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CIVIL AND POLITICAL RIGHTS

Written statement\* submitted by International Indian Treaty Council, a non-governmental  
organization in special consultative status

The Secretary-General has received the following written statement which is circulated  
in accordance with Economic and Social Council resolution 1996/31.

[1 February 2003]

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\* This written statement is issued, unedited, in the language(s) received from the  
submitting non-governmental organization(s).

### Torture and Detention

In the United States, American Indian Movement (AIM) member Leonard Pettier has been imprisoned for over 27 years. The American Criminal Justice System refuses to grant him a new trial or to fully disclose recent evidence documenting the government's covert operation to destroy the American Indian Movement and fabricate evidence to convict Leonard Peltier.

During Peltier's trial in 1977, the US told the Court that the 2,500 pages of documents disclosed to the defense was the entire file on its investigation of the fire in Oglala, South Dakota and the resulting deaths of two US Federal Bureau of Investigation (FBI) agents. But a Freedom of Information Act lawsuit in 1981 produced an additional 18,000 pages of FBI documents showing that the US had fabricated physical evidence presented against Peltier and falsified testimony to extradite him from Canada. It also revealed the FBI's prior planning of the paramilitary assault on the Jumping Bull Ranch that resulted in the deaths of two FBI agents and AIM member Joseph Stuntz.

Peltier was denied a new trial despite presentation of this evidence, which was withheld during his trial. In 2002, Peltier's attorneys learned from FBI Headquarters that in actuality it still had 60,000-100,000 pages of documents pertaining to the case. With the help of U.S. Congressman Barney Frank, 30,000 pages of these additional documents were finally disclosed to the defense. Efforts continue for the balance to be released. Preliminary review of these documents indicates a more extensive domestic security operation against AIM and Peltier than was previously known. For example, they document that an FBI informant was involved in initiating the incident that the FBI used as the pretext for their military assault on the Jumping Bull Ranch.

The IITC filed a complaint on behalf of Leonard Peltier with the Committee on Arbitrary Detentions in 1997, but to date has received no response. The newly disclosed evidence of extensive US government manipulation and fabrication of evidence, and withholding of vital information in this case, must be examined by the Committee. The IITC calls upon this Commission to utilize every mechanism within its mandate to call for full cooperation by the US government in the full disclosure of information relevant to this case, and to encourage the Committee to move forward with its investigation with all possible speed.

### Religious Intolerance

In his report to the Commission on Human Rights on the situation in the United States, E/CN.4/1999/58/Add.1, the Rapporteur on Religious Intolerance Mr. Abdelfattah Amor presented the detrimental impacts to the Indigenous Peoples of "damage to [sacred] sites due to the execution or attempted execution of economic projects", noting "a real lack of understanding and consideration and an indifference and even hostility on the part of the various officials and other parties involved" (para. 62). He recommended that, "in the legal sphere, Native American systems of values and traditions should be fully recognized, particularly as regards the concept of

collective property rights, inalienability of sacred sites, and secrecy with regard to their location” (para. 81).

Today, with the current administration and corporate economic interests exerting more influence than ever on political processes in the US, Indigenous Peoples’ sacred sites are threatened with unprecedented rates of destruction and desecration.

From time immemorial, the largely pristine and remote Medicine Lake Highlands have been an area of prime spiritual and cultural significance to American Indian Peoples of Northern California and Southern Oregon, including the Pit River, Klamath-Modoc and Shasta Tribes. Their creation stories tell how the Creator made the world from Mount Shasta and left instructions on how to live in the features of what are now called the Medicine Lake Highlands. Archaeological evidence indicates inhabitation for over 10,000 years. Traditional religious activities still carried out there include ceremonies, vision questing, healing, prayer, plant gathering and ceremonial hunting.

This area comprises the largest shield volcano on the continent, with a 500-foot deep crater. Medicine Lake lies in its middle. In 1999 the National Register of Historic Places found the Medicine Lake Caldera eligible as a 24-square-mile Traditional Cultural District based on its religious significance to Native Americans.

Despite this widely recognized religious significance, Calpine Corporation received government approval for two 50 megawatt Geothermal power plants which threaten to transform this area into an industrial zone and irreparably destroy the conditions needed for the continuation of spiritual and cultural practices there. Each development would cover up to eight square miles with power plant facilities, well fields, steam plumes, toxic sump pools, new roads, 1000-foot-wide transmission corridors, and 10-story high cooling towers spewing emissions laced with heavy metals and toxic gases. Calpine owns 66 square miles of leases in the Highlands and has publicly announced plans to develop capacity for up to 1000 megawatts.

This critical threat to human rights of the Native Peoples is the result of a process that has profoundly discriminated against them and largely ignored their religious freedom rights. In the 1980s, the US government awarded leases to developers giving full rights to explore, develop and commercially produce geothermal power, without any consultations with the affected Tribes until 1996. Fourmile Hill, just outside the Caldera in an unevaluated area, was approved in May 2000. Telephone Flat, located in the heart of the Traditional Cultural District, was denied for development in May 2000 by the Clinton Administration. This decision was reversed by the US Department of the Interior and the Bush Administration in November 2002 over the adamant objections of the Pit River and Klamath-Modoc Nations and a broad coalition of Native Rights and environmental organizations calling for a halt to geothermal development in this sacred area.

Bear Butte is one of the seven sacred sites in the Black Hills of South Dakota, USA. It is a place of profound spiritual significance for the Lakota, Northern Cheyenne and other Indian Nations. According to Jim Picotte of the Cheyenne River Sioux Tribal Preservation Office, “it is where our People go with their most intimate vows and commitments to make their connection to the Creator.” Recently, the Cheyenne River

Sioux Tribal Preservation Office discovered that the City of Sturgis and a group of private investors plan to build a sports complex/shooting range just 4 miles north of Bear Butte. \$250,000 had already been provided in support of the project by the US government's office of Housing and Urban Development (HUD). Although HUD is mandated to consult with tribes in all matters which might affect them, and Bear Butte is well known as a sacred area to many Plains tribes, no tribes were consulted about the proposal, according to Picotte. Tribal representatives believe that a number of federal laws may have been violated in this process, including the National Environmental Policy Act, Native American Graves Protection and Repatriation Act, National Historic Preservation Act and the Archeological Resources Protection Act, as well as the US Constitution and the 1851 and 1868 Treaties between the Lakota Nation and the US.

Tribal representatives and spiritual leaders from this area confirm that gunfire noise from this project would disrupt the ceremonies of tribal members who pray and fast in solitude on Bear Butte. It would also negatively impact birds and wild life in the area, in particular the eagle, which is important in Native American spirituality and ceremonies. The proposed development poses a dire threat to their freedom of religious practice and sacred obligation to protect this place of spiritual renewal from all forms of desecration.

Another example of violation of religious freedom in the United States is the continued denial of religious freedom for Native American prisoners, despite many years of bringing this human rights issue to the attention of national and international bodies. Leonard Foster, Coordinator of the National Native American Prisoners Rights Advocacy Coalition and spiritual advisor and Director of the Navajo Nation Corrections Project, reported to the US Commission on Civil Rights in January, 2003 that prisons in Arizona, California, Texas, South Dakota, Montana, Kansas, Colorado, Utah, Minnesota and New Mexico continue to violate religious freedom provisions mandated for American Indian prisoners by both US and international law.

Violations include: a) denials of access to traditional ceremonies b) lack of equal access to religious and spiritual leaders; c) lack of equal access to religious items; d) denial of the right to wear long hair or traditional hair style according to the spiritual and religious customs of respective Indian Nations; e) denials of access to ceremonial foods; f) transfer to state facilities where American Indian religious practices are prohibited and; g) denial of access to traditional counseling and ceremonies, including last rites ceremonies for American Indian inmates on Death Row.

Mr. Foster's organization has called upon the US government to stop the discrimination, indifference, harassment and racism against Native American prisoners, including denials of their religious freedoms. This matter was also addressed in the 1999 report of Mr. Amor to this Commission, and requires further investigation by the Rapporteur.

We call upon this Commission to support the inherent spiritual and cultural rights of all Indigenous Nations.