

INTRODUCTION

WHO IS FAIRA?

The Foundation for Aboriginal and Islander Research Action was formed in 1977, through the combined efforts of concerned people in the Aboriginal and Torres Strait Islander population, churches, unions, legal fraternity, aid organisations and human rights organisations. We have been in successful operation for 28 years, through the terms of four federal governments and five State governments.

When FAIRA was established, the immediate concerns for our organisation were the discriminatory laws and practices in Queensland. The Bjelke-Petersen administration continued to deprive Aboriginal and Torres Strait Islander people the rights and freedoms of Queensland citizens and imposed a non-negotiable stance on Aboriginal policy. Considered to be a lead agency on Indigenous policy at the end of the nineteenth century and beginning of the twentieth century, Queensland still maintained a strict reserve regime to implement assimilationist policies.

FAIRA, as an organisation, was unique to the extent that, unlike many other indigenous organisations formed in the 1970s, it was not intended to be a service provider to the local community, but was intended to be an advocate of indigenous rights and freedoms. It was a voice of Aboriginal and Torres Strait Islander people.

From its inception FAIRA held the policy that it will not accept recurrent funding from government, except for specific projects which were consistent with FAIRA objectives.

The rights priorities of FAIRA led to its development as an expert organisation on 'Land Rights' and 'Heritage Protection'. For many years in the 1970s and 1980s FAIRA operated in the manner of a land council, receiving much endorsement and support from Aboriginal and Torres Strait Islander activists in Queensland. In association with the North Queensland Land Council, FAIRA became a representative of land rights in Queensland at national meetings, including membership on the National Federation of Land Councils.

FAIRA operated with a wide mandate from the Aboriginal and Torres Strait Islander people in Queensland, fostered because FAIRA was capable of interpreting legislation and laws, and distributed important information to all regions, including the reserves where the State Government tried to control and restrict political activism. FAIRA often held conferences and meetings to promote the voice of the people. Community efforts to formally establish land councils became frustrated by diverse interests, so the public gatherings of Aboriginal and Torres Strait Islander people continued to call upon FAIRA to speak up for the cause.

Where funds were required, the churches were the primary contributors, but occasionally funding was made available by the Commonwealth Department of Aboriginal Affairs, to remedy State-based discriminatory practices.

Through our developed networks FAIRA also coordinated the indigenous lobby for protection of sacred sites, Aboriginal landscapes, cultural objects and cultural practices. Specific attention was given to the policies of institutional desecration of Aboriginal human remains and racist research on Indigenous Peoples. Over many years, particularly throughout the 1980s FAIRA was provided a mandate by Queensland communities to locate 'stolen' ancestral remains and demand their return.

When the Aboriginal and Torres Strait Islander Commission commenced in 1990, the elected representatives insisted that the active organisations for Aboriginal rights be given infrastructure assistance to do their work. From the FAIRA perspective the devolution of the aid programs, from government to ATSIC, represented a better approach for the elimination of racial discrimination and the achievement of priority outcomes for Aboriginal people.

This consideration did not qualify FAIRA position that ATSIC was still ultimately a governmental organisation, and required legitimacy from the indigenous population before it could be considered as an Aboriginal and Torres Strait Islander organisation. (See Appendix 1: 'Trick or Treat')

FAIRA was actively involved in the development of the Native Title Act of 1993, in conjunction with the NSW Aboriginal Land Council, the Tasmanian Aboriginal Centre, the National Federation of Land Councils, the West Australian Aboriginal Legal Service and the National Aboriginal and Islander Legal Services Secretariat and others. Through the efforts of our combined organisations over 100 successful amendments were made to the Native Title Act before its passage through the Senate.

FAIRA was appointed as a Native Title Representative Body (NTRB) in 1994 and, in conformity with our management record since inception, operated without a blemish in its financial and administrative standards.

FAIRA also received a grant from ATSIC to repatriate ancestral remains from all institutions in Australia, followed later by a grant to repatriate remains from overseas institutions. Under these grants FAIRA estimates that almost 2,000 ancestral remains have been returned to the custodians in their traditional communities. The cost and success of our program has been unmatched.

As an NTRB, FAIRA operated very successfully until Year 2000. In that year the Minister for Aboriginal and Torres Strait Islander Affairs, using new powers to change the NTRBs, declared FAIRA to no longer be an NTRB. Only two NTRBs had their roles ceased in this exercise. (Whether by irony or coincidence, both organisations had good financial and administrative management records, but both had been active in Land Rights and the native title debate, and both organisations had participated in international lobby for Indigenous rights.)

Since that time the government has acted to cease all other project funding to FAIRA from national sources, by terminating each and every grant when it took the program budget away from ATSIC. Three projects have been terminated in this manner by 1993.

In Year 1998, FAIRA attended the session of the United Nations Committee on the Elimination of Racial Discrimination where the first of four decisions relating to Australia's breach of the Convention on the Elimination of All Forms of Racial Discrimination were made. A list of these decisions is attached at Appendix 2.

Fundamentally, Australia's law on Native Title is in breach of international human rights law and CERD has recommended that the law be rescinded and that the Australian Government enter into discussions with the Aboriginal peoples for a suitable arrangement.

FAIRA's participation by attending the meetings of CERD seems to have drawn the antagonism of the Australian government which, rather than acting to comply with its international obligations under human rights law, chooses to misrepresent its obligations to the people of Australia and to persecute FAIRA and other bodies which have pursued human rights standards for Aboriginal peoples and Torres Strait Islander peoples in Australia.

In this matter we believe we have a situation in common with ATSIC.

We believe that the Aboriginal and Torres Strait Islander Commission has been subjected to a sustained attack because it also participated in actions to resolve the discriminatory aspects of Australian law on native title.

For the past five years FAIRA has been attending all UN meetings on Indigenous Peoples and most of the sessions of the Commission on Human Rights and the Sub-Commission on the Promotion and Protection of Human Rights. Our capacity to attend and participate in those meetings has been through the United Nations, ATSIC and private financiers. On some occasions ATSIC has commissioned FAIRA to advise the organisation on international matters.

FAIRA is accredited to the United Nations Economic and Social Council as an NGO-Special Consultative Status. Three other organisations in Australia hold this status, viz; Aboriginal and Torres Strait Islander Commission; National Aboriginal and Torres Strait Islander Legal Services Secretariat; and NSW Aboriginal Land Council. At this point in time all four indigenous organisations accredited to the United Nations are under attack from government and have lost control of their usual funding. This situation is more a reflection of government intimidations than they are of Indigenous actions.

FAIRA will consider a submission to the Special Representative of the Secretary General on the Situation of Human Rights Defenders, to report that FAIRA and other indigenous human rights defenders in Australia are being persecuted by the government of Australia.

THE STEPS TAKEN

The Government has announced it will end the operations of the Aboriginal and Torres Strait Islander Commission, and has presented a Bill to the Australian Parliament which terminates the structure of the organisation.

The Government has already taken the steps to stop funds to ATSIC for programs, and has made a further decision to stop funds to ATSIC for operations of the approximately 400 elected officials of ATSIC.

What is the motive and what is the mandate of government?

We do not believe government has made it clear what is the motive. The media has run a strong campaign of attack on Geoff Clark, Chairperson of ATSIC, but so far the media blitz has been baseless. The controversy reached national proportions some four or five years ago over claims of sexual offences by Clark. All claims have been dismissed by the criminal courts. Clark was then charged and convicted over a race riot in Warrnambool but appeals have revealed that the courts were wrong in their bias against Clark. The final outcome was all but a clearance of Clark. The government then tried to create controversy over an overseas trip by Clark to attend a conference in Ireland, but downplayed the fact that the Minister approved the travel which was conducted as legitimately as any member of Parliament. Finally the government, aided by media hype, tried to make controversial ATSIC's decision to pay certain legal costs of Clark.

All of these events, at the end of the day, did not amount to misconduct. The Minister has suspended Clark for one year on the grounds of 'misconduct' but, after appeal, the court has found that the actions by the Minister were racially discriminatory, applying a standard of conduct, or 'misconduct', from ATSIC commissioners which was far above that for civil servants and members of parliament.

During this controversy the media again made merry about the funding decisions of ATSIC, suggesting to the public that failed development projects represented Aboriginal corruption and inferiority as managers, officials, representatives and human beings.

The government does not yet have the mandate of parliament. There is no real evidence the government has the mandate of the public, and it did not make it an issue during the recent election. While the government has claimed support from some Aboriginal and Torres Strait Islander individuals who vocally oppose the current leadership of ATSIC, the conclusion can be made that the indigenous population strongly opposes the government's action.

The behaviour of the media in attacking ATSIC is far beyond acceptable behaviour. The media justifies its attacks by claiming that the public have a right to know, but the actual events were not a large scale exercise in accountability of ATSIC. It was a racist attack upon Aboriginal people, where stereotyping was the central element and where standards or ethics for the ATSIC representatives were creations of fiction, rooted in racist and colonial values of racial superiority.

The Board of ATSIC was made out to be irresponsible and incompetent yet not one scrap of evidence to back the media frenzy in the public interest has been produced. The damage created by the media has been irreparable.

Yet, the media frenzy is not unassociated with government actions to discredit ATSIC, to weaken the organisation, to impose punitive actions and to cut off its financial resources.

The Ministers responsible for Aboriginal Affairs have failed to defend the organisation, and have been seen to add to the public misconceptions and misgivings about the role and effectiveness of ATSIC and Aboriginal organisations. No Aboriginal or Torres Strait Islander person could possibly say that the Minister, or any member of the government have taken steps to inform the Australian public of the human rights standards which must be applied to Aboriginal affairs, or to mention that any responsibility or obligation exists upon government to apply the universal standards on human rights, and the associated programmes of actions.

It is unlikely that any politician or journalist would be educated and aware of the Declaration on Race and Racial Prejudice which was adopted by the General Conference of the United Nations Educational, Scientific and Cultural Organisation (UNESCO) in 1978, presumable with the support of the government of Australia at that time, which says:

The mass media and those who control or serve them, as well as all organized groups within national communities, are urged-with due regard to the principles embodied in the Universal Declaration of Human Rights, particularly the principle of freedom of expression-to promote understanding, tolerance and friendship among individuals and groups and to contribute to the eradication of racism, racial discrimination and racial prejudice, in particular by refraining from presenting a stereotyped, partial, unilateral or tendentious picture of individuals and of various human groups. Communication between racial and ethnic groups must be a reciprocal process, enabling them to express themselves and to be fully heard without let or hindrance. The mass media should therefore be freely receptive to ideas of individuals and groups which facilitate such communication.

(Article 5.3)

For its part the Government of Australia is fully aware of its various and many obligations to eradicate racial discrimination ranging from international declarations conventions and programs of action. However no member of the public in Australia would be aware of these obligations not be in a position to ensure that the government complied with its lawful obligations.

For Aboriginal and Torres Strait Islander people, we have been and continue to be the victims of the grossest forms of racial discrimination. The only significant efforts by government to eliminate systemic racial discrimination against Aboriginal people can be found in the efforts to establish self-determination. All other efforts amount to little more than a continuation of the colonial policy of assimilation. While the government might pretend that it wants to provide job opportunities for Aboriginal people, it wants in reality to use employment and 'mainstreaming' to breakdown indigenous identity amongst communities, and to use racial equality as justification for ending cultural identity.

The government cannot escape these arguments without full engagement of the Aboriginal community in decisions which affect their lives and futures, not only as individuals but also as peoples.

FAIRA does not intend to become involved in a bitter debate about the support for or against ATSIC, nor to waste time sitting in judgement of ATSIC. Our position is about the continued development of Aboriginal self-determination. We view ATSIC as a stage in reaching self-determination status in a longitudinal examination of development.

In this context ATSIC is a creation of government intended to serve government needs.

The 1967 referendum represents a profound change in government policy towards Aboriginal people. The referendum, and its overwhelming success, is merely a reflection of the international developments which would have impacted on Australia more severely if these changes did not occur. For example, Australia had signed the International Convention on the Elimination of All Forms of Racial Discrimination in October, 1966, so it was no surprise that the two overtly racist clauses in the Constitution were soon jettisoned.

In 1972 the Whitlam government assumed national responsibility for Aboriginal Affairs, for the first time in Australia's history. In establishing a dedicated minister and department for Aboriginal Affairs, the government of Australia began the long climb away from racist government policies of colonialism towards a democratic government founded in the equality of all people.

However, accepting that government wanted to assert equality, and be seen to improve social and economic conditions for the Aboriginal and Torres Strait Islander people, government was inevitably frustrated by the lack of cooperation and positive responses from the Aboriginal population, particularly in NSW where civil rights was a raging campaign.

The creation of a national representative body was the obvious step for the government, and soon the National Aboriginal Consultative Committee (NACC) was born, in 1973. For the next twelve years, through three government administrations, various models were tried from the NACC to the National Aboriginal Congress, then the National Aboriginal Conference (NAC).

The NAC was dismissed by Minister Clyde Holding in 1985, mainly because the organisation was not assisting the government to abandon all commitment to national land rights legislation, but instead was pushing an Aboriginal agenda unacceptable to the government.

However the ultimate demise of the NAC in 1985 at the hands of government was ironic, for the structures of these consultative groups were never accepted by Aboriginal people. The idea of an 'advisory body' had long ago been rejected as odious by Indigenous activists. Their voices were still much more effective instruments than the NAC in gaining public attention and influencing the politicians. The problem continued that these advisory bodies were only allowed access to government if they were conservative in their manner, if not policies also. They could not be advocates of the people they were supposed to represent, and certainly were not allowed to agitate for reform.

Still, it is important to see the developments made in each transformation of the national body: from NACC which began with seventeen elected members, to the National Aboriginal Congress, which had small number of appointed representatives but with more bureaucratic and independent resources, to the NAC which had elected members and a bureaucratic support team, to the Aboriginal Development Commission (ADC) which was a body led by appointed Aboriginal board but in charge of its own programs and service delivery. The ADC also had control over indigenous staffing of the Commission, and was not compelled to employ public servants.

The creation of ATSIC represented a major development. It became a merger of the NAC (which had ended four years earlier), the ADC and the Department of Aboriginal Affairs. Later some other departments even transferred their indigenous programs to ATSIC. For Indigenous peoples the developments were positive but there should be no doubt that the developments suited government more than Indigenous peoples.

The structures were still intended to suit a government agenda, and the Minister ultimately had subtle controls through control of the budgetting process. The real control by government was found in the requirement that all staff be Commonwealth Public Servants. This factor has proved to be the Achilles Heel of an organisation which was inspired to be an indigenous structure.

The Preamble to ATSIC is the most important part of the legislation and gives clarity to the intentions of the parliament when the legislation was passed. The Hawke Government, in presenting the legislation was inspired to higher levels of human rights, and the rights of Indigenous Peoples. The government clearly intended that ATSIC be an institution for indigenous peoples, as an expression of self-management for Indigenous Peoples, and clearly wanted the parliament to pass the legislation with bipartisan support, i.e. from both sides of the political spectrum.

AND WHEREAS it is also appropriate to establish structures to represent Aboriginal persons and Torres Strait Islanders to ensure maximum participation of Aboriginal persons and Torres Strait Islanders in the formulation and implementation of programs and to provide them with an effective voice within the Australian Government;

PREAMBLE, ATSIC Act

The government presented the legislation as part of a deal between the nation of Australia and the Indigenous Peoples, whereby the injustices committed against the original peoples were being addressed through partnership.

As we have experienced in the past few years, ATSIC is still a victim to government policy swings, rather than being indigenous institutions founded in indigenous communities.

In this context the abolition of ATSIC poses little threat to Aboriginal aspirations but poses enormous problems for government. Certainly the social and economic improvements in Indigenous communities will be setback, but the aspirations for self-

determination are more likely to escalate and the hostility of Aboriginal people towards government will increase as the racism percolates out of government-run services. Aboriginal communities will continue to create structures and spokespersons which embarrass and exploit government shortcomings to achieve self-determination.

This dramatic statement is not intended to engender antagonism but to emphasise that government needs a national Aboriginal body as a companion whereas Aboriginal people need representative advocates with community roots. The development of a replacement body for ATSIC is inevitable, even if it is beyond the vision of the existing government administration. It is to government advantage to get a body in place quickly which has credibility at the community level.

There is no going back. Such a body will have to consist of elected representatives and those representatives will have to be as well-financed and supported and powerful as the outgoing ATSIC representatives to be satisfied with their status and importance.

Considered in this context, the government has simply identified dissatisfaction with its own arrangements. The destruction of policy, structure and infrastructure is without vision and understanding. It is driven by a desire to end Indigenous identity but is incapable of creating a sustainable position for future government administrations.

WHERE ARE WE?

The policies of this government are not clearly stated. There are many rounded statements about improving the health, housing, employment and living standards for Aboriginal people but these are no more than simplistic confirmations that the government of Australia must treat all people as equal human beings.

As has been the case throughout history the policy of the government is evident in the actions of government. We can see the policies of the government in its legislation, in its programs and in its relationship with the Aboriginal peoples.

In this government there is no discussion of self-determination, land rights, constitutional and legislative reform, cultural development nor partnership.

As has been alluded to in this submission, the government is seen to use media and propaganda to create open and widespread hostility by the public against the Indigenous Peoples. The government has used particular people and media organisations to incite racial hostilities through misinformation and provocative statements, ranging from 'the black armband view of history' to the welfare stereotyping of Aboriginals as drunkards, irresponsible parents and harbingers of domestic violence.

FAIRA believes that the Bennelong is one such institution created and fostered by government to generate hatred of Aboriginal people through propaganda. We also believe that government policy can be found in the statements of the principle

members of the Bennelong Society. We are not aware if the Bennelong society has made a submission to the Senate Select Committee in this current inquiry (but we are aware that they have made a submission to a previous review of ATSIC) so we would like to include reference to their materials as an indicator of government policy. We include the following passage for effect. It is written by 'The Hon.' Peter Howson, the former minister for Aboriginal Affairs (who no Aboriginal person can remember) in an article in the Canberra Times on 23 June 2004, entitled 'Abolishing ATSIC Is Not Enough To Bring About Needed Change'.

The underlying problem was identified in Territories Minister Paul Hasluck's thesis that the only possible future for the Aboriginal people in remote communities was for them to merge into and become full members of the European community. Hasluck has been largely proven right, with three quarters of the over 400,000 Aborigines rejecting separatism and joining mainstream Australia in cities and provincial towns.

Moreover, around 70 percent of indigenous adults are married to non-indigenous spouses, up from 46 per cent in 1986, and the majority of Aborigines are now of mixed descent. Over 70 per cent profess Christianity and only about 12 per cent speak an indigenous language at home. And the vast majority of Aborigines want to live with or near the rest of the Australian population: in 2001 over 70 per cent were living in major cities or in or close to rural towns, compared with 46 per cent in 1971.

However, 100,000 or so Aborigines continue living in over 1200 remote communities in the most appalling conditions of lawlessness, violence, suicide, and substance abuse. The Reverend Steve Etherington, who has lived in a traditional Aboriginal community for 23 years, wrote two years ago that "tribal Aborigines in Australia are a 'kept' people: they are no longer required to grow or find their own food, are never required to become educated, never required to build their own homes or buy their own vehicles the vast majority are never required to learn anything or to do anything. Erosion of the capacity for initiative and self-help are virtually complete."

Former Queensland health worker, Doug Gladman, concluded that the high rate of head injury amongst Aboriginal communities in Cape York reflected the "loss of the role of the male in these remoter communities".

That fundamental problem is that there is little for anyone to do in these communities. Aboriginal culture is much admired in some quarters but, in such communities, it no longer provides a reason for living and a purpose to life. As in Thomas Hobbes' Leviathan, the reality there is that "the life of man, [is] solitary, poor, nasty, brutish, and short".

The contrast between those Aborigines who have escaped into civilisation, and those who have not, is starkly evident from census and other data. Those who have integrated have substantially improved their living standards, education and employment and health levels.

Yet the Government says that, with ATSIC out of the way, the "mainstreaming" of the delivery of the already extensive services it provides will overcome the problem. This fails to point the bone at the root source, viz the remote communities themselves, which are only kept going through welfare and other assistance.

Short of closing down these communities, the children there must be got into schools outside them where they can learn the basics of contemporary life and obtain

employment skills. Aboriginal Hostels must be expanded to provide appropriate accommodation for these children. The provision of infrastructure and other assistance to the 900 communities with average populations of only fifteen should cease.

The Government, through Minister Vanstone and her Task Force, must now adopt these and other measures to encourage remote community residents and their children to become part of the wider Australian community.

Should there be any doubt that these sentiments are at the heart of government actions FAIRA points out that the key players in this society are former government ministers, and that the society's unimpressive events have been graced by key players such as Senator Vanstone, Senator Ferris (a member of the Board), the Hon. Philip Ruddock and others.

The argument presented by these government apologists is that Aboriginal people choose to assimilate, that Aboriginal culture is doomed, redundant and irrelevant to modern living, and that assimilation should be forced upon remote populations by ending their communities.

While government statements might be more polished it can be argued that the government is not interested in the development of Aboriginal social and cultural infrastructures, and sees health, education and employment as a passport to assimilation.

FAIRA takes note of the policies of the government but finds the government to be highly irrelevant to the agenda of Aboriginal peoples and Torres Strait Islander peoples. There is not a speck of doubt that the future of our people lies in self-determination, nor is there a speck of doubt that the international human rights standards protect our rights to self-determination.

The government's compulsion to end ATSIC will have no greater impact upon Aboriginal development than the abolition of the NAC in 1985. We do not expect the vital services upon which Aboriginal people rely will be allowed to disappear simply because the demand will dictate the supply. The only effect will be increased agitation over the incompetencies of government. These incompetencies were well exposed in the 1970s and will be well-exposed again in the years ahead.

The indigenous agenda will remain the same – to gain control of our lands and resources, to keep our cultural identity alive and pass it on to our future generations, to fight racism directed against us, and to control decision making about our lives and our futures.

As has already been demonstrated a failure by government to act responsibly towards the indigenous peoples will lead to support being generated from internal and external agencies for human rights. Eventually these other players will lead to the government seeking to re-engage directly with the people rather than through indirect representation.

When government seeks to re-engage it will encounter a population much more used to independence from government patronage, more confident in its own capacity to

negotiate as equals with government, and less afraid to oppose government dictum. The population will also want better representative structures and commitments from government that was achieved through ATSIC.

FAIRA opposes the abolition of ATSIC without indigenous consent, but is intent upon assist the communities to develop their own representative structures and employing their own means of empowerment.

FAIRA is confident that the international agenda for the protection of the rights and freedoms of Indigenous Peoples is going to take precedence over and dominate the domestic policies of Australia.

The Aboriginal peoples should now be patient and await the opportunity to have peer discussions with governments. A treaty can be a good outcome, representing a mutual agreement made with benefits to its parties.

ISSUES

SELF-DETERMINATION

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

2. All peoples may, for their own ends, freely dispose of their natural wealth and resources without prejudice to any obligations arising out of international economic co-operation, based upon the principle of mutual benefit, and international law. In no case may a people be deprived of its own means of subsistence.

(Article 1, International Covenant on Economic, Social and Cultural Rights;
and Article 1, International Covenant on Civil and Political Rights)

The right of self determination is guaranteed by the United Nations to all peoples. While some States may dispute that Indigenous Peoples have the right to self-determination, any doubts in this regard may soon be dispelled by the United Nations once it adopts the Declaration on the Rights of Indigenous Peoples. The draft version of this declaration, which has been recommended by the Sub-Commission on the Promotion and Protection of Human Rights sets out the following words:

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

(Article 3, Draft Declaration on the Rights of Indigenous Peoples)

The right of the Aboriginal Peoples and Torres Strait Islander Peoples in Australia to self-determination is protected in the Covenants on Civil and Political Rights, and Covenant on Economic, Social and Cultural Rights. It is already part of international human rights law. This will be confirmed by the draft Declaration on the Rights of Indigenous Peoples once it has been adopted by the General Assembly of the United Nations. Some States, including Australia, are pushing for the conclusion of work on the draft, and its adoption in Year 2005.

The impact of the words in Article 1 of the Covenants should leave no doubt that Aboriginal Peoples in Australia are entitled to autonomy in relation to decision-making about social, cultural, economic and political development. Should there be any lingering doubt Articles 4, 19 & 20 (to pick but a few) of the draft Declaration are even more specific.

Indigenous peoples have the right to maintain and strengthen their distinct political, economic, social and cultural characteristics, as well as their legal systems, while retaining their rights to participate fully, if they so choose, in the political, economic, social and cultural life of the State.

(Article 4)

Indigenous peoples have the right to participate fully, if they so choose, at all levels of decision-making in matters which may affect their rights, lives and destinies through representatives chosen by themselves in accordance with their own procedures, as well as to maintain and develop their own indigenous decision-making institutions.

(Article 19)

Indigenous peoples have the right to participate fully, if they so choose, through procedures determined by them, in devising legislative or administrative measures that may affect them. States shall obtain the free and informed consent of the peoples concerned before adopting and implementing such measures.

(Article 20)

It is also an accepted principle of human rights that Indigenous Peoples' right to participation includes the right to 'free, prior and informed consent'. This principle was understood by the Committee on the Elimination of Racial Discrimination (CERD) which has called upon States to:

Ensure that members of indigenous peoples have equal rights in respect of effective participation in public life and that no decisions directly relating to their rights and interests are taken without their informed consent;

(CERD General Recommendation XXIII, 'Indigenous Peoples')

FAIRA emphasises to the Senate Select Committee that, regardless of whether the government supports assimilation or not, the international obligations upon Australia require the government to recognise self-determination for the Indigenous Peoples and to apply the principle of 'free, prior and informed consent' on any decisions which directly relate to our rights and interests.

This is part of international human rights standard and law, and, as Australia is a party to the Covenants and the Convention on race discrimination, Australia is obliged to recognise and uphold these standards.

This should leave no doubt for the Senate Select Committee that the ATSIC statute should not be changed without the participation and informed consent of the Aboriginal peoples. The government cannot make a unilateral decision without breaching its human rights obligations.

DEMOCRACY AND HUMAN RIGHTS

Australia is proud of its status as a parliamentary democracy and espouses the merits of such a parliamentary model in the global community, particularly the Commonwealth where much effort is made by Australia to amend and change the parliamentary systems of other Commonwealth States.

Unfortunately Aboriginal people in Australia are not successfully participating in the democratic institution of the parliament and are not able to place enough influence over the political decision-making to feel part of a representative democracy.

FAIRA obtained the following description of the elements of Australia's representative democracy. We believe that two of these elements are not being exercised in relation to the indigenous population. They are the protection of minority rights, and the constitutional safeguards of basic civil liberties.

1. a system of periodic elections with a free choice of candidates
2. competing political parties
3. universal adult suffrage
4. political decisions by majority vote
5. protection of minority rights
6. an independent judiciary
7. constitutional safeguards for basic civil liberties, and
8. the opportunity to change any aspect of the governmental system through agreed procedures.

FAIRA notes that the Minister for Aboriginal and Torres Strait Islander Affairs has made statements that Aboriginal people are represented in the parliament through the federal election process. This statement demonstrates the ignorance of the status of the indigenous peoples. Three particular obstacles exist to such representation being achieved in the parliament.

Firstly, Aboriginal people have been excluded from voting in the past and are not convinced of the merits in outcomes by voting and, secondly, Aboriginal votes are in the minority so that an elected candidate is not likely to be aware of or capable of defending the human rights interests of Aboriginal peoples. Thirdly, Aboriginal people have completely different issues to the election platforms of the candidates and the candidate is also likely to be absolutely ignorant of the community or aspirations.

All democracies are systems in which citizens freely make political decisions by majority rule. But rule by the majority is not necessarily democratic: No one, for example, would call a system fair or just that permitted 51 percent of the population to oppress the remaining 49 percent in the name of the majority. In a democratic society, majority rule must be coupled with guarantees of individual human rights that, in turn, serve to protect the rights of minorities--whether ethnic, religious, or political, or simply the losers in the debate over a piece of controversial legislation. The rights of minorities do not depend upon the goodwill of the majority and cannot be eliminated by majority vote. The rights of minorities are protected because democratic laws and institutions protect the rights of all citizens. The pillars of democracy (are):

- Sovereignty of the people.
- Government based upon consent of the governed.
- Majority rule.
- Minority rights.

- Guarantee of basic human rights.
- Free and fair elections.
- Equality before the law.
- Due process of law.
- Constitutional limits on government.
- Social, economic, and political pluralism.
- Values of tolerance, pragmatism, cooperation, and compromise.

(‘Defining Democracy’, US Department of State, <http://usinfo.state.gov>)

Good government would require the parliament to be cognizant of the interests of the Aboriginal peoples and Torres Strait Islander peoples, would be fully aware of the human rights standards and the application to indigenous peoples, and would be committed to the education of the voting public of the obligations upon States, and each individual, to eliminate racism, overcome inequality and tolerate and respect cultural diversity.

The United Nations has called for further action following the completion of the International Decade on Human Rights Education (1995-2004). In 2004, the Economic and Social Council, welcoming Commission on Human Rights resolution 2004/71, requested the General Assembly to proclaim, at its fifty-ninth session, a world programme for human rights education to begin on 1 January 2005. The draft plan of action (See Appendix) has the following principles.

8. Educational activities within the world programme shall:
- (a) Promote the interdependence, indivisibility and universality of human rights, including civil, political, economic, social and cultural rights and the right to development;
 - (b) Foster respect for and appreciation of differences, and opposition to discrimination on the basis of race, sex, language, religion, political or other opinion, national, ethnic or social origin, physical or mental condition, etc.;
 - (c) Encourage analysis of chronic and emerging human rights problems (including poverty, violent conflicts and discrimination), which would lead to solutions consistent with human rights standards;
 - (d) Empower communities and individuals to identify their human rights needs and to ensure that they are met;
 - (e) Build on the human rights principles embedded within the different cultural contexts, and take into account historical and social developments in each country;
 - (f) Foster knowledge of and skills to use local, national, regional and international human rights instruments and mechanisms for the protection of human rights;
 - (g) Make use of participatory pedagogies that include knowledge, critical analysis and skills for action furthering human rights;
 - (h) Foster teaching and learning environments free from want and fear that encourage participation, enjoyment of human rights and the full development of the human personality;
 - (i) Be relevant to the daily life of the learners, engaging them in a dialogue about ways and means of transforming human rights from the expression of abstract norms to the reality of their social, economic, cultural and political conditions.

(‘Draft plan of action for the first phase (2005-2007) of the proposed world programme for human rights education’
UN Document A/59/295, 25 October 2004)

These international obligations upon States create a situation where the government of Australia, as a member of the United Nations, a representative democracy and

proponent of good governance, must be expected to take action to end any propaganda campaign against the Aboriginal peoples, and implement positive steps to inform the public of the rights of Indigenous Peoples. In addition to the need to inform the general public, the government should be implementing actions which require the public media to better understand and report the situation of the Indigenous Peoples, including creating accountability and awareness of government efforts, and to inform the Aboriginal and Torres Strait Islander population of their rights and the multitude of contemporary obligation upon States, in compliance with international human rights standards and programmes of actions, to eliminate racial discrimination and overcome disadvantage to Indigenous Peoples.

GOVERNMENT

HISTORICAL ERRORS

NATIONAL FUNCTIONS

ROLES

OBLIGATIONS

CONSTRAINTS

INDIGENOUS PEOPLES

GENOCIDE

DISADVANTAGE

FIGHT FOR FREEDOMS

CONSTRAINTS

PRINCIPLES AND OBLIGATIONS

FAIRA has made many references in this submission to the international obligations which are upon Australia to apply human rights standards for Indigenous Peoples. In this section we set out some of those obligations.

ANTI-RACISM

Perhaps the most important human rights instruments are those aimed at ending racism and racial discrimination. This concern was to the forefront of the work of the United Nations from its inception at the end of the second world war.

Australia became a signatory to the International Convention on the Elimination of All Forms of Racial Discrimination almost immediately upon its adoption by the UN, signing in 1966. However it was not until 1975, nine years later, that the Australian Government ratified the convention by implementing the Racial Discrimination Act 1975 (RDA). The RDA has been of great importance to Aboriginal people, forcing the termination of discriminatory State laws, and placing much pressure upon governments, institutions and individuals who wanted to continue discriminatory

attitudes against Aboriginal people which seem to have become entrenched in Australia. For example, we have referred in this submission to the Bennelong Society where former government Ministers have dallied with the Indigenous policies of today. The following quote was just one of many lamentations made in a report of one of the society's workshops, where 'a number of speakers' lamented the court ruling to end Aboriginal exclusion from award rates of pay.

A number of speakers agreed with Ray Evans that several measures taken ostensibly to help Aborigines had proved disastrous, the worst being the 1966 Northern Territory Cattlemen's Award, handed down by a full bench of the Arbitration commission, which had effectively led to the dis-employment of thousands of Aboriginal stockmen and the virtual end of their participation in mainstream economic life.

(An Evaluation of A Workshop: 'Aboriginal Policy Failure, Reappraisal and Reform', December 2000, Geoff Partington, Bennelong Society, www.bennelong.com.au)

FAIRA uses this example, again attributed to a think tank 'in bed' with the government officials responsible for Indigenous policy, to show how leading citizens of Australia, including former government Ministers, are unable to distinguish even the most obvious acts of racial discrimination, and are unable to understand or accept that racial discrimination is a crime. The lamentation, that thousands of Aboriginal stockmen lost their participation in mainstream economic life, because racial equality was demanded is devoid of understanding.

FAIRA is surprised only that the pastoralists who had misused Aboriginal labour as virtual slave labour were allowed to escape and punishment for their criminal neglect and why the exploited were never fully compensated for their loss of income and for their loss of livelihood when their employment was terminated. Many of us know that not only did these people lose their employment status because of the evil and vindictiveness of their racist employers, but that many Aboriginal people were kicked off the cattle properties as an act of vengeance. These properties were located on their own traditional lands and had been acquired without any respect, any acknowledgement nor any payment to the traditional owners.

This example serves to show that racial discrimination against Aboriginal people is not only able to survive in Australia because of such attitudes, but it can thrive in an Australian version of goodwill and equality where the society laments the 'end of their participation in mainstream economic life'.

This small, but not uncommon, example of Australia's own brand of racism surged to national hysteria over the High Court's recognition of Aboriginal title to land. The hysteria commenced in 1993 and remains virtually unabated today. A significantly large percentage of Australians believe to the depth of their soul that Aboriginal people, in assertion of native title rights, are stealing that which belongs to white Australians. The sentiment continues today and FAIRA argues still remains an unspoken factor of national political elections.

The United Nations Committee on the Elimination of Racial Discrimination (CERD) made it extremely clear to the government of Australia that the Native Title Amendment Act of 1998 was racially discriminatory and the legislation should be repealed. The laws on Native Title, the CERD made perfectly clear, should be

negotiated with the Aboriginal Peoples and Torres Strait Islander Peoples of Australia. This sentiment has been confirmed by the CERD on three occasions and is likely to be the first decision made when Australia appears before the Committee on 1 & 2 March 2005.

The Australian Government refuses to accept the findings of the Committee, which is the authority established under the Convention to seek States' compliance with the Convention.

The CERD has provided a clear statement to the States on their obligations to deal with Indigenous Peoples, as a part of the non-discrimination standards, and to report on the efforts made to end discrimination against Indigenous Peoples. The CERD 'General Comment' reads:

The Committee calls in particular upon States parties to:

- (a) Recognize and respect indigenous distinct culture, history, language and way of life as an enrichment of the State's cultural identity and to promote its preservation;
- (b) Ensure that members of indigenous peoples are free and equal in dignity and rights and free from any discrimination, in particular that based on indigenous origin or identity;
- (c) Provide indigenous peoples with conditions allowing for a sustainable economic and social development compatible with their cultural characteristics;
- (d) Ensure that members of indigenous peoples have equal rights in respect of effective participation in public life and that no decisions directly relating to their rights and interests are taken without their informed consent;
- (e) Ensure that indigenous communities can exercise their rights to practise and revitalize their cultural traditions and customs and to preserve and to practise their languages.

The Committee especially calls upon States parties to recognize and protect the rights of indigenous peoples to own, develop, control and use their communal lands, territories and resources and, where they have been deprived of their lands and territories traditionally owned or otherwise inhabited or used without their free and informed consent, to take steps to return those lands and territories. Only when this is for factual reasons not possible, the right to restitution should be substituted by the right to just, fair and prompt compensation. Such compensation should as far as possible take the form of lands and territories.

The Committee further calls upon States parties with indigenous peoples in their territories to include in their periodic reports full information on the situation of such peoples, taking into account all relevant provisions of the Convention.

(UNCERD General Comment XXXIII, 18 August 1997)

It is imperative that the Government of Australia adopt a different approach to the Committee and its findings of racial discrimination. The near-abolition of ATSIC is seen by Aboriginal and Torres Strait Islander people as being an act of racial discrimination. It is likely that the CERD will take that view also. The report of this Senate Select Committee Inquiry will ultimately become one of the documents examined by CERD. FAIRA, in our understanding of the procedures of CERD, would expect that the Committee will ask the government to send a copy of the report for its examination when it becomes available.

There are other standards on racial discrimination which have application to Australia and the policies on Aboriginal peoples and Torres Strait Islander Peoples.

FAIRA has already mentioned the UNESCO Declaration on Race and Racial Prejudice. While this declaration might not have the attention and priority as the UN Convention it is a usefull document to clarify issues involving racism and cultural diversity.

The principle of the equality in dignity and rights of all human beings and all peoples, irrespective of race, colour and origin, is a generally accepted and recognized principle of international law. Consequently any form of racial discrimination practised by a State constitutes a violation of international law giving rise to its international responsibility.

Special measures must be taken to ensure equality in dignity and rights for individuals and groups wherever necessary, while ensuring that they are not such as to appear racially discriminatory. In this respect, particular attention should be paid to racial or ethnic groups which are socially or economically disadvantaged, so as to afford them, on a completely equal footing and without discrimination or restriction, the protection of the laws and regulations and the advantages of the social measures in force, in particular in regard to housing, employment and health; to respect the authenticity of their culture and values; and to facilitate their social and occupational advancement, especially through education.

(Article 9, Declaration on Race and Racial Prejudice, UNESCO, 27 November 1978)

Australia has also ratified ILO Convention 111 concerning Discrimination in respect of Employment and Occupation. While this convention is specifically aimed at addressing discrimination in employment, and does not have specific statements relating to cultural issues or Indigenous Peoples, its mandate is quite wide and ILO representatives are confident that Indigenous Peoples should give greater consideration to the application of the convention in discrimination disputes.

The World Conference Against Racism, held in Durban in Year 2000, was controversial in clashes between Palestinian and Israeli groups. Amid this public controversy the work on a final declaration was cumbersome and the results were regarded by many as being conservative and inappropriate to address modern issues. However the Durban Declaration and Plan of Action are still very important instruments in defining the relationship between States and Indigenous Peoples.

The Plan of Action has seventeen specific recommendations relating to Indigenous Peoples. These recommendations include actions that States examine their existing laws and constitutions, and work in conjunction with Indigenous Peoples ensure recognition of our rights.

The World Conference:

Recommends that States examine, in conformity with relevant international human rights instruments, norms and standards, their Constitutions, laws, legal systems and policies in order to identify and eradicate racism, racial discrimination, xenophobia and related intolerance towards indigenous peoples and individuals, whether implicit, explicit or inherent;

(para 19)

Calls upon concerned States to honour and respect their treaties and agreements with indigenous peoples and to accord them due recognition and observance;

(para 20)

Calls upon States to give full and appropriate consideration to the recommendations produced by indigenous peoples in their own forums on the World Conference;
(para 21)

Requests States to develop and, where they already exist, support institutional mechanisms to promote the accomplishment of the objectives and measures relating to indigenous peoples agreed in this Programme of Action;
(para 22a)

Programme of Action, the World Conference against Racism,
Racial Discrimination, Xenophobia and Related Intolerance, Durban, 2000

However the government must recognize that the most relevant and useful recommendations in the plan of action exists in those areas which were not limited to or specific to the Indigenous Peoples.

Recognizing the urgent need to translate the objectives of the Declaration into a practical and workable Programme of Action, the World Conference against Racism, Racial Discrimination, Xenophobia and Related Intolerance:

Urges States to work to ensure that their political and legal systems reflect the multicultural diversity within their societies and, where necessary, to improve democratic institutions so that they are more fully participatory and avoid marginalization, exclusion and discrimination against specific sectors of society;
(para 61)

Urges States to establish and implement without delay national policies and action plans to combat racism, racial discrimination, xenophobia and related intolerance, including their gender-based manifestations;
(para 66)

Urges States to give due consideration to the observations and recommendations of the Committee on the Elimination of Racial Discrimination. To that effect, States should consider setting up appropriate national monitoring and evaluation mechanisms to ensure that all appropriate steps are taken to follow up on these observations and recommendations;
(para 76)

Underlines the key role that politicians and political parties can play in combating racism, racial discrimination, xenophobia and related intolerance and encourages political parties to take concrete steps to promote equality, solidarity and non-discrimination in society, inter alia by developing voluntary codes of conduct which include internal disciplinary measures for violations thereof, so their members refrain from public statements and actions that encourage or incite racism, racial discrimination, xenophobia and related intolerance;
(para 115)

Programme of Action, the World Conference against Racism,
Racial Discrimination, Xenophobia and Related Intolerance, Durban, 2000

INTEGRITY OF STATES

The work at the United Nations on the Draft Declaration on the Rights of Indigenous Peoples is nearing completion. As previously mentioned in this submission the draft includes at Article 3 a clear statement that Indigenous Peoples have the right to self-determination. The previous reference also establishes that the right is already recognised under two UN covenants and would apply to Indigenous Peoples, as it would apply to any other peoples.

Some States have challenged this right, by claiming that Indigenous Peoples are not peoples. Other States have simply opposed the right on political reasons that it would not sit well with their current domestic arrangements. These arguments have lessened in recent years, however a deep-felt concern has existed that Indigenous Peoples, exercising the right to self-determination, in conjunction with other rights in the Declaration such as the right to own and control territories, would choose to secede from the State or, in a lesser situation, could impair the ability of the State to ensure security of its citizens and territories.

The legal position is clear that there is no 'right' to secede in international law, and that the right of self-determination does not carry a right to secession from a State. Indigenous Peoples have refused to provide any pledges that recognition of the right to self-determination would not lead to movement for succession. The refusal to provide the pledge is more upon principle than intention. The position is that a rebuttal of moves to succession is a qualification on the right of self-determination and therefore the right of self-determination has discriminatory application to Indigenous Peoples, as against all other peoples.

To resolve concerns some States have opted to include provisions on territorial integrity. Different versions of text are being considered and it remains unclear whether the additional text on 'territorial integrity' will be included, or in what form. The government of Australia has spoken on this issue and suggested that the Aboriginal Provisional Government proposes secession from Australia.

FAIRA raises this matter to highlight that the government has motive to try and deny any capacity for Indigenous peoples in Australia to exist or be recognised as peoples. FAIRA argues that there can be absolutely no doubt that the Indigenous Peoples of Australia are peoples. There is no other conclusion, considering the diversity between the societies and cultures of Aborigines and the British which existed at 1788, the legal policy of 'terra nullius' which applied until 1993, the exclusion of Aboriginal people from Australian society until the 1960s and the failure of the colonisers to make any arrangements with the Aboriginal peoples.

FAIRA would contest any Australian suggest that 'the time and tide of history' has washed away the identity of the Aboriginal peoples, and the international community would find the suggestion that Aboriginal peoples are integrated and assimilated into Australian society as mis-conceived and offensive.

The issue of territorial integrity is captured in the Vienna Declaration and Programme of Action within the clause on self-determination.

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

Taking into account the particular situation of peoples under colonial or other forms of alien domination or foreign occupation, the World Conference on Human Rights recognizes the right of peoples to take any legitimate action, in accordance with the Charter of the United Nations, to realize their inalienable right of self-determination. The World Conference on Human Rights considers the denial of the right of self-

determination as a violation of human rights and underlines the importance of the effective realization of this right.

In accordance with the Declaration on Principles of International Law concerning Friendly Relations and Cooperation Among States in accordance with the Charter of the United Nations, this shall not be construed as authorizing or encouraging any action which would dismember or impair, totally or in part, the territorial integrity or political unity of sovereign and independent States conducting themselves in compliance with the principle of equal rights and self-determination of peoples and thus possessed of a Government representing the whole people belonging to the territory without distinction of any kind.

(Para 2, Vienna Declaration and Programme of Action, 12 July 1993)

Therefore if Australia or any State is concerned that self-determination carries a construction for succession they simply need to note that the territorial integrity and political unity of a sovereign State will not be impaired provided the State was applying the principle of equal rights and self-determination of peoples, and provided the government represented the whole people of the territory without distinction.

FAIRA proposes to the Senate Select Committee that the abolition of ATSIC and the non-participatory style of government decision-making in Aboriginal affairs, combined with the CERD determinations of continuing racial discrimination against the Aboriginal Peoples and their lands and resources, and combined with articulated government policies for assimilation and destruction of Aboriginal social and cultural infrastructure, leaves the government wide open to Aboriginal claims of non-representation in the governance of their peoples and their lands.

FAIRA considers it inevitable, and imminent, that international standards, in combination with the development of specific standards relation to Indigenous Peoples and the growth and strengthening of Indigenous Peoples structures at the international level, that the anachronistic attitudes and policies of the government of Australia will be overtaken by international law and demands for human rights.

EQUALITY vs ASSIMILATION

The policies of the government on Indigenous Peoples are intentionally focussed upon individual disadvantage. The government has moved to limit discussion on Indigenous policy, including the Reconciliation debate, dealing with housing, health, education, employment and business. The government has made further moves to limit programs to those Aboriginal people living in remote areas or below a given income level. In this regard the govern sees the 'Aboriginality' as being irrelevant and is simply embarking upon programs where the identity of the individual is irrelevant.

The government policy is directed towards overcoming disadvantage of the individual and has no construct to assist Aboriginal communities to survive and develop as distinct cultural entities. The programs to overcome disadvantage are not intended to address community disadvantages or comply with cultural diversity.

The infrastructure of the Aboriginal communities is being ignored in favour of government departments and mainstream service delivery.

These are the elements of assimilation. The policy of assimilation is being forced through the disempowerment of Aboriginal communities, ranging from the demise of ATSIC to the tendering of services towards mainstream structures, the undermining of community council authority to the appointment of hand-picked Aboriginal people chosen to tell opponents that Aboriginal people want what the government wants.

An interesting example of this can be found in the use by the Bennelong Society of an Aboriginal former assistant to the Minister for Aboriginal and Torres Strait Islander Affairs, Sen. John Herron.

Helen McLaughlin, speaking from an Aboriginal perspective, explained how blaming colonisation itself as the key problem facing Aborigines confirmed in many people a victim mentality which inhibits their capacity to help themselves. She rejected, too, the claim that Indigenous Australians 'do not have a voice in their own or national affairs'. Others also noted that Aborigines have a far greater influence over national issues than do most other comparable minority groups. Helen McLaughlin castigated those who allege that ATSIC and related organisations are starved of government funding. Like the founders of nineteenth-century women's movements, such as Emily Pankhurst or Catherine Spence, she identified excessive drinking as a key cause of Aboriginal demoralisation and she called for stronger measures to curb the sly-grog trade.

(The Origins of the Bennelong Society - An Evaluation of A Workshop: Aboriginal Policy Failure, Reappraisal and Reform, Geoff Partington, December 2000, www.bennelong.com.au)

The ability of government to succeed with inadequate and dictated policies is vound in its willingness and capacity to generate propaganda and create racial hostility against the Aboriginal people. The public is being encouraged to be vocal, through media identities such as Janet Albrechtsen, Piers Ackerman and Andrew Bolt, and are being fed a litany of lies and half-truths which all rely upon generating insecurity and hostility against all Aboriginal people.

The Government's real intentions are revealed in a scurrilous article in *The Australian* (18/6/03) written by Janet Albrechtsen, a pen-prostitute if ever there was one. She writes: ". the policies of the International of the World's Indigenous People, based on self-rule with little accountability, have done more damage to indigenous Australians than the white missions of the 1930s did".

(Editorial, *The Guardian* newspaper 25 June 2003)

But more sick than this savagery was the craven failure of Aboriginal leaders to lead. If anything, they once more stoked the fires.

Murrandoo Yanner, a convicted brawler who was put on ATSIC, the Aboriginal "parliament", said police would pay in kind for Doomadgee's death: "When someone's killed, someone must be killed in return. If this policeman isn't punished, jailed or charged with murder, under the law, if you can't get one policeman, you get another." The Palm Island council chairwoman, Eryka Kyle, refused to appeal for calm when asked by a newspaper, and instead attacked non-Aboriginal workers who'd fled the violence, snapping: "They should be standing in solidarity with us."

Even the Australian Democrats' Aden Ridgeway, the only Aboriginal federal politician, championed the rioters by demanding the Howard Government tackle black deaths in custody.

So when some of the riot ringleaders appeared in court, no wonder supporters in the

gallery felt licensed to scream "Bulls---!" and "Kill 'em all!"

This is not the first such race riot, of course. In February Aborigines in Sydney's Redfern pelted police with molotov cocktails and rocks and once again Aboriginal "leaders" did little but make excuses.

('Walk on, Michael', article, Sun Herald newspaper, 10 December 2004, Andrew Bolt)

The Draft Declaration on the Rights of Indigenous Peoples provides a different perspective to the assimilation policies of Australia. The government of Australia has participated from start to finish in the drafting of the declaration, yet has given no information to the public of this declaration and how it will impact in Australia.

If the government believes that it will be able to ignore the draft and be able to maintain a 'domestic' policy framework, it is deluded. The international agendas are on the doorstep, and the government is merely creating a backlog of problems for the governments and the citizens of the future.

Equality does not mean 'sameness'. Cultural diversity must be tolerated. The right of people to be different, to choose to belong to a cultural collective, to control their lives and determine the futures of their children, and to maintain their own political, religious, and cultural systems is part of the right to equality.

Assimilation cannot be forced upon people. If force is attempted, then it may become Genocide under the provisions of the Genocide convention.

Article II

In the present Convention, genocide means any of the following acts committed with intent to destroy, in whole or in part, a national, ethnical, racial or religious group, as such:

- (a) Killing members of the group;
- (b) Causing serious bodily or mental harm to members of the group;
- (c) Deliberately inflicting on the group conditions of life calculated to bring about its physical destruction in whole or in part;
- (d) Imposing measures intended to prevent births within the group;
- (e) Forcibly transferring children of the group to another group.

Article III

The following acts shall be punishable:

- (a) Genocide;
- (b) Conspiracy to commit genocide;
- (c) Direct and public incitement to commit genocide;
- (d) Attempt to commit genocide;
- (e) Complicity in genocide.

Convention on the Prevention and Punishment
of the Crime of Genocide, 12 January 1951

The role of the State is clearly to be an instrument of the people and to work for the interests of the people. It is ludicrous to say that generating a fictional aura of racial division in the country, and denying that the United Nations and numerous international instruments are knocking at the door, is a move of a good and wise government

The government is failing its citizens and is not only in breach of the international

Convention on the Elimination of Racial Discrimination, but also of many other human rights instruments.

INDIGENOUS RIGHTS

As stated many times already in this submission the UN is about to complete its work on the Declaration on the Rights of Indigenous Peoples. For the most part the declaration does not create new rights, as most of the rights relate to human rights in existing covenants and conventions.

However the declaration does determine the rights as they apply to Indigenous Peoples and provides emphasis upon the collective rights as a peoples. The impact of this declaration will be felt most in the area of land and resources, as the declaration gives clear assertions of the right to own and control lands and resources.

The right of ownership and control of resources extends beyond the understanding currently in Australia, where the use of mining and extractive industries to exploit Aboriginal lands is unrestricted by the government.

Perhaps the most controversy will arise from the provisions for restitution and compensation. (If the Bennelong Society thought award wages for Aboriginal people was a bad move, wait until they inhale the impact of restitution.)

A copy of the draft declaration is provided in the Appendix. However it is important to include in this submission some of the articles which have specific relevance to the inquiry about ATSIC. The articles are self-explanatory re the relevance to ATSIC.

Indigenous peoples have the right to maintain and strengthen their distinct political, economic, social and cultural characteristics, as well as their legal systems, while retaining their rights to participate fully, if they so choose, in the political, economic, social and cultural life of the State.

Article 4

Indigenous peoples have the collective and individual right not to be subjected to ethnocide and cultural genocide, including prevention of and redress for:

- (d) Any form of assimilation or integration by other cultures or ways of life imposed on them by legislative, administrative or other measures;
- (e) Any form of propaganda directed against them.

Article 7

Indigenous peoples have the right to have the dignity and diversity of their cultures, traditions, histories and aspirations appropriately reflected in all forms of education and public information.

States shall take effective measures, in consultation with the indigenous peoples concerned, to eliminate prejudice and discrimination and to promote tolerance, understanding and good relations among indigenous peoples and all segments of society.

Article 16

Indigenous peoples have the right to participate fully, if they so choose, at all levels of decision-making in matters which may affect their rights, lives and destinies through representatives chosen by themselves in accordance with their own procedures, as well as to maintain and develop their own indigenous decision-making institutions.

Article 19

Indigenous peoples have the right to participate fully, if they so choose, through procedures determined by them, in devising legislative or administrative measures that may affect them.

States shall obtain the free and informed consent of the peoples concerned before adopting and implementing such measures.

Article 20

Indigenous peoples have the right to maintain and develop their political, economic and social systems ...

Article 21

Indigenous peoples have the right to determine and develop priorities and strategies for exercising their right to development. In particular, indigenous peoples have the right to determine and develop all health, housing and other economic and social programmes affecting them and, as far as possible, to administer such programmes through their own institutions.

Article 23

... States shall also take effective measures to ensure, as needed, that programmes for monitoring, maintaining and restoring the health of indigenous peoples, as developed and implemented by the peoples affected by such materials, are duly implemented.

Article 28

Indigenous peoples, as a specific form of exercising their right to self-determination, have the right to autonomy or self-government in matters relating to their internal and local affairs, including culture, religion, education, information, media, health, housing, employment, social welfare, economic activities, land and resources management, environment and entry by non-members, as well as ways and means for financing these autonomous functions.

Article 31

... Indigenous peoples have the right to determine the structures and to select the membership of their institutions in accordance with their own procedures.

Article 32

Indigenous peoples have the right to promote, develop and maintain their institutional structures and their distinctive juridical customs, traditions, procedures and practices, in accordance with internationally recognized human rights standards.

Article 33

Indigenous peoples have the collective right to determine the responsibilities of individuals to their communities.

Article 34

Indigenous peoples have the right to have access to adequate financial and technical assistance, from States and through international cooperation, to pursue freely their political, economic, social, cultural and spiritual development and for the enjoyment of the rights and freedoms recognized in this Declaration.

Article 38

Indigenous peoples have the right to have access to and prompt decision through mutually acceptable and fair procedures for the resolution of conflicts and disputes with States, as well as to effective remedies for all infringements of their individual and collective rights. Such a decision shall take into consideration the customs, traditions, rules and legal systems of the indigenous peoples concerned.

Article 39

EXTRACT FROM THE UNITED NATIONS'
DRAFT DECLARATION ON THE RIGHTS OF INDIGENOUS PEOPLES

The final applicable UN standard to which FAIRA refers is the "Declaration on the Right and Responsibility of Individuals, Groups and Organs of Society to Promote and Protect Universally Recognized Human Rights and Fundamental Freedoms" –

with this longer title is frequently abbreviated to “The Declaration on human rights defenders”

Most of the following information has been taken directly from the United Nations website at the Office of the High Commissioner for Human Rights.
(<http://www.ohchr.org/english/issues/defenders/declaration.htm>)

The Declaration is not, in itself, a legally binding instrument but it contains a series of principles and rights that are based on human rights standards enshrined in other international instruments that are legally binding – such as the International Covenant on Civil and Political Rights. The Declaration was adopted by consensus by the General Assembly and therefore represents a very strong commitment to its implementation.

The Declaration provides for the support and protection of human rights defenders in the context of their work. It gives attention, for example, to access to funding by organizations of human rights defenders and to the gathering and exchange of information on human rights standards and their violation. The Declaration outlines some specific duties of States

(a) Rights and protections accorded to human rights defenders

Articles 1, 5, 6, 7, 8, 9, 11, 12 and 13 of the Declaration provide specific protections to human rights defenders, including the rights:

- To seek the protection and realization of human rights at the national and international levels;
- To conduct human rights work individually and in association with others;
- To form associations and non-governmental organizations;
- To meet or assemble peacefully;
- To seek, obtain, receive and hold information relating to human rights;
- To develop and discuss new human rights ideas and principles and to advocate their acceptance;
- To submit to governmental bodies and agencies and organizations concerned with public affairs criticism and proposals for improving their functioning and to draw attention to any aspect of their work that may impede the realization of human rights;
- To make complaints about official policies and acts relating to human rights and to have such complaints reviewed;
- To offer and provide professionally qualified legal assistance or other advice and assistance in defence of human rights;
- To attend public hearings, proceedings and trials in order to assess their compliance with national law and international human rights obligations;
- To unhindered access to and communication with non-governmental and intergovernmental organizations;
- To benefit from an effective remedy;
- To the lawful exercise of the occupation or profession of human rights defender;
- To effective protection under national law in reacting against or opposing, through peaceful means, acts or omissions attributable to the State that result in violations of human rights;
- To solicit, receive and utilize resources for the purpose of protecting human rights (including the receipt of funds from abroad).

(b) The duties of States

States have a responsibility to implement and respect all the provisions of the Declaration. However, articles 2, 9, 12, 14 and 15 make particular reference to the role of States and indicate that each State has a responsibility and duty:

- To protect, promote and implement all human rights;
- To ensure that all persons under its jurisdiction are able to enjoy all social, economic, political and other rights and freedoms in practice;
- To adopt such legislative, administrative and other steps as may be necessary to ensure effective implementation of rights and freedoms;
- To provide an effective remedy for persons who claim to have been victims of a human rights violation;
- To conduct prompt and impartial investigations of alleged violations of human rights;
- To take all necessary measures to ensure the protection of everyone against any violence, threats, retaliation, adverse discrimination, pressure or any other arbitrary action as a consequence of his or her legitimate exercise of the rights referred to in the Declaration;
- To promote public understanding of civil, political, economic, social and cultural rights;
- To ensure and support the creation and development of independent national institutions for the promotion and protection of human rights, such as ombudsmen or human rights commissions;
- To promote and facilitate the teaching of human rights at all levels of formal education and professional training.

(c) The responsibilities of everyone

The Declaration emphasizes that everyone has duties towards and within the community and encourages us all to be human rights defenders. Articles 10, 11 and 18 outline responsibilities for everyone to promote human rights, to safeguard democracy and its institutions and not to violate the human rights of others. Article 11 makes a special reference to the responsibilities of persons exercising professions that can affect the human rights of others, and is especially relevant for police officers, lawyers, judges, etc.

(d) The role of national law

Articles 3 and 4 outline the relationship of the Declaration to national and international law with a view to assuring the application of the highest possible legal standards of human rights.

FAIRA presents the argument that ATSIC (and each of its representatives) is a human rights defender. The actions taken by government, in a thin disguise to impose its own political will, is a deliberate attempt to end the operations of ATSIC as a repercussion. The ATSIC Board were warned strongly by the government against participating in any international events, especially the meetings at the United Nations. Further the ATSIC Board were warned to cease funding to any international activity, especially those activities being undertaken by FAIRA, in the repatriation of Aboriginal Ancestral remains, and attending UN meetings.

ATSIC did take heed of the warnings but decided, correctly, that it was not only entitled to participate in this type of activity, but had a responsibility to the indigenous peoples of Australia to represent them at UN meetings relating to Indigenous Peoples and Human Rights.

In the latter stages of its operations ATSIC revised its expenditure on international meetings to establish a specific account. Previously all trips overseas were hidden in administrative accounts and across various programs. ATSIC was actually spending more money in previous years than in latter years on international meeting but this does not show up in the books. The difference in the last few years is that the international activities have been for effective and productive, including exposing the racism of the Australian Government.

The attack on ATSIC is an endeavour to penalize it for its international activities. This is clearly in violation of the Declaration on Human Rights Defenders.

PROGRAMS OF ACTIONS AND SPECIAL MEASURES

The FAIRA submission has to this point focussed upon the international standards which should be taken into account in any deliberations regarding ATSIC, its future or alternative arrangement.

In addition to the standards there are a number of human rights programmes of action which, firstly, should be considered in the examination of ATSIC and government policy and, secondly, should be applied in relation to the government's existing responsibilities in Aboriginal affairs.

In this submission we have already made reference to three standards. They are the Durban Declaration and Programme of Action, and the World Programme for Human Rights Education, and the Vienna Declaration and Programme of Action. FAIRA has made reference to the relevance of the first two programmes but has not mentioned the Vienna Programme of Action.

The World Conference on Human Rights urges States to ensure the full and free participation of indigenous people in all aspects of society, in particular in matters of concern to them.

(Para 31, Section II, Vienna Declaration and Programme of Action)

To FAIRA the most important and relevant matter in this declaration is the in Section C 'Cooperation, development and strengthening of human rights'. The World Conference on Human Rights recommends, in Para 72, that each State consider the desirability of drawing up a national action plan identifying steps whereby that State would improve the promotion and protection of human rights.

Australia believes that the protection and promotion of human rights is every nation's responsibility and that the function of government is to safeguard the dignity and rights of individuals, whose lives should be free of violence, discrimination, vilification, and hatred.

(Foreword, 'Australia's National Framework for Human Rights; National Action Plan' December 2004)

The National Action Plan should provide a context for Aboriginal policies in Australia and provide indication of the strategic steps for the implementation of the plan. Unfortunately it does not clarify these matters. It reinforces the assimilation goals of the government by referring to Indigenous Issues as 'Addressing Indigenous Disadvantage'. The following quote comes from the plan under the Section on Indigenous Equality.

Indigenous Australians are among the most disadvantaged people within the Australian community. To address this situation, there is a range of special laws and programs at national, State and Territory levels that are designed specifically for the benefit of Indigenous Australians. For example, in addition to general laws prohibiting racial discrimination and promoting equal opportunity, there are special laws to enable Indigenous communities to claim or purchase land. In the 2004–05 Australian Budget, the Government committed a record \$2.9 billion to Indigenous specific initiatives to reduce Indigenous disadvantage and increase the opportunities of Indigenous Australians to achieve self-reliance and independence from welfare. These initiatives are in addition to general government programs, such as health benefits, social security and employment assistance, that every Australian can access. The Government is also placing significant emphasis on the need for these "mainstream" services to be accessible to, and meet the needs of, Indigenous Australians.

In addition to prohibiting racial discrimination and ensuring racial equality under the law, the *Racial Discrimination Act 1975* includes an exemption for 'special measures', that is, benefits for persons of a certain race in order that they may enjoy and exercise human rights and fundamental freedoms equally with persons of other races. Therefore, special laws and programs to address indigenous disadvantage are consistent with the aims of the Act and with the CERD, provided that such laws and programs do not lead to the maintenance of separate rights for different racial groups and shall not be continued after the objectives for which they were taken have been achieved.

Reconciliation

The Australian Government is strongly committed to the ongoing process of reconciliation with Indigenous Australians.

It recognises the important role played by symbolic measures, such as the Government-funded construction of Reconciliation Place, opened in 2002 in the heart of Canberra's Parliamentary district. In 2000, the Australian Government provided seed funding and tax deductibility status to Reconciliation Australia to carry on the process of reconciliation started by the Council for Aboriginal Reconciliation. Reconciliation Australia is working towards the aim of "[a] united Australia which respects this land of ours; values the Aboriginal and Torres Strait Islander heritage; and provides justice and equity for all."

Recently, the Government provided funding of \$15 million to Reconciliation Australia to continue to promote and encourage the process of reconciliation between Indigenous Australians and non-Indigenous Australians. This is intended to ensure that reconciliation takes place at all levels, involving governments, communities, organisations and individual Australians.

In 2002 the Government also responded to the Council for Aboriginal Reconciliation's Final Report to the Parliament by reconfirming its awareness of the special place of Indigenous people in the life and history of Australia.

While symbolic measures are important, the Government also firmly believes that true reconciliation and equality of opportunity between Indigenous and non-Indigenous Australians require practical policies and initiatives. To this end, it continues to support the reconciliation framework agreed by the Council of Australian Governments (COAG) in November 2000. This framework set out a trial whole-of-government cooperative approach in a number of communities or regions, involving Australian, State and Territory governments. The aim of the trials is to improve the way governments interact with each other and with communities, to deliver more effective responses to the needs of Indigenous Australians. The provision of adequate housing, education, and health services to Indigenous Australians, detailed elsewhere in this Plan, are all necessary before Indigenous and non-Indigenous Australians can achieve full reconciliation.

Clearly this 'action plan' is no more than continued propaganda, intended to make the government look good, rather than provide Indigenous Peoples with an opportunity to interact with government and monitor achievements through specific targets and steps. It provides another example of poor governance and lack of accountability by government to the people it is established to serve.

Nevertheless, FAIRA is committed to the continued priority for a National Action Plan and believes that, even in this most basic form, it provides a basis for government accountability.

There exists one more program of action to raise. The General Assembly of the United Nations decided by consensus on 20 December 2004 to establish the Second Decade of the World's Indigenous Peoples, commencing 1 January 2005. The first decade has just concluded, with credible results at the international level in addressing the needs of Indigenous Peoples. FAIRA, along with other Indigenous organisations, lobbied for a second decade which might more closely follow the developments within States to improve the human rights of Indigenous communities. The UN has accepted the need for a second decade.

A programme of action is yet to be established for this second decade, but we have made two relevant requests. These requests are likely to be repeated at the UN Permanent Forum on Indigenous Issues, to be held in New York in May, 2005.

The first request is to repeat much of the elements in the first programme of action, particularly those elements relating to States, and the second request is to establish an effective monitoring mechanism, preferably consisting of indigenous representatives, to undertake annual monitoring of the progress of the decade. FAIRA believes the programme of action will be of particular interest to the Indigenous Peoples of Australia. For some indication we have included the first plan of action in the Appendix.

THE ROAD AHEAD

ELIMINATING RACISM

RESPECTING SELF-DETERMINATION

CREATING PARTNERSHIPS

FIGHTING CORRUPT ADMINISTRATION

ACCOUNTABLE GOVERNANCE

RECOMMENDATIONS

A/RES/50/157

29 February 1996
Fiftieth session

Agenda item 111

RESOLUTION ADOPTED BY THE GENERAL ASSEMBLY
[on the report of the Third Committee (A/50/634)]

50/157. Programme of activities for the International Decade of the World's Indigenous People

The General Assembly,

Bearing in mind that one of the purposes of the United Nations, as set forth in the Charter, is the achievement of international cooperation in solving international problems of an economic, social, cultural or humanitarian character and in promoting and encouraging respect for human rights and fundamental freedoms for all without distinction as to race, sex, language or religion,

Recalling its resolutions 48/163 of 21 December 1993 and 49/214 of 23 December 1994 on the International Decade of the World's Indigenous People, and Commission on Human Rights resolution 1995/28 of 3 March 1995, 1/

Recalling also that the goal of the Decade is to strengthen international cooperation for the solution of problems faced by indigenous people in such areas as human rights, the environment, development, education and health, and that the theme of the Decade is "Indigenous people: partnership in action",

Recognizing the importance of consultation and cooperation with indigenous people in planning and implementing the programme of activities for the Decade, the need for adequate financial support from the international community, including support from within the United Nations and the specialized agencies, and the need for adequate coordination and communication channels,

Recalling its invitation to organizations of indigenous people and other non-governmental organizations concerned to consider the contributions they can make to the success of the Decade, with a view to presenting them to the Working Group on Indigenous Populations of the Subcommission on Prevention of Discrimination and Protection of Minorities,

Taking note of Economic and Social Council decision 1992/255 of 20 July 1992, in which the Council requested United Nations bodies and specialized agencies to ensure that all technical assistance financed or provided by them was compatible with international instruments and standards applicable to indigenous people, and encouraged efforts to promote coordination in this field and greater participation of indigenous people in the planning and implementation of projects affecting them,

Mindful of the relevant recommendations of the World Conference on Human Rights, the United Nations Conference on Environment and Development, the International Conference on Population and Development, the Fourth World Conference on Women and the World Summit on Social Development, and of the Declaration on the Occasion of the Fiftieth Anniversary of the United Nations, 2/

Recognizing the value and diversity of the cultures and forms of social organization of indigenous people, and convinced that the development of indigenous people within their countries will contribute to the socio-economic, cultural and environmental advancement of all the countries of the world,

1. Takes note of the final report of the Secretary-General on a comprehensive programme of action for the International Decade of the World's Indigenous People and the annexes to that report; 3/
2. Decides to adopt the programme of activities for the Decade contained in the annex to the present resolution;
3. Also decides that the programme of activities for the Decade may be reviewed and updated throughout the Decade and that at the mid-point of the Decade the Economic and Social Council and the General Assembly should review the results of the activities to identify obstacles to the achievement of the goals of the Decade and to recommend solutions for overcoming those obstacles;
4. Affirms as a major objective of the Decade the adoption by the General Assembly of a declaration on the rights of indigenous people;
5. Welcomes the establishment of an open-ended inter-sessional Working Group of the Commission on Human Rights with the sole purpose of elaborating a draft declaration, considering the draft contained in the annex to resolution 1994/45 of 26 August 1994 of the Subcommission on Prevention of Discrimination and Protection of Minorities, entitled "Draft United Nations declaration on the rights of indigenous peoples", 4/ for consideration and adoption by the General Assembly within the Decade;
6. Also welcomes the decisions of the Economic and Social Council to approve the participation of some organizations of indigenous people in the Working Group, and encourages the continuing cooperation of the Council, the Committee on Non-Governmental Organizations and the Centre for Human Rights of the Secretariat in processing further applications as a matter of priority in accordance with the relevant resolutions of the Commission on Human Rights and the Council;
7. Recognizes among the important objectives of the Decade the consideration of the possible establishment of a permanent forum for indigenous people within the United Nations, as recommended in the Vienna Declaration and Programme of Action, adopted by the World Conference on Human Rights, held from 14 to 25 June 1993, 5/ and welcomes the report of the workshop on the possible establishment of a permanent forum for indigenous people held at Copenhagen from 26 to 28 June 1995 6/ and the ongoing dialogue on this subject;
8. Recommends that the Secretary-General, drawing on the expertise of the Commission on Human Rights as well as the Commission for Sustainable Development and other relevant bodies, undertake a review, in close consultation with Governments and taking into account the views of indigenous people and of the existing mechanisms, procedures and programmes within the United Nations concerning indigenous people, and report to the General Assembly at its fifty-first session;
9. Also recommends that the Commission on Human Rights, drawing on the results of the review and the Copenhagen workshop, consider the convening of a second workshop on the possible establishment of a permanent forum for indigenous people with the participation of independent experts as well as representatives of Governments, organizations of indigenous

people and other non-governmental organizations concerned and United Nations bodies and specialized agencies;

10. Recognizes the importance of strengthening the human and institutional capacity of indigenous people to develop their own solutions to their problems, and, for these purposes, recommends that the United Nations University consider the possibility of sponsoring, in each region, one or more institutions of higher education as centres of excellence and the diffusion of expertise, and invites the Commission on Human Rights to recommend appropriate means of implementation;

11. Recommends that special attention be given to improving the extent and effectiveness of the participation of indigenous people in planning and implementing the activities for the Decade, including through the recruitment, where appropriate, by relevant United Nations bodies and specialized agencies, of staff from among indigenous nationals of Member States, consistent with Article 101 of the Charter of the United Nations and within existing resources and staff levels;

12. Recommends that the Secretary-General:

- (a) Request United Nations representatives in countries where there are indigenous people to promote, through the appropriate channels, greater participation of indigenous people in the planning and implementation of projects affecting them;
- (b) Ensure coordinated follow-up to the recommendations concerning indigenous people of relevant world conferences, namely the World Conference on Human Rights, the United Nations Conference on Environment and Development, the International Conference on Population and Development, the Fourth World Conference on Women and the World Summit for Social Development;
- (c) Urge relevant United Nations conferences to promote and facilitate, to the extent possible and as appropriate, the effective input of the views of indigenous people;
- (d) Ensure that information about the programme of activities for the Decade and opportunities for indigenous people to participate in those activities is disseminated in all countries and to the greatest possible extent in indigenous languages, to be financed from within existing budgetary resources;
- (e) Report on progress made at the national, regional and international levels in accomplishing these objectives to the General Assembly at its fifty-first session;

13. Requests the United Nations High Commissioner for Human Rights to promote the objectives of the Decade, taking into account the special concerns of indigenous people, in the fulfilment of his functions;

14. Requests the Assistant Secretary-General for Human Rights, in his capacity as Coordinator of the Decade, bearing in mind the contribution that indigenous people have the capacity to make, to establish, within existing resources, a unit within the Centre for Human Rights of the Secretariat, including indigenous persons, to support its activities related to indigenous people, in particular to plan, coordinate and implement activities for the Decade;

15. Invites the Assistant Secretary-General for Human Rights to consider the appointment of a fund-raiser who could develop new sources of funding for the Decade;

16. Requests the Administrative Committee on Coordination, through its inter-agency process, to consult and coordinate on the Decade, with a view to assisting the Coordinator of the Decade to fulfil his function, and to report on activities of the United Nations system in relation to the Decade to the General Assembly in each year of the Decade;

17. Invites the United Nations financial and development institutions, operational programmes and specialized agencies, in accordance with the existing procedures of their governing bodies:

(a) To give increased priority and resources to improving the conditions of indigenous people, with particular emphasis on the needs of those people in developing countries, including by the preparation of specific programmes of action for the implementation of the goals of the Decade, within their areas of competence;

(b) To launch special projects, through appropriate channels and in collaboration with indigenous people, for strengthening their community-level initiatives and to facilitate the exchange of information and expertise among indigenous people and other relevant experts;

(c) To designate focal points for coordination with the Centre for Human Rights of activities related to the Decade;

18. Emphasizes the important role of international cooperation in promoting the goals and activities of the Decade and the rights, well-being and sustainable development of indigenous people;

19. Also emphasizes the importance of action at the national level to the implementation of the goals and activities of the Decade;

20. Encourages Governments to support the Decade by:

(a) Contributing to the United Nations Trust Fund for the Decade;

(b) Preparing relevant programmes, plans and reports in relation to the Decade, in consultation with indigenous people;

(c) Seeking means, in consultation with indigenous people, of giving indigenous people greater responsibility for their own affairs and an effective voice in decisions on matters which affect them;

(d) Establishing national committees or other mechanisms involving indigenous people to ensure that the objectives and activities of the Decade are planned and implemented on the basis of full partnership with indigenous people;

21. Also encourages Governments to consider contributing, as appropriate, to the Fund for the Development of Indigenous Peoples of Latin America and the Caribbean, in support of the achievement of the goals of the Decade;

22. Appeals to Governments and intergovernmental and non-governmental organizations to support the Decade by identifying resources for activities designed to implement the goals of the Decade, in cooperation with indigenous people;

23. Decides to include in the provisional agenda of its fifty-first session the item entitled "Programme of activities of the International Decade of the World's Indigenous People".

97th plenary meeting 21 December 1995

ANNEX

Programme of activities for the International Decade of the World's Indigenous People

A. Objectives

1. Taking into account General Assembly resolution 48/163 of 21 December 1993, the main objective of the International Decade of the World's Indigenous People is the strengthening of international cooperation for the solution of problems faced by indigenous people in such areas as human rights, the environment, development, health, culture and education.
2. The specialized agencies of the United Nations system and other international and national agencies, as well as communities and private enterprises, should devote special attention to development activities of benefit to indigenous communities.
3. A major objective of the Decade is the education of indigenous and non-indigenous societies concerning the situation, cultures, languages, rights and aspirations of indigenous people. In particular, efforts should be made to cooperate with the United Nations Decade for Human Rights Education.
4. An objective of the Decade is the promotion and protection of the rights of indigenous people and their empowerment to make choices which enable them to retain their cultural identity while participating in political, economic and social life, with full respect for their cultural values, languages, traditions and forms of social organization.
5. An objective of the Decade is to further the implementation of the recommendations pertaining to indigenous people of all high-level international conferences, including the United Nations Conference on Environment and Development, the World Conference on Human Rights, in particular its recommendation that consideration be given to the establishment of a permanent forum for indigenous people in the United Nations system, the United Nations Conference on Population and Development and the World Summit for Social Development as well as all future high-level meetings.
6. An objective of the Decade is the adoption of the draft United Nations declaration on the rights of indigenous peoples^{4/} and the further development of international standards as well as national legislation for the protection and promotion of the human rights of indigenous people, including effective means of monitoring and guaranteeing those rights.
7. The objectives of the Decade should be assessed by quantifiable outcomes that will improve the lives of indigenous people and that can be evaluated halfway through the Decade and at its end.

B. Activities to be undertaken by the major actors

1. United Nations observances

8. A formal observance each year on the International Day of the World's Indigenous People, in New York, Geneva and at other offices of the United Nations.

9. Official observance of the Decade as part of the Fourth World Conference on Women, the United Nations Conference on Human Settlements (Habitat II) and other international conferences related to the aims and themes of the Decade.

10. Issuance of a special series of stamps by the United Nations Postal Administration highlighting the goals and themes of the Decade.

2. Activities of the Coordinator and the Centre for Human Rights

11. Establish, as a matter of urgency, an adequately staffed and resourced indigenous people's unit.

12. Request Governments to second qualified indigenous people, in consultation with interested national indigenous organizations, to assist in the administration of the Decade.

13. Create a fellowship programme, in collaboration with the Advisory Services of the Centre for Human Rights of the Secretariat and Governments, to assist indigenous people wishing to gain experience in the different branches of the Centre and in other parts of the United Nations system. Such fellowships might be available for indigenous research and other similar activities.

14. Open a roster of indigenous experts in various fields who might be available to assist United Nations agencies, in collaboration with Governments, as appropriate, as partners or consultants.

15. Create an advisory group of persons with relevant knowledge of indigenous issues, acting in their personal capacity, to advise the Coordinator for the Decade and United Nations organizations, at their request. The members of this advisory group could include eminent indigenous persons, governmental representatives, independent experts and officials of the specialized agencies.

16. Consider the need to hold coordination meetings of Governments, organizations of the United Nations system and indigenous and non-governmental organizations, as necessary, to consider, examine and evaluate Decade activities and to develop an integrated, action-oriented strategy to advance the interests of indigenous people. The Economic and Social Council should hold mid-term and end-term reviews of the Decade in accordance with its resolution 1988/63 of 27 July 1988. The Working Group on Indigenous Populations of the Subcommission on Prevention of Discrimination and Protection of Minorities should review international activities undertaken during the Decade and receive information from Governments on the implementation of the goals of the Decade in their respective countries.

17. Compile, on the basis of communications of the focal points in the United Nations system, a regular news-sheet containing information about meetings of interest, major or innovative projects, new sources of funding, policy developments and other news to be widely distributed.

18. Encourage the development of partnership projects in association with Governments to address specific regional or thematic issues bringing together Governments, indigenous people and appropriate United Nations agencies.

19. Establish an information programme linking the Coordinator of the Decade to focal points of the United Nations system, national committees for the Decade and, through appropriate channels, indigenous networks; also develop a database of indigenous

organizations and other relevant information, in cooperation with indigenous people, Governments, academic institutions and other relevant bodies.

20. Organize meetings on relevant themes of concern to indigenous people with indigenous participation.
21. Launch a series of publications on indigenous issues to inform policy makers, opinion-formers, students and other interested people.
22. Develop, in collaboration with Governments, training programmes on human rights for indigenous people, including the preparation of relevant training materials, when possible in indigenous languages.
23. Establish a board of trustees or advisory group, including indigenous people, to assist the Coordinator of the Voluntary Fund for the International Decade.
24. Encourage the development of projects and programmes, in collaboration with Governments and taking into account the views of indigenous people and the appropriate United Nations agencies, for support by the Voluntary Fund for the Decade.
25. Ensure, in coordination with Governments and indigenous organizations, the necessary measures to guarantee financing of the objectives of the Decade.

3. United Nations public information activities

26. Produce and disseminate a series of posters on the Decade using designs by indigenous artists.
27. Organize a lecture series at United Nations information centres and campuses linked to the United Nations University, using indigenous speakers.
28. Publish in indigenous languages the Universal Declaration of Human Rights, international human rights conventions and, upon its adoption, the United Nations declaration on the rights of indigenous people, considering the use of audiovisual material for this purpose. Consider also the involvement of indigenous experts and their own information networks in disseminating information about the Decade.
29. Prepare, in collaboration with the Centre for Human Rights, information about indigenous people for distribution to the general public.

4. Operational activities of the United Nations system

30. Establish focal points for indigenous issues in all appropriate organizations of the United Nations system.
31. Encourage the governing bodies of specialized agencies of the United Nations system to adopt programmes of action for the Decade in their own fields of competence, in close cooperation with indigenous people.
32. Urge Governments to ensure that the programmes and budgets of relevant intergovernmental organizations give priority and devote sufficient resources to furthering the aims of the Decade, and request that regular reports on the action taken be submitted to the governing body or executive council of each organization.

33. Prepare, publish and disseminate a manual containing practical information for indigenous people on the operations and procedures of United Nations agencies.
34. Develop research on the socio-economic conditions of indigenous people, in collaboration with indigenous organizations and other appropriate partners, with a view to publishing regular reports in order to contribute to the solution of problems faced by indigenous people, taking into account paragraph 6.26 of the Programme of Action of the International Conference on Population and Development, held at Cairo from 5 to 13 September 1994. 7/
35. Encourage Governments to establish appropriate mechanisms and practices to ensure the participation of indigenous people in the design and implementation of national and regional programmes of concern to them.
36. Hold regular inter-agency consultations, in collaboration with Governments and indigenous people, to exchange views and develop strategies on the programme of action for the Decade.
37. Hold consultations with Governments to examine, with national committees and development agencies, possibilities of cooperation in the activities of the Decade.
38. Develop training materials for indigenous people on human rights, including the translation of the main international instruments into different indigenous languages, and give them wide distribution. Consider the possibility of using radio programmes to gain access to indigenous communities not having written languages.
39. Prepare a database on national legislation on matters of particular relevance to indigenous people.
40. Hold consultations of all interested parties on the themes of human rights, the environment, development, health, culture and education, with a view to elaborating programmes in these areas.

5. Activities of regional organizations

41. Implement existing and develop new regional programmes of action to promote and support the objectives of the Decade.
42. Hold regional meetings on indigenous issues with existing regional organizations with a view to strengthening coordination, taking advantage of the machinery of the United Nations system and promoting the direct and active participation of indigenous people of different regions in collaboration with Governments. The Working Group on Indigenous Populations could consider the possibility of holding its sessions in conjunction with these meetings.
43. Develop training courses and technical assistance programmes for indigenous people in areas such as project design and management, environment, health and education, and promote the exchange of skills and experiences of indigenous people from different regions.
44. Make funds available at the regional level to activities benefiting indigenous people.
45. Encourage regional organizations to draw up regional instruments for the promotion and protection of indigenous people in the framework of their own structures and promote existing regional instruments.

6. Activities of Member States

46. Establish national committees for the Decade or similar mechanisms, including indigenous people, all relevant departments and other interested parties duly convened by Governments, to mobilize public support for the various activities connected with the Decade.
47. Intensify coordination and communication at the national level between relevant ministries, agencies and regional and local authorities by establishing focal points or other mechanisms for coordination and dissemination of information.
48. Use part of the resources of existing programmes and of international assistance for activities of direct benefit to indigenous people and, where possible, provide additional funds for specific activities.
49. Develop, in collaboration with indigenous communities, national plans for the Decade, including main objectives and targets, fixing quantitative outcomes and taking into account the need for resources and possible sources of financing.
50. Provide appropriate resources for indigenous institutions, organizations and communities to develop their own plans and actions according to their own priorities.
51. Adopt measures, in cooperation with indigenous people, to increase knowledge, starting at the elementary-school level and in accordance with the age and development of schoolchildren, concerning the history, traditions, culture and rights of indigenous people, with special emphasis on the education of teachers at all levels, and adopt measures to restore indigenous place names.
52. Consider ratification and implementation of the Indigenous and Tribal Peoples Convention of the International Labour Organization (No. 169) and other international and regional instruments, in close consultation with the indigenous organizations of each country.
53. Recognize the existence, identity and rights of indigenous people through constitutional reforms or the adoption of new laws, when appropriate, to improve their legal status and guarantee their economic, social, cultural, political and civil rights.
54. Implement chapter 26 of Agenda 21, 8/ adopted by the United Nations Conference on Environment and Development, and the relevant provisions of the Convention on Biological Diversity, 9/ the Vienna Declaration and Programme of Action, adopted by the World Conference on Human Rights, 5/ the Programme of Action of the International Conference on Population and Development 7/ and the Programme of Action of the World Summit for Social Development, 10 / as well as the relevant provisions of future high-level conferences.

7. Activities of organizations of indigenous people

55. Establish an information network which can be linked to the Coordinator of the Decade and facilitate communications between the United Nations system, relevant governmental departments and indigenous communities.
56. Indigenous organizations and international indigenous networks should develop information for local communities concerning the goals of the Decade and the activities of the United Nations.

57. Establish and support indigenous schools and university-level institutions and collaborate with the relevant United Nations agencies; participate in the revision of school texts and the contents of programmes of study in order to eliminate discriminatory content and promote the development of indigenous cultures and, where appropriate, in indigenous languages and scripts; develop indigenous curricula for schools and research institutions.

58. Create documentation centres, archives and in situ museums concerning indigenous people, their cultures, laws, beliefs and values, with material that could be used to inform and educate non-indigenous people on these matters. Indigenous people should participate on a preferential basis in the administration of these centres.

59. Establish and promote networks of indigenous journalists and launch indigenous periodicals at the regional and international levels.

60. Indigenous people may transmit their views on the programmes concerning their priority rights to Governments, the United Nations and the specialized agencies and regional organizations.

8. Activities of non-governmental organizations and other interested parties, including education establishments, the media and business

61. Cooperate with indigenous organizations, communities and people in the planning of activities for the Decade.

62. Non-governmental organizations working with indigenous people should involve indigenous people in their activities.

63. Create radio and television centres in indigenous regions, when appropriate and in accordance with national legislation, to provide information on the problems and proposals of indigenous people and to improve communications between indigenous communities.

64. Promote indigenous cultures, with due respect for intellectual property rights, through the publication of books, the production of compact discs and the organization of various artistic and cultural events which enhance knowledge of and serve to develop indigenous cultures and establish indigenous cultural and documentation centres.

65. Involve different social and cultural groups in the activities planned for the Decade.