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Agenda item 10

DISCRIMINATION AGAINST INDIGENOUS POPULATIONS

Written communication submitted by the Grand Council of
the Crees (of Quebec), a non-governmental organization
on the Roster

The Secretary-General has received the following communication, which is circulated in accordance with Economic and Social Council resolution 1296 (XLIV).

[12 August 1987]

STANDARD SETTING: CONSISTENT USE OF UNITED NATIONS TERMINOLOGY

I have a question:

When are people a people? Is it possible that we are peoples in the Canadian Constitution but somehow not peoples under international law?

Is the threat of self-determination so great that we are no longer peoples because we invoke this basic human right which is so fundamental to the United Nations concept? How can we be excluded from these protections found in the Charter of the United Nations itself? [I make reference to the Charter, Art. 1 para. 2, Art. 55, Art. 73, Art. 76, General Assembly resolutions 421 D(V) of 4 December 1950, 545 (VI) of 5 February 1951,

637 A (VII) of 16 December 1952, 637 C (VII),
1514 (XV) of 14 December 1960, 1654 (XVI) of 27 November 1961,
1810 (XVII) of 17 December 1962, 1805 and 1807 (XVII) of 14 December 1962,
1970 (XVIII) of 16 December 1963, 2625 (XXV) of 24 October 1970,
35/118 of 11 December 1980, 36/52 of 24 November 1981,
37/32 of 23 November 1982, and others too numerous to list here.]

If we are not peoples, who are we? Are there peoples anywhere?

Does the word mean one thing in one place, and something else when indigenous peoples are concerned? Is this not discrimination - the very evil that this Sub-Commission is mandated to prevent?

The denial of our recognition as peoples has been used to deny the Lubicon Indians access to United Nations procedures, now it is being used to deny the fundamental right of self determination to indigenous peoples in Canada.

If we are not peoples, then all we agree to here, the protections embodied in the standards we set for all States and peoples, will be denied later on by States that will deny the applicability of these standards to us.

This question must be settled now, because all we do here is moot if we are not recognized as peoples under international law.

The very fact that a member State can assert that we are not peoples, who can enjoy human rights protected by existing international instruments, demonstrates just how urgent it is that we proclaim new international standards that will protect the rights of indigenous peoples.

STANDARD SETTING: TREATIES AND AGREEMENTS BETWEEN STATES AND INDIGENOUS PEOPLES

It is a historical fact that treaties and agreements between States and indigenous peoples have not been respected, and that the domestic remedies available to indigenous peoples have proven inadequate. This is true even for modern agreements.

A legislative Commission established by the Government of Canada under Orders in Council has reported:

"In the course of Canadian history, a notion persists that governments make promises to induce natives to surrender their lands and other rights and then routinely break these promises, frequently hiding behind legal technicalities. Regrettably, the evidence supporting this notion is extensive." (1986 Report of the Cree-Naskapi Commission) [underline added]

Therefore we propose the following draft standard:

Treaties and agreements between States and indigenous peoples are the proper subject of international law. States will respect and fully implement, in letter and in spirit, treaties and agreements with indigenous peoples. Treaties and agreements with indigenous peoples will be subject to oversight by an international tribunal.