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Permanent Forum on Indigenous Issues
Agenda Items 5 & 4.1
Human Rights / Implementation of the Declaration

Joint Statement by Australian Aboriginal Delegations

Madam Chairperson,

The Australian Aboriginal delegations thank the outgoing Special Rapporteur, Rodolfo Stavenhagen, for his very successful two terms as the Special Rapporteur on the situation of the human rights and fundamental freedoms of Indigenous People.

We thank him sincerely for his dedication and determination in promoting and protecting the rights of Indigenous Peoples.

We support and recommend his latest report to the Human Rights Council (A/HRC/6/15), and draw attention to his concern that there is a widening 'implementation gap' between the declared aims of Governments and the everyday experience of indigenous peoples.

While he has stated in previous reports that that a large gap exists between the declared aims of Governments and the everyday experience of indigenous peoples primarily in the area of economic, social and cultural rights, this "implementation gap" is not just a legal gap reflected in the failure of case law to keep abreast of legislative advances in individual countries.

The Special Rapporteur clarifies 'there is also an "implementation gap" between national and international recognition of indigenous peoples' rights and State policies and programmes affecting indigenous peoples, which frequently fail to take account of or contravene indigenous rights'.

This has been our experience as the First Peoples of Australia, as we find a change of government has not yet led to acknowledgement of our rights as peoples to self-determination, nor a change of policies based upon our economic, social and cultural rights.

The Special Rapporteur identifies that international consensus on the interdependence between development and human rights was forged in the context of the World Summit for Social Development held in Copenhagen in 1996, the Millennium Summit of the United Nations and the World Summit on Sustainable Development held in Johannesburg in 2005.

He said 'the basic principle underlying this approach is that the realization of human rights should be the end goal of development, and that development should therefore be perceived as a relationship between rights holders and the corresponding duty bearers'.

'The rights-based approach attaches importance both to results and to the development process itself, which should take into account basic principles such as the indivisibility and universality of human rights; non-discrimination ...; participation and empowerment; and accountability.

We strongly support his statement, applicable to Australia, that human rights-based development requires changes not only in priorities and in the development discourse but also political and institutional changes, with a shift of emphasis from microprojects to public policies as a whole.

The report of the Special Rapporteur emphasises the human rights-based approach stems from a concept of development that identifies subjects of rights and not merely a population that is the object of public policies.

Indigenous peoples, the report says, must be identified as subjects of collective rights that complement the rights of their individual members.

These rights are recognized in various international instruments, particularly the United Nations Declaration on the Rights of Indigenous Peoples.

The principles set out in the Declaration complement and expand those contained in other international instruments such as ILO Convention No. 169 concerning Indigenous and Tribal Peoples in Independent Countries, 1989, and the general comments of the United Nations treaty bodies.

The report confirms these principles underpin the content of development and its procedures in the context of indigenous peoples.

Indigenous Peoples' development should therefore be: Endogenous (i.e. it should originate with the indigenous peoples and communities themselves as a means of fulfilling their collective needs), Participatory, Socially responsible, Equitable, Self-sustaining, Sustainable and protective of environmental balance, Culturally appropriate, Self-managed, Democratic, and Accountable.

Our interventions, as the Aboriginal Peoples of Australia, have brought to attention the failure of the Government of Australia to meet these development criteria and we call upon the Government of Australia, and all Governments, to examine their approaches to indigenous development in the light of the conclusions and recommendations made by the Special Rapporteur.

In particular we consider the Government of Australia, in reviewing the 'Northern Territory Intervention' laws and policies, should take particular account of the recommendations contained in Paragraphs 66-70 of the Special Rapporteurs report E/HRC/6/15.

We believe the contents of this intervention provide a very clear and detailed basis for the implementation of the rights contained in the Declaration on the Rights of Indigenous Peoples, and we recommend this report to the Permanent Forum and States.

In conclusion, the Australian Aboriginal delegations now welcome the new Special Rapporteur on the human rights and fundamental freedoms, Professor James Anaya.

We also express our wish that the Government of Australia issue as soon as possible an open invitation to the Special Rapporteur to visit Australia to assist the Government and the Indigenous Peoples, in the spirit of the 2020 summit, to help develop the vision and strategies for the future of Indigenous Peoples in Australia.

Thank you, Madam Chairperson