



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

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3 October 2016

Excellency,

I write to inform you that in the course of its 90th session, the Committee on the Elimination of Racial Discrimination has considered, under its early warning and urgent action procedure, the allegations of threat of extinguishment of indigenous land rights of the Secwepemc Nation and the St'at'imc Nation in British Columbia, through the British Columbia Treaty Commission (BCTC) and the Canadian Comprehensive Claims Policy. These allegations have been brought to the Committee's attention by non-governmental organisations.

Regarding the Secwepemc Nation, the Committee was informed of the following. In pursuance of Federal policies and the Federal and Provincial British Columbia Treaty Commission process, the State party has entered into negotiations with four (Canim Lake, Soda Creek, Canoe Creek/Dog Creek, Williams Lake) out of the total of Secwepemc indigenous bands concerned. It is alleged that these negotiations have the aim of extinguishing the land rights of the Secwepemc Nation. It is claimed that such an agreement would negatively affect the collective rights of the Secwepemc Nation over these lands. This is due to the fact that, according to the information received, the land title over the Secwepemc territories has always been collectively possessed by the entire Secwepemc Nation.

It is further alleged that the Governments of Canada and British Columbia, in dealing with only these four bands, are not negotiating with a representative group of the Secwepemc Nation which, as claimed above, is the holder of title over these lands.

The Committee has been informed that a vote concerning the negotiations over the land title took place on 11 February 2016 but involved only these four groups. It is claimed that representatives of the other bands of the Secwepemc Nation were excluded from that vote. In addition, it is alleged that the Government did not consult all these bands or allow them to participate in the information meetings nor did the Governments make the agreement available to them for review or comments.

Her Excellency Ms. Rosemary McCarney
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Concerning the situation of the St'at'imc Nation, the Committee has been made aware of the following. The submission alleges that the land related to the Secwepemc Nation negotiations before the BCTC, referred to above, overlap with the territory of the St'at'imc Nation. However, it is claimed that the St'at'imc Nation has neither been involved in the process nor been consulted in relation to these negotiations. It is claimed that this situation threatens the integrity of the collective ownership by the St'at'imc Nation over these lands.

It is further claimed that another process - the Tsilhqot's Accord process - also affects the St'at'imc territory. Allegedly, the Accord is between the Tsilhqot'in and the provincial government of British Columbia and relates to a significant portion of a land (10,130 square kilometres) belonging to the St'at'imc Nation. It is alleged that this Accord has been negotiated without the consent or involvement of the St'at'imc Nation.

Finally, according to the information before the Committee, the Government of British Columbia has recently introduced legislation (the "Water Act") under which it claims ownership over all the water of the Province. The information before the Committee alleges this legislation would affect their land rights in the Province.

The Committee is concerned that these allegations, if verified, could hinder the full enjoyment of rights under the Convention and contradict provisions of paragraph 5 of the Committee General Recommendation No. 23 (1997) on the rights of indigenous peoples. The Committee recalls its recommendations made in paragraph 20 of its concluding observations of 2012 that requested "the State party to implement in good faith the right to consultation and to free, prior and informed consent of Aboriginal peoples whenever their rights may be affected" and to "continue to seek in good faith agreements with Aboriginal peoples with regard to their lands and resources claims under culturally-sensitive judicial procedures, find means and ways to establish titles over their lands, and respect their treaty rights" (CERD/C/CAN/CO/19-20).

In accordance with Article 9 (1) of the Convention and article 65 of its Rules of Procedure, the Committee requests that the State party submit information on all of the issues and concerns as outlined above by 14 November 2016, as well as on any action already taken to address these concerns. In particular, it requests that the Government of Canada provide information on:

- (a) Efforts made to ensure that representatives of all Secwepemc bands as well as representatives of the authorities of the Secwepemc Nation are involved or at least are consulted about negotiations that may affect the collective land rights and territory of the Secwepemc Nation, including those negotiations referred to above;
- (b) Measures to implement in good faith the right to free, prior and informed consent of the Secwepemc Nation and the St'at'imc Nation;
- (c) Steps taken to seek in good faith agreements with Secwepemc and St'at'imc peoples with regard to their lands and resources claims;



(d) Provide more information on the Water Act adopted by the Government of British Columbia and its relationship with water on un-surrendered indigenous land.

Allow me, Excellency, to express 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,

A handwritten signature in blue ink, appearing to read "Anastasia Crickley".

Anastasia Crickley
Chair

Committee on the Elimination of Racial Discrimination