

Committee on the Elimination of Racial Discrimination (CERD) 107th Session  
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EXAMINATION OF THE UNITED STATES PERIODIC REPORT OF JUNE 2021

**ALTERNATIVE REPORT ADDRESSING FAILURE BY THE UNITED STATES TO HONOR AND IMPLEMENT ITS LEGALY-BINDING OBLIGATIONS UNDER THE ICERD TO INDIGENOUS PEOPLES OF INSULAR TERRITORIES UNDER ITS JURISDICTION AS AN EXAMPLE OF ONGOING RACIAL DISCRIMINATION: THE CASE OF BORIKÉN (Puerto Rico)**

*Submitted by the United Confederation of Taíno People, an Indigenous Peoples Representative Institution affiliated with the International Indian Treaty Council*

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### A) Executive Summary

1. On June 2, 2021, the United States submitted its combined **tenth, eleventh, and twelfth periodic reports** to the Committee on the Elimination of Racial Discrimination (CERD). The report ignores and renders invisible the Indigenous Taino Peoples of the insular territories in the Caribbean region that the U.S. claims under its legal jurisdiction and obligations under the International Convention on the Elimination of all forms of Racial Discrimination (ICERD).
2. The traditional homelands of the Indigenous Taíno Peoples range from the Lesser and Greater Antilles, the Bahamas, and parts of Southern Florida in the United States. The Taíno were the first Indigenous Peoples of the Americas to be called “Indians.” The United Confederation of Taíno People (UCTP) is an Indigenous Representative Institution established in 1998. This alternative report primarily focuses on the Taíno Peoples who reside on the island of Borikén (Puerto Rico) and the violations of the ICERD by the U.S. Federal government and the government of the Commonwealth of Puerto Rico. This report follows up on the 2008 Alternative Report submission by the UCTP and other local entities. Our 2008 Alternative Report submission was never addressed by the UN CERD Committee and racial discrimination against the Taíno continues.<sup>1</sup> At times, the report will also refer to Taíno People living in the U.S. Virgin Islands.
3. The island of Borikén and the Indigenous Taíno, a distinct Peoples with the right to self-determination, were first brutally colonized by Spain in 1508 and then by the United States in 1898. After years of grass roots political advocacy, Taíno Peoples living in Borikén and the diaspora are still not recognized formally by the Commonwealth government of Puerto Rico, the US Bureau of Indian Affairs, or the US Office of Insular Affairs, among other relevant governmental agencies. The consistent denial of our existence as Indigenous Peoples of Puerto Rico or the US mainland is a violation of the Convention on the Elimination of All Forms of Racial Discrimination, as well as other international human rights instruments including the UN and the OAS Declarations on the Rights of Indigenous Peoples. As a result, Taíno Peoples continue to suffer violations of our inherent human, social, cultural, and political rights.
4. In anticipation of the UN CERD Committee deliberating on the tenth, eleventh, and twelfth periodic reports submitted by the United States, the UCTP submits the

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<sup>1</sup> To access the 2008 Alternative Report submitted by the UCTP and other local entities, [click here](#).

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following report to once again call urgent attention ongoing violations of the ICERD against Indigenous Taíno Peoples in Borikén and beyond. The UCTP urges the readers of this report to call attention to the unique situation of the Taíno, as well as promote and support the recommendations found herein.

5. The UCTP also calls upon the current UN CERD Committee to not repeat the complicity of its predecessors in 2008 and in 2022, call attention to the need to reform laws, regulations, guidelines, policies and practices at the US federal, state and local levels which currently serve to tolerate, support, and promote the discriminatory denial of Taíno Peoples' rights.

6. The UCTP asserts that the submission of the tenth, eleventh, and twelfth periodic reports of the United States to the CERD ignores the Indigenous Taíno Peoples of insular territories in the Caribbean that it claims are under its legal jurisdiction and obligations to the ICERD. The situation of the Taíno Peoples in Borikén (Puerto Rico), in particular, should be viewed in a larger context of how the U.S. Government fulfills its obligations to the ICERD with regard to Indigenous Peoples of insular territories under its jurisdiction.

### **B) Questions for the United States**

1. How does the U.S. Government fulfill its obligations to the International Convention on the Elimination of All Forms of Racial Discrimination with regard to Indigenous Peoples of insular territories under its jurisdiction, including the Commonwealth of Puerto Rico?
2. What is the U.S. government doing to ensure that Free, Prior Informed Consent is upheld regarding the use and development of lands, resources, and cultural practices of Indigenous Peoples who reside in insular territories under its jurisdiction, including the Commonwealth of Puerto Rico?

### **C) Recommendations**

1. The CERD Committee urges the United States to reform laws, regulations, guidelines, policies and practices at the U.S. federal, state and local levels, which currently serve to tolerate, support, and promote the discriminatory denial of the rights of Taíno and other Indigenous Peoples of the insular territories the US maintains jurisdiction over.

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2. CERD Committee urges the U.S. government to fulfill its obligation under the applicable CERD Articles and the applicable Articles of the Treaty of Paris to secure religious freedom and protection of Indigenous Taino collective property rights.
3. The CERD Committee urges the U.S. and Puerto Rican governments to engage in a dialogue with Taíno representatives, including the UCTP, to structure a process to deal with these highly emotional issues. It is important for this dialogue to be held and that there be a framework to guide appropriate action. A process built upon the foundation of reconciliation, based upon respect, and where applicable, on a government to government basis.
4. The CERD Committee urges the U.S. government and Puerto Rican government, as well as the U.S. the National Park Service, State Historic Preservation Office, and all government agencies to follow the ICERD's General Recommendation XXIII Article 4(e) on consultation.

### D) Background

1. The Indigenous Taíno Peoples have lived throughout the Caribbean Islands and in the southern area of what is known today as Florida in the U.S. since before the establishment of the United States of America or the Commonwealth Government of Puerto Rico, which remains a territory of the U.S.

2. Taíno People are verifiably the first Indigenous Peoples of the Americas to be called Indians in 1492 and the first to suffer racial discrimination by settler colonial governments.<sup>2</sup> According to the 2020 U.S. Census' race and ethnicity statistics American Indians and Alaska Native alone make up 2.8 percent of the Puerto Rican population.<sup>3</sup> While the U.S. Census Bureau permits Taíno individuals to self-identify under the racial category of American Indians in the U.S. Census, Taíno do not have formal access to a rights-based engagement framework with the U.S. Government as do American Indians who are recognized by the U.S. Bureau of Indian Affairs.

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<sup>2</sup> It is well accepted that in 1492 Christopher Columbus applied the misnomer Indians first to the Indigenous Peoples of the Caribbean Islands. This misnomer continued to be used throughout the Americas giving rise to identifications such as American Indians, Native Americans, and Amerindians .

<sup>3</sup> See US Census Data on Puerto Rico

<https://www.census.gov/library/stories/state-by-state/puerto-rico-population-change-between-census-decade.html>

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With the exception of the Guainía Taíno Tribe of the Virgin Islands, Taíno also do not have formal access to a rights-based engagement framework at the U.S. State or territorial government level. This discriminatory policy is often used as a pretext to violate and deny the rights of the Indigenous Taíno Peoples.

2. The grassroots, political efforts of the United Confederation of Taíno People (UCTP) has resulted in or contributed to the recognition of Taíno Peoples via proclamations, citations, etc. by the U.S. Congress, the Governor of Puerto Rico, the Puerto Rican House of Representatives, the Puerto Rican Senate, the U.S. Census Bureau, the New York State Assembly, the City of New York, the City of Los Angeles, the Mayor of Utuado, Puerto Rico, and Governor of the U.S. Virgin Islands.<sup>4</sup>

3. In 2008, the United Confederation of Taíno People, along with local Taíno entities, submitted an Alternative Report to the UN CERD Committee. No response was received from the UN CERD Committee nor were any questions addressed to the U.S. Government concerning their obligations to the Taíno or any other Indigenous Peoples of insular U.S. Territories.

4. The 2008 Alternative Report submitted to the UN CERD Committee highlighted many examples of racial discrimination committed against Taíno Peoples including issues of reparations, the lack of protection of sacred sites or ancestral remains, and consistent violations of free, prior, and informed consent. In 2022, the UCTP reports that these situations have still not been adequately addressed and human rights violations and racial discrimination continues against Taíno Peoples.

## **E) Racial Discrimination Against Taíno Peoples in Borikén (Puerto Rico)**

### *E.1. Access to Sacred and Ceremonial Sites*

a) In Borikén (Puerto Rico), there are two sacred Indigenous Ceremonial Sites operating under the control of non-indigenous governmental entities. These sites include the Caguana Indigenous Ceremonial Center in the town of Utuado, under the care of the Institute of Culture of Puerto Rico, and the Tibes Indigenous Ceremonial Center in Ponce, one of the largest and most important Indigenous archaeological sites of the Caribbean with a burial site nearby for approximately 186 ancestors, under the care of the Municipality of Ponce.

b) These sacred sites are considered the national patrimony of Puerto Rico and are managed as "Parks" to encourage tourism during posted, official hours of operation. However, Taíno spiritual practices do not follow a 9:00AM to 3:00PM, Tuesday through Saturday schedule. Even when

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<sup>4</sup> Review governmental recognition <https://www.uctp.org/taino-history>

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Taíno community members visit these Ceremonial sites during official “hours of operation”, they are closely monitored by park staff and even asked what they are intending to do at Ceremonial Plazas/courtyards we call batei. This is a clear violation of article 12 of the UNDRIP.

b) Taíno individuals or groups are forbidden by park employees to leave any type of ritual offerings at the sacred plazas (called batei in Taíno). Taíno spiritual practices are still being demonized. Taíno are still promoted as an extinct Peoples in our own ancestral, sacred Ceremonial Centers. This discriminatory engagement between Taíno community members and park staff, is in line with the colonial and religious rhetoric that has dominated the academic and political discourse in the Caribbean. These discriminatory positions are contrary to Human Rights norms, including the right to self-determination, which includes self-identification, and Rights Taíno should enjoy as Indigenous Peoples.

c) The archipelago of Borikén was devastated by Hurricanes Irma and Maria in September of 2017; our ceremonial sites were not an exception and they too, were hit by the wrath of these powerful hurricanes. It is important to note that in the case of Caguana, members of the Taíno community had long been pointing out and addressing the lack of care of the batei (ceremonial plazas) and the area in general. The overall maintenance of the site has not changed since the UCTP's joint 2008 Alternative Report to the UN CERD that we have referenced previously.

d) The hurricanes compounded an already mismanaged site that is sacred to Taíno Peoples. The lack of care these sites receive and the limitations Taíno individuals face when seeking to exercise our ancient spiritual responsibilities are clear violations to our right to freedom of religion or belief based on the self-identification of our community members. In addition, Indigenous Cultural Presentations are at times permitted in these parks, but only by the Taíno Groups or Organizations that the Institute of Culture of Puerto Rico has contracted with. Post-hurricane cleanup at the Tibes Ceremonial Site and the cleanup and repairs of Caguana, were initiated and undertaken by members of the Taíno community and allies. Further, access to our ancestral, sacred Ceremonial Sites requires Taíno individuals to pay an entrance fee, like tourists or visitors.

e) After the COVID-19 shutdown and during the strict curfews in Borikén (Puerto Rico), Taíno Ceremonial Centers were closed to the Public, for as stated previously in this report, they are treated as just “Parks”. While some precautions were in place, members of Puerto Rican civil society were allowed to gather at churches. Yet, when Two Taíno mothers along with their three young children went to teach and conduct a ceremony at Caguana; they were asked to leave the premises and not able to conduct or observe their spiritual practices because they are Taíno and their religious freedoms are not respected.

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f) The U.S conducted several CERD consultations prior to the upcoming review of its tenth, eleventh, and twelfth periodic reports. On May 19, 2022, a representative of the United Confederation of Taíno People participated in the scheduled US CERD consultation via phone call, pre-registering to participate. When the UCTP representative asked the U.S. government officials what agency or program deals with violations of the ICERD against Indigenous Peoples of Puerto Rico, the officials had no knowledge of any such mechanism and could not provide that information. While Puerto Rico is an insular territory, the representative of the Bureau of Insular Affairs, in particular, claimed it did not deal with issues relating to the ICERD and Puerto Rico.

### *E.2 Repatriation and Protection of Ancestral Remains: An issue of free, prior, and informed consent*

a) Due to the colonial status of Borikén (Puerto Rico), Taíno religious freedoms are restricted and oppressed. While the United States has its own Native American Graves Protection and Repatriation Act (NAGPRA), this act is only applicable to U.S. Federally-recognized Tribes. Even after the adoption of the UN Declaration on the Rights of Indigenous Peoples, the United States fails to implement its expressed commitments to the Indigenous Taíno Peoples. Neither U.S. Federal agencies or the relevant entities of the Insular government of Puerto Rico seek to contact with Indigenous Taíno Organizations, whenever a new burial site and/or archaeological site is uncovered.

b) In 2019, in the town of Dorado, during a project of the U.S. Army Corps of Engineers known as Dorado 19, which was preparing terrain for the building of a dam, approximately 7 Indigenous human remains were uncovered. These remains were found along with remnants of pottery, and other relics, including a quartz semi (utmost sacred indigenous relic for Taíno Peoples). The human remains were left there out in the open, without any respect, heavy equipment continued to be run through the premises, contrary to established procedures that call for a halt of the use of any form of heavy equipment. The remains of our ancestors were unceremoniously exposed to the elements, mud, dirty buckets, etc. This situation represented to us as Taíno a great and total disrespect to our cultural and spiritual beliefs. No member of our Indigenous Community was ever officially contacted.

c) The United Confederation of Taíno People (UCTP) learned of the incident in Dorado via concerned neighbors. The UCTP and other Taíno organizations, sent several communications to the related agencies both at the insular level, as well as at the federal level. We stressed our right to exercise our right to Free, Prior and Informed Consent, including pertinent consultations with regards to Sacred Sites and Burial sites. Due to COVID-19 there was supposed to have been a halt to these operations, and the insular agencies, such as the Institute of Culture of Puerto

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Rico, remained closed for months. We learned the operations and further clearing of land took place when one of our Taino relatives used a drone to capture and share the images.

### *E.3 Racial Justice and Climate Change*

a) In its periodic report, the United States claims it is committed to addressing climate change and helping communities adapt to climate change, including vulnerable populations and communities of color who are disproportionately impacted. The Centers for Disease Control and Prevention's (CDC) Building Resilience Against Climate Effects framework includes identifying at-risk communities and incorporates justice, equity, diversity, and inclusion into climate adaptation planning. Agencies, including the Environmental Protection Agency (EPA), the National Oceanic and Atmospheric Administration (NOAA), and the National Air and Space Administration (NASA), collect data relevant to the health impacts of climate change on communities of color. Taíno People of Puerto Rico and the U.S. Virgin Islands are not included in these data collection initiatives and therefore are not identified as at-risk communities who can benefit from the incorporation of justice, equity, diversity, and inclusion initiatives within the context of climate adaptation planning or any building back better programs.

### *D.4 Taíno People and Data Collection*

a) An additional example of the racially discriminatory practices against the Taíno in Puerto Rico can be affirmed in HUD's 2019 Annual Homeless Assessment Report to Congress. While the report identifies African Americans, American Indian, Alaska Native, Pacific Islander and Native Hawaiian populations, as well as identifying as Hispanic or Latino individuals, there is no ability for Taíno People to be counted in this or other data driven initiatives. Our lack of meaningful recognition compounds our invisibility whether in Puerto Rico or within the U.S. mainland and is a violation of the ICERD and other international human rights instruments. As a result Taíno Peoples continue to suffer violations of our inherent human, social, cultural, and political rights.

b) Regarding standardization of data collection systems, offices of vital statistics at the state level are generally standardized in the coding of births and deaths. The CDC encourages use of standardized forms such as the U.S. Standard Certificate of Death or Live Birth, which is used to compute infant mortality. While being able to identify under the racial category of American Indian in the U.S. Census, Taíno are not afforded this opportunity across other data collection initiatives.

c) While the CDC, the Association of Maternal and Child Health Programs, and the CDC Foundation, for example, are collaborating to enhance and standardize Maternal Mortality Review at the state and local levels, Indigenous Taíno are not included in these proposed data

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sets to better document and ultimately prevent maternal mortality.

d) According to the U.S. submission, in 2020, HHS awarded \$340 million to support families through the Maternal, Infant, and Early Childhood Home Visiting Program, which serves families living in almost one third of U.S. counties. While States and territories have flexibility to tailor the program to serve community needs, including by targeting services to communities with concentrations of risk, such as premature birth, low-birth-weight infants, and infant mortality Taíno organizations have not been contacted to assess possible inclusion. Further, while HHS also supports American Indian and Alaska Native communities through [Tribal Maternal, Infant, and Early Childhood Home Visiting Program](#) development grants, indigenous Taíno People of Puerto Rico who identify as American Indians are also not included in these programs.

### **F. Conclusion**

1. The Taino People are an Indigenous Peoples whose traditional homelands extend through the Caribbean islands to the southern region of Florida in the United States. Taino People are the first Indigenous Peoples of the Americas to be identified as Indians. The United States claims a number of insular territories under its jurisdiction including Puerto Rico and the U.S. Virgin Islands, two islands where Taíno Peoples verifiably still reside.
2. Lack of formal recognition of Taíno People by the United States and the Commonwealth of Puerto Rico contributes to government policies and legislation that racially discriminates against Taíno Peoples. As a result, Taíno Peoples continue to suffer violations of our inherent human, social, cultural, and political rights.
3. The consistent denial of the existence of Taíno Peoples as Indigenous Peoples of Puerto Rico or the U.S. mainland is a violation of the Convention on the Elimination of All Forms of Racial Discrimination, as well as other international human rights instruments including the UN and the OAS Declarations on the Rights of Indigenous Peoples. While the United Confederation of Taíno People has previously addressed these issues within the CERD and other appropriate mechanisms, Taíno People and our unique situation continued to be ignored.