



Ngurupai

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Woer Au Kara Nis

10 July 2013

The Chairperson

Expert Mechanism on the Rights of Indigenous Peoples

Sixth Session

Thank you Chairperson for the opportunity of addressing the members of EMRIP, the Permanent Forum, other relevant United Nations bodies, and the Indigenous delegates at this Forum. I speak on behalf of my Kaurareg Aboriginal peoples in Australia, and in support of the *Study on the access to justice in the promotion and protection of the rights of Indigenous peoples*.

First I would like to acknowledge and respect the Indigenous peoples of this country. Second, I offer my humble respect for the nations of Indigenous peoples who are attending this Forum. I am a descendant of the Kaurareg nation of Aboriginal peoples who are located in the most northern part of Australia, in the State of Queensland. The traditional boundaries of our territory is called Kaiwalagal which is an archipelago of islands and waterways. Kaiwalagal sits inside a wider territory known in Australia as Torres Strait, but in language, known as Zenadh Kes. My traditional country of Kaiwalagal is the gateway from Australia to the wider territory of Zenadh Kes. Our closest international Indigenous neighbours are West Papua to the west, Papua New Guinea to the north, and Solomon Islands to the east. This also means my traditional country is the gateway between Australia and the wider South East Asia region through the international waterways that are found there.

Kaiwalagal has no confusion on territorial borders and jurisdictions. The 14 tribal groups of Zenadh Kes know our traditional boundaries, and we know theirs. Our handed-down law is known as kerrgne. It is a type of parliamentary structure that represents Kaurareg peoples in the wider Zenadh Kes territory. But since colonization, many overlapping jurisdictions of an alien legal system of law have been put in place. This has caused destructive confusion amongst my people. It has created the injustice we face on a daily basis 24/7. It has caused the representative systems of Kaiwalagal and Zenadh Kes to oppose each other. It has brought

sickness and conflict to my peoples, to the lands and waterways of all territories in Kaiwalagal and Zenadh Kes. It provides opportunities for Australia to perpetuate and enforce its claims of sovereignty.

I welcome the *Study on the access to justice in the promotion and protection of the rights of Indigenous peoples*. Many of our brothers and sisters in this Forum have talked about the struggles they face in their own territory for justice from the evils of colonization. On behalf of my Kaurareg peoples, I can proudly say we stand in support of their right to access for justice, and to all of the rights of the Declaration. Like our brothers and sisters of other Indigenous nations, we Kaurareg also face struggles with access to the system of justice we practice in our kerrgne lore. Since colonization, we have not been able to practice our own lore handed down through our generations.

The reasons for this are because of the overlapping jurisdictions of multiple levels of government. In Australia they are national government, sub-national governments, local governments, and because of the unique treaty made between Australia and Papua New Guinea. None of these levels of government can take the place of our kerrgne law. Only kerrgne law can protect, can heal, and can help Kaiwalagal. And only kerrgne law can help these multiple levels of government to achieve the outcomes of the *Study for Kaiwalagal*, in principle, in theory, and in practice.

Every day the borders of my territory are exposed to threats and challenges. But where we once protected the borders of our territory, now we are sometimes asked for our advice about border protection. Where our elders once made decisions for our territory and younger warriors acted on those decisions, now we hear second and third hand reports from others on the decisions that are made for us. These overlapping jurisdictions are not helping Kaiwalagal. Instead, they are destroying our culture and exploiting our territory. So now we appeal to the United Nations Declaration on the Rights of Indigenous Peoples through the following recommendations.

1. That EMRIP encourages the Human Rights Council to more vigorously promote the rights of Indigenous peoples, as per the recommendations of the *Study on the access to justice in the promotion and protection of the rights of Indigenous peoples* in its Annex A to E
2. That EMRIP encourages the Human Rights Council to more vigorously protect the rights of Indigenous peoples who have first exhausted domestic laws in seeking justice, by providing them with access to solutions that do not need the consent of States parties
3. With specific regard to justice in Australia: for Article 3 of the Declaration on the Rights of Indigenous Peoples, to the inalienable human rights of Aboriginal peoples and Torres Strait Islanders as they are enshrined in Article 73 Chapter XI of the United Nations Charter, as to General Assembly resolution 1514 (XV) *Declaration on the Granting of Independence to Colonial Countries and Peoples* on 14 December 1960, and as to General Assembly resolution 1541 (XV) of 15 December 1960 *Principles which should guide Members in determining whether or not an obligation exists to transmit the information called for under Article 73 e of the Charter*, that EMRIP encourage the Human Rights

Council to revisit the unilateral decision made by Australia in 1946 of not voluntarily listing Aboriginal peoples and Torres Strait Islanders on the United Nations General Assembly List of Non-Self-Governing Territories when responding to an invitation by the United Nations Secretary General, with the view to Australia fulfilling its obligations as a signatory member to the United Nations and ending the loss of territory and disadvantage by Aboriginal peoples and Torres Strait Islanders

4. That EMRIP revisit the commitment made by Australia to implementing the Declaration on the Rights of Indigenous Peoples by using a different standard to measure that commitment, one that is shaped by greater input by and for Australia's first nations of peoples

Mr Willie Ara Wigness

Chairperson

Kaurareg Aboriginal Land Trust

Queensland Australia