



Committee Secretary
Joint Standing Committee on Aboriginal and Torres Strait Islander Affairs
PO Box 6021
Parliament House
Canberra ACT 2600

30 June 2023

By email: JSCATSIA@aph.gov.au

Dear Committee Secretary

RE: Questions on Notice – UNDRIP hearing

I refer to the Committee's request for our response to further Questions on Notice by 30 June 2023.

Please find **enclosed** our responses to these questions.

I note we also provided the Committee with some supplementary material on 14 June, which I trust the Committee has received.

Yours faithfully,

A handwritten signature in black ink, appearing to read "Christine Robinson", with a long, sweeping underline.

Christine Robinson
Chief Executive Officer
Kimberley Community Legal Services

Kimberley Community Legal Service

- 1. There is currently a Bill before parliament which would make UNDRIP law in Australia. Do you think this bill should be implemented, rather than the current situation where there is no accountability to its implementation?**

Kimberley Community Legal Services (KCLS) endorses the principles within the UNDRIP and supports further consideration and discussion of its implementation. Working towards the domestication of UNDRIP principles is an important part of self-determination. We note the recent approach taken by Canada creating an UNDRIP 2023-2028 Action Plan which focuses on implementation and co-development through participation, inclusion, and consultation with Indigenous people across the country.

There are very few pieces of Australian legislation currently requiring government decision makers to consider the rights of First Nations people. In this environment it is important any implementation of UNDRIP has a practical effect and can work alongside and inform other reforms, such as the proposed Voice to Parliament. The domestication of UNDRIP could be a very useful framework to interpret Indigenous Rights in Australia and ensure the principles of the Declaration are applied to policy and decision-making at both state and Federal levels.

- 2. In the absence of UNDRIP being enshrined in law, what priority legal reforms should be made to support the principles of UNDRIP in Australia?**

We reiterate the importance of Articles 21 and 23 relating to the right of First Nations people to the improvement of economic and social conditions, including employment, housing, and social security, as well as a right to active involvement in these economic and social programs. All bureaucracies in the region and across Australia should be thinking about ways to embed principles of self-determination into their practice when working with First Nations communities.

KCLS firmly believes access to adequate and affordable housing is key to the social and economic wellbeing of First Nations people across the Kimberley. We speak about this at length in our initial Submissions to the Senate Legal and Constitutional Affairs References Committee into the Application of the UNDRIP in Australia in 2022. In our letter to the Secretariat dated 14 June 2023, we provided the Committee with a copy of our report, *Stuck in the Heat: Lived Experiences of Public Housing Tenants in the Kimberley*, and raised further supplementary information regarding the importance of addressing climate change policy to empower, protect and ensure the longevity of First Nations communities across the Kimberley region.

You are working with community every day and see the challenges on the ground. Do you think communities are aware of their rights as First Nations people? If not: How can we increase this awareness?

It is our experience as a community legal centre that our clients can at times be unaware of their legal rights in areas such as family law, tenancy, and child protection. 89.1% of our clients identify as Aboriginal or Torres Strait Islander, 9% are homeless or at risk of homelessness, and 88.5% are living in financial poverty. In the context of years of disadvantage, and intergenerational trauma, it can be exhausting for clients to enforce their rights on a day-to-day basis. Further, our legal system is western-centric, bureaucratised, and based online, making it challenging for people who live remotely, live with a disability or whose first language is not English, to easily access and understand their rights and obligations.

In this environment, we try to use community education sessions to build knowledge of our services and legal and social work concepts and processes. During appointments, our legal, social work and financial counselling practitioner goals are to advocate for our clients in a way that is also educative and ideally leaves them empowered to self-advocate or apply new skills to avoid similar situations in the future. KCLS supports the empowerment of First Nations people, a crucial step towards a path of self-determination and development in the region. We are a small service, covering a region twice the size of Victoria. With increased funding and staff, we would have greater capacity to provide more community education and advice.

While we try to increase our clients' awareness of their legal rights on certain matters, we are not in a position to assess or comment on people's awareness of their Indigenous rights. This assessment is best left to First Nations groups, Traditional Owners, and Aboriginal Prescribed Body Corporate groups. We note that the current legal landscape does not offer significant rights or protections to First Nations people, which goes to the need for the implementation of UNDRIP principles in Australia. Currently, The Native Title Act, and state and territory-based Land Rights legislation have some specific provisions providing some recognition of First Nations people's unique status. For example, a right derived from their customary law. Aboriginal Cultural Heritage legislation also provides for the protection of important heritage and culture. Unfortunately, many of these Heritage Acts been weakened by the western legal system and have illustrated failures to protect important sites, such as Rio Tinto's destruction of the Juukan Gorge. We encourage consultation and discussion with First Nations groups to understand these issues further.