

# Rural Nevada and the Ongoing Legal Legacy of the Western Shoshone Struggle<sup>1</sup>

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**Rural Nevada spans millions of acres of Native American homelands of the Washoe, Paiute, and Western Shoshone. Native creation stories stem from this land and flow like a river from south to north and down again. For traditional Western Shoshone, they call the land *Newe Sogobia*, which, in Shoshone language means, “Peoples’ Earth Mother.” They themselves are *Newe*, the “People.” The creation stories say that the *Newe* were placed on this land with responsibility to care for it through their songs, prayers, and ceremonies.**

Their responsibilities extend not only to the current generation of people, but also for the future generations of all peoples and life. To traditional Western Shoshone, these are their “laws,” but the struggle to have these laws understood in contemporary times has become a legacy heard across Nevada and around the world.

We were taught that we were placed here as caretakers of the lands, the animals, all the living things – those things that cannot speak for themselves in this human language. We, the two-legged ones, were placed here with that responsibility. We see the four most sacred things as the land, the air, the water and the sun [l.a.w.s.]. Without any one of these things there would be no life. This is our religion – our spirituality – and defines who we are as a people. ... To take our land is to take our life.<sup>2</sup>

Based in Crescent Valley, approximately one hour south of Elko, Western Shoshone grandmothers, Mary and Carrie Dann, stood strong in these traditional teachings and went through federal district court all the way to the U.S. Supreme Court<sup>3</sup> and then internationally<sup>4</sup> to protect their ancestral land rights and human rights by way of litigation and environmental and spiritual teachings. The focus was always on the four sacred elements: land, air, water, and sun. Throughout the course of the litigation, the legal representatives were careful to reiterate that the position being taken was not one merely of who owns the “title,” but more importantly, that to the traditional Shoshone, control or decision-making over the territory was one not of a “dominating” relationship

to the land, but rather sacred responsibilities to protect and care for these areas. Facets of this struggle have resulted in legal, legislative, and public relations work in such areas as the Yucca Mountain nuclear waste issues, military testing, large-scale extractive industries such as open-pit cyanide heap leach gold mining, intrusions into spiritually significant areas, and lack of access to traditional hunting and gathering areas.

As stated by one elder who refused to accept “payment” by the federal government for an alleged “taking” of Western Shoshone lands:

The U.S. thought when they made some notations in their bookkeeping that the Shoshone would be “paid” and any cloud to land title would be lifted ... We’ve never accepted their money and never will – our land, the earth mother, is not for sale and we will protect her and continue our responsibilities as caretakers under Creator’s law.<sup>5</sup>

In August 2022, a delegation of Western Shoshone, along with the undersigned as legal counsel, travelled back to Geneva, Switzerland,



Delegates from the Western Shoshone stand with their flag next to the United Nations' flags.



Gathering pinion pine nuts is an important tradition for the Western Shoshone.

to confirm that the case is ongoing with continued participation and advocacy by Western Shoshone.<sup>6</sup> At the United Nations Committee on the Elimination of Racial Discrimination's (CERD) 107<sup>th</sup> session,



Carrie Dann speaking at the Hot Geyser area outside of Beowawe, Nevada.

the committee of international experts had requested updated information on the measures to address the situation of Western Shoshone peoples considered under their formal Decision 1(68). The delegation provided both written and oral testimony and hosted educational forums on the status of indigenous peoples within the U.S. Discussions also took place with representatives from the U.S. mission to the United Nations. In its Concluding Observations, the committee once again reiterated to the U.S. its need to comply with recognized standards of human rights for indigenous peoples and the Western Shoshone in particular.

Shortly after returning from the UN, correspondence was received from the Inter-American Commission of Human Rights (IACHR), Organization of American States, also requesting an update on its Final Report on the Merits issued against the U.S. Similar to the CERD, the IACHR has not accepted the U.S. position, asserting that much of the information or "defenses" by the U.S. are "irrelevant" to the commission's findings and recommendations.

What may lie ahead is currently up for debate, but the struggle continues with Shoshone individuals, communities, and organizations maintaining their original position in this living legal legacy, being passed down to existing and future generations.

#### ENDNOTES:

1. This article is a brief summary of the legal history and current status – for a more comprehensive analysis, please see *The Western Shoshone Struggle: Opening Doors for Indigenous Rights*, by Julie Ann Fishel (aka Cavanaugh-Bill), *Intercultural Human Rights Law Review*, vol. 2 (2007) and the documentary, *American Outrage*. Produced and directed by Beth & George Gage, Bullfrog Productions.
2. Quote by Carrie Dann, acronym "L.A.W.S." coined by Larson R. Bill
3. See *U.S. v. Dann*, 470 U.S. 39 (1985).
4. See Organization of American States: *Dann v. United States*, Case 11.140, Inter-Am. C.H.R., Report No. 75/02, OEA/Ser.LN/II.117 Doc. 1 rev. 1 (2002) (finding the U.S. in violation of Western Shoshone rights to due process, to property and to equality under the law) and United Nations Committee on the Elimination of Racial Discrimination (CERD), 68<sup>th</sup> Sess., Decision 1(68) (2006) wherein the U.S. was instructed to engage with the Western Shoshone to find an acceptable solution which complies with their rights under international law. The U.S. has basically ignored these decisions attempting to claim a monetary distribution effectuated years later was sufficient.
5. Statement by Raymond Yowell.
6. The Western Shoshone Defense Project, Great Basin Resource Watch, Progressive Leadership Alliance of Nevada and the Noowuh Knowledge Center (among others) all continue to monitor, advocate and educate community members, the Courts and the public through continued environmental measures and historical preservation efforts.

**JULIE CAVANAUGH-BILL** is the president elect of the State Bar of Nevada's Board of Governors. She is the rural Board of Governors member and the managing member of Cavanaugh-Bill Law Offices in Elko. She brings to the law practice in Northern Nevada more than 20 years of Native American and indigenous rights experience. Prior to gaining her admission to practice in Nevada, Cavanaugh-Bill served as director of the Land Recognition Program for the Western Shoshone Defense Project (WSDP) for six years and before that, practiced in Minnesota with the law firm of Winthrop & Weinstine, P.C., where she served as in-house counsel to the Prairie Island Indian Community, Mdewakanton Sioux. Her experience ranges from intergovernmental relations to active involvement in tribal, federal, and international litigation and filings both as legal counsel and staff director. She has worked on two separate U.S. Supreme Court cases involving Native American jurisdictional and resource rights issues, and she has written several articles and guidebooks on indigenous rights, corporate engagement, and human rights lawyering. She now handles not only tribal law cases, but a plethora of child welfare and social justice casework out of her offices in rural Nevada.

