

PERMANENT FORUM ON INDIGENOUS ISSUES
11th Session, 7 – 18 May 2012
Agenda Item 4: Human Rights

National Congress of Australia's First Peoples

Speaker: Les Malezer

DECLARATION ON THE RIGHTS OF INDIGENOUS PEOPLES

RECOMMENDATION

That the Permanent Forum on Indigenous Issues:

Report to ECOSOC, after five years since the adoption of the Declaration on the Rights of Indigenous Peoples, that many States are yet to achieve effective dialogue or partnership with Indigenous Peoples to implement the human rights that have been historically denied;

Remind States that in adopting the Declaration on the Rights of Indigenous Peoples the General Assembly recognized as urgent the "need to respect and promote the inherent rights of indigenous peoples which derive from their political, economic and social structures and from their cultures, spiritual traditions, histories and philosophies, especially their rights to their lands, territories and resources";

Also remind States that the Declaration on the Rights of Indigenous Peoples is not accepted as an aspirational standard but as a needed standard-setting instrument developed consistent with the spirit of the Charter of the United Nations to overcome the historic injustices suffered by Indigenous Peoples as a result of, inter alia, their colonization and dispossession of their lands, territories and resources, thus preventing them from exercising, in particular, their right to development in accordance with their own needs and interests;

Call upon States to take steps immediately to establish partnerships with the Indigenous Peoples to implement the Declaration on the Rights of Indigenous Peoples;

Request States to provide detailed reports, prepared in collaboration with the Indigenous Peoples, on the implementation of the Declaration on the Rights of Indigenous Peoples, and that these reports be included in the periodic reports required under human rights treaties and the Universal Periodic Review procedures;

Remind Indigenous Peoples that they should promote and protect their human rights as set out in the Declaration on the Rights of Indigenous Peoples and organise to raise awareness and understanding of the Declaration amongst government, judiciary, academia, workers and all sectors of society; and

Call upon Indigenous Peoples to monitor States actions and outcomes closely to hold States accountable to their obligations, at the international and national levels, to promote and protect the human rights and equality of Indigenous Peoples within their jurisdictions.

Madam Chairperson, The National Congress of Australia's First Peoples was recently established to be the national representative body for Aboriginal and Torres Strait Islander peoples.

This responsibility is affirmed in our constitution and structure.

However Congress must continue in its efforts to widen its mandate across the diverse communities, organisations and institutions established and recognised by our peoples throughout the continent.

Congress is committed to the implementation of the rights of the Aboriginal and Torres Strait Islander peoples and we see the Declaration as a core document involved in all our work and activity.

In Australia it is unfortunate that the Government of Australia has not taken further steps since early in 2009, when it announced its support for the Declaration, to implement the Declaration.

In fact a major disappointment has been the decision of the government to extend the Northern Territory intervention laws for another 10 years, without the consent of the peoples concerned, and without subjecting the proposed new laws to scrutiny against Australia's human rights obligations as a member of the United Nations.

The intervention began in June 2007, three months before the Declaration was adopted.

Since then the laws have been examined and censured by three human rights treaty bodies, the Special Rapporteur on the Rights of Indigenous Peoples and the High Commissioner for Human Rights.

Congress has requested of the government that it provide a statement on how (or whether) the proposed new laws comply with the human rights treaties that it has signed and ratified.

The government has failed to do so, and by its refusal fails to live up to the standards of the 'human rights framework' announced two years ago, which is supposed to require all new Bills in the Parliament to subject to independent scrutiny on human rights compliance.

The government has also failed to engage the Aboriginal and Torres Strait Islander peoples in discussions or negotiations over the report on Australia by the Special Rapporteur on the Rights of Indigenous Peoples presented to the Human Rights Council two years ago.

The government has also failed to engage our peoples over the Universal Periodic Review recommendations, about 50 of which relate to the Aboriginal and Torres Strait Islander Peoples, since the recommendations were presented 16 months ago.

Madam Chairperson, Congress draws to attention of the Permanent Forum members the apparent reluctance of many States to take any action as a result of the adoption by the UN General Assembly of the Declaration on the Rights of Indigenous Peoples in 2007.

Congress recommends that the Permanent Forum remind States of the urgent need to address historical injustices and the continuing inequalities between peoples over territories and resources, and the political, social, economic and cultural development through self-determination.

Our recommendations also propose that the Permanent Forum look to motivate and induce Indigenous Peoples to take the initiatives to ensure the Declaration is implemented.

In support of this latter comment, Congress brings attention to the Declaration Preambular Paragraph 9 which observes: "... the fact that indigenous peoples are organizing themselves for political, economic, social and cultural enhancement and in order to bring to an end all forms of discrimination and oppression wherever they occur"

Finally, Madam Chairperson, Congress seeks reiteration by PFII that the Declaration has legally-binding provisions as acknowledged in the General Comment 1 of the Permanent Forum issued in 2009.

SPECIAL RAPPORTEUR ON THE RIGHTS OF INDIGENOUS PEOPLES

Question by the National Congress of Australia's First Peoples

The National Congress of Australia's First Peoples would like to announce that it has extended to the Special Rapporteur an invitation to participate in a roundtable discussion in Australia in August 2012 with representatives from Indigenous Peoples, extractive industries and government. The objective of this roundtable is to examine and assess the practices and cases where extractive industries are operating or seeking to operate on or near the territories of Indigenous Peoples.

We look forward to that event and a productive discourse. Our question is:

Will the Special Rapporteur continue to monitor and respond to the legislative and administrative actions taken by the Government of Australia against the Aboriginal and Torres Strait Islander Peoples since his report on Australia was presented in 2009, and in particular give regard to the extended intervention in the Northern Territory, where the Government of Australia has applied so-called 'special measures' without the consent of the Aboriginal people?

As part of this follow-up would the Special Rapporteur undertake a return visit Australia to review with the Aboriginal and Torres Strait Islander peoples and the Government the actions taken, outcomes achieved and satisfaction of the affected peoples?