

Agenda

Civil Society Consultation for the U.S. Universal Periodic Review: Albuquerque, New Mexico and Window Rock, Arizona

March 16-17, 2010

Invocation and Welcome

Leonard Gorman, Navajo Nation Human Rights Commission; Helen Padilla, American Indian Law Center

Discussion on the Right of Self-Determination, Government-to-Government Relationship, and Treaties

Joe Garcia, All Indian Pueblo Council; Jon Antonio, Sr., Pueblo of Laguna; Rex Lee Jim, Navajo Nation Council; Oren Lyons, Onondaga Nation; Rodney Factor, Seminole Nation of Oklahoma; Theresa Two Bulls, Oglala Sioux (Lakota) Tribe of South Dakota

Statements by Participants

Discussion on the Right to Land, Territories, Sacred Sites, and Resources (Surface and Subsurface)

Norman Coeoyate, Pueblo of Zuni; Larson Bill, Te-Moak Tribe of Western Shoshone; June L. Lorenzo, Pueblo of Laguna; Mark Mitchell, Pueblo of Tesuque; Howard Thompson, Mohawk Nation; Faith Gemmill, Native Village of Venetie Tribal Government

Statements by Participants

Statement on Other Indigenous Human Rights Issues by Participants: Health, Justice, Food Security and Other Issues

Summary, Conclusion and Closing

Closing and Benediction

Irving Gleason, Navajo Nation Human Rights Commission

Navajo Nation Listening Session

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Ten federal agencies, as well as a White House office participated in this UPR Session: the Department of State, the Department of Justice, the Department of the Interior, the Department of Housing and Urban Development, the Department of Health and Human Services, the Environmental Protection Agency, the Department of Agriculture, the U.S. Forest Service, the Equal Employment Opportunity Commission, and the Department of Education were represented.

- **Discussion on the Right to Self-Determination, Government to Government Relationship & Treaties**

During this session, six representatives from different tribes discussed issues affecting their communities. First, a member of the Oglala Sioux tribe of South Dakota stated the U.S. Government does not have a sufficient understanding of her tribe's treaties. Other areas of concern she discussed included housing, jobs, health, and law enforcement.

A representative from the Laguna Pueblo tribe talked about the lack of treaties and self-determination for his tribe. He stated the need for more federal dollars and argued that a lack of quality healthcare is one of the biggest challenges facing his community. He called on the U.S. Government to be more attuned to self-determination and argued for an improved economic situation for his tribe. He then acknowledged some examples of successful cooperation with the U.S. Government, for example, the Environmental Protection Agency Region 6's work on a superfund site for a uranium mine as well as the Department of Agriculture's initiatives on water supply and sanitation.

Next, a participant expressed frustration over the U.S. Government's failure to endorse the UN Declaration on the Rights of Indigenous Peoples (UN Declaration). He asked for clarification on which parts of the Declaration the government rejected, so tribes could then make better recommendations. He stated the U.S. Government would never endorse the UN Declaration because that would mean undoing all of Federal Indian Law and the policy structures in place. He stated tribes were at the mercy of the federal budgeting process and called for increased engagement with the Office of Management and Budget. Finally, he called for increased enforcement and legislation regarding President Obama's Executive Order on tribal consultations as well as a Cabinet-level secretary for Indian affairs.

A participant discussed self-determination, and asserted his tribe's right to interpret its own treaties and determine its own membership, which he felt the Bureau of Indian Affairs (BIA) ignored. Other areas of concern included a lack of funding for youth programs and the

alleged failure of the U.S. to implement the International Convention on the Elimination of all Forms of Racial Discrimination committee recommendations.

One of the final speakers was a representative of the Onondaga Nation (Haudenosaunee). He first expressed concern that the majority of changes within the last decade came from indigenous persons and not the U.S. Government. He asked why so many treaties went unacknowledged or violated. He called on the U.S. Government to endorse the UN Declaration and to recognize self-determination, not *give* self-determination. The next speaker expressed his tribe's desire for full jurisdiction, not secession, within their boundaries, including land use and law enforcement with the aim of reducing to a minimum the role of the U.S. Government within their boundaries. He reiterated the call for a cabinet-level official responsible for Indian Affairs as an essential element for government-to-government relations. Finally, he raised the issue of sacred sites and concerns associated with recreational use of sacred sites, in particular the San Francisco Peaks.

- **Statements by Participants**

Several interlocutors participated in this session and discussed areas of frustration. For example, some referred to a lack of understanding of treaties by the federal government and a chronic underfunding of treaty obligations and failure to realize commitments. One participant spoke of climate change and how Native Americans were not involved in regional and state strategies yet their land was greatly impacted by the results of climate change. Many expressed concern over the United States' lack of endorsement of the UN Declaration. Other topics included: self-determination; lands, territories, and minerals; the upcoming United Nations Permanent Forum on Indigenous Issues; the right to culture; a statement that 75% of Indians live off of reservations and ensuring their voices are heard; the right to speak indigenous first languages; and engagement with Mexico to allow for recognition of enhanced tribal cards throughout its territory.

- **Discussion on the Right to Land, Territories, Sacred Sites & Resources (Surface & Subsurface)**

The session began with a representative from Chickaloon Village (Alaska). He called for the decolonization of Alaska as a topic of discussion at the United Nations. He stated that U.S. soldiers stationed in Alaska vote as Alaskan citizens rather than as absentees from their home precincts. He also rejected the Alaska Native Settlement Claims Act (ANSCA) and advocated for the development of renewable resources and an end to recreational hunting and fishing. In conclusion, he called for the U.S. Government to provide economic reparations for damage to the environment.

The next representative of the Zuni Pueblo explained how the Zuni have been strong advocates for sacred sites and described the complications regarding the Salt River Project and the Zuni Salt Lake in New Mexico. He stated that the State of New Mexico approved the permit

without any consideration for those that use the Zuni Salt Lake. He stated that after three years of implementation, two reports released from the Department of the Interior that contradicted the original Surface Mining report stated that mining would reduce the water table and decrease the ability of the lake to produce salt, and asserted that the monitoring system was inadequate to discover impurities. He then discussed a sacred site, Mount Taylor, expressing that the Zuni want to be engaged in consultations concerning its future development.

A community planner spoke of the 1863 Treaty of Peace and Friendship and subsequent gold mining in the region. He related this to more recent issues regarding Western Shoshone land rights, including mining and nuclear testing, and stated that their territory was being invaded. He asserted that the Western Shoshone would never accept a monetary settlement for their lands. Another participant continued the conversation on sacred sites and discussed the pros and cons of development. He stressed the importance of keeping sacred sites preserved for future generations.

A representative of the Mohawk Nation reiterated the call regarding the U.S. position on the UN Declaration and called on the United States to improve relations between the two cultures. He also criticized BIA schools as a tool of cultural assimilation. He closed by expressing appreciation that the United States recognized the Jay Treaty but shared his frustration that Canadian Mohawks can enter the United States, but their U.S. counterparts face difficulties imposed by the Government of Canada when crossing the border into Canada. He called on the U.S. Government to engage with the Government of Canada over this issue.

A representative from the Laguna Pueblo concluded the discussion by asserting that the UN Declaration formed part of customary international law, including when it comes to resource rights and sacred sites. She added that Native Americans have a responsibility to transmit knowledge and culture to future generations.

- **Statements by Participants**

This session included testimony from eight individuals. The first was an elected representative from the Havasupai Tribe who discussed its fight with an international corporation that is trying to extract uranium from their land around Red Butte. This is coupled with an additional struggle with regard to the San Francisco Peaks in Flagstaff, which is where their water comes from. She asserted their need for clean water and stated that they were placed in danger because they had nowhere else to move.

Other areas of concern discussed were the sacred sites of Abalone Shell Mountain, Mount Taylor, and San Francisco Peaks. One individual noted that all of these areas ought to be protected by the Indian Religious Freedom Act. Concerns regarding human remains, the relocation of livestock, and forced movement away from sacred sites were also discussed.

One participant talked about three affiliated tribes of the Fort Berthold Reservation tribes: Mandan, Arikara, and Hidatsa. These tribes have been together since the 1840s and have had to move constantly. They also experience problems regarding access to water, land, minerals, and oil. The last two speakers during the session brought up issues such as the desecration of sacred sites and rituals by non-Indian "sweat lodges," pending Sioux land claims, and the legal case concerning the Black Hills territory.

- **Statement on Other Indigenous Human Rights Issues by Participants: Health, Justice, Food Security and Other Issues**

One member of the Oglala Sioux Tribe talked about the importance of language and called for an Executive Order to remove barriers and invest in immersion schools. The next participant, a resident of Alaska, asked the U.S. Government to correct inequities in Alaskan law and stated that the ANSCA is hurting the people and destroying Native Alaskan traditions and culture.

Several interlocutors called for the release of Leonard Peltier, asserting that he is a victim of injustices by the U.S. Government. One Oglala Sioux participant raised the importance of protecting and promoting native languages to maintain cultural ties, and encouraged more immersion courses for federal government officials.

A Tohono O'odham participant talked about Customs and Border Patrol and what he saw as their sometimes unhelpful and unauthorized presence on reservations. One participant shared a story about alleged prisoner mistreatment and the failure on the part of the authorities to respect religious freedom in a prison in Pennsylvania and elsewhere. Additionally, an interlocutor who was banished in 2008 from the Snoqualmie tribe argued that tribal governments have learned that they can expel people without any consequences in order to silence dissent. She stated that the U.S. Government disregards this issue because it considers it an internal dispute.

Several participants expressed concern over land and water issues. One speaker discussed nuclear waste and its damaging effects, especially in New Mexico. She blamed corporations for radioactive water and strontium contamination. Another participant asserted that nuclear industry activities are poisoning the aquifers. Another participant was concerned about the effects of clean energy and green energy technology. Exposure to pesticides and lead poisoning were also major issues for participants and their families.

- **Summary, Conclusion and Closing**

A participant discussed the obstacles to progress faced by the U.S. Government and Native Americans. He stated that the problems fall into three categories. First, some of the issues are problems under the Constitution and U.S. law. Second, some problems exist when considering the category of indigenous peoples and who warrants inclusion. Third, problems

arise regarding the responsiveness of the U.S. Government. He asserted that the government's position is that it cannot conduct business on a case-by-case basis.

Overall, he categorized these as communication problems and called for a continuing process that takes information and translates it into language that results in follow-up by the federal government. He highlighted the importance of presenting complaints and recommendations in terms that the government can look into and implement. He stated that inaction on the part of the government only results in resentment, and he called on the U.S. Government to carefully review issues it can act upon, or at least respond to Native Americans and share information regarding what it can or cannot do.

- **Navajo Nation Listening Session**

On March 17th, a second listening session took place at the Navajo Nation Museum in Window Rock, Arizona, where delegates from several different government agencies met with individuals from different tribes and members of civil society. After a brief welcome and overview of the UPR process in the Navajo language, statements were made by Navajo Nation Branch Chiefs. One of the first challenges identified during this session was the perceived failure of the U.S. Government to recognize land ownership rights of the Navajo Nation.

The next issue concerned sacred sites. An attorney spoke about the alleged inadequacy of laws to protect the sites. Other participants stressed the importance of the areas, stating that they were sacred not just because a book said so, but also because the sites were what sustained the people. They expressed frustration with previous attempts to pursue sacred site cases through the courts and other governmental processes such as those under the Religious Freedom Restoration Act.

A discussion on relocation followed. One individual shared her personal story of forced relocation without adequate compensation or free, prior, and informed consent. Her relocation resulted in a limited ability to practice her culture and speak her native language. She stated that many people who have been relocated now live in border towns and are landless or homeless. She also called for the inclusion of women in relocation planning. The next participant was a Navajo-Hopi partitioned lands resident. She discussed family conflict over housing, water, infrastructure, and livestock that had resulted from relocation in the 1970s.

Environmental issues were the topic of the next discussion. The first interlocutor talked about prior assessments of the development of nuclear technology and uranium impacts. He stated that the U.S. Government had failed to take into account the culture and religion of Native Americans when creating risk assessments. Also, he asserted that in coming years the depletion of non-renewable resources and climate change will worsen the cultural impacts. The next speaker focused on water issues and stated that Native Americans face great challenges when

trying to access water. Regarding water pollution as religious desecration, the participant explained how a coal company has used groundwater in Black Mesa to provide electricity to areas in Nevada since the 1970s. Eventually, when the springs dry up, he explained that it will prevent Native Americans from performing their religious rites. He closed by requesting that water be replaced at equal quantity and quality.

The following discussion was about unsolved deaths and border town racism. Interlocutors discussed unexplained deaths of Navajo citizens and their feelings that authorities are expeditious when investigating the deaths of non-Natives, but do not share this urgency when handling cases involving Native Americans. Participants called on the Department of Justice to work with Native Americans on this issue.

Next, participants discussed self-determination as it relates to resources. One speaker offered several different definitions of self-determination. He related this to the UN Declaration and called on the U.S. Government to recognize the right of self-determination.

Several participants then offered statements on other indigenous human rights issues. Aside from several calls for the U.S. Government to support the UN Declaration, other issues included native language rights and justice for forced relocation. Psychological and physiological consequences as well as loss of livelihood and spirituality as a result of forced relocation from Coal Mine Canyon were also discussed. Concerns regarding uranium mines on reservations were discussed as well. One participant raised the presence of sexual abuse and violence that affects Native women and children, as well as inadequate comprehensive services on reservations to help victims of abuse. One of the final speakers mentioned the lack of government response to the anti-Indian movement, especially on private property and in border towns.