

# Impact of FMSI/FI/ERI joint–submission on Australia’s UPR Held on 27<sup>th</sup> January 2011

## An examination on the ‘Outcomes Report’ adopted at HRC meeting on 8 June 2011

### Including Australia’s responses to recommendations made

**Please note:** All submissions and report on Australia’s UPR can be found on the following website:  
<http://www.ohchr.org/EN/HRBodies/UPR/PAGES/AUSession10.aspx>

The Australian Government’s own website for the UPR can be found on the following link:  
[http://www.ag.gov.au/www/agd/agd.nsf/Page/Human\\_rights\\_and\\_anti-discriminationInternational\\_Human\\_Rights](http://www.ag.gov.au/www/agd/agd.nsf/Page/Human_rights_and_anti-discriminationInternational_Human_Rights)

#### **OVERVIEW:**

The Universal Periodic Review (UPR) of Australia was held on the 27th of January 2011 in a 3 hour session.

The Australian delegation was headed by **Senator Kate Lundy**, parliamentary secretary to the Prime Minister.

**Including ours, 14 NGO’s and the National Human Rights Institutions** submitted a report on Australia (A/HRC/WG.6/10/AUS/3). In regards to consideration made of our recommendations in the summary prepared by the OHCHR. We recommended that Australia:

- develop a **legislative framework by 2012 to ensure the mitigation** of the effects of the emission of greenhouse gases from Australian sources, with a view to protecting fundamental rights of the citizens of countries affected by human-induced climate change(9<sup>1</sup>)
- Continue **allocating substantial capital funds** to remote Indigenous schools until their facilities and resources reached acceptable Australians standards, and promote programs geared towards rallying community support and participation in their local school at all levels. (49)
- **Institute a formal reconciliation process** leading to an agreement with the Aboriginal and Torres Strait Islander peoples (53)
- Welcomed the establishment of the National Congress of Australia’s First Peoples (NCAFP) and recommended **ongoing support to NCAFP** to ensure its sustainability (54)
- **Cease the practice of refoulement of refugees and asylum-seekers** whereby their lives and their families’ lives are put at risk (63)

FMSI/FI/ERI **sent to approx. 60 permanent missions** (working group and others – French or English) a summary of our submission along with Questions and Recommendations together with our joint

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<sup>1</sup> UPR Document: A/HRC/WG.6/10/AUS/3, paragraph 9)

submission and lobbied with 7 permanent representatives/counselors (France, Slovakia, Djibouti, Slovenia, Holy See, Mexico and Canada).

#### **SUMMARY OF THE 3-HOUR UPR SESSION:**

- **53 states** congratulated, made comments, raised questions and **made 145 recommendations** to Australia during the interactive dialogue. Australia indicated that it **will examine them and give a response no later than the 17<sup>th</sup> session** of the Human Rights Council in June 2011.
- 24/53 delegations raised the same issues (indigenous people, refugees) during the interactive dialogue.
- **21 /60 delegations** that we contacted made statements at the Review.
- 16/20 member states we contacted put forward the issues and the recommendations in our joint-submission
- **4/7 member states we lobbied** put forward the issues and the recommendations in our joint-submission.

Those states that gave recommendations about the issues we raised were:

#### ***The rights of indigenous people:***

Slovenia, Mexico, Canada, Argentina, China, Morocco, Russian federation, Turkey

#### ***The rights of refugees and asylum seekers:***

France, Pakistan, Guatemala, Ghana, Ukraine, Moldova, Denmark, Switzerland, Maldives, Timor-Leste, Austria, Jordan, Norway

#### ***Climate change and human rights:***

None

### **Adoption of the *Outcomes Report* by the Human Rights Council on 8<sup>th</sup> June 2011**

At the final phase of Australia's UPR, the Human Rights Council adopted the report which contained 145 recommendations made by member states during the review.

In responding to each of these recommendations, Australia accepted 41 without comment. 70 more recommendations were accepted with an accompanying comment to each. A further 26 recommendations were accepted, but only partly, and 8 recommendations were rejected by Australia. The Final Report of Australia's Review can be found in Document A/HRC/17/10 on the [www.UPR-Info.org](http://www.UPR-Info.org) website and Australia's responses to the recommendations can be found on the same website in document A/HRC/17/10/Add.1

#### **RECOMMENDATIONS REFLECTING ISSUES RAISED BY OUR JOINT REPORT:**

What follows is a collection of recommendations made at the UPR by participating states that reflect issues raised in our submission. The number at the beginning of the recommendation refers to the recommendation in document A/HRC/WG.6/10/L.8, dated 24 March 2011. We have included Australia's response to these recommendations.

**86.25. Consider reinstating, without qualification, the Racial Discrimination Act into the arrangements under the Northern Territory Emergency Response and any subsequent arrangement (Canada);**

**Australia's Response: Accepted:** The *Racial Discrimination Act 1975* has been fully reinstated in relation to the Northern Territory Emergency Response as of 31 December 2010.

**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 (Slovenia);**

**Australia's Response: Accepted:** The Australian Government will continue to consult with Indigenous peoples regarding the application of the *Racial Discrimination Act 1975*.

**86.93. Implement measures in order to address the factors leading to an overrepresentation of Aboriginal and Torres Strait Islanders communities in the prison population (Austria)**

**Australia's Response: 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.

**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);**

**Australia's Response: 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.

**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 (Malaysia);**

**Australia's Response: Accepted:** The Australian Government will continue to take measures to ensure adequate support services are delivered to people in remote and rural areas.

**86.103. Institute a formal reconciliation process leading to an agreement with Aboriginal and Torres Strait Islander people (Slovenia);**

**Australia's Response: 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.

**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 (Bosnia and Herzegovina)**

**Australia's Response: 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.

**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 (Thailand)**

**Australia's Response: Accepted** (without comment)

**86.122. Honour all obligations under Articles 31 and 33 of the Convention relating to the Status of Refugees and ensure that the rights of all refugees and asylum-seekers are respected, providing them access to Australian refugee law (Slovenia);**

**Australia's Response: Accepted:** The Australian Government is committed to providing protection to refugees consistent with its international obligations.

**86.124. Cease the practice of *refoulement* of refugees and asylum-seekers, which puts at risk their lives and their families' lives (Slovenia);**

**Australia's Response: Accepted:** The Australian Government does not forcibly return persons where to do so would be in breach of *non-refoulement* obligations under the Refugees Convention or relevant international human rights treaties.

**86.125. Ensure in its domestic law that the principle of *non-refoulement* is respected when proceeding with the return of asylum-seekers to countries (Ghana);**

**Australia's Response: Accepted.** (same comment as with 86.124.

**86.131. Consider alternatives to the detention of irregular migrants and asylum seekers, limit the length of detentions, ensure access to legal and health assistance and uphold its obligations under the Vienna Convention on Consular Relations (Brazil).**

**Australia's Response: Accepted-in-part:** See recommendations 126 and 132, 127 and 129. All persons in immigration detention have the right to request and receive consular access at any time without delay, and have access to appropriate health care commensurate with care available to the broader Australian community.

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