

2011
PF11mark314

**United Nations Permanent Forum on Indigenous Issues
Tenth Session - New York
16-27 May 2011**

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

JOINT INTERVENTION DELIVERED BY MARK HOLDEN ON BEHALF OF:

Aboriginal Legal Service Western Australia (ALSWA)
Aboriginal Medical Service of Western Sydney (AMSWS)
Foundation for Aboriginal and Islander Research and Action (FAIRA)
Gamarada Indigenous Healing and life Training Ltd (Gamarada)
National Aboriginal Community Controlled Health Organisation (NACCHO)
Victorian Aboriginal Legal Service (VALS)
Yarkuwa Indigenous Knowledge Centre

Thank you, Madam Chairperson,

We acknowledge that the United Nations Declaration on the Rights of Indigenous Peoples is the minimum standard for protecting the rights of Aboriginal and Torres Strait Islander youth. Indigenous youth, are more vulnerable to exploitation, deterioration of health or violation of their rights to cultural identity, health, education and civil rights. These breaches can affect young people and subsequent generations.

We acknowledge the Australian Government's endorsement of the Declaration. We see the creation of the National Congress of Australia's First Peoples as the initial step towards the implementation on the Declaration as an essential mechanism in development of self-determination for our people - a fundamental human right expressed in the Declaration.

Currently, Indigenous youth in Australia are more likely to be incarcerated than the non-Indigenous youth with the average age of first entry into custody is 13 years or younger. Youth who enter the justice system increases the risk of recidivism and

hinders the chances of our young people in attaining appropriate level of education in order to attain employment.

Indigenous youth in Australia are also more likely to be removed by child welfare services than non-Indigenous children. State Departments delivering culturally insensitive child welfare services affect the social and emotional well-being of our youth with removal contributing to the loss of cultural identity - a stark violation of the principles of Articles 5, 7, 8, 9, 11 and 12 of the Declaration. Further to this Indigenous young people who grow up without family support has led to a disproportionate number of young Aboriginal and Torres Strait Islander peoples abusing drugs and alcohol often leading to further problems such as homelessness, youth suicide and serious mental illness. Furthermore, the imposition of a criminal record results in the decreased ability for Indigenous.

The true spirit of the Declaration in its entirety should be implemented as a minimum standard, with the most effective means being corresponding legislation in the spirit of Article 38 of the Declaration. Should the Declaration be implemented it will require a specific focus on policies and programs for Indigenous young people. These policies and programs must be implemented in cooperation with local bodies and through genuine consultation with those Indigenous young people with the free, prior and informed consent.

What is now required are the first steps to assess how the Declaration could be implemented to protect the rights of Indigenous people, in order to ensure the protection of Indigenous youth and subsequent generations. In addition, the States including Australia must also establish means of implementing the Declaration within all tiers and arms of, creating a uniform means of protection of Indigenous peoples' rights.

Recommendations

We therefore recommend that the Permanent Forum urge all states to:

- 1. implement the Declaration in the forms of corresponding legislation;**
- 2. compile and publish a report as to the proposed means of how the Declaration can be implemented by the next Permanent Forum in 2012;**
- 3. develop strategies in liaison with their federal, state and local governments to implement a uniform standard of protection for Indigenous peoples.**