

EXPERT MECHANISM ON THE RIGHTS OF INDIGENOUS PEOPLES
QUESTIONNAIRE TO SEEK THE VIEWS OF STATES ON BEST PRACTICES REGARDING POSSIBLE APPROPRIATE MEASURES AND IMPLEMENTATION STRATEGIES IN ORDER TO ATTAIN THE GOALS OF THE UN DECLARATION ON THE RIGHTS OF INDIGENOUS PEOPLES

RESPONSE OF THE UNITED STATES OF AMERICA

1. Does the state have an overarching national implementation strategy to attain the goals of the Declaration?

The UN Declaration on the Rights of Indigenous Peoples (Declaration) relates to the work of various U.S. government agencies, including the Department of State, Department of Education, Department of Health and Human Services, Department of Housing and Urban Development, Department of the Interior, Department of Justice, and U.S. Agency for International Development, as well as the White House. In 2010 the United States conducted a thorough review of the Declaration and consulted with tribal leaders. As a result of that review, President Obama announced in December 2010 that the United States would lend its support to the Declaration. The United States is committed to supporting the Declaration through the work of individual U.S. government agencies, which look to the Declaration as they work with tribal leaders to address the many concerns of tribal communities.

U.S. efforts to use the Declaration in the work of U.S. government agencies are ongoing. Please see the announcement document released at the time of President Obama's statement for a further explanation of U.S. support for the Declaration and ongoing work in the United States on indigenous issues. The document is available at

<http://www.state.gov/documents/organizations/153223.pdf>

2. Have specific legal, policy, or other measures been adopted especially to implement any or all rights in the Declaration?

The United States has taken many steps that complement U.S. support for the Declaration. For a detailed listing of federal policies and programs, please see "Achieving a Brighter Future for Tribal Nations: 2011 White House Tribal Nations Conference Progress Report," dated December 2011 and found at http://www.whitehouse.gov/sites/default/files/2011whtnr_report.pdf. The report

groups actions concerning sustainable economic development, health care, public safety, education, protection of Native American lands and the environment, and respect for cultural rights. The report's Executive Summary acknowledges the importance of the Declaration in the U.S. Government's efforts, noting that "federal agencies will continue to be informed by the Declaration as they implement these policies and develop new initiatives together with tribal leaders." Key accomplishments include:

- Tribal Law and Order Act (TLOA). The TLOA gives tribes greater sentencing authority; strengthens defendants' rights; establishes new guidelines and training for officers handling domestic violence and sex crimes; improves services to victims; helps combat alcohol and drug abuse; helps at-risk youth; and expands recruitment and retention of Bureau of Indian Affairs and tribal officers and gives them better access to criminal databases.
- Affordable Care Act and implementation of the Indian Health Care Improvement Act. President Obama signed the Affordable Care Act into law, which is improving the quality of health care and making it more accessible and affordable for all Americans, including American Indians and Alaska Natives. The law permanently authorized new and expanded programs and services available to those who use the Indian Health service, which includes most American Indians and Alaska Natives.
- American Recovery and Reinvestment Act of 2009 (Recovery Act). The Recovery Act provided over \$3 billion to help tribal communities renovate schools on reservations; encourage job creation in tribal economies; improve housing and energy efficiency; and support health facilities and policing services. This appropriation includes \$510 million that the Act allocated to the Department of Housing and Urban Development for the Native American Housing Block Grant program.
- Native American legal claims. The U.S. government has settled several significant and longstanding Native American legal claims against the United States, including cases involving U.S. Department of Agriculture loan programs; the government's trust management and accounting of individual American Indian trust accounts; and four water settlements benefitting seven tribes in the U.S. states of Arizona, Montana, and New Mexico.

3. When devising laws, policies or other measures that affect indigenous peoples, do governmental bodies routinely take into account the Declaration,

including indigenous peoples’ rights to participate in decision making that affects them?

U.S. government agencies consider the Declaration, as appropriate, as they develop relevant legislative proposals, regulations, and policies. Moreover, U.S. government agencies welcome the input of indigenous peoples on issues affecting them. Pursuant to U.S. Executive Order 13175 on “Consultation and Coordination with Indian Tribal Governments” (attached at Tab 1), those agencies consult with tribal officials on policies that have tribal implications. In part in response to President Obama’s November 5, 2009 Presidential Memorandum on “Tribal Consultation” (attached at Tab 2), consultations under Executive Order 13175 and other significant engagement with tribal leaders are at unprecedented levels. Major recent consultations include 2010 consultations connected with implementation of the Tribal Law and Order Act and annual tribal consultations stipulated by the Violence Against Women Act, most recently in December 2011. In addition, the 2010 and 2011 White House Tribal Nations Conferences and the 2009 Attorney General listening conference provided additional opportunities for U.S. government and tribal leaders to exchange views. These consultations and other meetings have involved key Federal agencies including the Department of Justice, Department of the Interior, and the Department of Health and Human Services.

4. Has the Government endeavored to raise awareness about the Declaration at various levels of the community and governance to enhance the prospects of its implementation?

The U.S. government has engaged in many awareness raising efforts with regard to issues addressed in the Declaration.

The United States participated in the Universal Periodic Review (UPR) process last year. U.S. government agencies are actively reviewing the recommendations that the United States received and accepted in that process, including those relating to indigenous issues and the Declaration. Agencies will work with federally recognized tribes, states, local governments, and non-governmental organizations in responding to those recommendations this year and through an ongoing process.

A number of provisions in the Declaration are relevant to issues on violence against Native American women and girls, a serious concern in the United States. In response to the unacceptably high rates of such violence in this country, U.S.

government agencies have adopted policies and offer training to raise awareness about and combat this violence.

- The Indian Health Service (IHS) of the Department of Health and Human Services (HHS) recently promulgated its first sexual assault policy and protocol for use in its health facilities across the country.
- The Department of the Interior (DOI) provides training and technical assistance, in conjunction with the Department of Justice, to the Bureau of Indian Affairs law enforcement officers as well as to tribal law enforcement officers regarding the investigation and prevention of domestic violence in Indian Country.
- The DOI, along with U.S. courts and the Department of Justice, provides training and technical assistance to tribal court programs. The training includes tribal trial advocacy courses which focus on domestic violence case studies, as well as pilot programs which focus on alternative traditional forums. Talking Circles, an example of an alternative traditional forum, are intended to address safety for young native teenagers and highlight the importance of protecting indigenous women and girls.
- The DOI has partnered with the Department of Justice Office for Victims of Crime to provide Native American victim assistance specialists in the field, who provide a much needed component to the prosecution of domestic violence in tribal communities.

5. What are the main challenges encountered in adopting measures and implementing strategies to attain the goals of the Declaration?

There are 566 federally recognized tribes in the United States, each with its own unique history, culture, needs, and perspectives. A main challenge is to advance the goals of the Declaration through specific measures which tangibly improve the quality of life for all Native Americans.

6. In the light of the information provided above, what are your views on best practices regarding possible appropriate measures and implementation strategies to attain the goals of the Declaration?

In the United States, we have found tribal self-determination to be important to pursuing the Declaration's goals. In her remarks to the April 2010 UN Permanent Forum on Indigenous Issues (PFII), Kimberly Teehee, Senior Policy Advisor for Native American Affairs in the White House Domestic Policy Council, said: "Our more recent history demonstrates that tribal self-determination – the

ability of tribal governments to determine how to build and sustain their own communities – is necessary for successful and prosperous communities. The federal policy of tribal self-determination is guided by the deep and abiding belief that tribal governments are in the best position to decide the direction of their future. ... More than forty years since the United States adopted this policy of greater tribal autonomy, ... the clear lesson is that empowering tribes to deal with the challenges they face and taking advantage of the available opportunities will result in tribal communities that thrive.”

In the same speech, Senior Advisor Teehee also emphasized the importance of continued U.S. government – tribal consultations and interagency cooperation: “This combination of greater engagement, greater representation, greater consultation, and interagency collaboration is the foundation upon which we will help build stronger tribal communities and enable the United States’ relationship with Indian tribes to flourish.” The full speech can be found at <http://usun.state.gov/briefing/statements/2010/140717.htm>

Attachments:

Tab 1 – U.S. Executive Order 13175, “Consultation and Coordination with Indian Tribal Governments.”

Tab 2 –Presidential Memorandum on Tribal Consultation; November 5, 2009.