

United Nations High-level Plenary of the General Assembly to be known as the World Conference on Indigenous Peoples

(Contribution to the Australian Statement)

New York, 22 September 2014

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ITEM: Roundtable 2 - Implementing the Rights of Indigenous Peoples at the national and local level

MR CHAIR,

We would like to acknowledge the work of the President of the General Assembly (PGA), his team of advisers and all State and Indigenous representatives who participated in the preparatory and negotiating process in order to produce the outcome document endorsed by the States of the World in this morning's session, which reflects either wholly or in part, many of the recommendations and proposals made by the Global Coordinating Group (GCG) and Indigenous regions during, and after, the respective round of consultations.

This intervention is provided by the NIHEN as part of the IPO Network of Australia whose members represent multiple Indigenous organizations across Australia addressing the needs of Indigenous Peoples in health, education, justice, housing, land and water rights, women, children and family issues.

The World Conference on Indigenous Peoples' Outcome Document, contains the States' commitments that give confidence to Indigenous Peoples of the world that the Declaration on the Rights of Indigenous Peoples, the Declaration of Human Rights, the seven major treaties and other international instruments of note, will further be progressed. As the 2nd Decade of Indigenous Peoples' is ending, we move into the post 2015 development agenda where we seek to establish mechanisms to progress the outcome of this Global General Assembly Plenary meeting at the national and local levels.

The WCIP offers Indigenous peoples and States' representatives a solid option to negotiate a way forward over the next decade. However, in so doing, there is a need to acknowledge that whilst much has been accomplished to address the wellbeing, rights and life circumstances of Indigenous Peoples, there is still a great deal more that is yet to be done before we can honestly promote that the full extent and intent of the aforementioned international instruments have been accomplished.

Moreover, the ongoing impoverished state of Indigenous peoples' lives across the globe continues to highlight the dire circumstances including the gaps in life expectancy and infant mortality rates, which many Indigenous people are forced to contend with on a daily basis. It would be difficult for anyone to state at this time that the full application of demonstrable and measurable changes in the lives of Indigenous peoples is evident.

Indigenous peoples of the Australia are ready to actively engage with our governments and other Indigenous peoples in the region to advance the priorities outlined in the WCIP Outcome Document and that of the Alta Statement. Many of the Indigenous people across the region have already commenced discussions with their respective governments and amongst their own communities in hoping that this High Level Plenary meeting known as the World Conference on Indigenous Peoples, will further strengthen the protection and promotion of Indigenous peoples' most basic and most compelling rights.

In the interest of taking the *Outcome Document* forward and building upon the sentiments of good will, collegiality, respect and cooperation that has been established between States and Indigenous Peoples, it is important that we highlight areas related to *Access to Justice* that we believe warrant ongoing consideration in order to effectively progress the implementation of the rights of Indigenous Peoples at the national and local level. These include:

1. operating in good faith
2. applying principles of full disclosure
3. ensuring that Indigenous Peoples share in the benefits derived from resources taken from their lands, territories, waters and coastal seas
4. addressing educational disadvantage,
5. addressing issues relating to families and violence.

Mr Chair we note that Member States and Indigenous Peoples from across the globe have come to this historic high plenary meeting **in good faith** as a sign of their commitment to negotiate and progress an Outcome Document. We believe Mr Chair that this commitment is a strong indicator of the underlying willingness of States to work collaboratively with Indigenous peoples as equal partners in advancing the priorities of the *Outcome Document*. However as readily as the States and Indigenous Peoples have come together in good faith, it is critical that we all leave in good faith knowing that this is just the beginning of a long journey in implementing the priorities as identified.

Mr Chair we note the commitment by States to ensuring that Indigenous peoples are consulted in order to obtain their free prior and informed consent. However in order for this be accomplished appropriately, **full disclosure** of the intent of all actions taken before adopting and implementing legislative or administrative measures at the national and local level, should be a clear expectation for States rather than a consideration.

We are encouraged by the States proposed **adoption of wholistic indicators** of Indigenous people's wellbeing to address the situation and needs of Indigenous peoples and individuals with disabilities. However whilst there is a commitment to improving the wellbeing of Indigenous peoples with disabilities we believe the way in which the term disabilities is defined often negates the ongoing **educational disadvantage** faced by Indigenous peoples at all levels because of the types of disabilities that are prevalent and yet rarely spoken about by service providers or policy advisers .

The Council of Australian Governments (COAG) Reform Council (CRC) defined educational disadvantage as occurring when the benefits of education are not evenly distributed within a population, where there are barriers to access and participation and when expected outcomes from education differ for particular individuals or groups. We note and commend the commitment by States to ensure equal access to high quality education that recognizes the diversity of Indigenous Peoples. However in order for this to be accomplished Indigenous peoples require the resources to develop and deliver high quality educational programs that reflect the scholarship of their own

knowledge systems and the diverse needs of their own culture, experiences and localities. This is an area that must be remedied if the education strategies that Governments have adopted to date, particularly in Australia, are to evidence any real change.

Mr Chair, it is pleasing to note that States are committed to intensifying efforts in cooperation with Indigenous peoples, to prevent and eliminate all forms of violence and discrimination against Indigenous peoples and individuals, particularly women, children, youth and the elderly. In order to accomplish the implementation of the rights of Indigenous Peoples outlined in the Declaration and committed to in the WCIP Outcome Document, it is critical that States and indigenous representatives have a clear and united understanding on what all forms of violence means within the lives of Indigenous peoples as there has been a constant focus on violence of the sexual and physical nature. This focus fails to take into account the manifestations that have occurred as result of generations of policies that have been imposed upon Indigenous peoples and in so doing condoned serious injustices. In identifying the violence suffered by Indigenous women, children, Elders and individuals, the world over it would be remiss not to highlight the full spectrum of the type of violations that they experience.

Social, Cultural and Economic Violence

Under the UN Convention on the Elimination of Discrimination against Women and also under the Declaration on the Rights of Indigenous Peoples, women have specific rights such as non-discrimination, equality before the law, and to self-determine the needs of their **families**, children and self. Unfortunately evidence highlights that the rights of Indigenous women are being negated in their role as individuals and in the context of their **families** and communities by the policies and practices that are being imposed upon them. This form of social violence is just as critical as the physical and emotional violence that has been raised in Article 18 of the Outcomes Document. The omission of the reference to family and kinship relationships in the Outcome Document fails to acknowledge the reference to family in major international instruments such as the Declaration on the Rights of Indigenous Peoples, the UN Declaration on Human Rights and the Convention on the Rights of Children, all of which profile the significant

role that the family play in addressing the diverse needs of Indigenous women and children.

Furthermore one of the most fundamental responsibilities we have is the protection of the vulnerable in society, most importantly, Indigenous women and children who suffer great **violations**. It is concerning to note that paragraph 16 of the Outcome Document fails to refer to families in the context of protecting women and children from **violence** when there have been so many acts of violence towards families who are traumatized by the ongoing abhorrent practice of having their children forcibly removed, often on vexatious and unsubstantiated claims. It is surprising to note this omission when the Outcome Document is claimed to be based upon the principles and articles outlined in the Declaration on the Rights of Indigenous Peoples Article 17:2 and 22. The lack of reference to families also negates the rights of our children to be part of their family as outlined in the Convention on the Rights of the Child adopted by the UN General Assembly 1989. Of the 54 articles outlined in The Convention there are 4 core principles that address the basic human rights to children everywhere and entitle them to:

1. the right to survival;
2. the right to develop to the fullest;
3. protection from harmful influences, abuse and exploitation;
4. the right to participate fully in family, cultural and social life.^[3]

The issue of family is also directly linked to the over-representation of Indigenous peoples who are incarcerated. The Australian Bureau of Statistics recently released figures showing that Australia now imprisons 18 per cent more Aboriginal and Torres Strait Islander women than it did 12 months ago. The Human Rights Law Centre's recent publication stated that *the increase was particularly concerning given Aboriginal and Torres Strait Islander women are already the fastest growing prisoner demographic in Australia.*

“Aboriginal and Torres Strait Islander women comprise just two per cent of the general population, yet over one third of the prison population. Clearly, our criminal justice systems are having a disproportionate impact on Aboriginal women and we need to address why the system is producing such discriminatory results when it comes to race and gender”. It is concerning that these statistics correlate with the over incarceration

of Indigenous men, Indigenous women and the removal of children into foster care; where one third of removed children in that State or Province were Indigenous. This travesty highlights the importance of the commitment made by States in the Outcomes Document to commit to protecting the rights of Indigenous peoples and to invite the Human Rights Council to examine the causes and consequences of violence against Indigenous women, children and individuals within their respective mandates as noted in article 18 and 19 of the Outcome Document.

In the context of the WCIP it is important to congratulate the Australian Government for its stringent reporting of the type of violence that has taken place. However this analysis has to equate to real action occurring and more broadly based strategies being adopted to address the full spectrum of violence that Indigenous women and families experience. We call on States in this regard to examine violence against Indigenous women, children and individuals in its broadest context and to adopt more effective strategies and policies to address this serious injustice.

Concluding remarks

In conclusion, this paper identifies and stresses the urgent need for States to uphold their commitment to working in partnership with Indigenous peoples at the national and local level.

It is also important that States affirm and reaffirm their commitment to negotiating with Indigenous peoples concerned through their own representative institutions with full disclosure in order to obtain their free, prior and informed consent prior to their approval of any project affecting their families, communities, as these are fundamental to the successful accomplishment of all commitments made by States in the Outcome Document. The allocation of increased and new resources is a fundamental priority in implementing the Rights of Indigenous Peoples at the national and local level.

Mr Chair, we thank you for this opportunity to present this Statement on behalf of the Indigenous Peoples' Organization and the National Indigenous Higher Education Consortium