



OS, Trust Commission <trustcommission@ios.doi.gov>

UN Declaration

1 message

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To: trustcommission@ios.doi.gov

Mon, Apr 29, 2013 at 4:44 PM

I am attaching a power point that I presented to the NCAI Ex Board in June 2010 and the ATNI resolution that contains key recommendations on Implementing the UN Declaration. I ask that you bring this to the attention of Chair Fawn Sharp, currently president of the ATNI.

Alan Parker, Professor Advanced Studies in Tribal Governance.

2 attachments

 **UN DRIP Jan 31.ppt**
1071K

 **ATNI res_UN DRIP Oct 5, 2010.pdf**
290K

The UN Declaration of Rights of Indigenous Peoples (DRIP)



The term "peoples" is important. Indigenous peoples do not want to be treated simply as numerical "populations". They want recognition of their "collective" rights as distinct peoples, including the right to self-determination, and the right to control their homelands and development of their own societies. (www.iwgia.org/sw1592.asp)

Adopted September 13, 2007
by UN General Assembly
143-4, 11 abstaining.



Voting on the Declaration
in the UN General
Assembly,
13 September 2007.
Photo: Stefan Disko
www.iwgia.org/sw1592.asp

Major provisions

- Indigenous Peoples are entitled to “Free, Prior and Informed Consent” prior to having their lands and resources taken or encumbered by Nation States of the UN.
- They possess inherent rights of political, cultural and economic self-determination

On April 20, 2010 US Ambassador Susan Rice testified to the UN Permanent Forum on Indigenous Peoples

Ambassador Rice informed the Permanent Forum that the Obama Administration planned to “Review” the question of changing the position of the US on adoption of the DRIP

They consulted US Tribal Nations about this. State Dept and other govt. reps held a series of meeting with Tribes beginning at NCAI June 20-24 meeting in Rapid City. In Oct Jewell James and I testified in Wash DC on behalf of ATNI. On Dec 16, 2010, President Obama announced his support for the UN Declaration



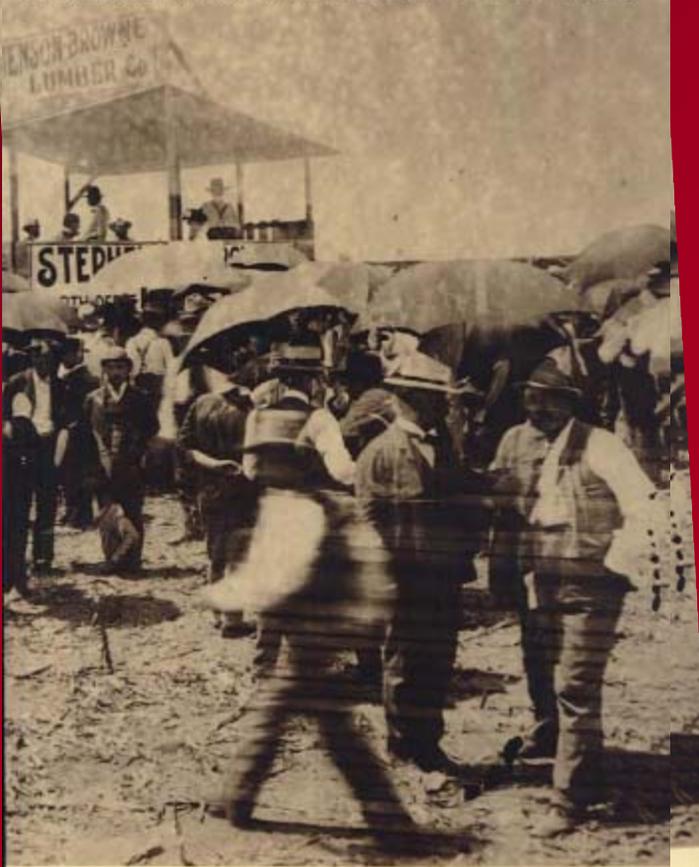
Susan Rice, the U.S. Ambassador to the United Nations, speaks to the press at the United Nations on January 26, 2009 in New York City.

(UPI Photo/Monika Graff)

What impact might this have on US Tribal Nations? Is this an opportunity to inform the Obama Administration that the Congressional Plenary Power doctrine must be modified?

LONE WOLF v HITCHCOCK

Treaty Rights & Indian Law at the End of the Nineteenth Century



Blue Clark

This doctrine was first articulated by the Supreme Court in the 1906 case of Lone Wolf vs. Hitchcock. Congress passed a law that unilaterally opened treaty protected Indian land for settlement by non Indian homesteaders. When the Comanche Tribe sued the US, the Supreme Court decided that congress had “plenary power” under the Commerce clause of the US Constitution to do this. This precedent has been affirmed many times since then. The Obama Administration should consider how this doctrine may be modified to comply with the UN DRIP.



*The time has come for tribes to
take a stand on these issues
and insist that Obama
Administration
support them in
changing
these
“erroneous
decisions”.*

Under Rehnquist and Roberts the Supreme Court has continued to issue decisions, such as the Plains Commerce Bank case in 2008, that undermine tribal rights to govern their own territory. (See also *Atkinson Trading Co vs. Shirley* and *US vs. Hicks*)

Strategies for the Future

- Many tribes were at NCAI 2010 annual meeting in Albuquerque
- They adopted Res #64 that called on Pres to inform the UN that Indigenous Nations should have rights to be recognized as “governmental representatives”, not as NGO’s
- Res #64 also called on Obama to inform the UN World Intellectual Property Office, WIPO, to change laws that allow theft and exploitation of our “Cultural Properties” under trademark and copyright laws.
- ATNI can call upon NCAI ask Obama to create a “Commission on Implementing the UN Declaration” that brings tribal leaders to the table with Federal agencies and invited members of Cong
- Other Indigenous Nations in Canada, New Zealand and Australia are interested in creating a “Joint Commission on Implementation of the UN DRIP” with US Tribal Leaders and their governments.



2010 Annual Conference Spokane, Washington

RESOLUTION #10 - 64

"UNITED NATIONS DECLARATION ON THE RIGHTS OF INDIGENOUS PEOPLES CONSULTATION"

PREAMBLE

We the members of the Affiliated Tribes of Northwest Indians of the United States, invoking the divine blessing of the Creator upon our efforts and purposes, in order to preserve for ourselves and our descendants rights secured under Indian Treaties, Executive Orders, and benefits to which we are entitled under the laws and constitution of the United States and several states, to enlighten the public toward a better understanding of the Indian people, to preserve Indian cultural values, and otherwise to promote the welfare of the Indian people, do hereby establish and submit the following resolution:

WHEREAS, the Affiliated Tribes of Northwest Indians (ATNI) are representatives of and advocates for national, regional, and specific tribal concerns; and

WHEREAS, ATNI is a regional organization comprised of American Indians/Alaska Natives and tribes in the states of Washington, Idaho, Oregon, Montana, Nevada, Northern California, and Alaska; and

WHEREAS, the health, safety, welfare, education, economic and employment opportunity, and preservation of cultural and natural resources are primary goals and objectives of the ATNI; and

WHEREAS, ATNI is concerned about assuring the decades of work dedicated to the "Drafting" of the United Nations Declaration on the Rights of Indigenous Peoples is not forgotten; and

WHEREAS, the “Drafting” of the Declaration was the mutual work of Indigenous Peoples and Leadership from all over the World, which included indigenous peoples of the Red, Black, White, and Yellow Races of Humanity; and

WHEREAS, the United Nations ratified the Declaration on the Rights of Indigenous Peoples on September 13, 2007, by a vote of 144 states in favor of approval, 4 votes against (Australia, Canada, New Zealand, and United States), with 11 abstentions; and

WHEREAS, since its adoption, Australia and New Zealand have reversed their positions and now endorse the Declaration, Columbia and Samoa have indicated their support (they abstained originally), and in March 2010 Canada announced it would take steps to endorse the Declaration, and in April 2010 the United States indicated it would review its position regarding the Declaration; and

WHEREAS, the United States has, in cooperation with its peers that had originally opposed the Declaration, through the White House, decided to subject this question of support for the Declaration to the process of “Consultation” with the Indian Tribes, a process being addressed and co-coordinated by the Department of Interior and the Department of State; and

WHEREAS, that two consultation sessions have been held (one at NCAI conference 2010 and another at the Department of State in Washington, D.C.); and

WHEREAS, the NCAI has, as a result of the summer consultation, called upon the Department of State and Department of Interior to recommend to President Obama that the United States officially support the Declaration, and the ATNI member tribes agree with this recommendation; and

WHEREAS, ATNI recognizes that the contents of the Declaration are directly applicably relevant to the efforts of the member Indian tribes to permanently secure their indigenous rights to exercise their inherent sovereignty, and to permanently secure the rights of Self-determination and Self-governance, as a matter of national and international law; and

WHEREAS, the ATNI member tribes recognize the benefits of the Declaration and the importance it has to all Indian Nations of the United States, including their relatives located along the borders of Canada or Mexico, and advocates the Declaration be supported by the United States absolutely, as a matter of domestic policy; and

WHEREAS, the Lummi Nation, at the Department of State Consultation, was requested by the Department of Interior, without objections from the Department of State, to secure a coordinated national legal position of Indian Country as to recommendations and justification for securing U.S. support for the Declaration; and

WHEREAS, the ATNI member tribes support that request and seek to assure that work is co-coordinated to best reflect the national legal Indians of Indian Country; and

WHEREAS, member tribes of ATNI have advocated that President Obama consider the development of a Native American Indian and Alaskan Native Commission to help structure the consultations on government-to-government relationship between the United States and the Indian Tribes, per self-determination and self-governance, and in light of the creation of a similar Commission of the Asian Americans and Pacific Islanders; now

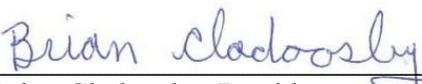
THEREFORE BE IT RESOLVED, that ATNI supports the recommendation of the National Congress of American Indians that the United States should immediately accept and support the Declaration, and clearly recommends that the Department of Interior and Department of State advocate support of the Declaration to President Obama; and

BE IT FURTHER RESOLVED, that ATNI recommends that President Obama consider the development of a Native American & Alaskan Native Commission to help coordinate consultations on the contents of the Declarations and their relevance to the duties and responsibilities of the different federal departments and independent agencies; and

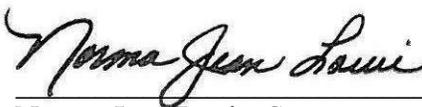
BE IT FINALLY RESOLVED, that ATNI calls upon the various regional, national, and international Native American/Intertribal organizations (e.g., WIGA, ATNI, CERT, NWIFC, CRIFC, USET, NTEC, NIEA, AIHEC, NCAI, NIGA, and others) to assist in the enactment and ratification phase of this international declaration, once supported by the United States.

CERTIFICATION

The foregoing resolution was adopted by the 2010 Executive Board, via email poll on October 5, 2010 with a quorum vote. Total 6 FOR 5 AGAINST 1 ABSTAINED 0



Brian Cladoosby, President



Norma Jean Louie, Secretary