

OPENING STATEMENT TO THE NINETEENTH SESSION OF THE
WORKING GROUP ON INDIGENOUS POPULATIONS

By the Chairperson -Rapporteur
Prof. Erica-Irene A. Daes

Palais des Nations, Geneva, 23 July 2001

- Distinguished Representative of the High Commissioner for Human Rights Ms. Stefanie Grant ;
- Dear Colleagues-members of the Working Group on Indigenous Populations,
- Excellencies;
- Esteemed Elders, Grant Chiefs and Chiefs and representatives of the worlds' Indigenous Peoples;
- Distinguished Representatives of Observer Governments, United Nations organs and bodies, specialized agencies Inter-governmental and Non-Governmental Organizations.

At the outset, I would like to express my grateful thanks to my Colleagues and friends for electing me as Chairperson-Rapporteur of this of historic importance Working Group. In particular, I would like to express my gratitude to Professors Alfonso Martinez, Motoc and Yokota, and Judge Guisse for their generous and kind words. It is a great honor for me to be once again charged with the responsibility of chairing the United Nations Working Group on Indigenous Populations. I am conscious of the trust that my distinguished Colleagues-members of the Working Group confer upon me. I take this opportunity of assuring them as well as all participants that I undertake the duties as Chairperson -Rapporteur of this body with great seriousness and deep responsibility. It is my intention to conduct the nineteenth session of the Working Group, as I have done since I was elected Chairperson in 1984, in an open, equitable and constructive manner. We have established working practices, which I believe have earned this Working Group the appreciation and deep respect of Indigenous peoples, observer Governments and other participants. As I will explain, in a few minutes, we have a forum in which serious and often distressing situations can be discussed and understood better at a unique United Nations forum, where positive actions and solutions can be shared and promoted.

I wish to continue to maintain this liberal and democratic spirit of freedom, openness, cooperation, frankness and constructive dialogue in the five days that follow.

I take this opportunity of welcoming all participants to the nineteenth session of the Working Group on Indigenous Populations. I know that some indigenous representatives have travelled long distances at great expense and we the members of the Working Group greatly appreciate the efforts you have made in being with us to share your experiences and to make your substantial contribution to our work. I offer a special welcome to the 79 indigenous representatives that have been assisted by the United Nations Voluntary Fund for Indigenous

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Populations, (as well as the indigenous fellows who are participating in the United Nations Indigenous Fellowship Programme within the Office of the High Commissioner for Human Rights. In this regard, I would like to express my gratitude to donors of both the Voluntary Fund for Indigenous Populations and the Voluntary Fund for the International Decade of the World's Indigenous People. The voluntary contributions have allowed the High Commissioner on behalf of the Secretary General to approve, as I have already stated, 79 travel grants for indigenous representatives to participate in the Working Group during its current session. The voluntary contributions have also enabled the High Commissioner Office for Human Rights and the competent Advisory Group to allocate Grants to 30 projects of local indigenous organizations and communities to carry out small projects and programmes under the Decade to promote the human rights of the indigenous peoples.

I would like, once-again, to appeal to both regular and potential donors to support the activities of both funds in order to enable them to continue effectively fulfill their mandates.

The Commission on Human Rights by its resolution 2001/57 established the position of a Special Rapporteur on the situation of human rights and fundamental freedoms of indigenous people. A few weeks ago, the Chairman of the Commission on Human Rights appointed Mr. Rodolfo Stavenhagen from Mexico as Special Rapporteur. He will be present with us during the entire Working Group.

I take this opportunity of welcoming Mr. Stavenhagen and wishing him every success in his work within the framework of his mandate. It is my intention to invite Mr. Stavenhagen to meet with indigenous representatives in room XVIII, today at 3 o' clock, making use of the interpretation facilities available. The establishment of the institution of the Special Rapporteur on the situation of human rights and fundamental freedoms of indigenous peoples, constitutes an additional international mechanism for the protection of the rights of indigenous peoples. Of course much depends of a fair, just, transparent and effective implementation of its mandate and the relevant United Nations system's resolutions.

Distinguished participants,

As the Chairperson -Rapporteur for now 18 years, you will allow me to make some general comments and express some views before commencing our work.

It is with a feeling of great sadness that I address you from this podium for last time, as the Chairperson-Rapporteur of the Working Group, a position that I have held, with a deep sense of honor and responsibility, for so many years. You have all been a very large part of my life; and you are all part of what I believe has been the most important, and the most rewarding task that I have ever undertaken: promoting and defending the human rights and fundamental freedoms of indigenous peoples at the international level throughout the United Nations system.

I will miss you all. Despite the difficult decisions we have had to make, and the many disagreements we may have had, we

have struggled together, in a spirit of serious commitment and open and constructive dialogue, to set a good example for the international community. Together, we represent something larger and more powerful than the legal standards and studies we have debated and drafted here. We represent a new kind of dialogue between governments and indigenous peoples - a crucial step in the development of a democratic world order.

I can say, with great pride, that this Working Group led the way, in the 1980s, to the most far-reaching recent reform of the United Nations system: a quantum leap in the participation of non-governmental organizations at nearly all levels of decision making, accompanied by a significant increase in the representative diversity of NGOs. The United Nations has taken serious steps towards realizing the democratic ideal stated in the Preamble of its Charter: "We the Peoples of the United Nations"...

Gradually, the United Nations is becoming a true forum of nations, peoples and communities. And indigenous peoples were the first grassroots movement to gain direct access to the United Nations -and that achievement began here, in the Working Group.

That was not our only achievement. The Working Group has provided a global democratic and liberal forum and gathering place for indigenous peoples themselves for about 20 years. During the same period, indigenous peoples have formed hundreds of local, national and regional organizations to represent their interests; but in practical terms, the working group has been the international organization of indigenous peoples- and as such, it has continued its outstanding work. The Working Group has been one place in the United Nations system where Governments listen and were directly informed about the problems and needs of the indigenous world, but the indigenous peoples set the agenda. Although the Working Group is officially a body of individual experts, it is in actuality a *sui generis* body of the United Nations system, in which indigenous peoples hold the balance of moral and intellectual authority.

I wish to thank most warmly and to pay tribute to, my fellow members of the Working Group -those who are with us today, and those who preceded us, including in particular Mr. Eide, Ms. Ahta, Prof. Hatano and the first Secretary of the Working Group Prof. Alfredsson, for their courage, their spirit of independence, and their open-mindedness. If we had not possessed these qualities, the Working Group could never have empowered indigenous peoples to such a great extent. Thank you very much all for what you have contributed to our substantive and significant work, and to the unique spirit of this body, which to-day, constitutes a community of the indigenous peoples of the world.

With active participation of the indigenous peoples, we have achieved much, but we have so much more work left to do. Our main project, the draft United Nations Declaration on the Rights of Indigenous Peoples, has languished in the *ad hoc* Working Group of the Commission on Human Rights for seven years now. Its, bold vision, which once clearly expressed the values and aspirations of indigenous peoples, has disappeared

beneath an ocean of square brackets. It is my sincere belief, that those representatives indigenous or governments, who delay the progress of the consideration of the relevant provisions of the original draft, offer a disservice to the United Nations, indigenous peoples and Governments.

Also, I would like to mention, that our technical studies on urgent human and legal issues, such as intellectual property rights, treaties and transnational corporations, have not been finally approved or implemented.

The International Year and the International Decade of the World's Indigenous People, have received appallingly meager financial support; and while United Nations operational bodies and specialized agencies have taken greater heed of the concerns of indigenous peoples, they still devote less than one-tenth of one percent of their programme budgets to activities that benefit indigenous peoples directly. I must say that I was extremely disappointed that the United Nations Millennium Declaration (55/2 resolution adopted by the General Assembly) did not include any specific commitment or reference to indigenous peoples.

We must face the fact that, unfortunately, the indigenous peoples should continue their struggle in order to achieve some of the basic goals related to their human rights and freedoms. As I already mentioned, the Commission on Human Rights is even unable to adopt at least some provisions of the draft United Nations Declaration of the Rights of Indigenous Peoples that re-state principles already adopted by the United Nations Conference on Environment and Development nearly a decade ago. Is this a sign of greater fear on the part of some Member States, or simply a return to indifference?

The world has changed tremendously since I first sat here at this podium as Chair-person Rapporteur in 1984. In some ways the world has become safer than it was then. The Cold War is behind us now, and with it, the terrifying nuclear arms race that held the entire planet for ransom. However, conventional wars, terrorism, organized crime and civil strife continue in many parts of the world, and the loss of human life has been terrible. Some major powers may be safer and more secure today, but most of the world's peoples still live in fear, misery and poverty. We moreover seem to be heading into a new kind of East-West "cold war" that does not even pretend to be about different social ideologies, but merely about power, mistrust and insecurity.

Distinguished participants,

Today, new forms of aggression threaten the freedom and survival of indigenous peoples throughout the world. A growing number of countries have thrown open their doors to greater foreign investment and trade. At the same time, while we have recognized the growing threat to human beings - and indeed, to all life on earth, - from ecological waste, we have done little to reverse the process of environmental destruction. Deforestation continues in both tropical and northern regions. The Kyoto Protocol on climate change appears to have almost collapsed. In the wake of the Cold War, the world is not striving to be freer and healthier, but to possess and consume more things.

Global levels of consumption are not only unsustainable, but on the whole, they are increasing. This feeds the demand for new supplies of raw materials in hitherto isolated or unexploited parts of the world. As a result, indigenous peoples and other traditional communities are losing their lands, territories and ways of life faster than ever.

I wish that I could state that the United Nations system is making every effort to protect the world's remaining indigenous and traditional peoples from dispossession and exploitation, and to help them adapt to new modern political and economic realities.

The High Commissioner of Human Rights, her Colleagues and some United Nations specialized agencies are, in fact, taking steps to help indigenous communities organize, document their territories, and defend their human rights including their cultural rights. I am thinking of some successful initiatives taken in particular in a small number of countries by the Global Environment Facility; by the International Labour Organization (ILO); and by UNSO, the United Nations agency established to combat desertification, as well as by WHO, FAO, UNESCO, WIPO and in certain projects World Bank. These are important and sincere steps but they are not enough. They reach fewer than one percent of the world's indigenous peoples.

Some years ago, there was still a debate over whether indigenous peoples possessed any distinct collective rights. One of our primary tasks in the Working Group was to develop a consensus that indigenous peoples do, indeed, exist as distinct peoples with specific rights to their collective existence and identity. We have achieved this, on the whole. The Convention on Biological Diversity, the Convention on Indigenous and Tribal Peoples 1989 (No 169) and the Convention on the Elimination of All Forms of Racial Discrimination (as interpreted by the relevant treaty body), recognize the collective rights of indigenous peoples to govern themselves and their ancestral lands and resources. The remaining legal argument concerns the nature and scope -but not, I would venture to state, the existence - of indigenous peoples' right to self-determination.

Our primary challenge today is implementation. And that is not within the power or resources of this Working Group - nor, indeed, is it within the power or mandate of the Commission on Human Rights, or of the United Nations High Commissioner for Human Rights. The task of implementation will require all of the technical and financial resources of the United Nations system, in particular the large operational programmes, such as UNDP, UNICEF, and all the competent specialized agencies. This, in turn, will require high-level policy and coordination.

Some years ago, I had great hopes that the Working Group would evolve into some kind of peace building and mediation programme, bringing Governments and indigenous peoples together to build trust and devise institutional solutions for the actual situations in particular countries. This has not transpired; although I am pleased to say that we did have occasion to use our good offices in a number of urgent

situations around the world, with at least some positive influence. On the whole, however, we lacked the resources, other means and national level facilities to tackle specific situations where the United Nations might actually save land and lives.

Distinguished participants,

This Working Group, and everything we have achieved together, was only a first small step. This is not to say that the Working Group has exhausted its original mandate. No doubt, there is more standard setting and monitoring that can be done in the field of indigenous peoples' rights. But the next step must also be taken, with all possible urgency and energy.

I am speaking of course, about the *Permanent Forum*, which will convene its first session during May of 2002. The voting members of the Forum must be really independent, capable, and energetic, and this will not be possible unless Governments as well as indigenous peoples nominate persons of great character, integrity and experience. However, as I can attest from my very long experience within the United Nations system, in this Working Group and in other capacities, it is also supremely important to have an independent, highly qualified, totally dedicated secretariat that devotes itself year-round to indigenous peoples. The members of the new Forum will formally meet for a week or two weeks each year, but for the rest of the year everything will depend on the quality and resources of the secretariat. I appeal to Governments to make every effort to see that the Forum receives adequate new financial resources for this purpose. I appeal to indigenous organizations to identify qualified indigenous people to serve with the other members of the Secretariat as staff of the Forum. And I appeal to Governments and indigenous peoples to work together with responsibility and method to ensure that the secretariat of the Forum under the able guidance of the High Commissioner of Human Rights, acting in her capacity as Coordinator of the Decade of the World's Indigenous Peoples, is a distinct unit reporting directly to the ECOSOC in accordance with the relevant United Nations resolutions and decisions.

Distinguished participants,

I have a few final remarks, which I would like to share with you.

First, I would like to address myself to the Governments. Many of you have been with us since the beginning, and many of you have strengthened your commitments to the rights of indigenous peoples and I take this opportunity to pay tribute to you. A few of you have become more defensive, I am sad to say. But I am most concerned about very few Governments, who perhaps are not here today because they feel that what we are doing here has no relevance to them. Or else they are unwilling to engage in a dialogue directly with indigenous peoples who live within their national borders.

In this respect, I would like to reiterate, that this Working Group has never been interested in dismembering states, or promoting conflict and divisions within states. Our objective

has always been to build better, more inclusive and democratic states in situations where one part of the national population has been persistently excluded and marginalized. Our aim has been to prevent conflict by promoting the recognition of human rights of indigenous peoples in an environment of justice under law. I think this has also been one of the basic goals of the great majority of indigenous people. Otherwise, they would not be here at the United Nations seeking peaceful resolution of their concerns.

With the establishment of the Permanent Forum, and the development of a new operational aspect to the United Nations' commitment to indigenous peoples, we have a great opportunity to build peace and justice and to promote human development in very practical, concrete terms at the national, regional and international level. I appeal to you, distinguished representatives of the observer Governments, to continue your support, and your active participation, to the United Nations fora considering indigenous issues, more than ever. And above all, I appeal to you to trust indigenous peoples to work with you constructively in a spirit of freedom and justice. As far as I know, indigenous peoples want your countries to prosper and grow strong, too-only not at their particular expense. And I would like to address to you the following additional appeal : do not limit the usefulness of this exercise by struggling to define who is an indigenous person. This exercise has much broader legal relevance; it is about finding ways of reconciling state sovereignty with the interests of diverse communities of people within the state. It is about the nearly universal challenge of cultural pluralism in modern, centrally administered societies that subscribe to constitutionalism, democracy, justice and the rule of law. Most states internally are heterogeneous in some way, and can learn from the process we have launched in this Working Group.

In conclusion, I wish to address some remarks to the distinguished representatives of the indigenous peoples, who are here today. Do not lose hope; your momentum within the United Nations may appear to have slowed in some cases, but you stand at the threshold of significant new opportunities, presented in particular by the Permanent Forum. Your esteemed Elders in many countries have told me that everything in the world is always changing, and we should also change but without losing our spirit of friendship, solidarity, cooperation, Justice and Peace. It is in this spirit that I sincere promise to you today, to continue to work with you, in other capacities, as long as I am alive, until my vision for a better, human and just indigenous world will be created.

Thank you very much for your kind attention,
Erica-Irene a. Daes.