



INTERNATIONAL INDIAN TREATY COUNCIL

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April 26th, 2011

Special Rapporteur on the Rights of Indigenous Peoples, Mr. James Anaya;
Special Rapporteur on Freedom of Religion or Belief, Mr. Heiner Bielefeldt
Independent Expert in the Field of Cultural Rights, Ms. Farida Shaheed
via email: urgent-action@ohchr.org

RE: Communication and Appeal for Urgent Action on the desecration and destruction of the Sacred Shellmound located at Sogorea Te (Glen Cove, California, USA); Request for Country Visit

To the Special Rapporteurs and Independent Expert,

Ms. Corrina Gould, member of the Karkin and Chochenyo bands of Muwekma Ohlone Indigenous People of Northern California, and President of Indian People Organizing for Change (IPOC), an organization dedicated to preserving the sacred sites of Indigenous Peoples, has asked the International Indian Treaty Council to bring to your attention the imminent desecration and destruction of the ceremonial and burial site Sogorea Te, located at Glen Cove, in Vallejo, California in the United States of America.

From an estimated 600 intact Shellmounds in 1800, very few even partially intact Shellmounds remain. Located in the San Francisco Bay Area, Sogorea Te has been documented to have been in existence for 3,500 years. It continues to be used as a spiritual and ceremonial site at least three times a year by Northern California Indigenous Peoples who consider the site sacred.

The City of Vallejo, California, wherein Sogorea Te is located, is planning to level and pave over this Sacred Area in order to construct a parking lot and public restrooms. A continuous occupation of the site by IPOC and local Native peoples has held off the bulldozers that were due to begin the desecration and destruction on April 15, 2011. Although there is a promise of mediation by the US Federal Department of Justice, the City of Vallejo continues to harass the occupiers and has avoided setting a date for any dialogue.

A brief history of Northern California Indigenous Peoples:

Due to the intense development and urbanization of the San Francisco Bay Area, very few Shellmound sites have escaped complete obliteration. The history of Northern California Indigenous

Peoples, beginning with the so-called “Gold Rush” in the 19th century has been invidious and oppressive. Treaties signed with California Indians in the 1800s were never ratified by Congress and ended up in the basement of the Smithsonian Museum.

The State of California itself has a long and tragic history of deadly discrimination against California Indigenous Peoples. During the gold rush, for example, the Humboldt Times, an early newspaper, called for the extermination of Indians. Rewards were paid for the heads of Indian men (\$5.00) women (\$2.50) and children (50¢). The Great State of California, in 1851 and 1852 paid out one million dollars each year to those who hunted Indians. In 1857 California issued \$400,000 in bonds to the same end, the extermination of California Indians.

As noted by a Northern California Federal Indian agent back in 1906:

“No amount of money can repay these Indians for the years of misery, despair, and death which the Governmental policy has inflicted upon them. No reason suggests itself to your special agent why these Indians should not be placed in the same situation as all other Indians in the United States....”¹

For Indigenous Peoples who have suffered from an almost total loss of lands, the destruction of their cultures, languages and spiritual lives, Sogorea Te has become critical to the cultural survival and identity of local Northern California Indigenous Peoples. The various Ohlone Peoples are not recognized by the United States Federal Government giving them even less protection under already inadequate US law. Their cultural and spiritual survival is tenuous at best. Their languages are functionally extinct. Damage to, or the destruction of the little that is left of their physical cultural and spiritual legacy profoundly impacts their efforts to retain their Indigenous identity and being.

The Shellmounds:

Sogorea Te is the name of the Karkin Ohlone village that was the most recent Indigenous habitation of this piece of land found at the most narrow part of the Carquinez Strait. Locations of Indigenous village sites in the San Francisco Bay Area are primarily documented by the locations of associated Shellmounds. Shellmounds are ancient monuments and funerary sites that are particular to the Indigenous cultures of the California coast, where Indigenous Peoples even now gather to pray and conduct their spiritual ceremonies.

The Shellmound and Sogorea Te village site is of particular importance because of its geographic placement. Located at the narrowest crossing point of the Carquinez Strait, it served as a central locus on a primary trade route between the northern and southern Bay Area villages. While the Glen Cove site is primarily associated with the Muwekma Ohlone and Yocha DeHe Wintun Nations, many

¹ A Second Century of Dishonor : Federal Inequities and California Tribes, Ch. II. Studies that Document Funding Inequities Affecting California Tribes, A report prepared by the UCLA American Indian Studies Center for the Advisory Council on California Indian Policy, The Community Service / Governance / Census Task Force Report, March 27, 1996, <http://www.aisc.ucla.edu/ca/Tribes2.htm>, last visited 4/25/2011

other cultures can claim historical ties to the site, due to its role as an ancient center of commerce. These additional Nations would include, but not be limited to, the various Yokut Nations, the various Miwok (Me-wuk) Nations, Nisenan, Maidu, Wappo, Yuki, and Pomo Nations.

The Sogorea Te Shellmound was first studied in 1907 by Nels C. Nelson, a European-American archeologist. It has since been studied and surveyed formally at least six times, with attempts to establish a boundary of the village site being a primary goal of each effort. Each time the site has undergone academic or professional investigation the boundaries have been extended and drawn farther out from the previous instance. In 1986, the archeological firm Peak & Associates, under contract with the Greater Vallejo Recreational District (GVRD), found human remains beyond the previous established boundary and concluded that the boundary had to be significantly expanded. During subsequent construction of an access road to the condominium complex then under construction, Shellmound material was found as deep as five feet under the surface of the earth, forcing them to conclude that it was possible that the Shellmound boundary might be beyond the boundaries of the undeveloped land at Glen Cove and well into the developed residential area. The little that is left of this Sacred Place now faces destruction.

Members of the Ohlone (not currently recognized by the United States) and Miwok Nations are currently occupying the site in violation of minor local ordinances in order to prevent its desecration and destruction by the city government, who want to transform the area into a recreational park and Sogorea Te into a parking lot. After a 12 year struggle to prevent development plans from being approved and implemented, these members of local Indigenous Nations have chosen to make a final effort to prevent the desecration of the 3500 year old sacred burial and ceremonial site by physically occupying the land, thereby preventing the use of heavy machinery. Having successfully delayed the original April 15th, 2011 starting date of construction at the site, these Indigenous Peoples and their supporters intend to remain on their traditional land until the city agrees to only implement development plans that do not involve the destruction of their cultural and spiritual lives or the disturbance of their interred ancestors.

Human Rights Violated:

1. The International Covenant on Civil and Political Rights (ICCPR) (1966); ratified 8 June 1992

In 1998 Mr. Abdelfattah Amor, the then Special Rapporteur on Religious Intolerance applied ICCPR Article 18 (the right to practice and manifest religion or belief) to Indigenous Spiritual Practice and land based religion. Mr. Amor applied the requirements of Article 18 to the forced relocation of the Sovereign Dine (Navajo) Elders and land based religion.

“The expression of the belief has to be reconciled with other rights and legitimate concerns, including those of an economic nature, but after the rights and claims of the parties have been duly taken into account, **on an equal footing** (in accordance with each party's system of values). **As far as Native Americans' access to sacred sites is concerned, this is a**

fundamental right in the sphere of religion, the exercise of which must be guaranteed in accordance with the above-mentioned provisions of international law on the matter.”²
(Emphasis supplied)

The Human Rights Committee (HRC) the Treaty Monitoring Body of the ICCPR, in its 2006 examination of the United States, recommended that the United States, “... should take further steps in order to secure the rights of all indigenous peoples **under articles 1 and 27 of the Covenant to give them greater influence in decision-making affecting their natural environment and their means of subsistence as well as their own culture.**”³ ICCPR Article 1 refers to the right of all peoples, including Indigenous Peoples, to Self Determination; Article 27 recognizes the right to practice language, culture and religion.

The HRC has further determined that for Indigenous Peoples, their right to practice their cultures includes the right to control the lands and natural resources necessary for the maintenance of their culture. The HRC also requires, “positive measures to ensure the effective participation of communities in decisions which affect them must also be ensured.”⁴

2. The International Convention on the Elimination of all forms of Racial Discrimination (ICERD) (1966); ratified on 21 Oct 1994

The UN Committee on the Elimination of Racial Discrimination (CERD), the ICERD’s Treaty Monitoring Body made has made recommendations to the United States regarding their failure to uphold and consider the rights of Indigenous Peoples concerning the protection of sacred sites and areas of cultural importance which continue to be threatened, desecrated and destroyed by imposed development carried out without their consent.

“The Committee recommends that the State party take all appropriate measures, in consultation with Indigenous Peoples concerned and their representatives chosen in accordance with their own procedure, – to ensure that activities carried out in areas of spiritual and cultural significance to Native Americans do not have a negative impact on the enjoyment of their rights under the Convention. **The Committee further recommends that the State party recognize the right of Native Americans to participate in decisions affecting them, and consult and cooperate in good faith with the indigenous peoples concerned before adopting and**

² Report submitted by Mr. Abdelfattah Amor, Special Rapporteur, in accordance with Commission on Human Rights resolution 1998/18, Addendum, Visit to the United States of America, E/CN.4/1999/58/Add.1, 9 December 1998, para. 82.

³ Human Rights Committee, Concluding Observations, United States of America, Eighty-seventh session, 10-28 July 2006, UN Doc. CCPR/C/USA/CO/3, 15 September 2006 Para. 37.

⁴ Human Rights Committee General Comment (Article 27) 23.7.

implementing any activity in areas of spiritual and cultural significance to Native Americans.”⁵

3. The United Nations Declaration on the rights of Indigenous Peoples (2007):

Article 32, echoing the Human Rights Committee and the CERD Committee, recognizes the right of Indigenous Peoples to free, prior and informed consent before development is forced upon them. Article 31 recognizes Indigenous Peoples’ right to maintain, control, protect and develop their cultural heritage, traditional knowledge and traditional cultural expressions.” Article 40 recognizes the right to just and fair procedures for the resolution of conflicts with States or “other parties” as well as effective remedies for all infringement of their rights.

Most relevant to the situation of the Shellmounds:

Article 8: 1. Indigenous peoples and individuals have the right not to be subjected to forced assimilation or destruction of their culture.

Article 11: Indigenous peoples have the right to practice and revitalize their cultural traditions and customs. This includes the right to maintain, protect and develop the past, present and future manifestations of their cultures, such as archaeological and historical sites ...[and].ceremonies...”

Article 12.1: Indigenous peoples have the right to manifest, practice, develop and teach their spiritual and religious traditions, customs and ceremonies; the right to maintain, protect, and have access in privacy to their religious and cultural sites; the right to the use and control of their ceremonial objects; and the right to the repatriation of their human remains.

“*Article 25:* Indigenous peoples have the right to maintain and strengthen their distinctive spiritual relationship with their traditionally owned or otherwise occupied and used lands, territories, waters and coastal seas and other resources and to uphold their responsibilities to future generations in this regard”.

CONCLUSION

For the above states reasons, we urge the Special Rapporteur on the rights of Indigenous Peoples, Mr. James Anaya, the Special Rapporteur on freedom of religion or belief, Mr. Heiner Bielefeldt, and the Independent Expert in the field of Cultural Rights, Ms. Farida Shaheed to receive this urgent

⁵ Committee on the Elimination of Racial Discrimination Seventy-second session Geneva, 18 February - 7 March 2008, Concluding observations, United States of America, UN Doc. CERD/C/USA/CO/6, 8 May 2008, para. 29.

communication and exercise their mandates as an urgent matter, as well as visit the Sogorea Te, Glen Cove, California, Shellmound as soon as practically possible.

For all our relations,

A handwritten signature in black ink, appearing to be 'MA', with a long horizontal line extending to the right.

Mark Anquoe, Administrative and Communications Coordinator,
Alberto Saldamando, General Counsel
International Indian Treaty Council

cc: Ms. Corrina Gould
Indian People Organizing for Change (IPOC),
Andrea Carmen, IITC Executive Director