

SANTEIOI MAOAIOMI MIKMAOEI

> GRAND COUNCIL MIKMAQ NATION <

17 August 1984



Mr. Jakob Th. Möller
Chief, Communications Unit
Centre for Human Rights
United Nations
CH-1211 Geneva 10

R.19/78

me taleyn,

We respectfully request the reconsideration of the Human Rights Committee's decision CCPR/C/22/D/R.19/78. We believe the decision relies upon a misunderstanding of the constitutional apportionment of responsibilities among the officers of this Grand Council.

Our original communication was brought in the name of Alexander Denny in his capacity as Jikaptén (Grand Captain) of our Grand Council. The Committee then requested clarification of Grand Captain Denny's standing, CCPR/C/DR(XI)/R.19/78. He replied, by letter, that he was referring to violations of his own rights as an individual, and to violations of the collective rights of the Mikmaq people as a whole.

The Committee apparently accepted this clarification, because it subsequently directed a copy of our communication to the Government of Canada for response. There were two exchanges of documentation between our Council and the Government of Canada at the Committee's direction, in 1981 and 1982. At no time did the Government of Canada challenge Grand Captain Denny's representativeness, or his authority to communicate a grievance of the Mikmaq people collectively. The Government of Canada questioned only whether the Committee is competent to rule on alleged violations of Article 1 of the Covenant.

Some time late in 1982, the Committee received a letter under signature of the Jisakamou (Grand Chief) of this Grand Council, suggesting that Grand Captain Denny had not been authorized to represent the Grand Council in this matter. In response, I supplied the Committee with an original document confirming Grand Captain Denny's authority and my own role as legal agent for the Grand Council. The document was countersigned by Simon Marshall, Putus of the Grand Council, who in that capacity is the Council's chief-justice and arbiter of all constitutional questions and disputes.

We further explained that under our system of government, decisions of the Grand Council are ordinarily executed by the Grand Captain, while the role of the Grand Chief is essentially ceremonial. We noted that we did not understand the Grand Chief's letter, nor had he chosen to respond to the Grand Council's request for an explanation, but we assured the Committee that the Council had met in July 1983 and unanimously confirmed and encouraged the continued prosecution of this communication, R.19/78, in the Human Rights Committee.

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REPLY TO:

[X] RUSSEL L. BARSH, counsel
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Seattle, Washington 98105 USA

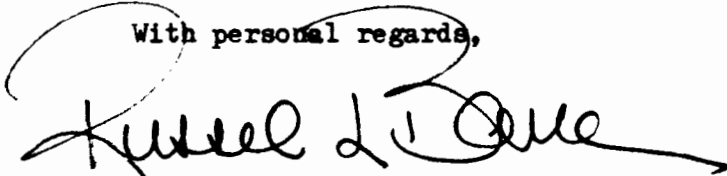
[] Jikaptén ALEXANDER DENNY
RR #2, East Bay
Eskasoni, Nova Scotia B0A 1H0 Canada

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We received no further advice from the Committee, and reasonably assumed that the matter was closed. Decision CCPR/C/22/D/R.19/78 therefore came as a considerable surprise to us. Since it was obvious at once that the decision was based on some unresolved apprehension concerning Grand Captain Denny's authority as a result of Grand Chief Marshall's 1982 letter, Grand Chief Marshall immediately agreed to write a letter of clarification, which is attached. We believe this removes all doubt as to Grand Captain Denny's representativeness, and urge the Committee to proceed to the consideration of the substantive questions of law identified in the separate opinion of Mr. Errera.

We pray the Committee does not disappoint the hopes of a small and despairing people.

With personal regards,

A handwritten signature in cursive script, appearing to read "Russel L. Barsh". The signature is written in dark ink and is positioned below the text "With personal regards,".

Russel L. Barsh
Counsel

att: doc. /s/ Jisak. Marshall

9 August 1984

Jakob Th. Moller
Chief, Communication Unit
United Nations
CH-1211 Geneva 10, SWITZERLAND

G/SO 215/51 CANA(18)
R. 19/78

Dear Mr. Moller:

The purpose of this letter is to clarify the status of the standing and representativeness of the Communication No. R. 19/78 submitted by Grand Captain Alexander Denny for the people of the Mi'kmaq tribal society.

Two years ago I wrote a letter complaining about the petition. Since that time, the Santeoi Mawa'iomis have deeply considered these issues. In 1983, the Mawa'iomis certified the efforts of Grand Captain Denny and Russel Barsh. This certification was sent to the Human Rights Committee. In the most recent meeting of the Mawa'iomis this July, 1984, the Mawa'iomis and myself unanimously supported the efforts of Grand Captain Denny for the Micmac people.

These decisions by the Santeoi Mawa'iomis of the Mi'kmaq Nationimouw have superceded my letter to you and through these discussions have resolved most of the procedural problems I perceived. I respectfully withdraw the letter as inconsistent with the current decision and policy of the Grand Chief, Santeoi Mawa'iomis, and the Mi'kmaq people.

Yours sincerely,

Grand Chief Donald Marshall

