



# AUSTRALIA

UNITED NATIONS  
SUB-COMMISSION ON  
PREVENTION OF DISCRIMINATION  
AND PROTECTION OF MINORITIES.

WORKING GROUP ON INDIGENOUS POPULATIONS

NINTH SESSION

22 JULY - 2 AUGUST 1991

STATEMENT BY MR ROBERT TICKNER, MP  
MINISTER FOR ABORIGINAL AFFAIRS.

31 JULY 1991

GENEVA.

CHECK AGAINST DELIVERY.

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MADAM CHAIRPERSON, DISTINGUISHED MEMBERS OF THE WORKING GROUP, INDIGENOUS PEOPLES AND YOUR REPRESENTATIVES, LADIES AND GENTLEMEN,

MADAM CHAIRPERSON, I WISH ONCE AGAIN TO CONGRATULATE YOU ON BEHALF OF THE AUSTRALIAN GOVERNMENT DELEGATION ON YOUR RE-ELECTION AS CHAIRPERSON-RAPPORTEUR OF THIS WORKING GROUP.

RECENT WELCOME DEVELOPMENTS IN THE HUMAN RIGHTS SITUATION IN EASTERN EUROPE AND HOPEFULLY THE IMMINENT DEMISE OF THE APARTHEID REGIME IN SOUTH AFRICA WILL, TO SOME EXTENT, ENABLE THE INTERNATIONAL COMMUNITY TO DEVOTE ITSELF MORE VIGOROUSLY TO THE HUMAN RIGHTS OF INDIGENOUS PEOPLES.

THE AUSTRALIAN GOVERNMENT WOULD ENCOURAGE ALL GOVERNMENTS - PARTICULARLY THOSE WITH INDIGENOUS PEOPLES WITHIN THEIR BORDERS - AND THE ELECTED REPRESENTATIVES OF THOSE GOVERNMENTS TO PLAY AN ACTIVE ROLE IN THE IMPORTANT TASK OF THIS WORKING GROUP. IT IS AN OBJECTIVE OF THE AUSTRALIAN GOVERNMENT THAT SUBSTANTIAL PROGRESS BE MADE TO FINALISE THE DECLARATION ON THE RIGHTS OF INDIGENOUS PEOPLES BY THE END OF 1993 THE DESIGNATED INTERNATIONAL YEAR OF THE WORLD INDIGENOUS PEOPLES.

FIRST OPTIONAL PROTOCOL TO ICCPR.

MADAM CHAIRPERSON, I AM PLEASED TO ANNOUNCE THAT THE AUSTRALIAN GOVERNMENT HAS AGREED TO ACCESSION TO THE FIRST OPTIONAL PROTOCOL TO THE INTERNATIONAL COVENANT ON CIVIL AND POLITICAL RIGHTS.

AS MEMBERS AND DELEGATES WOULD BE AWARE ACCESSION TO THIS IMPORTANT INTERNATIONAL INSTRUMENT WILL ENABLE APPROACHES BY INDIVIDUAL AUSTRALIAN CITIZENS, INCLUDING AUSTRALIA'S INDIGENOUS PEOPLES, FOR THE FIRST TIME, TO THE UNITED NATIONS HUMAN RIGHTS COMMITTEE.

ACCESSION TO THE PROTOCOL CANNOT BE AN ABSOLUTE OR ULTIMATE DEFENCE TO ALLEGED BREACHES OF INTERNATIONAL HUMAN RIGHTS STANDARDS. THE AUSTRALIAN GOVERNMENT INTENDS BY THIS ACTION, HOWEVER, TO DEMONSTRATE ITS CONTINUED COMMITMENT TO STRIVE FOR THE HIGHEST STANDARDS IN ITS OBSERVANCE OF HUMAN RIGHTS. AS THE AUSTRALIAN MINISTER FOR FOREIGN AFFAIRS AND TRADE, SENATOR GARETH EVANS, HAS STRESSED, HOWEVER, AUSTRALIA CAN APPLY NO LESSER STANDARD TO ITS OWN OBSERVANCE OF HUMAN RIGHTS THAN THAT WHICH WE APPLY TO OTHER COUNTRIES.

ATSIC.

I WISH TO REPORT BRIEFLY ON THE CONSOLIDATION OF THE ABORIGINAL AND TORRES STRAIT ISLANDER COMMISSION ALREADY REFERRED TO BY LOIS O'DONOGHUE, THE CHAIRPERSON OF ATSIC.

I INDICATED TO THE WORKING GROUP LAST YEAR, MADAM CHAIRPERSON, THAT THE ESTABLISHMENT OF THIS COMMISSION IN MARCH 1990 WAS A SIGNIFICANT STEP TOWARD ABORIGINAL SELF-DETERMINATION AND SELF-MANAGEMENT. FOR THE FIRST TIME IN THE ADMINISTRATION OF INDIGENOUS PEOPLE'S AFFAIRS, THE POWER TO ALLOCATE FUNDING AND TO DETERMINE PRIORITIES AT A NATIONAL LEVEL HAS BEEN TAKEN LARGELY OUT OF THE HANDS OF GOVERNMENTS AND GOVERNMENT OFFICIALS AND GIVEN OVER TO THE ELECTED REPRESENTATIVES OF ABORIGINAL AND TORRES STRAIT ISLANDER PEOPLE.

I TAKE THIS OPPORTUNITY, WITH YOUR INDULGENCE, MADAM CHAIRPERSON, TO CONGRATULATE THE COMMISSION ON PURSUING WITH INTEGRITY AND CONVICTION THE JUST CAUSE OF ABORIGINAL AND TORRES STRAIT ISLANDER PEOPLE.

ROYAL COMMISSION INTO ABORIGINAL DEATHS IN CUSTODY.

THE REPORT OF THE ROYAL COMMISSION INTO ABORIGINAL DEATHS IN CUSTODY WAS TABLED IN THE PARLIAMENT IN MAY THIS YEAR.

THIS ROYAL COMMISSION WAS INITIATED JOINTLY BY THE NATIONAL GOVERNMENT TOGETHER WITH THE GOVERNMENTS OF THE AUSTRALIAN STATES AND TERRITORIES IN RESPONSE TO CALLS BY ABORIGINAL AND TORRES STRAIT ISLANDER PEOPLE AND CONCERN IN THE WIDER COMMUNITY ABOUT THE NUMBER OF ABORIGINAL DEATHS IN CUSTODY.

THE ROYAL COMMISSION, MADAM CHAIRPERSON, INVESTIGATED THE DEATHS IN CUSTODY BETWEEN 1980 AND 1989 OF 88 MALE AND 11 FEMALE ABORIGINAL PEOPLE.

THE FINAL REPORT OF THE ROYAL COMMISSION CONSISTS OF 11 SUBSTANTIAL VOLUMES AND INCLUDES 339 SEPARATE RECOMMENDATIONS AIMED AT ADDRESSING - NOT ONLY THE TRAGIC CIRCUMSTANCES OF INDIVIDUAL DEATHS IN CUSTODY - BUT ALL THE MAJOR AREAS IN WHICH ABORIGINAL AND TORRES STRAIT ISLANDER PEOPLE FACE DISCRIMINATION, DISADVANTAGE AND NEGLECT.

THE COMMISSIONERS DID NOT FIND THAT ANY OF THE DEATHS INVESTIGATED WERE THE RESULT OF DELIBERATE UNLAWFUL VIOLENCE OR BRUTALITY BY POLICE OR PRISON OFFICERS AND FOUND THAT THE LARGE NUMBER OF ABORIGINAL DEATHS IN CUSTODY WAS DUE TO THE DISPROPORTIONATE NUMBER OF ABORIGINAL PEOPLE IN PRISON OR POLICE CUSTODY.

I SHOULD STRESS THAT UNDER AUSTRALIAN LAW, ROYAL COMMISSIONS ARE ESSENTIALLY TEMPORARY INVESTIGATORY BODIES. THEY HAVE NO POWER OF THEMSELVES TO PROSECUTE THOSE AGAINST WHOM A FINDING OR WRONGDOING IS MADE. THE ROYAL COMMISSION INTO ABORIGINAL DEATHS IN CUSTODY DID, HOWEVER, RECOMMEND FURTHER INVESTIGATION OF A NUMBER OF CASES TO DETERMINE WHETHER PROSECUTIONS WERE WARRANTED. A NUMBER OF THOSE MATTERS ARE PRESENTLY BEING EXAMINED BY THE RELEVANT PUBLIC PROSECUTING AUTHORITIES.

MADAM CHAIRPERSON, IT HAS BEEN SAID OFTEN ENOUGH IN THE PAST - AND RIGHTLY SO - THAT REPORTS DO NOT CHANGE THINGS : ACTION DOES. AND IN THE CONTEXT OF ABORIGINAL AND TORRES STRAIT ISLANDER AFFAIRS, THERE HAVE BEEN MANY REPORTS AND FAR TOO LITTLE EFFECTIVE ACTION IN THE PAST.

THE AUSTRALIAN GOVERNMENT IS DETERMINED, MADAM CHAIRPERSON, THAT THE ROYAL COMMISSION'S REPORT WILL NOT GATHER DUST IN AN ARCHIVE. WE RECOGNISE THAT THE INTERNATIONAL COMMUNITY WILL SCRUTINIZE ACTION TAKEN ON THE REPORT.

LAST MONTH A JOINT FORUM OF FEDERAL AND STATE MINISTERS WAS CONVENED IN CANBERRA. THE PURPOSE OF THIS FORUM WAS TO DEVELOP A COORDINATED NATIONAL WHOLE-OF-GOVERNMENT RESPONSE TO THE RECOMMENDATIONS OF THE ROYAL COMMISSION BY MARCH NEXT YEAR.

I SHOULD STRESS THAT STATE AND TERRITORY GOVERNMENTS WILL BE JUDGED BY NO LESSER STANDARD THAN THE NATIONAL GOVERNMENT ON THEIR RESPONSE TO THE ROYAL COMMISSION REPORT.

#### RECONCILIATION.

MADAM CHAIRPERSON, I OUTLINED AT LAST YEAR'S SESSION OF THE WORKING GROUP A BROAD PROPOSAL FOR TRANSFORMING RELATIONS BETWEEN AUSTRALIA'S INDIGENOUS PEOPLE AND THE WIDER COMMUNITY.

FOUR MONTHS LATER, A SPECIFIC PROPOSAL TO ESTABLISH A COUNCIL FOR ABORIGINAL RECONCILIATION WAS WIDELY CIRCULATED IN AUSTRALIA. IT HAS MET WITH WIDESPREAD SUPPORT FROM ABORIGINAL AND TORRES STRAIT ISLANDER PEOPLE AND FROM THE WIDER COMMUNITY.

INCLUDED AMONG THE MANY INDIVIDUALS AND GROUPS WHO HAVE EXPRESSED SUPPORT FOR THE PROCESS OF RECONCILIATION ARE THE AUSTRALIAN CHRISTIAN CHURCHES, THE TRADE UNION MOVEMENT, REPRESENTATIVE ORGANISATIONS OF AUSTRALIAN BUSINESS AND FARMERS, AND, MOST IMPORTANTLY, THE ABORIGINAL AND TORRES STRAIT ISLANDER COMMISSION AND MAJOR ABORIGINAL ORGANISATIONS, SEVERAL OF WHICH ARE REPRESENTED AT THIS WORKING GROUP. THE INITIATIVE WAS FURTHER ENDORSED BY THE REPORT OF THE ROYAL COMMISSION INTO ABORIGINAL DEATHS IN CUSTODY WHICH DESCRIBED THE PROCESS AS "THE FUNDAMENTAL BACKDROP TO CHANGE AND REFORM IN ABORIGINAL AFFAIRS".

SIGNIFICANTLY, MADAM CHAIRPERSON, THE PROCESS OF RECONCILIATION HAS ALSO BEEN ENDORSED BY ALL POLITICAL PARTIES REPRESENTED IN THE AUSTRALIAN PARLIAMENT. IT IS ESSENTIAL THAT THIS CROSS-PARTY APPROACH IN ABORIGINAL AFFAIRS IS MAINTAINED TO ENSURE THAT THE PROCESS OF RECONCILIATION CONTINUES WITH UNANIMOUS PARLIAMENTARY SUPPORT.

I AM PLEASED TO INFORM THE WORKING GROUP THAT THE LEGISLATIVE MACHINERY FOR A PROCESS OF RECONCILIATION BETWEEN ABORIGINAL AND NON-ABORIGINAL AUSTRALIANS WILL BE PUT IN PLACE WITH THE PASSAGE THROUGH THE AUSTRALIAN SENATE LATER THIS MONTH OF AN ACT TO ESTABLISH A COUNCIL FOR ABORIGINAL RECONCILIATION. THE LEGISLATION HAS ALREADY PASSED UNANIMOUSLY THROUGH THE HOUSE OF REPRESENTATIVES.

THE COUNCIL WILL BE CHAIRED BY AN ABORIGINAL PERSON AND ITS MEMBERSHIP OF UP TO TWENTY-FIVE WILL HAVE A MAJORITY OF ABORIGINAL AND TORRES STRAIT ISLANDER PEOPLE. ITS NON-ABORIGINAL MEMBERSHIP WILL BE REPRESENTATIVE OF A BROAD CROSS-SECTION OF THE WIDER COMMUNITY AND WILL INCLUDE CHURCHES, TRADE UNIONS, BUSINESS, MEDIA AND OTHER MAJOR SECTIONAL INTERESTS WHO ARE COMMITTED TO THE PROCESS OF RECONCILIATION.

THIS PROCESS AIMS TO TRANSFORM RELATIONS BETWEEN ABORIGINAL AND NON-ABORIGINAL PEOPLE IN AUSTRALIA. ITS PURPOSE IS THREEFOLD:

FIRST, THE PROCESS WILL INITIATE AN ONGOING AND EXTENSIVE PUBLIC AWARENESS AND EDUCATION CAMPAIGN TO CREATE A BETTER UNDERSTANDING IN THE WIDER COMMUNITY OF ABORIGINAL HISTORY, CULTURES, DISPOSSESSION, CONTINUING DISADVANTAGE AND THE NEED TO ADDRESS THAT DISADVANTAGE.



SECONDLY, THE PREAMBLE TO THE LEGISLATION TO ESTABLISH THE COUNCIL FOR ABORIGINAL RECONCILIATION PROVIDES THAT AS A PART OF THE RECONCILIATION PROCESS THE GOVERNMENT OF AUSTRALIA WILL SEEK A COMMITMENT FROM GOVERNMENTS AT ALL LEVELS TO CO-OPERATE AND CO-ORDINATE WITH THE ABORIGINAL AND TORRES STRAIT ISLANDER COMMISSION AS APPROPRIATE TO ADDRESS PROGRESSIVELY ABORIGINAL DISADVANTAGE AND ASPIRATIONS IN RELATION TO LAND, HOUSING, LAW AND JUSTICE, CULTURAL HERITAGE, EDUCATION, EMPLOYMENT, HEALTH, INFRASTRUCTURE, ECONOMIC DEVELOPMENT AND ANY OTHER RELEVANT MATTERS IN THE DECADE LEADING TO THE CENTENARY OF FEDERATION IN THE YEAR 2001.

AS I HAVE STRESSED MANY TIMES BEFORE, THERE CAN BE NO RECONCILIATION WITHOUT JUSTICE.

AND THIRDLY, TO CONSIDER WHETHER RECONCILIATION BETWEEN ABORIGINAL AND NON-ABORIGINAL PEOPLE WOULD BE ADVANCED BY A FORMAL DOCUMENT OR DOCUMENTS. THE FIRST STEP WILL BE TO EMBARK ON EXTENSIVE CONSULTATIONS WITH ABORIGINAL AND TORRES STRAIT ISLANDER PEOPLE BOTH THROUGH THE MECHANISM OF THE ABORIGINAL AND TORRES STRAIT ISLANDER COMMISSION AND THROUGH INDIGENOUS COMMUNITY BASED ORGANISATIONS.

IMPORTANTLY, MADAM CHAIRPERSON, THE AUSTRALIAN GOVERNMENT HAS NOT ASCRIBED ANY NAME TO A DOCUMENT WHICH MAY BE THE OUTCOME OF THIS PROCESS. AS THE REPORT OF THE ROYAL COMMISSION INTO ABORIGINAL DEATHS IN CUSTODY OBSERVED SO APTLY, "WORDS CAN ENLIGHTEN, BUT THEY CAN ALSO IMPOSE THEIR OWN TYRANNY".

MADAM CHAIRPERSON, THE PROCESS OF RECONCILIATION IS FUNDAMENTAL TO AUSTRALIA'S IDENTITY AND ITS PLACE IN THE INTERNATIONAL COMMUNITY. IT WILL SHAPE AUSTRALIA'S FUTURE AND RESHAPE OUR VIEW OF THE PAST. IT WILL DETERMINE TO A LARGE DEGREE THE NATURE OF AUSTRALIAN SOCIETY AT THE CENTENARY OF FEDERATION. IT MUST NOT BE ALLOWED TO FAIL.

I LOOK FORWARD TO CONTINUING REPORTS TO THIS FORUM ON THE PROGRESS OF THIS PROCESS OF RECONCILIATION THROUGHOUT THE COMING DECADE.

#### NATIONAL ABORIGINAL HEALTH STRATEGY.

I REPORTED LAST YEAR ON THE NEED FOR VASTLY IMPROVED MEASURES TO ADDRESS THE POOR HEALTH OF ABORIGINAL AND TORRES STRAIT ISLANDER PEOPLE.

SIMPLE JUSTICE DEMANDED THEN AND STILL DEMANDS THAT THE HEALTH NEEDS OF THE SICKEST AND POOREST AUSTRALIANS BE MET AS A MATTER OF NATIONAL PRIORITY. THIS IS ESPECIALLY SO IN A NATION AS RELATIVELY ECONOMICALLY ADVANTAGED AS AUSTRALIA.

IN DECEMBER 1990, THE AUSTRALIAN GOVERNMENT COMMITTED AN ADDITIONAL AMOUNT OF \$232 MILLION OVER FIVE YEARS TO A NATIONAL ABORIGINAL HEALTH STRATEGY WITH A MAJOR FOCUS ON ADDRESSING INADEQUATE PUBLIC HEALTH MEASURES IN AREAS SUCH AS WATER, SEWERAGE AND HOUSING WHICH ARE THE MAJOR CAUSE OF BAD HEALTH IN THESE COMMUNITIES.

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NEGOTIATIONS BEGAN EARLIER THIS YEAR BETWEEN THE FEDERAL AND STATE GOVERNMENTS WITH A VIEW TO SECURING COMPARABLE LEVELS OF FUNDING FROM THE STATE GOVERNMENTS. THESE NEGOTIATIONS HAVE NOT YET COME TO FRUITION. IT IS ESSENTIAL THAT ALL GOVERNMENTS IN AUSTRALIA - FEDERAL, STATE AND TERRITORY - AGREE TO SUPPORT THIS STRATEGY ACTIVELY WITH A FINANCIAL COMMITMENT IN THE MONTHS AHEAD.

ONE OF THE CORNERSTONES OF THIS STRATEGY - AS I INFORMED THE WORKING GROUP LAST YEAR - IS THE DIRECT INVOLVEMENT OF ABORIGINAL AND TORRES STRAIT ISLANDER PEOPLE IN ITS IMPLEMENTATION. I AM ABLE TO REPORT THAT A NATIONAL COUNCIL OF ABORIGINAL HEALTH WILL FORMALLY BE IN PLACE BY THE END OF THIS YEAR. THE COUNCIL WILL INCLUDE REPRESENTATIVES OF GOVERNMENT, BUT WITH A MAJORITY OF MEMBERS REPRESENTING ABORIGINAL AND TORRES STRAIT ISLANDER COMMUNITIES. THE COUNCIL'S FUNCTIONS WILL INCLUDE THE PROVISION OF EXPERT ADVICE TO GOVERNMENTS ON PRIORITIES IN ABORIGINAL HEALTH.

SKELETAL REMAINS.

ONE ISSUE RELATED TO CULTURAL PROPERTY WHICH THE AUSTRALIAN GOVERNMENT REGARDS AS AN IMPORTANT HUMAN RIGHTS ISSUE IS THE RETURN OF ABORIGINAL SKELETAL REMAINS AND ON THIS ISSUE THERE HAVE BEEN ENCOURAGING DEVELOPMENTS IN SEVERAL QUARTERS.

AT ITS MEETING IN DECEMBER 1990, THE AUSTRALIAN ABORIGINAL AFFAIRS COUNCIL - A STANDING COUNCIL OF FEDERAL, STATE AND TERRITORY MINISTERS FOR ABORIGINAL AFFAIRS - RESOLVED, AMONG OTHER THINGS, THAT THE FOLLOWING INTERIM POLICY BE ADOPTED :

"ABORIGINAL AND TORRES STRAIT ISLANDER PEOPLE SHOULD BE GIVEN RIGHTS OF OWNERSHIP OVER ABORIGINAL SKELETAL REMAINS ... BURIAL ARTEFACTS AND OBJECTS HAVING RELIGIOUS AND CULTURAL SIGNIFICANCE .... WHICH ARE PRESENTLY IN THE POSSESSION OF MUSEUMS, UNIVERSITIES, OTHER RESEARCH CENTRES AND COLLECTING INSTITUTIONS."

A FURTHER REPORT ON THE DEVELOPMENT OF DETAILED POLICY ON THIS ISSUE WILL BE MADE TO A MEETING OF THE AUSTRALIAN ABORIGINAL AFFAIRS COUNCIL LATER THIS YEAR.

AND IN FEBRUARY THIS YEAR, AGREEMENT WAS REACHED WITH THE EDINBURGH UNIVERSITY FOR THE RETURN OF ELEVEN SKULLS MOST OF WHICH WERE REMOVED FROM THE STATE OF TASMANIA IN CIRCUMSTANCES WHICH WERE OFFENSIVE AND CONTEMPTUOUS.

SUBSEQUENTLY, THE UNIVERSITY AGREED TO THE RETURN OF SEVERAL HUNDRED INDIVIDUAL SKELETAL REMAINS - ITS ENTIRE COLLECTION OF ABORIGINAL HUMAN REMAINS FROM AUSTRALIA.

IN RECOGNITION OF THE ROLE PLAYED BY COMMUNITY ORGANISATIONS IN THE CAMPAIGN FOR THE RETURN OF SKELETAL REMAINS, A TASK-FORCE OF STATE AND FEDERAL OFFICIALS ON THE RETURN OF SKELETAL REMAINS ESTABLISHED IN FEBRUARY 1990 HAS BEEN EXPANDED TO INCLUDE REPRESENTATIVES FROM ABORIGINAL COMMUNITIES AND ORGANISATIONS.

IT IS THE HOPE OF THE AUSTRALIAN GOVERNMENT THAT CO-OPERATION BETWEEN THE ABORIGINAL AND TORRES STRAIT ISLANDER COMMISSION AND COMMUNITY ORGANISATIONS WILL ENABLE AN EFFICIENT ALLOCATION OF LIMITED RESOURCES TO THIS IMPORTANT AND SENSITIVE ISSUE.

LAND ISSUES.

FEW IF ANY ISSUES, MADAM CHAIRPERSON, ARE OF SUCH FUNDAMENTAL IMPORTANCE TO THE ASPIRATIONS OF ABORIGINAL PEOPLE AS DISPOSSESSION AND RIGHTS TO LAND.

AS WORKING GROUP MEMBERS WOULD BE AWARE, AUSTRALIA'S FEDERAL SYSTEM MEANS THAT BOTH FEDERAL AND STATE GOVERNMENTS ARE EMPOWERED TO ENACT LEGISLATION FOR THE RETURN OF LAND TO ABORIGINAL AND TORRES STRAIT ISLANDER PEOPLE.

AT THE FEDERAL LEVEL, THE AUSTRALIAN GOVERNMENT ENACTED LEGISLATION IN 1976 FOR THE RETURN OF LAND TO ABORIGINAL COMMUNITIES IN THE NORTHERN TERRITORY. THIS LEGISLATION CONSTITUTES A RECOGNITION BY THE AUSTRALIAN GOVERNMENT OF THE UNIQUE BOND BETWEEN ABORIGINAL PEOPLE AND THEIR LAND.

ATTENDING THIS MEETING OF THE WORKING GROUP AS NON-GOVERNMENT ORGANISATIONS ARE REPRESENTATIVES OF TWO OF THE FOUR LAND COUNCILS ESTABLISHED UNDER THAT LEGISLATION TO ADVOCATE THE CLAIMS OF TRADITIONAL LAND OWNERS IN THE NORTHERN TERRITORY AND TO PERFORM OTHER IMPORTANT FUNCTIONS UNDER THAT ACT OF PARLIAMENT. THE AUSTRALIAN GOVERNMENT REMAINS COMMITTED TO ADDRESSING THE REMAINING UNMET LAND NEEDS OF ABORIGINAL PEOPLE IN THE NORTHERN TERRITORY.

I MUST ALSO REPORT, MADAM CHAIRPERSON, ON THE PASSAGE OF LAND RELATED LEGISLATION IN THE STATE OF QUEENSLAND IN MAY THIS YEAR.

THIS LEGISLATION PROVIDES FOR THE LIMITED TRANSFER OF CERTAIN LAND TO ABORIGINAL AND TORRES STRAIT ISLANDER PEOPLE UNDER A MORE SECURE FORM OF TITLE. ON THE WHOLE, HOWEVER, ABORIGINAL ACCESS TO LAND HAS NOT BEEN IMPROVED TO A DEGREE THAT MANY WOULD CONSIDER DESIRABLE OR, INDEED, NECESSARY TO ADDRESS THE JUST DEMANDS OF ABORIGINAL AND TORRES STRAIT ISLANDER PEOPLE FOR LAND IN THAT STATE.

I HAVE PUBLICLY EXPRESSED THE HOPE, MADAM CHAIRPERSON, THAT THE GOVERNMENT OF QUEENSLAND WILL USE ITS ABORIGINAL AND TORRES STRAIT ISLANDER LAND ACTS AS A BASIS FOR FURTHER LEGISLATION. SUCH LEGISLATION WOULD IDEALLY SET UP A STATUTORY LAND ACQUISITION FUND TO MEET THE LAND NEEDS OF ABORIGINAL PEOPLE DISPLACED FROM THEIR TRADITIONAL LANDS AND THE DESCENDANTS OF THOSE PEOPLE.

MADAM CHAIRPERSON, THE GOVERNMENT OF THE STATE OF TASMANIA ALSO RECENTLY INTRODUCED LEGISLATION IN THE STATE PARLIAMENT FOR THE RIGHTS OF ABORIGINAL PEOPLE TO LAND IN THAT STATE.

UNFORTUNATELY, THE LEGISLATION WAS REJECTED BY THE UPPER HOUSE OF THE STATE PARLIAMENT ON GROUNDS WHICH HAVE CAUSED DEEP CONCERN TO ABORIGINAL PEOPLE IN TASMANIA AND THROUGHOUT AUSTRALIA AND TO ME AS FEDERAL MINISTER FOR ABORIGINAL AFFAIRS.

IT IS MY HOPE THAT THE UPPER HOUSE OF THE TASMANIAN PARLIAMENT WILL AGAIN CONSIDER THIS ISSUE AND SUPPORT THE MODEST REFORMS PROPOSED BY THE TASMANIAN GOVERNMENT.

THIS LEGISLATION IS NECESSARY, MADAM CHAIRPERSON, TO REDRESS THE PARTICULARLY BLOODY AND SHAMEFUL HISTORY OF ABORIGINAL AND NON-ABORIGINAL RELATIONS IN THAT STATE.

HERITAGE ISSUES.

ON ANOTHER ISSUE, MADAM CHAIRPERSON, THE AUSTRALIAN GOVERNMENT ENACTED LEGISLATION IN 1984 WHICH PROVIDES FOR THE PROTECTION OF ABORIGINAL AND TORRES STRAIT ISLANDER CULTURAL HERITAGE. IN SOME CASES, THIS LEGISLATION IS COMPLEMENTARY TO CORRESPONDING STATE LEGISLATION. IT IS THE POLICY OF THE FEDERAL GOVERNMENT THAT ITS LEGISLATION SHOULD BE CALLED INTO PLAY ONLY WHEN ALL AVAILABLE AVENUES UNDER STATE LEGISLATION HAVE BEEN EXHAUSTED OR WHERE STATE LEGISLATION IS UNABLE TO OFFER PROTECTION IN A PARTICULAR CASE.



THE FEDERAL GOVERNMENT IS STRONGLY OF THE VIEW THAT STATE AND TERRITORY LEGISLATION FOR THE PROTECTION OF ABORIGINAL HERITAGE SHOULD BE APPROPRIATE AND BE PROPERLY APPLIED. IN THE LIGHT OF THIS STRONGLY HELD VIEW, MADAM CHAIRPERSON, I WISH TO REPORT TO THE WORKING GROUP ON A HERITAGE ISSUE OF CONCERN TO ABORIGINAL PEOPLE DURING THE COURSE OF THIS YEAR.

IN FEBRUARY THIS YEAR, THE GOVERNMENT OF THE NORTHERN TERRITORY COMMENCED WORK ON A FLOOD MITIGATION DAM NEAR ALICE SPRINGS. THE WORK, IF CARRIED THROUGH, WOULD HAVE DESTROYED OR SUBMERGED A NUMBER OF SACRED SITES, INCLUDING SITES OF PARTICULAR SIGNIFICANCE TO ABORIGINAL WOMEN THROUGHOUT CENTRAL AUSTRALIA.

THE NORTHERN TERRITORY GOVERNMENT HAD OBTAINED FROM ITS OWN ABORIGINAL AREAS PROTECTION AUTHORITY A CERTIFICATE AUTHORISING THE CONSTRUCTION OF THE DAM. AN APPLICATION WAS SUBSEQUENTLY MADE TO ME AS THE FEDERAL MINISTER FOR ABORIGINAL AFFAIRS, HOWEVER, WHICH SOUGHT A DECLARATION FOR TEMPORARY PROTECTION OF THE SITES. THIS TEMPORARY DECLARATION WAS GRANTED BY ME, MADAM CHAIRPERSON, AFTER THE NORTHERN TERRITORY GOVERNMENT REFUSED TO DELAY WORK TO ENABLE FURTHER CONSULTATIONS TO TAKE PLACE WITH THE ABORIGINAL CUSTODIANS OF THE SITES.

DURING THE PERIOD OF THE TEMPORARY DECLARATION, THOSE FURTHER CONSULTATIONS TOOK PLACE, MADAM CHAIRPERSON, WITH THE RESULT THAT THE TERRITORY GOVERNMENT'S PROTECTION AUTHORITY WITHDREW AUTHORISATION FOR CONSTRUCTION OF THE DAM.

AUSTRALIAN GOVERNMENT CONCERN FOR ABORIGINAL CULTURAL HERITAGE WAS AGAIN DEMONSTRATED IN JUNE THIS YEAR WHEN THE GOVERNMENT CONSIDERED A PROPOSAL TO ALLOW MINING TO PROCEED AT CORONATION HILL IN THE NORTHERN TERRITORY, AN AREA OF GREAT CULTURAL AND RELIGIOUS SIGNIFICANCE TO THE TRADITIONAL OWNERS OF THE AREA, THE JAWOYN PEOPLE.

THE AUSTRALIAN GOVERNMENT CONCLUDED THAT MINING WOULD CONSTITUTE A DESECRATION OF JAWOYN RELIGIOUS BELIEFS. THE DECISION, MADAM CHAIRPERSON, SHOULD BE SEEN AS A SIGNIFICANT VICTORY FOR THOSE WHO RESPECT THE RIGHTS OF ABORIGINAL PEOPLE TO MAINTAIN THEIR TRADITIONAL RELIGIOUS BELIEFS AND TO CUSTODIANSHIP OF THEIR SACRED SITES.

#### RACIST VIOLENCE REPORT.

ON A FURTHER ISSUE, MADAM CHAIRPERSON, THE AUSTRALIAN HUMAN RIGHTS AND EQUAL OPPORTUNITY COMMISSION RELEASED A REPORT IN APRIL THIS YEAR ON THE INCIDENCE OF RACIST VIOLENCE IN AUSTRALIA.

BY FAR THE MAJORITY OF VIOLENT RACIST INCIDENTS REPORTED TO THE INQUIRY INVOLVED ABORIGINAL PEOPLE AND, EQUALLY DISTURBINGLY, THE PERPETRATORS OF THE VIOLENCE WERE FREQUENTLY SAID TO BE POLICE OFFICERS.

THE HUMAN RIGHTS COMMISSION RECOGNISED THAT THE INCIDENTS REPORTED TO IT WERE ALLEGATIONS WHICH IN MOST CASES WERE NOT AND COULD NOT BE VERIFIED. ITS CONCLUSION, HOWEVER, WAS THAT THE REPORTS WERE SO NUMEROUS AND SO CONSISTENT AS TO THEIR FACTS THAT THE EXISTENCE OF A HIGH LEVEL OF VIOLENCE AGAINST ABORIGINAL PEOPLE COULD NOT BE DISCOUNTED.

THAT SUCH VIOLENCE HAS IN THE PAST BEEN A FEATURE OF AUSTRALIA'S HISTORY IS SOMETHING NON-INDIGENOUS AUSTRALIANS MUST COME TO TERMS WITH. THAT SUCH VIOLENCE MAY STILL BE A FEATURE OF AUSTRALIAN SOCIETY IS UNACCEPTABLE.

AT ONE LEVEL, SUCH VIOLENCE SHOULD BE TACKLED THROUGH THE VIGOROUS APPLICATION OF EXISTING LAWS AND, WHERE THOSE LAWS AFFORD THE VICTIMS OF RACIST VIOLENCE INSUFFICIENT PROTECTION AND REDRESS, THROUGH THE IMPROVEMENT OF LAW, POLICY AND PRACTICE SO THAT ADEQUATE PROTECTION AND REDRESS ARE AVAILABLE.

MADAM CHAIRPERSON, THE INQUIRY RECOMMENDED A RANGE OF OPTIONS FOR LAW REFORM. MOST SIGNIFICANT AMONG THESE WAS A RECOMMENDATION THAT LEGISLATION BE ENACTED TO CREATE SPECIFIC CRIMINAL OFFENCES OF INCITEMENT TO RACIST HARASSMENT AND RACIST HOSTILITY. THE AUSTRALIAN GOVERNMENT IS PRESENTLY PREPARING A RESPONSE TO THIS AND OTHER RECOMMENDATIONS CONTAINED IN THE REPORT.

OTHER ISSUES IN BRIEF.

I REPORTED LAST YEAR, MADAM CHAIRPERSON, ON PROPOSALS TO DEVELOP A SPACEPORT FACILITY ON CAPE YORK PENINSULA IN THE STATE OF QUEENSLAND.

THE AUSTRALIAN GOVERNMENT'S POSITION WITH REGARD TO THIS PROPOSED DEVELOPMENT IS THAT CERTAIN REQUIREMENTS MUST BE MET BEFORE GOVERNMENT SUPPORT FOR THE DEVELOPMENT COULD BE GIVEN. ONE IMPORTANT REQUIREMENT IS THAT A DEVELOPMENT PLAN BE PREPARED IN RELATION TO THE SPACEPORT WHICH MEETS WITH THE APPROVAL OF THE ABORIGINAL COMMUNITY OF CAPE YORK.

MEMBERS OF THE WORKING GROUP HAVE BEEN MADE AWARE AT PREVIOUS SESSIONS OF THE ISSUE OF BRITISH NUCLEAR WEAPONS TESTING DURING THE 1950s AND 1960s AT MARALINGA IN SOUTH AUSTRALIA.

A ROYAL COMMISSION INTO THOSE NUCLEAR TESTS RECOMMENDED BROADLY THAT COMPENSATION BE AWARDED TO ABORIGINAL PEOPLE WHO SUFFERED PERSONAL INJURIES ARISING OUT OF EXPOSURE TO RADIATION FROM THE TESTS. IT ALSO RECOMMENDED THAT THE ABORIGINAL PEOPLE OF THE MARALINGA REGION BE COMPENSATED FOR LOSS OF THE USE AND ENJOYMENT OF THEIR LANDS AND THAT FUNDS BE MADE AVAILABLE FOR THE REHABILITATION OF THE TESTING AREA.

I AM PLEASED TO REPORT THAT THOSE RECOMMENDATIONS ARE BEING ACTIVELY CONSIDERED BY THE FEDERAL GOVERNMENT AND THAT A DECISION IS EXPECTED BEFORE THE END OF THIS YEAR.

ON ANOTHER MATTER THE AUSTRALIAN GOVERNMENT HAS BEEN ACTIVELY INVOLVED IN THE PREPARATIONS FOR THE UN CONFERENCE ON THE ENVIRONMENT AND DEVELOPMENT SCHEDULED FOR JUNE 1992. MADAM CHAIRPERSON, WE SUPPORT YOUR CALL FOR GREATER INVOLVEMENT OF INDIGENOUS PEOPLE IN THE CONFERENCE. THERE IS MUCH TO LEARN FROM INDIGENOUS PEOPLES ON THE SUSTAINABLE USE OF LAND AND OTHER RESOURCES.

NGO CONSULTATION.

FINALLY, MADAM CHAIRPERSON, YOU WILL RECALL THAT AT LAST YEAR'S SESSION OF THE WORKING GROUP, YOUR DISTINGUISHED COLLEAGUE, PROFESSOR TURK, MADE SOME VERY CONSTRUCTIVE REMARKS ON THE NEED FOR GOVERNMENTS AND INDIGENOUS PEOPLES' ORGANISATIONS TO ENTER AND MAINTAIN DIALOGUE ON THE IMPORTANT WORK CARRIED OUT BY THIS WORKING GROUP.

AS A RESULT OF AN UNDERTAKING I GAVE LAST YEAR IN RESPONSE TO PROFESSOR TURK'S SUGGESTION, A CONSULTATIVE MEETING WAS HELD OVER TWO DAYS IN SYDNEY IN JUNE THIS YEAR.

THE MEETING WAS HOSTED BY THE ABORIGINAL LAW CENTRE AND WAS ATTENDED BY REPRESENTATIVES OF THE NATIONAL ABORIGINAL AND TORRES STRAIT ISLANDER ORGANISATIONS AND BY REPRESENTATIVES OF THE AUSTRALIAN ATTORNEY GENERAL'S AND FOREIGN AFFAIRS DEPARTMENTS, BY OFFICIALS OF THE HUMAN RIGHTS AND EQUAL OPPORTUNITY COMMISSION AND BY OFFICERS AND COMMISSIONERS OF THE ABORIGINAL AND TORRES STRAIT ISLANDER COMMISSION.

THE MEETING CONSISTED OF INFORMAL, WIDE-RANGING AND MUTUALLY FRANK DISCUSSIONS ON A RANGE OF PRINCIPLES. I AM PLEASED TO REPORT, MADAM CHAIRPERSON, THAT THE MEETING WAS SUCCESSFUL IN ITS OBJECTIVES.

I BELIEVE THE AUSTRALIAN GOVERNMENT NOW APPRECIATES TO A GREATER EXTENT THAN WAS PREVIOUSLY POSSIBLE THE ASPIRATIONS OF INDIGENOUS PEOPLE'S ORGANISATIONS FOR THE DRAFT DECLARATION. IT IS MY HOPE, MADAM CHAIRPERSON, THAT IT WILL BE POSSIBLE TO MAINTAIN AND BUILD UPON THE GAINS MADE AT THAT CONSULTATIVE MEETING WITHIN AUSTRALIA. I HOPE ALSO THAT OTHER GOVERNMENTS, WHICH HAVE NOT ALREADY DONE SO, WOULD CONSIDER ENTERING INTO SIMILAR DIALOGUE OVER THE COMING YEAR, TO ADVANCE THE DRAFTING OF THIS IMPORTANT DECLARATION.

CLOSING REMARKS.

(IN CLOSING, MADAM CHAIRPERSON) : THIS WORKING GROUP SERVES AN IMPORTANT FUNCTION BY PROVIDING GOVERNMENTS WITH THE OPPORTUNITY TO ACCOUNT FOR THEIR POLICIES TO THE INTERNATIONAL COMMUNITY. EQUALLY IMPORTANTLY, MADAM CHAIRPERSON, THIS FORUM ENABLES THE INDIGENOUS PEOPLES OF THE WORLD TO PRESENT TO THEIR OWN AND OTHER GOVERNMENTS A CASE FOR JUSTICE WHICH HAS BEEN DENIED IN MANY INSTANCES FOR FAR TOO LONG.

IT WOULD SERVE THE CAUSE OF INDIGENOUS PEOPLES AND THE INTERESTS OF ALL NATIONAL GOVERNMENTS TO PUT IN PLACE A DECLARATION ON THE RIGHTS OF INDIGENOUS PEOPLES AND YOU MAY BE ASSURED, MADAM CHAIRPERSON, OF THE AUSTRALIAN GOVERNMENT'S CONTINUED COMMITMENT TO THIS GOAL.

MADAM CHAIRPERSON, I ALSO OFFER YOU AND YOUR COLLEAGUES THE ASSURANCE THAT THE AUSTRALIAN GOVERNMENT WILL CONTINUE TO BE OPEN AND ACCOUNTABLE IN ITS APPROACH TO THOSE ISSUES WHICH AFFECT THE LIVES OF ABORIGINAL AND TORRES STRAIT ISLANDER PEOPLE.

I THANK YOU FOR THE OPPORTUNITY TO ADDRESS THE WORKING GROUP.