



COMMISSION ON HUMAN RIGHTS

1 August 1988

Sub-Commission on Prevention of
Discrimination and Protection
of Minorities
Fortieth session
Working Group on
Indigenous Populations
Sixth session

WGIP 88/NAH.CAN/4

OPENING REMARKS ON THE TASK OF THE WORKING GROUP

Statement of the Grand Council of the Crees (of Quebec)
a non-governmental organization in consultative status (roster)

Thank you madam chairman.

First, on behalf of the Grand Council of the Crees of Quebec, allow me to congratulate you on your reelection as Chairman of the Working Group on Indigenous Populations. I also want to take this opportunity to express our congratulations on your reelection to the Sub-Commission on Prevention of Discrimination and Protection of Minorities, and our appreciation of your willingness to serve as an expert responsible for the vital work being undertaken pursuant to Economic and Social Council resolution 1982/34 of 7 May 1982, calling for the establishment of the Working Group, and resolution 1986/34 of 23 May 1986, endorsing the Working Group's task of drafting international standards for the protection of indigenous peoples.

Indigenous peoples throughout the world look to your leadership, and well known dedication to the advancement of human rights, as a source of hope, that the terrible injustices which have been practiced for centuries, and which continue to this day, will be brought to an end through these efforts at the United Nations. We know of the good work which you are doing, and of the many obstacles you have overcome to be with us here today.

[We have very little time to accomplish our task. While we meet here, we are fighting for our very survival as a people. Our collective rights are being denied in many lands, and even in the most wealthy countries of the world, our people are always the poorest of the poor. We cannot wait, confounded by protocol, and the careful diplomatic maneuvers of ministers, to find perfect words and legally elegant definitions in order to complete our task. Because that will only support the strategy being used against us: delay while we seek definitions, delay while we consult and request instruction, delay, delay, delay. And while we wait, we die.]

That is why the Grand Council of the Crees welcomes the work, Dr. Daes, that you have done pursuant to Sub-Commission resolution 1987/16, Commission on Human Rights resolution 1988/49, and Economic and Social Council resolution 1988/36, in preparing a set of draft standards for our consideration at this meeting. We realize that the resolution authorizing this work was only

approved by vote of the Commission on Human Rights in March 1988 and not given final approval by the Economic and Social Council until May 1988; nevertheless you have, within the short deadlines imposed by resolution, placed before the Working Group an intelligent and comprehensive set of draft standards for our consideration at this meeting.

Allow me to ask everyone: let us express our appreciation of your effort by setting directly to work, condemning delay on any pretext, and concentrating in this meeting on the essential work of responding to the full set of draft principles which have been given us for comment and emendation.

Last August the Grand Council of the Crees presented written comments in document E/CN.4/Sub.2/AC.4/1987/WP.4/Add.5, to the first fourteen points to be tabled. The fourteen points have now been integrated into the new draft text, and this in our understanding is where we must direct our attention at this meeting. We will comment accordingly when the agenda so permits, but at this time I want only to frame the issue so that the task before us is clear and we waste no time.

The United Nations Charter and the existing human rights instruments grew out of the terrible atrocities that led to the founding of the United Nations itself. Although we may like to believe that our human rights instruments are a manifestation and inherent recognition of the ethical and moral imperatives of mankind, we all know that this is not the case.

[Our present international mechanisms to protect human rights were all implemented as a result of the most serious human rights abuses. The tragic events which occurred, led us to understand that human rights could not be adequately protected at the level of domestic law. Nazi Germany's four hundred anti-Jewish ordinances and decrees were legally sound within German domestic law. Apartheid is a perfectly legal regime within the Union of South Africa, regardless of the fact that it offends international standards of human rights, and no matter how abhorrent it is to all of us.

History has shown us that domestic law is not a reliable standard for protection of human rights. It is a fundamental principle of the United Nations that we set higher ideals. We attempt to transcend national and municipal law, and bind ourselves to a higher ideal in order to overcome the misguided interests, greed, and political motivations that can result in abhorrent domestic legislation.]

I raise this point because we must be firm in rejecting the arguments made by some countries with large indigenous populations, that our success here depends on finding standards that will not conflict with existing domestic law, and will not affect the internal administration of indigenous people by those States. This search for a "lowest common denominator" will not work. It is not an approach consistent with United Nations practice. It would never eliminate Nazism or apartheid.]

The fact remains that human rights abuses against indigenous peoples continue today in spite of existing United Nations protections. That is why we are here now. These abuses are practiced collectively against indigenous people.

Existing United Nations protection for individuals has proven ineffective, even where the existing individual protections are supported by parallel legislation in domestic law. Some States have even made public declarations here, contrary to their own constitution, that their "indigenous populations" have no right to claim the protection of existing human rights standards under international law, because they are not "peoples" under international law!

Under such circumstances it should be obvious that a set of standards set out only as objectives and recommendations, rather than as firm declarations of rights and obligations, will be defective and ineffectual. We would recommend that in our consideration here over the next week, we examine the full set of draft standards in light of the United Nations General Assembly resolution 41/120 of 4 December 1986, "Setting international standards in the field of human rights". Consistent with this resolution we should assure ourselves that the indigenous rights standards will contain in careful parity, both rights for the protection of indigenous peoples, and the obligations of States to respect those rights.

Later in the week we will consider the question of treaties between indigenous peoples and States, a line of inquiry recommended last year by this working group, and approved by the Sub-commission. We are most grateful for the efforts to effect this study that have been made over the past year by Dr. Alfonso Martinez, particularly in light of the fact that the original mandate was considerably changed at the Commission in March 1988. Since Professor Martinez received his revised mandate only in June 1988, we should all be prepared to provide the information he now requires to complete the outline for a treaty study first called for in Sub-Commission resolution 1987/17. Dr. Martinez' diligence and perseverance under these circumstances deserves our support.

The Grand Council of the Crees is particularly concerned with the question of treaties, because it is a signatory to the first modern treaty between a State and an indigenous nation in Canada. [Treaties are important in our consideration here both because they have been a source of abuse and have led to tragedy, but also because they provide recognition of indigenous self-determination, and may offer a practical mechanism to protect indigenous rights in the future. We hope that some States will swallow their shame, and agree to examine the treaty making process as essential history, vital to our efforts to draft effective standards for the protection of indigenous peoples.]

Let us get on with our work.