

## Testimony: Native input lacking on developments

UN officials hear complaints of indigenous rights being ignored

By Kathy Helms March 4, 2017

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ALBUQUERQUE — The concept of “free, prior and informed consent” referred to in the U.N. Declaration on the Rights of Indigenous Peoples is basically not worth the paper it’s written on when it comes to energy development on tribal lands, according to testimonies presented last week to U.N. Special Rapporteur Victoria Tauli-Corpuz.

Tauli-Corpuz and her associate Hee-Kyong Yoo listened for hours as presenters pointed to examples where “meaningful consultation” between the United States and tribal governments was sadly lacking. The regional indigenous consultation, hosted Feb. 25 by the University of New Mexico School of Law, was part of a series of U.S. consultations examining the situation of indigenous people related to energy development.

“The special rapporteur’s topic is a timely and encouraging reminder that the human rights of indigenous peoples within the United States are subject to international scrutiny,” Christine Zuni Cruz, assistant dean at the UNM School of Law, said.

Tina Farrenkopf, executive director of the nonprofit National Indian Youth Council in Albuquerque, said her organization was one of 13 involved in the effort to develop the U.N. Declaration on the Rights of Indigenous Peoples.

“We were overjoyed when the declaration was adopted in 2007,” she said. “Sadly we were dismayed but not surprised by the failure of the United States to adopt and support the declaration, even though 144 nation states have voted to adopt it.”

When former President Barack Obama announced at the second annual White House Tribal Nations Conference in December 2010 that the United States would finally endorse the declaration, “we were guardedly optimistic and rightfully so,” Farrenkopf said.



Petuuche Gilbert, of the Pueblo of Acoma, speaks to Special Rapporteur Victoria Tauli-Corpuz at a consultation on energy development at the University of New Mexico School of Law in Albuquerque Feb. 25.

Then Obama issued a more detailed, official statement in 2011 regarding Article 19 of the declaration. That interpretation stated the U.S. recognizes the significance of the declaration's provisions on free, prior and informed consent, which the U.S. understands to call for a process of meaningful consultation with tribal leaders — but not necessarily the agreement of those leaders — before the actions addressed in those consultations are taken.

“This statement has become key to understanding how the United States has continued its longstanding tradition of disregarding the needs and concerns of Native Americans when it comes to policies and decisions regarding tribal peoples' rights to be heard fully and completely before making decisions that take our lands, expose our people to environmental risk and exploit our natural resources,” Farrenkopf said.

### **Uranium mining**

Petuuche Gilbert, of the Pueblo of Acoma, presented information on uranium mining and its impact on sacred sites such as Mount Taylor, or “Kaweshtima” to Acoma, meaning “snow-covered peak.”

The people of Acoma have relied on Mount Taylor for thousands of years, Gilbert said. “We still use it for the flora or the fauna, the trees that grow on there, the wildlife that are there,” Gilbert said, “but especially we think the snowmelt and the rainfall is critical for the waters that come off of that mountain into the tributaries of the Rio San Jose.”

The mountain peak is a sacred place, not only to Acoma but to its sister pueblo, Laguna, as well as other pueblos in New Mexico and the Navajo Nation.

“Five tribes went to the state of New Mexico to have Mount Taylor designated as a traditional cultural property. That was challenged by the mining companies that are there,” Gilbert said.

“Eventually, the Supreme Court of New Mexico ruled that the traditional cultural property was properly designated by the state, so it remains a TCP. So even while new uranium mines are being planned, it's kind of being disregarded.”

One of the main concerns with new uranium mining is the millions of gallons of water that have to be removed from underground when the mine is dewatered so that ore extraction can occur, Gilbert said.

“The old Rio Grande Resources mine was pumping water out anywhere from 15 million gallons of water a day to 20 million gallons and simply just dumping it in arroyos,” he said, adding that the proposed Roca Honda Mine would pump 8 million to 10 million gallons per day.

“In an arid climate like we have here, where we only see 12 inches of water annually, it's just outrageous that the mining companies can destroy and even pollute water that has accumulated over millions of years,” Gilbert said. “So what we say is the United States really has to seriously listen to indigenous peoples when they say no, as part of free, prior and informed consent.”

The problem is that even though Mount Taylor is the aboriginal land of the Pueblo of Acoma, it is in the public domain, and decisions are made by the federal government or the state, he said.

“For example, like we’re seeing in North Dakota where the treaty issues were never resolved, the Sioux Nation claims that a lot of those lands are unceded lands, but yet the United States declares, ‘We stole this land from you fair and square and it’s now managed by federal laws,’” he said.

### **Special forum on water?**

Edward Wemytewa, of the Pueblo of Zuni, delivered remarks from Idiwanan An Chawe — Children of the Middle Place — a grassroots organization, and the Seventh Generation Fund for Indigenous Peoples Inc.

“For centuries, the A:shiwi/Zuni Nation has lived in this semi-arid landscape practicing its culture, a foundation melded of spirituality and ecology,” he said. For the past 10 years, the Seventh Generation Fund, as the group’s lead organization, has addressed the permanent forum on indigenous issues regarding the protection of water as a human right, and as a global crisis known as “‘aquacide,’ the killing of our waters.

“We call for the recognition of water as essential to life; that it is crucial for bio-cultural diversity and for sustaining all aspects of indigenous peoples’ survival and well being, assuring our physical health, nurturing us spiritually, and central for the continued vitality of our cultures and traditional livelihoods,” Wemytewa said.

“Time is of the essence. We must take action now as some places are flooded and others stricken with drought,” he said.

On behalf of the groups, Wemytewa proposed a number of recommendations. Among those, he asked that any initiatives related to water must observe and recognize all articles of the Declaration on the Rights of Indigenous Peoples, including treaty rights to water.

He also requested the permanent forum call for the coordination of an official U.N. experts’ meeting on water that specifically initiates a close review and assessment of water allocation, regulation and access policies; requested the appointment of a special rapporteur for the protection of water and water catchment areas; and called for a halt on repressive actions, including the use of national militaries and corporate private armies employed to prevent indigenous peoples’ access to their traditional water sources.