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Presentation for the Special Rapporteur on Contemporary Forms of Racism, Racial Discrimination, Xenophobia and Related Intolerance, Mr. Doudou Diène

May 22nd 2008

The United Confederation of Taíno People, the Caney Quinto Mundo, and the Consejo General de Tainos Borincanos submitted a Joint Shadow Report to the Seventy-second session of the Committee on the Elimination of Racial Discrimination fully describing the racism committed against indigenous Taino People on the island of Boriken also known today as the Free Associated State of Puerto Rico.

While we welcome the recommendations and observations contained in the Committee's final report from the session relating to Indigenous Peoples and in particular to our relatives the American Indians, Alaska Natives, Native Hawaiians, and Other Pacific Islanders, we must note the glaring lack of attention given to the unique situation of our community as this lack of attention is in and of itself an example of the ongoing discrimination we face.

With this in mind we respectfully submit that:

____. The Taíno People are the original peoples of the island of *Boriken* (Puerto Rico) and other Caribbean island nations. Despite repeated attempts to demonstrate their historical ties as the original people of the island now under plenary authority of the U.S.,¹ the Taíno have never been acknowledged officially as the Native Peoples of Puerto Rico by the Commonwealth of Puerto Rico or by the United States federal government. Moreover, even if the Commonwealth of Puerto Rico were to recognize the Taíno Native people, the Taíno would still be denied the rights and protections afforded federally recognized tribes of the continental U.S., Alaska

¹ The Insular Cases determined Puerto Rico is an unincorporated territory in deference to Congress' plenary power over the Island noting in, *Downes v. Bidwell* that "the Island of Porto Rico [*sic*] is a territory appurtenant and belonging to the United States, but not a part of the United States within the revenue clauses of the Constitution . . ." In this same decision, Justice Brandeis voices concern over Puerto Rican racial identity, "[I]f [the Island's] inhabitants do not want to become . . . citizens of the United States, their children thereafter born, whether savages or civilized, are such, and entitled to all the rights, privileges and immunities of citizens. If such be their status, the consequences will be extremely serious. Indeed, it is doubtful if Congress would ever assent to the annexation . . . There are certain principles of natural justice inherent in the Anglo- Saxon character, which need no expression in constitutions or statutes to give them effect or to secure dependencies against legislation manifestly hostile to their real interests."

Natives, or Native Hawaiians.² These discriminatory practices by the United States and the Free Associated State of Puerto Rico clearly violate the ICERD, the UN Declaration on the rights of Indigenous Peoples, and other human rights instruments resulting in the gross discrimination and denial of the Taíno ability to exercise the following rights: the right to equality under the law; religious freedom; consultation; free prior and informed consent; protection of and access to sacred, ceremonial, village and burial sites; cultural resource protections; and the repatriation of Ancestral Remains, sacred and funerary objects.

___ . Because Taíno people are not recognized as the Native people of Puerto Rico, they are consistently denied access to their ceremonial grounds and burial sites. Local, federal, state and government agencies refuse to consult with Taíno Native people when ancient sacred sites and Ancestral human remains are found during construction and other projects. Deplorably, since the U.S. does not recognize the Taíno as the Native peoples of Puerto Rico, they are omitted from U.S. Federal laws designed to protect indigenous cultural and spiritual properties. For example, the Institute of Puerto Rican Culture currently operates one Taíno Ceremonial Site as an archaeological tourist park under the authority of the United States National Park Service (NPS). According to NPS *Management Policies § 1.12 Native Hawaiians, Pacific Islanders, and Caribbean Islanders*, “[t]he service will also meet any responsibilities that may have been defined in the enabling legislation of these island parks and to Native Hawaiians in the administration of the Native American Graves Protection and Repatriation Act and the National Historic Preservation Act.” Though “Caribbean Islanders” are mentioned in the title of the guideline’s article, these guidelines and the legislation mentioned in them are discriminatory to the Taíno as they have not been afforded the same status as other similarly situated indigenous peoples of the United States. Further, the NPS itself confirms poor maintenance practices at the tourist park, but because the Taíno are not officially recognized as the Native people of *Boriken* (Puerto Rico) - nor are they taken into account in any enabling legislation of Puerto Rico Island Parks - the NPS is not required to meet any standard responsibility to improve these conditions based on collaborative relationships with the affected indigenous peoples.

___ . The Taíno people have actively sought and worked on a grassroots level for decades to assert their right to equal treatment as Native peoples whose origins are rooted in the lands and territories under United States’ control, and as the Native, original people of the Island of *Boriken* (Puerto Rico). To date, as evidenced by our continuous submissions to the United Nations system such as the Permanent Forum on Indigenous Issues and the CERD, those efforts have been ignored. Taíno rights to consultation, free prior informed consent, freedom of religion, access to and protection of sacred, ceremonial, village and burials sites, and the repatriation of Ancestral remains continue to be violated.

___ . In closing, we recommend that the Special Rapporteur’s final report take particular note of the special situation of indigenous Taíno islanders of Puerto Rico as well as other Indigenous Peoples of non-self-governing territories subject to U.S. Plenary Power.

We further urge the Special Rapporteur’s report to also note the limitations on expanded participation by the Indigenous Taíno Peoples of Puerto Rico in international organizations and that the State party use the United Nations Declaration on the Rights of Indigenous Peoples as a guide to interpret the obligations to the Taíno under the Convention.

² Legislation such as the Indian Reorganization Act, the Alaska Native Claims Settlement Act, and the Proposed Akaka Bill and its accompanying Apology Bill are sources for the US recognition of these respective communities. Ultimately, all laws and policies pertaining to indigenous peoples living within the United States require federal recognition in order to exercise and benefit from them. No such laws or policies have ever been extended to the Taíno.