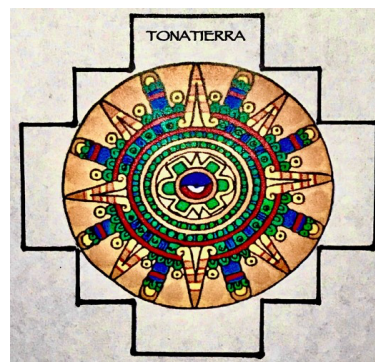


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May 17, 2022

CERD Secretariat
UNOG-OHCHR
8-14 Avenue de la Paix
CH-1211 Geneva 10
Switzerland

Dear Members of the Committee,

This submission is presented for inclusion in the list of themes to be addressed during the review of the United States of America by the Committee on the Elimination of Racial Discrimination in August 2022.

Recommendation for Theme: UN Decolonization Protocols and Systemic Racial Discrimination against Indigenous Peoples:

Concrete steps addressing the systematic negative impact of the legacies of colonialism in the UN system:

1) Recommendation for Theme: UN Decolonization Protocols and Systemic Racial Discrimination against Indigenous Peoples

This theme is respectfully submitted for inclusion in the list of themes to be addressed during the review of the United States of America by the Committee on the Elimination of Racial Discrimination in August 2022.

2) As a follow up to this theme, CERD should report our recommendations to the **UN General Assembly with support for the inclusion of the Sioux Nation, based on the 1868 Fort Laramie Treaty, in the **UN Decolonization** procedures which have recently been opened to us with **UN Human Rights Council Resolution No. 48/7**.**

3) The CERD should comprehensively address the systematic violation of the Human Rights of Indigenous Peoples under the regimes of the colonizing settler states of the Americas and their international borders, as is exemplified in the Western Shoshone case and the border between US-Mexico established by the **Treaty of Guadalupe Hidalgo (1848).**

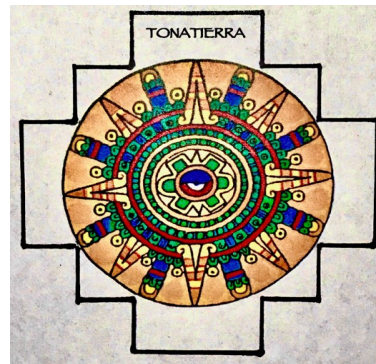
4) For the purposes of discussion on this theme, the recommendations of the **1999 Treaty Study by Dr. Miguel Alfonso Martinez should be integrated as a substantive foundation for review, discussion, and effective action to address the legacies of institutionalized colonialism in the UN system.**

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Dear Members of the Committee,

Recommendation for Theme: UN Decolonization Protocols and Systemic Racial Discrimination against Indigenous Peoples

This submission is presented for inclusion in the list of themes to be addressed during the review of the United States of America by the Committee on the Elimination of Racial Discrimination in August 2022.

Background

The **International Convention on the Elimination of All Forms of Racial Discrimination (ICERD)** states:

Article 15

Pending the achievement of the objectives of the Declaration on the Granting of Independence to Colonial Countries and Peoples, contained in General Assembly resolution 1514 (XV) of the 14 December 1960, the provisions of this Convention shall in no way limit the rights of petition granted to these peoples by other international instruments or by the United Nations and its specialized agencies.

The reference of Article 15 of the ICERD to objectives to be achieved in General Assembly Resolution 1514 (XV) is predicated by the goal of the eradication of colonialism in all its forms, since:

Convinced that the continued existence of colonialism prevents the development of international economic cooperation, impedes the social, cultural and economic development of dependent peoples and militates against the United Nations ideal of universal peace,

Believing that the process of liberation is irresistible and irreversible and that, in order to avoid serious crises, an end must be put to colonialism and all practices of segregation and discrimination associated therewith,

The subjection of peoples to alien subjugation, domination and exploitation constitutes a denial of fundamental human rights, is contrary to the Charter of the United Nations and is an impediment to the promotion of world peace and co-operation.

All peoples have the right to self-determination; by virtue of that right they freely determine their political status and freely pursue their economic, social and cultural development.

The passage of **UN GA1514** in 1960 marks the beginning of the end to the age of colonialism in terms of the UN system. Consequently, when **UNGA 1541** (1960) outlined the criteria for identifying “non-self-governing territories” for the purposes of reporting under section 73(e) of the UN charter to the **UN Decolonization Committee**, the issue of **discrimination** in the processes of territorial integration within the colonizing settler state was addressed as follows:

Integration should be on the basis of complete equality between the peoples of the erstwhile Non-Self-Governing Territory and those of the independent country with which it is integrated. The peoples of both territories should have equal status and rights of citizenship and equal guarantees of fundamental rights and freedoms without any distinction or discrimination; both should have equal rights and opportunities for representation and effective participation at all levels in the executive, legislative and judicial organs of government.

Under 1541, integration (without discrimination) within the settler state apparatus was only one of three options identified to correct the crime of colonialism. The other two are:

Associated Free State Status
Independence

The history of the pathology of racial and cultural supremacy as fundamental to the expansion of the USA across the territories of the Indigenous Peoples on the continent precludes any legitimate claim that the US settler state apparatus achieved “integration” under the guidelines of UNGA 1541. Sadly, this murderous pathology of institutionalized inequality and racism continues today, evidenced in atrocity after atrocity of mass shootings and violent acts driven by the contemporary colonial-corporate version of “American White Supremacy”.

At the international level, not until the adoption of the United Nations Declaration on the Rights of Indigenous Peoples in 2007, the recognition of **Indigenous Peoples** as **Peoples, equal to all other peoples**, was established for the first time in the system of UN protocols and procedures.

The issue that the proposed theme of **UN Decolonization Protocols and Systemic Racial Discrimination against Indigenous Peoples** intends to explore is the history of systematic discrimination of the US settler state apparatus, *et al*, in the purported integration of territories and constituencies of the Original Nations of Indigenous Peoples of the continent based on the

nefarious, violent, and blatantly discriminatory policies of colonialism such as **Manifest Destiny**, the **Doctrine of Discovery** and the “**Blue Water Thesis**” aka the Salt Water Doctrine (Doctrina Ultramar). That these policies and practices of systematic discrimination continue today and have been normalized within the UN system itself is exemplified by the fact that the **UN Decolonization Committee** has yet to substantively address a single case of the violation of the right of self-determination of the Original Nations of Indigenous Peoples of the Great Turtle Island [America].

In terms of the US settler state apparatus, this issue is compounded and aggravated by the denial and violation of the **Treaties** and agreements between the US government and hundreds of Indigenous Nations. The **1868 Fort Laramie Treaty** with the **Oceti Sakowin** (Seven Nations), is an emblematic example of this issue as is the case of the **Western Shoshone Nation** and the Treaty of Ruby Valley (1863), among many others.

With respect to the situation of the Western Shoshone in particular, the **Committee on the Elimination of Racial Discrimination** formally rendered a decision regarding ongoing actions of the United States and its ongoing failure to implement the recommendations contained in paragraphs 8 to 10 of its Decision 1(68) of 2006 and reiterated "in its entirety" in paragraph 19 of its 72nd Session Concluding Observations (2008). Instead, the U.S. continues to move forward on highly destructive industrial activities and plans on Western Shoshone lands - threatening to expand the irreparable cultural, spiritual and environmental harm being caused.

In fact, on September 28, 2009, the Committee noted the United States' failure to respond to requests for information and expressed concern over its slow pace in implementing recommendations. The Committee called again for the "full implementation" of Decision 1(68) and reiterated its request for information regarding its progress. Furthermore, the Committee expressed the need for "high-level" U.S. officials to consult with the Western Shoshone on matters of resource extraction on Western Shoshone traditional lands.

In terms of the proposed theme, what is especially significant about the treatment of the Western Shoshone case by CERD and other UN agencies, is the fact that the US government's claim for jurisdiction over Western Shoshone territory via “gradual encroachment” is based on the legaloid, discriminatory, and repudiated **Doctrine of Discovery of Christendom**, via Mexico and the Treaty of Guadalupe Hidalgo (1848). This dimension of the case is not addressed by CERD. The only territorial franchise that Mexico may have illegally claimed over Shoshone Nation territory at any time is as a **successor state** in historical consequence to the purported claims of discovery by Spain under the Papal Bulls of *Inter Caetera* (1493).

And although the UN Permanent Forum on Indigenous Issues issued a repudiation of the Doctrine of Discovery of Christendom in 2010, the underlying issue of the **discrimination** and **denial of the rights of petition** articulated in Article 15 ICERD continues with impunity in the UN decolonization protocols.

This must be corrected.

CONCLUSION

On October 8, 2021, the UN Human Rights Council Resolution adopted resolution 48/7 titled **Negative Impact of the Legacies of Colonialism on the Enjoyment of Human Rights**, wherein is stated the following:

Expressing deep concern at the violations of human rights of indigenous peoples committed in colonial contexts, and stressing the need for States to take all measures necessary to protect rights and ensure the safety of indigenous peoples, especially indigenous women and children, to restore truth and justice and to hold perpetrators accountable,

1. *Stresses* the utmost importance of eradicating colonialism and addressing the negative impact of the legacies of colonialism on the enjoyment of human rights;
2. *Calls for* Member States, relevant United Nations bodies, agencies and other relevant stakeholders to take concrete steps to address the negative impact of the legacies of colonialism on the enjoyment of human rights.

Submission to CERD: Concrete steps addressing the systematic negative impact of the legacies of colonialism in the UN system:

1) Recommendation for Theme: UN Decolonization Protocols and Systemic Racial Discrimination against Indigenous Peoples

This theme is respectfully submitted for inclusion in the list of themes to be addressed during the review of the United States of America by the Committee on the Elimination of Racial Discrimination in August 2022.

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- 4) For the purposes of discussion on this theme, the recommendations of the **1999 Treaty Study by Dr. Miguel Alfonso Martinez** should be integrated as a substantive foundation for review, discussion, and effective action to address the legacies of institutionalized colonialism in the UN system.

