

Caravanaugh- Bill

LAW
OFFICES
A LIMITED LIABILITY CORPORATION

May 17, 2022

CERD Secretariat
UNOG-OHCHR
8-14 Avenue de la Paix
CH-1211 Geneva 10
Switzerland

Dear Members of the Committee,

This information is being sent to you for inclusion in the list of themes in your Review of the United States of America. With the passage of Human Rights Council Resolution 48/7 on October 8, 2021, titled Negative Impact of the Legacies of Colonialism on the Enjoyment of Human Rights and particularly the paragraphs which state:

...Expressing deep concern at the violations of human rights of indigenous peoples committed in colonial contexts, and stressing the need for States to take all measures necessary to protect rights and ensure the safety of indigenous peoples, especially indigenous women and children, to restore truth and justice and to hold perpetrators accountable,

- ◆ Stresses the utmost importance of eradicating colonialism and addressing the negative impact of the legacies of colonialism on the enjoyment of human rights:
- ◆ Calls for Member States, relevant United Nations bodies, agencies, and other relevant stakeholders to take concrete steps to address the negative impact of the legacies of colonialism on the enjoyment of human rights;...

Also, as stated in the General Assembly Resolution 1514 (XV), 1.

“The subjection of peoples to alien subjugation, domination and exploitation constitutes a denial of fundamental human rights, is contrary to the Charter of the United Nations and is an impediment to the promotion of world peace and co-operation.”

As stated in General Assembly Resolution 1514 (XV) Declaration on the Granting of Independence to Colonial Countries and Peoples, it is now time for the Western Shoshone and other Indigenous peoples **“to have an inalienable right to complete freedom, the exercise of (our) sovereignty, and the integrity of (our) national territory.”**

With respect to the situation of the Western Shoshone in particular, the Committee on the Elimination of Racial Discrimination (the “Committee” or “CERD”) has formally rendered a decision regarding ongoing actions of the United States and its ongoing failure to implement the recommendations contained in paragraphs 8 to 10 of its Decision 1(68) of 2006 and reiterated “in its entirety” in paragraph 19 of its 72nd Session Concluding Observations (2008). Instead, the U.S. continues to move forward on highly destructive industrial activities and plans on Western Shoshone lands – threatening to expand the irreparable cultural, spiritual and environmental harm being caused. Including the issue of the ongoing impacts of colonization and the underlying domestic laws which continue to impose such antiquated doctrines would allow the opportunity for these actions to be further analyzed by the Committee.

In fact, on September 28, 2009, the Committee noted the United States’ failure to respond to requests for information and expressed concern over its slow pace in implementing recommendations. The Committee called again for the “full implementation” of Decision 1(68) and reiterated its request for information regarding its progress. Furthermore, the Committee expressed the need for “high-level” U.S. officials to consult with the Western Shoshone on matters of resource extraction on Western Shoshone traditional lands.

As shown, the Western Shoshone have had a long, strenuous relationship with the United States beginning in 1863, when the Western Bands of the Shoshone Nation entered into a Treaty of Peace with the United States. The treaty describes the boundaries of the Western Shoshone territory, comprising some 60 million acres extending from the Snake River in Idaho through Nevada into southern California. The treaty did not cede title to any Shoshone lands, although it granted the U.S. certain rights-of-way, mining rights and the right to establish towns and ranches in support of mining. Additionally, the Treaty granted the President authority to establish permanent reservations for the Western Shoshone within their territory. Although the Treaty of Ruby Valley was ratified by Congress and remains in full force, no reservations were ever created under the Treaty. Western Shoshone title to their territory has never been legally extinguished. Nonetheless, and solely as a result of proceedings before the U.S. Indian Claims Commission, the Western Shoshone Nation has been deprived of virtually all of its lands. As demonstrated in the proceedings and filings leading to Decision 1(68), the justification used by the United States has been reliance on federal Indian law, which continues to be based on the Doctrine of Discovery - demonstrating the ongoing use of colonialism and racist concepts in current United States laws.

The primary Article of the International Convention on the Elimination of All Forms of Racial Discrimination that the United States consistently and intentionally violates while the same time violating Article VI of their own Constitution, is Article 15 which states:

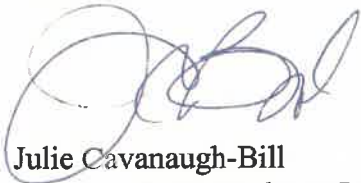
Article 15

1. Pending the achievement of the objectives of the Declaration on the Granting of Independence to Colonial Countries and Peoples, contained in General Assembly resolution 1514 (VV) of the 14 December 1960, the provisions of this Convention shall in no way limit the rights of petition granted to these peoples by other international instruments or by the United Nations and its specialized agencies.

Therefore, we are respectfully requesting that CERD include the issue of decolonization and the ongoing impacts of colonial policies and laws on indigenous peoples by the United States of America.

Thank you for your attention to this request. Please let us know if additional information is needed at this time.

Sincerely,

A handwritten signature in blue ink, appearing to read 'Julie Cavanaugh-Bill', written in a cursive style.

Julie Cavanaugh-Bill
Attorney & Counselor at Law
Western Shoshone Defense Project