

I MINA'TRENTA NA LIHESLATURAN GUÅHAN
2010 (SECOND) Regular Session

Resolution No. 420-30 (LS)

As amended on the Floor.

Introduced by:

B. J.F. Cruz
R. J. Respicio
Judith T. Won Pat, Ed.D.
T. R. Muña Barnes
Judith P. Guthertz, DPA
T. C. Ada
V. Anthony Ada
F. B. Aguon, Jr.
F. F. Blas, Jr.
E. J.B. Calvo
J. V. Espaldon
v. c. pangelinan
Adolpho B. Palacios, Sr.
Telo Taitague
Ray Tenorio

Relative to expressing the support of *I Mina'Trenta Na Liheslaturan Guåhan* (the 30th Guam Legislature) for the Declaration on the Rights of Indigenous Peoples; to support H. Res. 1551; to support the rights of the indigenous *Chamorro* people of Guam; to request that the Obama Administration sign the Declaration on the Rights of Indigenous Peoples; and to demand that the

Obama Administration address this issue in light of the military buildup.

1 **BE IT RESOLVED BY I MINA'TRENTA NA LIHESLATURAN**
2 **GUÅHAN:**

3 **WHEREAS**, on September 13, 2007, one hundred forty-four (144)
4 countries of the world adopted, in the United Nations General Assembly, the
5 Declaration on the Rights of Indigenous Peoples (“Declaration”), an
6 international human rights instrument that for the first time in history
7 formally and unequivocally recognized the world’s indigenous peoples as
8 “peoples” under international law, with the same human rights and freedoms
9 as other “peoples;” and

10 **WHEREAS**, the Declaration, which represents new norms of
11 indigenous/state relations, has been described as a “significant tool toward
12 eliminating human rights violations against the over three hundred seventy
13 (370) million indigenous people worldwide and assisting them and States in
14 combating discrimination and marginalization;” and

15 **WHEREAS**, the Declaration’s preamble places its lineage in the
16 comprehensive body of human rights norms that protect and promote human
17 dignity, diversity, non-discrimination, equality, self-determination,
18 environmental integrity, and non-militarization; and

19 **WHEREAS**, the Declaration enshrines the human rights, fundamental
20 freedoms, and self-determination right of indigenous peoples. In its first

1 article, the Declaration provides: “Indigenous peoples have the right to the
2 full enjoyment, as a collective or as individuals, of all human rights and
3 fundamental freedoms as recognized in the Charter of the United Nations, the
4 Universal Declaration of Human Rights and international human rights law.”
5 In its third Article, the Declaration extends the classic text of the self-
6 determination right, as enshrined in the 1966 Human Rights Covenants, to
7 indigenous peoples: “Indigenous peoples have the right to self-determination.
8 By virtue of that right they freely determine their political status and freely
9 pursue their economic, social and cultural development;” and

10 **WHEREAS**, the Declaration establishes indigenous peoples’ right to
11 participate fully in decision-making processes that affect them, to obtain
12 special measures required by them, to determine their own development, to
13 be secure in the enjoyment of their own means of subsistence, and to access
14 institutions of the state; and

15 **WHEREAS**, the Declaration recognizes indigenous peoples’
16 comprehensive control of their traditional lands, territories and resources,
17 including the right that countries obtain their “free, prior, and informed
18 consent” for any actions affecting their traditional lands, territories and
19 resources; and

20 **WHEREAS**, the Declaration protects indigenous peoples against
21 ethnocide, genocide, forcible relocation and assimilation, and assures their

1 right to practice and transmit their culture, which is a concept conceived
2 broadly and progressively; and

3 **WHEREAS**, the rights contained within the Declaration constitute the
4 “minimum standards” for the survival, dignity, and wellbeing of the
5 indigenous peoples of the world; and

6 **WHEREAS**, the Declaration requires states to give full effect to it and
7 the United Nations system to implement it; and

8 **WHEREAS**, of the four (4) countries that voted against the Declaration
9 in the General Assembly in September 2007 (i.e., Australia, Canada, New
10 Zealand, and the United States), the United States is the only country that has
11 yet to unambiguously pronounce plans to endorse the instrument. Since
12 September 2007, Australia, New Zealand, and Canada have all reconsidered
13 their original objections to the Declaration, and averred that they would take
14 necessary steps to adopt the instrument; and

15 **WHEREAS**, in April 2010, at the Ninth Session of the United Nations
16 Permanent Forum on Indigenous Issues, United States Ambassador to the
17 United Nations, Susan E. Rice, announced the Obama administration’s plans
18 to conduct a “formal review” to reexamine the United States’ position on the
19 Declaration; and

20 **WHEREAS**, on July 22, 2010, H. Res. 1551 was introduced by
21 Representative Eni F.H. Faleomavaega of American Samoa, to urge the United
22 States to work with indigenous communities domestically and internationally

1 to provide security, prosperity, equality, and opportunity for all, to address
2 indigenous issues globally, and to request the United States to promote
3 respect for the full application of the Declaration's provisions consistent with
4 United States law; and

5 **WHEREAS**, the indigenous *Chamorro* people of Guam are the intended
6 beneficiaries of the Declaration's provisions. The General Assembly, in the
7 Declaration, explicitly seeks to redress the historic injustices inflicted upon
8 indigenous peoples as a result of colonization, noting its concern that
9 "indigenous peoples have suffered from historic injustices as a result of, *inter*
10 *alia*, their colonization and dispossession of their lands, territories and
11 resources, thus preventing them from exercising, in particular, their right to
12 development in accordance with their own needs and interests;" and

13 **WHEREAS**, Guam, the ancestral homeland of the indigenous *Chamorro*
14 people, is one of the world's last remaining colonies and is recognized in the
15 United Nations system as a non-self-governing territory whose inhabitants
16 have yet to exercise their inherent and inalienable rights to self-determination;
17 and

18 **WHEREAS**, while in 1945 there were seventy-two (72) colonies on the
19 United Nations list of non-self-governing territories slated for decolonization,
20 in 2010 only sixteen (16) colonies remain on the list, most of which are small
21 islands in the Atlantic/Caribbean and the Pacific; and

1 **WHEREAS**, the year 2010 marks the formal conclusion of not one (1)
2 but two (2) UN-designated international decades for the eradication of
3 colonialism. In 1990, the General Assembly proclaimed 1990-2000 as the
4 International Decade for the Eradication of Colonialism. To this end, the
5 General Assembly adopted a detailed Plan of Action to expedite the
6 unqualified end of all forms of colonialism. In 2001, citing a wholesale lack of
7 progress during the first decade, the General Assembly proclaimed a second
8 one to effect the same goal; and

9 **WHEREAS**, the second decade has come and all but gone with only East
10 Timor managing to attain independence from Indonesia in 2002; and

11 **WHEREAS**, the United States military buildup of Guam, which has
12 been dubbed “the largest military buildup in recent history,” impermissibly
13 imperils the self-determination right of the *Chamorro* people of Guam, as well
14 as other human rights; and

15 **WHEREAS**, the military buildup of Guam includes three (3) major
16 proposed actions, including: (1) the construction of permanent facilities and
17 infrastructure to support the full spectrum of warfare training for thousands
18 of relocated Marines; (2) the construction of a new deep-draft wharf in the
19 island’s only harbor to provide for the passage of nuclear-powered aircraft
20 carriers; and (3) the construction of an Army Missile Defense Task Force,
21 modeled on the Marshall Islands-based Ronald Reagan Ballistic Missile

1 Defense Test Site, for the practice of intercepting intercontinental ballistic
2 missiles; and

3 **WHEREAS**, in terms of adverse impact, these developments will mean,
4 among other things: the possibly forcible condemnation of some two
5 thousand two hundred (2,200) acres of privately-owned land in Guam to
6 support the construction of new military facilities; the clearing of whole
7 limestone forests; the desecrating of burial sites some three thousand five
8 hundred (3,500) years old, which contain the ancestral remains of the
9 indigenous *Chamorro* people; the restricting of access to areas rich in plants
10 necessary for indigenous medicinal practice; the clearing of countless native
11 trees (e.g., *dukduk*, *da'ok*) used for canoe-building, which are necessary for the
12 continuation of traditional seafaring practices; the denying of access to places
13 of worship and traditional fishing grounds; the destroying of some seventy
14 (70) acres of thriving coral reef, which currently serve as critical habitat for
15 several endangered species; and the over-tapping of Guam's water system, to
16 include the drilling of twenty-two (22) additional wells in Andersen Air Force
17 Base; and

18 **WHEREAS**, at its peak, the military buildup of Guam will bring some
19 eighty thousand (80,000) new residents to the island, which includes some
20 eight thousand six hundred (8,600) U.S. Marines and their nine thousand
21 (9,000) dependents, seven thousand (7,000) supposedly transient U.S. Navy
22 personnel, six hundred (600) to one thousand (1,000) U.S. Army personnel,

1 and some twenty thousand (20,000) foreign workers on military construction
2 contracts; and

3 **WHEREAS**, this demographic change, which represents a roughly forty-
4 seven percent (47%) increase in Guam’s total population in a four (4)-to-six
5 (6)-year window, bodes great harm for the indigenous *Chamorro* people of
6 Guam, who have yet to exercise their inherent and inalienable rights to self-
7 determination; and

8 **WHEREAS**, the United States Department of Defense (DoD) in its Draft
9 Environmental Impact Statement (DEIS) forebodingly asserts: “Guam’s
10 indigenous *Chamorro* population has strong concerns about whether incoming
11 military populations would recognize them as both American by nationality
12 and also as a unique ethnic culture worthy of respect and preservation. This
13 could be mitigated by orientation programs designed in cooperation with the
14 Department of *Chamorro* Affairs. However, an expansion in non-*Chamorro*
15 voting population could eventually affect the proportion of *Chamorro* office-
16 holders and government workers; thereby affecting the current government
17 budgets and activities dedicated to cultural issues and practices. It could also
18 affect outcomes of any future plebiscites about Guam’s political status;” and

19 **WHEREAS**, the DoD in its DEIS also acknowledges that this
20 demographic change will result in a “reduction in *Chamorro* voting power;”
21 and

1 **WHEREAS**, these assertions unambiguously indicate that the military
2 buildup of Guam will result in the political dispossession of the indigenous
3 *Chamorro* people, who will become a minority in their ancestral homeland;
4 and

5 **WHEREAS**, these assertions fly in the face of international law
6 governing self-determination and constitute a serious breach of Article 73 of
7 the United Nations Charter, the Universal Declaration of Human Rights, the
8 International Covenant on Civil and Political Rights, the International
9 Covenant on Economic, Social and Cultural Rights, the Declaration on the
10 Granting of Independence to Colonial Countries and Peoples, the Declaration
11 on Principles of International Law Concerning Friendly Relations and
12 Cooperation Among States, and, now, the Declaration on the Rights of
13 Indigenous Peoples; and

14 **WHEREAS**, the military buildup of Guam threatens the *Chamorro*
15 people's exercise of self-determination in accordance with internationally-
16 accepted standards for decolonization. Specifically, the DoD's assertions in
17 the DEIS that the mass wave of United States expatriates coming to Guam
18 may lawfully participate in Guam's self-determination plebiscite, should one
19 be had, is erroneous inasmuch as international law dictates that
20 decolonization is a remedy available only to the colonized. To be sure, the
21 Declaration on the Granting of Independence to Colonial Countries and
22 Peoples, also known as Resolution 1514, plainly instructs that the right to self-

1 determination belong to peoples who are subject to “alien subjugation.”
2 Resolution 1541, entitled “Principles Which Should Guide Members in
3 Determining Whether or not an Obligation Exists to Transmit the Information
4 Called for under Article 73e of the Charter,” further instructs that the right to
5 self-determination in the decolonization context is a right available to the
6 people of those territories “geographically separate” and “distinct ethnically
7 and/or culturally from the country administering it;” and

8 **WHEREAS**, the Generally Assembly, in the Declaration on Principles of
9 International Law Concerning Friendly Relations and Cooperation Among
10 States, also known as Resolution 2625, unequivocally instructs: “[T]he
11 territory of a colony or other Non-Self-Governing Territory has, under the
12 Charter, a status separate and distinct from the territory of the State
13 administering it; and such separate and distinct status under the Charter shall
14 exist until the people of the colony or Non-Self-Governing Territory have
15 exercised their right to self-determination in accordance with the Charter, and
16 particularly its purposes and principles;” and

17 **WHEREAS**, these resolutions instruct that the United States may *not*
18 exploit its control over Guam’s immigration laws to flood the Territory with
19 its own non-*Chamorro* expatriates in order to impact a self-determination
20 plebiscite in Guam; and

21 **WHEREAS**, to allow non-*Chamorro* people to participate in Guam’s self-
22 determination plebiscite would be tantamount to a re-imposition of

1 colonization by legal means. Because the UN decolonization regime is
2 intended to cure the harm of colonization, construing the right to self-
3 determination in the decolonization context as belonging to those who were
4 not harmed leads to a plainly absurd result, and such a construction must be
5 roundly repudiated; and

6 **WHEREAS**, as a UN member state, the United States is bound to protect
7 and advance the human rights articulated in the UN system. Although some
8 international human rights instruments such as the Declaration on the Rights
9 of Indigenous Peoples are not technically binding, others are. Specifically, the
10 International Covenant on Civil and Political Rights, which sets out the classic
11 text of the self-determination right, has been legally binding on the United
12 States as a signatory state since 1992; and

13 **WHEREAS**, the impending military buildup of Guam, in total, threatens
14 the indigenous *Chamorro* people of Guam with harm in near ethnocide
15 proportions, and has proceeded in a manner that is plainly violative of not
16 only their right to self-determination but also a whole host of related rights
17 contained in the Declaration on the Rights of Indigenous Peoples, including
18 the right to fully participate in decision-making processes that affect them, to
19 determine their own development, to be secure in the enjoyment of their own
20 means of subsistence, and to have the United States obtain their “free, prior,
21 and informed consent” for any actions affecting their traditional lands,
22 territories and resources; and

1 **WHEREAS**, in light of the enormity of the impending military buildup
2 of Guam, and in light of the new international postures of Australia, Canada,
3 and New Zealand regarding the Declaration, and particularly in light of
4 Ambassador Susan E. Rice’s April 2010 announcement that the United States
5 is in the process of reconsidering its original objection to the Declaration, the
6 indigenous *Chamorro* people of Guam, through their duly elected
7 representatives in the 30th Guam Legislature, call upon President Barack
8 Obama to support H. Res. 1551, to adopt the Declaration on the Rights of
9 Indigenous Peoples and, as Commander in Chief of the United States Armed
10 Forces, to instruct the DoD to proceed, if at all, with the military buildup of
11 Guam in a manner that accords with its provisions; now, therefore, be it

12 **RESOLVED**, that *I Mina 'Trenta Na Liheslaturan Guåhan* does hereby, on
13 behalf of the people of Guam, support the United Nations Declaration on the
14 Rights of Indigenous Peoples and demand that President Obama sign the
15 Declaration on the Rights of Indigenous Peoples; and be it further

16 **RESOLVED**, that *I Mina 'Trenta Na Liheslaturan Guåhan* does hereby, on
17 behalf of the people of Guam, support H. Res. 1551; and be it further

18 **RESOLVED**, that *I Mina 'Trenta Na Liheslaturan Guåhan* does hereby, on
19 behalf of the people of Guam, demand that the Obama Administration, prior
20 to the impending military buildup of Guam, which gravely and
21 impermissibly imperils the human rights of the indigenous *Chamorro* people
22 of Guam, including their inherent and inalienable rights to self-determination,

1 support H. Res 1551 in support of the rights of the indigenous *Chamorro*
2 people of Guam, and that the Obama Administration sign the Declaration on
3 the Rights of Indigenous Peoples; and be it further;

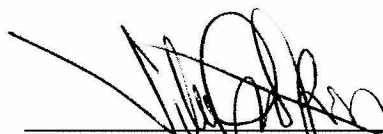
4 **RESOLVED**, that the Speaker certify, and the Legislative Secretary
5 attest to, the adoption hereof, and that copies of the same be thereafter
6 transmitted to the Honorable Barack Obama, President of the United States; to
7 the Honorable Robert Gates, Secretary of Defense; to the Honorable Kenneth
8 L. Salazar, Secretary of Interior; to the Honorable Anthony Babauta, Assistant
9 Secretary of the Interior for Insular Affairs; to the Honorable Nancy Pelosi,
10 Speaker of the U.S. House of Representatives; to the Honorable Daniel Inouye,
11 President Pro Tempore of the U.S. Senate; to the Honorable Harry Reid,
12 Majority Leader of the U.S. Senate; to the Honorable Byron Dorgan, Chairman
13 of the U.S. Senate Committee on Indian Affairs; to the Honorable Nick J.
14 Rahall II, Chairman of the U.S. House Committee on Natural Resources; to the
15 Honorable Madeleine Z. Bordallo, Guam Delegate to the U.S. House of
16 Representatives; to the Honorable Gregorio Sablan, CNMI Delegate to House
17 of Representatives; to the Honorable Donna Christensen, U.S. Virgin Islands
18 Delegate to the House of Representatives; to the Honorable Eni F.H.
19 Faleomavaega, American Samoa Delegate to the U.S. House of
20 Representatives; to Major General. David M. Bice, Director of the Joint Guam
21 Program Office; to Mr. Ban Ki-moon, Secretary-General of the United Nations;

- 1 to Ms. Navanathem Pillay, United Nations High Commissioner for Human
- 2 Rights; and to the Honorable Felix P. Camacho, *I Maga'lahaen Guåhan*.

DULY AND REGULARLY ADOPTED BY *I MINA'TRENTA NA LIHESLATURAN GUÅHAN* ON THE 9TH DAY OF SEPTEMBER, 2010.



JUDITH T. WON PAT, Ed.D.
Speaker



TINA ROSE MUÑA BARNES
Legislative Secretary