

National Consultations: Racism and Civil Society

Statement under Agenda Item 9

**by Dr William Jonas AM, Race Discrimination Commissioner and
Aboriginal and Torres Strait Islander Social Justice Commissioner,
Human Rights and Equal Opportunity Commission of Australia**

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Thank you Madam Chair.

I am speaking on behalf of the Australian Human Rights and Equal Opportunity Commission, which is a national human rights institution compliant with the Paris Principles.^[1] The Commission is an independent statutory authority which monitors Australia's compliance with its human rights obligations.

The Human Rights and Equal Opportunity Commission warmly commends and congratulates the governments participating in this third World Conference against Racism. We share with you the ambition that the Conference will yield not only a strong declaration and a comprehensive programme of action, but also a firm commitment to the full implementation of strategies to eradicate racism.

National institutions which reflect the Paris Principles are independent advocates for human rights. My Commission urges all States Parties to establish, where they do not exist, national institutions with responsibility for combating racial discrimination, and for all state parties to equip national institutions with adequate powers, expertise and financial resources. National institutions should be empowered to deal effectively with individual complaints about discrimination, to implement effective preventive strategies including community education and to make inroads into systemic and institutionalised discrimination by means of public inquiries and recommendations for reforms.

National institutions are essential as a focal point for governments, non-governmental organisations, international agencies and civil society in addressing racism and in building partnerships to this end. As the National Institutions' Statement to this World Conference notes, "National institutions shall act as a channel between action at the international level - through international treaty bodies, particularly the CERD, the special procedures, human rights resolutions and other mechanisms - and action at the national level to combat racism" (para 2). We urge all nations which have established human rights institutions to commit to strengthening their capacity to fulfil this role at both the international and domestic levels.

To this end, we encourage this Conference to include in the Programme of Action concrete measures for the greater participation of national human rights institutions at the international level.

Madam Chair, there can be no doubt that the greatest problem of racial discrimination in Australia is the situation of Aborigines and Torres Strait Islanders. This discrimination is institutional and systemic in nature, and historically derived as a consequence of colonialism. On average Indigenous Australians die 20 years younger than other Australians. They also experience significantly poorer health and education; gross over-representation in criminal justice and child care and protection systems; and significantly higher unemployment rates.

We warmly commend the acknowledgement in paragraphs 10 and 11 of the Draft Declaration that colonialism is a primary source of "systemic discrimination that still affects large sectors of the population" especially Indigenous people.

We are concerned, however, that the Declaration and Programme of Action as they currently

exist, does not reflect the full reality of Indigenous people's lives. At the regional meeting of Indigenous Peoples held in Sydney in February this year, a Declaration was adopted which states: "because the most important demands of Indigenous Peoples relate to collective rights, their aspirations remain misunderstood and unrecognised by the international human rights regime" (para 12).

A major obstacle to the full realisation of equality and inclusion of Indigenous Peoples is this emphasis among States and in the UN system on individual rather than collective rights including rights to land and resources, self-determination and autonomy, development and to practice culture.

The Declaration and Programme of Action deny the opportunity for fully understanding and redressing the exclusion experienced by Indigenous Peoples while they continue to fail to make this connection. My Commission urges that the collective dimension of Indigenous Peoples livelihood be reflected in the final outcomes of this conference, alongside practical, concrete measures for its realisation.

My Commission commends to this World Conference the recognition in General Recommendation XXIII on the Rights of Indigenous Peoples by the CERD for this purpose. It calls on States Parties to:

- a) recognise 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; (and)
- e) ensure that Indigenous communities can exercise their rights to practice and revitalise their cultural traditions and customs, to preserve and to practice their languages.

Thank you Madam Chair.

1. Principles relating to the Status of National Institutions, appended to General Assembly Resolution 48/134 dated 20 December 1993.

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