



Unsettling Human Rights

UNDRIP AND THE RESPONSIBILITIES OF STATE TO INDIGENOUS COMMUNITIES



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iSSP

FIVE YEARS
(2013 - 2017)





DISCLAIMER



Agenda

1. Timeline
2. Implementation
3. UNDRIP Overview
4. Q&A

Message from Mashpee Chairman: We Will Take Action to Prevent the Loss of Our Land - Friday, March 27, 2020

“At 4:00 pm today -- on the very day that the United States has reached a record 100,000 confirmed cases of the coronavirus and our Tribe is desperately struggling with responding to this devastating pandemic -- the Bureau of Indian Affairs informed me that the Secretary of the Interior has ordered that our reservation be disestablished and that our land be taken out of trust. Not since the termination era of the mid-twentieth century has a Secretary taken action to disestablish a reservation.”

Message from Mashpee Chairman: We Will Take Action to Prevent the Loss of Our Land - Friday, March 27, 2020

“Today's action was cruel and it was unnecessary. The Secretary is under no court order to take our land out of trust. He is fully aware that litigation to uphold our status as a tribe eligible for the benefits of the Indian Reorganization Act is ongoing.

It begs the question, what is driving our federal trustee's crusade against our reservation?”

Message from Mashpee Chairman: We Will Take Action to Prevent the Loss of Our Land - Friday, March 27, 2020

“Regardless of the answer, we the People of the First Light have lived here since before there was a Secretary of the Interior, since before there was a State of Massachusetts, since before the Pilgrims arrived 400 years ago. We have survived, we will continue to survive. These are our lands, these are the lands of our ancestors, and these will be the lands of our grandchildren. This Administration has come and it will go. But we will be here, always. And we will not rest until we are treated equally with other federally recognized tribes and the status of our reservation is confirmed.”

Message from Mashpee Chairman: We Will Take Action to Prevent the Loss of Our Land - Friday, March 27, 2020

“I will continue to provide updates on this important issue in the coming days as we take action to prevent the loss of our trust status.

Kutâputunumu;

Chairman Cedric Cromwell

Qaqeemasq (Running Bear)”

#StandWithMashpee

Petition: <https://sign.moveon.org/petitions/stand-with-the-mashpee>



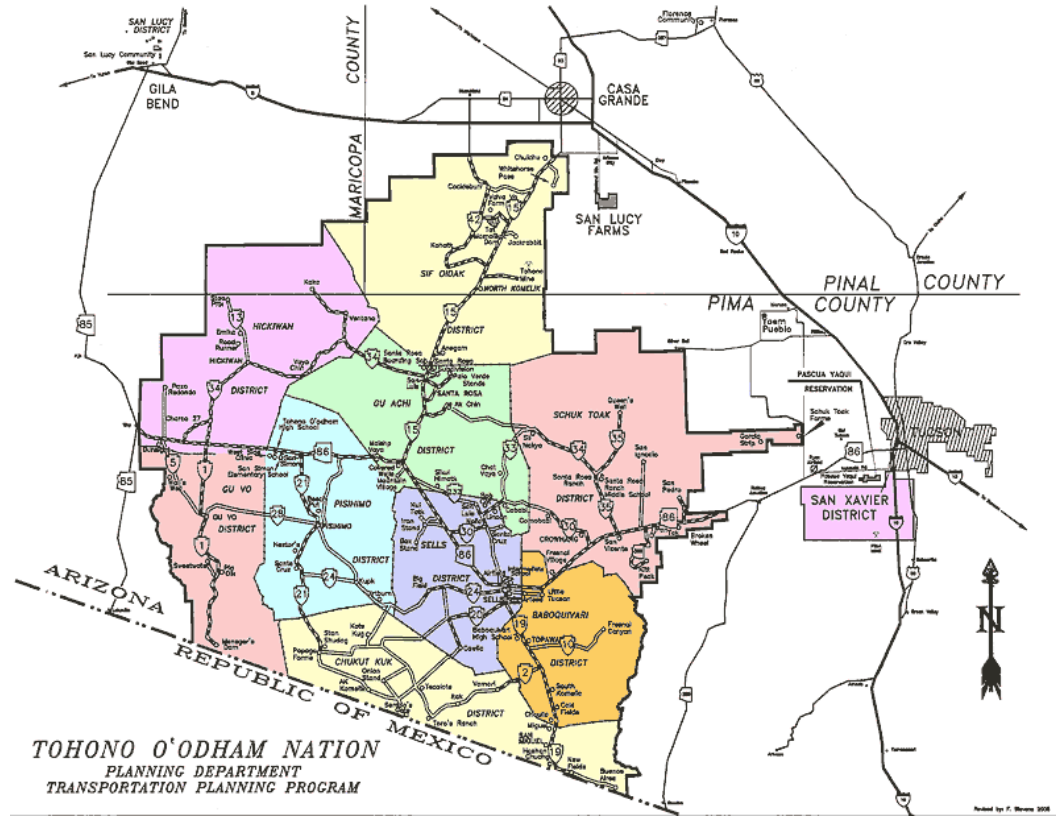
Story of UNDRIP

A Timeline

Continuus beginnings

Deskaheh/Levi General (Cayuga)





https://i0.wp.com/www.tonation-nsn.gov/wp-content/uploads/2016/09/map_large.gif

TW Ratana (Maori)

https://upload.wikimedia.org/wikipedia/commons/1/1c/Tahup%C5%8Dtiki_Wiremu_R%C4%81tana.jpg





1960s-1970s

Pressure





1971

A Report Commissioned





1974

International Indian Treaty Council





1977

Demands made



Demands:

1. Reject the status of 'minorities' and claim that of 'Peoples'

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2. Revision of International Labour Organization Convention 107
3. Creation of a UN Working Group to study the specific problems of indigenous peoples
4. Adoption of an international declaration on their collective rights



1980s

Working Groups & Recommendations






1982

Working Group on Indigenous Populations





1990s - 2000s

Fruition





1993

International Year of Indigenous Peoples





1995 - 2004

International Decade of Indigenous Peoples





2000

UN Permanent Forum on Indigenous Issues



Sept. 13, 2007

Adoption



IMPLEMENTATION

Special Rapporteur on the Rights of Indigenous Peoples

Victoria Tauli-Corpuz



SHAME THE STATE

In 2007 indigenous peoples around the world achieved something close to impossible: the passage of the **United Nations Declaration on the Rights of Indigenous People (UNDRIP)**. Although initially contested by many states - including the United States, Canada, New Zealand, and Australia - by 2016 all of the member states of the United Nations have endorsed UNDRIP as **"the minimum standards for the survival, dignity and well-being of the indigenous peoples of the world."** Although UNDRIP does not carry the force of law it can still be a vital tool in the defense of indigenous peoples' rights.

In 2001 the **United Nations Commission on Human Rights** appointed a **Special Rapporteur on the Rights of Indigenous Peoples** whose mandate (aka duty) includes: promoting good states practices related to indigenous peoples, reporting on the overall human rights situation of indigenous peoples, conducting studies regarding the rights of indigenous peoples, and addressing cases of alleged violations of the rights of indigenous peoples. Alleged rights violations can be submitted to the Special Rapporteur using these steps:

1. Know Your Rights: The Special Rapporteur works most effectively when communications (aka complaints about rights violations) are based on the rights outlined in UNDRIP. Read the Declaration and include any articles you think were violated.

2. Draft your Communication: Effective communications will be 1-2 pages in length with any supporting documents

3. Submit:.

- **E-mail (preferred):** indigenous@ohchr.org
(Include "Communications regarding [country or indigenous people]" in the Subject Line)
- **Mail:** Special Rapporteur on the rights of indigenous peoples



THE DOCUMENT

Understanding of 'indigenous' from Cobo Report (1986/1987):



"Communities, peoples and nations ... which, having a historical continuity with pre-invasion and pre-colonial societies that developed on their territories, consider themselves distinct from other sectors of the societies now prevailing on those territories, or parts of them. They form at present non-dominant sectors of society and are determined to preserve, develop and transmit to future generations their ancestral territories, and their ethnic identity, as the basis of their continued existence as peoples, in accordance with their own cultural patterns, social institutions and legal system"



Summary

Rights of Self-Determination of Indigenous Individuals and Peoples

Articles 1 - 8; 33 -34



Rights of Indigenous Individuals and People to Protect their Culture through Practices, Languages, Education, Media, and Religion

Articles 9 - 15, 16, 25, and 31




Indigenous Peoples' right to own type of governance and to economic development

Articles 17 - 21, 35 -37

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. *(emphasis added)*



What about 2SLGBTQIA+ people?

A critique





Rights to Health

Articles 23-24



Protection of Subgroups

Article 22

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.

Rights to Land

Articles 26 -30, and 32

What about the rights *of* the land itself?

A critique



In March, the Whanganui River in New Zealand became the first water body in the world to receive legal personhood status. Photo by Kathrin & Stefan Marks

Questions? Comments? Fears? Hopes?

Upcoming Webinars

- Wednesday, April 8th:
 - Indigenous Food Sovereignty and Environmental Leadership
- Wednesday, April 15th at 12EST
 - Case Study: Wetsuwetan Protectors

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