

FIRST NATIONS LEADERSHIP COUNCIL

February 14, 2007

Members of the Committee on the Elimination of Racial Discrimination
c/o Nathalie Prouvez
Secretary of the Committee on the Elimination of Racial Discrimination
Treaties and Commission Branch
Office of the High Commissioner for Human Rights
UNOG-OHCHR
CH-1211 Geneva 10,
Switzerland

Re: CERD/C/CAN/18
5 April 2006

We are advised that Canada's Report to the Committee on the Elimination of Racial Discrimination (CERD) will be dealt with by the CERD Committee on February 20 - 21, 2007 in Geneva. Since we are not able to attend the CERD Committee session, we respectfully request you consider this written submission and attachments.

The First Nations Leadership Council is a representative political advocacy body for Indigenous peoples (First Nations) in British Columbia, Canada. As such, we have firsthand knowledge on the important developments between Canada (and the provinces) and First Nations. Given this, we take strong exception to paragraphs 37 - 42 and paragraphs 306 - 311 and the manner, tone, and content of these paragraphs. There are many other paragraphs in the Report addressing Indigenous (First Nations/ Aboriginal) issues on which we would like to comment, but we respectfully limit our submissions to the following.

While Canada purports to champion human rights elsewhere in the world and condemns those who violate international human rights standards, and while it is a member of the United Nations' newly established Human Rights Council, it has strongly advocated and lobbied the international community against the adoption of the Declaration on the Rights of Indigenous Peoples [Declaration]. In fact, Canada was one of only two countries on the Human Rights Council which on June 29, 2006 voted against the adoption of this important Declaration.

We fully support the Declaration and encourage the United Nations 61st General Assembly to adopt it. We believe it sets important minimum international "standards for the survival, dignity and well being of the Indigenous peoples of the world."



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Indigenous peoples have had to resort to the judicial processes in Canada for the recognition and implementation of their rights. Despite the fact that section 35 of Canada's Constitution Act (1982) recognizes and affirms aboriginal and treaty rights Canada as a matter of policy, systematically and continuously denies and rejects the very existence of Indigenous peoples and Indigenous rights to lands, territories and resources as well as Indigenous rights and authorities to self government. Current case law in Canada further defines and supports these section 35 rights but Canada continues to maintain policies consistent with the denial of those rights. We respectfully submit a copy of the First Nations Summit's presentation of October 12 - 14, 2005 to Mr. Rodolfo Stavenhagen, the U.N. Special Rapporteur on the Rights of Indigenous Peoples. The submission, based entirely on Canada's (and British Columbia's) pleadings and positions in the courts, reflects a fundamental disregard for and denial of human rights and rights of Indigenous peoples.

While Canada's Report goes to great lengths to explain the many Supreme Court of Canada decisions - it does not explain that where legal disputes arise between Indigenous peoples and land/resource developers and/or provincial governments, Canada has never intervened in support of Indigenous peoples. And despite the many positive decisions by the Supreme Court of Canada in favour of Indigenous peoples and rights, Canada falls back to its historic position, advocating "terra nullius" arguments and that there is "considerable uncertainty about the existence, content and scope of specific aboriginal rights of ownership and use of lands and resources, as well as uncertainty about who are the specific holders of such rights." In other words, Canada argues, it does not know if there are Indigenous peoples nor the rights they may have unless these matters are dealt with through expensive and often inaccessible legal processes through Canada's judicial system.

Given this, we respectfully submit to the CERD Committee:

1. To investigate our complaints, and
2. That the CERD review process be kept open for ongoing review of the above issues and others identified in Canada's Report.

This information is being sent to you via email with the following document attached:

Implementation of Jurisprudence Concerning Indigenous Peoples' Rights:
Experiences from the Americas - A Canadian Perspective

Presented to United Nations Rapporteur on the Situation of Human Rights and Fundamental Freedoms of Indigenous People by the First Nations Summit at the United Nations Expert Seminar on Implementation of National Legislation and Jurisprudence concerning Indigenous Peoples' Rights: Experiences from the Americas

October 12-14, 2005
Tucson, Arizona

This package, along with the full First Nations Summit presentation, including annexes, contained on CD will be sent to the CERD Secretariat via FedEx courier on February 14, 2007. It should arrive prior to the CERD February 20 - 21, 2007 session.

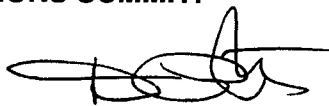
Sincerely,

FIRST NATIONS LEADERSHIP COUNCIL

On behalf of the FIRST NATIONS SUMMIT:



Grand Chief Edward John



Dave Porter



Chief Judith Sayers

On behalf of the UNION OF BC INDIAN CHIEFS

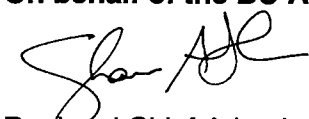


Chief Stewart Phillip



Chief Robert Shintah

On behalf of the BC ASSEMBLY OF FIRST NATIONS:



Regional Chief A-in-chut (Shawn Atleo)

Attachment: Implementation of Jurisprudence Concerning Indigenous Peoples' Rights: Experiences from the Americas - A Canadian Perspective - Presented by the First Nations Summit

The First Nations Leadership Council is comprised of the political executives of the First Nations Summit, Union of BC Indian Chiefs and the BC Assembly of First Nations. The Council works together to politically represent the interests of First Nations in British Columbia and develop strategies and actions to bring about significant and substantive changes to government policy that will benefit all First Nations in British Columbia.