

COMMISSION ON HUMAN RIGHTS

Sub-Commission on the Promotion and Protection of Human Rights

Working Group on Indigenous Peoples

Twentieth session

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Statement of the Leonard Peltier Defense Committee

Item 5

Review of developments pertaining to the promotion and protection of human rights and fundamental freedoms of indigenous peoples (General Statements)

Mr. Chairperson,

Our organization would like to bring once again the case of the arbitrary detention and violation of human, civil and political rights of world recognized Indigenous Rights Defender Leonard Peltier, to your attention. *(Mr. Peltier's personal testimony of the case is recorded on the U.N. Commission on Human Rights' document E/CN.4/1997/NGO/80.)*

Leonard Peltier, a Lakota-Anishinabe, is still incarcerated at Leavenworth Federal Penitentiary in the United States for a crime he did not commit. He has asked us to send his warmest greetings from his prison cell, to you Mister Chairperson, to all the members of the Working Group on Indigenous Peoples, and to all his indigenous brothers and sisters.

Mr. Peltier has been unjustly held in US federal prisons for over 26 years, his illegal extradition from Canada, unfair trial, and failing appeals, parole hearings, and executive clemency processes have all shown that Mr. Peltier is not, and has never been in prison to pay restitution for a crime. Rather, he has been held in prison for vindictive and political reasons.

In 1977, Mr. Peltier stood trial in the United States where he was denied due process in violation of the US Constitution and international human rights standards. The trial judge made rulings, which made a proper defense impossible. Furthermore, this judge has consistently refused to hear new evidence supporting Mr. Peltier's innocence, thus skewing his avenues for redress in a severely unfair manner.

We note that for the last 15 years, the US government has consistently conceded that they cannot prove who is guilty for the crime Mr. Peltier was originally convicted of (see Peltier v. Henman, 997 F.2 at 469). Moreover, the Appellate Court has found that Mr. Peltier might have been acquitted had the FBI not improperly withheld evidence. Yet, a new trial was never granted.

As Nobel Peace laureate Rigoberta Menchu Tum so eloquently stated: "all over the world the Peltier case is seen as an example of how the justice system deals with indigenous people – we have been subjected to an unjust justice. We are in the midst of what the United Nations has denominated as the Decade of Indigenous People. One of the main objectives of this decade is to be able to heal the transgressions of the past, to find a way to put an end to the injustices historically perpetrated on Indigenous people. For years the United States has advocated for the respect of human rights elsewhere, and can now demonstrate its full commitment by speedily resolving a glaring instance of internal injustice. (...) I request that all persons who can act in an official capacity do so to resolve the injustice done to Mr. Peltier."

So far, all domestic remedies to bring justice to Mr. Peltier have been obstructed by U.S. prosecutors and the Federal Bureau of Investigation (FBI). On April 4th, 2002, Mr. Peltier and his attorneys filed a law suit against the FBI. The FBI is accused of violating Mr. Peltier's constitutional rights by making false and unsubstantiated statements to the public, the Department of Justice, the US Parole Commission, and former President Clinton. The complaint alleges that the FBI "engaged in a systematic, and officially-sanctioned campaign of misinformation" designed to prevent Mr. Peltier from receiving fair clemency and parole reviews.

On July 9th, 2002, Mr. Peltier appeared in front of an interim parole hearing once again. The parole officer announced that he would recommend no change in Mr. Peltier's status, indicating that the full parole hearing would be set for 2008, even though Mr. Peltier has long been overdue for parole. It must be underlined that he has been held twelve years in excess of the U.S Parole Commission's own guidelines for release. *The justification the Parole Commission has articulated for denying parole has been arbitrary, capricious, discriminatory, and in violation of his civil and human rights. Such practice can be considered a clear form of arbitrary detention in violation of the Universal Declaration of Human Rights (article 9).*

Mr. Peltier is a gifted advocate for the rights and sovereignty of indigenous peoples. His incarceration and the reign of terror on the Pine Ridge Lakota reservation, from 1973 to 1976, have functioned as an overall method to silence and inhibit native peoples in the U.S. Truth and reconciliation are needed in order to ensure that these human rights abuses do not reoccur, and Mr. Peltier must finally be set free. As U.S Senior Circuit Judge Heaney wrote in a letter calling for Mr. Peltier's release, "at some point a healing process must begin."

We respectfully ask for an investigation of this case by the Special Rapporteur on the violation of the human rights and fundamental freedoms of Indigenous Peoples.

Since Mr. Peltier is unfortunately not allowed to come here in person, he asked us to renew his invitation to you Mister Chairperson, to the members of the UN Working Group on Indigenous Peoples and the Special Rapporteur to come and pay him a visit in prison in order to discuss his case, meet other indigenous prisoners at Leavenworth Penitentiary, investigate the overall denial of justice for Native Americans (including the case of Eddie Hatcher, Ramsey Muniz, the Carson City ten...) and discuss indigenous issues at a worldwide level, such as the UN-Decade for Indigenous Peoples.

Thank you, Mr. Chairperson.

Submitted by Sylvain Duez-Alesandrini (International co-coordinator for the Leonard Peltier Defense Committee)

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