

Opening Statement by the Chairman/Rapporteur of the Working Group  
on Indigenous Populations, Ms. Erica-Irene A. Daes, at the Eighth  
Session of the Group, 23 July 1990

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Distinguished Members of the Working Group,  
Representatives of Governments and Indigenous Peoples,  
Observers for Intergovernmental Organizations and  
Non-Governmental Organizations,  
Staff Members of the Secretariat,  
Ladies and Gentlemen Friends, and

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Please allow me at the beginning of my statement to wish you all  
welcome to Geneva and to this eighth session of the United Nations Working  
Group on Indigenous Populations. I am delighted to see so many of you assembled  
here today in this conference room on the first day of a two-week long session of  
the Working Group.

Also at the outset of this first meeting, I would very much like to  
express my heartfelt appreciation and gratitude to my fellow members of the  
Working Group for having elected me, for the sixth time, to the post of  
Chairman/ Rapporteur. It is an honour which I humbly accept, but it is also, and  
more significantly so, an expression of continuity in and commitment to the  
cause of international indigenous rights.

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We have ahead of us an important session with a long list of agenda  
items and issues. Probably the most significant item at this stage of our  
proceedings is the evolution of new international standards, and I will be  
devoting much of my opening statement to this topic. The emphasis on  
standard-setting is clearly in line with requests issued by the Working Group's  
parent bodies as they appear in the most recent resolutions of the Commission on  
Human Rights and the Sub-Commission on Prevention of Discrimination and  
Protection of Minorities.

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It would be my suggestion that the Working Group at this session, in accordance with the requests directed to us, initiate the first reading of the Draft Universal Declaration. This process means that we will be going over the whole declaration, article-by-article, both the preamble and the operative part. The purpose of the exercise is to find the contents, and the language in which to clothe the substance, about which there can be the broadest possible agreement among all the parties concerned.

When I say 'first reading' of the Draft Declaration, it is implied in this term that there will be a second reading of the text once we have completed the drafting and adoption of the articles in a first round. Adoption of articles in first reading is therefore still preliminary and tentative subject to a second review by the Working Group before the text is submitted to the Sub-Commission and the other parent bodies.

It goes without saying, something that we must not lose sight of, that the primary aim of the Draft Declaration is to address persistent problems of lacking equality for and discrimination against indigenous peoples in all parts of the world; hence the close relationship between the two main items of our agenda, namely the review of developments and the evolution of standards. But now, the Working Group has been hearing testimony on national developments for seven years and these are reflected in some detail in the annual reports of the Group. We also have the excellent study by Special Rapporteur Martinez Cobo on the problem of discrimination against indigenous populations. We therefore know the issues and problems well enough to be in a position to begin tackling the specifics of the Draft Universal Declaration.

In the Draft Universal Declaration of the Rights of Indigenous Peoples which I prepared two years ago, and in the first revised text of the Draft Declaration which I submitted to you last year and which was annexed to that year's report of the Working Group, I attempted to formulate human rights standards which seek to establish equality and dignity, in particular by the means of special rights, for all indigenous peoples so that the many existing problems could be reduced and eventually eliminated. Such a drafting exercise is difficult and more so in the light of a good and valid United Nations tradition of obtaining consensus about a human rights text, if at all possible, before it is

adopted. It is my firm opinion that we should be trying to achieve such a consensus here in the Working Group during our first and second readings of the text.

The current text of the Draft Declaration has been my work undertaken solely for the purpose of facilitating our drafting task. As repeatedly stated, it has not been thought of and it is not a final text. In addition to the general debates about the text which we have entertained during the sixth and seventh sessions of the Group, the Draft Declaration needs to be the subject of detailed scrutiny by the Working Group. That is the task before us now. We should also remember that even after our adoption in first and second readings, the text will still be subject to approval by our three sets of parent bodies before it is submitted for eventual adoption by the General Assembly.

In order to facilitate the work on the preparation of a declaration and in line with my mandate in that respect, I have put together a rather extensive analytical commentary on the written and oral comments and observations made in and to the Working Group about the Draft Universal Declaration over the last two years, up to and including those received in May of this year. This analytical commentary is before you in document E/CN.4/Sub.2/1990/39. I have deliberately chosen this approach rather than preparing a second revised text of the Declaration; I believe it is more useful at this point in time to begin with a collective effort in the Working Group as a whole.


Furthermore, you have before you in working papers the written observations about the Draft Declaration which have been received this year; I would like to use this opportunity, on behalf of the Working Group, to express our thanks to the governments ~~and organizations~~ which have thus responded to our requests for written comments and suggestions.

*and in particular  
to certain indi-  
genous non-  
governmental  
organizations)*

As to the specifics of the procedure to be followed as we move ahead with the first reading of the Draft Universal Declaration, it is my concrete and I hope constructive proposal to you that we break up into three open-ended and informal drafting groups for the remainder of this week.

In the process of reading each article of the Draft Declaration, it would be the purpose of these drafting groups, through a concentrated and intensified

discussion, to identify provisions or parts of articles which command general agreement among all the parties concerned. You will notice in my document containing the analytical commentary that I have already attempted, on the basis of comments received and the debates so far held, to identify possible areas of agreement.

I make this proposal for the setting up of informal drafting groups on the basis of a recommendation made by the Working Group last year and after renewed and careful consideration of all the possibilities available to us. This will allow us to engage in a more thorough discussion of each and every article as each meeting will be smaller and more manageable. This approach may be the only realistic response to the fact that the ten additional meetings allocated to us this year are partially unserved, meaning that we will have the services of the staff of the Centre for Human Rights but we will not have language  interpretation during the rest of this first week of the session. This method will also ensure the continued openness and transparency of our proceedings as each drafting group will be open to participants in accordance with their own choices and there will be no closed meetings.

Furthermore, with regard to the informal drafting groups, I would like to state clearly that whatever proposals or conclusions each drafting group may come up with, these will still be the subject of a full discussion in plenary meetings of the Working Group during our second week of the session so that everybody will have the chance to participate in all decisions, also with the availability of language interpretation.

The three informal drafting groups, each to be chaired by a senior member of the Working Group, would in accordance with my proposal be dealing with the following topics:

- Informal Drafting Group I under the Chairmanship of Mr. Miguel Alfonso Martinez would be entrusted with Land Rights, Resources and Traditional Economic Activities, that is basically chapters III and IV of the Draft Universal Declaration and any other relevant provisions, including those of the preamble;

- Informal Drafting Group II under the Chairmanship of Mr. Danilo Turk would be entrusted with Political Rights and Autonomy, that is basically chapter V of the Draft Universal Declaration and any other relevant provisions, including those of the preamble; and

- Informal Drafting Group III under my own Chairmanship would deal with all other aspects and provisions of the Draft Universal Declaration, in particular chapters I, II, VI and VII, and any other relevant provisions, including those of the preamble. I would also like to invite the two other members of the Working Group to join any of the drafting groups and to take an active part in their deliberations.

It is foreseen that the informal drafting groups would report to the plenary meetings during the second week. These reports can be in writing, but they should be brief and succinct with an emphasis on any proposed texts that the drafting groups may wish to forward to the plenary meetings. If the drafting groups succeed in coming up with language about which there is broad agreement and if that general consensus is acceptable to the Working Group and to all or most of the parties present at the plenary meetings, I believe that we could and should go ahead and adopt such articles although, as I have repeatedly stated, this would still be part of the first reading.

It is my hope and expectation, as we begin the first reading of the Draft Universal Declaration, that the Working Group will once again break new ground for increased United Nations involvement in the promotion and protection of the human rights of indigenous peoples.

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In addition to the agenda item on standard-setting and our continuing and intensified work on the Draft Universal Declaration, the following agenda items and issues will or may be coming up for our consideration during the next two weeks:

- The annual review of national developments which forms part of the original mandate of the Working Group as laid down in resolution 1982/34 of the Economic and Social Council. This item of course continues to constitute a

crucial part of our working programme to which we will devote several meetings during the second week of our session. I have already mentioned the close relationship between the review and our standard-setting efforts. Furthermore, the review traditionally provides indigenous peoples with a welcome opportunity to publicly air their views and thus to strengthen the dialogue with their governments and to increase the awareness of the international community about a wide range of issues, including of course the general human rights and specific indigenous rights problems facing indigenous peoples;

- The <sup>study</sup> preliminary report by the Special Rapporteur of the Sub-Commission, Mr. Alfonso Martínez, on ~~his study on~~ treaties, agreements and other constructive arrangements between States and Indigenous peoples;
- Support activities by the United Nations Voluntary Fund for Indigenous Populations, including proposals made for broadening the scope and range of the Fund's activities;
- Questions relating to the proclamation of an International Year for Indigenous Rights. In this context, we will have before us a working paper prepared by Mr. Asbjörn Eide, the first Chairman/ Rapporteur of this Working Group, and Ms. Christy Mbonu on possible United Nations promotional activities relating to such an International Year;
- Working paper prepared by the United Nations Centre for Transnational Corporations on the preparation of a data base on transnational investments and operations on indigenous lands and territories;
- Upcoming or planned conferences, seminars and meetings of experts on a variety of issues affecting indigenous peoples, including self-government, the right to development, sustainable development, and environmental rights;
- Other technical assistance and advisory services in the field of human rights, including training courses, and how such activities may be undertaken so as to increasingly benefit indigenous peoples;

- Dissemination of Information, including Fact Sheet No. 9 on the Rights of Indigenous Peoples recently published by the Centre for Human Rights and other publications and Information activities. I wish to welcome to our conference room a team from the United Nations Department for Public Information which is making a documentary film about Indigenous peoples and their rights.

I take this opportunity to express my gratitude to the Under-Secretary-General for Human Rights, Mr. Jan Martensson and his competent colleagues for this very useful publication. Also,

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Having gone through this long list of the items and issues awaiting our consideration, and the list may still not be exhaustive because there are many other relevant developments taking place, I would nevertheless like to propose to you a tentative and what has to be a flexible timetable for the purpose of planning and streamlining our work:

- This morning, after dealing with the agenda items relating to adoption of the agenda and organization of work, we can hear any general statements that delegations may wish to deliver at this early stage;

- This afternoon and until Friday 27 July, the three informal drafting groups on standard-setting would be meeting full time. They are scheduled to complete their work by Friday afternoon at the latest;

- On Monday 30 July, we would begin with the item relating to review of developments;

- On Tuesday 31 July, when the reports of the three informal drafting groups have become available to us, we can address the standard-setting item in about two plenary meetings;

- On Wednesday 1 August, we would have the third and fourth meetings on review of developments;

- On Thursday 2 August, we should devote one or two meetings to the treaty study of Mr. Alfonso Martinez; and

- On Thursday 2 August, if there is available time, and on Friday 3 August we should have ample time in two or three meetings to discuss all the other issues relating to indigenous rights, under the agenda item on other matters, that members and participants may wish to bring up for comments and discussion. During the Sub-Commission session, the members of the Working Group will have a few more meetings in order to finalize and adopt our report following the necessary consultations with the parties, as has been our practice in previous years.

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Ladies and Gentlemen,

We are meeting at an exciting time in world history. Dramatic events *and radical political and socio-economic changes* are taking place all around us and many of them are of major significance to human rights and fundamental freedoms. Out of a long list of interesting developments, one can mention increased respect for the will of the people, political willingness to confront and solve complicated and sensitive problems, and a general easing of tensions between and among states and peoples. In a few but still very few instances we have received information about positive actions taken on behalf of indigenous concerns.

These ongoing and continuing developments in world politics do not mean that we are all of a sudden living in a perfect world where all human rights and fundamental freedoms have been or are about to be realized; that is unfortunately not the case. Still it is important that we in the Working Group should not only be aware of these changes and improvements wherever and whenever they occur, but we must do our utmost to translate these opportunities into international and national action which would benefit indigenous peoples everywhere. *and every individual throughout the globe.*

Thank you  
Erica-Rene A. Doe