



HAUT-COMMISSARIAT AUX DROITS DE L'HOMME • OFFICE OF THE HIGH COMMISSIONER FOR HUMAN RIGHTS
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2 December 2022

Excellency,

I write to inform you that the Committee considered information received under its early warning and urgent action procedure, related to the lack of consultation with First Nations (O'Chiese First Nation, Frog Lake Cree Nation, Kehewin Cree Nation, Whitefish Lake Band # 128, Cold Lake First Nation, Louis Bull Tribe, Beaver Lake Cree Nation, Ermineskin Cree Nation, Enoch Cree Nation and Onion Lake Cree Nation) with regard to the allocation of COVID-19 relief funds in the provinces of Alberta and Saskatchewan as well as (ii) the initiative to develop a Distinctions-Based Indigenous Health legislation.

According to the information received:

- The Federal Government of Canada transferred large amounts of direct COVID-19 relief funds to provinces (Alberta and Saskatchewan) based on a *per capita* allocation, which included in the counting the Indigenous population, but no funds were directly allocated to First Nations, who were forced to apply for funds from the provinces;
- The decision to deliver COVID-19 health assistance only through the provinces was made unilaterally by the Federal Government of Canada, without any consultation with all concerned First Nations, and at the expense of the provisions of Treaty Number Six of 1876 and the right of First Nations to develop and manage their own health systems within their territories.

The information received also alleges that:

- The Federal Government of Canada has launched a process to develop legislation on Indigenous Peoples' health (Distinctions-based Indigenous Health Legislation), without any consultation with all concerned First Nations prior to the announcement and without any regard to pre-existing treaty rights.

H.E. Ms. Leslie E. Norton
Permanent Representative of Canada
to the United Nations Office
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The Committee is concerned about the impact that the situation described could have on the rights of the above-mentioned First Nations. In this regard, the Committee recalls its general recommendation No. 23 (1997) on the rights of indigenous peoples, which called upon States parties to ensure that no decisions directly relating to the rights and interests of indigenous peoples are taken without their informed consent. It further recalls its concluding observations of 2012 (CERD/C/CAN/CO/19-20, paras. 19 and 20), in which the Committee recommended that the State party, in consultation with indigenous peoples, implement and reinforce its existing programmes and policies to better realize the economic, social and cultural rights of indigenous peoples, including the right to health.

In accordance with Article 9 (1) of the Convention and article 65 of its Rules of Procedure, the Committee would like to receive a response to the above allegations before 11 April 2023. The Committee would also like to receive information on the measures adopted by the State party to ensure meaningful consultations with First Nations on the health issues addressed in this letter, in accordance with the Convention and with the United Nations Declaration on the Rights of Indigenous Peoples, in particular the principle to obtain the free, prior and informed consent of indigenous peoples before adopting and implementing legislative or administrative measures that may affect them.

Finally, the Committee requests the State party to submit its 24th to 25th combined periodic report, which was due on 15 November 2021.

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 ensuring the effective implementation of the Convention.

Yours sincerely,



Verene Shepherd
Chair

Committee on the Elimination of Racial Discrimination