



RESOLUTION # 2015-06

TITLE: Supporting Equal Protection and Due Process For Any Divestment of the American Indigenous Right of Tribal Citizenship

WHEREAS, the National Native American Bar Association (“NNABA”) was founded in 1973 and serves as the national association for Native American attorneys, judges, law professors and law students, and strives to be a leader on social, cultural, political and legal issues affecting American Indians, Alaska Natives, and Native Hawaiians; and

WHEREAS, NNABA works to promote issues important to the Native American community and to improve professional opportunities for Native American lawyers, we do hereby establish and submit the following resolution; and

WHEREAS, the American indigenous right of tribal citizenship is sacrosanct; at tribal common law, the right, once vested, is recognized as an “absolute right.” *Terry–Carpenter v. Las Vegas Paiute Tribal Council*, Nos. 02-01, 01-02, 10 (Las Vegas Paiute Ct. App. 2003); and

WHEREAS, the United Nations Declaration on the Rights of Indigenous Peoples (“the Declaration”), as endorsed by the United States in 2010, affirms that all at indigenous persons enjoy an inherent “right to belong to an indigenous community or nation, in accordance with the traditions and customs of the community or nation concerned”; and

WHEREAS, Article 34 of the Declaration provides: “Indigenous peoples have the right to promote, develop and maintain their institutional structures and their distinctive customs, spirituality, traditions, procedures, practices and, in the cases where they exist, juridical systems or customs, in accordance with international human rights standards”; and

WHEREAS, Article 46 of the Declaration further provides: “In the exercise of the rights enunciated in the present Declaration, human rights and fundamental freedoms of all shall be respected”; and

WHEREAS, the Universal Declaration of Human Rights provides: “All are equal before the law and are entitled without any discrimination to equal protection of the law. . . . Everyone has the right to an effective remedy . . . for acts violating the fundamental rights granted him by the constitution or by law”; and



WHEREAS, the federal Indian Civil Rights Act of 1968, as adopted by various tribal constitutions and other laws, provides that: “No Indian tribe in exercising powers of self-government shall . . . deny to any person within its jurisdiction the equal protection of its laws or deprive any person of liberty or property without due process of law”; and

WHEREAS, Native Americans’ right of tribal citizenship is being increasingly divested or restricted without equal protection at law or due process of law, or any effective remedy for the violation of such rights, most commonly through a tribal process known as “disenrollment.”

NOW THEREFORE BE IT RESOLVED, that the National Native American Bar Association hereby denounces any divestment or restriction of the American indigenous right of tribal citizenship, without equal protection at law or due process of law or an effective remedy for the violation of such rights.

NOW THEREFORE BE IT RESOLVED, that the National Native American Bar Association hereby declares that it is immoral and unethical for any lawyer to advocate for or contribute to the divestment or restriction of the American indigenous right of tribal citizenship, without equal protection at law or due process of law or an effective remedy for the violation of such rights.

CERTIFICATION

The foregoing resolution was adopted by the membership at the Annual Meeting of the National Native American Bar Association, on Wednesday, April 8, 2015, with a quorum present.

Mary Smith

Mary Smith, President