**Expert Workshop on Possible Ways to Enhance Participation of Indigenous Peoples in the Work of the Human Rights Council (21- 24 November 2022)**

**Cree Nation Government/ Grand Council of the Crees (Eeyou Istchee) - Initial Reflections**

By way of introduction, the Cree Nation Government/ Grand Council of the Crees (Eeyou Istchee) – based in northern Québec, Canada – has been involved in international processes since the early 1980s, when negotiations on the *United Nations Declaration on the Rights of Indigenous Peoples*[[1]](#footnote-1) began to take place in Geneva.

We and other Indigenous Peoples in the Americas have also participated directly in the negotiations on the *American Declaration* *on the Rights of Indigenous Peoples*,[[2]](#footnote-2) which was adopted by consensus[[3]](#footnote-3) by the Organization of American States (OAS) in Washington, D.C. in June 2016. Yet, to date, after 17 years of negotiations, OAS States have failed to implement this important regional human rights instrument. The pre-existing and ongoing obligations of States to respect and promote Indigenous Peoples’ human rights in the Americas remains unfilled.

In 1987, we attended the negotiations in Geneva which led to the adoption of the *Indigenous and Tribal Peoples Convention, 1989*.[[4]](#footnote-4) However, Indigenous Peoples and their representatives were denied direct participation in the negotiations and had to channel all their proposals, positions and concerns through the unions, who had a seat at the table. All States and business corporations in the process refused to accept or consider positions raised directly by representatives of Indigenous Peoples.

Eeyou Istchee—which means the People’s Land – comprises eleven Cree communities and over three hundred “traplines,” or traditional family hunting and trapping grounds. Cree traditional territory, an area of over 400,000 square kilometres, is located primarily in northern Quebec.

The Crees have had the pleasure of engaging with States at the United Nations in Geneva since the early 1980s. We now look forward to working with States at the UN to enhance the participation of Indigenous Peoples in the work of the Human Rights Council (HRC).

Over the years, the HRC has increasingly elaborated on the rights of Indigenous Peoples and the ongoing challenges we all face in the different regions of the world. In light of these growing challenges, it is increasingly crucial that Indigenous Peoples and States collaborate effectively to address common issues of concern.

Cooperation has always been a critical factor in order for the United Nations to function and meet new challenges. It is important to highlight here that “consultation and cooperation” is the minimum standard in the *UN Declaration* and the *American Declaration*. For decades, Indigenous challenges and State-Indigenous cooperation have continued to grow. The HRC is a crucial body in the make-up of the United Nations – and the increasing challenges the Council now faces must include those of Indigenous Peoples.

To the credit of the Human Rights Council and Indigenous Peoples ongoing efforts, Kenneth Deer (Haudenosaunee) was invited recently to sit with the Council in addressing Indigenous concerns. Kenneth. Deer and other Indigenous People are well-aware of the sub-standard outcomes for all parties concerned when States fail to meet the international standard of “cooperation”. Global affairs – including those at the HRC – function exceedingly better in cooperation with Indigenous Peoples.

Let us now all engage together in contributing ways to significantly strengthen “cooperation” between Indigenous Peoples and States – especially within the UN Human Rights Council. The ongoing human rights violations severely impacting Indigenous Peoples globally remains urgent. Therefore, cooperation with Indigenous Peoples within the Human Rights Council is a critical step forward that is consistent with our core human right to self-determination.

In Canada’s *Act respecting the United Nations Declaration on the Rights of Indigenous Peoples*, it is explicitly affirmed in the preamble that Indigenous peoples have the “right of self-determination”. In addition, the preamble affirms:

the urgent need to respect and promote the **inherent rights** of Indigenous peoples of the world which derive from their political, economic and social structures and from their cultures, spiritual traditions, histories, philosophies and **legal systems**, especially their rights to their lands, territories and resources …[[5]](#footnote-5)

Since Indigenous Peoples’ inherent or pre-existing rights are affirmed in Canada’s *Constitution Act, 1982*, this, in effect, confirms that there are three orders of sovereign governments in Canada’s Constitution – federal, provincial and Indigenous.

The preamble of the Act also makes clear: “… the rights and principles affirmed in the [UN] Declaration constitute the minimum standards for the survival, dignity and well-being of Indigenous peoples of the world, and must be implemented in Canada …”

In December 2012, the UN Human Rights Council published the *Study on common challenges facing States in their efforts to secure democracy and the rule of law from a human rights perspective: Report of the United Nations High Commissioner for Human Rights*, which included the following Recommendations:

**International efforts to promote the rule of law and democracy**

**99. Democracy assistance should revolve around building States’ capacities to undertake comprehensive reforms. A constructive promotion of democratic ideals, anchored in respect for human rights, including the right to self-determination, serves to advance global peace and security.**

**101. International cooperation strategies for the promotion of a “holistic” democracy should focus on the advancement of all human rights, including civil, political, economic, social and cultural rights and the right to development. Special attention should be devoted to promoting equality and combating discrimination, and to protecting the rights of women and disadvantaged and vulnerable groups, including poor people, indigenous peoples, minorities and persons with disabilities.**[[6]](#footnote-6)

In the *Alta Outcome Document*,[[7]](#footnote-7) the position of Indigenous peoples globally on the right to self-determination is unequivocally asserted – while also highlighting the ongoing legal obligations of States:

In order to fulfil their obligations to guarantee Indigenous Peoples’ right of self-determination and permanent sovereignty over our lands, territories, resources, air, ice, oceans and waters, mountains and forests, we recommend that States, as a matter of urgency, establish effective mechanisms through agreements reached with the Indigenous Peoples concerned, to effectively implement the aforementioned rights consistent with State’s obligations under international law, the UN Charter, the Declaration and Treaties and agreements concluded with Indigenous Peoples and Nations …[[8]](#footnote-8)

Based on all of the above, it is timely and urgent for Indigenous Peoples globally to have greater access to and an essential voice in the UN Human Rights Council. In particular, it is critical for Indigenous Peoples to have at least one seat on the Council. This is not a matter of benevolence. Rather, it is an urgent and critical step to ensure increased cooperation and understanding of the challenges facing Indigenous peoples and to devise policies and actions that uphold justice for Indigenous Peoples and respect their human rights.

1. *United Nations Declaration on the Rights of Indigenous Peoples*, GA Res. 61/295 (13 September 2007), Annex. [↑](#footnote-ref-1)
2. [↑](#footnote-ref-2)
3. No State at the OAS called for a vote to oppose the adoption of this American Declaration. [↑](#footnote-ref-3)
4. *Convention (No. 169) Concerning Indigenous and Tribal Peoples in Independent Countries*, 27 June 1989, ILO Official Bulletin Vol. 72, Ser. A, No. 2 (entered into force 5 September 1991). [↑](#footnote-ref-4)
5. In Canada, the right of Indigenous Peoples to self-determination is also affirmed in the preambles of *An Act respecting Indigenous languages,* S.C. 2019, c. 23; and *An Act respecting First Nations, Inuit and Métis children, youth and families*, S.C. 2019, c. 24. [↑](#footnote-ref-5)
6. Human Rights Council, *Study on common challenges facing States in their efforts to secure democracy and the rule of law from a human rights perspective: Report of the United Nations High Commissioner for Human Rights*, UN Doc. A/HRC/22/29 (17 December 2012) (emphasis in original). [↑](#footnote-ref-6)
7. World Conference on Indigenous Peoples, *Alta Outcome Document*, Global Indigenous Preparatory Conference for the United Nations High Level Plenary Meeting of the General Assembly to be known as the World Conference on Indigenous Peoples, Alta, Norway, 10 – 12 June 2013, <file:///C:/Users/Paul/Documents/2%20Int'l/WCIP%202014%20-%20Adopted%20Alta%20Outcome%20Document%20with%20logo%20-%20Jun%202013.pdf>. [↑](#footnote-ref-7)
8. *Ibid.*, Theme 1, para. 1. [↑](#footnote-ref-8)