

United Nations
Seventeenth Session of the Expert Mechanism on Rights of Indigenous People

Item 3
July 8, 2024

Study on Constitutions, laws, legislation, policies, judicial decisions, and other mechanisms through which States have taken measures to achieve the ends of the United Nations Declaration on the Rights of Indigenous Peoples, in accordance with Article 38 of the Declaration.

Linda Benally on behalf of
Native American Church of North America – State of New Mexico, Inc. (1981)

Ya'at'eeh, greetings Chair and Excellencies. Thank you for the opportunity to speak on behalf of the Native American Church-State of New Mexico, Inc . Our mission is to support the protection of American Indian religious, ceremonial, spiritual and traditional practices. The NAC is comprised of tribal citizens, including individuals of the Navajo Nation from Shiprock, New Mexico.

We call on the EMRIP to consider adding advice about the implementation of the United Nations Declaration on the Rights of Indigenous Peoples (Declaration) in the context of traditional plant knowledge and traditional ceremonial practices.

Indigenous Peoples have rights over their traditional knowledge, traditional cultural expressions, and genetic resources, recognized in Articles 11, 12, 24, 25, and 31 of the Declaration. As duty-bearers under international law, member states have the affirmative responsibility to prevent infringement of these rights.

Yet states, including the United States, are currently failing to prevent widespread exploitation of the Peyote plant and to protect the habitat in which it grows. This medicinal plant is currently vulnerable to over-harvesting by individuals and appropriation by pharmaceutical companies who are developing synthetic versions of what science has identified as its active ingredient – mescaline – without consultation or consent of the Indigenous Peoples who have long treated Peyote as a sacrament. Indigenous People relate to the medicinal plant as interconnected and explicable only as a whole.

We applaud the World Intellectual Property Organization (WIPO) member States for adopting the Treaty on Intellectual Property, Genetic Resources and Traditional Knowledge (Treaty). This historic new Treaty, adopted on May 24, 2024, is the first-of-its-kind that addresses the interface between intellectual property, genetic resources, and traditional knowledge. The Treaty's requirement that patent applicants disclose when their patent applications are based on traditional knowledge obtained from Indigenous Peoples presents an opportunity for better protection of Indigenous Peoples Genetic Resources and Associated Traditional Knowledge.

Item No. 3
July 8, 2024

We call on member states, including the United States, to sign, ratify, and implement this WIPO Treaty.

Secondly, we welcome EMPRIIP Advice No. 17 on measures to achieve the ends of the Declaration, and call on member states, including the United States, to:

- a. Respect Indigenous knowledge in agency planning and decision-making with respect to lands, habitats, natural resources, and ecosystems; and
- b. Create autonomous Indigenous-specific institutions, such as a national commission, to implement the Declaration.

More specifically, the Departments of the Interior and Agriculture should deploy Joint Secretarial Order No. 4303 (2021) on co-stewardship to enable management of former tribal lands and territories to protect the limited natural habitat of medicinal plants and ecosystems.

Thank you for the opportunity to speak. Ahe'hee.