



# Victorian Aboriginal Legal Service Co-operative Ltd.

**Head Office:**  
6 Alexandra Parade,  
P.O. Box 218  
Fitzroy, Victoria 3065  
Phone: (03) 9419 3888 (24 Hrs)  
Fax: (03) 9419 6024  
Toll Free: 1800 064 865

**Media Release:**  
**United Nations Declaration on the Rights of Indigenous Peoples – A Cause for  
Celebration and Discussion - Not Fear**  
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On 2<sup>nd</sup> October 2007, at Melbourne University, Professor Mick Dodson delivered a speech about the United Nations Declaration on the Rights of Indigenous Peoples. Professor Dodson made it clear that opposition to the Declaration is based on misunderstandings and scaremongering and VALS agrees.

VALS also agrees with the Aboriginal and Torres Strait Islander Social Justice Commissioner, Mr Tom Calma who made the following comments on the Declaration (Media Release 14th September 2007):

- the Declaration is “*a milestone for the world’s Indigenous peoples and for the United Nations*”.
- “*It is the culmination of over two decades of negotiations at the United Nations and fierce advocacy by Indigenous peoples from all over the world since the 1970s*”.

Mr Calma’s media release acknowledges the bizarre position of the Australian Government on its opposition to the Declaration. Mr Calma says: “*[a]s I detail in my Social Justice Report 2006, the Australian Government’s reasoning for opposing the Declaration has no sound base and does not interpret the Declaration consistently with international law. In fact, their arguments had been roundly condemned by both Indigenous peoples and other governments in the negotiations of the Declaration in recent years.*”

Five years earlier in the Social Justice Report 2002, the then Aboriginal and Torres Strait Islander Social Justice Commissioner, Dr William Jonas, was even more blunt in his assessment of the Commonwealth Government’s position on the rights of Indigenous Peoples saying the the Government are relying on “*inflammatory, provocative untruths to reject Indigenous self-determination. This is shown by the suggestion, mysteriously made 'by some' but clearly endorsed by the Government’s uncritical recitation of it, that self-determination may amount to a unilateral right to secede from Australia... There is no historical precedent or basis in international law for the suggestion that a State could be dismembered unilaterally. It is in fact such an absurd suggestion that the only conclusion that can be drawn from the Government’s reliance upon it is that it is a deliberate untruth aimed at raising fear and opposition from non-Indigenous people.*”

The Declaration itself, at Article 46, highlights that the Declaration does not create the right to secession: *“Nothing in this Declaration may be interpreted as implying for any State, people, group or person any right to engage in any activity or to perform any act contrary to the Charter of the United Nations or construed as authorising or encouraging any action which would dismember or impair, totally or in part, the territorial integrity or political unity of sovereign and independent States.”*

Andrew Bolt’s article on the 19<sup>th</sup> September 2007 about the Declaration embraces the Government’s fear tactics, does a disservice to good journalism and hinders informed discussion about the Declaration. Mr Bolt makes fun of the fact that he too is Indigenous before launching into a diatribe about how the Declaration will pit one tribe against another and be divisive for Australia. He parrots the Prime Minister’s false claim on the ABC on 15<sup>th</sup> September 2007 that the Declaration means that customary law takes priority over general law. This is plain wrong.

Ironically, Mr Bolt has no problem being divisive himself when it comes to explaining why it is that only a handful of ex-British colonies among all the Member States of the United Nations oppose the Declaration. Mr Bolt’s lame and narcissistic explanation for this is *“.. the four countries that refused to ratify it last week are ones that take their word more seriously: Canada, Australia, New Zealand and the United States (the CANZUS group of countries), each of which objects that this Declaration puts ethnic laws above national ones.”* So apart from these four ex-British colonies, all the other countries in the world are inferior? liars? less trustworthy? Is that the argument?

The Declaration contains these words *“the General Assembly, ... [s]olemnly proclaims the following United Nations Declaration on the Rights of Indigenous Peoples as a standard of achievement to be pursued in a spirit of partnership and mutual respect”*.

What the Declaration means for Australians will depend substantially on how we understand it, how we value it and how we come to better understand each other. Before we take the dismissive views of the Prime Minister or Mr Bolt in respect of the Declaration, we should at least look at what more objective commentators and experts have to say about it. The majority of the Member States of the United Nations at the General Assembly who voted for the Declaration on 13<sup>th</sup> September 2007 are right - ‘The world must recognise the rights of Indigenous peoples’.

**Frank E Guivarra**

**Chief Executive Officer**

**Victorian Aboriginal Legal Service Co-operative Limited**

Mr Guivarra for many years attended meetings of the Working Group on the Draft Declaration on the Rights of Indigenous Peoples, at the United Nations in Geneva. On many occasions he was an active Chairman of the Indigenous Caucus for these meetings.

***For further comment contact Frank E Guivarra on 03 9419 3888***