

Observations on the State of Indigenous Human Rights in the United States of America

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The Gwich'in Steering Committee is headquartered in Fairbanks, Alaska and is registered as a 501(c)(3) non-profit organization in the United States. The Gwich'in Steering Committee formed in 1988 in response to proposals to drill for oil in the Coastal Plain of the Arctic National Wildlife Refuge, which the Gwich'in refer to as "Iizhik Gwats'an Gwandaii Goodlit" (*the Sacred Place Where Life Begins*). The Gwich'in Steering Committee acts as the unified voice of the Gwich'in Nation to protect the birthing and nursing grounds of the Porcupine Caribou Herd against oil and gas development. They have presented testimony before the United States Congress, the United Nations Special Rapporteur on Indigenous Peoples, and at various public hearings.

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I. Executive Summary

1. The Gwich'in Steering Committee, Land is Life, Cultural Survival, First Peoples Worldwide, and the University of Colorado's American Indian Law Clinic welcome the opportunity to contribute to the Human Rights Council's Universal Periodic Review (UPR) of the United States of America. The government of the United States has repeatedly failed to protect the human rights of the Gwich'in by aggressively pursuing oil and gas development in the Coastal Plain of the Arctic National Wildlife Refuge without first obtaining the Free, Prior and Informed Consent of the Gwich'in Nation.

II. Background

2. The United States of America is a party to the International Convention on the Elimination of All Forms of Racial Discrimination (ICERD) with ratification in 1994; party to the International Covenant on Civil and Political Rights (ICCPR) with ratification in 1992; signatory of the International Covenant on Economic, Social and Cultural Rights (ICESCR); signatory of the Convention on the Elimination of All Forms of Discrimination against Women; signatory of the Convention on the Rights of the Child (CRC); signatory of the Convention on the Elimination of All Forms of Discrimination Against Women (CEDAW); voted in favor of the Universal Declaration of Human Rights (UDHR); has expressed support for the United Nations Declaration on the Rights of Indigenous Peoples (UNDRIP); and is a member of the Organization of American States which adopted the American Declaration on the Rights of Indigenous Peoples (ADRIP) in 2016.
3. The United States Government has a history of violating the rights of Indigenous Peoples, particularly in the context of energy and resource development projects. Of note, the Special Rapporteur on the right of Indigenous Peoples has stated that "tribal communities [in the United States] wrestle with the realities of living in ground zero of energy impact."ⁱ
4. The United States is fast-pacing oil and gas development in the Coastal Plain with lease sales taking place as soon as December 2019. These actions are in direct violation of the human rights of the Gwich'in Nation and in violation of the ICERD, ICCPR, and repugnant to the principles expressed in the UDHR, UNDRIP, and other human rights instruments.
5. The Gwich'in are an Athabaskan-speaking Indigenous Peoples. They live in fifteen small villages scattered across a vast area extending from northeast Alaska in the United States to the northern Yukon and Northwest Territories in Canada.ⁱⁱ The current Gwich'in population is estimated to be between 7,000 to 9,000 people.ⁱⁱⁱ Gwich'in oral tradition indicates that they have occupied this area since time immemorial, while western anthropological evidence suggests the Gwich'in have occupied their ancestral land for at least 20,000 years.^{iv}

6. The Gwich'in are caribou people with cultural, historic, and subsistence ties to the Porcupine Caribou Herd (PCH). The PCH consists of an estimated 197,000 caribou.^v The PCH migrate hundreds of miles across northern Canada and Alaska and “have the longest land migration of any animal in the world.”^{vi} As demonstrated by the map in Annex B, the traditional homelands of the Gwich'in Nation mirror the migratory pattern of the PCH.
7. The Coastal Plain (often referred to by the U.S. Government as the 1002 Area), is located in the Arctic Refuge, and is the calving ground for the PCH.^{vii} In late May and early June, the PCH come to the Coastal Plain for its unique protective features and sustaining resources.^{viii} The Coastal Plain is the only viable calving ground for the PCH.^{ix} The Gwich'in call this area “Izhik Gwats'an Gwandaii Goodlit” (*the Sacred Place Where Life Begins*).^x The Coastal Plain is so sacred to the Gwich'in that they do not step foot in the area at any time of year or under any circumstance. Even in times of extreme famine, the Gwich'in remain steadfast in their refusal to enter *the Sacred Place Where Life Begins*.
8. In 1960, United States President Dwight D. Eisenhower designated the Arctic National Wildlife Refuge as a protected area in Northern Alaska.^{xi} Of the 19.5 million-acre Refuge, 8.9 million acres are protected as Wilderness.^{xii} However, the 1.5-million-acre Coastal Plain, which is the biological heart of the Refuge and the area that the Gwich'in refer to as *the Sacred Place Where Life Begins*, remains vulnerable to industrial development.^{xiii}
9. In 1988, in response to proposals by the United States Government to drill for oil in the Coastal Plain, Gwich'in elders called upon the chiefs from all fifteen villages to come together for a traditional gathering - the first in over 150 years.^{xiv} At the gathering, they decided unanimously to speak with one voice in protecting the coastal plain.^{xv} They passed a formal resolution titled *Gwich'in Niintsyaa* (available in Annex C) and established the Gwich'in Steering Committee (GSC) with three goals: (1) to protect the sacred birthplace and nursery grounds of the PCH and to let the world know about the Gwich'in way of life; (2) to not compromise on their position; (3) and to do the work in a good way. The Gwich'in gather every two years to reaffirm the resolution.
10. For the past thirty years, the Gwich'in, through the GSC, have fought to protect *the Sacred Place Where Life Begins*. However, in 2017, the United States Congress passed language in the Tax Cut and Jobs Act (TCJA) that mandated that the Secretary of the Interior and the Bureau of Land Management (BLM) “administer a competitive oil and gas program for the leasing, development, production, and transportation of oil and gas in and from the Coastal Plain.”^{xvi} This was done without the free, prior and informed consent of the Gwich'in.
11. On September 11, 2019, the United States Senate introduced legislation that would establish permanent protection for the Arctic Refuge and prevent any oil and gas development.^{xvii} The next day, the United States House of Representatives passed H.R. 1146 – the Arctic Cultural and Coastal Plain Protection Act, which would reverse the

language of the TCJA and prevent oil and gas drilling in the Coastal Plain.^{xviii} Despite the congressional efforts to protect the Coastal Plain, on September 12, the BLM issued a Final Environmental Impact Statement (FEIS) announcing that they planned to move forward with the next steps of the oil and gas lease sales and proposing the most aggressive and least protective option for oil and gas development.^{xix}

III. Previous UPR Recommendations

12. During the Second Review, the United States received many recommendations regarding the human rights of Indigenous Peoples. Most relevant to this submission are the following recommendations, which have largely not been implemented:
 - a) Fully implement the United Nations Declaration on the Rights of Indigenous Peoples, and remove discriminatory legal barriers (176.322, Egypt);
 - b) Implement the United Nations Declaration on the Rights of Indigenous Peoples (176.323, Plurinational State of Bolivia);
 - c) Guarantee the enjoyment of human rights of the minorities and vulnerable groups in the country, including the Indigenous Peoples and migrants (176.321, Nicaragua);
 - d) 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 (176.326, China);
 - e) 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 (176.324, Republic of Moldova); and
 - f) Adopt and implement a national plan inspired by the Durban Declaration and Programme of Action, for the benefit especially of disadvantaged minorities, which are Afro-Americans and Indigenous Peoples (176.95, Cabo Verde).
13. Additionally, following a 2017 mission to the United States, the Special Rapporteur on the rights of Indigenous Peoples wrote in her report to the Human Rights Council that “despite the recommendations made by the previous Special Rapporteur following his visit to the United States in 2012, significant work still needs to be done to implement policies and initiatives to further the rights of Indigenous Peoples in that country.”^{xx} The Special Rapporteur provided a number of recommendations in her Report; none of which have been fully-implemented by the United States.

IV. Continuing Rights Violations

The Right to Subsistence

ICCPR art. 1(2); ICESCR art. 1(2); UDHR art. 25; ILO 169 arts. 14, 23; UNDRIP arts. 20; ADRIP XXIX

14. The prospect of drilling in the Coastal Plain threatens the Gwich'in's right to subsistence by impacting the migratory route and calving grounds of the PCH in direct violation of Article 1 of the ICCPR.
15. Caribou are highly sensitive to environmental changes, particularly during calving season.^{xxi} By the U.S. Government's own calculation, development in the Coastal Plain would cause an 8-10% percent decline in annual calf survival; enough to halt herd growth.^{xxii}
16. This decline is important because the PCH provides subsistence for the Gwich'in. Caribou make up 80% of the Gwich'in diet.^{xxiii} The U.S. Government concedes that "[t]he relative lack of cash to support subsistence activities would make [the Gwich'in] more vulnerable to changes in the availability of resources, such as caribou . . . [b]ecause residents have less capacity to travel great distances in search of subsistence resources or to purchase alternative foods that are less desirable."^{xxiv} Additionally, the effects of global climate change on subsistence activities are already being felt by the Indigenous subsistence-based communities of Alaska.^{xxv}
17. The Gwich'in rely on the PCH for other necessities such as medicine and materials for boots, traditional dress, and tools.^{xxvi} Therefore, a decline in the population of the PCH will have a direct impact on the Gwich'in's ability to meet their basic needs of survival, implicating their human right to subsistence and nutrition. The U.S. Government has acknowledged the "particular sensitivity towards impacts on caribou, and the high reliance of Canadian communities [including the Gwich'in] on caribou as opposed to other resources."^{xxvii}
18. The environmental changes exacerbated by fossil fuel development also make it more dangerous for the Gwich'in to engage in their subsistence culture of hunting, fishing, and trapping. Experienced hunters have drowned after falling through increasingly thinning ice, ice cellars that keep meat reserves fresh and safe to eat have been melting, and unseasonal warmth has resulted in erratic behavior of predators.^{xxviii} These impacts are already harming the Gwich'in and will only become more extreme with the onset of additional oil and gas development.

Food Security and Nutrition

ICESCR art. 11(1); CRC art. 24(2)(c); UDHR art. 25(1); UNDRIP art. 23

19. The Gwich'in's right to an adequate standard of living includes the right of adequate food and nutrition.^{xxxix} The Gwich'in have long been able to maintain their health and nutritional needs by harvesting from the PCH, and development in the Coastal Plain would greatly diminish the Gwich'in's right to health and adequate food.^{xxx} Threatening the Gwich'in's means of subsistence also threatens their right to food security and nutrition.^{xxxi}
20. Food security can be a source of stress in rural Alaskan Households."^{xxxii} Since "[c]aribou is also the most nutritious food available to the Gwich'in," a shortage of this subsistence food will greatly affect their health. ^{xxxiii} A shortage of caribou will cause the Gwich'in to rely on store-bought food that fails to provide the nutritional value of the Gwich'in Peoples' traditional foods.^{xxxiv} Since store-bought food in Alaska is prohibitively expensive, moving away from their subsistence economy will cause undue hardship in violation of their rights to health and nutrition.
21. Higher consumption of non-subsistence food can also be detrimental to the health of the Gwich'in.^{xxxv} A reduction of traditional foods and replacement with non-traditional store-bought foods have led to a rise in the rates of diseases in communities elsewhere in Alaska.^{xxxvi} "Reduced consumption of traditional foods and higher consumption of non-subsistence food have increased the rates of cancer and diabetes, and have disrupted traditional social systems."^{xxxvii}
22. Evidence of the potential impacts on the Gwich'in can be seen by looking at the communities in the Prudhoe Bay area of Alaska. Prudhoe Bay underwent intensive oil development starting in the 1970s, which led to a decline in the food species. As a result, the communities saw a large reduction in traditional subsistence foods. In turn, this caused an "increased incidence of cancer and diabetes and disruption of traditional social systems."^{xxxviii} Of particular note, caribou is essential to the health and nutrition of children, and a lack of subsistence food is likely to cause malnutrition and other diseases, violating the Gwich'in children's right to the highest attainable standard of health.

Right to Health

ICERD art. 5(e)(iv); ICESCR arts. 11(1), 12(1); CRC art. 24; CEDAW arts. 3, 6; UDHR art. 25(1); ILO 167 art. 7; UNDRIP arts. 21(1), 24; ADRIP art. XVIII

23. The U.S. Government's authorization of oil and gas development in the Coastal Plain will degrade vital resources and the environment, impacting the health of the Gwich'in People and limiting access to adequate nutritious food and clean, unpolluted drinking water.
24. In addition to the specific violations of the right to nutrition, mental health, and a clean environment, allowing for development in the Coastal Plain will lead to industrialization of the area and put the Indigenous women who live there at risk. The protection of

women and the elimination of discrimination against them is threatened by the potential oil and gas development in the Coastal Plain as multiple studies have shown that oil and gas development is linked to an increase of violence against women, particularly Indigenous women.^{.xxxix}

Clean Environment

ICESCR art. 12(1); CRC art. 24(2)(c); ILO 169 art. 7(4); UNDRIP 29; ADRIP art. XIX

25. Opening the Coastal Plain to development will degrade air and water quality for the Gwich'in. The FEIS predicts permanent hydrologic changes to surface water including disruption of stream beds and banks, increased erosion, increased sedimentation, reductions in recharge potential, and increased risk of flooding.^{.xl} All of these changes could potentially degrade water quality, reduce access to drinking water, and increase dangerous, extreme weather events for the Gwich'in in direct violation of their right to health.
26. Furthermore, development would consume natural water resources. The FEIS predicts decreases in water levels for lakes and connected streams or wetlands. The impacts of water withdrawal include changes in groundwater levels, drying of vegetation, exposure of lakebeds to erosion, and changes in local drainage patterns.^{.xli} In addition to degrading the quality of water used by the Gwich'in, development would also decrease their access to water and impact their ability to travel between communities.
27. In addition to water quality degradation, oil and gas development can degrade air quality. Every phase of development creates direct emissions of criteria pollutants - identified as dangerous to human health above certain quantities - from transportation, the use of industrial construction equipment, drilling equipment, power generation, and venting/flaring during production. Air pollutants associated with development have been linked to asthma, chronic bronchitis, decreased pulmonary function, and cardiovascular events.^{.xlii}
28. Additionally, the increased contribution of oil and gas development to climate change puts the Gwich'in at physical risk and violates their right to health. The Gwich'in have already seen the impacts of climate change including coastal erosion, drying lakes and ponds, increased wildfires, record temperatures, increased insect outbreaks, and changed plant abundance.^{.xlili} The loss of land and resources puts pressure on the Gwich'in way of life. Increased insect outbreaks, such as ticks, directly put the Gwich'in at increased risk of disease.
29. The impacts of climate change are making Alaska a more dangerous place and threatening the physical safety and wellbeing of the Gwich'in. The various effects of climate change continue to create additional stressors on both the nutritional and environmental health of the Gwich'in.

Mental Health

ICERD art. 5(e)(iv); ICESCR art. 12(1); UNDRIP arts. 7, 24(2); ADRIP art. XVIII(1)

30. The United States Government's actions to open up the Coastal Plain for oil and gas development will result in environmental harm, cultural degradation, and community-wide stress. This increased state of fear and anxiety amongst the Gwich'in Nation violates their right to the highest attainable standard of mental health. Furthermore, the potential loss of culture, religion, and subsistence places the Gwich'in at an even higher risk for mental health and substance use issues.
31. Alaskan Native communities are already at higher risk for mental health challenges and substance abuse than the rest of the United States. Recent data shows that 9.7% of American Indian and Alaskan Natives have alcohol use disorders compared with 5.9% for the general U.S. population. Similarly, 4.1% of American Indian and Alaskan Natives have illicit drug use disorder compared with 2.9% of the general U.S. population.^{xliv} The suicide rate for Alaskan Native people is 42.5/100,000 compared to the overall rate of 12.08/100,000 for the general U.S. population. Alaskan Natives between the ages of 15-24 are particularly vulnerable and have an adjusted suicide rate of 58.7/100,000 as compared to the national average of 16.0/100,000 for males and 20.2/100,000 as compared to the national average of 3.5/100,000 for females.^{xlv} The increased suicide rates for Native Alaskan people are associated with "feelings of hopelessness, confusion, and panic in [Alaskan Native] communities that have experienced multiple traumas, as well as the loss of cultural values and traditions that could otherwise provide anchors of strength in crises."^{xlvi}

Religious and Cultural Harms

ICERD arts. 5(d)(vii), 5(3); ICCPR arts. 18, 27; UDHR arts. 18, 27(1); CRC art. 30; ICESCR arts. 3, 15; ILO 169 arts. 2, 5, 8; UNDRIP arts. 5, 8, 11, 12, 31; ADRIP arts. X, XIII, XV, XVI, XXXI(1)

32. The United States' actions to aggressively move forward with oil and gas development in the Coastal Plain pose an imminent threat to the religious and cultural rights of the Gwich'in.
33. As is the case with many Indigenous communities, the culture and religion of the Gwich'in are intertwined and inseparable such that any violation to their religious rights is also a violation of their cultural rights and vice versa.
34. Gwich'in creation stories teach that the PCH and the Gwich'in have been linked since time immemorial. The stories explain that the Gwich'in will always have a part of the caribou heart in their own heart and the caribou will always have a piece of the Gwich'in People's heart in theirs. Gwich'in creation stories also teach that thousands of years ago, the Gwich'in made a pact with the PCH that they would always take care of one another.
35. The Gwich'in's identity is deeply intertwined with the PCH. All of the Gwich'in's songs, stories, and dances are directed to the herd. Because the spiritual connection is so central

to Gwich'in culture, damage to the herd would endanger the Gwich'in's identity and threaten their way of life. In particular, the calving and migration period is important to the Gwich'in culture, not only for the food, but also for the passing on of knowledge, dances, and ceremony. In the words of one Gwich'in elder, "This is the time when the life lessons are taught to the younger generation of the Gwich'in people."^{xlvi} The impacts of drilling on the Coastal Plain and on the PCH will deny current and future generations of Gwich'in children the right to learn, practice, and perpetuate their religious and cultural beliefs.

Free, Prior, and Informed Consent

ICCPR art. 1; ILO 169 arts. 6, 7(3), 15; UNDRIP arts. 8(2)(b), 11(2), 18, 19, 29(1), 32(2); ADRIP arts. XXI(2), XXIII

36. When the United States passed language in the Tax Cuts and Jobs Act of 2017 mandating oil and gas leasing, exploration, development, and production in the Coastal Plain, they did so without a single hearing and without any consultation or communication with the Gwich'in Nation. Additionally, the Tax Bill did not benefit from normal legislative procedure because it was rushed through as a rider. As described by Senator Cantwell during the limited hearing, "drilling in the Arctic really has nothing to do with serious budgetary policy, but it has everything to do with evading regular order to pass something that could never pass in the regular order of the legislative process."^{xlvi} Additionally, the Gwich'in were not properly consulted during the analysis, construction, and decision-making process, and there is no future consultation mandated under United States law at any point during the 85+ year life cycle of development.
37. Under Executive Order 13175, the United States seeks to strengthen their government-to-government relationship with Indian and Alaska Native tribes and commits to establishing "regular and meaningful consultation and collaboration" with tribal governments. The order requires "an accountable process to ensure meaningful and timely input by tribal officials in the development of regulatory policies that have tribal implications."^{xlvii}
38. In her *2017 Report on the rights of Indigenous Peoples in the United States of America*, the Special Rapporteur on the rights of Indigenous Peoples notes that although the U.S. Government has taken steps to strengthen its tribal consultation regime, the Executive Order has "resulted in a disjointed framework that suffers from loopholes, ambiguity, ad hoc application on an agency-by-agency basis and a general lack of accountability. It has failed to ensure effective consultations with tribal governments. The breakdown in communication and lack of timely and good faith involvement in the review of federal and non-federal projects has left tribal governments unable to participate in meaningful dialogue on projects affecting their lands, territories and resources. The shortcomings of

the current framework still lead to violations of the rights of Indigenous Peoples, most notably the right to free, prior and informed consent.”¹.

39. In the FEIS, the BLM states that development may “erode cultural connections to, and subsistence uses of” the lands of the Coastal Plain for Gwich’in. ⁱⁱ Nevertheless, they did not engage in meaningful or genuine dialogue with the Gwich’in Steering Committee or the Gwich’in Nation.
40. The BLM states that they participated in government-to-government consultation by sending letters to five tribal governments on March 2, 2018 and eight additional tribal governments on April 23, 2018.ⁱⁱⁱ They also list fifteen consultation meetings that they conducted with various tribal governments throughout the development of the FEIS.ⁱⁱⁱⁱ However, these were not true consultations and do not meet the standards established in international human rights norms.
41. For at least one of the meetings, the Gwich’in community did not learn that the “consultation” was taking place until less than a week beforehand. Because the BLM did not work with the tribal leaders to determine a time that would work best for them, the meeting took place at the same time that the community was honoring their traditional chief; limiting the ability for elders and chiefs to attend. At the meeting, the Gwichyaa Zhee Gwich’in Tribal Government Chief Nancy James, the Council of Athabascan Tribal Governments, and the GSC all stood together to let the government of the United States know that they did not want any development on the calving grounds. Nevertheless, at the meeting, the BLM shared their plans for the oil and gas development and asked the Gwich’in leaders where they should drill not IF they could. Additionally, since the meeting was in English, many elders were not able to fully participate as their first language is their native language. These details were not included in the final EIS nor were they meaningfully integrated into the federal government’s final decision to move forward with the most aggressive option for oil and gas leasing in the Coastal Plain.

IV. Questions

42. How is the government of the U.S. working with Indigenous Peoples in Alaska to mitigate climate change?
43. How is the government of the U.S. protecting the human rights of the Gwich’in by aggressively pursuing oil and gas development in the Arctic National Wildlife Refuge without first obtaining the Free, Prior and Informed Consent of the Gwich’in?

V. Recommendations

44. Accordingly, the Gwich'in Steering Committee, Land is Life, Cultural Survival, the University of Colorado's American Indian Law Clinic, and First Peoples Worldwide, urge the government of the United States to:
- a) Halt the impending oil and gas sales.
 - b) Pass legislation to provide permanent protection for the Coastal Plain.
 - c) Reaffirm their commitment to and incorporate UNDRIP into domestic law through statutes and regulations and ensure that human rights pronouncements made at the federal level are implemented at the local level.
 - d) Sign and ratify ILO Convention No. 169.
 - e) Embrace a standard of consent, not consultation, to allow for the government-to-government relationship necessary to fulfill the principles set forth in UNDRIP. As such, the U.S. Government should:
 - a. Approach tribes as individual sovereign nations to give them a seat at the table with equal authority and equal rights;
 - b. Undertake consultations between high-level decision makers in both federal and tribal governments to ensure the scope necessary to identify social, cultural and environmental impacts;
 - c. While honoring the treaty obligations to tribes and trust obligations to tribes and individual Indians, with respect to resources and rights held in trust for them, continue to support tribes in developing their capacity and resources towards attaining self-determination in all areas, including energy development and law enforcement.
 - f) If unwilling to move towards consent, at least initiate consultations at the outset of all projects to include tribes in the planning process, with proper identification and notification of all potentially affected Indigenous Peoples as soon as the federal agency becomes aware of a project requiring federal approval. Federal agencies should take proper steps to discuss, at the concept and earliest planning stage of energy and infrastructure projects, measures to mitigate impacts on tribes and continue to work with Indigenous Peoples to understand their relationship with the land and Indigenous knowledge of their ecosystem.
 - g) Similarly, adopt legislation to enforce consultation for all projects that impact the traditional territories of Indigenous communities, particularly energy and infrastructure projects undertaken within Indigenous Peoples' traditional territories and sacred lands.
 - h) Adopt effective policies to acknowledge and encourage adherence to treaty obligations and establish a functional body for oversight of international treaty

obligations with full and effective participation of Indigenous Peoples on issues relevant to them.

- i) Support and gather data of Indigenous-led science to assemble information about resource impacts, through which the U.S. Government can take steps to make its domestic law consistent with human rights protecting the lifeways, food, and environment of the Gwich'in.
- j) Ensure Indigenous Peoples have full access to redress for violations perpetrated on and against their lands and territories, including access to judicial forums to dispute claims and to concrete and timely assistance to mitigate adverse impacts on environmental and cultural resources. Adopt policies to ensure that mechanisms for future redress and remediation are clearly articulated during the initial consultation period between tribal, state and federal government actors.
- k) Lastly, the U.S. Government should adopt legislation to amend existing laws governing the protection of sacred and cultural places beyond present-day reservation boundaries so as to further protect the religious freedoms of Indigenous Peoples. The policies should reflect the vision of Indigenous Peoples' definition of sacredness as an interconnected landscape with unique relationships to the practice of religions, strengthening of community, livelihoods, subsistence and gathering of traditional medicines and resources.

i Rep. of the Special Rapporteur on the rights of Indigenous Peoples, ¶ 26, U.N. Doc. A/HRC/36/46/Add.1 (2017) [hereinafter Special Rapporteur 2017 Rep.].

ii Richard J. Wilson, A Moral Choice for the United States: The Human Rights Implications for the Gwich'in of Drilling in the Arctic National Wildlife Refuge at 6 (2005).

iii *Id.*

iv *Id.*

v ALASKA DEP'T OF FISH AND GAME, *Porcupine Caribou News*, available at http://www.adfg.alaska.gov/static/home/library/pdfs/wildlife/porcupine_caribou_news/porcupine_caribou_news_summer_2017.pdf (Summer 2017).

vi *Id.*

vii Caribou, Arctic, U.S. FISH AND WILDLIFE SERVICE, <https://www.fws.gov/refuge/arctic/caribou.html> (last updated Dec. 6, 2016).

viii U.S. BUREAU OF LAND MGMT., COASTAL PLAIN OIL AND GAS LEASING PROGRAM ENVIRONMENTAL IMPACT STATEMENT FINAL 3-215 (2019) [hereinafter FEIS].

ix Wilson, *supra* note ii, at 4.

x GWICH'IN STEERING COMM., *The Refuge – The Coastal Plain*, <http://ourarcticrefuge.org/about-the-refuge/the-coastal-plain-the-sacred-place-where-life-begins/> (last visited Sept. 30, 2019).

xi Alaska National Interest Lands Conservation Act (PL 96-487).

xii GWICH'IN STEERING COMM., *The Refuge – About the Refuge*, <http://ourarcticrefuge.org/gwichin-steering-committee/> (last visited Sept. 30, 2019).

xiii *Id.*

xiv GWICH'IN STEERING COMM., *Steering Committee*, <http://ourarcticrefuge.org/about-the-refuge/> (last visited Sept. 30, 2019).

xv *Id.*

xvi The Tax Cuts and Jobs Act, 131 Stat. 2054, Title II, Sec. 2001(b)(2)(A), (2017).

xvii The Arctic Refuge Protection Act of 2019, S. 2451 (2019).

xviii The Arctic Cultural and Coastal Plain Protection Act, H.R. 1146 (2019).

- xix U.S. BUREAU OF LAND MGMT., COASTAL PLAIN OIL AND GAS LEASING PROGRAM ENVIRONMENTAL IMPACT STATEMENT FINAL I-8 (2019) [hereinafter FEIS].
- xx Special Rapporteur 2017 Rep., *supra* note i, at ¶ 85.
- xxi Wilson, *supra* note ii, at 15.
- xxii FEIS, *supra* note xix, at 3-150.
- xxiii Wilson, *supra* note ii, at 4.
- xxiv FEIS, *supra* note xix, at 3-338.
- xxv E. Barret Ristroph, *Still Melting: How Climate Change and Subsistence Laws Constrain Alaska Native Village Adaptation*, 30:2 COLO. NAT. RESOURCES, ENERGY & ENVTL. L. REV. 245, 264-66 (2019).
- xxvi Wilson, *supra* note ii, at 9.
- xxvii FEIS, *supra* note xix, at 3-3221
- xxviii Ristroph, *supra* note xxv, at 264-66.
- xxix U.N. ESCOR, 61st Sess., E/CN.4/2005/51/Add.3 (Feb. 4, 2005).
- xxx *Id.* at 21.
- xxxi Wilson, *supra* note ii, at 22.
- xxxii FEIS, *supra* note xix, at 3-335.
- xxxiii *Arctic National Wildlife Refuge, Alaska: Hearings Before the Committee on Energy & Natural Resources of the United States Senate*, 100th Cong. 295 (1987) (statement of Sarah James, Arctic Village, Alaska, discussing study that found caribou has the highest nutritional value of foods consumed in each village).
- xxxiv Wilson, *supra* note ii, at 23.
- xxxv *Id.* at 6.
- xxxvi National Academy of Sciences, *Cumulative Environmental Effects of Oil and Gas Activities on Alaska's North Slope* 139 (2003).
- xxxvii *Id.*
- xxxviii *Id.*
- xxxix Kimberly Martin et al., *Violent Victimization Known to Law Enforcement in the Bakken Oil-Producing Region of Montana and North Dakota, 2006 – 2012*, Natl. Crime Stats. Exchange (Feb. 2019). Kathleen Finn et. Al., *Responsible Resource Development and Prevention of Sex Trafficking: Safeguarding Native Women and Children on the Fort Berthold Reservation*, 40 HARV. J.L. & GENDER 1 (2017).
- xl *Id.* at S-69-70.
- xli *Id.* at 3-72.
- xlii *Id.* at 3-341.
- xliii Tara Law, *About 2.5 Million Acres in Alaska Have Burned. The State's Wildfire Seasons Are Getting Worse, Experts Say*, Time, Aug. 22, 2019, <https://time.com/5657188/alaska-fires-long-climate-change/> ; <https://insideclimatenews.org/news/11072019/arctic-wildfires-alaska-climate-change-heat-wave-2019-university-funding>
- xliv Substance Abuse and Mental Health Administration, *Behavioral Health Barometer United States, Volume 4* 15 (2017), <https://store.samhsa.gov/system/files/sma17-barous-16.pdf>.
- xlv Substance Abuse and Mental Health Administration, *Suicide Clusters within American Indian and Native Alaskan Communities: A Review of the Literature and Recommendations* 2 (2017), <https://store.samhsa.gov/system/files/sma17-5050.pdf>.
- xlvi *Id.* at 5.
- xlvii Wilson, *supra* note ii, at 7.
- xlviii S. Rep., 115th Congress, 1st Session, Vol. 163, No. 207 at H10201 (2017) (Conf. Rep.).
- xliv *Id.*
- i Special Rapporteur 2017 Rep., *supra* note i, at ¶ 14.
- ii FEIS, *supra* note xix, at I-8.
- iii *Id.* at ES-7.
- iiii *Id.*

Annex A

Cultural Survival is an international Indigenous rights organization with a global Indigenous leadership and consultative status with ECOSOC since 2005. Cultural Survival is located in Cambridge, Massachusetts, and is registered as a 501(c)(3) non-profit organization in the United States. Cultural Survival monitors the protection of Indigenous Peoples' rights in countries throughout the world and publishes its findings in its magazine, the *Cultural Survival Quarterly*, and on its website. Cultural Survival also produces and distributes quality radio programs that strengthen and sustain Indigenous languages, cultures, and civil participation.

Cultural Survival
2067 Massachusetts Avenue
Cambridge, MA 02140
Tel: 1 (617) 441 5400
www.culturalsurvival.org
agnes@cs.org

Land is Life is an international coalition of Indigenous communities and organizations that was founded in May of 1992 at the historic World Conference of Indigenous Peoples on Territories, Environment and Development. Land is Life has had special consultative status with ECOSOC since 2012. Land is Life is headquartered in New York and is registered as a 501(c)(3) non-profit organization in the United States. Land is Life directly supports Indigenous communities, organizations and leaders by strengthening grassroots capacity, building alliances and awareness, and providing Indigenous-led grantmaking.

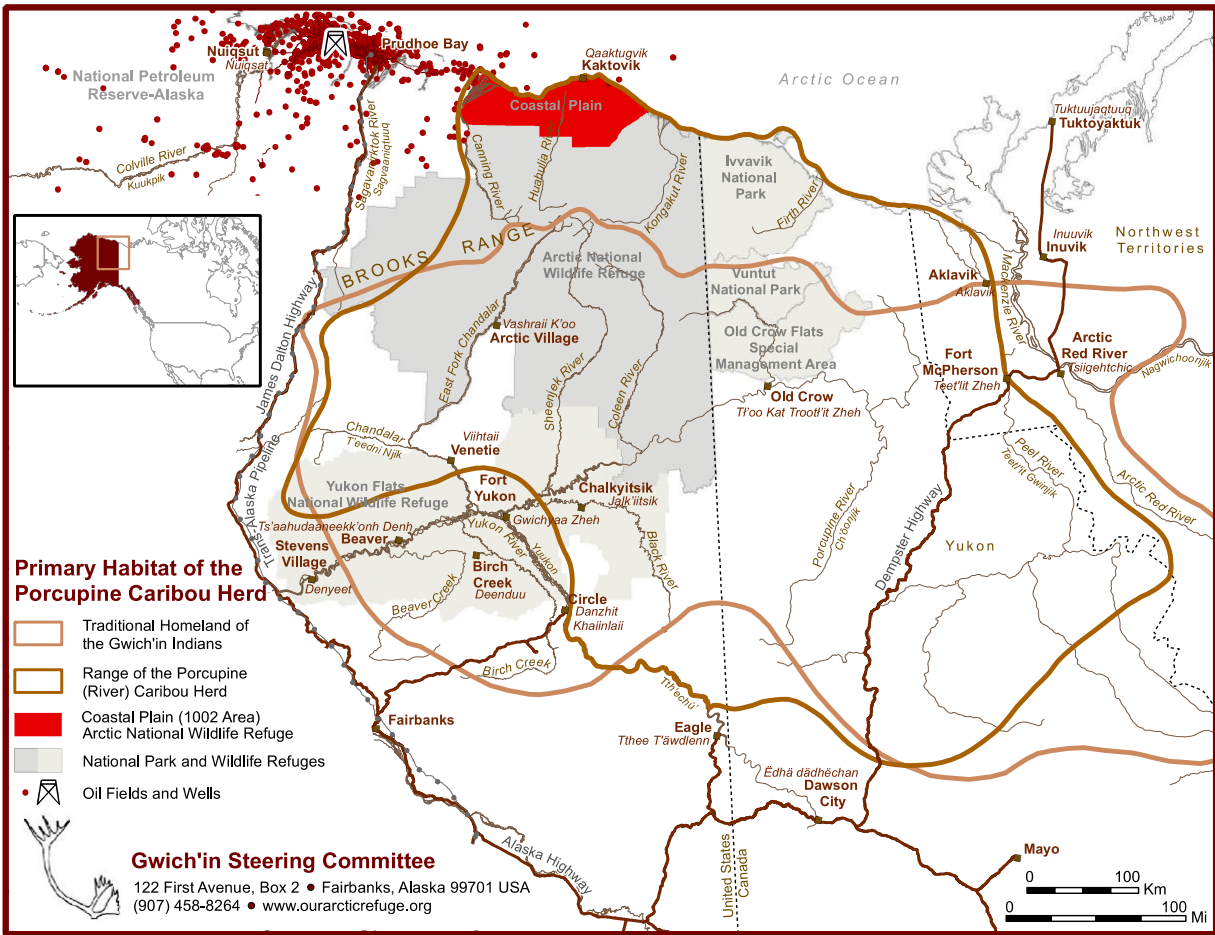
Land is Life
495A Henry St #1006
Brooklyn, NY 11231
www.landislife.org
info@landislife.org

First Peoples Worldwide works from a foundation of Indigenous values to achieve a sustainable future for all. Founded in 1997 as a program within First Nations Development Institute, First Peoples became an organization in its own right in 2005. In 2017, First Peoples Worldwide transitioned to a program within the University of Colorado.

First Peoples Worldwide
1330 Grandview Ave
Boulder, CO 80302
<https://www.colorado.edu/program/fpw/>
fpw@colorado.edu

The American Indian Law Clinic (AILC) at the University of Colorado Law School was established in 1992 as one of the first of its kind. The Clinic's student attorneys provide hundreds of hours of quality pro bono legal support to tribal clients. The AILC is supporting the Gwich'in Steering Committee in their international advocacy strategy.

Annex B



This map is available at http://ourarcticrefuge.org/wp-content/uploads/2012/11/gwichin_steering_committe-07.pdf.

Annex C

Gwich'in Niintsyaa 2012



Resolution to Protect the Birthplace and Nursery Grounds of the Porcupine Caribou Herd

WHEREAS:

For thousands of years, the Gwich'in People of northeast Alaska and northwest Canada, have relied on caribou for food, clothing, shelter, tools and life itself, and today the Porcupine (River) Caribou Herd remains essential to meet the nutritional, cultural and spiritual needs of our People; and

WHEREAS:

The Gwich'in have the inherent right to continue our own way of life; and that this right is recognized and affirmed by civilized nations in the international covenants on human rights. Article 1 of the International Covenant of Civil and Political Rights, ratified by the U.S. Senate, reads in part:

"...In no case may a People be deprived of their own means of subsistence"; and

WHEREAS:

The health and productivity of the Porcupine Caribou Herd, and their availability to Gwich'in communities, and the very future of our People are endangered by proposed oil and gas exploration and development in their calving and post-calving grounds in the Arctic National Wildlife Refuge; and

WHEREAS:

The entire Gwich'in Nation was called together by our Chiefs in Arctic Village June 5-10, 1988 to carefully address this issue and to seek the advice of our elders; and

WHEREAS:

The Gwich'in People of every community from Arctic Village, Venetie, Fort Yukon, Beaver, Chalkyitsik, Birch Creek, Stevens Village, Circle, and Eagle Village in Alaska; from Old Crow, Fort McPherson, Tsiigehtchic, Aklavik, and Inuvik in Canada have reached consensus in our traditional way, and speak with one voice; and

WHEREAS:

The Gwich'in People and Chiefs of our communities have met every two years since 1988 to re-affirm our position, guided by the wisdom of our elders; and this summer met in Fort McPherson, and now re-affirm our position.

NOW THEREFORE BE IT RESOLVED:

That the United States President and Congress recognize the rights of the Gwich'in People to continue to live our way of life by prohibiting development in the calving and post-calving grounds of the Porcupine Caribou Herd; and

BE IT FURTHER RESOLVED:

That the 1002 area of the Arctic National Wildlife Refuge be made Wilderness to protect the sacred birthplace of the caribou.

Passed unanimously this 27th Day of July, 2012 in Fort McPherson, NWT.