

United Nations Permanent Forum on the Rights of Indigenous Issues
New York, NY
13th Session, May 12-23, 2014

Agenda Item 3 – Principles of Good Governance Consistent with the United Nations Declaration of the Rights of Indigenous Peoples: Articles 3, 6 and 46.

Intervention of the Oglala Lakota Nation, presented by Dr. Richard L. Zephier, on behalf of Bryan V. Brewer, President of the Oglala Sioux Tribe, Pine Ridge Indian Reservation, occupied Lakota Territory.

Madame Chariperson,

The Oglala Lakota Nation welcomes the opportunity to discuss “Principles of good governance consistent with the United Nations Declaration on the Rights of Indigenous Peoples: especially Articles 3, 6 and 46.” Under this item, in order to discuss practices of good governance, it is also helpful to discuss practices of bad governance – examples of what states should refrain from doing.

I speak today as the representative of the elected government in our colonially-occupied homeland. Although we are the elected government, we reject the label that is often attached to us by the government of the United States, as the “legitimate” Lakota government. We recognize and respect that we had and exercised political independence and self-determination long before there was a United States or a Canada or a Brazil or a Mexico. Our traditional form of governance was deliberately attacked and impaired through the operation of colonial domination.

Today, despite the fact that we are the entity that attempts to provide the daily necessities of life for our people – to maintain roads and schools and health facilities, we recognize, respect, and extend our hand to all Lakotas – traditional councils, grassroots organizations, and all Lakotas who strive to be free, self-sustaining, and independent people. As Lakotas, we stand on common ground, in defense of our right to self-determination, our right to have our treaties honored and respected as binding international instruments, and for the return of our homelands – especially our most sacred area – the He Sapa (Black Hills). We stand together in the defense of our homeland by predatory corporations and governments, and against destructive and illegal projects, such as the Keystone XL pipeline.

The Oglala Lakota Nation, is the historic and traditional homeland to some of the fiercest resistance against invasion and settler colonialism in the world; home to the great leaders, Crazy Horse Red Cloud, Fools Crow and Russell Means; location of the historic opposition to the United States government at Wounded Knee in 1973, and home to the first international treaty conference in 1974, that laid the foundation

for much of the work of Indigenous peoples' decolonization, including the Declaration about which we now speak. The Lakota Nation has a very long experience with the bad governance practices of invading settler states, but today we will limit our remarks specifically to the practices of the United States of America.

We continue to insist that the Oglala Lakota Nation possesses the unfettered, international legal right to self-determination. Article 3 of the UN Declaration affirms the full enjoyment of our inherent, natural right to self-determination, without limit and without qualification. We reject any limited interpretation of Article 3 of the Declaration, and we recall that Indigenous peoples, in the drafting process of the UNDRIP, demanded that the international right of self-determination be applied to Indigenous peoples in the same manner that it has been applied to all other peoples under colonial or foreign subjugation, domination or occupation. The denial of the rights embodied in Article 3 by the United States government, through its law and policies, presents a clinical case of governance that is fundamentally inconsistent with the UNDRIP.

The Oglala Lakota Nation further rejects the assertions of the United States government, as stated in its announcement of 9 December 2010, that the UNDRIP calls for "a distinct international concept of self-determination specific to indigenous peoples." The Oglala Lakota Nation rejects the fabricated claim of the United States that the Declaration is intended "to promote the development of a concept of self-determination for indigenous peoples that is different from the existing right of self-determination in international law." There is nothing in the historical record, or in the debates of the UN Working Group on Indigenous Populations, that lends any legitimacy or credence to the U.S.' distorted interpretation of the Declaration or its application. For the United States, or any state, to attempt to revise history, in an attempt to provide a unilateral and self-serving interpretation of the Declaration, is a *prima facie* case of bad governance.

In this same light, state interpretations of Article 46, which attempt to restrict or to limit the right of Indigenous peoples to exercise self-determination under Article 3, is contrary to existing international law. For the United States, or any state, to deny the right of self-determination to indigenous peoples on the grounds of protecting the territorial integrity of an invader state is contrary to settled international legal principles. No state has the right to protect the integrity of territory that it has seized illegally from another people, and then deny the right of self-determination to the people whose homeland is under illegal occupation. The territory of the Oglala Lakota Nation was acknowledged and guaranteed by the treaties of 1851 and 1868, between the United States of America and the Great Sioux Nation of Indians. The deliberate state practices of the U.S., utilizing the Doctrine of Christian Discovery, and fabricating an entire body of domestic law, based on racial, religious and cultural supremacy, must be explicitly repudiated by this Permanent Forum, by ECOSOC, and by the United Nations, as a whole.

On April 22, 2014, in Kiev, Ukraine, U.S. Vice-President Joseph Biden proclaimed that “no nation -- no nation -- has the right to simply grab land from another nation. No nation has that right.” (emphasis added) We agree. The United States, in constant violation of principles of good governance “grabbed” and continues to occupy, the lands, territories and resources of the Lakota Nation. The United States continues to occupy our territories, including our most sacred spiritual, ceremonial areas in the He Sapa (Black Hills). It refuses to engage in best practices in resolving the land disputes over our territories under illegal occupation, in violation of our treaties. Because of its refusal, the U.S. has allowed the theft of hundreds of square miles of our territory, much of our sacred water, billions of dollars of natural resources including gold, timber, coal, and destroyed our ability to achieve and maintain economic self-determination.

In conclusion, Madame Chair, we submit the following recommendations in advancement of the principles of good governance consistent with the UNDRIP:

1. That this body call for the appointment of a special rapporteur to investigate, document and recommend methods for UN bodies, states and international civil society to reject, repudiate, dis-establish, reverse and eliminate the doctrine of Christian discovery and domination, wherever it is embodied in state law and policy, and/or wherever it continues to appear in state theory or practice.
2. That this body recommend to the Economic and Social Council that the General Assembly request, under Article 96 (a) of the U.N. Charter, an Advisory Opinion from the International Court of Justice, regarding the international character and enforceability of treaties between Indigenous peoples and states, specifically the treaties between the Lakota Nation and the United States of America.
3. That this body reiterate that the right of self-determination for Indigenous peoples is not different from, nor lesser to, the right of all other peoples to self-determination, including other peoples under colonial or foreign subjugation, domination or occupation; and,
4. That this body assert that the right of Indigenous peoples to exercise our self-determination should never be limited by an assertion of territorial integrity that is based on the illegal invasion, domination or occupation by a settler state against an indigenous people or nation.

Thank you, madam Chair.

Sign ons:

Coastal Band Chumash Nation

Indigenous Peoples' Council on Biocolonialism

American Indian Movement of Colorado

Fourth World Center for the Study of Indigenous Law and Politics

Sacred Places Institute for Indigenous Peoples

Tonatierra