No.

IN THE

Supreme Court of the United States

MAHICAN TRIBE AND MI'KMAQ TRIBE,

MOVING PARTIES,
Complainants,

v.

CANADA, FRANCE, NETHERLANDS, PORTUGAL, RUSSIA, SPAIN, UNITED KINGDOM AND UNITED STATES,

RESPONDING PARTIES,
Respondents.

Motion for Leave to File a Motion for Leave to File a Document in Excess of Word Limits in Most Extraordinary Circumstances and Related Relief

(rr. 17.3, 17.4, 22.3, 22.4, 33.1.d, 33.1.g.i and 33.h)

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(1). JURISDICTION AND RELIEF SOUGHT. Pursuant to Rules 22(3)[1], 22(4)[2] and 33(1)(d)[3] application is made to Breyer, J, of the 1st Circuit for Leave to File the accompanying 10,800 word Rule 17(3)[4] Motion and 7,001 word Rule 17(4)[5] Bill on the ground that although Rule 33(1)(g)(i)[6] stipulates a 9,000 word limit for the Motion no limit is stipulated for the Bill. Nevertheless the Clerk insists 9,000 words is the total allowable.

Alternatively the applicants ask Breyer, J, to dispense with the need to file a "letter" renewing this Motion in favor of referring the matter for reconsideration directly to Thomas, J.

"Good cause" and "most extraordinary circumstances" constituting a "national emergency" hereinafter are identified.

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[1] Rule 22(3). An application shall be addressed to the Justice allotted to the Circuit from which the case arises.…

[2] Rule 22(4). A Justice denying an application will note the denial thereon. Thereafter, unless action thereon is restricted by law to the Circuit Justice or is untimely under Rule 30(2) the party making an application, except in the case of an application for an extension of time, may renew it to any other Justice, subject to the provisions of this Rule. Except when the denial is without prejudice, a renewed application is not favored. Renewed application is made by a letter to the Clerk, designating the Justice to whom the application is to be directed,…

[3] Rule 33(1)(d). Every booklet-format document shall comply with the word limits shown on the chart in subparagraph 1(g) of this Rule.…For **good cause**, the Court or a Justice may grant leave to file a document in excess of the word limits, but application for such leave is not favored. An application to exceed word limits shall comply with Rule 22 and must be received by the Clerk at least 15 days before the filing date of the document in question, except in the **most extraordinary circumstances**. [Emphasis added]

[4] Rule 17(3). The initial pleading shall be preceded by a motion for leave to file, and may be accompanied by a brief in support of the motion.…

[5] Rule 17(4). The case will be placed on the docket when the motion for leave to file and the initial pleading [*i.e.*, Bill of Complaint] are filed with the Clerk. The Rule 38(a) docket fee shall be paid at that time.

[6] Rule 33(1)(g)(i). Word limit[s]…Motion for Leave to File a Bill of Complaint and Brief in Support: 9,000.

(2). "GOOD CAUSE." Indian tribal sovereignty is the sole issue in both the Motion for Leave to File a Bill of Complaint and the Bill of Complaint.

In the 19th Century this Court settled that regardless of the Art. I, §8, ¶3 "Commerce Clause" or any other provision of the *Constitution* such sovereignty continues unless and until proven to have been purchased pursuant to the Art. II, §2, ¶2 "Treaty Clause" from the tribal government in possession at the time of the discovery. *Please read*, Motion for Leave to File a Bill of Complaint and Bill of Complaint, *passim*, accompanying.

The number of legislative words and the critical excerpts from the constitutive precedents that by originally and authoritatively interpreting them establish the truth of that constitutional fact. Its factual irrefutability and the further fact of its subornation by the politicization of the judicial process in abrogation of the rule of law and, correspondingly, of constitutional democracy under it, are the reason the total word count of the Motion and Bill exceeds 9,000 to the extent it does.

The truth of this fact constitutes "good cause" within the meaning of Rule 33(1)(d). And the following "most extraordinary circumstances" constitute a "national emergency" more profoundly threatening to the applicants' and the American Peoples' "right to exist" than any other.

(3). "MOST EXTRAORDINARY CIRCUMSTANCES."

(*a*). PREVENTING GENOCIDE-IN-PROGRESS. The attested and therefore, for the jurisdictional purpose being litigated, presumptively true complaint is that the reasonably foreseeable, probable, actual and direct consequence of this Court's judicial inactivity (Motion, n.3 pp.3-4, *per* Thomas, J, in the 2004 *Lara* case) of ignoring the *Constitution's* Art. II, §2, ¶2 "Treaty Clause" and its precedents is, "serious bodily and mental harm" within the meaning of Article 2(b) of the *Convention for the Prevention and Punishment of Genocide, 1948*.

The genocide of the applicants began a long time ago when newcomer society stopped abiding by its own constitutional law. Motion, n.1 p.1.

This Complaint does not concern redress for that historical event. It seeks only to prevent the present and future genocide attributable to this Court's preemptive closing in 2004 of its doors to the *Constitution*.

(*b*). "JUDICIAL INACTIVITY" permitting genocide extraordinarily gives rise to the "universal extraterritorial jurisdiction" of all other courts to ask the inactive court to activate. *Menchu v. Montt* (Motion, n.1 p.1).

The *Menchu* case involved a criminal prosecution which is distinguishable from the present case brought before this Court by the applicants seeking prevention not punishment.

Even so, the reasons for judgment (Motion, Appendix A) of the Constitutional Court of Spain in that case which concerned a prosecution in Spain of a former dictator in Nicaragua for the crime of genocide in that nation, apply even more strongly to prevention.

Prevention, here, consists in nothing more than stopping this Court's "judicial activity" actively by addressing the Art. II, §2, ¶2 "Treaty Clause" and its precedents in relation to Indian tribal sovereignty.

(*c*). ABSENCE OF *MENS REA.* The applicants acknowledge the Justices of this Court who ignored the recommendation of Thomas, J, to address Art. II, §2, ¶2 did not intend to commit the genocide attributable to ignoring it.

There was a period of time before and after 1871 when every lawyer and every judge in the United States knew the "cause" of Indian tribal sovereignty is "good" based upon the duration, notoriety, number and consistency of the Art. II, §2, ¶2 "Treaty Clause" precedents.

Every one knew the Indians' land was being stolen and their sovereignty usurped and if they did not necessarily celebrate it at the very least all sufficiently were indifferent to the genocidal consequence to let it go on, and to profit from it.

In virtue of the fact those breaching the law enjoyed a monopoly over the administration of justice, the Indian wars and the certifying of titles to

the Indians' illegally converted property and usurped jurisdiction occurred because of its perpetrators' confidence of impunity.

The period of time during which this abrogation of the rule of law and constitutional democracy under it was the norm went on for so long that eventually people forgot the legal way and took for granted that the way things were done was legal.

The place in the minds of lawyers and judges that formerly was occupied by awareness of the *Constitution's* "Treaty Clause," Art. II, §2, ¶2, and its precedents was vacant for so long other matters moved into the vacuum.

That omniscient, omnipresent and intractable assumption became a conviction. It became mentally and emotionally inconceivable that the whole legal establishment for over a century had been acting outside the framework of everything every constituent of it was sworn to serve.

For the purpose at hand of identifying a set of "most extraordinary circumstances" within the meaning Rule 33(1)(d) it is sufficient to acknowledge this as a tragedy of genocidal consequence as opposed to the crime of genocide.

Modern judges do not know what they were doing and, unfortunately for the Indians, the American People and the world which the American People influence by example, those judges are refusing to learn.

(*d*). PARADOX OF IGNORING THE TREATY CLAUSE. It is passing extraordinary that this Court, the constitutional Court of the world's leading nation in the struggle to eradicate genocide, is permitting it in virtue of refusing to address its own *Constitution's* Art. II, §2, ¶2 "Treaty Clause" constitutive and secondary precedents.

(*e*). LEGAL CONSEQUENCE OF THE TREATY CLAUSE. Although the applicants' case is restricted to the constitutional question of Indian tribal sovereignty based upon the "Treaty Clause" precedents, the legal consequence of acknowledging the existence and content of those precedents is that much land in North America continues *prima facie* to be reserved under Indian tribal sovereignty, since the neglected precedents settle that the legal consequence of an Art. II, §2, ¶2 Indian Treaty ceding Indian tribal sovereignty is that the land ceded thereby comes under federal and state jurisdiction and possession. Not before.

(*f*) "THE WAY." The compulsory imposition of the newcomers' culture based upon the human domination of nature, upon the misapprehension nature is severable and its parts are available for exploitation with indifference to the reasonably foreseeable and probable consequence upon the unified whole, respect and reverence for which is "The Indian Way," the old way of being, thinking, feeling and above all knowing in each individual's heart of hearts, has been the Indians'

problem for a very long time, so long, in fact, that the clock can not be turned back or damages awarded commensurate with the past suffering.

All that can be done, from the point of view of the applicants and other constitutional (as opposed to federal) Indian governments whose constituents still identify the individual self with the unified Self that is the great spirit or nature or whatever other name one assigns to that awareness, is to serve as stewards of the shared environment to the extent that fate and their attention to that duty permits.

All the Peoples who are on the applicants' land, now, without regard to race, color or creed, who have put down roots and become part of it like the applicants themselves, are one with nature and beneficiaries of the stewardship obligation whether or not they appreciate it.

There is therefore no reason for newcomers and their structures for the political administration of their awesome military, industrial and technological power to feel threatened by setting free the truth that will set us all, nature included, free.

But they do fear this anyway because not understanding "the Indian Way" they attribute to us their own cultural Way.

Perhaps they feel all humans, given the chance, will think and feel like they do. If so, they do not only not understand us but they ignore the

safety net provided by their own *Constitution* that they can amend, in the proper way.

In sum, the applicants' Way of stewardship precludes a rational basis for the fear that fosters willful blindness and deafness to the *Constitution* as it is written and, even if the applicants were themselves to undergo some epiphany of conversion to the newcomer Way of predation against all, that same *Constitution* provides a legal remedy, the remedy of a due and proper constitutional amendment pursuant to Art. V. Not a *judicial* amendment of the constitution but rather a *constitutional* amendment of the constitution.

(*g*) "LIVING TREE." Certainly the *Constitution* is alive not dead, though this Court in *Lara* treated it so by ignoring its "Treaty Clause" and its precedents as if it and they collectively were a dead branch.

The fact the *Constitution* lives is the applicants' entire point. But that fact does not signify that this Court has jurisdiction to prune the tree of branches whose fruit to it is not palatable. The *Constitution* on its face proclaims its own life and in the same breath its capacity to grow and adapt to altered circumstances of the environment in which it lives. Art. V enacts the democratic element that makes the United States a constitutional democracy: the People and only the People have jurisdiction to prune and splice in relation to *their* "living tree."

And if and when the People take in hand the tools crafted by the *Constitution* for that purpose the People wield them publicly upon the basis fully of being informed, before giving their consent to a modification of the terms and conditions previously agreed and expressed by their document and its original and authoritative interpretive and therefore constitutive precedents.

(*h*). JUDICIAL DUTY. This Court labors under the duty not to usurp the sovereignty of the People, whether by itself inventing new constitutional law or by letting the political branch of government do it. *Scott v. Sandford* (Motion, n.8 pp.9-12).

The conflict between the political expediency of evading the *Constitution* by ignoring the issue of Indian tribal sovereignty, on the one hand, and the strictly legal duty undertaken by the *Constitution's* "Supreme Law Clause" Art. VI, ¶2 and "Judicial Oath Clause" Art. VI, ¶3, on the other hand, most extraordinarily is stark in both the technical aspect and the jurisprudential aspect:

> Art. VI, ¶2. This Constitution, and the Laws of the United States which shall be made in Pursuance thereof; and all Treaties made, or which shall be made, under the Authority of the United States, shall be the supreme Law of the Land; and the Judges in every State shall be bound thereby, any Thing in the Constitution or Laws of any State to the Contrary notwithstanding.
>
> Art. VI, ¶3. The Senators and Representatives before mentioned, and the Members of the several State Legislatures, and all executive and judicial Officers, both of the United States and of the several States, shall be bound by Oath or Affirmation, to support this Constitution; but no religious Test shall ever be required as a Qualification to any Office or public Trust under the United States.

Juridically-speaking it doesn't matter whether a candidate for judicial office is a liberal or a conservative since in either event once elevated to the bench he or she is bound to uphold whatever the words of the *Constitution* and their original and authoritative precedents truly say, not what they better might have said from one or the other of the more modern competing political perspectives.

Mortally for constitutional democracy and the Indian tribes whose sovereignty is sheltered by it, since the Second World War liberals and conservative judges have united (with the exception of Thomas, J, in the *Lara* case) to build a truth-proof fortress of political opinion. In terms of the "living tree" analogy, together, they pruned it of its root.

(*i*). ABROGATION OF DEMOCRACY. The status of the United States as a *constitutional* (as opposed to a *parliamentary*) democracy under the rule of law is dependant upon the truth being vindicated when, as in this case, it is in mortal conflict with political opportunism. Pathetically, Harvard Professor of Constitutional Law Laurence H. Tribe in a chapter entitled "The Variable Role of Interpretive Judicial Precedent" in *The Invisible Constitution* (Oxford University Press, 2008) says (pp. 15, 19):

> Thus, although it may seem counterintuitive, the great difficulty of formally amending the Constitution to overturn a Supreme Court interpretation of its meaning, something our nation has done just four times in its history, in contrast to the relative ease of formally amending an act of Congress for such a purpose, has led to a practice in which judicial interpretations of the Constitution tend—with the exception of certain "superprecedents" of the sort we will shortly

> encounter—to be more amendable than judicial interpretations of federal statutes to revision in subsequent judicial decisions.
>
> Although a handful of Supreme Court decisions have attained status as "superprecedents" that it would be unthinkable for any subsequent Court to overrule virtually no Supreme Court ruling besides *Brown*—with the possible exception of the decision that is regarded as having permanently established the power of judicial review, *Marbury v. Madison*—has achieved a status essentially comparable to that of the Constitution itself.

But when this Court originally and authoritatively and therefore constitutively interprets a constitutional word it decides its meaning as used, when used. That has nothing whatsoever to do with changing political sentiment over whether it would have been used if its legislative authors could have foreseen the altered circumstances to which it might, by effluxion of time, come to have to be applied.

That situation is anticipated and addressed by the amendment formula: Art. V.

In any event *Worcester v. Georgia*, 6 Pet. 515 (1832) (Motion, n. 8 p. 9) structurally is crucial. It genuinely is a "superprecedent." For it and the legion precedents applying it in the era 1832-1938 including *Scott v. Sandford* and the cases elaborated in the Bill of Complaint establish the constitutional claim of newcomer governments and their constituents to territorial jurisdiction and possession at all material times has been *derivative, not original*, the stipulated mode of derivation being *treaty*. Discovery doctrine, *e.g.*, *Royal Proclamation of 1763* and the *Constitution*, Art. II, §2, ¶2 and Art. VI, ¶¶1 and 2.

(*j*). DIFFICULTY OF AMENDING IS POLITICAL ARGUMENT. The fact the constitution is hard to amend is a political argument for a due process amendment to the amendment formula, not a legal argument for or justification of judicial amendments. Yet in the first sentence of the book *How Judges Think* (Harvard University Press, 2008) by Justice Richard A. Posner of the United States Court of Appeals His Honor says:

> [T]raditional legal thinkers are likely to say that if legalism (legal formalism, orthodox legal reasoning, a "government of laws not men," the "rule of law" as celebrated in the loftiest Law Day rhetoric, and so forth) does not exist everything is permitted to judges—so watch out! Legalism does exist, and so not everything is permitted. But its kingdom has shrunk to the point where today it is largely limited to routine cases, and so a great deal is permitted to the judges. Just how much is permitted and how they use their freedom are the principle concerns of this book.

He concludes (p. 369), "So judging is political." That fits with the applicants' experience of the lower courts and this Court in recent years.

(*k*). ABANDONMENT OF THE TRUTH STANDARD. For this practical, pragmatic reason it is not sufficient for the applicants to identify what the law truly says. Regardless of what it says the probability is history will be repeated, that some pretence or chicanery will intervene to ensure the true law never publicly gets before the Justices of this Court in the first place let alone addressed. Bismarck reputedly and famously said in an 1867 letter, "Politics is the art of the possible."

Fair enough. Politics is about creating law and that naturally involves negotiation and compromise.

In contrast, "Justice," according to Emerson in his 1844 "Essay on Character," is the science of application to affairs of the true law as created by the *Constitution* and the political branch pursuant to it.

> Truth is the summit of being: justice is the application of it to affairs. All individual natures stand in a scale, according to the purity of this element in them. The will of the pure runs down from them into other natures, as water runs down from a higher into a lower vessel. This natural force is no more to be withstood, than any other natural force. We can drive a stone upward for a moment into the air, but it is yet true that all stones will forever fall; and whatever instances of can be quoted of unpunished theft, or of a lie which somebody has credited, justice must prevail, and it is the privilege of truth to make itself believed.

The politicization of this Court signifies that justice has been downgraded to the art of the possible from its higher function as the application of truth to affairs and, correspondingly, that the idea court process exists to uphold the truth, the whole truth and nothing but the truth is now widely understood to be a cruel hoax.

(*l*). REINSTATEMENT OF THE TRUTH STANDARD. An epiphany is required to convert the judicial branch from political expediency to the truth standard. For all that this must seem politically impossible it is nonetheless legally necessary that this Court restore the idealism of the *Constitution*, and of the Judges closest in time to its ethic.

Justice as the application of the truth to affairs is the most extraordinarily visible and practical of issues, consummately pragmatic as opposed to idealistic.

The evidence this Court is either doing it or not is clear and plain as a matter record for all the People to see. It is not a thing of complexity and mystery that only lawyers and legal scholars can fathom.

Constituents of Indian constitutional governments such as the applicants tend to believe the individualism celebrated by Americans in their 1776 declaration of life, liberty and the pursuit of happiness came from native North American society rather than from Europe. At contact natives lived directly from the land and, correspondingly, were self reliant. In contrast other societies such as for example China's are said not to share this individualism and therefore their justice systems are so politicized that vindicating truth is beside *their* point.

The applicants believe there is a trickle down effect to the vindication of truth by this Court, that its neglect to face the truth with regard to the constitutional question of Indian tribal sovereignty not only is of genocidal consequence to the applicants' constituents but to the individualism that is the heartbeat of the body politic that is the United States of America.

The demise of the Peoples' faith that this Court exists to uphold the constitutional truth, not to re-write it, threatens the existence not only of the last of the tribal Mahicans and Mi'kmaqs but of the United States itself for all purposes.

Only this Court can restore it. This Court is truth's champion, its sanctuary, its hope.

(*m*). "LAW DAY RHETORIC." The "loftiest," perhaps, of the "Law Day rhetoric" that Judge Posner trivializes is: "If not you, who? If not now, when?"

The applicants' ancestors have been pleading for an answer to this for some time, during which the genocide has ground on relentlessly due to the "judicial inactivity" of willful blindness and deafness to the law.

That, is the complaint.

(*n*). THE ISSUE OF RACE AND RACISM. The status of the three founding races was compared by this Court in *Scott v. Sandford* (Motion, n. 8 pp.9-13). It took the 13th Amendment to *improve* African American status. The truth of the "visible" *Constitution* is: it would take another to *abrogate* the Indians'.

Both prior to and following the *Constitution* the Indian tribal governments constitutionally were recognized as being in possession of a form of capital that, to employ a capitalist metaphor, had been left on deposit for thousands of years while their constituents lived off a modest portion of the interest alone and did not encroach upon the principle.

The United States and Canada take pride in touting their economic success based upon capitalism. Capital is free of the risk of confiscation.

The wealth that the United States and Canada enjoy is based upon the Indian tribes' constitutional capital yet they are among the poorest members of society. And while it is true that a handful of the *unconstitutional* Indian governments created by the federal government to aid and abet the extermination of the *constitutional* tribal governments are wealthy from casino income under federal legislation, this fact does not derogate from the point here but rather underscores the cunning and obscenity of the genocide-by-chicanery.

The term "racism" identifies the reason the capital of the Indian tribes has been confiscated upon the basis, according to this Court in the *Lara* case, of Congress's application to them but to no other capitalists of the *Constitution's* "Commerce Clause," Art. I, §8, ¶3, as if "the regulation of Commerce" justifies the total confiscation of that race's capital but not the capital of any other race or interest group in the United States.

(*o*). GENEROUS CONSTRUCTION. There is an equally extraordinary circumstance of procedural law purposes, namely, the *sui generis* principle or rule of generous construction. Motion, ¶5 "BURDEN," p.16.

With this in mind it may be noted that Rule 33(1)(d) says, "Verbatim quotations required under Rule 14.1(f), if set out in the text of a brief rather than in the appendix, are also excluded" from the word count. And that the cross referenced Rule 14(1)(f) says a petition for *certiorari* shall

include, "constitutional provisions, treaties, statutes, ordinances, and regulations involved in the case, set out verbatim." For the same reason that this Court wants to have the legislative words ready-to-hand when reading petitions for *certiorari*, it is reasonable to infer it would also want that information on this original jurisdiction application and, accordingly, that the same word-count exclusion is justified.

If such legislative words are in fact deducted from the foot notes of the Motion its word count drops by 2,046 from 10,800 down to 8,754. And the word count of the "Initial Pleading" Bill of Complaint drops by 686 from 7,001 to 6,315. If this perspective is arguable then the Motion is within the limited 9,000 words and although the revised total of it and the Bill would be 15,069 that should not matter since no limit is placed on the Bill. Although it is still more than the 9,000 total allowable under the Clerk's policy there is room for doubt whether the policy complies with the rules. And upon the basis of a generous construction any doubt is supposed to be resolved in favor of the Indians.

(*p*) BALANCING THE EQUITIES. The applicants are satisfied the law will rule equitably if the governments and courts of the respondents, and above all this Court will permit the law publicly to speak.

This Court in the leading case going to its own jurisdiction, *Marbury v. Madison*, 5 US 137, 163, 177-78 (1803), settled:

> The government of the United States has been emphatically termed a government of laws, and not of men. It will certainly cease to deserve this high appellation, if the laws furnish no remedy for the violation of a vested legal right.…
>
> [And] It is emphatically the province and duty of the Judicial Department to say what the law is. Those who apply the rule to particular cases must, of necessity, expound and interpret that rule. If two laws conflict with each other, the Courts must decide on the operation of each. So, if a law be in opposition to the Constitution, if both the law and the Constitution apply to a particular case, so that the Court must either decide that case conformably to the law, disregarding the Constitution, or conformably to the Constitution, disregarding the law, the Court must determine which of these conflicting rules governs the case. This is of the very essence of judicial duty. If, then, the Courts are to regard the Constitution, and the Constitution is superior to any ordinary act of the Legislature, the Constitution, and not such ordinary act, must govern the case to which they both apply. Those, then, who controvert the principle that the Constitution is to be considered in court as a paramount law are reduced to the necessity of maintaining that courts must close their eyes on the Constitution, and see only the law. This doctrine would subvert the very foundation of all written constitutions.

And in *Cherokee Nation v. State of Georgia*, 5 Pet. 1, 17 (1831), and *Chouteau v. Malony*, 16 How. 203, 237, 238 (1853), it held:

> Meanwhile [until treaty of cession] they [the Indian tribes] are in a state of pupilage. Their relation to the United states resembles that of a ward to a guardian.…The Indians within the Spanish Dominions, whether Christianized or not, were in a state of tutelage.…Indians are considered as persons under a legal disability and their protectors stand in the light of guardians…They were protected very much by similar laws when Louisiana was a French province.

The conjunction of these original and authoritative constitutive precedents signifies that the respondents and this Court labor under the burden of providing a rule of law remedy that balances the equities.

Instead of fulfilling its constitutional duty of protecting its wards the legal establish of the United States and Canada abuses its fiduciary obligation, specifically, by denying to the constitutional right of Indian tribal sovereignty that right's constitutional (or indeed any other) remedy

with which to defend themselves against the conversion of their capital by their protector, leaving them suffering from "serious bodily and mental harm" so perversely cruel as systemically to induce self inflicted "killing" within the meaning of those terms as used in Articles 2(a) and (b) of the *Convention for the Prevention and Punishment of the Crime of Genocide, 1948.*

Euripides said, "Whom the gods wish to destroy, they first make mad." The American and Canadian governments and court administrators behave as if they were the gods of the Indian tribes with omnipotent power to un-create them by ignoring their constitutional right to exist. They get away with this racist arrogance because not only have they usurped the Indian tribes' constitutional jurisdiction but by means of *force majeure* they inequitably enforce a monopoly over the administration of "justice" with guns and jails ostensibly under the auspices of the rule of law, in the most extraordinary circumstance where the rule of law is converted into a criminal weapon.

This Court can balance the scale simply by addressing the constitutional question invited by Thomas, J, in the 2004 *Lara* case and the respondents can respond, whether in support or in opposition does not matter, so long as they behave as statesmen in the public interest rather

than as private persons seeking a self-interested "win" by hook or by crook.

In this context the "public interest" is established by the Preamble to the *Constitution's* express and explicit overarching objective:

> We the people of the United States, in order to form a more perfect union, establish justice, insure domestic tranquility, provide for the common defense, promote the general welfare, and secure the blessings of liberty to ourselves and our posterity, do ordain and establish this Constitution for the United States of America.

The *Constitution's* predecessor the *Royal Proclamation of 1763* occupied the same statesman-like position:

> And whereas it is just and reasonable, and essential to our Interest, and the Security of our Colonies that the several Nations or Tribes of Indians with whom We are connected and who live under our Protection should not be molested or disturbed in the Possession of such Parts of Our Dominions and Territories as, not having been ceded to or purchased by Us are reserved to them or any of them as their Hunting Grounds.

The common constitutional objective was, and remains to achieve justice and security for all by means of government based upon the consent of the governed including the Indian tribes whose liberty was, and is voluntarily to merge by means of nation-to-nation treaty if and when ready but not to be compelled or coerced in that choice.

The means to that end for the respondents in this case is to refrain from chicanery, *i.e.*, that aspect of lying called sharp practice, that seeks to evade, avoid or postpone the addressing of the constitutional question ostensibly, or at least in the respondents' lawyers' own minds, that such

an approach serves the public interest in security. Rarely is the enemy fooled since it believes nothing the government disseminates anyway, which leaves only the People being misled, as if democratic government securely could be based upon the consent of the governed obtained by disinformation without undermining the public faith that is the bedrock of the security interest.

(*q*). DECLARATION ON THE RIGHTS OF INDIGENOUS PEOPLES. In 2007 the General Assembly of the United Nations enacted Resolution 61/295 (Appendix). Although Canada and the United States in 2010 expressed a political intention to adopt it having initially opposed its enactment, its status is inchoate for the purpose of the existing constitutional law and the Treaties contracted by Massachusetts with the applicants in 1724 and 1776 which themselves enjoy constitutional law status by succession and by incorporation by reference in the *Constitution*, Art. VI:

> ¶1. All Debts contracted and Engagements entered into, before the Adoption of this Constitution, shall be as valid against the United States under this Constitution, as under the Confederation.
>
> ¶2. This Constitution, and the Laws of the United States which shall be made in Pursuance thereof; and all Treaties made, or which shall be made, under the Authority of the United States, shall be the supreme Law of the Land; and the Judges in every State shall be bound thereby, any Thing in the Constitution or Laws of any State to the Contrary notwithstanding.

The declaration's quasi-constitutional status is inchoate unless and until it has been ratified by a two thirds vote in the Senate pursuant to

Art. II, §2, ¶2, which enacts that "He," the President, "shall have Power, by and with the Advice and Consent of the Senate, to make Treaties, provided two thirds of the Senators present concur."

The declaration adds nothing to the constitutional right and remedy upon which the applicants rely based upon the discovery doctrine. *Worcester v. Georgia*, 6 Pet. 515 (1832) (Motion, n.9 p.8).

But it does confirm them and, if this Court were to hold that it has the jurisdiction constitutionally to have repealed that previous status in virtue of its statement in the 2004 *Lara* case that the Art. I, §8, ¶3 "Commerce Clause" overrides the Art. II, §2, ¶2 "Treaty Clause" (which is not admitted but denied) then, and only then, the 2007 declaration may become relevant.

If it constitutes a treaty within the meaning of the Art. II, §2, ¶2 "Treaty Clause" and, furthermore, if two thirds of the Senators present confirm it if and when it is presented for confirmation, then, the declaration can be construed by this Court as a reinstatement of the constitutional right and remedy that the *Lara* case repealed.

(*r*). "NATIONAL EMERGENCY." The last sentence of paragraph (2) hereinbefore alleged:

> And the following "most extraordinary circumstances" constitute a "national emergency" more profoundly threatening to the applicants' and the American Peoples' "right to exist" than any other.

The fatal flaw unavoidably inherent to constitutional democracy is the fact the democracy's constitutional court has the last word.

Stieg Larson's *The Girl who Kicked the Hornet's Nest* says (p. 321):

> Almost every democratic country maintains an independent constitutional court in some form, with a mandate to see to it that the authorities do not run roughshod over the democratic process. In Sweden the task is that of the prosecutor general or the parliamentary ombudsman, who, however, can only pursue recommendations forwarded to them by other departments. If Sweden had a constitutional court, then Salander's lawyer could instantly charge the Swedish government with the violation of her constitutional rights. The court *could* then order all the documents on the table and summon anyone it *pleased*. [Emphasis added.]

The added emphasis attempts to draw attention to the fact that even dreaming in Technicolor there has to be a final decision-maker whose decision is optional.[7] Since no higher authority exists to which to appeal, even the constitutional court in Larson's best of all possible worlds is at liberty to ignore the question Salander would wish to raise, if addressing it did not "please" the court.

This Court is a constitutional court in Larson's ideal sense. It "could" let all the constitutional words and their interpretive precedents come before it if it wanted. Thomas, J, in the 2004 *Lara* case asked the other Justices to do precisely that but at the time they did not want to see them.

[7] Or, at least, dreaming from a European juridical perspective as opposed to a North American one. The paramountcy of the truth standard over political expediency that this Court settled in *Scott v. Sandford,* 19 How. 393 (SC 1857) and forgot after 1871 until culmination in *US v. Lara*, 541 US 193 (2004), has been affirmed as to France by in consequence of the *Dreyfus* case, in the UK by the cases of the *Guildford Four* and the *Maguire Seven,* and Spain in *Menchu v. Montt* (Motion, n.1 p.2) in 2005.

The only difference between then and now is that he remarked the existence of the constitutional question but not the interpretive precedents that fully answer it. He said legal research was requisite.

The applicants have done the research and now have produced the missing evidence. This Court may or may not be pleased.

If but only if this Court wants constitutional democracy under the rule of law to live to see another day to face other, lesser, national emergencies, none being as irremediably critical as judicial usurpation of the People's sovereignty according, at any rate, to this Court in *Marbury v. Madison*, 5 US 137 (1803), and *Scott v. Sandford*, 19 How. 393 (SC 1857), the applicants' constitutional question must be addressed.

(*s*). "INTERNATIONAL EMERGENCY." The legacy of the historical event of Europe in the Americas is the single most important occurrence in human affairs in terms of global geopolitics and the prognosis for the fact and quality of continuity. The continuing exploitation and genocide of colonialism permitted and maintains the ascendancy of North Atlantic civilization and now is perceived as the birthright of the nascent Empire of Asia led by China and of Latin America led by Brazil.

As foreseen and forecast by the ancestors of the tribes of north eastern North America as they heard the screams of trees being cleared, the land being torn and the waters made sewage the global environment

can not survive the threat of this second tsunami of progress. It was to prevent this that they received the newcomers' good news of free trade and the protection of indigenous sovereignty under the rule of law's discovery doctrine, in abrogation of which the applicants face extinction along with the rest of the democratic peoples of the international community.

Global social organization in the neo-colonial modern era has entered the current end-of-time era wherein dominant is to servient as civilized was to savage and, correspondingly, only constitutional democracy under the rule of law can prevent the looming genocide of the servient by their rulers, which prevention can not happen unless the United States leads humanity out of this wilderness, which can not happen unless this Court reads, respects and applies the *Constitution* as it is written.

(*t*). "WHOLE TRUTH." The public importance of the constitutional question of tribal sovereignty is inestimable. The danger, not only to the applicants but to the People of the United States and the world they influence, of getting it wrong lurks in neglecting the overarching perspective in favor of focusing one aspect of the *Constitution*, or of the blindness and deafness of ethnocentrism and temperocentrism. The danger exacerbates when focusing some factual or legal detail in

isolation, such as for example occurred in *US v. Lara,* 541 US 193 (2004) without regard for the "superprecedents" *Worcester v. Georgia,* 6 Pet. 515 (1832) and *Scott v. Sandford,* 19 How. 393 (SC 1857).

For this reason the applicants submit it is essential that this Motion for Leave to Increase the Permitted Word Count, the Motion for Leave to File a Bill of Complaint and the Bill of Complaint be read and comprehended contemporaneously and *in pari materia*. The main Motion identifies the technical aspect of the applicants' Complaint, the Bill identifies its jurisprudential aspect, this Motion presents the argument those constitute "good cause" in "most extraordinary circumstances." The preliminary and the final argument are the same. Therefore the applicants' case on the merits rests without further argument either on this procedural Motion or in relation to the substantive Motion and Bill.

(4). AFFIDAVIT. The applicants attest nothing essential to an objective conclusion has been omitted and no unnecessary detail has been included herein or in their accompanying Motion for Leave to File a Bill of Complaint and Bill of Complaint and that the contents of all are true including, but not restricted to, the necessary and sufficient fact that the signatories hereto are "Ambassadors and public Ministers" of sovereign bodies politic within the meaning of the *Constitution*, Art. III, §2, ¶2.

SWORN BEFORE me at 2:30 pm GRANVILLE, NY. on February ~~11~~ 17, 2011.

Jenny Linda Martelle
Oath-Taker

Jenny Linda Martelle
Notary Public, State of New York
Washington County - 01MA6068020
Commission Expires 12/24/2013

Rick Van Guilder
Per: Mahican Tribe
Hudson River Drainage Basin

SWORN BEFORE me at Muenster, Sask. Canada. on February 11, 2011.

Oath-Taker

A NOTARY PUBLIC In and for Saskatchewan
My Appointment expires DEC 31, 2011

Gary Metallic
Gary Metallic
Per: Mi'kmaq Tribe
Gespegawagi District
Restigouche River and South
Gaspé Peninsula Drainage
Basin

Appendix

Declaration on the Rights of Indigenous Peoples, GA Res. 61/295 (2007).

The General Assembly, Guided by the purposes and principles of the Charter of the United Nations, and good faith in the fulfilment of the obligations assumed by States in accordance with the Charter, *Affirming* that indigenous peoples are equal to all other peoples, while recognizing the right of all peoples to be different, to consider themselves different, and to be respected as such, *Affirming also* that all peoples contribute to the diversity and richness of civilizations and cultures, which constitute the common heritage of humankind, *Affirming further* that all doctrines, policies and practices based on or advocating superiority of peoples or individuals on the basis of national origin or racial, religious, ethnic or cultural differences are racist, scientifically false, legally invalid, morally condemnable and socially unjust, *Reaffirming* that indigenous peoples, in the exercise of their rights, should be free from discrimination of any kind, *Concerned* that indigenous peoples have suffered from historic injustices as a result of, inter alia, their colonization and dispossession of their lands, territories and resources, thus preventing them from exercising, in particular, their right to development in accordance with their own needs and interests, *Recognizing* the urgent need to respect and promote the inherent rights of indigenous peoples which derive from their political, economic and social structures and from their cultures, spiritual traditions, histories and philosophies, especially their rights to their lands, territories and resources, *Recognizing* also the urgent need to respect and promote the rights of indigenous peoples affirmed in treaties, agreements and other constructive arrangements with States, *Welcoming* the fact that indigenous peoples are organizing themselves for political, economic, social and cultural enhancement and in order to bring to an end all forms of discrimination and oppression wherever they occur, *Convinced* that control by indigenous peoples over developments affecting them and their lands, territories and resources will enable them to maintain and strengthen their institutions, cultures and traditions, and to promote their development in accordance with their aspirations and needs, *Recognizing* that respect for indigenous knowledge, cultures and traditional practices contributes to sustainable and equitable development and proper management of the environment, *Emphasizing* the contribution of the demilitarization of the lands and territories of indigenous peoples to peace, economic and social progress and development, understanding and friendly relations among nations and peoples of the world, *Recognizing* in particular the right of indigenous families and communities to retain shared responsibility for the upbringing, training, education and well-being of their

children, consistent with the rights of the child, *Considering* that the rights affirmed in treaties, agreements and other constructive arrangements between States and indigenous peoples are, in some situations, matters of international concern, interest, responsibility and character, *Considering also* that treaties, agreements and other constructive arrangements, and the relationship they represent, are the basis for a strengthened partnership between indigenous peoples and States, *Acknowledging* that the Charter of the United Nations, the International Covenant on Economic, Social and Cultural Rights and the International Covenant on Civil and Political Rights, as well as the Vienna Declaration and Programme of Action, affirm the fundamental importance of the right to self-determination of all peoples, by virtue of which they freely determine their political status and freely pursue their economic, social and cultural development, *Bearing in mind* that nothing in this Declaration may be used to deny any peoples their right to self-determination, exercised in conformity with international law, *Convinced* that the recognition of the rights of indigenous peoples in this Declaration will enhance harmonious and cooperative relations between the State and indigenous peoples, based on principles of justice, democracy, respect for human rights, non-discrimination and good faith, *Encouraging* States to comply with and effectively implement all their obligations as they apply to indigenous peoples under international instruments, in particular those related to human rights, in consultation and cooperation with the peoples concerned, *Emphasizing* that the United Nations has an important and continuing role to play in promoting and protecting the rights of indigenous peoples, *Believing* that this Declaration is a further important step forward for the recognition, promotion and protection of the rights and freedoms of indigenous peoples and in the development of relevant activities of the United Nations system in this field, *Recognizing* and reaffirming that indigenous individuals are entitled without discrimination to all human rights recognized in international law, and that indigenous peoples possess collective rights which are indispensable for their existence, well-being and integral development as peoples, *Recognizing* that the situation of indigenous peoples varies from region to region and from country to country and that the significance of national and regional particularities and various historical and cultural backgrounds should be taken into consideration, *Solemnly proclaims* the following United Nations Declaration on the Rights of Indigenous Peoples as a standard of achievement to be pursued in a spirit of partnership and mutual respect:

Article 1. Indigenous peoples have the right to the full enjoyment, as a collective or as individuals, of all human rights and fundamental freedoms as recognized in the Charter of the United Nations, the Universal Declaration of Human Rights and international human rights law.

Article 2. Indigenous peoples and individuals are free and equal to all other peoples and individuals and have the right to be free from any kind of discrimination, in the exercise of their rights, in particular that based on their indigenous origin or identity.

Article 3. Indigenous peoples have the right to self-determination. By virtue of that right they freely determine their political status and freely pursue their economic, social and cultural development.

Article 4. Indigenous peoples, in exercising their right to self-determination, have the right to autonomy or self-government in matters relating to their internal and local affairs, as well as ways and means for financing their autonomous functions.

Article 5. Indigenous peoples have the right to maintain and strengthen their distinct political, legal, economic, social and cultural institutions, while retaining their right to participate fully, if they so choose, in the political, economic, social and cultural life of the State.

Article 6. Every indigenous individual has the right to a nationality.

Article 7(1). Indigenous individuals have the rights to life, physical and mental integrity, liberty and security of person.

(2). Indigenous peoples have the collective right to live in freedom, peace and security as distinct peoples and shall not be subjected to any act of genocide or any other act of violence, including forcibly removing children of the group to another group.

Article 8(1). Indigenous peoples and individuals have the right not to be subjected to forced assimilation or destruction of their culture.

(2) States shall provide effective mechanisms for prevention of, and redress for:

(a). Any action which has the aim or effect of depriving them of their integrity as distinct peoples, or of their cultural values or ethnic identities;

(b). Any action which has the aim or effect of dispossessing them of their lands, territories or resources;

(c). Any form of forced population transfer which has the aim or effect of violating or undermining any of their rights;

(d). Any form of forced assimilation or integration;

(e). Any form of propaganda designed to promote or incite racial or ethnic discrimination directed against them.

Article 9. Indigenous peoples and individuals have the right to belong to an indigenous community or nation, in accordance with the traditions and

customs of the community or nation concerned. No discrimination of any kind may arise from the exercise of such a right.

Article 10. Indigenous peoples shall not be forcibly removed from their lands or territories. No relocation shall take place without the free, prior and informed consent of the indigenous peoples concerned and after agreement on just and fair compensation and, where possible, with the option of return.

Article 11(1). Indigenous peoples have the right to practise and revitalize their cultural traditions and customs. This includes the right to maintain, protect and develop the past, present and future manifestations of their cultures, such as archaeological and historical sites, artefacts, designs, ceremonies, technologies and visual and performing arts and literature.

(2). States shall provide redress through effective mechanisms, which may include restitution, developed in conjunction with indigenous peoples, with respect to their cultural, intellectual, religious and spiritual property taken without their free, prior and informed consent or in violation of their laws, traditions and customs.

Article 12(1). Indigenous peoples have the right to manifest, practise, develop and teach their spiritual and religious traditions, customs and ceremonies; the right to maintain, protect, and have access in privacy to their religious and cultural sites; the right to the use and control of their ceremonial objects; and the right to the repatriation of their human remains.

(2). States shall seek to enable the access and/or repatriation of ceremonial objects and human remains in their possession through fair, transparent and effective mechanisms developed in conjunction with indigenous peoples concerned.

Article 13(1). Indigenous peoples have the right to revitalize, use, develop and transmit to future generations their histories, languages, oral traditions, philosophies, writing systems and literatures, and to designate and retain their own names for communities, places and persons.

(2). States shall take effective measures to ensure that this right is protected and also to ensure that indigenous peoples can understand and be understood in political, legal and administrative proceedings, where necessary through the provision of interpretation or by other appropriate means.

Article 14(1). Indigenous peoples have the right to establish and control their educational systems and institutions providing education in their own languages, in a manner appropriate to their cultural methods of teaching and learning.

(2). Indigenous individuals, particularly children, have the right to all levels and forms of education of the State without discrimination.

(3). States shall, in conjunction with indigenous peoples, take effective measures, in order for indigenous individuals, particularly children, including those living outside their communities, to have access, when possible, to an education in their own culture and provided in their own language.

Article 15(1). Indigenous peoples have the right to the dignity and diversity of their cultures, traditions, histories and aspirations which shall be appropriately reflected in education and public information.

(2). States shall take effective measures, in consultation and cooperation with the indigenous peoples concerned, to combat prejudice and eliminate discrimination and to promote tolerance, understanding and good relations among indigenous peoples and all other segments of society.

Article 16(1). Indigenous peoples have the right to establish their own media in their own languages and to have access to all forms of non-indigenous media without discrimination.

(2). States shall take effective measures to ensure that State-owned media duly reflect indigenous cultural diversity. States, without prejudice to ensuring full freedom of expression, should encourage privately owned media to adequately reflect indigenous cultural diversity.

Article 17(1). Indigenous individuals and peoples have the right to enjoy fully all rights established under applicable international and domestic labour law.

(2). States shall in consultation and cooperation with indigenous peoples take specific measures to protect indigenous children from economic exploitation and from performing any work that is likely to be hazardous or to interfere with the child's education, or to be harmful to the child's health or physical, mental, spiritual, moral or social development, taking into account their special vulnerability and the importance of education for their empowerment.

(3). Indigenous individuals have the right not to be subjected to any discriminatory conditions of labour and, inter alia, employment or salary.

Article 18. Indigenous peoples have the right to participate in decision-making in matters which would affect their rights, through representatives chosen by themselves in accordance with their own procedures, as well as to maintain and develop their own indigenous decision-making institutions.

Article 19. States shall consult and cooperate in good faith with the indigenous peoples concerned through their own representative institutions in order to obtain their free, prior and informed consent before adopting and implementing legislative or administrative measures that may affect them.

Article 20(1). Indigenous peoples have the right to maintain and develop their political, economic and social systems or institutions, to be secure in the enjoyment of their own means of subsistence and development, and to engage freely in all their traditional and other economic activities.

(2). Indigenous peoples deprived of their means of subsistence and development are entitled to just and fair redress.

Article 21(1). Indigenous peoples have the right, without discrimination, to the improvement of their economic and social conditions, including, inter alia, in the areas of education, employment, vocational training and retraining, housing, sanitation, health and social security.

(2). States shall take effective measures and, where appropriate, special measures to ensure continuing improvement of their economic and social conditions. Particular attention shall be paid to the rights and special needs of indigenous elders, women, youth, children and persons with disabilities.

Article 22(1). Particular attention shall be paid to the rights and special needs of indigenous elders, women, youth, children and persons with disabilities in the implementation of this Declaration.

(2). States shall take measures, in conjunction with indigenous peoples, to ensure that indigenous women and children enjoy the full protection and guarantees against all forms of violence and discrimination.

Article 23. Indigenous peoples have the right to determine and develop priorities and strategies for exercising their right to development. In particular, indigenous peoples have the right to be actively involved in developing and determining health, housing and other economic and social programmes affecting them and, as far as possible, to administer such programmes through their own institutions.

Article 24(1). Indigenous peoples have the right to their traditional medicines and to maintain their health practices, including the conservation of their vital medicinal plants, animals and minerals. Indigenous individuals also have the right to access, without any discrimination, to all social and health services.

(2). Indigenous individuals have an equal right to the enjoyment of the highest attainable standard of physical and mental health. States shall take the necessary steps with a view to achieving progressively the full realization of this right.

Article 25. Indigenous peoples have the right to maintain and strengthen their distinctive spiritual relationship with their traditionally owned or otherwise occupied and used lands, territories, waters and coastal seas and

other resources and to uphold their responsibilities to future generations in this regard.

Article 26(1). Indigenous peoples have the right to the lands, territories and resources which they have traditionally owned, occupied or otherwise used or acquired.

(2). Indigenous peoples have the right to own, use, develop and control the lands, territories and resources that they possess by reason of traditional ownership or other traditional occupation or use, as well as those which they have otherwise acquired.

(3). States shall give legal recognition and protection to these lands, territories and resources. Such recognition shall be conducted with due respect to the customs, traditions and land tenure systems of the indigenous peoples concerned.

Article 27. States shall establish and implement, in conjunction with indigenous peoples concerned, a fair, independent, impartial, open and transparent process, giving due recognition to indigenous peoples' laws, traditions, customs and land tenure systems, to recognize and adjudicate the rights of indigenous peoples pertaining to their lands, territories and resources, including those which were traditionally owned or otherwise occupied or used. Indigenous peoples shall have the right to participate in this process.

Article 28(1). Indigenous peoples have the right to redress, by means that can include restitution or, when this is not possible, just, fair and equitable compensation, for the lands, territories and resources which they have traditionally owned or otherwise occupied or used, and which have been confiscated, taken, occupied, used or damaged without their free, prior and informed consent.

(2). Unless otherwise freely agreed upon by the peoples concerned, compensation shall take the form of lands, territories and resources equal in quality, size and legal status or of monetary compensation or other appropriate redress.

Article 29(1). Indigenous peoples have the right to the conservation and protection of the environment and the productive capacity of their lands or territories and resources. States shall establish and implement assistance programmes for indigenous peoples for such conservation and protection, without discrimination.

(2). States shall take effective measures to ensure that no storage or disposal of hazardous materials shall take place in the lands or territories of indigenous peoples without their free, prior and informed consent.

(3). States shall also take effective measures to ensure, as needed, that programmes for monitoring, maintaining and restoring the health of indigenous peoples, as developed and implemented by the peoples affected by such materials, are duly implemented.

Article 30(1). Military activities shall not take place in the lands or territories of indigenous peoples, unless justified by a relevant public interest or otherwise freely agreed with or requested by the indigenous peoples concerned.

(2). States shall undertake effective consultations with the indigenous peoples concerned, through appropriate procedures and in particular through their representative institutions, prior to using their lands or territories for military activities.

Article 31(1). Indigenous peoples have the right to maintain, control, protect and develop their cultural heritage, traditional knowledge and traditional cultural expressions, as well as the manifestations of their sciences, technologies and cultures, including human and genetic resources, seeds, medicines, knowledge of the properties of fauna and flora, oral traditions, literatures, designs, sports and traditional games and visual and performing arts. They also have the right to maintain, control, protect and develop their intellectual property over such cultural heritage, traditional knowledge, and traditional cultural expressions.

(2). In conjunction with indigenous peoples, States shall take effective measures to recognize and protect the exercise of these rights.

Article 32(1). Indigenous peoples have the right to determine and develop priorities and strategies for the development or use of their lands or territories and other resources.

(2). States shall consult and cooperate in good faith with the indigenous peoples concerned through their own representative institutions in order to obtain their free and informed consent prior to the approval of any project affecting their lands or territories and other resources, particularly in connection with the development, utilization or exploitation of mineral, water or other resources.

(3). States shall provide effective mechanisms for just and fair redress for any such activities, and appropriate measures shall be taken to mitigate adverse environmental, economic, social, cultural or spiritual impact.

Article 33(1). Indigenous peoples have the right to determine their own identity or membership in accordance with their customs and traditions. This does not impair the right of indigenous individuals to obtain citizenship of the States in which they live.

(2). Indigenous peoples have the right to determine the structures and to select the membership of their institutions in accordance with their own procedures.

Article 34. Indigenous peoples have the right to promote, develop and maintain their institutional structures and their distinctive customs, spirituality, traditions, procedures, practices and, in the cases where they exist, juridical systems or customs, in accordance with international human rights standards.

Article 35. Indigenous peoples have the right to determine the responsibilities of individuals to their communities.

Article 36(1). Indigenous peoples, in particular those divided by international borders, have the right to maintain and develop contacts, relations and cooperation, including activities for spiritual, cultural, political, economic and social purposes, with their own members as well as other peoples across borders.

(2). States, in consultation and cooperation with indigenous peoples, shall take effective measures to facilitate the exercise and ensure the implementation of this right.

Article 37(1). Indigenous peoples have the right to the recognition, observance and enforcement of treaties, agreements and other constructive arrangements concluded with States or their successors and to have States honour and respect such treaties, agreements and other constructive arrangements.

(2). Nothing in this Declaration may be interpreted as diminishing or eliminating the rights of indigenous peoples contained in treaties, agreements and other constructive arrangements.

Article 38. States in consultation and cooperation with indigenous peoples, shall take the appropriate measures, including legislative measures, to achieve the ends of this Declaration.

Article 39. Indigenous peoples have the right to have access to financial and technical assistance from States and through international cooperation, for the enjoyment of the rights contained in this Declaration.

Article 40. Indigenous peoples have the right to access to and prompt decision through just and fair procedures for the resolution of conflicts and disputes with States or other parties, as well as to effective remedies for all infringements of their individual and collective rights. Such a decision shall give due consideration to the customs, traditions, rules and legal systems of the indigenous peoples concerned and international human rights.

Article 41. The organs and specialized agencies of the United Nations system and other intergovernmental organizations shall contribute to the full realization of the provisions of this Declaration through the mobilization, inter alia, of financial cooperation and technical assistance. Ways and means of ensuring participation of indigenous peoples on issues affecting them shall be established.

Article 42. The United Nations, its bodies, including the Permanent Forum on Indigenous Issues, and specialized agencies, including at the country level, and States shall promote respect for and full application of the provisions of this Declaration and follow up the effectiveness of this Declaration.

Article 43. The rights recognized herein constitute the minimum standards for the survival, dignity and well-being of the indigenous peoples of the world.

Article 44. All the rights and freedoms recognized herein are equally guaranteed to male and female indigenous individuals.

Article 45. Nothing in this Declaration may be construed as diminishing or extinguishing the rights indigenous peoples have now or may acquire in the future.

Article 46(1). Nothing in this Declaration may be interpreted as implying for any State, people, group or person any right to engage in any activity or to perform any act contrary to the Charter of the United Nations or construed as authorizing or encouraging any action which would dismember or impair, totally or in part, the territorial integrity or political unity of sovereign and independent States.

(2). In the exercise of the rights enunciated in the present Declaration, human rights and fundamental freedoms of all shall be respected. The exercise of the rights set forth in this Declaration shall be subject only to such limitations as are determined by law and in accordance with international human rights obligations. Any such limitations shall be non-discriminatory and strictly necessary solely for the purpose of securing due recognition and respect for the rights and freedoms of others and for meeting the just and most compelling requirements of a democratic society.

(3). The provisions set forth in this Declaration shall be interpreted in accordance with the principles of justice, democracy, respect for human rights, equality, non-discrimination, good governance and good faith.