



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

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Excellency,

I write to inform you that in the course of its 104<sup>th</sup> session, the Committee on the Elimination of Racial Discrimination considered information received under its early warning and urgent action procedure, concerning the situation of the Anishinaabe indigenous peoples in Minnesota, in the United States of America.

The information received alleges that the decision of the Government of the United States of America and of the State of Minnesota to permit the expansion of a tar sands pipeline (“Line3”) has been conducted without adequate consultation with and without obtaining the free, prior and informed consent of the Anishinaabe indigenous peoples, despite the serious harm such pipeline could allegedly cause.

It is further alleged that the “Line 3” project would infringe the rights of the Anishinaabe indigenous peoples, in particular by significantly reducing their traditional source of food, the “manoonim” wild rice, by encroaching on their lands and sacred sites and increasing health risks connected to environmental degradation, due to, in particular, air and water pollution. Reportedly, this project would exacerbate the already disproportionate impact of climate change on indigenous peoples in Minnesota, putting at risk their watersheds and their wild rice ecosystem.

According to the information received, the “Line 3” project would, furthermore, increase the risk of violence against indigenous women, including sex trafficking and sexual abuse, due to the significant influx of workers and the establishment of camps composed of male workers. It is also alleged that the intensified presence of law enforcement officials and private security companies would increase the risk of excessive use of force by members of the police and of these security companies against peaceful protestors, in particular those belonging to the Anishinaabe communities.

His Excellency Mr. Benjamin Moeling  
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Moreover, it is claimed that the domestic remedies available to indigenous peoples do not provide a legal basis for addressing the underlying cause of structural discrimination. Consequently, lawsuits filed against “Line 3” project by Anishinaabe organizations have reportedly been rejected without duly considering its impact on the human rights of the Anishinaabe.

In addition, the Committee has been informed that the usufructuary rights of Anishinaabe indigenous peoples to hunt, fish and gather wild rice, among others, are based on a series of treaties signed between the Anishinaabe and the Government of the United States of America. Reportedly, the Anishinaabe retain such usufructuary rights, which have been upheld by a ruling of the Supreme Court of the United States of America (*Minnesota v. Mille Lacs Band of Chippewa Indians*, 526 U.S. 172, 1999).

These allegations, if verified, could amount to violations of the Convention. In this regard, the Committee recalls its General Recommendation No. 23 (1997) on the rights of indigenous peoples and its previous concluding observations concerning the United States of America (CERD/C/USA/CO/7-9, par. 10, 19 and 24).

Accordingly, the Committee would like to request the State party to provide information on the above allegations as well as on the measures taken to:

- (a) Fully and adequately guarantee the right to consultation and to fulfil the requirement of free, prior and informed consent of the Anishinaabe indigenous peoples with regard to the “Line 3” project, as well as information on steps taken to suspend the project until such consultations have taken place and free, prior and informed consent has been obtained;
- (b) Prevent any adverse impact of the “Line 3” project on the livelihood and the rights of the Anishinaabe indigenous peoples, including on the environment, their right to health and to their culture;
- (c) Guarantee the right of the Anishinaabe indigenous peoples to an effective remedy with regard to possible violations of their rights in the context of the permission and construction of the “Line 3” project;
- (d) Prevent violence against indigenous women and of excessive use of force against protesters, in particular those belonging to the Anishinaabe indigenous peoples.

The Committee also requests the State party to provide details on the status of the treaties concluded between the Anishinaabe indigenous peoples and the Government of the United States of America and on measures adopted to guarantee the respect of the rights of the Anishinaabe under such treaties, in particular their usufructuary rights as upheld by the Supreme Court’s ruling mentioned above.

In accordance with Article 9(1) of the Convention and article 65 of its Rules of Procedure, the Committee would be grateful to receive a response by the State Party before 15 October 2021.

Allow me, Excellency, to reiterate the wish of the Committee to continue to engage in a constructive dialogue with the Government of the United States of America, with a view to ensuring the effective implementation of the Convention.

Yours sincerely,



Yanduan Li  
Chair

Committee on the Elimination of Racial Discrimination