

## 7<sup>th</sup> Session of the United Nations Permanent Forum on Indigenous Issues

### AGENDA ITEM 5 on human rights: dialogue with the Special Rapporteur on the situation of human rights and fundamental freedoms of indigenous people and other special rapporteurs

Intervention of Friends of the Earth International

by Mooka and Kalara United Families within the Wiradjuri Nation, Murray Darling Basin, Central New South Wales, Australia

#### Agenda Item 5 – Human Rights and Implementing Declaration on the Rights of Indigenous Peoples

**Brothers and Sisters** ... One of the greatest human rights abuses in Australia is the denial of our spirituality, the denial of our religious freedom. Ours are the oldest living cultures in the world based on the Law of the Dreaming with song-lines, dreaming tracks, interweaving across the entire continent. Our culture is maintained by synergy - the co-operation of the spirit world with humanity in the process of regeneration. It is our fundamental freedom and responsibility to maintain our connection to Country.

Our spirituality is intricately linked with our lands and waters and denial of access severely impairs our spiritual, mental, social and physical well-being to the degree that our Peoples have some of the worst social indicators in the world. Oppression is a health hazard. Racism is a health hazard. Criminalising our difference is a health hazard.

Access to culturally appropriate health services, education and housing are all important, but will not address the core issues, unless our Peoples have the right to self-determination and the right to spiritual and religious freedom. It is our sacred duty to defend and protect our sacred lands and waters.

Many sacred sites are intricately interwoven with the energy flows of the metals and minerals in our Earth. The so-called 'mineral wealth' is, in reality, part of our Mother, the Earth, who is enduring a desecrating rape. As Aboriginal People we have absolutely no power within the colonial legal system to protect her. We have no right of veto. There is no recognised Aboriginal sovereignty over natural resources. Under the Native Title Act, Traditional Owners can only agree to benefit from the desecration and destruction of our Mother. This is an abuse of our human rights and many of the rights in the Declaration.

In our case at Lake Cowal, Wiradjuri, in central NSW, we were instructed by the National Native Title Tribunal that if we claim the minerals in the earth as part of our inheritance, our native title claim will not pass the Registration Test, will not even get through the first gate. But, in the Federal Court, we are continuing to assert Wiradjuri sovereignty has never been ceded and our case continues.

In New South Wales we have one Act, the *National Parks and Wildlife Act 1974*, which administers both the protection AND destruction of Aboriginal Sites and cultural objects. As a result, developers, miners, only have to 'consult' with Aboriginal representatives, not even Traditional Owners. There is no requirement for 'free, prior and informed *consent*' from Traditional Owners. Then the Director-General signs a Section 90 CONSENT TO DESTROY and another of our sacred areas is destroyed.

## **Brothers and Sisters ...**

We also welcome the appointment of Professor James Anaya to the position of Special Rapporteur, and we support the invitation to the Special Rapporteur to visit the Pacific Region and report upon the situation of the right of self-determination, free prior and informed *consent*, and rights to land, territories and natural resources for Indigenous Peoples and other aspects of the Declaration.

### **When in Australia, we call on the Special Rapporteur to:**

- Examine and report where the Australian Government is operating in breach of its ratification of the UN Convention on the Elimination of all forms of Racial Discrimination;**
- Evaluate Aboriginal claims that ‘sovereignty has never been ceded’;**
- Evaluate the assertion by Indigenous Peoples that their fundamental freedom of spiritual and religious freedom is denied in most areas;**
- Evaluate the importing of the UN Genocide Convention into domestic law and report on the restriction that only the Attorney-General can take a genocide case and if he refuses there is no right of appeal and no obligation to give a reason for refusing;**
- Evaluate the denial of fundamental freedoms by the administration of the Native Title Act 1993, which primarily extinguishes rights to lands and waters, and does not recognize proper land rights;**
- Evaluate the processes needed for the Australian Government to implement the Declaration on the Rights of Indigenous Peoples;**
- Advise of the processes necessary for full and fair reparation for the gross violations of human rights perpetrated against Indigenous Peoples.**
- Evaluate the discriminatory nature of the Australian Constitution, which permits laws to be made for the detriment of Indigenous Peoples.**
- Evaluate the need for the Australian Government to enter into treaty/treaties negotiations with Indigenous Peoples for future peaceful co-existence.**
- Thank you            Neville ‘Chappy’ Williams savelakecowal@yahoo.com