

LEGISLATIVE SUMMARY SHEET

Tracking No. 0165-17

DATE: May 2, 2017

TITLE OF RESOLUTION: AN ACTION RELATING TO NAABIK'ÍYÁTI';
RESPECTFULLY REQUESTING THE UNITED STATES OF AMERICA TO IMPLEMENT
THE UNITED NATIONS DECLARATION ON THE RIGHTS OF INDIGENOUS PEOPLES
AND THE AMERICAN DECLARATION ON THE RIGHTS OF INDIGENOUS PEOPLES

PURPOSE: This resolution if approved will endorse and support the Navajo Nation Human Rights Commission in requesting the United States government to fully implement the United Nations Declaration on the Rights of Indigenous Peoples and the American Declaration on the Rights of Indigenous Peoples.

This written summary does not address recommended amendments as may be provided by the standing committee. The Office of Legislative Counsel requests each committee member to review the proposed legislation in detail.

5-DAY BILL HOLD PERIOD: Rafaela Brudal
Website Posting Time/Date: 1:42pm 5/17
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Eligible for Action: 5/11/17

PROPOSED STANDING COMMITTEE RESOLUTION
23RD NAVAJO NATION COUNCIL—Third Year, 2017

INTRODUCED BY

Jonathan L Hale
Primary Sponsor

TRACKING NO. 0165-17

AN ACTION

RELATING TO NAABIK'ÍYÁTI'; RESPECTFULLY REQUESTING THE UNITED STATES OF AMERICA TO IMPLEMENT THE UNITED NATIONS DECLARATION ON THE RIGHTS OF INDIGENOUS PEOPLES AND THE AMERICAN DECLARATION ON THE RIGHTS OF INDIGENOUS PEOPLES

WHEREAS:

- A. The Navajo Nation established the Naabik'iyáti' Committee as a Navajo Nation Council standing committee and as such empowered Naabik'iyáti' Committee to coordinate with all committees the appearance and testimony before non-Navajo government federal, state or other entities, 2 N.N.C. § 700 (A) (2012); *see also* CO-45-12.
- B. From the early 1990's to 2016, the Navajo Nation has participated in the United Nations Declaration on the Rights of Indigenous Peoples (UNDRIP) negotiation and advocated for the adoption of the American Declaration on the Rights of Indigenous Peoples (American Declaration). Respectively, the UNDRIP and American Declaration were adopted in September 2007 and June 2016.
- C. In both the UNDRIP and American Declaration, attached as **Exhibit A** and **Exhibit B**, the Navajo Nation advocated for the advancement and recognition of the following principles and fundamental indigenous human rights issues:
 - 1. Self-Determination: international binding treaties provide that all peoples have the right of self-determination. By virtue of that right as a sovereign entity the Navajo Nation freely determines its political status and freely pursues its

1 economic, social and cultural development. Equally, Diné have the right to self-
2 determination.

3 2. Own Lands, Territories and Resources: indigenous peoples were unjustly
4 dispossessed of their lands, territories and resources; they have the inherent right
5 to own their lands, territories and resources with the authority to manage and
6 direct their uses.

7 3. Right to Culture and Language: indigenous peoples have the right to preserve,
8 manifest and rejuvenate their cultures and traditions; they also have the right to
9 education in their languages and direct their school systems. This includes the
10 right to preserve cultural and sacred sites.

11 4. Right of Free, Prior and Informed Consent: indigenous peoples must not be
12 relocated, their lands dispossessed, their cultures disrupted, development
13 occurring on their lands and resources take away without their free, prior and
14 informed consent.

15 5. Right to adequate measures: nation-states have the responsibility to adequately
16 provide services and fund programs that affect indigenous peoples, including but
17 not limited to education, health care, and housing.

18 D. Additionally, the United Nations set aside September 2014 as the World Conference on
19 Indigenous Peoples. The United Nation General Assembly reaffirmed the UNDRIP at the
20 World Conference. The United States of America played an important role seeking and
21 fostering the recognition that some indigenous peoples have governments and are
22 represented by elected officials. These indigenous governments are not permitted to
23 participate in the United Nations systems, while non-government organizations can play
24 key roles in the United Nation systems.

25 E. The Navajo Nation supports the resolution passed by the Navajo Nation Human Rights
26 commission, "Seeking the Full Implementation of the International Human Rights and
27 Calling on United States President to Cease the Desecration of Indigenous People's
28 Sacred Places," attached as **Exhibit C**.

29 F. The UNDRIP further lists forty-nine (49) Articles the United Nations adopted as a
30 standard of achievement to be pursued in the spirit of partnership and mutual respect.

1 G. The General Assembly of the United Nations affirmed that, “indigenous peoples are
2 equal to all other peoples, while recognizing the right of all peoples to be different, to
3 consider themselves different, and to be respected as such.” *Id.*

4 H. Recognizing “the urgent need to respect and promote the inherent rights of indigenous
5 people which derive from their political, economic and social structures and from their
6 cultures, spiritual traditions, histories and philosophies, especially their rights to their
7 lands, territories and resources . . . and “the urgent need to respect and promote the rights
8 of indigenous peoples affirmed in treaties, agreements and other constructive
9 arrangements with States.” *Id.*

10 I. The Navajo Nation requests the implementation of the UNDRIP and American
11 Declaration by incorporating the enumerated indigenous human rights into domestic
12 laws, policies and regulations in order to appropriately protect and respect all human
13 rights of indigenous peoples in the United States.

14 J. The Navajo Nation finds it in its best interest to support the Navajo Nation Human Rights
15 Commission in requesting the United States government to fully implement the United
16 Nations Declaration on the Rights of Indigenous Peoples and the American Declaration
17 on the Rights of Indigenous Peoples.

18
19 **NOW THEREFORE, BE IT RESOLVED:**

20 A. The Navajo Nation hereby endorses and supports the Navajo Nation Human Rights
21 Commission in requesting the United States government to fully implement the United
22 Nations Declaration on the Rights of Indigenous Peoples and the American Declaration
23 on the Rights of Indigenous Peoples, attached as **Exhibit A** and **Exhibit B**.

24 B. The Navajo Nation hereby requests the Navajo Nation President, the Navajo Nation
25 Speaker, the Navajo Nation Chief Justice and their designees, to advocate in requesting
26 the United States government to fully implement the United Nations Declaration on the
27 Rights of Indigenous Peoples and the American Declaration on the Rights of Indigenous
28 Peoples.

United Nations
DECLARATION
on the **RIGHTS**
of **INDIGENOUS**
PEOPLES



United Nations

EXHIBIT
A



United Nations

Published by the United Nations

07-58681—March 2003—4,000

United Nations Declaration
on the Rights of Indigenous Peoples



Resolution adopted by the General Assembly

[without reference to a Main Committee (A/61/L.67 and Add.1)]

61/295. United Nations Declaration on the Rights of Indigenous Peoples

The General Assembly,

Taking note of the recommendation of the Human Rights Council contained in its resolution 1/2 of 29 June 2006,¹ by which the Council adopted the text of the United Nations Declaration on the Rights of Indigenous Peoples,

Recalling its resolution 61/178 of 20 December 2006, by which it decided to defer consideration of and action on the Declaration to allow time for further consultations thereon, and also decided to conclude its consideration before the end of the sixty-first session of the General Assembly,

Adopts the United Nations Declaration on the Rights of Indigenous Peoples as contained in the annex to the present resolution.

*107th plenary meeting
13 September 2007*

Annex

United Nations Declaration on the Rights of Indigenous Peoples

The General Assembly,

Guided by the purposes and principles of the Charter of the United Nations, and good faith in the fulfilment of the obligations assumed by States in accordance with the Charter,

Affirming that indigenous peoples are equal to all other peoples, while recognizing the right of all peoples to be different, to consider themselves different, and to be respected as such,

¹See *Official Records of the General Assembly, Sixty-first Session, Supplement No. 53 (A/61/53)*, part one, chap. II, sect. A.

Affirming also that all peoples contribute to the diversity and richness of civilizations and cultures, which constitute the common heritage of humankind,

Affirming further that all doctrines, policies and practices based on or advocating superiority of peoples or individuals on the basis of national origin or racial, religious, ethnic or cultural differences are racist, scientifically false, legally invalid, morally condemnable and socially unjust,

Reaffirming that indigenous peoples, in the exercise of their rights, should be free from discrimination of any kind,

Concerned that indigenous peoples have suffered from historic injustices as a result of, inter alia, their colonization and dispossession of their lands, territories and resources, thus preventing them from exercising, in particular, their right to development in accordance with their own needs and interests,

Recognizing the urgent need to respect and promote the inherent rights of indigenous peoples which derive from their political, economic and social structures and from their cultures, spiritual traditions, histories and philosophies, especially their rights to their lands, territories and resources,

Recognizing also the urgent need to respect and promote the rights of indigenous peoples affirmed in treaties, agreements and other constructive arrangements with States,

Welcoming the fact that indigenous peoples are organizing themselves for political, economic, social and cultural enhancement and in order to bring to an end all forms of discrimination and oppression wherever they occur,

Convinced that control by indigenous peoples over developments affecting them and their lands, territories and resources will enable them to maintain and strengthen their institutions, cultures and traditions, and to promote their development in accordance with their aspirations and needs,

Recognizing that respect for indigenous knowledge, cultures and traditional practices contributes to sustainable and equitable development and proper management of the environment,

Emphasizing the contribution of the demilitarization of the lands and territories of indigenous peoples to peace, economic and social

progress and development, understanding and friendly relations among nations and peoples of the world,

Recognizing in particular the right of indigenous families and communities to retain shared responsibility for the upbringing, training, education and well-being of their children, consistent with the rights of the child,

Considering that the rights affirmed in treaties, agreements and other constructive arrangements between States and indigenous peoples are, in some situations, matters of international concern, interest, responsibility and character,

Considering also that treaties, agreements and other constructive arrangements, and the relationship they represent, are the basis for a strengthened partnership between indigenous peoples and States,

Acknowledging that the Charter of the United Nations, the International Covenant on Economic, Social and Cultural Rights² and the International Covenant on Civil and Political Rights,² as well as the Vienna Declaration and Programme of Action,³ affirm the fundamental importance of the right to self-determination of all peoples, by virtue of which they freely determine their political status and freely pursue their economic, social and cultural development,

Bearing in mind that nothing in this Declaration may be used to deny any peoples their right to self-determination, exercised in conformity with international law,

Convinced that the recognition of the rights of indigenous peoples in this Declaration will enhance harmonious and cooperative relations between the State and indigenous peoples, based on principles of justice, democracy, respect for human rights, non-discrimination and good faith,

Encouraging States to comply with and effectively implement all their obligations as they apply to indigenous peoples under international instruments, in particular those related to human rights, in consultation and cooperation with the peoples concerned,

Emphasizing that the United Nations has an important and continuing role to play in promoting and protecting the rights of indigenous peoples,

²See resolution 2200 A (XXI), annex.

³A/CONF.157/24 (Part I), chap. III.

Believing that this Declaration is a further important step forward for the recognition, promotion and protection of the rights and freedoms of indigenous peoples and in the development of relevant activities of the United Nations system in this field,

Recognizing and reaffirming that indigenous individuals are entitled without discrimination to all human rights recognized in international law, and that indigenous peoples possess collective rights which are indispensable for their existence, well-being and integral development as peoples,

Recognizing that the situation of indigenous peoples varies from region to region and from country to country and that the significance of national and regional particularities and various historical and cultural backgrounds should be taken into consideration,

Solemnly proclaims the following United Nations Declaration on the Rights of Indigenous Peoples as a standard of achievement to be pursued in a spirit of partnership and mutual respect:

Article 1

Indigenous peoples have the right to the full enjoyment, as a collective or as individuals, of all human rights and fundamental freedoms as recognized in the Charter of the United Nations, the Universal Declaration of Human Rights⁴ and international human rights law.

Article 2

Indigenous peoples and individuals are free and equal to all other peoples and individuals and have the right to be free from any kind of discrimination, in the exercise of their rights, in particular that based on their indigenous origin or identity.

Article 3

Indigenous peoples have the right to self-determination. By virtue of that right they freely determine their political status and freely pursue their economic, social and cultural development.

Article 4

Indigenous peoples, in exercising their right to self-determination, have the right to autonomy or self-government in matters relating to

⁴Resolution 217 A (III).

their internal and local affairs, as well as ways and means for financing their autonomous functions.

Article 5

Indigenous peoples have the right to maintain and strengthen their distinct political, legal, economic, social and cultural institutions, while retaining their right to participate fully, if they so choose, in the political, economic, social and cultural life of the State.

Article 6

Every indigenous individual has the right to a nationality.

Article 7

1. Indigenous individuals have the rights to life, physical and mental integrity, liberty and security of person.
2. Indigenous peoples have the collective right to live in freedom, peace and security as distinct peoples and shall not be subjected to any act of genocide or any other act of violence, including forcibly removing children of the group to another group.

Article 8

1. Indigenous peoples and individuals have the right not to be subjected to forced assimilation or destruction of their culture.
2. States shall provide effective mechanisms for prevention of, and redress for:
 - (a) Any action which has the aim or effect of depriving them of their integrity as distinct peoples, or of their cultural values or ethnic identities;
 - (b) Any action which has the aim or effect of dispossessing them of their lands, territories or resources;
 - (c) Any form of forced population transfer which has the aim or effect of violating or undermining any of their rights;
 - (d) Any form of forced assimilation or integration;
 - (e) Any form of propaganda designed to promote or incite racial or ethnic discrimination directed against them.

Article 9

Indigenous peoples and individuals have the right to belong to an indigenous community or nation, in accordance with the traditions and customs of the community or nation concerned. No discrimination of any kind may arise from the exercise of such a right.

Article 10

Indigenous peoples shall not be forcibly removed from their lands or territories. No relocation shall take place without the free, prior and informed consent of the indigenous peoples concerned and after agreement on just and fair compensation and, where possible, with the option of return.

Article 11

1. Indigenous peoples have the right to practise and revitalize their cultural traditions and customs. This includes the right to maintain, protect and develop the past, present and future manifestations of their cultures, such as archaeological and historical sites, artefacts, designs, ceremonies, technologies and visual and performing arts and literature.

2. States shall provide redress through effective mechanisms, which may include restitution, developed in conjunction with indigenous peoples, with respect to their cultural, intellectual, religious and spiritual property taken without their free, prior and informed consent or in violation of their laws, traditions and customs.

Article 12

1. Indigenous peoples have the right to manifest, practise, develop and teach their spiritual and religious traditions, customs and ceremonies; the right to maintain, protect, and have access in privacy to their religious and cultural sites; the right to the use and control of their ceremonial objects; and the right to the repatriation of their human remains.

2. States shall seek to enable the access and/or repatriation of ceremonial objects and human remains in their possession through fair, transparent and effective mechanisms developed in conjunction with indigenous peoples concerned.

Article 13

1. Indigenous peoples have the right to revitalize, use, develop and transmit to future generations their histories, languages, oral traditions, philosophies, writing systems and literatures, and to designate and retain their own names for communities, places and persons.
2. States shall take effective measures to ensure that this right is protected and also to ensure that indigenous peoples can understand and be understood in political, legal and administrative proceedings, where necessary through the provision of interpretation or by other appropriate means.

Article 14

1. Indigenous peoples have the right to establish and control their educational systems and institutions providing education in their own languages, in a manner appropriate to their cultural methods of teaching and learning.
2. Indigenous individuals, particularly children, have the right to all levels and forms of education of the State without discrimination.
3. States shall, in conjunction with indigenous peoples, take effective measures, in order for indigenous individuals, particularly children, including those living outside their communities, to have access, when possible, to an education in their own culture and provided in their own language.

Article 15

1. Indigenous peoples have the right to the dignity and diversity of their cultures, traditions, histories and aspirations which shall be appropriately reflected in education and public information.
2. States shall take effective measures, in consultation and cooperation with the indigenous peoples concerned, to combat prejudice and eliminate discrimination and to promote tolerance, understanding and good relations among indigenous peoples and all other segments of society.

Article 16

1. Indigenous peoples have the right to establish their own media in their own languages and to have access to all forms of non-indigenous media without discrimination.

2. States shall take effective measures to ensure that State-owned media duly reflect indigenous cultural diversity. States, without prejudice to ensuring full freedom of expression, should encourage privately owned media to adequately reflect indigenous cultural diversity.

Article 17

1. Indigenous individuals and peoples have the right to enjoy fully all rights established under applicable international and domestic labour law.

2. States shall in consultation and cooperation with indigenous peoples take specific measures to protect indigenous children from economic exploitation and from performing any work that is likely to be hazardous or to interfere with the child's education, or to be harmful to the child's health or physical, mental, spiritual, moral or social development, taking into account their special vulnerability and the importance of education for their empowerment.

3. Indigenous individuals have the right not to be subjected to any discriminatory conditions of labour and, inter alia, employment or salary.

Article 18

Indigenous peoples have the right to participate in decision-making in matters which would affect their rights, through representatives chosen by themselves in accordance with their own procedures, as well as to maintain and develop their own indigenous decision-making institutions.

Article 19

States shall consult and cooperate in good faith with the indigenous peoples concerned through their own representative institutions in order to obtain their free, prior and informed consent before adopting and implementing legislative or administrative measures that may affect them.

Article 20

1. Indigenous peoples have the right to maintain and develop their political, economic and social systems or institutions, to be secure in the enjoyment of their own means of subsistence and development, and to engage freely in all their traditional and other economic activities.

2. Indigenous peoples deprived of their means of subsistence and development are entitled to just and fair redress.

Article 21

1. Indigenous peoples have the right, without discrimination, to the improvement of their economic and social conditions, including, inter alia, in the areas of education, employment, vocational training and retraining, housing, sanitation, health and social security.
2. States shall take effective measures and, where appropriate, special measures to ensure continuing improvement of their economic and social conditions. Particular attention shall be paid to the rights and special needs of indigenous elders, women, youth, children and persons with disabilities.

Article 22

1. Particular attention shall be paid to the rights and special needs of indigenous elders, women, youth, children and persons with disabilities in the implementation of this Declaration.
2. States shall take measures, in conjunction with indigenous peoples, to ensure that indigenous women and children enjoy the full protection and guarantees against all forms of violence and discrimination.

Article 23

Indigenous peoples have the right to determine and develop priorities and strategies for exercising their right to development. In particular, indigenous peoples have the right to be actively involved in developing and determining health, housing and other economic and social programmes affecting them and, as far as possible, to administer such programmes through their own institutions.

Article 24

1. Indigenous peoples have the right to their traditional medicines and to maintain their health practices, including the conservation of their vital medicinal plants, animals and minerals. Indigenous individuals also have the right to access, without any discrimination, to all social and health services.
2. Indigenous individuals have an equal right to the enjoyment of the highest attainable standard of physical and mental health. States shall take the necessary steps with a view to achieving progressively the full realization of this right.

Article 25

Indigenous peoples have the right to maintain and strengthen their distinctive spiritual relationship with their traditionally owned or otherwise occupied and used lands, territories, waters and coastal seas and other resources and to uphold their responsibilities to future generations in this regard.

Article 26

1. Indigenous peoples have the right to the lands, territories and resources which they have traditionally owned, occupied or otherwise used or acquired.
2. Indigenous peoples have the right to own, use, develop and control the lands, territories and resources that they possess by reason of traditional ownership or other traditional occupation or use, as well as those which they have otherwise acquired.
3. States shall give legal recognition and protection to these lands, territories and resources. Such recognition shall be conducted with due respect to the customs, traditions and land tenure systems of the indigenous peoples concerned.

Article 27

States shall establish and implement, in conjunction with indigenous peoples concerned, a fair, independent, impartial, open and transparent process, giving due recognition to indigenous peoples' laws, traditions, customs and land tenure systems, to recognize and adjudicate the rights of indigenous peoples pertaining to their lands, territories and resources, including those which were traditionally owned or otherwise occupied or used. Indigenous peoples shall have the right to participate in this process.

Article 28

1. Indigenous peoples have the right to redress, by means that can include restitution or, when this is not possible, just, fair and equitable compensation, for the lands, territories and resources which they have traditionally owned or otherwise occupied or used, and which have been confiscated, taken, occupied, used or damaged without their free, prior and informed consent.
2. Unless otherwise freely agreed upon by the peoples concerned, compensation shall take the form of lands, territories and resources

equal in quality, size and legal status or of monetary compensation or other appropriate redress.

Article 29

1. Indigenous peoples have the right to the conservation and protection of the environment and the productive capacity of their lands or territories and resources. States shall establish and implement assistance programmes for indigenous peoples for such conservation and protection, without discrimination.
2. States shall take effective measures to ensure that no storage or disposal of hazardous materials shall take place in the lands or territories of indigenous peoples without their free, prior and informed consent.
3. States shall also take effective measures to ensure, as needed, that programmes for monitoring, maintaining and restoring the health of indigenous peoples, as developed and implemented by the peoples affected by such materials, are duly implemented.

Article 30

1. Military activities shall not take place in the lands or territories of indigenous peoples, unless justified by a relevant public interest or otherwise freely agreed with or requested by the indigenous peoples concerned.
2. States shall undertake effective consultations with the indigenous peoples concerned, through appropriate procedures and in particular through their representative institutions, prior to using their lands or territories for military activities.

Article 31

1. Indigenous peoples have the right to maintain, control, protect and develop their cultural heritage, traditional knowledge and traditional cultural expressions, as well as the manifestations of their sciences, technologies and cultures, including human and genetic resources, seeds, medicines, knowledge of the properties of fauna and flora, oral traditions, literatures, designs, sports and traditional games and visual and performing arts. They also have the right to maintain, control, protect and develop their intellectual property over such cultural heritage, traditional knowledge, and traditional cultural expressions.

2. In conjunction with indigenous peoples, States shall take effective measures to recognize and protect the exercise of these rights.

Article 32

1. Indigenous peoples have the right to determine and develop priorities and strategies for the development or use of their lands or territories and other resources.

2. States shall consult and cooperate in good faith with the indigenous peoples concerned through their own representative institutions in order to obtain their free and informed consent prior to the approval of any project affecting their lands or territories and other resources, particularly in connection with the development, utilization or exploitation of mineral, water or other resources.

3. States shall provide effective mechanisms for just and fair redress for any such activities, and appropriate measures shall be taken to mitigate adverse environmental, economic, social, cultural or spiritual impact.

Article 33

1. Indigenous peoples have the right to determine their own identity or membership in accordance with their customs and traditions. This does not impair the right of indigenous individuals to obtain citizenship of the States in which they live.

2. Indigenous peoples have the right to determine the structures and to select the membership of their institutions in accordance with their own procedures.

Article 34

Indigenous peoples have the right to promote, develop and maintain their institutional structures and their distinctive customs, spirituality, traditions, procedures, practices and, in the cases where they exist, juridical systems or customs, in accordance with international human rights standards.

Article 35

Indigenous peoples have the right to determine the responsibilities of individuals to their communities.

Article 36

1. Indigenous peoples, in particular those divided by international borders, have the right to maintain and develop contacts, relations and cooperation, including activities for spiritual, cultural, political, economic and social purposes, with their own members as well as other peoples across borders.
2. States, in consultation and cooperation with indigenous peoples, shall take effective measures to facilitate the exercise and ensure the implementation of this right.

Article 37

1. Indigenous peoples have the right to the recognition, observance and enforcement of treaties, agreements and other constructive arrangements concluded with States or their successors and to have States honour and respect such treaties, agreements and other constructive arrangements.
2. Nothing in this Declaration may be interpreted as diminishing or eliminating the rights of indigenous peoples contained in treaties, agreements and other constructive arrangements.

Article 38

States, in consultation and cooperation with indigenous peoples, shall take the appropriate measures, including legislative measures, to achieve the ends of this Declaration.

Article 39

Indigenous peoples have the right to have access to financial and technical assistance from States and through international cooperation, for the enjoyment of the rights contained in this Declaration.

Article 40

Indigenous peoples have the right to access to and prompt decision through just and fair procedures for the resolution of conflicts and disputes with States or other parties, as well as to effective remedies for all infringements of their individual and collective rights. Such a decision shall give due consideration to the customs, traditions, rules and legal systems of the indigenous peoples concerned and international human rights.

Article 41

The organs and specialized agencies of the United Nations system and other intergovernmental organizations shall contribute to the full realization of the provisions of this Declaration through the mobilization, inter alia, of financial cooperation and technical assistance. Ways and means of ensuring participation of indigenous peoples on issues affecting them shall be established.

Article 42

The United Nations, its bodies, including the Permanent Forum on Indigenous Issues, and specialized agencies, including at the country level, and States shall promote respect for and full application of the provisions of this Declaration and follow up the effectiveness of this Declaration.

Article 43

The rights recognized herein constitute the minimum standards for the survival, dignity and well-being of the indigenous peoples of the world.

Article 44

All the rights and freedoms recognized herein are equally guaranteed to male and female indigenous individuals.

Article 45

Nothing in this Declaration may be construed as diminishing or extinguishing the rights indigenous peoples have now or may acquire in the future.

Article 46

1. Nothing in this Declaration may be interpreted as implying for any State, people, group or person any right to engage in any activity or to perform any act contrary to the Charter of the United Nations or construed as authorizing or encouraging any action which would dismember or impair, totally or in part, the territorial integrity or political unity of sovereign and independent States.

2. In the exercise of the rights enunciated in the present Declaration, human rights and fundamental freedoms of all shall be respected. The exercise of the rights set forth in this Declaration shall be subject only to such limitations as are determined by law

and in accordance with international human rights obligations. Any such limitations shall be non-discriminatory and strictly necessary solely for the purpose of securing due recognition and respect for the rights and freedoms of others and for meeting the just and most compelling requirements of a democratic society.

3. The provisions set forth in this Declaration shall be interpreted in accordance with the principles of justice, democracy, respect for human rights, equality, non-discrimination, good governance and good faith.



AMERICAN DECLARATION ON THE RIGHTS OF INDIGENOUS PEOPLES

(Adopted at the third plenary session, held on June 15, 2016)

THE GENERAL ASSEMBLY,

RECALLING the contents of resolution AG/RES. 2867 (XLIV-O/14), "Draft American Declaration on the Rights of Indigenous Peoples," as well as all the previous resolutions on this issue;

RECALLING also the "Declaration on the Rights of the Indigenous Peoples in the Americas," document AG/DEC. 79 (XLIV-O/14), which reaffirms that progress in promoting and effectively protecting the rights of the indigenous peoples of the Americas is a priority for the Organization of American States;

RECOGNIZING the valuable support provided by the member states, observer states, the organs, agencies, and entities of the Organization of American States for the process within the Working Group to Prepare the Draft American Declaration on the Rights of Indigenous Peoples;

RECOGNIZING as well the important participation of indigenous peoples of the Americas in the process of preparing this Declaration; and

TAKING INTO ACCOUNT the significant contribution that the indigenous peoples of the Americas have made to humanity,

RESOLVES:

To adopt the following Draft American Declaration on the Rights of Indigenous Peoples^{1/, 2/}

-
1. The United States remains committed to addressing the urgent issues of concern to indigenous peoples across the Americas, including combating societal discrimination against indigenous peoples and...
 2. Canada reiterates its commitment to a renewed relationship with its Indigenous peoples, based on recognition of rights, respect, co-operation and partnership. Canada is now fully engaged, ...

AMERICAN DECLARATION
ON THE RIGHTS OF INDIGENOUS PEOPLES

PREAMBLE

The member states of the Organization of American States (hereinafter the states),

RECOGNIZING:

That the rights of indigenous peoples are both essential and of historic significance to the present and future of the Americas;

The important presence in the Americas of indigenous peoples and their immense contribution to development, plurality, and cultural diversity and reiterating our commitment to their economic and social well-being, as well as the obligation to respect their rights and cultural identity; and

That the existence of indigenous cultures and peoples of the Americas is important to humanity; and

REAFFIRMING that indigenous peoples are original, diverse societies with their own identities that form an integral part of the Americas;

CONCERNED that indigenous peoples have suffered from historic injustices as a result of, inter alia, their colonization and dispossession of their lands, territories and resources, thus preventing them from exercising, in particular, their right to development in accordance with their own needs and interests;

RECOGNIZING the urgent need to respect and promote the inherent rights of indigenous peoples which derive from their political, economic and social structures and from their cultures, spiritual traditions, histories and philosophies, especially their rights to their lands, territories and resources;

RECOGNIZING FURTHER that respect for indigenous knowledge, cultures and traditional practices contributes to sustainable and equitable development and proper management of the environment;

BEARING IN MIND the progress achieved at the international level in recognizing the rights of indigenous peoples, especially the 169 ILO Convention and the United Nations Declaration on the Rights of Indigenous Peoples;

BEARING IN MIND ALSO the progress made in nations of the Americas, at the constitutional, legislative, and jurisprudential levels to safeguard, promote, and protect the rights of indigenous peoples, as well as the political will of states to continue their progress toward recognition of the rights of indigenous peoples in the Americas;

encouraging any action which would dismember or impair, totally or in part, the territorial integrity or political unity of sovereign and independent States.

SECTION TWO: Human Rights and Collective Rights

Article V. Full effect and observance of human rights

Indigenous peoples and persons have the right to the full enjoyment of all human rights and fundamental freedoms, as recognized in the Charter of the United Nations, the Charter of the Organization of American States and international human rights law.

Article VI. Collective rights

Indigenous peoples have collective rights that are indispensable for their existence, well-being, and integral development as peoples. In this regard, the states recognize and respect, the right of the indigenous peoples to their collective action; to their juridical, social, political, and economic systems or institutions; to their own cultures; to profess and practice their spiritual beliefs; to use their own tongues and languages; and to their lands, territories and resources. States shall promote with the full and effective participation of the indigenous peoples the harmonious coexistence of rights and systems of the different population, groups, and cultures.

Article VII. Gender equality

1. Indigenous women have the right to the recognition, protection, and enjoyment of all human rights and fundamental freedoms provided for in international law, free of all forms of discrimination.

2. States recognize that violence against indigenous peoples and persons, particularly women, hinders or nullifies the enjoyment of all human rights and fundamental freedoms.

3. States shall adopt the necessary measures, in conjunction with indigenous peoples, to prevent and eradicate all forms of violence and discrimination, particularly against indigenous women and children.

Article VIII. Right to belong to the indigenous peoples

Indigenous persons and communities have the right to belong to one or more indigenous peoples, in accordance with the identity, traditions, customs, and systems of belonging of each people. No discrimination of any kind may arise from the exercise of such a right.

Article IX. Juridical personality

The states shall recognize fully the juridical personality of the indigenous peoples, respecting indigenous forms of organization and promoting the full exercise of the rights recognized in this Declaration.

Article X. Rejection of assimilation

3. Indigenous peoples have the right to promote and develop all their systems and media of communication, including their own radio and television programs, and to have equal access to all other means of communication and information. The states shall take measures to promote the broadcast of radio and television programs in indigenous languages, particularly in areas with an indigenous presence. The states shall support and facilitate the creation of indigenous radio and television stations, as well as other means of information and communication.

4. The states, in conjunction with indigenous peoples, shall make efforts to ensure that those peoples can understand and be understood in their languages in administrative, political, and judicial proceedings, where necessary through the provision of interpretation or by other effective means.

Article XV. Education

1. Indigenous peoples and individuals, particularly indigenous children, have the right to all levels and forms of education, without discrimination.

2. States and indigenous peoples, in keeping with the principle of equality of opportunity, shall promote the reduction of disparities in education between indigenous and non-indigenous peoples.

3. Indigenous peoples have the right to establish and control their educational systems and institutions, providing education in their own languages, in a manner appropriate to their cultural methods of teaching and learning.

4. In conjunction with indigenous peoples, the states shall take effective measures to ensure that indigenous persons living outside their communities, particularly children, may have access to education in their own languages and cultures.

5. States shall promote harmonious intercultural relations, ensuring that the curricula of state educational systems reflect the pluricultural and multilingual nature of their societies and encourage respect for and knowledge of the different indigenous cultures. States shall, in conjunction with indigenous peoples, promote intercultural education that reflects the worldview, histories, languages, knowledge, values, cultures, practices, and ways of life of those peoples.

6. States, in conjunction with indigenous peoples, shall adopt necessary and effective measures to ensure the exercise and observance of these rights.

Article XVI. Indigenous spirituality

1. Indigenous peoples have the right to freely exercise their own spirituality and beliefs and, by virtue of that right, to practice, develop, transmit, and teach their traditions, customs, and ceremonies, and to carry them out in public and in private, individually and collectively.

2. No indigenous people or person shall be subject to pressures or impositions, or any other type of coercive measures that impair or limit their right to freely exercise their indigenous spirituality and beliefs.

Article XIX. Right to protection of a healthy environment

1. Indigenous peoples have the right to live in harmony with nature and to a healthy, safe, and sustainable environment, essential conditions for the full enjoyment of the right to life, to their spirituality, worldview and to collective well-being.

2. Indigenous peoples have the right to conserve, restore, and protect the environment and to manage their lands, territories and resources in a sustainable way.

3. Indigenous peoples are entitled to be protected against the introduction of, abandonment, dispersion, transit, indiscriminate use or deposit of any harmful substance that could negatively affect indigenous communities, lands, territories and resources.

4. Indigenous peoples have the right to the conservation and protection of the environment and the productive capacity of their lands or territories and resources. States shall establish and implement assistance programmes for indigenous peoples for such conservation and protection, without discrimination.

SECTION FOUR: Organizational and Political Rights

Article XX. Rights of association, assembly, and freedom of expression and thought

1. Indigenous peoples have the rights of association, assembly, organization and expression, and to exercise them without interference and in accordance with their worldview, *inter alia*, values, usages, customs, ancestral traditions, beliefs, spirituality, and other cultural practices.

2. Indigenous peoples have the right to assemble on their sacred and ceremonial sites and areas. For this purpose they shall have free access and use to these sites and areas.

3. Indigenous peoples, in particular those who are divided by international borders, shall have the right to travel and to maintain and develop contacts, relations, and direct cooperation, including activities for spiritual, cultural, political, economic, and social purposes, with their members and other peoples.

4. These states shall adopt, in consultation and cooperation with the indigenous peoples, effective measures to ensure the exercise and application of these rights.

Article XXI. Right to autonomy or self-government

1. Indigenous peoples, in exercising their right to self-determination, have the right to autonomy or self-government in matters relating to their internal and local affairs, as well as ways and means for financing their autonomous functions.

2. Indigenous peoples have the right to maintain and develop their own decision-making institutions. They also have the right to participate in the decision making in matters which would affect their rights. They may do so directly or through their representatives, and accordance with their

3. Nothing in this Declaration may be interpreted as diminishing or eliminating the rights of indigenous peoples contained in treaties, agreements and other constructive arrangements.

SECTION FIVE: Social, Economic, and Property Rights

Article XXV. Traditional forms of property and cultural survival. Right to land, territory, and resources

1. Indigenous peoples have the right to maintain and strengthen their distinctive spiritual, cultural, and material relationship to their lands, territories, and resources and to assume their responsibilities to preserve them for themselves and for future generations.

2. Indigenous peoples have the right to the lands, territories and resources which they have traditionally owned, occupied or otherwise used or acquired.

3. Indigenous peoples have the right to own, use, develop and control the lands, territories and resources that they possess by reason of traditional ownership or other traditional occupation or use, as well as those which they have otherwise acquired.

4. States shall give legal recognition and protection to these lands, territories and resources. Such recognition shall be conducted with due respect to the customs, traditions and land tenure systems of the indigenous peoples concerned.

5. Indigenous peoples have the right to legal recognition of the various and particular modalities and forms of property, possession and ownership of their lands, territories, and resources in accordance with the legal system of each State and the relevant international instruments. The states shall establish the special regimes appropriate for such recognition, and for their effective demarcation or titling.

Article XXVI. Indigenous peoples in voluntary isolation or initial contact

1. Indigenous peoples in voluntary isolation or initial contact have the right to remain in that condition and to live freely and in accordance with their cultures.

2. The states shall adopt adequate policies and measures with the knowledge and participation of indigenous peoples and organizations to recognize, respect, and protect the lands, territories, environment, and cultures of these peoples as well as their life, and individual and collective integrity.

Article XXVII. Labor Rights

1. Indigenous peoples and persons have the rights and guarantees recognized in national and international labor law. States shall take all special measures to prevent, punish and remedy the discrimination to which indigenous peoples and persons are subjected.

Article XXVIII. Protection of Cultural Heritage and Intellectual Property

1. Indigenous peoples have the right to the full recognition and respect for their property, ownership, possession, control, development, and protection of their tangible and intangible cultural heritage and intellectual property, including its collective nature, transmitted through millennia, from generation to generation.

2. The collective intellectual property of indigenous peoples includes, *inter alia*, traditional knowledge and traditional cultural expressions including traditional knowledge associated with genetic resources, ancestral designs and procedures, cultural, artistic, spiritual, technological, and scientific, expressions, tangible and intangible cultural heritage, as well as the knowledge and developments of their own related to biodiversity and the utility and qualities of seeds and medicinal plants, flora and fauna.

3. States, with the full and effective participation of indigenous peoples, shall adopt measures necessary to ensure that national and international agreements and regimes provide recognition and adequate protection for the cultural heritage of indigenous peoples and intellectual property associated with that heritage. In adopting these measures, consultations shall be effective intended to obtain the free, prior, and informed consent of indigenous peoples.

Article XXIX. Right to development

1. Indigenous peoples have the right to maintain and determine their own priorities with respect to their political, economic, social, and cultural development in conformity with their own world view. They also have the right to be guaranteed the enjoyment of their own means of subsistence and development, and to engage freely in all their economic activities

2. This right includes the development of policies, plans, programs, and strategies in the exercise of their right to development and to implement them in accordance with their political and social organization, norms and procedures, their own world views and institutions.

3. Indigenous peoples have the right to be actively involved in developing and determining development programmes affecting them and, as far as possible, to administer such programmes through their own institutions.

4. States shall consult and cooperate in good faith with the indigenous peoples concerned through their own representative institutions in order to obtain their free and informed consent prior to the approval of any project affecting their lands or territories and other resources, particularly in connection with the development, utilization or exploitation of mineral, water or other resources.^{2/}

5. Indigenous peoples have the right to effective measures to mitigate adverse ecological, economic, social, cultural, or spiritual impacts for the implementation of development projects that affect their rights. Indigenous peoples who have been deprived of their own means of subsistence and development have the right to restitution and, where this is not possible, to fair and

2. The State of Colombia breaks with consensus as regards Article XXIX, paragraph 4, of the OAS Declaration on Indigenous Peoples, which deals with consultations for obtaining indigenous...

2. The states shall promote, with the full and effective participation of the indigenous peoples, the adoption of the legislative and other measures that may be necessary to give effect to the rights included in this Declaration.

Article XXXII

All the rights and freedoms recognized in the present Declaration are guaranteed equally to indigenous women and men.

Article XXXIII

Indigenous peoples and persons have the right to effective and appropriate remedies, including prompt judicial remedies, for the reparation of all violations of their collective and individual rights. The states, with full and effective participation of indigenous peoples, shall provide the necessary mechanisms for the exercise of this right.

Article XXXIV

In case of conflicts and disputes with indigenous peoples, states shall provide, with the full and effective participation of those peoples, just, equitable and effective mechanisms and procedures for their prompt resolution. For this purpose, due consideration and recognition shall be given to the customs, traditions, norms or legal systems of the indigenous peoples concerned.

Article XXXV

Nothing in this Declaration may be interpreted so as to limit, restrict, or deny human rights in any way, or so as to authorize any action that is not in keeping with international human rights law.

Article XXXVI

In the exercise of the rights enunciated in the present Declaration, human rights and fundamental freedoms of all shall be respected. The exercise of the rights set forth in this Declaration shall be subject only to such limitations as are determined by law and in accordance with international human rights obligations. Any such limitations shall be non-discriminatory and strictly necessary solely for the purpose of securing due recognition and respect for the rights and freedoms of others and for meeting the just and most compelling requirements of a democratic society.

The provisions set forth in this Declaration shall be interpreted in accordance with the principles of justice, democracy, respect for human rights, equality, non-discrimination, good governance, and good faith.

Article XXXVII

Indigenous peoples have the right to have access to financial and technical assistance from States and through international cooperation, for the enjoyment of the rights contained in this Declaration.

FOOTNOTES

1. ...individuals, increasing indigenous participation in national political processes, addressing lack of infrastructure and poor living conditions in indigenous areas, combating violence against indigenous women and girls, promoting the repatriation of ancestral remains and ceremonial objects, and collaborating on issues of land rights and self-governance, among many other issues. The multitude of ongoing initiatives with respect to these topics provide avenues for addressing some of the consequences of past actions. The United States has, however, persistently objected to the text of this American Declaration, which is not itself legally binding and therefore does not create new law, and is not a statement of Organization of American States (OAS) Member States' obligations under treaty or customary international law.

The United States reiterates its longstanding belief that implementation of the United Nations Declaration on the Rights of Indigenous Peoples ("UN Declaration") should remain the focus of the OAS and its Member States. OAS Member States joined other UN Member States in renewing their political commitments with respect to the UN Declaration at the World Conference on Indigenous Peoples in September 2014. The important and challenging initiatives underway at the global level to realize the respective commitments in the UN Declaration and the outcome document of the World Conference are appropriately the focus of the attention and resources of States, indigenous peoples, civil society, and international organizations, including in the Americas. In this regard, the United States intends to continue its diligent and proactive efforts, which it has undertaken in close collaboration with indigenous peoples in the United States and many of its fellow OAS Member States, to promote achievement of the ends of the UN Declaration, and to promote fulfillment of the commitments in the World Conference outcome document. Of final note, the United States reiterates its solidarity with the concerns expressed by indigenous peoples concerning their lack of full and effective participation in these negotiations.

2. ...in full partnership with Indigenous peoples in Canada, to move forward with the implementation of the UN Declaration on the Rights of Indigenous Peoples in accordance with Canada's Constitution. As Canada has not participated substantively in recent years in negotiations on the American Declaration on the Rights of Indigenous Peoples, it is not able at this time to take a position on the proposed text of this Declaration. Canada is committed to continue working with our partners in the OAS on advancing Indigenous issues across the Americas.

3. ...communities' prior, free, and informed consent before adopting and enforcing legislative or administrative measures that could affect them, in order to secure their free, prior, and informed consent.

This is because Colombian law defines such communities' right of prior consultation in accordance with ILO Convention No. 169. Thus, the Colombian Constitutional Court has ruled that the consultation process must be pursued "with the aim of reaching an agreement or securing the consent of the indigenous communities regarding the proposed legislative measures." It must be noted that this does not translate into the ethnic communities having the power of veto over measures affecting them directly whereby such measures cannot proceed without their consent; instead, it means that following a disagreement "formulas for consensus-building or agreement with the community" must be presented.

security forces, hindering the performance of their institutional mission, which renders it unacceptable to Colombia.

national level. This is because there is no internationally accepted definition and since neither Convention 169 of the International Labour Organization (ILO) nor the United Nations Declaration on the Rights of Indigenous Peoples make reference to or define those terms.

On this matter, Colombia has been making progress with the regulation of that issue, and that progress has involved and will continue to involve the participation of the indigenous peoples and it will continue to advance toward that goal in accordance with the Colombian legal order and, when appropriate, with the applicable international instruments.

The paragraphs to which this note refers are transcribed below:

ARTICLE XIII
RIGHT TO CULTURAL IDENTITY AND INTEGRITY

2. “States shall provide redress through effective mechanisms, which may include restitution, developed in conjunction with indigenous peoples, with respect to their cultural, intellectual, religious and spiritual property taken without their free, prior and informed consent or in violation of their laws, traditions and customs.”

ARTICLE XVI
INDIGENOUS SPIRITUALITY

3. “Indigenous Peoples have the right to preserve, protect, and access their sacred sites, including their burial grounds; to use and control their sacred objects relics, and to recover their human remains.” (Approved on April 24, 2015 – Seventeenth Meeting of Negotiations in the Quest for Points of Consensus.)

ARTICLE XX
RIGHTS OF ASSOCIATION, ASSEMBLY, AND FREEDOM OF EXPRESSION AND THOUGHT

2. “Indigenous peoples have the right to assemble on their sacred and ceremonial sites and areas. For this purpose they shall have free access and use to these sites and areas.” (Approved on January 18, 2011 – Thirteenth Meeting of Negotiations in the Quest for Points of Consensus.)

ARTICLE XXXI

1. “The states shall ensure the full enjoyment of the civil, political, economic, social, and cultural rights of indigenous peoples, as well as their right to maintain their cultural identity, spiritual and religious traditions, worldview, values and the protection of their religious and cultural sites, and human rights contained in this Declaration.”

INTERPRETATIVE NOTE No. 3
OF THE STATE OF COLOMBIA WITH RESPECT TO ARTICLE XIII, PARAGRAPH 2, OF THE
OAS DECLARATION ON INDIGENOUS PEOPLES:

The State of Colombia expressly declares that of indigenous peoples’ right to promote and develop all their communication systems and media is subject to the requirements and procedures established in the current domestic regulations.

The paragraph to which this note refers is transcribed below:



NNHRCNOV-03-16

**RESOLUTION OF THE
NAVAJO NATION HUMAN RIGHTS COMMISSION**

Seeking the Full Implementation of the International Indigenous Human Rights and Calling on
United States President to Cease the Desecration of Indigenous Peoples' Sacred Places

WHEREAS:

1. Pursuant to 2 N.N.C. §920 and §921, the Navajo Nation Human Rights Commission ("Commission") is established within the Legislative Branch as an entity of the Navajo Nation government to operate as a clearinghouse to address discriminatory actions against citizens of the Navajo Nation; and to interface with the local, state, federal governments and with national and international human rights organizations in accordance with the Commission's plan of operation and applicable laws and regulations of the Navajo Nation; and
2. For approximately fifteen (15) years, the United Nations reviewed and negotiated the Declaration on the Rights of Indigenous Peoples ("UNDRIP"). The United States Government ("U.S.") was one of the principal nation-states that provided input on the final draft of the UNDRIP. While the U.S. voted against the UNDRIP on September 13, 2007, President Barack Obama publically announced on December 16, 2010 that "the United States is lending its support to this declaration..." President Obama further went on to say, "[b]ut I want to be clear. What matters far more than words, what matters far more than any resolution or declaration, are actions to match those words."; and
3. While UNDRIP is not a legally binding covenant or treaty, but it's based on international binding human rights treaties. International human rights treaties such as the International Covenant on Civil and Political Rights ("ICCPR") and the International Covenant on Economic, Social and Cultural Rights ("ICESCR") provide in Article 1 that all peoples have the right to self-determination. Article 3 of the UNDRIP states, "[i]ndigenous peoples have the right to self-determination. By virtue of that right they freely determine their political status and freely pursue their economic, social and cultural development." UNDRIP embodies international human rights treaties to which many nation-states are obligated to enforce domestically; and
4. The UNDRIP further states in Article 32: "[i]ndigenous peoples have the right to determine and develop priorities and strategies for the development or use of their lands or territories and other resources," "[s]tates shall consult and cooperate in good faith with the indigenous peoples concerned through their own representative institutions in order to obtain their free and informed consent prior to the approval of any project affecting their lands or territories and other resources, particularly in connection with the development, utilization or exploitation of mineral, water or other resources," and "[s]tates shall provide effective mechanisms for just and fair redress for any such activities, and appropriate measures shall be taken to mitigate adverse environmental, economic, social, cultural or spiritual impact." The U.S. has a human rights obligation to ensure that Article 32 is meaningfully fulfilled; and

5. In addition, the U.S. is obligated to ensure that indigenous peoples' religions are protected as ratified in ICCPR on June 8, 1992. Article 27 of the ICCPR states, "[i]n those States in which ethnic, religious or linguistic minorities exist, persons belonging to such minorities shall not be denied the right, in community with the other members of their group, to enjoy their own culture, to profess and practise their own religion, or to use their own language." It is the fundamental human rights of all indigenous peoples that their religions, spiritualities and language be protected and preserve against desecration and various forms of violations; and
6. Furthermore, the U.S., a state party to Convention on the Elimination of All Forms of Racial Discrimination, was reviewed in 2014 by the Committee of the Elimination of Racial Discrimination ("CERD") on their implementation and protection of indigenous peoples' human rights, especially as it relates to sacred sites. The CERD pinned the following, "While acknowledging the steps taken by the [U.S.] to recognize the culture and traditions of indigenous peoples, including the support for the [UNDRIP] announced by President Obama on 16 December 2010, the issuance of Executive Orders 13007 and 13175 and the high-level conferences organized by President Obama with tribal leaders, the Committee remains concerned at: (c) *Insufficient measures taken to protect the sacred sites of indigenous peoples that are essential for the preservation of their religious, cultural and spiritual practices against* polluting and *disruptive activities, resulting from*, inter alia, *resource extraction, industrial development*, construction of border fences and walls, tourism and urbanization" (Emphasis Added); and
7. The CERD recommended the U.S. "*[g]uarantee, in law and in practice, the right of indigenous peoples to effective participation in public life and in decisions that affect them, based on their free, prior and informed consent*" and "*[a]dopt concrete measures to effectively protect the sacred sites of indigenous peoples in the context of the [U.S.'s] development or national security projects and exploitation of natural resources...*" (Emphasis Added); and
8. In June 2011, the United Nations established the Working Group on the issue of human rights and transnational corporations and other business enterprises by Resolution A/HRC/RES/17/4 ("Working Group") which consists of five independent experts. The United Nations has principally addressed human rights concerns with governments and nation-states. However, it was apparent that there are other actors outside the governments and nation-states that affect human rights situations; these are businesses, particularly transnational corporations; and
9. The United Nations specifically stated that businesses also have a responsibility to protect, respect and, where necessary, remedy human rights. The Working Group is directed by the "Guiding Principles on Business and Human Rights: Implementing the United Nations 'Protect, Respect and Remedy' Framework," which was developed by the Special Representative of the United Nations Secretary General and endorsed by the United Nations Human Rights Council; and

10. The United Nations General Assembly, in its resolution A/Res/65/198 on December 21 2010, decided to organize a high-level plenary meeting of the General Assembly, to be known as the World Conference on Indigenous Peoples (“World Conference”), in order to share perspectives and best practices on the realization of the rights of indigenous peoples, including pursuing the objectives of the UNDRIP. In September 2014, the General Assembly hosted the World Conference and adopted the World Conference Outcome Document on September 22, 2014; and
11. The outcome document provides the following: “We reaffirm our support for the [UNDRIP], adopted by the General Assembly on 13 September 2007, and our commitments made in this respect to consult and cooperate in good faith with the indigenous peoples concerned through their own representative institutions in order to obtain their free, prior and informed consent before adopting and implementing legislative or administrative measures that may affect them, in accordance with the applicable principles of the [UNDRIP].” The U.S. participated in the World Conference and did not raise any objections to the adoption of the outcome document; and
12. As a part of addressing the rights of indigenous peoples, the world community developed a standard which governments and nation-states must freely inform indigenous peoples, without coercion, well in advance of the start date of the project, and the indigenous peoples concerned must make an informed decision prior to the project commencing. This standard is commonly referred to free, prior and informed consent. Indigenous peoples have the collective rights to self-determination and participation in decision making. It is fundamental that indigenous peoples have the human right of self-determination over their lands, territories and resources; and
13. The standard of free, prior and informed consent is also reflective in the Organization of American States Declaration on the Rights of Indigenous Peoples (“OAS Declaration”) which was adopted in June 2016. Article XXIX, the right to development, of the OAS Declaration states, “[s]tates shall consult and cooperate in good faith with the indigenous peoples concerned through their own representative institutions in order to obtain their free and informed consent prior to the approval of any project affecting their lands or territories and other resources, particularly in connection with the development, utilization or exploitation of mineral, water or other resources.” This language mirrors Article 32 of the UNDRIP; and
14. The provisions outlined in U.S. National Historic Preservation Act of 1966 was established to strengthen and preserve indigenous peoples’ sacred sites that are fundamental to the cultural and traditional life ways of indigenous peoples. The U.S. Army Corps of Engineers must take immediate action to prevent further damage, multination and desecration of sacred sites by ceasing all construction activity immediately. The harm perpetrated against the Sioux Nation presents eminent harm, unrest and danger to where indigenous lifeways are threaten and subject to further historical trauma and genocide; and
15. The Commission learned of the egregious events occurring near Standing Rock Sioux Indian Reservation as they pertain to the installation of a pipeline that runs through the

customarily and aboriginal homelands of the Standing Rock Sioux people. The following activities as reported as alleged violations of the indigenous human rights of the Standing Rock Sioux people:

- a. Desecration of burial sites;
 - b. Desecration of ceremonial grounds and sacred places;
 - c. Lack of free, prior and informed consent; and
16. The Commission is aware of the alleged violations of indigenous human rights near Standing Rock Sioux Indian Reservation and how those alleged violations are also infringed upon on the Navajo Nation. The Navajo Nation has raised time and time again the desecration of sacred places of the Navajo people, including the six sacred mountains, and the lack of recognizing the free, prior and informed consent of the Navajo people when their language, culture and traditions will be affected; and
 17. Recalling Resolution NABIS-58-11, the Náabik'íyáti' Committee of the Navajo Nation Council, authorized the Navajo Nation President and Vice-President, the Speaker of the Navajo Nation Council, their designee, and the Commission to do all things necessary to protect and advocate for the human rights of the Navajo people as they pertain to the San Francisco Peaks, sacred site for the Navajo people; and
 18. It is vitally important and incumbent upon the U.S. government, state and local governments, and businesses to understand the human rights of indigenous peoples. The free, prior and informed consent standard must be embraced by all governments and businesses when developments affect indigenous human rights. It is the indigenous peoples that are the experts in their own cultures, languages and traditions which must be respected, protected, and where appropriate, remedy be achieved.

NOW THEREFORE BE IT RESOLVED:

1. The Navajo Nation Human Rights Commission hereby seeks that all governments and businesses in the United States fully implement the United Nations Declaration of the Rights of Indigenous Peoples and Organization of American States Declaration of the Rights on Indigenous Peoples. The indigenous human rights standards must be effectively and meaningfully incorporated in all domestic laws, policies, regulations and codes at the federal, state and local levels.
2. The Navajo Nation Human Rights Commission further hereby determines that the actions of actors that violate the human rights of indigenous peoples have employed actions that are not representative of the call made by President Barack Obama that not words, resolutions or declarations matter but the actions. It is clear that the actions to desecrate the San Francisco Peaks and now the human rights of the Standing Rock Sioux people speak louder than the words of support announced by President Obama stating the United States support for the United Nation Declaration on the Rights of Indigenous Peoples.
3. The Navajo Nation Human Rights Commission hereby calls on the President of the United States to immediately suspend the permits that allow: 1) the construction of the Dakota Access Pipeline in North Dakota, and 2) transporting treated wastewater from the City of

Flagstaff to the Arizona Snowbowl ski resort. The United Nations Special Rapporteur on the rights of indigenous peoples issued a report in September 2011 detailing the human rights responsibilities of the United States government, including the suspension of the permits for Arizona Snowbowl Resort Limited Partnership until such time free, prior and informed consent is achieved.

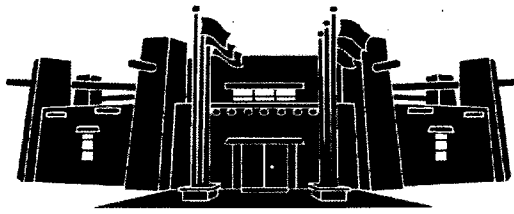
4. The Navajo Nation Human Rights Commission further calls on the Energy Transfer Partner L.P. to cease in the construction of the Dakota Access Pipeline and implement the recommendations put forward by the Working Group on the issue of human rights and transnational corporations and other business enterprises on "protect, respect and remedy" indigenous peoples concerns when proposing or implementing business adventures that have a direct impact on indigenous peoples.

CERTIFICATION

I hereby certify that the foregoing resolution was duly considered by the Navajo Nation Human Rights Commission as a duly called meeting at St. Michaels, Navajo Nation (Arizona), at which a quorum was present and same was considered by a vote of 3 in favor and 0 opposed, this 4th day of November, 2016.

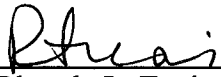


Dr. Jennifer Denetdale, PhD, *Chairperson Pro Tem*
Navajo Nation Human Rights Commission



MEMORANDUM

TO: Hon. Jonathan Hale
23rd Navajo Nation Council

FROM: 
Rhonda L. Tuni, Attorney
Office of Legislative Counsel

DATE: May 2, 2017

SUBJECT: AN ACTION RELATING TO NAABIK'ÍYÁTI'; RESPECTFULLY REQUESTING THE UNITED STATES OF AMERICA TO IMPLEMENT THE UNITED NATIONS DECLARATION ON THE RIGHTS OF INDIGENOUS PEOPLES AND THE AMERICAN DECLARATION ON THE RIGHTS OF INDIGENOUS PEOPLES

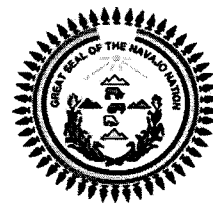
Pursuant to your request, attached is the above-referenced proposed resolution and associated legislative summary sheet. Based on existing law the resolution as drafted is legally sufficient. In addition, this legislation may raise funding issues.

The Office of Legislative Council confirms the appropriate standing committee(s) reviews based on the standing committees powers outlined in 2 N.N.C. §§ 301, 401, 501, 601 and 701. Nevertheless, "the Speaker of the Navajo Nation Council shall introduce [the proposed resolution] into the legislative process by assigning it to the respective oversight committee(s) of the Navajo Nation Council having authority over the matters for proper consideration." 2 N.N.C. § 164(A)(5).

Please review the proposed resolution to ensure it is drafted to your satisfaction. If this proposed resolution is acceptable to you, please sign it where it indicates "Prime Sponsor", and submit it to the Office of Legislative Services for the assignment of a tracking number and referral to the Speaker.

If the proposed resolution is unacceptable to you, or if you have further questions, please contact me at the Office of Legislative Counsel and advise me of changes you would like made to the proposed resolution. You may contact me at (928) 871-7166. Thank you.

THE NAVAJO NATION
LEGISLATIVE BRANCH
INTERNET PUBLIC REVIEW PUBLICATION



LEGISLATION NO: _0165-17_____

SPONSOR: Jonathan Hale

TITLE: An Action Relating to Naabik'iyati'; Respectfully Requesting the United States of America to implement the United Nations Declaration on the Rights of Indigenous Peoples and the American Declaration on the Rights on Indigenous Peoples.

Date posted: May 5, 2017 at 1:46pm

Digital comments may be e-mailed to comments@navajo-nsn.gov

Written comments may be mailed to:

Executive Director
Office of Legislative Services
P.O. Box 3390
Window Rock, AZ 86515
(928) 871-7590

Comments may be made in the form of chapter resolutions, letters, position papers, etc. Please include your name, position title, address for written comments; a valid e-mail address is required. Anonymous comments will not be included in the Legislation packet.

Please note: This digital copy is being provided for the benefit of the Navajo Nation chapters and public use. Any political use is prohibited. All written comments received become the property of the Navajo Nation and will be forwarded to the assigned Navajo Nation Council standing committee(s) and/or the Navajo Nation Council for review. Any tampering with public records are punishable by Navajo Nation law pursuant to 17 N.N.C. §374 *et. seq.*

THE NAVAJO NATION
LEGISLATIVE BRANCH
INTERNET PUBLIC REVIEW SUMMARY

LEGISLATION NO.: 0165-17

SPONSOR: Honorable Jonathan L. Hale

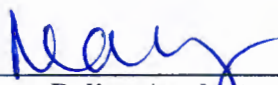
TITLE: An Action Relating to Naabik'iyati'; Respectfully Requesting the United States of America to implement the United Nations Declaration on the Rights of Indigenous Peoples and the American Declaration on the Rights on Indigenous Peoples.

Posted: May 5, 2017 at 1:46 pm

5 DAY Comment Period Ended: May 11, 2017

Digital Comments received:

Comments Supporting	<i>None</i>
Comments Opposing	<i>None</i>
Inclusive Comments	<i>None</i>



Policy Analyst
Office of Legislative Services
5/4/2017 12:52pm

Date/Time