



HAUT-COMMISSARIAT AUX DROITS DE L'HOMME • OFFICE OF THE HIGH COMMISSIONER FOR HUMAN RIGHTS

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REFERENCE: CERD/EWUAP/Canada-Indigenous
Framework/2018/JP/ks

14 December 2018

Excellency,

I would like to inform you that in the course of its 97th Session, the Committee on the Elimination of Racial Discrimination considered information received related to the reform of the Department of Indian Affairs and Northern Development (DIAND) and to the proposal for the elaboration and adoption of the “Recognition and Implementation of Indigenous Rights Framework”, in Canada.

The Committee notes that the federal government announced that the Department of Indian Affairs and Northern Development (DIAND) would be divided into two entities, namely the Ministry of Crown-Indigenous Relations and Northern Affairs and the Ministry of Indigenous Services. The Committee further notes that, in February 2018, the federal government announced a new legislation to enshrine constitutional indigenous rights (section 35) in federal law. In September 2018, the federal government released a first draft paper on the new framework and announced its adoption to take place before the next federal elections of April 2019.

The Committee is concerned about the allegations that the announcement and development of the “Recognition and Implementation of Indigenous Rights Framework” have been carried out without consultation and free, prior and informed consent. Moreover, the Committee is concerned that the adoption of such a far-reaching new legislation on indigenous peoples’ rights, without their free, prior and informed consent would result in a deterioration of trust in the relations between the federal government and indigenous peoples.

In the case the above allegations would be corroborated, the Committee is concerned that the institutional reform and the legislative initiative, including the process leading to its elaboration, adoption and implementation, would infringe indigenous peoples’ rights protected under the International Convention on the Elimination of All Forms of Racial Discrimination.

Her Excellency Ms. Rosemary McCarney
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The Committee would like to recall paragraph 18 of its 2017 concluding observations (CERD/C/CAN/CO/21-23) and requests the State party to provide information on the steps taken to:

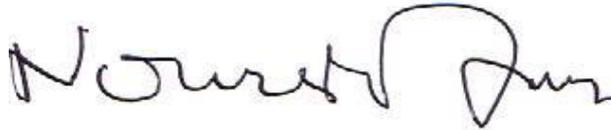
1. Ensure the respect of the right to consultation and free, prior and informed consent regarding the adoption of the “Recognition and Implementation of Indigenous Rights Framework”, or any new policy, legal and institutional framework on indigenous peoples’ rights, in accordance with indigenous peoples’ own decision making-processes.
2. Adopt a national action plan to implement the United Nations Declaration on the Rights of Indigenous Peoples.

In this regard, the Committee encourages the State party to consider engaging with the United Nations Expert Mechanism on the Rights of Indigenous Peoples (EMRIP) that is mandated by the Human Rights Council (resolution 33/25, paragraph 2), to provide States with technical advice on the rights of indigenous peoples and facilitate dialogue between States, indigenous peoples and/or the private sector.

In accordance with article 9 (1) of the Convention and article 65 of its Rules of Procedure, the Committee requests the State party to submit its response before 8 April 2019.

Allow me, Excellency, to reiterate the wish of the Committee to continue to engage in a constructive dialogue with the Government of Canada, with a view to provide it with assistance in the effective implementation of the Convention.

Yours sincerely,



Nouredine Amir
Chair

Committee on the Elimination of Racial Discrimination