

# HUMAN RIGHTS at HOME

Written Comments Submitted by the  
Human Rights at Home Campaign  
To the  
U.S. Department of State  
Regarding the  
United Nations Declaration on the Rights of Indigenous Peoples (UNDRIP)  
Review

July 15, 2010

The Human Rights at Home (HuRAH) Campaign welcomes the Administration's decision to revisit the United States' position opposing the United Nations Declaration on the Rights of Indigenous Peoples (UNDRIP).<sup>1</sup> A coalition of more than 50 human rights, civil rights and social justice organizations, the HuRAH Campaign is working to establish an infrastructure to implement, enforce and monitor U.S. compliance with domestic human rights treaty obligations.<sup>2</sup> As part of the State Department's formal review of the U.S. position regarding the UNDRIP, the HuRAH Campaign calls on the Obama Administration both to endorse UNDRIP without qualification and to work in full partnership with Indigenous Peoples, Tribal governments and Nations to develop specific plans to promote and implement the Declaration.<sup>3</sup>

Unqualified endorsement of UNDRIP is one step the Obama Administration can take to demonstrate its articulated commitment to uphold universal and inalienable human rights. The UNDRIP defines and elaborates the rights set forth in the Universal Declaration of Human Rights which are to be enjoyed by Indigenous Peoples. United Nations Ambassador Susan E. Rice has called the Declaration "an important framework for addressing indigenous issues" such as "disproportionate and dire poverty, unemployment, environmental degradation, health care gaps, violent crime, and bitter discrimination."<sup>4</sup> The rights set forth in the Declaration "constitute

---

<sup>1</sup> U.N. General Assembly, *United Nations Declaration on the Rights of Indigenous Peoples: resolution / adopted by the General Assembly*, 2 October 2007, A/RES/61/295, available at: <http://www.worldinbalance.net/pdf/2007-indigenouspeoples.pdf>

<sup>2</sup> See generally [http://www.ushrnetwork.org/new\\_domestic\\_human\\_rights](http://www.ushrnetwork.org/new_domestic_human_rights)

<sup>3</sup> Andrea Carmen, *Time to Adopt the UN Declaration on Rights of Indigenous Peoples*, INDIAN COUNTRY TODAY, Jun. 30, 2010, available at: <http://www.indiancountrytoday.com/opinion/97150584.htm>

<sup>4</sup> Remarks by Ambassador Susan E. Rice, U.S. Permanent Representative to the United Nations, at the UN Permanent Forum on Indigenous Issues, Apr. 20, 2010, available at: <http://usun.state.gov/briefing/statements/2010/140600.htm>; See also Greg Guedel, *U.S. to Review Position on U.N. Declaration on The Rights of Indigenous Peoples*, NATIVE AMERICAN LEGAL UPDATE, Apr. 20, 2010, available at: <http://www.nativelegalupdate.com/2010/04/articles/us-to-review-position-on-un-declaration-on-the-rights-of-indigenous-peoples/>

the minimum standards for the survival, dignity and well-being of the indigenous peoples of the world.”<sup>5</sup>

Unqualified endorsement is also essential as the United States moves to comply fully with obligations arising from ratified human rights treaties, such as the International Covenant on Civil and Political Rights (ICCPR) and the International Convention on the Elimination of All Forms of Racial Discrimination (ICERD), as well as the nearly 400 nation-to-nation treaties into which the U.S. has entered with Indigenous Nations. One compelling example is found in the 2008 Concluding Observations issued by the Committee on the Elimination of Racial Discrimination (CERD) in connection with the review of the fourth, fifth and sixth periodic reports submitted by the United States under Article 9 of the ICERD.<sup>6</sup> The Committee raised concerns about the human rights of Indigenous Peoples ranging from violence against Native American women to destructive economic activities in areas of spiritual and cultural significance both at home and abroad.<sup>7</sup> The Committee recommended that the United States recognize “the right of Native Americans to participate in decisions affecting them, and consult and cooperate in good faith with indigenous peoples.”<sup>8</sup> Recognizing the connection between full compliance with the ICERD and the UNDRIP, the Committee urged the United States to use the Declaration “as a guide to interpret the State party’s obligations under the [ICERD] relating to indigenous peoples.”<sup>9</sup> The Committee also requested that the next periodic report under the treaty include, *inter alia*, “detailed information on the measures adopted to preserve and promote the culture and traditions of American Indian and Alaska Native (AIAN) and Native Hawaiian and Other Pacific Islander (NHPI) peoples.”<sup>10</sup> In this way, compliance with ICERD would be greatly enhanced by the guidance provided by the UNDRIP.

Moreover, the UNDRIP can be an important component of a just, honorable and comprehensive U.S. human rights policy. As this administration has acknowledged, “far more must be done – at home and abroad – to tackle [the] challenges [faced by indigenous peoples], expand the circle of opportunity, and work with our Native communities to ensure they enjoy the security and dignity that all deserve.”<sup>11</sup> This notion of obligations owed to Indigenous Peoples both inside and outside the United States echoes the understanding of the scope of obligations under treaties such as the ICERD.

Unqualified endorsement, however, is not enough. Effective promotion and implementation of the UNDRIP will require the Obama Administration to work in full partnership with Indigenous Peoples, Tribal governments and Nations. Those who drafted the Declaration did so with the belief that recognizing “the rights of Indigenous Peoples in this

---

<sup>5</sup> UNDRIP, *supra* note 1, Article 43.

<sup>6</sup> U.N. Committee on the Elimination of Racial Discrimination (CERD), *Consideration of reports submitted by States parties under article 9 of the Convention : International Convention on the Elimination of All Forms of Racial Discrimination : Concluding Observations of the Committee on the Elimination of Racial Discrimination: United States of America*, 8 May 2008, CERD/C/USA/CO/6, available at: [http://www.aclu.org/files/pdfs/humanrights/cerd\\_concluding\\_report.pdf](http://www.aclu.org/files/pdfs/humanrights/cerd_concluding_report.pdf)

<sup>7</sup> *Id.*, at ¶¶ 26, 29,30.

<sup>8</sup> *Id.*, at ¶ 29.

<sup>9</sup> *Id.*

<sup>10</sup> *Id.*, at ¶ 38.

<sup>11</sup> *Supra* note 4 and sources cited therein.

Declaration will enhance cooperative and harmonious relations between the State and Indigenous Peoples.”<sup>12</sup> This requires the United States to join, rather than merely to applaud, the efforts of the Permanent Forum on Indigenous Peoples “to raise awareness of issues affecting the world’s indigenous peoples and to generate ideas for substantially improving their livelihoods and communities.”<sup>13</sup> It also requires the United States not only to support the mandate of the U.N. Special Rapporteur on the situation of human rights and fundamental freedoms of indigenous people, but also to cooperate with the current Special Rapporteur, Professor James Anaya. The Obama Administration’s willingness to engage in this process of reviewing its position on the UNDRIP is encouraging.

The HuRAH Campaign urges the Administration to explore more options to better interface with Indigenous Peoples about how best to address serious human rights challenges ranging from health care and public safety to economic opportunities and corporate social responsibility and land rights issues. Specifically, the HuRAH Campaign reiterates its call for an Executive Order reconstituting the Inter-Agency Working Group on Human Rights which is essential to the type of intra-branch coordination needed to promote and implement the UNDRIP as well as the ratified treaties to which the United States is a party.

The Obama Administration has recognized that “America cannot be fully whole until its first inhabitants enjoy all the blessings of liberty, prosperity, and dignity.”<sup>14</sup> Changing its position regarding the UNDRIP will put the United States in a better position from which to strive to close the gap between the articulated idealism which the United States claims as a central part of its history and the destructive and genocidal practices that mar the United States’ record with respect to this country’s first inhabitants. To this end, the HuRAH Campaign urges the United States to unqualifiedly endorse the UNDRIP and to work collaboratively with those Indigenous Peoples whose human rights are most imperiled by the United States’ failure to embrace the rights set forth in the Declaration.

---

<sup>12</sup> UNDRIP, *supra* note 1, Preamble.

<sup>13</sup> *Supra* note 4 and sources cited therein.

<sup>14</sup> *Id.*