

**NATIONS UNIES**  
**HAUT COMMISSARIAT AUX DROITS DE L'HOMME**



**UNITED NATIONS**  
**HIGH COMMISSIONER FOR HUMAN RIGHTS**



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Excellency,

The Committee on the Elimination of All Forms of Racial Discrimination appreciated the open discussion which took place on Tuesday 3 March 2009 between representatives of the Canadian Permanent Mission to the United Nations in Geneva and the Working Group on Early Warning and Urgent Action Procedure on the issues raised before the Committee.

At the outset, the Committee wishes to clarify the question of its competence to request further information from State Parties. According to article 9.1 (b) of the Convention on the Elimination of All Forms of Racial Discrimination, the States Parties undertake to submit a report on legislative, judicial, administrative or other measures "(...) whenever the Committee so requests." Regarding the competence of the Committee to act under its early warning and urgent action procedure, the five-member working group, established in accordance with rule 61 of its rules of procedure, has the competence to analyse and assess in a preliminary way information received on situations that may require urgent action. The guidelines for the early warning and urgent action procedure (A/62/18, annex III), which further elaborate guiding principles for the prevention of racial discrimination set out in a working paper adopted in 1993 (A/48/18, annex III), list a series of Indicators for the application of that procedure. Paragraph 12 (h) states that the Committee shall act under the procedure, inter alia, in the case of "Encroachment on the traditional lands of indigenous peoples or forced removal of these peoples from their lands, in particular for the purpose of exploitation of natural resources".

**His Excellency Mr. Marius Grinius**  
**Ambassador Extraordinary and Plenipotentiary**  
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The following issues have recently been brought to the attention of the Committee: (1) increased development in indigenous territories in British Columbia without the informed consent of Indigenous Peoples and (2) the privatization of traditional lands for the benefit of mining and energy companies without informed consent of the citizens of Kitchenuhmanykoosib Inninuwig:

(1) Concerning the developments in indigenous territories in British Columbia, the Committee has been made aware of the following situations:

- According to information submitted, “Sun Peaks Ski Resort Real Estate Market Area”, in connection with the 2010 Winter Olympics, wishes to enlarge ski resorts in British Columbia on Aboriginal land and build a large number of houses and apartments. According to the reports, this is taking place without the informed consent of Indigenous Peoples and indigenous people participating in protests have been arrested;
- According to information submitted, the British Columbia Treaty Commission is engaged in a process of negotiation with Indigenous Peoples which would result in the modification of aboriginal land rights and their conversion into fee simple titles, e.g. for Xaxli’s First Nation, Lhedili Tèneh and Tsawwassen. Questions have been raised as to whether the negotiation processes meet the standards of fairness and transparency.

(2) Concerning the privatization of traditional lands, the Committee has been made aware of the Kitchenuhmanykoosib Inninuwig case, whereby it is claimed that the State party and the province of Ontario are intent on privatizing traditional lands and turning them over to mining and energy companies. The Committee was informed that these actions are being taken without the informed consent of the citizens of Kitchenuhmanykoosib Inninuwig. Furthermore, the sources report that several citizens of Kitchenuhmanykoosib Inninuwig were jailed for failure to remove themselves from their traditional territory.

In order to continue a constructive dialogue with your Government, the Committee requests the State party to submit information on the situations mentioned above, in particular on:

- The arrests of indigenous activists;
- The standards of fairness and transparency in the negotiation process on the modification of Aboriginal titles, including allegations concerning financial inducements to conclude agreements;
- The voting that took place in the Lhedili Tèneh and Tsawwassen processes, and in particular the reasons for initiating a second ratification vote in Lhedili Tèneh, despite the fact that the peoples had already voted against the final agreement.

Regarding the Lubicon Lake Indian Nation case (please refer to the Committee’s letter dated 15 August 2008), the Committee was informed that the State party’s interim response is almost completed. The Committee acknowledges this with appreciation.

The Committee kindly asks the State party to submit the information mentioned above in the interim-report within the context of the Follow-up procedure no later than 31 July 2009. The Committee also reiterates its request to receive comments with regard to

the implementation of the recommendations contained in paragraphs 14, 21, 22 and 26 of its previous concluding observations and asks the State party to include these comments in the same document.

Allow me, Excellency, to underline that the Committee's requests for information are made with a view to assisting your Government in the effective implementation of the Convention.

Yours sincerely,



Fatimata-Binta Victoire Dah  
Chairperson of the Committee for the  
Elimination of Racial Discrimination