

Duty to Community to Protect, Respect, and Remedy Universal Human Rights



Guale Nation 2020 report to the United Nations Universal Periodic Review of United States of America for the Third Cycle, Thirty Sixth Session of the UPR Human Rights Council

state@gualecountry.net,

912.376.9786, PO Box 60033,
Savannah, MGA, 31420

Guale Nation (GN) is an original nation based in political constructs predating the advent of European Peoples to our territory. Guale Nation

is governed by Guale Nation Constitution developed from Guale Treaty Organization and lives in agreements with our Waters and participating Peoples. Dialogue and negotiation enable Guale to sustainably develop our southeast Caribbean coast of North America.

The UN articulated Universal Declaration of Human Rights (UDHR) describing the Duty to Community that calls the United States (US) to implement UDHR without caveat. We invite US to voluntarily pledge to fulfill its duty to community by enabling mitigation and adaptation to climate change and fulfilling its commitments to UN Framework Convention on Climate Change (UNFCCC). We invite the US to implement the Indigenous Peoples' companion to the UDHR, the Declaration on the Rights of Indigenous Peoples (DRIP), as it has already pledged to do in the 2nd Cycle. Such implementation of UDHR Article 29 will promote right to nationality (Article 15), equality before the law (Articles 6-7) and right to fair trial (Article 10), freedom from slavery (Article 4), freedom of expression (19), assembly (20), and movement (13), and the rights to work (Article 23) and adequate standard of living (Article 25).

The specialized organs of society performing specialized functions must be governed by all countries in a way to promote UDHR. As described in Guiding Principles on Business and Human Rights

(GPBHR), US is obliged to ensure in a non-discriminatory manner that business protect human rights of all Peoples living with GN.

‘States must protect against human rights abuse within their territory and/or jurisdiction by third parties, including business enterprises. This requires taking appropriate steps to prevent, investigate, punish and redress such abuse through effective policies, legislation, regulations and adjudication.’ - GPBHR Foundational Principles

Update

Since the 2010 GN UPR report, the US has sponsored businesses to accelerate the described human rights abuses. As the home State and/or occupying State, the US has encouraged businesses to disregard climate change impacts and GHG emissions called for in GN 2010 and 2014 reports. Since GN 2010, 2014 UPR submissions, crime-including violence and corruption, has increasedⁱ

The US presents itself as a country and not as a business when it occupies original nations with total disregard for the laws of original nations. Thus the US should act as a country and avail itself of tools, guidance, and from UNEP to meet their environmental commitments to Peoples and Planet. These tools, including the outcome of UNEA-4ⁱⁱ, elucidate US UDHR obligations understood with DRIP and GPBHR. Rather than continuing the US trajectory of eurocentric corporate tribalism, GN sees an urgent need for a Group of Friends to strengthen the US to govern.

GN urgently asks the true Friends of the US to ask UPR questions that will generate fact-based responses and promote the rule of law—including mitigation of climate change and related impacts. We ask those who truly want to strengthen the US to recommend a resolution of original nations’ title and accountability for the US that will enable humans living with territories occupied to survive impacts of what the US has lately been presenting as its Eurocentric national race.

Consumerism is not political participation. Consumerism weakens and makes dependent US Peoples as they give up on political decision-making. Guale governmental obligations do not change

with elections, as they do with the occupying US. GN continues to offer our expertise and technical assistance to strengthen US policy, legal and institutional measures to achieve the Sustainable Development and other global environmental goals. GN has tools for mitigating and surviving climate crises. Healthy ecosystems enable self-reliant economically sound communities and promote environmental security.

The US inability to address climate change ensures collapse and violence fueled by more than one billion mobile arms and untold quantities of nuclear material. We ask the US to voluntarily pledge to sign and ratify the Protocol against the Illicit Manufacturing of and Trafficking in Firearms, Their Parts and Components and Ammunition, supplementing the UNCTOC.

Nuclear Armament Industry impedes Articles 25 and 29

GN Waters, including Rivers and Channels, continue to be endangered by the Savannah River Siteⁱⁱⁱ bomb factory for nuclear weapons, which is beginning to manufacture plutonium pits. SRS is supported by new nuclear reactors at nearby Vogtle, which are not^{iv} needed for power generation.

Radioactive waters kill plankton, the foundation of ocean life. Ocean acidification^v inhibits the ocean's ability to absorb carbon and thus this nuclear development impacts the global community with accelerated climate change. Ocean acidification with the Caribbean Sea is expected to increase because of these nuclear megaprojects clustered around the Savannah River.

GN protects Indigenous Peoples right to sacred sites and practices recognizing that we are part of water. The US nuclear supply and processing chain creates great difficulty for GN to fulfill our agreements with Waters because of continued US occupation and aggression. In the 2nd cycle the US accepted the recommendation to: Continue efforts to implement the human right to safe water and sanitation, ensuring this human right without discrimination for the poorest sectors of the population, including indigenous peoples and migrants. We ask the OHCHR to advise the US to do so.

The US fulfillment of its **Duty to Community to Protect, Respect, and Remedy Human Rights** will enable GN to fulfill

our duty to all living with GN to protect, respect, and remedy human rights. The US is obliged by Fourth 1949 Geneva Convention and Additional Protocol I (1977) to implement the laws of the occupied country. Guale Nation can share our long track record of fostering enterprises' respect for human rights when our laws are upheld. Guale Nation traditional trade network of North America and Caribbean Peoples should be supported with respect for right to nationality, right to work and adequate standard of living as we share our traditional sustainability successes to realize the promise of UDHR through GPBHR.

Since the 2010 and 2014 GN UPR report we observe US-sponsored movement to increase human rights violations around the poverty-alcohol-government gaming nexus. These efforts to increase revenues for government gaming and alcohol sales promote poverty and violate the right to work (23) and adequate standard of living (25) and other universal rights. US state-sponsored governments occupying GN have increased revenues from gaming^{vi}, sales of alcohol and money accrued to business^{vii}, while pockets of poverty^{viii} have intensified and services have been withdrawn^{ix}. It is especially concerning that studies show that those paying revenue to the US through government gaming are most affected by poverty with possible connections to alcohol^x that merit further study^{xi}.

GN proposes that the US support GN's investigation whether certain communities are targeted for business profit-generation and public revenue generation that exacerbates poverty in a manner that violates the right to equal protection (6-7) in a 'failure to enforce existing laws that directly or indirectly regulate business respect for human rights' (GPBHR p 10). The disabilities caused by the state-sanctioned poverty-alcohol-government gaming nexus impair a community's ability to mitigate and adapt to climate change and related impacts.

GN notes the scarcity of recent health studies in general, especially those addressing alcohol use that would give us current data. GN is burdened by slavery and political debt and thus unable to presently produce the needed research that would inform our country's solutions. We observe that US government gaming, alcohol sales, and poverty has increased since the 2nd cycle UPR when GN referred our 1st cycle report addressing these key indicators of

inequality and colonial damages to human Peoples protected by Guale Nation. Government gaming, alcohol, and poverty fosters dependence and interferes with Guale Nation promotion of self-sustaining communities.

Recommendations

The intersection of poverty, government gaming, and alcohol sales warrants US-supported GN study but would be most expeditiously addressed by the US ratifying and implementing the CRC at all levels.

As the US accepted the 2nd cycle recommendation to ‘Consider ratification of the International Covenant on Economic, Social and Cultural Rights, the Convention on the Elimination of All forms of Discrimination against Women, the Convention on the Rights of the Child, the Convention on the Rights of Persons with Disabilities as well as the optional protocols to these conventions to which the United States is still not a party’, we propose that the US support GN’s efforts to reduce poverty, government gaming and alcohol consumption with our territory in this spirit.

GN asks the US to voluntarily pledge to work with GN to effectively implement the Palermo Protocol of UNTOC and relevant instruments in keeping with recommendations:

- Prevent slavery of agriculture workers, in particular children and women
- Ratify and implement ILO 169
- Take effective steps to put an end to child prostitution, and effectively combat violence against women and gun violence
- Take necessary measures to reduce gun violence, concerned at the large number of gun-related deaths and injuries, which disproportionately affect members of racial and ethnic minorities
- Take measures and comprehensive programmes aimed at developing sensitivities among cultures, creating the climate of mutual respect and expanding protection against all forms of discrimination, including profiling on the basis of race, religions or national origin

- Ratify the Optional Protocol to the Convention against Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment and take swift measures to ensure the human rights of convicts and persons in custody
- Conduct in-depth examinations into how race-related issues were affecting law enforcement and the administration of justice, both at the federal and state levels
- Strengthen human rights education programmes and training for all civil servants, particularly for law enforcement and immigration officers, and combat impunity concerning abuses against defenceless persons
- Continue to pay attention to violence against indigenous women by ensuring that all reports of violence, in particular sexual violence and rape against indigenous women, are thoroughly investigated, with a focus on ending impunity and bringing perpetrators before justice
- Prioritize the implementation of a plan of action to combat the sale of children and child prostitution
- Improve domestic legislation towards a genuine gender equality in the working place
- Punish perpetrators of abuse and police brutality, which are increasingly alarming and constitute irrefutable acts of increasing racism and racial discrimination, particularly against African Americans, Latinos and women
- Adopt legal and administrative measures necessary to make effective the investigation and sanction of cases of discriminatory police practices and the use of excessive force by security forces, along with the carrying out of awareness-raising campaigns
- That measures be taken to eradicate all forms of torture and ill-treatment of detainees by military or civilian personnel, in any territory of jurisdiction, and that any such acts be thoroughly investigated
- Undertake additional measures to address the disproportionate impact of violence on poor, minorities and immigrant women
- Repeal the Amendment of slavery against agricultural workers, especially women and children

- Establish, where appropriate, specialized services required for children and women who have been trafficked or sold for sexual exploitation
- While recognizing economic, social and cultural measures, strengthen efforts in ensuring equal access to health-care and social services
- Ensure equal access to equality maternal health and related services as an integral part of the realization of women's rights

Slavery

Again, GN invites the US to investigate the many reports of systemic trafficking of indigenous women and children in the context of its apartheid 'Indian Law' that forces indigenous humans into a separate and inferior class of 'Indian' with separate and inferior protections from trafficking and transnational organized crime, in violation of the UDHR. GN territory is Indigenous Peoples' workplace. Indigenous Peoples' right to nationality (Article 15), equality before the law (Articles 6-7) and right to fair trial (Article 10), freedom from slavery (Article 4), freedom of expression (19), assembly (20), and movement (13), and the rights to work (Article 23) and adequate standard of living (Article 25) are violated by unilateral imposition of apartheid 'Indian Law'. Protection of these rights would allow for GN accountability processes with occupying powers to abide by Geneva conventions and support climate studies, ecological studies, health studies, labor studies, and studies on the standard of living of Indigenous Peoples and/or colonized Peoples living with Guale Nation.

As the US appropriates more than 99% of Guale Nation gross national income (GNI), we cannot pay the 1% of GNI toward Official Development Assistance as we would to honor the recommendation of the World Council of Churches. Thus we ask the USA, the occupying power, to voluntarily pledge to pay 1% of the appropriated Guale Nation GNI in ODA so all Peoples protected by Guale Nation can effectively mitigate and survive climate changes and related impacts.

Indigenous Peoples should be permitted to freely associate (20) with other Indigenous Peoples and non-Indigenous Peoples free from Apartheid law regulating Indigenous Peoples' associations.

The US has not responded effectively to GN previous UPR reports of crime, violence, and corruption. Unilateral application of apartheid 'Indian Law' to Indigenous Peoples curtails our human rights and fundamental freedoms as outlined in the UDHR and explained in DRIP. Apartheid disenfranchises us, assigning racialized political debt to GN and actively blocking legal instruments based in human rights instruments such as GPBHR and DRIP. Because the US does not accede to Rome Statue and regional human rights courts, GN cannot effectively emancipate our occupied nation from racialized political debt and collect on US actual debt to GN. We remind the US that it has four times promised to work at acceding to the Rome Statute and advise it to do so.

Indigenous Peoples are disenfranchised when we can't hold our original national governments accountable. Indigenous Peoples' representative governments are systematically disempowered by global systems founded on the myth of European superiority, addressed in previous GN reports.

Since the 2010 and 2014 reports there has been a wave of State-sanctioning of the myth of European superiority^{xiii}. This also impairs Article 10 right to fair trial as it promotes unfair negative connotations and state-sponsored prejudice such as schools inaccurately presenting Indigenous Peoples.

GN needs GPBHR instruments to recoup damages from those who are continuing to damage us so we can recover from and eliminate racialized political debt and protect our territories and resources that Guala Nation holds in trust for future generations. Guala Nation requires that the rule of law protect all participating with our ecosystems. Respect for the rule of law will allow Indigenous Peoples to pursue peace and reconciliation with human rights instruments, sharing sustainability solutions with the world.

GN recommends the US support NHRIs to promote the rule of law that would lead to peace agreements to ensure safety for Indigenous Peoples pursuing prosperity.

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- ⁱ Detrick, H., U.S. Is Perceived to Be More Corrupt Under Trump. *Fortune*. (January 29, 2019). New York: Time Incorporated.
- ⁱⁱ UNEP/EA.4/L.11 Innovations on biodiversity and land degradation. UNEP/EA.4/L.22 Poverty Environment Nexus. UNEP/EA.4/L.21. Promote gender equality, and the human rights and empowerment of women and girls in environmental governance. April 2019.
- ⁱⁱⁱ US Department of Energy Savannah River Site (2016). Draft Environmental Assessment for the Acceptance and Disposition of Spent Nuclear Fuel Containing U.S.-Origin Highly Enriched Uranium from the Federal Republic of Germany.
- ^{iv} Growing Opposition Threatens Completion of Last U.S. Nuclear Plant. Wall Street Journal (Online). (2018). New York, N.Y: Dow Jones & Company Inc. : <https://www.wsj.com/articles/growing-opposition-threatens-completion-of-last-u-s-nuclear-plant-1537447935> <http://www.psc.state.ga.us/factsv2/Docket.aspx?docketNumber=29849>
- ^v Donahue, K., Klaas, C., Dillingham, P. W., Hoffmann, L. J., & Moisaner, P. (01 de enero, 2019). Combined effects of ocean acidification and increased light intensity on natural phytoplankton communities from two Southern Ocean water masses. *Journal of Plankton Research*, 41, 1, 30-45.
- ^{vi} Kierz, A. 'The Mega Millions jackpot is at a record-high \$1.6 billion — here's which states spend the most buying lottery tickets'. Business Insider. October 22, 2018. <https://www.businessinsider.com/powerball-mega-millions-how-much-states-spend-on-lottery-tickets-2018-1>
- ^{vii} Indicative that public burden not recouped from increased alcohol sales. Urban Institute., & Brookings Institution. 'Alcohol Tax Revenue' (2016). Tax Policy Center. Washington, D.C.: Urban Institute. <https://www.taxpolicycenter.org/statistics/alcohol-tax-revenue> .
- ^{viii} Center for American Progress. (2014-present). Talk Poverty. Washington, D.C: Center for American Progress. <https://talkpoverty.org/cd-year-report> .
- ^{ix} with little accountability for how this increasing percentage of state budget is spent.
- ^{xx} Center for Disease Control. 'Intensity of Binge Drinking Among US Adults, 2015'. 2015. <https://www.cdc.gov/alcohol/data-stats.htm> . US Health Map. 2018. <http://www.healthdata.org/data-visualization/us-health-map> .
- ^{xi} "It's similar to alcohol," Cohen said. "A small percentage of consumers are responsible for a large percentage of sales" Griffin, R., Dmitrieva, K. 'Lotteries are Doing More Damage to Those Who Can Least Afford It'. Bloomberg LP. (September 12, 2018). Bloomberg. London: Bloomberg. <https://www.bloomberg.com/news/articles/2018-09-12/the-poorest-americans-risk-the-most-in-hopes-of-striking-it-rich> . <https://talkpoverty.org/cd-year-report/georgia-cd-1-report-2018/>
- ^{xii} Darby, L., How white supremacy went mainstream in the US: 8chan, Trump, voter suppression. *The Guardian*. (2019). London: Guardian Publications.