

**Permanent Forum on Indigenous Issues
First Session
New York
May 13-24**



**Agenda Item 6
Review of the Activities of the United Nations System
Theme – Human Rights**

Joint statement presented by

Frank Guivarra (NAILSS)

On behalf of:

Aboriginal and Torres Strait Islander Commission (ATSIC)

Torres Strait Regional Authority (TSRA)

Foundation for Aboriginal and Islander Research Action (FAIRA)

National Aboriginal and Islander Legal Services Secretariate Australia (NAILSS)

National Secretariate of Torres Strait Islander Organisations (NSTSIO)

ECONOMIC AND SOCIAL COUNCIL

Permanent Forum on Indigenous Issues

First session

New York, 13 – 24 May 2002.

HUMAN RIGHTS AND INDIGENOUS PEOPLES

Mr Chairman, esteemed members of the Permanent Forum, distinguished representatives of governments, Indigenous brothers and sisters.

This intervention is made on behalf of the following Australian Indigenous organisations:-

- * National Aboriginal and Torres Strait Islander Legal Services Secretariat (NAILSS)
- * Aboriginal and Torres Strait Islander Commission (ATSIC)
- * Foundation for Aboriginal and Islander Research Action (FAIRA)
- * National Secretariat of Torres Strait Islander Organisations (NSTSIO)
- * Torres Strait Regional Authority (TSRA)

Mr Chairman, in 1998, the Sub-Commission on the Promotion and Protection of Human Rights in its document, E/CN.4/Sub.2/1998/17, moved to receive the final report entitled – “Human Rights of Indigenous Peoples” – from the Special Rapporteur on Treaties, Agreements and Other Constructive Arrangements.

In 2001, the Commission on Human Rights in its resolution E/CN.4/Res/2001/57 resolved to appoint a Special Rapporteur on the Situation of Human Rights and Fundamental Freedoms of Indigenous Peoples with the following functions:-

- (a) To gather, request, receive and exchange information and communications from all relevant sources, including governments, Indigenous Peoples themselves, their communities and organisations on violations of their human rights and fundamental freedoms.
- (b) To formulate recommendations and proposals on appropriate measures and activities to prevent and remedy violations of the human rights and fundamental freedoms of Indigenous peoples.
- (c) To work in close relation with other Special Rapporteurs, Special Representatives, Working Groups and Independent Experts of the Commission on Human Rights and of the Sub-Commission on the Promotion and Protection of Human Rights, taking into account the request of the Commission contained in resolution 1993/30.

Mr Chairman, the work of the Commission on Human Rights in respect of the Draft Declaration on the Rights of Indigenous Peoples remains, as yet, wholly unfinished and seems, unless there is a miracle, likely to remain uncompleted before the conclusion of the International Decade of the World's Indigenous Peoples in 2004.

The appointment of the Special Rapporteur on the Situation of Human Rights and Fundamental Freedoms of Indigenous Peoples is a special mechanism for the assistance of the Commission on Human Rights and its subsidiary bodies and can not be seen as the only mechanism for the monitoring and reporting of issues of Human Rights for Indigenous Peoples. Similarly, the mandate of the Permanent Forum for many Indigenous Peoples is far wider than the task of considering and monitoring the issues of Human Rights and the ability of Indigenous Peoples to enjoy Human Rights around the world.

Studies into the protection of biodiversity, the preservation of language and culture, the recording on Indigenous knowledge and histories, the examination of the impact of colonialism and globalisation have yet to be properly undertaken in addition to the consideration of the existence of Human Rights and their availability or lack thereof for Indigenous Peoples. The precedents established by existing Human Rights instruments within the UN system and elsewhere around the globe have yet to be fully recognised by so many member States of the United Nations when attention focuses on the situation of Indigenous Peoples.

Tragically, there are always issues of incompatibility with domestic laws, issues of concerns about sovereignty and issues of technical distinctions between the Human Rights enjoyed by other persons within member states and by Indigenous Peoples within those same member states.

The work of the Permanent Forum is in addition to and certainly not a substitution for the work of the Commission on Human Rights in respect to the examination of the situation of Indigenous Peoples and the Human Rights said to be established for all peoples in the world.

Mr Chairman, many of us have spoken or will speak about the need for the preservation of culture but let me give you an example of the abuse of Australian Aboriginal culture – just walk out of this room and down to the UN gift shop, there you will see some items marked as “Authentic Australian Didgeridoos” which look very much like plastic tubing and are certainly not the genuine article. When I confronted that sales person about this she told me they were for sale to “tourists and children”, adding that the gift shop could not afford to purchase genuine Aboriginal artefacts. If this is not abuse of Aboriginal culture then I don’t know what is.

Thank you Mr Chairman