



**Expert Mechanism on the Rights of Indigenous Peoples
6th Session Palais des Nations, Geneva 8 – 12th July, 2013.**

Implementation on the United Nations Declaration on the Rights of Indigenous Peoples

INTERVENTION by the New South Wales Aboriginal Land Council, delivered by Councillor Craig Cromelin, Councillor for the Wiradjuri Region, and member of the Ngiyampaa Peoples.

Thank you Mister Chairman.

The New South Wales Aboriginal Land Council is pleased to contribute to the 6th session of the Expert Mechanism on the Rights of Indigenous Peoples in recognition of the Declaration as the accepted and evolving human rights standards protecting Indigenous Peoples and we pay our respect to the Elders and Ancestors of these lands and of the world's Indigenous Peoples.

The New South Wales Aboriginal Land Council acknowledges the positive steps being taken by some States, Indigenous peoples and increasingly through the work of non-Government organisations to promote the Declaration on the Rights of Indigenous Peoples.

With the passing of the fifth anniversary of the Declaration and the marking of the Second International Decade on the World's Indigenous Peoples, the discriminatory affects of past government policies as well as the continuation of policies that fail to address Indigenous People's right to self determination and the right to live free from discrimination, continue to reverberate throughout Australia, and the globe.

While taking into account the Australian Government's more recent commitment towards recognition of Aboriginal and Torres Strait Islander peoples in the Australian Constitution, there still remains an absence of any substantive protection against racial discrimination at the national level particularly in Australia's founding document.

The lack of substantive legislative and Constitutional protection in Australia epitomises the Australian Government's failure to commit to supporting genuine self-determination for Indigenous Peoples and protection against discrimination. In particular, recent developments in Indigenous policy including practices that continue to undermine Indigenous peoples right to self-determination, predominantly in respect to oppressive measures that continue to be imposed on Indigenous communities, indicates that Australia continues to be in breach of its international obligations when it comes to consultation processes with Indigenous peoples.

To date, the Australian Government has ignored and devalued principles of the Declaration and has not adequately embedded these principles within domestic legislation and policy.

Australia has often, both internationally and domestically, relentlessly taken steps to undermine the Declaration in a range of forums. Many of these actions have taken place when Australia has had a duty to uphold the highest standards in the promotion and protection of human rights as a prominent member of the international community.

The Declaration is an instrument for justice and reconciliation, provides a commitment to international human rights standards and is a practical measure to ensure that all states including Australia who have made a rhetorical commitment to international human rights standards, translates this rhetoric to practical implementation within the national setting.

The New South Wales Aboriginal Land Council is encouraged by the efforts of the Australian Aboriginal and Torres Strait Islander Social Justice Commissioner, Mr Mick Gooda, to develop a National Implementation Strategy for the Declaration, however there is an urgent need for the establishment of effective measures on behalf of all governments that guarantees monitoring and reporting duties on states performance against the Declaration.

The New South Wales Aboriginal Land Council remains disappointed that the Australian Government has failed to develop any institutional mechanisms to ensure that the Declaration informs the development and implementation of laws, policies and practices.

Recalling that in April 2009, the Australian Government supported the Declaration 'in the spirit of resetting the relationship between Indigenous and non-Indigenous Australians and building trust' the NSW Aboriginal Land Council firmly believes that all states should adopt preventative and corrective policies conducive to the elimination of all forms of discriminatory practices.

It is essential that all member States, develop processes to ensure that provisional and national laws, policies and procedures comply with international standards including the Declaration on the Rights of Indigenous Peoples. Consideration should be given by States that have not yet done so for the ratification of International Labour Organization Convention 169 (ILO 169) and strengthening mechanisms to monitor the implementation of the Convention. This must include the review of national laws to eliminate discriminatory provisions with the full and effective participation of Indigenous experts to ensure equality and non-discrimination.

Australia, in responding to the recommendations of the Universal Periodic Review at the United Nations Human Rights Council's seventeenth session in 2011, committed to formally considering becoming a party to International Labour Organization Convention No. 169 concerning Indigenous and Tribal Peoples (ILO 169). It is essential that those states that have not yet ratified or acceded to the ILO Convention No. 169 concerning Indigenous peoples, to do so.

The New South Wales Aboriginal Land Council recommends that the Human Rights Council recommend that the Expert Mechanism conduct a study on the implementation of the Declaration and mechanisms that will oversee achieving the ends of the United Nations Declaration on the Rights of Indigenous Peoples, designed with the full and effective participation of Indigenous peoples.

RECOMMENDATIONS

The New South Wales Aboriginal Land Council respectfully makes the following recommendations to the Expert Mechanism to encourage States to provide for the full enjoyment of rights for Indigenous nations around the world.

That the Permanent Forum:

- Urge all States to develop a National Action Plan for the implementation of the Declaration, in consultation with Indigenous peoples and organisations with the aim of achieving the ends of the Millennium Development Goals.
- Encourages all States in consultation with Indigenous peoples and National Human Rights Institutions to develop and adopt a clear and long-term transparent and effective process to monitor and evaluate the implementation of the Declaration.
- Request that the Human Rights Council develop strategies to strengthen the Declaration to treaty status through provision of an optional protocol at the World Conference on Indigenous Peoples 2014.
- Reiterates previous recommendations made by the Permanent Forum, the Human Rights Treaty Bodies and the Special Rapporteur that all States ratify the ILO Convention 169, as a matter of priority.
- Ensure all States in consultation with Indigenous peoples and organisations provide reports on non-compliance and alternative measures adopted by States to give effect to ILO Convention No. 169, consistent with the right to self-determination.