 in relation to the Northern Territory Emergency Response, and has provided a statement to the Human Rights Council.	<p>Reaffirm that the Australian Government is to implement the recommendations made by the UN Special Rapporteur on the rights of Indigenous people after his visit in 2009.</p> <p>Affirm that the Australian Government is to:</p> <ol style="list-style-type: none"> 1. Provide a formal report, current status and next steps in relation to the recommendations made by the UN Special Rapporteur on the rights of Indigenous people; and 2. Invite the UN Special Rapporteur for a second visit to Australia.
86.42. Ensure that its efforts to harmonise and consolidate Commonwealth anti-discrimination laws address all prohibited grounds of discrimination and promote substantive equality;	Accepted / Already Reflected	<p>The consolidation of federal anti-discrimination law into a single streamlined Act will enhance the regime and give effect to the Government's commitment to prohibit discrimination on the grounds of sexual orientation and gender identity in addition to existing grounds of protection.</p> <p>Australia accepts the recommendation on the basis it is reflected in existing laws or policies and Australia will continue to take steps to achieve relevant outcomes.</p>	Reaffirm that the Australian Government is to ensure that its efforts to harmonise and consolidate Commonwealth anti-discrimination laws address all prohibited grounds of discrimination and promote substantive equality.

Recommendation 2011	Stance 2011	Explanation 2011	LSWA Comments 2015
86.47. Take firm measures to end discrimination and violence against women, children and people from vulnerable groups so as to enhance a better respect for their dignity and human rights;	Already reflected	Australia accepts the recommendation on the basis it is reflected in existing laws or policies and Australia will continue to take steps to achieve relevant outcomes.	<p>Reaffirm that the Australian Government is to take firm measures to end discrimination and violence against women, children and people from vulnerable groups so as to enhance a better respect for their dignity and human rights.</p> <p>Affirm that the defunding of the National Family Violence Prevention Legal Services and dismantling of other programmes under the Australian Governments Indigenous Advancement Strategy has undermined the sustainability of such critical programmes.</p>
86.48. Put an end, in practice and in law, to systematic discrimination on the basis of race in particular against women of certain vulnerable groups;	Accepted	The Australian Government considers that its current laws, policies and programs do not discriminate on the basis of race.	Reaffirm that the Australian Government is to put an end, in practice and in law, to systematic discrimination on the basis of race in particular against women of certain vulnerable groups.

Recommendation 2011	Stance 2011	Explanation 2011	LSWA Comments 2015
<p>86.50. Take appropriate measures to reduce the development gap and social disparities so as to enhance the full enjoyment of all human rights for all Australian people, especially in the areas of economic, cultural and social rights;</p>	<p>Already reflected</p>	<p>Australia accepts the recommendation on the basis it is reflected in existing laws or policies and Australia will continue to take steps to achieve relevant outcomes.</p>	<p>Reaffirm that the Australian Government is to take appropriate measures to reduce the development gap and social disparities so as to enhance the full enjoyment of all human rights for all Australian people, especially in the areas of economic, cultural and social rights.</p> <p>Recommend that the International Covenant on Economic, Social and Cultural Rights be enshrined in Australian law.</p> <p>Noting the recent Closing the Gap Report 2015 shows no progress in halving the gap in Indigenous employment outcomes, small gains in Indigenous life expectancy, early childhood enrolment target not met, no overall progress on halving reading and numeracy gap, and slower progress on infant mortality gap.</p> <p>Noting that the Productivity Commission's 2014 'Overcoming Indigenous Disadvantage Report' found that justice outcomes continue to decline, with adult imprisonment rates worsening and no change in high rates of juvenile detention and family and community violence. Rates of disability and chronic disease remain high, mental health outcomes have not improved and hospitalisation rates for self-harm have increased. Virtually no change in literacy and numeracy results at school, which are particularly poor in remote areas.</p>
<p>86.55. Adopt targets of 40 percent representation of women on public and private sector boards;</p>	<p>Accepted-in-part</p>	<p>The Australian Government has committed to achieving 40% representation of women on public sector boards and will continue to work with the private sector to achieve gender balance in private sector leadership ranks and forums.</p>	<p>Reaffirm that the Australian Government is to adopt targets of 40 percent representation of women on public and private sector boards.</p>

Recommendation 2011	Stance 2011	Explanation 2011	LSWA Comments 2015
86.57. Further strengthen its efforts to promote equality, non-discrimination and tolerance through the monitoring of racially motivated violence and inclusion of human rights education in school and university curriculum;	Accepted	The Australian Government will continue to take steps to monitor racial violence. Discussions with States and Territories regarding human rights education will inform the development of the Australian Curriculum.	<p>Reaffirm that the Australian Government is to further strengthen its efforts to promote equality, non-discrimination and tolerance through the monitoring of racially motivated violence and inclusion of human rights education in school and university curriculum.</p> <p>Affirm that the racial hatred provisions of the Racial Discrimination Act 1975 remain, following the Australian Government's attempt to remove them in 2014.</p>
86.60. Take measures towards ensuring the equal and the full enjoyment of the basic rights of all its citizens including persons belonging to Indigenous communities, and to effectively prevent and, if necessary, combat racial discrimination;	Accepted	Australia's new multicultural policy includes a National Anti-Racism Partnership and Strategy, establishment of the Australian Multicultural Council, a 'multicultural ambassadors' program and a Multicultural Youth Sports Partnership Program.	<p>Reaffirm that the Australian Government is to take measures towards ensuring the equal and the full enjoyment of the basic rights of all its citizens including persons belonging to Indigenous communities, and to effectively prevent and, if necessary, combat racial discrimination.</p> <p>Noting, incarceration policies disproportionately affect Aboriginal and Torres Strait Islander peoples as an indirect form of discrimination.</p>
86.71. Enact legislation to ensure the humane treatment of prisoners;	Accepted	States and Territories are responsible for managing and operating prisons and consider that existing legislation and policies ensure humane treatment of prisoners. States and Territories will continue to deliver corrective services in accordance with standard guidelines which comply with the UN Standard Minimum Rules for the Treatment of Prisoners.	<p>Reaffirm that the Australian Government is to enact legislation to ensure the humane treatment of prisoners.</p> <p>Recommend that the United Nations Convention against Torture be enshrined in Australian law.</p> <p>If not, recommend that the Western Australian Inspector of Custodial Services jurisdiction be extended beyond prisons to police lock-ups. This model to be developed in other states and territories to ensure the humane treatment of detainees.</p>

Recommendation 2011	Stance 2011	Explanation 2011	LSWA Comments 2015
86.72. Strengthen efforts to combat family violence against women and children with a particular focus on Indigenous communities;	Accepted	The National Plan for Violence Against Women and their Children is a 12-year agreement between Australian, State and Territory governments, including an outcome that 'Indigenous Communities are Strengthened'.	<p>Reaffirm that the Australian Government is to strengthen efforts to combat family violence against women and children with a particular focus on Indigenous communities.</p> <p>Noting the cut in funding to the National Family Violence Legal Services in 2013, with more funding cuts in 2014, severely disadvantaging Aboriginal and Torres Strait Islander women and children.</p> <p>Noting the cut in funding to the Aboriginal Legal Service of Western Australia.</p> <p>Aboriginal women are up to 45 times more likely to experience family violence and 30 times more likely to be hospitalised as a result of violence.</p> <p>Both the Productivity Commission's Access to Justice Report 2015 and the Review of the National Partnership Agreement on Legal Services 2014 have found that specialised legal assistance services for Aboriginal and Torres Strait Islander peoples remains justified.</p>
86.73. Adopt special legislation to prevent and combat violence against women and girls and to prosecute and punish the perpetrators;	Accepted	States and Territories have in place legislation to criminalise violent conduct and sexual assault together with mechanisms to prosecute and punish perpetrators. The Australian Government has introduced legislation to prioritise the safety of children in family law proceedings and communicate that family violence and child abuse are unacceptable.	<p>Reaffirm that the Australian Government is to adopt special legislation to prevent and combat violence against women and girls and to prosecute and punish the perpetrators.</p>

Recommendation 2011	Stance 2011	Explanation 2011	LSWA Comments 2015
86.76. Speed up the process for the adoption of the National Plan to Reduce Violence against Women and their Children (Azerbaijan);	Accepted	The National Plan for Violence Against Women and their Children is a 12-year agreement between Australian, State and Territory governments, including an outcome that 'Indigenous Communities are Strengthened'.	Affirm that the Australian Government continues to provide appropriate funding to the National Plan to Reduce Violence against Women and Children, noting Australian of the Year Rosie Batty's plea for more funding in this sector as statistics are not improving, solutions being offered are not working and calling for an overhaul to the government's approach to tackling the 'serious epidemic' of domestic violence.
86.82. Ensure that all victims of violence have access to counselling and assistance with recovery;	Accepted	The Australian, State and Territory governments will continue to provide services to victims of violence including counselling and, where appropriate, financial assistance through victims of crime compensation schemes.	Reaffirm that the Australian Government is to ensure that all victims of violence have access to counselling and assistance with recovery.
86.88. Take effective legal measures to prohibit the use of excessive force and "Tasers" by the police against various groups of peoples;	Accepted-in-part	The Australian, State and Territory governments will continue to take effective legal measures to prohibit the use of excessive force by the police. Australia does not intend to prohibit the use of Tasers by Australian police, but notes that safeguards are in place to ensure appropriate use.	Reaffirm that the Australian Government is to take effective legal measures to prohibit the use of excessive force and "Tasers" by the police against various groups of peoples.
86.89. Further improve the administration of justice and the rule of law including by setting up appropriate mechanisms in order to ensure adequate and independent investigation of police use of force, police misconduct and police related deaths;	Accepted	A range of oversight mechanisms exists to ensure scrutiny of police use of force, misconduct or police-related deaths in Australia. This includes oversight by the federal Ombudsman. States and Territories have independent authorities that investigate claims made against police as well as any deaths in custody.	Reaffirm that the Australian Government is to further improve the administration of justice and the rule of law including by setting up appropriate mechanisms in order to ensure adequate and independent investigation of police use of force, police misconduct and police related deaths.

Recommendation 2011	Stance 2011	Explanation 2011	LSWA Comments 2015
86.90. Implement specific steps to combat the high level of deaths of Indigenous persons in places of detention;	Accepted	The Australian Government will continue to address Indigenous incarceration and deaths in custody, including by funding prevention, diversion and rehabilitation programs. States and Territories will continue to implement programs aimed at preventing Indigenous deaths in custody.	Reaffirm that the Australian Government is to implement specific steps to combat the high level of deaths of Indigenous persons in places of detention. Noting the extensive delays in police reports and Coronial inquests associated with deaths in custody and recommending that a time limit needs to be set in relation to such reports.
86.91. Introduce a requirement that all deaths in custody be reviewed and investigated by independent bodies tasked with considering prevention of deaths and implement the recommendations of Coronial and other investigations and enquiries;	Accepted	All deaths in custody are independently investigated by State and Territory Coroners courts and recommendations are considered by State and Territory governments. Australia has a National Deaths in Custody Program to monitor all deaths.	Reaffirm that the Australian Government is to introduce a requirement that all deaths in custody be reviewed and investigated by independent bodies tasked with considering prevention of deaths and implement the recommendations of Coronial and other investigations and enquiries.
86.92. Increase the provision of legal advice to Indigenous peoples with due translation services reaching especially Indigenous women of the most remote communities;	Accepted	The Australian Government has increased funding by 14.5% for Indigenous-specific legal services over 2010-14. It will continue to work with States and Territories to build the capacity of Indigenous language interpreter services.	Reaffirm that the Australian Government is to increase the provision of legal advice to Indigenous peoples with due translation services reaching especially Indigenous women of the most remote communities. Noting the state government has given no assurance to fund the Kimberley Interpreting Service beyond June 2015. The availability of federal funding will not be known until March 2015. The Hon Wayne Martin AC, Chief Justice of Western Australia, has publically stated that this defunding of interpretive services could undermine the fairness of the justice system. Recommend the implementation of a national interpretive service for Aboriginal and Torres Strait Islander peoples involved with legal proceedings.

Recommendation 2011	Stance 2011	Explanation 2011	LSWA Comments 2015
86.93. Implement measures in order to address the factors leading to an overrepresentation of Aboriginal and Torres Strait Islander communities in the prison population;	Accepted	See recommendation 90. The Australian Government will continue to address over-representation of Indigenous people in prison, including by funding Indigenous-specific Legal Services (see recommendation 92) and diversion and recidivism programs. States and Territories have a range of programs in place to address this issue.	<p>Reaffirm that the Australian Government is to implement measures in order to address the factors leading to an overrepresentation of Aboriginal and Torres Strait Islander communities in the prison population.</p> <p>Noting that the Aboriginal Legal Service of Western Australia has been defunded.</p> <p>Noting that the National Aboriginal and Torres Strait Islander Legal Service has been defunded. The defunding of this body prevents national co-ordination of legal services and policy creation.</p> <p>Recommend that the Australian Government, through COAG, show leadership and champion justice reinvestment strategies to address the factors leading to the overrepresentation of Aboriginal and Torres Strait Islander peoples in the prison system.</p> <p>The NSW Government has recently committed four million dollars to justice reinvestment pilot projects in NSW.</p>
86.94. Examine possibilities to increase the use of non-custodial measures;	Accepted	Imprisonment will continue to be viewed as a sentence of last resort in Australian courts. A range of alternatives is available, including home-detention orders and other community-based orders.	<p>Reaffirm that the Australian Government is to examine possibilities to increase the use of non-custodial measures.</p> <p>Recommend that diversionary programmes, in alignment with a justice reinvestment approach, need to be funded adequately and sustainably.</p>

Recommendation 2011	Stance 2011	Explanation 2011	LSWA Comments 2015
86.95. Enhance the contacts and communication between Aboriginal and Torres Strait Islanders communities and representatives of the law enforcement officials and enhance the training of those officials with respect to cultural specificities of the above communities;	Accepted	The Australian Federal Police and State and Territory police have a range of cultural awareness and human rights training in place. Additional human rights training will be delivered throughout the federal public sector including the AFP from 2011.	<p>Reaffirm that the Australian Government is to enhance the contacts and communication between Aboriginal and Torres Strait Islanders communities and representatives of the law enforcement officials and enhance the training of those officials with respect to cultural specificities of the above communities.</p> <p>Recommending more extensive and specific Indigenous cultural training for all police officers.</p> <p>Further, recommend engaging in consultation with Indigenous communities outside of legal enforcement procedures to assist with the development of relationships.</p> <p>Noting, in Broome the community policing trial has been very successful.</p>
86.96. Improve the human rights elements of its training for law enforcement personnel;	Accepted	The Australian Federal Police and State and Territory police have a range of cultural awareness and human rights training in place. Additional human rights training will be delivered throughout the federal public sector including the AFP from 2011.	<p>Reaffirm that the Australian Government is to improve the human rights elements of its training for law enforcement personnel.</p>
86.97. Establish a National Compensation Tribunal, as recommended in the “Bringing Them Home” report, to provide compensation to Aboriginal and Torres Strait Islander people that are negatively affected by the assimilation policy, particularly as it applies to children unfairly removed from their families and the parents of those children (Slovenia);	Rejected	In February 2008, the Australian Government offered the National Apology in recognition of the grief and suffering inflicted on Stolen Generations. The Australian Government will continue to work in partnership to address the immediate and practical needs of the Stolen Generations. Some States have introduced compensation schemes for children abused in state care or removed from their families.	<p>Reaffirm that the Australian Government is to establish a National Compensation Tribunal, as recommended in the “Bringing Them Home” report, to provide compensation to Aboriginal and Torres Strait Islander people that are negatively affected by the assimilation policy, particularly as it applies to children unfairly removed from their families and the parents of those children.</p>

Recommendation 2011	Stance 2011	Explanation 2011	LSWA Comments 2015
86.98. Take regular measures to prevent hate speech, including prompt legal action against those who incite discrimination or violence motivated by racial, ethnic or religious reasons;	Accepted	The Australian Government will continue to administer a strong framework for the prevention of hate speech and incitement to violence.	<p>Reaffirm that the Australian Government is to take regular measures to prevent hate speech, including prompt legal action against those who incite discrimination or violence motivated by racial, ethnic or religious reasons.</p> <p>Noting that the Australian Government tried to amend the RDA to remove the racial hate provisions in 2014.</p> <p>Noting that campaigns such as 'Racism stops with me' needs better and adequate funding to be effective.</p>
86.101. Step up efforts to ensure that people living in the remote and rural areas, in particular the Indigenous peoples, receive adequate support services relating to accommodation and all aspects of health and education;	Accepted	The Australian Government will continue to take measures to ensure adequate support services are delivered to people in remote and rural areas.	<p>Reaffirm that the Australian Government is to continue to step up efforts to ensure that people living in the remote and rural areas, in particular the Indigenous peoples, receive adequate support services relating to accommodation and all aspects of health and education.</p> <p>Noting the tragic and unwarranted closure of the Oombulgurri community by the Western Australian Government and threatened closure of 150 Western Australian remote communities in the future.</p>
86.102. Reform the Native Title Act 1993, amending strict requirements which can prevent the Aboriginal and Torres Strait Islander peoples from exercising the right to access and control their traditional lands and take part in cultural life (United Kingdom);	Accepted-in-part	The Australian Government continually reviews the operation of the native title system through practical, considered and targeted reforms. Legislation provides for Indigenous Australians to access, and to perform cultural activities on, their traditional lands through statutory regimes and cultural heritage laws.	<p>Reaffirm that the Australian Government is to reform the Native Title Act 1993, amending strict requirements which can prevent the Aboriginal and Torres Strait Islander peoples from exercising the right to access and control their traditional lands and take part in cultural life.</p>
86.103. Institute a formal reconciliation process leading to an agreement with Aboriginal and Torres Strait Islander people;	Accepted-in-part	The Australian Government is committed to the process of reconciliation between Indigenous and other Australians, but does not intend to enter into a formal agreement. See recommendation 110.	<p>Reaffirm that the Australian Government is to institute a formal reconciliation process leading to an agreement with Aboriginal and Torres Strait Islander peoples.</p>

Recommendation 2011	Stance 2011	Explanation 2011	LSWA Comments 2015
86.104. Continue in particular the process of constitutional reform in order to better recognize the rights of Indigenous peoples;	Accepted	The Australian Government is committed to pursuing recognition of Indigenous peoples in the Australian Constitution and has appointed an Expert Panel to develop options and lead a wide-ranging national public consultation and engagement program.	<p>Reaffirm that the Australian Government is to continue to support and formalise the process leading to the Constitutional recognition of Aboriginal and Torres Strait Islander peoples at both the Federal and State level.</p> <p>Recommend sustainable and diverse funding of a broad national awareness raising campaign for Constitutional recognition.</p>
86.108. Include in its national norms recognition and adequate protection of the culture, values and spiritual and religious practices of Indigenous peoples;	Accepted	Where appropriate in law and in policy, the Australian Government will continue to recognise and protect the culture and heritage of Indigenous peoples.	<p>Reaffirm that the Australian Government is to include in its national norms recognition and adequate protection of the culture, values and spiritual and religious practices of Indigenous peoples.</p> <p>Noting the public outcry in response to the State Government's proposed 2014 amendments to the Aboriginal Heritage Act 1972 that would have the effect of reducing protections for culture, values and spiritual and religious practices of Indigenous peoples.</p>
86.109. Promote the inclusion and participation of Indigenous peoples and Torres Strait Islanders in any process or decision-making that may affect their interests;	Accepted	The Australian Government recognises the importance of engaging in good faith consultation with Indigenous peoples in relation to decisions that affect them. See recommendation 110.	<p>Reaffirm that the Australian Government is to promote the inclusion and participation of Indigenous peoples in any process or decision-making that may affect their interests.</p> <p>Noting that consultation and decision making must involve free, prior and informed consent and be culturally appropriate.</p> <p>Further, the National Congress of Australia's First Peoples has been defunded, as has the national and state Aboriginal and Torres Strait Islander Legal Services, in conjunction with the National Family Violence Prevention Legal Service. One of the effects of this is that Indigenous peoples are unable to engage in policy formulation regarding appropriate decision making that may affect their interests.</p> <p>Noting, the residents of Oombulgurri weren't properly consulted before the town was closed down, and certainly weren't consulted when the town was bulldozed.</p>

Recommendation 2011	Stance 2011	Explanation 2011	LSWA Comments 2015
86.110. Strengthen efforts and take effective measures with the aim of ensuring enjoyment of all rights for Indigenous people, including participation in decision-making bodies at all levels;	Accepted	The National Congress of Australia's First Peoples will provide a central mechanism with which government, the corporate and community sectors can engage and partner on reform initiatives.	Reaffirm that the Australian Government is to strengthen efforts and take effective measures with the aim of ensuring enjoyment of all rights for Indigenous people, including participation in decision-making bodies at all levels. Despite the Government's commitment to engage with National Congress of Australia's First Peoples, it bypassed the National Congress and created its own committee, the Indigenous Advisory Council.
86.111. Ensure that its legislation allows for processes of consultations in all actions affecting Indigenous peoples;	Accepted	The Australian Government recognises the importance of engaging in good faith consultation with Indigenous peoples in relation to decisions that affect them. No legislative barriers to consultation have been identified.	Reaffirm that the Australian Government is to ensure that its legislation allows for processes of consultations in all actions affecting Indigenous peoples. Ensure that a formal process for consultation is enshrined in legislation affecting Aboriginal and Torres Strait Islander peoples and that such legislation is subject to a scrutiny of bills process.
86.112. Continue to engage with the Aboriginal population and Torres Strait Islanders and ensure the equal protection of their fundamental rights;	Already reflected	Australia accepts the recommendation on the basis it is reflected in existing laws or policies and Australia will continue to take steps to achieve relevant outcomes.	Reaffirm that the Australian Government is to continue to engage with the Aboriginal and Torres Strait Islander peoples and ensure the equal protection of their fundamental rights.
86.113. Increase the participation of the Aboriginal and Torres Strait Islanders communities in the process of closing the gap in opportunities and life outcomes;	Already reflected	Australia accepts the recommendation on the basis it is reflected in existing laws or policies and Australia will continue to take steps to achieve relevant outcomes.	Reaffirm that the Australian Government is to increase the participation of Aboriginal and Torres Strait Islanders communities in the process of closing the gap in opportunities and life outcomes.
86.114. Continue the implementation of policies aimed at improving the living standards of Indigenous peoples and take all the necessary measures to eradicate discrimination against them;	Already reflected	Australia accepts the recommendation on the basis it is reflected in existing laws or policies and Australia will continue to take steps to achieve relevant outcomes.	Reaffirm that the Australian Government is to continue the implementation of policies aimed at improving the living standards of Indigenous peoples and take all the necessary measures to eradicate discrimination against them.

Recommendation 2011	Stance 2011	Explanation 2011	LSWA Comments 2015
86.115. Continue its efforts to narrow the gap in opportunities and life outcomes between Indigenous and non-Indigenous Australians;	Already reflected	Australia accepts the recommendation on the basis it is reflected in existing laws or policies and Australia will continue to take steps to achieve relevant outcomes.	Reaffirm that the Australian Government is to continue its efforts to narrow the gap in opportunities and life outcomes between Indigenous and non-Indigenous Australians.
86.116. Intensify its on-going efforts to close the gap in opportunities and life outcomes between Indigenous and non-Indigenous peoples, especially in the areas of housing, land title, healthcare, education and employment;	Already reflected	Australia accepts the recommendation on the basis it is reflected in existing laws or policies and Australia will continue to take steps to achieve relevant outcomes.	Reaffirm that the Australian Government is to intensify its on-going efforts to close the gap in opportunities and life outcomes between Indigenous and non-Indigenous peoples, especially in the areas of housing, land title, healthcare, education and employment.
86.117. Continue addressing effectively the socio-economic inequalities for Indigenous people;	Already reflected	Australia accepts the recommendation on the basis it is reflected in existing laws or policies and Australia will continue to take steps to achieve relevant outcomes.	Reaffirm that the Australian Government is to continue addressing effectively the socio-economic inequalities for Indigenous people.
86.118. Carry out, in consultation with the communities concerned, a comprehensive assessment of the effectiveness of actions and strategies aimed at improving socio-economic conditions of Indigenous peoples and if necessary correct these actions;	Accepted	The Council of Australian Governments Reform Council will provide a comprehensive report each year on progress against relevant targets.	<p>Reaffirm that the Australian Government is to carry out, in consultation with the communities concerned, a comprehensive assessment of the effectiveness of actions and strategies aimed at improving socio-economic conditions of Indigenous peoples and if necessary correct these actions.</p> <p>This action is of critical importance in light of the Government's continuing threat to close remote communities. The Closing the Gap Report needs comprehensive assessment. The lack of justice, incarceration, disability and housing targets needs to be corrected and addressed.</p> <p>Recommend that the Council of Australian Governments Reform Council Report will require appropriate independent analysis to assess progress against relevant targets.</p>

Recommendation 2011	Stance 2011	Explanation 2011	LSWA Comments 2015
86.119. Take immediate legal measures to remove restrictions against access of Indigenous women and children to appropriate health and education services and employment opportunities;	Accepted	No legal impediments to access have been identified.	Reaffirm that the Australian Government is to take immediate legal measures to remove restrictions against access of Indigenous women and children to appropriate health and education services and employment opportunities. Noting the disproportionate impacts and barriers borne by Aboriginal women and children when attempting to access appropriate health and education services and employment opportunities.
86.120. Continue efforts to increase the representation of Indigenous women in decision making posts;	Already reflected	Australia accepts the recommendation on the basis it is reflected in existing laws or policies and Australia will continue to take steps to achieve relevant outcomes.	Reaffirm that the Australian Government is to continue efforts to increase the representation of Indigenous women in decision making posts.
86.143. Continue the consultation with civil society in a follow-up to its UPR;	Already reflected	Australia accepts the recommendation on the basis it is reflected in existing laws or policies and Australia will continue to take steps to achieve relevant outcomes.	Reaffirm that the Australian Government is to continue the consultation with civil society in a follow-up to its UPR.



Matthew Keogh
President

27 February 2015