

FIRST NATIONS LEADERSHIP COUNCIL

News Release

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FIRST NATIONS LEADERSHIP COUNCIL JOINS OTHER INDIGENOUS PEOPLES IN ACCUSING CANADA OF VIOLATING THE INTERNATIONAL CONVENTION ON THE ELIMINATION OF ALL FORMS OF RACIAL DISCRIMINATION

Coast Salish Traditional Territory/Vancouver, BC – The First Nations Leadership Council has sent a submission in response to Canada's report to the United Nations (UN) Committee on the Elimination of Racial Discrimination (CERD). Canada's report will be heard by CERD in Geneva, Switzerland on February 20-21, 2007.

Indigenous Peoples' submissions will be considered along with the Canadian Government's report when CERD begins its review of Canada on Tuesday February 20th, 2007.

The First Nations Leadership Council submission takes exception with Canada's assertions that it is a champion of human rights in Canada and elsewhere in the world.

"Indigenous peoples in Canada know the true story. Canada has a long history of denial of Aboriginal Title and Rights in this country", said Grand Chief Edward John, a member of the First Nations Summit Political Executive and the First Nations Leadership Council.

"We have clearly illustrated in our submission to CERD that Canada has a longstanding policy of denying the existence of Aboriginal Title and Rights which has continually forced Aboriginal people in this country to resort to judicial processes to have the recognition and implementation of their rights legally affirmed", added Chief John.

"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," stated Shawn Atleo, Regional Chief for the BC Assembly of First Nations and a member of the First Nations Leadership Council.



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"We are utterly astounded at Canada's shameless hypocrisy as its officials appear before CERD. We fail to see how they can present Canada as a true defender of human rights whether here or elsewhere in the world given the federal government's recent and shameful denial of Indigenous rights. It is truly disgraceful that Canada was one of only two countries on the UN Human Rights Council to vote against the adoption of the UN Declaration on the Rights of Indigenous Peoples in June 2006", stated Grand Chief Stewart Phillip, President of the Union of BC Indian Chiefs and a member of the First Nations Leadership Council.

The Joint Unity Protocol Initiative of Chief Negotiators from BC First Nations also made its own submission to CERD. Robert Morales, the Chair of the Chief Negotiators forum stated "Canada has not significantly changed its approach on extinguishment and refusal to recognize aboriginal rights and title. Canada refuses to negotiate treaties based on recognition of aboriginal rights and title. Instead it brings a long list of fixed bottom line positions to the table. We ask how that can be considered negotiating".

The reports submitted by these organizations as well as the Assembly of First Nations (AFN), the Native Women's Association of Canada (NWAC), and the International Indian Treaty Council (IITC) and the Confederacy of Treaty Six First Nations (CT6FN) address a range of policies and practices violating Indigenous Peoples' human rights both in and outside of Canada.

-30-

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.

Background information on the submissions from the First Nations Leadership Council and the Joint Initiative of Chief Negotiators from BC First Nations is attached.

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Background Information

British Columbia First Nations Leadership Council's Issues List Summary Points from February 14, 2007 Letter to CERD

- The British Columbia First Nations Leadership Council takes exception to the manner, tone and content of paragraphs 27 - 42 and 306 - 311 in CERD/C/CAN/18 (5 April 2006), Reports Submitted by States Parties under Article 9 of the Convention.
- Canada purports to champion human rights elsewhere in the world and condemns those who violate international human rights standards, but Indigenous peoples have had to resort to the judicial processes in Canada for the recognition and implementation of their rights. Canada was also one of only two countries on the Human Rights Council to vote against the adoption of the UN Declaration on the Rights of Indigenous Peoples on June 29, 2006.
- 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.
- 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 or the rights they may have unless these matters are dealt with through expensive and often inaccessible legal processes through Canada's judicial system.
- Crown denials of Aboriginal title and rights are evidenced in litigation with First Nations in British Columbia as well as in land and governance treaty negotiations mandates. This information is provided in greater detail in the First Nations Summit's document entitled Implementation of National Legislation and Jurisprudence concerning Indigenous Peoples' Rights: Experiences from the Americas which have been provided to CERD on a CD and by email.
- In 2005 there were approximately 15 cases before the courts in British Columbia that involved Aboriginal peoples and the federal Crown, provincial Crown, or both and involved Aboriginal rights and title. In 14 of those 15 cases involving Aboriginal rights and title, the federal and provincial Crown advanced various defences that denied the existence of the Aboriginal title in question, asserted that such title remains unproved, or alleged that the Aboriginal title in question was extinguished.
- In 2007 those types of denial arguments are still raised by the federal and provincial Crown.

**Submission to CERD by
First Nations in the British Columbia Treaty Process
Joint Unity Protocol Chief Negotiators Initiative**

Re: Canada's Approach to Treaty Negotiations with First Nations in B.C.

1. Canada has not significantly changed its approach on extinguishment and refusal to recognize aboriginal rights and title.
 - a) Canada refuses to negotiate Treaties based on recognition of aboriginal rights and title. Instead it brings a long list of fixed bottom line positions to the Table. If First Nations want a Treaty, they have to agree. Canada refuses to allow First Nations to hold Treaty lands as aboriginal title lands. The lands must be held as private fee simple lands under provincial government jurisdiction. There is no room to negotiate.
 - b) The recent report from the federal Auditor General states that Treaty negotiations are one of the "most controlled and inflexible processes in the federal government" and that federal Treaty negotiators act "as if the main risk faced by the federal government in treaty negotiations is that of deviating from existing mandates, rather than that of not signing treaties".
2. Canada refuses to commit in Treaties to improve vast gap between the high level of employment, education, health, and social conditions enjoyed by non-aboriginal Canadians and the crushing poverty, unemployment and poor health and living conditions suffered by aboriginal Canadians.
 - a) In fact, Canada potentially makes the situation worse by forcing First Nations to hand over 50% of revenues they generate post Treaty (including property tax revenues from former Reserve lands) to the federal government and by imposing discriminatory double taxation of First Nation corporations that pass on a portion of their profits to the First Nation government.