

**Aboriginal and Torres Strait Islander
Social Justice Commissioner**

Mick Gooda

Our Ref: 2011/49

18 August 2011

Committee Secretary
House of Representatives Standing Committee on
Aboriginal and Torres Strait Islander Affairs
PO Box 6021
Parliament House
CANBERRA ACT 2600

Dear Committee Secretary,

Inquiry into language learning in Indigenous communities

I write in response to the inquiry into language learning in Indigenous communities. Thank you for the opportunity to comment on this inquiry.

I welcome the Australian Government's referral of Indigenous languages to an inquiry conducted by The Aboriginal and Torres Strait Islander Affairs Committee. This follows on from the Committee's previous inquiry into Indigenous youth and the criminal justice system where language was identified as important for the wellbeing of young Indigenous people.

Indigenous languages are critically endangered in Australia and this has significant human rights implications – particularly in the realisation of cultural rights, as language and culture are interdependent. Furthermore there is now a significant body of evidence which demonstrates a range of benefits for Indigenous peoples when they maintain strong connections with their languages and culture. It is my view that investment in preserving and teaching Indigenous languages will assist in achieving the Closing the Gap targets.

The Australian Human Rights Commission, my office in particular, has produced a body of work that can inform the Committee's inquiry. In particular I would like to draw to the attention of the Committee the following work:

- *Social Justice Report 2009*, Chapter 3: The perilous state of Indigenous languages in Australia. Available at: http://www.humanrights.gov.au/social_justice/sj_report/sjreport09/chap3.html (and attached).
 - Submission to the Ministerial Council for Education, Early Childhood Development and Youth Affairs on the *Indigenous Education Action Plan Draft 2010 – 2014* (attached).
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- *They are our children, this is our community* (Speech delivered at AIATSIS Research Symposium on Bilingual Education, Canberra, 26 June 2009). Available at: http://www.humanrights.gov.au/about/media/speeches/social_justice/2009/20090626_bilingual.html (and attached).
- *World Indigenous Peoples Conference on Education* (Speech delivered Melbourne, 9 December 2008. Available at: http://www.humanrights.gov.au/about/media/speeches/social_justice/2008/20081209_world.html (and attached).

I would also like to draw the Committee's attention to guidance that has been developed in the international arena. In particular the Committee should consider the following:

- The Expert Mechanism on the Rights of Indigenous Peoples, *Advice No 1 on the rights of Indigenous Peoples to Education* (attached).
- The Expert Mechanism on the Rights of Indigenous Peoples, *Study on Lessons learned and Challenges to Achieve the Implementation of the Right of Indigenous Peoples to Education* (attached).
- Permanent Forum on Indigenous Issues, *Report of the international expert group meeting on indigenous languages* (attached).
- Permanent Forum on Indigenous Issues, *Report on the seventh session*, paras 93-99 (attached).
- Statement provided by the Indigenous Peoples Organisations (IPO) Network to the 7th Session United Nations Permanent Forum on Indigenous Issues, held in New York, 21 April – 2 May 2008.

Finally, I would like to refer the Committee to relevant articles of the *United Nations Declaration on the Rights of Indigenous Peoples*, the instrument that interprets how Australia's existing human rights obligations apply to Aboriginal and Torres Strait Islander peoples.

Article 11

1. Indigenous peoples have the right to practice and revitalize their cultural traditions and customs. This includes the right to maintain, protect and develop the past, present and future manifestations of their cultures, such as archaeological and historical sites, artefacts, designs, ceremonies, technologies and visual and performing arts and literature.
2. States shall provide redress through effective mechanisms, which may include restitution, developed in conjunction with indigenous peoples, with respect to their cultural, intellectual, religious and spiritual property taken without their free, prior and informed consent or in violation of their laws, traditions and customs.

Article 12

1. Indigenous peoples have the right to manifest, practice, develop and teach their spiritual and religious traditions, customs and ceremonies; the right to

maintain, protect, and have access in privacy to their religious and cultural sites; the right to the use and control of their ceremonial objects; and the right to the repatriation of their human remains.

2. States shall seek to enable the access and/or repatriation of ceremonial objects and human remains in their possession through fair, transparent and effective mechanisms developed in conjunction with indigenous peoples concerned.

Article 13

1. Indigenous peoples have the right to revitalize, use, develop and transmit to future generations their histories, languages, oral traditions, philosophies, writing systems and literatures, and to designate and retain their own names for communities, places and persons.
2. States shall take effective measures to ensure this right is protected and also to ensure that indigenous peoples can understand and be understood in political, legal and administrative proceedings, where necessary through the provision of interpretation or by other appropriate means.

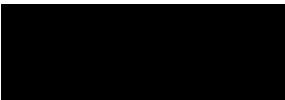
Article 14

1. Indigenous peoples have the right to establish and control their educational systems and institutions providing education in their own languages, in a manner appropriate to their cultural methods of teaching and learning.
2. Indigenous individuals, particularly children, have the right to all levels and forms of education of the State without discrimination.
3. States shall, in conjunction with indigenous peoples, take effective measures, in order for indigenous individuals, particularly children, including those living outside their communities, to have access, when possible, to an education in their own culture and provided in their own language.

I applaud the Australian Government for initiating this inquiry and I encourage the Committee to consider the human rights implications of Indigenous languages.

I would be pleased to discuss these matters with you in more detail. Please also feel free to contact Emilie Priday or Andy Gargett of the Social Justice Unit, Australian Human Rights Commission on (02) 9284 9600 for further information.

Yours sincerely



Mick Gooda
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