

**Agenda Item 5: General Statements
Tuesday 21 May 2002**

Statement by Dr William Jonas, Aboriginal and Torres Strait Islander Social Justice Commissioner of the Australian Human Rights and Equal Opportunity Commission (www.humanrights.gov.au/social_justice/index.html)

Thank you Mr Chairman.

I speak to you today in my capacity as the Aboriginal and Torres Strait Islander Social Justice Commissioner of the Australian Human Rights Commission.

At the outset, I would like to support the recommendations that have been made by many Indigenous organizations during the course of this inaugural session to date. Many of these were expertly encapsulated in the general statement of May 17 by the American Indian Law Alliance, which I commend to you. In particular, I support the proposals for the Permanent Forum to recommend to ECOSOC:

- The establishment of a separate Secretariat for the Permanent Forum within the United Nations system;
- The urgent allocation by the Fifth Committee of ECOSOC of a budget for the Permanent Forum which is proportionate to its mandate and covers the period leading up to the next biennium budget process in 2004;
- The establishment of an independent fund for the Permanent Forum and the appointment of goodwill ambassadors for the Permanent Forum;
- The allocation of funding for an inter-sessional meeting ahead of the second session of the Forum;
- The continued existence of the Working Group on Indigenous Populations, and the development of a strong mutual relationship between the Permanent Forum and the Working Group; and
- The speedy adoption of the draft Declaration on the Rights of Indigenous Peoples without major revision.

Mr Chairman, there are many issues that the Social Justice Commissioner has encountered over the past decade that I humbly suggest would be of interest to the members of the Permanent Forum as you determine how you will undertake your broad mandate and I would like to focus on these in this statement.

They relate to how the Permanent Forum interacts with the UN agencies and the nature of the dialogue that you have with them.

Ten years ago in Australia, there was a Royal Commission into the high number of Aboriginal deaths in custody. The result was a landmark report with more than 350 recommendations to address issues ranging from the disempowerment and disadvantage experienced by Indigenous people, to the conditions in custody that contributed to deaths in criminal justice processes. Governments in Australia reported annually on how they were implementing the report for seven years thereafter. And yet, ten years after the Commission's report we now found that Indigenous Australians continue to be over-represented in custody at enormous rates and that the level of deaths in custody have only marginally decreased.

The reason for this relates, in part, to the process of implementation of the recommendations of the report. Governments adopted a 'public relations' approach to reporting whereby they would re-package their existing programs and policies to 'fit' as a response to the recommendations of the report. It meant that their reporting processes were retrospective in nature rather than proactive and totally disconnected from the policy formulation process. This approach also meant that the implementation process was piecemeal and ad hoc with little coordination. In short, it did not respond to the urgent priorities identified in the Royal Commission's report.

I suggest that this is the main danger that must be avoided by the Permanent Forum in its interaction with the agencies of the United Nations.

I welcome the thoughtful papers and presentations that we have had by the various UN agencies over this two weeks. But I respectfully suggest to the Permanent Forum that you must be careful to ensure that the dialogue that you have with UN agencies goes beyond 'public relations' and seeks to ensure that the UN agencies engage in good faith in a process of policy revision and analysis in order to address the pressing needs of Indigenous peoples, within the context of their respective mandates.

In next year's session, for example, they must do more than tell us about their existing programs and policies – they must demonstrate how they have re-evaluated their current approach and varied it in light of the concerns and recommendations made by the Permanent Forum and by Indigenous peoples with whom they have consulted.

Mr Chairman, in the context of the deaths in custody commission in Australia, the Social Justice Commissioner's office identified six stages in the process of engagement and implementation for governments. And I submit that the stages of this process are of particular relevance to the Permanent Forum. This approach requires that in accordance with the recommendations and expert advice of the Permanent Forum, the relevant agencies of the United Nations should:

- 1) Review their current activities;
- 2) Develop policies and programs accordingly;
- 3) Set goals or targets (including through negotiation with Indigenous peoples and adequate data collection);
- 4) Allocate responsibility for implementation within the relevant agency;

- 5) Ensure adequate communication and training to supports these responsibilities;
and
- 6) Establish and undertake regular evaluation mechanisms.

I would respectively submit to you that at the centre of the Permanent Forum's role is to engage the various UN agencies in such a process, and to provide a transparent monitoring framework for it.

I would further suggest to you that at least six key areas have emerged during the debates in this inaugural session which the Permanent Forum should include as part of a monitoring framework. These include:

- 1) The integration of a gender perspective into program design and delivery concerning Indigenous peoples – this is something that the Durban Declaration and Programme of Action also calls for;
- 2) Recognition of the high proportion of youth within Indigenous populations and of the high incidence and prevalence of disability, ill health and trauma in Indigenous communities – each of these factors require a distinct focus by relevant UN agencies;
- 3) Focus on the collection and analysis of statistical data ranging from basic disaggregated data on current expenditure patterns of each agency on Indigenous issues, the geographic distribution of such funding and the effectiveness of such expenditure through the development of benchmarking and performance indicators. It also extends to more detailed statistics identifying the comparative needs of Indigenous peoples in different countries – and a most obvious example of this is to be able to identify the prevalence of particular diseases or health conditions that disproportionately affect Indigenous communities;
- 4) Respect for Indigenous people's cultural characteristics, including through the adoption of protective mechanisms;
- 5) Processes guaranteeing the effective participation of Indigenous peoples, including recognition of the right to self-determination and the principle of prior informed consent. This applies across all areas – education, health, economic and social development, mining and so on; and
- 6) Capacity building projects and support for Indigenous governance arrangements.

Mr Chairman, I would like to conclude by offering the Permanent Forum the support of the Australian Human Rights Commission for your work. We wish you well in this vital task and hope that our comments to day are of assistance to you.

Thank you Mr Chairman.