

Working Group on Indigenous Populations 1999

Agenda item 5

**Joint intervention by Mr Taki Anaru on behalf of the Maori Legal Service
and Ms Tracey Whare on behalf of the Ngatira Lands Trust.
Aotearoa-Te Waipounamu/New Zealand**



Greetings to my indigenous brothers and sisters

Madame Chair, thank you for this opportunity to address the distinguished members of the Working Group.

Madame Chair, we commend you on your working paper on Indigenous Peoples and our relationship to land. It is a painful analysis of the dispossession and subjugation of all Indigenous Peoples and the similar fate that all suffered at the hands of the coloniser. As your reports highlights this process still continues in many countries.

Madame Chair, I regret to report that New Zealand is one of those countries. Whilst my country promotes itself in international fora as it did on Tuesday as a country redressing past grievances, it remains tied to its colonial traditions of domination and control. It has not adapted to the postcolonial era and shows no wish to do so.

The New Zealand government asserts that our grievances relate solely to land. However the dispossession of land is but part of the wider grievance of the process of colonisation. Thus the New Zealand government myopically believes that the land grievances can be 'settled' within the parameters which it shall define. It seeks to delimit grievances and settle them within the current constitutional status quo. This will of course maintain the government's hegemony allowing only that which it may confer on Maori.

Madame Chair, in paragraph 140 of your report we welcome your recommendation that governments in consultation with Indigenous Peoples, should establish fair procedures for taking corrective action when indigenous land has been taken. This would correct the gross inequities in the current process. The land settlement process is controlled and defined by the government. It defines the parameters of the settlement process. It has made it abundantly clear that Tribal Nations will only receive what it thinks is fair and what is politically acceptable.

Madame Chair we also welcome your further recommendation in paragraph 44 calling for the establishment of various bodies and procedures which would allow independent international oversight and scrutiny of the land settlement process. For many years Tribal Nations of Aotearoa/New Zealand have sought to have land grievances placed before international forums. Your recommendation would engender transparency and confidence in the land settlement process. Unfortunately the New Zealand government has already preempted this recommendation in its instructions to its permanent representative on the proposed Permanent Forum for Indigenous Peoples earlier this year.

These instructions stated 'there should be no independent facility for international enforcement of the Treaty of Waitangi'. Maori have been seeking direct enforcement of the Treaty since 1840. One would think that if the New Zealand government was indeed so confident of its settlement process and compliance with the Treaty of Waitangi then it would have no difficulty in being subject to international scrutiny.

Madame Chair, we have grave reservations about one of your recommendations in paragraph 141 that recommends that countries should consider creating a permanent capital fund for the purpose of compensating Indigenous Peoples for the past taking of land and resources. Whilst superficially attractive such a policy is open to abuse as Tribal Nations in Aotearoa have found to their cost. A similar policy in Aotearoa/New Zealand limited compensation to Tribal Nations by fixing a finite figure on the capital fund regardless of the value of the loss suffered by the Tribal Nations concerned. This policy known as the 'Fiscal Envelope' was unilaterally imposed by the New Zealand government in 1995 despite its complete rejection by every single Tribal Nation. Compensation to all Tribal Nations was to be limited to \$500 million US. On Tuesday the New Zealand permanent mission stated half of this amount had already been spent on Treaty settlements. Only 10 claims have been settled from this fund yet there are still over 700 claims outstanding. This policy has created a hierarchy of grievances where all settlements are benchmarked against earlier settlements. Of course the New Zealand government asserts it alone will decide the grievance hierarchy of each settlement. We will in due course provide Madame Chair with information on this policy for inclusion in her final report.

Madame Chair one of the stated outcomes identified by your study was to address ongoing problems relating to indigenous peoples and their land. These have been clearly identified. What it requires now is a change of mind set and political will by governments to adopt postcolonial discourses.