



Expert Mechanism on the Rights of Indigenous Peoples

6th Session Palais des Nations, Geneva 8 – 12th July, 2013.

Follow-up on the role of languages and culture in the promotion and protection of the rights and identity of Indigenous peoples

INTERVENTION by the New South Wales Aboriginal Land Council, delivered by David Lee, Executive Officer.

Thank you Mister Chairman.

The New South Wales Aboriginal Land Council is please to present this intervention on the review of Indigenous languages and culture and we pay our respect to the Elders and Ancestors of these lands and of the world's Indigenous Peoples. The dispossession of land and imposed cultural change has had untold impacts on the social fabric of our nations First Peoples. This dispossession has and continues to be an attack on the cultural fabric that held Aboriginal and Torres Strait Islander Peoples in good stead for over 50,000 years.

In 2012, in keeping with its mandate to provide thematic advice to the United Nations Human Right Council, the Expert Mechanism on the Rights of Indigenous Peoples produced and submitted to the Council its third Study on the role of languages and culture in the promotion and protection of the rights and identity of Indigenous Peoples. Language is an essential part of, and intrinsically linked to, Indigenous peoples' ways of life, culture and identities, and remains a fundamental marker of Indigenous Peoples distinctiveness as peoples.¹

Indigenous Peoples all around the world have long suffered from historic injustices, principally as a result of colonisation and the dispossession of their traditional lands. This has prevented many Indigenous peoples from exercising, in particular, their right to development in accordance with their own needs and interests.² Indigenous peoples have the right to maintain and revitalise, use and develop their histories languages and cultures to future generations.

¹ See Permanent Forum on Indigenous Issues Expert Group Meeting on indigenous languages (2008) and associated submissions and the first International Symposium on the World's Indigenous Languages: Canadian Heritage, *Coming Together in Diversity: The Final Report of the First International Symposium on the World's Indigenous Languages* (Ottawa, Canadian Heritage, 2005), p. 41.

² See, generally, Department of Economic and Social Affairs Division for Social Policy Development Secretariat of the Permanent Forum on Indigenous Issues, *UN Report on the State of the World's Indigenous Peoples (2009)*, UN Doc ST/ESA/328, available at http://www.un.org/esa/socdev/unpfii/documents/SOWIP_web.pdf.

The New South Wales Aboriginal Land Council acknowledges the important work of the Expert Mechanism and the study and the advice and recommendations that is presented to the Council and its member States and we note with special appreciation, among its many important provisions, the affirmation of the key role of indigenous peoples' languages and cultures in the preservation of indigenous identity.

However, we are yet to see any concrete results in response to the extensive work of the Expert Mechanism by the Human Rights Council with regard to in depth discussion, careful review, and specific plans for implementation by member States, in relation to the specific study and its impacts and results.

We acknowledge the work of the Human Rights Council in seeking the views of Indigenous peoples regarding the measures and strategies that they may undertake to attain the goals of the United Nations Declaration on the Rights of Indigenous Peoples within their communities and Nations. Yet there remains significant gaps between the intent of the Declaration and its domestic application.

We note that there remains a continuing of assimilationist policies relating to the loss of Indigenous Peoples cultures and languages, and the negative impacts of discriminatory laws continue to have detrimental effects on Indigenous communities. Recognition and acceptance of Indigenous languages and cultures is essential and should be acknowledged through measures that address the promotion of and protection of languages and culture with adequate participation of Indigenous peoples.

We acknowledge the work of the World Intellectual Property Organisation (WIPO) Intergovernmental Committee (IGC) of Genetic Resources, Intellectual Property and Traditional Knowledge and Folklore in encouraging the development of national strategies for the effective protection of traditional knowledge and traditional cultural expressions.

However, Indigenous peoples remain excluded from these processes and discussions, and therefore, are unable to engage effectively in the decisions that affect them. Robust procedures and mechanisms should be established to ensure Indigenous Peoples are adequately consulted and involved in the maintenance and protection of their cultural practices.

We remind member States, including Australia who supported the 2001 adoption by the 31st UNESCO General Conference of the *Universal Declaration on Cultural Diversity*, which recognises cultural rights, including the right to use one's mother tongue. In the decade since its adoption it remains an important reminder to ensure that past injustices, particularly over territories and resources, are remedied in the future.

We further note that with regards to the Convention on the Protection and Promotion of the Diversity of Cultural Expressions 2005 and the Convention for the Safeguarding of Intangible Cultural Heritage 2003 Australia is yet to ratify these Conventions. We urge Australia and all other member States to do so as a matter of highest priority.

RECOMMENDATIONS

The New South Wales Aboriginal Land Council respectfully makes the following recommendations to the Expert Mechanism on the Rights of Indigenous Peoples to encourage States to ensure the revitalisation and protection of Indigenous languages and cultures for Indigenous nations around the world.

- Urge all States that have not done so to ratify and enact into domestic legislation the Convention on the Protection and Promotion of the Diversity of Cultural Expressions 2005 and the Convention for the Safeguarding of Intangible Cultural Heritage 2003,
- Urge the members of the Expert Mechanism in exercising its mandate to develop in collaboration with the Human Rights Council, more effective methods for the implementation of the advice provided through direct dialogue with the Council, and other UN bodies and agencies with specific relevance to the advice being provided as a result of the studies,
- Encourage the Expert Mechanism Members to renew calls that all States have a duty to ensure the maintenance and revival of Indigenous languages,

Thank you Mister Chairman.