

COMMISSION ON HUMAN RIGHTS WORKING GROUP
OF INDIGENOUS PEOPLES

STATEMENT BY THE NEW ZEALAND HUMAN RIGHTS COMMISSION

ITEM 4: STANDARD SETTING ACTIVITIES

COMMISSIONER CAROLYNN BULL
KAI TAHU IWI

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WGIP 94/OCE.NZL/1

Greetings to you Madam Chair, Members of the Working Group, Indigenous representatives and to all gathered here.

Tena Koutou Katoa

HUMAN RIGHTS FUNCTION

Because the New Zealand Human Rights Commission which I represent is a statutory body set up to provide better protection for human rights in accordance with International Covenants Conventions, the development of further international instruments is of major interest to it since it must regulate its activities in accordance with it.

The discharge of its legal mandate in dealing with unlawful discrimination and in receiving representations from members of the public on human rights matters leave it in no doubt as to the vulnerability of indigenous peoples and the desirability of this Declaration which will set minimum standards for their protection.

It is for these reasons the Human Rights Commission considered the development of the Declaration of such importance that it has sent a representative to this forum for the last 7 years.

SELF DETERMINATION:

During this time there has been the persistent and urgent call from indigenous peoples, regardless of their regional differences, for one RIGHT to be secured as paramount in the document: The right to SELF DETERMINATION.

This statement confines itself to that one issue.

We consider perambular paragraphs 12, 14, & 15 give sufficient guidance within the document as to how the right to self determination as expressed in ARTICLE 3 can be attained to ensure indigenous peoples have access to the FULL and effective enjoyment of all human rights and fundamental freedoms provided for in ARTICLE 1.

We consider it significant and a strength of the document that ARTICLE 3's wording is identical to the 2 COVENANTS. It is also entirely within the guide set by the General Assembly resolution 4/120 of 1986 calling for consistency with the existing body of international human rights law.

We express concern that the Technical Review of the Draft Declaration should make reference to the definition of self determination in ILO CONVENTION No 169 since it lacks support from many of the indigenous peoples it seeks to protect.

In our view the status of the COVENANTS would be demeaned if ILO 169 's definition were imputed, or inserted into the Declaration. It would be unfortunate if this position were seen as emanating from this Working Group.

ARTICLE 31 should be struck out from the document since it lays ARTICLE 3 open to an interpretation of self determination which could be seen as limiting the concept rather than being merely explanatory of some facets to self determination. To leave it in would make this document inconsistent with the Covenants.

The Commission is concerned that the New Zealand Government's 1994 position remains at variance with the Covenants in not recognizing its Indigenous peoples as PEOPLES and that it defines self determination before the dialogue on it is underway.

Its statement that the document should have a "focus on language which empowers indigenous PEOPLE" fails to recognize the intense and undiminished pride Maori people have in belonging and identifying as members of particular Iwi (tribes), unique and distinct from others.

STATES OBLIGATIONS:

All states parties contributing to the development of this Declaration, as signatories to other international instruments have obligations to act in accordance with them in all their relationships with their own indigenous peoples.

A first and most fundamental expression of promoting and protecting human rights would be states parties demonstrating goodwill and commitment to full discussion with indigenous peoples without preconceived views on outcomes, hostility, fear, prejudice, EQUAL PARTIES exploring how and in what form and within what time-frame self determination might be achieved.

WE NOTE with approval the New Zealand Governments intentions stated here today to seek Maori Comment on the Declaration. It would be our expectation this would be in the manner described above so that there would be a fair exchange of views and a willingness to continue the dialogue until a COMMON POSITION could be found.

It would be desirable that New Zealand's position on the text as it moves to the Sub-Commission and Commission would reflect Maori views, beneficiaries of this Declaration.

THE social, economic and political realities of any given indigenous peoples are likely to be major determinant factors in shaping what form self determination might take, as much as state action.

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WORKING GROUP'S ROLE:

The Working Group has demonstrated much goodwill towards indigenous peoples. Its integrity and demonstration of its own political goodwill will be confirmed and reaffirmed when it carries the document to the other bodies of the United Nations. It must be at a time, and in the form which has the consent of, and with the recommendations the indigenous peoples have advised must accompany it.