



Asubpeeschoseewagong Netum Anishinabek

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February 2, 2015

Committee on Economic, Social and Cultural Rights (CESCR)
Human Rights Treaties Division (HRTD)
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**RE: 55 Pre-Sessional Working Group (09 Mar 2015 - 13 Mar 2015)
Consideration of List of Issues, Sixth Periodic Report, CANADA**

To the members of the Committee:

I am writing on behalf of the Asubpeeschoseewagong First Nation, also known as Grassy Narrows. In our community of about 1,500 people, over 900 of whom live on our reserve, children and youth outnumber the adults. We are deeply concerned about the future of these young people. We do not want them to inherit the legacy of human rights violations endured by previous generations.

We hope that the Committee will use the opportunity of this review to ask Canadian authorities to respond to the abuse of our fundamental human rights described below.

1. Throughout the 1960s, the provincial government of Ontario allowed a pulp and paper mill to dump approximately 9 metric tonnes of mercury into the English and Wabigoon River system that flows through our land. Mercury is extremely dangerous in the aquatic environment, accumulating in the flesh of fish, especially those species that are higher on the food chain, and poisoning those who eat the fish. Independent studies have shown that even today mercury persists in unusually high levels in our river sediment and that this mercury continues to be taken up and accumulated in the food chain. No clean up has ever been done of the contaminated river system and government has not reviewed available clean up options since the early 1980s.

2. The English and Wabigoon River system is the lifeblood of our people. Fishing is a central part of our culture, of who we are as a people. Fishing also provides a healthier and more affordable alternative to dependence on store bought food. Before the river was contaminated many of our people made good livings as commercial fishers, guides for sports fishers, or working in fishing lodges.

3. The contamination of our fish has created a severe health crisis in our community. We have had many cases of chronic mercury poisoning. This has resulted in pervasive, debilitating health problems such as deteriorating motor control and coordination, damage to the brain, nervous system, kidneys and other organs, loss of touch and the experience of numbness and tingling, and loss of vision, speech and hearing. Even among very young children, we have cases of seizures and other neurological and developmental problems linked to mercury. These concerns have been confirmed by leading experts on mercury poisoning from the Centre for Minamata Studies at Kumamoto Gakuen University in Japan, who have carried out a series of tests in our community since the early 1970s.

4. The federal and provincial governments have never fully acknowledged the mercury poisoning that we are suffering. There has been no long term tracking of the health of people exposed to mercury, nor adequate health treatment to assist in their care and rehabilitation. The federal and provincial governments have not recognized the testing carried out by the Japanese scientists, even though those scientists are world-leading experts who have received international awards. There has never been an apology.

5. In the 1980s, the federal and provincial governments did agree to establish a Mercury Disability Board that provides limited financial compensation to some of the community members exhibiting symptoms of mercury poisoning. However, most people who apply for compensation are turned down. This includes two-thirds of community members that the experts from Japan have diagnosed as being impacted by mercury. In addition, the rate of compensation has never been increased to account for inflation, with the result that the real value of the compensation has declined by half since the program started. Furthermore, the government has not provided specialized medical treatment specific to the problem of mercury poisoning.

6. Unfortunately, since the mercury issue first came forward in the 1970s and 80s, governments in Canada have not met their obligation to prevent further harm to our community and to our rights. Large-scale, industrial clearcut logging licensed by the province has resulted in the destruction of traplines, driven away important animal species and destroyed patches of berries and plant medicines. As a result, other important sources of food, livelihood and cultural practice have been taken from us. In addition, we have also become aware of scientific research that shows clearcut logging releases additional mercury from soils into the waterways.

7. The people of Grassy Narrows are united in our opposition to further clearcut logging. In 2002, youth from the community launched a blockade against clearcut

logging that still stands today. In January 2007, the Chief and Council, the Clan Mothers, the Elders Council, the Trappers Council, the Youth Council, and the blockaders together declared “a moratorium on further industrial activity in our Traditional Territory until such time as the Governments of Canada and Ontario restore their honour and obtain the consent of our community in these decisions that will forever alter the future of our people.”

8. Our moratorium has been accepted by a number of major corporations and investment groups. The provincial government, however, has never acknowledged that we have a right to say no to development that threatens our rights. A new forest management plan adopted by the province in December 2013 against the express opposition of our people would allow new clearcutting on our traditional territory.

9. We asked the province to put their forest management plan through an environmental review process, in order to look at the impact of mercury release into our waterways. Given that our river system still experiences high levels of mercury that threaten our health and way of life, we believe the province should at the very least refrain from adding more mercury to the system. In December 2014, the province decided that its latest logging plans would not even be subject to an environmental review. In response to serious concerns raised by our community over the potential that soil leaching and run-off from clearcuts would introduce more mercury into the river system, the province expressed confidence that its existing forest management would address any risk. This is in sharp contrast to the peer reviewed scientific studies which find that clearcut logging in the boreal forest increases mercury levels in fish and the province’s own statement that no mitigation measures have ever been tested.

10. Treaty 3 is an agreement made in 1873 between Canada and our Anishinaabek people that recognizes our ongoing right to maintain our way of life throughout our traditional territory, of which our reserve is only one small part. In July 2014, a Supreme Court of Canada decision affirmed the province’s solemn obligation to uphold the treaty and protect our harvesting rights. Grassy Narrows is currently in talks with the provincial government over forest management, and has also had meetings with provincial officials about the mercury issue. However, these talks have not yet led to meaningful respect for our rights. The outcome of these talks remain uncertain and we remain deeply concerned that, as the province’s decisions about logging on our lands demonstrates, our rights remain effectively unprotected. Meanwhile, the federal government has done nothing to protect us.

In our view, the actions of the federal and provincial governments outlined above represent a serious, ongoing violation of rights protected under the Covenant, including:

- the right to self-determination, the right to sovereignty over our natural resources and the right not to be deprived of our means of subsistence (Article 1);
- the prohibition against racial discrimination (Article 2);

- the right to earn a living (Article 6);
- the right to an adequate standard of living, including the right to food (Article 11);
- the right to health (Article 12);
- and the right to culture and the benefits of scientific progress (Article 15).

Given that the rationales given for the denial of our rights have always related to costs – the cost of providing redress or the cost of not logging our lands – we believe that the actions of governments in Canada are also in violation of the requirement of Article 2 that each state must take steps “to the maximum of its available resources, with a view to achieving progressively the full realization of the rights recognized in the present Covenant.”

Sincerely,

A handwritten signature in blue ink, appearing to read "Roger Fobister Sr.", written in a cursive style.

Chief Roger Fobister Sr.

Asubpeeschoseewagong Netum Anishinabek (Grassy Narrows First Nation)