

not delivered

Permanent Forum on Indigenous Issues, Third Session
New York, May 10-21 2004



Agenda Item : Human Rights
Intervention: World Council of Churches

Presented by Peter Smith

Mr Chairperson, distinguished members of the Permanent Forum, my sisters and brothers.

I wish firstly, to acknowledge the Haudenoshone, the traditional owners of the land on which we are meeting today. I am Peter Smith, a descendant of the Kamilaroi people of Australia. It is my privilege to speak to you on behalf of the World Council of Churches.

It has been mentioned on a number of occasions at this forum that treaties which have been formalized between the colonizing power and the Indigenous people have been dishonoured by the colonizing power when it suited their interests to do so. No excuses have been offered or explanation given. Simply a unilateral decision to betray the trust of the Indigenous people. A promise made by Indigenous people is considered binding and cannot be lightly discarded. We in Australia may be considered fortunate in that Great Britain, the colonizing power never agreed to a treaty with Australia's Indigenous people, therefore their promises could not be dishonoured.

Indigenous Australians were not mentioned in the Australian constitution when it was drawn up on 1 January 1901. Officially we did not exist – Australia had been declared by the British to be terra nullius – land belonging to no one; empty land; it was land available for the taking.

Even today, we are not mentioned in the constitution, although we do get a mention in the pre-amble to the constitution. In earlier days of colonization when the government wanted greater control of our people an act of parliament was passed known as "The Prohibition of Opium and Protection of Aborigines Act." This act of parliament gave the government control over all aspects of the lives of Aboriginal people, under the pretext of protection. QUEENSLAND STATE

Consideration now needs to be given to formally acknowledge that Indigenous people exist in Australia. This could happen through the establishment of a treaty between the dominant cultural group through the Federal Government and the Indigenous people of Australia.

~~It has been suggested that~~ The Aboriginal and Torres Strait Islander Commission (ATSIC) ~~would~~ ^{was to} have a role to play in encouraging national and local discussion and debate on the need or otherwise for a treaty.

Not all Indigenous Australians have agreed that there is a need for a treaty. Others consider it essential so as to formalize our relationship with non Indigenous Australians to enable us to :-

- a. recognize and redress past injustices
- b. affirm and protect Indigenous peoples rights
- c. settle unfinished business
- d. provide the necessary tools for self determination and self government.

Concern has been expressed that if Indigenous people enter into a treaty, sovereignty, which the Australian state has never recognized and which we Indigenous Australians have never ceded will be extinguished.

Because of the Federal Government's dismantling of ATSIC these questions and many more which need consideration will now remain unanswered unless we act. We need the means to follow up these questions and obtain the answers.

It is recommended that the Permanent Forum support the formation of an Indigenous Working Group, funded by the Australian Federal Government to ascertain whether Indigenous Australians want a treaty and if so what form the treaty should take and how will it be achieved.

Whether we choose to have a treaty or not is up to us. This should not be put off any longer to a more convenient time. Justice demands that we have the opportunity to choose and the time for action is now.

Thank you Mr Chairman.

Note : ATSIC booklet "Treaty – let's get it right" used for reference material,