

Submission to the United Nations Universal Periodic Review of  
United States of America, Third Cycle, Thirty sixth Session of the  
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Southeast Indigenous Peoples’ Center (SIPC) researches, monitors,  
and reports on food, housing, health, and education solutions  
while advocating for Southeast community strengthening,  
environmental, educational, health, and cultural centers. SIPC has  
participated in the UN PFII and other UN mechanisms since 2009.

**Access to Justice from Universal Declaration of Human Rights**

Article 1.

All human beings are born free and equal in dignity and rights.  
They are endowed with reason and conscience and should act  
towards one another in a spirit of brotherhood.

Article 2.

Everyone is entitled to all the rights and freedoms set forth in this  
Declaration, without distinction of any kind, such as race, colour,  
sex, language, religion, political or other opinion, national or social  
origin, property, birth or other status. Furthermore, no distinction  
shall be made on the basis of the political, jurisdictional or  
international status of the country or territory to which a person  
belongs, whether it be independent, trust, non-self-governing or  
under any other limitation of sovereignty.

Article 3.

Everyone has the right to life, liberty and security of person.

Article 8.

Everyone has the right to an effective remedy by the competent  
national tribunals for acts violating the fundamental rights granted  
him by the constitution or by law.

Article 17.

(1) Everyone has the right to own property alone as well as in  
association with others.

(2) No one shall be arbitrarily deprived of his property.  
truth and reconciliation as outlined in 26-28 from UDHR articles

Article 22.

Everyone, as a member of society, has the right to social security and is entitled to realization, through national effort and international co-operation and in accordance with the organization and resources of each State, of the economic, social and cultural rights indispensable for his dignity and the free development of his personality.

## ACCESS TO JUSTICE

Southeast Indigenous Peoples assert our UDHR (1948) rights to **access to justice** to achieve **equality, freedom from discrimination, right to life, right to own property, and right to social security, as interpreted by the UN Declaration on the Rights of Indigenous Peoples (DRIP 2007)**. Violations of these fundamental rights perpetuate inequality, poverty, environmental destruction, and increased vulnerability to climate change. The USA should support each Indigenous People’s leadership in implementing all UDHR fundamental rights at all levels.

In 2015 the USA issued a law<sup>i</sup>, changing the type and amount of subsidies that Indigenous Peoples are forced to pay US society for advocacy, thus blocking development of legal institutions to implement the UN Declaration on the Rights of Indigenous Peoples (DRIP), which interprets the UDHR. The USA has increased the importance of lobbying<sup>ii</sup> and reduced the importance of the rule of law<sup>iii</sup>. This continues to undermine Indigenous Peoples’ efforts to develop a fair<sup>iv</sup>, independent, impartial, open and transparent process to formalize land tenure. Legal lobbying revenue has steadily increased to more than 3.4 billion<sup>v</sup> dollars per year. These changes impeded access to justice for UDHR redress.

This has resulted in a steady decrease of each southeast Indigenous People’s access to our resources as we financially subsidize the group from which we seek redress of wrongs. We have to pay the society that wrongs us to consider righting the wrongs. Part of what we have to pay for is rehabilitating Indigenous Peoples’ media image because of negative and false depictions of Indigenous Peoples in the media, including State-sponsored sports images and inaccurate educational history lessons representing Indigenous Peoples as bloodthirsty savages. These state actions impede access to justice for redress of UDHR violations.

## BACKGROUND

Since SIPC’s last submission, the USA court system has become more dysfunctional than it already was<sup>vi</sup>. The USA has denied that it should address climate change<sup>vii</sup>. In 2010 and 2014, SIPC recommended that OHCHR ask the US to work with Southeast Indigenous Peoples on human rights issues by providing:

1. Resources to implement climate change mitigation measures
2. Safe access to land, water, and education.
3. Safety from violence.
4. Legal instruments to assert our right to participate in environmental planning and economic development.

There is little evidence that the USA has progressed with southeast Indigenous Peoples to institute effective measures, procedures, protocols, or processes to ensure these collective rights to life. These recommendations can be realized with the USA addressing access to each Indigenous People’s territories and resources in accordance with UDHR interpreted by UNDRIP Articles 26-8.

Southeast Indigenous Peoples call the USA to learn from best practices of governments negotiating with Sámi Parliament, including those of Norway. We seek fulfillment of past recommendations that the USA accepted to grant access to justice.

From the 1<sup>st</sup> UPR cycle:

1. End the violation of the rights of Indigenous Peoples
2. Put an end to its actions against the realization of the rights of peoples to a healthy environment, peace, development and self-determination
3. Review, reform and adequate its federal and state laws, in consultation with civil society, to comply with the protection of the right to nondiscrimination established by the Convention on the Elimination of all Forms of Racial Discrimination, especially in the areas of employment, housing, health, education and justice
4. Implement concrete measures consistent with the Covenant on Civil and Political Rights, to ensure the participation of Indigenous Peoples in the decisions affecting their natural environment,

5. Formulate goals and policy guidelines for the promotion of the rights of Indigenous Peoples and cooperation between government and Indigenous Peoples
6. Guarantee the rights of indigenous Americans, and to fully implement the United Nations Declaration on the Rights of Indigenous Peoples
7. Implement the United Nations Declaration on the Rights of Indigenous Peoples at the federal and state levels

From the 2<sup>nd</sup> cycle:

1. Fully implement the United Nations Declaration on the Rights of Indigenous Peoples, and remove discriminatory legal barriers
2. Regularly consult with Indigenous Peoples on matters of interest to their communities, to support their rights to traditionally owned lands and resources and to adopt measures to effectively protect sacred areas of Indigenous Peoples against environmental exploitation and degradation
3. Respect Indigenous Peoples and ethnic minorities' rights and interests, fully consult with them on their land, autonomy, environment, language and other issues, correct the historical injustice and offer compensation

## RECOMMENDATIONS

SIPC makes the following recommendations to assist the USA fulfill its voluntary pledges of the 2<sup>nd</sup> cycle: ‘The United States remains committed to self-determination and self-governance, empowering tribes to make their own decisions about the future of their peoples’, ‘We are committed to eliminating health disparities and promoting health, and we actively enforce federal civil rights laws to help ensure that all people have equal access to health care and social service programs’, and ‘We are committed to equality of opportunity in education and to helping students succeed in school, careers, and life.’

1. We call the USA to fulfill Articles 1, 2, 3, 8, 17 of the UDHR as interpreted by the UN DRIP, especially Articles 26-8 to enable each southeast Indigenous People’s access to
  - a. Resources to implement climate change mitigation measures

- b. Safe access to land, water, and education.
  - c. Safety from violence.
  - d. Legal instruments to assert our right to participate in environmental planning and economic development.
2. The USA should support establishment of NHRIs enabling each Indigenous People to implement DRIP with the USA in the context of OHCHR recommendations and EMRIP studies, including those on ‘Access to Justice’, supported by studies on ‘Good practices and challenges in business and in access to financial services by Indigenous Peoples’, ‘Indigenous Peoples’ Rights in the Context of Borders, Migration and Displacement’, ‘Right to participate in decision making’, and ‘Free Prior and Informed Consent’.
3. USA should pass legislation directing all relevant agencies at all levels to implement all human rights instruments, including UN and OAS DRIP. This will lead to beneficial truth and reconciliation processes in the Southeast.
4. The USA should eliminate financial requirements for each Indigenous People to pursue truth and reconciliation processes with the USA. The USA should support each Indigenous People’s research and documentation efforts to develop fact-based tribunals for truth and reconciliation processes. This will strengthen the USA with facts and unification in the face of increasing threats to the USA’s integrity and survival.

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<sup>i</sup> Revisions to Regulations on Federal Acknowledgment of Indian Tribes (25 CFR 83 or Part 83) June 29, 2015.

<sup>ii</sup> Federal Recognition of Native American Tribes in Virginia.

<http://www.virginiaplaces.org/nativeamerican/recognition.html> .

<sup>iii</sup> Halonen, P. ‘Can Colonial Nations Truly Recognise the Sovereignty of Indigenous Peoples?’ Aeon Media Group Ltd. Melbourne, Australia. 2019. [https://aeon.co/essays/can-colonial-nations-truly-recognise-the-sovereignty-of-indigenous-people?utm\\_medium=feed&utm\\_source=rss-feed](https://aeon.co/essays/can-colonial-nations-truly-recognise-the-sovereignty-of-indigenous-people?utm_medium=feed&utm_source=rss-feed)

<sup>iv</sup> Woodard, S., How the U.S. Government Is Helping Corporations Plunder Native Land. September 6, 2016. <http://inthesetimes.com/features/native-land-plunder-bureau-of-indian-affairs.html>

<sup>v</sup> <https://www.opensecrets.org/lobby/> .

<sup>vi</sup> Structural Reforms to the Federal Judiciary, May 8, 2019. <https://www.americanprogress.org/issues/courts/reports/2019/05/08/469504/structural-reforms-federal-judiciary/> .

<sup>vii</sup> Trump Administration Hardens Its Attack on Climate Science, May 27, 2019. <https://www.nytimes.com/2019/05/27/us/politics/trump-climate-science.html> .