

Submitted to the United Nations Special Rapporteur on the Rights of Indigenous Peoples by Rodney Factor, International Indian Treaty Council Board of Directors member and Band Chief of the Tusekia Harjo Band of the Seminole Nation of Oklahoma,

Tulsa Oklahoma, May 3rd, 2012

Thank you to our hosts the Native American Law Center here at the University of Tulsa College of Law and to the Special Rapporteur along with the Muskogee Nation for whose territory we are in today.

I would like to present issues of concern regarding systems of discrimination affecting social conditions of Indigenous Peoples.

The incarceration of Native Americans is 19% higher than the national rate. The U.S. Commission on Civil rights attributes this higher rate to differential treatment by the criminal justice system, lack of access to adequate council and racial profiling. Law enforcement agents arrest American Indians and Alaskan Natives at twice the rate of the greater U.S. population for violent and property crimes. On average, American Indians receive longer sentences than non Indians for crimes. They also tend to serve longer time in prison for their sentences than non-Native Americans.

Native Americans have lost faith in the law enforcement and justice system in Indian Country, in part due to its inadequacy and in part due to perceived bias. Native Americans face disparate treatment by law enforcement officials at every level. There is a dual system of justice and race is a critical factor in determining how law enforcement is carried out. Violent crimes involving Native Americans are dealt with differently from those involving whites and that violence against Natives is investigated and prosecuted less vigorously.

The U.S. criminal justice system conflicts in many respects with traditional views of justice held by Native American communities. The U.S. system is based on an intricate series of laws and procedures. Native systems of justice are guided by custom, tradition and practices learned through the oral teachings of elders, the goal being to achieve harmony in the community and make reparations.

The failure of the federal and state government to fully acknowledge and remedy policies that have a disproportion negative effect on Native peoples and to continue following such policies jeopardizes the safety of Native people compared with other Americans and constitutes discrimination.

In my experience here in Oklahoma I have seen many times when Native Americans face charges for minor offenses sentenced to drug court that they then have to pay to attend even when their charges are not drug related. These numbers then get used for grants that feed into the municipal coffers.

The UN Declaration affirms that Indigenous Peoples have the right to be free of discrimination in Article 2; Article 8/2(e) affirms that governments shall provide mechanisms to prevent and redress for propaganda designed to promote or incite racial or ethnic discrimination; Article 15/2 affirms that governments consult and cooperate with Indigenous Peoples to combat prejudice and eliminate discrimination.

These rights must be upheld as a way to combat the judicial discrimination that is harming our Native Peoples. It is our request that the following recommendations be included in your country visit report:

1. That the U.S. take steps to implement the U.N. Declaration specifically Articles 2, 8 and 15 with regard to ending discriminatory practices against our Native Peoples.

2. That the U.S. makes its municipalities aware of the U.N. Declaration and to hold them accountable.
3. That meaningful mechanisms for redress of violations be established.

I want to thank all of the Indigenous leaders, grassroots communities and NGO's who worked tirelessly for more than 3 decades to develop and to keep strong this Declaration. We recognize that this is a minimum standard and that we the peoples must keep it strong and continue to demand that it be implemented. Thank you for your interest and attention to these matters.

Rodney Factor
405-398-4044
okonemekko@gmail.com