

E/C.19/2011/CRP. 7
25 April 2011
Language: English

Permanent Forum on Indigenous Issues
Tenth session
New York, 16 – 27 May 2011

**Report on the Treaty Meeting held during the North American
Indigenous Peoples Caucus Meeting**

March 18, 2011, Blue Lake Rancheria

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Why Treaty Meetings

Moving forward with our work to implement the rights of Lakota people as guaranteed in our treaties, a significant objective is the making of allies. This is a traditional process through which the Lakota people have always kept the peace and maintained our sovereignty. As a collective society, we acknowledge that sovereignty extends to all aspects of our environment and that our responsibilities descend to us from the ancestors. This is why the voices of our Lakota leaders and elders, who speak the language, are the key to our success. We are not trying to fit-in or comply with systems that are foreign to our way of life. Rather, we utilize our own wisdom to find other Indigenous peoples, allies and supporters who are willing to explore this vision and work alongside our leadership. Indigenous peoples' advocacy cannot be isolated from our environment or separated from our land. This is now of global significance with the change in climate and continuing destruction of Mother Earth and, in heeding her warnings, moves towards equitable and just strategies for preservation.

"Environmentalists have been talking for decades about saving the planet, but the planet is going to be around for some time to come," Brown told AlterNet by phone from his Washington D.C. office at the Earth Policy Institute, which he founded at the turn of the century after decades of public and private service in the name of sustainability. "The question is will civilization as we know it be around for some time to come? Can it survive the mounting global stresses of rising pollution, starvation, food prices, water shortages and failed states? These are the real threats to our security now, but we're not responding to them." ¹

The making of relatives and allies is a cornerstone of our efforts. In this spirit, Owe Aku International Justice Project decided, along with many of our allies, that it would be valuable to utilize the gathering for the North American Indigenous Peoples Caucus to have a day to meet with other nations and communities in order to share our strategy to implement future control and preservation of our territories by substantially enhancing treaty enforcement. The idea was first proposed by the new North

¹ (Scott Thill, Time for Plan B: Our Civilization Is on the Edge of a Systemic Breakdown, http://www.alternet.org/story/150385/time_for_plan_b%3A_our_civilization_is_on_the_edge_of_a_systemic_breakdown_?akid=6742.238019.BRAjOI&rd=1&t=5. Lester Brown talks about whether our civilization can survive the mounting global stresses of rising pollution, starvation, food prices, water shortages and failed states. March 26, 2011)

American Indigenous representative to the Permanent Forum, Chief Ed John, in Ottawa on December 13, 2010 at an Indigenous peoples' regional meeting of the Organization of American States ("OAS"). Owe Aku International Justice Project agreed to take on the responsibility for organizing the Wolakota Omniciye ("Treaty Gathering"). It occurred on March 18, 2011 at the Blue Lake Rancheria in Northern California, the day before the Caucus meeting.

Support for International Strategies

The day long omniciye began with Alexander White Plume, the NaCha (leader) of his own tiyospaye (community, the most basic organizing social structure in traditional Lakota culture), discussing how his family and community went about organizing the people at Pine Ridge and the treaty councils with the intention of taking treaty issues to the International Court of Justice. He explained some of the difficulties encountered in bringing about consensus on this issue and the need to decolonize our own minds and spirits in order to move forward with that consensus. A colonized mind, processing concepts in English, has little choice but to interpret a worldview through the eyes of the colonizer. Thus, he said, there is a tremendous need to restore the language because within Lakota lay the roots of the relationships that characterize the sanctity of all things, preserve our culture, and, most importantly perhaps, permit us to take a stand against the destruction of Mother Earth by using the original instructions concerning respect and reverence.

"We are rebuilding our past, going back into the memories of our ancestors and bringing our ceremonies to the forefront of the work we do." (Alexander White Plume)

A valuable tool in achieving these goals is our treaties. This is not unique to the Lakota or even North America. Based on the modern concept of free, prior and informed consent,² applied to the historical ratification of international agreements, non-coerced treaties provide a means to confront member nations on their unlawful, unjust and impractical concepts of responsibility to future generations, the health of Mother Earth, and compassion for all of our peoples.

At the gathering Chief Jake Edwards of the Onondaga Nation, from the Haudenosaunee, Six Nations Confederacy, supported this when he stated:

"The first treaties the 'Americans' made with other nations were with the Haudenosaunee. George Washington has his signature on the Treaty of 1794. We have preserved those treaties along with our ways of governance and they can't get rid of us. They can't get rid of the treaties unless we agree to it. They haven't learned proper yet, so we have to teach them and guide them with respect to the good instructions we all carry within our Native nations. We will survive. We will stay together." (Chief Jake Edwards)

Alex explained that through the process we pursued, respectful of traditional Lakota protocols, we have the support of many of our people as well as the leaders of the Black Hills Sioux Nation Treaty Council, which represents traditional Lakota governance.

"We built consensus around an effort to go the World Court with our treaties, sacred obligations sealed with the canupa, the pipe. Today we are asking for help from all the treaty bands and from all the treaty nations. We need to represent the peoples that are being wiped off the face of the Earth and the destruction of sacred Earth and sacred Water.

"We see this as our last stand; our last stand to keep our ways, to keep our culture. As an Oglala, I'm here to call for, not unity, but solidarity. We don't have to agree on everything or always be

² See Note 1 at the end of this report on how Owe Aku IJP defines "free, prior and informed consent."

completely unified; we are different peoples. But if we stand together in solidarity against the opposition we will see our way of life survive. We have been through the Supreme Court and we have exhausted the remedies under World Court rules. We reject all of the restrictions on our people and we live under laws respectful of our ways, like the human rights declaration. We are happy that solidarity has been gained on Pine Ridge.” (Alex White Plume)

Chief Wallace Fox from Onion Lake, in Treaty 9 territory, supported a plan of action that sought to implement treaty law under Indigenous guidance. Onion Lake is a Cree community that straddles the Canadian provinces of Saskatchewan and Alberta and they also have a language immersion school.

“I have carried my designation as Chief since I was 25 and I recently attended a Treaty 6 elders meeting. My last comment to them was, ‘I’ve been learning about treaties for 30 years now and 30 years from now, I don’t want to talk about treaties, I want to live the treaties.’” (Chief Wallace Fox)

This sentiment was echoed by Chief Ed John.

“Treaties are not some kind of real estate agreements. Treaties are instruments of rights and instruments of responsibilities. I think about skipping a stone across the water, watching it make two, three or four skips before it finally sinks into the lake. That’s how this is happening; living the treaties and working towards their implementation is skipping across the water and is starting now to sink in.” (Chief Ed John)

An elder from a northwest Ontario community in Treaty 9 territory, Laura Calmwind talked about how, though she was asked by her people to attend, she wasn’t sure when she got here why she had been sent. She knew she had come to listen and learn and because the mining companies were invading her peoples’ territory and they were fighting to keep the miners out. But why, she asked, was I sent to this meeting. She revealed that she was learning in the treaty gathering the critical role of treaties and especially the Spirit of the treaties.

“In my dream I saw what my people wanted and that we want to open up our territory to our ways for a better way of life. I knew they [colonizers, government officials and corporate representatives] were lying to us. I appreciate the expertise here but I also know that I came to talk to the giant trees in this territory. They have been here since the time of the dinosaurs. I needed to talk to the ancestral trees and they’re the trees that protect our territories even in my land. We ask the tree spirit to protect the treaties. I can’t say this in English very well but we gave life to that treaty. The trees have told us that and the trees will work with us. I’m very humbled by this and I am so happy to hear the words from our Sioux brother about the treaties.” (Laura Calmwind)

Ron Lameman from Treaty Six, a long time ally of Lakota treaty efforts, thanked the organizers of the treaty gathering and the North American Indigenous Peoples Caucus. He also spoke about the assault by mining companies on his territory who are using in situ leasing and other monstrous mining processes, resulting in the creation of an international sacrifice area.

“We’re not going to sit back and just accept it. We’ve been doing this work for many years and it is a lifelong commitment. The Third [expert] seminar [on treaties] is going to be happening in Aotearoa and we all need to get there. We can all benefit from this work. I was at the OAS in Washington DC and we got language on treaties that were better than the Declaration. We are moving forward.” (Ron Lameman)

Roger Jones, who is Ojibway from the territory around the Great Lakes, stated that his nation has many treaties with other Indigenous nations as well as with the British and Canadians. He also works with the Assembly of First Nations and wanted to share the policy on treaty enforcement.

“The chiefs have instructed the Assembly to work on treaty implementation. They have instructed us all that ‘they will work to support all aboriginal treaty rights and treaty rights advocacy in international forums.’” (Roger Jones)

Bill Jimbo Simmons, who has been working on treaty rights since Native peoples of the Western Hemisphere first went to the UN in 1977, emphasized that treaties was one of the primary reasons to be at the United Nations.

“One of the original objectives was the implementation of treaties and that dialogue is still going on because they know that these treaties are fully international.” (Bill Jimbo Simmons)

Jimbo talked about the tragic consequences of not preserving the cultures and protecting the treaties.

“I am a Choctaw, but the Choctaws that are here today are either the BIA or the Christians. They abolished our traditional forms of government. If we are going to get on the same level, we need to go back and strengthen our traditional governments to strengthen our standing in the UN. I remember a time when we went to the UN without lawyers and now everyone brings lawyers that interpret from their legal viewpoint. But the elders all said, no, we want this to be our law, and come from our spirits.” (Bill Jimbo Simmons)

Accordingly, Jimbo also stated:

“I’m glad to hear what Alex is doing because the strength of the Fort Laramie Treaty of 1868 is recognized in the treaty study and we’re proud to support this movement forward.” (Bill Jimbo Simmons)

There were no objections to a World Court strategy and the consensus of the meeting was that this was both an enormous responsibility being pursued by the Lakota and a valuable asset in all of our collective work for the rights of Mother Earth and Indigenous peoples. Additional discussion addressed some specific steps in pursuing this strategy.

International Treaty Strategy Discussion

Sharon Venne talked about the Treaty Study by Professor Martinez which began as far back as 1983 when Indigenous treaty nations lobbied for such research. Support came from two countries, Cuba and Libya. The treaty study itself, as evidenced in the Lakota World Court brief prepared by Owe Aku International Justice Project on behalf of the Black Hills Sioux Nation Treaty Council, is a key component in evolving standards surrounding the recognition of Indigenous peoples’ treaties. Sharon said our work now is to implement the treaty study. Some states (no need to mention names) have been putting up roadblocks because they recognize they have an untenable legal and moral position. Sharon shared that this may have been one motive for changing the Commission on Human Rights to the Human Rights Council. With the establishment of a “new” institution, they were able to divide the Human Rights Council into three separate sessions, knowing that this would make it very difficult for Indigenous peoples to participate in the work because of the expense. However, the reorganization has not been very productive and the Council is heading back to a single session. When this happens, the Human Rights Council becomes a much more user-friendly process for Indigenous peoples. Making this a topic of discussion at next year’s Third Expert Seminar on Treaties is important.

Planning around the Third Seminar is a little vague at this point but Kent Lebsock of Owe Aku International Justice Project agreed to look into organizational status of the Seminar. It was agreed that participation in the planning is also a good idea.

“46. The experts recommended that the third expert seminar on treaties, agreements and other constructive arrangements should be held in Waitangi, Aotearoa (New Zealand), in February 2008 and that the Office of the United Nations High Commissioner for Human Rights should organize the seminar with the full participation of the Special Rapporteur on treaties, agreements and other constructive arrangements, the indigenous host communities, States and other indigenous organizations.” (Report of the 2nd Expert Seminar on Treaties)

Although the report establishes the location of the next meeting, there is no further information provided including the names of the individuals on the Maori planning committee. It was also suggested that there will probably be a discussion about the Seminar at this summer’s session of the Expert Mechanism on the Rights of Indigenous Peoples in Geneva in July. Follow-up is clearly needed, especially because another delegate to this treaty meeting indicated that one of the principal organizers from Aotearoa had resigned his post.

Sharon also brought up another interesting legal development that may impact a legal argument before international judiciary bodies. In essence, the 1970 Declaration on Principles of International Law Concerning Friendly Relations and Cooperation among States says that the territorial integrity of states cannot be violated without just cause. The United States and others have argued that observance of treaties would violate this principle. (One might wonder that, in using the argument at all, isn’t the United States admitting the viability of the treaties?) However:

“territorial inviolability principles would apply only to those countries that ‘[conducted] themselves in compliance with the principle of equal rights and self-determination ... and [were] possessed of a government representing the whole people belonging to the territory.’”³

Sharon pointed-out that recently, the Security Council of the United Nations upheld the exception regarding “territorial inviolability” in establishing a no-fly zone over Libya. The exception was made because the right to self-determination was being violated by the established Libyan government. In terms of treaties, could it not then be argued that the Lakota Nation would fall under the same exception because the right to self-determination is being violated through the unilateral abrogation of treaty rights? Accordingly, international law must support the rights being denied to Native peoples and establish sanctions until the United States is in compliance with international law. This should certainly be considered as a legal argument in the legal documentation being prepared for a World Court Case on treaties by the Lakota.

Ron Lameman proposed that we investigate and think about reinvigorating the Russell Tribunals. For those of us who don’t know:

“the Fourth Russell Tribunal was held on the rights of indigenous peoples in 1980. The members of the jury met in Rotterdam, to consider alleged violations of the rights of the Indians in the Americas. More than 100 representatives of indigenous organisations participated in the sessions of the tribunal, coming from as far away as Bolivia, Canada, and New Zealand. Among them were Indian Chiefs, priests, lawyers and anthropologists. On Sunday, November 30th, the jury reached the conclusion that in most of the cases national and international law had been violated. Recommendations were made to governments, international agencies, and religious groups.”⁴

³ Declaration on Principles of International Law Concerning Friendly Relations and Cooperation Among States, G.A. Res. 2625, U.N. GAOR, 25th Sess., Supp. No. 28, at 121, U.N. Doc. A/8082 (1970)

⁴ Archive of the Fourth Russell Tribunal, Editor: Ben Vermeer, accessed on March 30, 2011 at <https://www.brill.nl/default.aspx?partid=227&pid=31666>

Ron Lameman recounted that the purpose of the tribunal had been to kick-start Indigenous peoples' participation in the UN system. As a result of the tribunal in 1980 and Indigenous peoples' march on the UN in 1977, in 1982 the Commission on Human Rights established the Working Group on Indigenous Populations.

Sharon had a cautionary note. The Charter of the United Nations states that the UN is established to preserve the right of peoples to the right of self-determination. This is why, after decades of participation, we are still fighting to be called "peoples" within the context of international law. However, a dangerous move is afoot within the United Nations, championed of course by some colonizer nations, to make Indigenous peoples into minorities.

"The designation of minorities as used by the United Nations is inaccurate. The UN has already established various units within the system pertaining to Indigenous peoples and minorities. The objective is to address access to health, education, welfare, etc., through national governments. We have to keep the focus on sovereignty and treaties." (Sharon Venne)

Although this is a controversial topic in some regions of the world, there is no way that the Native peoples of the Western Hemisphere can be called minorities, despite the math. We are Indigenous to this land, not minorities.

Recommendations and Follow-up

1. Investigate and report on the planning for the Third Expert Seminar on treaties. Who will be in Geneva for the Expert Mechanism in July? It is expected this will be discussed then and it would be advantageous to have someone from the group there to participate and report back on the discussion. Additionally, Kent Lebsack from Owe Aku International Justice Project will attempt to get the names and contact information for the Maori who volunteered to host the Seminar.
2. Research the issue of territorial integrity and the decision by the Security Council regarding the Libyan no-fly zone. How can this be used in our own legal arguments about state inviolability?
3. Research the conclusions of the Russell Tribunal on Indigenous Peoples and follow-up on their ability to possibly provide technical support. The archives of the complete testimony have been published but contain 1,800 pages and cost over \$1,000 to purchase. There is also a book on the subject called Native Peoples in Struggle: Russell Tribunal & Other International Forums by Jose Barreiro and Robin Wright (editors) and, for around \$3, this appears to be the far better option. Owe Aku International Justice Project attempted to find contact information for the Tribunal office off the internet but was unsuccessful. If anyone has further information, we would be grateful if you could provide it. Owe Aku IJP will also purchase Native Peoples in Struggle.

How We Will Proceed

In its own efforts, Owe Aku IJP sees the principles underlying our strategy to be:

1. The ceremonies; ensure that our people that carry on the ceremonies and traditions on the lands of our ancestors always be supported and respected in the important role they play and realize that we are obligated to reflect their voices regardless of the dominant cultures' perspective or the objections of the colonized, both internally and externally.

2. Respect the leadership of the elders; ensure that in all of our strategies, programs, documents and actions, we listen to our leaders and elders, especially those that speak our Native language, because this, not the law of a colonizer, is what protects the lifeways of our people for future generations and protects the sanctity of Mother Earth.
3. Build allies; although we might not always be able to find unity in our work, we strive, through the building of allies, to develop a sense of solidarity with good minded Indigenous and non-Indigenous brothers and sisters around the world.
4. Create new paradigms in the forums in which we participate by advocating for processes and practices reliant on our perspective and protocols remembering that we are here to change the status quo, eliminate the culture of unbridled consumerism, and liberate the colonized mind. We will introduce ancient principles based on our perspective, that will appear new in many western minds, but that herald back to natural law, the original instructions, and a greatly expanded, inclusionary human rights standard.

We do not believe that the international arena is a panacea to be waved across the myriad of Indigenous issues caused by colonization. We do however believe it is one strategy for making sure that Indigenous cultures and nations are part of whatever future now lays ahead for humanity's role on Mother Earth. We also believe it creates a foundation for the restoration and revitalization of our traditional land base and stewardship over the territories for which we are responsible under the laws respected and followed by our elders and ancestors.