

# **Preparatory Meeting for Pacific Indigenous Peoples on the World Conference on Indigenous Peoples 2014**

**Redfern, Sydney, Australia**

*National Centre for Indigenous Excellence, 180 George Street, Redfern NSW 2016*

**19-21 March 2013**

## **REPORT OF MEETING**

---

### **Introduction**

The Preparatory Meeting for Pacific Indigenous Peoples on the 2014 World Conference on Indigenous Peoples (WCIP 14) (Pacific Meeting) was opened by Lindon Coombes, Chief Executive Officer of the National Congress of Australia's First Peoples (Congress).

The participants were welcomed to Gadigal country by Donna Ingram (Australia), from the Metropolitan Local Aboriginal Land Council.

Ghazali Ohorella (Maluku) and Jody Broun (Australia) were formally elected as Co-Chairs for the Pacific Meeting.

#### **a) World Conference on Indigenous Peoples 2014 and Global Preparatory Conference**

Tracey Castro Whare (Aotearoa) of the Global Coordinating Group (GCG) introduced the agenda item on the World Conference on Indigenous Peoples 2014 and the Global Preparatory Conference 2013.

The United Nations (UN) resolution (A/C.3/65/L.22/Reb.1) designates the WCIP 14 as a High Level Plenary Session of the UN General Assembly (UNGA).

It was noted that preparation activities for Indigenous Peoples are constrained by lack of adequate funding and support by States and the UN. This presents challenges for the full and effective participation of Indigenous Peoples at the WCIP 14. It was further noted that there is some resistance by some States to have the full and effective participation of Indigenous Peoples at the United Nations.

All Indigenous regions of the world have decided to hold preparatory meetings for the WCIP 14, there will be seven regional meetings. In addition the Women and Youth Caucuses will hold their own preparatory meetings, and all these meeting will be followed by a Global Preparatory Meeting in June 2013 to be held at Alta, Norway.

It was emphasised that the Global Indigenous Preparatory meeting in Alta, Norway was called in order to collaborate and create a global Indigenous platform to enable collective lobbying at the United Nations.

It is the aim for outcomes and recommendations of the regional and global meetings to be fed into the WCIP 14 to be held in New York, 22 – 23 September 2014.

## **b) Review of involvement by Indigenous Peoples in the UN System**

A delegate from Australia presented a paper on the review of involvement by Indigenous Peoples in the UN system outlining the history of Indigenous Peoples lobbying for involvement in the UN system. A primary issue for Indigenous Peoples was the failure of States and UN agencies to implement recommendations and resolutions relating to them.

### **Discussion Summary**

A delegate from Australia noted that during the elaboration of the Universal Declaration on Human Rights a proposal to include a reference to Indigenous Peoples by the USA was opposed by Australia, Canada and the UK. A Samoan delegate expressed concern that although most Pacific nations were predominately made up of Indigenous populations they tended to vote with countries like Australia, the USA, New Zealand and Canada in the UN system. One delegate (Fiji) suggested Indigenous Peoples should establish their own 'shadow' governments. A number of delegates from Aotearoa (NZ) said the lack of economic power by Indigenous Peoples in the region was a huge issue and the representation of Indigenous Peoples on UN bodies was also raised.

An Australian delegate suggested Indigenous Peoples should seek greater interaction with the WTO and World Bank.

The following recommendations relating to Indigenous Peoples involvement in the UN system were endorsed by the delegates:

1. That the UN Human Rights Council implements special measures to ensure that Indigenous people with expertise in Indigenous Peoples' rights are appointed to all treaty bodies such as the Human Rights Committee (HRC). It was emphasised that such appointments will provide UN treaty bodies with greater understanding of Indigenous Peoples' rights and how those rights impact upon the monitoring of conventions and treaties.
2. That an independent mechanism be established by the World Trade Organisation, in conjunction with the United Nations Permanent Forum on Indigenous Issues (UNPFII) and the Expert Mechanism on the Rights of Indigenous Peoples (EMRIP), to ensure the recognition and protection of Indigenous Peoples economic and property rights. For example by using compliance with international standards to grant licences for development and mineral extraction programs. Further, this mechanism should have a reporting and complaints system to be adjudicated by the HRC.
3. The UN member State reports for the Universal Periodic Review (UPR) should include mandatory consideration of Indigenous rights as outlined in the Declaration on the Rights of Indigenous Peoples (the Declaration), alongside the Universal Declaration of Human Rights (UNDHR), and the UN Charter.

4. That an audit of the implementation of the Declaration and key recommendations from the following reports be made publically available:
  - i. Member State reports by the Special Rapporteur on the Rights of Indigenous Peoples.
  - ii. Periodic Member State reports, non-governmental organisation (NGO) shadow reports, and UN Committee observation reports regarding non-compliance with the UN international conventions.
  - iii. Reports of the UNPFII and EMRIP.
5. That funds are allocated for the organisation of parallel events, including event that promote Indigenous cultures, to accompany the World Conference on Indigenous Peoples so as to allow for the greatest participation of Indigenous Peoples in the Conference.
6. That the state governments of the Pacific create, in consultation with Indigenous peoples, a Pacific regional human rights system that includes an enforceable instrument on Indigenous peoples' rights, a human rights commission and a human rights court.

**c) The 1<sup>st</sup> and 2<sup>nd</sup> Decade of Indigenous Peoples: What has worked, what is not working, what have we learnt and the way forward**

A delegate from Australia introduced the agenda item on the First and Second International Decade on the World's Indigenous Peoples. It was observed that the resolutions 48/163 and 59/174 adopted by the UNGA during the First and Second International Decade of the World's Indigenous Peoples aimed to strengthen international cooperation for the solution of problems faced by Indigenous Peoples.

It was emphasised that the programs of action for both the decades are not well known. It was further emphasised that the second decade has had a limited impact and it is imperative to identify what outcomes Indigenous Peoples want from the conclusion of the second decade.

A Third International Decade of the World's Indigenous Peoples and Program of Action will be discussed at the WCIP 14. Indigenous Peoples need to identify what priorities should be addressed if a Third Decade is proposed.

The issue of the status of Indigenous participation in the WCIP 14 was raised. A delegate from Aotearoa (NZ) presented on the first and second decades. The delegate identified some important gains, in standard-setting with the adoption of the Declaration on the Rights of Indigenous Peoples; institutional advances within the UN; and international exposure of Indigenous concerns and aspirations. But the delegate identified the central concern that these achievements in the international arena have for the most part not filtered down to the domestic level, which requires greater efforts.

**Discussion Summary**

An Australian delegate expressed the view (supported by a delegate from Fiji) that Indigenous Peoples may find themselves compromised by engaging with UN processes particularly when it came to asserting Indigenous sovereignty. Indigenous Peoples need to stop depending on governments and assert their independence. A delegate from Aotearoa (NZ) opined that perhaps Indigenous Peoples should organise their own world conference and not participate in the UN conference. Another said that there were differences and diversity of views but it should be remembered Indigenous Peoples have a lot in common including a shared history of repression and abuse and so should try to work together. A delegate from Papua New Guinea (PNG) raised the issue of the conduct of extractive industries in the region and particularly in his country.

If a Third International Decade of the World's Indigenous Peoples is adopted this meeting endorses the following recommendations:

1. That a UN High Commissioner on the Rights of Indigenous Peoples is established to offer the best expertise and support to the different human rights monitoring mechanisms in the UN system in relation to Indigenous Peoples.

#### **d) Organisation of the WCIP 14**

John Henriksen a member of the GCG for the WCIP 14 presented on the background of the regional preparatory meetings and the organisation of the WCIP 14.

For the Global Indigenous Preparatory Conference 2013 in Alta Norway, there will be 57 delegate positions from each region and up to 400 observers. Of the 57 funding is available for 34. The appointment of official Indigenous delegates to the conference will need to be decided.

#### **Discussion Summary**

The participation of Indigenous delegates at the WCIP 14 in New York as non-State entities was discussed. The Pacific Meeting supports the resolution that Indigenous Peoples will be accredited for the WCIP 14 in the same way the UNPFII register delegates.

A number of delegates (Fiji and Australia) expressed the view that Indigenous Peoples participation at international meetings is too controlled under funding agreements by governments and international bodies such as the UN, the European Union and the World Council of Churches. This is inconsistent with the principles of sovereignty and self-determination.

The following is the decision endorsed by the meeting with respect to the drafting meeting in Madrid 6 & 7 May 2013. That Mr Mick Dodson (Australia) and Ms Mililani Trask (Hawaii) attend on behalf of the Pacific region. Mr Bill Hamilton (Aotearoa) and Ms Boni Robertson (Australia) will be the back up Pacific representatives.

Delegates for the Alta Meeting, for the purpose of the Alta meeting only, will be nominated according to five agreed Pacific sub-regions. Nominations are to be transmitted to the Co-Chair of this meeting Mr Ghazali Ohorella by 20 April 2013, he will in turn convey the names to the Sami Parliament in Norway.

It was agreed delegates to the Alta meeting would be selected in accordance with the following selection criteria:

- a. Essential criteria for the sub-region delegate nominations:
  - i. Must be Indigenous
  - ii. Available to travel to the meeting
  - iii. Can obtain visa
  - iv. Over 18 years of age
  - v. Supported by or represent an Indigenous organisation or Indigenous Peoples nation/clan/group
  - vi. Experience at the United Nations
  - vii. Ability to draft recommendations
  - viii. Some experience in lobbying
  - ix. The delegate must not be a government employee
  
- b. Desirable criteria for the sub-region delegate nominations:
  - i. Expertise in a particular area
  - ii. Proven track record of working under pressure
  - iii. Proven experience working in large teams
  - iv. Ability to use Microsoft word, including track and change
  - v. Established relationships with representatives of the seven socio-cultural regional groupings (Indigenous Peoples regions) of Africa, Asia, Central America, Eastern Europe, South America, the Arctic and the Pacific
  - vi. Established relationships with the Global Coordinating Committee (GCG) members
  - vii. Established relationships with representatives from Global Indigenous Caucus and/or Global Indigenous Women's Caucus and/or Global Indigenous Youth Caucus
  
- c. Criteria to be considered by each sub-region when nominating Delegates:
  - i. Inclusion of Youth (Emerging Leaders)
  - ii. Inclusion of Elders
  - iii. Inclusion of Women
  - iv. Geographic distribution
  - v. Balance of organisational and/or nation/clan/group representation
  - vi. Continuity across all meetings and positions
  - vii. Back up representatives for all meetings and positions

#### **e) Health**

A delegate from Australia presented on health equality. The diversity between Indigenous Peoples in remote, rural and urban areas was emphasised.

It was noted that there are differences between Indigenous Peoples' cultural law and traditions. Health and wellbeing should be addressed from an Indigenous perspective. Health indicators should include social wellbeing and environmental wellbeing not just economic indicators.

## **Discussion Summary**

It was emphasized that barriers to Indigenous health equality include a lack of knowledge about Indigenous Peoples by States and corporate sectors, ignorance or arrogance towards Indigenous cultures, insufficient resourcing and community consultation and a lack of clarity around measuring holistic notions of Indigenous health and wellbeing.

Insufficient resourcing is stifling the advancement of Indigenous health and community controlled health care is essential to the delivery of primary health care. Consistent with Articles 23 and 24 of the Declaration regarding Indigenous access and control of their health services and standards of effective health care, States have an obligation to progress as expeditiously and effectively as possible towards health equality for Indigenous Peoples.

It was noted that measures to promote health equality for Indigenous Peoples must be consistent with the rights, principles and standards contained in the Declaration. In particular the right to Community Control in health is fundamental to achieving health equity. Australia's model of Aboriginal community controlled health is one model that should be considered at the WCIP 14 to share with other nation States. In addition the unique collaboration of Cuba with Pacific Island nations beginning in East Timor in 2003, Kirribas, the Solomon Islands, Nauru and others in the area of medical education and public health must be held up as a model of excellence for all Indigenous Peoples.

Consistent with the right of self-determination, control by Indigenous communities is crucial to ensuring appropriate and accessible health services for Indigenous communities. In order to ensure the meaningful and effective participation of Indigenous communities:

- i. in recognition of the authority and expertise of Indigenous Peoples and their representative organisations, Indigenous Peoples must be involved in all aspects of the design, implementation and evaluation of the national action plan;
- ii. the capacity of community controlled organisations must be improved and expanded, including through the training and retention of local Indigenous people in the health care system, in order to build community ownership and confidence and to ensure cultural competence of services; and
- iii. mainstream providers of health services must work collaboratively with Indigenous communities and organisations.

The following recommendations on health were endorsed by the meeting:

1. States must adopt a clear, concrete and long-term national plan of action to achieve Indigenous health equality that:
  - i. comprises a detailed plan for the full realisation of the right to health;
  - ii. is adequately funded on a long-term basis to meet the complex and multiple determinants of health, including long term funding to ensure the meaningful and effective participation of Indigenous communities and their representative organisations; and
  - iii. includes Indigenous Peoples and representative organisations in all aspects and stages of the action plan.
2. States in adopting measures to promote Indigenous health equality must adopt a broad and holistic definition of health, which:
  - i. encompasses the social, economic, political and cultural determinants of health;
  - ii. has a collective dimension; and
  - iii. recognises the ongoing impacts of colonisation; and past and present government policies and practices on the health of Indigenous Peoples, and;
  - iv. are consistent with a rights-based approach to health as outlined in the Declaration, Article 12 of the International Covenant on Economic, Social and Cultural Rights (ICESCR) and General Comment 14 of the Committee on Economic, Social and Cultural Rights.
3. States must enshrine the right to health in domestic law and regulation to ensure its justiciability and that effective protection and redress are guaranteed for Indigenous Peoples (for example regulation of health professionals to demonstrate cultural competence in Aotearoa). Consistent with Article 2 of ICESCR, legal protection must also include the right of non-discrimination as an essential measure to address institutional and systemic racism and to ensure health equality for Indigenous Peoples.
4. Health services for Indigenous Peoples must be delivered by States in a comprehensive, integrated and culturally appropriate way, which recognises the diverse range of determinants of Indigenous health and includes linkages with all other government initiatives that impact on the social and cultural determinants of Indigenous health.
5. States must ensure that community education and awareness programs around health promotion and primary prevention are designed in consultation with Indigenous communities to ensure that they are relevant and appropriate and are central to promoting health equality and the delivery of these activities should be a part of the funded core business of health service providers.
6. Consistent with the principle of 'progressive realisation' contained in the ICESCR States must maintain:
  - i. effective accountability and monitoring processes and must be established and maintained with the involvement and the participation of Indigenous Peoples and their representative organisations; and
  - ii. success must not be equated by merely enhancing access, but rather real and measurable health improvements.

7. The disproportionate prevalence in Indigenous populations of preventable diseases such as suicide, HIV, Malaria, Trachoma (WHO priorities), Tuberculosis, chronic ear infections and Bronchiectasis, should be a focus of the WCIP 14 within its health agenda.
8. That the UN encourage and supports States to develop and implement a genuine progress index/indicator as a true means of measuring wellbeing of their citizens, including Indigenous Peoples, as aligned with the UN Charter and International Treaties.
9. That high rates of suicides (particularly youth) and incarceration in Indigenous communities is highlighted as an extraordinary crisis and is considered a high priority for health policies and interventions both in terms of prevention and post traumatic events across families and communities.
10. That the WHO conducts a global study into suicide amongst Indigenous populations including through aggregated and standardised methods of data collection.
11. That the WHO acknowledges that there is no perfect way to treat disease and that western medicine is suitable to resolve some health issues, whilst traditional medicine is more suited for others.
12. That in accordance with Article 3 of the Declaration the WHO promotes the efforts of collaborative approaches in the resolution of disease and the service delivery of medicine and practitioners by equally respecting the professions of traditional medicine, culture and practices across all policies and practices of UN agencies.
13. In partnership with Indigenous Peoples, that states improve the efficacy of data collections on Indigenous People to ensure transparency and accountability; and that further development work is explored to adopt methodologies that best inform life expectancy before life expectancy estimates are published.

#### **f) Justice**

Delegates from Australia presented on a criminal justice focus. The criminal justice system is not just about incarceration. There are poor justice outcomes across all key indicators measuring contact with the justice system. There are clear links between child protection, youth in juvenile detention, and adults in prison.

Comment was made about the disproportionate impact of a tough on crime approach to justice on Indigenous Peoples and the need to move from 'tough on crime' to 'smart on crime'.

The consideration of justice should primarily focus on programs such as Justice Reinvestment, which divert resources towards prevention, early intervention and



diversion in the highest risk and vulnerable communities, which are often Indigenous communities.

The international community has a responsibility to hold States accountable. The UN needs to consider avenues that enforce compliance of member States with international protocols, including potential expulsion.

### **Discussion Summary**

A delegate from Australia presented on access to justice for Indigenous Peoples, noting the study conducted by the Expert Mechanism on the Rights of Indigenous Peoples and the truth and reconciliation process. The delegate noted that there is a diversity of issues across all key indicators within the justice system that are much broader than incarceration alone. There are also linkages with other areas such as child protection and education that must be considered. Colonialism and dispossession are seen to be significant drivers of poor justice outcomes for Indigenous Peoples.

It is difficult to secure a commitment from Governments to address Indigenous Peoples' concerns about the criminal justice system because of populist 'tough on crime' approaches, a lack of political leadership and blame shifting between different levels of government.

In response to the presentation, delegates discussed the need to consider avenues to enforce compliance of member states with international protocols, including expulsion for acting against international standards. Also discussed were the deplorable conditions that Indigenous Peoples live under while in prison and the place of Customary Law and Indigenous concepts of justice in the 21<sup>st</sup> Century.

The following recommendations on justice were endorsed by the meeting:

1. That States must develop processes to ensure that both provisional and national laws, policies and procedures comply with international standards including human rights treaties and the Declaration.
2. That States and the UN develop processes which include access to remedies to hold transnational corporations to account for breaches of Indigenous Peoples collective and individual rights.
3. That States develop processes to increase Indigenous engagement and participation in justice systems including as lawyers, judges and support staff.
4. That States ensure that people incarcerated are granted their right to vote.
5. That the UN conduct a global study into the incarceration and overrepresentation of Indigenous Peoples in justice systems, including through aggregated and standardized methodologies of data collection.

6. That States review and consider the benefits of Indigenous customary laws and/or justice systems being better incorporated into their justice systems.
7. That States acknowledge that international law upholds the rights of colonial nations' justice systems, to the detriment of Indigenous justice systems. States should consider integrating traditional systems of justice into national legislation in conformity with international human rights law and international standards of justice.
8. That the UN establishes an international monitoring body to monitor the progress of member nations regarding justice for Indigenous Peoples.
9. That States support Indigenous Peoples to develop programs for specific groups including Indigenous men, women, young people and Indigenous communities to collectively improve access to justice.
10. That States develop in conjunction with Indigenous Peoples just and fair procedures for the resolution of conflicts and disputes between Indigenous Peoples and the State.
11. That States take a strategic approach to crime and justice with Indigenous Peoples that is informed by standardised data collection and focused on prevention and diversion as well as protection and rehabilitation; and that States consider the adoption of Justice Reinvestment as a way of reducing incarceration of Indigenous Peoples.
12. That States provide financial and technical support for Indigenous organisations to:
  - i. provide legal services, including community legal education and policy and law reform advice;
  - ii. ensure that non-Indigenous bodies and service providers respond appropriately to Indigenous justice needs; and
  - iii. inform and assist Indigenous people regarding national and international legislation on human rights and fundamental freedoms, to carry out activities for protecting those rights and freedoms and to promote the capacity-building and participation of Indigenous Peoples.
13. States should review national laws to eliminate discriminatory provisions with the full and effective participation of Indigenous experts to ensure equality and non-discrimination.
14. Where it is not already the case, that national constitutions should be amended to appropriately recognise the unique status of Indigenous Peoples as First Peoples.
15. That an evaluation of national mechanisms on human rights and Indigenous Peoples' rights, such as ministries of tribal affairs, commissions on Indigenous Peoples and human rights commissions, should be undertaken by the UN to identify strengths and weaknesses in promoting and protecting Indigenous

Peoples' rights that shall form the basis for reforming such bodies.

16. States are encouraged to further develop national laws for the protection and promotion of human rights, including means of monitoring and guaranteeing those rights. Consideration should be given by States that have not yet done so for the ratification of International Labour Organization Convention 169 (ILO 169) and strengthening mechanisms to monitor the implementation of the Convention.
17. The UPR review of States should include special provision to examine the situation of the Indigenous Peoples in any State or Territory particularly regarding the collective human rights as set out in the Declaration, and that States be reviewed in the UPR process to ensure that recommendations have been adequately addressed in reasonable time since the recommendations were first proposed.

#### **g) Violence Against Women**

This agenda item was introduced by a delegate from Australia who advised that a Declaration of the Indigenous Women of CSW57 on Violence Against Women had been developed (and presented) to the 57<sup>th</sup> Session on the Commission on the Status of Women (CSW 57).

In any form, violence and abuse profoundly affect the health and well-being of both the individual and collective groups who are subjected to it. The forms of violence are also diverse and include physical, sexual, emotional, spiritual, cultural, financial, verbal and neglect.

It is a welcome development that the UN system is finally taking notice of the issue of violence against Indigenous women not only through the priority theme for CSW 57 but also via an Expert Group Meeting conducted in 2012 by the UNPFII. It is of note that several UN Reports make clear that the intersecting forms of inequality and discrimination experienced by virtue of their gender, age and Indigenous status, highlights their vulnerability to multiple forms of violence.

Furthermore, it was noted that it is not only Indigenous women and children who suffer violence at disproportionate rates, it is also our men. Indigenous Peoples generally experience discrimination and exclusion in all areas of social, economic, cultural and political life and also tend to be the poorest in their respective countries, and this makes all Indigenous Peoples vulnerable to violence.

Another growing concern for Indigenous Peoples is lateral violence, which is displaced violence directed against one's peers. It is turning on each other, and blaming our own leaders and organisations for the situation of oppression we find ourselves in.

Cyber violence and bullying, including vilification and defamation, particularly on social media but also in mainstream media is another area of growing violence against Indigenous Peoples.

Other forms of violence to consider are parental violence, self-harm, suicide and drug and alcohol abuse.

Many Indigenous communities experience dysfunctional family systems directly because of the loss of culture, family structure and law. Violence, abuse, drug dependency and other dysfunctional processes are clear factors.

### **Discussion Summary**

Delegates endorsed the views expressed by Indigenous participants in CSW 57 on the need to use culture as a preventative measure against violence. Delegates also discussed whether the National Action Plans for the elimination of violence against women used in Australia could be adapted for other Indigenous Peoples in the Pacific Region.

The following recommendations on violence against women were endorsed by the meeting:

1. States acknowledge publicly, in discourse, across policy, programs and through education that, as a result of the violence inflicted upon Indigenous Peoples through the process of colonisation and acculturation that this violence itself has been internalised in Indigenous family systems and has become a disease to which we have been forcibly afflicted. It must now be viewed as a familial and community disease to be treated holistically in partnership with Indigenous Peoples themselves, and in accordance with the principles of the Declaration, in particular Article 3 self-determination.
2. That UN agencies expand the discourse of violence against women and include one of violence against Indigenous Peoples.
3. Member States increase funding for community-led violence prevention initiatives in urban, rural and remote areas including the recruitment and training of Indigenous service providers and frontline workers; shelters; and culturally appropriate crisis and counselling services in indigenous languages.
4. States work with Indigenous communities to design education and public awareness campaigns specific to those communities and to allocate sufficient funds for this work in accordance with article 22 (2) of the Declaration.
5. All actors work to improve the coordination of services and resources and increase cooperation and jointly coordinate services and programmes for victims of violence and abuse.
6. In order to empower victims of trafficking, States and the UN system need to factor into their assistance programmes the language and cultural backgrounds of Indigenous women and girls, make concerted efforts to prevent discrimination based on ethnicity and pay particular attention to restoring and building the self-esteem of those persons affected.

7. The UN system, programmes and funds that focus on combating the trafficking of human beings pay particular attention to support the identities of the victim, including their identities as Indigenous Peoples.
8. That States consider the adoption of national targets (such as in the Close the Gap framework in Australia) aimed at reducing the hospitalisation of Indigenous Peoples as a result of assault.
9. That States increase the funding for Indigenous specific legal aid for both Indigenous men and women, especially in regards to criminal injuries compensation and access to victim support – and for that to cover urban, regional and remote areas.
10. That States develop and fund programs to prevent and eliminate violence against Indigenous Elders and develop programs to provide adequate protection, respect and support for Indigenous Elders.
11. That States ensure that educational programs be made available to all people, including Indigenous Peoples and that it is noted that Indigenous children and youth who are not in school are more susceptible to violence. Particularly focusing on healing, awareness raising and prevention for Indigenous men.
12. That States provide programs for Indigenous men on healing, awareness raising and prevention.

#### **h) Self-Determination, Decision Making and Free, Prior and Informed Consent**

The agenda item was introduced by a delegate from West Papua. Colonial occupation in the Pacific has brought much suffering to Indigenous Peoples. While some Indigenous Peoples have achieved the establishment of their own states and governments (even if influenced by colonial powers) New Caledonia, Kanaky, Meluku, West Papua and Bougainville are still struggling to achieve independence.

It was noted that there is a failure of states to ensure Indigenous participation in decision-making, yet States still claim they have consulted with Indigenous Peoples. Indigenous Peoples in West Papua and Meluku are promoting dialogue with the Indonesian government regarding self-determination and emphasised the issues of ongoing occupation and colonisation.

A delegate from New Caledonia noted that the State had put in place a process of decolonisation however it is important for Indigenous Peoples to develop their own position on self-determination.

Indigenous people must articulate what their decision-making processes are so that the meaning of free, prior and informed consent is explicit in order that states can properly adhere to it.

## **Discussion Summary**

A delegate from New Caledonia advised the meeting that the first Indigenous caucus on self-determination in Kanaky was held in 2012. Another delegate from New Caledonia advised that a referendum on independence will be conducted in 2014. Concern was felt that some Kanak would be disenfranchised and unable to vote particularly those in prison. A Fijian delegate expressed concern about the high levels of incarceration of Indigenous People across the region.

A delegate from Aotearoa (NZ) said that state in the region had insisted Indigenous Peoples organised through group representation in order to seek redress for the impacts of colonialism but these organisations did not always act in the best interests of their Indigenous constituents.

The following recommendations on Self-Determination were endorsed by the meeting:

1. That States must be accountable for implementation of the Declaration. The UNGA should recommend States to commit to engaging in formal dialogue with Indigenous Peoples, and their National Human Rights Institutions, to design and develop a National Strategy to give full effect to the Declaration.
2. That States must fully respect the self-determination of Indigenous Peoples of the Pacific, including through formal decolonization processes for those Pacific Indigenous Peoples that seek it.
3. That the UN remind States that when State decision-making powers or authority is delegated to sub-national political levels, including governmental bodies, such bodies must also comply with State obligations concerning the protection and promotion of Indigenous Peoples Rights.
4. That the UN support the development and implementation of a South Pacific Independent Peoples Economic Union (SPIPEU) to develop a strategy for economic survival of Indigenous Peoples, and request that Samoa host the first meeting of the SPIPEU in 2015.

### **i) Lands, territories and resources**

The agenda item was introduced by delegates from Samoa and Australia. The delegate from Samoa presented on lands, territories and resources with a focus on the land reforms discourse in Samoa. The delegate emphasised the impact on mobilising customary lands for private development and foreign investment without adequate consultation or consideration of Indigenous Peoples governance.

## **Discussion Summary**

A delegate from Australia suggested that Indigenous Peoples rights to lands, territories and resources under the Declaration and ownership of genetic resources under the Nagoya Protocol must be asserted clearly at the WCIP 14. The right to

self-determination must be articulated as a right to develop and the right to economic development as the right to choose. A delegate from Aotearoa (NZ) emphasised the importance of Indigenous Cultural and Intellectual Property and suggested the inclusion of the Tapuwa Declaration and letter of support (WAI262) in the materials for the WCIP 14. Delegates from Australia and PNG noted that more emphasis must be placed on member states to amend legislation to be consistent with the Declaration.

Delegates agreed that economic development does not necessarily result in the destruction of culture and that Indigenous Peoples must exercise free, prior and informed consent on a case-by-case basis. The key pillars of free, prior and informed consent are that Indigenous Peoples have the right to say no, to decide to participate in land development and to participate in good faith negotiations. A delegate from Australia referred to the Njamal Indicia in *WA v Taylor 1966* and the proposed amendments to section 31A of the *Native Title Act 1993* (Cth) and the Aboriginal and Torres Strait Islander Social Justice Commissioner's Native Title Report 2010 as best-practice guidance on good faith negotiation.

The following recommendations on lands, territories and resources were endorsed by the meeting:

1. That States promote and enable self-determination for Indigenous Peoples through the development of constructive agreements with Indigenous Peoples to advance self-determination and land rights, including development of their own lands, territories and resources.
2. That States and Industry stakeholders work with Indigenous Peoples nationally to develop a set of agreed and achievable principles for implementing the Declaration that ensure that the human rights of Indigenous Peoples are understood, promoted and observed where extractive industries operate.
3. That States work with Indigenous Peoples and Industry stakeholders to develop policies and procedures for working with Indigenous Peoples that comply with the standards set out in the Declaration; and establish at the highest levels a statement on the rights of Indigenous Peoples that respects and promotes their rights.
4. That States work with Indigenous Peoples to develop redress mechanisms that enforce good faith negotiations, are informed by best practice standards and practices, and include legitimate processes to remediate damage to country, and restitution or compensation for lands taken and or damaged without free, prior and informed consent.
5. That States acknowledge and address (according to mutually agreed timeframes with Indigenous peoples) the Rio+20 Indigenous Peoples Declaration on Sustainable Development to access and share in the benefits from their lands, territories and resources.

6. That States ensure meaningful, sufficiently resourced engagement between appropriately mandated Indigenous claims and grievances concerning their traditional knowledge, flora and fauna.
7. That States protect Indigenous Peoples' natural resource related responsibilities and rights, including Indigenous Peoples' right to obtain free, prior and informed consent concerning the development and implementation of state policy that affects such natural resources (including the allocation and management of associated property rights).
8. That States recognise the unacceptably harmful effects of fossil fuel extraction and its use on the natural environment and address the following in relation to Indigenous Peoples lands, territories and resources:
  - i. Design and implement a practical, comprehensive and meaningful strategy to urgently transition away from fossil fuel dependence to clean, renewable and/or free energy based systems and infrastructure.
  - ii. Recognise the increasing and disturbing trend of technology replacing humans in the labour market, and in consultation with Indigenous Peoples develop and implement an effective, strategic response.

#### **j) Education**

The agenda item was introduced by delegates for Solomon Islands, Aotearoa and Australia. They noted the right to education is enshrined within the Declaration. Relevant articles include 14, 15, 17, 18, 21, and 31.

It was considered that one of the most important challenges facing Indigenous people today is the availability of education that is inclusive of programs that are culturally astute, engages the input of elders and Indigenous educators and facilitates the retention and development of all Indigenous learners' cultural heritage, integrity and sense of self-esteem along with providing the knowledge and skills to engage in the world within which we live.

Internationally, Indigenous Peoples are still being confronted by a western education system that is culturally inept with little respect for the scholarship of Indigenous cultures, languages, knowledges and knowledge systems that are vital to the development of culturally and professionally confident graduates and a culturally safe learning environment for Indigenous students.

Whilst improvements in education have been secured over time, Indigenous Peoples in the Pacific do not enjoy equality in access, participation and outcomes across all education stages and across all Pacific nation states. The education provided by states to Indigenous Peoples continues to ignore our languages, cultures, traditions, histories, development and aspirations at local levels.

Increased educational success positively impacts our participation across a range of socio-economic indicators including health, justice, housing and employment. Pacific nation states continue to support and implement an approach to education that fails to combat underlying systemic inequalities. The investment into greater



control and surveillance of Indigenous Peoples neglects Indigenous led solutions. This leadership is made possible through education.

Education can drive current and future self-determination by facilitating access to decision making in public and private sectors controlling our lives. Education leads to Indigenous empowerment. As Indigenous Peoples, our agency for enacting, protecting and promoting our self-determination increases in direct proportion with our educational participation and success.

The rapid growth of scholarship and leadership of Indigenous Knowledges by Indigenous Peoples for our communities and future generations needs to be elevated within education systems across all sectors.

### **Discussion Summary**

A delegate from Aotearoa (NZ) discussed how educational institutions in NZ provide Maori language and cultural immersion through the Complimentary Curriculum (Te Whariki). However, attendance, retention, the cost of education and poverty, the poor quality of education in detention, discrimination and bullying remain issues for Indigenous Peoples.

A delegate from Fiji said that culturally inappropriate curriculums reduce participation. A delegate from Australia referred to the National Aboriginal and Torres Strait Islander Health Equality Council's work in establishing culturally appropriate curriculums and the World Indigenous Nations Higher Education Consortium's call for a World Indigenous University. A delegate from Aotearoa (NZ) said that Indigenous education must be placed within Indigenous pedagogies, such as the model developed by Waikato University.

The following recommendations on Education were endorsed by the meeting:

1. In line with the United Nations Declaration on Human Rights and Article 14 of the Declaration we strongly urge the UNGA to adopt the right to education as one of the priority themes for discussion at the WCIP 14.
2. In recognition that access to Education for Indigenous Peoples is a global concern we request the WCIP 14 to call on the UN Human Rights Council to establish a Special Rapporteur for Indigenous Education.
3. The UN urge States to commit to the principles of Indigenous sovereignty and social justice by ensuring Indigenous Peoples are able to exercise their right to education without conditions, encumbrances or suspension of other rights guaranteed by the Universal Declaration of Human Rights and the Declaration of the Rights of Indigenous Peoples.
4. That States explicitly enshrine the rights to education in domestic law, regulation and policy.
5. That the UN develop a set of international standards that protect Indigenous identity, language, knowledge systems, intellectual and cultural

property rights; and that the UNGA urge nation states to adopt policies and legislation that protect, preserve and promote Indigenous knowledges' and intellectual and cultural property rights at the WCIP 14.

6. That the UN develops a process that formalizes the recognition of scholarship that underpins Indigenous knowledge's and knowledge systems, research methodologies and theoretical frameworks that benefit Indigenous Peoples.

### **k) Climate Change**

The delegates from the Solomon Islands, Samoa and Australia introduced the item. It was noted the International Indigenous Peoples Forum on Climate Change held as part of COP17 in Durban in November and December 2011 calls for the “free, prior and informed consent of Indigenous Peoples to ensure their full and effective participation of indigenous Peoples in policies and programs for climate change mitigation at all levels”.

It is critical for Indigenous Peoples to be fully and effectively engaged in responses to climate change and that they are fully able to participate in initiatives that will provide opportunities for their families and communities.

Climate change raises distinct challenges for Indigenous Peoples, cultures, lands and resources. It poses a threat to the health, cultures and livelihoods of Indigenous Peoples.

Changing climatic patterns affect the viability of food and water sources which impact directly on the life and health of Indigenous people. Cultural heritage and traditional knowledge may also be lost or devalued as a result of climate change.

### **Discussion Summary**

The issue of relocation due to rising sea levels, whether forced or voluntary, was discussed in detail. A delegate from Kiribati expressed the view that climate change is about human rights and justice and that rising sea levels equates with losing culture and identity. Developed countries such as Australia have a responsibility to acknowledge that the issue is about life and death and States should be aware that most people in the Pacific Islands do not want to leave their countries. If they must be relocated, they wish to do so with respect and dignity. The Indigenous Peoples of the Pacific Islands do not want to be labelled as “climate refugees”.

An Australian delegate outlined the fact that States in developed countries need to be accountable for the effects of climate change such as forced relocation. Indigenous Peoples from one country will be relocated to the traditional lands of another country and States have a responsibility to resettle people appropriately. A delegate from the Solomon Islands identified that issues could arise for both Indigenous Peoples who have left their homelands and the traditional owners on whose lands people are relocated.

The following recommendations on climate change were endorsed by the meeting:

1. That States be urged to ensure the full participation of Indigenous Peoples in initiatives to combat climate change.
2. That Indigenous Peoples be supported to participate in international fora under the UN Framework Convention on Climate Change.
3. That States formally develop an implementation strategy on the Declaration as a priority to ensure strategies to address climate change uphold Indigenous Peoples rights to participation and free, prior and informed consent.
4. That States consider a mechanism through which they can monitor and report on the impacts of climate change on Indigenous Peoples, mindful of our socio-economic limitations, and spiritual attachment to lands and waters.
5. That the UNGA recognise Indigenous Peoples vision and practice of Sustainable Development to be a focus of discussion at the WCIP 14 and that the United Nations Conference on Sustainable Development (Rio+20) Indigenous Peoples Declaration on Sustainable Development should guide this discussion.
6. That the UNGA recommends the United Nations Framework Convention on Climate Change (UNFCCC) upholds the right to participation in decision making and free, prior and informed consent on any decisions adopted at the Conference of the Parties, including the following:
  - i. to develop mechanisms to promote input and participation of Indigenous Peoples in the design, development and implementation of the strategies and activities to be financed by the Green Climate Fund
  - ii. action on adaptation of the Convention should be undertaken in a participatory and fully transparent approach, guided as appropriate by traditional and Indigenous knowledge
  - iii. to include Indigenous and traditional knowledge for future technical workshops.
7. That the UN should consider climate change policy, such as carbon markets, guarantees and protects Indigenous Peoples' engagement and participation. This should include Indigenous involvement in all aspects of climate change law and policy such as development, implementation, monitoring, assessment and review.
8. That the UN urges States to recognise that meaningful and effective protection and promotion of Indigenous Peoples' rights regarding their traditional territories and natural resources in a critical component of any such strategy to protect fisheries.
9. That States view climate change from a broad human rights perspective. In particular, Pacific Islands (Kiribati and Tuvalu) are vulnerable to the effects of

climate change. Pacific Islanders have a right to remain in their motherland and maintain culture and traditions.

10. That the UN and States establish global mechanisms for the relocation of Indigenous Peoples due to climate change.

11. That the UN adopt a new protocol to succeed the Kyoto Protocol.

12. That the UN declares that Indigenous Peoples have the right to clean air and atmosphere free of excessive GHG pollutants.

### **I) Militarisation**

The theme militarisation was introduced by the Co-Chair of the meeting Ghazali Ohorella with additional contributions by West Papua and Australia. A volunteer attending from Hawaii was also asked to provide information about the situation in Hawaii in the absence of Indigenous Hawaiian delegates.

Delegates discussed the devastating impact of militarization of the region and its ongoing affects.

One delegate informed the meeting that his home town was under military occupation with numerous military checkpoints dotted throughout the city.

It was noted that in some parts of the pacific region gross violations of human rights have occurred at the hands of the military. In recent decades there has been no investigation of those violations or any redress for victims.

### **Discussion Summary**

Military zones in the Pacific Region include Hawaii, Guam, West Papua and Maluku. A delegate from Hawaii explained that there is still a great deal of damage and contamination from the militarisation of Kaho'olawe that began in 1893. A delegate from Papua New Guinea explained that due to militarisation there are many displaced West Papuans, and there is also a fear of cultural genocide. The stated justification for militarisation in many of these situations is to combat terrorism but the repression of Indigenous Peoples is the main outcome.

A delegate from Australia noted that Darwin now has a US military base, which is leading to demands on Indigenous women to provide sexual services. It is also unclear whether the US presence will involve incursions on Indigenous lands. The nuclear testing that took place at Maralinga and the United States radar installations near Yuendumu, Port Headland and Pine Gap were noted as past examples of militarisation in the Australian context.

The following recommendations on militarisation were endorsed by the meeting:

1. The UN and its relevant institutions and agencies should investigate gross violations of human rights perpetrated in the Pacific region in recent decades

by military forces with a view of providing redress for the victims of those violations and bringing the perpetrators to justice.

2. That the UN emphasise the need for demilitarization of the lands and territories of Indigenous Peoples.
3. That military activities cannot take place on Indigenous lands without the free prior and informed consent of their traditional owners and after agreement on fair and just compensation and, where possible, with the option to return to their traditional lands.
4. That relevant lands and territories of Indigenous Peoples be demilitarized.

### **m) Decolonisation**

The agenda item was introduced by a delegate from New Caledonia. A statement was read to the meeting outlining the current situation and issues concerning Kanaky people.

An Australian delegate gave a brief historical account of the 'blackbirding' of Indigenous Peoples of the Pacific Islands who were brought to Australia between 1863 and 1906 to work in slave - like conditions in the sugar cane industry

### **Discussion Summary**

A delegate from New Caledonia described how the People's Kanak Customary Congress is pursuing a strategy for survival in the face of colonisation. The Congress promotes psychological decolonisation of its members and the development of strategies to resolve conflicts between the Kanak people to return balance to traditional governance structures.

The tripartite 'Noumea Accord' that establishes New Caledonia's statutory regime and Article 46 of the Declaration have prevented the Kanak people from pursuing independence, self-determination and decolonisation internationally. As a result, the People's Kanak Customary Congress is focusing on de-colonisation internally by mapping the boundaries and clan members of the customary structures (chieftainships) and establishing legal constitutions for each.

New Caledonia remains a 'French Overseas Country' with the French State retaining control of regalia powers (including the operations of the police, army, the justice system and the currency). A referendum is planned for 2014, not on independence, but on the transfer of regalia powers to New Caledonians. The rights of traditional chieftainships are not being respected and the Kanak find themselves in a neo-colonial situation.

The following recommendations on decolonisation were endorsed by the meeting:

1. That States recognise the forceful removal of Indigenous Peoples from their Islands in the Pacific to work the sugar cane and other industries such as pastoral and maritime industries.
2. That the UN urge the Australian Government to apologise and make repatriations and compensation to the descendants of those affected and to support them to locate their families, places of origin and restore their identity.
3. That the Human Rights Council require that the Universal Period Review process be extended to oblige all States to report annually on their implementation of the Declaration with particular attention on Articles 28 and 37.
4. That States act in good faith at all times in relation to Indigenous Peoples, particularly in the context of international diplomacy, and recognise the Indigenous traditional land owners, in accordance with articles 24, 25, 26, 27, 28, 29 and 30 of the Declaration.
5. This meeting supports the ongoing call by Indigenous People of the Pacific for States to be placed back on the list for decolonisation.

#### **n) Equality and Non-Discrimination**

The Declaration notes the urgent need to respect and promote the rights of Indigenous Peoples. In New Zealand the Declaration can be used to clarify the rights and obligations of the Treaty of Waitangi. Many of the articles in the Declaration are paralleled with the Treaty of Waitangi which lends international moral weight to the Treaty.

The statistics regarding justice, health, welfare, criminal justice, unemployment, disability, and education indicate the growing disparity between Maori New Zealanders and non-Indigenous people. There are now programs which are proving successful in alleviating the divide between rich and poor. Evidence suggests that for outcomes in education and offensive behaviour, particularly for youth, positive, strengths based approaches which affirm cultural connections are successful. It is vital for programs to have a human rights based approach, with meaningful consultation and for relationships to be built between and within communities.

#### **Discussion Summary**

In Australia, various forms of discrimination exist but it is often institutional or systemic discrimination which can be harmful. Policy frameworks and legislation give rise to inequality and discrimination. Whilst the Racial Discrimination Act 1975 was enacted to prohibit discrimination, it also gives rise to special measures which are interpreted by the State. Behavior is not considered discriminatory as long as criteria are met; measures are temporary and are of benefit. The Australian Human Rights Commission as well as the National Congress of Australia's First Peoples believe that consent must also be given.

Australian delegates noted that there are various examples in Australia which demonstrate Australia's obligations under the convention including the Northern Territory Intervention.

A delegate from West Papua noted that people from that region face discrimination but that there is less of a capacity to progress the way programs and initiatives take place in New Zealand. Countries in the Pacific region call on larger countries to share the capacity to improve this situation. A delegate from New Caledonia said that there is appreciation for the Treaty of Waitangi in New Caledonia but that it was important to come here and find out that problems of discrimination still occur in New Zealand.

The following recommendations on equality and non-discrimination were endorsed by the meeting:

1. That all States in the Pacific fully comply with their responsibilities under the Convention on the Elimination of Racial Discrimination.
2. That the WCIP and UN address the increasing marginalisation of Indigenous peoples with disabilities.

#### **o) Oceans**

The agenda item on Oceans was introduced by a delegate from Tonga. The sea is a source of food, wealth, beauty and transportation. It requires good stewardship to deal with issues like pollution and resource depletion.

There is need for a reconsideration of Indigenous Peoples connection with the sea. We as humans are part of the sea and our duty is to affirm ecological sustainability. Our actions have to be compatible with that purpose.

#### **Discussion Summary**

A delegate from Australia expressed concern over the status of endangered species in the oceans and genetically engineered fish species. A delegate from Aotearoa said that Indigenous Peoples need to make strong statements internationally about protecting oceans sea life, including issues around commercial fishing and genetic engineering. The delegates from New Caledonia and Tonga raised seawater pollution as a pressing issue, noting Samoa's Pacific Regional Environment Program based in Apia and programs at the University of the South Pacific to monitor pollution in Moana. A delegate from the Solomon Islands suggested empowering Indigenous youth with jobs to clean up oceans and reduce pollution rather than hiring foreign companies.

With 86% of the shipping traffic in the world passing through the Pacific Region, there is a need to consider the environmental, social and cultural impacts. A delegate from New Caledonia explained how many island nations in the Pacific region, such as Samoa, cannot afford to manage their exclusive economic zones and territorial waters. A delegate from Fiji expressed concern over hotels and tourists fishing unsustainably from the reefs and ignoring Indigenous Peoples protocols

regarding harvesting of the sea cucumber and sea turtle. Delegates from Papua New Guinea and Samoa raised the issue of seabed mining and geo-engineering in the Pacific region and suggested a recommendation to monitor the practice of such companies. There is also an issue with foreign ships being discarded on reefs in the Pacific region.

The following recommendations on Oceans were endorsed by the meeting:

1. The definition of sustainable development should be amended to “development which respects the ability of the ecologico-spatial interrelationships between various components of the environment/fonua to meet the needs of present and future generations of human beings without compromising the ecological sustainability and permanence of the environment/fonua”.
2. That the UN reiterate its recognition of the inherent and spiritual and cultural relationships of Indigenous Peoples with their oceans and the flora, fauna and natural resources therein.
3. That the UN acknowledge that, in terms of lands, territories and natural resources, Indigenous people’s consider “dry” and “wet” lands as being of equal significance.
4. That States recognize the dual and devastating threat of climate change and unsustainable harvesting practices on the oceans’ fisheries, and the subsequent urgent imperative to take active measures to protect that natural resource.
5. That Indigenous Peoples free, prior and informed consent is obtained in the Pacific before any commercial exploitative activities, particularly any harvesting of threatened or at risk flora and fauna (such as whales), are carried out in the Pacific.
6. That the UN urges compliance by States and corporate entities with environmentally responsible harvesting methods and standards.
7. That all States empower Indigenous youth to take the lead role in protecting and managing their environment.
8. That all States empower Indigenous youth to enable their equal participation in the design and implementation of international, national and domestic policies/mechanisms related to protection and management of their environment.
9. That the UN strictly monitors corporations who are engaged in exploration and extraction of natural resources from the sea bed.
10. That the UN develops guidelines for States and corporations related to sea bed mining activities.



11. That extractive industries and commercial industries including tourism and recreational industries must obtain the free, prior and informed consent of the Indigenous peoples concerned when extracting natural resources.
12. That the UN urges States and companies to fully respect the principles and the spirit of international agreements in relation to Indigenous Peoples rights, resources and territories and that all activities that exploit resources from the Pacific Ocean requires environmental, social and cultural impact assessments to ensure that there is free, prior and informed consent of the Indigenous owners of the lands, territories and resources.
13. States and businesses are urged to ensure that all entities engaging in activities using the Pacific Ocean, such as trade, sea bed mining and exploitation of tuna and other fish resources, take responsibility for any pollution that is generated from it that will ultimately destroy the marine resources that the people of the Pacific depend on.
14. Urge the UN to ensure that “distant fishing nations” using the Pacific Ocean do not discard their old ships onto the reefs of the Pacific Ocean.
15. Urge the UN to ensure States respect the rights of small island states in the Pacific in respect of the utilization of resources in international waters and areas beyond national jurisdiction. That the UN review the UN Convention on the Laws of the Sea to ensure that it takes in the concerns and rights of Indigenous Peoples enshrined in the Declaration.

**p) The Declaration and an optional protocol**

Mr John Henriksen from the GCG for the WCIP 14 introduced this agenda item and spoke about the status of the Declaration and challenged the view held by some States and other people that it is merely aspirational. Whilst a Declaration may not be binding in the same way a treaty is nevertheless the Declaration contains provisions and standards that are already binding under existing human rights instruments.

Additionally, none of the provisions in the Declaration are contrary to existing international human rights law. Also many of the provisions in the Declaration are based on the international human rights jurisprudence. Finally, the Declaration contains elements of existing international customary law.

Mr Henriksen recalled ECOSOC, supplement No. 8, para 105 E/CN. 4/L.610 (April 2, 1962), on declarations, namely that:

“A declaration in a solemn instrument resorted to only in very rare cases relating to matters of major and lasting importance where maximum compliance is expected”.

**Discussion Summary**

A delegate from Aotearoa sought clarification regarding outcomes of discussions with States concerning the development of an optional protocol to the Declaration. Mr Henriksen noted that there were a limited range of responses from the various States such as: it is an 'interesting proposal' or 'there are challenges due to a lack of political will'.

A delegate from Australia noted that there has been some incorporation of the Declaration into organisational documents and there is some traction within the mining industry regarding free, prior and informed consent.

A delegate from Australia suggested clarification is sought regarding the Declaration recognising the sovereignty of States that oppress Indigenous peoples.

The following recommendations on the Declaration were endorsed by the meeting:

1. That States commit to engaging in formal dialogue with Indigenous peoples, and their National Human Rights Institutions, to design and develop a National Strategy to give full effect to the Declaration which includes monitoring and evaluation and annual reporting as to the progress of such implementation.
2. That all States provide financial assistance to Indigenous peoples and organisations to assist them to fully realise their human rights in accordance with article 39 of the Declaration. In particular to:
  - i. Support Indigenous peoples' effective engagement in the development of a National Strategy;
  - ii. Build capacity at the community level to raise awareness and understanding about the rights contained with the Declaration;
  - iii. Empower Indigenous peoples and their organizations to work with States to implement the National Strategy within their communities.
3. That the UN table an optional protocol or treaty on the Declaration at the WCIP 14.
4. That the UNGA ensures that all states fully comply with their obligations under international Indigenous peoples' rights law, including honouring the commitments made in Declaration on the Rights of Indigenous Peoples.

#### **q) Respecting and Protecting Cultural Heritage**

The agenda item on respect for and protection of culture was introduced by delegates from Australia and Tonga.

The delegates from Australia highlighted that despite the existence of international standards, the measures to protect culture and heritage particularly in Australia are not strong enough. Intangible cultural heritage and language protection were identified as specific gaps. There is a need to strengthen domestic policy and legislative protections of traditional knowledge's and the intellectual property of Indigenous peoples. The Australian delegates called for the establishment of a National Indigenous Cultural Authority that would protect cultural and intellectual

property rights and set standards for appropriate use, including royalties, cultural integrity and attribution.

The delegate from Tonga highlighted the interrelationships between nature and culture and stressed that culture is not something that exists on its own and that within the nature-culture relationship, each has its own role in order for both to exist and be maintained. The Tongan delegate talked to the fact that the “know-how in terms of securing life from nature is securely guarded and is passed from one generation to the next through word of mouth”. It is because of this that nature is dependent on culture, not the other way around.

### **Discussion Summary**

A delegate from Australia reiterated the importance of using the UNDRIP in all governance arrangements, negotiations, policy statements and agreements. It is particularly important to maintain high expectations of Government and stay focused on the progressive realisation of rights under the UNDRIP. This is the case particularly for Article 31 of the UNDRIP regarding intellectual property.

While the right to culture is embedded in many international and national instruments, they have limited capacity to protect the Genetic Resources, Traditional Knowledge and Traditional Cultural Expressions of Indigenous Peoples and must be strengthened in this regard. The delegate from Australia suggest an explicit recommendation to include languages with other forms of Indigenous Cultural and Intellectual Property in the UNDRIP and other international instruments. The National Congress of Australia’s First Peoples is also calling for the establishment of a National Indigenous Cultural Authority.

The delegate from Tonga emphasised the symbiotic relationship between nature and culture as evidenced in cosmology, creation stories, the ecology and biodiversity of the landscape and agricultural practices. Given the scarcity of resources in Tonga, culture is used to transmit knowledge about securing life in nature to each generation through oral tradition. In this sense, nature is dependant on culture.

Delegates agreed that the international standards for the protection of Indigenous Cultural and Intellectual Property are not being implemented domestically. In the absence of adequate legal protections, Indigenous Peoples are developing community or industry based protocols for culturally appropriate use of their knowledge. However, the effectiveness of protocols is entirely dependant on the goodwill of the parties involved. Key international developments to consider include the recent meetings of the WIPO IGC to develop international agreements on Indigenous Cultural and Intellectual Property, the Nagoya Protocol and other developments around the Convention on Biological Diversity.

The following recommendations on cultural heritage were endorsed by the meeting:

1. That States who have adopted the Declaration should enact legislation to bring it into domestic force by 2016.
2. That the UN set up a body to monitor the compliance of the Declaration by member States.
3. That UNGA recommend that culture is integrated into the millennium development goals as a pillar of any sustainable development strategy.
4. That the UN reinforce the recommendations from the EMRIP study on the role of languages and culture in the promotion and protection of the rights and identity of Indigenous Peoples.
5. That States are reminded that they have a duty to ensure the maintenance and, where necessary, revival of Indigenous languages.

**r) Treaties, agreement and other constructive arrangements**

The agenda item on treaties was introduced by the Delegate for Aotearoa. The delegate emphasised the point that treaties don't necessarily lead to improvement of the life circumstances of Indigenous peoples. The situation of Maori in NZ is often held up as exemplary, but their circumstances show this to be a false presumption.

**Discussion Summary**

The following recommendations on treaties were endorsed by the meeting:

1. States that have not affected a treaty with their Indigenous Peoples do so as a matter of highest priority.
2. That the UN develop a regional Tribunal of Justice, including in the Pacific region to hear the territorial disputes between each respective government and the Indigenous peoples that inhabit their land. Such matters could either be settled through adjudication or other methods of dispute resolution through impartial parties.

## Appendix 1: List of Acronyms

<b>Acronym</b>	<b>Full Name</b>
COP17	17 <sup>th</sup> Conference of the Parties of the United Nations Framework Convention on Climate Change
EMRIP	Expert Mechanism on the Rights of Indigenous Peoples
GCG	Global Coordinating Group
GHG	Green House Gases
HRC	Human Rights Committee
ICESCR	International Covenant on Economic, Social and Cultural Rights
ILO 169	International Labour Organisation Convention 169
NGO	Non-Government Organisation
NZ	New Zealand
PNG	Papua New Guinea
SPIPEU	South Pacific Independent Peoples Economic Union
UDHR	Universal Declaration of Human Rights
UN	United Nations
UNDRIP	Universal Declaration on the Rights of Indigenous Peoples
UNFCCC	United Nations Framework Convention on Climate Change
UNGA	United Nations General Assembly
UNPFII	United Nations Permanent Forum on Indigenous Issues
UPR	Universal Periodic Review
WCIP 14	2014 World Conference on Indigenous Peoples
WHO	World Health Organisation
WTO	World Trade Organisation
ASSI.PJ	Australian South Sea Islanders (Port Jackson)

**Appendix 2: List of Attendee's**

**Preparatory Meeting for Pacific Indigenous Peoples on the World Conference on Indigenous Peoples  
2014**

**Redfern, Sydney, Australia**

19-21 March 2013

**Attendees:**

<b>Name</b>	<b>Country</b>	<b>Organisation and title</b>
Mr Ghazali Ohorella <a href="mailto:ghazali@siwalima.org">ghazali@siwalima.org</a>	Maluku/Indonesia	Indigenous Global Coordinating Group (Pacific Rep) /Front Siwa-Lima (International Office)
Ms Tracey Castro-Whare <a href="mailto:traceycastrowhare@gmail.com">traceycastrowhare@gmail.com</a>	New Zealand	Indigenous Global Coordinating Group
Mr Les Malezer <a href="mailto:les.malezer@nationalcongress.com.au">les.malezer@nationalcongress.com.au</a>	Australia	Co-Chair, National Congress of Australia's First Peoples
Ms Jody Broun <a href="mailto:jody.broun@nationalcongress.com.au">jody.broun@nationalcongress.com.au</a>	Australia	Co-Chair, National Congress of Australia's First Peoples
Mr Lindon Coombes <a href="mailto:lindon@nationalcongress.com.au">lindon@nationalcongress.com.au</a>	Australia	CEO, National Congress of Australia's First Peoples
Mr Brian Wyatt <a href="mailto:brian@nntc.com.au">brian@nntc.com.au</a>	Australia	Co-Chair – Indigenous Peoples Organisations Network of Australia /CEO, National Native Title Council (NNTC)
Ms Dea Theile <a href="mailto:dea@amsws.org.au">dea@amsws.org.au</a>	Australia	Co-Chair – Indigenous Peoples Organisations Network of Australia/Aboriginal Medical Service, Western Sydney

Ms Catherine Davis <a href="mailto:catherinedavis@hotmail.co.nz">catherinedavis@hotmail.co.nz</a>	New Zealand	Te Runanga o Te Rarawa
Ms Katie Kiss <a href="mailto:katie.kiss@nationalcongress.com.au">katie.kiss@nationalcongress.com.au</a>	Australia	Director-Strategic Projects, National Congress of Australia's First Peoples
Mr John Henriksen <a href="mailto:john.henriksen@samediggi.no">john.henriksen@samediggi.no</a>	Norway	Samediggi/GCG
Mr Mick Dodson <a href="mailto:DodsonM@law.anu.edu.au">DodsonM@law.anu.edu.au</a>	Australia	ANU – Director ANU National Centre for Indigenous Studies
Mr Justin Mohamed <a href="mailto:marianne@naccho.org.au">marianne@naccho.org.au</a>	Australia	Chairperson, National Aboriginal Community Controlled Health Organisation (NACCHO)
Mr Mick Gooda <a href="mailto:mick.gooda@humanrights.gov.au">mick.gooda@humanrights.gov.au</a>	Australia	Aboriginal and Torres Strait Islander Social Justice Commissioner – Australian Human Rights Commission ( AHRC)
Ms Karen Johansen <a href="mailto:petem@hrc.co.nz">petem@hrc.co.nz</a>	New Zealand	New Zealand Human Rights Commission
Mr Tehuia Bill Hamilton <a href="mailto:adat@hrc.co.nz">adat@hrc.co.nz</a>	New Zealand	New Zealand Human Rights Commission]
Mr Leonard Imbiri <a href="mailto:imbirijerry@ymail.com">imbirijerry@ymail.com</a>	West Papua/Indonesia	Dewan Adat Papua (Papua Customary Council)
Ms Tammy Solonec <a href="mailto:tammy.solonec@nationalcongress.com.au">tammy.solonec@nationalcongress.com.au</a>	Australia	Board Member, National Congress of Australia's First Peoples
Mr Samson Viulu <a href="mailto:viulusamson21@gmail.co">viulusamson21@gmail.co</a>	Solomon Islands	Gifu University
Mr Fiu Elisara <a href="mailto:fiuelisara51@yahoo.com">fiuelisara51@yahoo.com</a>	Samoa (Independent)	Ole Siosiomaga Society Incorporated

Ms Boni Robertson <a href="mailto:b.robertson@griffith.edu.au">b.robertson@griffith.edu.au</a>	Australia	Griffith University
Ms Tjanara Goreng Goreng <a href="mailto:firdainc@gmail.co">firdainc@gmail.co</a>	Australia	Foundation for Indigenous Recovery & Development Australia (FIRDA)
Ms Amala Groom <a href="mailto:amalagroom@gmail.com">amalagroom@gmail.com</a>	Australia	Foundation for Indigenous Recovery & Development Australia (FIRDA)
Mr Luke Briscoe <a href="mailto:briscoe.luke@hotmail.com">briscoe.luke@hotmail.com</a>	Australia	Australian Council for the Arts – Delegate, National Congress of Australia's First Peoples
Mr Peter Dawson <a href="mailto:petedawson01@gmail.com">petedawson01@gmail.com</a>	Australia	Australian Human Rights Commission
Ms Jenny Bedford <a href="mailto:jenny.bedford@humanrights.gov.au">jenny.bedford@humanrights.gov.au</a>	Australia	Principal Adviser, Social Justice Unit, AHRC
Ms Hannah Donnelly <a href="mailto:hannah.donnelly@humanrights.gov.au">hannah.donnelly@humanrights.gov.au</a>	Australia	Research Assistant, Social Justice Unit, AHRC
Ms Fleur Adcock <a href="mailto:adcockf@law.anu.edu.au">adcockf@law.anu.edu.au</a>	Australia	National Centre for Indigenous Studies
Mr Opis Sifo Yandapake <a href="mailto:ictulin@gmail.com">ictulin@gmail.com</a>	Papua New Guinea	Porgera Landowners Association
Jean-Pierre Waia <a href="mailto:m.waia@lagoon.nc">m.waia@lagoon.nc</a>	New Caledonia	UNPK
Ms Haylee Davis <a href="mailto:haylee.davis@alc.org.au">haylee.davis@alc.org.au</a>	Australia	New South Wales Aboriginal Land Council
Mr Passa Wagada <a href="mailto:wagada.p@hotmail.fr">wagada.p@hotmail.fr</a>	New Caledonia	UNPK



Ms Maria Chi-Fang Tiimon <a href="mailto:mariat@erc.org.au">mariat@erc.org.au</a>	Australia	Pacific Calling Partnership
Ms Valmaine Toki <a href="mailto:valmaine@waikato.ac.nz">valmaine@waikato.ac.nz</a>	New Zealand	Pacific Member - UNPFII
Ms Anne Leisha <a href="mailto:anne.chapman@griffith.edu.au">anne.chapman@griffith.edu.au</a>	Australia	Griffith University
Ms Bianca Williams <a href="mailto:biancaw@coxinallridgeway.com.au">biancaw@coxinallridgeway.com.au</a>	Australia	Cox Inall Ridgeway
Mr Roger Cho <a href="mailto:congrespopulairecoutumier@yahoo.fr">congrespopulairecoutumier@yahoo.fr</a>	New Caledonia	Societe MONTAGNAR
Ms Diat Callope <a href="mailto:diat@ieu.asn.au">diat@ieu.asn.au</a>	Australia	
Ms Joanne Delaney <a href="mailto:joanne@amsws.org.au">joanne@amsws.org.au</a>	Australia	Aboriginal Medical Service Western Sydney
Ms Elaine Lomas <a href="mailto:elaine2@amsws.org.au">elaine2@amsws.org.au</a>	Australia	Aboriginal Medical Service Western Sydney
Ms Kay Dundas <a href="mailto:kay@wallamulla.org">kay@wallamulla.org</a>	Australia	Walla Mulla Family and Community Support Ltd
Ms Janine French <a href="mailto:janinef@coxinallridgeway.com.au">janinef@coxinallridgeway.com.au</a>	Australia	Cox Inall Ridgeway
Ms Emelda Davis <a href="mailto:assi.pj@gmail.com">assi.pj@gmail.com</a>	Australia	Australian South Sea Islanders Interim National Body
Mr Andrian Wakur <a href="mailto:andrianwakur@yahoo.com">andrianwakur@yahoo.com</a>	Australia	West Papua Interest Association

Mr Jethro Tulin <a href="mailto:jctulin@gmail.com">jctulin@gmail.com</a>	Papua New Guinea	Porgera Alliance
Mr Hone Harawira <a href="mailto:hone.harawira@parliament.govt.nz">hone.harawira@parliament.govt.nz</a>	New Zealand	MANA
Mr Mark Holden <a href="mailto:mark.holden999@gmail.com">mark.holden999@gmail.com</a>	Australia	
Mr Josh Ridgeway <a href="mailto:josh.ridgeway@alc.org.au">josh.ridgeway@alc.org.au</a>	Australia	New South Wales Aboriginal Land Council
Manu Paul <a href="mailto:mgpaul01@gmail.com">mgpaul01@gmail.com</a>	New Zealand	NZ Maori Council
Hori Parata <a href="mailto:kaitiakihuri@clear.net.nz">kaitiakihuri@clear.net.nz</a>	New Zealand	
Mereina Uruamo <a href="mailto:teivao1@gmail.com">teivao1@gmail.com</a>	New Zealand	
Mr Uilou Samani <a href="mailto:samani.uilou@gmail.com">samani.uilou@gmail.com</a>	Tonga	Tonga International Academy
Mr Ray Minniecon <a href="mailto:raymin@me.com">raymin@me.com</a>	Australia	Kinchela Boys Home Aboriginal Corporation
Craig Cromelin <a href="mailto:craig.cromelin@alc.org.au">craig.cromelin@alc.org.au</a>	Australia	New South Wales Aboriginal Land Council
April Long <a href="mailto:April.Long@ncie.org.au">April.Long@ncie.org.au</a>	Australia	Community Members
David Williams <a href="mailto:dvagw@bigpond.com">dvagw@bigpond.com</a>	Australia	Community Members
Neita Scott	Australia	Community Members

Laverne Bellear	Australia	Community Members
Naomi Meyers <a href="mailto:nmeyers@amsredfern.org.au">nmeyers@amsredfern.org.au</a>	Australia	Community Members
Graham Merritt	Australia	Community Members
Oni Kirwin <a href="mailto:onikirwin@hotmail.com">onikirwin@hotmail.com</a>	Fiji	Community Members
Stephen Hynd <a href="mailto:Haylee.davis@alc.org.au">Haylee.davis@alc.org.au</a>	Australia	New South Wales Aboriginal Land Council
Margaret Campbell	Australia	Community Members
Suzanne Ingram <a href="mailto:singram@georgeinstitute.org.au">singram@georgeinstitute.org.au</a>	Australia	Community Members
Gilly Dempsey	Australia	Community Members
Michael Anderson <a href="mailto:Ghillar29@gmail.com.au">Ghillar29@gmail.com.au</a>	Australia	Community Members
Natalie Andrews	Australia	Community Members
Paul Coe <a href="mailto:paul.coe@tafensw.edu.au">paul.coe@tafensw.edu.au</a>	Australia	Community Members
Lydia Miller <a href="mailto:L.Miller@australiacouncil.gov.au">L.Miller@australiacouncil.gov.au</a>	Australia	Australia Council for the Arts
Lola Forester <a href="mailto:lolaforester@gmail.com">lolaforester@gmail.com</a>	Australia	Community Members

Shereen Malamoo	Australia	Community Members
-----------------	-----------	-------------------

### Apologies:

Name	Organisation and title
Ms Sandra Miller <a href="mailto:sandratamarr@yahoo.com.au">sandratamarr@yahoo.com.au</a>	Aboriginal Legal Service South Australia
Mr Shane Duffy <a href="mailto:Shane.Duffy@atsils.org.au">Shane.Duffy@atsils.org.au</a>	Chairperson, National Aboriginal and Torres Strait Islander Legal Services
Mr Eddie Cubillo <a href="mailto:Eddie.Cubillo@atsils.org.au">Eddie.Cubillo@atsils.org.au</a>	National Aboriginal and Torres Strait Islander Legal Services
Mr Geoff Scott <a href="mailto:geoff.scott@alc.org.au">geoff.scott@alc.org.au</a>	CEO, New South Wales Aboriginal Land Council
The Hon Jenny Macklin	Minister for Indigenous Affairs, Department of Families, Community Services and Indigenous Affairs
Senator Rachel Siewert	Senator, and Member of Parliament
Senator Nigel Scullion	Senator, and Shadow Indigenous Affairs Minister
Mr Ernest Ullrich	Consulate General of Tuvalu
HRH Princess Angelika Tuku'Aho	High Commission of the Kingdom of Tonga
His Excellency Mr Jeffrey Bleich	Embassy of the United States of America
Ms Cheryl Brown Irava	High Commission of the Republic of Fiji

Mr Stephen Ryan <a href="mailto:stephen.ryan@alc.org.au">stephen.ryan@alc.org.au</a>	New South Wales Aboriginal Land Council
Mr David Lee <a href="mailto:David.lee@nswalc.org.au">David.lee@nswalc.org.au</a>	New South Wales Aboriginal Land Council
Ms Sina Brown Davis <a href="mailto:uriohau@gmail.com">uriohau@gmail.com</a>	Te Wharepora Hou/NFIP (Nuclear Free Independent Pacific)
Mr Julianus Septer Manufandu <a href="mailto:septer_manufandu@yahoo.com">septer_manufandu@yahoo.com</a>	Papua Indigenous Peoples Network (JERAT)
Maina Talia <a href="mailto:vaitiu@gmail.com">vaitiu@gmail.com</a>	Ekalesia Kelisiano Tuvalu
Craig Cromelin <a href="mailto:craig.cromelin@alc.org.au">craig.cromelin@alc.org.au</a>	New South Wales Aboriginal Land Council
Malia Nobrega	Hawaii

**Volunteers:**

<b>Name</b>	<b>Organisation and title</b>
Ms Rowena Dickins Morrison	SOGIP/LAIOS, Ecole des Hautes Etudes en Sciences Sociales
Mr Joshua Cooper	Hawaii Institute for Human Rights