



# NATIONAL CONGRESS OF AMERICAN INDIANS

April 18, 2014

Secretary John Kerry  
U.S. Department of State  
Attn: Office of the Special Representative for Global Intergovernmental Affairs  
2201 C Street NW  
Washington, D.C. 20520  
Email: [TribalConsultation@state.gov](mailto:TribalConsultation@state.gov)

Re: United Nations Inquiries Concerning American Indigenous Prisoners' Religious Freedoms

Dear Secretary Kerry:

We understand from papers recently published by the Honorable James Anaya, the United Nations Special Rapporteur on the Rights of Indigenous Peoples, that the U.S. State Department has yet to respond to a June 5, 2013 inquiry regarding the "increasing number of state-level regulations that restrict the religious freedoms of Native American prisoners, including their participation in religious ceremonies and possession of religious items." That inquiry was submitted to the State Department by Special Rapporteur Anaya and the Honorable Heiner Bielefeldt, UN Special Rapporteur on Freedom of Religion or Belief, and respectfully requested your agency's response within 60 days.

We hereby urge the United States' earliest possible response to the Special Rapporteurs. We also request that the State Department consult with us pursuant to Executive Order 13175, regarding what appears to be a trend of increased federal, state and local government restriction upon incarcerated American Indigenous Peoples' inherent rights to believe, express, and exercise their traditional religions and practices. This topic is of such concern to Native America that it gave rise to recent NCAI Resolution #REN-13-005, which is titled "Ensuring the Protection of Native Prisoners' Inherent Rights to Practice their Traditional Religions" and which I enclose for your ease of reference.

As you may know, those rights are guaranteed to incarcerated American Indigenous Peoples by the First Amendment of the U.S. Constitution and federal Religious Land Use and Institutionalized Persons Act, but also by the International Covenant on Civil and Political Rights (see Articles 10, 18(1), 18(3) and 27) and the United Nations Declaration on the Rights of Indigenous Peoples (see Articles 1 and 12). Under banner of these domestic and international human rights guarantees, we have also joined several non-governmental organizations, like the Native American Rights Fund, the ACLU and Huy, to bring forth our concerns about domestic violations of American Indigenous Peoples' religious freedoms, to the United Nations Human Rights Committee. In our joint submissions, we cite publicly reported religious rights breaches by states like California, Hawaii, Arizona, Montana, South Dakota, Wyoming, Missouri, Texas, and Alabama.

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1516 P Street, N.W.  
Washington, DC 20005  
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Importantly, NCAI Resolution #REN-13-005 calls upon the United States to not only “take all reasonable steps to commend, support, and facilitate incarcerated American Indigenous Peoples’ inherent rights to believe, express, and exercise traditional indigenous religion” and to “denounce or cease any unduly inappropriate or illegal federal, state, or local government restriction” upon those rights, but to also “explore how federal, state, and American indigenous governments can jointly develop and advance shared penological goals in regard to incarcerated American Indigenous Peoples.”

It is in this collaborative spirit of nation-to-nation relationship that we humbly make these requests of the United States. We hope for your highest consideration and most deliberate response, and thank you for your time reviewing this correspondence.

Sincerely,

A handwritten signature in cursive script that reads "Brian Cladoosby".

Brian Cladoosby

Enclosure

cc: Jodi Gillette  
Senior Policy Advisor for Native American Affairs



# NATIONAL CONGRESS OF AMERICAN INDIANS

## The National Congress of American Indians Resolution #REN-13-005

**TITLE: Ensuring the Protection of Native Prisoners' Inherent Rights to Practice their Traditional Religions**

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*Tlingit*

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Washington, DC 20005

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**WHEREAS**, we, the members of the National Congress of American Indians of the United States, invoking the divine blessing of the Creator upon our efforts and purposes, in order to preserve for ourselves and our descendants the inherent sovereign rights of our Indian nations, rights secured under Indian treaties and agreements with the United States, and all other rights and benefits to which we are entitled under the laws and Constitution of the United States, to enlighten the public toward a better understanding of the Indian people, to preserve Indian cultural values, and otherwise promote the health, safety and welfare of the Indian people, do hereby establish and submit the following resolution; and

**WHEREAS**, the National Congress of American Indians (NCAI) was established in 1944 and is the oldest and largest national organization of American Indian and Alaska Native tribal governments; and

**WHEREAS**, American Indians, Alaska Natives, and Native Hawaiians in the United States (collectively "Native Americans" or "Indian people") are under the supervision of the adult correctional systems at a rate higher than their presence in the U.S. population, which includes probation, parole, or in custody of tribal, state, or federal incarceration facilities; and

**WHEREAS**, incarcerated Native Americans depend upon their freedom to engage in traditional indigenous religious practices for their rehabilitation, survival, and the ability to maintain their identity, which for many Indian people is a proper and necessary road to rehabilitation; and

**WHEREAS**, Native governments, communities, and societies generally share the penological goals of repressing criminal activity within their jurisdictions and self-determination in facilitating spiritual rehabilitation of their citizens, and those traditional religious practices that assist Indian peoples' rehabilitation are unique to each Native group and many Native governments have developed laws and policies that affirm and support traditional Native religious rights and expressions; and

**WHEREAS**, numerous U.S. domestic laws and international laws developed at the United Nations have affirmed the traditional religious rights of incarcerated Native peoples' and have affirmed Native peoples' overall freedom to believe, express, and exercise their traditional religious and cultural practices; and

**WHEREAS**, the United Nations Declaration on the Rights of Indigenous Peoples provides that States such as the United States "shall provide redress through effective mechanisms, which may include restitution, developed in conjunction with indigenous peoples, with respect to their cultural, intellectual, religious and spiritual

property taken without their free, prior and informed consent or in violation of their laws, traditions and customs”.

**WHEREAS**, the inherent rights of incarcerated Indian peoples’ freedom to believe, express, and exercise traditional indigenous religion, are too frequently violated by federal, state, and local government actors in the United States, and this has been reference in NCAI Resolution #SD-02-091; and

**THEREFORE BE IT RESOLVED**, that NCAI denounces and opposes any federal, state or local government restrictions placed upon incarcerated Native Peoples’ inherent rights to believe, express, and exercise their traditional religions and practices, and Resolution #REN-12-005 replaces Resolution #SD-02-091; and

**BE IT FURTHER RESOLVED**, that NCAI calls upon the United States, all fifty American states and the District of Columbia – including federal and state executive, agency, legislative, corrections, and judicial officials and employees – to: (a) take all reasonable steps to commend, support, and facilitate incarcerated American Indigenous Peoples’ inherent rights to believe, express, and exercise traditional indigenous religion, (b) Denounce or cease any unduly inappropriate or illegal federal, state, or local government restriction upon incarcerated American Indigenous Peoples’ inherent rights to believe, express, and exercise traditional indigenous religion, and (c) Explore how federal, state, and American indigenous governments can jointly develop and advance shared penological goals in regard to incarcerated American Indigenous Peoples; and

**BE IT FURTHER RESOLVED**, that NCAI calls upon the United Nations Special Rapporteur on the Rights of Indigenous Peoples S. James Anaya, for an investigation into the pervasive pattern in the United States of increasing state and local restrictions on the religious freedoms of incarcerated Native peoples in the United States; and

**BE IT FURTHER RESOLVED** that this Resolution shall be immediately transmitted to the United States Attorney General and the Assistant Attorney General for the U.S. Department of Justice Civil Rights Division, the United States Ambassador-at-Large for International Religious Freedoms, relevant Congressional Committees, and the Presidents of the American Correctional Association and American Association of State Correctional Administrators; and

**BE IT FINALLY RESOLVED**, that this resolution shall be the policy of NCAI until it is withdrawn or modified by subsequent resolution.

#### CERTIFICATION

The foregoing resolution was adopted by the General Assembly at the 2013 Midyear Session of the National Congress of American Indians, held at the Atlantis Casino from June 24 - 27, 2013 in Reno, Nevada with a quorum present.

  
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President

ATTEST:

  
\_\_\_\_\_  
Recording Secretary