

STATEMENTS
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SPEECHES



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to the Office of the United Nations at Geneva,
to the Eighth Session of the
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Madam Chairman, I appreciate this opportunity to make a statement on behalf of the Government of Canada.

Recent events at Oka in Quebec have caused increased interest in the circumstances of indigenous people in Canada and I will be speaking to that situation later in my remarks.

To establish a context for the discussion, I would like to take a few minutes to outline some of the general rights and benefits available to indigenous people in Canada. I will also describe some of the approaches of the Canadian government to indigenous issues including our commitment to the protection of their human rights and those of all Canadians.

Indigenous people in Canada enjoy all the rights and benefits available to all Canadians as well as a number of extra benefits designed specifically for them. They enjoy full political freedoms including the right to vote in all elections; they have served and continue to serve in public office as ministers, senators, members of Parliament, as well as provincial and territorial legislators. In fact, five members of Canada's Parliament are indigenous people.

The Canadian Charter of Rights and Freedoms guarantees to all Canadians the full range of fundamental human rights and freedoms, including for instance, freedom of speech and movement, equality before and under the law without discrimination. In addition, the Canadian Constitution contains specific provisions for the recognition and protection of existing aboriginal and treaty rights. As well, indigenous people are protected by provincial human rights codes.

There is also a series of specific programs and policies for the benefit of indigenous people in Canada, which are not generally available to other Canadians. For Indians these include, for example, exemptions from income tax for income earned on reserve, some exemptions from provincial sales taxes, free medical benefits including dental care, subsidized housing on reserve, and subsidized university education. As citizens, indigenous people benefit from many federal, provincial and territorial programs, including those universally available such as family allowance, old age security, hospital and medical care and unemployment insurance.

Approximately two thirds of the almost 500,000 status Indians in Canada, members of 596 bands, live on reserves: lands set aside for the use and benefit of Indians. Indian people are entirely free to choose whether or not to live on reserve lands. Because of their strong attachment to the land and as a means to preserve their culture and traditional way of life, most Indians choose to live on reserves.

Overall the Government of Canada spends approximately \$4.0 billion annually on indigenous programs, which includes over

\$8,000 per capita in direct benefit to status Indians on-reserve and Inuit. This is the largest per capita expenditure on indigenous people of any government in the world. The expenditures on indigenous people in Canada have been increasing consistently over the past decade. For example, in the current fiscal year 1990/91, the Department of Indian Affairs budget increased by 8 per cent even though overall government program expenditures fell. Moreover, the Indian and Inuit Affairs program has increased by some 60 per cent since 1984-85.

Seventy percent of federal programs for Indian communities are administered by the communities themselves, reflecting the Government's commitment to assist indigenous communities to take more control over their affairs, and to achieve forms of self-government within the Canadian federal system.

In line with this commitment, negotiations on community self-government, underway with over 160 indigenous communities, seek a new relationship between the federal government and indigenous communities. Governance, social and cultural programs, land titles and management, federal financing, administration of justice, and health are some of the areas which have been identified for negotiations.

The Canadian Aboriginal Economic Development program, with a budget of \$1.4 billion over five years, further reflects the government's commitment to help indigenous people achieve a greater degree of self-reliance. Since the program's initiation in November, 1989, 231 projects have been supported. About 50 percent of the 6,000 existing aboriginal business enterprises have been started within the last six years.

Indigenous culture is also a key element of autonomy for indigenous people. Programs on aboriginal culture and history have been instituted in the schools on Indian reserves across the country. Over half of indigenous students now take classes in their aboriginal languages. Recently the government of the Northwest Territories formally recognized the six indigenous languages of the territory as official languages, in addition to English and French. As well, all secondary school students in the Northwest Territories are required to learn one indigenous language.

There have been constitutional developments over the past year in Canada that have a bearing on Canada's aboriginal peoples. The province of Quebec was not a signatory to the patriation of Canada's Constitution in 1982. Subsequently, Quebec did not actively participate in the constitutional process including in the negotiations among the Prime Minister and other First Ministers and representatives of Canada's aboriginal peoples that took place on aboriginal issues over the 1983 to 1987 period. However, in April 1987, the Prime Minister and the ten provincial Premiers agreed on

a set of amendments called the Meech Lake Accord. The Accord was designed to bring about Quebec's full participation in the constitutional development of Canada and effectively open the way to constitutional amendments sought by other Canadians. The Accord did not detract from aboriginal rights. Moreover, the Government of Canada made the commitment that indigenous constitutional matters would be a top priority in the next round of constitutional discussions provided for in the Accord.

In June 1990, a set of companion constitutional amendments were developed by the Prime Minister and other First Ministers to accommodate concerns respecting the Meech Lake Accord. These amendments would have guaranteed aboriginal peoples of Canada a First Ministers' Conference devoted exclusively to constitutional matters once every three years with the participation of territorial and aboriginal representatives. Additionally, the Prime Minister made significant, separate undertakings to ensure that aboriginal peoples' constitutional concerns would be addressed through related special processes.

Unfortunately, the Meech Lake Accord and companion amendments were not approved by all provincial legislatures as was required by Canada's constitutional amendment formula. In addition, many indigenous leaders rejected both the Meech Lake Accord and companion amendments.

The failure of the Meech Lake amendments means that Canada's constitutional agenda is effectively stalled. Meanwhile, however, the existing aboriginal and treaty rights of the indigenous people of Canada remain protected in Canada's constitution, and every effort is being made by the Government of Canada to address the concerns of indigenous people - including the realization of self-government for indigenous people - within the existing constitutional arrangements.

Canadian institutions continue to contribute to the advancement of indigenous rights. For example, several important decisions have been handed down recently by the Supreme Court of Canada. The highest court in the country has clarified the nature of aboriginal and treaty rights which are currently protected under the Constitution of Canada. In the Sparrow case, the Court clarified the meaning and application of section 35 of the Constitution Act, 1982, which recognizes existing aboriginal and treaty rights. This case gives a liberal interpretation of "existing aboriginal rights" and appears to broaden the fiduciary duty of the Crown towards indigenous people. In the case of fisheries, it also means that once conservation and management concerns have been addressed, priority must be given to indigenous food fishing and fishing for ceremonial purposes. In the Sioui case, the Court directed that a broad and generous approach be taken in determining whether a document is a treaty.

The Government of Canada provides funding to indigenous people to enable them to appeal their cases, where the issues could establish a legal precedent.

A major issue for indigenous people in Canada is the resolution of claims to land. The federal government addresses claims based on aboriginal title - comprehensive claims - or breaches or non-fulfillment of specific obligations - specific claims. I would like to give you a few details on recent progress.

On April 30, 1990 an agreement-in-principle was signed to settle the Tungavik Federation of Nunavut comprehensive claim. It will provide approximately 17,500 Inuit with over 350,000 square kilometres of land (an area larger than Finland) and \$580 million in cash compensation.

In April, 1990 the umbrella final agreement for settlement of Yukon Indian land claim was initialled. It will, if ratified by all parties, provide some 7,000 Yukon Indians with over 41,000 square kilometres of land (an area equivalent to the land mass of Switzerland) and \$248 million. A final agreement to settle the Dene-Métis claim was also reached. Although a recent assembly of the Dene has requested changes to the agreement, it will, if ratified by all parties, provide approximately 13,000 Dene and Métis with more than 181,000 square kilometres of land (almost the combined size of Belgium, Ireland, Denmark and the Netherlands) and \$500 million.

In addition to land and cash compensation, comprehensive land claims settlements guarantee indigenous people a decision-making role in land management, resource development, fish and wildlife harvesting and the environment. Settlement of such claims is one of the pillars of the federal commitment to strengthen the political and economic institutions in the Yukon and the Northwest Territories.

In the western province of British Columbia, where the federal government has accepted 18 claims, the provincial Premier publicly declared on July 26, 1990 his government's commitment to become involved in solving land claims. In the east, negotiators have concluded a framework agreement with the Labrador Inuit Association, which represents 3800 Inuit and settlers.

In another case with which you will be familiar Madam Chairman, the Canadian Government has long acknowledged that it has an outstanding obligation to the Lubicon Indians. In a recent decision the United Nations Human Rights Committee, confirming the historical inequities which the government acknowledged and commenting on the government's offer to the Band, expressed the view that the government "proposes to rectify the situation by a remedy that the Committee deems appropriate".

I will now to turn to the dispute at Oka, in the province of Quebec involving the Mohawks of Kanesatake. The issue concerns land on which urban development was planned by the Town of Oka -- land which the Mohawks consider belongs to them.

The Oka situation is unique among native claims for land in Canada. There is no formal Indian reserve land in Oka at present. Rather, there is a series of blocks of federally-owned land set aside for the use and benefit of the Kanesatake Mohawks. These blocks, which were acquired by the federal government in 1945, are the remnants of a once-vast seigneurie granted by the King of France to the Sulpician religious order in 1717 for the purpose of establishing a Mission there. The religious order came to establish a settlement on the lands and brought with them Nipissing, Algonquin and Iroquois (Mohawk) Indians from Montreal. The ownership of the land has been disputed by the Mohawks since the 1700's.

Nonetheless, the Government of Canada has attempted to find a way to address the concerns of the 1,539 member Mohawk community and the 750 residents of Oka. Community planning studies, financed by Canada, were undertaken by the Mohawks of Kanesatake in 1988/89. Since August 1989, a federally appointed mediator has worked with the parties on this issue under an agreed mandate. A framework agreement was reached in September 1989, establishing a ratification date for both sides of March 1, 1990.

In January, 1990, however, the Chief of Kanesatake was replaced by the community, in accordance with its traditional procedures. On March 6, the new Chief and Council requested an indefinite suspension of the negotiations. The municipality of Oka then lifted its moratorium on development of the land. This was followed immediately on March 10, 1990, by the Mohawks erecting a barricade on a public road. In June, the federal Minister of Indian Affairs met separately with representatives of Oka, Kanesatake and the Quebec Native Affairs Minister, in an effort to bring the parties together and find common ground.

However, the municipality of Oka obtained an injunction from the Quebec Superior Court ordering the Mohawks to remove the barricade. The Mohawks refused to comply with the Court order. On July 10, the Oka Council requested the Sûreté du Québec (the Quebec Police Force) to enforce the injunction. A police officer was shot and killed at the barricade, which was manned by heavily armed members of the Mohawk Warrior Society, using weapons that are illegal in Canada. In support of Kanesatake, the Mohawks of Kahnawake set up a barricade blocking a bridge on a major highway connecting two parts of metropolitan Montreal. Media reports indicate that there is some disagreement among various members of Mohawk community about the tactics being employed by the Warriors.

Under Canada's constitution, the administration of justice is largely the responsibility of provincial governments. Consequently, in an effort to resolve the confrontation, negotiations with Kanesatake were initiated by the Government of Quebec through its Minister for Native Affairs.

In the last few days, some significant developments have taken place. On July 27, the Quebec Government presented to the Mohawks of Kahnawake and Kanesatake a written seven point proposal designed to resolve the impasse. Among other things, it:

- offers to reduce the police presence in Oka-Kanesatake, simultaneously with relinquishment of weapons by the Mohawks;
- proposes the establishment of a supervisory commission made up of seven members to be chosen jointly by the government of Quebec and the Mohawk Nation, to control and supervise the return to normalcy;
- reaffirms measures to maintain free access to food and make clear that it is not the Quebec Government's policy to restrict access to food and that it never will be. (Needless to say, the Canadian Government does not condone the use of food as a weapon at home or abroad.);
- offers to make the Mohawk Nation a party to the coroner's inquest into the death of the police officer.

The Government of Canada expects to conclude the purchase of the disputed land for use of the Mohawks of Kanesatake this week. The purchase brings to fruition two years of work to rationalize land holdings at Kanesatake and the government is hopeful that these actions will allow for a relaxation of tensions there.

However, the federal government is firm in its resolve that it will not negotiate land questions behind barricades or in the face of armed intimidation. Peaceful discussion and open dialogue is the only route to genuine, lasting resolutions. Dialogue is the Canadian way. The Government of Canada has demonstrated its commitment to finding solutions for the problems at Kanesatake, and it supports fully Quebec's seven point plan for disengagement on both sides and the lowering of tensions.

The Government of Canada announced on July 27 its willingness to negotiate a means of resolving the special land claim of the Mohawks of Kanesatake, with representatives of the community and the Province of Quebec, once normalcy returns to Kanesatake and Kahnawake.

Across the country, the Canadian Government is determined to continue its efforts to cooperate with indigenous leaders to address their concerns, and to work together to improve the conditions of indigenous people in Canada. We will work on areas which indigenous people themselves identify as priorities: the

achievement of self-government, the resolution of land claims, the clarification of treaties, the development of reserve economies, Indian control of Indian education and the revival and protection of indigenous languages and culture.

We are making progress but we have a lot of work to do and we are determined to do it.

Madam Chairman, finally, I would like to inform you that my delegation will be depositing several documents outlining Canada's record respecting indigenous people. We expect that these will be helpful to the Working Group in the course of your deliberations. Thank you.