



The U.S. Commission on Civil Rights Applauds the U.S. Supreme Court's Recent Decision Upholding U.S. Treaties with Native Americans

July 17, 2020

The U.S. Commission on Civil Rights by majority vote applauds the U.S. Supreme Court's decision in *McGirt v. Oklahoma* "hold[ing] the government to its word" and vindicating a promise we made, as a country, to the Creek Nation in 1866.¹ For too long, this country's relationship to native peoples has been characterized by broken promises, as we noted in our 2018 report, *Broken Promises*,² a report that reiterated the central point we had made fifteen years earlier.³

We agree wholeheartedly with the Court's holding that "there can be no question that Congress established a reservation for the Creek Nation"—and further applaud the Court's recognition that it is "equally clear that Congress has since broken more than a few of its promises to the Tribe."⁴ As we stated in *Broken Promises*, the United States and Native American tribes retain a "special government-to-government relationship ... shaped and defined by 375 treaties, Supreme Court decisions, laws, regulations, Executive Orders, and the customary practices of foreign relations."⁵ However, the Commission found this relationship has been marred by a "historic failure to carry out its promises and trust obligations ... includ[ing] longstanding and continuing disregard for tribes' infrastructure, self-governance, housing, education, health, and economic development."⁶

The result of this disregard has been catastrophic for Native Americans. As we noted in 2018, and stress now, "Native Americans are more likely to live in poverty, be unemployed, experience rape or abuse, and be killed by police than any other ethnic or racial group."⁷ They have higher infant mortality, lower life expectancy, and the lowest high school graduation rates in the nation.⁸

¹ *McGirt v. Oklahoma*, 591 U.S. ____, 1 (2020).

² U.S. Commission on Civil Rights, *Broken Promises: Continuing Federal Funding Shortfall for Native Americans* (2018) <https://www.usccr.gov/pubs/2018/12-20-Broken-Promises.pdf> [hereinafter *Broken Promises*].

³ U.S. Commission on Civil Rights, *A Quiet Crisis: Federal Funding and Unmet Needs in Indian Country* (2003) <https://www.usccr.gov/pubs/na0703/na0204.pdf>.

⁴ *McGirt*, 591 U.S. at 6.

⁵ *Broken Promises* at 203.

⁶ *Id.* at 1.

⁷ *Id.*

⁸ *Id.*

We cannot ignore our obligations as a nation any longer. We applaud the Court in recognizing this simple truth in this limited instance, and anticipate with hope and expectation that Congress, the U.S. government, and the American people will do the same.

The U.S. Commission on Civil Rights, established by the Civil Rights Act of 1957, is the only independent, bipartisan agency charged with advising the President and Congress on civil rights and reporting annually on federal civil rights enforcement. Our 51 state Advisory Committees offer a broad perspective on civil rights concerns at state and local levels. The Commission: in our 7th decade, a continuing legacy of influence in civil rights. For information about the Commission, please visit <http://www.usccr.gov> and follow us on Twitter and Facebook.