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PERMANENT FORUM ON INDIGENOUS ISSUES
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Agenda Item 6 – Discussion on the Pacific

Collective Statement on Behalf of Indigenous Peoples Organisations of Australia

Madam Chair

With deep regret, we note that the Government of Australia last year voted against the Declaration on the Rights on Indigenous Peoples.

Australia, along with Canada, New Zealand and the United States of America, campaigned against the Declaration and deliberately attempted to prevent a consensus adoption of the Declaration.

We now have a change of government in Australia and have received a clear and unequivocal commitment from the new government to support the Declaration.

Only days ago a national summit held by the government indicated that there may be national support for a treaty or constitutional reform to promote and protect the rights of the Aboriginal Peoples and Torres Strait Islander Peoples.

However the final report derived from this summit is less committed to such an outcome.

As Indigenous Peoples, we have no recognition nor protection of our inherent rights and our human rights under the charter or laws of Australia.

It was not until 1992 that the Mabo Case in the High Court of Australia described our rights to own our lands, territories and resources under the Common Law of Australia, but such rights were legislated from existence in 1998, when the Government of Australia passed the Native Title Act Amendment Act to extinguish these rights under Common Law.

Our presentation is now structured to describe our circumstances in accordance with the rights contained in the Declaration on the Rights of Indigenous Peoples.

General Principles

The Government of Australia does not yet recognise our right of self-determination.

Our right to be free and equal, as peoples, to all other peoples and to be free from any kind of racial discrimination is being denied.

The Committee on the Elimination of Racial Discrimination (CERD) has, since 1998, consistently ruled that Australia is discriminating against our rights to our lands, territories and resources and called upon the government to comply with its obligations under the race treaty.

This situation continues to exist today and the government has made no commitment to end the discrimination.

In addition the government has, since last year, suspended the Racial Discrimination Act in Australia to implement new laws which drastically violate Aboriginal and Torres Strait Islander freedoms contained in the Covenant on Civil and Political Rights and the Covenant on Economic, Social and Cultural Rights.

Thus we speak in this Forum in the United Nations our peoples no longer have universal protection in Australia against racial discrimination, and the Government of Australia sees no shame.

With a few exceptions, such as the land councils of NSW and the Northern Territory, we have no capacity to maintain and strengthen our own political, legal, economic, social and cultural institutions as described in Article 5 of the Declaration.

Life, Integrity and Security

Article 7 says that we have the collective right to live in freedom, peace and security as distinct peoples, to not be subjected to genocide or other act of violence including the forcible removal of our children, and Article 8 states we have the right to be free from forced assimilation, and propaganda and incitement of racial discrimination.

This right is clearly violated by the new laws known as the 'Northern Territory Intervention' and the Queensland 'Family Responsibilities' law.

These laws, less than one year old yet reminiscent of policies one hundred years ago, target remote Aboriginal communities and recreates the reserves environment by, inter alia:

- giving police and 'special task forces' star chamber powers over Aboriginal people,
- controlling incomes of families
- victimising all the targetted people on grounds of race and yet do not apply to non-indigenous Australians

Just two days ago the Premier of Queensland vowed to force communities to re-establish 'normal' family values and behaviour.

"Parents who don't send their children to school, those who abuse or neglect their children and people who trash their homes could have their welfare payments managed... This is a bold experiment – a world first."

Education and Public Identity

Article 14 says we have the right to establish and control our educational systems and institutions providing education in their own languages.

Article 15 says the government should cooperate with the indigenous peoples to combat prejudice and eliminate discrimination and to promote tolerance and good relations, yet we have seen a decade of government abuse and vilification against our peoples in the public media while at the same time the capacity of the Human Rights and Equal Opportunity Commission has been severely reduced.

The new government has given some positive news in its 'National Apology to the Stolen Generation' but still attacks our remote communities to justify the continuing racist laws and policies.

Economic and Social Rights

Our rights to free, prior and informed consent are not recognised in Australia.

In 2006 the government abolished the Aboriginal and Torres Strait Island Commission (ATSIC), a body that was well known to this Permanent Forum and the United Nations generally for its sustained efforts to establish international standards on indigenous rights and the special mechanisms on indigenous issues.

Since the demise of ATSIC the governments at the national and State levels have acted with impunity:

- to withdraw financial assistance to communities,
- to exercise direct control over the management and operations of community organisations, and
- to prevent the advocacy of indigenous rights and human rights generally.

Land and Resources

The Government of Australia continues to deny our rights of ownership of our lands, territories and resources, preventing our own means of subsistence and economic development and to engage in all our traditional and economic activities.

Despite ample evidence of the existence of these rights in Australia we are opposed by governments in establishing our rights over waters, seas and reefs and in the use of the resources in all our territories.

Yesterday the Australian courts overturned an important decision supporting Aboriginal rights to own their lands, territories and resources in a legal action known as the 'Noongar' case, based upon the native title laws created by the government.

The land rights laws in the Northern Territory have been recently changed to weaken traditional communal title over lands.

Our communities are not able to prevent mining on their lands and if mining exists are denied the royalties derived from such mining.

Recent policies of the government, including the policies of the new government, are forcing the breakdown of communal title to create long-term leases for theoretical enterprises and private home ownership.

The enforced changes, without free, prior and informed consent, prevent our peoples from developing more appropriate means to ensure political, social, cultural and economic survival and growth over our future generations.

This effort to create western economic models, whilst preventing ownership and control of our resources, is nothing less than assimilation, and is at the expense of our own culture-based models.

We call upon the Government of Australia to commit to the Declaration on the Rights of Indigenous Peoples and to end all discriminatory and oppressive laws and policies, particularly those that have been derived from the previous government.

We especially expect the government to improve the capacity of our communities to promote and protect our rights immediately so that negotiations for laws, programs and strategies in the new government are derived from our peoples and not an imposed regime of bureaucrats, police and army as we are currently experiencing.

RECOMMENDATIONS

1. We support the recommendations to the PFII of the Pacific Caucus and the Aboriginal and Torres Strait Islander Social Justice Commissioner.
2. We request that the PFII seek a response from the Government of Australia to the matters raised in this and other relevant interventions, and give time as may be appropriate to the government to present those responses during this session.
3. We, the combined indigenous delegations from Australia, invite the Chairperson of the PFII to visit Australia to participate in a meeting arranged by the ATSI Social Justice Commissioner and PFII member Professor Mick Dodson between the Government of Australia and representatives chosen by the Indigenous Peoples Organisation.
4. We recommend the Government of Australia issue open invitations to the UN special mechanisms to visit Australia to examine the situation of the rights and freedoms of the indigenous peoples, and that the government give due and sufficient weight to their recommendations.
5. We recommend the Government of Australia increase the capacity of the Human Rights and Equal Opportunity Commission:
 - a. to promote and protect the rights of indigenous peoples including promotion of the Declaration;
 - b. to address racial discrimination in Australia, including the increased vilification and racial profiling of the Aboriginal and Torres Strait Islander population in mainstream media and government statements.
6. We recommend the Secretariat of the Permanent Forum on Indigenous Issues:
 - a. communicate with the Commonwealth Secretariat requesting that the Commonwealth endorse the Declaration on the Rights of Indigenous Peoples; and
 - b. recommend in the communication that the Commonwealth in association with indigenous peoples in the Commonwealth establish a working group to promote the implementation of the Declaration, consistent with the Plan of Action of the Second Decade of the World's Indigenous Peoples.