

INDIGENOUS POLICY

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*Indigenous Policy (IPJ)* publishes articles, commentary, reviews, news, and announcements concerning Native American and international Indigenous affairs, issues, events, nations, groups and media. We invite commentary and dialogue in and between issues.

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#### Articles:

As *IPJ* is now a refereed journal, articles are being posted on a different schedule from the rest of the journal. We will send out an e-mail announcement when the next set of articles are posted, and can be downloaded as a pdf file.

**Current articles are available with list on line at: <http://www.indigenouspolicy.org>.**

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Co-Editors:

Phil Bellfy, American Indian Studies Program, Michigan State University, 262 Bessey Hall, East Lansing MI 48824, (517)432-2193, bellfy@msu.edu.
Thaddieus (Tad) Conner, New Mexico State University: conner03@nmsu.edu.
Adam Dunstan, SUNY-Buffalo, Department of Anthropology, adamduns@buffalo.edu.
Jonathon Erlen, Ph.D., History of Medicine Librarian, School of Medicine, University of Pittsburgh (412)648-8927 ERLEN@pitt.edu.
Paula Mohan, Political Science Department, 305 Salisbury Hall, University of Wisconsin, Whitewater, Whitewater, WI 53190 (262)472-5772 (o), (608)233-2812(h), mohanp@mail.uww.edu.
Ignacio Ochoa, M.A., Director, Nahual Foundation / Fundación Nahual, A Think Tank by and for the Indigenous Peoples of the Americas, 2a Avenida Norte 6 B, Antigua Guatemala, Sacatepéquez. Guatemala.
Of: (502)7832-0167, Cell: (502)5985-4954, ignacio@fundacion-nahual.org, ochoa.ignacio@gmail.com, www.nahualfoundation.org, www.fundacion-nahual.org.
Michael Posluns, Daytime & Cell: (416)995-8613, mposluns@accglobal.net.
Annalise Romoser (410)230-2800 ext. 2845, aromoser@lwr.org.
Steve Sachs, 1916 San Pedro, NE, Albuquerque, NM 87110 (505)265-9388, ssachs@earthlink.net.
Jay Toth, M.A., Professor of Anthropology, SUNY Fredonia , jtoth@atlanticbb.net.
William (Bill) Taggart, New Mexico State University, Department of Government, Box 30001, MSC 3BN Las Cruces, NM 88003, (575)646-4935, witaggar@nmsu.edu.
Mark Trahant, Atwood Journalism Chair, University of Alaska Anchorage, marktrahant@thecedarsgroup.org.

ISN Cochairs:

Sheryl Lightfoot, University of Minnesota, slightft@umn.edu.
Laura Evans, evansle@u.washington.edu.

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**Advisory Council:**

Our thanks to all the members of the advisory council who review article submissions:  
David Armstrong, Phil Bellfy, JoLee Blackbear, Bennis Blue, Stephen Brandon, Patricia Campbell, Ward Churchill, Shane Day, Larry French, Susan Gorgan, Burke Hendrix, Thomas Hoffman, Sheree Hukill, Liliias Jarding, Ezra Rosser, Mickey Poslum, and Stefanie Wickstrom.

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***DEADLINE FOR SUBMISSIONS FOR THE NEXT ISSUE IS NOVEMBER 8***

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**INDIGENOUS POLICY PLANS FOR 2013-14 - WE INVITE YOUR HELP AND INPUT**

We wish you a fine summer. *Indigenous Policy* journal is available on the web with e-mail notification of new issues at no charge. *Indigenous Policy* puts out two regular issues a year (Summer and Winter), and since summer 2006, what will now be a fall issue serving as the *Proceedings of the Western Social Science Association Meeting American Indian Studies Section*. **The next issue of *IPJ* will be our annual Special Issue with the *Proceedings of The Western Social Science Association Meeting American Indian Studies Section, fall 2013*. We are seeking additional editors, columnists and commentators for regular issues, and editors or editorial groups for special issues, and short articles for each issue. A new development is that, thanks to long time compilers Jonathon Erlen and Jay Toth, we are **developing a regularly updated and searchable data base of Ph.D. Dissertations from Universities Around the World on Topics Relating to Indians in the Americas, compiled from *Dissertation Abstracts*, with recent dissertations also listed separately in each of our regular Summer and Winter issues.****



material for ISN's webpage in the areas of syllabi, directory of scholars, graduate and undergraduate programs, new publications, resources and related areas. Contact her at mohanp@mail.uww.edu.

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## UPCOMING EVENTS

### ISN PROGRAM AT APSA 2013 IN CHICAGO

**The Indigenous Studies Network (ISN) has two panels and a business meeting/networking session at the 2013 American Political Science Association (APSA) Meeting, August 29-September 1, 2013 in Chicago, IL, at the Hyatt/Sheraton. For more information contact ISN Program Coordinators: Laura Evans, [evansle@u.washington.edu](mailto:evansle@u.washington.edu) (University of Washington) and Sheryl Lightfoot (University of British Columbia): [sheryl.lightfoot@ubc.ca](mailto:sheryl.lightfoot@ubc.ca). More information about the APSA meeting can be found at: <http://www.apsanet.org/>. The program is subject to changes, and there may be additional Indigenopus related panels, papers or posters. Room locations will become available online to members of APSA, and will be in the printed program available at on-site conference registration in Chicago.**

Indigenous Studies Network **Panel 1**, Co-sponsored by 32 Race, Ethnicity, and Politics-20, **American Indian Politics –Sovereignty, Attitudes, and Political Institutions**, Saturday, Aug 31, 2013, 2:00 PM-3:45 PM

Chair: **Kevin M. Bruyneel**, Babson College, [kbruyneel@babson.edu](mailto:kbruyneel@babson.edu)

Author(s): **Richard C. Witmer**, Creighton University, [witmer@creighton.edu](mailto:witmer@creighton.edu), and **Joshua Johnson**, Stony Brook University, [jmj76858@gmail.com](mailto:jmj76858@gmail.com), “*American Indian Policy and State Institution Creation*”

**Jeffrey W. Koch**, SUNY-Geneseo, [koch@geneseo.edu](mailto:koch@geneseo.edu), “*The Political Orientations of American Indians*”

**Sherrill Stroschein**, University College London, [s.stroschein@ucl.ac.uk](mailto:s.stroschein@ucl.ac.uk), “*The Autonomous Structures of Native American Reservations*”

**Samantha Eldridge**, University of Utah, [samantha.eldridge@utah.edu](mailto:samantha.eldridge@utah.edu), “*Mobilizing American Indian Voters in the 21st Century*”

**David L. Weiden**, Hofstra University, [David.L.Weiden@hotmail.com](mailto:David.L.Weiden@hotmail.com), “*Judging in a Tribal Voice: An Analysis of the Decisions of the Rosebud Sioux Tribe Supreme Court*”

Discussant: **Kevin M. Bruyneel**, Babson College, [kbruyneel@babson.edu](mailto:kbruyneel@babson.edu)

Indigenous Studies Network **Panel 2**, Co-sponsored by 32 Race, Ethnicity, and Politics-21 **Global Indigenous Politics: Human Rights and Power**, Thursday, Aug 29, 2013, 2:00 PM-3:45 PM

Chair: **Sheryl R. Lightfoot**, University of British Columbia, [sheryl.lightfoot@ubc.ca](mailto:sheryl.lightfoot@ubc.ca)

Authors: **Fiona MacDonald**, University of Manitoba, [macdonaf@cc.umanitoba.ca](mailto:macdonaf@cc.umanitoba.ca), and **Ben Wood**, York University, [wood.benjamin@gmail.com](mailto:wood.benjamin@gmail.com), “*Indigenous Rights as Human Rights: Alliance or Assimilation?*”

**John Mark French**, DePaul University, [johnmfrench@gmail.com](mailto:johnmfrench@gmail.com), “*Taking Care of the Outside: Governmentality and the Status of Indigenous Peoples*”

**Raymond Foxworth**, University of Colorado, Boulder, [raymond.foxworth@colorado.edu](mailto:raymond.foxworth@colorado.edu), “*Indigenous Autonomy and Access to Public Goods in Latin America*”

**Claire Timperley**, University of Virginia, [timperley@virginia.edu](mailto:timperley@virginia.edu), “*Constellations of Indigeneity: The Power of Definition*”

Discussant: **Sheryl R. Lightfoot**, University of British Columbia, [sheryl.lightfoot@ubc.ca](mailto:sheryl.lightfoot@ubc.ca)

**ISN Business and Networking Meeting:** To be announced

#### OTHER INDIGENOUS PAPERS:

Race, Ethnicity, and Politics **32-2, Race and the Construction of the Early American State**, Thursday, Aug 29, 2013, 2:00 PM-3:45 PM

Author: **Paul Frymer**, Princeton University, [pfrymer@princeton.edu](mailto:pfrymer@princeton.edu), “*Two Removals: Comparing Indian*

***Removal with Black Colonization Efforts in 19th Century America***

Political Economy, **6-18 Political Economy over the Long Run**, Sunday, Sep 1, 2013, 8:00 AM-9:45 AM  
**Jacob Gerner Hariri**, University of Copenhagen, jgh@ifs.ku.dk, **Jeanet Bentzen**, Copenhagen University, Jeanet.Bentzen@econ.ku.dk, and **James A. Robinson**, Harvard University, jrobinson@gov.harvard.edu,  
***Indigenous Roots of Democracy?***

Comparative Politics 11-22, Subnational Political Regimes: Insights for the Study of Democratization and De-democratization, Friday, Aug 30, 4:15 PM  
**Tulia G. Falleti**, University of Pennsylvania, falleti@sas.upenn.edu and **Thea Nadja Riofrancos**, University of Pennsylvania, thea.riofrancos@gmail.com, ***The Right to Prior Consultation: Indigenous and Subnational Territorial Conflict in Bolivia and Ecuador***

12-34 Comparative Politics of Developing Countries, Accountability and Representation in India, Friday, Aug 30, 4:15 PM  
**Benjamin Pasquale**, New York University, bjpasquale@gmail.com, ***How Do Political Quotas for Indian Tribal Populations Shape Patterns of Civilian Support for Maoist Armed Groups and Overall Political Violence?*** “

31-8 Women and Politics Research, Assessing the Power of Presence: Do Women in Office Make a Difference?, Thursday, Aug 29, 10:15 AM  
**Christina Ewig**, University of Wisconsin, Madison, cewig@wisc.edu, ***The Power of Inclusion? The Impact of Women and Indigenous Politicians on Inequality in Peru***“

44-33 Comparative Democratization, The Limits of Participatory Democracy, Friday, Aug 30, 2:00 PM  
**Kelly Bauer**, George Washington University, kbauer2@gwu.edu, ***Public Participation and Institutional Evolution: Evaluating Chile's Indigenous Land Policy***”

**OTHER INDIGENOUS POSTERS:**

Poster Session D060-001, Thursday, Aug 29, 10:15 AM

**Darryl Omar Freeman**, Washington State University, darrylofreeman@wsu.edu, and **Thaddieus W. Conner**, Boise State University, tadconner@boisestate.edu, ***Persuading the Power: Citizenship and Culture Dilemmas for American Indians and African Americans in the Developing United States Society***  
***“American Indians and Risk Perceptions: Exploring Attitudes towards the Waste Isolation Pilot Plant in New Mexico”***

Poster Session D060-025: Poster Group: Does Citizenship Status Matter?, Thursday, Aug 29, 2:00 PM

**Gilda M. Rodriguez**, Kenyon College, gildar@ucla.edu, ***Translocal Citizenship: Political Membership and Migration in Indigenous Mexican Communities***  
**Marina Kaneti**, New School for Social Research, marina.kaneti@gmail.com, ***Metis and the migrant: theorizing citizenship practices beyond agonism, resistance, and dissensus***”

Poster Session D100-001, Saturday, Aug 31, 10:15 AM,

**Michael C. Davis**, mcdavis@hku.hk, ***Human Rights, Indigenous Rights: The Case of Tibet***”

**WSSA 2014 AMERICAN INDIAN STUDIES SECTION PROGRAM, April 2-5, 2014**

The **American Indian Studies Section of the Western Social Science Association**, at its 56<sup>th</sup> meeting, expects to again have a full program of panels at the association's meeting at the **2014 conference in Albuquerque, NM**, April 2-5, 2014, at the Hyatt Hotel. Paper/panel proposals for the American Indian Studies Section can either be submitted on line by going to: <http://wssa.asu.edu/>, or by sending them (preferably by E-mail) to AIS section

coordinator Leo Killsback: lkillsba@asu.edu. Deadline for proposals, including abstracts, is December 1, 2012. Information, which will eventually include the preliminary program, can be accessed on line at: <http://wssa.asu.edu>.

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**A list of Indigenous Language Conferences is kept at the Teaching Indigenous Languages web site at Northern Arizona University: <http://www2.nau.edu/jar/Conf.html>.**

**The D'Arcy McNickle Center for American Indian and Indigenous Studies at the Newberry Library**, in Chicago, has an **on going Newberry Library Seminar in American Indian Studies** on many Thursdays, 5:30-6:30 pm, as well as other occasional events. All papers are pre-circulated electronically to those who plan to attend the seminar. E-mail [mcnickle@newberry.org](mailto:mcnickle@newberry.org) or call (312)255-3564 to receive a copy of the paper. For more on this and other events at the Newberry Library go to: <http://www.newberry.org/mcnickle/AISSeminar.html>.

**3rd Annual Indigenous Peoples' Rights Course & Field Visit in Costa Rica** by Human Rights Education Associates (HREA) and University for Peace (UPEACE), Costa Rica is June 5 July 16 and August 5-11, 2013. For details go to: [http://www.hrea.org/index.php?base\\_id=1457&language\\_id=1](http://www.hrea.org/index.php?base_id=1457&language_id=1).

**The Northwest Indian Language Institute Summer 2013** is June 17-July 2, 2013, at the University of Oregon, Eugene, OR. For details go to: <http://pages.uoregon.edu/nwili/>.

**Fostering Indigenous Business and Entrepreneurship in the Americas Conference: FIBE 2013: "Mining in Indigenous Lands: Challenges and Opportunities"** will take place at the Templo da Boa Vontade, LBV Brasil, June 25-26 2013. For information and to make submissions contact [fibea@mgt.unm.edu](mailto:fibea@mgt.unm.edu), or visit <http://conferences.mgt.unm.edu/fibea/>, or <http://fibeamanaus.mgt.unm.edu/defaultENG.asp>.

**Summer in Montana:** The classes (each of which meets for one week) are taught by experts in the field and are designed for graduate students (including both law and Native Studies students), tribal leaders, attorneys, and those who work with and for Tribal and First Nations governments. You choose which courses and how many to take. All courses will be held at the Salish and Kootenai Tribal College on the Flathead Reservation in Montana. June 10-14 (morning) Child Welfare, Family Law, and the American Indian Child (Barbara Atwood, University of Arizona Law), June 10-14, 2013 (afternoon) Addressing Domestic Violence (Melissa Tatum, University of Arizona Law), June 17-21 (morning) Native Governments in Action (Steve Cornell, University of Arizona's Udall Center for Studies in Public Policy & Native Nations Institute) June 24-28 (morning) Indigenous People in the Inter-American Human Rights System (Rob Williams, University of Arizona Law), June 24-28 (afternoon) Indigenous Economic Theory (Ron Trosper, University of Arizona American Indian Studies). The PDF with details is at: [http://www.aisc.ucla.edu/news/c\\_n\\_resources/Summer%20in%20Montana%20flyer.pdf](http://www.aisc.ucla.edu/news/c_n_resources/Summer%20in%20Montana%20flyer.pdf).

**5<sup>th</sup> International 3L Summer School: Endangered Languages: From Documentation to Revitalization** may be in July 2013. For details visit: [http://www.ddl.ish-lyon.cnrs.fr/colloques/3l\\_2012/index.asp?Langues=EN&Page](http://www.ddl.ish-lyon.cnrs.fr/colloques/3l_2012/index.asp?Langues=EN&Page).

**NCAIS Summer Institute, Competing Narratives: Native American and Indigenous Studies Across Disciplines** at the Newberry Library in Chicago, IL, July 8, 2013 to Friday, August 2, 2013. For more information go to: [www.newberry.org/mcnickle](http://www.newberry.org/mcnickle).

**The 2013 National UNITY (United National Indian Tribal Youth) Conference: Technology and Tradition for Today and Tomorrow** is July 12-16, 2013 at the Marriott Warner Center in Woodland Hills, CA. **UNITY also holds occasional training sessions.** For details visit: <http://www.unityinc.org/>.

The **Eighth Annual Vine Deloria, Jr. Indigenous Studies Symposium** is at Northwest Indian College, July 8-13, 2013. For details and reservations contact Steve Pavlik, Co-coordinator, Native American Studies, Northwest Indian College, 2533 Kwina Rd., Bellingham, WA 98226 (360)392-4307, [spavlik@nwic.edu](mailto:spavlik@nwic.edu), [www.nwic.edu](http://www.nwic.edu).

**Society for the Study of the Indigenous Languages of the Americas (SSILA) Summer Meeting** will be July 12-14, 2013 in Ann Arbor, Michigan, LSA Summer Institute. Information about the Institute is available at: <http://lsa2013.lsa.umich.edu>. For information about SSILA go to: <http://linguistlist.org/ssila/AnnualMeeting/AnnualMeeting.cfm>.

**The 5<sup>th</sup> Native American and Indigenous Studies Association Annual Conference** at the University of Saskatchewan in July 13-15, 2013. For details go to: <http://naisa.ais.arizona.edu/>.

**The Fifth International Conference on Climate Change** is at the Waterfront Hotel, Port Louis, Maritius, July 18-19, 2013. The Climate Change Conference is for any person with an interest in, and concern for, scientific, policy and strategic perspectives in climate change. It will address a range of critically important themes relating to the vexing question of climate change. Plenary speakers will include some of the world's leading thinkers in the fields of climatology and environmental science, as well as numerous paper, workshop and colloquium presentations by researchers and practitioners. For details go to: <http://on-climate.com/the-conference>.

**NCAIS Graduate Student Conference at the Newberry Library in Chicago** is Friday, July 19, 2013 to Saturday, July 20, 2013. The Consortium offers graduate students from NCAIS member institutions an opportunity to present papers in any academic field relating to American Indian Studies at the Graduate Student Conference. We encourage the submission of proposals for papers that examine a wide variety of subjects relating to American Indian and Indigenous history and culture broadly conceived. For details go to <http://www.newberry.org/calendar/browse-by-month/2013-07>.

**Australex 2013: Endangered Words, and Signs of Revival** is in Adelaide, Australia, July 25-27, 2013. For details go to: <http://www.australex.org/a13.html>.

**Science, Democracy, and Community Decisions on Fracking, A Lewis M. Branscomb Forum**, is Thursday, July 25, 2013, 2:00-5:00 p.m. PDT/5:00-8:00 p.m. at UCLA in Los Angeles, CA. For more information go to: <http://action.ucsusa.org/site/R?i=1PAWUAFPvceM9OEOjWkR7A> or <http://action.ucsusa.org/site/R?i=NRz7cOy7qyQfzpTI7vuOOA>

**Language Endangerment: Language Policy and Planning** is July 26, 2013 at CRASSH, Alison Richard Building, 7 West Road, Cambridge CB3 9DT For details of the programme for visit: <http://www.crassh.cam.ac.uk/events/2163/>, or contact the conference organizers, Mari Jones: <mailto:mcj11@cam.ac.uk>, and Christopher Connolly: <mailto:cpc37@cam.ac.uk>.

The **19<sup>th</sup> commemoration of the International Day of the World's Indigenous Peoples** will be held on August 9, 2013 at the UN Headquarters in New York, organized by the Secretariat of the Permanent Forum on Indigenous Issues DSPD/DESA, the United Nations Department of Public Information, and the NGO Committee on the Decade of the World's Indigenous Peoples. For details go to: [www.un.org/indigenous](http://www.un.org/indigenous).

**48<sup>th</sup> International Conference on Salish and Neighboring Languages** will be August 9-11, 2013 at the University of Victoria, Victoria, B.C. More information is available at: <http://icsnl.org/>.

**Puliima National Indigenous Language and Technology Forum 2013** is August 28-29, 2013, in Melbourne, Australia. For details go to: <http://www.puliima.com>.



**Language is Life Biennial Conference** is at Sausalito, CA, September 13-15, 2013. For details, visit: <http://www.aicls.org/>.

The **39th Anniversary International Indian Treaty Council Conference**, will likely be in October 2013. Details will eventually be posted at: <http://www.treatycouncil.org>.

**Foundation for Endangered Languages EL XVII**. At Carleton University, Ottawa, Canada, October 1-4, 2013. For details visit: <http://www.ogmios.org>.

**70th Annual Convention of the National Congress of American Indians (NCAI)**, is October 13-18, 2013, in Tulsa, OK. For details go to <http://www.ncai.org/events/2013/10/13/70th-annual-convention-and-marketplace>.

The Indigenous Leadership Development Institute, Inc. (ILDI) is holding the **2013 World Indigenous Business Forum** in Windhoek, Namibia, October 14-18, 2013. For details visit: <http://wibf.ca/>.

**International Conference on Endangered Languages in Europe** is at Minde, Portugal, October 17-18th, 2013. For information go to: <http://www.cidles.eu/events/conference-ele-2013/>.

The Latin American Studies Association section on Ethnicity, Race, and Indigenous Peoples is putting on The **Third Conference on Ethnicity, Race, and Indigenous Peoples in Latin America and the Caribbean**, October 23- 25, 2013, in Oaxaca, México. For details go to: <http://www.tercera-conferencia-erip-lasa-2013.org/>.

**44th Annual National Indian Education Association** is in Rapid City, South Dakota, October 30 – November 2, 2013. For details go to: <http://www.niea.org/events/overview.php>.

**La Cosecha Dual Language Conference** is in Albuquerque, NM, November 6-9, 2013. For information visit: <http://www.dlenm.org/lacosecha2013/>.

**Tenth Native American Symposium** and a performance event yet to be chosen is November 7- 8, 2013, possibly at Southeastern Oklahoma State University in Durant, Oklahoma. For details visit [www.se.edu/nas/](http://www.se.edu/nas/), or contact Dr. Mark B. Spencer, Department of English, Humanities, and Languages, Box 4121, Southeastern Oklahoma State University, Durant, OK 74701-0609, [mbspencer@se.edu](mailto:mbspencer@se.edu).

The **18th La Cosecha Annual Dual Language Conference** is at the Convention Center in Albuquerque, NM, November 6-9, 2013. For information visit: <http://dlenm.org/lacosecha/>.

**Tenth Native American Symposium, Native Ground: Protecting and Preserving History, Culture, and Customs** is at Southeastern Oklahoma State University, Durant, OK, November 14-15, 2013. For details go to: <http://homepages.se.edu/nas/>.

**6th Annual Tusweca Tiospaye 2013 Lakota Dakota Nakota Language Summit: "Uniting Our First Nations to Save Our Languages"** is November 14-16, 2013, Ramkota Hotel and Convention Center - Rapid City, SD. For details visit: <http://tuswecatiospaye.org/node/232>.

**STEAM (Science Technology Engineering Arts and Math): The Wisdom of Our Languages & Cultures 39th Bilingual Multicultural Education / Equity Conference**, Anchorage, AK, USA, November 20-22, 2013. For details visit: <http://bmec.net/>.



MEES **Australia** in cooperation with the Eduarda Foundation, Inc. launches the **2013 National Indigenous Health Conference** to be held in Cairns on the 25th – 27th November, 2013. For details contact: Mike Edubas: edubasmike@yahoo.com.

**First Nations Language Keepers Conference** May be in December 2013 and will be providing information soon on this year's annual meeting at: <http://www.sicc.sk.ca/2012-sicc-first-nations-039;-language-keepers-conference.html>.

**Language revitalization in a Russian & European context: Exploring solutions for minority language maintenance** is in Helsinki, Finland, December 16-18, 2013. For information go to: <http://blogs.helsinki.fi/minor-urus/conference2013/>.

**21st Annual Stabilizing Indigenous Languages Symposium** may be at the University of Hawaii at Hilo sometime around mid-January 2014. Information will become available at [www.uhh.hawaii.edu](http://www.uhh.hawaii.edu).

The **Tenth International Conference on Environmental, Cultural, Economic and Social Sustainability** will be held January 22-24, 2014 at the University of Split, split, Croatia. For details go to: <http://www.SustainabilityConference.com>.

The 2014 **Conference of the National Association of Native American Studies** will likely be in February 2014. For more information, please visit the following: [www.NAAAS.org](http://www.NAAAS.org).

The **United Nations 2014 Indian Tribal Youth Midyear UNITY Meeting** will likely be in February 2014. For details go to: <http://www.unityinc.org/>.

The **Fifth International Conference on Heritage/Community Languages** may be in February 2014. Information will likely be at: <http://www.cal.org/heritage/involved/past.html>.

**National Association for Bilingual Education 43rd Annual Conference** is in San Diego, CA, February 13-15, 2014. For information go to: <http://nflrc.hawaii.edu/icldc/2013/call.html>.

**4th International Conference on Language Documentation and Conservation (ICLDC)**: may be at the University of Hawaii at Manoa, Honolulu, HI, February or March 2014. For details visit: <http://nflrc.hawaii.edu/ICLDC/2013/>.

The **17<sup>th</sup> Annual National Indian Education Association (NIEA) Legislative Summit** is likely in February 2014, in Washington, D.C. For information go to: <http://www.niea.org/Membership/Legislative-Summit.aspx>.

**Native/Indigenous Studies Area of the 2014 Southwest Popular Culture American Culture Association (Formerly the Southwest/Texas Popular Culture/American Culture Association) 35th annual meeting** is February 19-22, 2014 in Albuquerque, NM. Further details can be found at: <http://swtxpca.org/https://mail.msu.edu/cgi-bin/webmail?timestamp=1187041691&md5=r%2B8zeYT8m2RajaxaGpmkeQ%3D%3D&redirect=http%3A%2F%2Fwww.swtexaspca.org%2F>.

**National Indian Gaming Association (NIGA) Indian Gaming 2014**, may be in March 2014. For information go to: <http://www.indiangaming.org/events/tradeshows/index.shtml>.

The **37<sup>th</sup> Annual California Conference on American Indian Education** may be in March 2014 at Humboldt State University, Arcata, CA. For more information contact: Achel McBride: (530)895-4212 x 110, Irma Amaro: (707)464-3512, or Judy Delgado at 916-319-0506, [judelgado@cde.ca.gov](mailto:judelgado@cde.ca.gov), or go to:

<http://www.aisc.ucla.edu/admin/gcal.shtml>.

**The 10<sup>th</sup> Annual Conference on Endangered Languages and Cultures of the Americas** may be at the University of Utah, Salt Lake City, UT, in March 2014, put on by the Center for American Indian Languages, at the University of Utah, which also runs a series of workshops. For details go to: <http://www.cail.utah.edu>, or contact Jennifer Mitchell: [cail.utah@gmail.com](mailto:cail.utah@gmail.com).

**2014 NCAI Executive Council Winter Session** is March 4-6, 2014, in Washington, DC. For information go to: <http://www.ncai.org/conferences-events>.

**Second International Conference on Heritage/Community Languages** is March 7-8, 2014 at Covel Commons at UCLA, Los angles, CA, For details visit: <http://nhlrc.ucla.edu/events/conference/2nd/>.

**The National Association for Ethnic Studies 42nd Annual Conference** is being planned and may be in April 2014. For details contact National Association for Ethnic Studies (NAES), Department of Ethnic Studies, Colorado State University, 1790 Campus Delivery, Fort Collins, CO 80523-179, [www.ethnicstudies.org](http://www.ethnicstudies.org).

**The 10h Giving the Gift of Language: A Teacher Training Workshop for Native Language Instruction and Acquisition** may be in April 2014. For information visit: <http://www.nsilc.org/index.htm>.

**Alaska Native Studies Conference 2014** imay be in April 2014 at the University of Alaska Anchorage campus. For details go to: <http://alaskanativestudies.org>.

**Tenth Annual Southeast Indian Studies Conference** is April 10-11 2014, at **University of North Carolina at Pembroke**. For more information contact Alesia Cummings at (910)521-6266, [alesia.cummings@uncp.edu](mailto:alesia.cummings@uncp.edu) or Dr. Mary Ann Jacobs, (910)521-6266, [mary.jacobs@uncp.edu](mailto:mary.jacobs@uncp.edu).

**American Indian Cultures and Literatures area of the PCA/ACA (Popular Culture Association/American Culture Association) National Conference 2014** is in, Chicago, IL, April 16 – April 19, 2014. For details. Visit: <http://www.pcaaca.org/conference/national.php>.

**The Native American Student Advocacy Institute** may be in May 2014. For details visit: <http://nasai.collegeboard.org/>.

The **Thirteenth Session of the UN Permanent Forum on Indigenous Issues** ill probably be in May, 2014, at UN Headquarters in New York. For details go to: <http://social.un.org/index/IndigenousPeoples.aspx>.

**21st Annual Stabilizing Indigenous Languages Conference and 5<sup>th</sup> Western Symposium on Language Issues (WeSLI)** may be in June 2014. For details go to: <http://jan.ucc.nau.edu/~jar/AIE/conf.html>.

**The American Indian Teacher Education Conference** may be at the College of Education, Northern Arizona University, Flagstaff, Arizona, in June 2014. For details go to: <http://jan.ucc.nau.edu/~jar/AIE/conf.html>.

**The Society of American Indian Government Employees (SAIGE)** is a national non-profit organization that advocates for American Indian and Alaska Native federal employees. SAIGE will likely host its **11th annual national training program** in June 2014, Spokane,. Information will be available from the Society of American Indian Government Employees, P.O. Box 7715, Washington, D.C. 20044, [www.saige.org](http://www.saige.org).

**Eighth Heritage Language Research Institute: Heritage Speakers and the Advantages of Bilingualism** may be in June 2014, at the University of California, Los Angeles. For details go to: <http://nhlrc.ucla.edu/>.

**Dene (Athabaskan) Language Conference** may be in June, 2014. For more information, please visit: <http://www.uaf.edu/alc/>.

The **2014 International Conference of Indigenous Archives, Libraries, and Museums** is **June 9-12, 2014 at Renaissance Palm Springs, CA**. For information, to view past conference programs and/or submit a proposal before the November 15 deadline, visit: <http://www.atalm.org>. Please direct questions to [atalminfo@gmail.com](mailto:atalminfo@gmail.com).

**2014 NCAI Mid Year Conference** is June 8-11, 2014, in Anchorage, AK. For information visit: <http://www.ncai.org/conferences-events>.

The **United Nations high-level plenary meeting of the General Assembly: the World Conference on Indigenous Peoples** is September 22-23, 2014, at UN Headquarters in New York City. The main objective of the World Conference on Indigenous Peoples is to share perspectives and best practices on the realization of the rights of indigenous peoples and to pursue the objectives of the United Nations Declaration on the Rights of Indigenous Peoples. For details visit: <http://social.un.org/index/IndigenousPeoples/WorldConference.aspx>.

The Indigenous Leadership Development Institute, Inc. (ILDI) is holding the **2014 World Indigenous Business Forum** in Guatemala City, Guatemala, Possibly in October 2014. For details visit: <http://wibf.ca/>.

The **2014 Lakota, Dakota, Nakota Language Summit** is in Rapid City, SD, November 13-15, 2014. For details go to: <http://www.tuswecatiospaye.org/>.

The **2015 Conferences of the International Society for Language Studies** biannual meeting will be announced in fall of 2013. For more information go to <http://www.isls.co/index-2.html>.

The **NCAI 2015 Executive Council Winter Session** is in March, 2015 at the L'Enfant Plaza Hotel, Washington, DC. For details go to: <http://www.ncai.org/Conferences-Events.7.0.html>.

The **NCAI 2015 Mid Year Conference** is in June, 2015. For details go to: <http://www.ncai.org/Conferences-Events.7.0.html>.

The **2015 Lakota, Dakota, Nakota Language Summit** is in Rapid City, SD, November 19-21, 2015. For details go to: <http://www.tuswecatiospaye.org/>.

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## ONGOING ACTIVITIES

Steve Sachs

### Environmental Activities

**350.org** (at: <http://350.org>)'s "Bill McKibben, reported from Washington' DC's rally, February 17, 2013, "Today was the day. Finally, powerfully, decisively -- the movement to stop climate change has come together. **This was the biggest climate change rally in US history.** By our count, 50,000 people gathered by the Washington Monument and then marched past the White House, **demanding that President Obama block the Keystone XL pipeline and move forward toward climate action.**" **Global Exchange** ran a "California Communities Rising Against Fracking" Tour: San Francisco to San Diego, April 15-22, 2013 (<http://www.globalexchange.org/communityrights/fracking/tour>). The weekend of April 20, 2012, **350.org put on a nationwide movie premiere of, *Do The Math: The Movie*, that tells the story of the growing climate**

**movement** in 42 minutes -- from the new fossil fuel divestment campaign to the fight against the Keystone XL. For details go to: <http://act.350.org/go/2963?t=1&akid=3022.51426.k8kqaW>.

**Jon Queally, “Tar Sands Blockaders Take Over TransCanada Offices in Texas, Elsewhere: Actions in Texas, Massachusetts and Maine target pipeline company and its financial backers, “Common Dreams, January 7, 2013, <http://www.commondreams.org/headline/2013/01/07-1>, reports, “Members and supporters of the group Tar Sands Blockade staged public actions in Texas, Massachusetts, Maine and elsewhere on Monday in a series of independent protests at offices of the TransCanada Corporation—which is building the Keystone XL pipeline—and financial institutions supportive of tar sands infrastructure projects, such as TD Bank. The largest action took place in Houston, Texas... but others sprang up as the day progressed. Campaigners in Westborough, Massachusetts—reportedly students—occupied the inside the entryway at the company's offices and refused to leave. The group explained their motivations in a prepared statement, which read in part: ‘Our actions today aim to raise awareness and build momentum to halt the destruction that fossil fuel corporations knowingly cause. Science, and economics and logic provide an obvious imperative for action. However, even overwhelming factual evidence has not compelled our political leaders to stand up to these corporations. Our elected representatives have not yet found the courage to draw a clear line in the sand and prevent the construction of the Keystone XL pipeline.’ Meanwhile, citing the financial institution's investment in the Keystone XL pipeline project, several activists in Portland, Maine, blocked the entrance to a local branch of TD Bank/... A gathering was also reported in Detroit, Michigan.” Tar Sands Blockade “has been staging ongoing actions in Texas against the pipeline since last year, including an eighty-five day blockade in Winnsboro, Texas which saw a series of actions and numerous arrests surrounding a centralized encampment that resulted in a re-routing of the pipeline's route. A more a recent tree-sit protest last week that ended in the arrest of several activists in Diboll, Texas.”**

In spring of 2013 there were a number of developments in tribal opposition to the Keystone Pipeline and tarsands mining in the U.S. and Canada. As Indian nations complained about not being consulted by the U.S. Department of State in its process of preparing a report on the current Keystone Pipeline proposal, **the Ihanktonwan Oyate/Yankton Sioux General Council of South Dakota passed resolutions, in April, affirming their opposition to the Keystone XL Pipeline, and declaring that consultation with tribes by the State Department in regards to the pipeline project has been flawed and has not lived up to standards established in the UN Declaration on the Rights of Indigenous Peoples.** The State Department has cited 159 consultations have taken place in their Supplemental Environmental Impact Statement, which the Ihanktonwan dismiss as “gross misrepresentations” since true consultation with the Ihanktonwan would need to occur on their homelands and with their General Council, according to tribal custom. The Resolution asserts that the State Department has neglected its legal obligation to engage in Nation to Nation consultation in its review of the project, and has not properly identified cultural and historic sites on their homelands to ensure their protection if the pipeline is approved. The Council has officially denounced the approach taken by the State Department thus far and demands that proper consultation be carried out. Earlier, on January 25<sup>th</sup>, 2013. **The Ihanktonwan signed an International Treaty with the Pawnee Nation and seven other Indigenous Nations in the US and Canada to protect sacred lands from tar sands development.** The treaty states, "our laws define our solemn duty and responsibility to our ancestors, to ourselves and to future generations, to protect the lands and waters of our homelands, and we agree to mutually and collectively oppose tar sands projects which would impact our territories, including but not limited to the TransCanada Keystone XL pipeline." The statement of the Indigenous Environmental Network opposing tar sands mining and the Keystone Pipeline is at: [www.ienearth.org](http://www.ienearth.org). See also: [www.tarsandsaction.org](http://www.tarsandsaction.org). Cultural Survival's statement of opposition to Keystone is at: <http://www.culturalsurvival.org/take-action/keystone> (“Campaign Update– Keystone: State Department Failing to Consult Tribes,” Cultural Survival, May 8, 2013, <http://www.culturalsurvival.org/news/campaign-update-keystone-state-department-failing-consult-tribes>).

**The Indigenous Environmental Network** was engaged, in May 2013, in a “campaign to ‘Stop California AB32 / REDD! Reduce Emissions at Home AND Save Tropical Forests,’” saying California

lawmakers need to know you want them to tackle BOTH deforestation AND reduce industrial emissions at home. AB 32 will also prevent progressive Californian companies from taking advantage of the benefits of new technologies and innovations. Unfortunately, the recommendations provided by the REDD Offsets Working Group (ROW) do not include reductions in greenhouse gas emissions for Californians. Instead, their proposal is to use rain forests as an offset and not a reduction of industrial emissions. The Indigenous Environmental Network along with over two dozen national and international environmental groups have been working to prevent catastrophic climate change, and advance the protection of forests, while working toward social, environmental, and climate justice for all marginalized and under-served communities worldwide. Doing one and not the other is simply not enough! The scientific evidence is clear: Climate change is real and in order to have a fighting chance of stopping the pending catastrophic consequences, we need bold action to reduce industrial emissions and tackle deforestation at the same time. **An alternative to offsets and ones that would make a real difference would be changing policies in regard to procurement, public investment, fuels, and other issues, which, exacerbates rain forest destruction by increasing demand for petroleum, timber, soy, paper, palm oil, and other commodities. By allowing industry to buy international forest offsets, the amount of industrial emissions within the state would be greater than otherwise allowed by law, exposing people in California to greater health and environmental risks.** The problem with using tropical forests for carbon offsets is that their ability to hold or maintain carbon isn't reliable or static, and is determined by climate change itself, along with degradation from pests, and commercial use. However, emissions coming from smokestacks, (end-of-pipe emissions), remain in the atmosphere for centuries. For these reasons, and more, the inclusion of sub-national forest offsets in California's cap and trade program are likely to increase emissions relative to AB 32's objectives. Tropical forests are the homes of Indigenous and Traditional communities. They have a deep historical connection to their homelands. These forests are where they have cultivated their unique social, economic, and cultural relationships. **Independent investigations have found several cases of human rights abuses as a result of the promotion of international forest offsets. These concerns and opposition is now being voiced against the proposal by ROW from indigenous peoples and local communities in both Chiapas, Mexico and in Acre, Brazil where California would most likely obtain its initial credits.** Similar concerns have arisen in Nigeria and Indonesia, which are under consideration for future inclusion in the program. The key features of the proposed REDD program, including improved forest governance, the development of relevant legal frameworks, and the rights of indigenous peoples and local communities (including their full, effective participation and free, prior, informed consent), are beyond the regulatory authority of the State of California. For more information planet visit: [http://www.mynewsletterbuilder.com/tools/refer.php?s=51853f2faf5225942c001e66&u=29352639&v=3&key=07a9&skey=be32f8c7f6&url=http%3A%2F%2Fwww.ienearth.org%2Fstop-california-redd-now%2F%3Futm\\_medium%3Demail%26utm\\_source%3DMyNewsletterBuilder%26utm\\_content%3D](http://www.mynewsletterbuilder.com/tools/refer.php?s=51853f2faf5225942c001e66&u=29352639&v=3&key=07a9&skey=be32f8c7f6&url=http%3A%2F%2Fwww.ienearth.org%2Fstop-california-redd-now%2F%3Futm_medium%3Demail%26utm_source%3DMyNewsletterBuilder%26utm_content%3D).

**Students at Swarthmore College are in the vanguard of a new disinvestment movement, as they have been asking the college to remove from its endowment holdings stocks of firms contributing strongly to global warming induced climate change** (Justin Gillis, "The Divestment Brigade," *The New York Times*, December 5, 2012).

"Obama Asked To Stop Arctic Drilling," *EARTHJUSTICE e.BRIEF*, January 2013, <http://action.earthjustice.org/site/R?i=hJZQC-hhBh0YK0X70RnRqA>, states, **"As President Obama embarks on his second term, tens of thousands of Earthjustice supporters are asking that he suspend plans to allow drilling in the Arctic Ocean. Furious weather forced a Shell drill ship onto the rocks, triggering a 60-day government investigation."** **"Earthjustice is fighting in court to prevent a new onslaught of reckless offshore Arctic drilling."**

**Physicians for Social Responsibility (PSR)** was engaged, in March 2013, in a campaign to **"tell President Obama to establish stronger limits on fine particle pollution, to protect our health and save lives.** (<https://secure2.convio.net/psr/site/Advocacy?pagename=homepage&page=UserAction&id=889&autologin=true&AddInterest=2021&JServSessionIdr004=iiajtseo3.app207b>).

"Campaign Update: Canada-Tsilhqot'in Nation Prepares for Public Hearings for Controversial New

Prosperity Mine Proposal,” Cultural Survival, June 20, 2013, <http://www.culturalsurvival.org/news/campaign-update-canada-tsilhqotin-nation-prepares-public-hearings-controversial-new-prosperity>, reported, **“The Tsilhqot’in National Government responded to today’s announcement that Federal Review Panel Hearings for the New Prosperity Mine proposal will commence in 30 days, amidst continued controversy over Taseko Mines Ltd.’s refusal to provide critical information directly requested by the Panel .Concerns raised by the Panel include whether the project would cause Teztan Biny (Fish Lake) to drain into a massive open pit mine, and the company’s refusal to use the results of a groundwater pumping test from 1994, which showed high rates of water movement in the ground between the Lake and the proposed pit. Other concerns included the amount of uncontrolled contaminated seepage draining from the tailings into Teztan Biny, as well as contamination of Tsilhqot’in food sources. ’The Tsilhqot’in Nation looks forward to welcoming the Panel into our communities’, said Chief Joe Alphonse, Tribal Chair for the Tsilhqot’in National Government. ‘However, it will be a difficult process because our communities still cannot understand why we have to go through all of this again, given that this new proposal would be just as devastating for our culture and our lands as the rejected Prosperity proposal.’“ “Besides the threat of Teztan Biny (Fish Lake) draining away, which was raised by Natural Resources Canada, we also continue to see serious concerns being raised by federal and provincial government experts. These include environmental and cultural concerns such as contamination of our lakes and streams. We are confident that like the last Panel, this federal review will recognize the serious threat that such a mine poses in such a sacred place.”**

“Campaign Update– Mexico: Wixarika Highlight Human Rights Violations,” Cultural Survival, May 7, 2013, <http://www.culturalsurvival.org/news/campaign-update-mexico-wixarika-highlight-human-rights-violations>, reported, **“The Wirikuta Defense Front released their annual report on the mining concessions in their territory and the threats they represent to their people and have presented the information to James Anaya, the UN Special Rapporteur for Indigenous Peoples on April 18th. They asked Anaya to call on the government of Mexico to carry out concrete actions to protect the territory of Wirikuta, and an end to the violations of human rights against the Wixarika people, who hold Wirikuta as a sacred site and have fought for years for its protection from Canadian mining company First Majestic Silver.”**

Worldwide protests to stop Amazon gas project expansion,” Survival International, April 19, 2013, <http://www.survivalinternational.org/news/9157>, reported, **that Survival International supporters protested outside Peruvian embassies and consulates around the world, April 23, 2013, calling for an end to the deadly expansion of the Camisea gas project in Peru’s Amazon rainforest, which puts the lives of uncontacted Indians at risk.** Protesters carried placards and gas masks symbolizing the lethal effects of the Camisea project on uncontacted tribes in the area, and handed petitions to Peruvian embassies and consulates in London, San Francisco, Berlin, Madrid and Paris. The urgent petition asks Peru’s President to stop outsiders and companies from invading uncontacted tribes’ land, and has been signed by over 120,000 people around the world. Uncontacted Indians are extremely vulnerable to diseases brought in by outsiders – initial exploration in the Camisea block in the 1980s led to the deaths of half the Nahua tribe. Camisea lies in the heart of the Nahua-Nanti Reserve for several uncontacted and isolated tribes, and is the buffer zone to the Manu National Park, considered by UNESCO to be ‘the most biodiverse place on earth’. It is Peru’s largest gas project, and is run by Argentina’s Pluspetrol, US’s Hunt Oil and Spain’s Repsol. In April, **Peru’s Ministry of Energy was set to approve a massive expansion of the project, despite a UN call for the ‘immediate suspension’ of the work, that is likely to prove devastating for the tribes.** Apart from the risks of diseases from first contact, the gas work also threatens to destroy the forest and scare away the game on which the uncontacted Indians depend for survival.

“Brazilian Indians occupy Congress in land protest,” Survival International, April 19, 2013, <http://www.survivalinternational.org/news/9172>, reports, **On Brazil’s annual ‘Day of the Indian’ today, hundreds of Brazilian Indians of various tribes invaded and occupied part of the country’s Congress, to protest at attempts to change the law regarding their land rights. The Indians are outraged about a proposed constitutional amendment that would weaken their hold on their territories. They fear that ‘PEC 215’, by giving Congress power in the demarcation process, will cause further delays and obstacles to the**



**recognition and protection of their ancestral land. The Indians say they will not stop protesting until the planned amendment is scrapped.** Alongside Directive 303, amendment 215 is a result of pressure by Brazil's powerful rural lobby group which includes many politicians who own ranches on indigenous land. It could spell disaster for thousands of indigenous peoples who are waiting for the government to fulfill its legal duty to map out their lands. Whilst Brazil's sugar-cane industry booms, benefitting from plantations on indigenous land, the Guarani Indians of Mato Grosso do Sul suffer from malnutrition, violence, murder and one of the highest suicide rates in the world. Guarani spokesman Tunico Benites explains, 'Guarani suicide is happening and increasing as a result of the delay in identifying and demarcating our ancestral land'. Elsewhere in the country, indigenous peoples are fighting for their land to be protected from waves of invasions at the hands of loggers, ranchers, miners and settlers. The Awá Indians in the north-eastern Amazon are now Earth's most threatened tribe. The uncontacted Awá will not survive unless action is taken now to protect their forest. The day before "Indian Day", **the Yanomami association Hutukara organized a demonstration of about 400 Yanomami in Ajarani, in the eastern part of their territory. This area has been occupied by cattle ranchers for decades. Despite a court order to leave, they have refused to do so.** Hutukara's vice-president Maurício Ye'kuana said, 'The presence of the ranchers in the region has caused huge harm to the indigenous people and to the environment, such as deforestation and burning of the forest. We want an end to this.' Meanwhile **Munduruku Indians have been protesting for months against the proposal to build a series of hydro-electric dams along the Tapajós, a large tributary of the Amazon.** In March, 2013, the military and police launched 'Operation Tapajós' in an attempt to stamp out the Indians' protests against the arrival of technical teams surveying the area for the first dam, São Luis do Tapajós. On April 16 **a federal judge ordered that this operation be suspended, and that the Indians and other affected communities be consulted before technical studies are carried out. The judge also ruled that an environmental impact assessment should be carried out on the cumulative impact of all the dams planned for the Tapajós.**

"Campaign Update- Bangladesh: Santa Claus Delivered Coal to GCM Headquarters," Cultural Survival, January 7, 2013, <http://www.culturalsurvival.org/news/campaign-update-bangladesh-santa-claus-delivered-coal-gcm-headquarters>, reported, "On December 20th, **activists protesting an open-pit coal mine in Phulbari, Bangladesh dumped coal at the entrance to mining company GCM Resources in London. The company was holding their Annual General Meeting. One activist dressed as Santa Claus gave company chairman Gerard Howell a present of a stocking full of coal. Two activists dressed as GCM Resources executives kicked over a makeshift hut and covered a woman in coal as part of a street theatre outside the door. Police arrested them for breach of the peace but released them shortly after the demonstration.** At the same time, inside the meeting, an activist dressed as Santa from Climate Justice Collective gave a stocking full of coal to the company chairman saying, "Ho, ho, ho, have you been naughty or nice this year? This year you threatened to evict 220,000 people so you could profit from polluting the climate. St Nick always knows - yours stocking's full of coal!" The meeting was quickly broken up following the intervention from Santa. Meanwhile, activists from the Bangladeshi community and other organizations including World Development Movement and London Mining Network asking numerous questions about the highly contentious Phulbari project and its massive human rights impacts. Stock prices had already been affected by the time the meeting took place, on word of the protest published a day earlier by the UK's *Daily Mail*. In 2006 **three people were killed and over 200 injured when paramilitary troops fired on a protest of some 80,000 demonstrators in Phulbari. If completed, it has been estimated that the project would destroy the homes, lands, and water sources of as many as 220,000 people, and forcibly evict an estimated 130,000 people.** Seven Special Rapporteurs of the United Nations issued a joint UN press release on 28 February, 2012, calling for an immediate halt to the project on the grounds that it threatens the fundamental human rights of hundreds of thousands of people, including entire villages of indigenous people, and poses "an immediate threat to safety and standards of living. "GCM Resources, a UK-based multinational company, is moving to implement the project despite the human rights and environmental concerns that have been raised. "Good News- Bangladesh: UK Accepts Complaint over Coal Mine," Cultural Survival, June 14, 2013, <http://www.culturalsurvival.org/news/good-news-bangladesh-uk-accepts-complaint-over-coal-mine>, reported, "British company GCM Resources was dealt a serious blow today as the Organization for Economic

**Cooperation and Development (OECD) agreed to consider complaints regarding severe human rights violations associated with the company's planned coal mine in Bangladesh."**

The **Pew Charitable Trusts** was involved in a campaign, in June 2013, to protect sharks, saying, **"The latest scientific research estimates that approximately 100 million sharks are killed annually. Because sharks grow slowly, mature late, and produce few young, this level of fishing is unsustainable.** The United States has taken steps to reduce the overfishing of sharks both domestically and internationally, which is commendable. **The Shark Conservation Act of 2010 closed loopholes that allowed shark finning to continue, and should, if implemented as intended, be a step forward in U.S. shark conservation. However, the proposed rule to implement the act, if approved as written, could overturn state laws that are more restrictive than the federal law.** Bans on shark fin trade in California, Delaware, Hawaii, Illinois, Maryland, Oregon, Washington state, American Samoa, Guam, and the Northern Mariana Islands were enacted after considerable public input, in an effort to enhance existing U.S. shark protections. In most jurisdictions, these laws ban the possession, sale and trade of shark fins, thus preventing fins from finned or unsustainably caught sharks from being sold in their territory. Exemptions were made to meet the unique needs of each jurisdiction. The intent of the Shark Conservation Act was to protect sharks. Any rules to implement the federal law that result in overturning more restrictive state or territorial laws could put already stressed shark populations at additional risk (<https://secure3.convio.net/pew/site/Advocacy?cmd=display&page=UserAction&id=1748&JServSessionIdr004=zr09kf6643.app338a>).

**Physicians for Social Responsibility (PSR) has begun a series of webinars on the health effects of climate change** via: <http://action.psr.org/site/R?i=d1niQFBxlmww4yj7k0ba-g>.

### **U.S. Activities**

**The National Congress of American Indians (NCAI) filed an *amicus curiae* brief supporting the claims of unequal access to the ballot box by Montana Natives, March 26, 2013, in *Wandering Medicine v. McCulloch* before the Ninth Circuit Court of Appeals. The Department of Justice is also supporting the Montana Indians (Stephanie Woodward, "NCAI, DOJ Weigh in on Behalf of Native Voting-Rights Plaintiffs," ICTMN, April 4, 2013, <http://indiancountrytodaymedianetwork.com/2013/04/04/ncai-doj-weigh-behalf-native-voting-rights-plaintiffs-148576>).** NCAI is operating **the Native Financial Education Initiative**, providing information for tribes and their citizens to enhance financial capabilities in Indian Country, including the work of the Native Financial Education Coalition, Financial Literacy Month (April), and NCAI's Protect Native Money Campaign and Tribal Exchange Stock Market Game. NCAI stated May 23, 2013, that it **supports fixes in the Native American Vets' Memorial Act of 2013** introduced by Senator Schatz of Hawaii **to clarify the Native American Veterans' Memorial Establishment Act of 1994, amending the bill to allow for the completion of the long standing project.** The project has encountered a number of obstacles since the legislation's passage, including limitations placed on the involvement of the National Museum of the American Indians (NMAI). The new language removes a number of technical barriers that have hindered completion and allows for the memorial to be built adjacent to NMAI, not inside the Museum as originally proposed. Additionally, NMAI would be able to participate in raising funds for the effort. On May 2, 2013, NCAI Released its public **comments on the State Departments XL Pipeline Report, saying the State Department's Draft Environmental Impact Statement, saying it does not address potential impact to tribal water resources, sacred places, and lacks plans for emergency response coordination with tribes.** NCAI joined Indian Country in converging on Washington, DC during the week of April 22, 2013 "to engage the federal government in a constructive dialogue about the federal government's trust responsibility and federal budget obligations to tribal nations. The message was clear and firm - "Honor the Promises to Tribal Nations in the Federal Budget." In making the unified call, **NCAI released a new paper"** (see Federal Indian Budgets, below) "outlining how deep sequestration cuts and proposed cuts to the FY 2014 budget would impact Indian Country." On April 22, NCAI and seven regional tribal organizations hosted a Joint Tribal Budget Briefing on Capitol Hill, and tribal representatives and Indian organizations testified at House and Senate budget hearings, April 22. **NCAI's proposed 2014 Federal Indian Budget, developed in**

collaboration with tribal leaders, is available at: <http://www.ncai.org/resources/ncai-publications/indian-country-budget-request/fy2014/fy14-indian-country-budget-request>. Also in April, NCAI announced the expansion of its Native Financial Education Initiative, including support of the Native Financial Education Coalition (NFEC) and targeting education activities with tribes across Indian Country. NCAI's expanded financial education efforts are focused on strengthening financial education in Indian Country. The NFEC, originally started in 2000 through a Treasury Department initiative, is now being re-established initially as part of NCAI's Financial Education Initiative and with support and participation from partners. The NFEC is a working group of partners recognizing, expanding and enhancing the financial capability in Native communities. Partner organizations include tribes, tribal organizations, national, regional, local Native and non-Native organizations, financial institutions, federal agencies, and others interested in Native financial education. The **Initiative provides information for tribes and their citizens to enhance financial capabilities in Indian Country** - including the work of the Native Financial Education Coalition, Financial Literacy Month (April), and NCAI's Protect Native Money Campaign and Tribal Exchange Stock Market Game. NCAI launched the "Protect Native Money" campaign in September 2012 following a number of large financial settlements in Indian Country to increase consumer financial protection in Indian Country. More about NFEC and NCAI's Native Financial Education initiative can be found at: <http://www.ncai.org/initiatives/nativefinancial-ed>. For more information on NCAI, visit: <http://www.ncai.org>.

**National Congress of American Indians, President Jefferson Keel, in the annual state of Indian Nations address**, February 2013, outlined a course for securing tribal communities, nations, and the future prosperity of both tribes and America. Keel **called for increased efforts to work together to address violence against women, the federal budget sequestration, immigration, land and energy issues, and economic development**. With the House still considering the later passed Violence Against Women Act, Keel stated, "Congress must allow tribes, like all governments, to protect their own people and surrounding communities, from brutality. So if we believe that a Native woman's life is worth the same as every other woman's, if we believe that justice should not stop at the border of a reservation, if we believe that tribes are truly sovereign, then it's time for the House of Representatives to step up, put partisan politics aside, and reauthorize the Violence Against Women Act with expanded protections for all victims of violence." He **announced the release of NCAI's new report *Securing Our Futures, highlighting ways in which tribe are exercising and strengthening their sovereignty today***. "It shows areas where tribes are exercising their sovereignty right now, diversifying their revenue base, and bringing economic success to their nations and surrounding communities. The path to securing our future-from education to food security, climate change to workforce development-is illuminated by the proven success of tribal nations. While the circumstances of each tribal nation are unique, the promising practices contained in the report offer a way forward to secure tribal economies and sustain prosperity for future generations." The report is available at: [http://www.ncai.org/Securing\\_Our\\_Futures\\_Final.pdf](http://www.ncai.org/Securing_Our_Futures_Final.pdf). Keel concluded the speech by highlighting the foundation for the trust relationship between tribal nations and the federal government, specifically referring to the constitutional place of tribal nations as members of the American family of governments. He said, "These are the same principles that formed our treaties, and why our Constitution acknowledges tribes as equal, sovereign governments. Today, you can see that sovereignty in action in tribal courts, in the classrooms of tribal colleges, and in tribal businesses all over the world. This is the task at hand, to move together toward a more perfect union. To strengthen our trust relationship with the United States. From Washington to Kennedy, Reagan to Obama, tribal nations have worked with the United States to uphold this promise. That trust, ultimately, is the principle that must guide us-all of us-as we go forward and do right by all of our children and grandchildren. And when we do, we'll always be able to say, that the State of Indian Nations is strong, and the future prosperity of America is secure." The full text of the address is available at: <http://www.ncai.org/resources/testimony/securing-our-futures-2013-state-of-indian-nations-address> The Congressional Response was delivered by Washington Senator Maria Cantwell, who was recently appointed the new Chairwoman for the Senate Committee on Indian Affairs and represents 29 tribes and almost 165,000 Native people, which is available as a video at: <http://www.youtube.com/watch?v=otCATVq6-HU&feature=youtu.be&t=32m8s> ("NCAI President Outlines Course for Securing the Future of Tribal Nations and America," NCAI, February 14, 2013, <http://www.ncai.org/news/articles/2013/02/14/ncai-president-outlines-course-for-securing-the-future-of-tribal->

[nations-and-america](#)).

**First Nations Development Institute** publicly **launched a new web site**, April 15, 2013, <http://org2.democracyinaction.org/dia/track.jsp?v=2&c=bNoarBp0fuOx5YmpbAeAd3FY6EjXSSGD> “that aims to be a valuable **online resource for Native American tribes, organizations and individuals who are involved in food systems and agricultural efforts, and/or who are aiming for better health and nutrition for their families and communities.**” “For more than 32 years, First Nations has been working to restore Native American control and culturally-compatible stewardship of the assets they own – be they land, human potential, cultural heritage or natural resources – and to establish new assets for ensuring the long-term vitality of Native American communities. Part of this effort centers on food, through First Nations’ Native Agriculture and Food System Initiative, or NAFSI. Under NAFSI, First Nations also provides grants to numerous food and agricultural efforts by tribes and nonprofit organizations, and recently announced the awarding of 10 such grants totaling \$375,000. First Nations, in partnership with the Taos County Economic Development Corporation in Taos, New Mexico, is also working to create the Native American Food Sovereignty Alliance, which is intended to become a sustainable and organized movement that is Native American driven and controlled, nationally active and dedicated to addressing food security, hunger and nutrition in Native American communities at the national, tribal and local levels. “We believe that our work in the food sector has many benefits, all of which are critically important,” noted Michael E. Roberts, president of First Nations. “These include improved Native health and nutrition, of course, but also a reconnection with traditional foods and a reinforcement of our cultural practices and customs. Further, regaining control of food systems can provide a huge and much-needed boost to the development of Native economies.” The new [www.NativeFoodSystems.org](http://www.NativeFoodSystems.org) website features a diverse variety of resources and information, ranging from tribal gardens, farms and markets, to youth programs and farm-to-school efforts, to seed saving, to traditional plants and medicine, to food marketing and handling, to home gardening, canning and healthy family eating. For more than 30 years, using a three-pronged strategy of educating grassroots practitioners, advocating for systemic change, and capitalizing Indian communities, First Nations has been working to restore Native American control and culturally-compatible stewardship of the assets they own. First Nations serves Native American communities throughout the U.S.” For more information contact, Randy Blauvelt, First Nations Senior Communications Officer, (303) 774-7836, [rblauvelt@firstnations.org](mailto:rblauvelt@firstnations.org), or at their **new address**, 2432 Main St., Longmont, CO 80501 (303)774-7836, <http://www.firstnations.org/>.

“Fight Predatory Lending in Native American Communities,” Care2, January 21, 2012, <http://www.thepetitionsite.com/takeaction/749/953/038/>, Care2 was involved in January 2013 Sponsored by **First Nations Development Institute**, “According to U.S. Census data, 28.4% of American Indians and Alaska Natives live in poverty, which is the **HIGHEST** rate of poverty among any race or ethnic group in the United States, and is nearly twice the national average. *In some areas of the country, Native Americans have an unemployment rate as high as 80%.* These economic conditions make Native American communities especially vulnerable to predatory lending. Tell your legislators to support tighter federal regulation of predatory lenders who target Native American communities. For Native Americans, the impact of predatory lending is devastating because it destroys the potential for asset building that is needed to bring economic security to Indian families and communities. Predatory lending strips money from low-income tribal citizens and robs financially unstable families of the little collateral they have.”

**Whiteclay Awareness**, a student group at Creighton University, was engaged in a campaign, in January 2013, to petition the Obama administration to “**Replace Pine Ridge Reservation's buffer zone via executive order, making alcohol sales illegal in Whiteclay, Nebraska**, saying “The infamous town of Whiteclay, Nebraska has a population of less than 15 people and exists to sell alcohol to the neighboring Pine Ridge Indian Reservation, where alcohol is banned and whose population is afflicted by third-world living conditions. Replacing the 50 square-mile buffer zone removed by Theodore Roosevelt in 1904 would put the tribe in control of Whiteclay and render alcohol sales illegal.” For more information go to: <http://bit.ly/X2DPnQ> or <http://bit.ly/WixNCZ>.

**The Oglala Sioux Tribe's Trail of Hope for Indian Housing traveled from the Pine Ridge**

**Reservation in South Dakota, to Washington, DC**, in April bringing a dilapidated 1961 house with them to raise awareness of the dire housing situation on reservations like Pine Ridge, and a rally was held at Union Square near the U.S. Capitol Building to call Congress's attention to the plight of so many Indian people (“Trail of Hope for Indian Housing Rallies D.C., Asks Congress to Act,” ICTMN, April 19, 2013, <http://indiancountrytodaymedianetwork.com/2013/04/19/trail-hope-indian-housing-rallies-dc-asks-congress-act-148921>).

**A sacred lands rally took place outside the Phoenix Convention Center on March 26 while the National Indian Gaming Association held its 28th Annual Tradeshow and Convention.** Sacred land activists from the O’odham, Navajo, and Havasupai nations helped organize and participated in the rally. Among the concerns were calls for the Poarch Band of Creek Indians cease constructing a \$246 million casino expansion on Hickory Ground in Wetumpka, Alabama. The Poarch Band has already excavated 57 sets of Muscogee Creek ancestors’ remains as the project has developed (Gale Corey Tensing, “Activists Rally for Sacred Sites During INGA Convention,” ICTMN, April 2, 2013, <http://indiancountrytodaymedianetwork.com/gallery/photo/activists-rally-sacred-sites-during-niga-convention-148493>).

The **Hawai’i People’s Fund** ([www.hawaiipeoplesfund.org](http://www.hawaiipeoplesfund.org)) continues to give grants to many organizations in the Islands, including: *Mai Poina (Don’t Forget): The Trial of Quen Lilluokalani*, a living history trilogy organized by the Biographical Research Center and Hawai’i Poina Coalition (<http://www.facebook.com/CBRHawaii>); and Movement Building for Ea: **The Movement for Aloha no ka Aina** focusing on Hawaiian independence and justice (Manainfo.com/).

### **International Activities**

**Idle No Moore (IN)**, launched in late 2012, has expanded from a Canadian first Nation movement resisting the Canadian governments moves to pass legislation restricting Indian rights and making it easier to take aboriginal land to being a worldwide Indigenous movement active in the United States, Latin America, the Ukraine and Oater (New Zealand) (See: Fauna Coven, “Being Idle No More: The Women The Women Behind the Movement,” Cultural Survival, Quarterly, March 2013, and Idle No More: <http://www.idlenomore.ca/>. Tally Neumann, “Canada’s Idle No More Indigenous Movement Sets Stage for Latin American Involvement,” Americas Program, March 9m 2013, <http://www.cipamericas.org/archives/9126>, reports “The IN mobilization began as a response to the efforts of Canadian Prime Minister Steven Harper and his Conservative Party to pass omnibus legislation – or a wide-reaching law – repealing protections afforded to First Nations and natural resources, among other things. On Nov. 10, the movement launched with an event in Saskatchewan Province prepared by Indian rights advocates Jessica Gordon, Sheelah McLean, Sylvia McAdams and Nina Wilsonfeld. Today Idle No More has gone viral, largely due to publicity shared on the digital moccasin telegraph.” Soon **Idle No More was involved in demonstrations across Canada**, following Chief Theresa Spence of the Attawapiskat First Nation community in Ontario supporting to the movement by going on a hunger strike Dec. 10, during the National Day of Action called to celebrate the end of the first month of protest. **Action was largely focused on Canadian parliamentary Bill C-45, omnibus legislation containing amendments to the Indian Act facilitating the surrender of indigenous reserves. The amendments called for removing a requirement that all members of First Nations be involved in referendums about land proposals. A provision funding changes of the Navigable Waters Protection Act entailed giving 99% of lake and river water to industry. Changes to the Fisheries Act were intended to eliminate critical environmental safeguards and review processes for natural resource exploitation. “The entire set of proposals stemmed from a political climate of increasing government restrictions on access to environmental information and public participation in Canada’s decision-making processes.”** Bill C-45 passed into law as part of the 2012 Jobs and Growth Act in late December. It was a budget implementation measure. Like the June 2012 Jobs Act, it enlarged on an amalgam of legal instruments to destroy the environment. Each bill contained some 450 pages, prompting critics’ assertions that lawmakers neither read nor understood the wording. In the face of a broad number of issues and concerns (see Dialoguing, below) **IN organizers called on “all nations to drum and sing**

**across Turtle Island on the solstice Dec. 21, 2012 for a global synchronized spiritual awakening.”** Meanwhile, although Prime Minister Harper “agreed to end the hunger strike by meeting with Spence and the officially recognized Assembly of First Nations on Jan. 11, all INM’s activity failed to achieve a simultaneous audience with the Crown’s representative, Gov. Gen. David Johnston, who holds sway over land rights decisions. So Spence and fellow fasters continued their vigil for a total of six weeks until Jan. 24, when the Assembly of First Nations, together with the Liberal and New Democrat Party caucuses, committed to actively support the demands of the action.” A variety of actions have since been taken by IN and its supporters and associates. During the weekend of Jan. 5-6, protestors slowed traffic to make their points at the international boundary crossings between Canada and the United States. They held a January 28 Idle No More World Day of Action with Canadian IN events in First Nations from Aamjiwnaang to the Yukon, as well as in the urban centers of Calgary, Halifax, Hamilton, Kelowna, Kingston, Manitoba, Montreal, Nelson, Ottawa, Edmonton, Regina, Saskatoon, Toronto, Victoria, Windsor, Winnipeg, Yorkton and others. Soon, “demonstrators organized solidarity actions in the U.S. states of Alaska, Arizona, California, Colorado, Hawaii, Iowa, Maine, Michigan, Minnesota, Nevada, New Mexico, New York, North Carolina, Oregon, Oklahoma, South Dakota, Texas, and Wisconsin, among others. Activists in European, African, and Asian nations also took part. While Idle No More rallies were scarce in the Americas south of the U.S. border, the many Latin Americans of indigenous descent who find themselves in the United States and Canada jumped on board.” Latino events in solidarity with IN have included the Mexica Movement holding a rally in East Los Angeles rally Jan. 19, 2013; Latin American Researchers of Ontario organizing Latino/as in Solidarity with Idle No More, attracting the support of the Canadian Hispanic Congress, Toronto’s Casa Maíz, Edmonton’s Latin American Community Engagement Network, Memoria Viva and The Community Networks Group; the Canadian Revista Latinoamericana Refundación; Arizona’s One Voice Radio, and Massachusetts’ Latino Rebels. Meanwhile, IMM’s initial demands for indigenous autonomy, tribal sovereignty and self-determination have broadened, even as its reach has crossed racial and ethnic boundaries, encompassing “opposition to fracking and horizontal drilling for oil and tar-sands oil pipeline proposals, which are among the top U.S. Native American environmental concerns incorporated in the movement platform. Human rights issues addressed include migrants’ and Australian aboriginals’ concerns. Still gaining momentum five months after inception, Idle No More participants are set to celebrate the “native spring” with a Global Day of Ceremony and Resurgence on March 20, Vancouver’s Annual Community March Against Racism March 23, and Buffy Sainte Marie’s Indigenous ‘No Tar-Sands; Concert in Oklahoma March 24, as well as teach-ins in various cities throughout the month.”

**Search for Common Ground (SFCG), *Common Ground Newsletter*, Winter 2012-2013,** <http://salsa.wiredforchange.com/dia/track.jsp?v=2&c=Ba%2FPtGmeV59E%2FIMcCEgquLuUKCE4YFkk>, reported it has a team of **Peace Commandos that intervenes in local conflicts.** In 2010 and 2011, in the **Republic of Congo**, UNHCR and the National Endowment for Democracy (NED) requested SFCG go into **Dongo, a remote region where a tribal dispute had led to one million refugees and hundreds dead. After months of painstaking mediation and facilitation, Rigobert’s team negotiated a peace agreement.** Most recently, Rigobert led a mission to the **Ango region where violence was raging between villagers and pastoral animal herders. The team held trainings for local leaders and peacemaking events for 10,000 participants. Now, the pastoralists are able to circulate freely, and the killing has stopped.**

“Q’eqchi Maya Communities Meet Across Borders,” Cultural Survival, January 24, 2013, <http://www.culturalsurvival.org/news/qeqchi-maya-communities-meet-across-borders>, reported, “On January 26-27, 2013, **Cultural Survival held an exchange between Q’eqchi Maya communities in Belize and Guatemala to talk about strategies for implementing the right to Free, Prior and Informed Consent, and how community radio can be used as a tool for doing so. Members of community radio stations in Guatemala teamed up with the Defensoria Q’eqchi, an Indigenous rights law organization based in El Estor, Isabal, Guatemala and the Indigenous environmental management organization SATIIM to visit four communities outside the Sarstoon Temash National Park in Southern Belize. In the towns of Midway, Conejo, Crique Sarco, and Blue Creek, participants traded stories about how each counterpart has used the right to Free, Prior and Informed Consent to implement their self-determination as Indigenous Peoples, and discuss ways in which**



community radio can be a tool to help inform about these strategies.”

“Colombian Indian exhibition showcases most endangered tribes,” Survival International, February 7, 2013, <http://www.survivalinternational.org/news/8968>, reported, in February 2013, **“Colombian Indian organization ONIC has launched an international photography exhibition to highlight the desperate plight of Colombia’s indigenous peoples.** The exhibition, entitled ‘Dignity’, showcases those of the country’s tribal peoples that are at risk of extinction. ONIC now estimates that **36 tribes in Colombia are at imminent risk of becoming extinct, and many more could be wiped out in the violence that has engulfed their territories. Colombian Indians have been some of the worst affected people in the country’s more than 50-year civil conflict that has left thousands dead and displaced many more from their lands. Targeted by guerrilla groups, paramilitaries and government forces, many indigenous people are confronted daily with extreme violence that makes their continued survival as peoples impossible.**” “Survival is supporting ONIC’s campaign to halt the extinction of indigenous peoples and is lobbying the Colombian government to bring an end to the violence that plagues Indian land.”

Raúl Zibeche, “Uruguay: Birth of a Movement Against Mining and Extractivism,” Americas Program, March 24, 2013, <http://www.cipamericas.org/archives/9439>, comments, **“On March 7 one of Uruguay’s strongest myths was broken: trust in state enterprises. That day those who turned on their faucets were met with a foul smell and those who were drinking coffee or maté found a strange taste. The company in charge of the water supply, the State Sanitary Works (OSE), had to confess that there was “an episode” of algae contamination in the Santa Lucia River Basin, which supplies six out of ten Uruguayans. Despite this, the state company said that the water was potable.**” “The authorities closed ranks and denied emphatically the contamination of water sources, which had always been of high quality. However, **much of the population did not believe the State’s arguments, buying bottled water and depleting stocks. This event wouldn’t have had much significance if it were not for a movement that has grown in recent years against the installation of an Indian owned, open pit, iron mine called Aratirí. The movement has also been protesting the extensive use of pesticides and fertilizers that have polluted the soy crop and recently re-forested areas. In fact, environmental consciousness has grown widely due to a debate following the installation of a massive pulp mill on the Uruguay River.**” “Now things have changed. The rural population (only 5% of the total) began to feel the harmful effects of agricultural development and small-scale traditional farmers (including livestock herders) began to mobilize.”

“Survival launches tourism boycott of India’s Andaman Islands,” Survival International, April 30, 2013, <http://www.survivalinternational.org/news/9199>, reports that **Survival International launched a tourism boycott of India’s Andaman Islands, April 30, 2013, “until the degrading practice of ‘human safaris’ to the 400-strong Jarawa tribe is stopped. The tribal rights organization is calling on the 200,000 tourists visiting the islands every year to stay away – until tourists are banned from the road through the Jarawa’s forest and an alternative sea route is put in place.** Survival has written to over 200 travel companies and websites in eleven countries urging them to stop their tours to the Andaman Islands, and will place ads targeted at tourists to discourage them from visiting the popular travel destination. Survival is also asking members of the public to pledge not to travel to the islands until the demands are met. Hundreds of tourists from India and around the world travel along the illegal Andaman Trunk Road every day to ogle at members of the Jarawa tribe – treating them like animals in a safari park.” Earlier in 2013 India’s Supreme Court banned tourists from the road for seven weeks, reducing the traffic along the Andaman Trunk Road by two thirds. But the ban was lifted after the Islands’ authorities changed their own regulations in order to let the ‘human safaris’ continue. “The tours have been widely condemned both in India and around the world. India’s Minister for Tribal Affairs called them ‘disgraceful’ and ‘an embarrassment’, and last year, in response to a submission by Survival, the United Nations expressed their ‘deep concern’ about the ‘human safaris’ and called for the illegal road to be closed.”

**First Peoples Worldwide focuses “on funding local development projects in Indigenous communities all over the world while creating bridges between our communities and corporations, governments, academics, NGOs and investors in their regions. We facilitate the use of traditional Indigenous knowledge in**

solving today's challenges, including climate change, food security, medicine, governance and sustainable development." For more information visit: <http://firstpeoples.org>.

The **Latin American Studies Association section on Ethnicity, Race, and Indigenous Peoples** is committed to scholarly collaboration and exchange of ideas with respect to the study of ethnicity, race, Indigenous peoples, Afro-descendants and related issues in Latin America and the Caribbean. It also seeks to promote greater participation of Indigenous and Afro-descendant scholars and intellectuals in the activities of the Latin American Studies Association and, more generally, in scholarly and academic communities. The section has more than 300 members representing diverse academic disciplines, including anthropology, history, sociology, political science, linguistics, Spanish and Portuguese, geography, literature, and the law. Membership is open to all members of LASA.

**Schools for Chiapas is running a number of summer tour:** Education, Mayan Corn and Organic Agriculture Travel Program ~ Sunday, July 28 to Saturday, August 3, 2013; and Zapatista Governments, Education and Health Travel Program ~ Sunday, Aug. 4 to Saturday, August 10, 2013. For details go to: [http://myemail.constantcontact.com/Chiapas-Travel-Summer-2013.html?soid=1100674500603&aid=eoCwu\\_J1MtY#fblike](http://myemail.constantcontact.com/Chiapas-Travel-Summer-2013.html?soid=1100674500603&aid=eoCwu_J1MtY#fblike).

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## INDIAN AND INDIGENOUS DEVELOPMENTS

Steve Sachs

### Environmental Developments

Adam Dunstan

#### Introduction: Human, Nature

I recently visited an anti-uranium mining encampment held by MamaBears AgainstNukes, a group based out of Tucson, Arizona (<https://www.facebook.com/mamabears.againstnukes?fref=ts>). The encampment is being held from June 18 through July to protest the uranium mining at Canyon Mine, just six miles south of Grand Canyon National Park (see story below, "**Tribes and Environmentalists Fight Uranium Mining Near Grand Canyon**"). At the same time, Sierra Club officials met with members of the Havasupai tribe to discuss the mining.

The impact on the Havasupai of this mining is two-fold – not only could uranium contamination hurt their drinking water and plants, but the mine is within the Red Butte Traditional Cultural Property, a sacred site for the Havasupai, and other Southwestern indigenous groups as well. The mining would affect Havasupai sacred land and thus their sacred way of life. It would also directly impact their physical health through drinking water and using plants potentially contaminated by uranium. At the same time, mining literally on the road leading to the Grand Canyon affects the thousands of annual visitors who come to experience one of the wonders of the world.

Moments like this remind me of the profoundly *human* nature of the environmental developments I write about for this column. The effects are not only on nonhuman animals and on plants (although these effects are dire – see, for example, below "**100,000 Tonne Debris Pile in Pacific Ocean and the Danger of Plastics**"). They have important effects on the health, spiritual and physical, emotional and cultural, of human populations. How we decide to manage or live within the environment is ultimately not only a scientific issue, it is a social one. It is about equality as much as it is about ecology. One might say that these cannot be separated, that it is all a very human nature.

Best,  
Adam

## **EPA: Over Half of U.S. Waterways Unfit for Aquatic Life**

The U.S. Environmental Protection Agency (EPA) found that 55 percent of streams and rivers in the U.S. are in “poor condition for aquatic life.” On March 26, 2013 the EPA released results of the first ever comprehensive survey of the health of streams and rivers in the U.S., the 2008-2009 National Rivers and Stream Assessment. Data was collected from 2,000 sites across the country and analyzed by the EPA. Their findings,, released in a press release on March 26<sup>th</sup>, were that “Nitrogen and phosphorous are at excessive levels”, with 27% of U.S. rivers and streams having excess nitrogen and 40% having excess phosphorous. Nutrient pollution from an overabundance of nitrogen and phosphorous can cause what is known as an “algal bloom” where significant increases in algae harm water quality, food resources, and decreases oxygen that fish and other wildlife need to survive.

The EPA release also notes “Approximately 24 percent of the rivers and streams monitored were rated poor due to the loss of healthy vegetative cover” which can cause vulnerability to flooding, pollution and erosion. Additional, it was found that there were high levels of bacteria, and that more than 13,000 miles of rivers had fish that were contaminated with mercury levels potentially unsafe for human consumption, which can cause harm to fetuses and young children.

Nancy Stone, Office of Water Acting Assistant Administrator, said “New science shows that America’s streams and rivers are under significant pressure. We must continue to invest in protecting and restoring our nation’s streams and rivers as they are vital sources of our drinking water, provide many educational opportunities, and play a critical role in the economy”

(Stacy Kika, 03/26/2013, “EPA Survey Finds more Than Half of the Nation’s River and Stream Miles in Poor Condition”, <http://yosemite.epa.gov/opa/admpress.nsf/0/C967210C37CFFB6885257B3A004CFAF6>)

## **American Society of Civil Engineers: U.S. Hazardous Waste Management, D+**

Despite “undeniable success in the cleanup of the nation’s hazardous waste and brownfields sites” reports the American Society of Civil Engineers (ASCE), much work remains to be done. They have given hazardous waste infrastructure a D+ grade in their 2013 report card for America’s Infrastructure, what they classify as “at risk” and “mostly below standard”. They note that, according to EPA data, 25% of Americans live within three miles of a hazardous waste site. Meanwhile, the Superfund cleanup annual fund is estimated to be about \$500 million short of what is needed.

The Comprehensive Environmental response, Compensation, and Liability Act of 1980 (CERCLA), more commonly known as Superfund, is a federal law designed to clean up sites of hazardous waste contamination, and if responsible parties are not found for contamination, , they can clean up sites with a special trust fund. According to Any Soos of Environmental news Network, 400,000 brownfields sites await cleanup, and, according to the ASCE, 1,2800 sites remain on the National Priorities List (are still in the process of de-contamination) with thousands more as yet unidentified but in need of cleanup. Superfund funding has declined 40% since its peak in 1998 at \$2 billion.

(American Society of Civil Engineers, 2013, “2013 Report Card For America’s Infrastructure”, <http://www.infrastructurereportcard.org/a/#p/hazardous-waste/overview>; Andy Soos, Environmental News Network, “US Hazardous Waste Grade: D+”, <http://www.enn.com/pollution/article/45748>)

## **EPA Tightens Fuel Efficiency Standards**

Fuel efficiency standards for automobiles have again been tightened as of a late March. Proposal by the EPA, which it issued after a period of meeting with oil and gas industry representatives as well as environmental ,

consumer advocacy and public health organizations. The EPA expects the new standards to provide up to seven dollars in health benefits for every one dollar in implementation. EPA Acting Administrator Bob Perciasepe said “Today’s proposed standards – while will save thousands of lives and protect the most vulnerable – are the next step in our work to protect health”. Expected costs include an average of \$130 per vehicle in 2025. New standards on sulfur in fuel will cost refineries about a penny per gallon on average. But some have called these estimates overly optimistic. The proposal includes some flexibilities for small businesses such as “hardship provisions” and additional lead time for compliance.

(Roger Greenway, Environmental News Network, 03/30/2013, “New Emissions/Gas Mileage Standards”, <http://www.enm.com/pollution/article/45793>)

### **Air Pollution Kills More Annually in UK Than Car Crashes, Study Finds**

A study by Clean Air in London, a UK-based environmental advocacy group, found that air pollution kills more people in the UK annually than car accidents. According to the group, fine particle emissions of such pollutants as nitrogen oxides (NO<sub>x</sub>) and sulphur dioxide (SO<sub>2</sub>) kill 29,000 people in the UK annually, while much fewer, 1901 dies from traffic crashes in 2011. According to government health figures, the only cause of death higher than air pollution is smoking. Even alcohol-related deaths are lower than air pollution, at 22,000 a year.

But this is not well understood by politicians. A survey of over 100 members of British parliament by the same group found that the vast majority displayed, according to Simon Berkett, head of Clean Air in London, “a shocking level of ignorance about the health impact of air pollution” and, he notes, over two-thirds of conservative members of Parliament said air pollution had less of an impact than car accidents.

According to Euractiv, a news and commentary site reporting on the European Union (EU), noxious pollutants in some cases in large cities in the EU exceed international health standards. The high level of air pollution in London caused concern for the 2012 Olympic Games, and the government urged citizens to use more public transportation and bicycling to ease the pollutant load on foreigners and athletes. London is by no means an isolated case, say environmental and health groups. Some of the worst cases are in Bulgaria and Romania, but few areas are free of these contaminants, according to the European Environment Agency (EEA).

(Euractiv.com, 06/04/13, “British survey exposes ignorance of air quality challenge”, [http://www.euractiv.com/specialreport-air-quality-2013/british-survey-exposes-ignorance-news-528267?utm\\_source=RSS\\_Feed&utm\\_medium=RSS&utm\\_campaign=EurActivRSS](http://www.euractiv.com/specialreport-air-quality-2013/british-survey-exposes-ignorance-news-528267?utm_source=RSS_Feed&utm_medium=RSS&utm_campaign=EurActivRSS))

### **Strong Consensus among Scientists on Human Cause of Climate Change**

While a 2012 poll found that half of Americans either disagree with or are not aware that the scientific consensus is that global warming is caused by human activity, there is not nearly as much disagreement in the scientific community itself. A recent study led by John Cook at the University of Queensland, and published May 16<sup>th</sup> in *Environmental Research Letters* found that the vast majority of scientific papers from academic journals that take a position on global warming attribute it to human activity. The study is the most comprehensive yet, having looked at nearly 12,000 climate change related abstracts since 1991. Of these abstracts, 67% expressed no position on the cause of climate change, 32% said the case was human activity (“anthropogenic global warming” or AGW), while only 0.7% rejected humans as the cause of climate change and only 0.3% said the cause was uncertain. More practically, this means that of papers that took a position on the cause of climate change, 97.1% attributed global warming to human causes.

The authors of the study also polled writers of these papers, and found that, of respondents, far fewer when actually surveyed expressed no opinion on the cause of global warming (35.5%) and, again, 97.2% of those with an opinion, endorsed the consensus that climate change is primarily human caused. According to the authors of the

paper “The number of papers rejecting the consensus on AGW is a vanishingly small proportion of the published research”.

(Science Daily, 05/15/13, “Scientific Consensus On Anthropogenic Climate Change”, [http://www.sciencedaily.com/releases/2013/05/130515203048.htm?utm\\_source=feedburner&utm\\_medium=feed&utm\\_campaign=Feed%3A+sciencedaily%2Fearth\\_climate%2Fclimate+\(ScienceDaily%3A+Earth+%26+Climate+News+--+Climate\)](http://www.sciencedaily.com/releases/2013/05/130515203048.htm?utm_source=feedburner&utm_medium=feed&utm_campaign=Feed%3A+sciencedaily%2Fearth_climate%2Fclimate+(ScienceDaily%3A+Earth+%26+Climate+News+--+Climate)); Cook, John, Dana Nuccitelli, Sarah A Green, Mark Richardson, Bärbel Winkler, Rob Painting, Robert Way, Peter Jacobs and Andrew Skuce, 05/16/13, “Quantifying the consensus on anthropogenic global warming in the scientific literature”, <http://iopscience.iop.org/1748-9326/8/2/024024/>)

### **100,000 Tonne Debris Pile in Pacific Ocean and the Danger of Plastics**

The world’s largest waste dump is not on land but in the ocean. In the Pacific Ocean is a 100,000 tonnes expanse of debris that is caught up in a gyre, a large-scale circular swell of ocean currents which traps and then moves waste. The debris, called the ‘Pacific garbage patch’ when it was first discovered in 1997 by Captain Charles Moore. Some have said the total area of the debris is the size of the continental U.S., but the true size of it remains unknown, according to mongabay.com.

Of the debris in the ocean, 90% is plastics. 80% of that comes from land. As noted by mongabay.com “Plastic is of course, a very useful product; durable and stable, yet it is these very properties that deem it troublesome in marine environments.” The effects of plastic debris on aquatic life are many. According to the UN Environmental Program (UNEP), an excess of one million seabirds and 100,000 marine mammals and turtle fatalities occur as a result of plastic ingestion or entanglement annually. Plastic bottles, for example, can breakdown into small pieces that appear as the prey of marine animals and are eaten, causing the animal to feel fed when they are not, which can affect everything from zooplankton to whales. Plastic can also cause suffocation in species. 70% of plastic waste sinks to the ocean floor and can dramatically impact and suffocate wildlife on the ocean floor.

These plastics also have human health effects. Marcus Eriksen of the Algalita Marine Research Foundation said that plastic pollutants can “Attract man-made chemicals such as hydrocarbons and the pesticide DDT” and that “what goes into the ocean goes into these animals and onto your dinner plate. It’s that simple.”

(Darren Lloyd, 05/06/13, “The world’s largest ‘waste dump’ is found in the Pacific Ocean”, <http://news.mongabay.com/2013/0506-lloyd-pacific-pollution.html>)

### **UN Climate Talks; 2015 Universal Treaty the Goal**

The latest round of UN climate change talks took place over two weeks in Bonn, Germany and concluded on June 14, 2013. Christiana Figueres, Executive Secretary of the UNFCCC (UN Framework Convention on Climate Change) said “This has been an important meeting because Governments are moving faster now from the stage of exploring options to designing and implementing solutions.” The focus of the talk was on how to transform energy systems globally towards low-carbon energy, including renewable energy, maximizing energy efficiency, and carbon sequestration. The long-term goal is for a universal UN treaty on climate change by 2015 that would go into force by 2020. In November, the UN Climate Change Conference (COP-19) will meet in Warsaw, Poland.

Jayant Moreshver Mauskar and Harald Dovland, co-chairs of a working group to design a new climate change agreement, said that “Over the past 12 months solid foundations have been laid under the process both toward the 2015 agreement and in raising pre-2020 ambition.”

At Bonn, topics of discussion included reducing investment risks, public-private partnerships, a long-term and legally-binding climate change agreement, capacity—building, technology, and providing effective institutions in countries receiving financial support.

(UN News Centre, 06/14/13, “UN climate change talks in Bonn see concrete progress towards new agreement”, <http://www.un.org/apps/news/story.asp?NewsID=45183&Cr=climate+change&Cr1=#.UcnxQTvMCSp>)

### **Global Temperature Changing Much Faster than Historic Baseline, Study Finds**

A study published in the March 8<sup>th</sup> edition of *Science* found that the global temperature is changing at an alarming rate. The team of scientists reconstructed temperatures since the end of the last ice age, about 11,000 years ago, using chemical changes in the shells of fossilized sea creatures known as foraminifera. The study found that global temperatures currently are warmer than 75% of the last 11,000 years.

They also found that the rate of warming is very unusual. After the last ice age, the earth warmed and then, 5,000 years ago, started to cool, but at the slow rate of 1.3 degrees Fahrenheit over 5,000 years. Then, over the past 100 years, it has started warming again, but at an alarming rate – 1.3 degrees Fahrenheit over 100 years. Shaun Marcott of Oregon State University, one of the scientists on the study, said “Temperatures now have gone from that cold period to the warm period in just 100 years”. As noted by NPR “So it’s taken just 100 years for the average temperature to change by 13 degrees, when it took 5,000 years to do that before.” To put it more simply, it warmed 50 times faster than it cooled. Climate scientists predict the trend of warming will continue given the greenhouse gas emissions. Gavin Schmidt, of NASA’s Goddard Institute for Space Studies, notes “The climate changes to come are going to be larger than anything that human civilization and agriculture has seen in its entire existence. And that is quite a sobering thought.”

(Christopher Joyce, 03/08/13, “Past Century’s Global Temperature Change Is Fastest On Record”, <http://www.npr.org/2013/03/08/173739884/since-end-of-last-ice-age-rates-of-global-warming-amazing-and-atypical?ft=1&f=1025;Marcott>, Shaunn A. Marcott, Jeremy D. Shakun, Peter U. Clark, Alan C. Mix, 03/08/13, “A Reconstruction of Regional and Global Temperature for the Past 11,300 years”, *Science* 339(6124):1198-1201, <http://www.sciencemag.org/content/339/6124/1198.abstract>)

### **Drinking Water Infrastructure Needs Costly Replacement**

The American Society of Civil Engineers, in its 2013 Report Card for America’s Infrastructure, said “much of our drinking water infrastructure is nearing the end of its useful life” and gave the drinking water system in the U.S. a D+ grad, mainly due, not to water quality, but a high rate of pipe breaks annually that need to be replaced and could cost a trillion dollars over time.

The EPA recently released its fight report to congress on drinking water infrastructure. It notes that 52,000 community water systems and 21,400 non-community water systems across the US will need \$384.2 billion of infrastructure replacement and investment until 2030 to make sure that there is safe drinking water for 297 million Americans. In 2012 the EPA awarded nearly \$15 million in grants for training and technical assistance for small drinking and wastewater systems serving fewer than 10,000 people as well as private well owners, to help strengthen drinking water systems against “the potential impacts of severe weather events and climate change” according to the EPA press release.

(Stacy Kika, EPA, 06/04/13, “EPA Survey Shows #384 Billion Needed for Drinking Water Infrastructure by 2030”, <http://yosemite.epa.gov/opa/admpress.nsf/0c0affede4f840bc8525781f00436213/f72c2fdc7d61f92085257b800057655f!OpenDocument>; Andrew Burger, 06/04/13, “EPA Reports to Congress on National Safe Drinking Water Needs”, <http://globalwarmingisreal.com/2013/06/04/epa-reports-to-congress-on-national-safe-drinking-water->



[needs/](#); American Society of Civil Engineers (ASCE), 2013, “2013 Report Card For America’s Infrastructure: Drinking Water”, <http://www.infrastructurereportcard.org/a/#p/drinking-water/overview>)

## **Tribes and Environmentalists Fight Uranium Mining Near Grand Canyon**

In January 2013 Ken Salazar of the Obama Administration withdrew 1-million-acres of land near the Grand Canyon from the possibility of uranium mining, but battles over uranium mining near the landmark continue. Some mining claims filed prior to the withdrawal are still being held as legal and acted upon. A particularly public one at the moment is the Canyon Mine, operated by Energy Fuels Resources, Inc. a Canadian mining firm. The mine is located within the Kaibab National Forest six miles south of the Grand Canyon National Park. It is also within the boundaries of the Red Butte Traditional Cultural Property, a National Historic Protection Act site which recognizes the sacredness of Red Butte to the Havasupai and other southwestern tribes. Construction on the mine has recently began, as approved by the Forest Service. It is being allowed because, although it falls within the lands now withheld from mining, the approval to mine the site goes back to 1986.

The Havasupai tribe and three conservation groups, the Center for Biological Diversity, Grand Canyon Trust, and Sierra Club, have entered into litigation against the Forest Service for the decision to allow mining at this site. They are particularly challenging the Forest Service for failing to update the environmental impact study for the site, the most recent being done in 1986, and failing to start new tribal consultations about the impacts of the site. A press release notes “The Canyon Mine threatens cultural values, wildlife and endangered species and increases the risk of soil pollution and pollution and depletion of groundwater feeding springs and wells in and near Grand Canyon”. The groups allege the Forest Service has violated environmental, public land, historical preservation, and mining laws.

The mine has had a contentious history. It was originally approved in 1986 amid protests and lawsuits from the Havasupai tribes and others. Construction began but the mine was closed in 1992 before mining could occur. In 2010, a U.S. Geological Survey report found that past samples of groundwater beneath the Canyon Mine had dissolved uranium concentrations higher than EPA drinking water standards, and, as noted by the groups against the mining, groundwater potentially affected by the mine feed into Havasupai water.

Don Watahomigie, chairman of the Havasupai tribe, said “We regret that the Forest Service is not protecting our sacred site in the Red Butte Traditional Cultural Property from destruction by uranium mining. The Havasupai are returning to the federal courts to protect our people, our religion and our water.”

Since 1986, there have been several changes, not only the uranium mining ban around the Grand Canyon: the reintroduction of the California condor, the 2010 designation of the Red Butte Traditional Cultural Property, and new scientific studies on groundwater percolation.

(Don Watahomigie, Matthew Putesoy, Roger Clark, Taylor McKinnon, Sandy Bahr, Center for Biological Diversity, 03/07/13, “Havasupai Tribe, Conservation Groups Challenge Uranium Mine Threatening Grand Canyon: Forest Service OKs Uranium Mining Without Tribal Consultation of Update to 27-year-old Environmental Review)

## **Additional Environmental Developments**

**The U.S. National Oceanic and Atmospheric Administration (NOAA) reported, at the beginning of May 2014, that for the first time in human history the world was on the threshold of reaching 400 ppm concentrations of carbon dioxide in the atmosphere, as levels of the global warming gas in the air continue to rise as a result of human action.** The reading, May 5, 2013, taken by the NOAA Earth System Research Laboratory Global Monitoring Division, showed carbon dioxide levels at 399.54 parts per million (Terri Hansen, “Global CO2 Concentrations to Reach High of 400 ppm for First Time in Human History,” ICTMN, May 9, 2013,

<http://indiancountrytodaymedianetwork.com/2013/05/09/global-co2->). **-). The dangerous heating level of 400 ppm in the atmosphere was recorded for the first time on May 10, 2012, by Scripps Institution of Oceanography, as carbon levels and related temperatures continue to rise** (Justin Gillis, "Heat-Trapping Gas Passes Milestone, Raising Fears," *The New York Times*, May 10, 2013, <http://www.nytimes.com/2013/05/11/science/earth/carbon-dioxide-level-passes-long-feared-milestone.html?ref=todayspaper&r=0>). **Earth's temperature is the highest it has been for many milenia, but at least for the moment, the rate of warming of the Earth has slowed over the last 15 years compared with the previous 20.** The reason for the slowdown is not known. The processes involving the atmosphere and the surface of the planet are complex, so it is not anticipated the rate of heating will be on a straight line, or directly relate solely to the level of carbon dioxide and other greenhouse gasses in the atmosphere, though there is a close correspondence (Justin Gillis, "What to Make of a Warming Plateau," *The New York Times*, June 11, 2013). One possible influence that has slowed the rate of warming recently is that the Sun has been in a regular period of sending out somewhat less energy, that comes with a time of fewer solar flares, in the solar flare cycle.

**2012 was the hottest year on record, in the United States, the average at 55.3 degrees Fahrenheit surpassing 1998 by a full degree. Examining the number of cooler and hotter than average days in cities across the U.S. shows that the record of 2012 being the hottest year ever measured in the nation is consistent around the country** ("Not Even Close: 2012 Was Hottest Ever in U.S.," *The New York Times*, January 8, 2013, <http://www.nytimes.com/2013/01/09/science/earth/2012-was-hottest-year-ever-in-us.html?ref=todayspaper&r=0>).

A study by Shaun A. Marcott, Jeremy D. Shakun, Peter U. Clark, and Alan C. Mix (2013), "A Reconstruction of Regional and Global Temperature for the Past 11,300 Years," *Science*, March 8, 2013, finds that **human caused global warming has already increased the temperature of the Earth to its highest point in the last 4,000 years, and that if global warming continues on its current course in a few decades the temperature will become higher than at any point since before the last ice age, 10,000 years ago.**

**As the Arctic Ocean warms, and its ice melts, it is also rapidly acidifying, reports a study by the Arctic Monitoring and Assessment Program, presented at the May 6–8 Arctic Ocean Acidification International Conference in Norway and presented them at the Arctic Council's ministerial meeting in Sweden on May 15. The coldness of the Arctic ocean allows it absorb more of the acid causing carbon dioxide that human action is putting into the air, while the Arctic Ocean is less able to neutralize acid than most other oceans because it receives a greater amount of fresh water than most others. Over all, the acidification level in the world's oceans had increased by about 30% in the last 200 years.** Ocean acidification is eroding coral reefs, harming marine life and potentially compromising the economy of many peoples, including polar peoples, and especially aboriginals living above the Arctic Circle who depend heavily on living sources for food and other items. The monitoring program stated, **"Because Arctic marine food webs are relatively simple, Arctic marine ecosystems are vulnerable to change when key species are affected by external factors. Arctic marine ecosystems are highly likely to undergo significant change due to ocean acidification"** ("Climate Change: Arctic Ocean Is Acidifying Fast, Study Shows," ICTMN, May 15, 2013, <http://indiancountrytodaymedianetwork.com/2013/05/15/climate-change-arctic-ocean-acidifying-fast-study-shows-149369>).

**2012 was a year of what previously was exceptionally extreme (now the new normal) weather around the world. It was the hottest year on record in the United States, which suffered record drought, as well as extreme storms.** Brazil was hot with a heat wave, with Rio de Janeiro suffering an all time record 109.8 degrees Fahrenheit, December 26, while lack of normally plentiful rain depleted reservoirs for hydroelectric plants, threatening Brazil with possible electricity rationing for the first time since 2002. In **England, 2012 was a previously unseasonable combination of drought, deluge and flooding**, as on three occasions rain fell with unprecedented force, causing whole areas of the nation to be isolated, rail and road lines under water. On the last occasion, beginning in December, three weeks after the downpours began, found the river Severn, in Worcester still, well over its banks, while in St. Asaph, North Wales rescuers removed people by boat from their inundated

homes, and in Mevagissey, Cornwall, a pub owner shut his business for good after it flooded 11 times in two months. **The once rare floods have become normal, as the floods of 2012 followed the floods of 2007 and 2009, over all resulting in nearly \$6.5 billion in insurance payouts.** Britain's weather service, the Met Office, declared **2012 the wettest year in England, and the second-wettest in Britain as a whole, as four of the five wettest years in the last century have come in the past decade** (the fifth being 1954). The Met Office stated that the frequency in Britain of "extreme weather events" — defined as rainfall reaching the top 1 percent of the average amount for that time of year has **increased from once ever 100 days fifty years ago, to every 70 days, now.** In Northern Europe from Stockholm to Moscow and east, arctic air has again moved further south than used to be usual, for perhaps the third straight winter, bringing extreme cold (often 50 below) and thick snow. In Siberia the extreme cold caused natural gas to liquefy in its pipes and water mains to burst, leaving thousands of people without heat, while intercity bus transportation was shut down and people advised to stay close to home to avoid road side breakdown which could lead to death from exposure. Further east, in Altai, traffic officials warned drivers not to use poor-quality diesel, because it could become viscous in the cold and clog fuel lines. **Cold and snow have also moved south bringing severe snowstorms in Sicily and southern Italy for the first time since World War II, while in December, tornadoes and waterspouts hit the Italian coast.** Meanwhile, the Middle East has also been impacted at winter's approach. In early January, Jordan was suffering a storm with torrential rain, snow, hail and floods that were cascading through tunnels, washing away cars and causing misery in Syrian refugee camps. Amman was virtually paralyzed, with cars abandoned, roads impassable and government offices closed. **Similar conditions have been sweeping Israel and the Palestinian Territories, where, after a week of intense rain and cold, winds ushered in a snowstorm that dumped eight inches in Jerusalem alone.** The head of the surface water department at the Israel Hydrological Service, said the storm was truly unusual because of its duration, its intensity and its breadth, as snow and hail fell not just in the north, but as far south as the desert city of Dimona. The storm also pounded Beirut, Lebanon, January 9, 2013, flooding numerous roads. Across the country the storm brought several deaths, including a baby boy in a family of shepherds who was swept out of his mother's arms by floodwaters. The greatest concern was for the 160,000 Syrian refugees who had fled to Lebanon, taking shelter in schools, sheds and, where possible, with local families. Some refugees are living in farm outbuildings, which are particularly vulnerable to cold and rain. Barry Lynn, who runs a forecasting business and is a lecturer at the Hebrew University's department of earth science, noted that **a significant aspect of the storm was the severe and prolonged cold in the upper atmosphere, a major change that indicated the Atlantic Ocean was no longer having its historically moderating effect on weather in the Middle East and Europe.** China is experiencing its coldest winter in almost 30 years, with sub-freezing temperatures in Harbin, in the northeast. In the western region of Xinjiang, extremely heavy snow collapsed more than 1,000, while in Inner Mongolia, 180,000 livestock froze to death. The traditionally (but now more normal) unseasonable cold has basely damaged crops, greatly inflating vegetable prices. Pakistan was inundated by unexpected flooding in September. Australia, which has seen each of the last six decades hotter than the one before, is again being hit by wide spread bush fires across Tasmania fueled by a record-shattering heat wave, that brought Sydney its fifth-hottest day since records began in 1910, with the temperature reaching 108.1 degrees Fahrenheit, and making the first eight days of 2013 among the 20 hottest on record. The current heat wave follows two of Australia's wettest years ever (Sarah Lyall, "Heat, Flood or Icy Cold, Extreme Weather Rages Worldwide," *The New York Times*, January 10, 2013, <http://www.nytimes.com/2013/01/11/science/earth/extreme-weather-grows-in-frequency-and-intensity-around-world>).

The increase in the length of the tornado season in the U.S., the number of tornados annually, and the number of very large tornados has continued, as is expected with global warming. A particularly serious example was the May 20, 2013 EF5 tornado, that at 1.5 miles wide tore through Moore Oklahoma with 200 mph circular winds, killing at least 24 people and destroying or damaging over 12,000 homes and other buildings, including two schools. Two weeks later, a 2.6 mile wide in El Reno, OK broke the 2004 record of 2.5 miles wide, that had been set by one in 2004 (Ramit Plusnick-Masti and Christophe Sherman, "Monster Tornado Strikes in Oklahoma," *San Francisco Chronicle*, May 21, 2013; "Correction: Oklahoma Tornado story," *Miami Herald*, May 22, 2013, <http://www.miamiherald.com/2013/05/23/3412672/thunderstorms->

slow-oklahoma-tornado.html and “Oklahoma: Tornado Broke Record for Width,” *The New York Times*, June 5, 2013).

**Extreme and unseasonable weather continues to become normal and seasonable. Immediately following cold weather, unusually warm weather for January – with at least one Midwest record high for the day of 74 degrees Fahrenheit – moved across the U.S. Midwest, south and east with another massive storm system, including previously out of season tornadoes in Georgia and Tennessee, killing at least two people (“Powerful Storms Flip Cars, Decimate Homes; 2 Dead,” *The New York Times*, January 30, 2013, <http://www.nytimes.com/aponline/2013/01/30/us/ap-us-winter-weather.html?ref=us>). Severe storms, January 14-17, brought flooding and mud slides causing serious damage on the Eastern Band Cherokee reservation in North Carolina for which the federal government is supplying disaster assistance (“President Increases Disaster Assistance to Eastern Band of Cherokees,” ICTMN, May 23, 2013, <http://indiancountrytodaymedianetwork.com/2013/05/23/president-increases-disaster-assistance-eastern-band-cherokees-149483> ).**

The Australian government Climate Commission issued a report, March 4, 2013, finding that **climate change was a major driving force causing a series of extreme weather events that alternately baked and soaked large sections of the country in the preceding months.** The weather events included a four month extreme heat wave, coming to a climax with an unprecedented wave of wildfires in the western and southeastern coastal sections of Australia, the most densely populated parts of the nation, in January 2013. That period of many record high temperatures was followed by exceptionally heavy rains in the more heavily populated states of New South Wales and Queensland that killed at least six people and caused some \$2.43 billion in damages. The **report found that the ferocity and frequency of the extreme weather indicated an acceleration of climate change that is likely to continue unless serious steps are taken to prevent further changes in the Earth’s environment** (Matt Siegal, “Report Blames Climate Change For Extremes in Australia,” *The New York Times*, March 5, 2013).

A paper published in *Nature Geoscience*, December 23, 2012, reports that **the average annual temperature at a station in the middle of West Antarctica has increased by 4.4 degrees Fahrenheit since 1958, much faster than previously anticipated, and three times the world rate of global warming, indicating the possibility of the West Arctic Ice becoming unstable** (Justin Gillis, “Antarctic Warming Is Speeding Up, Study Finds,” *The New York Times*, December 24, 2012).

A detailed study of ice in the Antarctic, F. Parrenin, V. Masson-Delmotte, P. Köhler, D. Raynaud, D. Paillard, J. Schwander, C. Barbante, A. Landais, A. Wegner, and J. Jouzel, “**Synchronous Change of Atmospheric CO<sub>2</sub> and Antarctic Temperature During the Last Deglacial Warming,**” *Science*, 1 March 2013, showed a close direct relationship between the amount of carbon dioxide in the atmosphere and the temperature as the Earth warmed from the last ice age some 20,000 years ago. This report adds to growing findings supporting the already accepted direct link between the quantity of CO<sub>2</sub> in the atmosphere and global temperatures.

The National Oceanic and Atmospheric Administration (NOAA) reported. in April that the **sea surface temperatures of the costal U.S. Northeast Shelf Large Marine Ecosystem during 2012 were the highest ever recorded by Both long and short term measurement (“Northeastern Ocean Surface Temperatures at Highest in 150 Years: NOAA.”** ICTMN, April 26, 2013, <http://indiancountrytodaymedianetwork.com/2013/04/26/northeastern-ocean-surface-temperatures-highest-150-years-noaa-149056>).

Justin Gillis, “In Sign of Warming, 1,600 Years of Ice in Andes Melted in 25 Years,” April 4, 2013, [http://www.nytimes.com/2013/04/05/world/americas/1600-years-of-ice-in-perus-andes-melted-in-25-years-scientists-say.html?ref=todayspaper&\\_r=0](http://www.nytimes.com/2013/04/05/world/americas/1600-years-of-ice-in-perus-andes-melted-in-25-years-scientists-say.html?ref=todayspaper&_r=0), reported, “**Glacial ice in the Peruvian Andes that took at least 1,600 years to form has melted in just 25 years, scientists reported Thursday, the latest indication that the recent**

**spike in global temperatures has thrown the natural world out of balance.”**

**The increasing amount of Carbon Dioxide being released into the air around the Earth, mostly from human productive activities, in addition to increasing global warming, continues to be absorbed by the world's waters, raising the acidity of the ocean (lowering the pH level) causing growing harm to many species including coral and many shellfish. These ocean organisms, known as calcifiers, use calcium carbonate in their shells and skeletons have been relying on a very specific and stable ocean pH of around 8.2. Now that the pH level is dropping – at the end of 2012 about 26% to about 8.1, they are having increasing difficulty forming shell matter, that often causes problems such as weak or crushed shells. Larvae may never fully develop, and others can be vulnerable to infection and disease. In some cases, marine organisms are actually *dissolving* in corrosive water. Evidence of the impact of rising CO<sub>2</sub> levels, bringing corresponding drops in pH are the Coral die offs that have been observed in several regions of the world, along with increasing problems with shellfish, a potentially serious commercial as well as environmental issue. Shellfish fulfill a critical function in the ocean environment. Many filter and clean water, making it safer for other organisms by sequestering toxins. They can filter nitrogen out of the water, addressing nitrogen pollution caused by humans, and they are an important food source for numerous other ocean organisms. Researchers consider them to be a keystone set of species. If their numbers dwindle, that's an indicator that something is very wrong, and that things could get much worse. If current trends continue, oceans world wide would experience a disastrous drop in pH to as low as 7.8 by 2100 (S.E. Smith, “The Shellfish Know Climate Change is Real,” Care2, March 1, 2013, <http://www.care2.com/causes/the-shellfish-know-climate-change-is-real.html>; Samantha, “10 Marine Species Threatened by Ocean Acidification,” Care2, selected from TreeHugger, February 12, 2012, <http://www.care2.com/greenliving/10-marine-species-threatened-by-ocean-acidification.html>; “Ocean Acidification,” Center for Ocean Solutions, downloaded March 3, 2013, <http://centerforoceansolutions.org/climate/impacts/ocean-acidification/>; and “Climate Change Indicators in the United States,” EPA-U.S. Environmental Protection Agency, downloaded March 3, 2013, <http://www.epa.gov/climatechange/science/indicators/oceans/acidity.html>).**

**The potentially environmentally helpful European carbon trading system has failed to stop the growth of carbon emissions in Europe because lobbying by energy companies has moved national governments to issue too many permits. To improve the process, and make it effective, reforms were proposed to move the issuing of carbon permits to the EU, and sufficiently limit the number issued to reduce CO<sub>2</sub> emissions. The European Parliament, concerned with immediate economic problems, voted narrowly, in mid-April, not to reduce the number of permits. Some critics believe the Parliament's failure to lower the number of permits could be a death blow to the carbon trading system (Staley Reed, “Europe Vote Sets Back Carbon Plan,” *The New York Times*, April 16, 2013, <http://www.nytimes.com/2013/04/17/business/global/europe-rejects-carbon-plan.html?ref=todayspaper>).**

**In April 2012, the Audubon Society estimated that 50% of 305 bird species found in North America in winter have been shifting their living area northwards and to higher altitudes in response to climate change, so far by about 35 miles on average, over the 40 preceding years. That rate will escalate as warming increases. (Brian Kimberling, “What do the Birders Know?” *The New York Times*, April 21, 2013).**

**Francesco Martone, “Climate Change Negotiations Continue at COP18,” Cultural Survival, January 27, 2013, <http://www.culturalsurvival.org/news/climate-change-negotiations-continue-cop18>, reported, “The 18th Conference of the Parties of the UN Framework Convention on Climate Change (UNFCCC) took place in Doha in December 2012. The COP was not expected to deliver any historical groundbreaking result, but rather lay out the roadmap for the negotiations towards the established deadline of 2015, when a global binding agreement on emissions reduction is expected to be finalized. Indigenous Peoples have constantly followed the climate change negotiations, in particular those related to REDD+ (Reduced Emissions from Forest Deforestation and Degradation). REDD+ finance was discussed in the so called Ad-Hoc Working Group on Long Term Cooperative Action (AWG-LCA) while methodologies for reporting emissions reduction, implementation of safeguards and to tackle drivers of deforestation were negotiated at**

the SBSTA (Subsidiary Body for Scientific and Technological Advice). The key outstanding issues and opportunities for Indigenous Peoples were highlighted in a briefing prepared by Forest Peoples Program in advance of the Doha negotiations. The negotiations in Doha could potentially open space for decisions on rights-based safeguards information systems; valorize traditional knowledge and direct engagement of Indigenous Peoples in monitoring REDD+ activities on the ground with their own systems; address key threats to Indigenous Peoples' rights in the discussion on drivers of deforestation, and; reiterate the urgency of a broader approach to mitigation in forests by taking into account non-carbon values. Contrary to initial expectations, however, the negotiations on REDD+ suffered from the overall atmosphere of tension that unexpectedly developed in the two negotiating tracks that had to conclude their work in Doha. The first had to decide how to conclude its work on the Bali Action Plan on adaptation, mitigation, finance, capacity building, shared vision, technology transfer, the other had to negotiate the Kyoto Protocol and its extension to a second commitment period. Again issues of contention were the relationship and balance between clear commitment for emission reduction by developed and developing countries, the amount of financing for Climate action, and the different views on monitoring, reporting and verification. In fact, the REDD+ negotiations also witnessed an unprecedented level of conflict between Brazil and Norway, especially on the matter of verification and financing. Norway is not willing to provide any financing for REDD without a high standards for verified carbon emissions, while Brazil and others were not open to adopt high standards without sufficient financial support. Nor were Norway and Brazil willing to accept any external international third party verification. Such a tense situation also affected the negotiations at the LCA although the outcome has been different. At the LCA, that concluded its work plan by deferring some topics to established committees and institutions, no agreement was met on REDD financing. This outcome was not completely unexpected. The same divergences among parties were also experiences in Durban (site of the last UNFCCC in 2012) and attempts had been made to progressively come to some common ground by convening a workshop, which was held in Bangkok in September 2012. The workshop did not overcome differences of views on sources on financing, the operationalization of results-based payments, nor the institutional architecture for REDD financing. Indeed the spillover of the conflict at SBSTA was felt there too. **In SBSTA the negotiations de facto collapsed and no final decision was agreed, with a draft bracketed text that has been deferred to the next SBSTA (June 2013) for further consideration. On the contrary, at the LCA, a final agreement was met to launch a one-year work program on REDD financing under the COP, that will consist of a series of workshops and production of draft decisions for the next UNFCCC Conferences to the Parties 19 to be held in Poland. The COP did not set up any REDD committee, as requested by Papua New Guinea and the Coalition of Rainforest Nations, but a work program to keep the negotiation channel open, outside of the Durban Platform for Enhanced Action, that according to some observers might contain a broad section on land use, including REDD+. The work program will discuss how to achieve the objective of improving effectiveness of finance for REDD+, and to address methodological issues related to non-carbon benefits. SBSTA did not conclude its agenda item and deferred any further action to the next SBSTA meeting in mid 2013, when it will continue its work on methodological guidance related to modalities for a national forest monitoring system and for Monitoring Reporting and Verification, timing and frequency of the presentation of the summary of information on how safeguards are addressed and respected and further guidance to ensure comprehensiveness and transparency of information. As well as continue consideration of issues related to drivers of deforestation. Other issues that will be relevant for Indigenous Peoples will emerge in the upcoming negotiations in the Durban Platform for Enhanced Action that will now represent the key negotiating track towards the agreed goal of adopting an overall binding agreement on emissions reductions in 2015. In particular, efforts will have to be made to ensure that the new agreement can fully take into account the centrality of a rights-based approach to climate change. It should be noted that the Cancun Conference of the Parties adopted a decision that for the first time draws a linkage between climate change and human rights. As a matter of fact the preamble of the COP decision reiterated the need to ensure the full and effective engagement of affected stakeholders, such as indigenous peoples, in any climate related program and action, as well as the need to ensure that these do not adversely impact their rights. These innovative elements, as well as the unprecedented reference to international instruments such as the United Nations Declaration on the Rights of indigenous Peoples (UNDRIP) will have to be retained and reiterated in any outcome of the Durban Platform. In particular,**



**indigenous peoples have spelled out the three pillars on which any climate change policy and program will have to be based, notably the recognition of the rights of indigenous peoples in accordance to international standards and instruments such as the UNDRIP, including Free, Prior and Informed Consent, the respect of traditional knowledge and recognition of the key role of indigenous peoples in adaptation and mitigation, and respecting their rights to full and effective participation. In the meantime, negotiators will have to deal with the aftermath of the Doha negotiations that were rescued at the last moment by the COP presidency by forcing an agreement on a so-called Doha Climate Gateway, composed of three key elements that prevented the definite collapse of future talks.** The Kyoto Protocol was extended to its second commitment period, the unprecedented recognition of the so-called “Loss and damage”, notably the right to seek compensation for damage caused by climate change, and the commitment of developed countries to disburse a volume of climate finance equal at least to the average of what had been disbursed in the last three years. Indeed, the issue of financing and of the institutional architecture to deliver climate finance will be key in 2013. As a matter of fact, **the Green Climate Fund, that has been established in the Durban Conference of the Parties will hold a series of key Board meetings in the current year with the purpose of developing modalities for engagement of stakeholders, application of safeguards to its activities, modalities for funding, and its business plan.** Indigenous peoples have engaged in the past Board meetings in order to reiterate their calls for full and effective participation. Among others, Indigenous Peoples urge the GCF to recognize them as active observers in the Board meetings, in line with other international climate programs such as the UNREDD, and the Climate Investment Funds, set up an Indigenous Peoples Advisory Body, and ensure access to financing in order to be able to participate in Board meetings. Moreover, any safeguard system will have to be anchored to a rights-based approach and to international human rights obligations and instruments such as the UNDRIP, and to a solid compliance and monitoring system. Indigenous Peoples also urge the Green Climate Fund to set up an Indigenous Peoples Fund that would be directly accessible to support mitigation and adaptation projects and programs designed, developed and implemented by Indigenous Peoples. Given the agenda of negotiations at the UNFCCC, and the still existing stumbling blocks that might shrink space for innovative proposals, the Green Climate Fund might turn out to be a potentially useful opportunity to further develop criteria and policies on Indigenous Peoples, to ensure that any implementation of existing and future climate-related policies and programs is fully consistent with international obligations and fully respect Indigenous Peoples' rights.”

**The U.S. and China agreed, June 8, 2013 to work for deep world wide reductions in the potent atmospheric warming chemicals called hydrofluorocarbons (HFCs) substituted as refrigerants for the ozone layer destroying chlorofluorocarbons under the 1989 Montréal Protocol to protect the ozone layer.** If HFCs can rapidly be taken out of use, it is projected that by 2050 the effect would be the same of taking 90 gigatons of CO<sub>2</sub> out of the atmosphere, about two years worth at current emission levels (“Reducing HFCs Under Montréal Protocol,” *Science*, June 14, 2013).

**President Obama, in mid-March 2013, was preparing to order federal agencies that, for the first time, they must take into account the impact on global warming of major projects from pipelines to highways** (Mark Drajem, “Obama expands climate reviews,” *Albuquerque Journal*, March 16, 2013). **President Obama outlined his new policy against global warming, June 25, 2013, saying he would order EPA to have power companies reduce carbon emissions, sought new money for green energy development, and would not approve the Keystone XL Pipeline if it were known that it would “significantly worsen” climate change.** Details were not yet clear (Mark Landler and John M. Broder, “Obama Outlines Ambitious Plan to Cut Greenhouse Gases,” *The New York Times*, June 25, 2013 [http://www.nytimes.com/2013/06/26/us/politics/obama-plan-to-cut-greenhouse-gases.html?ref=todayspaper&\\_r=0](http://www.nytimes.com/2013/06/26/us/politics/obama-plan-to-cut-greenhouse-gases.html?ref=todayspaper&_r=0)).

**The Obama administration has slowed the implementation of a number of environmental, as well as other, regulations, by as much as two years, in the process of reviewing them** (John M. Broder, “Pollution Rules Delayed as White House Slows The Process of Reviews,” *The New York Times*, June 13, 2013).

The **California Public Utilities Commission** decided, in February 2013, that **Southern California Edison** must use revenues from the sale of sulfur dioxide permits from the closing of the **Mohave Generating Station** to fund development of large scale renewable energy for the benefit of the **Hopi and Navajo Nations**, who had benefited financially from the operation of the Mohave Generating Station (Alistair Mountz, “Southern California Edison required to help develop renewable energy on tribal lands,” *Navajo Times*, February 21, 2013).

In order to **reduce power usage (and cut greenhouse gas pollution)**, France will reduce the use of **outdoor lighting**, beginning in July, except for certain sites and occasions (Maia de la Baume, “France Will Dim Its Lights To Conserve Energy,” *The New York Times*, January 30, 2013, <http://www.nytimes.com/2013/01/31/world/europe/paris-lights-to-be-dimmed-to-save-energy.html?ref=world>).

**Technology development for industrial processes to recapture carbon dioxide directly from the air** had advanced, by the beginning of 2013, to the point where the building of prototype plants was in progress. If large quantities of CO<sub>2</sub> can be recaptured from the atmosphere cheaply, **there are many industrial uses, including pumping them into the ground, which sequesters most of the carbon gas environmentally safely, to provide pressure to pump out oil.** (Anne Eisenberg, “Pulling Carbon Dioxide Out of Thin Air,” *The New York Times*, January 5, 2013, <http://www.nytimes.com/2013/01/06/business/pilot-plant-in-the-works-for-carbon-dioxide-cleansing.html?ref=todayspaper>).

The **Pew Environmental Trust** reported, January 7, 2012, [http://info.pewtrusts.org/site/R?i=4Hlc2ts2g3n\\_gZkQz7HRUg](http://info.pewtrusts.org/site/R?i=4Hlc2ts2g3n_gZkQz7HRUg), “On New Year’s Day, **Congress included an extension of the renewable energy production tax credit (PTC) in the final deal to avert the “fiscal cliff.”** The version of the PTC extension included in this legislation would cover all wind projects on which **construction started in 2013.** This will allow for projects completed beyond 2013 to qualify for the credit, a critical change that the Senate Finance Committee made specifically to accommodate the business timelines of the clean energy industry. The measure, signed by the president Jan. 3, also includes bonus depreciation, meaning the tax deduction can be taken the first year in which the wind turbine is placed into service, providing additional relief.”

Elisabeth Rosenthal, “Carbon Taxes Make Ireland Even Greener,” *The New York Times*, December 27, 2012, [http://www.nytimes.com/2012/12/28/science/earth/in-ireland-carbon-taxes-pay-off.html?hp&\\_r=0](http://www.nytimes.com/2012/12/28/science/earth/in-ireland-carbon-taxes-pay-off.html?hp&_r=0), reports, “Over the last three years, with its economy in tatters, **Ireland embraced a novel strategy to help reduce its staggering deficit: charging households and businesses for the environmental damage they cause. The government imposed taxes on most of the fossil fuels used by homes, offices, vehicles and farms, based on each fuel’s carbon dioxide emissions, a move that immediately drove up prices for oil, natural gas and kerosene. Household trash is weighed at the curb, and residents are billed for anything that is not being recycled.** The Irish now pay purchase taxes on new cars and yearly registration fees that rise steeply in proportion to the vehicle’s emissions. **Environmentally and economically, the new taxes have delivered results.** Long one of Europe’s highest per-capita producers of greenhouse gases, with levels nearing those of the United States, Ireland has seen its emissions drop more than 15 percent since 2008. Although much of that decline can be attributed to a recession, changes in behavior also played a major role, experts say, noting that the country’s emissions dropped 6.7 percent in 2011 even as the economy grew slightly.”

**Extreme weather consistent with global warming induced climate change continues to increase, with secondary as well as primary impacts.** The rise in hay prices, as a result of the drought, has made hay sufficiently valuable that hay rustling has become a serious problem in the U.S. west (Jack Healy, “Cash for Hay Driving Thieves to Move Bundles,” *The New York Times*, January 9, 2013, <http://www.nytimes.com/2013/01/10/us/high-hay-prices-encourage-more-thefts-from-farms.html?ref=todayspaper>). During January and early February, 2013, the **Midwest received a significant amount of snow. Breaking the drought** (at least for the moment).

**Consistent with the new pattern of larger and more intense storms coming with global warming**

**induced climate change, as the weekend of February 9 approached, New York State beyond New York City and most of New England was buried by a huge storm bringing near record (and some places record) amounts of snow so quickly that many motorists had to abandon their cars on the road, as transportation and power were cut in many areas, and evacuations were called for in low lying coastal communities of Massachusetts in the face of major tidal surges pushing flood waters inland. Among the reported snowfalls as of the morning of February 9:** in New Haven County, in Connecticut, more than three feet, including 36.2 inches in Oxford and 38 inches in Milford. In Commack, on Long Island, 29.1 inches of snowfall were reported at 6 a.m. and 27.5 inches at MacArthur Airport in Islip (Marc Santora, “Northeast Buried; City Spared the Worst,” *The New York Times*, February 9, 2013, <http://www.nytimes.com/2013/02/10/nyregion/winter-storm-northeast.html>; and N.R. Klienfield and Marc Santora, “Storm Leaves Northeast Reeling and Digging,” *The New York Times*, February 9, 2013, [http://www.nytimes.com/2013/02/10/nyregion/winter-storm-northeast.html?ref=todayspaper&\\_r=0](http://www.nytimes.com/2013/02/10/nyregion/winter-storm-northeast.html?ref=todayspaper&_r=0)). **Tornados used to be out of season in the U.S. in winter, but no longer,** as shown on February 11, 2013 when a twist swept across Hattiesburg, MI injuring 50 people while damaging buildings, some extensively (“In a Tornado’s Wake,” *The New York Times*, February 12, 2013). **The storms bringing deadly tornadoes to Oklahoma, at the beginning of June, also caused flooding** (Manny Fernandez and Marc Santora, “Deadly Storms in Oklahoma Bring flooding and More Tornadoes,” *The New York Times*, June 2m 2013).

**While another huge storm dumped over a foot of snow across Kansas and much of the Midwest, continuing to carry wide ranging heavy weather East,** in late February, as of February 21, 2012, **western states continued to experience a winter of light snow, with little snow pack on the mountains, leaving many lakes half full and threatening another summer of drought and serious wild fires** (John Eligon, “A Foot or More or Snow Slams Midwest States,” *The New York Times*, February 22, 2013; and Jack Healy, “Thin Snowpack in West Signals Summer of Drought,” *The New York Times*, February 22, 2013, <http://www.nytimes.com/2013/02/23/us/in-drought-stricken-heartland-snow-is-no-savior.html?ref=todayspaper>). **By the beginning of April, following another winter of more than normal snow in the region, North Dakota prepared for the likely fourth spring of serious flooding (and a terrible drought in the other year) in five years, that have included the worst flooding ever recorded there.** Long terms plans are to build a huge diversion project to reduce the threat of flooding in populated areas – but there are some important questions about the plan (John Eligon, “Sandbag Season Has Fargo Thinking of a Better Way,” *The New York Times*, April 2, 2013, <http://www.nytimes.com/2013/04/03/us/fargo-nd-seeks-flood-protection.html?ref=todayspaper>). **Flooding of rivers has been a serious problem across the Midwest, in Spring 2013, as the result of major storms bringing more than normal snow, and some heavy rains** (“River Falls, but Flood Threats Remain,” *The New York times*.; April 22, 2013, <http://www.nytimes.com/2013/04/23/us/river-falls-but-flood-threats-remain.html?ref=todayspaper>).

**The persistence of drought in the west, - the worst on record - combined with over use of water, is causing severe problems for farmers in southern New Mexico, where a group of farmers has been told they will only receive 10% of their normal allotment of irrigation water in 2013.** The farmers are making a priority call, in an attempt to get the state to return to the original water rights the farmers claim, allowing them to have more water (Felicity Barringer, “New Mexico Farmers Seek ‘Priority Call, as Drought Persists,” *The New York Times*, March 27, 2013). Meanwhile, **one impact of the drought on the Navajo reservation has been that wild horses have been suffering, and many have been dying from lack of water, as water sources dry up** (Larissa L. Jimmy, “Drought takes toll on roaming horses,” *Navajo Times*, June 20, 2013).

**Following the worst drought in known history in the U.S. Midwest in 2012, spring 2013 has been continually exceptionally wet, sometimes preventing planting, sometimes drowning young crops. As of June 9, 2013, reasonable crop yields were still possible if the rains abated, but the farm outlook in much of the Midwest worsens with every a additional day of wet fields** (John Eligon, “After Drought, Rains Plaguing Midwest Farms,” *The New York Times*, June 9, 2013, <http://www.nytimes.com/2013/06/10/us/after-drought-rains-plaguing-midwest-farms.html?ref=todayspaper>).

**Unprecedentedly heavy rains drenched wide areas of Alberta, Canada in June, extensively flooding**

Calgary, while inundating numerous First nations in the area, bringing many evacuations and making drinking water unsafe. Impacted reserves include: The Siksika Nation, the Stone Nakoda Nation, Morley first Nation, Tsuu T'ina Nation, and the Bighorn and Eden Valley reserves (“Floodwaters devastate First Nations communities in Alberta: Communities near Calgary are under evacuation order,” *CBC News*, <http://www.cbc.ca/news/canada/calgary/story/2013/06/23/calgary-first-nation-reserves-flooding-w.html>).

Fire season has come months early, even by the new standards of climate change, to southern California, as at the beginning of May especially dry conditions and crisscrossing Santa Ana winds made it difficult to contain a fire racing toward the Pacific Ocean in Ventura county. As of May 3, 2013, no homes had been lost or people killed (Adam Narourney, “Early Wildfire Drives Thousands From Homes in Southern California,” *The New York Times*, May 3, 2013, <http://www.nytimes.com/2013/05/04/us/california-wildfire-drives-thousands-from-homes.html?ref=todayspaper>). By early June 2013, the Southwest was again engulfed in flames. While by June 13, New Mexico was experiencing a number of serious wild fires. Unseasonably hot, dry conditions combined with high, shifting winds, were both extremely damaging and threatening in various locations in Colorado. For the second consecutive year the Colorado Springs area suffered major losses of houses, at Black Forest, where at least 92 homes had been consumed by June 12, and more than 500 by June 23, in the most destructive fire in Colorado history, surpassing the damage of what was the most damaging fire in state history last year. At Canyon City, CO, threat of spreading wild fire for the first time caused evacuation of the state correctional institution. Around the state thousands of people were evacuated on June 12 (Dan Frosch, “Colorado Residents Flee Wildfires Spreading Across Rockies,” *The New York Times*, June 12, 2013, <http://www.nytimes.com/2013/06/13/us/colorado-residents-flee-spreading-wildfires-across-rockies.html?ref=todayspaper>). A week later, the West Fork Fire Complex was exploding in forests with many dead and dying trees from bark beetle infestations coming with warmer winters, aggravated by extreme draught further west in southern Colorado, forcing evacuation of the town of West Fork along US 160, and causing thousands of vacationers to flee. By June 23, 70,000 acres had been consumed in the rapidly expanding set of blazes, the largest of several wild fires burning in Colorado (Jack Healy, “Wildfires Ravage Colorado, Causing Vacationers to Flee,” *The New York Times*, June 23, 2013, <http://www.nytimes.com/2013/06/24/us/wildfires-tear-through-colorado-and-vacationers-flee.html?ref=todayspaper>).

The increasing number of large, very strong, storms – even with only the small ocean rise that has so far occurred with global warming – is increasingly destroying property, and eroding beaches and other waterfronts, making it dangerous to build or remain in low coastal areas that previously were only slightly at risk. This was demonstrated on Plum Island, MA, March 7-9, 2013, when a powerful storm – that dumped heavy snow across the Northeast - destroyed eight homes – at least one there for 50 years, and with the washing away of a good deal of beach, 24 more homes were considered in immanent danger if there were another large storm or tidal surge (Jess Bidgood, “Its Move It or Loose It In Path of a Nor’easter,” *The New York Times*, March 19, 2013).

Niki Kitsantonis, “Intense Downpour Floods Athens and Strands Motorists,” *The New York Times*, February 22, 2013, <http://www.nytimes.com/2013/02/23/world/europe/torrential-rains-flood-athens-and-strand-motorists.html?ref=todayspaper>, reported, that six hours of “**torrential rain of an intensity not seen in decades flooded roads in Athens,” Greece**, February 22, 2013, as two rivers over followed their banks, overturning parked cars and stranding dozens of motorists, causing one death of what appeared to be a heart attack, and cutting electric power in parts of the city. **Europe has experienced serious flooding, beginning late spring 2013, including the second “flood of the century” in 11 years, at the beginning of June, as very heavy rains across Germany, the Czech Republic and Austria swelled river, bringing widespread destruction. In Germany villages and cities were badly flooded, including Passau and Dresden and Pirna, on the Elbe River. Flooding along the Danube had reached 42 feet on June 4, the highest in 500 years. The Inn River was also well over its banks. On June 4 the rivers were still rising, and in places in Germany might exceed their 2002 records** (Melissa Eddy, “Merkel Visits Flood-Stricken Regions of Germany,” *The New York Times*, June 4, 2013, <http://www.nytimes.com/2013/06/05/world/europe/merkel-to-visit-flood-stricken-regions-of->

[germany.html?ref=todayspaper](#)). Meanwhile, **unusually heavy flooding took place in southern France in late June, 2013, including inundating Lourdes Cathedral** (Scott Sayre, “Flooding Damages Lourdes, French Holy Site,” *The New York Times*, June 19, 2013, <http://www.nytimes.com/2013/06/20/world/europe/flooding-damages-lourdes-french-holy-site.html?ref=todayspaper>). **Unusually heavy rains and melting snow brought flooding in the Osterdam area of southern Norway**, in late May 2013 (“Rain and Snow Mix Cause Flooding in Norway,” *The New York Times*, May 24, 2013).

**A major factor in bringing on the revolution in Syria is that the government paid no attention to the extreme drought on the country, doing nothing to improve and adjust water use** (Thomas L. Friedman, “without Water: Revolution: the Syrian Regime ignored devastating drought, radicalizing its citizens,” *The New York Times*, May 19, 2013).

Jonathan Gilbert, “Dozens of Argentines Die in Flash Flooding,” April 3, 2013, <http://www.nytimes.com/2013/04/04/world/americas/record-flooding-kills-dozens-in-Argentina.html?ref=todayspaper>, reported, **“Record flash floods in Argentina have killed at least 54 people this week**, officials said on Wednesday, destroying thousands of homes and renewing tensions as politicians blamed one another for the high death toll. In La Plata, a provincial capital 30 miles from Buenos Aires, 48 people were reported to have died after more than 12 inches of rain fell in just a few hours on Tuesday night. The flooding also claimed six lives in Buenos Aires after the **heaviest April rainfall in more than a century** fell on Monday night. More downpours were expected through at least Thursday.”

**Northern India’s narrow valleys in the state of Uttarakhand were swept by massive flooding after record rains**, in June. At least 1000 people were known dead, June 23, and the number was expected to grow. Rescue work was made difficult by continuing bad weather (Basharat Peer, “Weather Hampers Rescue of Flood Victims in India,” *The New York Times*,” June 23, 2013, [http://www.nytimes.com/2013/06/24/world/asia/weather-hampers-rescue-of-flood-victims-in-india.html?ref=todayspaper&\\_r=0](http://www.nytimes.com/2013/06/24/world/asia/weather-hampers-rescue-of-flood-victims-in-india.html?ref=todayspaper&_r=0)).

**Extremely heavy rains, high winds, and ocean swells inundated large areas of Australia’s two most populace states, in late January, displacing thousands of people, and killing at least four, following four months of extreme drought, leading to extensive wild fires** (Matt Siegel, Heavy Rains In Australia Leave 4 Dead,” *The New York Times*, January 30, 2013).

Satellite data is showing that **not only is climate change making dryer regions of the world dryer – bringing extreme drought -, and wetter regions wetter, - causing extreme flooding - but ground water reserves, the traditional back up in times of drought, are declining globally**. Even more so than was previously thought, useable water is increasingly the Earth’s most critical resource (James F. Famigiletti and Matthew Rodell, “Water in the Balance,” *Science*, June 14, 2013).

**In Guatemala (as in some other places) the requirement in the U.S. and some European countries that gasoline contain biofuel has caused a surge in biofuel production that is taking land out of food production, making it difficult for small farmers to find land to grow food on, as large farmers expand land holdings for biofuel, and caused significant food price inflation**. For example, the price of corn tortillas has more than doubled, and as chickens eat corn feed, the price of eggs has tripled (Elisabeth Rosenthal, “As Biofuel Demand Grows, So Do Guatemala’s Hunger Pangs,” *The New York Times*, January 5, 2013, [http://www.nytimes.com/2013/01/06/science/earth/in-fields-and-markets-guatemalans-feels-squeeze-of-biofuel-demand.html?ref=todayspaper&\\_r=0](http://www.nytimes.com/2013/01/06/science/earth/in-fields-and-markets-guatemalans-feels-squeeze-of-biofuel-demand.html?ref=todayspaper&_r=0)).

Diane Cardwell, “Home Solar Systems to Be an Option for Honda Customer,” *The New York Times*, February 19, 2013, <http://www.nytimes.com/2013/02/20/business/honda-to-offer-customers-a-home-solar-system-option.html?ref=todayspaper>, reported, that automakers **Honda and Acura are offering their customers home solar systems at little or no upfront cost** through a partnership with SolarCity, a residential and commercial installer. The automaker will also offer its dealers preferential terms to lease or buy systems from SolarCity on a

case-by-case basis.

**The renewed federal tax credit for putting in wind power has reenergized the wind electric generation market in the U.S., after uncertainty about the renewal stalled the market in late 2012** (Diane Cardwell, "Renewed Tax Credit Buys Wind-Power Projects," *The New York Times*, March 22, 2013).

**The U.S. government will offer the first lease sale for commercial offshore wind energy projects** at the end of July, offering 164,750 acres of federal waters **off the coasts of Rhode Island and Massachusetts**, with the potential for producing up to 3,400 megawatts of electricity, enough to power more than one million homes (John M. Broder, "to Lease Federal Waters for Commercial Offshore Wind Energy," June 4, 2013, <http://www.nytimes.com/2013/06/05/business/energy-environment/us-to-hold-sale-for-offshore-wind-energy-leases.html?ref=todayspaper> ).

The U.S. Department of Energy, in April 2013, was **preparing to test a solar device for transforming natural gas into a more efficient fuel for making electricity** (Matt Wald, "New Solar Process Gets More Out of Natural Gas," *The New York Times*, April 11, 2013).

**The U.S. experienced its best year for the growth in the number of solar voltaic electric generation installations, in 2012**, partly resulting from an oversupply of solar panels from China reducing their price (Diane Cardwell. "Solar Trade Group Reports Surge in U.S. Installations," *The New York Times*, March 14, 2012).

**The combination of high energy costs and market driven development of energy related technology brought a 13% reduction in the U.S. emission of global warming driving CO<sub>2</sub> into the atmosphere from 2007 through 2012, the greatest reduction in carbon dioxide emissions among industrial countries** in that period ("A Model for Reducing Emissions," *The New York Times*, March 20, 2013).

**The Netherlands has been installing a national network of electric charging stations for electric cars**, that is making the vehicles more practical across the country (Elisabeth Rosenthal, "Plugging in, Dutch Put Electric Cars to the Test," *The New York Times*, February 10, 2013).

**The United States has spent millions of dollars in farm subsidies to make irrigation more efficient, hoping to save water, but the result has been increased water use** (Ron Nixon, "Farm subsidies Leading to More Water Use," *The New York Times*, February 7, 2013).

**A huge, \$1 billion water desalination plant is under construction on the Pacific coast at Carlsbad, CA. Critics have said such plants are costly and environmentally unfriendly. The builders hype to prove otherwise. Proposals for more than a dozen more seawater desalination plants are in the works from San Francisco Bay south.** Given the drying of the west, if such plants can be energy efficient and otherwise environmentally sound, they may be an important asset (Fellicity Barringer, "In California, What Price Water," *The New York Times*, March 1, 2013).

**The Post Carbon Institute has put up a web site -- shalebubble.org -- and released two reports that document the realities of shale gas and oil.** The findings include: "The Reality is that the so-called shale revolution is nothing more than a bubble, driven by record levels of drilling, speculative lease & flip practices on the part of shale energy companies, fee-driven promotion by the same investment banks that fomented the housing bubble, and by unsustainably low natural gas prices. Geological and economic constraints – not to mention the very serious environmental and health impacts of drilling – mean that shale gas and shale oil (tight oil) are far from the solution to our energy woes... Diminishing Returns: Shale plays suffer from the law of diminishing returns. Wells experience severe rates of depletion, belying industry claims that wells will be in operation for 30-40 years. For example, the average depletion rate of wells in the Bakken Formation (the largest tight oil play in the US) is 69% in the first year and 94% over the first five years. **Drilling Treadmill: This steep rate of depletion requires a frenetic pace of drilling, just to offset declines. Roughly 7,200 new shale gas wells need to be drilled each year at a cost of over \$42 billion simply to maintain current levels of production. And as the most productive well locations are drilled first, it's likely that drilling rates and costs will only increase as time goes on. Unsustainable Prices: Wall Street promoted**



the shale gas drilling frenzy which resulted in prices lower than the cost of production and thereby profited [enormously] from mergers & acquisitions and other transactional fees. The oil and gas industry is now demonstrating reticence to engage in further shale investment, abandoning pipeline projects, IPOs and joint venture projects. A Shale Bubble: As a result of these realities – high depletion rates, the need to drill ever more wells to maintain production, decreasingly productive wells as the best locations are drilled and depleted, and the higher prices required to justify this investment – our country will have drilled and fracked our way down a blind alley (with huge associated economic and environmental costs) for a short-lived energy boom.”

The Environmental Defense Fund, The Clean Air Task Force, Shell, Chevron, EQT corporation, Consol Energy, and the Pennsylvania Environmental Council forged an agreement, in March, on standards and process for hydraulic fracking drilling for gas and oil in the Northeast. Many of the standard appear tougher than those of federal and state governments. Drilling and pipeline companies are encouraged to submit to an independent review. If they are found to be compliant with the air and water protection standards that will be certified by the Center for Sustainable Shale Development in Pittsburgh, created by the agreement (“Pennsylvania,” *The New York Times*, March 21, 2013).

A study by Heather M. Savage, published in *Geology*, in March 2013, found that a **damaging 5.2 earthquake in Oklahoma, in November 2011, was likely caused by pumping toxic waste water from oil production into deep wells** (Henry Fountain, “Study Links 2011 Quake To Technique at Oil Wells,” *The New York Times*, March 29, 2012). **Thousands of houses in the Netherlands have been damaged by earthquakes resulting from drilling for oil** (John Tagliabue, “Parts of Low Country Are Now Quake Country,” *The New York Times*, March 27, 2013).

Food and Water Watch reported, April 29, 2013, <http://act.foodandwaterwatch.org/site/R?i=dWKi94hOXYWCpxfo00ZYsw>, “**Earthquakes in New Mexico Have Increased More Than 20-fold Due to Fracking.**” “**In the last 10 years, New Mexico has experienced an earthquake epidemic.** In that time, there have been 20 times more earthquakes than there were between 1970 and 2000! Last week, researchers from the U.S. Geological Survey announced that **the rise in earthquakes is most likely the direct result of fracking.**”

The Ceres report, released at the beginning of May, **finds that the huge amounts of water used in Fracking could put a major strain on already stressed water supplies across the Western United States** (just from direct use, without considering the contamination occurring to water supplies from fracking) (Felicity Barringer, “Spread of Hydrofracking Could Strain Water Resources in West, Study Finds,” *The New York Times*, May 2, 2013).

A secondary problem relating to fracking is that it requires large quantities of silica sand to pump into the cracks opened by blasting to keep them open so oil will flow. This has led to a plague of sand mines across Wisconsin and Minnesota, and other places (Terry J. Allen, “Frack You and the Sand You Rode On,” In These *Times*, March 2013).

Environmental Action (<http://www.webaction.org/site/R?i=-16kAXJDOSWSNZfGdm6ODA>) and Greenpeace ([http://us.greenpeace.org/site/MessageViewer?em\\_id=28344.0&dlv\\_id=34721](http://us.greenpeace.org/site/MessageViewer?em_id=28344.0&dlv_id=34721)), reported, February 27, 2013, **Shell Oil announced, February 27, 2013, that it would not resume its oil drilling efforts in the Arctic until at least 2014, as a result of a series of problems, as pr the following: Raising a new round of questions about arctic oil drilling, one of Shell Oil’s two Arctic drilling rigs, the Kulluk, broke free from a tow ship in stormy seas and ran aground on an island in the Gulf of Alaska, threatening environmental damage from a fuel spill as the Coast Guard was leading an effort to keep its more than 150,000 gallons of diesel fuel and lubricants from spilling onto the rocky shoreline** (John M. Broder and Henry Fountain, “Rig Runs Aground in Alaska, Reviving Fears About Arctic Drilling,” *The New York Times*, January 1, 2013, <http://www.nytimes.com/2013/01/02/business/energy-environment/breakaway-oil-rig-runs-aground-in-gulf-of->

alaska.html?ref=todayspaper). John Broder and Clifford Krauss, "Interior Dept. Expedites Review of Arctic Drilling After Accidents," January 8, 2013, <http://www.nytimes.com/2013/01/09/us/arctic-drilling-to-be-reviewed-in-light-of-accidents.html?ref=todayspaper>, reports, "**The Interior Department on Tuesday opened an urgent review of Arctic offshore drilling operations after a series of blunders and accidents involving Shell Oil's drill ships and support equipment, culminating in the grounding of one of its drilling vessels last week off the coast of Alaska. Officials said the new assessment by federal regulators could halt or scale back Shell's program to open Alaska's Arctic waters to oil exploration, a \$4.5 billion effort that has been plagued by equipment failures, legal delays, mismanagement and bad weather.**"

The U.S. Department of Transportation found that Exxon Mobil's slow response, in July 2011, to major pipeline rupture under the Yellowstone River in Montana was responsible for making the spill much worse than it would have been with a prompt, appropriate, remedial action, as 70 miles of the river bank was fouled with oil, killing fish and wild life and requiring a huge clean up ("Montana: Exxon Faulted for Response to Spill," *The New York Times*, July 3, 2012). Exxon at first appeared to have done better in a March 30, 2013 **pipeline break near Mayflower, AR, North of Little Rock**. Several thousand gallons spilled, causing the evacuation of 22 homes. The company says valves closed immediately when the leak occurred, limiting the spill, and that the company placed a bomb to prevent oil from entering Lake Conway while vacuum trucks recovered about 4500 gallons of oil and water. However, **Exxon later indicated the spill was actually larger, claiming though that it was less than the 420,000 gallons it was prepared to clean up**. Another recent **pipeline rupture occurred in Utah, March 18, 2013, when a Chevron pipeline leaked more than 25,000 gallons of diesel fuel in a wetlands area about 50 miles from Salt Lake City**. It is not known if there is any connection to these two Exxon and one Chevron pipeline breaks, but one cause of preventable pipeline breaks and spills has been unsafe practices by pipeline companies, including setting the sensitivity too low of "pigs" sent through the pipelines to test for weak spots that they fail to detect them (Michael Schwartz, "Oil Pipeline Ruptures in Arkansas," *The New York Times*, March 30, 2013, <http://www.nytimes.com/2013/03/31/us/oil-pipeline-ruptures-in-arkansas.html?ref=todayspaper>; and Dan Frosch, "Pipeline Spills Stir New Criticism of Keystone Plan," *The New York Times*, April 2, 2013, <http://www.nytimes.com/2013/04/03/us/pipeline-spills-stir-new-criticism-of-keystone-proposal.html?ref=todayspaper>). "Missouri Oil Spill: Exxon Pegasus Pipeline Spills Again, One Month After Mayflower in Arkansas," *Huffington Post*, May 2, 2013, [http://www.huffingtonpost.com/2013/05/01/missouri-oil-spill-exxon\\_n\\_3194177.html?ir=Green](http://www.huffingtonpost.com/2013/05/01/missouri-oil-spill-exxon_n_3194177.html?ir=Green), reported, "**The Pegasus Pipeline, the very same one that spilled in Mayflower, Arkansas, just spilled Again,**" this time in southeast Missouri, but only about a barrel's worth spilled, though it killed some vegetation.

Officials report **that potentially radioactive filters used in the oil industry in North Dakota were being dumped in fields and garbage containers on the Fort Berthold Reservation** ("Fort Berthold warns about dangerous oil filter dumping on reservation," *News From Indian Country*, March 2013).

Although **abandoned oil wells** are being capped in many places, there is a lag in doing that, and uncapped wells sometimes are a path to pollution getting into the ground water. **There is concern, that with massive new drilling there is a major danger of large scale ground water pollution from abandoned wells**, which can interact with nearby new wells (Kate Galbraith, "Abandoned Oil Wells Raise Fears of Pollution," *The New York Times*, June 8, 2013, <http://www.nytimes.com/2013/06/09/us/abandoned-oil-wells-raise-fears-of-pollution.html?ref=todayspaper>).

The **trucking industry in the United States is in the process of greatly increasing its use of natural gas as fuel** (Diane Cardwell and Clifford Krauss, "Fueling Up for the Long Haul: The Trucking Industry Is Set to Expand Its Use of Natural Gas," *The New York Times*, April 23, 2013).

The **state of Alaska is considering two massive projects either as alternatives, or to both be constructed. One is a pipeline to carry natural gas from the North Slope to the Midwest, with a possible spur to bring gas to parts of Alaska. The second is a huge dam in the Matanuska-Susitna Valley to create electric power via renewable energy. Both projects raise environmental and financial issues** (Felicity Barringer, "Proposed Dam Presents Economic and Environmental Challenges in Alaska," *The New York Times*,

March 6, 2013, <http://www.nytimes.com/2013/03/07/science/earth/proposed-dam-presents-twin-conundrums-in-alaska.html?pagewanted=all>).

**Trouble continues at the Fukushima Daiichi nuclear power plant in Japan.** Martin Fackler, “Damaged Nuclear Plant in Japan Leaks Toxic Water,” *The New York Times*, April 6, 2013, [http://www.nytimes.com/2013/04/07/world/asia/japan-nuclear-plant-leaks-radioactive-water.html?ref=todayspaper&\\_r=0](http://www.nytimes.com/2013/04/07/world/asia/japan-nuclear-plant-leaks-radioactive-water.html?ref=todayspaper&_r=0), reported, “**Tens of thousands of gallons of radioactive water leaked from a large underground storage pool at Japan’s crippled nuclear plant, and thousands more gallons could seep out before the faulty pool can be emptied, the plant’s operator said Saturday. About 120 tons, or almost 32,000 gallons, of highly contaminated water appeared to have breached the inner protective lining of the pool at the Fukushima Daiichi plant.**” Further problems at the plant have occurred because the Fukushima Daiichi continues to use the emergency makeshift system set up in the earth quake’s aftermath to supply power. On two occasions, as of late April 2013, power was briefly lost because rats got into, and short circuited, the system. Fortunately the losses of cooling were short enough not to become additional disasters (Martin Fackler, “Body of Rat Is Linked To Blackout At Atomic Site,” *The New York Times*, March 21, 2013; and Martin Fackler, “Fukushima Blackout Hints at Plant’s Vulnerability,” *The New York Times*, March 20, 2013). Perhaps more worrying for the long term, ground water continually seeps into the damaged nuclear plant, where it becomes contaminated, and has to be pumped out and stored to prevent cooling systems from being knocked out. Because of the high contamination, the pumped out water must be stored, and thus new storage tanks are continually being built to hold the vast quantities of water. There is the ever present danger that the tanks may leak, even into the Pacific Ocean, even without a serious storm or earthquake (Martin Fackler, “Flow of Tainted Water Is Latest Crisis at Japan Nuclear Plant,” *The New York Times*, April 29, <http://www.nytimes.com/2013/04/30/world/asia/radioactive-water-imperils-fukushima-plant.html>). Martin Fackler, “Japan: Signs of Contamination at Plant,” *The New York Times*, June 24, 2013, <http://www.nytimes.com/2013/06/25/world/asia/japan-signs-of-contamination-at-plant.html?ref=todayspaper>, reported, “**The operator of Japan’s damaged Fukushima nuclear plant said Monday that it had detected a rise in levels of radioactive tritium in seawater near the plant, a sign that contaminated groundwater may be seeping into the Pacific Ocean.**”

**Not surprisingly, in early June, 2013, a leak was found in one of the many, and increasing number, of storage tanks for highly radioactive waste cooling water for the still highly troubled Fukushima nuclear power plant, in Japan, and such leaks could reach the adjacent Pacific Ocean doing serious damage** (Martin Fackler, “Leak Found in Steel Tank for Water at Fukushima,” *The New York Times*, June 5, 2013, [http://www.nytimes.com/2013/06/06/world/asia/tepcosays-water-at-fukushima-is-contaminated.html?ref=todayspaper&\\_r=0](http://www.nytimes.com/2013/06/06/world/asia/tepcosays-water-at-fukushima-is-contaminated.html?ref=todayspaper&_r=0)).

Despite wide spread public disapproval, in order to provide a stable energy supply, the **Japanese government announced at the end of February, 2013, that Japan will begin restarting its nuclear power plants later in 2013**, after new safety guidelines are established (Martin Fackler and Hiroko Tabuchi, “Japan to Begin Restarting Idled Nuclear Plants,” *The New York Times*, March 1, 2013).

**Former Chairman of the U.S. Nuclear Regulatory commission, Gregory B. Jaczko, said that all 104 of the older atomic power plants in the United States are flawed and should be replaced over time.** He said that they were not sound for extending their lives beyond their initial 40 years and should not be relicensed. As it would be impractical to replace them all at once with newer technology, the replacement process should be done over time (Mathew L. Wald, “Ex-Regulator Say Reactors Are Flawed,” *The New York Times*, April 9, 2013).

**The indefinitely shut down, troubled, San Onofre nuclear plant in southern California will be closed permanently by its owner, Southern California Edison.** The plant has been particularly controversial as it sits in an earthquake/tsunami zone halfway between Los Angeles and San Diego. At least 8 million people live within a 50 mile radius, and many millions more within 100 miles. The reactors are very close to both a major interstate and the high tide line, with a 14-foot flood wall a fraction of the height of the tsunami that overwhelmed the Fukushima nuclear plant. However, until the plant is fully and properly decommissioned, it still poses a great

danger, and unless all the nuclear material can be removed, considerable danger may still remain (“Win!: California's San Onofre Nuclear Plant to Close Permanently,” *Common Dreams*, June 7, 2013, <http://www.commondreams.org/headline/2013/06/07-1>).

Hiroko Tabuchi, “An Energy Coup for Japan: ‘Flammable Ice’,” *The New York Times*, March 12, 2013, <http://www.nytimes.com/2013/03/13/business/global/japan-says-it-is-first-to-tap-methane-hydrate-deposit.html?ref=todayspaper>, reports, “**Japan** said Tuesday that it had **extracted gas from offshore deposits of methane hydrate — sometimes called “flammable ice” — a breakthrough that officials and experts said could be a step toward tapping a promising but still little-understood energy source.** The gas, whose extraction from the undersea hydrate reservoir was thought to be a world first, could provide an alternative source of energy to known oil and gas reserves. That could be crucial especially for Japan, which is the world’s biggest importer of liquefied natural gas and is engaged in a public debate about whether to resume the country’s heavy reliance on nuclear power. Experts estimate that the carbon found in gas hydrates worldwide totals at least twice the amount of carbon in all of the earth’s other fossil fuels, making it a potential game-changer for energy-poor countries like Japan. Researchers had already successfully extracted gas from onshore methane hydrate reservoirs, but not from beneath the seabed, where much of the world’s deposits are thought to lie. The exact properties of undersea hydrates and how they might affect the environment are still poorly understood, given that methane is a greenhouse gas.

North America’s Lake Erie is suffering from a return of huge poisonous algae blooms in the summer, creating huge dead zones and reducing fish populations. As with the earlier problem, that was solved by cleaning up industrial and waste water pollution, the problem is phosphorus (that was removed from detergents decades ago). This time the phosphorous is coming from agricultural runoff following changes in farming, so that the more it rains, the worse the phosphorous pollution and the more algae. In 2011, prior to last summer’s drought, the algae extended over one sixth of the lake’s surface. Numerous other U.S. and Canadian lakes are suffering the same difficulty (Michael Wines, “Spring Rain, Then Foul Algae in Ailing Lake Erie,” *The New York Times*, March 14, 2013, <http://www.nytimes.com/2013/03/15/science/earth/algae-blooms-threaten-lake-erie.html?ref=todayspaper&r=0>). After the 2012 record drought, and for other reasons, the Great Lakes, already below their long term average levels over the past 14 years, reached record recorded lows this winter o 2013, which is impeding lake traffic in some places. Recent rains had risen the lakes slightly from their low, by mid June, but have not been sufficient to end navigational problems (John Schwartz, “Water Levels Fall in Greet Lakes, Taking a Toll on Shipping,” *The New York Times*, June 11, 2013).

Michael Wines, “Florida Algae Bloom Leads to Record Manatee Deaths,” *The New York Times*, April 6, 2013, <http://www.nytimes.com/2013/04/07/science/earth/algae-bloom-in-florida-kills-record-number-of-manatees.html?ref=todayspaper>, reported, “**Florida’s endangered manatees, already reeling from an unexplained string of deaths in the state’s east coast rivers, have died in record numbers from a toxic red algae bloom that appears each year off the state’s west coast, state officials and wildlife experts say. The tide has killed 241 of Florida’s roughly 5,000 manatees, according to the state Fish and Wildlife Research Institute, and the toll appears certain to rise.**”

The New England Fishery Management Council voted, January 30, 2013, to drastically limit cod fishing, saying the only way to save the cod fishing industry was to severely limit it (Katherine Q. Seelye and Jess Bidgood, “Officials Back Deep Cuts in Atlantic Cod Harvest to Save Industry,” *The New York Times*, January 20, 2013, <http://www.nytimes.com/2013/01/31/us/officials-back-deep-cuts-in-atlantic-cod-harvest-to-save-industry.html?ref=us>).

David Jolly, “European Officials Move to Curb Overfishing,” *The New York Times*, May 30, 2013, <http://www.nytimes.com/2013/05/31/business/energy-environment/europe-moves-to-overhaul-fishing-policies.html?ref=todayspaper>, reported, “**The European Union on Thursday agreed to an overhaul of the region’s fisheries policy, a deal intended to make commercial fishing more sustainable. While officials hailed it as a landmark agreement, some environmentalists said the deal might not be ambitious enough.**”

(Daily Freeman, Associated Press (AP) report [edited],

**Global Warming induced climate change has decimated wolverines to the point that the U.S. Fish and Wildlife Service (USFWS) has recommended they be designated as threatened under the Endangered Species Act.** Mother wolverines need snow in which to build dens and rear their young, but warming and related climate change is bringing less snow, and faster melting to U.S. mountains (“Climate Change Puts Snow Strapped Wolverines on ‘Threatened’ List,” ICTMN, February 8, 2013, <http://indiancountrytodaymedianetwork.com/2013/02/08/climate-change-puts-snow-strapped-wolverines-threatened-list-147548>).

A study, reported in the June issue of the journal *Biological Conservation*, found that **fishing vessels that deploy large gill nets snares drown a minimum of 400,000 seabirds of 81 species of birds every year, and the actual number could be much higher. The birds dive for fish and get caught in the nets that they cannot see. Previously, the nets were made of a material visible to the birds, so they avoided the nets.** Almost half of the seabirds that die in gill nets were in a section of ocean running from the northern tip of Africa to north of Greenland and Scandinavia. The bird toll was said to be especially high around Iceland, a prolific seabird habitat, where researchers estimated that 100,000 birds die every year. At least 140,000 die annually in the northwest Pacific, an area extending from the Aleutian Islands west and south to Russia and China, the study reported. Dr. Small, who heads the global seabird program at the British conservation group BirdLife International, which sponsored the study, commented, “It’s quite startling. In Japan, for example, some populations have already been extirpated on islands. Some colonies have disappeared where there is gill net fishing, and in other areas they have dramatically declined.” It appeared that losses in United States coastal fisheries were smaller. A 2011 survey by the National Oceanic and Atmospheric Administration of 28 coastal fisheries using data from 2005, counted fewer than 7,800 birds caught in all types of nets, although some academic **studies suggest that gill nets may kill tens of thousands of one species, the marbled murrelet.** Other academic studies have estimated that **a minimum of 160,000 additional birds are killed each year by longline fishing,** widely used in commercial fishing, which dangle baited hooks from lines that can stretch for miles, are. In addition, much smaller gill nets, mesh nets that are used both by commercial and small local fishermen, anchored in the water by weights and buoys, are designed to trap fish by their gills, but they can catch any creature that is too large to swim through the mesh. Conservationists say **that includes large numbers of sea turtles and mammals, including porpoises, seals and even whales. Seabird populations have been declining more quickly than other species of birds, and gill nets have long been identified as a main cause. Huge drifting gill nets were estimated to be killing 500,000 birds annually before a United Nations moratorium on large driftnets took effect in 1992.** The report indicated that reducing seabird deaths is difficult, as there are **few proven ways to deter them. California has sharply cut the toll by banning gill nets in some shallow waters. Other efforts, such as setting gill nets at night and placing lights and sonar-style “pingers” on them, have shown some success. However, many of the options are either too expensive or unworkable for local fishermen, who are major users of gill nets, and small fishing enterprises are so numerous that just reaching and educating the proprietors is a monumental task,** noted George Wallace, a vice president at the American Bird Conservancy. He added that most fishermen, want to reduce bycatches if it is economically possible, saying, “Fishermen want to catch fish. That’s what they can sell. They don’t want to tie up their lines with seabirds and sea turtles” (Michael Wines, “Fish Nets Found to Kill Large Numbers of Birds,” *The New York Times*, June 12, 2013, [http://www.nytimes.com/2013/06/13/us/study-finds-large-seabird-toll-from-fishing-nets.html?ref=todayspaper&\\_r=0](http://www.nytimes.com/2013/06/13/us/study-finds-large-seabird-toll-from-fishing-nets.html?ref=todayspaper&_r=0)).

Reports find that **the Atlantic puffin population is at risk in the United States, while there are indication these seabirds are in distress in other parts of the world.** In the Gulf of Maine, puffins have been dying of starvation and losing body weight, possibly because of shifting fish populations as ocean temperatures rise. The survival rates of fledglings on Maine's 2 largest puffin colonies dropped significantly in the summer of 2012, and puffins are in declining health at the largest puffin colony in the Gulf, on a Canadian island about 10 miles off eastern Maine. **Dozens of emaciated birds were found washed ashore in Massachusetts and Bermuda the winter of 2012-2013, probably dying of starvation. Other sea birds may also be declining**



**seriously.** Rebecca Holberton, a professor at the University of Maine who has studied puffins for years commented, "It's our marine canary in a coal mine, if you will" ("Atlantic puffin population is in danger, scientists warn," *The Guardian*, June 3, 2013, <http://www.guardian.co.uk/environment/2013/jun/03/atlantic-puffin-population-risk-scientists>).

**As glaciers melt from global warming, in addition to resulting floods in spring, and less available water year round, rock slides, some massive, are occurring,** as ice that has been supporting some areas of mountains melts away. This was recently noted in Switzerland (John Tagliabue, "As Glaciers Melt, Alpine Mountains Lose Their Glue, Threatening Swiss Village," *The New York Times*, May 29, 2013, <http://www.nytimes.com/2013/05/30/world/europe/in-swiss-alps-glacial-melting-unglues-mountains.html?ref=todayspaper>).

**The once thought to be pristine glaciers of the Himalays are now found to be receiving dust and soot from air pollution which is accelerating melting and may alter monsoon patterns.** Similar impacts may be occurring with other glaciers (Jane Qiu, "Pollutants Capture the High Ground in the Himalayas," *Science*, March 1, 2013).

Gardner Harris, "Rains or Not, India Is Falling Short on Drinkable Water," *The New York Times*, March 12, 2013, [http://www.nytimes.com/2013/03/13/world/asia/rains-or-not-india-is-falling-short-on-drinkable-water.html?ref=todayspaper&\\_r=0](http://www.nytimes.com/2013/03/13/world/asia/rains-or-not-india-is-falling-short-on-drinkable-water.html?ref=todayspaper&_r=0), reports that **Cherrapunji, India receives 40 feet of rain annually, more rain each year than almost any place on earth than this small hill town. "But during the dry season from November through March, many in this corner of India struggle to find water. Some are forced to walk long distances to fill jugs in springs or streams. Taps in Shillong, the capital of Meghalaya State, spout water for just a few hours a day. And when it arrives, the water is often not drinkable. That people in one of the rainiest places on the planet struggle to get potable water is emblematic of the profound water challenges that India faces. Every year, about 600,000 Indian children die because of diarrhea or pneumonia, often caused by toxic water and poor hygiene, according to Unicef. Half of the water supply in rural areas, where 70 percent of India's population lives, is routinely contaminated with toxic bacteria. Employment in manufacturing in India has declined in recent years, and a prime reason may be the difficulty companies face getting water.**

Andrew Jacobs, "Plans to Harness Chinese River's Power Threaten a Region," *The New York Times*, May 4, 2013, <http://www.nytimes.com/2013/05/05/world/asia/plans-to-harness-chinas-nu-river-threaten-a-region.html?ref=todayspaper>, reports that **China has revived plan it had shelved to build a large number of hydroelectric plans on rivers that flow out of China into neighboring countries where they play an important environmental and economic role. The reason for the multiple dam projects is to generate enough electricity to continue Chinese economic development while reducing reliance on coal, which is producing very serious pollution, especially in Chinese cities. Perhaps the most significant of these multiple hydro power set of projects is the plan to build a number of dams on the Nu River, one of Asia's wildest waterways, currently flowing unimpeded on a 1,700-mile course from the Himalayan Mountains of Tibet through the jungles of Myanmar and the boarder of Thailand, where it is called the Salween, to the Andaman Sea. The Nu runs through, the heart of a Unesco World Heritage site in China's southwest Yunnan Province that ranks among the world's most ecologically diverse and fragile places, that Unesco is considering whether to include the area on its list of endangered places. "Critics say the project will force the relocation of tens of thousands of ethnic minorities in the highlands of Yunnan and destroy the spawning grounds for a score of endangered fish species. Geologists warn that constructing the dams in a seismically active region could threaten those living downstream." The series dams would greatly reduce the flow of mud to the plains, as well as having other major impacts, that would fundamentally change the eco systems and resources that people depend on down river. Millions of farmers and fisherman, including many Indigenous people, who depend on the river for sustenance could be extremely adversely impacted. "So far China has been largely unresponsive to the concerns of its neighbors, among them India, Kazakhstan, Myanmar, Russia and Vietnam. Since 1997, China has declined to sign a United Nations water-sharing treaty that would govern the 13 major transnational rivers on its territory. 'To fight for every drop of water or die' is how**



China's former water resources minister, Wang Shucheng, once described the nation's water policy." China's "Ministry of Water Resources released a survey in March saying that **23,000 rivers had disappeared entirely and many of the nation's most storied rivers had become degraded by pollution. The mouth of the Yellow River is little more than an effluent-fouled trickle, and the once-mighty Yangtze has been tamed by the Three Gorges Dam, a \$25 billion project that displaced 1.4 million people.**" In addition to other negative effects, the resulting increase in the methane gas and carbon dioxide produced by decomposing vegetation will significantly contribute to global warming.

**As China expands its economy, pollution, including water pollution has become an increasingly larger problem**, stirring demonstrations and complaints that the Chinese Communist party is not doing enough to protect the environment and people. Local officials often attempt to shield polluting companies, and often do not announce dangerous pollution until long after it has spread. For example, a December 31 serious chemical spill into the river by a factory producing fertilizer from coal, Tianji Coal Chemical Industry Group, in Changzhi, was not reported for five days. The first warning came from dead fish in the river. **When the spill was announced by authorities in Changzhi, officials in the city of Handan shut off the cities water supply. Other cities and at least 28 villages, with in all over a million people, were also directly effected. The water pollution problem is especially serious in Northern China** (Edward Wong, "Spill in China Underlines Environmental Concerns," *The New York Times*, March 2, 2013, <http://www.nytimes.com/2013/03/03/world/asia/spill-in-china-lays-bare-environmental-concerns.html?ref=world>). Within a few days the number of dead pigs found in the river by boat crews removing them had reached over 13,000. It is believed they were dumped in the water by either pig farmers or meat processors who wanted to get rid of them in the face of tougher Chinese enforcement of laws making it illegal to sell diseased or dead animals for food. **Over all the cost of pollution in China has been rising along with the growth of the economy, While the methods used to measure the cost have been criticized, and may well be an understatement, the reported growth is likely significant. In 2006, China's environmental ministry said the cost of environmental degradation, in terms of pollution and damage to the ecosystem, in 2004 was over \$62 billion, or 3.05% percent of G.D.P. In 2010, the agency released partial results for 2008 that totaled about \$185 billion, or 3.9% percent of G.D.P. The Beijing government, in late March, released details of a three-year plan aimed at reducing various forms of pollution, quoting Beijing mayor Wang Anshun, as saying that sewage treatment, garbage incineration and forestry development would cost at least \$16 billion. There now is consensus, both inside and outside China, that the nation's decades of double-digit economic growth have exacted an enormous environmental cost. The government has been increasing steps to respond to the environmental crisis. Growth, however, remains the priority, as the Communist Party's legitimacy rests largely on rapidly expanding the economy, and China officially estimates that its G.D.P., which was \$8.3 trillion in 2012, will grow at a rate of 7.5% this year and at an average of 7% in the five-year plan that runs to 2015. A Deutsche Bank report, made public in February, stated that current Chinese growth policies would lead to a continuing steep decline of the environment for the next decade, especially given the expected coal consumption and boom in automobile sales** (Edward Wong, "Cost of Environmental Damage in China Growing Rapidly Amid Industrialization," *The New York Times*, March 29, 2013, <http://www.nytimes.com/2013/03/30/world/asia/cost-of-environmental-degradation-in-china-is-growing.html?ref=todayspaper&r=0>).

**China is planning a huge set of projects, over the next dozen years, aimed at increasing economic development, moving 250 million people out of thousands of villages into new urban areas, paving over farm land in the process. The environmental problems that this is likely to cause China appear horrendous. At the same time, China is moving nationally to have stricter pollution regulation and requirements that firms state what pollution they are creating. The problem will be getting it carried out at the local level** (Ian Johnson, "China's Great Uprooting: Moving 250 Million Into Cities," *The New York Times*, June 15, 2013, <http://www.nytimes.com/2013/06/16/world/asia/chinas-great-uprooting-moving-250-million-into-cities.html?ref=todayspaper>; and Keith Bradsher, "China Sets New Rules Aimed at Curbing Air Pollution," *The New York Times*, June 15, 2013, <http://www.nytimes.com/2013/06/16/world/asia/china-sets-new-rules-aimed-at-curbing-air-pollution.html?ref=todayspaper>).

**Air quality in Beijing, China continues to worsen. In January 2012, a reading of the level of pollution at the U.S. embassy reached 755, 20 times what is deemed a safe level by the U.S. EPA, up from a high of 500 in 2011** (Edward Wong, “On Scale of 0 to 500, Beijing’s Air Quality Tops ‘Crazy Bad’ at 755,” *The New York Times*, January 12, 2013, <http://www.nytimes.com/2013/01/13/science/earth/beijing-air-pollution-off-the-charts.html?ref=todayspaper>). Edward Wong, “Beijing Takes Emergency Steps to Fight Smog,” *The New York Times*, January 30, 2013, <http://www.nytimes.com/2013/01/31/world/asia/beijing-takes-emergency-steps-to-fight-smog.html?hp>, reported, “The Beijing government put in place emergency measures on Wednesday to try to combat thick smog that has encased the city, which the Communist Party has hailed as a showcase capital, in brown and gray soot. The measures include temporarily shutting down more than 100 factories and ordering one-third of government vehicles off the streets.”

Edward Wong, “Air Pollution Linked to 1.2 Million Premature Deaths in China,” *The New York Times*, April 1, 2013, <http://www.nytimes.com/2013/04/02/world/asia/air-pollution-linked-to-1-2-million-deaths-in-china.html?ref=todayspaper>, informed that **data from the 2010 Global Burden of Disease Study**, analysis of which was first published in the British medical journal, *The Lancet*, in December 2012, found that **outdoor air pollution contributed to 1.2 million premature deaths in China in 2010, nearly 40% of the global total, for a loss of 25 million healthy years of life from the population from air pollution. What the researchers called “ambient particulate matter pollution” was the fourth-leading risk factor for deaths in China in 2010, following dietary risks, high blood pressure and smoking. Air pollution ranked seventh on the worldwide list of risk factors, contributing to 3.2 million deaths world wide in 2010.** By comparison **India**, which also has densely populated cities grappling with similar levels of pollution, **had 620,000 premature deaths in 2010 resulting from outdoor air pollution, deemed the sixth most common killer in South Asia.** News Reports indicated that Chinese officials cut out sections of a **2007 report called “Cost of Pollution in China,”** undertaken by the World Bank in cooperation with the Chinese State Environmental Protection Administration, **that concluded that 350,000 to 400,000 people die prematurely in China each year because of outdoor air pollution.** In 2011, the World Health Organization estimated that there were 1.3 million premature deaths in cities worldwide resulting from outdoor air pollution. In December 2012, the Organization for Economic Cooperation and Development, in Paris, warned that “urban air pollution is set to become the top environmental cause of mortality worldwide by 2050, ahead of dirty water and lack of sanitation.” It estimated that as many as 3.6 million people might die prematurely from air pollution each year, primarily in China and India. It should be noted that air pollution moves from its source, and that the United States, particularly in its western states, has experienced increased air pollution as dirty air blows across the Pacific from China.

**As smog across northern China surged to record levels, in April 2013, with levels of deadly pollutants up to 40 times the recommended exposure limit in Beijing and other cities, bringing many children to suffer serious health problems, many parents and schools have moved to keep children indoors, and some families are planning to leave China** (Edward Wong, “In China, Breathing Becomes a Childhood Risk,” *The New York Times*, April 22, 2013, <http://www.nytimes.com/2013/04/23/world/asia/pollution-is-radically-changing-childhood-in-chinas-cities.html?ref=todayspaper>).

**Trees have been dying in Japan’s primeval forests and there is a scientific debate as to whether the cause is air pollution from China. There is evidence that Chinese air pollution is putting increased toxic penalties and more particles, which are a health hazard, into the air in Japan** (Martin Fackler, “Trees Fall in a Japanese Forest and a Scientist Is There to Blame China,” *The New York Times*, April 25, 2013).

**The annual serious air polluting of Iran’s capital of Tehran, when temperature inversions and nearby mountains hold in the smoke from factories and exhaust from cars, has gotten worse as the embargos on Iran have led to lower quality gasoline being used by automobiles** (Thomas Erdbrink, “Annual Buildup of Air Pollution Chokes Tehran,” *The New York Times*, January 6, 2013, [http://www.nytimes.com/2013/01/07/world/middleeast/tehran-is-choked-by-annual-buildup-of-air-pollution.html?ref=todayspaper&\\_r=0](http://www.nytimes.com/2013/01/07/world/middleeast/tehran-is-choked-by-annual-buildup-of-air-pollution.html?ref=todayspaper&_r=0)). **New Delhi, India has been suffering heavy, acrid smog, as the rise in automobile use has greatly exceeded the institution of air pollution controls** (Niharika Manhana, “Untamed

Motorization' Wraps an Indian City in Smog," *The New York Times*, December 27, 2012).

**A study posted online in *The American Journal of Epidemiology* found that exposure to air pollution from traffic sharply in the first two months of pregnancy greatly increases the risk of birth defects** (Nicholas Bakalar, "Air Pollution Tied to Birth Defects," *The New York Times*, April 9, 2013, <http://well.blogs.nytimes.com/2013/04/08/air-pollution-tied-to-birth-defects/?ref=todayspaper>).

**President Susilo Bambang Yudhoyono of Indonesia apologized to Singapore and Malaysia, June 24, 2013, for record-setting pollution caused by 262 forest fires in his country, illegally started by farmers to clear land, that fire fighters were working to extinguish** ("Indonesia: Leader Apologizes for Haze," *The New York Times*, June 24, 2013, <http://www.nytimes.com/2013/06/25/world/asia/indonesia-leader-apologizes-for-haze.html?ref=todayspaper>).

Earthjustice ([action@earthjustice.org](mailto:action@earthjustice.org)) reported, April 27, 2013, **"After years of court fights, the coal industry has lost a major battle against the EPA's veto of one of the largest, most destructive mountaintop removal mining operations ever proposed in Appalachia! This week, a federal appeals court in Washington, D.C. upheld the Environmental Protection Agency's power to veto the permit for the Spruce No. 1 Mine in West Virginia.** The Spruce Mine was the first mountaintop removal permit ever challenged in the courts, by our coalition partners 15 years ago, and has been in litigation ever since. Earthjustice attorneys have worked with our allies for years to support and defend the EPA's veto, and we will continue to do so during the next round of this case." For more information go to: <http://action.earthjustice.org/site/R?i=fTGJryRTopFT7Wag44aWhg>.

**The U.S. Environmental Protection Agency (EPA), in late February 2013, proposed a rule to reduce the sulfur content of gasoline by two-thirds,** in order to improve the functioning of catalytic converters and reduce smog (Matthew L. Wald, "EPA Plans Stricter Limit For Sulfur Level in Gasoline," *The New York Times*, February 29, 2013).

**The U.S. Environmental Protection Agency (EPA), in March, proposed a regulation that would limit the polluted water power plants release into waterways in the U.S. Four options were included in the proposal sent to the public for comment** ("EPA Issues Plan on Tainted Water From Power Plants," *The New York Times*, April 20, 2013).

Ian Urbina, "As OSHA Emphasizes Safety, Long-Term Health Risks Fester," *The New York Times*, March 31, 2013, discusses the **problem of OSHA and EPA dealing with problems of toxic chemicals one at a time, only after chemicals are put into use. In one instance, having banned one chemical for being dangerous to workers health, companies began using another one that was more damaging to employees exposed to it.**

**Solar panels containing fast growing algae are being used in a new all renewable energy apartment building in Hamburg, Germany to produce biofuel, provide heat and shade. The algae solar panels provide the building's energy** (David Wallis, "When Algae on the Exterior Is a Good Thing," *The New York Times*, April 25, 2013).

**Iceland, which generates so much very cheap geothermal electricity, that it only uses 17% of it, is considering spending \$2 billion on an undersea cable to export its clean renewable energy to continental Europe,** though some in Iceland oppose the plan as threatening Iceland's independence (Andrew Higgins, "Iceland Looks to Export Power Bubbling From Below," *The New York Times*, February 20, 2013, [http://www.nytimes.com/2013/02/21/world/europe/iceland-weighs-exporting-the-power-bubbling-from-below.html?ref=todayspaper&\\_r=0](http://www.nytimes.com/2013/02/21/world/europe/iceland-weighs-exporting-the-power-bubbling-from-below.html?ref=todayspaper&_r=0)).

**Several nuclear waste storage tanks at the Hanford Nuclear Reservation, in Washington State – which previously had long recorded atomic waste leak that no one acted to stop for years, making it the most contaminated nuclear site in the U.S., were found to be leaking,** in mid-February, 2013 ("Washington:

Storage Tank at Nuclear Site Is Leaking,” *The New York Times*, February 15, 2013, <http://www.nytimes.com/2013/02/16/us/washington-storage-tank-at-nuclear-site-is-leaking.html?ref=todayspaper>).

A legal fight has begun in the courts of Colorado as environmental groups claim that many of the state’s 33 dormant uranium mines should be forced to clean up, and are failing to follow clean up requirements for closing and closed uranium mines (Dan Frosch, “A Fight in Colorado Over Uranium Mines,” *The New York Times*,” April 16, 2013, <http://www.nytimes.com/2013/04/17/us/a-fight-in-colorado-over-uranium-mines.html?ref=todayspaper>).

Michael Wines, “Genetically Altered Wheat in Oregon Comes as No Surprise,” *The New York Times*, June 5, 2013, [http://www.nytimes.com/2013/06/06/us/genetically-altered-crop-in-oregon-no-surprise.html?ref=todayspaper&\\_r=0](http://www.nytimes.com/2013/06/06/us/genetically-altered-crop-in-oregon-no-surprise.html?ref=todayspaper&_r=0), reported, “One week after the revelation that an Oregon farmer had found genetically engineered wheat growing in his fields, scientists remain mystified over how the strain — apparently the remains of a test crop shut down a dozen years ago — got there. But few are surprised. Even with extensive precautions, gene-altered plants turn up in unwanted places regularly enough that farmers have come to consider a few of them weeds, and even a threat to their livelihood. And while none of them yet poses any known public health hazard, experts say the boom in so-called transgenic crops should prompt even more careful evaluation of future varieties with an eye to the prospect that they, too, could eventually appear elsewhere.” **However, there are several known health hazards in bioengineered plants to many people. What are allergens, sometimes life threatening, for many people are some times transported in genetically engineering to plants that previously did not contain the allergens, so that very careful people may now be exposed to what they are seriously allergic to, with no way to know that in advance. Similarly, nicotine related pesticides have been bioengineered into some plants, particularly corn – a major source in killing bees – and likely harmful to humans. If we are trying to get people to stop smoking nicotine carrying cigarettes, why would we allow it to be put into food, even in small quantities?**

A major outbreak of the cassava brown streak disease has been destroying entire crops of the staple food plant cassava in East Africa, and has spread into the center of Africa, laying waste to cassava as far south as Angola, and threatening to move west into Nigeria, the world’s biggest producer of the potato like root that helps feed 500 million Africans. Africa, which has already been suffering devastating food shortages, is losing 50 million tons a year of cassava to the cassava brown streak disease. Claude Fauquet, a scientist and co-founder of the Global Cassava Partnership for the 21st Century, stated that the results could be catastrophic if nothing is done to halt the disease (“Disease Is Ravaging Continent’s Staple,” *The New York Times*, May 7, 2013, <http://www.nytimes.com/2013/05/08/world/africa/disease-is-ravaging-continent-staple.html?ref=todayspaper>).

Lizette Alvarez, “Citrus Disease With No Cure Is Ravaging Florida Groves,” *The New York Times*, May 9, 2013, [http://www.nytimes.com/2013/05/10/us/disease-threatens-floridas-citrus-industry.html?ref=todayspaper&\\_r=0](http://www.nytimes.com/2013/05/10/us/disease-threatens-floridas-citrus-industry.html?ref=todayspaper&_r=0), reported, “**Florida’s citrus industry is grappling with the most serious threat in its history,**” as an outbreak of citrus disease has spread to all 32 orange producing counties of the state, resulting in the U.S. Department of Agriculture lowering its crop yield estimate five months in a row.

**Marijuana growing in northern California, in numerous instances, is doing extensive environmental damage,** as not all medical (or illegal) marijuana growers follow local or state environmental regulations. Problems have included forested hilltops being leveled and cleared for farming, poisoning of endangered species and other animals in attempts to protect plantings from wood rats, and destruction of fish habitat from lowering stream levels in the process of watering plants (Felicity Barringer, “Marijuana Crops in California Threaten Forests and Wildlife,” *The New York Times*, June 20, 2013, <http://www.nytimes.com/2013/06/21/us/marijuana-crops-in-california-threaten-forests-and-wildlife.html?ref=todayspaper>).

The U.S. Geological Survey reported, in late May, 2013, that **frogs, toads and salamanders disappeared at a rate of 3.7% a year from 2002 to 2011** (“Amphibians Are Vanishing,” *The New York Times*, May 28, 2013).

Kirk Johnson, “Scientists Are Divided Over Threat to Pacific Northwest Salmon,” *The New York Times*, May 2, 2013, <http://www.nytimes.com/2013/05/03/science/infectious-salmon-anemia-threat-divides-scientists.html?ref=todayspaper>, reports, “**Scientists have for years been on the lookout in the Pacific Northwest for signs that a dreaded salmon-killing disease, scourge to farmed salmon in other parts of the world, has arrived here, threatening some of the world’s richest wild salmon habitats. Most say there is no evidence. But for years, a biologist in Canada named Alexandra Morton — regarded by some as a visionary Cassandra, by others as a misguided prophet of doom — has said definitively and unquestionably that they are wrong. Wild Pacific salmon, she has said, are testing positive for a European strain of the virus that causes the disease, infectious salmon anemia, or I.S.A.**” “But scientists and government testing groups in Canada and the United States have said repeatedly over several years that Ms. Morton’s findings were not sufficient to sound an alarm, and that the risks to wild salmon, even in the event of a fish-farm outbreak, are unclear.” “**Now, Ms. Morton has new test results that she said are positive for the infectious salmon anemia virus — though not necessarily the disease — in farmed salmon she bought at a fish market in Vancouver late last year.** At the same time, the biggest effort ever on the American side of the border to find the virus is shifting into high gear, with fish samples arriving in labs in Idaho, Alaska and here in Washington State.”

Pam Belluck, “**Traces of Anxiety Drug May Affect Behavior in Fish,**” *The New York Times*, February 14, 2013, <http://www.nytimes.com/2013/02/15/science/traces-of-anxiety-drug-may-affect-fish-behavior-study-shows.html?ref=world>, reported. “**Researchers in Sweden reported that fish exposed to Oxazepam became less social, more active and ate faster, behaviors they said could have long-term consequences for aquatic ecosystems,**” even though the level of the drug residue in the water is fairly low. **In some places in the emerging economies, including India, there are very high levels of some pharmaceuticals in surface waters near pharmaceutical manufacturing plants.**

With the collapse of much of the fishing industry on the U.S. Northeast coast from a combination of overfishing, pollution, climate change, and other factors, which lead to the U.S. Department of Commerce instituting emergency fishing regulations reducing allowable catches of cod and by 77% off the Gulf of Maine coast, in the fall of 2013, the public debating question turned to how to apply \$500 million in relief funding authorized by Congress. The problem of sharply falling seafood stocks is much broader. The **fishing emergency accompanied by regulations reducing allowable catches by the Department of Commerce also applied to three salmon fisheries in Alaska and Mississippi’s blue crab and oyster fisheries.** The decline is not universal, however. Maine lobster have increased in population as a result of warming waters (Jess Bidgood, “As Fisheries Struggle, Debate Heats Up Over How to Help,” *The New York Times*, February 15, 2013, <http://www.nytimes.com/2013/02/16/us/debate-over-how-to-help-massachusetts-fishing-towns.html?ref=todayspaper>).

Dave Bard, “New Scientific Report Shows Pacific Blue fin Tuna Population Down,” Pew Environmental Group, January 9, 2013, <http://www.pewenvironment.org/news-room/other-resources/new-scientific-report-shows-pacific-bluefin-tuna-population-down-964-85899441247>, reports, that a new scientific study finds “**the Pacific blue fin population has dropped 96.4% from unfished levels due to decades of overfishing.** “**These new data show that the population of Pacific bluefin is a small fraction of what it used to be, and is in danger of all but disappearing,**” said Amanda Nickson, who directs global tuna conservation at the Pew Environment Group. Despite these findings, countries are still fishing for Pacific bluefin tuna in its only known spawning and nursery areas in the western Pacific Ocean. The current management measures in the western Pacific do not limit overall catches and fail to ensure the long-term sustainability of this fishery. Slightly better management exists in the eastern Pacific. At its annual meeting last June, the body responsible for managing Pacific bluefin off the west coast of the Americas, adopted the first catch limits for this species. This conservation measure caused the fishery to close earlier than planned when the limit was exceeded in August. While those actions were encouraging, they are not nearly enough.” Amanda Nickson, states, “The Pew Environment Group believes the most responsible course of action is to immediately suspend the fishery until significant steps are taken to reverse this decline. This latest assessment shows just how bad the situation really is for this top predator. This highly valuable fish is being exploited at almost every stage of its life cycle, and more than 90% of Pacific bluefin caught are juveniles, taken



before they have reproduced. Further, fishing continues on the spawning grounds of this heavily overfished species. “We call on the major countries fishing this species—Japan, Mexico, South Korea, and the United States—to immediately take necessary conservation and management actions for Pacific bluefin. Measures needed include science-based catch limits, and major reductions in the catches of juvenile bluefin by implementing size limits across the Pacific and preventing fishing on bluefin spawning grounds. Robust monitoring and enforcement measures must also be implemented to ensure that the rules are followed.”

The **New England Fishery Management Council** voted, January 30, 2013, to **drastically limit cod fishing, saying the only way to save the cod fishing industry was to severely limit it** (Katherine Q. Seelye and Jess Bidgood, “Officials Back Deep Cuts in Atlantic Cod Harvest to Save Industry,” *The New York Times*, January 20, 2013, <http://www.nytimes.com/2013/01/31/us/officials-back-deep-cuts-in-atlantic-cod-harvest-to-save-industry.html?ref=us>).

Andrew Kramer, “Accord Would Regulate Fishing in Arctic Waters,” *The New York Times*, April 16, 2013, <http://www.nytimes.com/2013/04/17/world/agreement-would-regulate-fishing-in-arctic-waters.html?ref=todayspaper>, reported, “The governments of the five countries with coastline on the Arctic have concluded that enough of the polar ice cap now melts regularly in the summertime that an agreement regulating commercial fishing near the North Pole is warranted,” and negotiations are scheduled to begin in late April.

Despite strong objections from Indian nations, **Montana’s state legislature passed four anti-bison bills in 2013. The governor vetoed three, but signed the fourth, HB328, which permits state officials to identify “the actual physical location” of buffalo to hunters**, (Terri Hansen, “Montana Governor Vetoes Three Anti-Bison Bills, Lets the Hunt Stand,” ICYMN, May 12, 2013, <http://indiancountrytodaymedianetwork.com/2013/05/12/montana-governor-vetoes-three-anti-bison-bills-lets-hunt-stand-149320>).

Dan Levin, “Prime Minister Promises to End Thailand’s Ivory Trade,” *The New York Times*, March 3, 2013, <http://www.nytimes.com/2013/03/04/world/asia/prime-minister-of-thailand-promises-to-end-nations-ivory-trade.html?ref=todayspaper>, reported, “The **prime minister of Thailand pledged Sunday to end the nation’s ivory trade, responding to growing calls from international wildlife groups desperate to stop the slaughter of African elephants.**”

In pictures: The reindeer people under threat this Christmas,” Survival International, December 18, 2012, <http://www.survivalinternational.org/news/8898>, reported that **the world’s largest reindeer herd is in serious decline as the development of huge industrial projects in Arctic and sub-Arctic regions is harming the lives of reindeer herding peoples, including the Sami and Inuit peoples in Canada by destroying grazing grounds and disrupting migration routes.**

More than 140 nations, at **the UN, adopted the first legally binding treaty setting limits on mercury pollution**, January 19, 2012. Fifty nations must sign the treaty to put into effect (“Mercury-Emissions Treaty Is Adopted After Years of Negotiations,” *The New York Times*, January 19, 2013, <http://www.nytimes.com/2013/01/20/science/earth/mercury-emissions-treaty-adopted.html?ref=todayspaper>).

Reports heard by this writer from bee keepers, and a *New York Times* report previously in *NCJ*, indicate that **the death of bees around the world is no longer mysterious, but is mostly caused by nicotine related pesticides (neonicotinoids), which are now genetically engineered into agricultural plants, like corn, that bees pollinate. The result has been a 40%-50% reduction in the number of bee hives, about a 33% reduction in the number of bees, and a corresponding reduction in agricultural output** (Michael Wines, “Mystery Malady Kills More Bees, Heightening Worry on Farms,” *The New York Times*, March 28, 2013, <http://www.nytimes.com/2013/03/29/science/earth/soaring-bee-deaths-in-2012-sound-alarm-on-malady.html?ref=todayspaper>).



**The European Food Safety Authority recommended that no pesticide containing neonicotinoids be used on crops that are attractive to honeybees, as it is now known that these chemicals, which are genetically engineered to be in many farm plants (including corn), disorient and kill bees, and are the cause of the world wide decline in bees. However, the European Union failed to act on the recommendation in March (David Jolly, “No Decision on Bee-Harming Pesticides in Europe,” *The New York Times*, March 16, 2013).**

**Officials at the United States Department of Agriculture, the Environmental Protection Agency and others released a bee death study, at the beginning of May 2013, finding that there were multiple factors in the massive death of bees in the U.S., saying traces of over 100 chemicals had been found in the bodies of dead bees, and that there was insufficient evidence to support a ban on one group of pesticides, as has just occurred in Europe with the banning of neonicotinoids, and that the costs of such action might exceed the benefits.** The report concluded the devastation of American honeybee colonies is the result of a complex stew of factors, including pesticides, parasites, poor nutrition and a lack of genetic diversity (Jon Broder, “Study Finds No Single Cause of Honeybee Deaths,” *The New York Times*, May 2, 2013, [http://www.nytimes.com/2013/05/03/science/earth/government-study-cites-mix-of-factors-in-death-of-honeybees.html?ref=todayspaper&\\_r=0](http://www.nytimes.com/2013/05/03/science/earth/government-study-cites-mix-of-factors-in-death-of-honeybees.html?ref=todayspaper&_r=0)).

**In the face of a growing number of endangered species, the Convention on International Trade in Endangered Species, or Cites, meeting in Hong Kong, in March 2013, agreed to protect dozens of animal and plant species. regulating trade in the threatened species, including for the first time trade in mantas and five shark species: the oceanic whitetip, the porbeagle and three types of hammerhead sharks. Shark populations have fallen sharply in recent years as demand for their fins, predominantly from China, has risen (Bettina Wassener, “Dozens of Species Given New Trade Protections,” *The New York Times*, March 14, 2013, <http://www.nytimes.com/2013/03/15/science/earth/dozens-of-species-given-new-trade-protections.html?ref=todayspaper>).**

**Earthjustice, Florida Office, reported, April 25, 2013, “A record number of endangered manatees are dying in Florida's algae-choked waterways--with as many as 10 deaths each day. Yet the state of Florida and the Environmental Protection Agency recently decided to approve dangerous loopholes in the region and allow more toxic pollution that is putting this gentle species' very survival at risk.” “More than 463 endangered manatees have died this year alone...and the number is quickly rising. My team and I working out of Earthjustice's Florida office are waging an emergency battle to protect these gentle creatures for the long haul.” For more information go to: [http://action.earthjustice.org/site/R?i=16XyCBKps-tPPCGTAMD2\\_Q](http://action.earthjustice.org/site/R?i=16XyCBKps-tPPCGTAMD2_Q).**

**The Pew Charitable Trusts reported, April 25, 2013, “In July, two dozen countries and the European Union will decide the fate of some of Antarctica’s most pristine marine ecosystems, including some of the best penguin habitat on Earth. At this special meeting, the Commission for the Conservation of Antarctic Living Marine Resources could create the world’s largest marine reserves in the Ross Sea and in the waters off East Antarctica. Or, these majestic areas, and the penguins that live there, will be vulnerable to the effects of large-scale industrial fishing. For more information go to: [pewenvironment.org](http://pewenvironment.org).**

**Dan Levin, “Prime Minister Promises to End Thailand’s Ivory Trade,” *The New York Times*, March 3, 2013, <http://www.nytimes.com/2013/03/04/world/asia/prime-minister-of-thailand-promises-to-end-nations-ivory-trade.html?ref=todayspaper>, reported, “The prime minister of Thailand pledged Sunday to end the nation’s ivory trade, responding to growing calls from international wildlife groups desperate to stop the slaughter of African elephants.”**

**The Convention on the International Trade In Endangered Species (CITES), in Bangkok, in March, voted to add several shark species to a list of animals and plants whose international trade is regulated (“International Group Votes to Regulate Shark Trade,” *The New York Times*, March 12, 2013). The U.S. and Russia moved for greater protection of polar bears at the CITES meeting (David Herszenhorn, “U.S. and Russia Team Up In Bid to Aid Polar Bears,” *The New York Times*, March 4, 2013).**

In another **failure of the NAFTA to protect the environment, the Commission for Environmental Cooperation, under the treaty, reports that lapses of regulation and enforcement in both Mexico and the United States have allowed cross-border shipments of 20% of its used lead-acid batteries into Mexico to recycling plants that have lower environmental standards than in the U.S. and most industrialized nations, endangering local communities** (Elisabeth Rosenthal, "Report Faults U.S. Use of Mexican Battery Recyclers," *The New York Times*, February 9, 2013).

**Climate change – particularly increasing drought – (though excavation for new housing starts could also be a cause) appears to be the cause of a rise in the number of cases of valley fever in the south west, brought on by inhaling a fungus that lives in desert soil, from 5 per 100,000 people, in 1998, to 43 per 100,000 in 2011** (Donald G. McNeil, "Cases of Fever Caused by Fungus Rise," *The New York Times*, March 28, 2013, <http://www.nytimes.com/2013/03/29/health/cases-of-fever-caused-by-fungus-rise.html?ref=todayspaper>).

## **U.S. Developments**

Many of the reports in this issue of U.S. government legislation, agency action, and court decisions are informed by electronic flyers from Hobbs, Straus, Dean and Walker, LLP, 2120 L Street NW, Suite 700, Washington, DC 20037, <http://www.hobbsstraus.com>, provided by Americans for Indian Opportunity. Reports from Indian Country Today Media Network, from the web, are listed as from *ICTMN*.

## **U.S. Government Developments**

### **Presidential Actions**

**President Obama issued a memorandum for heads of executive departments and agencies, June 7, 2013, captioned "Transforming Our Nation's Electric Grid Through Improved Siting, Permitting, and Review."** 78 Fed. Reg. 35539 (June 12, 2013). The memorandum states, "Countries that harness the power of clean, renewable energy will be best positioned to thrive in the global economy while protecting the environment and increasing prosperity." As such, modernizing and expanding the electric transmission grid is necessary in order to "ensure the growth of America's clean energy economy and improve our energy security." The memorandum **directs federal agencies to take a number of steps to improve siting, permitting, and review of transmission projects. Recognizing that a project may cross many governmental jurisdictions, the memorandum stresses the need for "robust collaboration" among federal, state, local, and tribal governments. In addition, section 5 of the memorandum explicitly says that it "shall be implemented consistent with Executive Order 13175 (Consultation and Coordination with Indian Tribal Governments)" as well as with the Presidential memorandum of November 9, 2009, on Tribal Consultation.** To promote collaboration within the federal government, the memorandum assigns a number of tasks to the Steering Committee on Federal Infrastructure Permitting and Review Process Improvement (Steering Committee), which was established by Executive Order 13604, "Improving Performance of Federal Permitting and Review of Infrastructure Projects." 77 Fed. Reg. 18887 (Mar. 28, 2012). The agencies that are represented on the Steering Committee include the Departments of Defense, Interior, Agriculture, Commerce, Transportation, Energy, Homeland Security, and Army, the Environmental Protection Agency, and the Advisory Council on Historic Preservation. The memorandum builds on work previously done to identify and designate energy right-of-way corridors on federal lands pursuant to section 368 of the Energy Act of 2005. PL 109-58; 42 U.S. C. § 15926. Section 368 of that Act directs the Secretaries of the Interior and Agriculture to designate corridors on federal lands under their respective jurisdictions in the eleven contiguous western states for "oil, gas, and hydrogen pipelines and electricity transmission and distribution facilities." The memorandum notes that, in 2009, the Secretaries of the Interior and Agriculture did designate such energy corridors. The memorandum does not mention the facts that the decisions designating those energy corridors were announced on January 14, 2009, that those decisions were challenged in court by a number of environmental organizations, and that the litigation was settled in July 2012. The settlement agreement is available at [http://corridoreis.anl.gov/documents/docs/Settlement\\_Agreement\\_Package.pdf](http://corridoreis.anl.gov/documents/docs/Settlement_Agreement_Package.pdf). Pursuant to the settlement

agreement, the future revision of the system of designated energy corridors is to be conducted according to certain principles, including the facilitation of renewable energy projects, the avoidance of environmentally sensitive areas to the "maximum extent practicable," and the use of an "open and transparent process incorporating consultation and robust opportunities for engagement by tribes, states, local governments, and other interested parties." Section 1(a) of the Presidential memorandum sets out principles for establishing energy corridors, principles that are consistent with the settlement agreement and which provide a considerable amount of detail. Section 1(b) directs the Secretary of Energy to assess and synthesize current research and prepare a "Transmission Corridor Assessment Report" for the Steering Committee on how best to facilitate renewable energy resources and improve grid resiliency. This report is to be prepared in two installments: the first part, dealing with the western states, is to be completed by December 2013; the second part, dealing with the other states, is to be completed by April 2014. Section 2 of the memorandum directs a detailed series of actions with timeframes for reviewing the existing designated energy corridors in the western states to analyze the need for additions, deletions, and revisions. An implementation plan is to be completed by November 2014, followed by coordinated land use planning and environmental and cultural resource review. Section 3 of the memorandum directs the Secretaries to analyze the need for energy corridors on federal lands in the states other than those designated as "western," and provide recommendations to the Steering Committee by September 2014.

Section 4 of the memorandum directs the agencies that are members of the Steering Committee to develop an "integrated, interagency pre-application process for significant onshore electric transmission projects requiring Federal approval." A number of objectives for such a process are listed, including: early engagement of state, local, and tribal governments; increased use of integrated planning; early identification of issues that are likely to result in a project not being permitted; and better environmental and cultural resource outcomes. A plan for this process is due by September 30, 2013 ("President Obama Issues Memorandum on the Electric Transmission Grid," Hobbs-Straus General Memorandum 13-051, June 21, 2013, <http://hobbsstraus.com/general-memorandum-13-051>).

## Congressional Developments

**The Violence Against Women Act Reauthorization finally became law after the House accepted the Senate version**, as reported in, "The Senate Passes VAWA Reauthorization with Tribal Provisions Intact; Defeats Two Amendments Seeking to Strip Tribal Authority," Hobbs-Straus General Memorandum 13-017, February 15, 2013, <http://hobbsstraus.com/general-memorandum-13-017>. The "Senate passed its version of the Violence Against Women Act Reauthorization (VAWA) (S 47) on February 12, 2013, with a vote of 78-22. The **bill contains the tribal provisions approved by the Senate in 2012—including expanded jurisdiction of tribal courts to prosecute non-Indian domestic violence offenders (provided they have certain ties to the reservation) and new authority to issue protective orders.**" Below is a summary of two defeated amendments and one accepted amendment to the tribal provisions of the Senate bill, and the outlook for the bill in the House of Representatives. "The first attempt to strip the tribal jurisdiction provisions from the bill came in an amendment proposed by Senator Grassley (R-IA) on behalf of himself and Senators Hatch (R-UT) and Johanns (R-NE). The amendment was the proposed Republican alternative to the bill. Its language would have removed the expanded jurisdiction and protective order provisions. Instead, the amendment would have allowed tribes to seek protective orders in federal court, and would have established a program of up to \$25 million to establish federal magistrates and assistant U.S. attorneys within Indian Country to hear only domestic abuse or assault cases. Tribes opposed the amendment, which ultimately failed in a vote of 34-65 on February 7, 2013. Ten Republicans joined all Democrats and Independents in voting against the amendment. Senator Coburn (R-OK) offered an amendment that would have left the bill unchanged except for deleting language expanding tribal jurisdiction and authority entirely. The amendment—which was strongly opposed by tribal advocates—was supported on the floor by Senators Cornyn (R-TX) and Grassley. Senators Cantwell (D-WA), Leahy (D-VT), Murkowski (R-AK), and Blumenthal (D-CT) spoke against it. Senator Coburn's amendment was defeated in a vote of 31-59. Four Republicans joined Senate Democrats and Independents in opposing the amendment. However, Indian Affairs Committee Vice Chairman Barrasso (R-WY) and three other Committee members (Senators McCain (R-AZ), Hoeven (R-ND), and Fischer (R-NE)) voted in favor of stripping the tribal jurisdiction provisions." "The **Senate-**

**passed version of the bill contains language included by Senator Murkowski (R-AK) which would prevent the expanded jurisdictional provisions from applying to tribes in Alaska, other than the Metlakatla Indian Community (which has reservation land). While tribes in Alaska would not be able to exercise the new authority contained in the VAWA reauthorization, the Murkowski amendment ensured that current tribal authority to enforce protective orders issued by other entities (such as states) would remain unchanged.”**

Ashley Parker, “House Renews Violence Against Women Measure,” *The New York Times*, February 28, 2013, <http://www.nytimes.com/2013/03/01/us/politics/congress-passes-reauthorization-of-violence-against-women-act.html?pagewanted=all>, **reported the House giving final approval to a renewal of the Violence Against Women Act**, sending a bipartisan Senate measure to President Obama after a House plan endorsed by conservatives was defeated, in late February. The bill passed by 286 to 138, with 199 Democrats joining 87 Republicans in support of the reauthorization of the revised 1994 law. The bill was **signed by the president**, who had strongly supported it, February 28, 2013 (“VAWA Bill with Tribal Jurisdiction Provisions to be Signed into Law,” Hobbs-Straus General Memorandum 13-023, March 1, 2013, <http://hobbsstraus.com/general-memorandum-13-023>).

“Department of Justice Initiates Tribal Consultation on the Implementation of Sections 904 and 908 of the Violence Against Women Act.” Hobbs-Straus General Memorandum 13-035, April 19, 2013, <http://hobbsstraus.com/general-memorandum-13-035>, reported that the **Department of Justice (DOJ)**, April 16, 2013, released a **Dear Tribal Leader Letter and framing paper to initiate tribal consultation on the implementation of section 904 (“Tribal jurisdiction over crimes of domestic violence”) and section 908 (“Effective dates; pilot project”) contained in the recent reauthorization of the Violence Against Women Act (VAWA) (PL 113-4)**. The DOJ was particularly seeking comments relating to “how best to structure section 908’s two-year voluntary Pilot Project for exercising tribal criminal jurisdiction over non-Indian perpetrators of domestic violence while fully protecting defendants’ rights under Federal law.” The DOJ posed numerous questions for tribal consideration regarding the implementation of VAWA. The consultations were held via telephone on May 14, 2013, at 3 pm EST, May 17, 2013, at 3 pm EST. DOJ also accepted written comments up to May 20, 2013. Further information regarding the consultations was and will be posted at: [www.justice.gov/tribal](http://www.justice.gov/tribal).

**“Summary of 112th Congress Legislation and Regulations of Interest to Indian and Alaska Native Tribes and Organizations,”** Hobbs-Straus General Memorandum 13-019, February 15, 2013, <http://hobbsstraus.com/general-memorandum-13-019>:

This Memorandum **summarizes key legislative and regulatory activity of specific interest to tribes and Indian organizations in the 112th Congress (2011-2012)**. Any legislation that was not enacted into law by adjournment of the 112th Congress died and will have to be reintroduced in the current (113th) Congress in order to receive consideration.

The 112th Congress was characterized by partisan gridlock, and is generally considered a particularly unproductive Congress. The 112th Congress enacted a low number of laws and even many of those concerned minor matters such as the naming of post offices. Congress considered but left undone many major matters including legislation regarding the looming sequestration of funds; education; energy and climate change; housing; the farm bill; tax reform; job training; immigration; and reauthorization of the Violence Against Women Act.

Appropriations for FY 2012 were finally enacted on December 23, 2011, following five short-term Continuing Resolutions. As of this writing FY 2013 funding levels are still not finalized and the current Continuing Resolution funds federal agencies through March 27, 2013. Also yet to be resolved is whether an across-the-board sequestration of funds – required by the Budget Control Act of 2011 unless certain budget savings are realized – will go into effect on March 1, 2013.

The major enacted legislation of significance to tribes was the HEARTH Act which set up a procedure for tribes to

lease lands without the Interior Secretary's approval. Of particular disappointment was the failure of Congress to enact legislation to address the U.S. Supreme Court's *Carciari v. Salazar* decision. That decision created uncertainty about the ability of the Secretary of the Interior to place land into trust for a tribe under the Indian Reorganization Act unless the tribe was federally recognized or under federal jurisdiction in 1934. Another disappointment was that the tribal Title IV-Self-Governance legislation was not enacted.

There was considerable discussion surrounding legislation that would regulate internet gaming, but no bill was enacted.

The minimal amount of public law activity aside, there were significant developments of importance to tribes in the form of federal regulations, agency and inter-agency memoranda of agreement, and issuance of tribal consultation policies.

There was, and continues to be, a flurry of executive agency activity concerning implementation of the Affordable Care Act on matters including Health Insurance Exchanges; Market Reforms; Medicaid expansion; tribal utilization of Federal Employee Health Benefits; Health Insurance Premium Tax Credit; and the VA-IHS reimbursement policy. The House of Representatives voted over 30 times in the 112th Congress to repeal the Affordable Care Act, knowing full well that the Senate would not approve, nor would the President sign, such a bill.

The Cobell settlement received its final approval in November 2012. The process of implementing the settlement has begun with the disbursement of \$1.5 billion to the class members. Other activities will include the administration of the land consolidation fund and an Indian scholarship fund.

There were several important U.S. Supreme Court decisions. On June 18, 2012, the Court issued its decision in *Match-E-Be-Nash-She-Wish Band of Potawatomi Indians v. Patchak* which challenged the Secretary of Interior's authority to acquire property for the Band as it was not a federally recognized tribe in 1934. Also on June 18, 2012, the U.S. Supreme Court held in *Salazar v. Ramah Navajo Chapter* that the federal government is required to pay full contract support costs to tribes who contract for services under the Indian Self-Determination Act. Hobbs-Straus was active in the negotiations that resulted in an agreement on common language for contract support costs provisions in funding agreements with the BIA and the Office of Self-Governance. And on June 28, 2012, the U.S. Supreme Court upheld nearly every aspect of the Affordable Care Act (ACA), including the Indian Health Care Improvement Act and other Indian-specific provisions included in the ACA.

The United Nations Special Rapporteur on the Rights of Indigenous Peoples released the report on the status of indigenous peoples in the United States.

Among the firsts for tribes during 2011-2012 was the Port Gamble S'Klallam Tribe becoming the first tribe to assume direct administration of the Title IV-E Foster Care and Adoption Assistance program as authorized in the Fostering Connections Act (PL 110-351) and the Pascua Yaqui Tribe becoming the first Tribe to have an enhanced tribal identification card approved for use in establishing citizenship and identity for entry into the U.S. under the Western Hemisphere Travel Initiative.

Also in 2012 was the appointment of Kevin Washburn as the Assistant Secretary for Indian Affairs, replacing Larry Echo Hawk, and the appointment of Vincent Logan as Special Trustee for American Indians.

At the end of 2012, Senator Daniel Akaka (D-HI), Chairman of the Senate Indian Affairs Committee, retired. Senator Maria Cantwell (D-WA) became the Chair of the Committee at the start of the 113th Congress. And, sadly, Senator Daniel Inouye (D-HI) passed away on December 17, 2012. Inouye was a former Senate Indian Affairs Committee Chairman and long-time champion of tribal sovereignty.

Land Transfer 4 American Taxpayer Relief Act 5Special Diabetes Program for Indians Extension 5 BIE-Funded Schools Eligible for Troops to Teachers 5Tribal-specific provisions in the National Defense Authorization Act 5Barona Band of Mission Indians Land Transfer Clarification Act 6 Pascua Yaqui Tribe Membership Requirements 6Bridgeport Indian Colony Land Trust, Health, and Economic Development Act 6Minnesota Chippewa Tribe Judgment Fund Distribution Act 6Temporary Assistance for Needy Families Extension 7 Ysleta del Sur Pueblo Blood Quantum Requirement 7HEARTH Act 7Moving Ahead for Progress in the 21st Century Act 7 Salmon Lake Land Selection Resolution Act 8 Quileute Tribe Tsunami Protection Act 8Temporary Assistance for Needy Families Amendments 8 Child and Family Services Improvement and Innovation Act 8 Budget Control Act 9 ADMINISTRATION ACTION/FINAL REGULATIONS 9 ECONOMIC DEVELOPMENT AND TAX-RELATED LEGISLATION 18 EDUCATION LEGISLATION 22 ENERGY LEGISLATION 27ENVIRONMENT AND NATURAL RESOURCES LEGISLATION 29 FEDERAL RECOGNITION LEGISLATION 32 GAMING LEGISLATION 35 HEALTH AND HUMAN SERVICES LEGISLATION 37 HOUSING LEGISLATION 39JUSTICE LEGISLATION 40LAND INTO TRUST LEGISLATION 42 TRIBAL/ALASKA SPECIFIC LEGISLATION 43 OTHER LEGISLATION 51

The following summaries cover actions taken by Congress in the 112th Congress (from January 2011 through December 2012) on selected legislation of significance to tribes. Bills that were enacted into law are listed first, in the reverse chronological order of public law numbers assigned to them. Bills that were not enacted by the end of the session are listed by issue area and within that according to the latest congressional action (Enacted, House or Senate Consideration, Committee Action, Bills Introduced). Unless otherwise stated, Senate bills were referred to the Senate Committee on Indian Affairs and House bills to the House Natural Resources Committee.

## PUBLIC LAWS

- Uninterrupted Scholars Act, PL 112-278. On January 14, 2013, the President signed S 3472, the Uninterrupted Scholars Act, as Public Law 112-278. The Act amends the Family Educational Rights and Privacy Act (FERPA; PL 93-380) to expand access, without written parental consent, to the educational records of foster children to include "agency caseworker or other representative of a State or local child welfare agency, or tribal organization" who are legally responsible for the care and protection of said student. The parental consent provision caused problems for youth in foster care or other out-of-home placements, causing them to at times be placed in the wrong grades and/or to repeat courses unnecessarily. Previously, the Department of Education was prohibited from providing funds to schools and educational institutions that released student records or identifiable information without written parental consent. S 3472 was introduced by Senator Landrieu (D-LA) and a companion bill, HR 5871, was introduced by Representative Bass (D-CA).
- Protect our Kids Act, PL 112-275. On January 14, 2013, the President signed HR 6655, the Protect our Kids Act of 2012, as Public Law 112-275. The Act creates the Commission to Eliminate Child Abuse and Neglect Fatalities, which will be appointed by the President and House and Senate leaders and will come from a wide array of backgrounds as specified in the Act. The Commission will study the use of child protective and child welfare services funded under Title IV of the Social Security Act (child welfare programs, Temporary Assistance for Needy Families, Child Support Enforcement, and the Foster Care, Adoption Assistance and guardianship programs) and Subtitle A of Title XX of the Social Security Act (Social Services Block Grant). Tribal programs will be involved in this study as tribes receive Title IV funds.

The Commission, which will hold hearings and engage in various kinds of research, is to file a report within two years of the appointment of a majority of its members, although the President may extend the deadline for the report by one year. Each federal agency (which would include, among others, the Bureau of Indian Affairs and many agencies in the Department of Health and Human Services) must respond to any Commission recommendation affecting it within six months.

HR 6655 was sponsored by Representative Doggett (D-TX), Ranking Member of the Ways and Means Subcommittee on Human Resources, and had strong bipartisan support. Related bills were HR 3653, S 1984, and



S 3705.

- Maniilaq Association Land Transfer, 112-263. On January 14, 2013, the President signed as Public Law 112-263, legislation that directs the Secretary of Health and Human Services to convey certain property located in Kotzebue, Alaska, to the Maniilaq Association (HR 443, H. Rept. 112-318; S 1898, S. Rept. 112-250). The conveyance covers lands and buildings/facilities currently located on such property, which will be used for health and social service programs. It provides that the Maniilaq Association is not liable for any environmental contamination as of the date of conveyance and also provides the Secretary easement and access to the property for retained federal obligations and liability purposes. The Alaska delegation – Representative Don Young, Senators Murkowski and Begich – introduced the bill.
- American Taxpayer Relief Act, PL 112-240. On January 2, 2013, the President signed HR 8, the American Taxpayer Relief Act, as Public Law 112-240, legislation to avert the so-called "fiscal cliff" which would have required deep across-the-board cuts in domestic and defense programs and would have resulted in increased taxes for most people.

Among other things the Act provided a two-month delay of a scheduled sequestration of funds (until March 1, 2013), blocked a 17 percent reduction in the Medicare reimbursement rate for physician services, and extended unemployment emergency compensation and farm bill provisions.

The Act also contains tribal-specific provisions including extension of the Special Diabetes Program for Indians through FY 2014 (see below); and extension of the following three tax provisions: 1) Indian Unemployment Tax Credit, 2) accelerated depreciation for business property on Indian reservations, and 3) production credit for Indian coal facilities placed in service before 2009.

For additional information see Hobbs-Straus General Memorandum 13-02 (January 4, 2013).

- Special Diabetes Program for Indians Extension, PL 112-240. On January 2, 2013, the President signed into law HR 8, the American Taxpayer Relief Act, as Public Law 112-240, described above. Included in the Act is a one-year extension of funding (through FY 2014 at the current rate of \$150 million per program, per fiscal year) for the Special Diabetes Program for Indians (SDPI) and the Special Diabetes Program for type-1 research (SDP). SDPI funding is mandatory and, should a sequestration of funds go into effect, would only be subject to a two percent cut rather than the higher percentage reduction that would be applied to discretionary spending.

For additional information see Hobbs-Straus General Memorandum 13-02 (January 4, 2013).

- BIE-Funded Schools Eligible for Troops-to-Teachers, PL112-239. On January 2, 2013, the President signed the National Defense Authorization Act (HR 4310, H. Rept. 112-705) as Public Law 112-239. Division E, sec. 541, of the Act makes several changes to the Troops to Teachers program which is authorized under the Elementary and Secondary Education Act. First, the responsibility and authority for operating the Troops-to-Teachers Program is transferred from the Secretary of Education to the Secretary of Defense. More importantly, the Act specifically expands the definition of "eligible schools" where retired/former service personnel may be employed to include Bureau of Indian Education (BIE)-funded schools and charter schools.
- Tribal-specific provisions in the National Defense Authorization Act, PL 112-239. On January 2, 2013, the President signed the National Defense Authorization Act (HR 4310, H. Rept. 112-705) as Public Law 112-239. In addition to the section amending the Troops-to-Teachers Program, there are a number of sections which may be of interest to tribes. They are as follows:
  - o (sec. 312) Authority of Secretary of a military department to enter into cooperative agreements with Indian tribes for land management associated with military installations and State-owned National Guard installations
  - o (sec. 563) Amendments to the Impact Aid program
  - o (sec. 1087) Removal of action
  - o (sec. 1632) Reporting on goals for procurement contracts awarded to small business concerns
  - o (sec. 1801-1803) Fire Grants Reauthorization
  - o (sec. 3151) Report on abandoned uranium mines

- Barona Band of Mission Indians Land Transfer Clarification Act, PL 112-232. On December 28, 2012, the President signed the Barona Band of Mission Indians Land Transfer Clarification Act as Public Law 112-232 (S 3193, S. Rept. 112-207; H. Rept. 112-702). The Act corrects the identification of lands that were placed in trust for the Barona Band under the Native American Technical Corrections Act of 2004 (PL 108-204). Based on a negotiated agreement among the Barona Band, county and neighboring homeowners, the Act removed the private property mistakenly identified in PL 108-204 and placed the correct parcel in trust for the Band. S 3193 was introduced by Senator Feinstein (D-CA).

- Pascua Yaqui Tribe Membership Requirements, PL 112-214. On December 20, 2012, the President signed as Public Law 112-214 legislation (HR 3319, H. Rept. 112-675) that eliminates the Pascua Yaqui Tribe's membership criteria established under its recognition Act. Instead, the Act, introduced by Representative Grijalva (D-AZ), allows the Tribe to enroll as members "any United States citizen of Pascua Yaqui blood enrolled by the tribe."

- Bridgeport Indian Colony Land Trust, Health, and Economic Development Act, PL 112-212. On December 20, 2012, the President signed as Public Law 112-212 legislation (HR 2467, H. Rept. 112-611) that authorizes approximately 32 acres of federal land and seven acres on which a health clinic had been built to be taken into trust for the benefit of the Bridgeport Indian Colony in California. The expansion of the Tribe's reservation with the addition of the present federal lands is intended to be used for housing, a community activity center and economic development. Representative McKeon (R-CA) introduced the bill.

- Minnesota Chippewa Tribe Judgment Fund Distribution Act, PL 112-179. On October 5, 2012, the President signed as Public Law 112-179 legislation (HR 1272, H. Rept. 112-501) to authorize distribution of the 1999 \$20 million settlement awarded to the Minnesota Chippewa Tribe among the separate Bands (except for the Red Lake Band). The Act authorizes reimbursement to the Tribe for the judgment amount and interest earned on it plus attorney fees and litigation expenses related to the settlement. It also directs the Secretary to distribute to the Bands amounts totaling \$300 for each member of each Band, and an equal division of the remaining balance to each Band. Participating Bands are Bois Forte Band; Fond du Lac Band; Grand Portage Band; Leech Lake Band, Mille Lacs Band; and White Earth Band.

Representative Peterson (D-MN) introduced HR 1272 and Senator Franken (D-MN) introduced the companion bill (S 1739).

- Temporary Assistance for Needy Families Extension, PL 112-175. On September 28, 2012, the President signed H. J. Res. 117, a Continuing Resolution extending FY 2013 funding for federal agencies through March 27, 2013, as Public Law 112-175. Included in the Act is an extension of the Temporary Assistance for Needy Families (TANF) program through March 31, 2013. There were several short-term extensions of the TANF program during the 112th Congress, and Congress will soon have to consider a reauthorization or another extension of the program.

- Ysleta del Sur Pueblo Blood Quantum Requirement, PL 112-157. On August 10, 2012, the President signed as Public Law 112-157, legislation which amends the Ysleta del Sur Pueblo's legislative recognition membership criteria (HR 1560, H. Rept. 112-222). The Act authorizes the Tribe to change its membership criteria from the legislatively imposed limit of 1/8 blood quantum to instead allow the Tribe to determine its own blood quantum requirement for membership, as do most other federally-recognized tribes. The bill's sponsor was Representative Reyes (D-TX), who had introduced similar legislation since the 105th Congress.

- HEARTH Act, PL 112-151. On July 17, 2012, the President signed as Public Law 112-151 the "Helping Expedite and Advance Responsible Tribal Homeownership" (HEARTH) Act (HR 205, H. Rept. 112-427). The Act authorizes any tribe, at its own option, to lease its tribal trust land without approval by the Secretary of the Interior.

In order to take advantage of the HEARTH option, a tribe will have to adopt regulations governing the leasing process, which will be subject to approval by the Secretary. Leases for exploration, development, or extraction of any mineral resources are excluded from the authority provided in the Act. Leases of individually owned allotted Indian lands are also excluded, thus still requiring Secretarial approval.

The House version was introduced by Representative Heinrich (D-NM) and the Senate version (S 703) by Senator Barrasso (R-WY).

For additional information see Hobbs-Straus General Memorandum 12-089 (July 20, 2012).

- Moving Ahead for Progress in the 21st Century Act, PL 112-141. On July 6, 2012, President Obama signed as Public Law 112-141 the Moving Ahead for Progress in the 21st Century Act (MAP-21) (HR 4348, H. Rept. 112-557). The MAP-21 Act authorizes new surface transportation programs for fiscal years 2013 through 2014 and extends the current surface transportation law, the Safe, Accountable, Flexible, Efficient Transportation Equity Act: A Legacy for Users (SAFETEA-LU, PL 109-59), through the remainder of FY 2012.

Under MAP-21, the funding level for the newly established Tribal Transportation Program (TTP) will be \$450 million, which is the same level that the Indian Reservation Roads (IRR) Program was funded at in SAFETEA-LU. These funds, however, must now cover two additional programs: the IRR Bridge Program and a tribal safety program. Also, MAP-21 establishes a new tribal shares funding formula, which will be gradually implemented over several years and will largely replace the regulatory formula used under SAFETEA-LU. In addition, there are two non-transportation provisions included in MAP-21: the interest rate for federally subsidized student loans and a study on tribal government and tribal member participation in the National Flood Insurance Program.

For additional information see Hobbs-Straus General Memorandum 12-091 (July 23, 2012).

- Salmon Lake Land Selection Resolution Act, PL 112-133. On June 15, 2012, the President signed as Public Law 112-133 legislation to ratify an agreement among the Secretary of Interior, the State of Alaska and the Bering Straits Native Corporation (S 292, S. Rept. 112-52; H. Rept. 112-428). The agreement reached in 2007 resolves conflicting land selections between the State and Corporation in the area around Salmon Lake, which is 38 miles north of Nome.

S 292 was introduced by Senators Murkowski (R-AK) and Begich (D-AK). Representative Don Young (R-AK) introduced the companion measure (HR 296).

- Quileute Tribe Tsunami Protection Act, PL 112-97. On February 27, 2012, the President signed as Public Law 112-97, legislation that conveys two parcels of Olympic National Park lands to the Quileute Indian Tribe to provide the community with lands outside the tsunami and Quillayute River flood zones. Portions of the conveyed lands may be used for housing relocation of tribal members and other buildings but may not be used for gaming purposes. Among other things, the Act adjusts the northern boundary of the Quileute Indian Reservation, and clarifies public use and access to Olympic National Park lands that are contiguous to the Reservation.

HR 1162 (H. Rept. 112-387) was sponsored by Representative Dicks (D-WA).

- Temporary Assistance for Needy Families Amendments, PL 112-96. On February 22, 2012, President Obama signed the Middle-Class Tax Relief and Job Creation Act (HR 3630) as Public Law 112-96. The Act extended for seven-months (through September 30, 2012) the Temporary Assistance for Needy Families (TANF) program. It also included two other provisions affecting the TANF program.

Included in the Act is a directive to the Secretary of the Department of Health and Human Services to issue rules governing data exchange standards for reporting under the TANF program. The standards are, to the extent practicable, to be nonproprietary and interoperable. In developing the rules, the Secretary is to consult with an interagency workgroup established by the Office of Management and Budget and to take into account state and

tribal perspectives with regard to the data exchange standards. The language in the Act was taken from other bills on this subject, including HR 3659 and HR 3339.

The Act also requires that states ensure that TANF electronic benefit cards cannot be used in liquor stores, gaming establishments, or in strip-clubs or other adult-entertainment venues. The provision does not apply to tribally-administered TANF programs, although the use of electronic benefit cards for tribal TANF benefits is not widespread. States that fail to meet this requirement within two years will lose five percent of their TANF award. Violations that are caused by individual fraud will not result in a state penalty. This provision is similar to that in HR 3567.

- **Child and Family Services Improvement and Innovation Act, PL 112-34.** On September 30, 2011, the President signed HR 2883, the Child and Family Services Improvement and Innovation Act (Act), as Public Law 112-34. The Act reauthorizes several child welfare programs which benefit tribes through fiscal year 2016 and, for the first time, provides tribal eligibility for Court Improvement Program grants. In addition, a tribe who administers the Title IV-E Foster Care and Adoption Assistance Program is authorized to apply for a waiver to operate the program as a demonstration project.

Sponsors of the legislation that became PL 112-34 were Ways and Means Subcommittee on Human Resources Chairman Davis (R-KY) and Ranking Member Doggett (D-TX) and Senate Finance Committee Chairman Baucus (D-MT) and Ranking Member Hatch (R-UT).

For additional information see Hobbs-Straus General Memorandum 11-115 (October 14, 2011).

- **Budget Control Act, PL 112-25.** On August 2, 2011, President Obama signed S 365, the Budget Control Act of 2011 (Act), as Public Law 112-25. The Act raised the nation's debt limit and set forth the required federal deficit reduction measures covering fiscal years 2012 through 2021.

The measure is of enormous and long-term importance to tribal governments and others as it places very restrictive spending cap requirements on Congress, limits that are legally binding. The spending reductions could be met through the account-by-account work of the appropriations committees and/or by changes in entitlement program statutes and/or tax laws, and failing that, by across-the-board sequestration of funds.

For additional information see Hobbs-Straus General Memorandum 11-094 (August 5, 2011).

## ADMINISTRATION ACTION/FINAL REGULATIONS

- **Revised BIA Leasing Regulations.** On December 5, 2012, the Bureau of Indian Affairs (BIA) published the final regulations governing the leasing of Indian lands, codified at 25 C.F.R. Part 162. The regulations improve, simplify, and expedite the process for approving surface leases for residential, business, and wind and solar resource (WSR) leasing on Indian land. The final regulations also eliminate the requirement that the BIA approve land-use permitting on Indian land for residential, business, and WSR purposes. The regulations now provide clarity on the required contents for, and the administrative processes applicable to, different types of leases.

For additional information see Hobbs-Straus General Memorandum 12-135 (December 28, 2012).

- **Sacred Sites MOU.** On December 5, 2012, the Advisory Council on Historic Preservation (ACHP) and four federal agencies – the Departments of Defense, Interior, Agriculture and Energy – issued a Memorandum of Understanding (MOU) REGARDING INTERAGENCY COORDINATION AND COLLABORATION FOR THE PROTECTION OF INDIAN SACRED SITES. While the MOU uses the definition of sacred site in Executive Order 13007, Indian Sacred Sites, it also recognizes that sacred sites "often occur within a larger landform or are connected through features or ceremonies to other sites or a larger sacred landscape." The MOU includes a list of eleven action items on which the agencies agree to jointly work. The agencies also agree to consult with tribes "as appropriate in developing and implementing" the listed actions.

For additional information see Hobbs-Straus General Memorandum 12-133 (December 14, 2012).

- Veterans Administration-Indian Health Service National Reimbursement Agreement. On December 5, 2012, the Veterans Administration (VA) and the Indian Health Service (IHS) signed an agreement regarding reimbursement by the VA to the IHS for medical services provided to veterans. The agreement is in fulfillment of a requirement in the Affordable Care Act. The agreement includes, as tribes had wanted, the outpatient all-inclusive rate. Under the agreement, the IHS negotiates with the VA regarding the facilities it administers, while tribes can individually negotiate with the VA or use the national agreement signed on December 5, 2012. A copy of the MOU is available at: [http://www.ihs.gov/PublicAffairs/DirCorner/docs/VA\\_IHS\\_FINAL\\_Reimburseme...](http://www.ihs.gov/PublicAffairs/DirCorner/docs/VA_IHS_FINAL_Reimburseme...)
- Department of Labor Tribal Consultation Policy. On December 4, 2012, the Department of Labor (DOL) published its Tribal Consultation Policy (Policy). Under the Policy, the Director of the Office of Public Engagement, working in conjunction with other DOL offices (Intergovernmental Affairs, Office of the Secretary) will coordinate the Tribal Consultation Policy. Each DOL operating agency will designate a senior official with primary responsibility for tribal matters. The Policy addresses a number of activities including ways the DOL will undertake proactive and ongoing consultation.

For additional information see Hobbs-Straus General Memorandum 12-131 (December 14, 2012).

- HUD Rule Amending NAHASDA Regulations. On December 3, 2012, the Department of Housing and Urban Development (HUD) published the final rule resulting from the negotiated rulemaking on the Native American Housing and Self-Determination Act (NAHASDA) regulations that began in 2010. The rule represents a significant modification to the regulations at 24 CFR part 1000, and addresses every part of those regulations except for Subpart D, which deals with the Indian Housing Block Grant (IHBG) allocation formula. The IHBG allocation formula will be the subject of an upcoming negotiated rulemaking.

For additional information see Hobbs-Straus General Memorandum 12-127 (December 7, 2012).

- HHS Guidance on De-Identifying Protected Health Information. On November 26, 2012, the Department of Health and Human Services' Office for Civil Rights released guidance regarding methods for de-identifying protected health information (PHI) in accordance with the Health Insurance Portability and Accountability Act of 1996 (HIPAA). The guidance, which was mandated by the Health Information Technology for Economic and Clinical Health Act as a part of the American Recovery and Reinvestment Act of 2009, explains and answers questions regarding the two methods covered entities and business associates can use to de-identify PHI under the HIPAA Privacy Rule.

For additional information see Hobbs-Straus General Memorandum 12-134 (December 14, 2012).

- Department of Justice Policy on Eagle Feathers. On October 12, 2012, the Department of Justice (DOJ) issued the "Possession or Use of the Feathers or Other Parts of Federally Protected Birds for Tribal Cultural and Religious Purposes" (Policy) memorandum. The Policy is an internal DOJ guidance document on the exercise of prosecutorial discretion by U.S. attorneys and other DOJ officials that formalizes and memorializes the longstanding policy and practice of the DOJ. The Policy includes specific standards for prosecutorial discretion. It expressly states that tribal members are covered regardless of whether they have a permit from the U.S. Fish and Wildlife Service, and that it does not apply to persons who are not members of federally recognized tribes. The DOJ will continue to prosecute tribal members and non-members for violating federal laws that prohibit killing eagles or other protected birds, or the buying or selling of feathers or other parts of protected birds.

For additional information see Hobbs-Straus General Memorandum 12-121 (October 19, 2012).

- Establishment of Chimney Rock National Monument, Presidential Proclamation 8868. On September 21, 2012, the President issued Proclamation 8868, under the authority provided by the Antiquities Act, to designate the

Chimney Rock Archeological Area in the San Juan National Forest in Colorado as the Chimney Rock National Monument. The Chimney Rock Archeological Area is surrounded by the Southern Ute Indian Reservation but is also considered culturally and spiritually significant by the Pueblo tribes of New Mexico. The Proclamation acknowledges the significance of the Monument and allows for continued use of the Monument by Indian tribes for traditional ceremonies and as a source of traditional plants and other materials.

Prior to the President's Proclamation, the Chimney Rock National Monument Establishment Act was introduced as HR 2621 and S 508. See the section on ENVIRONMENT AND NATURAL RESOURCES LEGISLATION.

- EEOC Assistance to Tribes to Investigate and Settle Employment Discrimination Claims. On September 18, 2012, the U.S. Equal Employment Opportunity Commission (EEOC) announced a national initiative to encourage Indian tribes to partner with the EEOC to reduce employment discrimination in Indian Country.

The EEOC asked tribes to consider a model Memorandum of Understanding (MOU) that would allow a tribe to voluntarily agree to authorize the EEOC to assist the tribe in the investigation and processing of employment discrimination complaints. The MOU prerequisites are that a tribe must have an employment discrimination ordinance covering a number of specific matters and a Tribal Employment Rights Office that is empowered to enforce that ordinance.

For additional information see Hobbs-Straus General Memorandum 12-120 (October 12, 2012).

- USDA/BIA Memoranda of Understanding to Improve Tribal Access and Improve Services. In September 2012, the Department of Agriculture (USDA) and the Department of the Interior signed two memoranda of understanding (MOU) to promote improved tribal and tribal member access to USDA and Bureau of Indian Affairs (BIA) programs. The relevant programs are those administered by the Farm Service Agency, the Natural Resources Conservation Service, and Rural Development at USDA, and the BIA at the Department of the Interior.

The MOUs establish a framework for consultation, training, coordination, and the provision of technical assistance which will increase the amount of Indian land enrolled under USDA conservation programs through the Natural Resources Conservation Service and farm loan programs through the Farm Service Agency and improve service delivery on those lands. Farming and animal management, grazing, ranching and related food and agricultural operations will be supported through improved interdepartmental coordination. The MOUs also support the establishment of Native rural businesses, renewable energy development, and job creation.

The MOUs call for the BIA to work with USDA Rural Development to increase homeownership, home repair, and rehabilitation opportunities, and improve energy efficiency of homes on Indian lands. The MOUs also address the USDA's Rural Utilities Service, which will work with BIA to implement and administer the Substantially Underserved Trust Areas provision of the 2008 Farm Bill to increase affordability and availability of RUS-supported infrastructure on Indian lands. Copies of the MOUs are available at <http://www.bia.gov/cs/groups/public/documents/text/idc-022210.pdf>.

- IRS Clarifies Per Capita Payments from Proceeds of Certain Settlements of Indian Tribal Trust Cases Not Taxable. The Internal Revenue Service (IRS) in Notice 2012-60 confirmed that per capita payments from trust accounts resulting from Cobell v. Salazar and similar tribal trust administration settlements are excluded from consideration as income for federal tax purposes. There are, however, some exceptions. The decision is limited to the proceeds of settlements with the 55 federally recognized tribes that have entered into settlement agreements of tribal trust cases as well as to similar tribal trust case settlements that will be subsequently identified by the IRS. Other per capita distributions are subject to the Per Capita Act (PL 98-64).

For additional information see Hobbs-Straus General Memorandum 12-112 (September 7, 2012).

- Food Distribution Program on Indian Reservations Rule on Administrative Funding Allocations. On August 23,



2012, the Department of Agriculture published the final rule on the administrative funding allocations for the Food Distribution Program on Indian Reservations and the Food Distribution Program for Indian Households in Oklahoma (both referred to as FDPIR). The purpose of the administrative funding allocation methodology is to ensure equitable and fair distribution of resources. The regulations also clarify program requirements for the distribution of administrative funds to tribal organizations and state agencies, and allowable costs for use of the administrative funds.

For additional information see Hobbs-Straus General Memorandum 12-106 (August 24, 2012).

- CMS Clarifies Trust Settlement Per Capita Payments to be Excluded as Income for Medical Assistance Eligibility. On August 15, 2012, the Centers for Medicare and Medicaid Services issued a clarification letter that per capita payments from trust accounts resulting from Cobell v. Salazar and similar tribal trust administration settlements are excluded as income or resources for determining eligibility for Social Security benefits, including Medicaid and the Children's Health Insurance Program.

For additional information see Hobbs-Straus General Memorandum 12-111 (September 7, 2012).

- BIA Adopts Categorical Exclusion for Homesites. On August 10, 2012, the Department of the Interior revised its procedures for implementing the National Environmental Policy Act (NEPA) by adopting a new categorical exclusion for actions by the Bureau of Indian Affairs (BIA) associated with leasing and/or constructing single-family homes on Indian land. The adoption of this categorical exclusion is intended to expedite compliance with NEPA for covered BIA actions by eliminating the need to prepare an environmental assessment, unless an extraordinary circumstance applies.

For additional information see Hobbs-Straus General Memorandum 12-104 (August 24, 2012).

- National Indian Gaming Commission Publishes Four Rules. On August 9, 2012, the National Indian Gaming Commission (NIGC) published four sets of rules that amend 25 Code of Federal Regulations:
  - o Part 502 Definitions – adds a definition for "enforcement action"
  - o Part 537 Background Investigations for Persons or Entities with a Financial Interest In, or Having Management Responsibility for, a Management Contract – gives the NIGC Chair discretion to reduce the background investigations required for certain tribal entities or financial entities already subject to federal regulation, background checks and/or licensing under a tribal-state compact
  - o Part 571 – Monitoring and Investigations – adopts a new § 571.4 which authorizes the NIGC, in its discretion, to issue an "investigation completion letter" advising parties that a previously open NIGC investigation has been completed
  - o Part 573 – Enforcement – sets out a "pre-enforcement process" intended to allow tribes to voluntarily come into compliance before the NIGC Chair takes enforcement action

- Reallocation of Tribal Economic Development Bonds. On July 18, 2012, the Internal Revenue Service (IRS) and the Treasury Department announced through Notice 2012-48 that they will reallocate \$1.8 billion in bond volume cap through Tribal Economic Development Bonds (TEDB).

The original TEDB program, created in the American Recovery and Reinvestment Act of 2009, was not successful in Indian Country due to programmatic restrictions and adverse credit markets. The IRS has now revamped the TEDB program to increase the likelihood that tribes will be able to successfully issue bonds to fund economic development projects.

For additional information see Hobbs-Straus General Memorandum 12-096 (July 27, 2012).

- Executive Order on Accelerating Broadband Infrastructure Deployment. On June 14, 2012, President Obama signed Executive Order 13616, Accelerating Broadband Infrastructure Deployment. The intent of the Order is to facilitate broadband deployment on federal lands, buildings, rights-of-way, federally assisted highways, and tribal and individual Indian trust land.

For additional information see Hobbs-Straus General Memorandum 12-081 (June 29, 2012).

- **Rural Utilities Service Regulations Implementing Priority Access to Financing for Substantially Underserved Trust Areas.** On June 13, 2012, the Department of Agriculture–Rural Utilities Service (RUS) published final regulations to implement the Substantially Underserved Trust Area (SUTA) provisions of the 2008 Farm Bill. The purpose of the SUTA program is to assist Indian, Alaska Native, and Native Hawaiian communities obtain grants, loans, and guaranteed loans from the RUS to address the significant lack of access to telephone, internet, electricity, water and sewer needs.

For additional information see Hobbs-Straus General Memorandum 12-075 (June 15, 2012).

- **IRS Regulations on the Health Insurance Premium Tax Credit.** On May 23, 2012, the Internal Revenue Service (IRS) published final regulations on the health insurance premium tax credit enacted by the Patient Protection and Affordable Care Act (ACA). The ACA requires individuals who do not have qualifying coverage to obtain health insurance coverage. To make this requirement more affordable for individuals with household incomes between 100 percent and 400 percent of the federal poverty level (FPL), the law provides tax credits to individuals purchasing insurance on the Exchange plans to lower the cost of premiums.

In the final rule, the IRS confirmed that being eligible for Indian Health Service coverage does not disqualify American Indians and Alaska Natives from being able to qualify for the premium tax credit. This means that American Indians and Alaska Natives with incomes between 100 percent and 400 percent of the FPL can purchase subsidized insurance on the Exchanges. The IRS also confirmed that tribes can pay premiums on behalf of their members and that their members would qualify for the premium tax credit.

For additional information see Hobbs-Straus General Memorandum 12-072 (June 8, 2012).

- **EPA Rule Requires Toxic Release Inventory Reporting to Tribal Governments.** On April 19, 2012, the Environmental Protection Agency (EPA) published a final rule which requires the owners or operators of facilities located in Indian Country (as defined at 40 C.F.R. 372.3) to report the use of toxic chemicals to the appropriate tribal government of their relevant area, rather than to the state. The rule also clarifies that tribal governments may request that EPA require a non-covered facility located in Indian Country to submit Toxics Release Inventory (TRI) forms. Tribes also may petition EPA to add a chemical to the TRI list, or to delete a chemical from the TRI list, just as states are authorized to do.

For additional information see Hobbs-Straus General Memorandum 12-056 (April 27, 2012).

- **Veterans Administration Issues Rule on Tribal Veterans Cemetery Grants.** On January 30, 2012, the Veterans Administration (VA) issued a final rule in compliance with the Veterans Benefits, Health Care, and Information Technology Act of 2006 (PL 109-461) requirement that tribal organizations are eligible for its veterans cemetery grants program. Under this program grants are made for the establishment, expansion, and improvement of veterans' cemeteries. The VA reimburses up to 100 percent of the costs associated with the establishment, expansion, and improvement of a veterans cemetery, as well as the cost of initial operating equipment. Tribal veterans cemeteries receiving funds under this program must be on trust land and operated by a tribe or tribal organization.

For additional information see Hobbs-Straus General Memorandum 12-021 (February 10, 2012).

- **Tribal Title IV-E Regulations.** On January 6, 2012, the Department of Health and Human Services published the interim final rule for implementation of the Tribal IV-E program. Under the Fostering Connections to Success and Increasing Adoptions Act of 2008 (PL 110-351), tribes and tribal consortia are authorized to directly administer the Title IV-E Foster Care, Adoption Assistance, and (at tribal option) Guardian Assistance Program.

For information on the Act see Hobbs-Straus General Memorandum 08-124 (October 17, 2008).

- FCC Issues Report and Order to Enhance Tribal Ownership of FM Radio Stations. On December 29, 2011, the Federal Communications Commission released the final rule "Policies to Promote Rural Radio Service and to Streamline Allotment and Assignment Procedures" designed to facilitate tribal and tribally-affiliated ownership of commercial FM radio stations.

For additional information see Hobbs-Straus General Memorandum 12-004 (January 13, 2012).

- Office of Personnel Management Letter on Implementation of the Federal Employee Health Benefits (FEHB) Program. On December 21, 2011, the Office of Personnel Management (OPM) issued a letter to tribal leaders regarding the implementation of Section 409 of the Indian Health Care Improvement Act (IHCIA), Access to Federal Insurance.

Section 409 of the IHCIA provides that tribes and tribal organizations carrying out programs under the Indian Self-Determination and Education Assistance Act, and urban Indian organizations carrying out programs under Title V of the IHCIA, are eligible to purchase Federal Employee Health Benefits and Federal Employees Group Life Insurance. Tribal programs can purchase the same insurance for their employees as federal agencies.

For additional information see Hobbs-Straus General Memorandum 12-005 (January 13, 2012).

- Department of Justice Regulations for Assumption of Concurrent Criminal Jurisdiction in PL 280 States. On December 6, 2011, the Department of Justice published a final rule which allows an Indian tribe to request that the federal government reassume criminal concurrent jurisdiction in mandatory Public Law 280 (PL 280) states. The final rule also sets the standards by which the U.S. Attorney General will determine whether or not to grant the tribe's request.

The authority for Indian tribes to request that the United States reassume concurrent criminal jurisdiction in Indian Country was a key component of the Tribal Law and Order Act of 2010 (PL 111-211). Section 221, which provided this authority, was sought by Indian tribes to partially reverse over a half century of termination-era law that transferred federal criminal jurisdiction to six states without any tribal consent. This section, however, does not affect the state's criminal jurisdiction over a tribe's Indian Country. Thus, the outcome of a successful tribal request will be a system of shared criminal jurisdiction involving the federal, state, and tribal governments. Under the final rule, Section 221 applies to tribes located in mandatory PL 280 states, because it is the position of the Department of Justice that the federal government has always retained concurrent criminal jurisdiction in the non-mandatory PL 280 states.

For additional information see Hobbs-Straus General Memoranda 11-146 (December 13, 2011) and 11-065 (May 26, 2011).

- Executive Order Creating White House Initiative on American Indian/Alaska Native Education. On December 2, 2011, President Obama signed Executive Order 13592, Improving American Indian and Alaska Native Education Opportunities and Strengthening Tribal Colleges and Universities, which establishes a White House Initiative on American Indian and Alaska Native Education. The Executive Order calls for the coordination and collaboration of efforts among federal agencies as well as with Indian tribes and tribal education agencies to improve education outcomes and expand the education opportunities for American Indian and Alaska Native students from the early learning years through the post-secondary level.

For additional information see Hobbs-Straus General Memorandum 11-148 (December 13, 2011).

- Department of the Interior Tribal Consultation Policy. On December 1, 2011, the Secretary of Interior and the Assistant Secretary – Indian Affairs announced the release of the final version of the Department of the Interior Policy on Consultation with Indian Tribes. In addition, Secretary Salazar signed Secretarial Order 3317, which establishes responsibilities for implementing the Policy throughout the Department of the Interior.

For additional information see Hobbs-Straus General Memoranda 11-152 (December 16, 2011; 11-015 (February 4, 2011) and 11-070 (June 10, 2011).

- Centers for Medicare and Medicaid Tribal Consultation Policy. In a November 17, 2011, letter to tribal leaders, the Centers for Medicare and Medicaid released its Tribal Consultation Policy. The Policy lists the federal and tribal entities considered as consultation parties and also addresses communications with entities that are not tribal governments.

For additional information see Hobbs-Straus General Memorandum 11-135 (November 18, 2011).

- Head Start Rule to Improve Program Quality and Accountability. On November 9, 2011, the Department of Health and Human Services (HHS) published a final rule that addresses the Head Start and Early Head Start requirements contained in the Improving Head Start for School Readiness Act of 2007 (Act). The Act required the HHS: 1) to develop and implement a designation renewal process to assess if a Head Start/Early Head Start agency is or is not a high quality comprehensive program, and 2) re-compete the award when a Head Start agency/grantee is under-performing.

For additional information see Hobbs-Straus General Memorandum 11-131 (November 14, 2011).

- OMB Policy Letter Defining "Inherently Governmental Function". On September 12, 2011, the Office of Management and Budget (OMB) published a final policy letter which provides Executive Departments and agencies guidance on managing the performance of inherently governmental and critical functions. The OMB's policy clarifies which functions are inherently governmental and therefore must always be performed by federal employees. The final policy letter also explains what agencies must do when work is "closely associated" with inherently governmental functions and requires agencies to identify their "critical functions" to ensure they have sufficient internal capability to maintain control over functions that are core to the agency's mission and operations.

In response to comments filed, the policy letter makes clear that it is not intended to modify or otherwise affect any rights or limitations set forth under the Indian Self-Determination and Education Assistance Act.

For additional information see Hobbs-Straus General Memorandum 11-117 (October 21, 2011).

- Administration for Children and Families Tribal Consultation Policy. On August 18, 2011, the Administration for Children and Families (ACF) issued its tribal consultation policy (Policy). The Policy applies to all ACF offices, many of which directly impact tribes: Children's Bureau; Family and Youth Services Bureau; Administration for Native Americans; Child Care; Child Support Enforcement; Family Assistance (Temporary Assistance for Needy Families); and Head Start.

For additional information see Hobbs-Straus General Memorandum 11-105 (September 1, 2011).

- Tribal Title IV-E FMAP Rate Rule. On August 1, 2011, the Department of Health and Human Services published the methodology for calculating the tribal Federal Medical Assistance Percentage (FMAP) for the tribal Title IV-E Foster Care, Adoption Assistance, and Kinship Guardian Assistance programs. The rates determined for each tribe apply whether the programs are administered directly by a tribe or through a contract with a state Title IV-E agency. The FMAP is the federal share of assistance for a program, and rates are based on the per capita income of the tribe's service population. No tribal FMAP or federal share can be lower than the state FMAP rate in which it is located.

- DOI Revised Definition of "Indian Tribe" in Regulations Implementing the Native American Graves Protection and Repatriation Act. On July 5, 2011, the Department of the Interior issued an interim final rule revising the regulations implementing the Native American Graves Protection and Repatriation Act (NAGPRA) by changing the definition of the term "Indian tribe."

The interim final rule resolves the discrepancy between the NAGPRA regulations, which used the definition of "Indian tribe" in the Indian Self-Determination and Education Assistance Act (ISDEAA), and the definition in the statutory language of NAGPRA. The difference between these two definitions is that the ISDEAA definition includes regional and village corporations "as defined in or established pursuant to the Alaska Native Claims Settlement Act (ANCSA)," while the NAGPRA definition does not include such corporations. The interim final rule resolves this discrepancy by deleting the definition of "Indian tribe" from the NAGPRA regulations, thus only the statutory definition will be used in implementing NAGPRA. In other words, ANCSA regional and village corporations are no longer treated as Indian tribes for purposes of NAGPRA.

For additional information see Hobbs-Straus General Memorandum 11-090(July 29, 2011).

- EPA Rules for New Source Review Permits in Indian Country. On July 1, 2011, the Environmental Protection Agency issued final rules entitled "Review of New Sources and Modifications in Indian Country." The rules constitute a Federal Implementation Plan under the Clean Air Act which includes two New Source Review regulations for the protection of air resources in Indian Country.

The first rule applies to new and modified minor stationary sources of air pollutants (minor sources) and to minor modifications at existing major sources (major sources) located anywhere in Indian Country. The second rule applies to new and modified major sources located in parts of Indian Country that are designated as not attaining the National Ambient Air Quality Standards, and is referred to as the "nonattainment major NSR rule."

For additional information see Hobbs-Straus General Memorandum 11-088 (July 15, 2011).

- White House Rural Council. On June 9, 2011, President Obama signed Executive Order 13575 establishing the White House Rural Council. The Council is charged with developing policy recommendations that better coordinate federal programs government-wide to strengthen rural communities and promote economic growth. In addition, the Council is to coordinate and increase the effectiveness of federal engagement with rural stakeholders on the needs of rural America. "Rural stakeholders" include tribal governments.

For additional information see Hobbs-Straus General Memorandum 11-079 (June 17, 2011).

- EPA Policy on Consultation and Coordination with Indian Tribes. On May 5, 2011, the Environmental Protection Agency (EPA) issued its final EPA Policy on Consultation and Coordination with Indian Tribes. The EPA intends for the Policy to establish consistent practices for its program and regional offices while providing flexibility for each office to proceed with consultation in a manner that is appropriate for the situation and accommodates the preferences of tribal governments. The Policy lists a number of guiding principles, including working directly with federally recognized tribes as sovereign entities, and recognizing the federal government's trust responsibility. It stresses that notification should occur sufficiently early in the process to allow for meaningful input, and specifically provides that tribal officials may request consultation on matters not identified by EPA.

For additional information see Hobbs-Straus General Memorandum 11-056 (May 13, 2011).

- Food Distribution Program on Indian Reservations Rule. On April 6, 2011, the Department of Agriculture issued a final rule that will bring consistency between the Food Distribution Program on Indian Reservations (FDPIR) and the Supplemental Nutrition Assistance Program (SNAP, formerly the Food Stamp Program). Among the changes to the FDPIR are: elimination of the maximum dollar limit of the dependent care deduction, clarification of which current resource exclusions are or are not allowable, and clarification that FDPIR income eligibility regulations refer to the SNAP net monthly income standard rather than the SNAP gross monthly income standard.

For additional information see Hobbs-Straus General Memorandum 11-044 (April 15, 2011).

- Memorandum of Agreement on Alcohol and Substance Abuse Prevention. On March 23, 2011, the Indian Health

Service (IHS) published a notice of amendments to the Memorandum of Agreement between IHS and the Department of Interior regarding coordination of efforts to prevent alcohol and substance abuse in Indian Country.

The amendments to the Indian Health Care Improvement Act contained in the Patient Protection and Affordable Care Act required that such a memorandum – or changes to an existing memorandum – be finalized within one year of enactment.

For additional information see Hobbs-Straus General Memorandum 11-036 (March 25, 2011).

## ECONOMIC DEVELOPMENT AND TAX RELATED LEGISLATION

### HOUSE OR SENATE CONSIDERATION

- Indian Tribal Trade and Investment Demonstration Project Act, HR 2362. On July, 23, 2012, by a vote of 222 yeas to 160 nays, the House failed to reach the 2/3 majority of votes needed to suspend the rules and pass HR 2362 (H. Rept. 112-451). The bill was sponsored by Representative Cole (R-OK) and would have allowed a number of tribes or tribal consortia to lease land held in trust without the Secretary of the Interior's approval if the lease: (1) furthered economic, community, or business development with a Turkish entity; (2) was entered into within one year of the bill's enactment; (3) was not for mineral exploration, development, or extraction; (4) did not include land held in trust for an individual Indian; (5) was executed under tribal regulations approved by the Secretary; and (6) had a term that did not exceed 25 years (but could be renewed for up to two terms).
- Native 8(a) Threshold Limit Amendment, H. Amdt. 401. On June 2, 2011, Representative Speier (D-CA) offered H. Amdt. 401 as an amendment to HR 2107 (a Department of Defense appropriations and continuing appropriations bill enacted as PL 112-33). H. Amdt. 401 would have prohibited the awarding of noncompetitively bid contract to an Alaska Native Corporation, Indian tribe, or Native Hawaiian organization in an amount in excess of the competitive bidding threshold (\$6.5 million) to which other section 8 businesses are subject. However, a point of order was raised and sustained against this amendment, which was not approved.

### BILLS INTRODUCED

- Marketplace Fairness Act, S 1832/HR 3179. On November 9, 2011, Senator Enzi (R-WY) introduced S 1832 which was referred to the Committee on Finance. S 1832 would have enabled states to collect sales and use taxes on purchases made from out-of-state sellers, usually over the internet. The proposed legislation would have had implications for sales made to purchasers in Indian Country and by sellers in Indian Country. S 1832 represented a hybrid approach to the requirements proposed in the Marketplace Equity Act (HR 3179) and the Main Street Fairness Act (HR 2701/S 1452). S 1832 would have authorized states to impose sales and use tax collection responsibilities on sales sourced to that state if the state either adopted the Streamlined Sales and Use Tax Agreement (similar to HR 2701/S 1452) or implemented minimum simplification requirements (similar to HR 3197).

Only HR 3179 included any provision that dealt expressly with tribes or Indian Country. HR 3179 defined "state" to include "any Indian country." This provision would appear to have allowed a tribe to collect sales and use taxes on internet sales to its reservation provided it met the tax simplification provisions of the legislation. HR 3197 did not expressly state, however, whether the state tax would also be collected by the state on the same sale. None of the bills contained express provisions for sales to tribal members on reservations nor did they deal with existing tribal-state tax agreements. Similar legislation introduced in previous Congresses had included additional tribal provisions.

On October 13, 2011, Representative Womack (R-AR) introduced HR 3179 which was referred to the Committee on the Judiciary. On July 29, 2011, Representative Conyers (D-MI) introduced HR 2701 which was referred to the Committee on the Judiciary and on the same day its companion bill, S 1452, was introduced by Senator Durbin



(D-IL) and referred to the Committee on Finance.

For additional information, see Hobbs-Straus General Memorandum 12-097 (August 3, 2012).

- Smuggled Tobacco Prevention Act (STOP Act), S 1706/HR 3186. On October 13, 2011, Senator Lautenberg (D-NJ) introduced S 1706, which was referred to the Committee on Finance. Some version of the STOP Act has been introduced in each of the past Congresses to little avail. S 1706 would have created a federal system to track the "chain of custody" for every package of cigarettes sold in the United States and would have opened up all wholesalers' and retailers' records for inspection. S 1706 would have required permits under the Alcohol Tobacco Tax and Trade Bureau for tobacco wholesalers and tobacco machine businesses to operate. In addition, new criminal penalties would be added for violations and civil penalties would be increased considerably. Although a new section entitled "Exclusions Regarding Indian Tribes and Tribal Matters" was added to the 112th Congress's iteration of the bill; the restrictions, record keeping burdens, and disclosure requirements would have still applied to tribes and would have opened up tribal records for state inspection.

On the same day, Representative Doggett (D-TX) introduced the companion measure (HR 3186). It was referred to the Committee on Ways and Means.

- SAFE Lending Act, S 3426/ HR 6483. On July 24, 2012, Senator Merkley (D-OR) introduced S 3426, the Stopping Abuse and Fraud in Electronic Lending Act (SAFE Lending Act), which was referred to the Committee on Banking, Housing, and Urban Affairs. S 3426 would have amended the Truth in Lending Act to require any small-dollar (less than \$5,000) consumer credit transactions made over the internet, or other electronic communication, to comply with the laws of the state in which the consumer resided with respect to annual percentage rates, interest, fees, and charges. In addition, it would have prohibited persons engaged in the business of facilitating applications for small-dollar consumer credit from doing so unless that person was directly extending the small-dollar consumer credit to the consumer. Finally, S 3426 would have directed the Government Accountability Office to study the availability of capital on Indian reservations and the impact that small-dollar consumer credit extended through internet and non-internet means to members of Indian tribes have had upon economic opportunity for tribal members.

On September 21, 2012, Representative Bonamici (D-OR) introduced the companion measure (HR 6483). It was referred to the Committee on Financial Services.

- Wholesome Food Charitable Contributions to Tribes, HR 518/S 3299. On January 26, 2011, Representative Young (R-AK) introduced HR 518 which was referred to the Committee on Way and Means. HR 518 would have amended the tax code to allow Indian tribes to receive donations of "apparently wholesome food" as defined under the Bill Emerson Good Samaritan Food Donation Act, provided that the use of the food would be related to "the exercise of an essential governmental function of the Indian tribal government."

On June 14, 2012, Senator Murkowski (R-AK) introduced the companion measure (S 3299) which was referred to the Committee on Finance.

- Alaska Native Corporations Section 8(a) Preference Elimination, S 236/HR 598. On January 31, 2011, Senator McCaskill (D-MO) introduced S 236 which was referred to the Committee on Small Business and Entrepreneurship. S 236 would have amended both the Small Business Act and Alaska Native Claims Settlement Act to: exclude from the definition of "Indian tribe" any Alaska Native Corporation (ANC) or Alaska Native Village (ANV); require that an ANC or ANV provide proof of economic or social disadvantage to the SBA for purposes of eligibility for procurement contracts; and prohibit the SBA Administrator from extending or waiving the time limitations applicable to participants in the small business capital ownership development program for small businesses owned by an ANC or ANV. Additionally, the bill would have made ANCs and ANVs subject to the same dollar amount limits for sole-source contracts as other 8(a) program participants and would have required ANCs or ANVs to file annual reports detailing their both their yearly revenue and the amount of their revenues

paid to shareholders.

On February 9, 2011, Representative Thompson (D-MS) introduced the companion measure which was referred to the Committees on Small Business and Natural Resources.

For additional information, see Hobbs-Straus General Memorandum 11-021 (February 11, 2011).

- FAIR CREDIT Act, HR 1992. On May 25, 2011, Representative Grijalva (D-AZ) introduced HR 1992, the Fair Allocation of Internal Revenue Credit for Renewable Electricity Distribution by Indian Tribes Act (FAIR CREDIT Act), which was referred to the Committee on Ways and Means. HR 1992 would have amended the Internal Revenue Code to allow an Indian tribe that owns a facility which uses a renewable energy resource to produce electricity to assign to any other person who has such an ownership interest in such facility any portion of the production from the facility for purposes of the renewable electricity production tax credit. Essentially, this bill would have allowed Indian tribes to sell the renewable electricity production tax credits for which they are eligible to investors.

- Tribal Labor Sovereignty Act, HR 2335. On June 23, 2011 Representative Noem (R-SD) introduced HR 2335, which was referred to the Committee on Education and the Workforce. HR 2335 would have exempted all tribal enterprises from the scope of the National Labor Relations Act (NLRA). Currently, the list of entities excluded from the definition of "employer" under the NLRA includes: "... the United States or any wholly owned Government corporation, or any Federal Reserve Bank, or any State or political subdivision thereof ... ." This amendment to the NLRA would have treated tribal governments in a similar manner as state governments and the federal government. The text of this bill was also introduced two months earlier as TITLE I of HR 1599 (see below).

- Indian Country Economic Development Act, HR 1599. On April 14, 2011, Representative Cole (R-OK) introduced HR 1599, which was referred to the Committees on: Ways and Means; Education and the Workforce; Natural Resources; Financial Services; and Judiciary. The concept behind HR 1599 was to take a multipronged approach to addressing current policies which inhibit economic growth and development in Indian Country. Many of these provisions would have amended current law to treat tribal governments in a similar manner as state governments. Title IX of the bill, "Indian Tribal Development" would have created a program similar to the "477 program" which would have allowed tribes to combine funds from many federal agencies into an integrated plan with a consolidated budget. The bill was divided into the following titles:
  - o TITLE I–AMENDMENT TO NATIONAL LABOR RELATIONS ACT
  - o TITLE II–FICA FORGIVENESS ON STUDENT LOANS
  - o TITLE III–STUDENT LOAN REPAYMENTS EXCLUDED FROM GROSS INCOME
  - o TITLE IV–INDIAN TRIBAL GOVERNMENT PENSION PLANS
  - o TITLE V–ISSUANCE OF TAX-EXEMPT BONDS
  - o TITLE VI–TAX CREDIT FOR TECH COMPANIES IN INDIAN COUNTRY
  - o TITLE VII–TRIBAL LEASES
  - o TITLE VIII–EXEMPTIONS FROM TITLE VI OF THE CIVIL RIGHTS ACT OF 1964
  - o TITLE IX–INDIAN TRIBAL DEVELOPMENT

For additional information, see Hobbs-Straus General Memorandum 11-062 (May 20, 2011).

- Indian Reservation Bank Branch Act, S 62. On January 25, 2011, Senator Inouye (D-HI) introduced S 62 which was referred to the Committee on Banking, Housing, and Urban Affairs. S 62 would have amended the Federal Deposit Insurance Act to modify requirements relating to the establishment and location (branching) of both state and national banks on Indian reservations, encouraging economic development by increasing tribes' access to a wider array of banking services and capital.

- Native American Economic Advisory Council Act, S 61. On January 25, 2011, Senator Inouye (D-HI) introduced S 61 which would have established the Native American Economic Advisory Council. The bill would have required the Council to prepare a compilation of successful business enterprises and joint ventures conducted by Native American organizations, and periodically sponsor conferences and training workshops on Native

American business activities. Additionally, the bill would have required the Director of the Office of Management and Budget, in preparing the President's comments and recommendations to Congress about proposed legislation, to include an assessment of the legislation's economic impact on Native Americans.

## EDUCATION LEGISLATION

### HOUSE OR SENATE CONSIDERATION

- Santa Fe Indian School Economic Development Authorization, HR 1556. On June 18, 2012, the House approved legislation (HR 1556, H. Rept. 112-306) which would amend the law which transferred Santa Fe Indian School lands into trust to allow those lands to be used for economic development purposes. Current language under the Omnibus Indian Advancement Act (PL 106-568) restricts use of the Santa Fe Indian School lands to educational, health-related, or cultural purposes. The 19 Pueblos that operate the Santa Fe Indian School seek to generate income to further academic programs. Representative Lujan (D-NM) introduced HR 1556.

### COMMITTEE ACTION

- Esther Martinez Language Preservation Reauthorization Act, S 3546/HR 6399. On September 20, 2012, the Senate Committee on Indian Affairs favorably reported S 3546, the Esther Martinez Language Preservation Reauthorization Act. The Esther Martinez Act (PL 109-394) provides grants administered by the Administration for Native Americans for the preservation of Native languages through Native American language nests; Native American language survival schools; and Native American language restoration programs. The bill would have extended authorization of the Esther Martinez Act for an additional five years (through FY 2017).

S 3546 was introduced by Senator Johnson (D-SD). Representative Heinrich (D-NM), along with Representatives Lujan (D-NM) and Pearce (R-NM) introduced a companion measure (HR 6399).

- Elementary and Secondary Education Reauthorization Act, S 3578/HR 3989/ HR3990. On September 20, 2012, the Senate Health, Education, Labor, and Pensions Committee reported legislation that would reauthorize the Elementary and Secondary Education Act (ESEA; S 3578, S. Rept. 112-221). The Committee originally held a mark-up and approved to be reported a draft version of the bill on October 20, 2011. S 3578 was introduced by Committee Chairman Harkin (D-IA).

The bill would have replaced the No Child Left Behind Act's accountability system that requires all students to be proficient in math and reading by 2014 with authorization of state-designed accountability systems, based on students showing "continuous improvement." Other provisions would have required a revised process for identifying and addressing struggling schools (schools would be designated as Achievement Gap Schools or the Persistently Low-Achieving Schools), and require states to develop new teacher and principal evaluation systems with at least four levels of ratings. Title VII of the bill addresses Indian, Native Hawaiian, and Alaska Native Education. Among the proposed changes in Title VII are: an exemption for American Indian/Alaska Native/Native Hawaiian native language teachers from the teacher certification requirements and the authority to use funds to support the preservation, reclamation and restoration of Native languages.

The House Education and Workforce Committee approved—on party-line votes—two ESEA reauthorization-related bills which were introduced by Committee Chairman Kline (R-MN). The Student Success Act (HR 3989, H. Rept. 112-458) would have eliminated the NCLB accountability system, and the Encouraging Innovation and Effective Teachers Act (HR 3990, H. Rept. 112-459) which would have required states to implement teacher evaluation systems that would take into consideration student test scores.

- Workforce Investment Improvement Act of 2012, HR 4297. On June 7, 2012, the House Education and Workforce Committee approved on a party line vote HR 4297, legislation to reauthorize the Workforce Investment Act. The bill, introduced by Higher Education and Workforce Subcommittee Chair Foxx (R-NC),

would have repealed the authorization for 27 job training programs and consolidated their funding into a single Workforce Investment Fund. Among the programs for which authorization would have been repealed are the Native American Employment and Training program, Job Corps, and YouthBuild. The bill as introduced would have authorized, but not required, the Secretary of Labor to provide up to one percent of funds for tribes and Native Hawaiian organizations. The bill was amended in Committee to increase the allocation up to two percent. The legislation faces strong tribal opposition. There was no comparable Senate bill. Education and Workforce Committee Chairman Kline (R-MN) has indicated that he would like to quickly move legislation similar to HR 4297 in the current (113th) Congress.

For additional information see Hobbs-Straus General Memorandum 12-073 (June 15, 2012).

- Native CLASS Act, S 1262/HR 3568/HR 3569. On October 20, 2011, the Senate Committee on Indian Affairs adopted an amended version of S 1262 (S. Rept. 112-262), the "Native Culture, Language, and Access for Success in Schools (CLASS) Act." The Native CLASS bill, introduced by Senator Akaka (D-HI), along with Senators Inouye (D-HI) and Johnson (D-SD), is a comprehensive bill that would address the education of Native American students wherever they are being educated. S 1262 was developed with the support and input of several Native organizations and addresses students in Bureau of Indian Education (BIE) schools, in public or charter schools, and in tribally controlled colleges.

Going beyond offering a "fix" to the problems identified with No Child Left Behind (NCLB) Act, S 1262 offered a new framework for viewing Native education. The bill's provisions included:

- o A new section to Title III of the ESEA dedicated to improving the academic success of Indian students through Native American language instruction, developing the instructional courses and materials for such instruction, providing teacher training, and providing for the involvement of the parents or legal guardians of students in the programs
- o Establishment of a pilot project to authorize up to five Indian tribes per year to be eligible to receive grants to administer State education agency functions for schools that meet the eligibility criteria set forth in this provision
- o Authorization of a new Indian School Turn Around Program that would allow a tribe or tribal organization to turn around low-performing public schools operated by a local education agency on tribal land
- o A deadline for action and requiring approval of a tribally-proposed alternative definition of adequate yearly progress by the Secretary of the Interior (rather than the current process of approval by the Secretaries of Education and the Interior)
- o Amendment to the American Recovery and Reinvestment Act to require that of the amounts appropriated to carry out Section 14006 ("state incentive grants") and Section 14007 ("the innovation fund"), the Secretary of Education must allocate at least one percent, but not more than five percent, to schools funded by the BIE
- o Establishment of a Tribal Education Policy Advisory Group to advise the Secretary of the Interior and Assistant Secretary on all matters pertaining to the BIE school system
- o Provision for the training and recruiting of teachers and principals to serve "high-need educational agencies" and amending Title II of the ESEA to bring all BIE-funded schools within this definition; authorizing a five percent set aside to the Secretary of the Interior for distribution to BIE-funded schools
- o Requirement that the Secretary of Education establish a system to improve the collection, coordination, and electronic exchange of Indian student records
- o Authorization for a tribal education agency (i.e., the agency or administrative unit of an Indian tribe authorized to have primary responsibility for regulating early learning, elementary, and secondary education on tribal lands) to enter into an agreement with the appropriate state education agency, subject to the approval of the Secretary of Education, to assume the State's responsibility with respect to one or more identified programs in schools located on tribal lands.

Representatives Kildee (D-MI) and Baca (D-CA) each introduced companion versions of the "Native Culture, Language, and Access for Success in Schools (CLASS) Act," HR 3568 and HR 3569, respectively, on December 6, 2011. The text of the House bills are identical to S 1262 as introduced.

## BILLS INTRODUCED

- Native American Indian Education Act, S 3504/HR 3040/S 484. On August 2, 2012, Senator Bennet (D-CO) introduced the Native American Indian Education Act (S 3504), legislation to provide federal funds to eligible

institutions of higher education that provide tuition-free education for Native American students. Eligible institutions are limited to four-year Native American-serving non-tribal institutions, which are Fort Lewis College in Durango, Colorado, and University of Minnesota-Morris. The cost of the program would be offset through a \$15 million rescission in unobligated discretionary funds. On August 22, 2012, the Senate Committee on Health, Education, Labor, and Pensions (HELP Committee) held a field hearing on S 3504.

The companion bill (HR 3040) was introduced in September 2011 by Representative Tipton (R-CO), which was referred to the House Committees on Education and Workforce, and Appropriations.

On March 3, 2011, Senators Bennet (D-CO) and Udall (D-CO) introduced S 484, legislation to provide relief to Fort Lewis College in Colorado resulting from the mandate in the college's charter which requires them to waive tuition for Indian students. The Findings section of the bill states that under the condition of the 1910 transfer of the land and buildings from the federal government, Indian student tuition is to be waived. Indian students – coming from 34 states – represented twenty percent of the college's students in 2010-2011. The bill, which was referred to the Committee on Health, Education, Labor, and Pensions, would authorize "such sums as are necessary."

- Chemawa Indian School Trust Transfer and Self-Determination Act, HR 3878. On February 1, 2012, Representative Schrader (D-OR) introduced HR 3878, legislation which would authorize the Secretary of the Interior to take into trust the land on which the Chemawa Indian School is located, on behalf of nine federally recognized Indian tribes. The bill would, among other things, require the establishment of a Chemawa Indian School Board of Trustees; continue use of the property for educational and cultural benefits; and prohibit the property from being used for gaming purposes. If the property was no longer needed for Indian education purposes, the Board would have to ensure it would be used for the collective benefit of the Oregon tribes.

- School Accountability Improvements Act, S 1724. On October 17, 2011, Senator Murkowski (R-AK) introduced legislation which would amend the Elementary and Secondary Education Act to address issues related to certain staffing, accountability, and other requirements, particularly in small, rural and remote school locations. Of interest to tribal schools and American Indian/Alaska Native students is that S 1724 would allow schools with Native American language programs some flexibility in determining Adequate Yearly Progress (AYP) if the state assessment test at the third grade level cannot be administered in that Native language.

S 1724 would also: 1) provide greater flexibility to a local educational agency's highly qualified teacher requirements by allowing use of a Highly Qualified teacher through distance delivery if assisted by an on-site teacher Highly Qualified in another subject area; 2) allow states to use the "growth model" for calculating AYP; 3) prohibit the restructuring of a school or district if failure to achieve AYP is attributable to results for limited English proficient students and/or students with disabilities, and the school shows by growth model results that those subgroups are on track to being proficient; 4) expand the use of funds currently provided for training and recruitment of teachers and principals to allow use for the development of parent engagement strategies and training for education personnel in effective communications with parents; and 5) except teachers of native language, culture, or history from the highly qualified teacher requirements, while allowing states to require a local tribe or tribal organization to verify the teacher's competency.

The bill was referred to the Senate Health, Education, Labor, and Pensions Committee.

- BUILD Act for Native Education, S 1519. On September 7, 2011, Senator Udall (D-NM) introduced S 1519, the "Building Upon Unique Indian Learning and Development (BUILD) Act." S 1519 addressed many of the same concerns raised in the Native CLASS Act (S 1262), while offering several new approaches to enhancing Native education. The main provisions of the BUILD Act include:
  - o In-School Facility Innovation Program Contest open to institutions of higher learning, including tribal colleges and universities, to generate innovative solutions to school facility deficiencies in the Bureau of Indian Education (BIE) system, and other tribal schools.
  - o Joint oversight board of Departments of the Interior and Education which would be responsible for coordinating

technical assistance, resource distribution and capacity building between the two Departments on education of Native American students. o Improved support for teachers and administrators at schools for Native American students through grants to eligible institutions to develop educational programs to expand the number of teachers and administrators qualified to teach in schools serving Native students (with priority for grants to tribal colleges and universities), and provide incentives for teachers and principals who commit to working in high-need, high-poverty tribal schools, including scholarships, loan forgiveness, incentive pay, or housing allowances. o ESEA amendments in support of Native Education, including requiring states to develop "standards-based assessments" that take into account diverse learning styles which may then be used in place of more generally applicable state assessments; provide that the current ESEA definition of "highly qualified teacher" would not apply to teachers of Native languages in lieu of state-devised alternative licensure or certification requirements for teachers of Native languages; authorize a grant program to ensure the survival and vitality of Native languages that would be available for (1) community Native American language projects including Native American language "nests," i.e., site-based educational programs for children ages seven and younger, and their parents; (2) language survival schools for elementary and secondary level students; (3) language restoration programs, including immersion programs and language and culture camps; (4) teacher training programs; and (5) the development of curricula materials for use in teaching a Native language. o Increased access to funding for BIE-funded and other tribal schools to grants, contracts, or other assistance which are otherwise available to elementary and secondary schools or early childhood and pre-kindergarten programs. o Establish "Safe and Healthy School Programs" to improve school environments and enhance student skill development with a focus on prevention of substance abuse, suicide, violence, pregnancy and obesity; the establishment of healthy eating programs; anger and conflict management; and drop-out prevention. o Amended definition for "Tribal School" under the ESEA to mean a BIE-funded school; an education program operated by a tribe or tribal organization; a school located on Indian lands; or a school where the predominance of students are Native American or Alaska Native. Thus, a tribal school would include certain local public schools, which unlike BIE-funded schools, have access to state and local funding.

- Land-In-Trust Schools and Local Governments Equitable Compensation Act, HR 1882/S 988. On May 12, 2011, legislation was introduced to authorize full compensation to local educational agencies and local governments for loss of tax revenues when land is taken into trust on or after October 1, 2008, for a federally recognized tribe or an individual Indian. The compensation amount may be waived, reduced or adjusted if all applicable parties agree to do so. Compensation amounts would be paid annually from the general fund of the Treasury (not appropriated) and transferred to the Department of Interior.

Representative Owens (D-NY) introduced the House version (HR 1882). Senator Schumer (D-NY) introduced S 988, which was referred to the Senate Committee on Energy and Natural Resources.

- Indian School Bus Route Safety Reauthorization Act, S 885. On May 4, 2011, Senator Bingaman (D-NM) introduced legislation (S 885) which would reauthorize through FY 2017 a federal program which provides funds to counties in New Mexico, Arizona, and Utah for road maintenance and construction on non-reservation roads that carry Indian children to and from school or a Head Start program.

S 885 was referred to Committee on Environment and Public Works.

## ENERGY LEGISLATION

### COMMITTEE ACTION

- Indian Tribal Energy Development and Self-Determination Act Amendments, S 1684. On September 13, 2012, the Committee on Indian Affairs amended and favorably reported S 1684 (S. Rept. 112-263). S 1684 was introduced by Senator Barrasso (R-WY) on October 12, 2011, and would have amended the Indian Tribal Energy Development and Self-Determination Act with regard to improving tribal energy resources agreements (TERAs) and replacing tribal energy resource development organizations with tribal energy development organizations. A



TERAs is a mechanism which was designed to streamline the negotiation of leases, rights-of-way, and business agreements on tribal trust or restricted land; however, they have been cumbersome for tribes to get through the approval process. S 1684 would have deemed all TERAs approved by the Secretary of Interior after 270 days if no action was taken and would have deemed that a tribe carrying out a Self-Determination contract or Self-Governance compact was a sufficient demonstration of that tribe's capacity to regulate energy resources pursuant to a TERA.

Sections under the "Miscellaneous" title the bill included: Hydropower Licensing; Biomass Demonstration Project; and Weatherization Assistance Program. These sections would have: amended the Federal Power Act to include Indian tribes in the preference that states and municipalities are given for hydroelectric project licenses issued by the Federal Energy Regulatory Commission; amended the Tribal Forest Protection Act to establish a Tribal Biomass Demonstration Project; and amended the Energy Conservation and Production Act to change the process through which tribes can seek direct funding from the Department of Energy Weatherization Assistance Program.

For additional information, see Hobbs-Straus General Memorandum 11-121 (October 25, 2011).

- Native American Energy Act, HR 3973. On May 16, 2012, the House Natural Resources Committee amended and favorably reported HR 3973 (H. Rept. 112-692). HR 3973 was introduced by Representative Young (R-AK) on February 7, 2012 and would have: sped up the Department of the Interior's (DOI) appraisal process for determining fair market value of lands or tribal assets; directed the Secretary of Interior to implement a uniform system of reference numbers and tracking systems for oil and gas wells; and amended the National Environmental Policy Act to make significant changes to the review process when an environmental impact statement is required for a proposed federal action on Indian lands. In addition, the bill would have: created at least five regional Indian Energy Development Offices within DOI responsible for streamlining the oil and gas permitting process by serving as a "one stop" shop for the rapid processing of all applications, permits, and licenses that tribes need for energy projects; prevented the Bureau of Land Management (BLM) from collecting certain fees from tribes; and would have discouraged lawsuits or administrative challenges brought to block or delay tribal energy projects.

During the May 16 Committee markup, the bill was amended by Representative Young to exempt Indian lands from rules governing hydraulic fracturing unless a tribe first consents to the rules. This amendment was in response to a proposed rule entitled "Oil and Gas; Well Stimulation, Including Hydraulic Fracturing, on Federal and Indian Lands" published in the FEDERAL REGISTER by the BLM to update regulations governing oil and gas operations on public and Indian lands with regard to hydraulic fracturing.

For further information, see Hobbs-Straus General Memoranda 12-054 (April 20, 2012) and 12-068 (May 25, 2012).

## BILLS INTRODUCED

- Federal Lands Energy Regulatory Certainty Act, HR 6235. On August 8, 2012, Representative Flores (R-TX) introduced HR 6235, legislation which was in response to the proposed Bureau of Land Management rule regarding hydraulic fracturing on federal and Indian lands. HR 6235 would have barred the Secretary of the Interior from taking any action to finalize or implement provisions of the proposed rule until a ten-year study on the projected effects of the proposed rule was completed.

## ENVIRONMENT AND NATURAL RESOURCES LEGISLATION

### HOUSE OR SENATE CONSIDERATION

- Sportsmen's Act, S 3525. On November 26, 2012, the Senate, after considering a number of amendments to S 3525, pulled the bill from the Senate floor. S 3525, introduced on September 10, 2012, by Senator Tester (D-MT),

had not gone through the committee process when it was brought to the Senate floor. Rather, it was an amalgamation of a number of bills related to land and water conservation programs; hunting and fishing rights; the eradication of certain invasive species and the protection of certain threatened species. Of particular interest to tribes, S 3525 would have amended the Migratory Bird Hunting and Conservation Stamp Act to allow the Secretary of the Interior to set the amount to be collected for each Federal Migratory Bird Hunting and Conservation Stamp but would have permitted the Secretary to waive requirements under the Act relating to the prohibition on the taking of migratory waterfowl "for certain individuals deemed appropriate." In addition, S 3525 would have created a National Fish Habitat Board and would have reserved seats on the board for representatives from Indian tribes.

- Conservation and Economic Growth Act, HR 2578/HR 1505. On June 19, 2012, the House of Representatives passed HR 2578 by a vote of 232 to 188. HR 2578 contained, among others things, the text of HR 1505 (H. Rept. 112-448), the National Security and Federal Lands Protection Act. HR 1505 would have granted broad and controversial authority to the Customs and Border Protection Agency on federal lands within 100 miles of the international land borders of the United States and (as initially drafted) would have also waived 36 environmental and historic preservation laws. This list was later narrowed to 16 laws by the bill's sponsor, Representative Rob Bishop (R-UT). The amendment that narrowed the list of laws did not add an exception for tribal lands but did add a provision stating that "Nothing in this section supersedes, replaces, negates, or diminishes treaties or other agreements between the United States and Indian tribes." It was unclear what impact the amendment would have had, but it appeared that the bill would have still largely applied to tribal lands within 100 miles of an international border. Sacred places or other areas of cultural significance located on non-tribal federal lands within 100 miles of a border would also be included within the reach of HR 2578.

HR 1505 was introduced by Representative Bishop on April 13, 2011 and referred to the Committees on Natural Resources; Agriculture; and Homeland Security. The Natural Resources Committee marked up HR 1505 (H Rpt. 112-448, Part I) and Representative Grijalva (D-AZ) offered an amendment to exempt tribal lands from the application of the bill, but it was defeated.

For additional information, see Hobbs-Straus General Memorandum 12-080 (June 29, 2012).

- Chimney Rock National Monument Establishment Act, HR 2621/S 508. On May 16, 2012, the House approved under suspension of the rules HR 2621 (H. Rept. 112-473). HR 2621, introduced by Representative Tipton (R-CO), would have designated the Chimney Rock Archeological Area in the San Juan National Forest in Colorado as the Chimney Rock National Monument and would have allowed for continued use of the Monument by Indian tribes for traditional ceremonies and as a source of traditional plants and other materials. The Chimney Rock Archeological Area is surrounded by the Southern Ute Indian Reservation but is also considered culturally and spiritually significant by the Pueblo tribes of New Mexico.

On March 8, 2011, Senator Bennet (D-CO) introduced the companion bill, S 508, which was referred to the Committee on Energy and Natural Resources.

On September 21, 2012, the Chimney Rock National Monument was established by Presidential Proclamation. See the section on ADMINISTRATION ACTION/ FINAL REGULATIONS.

- Surface Mining Control and Reclamation Act Amendments, S 897/HR 785. On February 29, 2012, S 897 was favorably reported by the House Committee on Natural Resources after passing the Senate by Unanimous Consent (S. Rept. 112-63; H. Rept. 112-429). S 897 was originally introduced by Senator Bingaman (D-NM) on May 5, 2011, and would have amended the Surface Mining Control and Reclamation Act to "correct" the interpretation caused by amendments which were enacted in 2006. The bill would have restored to uncertified states and tribes the availability of funding for non-coal reclamation projects to pre-2006 levels, thus allowing certain unexpended and unappropriated balance amounts to be used for acid mine drainage abatement and treatment and non-coal abandoned mine land reclamation. (If a state or tribe is referred to as "uncertified" it means that they currently

have backlogs of coal reclamation projects—so-called uncertified states—and are obligated under current law to use a portion of those grants exclusively for certain coal projects.)

On February 17, 2011, Representative Pearce (R-NM) introduced the companion bill, HR 785.

- Southeast Arizona Land Exchange and Conservation Act, HR 1904. On October 26, 2011, the House passed by a vote of 235 to 186 the Southeast Arizona Land Exchange and Conservation Act (HR 1904, H. Rept. 112-246). The bill would essentially transfer a sacred site area of importance to the San Carlos Apache, Yavapai and other tribes to the Resolution Copper (RC) mining company. The RC's intended use for the land is a large-scale copper mine. The bill would direct the Secretary of Agriculture to transfer to RC (a foreign-owned entity) over 2,000 acres of U.S. Forest Service lands in the Oak Flat area, which has religious, cultural and environmental significance to several tribes, and would provide RC exemption from complying with existing federal laws, including the National Environmental Policy Act (NEPA). An amendment by Representative Lujan (D-NM) to exempt all Indian sacred and cultural sites from the land conveyance lost by a vote of 189 to 233.

Representative Gosar (R-AZ) was the sponsor of HR 1904. The Senate Committee on Energy and Natural Resources held a hearing on the bill on February 9, 2012.

#### COMMITTEE ACTION

- Pacific Salmon Stronghold Conservation Act, S 1401. On November 2, 2011, the Committee on Commerce, Science, and Transportation amended and favorably reported S 1401 (S. Rept. 112-140). S 1401 was introduced on July 21, 2011, by Senator Cantwell (D-WA). The stated intention of the bill was to: "... establish a comprehensive, strategic, science-based approach to wild salmon conservation ... [and]... would create a structural framework to support efforts to protect and restore the healthiest remaining wild Pacific salmon stocks in North America." S 1401 would have created the Salmon Stronghold Partnership with a Board to oversee it. The Board would have been required to include representatives from: Alaska, California, Idaho, Oregon, and Washington; Indian tribes; federal officials and non-governmental organizations.

- Migratory Bird Habitat Investment and Enhancement Act, S 2156. On July 25, 2012, the Senate Committee on Environment and Public Works marked up S 2156, legislation to amend the Migratory Bird Hunting and Conservation Stamp Act (S 2156; S Rpt. 112-216) to allow the Secretary of Interior to set the annual amount (up to \$25) collected for the Migratory Bird Hunting and Conservation Stamp (also called the Duck Stamp) for a five-year period beginning in 2013. The Secretary could set an annual amount of up to \$30 for each subsequent year. The Secretary of Interior would be allowed to waive the purchase of a Duck Stamp if it would have a minimal impact on the funds collected. Subsistence hunters in Alaska have advocated for a waiver of this fee. Some members of Congress are objecting to this bill on the grounds that it would represent an illegal Executive Branch tax.

#### BILLS INTRODUCED

- California Coastal National Monument Expansion Act, HR 4969/S 3587. On September 20, 2012, Senator Boxer (D-CA) introduced S 3587 which was referred to the Committee on Energy and Natural Resources. S 3587 would have expanded the boundary of the California Coastal National Monument (established by Presidential Proclamation 7264 and managed by the Bureau of Land Management (BLM) as part of the National Landscape Conservation System) to include the Point Arena-Stornetta public lands in Mendocino County, California which were traditionally used by the Pomo Indian tribes. The California Coastal National Monument spans much of California's coastline and in some instances the BLM's management of it has proved to be a hindrance to traditional hunting and fishing by tribes.

On April 27, 2012, Representative Thompson (D-CA) introduced the companion bill, (HR 4969).

- Authorized Rural Water Projects Completion Act, S 3385. On July, 16, 2012, Senator Baucus (D-MT) introduced S 3385, which was referred to the Committee on Energy and Natural Resources. S 3385 would have established a Reclamation Rural Water Construction Fund to fund the completion of authorized rural water projects. The prioritization of funding for these projects would have been based on: the need for potable water supplies in the affected rural and tribal communities, the completion status of a project, and the financial needs of the affected communities.

- Repeal Limitation on Annual Payments Under the Surface Mining Control and Reclamation Act, HR 6113/S 3514. On July 12, 2012, Representative Lummis (R-WY) introduced HR 6113 which would have amended the Surface Mining Control and Reclamation Act to repeal the \$15 million limitation placed on the total annual payment to certified states or Indian tribes in connection with abandoned mine reclamation. (When a state or tribe is referred to as "certified" it means that they do not have a backlog of coal reclamation projects.)

On August 8, 2012, Senator Ezi (R-WY) introduced the companion bill (S 3514) which was referred to the Committee on Energy and Natural Resources.

- Klamath Basin Economic Restoration Act, S 1851/ HR 3398. On November 10, 2011, Senator Merkley (D-OR) introduced S 1851 which was referred to the Committee on Energy and Natural Resources. S 1851 would have approved the "Klamath Basin Restoration Agreement for the Sustainability of Public and Trust Resources and Affected Communities" and provided for the release of specified water rights claims against the United States by the Klamath Tribe, the Karuk Tribe, and the Yurok Tribe.

On the same day, Representative Thompson (D-CA) introduced the companion bill (HR 3398) which was referred to the Committees on Natural Resources and Energy and Commerce.

- Surface Mining Control and Reclamation Act Amendments Act, S 1455. On August 8, 2011, Senator Tester (D-MT) introduced S 1455 which was referred to the Committee on Energy and Natural Resources. S 1455 would have amended the Surface Mining Control and Reclamation Act to authorize a state or tribe that makes a certification (in which the Secretary of Interior concurs) to use funds to conduct an approved abandoned mine reclamation program, subject to payment of reclamation fees. It would have shielded from liability both uncertified and certified states or Indian tribes conducting an approved abandoned mine reclamation program. (When a state or tribe is referred to as "uncertified" it means that they currently have backlogs of coal reclamation projects; if they are referred to as "certified" they do not.)

- Indian Land Fractionation Report, HR 887. On March 2, 2011, Representatives Young (R-AK) and Hastings (R-WA) introduced HR 887, legislation which would have required the Secretary of Interior to undertake a comprehensive assessment of Indian land fractionation. The Secretary would have been directed to develop a plan for consolidating such lands in a manner that maximized economic development and included contracting and compacting under the Indian Self-Determination Act. The bill would have also capped the amount of attorneys' fees in the Cobell case at \$50 million. The Natural Resources Subcommittee on Indian and Alaska Native Affairs held a hearing on the bill on March 7, 2011.

## FEDERAL RECOGNITION LEGISLATION

### COMMITTEE ACTION

- Native Hawaiian Government Reorganization Act, S 675/HR 1250. On September 13, 2012, the Senate Committee on Indian Affairs reported S 675, the Native Hawaiian Government Reorganization Act of 2011, with a substitute amendment. The Committee first approved the bill in April 2011 but due to action by the state legislature establishing a commission to identify Native Hawaiians eligible to participate in the new indigenous governing council and government, Committee Chairman Akaka amended the bill.

As amended, S 675 would authorize a process for Native Hawaiians to form a sovereign government and would place that government on a similar footing to that enjoyed by American Indian and Alaska Native tribes. Among other things, the bill would specify that the Native Hawaiian governing entity (and Interim Governing Council prior to adoption of the organic governing documents) would be an Indian tribe. It would also prohibit Native Hawaiians or their governing entity from conducting gaming activities as a matter of claimed inherent authority or under the authority of federal law.

S 675 was sponsored by Senator Akaka (D-HI). Companion legislation (HR 1250) was introduced by Representative Hirono (D-HI) in March 2011.

For additional information see Hobbs-Straus General Memorandum 11-061 (May 20, 2011).

- Alexander Creek Recognition, HR 4194. On August 1, 2012, the House Natural Resources Committee reported legislation that would recognize the Alexander Creek Native group as a Native Village (HR 4194, H. Rept. 112-736), thus making it eligible to incorporate as a Village under the Alaska Native Settlement Claims Act and derive the benefits eligible under that status. HR 4194, introduced by Representative Young (R-AK), would require the Secretary of the Interior to negotiate an agreement with the Village to settle any land and other claim. Upon recognition, Village members would be notified that benefits received from Cook Inlet Region Incorporated (CIRI) individually as at-large shareholders would cease, and future resource payments would be paid to the Village Corporation.

- Little Shell Tribe Restoration, S 546. On July 28, 2011, the Senate Committee on Indian Affairs reported legislation that would restore recognition of the Little Shell Tribe of Chippewa Indians of Montana (S 546, S. Rept. 112-198). As he did in the 111th Congress, Senator Tester (D-MT) introduced the measure.

The bill would extend federal recognition to the state recognized tribe, which has pursued federal recognition since the 1930's and whose petition for recognition was filed in 1978 and denied in October 2009. In addition to restoring rights, federal services and benefits, the bills would direct the Secretary to acquire trust title to 200 acres of the Tribe's service area lands, and would provide that additional lands could be acquired in accordance with the Indian Reorganization Act.

- Lumbee Recognition, S 1218/HR 27. On July 28, 2011, the Senate Committee on Indian Affairs reported the Lumbee Recognition Act (S 1218, S. Rept. 112-200), a measure that would legislatively provide for federal recognition of the Lumbee Tribe, providing its members all services and benefits provided to Indians. The bill, sponsored by Senator Burr (R-NC), would require the Secretaries of the Interior and Health and Human Services to each submit a statement of the resources necessary for the Tribe to provide services to its members. It would also prohibit lands taken into trust for the Tribe to be used for gaming purposes.

The companion legislation (HR 27) was introduced in January 2011 by Representative McIntyre (D-NC).

- Virginia Tribes Federal Recognition Act, S 379/HR 783. On July 28, 2011, the Senate Committee on Indian Affairs reported, without amendment, the Indian Tribes of Virginia Federal Recognition Act of 2011 (S 379, S. Rept. 112-201). The bill would extend federal recognition to six state recognized tribes in Virginia—the Chickahominy Indian Tribe; Chickahominy Indian Tribe-Eastern Division; Upper Mattaponi Tribe; Rappahannock Tribe, Inc.; Monacan Indian Nation; and Nansemond Indian Tribe. It would also provide for lands to be taken into trust on behalf of the Tribes but would prohibit gaming under the Indian Gaming Regulatory Act on those lands; and would not change the applicability of section 109 of the Indian Child Welfare Act (ICWA).

Representative Moran (D-VA) introduced similar legislation, the Thomasina E. Jordan Indian Tribes of Virginia Federal Recognition Act of 2011 (HR 783) in February 2011. HR 783 does not include the ICWA provision but, unlike S 379, provides that eminent domain may not be used to acquire fee or trust lands for the Tribes.

## BILLS INTRODUCED

- Indian Tribal Federal Recognition Administrative Procedures Act, HR 3103. On October 5, 2011, Delegate Faleomavaega (D-AS) introduced HR 3103, legislation that would reform the federal recognition process for tribes. Under the proposal the responsibility for the federal recognition process would be transferred from the Bureau of Indian Affairs to a newly established Independent Commission on Recognition of Indian Tribes. The seven-member Commission would be appointed by the President and would be subject to Senate confirmation.

In addition to the avenue of federal recognition through the Commission, the recognition or restoration of an Indian tribe could occur via federal law, reorganization under the Indian Reorganization Act or the Alaska Indian Reorganization Act, and any final decision of a U.S. Court. The bill would apply the Indian Reorganization Act to all tribes recognized by the Commission, regardless of whether they were under federal jurisdiction on June 18, 1934.

- Duwamish Tribal Recognition Act, HR 2999. On September 9, 2011, Representative McDermott (D-WA) introduced legislation (HR 2999) which seeks to override a 2001 negative determination of the Duwamish Tribe's recognition petition, which had overturned a proposed positive determination for acknowledgment of the Tribe made in the final days of the Clinton Administration. The bill would establish a service area and provide that lands within the service area may be taken into trust on behalf of the Tribe. The same bill was introduced in the prior Congress.

- Reaffirmation of Burt Lake Band, HR 2322. On June 23, 2011, Representative Benishek (R-MI) introduced HR 2322, the Burt Lake Band of Ottawa and Chippewa Indians Reaffirmation Act. The bill would reaffirm federal recognition for the Burt Lake Band, their eligibility for federal services, and require the Secretary to acquire certain lands in trust as the initial reservation of the Tribe. It would also set evidentiary requirements for the initial membership of the Tribe. Similar legislation was introduced in the 111th Congress.

- Muscogee Nation of Florida Recognition, S 880/ HR 2591. On May 4, 2011, Senator Nelson (D-FL) introduced S 880, legislation that would extend federal recognition to the state recognized Muscogee Nation of Florida. The bill would establish a service area and provide that the Secretary may take lands into trust for the Nation. The membership role would be determined in accordance with the criteria established in the Nation's Ordinance 04-01-100 of February 4, 2004. Representative Miller (R-FL) introduced companion legislation (HR 2591) in July 2011.

- Mowa Band of Choctaw Indians Recognition Act, HR 766. On February 17, 2011, Representative Bonner (R-AL) introduced legislation to extend federal recognition to the Mowa Band of Choctaw Indians of Alabama. The bill would provide for lands to be taken into trust on behalf of the Tribe but prohibits the Tribe from using its recognition to assert historical land claims.

## GAMING LEGISLATION

### HOUSE OR SENATE CONSIDERATION

- Gila Bend Reservation Gambling Prohibition, HR 2938. On June 19, 2012, the House approved by a vote of 343-78 the Gila Bend Indian Reservation Lands Replacement Clarification Act (HR 2938). The bill, sponsored by Representative Franks (R-AZ), would make any lands purchased by the Tohono O'odham Nation (Nation), pursuant to the Gila Bend Indian Reservation Lands Replacement Act, Public Law 99-503, ineligible for gaming under the Indian Gaming Regulatory Act.

The Nation sought to have the Secretary of the Interior take 53.5 acres into trust status for gaming purposes within the City of Glendale, approximately 160 miles from the Nation's headquarters. The bill stated that the State of Arizona, City of Glendale, and several Arizona Indian tribes opposed the Tohono O'odham Nation gaming on these lands. The bill also asserted that the Nation's proposed casino violated existing tribal-state gaming compact



and state law which limits the total number of gaming facilities in the Phoenix metropolitan area to the seven currently existing gaming facilities.

## COMMITTEE ACTION

- Senate Committee on Indian Affairs Draft Internet Gaming Bill. On July 25, 2012, the Senate Committee on Indian Affairs released a discussion draft of an Indian-specific internet gaming bill, entitled the "Tribal Online Gaming Act of 2012." The Committee requested comments from tribes and indicated that it intended to revise the bill based on tribal input.

The draft language would permit tribes to offer only internet poker. However, it would allow tribes to offer "online gaming in addition to online poker games" to the same extent as may eventually be allowed by federal law. The draft bill would allow tribes to accept bets from players located anywhere in the United States where such bets are permitted. The draft bill also would create an "Office of Tribal Online Gaming" within the Department of Commerce to regulate tribal internet gaming. Tribal online gaming licenses would be issued for five-year terms to Indian tribes once the tribal online gaming ordinance had been submitted and received approval from the Secretary of Commerce.

Unlike other internet gaming bills, the draft released by the Committee would have allowed tribes to take an active role in the regulation of tribal internet gaming. Under the terms of the draft bill net revenue generated from internet gaming would have been subject to limitations similar to those imposed by the IGRA. Importantly, the draft bill provided that it would not amend the IGRA, alter, diminish or impact any class III gaming compact.

## BILLS INTRODUCED

- Alabama and Coushatta Indian Tribes of Texas Gaming Restoration, S 3654. On December 4, 2012, Senator Reid (D-NV) introduced legislation that would amend the Ysleta del Sur Pueblo and Alabama and Coushatta Indian Tribes of Texas Restoration Act (PL 100-89) to repeal the section that prohibited the Alabama-Coushatta Tribe from conducting gaming on their lands that is otherwise prohibited by the State of Texas.
- Giving Local Communities a Voice in Tribal Gaming Act, HR 4033. On February 15, 2012, Representative Sullivan (R-OK) introduced the Giving Local Communities a Voice in Tribal Gaming Act (HR 4033). The bill would have amended the Indian Gaming Regulatory Act to provide local governments veto power over approved tribe-state class III gaming compacts entered into after January 1, 2011. The bill stated: No Class III gaming activities may commence, irrespective of an approved Tribal-State Compact, unless the elected governing body and elected executive officials of each county, city, or other general purpose political subdivision in which a class III gaming activity under the Tribal-State Compact is to occur have approved the class III gaming facility.

The relevant local government would have to raise its objection within 120 days of the compact being approved by the Department of the Interior and the National Indian Gaming Commission, or the casino site is identified, whichever is the latter.

- Off-Reservation Land Acquisition Guidance Act, S1424. On July 27, 2011, Senators McCain (R-AZ) and Kyl (R-AZ) introduced legislation that would essentially reinstate the Bush Administration policy on land-into-trust application for off-reservation gaming purposes (known as the "Artman memo" issued in 2008) that was rescinded by the Obama Administration in June 2011. S 1424, Senator McCain stated, would "codify certain fee-to-trust regulations and applicable portions of the Artman guidance document" which would provide a "clear statutory framework" for making land-into-trust determinations related to off-reservation casinos. The bill would have, among other things:
  - o Defined "off-reservation land"
  - o Required the applicant to meet a "commutable distance" standard
  - o Required the that the applicant's proposed use of the land be compatible with state/local planning, zoning, and public health and safety requirements
  - o Required the applicant to disclose "any plan, contract, agreement, or other information relating to the use, or intended use" of the land and request that the Office of

Indian Gaming provide an that opinion the off-reservation land is eligible for gamingo Required the Secretary of the Interior to assess and report on 1) the benefits to the applicant tribe, and 2) the concerns raised by the state/local government (which must be adequately addressed by the applicant tribe in order for the application to be successful)

- Lytton Rancheria Amendment, S 872. On May 3, 2011, Senator Feinstein (D-CA) introduced legislation which would modify the date on which certain lands of the Lytton Rancheria of California was deemed to be held in trust for the purposes of gaming (S 872). The legislation would hold the land in trust as pre-1988 land eligible for gaming pursuant to the Indian Gaming Regulatory Act (IGRA) for class II gaming, but would consider the land to be acquired in 2003 for class III gaming. This designation would force the Tribe to go through the administrative process to have land taken into trust for class III gaming under the IGRA if it chose to pursue class III gaming there. It would also prohibit the Tribe from expanding its class II gaming facilities beyond the size on the date of enactment of S 872, and limit applicability of the bill to the lands referenced in the bill and not other lands held by the Lytton Tribe or other tribes.

The Senate Committee on Indian Affairs held a hearing on the bill in November 2011.

- Tribal Gaming Eligibility Act (S 771). On April 8, 2011, Senators Feinstein (D-CA) and Kyl (R-AZ) introduced the Tribal Gaming Eligibility Act (S 771) which would add new requirements to the "settlement of a land claim," "initial reservation," and "restored lands" exceptions to the general prohibition on gaming lands acquired after October 17, 1988 in Section 20 of the Indian Gaming Regulatory Act (IGRA). The bill would not make any changes to the "two-part determination" exception in Section 20 of the IGRA. Under the new requirements, tribes seeking to open casinos on land acquired after the passage of the 1988 Act would have to demonstrate both a substantial, direct, modern connection, and substantial, direct, aboriginal connection to the land to be taken into trust

There were several provisions concerning instances where the new requirements would be inapplicable, e.g., where no gaming will take place: contiguous lands; lands taken into trust between October 17, 1988, and the date of enactment when the tribe has received a written determination that the land is eligible for gaming; and where a final agency decision was issued before passage of S 771. The requirements would be applicable to all pending applications on which there has not been a Secretarial determination of gaming eligibility.

## HEALTH AND HUMAN SERVICES LEGISLATION

There were many bills introduced in the 112th Congress dealing with child welfare, notably issues regarding foster children, human trafficking, and criminal background checks for persons working in the child care field. Following the revelations at Penn State University, a number of bills were introduced regarding required reporting of suspected child abuse. Some of the bills would have amended the Child Abuse Prevention and Treatment Act which currently requires states to establish procedures for reporting and responding to suspected child abuse and neglect. None were enacted.

## COMMITTEE ACTION

- IHS Contract Support Costs Statute of Limitations Waiver, S 2389/HR 4031. On June 28, 2012, the Senate Committee on Indian Affairs marked up S 2389, a bill introduced by Senator Begich (R-AK) which would allow certain claims for underpaid Indian Health Service contract support costs to avoid a statute of limitations defense that the United States has successfully employed. The bill would apply to claims against the Indian Health Service for FYs 1996-1999. The companion bill (HR 4031) was introduced by Representative Young (R-AK).

## BILLS INTRODUCED

- Alaska Hero's Card Act, S 1146/HR 2203. On June 6, 2011, Senator Begich (D-AK) introduced S 1146,

legislation which would require the Veterans Administration (VA) to establish a pilot program to allow veterans in Alaska to receive health care benefits from non-VA facilities. To be eligible a veteran would have to be eligible for VA medical benefits and live in Alaska, specifically in a town, village or community that is not accessible by motor vehicle (as defined in 49 U.S.C. § 30102 – "a vehicle driven or drawn by mechanical power and manufactured primarily for use on public streets, roads, and highways, but does not include a vehicle operated only on a rail line.") This would seem to not include snowmobiles in the definition of "motor vehicle." The rural nature of the residency requirement would result in the Indian Health Service facilities being the most likely ones to provide health care services to veterans.

On June 15, 2011, Representative Don Young (R-AK) introduced companion legislation, (HR 2203) which was referred to the House Committee on Veterans Affairs. S 1146 was referred to the Senate Committee on Veterans Affairs.

- Better Health in the Arctic Act, S 1227. On June 16, 2011, Senator Begich (D-AK) introduced the Better Health in the Arctic Act, S 1227, which would authorize funding for the Arctic Research Commission. The Commission would work in collaboration with federal health agencies to prepare a study regarding the science base, gaps in knowledge, and strategies for the prevention and treatment of health problems in the Arctic, with a focus on Alaska. The bill would also direct the National Institutes of Health, in collaboration with other governmental agencies, private non-profit entities and the Canadian Institutes of Health Research on Indigenous Arctic People, to develop a national Arctic health science policy and establish a Desk for Arctic Health. S 1227 was referred to the Health, Education, Labor and Pensions Committee. It is the same as S 1565 introduced by Senator Begich in the 111th Congress.

- Radiation Exposure Compensation Amendments, S 791/HR 1490. On April 12, 2011, Senator Tom Udall (D-NM) and Representative Lujan (D-NM) introduced S 791 and HR 1490, legislation to address gaps in the Radiation Exposure Compensation Act which provides compensation to persons made ill working in the uranium mining industry. Senator Udall noted in his explanatory statement that the Pueblo of Laguna was home to the nation's largest open pit uranium mine and recounted the claims filed by his father, Stewart Udall, on behalf of widows of deceased Navajo miners.

The bill would include post-1971 uranium workers as qualified claimants; expand the downwind compensation area to include New Mexico (specifically including the atomic weapons test site of Trinity), Idaho, Montana, Colorado, and Guam; authorize funding for epidemiological research on the impacts of uranium development; broaden the type of documentation allowed for filing claims; allow multiple work positions to be combined to meet work requirements; allow for compensation for kidney disease; increase from two percent to ten percent of the payment received by the claimant as the maximum attorney fee for filing a claim; and expand the geographic area covered for Department of Energy employees or contractors with regard to compensation for chronic beryllium disease.

S 791 was referred to the Judiciary Committee; HR 1490 was referred to three committees: Judiciary, Education and the Workforce, and Energy and Commerce.

- Welfare Reform Act, HR 1167/S 1904. On March 17, 2011, Representative Jordan (R-OH) introduced HR 1167, the Welfare Reform Act of 2011. Similar legislation, S 1904, was introduced by Senator DeMint (R-SC) on November 15, 2011. The bills address means-tested programs – or programs the authors apparently believe are means tested. There would be increased work requirements for some means-tested programs, including the Food Stamp program. The bill contains a lengthy list of what are described as means-tested programs, including Indian Health Services, Native American Training, Native American General Assistance, and the Native American Housing Block Grant. The bill would put a cap on total means-tested "welfare spending" when unemployment falls below a certain level; the President's budget would be required to include information on how much "means-tested" funding is included in each of the listed programs.

HR 1167 was referred to the following committees: Ways and Means, Budget, Rules, Agriculture, and Energy and Commerce. S 1904 was referred to the Finance Committee.

Related to the issue of what constitutes "welfare programs" Senator Sessions (R-AL), Ranking Member of the Senate Budget Committee, used in a press release on October 12, 2012, Congressional Research Service (CRS) Report (Spending for Federal Benefits for People with Low Income, FY 2008-FY 2011), as the basis for saying that "welfare spending is the largest item in the federal budget." Listed in the report are the Indian Health Service, Indian Education, Higher Education – Institutional Aid for Developing Institutions, Indian Housing Block Grants, and Indian Human Services. The CRS report notes that they included some of the programs in the report because their target population is disproportionately poor, not because they are means-tested programs. They give as examples in this category the IHS, Indian Education, and Indian Human Services.

- Indian Health Care Improvement Act, HR 536/HR 215. On February 8, 2011, Representative Cole (R-OK), introduced HR 536, legislation nearly identical to the Indian Health Care Improvement Act Amendments (IHCIA) enacted as a component of the Patient Protection and Affordable Care Act (ACA) in March 2010. The introduction was an effort to preserve the 2010 IHCIA amendments in the event the U.S. Supreme Court repealed the ACA, including its IHCIA provisions. Representative Cole also included two tribal-specific Medicare provisions from the ACA in his bill.

On February 7, 2011, Representative Young (R-AK) introduced HR 215, legislation which would have repealed the ACA while preserving the reauthorization of the IHCIA.

The House in January 2011 had voted, largely along party lines, to repeal the ACA, and so the point was being made by Representatives Cole and Young that while they supported repeal of the ACA, they also supported the IHCIA portion of that statute. Ultimately, the Supreme Court did not strike down the ACA nor did Congress repeal it.

Both bills were referred to multiple committees.

- Alaska Native Tribal Health Consortium Land Transfer Act, HR 444/S 1298. On January 25, 2011, Representative Young (R-AK) introduced HR 444, legislation that would transfer some land in Anchorage to the Alaska Native Health Consortium. The bill was referred to the Natural Resources and the Energy and Commerce Committees. Senators Murkowski (R-AK) and Begich (D-AK) introduced companion legislation, S 1298, on June 29, 2011.

## HOUSING LEGISLATION

### COMMITTEE ACTION

- Hawaiian Homeownership Opportunity Act, S 65/HR 2648. On September 20, 2012, the Senate Committee on Indian Affairs approved the Hawaiian Homeownership Opportunity Act (S 65), legislation that would reauthorize Title VIII of the Native American Housing and Self-Determination Act (NAHASDA). S 65 would continue authorization of funding for construction of low-income housing for Native Hawaiians, and provide access to the loan guarantee program for construction of housing for Native Hawaiians.

Senator Inouye (D-HI), as in the prior Congress, introduced S 65. Representative Hirono (D-HI) introduced a companion measure (HR 2648) in July 2011, which was referred to the House Committee on Financial Services.

### BILLS INTRODUCED

- Pascua Yaqui Tribe Off-Reservation Members Housing Eligibility Fix, HR 2620. On July 21, 2011, Representative Schweikert (R-AZ) introduced legislation that would deem Pascua Yaqui tribal members living in certain areas of Arizona as living on-reservation for purposes of Native American Indian Housing and Self-

Determination Act housing programs. HR 2620 was referred to the House Committee on Financial Services.

## JUSTICE LEGISLATION

### HOUSE OR SENATE CONSIDERATION

- Indian Law and Order Commission Report Extension, S 2090. On July 24, 2012, the Senate passed by unanimous consent S 2090, legislation that would amend the Indian Law Enforcement Reform Act (PL 101-379) to extend by one year the time allowed for the Indian Law and Order Commission to submit the required report to Congress and the Administration. The report was to detail the Commission's findings, conclusions, and recommendations for legislative and administrative action that would improve safety and justice in Indian Country. S 2090 was introduced by Senator Akaka (D-HI).
- Violence Against Women Act Reauthorization, S 1925/HR 4970/HR 6625. The House and Senate each passed legislation that would have amended and reauthorized the Violence Against Women Act, but there was disagreement between the two houses on the issue of tribal jurisdiction over non-Indians with regard to domestic violence crimes. Thus no reauthorization bill was enacted. The Senate bill (S 1925) was approved April 25, 2012, which included a tribal criminal jurisdiction provision that would authorize tribes to exercise "special domestic violence criminal jurisdiction" over certain domestic crimes, including over non-Indian defendants charged with those crimes. The House version, HR 4970, was approved May 16, 2012, and did not include the Senate's tribal criminal jurisdiction provision, due to the assertions made by a number of House Republicans that it was unconstitutional.

A compromise bill (HR 6625) on the tribal jurisdiction provision was introduced on December 3, 2012, by Representative Issa (R-CA) and cosponsored by Representatives Cole (R-OK), McHenry (R-NC) and Simpson (R-ID). It included a tribal jurisdiction provision similar to that in S 1925 but also would have required additional due process safeguards for criminal defendants and provisions regarding federal court oversight. This bill gained tribal, but not House Republican leadership, support. Efforts in the last few days of the 112th Congress to reach a compromise acceptable to House leadership that Indian tribes could support failed.

Of note is that tribal-specific VAWA legislation was introduced which influenced the Senate and House national VAWA bills. Senator Akaka (D-HI) introduced the SAVE Native Women Act, S 1763, on October 31, 2011, and the Senate Committee on Indian Affairs marked up that bill on December 5, 2011 (S. Rept. 112-265). A House companion bill, HR 4154, was introduced by Representative Boren (D-OK) on March 7, 2012.

For additional information see Hobbs-Straus General Memoranda 11-136 (November 18, 2011); 12-020 (February 3, 2012); 12-062 (May 10, 2012); 12-067 (May 18, 2012); and 12-130 (December 10, 2012).

### COMMITTEE ACTION

- Government Litigation Savings Act, HR 1996/S 1061. On November 17, 2011, the House Judiciary Committee amended and reported legislation that would have amended the Equal Access to Justice Act (EAJA) in ways that would discourage parties from suing the United States (HR 1996, H. Rept. 112-594). The effect of the bill would be to reduce incentive for tribes and tribal organizations, particularly smaller ones, to challenge unjustified government actions.

The Government Litigation Savings Act would save the federal government money by reducing—and in many cases eliminating—EAJA awards. The bill would limit awards to a prevailing party "who has a direct and personal interest in the adversary adjudication [or civil action] because of medical costs, property damage, denial of benefits, unpaid disbursement, fees and other expenses incurred in defense of the adjudication, interest in a policy concerning such medical costs, property damage, denial of benefits, unpaid disbursement or fees and other expenses,..." For tribes and tribal organizations, this provision could prevent recovery of fees in litigation that

obtains injunctive relief—for example, orders reversing declinations under the Indian Self-Determination and Education Assistance Act.

Representative Lummis (R-WY), with co-sponsorship by Representative Young (R-AK), introduced HR 1996. The Senate version (S 1061) was introduced by Senator Barrasso (R-WY) in May 2011.

For additional information on the bills (as introduced) see Hobbs-Straus General Memorandum 11-083 (June 24, 2011).

## BILLS INTRODUCED

- Racial Profiling Legislation, HR 3618/S 1670. On December 8, 2011, Representative Conyers (D-MI) introduced HR 3618, the End Racial Profiling Act. The bill would have banned racial profiling by police when making pedestrian or traffic stops, conducting investigations, or other activities that use race as a basis for taking an action. The bill was referred to the House Judiciary Committee.

HR 3618 would apply to all law enforcement agencies including tribal law enforcement. It would be enforceable by lawsuits for declaratory or injunctive relief but not money damages. Section 102 would authorize an individual or the Department of Justice to file a lawsuit for relief. Anticipating that a tribe could be sued for alleged racial profiling, Section 602 of the bill expressly states that it does not waive tribal sovereign immunity unless the tribe consents to the suit. Thus, the legislation would not allow an individual to sue a tribe as a result of alleged racial profiling by that tribe's police department without the tribe's consent. However, the Justice Department would be free to sue the tribe. A Senate companion bill, S 1670, was introduced by Senator Cardin (D-MD) in October 2011 and referred to the Senate Judiciary Committee.

For additional information see Hobbs-Straus General Memorandum 12-023 (February 10, 2012).

- Alaska Safe Families and Villages Act, S 1192. On June 14, 2011, Senator Begich (D-AK) introduced the Alaska Safe Families and Villages Act, a bill designed to strengthen the ability of tribes and tribal organizations to provide law enforcement in the villages in Alaska, especially as it involves substance abuse, domestic violence, and child abuse and neglect.

S 1192 would authorize the Department of Justice to establish a Pilot Project for nine tribes in Alaska to exercise local law enforcement responsibilities over substance abuse offences and to increase their authority over domestic violence and child abuse and neglect. The bill details the various actions necessary to complete the planning phase and be certified as a Pilot Project participant. Within 30 days of certification the tribe would begin exercising jurisdiction, concurrent with the civil jurisdiction of the State over drug, alcohol or related matters and over persons of Indian or Alaska Native descent or other persons with "consensual relationships with the Indian tribe or a member of the Indian tribe."

Funding would be authorized through the Department of Justice for the participating tribes and for employment of Alaska Village Peace Officers, both of which could be awarded via Indian self-determination contracts or compacts. The bill would authorize and encourage intergovernmental agreements among the state of Alaska, its political subdivisions, Alaska tribes and the federal government regarding employment of law enforcement-related personnel, cross-deputization matters, detention/incarceration of offenders, and jurisdictional or financial matters.

The Senate Committee on Indian Affairs held a hearing on S 1192 on November 10, 2011, with Senator Begich, the Alaska Federation of Natives and the Bristol Bay Native Association testifying in support of the bill; testifying in opposition to the bill was the Alaska Department of Public Safety.

## LAND INTO TRUST LEGISLATION

## COMMITTEE ACTION



- Carcieri Fix Bills, S 676/HR 1291/HR 1234. On April 7, 2011, the Senate Committee on Indian Affairs approved an amended S 676, legislation that would amend the Indian Reorganization Act of June 18, 1934 (IRA) to reaffirm the authority of the Secretary of the Interior to take land into trust for Indian tribes, commonly referred to as the "Carcieri fix." The bill, introduced by Senator Akaka (D-HI), would clarify that the Secretary has authority to take land into trust for all federally recognized Indian tribes regardless of when they achieved federal recognition.

The amended bill included a provision offered by Vice Chairman Barrasso (R-WY) that would require the Secretary to conduct and publish a study that "assesses the effects of the decision of the Supreme Court in the case styled *Carcieri v. Salazar* ... on Indian tribes and tribal land; and ... includes a list of each Indian tribe and parcel of tribal land affected by that decision."

House versions of the "Carcieri fix" legislation were introduced by Representative Cole (R-OK) as HR 1291 on March 31, 2011, and HR 1234 by Representative Kildee (D-MI) on March 29, 2011. Whereas the Kildee bill was virtually identical to S 676 as introduced, the Cole bill differs in that it excepts the State of Alaska from the effect of the Carcieri fix, and defines Indian tribe to mean " ... any Indian or Alaska Native tribe, band, nation, pueblo, village, or community that the Secretary of the Interior acknowledges to exist as an Indian Tribe."

## BILLS INTRODUCED

- American Indian Empowerment Act, HR 3532. On November 30, 2011, Representative Young (R-AK) introduced HR 3532, the American Indian Empowerment Act of 2011. As introduced, HR 3532 would change existing federal Indian law in some key areas by:
  - o allowing for federally recognized Indian tribes to request that lands held in trust for the tribe be conveyed to the tribe under restricted-fee status
  - o providing that the change in status of the land from trust to restricted-fee land would not affect its status as "Indian country" as defined in 18 U.S.C. § 1151
  - o allowing a tribe to lease, or grant easements and rights-of-way, on the restricted fee lands without any approval or review from the Secretary of the Interior
  - o allowing tribal law to preempt any federal law regarding the use of the restricted fee land, provided that the Secretary publishes the tribal laws in the FEDERAL REGISTER within 120 days after receipt from tribe

For additional information see Hobbs-Straus General Memorandum 11-145 (December 8, 2011). A Subcommittee hearing was held February 7, 2012.

## TRIBAL AND ALASKA NATIVE SPECIFIC LEGISLATION

### HOUSE OR SENATE CONSIDERATION

- Quapaw Tribe Trust Claims Legislation, H. Res. 668/HR 5862. On December 19, 2012, the House approved H. Res. 668 by a vote of 398-5, thus allowing the Quapaw Tribe to pursue its claims in the U.S Court of Appeals. The Clerk of the House forwarded the resolution to the court on January 22, 2013.

By way of background, the Quapaw Tribe of Oklahoma filed suit for federal mismanagement of trust assets in 2002. The Department of the Interior in 2004 began the Quapaw Analysis Project, which was intended to lead to a mediated resolution of the Tribe's claims. The accounting project was completed in 2010, but the Justice Department declined to participate in a mediated settlement, advising the Tribe to pursue litigation.

With no resolution of the dispute after a decade and continued efforts by the Justice Department to delay consideration of the Quapaw claims, Representatives Cole (R-OK) and Boren (D-OK) introduced two pieces of legislation on May 30, 2012. The first bill, HR 5862, directed the Secretary of the Treasury to pay, out of money not otherwise appropriated, unspecified sums to the Quapaw Tribe of Oklahoma (O-Gah-Pah) and to its tribal members pursuant to a judgment rendered by the U.S. Court of Federal Claims. They also introduced a companion bill, H. Res. 668, a rare congressional reference bill, which allowed the Tribe to pursue its claims in the U.S. Court of Federal Claims pursuant to 28 U.S.C. §§ 1492 and 2509.

The first citation, 28 U.S.C. § 1492, provides that, "Any bill, except a bill for a pension, may be referred by either House of Congress to the chief judge of the United States Court of Federal Claims for a report in conformity with section 2509 of this title." The second citation, 28 U.S.C. §2509, provides that, "Whenever a bill, except a bill for a pension, is referred by either House of Congress to the chief judge of the United States Court of Federal Claims pursuant to section 1492 of this title, the chief judge shall designate a judge as hearing officer for the case and a panel of three judges of the court to serve as a reviewing body."

Unlike other legislation, reference bills require passage by only one chamber of Congress to take effect. A congressional reference bill simply refers a claim against the U.S. Government to the U.S. Court of Federal Claims for consideration. The court does not issue a final ruling on the claim but, rather, submits a report to Congress with its findings and recommendations. Congress could then decide whether or not to enact a private claims bill or appropriate funds to the claimant in the interest of justice.

- Mescalero Apache Tribe Leasing Authorization Act, HR 1461/S 134. On September 19, 2012, the House passed under suspension of the rules legislation that would have authorized the Mescalero Tribe to lease or transfer water rights obtained under the State v. Lewis for terms of up to 99 years, provided the terms comply with New Mexico laws.

HR 1461 was introduced by Representative Pearce (R-NM). Senator Bingaman (D-NM) introduced a companion measure (S 134, S. Rept. 112-218), which was reported by the Senate Committee on Indian Affairs on September 19, 2012.

- Uintah and Ouray Indian Reservation Mineral Rights Exchange, HR 4027/ S 3305. On June 18, 2012, the House passed legislation that would have authorized a mineral rights exchange agreement among the Ute Tribe, the state of Utah School and Institutional Trust Land Administration and the Department of Interior (HR 4027, H. Rept. 112-509). The bill, sponsored by Representative Matheson (D-UT), provides for an acre-for-acre exchange whereby Utah would relinquish public domain subsurface mineral lands within the Uintah and Ouray Reservation southern area, to be held in trust for the Tribe, while the Tribe would relinquish subsurface acreage in the northern area that the State would lease out for oil and gas development.

In June 18, 2012, Senator Hatch (R-UT) introduced similar legislation (S 3305) which was referred to the Committee on Energy and Natural Resources. On June 15, 2011, he had introduced an earlier version of the bill as S 1209. On March 11, 2011, Representative Matheson had introduced his earlier version of the bill as HR 1053.

- Pascua Yaqui Tribe Trust Land Act, HR 4222. On June 5, 2012, the House passed legislation that would have transferred two parcels of land to the Pascua Yaqui Tribe (HR 4222, H. Rept. 112-510). Under the bill, sponsored by Representative Grijalva (D-AZ), a ten-acre parcel of Bureau of Land Management (BLM) land and a ten-acre parcel from Tucson Unified School District (TUSD) would have been transferred to the Tribe to be used for economic development purposes, but not for gaming purposes. Further, the TUSD would receive ten acres of BLM lands in exchange for the acreage to be conveyed to the Tribe.

## COMMITTEE ACTION

- Sandia Pueblo Settlement Technical Amendment Act, S 2024/HR 3734. On September 20, 2012, the Senate Committee on Indian Affairs amended and reported S 2024, the Sandia Pueblo Settlement Technical Amendment Act. The bill would amend the T'uf Shur Bien Preservation Trust Area Act (PL 108-7, Act) to require that if the land exchange required by the Act is not completed within 90 days of enactment of S 2024, the Secretary of Agriculture would transfer certain National Forest lands upon receipt of certain documents and at the request of the Sandia Pueblo and the Secretary of the Interior. The National Forest land would have to be left in its natural state. To effect the transfer, the Pueblo would be required to give in exchange certain Pueblo lands and funds equal to the difference in value of the National Forest land and the Pueblo land plus compensation it would have received for right-of-way and conservation easement on another parcel.

Representative Heinrich (D-NM) introduced a companion measure (HR 3734).

- Spokane Tribe Grand Coulee Dam Equitable Compensation Settlement Act, S 1345. On September 13, 2012, the Senate Committee on Indian Affairs amended and approved S 1345, a bill to provide compensation to the Spokane Tribe for the use of land associated with the Grand Coulee project. The legislation would establish a Spokane Tribe of Indians Recovery Trust Fund over the next five years. Expenditure of funds are to be in accordance with a plan to be developed by the Tribe that promote its economic and infrastructure development, as well as education, health and social services. S 1345 was introduced by Senator Cantwell (D-WA) on July 11, 2011.
- Blackfoot River Land Settlement Act, S 1065. On June 28, 2012, the Senate Committee on Indian Affairs amended and reported legislation (S 1065, S. Rept. 112-199) that would have ratified a negotiated agreement among the Shoshone-Bannock Tribes of the Fort Hall Indian Reservation, non-Indian litigants, and the State of Idaho to resolve land ownership disputes that arose from the realignment of the Blackfoot River by the Corps of Engineers in the mid-1960's. The bill would have: conveyed certain lands in trust for the Tribe and allottees; conveyed non-Reservation lands to the Black River Flood Control District No. 7 which would have been re-conveyed to the non-Indian landowners; and authorized \$700,000 to fund a tribal trust fund account, an allottee trust fund account and an account controlled by the Black River Flood Control District No. 7 for payments to non-Indian landowners and administrative costs.

Senator Crapo (R-ID) sponsored the bill, as he did in the previous Congress.

- Montana Mineral Conveyance Act, HR 1158/S 2110. On July 20, 2011, the House Natural Resources Committee reported an amended Montana Mineral Conveyance Act (HR 1158, H. Rept. 112-299). The bill, introduced by Representative Rehberg (R-MT), sought to correct a long-standing oversight by the federal government to secure on behalf of the Northern Cheyenne Tribe the subsurface mineral rights to several tracts located within the Tribe's reservation. HR 1158 would provide for a land exchange whereby the Tribe would receive the subsurface mineral rights to the lands currently owned by a private company (Great Northern Properties (GNP)); the GNP would receive subsurface ownership rights to eight sections of federal coal tracts; and the Tribe would waive its legal claims related to the federal government's failure to secure the subsurface mineral rights on the lands within its reservation. In addition, the Tribe and GNP would have to develop a revenue sharing formula for the proceeds derived from the coal tracts.

Senator Baucus (D-MT) introduced a similar bill in February 2012, entitled the Northern Cheyenne Land Consolidation Act (S 2110, updated from S 647 introduced in March 2011). Unlike HR 1158, the Senate version included provisions related to the Signal Peak Energy lease for Bull Mountain, one of the coal tracts proposed for transfer, and prohibits strip mining of coal at Bull Mountain.

- Cherokee Nation Maintenance of W.D. Mayo Lock and Dam, HR 1421. On July 20, 2011, the House Natural Resources Committee approved legislation (HR 1421, H. Rept. 112-221) that would have amended the Water Resources Development Act to allow the Cherokee Nation of Oklahoma to build one or more hydroelectric power facilities at the W.D. Mayo Lock and Dam located on the Arkansas River in Oklahoma, and to market the electricity generated from the facility/ies. The Secretary of the Army would have had to approve the design and construction plans, and would have been authorized to provide technical and construction management assistance.

Representative Boren (D-OK) introduced HR 1421 on April 7, 2011.

- Southeast Alaska Native Land Entitlement Finalization and Jobs Protection Act, HR 1408/S 730. On July 13, 2011, the House Natural Resources Committee marked up HR 1408, legislation to allow Sealaska to select its remaining land entitlement under the Alaska Native Claims Settlement Act (H. Rpt. 112-280). The lands would be outside the southeast Alaska withdrawal areas as delineated in the Alaska Native Claims Settlement Act. Lands selected could not be part of the National Park system, but could, within limitations, lie within the Tongass National Forest, have traditional, recreational and renewable energy use, be of traditional and customary trade

routes, and have sacred or historic significance.

Senator Murkowski (R-AK) introduced legislation on this topic, also entitled the Southeast Alaska Native Land Entitlement Finalization and Jobs Protection Act, S 730, which was referred to the Committee on Natural Resources. A Senate hearing was held May 25, 2011. The bill differs in a number of ways from HR 1408. See Senator Murkowski's introductory statement in the Congressional Record of April 5, 2011, which explains how this legislation differs from earlier bills on this matter.

## BILLS INTRODUCED

- Shingle Springs Band of Miwok Indians Land Conveyance, HR 6532. On September 21, 2012, Representative McClintock (R-CA) introduced HR 6532, legislation that would direct the Secretary of Interior, at the request of the Shingle Springs Band, to convey 40.8 acres of Bureau of Land Management land to the Band. The Band would pay fair market value for the land.
- Arctic Research, Monitoring, and Observing Act, S 3613. On September 21, 2012, Senators Begich (D-AK) and Murkowski (R-AK) introduced legislation (S 3613) which would amend the Arctic Research and Policy Act to require the Arctic Research Commission to provide grants to entities, including tribal governments, related to the Arctic research program plan. The Commission would be required to adopt new conflict of interest provisions affecting awarding of funds. It would increase the amount of funds that may be used to administer grants via the Commerce Department for research in the North Pacific Ocean, Bering Sea, and Arctic Ocean. It would also make changes to the distribution of the Environmental Improvement and Restoration Fund. S 3613 was referred to the Commerce, Science, and Transportation Committee.
- Denali Commission Reauthorization Act, S 3590/HR 6478. On September 20, 2012, Senator Begich (R-AK) and Representative Young (R-AK) introduced, respectively, S 3590 and HR 6478, legislation that would reauthorize and amend the Denali Commission Act.

The legislation would change the composition of the Commission to consist of five persons appointed by the Secretary of Commerce, one each to represent the views and perspectives of: Native Corporations; organized labor or vocational training groups; project management and construction in rural Alaska; rural local governments; and rural tribal interests. In addition the Governor of Alaska and the Federal Co-chairperson of the Commission would be appointed to the Commission. The duties of the Commission would be changed as would the match requirement for construction projects under the Act. The match would be up to 50 percent for the cost of the project, although the match could be 20 percent for the cost of a project carried out in a distressed community. S 3590 was referred to the Committee on Environment and Public Works and HR 6478 was referred to the Committee on Transportation and Infrastructure.

- Mni Wiconi Project Amendments of 2012, S 3464. On July 31, 2012, Senator Tim Johnson (D-SD) introduced S 3464, legislation that would amend the Mni Wiconi Project Act of 1998, a rural water supply system serving the Oglala, Rosebud and Lower Brule Sioux Tribes in South Dakota as well as a multi-county area of the West River/Lyman-Jones Rural Water System. The bill would, among other things, increase the funding authorization, extend the sunset date to complete construction, direct the Secretary to develop separate plans to complete the Oglala, Rosebud and Lower Brule water systems, including addressing the need to upgrade existing community systems, and establish a Mni Wiconi emergency assistance fund. Separate plans would be developed to complete the Oglala, Rosebud, and Lower Brule water supply systems.

The bill was referred to the Energy and Natural Resources Subcommittee on Water and Power, which held a hearing on the legislation on September 19, 2012.

- Report on Alaska Rural Justice and Law Enforcement Commission, S3373. On July 22, 2012, Senator Murkowski (R-AK) introduced legislation (S 3373) which would require the Attorney General to file a report

regarding the work of the Alaska Rural Justice and Law Enforcement Commission and make recommendations regarding its future funding and the scope of work and composition of the Commission. The Commission was established in 2004 as part of an omnibus appropriations act, but has not received funding since FY 2010, likely because of the ban on earmarks. The bill was referred to the Judiciary Committee.

- Land into Trust for Samish Indian Nation, HR 5992. On June 21, 2012, Representative Larsen (D-WA) introduced legislation (HR 5992) which would have directed the Secretary of Interior to process as on-reservation acquisitions certain property in the Washington state counties of Skagit and San Juan to be held in trust for the Samish Indian Nation. The land could not be used for gaming purposes.
- Whaling Convention Amendments Act, S 3262/HR 5898. On June 5, 2012, the Alaska delegation - Senators Begich and Murkowski and Representative Young - introduced legislation (S 3262 and HR 5898) which would amend the Whaling Convention Act of 1949 to allow subsistence bowhead whaling under limited circumstances. Under the bills, the Secretary of Commerce could allow aboriginal subsistence whaling if it is for subsistence purposes, does not include the harming or killing of calves, and is not done in a wasteful manner. The Secretary of Commerce could establish limits for Alaska Native subsistence hunting of bowhead whales in years when the International Whaling Commission does not establish catch limits and when scientific evidence shows that aboriginal subsistence needs are sustainable. Within three years of enactment, the Secretary would issue regulations for the aboriginal subsistence whaling authorized under the Act.

S 3262 was referred to the Commerce, Science and Transportation Committee and HR 5898 was referred to the Foreign Affairs Committee.

- Gros Ventre and Assiniboine Tribes of the Fort Belknap Indian Community Water Rights Settlement Act, S 3209. On May 21, 2012, Senator Tester (D-MT) introduced S 3209, legislation designed to facilitate negotiations on as yet unresolved issues with the Fort Belknap Water Rights Compact, and leading to authorization by Congress of a compact. The bill lays out a number of requirements in order for the compact to be approved.
- FWDA Land Conveyance to Zuni Pueblo and Navajo Nation, HR 4187. On March 8, 2012, Representative Pearce (R-NM) introduced legislation (HR 4187) which would legislatively settle distribution of remediated Fort Wingate Depot Activity (FWDA) lands between the Zuni Pueblo and the Navajo Nation. The tribes have negotiated over the "fair distribution" of the lands for over 15 years. Under HR 4187, nearly 5,000 acres would go to the Zuni Pueblo and 907 acres to the Navajo Nation; any future remediated lands would be split 50-50 between the tribes. The bill would reserve to the federal government easements to access the Fort Wingate Launch Complex as well as for administrative and environmental remediation purposes.

The House Subcommittee on Indian and Alaska Native Affairs held an oversight hearing on August 2, 2012, regarding "Indian lands: exploring resolutions to disputes concerning Indian tribes, state and local governments, and private landowners over land use and development," which included discussion of the Ft. Wingate matter. Representatives of both tribes testified and were not fully supportive of the measure.

- Navajo-Hopi Little Colorado River Water Rights Settlement Act, S 2109/ HR 4067. On February 14, 2012, Senators Kyl (R-AZ) and McCain R-AZ) introduced the Navajo-Hopi Little Colorado River Water Rights Settlement Act (S 2109), legislation intended to resolve litigation that has been ongoing for over 30 years. Representative Quayle (R-AZ) introduced the House version (HR 4067).

The bills would approve the water rights claims of the Navajo and Hopi Tribes, and their allottees, to water from the Little Colorado River and related groundwater in exchange for three groundwater delivery projects that would provide drinking water to specified Navajo and Hopi communities. The Tribes would be required to waive further claims in the Little Colorado River basin. The bill would, among other things, limit the water rights of lands taken into trust for the Navajo Nation or Hopi Tribe after enactment of S 2109 to those provided under the Agreement and the Navajo-Hopi Land Dispute Settlement Act of 1996; release the federal government from any financial

obligation related to the operation, maintenance, and replacement costs of the groundwater delivery projects after title to those projects is transferred and stipulated amounts are deposited in trust accounts; and provide that the Secretary would retain certain water for use in future settlements of the claims of the Navajo Nation and Hopi Tribe to Lower Colorado River water.

The Navajo and Hopi Tribes were not fully supportive of the settlement legislation. Objections have also been raised by environmental and other groups.

- Alaska Native Veterans Land Allotment Equity Act, HR 3604. On December 7, 2011, Representative Young (R-AK), introduced HR 3604, legislation to amend the Alaska Native Claims Settlement Act with respect to the open season during which certain Alaska Native Vietnam veterans are eligible to file for allotments for two parcels of federal land totaling 160 acres each. The bill would have amended the use and occupancy requirements and also increase the choices of land available for selection. Representative Young has introduced this same bill in previous Congresses.

- Transfer of Authority and Resources to the Utah Dineh Corporation, S 1327. On July 5, 2011, Senator Hatch (R-UT) introduced legislation (S 1327) which would have designated the Utah Dineh Corporation as the new trustee of the Utah Navajo Trust Fund. The bill was the subject of a Senate Committee on Indian Affairs hearing on October 20, 2011.

- United States Ambassador at Large for Arctic Affairs Act, S 1229. On June 16, 2011, Senator Begich (D-AK) introduced S 1229, legislation which would establish within the Department of State an Ambassador at Large for Arctic Affairs. Among the Ambassador's duties would be to advise the President and the Secretary of State regarding policies relating to Arctic affairs. The bill was referred to the Committee on Foreign Relations and is identical to S 1563 introduced by Senator Begich in the 111th Congress.

- Cocopah Lands Act, HR 1991. On May 25, 2001, Representative Grijalva (D-AZ) introduced the Cocopah Lands Act (HR 1991). The bill would have required the Secretary of Interior to take land previously purchased by the Tribe into trust for the Tribe. The land would be considered part of the Tribe's original reservation but could not be used for gaming purposes. HR 1991 would require that the lands for which the titles are to be taken into trust must have no adverse legal claims, including liens, mortgages, or owed taxes. In addition, as requested by the Department of Interior, the lands at the time of transfer must have "no recognized environmental conditions or contamination related concerns."

- Huna Tlingit Traditional Gull Egg Use Act, S 1063/HR 3037. On May 25, 2011, Senators Murkowski (R-AK) and Begich (D-AK) introduced the legislation (S 1063) which would allow the Hoonah Indian Association to resume its subsistence activity of collecting glaucous-winged gull eggs in Glacier Bay National Park. The bill would limit the activity to two times a year at five locations. The National Park Service has determined that this level of activity will not harm the gull population but congressional approval is also needed. S 1063 was referred to the Committee on Energy and Natural Resources. Representative Young (D-AK) introduced companion legislation, HR 3037, on September 22, 2011.

- Siletz Reservation Additions, S 908/HR 6141. On May 5, 2011, Senator Wyden (D-OR) introduced legislation (S 908) which would have amended the Siletz Tribe Indian Restoration Act to authorize the Secretary of the Interior to take certain lands into to trust and made part of the Tribe's reservation as though such lands were "on-reservation" acquisitions. In order for such lands to be considered under the on-reservation process--rather than the lengthier off-reservation process--each of the local counties where the properties are located would have to provide written approval for use of the on-reservation consideration and evaluation process. Land taken into trust under this bill could not be used for gaming purposes. The Senate Committee on Indian Affairs hearing on S 908 was held February 2, 2012.

Representative Schrader (D-OR) introduced a similar bill (HR 6141) on July 18, 2012, but it did not include the



provisions requiring submittal of written approval by the counties. The House Subcommittee on American Indian and Alaska Native Affairs held a hearing on HR 6141 on July 24, 2012.

- Elko Motocross and Tribal Conveyance Act, S 617/HR 3815. On March 17, 2011, Senator Reid (D-NV) introduced legislation (S 617) which would have taken into trust status 373 acres of Bureau of Land Management lands for the benefit of the Te-Moak Tribe of Western Shoshone Indians of Nevada. Authorized uses for the land did not include class II or class III gaming. The bill was the subject of a hearing on May 18, 2011, by the Senate Subcommittee on Public Lands and Forests.

Representative Amodei (R-NV) introduced an identical measure (HR 3815) on January 24, 2012.

- Blackfeet Water Rights Settlement Act, S 399/HR 3301. On February 17, 2011, Senator Baucus (D-MT) introduced legislation (S 399) which would have ratified and implemented a water rights compact among the Blackfeet Tribe, the State of Montana and United States. It would also ratify and implement the Birch Creek water use agreement between the Tribe and the State. The bill describes the Tribe's water rights and would have authorized funding for the Blackfeet Irrigation Project, the Blackfeet Land and Water Development Fund, and established the Birch Creek Mitigation Fund. The State would be required to provide no less than \$20 million toward the settlement.

On October 20, 2011, the Senate Committee on Indian Affairs held a hearing on S 399. Representative Rehberg (R-MT) introduced a companion measure (HR 3301) on November 1, 2011.

- Grand Ronde Reservation Act Amendments, HR 726/S 356. On February 15, 2011, Representative Schrader (D-OR) and Senator Merkley (D-OR) introduced companion legislation (HR 726, S 356) which would have amended the Grand Ronde Reservation Act to authorize the Secretary of the Interior to take certain lands into trust on behalf of the Grand Ronde Community of Oregon. The measure stated that such property (located within the boundaries of the Tribe's original 1857 reservation) taken into trust is to be treated as "on-reservation" trust acquisition, and is to be part of the Tribe's reservation.

The House Subcommittee on American Indian and Alaska Native Affairs held a hearing on HR 726 on July 24, 2012. The Senate Committee on Indian Affairs hearing on S 356 was held February 2, 2012.

- Fountainhead Property Land Transfer Act, HR 475. On January 26, 2011, Representative Boren (D-OK) introduced the Fountainhead Property Land Transfer Act (HR 475), legislation which would have authorized the Secretary of the Interior to take into trust 18 acres of federal land in McIntosh County, Oklahoma, for the Muscogee (Creek) Nation. The bill provided that the Tribe would pay to the Secretary the fair market value of the property and pay for the land survey and all other expenses associated with the transfer of property. The bill would have reserved to the Secretary terms and conditions necessary to protect federal interests, and prohibited the Tribe from conducting gaming on these lands. The bill was referred to the House Transportation and Infrastructure Committee and the Budget Committee.

- Claims Settlement for the Pottawatomie Nation in Canada, S 60/HR 2928. On January 25, 2011, Senator Inouye (D-HI) introduced legislation (S 60) to fully settle the claims of the Pottawatomie Nation in Canada for damages caused by the United States. The settlement would be a one-time payment of \$1.83 million. The bill was referred to the Senate Judiciary Committee.

Representative Kildee (D-MI) introduced the House version (HR 2928) in September 2011. This legislation has been introduced in previous sessions of Congress.

- Salmon Lake Land Selection Resolution Act, HR 296. On January 12, 2011, Representative Don Young (R-AK) introduced legislation (HR 296) which would have ratified an agreement among the Secretary of the Interior, the State of Alaska and the Bering Straits Native Corporation. The agreement reached in 2007 would resolve

conflicting land selections between the State and the Corporation in the area around Salmon Lake near Nome.

Similar legislation was passed by the House in the 111th Congress.

## OTHER LEGISLATION

### HOUSE OR SENATE CONSIDERATION

- Native American Heritage Month, S. Res. 561. On September 22, 2012, the Senate passed a resolution (S. Res. 561) to recognize November 2012 as National Native American Heritage Month and the Friday after Thanksgiving as Native American Heritage Day. (PL 111-33 permanently established the Friday after Thanksgiving as "Native American Heritage Day.") The resolution was introduced by Senator Akaka along with a number of co-sponsors.
- Federal Emergency Management Agency Reauthorization Act, HR 2903/HR 1953/ S 2283. On September 19, 2012, the House of Representatives passed HR 2903 under suspension of the rules. HR 2903 contained, among other things, a modified version of Representative Rahall's (D-WV) tribal-specific bill (HR 1953) which would have amended the Stafford Act to empower tribes to directly petition the President for a declaration of an emergency or major disaster rather than continuing to route such requests first through a state governor. Prior to its inclusion in HR 2903, HR 1953 had included a provision more expressly providing tribes with waivers for much of the cost sharing associated with the provision of federal emergency and major disaster assistance. However, during the Transportation and Infrastructure Committee markup, this section was removed and replaced with language that would have made tribes eligible in the same manner as are state and local governments for waivers. The Committee also added language directing those drafting the implementing regulations to "consider the unique conditions that affect the general welfare of Indian tribal governments."

Representative Rahall introduced HR 1953 on May 24, 2011. On March 29, 2012, Senator Tester (D-MT) introduced companion legislation (S 2283) which was referred to the Committee on Homeland Security and Governmental Affairs. The text of S 2283 reflected the changes made by the the House Transportation and Infrastructure Committee.

For further information, see Hobbs-Straus General Memoranda 12-114 (September 21, 2012) and 12-038 (March 9, 2012).

### BILLS INTRODUCED

- Indian Trust Reform Act, HR 6617/S 1065. On November 29, 2012, Representative Simpson (R-ID) introduced HR 6617, the Indian Trust Reform Act. The bill would reform Indian trust asset management by (1) creating a demonstration project wherein tribes could voluntarily assume their own trust asset management, (2) restructuring the Bureau of Indian Affairs by eliminating the Office of the Special Trustee, and (3) creating a cabinet-level post of Undersecretary for Indian Affairs.

Senator Crapo (R-ID) introduced a companion bill (S 3679) on December 13, 2012.

- Tuscarora National Gold Medal Act, HR 6516. On September 21, 2012, Representatives Hochul (D-NY) and Higgins (D-NY), introduced HR 6516, legislation to award a Congressional Gold Medal to the members of the Tuscarora Nation who, during the war of 1812, fought the British in defense of the residents of Lewiston, New York, thus saving many lives of people in that community. The bill was referred to the Committee on Financial Services.

- Elouise Pepion Cobell Gold Medal, S 1514. On September 6, 2011, Senator Tester (D-MT), along with Senators Baucus (D-MT), Akaka (D-HI) and Inouye (D-HI) introduced S 1514, legislation to authorize the President to present to Elouise Cobell, on behalf of Congress, a Gold Medal in recognition of her role in seeking justice for

Indian people in the federal government's mishandling of individual Indian trust funds. The bill was referred to the Committee on Banking, Housing and Urban Development. Elouise Cobell died on October 16, 2011.

- Indian Arts and Crafts Act Amendments. On August 2, 2012, Representative Rahall (D-WV) introduced HR 6274, legislation clarifying the definition of Indian and Indian organization for the purpose of a civil action brought under the Act against a person for the misrepresentation of an Indian-produced good. The bill would broaden the definition of "Indian" and add a definition of "Indian organization." The bill was referred to the Natural Resources and the Judiciary Committees.

- Department of the Interior Tribal Self-Governance Act, HR 2444. On July 7, 2011, HR 2444, the Department of the Interior Tribal Self-Governance Act of 2011 was introduced by Representative Boren (D-OK) with bi-partisan support and 11 co-sponsors. The Subcommittee on Indian and Alaska Native Affairs held a hearing on the bill in September 2011.

The bill (Title IV Amendments) would strengthen Tribal Self-Governance in the Department of the Interior and bring it into line with Title V of PL 93-638, as amended, which was adopted in 2000 and permanently authorized Self-Governance for the Indian Health Service (IHS). Currently, many Tribes are forced to operate under two separate administrative requirements, one for Bureau of Indian Affairs (BIA) and one for IHS. The Title IV Amendments include many of the Title V provisions that would streamline and make the administrative responsibilities for Self-Governance tribes more consistent which would create substantial administrative efficiencies.

- RESPECT Act, HR 2380. On July 6, 2011, Representative Grijalva (D-AZ) introduced the Requirements, Expectations, and Standard Procedures for Executive Consultation with Tribes (RESPECT) Act, HR 2380. The bill would have established requirements and guidelines with which federal agencies must comply when engaging in tribal consultation on matters that would have "substantial direct impacts on the lands or interests of one or more Indian tribes, on the relationship between the federal government and Indian tribes, or on the distribution of power and responsibilities between the Federal Government and Indian tribes." Other provisions of the bill addressed the protection of sensitive tribal information, agency recognition of tribal sovereignty, codification of tribal waiver application process, and tribal judicial recourse for agency failure to fulfill consultation obligations.

- Overlapping Programs' Elimination/Reduction, S 945/HR 2782/HR 6729. On May 11, 2011, Senator Coburn (R-OK) introduced legislation (S 945) which would direct the Office of Management and Budget (OMB) to work with federal agencies to find ways to administratively eliminate, consolidate, or streamline federal programs which are listed in the 2011 Government Accountability Office (GAO) report as possibly being overlapping or duplicative. In addition, OMB is to report to Congress on legislative changes needed to de-fund or consolidate some programs and determine the cost savings. Following that, \$5 billion would be rescinded from the appropriate accounts. Companion legislation (HR 2782) was introduced by Representative McCotter (R-MI) on May 5, 2011.

On January 1, 2013, Representative Culberson (R-TX) introduced similar legislation, HR 6729, except that it referenced a 2012 GAO report on duplicative programs as well as the 2011 report. Under that bill \$10 billion would be rescinded.

The reports referenced in the bills are GAO 11-318SP (March 2011) and its supplement which is more specific in listing programs (GAO 11-474R) and GAO 12-342SP of February 2012. A sampling of the programs listed as possibly duplicative or overlapping include Indian Community Development Block Grant; Indian Reservations Roads and Bridges; Food Distribution Program on Indian Reservations; Head Start; Temporary Assistance for Needy Families; Administration for Native Americans; Tribal Work Grants; urban Indian health, and the BIA's education; welfare assistance; and housing improvement programs.

The GAO is careful to say that they are not making recommendations on the fate of these programs and states there may good reasons for programs to have similar tasks:As noted in Hobbs-Straus March 1 report, the presence

of fragmentation and overlap can suggest the need to look more closely at the potential for unnecessary duplication. However, determining whether and to what extent programs are actually duplicative requires programmatic information that is often not readily available. In addition, while we have reported on examples where duplication, overlap, and fragmentation can hinder program performance and cause inefficiencies, we recognize that there could be instances where some degree of program duplication, overlap, or fragmentation may be warranted due to the nature or magnitude of the federal effort. (GAO 11- 474R, p. 1)

S 945 was referred to the Homeland Security and Government Affairs Committee. HR 2782 and HR 6729 were referred to the Committee on Oversight and Government Reform and the Appropriations Committee.

- National American Indian Veterans, Inc., S 728. On April 5, 2011, Senator Tim Johnson (D-SD) introduced S 728, legislation which would provide for the establishment of and grant a federal charter to National American Indian Veterans, Incorporated. The organization would promote the social welfare of, and advocate for, Indian, Alaska Native and Native Hawaiian veterans and their families. It would engage in outreach to tribes in regions without veterans committees and in training of Tribal Veterans Service Officers. The bill was referred to the Judiciary Committee.

The **Senate voted** unanimously (94-0), June 18, 2014 to approve a tribal amendment to the S.744 Immigration reform bill that would add four tribal government officials to the Border Oversight Task Force that was established originally in the bill (Vincent Schilling, “Senate Unanimously Approves a Tribal Amendment to Immigration Reform, ICTM, June 19, 2013, <http://indiancountrytodaymedianetwork.com/2013/06/19/senate-unanimously-approves-tribal-amendment-immigration-reform-149984>).

The **Non-Disparagement of Native American Persons or Peoples in Trademark Registration Act** of 2013, was **introduced in the House** on March 21,2013, by Rep. Eni Faleomavaega (D-American Samoa) and co-sponsored by Reps. Eleanor Holmes Norton (D-DC), Raul Grijalva (D-AZ.), Karen Bass (D-Calif.), John Lewis (D-Georgia), Gwen Moore (D-Wisc.), Donna Christenson (D-Virgin Islands), Michael Honda (D-CA.). and co-chairs of the Congressional Native American Caucus Tom Cole (R-OK.) and Betty McCollum (D-MN). The **bill would strip the Washington NFL football team of its trademarked name, the Washington Redskins, and put a stop to its exclusive profiting from using the racist slur in its logo on sweatshirts, tee shirts, caps, coffee mugs and dozens of other products. The bill would also prohibit any future trademarks that use the offensive term** (Gale Courey Toensing, “House Introduces Bill to Ban Racist 'Redskins' Trademark,” March 21, 2013, <http://indiancountrytodaymedianetwork.com/2013/03/21/house-introduces-bill-ban-racist-redskins-trademark-148292>).

The members of New Mexico’s congressional delegation **introduced The Building Upon Unique Indian Learning Act (Build Act)**, in mid June 2013, that **would expand resources for tribal schools and colleges via a number of programs** (Astrid Galvan, “Act to improve tribal education,” *Albuquerque Journal*, June 15, 2013).

### Federal Agency Developments

The Department of the Interior ("DOI") issued a Proposed Rule to clarify the process by which applications to acquire land in trust are approved or denied under 25 C.F.R. Part 151, May 25, 2013. A copy of the Proposed Rule is available at the following link: <http://www.gpo.gov/fdsys/pkg/FR-2013-05-29/pdf/2013-12708.pdf>. **In response to the Supreme Court's decision in *Match-E-Be-Nash-She-Wish Band of Pottawatomis Indians v. Patchak*, the DOI is proposing to remove the 30-day waiting period for implementing a final determination to take land into trust.** This 30-day waiting period was added to the regulations in 1996 in response to federal court rulings that a separate statute, the Quiet Title Act ("QTA"), barred judicial review of the agency's decision under the Administrative Procedure Act ("APA") once title was acquired by the Secretary. To ensure that interested parties have an opportunity to seek judicial review following the agency's final determination, the current rule requires the DOI to wait a minimum of 30 days before actually taking land into

trust. However, the Supreme Court recently held that the QTA does not bar judicial review of the agency's final determination under the APA unless the aggrieved party asserts an ownership interest in the property. Since parties can now seek judicial review of a final determination even after the land has been taken into trust and title has transferred, the 30-day waiting period is no longer necessary for judicial review purposes. The DOI is thus proposing to remove this procedural requirement from the regulation. **The DOI is also proposing to distinguish the processes for judicial review based on whether the land is being taken into trust by the Assistant Secretary - Indian Affairs ("AS-IA") or by a Bureau of Indian Affairs ("BIA") official. The Proposed Rule clarifies that decisions issued by the AS-IA, which generally relate to gaming and other complex acquisitions, will immediately be deemed a "final determination" and not be subject to any exhaustion requirements.** Since the DOI is also proposing to remove the 30-day waiting period, the Proposed Rule enables the AS-IA to "promptly" acquire the land in trust on or after the date of its decision. This is a favorable change in the rule that will allow tribes to begin development immediately upon the AS-IA's decision without the potential for delays caused by administrative appeals. In contrast, **decisions made by a BIA official will not be deemed a "final agency action" until administrative remedies have been exhausted or until the time for filing a notice of appeal has expired and no appeal has been filed. This means that interested parties will be required to exhaust all administrative remedies within the DOI before seeking judicial review of a BIA decision, and that the BIA official will be precluded from taking land into trust until either after the 30-day administrative appeal period has expired or until an appeal with the Interior Board of Indian Appeals has been finalized.** We note that BIA trust acquisition decisions are generally for non-gaming purposes and make up most of the agency's land-into-trust decisions. Finally, the Proposed Rule revises the notice requirements following an agency decision to take land into trust. Under the current regulation, the Secretary is required to publish its decision to take land into trust in either the Federal Register or newspaper. The Proposed Rule now specifies the media by which notice must be published by requiring AS-IA decisions to be published in the Federal Register and BIA decisions to be published in a newspaper of general circulation serving the affected area. The Proposed Rule also adds a new requirement for BIA officials to provide written notice of its decision to known interested parties and state and local governments with jurisdiction over the land to be acquired. This notice requirement does not apply to decisions issued by the AS-IA. Overall, the changes in this Proposed Rule are favorable and will help provide greater certainty to the trust acquisition process under 25 C.F.R. Part 151. We encourage you to submit comments expressing your support for the changes being proposed. Written comments are due July 29, 2013, and may be submitted by any one of the following methods: Federal Rulemaking Portal: <http://www.regulations.gov>, Docket ID: BIA-2013-0005. Email: [consultation@bia.gov](mailto:consultation@bia.gov). The number 1076-AF15 must be included in the subject line of the message. U.S. Mail: Elizabeth Appel, Office of Regulatory Affairs and Collaborative Action, U.S. Department of the Interior, 1849 C Street NW, Washington, DC 20240. The number 1076-AF15 should be included in the submission. Please contact Danielle Her Many Horses at 202-546-7711 or by email at [dhermanyhorses@indiangaming.org](mailto:dhermanyhorses@indiangaming.org) if you have any questions or concerns regarding this alert ("**NIGA: Proposed Rule Amending Land-Into-Trust Regulations**, ICTMN, June 6, 2013, <http://indiancountrytodaymedianetwork.com/2013/06/06/niga-proposed-rule-amending-land-trust-regulations-149744>).

**The Department of the Interior (DOI) announced in a June 27, 2013, *Federal Register* notice a series of consultation sessions to be held with tribes and the public regarding a "preliminary discussion draft" of possible revisions to the 25 C.F.R. Part 83 regulations (Procedures for Establishing That an American Indian Group is an Indian Tribe or Part 83 Process).** In addition to the consultation sessions, written comments will be accepted until August 16, 2013. According to the Assistant Secretary–Indian Affairs' June 21 press release, **the discussion draft:** • maintains stringent standards for core criteria and seeks comment on objective criteria to be incorporated into the standards. The draft suggests changes to improve timeliness and efficiency by providing for a thorough review of a petitioner's community and political authority. That review would begin with the year 1934 to align with the United States repudiation of allotment and assimilation policies and eliminate the requirement that an external entity identify the group as Indian since 1900. • further suggests providing flexibility to the Department to issue expedited denials and approvals based on the particular facts and unique history of certain petitioners. The draft suggests streamlining the process to

**promote greater transparency as a petitioner's materials are evaluated by the Office of Federal Acknowledgment and the Department.** The Part 83 discussion draft is available at: <http://www.bia.gov/WhoWeAre/AS-IA/Consultation/index.htm>. The consultations were to be conducted in half-day sessions, with the morning sessions (9 a.m.–12 noon) reserved for representatives from federally recognized tribes and the afternoon sessions (1–4 p.m.) for public input. The notice includes the meeting site specifics but the dates and cities of the consultations are as follows: July 23, 2013 Canyonville, OR; July 25, 2013 Solvang, CA; July 29, 2013 Petosky, MI; July 31, 2013 Indian Island, ME; August 6, 2013 Marksville, LA. Following the consultation and comment period on the discussion draft, the DOI will utilize the input to develop a proposed rule on the Part 83 Process, which will also undergo consultation and comment. There is no time frame provided on when the proposed rule process will occur (“DOI Schedules Consultation on Federal Acknowledgment Process,” Hobbs-Straus General Memorandum 13-058, June 28, 2013, <http://hobbsstraus.com/general-memorandum-13-058>).

The **Department of the Interior (DOI)** published, June 7, 2013, in the *Federal Register* a **final rule implementing the Buy Indian Act. This final rule supplements the Federal Acquisition Regulation (FAR) and the Department of the Interior Acquisition Regulation (DIAR)**, and will be effective on July 8, 2013. The final rule “formalizes an administrative procedure for all acquisition activities/locations to ensure that [Indian Affairs] will apply the procedures uniformly for eligible Indian Economic Enterprises that submit offers under solicitations set aside under the Act.” These regulations have been in the formulation process since 1982, with the most recent tribal consultations taking place during 2012. The final rule applies to all offices and bureaus that fall within the authority of the Assistant Secretary for Indian Affairs, including the Bureau of Indian Affairs and Bureau of Indian Education. **The rule states that an “Indian Economic Enterprise” (IEE) means “any business activity owned by one or more Indians or Indian Tribes that is established for the purpose of profit,” and also requires the business to be majority Indian owned, that Indians and/or Indian Tribes receive a majority of the contract earnings, and the management and daily business operations must be controlled by one or more members of an Indian tribe. Additionally, the final rule places a limitation on subcontracting to no more than 50 percent of the work that is awarded under the Buy Indian Act. Under the final rule, if an Indian Economic Enterprise is qualified, then Indian Affairs must use the Buy Indian Act to give preference to those enterprises through the use of set-asides. It is important to note that this does not apply to the awarding of contracts under the Indian Self-Determination and Education Assistance Act (ISDEAA).** The rule also requires that **when acquiring services to be performed in whole or in part on Indian land under tribal jurisdiction, contracting officers within Indian Affairs must notify the tribe of the intent to solicit using an IEE set-aside.** A tribe has 15 calendar days to contract for the program under ISDEAA. If a tribe decides not to do so, then the contracting officer may proceed with the IEE set-aside solicitation (“Department of the Interior Releases Final Rule Implementing Buy Indian Act,” Hobbs-Straus General Memorandum 13-048, June 14, 2013, <http://hobbsstraus.com/general-memorandum-13-048>).

The **Office of Tribal Justice (OTJ)** announced in a *Federal Register* notice that it is seeking tribes interested in exercising supplemental domestic violence criminal jurisdiction (SDVCJ) under the recently reauthorized Violence Against Women Act (VAWA). While tribes are not generally eligible to opt-in to SDVCJ until March 7, 2015, the new law authorizes a pilot project for tribes which have adequate justice systems to exercise SDVCJ prior to that date (with the Attorney General's approval). **The OTJ is seeking tribes to submit their preliminary expressions of interest in participating in the Pilot Project by July 15, 2013** (though tribes will not be barred from participating if they do not express interest). Comments on the proposed criteria for evaluating tribes' eligibility for the Pilot Project are due September 12, 2013. **The law requires that tribes provide various constitutional protections for non-Indian defendants charged with domestic violence, and places restrictions on when tribes can use this jurisdiction to charge these defendants (i.e., only certain domestic-violence related crimes committed in Indian Country, by a defendant with sufficient connections to the tribe). The law also requires tribes comply with various administrative requirements, such as community-representative jury pools, access to tribal codes, and notifying defendants of habeas corpus rights.** The *Federal Register* notice provides a very clear summary of these restrictions and requirements, but the purpose of this memorandum is to highlight the Pilot Project and expected criteria the

Department of Justice (DOJ) will use to evaluate participants for eligibility. Participation in the Pilot Project (and in exercising SDVCJ at any point) is entirely voluntary. The OTJ hopes to use the Pilot Project to highlight and test tribal best practices in organizing their justice systems and exercising the SDVCJ authority. The Pilot Project will proceed in two phases. The first phase will extend through autumn of this year. The purpose of this phase is to identify the means to strengthen or change tribal practices, institutions, and laws to comply with the requirements to use SDVCJ. During phase one, tribes may submit preliminary expressions of interest to participate via tribal leader or council letters (by July 15, 2013). Tribes will not be barred from participating in the pilot project later if they do not submit a preliminary expression of interest; however OTJ highly encourages this step as it will facilitate the DOJ's efforts to work with the tribe (through providing technical assistance and ongoing consultation, for example) to meet the eligibility criteria. A tribe that submits a preliminary expression of interest is not bound to participate, and may decide later not to begin exercising SDVCJ as part of the Pilot Project. As part of phase one, tribes expressing interest in participating will also be encouraged to join the "Intertribal Technical Assistance Working Group" (ITAW) of tribal designates (such as court judges, police chiefs, tribal attorneys, or victim service providers). The purpose of the ITAW will be to share information, advice, and best practices of how tribes can best exercise SDVCJ. The DOJ hopes that the ITAW will facilitate the development of multiple "best practices" that "can be tailored to each tribe's particular needs, preferences, and traditions." The DOJ will also continue tribal consultation throughout this phase. During the second phase tribes can request to exercise "early" SDVCJ under the Pilot Project. Since the law only allows tribes to do so with the Attorney General's approval during the Pilot Project period, DOJ is working to establish what it terms an "Application Questionnaire" for tribes to submit that will expedite the approval process. This "self-certification" was a specific request of tribes during early consultation for this project. The questionnaire will ask detailed questions about the tribe's criminal justice system, its ongoing efforts to combat domestic violence and provide victim services and support, its historic compliance with the Indian Civil Rights Act, and other safeguards the tribe has in place to protect defendants' rights. Following completion of this questionnaire, DOJ will review the application and approve or deny the request. The DOJ expects to provide technical assistance to tribes whose requests are denied. The *Federal Register* notice contains an appendix of proposed questions for this application questionnaire on which tribes are urged to provide comment. These proposed questions fall into several categories covering such areas as tribal justice institutions; protections under the Tribal Law and Order and Indian Civil Rights Acts; the qualifications of tribal judges and attorneys; and, tribal practices and experience with domestic violence and victims' rights. Full details are available in the attached notice. Tribes interested in participating in the Pilot Project, or being part of the ITAW to identify best practices with regard to SDVCJ, should contact the Office of Tribal Justice as soon as possible. The Pilot Project will likely begin towards the end of this year, and will necessarily end on March 7, 2015, when the VAWA reauthorization permits all tribes with eligible systems to begin exercising SDVCJ without DOJ approval ("Project for Tribes Seeking to Certify Justice Systems and Exercise Early Domestic Violence Jurisdiction under the VAWA Reauthorization," Hobbs-Straus General Memorandum 13-054, June 6, 2013, <http://hobbsstraus.com/general-memorandum-13-054>).

"Indian Health Service Tribal Management Grants," Hobbs-Straus General Memorandum 13-037, May 1, 2013, <http://hobbsstraus.com/general-memorandum-13-037>, The **Indian Health Service (IHS) announced in the *Federal Register*, April 24, 2013, the availability of \$2,679,000 in expected FY 2013 funds for Tribal Management Grants (TMG). The IHS expects to make 20-25 new and continuation awards**, with a deadline for receipt of applications of May 31, 2013. The TMG program provides funding to federally-recognized tribes and tribally-sanctioned tribal organizations to assume all or part of existing IHS programs, services, and functions and activities under the authority of the Indian Self-Determination Act. Grants may also be used for obtaining technical assistance and planning. The IHS will fund applications according to a priority system, beginning with the Priority I applications. Priority I applications are those from tribes who have received federal recognition within the past five years. Priority II applications are those from all other eligible federally-recognized tribes or tribal organizations whose new or competing continuation applications are for the sole purpose of addressing audit material weaknesses; Priority II applications are available only for health management structure projects. Priority III applications are those from all other eligible tribes and tribal organizations submitting a competing continuation application or a new application. The funding of approved Priority I applicants will occur before the



funding of approved Priority II applicants, and approved Priority II applicants will occur before the funding of approved Priority III applicants. Applications must be for one of the following four projects: 1) feasibility studies (maximum funding \$70,000; 12-month period); 2) planning (maximum funding \$50,000, 12-month period); 3) evaluation studies (maximum funding \$50,000, 12-month period); and 4) health management structure (average funding \$100,000 for 12 months; maximum funding \$300,000 for 36 months). The TMG application package can be found at: [https://www.ihs.gov/dgm/index.cfm?module=dsp\\_dgm\\_funding](https://www.ihs.gov/dgm/index.cfm?module=dsp_dgm_funding).

The **Indian Health Service (IHS) was soliciting applications**, via its February 4, 2013, *Federal register* notice, **for the repayment of health professions educational loans**. Under the Loan Repayment Program (LRP), authorized under Section 108 of the Indian Health Care Improvement Act, the IHS may make awards to persons for the repayment of health professions educational loans in return for full-time clinical service in Indian health programs. New loan repayment recipients may receive a maximum award of \$20,000 per year for each year of contracted service, plus the IHS will provide an additional 20 to 39 percent of the participant's total loan repayments to the Internal Revenue Service for the increased tax liability. For those participants who have completed their two-year service, an extension may be granted at a maximum of \$20,000 per year plus 20 percent for federal tax withholding. The IHS estimates that it will provide \$20,179,074 in FY 2013 funds for the LRP, which will support "approximately 455 competing awards averaging \$44,270 per award for a two-year contract." Applications for the FY 2013 Loan Repayment Program will be accepted beginning February 15, 2013, and will continue to be accepted each month thereafter until all funds are exhausted for FY 2013. Subsequent monthly deadline dates are scheduled for Friday of the second full week of each month until August 16, 2013. The February 4 notice lists the priority health professions that will be considered in making awards under the LRP. The IHS does not establish percentages of awards for specific professions. The IHS will give priority to applications made by American Indians/Alaska Natives and to those individuals recruited through the efforts of tribes or tribal organizations. Other factors that will be taken into consideration are: 1) an applicant's length of current employment in the IHS, tribal, or urban program; 2) availability for service earlier than other applicants; and 3) date of receipt of the individual's application. The IHS Area Offices and Service Units are authorized to provide supplemental funds for LRP participants for use in their areas, but the total amount cannot exceed \$35 million when combined with the \$20 million made available in this notice. Application materials may be obtained on line at <http://www.ihs.gov/loanrepayment> or by contacting: IHS Loan Repayment Program 801 Thompson Avenue, Suite 120 Rockville, Maryland 20852(301) 443-3396. Additional information regarding this program may be obtained from Jacqueline Santiago, Chief of the IHS Loan Repayment Program, at the same contact information as above ("Indian Health Service Soliciting Applications for FY 2013 Loan Repayment Program," Hobbs Straus General Memorandum 13-012, February 8, 2013, <http://hobbsstraus.com/general-memorandum-13-012>).

The **Department of Health and Human Services (DHHS) published** in the May 20, 2013, *Federal Register* **a proposed rule for the Child Care Development Fund (CCDF) which is designed to improve health and safety protections for children in child care and to place more emphasis on the developmental needs of young children. The proposed rule would generally apply to tribal programs although there would be some exceptions**. Currently \$100 million is provided annually to 260 tribes and tribal organizations (serving 500 tribes) for child care services (a two percent allocation of funds). The notice is at: <http://www.gpo.gov/fdsys/pkg/FR-2013-05-20/pdf/2013-11673.pdf> Comments are due August 5, 2013. The DHHS notes that the CCDF, which was last reauthorized in 1996, was designed primarily as a program to help low-income working families via providing child care assistance. Program requirements do not, however, reflect the current research which "demonstrates that the first five years of a child's cognitive and emotional development establish the foundation for learning and achievement throughout life." The DHHS points out that state child care policies vary widely, that there are many documented cases of children being injured and dying in child care, some of which were due to a lack of basic requirements for child care providers, and that ten percent of CCDF children are cared for in unregulated facilities. The proposed new minimum standards would apply to child care providers who accept CCDF funds, although it would allow for exemption of relatives and caregivers in the child's home. In many instances the Lead Agencies will have the flexibility to determine how they will meet the requirement or to provide an alternative way in which the requirement could be met. Under the proposed rule CCDF-funded child care providers would be required to

have health and safety training in specific areas (i.e., first aid; medication administration; poison prevention; safe sleep practices; recognition and reporting of child abuse; proof of immunizations; emergency preparedness planning and response procedures). Child care providers would be required to comply with applicable state and local fire, health and building codes, receive comprehensive background checks (including fingerprinting) and receive on-site monitoring. Roughly half the states have websites with child care provider-specific information regarding teaching staff qualifications, learning environment, curricula and activities. The proposed rule would require all states to do this. The proposed rule would allow parents to keep receiving a child care subsidy while looking for a job. Currently parents lose CCDF eligibility when they become unemployed, and find it difficult to search for jobs without child care. Lead Agencies would be able to set the period of time they allow a subsidy for a family searching for a job. Tribal-Specific Provisions. As noted earlier, Tribal Lead Agencies would generally be subject to the proposed rule, specifically including child eligibility for services, consumer education, health and safety requirements, and new program integrity provisions, although there is flexibility in how those requirements may be met. The DHHS, as required by law, worked with tribes and in 2000 issued voluntary minimum child care standards for tribes and tribal organizations receiving CCDF funds. Those standards were updated and reissued in 2005. The DHHS states that the 2005 tribal voluntary standards are generally consistent with the proposed health and safety standards although they will review the standards to ensure that they "adequately address all aspects of the proposed rule." Tribes would not be subject to the requirement that direct services be provided utilizing grants, contracts or certificates. The DHHS states that those tribes receiving small CCDF grants may lack the resources necessary to provide services through a grant or contract and also that many tribes directly administer their own tribally-operated child care facilities, rather than purchasing slots through a grant or contract. The other exemption for tribes is that they would not be required to maintain a website with child care provider-specific information, although they will be required to disseminate "consumer education information on the full range of available providers, including provider-specific information about health and safety, a transparent system of quality indicators, and specific information about the provider selected by a parent receiving a CCDF subsidy." Currently large tribes are required to spend at least four percent of their CCDF funds on quality improvement activities. Under the proposal the four percent rule would apply to all tribes. States also must expend at least four percent of funds for quality improvement activities. Finally, the proposed rule makes a technical change in removing the exemption for tribes from the immunization requirements. Under the 2005 tribal standards an immunization requirement was included which is consistent with the proposed rule. The DHHS points out that under the proposed rule tribes would continue to have the option to consolidate their CCDF funds under a plan authorized by the Indian Employment, Training and Related Services Demonstration Act of 1992 (PL 102-477). Tribes would continue to be subject to a 15 percent administrative cost limit, rather than the five percent limit that applies to states. Non-Regulatory Tribal Changes. DHHS includes in the May 20 announcement two changes which are not part of the proposed rule: 1) Currently tribes receiving smaller CCDF grants are not required to operate a certificate program. The change is that beginning in FY 2015, the threshold for what is considered "smaller" will be raised from \$500,000 to \$700,000; and 2) Beginning in FY 2015 the base amount of funding for each Tribal Lead Agency under the discretionary-funded portion of CCDF will be raised from \$20,000 to \$30,000. Reauthorization Legislation. On June 3, 2013, Senator Mikulski (D-MD) introduced S 1086, legislation which would reauthorize the Child Care and Development Block Grant. That bill addresses the issues in the proposed rule, but it would represent a comprehensive reauthorization of that program. Senator Mikulski prefers enactment of a reauthorization bill to the Administration's proposal to issue regulations ("Child Care Development Fund Proposed Rule," Hobbs-Straus General Memorandum 13-050, June 14, 2013, <http://hobbsstraus.com/general-memorandum-13-050>).

**The Environmental Protection Agency announced an opportunity for tribes to receive technical assistance in the development of green building codes** with a deadline for applications of March 6, 2013. As noted in the EPA *Federal Register* announcement, in the United States, buildings account for 39% of total energy consumption and 38% of greenhouse gas emissions, as well as a substantial share of water consumption and the generation of solid waste. "Green" building seeks to improve efficiency in the use of energy, water, and materials. With respect to energy, buildings can be designed to be net-zero energy, and there is national movement toward making the standard practice within the next two decades. Many cities are using building codes to set efficiency

standards for new construction, and to implement other green building practices. **Tribal governments have the sovereign authority to enact building codes for lands under their jurisdiction, but tribes have generally been left out of federal assistance programs for enhancing local building codes. Hobbs-Straus finds the EPA announcement of technical assistance is a step in the right direction** (“EPA Seeking Applications from Tribes for Technical Assistance on Green Building Code Development,” Hobbs Straus General Memorandum 13-018, February 15, 2013, <http://hobbsstraus.com/general-memorandum-13-018>).

The **Children's Bureau of the Department of Health and Human Services was soliciting applications from tribes, tribal organizations and tribal consortia for grants to assist in the development of plans which would enable them to directly administer the Title IV-E Foster Care and Adoption Assistance, and at tribal option, Guardianship Assistance program. There is \$1.5 million available for these planning grants in FY 2013**; the deadline for receipt of applications was May 14, 2013. The authority for tribes to administer the Title IV-E program was enacted in 2008 as part of the Fostering Connections to Success and Increasing Adoptions Act (Act), PL 110-351. Under the Title IV-E program, states provide adoption and foster care services for income-eligible children and, at state option, for kinship guardianship assistance payments. This is an open-ended entitlement program; the federal share is approximately \$7 billion annually. The authority for tribes to administer the Title IV-E program began October 1, 2009. **Section 302 of the Act appropriates \$3 million annually for three purposes: 1) information services concerning the types of services, administrative functions, data collection, program management and reporting requirements necessary for tribal administration of the Title IV-E program, 2) technical assistance for tribes seeking to operate a tribal Title IV-E program directly or seeking to develop a cooperative agreement with a state concerning administration of the program, and 3) grants for tribes to help defray the costs of developing a plan to directly administer the Title IV-E program. Item number 3 is the subject of the grant announcement described in this Memorandum.** The Act does not direct how the \$3 million made available annually is to be divided among the three activities listed above. The Children's Bureau has decided to provide \$1.5 million for tribal Title IV-E development grants. The Act limits the amount of funding for each tribal development grant to \$300,000 and allows only one grant per tribe. A grant recipient is to have its plan for administration of the Title IV-E program ready to submit to the Children's Bureau within 24 months. The Act requires a tribe to return the development grant money if such a plan is not completed within 24 months, although the Secretary is authorized to waive this requirement if she determines that failure to complete the development of the plan was beyond the control of the tribe. Grants may be used for any costs attributable to meeting the requirements for approval of a tribally-operated Title IV-E plan including development of a data collection system and a cost allocation plan, and establishment of tribal, agency and court procedures necessary to meet the case review requirements in the law. The full grant announcement (CFDA # 93.658) may be downloaded at:<http://www.acf.hhs.gov/grants/open/foa/view/HHS-2012-ACF-ACYF-CS-0579> (“Tribal Title IV-E Foster Care/Adoption Assistance Plan Development Grants,” Hobbs-Straus, General Memorandum 13-015, February 15, 3-13, <http://hobbsstraus.com/general-memorandum-13-015>).

**Two federal developments relating to the protection of sacred places** were announced, December 5, 2012. The first development is a **Memorandum of Understanding (MOU) REGARDING INTERAGENCY COORDINATION AND COLLABORATION FOR THE PROTECTION OF INDIAN SACRED SITES** among the Advisory Council on Historic Preservation (ACHP) and four federal agencies – the **Departments of Defense, Interior, Agriculture and Energy**. A copy of the MOU is available on the ACHP website at: [www.achp.gov/docs/SacredSites-MOU\\_121205.pdf](http://www.achp.gov/docs/SacredSites-MOU_121205.pdf). The second development is that the **U.S. Department of Agriculture (USDA) released the final version of its Report to the Secretary of Agriculture, USDA POLICY AND PROCEDURES REVIEW AND RECOMMENDATIONS: INDIAN SACRED SITES**, available at: [www.fs.fed.us/spf/tribalrelations/documents/sacredsites/SacredSitesFinal...](http://www.fs.fed.us/spf/tribalrelations/documents/sacredsites/SacredSitesFinal...) The draft version of this Report was released in July 2011. (Hobbs-Straus General Memorandum 11-093 of August 5, 2011.) The **Sacred Sites MOU. The stated purpose of the MOU is "to improve the protection of and tribal access to Indian sacred sites through enhanced and improved interdepartmental coordination and collaboration."** The MOU notes that **sacred sites may be eligible for the National Register of Historic Places and that federal agencies are required to assess the effects of undertakings that they take, fund, or permit on historic properties of**

**religious and cultural importance to tribes.** While acknowledging that there are many differences in the ways in which federal agency decisions affect sacred sites, the MOU states that there are also similarities and that, **because of the similarities, "consistency in policies and processes can be developed and applied."** The MOU uses the **definition of sacred site in Executive Order 13007, Indian Sacred Sites, which uses the phrase "specific, discrete, narrowly delineated location,"** wording that many tribal leaders and advocates have found objectionable. The MOU **does recognize, however, that sacred sites "often occur within a larger landform or are connected through features or ceremonies to other sites or a larger sacred landscape."** The MOU sets out a **list of eleven action items that the agencies agree to work together to accomplish.** The **agencies also agree to consult with tribes "as appropriate in developing and implementing" the listed actions.** The MOU does not explicitly address how consultation with tribes will be accomplished, though several of the listed action items will obviously require collaboration with tribes, such as establishing "mechanisms for the collaborative stewardship of sacred sites with Indian tribes, such as Federal-tribal partnerships in conducting landscape level cultural geography assessments." **The eleventh action item on the list is the establishment of a staff level inter-agency working group, which is tasked with developing an action plan for implementing the MOU and to do this within 90 days.** Tribal leaders and advocates who are particularly interested in any of the listed action items may not want to wait for the action plan before providing input to the working group. **The USDA Report to the Secretary of Agriculture was prepared in response to a directive from the Secretary of Agriculture to the USDA Office of Tribal Relations and the Forest Service to engage in consultation with American Indian and Alaska Native leaders about how USDA "can do a better job addressing sacred sites issues, while simultaneously balancing the pursuit of the Forest Service's mission to deliver forest goods and services for current and future generations."** The final version of the Report has been rather extensively revised from the draft version that was circulated in July 2010. Some of the comments from tribes and inter-tribal organizations were quite critical of the draft. **Many commenters criticized the decision by the Forest Service to allow the use of treated sewage for making artificial snow at San Francisco Peaks. Some commenters criticized the draft report for shortcomings in its discussion of existing legal tools that can be used to protect sacred sites, and also criticized the Forest Service for not consistently making use of existing legal tools. The Report acknowledges such comments, and some changes were made.** The Report's recommendations (pp. 25-29) are presented under three main headings: (I) Relationships/Communications; (II) Direction/Policy; and (III) On-the-Ground Actions. Hobbs-Straus had not as yet analyzed these recommendations in detail. **The Report does not in of itself change any of the policies of USDA or the Forest Service, but rather it may lead to specific policy changes such as those set out under the second heading. Such formal policy changes would generally be subject to additional tribal consultation and public notice. Some of the recommendations under the headings of "Relationships/Communications" and "On-the-Ground Actions" can be implemented at lower levels of the Forest Service hierarchy through collaboration between tribes and Forest Service personnel. In fact, the Report says that the process of developing the Report "is already changing" the ways that American Indian and Alaska Native people interact with the Forest Service regarding land management decisions** ("Sacred Sites Initiatives: Interagency Memorandum of Understanding and U.S. Department of Agriculture Report to the Secretary," Hobbs-Straus General Memorandum 12-133, December 14, 2012, <http://hobbsstraus.com/general-memorandum-12-133>).

On March 5, 2013, the five federal agencies jointly released the **Action Plan to Implement the Memorandum of Understanding Regarding Interagency Coordination and Collaboration for the Protection of Indian Sacred Sites (Action Plan)**. A copy of the Action Plan is can be downloaded from the Department of the Interior (DOI) website: [www.doi.gov/news/upload/SS-MOU-Action-Plan-March-5-2013.pdf](http://www.doi.gov/news/upload/SS-MOU-Action-Plan-March-5-2013.pdf). The interagency Memorandum of Understanding (MOU), which was issued on December 5, 2012, is available on the website of the Advisory Council on Historic Preservation (ACHP): [www.achp.gov/docs/SacredSites-MOU\\_121205.pdf](http://www.achp.gov/docs/SacredSites-MOU_121205.pdf). (See the discussion from Hobbs-Straus General Memorandum 12-133, December 14, 2012, just above). **The Action Plan states a commitment to establish two working groups: the Executive Working Group, to be comprised of senior executives of each participating agency, and the Core Working Group, comprised of senior Department-level staff. The Core Working Group already exists: its members are named in an appendix to the Plan. The actions that the Working Groups plan to take are set out in the following categories:**

**Evaluation of Existing Authorities; Training Program; Development of Guidance; Creation and Maintenance of the Website; Public Outreach Plan; Confidentiality Standards; Management Practices; Interagency Expertise and Contracting with Indian Tribes; Outreach to Non-Federal Partners; and Building Tribal Capacity.** All of the planned actions are to be carried out in accordance with the Guiding Principles, which include the recognition that "tribal input is essential" and a commitment to consult with tribes "as appropriate" ("Interagency Action Plan for Protection of Indian Sacred Sites Released," Hobbs-Straus General Memorandum 13-025, March 8, 2013, <http://hobbsstraus.com/general-memorandum-13-025>).

The National Park Service announced June 12 that more than \$3.7 million in historic preservation grants to 142 American Indian tribes, from the Absentee-Shawnee to the Zuni, June 12, 2013, to assist tribes in carrying out national historic preservation program responsibilities on tribal lands. Among the projects involved was the Caddo Nation memorandum of agreement with the U.S. Army Corps of Engineers and the Louisiana State Historic Preservation Office regarding procedures for the treatment and disposition of all Native American human remains and cultural items found at Bellevue Mound, one of the oldest Native American burial mounds in northwest Louisiana, located on the Caddo Nation's traditional homeland. Originally acquired for use as access to a boat launch, the Army Corps of Engineers decided, after consultation with the Caddo Tribal Historic Preservation Office, that the site will be used for educational purposes in a culturally sensitive manner. For more information about the NPS tribal preservation programs and grants, go to: [http://www.nps.gov/tribes/Tribal\\_Historic\\_Preservation\\_Officers\\_Program.htm](http://www.nps.gov/tribes/Tribal_Historic_Preservation_Officers_Program.htm). ("NPS Awards Historic Preservation Grants to 142 American Indian Tribes," ICTMN, June 13, 2013, <http://indiancountrytodaymedianetwork.com/2013/06/13/nps-awards-historic-preservation-grants-142-american-indian-tribes-149889>).

The Advisory Council on Historic Preservation's (ACHP) announced its plan, in March 2013, to support to support the United Nation's Declaration on the Rights of Indigenous Peoples (UNDRIP) saying it wished to raise awareness about the Declaration – and its goal to improve the treatment of Indigenous Peoples – within the preservation community. The agency promised to develop guidance on the intersection of the Declaration with the Section 106 process (which requires federal agencies to take into account the impacts of their actions on historic properties, and federal agencies are required to consult with Indian tribes, Alaska Natives, and Native Hawaiian organizations when historic properties of religious and cultural significance to them may be affected) (Rob Capriccioso, "Federal Agency Supports UNDRIP: A New Era in Tribal-Federal Relations?" ICTMN, June 03, 2013, <http://indiancountrytodaymedianetwork.com/2013/06/03/federal-agency-supports-undrip-new-era-tribal-federal-relations-149676>).

The U.S. Forest Service published a notice in the *Federal Register*, June 5, 2013, requesting comments on an interim directive on "Burned Area Emergency Response." The objective of the Burned Area Emergency Response (BAER) program is to "rapidly assess burned areas to identify post-wildfire threats to human safety, property and critical natural or cultural resources on National Forest Service lands and take immediate and reasonable actions to manage unacceptable risks." The interim directive is available at: [www.fs.fed.us/im/directives/fsm/2500/wo\\_id\\_2520-2013-1.doc](http://www.fs.fed.us/im/directives/fsm/2500/wo_id_2520-2013-1.doc). The interim directive took effect upon publication of the notice, but the Forest Service has indicated that comments will be taken into account in preparing a final directive. The deadline for filing comments is July 8, 2013. (The notice, however, also indicates that the Forest Service considers tribal consultation to be an ongoing process that continues "through the issuance of final directives.") As discussed in the notice, the Forest Service determined that the directive for the BAER program, which had not been substantively revised since 2004, needed to be updated in light of "conditions that make the outlook for more and bigger fires almost certain," and because of the need to respond to budgetary concerns. The revised directive seeks to provide a framework for making decisions on emergency response actions in a cost-effective way. The interim directive has been issued as part of Chapter 2520 of the Forest Service Manual, specifically FSM 2523. The *Federal Register* notice discusses the changes that were made from the prior directive, some of which were made in response to concerns raised by tribes. For example, section 2523.1 of the

guidance, which explains how to conduct a burned area emergency assessment, specifically says to consult with tribes for assistance in identifying sensitive cultural resource values. Similarly, section 2523.53, which notes that federal funding can be used to deal with certain post-fire risks on state and private lands, also specifically includes tribal lands ("Forest Service Seeks Comments on Directive for Burned Area Emergency Response," Hobbs-Straus General Memorandum 13-052, June 6, 2013, <http://hobbsstraus.com/general-memorandum-13-052>).

**The EEOC Continues to Distinguish Between Tribal Preference and Indian Preference.** While making hiring and other employment decisions, **many tribes and tribal organizations give preference to qualified members of their own tribes or member tribes as a practice of tribal self-sufficiency, tribal economic development, and tribal self-governance.** During the National Congress of American Indians' March 5-6, 2013, Executive Council Winter Session, the **General Counsel for the Equal Employment Opportunity Commission (EEOC), David Lopez, stated that while Indian preference is protected by federal law, such preference for members of specific tribes is not. Rather, the EEOC views tribal preference as a form of discrimination. Mr. Lopez compared tribal preference to discrimination based on "national origin."** Mr. Lopez recognizes that this issue is being highly contested in litigation. In *E.E.O.C. v. Peabody W. Coal Co.*, 610 F.3d 1070 (9th Cir. 2010), the Ninth Circuit Court of Appeals allowed the EEOC's suit to proceed against the Navajo Nation and Peabody Energy, the lessor and lessee of on-reservation coal mines, for alleged tribal preference discrimination on the basis of national origin. The Court remanded the case back to the District Court of Arizona for further review (See Hobbs-Straus General Memorandum 10-097 (July 29, 2010) for more information about the Ninth Circuit's decision). On remand, however, the **District Court upheld the mining company's tribe-specific preference agreement with the Navajo Nation (*EEOC v. Peabody Coal Company, et al.*, No. 2:01-cv-01050-JWS).** In its decision, the **Court found the Navajo-specific preference in the mining leases (approved by the Department of the Interior in accordance with its policy on employment preferences) represents political classifications rather than racial classifications, as the federal government "has a distinct relationship with each tribe and distinct trust obligations owed to each tribe."** The District Court also rejected the EEOC's argument that Congress did not intend for tribal preference to be exempt from discrimination policies, under Title VII of the Civil Rights Act. (See Hobbs-Straus General Memorandum 12-126, Nov. 9, 2012). **The EEOC thereafter appealed the District Court's decision to the Ninth Circuit Court of Appeals, which will probably decide the appeal late 2013 or early 2014. Hobbs-Straus comments, "The EEOC's continued position—that tribal preference is discriminatory—is concerning and, in Hobbs-Straus view, poses a significant threat to tribal sovereignty. We will continue to monitor developments"** ("EEOC Continues to Distinguish Between Tribal Preference and Indian Preference," Hobbs-Straus General Memorandum 13-027, March 22, 2013, <http://hobbsstraus.com/general-memorandum-13-027>).

"Department of Labor Publishes Tribal Consultation Policy," Hobbs-Straus General Memorandum 12-131, December 14, 2013, <http://hobbsstraus.com/general-memorandum-12-131>, The **Department of Labor (DOL) published its final Tribal Consultation Policy (Policy),** December 4m 2012. The Policy was released in draft form on April 18, 2012 (see Hobbs-Straus General Memorandum 12-055 of April 27, 2012). The introduction lists various Executive Orders, Memoranda and federal statutes as the foundation for the Policy, including the use of a definition of Indian tribes which includes Alaska Native Corporations as receiving the same treatment under the Policy as "other federally recognized tribes." Under the Policy, the Director of the Office of Public Engagement, working in conjunction with other DOL offices (Intergovernmental Affairs, Office of the Secretary) will coordinate the Tribal Consultation Policy. Each DOL operating agency will designate a senior official with primary responsibility for tribal matters. The Policy addresses a number of activities including ways the DOL will undertake proactive and ongoing consultation. Among other things it describes the activities that would trigger consultation, the handling of tribal requests for waivers or administrative discretion, the reporting on outcomes to tribes, and the use of tribal committees. Regional DOL policies will be reviewed and revised if necessary to be consistent with the Policy. The Policy clarifies that a federally recognized tribe may delegate a third party to represent it in tribal consultations with DOL. The Department of Labor administers a number of programs affecting tribes, notably those in the Employment and Training Administration. Other entities within the DOL which have interactions with tribes include the Women's Bureau, the Office of Federal Contract Compliance, the



Occupational Safety and Health Administration and the Mine Safety and Health Administration.

**The National Labor Relations Board (Board; NLRB) reaffirmed its controversial position, first taken in 2004, that it has jurisdiction over Indian casinos, March 18, 2013, in *Little River Band of Ottawa Indians and Local 406, International Brotherhood of Teamsters*, No. 07-CA-051156.** Indian Country unanimously condemned the 2004 *San Manuel* decision, later upheld by the U.S. Court of Appeals for the D.C. Circuit, that the Board had the authority to step into a labor dispute between casino employees and tribal management. The Board's March 18 decision involved an effort by tribal employees at the Little River Casino Resort to form a union. **In the wake of the *San Manuel* decision, tribes have been advised by legal counsel to adopt their own labor relations laws with the goal of preempting federal labor law. The Little River Band did just that, but to no avail. Article 16 of the Tribe's Fair Employment Practices code narrows the right of employees to form labor unions, prohibits strikes, takes important bargaining issues such as hiring, layoffs, and change of duties off the negotiating table, and requires unions to obtain a tribal license.** In 2008, the Teamsters Local 406 filed an unfair labor practices charge against the Tribe arguing that the tribal law violates the National Labor Relations Act. The Tribe argued that the NLRB did not have jurisdiction; that the *San Manuel* case did not apply; and that in any case, *San Manuel* was incorrectly decided. We note that at one point, President Obama's Interior Department Solicitor's office was considering filing a brief in favor of the Tribe, but backed off in 2012 and decided not to file a brief. **The Board agreed with the *San Manuel* ruling that "[T]he operation of a casino – which employs significant numbers of non-Indians and that caters to a non-Indian clientele – can hardly be described as 'vital' to the tribes' ability to govern themselves or as an 'essential attribute' of their sovereignty." The NLRB decided the issue in favor of the Teamsters, relying on its 2004 *San Manuel* decision.** The Tribe has the right to ask the U.S. Supreme Court to review the case. Since the U.S. Court of Appeals for the Tenth Circuit has ruled in favor of tribes in some arguably similar cases, there is a chance that the Supreme Court will agree to review this case. **The NLRB's decision, however, may not stand. There are only three members serving on the Board (all Democrats) and the U.S. Court of Appeals for the District of Columbia Circuit ruled in *Noel Canning v. NLRB* that President Obama acted unconstitutionally when he made two of those appointments to the Board on January 4, 2012. The NLRB is appealing that decision to the U.S. Supreme Court and has said that in the meantime it will continue to operate as usual. If the Supreme Court ultimately upholds the D.C. Circuit's *Canning* decision, that would invalidate the *Little River Band* decision.** There is also the chance that Senate Republicans and Democrats may agree to finally confirm two Democrats and two Republicans to the Board. House Speaker John Boehner has urged that approach. There are also several Republican-led efforts to block the NLRB. A bill introduced by Representative Kline (R-MN), HR 1120, has moved through Committee but is unlikely to advance in the Senate even if it passes the House. Senator Lamar Alexander (R-TN) filed an amendment to the Senate Budget Resolution last week that would have blocked funding for NLRB actions taken without a valid quorum but that amendment never received a vote ("National Labor Relations Board Reaffirms that it has Jurisdiction over Tribal Casino Employees," Hobbs-Straus General Memorandum 13-032, March 28, 2013, <http://hobbsstraus.com/general-memorandum-13-032>).

**The National Labor Relations Board (NLRB) again ruled against a tribe.** On April 16, the NLRB affirmed the decision of the regional NLRB Administrative Law Judge in *Soaring Eagle Casino and Resort and UAW*, Case 07-CA-053586, ruling in favor of the union and against the Saginaw Chippewa Tribe's anti-organization rules. The ruling takes another close look at *San Manuel* and reaffirms its central premise. This is the second ruling this year reaffirming NLRB jurisdiction over tribal casinos. The *Little River Band* decision focused on a tribe's attempt to preempt the National Labor Relations Act (NLRA) by enacting a tribal relations statute. The new *Soaring Eagle* decision focuses on a tribe's firing of an employee for trying to organize a union. The Casino was ordered to rehire the employee with back pay and also to post notices explaining that employees have the right to form a union. Both Tribes are in the process of appealing the unfavorable decisions to the U.S. Sixth Circuit Court of Appeals. As previously reported, there are pending legislative measures to prohibit the NLRB from acting until a full Board is seated, the Supreme Court rules on the constitutionality of the appointees, or Board member terms expire upon adjournment of this session of the 113th Congress. One such bill, HR 1120, the Preventing Greater Uncertainty in Labor-Management Relations Act, was passed by the House on April 12 by



a vote of 219-209. HR 1120 is sponsored by Representative Kline (R-MN); the accompanying committee report is H.Rept. 113-30. Senator Lamar Alexander (R-TN) introduced a companion measure (S 850) on April 25. It is unlikely the Senate will consider HR 1120 and the White House has issued a veto threat should Congress pass the bill. On May 22, 2013, the Senate Health, Education, Labor and Pensions (HELP) Committee approved a full five-member slate of nominees to the NLRB. The nominees included Sharon Block and Richard Griffin, whose recess appointments in January 2012 have been ruled invalid by the U.S. Court of Appeals for the District of Columbia Circuit. The other nominees are Mark Pearce, current Chairman of the NLRB whose term expires in August, Harry Johnson III and Philip Miscimarra. Despite several Republican Committee members' votes against the Block and Griffin nominations, all five nominations moved forward for full Senate consideration. A Republican-led filibuster appeared likely and it could leave the NLRB functionless if the delay persists past the end of Chairman Pearce's term ("National Labor Relations Board Rules against Soaring Eagle Casino and Resort; House Passes NLRB Legislation; Senate Committee Approves NLRB Nominations," Hobbs-Straus General Memorandum 13-044, June 6, 2013, <http://hobbsstraus.com/general-memorandum-13-044>).

**The Internal Revenue Service (IRS) released a private letter, March 8, 2013, ruling addressing the question of whether an Indian tribe, as the owner of renewable energy property, may pass through investment tax credits to a lessee. The IRS concluded that, under the facts as presented, the investment tax credits can be passed to the lessee.** Federal law authorizes tax credits for investments in certain kinds of renewable energy facilities. In providing these tax credits, federal policy encourages private investments in renewable energy. Tax credits, however, have not been very effective in encouraging investments in renewable energy in Indian country. Tribes that seek to pursue renewable energy development may want to own the facilities that are developed, or at least to have a share of ownership through a joint venture. **Given that Indian tribes are not taxable entities, tax credits are of no benefit to a tribe, unless, that is, the tax credit can be passed to a business partner that is a taxable entity. In the recent private letter ruling, the IRS expressed approval of one such arrangement.** The transaction described in the private letter ruling concerns the investment tax credit (ITC) under section 48 of the Internal Revenue Code (Code). 26 U.S.C. § 48. The ITC allows a taxpayer to take a tax credit for a portion of the cost of investment in "energy property," a term that includes several solar energy technologies (thermal, electric, and lighting), geothermal equipment, fuel cells, combined heat and power systems, small wind energy systems, and ground-source or groundwater-source heat pump systems. The private letter ruling does not address the production tax credit (PTC) (authorized by Code § 45), which provides a tax credit for utility-scale wind, geothermal, and biomass systems based on the amount of electric power delivered. As described in the private letter ruling, **the tribe plans to place into service a number of renewable energy assets, each of which is assumed to qualify as "energy property" under section 48. The tribe would be the owner of the renewable energy assets, which would be leased to lessee, who would operate the assets to generate electricity to be sold to third-party utilities and for use by the tribe in its governmental activities. During the lease term, lessee would be entitled to the net revenue from operation of the assets. On expiration of the lease term, the tribe would take over the assets and operate them directly.** The analysis by IRS includes a **determination that, under the relevant statutory and regulatory provisions, the tribe and its lessee can both be considered the original users of the energy property.** In determining whether the tax credit can be passed to the tribe's lessee, the IRS considered the implications of section 50 of the Code, which provides that the ITC is not available with respect to energy property used by a tax exempt organization or a "governmental unit" (i.e., the United States, a state or political subdivision, or an agency or instrumentality of the United States or a state). The IRS concluded that a tribe is not an organization that has been granted tax-exempt status; rather, Indian tribes are simply not subject to federal income tax statutes. This was established in a Revenue Ruling issued by the IRS in 1967. **As to whether a tribe is a "governmental unit" for purposes of section 50 of the Code, the IRS concluded that it is not.** This conclusion rests, in part, on consideration of the Indian Tribal Governmental Tax Status Act (Code § 7871), which provides that a tribe is to be considered a state for certain purposes. Finding that section 7871 does not include section 50 as a code section for which a tribe is to be considered a state, IRS concludes that a tribe is not a "governmental unit" for purposes of section 50. Having found that section 50 does not render the tax credits unavailable, the IRS concluded that it is permissible for the tribe to pass them to its lessee. It is important to note that **a private letter ruling only applies to the specific taxpayer who requested**

**the ruling and that it does not establish a precedent.** Nevertheless, this is an important development in Indian Country as it suggests a way for tribes to utilize tax credits to attract investors for renewable energy projects. However, **until the IRS issues a public Revenue Ruling or Procedure, a tribe considering a similar project may want to request its own private letter ruling from the IRS** (“Internal Revenue Service Rules that a Tribe that Owns Renewable Energy Assets May Pass the Investment Tax Credits to its Lessee,” Hobbs-Straus General Memorandum 13-030, March 28, 2013, <http://hobbsstraus.com/general-memorandum-13-030>).

The Treasury Inspector General for Tax Administration (TIGTA) released a report, **“Fraud and Abuse Are Addressed in the Indian Tribal Sector, but Performance Objectives and Measures Are Needed to Assess Program Effectiveness (2013-10-018). January 28, 2013.”** While the report focuses on the need for quantifiable performance measures to better gauge the work of the Abuse Detection and Prevention Team (ADAPT) in the Indian Tribal Governments (ITG) Office, the data provided on the number of audits performed chronicles what had previously been only anecdotal: **there has been a dramatic uptick in the number of audits of Indian Country but these audits have uncovered only minimal instances of fraud or abuse.** The ADAPT was established in FY 2004 after the release of the TIGTA's September 2003 report entitled The Tax Exempt and Government Entities Division Should Pursue Additional Methods to Identify Potential Fraudulent Activities (2003-10-217). The Tax Exempt and Government Entities Division (TE/GE) of the Internal Revenue Service (IRS) is composed of three functions: Employee Plans; Exempt Organizations; and Government Entities. The Government Entities function is then further subdivided into three offices: Federal, State, and Local Governments; Indian Tribal Governments; and Tax Exempt Bonds. The 2003 report was not specific to the ITG Office, rather, it was directed towards the entire TE/GE Division. In its 2003 report the TIGTA observed and recommended that: "Overall, TE/GE Division management focuses their customer education and outreach efforts on voluntary compliance programs to increase upfront compliance and reduce the need for examinations. ... Providing outreach, education, and voluntary compliance agreements is appropriate for TE/GE Division customers who want to comply with their tax obligations. However, for those customers who willfully evade their obligations, a stronger approach should be taken. TE/GE Division management should work with the CI [Criminal Investigation] function to address willful noncompliance that could be considered criminal or fraudulent. ... the Commissioner, TE/GE Division, [should] formalize plans for providing fraud training and establish a process to identify the areas most vulnerable to potential criminal fraud, evaluate externally or internally identified allegations of fraud to determine the appropriate action to take, and coordinate the priority of issues with the CI function." The TIGTA then detailed a number of areas considered to be potentially vulnerable to fraud and abuse within the three functions but never mentioned the ITG; rather the TIGTA noted that the ITG Office (in contrast with other TE/GE Offices) was already giving potential fraud allegations higher priority when determining which cases to send to the field. "Growth of fraud and abuse" was what supposedly justified the creation of ADAPT, yet neither in 2003 nor since has IRS demonstrated any evidence or basis for the alleged increasing fraud and abuse. The TIGTA's 2013 report details that **between FY 2008 and FY 2011, the ADAPT completed examinations of 95 Indian tribal entities and 203 tribal members connected to 68 of the 566 federally recognized tribes. Of these examinations, only eight cases were referred to the National Fraud Office and only four of the eight cases were then accepted by CI for further investigation. Of the remaining four, the National Fraud Office took no action in two of the cases, asserted a civil penalty in one case, and CI declined the other.** While the IRS Restructuring and Reform Act of 1998 (PL 105-206) prohibits Records of Tax Enforcement Results (the number of cases closed, dollars assessed, etc.) from being used to set performance goals or evaluate examiners, **the significant number of tribes investigated compared to the low percentage of cases accepted by CI for further investigation would appear to contradict the overarching premise that IRS needs to stem the growth of fraud and abuse in the tribal sector. The Indian Tribal Governments Office in their response to the 2013 report even goes so far as to state: "our experience, and the data we have seen, does not support any implication that fraudulent or abusive schemes are more prevalent in Indian Country than in other sectors of the population, or that tribes or their members are the major source of those schemes."** Hobbs-Strauss comments, “while the TIGTA recommends that, ‘the Director, ITG, develop specific performance objectives and measures in order to better assess ADAPT performance,’ **a broader and more fundamental question regarding the allocation of IRS resources is raised by the TIGTA report. Indian Country appears**

to have been investigated at a much higher rate than the rest of the general population, yet these investigations have yielded few results. Audits come at a significant cost to tribes and taxpayers and in most instances appear to have been unwarranted” (“Treasury Inspector General Questions Fraud Detection Efforts at Internal Revenue Service's Indian Tribal Governments Office,” Hobbs Straus General Memorandum 13-031, March 28, 2013, <http://hobbsstraus.com/general-memorandum-13-031>).

First Nations Development Institute reported in an E-mail, June 18, 2013, “IRS Phone Forum for Indian Tribal Settlement Taxes,”” The IRS's Indian Tribal Governments unit will host a phone forum on June 26 at 2 p.m. (EDT) to discuss recent Indian tribal settlement tax issues for settlement payments in the Cobell case, payments made in response to discrimination claims in the Keepseagle case, and settlement payments covered in Notice 2013-1 (Per Capita Payments From Proceeds of Settlements of Indian Tribal Trust Cases, <http://org2.salsalabs.com/dia/track.jsp?v=2&c=njgrzivLEA9Zi%2BmSIbURkxofw%2BI8xi4N>)

There are several February 2013 developments from the Department of Energy's Office of Indian Energy (OIE). The OIE is now accepting applications for the second round of the Strategic Technical Assistance Response Team (START) initiative. The START initiative is designed to advance clean energy project deployment by providing tribes, Alaska Native Regional Corporations and Alaska Native Villages with customized technical assistance. Applications for the Tribal START program and the Alaska START program were due March 15, 2013. On February 27, 2013, the OIE hosted a webinar entitled "Renewable Energy Potential on Tribal Lands." The OIE was also requesting comments on a new initiative: the START Utilities Program (START-UP) which is being developed to assist tribes interested in launching or expanding utility services for their communities. The START Program for Renewable Energy Project Development Assistance Round Two is working directly with the tribal project team and tribal legal/finance specialists who are addressing late-stage project development decisions, negotiations, and agreements. START Round Two technical assistance supports the implementation of community-scale and commercial-scale renewable energy projects by providing tribal project teams assistance with: • Verifying economic and technical viability of a project's power and revenue generation • Establishing terms and strategies for negotiating land-lease, energy off-take, and/or power purchase agreements • Selecting project ownership options, partnership arrangements, and financing structures • Developing request for proposals (RFP) with appropriate technical guidelines and selection criteria. OIE plans to select three to five projects from the applicant pool to receive START technical assistance. Eligible applicants include: Indian tribes, Alaska Native Regional Corporations, and formally organized tribal energy resource development organizations. The application may be filled out and submitted from the following link: [http://energy.gov/sites/prod/files/STARTApplication\\_REProjectDevelopment...](http://energy.gov/sites/prod/files/STARTApplication_REProjectDevelopment...) The Alaska START Program for Native Community Energy Planning and Projects Round Two, in partnership with the Denali Commission will support the activities of Alaska Native Villages which are focused on community-based energy planning, energy awareness and training programs, and identification and implementation of renewable energy and energy efficiency opportunities. In addition to comprehensive technical assistance, each selected Alaska Native Village may be eligible for up to \$250,000 to implement a renewable energy or energy efficiency project. OIE plans to select up to five projects from the applicant pool to receive Alaska START technical and financial assistance. Eligible applicants are Alaska Native Villages. The application may be filled out and submitted from the following link: [http://energy.gov/sites/prod/files/STARTApplication\\_Alaska\\_CommunityEner...](http://energy.gov/sites/prod/files/STARTApplication_Alaska_CommunityEner...) A Renewable Energy Potential on Tribal Lands Webinar Series is being sponsored by the OIE and the Western Area Power Administration. The series is intended for tribal leaders and staff who are interested in developing commercial-scale energy projects, responding to utilities' requests for proposals, and learning more about the competitive power market. The "Renewable Energy Potential on Tribal Lands" webinar was held on February 27, 2013, from 11:00 a.m. to 12:30 p.m. MST. There was no charge to participate in the webinar, but registration was required. For more information and to register for the webinar, visit: <http://teeic.anl.gov/news/>. The OIE is working to bring utility development technical tools to Indian Country through a new START Utility Program (START-UP) aimed at tribes interested in developing, acquiring, or expanding utility services in their own communities. To ensure START-UP meets the priority needs of Indian Country, the OIE

was preparing to issue a Request for Information (“Office of Indian Energy Launches Round Two of START Initiative; Webinar on Renewable Energy Development on Tribal Lands to be Held,” Hobbs-Straus General Memorandum 13-014, February 15, 2013, <http://hobbsstraus.com/general-memorandum-13-014>).

**The U.S. Department of Energy (DOE), dedicated up to \$7 million, at the beginning of May 2013, for clean energy projects on tribal lands with the goal of reducing reliance on fossil fuels and promoting economic development in Indian country, in a collaboration between DOE’s Tribal Energy Program and the Office of Indian Energy to help Native communities form tribal energy resource development organizations to install clean energy projects at either a community- or facility-scale.** At the time, Indian country was the site of some 5% of U.S. renewable energy resources 2 percent of the country’s land, offering a potential to produce more than 9 million megawatts of renewable energy, and in turn protect the environment. Under the program, **a clean energy project that would reduce fossil fuel use by at least 15% percent in new or existing tribal buildings may receive up to \$4.5 million through the "Community-Scale Clean Energy Projects in Indian Country" funding opportunity, subject to congressional approval of the project.** Renewable energy systems for power generation only are required to be a minimum of 50 kilowatts and use commercial-warranted equipment, to be eligible for program funding. Through the **"Tribal Renewable Energy and Energy Efficiency Deployment Assistance" funding opportunity, the DOE may provide up to \$2.5 million, subject to congressional appropriations, for projects installing renewable energy and energy efficiency that reduce fossil fuel use in existing tribal buildings by at least 30% percent,** in projects using commercial-warranted equipment with renewable energy systems for power generation only of at least 10 kilowatts. Leveraging state or utility incentive programs is encouraged. The full funding announcements are available the Department's Tribal Energy Program website, [http://apps1.eere.energy.gov/tribalenergy/financial\\_opportunities.cfm](http://apps1.eere.energy.gov/tribalenergy/financial_opportunities.cfm). DOE had invested \$41.8 million in 175 tribal clean energy projects up to May 2013. The department provides financial and technical assistance to tribes for the evaluation and development of their renewable energy resources, implementation of energy efficiency to reduce energy use, and education and training to help build the knowledge and skills essential for sustainable energy projects (“Energy Department To Pump \$7 Million Into Tribal Clean Energy Projects,” ICTMN, May 2, 2013, <http://indiancountrytodaymedianetwork.com/2013/05/02/energy-department-pump-7-million-tribal-clean-energy-projects-149157>).

**The Department of Housing and Urban Development (HUD) and Enterprise Community Partners through the Sustainable Construction in Indian Country program have identified 22 tribal programs that have built energy-efficient and culturally relevant housing for their members.** Eight of the programs were showcased at an event in Washington, D.C. (Mark Fogarty, “Showcase for Model Tribal Housing, ICTMN, May 17, 2013, <http://indiancountrytodaymedianetwork.com/2013/05/17/showcase-model-tribal-housing-149400>).

**The Federal Emergency Management Agency (FEMA) published a notice in the *Federal Register*, March 8, 2013, initiating tribal consultation on the preliminary implementation of the amendments made to the Robert T. Stafford Disaster Relief and Emergency Assistance Act (Stafford Act) which empower tribes to directly petition the President for a declaration on an emergency or major disaster.** FEMA was seeking written comments (due April 22, 2013) on how best to implement these new Stafford Act amendments on an interim basis before final implementing regulations would be developed. FEMA was also holding consultation conference calls by Region beginning March 28, 2013. The schedule and call in information is posted at: [http://www.fema.gov/tribal-consultation#calls\\_schedule](http://www.fema.gov/tribal-consultation#calls_schedule). On March 13, 2013, **FEMA published a notice in the *Federal Register* seeking applicants representing tribal governments to serve on the National Advisory Council (NAC).** The NAC advises the Administrator of FEMA on all aspects of emergency management and is comprised of representatives from state, tribal and local governments as well as the private sector. Applications are due by March 22, 2013. These Implementations of Stafford Act Amendments follow the **January 29, 2013 signing by the President of enacted PL 113-2, which amended the Stafford Act to empower tribes to directly petition the President for a declaration on an emergency or major disaster.** FEMA is engaging in consultation with tribes in order to establish a pilot program for managing these requests right away. Data from the pilot program and future consultations will help shape the final implementing regulations but in the

meantime, FEMA is eager to set up interim guidelines as soon as possible. In fact, **since January 29, 2013, two tribes have already directly requested and received disaster declarations: the Eastern Band of Cherokee Indians and the Navajo Nation.** The *Federal Register* notice provides an explanation of how current regulations apply to state governors experiencing emergencies or major disasters. FEMA then asks tribes for specific comments on each part of the process, seeking to tailor the pilot program to the unique conditions that tribes may face. Topics are as follows: • Types of Declarations and Assistance • Preliminary Damage Assessments • Timelines and Requirements to Submit Declaration Requests • Other Needs Assistance Administrative Plan Requirement for Individuals and Households Program • Mitigation Plan Requirement • Public Assistance • Estimated Cost of the Assistance • Localized Impacts • Insurance Coverage in Force • Hazard Mitigation • Recent Multiple Disasters • Programs of Other Federal Assistance • Individual Assistance • Concentration of Damages, Trauma and Special Populations • Voluntary Agency Assistance • Insurance • Designating Areas Eligible for Assistance, Definition of Tribal Lands • Appeals • Cost Share Adjustments • Notification of State and Tribes • Disaster Unemployment Assistance • Disaster Legal Services. The National Advisory Council (NAC) provides the FEMA Administrator with input on the revision and development of the national preparedness goal, the national preparedness system, the National Incident Management System, the National Response Framework and other related topics. The NAC meets in person three times a year with teleconferences interspersed throughout the year. Members serve for three-year terms and turnover is staggered. The spot for a Tribal Non-Elected Official will open on June 15, 2013. Additionally, there is currently a vacancy for a Tribal-Elected Official to serve out the remainder of the term that will expire on June 15, 2014 (“FEMA Initiates Tribal Consultation on Implementation of Stafford Act Amendments; FEMA Seeks Tribal Applicants to Serve on National Advisory Committee,” Hobbs-Straus General Memorandum 13-026, Mach 20, 2013, <http://hobbsstraus.com/general-memorandum-13-026>).

**Attorney General Eric Holder appointed a task force to study the effects on children of being exposed to violence and to make recommendations on "ways our nation can prevent, reduce, and treat children's exposure to violence,"** In October 2011, **The National Task Force on Children Exposed to Violence (Task Force) report, "Defending Childhood: Protect, Heal, Thrive," was released in December 2012. Among the focuses of the Task Force was children exposed to violence in American Indian and Alaska Native communities; the report makes two tribal-specific recommendations.** The report can be downloaded at:

<http://www.justice.gov/defendingchildhood/cev-rpt.full.pdf> The Task Force held four hearings, one of which was in Albuquerque, NM and was specific to issues that children, families and service providers face in tribal and rural communities concerning exposure to violence. Three listening sessions were also held, one of which was in Anchorage, AK and which focused on experiences of people in Alaska Native villages and other rural areas of Alaska. In addition, many individuals and organizations submitted written testimony to the Task Force. The report is organized into six chapters and includes 56 recommendations. Chapter One recommendations are described as "foundational" in nature **and include the proposal that a national task force or commission be appointed to examine the needs of American Indian/Alaska Native (AI/AN) children exposed to violence.** Chapters Two and Three contain recommendations "to ensure that we reliably identify, screen, and assess all children exposed to violence and thereafter give them support, treatment, and other services designed to address their needs." Chapters Four and Five focus on prevention and emphasize "the importance of effectively integrating prevention, intervention, and resilience across systems by nurturing children through warm, supportive, loving, and nonviolent relationships in our homes and communities." Included in the **Chapter Four recommendations is better compliance with the letter and spirit of the Indian Child Welfare Act through a coordinated effort among the Bureau of Indian Affairs, the Administration for Children and Families, and the Office of Juvenile Justice and Delinquency Prevention.** Finally, Chapter Six calls for a major change in our juvenile justice system that "acknowledges that the vast majority of the children involved in the system have been exposed to violence, necessitating the prioritization of services that promote their healing." Among the recommendations is that juvenile justice services should be "appropriate to children's ethnocultural background that are based on an assessment of each violence-exposed child's individual needs." Below is quoted in full the **Task Force recommendations concerning a national commission to examine the needs of Native children exposed to violence and concerning improved implementation of the Indian Child Welfare Act. 1.2 Appoint a federal**

task force or commission to examine the needs of American Indian/Alaska Native children exposed to violence. American Indian/Alaska Native (AI/AN) children have an exceptional degree of unmet need for services and support to prevent and respond to the extreme levels of violence they experience. The federal government has a unique legal responsibility for the welfare of AI/AN children. It also has a special relationship with Indian tribes based, at least in part, on its trust responsibility. In fact, in much of Indian country, the U.S. Attorneys act as the primary prosecutors of violent crime. Sadly, federal partners working in Indian country are all too familiar with the societal impacts of children exposed to violence. The Defending Childhood Task Force heard compelling testimony that underscored this reality. Although this task force could not adequately address the complexity of the issues, it recognizes the urgent need for further attention. To that end, a federal task force or commission should be developed to examine the specific needs of AI/AN children exposed to violence and recommend actions to reduce crime and violence and protect AI/AN children from abuse and neglect. The task force or commission should explore the additional burdens confronting AI/AN communities in meeting the needs of children exposed to violence and propose policies and courses of action for addressing the current gaps in services. Priorities for this task force or commission should include improving the identification and appropriate treatment of AI/AN children who have been exposed to violence, helping AI/AN communities and tribes rise out of violence, and involving AI/AN youth in solutions. This task force or commission also must examine and address the needs of AI/AN children living outside of reservations, in urban or rural settings off of AI/AN lands. The task force should be developed through a consultation process consistent with the government-to-government relationship between the federal government and tribal governments. The appointment and management of the task force or commission and the selection of its members should be carried out through an equal collaboration between the Attorney General and the Secretary of the Interior. Special attention should be paid to the incarceration of AI/AN children who are convicted and sentenced in the federal judicial system.

Concerning 4.10 Ensure compliance with the letter and spirit of the Indian Child Welfare Act (ICWA), Children exposed to family violence particularly need to retain their connection with their cultures and communities, which is a key factor that can protect them from the psychological harm and insecurity caused by exposure to violence in their families. Remaining in their communities and staying involved with cultural, religious, and community activities provides children with an indirect connection to their families even when they cannot live in their family homes or with family members. This is particularly important but also particularly difficult when families live in isolated communities that have been subjected to trauma over many generations, such as AI/AN communities. AI/AN women and children face family violence at rates far greater than other groups. This tragedy occurs on reservations, in Native communities, and in urban settings and results in AI/AN children's experiencing out-of-home placement far more often than other children. In 1978, with the passage of ICWA, the federal government recognized the importance of keeping AI/AN children with AI/AN families and the important role tribal governments must play in protecting their children. ICWA clearly articulates placement preferences for AI/AN children removed from their homes because of abuse or neglect and the efforts public agencies must make to keep AI/AN children safe in their own homes, and it also sets clear requirements for public agencies and courts on communicating and working with tribal agencies and courts. These requirements apply to child custody proceedings regardless of where the AI/AN child resides in the United States. **Thirty-four years after ICWA's passage, full implementation of the act remains elusive. Judges and attorneys in the state and the tribal court systems must educate each other and work together to ensure the ICWA requirements achieve the stated policy "to protect the best interests of Indian children and to promote the stability and security of Indian tribes and families."** Tribes must receive direct access to federal foster care funds (Title IV-E) not only for the provision of foster care but also for the training of workers and administration of a system that will protect their most vulnerable and traumatized members. Movement toward full implementation of ICWA must be accompanied by technical assistance to tribes so they can effectively enlarge their capacity for family court systems, licensing and monitoring of foster homes, and participating in state child protective services cases that involve AI/AN children. Because ICWA is a federal statute, successful implementation will be best ensured through strong, coordinated support from the Bureau of Indian Affairs in the Department of the Interior, the DHHS Administration for Children and Families, and the Office of Juvenile Justice and Delinquency Prevention within the



**Department of Justice** (“Report of the Attorney General’s Task Force on Children Exposed to Violence, Hobbs-Straus, General Memorandum 13-005, January 18, 2013, <http://hobbsstraus.com/general-memorandum-13-005>).

The **Justice Department** announced, at the end of May 2013, that it had **increased its rate of prosecutions of crimes in Indian Country by 54% over the last four years**, even as violent crime has increased there. About **69% of the criminal cases referred to DOJ in Indian Country in 2012 were prosecuted, an improvement over 2011, when 63% of 2840 cases were prosecuted** (Timothy Williams, “Reservations See Increase in Prosecutions by U.S.,” *The New York Times*, June 1, 2013).

**The Department of Justice was soliciting applications for grants under its FY 2103 Family Drug Court Program with a deadline of March 25, 2013. Tribal governments are among the eligible applicants.** Funds are to be used to implement new drug courts or enhance pre-existing drug courts in order to provide direct services to drug-abusing adults and their children. A drug court need not be a separate court, but rather is a "specially designed court calendar or docket." Drug court participants are limited to nonviolent offenders. Grants are in two categories: • Implementation grants for jurisdictions that have already done a substantial amount of planning to begin a family drug court program. The maximum award is \$650,000 for up to three years. • Enhancement grants for jurisdictions for which a family drug court has been in operation for at least one year. The maximum award is \$550,000 for up to three years. Grants will cover no more than 75% of the project cost and the grantee must supply a 25% match. Indirect costs are allowed if the grantee has a federally-approved indirect cost rate. Detailed application material may be found at: <http://www.ojjdp.gov/grants/solicitations/FY2013/FamilyDrugCt.pdf> (“Family Drug Court Programs Grants,” Hobbs-Straus General Memorandum 13-011, March 2, 2013, <http://hobbsstraus.com/general-memorandum-13-011>).

The **Office of Management and Budget (OMB)** published a **Notice of Proposed Guidance (Proposed Guidance) regarding the reform of federal grant policies, including audits and cost principles in the *Federal Register***, February 1, 2013. **This Proposed Guidance is a critical development that will affect tribal programs.** The OMB was requesting comments from the public on the Proposed Guidance by May 2, 2013. The OMB states that, when adopted, any new guidance developed from this Proposed Guidance will supersede and replace OMB Circulars A-21; A-87; A-110; A-122; A-50; A-89; A-102; and A-133. The OMB states that the new consolidated circular would apply uniformly across all types of entities (including tribal governments), except where specific variations are noted within the consolidated circular. The full text of the new circular can be accessed at [www.regulations.gov](http://www.regulations.gov), by searching for OMB-2013-0001. The OMB undertook this effort in response to direction provided in Executive Order 13520 of November 23, 2009, Reducing Improper Payments and the Presidential Memorandum of February 28, 2011, Administrative Flexibility, Lower Costs, and Better Results for State, Local, and Tribal Governments. The OMB explains that **the goals of the reforms are to: strengthen federal oversight of federal grant dollars to protect from waste, fraud, and abuse; eliminate unnecessarily burdensome requirements; increase the impact and accessibility of programs; standardize information collections across agencies; better focus the Single Audit to reduce waste, fraud, and abuse; and provide new administrative approaches for determining and monitoring the allocation of funds.** Relating to Section A– Reforms to Administrative Requirements (Circulars A-102, A-110, and A-89), **The OMB now states that the changes proposed in Section A (formerly Section C in the Advance Notice published last year) are meant to apply to grants to Indian tribes. However, in response to tribal comments over the proposal to assess "each proposal's merit and financial risk" prior to making an award (which is not permitted under the Indian Self-Determination and Education Assistance Act or ISDEAA), OMB states that with respect to ISDEAA agreements, where an OMB Guidance is in conflict with the ISDEAA, the ISDEAA governs (see page 7285 of the attached Proposed Guidance).** Concerning Section B – Reform to Cost Principles (Circulars A-21, A-87, and A-122, and Cost Principles for Hospitals): The OMB proposes to combine Circulars A-21, A-87, and A-122 in a single consolidated document. No longer would tribes and their accountants be able to rely only on Circular A-87. In response to tribal concerns from the Advance Notice last year, OMB states that where conflicts exist with the ISDEAA cost principles, the cost principles of the ISDEAA will govern. The Proposed Guidance still proposes



to provide "limited variations" by type of entity in a new, consolidated document. Additionally, OMB had previously proposed that flat rates be used for indirect costs instead of negotiated rates, and this could have been detrimental for some tribes (but possibly not for others). In the Proposed Guidance, however, OMB notes that commentators were universally against the flat rate proposal. In response, OMB proposes to provide all types of entities the option of extending negotiated rates for indirect costs for up to four years, subject to agency approval. The purpose, OMB states, is to reduce the burdens on entities by allowing for less frequency of negotiations of indirect cost rates (see page 7287 of the attached Proposed Guidance). Also under Section B allocable administrative support for specific projects would be charged as a direct cost. The OMB indicates this is not intended to result in a net increase in costs. Rather, OMB states that all work that is directly allocable to one award may be charged to that award, regardless of the type of task. OMB is proposing this reform so that direct costs are consistently allocable to one award, while indirect costs are those that cannot be easily allocated. Concerning Section C – Reforms to Audit Requirements (Circulars A-133 and A-50), Section 5(a)(2) of the Indian Self-Determination and Education Assistance Act requires each tribe receiving funds under that Act to comply with the annual audit required by the Single Audit Act. The Proposed Guidance would not change this requirement, but would raise the threshold from \$500,000 to \$750,000. As we reported previously, OMB had initially proposed a three-tier approach to audit requirements. In response to the comments OMB received, the Proposed Guidance has a single threshold of \$750,000 to trigger Single Audit requirements (“OMB Notice of Proposed Guidance on Reform of Federal Grant Policies, including Single Audit Act and Cost Principles,” Hobbs-Straus General Memorandum 13-013, February 8, 2013, <http://hobbsstraus.com/general-memorandum-13-013>).

**The Government Accountability Office (GAO) has issued a new report on corporate governance practices of Alaska Native regional corporations. While the report does not recommend any specific actions by Congress, it does raise questions about the corporations' exemption from some federal reporting requirements, the role of the federal government in maintaining the solvency of the corporations, and who should be shareholders.** The GAO report, *Regional Alaska Native Corporations: Status 40 Years after Establishment, and Future Considerations* (December 2012), was undertaken at the request of Representative Edward Markey (D-MA), the Ranking Member on the House Natural Resources Committee (which has a Subcommittee on Indian and Alaska Native Affairs). The report may be accessed at: <http://www.gao.gov/products/GAO-13-121>. The GAO is a nonpartisan agency that works for Congress as a government watchdog monitoring federal expenditure of taxpayer dollars. The report focuses on the 13 regional corporations formed under the Alaska Native Claims Settlement Act (ANCSA), one for each of 12 geographic regions plus a 13th for nonresident Alaska Natives. After recounting the history of ANCSA, **the report describes the variety of governance practices among the regional corporations. The GAO discusses a range of monetary and other benefits that the corporations provide to shareholders, but also raises three questions for the consideration of lawmakers, corporate officials, and shareholders.** First, the GAO notes that ANCSA generally exempts these corporations from complying with federal securities laws, but requires them to transmit annually a report to their shareholders that contains "substantially all the information" the Securities and Exchange Act requires of annual reports to shareholders. Because the term "substantially all" is vague and not defined in the statute, it is not clear what information must be included in the annual reports, and ANCSA provides no mechanism for federal oversight of corporations' reporting. Thus, GAO raises the question whether the federal reporting requirement should be clarified and overseen. Second, the report observes that the 12 geographic regional corporations are currently financially sound, but the 13th corporation has been insolvent for some time. GAO asks what the federal government's role should be, if any, in maintaining the solvency of Alaska Native corporations. Third, the report raises the question of who should be shareholders in the regional corporations. The GAO recognizes that this issue must be addressed individually by each of the regional corporations and their shareholders. For example, the shareholders of five regional corporations have voted to amend their articles of incorporation to issue shares to Alaska Natives who were born after December 18, 1971, and thus received no shares under the original ANCSA. The GAO does not make recommendations to Congress on any of the three issues. In the wake of the report, however, **Representative Markey has said he plans to introduce legislation that would enhance protections for shareholders by increasing the transparency of ANCSA regional corporations' reporting.** In response,

Representative Don Young (R-AK) referred to the GAO report as a ‘useless study’ and characterized Representative Markey's proposal as a paternalistic attempt ‘to save Alaska Natives from themselves’ (“GAO Report Raises Questions about ANCSA Regional Corporations,” Hobbs-Straus General Memorandum 13-004, January 18, 2013, <http://hobbsstraus.com/general-memorandum-13-004>).

The **Department of Commerce's National Oceanic and Atmospheric Administration (NOAA)** announced, June 23, 2013 in a *Federal Register* notice the **availability of the draft handbook titled "NOAA Procedures for Government-to-Government Consultation with Federally Recognized Indian Tribes."** NOAA's purview includes, among other things of interest to tribes and tribal originations, the **National Weather Service and the National Marine Fisheries Service**. Webinars to discuss the draft handbook are detailed in the attached Dear Tribal Leader Letter and are scheduled for July 17 and August 13. Written comments are requested by August 23. The **draft handbook comes on the heels of the broader, Department-wide tribal consultation policy** published in the *Federal Register* on June 4, 2013. The Department of Commerce's *Federal Register* notice includes both the finalized version of their consultation policy as well as a summary of comments received in response to their request for comments published in the *Federal Register* on July 3, 2012. In addition to NOAA, the Department of Commerce has other agencies which affect tribes and tribal communities including: the Minority Business Development Agency; the Economic Development Administration; the Economics and Statistics Administration (including the Census Bureau); and the National Telecommunications and Information Administration. While NOAA has published a draft handbook, there is not yet any indication as to whether these other agencies will follow suit with their own handbooks. **The Magnuson-Stevens Fishery Conservation and Management Act which was last reauthorized in 2007, is only authorized through FY 2013. When it is reauthorized, NOAA will need to draft implementing regulations. During this process, tribal consultation can play a key role in shaping the new regulations.** (“Commerce Department Issues Final Policy Statement on Tribal Consultation; NOAA Publishes Draft Handbook on Tribal Consultation, Requests Comments,” Hobbs-Straus General Memorandum 13-059, June 28, 2013, <http://hobbsstraus.com/general-memorandum-13-059>).

The **National Indian Gaming Commission (NIGC)** prepared a report for the **Secretary of Interior on tribal gaming compliance with the Indian Gaming Regulatory Act (IGRA) and regulations made under it, as of December 31, 2012.** The report is to be updated periodically. Overall, the report showed a **high level of compliance by gaming tribes. Some Indian nations, however, failed to meet regulator deadlines for filing fee payments and audit reports.** “A high level of compliance was achieved concerning the submission of investigative reports and employee applications. Tribes also maintained an excellent compliance record for approved ordinances and facility licenses. The full report is available at: <http://www.nigc.gov/LinkClick.aspx?fileticket=LwTu10bgHQc%3d&tabid=36&mid=345>. Other decisions of the Commission are available at: <http://www.nigc.gov/>.

**NICG passed a final rule on improving Self-Regulation of Class II Gaming by Indian gaming tribes,** in April 2013. Key changes in the regulations involve: “Tailoring submission requirements on a tribe’s regulatory framework and capacity to regulate its gaming activities; Elimination of redundant submission requirements and more clearly defined and streamlined process by which a self-regulating petition is reviewed and a final determination is made by the full Commission.” For more details go to: <http://www.nigc.gov/LinkClick.aspx?fileticket=t-KXoMaMy18%3d&tabid=36&mid=345>. NICG also issued a decision on the status of audited financial statements of Indian gaming operations, and decided several other matters and posted information available on its web site at: <http://www.nigc.gov>.

## **Federal Indian Budgets**

The Impact on Indians of Sequestration of Federal Funds

“A Call to Honor the Promises To Tribal Nations in the Federal Budget,” National Congress of American Indians, National Congress of American Indians, April 19, 2013, <http://files.ncai.org/broadcasts/2013/April/2013%20April%2019%20Federal%20Budget%20and%20Indian%20Country%20paper%20NCAI%20final.pdf>, **finds the sequester of federal funds not only violates the federal trust responsibility, but has a greater negative impact on Indian country, and thus also on tribal neighbors, than on the rest of the United States**, “Tribal leaders urge Congress to protect the federal funding that fulfills the trust responsibility to tribes in the face of difficult choices.” **One of the main reasons for the greater impact on Indian nations is that, “For many tribes, a majority of tribal governmental services is financed by federal sources. Tribes lack the tax base and lack parity in tax authority to raise revenue to deliver services. If federal funding is reduced sharply for state and local governments, they may choose between increasing their own taxes and spending for basic services or allowing their services and programs to take the financial hit. On the other hand, many tribes have limited ability to raise substantial new revenue, especially not rapidly enough to cover the reduction in services from the across the board reductions of the FY 2013 sequestration.** States and localities finance their own areas of spending and state and local taxes provide the majority of the funding for most of their services. The Census of Governments shows that half of state and local government revenue is from their own taxes, while a quarter of their revenues come from the federal government. Like other governments, there is much diversity among tribes and regions in the proportion of federal sources of revenue to tribal taxes and tribal enterprise profits. As an example, Figure 1 [see the full report on the NCAI web site] shows tribal revenue sources for Montana’s reservations compared to the average state and local government revenue sources. More than 60% of the revenue for tribal governmental services in Montana is from federal sources, 2.5 times higher than for state and local governments.” **As tribes are negatively impacted, the areas around them will also suffer economic loss to the extent that the Indian nations participate in their regional economy.** “A tribal government in Southeast Alaska, representing more than 27,000 tribal citizens, attracted between \$25 million and \$27 million in annual funding to the region to support 200 programs and services that enhance the lives and well-being of tribal citizens, families, and communities. These services affect employment, health, education, and cultural identity. The \$22.5 million in direct expenditures generated an additional \$9 million in indirect and induced economic activity, for an estimated total regional impact of \$31.6 million. 3 Reductions to Bureau of Indian Affairs, Head Start, as well as to Departments of Justice and Education will exact a heavy toll on the region’s economy. In 2009, the five tribes of Idaho provided total employment statewide for 10,676 jobs, including multiplier effects. The tribes report that they “receive federal government revenues to support tribal government operations, health services, education, fish and wildlife projects, law enforcement, environmental quality, economic development programs and projects, and other activities. U.S. federal agencies serving as funding sources include the Bureau of Indian Affairs, U.S. Fish and Wildlife Service, U.S. Department of Health and Human Services, U.S. Department of Energy, U.S. Department of Agriculture, Bonneville Power Administration, U.S. Environmental Protection Agency, and U.S. Department of Transportation. Those federal funds represent ‘high powered’ spending when they enter the local economies, and provide a relatively large economic impact. **In Oklahoma, 38 tribal nations have a \$10.8 billion impact on the state every year, supporting an estimated 87,000 jobs, or five percent of all jobs in the state. Interrupting tribal revenue flow is likely to increase unemployment for the region. In Washington State, a recent economic analysis showed that, in total, \$3.5 billion of the total gross state product can be attributed to the activity on American Indian reservations. Also, tribes paid \$1.3 billion in payroll to more than 27,000 Washington residents, many of whom were non-Indian. Although some tribes have implemented strategies that enhance economic development for their communities to supplement federal sources, that does not supplant the federal government’s duty to fulfill its trust responsibility. The sequester cuts pose particular hardship for Indian Country and the surrounding communities who rely on tribes as employers, where the recession has struck especially hard.** Census Bureau data show that **each employed American Indian supported more than three others who were not employed. By contrast, the proportion for the entire US population is about one to one.** Tribal leaders and planners have been working to address the economic inequity represented in the employment-to-population ratio. The labor force participation rate—the proportion of able-bodied civilians of working age that are working—also shows much unmet potential for tribal citizens to enter into the economy. **Four of 10 Indians receive a paycheck, versus nearly two-thirds of total population. Sequester reductions in FY 2013 and**

beyond will likely affect employment in Indian Country more harshly. Figure 4 [see the full report on the NCAI website] shows industry sector of people who are employed for the entire population compared to the Native population on reservations. **A third of Native people are employed in education, health care, and social services delivery. Many of the health, education, and social services in Indian Country receive federal funds, including through the Indian Health Service, Bureau of Indian Education, Impact Aid and through the Bureau of Indian Affairs. The second largest sector employing Indian Country is public administration. One out of five employed American Indians on tribal lands works in public administration, compared to one out of 20 for the entire country.** Federal dollars also help pay for education in Indian Country — a major function that makes up a basic building block of the economy. A majority of Native students attend public schools. During the 2010-11 school year, there were 378,000 AI/AN (alone) students in the U.S. public school system. During the same period, there were 49,152 students in Bureau of Indian Education Schools. The impact of sequestration will vary district to district and state to state for school districts. Federal revenues vary in proportion for overall school operating budgets. Those districts where the federal revenues are a larger portion of their overall operating budget will feel a deeper impact” (See Figure 5 in the full report). **“Across the nation, federal dollars represented 12.3 percent of school revenues in FY10, on average. In most school districts, education is funded largely by state and local governments, with the federal government contributing between 10 to 20 percent. However, schools on Indian reservations and military bases are on tax-exempt land. Unable to raise funds from taxes, Indian reservation and military schools depend more heavily on federal aid. In addition to funds for poor and disabled children, schools on federal land also receive Impact Aid, intended to make up for the lack of property-tax revenue.” “Nearly the entire top 25 districts nationally who are most reliant on federal funding are on or adjacent to Indian reservations, which is largely due to the funding received through Impact Aid. Unlike other Department of Education programs, Impact Aid is not forward funded, meaning the funding cuts will take effect in the middle of the current 2012-2013 school year. The over \$60 million in cuts to Impact Aid will directly affect the operation of 710 schools and the services provided to approximately 115,000 Native students. Many of these schools are counting on those funds to meet the basic needs of students and to pay teacher salaries this spring, potentially forcing districts to make wrenching, mid-year adjustments. In New Mexico for example, the Gallup McKinley County Public Schools would lose about \$2 million of the funds from Impact Aid, which could affect as many as 6,700 students who live on tribal lands. Impact Aid funds make up 35 percent of that district’s total budget.” Sequester is also reducing core governmental Services. “Sequester reductions for FY 2013 in the Department of the Interior mean tribes would lose almost \$130 million, impacting areas such as human services, law enforcement, schools, economic development, and natural resources. These reductions impact the core of tribal governmental services for tribal citizens. In the Indian Health Service, sequestration is estimated to result in about 3,000 fewer inpatient admissions and 804,000 fewer outpatient visits provided in IHS and tribal hospitals and clinics. IHS may lack resources to pay for staffing and operations of five health care facilities that tribes have built with their own resources, with a total investment of almost \$200 million. All other federal programs that serve the health of our nation’s populations with the highest need, such as Social Security, Medicare, Medicaid, the Children’s Health Insurance Program, and Veterans Administration, will be exempt from funding reductions. But not the Indian Health Service. IHS should be exempt as well. Other affected federal agencies providing important funding for Indian Country include:**

- Department of the Interior: Bureau of Indian Affairs and Bureau of Indian Education (Interior appropriations bill)
- Department of Health and Human Services: Indian Health Service, Administration for Children and Families, (Interior and Labor, HHS, Education appropriations bills)
- Department of Education (Labor, HHS, Education appropriations bill)
- Department of Justice: Office of Justice Programs, State and Local Law Enforcement, Office of Violence Against Women, Community Oriented Policing Services (Commerce, Justice, Science appropriations bill)
- Housing and Urban Development: Indian Housing Block Grant, Indian Community Development Block Grant (Transportation, Housing appropriations bill).”

In addition, the sequester is impeding recovery from the Great Recession. “Examining the trends in poverty rates on and off tribal lands is informative to the debate on how to address fiscal challenges. From 1990 to 2007, tribes reduced the percentage of tribal citizens in poverty on tribal lands by more than one-third. The poverty rate for all reservation American Indians and Alaska Natives (AIAN) in 1990 was 51 percent (see figure 6).

That dropped to 39 percent in 2000, and was recently lowest at 33 percent in the 2008 Census American Community Survey (ACS) estimate. That has gone back up to 40 percent in the 2011 ACS 1-year estimate (see figure 2). The poverty rate for AIAN nationally, on and off reservation lands, was 20 percentage points lower in 1990 than the on-reservation rate, 10 percentage points lower in 2000, and 10 percentage points lower in 2010. So tribes dramatically lowered the gap between reservation and total AIAN poverty, but the recession halted the narrowing of the gap” (See Figure 6 in the full report). “Tribes were reversing what were once considered insurmountable challenges, due to increased self-determination, but the recession undermined some of those gains. Tribes want to continue improving economic conditions so that young Native people will want to return to economies that provide work on their homelands.” In conclusion, reductions in funding to meet trust obligations to tribal nations – public safety, education, health care, social services, and tribal governmental services – are reductions to “high powered” spending for local economies, which will impede economic recovery in addition to causing increased poverty and hardship for Indian Country. The stakes are high for tribal governmental services and programs in the federal budget that support the trust responsibility, only some of which are highlighted here, but trust obligations should be protected from further reductions. Tribal programs, as part of the discretionary budget, have already done their part to reduce the deficit through the bipartisan Budget Control Act. Continued cuts will have severe consequences for every tribal citizen. Tribes urge the President and Congress to uphold the solemn promises of the trust responsibility throughout the federal budget in FY 2014 and future years.”

Alysa Landry, “Sequester would be disastrous for tribal nations,” *Navajo Times*, February 28, 2013, reports that the sequester might reduce all federal tribal funding by \$130 million in FY2013. It was projected that the Indian Health Service and tribal hospitals and clinics would be forced to provide 3000 fewer inpatient admissions and 800,000 fewer outpatient visits. The Navajo Nation budget would have to be reduced from \$170 to \$147 million. Alysa Landry, “Navajo braces for Sequester,” *Navajo Times*, March 14, estimated that Navajo Nation would lose between \$24 million and \$30 million in federal funds, about 10% of its federal funding in 2013 from sequester. Federal funds make up 62% of the Navajo Nation budget. The projection was that \$2 million would be lost in public safety, causing a reduction of 38 officers in an already greatly undermanned force, which would drop from 245 to 217 officers. Reservation health services will see cutbacks, including a projected loss of 203 jobs, and seeing 167,000 less patients. Cuts in social services were estimated to be about \$5 million from the Program for Self-Reliance, welfare assistance, child welfare, domestic violence shelters, and low-income energy assistance, while veteran’s services might drop by \$150,000. Among the housing cuts, the Department of Housing and Urban affairs (HUD) began by halting mortgages nation wide under the Indian Home Loan Guarantee Program. For Education, Alistair Lee Bitsoi, “Drastic impact aid cuts force WRUSD school closures,” *Navajo Times*, March 14, 2013, reported, that the Window Rock School District was being forced by sequester to close four under capacity schools and lay off 40 teachers (though the numbers were tentative). Over the last four years, both federal and state funding levels for the school district have been dropping, making the sequester especially harsh.

In 2013, Head Start programs across the U.S. will be reduced by \$406 million from the sequester. Of that amount, almost \$2 million will come from Indian Head Start, according to the National Indian Education Association (Tanya Lee, “Every Child Left Behind: Sequester Guts Indian Education, Part 1, ICTMN, May 29, 2013, <http://indiancountrytodaymedianetwork.com/2013/05/29/every-child-left-behind-sequester-guts-indian-education-part-1-149579>).

The cuts to K-12 education funding from the federal sequester will impact students and teachers across the United states, but many say they will hurt American Indian elementary and secondary school students the most. Tribal schools are funded through a number of mechanisms, among them the federal government (through per-student payments, grants and Title I, II and VII programs), tribes and sometimes states. A major source of funding for tribal schools comes from the Bureau of Indian Affairs’s Bureau of Indian Education, which allocates ISEP (Indian School Equalization Program) funds on a per-capita basis. The K-12 Puyallup Tribal School System, for example, anticipates a 5.9% budget reduction of about \$400,000, in

school funding this year as a result of the sequester. The system superintendent says, **“We’re looking at faculty and staff attrition first, and also taking a look at increasing enrollment and applying for more federal grants. We have grants in place that will sunset, and we want to maintain the personnel, such as instructional coaches, funded by those grants.”** Coeur d’Alene tribally controlled K-8 land grant school has about 100 students in grades K-8 **is applying for grants to retain supplementary instructional personnel in the face of the sequester. Keeping the math coach, reading coach and intervention person is essential in maintaining adequate yearly progress, without which the school could lose further funds.** The Colville Confederated Tribes’ K-9 Paschal Sherman Indian School has been able to anticipate this year’s \$250,000 cut in federal funding, and expects not to have operations affected. In contrast **the Quileute Tribal School Superintendent, Jon Claymore anticipates difficult times, saying “For a small tribal school already scrambling financially, we will be hit very hard by any additional decrease in funding. All our programs and facilities will be compromised. We keep getting asked to do more with less.”** Public Schools Serving **Mostly American Indian Students** (and/or federal civilian or military personnel children), where tribal land or federal facilities reduce the local tax base, receive Impact Aid administered by the U.S. Department of Education. Unlike other federal education programs affecting American Indian children, such as Title I, Title II and Title VII, **Impact Aid is distributed during the school year in which it is to be used, not the year before. Schools that receive it are usually heavily dependent on that funding, since they do not have access to funds generated by local property taxes.** Those schools began feeling the approximately 5%-6% cuts as soon as federal sequestration went into effect, March 1, 2013. Dwight Pickering, director of American Indian Education at the Oklahoma State Department of Education, says **the impact of the reductions are expected to be profound for most schools, and they are expected to do the most damage to schools that educate large numbers of American Indian children. “American Indian kids are the ones who will be hurt the most by cuts to Impact Aid because they are in schools where the highest percentage of dollars come from Impact Aid,”** says John Forkenbrock, executive director of the National Association of Federally Impacted Schools. **The 2012-2013 cuts are expected to total \$60 million, about 65% percent of which will be taken from schools with American Indian kids.** According to the National Indian Education Association, the cuts to Impact Aid will hit 115,000 Native students. NIEA President Heather Shotton explains that, **“for our Native students in federally impacted schools, the effects of sequestration are devastating because these are real dollar cuts in real time from district and school budgets.”** When the effect of cuts in other federal programs are added in, on top of impact aid reductions, **Dennis Olson, director of the Office of Indian Education in the Minnesota Department of Education, says the cuts “will be at least 15% of the total budget for some schools,” and will have a “significant, significant impact.”** Schools, he says, are looking at retirements, attrition, and cutting positions such as guidance counselors in an all-out effort to avoid having to cut teachers, but that too will be on the table if the sequester continues into next year. Building closures are also a possibility. Jeff Bisek, superintendent of the Mahnommen Public School District on the White Earth Reservation, in Minnesota, which serves 612 students in grades K-12, about 70% of whom are American Indian, says the district **“anticipated this cut last year and have been preparing for it. We’ve been downsizing as people retire and expect to lose one full-time teacher this year. We’re also looking at reducing one bus route, which will mean longer ride times, and cutting our afterschool homework club program”** from four days a week to two. He says that next year extracurricular activities may have to be cut. **“Kids need things to do outside of school and extracurricular activities help to meet that need. We provide transportation at 5:30, using Impact Aid funds to provide a bus for transportation as far as 25 miles away. Transportation is a huge issue; if that is cut, there will be less participation in extracurricular activities.”** Other components that could fall victim to federal cuts include mental health services and the presence of a resource officer at the school. **“We’re done trimming the excess; we’ll be trimming meat and potatoes pretty quickly,”** says Bisek. Debora Norris, deputy associate superintendent of Native American Education and Outreach for the Arizona Department of Education, notes **Arizona receives more Impact Aid than any other state, saying, “Native American students are experiencing a large achievement gap at the same time that [state] standards are being raised. As Common Core is put into effect, there will be more math and science requirements for graduation. All of these things mean increased needs for Native American students.”** More money is needed, less brings quite detrimental results. The K-12 Cheyenne-Eagle Butte School on the Cheyenne River Indian Reservation in South Dakota

receives about 40% percent of its annual budget, paying for about half the teaching staff and paraprofessionals for around 1,100 students. The superintendent says, **“It looks like an 8% cut for us. We don’t want to increase class size further, which would have a serious impact on students, so we’re being extra careful with materials and supplies.”** Sequestration follows a deep cut in South Dakota funding two years ago that forced the school to reduce classroom teachers from six to five for each grade, increasing class size. **“When they cut too deep, all we can do is lay off personnel,”** he says. Like Norris, he is concerned about the timing. **“These funding cuts come at the same time as test score requirements are increasing. Our kids are at a disadvantage. Our schools are expected to do more with less”** (Tanya Lee, “Every Child Left Behind: Sequester Guts Indian Education, Part 1, ICTMN, May 31, 2013, <http://indiancountrytodaymedianetwork.com/2013/05/31/every-child-left-behind-sequester-guts-indian-education-part-2-149592>).

The reduction in federal funding for tribal colleges and universities due to the sequester extends beyond fewer classes and increased teaching loads because, as Northwest Indian College President Justin Guillory states, **“Tribal colleges play a key role in tribal nation-building efforts. We strive to build tribal nations by building people. It’s not just about funding—TCUs are deeply connected to tribal communities and tribal nations. These cuts reflect on the promise of the government to partner with TCUs to provide education.”** Diné College President Maggie George concurs. **“For many people, this is the only opportunity they have for higher education.... We’re the only game in town.”** The tribal colleges are already underfunded receive most of their funding from the federal government, with some private funding support. Funding for tribal colleges is complex and differs from school to school, but in general tribal college funding relies heavily on the federal government and all of that funding is being reduced by the sequester. For example, **Fort Peck Community College in Roosevelt, Montana receives 90% of its 11-million operating budget from federal sources and could end up losing more than 10% of that. Northwest Indian College in Bellingham, WA anticipates a reduction of \$900,000 from the college’s \$8 million budget, a loss of more than 11% percent. Other Tribal colleges expect cuts in the 5%-6% range. Sitting Bull College, expects a 5.3-percent% cut of \$250,000. The school is working to see how it can make up the loss. One move will be not to replace the director of the 100,000 research development office, leaving those responsibilities to the overloaded president and his assistant. The school is also cutting down on adjunct faculty while asking full time faculty to teach more. United Tribes Technical College in Bismarck, North Dakota, faces cuts of 5.2% percent this year, forcing it to reduce spending for supplies and equipment and not filling open positions, in order to try to keep in place campus security, transportation, classrooms and teachers and to assure students continue to be funded through their Pell grants, scholarships and longer-term loans. Meanwhile, the campus clinic, run by the Indian Health Service, will be cut 9.2%. The state of North Dakota, however, for the first time is offering assistance, passing legislation that will offer each of five tribal colleges (UTTC, Spirit Lake, Fort Berthold, Standing River and Turtle Mountain) 1 million each over two years in workforce training funds. Little Big Horn College anticipates losing at least \$350,000 in federal funds. To meet that the college is reducing to four-day work-weeks, June through August, to “reduce utility costs, while asking operational staff, and general fund employees to take 80 hours off work without pay during the summer. Diné College, which receive 85% of its budget from the federal budget, will be cut 5.5%. At Northwest Indian College, tuition may have to rise more than some students can afford at the only accredited tribal college in Washington, Oregon and Idaho, as the college reduces travel and supplies, while considering reducing employee health insurance coverage, and making no increases in faculty salary. Fort Peck Community College is looking at building overheads, payroll and how many courses it can offer, noting, “It’s hard enough to attract quality staff. With these cuts, instructors could have four or five courses instead of two or three.” If the cuts continue, “we’ll eventually have to lay some people off and eliminate positions. It’s very difficult when you have to do that because it affects people’s emotions and livelihoods.” For tribal colleges, the future is unclear. Further cuts could force some to close** (Tanya Lee, “Every Child Left Behind: Sequester Guts Indian Education, Part 3, ICTMN, June 02, 2013, <http://indiancountrytodaymedianetwork.com/2013/06/02/every-child-left-behind-sequester-guts-indian-education-part-3-149616>).



**The Bureau of Indian Affairs (BIA), in May was planning to meet sequester, in part, by having each employee take off eight unpaid days before the end of the fiscal year** (“Tribal Council makes concerns clear to BIA regional director, *Southern Ute Drum*, May 3, 2013).

**The National Indian Gaming Commission issued a letter on the impact of sequestration, It states that while all the NIGC funding comes from fees paid by gaming tribes, the commission still must reduce its spending by 5% in FY 2013, but the Office of Management Budget made a preliminary estimate that the Commission may be able to use that money in FY2014** (The letter is posted at: [http://www.nigc.gov/LinkClick.aspx?fileticket=80TTa7r\\_nRM%3d&tabid=36&mid=345](http://www.nigc.gov/LinkClick.aspx?fileticket=80TTa7r_nRM%3d&tabid=36&mid=345)).

Tex Hall, former NCAI President and current Chairman of COLT and Chairman of the Mandan, Hidatsa and Arikara Nation in North Dakota, said, in late April 2013, of the direct impacts tribal nations are facing - especially the large land based tribes, **"Sequestration has hit us very hard. We have taken an almost 11% cut in just the last two quarters of this fiscal year. As a result, the Oglala Sioux Tribe has lost over \$3 million in direct service dollars from the BIA alone. The Yankton Sioux Tribe has had its medical contract health care referrals stopped altogether until further notice. The Rosebud Sioux Tribe and Oglala Sioux Tribe are looking at the possibility of laying off police officers, and virtually all of us have seen additional limitations placed on our contract health care referrals. Today, schools throughout our reservations are all struggling to buy the supplies necessary to open in the fall. Some, at Pine Ridge, for example, are even photocopying outdated text books"** (“Indian Country Budget Week in Washington, DC "Uphold the Federal Trust Responsibility," NCAI, April 26, 2013, <http://www.ncai.org/news/articles/2013/04/26/indian-country-budget-week-in-washington-dc-uphold-the-federal-trust-responsibility>).

**In Sitka Alaska, Sequestration has forced the closing of the Bill Brady Healing Center, a residential drug and alcohol treatment facility** funded by the Indian Health Service. Most of the center’s 20 staff members were to be shifted to other locations, but some were to be furloughed until positions open up (“Sequestration forces closure of Sitka Center,” *News From Indian Country*, April 2013).

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“Continuing Resolution Approved to Fund Federal Agencies through FY 2013,” Hobbs-Straus General Memorandum 13-029, March 22, 2013, <http://hobbsstraus.com/general-memorandum-13-029>:

The Senate and House have approved and sent to the White House for signature legislation (HR 933) which will fund federal agencies for the remainder of fiscal year 2013 (through September 30, 2013), thus averting a possible government shutdown. Funding for most programs will be at FY 2012 levels minus a five percent across-the-board reduction that will be imposed over the last six months of the fiscal year. The current short-term Continuing Resolution (CR) was set to expire March 27. The House had approved a CR to which the Senate made changes, approving it on March 20. On March 21 the House accepted the Senate's version, clearing it for the President's signature. **A key element in getting the two houses to agree was that they adhered to the discretionary cap level for FY 2013 set by the Budget Control Act of 2011 and also allowed the sequestration of FY 2013 funds to proceed.** HR 933 provides detailed funding levels for a number of agencies that Congress agreed should not operate strictly on FY 2012 levels – Defense; Military Construction-Veterans Administration; Agriculture; Commerce-Justice-Science; and Homeland Security. **The other appropriations bills, including Interior, Environment, and Related Agencies, will operate most programs at their FY 2012 levels minus sequestration. The bill added funding to the Indian Health Service budget in order to provide \$53 million for staffing of new health care facilities. It also reduced funding in some cases – eliminating \$17 million for Bureau of Indian Education replacement school construction.** An amendment by Senator Franken (D-MN) to reinstate this money did not receive a vote. **Congress added \$4.8 million to the Indian Housing Loan Guarantee Program and authorized a fee increase in order to keep the program running for the remainder of the fiscal year. The final bill also increased funding for transportation over the amount originally**

approved by the House. Each agency was to submit a detailed report to the Appropriations Committees within 30 days of enactment regarding their operating plan for fiscal year 2013.

“Indian Health Service [President’s] Proposed FY 2014 Appropriations; Proposal to Cap Contract Support Costs and Circumvent the Ability to Recover Shortfalls.” Hobbs-Straus General Memorandum 13-038, May 1, 2013, <http://hobbsstraus.com/general-memorandum-13-038>:

President Obama submitted to Congress his proposed FY 2014 budget for federal agencies. April 10, 2013, which is reported on here, without reference to final FY 2013 IHS funding levels as they were not yet officially available on May 1, 2013, but **generally FY 2013 funding is the FY 2012 level minus 5.1%.** The page numbers provided here are from the IHS Congressional Budget Justification book; the section numbers on legislative proposals are from the Appendix to the (federal) Budget for Fiscal Year 2014.

FUNDING OVERVIEW

Increases. The Administration proposes \$124 million over the FY 2012 enacted level. This amount consists of \$6 million for pay increases; \$35 million for medical inflation for the Purchased/Referred Care program; \$5.8 million for Contract Support Costs; and \$77.3 million for staffing and operating costs for ten newly constructed health care facilities.

While the budget proposes no literal decreases, the IHS makes a point of the inadequacy of the Maintenance and Improvement budget given the increase in health care facility space. The IHS states it may lead to a reduction in funding per square meter of supported space and curtailment of necessary maintenance and repair work.

Staffing of New Facilities. The proposed budget (Services and Facilities accounts combined) includes \$77.3 million for staffing and operations costs for the following new facilities: Norton Sound Regional Hospital in Nome, AK (\$13.59 million); Chickasaw Nation Health Clinic in Ardmore, OK (\$8.95 million); Cherokee Nation Health Center in Vinita, OK (\$1.75 million); Chickasaw Nation Health Clinic in Tishomingo, OK (\$5.29 million); Southcentral Foundation Valley Primary Care Center in Wasilla, AK (\$17.68 million); Tanana Chiefs Conference Interior Health Center in Fairbanks, AK (\$20.42 million); Copper River Health Clinic in Tazlina, AK (\$500,000); Kenaitze Dena'ina Health Clinic in Kenai, AK (\$1 million); Samuel Simmonds Hospital in Barrow, AK (\$6.84 million); and San Carlos Health Center in AZ (\$1.32 million).

The budget justification notes that the above amounts are estimates and may be adjusted due to changing dates of beneficial occupancy of the facilities. (CJ-10) It also states throughout the IHS budget justification that the proposal for staffing for new health care facilities is the amount IHS has determined "as its minimum potential request for FY 2014."

Little Funding for Built-in Costs. The Administration's proposal includes funding for a 3.7 percent medical inflation rate for Contract Health Services (now renamed Purchased/Referred Care) totaling \$35 million. It also proposes funding for a one percent pay increase for federal and tribal employees, totaling \$6 million. There is no funding for population growth or inflation except for Purchased/Referred Care. These costs, as with fiscal years 2011, 2012 and 2013, will need to be absorbed from existing program funds. By contrast, Congress appropriated for fiscal years 2007 through 2010 IHS funding for pay increases, inflation and population growth.

The IHS increasingly emphasizes, in its budget book and in testimony, the opportunity for tribes to receive third party collections, perhaps as a way to explain IHS budget proposals that fall short of need.

LEGISLATIVE PROVISIONS

Contract Support Costs (CSC). The biggest news in the FY 2014 IHS budget is the Administration's proposal that would cap each tribe's payment of CSC (this would apply to the IHS and the Bureau of Indian Affairs

(BIA)), with the intent of limiting the federal government's liability for recovery of CSC shortfalls through Contract Dispute Act claims in the court. The individual tribal caps would be imposed by tables created by the agencies and incorporated by reference into the appropriations act. The proposal, which the Administration describes as a "short term" plan is in reaction to the Supreme Court decision in *Salazar v. Ramah Navajo Chapter*, has been roundly criticized by tribes. The House Appropriations Subcommittee on Interior, Environment and Related Agencies and the Senate Committee on Indian Affairs have had budget hearings since the Administration's CSC proposal was released and heard testimony from many tribal leaders strongly critical of the substance of the proposal and of the lack of tribal consultation on this matter.

Contract Support Costs Cap. The Administration proposes, consistent with previous appropriations acts, to continue a statutory cap on IHS Contract Support Costs – \$477,205,000. Contract Support Limitation. The Administration proposes, consistent with the Interior appropriations acts for FYs 1999-2013, to attempt to limit the ability of the IHS and BIA to fund past-year shortfalls in contract support funding from remaining unobligated balances for those fiscal years. Proposal to Exempt from Gross Income the Benefits under the Health Professions Scholarship and the Health Professions Loan Repayment Program. The IHS is proposing legislation that would allow participants in the IHS Health Professions Scholarship Program (Section 104 of the IHCA) and the IHS Loan Repayment Program (Section 108 of the IHCA) to exclude the benefits from those programs from gross income under sections 117c(2) and 108 (f)(4) of the Internal Revenue Code. The legislative language is not part of the proposed FY 2014 IHS Appropriations Act.(CJ-200-201)

Maintain the Restriction of IHS Funds in Alaska to Regional Native Organizations. The Administration proposes to continue the provision that provides that IHS funds for Alaska be made available only to regional Alaska Native health organizations (with some exceptions).

Sec. 415. (a) Notwithstanding any other provision of law and until October 1, 2013, the Indian Health Service may not disburse funds for the provision of health care services pursuant to Public Law 93-638 (25 U.S.C. 450 et. seq.) to any Alaska Native village or Alaska Native village corporation that is located within the area served by an Alaska Native regional health entity.

(b) Nothing in this section shall be construed to prohibit the disbursement of funds to any Alaska Native village or Alaska Native village corporation under any contract or compact entered into prior to May 1, 2006, or to prohibit the renewal of any such agreement.

(c) For the purpose of this section, Eastern Aleutian Tribes, Inc., the Council of Athabascan Tribal Governments, and the Native Village Eyak shall be treated as Alaska Native regional health entities to which funds may be disbursed under this section. IDEA Data Collection Language. The Administration proposes to continue to authorize the BIA to collect data from the IHS and tribes regarding disabled children in order to assist with the implementation of the Individuals with Disabilities Education Act (IDEA):

Provided further, That the Bureau of Indian Affairs may collect from the Indian Health Service and tribes and tribal organizations operating health facilities pursuant to Public Law 93-638 such individually identifiable health information relating to disabled children as may be necessary for the purpose of carrying out its functions under the Individuals with Disabilities Education Act, (20 U.S.C. 1400, et. seq.) Prohibition on Implementing Eligibility Regulations. The prohibition on the implementation of the eligibility regulations, published on September 16, 1987, would be continued. Services for non-Indians. The provision that allows the IHS and tribal facilities to extend health care services to non-Indians, subject to charges, would be continued. The provision states: Provided, In accordance with the provisions of the Indian Health Care Improvement Act, non-Indian patients may be extended health care at all tribally administered or Indian Health Service facilities, subject to charges, and the proceeds along with funds recovered under the Federal Medical Care Recovery Act (42 U.S.C. 2651-2653) shall be credited to the account of the facility providing the service and shall be available without fiscal year limitation. Assessments by DHHS. The Administration proposes to continue bill language that has been in the Interior appropriations act for a number of years which provides that no IHS funds may be used for any

assessments or charges by the Department of Health and Human Services "unless identified in the budget justification and provided in this Act, or approved by the House and Senate Committees on Appropriations through the reprogramming process."Limitation on No-Bid Contracts. The Administration proposes to continue the provision regarding the use of no-bid contracts. The provision specifically exempts Indian Self-Determination agreements and reads:

Sec. 410. None of the funds appropriated or otherwise made available by this Act to executive branch agencies may be used to enter into any Federal contract unless such contract is entered into in accordance with the requirements of the Chapter 33 of title 41 United States or chapter 137 of title 10, United States Code, and the Federal Acquisition Regulations, unless:

(1) Federal law specifically authorizes a contract to be entered into without regard for these requirements, including formula grants for States, or federally recognized Indian tribes; or(2) such contract is authorized by the Indian Self-Determination and Education and Assistance Act (Public Law 93-638, 25 U.S.C. 450 et seq., as amended) or by any other Federal laws that specifically authorize a contract within an Indian tribe as defined in section 4(e) of that Act (25 U.S.C. 450b(e)); or(3) Such contract was awarded prior to the date of enactment of this Act.

FUNDING FOR INDIAN HEALTH SERVICES

FY 2012 Enacted \$3,866,181,000FY 2014 Admin. Request \$3,982,498,000

The Administration lists its request for IHS Services as \$3,505,293,000 because it proposes to pull Contract Support Costs (CSC)/Purchase/Referred Care (PRC) out of the Services account and list it as its own account. We keep CSC/PRC as part of the Services account in this Memorandum.

SPECIAL DIABETES PROGRAM FOR INDIANS

While the entitlement funding for the Special Diabetes Program for Indians (SDPI) is not part of the IHS appropriations process, those funds are administered through the IHS. The SDPI is currently funded through FY 2014 at \$150 million, minus a 2 percent reduction due to the sequestration. (PL 112-240).HOSPITALS AND CLINICS

FY 2012 Enacted \$1,810,966,000FY 2014 Admin. Request \$1,865,630,000

Built-In Costs. The Administration proposes \$3.8 million for pay increases. The \$50.87 million for staffing and operation of new facilities is listed as follows: Norton Sound Regional Hospital (\$9.8 million); Chickasaw Nation Health Clinic in Ardmore (\$5.4 million); Cherokee Nation Health Center (\$600,000); Chickasaw Nation Health Clinic in Tishomingo (\$2.75 million); Southcentral Foundation Valley Primary Care Center (\$11.46 million); Tanana Chiefs Conference Interior Health Center (\$14.1 million); Copper River Health Clinic (\$281,000); Kenaitze Tribe Dena'ina Health Clinic (\$508,000); Samuel Simmonds Hospital (\$5.32 million); and San Carlos Health Center (\$611,000).

Health Information Technology (HIT). The amount in the IHS budget for HIT is \$172 million, which is the same as the FY 2012 level. Most of the funding is in the Hospitals and Clinics account. The IHS notes that the HIT program will face an increased workload and costs in FY 2014.

The IHS describes the principal FY 2014 HIT priorities to be the "completion of the system-wide transition to version 10 of the International Classification of Diseases (ICD-10) and developing EHR enhancements that will be required in preparation for Meaningful Use (MU)... ." (CJ-74) Other priorities are also listed.

Indian Health Care Improvement Fund. The budget does not make specific mention of the Indian Health Care Improvement Fund, but the FY 2012 level was \$57.5 million.

Other. Funding for the 12 epidemiology centers would be \$4.7 million, the same as the FY 2012 enacted level. There is no specific funding level requested for the Domestic Violence Initiative but bill language would be continued providing that funding made available for the methamphetamine and suicide prevention and treatment and the domestic violence prevention initiatives are to be allocated at the discretion of the Director. The IHS notes that it is using these funds "to further expand its outreach advocacy programs into AI/AN communities, expand the Domestic Violence and Sexual Assault Pilot project, and provide for training and the purchase of forensic equipment to support the Sexual Assault Nurse Examiner and Sexual Assault Forensic Examiner programs" (CJ-64)

DENTAL SERVICES

FY 2012 Enacted \$159,440,496 FY 2014 Admin. Request \$168,225,000

Built-In Costs. The Administration proposes \$415,000 for pay increases. The \$8.78 million for staffing and operation of new facilities is listed as follows: Norton Sound Regional Hospital (\$1.1 million); Chickasaw Nation Health Clinic in Ardmore (\$1.14 million); Cherokee Nation Health Center (\$508,000); Chickasaw Nation Health Clinic in Tishomingo (\$611,000); Southcentral Foundation Valley Primary Care Center (\$2 million); Tanana Chiefs Conference Interior Health Center (\$2.19 million); Copper River Health Clinic (\$125,000); Kenaitze Tribe Dena'ina Health Clinic (\$135,000); Samuel Simmonds Hospital (\$405,000); and San Carlos Health Center (\$93,000).

MENTAL HEALTH

FY 2012 Enacted \$75,588,864 FY 2014 Admin. Request \$79,873,000

Built-In Costs. The Administration proposes \$185,000 for pay increases. The \$4.09 million for staffing and operation of new facilities is listed as follows: Norton Sound Regional Hospital (\$420,000); Chickasaw Nation Health Clinic in Ardmore (\$559,000); Cherokee Nation Health Center (\$94,000); Chickasaw Nation Health Clinic in Tishomingo (\$562,000); Southcentral Foundation Valley Primary Care Center (\$1.08 million); Tanana Chiefs Conference Interior Health Center (\$815,000); Copper River Health Clinic (\$94,000); Kenaitze Tribe Dena'ina Health Clinic (\$126,000); Samuel Simmonds Hospital (\$250,000); and San Carlos Health Center (\$96,000).

The IHS notes that in FY 2014 they will "continue to focus on integration of behavioral health into primary care. IHS supports changing the paradigm of mental health services from being episodic, fragmented, specialty, and/or disease focused to being part of primary care and the 'Medical Home'." (CJ-83)

ALCOHOL AND SUBSTANCE ABUSE

FY 2012 Enacted \$194,296,627 FY 2014 Admin. Request \$196,405,000

Built-In Costs. The Administration proposes \$415,000 for pay raises. The \$1.69 million for staffing and operation of new facilities is listed as follows: Norton Sound Regional Hospital (\$96,000); Chickasaw Nation Health Clinic in Ardmore (\$273,000); Cherokee Nation Health Center (\$91,000); Chickasaw Nation Health Clinic in Tishomingo (\$273,000); Southcentral Foundation Valley Primary Care Center (\$400,000); Tanana Chiefs Conference Interior Health Center (\$257,000); Samuel Simmonds Hospital (\$211,000); and San Carlos Health Center (\$92,000). PURCHASE/REFERRED CARE (Formerly Contract Health Services)

FY 2012 Enacted \$843,575,117 FY 2014 Admin. Request \$878,575,000

Congressional committees have expressed to the IHS their view that the terms Contract Health Services and Contract Health Costs are often confused. In response, IHS has renamed the Contract Health Services account as the Purchase/Referred Care (PRC) program.

Built-In Costs. The Administration proposes \$35 million for the cost of medical inflation, which was calculated at 3.7 percent. The funding is described as being enough to maintain the current level of services. The Administration's requests in FYs 2012 and 2013 for inflationary and program increases totaling \$179 million were not approved by Congress.

The IHS reports that due to increases since FY 2010, some programs have been able to approve referrals in priorities below those of Priority One (life or limb care). However, in FY 2012 PRC denied an estimated 186,353 referral services. It is well-recognized by IHS and tribal healthcare providers that many cases are not reported for referral because the funding has been exhausted.

The IHS also notes that the demand for PRC, which always exceeds the available funding, will be even more in demand as five hospitals have been or are planned to be replaced by ambulatory health centers with no inpatient services. Those health centers will be required to purchase inpatient care from the private sector using PRC funding.

Catastrophic Emergency Health Fund (CHEF). Within the total PRC amount is \$51.5 million for CHEF, the same as the FY 2012 enacted level. In FY 2012 there were 1,879 high costs cases reimbursed at a cost of \$51.5 million while 641 CHEF-eligible cases totaling \$13.6 million were not able to be reimbursed. (CJ-94)

PUBLIC HEALTH NURSING

FY 2012 Enacted \$66,632,218 FY 2014 Admin. Request \$71,194,000

Built-In Costs. The Administration proposes \$179,000 for pay increases. The \$4.38 million for staffing and operation of new facilities is listed as follows: Norton Sound Regional Hospital (\$640,000); Chickasaw Nation Health Clinic in Ardmore (\$720,000); Cherokee Nation Health Center (\$121,000); Chickasaw Nation Health Clinic in Tishomingo (\$486,000); Southcentral Foundation Valley Primary Care Center (\$1.25 million); Tanana Chiefs Conference Interior Health Center (\$884,000); Samuel Simmonds Hospital (\$165,000); and San Carlos Health Center (\$120,000). HEALTH EDUCATION

FY 2012 Enacted \$17,056,666 FY 2014 Admin. Request \$17,677,000

Built-In Costs. The Administration proposes \$40,000 for pay increases. The \$580,000 for staffing and operation of new facilities is listed as follows: Norton Sound Regional Hospital (\$96,000); Chickasaw Nation Health Clinic in Ardmore (\$91,000); Chickasaw Nation Health Clinic in Tishomingo (\$61,000); Southcentral Foundation Valley Primary Care Center (\$114,000); and Tanana Chiefs Conference Interior Health Center (\$218,000).

The IHS reports that the number of patient visits in which health education was provided has increased from approximately 777,000 visits in 2004 to 2,953,473 visits as of November 2012, a 280 percent increase in visits. The funding supports 23 IHS health education field positions and 75 tribal health education staff. Areas of emphasis in FY 2014 include the development of "standardized, nationwide patient and health education programs through the integration of IHS Patient Education Protocols into all IHS software packages", increasing the proportion of AI/AN people with access to health information, and improving AI/AN health literacy. (CJ-107)

COMMUNITY HEALTH REPRESENTATIVES (CHR)

FY 2012 Enacted \$61,406,592 FY 2014 Admin. Request \$61,661,000

Built-In Costs. The Administration proposes \$134,000 for pay raises and \$120,000 for staffing and operations costs for the Cherokee Nation Health Center.

Of the total amount, \$59.4 million is for administration of the CHR program through Self-Determination contracts and compacts. An additional \$2.1 million is for training, information technology and special projects.

Issues to be addressed in FY 2014 include development of an appropriate online training system, coordinating data validations, improving connectivity for remote sites, and ensuring federal security requirements for tribal members to request access to Resource and Patient Management System (RPMS).

HEPATITIS B and HAEMOPHILUSIMMUNIZATION (Hib) PROGRAMS IN ALASKA

FY 2012 Enacted \$1,927,000 FY 2014 Admin. Request \$1,931,000

The IHS reports that in 2012 at least 60 percent of American Indian/Alaska Natives in Alaska with chronic Hepatitis B or C infection were screened for liver cancer and inflammation. There continues to be an increase in newly diagnosed Hepatitis C, and IHS states it "may be due in part to the CDC recommendation to screen (without assessment of risk) all 'baby boomers' for hepatitis C infection." The IHS estimates that within 5-10 years, an estimated 25-33 percent of person with chronic Hepatitis C will need therapy for Hepatitis C. (CJ-113-114)

URBAN INDIAN HEALTH

FY 2012 Enacted \$42,984,115 FY 2014 Admin. Request \$43,049,000

Built-In Costs. The Administration proposes \$65,000 for pay raises.

Among the priorities for FY 2014 are to increase outreach to assure that urban AI/ANs are utilizing the benefits of the Indian Health Care Improvement Act; provide third party billing training; increase the number of urban Indian health programs using RPMS/Electronic Health Records; and to increase the number of accredited programs.

Among the 41 urban Indian health sites which receive IHS funds, there are 21 full ambulatory facilities, seven limited ambulatory programs, and five outreach and referral programs.

INDIAN HEALTH PROFESSIONS

FY 2012 Enacted \$40,595,942 FY 2014 Admin. Request \$40,602,000

Built-In Costs. The Administration proposes \$6,000 for pay raises.

Programs funded under Indian Health Professions and their estimated FY 2014 amounts are: Health Professions Preparatory and Pre-Graduate Scholarships (\$3.57 million); Health Professions Scholarships (\$10.7 million); Extern Program (\$1.18 million); Loan Repayment Program (\$21.4 million); Quentin N. Burdick American Indians Into Nursing Program (\$1.77 million – five grants); Indians Into Medicine Program (\$1.16 million – three grants); and American Indians into Psychology (\$757,386 – three grants).

Proposed bill language allows for up to \$36 million to be utilized for the Loan Repayment Program – IHS Area Offices and Service Units are authorized to provide supplemental funds. In FY 2012 the Loan Repayment Program received \$5.2 million from the Hospitals and Clinics program.

The Administration proposes to continue allowing funds collected on defaults from the Loan Repayment and Health Professions Scholarship programs to be used to recruit health professionals for Indian communities: Provided further, That the amounts collected by the Federal Government as authorized by sections 104 and 108 of the Indian Health Care Improvement Act (25 U.S.C. 1613a and 1616a) during the preceding fiscal year for breach of contracts shall be deposited to the Fund authorized by section 108A of the Act (25 U.S.C. 1616a-1) and shall remain available until expended and, notwithstanding section 108A(c) of the Act (25 U.S.C. 1616a-1(c)), funds shall be available to make new awards under the loan repayment and scholarship programs under sections 104 and 108 of the Act (25 U.S.C. 1613a and 1616a)

With regard to scholarship programs, the IHS states that it reduced from 140 to 90 days the time to complete the

process of when the completed request is submitted to the Department's Capital Human Resources Program to when the person enters on duty.

As mentioned elsewhere in the Memorandum, the Administration is supporting a change in the law that would allow participants in the IHS Health Professions Scholarship Program and the IHS Loan Repayment Program to exclude the benefits from those programs in determining gross income under sections 117c(2) and 108 (f)(4) of the Internal Revenue Code.

TRIBAL MANAGEMENT

FY 2012 Enacted \$2,577,000 FY 2014 Admin. Request \$2,577,000

Funding is for new and continuation grants for the purpose of evaluating the feasibility of contracting the IHS programs, developing tribal management capabilities, and evaluating health services. Funding priorities are, in order, 1) tribes that have received federal recognition or restoration within the past five years; 2) tribes/tribal organizations that are addressing audit material weaknesses; and 3) all other tribes/tribal organizations. The IHS estimates they will make ten noncompeting continuation grants and 17 new awards in FY 2014.

DIRECT OPERATIONS

FY 2012 Enacted \$71,653,171 FY 2014 Admin. Request \$71,845,000

The IHS states in its budget submission that 56.5 percent of the Direct Operations budget would go to Headquarters and 43.5 percent to the 12 Area Offices. Tribal Shares funding for Title I contracts and Title V compacts are also included.

Built-In Costs. The Administration proposes \$192,000 for pay raises. Priorities include:

(1) Continuing investments to maintain improvements and reforms made to-date and to continue enhancements in the IHS' capacity for providing comprehensive oversight and accountability in key administrative areas such as human resources, property, financial management, performance management and PRC program improvements developed through PRC consultation recommendations on improving business practices related to PRC and third party reimbursements; (2) Addressing recent Congressional oversight and reports issued by the General Accountability Office (GAO) and the Office of Inspector General (OIG) to make improvements in management of IHS programs, such as the PRC program (3) Addressing requirements for national initiatives associated with privacy requirements, facilities, and personnel security; and (4) Improving responsiveness to external authorities such as Congress, GAO, OIG on questions related to oversight recommendations and the implementation and continuing accountability for new permanent authorities of the reauthorization of the IHCA. The IHS has placed a high priority on the issues raised in the Senate Committee on Indian Affairs (SCIA) investigation of the IHS Aberdeen Area, and, in addition to implementing a corrective action plan to address findings in the Aberdeen Area, IHS established a schedule to conduct comprehensive reviews of all IHS Areas to ensure that the findings of the investigation are not global IHS issues. In December 2012, the IHS completed management reviews of all 12 IHS Areas on schedule. IHS will continue to implement and monitor improvements and corrective actions related to the findings of the Area reviews. (CJ-134)

SELF-GOVERNANCE

FY 2012 Enacted \$6,044,314 FY 2014 Admin. Request \$6,049,000

The Self-Governance budget supports implementation of the IHS Tribal Self-Governance Program including funding required for Tribal Shares; oversight of the IHS Director's Agency Lead negotiators; technical assistance on tribal consultation activities; analysis of Indian Health Care Improvement Act new authorities; and funding to support the activities of the IHS Director's Tribal Self-Governance Advisory Committee.

The IHS projects that in FY 2013 approximately \$1.5 billion will be transferred to support 87 tribal compacts and 112 funding agreements. The IHS projects an additional five tribes will enter into Self-Governance compacts and funding agreements in FY 2014.

The \$5,000 increase over FY 2012 is for pay raises.

CONTRACT SUPPORT COSTS

FY 2012 Enacted \$471,437,491 FY 2014 Admin. Request \$477,205,000

Increase. The Administration proposes a \$5.8 million increase for Contract Support Costs (CSC). While the budget justification does not list the current CSC shortfall, the IHS estimates that the shortfall at the end of FY 2013 will exceed \$100 million. The IHS states that the proposed \$5.8 million increase will be applied to the CSC shortfall associated with ongoing contracts and compacts.

Proposal to Cap Individual Contract Support Costs Payments. As mentioned earlier in this Memorandum, the Administration has proposed to legislatively cap each tribe's payment of CSC below full funding. The individual tribal caps would be imposed by tables created by the agencies and incorporated by reference into the appropriations act. The proposal, which the Administration describes as a "short term" plan, is in reaction to the U.S. Supreme Court's *Salazar v. Ramah Navajo Chapter* decision. It is designed to limit the federal government's liability and prevent tribes from being able to recover CSC shortfalls through the courts. The proposed bill language, which would replace earlier years' statutory overall CSC cap language, is:

For payments of contract support costs associated with ongoing Indian Self-Determination Act agreements with the Indian Health Service for fiscal or calendar year 2014, not to exceed [\$471,437,000], \$477,205,000; Provided, That, notwithstanding any other provision of law, the amount available for contract support costs associated with each ongoing Indian Self-Determination Act agreement with the Indian Health Service for fiscal or calendar year 2014 shall not exceed the amount identified in the "Indian Health Service Contract Support Costs" table submitted by the Secretary of Health and Human Services to the House and Senate Committees on Appropriations; In addition, not to exceed [\$10,000,000], \$500,000 shall be available for payments for contract support costs associated with new or expanded Indian Self-Determination Act agreements with the Indian Health Service for fiscal or calendar year 2014.

Indian Self-Determination (ISD) Fund. The Administration proposes that up to \$500,000 of CSC funds shall be available for an Indian Self-Determination Fund to support new or expanded self-determination contracts, grants, self governance compacts or annual funding agreements. This compares with the FY 2013 proposal that up to \$10 million may be available for an ISD fund.

Contract Support Limitation. The Administration proposes, consistent with the Interior appropriations acts for FYs 1999-2013, to attempt to limit the ability of the IHS and BIA to fund past-year shortfalls in contract support funding from remaining unobligated balances for those fiscal years:

Sec. 408. Notwithstanding any other provision of law, amounts appropriated to or otherwise designated in committee reports for the Bureau of Indian Affairs and the Indian Health Service by Public Laws 103-138, 103-332, 104-134, 104-208, 105-83, 105-277, 106-113, 106-291, 107-63, 108-7, 108-108, 108-447, 109-54, 109-289, division B and Continuing Appropriations Resolution, 2007 (division B of Public Law 109-289, as amended by Public Law 110-5 and 110-28), Public Laws 110-92, 110-116, 110-137, 110-149, 110-161, 110-329, 111-6, 111-8 and 111-88, 112-10, 112-74 and ___ for payments for contract support costs associated with self-determination or self-governance contracts, grants, compacts, or annual funding agreements with the Bureau of Indian Affairs or the Indian Health Service as funded by such Acts, are the total amounts available for fiscal years 1994 through 2014 for such purposes, except that for the Bureau of Indian Affairs, tribes and tribal organizations may use their tribal priority allocations for unmet contract support costs of ongoing contracts, grants, self-governance compacts

or annual funding agreements.

The above quote is from the FY 2014 IHS Budget Justification (CJ-22). The FY 2014 Budget Appendix for the entire federal government identifies this provision as Sec. 406, and references fiscal years 1994 through 2013 (rather than 2014).

FUNDING FOR INDIAN HEALTH FACILITIES

FY 2012 Enacted \$440,346,317 FY 2014 Admin. Request \$448,139,000

MAINTENANCE AND IMPROVEMENT

FY 2012 Enacted \$53,721,000 FY 2014 Admin. Request \$53,721,000.

Maintenance and Improvement (M&I) funds are provided to Area Offices for distribution to projects in their regions. Funding is for the following purposes: 1) routine maintenance; 2) M&I Projects to reduce the backlog of maintenance; 3) environmental compliance; and 4) demolition of vacant or obsolete health care facilities. Of the total funding requested, \$51.3 million will be allocated to sustain the condition of federal and tribal healthcare facilities buildings, \$2 million for environmental compliance projects, and \$500,000 for demolition projects. No funds will be allocated "to improve the condition of the healthcare facilities or make improvements to support healthcare delivery." (CJ-150)

The IHS estimates that as of October 2012, the Backlog of Essential Maintenance list is \$462 million (up \$35 million from October 2011).

The IHS is clear that this budget request is wholly inadequate, stating it will only "enable the IHS to maintain the condition of the IHS real property portfolio at, or slightly below the existing level ... does not provide for the expected increase in health care facility space...and is not adequate to achieve the goals of the Energy Policy Act of 2005, the Energy Independence and Security Act of 2007 and Executive Orders 13423 and 13524 regarding energy security." (CJ 149-150)

The IHS further states:

Further, the FY 2014 Budget Request does not provide for the expected increase in health care facility space. Health care space increases by approximately three percent annually with the construction of new and expanded Federal and Tribal healthcare facilities. Consequently as new space becomes eligible for M&I funds, the overall funding per square meter of supported space is reduced and some necessary maintenance and repair work may need to be curtailed. Curtailing maintenance, routine repairs, and major repair projects lead to more costly repairs in the future and potentially catastrophic failure of major equipment (e.g., failure of boiler) that may affect the delivery of healthcare services and the current accreditation status of IHS-operated hospitals and major health centers. (CJ-150)

FACILITIES AND ENVIRONMENTAL HEALTH SUPPORT

FY 2012 Enacted \$199,413,427 FY 2014 Admin. Request \$207,206,000

Built-In Costs. The Administration proposes \$565,000 for pay increases. \$7.2 million for staffing and operation of new facilities is listed as follows: Norton Sound Regional Hospital (\$1.39 million); Chickasaw Nation Health Clinic in Ardmore (\$774,000); Cherokee Nation Health Center (\$220,000); Chickasaw Nation Health Clinic in Tishomingo (\$541,000); Southcentral Foundation Valley Primary Care Center (\$1.32 million); Tanana Chiefs Conference Interior Health Center (\$1.96 million); Kenaitze Tribe Dena'ina Health Clinic (\$231,000) Samuel Simmonds Hospital (\$480,000); and San Carlos Health Center (\$305,000).

MEDICAL EQUIPMENT

FY 2012 Enacted \$22,582,000 FY 2014 Admin. Request \$22,582,000

The IHS notes that they expect to distribute the FY 2014 funds as follows: \$16.6 million for new and routine replacement medical equipment at over 1,500 federally- and tribally-operated health care facilities; \$5 million for new medical equipment in tribally-constructed health care facilities; and \$500,000 each for the TRANSAM and ambulance programs.

CONSTRUCTION

Construction of Sanitation Facilities

FY 2012 Enacted \$79,582,000 FY 2014 Admin. Request \$79,582,000

Four types of sanitation facilities projects are funded by the IHS: 1) projects to serve new or like-new housing; 2) projects to serve existing homes; 3) special projects such as studies, training, or other needs related to sanitation facilities construction; and 4) emergency projects. The IHS sanitation facilities construction funds cannot be used to provide sanitation facilities in HUD-built homes.

The IHS proposes to distribute up to \$48 million to the Area Offices for prioritized projects to serve existing homes; up to \$5 million for projects to clean up and replace open dumps on Indian lands; and \$2 million will be reserved at IHS Headquarters (\$1 million for special projects and emergency needs; \$500,000 to collect homeowner data and demographic information in three IHS Areas; and \$500,000 for improving data collection systems to help fund a Water Resource Center to develop teaching materials and techniques for homeowners and communities to support usage in a way that promotes health). The Water Resource Center is in partnership with the Alaska Native Tribal Health Consortium which received \$250,000 in FY 2012 and is expected to be funded for five years through FY 2016.

Construction of Health Care Facilities

FY 2012 Enacted \$85,048,000 FY 2014 Admin. Request \$85,048,000

The Administration proposes no new health care facilities starts, but would fund the following:

- Kayenta Health Center - continue construction of the health care facility and begin construction of the staff quarters (\$57 million)
- San Carlos Health Center - complete construction of the staff quarters (\$12.5 million)
- Southern California Regional Youth Treatment Center in Hemet – complete construction (\$15.5 million).

The IHS notes the strong tribal interest in the Joint Venture Construction Program:

The Joint Venture Construction Program (JVCP) allows IHS to enter into agreements with Tribes that construct their own health facilities. The funding for the construction of the health facility comes from the Tribe through their own resources, financing or other funding sources; IHS health care facility construction appropriations are not used for construction of facilities in the JVCP. Tribes apply for the JVCP during a competitive process and projects that are approved enter into agreements with IHS. Upon projected completion of construction by the respective Tribe, the IHS agrees to request Congressional appropriations for additional staffing and operations based on the Tribes' projected dates of completion, fully executed beneficial occupancy and opening. Between FY 2001 and FY 2012, seventeen joint venture project agreements signed by IHS and Tribes were initiated and nine have been completed. The JVCP continues to receive strong support by Tribes based upon the 55 positive responses to the FY 2009 congressionally directed solicitation for the JVCP FY 2010-FY 2012 cycle. (CJ-156)

OTHER

TRANSAM Equipment, Ambulances, Demolition Fund. The Administration proposes to continue funding of up to \$500,000 to purchase TRANSAM equipment from the Department of Defense and \$500,000 to be deposited in a Demolition Fund to be used for the demolition of vacant and obsolete federal buildings. Up to \$2.7 million is proposed for the purchase of ambulances.

THIRD PARTY COLLECTIONS

The IHS estimates a total IHS and tribal Medicare, Medicaid and private insurance collections of \$1,081,038,000 in FY 2014:

Medicare: \$140 million federal; \$64 million tribal
Medicaid: \$612 million federal; \$166 million tribal
Private Insurance: \$90 million.

The **National Congress of the American Indians (NCAI) analysis of the President's proposed 2014 federal Indian budget is available at: <http://www.ncai.org/news/articles/2013/04/12/ncai-releases-analysis-of-obama-administration-budget>.**

In the Courts

The U.S. Supreme Court

The U.S. Supreme Court ruled 7-2, June 17, 2013, that Arizona's Proposition 200, which would have made it more difficult for people to register to vote by mail, is preempted by federal law. The Arizona act would have particularly made it more difficult for Indians, other minorities and low income people to register to vote, and the plaintiffs were Native (Tanya Lee, "Supreme Court Upholds American Indian Voting Rights," ICTMN, June 18, 2013, <http://indiancountrytodaymedianetwork.com/2013/06/18/supreme-court-upholds-american-indian-voting-rights-149966>).

The United States Supreme Court held, June 25, 2013, in *Shelby County, Alabama v. Holder* that the formula used under Section 4 of the Voting Rights Act of 1965 (VRA) to determine which states and localities must receive pre-approval or "preclearance" of their proposed voting changes is unconstitutional. It was a 5-4 decision. The Court's decision **means that many states, counties, and localities will no longer have to seek preclearance from the U.S. Department of Justice before making voting changes.** Preclearance stems from the Civil Rights era and was intended to end and reverse voting laws and practices that discriminate against people of color. In 1975 the VRA was amended to address voter discrimination against members of "language minority groups" which was defined to include American Indians and Alaska Natives. Congress has reauthorized the VRA numerous times, most recently in 2006 for a 25-year period. **Many of the jurisdictions covered by the VRA are located in Indian Country. They include Shannon and Todd Counties in South Dakota (the Oglala Sioux and Rosebud Sioux Tribes, respectively), Robeson and Jackson Counties in North Carolina (the Lumbee Tribe and Eastern Band of Cherokee Indians), the entire States of Arizona (21 tribes) and Alaska (229 tribes), and other states with Indian tribes including Mississippi, Louisiana, South Carolina, Texas and Alabama.** This lawsuit was brought by Shelby County, Alabama, which is a "covered" jurisdiction under Section 5 of the VRA. Covered jurisdictions cannot make any changes in their voting laws and practices unless they first obtain preclearance from the Department of Justice. Covered jurisdictions are selected for the preclearance based on a formula in Section 4 of the VRA. The formula takes into account past voting rights violations, current violations, and voting rates of people of color, among other factors. Shelby County claimed that both Section 4 and Section 5 were unconstitutional. The Court declared Section 4 unconstitutional. Writing for the majority, Chief Justice Roberts emphasized that "coverage today is based on decades-old data and eradicated practices." Roberts wrote that while in the past there was compelling evidence based on racial disparity to justify preclearance and the coverage formula, "there is no longer such a disparity." Speaking to future attempts by Congress to rewrite Section 4, Roberts said, "Our country has changed, and while any racial discrimination in voting is too much, Congress must ensure that the legislation it passes to remedy that problem speaks to current conditions." Justice

Ginsburg, writing for the dissent, argued back: "The Court appears to believe that the VRA's success in eliminating the specific devices extant in 1965 means that preclearance is no longer needed. ... With that belief, and the argument derived from it, history repeats itself." The practical result of this ruling is that until Congress reauthorizes Section 4 of the VRA, covered states are free to redesign or alter their voting laws without having to obtain preclearance. Thus, in order to block new voting practices on the grounds of discrimination, private citizens and the United States will now bear the burden of showing the effects of discrimination through suits brought under Section 2 of the Act. It is uncertain whether this Congress will reauthorize Section 4 of the VRA – initial indications are that the Democratic controlled Senate Judiciary Committee wants to hold hearings and work on a revised formula, while the Republican controlled House Judiciary Committee may be content to let the ruling stand without further legislative action (“Supreme Court Sharply Limits Federal Voting Protections,” Hobbs-Straus General Memorandum 13-061, June 28, 2013, General Memorandum 13-061).

The U.S. Supreme Court ruled 5-4, in late June 2013, in an opinion drafted by Justice Samuel Alito, that a child, widely known as Baby Veronica, does not have to live with her biological Cherokee father, and might remain with a non-Indian family, as Section 1912 of ICWA does not apply because Brown never had custody of his biological daughter. Further, Alito wrote that Section 1915 of the Indian Child Welfare Act (ICWA) does not apply because no other Cherokee relatives, or other Indian families, stepped forward to assert custody. Alito wrote, "[T]he parent abandoned the Indian child before birth and never had custody of the child," Alito wrote for the majority that was joined by Chief Justice John G. Roberts Jr., and Justices Anthony M. Kennedy, Clarence Thomas and Stephen G. Breyer (Rob Capriccioso, “Supreme Court Thwarts ICWA Intent in Baby Veronica Case,” ICTMN, June 25, 2013, <http://indiancountrytodaymedianetwork.com/2013/06/25/supreme-court-thwarts-icwa-intent-baby-veronica-case-150103>).

The U.S. Supreme Court, in January 2013, **declined to hear an appeal of a 2010 circuit court decision that members of the Crow Nation could proceed in their suit against an FBI agent for allegedly failing to investigate crimes against American Indians on and around the reservation, as the agent did not have qualified immunity from legal action** (Timothy Williams, “Crow Indian Law Suit Against F.B.I. Agent to Proceed,” *The New York Times*, February 2, 2013).

Lower Federal Courts

The U.S. Ninth Circuit Court of Appeals **upheld the Puyallup Tribe's sovereign immunity and taxing authority and the 2009 tribal cigarette compact with the State of Washington, November 13, 2012. The court also held that the Puyallup Tribe's sovereign immunity was sufficient to withstand an antitrust suit by competing cigarette vendors.** The essence of the antitrust claim was that the Tribe was colluding with the State to fix the price of cigarettes sold at tribal smokeshops in violation of federal antitrust laws. *Miller v. Wright*, No. 11-35850. Plaintiff Paul Matheson, a member of the Puyallup Tribe, owns a tribally-licensed smokeshop on the Tribe's reservation near Tacoma. Under the Tribe's cigarette tax compact with Washington, smokeshop vendors must buy cigarettes from wholesalers who agree to pay a tribal tax at the wholesale level equal to state wholesale and sales taxes which would be applicable off-reservation. In other words, the goal of the compact is to ensure that taxes are roughly the same on cigarettes sold on and off reservation to non-members. The plaintiffs also had to pay a \$5 fee required by the 1998 Tobacco Master Settlement Agreement between the four largest tobacco companies and 46 states. The other plaintiffs, who are non-Indian cigarette purchasers, also challenged the validity of the 2009 cigarette tax compact as well as the tobacco settlement fee. The lead plaintiff had previously sued in tribal, state, and federal courts to invalidate the tribal-state compact, but had lost those suits. **The Court of Appeals reaffirmed the Tribe's sovereign immunity and its authority to tax purchases of cigarettes by non-Indian customers from tribal and tribal member businesses on trust land. The court also held that the Tribe did not waive its sovereign immunity by entering into the tribal-state compact. The court declined to hold tribal officials who approved the tax liable under the doctrine of *Ex Parte Young*, which makes government officials liable when they act outside the scope of their lawful authority. The Court of Appeals further held that federal antitrust laws do not apply to the Tribe's regulation of sales.** The court examined the Sherman Antitrust Act

and the Clayton Act and found that neither applied to the Tribe. Although the plaintiffs argued that the Sherman Act is a statute of general applicability and should apply to the Tribe, the court decided that Congress did not intend for it to apply to Indian tribes and thus the case fit under the third exception in *Donovan v. Coeur d'Alene Tribal Farm*, which is that general federal laws do not apply to Indians on their reservation when there is proof by legislative history or some other means that Congress did not intend them to apply. The Court of Appeals **held that the mediation provisions in the tribal-state compact do not trigger a waiver of sovereign immunity.** The court distinguished the situation from that in *C & L Enterprises v. Citizen Band Potawatomi Indian Tribe*, in which the U.S. Supreme Court held that a mandatory arbitration provision waived the Tribe's sovereign immunity. The Court of Appeals pointed to **the fact that the mediation provisions in the Washington compact were not binding on the tribe, because unlike arbitration, mediation is a process that leads to a voluntary agreement among the parties, not a ruling enforceable in court.** Finally, the Court of Appeals **held that the plaintiffs' claims were also barred by the doctrine of res judicata, which prevents a repeat of litigation of an issue of fact or law actually litigated and resolved in a valid court determination essential to the prior judgment** ("U.S. Ninth Circuit Court of Appeals Upholds Tribal Immunity and Taxing Authority, and Rules that Federal Antitrust Laws Are Not Intended to Apply to Indian Tribes," Hobbs-Straus General Memorandum 12-132, December 14, 2013, <http://hobbsstraus.com/general-memorandum-12-132>).

The U.S. Court of Appeals for the District of Columbia Circuit ruled, December 14, 2012, that a suit against elected officials of the Cherokee Nation in federal court could proceed despite the Tribe's sovereign immunity. *Vann v. U.S. Dept. of the Interior* (No. 11-5322). The court relied on the doctrine of *Ex parte Young* which is a case that authorizes suits against government officials where the plaintiffs allege continuing unlawful conduct, and seek only to stop the unlawful conduct, and do not seek money damages. The *Vann* case revolves around the attempt of descendants of former slaves known as Freedmen, to secure membership in the Cherokee Nation. In lower court proceedings, the court ruled that the Tribe could not be sued because of its sovereign immunity. The lower court further ruled that the Tribe was an indispensable party under Federal Rule of Civil Procedure 19 and that the Tribe's Chief could not adequately represent the Tribe's interests. Thus, the case had to be dismissed. **The Court of Appeals reversed. The court agreed that the Tribe was entitled to sovereign immunity and could not be sued without its consent. But the court ruled that the Tribe's Chief could represent the Tribe's interest. The court wrote that "the Cherokee Nation and the Principal Chief in his official capacity are one and the same in an *Ex parte Young* suit As a result, the Principal Chief can adequately represent the Cherokee Nation in this suit, meaning that the Cherokee Nation itself is not a required party for purposes of Rule 19."** The court noted that the result follows a number of precedents in other courts, including the recent Tenth Circuit decision in *Crowe & Dunlevy v. Stidham*, 640 F.3d 1140 (10th Cir. 2011) which affirmed an injunction against a tribal court judge under an *Ex parte Young* theory in favor of a law firm ordered to return fees received in a case it brought before that tribal court. (See Hobbs-Straus General Memorandum 11-072 of June 10, 2011.) **The Doctrine of *Ex parte Young* is being increasingly used to pursue non-monetary claims against tribal officials in which the plaintiffs allege those officials are either acting outside the scope of their official capacities or are acting in violation of federal law** ("Court Rules *Ex parte Young* Doctrine May Overcome Tribal Sovereign Immunity," Hobbs-Straus General Memorandum 13-003, January 18, 2013, <http://hobbsstraus.com/general-memorandum-13-003>).

The 8th U.S. Circuit Court of Appeals, May 29, 2013, **threw out a lawsuit by Spirit Lake Nation tribal members to save the University of North Dakota's now-retired Fighting Sioux nickname**, holding that the suit filed against the NCAA failed to show that the governing body of college athletics "acted with discriminatory intent" when it banned the use of American Indian names and imagery in postseason competition ("Spirit Lake Tribe Loses Appeal on UND Fighting Sioux Mascot," ICTMN, May 30, 2013, <http://indiancountrytodaymedianetwork.com/2013/05/30/spirit-lake-tribe-loses-appeal-und-fighting-sioux-mascot-149605>).

U.S. District Court Judge Ricardo S. Martinez, in Seattle, WA, **ordered the State of Washington, in April, to repair culverts blocking salmon from reaching their habitat, with time line for doing so, under**

treaties with Indian tribes. The state was ordered to fix culverts on recreation areas by 2016 and to complete providing fish passage through transportation culverts by 2030. The Indian nations have claimed that the blockage of salmon passage through the culverts has been a major factor in salmon decline (Mike Baker, “Judge orders Wash. To fix culverts blocking salmon,” *News From Indian Country*, April 12, 2013).

The **Rincon Band of Luiseño Indians of California concluded seven years of litigation and negotiation through the federal courts**, in February, **agreeing with the state on revision of its 1999 tribal-state gaming compact.** Assistant secretary of Indian Affairs Kevin Washburn approved the agreement, February 8. The lawsuit and resulting Rincon compact changed the scope and context of tribal state negotiations in California. Among the issues settled by the combination of court rulings and negotiation under court supervision, **the state cannot demand revenue sharing as a condition for concluding a compact, as federal law is clear that states cannot use the compact process to impose taxes on tribal gaming revenues.** Moreover, the courts ruled that **if a tribe is willing to share gaming revenue with the state, the state must offer the tribe something of meaningful value that the tribe desires, above and beyond the state’s legal obligations under IGRA**, so that there is an exchange of mutual benefits. In California, this means **tribal exclusivity for “Class Three Games” can no longer be used by the state to leverage revenue sharing of 50 to 100 percent of casino profits.** The courts held that exclusivity is granted by the voters and institutionalized in the state constitution; therefore, the governor is not in a position to offer it up, or take it away at the negotiation table. **The revised compact eliminates the Schwarzenegger regulatory demands that extend beyond gaming, broaching a tribe’s governmental authority, including the practice of obligating a tribe to agree to local contributions in significant revenue sharing dollar amounts to mitigate impacts prior to finalization of the compact and governor’s signature.** Before the Rincon case, a governor could hold a tribe’s economic growth ransom against one-sided demands by the state. **The courts held that IGRA remedies are intended to ensure compact negotiations are between equals, and that the power of the state is not used to deny gaming to the tribes.** The revised compact extends the number of slot machines can operate from 2000 to 2500, extends the compact from 2020 to 2037, retains the regulatory arrangements of 1999 compact calls for payment of proportionate share of state’s costs to regulate gaming directly to state, which are anticipated to approach \$1 million per year to be paid by Rincon (Currently state regulatory costs are appropriated by the legislature out of the special distribution fund), continues existing obligations to the revenue sharing trust fund (currently more than \$3 million per year) distributing a share of proceeds to non-gaming tribes.) Under the new compact, RSTF would receive an additional \$1 million, with the total exceeding \$4 million if the band operates at 2,250 machine capacity. There were **several unresolved issues that the band and state committed to continue to pursue outside of compact litigation.** Rincon and San Diego County agreed to work toward establishing a shared benefits fund to better cover county costs stemming from the tribe’s gaming, with Rincon and the county agreeing upon a preliminary statement of terms in September 2011 as a basis for the continuing discussions. Rincon and California agreed to continue their discussions on a government-to-government basis on resolving issues of state-imposed taxes of gasoline, tobacco products and other on-reservation sales (“Rincon Band Becomes First California Tribe To Renegotiate Tribal-State Gaming Compact With Federal Courts,” ICTMN, February 13, 2013, <http://indiancountrytodaymedianetwork.com/2013/02/13/rincon-band-becomes-first-california-tribe-renegotiate-tribal-state-gaming-compact>).

The **Oglala and Rosebud Sioux tribes and three tribal members, supported by the American Civil Liberties Union (ACLU), filed a federal class-action suit in Rapid City, SD, On March 21, 2013, seeking a ruling that would compel Pennington County, SD courts to provide prompt and meaningful hearings when Indian children in the county are removed from their homes for reasons of alleged neglect or abuse.** The suit is supported by a ACLU investigation that found Pennington County courts routinely bar parents in custody hearings from seeing the affidavits making claims against them, from cross-examining those who filed the documents and from introducing evidence on their own behalf, and holding improper hearings, sometimes as short as one minute (Stephanie Woodard, “Ogallala and Rosebud File Federal Child-Welfare Lawsuit,” ICTMN, March 22, 2013, <http://indiancountrytodaymedianetwork.com/2013/03/22/ogallala-and-rosebud-file-federal-child-welfare-lawsuit-148295>).

State and Local Courts

The **Klamath County Circuit Court in Klamath Falls, OR** ruled, March 7, 2013, that the **Klamath Tribes, with the oldest water rights in the region, have the final say in determining who receives water, whether fish or farms, in the Upper Klamath Basin.** A severe drought in the region has exasperated the issues. An agreement was signed that would end the water conflicts and was sent to Congress, but since an election defeated the county officials who brokered it, Congress has been unwilling to act on these issues (“Descending Drought Puts Klamath Tribes and Farmers on Brink of Water War,” ICTMN, May 7, 2013, <http://indiancountrytodaymedianetwork.com/2013/05/07/descending-drought-puts-klamath->

Tribal Courts

Attorneys from the Seattle firm of Galanda Broadman filed a **complaint for equitable relief in the Nooksack Tribal Court**, in Washington state, March 15, 2013, **against Chairman Robert Kelly, five other council members and other tribal officials for “acting beyond the scope of their authority as tribal officers in their official capacities” in their attempt to remove 306 Nooksack enrolled tribal members.** The plaintiffs contend that according to the tribe’s Constitution, members must be of Nooksack ancestry and have one-quarter Indian blood, and asserts, “This is an action to prevent cultural genocide on 306 enrolled members of the Nooksack Indian Tribe, each of whom is of Nooksack ancestry and each of whom possesses *at least* one-fourth degree Indian blood.” The attorneys also filed a request for an emergency injunction to stop the tribal council from implementing the disenrollment, for which the court scheduled a hearing on the request on May 1. Involved tribal members say the case does not involve tribal member finances, as members receive little in the way of percapata payments. They say family politics and the Filipino ancestry of all 306 threatened with disenrollment seems to be the cause (Gale Courey Toensing, “Nooksack Indian Tribe in Disenrollment Fight,” ICTMN, April 11, 2013, <http://indiancountrytodaymedianetwork.com/2013/04/11/nooksack-indian-tribe-disenrollment-fight-148742>).

The Navajo Nation Supreme Court, in January 2013, upheld the decision of the Crown Point District Court in allowing a child custody case to be settled by a state court, where one party was Navavajo and brought suite in Navajo Court, and the other non-Indian bringing sute in state court, out of comity. The Supreme Court ruled that while Navajo courts had jurisdiction, out of respect for the state, and concern for the welfare of the children in reaching an early settlement, the decision was properly made (Bill Donovan, “Court rules ‘comity; with state,” *Navajo Times*, January 17, 2013).

Tribal Governments and State and Local Movements

The Oneida Indian Nation and the state of New York signed an agreement, in May 2013, that if approved by the state legislature, will resolve all disputes between the two sovereigns over land rights, sales and fuel tax issues, gaming exclusivity and profits. Under the compact New York will recognize the Oneida Nation’s reservation and grant the nation a gaming exclusivity zone. As part of the settlement, the Oneida Nation will pay the state an amount equal to 25 percent of its net win from slot revenues. The state will pay a quarter of its 25 percent to Oneida County, where the Oneida Nation’s Turning Stone Resort Casino is located. (The initial estimate for that payment is \$2.5 million annually.) Madison County will receive a one-time payment of 1 million to compensate for past tax claims. Additionally, the state will make annual payments of \$2.5 million to Oneida County and \$3.5 million to Madison County from its share. The Oneida Nation also agreed to a permanent cap of more than 25,000 acres of land to be taken into trust by the Interior Department, 17,000 in Oneida County and 8,000 in Madison County, provided that the state and counties do not oppose the Oneida Nation’s applications to place most of those lands into trust. The deal, settling years of disputes, was worked out in negotiations that began when Governor Cuomo personally contacted the Oneida Indian Nation, April 25. Involved in the discussions were Oneida County Executive Anthony Picente and Madison

County Chairman John Becker, who will be signatories to the finalized agreement, and had been involved in legal disputes with the Oneida. The governor warned both counties that if they did not drop their lawsuits and tax claims against the Oneida Nation—the counties would forfeit a share of the Oneida Nation’s payments that were under negotiation, and the state would stop funding the counties’ three lawsuits against the Oneida Nation. The Interior Department agreed in 2008 to take into trust a little more than 13,000 acres of the 17,350 acres the tribe owns, in 2008, which the counties opposed. They now support the entire 17,350 acres being taken into trust. The Oneida Nation can acquire land in fee above the 25,000 acres and use it for off-reservation enterprises under state laws. In addition, the **Oneida Nation agreed to impose a sales tax equal to, or greater than, New York state and counties’ taxes on cigarettes, motor fuel and other items sold by Indian retailers to non-Indian customers and to abide by the state’s minimum pricing standards on cigarettes. These revenues will be used by the Oneida Nation to provide government services to its citizens along with revenues already being received from gaming.** Also in the agreement is a formal Oneida County-Oneida Nation Special Repudiation Agreement that will **deputize qualified officers of the Oneida Nation Police Department to enforce state laws on Nation land, including at Turning Stone Resort Casino.** Enforcement of the settlement will take place through the U.S. District Court for the Northern District of New York, there will be an annual independent audit of the Oneida Nation’s compliance with the cigarette tax provisions. The counties subsequently approved the agreement (Gale Courey Toensing, “The Oneida Nation and New York Sign a Historic Agreement,” ICTMN, May 29, 2013, <http://indiancountrytodaymedianetwork.com/2013/05/29/oneida-nation-and-new-york-sign-historic-agreement-149583>).

The St. Regis Mohawk Tribe (SRMT) and New York State came to an agreement, in late May 2013, ending a three-year dispute over the tribe’s gaming exclusivity zone and revenue-sharing from its slot machine profits and begin a process to resolve the Indian nation’s longstanding land rights lawsuits. Under the settlement, as part of the agreement, the nation will pay the state \$30 million, part of the slot machine revenues the tribe has withheld in an escrow account, since late 2010, during the dispute over a violation of its exclusivity zone, which includes Franklin, St. Lawrence, Clinton, Essex, Hamilton, Jefferson, Lewis and Warren Counties. The tribe discontinued slot revenue-sharing payments to New York in late 2010, maintaining that the state had violated the tribe’s gaming exclusivity zone by allowing the installation and operation of slot machines at the Ganienkeh Territorial Bingo, in Clinton County about an hour away from Mohawk territory. The state will divide 25% of the \$30 million payment between St. Lawrence and Franklin counties, providing \$3.75 million to each county, which includes the payments to the affected towns in each county. “The tribe will resume making on-going revenue sharing payments according to the regular schedule as defined in the compact amounting to 25% percent of net gaming revenue. The state will divide 25% of its share between St. Lawrence and Franklin counties.” The state will guarantee that the SRMT will retain its exclusive authorization to operate slot machines within its eight-county exclusivity zone. The agreement also provides for the governor to “convene discussions among the state, the tribe, and St. Lawrence and Franklin Counties to resolve unrelated disputes involving land claims and New York Power Authority issues.” The remaining revenue share will be held in escrow pending resolution of these issues (Gale Courey Toensing, “St. Regis Mohawk Tribe, New York State Agreement Ends Exclusivity Dispute,” ICTMN, May 22, 2013, <http://indiancountrytodaymedianetwork.com/2013/05/22/st-regis-mohawk-tribe-new-york-state-agreement-ends-exclusivity-dispute-149458>).

The New York State Senate Committee on State-Native American Relations held an economic summit with the state’s Indian nations and county officials, April 15, 2013 to talk about building economic development partnerships, creating and retaining jobs, promoting local investment, strengthening government relations and building successful community partnerships. Tribal leaders representing the Cayuga, Mohawk, Seneca, and Unkechaug nations attended. The Senate Select Committee on State-Native American relations planned to hold two additional forums in the coming months to address education issues, veterans issues as well as law enforcement and tribal courts (Gale Courey Toensing, “New York Economic Summit Focused on Tribal-State Relationships,” ICTMN, April 17, 2013, <http://indiancountrytodaymedianetwork.com/2013/04/17/new-york-economic-summit-focused-tribal-state-relationships-148870>).

As of March, **New Mexico's expanded Medicaid program under the Affordable Care Act would require only Indians qualifying for Medicaid or Medicare, or needing nursing home care, to obtain services through a managed care organization. All other Indians would continue to have the choice of managed care or a fee for care system** ("NM alters Medicaid proposal for Natives," News From Indian Country, March 13, 2013).

The **President of the Navajo Nation signed a Memorandum of Agreement with the University of New Mexico to include Native American students in designing and planning projects on the Navajo Nation, with the facilitation of UNM's Indigenous Design and Planning Institute** (Erny Zah, "Navajo President Shelly Signs MOA with UNM," *UNM Today*, 11/13/12). The **New Mexico House, in March, passed a bill that would include tribal colleges in the state in the New Mexico Lottery Scholarships** (Noel Lynn Smith, "N.M. House votes to include tribal colleges in lottery scholarships," *Navajo Times*, March 14, 2013). The bill did not pass the Senate.

The **Arizona state legislature, in June, budgeted additional funding for tribes in the state. For the first time, tribes, who pay into the state airport improvement fund, will receive state moneys for airport improvement on tribal lands, while for the first time Navajo Technical College will receive state support, with an appropriation of \$50 to improve the Chinle, AZ campus. The college has retention and graduation rates well above the national average, with its students entering the workforce with high demand skills, such as computer science. In addition, the Arizona legislature gave some relief to the Red Rock School District, that had to borrow \$2.4 million to remain open, after the district was told it could not count students from Utah when applying for Arizona state allocations, and would have to pay the money back in two years. The 2013 legislature extended the repayment time to seven years** (Bill Donovan, "More State Funding Coming to Navajo," *Navajo Times*, June, 20, 2013).

A major water war is going on in the Flathead area of Montana as water supplies are drying up just as a 10 year negotiation over Flathead tribal water rights has been moving toward settlement. With not enough, and in the future probably less, water, the struggle has become intense (Jack Healey, "Water Rights Tear at an Indian Reservation," *The New York Times*, April 22, 2013).

New Mexico now has a record number of Indian members of the state legislature (see list in the referenced article) who have been **contributing to efforts to increase the state's assistance in helping close utility gaps in water and electricity service on Indian land** (Colleen Kean, "N.M. legislators join hands to bridge utility gap on tribal lands," *Navajo Times*, June 13, 2013).

The **California Department of Corrections and Rehabilitation issued a provisional emergency regulation, denying indigenous prisoners access to items used in religious ceremony** – including, sacred medicines such as kinnikinnick, copal, and osha root; sacred pipes and pipe bags; drums and other instruments; water dippers; cloth for prayer ties; beads and beading supplies; animal hides and other objects, though ceremonial use of tobacco was still allowed. **Participation in Sweat Lodges was also restricted.** Many Native organizations, people and Tribes have been protesting the restrictions (Gale Courey Toensing, "Huy Urges Urgent Action on Indigenous Prisoners' Religious Freedom," ICTMN, April 30, 2013, <http://indiancountrytodaymedianetwork.com/2013/04/30/huy-urges-urgent-action-indigenous-prisoners-religious-freedom-149097>).

Following recent economic studies showing that Texans spend \$2.5 billion a year at casinos across the state border, **a bill to allow gaming on reservations in the state was introduced in The Texas Senate, in early February 2013** ("Texas Bill Would Permit Casinos on Reservations," ICTMN February 7, 2013, <http://indiancountrytodaymedianetwork.com/2013/02/07/texas-bill-would-permit-casinos-reservations-147483>).

Navajo officials are concerned about the future of their gaming operations in New Mexico, as a result of their newly negotiated gaming compact failing to come to a vote before the end of the session of the

State Legislature. The current, 2003, agreement expires in 2015 (Anne Minard, “New Mexico Legislative Inaction to Negotiate Compact Stirrs Navajo Nation's Concerns,” ICTMN, April 4, 2013, <http://indiancountrytodaymedianetwork.com/2013/04/04/new-mexico-legislative-inaction-negotiate-compact-stirrs-navajo-nations-concerns-148553>).

During a quarterly **meeting of the Colorado Commission on Indian Affairs, attended by leaders of the Ute Mountain and Southern Ute Tribes**, in April 2013, Colorado **Governor John Hickenlooper signed House Bill 13-1198, An Act Concerning the Colorado** that removes the \$35 a day stipend for members attending sessions, extends terms from one to three years, enables the commission to form committees as needed, and renames the commission head from “Executive Secretary,” to Executive Director.” Numerous issues were discussed at the two day session (Jeremy Wade Shockley, “State, tribal leaders convene in Colo. Capital,” *Southern Ute Drum*, April 5, 2013). The **six member Southern Ute Indian/State of Colorado Environmental Commission**, in January 2013, **discussed a proposed commission rule to add several EPA established federal rules to the Southern Ute Reservation Air Code** (Brenda Jarrell, “Tribe-state commission meet on air quality issues,” *Southern Ute Drum*, January 25, 2013).

The community of Ignacio, CO, in the center of the Southern Ute Reservation, is collaborating with tribal, state and local governments to undertake a \$50 million restructuring, merging the current junior high and intermediate schools in a new middle school building, while the old intermediate school building is remodeled for the Ignacio elementary school. Tribal and state funding, as well as tribal participation in the planning, are involved in the project (Christopher R. Rizzo, “The Future of Ignacio Schools,” *Southern Ute Drum*, March 22, 2013). **The Town of Ignacio, Co and the Southern Ute Tribe signed an agreement, in May 2013, to share costs on a three year contract with Colorado Mosquito Control, Inc., to control the mosquito population in the town and on the reservation** (Beth Sastevan, “Tribe, town to address mosquito problems,” *Southern Ute Drum*, May 17, 2013).

The Kootenai County, ID Tax Commissioners voted to cancel all property taxes on the Coeur d’Alene Reservation for 2009-12, in February 2013, out of respect for the tribe’s sovereignty, following a meeting with tribal officials. The taxes are estimate to total about \$400,000. The county began taxing property on the reservation in 2006 under an authorization to do so by the state legislature (“Commissioners cancel Coeur d’ Alene property tax,” *News From Indian Country*, February 2013).

Navajo Nation and the Navajo County, AZ Sheriffs Office entered into a cross deputization agreement allowing county officers to respond to emergencies on Navajo land, and to enforce Navajo law, and authorize Navajo officers to respond to emergencies in the county (Noel Lyn Smith, “Navajo County, Nation ink law enforcement pact,” *Navajo Times*, February 27, 2013).

The Winter School District in western Wisconsin, while continuing to be called the Warriors, has decided to stop using its American Indian logo (“Wisconsin School District Drops American Indian Logo,” ICTMN, May 22, 2013, <http://indiancountrytodaymedianetwork.com/2013/05/22/wisconsin-school-district-drops-american-indian-logo-149459>). **Changing names and logos is expensive, and knowing it is difficult for some schools to do that, in New York State, on hearing that at student’s request Cooperstown Central will stop using the team name Redskins, the Oneida Nation said they would pay for new uniforms**, which is estimated will cost between \$5000 and \$7000 (“Positive Reactions to Cooperstown Central Changing School Mascot,” ICTMN, February 25, 2013, <http://indiancountrytodaymedianetwork.com/2013/02/25/positive-reactions-cooperstown-central-changing-school-mascot-147875>).

Tribal Developments

A Study shows that American Indians and Alaska Natives continue to have the highest percentage of

people below the poverty line of any measured group. The U.S. Census Bureau *American Community Survey*, measuring poverty rates by race from 2007 to 2011 found that only two groups exceeded the national poverty rate of 14.3% by more than 10 percentage points: American Indian and Alaska Natives at 27% and black or African-American at 25.8%. Also above the national rate was Native Hawaiians and Other Pacific Islanders, at 17.6%, while rates for people who identified as white and Asian were lower than the overall poverty rate at 11.6% and 11.7%. The number of American Indians and Alaska Natives living below the federal poverty line was the greatest in Rapid City, SD, near the Pine Ridge Indian Reservation, at 50.9%. The report found that on Pine Ridge, unemployment was 80% percent, with per capita income fluctuating between \$4,000 and \$6,000. Out of the estimated 400 to 500 homes on reservation, 150 houses and trailers were without running water or electricity. Poverty rates for American Indians and Alaska Natives alone in the 10 cities where they have the most people include: Minneapolis, Minnesota at 48.3%; Shiprock, NM at 39.6%; Gallup, NM and Zuni Pueblo, NM both at 31.8%; Tuscon, AZ at 31% percent; Farmington, NM at 29.6%; Denver, CO at 29.1%; Phoenix, AZ at 28.9%; San Antonio TX at 28.5%; and Tuba City, AZ at 28% (“Poverty Affects American Indians and Alaska Native Population More Than All Races,” ICTM, February 28, 2013, <http://indiancountrytodaymedianetwork.com/2013/02/28/poverty-affects-american-indians-and-alaska-native-population-more-all-races-147929>).

The development of the Community Development Quota Program, a catch-share system involving six nonprofit groups fishing on the Bering Sea shore, while amassing a combined net worth of \$785 million, particularly from catching pollock, has produced uneven development for Alaska coastal villages (in part because not all Alaska costal villages are in the geographic scope of the six non-profits), and less development than hoped for, with regulations requiring little more than that 80% of the income be used in the region. One result is that while the villages remain largely poor, high executives in the nonprofits make high salaries. Organizers of the arrangement envisioned federally guaranteed shares of the pollock catch that would create a rising tide of funds to raise up poor, isolated villages where jobs and hope are scarce. There have been improvements, and a great many villagers have benefitted greatly from scholarships provided by the successful nonprofits. The direct benefit to the villages from the scholarships has been low, however, as a great many of those gaining from schooling and training find jobs elsewhere. Unevenness in the benefits is partly a result in differential in the shares of the income. In 2011, for example, one group with a small population received nearly 22 times more revenue per resident than another, larger group, based on allocation formulas locked in by Congress in 2006. This has created conflict, with some saying the income should be shared among the groups on a per capata resident basis, and others objecting. Some of the villages in side the Costal Villages Region have done quite well, receiving such benefits as scholarships, free firewood, free tax assistance and subsidized boat motors. Others have gained less, and many villages still do not have complete sewer service or running water. There are also complaints from numerous native subsistence fishermen, meanwhile, who say the nonprofits’ large pollock trawlers inadvertently catch too many salmon. Dozens were cited by state game wardens in summer of 2012, and one group was embarrassed for being caught setting their nets on the Kuskokwim River in violation of an emergency fishing ban (Kirk Johnson and Lee Van der Voo, “Spoils of the Sea Elude Many in an Alaska Antipoverty Plan,” *The New York Times*, June 18, 2013, <http://www.nytimes.com/2013/06/19/us/spoils-of-the-sea-elude-many-in-an-alaska-antipoverty-plan.html?ref=todayspaper>).

A mass migration of American Indians to urban centers over the past several decades has fundamentally changed both reservations and cities, with over 70% of all Native Americans living in urban areas, as of 2013, compared to 8% in 1940 and 45% in 1970. Federal spending, however, has not shifted with the changing demographics, with most of the generally inadequate funding continuing to go primarily to reservations. For example, only about 1% of Indian Health Service spending is allocated to urban programs. Meanwhile, cities, are experiencing their own budget problems, and are not meeting needs of their urban Indian citizens. The resulting lack of services is a major factor in the proliferation of Native American street gangs, which copy and sometimes partner with better-established African-American and Latino gangs. A federal jury in Minneapolis, in March 2013, convicted several members of the violent Native Mob of

racketeering and other crimes as part of one of the largest gang prosecutions ever undertaken in Indian Country. Many Indians have moved from reservations because of the lack of jobs, and sometimes extreme poverty, as U.S. Census data show that 27% of all Native Americans live in poverty, compared with 25.8% percent of African-Americans, who have the second worst poverty rate, and 14.3% percent of all Americans. **But in many cities Native poverty rates are similar to those of the nation's poorest reservations. In New York City, with the largest urban Native population, about 25% live in poverty, approximately the same rates as for Chicago, Oklahoma City, and Houston, while in Denver, Phoenix and Tucson, poverty rates for Indians approach 30% percent. In Minneapolis, more than 45% live in poverty, and the Indian poverty rate exceeds 50% in Rapid City, SD** (though this is less than on the nearby Pine Ridge and Rosebud reservations). In the face of this situation some progress has been made, as exemplified by **Minneapolis, where the city's Indian population, about 2% of the total, is more integrated than in most other metropolitan areas, and there are social services and legal and job training programs specifically available to them.** Minneapolis Indians have some political representation, with a Native American City Council member, Robert Lilligren; a Native American state representative, Susan Allen; and a police chief, Janee Harteau, who is part Indian, to give Native people some input into meeting familiar social ills such as alcoholism and high unemployment, along with less familiar problems, including racism, heroin use and aggressive gangs (which are now also a major reservation problem). A number of **Indian social organizations are working to improve the situation,** including providing job training, among other services. A particularly interesting program is **Little Earth of United Tribes,** a 212-apartment complex, the **nation's only public housing project that gives American Indians preference. It offers a broad spectrum of social services, from empowerment counselors and bike rentals to couples' therapy and a teen center that provides homework help, computers and board games. Houses are being built adjacent to the complex to promote homeownership.** Security provisions include two dozen security cameras around the complex, hiring off-duty police officers, and evicting individuals who have committed crimes or other offenses. A large percentage of the residents are single mothers. The unemployment rate, exceeds 65%, just marginally better than at the poorest reservations, such as Pine Ridge. During the first six months of the project's operation in 2005, Little Earth suffered five gang homicides, while from 2005 to 2007, only three students graduated from high school, a rate of about 5% percent. That situation has been improving as the services have developed and had an impact, and in spring 2013 the board was moving toward requiring that every resident have a job, be enrolled in school at least part time or serve as a volunteer. Though unemployment remains high, the complex now has more than 120 volunteers, who can take pride in contributing to their community, an important value for tribal people (Timothy Williams, "Quietly, Indians Reshape Cities and Reservations," *The New York Times*, April 13, 2013, <http://www.nytimes.com/2013/04/14/us/as-american-indians-move-to-cities-old-and-new-challenges-follow.html?hpw>).

A study funded by the American Cancer Society **on the Cheyenne River Indian Reservation in South Dakota found that there is a low cancer survival rate, and a high prevalence of HPV and high incidence of cervical cancer among American Indian women in the Northern Plains. This is occurring because HPV vaccination coverage is shown to be lower among American Indian populations. Furthermore, part of the problem may be that information and access to cancer screening and early detection are often limited in many American Indian communities.** The lead researcher, Dr. Delf Schmidt-Grimminger, **found that locally and culturally tailored educational interventions increased HPV knowledge and HPV vaccination among the reservation's women. He stated, "With over 500 tribes in the United States who speak more than 217 different languages, the need for customizable material is very important, and every community is unique."** Other studies have shown that the overall survival and mortality rates in American Indian cancer patients may significantly improve if the cancer is diagnosed at an early stage. Currently, early diagnosis is not common on reservations, and culturally appropriate steps need to be taken to accomplish it (Charlotte Hofer, "New Cancer Research Tailors to American Indian Populations," ICTMN, May 14, 2013, <http://indiancountrytodaymedianetwork.com/2013/05/14/new-cancer-research-tailors-american-indian-populations-149350>).

The Cherokee Nation, which runs the country's largest tribally operated health care system, is investing \$100 million from its business profits to improve it by replacing or renovating four health centers

and building a new 100 bed hospital over two to three years (“Cherokee Nation To Fund \$100 Million Overhaul of Tribal Health Care System,” ICTMN, March 29, 2013, <http://indiancountrytodaymedianetwork.com/2013/03/29/cherokee-nation-fund-100-million-overhaul-tribal-health-care-system-148430>).

The **Southern Ute Indian Tribe of Colorado**, which has long used a variety of vehicles for bringing back aspects of traditional participation, **in moving to develop an improved tribal healthcare system, undertook a survey of tribal members, as well as interviewing healthcare staff, and discussing the matter in general tribal meetings** (Beth Santistevan, “Consultants offer first report of tribal healthcare assessment,” *Southern Ute Drum*, April 5, 2013).

HIV infections on the Navajo Reservation have Since 1999, new HIV cases on Navajo land have risen fivefold since 1999, as 47 Navajo residents were diagnosed with HIV in 2012, an increase of 20% over 2011, raising fears of an epidemic if education and prevention programs are not effective (“Rise in HIV Cases on Navajo Nation Spur Fears of an Epidemic,” ICTMN, May 20, 2013, <http://indiancountrytodaymedianetwork.com/2013/05/20/rise-hiv-cases-navajo-nation-spur-fears-epidemic-149419>).

Navajo Nation became the second tribe to receive direct aid under a recent Stafford Act amendment, with President Obama, March 5, 2013, declaring a **major disaster on the reservation due to water problems created by a severe, prolonged freeze that has cut or obstructed supply to about 3,000 homes.** Federal aid is to be provided to the Navajo recovery effort, that Navajo Nation President Ben Shelly estimates will cost \$2.8 million. **The Navajo Nation was then digging out of a deep freeze that lasted roughly from December 15, 2012, to January 21, 2013.** Navajo Nation President Ben Shelly signed an emergency resolution. January 25 because of frozen waterlines, run-down water storage containers and weather-damaged water systems severe enough to cripple the reservation’s delivery system (“President Obama Signs Disaster Declaration for Navajo Nation, the Second Tribe to Receive Direct FEMA Assistance,” ICTMN, March 5, 2013, <http://indiancountrytodaymedianetwork.com/2013/03/05/president-obama-signs-disaster-declaration-navajo-nation-second-tribe-receive-direct-fema>). **The Navajo Nation received a \$42,000 grant from the National Park Service to help preserve sacred sites** on the reservation. This part of a **\$3.7 million sacred site preservation award to 142 tribes** (Alysa Landry, “Tribe gets grant to preserve sacred sites,” *Navajo Times*, June 20, 2013). **Navajo Nation signed an agreement with the Federal Highway Administration, in February, for federal highway money to go directly to the tribe instead of through the Bureau of Indian Affairs** (Bill Donovan, “Shelly Removes Roadblock for Federal Highway Funds,” *Navajo Times*, February 28, 2013). Navajo Nation has many unpaved, often dangerous washboard roads. **Two Navajo highways were slated to be paved in 2013, N-20 and N-21** (Krista Allen, “ADOT: N-20 will be paved,” *Navajo Times*, March 21, 2013; and Krista Allen, “N-21 will be paved too,” *Navajo Times*, March 28, 2013).

Navajo Nation opened a new multipurpose justice center in Tuba City, including a correctional area (Krista Allen, New Justice Center Opens in Tuba City, *Navajo Times*, February 21, 2013). **Navajo Nation received a \$3 million grant from EPA to pay for homes that were demolished on the reservation because of radioactive contamination** (“Navajo Nation to act on \$3M grant,” *Albuquerque Journal*, March 16, 2013).

The Navajo Nation Local Government Support Center (LGSC), a key element in assisting chapters in becoming certified for, and remaining competent in, their own local governance, finally passed scrutiny from tribal auditors and had the sanctions placed upon it in 2011, for failing to carry out recommendations of the Auditor General, removed. The recommendations had included LGSC working directly with each chapter at least eight hours a month to provide them with technical assistance, and to use a better system to monitor the chapters. As of April 2013, **only 34 of the 110 Navajo chapters have been certified for local governance.** A key problem has been a lack of accounting experience in the chapters (Bill Donovan, “Sanctions

lifted for LGSC,” *Navajo Times*, April 4, 2013). The Navajo Nation Council, January 29, 2013, overturned President Shelly’s Veto of the Navajo Nation Title 2 Reform Act, aimed at streamlining Legislative Process. Among other measures, the act allows committees to table proposed legislation, with override of tabling by vote of the council (to keep the council agenda from being cluttered with measures with insufficient support); authorizes the Speaker to set an agenda for the council (subject to change by the council) rather than to having the council set the agenda, and having the agenda and exhibits of proposed matters posted on the web in advance; allows all those authorized to propose legislation to seek assistance in drafting either from the Office of Legislative Council or any other council employed by Navajo Nation; The President of Navajo Nation can veto legislation only when on tribal land; Committee and commission meeting agenda’s must be posted on the web site at least one day prior to the meeting; Directives from committees to divisions or departments now carry more weight; and all approved directives must be memorialized in writing and signed by the presiding officer and provided to the Office of the President and the affected division director within three days of approval (Alastair Lee Bitsoi, “Title 2 amendments passed over Shelley’s veto,” *Navajo Times*, January, 2013).

The Navajo Nation judicial branch has been in the midst of reform efforts, in Spring 2013. Herb Yazzi, Chief Justice of the Navajo Nation Supreme Court, “Judicial Reform Underway,” *Navajo Times*, April 25, 2013, commented, first, that work sessions were in progress to **update Title 7**. The way it was written, it was modeled too much after the laws of other jurisdiction and not sufficiently in Dine tradition. It also contains lengthy procedural provisions that are better addressed separately in court rules. Moreover, it needs updating from the experience of the last 30 years, having been drafted in 1985, and is in need of review by the legislature, the Government Development Commission and the Navajo people, **taking into account that the court system is now bicultural** and needs to have its regulations and procedures properly balance the elements from the two cultural streams. Also, **to insure the stability and independence of the courts, it is time for an independent commission to be made responsible for appointments and evaluation**. It is proposed to be undertaken through a merit selection system without an election component. The commission process would insure accountability, stability and independence. **Procedures also need to be updated for virtual adjudication with the application of electronic and cyber equipment now available**. Further, Navajo judicial regulations and process need to be **updated in the light of the recent U.S. Tribal Law and Order Act that calls for alternatives to incarceration to be developed by tribal courts. This requires a definition of Justice to be included in the organic section of Title 7** as a basic responsibility of the Navajo judiciary. **The Peacemaking Program is expanding**, on the cusp of providing services in isolated communities, while self-governance chapters are authorized to establish a peacemaking process or a procedure for resolving disputes. As the U.S. **Tribal Law and Order Act provides for longer sentences – up to 3 years and \$15,000 fine, which may be stacked – adequate defendant protections need to be defined, for which discussions need to be set in motion**. Discussions also need to consider **whether Navajo Nation will participate in the reauthorization of the Violence Against Women Act, which permits “Special Domestic Violence Criminal Jurisdiction: over certain non-Indian offenders for a “participating tribe.”** Participation requires that defendant have all the rights provided by the Constitution of the United States.

The Navajo Nation Human Rights Commission met in consultation with representatives of the United Nations Working Group on Business and Human Rights, April 27, 2013, in connection with two situations facing the Navajo people, the Arizona Snowbowl ski resort that has begun a much-opposed project to spray treated wastewater on the sacred San Francisco Peaks, and predatory lending issues surrounding the lending group Santander Consumer USA (Anne Minard, “UN Working Group, Navajo Nation Collaborate on Human Rights Issues,” ICTMN, June 3, 2013, <http://indiancountrytodaymedianetwork.com/2013/06/03/un-working-group-navajo-nation-collaborate-human-rights-issues-149675>).

The Navajo Nation, whose land surrounds Arizona state land on which a company is seeking a uranium mining lease, says it will block transport across its land of any uranium mined (Felicia Fonseca, “Navajo plans to block access for uranium transport (*News From Indian Country*, June, 2013).

The Wounded Knee massacre memorial site on the Pine Ridge Reservation, long on private land, is being put up for sale by its owner for \$3.9 million – far more than the \$7000 the Lakota of Pine Ridge say it is worth. The pending sale has raised a great deal of concern at Pine ridge (John Eligon, “Anger Over Plan to Sell Site of Wounded Knee Massacre,” *The New York Times*, March 30, 2013, <http://www.nytimes.com/2013/03/31/us/wounded-knee-site-for-sale-stirring-controversy.html?ref=todayspaper>). However, with the date of sale approaching, the **Oglala Sioux Tribe took the land via eminent domain**, in late May 2013, with possible legal issues over the action yet to follow (Vincent Schilling, “Eminent Domain and a Horse Slaughterhouse at Wounded Knee?” May 30, 2013, <http://indiancountrytodaymedianetwork.com/2013/05/30/eminent-domain-and-horse-slaughterhouse-wounded-knee-149612>).

Cherokee Nation of Oklahoma passed the Cherokee Nation Law and Order Act, in March, increasing penalties in order to deter crime. Included in the stiffer sentences, Cherokees convicted of more serious crimes, such as child abuse or manufacturing methamphetamines can receive up to three years in prison and up to \$15,000 in fine (“Cherokee Nation Stiffens Penalties,” News From Indian Country, March 2013).

Federal officials, who took over social services at the Spirit Lake Reservation in North Dakota because of a large number of continuing cases of child abuse, held a town meeting on the topic, in June 2013. In the first month federal officials investigated 100 cases of child abuse. But there have been protests that not enough prosecutions have taken place, and that not enough is being done (Timothy Williams, “Child Abuse at Reservation Is Topic for Three Law Makers,” *The New York Times*, February 16, 2013).

12 Zuni Pueblo families and United States Department of Agriculture Rural Development State Director Terry Brunner broke ground on the construction of the Pueblo’s, and New Mexico’s, first “Self Help Housing” program homes. The families will build their own homes with support from USDA, who will provide all the construction work that requires licensing (“Zuni Pueblo and USDA Begin 'Self Help Housing' Program for 12 Families,” ICTMN, May 08, 2013, <http://indiancountrytodaymedianetwork.com/2013/05/08/zuni-pueblo-and-usda-begin-self-help-housing-program-12-families-149267>).

The Southern Ute Tribal Council told the Bureau of Indian Affairs (BIA) regional director, in May, hat it has been dissatisfied by the service it has received from the Southern Ute Agency, which has several unfilled positions (and the sequester has forced a hiring freeze nationwide), leading to numerous meetings with the superintendent (“Tribal Council makes concerns clear to BIA regional director, *Southern Ute Drum*, May 3, 2013).

U.S. authorities, in December 2012, raided and closed the Three Feathers Casino along Hwy 37 that cuts through the U.S. side of the Akwesasne Mohawk reservation, that was opened by the Men’s Council of the Kanienekehaka Longhouse, one of two Longhouses in Akwesasne. Five members of the Men’s Longhouse were indicted by a federal Grand Jury on two counts related to the operation of a casino outside of New York State and federal laws, and court proceedings were in progress in April 2013 (Jorge Barrera, “US court told ‘we don’t want war’ after Akwesasne Longhouse’s lawyers tossed from casino case,” *National APTN News*, April 10, 2013, <http://aptn.ca/pages/news/2013/04/10/us-court-told-we-dont-want-war-after-akwesasne-longhouses-lawyers-tossed-from-casino-case/>).

The tribal council of the Little Traverse Bay Bands (LTBB) of Odawa Indians in Harbor Springs, MI recognized same-sex marriages on their reservation, March 3, 2013, becoming the third U.S. tribe to do so (Brenda Austin, “Same-Sex Marriage Is A-OK With Little Traverse Bay Bands,” April 19, 2013, <http://indiancountrytodaymedianetwork.com/2013/04/19/same-sex-marriage-ok-little-traverse-bay-bands-148907>).

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Economic Developments

Cherokee Nation Industries signed a \$5.1 million contract with Sikorsky Aircraft Corp., in early May, 2013, **to provide frame and instrument panel assembly for the S-300C helicopter** (“Cherokee Nation Industries Signs \$5.1M Contract With Sikorsky Aircraft Corp.,” ICTMN, May 10, 2013, <http://indiancountrytodaymedianetwork.com/2013/05/10/cherokee-nation-industries-signs-51m-contract-sikorsky-aircraft-corp-149282>). **Cherokee Nation Industries is partnering with NextGen Illumination, of Arkansas, that focuses on high-quality lighting solutions that reduce energy consumption, minimize waste and save on replacement and disposal costs. The Oklahoma tribe is to manufacture the company’s products for distribution in North and South America** (“Cherokee Nation To Manufacture NextGen Illumination Supply in Stilwell,” ICTMN, May 14, 2013, <http://indiancountrytodaymedianetwork.com/2013/05/14/cherokee-nation-manufacture-nextgen-illumination-supply-stilwell-149345>).

Navajo Nation made an agreement with Salt River Project to extend the lease on their coal fired power plant on the reservation for 25 years with payments to Navajo Nation increasing from \$3 million to \$45 million a year (“Navajo Nation agrees to coal-power plant extension,” *News From Indian Country*, February 13, 2013).

The Crow Tribe of Montana signed a lease agreement, April 11, 2013, allowing mining of an additional 145 million tons of coal by a Colorado company. The agreement is subject to approval by the Bureau of Land Management, but also **will be impacted by the outcome of struggles to prevent building new terminals to export coal from the U.S. west coast, as almost all new coal mining is for export** (Crow tribe agrees to lease 145M tons of coal,” *News From Indian Country*; and “Future of Industry and Tribe Hinges on Coal Battle,” *The New York Times*, June 15, 2013).

Two Indian Nations efforts to renew salmon were marked by the opening of two fish hatcheries in June 2013. **The state-of-the-art Chief Joseph Hatchery on the Colville Reservation opened** June 20, 2013, a \$50 million collaborative project involving numerous agencies working with the Colville Confederated Tribes. The hatchery managed by the Colville Confederated Tribes is built on U.S. Army Corps of Engineers property near Chief Joseph Dam at the juncture of the Okanogan River with the Columbia River and within the boundaries of the Colville Reservation. **The Nez Perce, Umatilla, Warm Springs, and Yakama tribes began commercial sales from their summer fishery on June 17, 2013, also on the Columbia River** (Jack McNeel, “Chief Joseph Hatchery Opens With Salmon Ceremony,” June 20, 2013, ICTMN, <http://indiancountrytodaymedianetwork.com/2013/06/20/chief-joseph-hatchery-opens-salmon-ceremony-150029>).

Navajo Nation officially opened its \$230 million Twin Arrows Resort and Casino near Flagstaff, AZ, in late May, 2013, and plans to open its second phase in 2014 (Lee Allen, “Twin Arrows Navajo Resort & Casino Opens Its Doors,” ICTMN, May 27, 2013, <http://indiancountrytodaymedianetwork.com/2013/05/27/twin-arrows-navajo-resort-casino-opens-its-doors-149552>). A report by the New Mexico Gaming Control Board, in January 2013, showed the Navajo Fire Rock and Northern Edge Casinos had a net win of \$18.7 million in the third quarter of 2012 (Bill Donovan, “Report shows Navajo casinos doing well,” *Navajo Times*, January 24, 2013). **The Saint Regis Mohawks held the grand opening of their renamed, \$74 million, Akwesasne Mohawk Casino Resort expansion, including the completion of a new hotel,** May 9, 2013 (Gale Courey Toensing, “Grand Opening Celebrates Hotel-Casino Expansion at St. Regis,” ICTMN, May 14, 2013, <http://indiancountrytodaymedianetwork.com/2013/05/14/grand-opening-celebrates-hotel-casino-expansion-st-regis-149346>). **The Viejas Band of Kumeyaay Indians opened its new \$36 million Viejas Hotel in Alpine, CA,** March 21, 2013 (Diana Saenger, “Tribe, Staff Credit Teamwork for Making \$36 Million Viejas Hotel a Reality,” ICTMN, April 2, 2013, <http://indiancountrytodaymedianetwork.com/departments/headline-news?page=40>). **The Yurok Tribe of California voted to put some of the \$27.5 million from the *Nez Perce v. Salazar* settlement toward building a tribal resort and casino,** as part of a larger economic vision to capitalize

on the Redwood National Park and Klamath River tourism market (“Yurok Tribe Votes to Put Settlement Funds Toward First Hotel and Casino,” ICTMN, February 25, 2013, <http://indiancountrytodaymedianetwork.com/2013/02/25/yurok-tribe-votes-put-settlement-funds-toward-first-hotel-and-casino-147867>). The **Gila River Indian Community of Arizona officially open its \$135 million Vee Quiva Hotel & Casino**, July 2, 2013 (Lee Allen, “Vee Quiva Hotel & Casino To Open July 2,” ICTMN, June 20, 2013, <http://indiancountrytodaymedianetwork.com/2013/06/20/vee-quiva-hotel-casino-open-july-2-150015>).

The **Stillaguamish Tribal Enterprise Corp. (STECO) of Alexandria, WA purchased a majority ownership for \$5 million in the green local firm, MicroGreen Polymers, Inc., a plastic recycler making bottles** (Tanya Lee, “Stillaguamish Tribe Invests \$5 Million in Company Recycling Plastic Bottles,” February 21, 2013, <http://indiancountrytodaymedianetwork.com/2013/02/21/stillaguamish-tribe-invests-5-million-company-recycling-plastic-bottles-147816>).

The **U.S. Chamber of Commerce declared Native American-owned security firm Personnel Security Consultants, Inc. (PSC) of New Mexico as one of 100 winners representing the best small businesses** (with fewer than 250 employees and gross revenues of less than \$20 million) in America, for its customer service, community involvement, staff training and motivation, a press release states. The award, sponsored by Sam’s Club, also recognizes business strategies and goals. PSC was the only Blue Ribbon winner in New Mexico and **one of two Native American small businesses selected in the U.S.** PSC is an investigative firm specializing in personnel security and employment suitability with a staff of 18 that serves more than 280 tribes and tribal programs, in addition the Bureau of Indian Affairs, Los Alamos National Laboratory, temp screening services and casinos. The firm, created in 2004, focuses on personnel security training, adjudications and tailored employee background investigations. PSC continues to be the only authorized liaison between the BIA and the FBI to aid tribes in obtaining employee fingerprints for a FBI criminal history record search to meet the requirements of the 1990 Indian Child Protection and Violence Protection (“Native-Owned Security Firm Makes List of 100 Top Small Businesses in America,” ICTMN, February 15, 2013, <http://indiancountrytodaymedianetwork.com/2013/02/15/native-owned-security-firm-makes-list-100-top-small-businesses-america-147692>).

Education and Culture

Cultural Survival’s tribal language programs in the United States in 2013 involve a variety of summer program preparations for a range of community language immersion and teacher training opportunities. Among Cultural Survival’s advisor programs, the **Wôpanâak Language Reclamation Project and Euchee (Yuchi) Language Project**, will offer multi-week language camps for youth focused on building conversational skills and ceremonial vocabulary to engage students as future community cultural leaders. During Summer 2012 Cultural Survival helped sponsor daily youth classes at the Euchee House in Sapulpa, OK, and the first annual Euchee Language Bowl competition. On Cape Cod in Massachusetts, Cultural Survival’s Endangered Languages program co-sponsored the Summer Turtle Camp for three dozen students who participated in traditional tribal fishing, clambake, and other food ways, along with crafts, and daily language lessons including songs, prayers, and performances for their families—and the Governor of Massachusetts on the final day of camp. This summer Cultural Survival is again seeking donors to co-sponsor these invaluable summer youth language and ceremonial training opportunities which are creating new generations Indigenous language speakers and future community leaders. Cultural Survival also helped sponsor **two language apprentices’ month-long attendance at summer language teacher training sessions at the University of Arizona in Tucson and the University of Alberta in British Columbia**, Canada—at the renowned American Indian Language Development Institute and Canadian Indigenous Languages and Literacy Development Institute. Language educators nationwide once again have the opportunity to attend **the biennial Washington, D.C. based Breath of Life Archival Institute for Indigenous Languages sponsored by the American Folklife Center, Library of Congress, Endangered Language Fund, and National Science Foundation** (“Endangered Languages Update: Summer Language Programs,” Cultural Survival, January 25, 2013, <http://www.culturalsurvival.org/news/endangered-languages->

update-summer-language-programs).

With the **U.S. Department of Agriculture's 2007 Census of Agriculture Statistics—the last complete farm census taken by the United States Department of Agriculture—showing a 124% increase in the number of farms and ranches where American Indians were the principal operators since the previous census in 2002, to reach 34,706 farms and ranches, the University of Arkansas School of Law created the Indigenous Food and Agricultural Initiative** to assist Native farmers and ranchers. The University of Arkansas (UA) School of Law, whose dean is Stacy Leeds, a Cherokee Nation member and, has the only accredited Masters of Law program in agricultural law. The new program's goals include establishing a web presence; encouraging Native youth through established programs such as the Future Farmers of America, which has 11,200 Native members; and being a resource for both individual Native farmers as well as tribal governments. One of the largest concerns of the Indigenous Food and Agricultural Initiative is in the area of tribal governance as it pertains to agricultural production. The program's director said that more tribal resolutions and laws need to be passed in order to augment and expand agricultural interest, and food-related businesses. Overall, the initiative intends to expand what's already being done. This includes assisting tribes already involved in agricultural business; helping the individual producer; and increasing traditional food usage. Also, the Indigenous Food and Agricultural Initiative wants to work with Native organizations that are already assisting the Native farmer and rancher. This includes the Intertribal Agriculture Council, First Nations Development Institute and the Indian Land Tenure Foundation (Brian Daffron, "School Creates Home for Native Agricultural Think Tank," ICTMN, February, 22, 2013, <http://indiancountrytodaymedianetwork.com/2013/02/22/law-school-creates-home-native-agricultural-think-tank-147852>).

Navajo Technical College has begun offering a bachelors degree in Environmental Science and Natural Resources (Alastair Lee Bitsoi, "NTC now offering bachelor's in environmental science, natural resources," *Navajo Times*, February 14, 2013).

St. Michael Indian School (SIMS) at St. Michaels, AZ on the Navajo reservation was founded in 1902 by St. Katharine Drexel, who believed that an excellent, values-based Catholic education was the key to spiritual growth, empowerment, self-determination, and a better quality of life for Native Americans. As of 2013, SMIS had more than 340 students enrolled, from kindergarten through high school. **St. Michael High School** was founded in 1946 as a Catholic preparatory institution serving Native, predominantly Navajo, students living in the community in which the school is located. Since its first graduating class of four students, the high school has expanded and now educates over 120 students across four grades. **90-100% of high school graduates go on to college or other post-secondary education**, including to the University of Notre Dame, Dartmouth, Yale, and MIT, and have been supported by such scholarships such as Gates Millennium and the National Honor Society. **The high Success rate appears to be the result of a combination of several factors, traditional quality catholic education; respect for Navajo culture including having students participate in Navajo ceremonies** (in addition to experiencing Catholic religion); **having American Indian teachers and staff; and encouraging a high rate of parent involvement.** High school students participate in a wide range of extra-curricular activities, including the Chess Club and Ecology Club, stage plays, perform the Native American flute, compete in the school's championship sports teams, and contribute service to the local community. SMIS is accredited by AdvancED/NCA for quality assurance and school improvement. SMIS is a member of the National Catholic Education Association and the Diocese of Gallup Catholic School System. In addition to tuition and scholarships, the school operates through generous assistance and grants from the Southwest Indian Foundation, the Sisters of the Blessed Sacrament, the Bureau of Catholic Indian Missions, and donations and grants from many friends and alumni. The high school receives no governmental assistance other than support for the School Breakfast/Lunch Program and for supplementary resources and services authorized through Title I of the No Child Left Behind. More information, including parent surveys, are available on the school's web site: <http://www.stmichaelindianschool.org/> (This report was written on the basis of Stephen Sachs visit to St. Michaels and information in St, Michaels documents and on its web site).

The Southern Ute Education Department reports several developments. Increased collaboration between the Department and the Ignacio School District have led to 100% graduation rate by Southern Ute students at Ignacio High School. One aspect of that success rate is that the department provides tutoring for students from K-12. The department has arranged a number of Science, Engineering and Math (STEM) programs with Western State University for students. The department is in its second year of running leadership training trips for students, in 2012 to Washington, DC, in 2013 to a state capital. The Tribe continues to provide college scholarships, but on the basis of research, the department no longer recommends scholarships to for profit institutions (La Tita Taylor, "Education: An update on programs, relationships and for profit policy," *Southern Ute Drum*, January 11, 2013).

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Navajo Nation is producing its own Dine language version of Star Wars as an education tool, dubbing in the dialogue (Bill Donovan, "'Star Wars' to be dubbed into Navajo," *Navajo Times*, April 25, 2013).

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International Developments

International Organization Developments

The Twelfth Session of the United Nations Permanent Forum on Indigenous Issues

The Twelfth Session of the United Nations Permanent Forum on Indigenous Issues (UNPFII) took place at UN headquarters in New York City, May 20-31, 2013, with a focus on culture, education and health. The first session opened with the message of the Secretary General, Ban Ki-moon, that stressed the need to further improve indigenous peoples' access to health-care services, as well as the importance of engaging them in decision-making on issues affecting their lives and livelihoods. He noted that with fewer than 1,000 days left to achieve the Millennium Development Goals and a process of defining a post-2015 development agenda beginning, "we must work to ensure that all our development efforts address the priorities and vision of indigenous peoples, in keeping with their identity and culture". Néstor Osorio, President of the Economic and Social Council, said that, although much indigenous traditional knowledge had been undermined and destroyed "through centuries of genocide, language loss, discrimination and forced migration", indigenous peoples remained "the custodians" of many of the most biologically diverse areas in the world. UNPFII Chair, Paul Kanyinke Sena of Kenya noted that 2013 was a review year for the Forum, which meant it would assess implementation on the ground and locally of its recommendations on health, education and culture. He noted that Indigenous peoples "are still lagging behind" in access to health, education and other basic services and their culture "is not respected by the wider society unless it is about luring the tourist dollars." Over the course of the meeting, the Forum emphasized that culture, education and health were basic human rights that must be woven into the post-2015 development agenda to ensure that indigenous peoples' voices were respected around the world. Speaking at a post conference press conference, Myrna Cunningham Kain, Forum member from Nicaragua, noted that there had been "isolated" good practices of Governments respecting indigenous rights, that need to be built upon and expanded to other countries to overcome the large gap remaining between the well-being of indigenous peoples and the rest of society. Continuing the conference overview, Ms. Kain said that, in the area of health, concerns had been raised over the sexual and reproductive rights of indigenous women, the increasing incidence of both HIV/AIDS in indigenous communities and mental health problems among indigenous youth. Further, changing food patterns meant that diabetes was on the rise in many communities. In the area of education, she said the loss of indigenous languages was also of great concern, especially as indigenous universities lacked State support for new initiatives. The area of culture, as well, was linked with the lack of recognition for indigenous land rights and the "extractive" model of development. In the broader area of human rights, she cited increasing violence against indigenous human rights defenders and indigenous journalists, especially those who managed small radio programs in isolated communities. The World Conference on

Indigenous Peoples, to be held in September 2014, would offer an avenue for advocating an end to such discrimination. Indigenous representatives would soon participate in the Global Indigenous Preparatory Conference in Alta, Norway, in June of this year. She said, “We are counting on States to use information coming out of Alta as the basis for an outcome document,” urging Governments to create space for indigenous peoples’ participation. Moreover, that outcome would pave the way for inclusion of indigenous rights in the post-2015 development framework. **Raja Devasish Roy, Forum member from Bangladesh, noted that the Caucus for Indigenous Peoples with Disability had participated in its first Forum session, casting light on how disabled persons’ needs were often unaddressed. Many participants also called for creating a voluntary mechanism that would handle complaints, particularly over land. The Forum also held, for the first time, a comprehensive dialogue with five international financial institutions, the World Bank, Inter-American Development Bank, Asian Development Bank, African Development Bank and the International Finance Corporation. During the ensuing discussion, delegates raised questions over the World Bank’s indigenous peoples’ policy, which was under review, and specifically, its position on free, prior and informed consent. In addition, they pressed the African Development Bank to create an indigenous peoples’ policy, perhaps using the model used by the Asian Development Bank. Mr. Roy said that generally, there had been “very encouraging” engagement with African countries that were increasingly recognizing indigenous rights. Susann Funderud Skogvang, Associate Professor at University of Trondheim, Sami, Norway, said “the Arctic is hot” — both in terms of temperature and interest. The Arctic Council — an intergovernmental forum that addressed issues faced by the Arctic Governments and the indigenous peoples — recently agreed to include six new nations, including China, as observer States, as a changing climate had opened the region to more economic and political competition. Melting sea ice had opened new sea routes and had made drilling possible. Mineral resources had been found. It was no coincidence that the best-managed fish stocks in the world were found in the Arctic. However, the area was also home to the Inuit peoples, and in this changing picture their rights to free, prior and informed consent were not being respected. Nor were their rights to marine resources. International legal standards developed over the last decade, combined with a greater focus on the environment, must, she emphasized, lead to a new orientation for international law, including the Law of the Sea. Ms. Kain answered several questions at the closing conference, responding that indigenous journalists were targeted because they were spreading information about the lack of respect for indigenous rights, especially by the extractive industries. Small radio programs often did not have Government authorization because they were the voice for indigenous peoples. Concerning tourism, Ms. Kain told reporters that the Forum would soon have a recommendation on tourism. She stated, “We have a lot of knowledge that should be considered in formulating the sustainable development agenda. We can share that knowledge”. Mr. Roy pointed out that indigenous peoples often did not reap the economic benefits of Governments showcasing their cultures for tourism purposes. That was why they were advocating that culture be added as a “fourth pillar” of sustainable development. Responding to an inquiry about the Chittagong Hill Tracts Accord, Mr. Roy said a Forum study had been carried out in 2010, with timelines set and focal institutions identified for implementing the unimplemented provisions of the Accord. The Bangladesh Government had focused on what had been accomplished. However, indigenous peoples focused on what had not been done, including among others, demilitarization of area and rehabilitation of internally displaced persons, including those from India. Although the Government had ratified almost every human rights treaty available, the problem was one of implementation. The Forum was seeking ways to assist in putting the Accord fully into practice. To a final question, Ms. Skogvang said indigenous peoples were concerned about the Arctic’s opening to observer countries, especially to those far from the region. China had agreed to respect indigenous peoples. Still, she said, “we don’t know yet, but we are a little concerned”. There was a good legal framework between the Sámi Parliament and the Norwegian Government. Nonetheless, there were many challenges vis-à-vis the reindeer herding area, due to mineral exploitation. **Generally, Governments were in a rush to find resources before property rights were identified.** During the meeting, it had been pointed out that a major problem in education and culture for many Indigenous children, even if they were able to attend school, was that they **too often did not receive instruction in their own languages. Plus, most often, parents had no genuine decision-making power about their children’s curriculum.** Indigenous people had the right to establish and control their educational institutions and provide schooling in their own languages. In addition, they**

must also be able to exercise their autonomy and right to self-determination to promote indigenous health perspectives and traditional healing as part of comprehensive primary health care in collaboration with health services, a requirement which is rarely met by governments, today, though speakers from some countries had pointed out improvements. The Permanent Forum on Indigenous Issues **approved a draft decision recommending that the Economic and Social Council rename it as the “Permanent Forum on the Rights of Indigenous Peoples”**

Much more detail about the meeting and its numerous side events is available from the UNPFII web site at: <http://social.un.org/index/IndigenousPeoples/UNPFIIISessions/Twelfth/MediaandNews.aspx> and <http://social.un.org/index/IndigenousPeoples/UNPFIIISessions/Twelfth.aspx>. Available there, usually in English, French and Spanish, are: Fact Sheets/Backgrounders on: Africa, the World Conference, and Youth; Press Releases/Conferences on the 12th Session of the UNPFII: Press Release--20 May 2013, Press Conference on the opening of the 12th Session--20 May 2013, Press Conference on New Legal Frameworks for Africa’s Indigenous People--23 May 2013, Press Conference on Preparations for 2014 World Conference on Indigenous Peoples--28 May 2013, and Press Conference on Highlights of the Twelfth Session of the Permanent Forum on Indigenous Issues--30 May 2013, **Coverage of each of the session meetings**; and webcasts; as well as, lists of side events, statements made by Indigenous peoples, organizations, UN agencies, and states; and **reports made to or at the forum including:** E/C.19/2013/3 Report of the International Expert Group Meeting on the theme “Indigenous youth: Identity challenges and hope: articles 14, 17, 21 and 25 of the United Nations Declaration on the Rights of Indigenous Peoples”

E/C.19/2013/4 Report of the Inter-Agency Support Group Meeting on Indigenous Peoples

E/C.19/2013/5 Study on resilience, traditional knowledge and capacity-building for pastoralist communities in Africa

E/C.19/2013/6 Study on the situation of indigenous persons with disabilities, with a particular focus on challenges faced with respect to the full enjoyment of human rights and inclusion in development

E/C.19/2013/7 Indigenous People’s Rights and Safeguards in Projects related to Reducing Emissions from Deforestation and Forest Degradation (REDD+)

E/C.19/2013/8 Study on the Right to participation in decision-making processes of indigenous youth in the Nordic countries

E/C.19/2013/9 Study on the extent of violence against indigenous women and girls in terms of article 22 (2) of the UN Declaration on the Rights of Indigenous Peoples

E/C.19/2013/10 Study on indigenous women’s political participation at the international, national and local levels

E/C.19/2013/11 Study on the extractive industries in Mexico and the situation of indigenous peoples in the territories in which those industries are located

E/C.19/2013/12 Study on decolonization of the Pacific region

E/C.19/2013/13 Study on the rights of indigenous peoples and truth commissions and other truth-seeking mechanisms on the American continent

E/C.19/2013/14 Study on engaging indigenous peoples more inclusively in the process of disaster risk reduction by respecting linguistic and cultural practices of indigenous peoples known to be at risk

E/C.19/2013/15 Review of the World Bank operational policies, to analyze participation mechanisms on indigenous peoples and determine to what extent those policies respect the UN Declaration

E/C.19/2013/16 Consolidated report on extractive industries and their impact on indigenous peoples

E/C.19/2013/17 Study on how the knowledge, history and contemporary social circumstances of indigenous peoples are embedded in the curricula of education systems

E/C.19/2013/18 A Study on National Constitutions and the United Nations Declaration on the Rights of Indigenous Peoples

E/C.19/2013/19 Analysis prepared by the secretariat of the United Nations Permanent Forum on Indigenous Issues on health, education and culture

E/C.19/2013/20 Study on the impact of the mining boom upon indigenous communities in Australia

E/C.19/2013/21 Evaluation of the small grants programme on the Second International Decade of the World’s Indigenous People under the Trust Fund on Indigenous Issues

E/C.19/2013/22 Information received from non-governmental organizations in consultative status with the Economic and Social Council

E/C.19/2013/23 Information received from the United Nations system and other intergovernmental organizations addressing the recommendations of the United Nations Permanent Forum on Indigenous Issues

E/C.19/2013/24 Information from States on addressing the recommendations of the Permanent Forum on Indigenous Issues

CRP 1 A study on the Political Participation of Kenya's Hunter Gatherer Women in international and national Political Spaces

CRP 2 Decisions and Recommendations of the North American Indigenous Peoples' Caucus to the 12th Session of the United Nations Permanent Forum on Indigenous Issues and to other bodies and fora, as appropriate

CRP 3 Evaluación de la Declaración de las Naciones Unidas sobre los Derechos de los Pueblos Indígenas en Guatemala

CRP 4 Follow-up on the recommendations of the Permanent Forum on Culture including recommendations of the UNPFII 11th session in its Half-day discussion on the Rights of Indigenous Peoples to Food and Food Sovereignty.

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“World Bank Responds to Criticism over Financing Land Grabs,” Cultural Survival, April 10, 2013, <http://www.culturalsurvival.org/news/world-bank-responds-criticism-over-financing-land-grabs>, reported, **“The World Bank has finally responded to pressure from NGOs, rights activists and grassroots groups calling on an end to financing for land grabbing projects that allow the leasing of huge tracts traditionally occupied by the world's poorest and most disenfranchised to make way for large-scale corporate agriculture projects.** In their statement, released at the close of this week's World Bank Conference on Land and Poverty, Bank President Dr. Jim Yong Kim announced, "The World Bank Group shares these concerns about the risks associated with large-scale land acquisitions." "Securing access to land is critical for millions of poor people. Modern, efficient, and transparent policies on land rights are vital to reducing poverty and promoting growth, agriculture production, better nutrition, and sustainable development." He conceded that more efforts "must made to build capacity and safeguards related to land rights—and to empower civil society to hold governments accountable." The World Bank has been a key investor in land grabbing scandals across the developing world, despite their stated principles respecting Indigenous People's right to Free, Prior and Informed Consent before projects that affect their lands. Oxfam International has said the World Bank is in a unique position as both a financier and adviser to developing countries to ensure land deals are transparent and not forcing local communities off land they have farmed for generations. According to Oxfam, **more than 60% of investments in agricultural land by foreign investors between 2000 and 2010 were in developing countries with serious hunger problems. In these cases, food produced are not for sale locally but get exported to international markets. ‘The bank can set an example to investors and government that could help put a stop to these human rights abuses and ensure that investors genuinely help boost development in some of the poorest communities,’** Jeremy Hobbs, Oxfam's executive director, said. One of the controversial investments of the World Bank that is linked to land grabbing is its support for Ethiopia's Protection of Basic Services program. This government fund has been conducting a 'villagization' process in Gambella, Ethiopia that forcibly and violently removed Anuak and other Indigenous Peoples from their traditional lands to make way for foreign investment. An independent panel has been appointed to investigate claims from the refugees. *The Guardian* reports: ‘In a letter sent to the panel in September, the refugees say some people have been forcibly relocated from their land, which is now being leased to foreign investors. "These mass evictions have been carried out under the pretext of providing better services and improving the livelihoods of the communities," says the letter. "However, once they moved to the new sites, they found not only infertile land, but also no schools, clinics, wells or other basic services." It says the government forced them to abandon their crops just before harvest, and they were not given any food assistance during the move. "Those farmers who refused to implement the program ... have been targeted with arrest, beating, torture and killing," the letter says. The refugees say they "have all been severely harmed by the World Bank-financed [project], which is contributing directly to the Ethiopian government's villagization program in Gambella region". The World Bank continues to deny evidence that their funds are

linked to villagization and says they haven't encountered any human rights violations in the area.”

**Madeline Hall, “Indigenous Youth at the UN: Identity, Challenges, and Hopes,”** Cultural Survival, April 12, 2013, <http://www.culturalsurvival.org/news/indigenous-youth-un-identity-challenges-and-hopes>, reports, **“An international expert group meeting was held on January 29-31, 2013 at the UN Headquarters to discuss the challenges faced by Indigenous youth residing in UN member states.** Guided by the theme and subsequently titled “Indigenous youth: identity, challenges and hope: articles 14, 17, 21 and 25 of the United Nations Declaration on the Rights of Indigenous Peoples (UNDRIP),” the meeting focused on identifying areas of particular difficulty in developing identity among Indigenous youth and proposing subsequent recommendations to address these issues. In its summary report of the meeting, the UNPFII reviewed the conclusions drawn regarding obstacles to holistic and balanced identity formulation for Indigenous youth. While **social, economic, health-related and security-related issues characterize a difficult maturation process in general for Indigenous youth, the meeting viewed these challenges through the lens of identity development. Detailing the ways in which certain challenges specifically altered the development of Indigenous identity, the meeting reframed common issues to better understand overarching barriers to well-being among Indigenous youth. In particular, the group cited assimilation processes pursued by state governments, Indigenous language disappearance, traditional land insecurity, negative mainstream stereotyping of the indigenous experience, educational disconnect, and health concerns as the primary impediments to the free and unburdened development of identity.** The expert group recommended respective initiatives to be taken by Indigenous populations, member states, UN agencies, and the UN Permanent Forum on Indigenous Issues so as to combat the challenges faced by Indigenous youth on many levels. **The group called for increased participation by Indigenous youth in multiple levels of decision-making processes, increased support for the protection and revival of Indigenous languages, educational reform, and mitigating high rates of Indigenous youth suicide. By endorsing these initiatives and advocating their implementation on multiple levels, the group hopes to holistically address the obstacles to Indigenous youth identity development.** Discussion regarding the international framework pertaining to Indigenous youth focused on articles 14, 17, 21, and 25. These articles recognize **certain rights regarding access to education, conditions of labor, improvement of economic or social conditions, and security of spiritual relationships with land. However, member states and U.N. agencies have not been adequately implementing these articles,** thereby failing to properly address that which was identified as lacking. By holding the meeting, the participants sought to identify steps necessary to implement these articles more effectively in the interest of easing the process of identity definition for Indigenous youth. Despite the litany of difficulties faced by Indigenous youth in the process of their emotional maturation, the group **stressed the importance of identifying youth as survivors rather than victims of these challenges. Endorsing empowering frameworks of thought in relation to Indigenous youth, the group sought to reframe the negative perception of the Indigenous experience and bestow hope upon the alleviation of critical concerns.** The full report is available at: [http://www.un.org/ga/search/view\\_doc.asp?symbol=E/C.19/2013/3&referer=http://t.co/VmUEkvwEyf&Lang=E](http://www.un.org/ga/search/view_doc.asp?symbol=E/C.19/2013/3&referer=http://t.co/VmUEkvwEyf&Lang=E).

**“Campaign Update: Belize– International Advocacy to Hold Government Responsible,”** Cultural Survival, March 14, 2013, <http://www.culturalsurvival.org/news/campaign-update-belize-international-advocacy-hold-government-responsible>, reported, **“After traveling almost 2,000 miles to attend a hearing with the Inter-American Commission on Human Rights in Washington D.C. to speak out on the human rights violations against Maya peoples in Southern Belize, on March 13<sup>th</sup>, spokeswoman of the Maya Leaders Alliance Cristina Coc was informed that the hearing had been cancelled at the last minute; representatives of the government of Belize had failed to show.”** The charge is that, **“The Belize government has failed to properly consult Maya peoples of their plans for oil development in Southern Belize, including within the Sartsoon-Temash National Park, an area of primary forest that is the home to many engendered species. The government routinely ignores recommendations made by the Inter-American Commission and their obligations under the UN Declaration of the Rights of Indigenous Peoples. The State of Belize is even in contempt of domestic laws. The Supreme Court of Belize has prohibited the state from interfering with Maya lands and explicitly**

**ordered the halt of all oil and logging permits until a process of fully informed consent has been carried out.**

Cultural Survival and the Maya Leaders Alliance jointly submitted a recommendation for the country's upcoming Universal Periodic Review, a process by which the United Nations takes governments to task for failure to comply with human rights norms, which will occur in October 2013." Also in mid-March 2013, "Pablo Mis of the Maya Leaders Alliance, will be attending the 107<sup>th</sup> session of the Human Rights Council in Geneva, Switzerland. Shadow Reports were submitted by the Maya Leaders Alliance and other civil society bodies, and as well by Sarstoon-Temash Institute of Indigenous Management, which co-manages the National Park, along with Minority Rights Group International to expose the continuing human rights violations by US Capital Energy and the State of Belize." Then, in early May, **the Inter-American Commission on Human Rights has issued a statement condemning the State of Belize for violating the rights of Indigenous Peoples in the Toledo district. The Commission has been closely following the illegal extraction and destruction of natural resources conducted by foreign companies with support from the government of Belize since 2004, when they issued a recommendation that the government "delimit, demarcate and title the [Mayan] territory" and until that has happened, abstain from any projects that might affect these lands. US Capital Energy, a Texas-based oil company, has plans to extract oil from the Maya peoples' ancestral territory despite a disregard for the free, prior and informed consent of the local Mayan communities who will be affected May 7, 2013,** <http://www.culturalsurvival.org/news/campaign-update-belize-iachr-urges-belize-guarantee-rights-maya-communities>).

"Inter-American Commission on Human Rights Reviews Freedom of Speech in Guatemala," Cultural Survival, February 26, 2013, <http://www.culturalsurvival.org/news/inter-american-commission-human-rights-reviews-freedom-speech-guatemala>, reports, "On March 15, in Washington D.C., **the Inter-American Commission on Human Rights (IACHR) will hold a hearing during its 147<sup>th</sup> Period of Sessions concerning the freedom of expression of Indigenous Peoples in Guatemala. The hearing will address the status of community radio in Guatemala, which despite being guaranteed to Indigenous Peoples by the UN Declaration on the Rights of Indigenous Peoples, the 1996 Peace Accords, and the Guatemalan Constitution, is not legal under the country's current telecommunications law.**" Cultural Survival's Cesar Gomez along with Alma Temaj, Salvador Quiacain, and Leopoldo Zeissig represented the Guatemalan community radio movement. The hearing was transmitted live to community radio stations in Guatemala. **"For over a decade, Indigenous radio advocates have been lobbying the Guatemalan Congress to legalize community radio. For seven years, Cultural Survival, an Indigenous Peoples rights organization based in Cambridge, MA, has partnered with a network of over 80 community radio stations across Guatemala, many of which broadcast in one or more of the country's 23 Indigenous languages, in building the stations' capacity and supporting their legalization efforts. The proposed Community Media Bill, Initiative 4087, which would create legal authorizations for nonprofit community radio by allowing Indigenous Peoples equal access to the radio spectrum, has been awaiting congressional approval since 2010.** The community radio movement in Guatemala is racing against the clock. **Another piece of proposed legislation, Initiative 4479, proposed in July 2012, would criminalize the use of the radio spectrum for any actors not authorized to do so. The bill aims to take community radio stations that are fighting for legal recognition off the air. It would sanction the imprisonment of individual actors and representatives of radio stations that do not have legal authority to broadcast with a penalty of up to ten years in prison.** Both Bill 4479 and Bill 4087 have been recommended favorably by committees in the Guatemalan Congress, but so far neither have been scheduled on the congressional agenda."

### **Regional and Nation Developments**

Despite nation wide protests by Idle No More and others, the **Canadian parliament passed Bill C-45**, as part of the 2012 Jobs and Growth Act in late December 2012, a piece of **omnibus legislation containing amendments to the Indian Act facilitating the surrender of indigenous reserves. The amendments called for removing a requirement that all members of First Nations be involved in referendums about land**

**proposals. A provision funding changes of the Navigable Waters Protection Act entailed giving 99% of lake and river water to industry. Changes to the Fisheries Act were intended to eliminate critical environmental safeguards and review processes for natural resource exploitation.** For the Treaty 8 critique of Bill C-45, visit: <http://www.treaty8.ca/Grand-Chief-Office/Activities>.

Olesia Plokhii, “‘Legislation prevails’ over agreements: Aboriginal Affairs,” *IPolitics*, April 3, 2013, <http://www.ipolitics.ca/2013/04/03/legislation-prevails-over-agreements-aboriginal-affairs/>, reported, “**The Ministry of Aboriginal Affairs altered more than 600 annual funding agreements with Canada’s First Nations to ensure the deals, worth \$6.4 billion this year, to make clear that the deals could be superseded by future legislation**, the department said Wednesday. After weeks of pressure over changes made to the agreements — and a small but vocal group of First Nations leaders either abstaining from signing the deals or declaring they were signing under duress — the ministry said the changes were made to ensure that current or future legislation would trump the conditions of the deal.”

**The government of British Columbia**, at the end of May 2013, **urged the federal review panel not to build the \$6 billion pipeline to bring tar sands oil to coastal ports.** First Nations, whose land such a pipeline would have to cross, vehemently oppose the project (Ian Austen, “British Columbia Opposes Planned Oil Sands Pipeline,” *The New York Times*, June 1, 2012).

**The supreme Court of Canada upheld to a limited extent the land claims of the Metis against the Canadian government in *Manitoba Metis Federation Inc. v. Canada*** (Attorney General), 2013 SCC 14 (CanLII), decided March 8, 2013, [http://www.canlii.org/en/ca/scc/doc/2013/2013scc14/2013scc14.html?utm\\_source=twitterfeed&utm\\_medium=twitter](http://www.canlii.org/en/ca/scc/doc/2013/2013scc14/2013scc14.html?utm_source=twitterfeed&utm_medium=twitter). Since the Metis were not asking collectively, or individually, for title to specific parcels of land, but rather for a declaration that the Crown had failed to fulfill its duty to the Metis as prelude for negotiation with the government, the court ruled “**that the federal Crown failed to implement the land grant provision set out in s. 31 of the Manitoba Act, 1870 in accordance with the honor of the Crown.**”

**The British Columbia Supreme Court:** in an opinion on a decision over land use on Vancouver Island, Justice Gordon Weatherill, refused to reverse a decision by the provincial government, allowing Western Forest Products Inc. to remove 14,000 hectares land from a tree-farm license on the island's northern tip. In the course of his opinion, **Justice Weatherill encouraged the federal and provincial governments to engage the Kwakiutl First Nations on treaty rights, title and interests and negotiate a deal "without any further litigation, expense or delay."** He stated that **the provincial government has an ongoing duty to consult with the band in good faith and seek accommodation over the First Nation's claim of aboriginal rights, titles and interests.** A lawyer for a First Nation said that this could force the provincial and federal governments to implement a treaty first negotiated by the Crown more than 160 years ago., says. In response to the ruling, Louise Mandell, a lawyer for the band, said the Kwakiutl signed treaties with the Crown in the early 1850s, but the agreements were never implemented and were forgotten by the Crown (Kevin Drew, “Court decision could prompt talks over ancient First Nations treaty, says lawyer,” *The Star Phoenix*, June 18, 2013, <http://www.thestarphoenix.com/news/judge+rules+against+First+Nation+encourages+treaty+talks/8544212/story.html#ixzz2X5AcjiBq>).

**The Superior Court of Québec rejected the motion of the Innu TakuaiKAN Uashat mak Mani-utenam band council (ITUM), May 30, 2013, for a safeguard order seeking to halt the invasion of their traditional territory (their Nitassinan) to provisionally stop the deforestation Hydro-Québec is undertaking in preparation of the northern segment of the transmission lines for the La Romaine hydroelectric project.** The council intends to take whatever steps it can to stop the project, including appealing the decision. For more information contact Alexandra St-Onge McKenzie(418) 409-6573 (“Innu Council's Efforts to Halt La Romaine Hydroelectric Project,” Cultural Survival, May 30, 2013, <http://www.culturalsurvival.org/news/innu-councils-efforts-halt-la-romaine-hydroelectric-project>).

“Ottawa still blocking UN Indigenous peoples rapporteur from visiting“, *Turtle Island News*, March 14, 2013, [http://www.theturtleislandnews.com/daily/mailed\\_stories/mar142013/1visit.html](http://www.theturtleislandnews.com/daily/mailed_stories/mar142013/1visit.html), reports **that the Harper government continues to prevent the UN special rapporteur on Indigenous peoples, James Anaya, from visiting Canada, after more than a year**, as of March 14, 2013. In a Feb. 20, 2013 letter he sent to the Union of BC Indian Chiefs (UBCIC) Anaya wrote, “I have communicated with the government of Canada to request its consent for me to conduct an official visit to the country to examine and report on the human rights situation of Indigenous peoples there.” “I initially made the request in February of 2012 and am still awaiting a response from the government.” **Anaya went on to state, “If I do not receive a positive response from the government in the coming months, I can explore ways of meeting with First Nations leaders from Canada outside the context of an official visit.”**

**The Canadian Parliament voted unanimously, February 27, 2013, to launch a special committee on missing and murdered Native women, perhaps 600 of whom have disappeared across Canada in recent years. The committee’s mandate is to “conduct hearings on the critical matter of missing and murdered Indigenous women and girls in Canada, and to propose solutions to address the root causes of violence against Indigenous women across the country.”** While the committee falls short of AFN and other groups’ demand for a National Public Commission of Inquiry with powers to conduct a full-scale judicial investigation, many advocates described it as a very positive step forward (David P. Ball, “Canadian Parliament Unanimously Approves Launch of Missing and Murdered Women Committee,” ICTMN, March 1, 2013, <http://indiancountrytodaymedianetwork.com/2013/03/01/canadian-parliament-unanimously-approves-launch-missing-and-murdered-women-committee>).

**The Correctional Investigator of Canada, Howard Sapers reported to the House of Commons, March 7, 2013, finding that the aboriginal prison population had jumped in the last decade and that correctional authorities have not been living up to their obligations. The report, “Spirit Matters: Aboriginal People and the Corrections and Conditional Release Act,”** <http://www.oci-bec.gc.ca/rpt/oth-aut/oth-aut20121022-eng.aspx>, shows that **aboriginal inmates are sentenced to longer terms, spend more time in segregation and maximum security and are less likely to be granted parole.** The report notes: **from 2005-06 - 2013, there was a 43% increase in the Aboriginal inmate population. While First Nation people are 4% of the Canadian population, 23% of the federal incarcerated population is Aboriginal. One in three federally sentenced women offenders are Aboriginal, with the highest concentration in the Prairie Region.** The recent growth in correctional populations is primarily attributable to rising number of Aboriginal admissions and readmissions. **The report examined the implementation of Sections 81 and 84 of the *Corrections and Conditional Release Act* (CCRA), in the context of Supreme Court of Canada judgments in - *R. v. Gladue*, [1999] 1 S.C.R. 688** (<http://scc.lexum.org/decisia-scc-csc/scc-csc/scc-csc/en/item/1695/index.do>) that instructed judges to pay particular attention to the unique circumstances of Aboriginal people and their social histories when determining a suitable sentence for Aboriginal offenders. Section 81 of the Act allows for agreements to transfer care and custody of an Aboriginal offender who would otherwise be held in a federal penitentiary to an Aboriginal community facility. Section 84 provides for Aboriginal communities to be involved in the release of an Aboriginal offender returning to their community. **The report found in relation to s. 81: only four Section 81 agreements have been concluded with Aboriginal communities since 1992; there are only 68 Section 81 bed spaces across Canada (capacity for just 2% of some 3,500 Aboriginal inmates); no Section 81 agreements have been signed in BC, ON, Atlantic or in the North; no new Section 81 facility has been added since 2001, despite a 40% increase in Aboriginal incarceration; three of four Section 81 facilities are on reserve land, yet most Aboriginal offenders are released to an urban setting. In relation to s. 84, the major shortcomings underlined by the report were: under-utilized in federal corrections (of some 19,000 federal correctional services employees, just 12 Aboriginal Community Development Officers); overly complex and bureaucratic exercises not well understood within or outside the federal correctional service.** The report proposed a number of recommendations to help correctional services address factors that would help mitigate the chronic over-representation of Aboriginal people in federal penitentiaries, including: creating



the position of Deputy Commissioner for Aboriginal Corrections to coordinate programs; developing a long-term strategy for additional Section 81 agreements and significantly increasing the number of bed spaces in areas where the need exists; in all these agreements, correctional services should enter into Memoranda of Understanding with the appropriate agency or First Nation leadership to ensure that the leadership and Elders are involved as equal partners; expanding staff training curricula to include in-depth training about Aboriginal people, history, culture and spirituality for all staff, including training in the application of *Gladue* principles to correctional decision-making; partnering with Aboriginal organizations to develop protocols for Section 84 releases into their respective communities ("Aboriginal Inmates Almost One Quarter of Canadian Prison Population," March 7, 2013, <http://www.slaw.ca/2013/03/07/aboriginal-inmates-almost-one-quarter-of-canadian-prison-population/>).

U.S.-based Human Rights Watch (HRW) released a report, "Those Who Take Us Away," in mid February 2013, based on interviews of 50 aboriginal women and girls in numerous communities, charging officers of the Royal Canadian Mounted Police (RCMP) with wide spread abuse of First Nation women, including police officers gang raping one woman, stripping, sexually abusing or raping several detainees in custody, and creating a "constant state of fear" in victims. The RCMP promised, February 13, to investigate the claims. However, the RCMP said it has no intention of launching a "large-scale inquiry" into the accusations, deferring the matter to the newly formed B.C. Independent Investigations Office, which responds to misconduct claims (David P. Ball, "Human Rights Watch Details Alleged Abuse, Rape, of Aboriginal Women by RCMP Officers in British Columbia, *ICTMN*, February 14, 2013, <http://indiancountrytodaymedianetwork.com/2013/02/14/human-rights-watch-details-alleged-abuse-rape-aboriginal-women-rcmp-officers-british>).

"U. Manitoba to house huge residential schools research centre," "On Campus," *MacLeans*, June 21st, 2013, <http://oncampus.macleans.ca/education/2013/06/21/u-manitoba-to-house-huge-residential-schools-research-centre/>, <http://oncampus.macleans.ca/education/2013/06/21/u-manitoba-to-house-huge-residential-schools-research-centre/> reports, "The University of Manitoba is set to become 'Canada's national memory' of the country's residential schools and the experience of those who spent their childhood institutionalized there. The university will house the national research centre for residential schools as part of the Truth and Reconciliation Commission."

Increased violence in rural southwestern Mexico has brought citizens in a number of communities in the region to arm themselves and police their communities, illuminating the lack of government security in their locals (Karla Zablodovsky, "Mexican Violence Prompts Self-Policing by Civilians," *The New York Times*, January 27, 2013).

An upsurge of violence in Mexico, particularly in the southwestern state of Guerrero, faced newly elected president Enrique Peña Nieto, even as he presented the crime prevention program he had campaigned on declared as the government's top priority. Officials in the government have stressed that they want to move away from the approach of former President Felipe Calderón, who heavily enlisted the military and the federal police against crime gangs. However, the new government has taken a similar approach to the recent spikes of violence. One aspect of the new approach is that government officials have promised closer coordination between the federal police and the state authorities, and another is putting an emphasis on crime prevention. A major part of the program is creating an interagency commission that would spend \$9 billion in the coming years in 250 of the most violent cities and towns, beginning with the worst. The plan envisions longer school days, drug addiction programs and other social efforts in addition to public works projects, with specifics to be developed as the program unfolds. The program resembles a plan President Calderón put in place a few years ago in Ciudad Juárez, one of the deadliest cities in Mexico, but government officials said that while they studied that project, they believed that their plan differed in ambition and scope. While most people agree that such programs are needed, many security analysts criticized the former President for not attacking corruption by building effective, accountable local and state police and judicial institutions, a huge project that President Peña Nieto so far has not moved to undertake (Randal C.

Archibold, “Unabated Violence Poses Challenge to Mexico’s New Anticrime Program,” *The New York Times*, February 18, 2013, [http://www.nytimes.com/2013/02/19/world/americas/mexico-anticrime-plan-challenged-by-unabated-violence.html?pagewanted=all&\\_r=0](http://www.nytimes.com/2013/02/19/world/americas/mexico-anticrime-plan-challenged-by-unabated-violence.html?pagewanted=all&_r=0)).

ICG, “Peña Nieto’s Challenge: Criminal Cartels and Rule of Law in Mexico,” Latin America Report N°48, March 19, 2013, <http://www.crisisgroup.org/en/regions/latin-america-caribbean/mexico/048-pena-nietos-challenge-criminal-cartels-and-rule-of-law-in-mexico.aspx>, comments, “**After years of intense, cartel-related bloodshed that has claimed tens of thousands of lives and shaken Mexico, new President Enrique Peña Nieto is promising to reduce the murder rate. The security plan he introduced with the backing of the three biggest parties gives Mexico a window of opportunity to build institutions that can produce long-term peace and cut impunity rates. But he faces many challenges. The cartels have thousands of gunmen and have morphed into diversified crime groups that not only traffic drugs, but also conduct mass kidnappings, oversee extortion rackets and steal from the state oil industry. The military still fights them in much of the country on controversial missions too often ending in shooting rather than prosecutions. If Peña Nieto does not build an effective police and justice system, the violence may continue or worsen. But major institutional improvements and more efficient, comprehensive social programs could mean real hope for sustainable peace and justice. The development of cartels into murder squads fighting to control territory with military-grade weapons challenges the Mexican state’s monopoly on the use of force in some regions. The brutality of their crimes undermines civilian trust in the government’s capacity to protect them, and the corruption of drug money damages belief in key institutions. Cartels challenge the fundamental nature of the state, therefore, not by threatening to capture it, but by damaging and weakening it. The military fight-back has at times only further eroded the trust in government by inflicting serious human rights abuses. Some frustrated communities have formed armed “self-defense” groups against the cartels. Whatever the intent, these also degrade the rule of law.** There has been fierce discussion about how to legally define the fighting. The violence has been described as a low-intensity armed conflict, a kind of war, because of the number of deaths and type of weapons used. The criminal groups have been described as everything from gangs, drug cartels and transnational criminal organizations, to paramilitaries and terrorists. The Mexican government, much of the international community and many analysts reject the idea there is anything other than a serious criminal threat, even though those criminal groups use military and, at times, vicious terror tactics. The army and marines, too, thrown into the breach with limited police training and without efficient policing methods, have often used intense and lethal force to fight the groups, killing more than 2,300 alleged criminals in a five-year period. Within the grey world of fighting between rival cartels and security forces, there is much confusion as to who the victims of the violence are, and who killed them or made them disappear. Estimates of the total who have died in connection with the fighting over the last six years range from 47,000 to more than 70,000, in addition to thousands of disappearances. Cartel gunmen often dress in military uniforms and include corrupt police in their ranks, so people are unsure if they are facing criminals or troops. A victims movement is demanding justice and security. Mexico has also lost hundreds of police and army officers, mayors, political candidates, judges, journalists and human rights defenders to the bloodshed that is taking a toll on its democratic institutions. The cartel violence began to escalate in 2004, when Vicente Fox was president and immediately after the domestic U.S. legislative ban on assault weapons expired. President Felipe Calderón launched an offensive against the criminal groups in 2006. It was backed by the U.S. under the Mérida Initiative and included deployment of 96,000 army troops, together with thousands of marines and the appointment of dozens of military officers as police chiefs in towns and cities. Calderón oversaw record seizures of cocaine, crystal meth and drug money, while security forces captured or killed 25 of the 37 most wanted cartel bosses. However, violence between rival criminal groups and the security forces shot up rapidly, while the army, previously one of Mexico’s most respected institutions, came under scrutiny for widespread human rights abuses. The crackdown was also hindered by corruption, with police and military, as well as prosecutors, investigators and politicians being arrested for working with cartels, sometimes as killers. Peña Nieto, who took office on 1 December 2012, has won broad consensus from the major political parties in support of a security plan. **It promises to implement police and justice reforms, including overhauling a deficient judicial system and confronting the challenge of Mexico having more than 2,000 police forces that operate independently at the federal, state and municipal levels. For these reforms to succeed, the government must train police to both respect human rights and**

build strong cases that stand up under the new trial system. A practice promoted under Calderón of vetting police needs to be expanded and procedures established to gradually remove those who fail. Resources, including from the U.S., have shifted significantly to such institution building and away from the early emphasis on giving the military helicopters and other hardware. Now it is essential to review how to maximize and sustain the impact. Effective police and courts are crucial to reducing impunity in the long term. The Peña Nieto administration also needs to follow through on its announced national crime prevention plan, aimed especially at helping young people in the most violent areas. The cartels have been able to recruit tens of thousands of killers in part because poor neighborhoods have been systematically abandoned over decades and lack sufficient schools, community centers and security – in short they lack opportunity. There are many dedicated Mexican social workers with the experience and ability to reach the vulnerable groups if they are given resources. While funding to help these programs is money well spent, Washington also needs to better control trafficking in guns, especially assault rifles, from U.S. suppliers, who are a principal source of arms for the cartels. International leaders need to engage in a serious debate on counter-narcotics policies, including strategies to curtail both production and consumption. While Mexico's cartels have become diversified crime groups, they still make billions of dollars every year trafficking drugs to the U.S., money that pays for guns, killers and corruption. At the global level, it is past time to re-evaluate policies that have failed to prevent illicit drugs from maintaining dangerous levels of addiction and to reduce the corruption and violence associated with drug production and trafficking. Discussions to be opened at the Organization of American States (OAS) and at the 2016 Special Global Drug Policy Session of the UN General Assembly provide new ground for a serious review. After suffering so much from the violence, Mexico is a natural leader for this debate. The Mexican case is pertinent for countries across the world facing similar challenges. The development of criminal cartels capable of funding killers with military-grade weaponry is also a danger to other nations in the Western hemisphere, in West Africa and Central Asia. The international community has much to learn from the efforts of the Mexican government and society to overcome these challenges. If they succeed in reducing violence, theirs can become a security model to follow instead of one to fear.

As Mexico and other Latin American nations shift away from a war on drugs, the United States is also stating publicly that it is shifting its Latin American drug policy to put more emphasis on developing economies and putting less emphasis on attacking drug cartels. What the announced policy shift will mean in practice is not yet clear, as of the beginning of May, 2013 (Michael D. Shea and Randal C. Archibold, "In Latin America, U.S. Focus Shifts From Drug War to Economy," *The New York Times*, May 4, 2013, <http://www.nytimes.com/2013/05/05/world/americas/in-latin-america-us-shifts-focus-from-drug-war-to-economy.html?ref=todayspaper>).

Kent Paterson, "We are All Guerrero": Mexico's New Popular Revolt Takes on the State," *Americas Program*, April 22, 2013, <http://www.cipamericas.org/archives/9403>, comments, "Catalyzed by a teachers' strike against federal education reform, a new popular movement is gaining momentum in Mexico. And in expanding its agenda to encompass long-standing grievances ranging from environmental destruction to insecurity and indigenous rights, the movement is posing a serious challenge to not only the policies of new President Enrique Peña Nieto, but the broader economic and political direction of a country ravaged by three decades of neo-liberalism as well. In the southern state of Guerrero, two mass demonstrations this month (which drew between 50,000 and 120,000 people each, according to different press accounts) exhibited the growing strength and future potential of the popular uprising. In both instances, teachers, students, small farmers, labor union members and housewives, Mestizo and indigenous alike, jammed the streets of the state capital of Chilpancingo in a show of unity by the newly formed Guerrero Popular Movement (MPG). Declaring the defense of public education as its first priority, the MPG has also taken stands against new mining projects, privatization of the national oil company PEMEX and increasing the 16 percent national sales tax." "Significantly, the indigenous Regional Coordinator of Community Authorities (CRAC) forms part of the MPG's backbone. Representing more than 120 indigenous communities (with another 50 communities reportedly on the road to membership) in the Costa Chica and La Montaña sections of Guerrero, the CRAC is the leadership body of the highly-popular community policing and justice system in indigenous regions of the state, which stands as an alternative to the top-down, centralized policing system

being implemented by the Pena Nieto administration and the nation's governors.”

“**The Community Police of Guerrero, Confronting the Greatest Threat in its Existence,**” Americas Program, February 12, 2013, Posted by Desinformemonos, <http://www.cipamericas.org/archives/9015>, discusses the community policing aspect of the struggle in Guerrero state, Mexico between local communities seeking autonomy and the government and interests opposing local autonomy.

**Human Rights Watch (HRW)**, in late February 2013, issued a report charging that **149 known people (and likely others not yet identified) have been disappeared by Mexico's police and military in the course of the nation's "drug war", with little or no investigation of the cases.** The human rights organization stated that this is “the most severe crisis of forced disappearances in Latin America in decades.” HRW found **evidence in 60 cases that police officials had colluded with drug cartels in the abductions** (Randall C. Archibold, “Group Faults Mexico Over Missing People,” *The New York Times*, February 21, 2013).

Kent Paterson, “Mexico's Human Rights Crisis Deepens,” Americas Program, March 29, 2013, <http://www.cipamericas.org/archives/9265>, comments, **“In the first few months of the administration of Mexican President Enrique Pena Nieto, the human rights thermometer is burning red. Although officials from the new administration embrace human rights in their discourse, events on the ground tell another story. Migrants, indigenous communities, women, social activists, journalists and many others confront mounting threats. Moreover, landmark sentences in verdicts previously handed down by the Inter-American Court of Human Rights against the Mexican state remain uncompleted, even while new complaints pile up in the Washington, DC-based Inter-American Commission for Human Rights (IACHR).** The depth of the human rights crisis was more than evident when Mexican activists and human rights attorneys presented several new cases to the IACHR at its March session in Washington. Among the complaints were the May 2006 rapes and sexual assaults of women protestors in San Salvador Atenco, a rural town outside Mexico City that had long been at loggerheads with the government.” “The IACHR commissioners also heard presentations about the highly questioned 2001 death of human rights lawyer Digna Ochoa, the displacement of six indigenous Raramuri and Tepehuan communities in Chihuahua, the systematic media exhibition of suspects before trial, and the persistence of forced disappearance. In response to victims' testimonies, an official Mexican delegation outlined the new administration's initiatives and vowed to keep human rights as a pillar of policy. The Foreign Relations Ministry (SRE) reiterated the government's ‘commitment to advance in national human rights efforts, deepen its dialogue with civil society organizations and maintain cooperation with the Inter-American Commission on Human Rights of the Organization of American States.’” “Capping the session, **a network of more than 80 Mexican non-governmental organizations requested that the IACHR conduct a fact-finding tour of Mexico, which would be the first such visit since 1996.**” “Even as the IACHR met in Washington to consider past abuses, new attacks against activists, activists and journalists were unfolding in Mexico. **Members of the Guerrero state Truth Commission, established by the state government to uncover the fates of more than 600 people forcibly disappeared in the state by government security forces during the Dirty War of the 1970s, recently reported receiving warnings to desist from their probe.** On March 13, Guerrero state police arrested Rocio Mesino, leader of a faction of the Campesino Organization of the Southern Sierra Madres (OCSS), on a murder charge. Supporters immediately denounced the charge as trumped up to neutralize the internationally known activist and former elected official. The arrest came at a moment when the OCSS was discussing the possibility of forming an independent community police force in the region around the troubled town of Atoyac de Alvarez. Mesino was jailed in the notorious Acapulco penitentiary, but released less than a week later after protests and a ruling by a judge that there was no evidence to substantiate the murder charge. Since the formation of the OCSS in 1994, dozens of its members have been jailed or murdered.” “**On the deepening tragedy of the Central American exodus across Mexico, activists are sounding the alarm bell that the extortion, sexual abuse and other crimes committed against migrants passing through the country on their way to the U.S continue unabated under the Pena Nieto administration.** In a communiqué, **Amnesty International charged that the new authorities have failed to take ‘any steps toward correcting the absolute failure of the previous government to confront this humanitarian crisis.’** On March 17, the Mesoamerican Migrant Movement (MMM) publicized death threats against Father Tomas Gonzalez, director of a church-associated migrant shelter in Tenosique, Tabasco, one of the first major stops in the long route from Central

America that is crowded by criminal gangs and Mexican officials who prey on migrants, according to numerous accounts by migrants and their advocates.” “The **first few months of the Pena Nieto era have been a bleak time for the press. As the new year rolled forward, *El Siglo de Torreon* and *El Diario de Juarez* newspapers were attacked by gunmen, as was Channel 44 in Ciudad Juarez.** On March 3, journalist Jaime Guadalupe Gonzalez Dominguez was murdered in the border town of Ojinaga, Chihuahua. In the south, photojournalist Felix Marquez of the prestigious *Cuartroscuro* magazine fled Veracruz after the state’s highest ranking public security official made intimidating comments about Marquez’s photos, which portrayed an armed community self-defense group authorities denied existed. Anabel Hernandez, the author of a book that ties government officials with drug trafficking, told the press she had canceled a presentation in the state of Chihuahua because her safety would be in jeopardy. The sounds of silence also shrouded Coahuila, where El Zocalo newspaper chain announced it will no longer report on organized crime as a preventative measure to protect the safety of its staff. El Zocalo followed in the footsteps of the long-silenced local press in neighboring Tamaulipas state, where the dangers posed to a misinformed or uninformed society were rudely illustrated in the border city of Reynosa when rival factions of the Gulf drug cartel engaged in large-scale shootouts that paralyzed the town this month. **Stripped of a vigorous local media, residents had to rely on social media and press outlets in neighboring McAllen, Texas, for vital life-and-death news.** Surveying the media scene, Ciudad Juarez sociologist Carlos Murrillo Gonzalez warned of a growing threat to the greater body politic. “Censorship, curfews, silence and anonymous denunciations become the tools to further divide society,” Murrillo wrote in the Arrobajuarez.com portal. The latest assaults on the press solidify the trend of aggression and impunity. A March report by the international press advocacy organization Article 19 documented 207 aggressions against the Mexican press in 2012- a year in which such incidents rose 20 percent over the previous one- including 7 murders, 2 disappearances, 8 kidnappings and 98 physical assaults. Significantly, Article 19 determined that nearly half of the aggressions (44 percent) were attributable to government officials. ‘A law was passed in 2012 making killing a journalist a federal crime, and requiring that all cases are investigated by the attorney general. This system is not working,’ Article 19 noted. The advocacy group called on the President of Mexico to put real teeth into the special prosecutor charged with investigating crimes against journalists. In the months and years ahead, the Pena Nieto administration’s overall commitment to human rights and the rule of law will be tested by its compliance with obligatory sentences flowing from five cases ruled on by the Inter-American Court of Human Rights during the former presidency of Felipe Calderon.” For More Information: Videos of IACHR March 2013 Mexico sessions <http://www.oas.org/es/cidh/audiencias/Hearings.aspx?Lang=en&Session=131&page=2>; Mexican civil society network 2013 report on human rights to the IACHR (Spanish); [http://www.redtdt.org.mx/d\\_informes/d\\_visual.php?id\\_publicacion=191&descargable=147%20InformeFinalCIDHMexico2013.pdf](http://www.redtdt.org.mx/d_informes/d_visual.php?id_publicacion=191&descargable=147%20InformeFinalCIDHMexico2013.pdf); Nuestras Hijas de Regreso a Casa <http://www.muieresdejuarez.org/>; Miguel Agustin Pro Juarez Human Rights Center <http://www.centroprodh.org.mx/>; Justicia Para Nuestras Hijas (Justice for Our Daughters) <http://justiciaparanuestrashijas.blogspot.com/>; Centro de Derechos Humanos de las Mujeres (Women’s Human Rights Center) <http://cedehm.blogspot.com/>.

Jonathan Treat, “Bullets Fired Toward Protestors on the Anniversary of Slain Activist,” *Americas Program*, March 31, 2013, <http://www.cipamericas.org/archives/9300>, “A **nonviolent protest on March 15 at Fortuna Silver’s Trinidad/Cuzcatlán mine in San José del Progreso turned tense, when pro-mine groups surrounded and fired shots toward local community activists, national and international human rights observers and journalists in this small Zapotec town in Oaxaca, Mexico. Some 200 people gathered to symbolically close the Canadian mine to commemorate the one-year anniversary of the assassination of community activist Bernardo Vásquez. Vazquez was a leader of the Coordinating Committee of the United Peoples of the Ocotlán Valley (COPUVO), a coalition of environmental and community rights defenders opposed to mining in their region.**”

“Campaign Update– Mexico: Demands Issued to New President,” Cultural Survival, February 11, 2013, <http://www.culturalsurvival.org/news/campaign-update-mexico-demands-issued-new-president>, reported, “**Indigenous activist groups in Mexico held a press conference on February 7th announcing the delivery of a letter to Mexican President Peña Nieto. The urgent letter, addressed to people and governments of the world, ratified a series of urgent demands regarding the defense of Wirikuta, one of the most important**

**sacred sites of the Wixarika people, which is threatened by silver mining.** Authorities and community representatives reiterated that the Wixarika people maintain one united voice against mining and agroindustries within their sacred territory. Together **they demand: That the government uphold international and national conventions that protect the rights of Indigenous Peoples; The cancelation of any mining projects in the Wirikuta area; The establishment of a protected Bio-Cultural reserve surrounding Wirikuta; Honest and straightforward communication with the company and the government.** This is the first formal letter to Peña Nieto since he took office in December, and a start to a new strategy of advocacy by the Wixarika during which they hope to host deep regional dialogue with residents of Wirikuta, the government, scientists and economists. The date marks one year since a massive pilgrimage to the Cerro Quemado, a mountain the Wixarika believe represents the birth place of the sun, and is included in the mining concession given to the Canadian-owned First Majestic Silver. In preparation for this year's 300-mile pilgrimage to the Cerro Quemado groups have expressed concern for their safety along the route that bisects lands near the to the company. They have requested that officials from the state's human rights commission to accompany their pilgrimage through those areas. The text of the letter is available in English at the above web address, and in Spanish at: <http://frenteendefensadewirikuta.org/wirikuta/?p=3665>.

Adazahira Chavez, "Community Organization Against Wind Farms in Oaxaca," *Americas Program*, March 12, 2013, <http://www.cipamericas.org/archives/9170>, reported, "The real **strength of the villages that are fighting against expropriation of their lands for expansion of wind farms in Oaxaca lies in their traditional system of community assemblies. The assembly decided to reject the Mareña Renovables project and a proposed government consultation on it for failing to respect their rights as indigenous peoples.** After a February 17 Caravan of Solidarity with the people of Alvaro Obregon, Oaxaca's Secretary of Interior, Jesus Martinez Alvarez said he would respect the will of the people. But he later retracted his statement and since then the government's campaign to discredit the inhabitants and organizations who oppose the Spanish multinational project has intensified." "**Villagers complain that more than a decade ago the Oaxaca state government created a kind of "wind energy mafia" and granted illegal concessions to companies, mostly Spanish, such as Iberdrola, Union Fenosa and Preneal. These companies obtained permits through corrupt local authorities.**" "They protest that the electricity produced by wind farms is mainly for large companies such as Wal Mart, FEMSA, Heineken, Cemex and Bimbo. They also point out in the letter that these companies receive the electricity at very low costs, 'while communities pay very high rates, and suffer prosecution if they cannot afford the high electricity fees.'" "The assemblies highlighted the importance of their movement against Mareña Renovables. **The project, they say, has funding from the Inter-American Development Bank (IDB) and 'will irreversibly affect a sandbar and mangrove forest that divide the Upper and Lower lagoons of the Isthmus. This sandbar, called Barra de Santa Teresa, is an essential part of the fragile ecosystem on which our fishing peoples Ikojts and Binizaa depend,' they state in the document. Consistent and frequent aggressions towards opponents have been occurring since November 2012, when the company arrived to build on the Barra de Santa Teresa.** Police accompanied them, restricting people's access to their own land. When they arrived, villagers were able to take on the duo business-government by setting up a permanent surveillance encampment, but they paid for it in beatings and arrests. Since then, the locals have suffered constant police raids and death threats. Penalzoza said that the most recent episode occurred on Feb. 1 and 2, 2013 when inhabitants of Alvaro Obregon had to repel the aggression of hundreds of police who wanted to evict the camp, but ended up fleeing on foot to Juchitán. This raid occurred even though residents got an injunction against further construction on the Mareña Renovables wind farm in Barra de Santa Teresa because "it jeopardizes the use and enjoyment of the commons area for the community," says Penalzoza. In addition, the company "has no environmental impact statement" because the Ministry of Environment and Natural Resources (SEMARNAT) revoked it, Penalzoza notes. The activist also said that gunmen show up at assemblies with a list in hand, looking for activists including Carlos Beas, Bettina Cruz, Mariano López Gómez, Alejandro López López and Peñalzoza himself. There are not conditions for a consultation because of the presence of paramilitaries established by Mareña Renovables, as well as the millions of pesos that have been funneled to local officials, mayors and for buying off state and regional press, Penalzoza said. "They just sent nine journalists to Denmark", where they speak in favor of wind power, he complained. With this tense atmosphere, the assemblies of San Dionisio del Mar, Alvaro Obregon, San Mateo del

Mar, San Francisco del Mar and Juchitán – where less than a week ago they formed the Popular Assembly of the Juchiteco People against the Fenosa Natural Gas Project says Penalzoza – have agreed to oppose the project, and to reject the consultation and negotiations with the government.” “The community assembly is very clear that the enemy is transnational capital and the three levels of government, and the Ikjots and Zapotec people are allies that are starting to organize around the defense of their territory,” said the activist. The assemblies determined that there will be no more negotiating commissions with the government so as to avoid the cooptation of leaders. If officials want to dialogue, they will have to go to communities to speak in a public forum that will be open to the demands and decisions of the community assembly.”

Annie Bird, “Development or Armed Robbery: World Bank Funding, SouthCom Militarization Displace Indigenous and Campesino Communities,” *Americas Program*, April, 2013, <http://www.cipamericas.org/archives/9445>, comments, **“As foreign investment in mines and dams throughout Guatemala and Honduras have indigenous communities under threat and violent attack,, the World Bank flagrantly violates international law. On April 10 it conducted a “consultation” relating to a revision of the Bank’s “Safeguard” Operational Policies that communities affected by the project were not invited to and that they considered a sham. Echoing the coupling of foreign investment with militarization, the Commander of the US Military Southern Command visited Guatemala at the same time as the World Bank’s ‘consultation.’ He attended the inauguration of a newly constructed military base, and confirmed over \$25 million in assistance for that base.”** Not invited or attending, the World Bank April 10, 2013 “consultation” in Guatemala City regarding the restructuring of the safeguards that form part of the World Bank’s Operational Policies were tens of **thousands of families impacted by mines and dams in Guatemala and Honduras. Among these were “11,000 Maya – Achi families displaced in 1982 by the Chixoy Dam in Guatemala, the Lenca community of Rio Blanco in Honduras who are today blocking roads illegally built on their land to access to the Agua Zarca dam project they rejected, the Xinca communities in Guatemala who oppose the U.S.–Canadian owned Tahoe Resources silver mine whose leaders were recently kidnapped and were quickly arrested on April 12 after they mobilized to block the mines entrance, the Garifuna communities of Honduras’ North Coast who demand collective titles for their lands while opposing the Model Cities project, and the campesino communities of the Aguan who have lost 96 members and allies to apparent death squad violence since 2010. Though the World Bank and its member states are not complying with international law such as the United Nations Declaration on the Rights of Indigenous People, the UN Charter and International Labor Organization’s Charter 169, it is the indigenous and campesino communities that are criminalized on the pretext of law enforcement and brutalized by militarization carried out in the framework of the Central America Regional Security Strategy, backed by the US, Canada, the Inter American Development Bank and the World Bank, among others.”** The violent repression of local communities, usually resisting nonviolently, has been in progress for decades and continues, “On April 7, 2013, a Honduran police commander, in blatant disregard for the community’s land title, threatened to evict Rio Blanco communities affected by the Agua Zarca dam who were blocking a road in their land, while bragging he had participated in the violent evictions in the Aguan region. The Lenca federation, COPINH, denounces that the Agua Zarca dam is funded by the Honduran Bank FICOHSA, and is a joint project of the Chinese energy giant SINOHYDRO and the Honduran concession holder DESA. In September 2011, the World Bank’s International Finance Corporation’s Asset Management Company announced it had approved a \$70 million capital investment in the Honduran Banco FICOHSA, the IFC Asset Management Company’s first investment in Central America. FICOHSA’s principal shareholder Camilo Atala explained the IFC funds will ‘strengthen our capacity to support...large projects that are essential for the country’s economic and social development.’ Communities impacted by the dam have held consultations and rejected the dam. The Agua Zarca dam is also funded by the multilateral bank, the Central American Bank for Economic Integration.” In addition to the new base in Guatemala, the Southern Command made a “donation of a fleet of green Ford F-150’s to the Honduran military in 2010. One of these trucks was used in the in May 2012 **killing of an unarmed 15 year-old boy shot in the back by agents from a U.S.-trained military unit engaged in policing. The vehicles have also been circulating in the Aguan, where reports indicate police and military units collaborate in death squad killings. There 96 campesinos and their associates have been killed in the context**



of a land conflict with World Bank-funded palm oil corporations. The U.S. Special Operations Command South through SouthCom is also building base installations for the 15th Battalion in the Aguan.” “The announcement of US assistance to the military/ police task force in Guatemala comes less than a week after the current president, Otto Perez Molina, a former general who in 1995 was reported to be a CIA asset, was named in court as responsible for ordering the massacre of Maya-Ixil villages in 1982 and 1983. The witness, former soldier Hugo Reyes, made the declarations during the trial of former military dictator Rios Montt on genocide charges. Rios Montt ruled the country during some of the Chixoy-related Rio Negro massacres of Maya-Achi people. Bernal also named Colonel Juan Chiroy Sal as a material and intellectual author of the Ixil genocide. Chiroy Sal was arrested in October 2012 on charges related to the October 4 massacre of six Maya-Quiche protestors opposing hikes in electricity prices, a subject of tension since the electrical distribution was privatized ten years before. Chiroy Sal was acting as commander of the Presidential Honor Guard when he ignored orders from the National Civil Police to stop, advising him military participation in control of the protest was not warranted, and guided his elite unit to confront the protestors. **Human rights advocates criticize military actions in a policing role. At the time of the massacre, 200 U.S. Marines were in Guatemala as part of Operation Martillo, training Guatemalan military in policing activities. Guatemalan justice reform advocates denounce that since Otto Perez Molina assumed the presidency last year, the military, with U.S. backing, is being integrated into policing functions.**” Before the militarization began, apparently in response to years of efforts to reform the justice system, Guatemala’s murder rate dropped for the first time in 12 years—a dramatic reduction from 46 per 100,000 in 2009, to 41 in 2010, then to 38.6 per 100,000 in 2011. The trend continued in 2012, dropping to 32 per 100,000. However, in the first quarter of 2013, after militarization began, gains made in 2011 and 2012 began to disappear, and the murder rate rose 10% in just three months. **On March 18, the Campesino Unity Committee, CUC, the organization with which Rigoberta Menchu worked before receiving the 1992 Nobel Peace Prize, denounced that “an organized crime group paid by businessmen and landholders is systematically murdering indigenous and farm worker leaders,” exactly the manner in which the UN-backed truth commission described the emergence of the death squads in the 1970s.** CUC’s denouncement followed the March 17, 2013 murder of a Xinca indigenous leader and the kidnapping of three others as they returned home from a consultation on a proposed US- Canadian Tahoe Resources- Goldcorp silver mine in San Rafael, Santa Rosa.” “Organized in COCAHICH, the Chixoy dam’s victims sent a letter on April 9, 2013 to the Banks stating they would not be attending the “consultation.” (Were some invited and others not?) Despite 18 years of high-level meetings with the Banks, Chixoy dam survivors were not invited. Exactly three years before, **on April 9, 2010, COCAHICH and the Guatemalan government signed an agreement in which the government assumed responsibility to provide reparations to the 11,000 people impacted by the dam. Not one cent has been paid.** The agreement was based on a study of damages commissioned by a negotiating group mediated by the Organization of American States, in which the World Bank, Inter American Development Bank and the United Nations High Commissioner on Human Rights participated as witnesses. All parties signed and accepted the damages assessment. That **assessment found that the World Bank violated several internal regulations relating to the environment and indigenous people, regulations established in 1972, 1974, 1981 and 1982. The assessment further found that the Banks had failed in their responsibilities to monitor the project, and even after learning of problems with resettlement the Banks continued to disperse loans for the project. COCAHICH calls on the Banks to not authorize loans to Guatemala until the dam’s victims begin to receive agreed upon reparations, and further, COCAHICH calls on the Banks to pay the reparations.** Some loans from the WB and IDB for Chixoy charged 7.5% and 9.25% in interest;[27] the people of Guatemala paid over a hundred million dollars in interest on loans incurred by military dictators they had not elected.” “ The Chixoy dam case calls attention to **several problems with the Banks safeguards. First, the Banks do not always comply with their own safeguards.** The World Bank was established as a specialized agency of the United Nations. As such it is obligated by law to accomplish the purposes and objectives established in article 55 of the UN Charter, the promotion of universal respect for human rights. The WB has repeatedly failed in fulfilling that obligation. **The Banks safeguards are not even in line with international law, and may be further weakened in a revision scheduled for 2014.** For example, **the policy regarding indigenous peoples does not incorporate the principals established in the UN Declaration on the Rights of Indigenous People (UNDRIP), adopted by the General Assembly in 2007.**” “Most recently, in

Honduras, the WB's private sector lending arm, the IFC, approved two loans to a palm oil corporation accused of coordinating death squad activities with the Honduran military and police; campesino movements have denounced 96 related murders. While one of the two loans, to the Dinant Corporation, is being audited after the first half, \$15 million dollars, the second loan, to the Oleoproductos Corporation, was dispersed in full.

Disbursements on both loans were made during a coup regime not recognized by nations in the region, which ruled the country amidst denouncement of widespread human rights violations echoed by the Inter American Commission for Human Rights of the Organization of American States." It is important to note that the World Bank's actions are ultimately the responsible of "the governments of the world who run the World Bank through 19 Executive Directors (EDs). The United States' Executive Director currently holds 22% of the voting power, followed by Japan with about 5%. The US Executive Director is overseen by the Treasury Department, the Secretary of the Treasury sits on the Board of Directors of the World Bank. The International Financial Institutions Act of 1977 obligates the Treasury Department to use human rights considerations in guiding its voting on multilateral bank loans. The Treasury Department has disregarded this obligation, as can be seen in the Treasury Department's responses to findings by World Bank's Inspection Panel, the agency charged with determining whether the Bank's safeguards are respected. In 2007, the IP had found that the Bank funded Land Administration Program in Honduras had not complied with operational policies and that the consultation framework established by the Bank had the potential to divide Garifuna communities and weaken their efforts to register collective land titles. However, the Treasury Department did not agree with the IP. On October 4, 2007, the Treasury Department responded to the IP finding on the PATH program in Honduras, stating that if a "particular representative organization" were required to be included in consultation in order to comply with the Bank's Operation Directives [in this particular case that would refer to the Garifuna Federation, OFRANEH], 'it would effectively give that organization veto power over the implementation of the project. In this regard, we agree with the Management's view that it would be inappropriate to assign veto-power to any one sub-group among stakeholders. If provision of veto-power to indigenous peoples was intended, OD 4.20 [on Indigenous peoples] would have required "prior, informed consent" rather than the extant "prior, informed consultation.' That position directly contradicts existing international law. The International Labor Organization Convention 169, adopted in 1991, established that "Consultation with indigenous peoples should be undertaken through *appropriate procedures, in good faith, and through the representative institutions of these peoples.*" This means that if a consultation process is not developed with those truly representative of the indigenous people affected, then the consultations would not comply with the requirements of the Convention. In ILO Convention 169, Article 16 states that, 'Where the relocation of these peoples is considered necessary as an exceptional measure, such relocation shall take place only with their free and informed consent.' Further, Treasury's position was taken a few weeks after the UNDRIP was adopted by the General Assembly on September 13, 2007. While the U.S. has not ratified the UNDRIP, the World Bank as a Specialized Agency of the UN is obligated not to defeat the purposes of the Charter of the United Nations, and must further and not undermine the objectives of the UN Charter, including the promotion of 'universal respect for, and observance of, human rights and fundamental freedoms for all.' Those human rights are defined by the Declarations of the UN General Assembly. **Across Guatemala, indigenous communities under threat from mines and dams are holding community consultations, and rejecting the projects. These communities will not participate in the Bank's 'consultation' on safeguards. But the Bank is required by law to respect the communities' decisions. Multilateral lenders must be held responsible for gross human rights violations associated with projects they fund. As Central America is being militarized on the pretext of law enforcement, the World Bank must begin to respect the law.**"

As **demonstrations have become increasingly violent over a Canadian owned silver mine in San Rafael Las Flores, Guatemala**, that gained an operating permit in April, with one police officer being killed and three protestors wounded in a gun battle, the **Guatemalan government declared a state of emergency in four areas**, at the beginning of May, 2013. The interior ministry banned public gatherings and sent troops to four towns near the mine site. **Residents fear the mine will drain their water supplies**, which the company denies ("Guatemala declares emergency after mine protests," *BBC News*, May 2, 2013, <http://www.bbc.co.uk/news/world-latin-america-22389363>).

Leaders of the Maya Q'eqchi Agua Caliente community of Guatemala, with representatives of Defensoría Q'eqchi', an indigenous human rights organization based in El Estor, Guatemala, accompanied by staff from the Washington DC based Indian Law Resource Center (ILRC), were in Washington, DC, March 11 - 15 seeking allies and further protections in their ongoing struggle with mining company, Compañía Guatemalteca de Niquel, a subsidiary of the Solway Investment Group. The Maya and their representatives charge that the company "is using threats and violence against Agua Caliente and surrounding communities. Guatemala granted permission for the mine without consulting with the communities most affected. The ILRC, after exhausting domestic remedies, has filed a petition with the IAHCHR concerning the violation of the community's rights to property, self-government, due process of law, and judicial protection by the government of Guatemala." The Mayan delegation and their counsels met with representatives of the U.S. State Department, the Tom Lantos Human Rights Commission (TLHRC) of the U.S. Congress, along with officials from the Inter American Commission on Human Rights (IACHR) and the World Bank. The delegation requested expanding protective measures for the entire community and for Rodrigo Tot, president of the Mayan community, whose son was murdered in October 2012. It is widely believed in the community that the murder was in retribution for the work done by Tot in opposition to the mine. Attorney Carlos Pop is among others who's lives have been threatened (Rick Kearns, "Guatemalan Mayan Community Seeks International Help for Protection, ICTMN, March 26, 2013, <http://indiancountrytodaymedianetwork.com/2013/03/26/guatemalan-mayan-community-seeks-international-help-protection-148376>)

"Breaking News: Community Leader Daniel Pedro Mateo Kidnapped and Murdered in Guatemala," Cultural Survival, April 17, 2013, <http://www.culturalsurvival.org/news/breaking-news-community-leader-daniel-pedro-mateo-kidnapped-and-murdered-guatemala>, reports, "On April 16, 2013, **the body of Q'anjob'al community activist Daniel Pedro Mateo was found murdered in Santa Eulalia, Huehuetenango, Guatemala.** He had been kidnapped for 12 days and his body showed signs of torture. Daniel, a founder of the community radio station Snuq Jolom Konob, disappeared on Sunday, April 7<sup>th</sup> in the village of El Quetzal, Huehuetenango on his way to host a workshop on Indigenous rights in the community of Santa Cruz Barillas. His family was contacted by kidnappers and demanded a ransom of Q150,000 in return for his safety. Despite the efforts of his family and community to gather money to pay the ransom, Daniel's body was found last night in his village of Santa Eulalia. Daniel Pedro Mateo was a painter, teacher, **a founder of Radio Snuq Jolom Konob, and a leader in the community resistance to mining and hydroelectric activities in Huehuetenango.**" "Many in the community believe this violent act to be a repercussion of Daniel's environmental activism." "Daniel's death comes in a series of recent murders in Guatemala of Indigenous activists. Just last year, anti-dam activist and community leader, Andres Fransisco Miguel, was shot and killed by security guards of Hydro Santa Cruz in Barillas, where Daniel was headed to host a workshop. In March, Exaltación Marcos Ucelo, an Indigenous Xinca leader active against Canadian Tahoe Resources' silver mine in Jalapa was found beaten to death, after being abducted alongside three other Xinca leaders. Six months ago, seven Indigenous protestors were shot and killed by Guatemalan military in Totonicapan. These events reflect the dangerous state that Indigenous leaders and environmental activists find themselves in Guatemala."

"Campaign Update – Guatemala: Sign Petition to Free Ruben Herrera," Cultural survival, April 10, 2013, <http://www.culturalsurvival.org/news/campaign-update-guatemala-sign-petition-free-ruben-herrera>, reported, "Another community leader from Santa Cruz Barillas, Huehuetenango has been captured by the Police and incarcerated in Guatemala City as a result of his outspoken opposition to the Spanish company Hidro Santa Cruz's construction of a hydroelectric dam in the Q'anjob'al Mayan community. Rubén Herrera was captured on March 15<sup>th</sup> in the city of Huehuetenango, and charged with kidnapping, terrorism, coercion, arson, among many other crimes. "The detention of Rubén Herrera is part of a strategy of persecution and terror conducted by the Spanish company Hidro Santa Cruz in alliance with the Guatemalan government, investors, and Spanish authorities to make sure that no one publicly opposes the construction of their hydroelectric project, 'Cambalam'," denounced the Western People's Council or CPO. The full release in Spanish is available at:

<http://www.culturalsurvival.org/news/noticia-de-campana-todos-y-todas-somos-barillas-firmar-peticion-para-liberar-ruben-herrera>. “Good News- Guatemala Campaign: Judge Sets Precedent in Release of Rubén Herrera, Citing International Human Rights Standards,” Cultural Survival, <http://www.culturalsurvival.org/news/good-news-guatemala-campaign-judge-sets-precedent-release-ruben-herrera-citing-international>, reported, “**After spending over two months in prison under charges of terrorism, Rubén Herrera, community leader and outspoken activist against the Hydro Santa Cruz dam in Barillas, Huehuetenango, was released on Thursday May 30<sup>th</sup> due to a lack of evidence to the charges against him.**”

Beginning in March, and continuing in late April, **Guatemalan courts were exerting a new strength in trying former dictator General Ruis Montt for genocide and crimes against humanity** in the 1980s (Elisabeth Malkin, “In an Effort to Try Dictator, Guatemala Shows New Judicial Might,” *The New York Times*, March 17, 2013; and Elisabeth Malkin, “Trial Annulment in Guatemala Rejected by Judge,” *The New York Times*, April 20, 2013). Elisabeth Malkin, “Former Leader of Guatemala Is Guilty of Genocide Against Mayan Group,” *The New York Times*, May 10, 2013, <http://www.nytimes.com/2013/05/11/world/americas/gen-efrain-rios-montt-of-guatemala-guilty-of-genocide.html?ref=todayspaper>, reported, “**A Guatemalan court on Friday found Gen. Efraín Ríos Montt, the former dictator who ruled Guatemala during one of the bloodiest periods of its long civil war, guilty of genocide and crimes against humanity. Judge Yasmín Barrios sentenced General Ríos Montt, 86, to 80 years in prison. His co-defendant, José Mauricio Rodríguez Sánchez, who served as the director of intelligence under the general, was acquitted of the same two charges.**” However, later in May, **the Guatemalan Supreme Court found procedural problems in part of the trial, and ordered a retrial on some of the charges for Mott** (Randal C. Archibold, “Ex-Guatemalan President Extradited to U.S. in Corruption Case,” *The New York Times*, May 24, 2013, <http://www.nytimes.com/2013/05/25/world/americas/ex-president-portillo-of-guatemala-is-extradited-to-us.html?ref=world>).

**To counter the serious violence in Guatemala, the Guatemalan army has been taking an expanded role in fighting crime. But as the army was once one of the most brutal and feared in Central America, its larger role is raising human rights concerns, especially following revelations of former soldiers being involved in drug trafficking in the country, on top of which the army allegedly opened fire on Mayan protestors in Totonicapán, in October, and have been charged with being involved in other shootings and corruption** (Randal C. Archibold, “Guatemala Shooting Raises Concern About Military’s Expanded Role,” *The New York Times*, October 21, 2013).

ICG, “Totonicapán: Tension in Guatemala’s Indigenous Hinterland,” Latin America Report N°47, February 6, 2013, <http://www.crisisgroup.org/en/regions/latin-america-caribbean/guatemala/047-totonicapan-tension-in-guatemalas-indigenous-hinterland.aspx>, commented, “**On 4 October 2012, Guatemalan soldiers allegedly opened fire on Maya protestors from the highland province of Totonicapán, killing six and injuring more than 30. It was a tragedy that appeared to show not only the dangers of using the army to maintain public order but also the rising tensions within impoverished indigenous communities. Although President Otto Pérez Molina initially denied military responsibility for the shooting, he did the right thing by allowing prosecutors to conduct a thorough investigation. Now the government must step up efforts to reform and strengthen the national police, establishing clear benchmarks for the military’s withdrawal from law enforcement. To minimize the risk of new confrontations, it must also address the legitimate demands of indigenous communities for access to electricity, education and land, as well as their right to be consulted about decisions that affect their culture and livelihoods. The militarization of law enforcement is especially perilous in a country with yawning economic inequalities between the descendants of European colonizers and the original, largely Maya, inhabitants. Protests over mining and hydroelectric projects, educational reform and access to land and public utilities, especially by the desperately poor indigenous population, are on the rise.** The trigger of the October protests was high electricity prices. But the marchers also incorporated demands for affordable education and the recognition and promotion of indigenous rights. The government and its allies within the business community are determined to pursue investments in mining and hydroelectric power that it believes will stimulate economic growth, creating jobs and generating the revenues necessary to fund both infrastructure and social programs. Opponents, including some Maya communities directly

affected by those projects, fear the benefits will accrue only to a narrow elite, while the rural poor will bear the environmental and social costs. Guatemala's recent past makes such unrest particularly dangerous. Between 1960 and 1996, the country suffered one of the most brutal counter-insurgency campaigns in Latin American history, during which, a UN commission has estimated, 200,000 people died, most of them killed by security forces in Mayan highland communities. Both ends of the political spectrum have used the Totonicapán tragedy to evoke the past: Some activists dubbed the killings a massacre, suggesting the army deliberately gunned down protesters to suppress legitimate dissent. Some conservatives have hinted at a radical conspiracy to create martyrs and neutralize the armed forces. President Pérez Molina has taken several steps to defuse tensions. In the case of Totonicapán, his government promoted an agreement between local officials, the electricity utility and government regulators that may lower the cost of public lighting. It has also promised to continue pushing for a rural development law (stalled in Congress) designed to combat indigenous poverty by promoting local food production and access to land. **But tension over other issues, such as mining and hydroelectric projects, continues to fuel conflict in many rural areas. The government needs to give indigenous populations a voice and a stake in the formulation and implementation of policies that will have an impact on their fundamental interests. The onus is not on the national government alone. Local and communal authorities, as well as organizations that represent indigenous and/or rural interests, need to negotiate in good faith to reach democratic compromises on how to manage natural resources. They must also commit themselves to peaceful protests that infringe as little as possible on the rights and livelihoods of other communities.**" ICG recommends: *"To avoid future confrontations and give indigenous communities a voice and a stake in rural development: To the Guatemalan authorities (national and local), security forces, investors and political parties:* 1. President Pérez Molina should commit his government to a timetable and benchmarks for police reform – including the training and equipping of units specialized in crowd control – so that the military can be withdrawn from crime fighting and other public security functions 2. Security forces should work closely with protest organizers (and vice versa) to guarantee that demonstrations can proceed peacefully with as little harm to economic activity and commuters as possible. 3. Congress should create legal means of addressing the legitimate concerns of communities about environmental degradation and the social and economic impact of hydroelectric and mining projects; and seek input from local indigenous leaders on legislation to establish the "good faith" consultations required under International Labor Organization Convention no. 169. 4. The National System of Permanent Dialogue (SNDP) should promote a comprehensive review of extractive best practices, in close consultation with investors, environmental groups and indigenous organizations, in order to devise joint strategies aimed at protecting local interests. 5. Municipal authorities, both elected and indigenous, should work together to distribute government resources in a manner that is transparent and equitable, and to set fees for public utilities, such as street lighting, in accordance with usage and income. 6. Investors should perform environmental and human rights due diligence that takes carefully into account the special needs and challenges faced by indigenous communities; and also conduct base line studies and ongoing assessments through credible mechanisms in collaboration with the community. 7. Political parties should promote indigenous participation at the highest levels and consider mechanisms to make the selection of local candidates and functionaries more democratic and open."

Jessica Isla, "Honduras' Walk for Dignity," *Americas Program*, March 13m 2013, <http://www.cipamericas.org/archives/9187>, **"For ten days, men and women from different places walked on a journey of many kilometers toward the capital of Honduras, making stops along the way, accompanied by people who joined in solidarity. Called "Step by Step for Dignity and National Sovereignty", nothing is more certain than that, since the walkers demand the derogation of the *Law of Special Development Regions*, proposed and commonly known as "Model Cities", that threatens to divvy up our national territory and sell it to the highest bidder. They also demand the liberation of our campesino leader Chavelo Morales, derogation of the Mining Law and cancelation of environmental edicts that privatize water, energy and natural resources. At the center of the march were indigenous, Afro-Honduran, and peasant women, as well as feminists from different currents and backgrounds who were moved by the commitment to add their steps to those of the walkers."**

Jessica Minor “Life, Health, Purity, and Survival: the Maleku of Costa Rica Struggle to Regain Lost Lands, Cultural Survival, March 27, 2013, <http://www.culturalsurvival.org/news/life-health-purity-and-survival-maleku-costa-rica-struggle-regain-lost-lands>, reported, that “inside a narrow moat of rainforest between the famous Arenal volcano and the Nicaraguan border lies the Maleku Indigenous Reserve of Guatuso, Costa Rica, granted by the government.” **The 600 Maleku struggle to exist farming in their reserve granted by the government, as they only have possession of 15% of it, the rest taken over by non-Indigenous people..** “Last year, however, **the Maleku launched a movement to repossess their lost territory.**” **On December 10, 2012, members of the Maleku community entered a ‘privately owned’ estate within the Guatuso Reserve, beginning an occupation that has lasted more than three months.** They continue to camp on the property asserting their government entitlement. The Maleku territory falls under the protection of Article 3 of Costa Rica’s 1977 Indigenous law (N°6172) and Article 8b of the United Nations Declaration on the Rights of Indigenous Peoples. These agreements dictate that indigenous reserves are exclusive to indigenous people, and cannot be expropriated for any reason. In the case of an attempt to dispossess the Maleku of their land, the UN mandates that the government should respond in their defense. However, **the government’s failure to properly demarcate Indigenous reserve territory and execute this legislation has allowed outsiders to outnumber the Maleku on their own land.** Now, sixty-two percent of residents of the Maleku reserve are non-Maleku. Local authorities turned a blind eye to the dispossession while it occurred. Yet even years later, the government has failed to rectify this violation. Former Costa Rican President Óscar Arias pledged to help recuperate the Maleku’s lost lands during his campaign in 1985, but never followed through. Says Elizondo Castro, “Now we are fed up and decided to reclaim our territory, our ancestral heritage.” The original Maleku territory extends far beyond the borders defined by the government when the reserve was established in 1976. “If the occupation succeeds, Elizondo Castro predicts that “the animals will return: mammals, amphibians, reptiles, birds, insects.” In a society that cherishes nature and all rainforest-dwellers, such a reversion would be monumental. On top of this, recovering the lands in question would return precious water sources to the Maleku. While this reclamation promises greater self-sufficiency for the Maleku community, these water sources also possess spiritual significance.” “Regaining access to these rivers could revitalize Maleku ties to their Creator and Provider. Yet, in the humble and generous spirit of his tribe, Alcides thinks not only of the future of the Maleku, but also of the entire global community. “Indigenous land means oxygen,” he says, and he believes that the Maleku’s reforestation efforts would increase the world’s supply of this vital substance. Still, leading a social movement is challenging, and it is for this reason that the Maleku have waited to accumulate support and resources before taking radical action” “In order for the movement to succeed, the Maleku need material support to sustain the protesters on the ground, and the union of international networks to advocate their cause.”

Richard Arghiris, “Campaign Update– Panama: Another Ngäbe Protestor Killed, Cultural Survival, , reported, “April 10, 2013, <http://www.culturalsurvival.org/news/campaign-update-panama-another-ngabe-protestor-killed>, reported, “An **indigenous Ngäbe protester, Onesimo Rodriguez, was killed** Friday 22 March 2013 in the hamlet of Las Nubes, Chiriquí province, **after attending a rally against the controversial Barro Blanco hydroelectric dam.** It was World Water day. According to Manolo Miranda, a leader of the Movimiento 10 de Abril (M10), the Ngabe and campesino resistance movement currently defending the Tabasará river, a migrant laborer from Hato Chami, 20-year-old Onésimo Rodríguez, was viciously attacked at a bus stop in the late **afternoon after participating in a 200-strong solidarity march in the nearby town of Cerro Punta. Sr Rodríguez had also allegedly taken part in a protest camp near Vigui, broken up by riot squads last week.**” A second seriously injured protester apparently left for dead but now being cared for at an undisclosed location. “M10 have openly accused the police of orchestrating the murder, which they say was committed by four plain clothes officers wearing ski masks. The police have said the death was due to drunkenness. The incident, which has been reported sparsely in the Panamanian media, occurs at a time of heightened tensions. The Ngabe – who number 200,000 and live in remote mountain communities across central and western Panama – are currently mobilizing to discuss further actions. As yet, the scale of their mobilization is unclear and it is not known whether they intend to close the country’s highways.”

As the result of six months of negotiation establishing a framework agenda for peace talks, the government of Columbia and the rebel group FARC agreed to commence peace talks in Oslo Norway, in October, aimed at ending the civil war which began in 1964 (“Oslo Peace Talks, *San Francisco Chronicle*, September 9, 2012). On November 19, 2012, FARC called a to month cease-fire as peace talks to end the half century old conflict began in Havana, Cuba. The government did not immediately respond to the FARC announcement, but President Juan Manuel Santos has stated several times that his government would not declare a truce during negotiations, in the hope of avoiding a mistake made during previous talks that ended in 2002, when the FARC used a lengthy truce to gain strength (William Neuman, “Rebel Group in Colombia Announces Cease-Fire,” *The New York Times*, November 19, 2012, [http://www.nytimes.com/2012/11/20/world/americas/colombia-rebels-announce-cess-fire.html?ref=world&\\_r=0](http://www.nytimes.com/2012/11/20/world/americas/colombia-rebels-announce-cess-fire.html?ref=world&_r=0)). In Mid January, with the peace talks restarting in Cuba and the government refusing to recognize the FARC’s unilateral cease fire, the rebel group said it would end the cease fire (“Colombia: Rebels to End Truce,” *The New York Times*, January 14, 2013, <http://www.nytimes.com/2013/01/15/world/americas/colombia-rebels-to-end-truce.html?ref=world>). With the cease fire ended, in January FARC appeared to have kidnapped two police officers and three civilian engineers, casting a shadow over the peace talks (William Neuman, “Kidnappings Imperil Talks With Rebels in Colombia,” *The New York Times*, February 2, 2013, <http://www.nytimes.com/2013/02/03/world/americas/colombia-kidnappings-cast-pall-over-talks-with-farc.html?ref=todayspaper>). Six months into negotiations in Havana Cuba, in late May 2013, the government of Columbia and the main rebel organization, the Revolutionary Armed Forces of Colombia (FARC), reached an agreement on an important secondary issue to be put into effect as part of the final peace accord when it is concluded. As concentration of ownership of land has been a major issue, the agreement was to undertake land redistribution in rural areas, giving land to small farmers, coinciding with undertaking development projects, improving infrastructure and education, and other measures. The negotiations then switched their focus to the more difficult issues, including rebel disarmament and reintegration into Colombian life, including FARC’s participation in politics, and what to do about the drug dealing which has been FARC’s main source of income (William Neuman, “Deal Reached to Reduce Inequality in Colombia,” *The New York Times*, May 26, 2013,

Raúl Zibechi, “Colombia: Dismantling a Half-Century of Conflict,” *AmericasProgram*, December 13, 2012, <http://www.cipamericas.org/archives/8725>, comments, “The negotiations between the government and the guerrilla forces are seen by a large part of the Colombian public as a good opportunity to seal a peace deal. Many believe that the hour has come and that the main actors in the conflict will not let this opportunity escape. The reality, however, is much more complicated.” While a large part of the population has faith that the negotiations will succeed, with a survey conducted by *RCN Televisión* finding that 77% of Colombians support negotiations and 54% are optimistic that they will lead to definitive agreements, not all are favorable to the process. “President Alvaro Uribe, a spokesman for landowners and according to many analysts, paramilitary groups, expressed from the first moment his dissatisfaction with the negotiations, calling for the annihilation of the guerrillas.” The business community sees the end of the war as an economic opportunity, noting that with the FARC losing the military initiative, Columbia has already improved its economy, moving to an increasingly prominent role in the region, while the population at large has suffered more than enough from the conflict. “As it is, the path to negotiations is cleared. On the immediate horizon it appears there may be some difficulties: the duration of the negotiations, the issue of land as a strategic challenge to be confronted, and the question of establishing mutual trust—always complicated and most often nonexistent. President Santos anticipates that negotiations should not last too long. The presidential elections of May 2014 are on the horizon and Santos aims to be re-elected. This requires keeping the process on track and if possible, establishing the most important agreements prior to the election. As the analyst León Valencia stated, ‘peace talks amid an electoral process are not feasible.’ For that reason Santos insisted on several occasions that the talks not have an indefinite time frame, saying, ‘The talks will be measured in months, not years.’ By contrast, the FARC are looking toward a long process, as indicated by Timoleón Jiménez, top commander of the organization. In agreement, the Patriotic March (led by the Communist Party) released a document in early November in which they propose a broad social mobilization to initiate a constitutional processes in the framework of a peace process, which would demand the necessity for a long process. Another issue for discussion is the concept of ‘de-arming’,



mentioned in the general agreement. While the guerrillas intend to refer to the non-use of weapons, or an indefinite truce, others interpret it as the handing over of weapons. This point may block the negotiations.” A tough major issue is land, which was the initial cause of the rebellion. Carlos Gutiérrez, director of *Le Monde Diplomatique*, noted that “land is at the heart of the conflict, the situation has continued to worsen in recent decades. “This land economy is characterized by the hegemonic dominance over nine-tenths of the country’s vital surface lands maintained by a landed aristocracy, through natural plains”[15]. Over the years, the agricultural lands are increasingly underutilized and livestock land is overgrazed, although each hectare has only 0.6 head of cattle on average. “We have yet to free ourselves of the idea of primitive accumulation,” concluded Gutiérrez. The war, driven by landowners and now entangled with drug trafficking, has been the method to further land concentration. In 1984 landowners with more than 500 hectares controlled 32.6% of lands. In 2010, they controlled 60.8%. The countryside had a gini index, which measures inequality, of .89—among the highest equality gaps in the world. Agrarian reform is imperative to democratizing access to the land. But the presence of drug traffickers who have invested in lands and now join multinational mining and hydrocarbons interests and the presence of monoculture agribusiness have increased the concentration of land ownership. It will not be easy to go in the opposite direction of economic processes to satisfy peasant and indigenous demands.” While in the cities there is hope and optimism in moving to peace, **“key social movements related to the current negotiations have not shaken their lethargy.** The ‘Gathering for Dignity’ convened on October 12 by the Patriotic March, the Peoples Congress and the Coalition of Social Movements and Organizations of Colombia (Comosoc), fell far short of gathering the forces they’d hoped for. The protest denounced low salaries, the concentration of wealth, the disastrous healthcare system and unemployment. Young university students were the most vocal. It is true that in Colombia ‘there remains a clear divide between urban and rural centers, and the visions that inspire one are not the same for the other.’ Both groups have different problems and demands. But beneath this division lies **the continuity of a vertical and patriarchal political culture, even within the left, which exists parallel to authoritarian landowners. Five decades of war consolidated political methods in which mobilization is decided from above and carried out below, where party leaders occupy a central position. The people of Cauca have attempted to promote something different, because they belong to other worldviews. That region of resources (water, oxygen, oil, mining and biodiversity) is also ‘a strategic corridor between the Pacific coast and eastern plains’.** That’s why in Cauca all the armed groups converge: army, paramilitaries and guerrillas, ‘transforming the autonomous and ancestral territory into a theater of military operations.’ Manuel Rozental explains that the Nasa people put up the greatest resistance to war on the basis of their own consensus-based agenda and the restitution of the Indigenous guard in 2001. ‘With those two things combined we made the decision – the first in 2001, but in large part in 2004 – to come out with an agenda and to **convene the first Indigenous and Popular Congress.** The Minga came from Popayán and Cali, reaching the mountains to the Pan American Highway. That was in the peak year of Uribe’s popularity, it surprised him by saying, here he is not popular, and his model of free trade is not what we want’. In **October 2010 the accumulation of successive mobilizations came together in the People’s Congress, a large confluence of organizations, people and movements, both rural and urban, indigenous and Afro-descendants, workers and students, in a huge demonstration of diversity. This new form of organizing, based on mandates born of consensus, is still far from having become a common approach and in a political culture that is accepted among those fighting hegemonic powers.**” “The ‘Uribe decade’ of Álvaro Uribe between 2002 and 2010, produced profound changes in the war, but especially in Colombian society and the perception of the armed conflict. **A portion of the population believes the guerrillas are the main, and sometimes only, culprits for the conflict. Removing this perception will take a lot of time, generosity and self-criticism.**”

“Nasa Indian killed as Colombian violence continues,” April 3, 2013, <http://www.survivalinternational.org/news/9100>, reported, **Many of Columbia’s Indians have been in a crossfire in Columbia’s civil war. “A 57-year-old Nasa Indian man has been shot dead in an alleged army attack in Colombia. Álvaro Chocué was shot in the head on Saturday, 30th March in the Caldono Indian Reserve in Colombia’s south-west Cauca province. Army officials claim the shooting occurred during an armed confrontation between soldiers and illegal armed insurgents of the FARC (Revolutionary Armed Forces of Colombia), but Nasa leaders say his body was found near a military check-point away from where the conflict took place. Cauca Indian organization ACIN told Colombian press, ‘The military were**

**supposedly manning a check point when Álvaro Chocué passed by and was shot dead. It took place on indigenous land.**’ Following the incident, three soldiers were detained by local Nasa Indians in protest. The soldiers were released 24 hours later, after the army promised to investigate the case. Indigenous peoples in Cauca have been some of the worst affected by Colombia’s bloody internal conflict. FARC rebels have maintained a strong presence in the area for decades, and the Indians are repeatedly caught in the crossfire between the insurgents and army. Survival has supported Cauca Indian organization CRIC, and is urging the Colombian government to end violence waged against the country’s indigenous peoples.”

“‘Unprecedented’ suspension of mining on Colombian Indians’ land,” Survival International, February 21, 2013, <http://www.survivalinternational.org/news/8993>, reported, **“A Colombian judge has suspended mining concessions in an ‘unprecedented move’ to protect Embera-Katío Indians’ land in north-west Colombia. The decision comes after waves of violence in Alto Andágueda in Colombia’s Chocó department that has uprooted hundreds of indigenous families from their homes. Violence between illegal insurgents and the army has coincided with the spread of mining to the region, much of it illegal. The court has now ordered all mining personnel and machinery out of the area until the legality of the concessions can be proven. A 2011 report by the Colombian government found 63% of the country’s mining concessions are illegal, and in the Chocó department the figure reaches an astonishing 99.2%. However, Colombia’s President Santos has repeatedly advocated mining as a key priority throughout his term.** An increase in demand and value for metals such as gold, iron, and coltan – used in most electronic devices – has had a huge impact on Colombian Indians. Thousands have been killed or displaced by armed groups, who often precede the arrival of mining companies. “(This decision) aims to avoid the continued threat against indigenous peoples’ land rights by the disproportionate use of its resources by outsiders, and the evident violent that is present in the region,’ said the judge.”

“Campaign Update– Belize: Oil Company Attempts Bribery, Corruption of Traditional, Leaders,” Cultural Survival, February 14, 2013, <http://www.culturalsurvival.org/news/campaign-update-belize-oil-company-attempts-bribery-corruption-traditional-leaders>, reported, **“Traditional Maya leaders reported that Texas-based US Capital Energy has made numerous attempts to buy support for their oil drilling project on Maya lands including those inside the Sarstoon-Temash National Park in Southern Belize by infiltrating the Maya leaders’ traditional forms of governance. They declared the company is blatantly undermining and disrespecting Indigenous governance, in violation of the UN Declaration on the Rights of Indigenous Peoples.** The Toledo Alcaldes Association (TAA) is the group of 78 traditional leaders or alcaldes who govern the 38 Maya villages of southern Belize in accordance with generations of tradition. **Over the last several years, US Capital Energy has been exploring for oil in Maya traditional lands. Their concession was granted without any notice to or consultation with the Maya villages whose ownership of those lands has been confirmed by two court judgments. Two of the company’s permits have been issued in defiance of an injunction prohibiting the government to allow any such activities without the express consent of the affected villages. Most recently, the government gave the green light to an extraction well at the edge of the park, on lands that belong to the Maya village of Crique Sarco.** The alcaldes have been on the front lines of resistance against oil drilling in their villages lands. **Rather than enter into good faith negotiations with the Maya people, US Capital Energy has focused its efforts on corrupting and undermining their leaders.** A Maya subsistence farmer and past president of the TAA, Ligorio Coy, abruptly reversed his long-held positions defending Maya peoples’ rights, and has since been driving a new truck around town and campaigning for the oil company. Alfonso Cal, the current president of the TAA, has repeatedly been the target of US Capital’s bribery attempts to accept and promote oil drilling, which he has declined. In a February 9th meeting of alcaldes, Mr. Cal announced, ‘The government [and] US capital came to me in my other term and then again one week after you elected me. Local political representatives and the company director came to me and took me to their office. They made me offers for the TAA and asked for me to support them....I will not sell out.’ Mr. Cal was recently re-elected for a second term, winning out over a pro-oil candidate Mr. Domingo She. Mr. She was supported by the oil company, which campaigned on his behalf. As campaigning is strictly forbidden according to traditional law, those efforts were a red-flag to many alcaldes. Pablo Mis, of the Maya Leader’s Alliance, **said the company went so far as to offer bribes to elect their candidate.** “Ligorio Coy, offered BZ \$200 [US \$100] to every

alcalde, calling it a generous gift that the outgoing or newly elected alcalde can spend to celebrate the election of new alcaldes. Along with the offer came a message to vote for Domingo She. Many alcaldes took the money for their community, and reported these incidents to the TAA, along with their impression that this gesture from the company was an attempt to buy the alcalde's vote," said Mis. But this time, in a testament to the strong will of the alcalde association, the company's attempt to interfere in the elections backfired. Although Mr. She came in second in the vote for the TAA executive, shortly thereafter, the 78 alcaldes held another assembly where they voted to remove She and four other executive members, citing their campaigning, partisanship towards the oil company, and adversarial approach to their executive positions instead of the proper Maya way of respectfully seeking consensus. Augustine Sho, alcalde from the village of Bladen, was one of those who voted to remove the four executive committee members. He explained, "The alcaldes do not campaign to be elected. We are not about campaigning, politics and companies. Alcaldes are about the rights of our people. We cannot allow the future of our people to be sold by a few people. We stand for the rights of our people and we have a duty to protect this."

William Neuman, "Venezuela Gives Chávez Protégé Narrow Victory," *The New York Times*, April 14, 2013, [http://www.nytimes.com/2013/04/15/world/americas/venezuelans-vote-for-successor-to-chavez.html?ref=todayspaper&\\_r=0](http://www.nytimes.com/2013/04/15/world/americas/venezuelans-vote-for-successor-to-chavez.html?ref=todayspaper&_r=0), reported, "In an unexpectedly close race, **Venezuelans narrowly voted to continue Hugo Chávez's revolution, electing his handpicked political heir, Nicolás Maduro, to serve the remainder of his six-year term as president, officials said late Sunday. But the thin margin of victory could complicate the task of governing for Mr. Maduro, emboldening the political opposition and possibly undermining Mr. Maduro's stature within Mr. Chávez's movement.** His opponent, Henrique Capriles Radonski, refused to recognize the results, citing irregularities in the voting and calling for a recount." A limited recount was undertaken, finding **Maduro still the winner.**

"Venezuela: Yukpa Indian leader murdered," Survival International, March 6, 2013, <http://www.survivalinternational.org/news/9014>, reported, "**Sabino Romero, a prominent Yukpa leader and activist was murdered on 3 March in the Sierra de Perijá, the mountainous region of west Venezuela on the border with Colombia. Venezuela's State Prosecutors' office (Fiscalía General) has opened an investigation into the killing.** According to them, Sabino was travelling in a vehicle on a road down from the mountains when two men on a motorbike approached the car and fired shots point blank into it. Lucía his wife, who was travelling with him, was injured **Sabino was one of the most outspoken Yukpa leaders, and had campaigned courageously for Yukpa land rights for many years. He was constantly threatened by gunmen acting for ranchers who occupy Yukpa land and who oppose the single Yukpa territory he advocated.** In 2009, the authorities jailed Sabino and another Yukpa leader, Alexander Fernandez, in a military prison for one and half years, falsely accusing them of murder and other crimes. They were eventually released in June 2011 because prosecutors failed to provide any evidence to back the allegations. **Despite numerous requests from the Yukpa and the increasing number of violent conflicts fomented by the ranchers, the authorities have failed to provide any protection for prominent Yukpa spokespeople like Sabino.** Sabino's daughter Zenaida visited Europe last December, at the invitation of the NGO LAMMP to meet with UN officials and European governments. During a meeting with a British parliamentarian she said 'We don't need the exploitation of mining companies in our territory... We have been carrying on this fight for years, principally for our ancestral land. We want a free territory, the land of our mother earth.' **According to Venezuelan human rights organization Provea, several Yukpa have been murdered in the last five years, but not one case has been properly investigated by the authorities.** Sabino's father José Manuel was murdered in 2009 allegedly by a rancher occupying Yukpa land. **Despite former President Chavez's public promises in 2009 that his government would recognize indigenous land rights in the Sierra de Perijá, it has done nothing to resolve the land conflict.** Survival has lobbied the Venezuelan government to act urgently to resolve the conflicts in the Sierra de Perijá and recognize Yukpa land rights. Lusbi Portillo of local NGO Homo et Natura who has long supported the Yukpa, and opposes coal mining in indigenous territories in the Sierra de Perijá, is also the target of death threats."

William Neuman, "Bolivia: Morales Wins Victory as U.N. Agrees to Define Some Coca Use as Legal," *The New York Times*, Published: January 11, 2013, <http://www.nytimes.com/2013/01/12/world/americas/bolivia->

morales-wins-victory-as-un-agrees-to-define-some-coca-use-as-legal.html?ref=todayspaper, reports, a **victory for Bolivia's President Evo Morales, as the UN has decided not to continue to consider illegal under the United Nations antidrug convention traditional uses of the coca leaf in Bolivia, where many in the majority Indigenous population chew coca leaves as a mild stimulant, and use the plant as a tea in medicines and in religious or social rituals.**

“UN demands ‘immediate suspension’ of Amazon gas plans,” Survival International, March 25, 2013, <http://www.survivalinternational.org/news/9054>, reported, **“The United Nations has demanded an immediate halt to the expansion of a major gas project in the Peruvian Amazon, over concerns that it poses a grave risk to the lives of uncontacted Indians living nearby. In a letter to the Peruvian government, the UN’s Committee for the Elimination of Racial Discrimination (CERD) requested the ‘immediate suspension’ of plans to expand the existing Camisea gas project further into the Nahua-Nanti reserve, as it ‘threatens the physical and cultural survival of the indigenous peoples living there.’ The call follows an appeal to CERD by Peru’s indigenous organizations AIDSEP, ORAU and COMARU, who are also launching legal action against the government and companies involved in the \$1.6 billion project.** Camisea is run by a consortium of companies including Argentina’s Pluspetrol, US’s Hunt Oil and Spain’s Repsol, and is one of the largest gas projects in the Amazon. **The gas project lies in the heart of the Nahua-Nanti Reserve that was created to protect the land and lives of uncontacted Indians.** Now the companies plan to carry out seismic tests in the forest – detonating thousands of explosives – and to drill more than twenty exploratory wells. The work will have a devastating impact on the local inhabitants, who rely on the rainforest and its game for their survival. Any contact with the uncontacted Indians could prove fatal. In 2003, a Supreme Decree was passed, as a condition of a loan by the Inter-American Development Bank, which prohibited any further expansion of the project. But in flagrant violation of the Decree, Peru’s Ministry of Energy approved part of the expansion of Camisea in April 2012. The Ministry is imminently set to approve the next phase of expansion, costing \$480 million. Survival’s Director Stephen Corry said today, **‘The Peruvian government promised the Inter-American Development Bank that it wouldn’t expand the Camisea project, and even passed a Supreme Decree to write the pledge into law. Now it’s doing exactly what it promised not to.** Small wonder the UN has demanded this reckless project be stopped.’” Earlier, **“SUCCESS: Gas giant backtracks on exploration in UNESCO World Heritage Site,”** Survival International, February 15, 2013, <http://www.survivalinternational.org/news/8983>, reported, **The Argentine gas giant Pluspetrol has publicly backtracked on plans to expand the notorious Camisea gas project in southeast Peru into one of the most biodiverse places on earth, following a shock exposure this week by The Guardian newspaper and Survival International. The company has released a statement in which it admitted planning what it described as ‘superficial geological studies... for scientific interest,’ in Manu National Park, but promising that it had now abandoned these plans. The Peruvian national parks authority Sernanp has also released a statement following the media storm, confirming it had denied Pluspetrol’s request to work in the area on the grounds that the Manu’s protected status ‘expressly prohibits the exploitation of natural resources’. A leak had previously confirmed Pluspetrol commissioned a report by environmental agency Quartz Services S.A., which stated its plans ‘will contribute not only to the continuity of activity on Block 88, but also to the development of the protected Manu National Park.’”**

“Amazon Indians unite against Canadian oil giant,” Survival International, March 14, 2013, <http://www.survivalinternational.org/news/9023>, reported, **“Amazon Indians from Peru and Brazil have joined together to stop a Canadian oil company destroying their land and threatening the lives of uncontacted tribes. Hundreds of Matsés Indians gathered on the border of Peru and Brazil last Saturday and called on their governments to stop the exploration, warning that the work will devastate their forest home. The oil giant Pacific Rubiales is headquartered in Canada and has already started oil exploration in ‘Block 135’ in Peru, which lies directly over an area proposed as an uncontacted tribes reserve.”** “The Matsés number around 2,200 and live along the Peru-Brazil border. Together with the closely-related Matis tribe, they were known as the ‘Jaguar people’ for their facial decorations and tattoos, which resembled the jaguar’s whiskers and teeth. The Matsés were first contacted in the 1960s, and have since suffered from diseases introduced by outsiders. Uncontacted tribes are also at extreme risk from contact with outsiders through the introduction of diseases to which they have little or no immunity. **Despite promising to protect the rights of its indigenous citizens, the**

**Peruvian government has allowed the \$36 million project to go ahead. Contractors will cut hundreds of miles of seismic testing lines through the forest home of the uncontacted tribes, and drill exploratory wells. The government has also granted a license for oil explorations to go ahead in ‘Block 137’, just north of ‘Block 135’, which lies directly on Matsés land.** Despite massive pressure from the company, the tribe is firmly resisting the oil company’s activities in their forest. **The effects of oil work are also likely to be felt across the border in Brazil’s Javari Valley, home to several other uncontacted tribes, as seismic testing and the construction of wells threaten to pollute the headwaters of several rivers on which the tribes depend.** Survival’s Director Stephen Corry said, ‘The Canadian state was founded on the theft of tribal land. When Europeans invaded Canada, they introduced alien diseases, seized control of natural resources, and brought about the extinction of entire peoples. It’s a great irony that a Canadian company today is poised to commit the same crimes against tribes in Peru. Why doesn’t the Peruvian government uphold its own commitments to tribal rights? History tells us that when uncontacted peoples’ land is invaded, death, disease and destruction follow.’”

“Brazil takes action for the Awá,” Survival International, February 19, 2013, <http://us1.campaign-archive1.com/?u=b14580b05b832fb959c4ee444&id=9270d62062&e=CqQTrZoCrQ>, reported that **Brazil’s government was sending a team of specialists to investigate the situation of uncontacted Awá, the Earth’s most threatened tribe.** The team was to avoid making contact with the isolated people, while developing a report on the threats from illegal loggers. **However, despite a call from the Awa, in February 2013, for the government to remove illegal loggers from their territory, and the order of a federal judge in March 2012 to do so by the end of March 2013, the government had failed to take such action,** as of April 18. Over 30% of one of the Awá’s territories has already been deforested. The Awá have reported that loggers are rapidly closing in on their communities and have already been marking trees for deforestation as little as 2 miles away. Logging trucks laden with wood leave the area day and night and the Indians are scared to go into their forest to hunt. The Awá depend on the rainforest for their survival: it provides them with food, shelter and a spiritual home. Today, around 100 of the 450 Awá remain uncontacted and are at particular risk of diseases brought in by the outsiders – a common cold could kill them. In the 1980s, the Awá’s population was decimated by exposure to outsiders when a railway line to transport iron ore from the Carajás mine to the coast, part of the Great Carajás Project, cut through their land. **The project was partly funded by the World Bank and European Union.** The influx of outsiders brought violence and diseases and many Awá were massacred. Nearly 50,000 letters have already been sent to Brazil’s Minister of Justice since actor Colin Firth launched Survival’s campaign to save the Awá. But FUNAI, Brazil’s indigenous affairs department, is still waiting for support from the Justice Ministry, the federal police and central government to evict the invaders. Survival International’s Director Stephen Corry commented, “Brazil has already destroyed countless tribes, either by failing to protect them or by actively encouraging the exploitation of their land. It’s not too late for the Awá, but it soon will be. It is entirely within the Minister of Justice’s capabilities to evict loggers, but he must act today. If he doesn’t, tomorrow the Awá will be gone” (“Brazil ignores deadline to save Earth’s most threatened tribe,” 18 April 18, 2013, <http://www.survivalinternational.org/news/9110>). In May, 2013, **Survival International and Brazilian indigenous rights organization CIMI Sent a petition to the Inter-American Commission on Human Rights (IACHR) to hold Brazil’s government to account for failing to remove hundreds of illegal invaders from the Awá’s land.** The petition says, “The Awá will not survive without their lands, which the State of Brazil has failed to take timely and effective measures to protect against the loggers, ranchers and settlers who continue to encroach upon them.” (“Awá’s plight reaches top human rights watchdog,” Survival International, May, 7 2013, <http://www.survivalinternational.org/news/9208>).

“Land Invaders Refuse to Exit Marãiwatsede in Brazil,” Cultural Survival, December 14, 2012, <http://www.culturalsurvival.org/news/land-invaders-refuse-exit-maraiwatsede-brazil>, reported, “December 6, 2012 was the **deadline for removal of illegal invaders in the Xavante Indigenous territory of Marãiwatsede in Mato Grosso state. The invaders remain and the situation continues to be very tense in the region. Xavante’s allies, among them the 84 year old Bishop Pere Casaldàliga, continue to receive death threats.** According to information collected by the Federal Public Ministry, INCRA (Institute for Agrarian Reform) and FUNAI and provided in reporting by Rodrigo Vargas from O DIÁRIO, **among those who refuse to leave are**

current and past mayors, council members, ranch and business owners and a Supreme Court Judge. On the list are: State Supreme Court Judge Manoel Ornellas, of São Félix do Araguaia; Mohamad Zaher, who sits on the Rondonópolis town council; former Alto Boa Vista mayor, Aldecides Cirqueira, and his brother, Antônio Cirqueira. The brothers together control seven ranches in the Xavante Indigenous Territory. The largest ranch within the Marãiwatsed Indigenous territory -- according to the Attorney General, 6.193 hectares called “Jordão” -- is owned by Antônio Mamed Jordão, ex-vice-mayor of the town of Alto Boa Vista. State Supreme Court Judge, Manoel Ornellas is listed as owning two areas (both identified as Fazenda São Francisco de Assis) totaling 886 hectares. Gilberto Luiz de Rezende, known locally as “Gilbertão” or “Big Gilberto,” who is recognized as the chief coordinator of illegal land grabbing and deforestation is listed as owning 2.636 hectares in Marãiwatsédé. The Attorney General’s Report cites Taquari, Admilson Luiz de Rezende, Gilbertão’s brother and former council member for the town of Alto, as occupying three areas that together 6.640 hectares. The **federal government is doubling security as it moves forward with the removal of non-indigenous occupants of the Marawãitsede Indigenous Territory. As of December 17, 26 ranches have been targeted for security reinforcements. In response, demonstrators have put up road blocks that have paralyzed several stretches of BR-158 highway.** A letter written by chief Damião in August 2012 is accessible here: <http://www.formad.org.br/wp-content/uploads/downloads/2012/12/Carta-da-comunidade-Xavante.”> (See also, “Police Reinforcements Redouble: Removal of Illegal Occupants from Xavante Lands in Brazil Proceeds,” Cultural Survival, December 21, 2012, <http://www.culturalsurvival.org/news/police-reinforcements-redouble-removal-illegal-occupants-xavante-lands-brazil-proceeds>).

“Guarani trapped on ‘island’ celebrate land breakthrough,” Survival International, March 27, 2013, <http://www.survivalinternational.org/news/9085>, reported, **“A Guarani community in Brazil is celebrating after the government recognized their land as indigenous, for their exclusive use. The 170 members of Pyelito Kuê/ M’barakay community, living on an ‘island’ between a river and a soya plantation, can now stay on part of their ancestral land until the formal demarcation process is complete.”** “This success comes after the Guarani’s international declaration that they would rather be killed than be removed from their land. The Guarani have suffered a series of brutal attacks since they reoccupied this part of their territory in August 2011. The Guarani’s land was occupied by ranchers in the 1970s, forcing the Indians to live in appalling conditions in overcrowded reserves. This violence and intimidation by the ranchers’ gunmen has forced the Guarani to make a dangerous river crossing using a narrow cable, in order to travel to and from their land, to obtain food supplies. The Guarani are now urging the government to complete the demarcation process as fast as possible and allow them to live on all of their ancestral land where they can plant crops and no longer be exposed to the constant risk of violence. Survival is lobbying the Brazilian government to map out all Guarani land, as it is legally bound to do.” **Other Guarani communities remain in more serious conditions.** In February, **15-year-old Guarani boy Denilson Barbosa was shot to death, allegedly by the owner of the ranch which occupies part of the Indians’ ancestral land. This one of many such murders of Guarani over the last few years, and brought seven Guarani leaders to travel to Brazil’s capital, Brasília, in March, to warn of the ‘complete disrespect’ and ‘permanent human rights violations’ they are suffering as a wave of death and violence has swept over their communities.** The violence was continuing in March, as several communities reported being intimidated by gunman, them and firing shots into the air, while three Guarani have died of unknown causes. Guarani leaders have received death threats via anonymous phone calls, and they fear their movements are being closely monitored by the ranchers’ gunmen. Having seen much of their land taken from them to make way for ranches and sugarcane plantations, thousands of Guarani now live in overcrowded reserves or roadside camps. Their efforts to take back their ancestral land, rightfully theirs according to Brazilian and international law, often result in violence. The Guarani delegation met with various government authorities in Brasília, and urged them to map out Guarani lands and implement an emergency security program as soon as possible. They also called for the rancher thought to be responsible for Barbosa’s death to be investigated and brought to trial. Numerous Guarani have been murdered by gunmen in recent decades, while almost none the perpetrators have not been punished. Earlier in 2013, hundreds of Guarani commemorated the ten year anniversary of the killing of internationally renowned leader Marcos Veron. His killers remain free. Survival has been campaigning for the Guarani’s ancestral land to be returned to them before

they are forced to endure further killings (“Guarani anger over teenager’s death,” Survival International, March 18, 2013, <http://www.survivalinternational.org/news/9037>). As the **settler repression of the Guarani continues, another tribal member was killed by Gunmen** in June (“Guarani man killed in ambush by gunmen working for the cattle ranchers who have occupied his community's land.” Survival International, June 13, 2013, <http://www.survivalinternational.org/news>).

“Brazil police shoot Indians – more violence feared” Survival International, May 31, 2013, <http://www.survivalinternational.org/news/9274>, reports, **“Police in southern Brazil yesterday killed a Terena Indian and wounded several others while violently evicting them from their land. Members of the tribe had returned to live on part of their ancestral territory currently occupied by a rancher who is also a local politician. Elsewhere in Brazil, an eviction order was served on Kayapó, Arara, Munduruku, Xipaya and Juruna Indians occupying the controversial Belo Monte dam site. Armed police have surrounded the protesters and tensions are rising amid fears that there will be similar violence. Munduruku Indians are also protesting construction of a dam on the Tapajós river. One Munduruku was shot dead when police invaded a community last November.”** “The Brazilian constitution and international law enshrine the right of tribal peoples to be consulted about projects on their land. Yet a **raft of bills and constitutional amendments proposed by a powerful agricultural and mining lobby threaten to undermine these land rights. Indians are angry that, despite being in office for two and half years, President Dilma Rousseff has yet to meet any Indians.** Survival International is calling on President Rousseff to halt the eviction of indigenous protesters, to consult with the Indians, and to recognize the territories of Terena tribespeople immediately. Survival’s director Stephen Corry said, ‘History is repeating itself. The Figueiredo report, chronicling the genocidal atrocities of a past generation, has been unearthed at exactly the same time as new attacks on the Indians are unleashed. Killings of Indians should not be tolerated anywhere, let alone in a country planning to host world sporting events.’”

“Brazil – indigenous affairs chief quits following Indian killing,” Survival International, June 11, 2013, <http://www.survivalinternational.org/news/9303>, reported, **“The head of Brazil’s indigenous affairs department, FUNAI, resigned on 7 June, citing ill health. Dr Marta Azevedo took office just over a year ago, and declared that the situation of the Awá and Guarani tribes was a top priority. Many believe that her resignation was precipitated by the recent killing of a Terena Indian by the police, and by the government’s moves to weaken indigenous peoples’ rights and to undermine FUNAI’s powers. These moves have caused a wave of anger amongst Brazil’s indigenous people and their supporters. Protests have erupted throughout Brazil in recent months as Indians seek to defend their hard-won constitutional rights against a government intent on industrialization and ‘development’ seemingly at any cost. As the Marubo Indians of western Brazil said recently ‘We want President Dilma Rousseff to turn this country into a real ‘democracy’ and to consider indigenous peoples’ achievements in the guaranteeing of their territories. After 513 years of massacres and genocides...we want to be able to look to an image of a Brazil with a better future.’ Dilma Rousseff is the only president since the fall of the military dictatorship in 1985 who has not met with any indigenous representatives. Last week 150 Indians traveled to the capital, Brasilia, to talk with the government about the lack of consultation over its controversial plans to build hydroelectric dams along several major tributaries of the Amazon. After the meetings, the Munduruku wrote to the government declaring that, ‘Now our own land has become a battle ground where we are being exterminated and assassinated by the government’s armed forces.’ At the same time Guarani and Kaingang Indians blocked roads to protest at the lack of progress in land demarcation. COIAB, the coordinating body of indigenous organizations of the Brazilian Amazon, stated, ‘The current government is trying to impose its colonial and dominating style on us. ... [it] has caused irreversible harm to indigenous peoples using bills and decrees, many of them unconstitutional’. One bill under discussion would prohibit the expansion of indigenous territories and will affect tribes living in the agricultural mid-west and south, where violent land conflicts are most acute and where Brazil’s powerful rural lobby includes politicians who own ranches on indigenous land due to be returned to the Indians. It will be particularly disastrous for the Guarani in Mato Grosso do Sul state, who live in roadside camps or overcrowded reserves and whose leaders have been systematically attacked and murdered by ranchers’ gunmen as they attempt to regain their ancestral land. A proposed constitutional**



amendment would give congress (dominated by the agricultural and mining lobby) the power to participate in the process of demarcating indigenous land, causing further delays to the protection of territories. Politicians from mineral-rich states in the Amazon are backing a mining bill which, if approved by congress, would open up indigenous territories to large-scale mining for the first time. The Yanomami territory alone is subject to 654 mining requests. Dozens of anthropologists in Brazil signed a manifesto, which states that ‘progress’, and ‘development’ have no purpose if they do not respect the constitution. Representatives from several NGOs recently wrote to President Rousseff about the dismantling of indigenous rights in light of the discovery of the Figueiredo report, which documented shocking atrocities suffered by Indians in the 1940s, 50s and 60s.” Close to 200 agents of the Rio de Janeiro police Shock Battalion forcibly evicted Indigenous and allied protestors from the contested Aldeia Maracana area in the Brazilian city, March 22, 2013, arresting at least six indigenous people. A week later, attorneys for the Tamoio Movement of Original Peoples (TMOP) filed suit at the Federal Public Ministry to halt the eviction and prevent the demolition of the former Indian Museum, around which many Indigenous people have settled (Rick Kearns, “Indigenous Protestors File Suit in Brazil After Violent Eviction in Rio.” ICTMN, April 3, 2013, <http://indiancountrytodaymedianetwork.com/2013/04/03/indigenous-protestors-file-suit-brazil-after-violent-eviction-rio-148538>).

In June, massive popular protests against rising prices for inadequate transportation, the government not doing enough in education and other services for average and poor people, against corruption, and for more democracy rocked Brazil, catching the left leaning government by surprise. President Dilma Rousseff responded by praising the protestors, meeting with some of them, announcing initiatives – some new, some old that had previously failed to pass Congress – for improved and expanded transportation, more money for schooling, improving healthcare, including temporarily bringing in foreign doctors, and bringing government reform and more democracy, including convening a constituent assembly apparently aimed at overhauling Congress and campaign-finance methods. What the impact will be for Brazil’s Indigenous People will be remains to be seen. There is a potential for their rights to be expanded along with that of the common people across Brazil (Simon Romero, “Responding to Protests, Brazil’s Leader Proposes Changes to System,” *The New York Times*, June 24, 2013, [http://www.nytimes.com/2013/06/25/world/americas/responding-to-protests-brazils-leader-proposes-changes-to-system.html?ref=todayspaper&\\_r=0](http://www.nytimes.com/2013/06/25/world/americas/responding-to-protests-brazils-leader-proposes-changes-to-system.html?ref=todayspaper&_r=0)).

“*Noble Savage*’: Chagnon’s new book triggers resignation and protests,” Survival International, February 26, 2013, <http://www.survivalinternational.org/news/8997>, reported, that **A new book by controversial American anthropologist Napoleon Chagnon has triggered a wave of protests among experts and Yanomami Indians.** Napoleon Chagnon’s autobiography *Noble Savages: My Life Among Two Dangerous Tribes – the Yanomamö and the Anthropologists*, was published in early 2013. His 1968 book *Yanomamö: The Fierce People* portrayed the Yanomami as ‘sly, aggressive and intimidating’, and claimed they ‘live in a state of chronic warfare’. It is still a standard work in undergraduate anthropology. Marshall Sahlins, ‘the world’s most respected anthropologist alive today’, resigned from the US National Academy of Sciences in protest at Chagnon’s election to the Academy. Sahlins presented a devastating critique of Chagnon’s work in the *Washington Post*. Davi Kopenawa, a spokesman for Brazil’s Yanomami and President of the Yanomami association Hutukara, spoke out about Chagnon’s work: “[Chagnon] said about us, ‘The Yanomami are savages!’ He teaches false things to young students. ‘Look, the Yanomami kill each other because of women.’ He keeps on saying this. But what do his leaders do? I believe that some years ago his leader waged a huge war – they killed thousands of children, they killed thousands of girls and boys. These big men killed almost everything. These are the fierce people, the true fierce people. They throw bombs, fire machine guns and finish off with the Earth. We don’t do this...” **A large group of anthropologists who have each worked with the Yanomami for many years have issued a statement challenging Chagnon’s assessment of the tribe as ‘fierce’ and ‘violent’. They describe the Yanomami as ‘generally peaceable.’** The Yanomami live in Brazil and Venezuela and are the largest relatively isolated tribe in South America. Their territory is protected by law, but illegal goldminers and ranchers continue to invade their land, destroying their forest and spreading diseases which in the 1980s killed one out of five Brazilian Yanomami. Chagnon’s work has had far-reaching consequences for the rights of the Yanomami. In the late 1970s,

Brazil's military dictatorship, which was refusing to demarcate the Yanomami territory, was clearly influenced by the characterization of the Yanomami as hostile to each other and in the 1990s, the UK government refused funding for an education project with the Yanomami, saying that any project with the tribe should work on 'reducing violence'. Most recently, Chagnon's work was cited in Jared Diamond's highly controversial book 'The World Until Yesterday', in which he states that most tribal peoples, including the Yanomami, are 'trapped in cycles of violence and warfare' and calls for the imposition of state control in order to bring them peace. Survival International's Director Stephen Corry said today, 'The greatest tragedy in this story is that the real Yanomami have largely been written out of it, as the media have chosen to focus only on the salacious details of the debate that rages between anthropologists or on Chagnon's disputed characterizations. In fact, Yanomamö: The Fierce People had disastrous repercussions both for the Yanomami and tribal peoples in general. There's no doubt it's been used against them and it has brought the 19th century myth of the 'Brutal Savage' back into mainstream thinking.' The full statements and additional information about the controversy can be found at: <http://survivalinternational.us1.list-manage1.com/track/click?u=b14580b05b832fb959c4ee444&id=79b11f3221&e=CqQTrZoCrQ>.

Brisa Araujo, "The Imposition of Brazilian Agribusiness and the Suppression of Family Farming, With Government Support," *Americas Program*, March 4, 2013, <http://www.cipamericas.org/archives/9327>, discusses that **despite the promises of the Lulu government, redistribution of land to landless peasants has decreased in Brazil in the last several years, while the expropriation of land of individual farmers for agro business development has increased.**

Coletivo Buopés "Crisis Point: Failure of Indigenous Health Care in the Upper Rio Negro Region, Brazil," *Cultural Survival*, March 28, 2013, <http://www.culturalsurvival.org/news/crisis-point-failure-indigenous-health-care-upper-rio-negro-region-brazil>, reported, "**Life has become more and more difficult over the past few years in the Upper Rio Negro region of Amazonas, Brazil. When the Hup community of Taracuá Igarapé, a village of about 200 people on the Rio Tiquié, reported the deaths of these two children on January 16, 2013, they sent news that some fourteen other children in the community were also ill. However, the regional health posts were vacant, and had been so for many weeks. The events in the Hup community in January 2013 represent just one more indication that Indigenous health care in the Upper Rio Negro region has reached a point of crisis. Although the turn of the 21st century saw positive advances in regional efforts to provide health care to the many Indigenous communities in the region, the past five years have seen a gradual reduction in the activities of the Distrito Sanitário Especial Indígena Alto Rio Negro (DSEI-RN), the governmental organization responsible for meeting Indigenous health needs. This reduction has had a devastating impact on local health and has corresponded to a sharp jump in mortality rates. At least 23 different Indigenous peoples inhabit the Upper Rio Negro region, the largest area of Indigenous lands within Brazil. Throughout the region, easily treated clinical symptoms such as diarrhea lead to serious diseases; low weight evolves into malnutrition in few weeks; common colds develop into pneumonia. Deaths, especially among children under age five, are frequent. The problems are due in part to the fact that many of the illnesses affecting the Indigenous population of this region and elsewhere originated outside the region, and the native peoples have little natural resistance and few resources to combat them. Similarly, nutritional deficits have in many cases been greatly exacerbated by social changes brought on by increased contact with the national society. The DSEI-RN is responsible for basic health care among the Indigenous populations in the regions around São Gabriel da Cachoeira, Santa Isabel do Rio Negro, and Barcelos. However, for over five years this governmental organization has been in disarray, plagued by corruption, and non-compliant with the national policy for Indian health. The health teams are unprepared to engage with Indigenous culture, and the DSEI logistical system is in chaos, as documented in a 2010 report aired on Brazilian television (see <http://www.youtube.com/watch?v=xNMjyZGw0DM>). Although financial resources are in fact sufficient for the SESAI and the DSEI to implement adequate health care, the tragic situation of Indigenous health in Brazil today is a direct result of the mismanagement of these public resources. Indigenous and non-governmental organizations have made many attempts to denounce the ineffectiveness of the current system – to the media, the Federal Public Ministry, the Ministry of Health, and international organizations – but their complaints are not taken into account by the public administration. Meanwhile, Hup, Yuhup,**

Tukano, Desano, Kotiria and other children continue to die, as do children in many other Indigenous communities across Brazil.

Similarly, “Xavante in Brazil Demand Health Attention.” Cultural Survival, April 2, 2013, <http://www.culturalsurvival.org/news/xavante-brazil-demand-health-attention>, reported, **“Following the death of three children with symptoms of malnutrition in the month of March alone, Xavante from the Indigenous Territory of Marãiwatsede in Brazil demand immediate attention to improve health. The Brazilian federal government considers Marãiwatsede, where health conditions are extremely precarious, to have high priority status for government attention.** The Xavante sent an appeal for immediate attention to their situation (<http://maraiwatsede.wordpress.com/2013/03/28/um-apelo-a-saude-em-maraiwa...Marãiwatsédé> Indigenous Territory March 21, 2013). The Xavante say. “We need to improve the health care, but there are no medicines and no equipment in the village of Marãiwatsédé. We need two cars for health care because our village is far away from the hospital in Agua Boa. If someone needs to have tests (x-rays, blood analysis, etc.) patients need to travel even farther, to Barra do Garças. Competent authorities are familiar with our problems. They have visited our community. We have had many meetings with them. We have traveled to Brasília and we have submitted many documents. Nothing has been done.”

Ethnic conflict in Ecuador’s Yasuni National Park,” Survival International, April 15, 2013, <http://www.survivalinternational.org/news/9147>, reported, From mid-March to mid-April 2013, there were reports of **two violent incidents in Ecuador’s Yasuni National Park involving members of the Waorani tribe. The killings have renewed claims that outside pressures are causing increased violence in the area.** On 5th March, 2013 two Waorani Indians – Ompore Omeway and his wife Buganei Cayga – were killed by suspected members of the Taromenane, a group of uncontacted Waorani. Less than a month later, unconfirmed reports have emerged of reprisals against the uncontacted Indians, in which an unknown number are believed to have died. Waorani leaders are in talks with government authorities to investigate. The Yasuni National Park is a highly biodiverse area of the Ecuadorian Amazon which, together with the neighboring Waorani reserve, is home to around 3,000 Waorani, who were initially contacted in the 1950s by members of the Summer Institute of Linguistics missionary organization. There are also two closely related uncontacted groups, the Tagaeri and the Taromenane. **The Park, and the Waorani reserve have long been targeted by oil and gas companies, and illegal loggers. Several oil roads have been built into the Waorani territory.** Waorani leader Cawetipe Yeti told local press, ‘This is not a tourist zone, this is an area in a state of red alert. We’re **asking the authorities to act immediately on our request to provide logistical support to protect our (uncontacted) Taromenane brothers.**’

“Enxet Indians take back their land,” April 17, 2013, <http://www.survivalinternational.org/news/9152>, reports, **“A group of Enxet Indians in western Paraguay have moved back to their homeland after waiting for almost 20 years by the side of a highway for their land to be officially returned to them.** The Enxet community of Sawhoyamaxa were thrown off their ancestral territory in 1995 by Heribert Roedel, a German rancher who has become a major landowner in the thick forests of western Paraguay. Much of his fortune comes from a fraud committed against German members of the public, who he persuaded to invest in land in Paraguay, in an area now claimed by another Indian tribe, the Ayoreo-Totobiegosode. He pretended to invest their money in improving the land but, instead, pocketed the funds. Roedel was the subject of an Interpol arrest warrant as a result.”

**An analysis of the likely impact of the election to the Presidency of Paraguay of Horacio Cartes,** tobacco tycoon and political novice, bringing back to power the Colorado Party, which ruled the country with a tight grip of power for over sixty years until 2008, is in Claudia Pompa, “Cartes’ Election: What it means and the challenges ahead,” *Americas Program*, May 3, 2013, <http://www.cipamericas.org/archives/9464>.

“Grupo San José investors lobbied over ‘hiding tribe’,” Survival International,” March 19, 2013, <http://www.survivalinternational.org/news/9035>, reported, **“Shareholders in Spanish construction giant Grupo San José have been urged to withdraw from the company after satellite images revealed the involvement of its subsidiary in the destruction of land inhabited by uncontacted Indians” in Paraguay.** Grupo San José

shareholders include Spanish investment bank Invercaixa and Banco Caja Castilla la Mancha. Its **subsidiary company, Carlos Casado S.A., owns a large expanse of the Chaco forest in Paraguay which is inhabited by uncontacted Ayoreo Indians.** Carlos Casado S.A., whose President is Spanish tycoon (and Grupo San José founder) Jacinto Rey González, has denied any illegal activities, despite **satellite images proving it has begun work in the heart of the Ayoreo's land.** Last year, government authorities caught the company red-handed as it was clearing the forest and constructing roads and reservoirs without the required environmental license. **Many Ayoreo have already been contacted and have been claiming title to the land owned by Carlos Casado S.A. for more than twenty years.** Their uncontacted relatives who remain in the forest are extremely vulnerable to diseases brought in by outsiders, and unwanted contact could be deadly. The uncontacted Ayoreo are being forced to flee as their forest is being rapidly bulldozed to make way for cattle.”

“Mapuche Leaders Bring Lawsuit Against the Chilean State in the Inter-American Court of Human Rights,” Cultural Survival, May 31, 2013, <http://www.culturalsurvival.org/news/mapuche-leaders-bring-lawsuit-against-chilean-state-inter-american-court-human-rights>, reported, “On Wednesday, May 29<sup>th</sup>, **leaders and members of the Mapuche nation, as well as a pro-Mapuche Chilean Activist, began filing a lawsuit against the Chilean State in the Inter-American Court. This cause, named the *Narín Catrimán vs. Chile Case*, focuses on presenting before the Court the serious damage incurred by implementation of the so-called ‘Anti-Terrorist Law,’ police violence, unjust imprisonment, and discriminatory procedures in the Chilean judicial system.** “Taking into account that in Chile a regulation was put into effect that ‘criminalizes’ Mapuche communities’ struggles for their lands and rights, the Human Rights Commission sent the case to the Court on 7 August 2011. According to the Commission, the cases of affected Mapuche leaders will allow the Court to ‘set standards regarding equality and non-discrimination.’ Also, both the Commission and the Mapuche plaintiffs demand that the Court decides “regarding reparations, in particular non-repetition measures needed to challenge the presence of prejudices and stereotypes.’ This refers to prejudices that have influenced directly in the treatment of these cases in Chile. In its actions, the Chilean Court has incurred discriminatory practices that seek to deteriorate the legitimate struggle of Mapuche communities to recover their ancestral lands.” For direct access to information on the hearing in progress, go to: <http://www.corteidh.or.cr/>.

IGC, “Setting Kosovo Free: Remaining Challenges,” Europe Report N°218, September 10, 2012, <http://www.crisisgroup.org/en/regions/europe/balkans/kosovo/218-setting-kosovo-free-remaining-challenges.aspx>, comments, “**Kosovo has implemented much of the Ahtisaari plan – the blueprint for its democracy, providing substantial rights for Serbs and other minorities – and deserves to be fully independent, but there should be no slippage, and remaining parts of the plan should be honored. The Pristina government mostly abides by it, and many Serbs south of the Ibar River now accept its authority, obey its laws and take part in political life in a way unimaginable four years ago. These achievements are threatened, however, by the tense Kosovo-Serbia relationship, declining Serb numbers and Pristina’s frustration at its inability to extend its sovereignty to the Serb-majority northern areas and to achieve full international recognition. A surge in ethnically-motivated attacks shows peace is fragile. The government should remain committed to the Ahtisaari requirement for minorities. But the plan was not meant to work in isolation and cannot be separated from the overall Kosovo-Serbia relationship. Belgrade needs to earn Pristina’s trust and acquiescence for its continued involvement on Kosovo territory, especially the south.** The early years of Kosovo’s independence were supervised by an International Civilian Office (ICO) created by the Ahtisaari plan. On 10 September 2012, the ICO and international “supervision” end, leaving the Pristina government with full responsibility for the young country. This is a crucial time for Kosovo’s relations with its Serb population and Serbia; the Ahtisaari plan still provides the best model to guarantee peaceful co-existence. Many Serbs in Kosovo cooperate with state institutions in order to protect their rights and interests, but those in the North remain intransigent. The government has written most of the Ahtisaari plan into its constitution and laws, with generous provisions for Kosovo Serbs, though implementation is sometimes unsatisfactory. It has devolved powers to municipalities, allowing not only Serbs but also the majority Albanians greater say in how they run local affairs. Nevertheless, many in Pristina are starting to question what they see as the preferential treatment given to Serbs. Communication is getting harder, as few young people speak the other’s language. After years with only a small

number of inter-ethnic incidents, attacks on Serbs are becoming more frequent. Serbia does not feel bound by the Ahtisaari plan and thus maintains a significant presence in Kosovo that increased after independence in 2008, when Belgrade was intent on showing that it retained some control over its co-nation-als. In northern Kosovo, Belgrade's control over local administration is almost complete. In the south, it mainly pays many Serbs' salaries and pensions and runs education and health systems without informing Pristina. The Kosovo government tolerates this but could attempt to close the Belgrade-based institutions in the south. Such a crackdown would probably cause many Serbs to leave quickly. When it agreed to the Ahtisaari plan, Kosovo accepted that Serbia would stay involved on its territory, though in a cooperative and transparent way. Belgrade has rejected this cooperation, however, and Kosovo is showing signs of impatience. If it will not accept the letter of the Ahtisaari plan, Belgrade needs to act in its spirit or risk losing what influence it still has in the south. A decade ago, two thirds of Kosovo's Serbs lived south of the Ibar, scattered among an overwhelmingly Albanian population, one third in the heavily Serb North. That north-south Serb balance has shifted toward parity, and the southern Serb population is rural, aging and politically passive. Its pool of educated, politically savvy individuals is tiny and out of proportion to the large role assigned the community in the Ahtisaari plan, especially as the Serbs in northern municipalities refuse to participate. They and other minorities depend wholly on privileges, including quotas; they do not have enough votes to win legislative seats in open competition. Their minority delegates in the Assembly seldom resist Albanian policy preferences. Serb delegates allowed the government to gut the Ahtisaari promise of an "independent Serbian language television channel", for example, replacing it with a Serbian channel controlled by the state broadcaster. The creation of six Serb-majority municipalities south of the Ibar has, nevertheless, largely succeeded; they have taken over most of the governing role from parallel structures financed by Serbia, even though education and health care remains under Belgrade's control. The bigger municipalities like Gračanica and Štrpce have active assemblies, are implementing infrastructure development projects with foreign and Kosovo government funding and are taking on responsibilities in a wide range of areas. Other new municipalities are small, lack competent staff and struggle to raise the resources they need. But all municipalities in Kosovo are competing for limited public and private funds. Central authorities have a tendency to micromanage their spending and deprive them of means to raise money. Few municipal governments, Serb and Albanian alike, have the trained staff needed to exercise their devolved powers effectively, and they seldom cooperate with each other even in areas of mutual interest. Pristina and its international partners have failed almost completely to overcome still strong resistance to the return of refugees and internally displaced persons (IDPs). Many of these are content to sell their property and resettle elsewhere, but stymied by corruption, intimidation and courts without Serbian language facilities cannot achieve even that modest goal. Even the Serbian Orthodox Church struggles to realize the property rights it has under the Ahtisaari plan. Serbs living in enclaves within Albanian-majority municipalities are increasingly vulnerable and in need of protection. Some villages in Serb-majority municipalities are also exposed to attacks from larger neighboring Albanian settlements, usually motivated by conflict over land. Their security is Pristina's responsibility, and the government must take effective measures to protect vulnerable minorities and their return. The greatest obstacle facing the Serb community, and the serious threat to the Ahtisaari plan, may be the sheer difficulty of making a safe and sustainable living in minority areas. Mistrust, lack of proper registration and outright hostility all make it hard for minority-owned businesses to market goods and services to the majority. As there is little to do beyond farming in most Serb-majority municipalities, many Serbs depend on salaries from Belgrade. If these end, many educated Serbs will be tempted to leave. Education is another sensitive area, and parents who do not trust the local schools will not stay. The Serbian schools and hospitals should be allowed to continue, but Belgrade and Pristina need to negotiate a mechanism for their registration and oversight. Pristina and Belgrade have an interest to cooperate and avoid an exodus of Kosovo's Serbs that would leave Kosovo with a multi-ethnic constitution ill-matched to a mono-ethnic reality, creating fresh tensions for the region and undermining its image among its international supporters. Serbia could ill afford another wave of migrants in a difficult economic environment. Pristina faces a hard struggle extending its authority north of the Ibar and must show that Serbs can have a good life in independent Kosovo if it is to do so. If Pristina and Belgrade wish, as they should – even out of different motivations – that Kosovo be genuinely multi-ethnic, they must cooperate in support of its Serb community.” **ICG recommends: To the Government of Kosovo:** 1. Honor the Ahtisaari plan fully after the end of supervised independence. 2. Respect provisions for both reserved and guaranteed Assembly seats for minorities in the next general elections, and thereafter implement an alternative incentive mechanism to

boost minority voting. 3. Do more to implement fully the plan's requirement to 'promote and facilitate the safe and dignified return of refugees and displaced persons and assist them in recovering their property'. 4. Do more to stop violence, intimidation, usurpation and harassment of Serbs and returnees in Albanian-majority areas by, for example, establishing police substations and conducting frequent patrols in minority areas with a history of violence and intimidation. 5. Respect the status of Serbian as an official language of Kosovo and ensure Serbs can access all official services in it, including the court system. 6. Create an independent Serbian language television channel with its own editorial policy, board and director named by parliamentarians and municipal officials representing the Serb community. 7. Support the development of municipal autonomy and self-governance by providing block grants with few ear-marks or conditions and encouraging local revenue collection, through changes in laws and procedures that increase local control over privatization, publicly-owned enterprises and provision of local services and utilities. **To the Government of Serbia:** 8. Close the parallel Serb municipal government structures in southern Kosovo and replace them with transparent community liaison offices to provide for the needs of Kosovo Serbs. 9. Do not discourage Serbs in Kosovo from cooperating with Kosovo institutions at all levels; continue to provide technical and financial assistance, but through open and transparent mechanisms. **To the Governments of Serbia and Kosovo:** 10. Establish a channel for direct communication to work out agreements on registration and licensing of Serb schools, health care providers and businesses in Kosovo, and to foster other forms of cooperation at the municipal level to avoid corruption, duplication and waste of limited resources. 11. Ensure school certificates and diplomas are transferrable between Kosovo Serb/Serbian schools and Kosovo Albanian schools and that Serb schools in Kosovo offer Albanian as a second language. **To the International Steering Group and the European Union:** 12. Continue regular International Steering Group (ISG) meetings after the end of supervised independence to coordinate monitoring of implementation of the Ahti-saari plan and possible future Kosovo-Serb agreements. 13. Transfer staff from the International Civilian Office (ICO) to the European Union Office in Kosovo to monitor implementation of the Ahtisaari plan, with a focus on decentralization and communication with minority and religious leaders."

Jane George, "Russia lifts suspension of Arctic indigenous org," *Nunatsiaq*, March 15, 2013, [http://www.nunatsiaqonline.ca/stories/article/65674russia\\_lifts\\_suspension\\_of\\_arctic\\_indigenous\\_org/](http://www.nunatsiaqonline.ca/stories/article/65674russia_lifts_suspension_of_arctic_indigenous_org/), reported, "**The operations of the Russian Association of Indigenous Peoples of the North have been restored.** Russia's Ministry of Justice had given RAIPON an order Nov. 1 to suspend its operations until April, 2013. The ministry said the organization, which represents 41 indigenous groups and more than 250,000 indigenous people across the Russian Arctic, did not comply with Russian federal law because "not all regional offices of the association are legal entities." The ministry concluded that RAIPON's "activities are illegal." This week, officials announced they had registered amendments to the charter of RAIPON, which represents indigenous Russian peoples at the Arctic Council as a permanent participant. That puts an end to the suspension of the activities of RAIPON, which the Arctic Council, Canada, Norway, Greenland and many other groups had protested with statements and letters."

"Campaign Video– Russia/China: Pipeline Threatens Sacred Highlands," *Cultural Survival*, April 10, 2013, <http://www.culturalsurvival.org/news/campaign-video-russiachina-pipeline-threatens-sacred-highlands>, reported, "New York-based New Tang Dynasty Chinese television channel produced a video covering the continued fight to protect the Ukok Plateau in Russia's Altai region from a gas pipeline that would bring natural gas to China. They highlight the environmental, cultural, and archeological concerns about the project that would bisect the UNESCO heritage site that is sacred to the Indigenous Telengit People. "Its not surprising that [the Ukok Plateau's] archeological and natural value is so high that its recognized globally. UNESCO recognition means that its not only just up to the Russian government to decide what to do in the area; it's a place of global significance," explained Nikolai Rybakov, Director of the Ecological Center Bellona. Altai resident Kypchacova Clara told camera crews, 'Generally construction is not allowed there. It's a holy place; our princess was buried there, and there are warriors buried there too.'" The video can be accessed at the above web site.

ICG, "The North Caucasus: The Challenges of Integration (I), Ethnicity and Conflict," *Europe Report*

N°220, October 19, 2012, <http://www.crisisgroup.org/en/regions/europe/north-caucasus/220-the-north-caucasus-the-challenges-of-integration-i-ethnicity-and-conflict.aspx>, comments, **“Europe’s deadliest conflicts are in Russia’s North Caucasus region, and the killing is unlikely to end soon. The state has fought back against attacks, first claimed by Chechen separatists, now the work of jihad-inspired insurgents, that have hit Moscow, other major cities and many Caucasus communities. But its security-focused counter-in-sur-gen-cy strategy is insufficient to address the multiple causes of a conflict fed by ethnic, religious, political and economic grievances that need comprehensive, flexible policy responses. Moscow is increasingly aware of the challenge and is testing new approaches to better integrate a region finally brought into the Russian Empire only in the nineteenth century and that has historically been a problem for the Russian state. Diversity in religion, ethnicity, historical experience and political allegiances and aspirations complicate efforts to alleviate local tensions and integrate it more with the rest of the country. Understanding this pluralism is essential for designing and implementing policies and laws that advance conflict resolution rather than make differences more irreconcilable.** The challenge of ethnic nationalism has been most evident in Chechnya where two bloody wars caused tens of thousands of deaths. During the early 1990s, separatists sought full independence for their republic, but the failure of their state-building project and the ruthless manner in which Moscow fought transformed the nationalist cause into an Islamist one, with a jihadi component. Chechen fighters began to use terrorism widely, and the state responded with massive, indiscriminate force. After 2003, it adopted a policy of Chechenization, transferring significant political, administrative and security functions to ethnic Chechens. Today the republic has gone through a major reconstruction, and its head, Ramzan Kadyrov, wields virtually unlimited power. Governance and rule of law remain major concerns, but human loss is significantly reduced. **The effects of the ongoing insurgency continue to be felt across the North Caucasus, where it has spurred mobilization around fundamentalist Islam. Several inter-ethnic conflicts that developed at the end of the Soviet Union remain unresolved, continuing to fuel tensions.** The Ingush-Ossetian conflict led to full-fledged war in 1992, as both groups asserted claims over the Prigorodny district. Though Russia invested large sums to return displaced persons and rehabilitate their communities, the Ingush in Prigorodny remain uninterested in the rest of North Ossetia. Exclusionary historical narratives and competition over land and decision-making, fuel conflicts in other multi-ethnic republics, especially Dagestan, Kabardino-Balkaria and Stavropol Krai. Some of the groups maintain maximalist aspirations, including the change of internal borders and establishment of new ethnically-identified entities. **Inter-ethnic tensions do not presently threaten major violence, but they may grow with the recent revival of national movements that were particularly strong in the late 1980s and early 1990s.** Though political parties based on national or religious identity are prohibited, a new law simplifying registration is likely to make it easier for politicians with nationalist agendas to infiltrate small parties. Large investments and a return to regional elections are likely to facilitate ethnic competition and mobilization if local communities feel their rights and interests are not adequately protected by the state. Already groups such as the Nogays, Kumyks, and Lezghins in Dagestan and the Circassians and Cossacks are sharpening their organizational capacity and political demands that tend to focus on rehabilitation and justice, state support for native language and culture, development, greater autonomy and access to land. **Tensions are beginning to appear where the legal framework is not sufficient to address these, existing laws are not implemented, and police and local administrative capacity are perceived as ethnically biased and corrupt.** Many of these disputes and tensions feed into the Islamist insurgency that causes most of today’s violence. Parts of the younger generation that twenty years ago would have joined nationalist movements to address their grievances have become disenchanted with those movements and choose to join the Islamist insurgency instead. It increasingly operates across the entire region, attracting youth of all ethnicities, and attacking not only federal forces and local police, but also civil servants and elites who disagree with its fundamentalist interpretation of Islam. A day rarely goes by without an attack on a Russian security official or the killing of an alleged insurgent in a counter-terrorist operation. Some 750 people were killed in 2011, and with over 500 hundred deaths in the first eight months of 2012, there appears to be little chance of a let-up in violence that has spread to parts of the North Caucasus that were peaceful only a few years ago. The threat of jihadi groups is not unique to Russia or the North Caucasus, of course, and many governments are looking for effective means to cope with it. Russia’s counter-terrorism policies have primarily focused on eradicating insurgents through heavy-handed law enforcement measures, but the need for a more comprehensive approach is becoming evident in Moscow and among local



leaders. The North Caucasus is also wracked by corrupt institutions, ineffective governance, poor rule of law and uneven economic development in a combination that leaves a vacuum some dissatisfied youth seek to fill by joining groups that appear to have resolute aims. The weakness of the institutional and economic system further undermines Moscow's efforts to implement policies to better integrate the region and combat extremism. These systemic problems will also need to be addressed for any conflict resolution effort to succeed."

ICG, "The North Caucasus: The Challenges of Integration (II), Islam, the Insurgency and Counter-Insurgency," Europe Report N°221, October 19, 2012, <http://www.crisisgroup.org/en/regions/europe/north-caucasus/221-the-north-caucasus-the-challenges-of-integration-ii-islam-the-insurgency-and-counter-insurgency.aspx>, comments, **"Armed conflict in the North Caucasus is the most violent in Europe today. Insurgents seeking a regional political unit founded on Sharia (Islamic law) attack Russian officials and security forces, whose main response till recently has been a tough focus on eradicating the insurgency with a massive security presence, leaving little room for dialogue. While this policy has had successes, some 574 insurgents, security forces and civilians have died through September 2012, and there are almost daily attacks in the region and, occasionally, as far afield as Moscow. A dialogue with moderate Salafis and efforts to reintegrate insurgents who surrender has started, especially in Dagestan, but is challenged by opponents of soft power measures among security services and the insurgency. The root causes of violence are as much about ethnicity, state capacity and the region's poor integration into Russia as about religion. To succeed in conflict resolution, Russia needs to design and implement a long-term comprehensive approach joining ethnic policies, intra-confessional dialogue, institution building and reintegration of ex-fighters.** Fundamentalist Islam, in particular Salafism, has been growing in the region since the end of the Soviet Union. The manner in which it has evolved in the several republics has depended largely on how the government and its security forces have treated conservative Muslim communities, the historical role of religion and ethnicity, ties to the Chechnya conflict and local religious leaders' teachings. Islamization tends to be more prominent in the east, but Salafi communities are also growing in the west. In the east, an acute conflict with followers of a more traditional form of Islam, mainly Sufis, with whom the state tends to side, contributes to Salafi radicalization. Most Salafis remain peaceful but have difficulties integrating into the local social space and economy. An effort to reduce the sectarian schism by civilian dialogue and increased cooperation between religious groups has been underway in Dagestan since spring 2011, but this was seriously undermined in August 2012, when the most influential Sufi sheikh in the North Caucasus was killed by a suicide bomber. The insurgency behind most of the armed clashes and the terrorism that haunts local communities declared itself a unified force, with its own cause, modes of operation and communication, funding sources, leadership and cadre, in 2007 when it created a regional Caucasus Emirate to bring disparate groups under a central command. Much of the original leadership has been killed by security forces and replaced with a much younger, less experienced and unified cadre. The insurgency is less able to carry out large, spectacular acts of terror or engage in lengthy battles with Russian military forces, but it has not given up the tactic of terror attacks in other parts of Russia, especially on transport lines and hubs, such as Domodedovo Airport (2011) and the Moscow Metro (2010). The vast majority of its attacks in the North Caucasus are now against security services, local officials and traditional clergy and involve improvised explosive devices (IEDs), shootings and, at times, suicide bombers. The government's counter-terrorism policy has mainly been led by the interior ministry and the Federal Security Service (FSB) and focused on law enforcement. Commanders have significant room for maneuver, including establishment of zones for operations that can last several months and cover extensive territory in which many constitutional rights and liberties are suspended. Until recently suspected insurgents were most often killed in special operations or detained. Torture is applied widely for investigative or intelligence purposes; enforced disappearances target not only alleged insurgents, but also those believed to be aiding them or prominent Islamists; retributive punishment is applied to family members in some republics. These harsh measures do little to convince radicalized parts of the population to give their allegiance to the Russian state. They seem instead to stimulate a new generation of disillusioned youth to "join the forest" (go over to the insurgency) in search of revenge or a different political order. **Many in the Russian government have come increasingly to understand the limitations of a counter-insurgency that employs only hard security measures and does very little to win the hearts and minds of local communities. Local**

authorities in Dagestan have been testing a novel approach that includes dialogue with and more tolerance of moderate Salafis and negotiations to encourage insurgents to lay down their weapons and reintegrate into peaceful life. A similar approach in Ingushetia has significantly improved the situation since 2009. Chechen officials also go beyond hard security measures but apply a very different approach, seeking to promote a Sufi Islam while eradicating Salafi ideology and applying very tough measures to suspected fighters and often their supporters.”

While some parts Sudan’s vast desert region of Darfur remain peaceful and stable, with hundreds of families returning home, others have been experiencing attacks reminiscent of 2004. In August 2012, Hundreds of armed men on horseback, camels, donkeys and in four-by-four trucks, swept into the Kassab displaced persons camp and began looting, burning, raping and shooting. Several people were killed and tens of thousands fled for their lives during the several hours assault. United Nations officials and aid workers said this was among the most troubling violence in Darfur in years. **The increasing attacks of 2012 have upset the trend of increasing peace, declining violence and death, of the last few years.** Activists charge that official pronouncements of progress have long been overly positive, and they are increasingly upset with the huge, \$1.5-billion-a-year peacekeeping mission in Darfur, that they say is failing at its core mission of protecting civilians. said Eric Reeves, a Smith College professor and a prolific blogger on Sudan, **stated, “This is probably the least cost-effective peacekeeping mission in U.N. history, but it’s simply not possible to say that out loud, given A.U. sensitivities.** There are factitious claims about ‘improved’ security, and woe to the man who disputes the U.N./Unamid line.” In the Kassab case, many of the victims begged for help when the marauders stormed into the camp, but because of the intensity of the violence combined with some flooding along the roads, United Nations peacekeepers did not arrive until three days after the attack, and then pulled back because government forces were continuing to battling the perpetrating militia fighters. It took several more days before government troops were able to restore a semblance of control. The government forces in Darfur have been spread widely, limiting their protective ability, but at times they are reported to be living up to their history as some of the worst perpetrators. For example, in August, there were reports of renegade troops ransacking the market in Tabit, breaking into shops and shooting civilians, while during the preceding months, there were heavy bombings in eastern Jebel Marra; deadly protests in Nyala; vicious clashes near Tabun; and further attacks on displaced people in several other camps across Darfur. **This seems part of the broader problem of Sudan as a whole falling under more distress than it has been for years, suffering several major rebellions while its economy has plummeted** (Jeffrey Gettleman, “Parts of Darfur See Stability, but Others Are Seething,” *The New York Times*, August 18, 2012, <http://www.nytimes.com/2012/08/19/world/africa/attacks-at-kassab-camp-may-be-sign-of-darfur-setback.html?src=me&ref=world>). In early October, **with three of the four rebel groups in Darfur not signing the 2011 peace accord, 4 UN Peace Keepers were killed in an Ambush (Isma’il Kushkush, “Sudan: Peacekeepers Killed in Ambush,”** *The New York Times*,: October 3, 2012, <http://www.nytimes.com/2012/10/04/world/africa/nigerian-peacekeepers-killed-in-darfur-ambush.html?ref=todayspaper>).

Sudan and South Sudan met for talks in the capital of Ethiopia, in January. however, “Sudan and South Sudan Fail to Reach a Deal on Oil and Border Security,” *The New York Times*, January 19, 2013, reports, **“South Sudan and Sudan have failed to reach an agreement on how to carry out security arrangements and resume oil exports, officials said Saturday after several days of talks.”**

**The limited struggle between North and South Sudan appeared to move to at least a temporary easing,** in early January, as the presidents of the two countries agreed to meet in Ethiopia to discuss border security and oil sharing, following New Year’s speeches by both presidents promising to increase cooperation (Isma’il Kushkush, “Sudan and South Sudan Leaders Agree to Meet,” *The New York Times*, January 1, 2013, <http://www.nytimes.com/2013/01/02/world/africa/sudan-and-south-sudan-leaders-agree-to-meet.html?ref=todayspaper>).

ICG, “Sudan: Major Reform or More War,” Africa Report N°194, November 29, 2012, <http://www.crisisgroup.org/en/regions/africa/horn-of-africa/sudan/194-sudan-major-reform-or-more-war.aspx>,

cautions, **“The ‘Sudan Problem’ has not gone away with the South’s secession. Chronic conflict, driven by concentration of power and resources in the centre, continues to plague the country. The solution is a more inclusive government that addresses at least some of the peripheries’ grievances, but pledges to transform governance remain unfulfilled. A key hurdle – though not the only one – is President Bashir, who has further concentrated authority in a small circle of trusted officials and is unwilling to step aside. Many hope for regime change via coup but have not considered the dangers. The goal should be managed transition to a government that includes, but is not dominated by his National Congress Party (NCP). He might be willing to go along if he concludes greater disorder or even a coup is growing more likely, but only if the right incentives are in place. The international community should contribute to these provided a credible and inclusive transitional government, a meaningful national dialogue on a new constitution and a roadmap for permanent change in how Sudan is governed are first put firmly in train. The regime in Khartoum is in crisis, faced with multiple challenges that, combined, profoundly threaten its existence and Sudan’s stability. The economy is in a freefall that any oil deal with South Sudan will only slow, not arrest. NCP members are deeply unhappy with the leadership, its policies and massive corruption. Feuding factions within the ruling party and the Islamic movement are jockeying to present an acceptable alternative to the NCP government. At the same time, political opposition forces are growing more assertive, and the war with the Sudan Revolutionary Front (SRF) is slowly expanding, bleeding the military dry and draining the treasury. Many hope a coup, or popular uprising, could force Bashir and the NCP regime out, but there is a great risk that either event could trigger more violence. Since he came to power in a military coup in 1989, he has deliberately fragmented the security services and frequently rotated commanders to make an army takeover more difficult. Unless commanders are united, the army could easily split into competing factions. There are also a host of other security services and armed militias loyal to different NCP leaders. Added to this combustible mix are numerous armed tribes outside of Khartoum that would seek to take advantage of turmoil in the capital to create facts on the ground difficult for a new regime to reverse. Bashir and the NCP likely recognize that the dangers of the present phase are greater than the social and economic troubles they have survived in the past. Their instincts are to cut a deal with the fractured opposition (ceding some power and resources to one or two of the political parties and/or a major armed group) and take advantage of the partial settlement with South Sudan to get the oil flowing again. But that can only buy more time, not resolve the causes of chronic conflict or stop the spreading civil war. The international community should learn the lessons of past failed settlement initiatives: Sudan needs a truly comprehensive peace agreement, not a partial settlement that serves the government’s divide-and-rule tactics and perpetuates the unacceptable status quo. At the same time, the NCP needs to be part of any transition. Leaving it out in the cold would be costly. Its elites are too powerful to ignore, and the opposition is too divided and inexperienced to rule alone. A comprehensive solution and genuine political reform including national reconciliation acceptable to all, with the NCP on board, is the only way out of the trap of endless conflict.** The president and his colleagues will have to reach their own conclusion that the present crisis requires more radical adjustments than those they used for survival previously. If they do, however, the international community, by providing incentives, can help them to act on that conclusion consequentially and responsibly. These should be carefully tied to Bashir and the NCP meeting specific, irreversible benchmarks, such as those Crisis Group set out as early as 2009, and verifiably continuing the transition process. Such cooperation might be unpalatable to many who hold Bashir responsible for atrocity crimes, but it would be necessary to prevent further conflict and continued humanitarian crises in Sudan as well as South Sudan. He is crucial to a managed transition that incorporates both the NCP and opposition leaders – civil and armed – and that could put Sudan on a more inclusive, sustainable path. The alternative would be continuation of the status quo, with the NCP desperately clinging to power at whatever humanitarian cost, and the opposition pursuing a military strategy that risks more national fragmentation. Most Sudanese know what is necessary to end decades of conflict. Even before independence in 1956, it was clear that power and resources should be shared more equitably with marginalized regions. The historical focus was often on South Sudan, but other areas have suffered as well. At different times, most peripheral regions have risen in armed revolt to demand greater representation and more development. This dynamic will not change unless there is fundamental structural reform of how the country is governed, and all its political forces – the NCP, the traditional parties, the SRF and youth groups – work together to create a more inclusive and representative government that accepts and respects the

tremendous diversity of the Sudanese peoples.” **ICG recommends:** “*To achieve an inclusive transitional government and initiation of meaningful and verifiable national dialogue:* **To the Government of Sudan:** 1. Bring the NCP, opposition forces and civil society together in an arrangement to manage government for a limited period with well-defined parameters (based on agreed principles reiterated in multiple agreements over decades) that is intended to lead first and foremost to a comprehensive ceasefire and humanitarian access to conflict areas, as well as to allow the political forces to come together to flesh out a roadmap for a durable peace process. 2. Create a process that includes armed and unarmed political forces from all regions to: a) debate and agree on a system of governance that can put an end to the conflicts between the “centre-Khartoum” and Darfur, Southern Kordofan, Blue Nile, East and North; and b) draft a permanent constitution. 3. Implement legal and judicial measures to end impunity, such as: a) appointing non-partisan judges, including in the special courts; b) ensuring the independence of courts and reviewing police investigation, arrest and prosecution procedures; c) holding all government forces and associated militias accountable for their violations of international humanitarian law; and d) amending the provisions in the police law, the criminal law and the criminal procedural law that give the police and security personnel immunity. **To the Sudan Revolutionary Front (SRF) and Political Opposition Forces:** 4. Subordinate individual ambitions in order to develop and articulate detailed political platforms and visions that can form the framework for the transition process. 5. Work to broaden the opposition’s support base and popular support for a transitional framework. *To assist in ending conflict and building sustainable peace and reform:* **To the Republic of South Sudan:** 6. Urge the SRF and other opposition forces to recognize that a managed transition is much preferable to a coup or violent regime change and their likely attendant chaos. 7. Encourage the SRF to develop a detailed political platform and work with other opposition forces. **To Members of the UN Security Council, AU Peace and Security Council and Council of the League of Arab States:** 8. Demand and work for a single, comprehensive solution to Sudan’s multiple conflicts. 9. Offer President Omar al-Bashir, as well as NCP elites, incentives to create a transitional government and firmly and irreversibly place Sudan on a transitional path, including: a) assistance to stabilize the economy, such as normalization of relations, lifting of sanctions, expediting Highly Indebted Poor Country (HIPC) status and other debt relief measures, on condition that transition roadmap benchmarks are met and progress is made in negotiations with South Sudan on post-separation issues; and b) If concrete moves towards a credible transition process are undertaken, and should it emerge as a genuine obstacle to its peaceful conclusion, a Security Council request to the International Criminal Court (ICC) to defer prosecution of Bashir for one year under Article 16 of the Rome Statute. There would be no obligation to renew such deferrals if Bashir reneges on his transition commitments. 10. Support through training and capacity building during the transitional period the establishment and growth of issue-based parties that can represent and articulate the demands of marginalized constituencies, including the peripheries, youth, women and urban and rural poor.”

ICG, “Sudan’s Spreading Conflict (I): War in South Kordofan,” Africa Report N°198, February 14, 2013, <http://www.crisisgroup.org/en/regions/africa/horn-of-africa/sudan/198-sudans-spreading-conflict-i-war-in-south-kordofan.aspx>, reported, “**The war in South Kordofan shows no sign of ending anytime soon. There are echoes of the 1984-2002 civil war, but the dynamics are quite different. The insurgents, the Sudan People’s Liberation Movement-North (SPLM-N) based in the Nuba Mountains, are much better armed, and the state’s ethnic cleavages are much less pronounced. The SPLM-N is also part of an alliance with Darfur rebels, the Sudan Revolutionary Front (SRF), that is working to include disenfranchised armed groups from other regions as well. Arab tribes that previously supplied militias that did much of the fighting no longer support the government wholeheartedly; significant numbers have joined groups fighting Khartoum. The conflict shows every sign of strategic stalemate, with each side hoping pressure from elsewhere will change its foe’s calculations. Yet, it is exacting an horrendous toll, principally among civilians. Unless the government and the SRF engage each other and, with international help, negotiate a comprehensive solution to Sudan’s multiple conflicts, there will be no stop to endless wars that plague the country. The root causes of the conflict – political marginalization, land dispossession and unimplemented promises, remain the same. But ethnic dynamics have changed in important ways. The Misseriya Arabs, the government’s main local supporters during the first war, have grown increasingly frustrated with**

**Khartoum, in particular its 2005 decision to abolish the West Kordofan state that represented the tribe's ethnically homogenous homeland. They no longer heed the government's calls to remobilize, and many young Misseriya are joining the SPLM-N or other groups in the SRF. The other major Arab tribe in the state, the Hawazma, is also starting to switch sides. The SPLM-N is far different from the Nuba fighters who bravely but barely resisted Khartoum's jihad in the 1990s. It is much stronger, with as many as 30,000 soldiers, better weapons and a large stockpile of arms. It also controls much more territory than the Nuba force ever did and is part of – and central to – the SRF alliance that is pressuring the central government on multiple fronts. The government also has more troops in South Kordofan, ranging between 40,000 and 70,000, and more sophisticated equipment. All indications suggest the conflict has settled into a vicious deadlock in which Khartoum is unable to dislodge the rebels ensconced in the Nuba Mountains, and the SPLM-N and its allies are incapable of holding much territory in the lowlands. Government forces have fallen back on their familiar pattern of striking at communities suspected of supporting the rebels, so as to prevent the SPLM-N from living off the surrounding civilian population. Unable to farm, and with the government preventing humanitarian access to insurgency-controlled areas, many civilians have been forced to flee. According to credible sources, more than 700,000 of them are affected by the conflict, including 436,000 displaced within the rebel areas and some 66,000 as refugees in South Sudan (Unity state). Neither side is strong enough to win militarily. A negotiated solution is the only viable solution. The war restarted because key provisions of the 2005 Comprehensive Peace Agreement (CPA), in particular the promised popular consultations to address long-held grievances, were not implemented. A last ditch attempt to stop the spiraling conflict, the 28 June 2011 Framework Agreement that included political and security arrangements, was unacceptable to hardliners. Since then, negotiations between Khartoum and the SPLM-N have largely stalled, with division over the scope of the conflict being a major part of the impasse. While the rebels have increasingly asserted a national agenda, the government, as well as local political leaders, prefer focusing on the local dimensions of the war. In asking for negotiations with a national scope and a more inclusive participation, the SPLM-N is not only trying to raise the stakes; it is also respecting agreement with its SRF partners. Likewise, it is coordinating more closely with the official opposition. On 5 January 2013 in Kampala, Uganda, the SRF signed a "New Dawn Charter" with the National Consensus Forces (NCF), the coalition of all Sudan's main opposition parties and some civil society groups. Like the SRF program, it advocates an inclusive transition, obtained through coordinated violent and non-violent actions. From the SRF's point of view, the charter also addresses the armed opposition's biggest deficit, its lack of support at the centre. The SRF's creation is perhaps forcing the international community to address Sudan's crises as a whole, instead of pursuing localized quick (and often still-born) fixes. Piecemeal power-sharing arrangements, negotiated at different times with divided rebel factions, often encourage further rebellion with the sole aim of obtaining more advantageous concessions from Khartoum. If negotiations only partially address the political marginalization of peripheries, calls for self-determination, still limited in Darfur and Blue Nile but vocal in South Kordofan, will increase. Government hardliners tend to believe that concessions on federalism and greater autonomy could lead to separatism, but they should realize that it has been the centre's inflexibility that created and has sustained those very demands for secession they so fear." This ICG report is the first in a series examining the spreading conflict in Sudan's peripheries. "Since a comprehensive solution, including broader governance reform and meaningful national dialogue, is necessary to end the multiple conflicts and build a durable peace, many of the recommendations in Crisis Group's most recent Sudan report, *Major Reform or More War* (29 November 2012), are relevant for solving chronic conflict in South Kordofan. The SRF's inclusion in the processes outlined therein would force it to evolve from a purely military alliance to a more representative and articulate political movement – from an instrument for war to a vehicle for peace. Instead of engaging with SRF components, including the SPLM-N, individually, international actors, especially the UN Security Council, AU Peace and Security Council and Council of the League of Arab States, should engage with them as a whole and encourage their attempts to present a common political position on the future of Sudan." ICG recommends: *To save lives and cope with massive displacement:* **To the Government of Sudan:** 1. Allow international humanitarian organizations full access to both government- and SPLM-N-controlled areas of South Kordofan, including from across the border with South Sudan; and consider guaranteeing the neutrality of such humanitarian operations by facilitating their monitoring by independent international observers. **To the Sudan People's Liberation Movement-North (SPLM-N):** 2. Ensure, within its capabilities, that all humanitarian aid**

goes to its intended civilian population and that combatants are separated from civilians and not based in refugee camps. *To initiate a meaningful national dialogue and transition: To the Government of Sudan:* 3. Bring the long-time ruling National Congress Party (NCP), the SRF, other opposition forces and civil society groups together in an arrangement to manage government for a limited period with well-defined parameters (based on agreed principles reiterated in multiple agreements over decades) that is intended to lead first and foremost to a comprehensive ceasefire and humanitarian access to conflict areas; and allow the political forces to flesh out a roadmap for a durable peace process, perhaps taking the 28 June 2011 framework agreement and the September 2012 African Union High-Level Implementation Panel for Sudan (AUHIP) draft agreement as a basis for discussion of a national transition that includes: a) debate and agreement on a system of governance that can end the conflicts between the “centre-Khartoum” and Darfur, South Kordofan and Blue Nile, as well as the East and North; and b) drafting of a permanent constitution. **To the Sudan Revolutionary Front (SRF):** 4. Develop and articulate detailed political platforms and visions that can form the framework for the transition process. 5. Work to broaden the opposition’s grassroots support and popular backing for a transitional framework. *To assist in ending conflict and building sustainable peace and reform: To All Parties:* 6. Urge the SRF and other opposition forces to recognize that a managed transition is much preferable to a coup or violent regime change and their likely attendant chaos. **To the Republic of South Sudan Government:** 7. Support the SRF’s efforts to negotiate directly with the Government of Sudan. **To Members of the UN Security Council, AU Peace and Security Council, Council of the League of Arab States and Inter-Governmental Authority on Development (IGAD), and the Government of Ethiopia:** 8. Demand and work for a single, comprehensive solution to Sudan’s multiple conflicts in a process that runs parallel to the negotiations between Sudan and South Sudan but is not conditioned on them; coordinate effectively between the two tracks so as to prevent obstacles in one from delaying or derailing the other. 9. Support through training and capacity building during the transitional period the establishment and growth of issue-based parties that can represent and articulate the demands of marginalized constituencies, including the peripheries, youth, women, nomads and urban and rural poor.”

ICG reported, March 1, 2013, , “March 1, 2013, <http://www.crisisgroup.org/en/regions/africa/horn-of-africa/sudan.aspx>, Some **60 people were killed and 83 wounded in renewed tribal clashes over control of gold mines in north Darfur**. SLM-Juba Unity rebels claimed, February 25, 2013, that 17 soldiers were killed in clashes in North Darfur. In mid-February, **thousands fled clashes between Sudan Armed Forces (SAF) and Sudan Revolutionary Front rebels in South Darfur, while SPLM-N clashes with the Sudan armed forces in Blue Nile continued**.

**Tanzania began restricting the size of land that investors may lease for agricultural use, in January 2013, based on what commodity is grown on the land.** The limit for rice is 5,000 hectares (12,355 acres), for example, while the limit for sugar is 10,000 hectares (24,710 acres). The decision was made in **response to growing international criticisms that large-scale land acquisitions are physically and economically displacing small farmers and Indigenous communities in Africa**. The **Land Rights Research and Resources Institute estimates that out of 1,825 general land disputes in Tanzania in 2011, 1,095 involved large-scale investors**. **Representatives from 22 countries approved the Yaoundé Declaration at the first African Land Forum, in November 2012, which recommended protection and recognition of Indigenous Peoples’ land claims (including communal lands), and the obtainment of free, prior, and informed consent (FPIC) from Indigenous Peoples in large-scale land investment decisions**. **Tanzania’s new law is a step towards recognition of these recommendations, but does not guarantee Indigenous Peoples’ land rights**. The law contains no mentioning of awarding land tenure to Indigenous communities, and the restrictions imposed are far larger than their territories may be (“Tanzania Restricts Land Investments to Prevent Displacement of Africa’s Indigenous,” ICTMN, March 11, 2013, <http://indiancountrytodaymedianetwork.com/2013/03/11/tanzania-restricts-land-investments-prevent-displacement-africas-indigenous-148109>).

Madeline Hall, “Land Grabs in Loliondo, Tanzania Affecting the Maasai,” Cultural Survival, March 29, 2013, <http://www.culturalsurvival.org/news/land-grabs-loliondo-tanzania-affecting-maasai>, reported, “**Maasai**

people of Tanzania have been subjected to repeated instances of land grabbing by the Tanzanian government for many years. Most recently, the Maasai of Loliondo in the Ngorongoro District have resisted the appropriation of land from the Maasai village-controlled land for the establishment of a wildlife corridor. The wildlife corridor was proposed by the Ministry for public and international interests, expanding tourism activity to the area as well as increasing the Otterlo Business Corporation (OBC)'s access to big game hunting. OBC benefits from a hunting concession in Loliondo, allowing the corporation to hunt game frequently on the lands designated for the Maasai. Much unrest preceded the government decision on the wildlife corridor; **four visits to Loliondo conducted by the Minister for Natural Resources and Tourism were met with protest and refusals to meet with the Minister. A community meeting of representatives from the entire district was held on March 25, 2013 in order to draft a court case that would enable the Maasai and district residents to apply for court injunction.** The resolutions made by the community leaders included: ending the presence of OBC and its use of Maasai natural resources at the group's cost; resignations of politicians in the event of the establishment of the corridor; filing a representative suit resisting the creation of the corridor and seeking a return to the Serengeti; and the combination of a community task force and media strategy to draw greater awareness to the current issue. Despite the Maasai's demonstrated resistance and stated claims, on March 26, 2013, Minister for Natural Resources and Tourism Ambassador Khamis Kagasheki announced that the Tanzanian government will establish a 1,500 km<sup>2</sup> wildlife corridor that will increase OBC access to destructive hunting and that will limit village land to 2,500 km<sup>2</sup>. The Minister promised the provision of social services to the Maasai, including livestock services. However, he also called for fewer livestock to reside on the land in response to the limited resources. The Maasai are semi-nomadic and pastoralists, relying on cattle for their livelihood. By reducing the village land as such, the Tanzanian government has limited the viability of the Maasai lifestyle. Furthermore, the land taken by the government is essential dry season grazing land for their livestock, thereby limiting their access to crucial land resources. Having been evicted from the Serengeti to make way for the British-instated National Park in 1959, and having been subjected to previous governmental infringements on their land, the Maasai's current lifestyle and livelihood are jeopardized even further by this decision." A blog that has been following the crisis is at: <http://termitemoundview.blogspot.com/2013/03/the-tanzanian-government-insists-on.html#more>.

"Tanzania: Land grab could spell 'the end of the Maasai and the Serengeti,'" Survival International, March 28, 2013, <http://www.survivalinternational.org/news/9091>, reported, **The Tanzanian government, at the end of March 2013, "announced a new 'conservation' area on Maasai lands, which community leader Samwel Nangiria says will spell 'the end of the Maasai and the Serengeti ecosystem'. The Maasai have been bitterly opposed to the grabbing of their village lands in Loliondo division by the government and have sworn to fight to keep their land.** The dramatic landscape of the Serengeti is world famous as a safari holiday destination. To the Maasai, however, this land is home, and they have already been removed from much of their lands in the name of conservation. Although the government claims that the land is needed as a corridor for wildlife to move between the Serengeti National Park and the Maasai Mara National Park in Kenya, the area was leased to a safari hunting company, the Ortello Business Corporation (OBC) in 1992. **The Maasai and their animals are being told to leave in the interests of conservation, while wealthy tourists are allowed to hunt the 'big game' that roams the area. The Maasai have been resisting the takeover of their land by OBC for years. In 2009, villages were razed and livestock lost when they were removed from the land leased to OBC. The situation has festered for years and the government has announced this change as the 'solution'. But the Maasai have lost so much of their land to conservation, hunting and tourism, they cannot afford to lose any more."**

**Fighting over land and water between Orma Cattle Herders and Pokomo Farmers has been ongoing in the Tana Delta region of Kenya, with the Red Cross reporting 52 dead in August, 2012, and a dozen killed in one battle, September 7, 2012. Occasional battles continued into 2013, with 10 people dead in an attack on a village, January 10, apparently in revenge for an attack the day before that killed seven. Officials are concerned that there could be a repeat, in elections in March, of the violence in the previous national election that left 1,000 dead, and they are attempting to prevent it** ("Kenya: Clashes Over Land and Water Leave 12 Dead."



*The New York Times*, September 8, 2012; “48 die in farmer uprising in Kenya,” *USA Today*, August 23, 2012; and “Kenya” Clashes Over Land and Water Continue,” *The New York Times*, September 11, 2012; and “Kenya: Ethnic Feud Claims More Lives,” January 10, 2013, <http://www.nytimes.com/2013/01/11/world/africa/kenya-ethnic-feud-claims-more-lives.html?ref=todayspaper>).

**Elections in Kenya have intensified ethnic conflicts.** Jeffrey Gettleman, “On Eve of Vote, Fragile Valley in Kenya Faces New Divisions,” *The New York Times*, March 2, 2013, [http://www.nytimes.com/2013/03/03/world/africa/on-eve-of-vote-fragile-valley-in-kenya-faces-new-divisions.html?\\_r=0](http://www.nytimes.com/2013/03/03/world/africa/on-eve-of-vote-fragile-valley-in-kenya-faces-new-divisions.html?_r=0), reported, “**Five years ago, the Rift Valley of Kenya, a spectacularly verdant landscape of rolling hills, emerald green tea plantations and quilted farmland, suddenly exploded. A disputed election set off ethnic clashes that killed more than 1,000 people nationwide — more than 30 were burned alive in a church here in Kiambaa — and thousands are still living in shacks and tents, driven off their land with nowhere to go. This was the seething center of Kenya’s upheaval, and now that the country is about to hold another major election on Monday, the first since the tumult of 2007 and 2008, the Rift Valley is still polarized, though some of the prejudices and poisonous feelings have shifted along with changes in political alliances.**” “Most people agree that preparations for this election are a vast improvement from the last time around. The creaky manual voting systems that promptly broke down have been replaced with state of the art digital technology, and nonprofit groups have devised social media tools to detect and parry hate speech. PeaceTXT, for example, is a text messaging service that sends out blasts of pro-peace messages to specific areas when trouble is brewing. Donor nations have been holding Kenya’s hand much tighter this time around, advising election officials and contributing more than \$100 million in election preparation. Investors big and small have shown their confidence that the vote will be all right, with Kenyan stocks edging up in the past week.” “**Kenya is considered one of the most modern countries in Africa, but ethnically charged politics is an Achilles’ heel. Colonial policies typecast certain ethnic groups — the Masai were the guards, the Kikuyus the farmhands, the Luos the teachers — and ethnicity has continued to serve as a stubbornly important basis of identity.** During elections, politicians use ethnic differences to stir up voters, and already 200 people have been killed in the Tana River Delta area of Kenya in clashes that both sides say have been inflamed by electoral politics. In neighboring Tanzania, also a mosaic of dozens of ethnic groups, the government has instituted specific policies — like pushing the use of a common language, Swahili, and outlawing ethnically based political parties — to build a common Tanzanian identity. But here in Kenya, many people still speak their “mother tongue,” and interethnic marriage remains relatively rare.”

International Crisis Group (ICG), “Kenya’s 2013 Elections,” Africa Report N°197, January 17, 2013, [http://www.crisisgroup.org/en/regions/africa/horn-of-africa/kenya/197-kenyas-2013-elections.aspx?utm\\_source=kenya-report&utm\\_medium=1&utm\\_campaign=mremail](http://www.crisisgroup.org/en/regions/africa/horn-of-africa/kenya/197-kenyas-2013-elections.aspx?utm_source=kenya-report&utm_medium=1&utm_campaign=mremail), warns, “**Kenya’s elections this year should turn the page on the bloodshed of five years ago, but the risk of political violence is still unacceptably high. A new constitution, fresh election commission and reformed judiciary should help. But the vote, now set for 4 March 2013, will still be a high-stakes competition for power, both nationally and in 47 new counties. Forthcoming trials before the International Criminal Court (ICC) of four Kenyans for their alleged role in the 2007-2008 post-election violence look set to shape the campaign. The potential for local violence is especially high. Politicians must stop ignoring rules, exploiting grievances and stoking divisions through ethnic campaigning. The country’s institutions face fierce pressure but must take bold action to curb them. Business and religious leaders and civil society should demand a free and fair vote. So too should regional and wider international partners, who must also make clear that those who jeopardize the stability of the country and region by using or inciting violence will be held to account.** Many reforms were initiated to address the flawed 2007 polls and subsequent violence. A new constitution, passed in a peaceful referendum in August 2010, aims to fortify democracy and temper zero-sum competition for the presidency by checking executive power. New voting rules require the president to win more than half the votes and enjoy wider geographic support. Power is being devolved to 47 counties, each of which will elect a governor, senator and local assembly. Despite recent mishaps, the new Independent Electoral and Boundaries Commission (IEBC) still enjoys public trust. Judicial reform, including the appointment of a respected new chief justice, also augurs well for a more robust response to electoral fraud and disputes. The new institutions, however, have their work cut out. The

ICC proceedings are influencing political alliances and the campaign. The four individuals facing trial deny the charges and maintain their innocence. While the cases aim to erode impunity long enjoyed by political elites and may deter bloodshed, they raise the stakes enormously. The two most powerful of the accused, Uhuru Kenyatta and William Ruto, look set to contest the elections on a single ticket (Kenyatta for president, Ruto for deputy president). Both have politicized the ICC cases, deepening ethnic polarization, and have accused Prime Minister Raila Odinga, their strongest opponent, of conspiring with foreigners against them. The Kenyatta-Ruto alliance would be a strong ticket. Aware that Kenyans want an end to impunity, both have pledged to comply with the ICC, even if they win. Yet, regardless of the outcome of their cases, a president facing lengthy trial before the ICC could potentially have extremely damaging implications for reform and foreign relations, which Kenyatta's backers should ponder carefully. For the moment, their eligibility to run for office remains in doubt; a case challenging their compliance with new constitutional requirements for public officials' integrity is with a high court and may find its way by appeal to the Supreme Court. Were the courts to find Kenyatta and Ruto ineligible after the closing date for submitting nomination papers on 30 January, their supporters would be unable to choose alternative candidates, which might lead to strong protests and even spark conflict. Dealing as it does with a highly charged political issue, whichever way it goes, the final decision is likely to be contentious. If possible, the date of any decision should be announced in advance so the security agencies and others can prepare accordingly. Other signs are also troubling. Political parties and politicians flaunt new rules unchecked. The IEBC's bungled procurement of voter registration kits reduced the confidence it previously enjoyed and suggests it may struggle to resist enormous pressure as the vote approaches. The late start to registration has cut all fat from the electoral timeline, and any flaws will heighten tension. The IEBC must work transparently with parties and other stakeholders to clarify and regularly review the timeline, so as to avoid any further – and highly-charged – delays. Voter education will be crucial. It is the first general election under the 2010 constitution, with new rules that are considerably more complex than previous polls (each voter will cast six ballots). Limiting confusion and misunderstandings could help reduce disputes and election-related conflict. It is also vital that the IEBC provide sufficient access and information to citizen observers and other civil society groups. They must be able to plan their deployment properly and enjoy full access to every part of the election process, especially the tallying of results. Such groups can also be useful allies in bolstering commissioners' ability to resist political interference. Insecurity too poses a huge challenge. Despite the reforms, many structural conflict drivers – continuing reliance on ethnicity, competition for land and resources, resettlement of internally displaced people (IDPs), and poverty and youth unemployment – underlying the 2007-2008 violence remain unresolved and may be cynically used by politicians to whip up support. Many of those who fled the turmoil remain displaced. Land disputes feed local tension. Youth unemployment is still very high and, together with poverty and inequality, means a steady flow of recruits for criminal groups and militias that can be mobilized to intimidate opponents and their supporters or protest results, as they have in the past. Attacks blamed on the extremist Al-Shabaab movement and clashes over land can cloak political violence. Meanwhile, police reform has lagged and the security forces look ill-prepared to secure the polls. An experienced inspector general of police, David Kimaiyo, has been appointed, but the delay in his selection means little time remains for significant security reform. Multi-agency security planning, which has also lagged, must be completed and implemented. Ethnic campaigning and horse-trading as alliances formed – by Kenyatta and Ruto but also other leading politicians – have deepened divides. How the supporters of either of the two main tickets, those of Deputy Prime Minister Kenyatta and former cabinet minister Ruto running and of Prime Minister Odinga and Vice President Kalonzo Musyoka respectively, would respond to losing a close vote it perceives as flawed, or even to early signs it is falling behind, is unclear. International partners, including regional neighbors whose economies rely on a peaceful transition, should monitor any signs of interference or violence and weigh in quickly to deter it. Devolution, for all its benefits, introduces new conflict dynamics, as competition between groups for power and resources controlled at county level becomes fiercer. All these challenges are surmountable, especially given the remarkable determination of most to avoid a repeat of 2007-2008. But they require concerted action by Kenya's institutions and their allies, and – most important – clear signals to leaders who are seen to be prioritizing the pursuit of power. The people deserve better. To put the horror of five years ago behind them, they deserve the chance to vote without fear and elect leaders committed to reform and ready to serve society as a whole rather than the narrow interests of its elites.” **ICG recommends: To President Kibaki and the government of Kenya:** 1. Press all candidates to commit publicly to respect election rules, campaign

peacefully and contest the results through legal, non-violent means. 2. Continue to urge the national and all provincial security committees to complete security planning, identify vulnerable counties and deploy accordingly. 3. Support the IEBC proposed Joint Risk Assessment and Response Centre for sharing information and coordinating operations among national and local security organizations and committees, as well as civil society groups. **To Kenya's political parties and coalitions:** 4. Commit publicly, and together, to respect rules, campaign peacefully, avoid hate speech and divisive mobilization and pursue any petitions or other election grievances only through legal channels. 5. Recruit party agents early and work with international partners to ensure they understand their role and follow the rules in the polling centers. **To Uhuru Kenyatta and William Ruto:** 6. Provide the public with a clear, detailed account of how you would propose to govern while also conducting your defenses before the ICC, taking into account the time required and the demands of appearing in person in court on a different continent. **To the Independent Electoral and Boundaries Commission (IEBC) and acting registrar of political parties:** 7. Improve outreach and communication with stakeholders, including political parties, candidates, the media and, in particular, civil society, with which a strong alliance is especially important to resist political pressure; and provide citizen observer groups the information they need in a timely manner. 8. Press for all candidates at national and county level and political parties to adhere stringently to the Code of Conduct enacted as part of the 2011 Elections Act. 9. Keep tight focus on operational planning, especially on vote counting and tallying of results, including for the likely presidential run-off; and make results for both rounds publicly available and disaggregated by polling stream to allow for their verification by citizen observers and party agents. 10. Take action, in coordination with the National Cohesion and Integration Commission, against political parties and candidates that violate rules, campaign divisively or use hate speech. **To Kenya's business and religious leaders and other influential citizens, including the media:** 11. Denounce publicly hate speech and ethnic chauvinism and use actively their resources for civic and voter education. 12. Consider carefully the implications for Kenya of a president facing trial before the ICC. **To Kenyan civil society groups:** 13. Form ad hoc umbrella committees to capitalize on each organization's expertise and avoid duplication, in order to find a collective voice and increase their influence; continue preparations to monitor the campaign and vote, use parallel vote tabulation responsibly and work with and support the IEBC if it is performing well. **To regional leaders, especially the governments of the East African Community:** 14. Send unambiguous public and private messages against political interference with the elections and especially against the use of or incitement to violence. 15. Support the efforts of the joint East African Community election observation team, as well as of other observation missions. **To Kenya's other regional and wider international partners, especially the African Union, U.S., European Union and its member states, UN and International Financial Institutions:** 16. Send unambiguous public and private messages that politicians must not meddle with the IEBC or the judiciary and that political violence will be sanctioned, including, if appropriate, by adopting travel bans or asset freezes. 17. Ensure all regional and wider international observation missions deploy early, to as many counties as possible, and cooperate to align their statements and avoid duplication."

Rapaine Ole Koissaba Ben, "Kenya's Election: Gains or Losses for Indigenous Peoples?," Cultural Survival, March 15, 2013, <http://www.culturalsurvival.org/news/kenyas-election-gains-or-losses-indigenous-peoples>, comments, "**The peoples of Kenya voted in an electoral process on March 4, 2013. There were six differing elections held on that day with the contests for president, 47 governors, 47 senators, and 47 county women's representatives, 290 members of the National Assembly and 1,450 members of the county assembly. When the election results were officially announced by the Independent Electoral and Boundaries Commission (IEBC) on 9 March, Uhuru Kenyatta, leader of the National Alliance (TNA), which together with three other parties formed the Jubilee Coalition, was declared winner of the presidential vote with 6,173,433 votes out of 12, 330, 028 votes cast – translating into 50.07 per cent of the vote. Mr. Raila Odinga, leader of the Coalition for Reform and Democracy (CORD), was supposed to have polled 5,340, 546 or 43.31 per cent of the votes. Under the Constitution of Kenya, the winner had to receive 50 percent plus one to avoid a runoff election. In this announcement Kenyatta, son of former President Jomo Kenyatta, was declared president elect. This did not go down well with the CORD alliance who within an hour of the proclamation of Uhuru as the winner Raila issued a statement stating that his coalition disputed the results**"

**on account of massive electronic and manual manipulation of the results. This will call for a long protracted legal battle.** Indicators are showing that the state has had its way by going ahead to organize for the swearing in of Uhuru and organizing for security meeting between Uhuru and the national security chiefs. There seems to be a deliberate delay in submitting materials to the CORD coalitions as ordered by the now revamped a seemingly independent Judiciary. **The outcome of the elections definitely has pointers to the fate of the Indigenous Peoples of Kenya in regards to their ability and opportunity to seek redress for human rights issues that have been in the bone of contention between the forces of impunity and democratic reforms in Kenya. First Uhuru and his running mate Ruttoh were spearheading the anti-new Constitution brigade during the referendum which ushered in a new constitutional dispensation in Kenya; secondly, Uhuru Kenyatta the son of the first president of Kenya and William Ruttoh have cases at the International Criminal Court (ICC) in connection with the violence that rocked Kenya during the 2007/2008 election violence.** For the two and their supporters the only way out of the ICC case was to win the election whichever way. They seem to have had their way and especially with the support of government machinery in Kenya. **Indigenous people in Kenya were the strongest proponents for the new constitution which gave a window of hope for an opportunity for their rights to be addressed. The dilemma now is how will Kenyatta address the interest of Indigenous people, if Uhuru and his family are accused of infringing the rights of many communities in Kenya?** It is common knowledge that Uhuru has been against Western democratic forces who insisted that human rights must be respected and by virtue of being accused of crimes against humanity following the post- election violence his integrity is tainted. While Indigenous Peoples have had their own sons and daughters elected in the various elective positions, having Uhuru and Ruttoh in the leadership of Kenya spell doom for the Samburu and the Maa speakers in Laikipia because of the historical land claims. **The coastal Indigenous communities of Taita, Taveta and Mijikenda whose land were appropriated under the influence of Kenyatta and Moi as well as the Maasai of Kajiado, Narok and Nakuru counties have very slim chances of advancing their quest for redress of their land and cultural rights. There is a lot at stake for the Indigenous People of Kenya on how case like the Samburu vs. Moi, the exploration of oil, Mau Forest resettlement, Magadi and the millions of so called squatters on their ancestral lands in the coast of Kenya is going to be handled with an Uhuru presidency.”**

“Campaign Update– Kenya: Elections Bring More Corruption in Samburu,” Cultural Survival, March 14, 2013, <http://www.culturalsurvival.org/news/campaign-update-kenya-elections-bring-more-corruption-samburu>, reported, **In Kenya’s March 4 2013 national elections, a new biometric voter registration technology was put into place, aimed at preventing falsification of ballots.** The country's previous election had seen falsification of voter registration that led to 1.2 million votes cast by people actually deceased. The technology, which uses photographs and fingerprinting to identify voters, was created and sold to Kenya by the Canadian government for a total cost of US \$7.2 million. **Technical problems the day of the election caused a shift to the manual system in some areas, including Samburu North ward. Electoral commission chairman Ahmed Issack Hassan reported to AllAfrica: "We have been forced to call off elections in these areas because of mix up in the ballot papers. In some cases we have missing names of candidates while in other cases names have been interchanged.”** The Associated Press reported that more than 325,000 ballots were recorded as spoiled. “Contacts on the ground in Kenya reported to Cultural Survival: **‘The highly rated and well advertised biometric voter register which cost the Kenyan public kshs 9 billion was never used, exposing the election process to a lot of malpractices especially on the illiterate voters. The presiding officers took advantage of these communities to mark ballot papers in favor of their friends or those who bribed them...in Laikipia North, there was massive rigging at all levels.’** The Samburu people have been struggling against deep government corruption while trying to defend their human rights and claim title to their traditional lands. A law suit was filed by the Samburu against the African Wildlife Foundation and the former President Moi to prevent illegal forced evictions from their land. Locals reported that recently they have seen heavy movement of what appear to be potential investors in the area where the African Wildlife Foundation and the Kenya Wildlife Service have plans to create a national park. Community organizers are asking for donations to pay for legal fees to help keep their case moving forward. In late December 2012, the Samburu’s case improved, when an allegedly corrupt judge in the case was found unfit to continue serving in the judiciary after the community filed an application for his recusal (“Good News– Kenya Campaign: Corrupt Judge Steps Down,”

Cultural Survival, January 9, 2013, <http://www.culturalsurvival.org/news/good-news-kenya-campaign-corrupt-judge-steps-down>

An **estimated 160,000 students have been displaced in recent violent conflicts experienced in parts of Kenya**, Kenyan education permanent secretary George Godia told the international conference on peace education in Nairobi. Some 1,350 teachers have been affected, 40 schools burnt down and 65 others vandalized (*Daily Nation*, <http://www.nation.co.ke/News/-/1056/1637742/-/x9k5b4z/-/index.html>).

“African Court’s historic ruling on Ogiek tribe in Kenya,” Survival International, March 22, 2013, <http://www.survivalinternational.org/news/9061>, reported, **“The African Court on Human and Peoples’ Rights ruled on 15 March that the government of Kenya must not evict the Ogiek from their land in the Mau Forest. The ruling states that in the opinion of the African Court ‘there exists a situation of extreme gravity and urgency, as well as a risk of irreparable harm to the Ogiek Community with regard to violation of their rights guaranteed under the charter...’ The Court ordered the government to reinstate restrictions it had imposed on land transactions in the Mau forest, while it reaches a decision on issue.** The news was welcomed by the Ogiek, who have seen much of their forest home destroyed by illegal settlers and loggers. Joseph Sang an Ogiek spokesman told Survival, ‘It’s a sigh of relief yet again for indigenous peoples in the African context. We are all supportive of any move that will deliver justice to the Ogiek people.’ The Ogiek are hunter-gatherers, and the Mau forest with its rich diversity of wildlife and forest produce such as wild honey, is vital for their livelihood and survival. Joseph Lesingo, an Ogiek hunter told Survival ‘According to our history we are the indigenous people living in Mau forest. Without forest we cannot survive. We gather fruits from forest, we collect honey from the forest, and we hunt wild animals, and that is how we survive. According to the Minority Rights Group, which with the Ogiek Peoples Development Programme (OPDP) and Centre for Minority Rights (CEMIRIDE) brought the case to the court, **“This is the first time the African Court, in operation since 2006, has intervened to protect the rights of an indigenous community.”**

Ben Ole Koissaba, “Maasai in Kenya Go to Courts to Stop Evictions Caused by World Bank's Geothermal Power Project,” Cultural Survival, June 13, 2013, <http://www.culturalsurvival.org/news/maasai-kenya-go-courts-stop-evictions-caused-world-banks-geothermal-power-project>.” reported, **“The Maasai community in Naivasha District of Nakuru County in the Rift Valley Province of Kenya has once again resorted to the courts to stop further evictions by the government to give room for a World Bank funded Geothermal Project. The pain and anguish of a century long continued displacement and loss of livelihoods of the Maasai** is evident on the faces of all the inhabitants of Narasha community after several government perpetuated land grabs to create room for the generation of power from their habitat on Longonot in the floor of the Great Rift Valley. Narasha is located between Mount Longonot, Hells Gate Park and Lake Naivasha, with the Maasai community sandwiched between. To the Maasai it seems to be a curse to be born on land that has turned to be the blue chip for multinational power generating companies with the support of World Bank. **Previous evictions dislocated over 4,000 families whose fate is unknown as the government never gave alternative land for settlement neither compensation for the losses they incurred during the forced evictions.** First, the Maasai had to be evicted to facilitate the creation of the Hells Gate National Park, and then subsequently the discoveries of massive potential for geothermal energy made their land and home an international point of interest for both local and international power generating companies. The community has now sought redress by appealing to the High Court, where as previous court rulings favoring the Maasai as the legitimate owners of the land, a recent high court ruling went against previous rulings and deprived the Maasai of their right to own the land. The current evictions without due compensation will displace over 3,500 families, put over 1,000 children who are currently in school in community constructed schools of Narasha and Olomayiana out of school, two churches, and a Maasai cultural center. The evictions are happening in disregard of the law as previous court ruling declared the land as Maasai ancestral land and they should not be moved. The evictions are politically instigated for two reasons; one there is a deliberate move to ensure the reduction of the Maasai population in Naivasha district as well as a push by senior politicians who have invested in the power generating companies wanting to make a kill by using their political connections to dispossess the Maasai. This is a violation of the rights of the Maasai community by forces of impunity and goes

against the spirit of international law and safeguard for the protection of Indigenous Peoples' rights. It also contradicts the principles as outlined by the constitution of Kenya as well as the United Nation Declaration on the Rights of Indigenous Peoples, and in essence, the violation of the principle of Free, Prior and Informed Consent stipulates the absence of the benefit sharing concepts that particularly would safeguard both the interest of the government, communities and multinational companies. This is even made worse by the fact that the World Bank is funding such projects that displace communities without compensation. The Maasai are calling upon the World Bank to stop funding the project as well as review its policy of funding projects that displace indigenous people and ensuring clarity in safeguards of international funding institutions.”

“Aid agencies turn blind eye to ‘catastrophe’ in Ethiopia,” Survival International, April 15, 2013, <http://www.survivalinternational.org/news/9125>, reported, **“Three independent reports have warned that the controversial Gibe III dam, and land grabs for plantations, risk imminent ‘catastrophe’ in Ethiopia’s Lower Omo Valley. Half a million tribal people in Ethiopia and Kenya stand to be overwhelmed by these projects, whose immediate suspension Survival International has demanded.- *Lake Turkana and the Lower Omo – Hydrological Impacts of Major Dam and Irrigation Projects* published by the Africa Studies Centre at Oxford University predicts the Ethiopian government’s Kuraz Sugar Project alone will cause Lake Turkana, the world’s largest desert lake, to drop by up to 22 meters. Much of the lake’s aquatic life will be destroyed, including fish stocks vital to the Turkana and other peoples living by the lake. Bodi, Kwegu and Mursi tribespeople are now being forcibly evicted for the Kuraz project and moved into resettlement areas. Once here, they are told they must sell most of their herds and can only keep a few head of cattle. The Bodi have been told they will only get food aid when they have moved.”**

“Campaign Update – Ethiopia: Karuturi Corporation Seeks Loans in Face of Negative Press,” Cultural Survival, April 10, 2013, <http://www.culturalsurvival.org/news/campaign-update-ethiopia-karuturi-corporation-seeks-loans-face-negative-press>, reported, **“Karuturi Global Ltd, an India-based agricultural company and the world’s largest rose grower, has stated that it will pursue funding from an undisclosed sovereign wealth fund after development banks denied the corporation financial assistance to continue projects in Ethiopia. The rejection by these development banks comes as a result of significant pressure by organizations like the Oakland Institute and Cultural Survival to recognize the harmful land grabbing policies that are central to Karuturi’s operations in Ethiopia.** General skepticism among international financial institutions and crashing stock shares indicate the company’s success has been declining. Stock values of the company have plummeted over 90% since October 2010. Analysts identify this plunging as the result of cash-flow difficulties and enormous debt, while Karuturi blames destructive floods and inclement European weather that decreased sales. The corporation’s recent expansion from rose production to other crops like maize, rice, and sugarcane was fueled by loans that have yet to be repaid, contributing to the company’s slowing growth. Reflecting this slump, foreign institutional investors have decreased their stake in the company from 28% in 2011 to 20% in 2012. The company’s demonstrated decline bodes well for the Indigenous populations who have been displaced by the Ethiopian government while making land available to foreign investors. **Since September 2009, the Ethiopian government has leased more than 1 million acres to both foreign and domestic investors, enabled by policies of land grabbing from Indigenous Peoples who have traditionally occupied this space for grazing and agriculture. As part of a state-sponsored “villagization” project, the Anuak, Mezenger, Nuer, Opo, and Komo peoples have been forced into state-created settlements in the Gambella region of Ethiopia, depriving them of their right to ancestral lands and cultural identity. The phenomenon extends further than these corporations, however; much of the land grabbing and villagization policies as implemented by the Ethiopian government in the Gambella region have been indirectly facilitated by the large amount of foreign aid given to the state.** Indeed, Ethiopia receives the largest amount of foreign aid out of any African country, at upwards of US \$3 billion a year. This comes from donor nations like the United States and the United Kingdom. Cultural Survival’s campaign has drawn attention to this indirect facilitation and called for more responsible use of foreign aid. Seeking to find alternate funding, Karuturi hopes to retain its grasp on its croplands in Ethiopia to continue growing corn and other agricultural projects. Managing Director Sai Ramakrishna Karuturi remains optimistic about the corporation’s growth, claiming that the option to double the 250,000 acres of land

currently leased from the Ethiopian government remains on the table. Additionally, in an attempt to restore investor confidence, Karuturi plans to make an open offer in May to buy shares. These efforts to keep face in light of clear financial straits will be difficult; Karthik Rangappa, founder of the equity research firm The Quant Lab, indicates that an increase in stock value is highly unlikely at this point in the company's financial woes.

“Campaign Update- Ethiopia: Indigenous Ethiopians Demand a Stop to Human Rights Abuses,” Cultural Survival, February 11, 2013, <http://www.culturalsurvival.org/news/campaign-update-ethiopia-indigenous-ethiopians-demand-stop-human-rights-abuses>, reported, that the **Ethiopian government has committed egregious human rights abuses to make way for agricultural land investments, in direct violation of international law, said the Oakland Institute in a new briefing paper released in New Delhi today. The briefing paper, entitled "Unheard Voices: The Human Rights Impact of Land Investments on Indigenous Communities in Gambella,"** calls on Ethiopia to put an end to the illegal forced evictions of indigenous peoples in areas targeted for land investment. The full statement is available at: <http://www.oaklandinstitute.org/day-light-robbery-ethiopia>.

ICG, “Curbing Violence in Nigeria (I): The Jos Crisis, Africa Report N°196, December 17, 2012, <http://www.crisisgroup.org/en/regions/africa/west-africa/nigeria/196-curbing-violence-in-nigeria-i-the-jos-crisis.aspx>, warns, **“Since 2001, violence has erupted in Jos city, capital of Plateau state, in Nigeria’s Middle Belt region. The ostensible dispute is over the “rights” of the indigene Berom/Anaguta/Afizere (BAA) group and the rival claims of the Hausa-Fulani settlers to land, power and resources. Indigene-settler conflicts are not new to Nigeria, but the country is currently experiencing widespread intercommunal strife, which particularly affects the Middle Belt. The Jos crisis is the result of failure to amend the constitution to privilege broad-based citizenship over exclusive indigene status and ensure that residency rather than indigeneity determines citizens’ rights. Constitutional change is an important step to defuse indigene-settler rivalries that continue to undermine security. It must be accompanied by immediate steps to identify and prosecute perpetrators of violence, in Jos and other parts of the country. Elites at local, state and federal level must also consistently implement policies aimed at reducing the dangerous link between ethnic belonging and access to resources, power and security if intercommunal violence is to end. The indigene principle, or indigeneity (that is, local origin), means that some groups control power and resources in states or local government areas (LGAs) while others – who have migrated for different reasons – are excluded. This gives rise both to grievances and fierce political competition, which too often lead to violence.** Indigeneity was given constitutional force at independence in 1960 to protect the ethnic minorities from being submerged by the larger Hausa-Fulani, Igbo and Yoruba groups and preserve their cultural and political identity and traditional institutions of governance. Religion is a pertinent, albeit secondary factor, which reinforces underlying tension and, over the years, has assumed greater importance, especially since the return of democracy in May 1999. Fierce and unregulated political competition characterized by ethnic mobilization and violence, coupled with poor governance, economic deregulation and rampant corruption, have severely exacerbated ethnic, religious and regional fault lines. The notion of national citizenship appears to have been abrogated by both ethnicity and ancestry. **The persistent settler-indigene conflict in Plateau state reflects the longstanding sense of grievance the BAA, including a small Muslim community among them, continue to nurse against their perceived treatment as second-class citizens by the Hausa-Fulani. The predominantly Christian Middle Belt, famous for its history of bitter struggle against attempts by the Muslim-dominated Far North to subjugate it, understands the citizenship malaise better than any other region.** Reclaiming their rights, as the indigenous peoples of Plateau state, is the dominant narrative that runs through the BAA’s attempted politics of reverse discrimination against their perceived ancient oppressors. Conversely, the Hausa-Fulani claim that they, not the BAA, are the authentic indigenes of Jos and have been aggrieved about their lack of access to power and resources despite being the majority in the biggest of the LGAs, Jos North. Because the settlers are almost entirely Muslim and the indigenous people predominantly Christian, struggle over land ownership, economic resources and political control tends to be expressed not just in ethnic but also religious terms. The dispute is compounded by the fact that, of the settler groups, only the Hausa-Fulani lay proprietary claim to Jos. As violence recurs, spatial polarization and segregation accentuate social and political divisions; people become more conscious of



their sub-national solidarity and allegiances and are more forthcoming about expressing them. Since the end of 2010, security has further deteriorated in Jos because of terror attacks and suicide bombings against churches and security targets by suspected militants of Boko Haram, the Islamist group responsible for an unprecedented wave of terrorist attacks in the north. Thousands have been killed, hundreds of thousands have been displaced internally and billions of dollars of property have been destroyed. **Thus far, responses from local and national authorities have proven mostly ineffective. They have come in three ways. First, several judicial commissions of inquiry have been appointed to “get to the root of the crises” and recommend “lasting solutions”. But authorities have been slow in publishing reports and acting on their recommendations. Tough public speeches have not been translated into tangible political action against instigators and perpetrators: none of the suspects named by the various commissions have been prosecuted, and impunity continues to feed violence. The second response is police and military action, which has had little success. Security forces not only fail to share intelligence among themselves, they are also suspected of taking sides in the conflict and soldiers are accused of trading guns for money. Finally, Operation Rainbow (OR), a joint initiative since June 2010 between the federal government and the Plateau state government with support from the UN Development Programme (UNDP), is considered a holistic response to the crisis. Still in its infancy, OR appears useful but will only be effective if it can, at the minimum, win the confidence of both sides. It should be publicized at the grassroots so that the population can own it. The crisis in Plateau requires both national and local solutions.** Constitutional provisions, by virtue of their ambiguity over the terms “indigene” (which the constitution fails to define satisfactorily) and “residency” for accessing citizenship rights, have done little to clarify the situation. Nigeria’s current conception and implementation of its citizenship (or national) question are inadequate and flawed. The way forward is for the National Assembly, via a referendum or by itself, following its nationwide public hearings on the matter, to replace the indigene principle with a more inclusive residency provision to fight discrimination and inequalities between settler and indigenous communities while consciously taking immediate steps to assuage the fears of ethnic minorities. At the state level, the current Plateau government should change its approach. It can no longer carry on as if it is in power to serve only indigenous communities. It should not wait for national constitutional reform before abolishing discriminatory policies on education and employment between indigenes and settlers, as did the Sokoto state government. Otherwise, political differences will harden further, more pain will be inflicted on the hapless population, and the state’s – and, invariably, the country’s – development will be impaired.” ICG recommends: **“To the Federal Government of Nigeria: In the short term:** 1. Publish reports of previous commissions of inquiry and the Presidential Advisory Committee on the Jos crisis, including various white papers, and implement recommendations promoting principles of political inclusiveness, fairness, equity and justice. These include: a) establishing a truth and reconciliation commission; b) creating new local government areas and districts out of the highly disputed Jos North LGA; c) adopting zoning and power rotation among the ethnic groups residing in it; and d) establishing grazing reserve for the nomadic Fulani herdsman. 2. End impunity by prosecuting those responsible, within and outside Plateau state, for masterminding and perpetrating violence and killings across the state. 3. Ensure the federal military Special Task Force (STF) in Jos works closely with the Plateau state government to protect various ethnic and cultural groups and reinforce security. 4. Ensure, together with the Plateau state government, that Operation Rainbow is fully operational and has the capacity to take over from the STF within the shortest possible time, while guaranteeing its objectivity and neutrality at all times in order to elicit ownership by all participating parties. 5. Facilitate, in collaboration with the Plateau state government, a genuinely bottom-up approach to the peace and confidence-building process, through effective engagement with community, civil society and traditional leaders, informal peacemakers like elders, youth and women groups to assess their concrete needs and demands; and creation of a legal framework and an implementation committee at the state level to meet these needs and demands. *In the medium term:* 6. Work with the National Assembly to give the settler problem a constitutional solution by replacing the contentious indigene provisions in the 1999 constitution with a common citizenship for all Nigerians based on residency; quickly revive and pass into law the Residency Rights Bill sponsored in 2004 by a group of senators. 7. Organize and fund a nationwide civic education program that would inculcate in Nigerians the significance of a common notion of citizenship, based on respect of ethnic and religious diversity, national unity and cohesion. 8. Strengthen intelligence sharing with regional and international partners to assess external terrorist threats (notably from al-Qaeda and al-Qaeda in the Islamic Maghreb, AQIM) with a view to increasing state capacity to respond

adequately, by: a) taking part in U.S. initiatives such as the Trans-Sahara Counter-Terrorism Partnership (TSCTP) and the Anti-Terrorism Assistance Programme (CTF); and b) drawing on the examples of countries such as Indonesia and the Philippines that face similar intercommunal conflicts and have initiated policies against radicalization and violence. **To the Plateau State Government:** *In the short term:* 9. Implement the recommendations of the published Fi-beresima, Tobi and Ajibola commissions of inquiry and the white papers, that promote peace and security. These include: a) prosecution of instigators and perpetrators of conspiracy, murder, arson and public disturbance; b) checking the illegal possession of firearms; and c) ending the indiscriminate construction of places of worship in residential areas in Jos and other towns. 10. Reach out to all settler groups in the state, particularly the Hausa-Fulani, to restore trust and confidence. 11. Provide security posts in strategic areas within the Jos metropolis and its environs in order to prevent civil unrest – a strategy that proved effective in Kaduna state. *In the medium term:* 12. Take measures against discrimination in education and employment opportunities between indigenes and settlers, following the example of Sokoto state. 13. Facilitate meaningful and sustained dialogue between the various communities to help defuse the crisis; revive the moribund Plateau State Inter-Religious Council for Peace and Harmony (IRCPH) and replicate it at the local government and community levels, so as to value the expertise and experience of its special advisers on religious affairs (Christian and Muslim), security, community relations, youth and women mobilization, rural transformation, project monitoring, ethical re-orientation and peacebuilding. 14. Ensure that future local government elections are credible, free and fair, and that winners are duly declared and unencumbered to take office and exercise power. 15. Modify the structure of the Jos North LGA to make the local council more representative of the desires of all the communities to foster a sense of community and belonging. **To the UN and Bilateral Donors:** 16. Press for accountability for perpetrators and instigators of violence to combat impunity. 17. Encourage the Nigerian government and the National Assembly, via a referendum or by itself following its public hearings on the matter, to amend relevant sections of the 1999 constitution in order to provide a national, constitutional solution to the perennial settler-indigene problem. 18. Provide further capacity building and technical assistance to the Nigerian and the Plateau state governments to complement current UNDP contributions in these areas and empower Operation Rainbow. 19. Provide requisite expertise and skills to the Nigerian government and security agencies to support efforts at improving intelligence gathering and sharing, so as to boost efficiency in containing intercommunal conflicts and fighting terrorism and extremism. 20. Work with the Nigerian government, the Plateau state government and the ethno-religious communities in the state to attenuate the youth's social marginalization, economic disempowerment, idleness and political exclusion through education and establishment of a working group of progressive, educated people from all communities that could promote fresh ideas into public policies.

**The militant Islamist takeover of Northern Mali, and attempt to capture the rest of the country appeared over on January 30, 2013 as French forces, followed by Mali army troops, having retaken Timbuktu and other urban centers without a fight, took control of the airport of the last major northern Mali town still in rebel hands, after Islamist militants abandoned two other principal settlements in the vast, desert region and fled to the mountains in Mali's far north. Some Islamist groups continued fighting in the countryside, and it is clear that the war is not yet over. The secularist Tuareg, whose rebellion began the Mali conflict, broke with the militant Islamists, and stated their willingness to fight them, but the Tuareg refused to have Malian troops in their land. Meanwhile some of the Tuareg attacked Arabs in the area. To meet the situation in the Northern Malian areas, Chadian troops were being brought in to keep the peace.** Initially, the French planned merely to support African forces, that several West African nations agreed, in early November, to send in to help the army of Mali resist the Islamists and retake the North. But when the Islamists renewed their advance into the southern portion of Mali, and threatened to overrun it in a few days, French forces entered the fight in central Mali, January 11, countering the Islamist attack, and bombing Islamist strong holds across the North, before pressing their counter attack northward. At that point, the west African nations moved quickly to begin sending promised troops, and the French prepared to step back into a supporting role as early as practical (Rick Gladstone and Alan Cowell, "Pressing Mali Effort, French Forces Enter Rebel Stronghold," *The New York Times*, January 30, 2013, <http://www.nytimes.com/2013/01/31/world/africa/mali-france->

updates.html?ref=world; Lydia Polgren and Scott Sayre, “Pressing Mali Effort, French Forces Enter Rebel Stronghold,” *The New York Times*, January 30, 2013, [http://www.nytimes.com/2013/01/31/world/africa/mali-france-updates.html?ref=todayspaper&\\_r=0](http://www.nytimes.com/2013/01/31/world/africa/mali-france-updates.html?ref=todayspaper&_r=0); and “African Leaders Agree to Send Troops to Mali,” *The New York Times*, November 12, 2012, <http://www.nytimes.com/2012/11/12/world/africa/west-african-leaders-agree-to-send-troops-to-mali.html?ref=world>).

ICG, “Mali: Security, Dialogue and Meaningful Reform,” Africa Report N°201, April 11, 2013, <http://www.crisisgroup.org/en/regions/africa/west-africa/mali/201-mali-security-dialogue-and-meaningful-reform.aspx>, comments, **“For the population of northern Mali, the feeling of being “liberated” by the French military intervention launched on 11 January 2013 is real. The sudden, but clearly well-prepared intervention, which received widespread support in Mali, West Africa and beyond, ended the offensive by jihadi groups that the Malian army had been unable to repel. France also took the opportunity to try and destroy al-Qaeda in the Islamic Maghreb (AQIM) forces. Although Mali is in a better place than a few months back, sporadic fighting in the north continues and formidable threats to security, stability and the coexistence of the country’s various communities remain. The authorities in Bamako, regional organizations and the UN, which is preparing to deploy a stabilization mission, must quickly agree on a strategy for the resolution of the crisis that provides security, protects civilians, promotes an inclusive inter-Malian dialogue, reestablishes state authority in the north and sees peaceful, credible elections.** Mali descended into turmoil at the beginning of 2012 when the National Movement for the Liberation of Azawad (MNLA) chased the Malian army out of the north and demanded independence for this vast part of the country. With its roots in the Algerian civil war, AQIM has established itself in northern Mali over the last decade, building local alliances that allowed it to significantly weaken both the state and the MNLA and resulted in armed jihadi groups – Ansar Dine and the Movement for Oneness and Jihad in West Africa (MUJAO) – taking control of the north in June 2012. This and the coup in Bamako on 21 March 2012 brought the country to its knees. A laboriously prepared Economic Community of West African States (ECOWAS) plan to deploy an African force was finally, though reluctantly, endorsed by UN Security Council Resolution 2085 on 20 December 2012. The sudden jihadi offensive towards the centre of the country in January 2013 proved suicidal. The jihadi groups did not anticipate France’s strong military response, following a request from interim President Dioncounda Traoré. The Malian army itself did nothing more than accompany the French forces that took the three most important towns in the north, Gao, Timbuktu and Kidal. French and Chadian troops entered the northern-most Kidal region without the Malians, less to reconquer it for the Malian state than to pursue AQIM combatants into their sanctuaries, destroy stocks of arms, ammunition, fuel and food supplies, and “finish the job” in the context of a declared war against terrorism. Whether or at what point it will be possible to declare the capacities of jihadi groups sufficiently reduced to avoid exposing the civilian population and the forces of the African-led International Support Mission to Mali (AFISMA) to terrorist reprisal attacks is unclear. **Now as much as before the French intervention, a solution to the crisis will only be sustainable if it combines political and military measures. The north remains very insecure and the state is absent from the Kidal region, where the MNLA claims control. Mali’s army is fragmented and incapable of preventing its soldiers from committing atrocities against civilians, notably Tuaregs and Arabs who are indiscriminately accused of collusion with the enemy. The military action in the north has strengthened the president's authority, but the ex-junta retains influence and civilian political actors look incapable of mobilizing citizens to take the country’s destiny into their hands. The government has announced that presidential election will be held in July, although conditions – technical, political, security and psychological – for a genuine vote look unlikely to be met. Even if French troops remain and AFISMA is rehatted as a UN stabilization mission – which currently appear probable -- the interim authorities, political actors and civil society face an immense political challenge. Political dialogue in Bamako, zero tolerance for atrocities by members of security forces, intercommunal dialogue and the redeployment of the state in the north are essential. Elections must be held soon, but not at any cost. The work of reconciliation should begin immediately. So too should the provision of basic social and economic services in the north, so as to facilitate the gradual return of thousands of internally displaced and refugees. The radicalization of public opinion is a major risk, especially during the election campaign, and firm action by Malian leaders and institutions should aim to prevent people lumping together rebels, terrorists and drug traffickers with all Tuaregs and Arabs. A focus on terrorism**

alone also risks distracting from the north's real problems. The roots of the crisis lie much more in corruption and bad governance than they do in the terrorist threat, the Tuareg issue or even the north-south divide. The international community must insist that Malian leaders assume responsibility for tackling these problems. The most reasonable and realistic way for the state to regain its presence across Mali and maintain lasting security is to find a compromise between the representatives of all communities, ensure even the most isolated populations feel included, and take into account the vulnerability of vast border areas to the flow of weapons and armed groups. **The most important and immediate challenge for regional organizations and the UN is to align their positions on the political process.** First, they must convince the MNLA that its interests are best served by renouncing its armed struggle and discussing how its representatives and supporters can participate in a dialogue on the north's real problems. Secondly, they should persuade Bamako that it should not impose so many pre-conditions on talks – such as, for instance, requiring the MNLA to immediately disarm – that it closes the door to dialogue, or even discrete contacts, with MNLA representatives. ECOWAS, the African Union (AU), the UN Security Council, Mauritania, Algeria, Niger, Burkina Faso and France must all send the same message to the authorities in Bamako and the leaders of those armed groups in the north. Even this would not resolve everything, however. Without new regional security mechanisms involving all the countries of North and West Africa, any victory over terrorism, extremism and drug trafficking in Mali will only be temporary.” **ICG Recommends: To launch a political process to promote reconciliation and peace: To the government of Mali:** 1. Give a firm and clear indication of its willingness to promote a policy of national reconciliation and peace and break with the political and administrative practices responsible for the current crisis by: a) promoting inclusive dialogue at the national, regional and local levels, without monopolizing such initiatives; b) reestablishing state control of the north as soon as possible, prioritizing public services and economic recovery in addition to reconstruction of the police forces and the gendarmerie; c) preparing a special emergency plan for the north, making an explicit break with the past, notably by guaranteeing transparency in the use of funds and by consulting the population, whose relationship with the state has changed after several months of the state's complete absence; and d) supporting the Dialogue and Reconciliation Commission (CDR) so that it can prepare as soon as possible a work plan aimed at promoting intercommunal reconciliation before the elections. 2. Indicate a willingness to include in the dialogue the representatives or supporters of any groups that commit to renounce their armed struggle, notably the MNLA, by remaining open to external facilitation and including the representatives of northern communities in any such process. 3. Ensure that the electoral process takes place in an atmosphere of trust and that it is completed, including legislative elections, by the end of 2013 and that all sectors of the Malian population can take part by: a) ensuring security so that all voters as well as internally displaced people and refugees can vote; b) seeking a political solution that will allow citizens in the Kidal region to participate; c) asking candidates in the presidential election to make a solemn promise to accept the results or to contest them exclusively through legal means, to conduct an electoral campaign compatible with the objective of national reconciliation, to introduce policies seeking reconciliation if they win and organize legislative elections as soon as possible and, in any event, before the end of 2013. **To Malian political forces and civil society organizations:** 4. Play an active role in the intercommunal reconciliation and peace process by participating in the organization of inclusive dialogue at the local, regional and national levels and combating feelings of mistrust and attempts to settle scores. 5. Seek full involvement in the electoral process so it at least offers the possibility of a genuine change in governance and, with this in mind, use the media to publicize information about candidates, parties, programs and the origins of their financial resources. 6. Encourage the authorities to avoid adopting a uniquely security and repressive approach towards Malian citizens who, in 2012, joined certain armed Islamist groups; to understand the economic, social and cultural exclusion that led to Islamist radicalization; and to initiate a public debate on the role of religion in society and the lessons that can be learned from the current crisis. **To the UN Security Council:** 7. Provide the UN mission with a strong mandate to support the political process, in its dual dimensions of promoting dialogue and preparing elections, by: a) requesting the future special representative of the UN Secretary-General to Mali to use their good offices to facilitate dialogue between Malian political actors and the transitional authorities to contribute towards a peaceful electoral campaign; b) providing the mission with a precise mandate to support the electoral process by using UN assistance operations and deploying experts throughout the territory before the elections; and c) authorizing the mission to be ready to provide technical support to the CDR. 8. Provide the mission with a large “civilian affairs” component able to assist the state in

reestablishing administrative control in the north by paying special attention to the restoration of judicial institutions and the prison service and rapidly assessing the requirements for strengthening the capacities of the judicial apparatus. **To regional and international actors involved in Mali, especially the AU special envoy, the ECOWAS mediator and the authorities of Mauritania, Algeria, Niger and France:** Adopt a clear joint position to facilitate inclusion of the MNLA in the inter-Malian dialogue provided it renounces its armed struggle. *To ensure security across the territory and protect the population:* **To the government of Mali and its defense and security forces:** 9. Ensure the security of the civilian population, especially the communities that might be persecuted because of their alleged association with armed groups, by: a) giving a public and firm indication that the protection of all sectors of the Malian population is a central concern; b) strengthening the presence of the gendarmerie and police forces in the liberated territories; c) showing extreme firmness towards violent acts including those committed by the Malian armed forces. 10. Cooperate fully with the European Military Training Mission (EUTM Mali) and overhaul the security sector, including the police forces. **To the French authorities:** 11. Maintain a rapid reaction capacity on Malian territory after the gradual withdrawal of its troops and clarify the relationship between these forces and the future UN stabilization mission. 12. Support the Malian authorities and AFISMA to protect the civilian population until the deployment of the UN mission. **To the AFISMA, countries contributing troops and donors who have promised funding:** 13. Provide, as quickly as possible, the AFISMA with the financial resources, logistics and intelligence support necessary to reach its target numbers and capacity, without waiting for the arrival of the UN mission, allow the deployment of all its components in accordance with the revised concept of operations devised jointly by the AFISMA and Malian forces. **To the UN Security Council:** 14. Authorize a UN stabilization mission to Mali with a mandate and format adapted to the country's specific conditions and avoid standard responses, by: a) maintaining a clear distinction between on the one hand the UN-mandated mission to stabilize the political and security situation, and on the other, the "parallel force" responsible for offensive operations, and clarify the legal basis and geographical extent of the latter's mandate; b) equipping the mission with specific means to collect and analyze information and allowing it to benefit from assistance from third countries, notably France and the U.S.; c) including in the mission a strong civilian component dedicated to monitoring the human rights situation, especially the behavior of Malian and foreign forces towards the population; and d) providing the mission with a mandate to help mobilize and coordinate resources allocated to reform the defense and security forces. **To the AU Commission, the states of the Sahel, West Africa and North Africa, the UN special envoy to the Sahel and the European Union (EU) special envoy to the Sahel:** 15. Start a frank discussion on preserving regional security interests, by: a) formulating new regional security mechanisms based on control of the transnational flow of people, arms and illegal products; or restructure existing mechanisms; and b) seeking to boost the economy of the Sahel-Sahara region by implementing transnational development projects."

**In Mali, with the Islamists having fled, the Tuareg rebels in the north negotiated a peace deal with the government, agreeing to a unified Mali with government troops reentering the far north** (Adam Nossiter, "Rebels in North Mali Sign Peace Deal Allowing In Government Troops," *The New York Times*, June 18, 2013, <http://www.nytimes.com/2013/06/19/world/africa/mali-and-rebels-reach-peace-deal.html?ref=todayspaper>).

ICG, "Eastern Congo: Why Stabilization Failed," Africa Briefing N°91, October 4, 2012, <http://www.crisisgroup.org/en/regions/africa/central-africa/dr-congo/b091-eastern-congo-why-stabilisation-failed.aspx>, comments, "Since Bosco Ntaganda's mutiny in April 2012 and the subsequent creation of the 23 March rebel movement (M23), violence has returned to the Kivus. However today's crisis bears the same hallmarks as yesterday's, a consequence of the failure to implement the 2008 framework for resolution of the conflict. Rather than effectively implementing the 23 March 2009 peace agreement signed by the government and the CNDP (National Council for the Defense of the People), the Congolese authorities have instead only feigned the integration of the CNDP into political institutions, and likewise the group appears to have only pretended to integrate into the Congolese army. Furthermore in the absence of the agreed army reform, military pressure on armed groups had only a temporary effect and, more-over, post-conflict reconstruction has not been accompanied by essential governance reforms and political dialogue. To move away from crisis management and truly resolve this two-decade-old conflict, donors should put pressure on

**both Kigali and Kinshasa.** The M23 is behaving in a similar fashion to previous rebel movements by creating its own administration and its own financing system in parts of North Kivu. Meanwhile, Mai-Mai groups are expanding in rural areas where they commit atrocities that exacerbate inter-ethnic tensions. In July this year, in accordance with the peace and security architecture, the International Conference on the Great Lakes Region (ICGLR) organized a regional dialogue to avoid conflict between Rwanda and the DRC. Unfortunately, the outcome of this was an unrealistic and ineffective solution: the deployment of a 4,000-strong neutral force at the border between Rwanda and the DRC. If international donors and African mediators persist in managing the crisis rather than solving it, it will be impossible to avoid such repetitive cycles of rebellions in the Kivus and the risk of large-scale violence will remain. Instead, to finally resolve this conflict, it is essential that Rwanda ends its involvement in Congolese affairs and that the reconstruction plan and the political agreements signed in the Kivus are properly implemented. For these things to happen Western donors should maintain aid suspension against Rwanda until the release of the next report of the UN group of experts, in addition to issuing a clear warning to the Congolese authorities that they will not provide funding for stabilization and institutional support until the government improves political dialogue and governance in both the administration and in the army in the east, as recommended by Crisis Group on several previous occasions. **In the short term, this crisis can be dealt with through the following initiatives:** the negotiation and monitoring of a ceasefire between the Congolese authorities and the M23 by the UN; the reactivation of an effective and permanent joint verification mechanism for the DRC and Rwandan border, as envisaged by the ICGLR, which should be provided with the necessary technical and human resources; the addition of the individuals and entities that supported the M23 and other armed groups to the UN sanctions list and the consideration of an embargo on weapons sales to Rwanda; the joint evaluation of the 23 March 2009 agreement in the framework of the international follow-up committee it established and this assessment should be the basis for resumption of dialogue between the government and the CNDP; the launch of local peace initiatives in Walikale, Masisi, Shabunda and Kalehe areas where ethnic tension is high by MONUSCO and the government; the arrest and handover of Bosco Ntaganda to the International Criminal Court (ICC); and the launch of an investigation by the ICC into the actions of M23 and new armed groups, and the request by the ICC that MONUSCO transfer to it its files concerning M23 leaders. After analyzing the failure of the stabilization of the Kivus in the report *Congo: No Stability in Kivu Despite a Rapprochement with Rwanda*, this new Crisis Group briefing explains the surge of violence and underlines that the Kivus do not need a new strategic approach; rather, the peace agreements and stabilization plans should no longer remain empty promises. To achieve this, coordinated and unequivocal pressure is required from the donors that help fund the Rwandan and Congolese regimes.”

“Kalahari Bushmen launch new legal battle,” Survival International, March 21, 2013, <http://www.survivalinternational.org/news/9046>, reported, **“Bushmen in Botswana are taking the government to court for illegally refusing them access to their ancestral land in the Central Kalahari Game Reserve (CKGR). Approximately 700 Bushmen who were evicted from the CKGR in 2002 won a marathon High Court battle in 2006 for the right to return, but the government has since done everything it can to limit the number of Bushmen who can live there.** - The government claims the ruling applies only to the 189 Bushmen named in the original court papers – it refuses to allow the others to enter the reserve without a permit. Permits last just a month, after which the Bushmen risk arrest if they ‘overstay’. - Even the children of the 189 Bushmen named in the court papers are only allowed free entry to the reserve up to the age of 16, after which they too are only allowed in on month-long permits. - Wildlife scouts are prohibiting the passage of livestock and donkeys essential for transport.- No Bushmen have been given hunting permits in the reserve, making their subsistence hunting impossible. In 2006 Botswana's High Court ruled that the Bushmen have the right to live and hunt in the CKGR, without having to apply for permits to enter it. One Bushman told Survival, ‘[Having to apply for a permit] makes me feel homeless. We don’t know when we will be stopped or our permits taken away. I want to be at my own home and not have to depend on someone else’s permission to be there.’ **This will be the third time the Bushmen have been forced to resort to the courts in their struggle to live in peace on their land.** The historic 2006 judgment confirmed that the Bushmen have the right to live and hunt inside the CKGR – without having to apply for permits to enter it. **Harassment, intimidation and arrests of Bushmen for hunting have**

also been on the rise in recent months. In November last year, two Bushmen were badly beaten and tortured for hunting, and three Bushmen children were arrested for carrying antelope meat in January. Survival's Director Stephen Corry said, 'The government is continuing to defy Botswana's highest court and its constitution, for no apparent purpose. The people of Botswana are hardly likely to welcome another complete waste of taxpayers' money on fighting yet another court case. The government has been trying to evict the Bushmen for over 30 years. Isn't it about time that Botswana's first citizens were allowed to live on their own land in peace?'" In June, **the Bushman won another court battle, with the High Court reaffirming their right to be in the Game Reserve with access to the bore hole for water, and the government not to take any action to dismantle the bore hole or to try to move or restrict the Bushman without first going through the court** ("reprieve for Bushmen threatened with eviction," Survival International, June 18, 2013, [http://www.survivalinternational.org/news/9322?utm\\_source=Survival+International&utm\\_campaign=bd1db05e6f-une\\_monthly\\_highlights\\_6\\_24\\_2013&utm\\_medium=email&utm\\_term=0\\_241e47c256-bd1db05e6f-86582453](http://www.survivalinternational.org/news/9322?utm_source=Survival+International&utm_campaign=bd1db05e6f-une_monthly_highlights_6_24_2013&utm_medium=email&utm_term=0_241e47c256-bd1db05e6f-86582453)).

ICG, "Turkey's Kurdish Impasse: The View from Diyarbakır," Europe Report N°222, November 30, 2012, <http://www.crisisgroup.org/en/regions/europe/turkey-cyprus/turkey/222-turkeys-kurdish-impasse-the-view-from-diyarbakir.aspx>, comments, **"As Turkey's biggest Kurdish-majority city and province, Diyarbakır is critical to any examination of the country's Kurdish problem and of the insurgent PKK (Kurdistan Workers' Party). The armed conflict has deteriorated in the past year and a half to its worst level in over a decade, with increased political friction and violence leading to the deaths of at least 870 people since June 2011. While as many Kurds live in western Turkey, particularly in Istanbul, as in the south east, grievances that underlie support within Kurdish communities for the PKK's armed struggle are more clearly on display in predominantly Kurdish areas like Diyarbakır: perceived and real discrimination in the local government and economy, alienation from central authorities, anger at mass arrests of political representatives and frustration at the bans on the use of Kur-dish in education and public life. Yet Diyarbakır still offers hope for those who want to live together, if Ankara acts firmly to address these grievances and ensure equality and justice for all. Across the political spectrum, among Kurds and Turks, rich and poor, Islamic and secular in Diyarbakır, there is a shared desire for a clear government strategy to resolve the chronic issues of Turkey's Kurdish problem. Official recognition of Kurdish identity and the right to education and justice in mother languages is a priority. The city's Kurds want fairer political representation, decentralization and an end to all forms of discrimination in the laws and constitution. They also demand legal reform to end mass arrests and lengthy pre-trial detentions of non-violent activists on terrorism charges.** Control of Diyarbakır is contested on many levels. The state wants to stay in charge, channeling its influence through the Ankara-appointed governor and control over budget, policing, education, health and infrastructure development. The municipality, in the hands of legal pro-PKK parties since 1999, most recently the Peace and Democracy Party (BDP), is gathering more power against considerable obstacles. The Justice and Development Party (AKP) that rules nationally has ushered in a more progressive approach to police, but this has not ended confrontations and defused local hostility. Turkey as a whole, and Kurdish-speaking cities like Diyarbakır in particular, need a coherent, informed debate on decentralization and a strategy to implement it. **The current government has done more than any previous one to permit Kurdish language use in Diyarbakır and elsewhere, but most Kurds want nothing less than a com-mit-ment to education in their mother language. The government's initiative on optional Kurdish lessons should be fully supported as a stepping-stone in a structured plan to achieve declaration of that goal as a right.** Once Turkey's third best off economic centre, Diyarbakır and its surrounding province have fallen to 63rd place at last measurement. Investment has long been low due to violence, flawed government policies and PKK sabotage, kidnappings, terrorist attacks and extortion. But residents show their faith in the city's future through their investment, particularly in marble quarries and the booming real estate sector. Diyarbakır's location at a regional historic crossroads still makes it an important hub for elements of the service sector, such as courier businesses and hospitals. Thousand-year-old monuments could make it a tourist magnet. Fighting between the security forces and the PKK, mostly in the south east, is rising. While Diyarbakır has mostly been spared the worst of the recent violence, the civilian population and local politics are nonetheless increasingly stressed and polarized by events. The AKP is losing its appeal, and the BDP, while uncontested as the strongest political force in the city, has yet to



prove its political maturity and ability to be more than a front for an increasingly violent PKK. The moderately Islamic Gülen movement is trying to offer another way, and as a negotiated settlement seems less likely, Kurdish Islamic groups are boosting their already substantial influence. Yet, voices from Diyarbakır insist that common ground exists, as it does throughout the rest of Turkey. Crisis Group, in two previous reports in 2011 and 2012, recommended that the government announce a clear strategy to resolve the conflict, focusing in the first instance on justice and equal rights for Kurds. It suggested that the government work pro-actively with Kurdish representatives on four lines of reform: mother-language rights for Turkey's Kurds; reducing the threshold for election to the national parliament to 5 per cent from 10 per cent; a new decentralization strategy; and stripping all discrimination from the constitution and laws. Once these steps have been taken, it could then move to detailed talks on disarmament and demobilization with the PKK. In short, both sides need to exercise true leadership, by eschewing violence, committing to dialogue and achieving the Kurds' legitimate aspirations through Turkey's existing legal structures, especially in the parliamentary commission working on a new constitution. This companion report additionally offers recommendations specifically for urgent action by the government and legal leadership of the Kurdish movement in Diyarbakır to strengthen Kurds' trust in the state by working to resolve pressing local problems and to ensure the long-term development of the city and province." **ICG recommends:** *To establish mutual trust between Turks and Kurds:* 1. **The Turkish government** should pass and implement legal reforms to allow the use of mother languages in trials, shorten pre-trial detentions and ensure that Kurdish and other suspects are taken into custody in a humane manner. It should encourage local police to continue improving engagement with the Diyarbakır community and end use of excessive force, even in response to unauthorized public meetings and demonstrations. 2. **Community and Kurdish movement leaders** should comply with procedures on public meetings and dem-on-stra-tions; renounce all PKK violence; and continue civil society efforts, such as the recently established "Dialogue and Contact Group". *To guarantee use of mother languages in education and public life:* 3. **The Turkish government** should complete the implementation of optional Kurdish classes in the 2012-2013 academic year transparently; define a timeline for full education in mother languages wherever there is sufficient demand; continue to prepare teachers and curriculums for this transition; allow local elected officials to change relevant laws and regulations so as to restore or give Kurdish names to local places; and relax the ban on the use of Kurdish in public services. 4. **Community and Kurdish movement leaders** should acknowledge the government's positive steps in these areas, and stop boycotts of optional Kurdish classes. *To ensure a fair debate and eventual consensus on decentralization:* 5. **The Turkish government** should lead a debate in Diyarbakır, as well as nationwide, about municipal governance and decentralization. 6. **Local government leaders** should cooperate and meet with central government representatives who visit the province and clearly express their commitment to achieving Kurds' democratic demands legally. *To assist Diyarbakır's economic, social and cultural development:* 7. **The Turkish government** should ensure that Diyarbakır receives a fair share of public funds, particularly for education, international airport facilities, railway connections and industrial zones, equivalent to that of comparable cities elsewhere in Turkey; and pro-actively promote domestic tourism to this and other historic cities in the south east. 8. **Community leaders** should reach out to Turkish mainstream opinion to help overcome prejudices about the Kurdish-speaking southeast through the exchange of business delegations, school trips and professional conferences.

Earlier, ICG, "Turkey: The PKK and a Kurdish Settlement," Europe Report N°219, September 11, 2012, <http://www.crisisgroup.org/en/regions/europe/turkey-cyprus/turkey/219-turkey-the-pkk-and-a-kurdish-settlement.aspx>, pointed out, "**Turkey's Kurdish conflict is becoming more violent, with more than 700 dead in fourteen months, the highest casualties in thirteen years. Prolonged clashes with militants in the south east, kidnappings and attacks on civilians suggest hardliners are gaining the upper hand in the insurgent PKK (Kurdistan Workers' Party). The government and mainstream media should resist the impulse to call for all-out anti-terrorist war and focus instead, together with Kurds, on long-term conflict resolution. There is need to reform oppressive laws that jail legitimate Kurdish politicians and make amends for security forces' excess. The Kurdish move-ment, including PKK leaders, must abjure terrorist attacks and publicly commit to realistic political goals. Above all, politicians on all sides must legalize the rights most of Turkey's Kurds seek, including mother-language education; an end to discriminatory laws; fair political**

**representation; and more decentralization. Turkey's Kurds would then have full equality and rights, support for PKK violence would drop, and the government would be better placed to negotiate insurgent disarmament and demobilization. The government has zigzagged in its commitment to Kurds' rights.** The ruling Justice and Development Party (AKP) initiated a "Democratic Opening" in 2005, but its commitment faltered in 2009. At times, AKP leaders give positive signals, including scheduling optional Kurdish lessons in school and agreeing to collaborate in parliament with other parties on more reforms. At others, they appear intent on crushing the PKK militarily, minimize the true extent of fighting, fail to sympathize with Kurdish civilian casualties, openly show their deep distrust of the Kurdish movement, do nothing to stop the arrest of thousands of non-violent activists and generally remain complacent as international partners mute their criticism at a time of Middle East turmoil. **Contradictory signals have also come from the Kurdish movement**, including leaders of legal factions and the PKK, which is condemned in Turkey and many other countries as a terrorist organization. They have made conciliatory statements, tried to stick to legal avenues of association and protest in the European diaspora and repeatedly called for a mutual truce. At the same time, few have disavowed the suicide bombings, car bombs, attacks on civilians and kidnappings that have increased in 2012. Hardliners promote the armed struggle, radical youth defy more moderate leaders, and hundreds of young men and women volunteer to join the insurgency. European and U.S. counter-terrorism officials still accuse the PKK of extortion and drug dealing. Mixed messages have convinced mainstream public opinion that Turkey's Kurds seek an independent state, even though most just want full rights within Turkey. The Kurdish movement needs to speak with one voice and honor its leaders' commitments, if it is to be taken seriously in Ankara and its grievances are to be heard sympathetically by the rest of the country. Finding the way to a settlement is hard, as terrorist attacks continue and the PKK mounts increasingly lengthy offensives. Turmoil in neighboring Syria, where a PKK-affiliated group has taken control of at least one major Kurdish area near the border with Turkey, worries Ankara and may be inflating the insurgents' sense of power. Some on both sides are talking again of winning militarily and seem to have accepted many hundreds of dead each year as the cost, even though after nearly three decades of inconclusive fighting, public opinion among Turks and Kurds alike increasingly concedes that military action alone will not solve their mutual problem. What has been missing is a clear conflict resolution strategy, implemented in parallel with measured security efforts to combat armed militants, to convince Turkey's Kurds that their rights will be gradually but convincingly extended in a democratizing Turkey. Now is a good time for this to change. An election (presidential) is not expected for two years. A new constitution is being drafted. The AKP has a secure parliamentary majority. Prime Minister Recep Tayyip Erdoğan should seize the opportunity to champion democratic reforms that would meet many of the demands voiced by most of Turkey's Kurds. This would not require negotiations with the PKK, but the prime minister should engage with the legal Kurdish movement, take its grievances into account and make it feel ownership over reforms. Major misapprehensions exist on the question of what the Kurdish movement is and what it wants. The actions recommended below would move the conflict closer to resolution than military operations alone." **ICG recommends:** *To establish an environment for progress:* **To the Turkish government and the leaders of the Kurdish movement:** 1. Work toward a ceasefire, urge insurgents to stop attacks, avoid large-scale military operations, including aerial bombings, and stand up to pressure for ever-stronger armed responses. 2. Urge the PKK to rein in factions that attack and kidnap civilians, plant bombs and trash property or throw Molotov cocktails in demonstrations, and to pledge not to use a ceasefire to rearm, resupply or relocate. The security forces must limit aggressive crowd control methods, including tear or pepper gas, to an absolute minimum. *Even in the absence of a ceasefire:* 3. Address the legitimate, broad demands of Kurdish society for mother-language education, the lowering of national election thresholds, more decentralized local government and removal of discriminatory ethnic bias in the constitution and laws. 4. Change the Anti-Terror Law, Penal Code and other legislation to end the practices of indefinite pre-trial detention and prosecution of thousands of peaceful Kurdish movement activists as "terrorists", and ensure that non-violent discussion of Kurdish issues is not punished by law. 5. Help inform public opinion about the international legitimacy of multi-lingualism in education, ethnic diversity and wider powers for local government. 6. Use the parliament and, in particular, its constitutional reform commission to facilitate discussion between political parties on reform and assure wide buy-in. 7. Make public a package of measures for reintegration and retraining of former Kurdish insurgents, once the time comes to agree on full demobilization. **To leaders of the Kurdish movement:** 8. Clarify what reforms Kurds want in language, education and public life; codify ideas for decentralization or devolution;

identify precisely which laws and constitutional articles should be changed; commit to these reforms, advocate for them in parliament and make a determined effort to explain them to mainstream Turkish opinion. 9. Stop demanding a “self-defense militia” in Kurdish-speaking areas, end any kind of illegal political organization in Turkey that could be construed as a parallel state and remain committed to ending the fighting and disbanding insurgent units. **To Turkey’s allies and friends, notably the U.S., Canada, UK, Ireland and Spain:** 10. Engage with the Turkish government and opinion leaders to share experiences of defusing ethnic, linguistic, and regional tensions, including through travel programs for officials, politicians and opinion-makers from all relevant sides and parties in Turkey. 11. Continue to encourage Turkey to abide by its international commitments to protection of minority rights, freedom of expression and access to a fair trial without extended periods of pre-trial detention.”

**Kurds from Syria are being trained as fighters in the Kurdish region of Iraq, not to fight the government of President Assad, but to defend an autonomous Kurdish region of Syria in the power vacuum following Assad’s fall, in what could be a first step toward an independent Kurdish state, that could be joined by other Kurdish regions, and which is likely to be fiercely opposed by countries with significant Kurdish populations. Thus the fall of Assad threatens to bring increasing violence with ethnic strife internally, and externally with the possibility of a wider war, or wars – as other ethnic tensions are also stirred** (Tim Arango, “Kurds Prepare to Pursue More Autonomy in a Fallen Syria,” *The New York Times*, October 28, 2012, <http://www.nytimes.com/2012/09/29/world/middleeast/kurds-to-pursue-more-autonomy-in-a-fallen-syria.html>). -= Though some Kurds have fought against the government.

**However, the civil war in Syria has sparked some interethnic fighting, particularly involving Kurds.** Tim Arango, “Wider Chaos Feared as Syrian Rebels Clash With Kurds,” *The New York Times*, December 6, 2012, <http://www.nytimes.com/2012/12/07/world/middleeast/wider-chaos-feared-as-syrian-rebels-and-kurds-clash.html?ref=world>, reported. “In plain view of the patrons at an outdoor cafe here in this border town, the convoy of gun trucks waving the flag of the Syrian rebels whizzed through the Syrian village of Ras al-Ain. They had not come to fight their primary enemy, the soldiers of Bashar al-Assad’s government. They had rushed in to battle the ethnic Kurds. The confrontation spoke not only to the violence that has enveloped Syria, but also to what awaits if the government falls. **The fear — already materializing in these hills — is that Syria’s ethnic groups will take up arms against one another in a bloody, post-Assad contest for power.**” Moreover, there have been **clashes between Jihadists and secularists** (Hania Mourtada and Anne Barnard, “Jihadists and Secular Activists Clash in Syria,” *The New York Times*, January 27, 2013). **The Syrian civil war was more and more spilling over into neighboring countries in the first six months of 2013**, with inter-religious and inter-ethnic fighting growing in Lebanon – while Shiite Hezbollah in Lebanon entered the war in Syria supporting the government. Meanwhile, **Sunni-Shiite violence has been increasing in Iraq and continuing in Pakistan, threatening a general Shiite-Sunni conflagration across the Middle East, and also bringing inter-ethnic fighting** (See “International Developments,” in Spring 2013 *Nonviolent Change*, [www.nonviolentchange.org](http://www.nonviolentchange.org)).

International Crisis Group (ICG), “Syria’s Kurds: A Struggle Within a Struggle,” Middle East Report N°136, January 22, 2013, <http://www.crisisgroup.org/en/regions/middle-east-north-africa/egypt-syria-lebanon/syria/136-syrias-kurds-a-struggle-within-a-struggle.aspx>, commented, “As **Syria’s conflict has expanded, the population in majority-Kurd areas has remained relatively insulated. Keeping a lower profile, it has been spared the brunt of regime attacks; over time, security forces withdrew to concentrate elsewhere. Kurdish groups stepped in to replace them: to stake out zones of influence, protect their respective areas, provide essential services and ensure an improved status for the community in a post-Assad Syria. Big gains could be reaped, yet cannot be taken for granted. Kurdish aspirations remain at the mercy of internal feuds, hostility with Arabs (evidenced by recent clashes) and regional rivalries over the Kurdish question. For Syria’s Kurds, long-suppressed and denied basic rights, prudence dictates overcoming internal divisions, clarifying their demands and – even at the cost of hard compromises – agreement with any successor Syrian power structure to define and enshrine their rights. And it is time for their non-Kurdish counterparts to devise a credible strategy to reassure all Syrians that the new-order**

**vision of the state, minority rights, justice and accountability is both tolerant and inclusive.** Ethnically and linguistically a distinct group, Syria's Kurds inhabit lands close to the Turkish and Iraqi borders, though several cities in other parts of the country, in particular Damascus and Aleppo, also have large Kurdish constituencies. Strictly speaking, theirs is not a region, whether politically – unlike their Iraqi counterparts, they have not gained autonomy under the Baathist regime – or geographically: even majority-Kurdish areas in the north east are interspersed with mixed areas also comprising Sunni Arabs, Assyrians, Armenians, Turkomans and Yazidis. As things stand, one cannot speak of a contiguous territory. Moreover, and unlike their brethren in Turkey, Iraq and Iran, they do not have the benefit of mountains in which to safely organize an armed insurgency against central rule. Partly co-opted by the regime, which developed its own Kurdish clients by tolerating some political and paramilitary activism (as long as it was directed against Turkey) and criminal activity (mostly smuggling), **Syria's Kurds also have seethed under systemic discrimination and repression. Among the more egregious forms of inequity, some 300,000 of them – roughly 15 per cent of the estimated two million total – remain stateless, living in a legal vacuum and deprived of fundamental rights. Although revolts occasionally erupted, these quickly were crushed. The result has been a largely quiescent population. This is changing. As occurred in Iraq in 1991 and again in 2003, the current acute crisis presents Kurds with an opportunity to rectify – or at least start rectifying – what they consider an historic wrong: the decision by the French and British Mandatory powers to divide the Near East in a way that left them as the largest non-state nation in the region. They appear determined to seize it, though hobbled by competing visions about how best to do so.** If, when Syrians rose up in 2011, many young Kurds joined in, echoing calls for the downfall of the regime, traditional Kurdish political parties took a somewhat different view. They feared fierce reprisal against their people if they decisively joined the opposition; nursed resentment at Arab indifference during their own protests – and subsequent regime crackdown – in 2004; saw more to gain by remaining on the sidelines; and worried that newly empowered activists would challenge their role. Meanwhile, hoping to avoid a new battlefield and banking on Arab-Kurdish divisions to further muddy the picture, the regime for the most part left Kurds alone. As a result, most Kurdish parties opted to remain in the shadows of Syria's broader conflict, neither fighting nor supporting the regime, while assuming a skeptical approach toward the (non-Kurdish) opposition, viewed as overly Arab nationalist and Islamist. What is currently (and largely as a result of the ongoing conflict) the most influential of these parties, the *Partiya Yekîtiya Demokrat* (Democratic Union Party, PYD), also has been the most reluctant to confront the regime, prompting charges of collusion. Well-organized, trained and armed, it is a Syrian Kurdish offshoot of the PKK (the Kurdistan Workers' Party), the main Kurdish rebel group in Turkey. Shortly after the uprising broke out, the PYD, which had been encamped with the PKK in northern Iraq's mountains, returned to Syria, bringing along a contingent of fighters. In July 2012, it took advantage of the regime security forces' partial withdrawal from Kurdish areas to firmly establish its political and security presence, ousting government officials from municipal buildings in at least five of its strongholds and replacing Syrian flags with its own. In so doing, it openly asserted itself as the authority in charge of state institutions in most predominantly Kurdish towns. The PYD's main competitors are a motley group of small Kurdish parties, several of which have close ties with Iraqi Kurdish groups. Under the patronage of Masoud Barzani, president of the Kurdistan Regional Government (KRG) in Iraq and head of the Kurdistan Democratic Party (KDP), over a dozen of these parties coalesced in the Kurdistan National Council (KNC) in October 2011. This alliance has been the only effective Kurdish political rival to the PYD, even as internal divisions and the absence of a fighting force inside Syria have reduced its potential as an effective counterweight. Still, by creating a security and political vacuum in Kurdish areas, Syria's conflict has prompted intensifying competition between these two main trends. Kurdish factions compete not only with each other but also with non-Kurdish opposition groups, all of which vie for space as they struggle to accrue resources and expand their areas of influence. Many Kurds, especially but not only PYD supporters, are alienated by the predominantly Arab nationalist and Islamist narratives put forth by the non-Kurdish opposition, as well as by its perceived dependence on Turkey and Gulf-based conservative sponsors. As the conflict endures and threatens to turn into an all-out civil war, sectarian as well as ethnic tensions are building up; already, the country has witnessed clashes between PYD fighters and opposition armed groups (often referred to under the loose and rather deceptive denomination of the Free Syrian Army, FSA). So far these essentially have been turf battles, but they could escalate into a broader conflict over the Kurds' future status. Finally, the Syrian conflict has exacerbated the undeclared fight for the heart and soul of the Kurdish national movement in the four countries

(Syria, Iraq, Turkey and Iran) across which it is divided. The PYD's and KNC's respective regional patrons, the PKK and Barzani's KDP, represent the two predominant models of Kurdish nationalism today as well as two competing paradigms for dealing with Turkey, whose territory encompasses much of what Kurds see as their historic homeland. The PKK has used an episodic armed struggle to try to force Ankara to extend greater cultural and political rights to Kurds in Turkey; in contrast, the KDP, using its dominance of the Kurdistan Regional Government, has labored hard in recent years to develop economic interdependence and political ties to coax Turkey into a more constructive posture and simultaneously reduce the KRG's dependence on Baghdad. **Turkey itself must be added to the mix. How much autonomy the PYD enjoys vis-à-vis the PKK is a matter of some controversy, though for Ankara the question has long been settled. In its view, the Syrian Kurdish movement is little more than a branch or carbon copy of the PKK, whose attempts to establish a foothold in Syria risk fuelling separatist sentiment in Turkey. A PYD stronghold at its doorstep, potentially exploited by the PKK as a springboard in its fight in Turkey, is something Ankara will not tolerate.** Seeking simultaneously to contain internal rivalries, reassure Ankara and assert his own dominance, Barzani has tried to broker an agreement between the PYD and KNC. Both have something to gain: whereas the KNC enjoys international partners and legitimacy, it increasingly is divided internally and lacks a genuine presence on the ground; conversely, the PYD's strong domestic support is not matched by its international standing. But this Barzani-brokered marriage, the Supreme Kurdish Committee (SKC), at best is one of convenience. Neither side trusts the other; the two maintain (strained) relations with conflicting Syrian opposition groups; skirmishes have occurred between them in sensitive areas; and both are biding their time until the situation in the country clarifies. Likewise, although for the time being Turkey has opted not to intervene directly against the PYD – for fear of being sucked into a quagmire and for lack of a clear *casus belli* involving the PKK – and although it has given Barzani a leading role in containing the PYD, this approach may not last. Over time, Erbil's and Ankara's interests are likely to diverge. Whereas the former aims to consolidate a broad, Kurdish-dominated area straddling the Iraqi-Syrian border, the latter almost certainly fears the implications of such an outcome on its own Kurdish population, and in particular its impact on the PKK's overall posture. **Syria's Kurds should do their best to avoid both over-entanglement in this broader regional battle and overreach in their quest for greater autonomy. Their fate at present rests in Syria, and thus it is with Syrians that they must negotiate their role in the coming order and ensure, at long last, respect for their basic rights."** **ICG recommends:** **To the PYD, KNC and representatives of independent youth groups:** 1. Improve coordination of political and administrative activity, and work toward a joint strategy to provide security and basic services to Kurdish areas. 2. Reach out to broader Syrian society without necessarily entering into conflict with the regime, including by offering humanitarian aid, establishing field hospitals for wounded civilians regardless of ethnicity or political affiliation and expressing solidarity with the plight of civilians throughout Syria. 3. Refrain from actions stoking fears of Kurdish secessionism, such as replacing national symbols with Kurdish ones. **To the Supreme Kurdish Committee (SKC):** 4. Formulate a clear, unified position on what it expects from any successor power structure regarding respect for Kurdish rights, and negotiate on that basis with its non-Kurdish Syrian counterparts. **To the PYD and its YPG armed forces:** 5. Maintain a low military profile, limiting their role to internal policing duties in majority-Kurd areas, in coordination and cooperation with the KNC and independent youth groups. 6. Refrain from any acts of force or intimidation in areas under their control. 7. Refrain from provocative acts that could prompt Turkish military intervention, for example by using Syrian territory as a staging ground for PKK-backed Kurdish militancy in Turkey. **To KDP-trained Kurdish fighters operating under KNC control:** 8. Enter Syria only based on an explicit agreement with the PYD that delineates zones of operation, stipulates how disputes between the two armed groups will be resolved and creates a transparent system for identifying fighters in each force, their leaderships and activities. **To the non-Kurdish Syrian opposition, including its armed elements:** 9. Engage in or support negotiations with the Supreme Kurdish Committee over what the establishment of a democratic political system in which citizens enjoy equal rights would entail with respect to the Kurds. 10. Support publicly prompt repeal of all legislation removing citizenship from or denying it to certain groups of Kurds. 11. Seek coordination with the Supreme Kurdish Committee when operating in and around areas patrolled by Kurdish armed groups. **To the Turkish government:** 12. Continue to refrain from direct intervention in Kurdish areas of Syria, while redoubling efforts to peacefully resolve the Kurdish question in Turkey. 13. Consider talks with the PYD, possibly under the auspices of the Supreme Kurdish Committee, aiming in particular

at creating a mechanism for communication and coordination regarding border security. 14. Encourage the non-Kurdish Syrian opposition to bring in Kurdish opposition groups on the basis of a vision for a democratic political system in which all citizens enjoy equal rights. **To the Kurdistan Regional Government (KRG) in Iraq:** 15. Refrain from playing Kurdish factions one against another, and pursue instead a policy of consolidating unity and bolstering the representativeness and legitimacy of the Supreme Kurdish Committee. 16. Encourage in particular the KNC and PYD to work together more closely in bringing peace and stability to majority-Kurd areas of Syria, in coordination with independent youth groups.”

Edward Wong, “Tibetan Protesters Injured in Crackdown; Self-Immolations Continue,” November 27, 2012, <http://www.nytimes.com/2012/11/28/world/asia/tibetan-protesters-injured-in-crackdown-self-immolations-continue.html?ref=todayspaper>, reports, “**At least five Tibetans have set fire to themselves in recent days to protest Chinese rule in Tibetan regions, while at least five Tibetan students were in critical condition and 15 others were being treated for injuries after security forces cracked down on a large protest in western China** on Monday, according to reports by Radio Free Asia and Free Tibet, an advocacy group. **The protest took place in an area of Qinghai Province that the Chinese call Hainan Autonomous Prefecture, and that Tibetans call Tsolho. More than 1,000 Tibetans, mostly students and teachers, took to the streets to demand equal rights for ethnic minorities and the freedom to study and use the Tibetan language.**” The Tibetan self-immolations have since been continuing. Jim Yardley, “As Self-Immolations Near 100, Tibetans Question the Effect,” *The New York Times*, February 2, 2013, <http://www.nytimes.com/2013/02/03/world/asia/as-self-immolations-continue-some-tibetans-ask-is-it-worth-it.html?ref=todayspaper>, reported that as of February 1, 2013, **99 Tibetans had set themselves on fire protesting Chinese rule and policy in Tibet. The number of Tibetans who have burned themselves to death in protest of Chinese policies repressing Tibetans rose to 101**, in mid-February, 2013 (Edward Wong, “China: 2 Tibetan Protesters Die,” *The New York Times*, February 14, 2013, <http://www.nytimes.com/2013/02/15/world/asia/china-2-tibetan-protesters-die.html?ref=world>).

Edward Wong, “China: Killings in Xinjiang Stir Fears of Heightened Ethnic Tensions,” *The New York Times*, March 8, 2013, <http://www.nytimes.com/2013/03/09/world/asia/china-killings-in-xinjiang-stir-fears-of-heightened-ethnic-tensions.html?ref=todayspaper>, reported, “**At least four people were killed and eight injured in what appeared to be a knife fight in the city of Korla, a center of oil production in the western Chinese region of Xinjiang**, regional officials said Friday. The outburst of violence on Thursday **increased residents’ fears over a potential flare-up in ethnic tensions, a common occurrence in parts of Xinjiang where ethnic Uighur, a Turkic-speaking people, bridle at what they call discrimination by the Han Chinese, who rule China.**” As ethnic tensions in several regions of China have continued, Chris Buckley, “China Convicts and Sentences 20 Accused of Militant Separatism in Restive Region,” *The New York Times*, March 27, 2013, reported, “**Two courts in China’s far northwestern Xinjiang region have convicted and sentenced 20 people accused of militant separatism in this area where members of the Uighur ethnic minority bridle at Chinese rule and restrictions on their Islamic beliefs.** The sentences, ranging from five years in jail up to life in prison, were given Tuesday in five separate cases by courts in Kashgar and Bayingol Prefectures.”

The worst rioting in years took place in China’s western Xinjiang Province, in late June 2013, leaving at least 27 people dead, in what appeared to be a continuation of Uighur – Han Chinese tension, though details were not clear on June 27. **State media said that a crowd attacked a police station and government buildings, and the police opened fire. A spokesman for the World Uyghur Congress stated that the protest was sparked by a Chinese crackdown, detaining many men, some of whose whereabouts and condition were not known** (Chris Buckley, “27 Die in Rioting in Western China,” *The New York Times*, June 26, 2013, [http://www.nytimes.com/2013/06/27/world/asia/ethnic-violence-in-western-china.html?ref=todayspaper&\\_r=0](http://www.nytimes.com/2013/06/27/world/asia/ethnic-violence-in-western-china.html?ref=todayspaper&_r=0)).

“Victory for ‘human safari’ campaign as court bans tourists.” Survival International, January 22, 2013, <http://www.survivalinternational.org/news/8941>, reported, that **Survival International’s campaign to stop ‘human safaris’ in India’s Andaman Islands gained an important victory, after the Indian Supreme Court banned tourists from traveling along the road which cuts through the Jarawa tribal reserve.** The Supreme Court had ordered the local administration to close the road in 2002, but it has remained open. The latest court

order comes a year after the world was shocked by an international exposé of Jarawa women being forced to dance in exchange for food. In July 2012, India's Supreme Court ordered the Andaman authorities to implement a Buffer Zone which was introduced to protect the Jarawa from exploitation by tourists, explicitly ordering two tourist attractions – a limestone cave and a 'mud volcano' – to close. However, despite the Supreme Court ordering the caves and mud volcano to close, tourists continued to travel along the Andaman Trunk Road to visit the attractions as the **Andaman authorities ignored the ruling. Survival's Director Stephen Corry said today, "This new interim order is positive, but it will be meaningless if the Supreme Court allows the Andaman authorities once again to ride roughshod over its ruling. It's vital that the order is upheld and the human safaris end – the Jarawa themselves must decide if, when, and where outsiders traverse their land."**

"Ban upheld: Avatar tribe 'to decide' future of Vedanta mine," April 18, 2013, <http://www.survivalinternational.org/news/9155>, reported, **India's Supreme Court recognized the Dongria Kondh's right to worship their sacred mountain in a landmark decision, April 19, 2013, as the court rejected an appeal to allow Vedanta Resources to mine the Niyamgiri hills.** In a complex judgment, the court decreed that those most affected by the proposed mine should have a decisive say in whether it goes ahead. The tribe was given three months to decide whether to allow mining of their sacred hills, but there are serious concerns over the pressures that might be heaped on the community during this crucial time. The decision deals a blow both to billionaire Anil Agarwal's Vedanta and to the state-owned Odisha Mining Corporation, which brought the appeal and supported Vedanta's mine from the beginning. Final clearance for the mine was blocked by India's Environment Minister in 2010. Until recently, however, Vedanta had kept its refinery at the bottom of the hill in operation. The refinery was closed in December 2012 due to a lack of bauxite to supply the facility. Opposition to the mine has been vocal across the Indian state of Odisha. Thousands of protesters joined a 'rally of defiance', in December 2012, and hundreds of Dongria reasserted their pledge not to leave the Niyamgiri hills at their annual festival in February. The project has also come under attack from the Norwegian and British governments, the Church of England, and many others, resulting in several shareholders disinvesting from Vedanta. Survival notes, "At a time when the central government has been reported to want to water down tribal rights, this judgment will be seen as upholding the rights of the Dongria and all of India's tribal peoples."

"Success: Soliga tribe's forest rights upheld in court," Survival International, June 19, 2013, <http://www.survivalinternational.org/news/9328>, reported, **"A village belonging to the Soliga tribe in southern India has won an important court victory after its entire stock of honey – its key source of livelihood – was seized by local forestry officials in May. The community, with the support of local organizations, took the matter to court – and won."** "The confiscation of honey was in direct violation of the 2006 Indian Forest Rights Act, which recognizes the rights of India's tribal peoples, such as the Soliga, to live in and from their forests, and protect and manage their land. Tribal peoples like the Soliga have been living with and protecting the wildlife in their forests for countless generations. However many forestry officials still believe that forest and tiger conservation requires the removal of all people from the forests. These prejudices often make foresters unwilling to respect tribal rights – especially the right to make a livelihood from the forest. The recent court victory exposes this injustice and the necessity for the rights of India's tribes to be respected. The Soliga tribe of Karnataka made history in 2011 when their rights to their forests were recognized, even though they lie inside a tiger reserve. The community has been caring for the forest and harvesting its produce – including honey – for countless generations. After their rights were recognized one village established a collective to get a fair price for their honey. **More Soliga villages are awaiting the recognition of their forest rights and local organizations Keystone, Atree and the Soliga Abhivridhi Sangha (Soliga Peoples' Collective) are supporting them in the process.** Despite severe constraints from forestry officials, the Soliga remain determined to manage, harvest and protect their forests sustainably for current and future generations."

**The Maoist Insurgency continues at least six states in the eastern middle of the country, with the rebels demanding land for farmers and jobs for the poor. In late May, Maoist rebels from the Adivasis tribal people, who say they are India's first people, attacked a convoy, killing 24 people including Mahwnder Karma, a leading member of the Congress Party in Chhattisgarb state, whom the rebel targeted**



**for alleged atrocities against local tribal people via the militia of Adivasis he had formed** (Gardiner Harris, “Guards Were Outnumbered, India Attack Survivor Says,” *The New York Times*, May 27, 2013).

ICG, “Sri Lanka: Tamil Politics and the Quest for a Political Solution,” Asia Report N°239, November 20, 2012, <http://www.crisisgroup.org/en/regions/asia/south-asia/sri-lanka/239-sri-lanka-tamil-politics-and-the-quest-for-a-political-solution.aspx>, points out, **“The Sri Lankan government’s refusal to negotiate seriously with Tamil leaders or otherwise address legitimate Tamil and Muslim grievances is increasing ethnic tensions and damaging prospects for lasting peace. The administration, led by the Sri Lanka Freedom Party of Mahinda Rajapaksa, has refused to honor agreements with the Tamil National Alliance (TNA), broken promises to world leaders and not implemented constitutional provisions for minimal devolution of power to Tamil-speaking areas of the north and east. Militarization and discriminatory economic development in Tamil and Muslim areas are breeding anger and increasing pressure on moderate Tamil leaders. Tamil political parties need to remain patient and keep to their moderate course, while reaching out more directly to Muslims, Upcountry Tamils and Sinhalese. International actors should press the government more effectively for speedy establishment of an elected provincial council and full restoration of civilian government in the north, while insisting that it commence serious negotiations with elected Tamil representatives from the north and east.** Many believed that the end of the war and elimination of the separatist Tamil Tigers (LTTE) would open space for greater political debate and moderation among Tamils, while encouraging the government to abandon the hardline Sinhalese nationalism it had cultivated to support its war efforts and agree to devolve meaningful power to the majority Tamil-speaking northern and eastern provinces. While there has been an increase in democratic and moderate voices among Tamils, the government has failed to respond in kind. **Instead, it has adopted a policy of promising negotiations and expanded devolution in discussions with India, the U.S., and the UN Secretary-General, while denying these same things when addressing its Sinhala voting base. It has refused to negotiate seriously with TNA representatives, repeatedly failing to honor promises and ultimately breaking off talks in January 2012. Since then it has demanded that the TNA join the government’s preferred vehicle, a parliamentary select committee (PSC), a process clearly designed to dilute responsibility and buy time. Three-and-a-half years after the end of the war, President Rajapaksa continues to delay the long-promised election to the northern provincial council – elections the TNA would be nearly certain to win. Despite repeated public promises, the president has refused to grant even the limited powers ostensibly given to provincial councils under the constitution’s thirteenth amendment. Instead, he and other senior officials have begun to discuss the amendment’s possible repeal or replacement by even weaker forms of devolution.** Even as the government refuses to respond to longstanding demands for power sharing, **Tamil political power and identity are under sustained assault in the north and east.** While Tamil leaders and nationalist intellectuals base their demands for political autonomy on the idea that these regions are the traditional areas of Tamil habitation, government figures, including the president’s powerful brother and defense secretary, Gotabaya Rajapaksa, follow a long line of Sinhala nationalist thinking and explicitly reject that the north has any privileged Tamil character. Military and economic policies have been institutionalizing this ideological position with vigor. **The de facto military occupation of the northern province and biased economic development policies appear designed to undermine Tamils’ ability to claim the north and east as their homeland. For many Tamils, this confirms their long-held belief that it was only the LTTE’s guns that placed their concerns and need for power sharing on the political agenda.** In the face of the government’s resistance to a fair and negotiated settlement, TNA leaders have come under increasing pressure from their constituencies to adopt more confrontational language and tactics. Growing demands for the right to self-determination for the Tamil nation and hints that separatist goals have not been permanently abandoned have, in turn, provoked harsh reactions and expressions of distrust from Sinhala leaders. The situation is likely to remain difficult, with major negotiating breakthroughs unlikely in the near term. Nonetheless, the international community – especially India and the U.S. – should increase pressure on President Raja-paksa to significantly reduce the numbers and influence of the military in the north and hold credible northern provincial council elections in advance of the March 2013 meeting of the UN Human Rights Council. The president should also be pressed to agree to the TNA’s reasonable terms for joining the PSC and begin implementing the thirteenth amendment meaningfully. Effective and lasting power sharing will almost certainly require forms of devolution that go beyond the current unitary definition of the state. Yet if

skillfully handled, the current political conjuncture, both domestic and international, holds out possibilities to convince the government to concede greater space and ratchet back some of the worst abuses. For the TNA to improve Tamils' chances of receiving a fair deal from the state and, ultimately, some significant degree of power sharing, it will need to articulate grievances and the value of devolved powers more clearly and in ways that larger numbers of the other main communities – in particular Sinhalese and Muslims – can understand and accept as reasonable. In particular, the demand for autonomy needs to be framed in ways that can reassure at least some large minority of Sinhalese that the threat of secession is no longer there. It is also important for Tamil political leaders of all parties to begin mending relations with Muslims, so badly damaged by LTTE killings and the expulsion of all Muslims from the northern province in 1990. The TNA should insist that Muslim representatives be given a central role in negotiations on expanded devolution of power. Finally, the Tamil leadership needs to find both practical and rhetorical ways of building links between its struggle for rights and power sharing and the growing unease among Sinhalese at the corruption and abuse of power characteristic of the Rajapaksa government. The Tamil struggle for rights and freedom is likely to succeed only when the broader national struggle for the restoration of democracy and the rule of law, including the depoliticization of the judiciary and the police, has made substantial progress. Joining together efforts to solve the two different forms of the “national question” should become an imperative part of the struggle for Tamil rights.”

**ICG Recommends: “To the Tamil National Alliance (TNA):** 1. Maintain commitment to bilateral negotiations with the government to achieve substantial autonomy for the north and east within a united Sri Lanka; work to strengthen ties with other communities and broaden its reform agenda, by: a) acknowledging LTTE crimes, particularly the expulsion of northern Muslims, apologizing for not speaking out then, and setting up truth and reconciliation committees with Muslim and Sinhalese representatives; b) speaking clearly to Sinhalese about the nature of Tamil grievances, why these require devolution – but not independence – and how the TNA would use devolved powers; c) cooperating with the Sri Lanka Muslim Congress and other Muslim organizations to resolve land and resource conflicts in the north and east and on constitutional negotiations and devolution; d) reaching out to Upcountry Tamil organizations to work jointly on shared concerns, particularly with regard to language discrimination and other problems facing Tamils outside the north and east; and e) building alliances with non-Tamil parties and organizations, including those in the Sinhala community that share concerns about corruption and abuse of power, for governance reforms outside the north and east, including implementation of core Lessons Learnt and Reconciliation Commission recommendations. 2. Priorities developing the capacity of local TNA politicians and building a stronger community-level party organization, better able to address local needs in the north and east, particularly on land and livelihood issues. **To Tamil Civil Society Organizations and Leaders:** 3. Acknowledge Muslim and Sinhalese suffering from the war and LTTE actions; welcome and facilitate Muslim returns to the north by cooperating to resolve land and resource disputes; and establish or revive inter-ethnic peace committees able to counter politicians and vested interests who seek to divide and control communities. **To Organizations in the Tamil Diaspora and in Tamil Nadu:** 4. Support the TNA strategy for a negotiated power-sharing agreement within a united Sri Lanka, including by sharing professional skills needed to strengthen the TNA's organizational capacity. 5. Acknowledge the LTTE's role in deepening ethnic tensions and its shared responsibility for the suffering and massive loss of Tamil life in the final stages of the conflict and support inclusion of the LTTE's actions in any independent international investigation into possible war crimes or crimes against humanity. **To the Government of Sri Lanka:** 6. Recommit publicly, before domestic and international audiences, to a political solution based on maximum devolution within a united Sri Lanka with significant autonomy for the north and east, including by: a) restarting bilateral negotiations with the Tamil National Alliance (TNA) immediately, with the aim of reaching a basic consensus to take to the Parliamentary Select Committee (PSC) for consideration; b) agreeing that the PSC will be a time-bound process, with a formal agenda building upon discussions with the TNA; PSC deliberations will not delay elections to the northern provincial council; and its outcomes are to pave the way for further devolution or other forms of power sharing; c) holding free and fair elections for the Northern Provincial Council by early 2013; d) implementing the thirteenth amendment so as to maximize powers granted to all provinces, beginning by appointing civilian governors in the north and east with the confidence of their councils; introducing legislation to reduce governors' powers; giving the northern and eastern councils adequate financial resources and new powers to raise revenue; and consulting meaningfully with them on development projects; and e) withdrawing the Divineguma bill and instead decentralizing decision-making on economic

development to give local government significant input into and control over resources and projects. 7. Begin rapid demilitarization and return to civilian administration in the north and east by reducing significantly the numbers and public presence of troops, removing troops from all influence over development and humanitarian work and other civilian activities, and placing the police fully in charge of law enforcement. 8. Acknowledge and take concrete steps to respect the traditionally Tamil and Tamil-speaking character of the northern province and much of the eastern province, including by: a) promising publicly that there will be no state-sponsored demographic change leading to the Signalization of traditionally Tamil and Muslim areas in the north and east; b) protecting land rights, ensuring transparent processes for land policies and transactions, returning real property seized by the military and offering compensation when private land is used or taken; and c) protecting the cultural and religious rights of Tamils, both Hindu and Christian, as well as Muslims, including by ending the military-supported construction of Buddhist statues and temples in the north and preventing and punishing damage to or destruction of holy sites. 9. Revise immediately policies that are exacerbating grievances of Tamils in the north and east, including by: a) giving family members the names and locations of all individuals detained by any government agency for suspected LTTE involvement; allowing open mourning of the dead; and assisting recovery of remains; b) acknowledging credible evidence of extensive enforced disappearances of Tamils in the final stages of the war and initiating an independent investigation; c) allow the Sri Lankan national anthem to be sung in Tamil at public events in Tamil-speaking areas and in both Sinhala and Tamil at national events; d) ending harassment of Tamil political activists and allowing all citizens in the north and east to freely protest and criticize the government and military without risk of violence or disappearance; and e) reducing restrictions on and harassment of humanitarian workers and community groups, allowing them to determine priorities, with input from local communities, and increase assistance, including in housing, livelihoods, and gender-based violence and psychosocial programming. 10. Act immediately on other longstanding and legitimate grievances of Tamils throughout the island by: a) guaranteeing their physical security and respecting their basic human rights; disarming illegal armed groups; ending abduction, disappearance and arbitrary detention as means of political control and ceasing harassment of Tamil women by military personnel; ensuring credible, independent investigations of past abuses; and establishing local and regional control and accountability mechanisms for all security forces; b) guaranteeing the right to use their language, especially when doing business with state officials; and c) ending all forms of discrimination, including with regard to government assistance, state jobs, courts and the police, and by increasing the percentage of Tamil-speakers in the security and public services. 11. Expedite implementation of the core recommendations of the Lessons Learnt and Reconciliation Commission, in particular reversing consolidation of power in the presidency and military by repealing the eighteenth amendment to the constitution and restoring constitutional limits on presidential power over the attorney general and judiciary; reestablishing independent commissions on human rights, police, elections, bribery, finance and public service; removing the police from the defense ministry; and ceasing intimidation of the judiciary, beginning with the withdrawal of impeachment proceedings against the Supreme Court chief justice. 12. Cooperate fully with UN and other international agencies, including in implementing the March 2012 Human Rights Council resolution; invite all relevant special procedure mandate holders to visit before the March 2013 session. **To the Sri Lankan Muslim Congress, other Muslim Parties and the United National Party:** 13. Reaffirm support for devolution of power, beginning with rapid, expansive implementation of the thirteenth amendment, followed by reforms designed to increase, not reduce, effective devolution of power. **To Sri Lanka's International Partners, including China, India, Japan, the U.S., UK, EU, UN, Australia, and the International Financial Institutions:** 14. Press the government for quick, irreversible, and genuine action to address Tamil grievances and pave the way for a lasting political solution, including most urgently: a) public recommitment by the president to implement the thirteenth amendment fully, followed by immediate return to bilateral talks with the TNA, prior to activation of the PSC; b) elections to the northern provincial council by early 2013, accompanied by demilitarization of the north, its full return to civilian administration and a range of other policy changes to foster reconciliation; c) allowing all UN special procedure mandate holders who desire to visit Sri Lanka to do so in time to report to the March 2013 Human Rights Council session; and d) fulfillment of the March 2012 Human Rights Council resolution, including rapid implementation of the core Lessons Learnt and Reconciliation Com-mis-sion recommendations to establish independent bodies to hold presidential and military power to account and credible, independent investigations of alleged war crimes. 15. Ensure that development aid does not further consolidate an undemocratic, ultimately

volatile political regime in the north and east; insist on transparency, external monitoring and non-discriminatory community participation in setting its priorities; and condition all loans and development aid, including from the World Bank, Asian Development Bank and International Monetary Fund, on demilitarization and democratization of the north and east. **To the Secretariat and Member States of the Commonwealth:** 16. Insist that the Sri Lankan government take the actions listed in recommendation 14 above, and agree that in the event it fails to do so, the October 2013 Commonwealth heads of government meeting will be moved from Colombo to an alternative location.”

ICG, “Sri Lanka’s Authoritarian Turn: The Need for International Action,” Asia Report N°243, February 20, 2013, <http://www.crisisgroup.org/en/regions/asia/south-asia/sri-lanka/243-sri-lankas-authoritarian-turn-the-need-for-international-action.aspx>, warned, **“Government attacks on the judiciary and political dissent have accelerated Sri Lanka’s authoritarian turn and threaten long-term stability and peace. The government’s politically motivated impeachment of the chief justice reveals both its intolerance of dissent and the weakness of the political opposition. By incapacitating the last institutional check on the executive, the government has crossed a threshold into new and dangerous terrain, threatening prospects for the eventual peaceful transfer of power through free and fair elections. Strong international action should begin with Sri Lanka’s immediate referral to the Commonwealth Ministerial Action Group (CMAG) and a new resolution from the UN Human Rights Council (HRC) calling for concrete, time-bound actions to restore the rule of law, investigate rights abuses and alleged war crimes by government forces and the Liberation Tigers of Tamil Eelam (LTTE), and devolve power to Tamil and Muslim areas of the north and east. Sri Lanka is faced with two worsening and inter-connected governance crises. The dismantling of the independent judiciary and other democratic checks on the executive and military will inevitably feed the growing ethnic tension resulting from the absence of power sharing and the denial of minority rights. Both crises have deepened with the Rajapaksa government’s refusal to comply with the HRC’s March 2012 resolution on reconciliation and accountability.** While the government claims to have implemented many of the recommendations of its Lessons Learnt and Reconciliation Commission (LLRC) – a key demand of the HRC’s resolution – there has in fact **been no meaningful progress on the most critical issues:** the government has conducted no credible investigations into allegations of war crimes, disappearances or other serious human rights violations; rather than establish independent institutions for oversight and investigation, the government has in effect removed the last remnants of judicial independence through the impeachment of the chief justice; there has been no progress toward a lasting and fair constitutional settlement of the ethnic conflict through devolution of power; the military still controls virtually all aspects of life in the north, intimidating and sidelining the civilian administration; more than 90,000 people remain displaced in the north and east, amid continued land seizures by the military, with no effective right of appeal and no fair process for handling land disputes; government security forces have broken up peaceful Tamil protests in the north, detained students on questionable charges of working with the LTTE and actively harassed Tamil politicians; the government has responded with force to protest and dissent in the south, too, deploying troops to prevent the newly impeached chief justice and supporters from visiting the Supreme Court while pro-government groups attacked lawyers protesting the impeachment. Analysts and government critics have warned of Sri Lanka’s growing authoritarianism since the final years of the civil war, but developments over the last year have worsened the situation. The president’s willingness and ability to push through the impeachment – in the face of contrary court rulings, unprecedented opposition from civil society and serious international concern – confirms his commanding political position. The move completes the “constitutional coup” initiated in September 2010 by the eighteenth amendment, which removed presidential term limits and the independence of government oversight bodies. It has sent a clear message to domestic critics that their dissent is unwelcome. The consolidation of power paves the way for moves that could further set back chances of sustainable peace. The president and his two most powerful brothers – Defense Secretary Gotabaya and Economic Development Minister Basil – have signaled their intention to weaken or repeal the provinces’ already minimal powers. As the government makes explicit its hostility to meaningful power sharing between the centre and the Tamil-speaking north and east, Tamil identity and political power are being systematically undermined by the military-led political and economic transformation of the northern province. Recent months have also seen an

upsurge in attacks by militant Buddhists on Muslim religious sites and businesses. The government has done little to discourage these. Should such provocations continue, the remarkable moderation of Sri Lanka's Muslims could face serious tests. Given the country's history of violent resistance to state power perceived as unjust, the authoritarian drift can only increase the risk of an eventual outbreak of political violence. Sri Lankans of all ethnicities who have struggled to preserve their democracy deserve stronger international support. The HRC's 2012 resolution was an important first step, but more is needed. This should begin with a stronger HRC resolution in March 2013, which must demand concrete reforms to end impunity and restore the rule of law; mandate the Office of the High Commissioner for Human Rights (OHCHR) to monitor violations and investigate the many credible allegations of war crimes committed in the final months of the war by both sides; and, where possible, identify individuals most responsible. The Commonwealth secretary general should formally refer Sri Lanka to the Commonwealth Ministerial Action Group (CMAG), which should insist that the government take substantial steps to restore the independence of the judiciary. Were it to refuse, the Commonwealth should relocate its November 2013 heads of government meeting, currently scheduled to take place in Colombo, or at the very least participants should downgrade their representation. All governments and multilateral institutions with active ties to Sri Lanka must rethink their approach and review their programs in light of Colombo's deepening and dangerous authoritarian drift. This includes military-to-military relations and bilateral and multilateral development assistance, including from the UN, World Bank, Asian Development Bank and International Monetary Fund."

**ICG recommends:** "To the government of Sri Lanka: 1. Comply with current and future HRC resolutions, including by implementing the core recommendations of the LLRC on governance, the rule of law, accountability, devolution of power and reconciliation, through a process that includes opposition political parties and independent civil society representatives of all ethnic communities. 2. Support meaningful reconciliation by publishing the full LLRC report in Sinhala and Tamil, allowing the national anthem to be sung in Tamil at official events and holding public ceremonies to honor the death and suffering of civilians from all communities. To the UN Human Rights Council (HRC): 3. Adopt a new, stronger resolution on Sri Lanka at its 22nd session, which: a) notes clearly the government's refusal to respect the previous resolution by failing to implement the most important LLRC recommendations and refusing to investigate credible allegations of grave violations of international humanitarian law; b) details specific measures the government must take *within the coming year*; c) requests the government to investigate independently the credible allegations of international humanitarian law violations; d) tasks OHCHR with monitoring and reporting to the council on progress in implementing the resolution and on any violations, and with undertaking investigations and making appropriate recommendations with respect to violations allegedly committed in the final months of the war, including by compiling a list of individuals about whom there is credible evidence. e) encourages the government to invite those special rapporteurs with outstanding requests to visit Sri Lanka, and requests them to compile a joint report on the country's compliance with its international obligations. To the Commonwealth Secretariat and member states: 4. Refer Sri Lanka to the Commonwealth Ministerial Action Group (CMAG), which should insist that the government take substantial steps to restore the independence of the judiciary, including, at a minimum, by: a) reestablishing earlier constitutional provisions – abolished by the eighteenth amendment – to ensure a less politicized selection of judges; b) changing current parliamentary provisions for removing senior judges to bring them in line with international standards; and c) abandoning government plans to limit a chief justice's term to three years. 5. Relocate, should the government fail to make these changes, the November 2013 heads of government meeting away from Colombo, or downgrade representation to ministerial level. To the UN Secretary-General: 6. Use his powers under section 99 of the UN Charter to establish a commission of inquiry into alleged violations of international law, should the HRC decline to do so or to task OHCHR to undertake investigations. 7. Establish a mechanism to "monitor and assess the extent to which the Government of Sri Lanka is carrying out an effective domestic accountability process". To the UN Secretariat, country team and agencies in Sri Lanka: 8. Undertake a "human rights audit", led by the country team, of all programming to examine where and how these can better integrate human rights protection, including a survey of the protection needs of past and present humanitarian workers, both in and out of Sri Lanka. 9. Review Sri Lanka's contributions to peacekeeping operations and reject its participation until credible investigations of war crimes allegations and prosecutions are carried out. To the governments of India, the U.S., EU, UK, Canada, Australia, Norway, Switzerland, Japan and South Africa: 10. Investigate, gather and share evidence regarding alleged war crimes

and human rights abuses by government forces and the LTTE where possible, support victims and offer witness protection when necessary. 11. Refrain from accepting the diplomatic credentials of Sri Lankan military officers against whom there are credible allegations of serious crimes; cease trainings – other than in human rights – and joint exercises with the military; and apply targeted pressure on government leaders, including restrictions on personal travel until the government complies with HRC resolutions. **To the World Bank, Asian Development Bank and International Monetary Fund:** 12. Review all programs in Sri Lanka and conduct a study of governance and land issues and how these affect the sustainability and equity of their development assistance. 13. Press strongly, both privately and publicly, for the government to adopt the LLRC’s recommendations, particularly on reestablishing judicial independence and an independent bribery commission, enacting a freedom of information law, protecting the rights of citizens to speak freely and contribute to the formulation of development policies, and reforming policies on land and land disputes.”

ICG reported, March 1, 2013, <http://www.crisisgroup.org/en/regions/asia/south-asia/sri-lanka.aspx>, **The United Nations Human Rights Council (UNOHCHR) issued a report, February 11, 2013, criticizing the Sri Lankan government failure to implement recommendations of March 2012 Human Rights Council resolution or address war crimes allegations and calling for “independent and credible international investigation”.** Human Rights Watch accused Sri Lankan government forces of sexual violence against Tamils in custody 2006-2012. Journalist Faraz Shauketaly, working for the *Sunday Leader*, a newspaper critical of the government, was shot February 15 by unidentified gunmen at his home near Colombo; UN human rights chief Pillay said she was “deeply disturbed” by the “attempted assassination”, and called for an investigation. The government, in mid-February, dismissed as propaganda pictures appearing to show LTTE chief Prabhakaran’s son killed in army custody; photos reignited calls in India for investigation into alleged war crimes at the civil war’s end. **A large rally February 17 by an extremist “Buddhist Power Force” called for laws to curb Muslim influence in Sri Lanka as threats and attacks against Muslim businesses were reportedly on increase.”**

ICG, “Thailand: The Evolving Conflict in the South,” Asia Report N°241, December 11, 2012, <http://www.crisisgroup.org/en/regions/asia/south-east-asia/thailand/241-thailand-the-evolving-conflict-in-the-south.aspx>, warns, **“After a decade of separatist violence in Thailand’s Malay/Muslim-majority southern provinces, insurgent capabilities are outpacing state counter-measures that are mired in complacency and political conflict. While Bangkok claims to make a virtue of patience, more sophisticated and brutal insurgent attacks increase the death toll. Successive governments have opted to muddle through South East Asia’s most violent internal conflict, their responses hostage to outmoded conceptions of the state, bureaucratic turf battles and a bitter national-level political struggle. In 2012, a new security policy for the region acknowledged for the first time the conflict’s political nature and identified decentralization and dialogue with militants as components of a resolution. But fulfilling this policy demands that Thai leaders depoliticize the South issue, engage with civil society, build a consensus on devolving political power and accelerate efforts toward dialogue. Dialogue and decentralization may be difficult for Bangkok to implement, but the necessary changes could become even more challenging over time.** The intractable power struggle between supporters of former Prime Minister Thaksin Shinawatra, deposed in a 2006 coup d’état, and his opponents in the army, bureaucracy and palace has overshadowed the conflict in the South. Yet, the region remains another arena for political games-man-ship. Civilian officials there and in Bangkok have been hamstrung by the need to respect military prerogatives and have searched in vain for a formula that can tamp down the violence without committing to political reforms. Deployment of some 60,000 security forces, special security laws and billions of dollars have not achieved any appreciable decline in casualties or curbed the movement. **For the past two years, violence has largely persisted below a threshold that might have generated public pressure for new approaches. Periodically, though, spectacular attacks thrust the conflict into national consciousness.** A number of these have taken place in 2012, including the 31 March coordinated car-bombs in Yala and Hat Yai. Media broadcast of closed-circuit television (CCTV) video showing an audacious daylight strike that killed four soldiers in July in Mayo District, Pattani Province, confronted the public with brutal images that challenged official assurances that the government was on the right track. As overt political turmoil in

Bangkok receded, the Deep South again became a hot topic for editors, bureaucrats and politicians, but this renewed attention has not yet prompted fresh thinking or new will to tackle the problem. The Yingluck Shinawatra administration, which came to office in August 2011, placed its hopes for progress on Police Colonel Thawee Sodsong, a Thaksin loyalist chosen to lead the reinvigorated Southern Border Provinces Administrative Centre (SBPAC). Through determination and unstinting cash hand-outs, Thawee won a degree of personal approval within in the region. But the 31 March bombings coincided with first reports of Thaksin's fumbled attempt to start a peace process with exiled militant leaders and allegations that the two events were linked. With Thaksin denying he talked with rebel leaders and violence and recriminations mounting, the dialogue process appeared to be back at square one. Faced with continued insurgent violence, the cabinet approved a high-level "war room" to coordinate the work of seventeen ministries with responsibilities in the Deep South. This did not blunt the bureaucratic impulse to tinker with organizational charts, however, as security officials called for re-sub-or-di-na-tion of the civilian SBPAC to the military-dominated Internal Security Operations Command (ISOC). The contours of a political resolution to the conflict in southern Thailand have long been in the public domain, but Bangkok has been unable to commit to a comprehensive and decisive approach. A promising three-year policy issued by the National Security Council in early 2012 recognizes a political dimension of the violence and codifies decentralization and dialogue as official strategy, but its implementation is likely to be impeded by political and bureaucratic infighting. The government should reverse the militarization of the Deep South, lift the draconian security laws and end the security forces' impunity, all of which help stimulate the insurgency. Thai leaders should also forge a broad national consensus for bold action to resolve the conflict, including decentralization of political power, earnest engagement with civil society and sustained efforts to cultivate a peace dialogue with the insurgency. Talking to its representatives, changing the way the Deep South is governed, delivering justice, and recognizing the region's unique culture are all elements of a comprehensive approach to reducing the violence. As Bangkok dithers, the insurgents are growing bolder and more capable. They are conducting attacks that are attracting, if not deliberately seeking, more attention. Thailand has been fortunate that the militants have considered it in their strategic interest to contain the fight within their proclaimed territory, but the violence has evolved at a pace that is starting to challenge the ability of the government to respond on its own terms. Without more creative thinking and deft action, Bangkok risks losing the initiative." **ICG recommends:** **"To the Government of Thailand:** 1. Develop a unified approach to transforming the conflict based on full implementation of the National Security Council (NSC) Administration and Development Policy for Southern Border Provinces, 2012-2014, by undertaking to: a) create a cross-party consensus, possibly embodied in a national accord, that resolution of the conflict is a national priority; b) establish a durable non-partisan mechanism mandated by the prime minister's office and including respected individuals, in and out of government, to pursue dialogue with insurgent representatives; c) commit to serious consideration of political decentralization, consistent with the principle of a unitary state as enshrined in the constitution, with the aim of drafting legislation; and d) engage with civil society initiatives that seek to foster more representative government and peaceful conflict resolution. 2. Lift the emergency decree and martial law in those districts where they remain in effect and, until further reforms are feasible, rely on the Internal Security Act (ISA) instead, ensuring that all regulations invoked are consistent with the preservation of human rights. 3 incidents. **To the Separatist Movement:** 4. Acknowledge that the protracted violence is detrimental to the well-being and development of the population in the southernmost provinces. 5. Observe obligations of non-state armed actors under international humanitarian law and abide by the rules of engagement issued by the Patani United Liberation Organization, which prohibit attacks on civilians, displacement of the civilian population and acts of retribution. 6. Recognize that self-determination and maintenance of Thailand's territorial integrity and sovereignty are compatible and prepare to respond to initiatives by state representatives and civil society to pursue dialogue on peaceful conflict resolution. **To Civil Society Organizations:** 7. Expand bases of popular support through continued community outreach, while maintaining channels of communication with officials and militants. 8. Avoid advocating preconceived political agendas and instead inform debate on political reform and conflict resolution by identifying and expressing popular concerns and preferences."

**The war between the government of Myanmar and ethnic rebels, in the north of the country, was**



**getting more intense** and nearer to China, in mid January 2013. The Chinese expressed upset when a stray shell landed in China. A truce was called in the fighting, but it quickly failed on January 19, 2013, (Thomas Fuller, “Myanmar’s Fight With Armed Rebels Edges Toward China,” *The New York Times*, January 14, 2013, <http://www.nytimes.com/2013/01/15/world/asia/myanmar-fighting-edges-toward-china.html?ref=world>; and Thomas Fuller, “A Cease-Fire With Rebels in Myanmar Doesn’t Hold,” *The New York Times*, January 19, 2013, [http://www.nytimes.com/2013/01/20/world/asia/cease-fire-in-myanmar-with-kachin-rebels-fails-to-take-hold.html?ref=todayspaper&\\_r=0](http://www.nytimes.com/2013/01/20/world/asia/cease-fire-in-myanmar-with-kachin-rebels-fails-to-take-hold.html?ref=todayspaper&_r=0)). **New negotiations have since begun.**

**As Myanmar has moved to make political reforms, it has promoted business growth, including drawing foreign investment and foreign businesses. However, as of November 2012, the new economic development was leaving the poor behind. To that point, only a very small fraction of the nation’s population have moved ahead economically under the reforms** (Thomas Fuller, “Myanmar’s Rush to Democracy Leaves Its Poor Behind,” *The New York Times*, November 17, 2013).

**UN Human Rights Raporteur, Ojea Quintana, warned in a report, at the end of February, that Myanmar’s progress in reforms as it continues its transitions from military to civilian rule will fail if the government does not move to overcome discrimination against the Muslim Rohingya minority and cease arbitrary arrests and torture in Kachin state, where the military has been fighting Kachin rebels. Quintatana said that in these, and some siNick Cumming-Bruce, “UN Report Cites ailings in Myanmar,”** *The New York Times*, March 8, 3013).

United to End Genocide reported, November 13, 2012, that there have been **escalating attacks on the Rohingya in western Burma, warning, “Ethnic and religiously motivated violence, burning of homes, and hateful rhetoric seen in recent days are ominous warning signs of genocide in Burma. Two major outbreaks of violent attacks have claimed the lives of more than one hundred Rohingya people in Rakhine State in Burma. Entire villages have been burned and over 100,000 displaced. An entire people are under attack not because of what they have done but because of who they are.”** “While initial attacks in June could be described as communal violence between the Muslim Rohingya and Buddhist Rakhine, those attacks have devolved into systematic violence targeting the Rohingya. These attacks are taking place with a mixture of implicit and blatant support from the military-backed government in Burma. Burma’s President, Thein Sein, has responded by fomenting hatred against the Rohingya community. He has even asked the United Nations to help him ethnically cleanse Burma by forcing 800,000 Rohingya people out of their home villages and into refugee camps or out of the country altogether! **Warning signs of potential genocide are rampant.** Rakhine monks are using language reminiscent of the hateful propaganda directed at the Tutsi population and their sympathizers in the lead up and during the Rwandan genocide. And in renewing calls for the expulsion of the Rohingya from Burma, several prominent Rakhine monks have called on Rakhines to expose Rohingya sympathizers as national traitors, opening them up to violent attacks.” United to End Genocide was engaged in a campaign, in November, demanding that “President Obama act quickly and forcibly to ensure the safety of the Rohingya and all those at risk of sectarian violence and ethnic cleansing in Burma. President Obama has just announced plans to visit the very leaders who want to ethnically cleanse Burma of the Rohingya even as the conditions that led to two major outbreaks of violence worsen. Instead of traveling to Burma to normalize diplomatic relations with the Burmese government, President Obama should be leading a call for an end to the violence and a robust international response. Instead of toasting the military dominated government, President Obama should be speaking out against their refusal to protect the Rohingya minority.” “The response from the United States and the international community to the violence against the Rohingya has been wholly inadequate. The conditions that led to two major outbreaks of mass killings are getting worse. Greater loss of life and displacement are a certainty without a change of course.” For more information go to: <http://action.savedarfur.org/site/R?i=imlmtULayIEbhe4DPzT1Q>.

ICG, “Myanmar: Storm Clouds on the Horizon,” Asia Report N°238, November 12, 2012, <http://www.crisisgroup.org/en/regions/asia/south-east-asia/myanmar/238-myanmar-storm-clouds-on-the-horizon.aspx>, comments, **“Myanmar’s leaders continue to demonstrate that they have the political will and the vision to move the country decisively away from its authoritarian past, but the road to democracy is**

proving hard. President Thein Sein has declared the changes irreversible and worked to build a durable partnership with the opposition. While the process remains incomplete, political prisoners have been released, blacklists trimmed, freedom of assembly laws implemented, and media censorship abolished. But widespread ethnic violence in Rakhine State, targeting principally the Rohingya Muslim minority, has cast a dark cloud over the reform process and any further rupturing of intercommunal relations could threaten national stability. Elsewhere, social tensions are rising as more freedom allows local conflicts to resurface. A ceasefire in Kachin State remains elusive. Political leaders have conflicting views about how power should be shared under the constitution as well as after the 2015 election. Moral leadership is required now to calm tensions and new compromises will be needed if divisive confrontation is to be avoided. The president has moved to consolidate his authority with his first cabinet reshuffle. Ministers regarded as conservative or underperforming were moved aside and many new deputy ministers appointed. There are now more technocrats in these positions, and the country has its first female minister. The president also brought his most trusted cabinet members into his office, creating a group of “super-ministers” with authority over broad areas of government – a move perhaps partially motivated by a desire to strengthen his position vis-à-vis the legislature. A dispute over a controversial ruling by the presidentially-appointed Constitutional Tribunal led to impeachment proceedings and the resignation of the tribunal members, highlighting both the power of the legislature, and the risks to a political structure in transition as new institutions test the boundaries of their authority. The transition has been remarkable for its speed and the apparent lack of any major internal resistance, including from the military. It will inevitably face enormous challenges. The ongoing intercommunal strife in Rakhine State is of grave concern, and there is the potential for similar violence elsewhere, as nationalism and ethno-nationalism rise and old prejudices resurface. The difficulty in reaching a ceasefire in Kachin State underlines the complexity of forging a sustainable peace with ethnic armed groups. There are also rising grassroots tensions over land grabbing and abuses by local authorities, and environmental and social concerns over foreign-backed infrastructure and mining projects. In a context of rising popular expectations, serious unaddressed grievances from the past, and new-found freedom to organize and demonstrate, there is potential for the emergence of more radical and confrontational social movements. This will represent a major test for the government and security services as they seek to maintain law and order without rekindling memories of the recent authoritarian past. A key factor in determining the success of Myanmar’s transition will be macro-political stability. In 2015, Aung San Suu Kyi’s National League for Democracy (NLD) will compete for seats across the country for the first time since the abortive 1990 elections. Assuming these polls are free and fair, they will herald a radical shift in the balance of power away from the old dispensation. But an NLD landslide may not be in the best interests of the party or the country, as it would risk marginalizing three important constituencies: the old political elite, the ethnic political parties and the non-NLD democratic forces. If the post-2015 legislatures fail to represent the true political and ethnic diversity of the country, tensions are likely to increase and fuel instability. The main challenge the NLD faces is not to win the election, but to promote inclusiveness and reconciliation. It has a number of options to achieve this. It could support a more proportional election system that would create more representative legislatures, by removing the current “winner-takes-all” distortion. Alternatively, it could form an alliance with other parties, particularly ethnic parties, agreeing not to compete against them in certain constituencies. Finally, it could support an interim “national unity” candidate for the post-2015 presidency. This would reassure the old guard, easing the transition to an NLD-dominated political system. Critically, this option could also build support for the constitutional change required to allow Aung San Suu Kyi to become president at a future date, a change that is unlikely prior to 2015 given the opposition of the military bloc, which has a veto over any amendment. Pursuing any of these paths will require that the NLD make sacrifices and put the national interest above party-political considerations. With a national leader of the caliber of Aung San Suu Kyi at the helm, it can certainly rise to this challenge.”

**Attacks on Muslim villages by Buddhists have continued to spread in Myanmar**, though one was foiled by police as the village barricaded itself. Meanwhile, in **Indonesia, police said, May 3, 2013, that they had broken up a plan to attack Myanmar's embassy in Jakarta**, arresting two men and seizing explosives (“Muslims in Myanmar barricade village as attacks spread, Reuters, May 3, 2013, <http://www.reuters.com/article/2013/05/03/us-myanmar-violence-idUSBRE9420EZ20130503>).

First Peoples Worldwide, “Indonesian Court Ruling Gives Land Rights Back to Millions of Indigenous People,” Cultural Survival, June 20, 2013, <http://www.culturalsurvival.org/news/indonesian-court-ruling-gives-land-rights-back-millions-indigenous-people>, reported, “On May 14 **Indonesia’s constitutional court ruled to modify the language of a 1999 law, effectively placing millions of hectares of previously government-controlled forest land back into the hands of Indigenous Peoples. The ruling clarified Indonesia’s classification of forest land, separating state forests from public forests and dividing public forests into either customary or individual forests. Previously, all customary forests had been under state control; now, the rights for customary forests have been handed back to the Indigenous inhabitants.** Justice Muhammad Alim said that the ruling will give Indigenous Peoples ‘the right to use their land to fulfill their personal and family needs.’ Indigenous rights groups such as the Indigenous Peoples Alliance of the Archipelago (AMAN), who originally submitted the law for review by the Constitutional Court fourteen months ago, are celebrating, saying that it will ‘**reduce haphazard criminalization of Indigenous Peoples,**’ ease conflict between villages competing for resources, and “**restore a sense of nationhood**” to Indigenous communities. The changes are expected to impact between **20-32,000 Indonesian villages, and an estimated 40 million Indigenous People.** The total area of forest that this ruling will apply to is still undetermined. Others point out that ‘**without administrative follow-up, the court decision remains a hollow monument to justice.**’ However, Indonesian President Susilo Bambang Yudhoyono has been taking a hard stance on forest conservation, including pledging in 2009 that Indonesia would cut its carbon emissions by at least 26 percent by 2020, in 2011 signing a two-year moratorium on forest-clearing concessions, and then in 2013 renewing that moratorium for another two years. Additionally, though there has been some stipulation that the Ministry of Forestry would bristle at these new limits on their power, a spokesperson for the Ministry seemed to support the ruling, saying that ‘the Ministry of Forestry considers Indigenous Peoples living in a certain area as being part of the forest itself. They cannot be separated. Custom-based societies are on the front lines of forest management.’ Indonesia boasts the third largest forest in the world, along with one of the highest rates of forest loss in the world. **Authorities have started a large mapping project to specifically determine the borders of these customary lands, and the government has begun to revoke business concessions for companies operating in these forests.**” “the Indigenous Peoples Alliance of the Archipelago is now calling on the President to issue a formal apology for mistreatment of Indigenous Peoples under the former Forestry Law.]”

ICG, “Indonesia: Tensions Over Aceh’s Flag,” Asia Briefing N°139, May 7, 2013, [http://www.crisisgroup.org/en/regions/asia/south-east-asia/indonesia/b139-indonesia-tensions-over-acehs-flag.aspx?utm\\_source=indonesia-report&utm\\_medium=1&utm\\_campaign=mremail](http://www.crisisgroup.org/en/regions/asia/south-east-asia/indonesia/b139-indonesia-tensions-over-acehs-flag.aspx?utm_source=indonesia-report&utm_medium=1&utm_campaign=mremail), warns, “**The decision of the Aceh provincial government to adopt the banner of the former rebel Free Aceh Movement (Gerakan Aceh Merdeka, GAM) as its official provincial flag is testing the limits of autonomy, irritating Jakarta, heightening ethnic and political tensions, reviving a campaign for the division of Aceh and raising fears of violence as a national election approaches in 2014.** On 25 March 2013, the provincial legislature adopted a regulation (*qanun*) making the GAM’s old banner the provincial flag. It was immediately signed by Governor Zaini Abdullah. The governor and deputy governor are members of Partai Aceh, the political party set up by former rebel leaders in 2008 that also controls the legislature. The central government, seeing the flag as a separatist symbol and thus in violation of national law, immediately raised objections and asked for changes. Partai Aceh leaders, seeing the flag as a potent tool for mass mobilization in 2014, have refused, arguing that it cannot be a separatist symbol if GAM explicitly recognized Indonesian sovereignty as part of the Helsinki peace agreement in 2005 that ended a nearly 30-year insurgency. Partai Aceh believes that if it remains firm, Jakarta will eventually concede, as it did in 2012 over an election dispute. Indonesian President Yudhoyono’s government is torn. On the one hand, it does not want a fight with the GAM leaders; the 2005 peace agreement is the most important achievement of a president who, in his final term, is very much concerned about his legacy. It also is unwilling to provoke GAM too far, fearful that it will return to conflict, a fear many in Aceh discount as unwarranted but one that Partai Aceh has exploited with relish. On the other hand, it does not want to be branded as anti-nationalist as the 2014 election looms, especially as some in the security forces remain convinced that

GAM has not given up the goal of independence and is using democratic means to pursue it. The president and his advisers also know that if they allow the GAM flag to fly, it will have repercussions in Papua, where dozens of pro-independence activists remain jailed for flying the “Morning Star” flag of the independence movement. GAM leaders see little to lose by standing their ground. The flag is a hugely emotive symbol, and defying Jakarta is generally a winning stance locally. Some individual members of parliament see it as a way of regaining waning popularity for failing to deliver anything substantive to their constituencies. Also, Partai Aceh took a controversial decision to partner with Gerindra, the party of former army General Pra-bo-wo Subianto, for the 2014 election. Leaders like Muzakir Manaf, deputy governor and former commander of GAM’s armed wing, may want to use the flag issue to show they have not compromised their principles by allying with a man whose human rights record is often questioned. **Within Aceh, adoption of the GAM flag has sparked protests from non-Acehnese ethnic groups in the central highlands and south west. The GAM heartland has always been along the east coast; to highlanders like the Gayo, the flag thus represents the domination of the coastal Acehnese at their expense. The issue has revived a dor-mant campaign for the division of Aceh into three by the creation of two new provinces, Aceh Leuser Antara (ALA) for the central highlands and Aceh Barat Selatan (ABAS) for the south west. If GAM does not back down on the flag, support for that campaign by the intelligence services is likely to rise, and with it, the probability of increased ethnic tensions. The options for breaking the stalemate seem to be as follows: the government concedes; GAM concedes, making slight changes to the flag by adding or removing an element; GAM agrees to limits on how or where the flag can be displayed; or the dispute is taken to the Supreme Court, thereby delaying any resolution. In the meantime, the power of the GAM machinery in Aceh continues to grow.”**

Penan protest against pipeline, logging and dam, March 22, 2013, <http://www.survivalinternational.org/news/9053>, reported, **“Penan from the Long Seridan region have mounted a blockade to protest against the building of a gas pipeline which is cutting through their ancestral land and destroying their source of drinking water. The 500 km pipeline is being built by the Malaysian national oil company Petronas and is nearing completion. It will transport natural gas from the Malaysian state of Sabah, south to the coast of Sarawak. The pipeline cuts through the forest of many Penan communities. It will make hunting and gathering even more difficult for the tribe, which is already facing grave hardship after years of logging have devastated their land.** The construction of the gas pipeline has affected many communities. One Penan man told Survival, ‘If they build this pipeline through our land it is a way of killing us. How are we to survive if they build this pipeline and we’re not able to move freely in our area – from one side to another?’ The Penan in Long Seridan began their blockade against the pipeline almost three weeks ago and have vowed to continue until their concerns are met. At the same time, **another group of Penan from Long Daloh, more than 60 km away, have also been protesting against logging on their land and the Baram dam which threatens to flood their homes and the forest they rely on for their survival. If it goes ahead, the Baram dam will displace approximately 20,000 tribal people. Many Penan, and other indigenous communities, have already protested against the Baram dam and called for it to be cancelled.”**

Floyd Whaley, “Philippine Rebel Group Agrees to Peace Accord to End Violence in South,” *The New York Times*, October 7, 2012, <http://www.nytimes.com/2012/10/08/world/asia/manila-and-rebel-group-take-step-toward-peace-plan.html?ref=todayspaper>, reported, **“President Benigno S. Aquino III announced Sunday that the Philippine government had reached a deal with a major rebel group that officials hope will reduce the persistent violence in the southern part of the country. The deal with the rebel group, the Moro Islamic Liberation Front, which has fought a war of independence for more than three decades, is the first step in what is expected to be a long, complex process of working through disputes that have lasted for centuries between the Christian-dominated national government and the predominantly Muslim residents of the southern island of Mindanao. If the agreement succeeds in significantly reducing violence in Mindanao, it will be a historic achievement,”** The violence in Mindanao has caused an estimated 120,000 deaths and displaced over 2 million people since 1970. The agreement was achieved through intermittent peace talks that have been unfolding in Malaysia since 2001. **Under the agreement, the Moro Islamic Liberation Front will cease seeking**

**an independent state, and will decommission its military**, which reportedly has 11,000 fighters, while the **Philippine military will turn over law enforcement to local police**. The agreement creates a new governing political entity, called **Bangsamoro**, that will exercise a degree of autonomy in governing Mindanao, while the national government retains authority over defense and security, foreign policy, monetary policy and citizenship concerns. The deal also calls for “a fair and equitable share of taxation, revenues and the fruits of national patrimony” for the people of Mindanao. The pact includes provisions to address clan warfare, the proliferation of weapons, and the private armies that are blamed for widespread political violence in the southern Philippines. A private army employed by the Ampatuan clan in central Mindanao has been accused of the 2009 massacre of 57 people, including 31 journalists, in one of the country’s worst acts of political violence. Though the agreement was reached with the **Moro Islamic Liberation Front**, the main rebel group in the southern Philippines, it includes mechanisms to bring other organizations into the discussions on local government, but not the extremist groups like the **Abu Sayyaf**, which is blamed for kidnappings, murders and beheadings. The accord establishes general guidelines for a more detailed agreement that will be developed by working groups over the next few years, said David C. Gorman, who helped mediate the talks on behalf of the Center for Humanitarian Dialogue, based in Geneva that is devoted to resolving armed conflicts. He commented, “These extremist groups are always going to be difficult to deal with, but as long as they are not able to undermine the process they will remain marginalized.” The **Bangsamoro Islamic Freedom Movement**, a breakaway group of the Moro Islamic Liberation Front, that staged a series of attacks and bombings, in August, during the final weeks of the peace negotiations, said that it would not respect the new agreement.

ICG, “The Philippines: Breakthrough in Mindanao,” Asia Report N°240, December 5, 2012, <http://www.crisisgroup.org/en/regions/asia/south-east-asia/philippines/240-the-philippines-breakthrough-in-mindanao.aspx>, suggests, “**The pact signed on 15 October 2012 between the Moro Islamic Liberation Front (MILF) and the Philippine government is a breakthrough in many ways but is far from a final peace. As with earlier texts signed over years of negotiations, this one – the “framework agreement” – defers several tough questions and it is unclear how, if ever, they will be resolved. At stake is the creation of a genuinely autonomous region in Muslim-majority Mindanao for the various ethnic groups collectively known as the Bangsa-moro, with more powers, more territory and more control over resources. The framework agreement envisions a new government for the troubled Muslim south that would raise its own revenues and have its own police and judiciary. It maps out a multi-step process to create this new entity by the time President Benigno Aquino III’s term ends in 2016. The obstacles ahead are huge. Politics in Mindanao or Manila could get in the way, and it may be impossible to devolve sufficient power to the Bangsamoro government without running afoul of the constitution. The MILF is unlikely to surrender its arms until the process is complete.** Peace talks with the 12,000-strong MILF, the country’s largest and best armed insurgent organization, began in 1997. They have moved glacially ever since and were interrupted three times by serious fighting: in 2000, 2003 and 2008. The collapse in 2008 had damaging political implications because it hardened the positions of all stakeholders on critical elements of a final peace. These include the territory for a new Bangsamoro homeland and its powers vis-à-vis Manila. At the centre of the storm was a sweeping text known as the Memorandum of Agreement on Ancestral Domain (MOA-AD), whose provisions the Supreme Court declared unconstitutional; it was never formally signed. It was difficult to get the peace process back on track afterwards because the MILF insisted that discussions resume from where they had left off. President Aquino, who took office in June 2010, had no interest in repeating these mistakes. His government would consult and reassure potential spoilers, and any deal reached would have to be legally, constitutionally and politically water-tight. The government strategy from early on was to find a way to move the MILF away from the terms of the failed 2008 agreement. Aquino, elected on an anti-corruption platform, also did not want a peace pact to run the risk of worsening governance problems in the south. The MILF, proud of its tenacity and consistency in the protracted talks, was initially unwilling to adjust to this new approach. The negotiations only started to make real progress in mid-2012 when the parties began to draft a text that embodied all points they could agree on, while setting aside everything they did not. With Malaysia, which facilitates the negotiations, and other international third parties to the peace process nudging the MILF and the Aquino government closer together, the text of the framework agreement fell into place. When the hard part came – territory – the MILF was ready to take a leap of faith. It

agreed to provisions that are tricky to sell to its supporters in Mindanao but that give all Bangsa-moro a chance to decide whether they accept the terms of a final peace. For the Aquino government, it was important to bring the peace process back to the Philippines after years of confidential negotiations abroad and to give other voices in Mindanao a chance to be heard. The MILF's leaders, who claim to represent all Bangsamoro despite the undeniably fractious politics of the region, have agreed to make space for others to sit at the table and help them craft the new law that will create a Bangsamoro government. If all goes well, this will increase the popular legitimacy of the peace process; if it does not, and the Bangsamoro cannot even agree among themselves, it will do serious damage to the idea of regional autonomy. The next hurdle will be passing this new law through Congress. The president's popularity and considerable political capital will help with stakeholders in Manila, and the depth of his commitment to securing peace in Mindanao will become clear when constitutional issues inevitably rear their head. If the process stalls at any stage, it may be hard for the MILF leadership to control its commanders and retain popular support. For the Bangsamoro, the framework agreement holds out the possibility of peace, a responsive government and a better, more prosperous future for their children. Nothing has changed yet, but there is real hope that this time will be different. The MILF, the government and their international partners need to work together to ensure those hopes are not dashed.

“Indonesian military ‘development’ program spreads fear in West Papua,” Cultural Survival, April 22, 2013, <http://www.survivalinternational.org/news/9173>, reported, **“Papuan leaders have voiced their concern at plans for more than a thousand Indonesian soldiers to build 1,500 km of new roads in the next two years to accelerate ‘development’ in West Papua. The government claims that unrest in the region is caused by a lack of ‘development’, while Papuans blame their problems on the violation of their political and human rights. Survival International and many Papuans fear that the influx of soldiers will bring neither development nor peace to the region.** One Papuan leader, Rev Socratez Yoman, told Survival, ‘The West Papuans do not need big roads, but a better life on their own land, without intimidation, terror, abuses and killings’. Another leader, Markus Haluk, warned that the roads would open up the forests to illegal logging, much of it likely to be at the hands of the military. The military presence in West Papua is almost always accompanied by human rights violations such as killings, arbitrary arrests, rape and torture. **So-called ‘development’ has already inflicted enormous damage to the Papuan people. Despite the presence of the world’s biggest gold mine, West Papua remains the poorest region in Indonesia with an HIV/AIDS rate thought to be 20 times higher than the rest of the country. Many of the cases of HIV/AIDS can be traced back to the commercial sex industry, which has accompanied the arrival of migrant workers in the fishing, logging and mining industries. Many Papuans believe that the military have a vested interest in introducing HIV/AIDS in West Papua and see it as an attempt at ethnic cleansing. In some areas the military have supplied alcohol and prostitutes to bribe tribal leaders in order to gain access to their land and its resources.** The disease is devastating some tribes. Rates are especially high in areas where so-called ‘development’ has already taken place, such as close to the US- and British-owned Grasberg mine. Survival International is calling on the government of Indonesia to end human rights violations in West Papua and to enter into meaningful talks with the Papuan people so they are able to decide their own way of life, their own development priorities and their own future.”

“Angry Papuan leaders demand Jared Diamond apologizes,” Survival International, February 4, 2013, <http://www.survivalinternational.org/news/8958>, reported, **“Leaders across West Papua have demanded controversial author Jared Diamond apologizes for describing them in his new book as warlike, and strengthening the idea that indigenous people are ‘backwards’.** The West Papuan leaders attack Diamond’s central arguments that ‘most small-scale societies (...) become trapped in cycles of violence and warfare’ and that ‘New Guineans appreciated the benefits of the state-guaranteed peace that they had been unable to achieve for themselves without state government.’ Mr. **Diamond makes no mention of the brutality and oppression suffered by the people of West Papua at the hands of the Indonesian occupation since 1963, which has led to the killing of at least 100,000 Papuan tribal people at the hands of the Indonesian military.**” “Matius Murib, Director of the Baptist Voice of Papua, condemned Diamond’s assertion that tribal peoples live in a ‘world until yesterday’. He said, ‘This book spreads prejudices about Papuan people (...) that indigenous Papuans still display a way of life from hundreds of years ago. This is not true and strengthens the idea that indigenous people are

'backwards', 'live in the past' or are 'stone age.' Reverend Socratez Yoman, Head of the West Papuan Baptist Church, has also demanded an apology from Mr. Diamond to the Papuan people. Dominikus Surabut, currently jailed for treason for peacefully declaring West Papuan independence, described the relationship of indigenous West Papuans and the Indonesian state as political apartheid. In a statement smuggled out of his jail cell, he said, 'This is the very nature and character of colonial occupation of indigenous peoples, where they are treated as second class citizens whose oppression is justified by painting them as backwards, archaic, warring tribes – just as suggested by Jared Diamond in his book about tribal people.'" For a longer version of these statements go to: <http://assets.survivalinternational.org/documents/877/papuanstatementsupdated.pdf>.

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## DIALOGUING

### PUMP FICTION

Randall Amster\*

We have entered a critical era for the future of humanity on this planet, and the stakes are indeed as high as whether there will be anything left for those who come next. In the period of expansive consumer growth following World War II, and then again with another quantum leap in the age of globalization and digitization, humankind has been collectively taxing the planet's carrying capacity and altering basic processes that have sustained our existence for eons. At this juncture, we cannot simply go back to a more pristine time (real or imagined), and the question of where we go from here is an open and urgent one.

Unfortunately, elite interests of both the national and multinational varieties are already in the process of making this all-important decision for us. Rather than reconsidering the profligate lifestyles and extractive mindsets that have pushed us to the brink, the profit-seeking powers that be are doubling down on their efforts to procure every last usable penny's worth from the planet in short order. Yet it is becoming increasingly clear that we are not going to drill, pump, mine, or frack our way out of this mess — and in reality, such methods are only going to exacerbate the problem.

We have a crisis of both hardware and software converging upon us. On the hardware side, there are 7 billion people to feed while basic resources such as arable land, energy inputs, and freshwater supplies are imperiled by waste, overuse, and maldistribution. Too many people consume disproportionately while others suffer needlessly, creating an ongoing quest by the latter to join the ranks of the former (understandably so), yielding a sharp spike in demand as supplies are dwindling.

We needn't be neo-Malthusians to recognize the gravity of the situation. You may remember Malthus: he predicted about two centuries ago that at some point human population would exceed food supplies. Thus far, we have generally avoided the worst of his predictions through innovations and new technologies, but the debt is coming due sooner rather than later. The basic equation of how much there is to go around is hard to avoid, and the inflationary bubble we've been living in during the age of abundant energy inputs (primarily through fossil fuels) is bound to burst.

In order to try and stave off this bursting bubble, extractive industries have been scouring the earth for every last drop of oil and whiff of gas to be found, from the Arctic (with vast reserves ironically being unearthed by global warming) to the Falkland Islands (do we really need another war, especially an '80s retreat?). Michael Klare has termed this "the race for what's left" — and increasingly it appears to be a race with no winners and a lost planet in the process. While it may indeed yield a short-term glut of available resources — no doubt utilized to prop up even further levels of centralized control, with a bit of trickle-down consumerism thrown in for good



measure — such temporary expansion is going to come at the longer-term expense of the stability of the biosphere and its capacity to continue supporting human life.

Still, the so-called Cornucopians will be gloating over the glut. These economic optimists are the yang to the neo-Malthusians' yin, emphasizing humanity's inherent inventiveness, the promise of technological innovation, and the capacity of markets to adapt and self-regulate. This is the neoliberal alternative to the neo-conservatism of the scarcity crowd, emphasizing abundance and a "growth is good" perspective that fits squarely within the narrative of corporate globalization and its penchant for development-oriented schemes as a pathway to security and sustainability. It all sounds quite enticing, aside from the inconvenient realization that its premises are false and its promises illusory, as each techno-fix yields new problems and requires even deeper incursions to manage the ones created by the last wave of hubristic profiteering.

The cases in point are rapidly mounting. Shall we geoengineer the atmosphere to try and reverse climate change? Drag and drop near-earth asteroids into stable orbits so that they can be siphoned and mined? Mitigate the human costs of war by deploying robotic soldiers? Solve hunger by mass-producing nutritionally dubious non-foods for widespread consumption? Squeeze oil from sand and dangerously transport it across continents? The gap between science fiction and hard facts is closing, as we come to grips with realizing that our problems are more about quality than quantity and about how the resources are distributed. A global system in which half the world consumes and the other half is consumed is perverse, unjust, immoral, and ultimately unsustainable.

This is the paradox of "national security" and its increasing equation with energy security as a function of resource control. Indeed, the very notion of national security is misplaced in an interconnected world, and the version of it being plied by powerful interests merely leads to deeper forms of environmental insecurity for the system as a whole. The quest for control generates greater destabilization, and is thus self-defeating. It is an age of ironies, to be sure, and it is becoming clearer by the minute that we cannot continue to trade short-term gains for overall stability and sustainability if the human experiment is to continue. At the end of the day, we come to recognize that in an interlinked planetary system, no one is secure unless everyone is secure.

We simply have been pursuing the wrong ends all along; profit and power will be meaningless if the habitability of the biosphere is decimated. A rising tide swamps all coasts eventually, and there won't be any higher ground sufficient to surmount ocean acidification, ozone depletion, loss of arable lands, diminution of biodiversity, and endemic pollution (not to mention deficits of nitrogen and phosphorous). While elites dally with an economic sequester, what we really need is carbon sequestration. The surest way to accomplish this would be to leave it in the ground, in light of credible estimates indicating that if we burn more than a quarter of the fossil fuels extant it will be "game over" for the climate and its irreversible thresholds.

I know it sounds counterintuitive to argue for humans NOT to exploit the earth. We seem to have a predilection toward "die hard" scenarios in which we heroically save the day against crises of our own creation — which today is a veritable slippery slope composed of melting ice caps and oil-slicked waterways. The myth of human superiority is palpable, even as our time here pales in relation to that of the fossils in our fuel. Will we someday be those fossils for someone else's fuel? Only time will tell, but it would be foolhardy to continue courting extinction by violating the first rule of getting out of a hole: *stop digging*. We are not going to drill our way to salvation; "the pump don't work" because we are pointlessly vandalizing the planet that sustains us.

A growing contingent of humankind is clamoring for another way of being in the world. It starts with dispelling the fiction, once and for all, that we can continue despoiling the environment without destroying ourselves in the process.

\*Randall Amster, J.D., Ph.D., is the Graduate Chair of Humanities at Prescott College. He serves as Executive Director of the <http://www.peacejusticestudies.org/>Peace and Justice Studies Association, and is the publisher and editor of <http://www.newclearvision.com/>New Clear Vision. Among his recent books are [226](http://www.abc-</a></p></div><div data-bbox=)

clio.com/product.aspx?isbn=9780313398728>Anarchism Today (Praeger, 2012)  
and <<https://www.lfbscholarly.com/product-detail/lost-in-space-the-criminalization-globalization-and-urban-ecology-of-homelessness>>Lost in Space: The Criminalization, Globalization, and Urban Ecology of Homelessness (LFB Scholarly, 2008). He may be reached at: Randall Amster, J.D., Ph.D., Graduate Chair of Humanities, Executive Director, Peace & Justice Studies Association, Prescott College, 220 Grove Ave., Prescott, AZ 86301 (928)350-2238, randall.amster@yahoo.com.

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## **WHAT'S HOT IN GLOBAL WARMING? DEAR PRESIDENT OBAMA: WORDS WON'T DO IT**

Bruce E. Johansen\*

My wife, Pat Keiffer, and I were watching the horrific tornado destruction in and near Moore, Oklahoma May 20 when she suggested I write a letter to President Obama about global warming and increasing storm intensity. "You know how to explain these things," she said. I said the letter would never reach Obama, and if it did, he wouldn't do anything about it.

Here it is, I suppose, briefly, in a Tweet--length executive summary: rising temperatures provoke a more unstable atmosphere. Tornadoes feed on contrast between heat near the surface and cold air above, plus instability. We have had a plentiful dose of extremes this spring.

I'm already on my second Tweet: Recall a week in Omaha early last May when we had a frost warning on Sunday morning and a high of 101 degrees the next Tuesday afternoon, less than two weeks after we had awoken to three inches of wet snow? That's the same contrast that blew most of Moore, Oklahoma, into the past tense on May 20. Recall last fall, when Hurricane Sandy, also a creature of contrasts, grew to monstrous proportions by combining a tropical cyclone feeding off a late-summer Gulf Stream with a cold, winter-style snowstorm.

### **400 Parts per Million**

In the midst of all this, Mr. President, the carbon-dioxide level reached 400 parts per million. Anyone who has been following what goes on in this space for more than two minutes already knows the implications of a 400-p.p.m. carbon-dioxide level that will be painfully obvious in a scant few decades. You know that the full effects of that level will hit, via thermal inertia, in about 50 years. Today's heat and storms are what we get from the fossil fuels that were burned back when John F. Kennedy was president, gasoline was 25 cents a gallon, and most Chinese owned one light bulb, if that. Today, the amount we are burning world-wide is much higher, and that will shape the storms our grandchildren grow old with.

Is anyone from 1600 Pennsylvania Avenue on the line yet? May I call you Barack? People who are tuned in know the implications that opening a wide-open tar sands spigot from the Canadian prairies and the wide reaches of North Dakota frack-land via the Keystone XL Pipeline will have on the CO2 level in future years. While I have you here, Barack (I can wish!): consider that increasing carbon dioxide in the lower atmosphere holds heat close to the surface like a blanket, allowing upper levels to cool, increasing contrast. The surge in sea surface temperatures in the Gulf of Mexico has resulted in a warmer, wetter, more energetic flow of air moving on its usual northerly path. The more energetic atmosphere is largely responsible for the increasing intensity and frequency of storms during the past few years. Remember Joplin, Missouri two years ago? Or the fact that Moore, Oklahoma, wiped out on May 20, recorded a tornadic wind gust of 302 miles an hour?

I fully realize, Barack, that if you refuse to grant a permit for the XL Pipeline, the tar sands gang doubtless will find another way to ruin the atmosphere. They've already bragged about it. A pipeline through British Columbia, perhaps, thence by tanker to the throbbing fossil-fuel colossus that some people still call "Communist

China,” or another one to the Yukon coast where melting ice -- irony behold! -- will bless Keystone with an open shipping channel to Europe and Asia.

The United States, especially the Great Plains, has more tornadoes than any other part of the world. However, lately they have occurred in places where they were once unknown or very, very rare. On December 13, 2010: a tornado destroyed several homes near Salem, Oregon. Three people were killed near Auckland, New Zealand December 6, 2012 by a tornado. A tornado tore through a city northeast of Tokyo, December 6, 2012, killing one person, injuring dozens of others and destroying scores of houses.

### **Weather as Weapon of Mass Destruction**

It could happen here, Pat said. And it has, in 1913, and 1975, direct hits on Omaha, but not the behemoths that have hit Moore, Oklahoma. That was then, a more tepid time. In our time, the weather leads the evening news more often than anything else. If we class climate change as a weapon of mass destruction, the Department of Homeland Security would be blaring warnings.

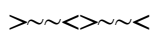
We are in a state of denial sharpened by addiction to fossil fuels. Between the reports on weather disasters, the evening news feeds us fossil-fuel propaganda from the spokes-woman whom Pat and I call the “oil and gas lady.” Clean and safe. Gives us jobs. Build that pipeline. Life as usual. Convenient and normal. Then there are the big lies sponsored by “clean” coal. Someone will tell us that weather happens. Human use of fossil fuels isn’t at fault, we will be told, again.

My best friend, a life-long cigarette smoker, died of lung cancer. He would take one out, roll it around his hand, and say “I am killing myself.” And then he would smoke it. So it is with fossil fuels. The addiction is doing the talking.

No-drama Obama has been talking up climate change, but real action has been in very short supply. If carbon dioxide had a sense of humor, it would be laughing at us. We cry for Moore, Oklahoma, but changing our climatic future is going to require a lot more than tears, It’s going to take more than a dose of Mr. Obama’s famous empathy, that wonderful, cathartic balm in which he bathes us after another one of our addictions (big, handy, plentiful guns) becomes an instrumental part of yet another mass murder. We then conveniently forget, until the next time. So it is with tornadoes. Carbon dioxide has no memory and no empathy – just as bullets shed no tears.

All of us, and our children and grandchildren, will reap this whirlwind. Where is real leadership based on what will be important for future generations?

\*Bruce E. Johansen is Jacob J. Isaacson professor in Communication and Native American Studies at the University of Nebraska at Omaha. He has authored or edited 38 books, the most recent of which is *The Encyclopedia of the American Indian Movement* (Greenwood, 2013). In addition to writing in Native American Studies, Johansen also has written widely in environmental studies, including several volumes on global warming (latest: *The Encyclopedia of Global Warming Science and Technology*, Greenwood, 2009) and toxic chemicals (*The Dirty Dozen*, 2003). Johansen also has written occasionally (and usually briefly) in national newspapers and magazines, including *The New Yorker*, *The National Geographic*, *The Progressive*, *The New York Times*, *The Washington Post*, and several others. Johansen, who has taught at UNO since 1982, is presently at work on histories of Seattle’s El Centro de la Raza and the Muckleshoot Indian Tribe, as well as a two-volume encyclopedia of Native American culture for Greenwood. He lives in Omaha with his wife Pat Keiffer and an extended family.



## INDIAN COUNTRY'S METADATA SCANDAL: INVISIBILITY

Mark Trahan\*

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The 21st century is a world where data -- bits of information about what we do, what we say, and how we spend money -- has become as important as the story narrative. It's hard to make any kind of case with a story alone. You need facts to back up your account. You need details. You need numbers.

Right now, of course, big data is a hot story all by itself. The Guardian newspaper broke the story about how the National Security Agency has developed a powerful tool for collecting and analyzing billions of bits of information. The newspaper cited an NSA fact sheet saying this is a tool that "allows users to select a country on a map and view the metadata volume and select details about the collections against that country."

In this map, countries with scant data are green and countries where lots of electronic spying is occurring, such as Iran, are red.

The collection of private communication is a serious issue, one that in a democracy requires a vigorous debate. But the second I saw this map, I was reminded yet again that Indian Country has a different kind of data problem. There is too little reliable, timely information.

If Indian Country were to show up on the NSA's data heat map we would be the brightest green zone on the planet.

In an era of austerity this lack of data has serious consequences. Quick: What's the unemployment rate in Indian Country? Has it gone up or down since the sequester? What's the actual number for furloughs? How about our spending patterns? I could go on and on.

The honest answer to every one of these questions has to be a "don't know." A year ago the Bureau of Indian Affairs reported that it would not release a 2010 Indian Population and Labor Force Report because "of methodology inconsistencies." Donald E. Laverdure, acting Assistant Secretary -- Indian Affairs, wrote July 2, 2012, that the "collected data from those 2010 methods did not adequately meet the standards of quality and reliability that are required of Federal agencies in reporting official statistics."

In a rare data driven document, the Economic Policy Institute released its picture of American Indian and Alaska Native unemployment finding that the national unemployment rate did jump during the recession from 2007 to the first half of 2010, and increased 7.7 percentage points to 15.2%. That same year EPI reported the "unemployment rate for Alaska Natives jumped 6.3 percentage points to 21.3, the highest regional unemployment rate for American Indians."

But that was another time. Another recession. Before the sequester. We don't know what happened after; We only know it's bad.

The lack of near real time, transparent, data is not just limited to unemployment rates. In a few weeks, for example, more provisions of the Affordable Care Act will begin and will open up more Medicaid funding sources for the Indian health system. So a study about the Medicaid expansion to low-income communities of color would be ideal, right?

The Kaiser Family Foundation's Commission on Medicaid and the Uninsured used detailed Census data from all 50 states to produce such a report. "While the Medicaid expansion will increase coverage options for all

low-income Americans, it will disproportionately impact low-income people of color,” Kaiser said. Indeed the report looked at the impact of Medicaid expansion on Blacks, Hispanics, Asians and Pacific Islanders. But there was not a word about American Indians and Alaska Natives.

But this is not to single out Kaiser (and, a note of disclosure, I was a Kaiser Media Fellow in 2010). My point is you could go down the list, think tank by think tank, and Indian Country’s data invisibility is glaring.

Data invisibility matters because policy decisions are often based on what has been measured (I say often because the premise of austerity itself is contradicted by data, but that’s another story). We need to know what programs work, what’s effective. We need hard information to know how American Indians and Alaska Natives are faring during this decade of austerity.

\*Mark Trahant is a writer, speaker and Twitter poet. He lives in Fort Hall, Idaho, and is a member of The Shoshone-Bannock Tribes. Join the discussion about austerity. A Facebook page is open at:  
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## FEDERAL SPENDING WORSENS AS TIME PASSES

Mark Trahant\*

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<https://www.facebook.com/IndianCountryAusterity>, May 20, 2013.

Indian Country has already been hit hard by the sequester. Lacey Horn, treasurer of the Cherokee Nation, recently told National Public Radio that the tribe had been planning for the impact for some time with cost-cutting measures, a hiring freeze for all non-essential positions, and canceled training and travel. “We’re delaying or foregoing any capital acquisitions, both large and small. And we’re looking at our encumbrances to see if there’s any changes in scope or quantity that we can make and strictly enforce the employee overtime.”

Horn’s goal is to try and absorb the sequester “to the greatest extent possible before we start making reductions in jobs and services.” This is exactly what a tribal government should be doing. Looking for ways to “absorb” the cuts with as little impact as possible on direct services or jobs.

But can tribes do that over and over for the next decade? The Budget Control Act, the law that governs the sequester, is a ten-year austerity effort. As the Bipartisan Policy Center describes the law: “Sequestration’s effect will be akin to that of a slow motion train wreck ... the ramifications will steadily worsen as time passes.”

The Congressional Budget Office reported that the president’s budget would “lower the caps for 2017 through 2021 on discretionary spending that were originally set by the Budget Control Act and extend those caps through 2023. However, much of that lower spending would be offset by eliminating the automatic spending reductions that have occurred or are scheduled to occur under current law from 2013 through 2021. In total, those changes would lead to discretionary outlays that are 6 percent lower in 2016 than they were in 2012 but that would grow later in the decade; as a percentage of GDP, such outlays would fall from 8.3 percent in 2012 to 5.0 percent in 2023, 0.5 percentage points lower than the amount in CBO’s baseline and the lowest level in at least the past 50 years.”

Think about the last part of that sentence. The president’s budget would lift some of the hard spending caps under the Budget Control Act, but even then federal spending for domestic programs would be at the lowest level since President Kennedy’s time. And, as I have written before, the president’s budget represents a decent outcome.

The president's budget, according to CBO, would trim federal deficits by \$1.1 trillion over the coming decade. Not a bad outcome. But the president's budget would require a "yes" vote from both the House and the Senate. That's not going to happen.

In the weeks to come, the House Appropriations Committee will move next year's spending bills through that body. Chairman Hal Rogers, R-Kentucky, supports an increase in Defense spending -- at the expense of domestic programs, such as those that benefit Indian Country. The Hill newspaper said: "The House Appropriations Committee outline — known in budget parlance as 302b allocations — makes clear that the heaviest cuts will fall on health, education, jobs programs, foreign aid and environmental programs."

Under Rogers' plan the Interior Department, for example, would get hit with cuts at 16 percent below the current sequester. (That budget line includes both the Bureau of Indian Affairs and the Indian Health Service.)

If the president's budget doesn't stand a chance of becoming law, then neither does Rogers' budget. But it does show how deep the divide in Congress is and why it's getting wider. It will be impossible without an election or two to restore budgets beyond austerity (despite the growing evidence of the economic damage caused by spending cuts).

What this means for Indian Country is that the most likely outcome of the budget fight is another temporary budget, or a Continuing Resolution, along the lines of the current sequester. The bottom line is a budget outcome that steadily worsens as time passes.

\*Mark Trahant is a writer, speaker and Twitter poet. He lives in Fort Hall, Idaho, and is a member of The Shoshone-Bannock Tribes. Join the discussion about austerity. A Facebook page is open at: <https://www.facebook.com/IndianCountryAusterity>

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## INDIAN COUNTRY LEFT BEHIND AS JOBS EVAPORATE

Mark Trahant\*

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Wall Street celebrated last week's jobs report. The Bureau of Labor Statistics reported that unemployment fell to 7.5 percent and that 165,000 new jobs were added in April. The report also revised its numbers from the past couple of months, saying that the job creation was stronger than first glance.

But the same numbers are lousy in Indian Country. If you read the full report there's a number (and a trend) that is concerning: Government sector employment continues to drop. In the technical language of the BLS, "Employment in ... government, showed little change over the month." Little change was a minus 11,000 jobs. But if you pull back and look at the longer trend government employment continues to shrink.

A report by The Hamilton Project last year detailed this larger trend. "Total government (i.e., the sum of state, local, and federal) employment has decreased by over 580,000 jobs since the end of the recession, the largest decrease in any sector since the recovery began in July 2009. State and local governments, faced with tough choices imposed by the confluence of balanced-budget requirements, falling tax revenues, and greater demand for public services, have been forced to lay off teachers, police officers, and other workers," the report by Michael Greenstone and Adam Looney reported last August. This is the lowest public-sector employment in 30 years.

But go back even further and the trend is even more stark. Between 1950 and 1975 government jobs accounted for 1 in every 4 jobs created “contributing to widespread public belief that government, especially the Federal government, is too large,” said a 1981 BLS report.

There is no national data on the growth of tribal governments just after this time frame, but there should be. The post-1975 growth of tribal government services is stunning, drive around any reservation and the visible evidence is overwhelming. Tribes created programs, took over the management of Bureau of Indian Affairs and Indian Health Service, built schools and colleges.

The California Indian Gaming Association reported in 2003, for example, that “tribal government economies have for three years lead the state in job growth, with employment more than doubling since January 2000, when there were 17,200 workers on tribal payrolls.” And in Washington state, in a report last year, tribal employment increased 56 percent since 2004, employing more than 27,000 people, including 18,000 non-tribal member employees.

But the shrinking federal dollar will soon impact these tribal jobs, both directly and indirectly. Next year will be worse than this (even with the sequester) and the years after will be even more destructive. It’s important to remember that the Budget Control Act is a ten-year law. The sequester that’s in the news now is only the beginning of the process.

To undo that law there must be a consensus found with President Barack Obama, the Senate and the House. That’s not going to happen soon. In fact the Congress cannot even agree to appoint a conference committee to negotiate the Senate and House budgets, let alone move forward on some sort of longer term solution. More likely, as I have written before, will be another continuing resolution, an ad-hoc budget that falls short of what’s needed.

The argument in the larger economy is that the private sector will make up the difference in government hiring. (The evidence says otherwise ... but that’s another story.) But for Indian Country this is a false premise: There is clearly not enough of a private sector to hire enough people. Wall Street may be celebrating a new era of job creation. But Indian Country is being left behind.

\*Mark Trahan is a writer, speaker and Twitter poet. He lives in Fort Hall, Idaho, and is a member of The Shoshone-Bannock Tribes. Join the discussion about austerity. A new Facebook page has been set up at:  
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## STATE OF INDIAN NATIONS: ‘A MOMENT OF REAL POSSIBILITY’

Mark Trahan\*

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<https://www.facebook.com/IndianCountryAusterity>, February 14, 2013 or

National Congress of American Indians President Jefferson Keel began his annual report, State of Indian Nations, with a simple exclamation. “Indian Country is strong!” That statement, he added, is something he hasn’t always been able to say. He then described this as “a moment of real possibility.”

And why not? There is a long list of tribal success stories. Tribes across the country are economic engines creating thousands of jobs. The phrase, “one of the largest employers in the county,” is one that’s repeated often and with good reason. (I see this type of success out my own window, looking at the Shoshone-Bannock Hotel and



Event Center on the horizon.)

What's more, Indian Country has something that the rest of the country is missing: Young people. There are now more people older than 65 in the U.S than people between 18 and 24. However 42 percent of Indian Country is under 25 years old, as Keel noted today. This is a huge advantage, a moment of real possibility. Except. This advantage is coming at the same time as this massive wave called austerity is hitting.

A couple of things to think about. First, Austerity is not just about the sequester or the current budget; it's a long-term trend that will rip apart many of the platforms that have been built and taken for granted by Indian Country over the past forty years.

Austerity has the potential to wipe out any moment of possibility because it attacks the very group of people we need the most, young people. This shift actually started years ago when we allowed young people to be buried in debt in order to attend college. Soon it will impact Head Start, elementary and secondary schools, virtually every program we need to educate young people. So, at least in my way of thinking, this education deficit is the most serious debt problem in the United States.

The most immediate threat -- but just the first -- from this austerity wave will begin in a few days with the sequester, or across the board, federal budget cuts. Already many in Congress are already calling these cuts "inevitable" at least for the month of March. (There is a hope that the Continuing Resolution, the current budget, will fix the sequester. That CR expires on March 27 and must be re-enacted or there will be a federal government shutdown.)

Keel said NCAI and tribes are urging Congress to hold tribal programs and governments "harmless" from the sequester. Congress must live up to its treaty and trust obligations, which, Keel said, "are not line items."

Obviously I agree with that. But the problem is that Congress is no longer an "it." For much of this country's history Congress acted as a singular body and decisions surfaced through an orderly process. Now, Congress is more of a "they." The Senate has its own definition of the problem and proposed solutions (all requiring a supermajority for real action). The House is divided into three; Some Republicans, minority Democrats, and Republican insurgents who demand immediate austerity. This division matters to Indian Country because it becomes nearly impossible to negotiate a solution: It requires four or five separate agreements which can evaporate before they are ever implemented. None of these factions have a majority; they compete on every issue for a winning hand. Then it starts all over again.

I believe that the best strategy for tribes is to look for unconventional solutions. On tax reform, on the Violence Against Women Act, I think tribes should stress that these measures save money and give tribes the resources to replace appropriations. It's self-determination and austerity.

Or look for funds that Congress hasn't yet cut. On Indian health, for example, Medicaid is an entitlement program and not part of the sequester the same way as the Indian Health Service. If a person is eligible for Medicaid (or exchanges down the road), then the money is there. This is critical going forward when appropriations for IHS will continue to shrink (as I believe will happen). Yes, there is a treaty right to health care, but who's going to enforce that? Which element in Congress do tribes complain to?

I still think this is a moment of real possibility. A serious moment of possibility. But that success will come from tribes finding every dollar it can and investing it in young people. This is the future, not the Congress, especially a Congress with factions bent on intergenerational destruction.

\*Mark Trahan is a writer, speaker and Twitter poet. He lives in Fort Hall, Idaho, and is a member of The Shoshone-Bannock Tribes. Join the discussion about austerity. A new Facebook page has been set up at:

## **IDLE NO MORE (INM)'S CANADIAN CONCERNS**

As of February, 2013, from Talli Nauman, "Canada's Idle No More Indigenous Movement Sets Stage for Latin American Involvement," AmericasProgram, March 9, 2013, <http://www.cipamericas.org/archives/9126>.

In response to actions of the Canadian Government of Prime Minister Stephen Harper violating the rights of First nations Idle No more called for:

An immediate meeting between the Crown, the federal and provincial governments, and all First Nations to discuss treaty and non-treaty-related relationships.

Clear work plans and timelines, and a demand that the housing crisis within First Nations communities be considered as a short-term immediate action.

Frameworks and mandates for implementation and enforcement of treaties on a nation-to-nation basis. Reforming and modifying a land-claims policy.

A commitment towards resource revenue sharing, requiring the participation of provinces and territories.

A commitment towards sustained environmental oversight over First Nations lands. A review of Bill C-38 and C-45 to ensure consistency with constitutional requirements about consultation with aboriginal peoples. Ensure that all federal legislation has the consent of First Nations where inherent and Treaty rights are affected. The removal of funding caps and the indexing of payments made to First Nations. An inquiry into violence against indigenous women. Equity in capital construction of First Nation schools and additional funding support for First Nation languages.

A dedicated cabinet committee and secretariat within the Privy Council Office responsible for the First Nation-Crown relationship.

Full implementation of the United Nations declaration of the rights of indigenous peoples. The demands were backed by a "Manifesto", also dated Jan. 24, which stated the principles behind them (available on the INM web site: <http://www.idlenomore.ca/manifesto>):

- We contend that: The treaties are nation to nation agreements between The Crown and First Nations who are sovereign nations. The treaties are agreements that cannot be altered or broken by one side of the two nations. The spirit and intent of the treaty agreements meant that First Nations peoples would share the land, but retain their inherent rights to lands and resources. Instead, First Nations have experienced a history of colonization which has resulted in outstanding land claims, lack of resources and unequal funding for services such as education and housing.

- We contend that: The state of Canada has become one of the wealthiest countries in the world by using the land and resources. Canadian mining, logging, oil and fishing companies are the most powerful in the world due to land and resources. Some of the poorest First Nations communities have mines or other developments on their land but do not get a share of the profit. The taking of resources has left many lands and waters poisoned – the animals and plants are dying in many areas in Canada. We cannot live without the land and water. We have laws older than this colonial government about how to live with the land.

- We contend that: Currently, this government is trying to pass many laws so that reserve lands can also be bought and sold by big companies to get profit from resources. They are promising to share this time...Why would these promises be different from past promises? We will be left with nothing but poisoned water, land and air. This is an attempt to take away sovereignty and the inherent right to land and resources from First Nations peoples.

- We contend that: There are many examples of other countries moving towards sustainability, and we must demand sustainable development as well. We believe in healthy, just, equitable and sustainable communities and have a vision and plan of how to build them. Please join us in creating this vision.

Dissidents went on to gather more than 1,030 signatures on an Internet petition for delivery Feb. 28 to Harper and the Conservative Party, stating:

“We, the Canadian people, want the government to revisit Omnibus Bill C-45, take out the re-designation of aboriginal land rights, and re-protect our navigable waterways, lakes and rivers.”

More about Idle No More is available on its web site: <http://www.idlenomore.ca/>, including the Idle No More Vision, Written by Jessica Gordon, January 21, 2013, “INM has and will continue to help build sovereignty & resurgence of nationhood, INM will continue to pressure government and industry to protect the environment. INM will continue to build allies in order to reframe the nation to nation relationship, this will be done by including grassroots perspectives, issues and concerns.”

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**TERMINATION AND IDLE NO MORE**

Mark Trahant\*

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Today is the day of action for IdleNoMore. In cities across Canada, across the United States, globally, and via digital media, there is a shared connection with the challenges facing First Nations as they press their case with the Canadian government.

The legislation that started this uprising was a budget measure, Bill C-45, now recast as the “Jobs and Growth Act, 2012.” (A good roundup of the legislation from the six nations is here.)

It’s significant that a budget bill was the spark because the same political winds blowing from Ottawa are also blowing hard in Washington, D.C. “The Canadian Taxpayers Federation, which set up its ever-ticking massive debt clock on Parliament Hill last week, declared the country is “broke” and points out that Canada’s debt hit \$563-billion, a record and one that wiped out more than a decade of steady reductions with one massive \$56-billion federal budget deficit in 2010,” according to the National Post. The paper says some analysts put Canada’s debt-to-GDP ratio anywhere from 30 percent to as high as 80 percent.

Canadian politicians see the extraction of natural resources -- quickly and with little environmental oversight -- as the key to paying down this debt. So the government is quite willing to sacrifice native people as part of the deal. (And, from their point of view, as a by-product, spend less federal dollars on First Nations.)

One example: The expansion of the Alberta tar sands. “The First Nations in this area are questioning

whether the expansion will have a negative impact on the surrounding wildlife habitats and the health of their members. Shell's previous expansion has already caused substantial damage to the nearby wildlife and has had significant health effects on First Nations people living in the proximate areas," says a piece in The McGill Daily.

The end result is borrowing a failed policy from the United States, termination. In the United States, termination officially began on August 1, 1953, when Congress enacted House Resolution 108. "Whereas it is the policy of Congress, as rapidly as possible, to make the Indians within the territorial limits of the United States subject to the same laws and entitled to the same privileges and responsibilities as are applicable to other citizens of the United States, to end their status as wards of the United States," the resolution said. Yet termination didn't really take off as policy until the late 1950s and 1960s. It was a terrible idea that slowly evolved into a disastrous policy. But the tribes first hit with this policy were those with abundant natural resources.

The budget side of the termination debate, then, and now, was so easily cloaked by the words that sounded like good deed. Utah Sen. Arthur Watkins, in words that sound very much like some Canadian commentators, viewed the treaty era itself as an aberration. The Indians "want all the benefits of the things we have, highways, schools, hospitals, everything that civilization furnished, but they don't want to help pay their share of it," he said.

As I wrote in *The Last Great Battle of the Indian Wars*, a young Henry Jackson complained about the cost of Indian administration. He asked on the floor of the House. "Is it not true, may I say to the gentleman from South Dakota, that it costs more to take care of the Indians in the United States than it costs to operate the legislative branch of the government?" Then Jackson elaborated. "Twenty-six million dollars, I believe it is. The budget this year for the legislative branch of the government, and the Bureau of Indian affairs, I believe, is going to get \$30,000,000 this year." South Dakota's Karl Mundt followed Jackson and continued with this same theme. "We have been appropriating funds for Indian administration at least since 1775, when Benjamin Franklin, Patrick Henry and James Wilson were appointed Indian Commissioners by the Continental Congress. For 170 years the total of our annual appropriations for this purpose has been growing. Today our Indian population is increasing twice as rapidly as our white population. Unless we do something to reach a fair, just, and permanent solution to the Indian problem, that will incorporate the Indian into our national economy, we are going to have to look forward to spending increasing millions every year on Indian administration. That would be the inevitable result of a 'do nothing' policy."

So once again in Parliament (or soon in our Congress) the idea of native contribution to society is reduced to a ledger item, an expense. And the opposite of do nothing, is to do something that will be a disaster.

It will be interesting to see if today's meeting between First Nations and the government does anything to change that thinking, the same thinking that evolved into what we know call termination.

\*Mark Trahant is a writer, speaker and Twitter poet. He lives in Fort Hall, Idaho, and is a member of The Shoshone-Bannock Tribes. Join the discussion about austerity. A new Facebook page has been set up at:<https://www.facebook.com/IndianCountryAusterity>.

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## **CANADIAN BILL S-8**

Michael (Mickey) Posluns, February 4, 2013

The Senate Legal and Constitutional Affairs Committee held long hearings a few years ago on the use of non-derogation clauses regarding s.35 (Aboriginal and treaty rights) in legislation. One conclusion was that while non-derogation clauses could not do any harm they were also unnecessary since any derogation, even one sanctioned by Parliament as in S-8 is "inconsistent with the Constitution." The question remains how quickly various Aboriginal organizations can get this issue before the Courts. Since S-8 provides for a criminal sanction



\* In Mexico, drug-related violence and the militarized response has killed an estimated 80,000 men, women, and children in the past six years. More than 26,000 have been disappeared, and countless numbers have been wounded and traumatized. With little civilian control over security forces, massive deployments across the country have contributed to increases in forced disappearances, extrajudicial killings, torture and attacks on human rights defenders. Meanwhile, prohibited narcotics continue to flow into the U.S. market virtually unabated.

\* In Guatemala, rates of violence are dangerously reaching levels only seen during the internal armed conflict, and rampant impunity for these crimes continues. As the nation only begins to address past atrocities committed by the armed forces against the civilian population, controversial “security” policies have placed the military back onto the streets. This has placed the peace process in jeopardy, and with it, the fragile democracy built on the 1996 Peace Accords. The Guatemalan army’s massacre of six indigenous protesters in October 2012 is tragic evidence of these misguided policies.

\* Perhaps the starkest example of a breakdown of democratic institutions today is Honduras. Since the coup d’état that forced the elected president into exile in 2009, the rule of law has disintegrated while violence and impunity have soared. We are witnessing a resurgence of death squad tactics with targeted killings of land rights advocates, journalists, LGBT activists, lawyers, women’s rights advocates, political activists and the Garifunas community. Both military and police are allegedly involved in abuses and killings but are almost never brought to justice.

\* Even the host country, Costa Rica, which has no army and a constitutional mandate for peace, finds itself drawn into a mounting military effort to confront drug trafficking that compromises its independence and tranquility.

\* The U.S. government’s domestic and regional policies that promote militarization to address organized crime directly affect the human rights situation in Mesoamerica, resulting in a dramatic surge in violent crime, often reportedly perpetrated by security forces themselves. The narrow focus of these policies have proven ineffective in addressing other, often related human security issues, such as sex and labor trafficking and femicides, which have increased at an alarming rate throughout the region. Meanwhile, the lack of effective gun control in the U.S. has led to the massive and nearly unrestricted transfer of arms to criminal networks throughout the region.

2. The imposition of large-scale extractive projects on marginalized communities does not constitute “development.” The violence we face today has its roots in the poverty, injustice and inequality of our societies. National and bilateral investment policies enshrined in Free Trade Agreements exacerbate these problems. Large-scale “development” projects are imposed on the region’s most vulnerable populations with little or no regard for their lives or livelihoods. This results in forced displacement, especially of indigenous, peasant, and Afro-descendant communities; bloody conflicts over resources; environmental destruction and impoverishment. Governments and businesses routinely violate communities’ right to consultation. Communities across the region that oppose large-scale transnational projects have suffered repression at the hands of government security forces, and we have documented systemic patterns of threats, criminalization, and attacks against land rights activists.

3. Violations of migrant rights continue while policies disregard the root causes of migration. The harmful consequences of U.S. regional security policies such as the “war on drugs” and the imposition of mega-development projects have displaced hundreds of thousands of people from their land and communities and limited local economic opportunity. Many are left with few options other than to migrate to the United States in search of safety and economic opportunity. Meanwhile, the United States has criminalized and detained immigrants in ever-greater numbers within its own borders. Any humane and sensible immigration reform must consider the impact of policies that force persons to migrate.

To meet these regional challenges, we must first and foremost make the protection of fundamental human rights—economic and social, civil and political—a focal point of this SICA gathering and future regional dialogues. We ask our governments to:

a. Recognize and protect human rights defenders, with specific attention to the contributions of women, indigenous and Afro descendant defenders, and acknowledgement of the risks they face.

b. Propose a new model for security cooperation that provides alternatives to the ongoing war on drugs, such as regulation rather than prohibition, strong regional anti-money laundering efforts, and withdrawal of the armed forces from domestic law enforcement. We call on the U.S. government to end military aid and instead channel scarce public resources into domestic efforts to block transnational crime.

c. Take executive action in the United States to stop the flow of assault weapons and other firearms across the U.S.-Mexico border.

d. Promote development through democratic dialogue, not repression, with respect for human and environmental rights, and with prior consultation of affected communities as mandated in ILO Convention 169.

e. Address the root causes of migration and stop the criminalization and deportation of migrants; investigate and prosecute crimes against migrants as they travel through Mexico, as well as human rights violations at the border and within the United States.

We hope to see these concerns reflected in the final statement of the SICA conference and in ongoing bilateral conversations about security, investment, development, and immigration reform.

Organizations Signed:

International & US-Based

Alianza de Organizaciones Guatemaltecas de Houston (ADOGUAH)

Alliance for Global Justice

America's Program of the Center for International Policy

American Friends Service Committee

Association for Women's Rights in Development (AWID)

Bay Area Latin America Solidarity Coalition (BALASC)

CASA de Maryland

Chiapas Support Committee

Chicago Religious Leadership Network on Latin America (CRLN)

Comite Chirij' Juyub'

Committee in Solidarity with the People of El Salvador (CISPES)

Dominican Sisters-Grand Rapids

Fellowship of Reconciliation

Friendship Office of the Americas

Global Fund for Women

Guatemala Human Rights Commission/USA (GHRC)

Impunity Watch

JASS (Just Associates)

Lakes Area Group Organizing Solidarity with the People of Guatemala (LAGOS)

Latin America Solidarity Committee-Milwaukee

Latin America Working Group (LAWG)

Marin Task Force on the Americas (MITF)

National Alliance of Latin American and Caribbean Communities (NALACC)

Network in Solidarity with the People of Guatemala (NISGUA)

Nicaragua Center for Community Action (NICCA)

Other Worlds

Quixote Center

Red Por la Paz y Desarrollo de Guatemala (RPDG)

Rights Action

School of the Americas Watch

Sisters of Mercy of the Americas-Institute Justice Team

Sociedad Independiente Ix

St. Louis Inter-Faith Committee on Latin America  
Witness for PeaceRegional

Alianza de Mujeres Indígenas de Centroamérica y México  
Alianza Feminista Centroamericana contra la cultura patriarcal  
Articulación Feminista Mercosur A.F.M  
Asociación HablaGuate  
Campaña contra las Bases Militares Extranjeras en América Latina  
Comité de América Latina y el Caribe para la Defensa de los Derechos de las Mujeres (CLADEM)  
Confluencia Feminista Mesoamericana  
Las Petateras  
Fondo Centroamericano de Mujeres  
Mesoamerican Women Human Rights Defenders Initiative (IM-Defensoras)  
Prophetic Voice Commission-Sisters of Mercy of Latin America and the Caribbean  
Red Latinoamericana contra represas y por los ríos (REDLAR)  
Urgent Action Fund of Latin AmericaColombia

Liga de Mujeres Desplazadas (Colombia)  
Observatorio Género Democracia y Derechos Humanos (Colombia)Costa Rica

Agenda Política  
Alianza de Mujeres Costarricense  
Asociación Red de Mujeres Nicaragüenses en  
Centro de Amigos para la Paz  
Centro Feminista de Información Acción (CEFEMINA)  
Colectiva Irreversibles  
Colectivo Las Hijas de la Negrita  
Comuna de la Luna Llena  
Feministas en Resistencia  
Juventud del Partido Acción Ciudadana  
La Liga Internacional de Mujeres pro Paz y Libertada  
Mujeres Mesoamericanas en Resistencia por una Vida Digna, Costa RicaEl Salvador

Asociación Agropecuaria de Mujeres Rurales Produciendo en la Tierra (AMSATI de RL)  
Asociación Cooperativa del Grupo Independiente Pro-Rehabilitación Integral (ACOGIPRI)  
La Colectiva Feminista para el Desarrollo Local  
Mesoamericanas en Resistencia Por Una Vida Digna,Guatemala

Alianza Política Sector de Mujeres y Colectivo Artesana  
Asociación de Trabajadoras del Hogar a  
Domicilio y de Maquila (ATRAHDOM)  
Asociación para el Desarrollo Integral de las Víctimas de la Violencia en las Verapaces, Maya Achì (ADIVIMA)  
Asociación para el Desarrollo Integral de San Miguel Ixtahauca (ADISMI)  
Asociación para el Estudio y Promoción de la Seguridad en Democracia (SEDEM)  
Asociación Sororidad Activa  
Centro de Análisis Forense y Ciencias Aplicadas (CAFCA)  
Comité Campesino del Altiplano (CCDA)  
Equipo de Estudios Comunitarios y Acción Psicosocial (ECAP)  
Fundación Guillermo Toriello  
Instituto de Estudios Comparados en Ciencias Penales (ICCPG)  
Mundo sin guerras y sin violencia y más vida



Tierra Viva Guatemala  
Unidad de Protección a Defensoras y Defensores de Derechos Humanos-Guatemala (UDEFEHUA)  
Unión Nacional de Mujeres Guatemaltecas (UNAMG) Honduras

Catrachas Organización Lésbica Feminista de  
Centro de Derechos de Mujeres (CDM)  
Centro de Estudios de la Mujer-Honduras (CEM-H)  
Comité de Familiares de Detenidos Desaparecidos en Honduras (COFADEH)  
Consejo Cívico de Organizaciones Populares e Indígenas de Honduras (COPINH)  
Coordinadora de Organizaciones Populares del Aguan (COPA)  
Insurrectas autónomas  
Mesoamericanas en Resistencia Por Una Vida Digna,  
Misericordia Tejedora de Sueños  
Mosquitia Asla Takanka-Unidades de la Mosquitia  
National Women Human Rights Defenders Network in Honduras  
Organización Fraternal Negra de Honduras (OFRANEH)  
Organización Movimiento de Mujeres por la Paz Visitación Padilla Mexico

Alternativas Pacíficas (ALPAZ)  
Aluna (Acompañamiento Psicosocial)  
Atzin Desarrollo comunitario A.C.  
Campaña ¡¡¡Si no están ellas... No estamos todas!!! Triqui  
Centro De Apoyo Al Trabajador, A.C.  
Grupo De Mujeres De San Cristóbal Las Casas, A. C  
Centro de Derechos Humanos de la Montaña Tlachinollan  
Centro de Derechos  
Humanos de las Mujeres de Chihuahua  
Centro de Derechos Humanos Miguel Agustín Pro Juárez  
Centro de Derechos Humanos Paso del Norte, A.C  
Centro de Derechos Indígenas  
Flor y Canto A.C  
Centro Diocesano para los Derechos  
Humanos Fray Juan de Larios, A.C.  
Centro para los Derechos de la Mujer Nääxwiin, A.C.  
Centro Regional de Derechos Humanos “Bartolomé Carrasco Briseño” A. C.  
CIMAC, Comunicación e Información de la Mujer, .A.C.  
Ciudadanos en Apoyo a los Derechos Humanos, A.C.  
Coalición Regional contra el Tráfico de Mujeres y Niñas en América Latina y el Caribe (Catwlac)  
Colectivo Feminista de Xalapa, AC  
Colectivo Oaxaqueño En Defensa De  
Los Territorios  
Colectivo Obreras Insumisasto Tlaktole Calaki Mo Yolo A.C.  
Colectivo Raíz De Aguascalientes  
Comisión de Solidaridad y Defensa de los Derechos Humanos, A. C.  
Comité Cerezo  
Comité de Defensa Integral de Derechos Humanos Gobixha A.C.  
Comité de Familiares de Detenidos Desaparecidos !Hasta Encontrarlos;  
Consortio para el Diálogo  
Parlamentario y la Equidad  
Consortio para el Diálogo Parlamentario y La Equidad Oaxaca A.C.  
Defensoras Populares, A.C.

Fuerzas Unidas por Nuestros Desaparecidos en México  
Grupo De Mujeres De San Cristóbal Las Casas, A. C  
Hijos por la Identidad y la Justicia contra el Olvido y el Silencio (H.I.J.O.S.)  
Instituto Guerrerense de Derechos Humanos A.C  
Instituto Mexicano para el Desarrollo Comunitario (IMDEC, A.C)  
Kinal Antzentik Guerrero A.C.  
Miguel Agustín Pro Juárez  
Human Rights Center (Center Prodh)  
Movimiento Migrante Mesoamericano  
Mujeres Barzonistas  
Mujeres Indígenas por Ciarena  
Mujeres por México en Chihuahua, A.C.  
Mujeres Unidas: Olympia De Gouges, A.C.  
Mujeres Mesoamericanas en Resistencia por una Vida Digna, México  
Mujeres, Lucha y Derechos para Todas A.C  
National Women Human Rights Defenders Network in Mexico  
Organización del Pueblo indígena Me'phaa (OPIM)  
ProDESC  
Red Mesa de Mujeres de Ciudad Juárez  
Red Todos los Derechos para Todos y Todas  
Salud Integral para la Mujer, A.C.  
Servicios Humanitarios en Salud sexual y Reproductiva, AC  
Servicios Para una Educación Alternativa A.C (EDUCA)  
Servicios Socioeducativos y Psicológicos de Oaxaca  
Servicios y Asesoría para la Paz, A.C. (SERAPAZ)  
Si Hay Mujeres en Durango, A.C.  
Tamaulipas Diversidad Vihda Trans A.C  
Unión De Comunidades Indígenas De La Zona Norte Del Istmo Oaxaca  
Yotlakat Non Siwatl A. C.Nicaragua

Asociación de Mujeres “Las Golondrinas”  
Coordinadora de los Pueblos Indígenas Chorotega (CPICH)  
Grupo Nicaraguenses de Mujeres lesbiana  
(SAFO)  
Grupo Venancia  
Instituto de Liderazgo de las Segovias  
Movimiento Autónomo de Mujeres  
Red de la No Violencia contra las Mujeres  
Red de Mujeres de MatagalpaPanama

Coordinadora de organizaciones para el Desarrollo Integral de la Mujer (CODIM)  
FUNDAGÉNERO  
Mujeres Mesoamericanas en Resistencia por una Vida Digna, PanamáOthers

Acción Ecológica (Ecuador)  
COOPERACCIÓN (Spain)  
Cotidiano Mujer (Uruguay)  
VSF Justicia Alimentaria Global (Spain)

## RESEARCH NOTES

### NEXT YEAR: HUGE CHANGES AHEAD FOR INDIAN HEALTHCARE SYSTEM (INCLUDING SOME NEW MONEY)

Mark Trahan\*

Republished with permission from Mark Trahan's blog, [http://www.marktrahant.org/marktrahant.org/Mark\\_Trahan.html](http://www.marktrahant.org/marktrahant.org/Mark_Trahan.html), or <https://www.facebook.com/IndianCountryAusterity>, March 25, 2013.

Three years ago, on March 23, 2010, President Barack Obama signed into law the Affordable Care Act. The bill also included the permanent authorization of the Indian Health Care Improvement Act.

As I wrote at the time: “When Medicare and Medicaid passed Congress in 1965 and were signed into law there was no consideration – none – of how those bills impacted Indian Country. It was as if the Indian Health Service, then all federal employees, was off the books, a forgotten instrument. In fact there wasn't even a plan that allowed IHS to tap into Medicare or Medicaid dollars. That had to wait for the Indian Health Care Improvement Act of 1976.

That is not the case with President Obama's health care reform. Indian Country is included throughout the document in large and small measures designed to improve the health of Native people.”

Indeed, three years later, only a year before many of the most important provisions of the law begin, it's hard to understate what this law means to the Indian health system.

Consider the money. The Indian Health Service is funded largely by appropriations. In recent years this has worked well with bipartisan support for increased funding. Since 2008 there has been a 29 percent increase in IHS funding.

But that is unlikely to continue. The appropriations process itself is, well, I'll use the technical term here, a total wreck. So getting a logical appropriation will be less and less likely.

But the Affordable Care Act opens up revenue streams that are not appropriations, money that is, essentially, automatic. If a patient qualifies, then the money is there. This happens two ways. First, many more people will be eligible for Medicaid funding and second there will be new insurance exchanges with plans that could be purchased by both individuals and tribes, mostly, as employers.

As IHS director Dr. Yvette Roubideaux told a House hearing last week: “The Affordable Care Act is an important part of reform for the IHS since the law has many new benefits for American Indians and Alaska Natives. The insurance reforms in the law protect those with insurance, and the State and Federally Facilitated Exchanges or Marketplaces, will make purchasing insurance easier in 2014. The Medicaid Expansion will cover more American Indians and Alaska Natives based on a higher income threshold, so more adults will have option to enroll in Medicaid. And American Indians and Alaska Natives can still use IHS since the Affordable Care Act extends authorization of appropriations indefinitely.”

Think of it this way: Every patient will have the power of a customer, and serving that customer means more money, not less. Because beginning next year more American Indians and Alaska Natives will be either eligible for Medicaid or reduced-cost insurance purchased through the exchanges. So more patients will be

bringing money into the Indian health system, not just relying on what's been appropriated from Congress. (This, in theory, should also improve the quality in the Indian health system because those same patients could go outside of IHS and purchase health care from a private provider.)

And the law does have incentives for American Indians and Alaska Natives to participate in exchanges, such as a waiver of co-pays for those whose family income does not exceed 300 percent of the poverty level, or roughly \$66,000 for a family of four in 2010 or \$83,000 in Alaska.

Many of the rules regarding the implementation of the Affordable Care Act are so complicated that the impact on Indian Country won't be visible for a time.

For example Jim Roberts, a policy analyst with the Northwest Portland Area Indian Health Board, writes "the exchanges are important because they are the new frontier for Indian health financing; we won't see IHS appropriation increases like we have in the past." And for many tribal members, based on income and the IRS definition, they should be eligible for a subsidy for insurance purchased through an exchange. But will folks? Consider the IRS regulations on Employer-Sponsored Insurance. The agency says plans will be deemed "affordable" if the cost is under 9.5 percent of a family's income. "As a result," Roberts writes, "premium subsidies and cost-sharing assistance will not be available to the uninsured and unenrolled Indian spouses and children of tribal employees who have access to affordable self-only coverage but who cannot afford dependent coverage because the premiums are too high. Yet these folks have IHS coverage, but if you can't bill for their services, how can IHS generate revenue?"

However in Indian Country, "the rule, more than the exception" is that tribal members only sign up for insurance when the employer pays all of the premium. "And if there is any cost for their family they most always do not sign them up because most ESI plans require the Employee to pay 100% of the cost. It's unfortunate because this shifts cost to the IHS. Indian families that have access to IHS should meet the requirement for having "essential coverage" (Individual Mandate rebranded), but the IRS rule does not consider IHS coverage as 'essential coverage.'"

Another problem Roberts sees coming is definition of American Indian and Alaska Native in a family that includes mixed-race marriages. "Family of 4, two enrolled Indian parents exempt from the penalty and children are not enrolled, do you apply 50% of the penalty amount? Likely not, it would be applied to the household if any family member doesn't qualify for an exemption. This will be very complicated to operationalize," Roberts writes.

The next few months will be complicated and occur at the same time that the Indian Health system will stretched by the financial limits of funding during this year's sequester. The regional disparities in health care delivery already present in the Indian health system could be further widened because some will states opt out of the Medicaid expansion.

Ideally of course none of this would matter. Congress would appropriate money for the Indian health system directly, as a promise made by the United States, and that system would run parallel to other health systems. Fully funded, of course. But that's not likely to happen soon.

But the Affordable Care Act opens up the possibility of full funding in a different way. The Indian health system will still deliver health care, but the funding mechanism will soon come from a variety of sources, some new, some complicated, but free from the politics of appropriations. Implementation of this law will be complicated, and tribes will have to fight for rule changes and other tweaks along the way. But at least, at the end of the process, there should be more money.

\*Mark Trahant is a writer, speaker and Twitter poet. He lives in Fort Hall, Idaho, and is a member of The Shoshone-Bannock Tribes. Join the discussion about austerity. A new Facebook page has been set up at:

<https://www.facebook.com/IndianCountryAusterity>.

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## **MEDICAIDE FUNDING IS INDIAN HEALTH SYSTEM'S "NEW REALITY" AND IT CAN CONTINUE TO GROW**

Mark Trahant , "Medicaid funding is Indian health system's 'new reality' and it can continue to grow"

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[http://www.marktrahant.org/marktrahant.org/Mark\\_Trahant.html](http://www.marktrahant.org/marktrahant.org/Mark_Trahant.html),  
<https://www.facebook.com/IndianCountryAusterity>, January 29, 2013. or

The Indian Health Service faces, what IHS Director Yvette Roubideaux calls, a "new reality" requiring a business model to match this era. For example the 2012 budget was \$4.3 billion. But when third party collections and the Special Diabetes Program is added to that base, the funding totals \$5.38 billion. Third party collections, mainly Medicaid, Medicare and insurance, are important because that money is "generated and kept" at each service unit.

And, better yet, that's one line on the budget can continue to grow. Even as Congress threatens sequester or other budget cuts. "We also must work on customer service – if more of our patients have insurance or other health coverage, we do not want them to go to other providers," Dr. Roubideaux wrote on her blog. "Even though IHS is a 'service,' it is also a healthcare system, and we need to think like a business. We are encouraging every one of our employees to contribute towards ensuring that we provide the best quality of care and to maximize the resources we have to provide that care. No one in the IHS system can afford to ignore the bottom line. If our goal is to provide the best care possible, we need to ensure that we can survive in the changing health care marketplace in which our facilities must thrive."

One key element in that third party collections is Medicaid. Medicaid is a state-federal partnership, an insurance program for low-income families. However the Affordable Care Act expands access to Medicaid, an idea that's supposed to make sure that more people can afford basic health insurance. But the rules of Medicaid, because it's a partnership, are up to state governments. Moreover not every state is choosing to participate.

A recent study from the Harvard Law School says: "There is strong empirical evidence that 'opting out' of expansion will have many negative implications by any measure, not only for individual and public health outcomes, but also for state fiscal stability. In other words, expanding Medicaid to residents with income up to 133% federal poverty level is in every state's interest. While political battles loom large in the coming months, states will benefit from analyzing the actual costs and benefits of the Medicaid expansion and making an informed decision that best serves states' residents at large."

American Indians and Alaska Natives are a big part of that equation, a benefit for state governments as well as a source of revenue for the Indian health system. (The Indian health system includes the IHS as well as tribal, nonprofit and urban Indian programs).

A study in by the Montana Budget and Policy Center said "Medicaid expansion is a bargain for Montana. From 2014-2017, the federal government will pay 100% of the cost to expand Medicaid to low-income adults earning less than 138% of the federal poverty level, which is \$26,344 for a family of three. Beginning in 2017, Montana will pick up a small portion of the costs, paying no more than 10% from 2020 forward. In addition, any services billed by Indian Health Service to Medicaid for care of American Indians will continue to be reimbursed 100% by the federal government, eliminating any fiscal obligation by the state."

A Medicaid expansion in Montana would add up to 19,547 American Indians into that funding pool,

money that would stay at local service units, clinics. The Montana report concludes: “The influx of new federal dollars created by Medicaid expansion will provide an economic boost throughout Montana.”

This is a key point and one that’s much broader than a state-issue in Montana. The data suggests that it’s in states’ interests to expand Medicaid and to use that mechanism as a vehicle to improve funding for the Indian health system. Even in an era of austerity, this is a potential boost in funding across Indian Country. It also represents the new reality.

\*Mark Trahant is a writer, speaker and Twitter poet. He lives in Fort Hall, Idaho, and is a member of The Shoshone-Bannock Tribes. Join the discussion about austerity. A new Facebook page has been set up at: <https://www.facebook.com/IndianCountryAusterity>.

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## **PENNIES ON THE DOLLAR? SEQUESTER WILL CLOSE SCHOOLS, REDUCE TEACHERS, SHORT CHANGE DREAMS**

Mark Trahant\*

Republished with permission from Mark Trahant’s blog, [http://www.marktrahant.org/marktrahant.org/Mark\\_Trahant.html](http://www.marktrahant.org/marktrahant.org/Mark_Trahant.html), or <https://www.facebook.com/IndianCountryAusterity>, March 4, 2013.

Over the weekend the Republican line on the sequester was honed to a simple idea: It’s only a couple of pennies, two-and-one-half cents out of every dollar. No big deal, right?

Republicans say the sequester is the right course because it represents a real spending cut by Congress. South Dakota’s Sen. John Thune said last week that “most Americans believe that they can tighten their belt and reduce spending by 2.4 percent.” No big deal.

The problem is that 2.4 percent is not evenly distributed. A case in point: Impact aid. These are federal dollars sent to school districts to help replace property taxes. Many school districts are funded primarily by property taxes, but if there is an military base, or an Indian reservation, then that tax base is either limited, or in some cases, non-existent. So Congress appropriates money to make up for that missing dollars. According to the OMB report to Congress: The total amount last year was \$1.299 billion. (And they are in addition to other budget cuts for general education.)

“Sequestration would eliminate roughly \$60 million for Impact Aid Basic Support Payments for schools that are counting on those funds to meet the basic needs of students and to pay teacher salaries this spring, potentially forcing districts to make wrenching, mid-year adjustments,” writes John White, deputy assistant secretary for rural outreach at the U.S. Department of Education. “We have spoken to school district leaders ... (who are) now figuring out whether further adjustments will be needed this spring, whether to leave vacancies unfilled, and planning further reductions for the next school year. They are considering which extracurricular activities and instructional materials to cut, and delaying needed building maintenance for buildings that are in serious disrepair.”

On the Navajo Nation, for example, many of the school districts are entirely on reservation land and therefore have zero property taxes. The Window Rock Unified School District in Arizona serves 2,400 students, 100 percent live on non-taxable trust land, 99 percent are Navajo, more than two-thirds of the students are identified as homeless or living in substandard housing. And: the district gets 62 percent of its budget from impact aid. At a Department of Education meeting recently, Dr. Deborah Jackson-Dennison, the district’s superintendent, said sequestration would likely mean 40 positions at the district would remain unfilled. On top of that, next year

could mean losing 35 teachers, 25 staff members, five in administration, and, closing as many as three schools. “I just don’t understand how this is happening. It’s beyond serious,” she said.

And beyond serious is just the start. Next year the federal Budget Control Act requires more cuts. And, most of these same districts across the reservation have been reeling from state education budget cuts. Arizona is one of three states that have reduced per-student funding by more than 20 percent.

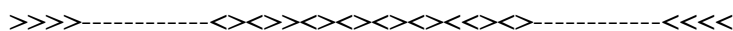
As the Center on Budget and Policy Priorities said as this school year began: “Cuts at the state level mean that local school districts have to either scale back the educational services they provide, raise more local tax revenue to cover the gap, or both. In particular, cuts in state aid may disproportionately affect school districts with high concentrations of children in poverty. States typically distribute general education aid through formulas that target additional funds to school districts with large shares of low-income and other high need children and/or with lower levels of taxable wealth. As a result, reductions in ‘formula’ funding may result in particularly deep cuts in general state aid for less-wealthy, higher need districts unless a state goes out of its way to protect them.”

The story is much the same across Indian Country. The Annette Islands School District in Alaska has a student population that is ninety-five percent Alaska Native; fifty percent of the community is unemployed and nearly two-thirds of the students get free or reduced lunches. The superintendent, Eugene Avey, said the district went out of its way to find innovative teachers who could make transformative changes to the school. There are 30 teachers in that district. Next year Avey might have to cut six or ten. Think of that: A third of the teachers gone.

Remember the senator from South Dakota who is calling on folks to just tighten their belts? The South Dakota Wagner Community School District is more than two-thirds Lakota, and three-quarters of those students qualify for free or reduced lunch. The district’s superintendent, Susan Smit, said the district will lose \$394,000 from the sequester. That means fewer textbooks, including a new series on math, teachers won’t be replaced, and salaries will be cut.

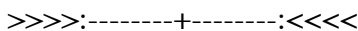
Indian Country has the youngest population in America. This is a demographic cohort that is in the national interest. It’s essential to invest now in a pathway that leads to success. Wiping out schools, cutting teachers, and shortchanging dreams is exactly the wrong direction.

\*Mark Trahant is a writer, speaker and Twitter poet. He lives in Fort Hall, Idaho, and is a member of The Shoshone-Bannock Tribes. Join the discussion about austerity. A new Facebook page has been set up at: <https://www.facebook.com/IndianCountryAusterity>.



## ARTICLES

As *IPJ* is a refereed journal, articles may be posted on a different schedule from the rest of the journal. We will send out an e-mail announcement when the next set of articles are posted when they are not posted with a regular new journal, and they can be downloaded as a pdf file. **Current articles are available with list on line at:** <http://www.indigenouspolicy.org/ipjblog/>.



## REVIEWS

### TWO BOOKS ADD PERSPECTIVE TO CURRENT DEBATES OVER INDIAN COUNTRY’S FUTURE

Mark Trahant\*

Republished with permission from Mark Trahant’s blog, [http://www.marktrahant.org/marktrahant.org/Mark\\_Trahant.html](http://www.marktrahant.org/marktrahant.org/Mark_Trahant.html), or

<https://www.facebook.com/IndianCountryAusterity>, February 19, 2013.

Later this morning President Barack Obama will make yet another pitch, calling on Congress to stop the sequester with a balanced approach. Of course nothing will happen today. Congress is not even in town. Congress being Congress took the week before the sequester off.

But before I get back to writing about the politics of the sequester, and, more important, the longer impact of austerity on Native American programs, I wanted to add my view of two recent books: “Iveska,” by Charles Trimble, and “This Indian Country,” by Frederick E. Hoxie. I read both of these books through the filter of Indian Country’s current challenges.

A little background. A couple of years ago I wrote, “The Last Great Battle of the Indian Wars.” In that book I made the case that the self-determination era was different because it ended the debate about whether tribal governments should even exist in this century. (It’s about Forrest Gerard and how Sen. Henry Jackson went from championing termination to sponsoring the self-determination act in Congress.)

My title was too optimistic and wrong; there are many battles left to fight. Indian Country has had a run of some forty years where Democrats and Republicans have pledged their support to the idea that tribal governments are best equipped to solve the problems of Indian Country. But over the last couple of years that has started to change. There is growing number of politicians, who, in the name of austerity, are proposing radical ideas that are essentially a reprise of the termination policy of the 1950s. Want proof? Look no further than Sen. Rand Paul’s plan to balance the budget in five years. The Kentucky Republican’s proposes economic termination.

That’s why Trimble’s book is worth reading now. The former executive director of the National Congress of American Indians looks back at several challenges that Indian Country faced during this modern era, including termination and the 1970s backlash. I am always inspired after reading accounts of the Colville Tribe’s rejection of termination and the leadership of Lucy Covington. Trimble was recruited by Covington to start a newspaper, “Our Heritage,” as part of that effort.

A few years later, in the 95th Congress, Trimble writes about another challenge to Indian Country, the backlash. There were fourteen pieces of legislation that would have reversed tribal hunting and fishing rights, court victories, terminating federal-tribal relations, and abrogating Indian treaties.

The way forward was for a grand coalition, an action coalition, that worked together to limit and then reverse the dangerous ideas that were coming from Congress. “NCAI pulled Indian Country together and the backlash was defeated, including every piece of anti-Indian legislation that came out of the movement,” Trimble writes. “It was interesting to note that the principal sponsors of those pieces of legislation were also defeated in their bids for re-election.”

The challenge of sequester is the beginning of a new and dangerous era. The best hope for Indian Country is to create, on a grander scale, a coalition that can once again limit and reverse those dangerous ideas coming from Congress.

Hoxie’s “This Indian Country” is the story of several activists whose work improved the lives of the people. The chapter on Sarah Winnemucca is a brilliant context for today’s debate about the Violence Against Women Act. Winnemucca “charged that sexual violence was a fundamental aspect of expansion. Her speeches and writings were peppered with descriptions of rape and threats of rape.” In Truckee, she wrote, “The men whom my grandpa called his brothers would come into our camp and ask my mother to give our sister to them. They would come in at night and we would all scream and cry; but that would not stop them.”

Both authors capture how the American experience -- or Manifest Destiny -- surface in so many different



forms. But because of that history there remains reason to be optimistic. As the challenges arise, so do leaders who bring people together.

“Today’s activists continue to animate discussions of the Indian future, but the cast of characters has expanded to include environmentalists, corporate leaders, physicians, bankers, actors, and astronauts. The community of activists is large and diverse, with Native women forming an ever-growing portion of the whole, but it continues to be united in its support for treaty rights, tribal autonomy, and the rights of American Indian citizens to live the rights as they choose,” Hoxie writes.

The complexity of the debate over austerity is far more difficult as a political problem. It’s stealth termination, budget line by budget line. And it’s harder to resolve because the Congress, indeed, the body politic, is unable to negotiate. Indian Country is a bit player in a much larger show. But the results still matter. Austerity requires a deconstruction of so many institutions that have been built on on reservations, villages, and in urban areas, over the last forty-plus years. To limit the damage, to reverse course, Indian Country needs to draw on every lesson from the past to win again.

\*Mark Trahant is a writer, speaker and Twitter poet. He lives in Fort Hall, Idaho, and is a member of The Shoshone-Bannock Tribes. Join the discussion about austerity. A new Facebook page has been set up at: <https://www.facebook.com/IndianCountryAusterity>

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### **‘LOST REPORT’ EXPOSES BRAZILIAN INDIAN GENOCIDE**

Cultural Survival, “April 25, 2013

A shocking report detailing horrific atrocities committed against Brazilian Indians in the 1940s, 50s and 60s has resurfaced – 45 years after it was mysteriously ‘destroyed’ in a fire. The Figueiredo report was commissioned by the Minister of the Interior in 1967 and caused an international outcry after it revealed crimes against Brazil’s indigenous population at the hands of powerful landowners and the government’s own Indian Protection Service (SPI). The report led to the foundation of tribal rights organization Survival International two years later. The 7,000-page document, compiled by public prosecutor Jader de Figueiredo Correia, detailed mass murder, torture, enslavement, bacteriological warfare, sexual abuse, land theft and neglect waged against Brazil’s indigenous population. Some tribes were completely wiped out as a result and many more were decimated.

The report was recently rediscovered in Brazil’s Museum of the Indian and will now be considered by Brazil’s National Truth Commission, which is investigating human rights violations which occurred between 1947 and 1988. One of the many gruesome examples in the report describes the ‘massacre of the 11th parallel’, in which dynamite was thrown from a small plane onto the village of ‘Cinta Larga’ Indians below. Thirty Indians were killed – just two survived to tell the tale. Other examples include the poisoning of hundreds of Indians with sugar laced with arsenic, and severe methods of torture such as slowly crushing the victims’ ankles with an instrument known as the ‘trunk’.

Figueiredo’s findings led to an international outcry. In a 1969 article ‘Genocide’ in the British Sunday Times based on the report, writer Norman Lewis wrote, ‘From fire and sword to arsenic and bullets – civilisation has sent six million Indians to extinction.’ The article moved a small group of concerned citizens to set up Survival International the same year.

As a result of the report, Brazil launched a judicial enquiry, and 134 officials were charged with over 1,000 crimes. Thirty-eight officials were dismissed, but no-one was ever jailed for the atrocities. The SPI was

subsequently disbanded and replaced by FUNAI, Brazil's National Indian Foundation. But while large swathes of Indian land have since been demarcated and protected, Brazil's tribes continue to battle the invasion and destruction of their lands by illegal loggers, ranchers and settlers and the loss of land from the government's aggressive growth program which aims to construct dozens of large hydroelectric dams and open up large-scale mining in their territories.

Survival International's Director Stephen Corry said today, 'The Figueiredo report makes gruesome reading, but in one way, nothing has changed: when it comes to the murder of Indians, impunity reigns. Gunmen routinely kill tribespeople in the knowledge that there's little risk of being brought to justice – none of the assassins responsible for shooting Guarani and Makuxi tribal leaders have been jailed for their crimes. It's hard not to suspect that racism and greed are at the root of Brazil's failure to defend its indigenous citizens' lives.'"

#### MEDIA NOTES

University of Arizona Press listings include: M. Bianet Castellanos; Lourdes Gutiérrez Nájera; Arturo J. Aldama, eds., *Comparative Indigenities of the Americas: Toward a Hemispheric Approach* (376 pp. for 37.95 paper); Donald L. Fixico, *Indian Resilience and Rebuilding: Indigenous Nations in the Modern American West* (250 pp. for \$30 paper, \$45 cloth); Billy J. Stratton, Foreword by Frances Washburn, Afterword by George E. Tinker, *Buried in Shades of Night: Contested Voices, Indian Captivity, and the Legacy of King Philip's War* (224 pp. for \$45 cloth); Michelle M. Jacob, *Yakama Rising: Indigenous Cultural Revitalization, Activism, and Healing* (145 pp. for \$45 cloth); Dian Million, *Therapeutic Nations: Healing in an Age of Indigenous Human Rights* (240 pp. for \$50 cloth); and Leslie Green and David R. Green, *Knowing the Day, Knowing the World: Engaging Amerind Thought in Public Archeology* (256 pp. for \$55 clothe), all from the University of Arizona Press, 355 S. Euclid Ave., Suite 103, Tucson, AZ 85701, phone/fax (800) 426-3797, <http://www.uapress.arizona.edu/>.

Offerings from the University of Hawaii Press include: Samuel P. King and Randall W. Roth, *Broken Trust: Greed, Mismanagement, and Political Manipulation at America's Largest Charitable Trust* on the misappropriation of the trust of Princess Bernice Pauahi Bishop, the largest landowner and richest woman in the Hawaiian kingdom (336 pp. for \$18.00 paper); Matthew G. Allen, *Greed and Grievance* Ex-Militants' Perspectives on the Conflict in the Solomon Islands, 1998–2003 (264 pp. for \$55 cloth); Mikael Gravers and Flemming Ytzen, ed., *Burma/Myanmar—Where Now?* (160 pp. for \$20 paper, \$55 cloth); Selwyn Katene, *The Spirit of Māori Leadership* (180 pp. for \$35 paper); Mosh Rapaport, Ed., *The Pacific Islands: Environment and Society, Revised Edition* (452 pp. for \$48 paper), All, plus \$5 first item, \$1 each additional, shipping, from University of Hawai'i Press, 1840 Kolawalu St., Honolulu, HI 96822 (808)956-8255, [uhpbooks@hawaii.edu](mailto:uhpbooks@hawaii.edu), <http://www.uhpress.hawaii.edu>.

Recent offerings from the University of New Mexico Press include: Edward Dorn, Photography by Leroy Lucas, Matthew Hofer, Ed., *The Shoshoneans: The People of the Basin-Plateau* Expanded Edition (256 pp. for \$34.95 paper); and , all plus \$5 for the first item and \$1 for each additional, shipping, from the University of New Mexico Press, MSC04 2820, 1 University of New Mexico, Albuquerque NM 87131-0001 (505)272-7777 or (800)249-7737, <http://www.unmpress.com/>.

University of Nebraska Press offerings include: Don L. Fixico, *Call for Change: The Medicine Way of American Indian History, Ethos, and Reality* (264 pp. for \$50); and Edited and annotated by Alicia Delgadillo, with Miriam A. Perrett, *From Fort Marion to Fort Sill: A Documentary History of the Chiricahua Apache Prisoners of War, 1886-1913* (456 pp. cloth for \$70), all, plus \$5 for first item, \$1 for each additional, from University of Nebraska Press, 1111 Lincoln Mall, Lincoln, NE 68588 (800)755-1105, [pressmail@uni.edu](mailto:pressmail@uni.edu), [www.nebraskapress.unl.edu](http://www.nebraskapress.unl.edu).

Offerings from the University of Oklahoma Pres include: Blake A. Watson, *Buying America from the Indians: Johnson v. McIntosh and the History of Native Land Rights* (\$45.00s cloth); William Least Heat-Moon and James K. Wallace, eds., *An Osage Journey to Europe, 1827–1830: Three French Accounts* (168 pp. for \$29.95

cloth); Mark Edwin Miller, Foreword by Chadwick Cornthassel Smith, *Claiming Tribal Identity: The Five Tribes and the Politics of Federal Acknowledgment* (480 pp. for \$29.95 paper); John Stands In Timber and Margot Liberty, Foreword by Raymond J. DeMallie, Map Commentary by Michael N. Donahuey, *A Cheyenne Voice: The Complete John Stands In Timber Interviews* (504 pp. for \$34.95 cloth); Roger L. Nichols, *Warrior Nations: The United States and Indian Peoples* (356 pp. for \$24.95); Sebastian Felix Braun, ed, Afterword By Raymond J. Demallie, *Transforming Ethnohistories: Narrative, Meaning, and Community* (320 pp. for \$24.95 paper); James W. Parins, *Literacy and Intellectual Life in the Cherokee Nation, 1820–1906* (296 pp. for 34.95 cloth); Paul N. Beck, *Columns of Vengeance: Soldiers, Sioux, and the Punitive Expeditions, 1863–1864* (320 pp. for \$34.95 cloth); Sebastian Felix Braun, *Buffalo Inc.: American Indians and Economic Development* (288 pp. for \$29.95 paper); William S. Kiser, *Dragoons in Apacheland: Conquest and Resistance in Southern New Mexico, 1846–1861* (376 pp. for \$29.95 cloth); Jon S. Blackman, *Oklahoma's Indian New Deal* (192 pp. for \$24.85 paper);

Blue Clark, *Indian Tribes of Oklahoma: A Guide* (432 pp. for \$19.95 paper); Maureen Trudelle Schwarz, Foreword by Louise Lamphere *Navajo Lifeways: Contemporary Issues, Ancient Knowledge* (286 pp. for \$21.95); James N. Leiker and

Ramon Powers, *The Northern Cheyenne Exodus in History and Memory* (276 pp. for \$19.95 paper); Peter Perkins Pitchlynn, Translated and Edited by Marcia Haag and Henry Willis, Introduction by Clara Sue Kidwell, *A Gathering of Statesmen: Records of the Choctaw Council Meetings, 1826–1828* (180 pp. for \$29.95 paper); Stephanie Pratt, *American Indians in British Art, 1700–1840* (338 pp. for \$21.95 paper); Robert W. Patch, *Indians and the Political Economy of Colonial Central America, 1670–1810* (272 pp. for \$36.95 cloth); W. George Lovell and Christopher H. Lutz, with Wendy Kramer and William R. Swezey, *“Strange Lands and Different Peoples:” Spaniards and Indians in Colonial Guatemala* (288 pp. for \$45 cloth); Ronald Spores and Andrew K. Balkansky, *The Mixtecs of Oaxaca: Ancient Times to the Present* (328 pp. for \$45 cloth); by John P. Hawkins, James H. McDonald, eds., *Crisis of Governance in Maya Guatemala: Indigenous Responses to a Failing State* (280 pp. for \$19.95 paper); and Walter Randolph Adams and Sarah E. Jackson, *Politics of the Maya Court: Hierarchy and Change in the Late Classic Period* (248 pp. for \$29.95 cloth); Jon C. Lohse, *Classic Maya Political Ecology: Resource Management, Class Histories, and Political Change in Northwestern Belize* (256 pp. for \$67 paper), all, plus \$5 for first item, \$1.50 for each additional, shipping, from the University of Oklahoma Press, Attn: Order Department, 2800 Venture Drive, Norman, OK 73069-8218.

Also available through University of Oklahoma Press (just above, same arrangement) are books from Chickasaw University Press including: Phillip Carroll Morgan, *Riding Out the Storm: 19th Century Chickasaw Governors: Their Lives and Intellectual Legacy* (200 pp. for \$20 cloth).

Offerings from the University of Alaska Press include: Igor Krupnik and Michael Chlenov, *Yupik Transitions: Change and Survival at Bering Strait, 1900–1960* (400 pp. cloth for \$60); and Ernest S. Burch, Jr., Edited by Erica Hill, *Inupiaq Ethnohistory: Selected Essays* (360 pp. for \$35), all plus \$6 first item, \$1 each additional, from University of Alaska Press: [www.alaska.edu/uapress](http://www.alaska.edu/uapress).

Books form University of Pennsylvania Press include: Michael Witgen, *An Infinity of Nations: How the Native New World Shaped Early North America* (456 pages for \$45.00 cloth, \$26.50 cloth, \$26.50 Ebook); Daniela Bleichmar and Peter C. Mancall, Editors, *Collecting Across Cultures: Material Exchanges in the Early Modern Atlantic World* (392 pages for \$49.95 cloth, \$29.95 paper, \$29.95 Ebook ), all plus \$5 first item, \$2 each additional, from University of Pennsylvania Press, [www.pennpress.org](http://www.pennpress.org).

Offerings from the University of Minnesota Press include: **Thomas King**, *The Inconvenient Indian: A Curious Account of Native People in North America* said to be, “A brilliantly subversive and darkly humorous history of Indian–White relations in North America since first contact.” (272 pp. for \$24.95 cloth); Julie L. Davis, *Survival Schools: The American Indian Movement and Community Education in the Twin Cities* (\$22.95 paper, \$69.95 cloth); M ishuana Goeman, *Mark My Words: Native American Women Mappint Our Nations* (\$25 paper, \$75 cloth); Noelani Goodyear-Ka’opua, *The Seeds We Planted: Portraits of a Native Hawaiian Charter School*

(\$25 paper, \$75 cloth); and **Monique Allewaert, *Ariel's Ecology: Plantations, Personhood, and Colonialism in the American Tropics*** (\$25 paper, \$75 cloth), plus \$5 first item, \$1 each additional, from: [www.upress.umn.edu](http://www.upress.umn.edu).

Offerings from the University of Kansas Press include: William E. Unrau, ***Indians, alcohol, and the Roads to Taos and Santa Fe*** (192 pp. for \$29.95 cloth); and Colleen O'Neil, *Working the Navajo Way: Labor and Culture in the Twentieth Century* (236 pp. for \$19.95 paper, \$29.95 cloth), all, plus \$5 for first item, \$1 for each additional, shipping, from: [WWW.kansaspress.ku.edu](http://WWW.kansaspress.ku.edu).

Frederick Hoxie, ***This Indian Country: American Indian political Activists and the Place They Made*** from the early 19th through the late 20th century is published by Penguin for \$32.95 cloth, and is available in Kindle.

Charles Trimble, ***Iyeska*** gives Charles Trimble's observations of Indian history from his experience from boarding school through Congress. The book is 184 pp. for **\$16.95 Perfectbound** by Dog Ear Publishing, available at: <http://charlestrimble.com/book.php>.

Felix Hoehn, ***Reconciling Sovereignties: Aboriginal Nations and Canada***, Winner of "Scholarly Writing" at the 2013 Saskatchewan Book Awards, is 182 pp. for \$30.00 from Native Law Center of Canada: <http://www.usask.ca/nativelaw/publications/>. Paper, Hoehn argues, "Reconciling pre-existing Aboriginal sovereignty with *de facto* Crown sovereignty will not threaten the territory of Canada, nor will it result in a legal vacuum. Rather, it will facilitate the self-determination of Aboriginal peoples within Canada and strengthen Canada's claim to territorial integrity in the eyes of international law." In *Reconciling Sovereignties*, Felix Hoehn presents a persuasive case that the once unquestioned and uncritical acceptance of the Crown's assertion of sovereignty over Aboriginal peoples and their territories is now being replaced by an emerging paradigm that recognizes the equality of Aboriginal and settler peoples and requires these peoples to negotiate how they will share sovereignty in Canada.

Jared Diamond, ***The World Until Yesterday: What We Can Learn From Traditional Societies*** is 499 pp. for \$36 from Viking.

The National Congress of American Indians (NCAI) publishes a range of reports and analysis on a regular basis, including: ***Annual Reports; FY 2014 Indian Country Budget Request: Supporting Economic Security and Prosperity; Securing Our Futures*** (2013, shows areas where tribes are exercising their sovereignty right now, diversifying their revenue base, and bringing economic success to their nations and surrounding communities. The path to securing our future – from education to food security, climate change to workforce development – is illuminated by the proven success of tribal nations. While the circumstances of each tribal nation are unique, the promising practices contained in the report offer a way forward to secure tribal economies and sustain prosperity for future generations), ***Investing in Tribal Governments: Case Studies from the American Recovery and Reinvestment Act*** (2010, part of the Indian Country Works campaign, to measure the impact of the American Recovery and Reinvestment Act (ARRA) in tribal communities, highlights a series of nine cases studies that profile projects being funded throughout Indian Country under ARRA. Developed through a series of interviews with tribal leaders, program staff and community members, these case studies convey the impact and potential of a broad range of federal investments in tribal communities.); ***Investing in Tribal Governments: An Analysis of Impact and Remaining Need Under the American Recovery and Reinvestment Act*** (2010, provides an analysis of the nearly \$3 billion of wide-ranging investments made through ARRA in tribal communities across the country. While ARRA provided tremendous new opportunities for tribes, it also highlighted the continuing federal investment that is required for tribal governments to meet the needs of their citizens); and ***Native American Economic Policy Report: Developing Tribal Economies to Create Healthy, Sustainable, and Culturally Vibrant Communities*** (2007), all are available from NCAI at: <http://www.ncai.org/resources/ncai-publications>.

The **documentary film, *Nua Rapa Nui***, which means "Rapa Nui grandmother," is the search of justice of, the Rapa Nui people, to get their ancestral land back on Easter Island, illegally expropriated by the Chilean State. For

more go to: <http://www.culturalsurvival.org/news/fighting-survival-easter-island#sthash.VibS6VRY.dpuf>, [www.nuarapanui.com](http://www.nuarapanui.com) and on [facebook.com/NUA-RAPA-NUI](https://www.facebook.com/NUA-RAPA-NUI). The film's Crowdfunding Campaign is at: [www.sueltenlaslucas.cl](http://www.sueltenlaslucas.cl).

*We Can't Eat Gold* is a new documentary directed by Joshua Tucker, gives voice to the local inhabitants of Bristol Bay as they oppose the construction of the Pebble Mine. For details go to: <http://wecanteatgold.net/>.

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**Ph.D. Dissertations from Universities Around the World on Topics Relating to Indians in the Americas,
Compiled from *Dissertation Abstracts***

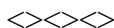
Jonathon Erlen, Ph.D., History of Medicine Librarian, Health Sciences Library System
University of Pittsburgh, ERLEN@pitt.edu

and

Jay Toth, M.A., Professor of Anthropology, SUNY Fredonia, jtoth@atlanticbb.net

IPJ is setting up a regularly updated data base from 2006 – the present. In addition, each regular issue of *IPJ* now carries the Indians of the Americas Ph.D. dissertation abstracts of the last half year. The dissertation coverage includes all languages and is international in scope as far as Dissertation Abstracts covers. This includes most European universities, South African universities, and a few in the Far East. They do not cover all the universities in the world, but do a pretty good job covering first world universities. There is no coverage of Latin American universities' dissertations.

The archive is available at the following address: <http://www.indigenouspolicy.org/index.php/ipj/thesis>



Useful Web Sites

CELANEN: A Journal of Indigenous Governance was launched, this winter, by the Indigenous Governance Program at the University of Victoria, at: <http://web.uvic.ca/igov/research/journal/index.htm>. CELANEN (pronounced CHEL-LANG-GEN) is a Saanich word for "our birthright, our ancestry, sovereignty" and sets the tone for this annual publication containing articles, poetry, and commentary. The first issue is dedicated to Art Tsawassup Thompson (Ditidaht), who donated his artwork entitled "new beginnings" for use by the Indigenous Governance Program.

Native Research Network is now at: www.nativeresearchnetwork.org. Its vision statement is: "A leadership community of American Indian, Alaska Native, Kanaka Maoli, and Canadian Aboriginal persons promoting integrity and excellence in research". Its mission is "To provide a pro-active network of American Indian, Alaska Native, Kanaka Maoli, and Canadian Aboriginal persons to promote and advocate for high quality research that is collaborative, supportive and builds capacity, and to promote an environment for research that operates on the principles of integrity, respect, trust, ethics, cooperation and open communication in multidisciplinary fields". The Native Research Network (NRN) provides networking and mentoring opportunities, a forum to share research expertise, sponsorship of research events, assistance to communities and tribes, and enhanced research communication. The NRN places a special emphasis on ensuring that research with Indigenous people is conducted in a culturally sensitive and respectful manner. Its Member List serve: NRN@lists.apa.org.

The National Indian Housing Council offers a number of reports at: <http://www.naihc.indian.com/>.

The American Indian Studies Consortium is at: <http://www.cic.uiuc.edu/programs/AmericanIndianStudiesConsortium/>.

Some news sources that have been useful in putting the issues of Indigenous Policy together are:

For reports of U.S. government legislation, agency action, and court decisions: **Hobbs, Straus, Dean and Walker, LLP**, 2120 L Street NW, Suite 700, Washington, DC 20037, <http://www.hobbsstraus.com>.

Indian Country Today: <http://www.indiancountry.com/index.cfm?key=15>.

News from Indian Country: <http://www.indiancountrynews.com/>.

The Navajo Times: <http://www.navajotimes.com/>.

IndianZ.com: <http://www.indianz.com>.

Pechanga Net: <http://www.pechanga.net/NativeNews.html>

Survival International: <http://www.survival-international.org/>.

Cultural Survival: <http://209.200.101.189/publications/win/>, or <http://www.cs.org/>.

Censored (in Indian Country): <http://bsnorrell.blogspot.com/>.

ArizonaNativeNet is a virtual university outreach and distance learning telecommunications center devoted to the higher educational needs of Native Nations in Arizona, the United States and the world through the utilization of the worldwide web and the knowledge-based and technical resources and expertise of the University of Arizona, providing resources for Native Nations nation-building, at: www.arizonanativenet.com

The Forum for 'friends of Peoples close to Nature' is a movement of groups and individuals, concerned with the survival of Tribal peoples and their culture, in particular hunter-gatherers: <http://ipwp.org/how.html>.

Tebtebba (Indigenous Peoples' International Centre for Policy Research and Education), with lists of projects and publications, and reports of numerous Indigenous meetings: <http://www.tebtebba.org/>.

Andre Cramblit (andrekar@ncidc.org) has begun a new Native news blog continuing his former Native list serve to provide information pertinent to the American Indian community. The blog contains news of interest to Native Americans, Hawaiian Natives and Alaskan Natives. It is a briefing of items that he comes across that are of broad interest to American Indians. News and action requests are posted as are the occasional humorous entry. The newsletter is designed to inform you, make you think and keep a pipeline of information that is outside the mainstream media. "I try and post to it as often as my schedule permits I scan a wide range of sources on the net to get a different perspective on Native issues and try not to post stuff that is already posted on multiple sources such as websites or other lists". **To subscribe to go to:** <http://andrekaruk.posterous.com/>.

Sacred Places Convention For Indigenous Peoples provides resources for protecting sacred places world wide. Including, news, journals, books and publishing online Weekly News and providing an E-mail list serve, as well as holding conferences. For information go to: <http://www.indigenouspeoplesissues.com>.

Mark Trahant Blog, Trahant Reports, is at: http://www.marktrahant.org/marktrahant.org/Mark_Trahant.html

UANativeNet, formerly Arizona NativeNet, is a resource of topics relevant to tribal nations and Indigenous Peoples, particularly on matters of law and governance.

The Harvard Project on American Indian Economic Development offers a number of reports and its "Honoring Indian Nations" at: http://www.ksg.harvard.edu/hpaied/res_main.htm.

The Seventh generation Fund online Media Center: www.7genfund.org

Native Earthworks Preservation, an organization committed to preserving American Indian sacred sites, is at: <http://nativeearthworkspreservation.org/>.

Indianz.Com has posted **Version 2.0 of the Federal Recognition Database**, an online version of the Acknowledgment Decision Compilation (ADC), a record of documents that the Bureau of Indian Affairs has on file for dozens of groups that have made it through the federal recognition process. The ADC contains over 750

MB of documents -- up from over 600MB in version 1.2 -- that were scanned in and cataloged by the agency's Office of Federal Acknowledgment. The new version includes has additional documents and is easier to use. It is available at: <http://www.indianz.com/adc20/adc20.html>.

Tribal Link has an online blog at: <http://triballinknewsonline.blogspot.com>.

The National Indian Education Association: <http://www.niea.org/>.

Climate Frontlines is a **global forum for indigenous peoples, small islands and vulnerable communities, running discussions, conferences and field projects:** <http://www.climatefrontlines.org/>.

Cry of the Native Refugee web site, <http://cryofthenativererefugee.com>, is dedicated to “The True Native American History.”

The **RaceProject** has a **Facebook Page** that is a forum for the dissemination and discussion of contemporary Race and Politics issues. It includes a continuing archive of news stories, editorial opinion, audio, video and pointed exchanges between academics, graduate students and members of the lay-public. Those interested can visit and sign up to the page at: <http://www.facebook.com/RaceProject>.

Rainmakers Ozeania studies possibilities for restoring the natural environment and humanity's rightful place in it, at: <http://rainmakers-ozeania.com/0annexanchorc/about-rainmakers.html>.

Oxfam America's interactive website: <http://adapt.oxfamamerica.org> shows how social vulnerability and climate variability impact each county in the U.S. Southwest region. The methodology exposes how social vulnerability, not science, determines the human risk to climate change.

The International Institute for Indigenous Resource Management is at: <http://tinyurl.com/yaykznz>.

The **Newberry Library** received a grant in August, 2007, from the National Endowment for the Humanities to fund “**Indians of the Midwest and Contemporary Issues.**” The **McNickle Center will construct this multimedia website designed to marry the Library's rich collections on Native American history with state-of-the art interactive web capabilities to reveal the cultural and historical roots of controversial issues involving Native Americans today.** These include conflicts over gaming and casinos, fishing and hunting rights, the disposition of Indian artifacts and archeological sites, and the use of Indian images in the media. In addition to historical collections, the site will also feature interviews with contemporary Native Americans, interactive maps, links to tribal and other websites, and social networking. For more information contact Céline Swicegood, swicegoodc@newberry.org.

The site www.pressdisplay.com has scanned and searchable versions of thousands of newspapers daily from around the world. These are not truncated "online versions". You can view the actually pages of the paper published for that day. There are also 100's of US papers included daily. The service also allows you to set search terms or search particular papers daily. The service will also translate papers into English.

The Northern California Indian Development Council has a web-based archive of traditional images and sounds at: <http://www.ncidc.org/>.

Resource sites in the Indian Child Welfare Act (ICWA): National Indian Child Welfare Association: <http://www.nicwa.org>, offers include publications, a library, information packets, policy information and research. NICWA's Publication Catalog is at: <http://www.nicwa.org/resources/catalog/index.asp> Information Packets are at: <http://www.nicwa.org/resources/infopackets/index.asp>. Online ICWA Courses are at:

<http://www.nicwa.org/services/icwa/index.asp>. *The Indian Child Welfare Act: An Examination of State Compliance*, from the Casey Foundation is at: <http://www.casey.org/Resources/Publications/NICWAComplianceInArizona.htm>. Tribal Court Clearinghouse ICWA Pages, with a brief review of ICWA and links to many valuable resources including Federal agencies and Native organizations. <http://www.tribal-institute.org/lists/icwa.htm>. Other resource sources are: the Indian Law Resource Center: www.indianlaw.org, the National Indian Justice Center: www.nijc.indian.com. Other sites can be found through internet search engines such as Google. Some research web sites for ICWA include: http://www.calindian.org/legalcenter_icwa.htm, <http://www.narf.org/nill/resources/indianchildwelfare.htm>, <http://www.tribal-institute.org/lists/icwa.htm>, <http://www.nicwa.org/library/library.htm>, <http://www.nationalcasa.org/JudgesPage/Newsletter-4-04.htm>, http://www.dlncoalition.org/dln_issues/2003_icwaresolution.htm, <http://www.helpstartshere.org/Default.aspx?PageID=401>, http://cbexpress.acf.hhs.gov/articles.cfm?section_id=2&issue_id=2001-0, <http://thomas.loc.gov/cgi-bin/query/z?i104:I04296:i104HUGHES.html>, <http://nccrest.edreform.net/resource/13704>, <http://www.naicja.org>, <http://www.tribal-institute.org/>.

Tribal College Journal (TCJ) provides to news related to American Indian higher education: tribalcollegejournal.org.

American Indian Graduate Center: <http://www.aigcs.org>.

The Minneapolis American Indian Center's Native Path To Wellness Project of the Golden Eagle Program has developed a publication, *Intergenerational Activities from a Native American Perspective* that has been accepted by Penn State for their Intergenerational Web site: <http://intergenerational.cas.psu.edu/Global.html>.

The *Indigenous Nations and Peoples Law, Legal Scholarship Journal* has recently been created on line by the Social Science Research Network, with sponsorship by the Center for Indigenous Law, Governance & Citizenship at Syracuse University College of Law. Subscription to the journal is free, by clicking on: <http://hq.ssrn.com/>.

The **National Council Of Urban Indian Health** is at: <http://www.ncuih.org/>.

A web site dedicated to tribal finance, www.tribalfinance.org.

Lessons In Tribal Sovereignty, at: <http://sorrel.humboldt.edu/~go1/kellogg/intro.html>, features *Welcome to American Indian Issues: An Introductory and Curricular Guide for Educators*. The contents were made possible by the American Indian Civics Project (AICP), a project initially funded by the W.K. Kellogg Foundation's Native American Higher Education Initiative, The primary goal of the AICP is to provide educators with the tools to educate secondary students - Indian and non-Native alike - about the historical and contemporary political, economic, and social characteristics of sovereign tribal nations throughout the United States.

The Columbia River Inter-Tribal Fish Commission (CRITFC) has a blog as part of its Celilo Legacy project, serving as a clearinghouse for public discourse, information, events, activities, and memorials. The blog is accessible by going to www.critfc.org and clicking on the "Celilo Legacy blog" image, or by simply entering: www.critfc.org/celilo.

The **Coeur d'Alene Tribe** of Idaho has **Rezkast, a Web site of Native affairs and culture** at: www.rezkast.com.

A listing of the different Alaska Native groups' values and other traditional information is on the **Alaska Native Knowledge website** at: www.ankn.uaf.edu.

Red Nation Web Television: www.rednation.com.

A list of Indigenous Language Conferences is kept at the **Teaching Indigenous Languages** web site at Northern Arizona University: <http://www2.nau.edu/jar/Conf.html>.

UNESCO Interactive Atlas of the World's Languages in Danger is at <http://www.unesco.org/culture/ich/index.php?pg=00206>. For a detailed cautionary note about the usefulness of the UNESCO Atlas, see Peter K. Austin's comments. He is the Marit Rausing chair in field linguistics and director of linguistics at SOAS in the UK: http://blogs.usyd.edu.au/elac/2009/02/unescos_atlas_of_the_worlds_la_1.ht

The **Council of Elders, the governing authority of the Government Katalla-Chilkat Tlingit** (provisional government): Kaliakh Nation (Region XVII) has initiated a **web site in order to expose crimes against humanity committed upon the original inhabitants of Alaska**, at: <http://www.katalla-chilkat-tlingit.com/>.

An interactive website, www.cherokee.org/allotment, **focuses on the Allotment Era in Cherokee History during the period from 1887 to 1934**, when Congress divided American Indian reservation lands into privately owned parcels that could be (and widely were) sold to non Indians, threatening tribal existence.

The **Blue Lake Rancheria** of California launched a web site, Fall 2007, featuring the nation's history, philosophy, economic enterprise, community involvement, and other topics, with many-links. One purpose of the site is to make tribal operations transparent. It is at: www.bluelakerancheria-nsn.gov.

UN Secretariat of the Permanent Forum on Indigenous Issues: www.un.org/indigenous, The newsletter **Message Stick** highlighting the activities of the **United Nations Permanent Forum on Indigenous Issues (UNPFII)** and its Secretariat 05 is available at: http://www.un.org/esa/socdev/unpfii/news/quarterlynewsle_home1.htm.

Indigenous Rights Quarterly can be accessed at: <http://www.aitpn.org/irq.htm>.

NGO Society for Threatened Peoples International, in consultative status to the United Nations ECOSOC, and in participatory status with the Council of Europe, Indigenous Peoples Department, USA: <http://www.gfbv.de>.

The **Unrepresented Nations and Peoples Organization (UNPO):** <http://www.unpo.org/>.

The **Native Studies Research Network**, UK, University of East Anglia, Norwich is at: <http://www.nsrn-uk.org/>.

The **World Indigenous Higher Education Consortium (WINHEC)** and its Journal are online at: <http://www.winhec.org/>. (See the Ongoing Activities Section for more on WINHEC). The WINHEC site includes links to other Indigenous organizations and institutions.

A link on Latin American Indigenous Peoples:

<http://web.worldbank.org/WBSITE/EXTERNAL/COUNTRIES/LACEXT/0,,contentMDK:20505834~menuPK:258559~pagePK:146736~piPK:226340~theSitePK:258554,00.html>

The **Asian Indigenous and Tribal Peoples Network** produces occasional papers and reports at: <http://www.aitpn.org/Issues/II-08-07.htm>.

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ANNOUNCEMENTS

Fort Lewis College to announce a tenure track position in Native American and Indigenous Studies

Fort Lewis College of Durango, CO was preparing, in early July, to place an ad for a tenure track position in Native American and Indigenous Studies.

Barbara Jean Morris, Ph.D.
Provost and Vice President for Academic Affairs
Fort Lewis College
1000 Rim Dr.
220 Berndt Hall
Durango, CO 81301
Office: 970-247-7314
Fax: 970-247-7680
email: morris_b@fortlewis.edu