

*The United Nations Declaration on the Rights of Indigenous Peoples was used successfully this year as the basis for protecting what is left of the ancient ceremonial and burial site Sogorea Te, located at Glen Cove, in Vallejo, California. Indigenous Peoples from the area participated in a 109-day encampment on the site from April until July.*

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### UN Declaration's One-Year Anniversary: 'Much to Celebrate, Much More to Be Done'

GALE COUREY TOENSING

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One year ago this month, the United States formally reversed its opposition to the [U.N. Declaration on the Rights of Indigenous Peoples](#) (UNDRIP). While some indigenous rights advocates say little has changed since then, others believe there is much to celebrate. That is because indigenous people are now working hard to make sure that declaration is implemented in all interactions with nation-states.

At the [second White House Tribal Nations Conference](#), on December 16 of last year, President Barack Obama announced that the U.S. would “lend its support” to UNDRIP. “The aspirations it affirms, including the respect for the institutions and rich cultures of Native peoples, are ones we must always seek to fulfill,” Obama said. “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.”

Actions were precisely what Indigenous Peoples were looking for after Obama’s announcement. It took them more than 20 years to draft and negotiate the declaration, which provides a human rights framework for the world’s approximately [370 million Indigenous Peoples](#). The U.N. General Assembly adopted it on September 13, 2007, with 144 states in favor, four against (Australia, Canada, New Zealand and the U.S.) and 11 abstaining.

Australia, New Zealand and Canada later endorsed the human rights declaration, leaving the U.S. as the last of the four to sign on. So when Obama made his historic announcement, Indian activists in North America shifted their focus from advocacy to implementation.

“There’s much to celebrate,” said Andrea Carmen, [Pasqua Yaqui Tribe](#), executive director of the [International Indian Treaty Council](#) (IITC), “but much more to be done.”

Indeed, a query to the White House about how the declaration would be implemented was referred to the



State Department. Spokeswoman Tiffany Miller responded by e-mail that there is no simple answer. “As you know, the declaration has implications for many agencies across the U.S. government,” she said. “However, I can tell you that the Obama administration is committed to making U.S. support of the declaration meaningful.”

Carmen played an important role in the international forums that developed the declaration. Over the past year, she has led and participated in dozens of workshops and presentations before tribal governments and organizations. Her goal has been to educate Indigenous Peoples about the declaration, the better to use it as a tool in every interaction with federal, state and local governments.

“The recognition of rights is the basis for peace,” Carmen said. “The denial of rights is the cause of conflict. The interactions of the past—we can’t forget them because there’s redress and restitution, which is also included in the declaration. But the discussion can start on a new level based on recognition, upholding and defending the rights of Indigenous Peoples in this declaration that the U.S. is now a party to. It’s an amazing step forward.”

The declaration is beginning to be applied in both international and domestic settings. A good example took place last January during the continuing negotiations involved in the drafting of the [American Declaration on the Rights of Indigenous Peoples](#), which is being created under the auspices of the [Organization of American States](#).

“When there was a challenge to the proposed language, the chair said, ‘We need to fall back on the language in the U.N. declaration on this issue.’?” Carmen recalled. “That may not sound like much, but it was the first time that happened. And previously the U.S. and Canada always opposed using the declaration as the minimum standard for the discussion on the American level. But they didn’t say a word in

opposition this time—they couldn't, because they support the declaration now.”

The declaration was instrumental in the U.S. in another important issue this year—namely, the protection of a sacred shell mound at [Sogorea Te/Glen Cove](#), California. “There was a 109-day spiritual encampment at the site, so it was huge and it was special because it was the first time the Bay Area Indian community rallied around the declaration,” said Mark Anquoe, [Kiowa Tribe of Oklahoma](#), IITC’s administrative and communications coordinator.

Not everyone working in the arena of indigenous rights has seen that kind of progress over the past year. Steven Newcomb, [Shawnee/Lenape](#), a columnist for Indian Country Today Media Network and co-founder and co-director of the Indigenous Law Institute, believes the U.S. State Department distorted the declaration’s meaning of Indigenous Peoples’ right to self-determination and needs to rectify its error before progress can be made. He noted that Article 3 of the declaration reads, “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.”

But Newcomb said the State Department “did not tell the truth” about Article 3 in its [15-page white paper](#) issued December 16, 2010. “In its statement, the State Department said it was ‘pleased to support the declaration’s call to promote the development of a new and distinct international concept of self-determination specific to Indigenous Peoples’ (emphasis added).

“The State Department expanded on this falsehood by saying that the ‘declaration’s call is to promote the development of a concept of self-determination for Indigenous Peoples that is different from the existing right of self-determination in international law.’ This is patently and blatantly false. This was never the

understanding of the process that led to the adoption of Article 3 and its relationship to the international human right of self-determination found in the international human rights covenants. By its statements of bad faith—statements it has not disavowed in the past year—the United States destroyed the very basis for implementing the key provision in the U.N. declaration that Indigenous Peoples were working toward in their efforts to create positive reforms in the area of Indigenous Peoples’ human rights. This needs to be rectified as a first step in talking meaningfully about ‘implementing’ the U.N. Declaration on the Rights of Indigenous Peoples.”

In an interview with ICTMN, Michael Leroy Oberg, co-coordinator of Native American Studies at the State University of New York, Geneseo, and author of *Native America: A History*, is similarly concerned. He called Obama’s “lending of support” to the declaration a “nice gesture” but does not think it will turn out to be more than that. He feels there are still many problems associated with implementing UNDRIP, and they can be found in both the executive and judiciary branches.

“The meaning of ‘self-determination’ in the declaration, is much more literal than that which has developed in the United States over the past half century,” said Oberg, “and much less constrained by some of the long-standing and, I would argue, colonial assumptions built into American Indian policy.”

The courts, Oberg feels, have more power to enforce UNDRIP than does the White House. “The Supreme Court especially—and especially with regards to Indians in New York state—has placed significant limitations on tribal sovereignty and the rights of Native nations,” Oberg said. “Only an optimist of the most sunny sort would expect the declaration, I am afraid, to have any significant impact on the conduct of the judicial branch of the government.”

Read more at <http://indiancountrytodaymedianetwork.com/article/un-declaration%25e2%2580%2599s-one-year-anniversary-much-to-celebrate-much-more-to-be-done-66108#.Uh6r-qPYjr0.email>