

THE SOVEREIGN UNION

The Sovereign Union is a Union of First Nations Peoples in Australia.
It was formed at a meeting on June 12-14, 1999

**WORKING GROUP OF THE COMMISSION ON HUMAN RIGHTS TO
ELABORATE A DRAFT DECLARATION ON THE RIGHTS OF
INDIGENOUS PEOPLES.**

GENEVA.

July 26 - 30, 1999.

Sovereignty

**Statement by MICHAEL ANDERSON for and on behalf of
the EUAHLAYI NYOONGAHBURRAH
and the SOVEREIGN UNION**

Thank you, Madam Chair,

I would like to take the opportunity to thank this forum for giving us a voice.

I wish to change the tactic, at this point in time, and the issues considerably, Madam Chair.

I wish to remind this forum of the right of Peoples to free themselves from the systematic oppression and killings by tyrannical Governments. The United Nations states that:

‘...State practice since the Second World War in fact demonstrates that a right to secession will only arise where a government is quite guilty of gross and systematic abuses of the human rights of a group which could be categorised as a people.’²

I presume that it would therefore follow that, if a State can be proven to be guilty in the above case, that the First Nations Peoples of this State would be in a position and therefore, have the right to assert their sovereignty and exercise their right to self-determination and independence under existing international law.

The Position of the Sovereign Union and the Euahlayi Peoples.

It is my understanding that the birth of the United Nations after the Second World War was couched in the premise for the need to maintain World Peace and Harmonious human relations and in order to achieve this their ambition, established and enshrined a charter stating their purpose and objectives.

During the development of its charter, one must be cognisant of the failure of those responsible at the time to include, in that charter, an Article on the Rights of the Indigenous Peoples.

During the development of the UN Charter, President Woodrow Wilson of the United States of America enunciated a fourteen-point strategy, which was indeed of International political significance. Included in his proposal was a specific Article for the recognition of the rights of the Indigenous Peoples. It said:

‘...require all new States to bind themselves as a condition precedent to their recognition as independent or autonomous States, to accord to all racial or national minorities within their jurisdiction exactly the same treatment and securities, both in law and fact, that is accorded the racial or national majority of their people.’³

It was ultimately rejected as a result of the strenuous opposition of the British delegates. This was caused in turn by the ‘adamant stand’ of the Australian and New Zealand Prime Ministers, who were concerned that the ‘propriety’ of the treatment of their Aboriginal and Maori populations might come under scrutiny.

Our concern for the Sovereign Union, that I represent, and my Nation is that, in their paper, dated November 30 1995, the United Nations Economic and Social Council appears satisfied that First Nations Peoples' concerns are adequately dealt with by Article 1 of the Charter of the United Nations. That is:

'...The development of friendly relations among nations based on respect of the principle of equal rights and self-determination of peoples..'

The United Nations in the 1950's acknowledged that 'self-determination' was a right of all peoples and nations, a right which was eventually set out in common Article 1 of the International Covenant on Civil and Political Rights and the International Covenant on Economic, Social and Cultural Rights;

Why, then, is this Working Group of the Commission of Human Rights to Elaborate a Draft Declaration on the rights of Indigenous Peoples carrying out the vilest of deceit and procrastination?

Are we not Free Peoples of the world, or does the United Nations view Indigenous Peoples as a different and lesser class of Peoples?

Is it not the Charter of the United Nations to insure that Human Rights and Freedoms are extended to all Peoples to be observed and adhered to and consistent with the enunciated Article 1 of the Covenant on Economic, Social and Cultural Rights;

'...All peoples have the right of self-determination by virtue of that right they freely determine their political status and freely pursue their economic, social and cultural development...'

Because of the deceit and procrastination, it is no wonder that the Australian Governments remain defiant of these rights being extended to the Indigenous Peoples and to this extent have enormous difficulties with this and, it seems, the same can be said of other key Nation States involved.

It appears that what has been concluded are rights that are inconsistent with and which do not equate with the United Nations Charter and their respective International Instruments as cited.

To permit the Australian Government's submission to have any legitimacy at all, when they say :

'..Australia considers that self-determination encompasses the continuing right of peoples to decide how they should be governed...'
[Statement by Mr. Bill Barker on Behalf of the Australian Delegation.
Nov. 21, 1995]

is indeed of great concern.

Sovereignty.

I respectfully submit to this conference the question of Indigenous Peoples' Sovereignty and its status in these current considerations.

I need not remind this conference or the United Nations of the International Court of Justice's opinions in the Western Sahara Case and other such cases, nor should I have to remind the UN of the more recent decisions of the European Court of Human Rights, in the matter of *Ceylan v. Turkey*. and others, where it has been upheld that the Sovereign Rights of Indigenous Peoples is both a matter of fact and law.

Is it not essential for the United Nations to end the facade of deceit and announce internationally, the recognition of the Sovereign Rights of the Indigenous Peoples of the world? Would this not be consistent with Article 1 of the UN Charter and consistent with international legal opinions?

This paragraph is directed to all participants. Why do we permit this Working Group of the Human Rights Commission to use racially discriminatory language and strategies to differentiate between our rights as First Nations Peoples and those of the invader societies.

How have past participants to this working group permitted the UN to use racially discriminatory language in the title of the Declaration, that is **Populations** not **Peoples**?

Have we, as free Peoples, bowed to the oppression of the dominant G8 force and the OECD? Are we not proud People? We should walk to them not crawl as beggars. Look them in the eye knowing the future of the planet is in our wisdoms through our teachings and knowledge that are given to us in the Dreamings.

It is incumbent upon all First Nations' participants to this working group to immediately demand the correct recognition of our status as Peoples, not populations.

We echo Ambassador Dr. Ted Moses' statement to the W.G.I.P. of 1993 when he said:

The indigenous peoples ask to be accorded the same rights which the United Nations accords to the other peoples of the world... We ask simply that the United Nations respect its own instruments, its own standards, and its own principles. We ask that it apply these standards universally and indivisibly.

Why do we appear to be negotiating a regime of rights that can only be second class rights to the invaders and colonisers? Do we, as Indigenous Peoples, not have the right to assert our Sovereignty as independent Peoples of the world? If not, why not? Is this not the issue at stake here?

What is the position of the United Nations on the issue of Decolonisation, as it relates to the First Nations Peoples? Surely one would not be incorrect to think that when this covenant was being developed, the issue of the right of the First Nations Peoples was not a feature on the agenda? I ask, if it was an issue, what was the position of the United Nations, or is this not considered important for what is being negotiated here?

Is it not our right to expect that the United Nations' Declaration on the granting of Independence to colonial countries and peoples, also applies as a right for the First Nations Peoples, that is:

'..The subjection of peoples to alien subjugation, domination and exploitation constitutes a denial of fundamental human rights, is contrary to the Charter of the United Nations and is an impediment to the promotion of co-operation and world peace..'

As Sovereign Peoples, we can co-exist, respecting each other's rights and not having to compromise each other's economic, social and cultural integrity.

Do you not think, therefore, that considering the definitions of the rights articulated in the draft declaration, that sovereignty is the issue?

If the United Nations were to recognise the Sovereignty of First Nations Peoples, then, is it not correct to assume that the right of self-determination becomes an automatic right, as guaranteed under the United Nations Charter, or, are we the First Nations Peoples of the world being told by the United Nations, that our rights are secondary to our invaders and these rights are not meant to include First Nations Peoples.

I respectfully submit to this forum, that I consider that the path that has been pursued to date by this forum and others before it establishes that the United Nations are engaged in a racist act. Why? If we as First Nations Peoples need to clearly define our interpretation of the right of self-determination, then I ask why are the dominant invader societies not being asked the same, that is, to define in international law, their definition of the right of self-determination in the same manner?

It is acknowledged that the Draft Declaration is now being considered at the inter-governmental level, which will cause it to be closely scrutinised by those countries whose hold on Sovereignty and Nationhood is delicately balanced in a skeletal framework of uncertainty.

It is no wonder that Government delegations such as Australia would want guarantees from the United Nations that as a condition to engaging in this exercise they do it only on the :

'..basis that the principle of the territorial integrity of States is satisfactorily enshrined Internationally that a reference to self-determination in the draft would not imply a right of secession..'

What view does the United Nations adopt when dealing with the Territorial Integrity of the First Nations Peoples?

In regards to the issue of secession it is my submission that secession is not the correct term when we consider First Nations Peoples. When we consider the rights of First Nations Peoples the contrary exists, that is, we assert the Natural law/lore and Law of the Land. When First Nations People assert our Sovereignty, we are only asserting what is right, a right that always has been and has always continued. Until we choose to cede or relinquish this Sovereignty by way of informed consent through Treaties or through other legal arrangements, Sovereignty continues as both a matter of fact and law.

First Nations Peoples' Customary Lores/Laws.

In their November submission of 1995 by Mr. Bill Barker of the Australian Delegation said that:

‘..we will wish to look closely at the articles dealing with customary law and practices, as this issue presently the subject of Government consideration in Australia..’

In 1998, the Federal Government of Australia announced that it was to review the National Aboriginal Heritage Act. In response to this announcement, the current chairman of ATSIC Mr. Gatjil Djerkurra publicly stated his extreme concern for this, and in this regard, he has reason to be concerned, given the history of Australia Government towards First Nations Peoples' culture and languages.

It suffices to say that currently the First Nations Peoples in Australia are not the owners of their own culture. Ministers of the Federal and or the State Governments are. This ownership of Peoples' culture has been gained through parliamentary legislation. It therefore follows, that the efforts of this forum must be directed at creating a legal method by which First Nations Peoples can be guaranteed ownership of their own respective cultures and traditions, because, Article 27 of the International Covenant on the Civil and Political Rights provides no protection at all for First Nations Peoples of Australia.

Currently, Australian Courts are asserting that they cannot and are not prepared to recognise the existence of two laws. Again, we witness the racist ethnocentric approach to dealing with the natural rights of the First Nations Peoples. Unless the United Nations take immediate and appropriate steps to insure that the pseudo governments of the world implement these rights, then to talk of anything less, is to talk of 'Ethnocide and Genocide'.

Lore/Laws belong to the land. The people belong to the land. To separate the two is to destroy the people of the land, and the land itself.

Identity.

This is an issue that is of extreme importance for First Nations Peoples in Australia given the past history of Government policies of 'Eugenics'. The intended breeding out policies of past Governments in Australia is, indeed, having everlasting affects upon the people and their descendents. This legacy is our nightmare.

The Government policy of taking the children from their Aboriginal families, so as not to have them being influenced by their customs and traditions, and denying them the opportunity to learn their language, was a death blow to those who had personally experienced this. Australia still to this day, pursue the same policy of never permitting the First Nations Peoples of not having the right to choose their '**Identity**'. Australia continues to promote different rights for those persons whom they consider are '**true/real Aborigines**' and those whom they say are '**not the true/real Aborigines**'.

It is most disappointing that this promotion has influenced the minds of some of the so-called leaders in Aboriginal affairs. Moreover, there are several reports, such as the 1975 Royal Commission into the Australian Government Administration, where, Dr. H.C. Coombs argued that it was wrong to have the '**full-Blood**' Aboriginal population being involved in the same National organisations, where policy issues are being decided, because of the influence that may be exerted over them by the more politically sophisticated "half caste" people of the south east of Australia.

Mr. Chairperson, I submit to this Working Group, that the issue of '**Identity**' is for us in Australia a very significant matter, in every way. The recent 1998 amendments that were made to the Native Title Act 1993 have for many First Nations Peoples in Australia made a living beast of this nightmare:

because of the strict and narrow applications created for the registration test for a Native Title claim,

the fact that many First Nations Peoples do not have access to lawyers to assist and to have them explain what is required by the people if they seek to lodge an application under the Native Title Act 1993 as amended in 1998,

no recognition is given to those persons who were forcibly removed from their traditional country under Government policies, and or those who were forcibly removed from their families as children,

if you cannot talk of your country in terms of an ongoing connection through story/ceremony or other in accordance with your culture and tradition, then you can never expect to have you Native Title application registered,

ultimate power of authority and veto is given to anthropologist and other non-indigenous experts. This means for those persons, who fit into this

category, that they become non-entities. No lore/law; No culture; No tradition; No Languages; No Values; No norms, No Dreamings; other than those of the dominant white society. In other words, **'ASSIMILATED'**.
(Mainstreaming)

Culture.

The Australian Government has always stated that there are no impediments for First Nations Peoples to exercise and maintain their culture and traditions. This maybe so for the few, who the Australian Government sees as the **'real Aborigines'**, but not so, for the vast majority of First Nations Peoples.

Mr. Howard, the Prime Minister of Australia, together with other Ministers of his Government falsely mislead the public and the rest of the world into believing that the cultural rights of First Nations Peoples of Australia are well preserved, and are not interfered with. One such false statement that has misled, even the so-called Government appointed Aboriginal leadership, are **'Access'** cultural rights under the amended Native Title Act 1993. The truth is, that in order for any First Nations Peoples to gain an **'Access'** right to traditional and sacred grounds, they must first pass the registration test under the new Native Title Act. Should they fail to pass this test, then they do **not** get a right to access their sacred grounds that maybe on pastoral or other type leases and other properties.

Should they be successful in passing the registration test, then they gain a right of access, until a decision is made by the Federal Court, as to whether they are the traditional owners of this country. Should the Federal Court find that they are not able to satisfy the court that they maintain connection to this land under their customs and traditions (as was/is the case in the Yorta Yorta Native Title claim in Victoria) they loose their right of **'access'** forever.

What then does this mean for those First Nations Peoples who find themselves in this position? It means for them, according to the Native Title Act. 1993 as amended, they are no longer Aborigines, as one knows an Aborigine under our traditional Lore/Law and customs. These people will be cursed into purgatory for the rest of their lives, or to survive by denying their Aboriginal ancestry and becoming a member of the dominant white society in accordance with their laws, customs and beliefs. **'Fully-Assimilated' and, thus, becoming an Australian.**

Declaration V Covenant.

I have raised this issue because of the need to clarify the International legal status of the two, and to distinguish, whether one is lesser than the other, in law.

I submit that a Declaration represents a statement of principles that has the capacity to establish an international doctrine, but a Declaration of stated principles, and/or a doctrine, in itself is not a law.

A Covenant, on the other hand, has the effect of establishing an international law to which the international community are encouraged to observe through legal ratifications, thereby providing the method by which domestic Nation States can bring into their domestic legal systems, such a law and thus giving legal effect domestically.

For my People, the Euahlayi, and the Sovereign Union, a Declaration of Rights does not have the same force in law and it is because of this, we cannot support in any way such a document such as that which is before us here, without first having our sovereignty recognised and respected as a pre-condition.

If this summation is correct, then why is the United Nations Working Group of the Commission of Human Rights engaged in a discriminatory and deceitful act.

We demand that the United Nations immediately announce the recognition of Indigenous Peoples as Free Peoples. By doing this do we not automatically gain the same rights as other sovereign Peoples under the UN Charter and other international instruments of law? This submission demands equal suffrage under international law equivalent to those of other Peoples of the world.

In dealing with the rights of First Nations Peoples, there remains a serious issue outstanding, which is the role of the United Nations in world affairs.

As already discussed, a Declaration represents a grand statement of principles. These principles do not, and are unable, to become international law in the first instance. It is therefore our charge that the UN Working Group of the Human Rights Commission who are to elaborate a draft Declaration on the Rights of Indigenous Peoples, in fact, are perpetrating an extreme act of discrimination, which ensures the protection and territorial integrity of tyrannical and racist governments, whose history reeks of subjugation, repression, oppression and acts of ethnocide and genocide.

To develop a Declaration, that will have no real impact in law, is to give false hope and expectations to Peoples whose lives are full of false hopes and broken promises. We do not want empty promises. We require real and tangible action from the United Nations for our survival as First Nations Peoples.

The Euahlayi Nation and the Sovereign Union call upon the United Nations to end the deceit and procrastination and request the United Nations to make a statement enshrining the recognition of Indigenous Peoples' sovereignty throughout the world. We call upon the United Nations to meet their

responsibilities as peacemakers, so as to ensure real and meaningful harmonious and friendly relations can be achieved between the First Nations Peoples and their invaders. Thereby, ensuring that common Article 1 of the Covenant on Civil and Political Rights and the Covenant on Social, Economic and Cultural rights are truly achieved. Moreover, it is incumbent that the United Nations demand of the invader pseudo-governments to fully respect and observe Article 27 of the Covenant on Civil and Political Rights and to ensure its implementation.

**WE ARE THE FIRST NATIONS PEOPLES AND DEMAND TO BE
RECOGNISED AND RESPECTED AS FREE PEOPLE.**

**Michael Anderson
Convenor
Sovereign Union**