

**Dialogue with the Chair of the Expert Mechanism on the Rights of Indigenous Peoples, Agenda item 10
Intervention by Indigenous World Association, Indigenous Rights Center, Indigenous Environmental
Network, Red Nation, University of New Mexico Kiva Club, and Witness for Peace
Southwest. Endorsed by International Indian Treaty Council**

Thank you, Madame Chair,

I will be reading this statement for Petuuche Gilbert who is visually impaired.

We are requesting that the EMRIP exercise paragraph 2(c) of its revised mandate A/HRC/RES/33/25 in seeking dialogue with the United States, appropriate human rights organizations and indigenous peoples to bring about a means for relief and justice for Leonard Peltier. He is a member of the Turtle Mountain Band of Chippewa Indians who has been in federal prison since 1976, wrongly convicted for the crime of aiding and abetting in the death of two FBI agents after two co-defendants were acquitted on the basis of self-defense in a separate trial. **1**

As described by former Special Rapporteur on the rights of indigenous peoples, Prof James Anaya in his 2012 country report on the situation of indigenous peoples in the United States of America: "Pleas for presidential consideration of clemency...have not borne fruit. This further depletes the already diminished faith in the criminal justice system felt by many Indigenous Peoples... measures of reconciliation should include efforts to identify and heal particular sources of open wounds. And hence, for example, promised reparations should be provided to the descendants of the Sands Creek massacre, and new or renewed consideration should be given to clemency for Leonard Peltier." **2**

The recent denial of Peltier's petition for executive clemency clearly demonstrates that there is no justice or protection, for human rights defenders who are expected to ask forgiveness and admit guilt in order to be considered for release. This case also demonstrates how in the U.S. the courts and criminal justice systems are used for purposes of political repression.

This contradicts the Expert Mechanism's "Advice for States" in its 2013 Study on Access to Justice: "6. States have an obligation to protect and support the work of Indigenous human rights defenders in the promotion of access to justice for Indigenous peoples, in accordance with Human Rights Council resolution 22/6." **3**

Over 600 pages of documentation on the Peltier case were received and entered by the Secretariat of the Working Group for Indigenous Populations in 1995. Information has been submitted to the UPR, CERD, and EMRIP; and current and former Special Rapporteurs on rights of indigenous peoples have implored the United States to release Peltier. The Human Rights Council (HRC) Working Group on the Universal Periodic Review (UPR) reviewed the United States on November 5, 2010. In 2011, the Working Group's recommendations included that the U.S. "end the unjust incarceration of political prisoners, including Leonard Peltier".**4** The U.S. rejected this recommendation.

The U.S. government has failed to address the staggering number of constitutional violations in Leonard Peltier's case. Leonard Peltier is 72 years old, and suffers from multiple serious health conditions. He should be released to spend his remaining years with his family. We look forward to the results of the

dialogue with hopes that it can produce a solution resulting in freedom for Leonard Peltier, and we will assist by providing background information upon request.

- 1.** A/HRC/RES/33/25 para.2(c) Upon request, assist Member States and/or indigenous peoples in identifying the need for and providing technical advice regarding the development of domestic legislation and policies relating to the rights of indigenous peoples, as relevant, which may include establishing contacts with other United Nations agencies, funds and programmes;
- 2.** "The situation of indigenous peoples in the United States of America," Report of the United Nations Special Rapporteur on the rights of indigenous peoples, Professor James Anaya, https://docs.google.com/gview?url=http://unsr.jamesanaya.org/docs/countries/2012-report-usa-a-hrc-21-47-add1_en.pdf, 30 August 2012, para. 49.
- 3.** A/HRC/EMRIP/2014/3 Expert Mechanism's Advice No.6 (2014) B,6 p.22
- 4.** Report of the Working Group on the Universal Periodic Review. United States of America. Human Rights Council. United Nations General Assembly. 4 January 2011.