



INDIGENOUS PEOPLES' ORGANIZATION (IPO) AUSTRALIA



EXPERT MECHANISM ON THE RIGHTS OF INDIGENOUS PEOPLES

14TH SESSION

PACIFIC AND ASIA REGIONAL MEETING: 13 JULY 2021

Agenda Item 8: Draft Report on efforts to implement the United Nations Declaration on the Rights of Indigenous Peoples: Indigenous Peoples and the Right to Self-Determination

Intervention delivered by Kado Muir, as National Native Title Council's Chairperson, Ngalia cultural leader & Member of the Indigenous Peoples' Organisation -Australia

Thank you, distinguished members of EMRIP. I'm Kado Muir, a Ngalia cultural leader, Chair of the National Native Title Council and member of the Indigenous Peoples' Organisation of Australia.

I commend the recent EMRIP study on self-determination. Self-determination is a key principle of the decision-making we exercise to meet our custodial obligations to protect and manage our places of cultural significance.

The globally significant 46,000-year-old cave sites at Juukan Gorge in the Pilbara region of Western Australia were described as a place which demonstrated the 'dawning of humanity'. Their destruction in May 2020 highlights failures of Aboriginal cultural heritage protection laws to protect significant places where industry has an interest. Rio Tinto mining corporation blasted Juukan Gorge after receiving lawful Ministerial consent for their destruction under the Western Australian *Aboriginal Heritage Act (1972)*.

The archaeologist commissioned by Rio Tinto reported the Juukan sites to be of the 'highest archaeological significance', as they evidenced a continual occupation that spanned the previous ice age and intersected with the Pleistocene's mega fauna. The site housed a human hair belt, dated at 4000 years, and demonstrating direct genetic links to the current Puutu Kunti Kurrama and Pinikura Traditional Owners. A sharpened kangaroo bone tool, dated at 28,000 years, was the oldest bone tool recorded in Australia.

Juukan's archaeological importance was matched only by the ritual and spiritual values it held for its Traditional Owners.

Juukan Gorge is one of 463 Aboriginal sacred sites for which the WA Minister has consented for destruction since 2010. Since 2010, the Minister has not refused a single application to destroy a sacred site.

Outcry over Juukan and other devastations caused under the *Aboriginal Heritage Act* has incited the WA Government to introduce replacement legislation: the *Aboriginal Cultural Heritage Bill, 2020*. This new Bill affords no better protections, subjects traditional rights to those of the proponents of industry and ensures all 'consent' provisions remain with the Minister.

The State-approved destruction of many hundreds of sacred sites in Western Australia demonstrates the discriminatory intent of legislation, which purports to preserve Aboriginal

cultural heritage, and forbids exercise of traditionally held rights to enjoy, manage, or bequeath Indigenous cultural heritage.

We recommend: That EMRIP request nation-states to report annually on their progress in implementing self-determination and 'free, prior and informed consent', as confirmed in the Declaration on the Rights of Indigenous Peoples.