

**United Nations Permanent Forum on Indigenous Issues
Twelfth Session – New York
18-31 May 2013**

**Agenda Item 3: Follow-up to the recommendations of the
Permanent Forum (health, education, culture)**

**Joint Intervention Delivered by Jody Broun on behalf of the National Congress of
Australia's First Peoples**

Thank you Mr/ Madam Chairperson

We begin by acknowledging the traditional owners of this land, the Haudenosaunee, and pay our respects to their Elders and Ancestors.

Before I proceed, the National Congress of Australia's First Peoples (Congress) provide the following recommendations to this agenda item:

Recommendations:

We recommend that the Permanent Forum on Indigenous Issues:

1. Call on all States and UN Agencies to acknowledge the relevance of health, education and culture equity across an Indigenous individual's lifespan and continue to pursue the full implementation of all recommendations made concerning health, education and culture.
2. Call upon the WHO to conduct a global comparative study on Indigenous men's health with a focus on how the social and environmental factors which impact on the physical social and emotional well-being of Indigenous men may be addressed, and integrate the role of healing initiatives and cultural connection.
3. Urge all States to ratify and enact into domestic policy and legislation ILO Convention 169 and the Convention against Discrimination in Education.
4. Urge all States to fulfil their obligations consistent with Articles 39 and 42 of the Declaration on the Rights of Indigenous Peoples to provide financial and technical support to Indigenous peoples to develop and implement comprehensive Indigenous health strategies, and Indigenous education and culture policies that promote self-determination and sustainable development.
5. Urge States that ratify the Nagoya Protocol to develop frameworks that include the *Tkarihwaí:ri Code of Ethical Conduct to Ensure Respect for the Cultural and Intellectual Heritage of Indigenous and Local Communities* and the *Akwé: Kon guidelines* and promote the rightful recognition and respect for

Indigenous Peoples rights with regard to their knowledge's; free, prior and informed consent; integrity; and attribution. The CBD should take steps to make the code and guidelines mandatory for all Parties to the Convention.

6. Call on all States to work in partnership with Indigenous Peoples and UN Agencies to identify the critical gaps in information and data related to Indigenous Peoples right to development including in particular health, education and culture, and develop mechanisms to improve data collection, disaggregation and dissemination.

Mr/Madam Chair

For Indigenous peoples our rights to health, education and culture are intrinsically linked and are relevant across the lifespan. These rights are key pillars fundamental to achieving and exercising self-determination and are critical to achieving sustainable social, cultural, economic and political development outcomes.

Indigenous Peoples rights to health, education and culture as secured within the core human rights treaties are reaffirmed in the Declaration on the Rights of Indigenous Peoples. ILO Convention 169 also provides for the promotion and realisation of Indigenous Peoples legitimate rights to health, education and culture. We encourage those States who are yet to ratify ILO169 to do so as a matter of urgency and enact it into domestic policy and legislative frameworks.

Health

For Indigenous peoples, health means not just physical wellbeing or merely the absence of illness. Health encompasses the social, emotional and cultural wellbeing of the whole community in which an individual is able to achieve their full potential as a human being.

In its analysis of recommendations made, the Permanent Forum notes that issues concerning Indigenous men's health have not been included in any of the Permanent Forums recommendations to date. Given the Permanent Forum has had focussed sessions the health and well-being of women and children, we now call on the Permanent Forum to conduct a study on the physical, social and emotional health and well-being of Indigenous men.

This study will be particularly important in Australia where Aboriginal and Torres Strait Islander men have a life expectancy (67.2 years) of approximately 12 years less than for non-Indigenous males (78.7 years).¹ Also given the on-going effects of

¹ Close the Gap Campaign Steering Committee, *Shadow Report 2013 On Australian governments' progress towards closing the gap in life expectancy between Indigenous and non-Indigenous Australians*, February 2013, available at: https://www.oxfam.org.au/wp-content/uploads/2011/08/ctg_shadow_report_2013.pdf (viewed 2 May 2013). Prior to 2009, the life expectancy gap was estimated in the order of 17 years. See Australian Institute of Health and Welfare and Australian Bureau of Statistics, *The Health and Welfare of Australia's Aboriginal and Torres Strait Islander Peoples 2005*, 2005, p 148. Available online at: www.aihw.gov.au/publicationdetail/?id=6442467754. For more information, see Australian Bureau of Statistics, 3302.0.55.002 – *Discussion Paper: Assessment of Methods for Developing Life Tables for Aboriginal and Torres Strait Islander Australians*. Available online at: www.abs.gov.au/ausstats/abs@.nsf/mf/3302.0.55.002. And Australian Bureau of Statistics, 3302.0.55.003 –

colonisation and more recently the Northern Territory Intervention which has wrongly characterised Aboriginal men generally as perpetrators of child abuse and domestic violence, and the stigmatisation associated with public portrayal of alcohol and substance misuse, the social and emotional well-being and dignity of Aboriginal and Torres Strait Islander men requires specific attention.

In addition to primary and preventative health care, healing initiatives that are personally-focussed and aimed at reconnecting people to their family, community, language, culture and land in order to restore strong cultural identities are critical. Healing initiatives that respond to the often ignored, yet on-going, grief and trauma commonly experienced by colonised peoples are also critical.

In Australia, the National Congress of Australia's First Peoples and the Aboriginal and Torres Strait Islander health leadership have united to ensure greater community control over and involvement in the delivery of health services to Indigenous communities.

The National Health Leadership Forum (NHLF) is a coalition which includes 11 national Aboriginal and Torres Strait Islander peak health organisations. NHLF is working with mainstream health providers and the Australian Government to develop a National Aboriginal and Torres Strait Islander Health Plan which will give effect to the Declaration on the Rights of Indigenous Peoples and a rights based approach to health. It is expected that the Plan will address the structural barriers to achieving the right to health for Aboriginal and Torres Strait Islander people, including by providing an appropriate policy framework for delivering effective Indigenous health outcomes with culture and healing as its centrepiece; improving the accountability, integrity, and cultural literacy of policy makers and mainstream health service providers working with Indigenous communities; increasing the capacity of the community controlled health sector; integrating traditional and cultural models of care; and ensuring the on-going and full participation of Aboriginal and Torres Strait Islander peoples and their representative bodies in all aspects of addressing their health needs.

Considering the impact of justice as a social determinant of health, the NHLF is also calling on the Australian Government to include justice as a specific health target in the development of the National Health Plan. This is particularly important given the over-representation of Aboriginal and Torres Strait Islander people in detention; and the high rates of Aboriginal and Torres Strait Islander people experiencing physical or threatened violence. The reasons for Indigenous over-representation in the justice system involve a complex interplay of historical and contemporary factors and social determinants including access to health, education and culture.

In addition to health outcomes, the second area of review, Education is equally critical to changing this situation.

Experimental Life Tables for Aboriginal and Torres Strait Islander Australians, 2005–2007. Available online at: <http://www.abs.gov.au/ausstats/abs@.nsf/Latestproducts/3302.0.55.003Main%20Features12005%E2%80%932007?opendocument&tabname=Summary&prodno=3302.0.55.003&issue=2005%E2%80%932007&num=&view=>.

Education

Indigenous Peoples value successful lifelong education. We aspire a return to proficiency in our own cultural ways of being, knowing and doing, we also aspire to be equally educated in the formal or Western system in order to successfully participate in the societies in which we choose or have been forced to live.

Three of the six goals under the Australian Governments *Closing the Gap* Framework are related to education. They are to:

- ensure access to early childhood education for all Indigenous four year olds in remote communities by 2013;
- halve the gap in reading, writing and numeracy achievements for children by 2018;
- halve the gap for Indigenous students in Year 12 (or equivalent) attainment rates by 2020.

However, Congress is concerned that with an average rate of only 1% increase per year in the participation of Aboriginal and Torres Strait Islander children over a five year period accessing preschool services, the gap in education outcomes will not be closed in the immediate future. Congress is also concerned about the unacceptable difference in education outcomes between Aboriginal and Torres Strait Islander students and non-Indigenous counterparts. This inequity is substantiated in statistical data which indicates that approximately 60,000 Aboriginal and Torres Strait Islander students are falling below national minimum literacy and numeracy standards.²

As with health, the most productive way to achieve successful educational participation and attainment is to take a positive approach which examines and builds on successful programs and outcomes, acknowledging the cultural determinants which influence the ability for Indigenous peoples to access education.

Congress is in the process of finalising a comprehensive education policy that argues that mainstream educational institutions must be culturally-affirming and suitably equipped to meet the needs of Indigenous students. Indigenous communities must have a strong hand in curriculum design, planning and delivery; there must be a strong presence of Indigenous teachers and school principals, and schools must collaborate with parents, carers, elders and leaders. Better integration of the teaching of Indigenous histories and cultures into educational institutions and curricula, including Indigenous languages, is the cornerstone for a positive strengths-based approach to Indigenous education and therefore governments are also urged to attach importance to building understanding and respect to cultural methods of teaching and learning. Only when this occurs are we likely to begin to close the gap in education outcomes for Indigenous people.

Congress also advocates for the establishment of adult educational institutions including universities that focus on the maintenance, transmission and development of Indigenous cultural knowledge's using Indigenous expertise, concepts and

² H and M Hughes (2012), *Indigenous Education 2012*, Policy Monograph 129, St Leonards: The Centre for Independent Studies, p3.

categories and which include as options, alternative pedagogies, curriculum and assessment techniques.

Indigenous Peoples entitlement to equitable education must be without conditions, encumbrances or suspension of other rights guaranteed by the Universal Declaration of Human Rights and the Declaration of the Rights of Indigenous Peoples. In this regard, the Congress supports the Expert Mechanism on the Rights of Indigenous Peoples Advice No. 1 on the right to Education.³ Critical to this advice is the need for schools and other educational institutions to provide environments in which students are free from prejudice and discrimination, and in which Indigenous cultures are understood honoured and respected. We therefore encourage all States to ratify and give effect to the Convention against Discrimination in Education.

Culture

Mr/Madam Chair

The third area of review is culture. For Indigenous peoples, culture contributes to the social, emotional, and spiritual wellbeing of individuals and communities and it reinforces Indigenous peoples' capacity for self-governance, resilience, and the ability to take advantage of opportunities.

The strong bonds between land, language, ceremony, belief and knowledge systems makes Aboriginal and Torres Strait Islander cultures unique in Australia, and the oldest continuing and evolving cultures in the world.

However, in Australia current laws which regulate both tangible and intangible cultural heritage and rights to lands and territories are frequently inconsistent across jurisdictions, and provide inadequate protection in many circumstances. Such laws require significant reform, preferably through a national process agreed to by all provincial jurisdictions. The Aboriginal and Torres Strait Islander Social Justice Commissioner has also made numerous recommendations in Parliamentary Reports to this effect.

Congress believes that the unique status of Aboriginal and Torres Strait Islander peoples as the First Peoples of Australia should not be regarded simply as a facet of multicultural Australia, but be recognised both through the development of a distinct national Aboriginal and Torres Strait Islander cultural policy, as well as being given specific focus in a national cultural policy. A national cultural policy must be consistent with the Declaration on the Rights of Indigenous Peoples, acknowledging that Aboriginal and Torres Strait Islander peoples have the right of ownership and control over their own cultures in all their forms, and that governments have obligations to take measures to protect the exercise of those rights.

A particular focus of Congress' advocacy on culture is the establishment of a National Aboriginal and Torres Strait Islander Cultural Authority that would protect cultural and intellectual property rights and set standards for appropriate use,

³ Expert Mechanism on the Rights of Indigenous Peoples, *Expert Mechanism Advice No. 1 (2009) on the Rights of Indigenous Peoples to Education*, available at: <http://www.ohchr.org/EN/Issues/IPeoples/EMRIP/Pages/ExpertMechanismDocumentation.aspx> (accessed 29 April 2013).

including royalties, cultural integrity and attribution. This body would promote the negotiated use of tradition-based creativity and innovation, including commercialisation; ensure that prior consent of traditional owners is obtained; and ensure the sharing of benefits derived from the use of Aboriginal and Torres Strait Islander cultural and intellectual property.

Congress notes that in the *Analysis of health, education and culture prepared by the secretariat of the United Nations Permanent Forum on Indigenous Issues*, the CBD secretariat reports that while its mandate includes providing ‘community education, public awareness and capacity-building’, it does not extend to pursuing ‘bilingual and intercultural education in the context of teaching in mother tongue Indigenous languages.’ Indigenous Traditional Biodiversity Related Knowledge (TBRK) is ‘recorded’ and transmitted through Indigenous languages therefore the protection and maintenance of TBRK relies on the maintenance of those languages. Congress believes that the State parties to the CBD through Article 8(j) have an obligation to promote and protect bilingual and intercultural education as a mechanism to protect and preserve TBRK.

Further, the Nagoya Protocol as a supplementary agreement to the CBD, is an important milestone for Indigenous rights, as it is the first time in international treaty law that signatories are expressly obliged to recognise Indigenous law, protocol and procedures. States that ratify the Nagoya Protocol should develop frameworks that include the Tkarihwaïé:ri Code of Ethical Conduct to Ensure Respect for the Cultural and Intellectual Heritage of Indigenous and Local Communities⁴, the Akwé: Kon guidelines⁵, and promote the recognition and respect for Indigenous Peoples rights with regard to their knowledge’s; free, prior and informed consent; integrity and attribution.

Congress also encourages the CBD to take steps to make the Code and Guidelines for the protection of TBRK mandatory for all State parties.

Finally, we highlight the importance of access to and availability of relevant and reliable data to progress all three of these key pillars of self-determination. This data must not only provide a numerical analysis of a particular issue, it must also take into account the historical, cultural, economic and social circumstances of Indigenous peoples.

Thank you

⁴ Secretariat of the Convention on Biological Diversity, *The Tkarihwaïé:ri Code of Ethical Conduct to Ensure Respect for the Cultural and Intellectual Heritage of Indigenous and Local Communities*, available at <http://www.cbd.int/decision/cop/default.shtml?id=12308> (accessed 29 April 2013).

⁵ Secretariat of the Convention on Biological Diversity, *Akwé: Kon Guidelines*, available at: <https://www.cbd.int/doc/publications/akwe-brochure-en.pdf> (accessed 29 April 2013).