

I MINA 'TRENTA NA LIHESLATURAN GUÅHAN
2010 (Second) REGULAR SESSION

2010 AUG 12 AM 8:43

Resolution No. 420-30(LS)

Introduced by:

Benjamin J.F. Cruz



Relative to expressing the 30th Guam Legislature's support 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 request that the Obama Administration reconsider the military buildup.

1 **BE IT RESOLVED BY THE COMMITTEE ON RULES OF I**
2 ***MINA 'TRENTA NA LIHESLATURAN GUÅHAN:***

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

9 **WHEREAS**, The Declaration, which represents new norms of
10 indigenous/state relations, has been described as a “significant tool toward
11 eliminating human rights violations against the over 370 million indigenous
12 people worldwide and assisting them and States in combating discrimination

1 and marginalization;” and

2 **WHEREAS**, The Declaration’s preamble places its lineage in the
3 comprehensive body of human rights norms that protect and promote human
4 dignity, diversity, non-discrimination, equality, self-determination,
5 environmental integrity, and non-militarization; and

6 **WHEREAS**, The Declaration enshrines the human rights,
7 fundamental freedoms, and self-determination right of indigenous peoples.
8 In its first article, the Declaration provides: “Indigenous peoples have the
9 right to the full enjoyment, as a collective or as individuals, of all human
10 rights and fundamental freedoms as recognized in the Charter of the United
11 Nations, the Universal Declaration of Human Rights and international
12 human rights law.” In its third article, the Declaration extends the classic
13 text of the self-determination right, as enshrined in the 1966 Human Rights
14 Covenants, to indigenous peoples: “Indigenous peoples have the right to
15 self-determination. By virtue of that right they freely determine their
16 political status and freely pursue their economic, social and cultural
17 development;” and

18 **WHEREAS**, The Declaration establishes indigenous peoples’ right to
19 participate fully in decision-making processes that affect them, to obtain
20 special measures required by them, to determine their own development, to
21 be secure in the enjoyment of their own means of subsistence, and to access
22 institutions of the state; and

23 **WHEREAS**, The Declaration recognizes indigenous peoples’

1 comprehensive control of their traditional lands, territories and resources,
2 including the right that countries obtain their “free, prior, and informed
3 consent” for any actions affecting their traditional lands, territories and
4 resources; and

5 **WHEREAS**, The Declaration protects indigenous peoples against
6 ethnocide, genocide, forcible relocation and assimilation, and assures their
7 right to practice and transmit their culture, which is a concept conceived
8 broadly and progressively; and

9 **WHEREAS**, The rights contained within the Declaration constitute
10 the “minimum standards” for the survival, dignity, and wellbeing of the
11 indigenous peoples of the world; and

12 **WHEREAS**, The Declaration requires states to give full effect to it
13 and the United Nations system to implement it; and

14 **WHEREAS**, Of the four countries that voted against the Declaration
15 in the General Assembly in September 2007 (i.e., Australia, Canada, New
16 Zealand, and the United States), the United States is the only country still to
17 unambiguously pronounce plans to endorse the instrument. Since
18 September 2007, Australia, New Zealand, and Canada have all reconsidered
19 their original objections to the Declaration, and averred that they would take
20 necessary steps to adopt the instrument; and

21 **WHEREAS**, In April 2010, at the Ninth Session of the United
22 Nations Permanent Forum on Indigenous Issues, United States Ambassador
23 to the United Nations, Susan E. Rice, announced the Obama administration’s

1 plans to conduct a “formal review” to reexamine the United States’ position
2 on the Declaration; and

3 **WHEREAS**, On July 22, 2010, H. Res. 1551 was introduced by
4 Representative Eni F.H. Faleomavaega, of American Samoa, to urge the
5 United States to work with indigenous communities domestically and
6 internationally to provide security, prosperity, equality, and opportunity for
7 all, to address indigenous issues globally, and to request the United States to
8 promote respect for the full application of the Declaration’s provisions
9 consistent with United States law; and

10 **WHEREAS**, The indigenous Chamorro people of Guam are the
11 intended beneficiaries of the declaration’s provisions. The General
12 Assembly, in the Declaration, explicitly seeks to redress the historic injustice
13 inflicted upon indigenous peoples as a result of colonization, noting its
14 concern that “indigenous peoples have suffered from historic injustices as a
15 result of, *inter alia*, their colonization and dispossession of their lands,
16 territories and resources, thus preventing them from exercising, in particular,
17 their right to development in accordance with their own needs and interests;”
18 and

19 **WHEREAS**, Guam, the ancestral homeland of the indigenous
20 Chamorro people, is one of the world’s last remaining colonies and is
21 recognized in the United Nations system as a non-self-governing territory
22 whose inhabitants have yet to exercise their inalienable right to self-
23 determination; and

1 **WHEREAS,** While in 1945, there were 72 colonies on the United
2 Nations list of non-self-governing territories slated for decolonization, in
3 2010, only 16 colonies remain on the list, most of which are small islands in
4 the Atlantic/Caribbean and the Pacific;

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

13 **WHEREAS,** The second decade has come and all but gone with only
14 Timor-Leste, or East Timor, managing to attain independence from
15 Indonesia in 2002; and

16 **WHEREAS,** The United States military buildup of Guam, which has
17 been dubbed “the largest military buildup in recent history,” impermissibly
18 imperils the self-determination right of the Chamorro people of Guam as
19 well as other human rights; and

20 **WHEREAS,** The military buildup of Guam includes three major
21 proposed actions, including: 1) the construction of permanent facilities and
22 infrastructure to support the full spectrum of warfare training for the
23 thousands of relocated Marines; 2) the construction of a new deep-draft

1 wharf in the island's only harbor to provide for the passage of nuclear-
2 powered aircraft carriers; and 3) the construction of an Army Missile
3 Defense Task Force modeled on the Marshall Islands-based Ronald Reagan
4 Ballistic Missile Defense Test Site, for the practice of intercepting
5 intercontinental ballistic missiles; and

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

19 **WHEREAS,** At its peak, the military buildup of Guam will bring
20 some 80,000 new residents to the island, which includes some 8,600 US
21 Marines and their 9,000 dependents, 7,000 supposedly transient US Navy
22 personnel, 600-1,000 US Army personnel, and some 20,000 foreign workers
23 on military construction contracts; and

1 **WHEREAS,** This demographic change, which represents a roughly
2 47% increase in Guam’s total population in a four-to-six-year window,
3 bodes great harm for the indigenous Chamorro people of Guam, who have
4 yet to exercise their inalienable right to self-determination; and

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

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

20 **WHEREAS,** These assertions unambiguously indicate that the
21 military buildup of Guam will result in the political dispossession of the
22 indigenous Chamorro people, who will become a minority in their ancestral
23 homeland; and

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

10 **WHEREAS**, The military buildup of Guam threatens the Chamorro
11 people’s exercise of self-determination in accordance with internationally-
12 accepted standards for decolonization. Specifically, the DoD’s assertions in
13 the DEIS that the mass wave of United States expatriates coming to Guam
14 may lawfully participate in Guam’s self-determination plebiscite, should one
15 be had, is erroneous inasmuch as international law dictates that
16 decolonization is a remedy available only to the colonized. To be sure, the
17 Declaration on the Granting of Independence to Colonial Countries and
18 Peoples, also known as Resolution 1514, plainly instructs that the right to
19 self-determination belong to peoples who are subject to “alien subjugation.”
20 Resolution 1541, entitled “Principles Which Should Guide Members in
21 Determining Whether or not an Obligation Exists to Transmit the
22 Information Called for under Article 73e of the Charter,” further instructs
23 that the right to self-determination in the decolonization context is a right

1 available to the people of those territories “geographically separate” and
2 “distinct ethnically and/or culturally from the country administering it;” and

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

13 **WHEREAS,** These resolutions instruct that the United States may not
14 exploit its control over Guam’s immigration laws to flood the territory with
15 its own non-Chamorro expatriates in order to impact a self-determination
16 plebiscite in Guam; and

17 **WHEREAS,** To allow non-Chamorro people to participate in Guam’s
18 self-determination plebiscite would be tantamount to a re-imposition of
19 colonization by legal means. Because the UN decolonization regime is
20 intended to cure the harm of colonization, construing the right to self-
21 determination in the decolonization context as belonging to those who were
22 not harmed leads to a plainly absurd result, and such a construction must be
23 roundly repudiated; and

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

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

18 **WHEREAS**, In light of the enormity of the impending military
19 buildup of Guam, and in light of the new international postures of Australia,
20 Canada, and New Zealand regarding the Declaration, and particularly in
21 light of Ambassador Susan E. Rice’s April 2010 announcement that the
22 United States is in the process of reconsidering its original objection to the
23 Declaration, the indigenous Chamorro people of Guam, through their duly

1 elected representatives in the 30th Guam Legislature, call upon President
2 Barack Obama to support H. Res. 1551, to adopt the Declaration on the
3 Rights of Indigenous Peoples and, as Commander in Chief of the United
4 States Armed Forces, to instruct the DoD to proceed, if at all, with the
5 military buildup of Guam in a manner that accords with its provisions, now,
6 therefore, be it

7 **RESOLVED**, That *I Mina 'Trenta Na Liheslaturan Guåhan* does
8 hereby, on behalf of the people of Guam, support the United Nations
9 Declaration on the Rights of Indigenous Peoples and respectfully requests
10 that President Obama sign the Declaration on the Rights of Indigenous
11 Peoples, and, be it further

12 **RESOLVED**, That *I Mina 'Trenta Na Liheslaturan Guåhan* does
13 hereby, on behalf of the people of Guam, support H. Res. 1551, and be it
14 further

15 **RESOLVED**, That *I Mina 'Trenta Na Liheslaturan Guåhan* does
16 hereby, on behalf of the people of Guam, respectfully request that the
17 Obama Administration reconsider the impending military buildup of Guam,
18 which gravely and impermissibly imperils the human rights of the
19 indigenous Chamorro people from Guam, including their inalienable right to
20 self-determination; and be it further

21 **RESOLVED**, That the Speaker and the Secretary of the Legislature
22 attest to, the adoption hereof, and that copies of the same be thereafter
23 transmitted to the Honorable Barack Obama, President of the United States;

1 the Honorable Robert Gates, Secretary of Defense; the Honorable Kenneth
2 L. Salazar, Secretary of Interior; the Honorable Anthony Babauta, Assistant
3 Secretary of the Interior for Insular Affairs; the Honorable Nancy Pelosi,
4 Speaker of the U.S. House of Representatives; the Honorable Daniel Inouye,
5 President Pro Tempore of the U.S. Senate; the Honorable Harry Reid,
6 Majority Leader of the U.S. Senate; the Honorable Byron Dorgan, Chairman
7 of the U.S. Senate Committee on Indian Affairs; the Honorable Nick J.
8 Rahall II, Chairman of the U.S. House Committee on Natural Resources; the
9 Honorable Madeleine Z. Bordallo, Guam Delegate to the U.S. House of
10 Representatives; the Honorable Gregorio Sablan, CNMI Delegate to House
11 of Representatives; the Honorable Donna Christensen, U.S. Virgin Islands
12 Delegate to the House of Representatives; the Honorable Eni F.H.
13 Faleomavaega, American Samoa Delegate to the U.S. House of
14 Representatives; Maj. Gen. David M. Bice, Director of the Joint Guam
15 Program Office; Mr. Ban Ki-moon, Secretary-General of the United
16 Nations; Ms. Navanathem Pillay, United Nations High Commissioner for
17 Human Rights; and to *I Maga 'lahen Guåhan*.

**DULY AND REGULARLY ADOPTED BY *I MINA 'TRENTA NA*
LIHESLATURAN GUÅHAN ON THIS 11th DAY OF AUGUST, 2010.**

JUDITH T. WON PAT, Ed.D.
Speaker

TINA ROSE MUÑA BARNES
Legislative Secretary