

United Nations Human Rights Council calls for the immediate release of Leonard Peltier

GENEVA, July 7, 2022 – The United Nations Human Rights Council Working Group on Arbitrary Detention distributed its [opinion calling for the immediate release of Leonard Peltier](#), an indigenous rights activist who has been wrongfully incarcerated by the U.S. government for the last 47 years. In its opinion, the Working Group found that Mr. Peltier’s detention was arbitrary and in contravention of the Universal Declaration of Human Rights and the International Covenant on Civil and Political Rights.

Mr. Peltier, a client of Sanford Heisler Sharp, was originally convicted of the murder of two U.S. Federal Bureau of Investigation agents who were killed during a 1975 confrontation on the Pine Ridge Indian Reservation. Mr. Peltier was given two life sentences. When Mr. Peltier’s conviction failed to withstand scrutiny on appeal, prosecutors switched to an “aiding and abetting” theory, despite his co-defendants’ prior acquittal on self-defence. His conviction was upheld on little more than evidence demonstrating that he was present at the reservation on the day of the shoot-out.

Since his conviction, more information has come to light detailing how Mr. Peltier’s constitutional rights were violated throughout his trial, further calling into question his conviction. Evidence of gross prosecutorial and FBI misconduct in the form of coerced witness statements that have since been recanted, falsified affidavits, and concealment of exculpatory ballistic evidence has been revealed. Additionally, a juror was allowed to remain on the panel despite her admitted prejudice against native Americans. To secure the conviction of an American Indian Movement (AIM) political leader, the government committed innumerable constitutional abuses that would mandate an acquittal, or at the very least, a mistrial.

Additionally, Mr. Peltier’s right to due process following his conviction has been compromised throughout multiple abnormal and discriminatory parole hearings. Mr. Peltier has never been provided a presumptive release date, information that is guaranteed to him by law, and is therefore serving an indefinite sentence. Furthermore, over the course of two full parole hearings and four interim hearings, the Parole Commission has relied on information of his conviction, the veracity of which has been refuted, and has disregarded reports of his good behavior in prison, evidence of a prolonged sentence, and other evidence demonstrating that Mr. Peltier is not a threat to society.

Moreover, Mr. Peltier has petitioned five U.S. Presidents for clemency, but the FBI has continuously blocked any commutation from being granted. In one notable instance, 500 FBI agents protested his potential release after hearing that President Clinton was considering granting clemency.

Mr. Peltier’s case was first presented to the Working Group on Arbitrary Detention in 2005. The Working Group determined in its [first opinion](#) that his detention was not arbitrary at that time. However, the Working Group recently determined that Mr. Peltier’s case could be reviewed a second time because new information has surfaced in the past 17 years establishing a “pattern of procedural and substantive injustice” on the part of the Parole Commission and the Federal Bureau of Prisons.

In 2021, the Yale Law School International Human Rights Clinic, led by Professor James Silk, along with assistance from Mr. Peltier’s legal team at Sanford Heisler Sharp submitted new materials outlining Mr. Peltier’s case and the many ways in which the Parole Commission has undermined Mr. Peltier’s right to post-conviction due process. These submissions detailed the misconduct of members of the Parole

Commission, political interference on the part of the FBI, and how Mr. Peltier's prolonged incarceration is a threat to his life. The government responded to Mr. Peltier's assertions by contending that he was justly convicted, denying any wrongdoing on the part of the Parole Commission, and insisting that he is receiving commensurate health care in prison.

Upon its review of the materials presented, the Working Group concluded that "taking into account all the circumstances of the case, including the risk to Mr. Peltier's health, the appropriate remedy would be to release Mr. Peltier immediately and accord him an enforceable right to compensation and other reparations, in accordance with international law." The Working Group also urges the U.S. government to investigate the circumstances that led to and perpetuated Mr. Peltier's arbitrary detention and reprimand those responsible for this perversion of justice and due process.

Professor Silk remarked "the opinion shows how our human rights obligations are consistent with the rule of law and the human values that President Biden has articulated and require that Mr. Peltier be released without further delay."

The Working Group cites Mr. Peltier's health and age, his substantial and frequent placement under solitary confinement, as well as the difference between his experience and those of non-Native Americans convicted of similar offences as evidence of the injustice of his continued detention. Its opinion expressly states that due to his deteriorating health and advanced age, any future parole hearings will not provide "a realistic opportunity for Mr. Peltier, an elderly detainee in ill health, to seek parole and benefit from due process." Additionally, citing discriminatory comments made by his parole examiners, the opinion asserts that "Mr. Peltier continues to be detained because he is Native American."

Former federal judge Kevin Sharp, attorney for Leonard Peltier, remarked "we are pleased that the Working Group was willing to review Leonard's case a second time after these past 17 years of unjust parole proceedings and arbitrary imprisonment." Sharp added "the Working Group did not parse their words. They issued an immediate call to action, and the U.S. government must take Leonard's clemency case seriously and release him back to the care of his tribe."

The United States government has six months to provide information to the Working Group demonstrating the actions that they have taken to remedy the injustices identified in the opinion.

Professor Silk added, "we are optimistic that the Working Group's careful, thorough, and balanced opinion will help the Biden Administration decide to end the terrible injustice Mr. Peltier has suffered."

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