



human  
rights

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centre



**INDIGENOUS LAW CENTRE**

16 May 2008

The Hon Kevin Rudd MP  
Prime Minister  
Parliament House  
CANBERRA ACT 2600

**By Mail**

And to:

The Hon Stephen Smith MP  
Minister for Foreign Affairs

**By Email:** [Stephen.Smith.MP@aph.gov.au](mailto:Stephen.Smith.MP@aph.gov.au)

The Hon Robert McClelland MP  
Attorney General of Australia

**By email:** [R.McClelland.MP@aph.gov.au](mailto:R.McClelland.MP@aph.gov.au)

The Hon Jenny Macklin MP  
Minister for Families, Housing, Community Services and Indigenous Affairs  
**By email:** [JMacklin.MP@aph.gov.au](mailto:JMacklin.MP@aph.gov.au)

Dear Mr Rudd, Mr Smith, Mr McClelland and Ms Macklin

## **UN Declaration on the Rights of Indigenous Peoples**

The Human Rights Law Resource Centre (**HRLRC**) and the Indigenous Law Centre (**ILC**) welcome the Australian Government's recent statement that it is consulting with stakeholders about reversing Australia's opposition to the *UN Declaration on the Rights of Indigenous Peoples* (**Declaration**).

The HRLRC and the ILC, together with the list of organisations contained in the attached schedule, strongly support endorsement of the Declaration by the Australian Government. Endorsement of the Declaration would send a strong message to Indigenous Australians, and indeed to the international community, that the Australian Government remains committed to respect the human rights of all Australians and its intention to 'close the gap' and improve the lives of Indigenous peoples.

The Declaration represents an important standard for the treatment of Indigenous peoples. Significantly, the Declaration will enhance harmonious and cooperative relations between the Australian Government and Indigenous peoples. A human rights framework, as envisaged by the Declaration, will serve as an invaluable guide to the development of appropriately adapted policies for

Indigenous communities. Importantly, it will promote the participation and engagement of Indigenous peoples in the political process and in matters which directly affect them.

### **Australia must join the consensus of the international community**

As one of only four countries who initially opposed the Declaration, removing its opposition to the Declaration would enable Australia to join the consensus of the rest of the international community on the fundamental freedoms and human rights of Indigenous peoples. Indeed, in recent weeks, a majority of the Canadian House of Commons adopted a motion in support of the Declaration, thereby leaving Australia, the United States and New Zealand as the only countries to remain opposed to the Declaration.

### **Australia's opposition to the Declaration is based on myths and misperceptions**

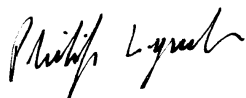
The HRLRC and ILC consider that the previous Australian Government's opposition to the Declaration was based on a number of ill-conceived perceptions about the Declaration. This view is shared by the Human Rights and Equal Opportunity Commission, which considers that the previous Australian Government's reasoning for opposing the Declaration has no sound base and does not interpret the Declaration consistently with international law (see, for example, HREOC's *Social Justice Report 2006*).

The idea that the Declaration would give Indigenous Australians veto powers over Parliament, make traditional law superior to national law and create the potential for Indigenous compensation claims over land is misconceived. The Declaration does no such thing. Rather, it is a non-binding human rights instrument of the General Assembly, which means that it has no formal legal status in the Australian legal system and cannot elevate Aboriginal customary law or any other Indigenous right over domestic law. The Declaration recognises the human dignity of Indigenous people, while respecting the integrity of sovereign states.

The Declaration is aspirational because it elaborates upon standards that states and their public institutions should aspire to and respect and achieve in their relationships with Indigenous communities and organisations. It is an instrument of dialogue and creates no new rights in international law; rather, it establishes a framework of those human rights that already exist in international law as they apply to Indigenous peoples.

The HRLRC and ILC, together with the list of organisations contained in the attached schedule, strongly recommend that the Australian Government endorse the Declaration as a matter of priority.

Yours sincerely



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## Schedule

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This letter has been endorsed by the following organisations:

Aboriginal and Islander Independent Community School, Acacia Ridge Brisbane  
 Aboriginal Justice Support Group  
 Aboriginal Legal Rights Movement  
 Aboriginal Rights Coalition  
 Aboriginal Support Group – Manly Warringah Pittwater  
 Australian Anthropological Society  
 Australian Bahá'í Community  
 Australian Federation of Disability Organisations  
 Australian Institute for Holocaust & Genocide Studies  
 Australian Lawyers for Human Rights  
 Australian Student Environment Network  
 Australians for Native Title and Reconciliation (NSW) Inc  
 Australians for Native Title and Reconciliation (South Australia) Inc  
 Australians for Native Title and Reconciliation (Victoria) Inc  
 Australians for Native Title and Reconciliation Inc  
 Baglady Productions  
 Blue Mountains People for Reconciliation  
 Brain Injury Australia  
 Canterbury-Bankstown Peace Group  
 Castan Centre for Human Rights Law  
 Catholics for Australian Reconciliation  
 Central Queensland Aboriginal & Islander Child Care Agency Inc  
 Centre for International and Public Law, Australia National University  
 Centre for International Governance and Justice, Australia National University  
 Centre for Indigenous Cultural Policy Founding Directors Limited  
 Centre of Excellence for Repatriating Human Remains and Safe Keeping of Queensland  
 Aboriginal and Torres Strait Islander Material Culture  
 Christians for an Ethical Society  
 Combined Community Legal Centres Group (NSW) Inc  
 Darwin Aboriginal Rights Coalition  
 Deaf Australia Inc  
 Deaths in Custody Watch Committee

Disability Discrimination Legal Centre (NSW)  
 Disability Discrimination Legal Service (Vic)  
 Ethnic Child Care Family and Community Services Co-op Ltd  
 Federation of Community Legal Centres (Vic) Inc  
 Federation of Ethnic Communities' Councils of Australia  
 GetUp  
 Gilbert + Tobin Centre of Public Law  
 Global Trade Watch  
 Ian Thorpe's Fountain for Youth  
 Independent Advocacy SA Inc  
 Indigenous Concern Committee (of the Religious Society of Friends, Quakers)  
 Indigenous Education Leadership Institute, Queensland University of Technology  
 Indigenous Law Students & Lawyers Association of Victoria – Tarwirri  
 International Women's Development Agency Inc  
 JobWatch  
 Justice for Palestine Matters  
 Kingsford Legal Centre  
 Kokatha National Elders Council, Port Augusta and Coober Pedy, South Australia  
 Lane Cove Residents for Reconciliation  
 Lower Murray Nungas Club Inc  
 Marist Brothers Sydney Province  
 Micah Projects Inc  
 Missionary Sisters of Service  
 Mooka Bula Indigenous Association Incorporated  
 Mosman Reconciliation  
 National Association of Community Legal Centres  
 National Association of People Living With HIV/AIDS  
 National Indigenous Television  
 National Indigenous Times  
 National Union of Students Inc  
 New South Wales Council for Civil Liberties  
 North Australian Aboriginal Justice Agency  
 Northern Sydney Region Reconciliation Network  
 NSW Ecumenical Council  
 Oodgeroo Unit (ATSI Unit), Queensland University of Technology  
 Owners of BlackFella's Dreaming Keeping Place  
 Oxfam Australia

People With Disabilities (WA) Inc  
 PILCH (Vic)  
 Positive Aboriginal and Torres Strait Islander Network  
 Presentation Sisters Victoria  
 Presentation Sisters Wagga  
 Presentation Sisters, Queensland Kalparrin Community Incorporated  
 Professor Jon Altman, The Australian National University, Canberra  
 Public Interest Advocacy Centre  
 Reconciliation Australia  
 Sisters of Charity of Australia  
 Sisters of St Joseph SA Province Reconciliation Circle  
 Social Action Office  
 St Mary's Catholic Community  
 St Vincent de Paul Society National Council  
 Swan Valley Nyungah Community  
 Tangglun Piltengi Yunti Aboriginal Corporation  
 Top End Aboriginal Conservation Alliance  
 UN Association of Australia  
 UN Association of Australia (NT Branch)  
 UnitingJustice Australia  
 University of Melbourne Human Rights Forum  
 Victorian Aboriginal Child Care Agency  
 Victorian Aboriginal Community Controlled Health Organisation  
 Victorian Aboriginal Legal Service  
 West Australians for Racial Equality.  
 Women With Disabilities Australia Inc  
 Women's Reconciliation Network, NSW  
 Women's Rights Action Network Australia  
 Worimi Traditional Elders  
 Working Group for Aboriginal Rights  
 World Archaeological Congress  
 Yaitya Purruna Indigenous Health Unit, Faculty of Health Sciences, University of Adelaide  
 Yakkahire  
 Youthlaw  
 21st Century Dreamtime