



**Economic and Social
Council**

Distr.
GENERAL

E/CN.4/2006/NGO/20
20 February 2006

ENGLISH ONLY

COMMISSION ON HUMAN RIGHTS
Sixty-second session
Item 6 of the provisional agenda

**RACISM, RACIAL DISCRIMINATION, XENOPHOBIA AND ALL FORMS OF
DISCRIMINATION**

**Written statement* submitted by the International Indian Treaty Council (IITC),
a non-governmental organization in special consultative status**

The Secretary-General has received the following written statement which is circulated in accordance with Economic and Social Council resolution 1996/31.

[7 February 2006]

* This written statement is issued, unedited, in the language(s) received from the submitting non-governmental organization(s).

GE.06-10934

The IITC deeply respects and admires Ms. Carrie Dann and Ms. Mary Dann, and the Western Shoshone Nation's struggle to overcome one of the great historical injustices visited by this country on the Indigenous Peoples of the United States. The United States pretends that they have extinguished the title of the Western Shoshone of their traditional lands even though the agency expressly established by US law to address Indian land claims, the Indian Land Claims Commission, was not empowered to extinguish title in the first place, only to pay for lands that had already been extinguished. When the Western Shoshone attempted to establish their title, through US courts of law, they were told that their only remedy was to take money thorough the Land Claims Commission process.

In 2002, the Inter-American Commission on Human Rights issued a report finding that the Land Claims Commission process was fraudulent and had denied the Dann Sisters their right to property and equality before the law.¹ The United States' response was to deny the IACHR jurisdiction, and to confiscate all of the Dann sisters' livestock.

Recently, the IITC filed a parallel report to the United States First Periodic Report on US compliance with their obligations under the International Convention on the Elimination of All Forms of Racial Discrimination (CERD). (US State Department, report dated September 30, 2000.)

Many Indigenous organizations filed their parallel reports with the CERD Committee, and virtually all cited the case of the Western Shoshone and the harassment of Ms. Carrie Dann and Ms. Mary Dann by the BLM for continuing use of their traditional ancestral lands. The CERD Committee addressed their plight:

21. The Committee notes with concern that treaties signed by the Government and Indian Tribes, described as "domestic dependent nations" under national law, can be abrogated unilaterally by Congress and that the land they possess or use can be taken without compensation by a decision of the Government. It further expresses concern with regard to information on plans for the expansion of mining and nuclear waste storage on Western Shoshone ancestral land, for placing of their lands to auction for private sale and other actions affecting the rights of indigenous peoples. The Committee recommends that the State party should ensure effective participation by indigenous communities in decisions affecting them, including those on their land rights, as required under article 5(c) of the Convention, and draws the attention of the State party to General Recommendation XXIII(51) on Indigenous Peoples which stresses the importance of securing the "informed consent" of Indigenous communities and calls, *inter alia*, for recognition and compensation for loss. The State party is also encouraged to use as guidance the ILO Convention 169 in Indigenous and Tribal Peoples.²

ILO Convention 169 requires consultations with Indigenous Peoples on all matters that affect them, such consultations to be carried out in good faith, and with the objective of

¹ Report N° 75/02 * Case 11.140 Mary and Carrie Dann, United States December 27, 2002

² Committee on the Elimination of Racial Discrimination, Fifty-ninth Session, CERD/59/Misc.17/Rev.3, 14 August 2001 (unedited version.)

achieving agreement to the proposed measures.³ It further calls for the recognition and respect for the special importance of the spiritual and cultural relationship that indigenous peoples have with their traditional lands.⁴ It requires that indigenous ownership and possession of traditional lands be recognized and protected.⁵

The Dann Case is again back before the CERD Committee under its urgent action processes. The IITC urges the CERD Committee to exercise its mandate in this case, and at least recognize that the United States, as a matter of policy, discriminates racially against Indigenous Peoples.

Over 650 Indigenous participants from North, Central, South America and the Pacific attended the 31st Anniversary International Indian Treaty Council Conference hosted by the Confederacy of Treaty 6 First Nations at Ermineskin Cree Nation, Alberta Canada, from August 3 – 7, 2005. At that time they adopted by consensus the following resolution in support of the Western Shoshone and the presentation of their case to the UN CERD:

Resolution in support of the urgent action request from the Western Shoshone Nation to the United Nations Committee on the Elimination of Racial Discrimination (CERD):

WHEREAS, the Western Shoshone Nation has lived in relationship with their traditional homelands for an unknown succession of ages, even to this day. Western Shoshone culture, spirituality, governance and economy are inextricably connected with these lands, and;

WHEREAS, the Western Shoshone Nation entered into a Treaty of Peace and Friendship with the United States in 1863 which recognized the land boundaries of the Western Shoshone. This Treaty was not a treaty of cession, but instead merely allowed the United States limited use and access of those lands, and;

WHEREAS, the Western Shoshone Nation entered into a Treaty of Peace and Friendship with the United States in 1863 which recognized the land boundaries of the Western Shoshone. This Treaty was not a treaty of cession, but instead merely allowed the United States limited use and access of those lands; and

WHEREAS, according to the United States Constitution, the 1863 Treaty of Ruby Valley is the Supreme Law of the land; and

WHEREAS, in the 1787 Northwest Ordinance Congress declared that the utmost good faith shall always be observed toward the Indians, and in their lands, rights and liberty they shall never be invaded or disturbed; and

³ ILO Convention No. 169, Article 6.

⁴ Id, article 13.1.

⁵ id, article 14.1.

WHEREAS, the Nevada Territorial Act, following the Northwest Ordinance, stipulated that all Indian land "shall be excepted out of the boundaries, and constitute no part of the Territory of Nevada"; and

WHEREAS, the United States is currently engaged in or allowing activities which deny Western Shoshone continued occupation of their ancestral lands and threaten the survival of the Western Shoshone people, their culture, social fabric, economy and ecology; and

WHEREAS, Western Shoshone leaders have called upon the United States to address land and resource rights of the Western Shoshone; and,

WHEREAS, the United States has refused to address these issues on a government to government basis with Western Shoshone leadership and the Western Shoshone Nation;

WHEREAS, the United States is currently engaged in or allowing activities which deny Western Shoshone continued occupation of their ancestral lands and threaten the survival of the Western Shoshone people, their culture, social fabric, economy and ecology; including in particular privatization of Western Shoshone lands to multinational gold companies, and expansion of open pit cyanide heap leach gold mining and nuclear waste disposal on Western Shoshone lands, and;

WHEREAS, The United States Government has been found to be in current violation of Western Shoshone rights to property, to due process and to equality under the law by the Inter-American Commission on Human Rights, and;

WHEREAS, the United States has ratified the United Nations Convention on the Elimination of Racial Discrimination and is therefore obligated to ensure that its domestic laws and policies are in compliance with internationally recognized standards of human rights, and;

NOW, THEREFORE, BE IT RESOLVED that the International Indian Treaty Council, an Indigenous Non-Governmental Organization with Consultative Status to the United Nations Economic and Social Council (ECOSOC), calls upon the United Nations Committee on the Elimination of Racial Discrimination to act immediately upon the Second Amended Urgent Action Request under its Early Warning Procedure filed by the Western Shoshone to address this long standing dispute with the United States before privatization, expansion of mining or nuclear waste disposal proceeds any further on Western Shoshone lands.

Adopted by consensus, August 7, 2005
