



**Australian
Human Rights
Commission**

**United Nations
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Agenda Item 4(a): Implementation of the United Nations Declaration on the Rights of Indigenous Peoples

Statement delivered by: Katie Kiss on behalf of the Aboriginal and Torres Strait Islander Social Justice Commissioner at the Australian Human Rights Commission.

Thank you Mr/Madam Chair

I make this statement on behalf of the Aboriginal and Torres Strait Islander Social Justice Commissioner (the Social Justice Commissioner) of the Australian Human Rights Commission (the Commission). Before I begin our statement today I provide the following recommendations.

We recommend that the Permanent Forum through ECOSOC:

- 1. Urge all States to conduct an audit of their laws, policies and programs to assess their consistency with the Declaration, prioritise the removal of discrimination and inequality and amend where inconsistencies exist.**
- 2. Urge all States to embed human rights training and education into their bureaucracies that includes regular updates about the growing international jurisprudence on the rights and standards contained in the Declaration and their relevance at the national and local levels.**
- 3. Urge all States to commit to engaging in a meaningful dialogue with Indigenous peoples and their National Human Rights Institutions, to design and develop National Strategies to give full effect to the Declaration which includes monitoring and evaluation and annual reporting as to the progress of such implementation.**
- 4. Conduct further research and analysis on existing options within the United Nations system and the benefits and ramifications of an Optional Protocol to the Declaration on the Rights of Indigenous peoples.**

The adoption by the United Nations General Assembly of the Declaration on the Rights of Indigenous Peoples, in 2007, represented a historical milestone in the international struggle by the world's Indigenous peoples towards acknowledgement and respect of their rights to development.

However, we remain concerned that some States are not yet engaging with the Declaration in ways that effect meaningful changes to the lives of Indigenous peoples.

Some States affirm that their policies and programs are 'generally consistent with the principles of the Declaration'. While this may be the case, States should conduct an audit of law, policies and programs to assess their consistency with the Declaration, prioritising the removal of discrimination and inequality, and making amendments where there are inconsistencies.

While the Declaration is not mentioned in Australia's National Human Rights Action Plan, nor is it considered to be one of the human rights standards against which the rights of Indigenous peoples can be measured, the recently established Parliamentary Joint Committee on Human Rights and government agencies are more frequently referencing the Declaration in assessing legislation against the Declaration.

However, the challenge continues for Indigenous peoples around the world to translate the human rights standards, as set out in the Declaration, into purposeful actions and outcomes both for themselves in forging their own futures and exercising self-determination; and for governments who are hesitant to embrace the Declaration as a framework for improving the life circumstances of Indigenous peoples.

At the international level, the work of the Permanent Forum, the Expert Mechanism on the Rights of Indigenous Peoples and the Special Rapporteur on the Rights of Indigenous Peoples has been critical in this regard. Their work is building the international legal jurisprudence on the Declaration and the key principles that support it; and identifies the policy opportunities around the implementation of the Declaration ensuring the social, cultural, economic and political development of Indigenous peoples.

The Permanent Forum have proposed the development of an international Optional Protocol for the Declaration that provides a complaint mechanism for breaches of Indigenous peoples' rights, particularly those that relate to our lands, territories and resources.¹

In accordance with the recommendations provided by the worlds Indigenous peoples in the Alta Declaration², the Social Justice Commissioner supports the concept of a mechanism or a body to review, coordinate, monitor and report on the implementation of the Declaration, and giving consideration to options for enabling that to happen.

However, further research and analysis is necessary on the existing international mechanisms that could provide support in this regard. This might include the treaty bodies and existing Committee's for example.

The Permanent Forum note that existing Indigenous focused mechanisms have little capacity to undertake this role. It would be preferable for the United Nations to provide additional support and capacity to ensure that these mechanisms are able to conduct these important responsibilities rather than establishing additional bodies to undertake this role. The Special Rapporteur on the Rights of Indigenous Peoples for example, has an existing mandate to conduct country visits and thematic studies and receive complaints. Through their findings, they are able to make important contributions to the development of international jurisprudence that is not confined only to ratifying and cooperative States.

We also stress the urgent need to have mechanisms at both the international and domestic levels to ensure that States give full effect to the Declaration.

Over the past year In Australia, the Aboriginal and Torres Strait Islander Social Justice Commissioner has been working in partnership with the National Congress of Australia's First Peoples (Congress) to deliver a project titled the *National Strategy on the Implementation of the United Nations Declaration on the Rights of Indigenous Peoples*.

This project aims to operationalise the Declaration through the development of a National Implementation Strategy negotiated between Aboriginal and Torres Strait Islander Peoples, the Australian Government, and other interested stakeholders. The project involves a series of community, government, business and non-government organisation (NGO) dialogue meetings

aimed at raising the awareness and understanding of the Declaration, and works toward achieving consensus as to how best implement the Declaration.

To date, over 200 people have attended nine Dialogues in eight locations. Across all Dialogues, participants represented a variety of organisations and professions, including voluntary/community attendees, traditional owners, Elders, respected leaders, land councils, academia/educational, medical services, large NGOs and government workers.

I am happy to report that the project is delivering increases in:

1. Knowledge about the Declaration, particularly the four key principles of self-determination, participation in decision-making, protection of and respect for culture, and equality & non-discrimination.
2. Confidence to use the declaration as a tool in daily discussions and negotiations both internally within Aboriginal and Torres Strait Islander communities and their organisations, and externally, with private and public sector stakeholders, and
3. Knowledge of human rights in general.

The Commission is currently planning the final 10 Community Dialogues and we are also in the planning stages of a dialogue with Business and Industry leaders in July 2014.

The dialogues will culminate in a National Implementation Strategy for the Declaration that is agreed upon by key stakeholders, to be released at a *National Declaration Summit* planned for late 2014 to early 2015. The Summit is planned to coincide with the end of the current Social Justice Commissioner's term, incorporating the outcomes of the World Conference on Indigenous Peoples and, in anticipation of Australia's next appearance before the United Nations Universal Periodic Review (early-mid 2015).

We are hopeful that we are able to report to the next Permanent Forum on having successfully achieved this major milestone.

Thank You Mr/Madam Chair

¹ United Nations Economic and Social Council, Permanent Forum on Indigenous Issues, *Study on optional protocol to the United Nations Declaration on the Rights of Indigenous Peoples focusing on a voluntary mechanism*, Thirteenth session, New York 12-23 May 2014, Item 3 of the provisional agenda, Special Theme: "Principles of good governance consistent with the United Nations Declaration on the Rights of Indigenous Peoples: articles 3-6 and 46", 4 March 2014, UN Doc E/C.19/2014/7. At: <http://www.un.org/Docs/journal/asp/ws.asp?m=E/C.19/2014/7> (viewed 7 May 2014).

² United Nations General Assembly, Annex to the letter dated 10 September 2013 from the Permanent Representatives of the Plurinational State of Bolivia, Denmark, Finland, Guatemala, Mexico, New Zealand, Nicaragua, Norway and Peru to the United Nations addressed to the Secretary-General Global Indigenous Preparatory Conference for the United Nations high-level plenary meeting of the General Assembly to be known as the World Conference on Indigenous Peoples, 10-12 June 2013, Alta, Norway, Alta Outcome Document, Sixty-seventh session, Agenda item 66, UN Doc A/67/1994, 13 September 2013,