



NAVAJO NATION HUMAN RIGHTS COMMISSION

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NNHRC Invited to Discuss Self-Determination and UNDRIP

Navajo Nation right to self-determination must be recognized

ST. MICHAELS, Ariz.—Officials from the Navajo Nation Human Rights Commission made a statement for the UN Declaration on the Rights of Indigenous Peoples to US State Department in Washington, D.C., on October 14, 2010.

“The United States is reviewing its position on the UN Declaration,” according to the official invite correspondence from the US State Department dated on October 7, 2010.

The letter states that the, “Federal government participation in this consultation will include representatives from the White House, the Departments of State, Justice and Interior, and other federal agencies.”

The State Department invited NNHRC on behalf of the Navajo Nation for the “Smart Partnership Dialogue: Tribal Consultation” on the UN Declaration on the Rights of Indigenous Peoples for input on four questions and address relevant issues. The questions were:

1. U.S. law treats federally recognized tribes differently from other indigenous groups in the United States. Is this practice consistent with the Declaration?
2. Is self-determination as discussed in the Declaration consistent with tribal self-determination in U.S. law and practice?
3. What additional mechanisms, if any, are necessary for the United States to act consistently with the lands, territories, natural resources, sacred sites, and redress provisions of the Declaration?
4. What is your understanding of the meaning of “free, prior and informed consent” in the Declaration?

Duane H. Yazzie, the chairperson, and Rodney L. Tahe, policy analyst, represented NNHRC, a statutory authorized entity of the Navajo Nation.

“There were about 30 representatives from various tribal nations,” said Yazzie.

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The format was an open dialogue and closed to the press to promote an open and honest discussion, according to Tahe.

Yazzie said, “The US does treat us differently as in federally recognized tribes getting entitlements and benefits and the non-recognized tribes not getting any and the disparity in treatment is not consistent with the Declaration, Article 1, “Indigenous peoples, whether individually or collectively shall enjoy their human rights. ” He then, said that the “Declaration does not separate or categorize us and treat us differently based on the categories, like the US does.”

When asked about self-determination Yazzie said, “The Declaration states that indigenous people shall have the right to self-determination to pursue their economic development, have the right to autonomy or self-government in matters relating to their internal and local affairs, whereas we are bound and restricted by US law and policy on decisions relating to our lands and we cannot determine our economic development and that the BIA has the final say on use of our lands.” Also, he said that “We don’t have the legal authority to adjudicate our tribal members for criminal acts because of the federal Major Crimes Act; that it is documented that indigenous people in state and federal court systems are treated more harshly than non-natives.”

Said Yazzie who made one recommendation, “One mechanism I recommend is that the federal government set policy for all federal agencies to abide by federal law. We believe the US Forest Service to be violation of the American Religious Freedom Act, where the San Francisco Peaks are concerned.”

In terms of the final question, Yazzie said, “Free, prior and informed consent is a utopian concept because we as Native Americans have never seen it in our relationship with the federal government.” He said, “What it means for us is to sit at the table in open dialogue when a coal open pit mine is being proposed in our backyard and that that mine won’t happen without our consent.”

Then, at the end of the discussion Tahe submitted a prepared statement by NNHRC, “The Navajo Nation Human Rights Commission Statement to the United States Department of State on the UN Declaration on the Rights of Indigenous Peoples.”

It states about self-determination, “First and foremost, we declare that we have had the right to self-determination since time immemorial.” Then, later the statement continues, “Through centuries we formulated processes of governance and established some of the greatest world civilization rooted in liberty and justice.”

“Secondly, the Navajo Nation advocates for full recognition of our peoples’ inalienable right to self-determination over our lands, territories, resources and minerals,” according to the NNHRC statement.

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In support of the statement, NNHRC continues that “the Navajo Nation does not have full legal authority over its people as a result of the federal Major Crimes Act” and that “Congress finds it proper to take Navajo individuals off our homelands to adjudicate them in foreign court system.”

With that, “The Navajo people have practiced self-determination since the time the Creator placed us on this, our sweet Earth Mother. We have survived the oppressive efforts by the United States Government through the enactment and imposed implementation of federal laws and policies that have proven to be a detriment to our Tribal Nations, in many cases.”

Finally, NNHRC stated, “It is our obdurate belief that the entirety of the rights of self-determination on the lands of the Navajo people must be fully recognized and respected by the United States Federal government and the US must sign onto the Declaration without reservation.”

Yazzie said, “I suppose those countries that conclude that the Declaration has only moral force and not legal are correct for their own situations, but in the final end the benefit and usefulness of the Declaration would depend on the administration of that country, so that it would be incumbent on the US government in our case.”

The US State Department will be taking comments on the UNDRIP until October 31, 2010.

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**STATEMENT TO THE UNITED STATES DEPARTMENT OF STATE
ON THE U.N. DECLARATION ON THE RIGHTS OF INDIGENOUS PEOPLES**

Yá'át'ééh from Dinétah, Greetings from Navajoland Honorable Brothers and Sisters from tribal nations, U.S. Department of State personnel and all those in attendance. My name is Duane H. Yazzie, Chairman of the Navajo Nation Human Rights Commission. I will speak on our rights to self-determination as recognized in the United Nations Declaration on the Rights of Indigenous Peoples.

First and foremost, we declare that we have had the right to self-determination since time immemorial, well in advance of the United Nations adopting Article 1 of the international human rights covenants. Through the centuries we formulated processes of governance and established some of the greatest world civilizations rooted in liberty and justice.

Secondly, the Navajo Nation advocates for full recognition of our people's inalienable right to self-determination over our lands, territories, resources and minerals. Professor Erica Irene-Daes noted in her papers regarding sovereignty over natural resources, "that in order for Indigenous peoples to survive, they must have full control over their lands, territories, resources and minerals." To the contrary, we have been bound and restricted by federal laws and policies over use of our lands, territories, resources and minerals.

In addition to not exercising full authority over our lands, the Navajo Nation does not have full legal authority over its people as a result of the Federal Major Crimes Act. The Navajo Nation has established codified laws over criminal acts committed by its members; unfortunately, Congress finds it proper to take Navajo individuals off our homelands to adjudicate them in foreign court systems. It is documented that Indigenous people adjudicated in state and federal courts are treated more harshly than non-Indigenous people. The Navajo Nation must exercise full authority over its civil and criminal processes; this will be a true exercise of self-determination.

The Navajo people have practiced self-determination since the time the Creator placed us on this, our sweet Earth Mother. We have survived the oppressive efforts by the United States government through the enactment and imposed implementation of federal laws and policies that have proven to be a detriment to our Tribal Nations, in many cases. Our mere restating of these realities demonstrates that U.S. Federal Indian policy has not been and is not consistent with the U.N. Declaration on the Rights of Indigenous Peoples.

It is our obdurate belief that the entirety of the rights to self-determination on the lands of the Navajo people must be fully recognized and respected by the United States Federal government and that the U.S. must sign onto the Declaration without reservation.