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**Promotion and protection of all human rights, civil,
political, economic, social and cultural rights,
including the right to development**

Written statement* submitted by Society for Threatened Peoples, a non-governmental organization in special consultative status

The Secretary-General has received the following written statement which is circulated in accordance with Economic and Social Council resolution 1996/31.

[19 August 2020]

* Issued as received, in the language(s) of submission only.

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Indigenous Australians' right to religious freedom and territorial integrity severely violated

In Australia, sites of outstanding cultural and spiritual significance for Indigenous Australians are far from being protected from destruction. Existing laws are too weak or are being ignored by the mining industry. Necessary amendments are being postponed. Cultural treasures of enormous significance for mankind have been and are being destroyed in favour of extractive companies like Rio Tinto Zinc (in short: Rio Tinto). One of the most scandalous examples in recent past is the blast of two 46,000-year-old caves in Juukan Gorge, Pilbara Region, Western Australia (WA) in favour of the extension of a Rio Tinto - Mine. This gives proof of the fact that Australia needs a revised legislation to better protect the aboriginal cultural legacy and Australia's national heritage.

Australia's economy has become dependent on exports of iron ore, coal and natural gas. Therefore, the mining industry seeks unimpeded access to crown (state) owned sub-surface minerals. Mining industries have become increasingly influential in Australian politics. The Aboriginal and Torres Strait Islander Protection Act 1984 (ATSIHP Act) is meant to protect cultural heritage sites of cultural significance but fails to do so. It urgently needs to be revised.

Proof of this is the destruction and desecration of the 46,000-year-old caves in Juukan Gorge, Pilbara Region, Western Australia (WA) by Rio Tinto on 23 May 2020. Title holders are the Puutu Kuntj Kurrama and Pinicura (PKKP). They have been misinformed about Rio Tinto's intentions to blast the caves. Rio excuses the crime, that was compared by some to Islamic State's destruction in Palmyra, with misunderstandings. Direct appeals to the Minister for the Environment and the Minister for Indigenous Australians fell on deaf ears.

The blasting of the sites was one of the worst destructions of an archaeological site in recent memory according to Peter Stone, the United Nations Educational, Scientific and Cultural Organization chair in Cultural Property Protection and Peace at Newcastle University in the United Kingdom of Great Britain and Northern Ireland. The site included significant archaeological discoveries, including the oldest example of bone tools found in Australia. He said that reviews of the Federal Environment Protection and Biodiversity Conservation Act should aim to improve protections for sacred Aboriginal sites.

Resulting from the economic breakdown following COVID-19 pandemic the Minerals Council of Australia released a road map calling amongst others for reducing project approval delays and thereby facilitating access to minerals and other raw material in indigenous territory. Therefore, there is a need for preventative instruments empowering indigenous landowners with free prior and informed consent in WA, rights as they do exist formally in Northern Territory (NT) and South Australia (SA).

The new legislation currently in progress should provide for agreements between traditional owners and proponents to include a process to consider new information that may come to light, and allow the parties to be able to amend the agreements by mutual consent. The legislation shall also provide options for appeal. Any new legislation needs to include the mechanism of free prior informed consent fixed in the UN Declaration on the Rights of Indigenous Peoples (UNDRIP) retrospectively adopted by Australia in 2009.

Rio Tinto could have avoided this tragedy, that traumatised the traditional owners. In a senate inquiry Chief executive Jean-Sebastien Jacques told a Senate inquiry in August the company had decided to proceed with blasting the 46,000-year-old sites so it could extract an additional US\$135 million worth of high-grade iron ore. Mr Jacques also revealed traditional owners were not told Rio had examined three other options for expanding its Brockman 4 mine which did not involve damaging the rock shelters. The PKKP repeatedly confirmed they wanted to preserve the site and issued an urgent request to stop the blasts five days before the detonation. But the current legislation did not empower them to act accordingly.

Society for Threatened Peoples calls upon the UN Human Rights Council to urge the Government of Australia to:

- respect and guarantee the basic rights of all indigenous peoples to religion and territorial integrity.

- respect and implement the rules and regulations of the UN Declaration on the Rights of Indigenous Peoples (UNDRIP) retrospectively adopted by Australia in 2009, especially the right to free, prior and informed consent.
 - ratify and implement the UN Convention 169 of the International Labour Organization.
 - revise the Aboriginal and Torres Strait Islander Protection Act 1984 (ATSIHP Act) for the protection of heritage sites of cultural significance in mutual consent with Indigenous Australians.
 - review the Federal Environment Protection and Biodiversity Conservation Act in order to improve protections for sacred Aboriginal sites.
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