

**Joint Statement by the
Aboriginal and Torres Strait Islander Social Justice Commissioner
Mick Gooda
Australian Human Rights Commission
and
Commissioner
Karen Johansen
New Zealand Human Rights Commission
to the
Expert Mechanism on the Rights of Indigenous Peoples
12 – 16 July 2010, Geneva**

Item 4: United Nations Declaration on the Rights of Indigenous Peoples

Thank you Mister Chairperson

We make this statement in our capacity as Aboriginal and Torres Strait Islander Social Justice Commissioner on behalf of the Australian Human Rights Commission and as a Commissioner of the New Zealand Human Rights Commission. Our National Human Rights Commissions are established in compliance with the 'Paris Principles Relating to the Status and Functions of National Institutions for the Promotion and Protection of Human Rights' in accordance with General Assembly Resolution 48/134 of 1993.

National Human Rights Institutions play an important role as a conduit between developments at the international level and domestic legal frameworks, and are crucial in working with our national governments and our indigenous communities to progress efforts to fully implement the *UN Declaration on the Rights of Indigenous Peoples* (the Declaration).

The Office of the High Commissioner for Human Rights (OHCHR) has for several years supported national human rights institutions in building capacity and developing their activities in accordance with the Paris Principles. At the same time, in the area of indigenous peoples' rights, the OHCHR has led efforts to ensure better human rights protection in law and in practice. These efforts are further encouraged by Article 42 of the Declaration, which calls on the UN, its bodies and agencies to promote the full application of the provisions of the Declaration and follow up its effectiveness.

After the last session of the EMRIP, the OHCHR conducted a survey on NHRI's to ascertain the extent of National Human Rights Institutions (NHRI) engagement in international mechanisms that address Indigenous peoples rights. The survey results indicated that 'only a limited number of national human rights institutions have so far interacted with these mechanisms.

Following on from the OHCHR report on the survey on national human rights institutions published in July 2009, an international expert meeting was held in Bangkok in December 2009. This meeting considered the role of NHRI's in promoting the implementation of the UN Declaration on the Rights of Indigenous

Peoples. Contributions by the Special Rapporteur on the Situation of Human Rights and Fundamental Freedoms of Indigenous People as well as representatives of the Expert Mechanism on the Rights of Indigenous Peoples and the Permanent Forum on Indigenous Issues, took part in the Bangkok expert meeting for NHRIs, and made proposals as to how national human rights institutions could co-operate with these mandates and address indigenous peoples' rights more consistently¹.

We call on the EMRIP to prepare a draft resolution for the Human Rights Council to consider the strategies for future action resulting from the Bangkok expert meeting, aimed at the effective promotion and implementation of the UN Declaration on the Rights of indigenous peoples by NHRIs.

These strategies aim to address a number of challenges faced by NHRIs in this regard including:

- That states that have not already done so, should establish national human rights institutions that comply with the Paris Principles, and that all NHRIs are able to address both the individual and collective rights contained in the Declaration on the Rights of Indigenous Peoples.
- That OHCHR and NHRIs should promote the critical role of national human rights institutions and their regional organisations in protecting and promoting the rights of Indigenous peoples at the national and local level; and that the OHCHR should co-operate with NHRIs in order to provide training and further technical assistance on the rights of indigenous peoples and the Declaration on the Rights of Indigenous Peoples.
- That NHRIs should pay particular attention to the situation of indigenous peoples, including by monitoring compliance with the standards contained in international treaties and the UN Declaration on the Rights of Indigenous Peoples; and that states should work in partnership with UN agencies, NHRIs and indigenous peoples to ensure that all laws, policies, programmes and services respect the rights of indigenous peoples.
- That NHRIs are appropriately resourced to ensure that there is capacity to provide regular contributions to treaty bodies, the thematic studies of the Expert Mechanism on the Rights of Indigenous peoples and to the work of the Permanent Forum on Indigenous Issues, as well as domestic consultative mechanisms relating to the rights of indigenous peoples.
- That OHCHR, regional networks and others concerned should follow up the Bangkok expert meeting with regional and national dialogue and activities aimed to promote the use of the Declaration on the Rights of Indigenous Peoples in the work of NHRIs.

¹ Draft note on the outcome of the International Meeting on the Role of National Human Rights Institutions in Promoting the Implementation of the UN Declaration on the Rights of Indigenous Peoples, Bangkok, Thailand, 16-17 December 2009.

We also note that the majority of States are yet to inform Indigenous peoples about their rights as contained in the Declaration or to develop national implementation strategies to ensure the full implementation of the Declaration.

For NHRI's to effectively work with their respective governments and Indigenous communities, the implementation of the Declaration requires decisive and concerted effort at all levels. In line with the outcomes of the Bangkok expert meeting of NHRI's, this may include:

- The inclusion of indigenous peoples among the commissioners and senior officials in national human rights institutions.
- Working with public authorities to increase the knowledge and understanding of the rights of indigenous peoples.
- Addressing the non-recognition of the rights of indigenous peoples. For example: the limited representative structures through which indigenous peoples can advocate and participate in policy development; the lack of capacity to deal with the economic, social and cultural rights of indigenous peoples; ensuring that complaint handling processes also cover collective rights; and the absence in many countries of national human rights institutions that comply with the Paris Principles.

NHRI's could have a specific role to play in facilitating the engagement of indigenous organisations in the preparation of their contributions to treaty body reporting and other international mechanisms such as the Universal Periodic Review process, as well as domestic consultative processes, particularly where the capacity of indigenous communities is limited.

NHRI's could also have a specific role in compiling best practice examples of how governments and indigenous peoples are implementing the UN Declaration on the Rights of Indigenous Peoples.

The importance of ensuring that national human rights institutions remain accessible to indigenous peoples is crucial. This may in some cases require setting up of regional or local offices in the areas where indigenous peoples reside as well as interpretation and other measures aimed to abolish linguistic obstacles that in some countries still hinder access of indigenous peoples to national human rights institutions.

Recommendations:

The Aboriginal and Torres Strait Islander Commissioner, and the Commissioner from New Zealand recommend that:

1. The Expert Mechanism on the Rights of Indigenous Peoples prepare a draft resolution for the Human Rights Council to adopt the strategies for future action developed by the Bangkok International Expert Meeting on the Role of National Human Rights Institutions in Promoting the Implementation of the UN Declaration on the Rights of Indigenous Peoples.