

**COMMISSION ON HUMAN RIGHTS
SUB-COMMISSION ON PREVENTION OF DISCRIMINATION
AND PROTECTION OF MINORITIES
WORKING GROUP ON INDIGENOUS POPULATIONS
11TH. SESSION**

**19-30 JULY 1993
ITEM 5 OF THE AGENDA**

**REVIEW OF THE DEVELOPMENTS PERTAINING TO THE PROMOTION
AND PROTECTION OF HUMAN RIGHTS AND FUNDAMENTAL FREEDOMS
OF INDIGENOUS POPULATIONS**

**INTERVENTION BY KAPTEIN HANS DIERGAARDT,
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in the Republic of Namibia**

Madame Chairperson,
Members of the working group,
distinguished representatives of the Indigenous Peoples from all over the world,
brothers and sisters :

This is the first opportunity that I have the privilege of addressing this assembly and it is for me a moment of great pride to be able to present you with some developments pertaining to the human rights and fundamental freedoms of the Rehoboth Baster Community in today's Republic of Namibia. At the same time, it is a moment of sadness, as our situation has so dramatically deteriorated. Namibian independence has pushed the Rehoboth people into dependence.

As a first presentation, you will surely allow me, Madame Chairperson, to give some basic facts about the people whose elected leader I presently am. My community numbers more than 35000 people, living in an area of 14 216 square kilometres south of Windhoek, the capital of Namibia. We settled in our lands in the early 1870's, developed our own legal system, years before the Germans established their colonial rule over Namibia in 1885, and as such we constitute an indigenous people in present-day Namibia. I will not say more on this point because my delegation has brought extensive documentation on the matter, for the benefit of this Working Group.

INT.1

Madame Chairperson, honourable members, brothers and sisters:

It may be my first appearance at this meeting but we have not neglected in the past decade to inform the United Nations bodies regularly about our situation in the perspective of the termination of the Trusteeship system and South African rule.

Unfortunately many of the statements we have made on several occasions have not been taken seriously, which is partly responsible for our actual situation in Namibia. Not only have we tried to keep in touch with the United Nations in the recent past but our forefathers and leaders of the Community have also regularly addressed themselves to the predecessor of this august organization in this very same place, the Council of the League of Nations.

The leaders of the Rehoboth Basters have indeed petitioned the League of Nations various times in the years 1925-1926. This was justified from the viewpoint of international law as well as in respect of President Wilson's 14 points on nationalities. Indeed, our Community is by its language, culture, traditions and ancestral laws more than 125 years old. It survived the German colonization, the First World War, the League of Nations Mandate, the Second World War and the U.N. Trusteeship, sometimes under duress - but it survived until now. Its territory was never formally annexed by any power. But now we live under virtual occupation. In fact, isn't it paradoxical that the independence of the Republic of Namibia introduced the first real fundamental threat to our very existence ?

Firstly, since Namibian independence in March 1990, the government initiated a policy aimed at subjecting and destroying the distinct existence of the Rehoboth Baster Community, in particular by expropriating, during October 1991, their communal lands without any compensation, depriving the Community of more than 131,721 hectares.

The Namibian government also confiscated the Rehoboth government's office-buildings together with the communal lands on which it is situated, in the extent of approximately 3,28 hectares. It should be mentioned that the Rehoboth Baster People's government has in the end been abolished by the new Namibian constitution as from the date of independence of Namibia and without the consent of the Rehoboth Baster Community. The government of Namibia has the clear intention to confiscate the other remaining communal property of the Rehoboth people.

The Rehoboth Baster Community ultimately had no choice but to apply, at great expense and without the necessary resources, to the Namibian High Court for relief to rectify this unlawful conduct of the Namibian Government. This case is still pending.

Secondly, not only communal land but also other movable assets, worth many millions, were confiscated by the Namibian government. Taking away the economic base of the Community is combined with the destruction of the self-government institutions of the Community which existed under various forms and conditions for more than a century.

INT.2

Thirdly, Madame Chairperson, a very important fact is the elimination of Afrikaans, which is, an official language and the forcable switching from Afrikaans to English for purposes of administration and education. Afrikaans, being the mother-tongue of all the members of the Baster Community, as a fully developed language in which all functions of communication, education, science, administration and justice can be performed, is forcibly squeezed out of the area.

Madame Chairperson, on this particular point it is useful to draw your attention to the fact that the Republic of Namibia, which owes its very existence to great efforts over years of the international community under the aegis of the United Nations, has since independence three-and-a-half years ago only acceded to and ratified four international instruments dealing with human rights. As such it cannot be addressed on the basis of its international obligations, for the mere fact that it has not committed itself to the relevant international obligations. The Convention on the Rights of the Child is one of the rare ones to which the Namibian government is bound. I want thus to point out very clearly that article 30 of this Convention obliges the Namibian government to respect the right of a child belonging to a minority or an indigenous population "to enjoy his/her own culture, to practise his/her own religion, or to use his/her own language". It goes without saying, Madame Chairperson, that if the International Declaration on the Rights of Indigenous Peoples, drafted under your expert guidance, would have been in effect today, the Namibian Government would be breaking all and every single one of its provisions. Since Secretary General Boutros Boutros Ghali clearly stated on 10 December last year that the way Indigenous peoples are treated by States ... will be a major test for the seriousness of our commitment to a universal Human Rights regime, we also want Namibia to be tested with this yardstick.

To conclude, Madame Chairperson, members of the working Group, brothers and sisters, the Rehoboth Baster People may not claim 50 000 years of ancestry in Southern Africa, as our friends from Australia. Nevertheless in December of this year, being the International Year of Indigenous Peoples, the Community of Rehoboth Basters is proud to celebrate not less than 125 years of organised self-government. Major elements of this achievement have now been all but destroyed. Our presence here is essentially motivated by our concern to inform the United Nations and the international community at large of our intollerable situation. Therefore, I invite and strongly urge the Chairperson of this Working Group and its members to come to Rehoboth on this occasion, so that they can see for themselves and draw the necessary conclusions in respect of the developments which I have presented here, and finally remind the Namibian government of its responsibilities. For us time is running out. You are our last resort.

Thank you Madame Chairperson.

INT.3