

United Nations instructs Canada to suspend Site C dam construction over Indigenous rights violations

Posted by Joan Russow
Thursday, 10 January 2019 13:56 -

United Nations instructs Canada to suspend Site C dam construction over Indigenous rights violations The world's foremost racial discrimination committee says Canada must work with Indigenous communities to find an alternative to the \$10.7 billion hydro project in B.C.

Sarah Cox Jan 9, 2019

<https://thenarwhal.ca/united-nations-instructs-canada-to-suspend-site-c-dam-construction-over-indigenous-rights-violations/>In a rare rebuke, the United Nations has instructed Canada to suspend construction of the Site C dam on B.C.'s Peace River until the project obtains the "free, prior and informed consent" of Indigenous peoples.

Canada has until April 8 to report back to the UN Committee on the Elimination of Racial Discrimination outlining steps it has taken to halt construction of the hydro project, which would flood 128 kilometres of the Peace River and its tributaries in the heart of Treaty 8 traditional territory.

The unusual request from one of the world's top human rights bodies was made by committee chair Nouredine Amir in a December 14 letter to Canada's UN Ambassador Rosemary McCarney.

It comes as Canada vies for a coveted seat on the UN Security Council and two Treaty 8 First Nations await a court date to determine if the Site C project unjustifiably infringes on their constitutionally protected treaty rights, as they claim in civil actions filed last January.

"The Committee is concerned about the alleged lack of measures taken to ensure the right to consultation and free, prior and informed consent with regard to the Site C dam, considering its impact on indigenous peoples' control and use of their lands and natural resources," wrote Amir, an Algerian law professor and former diplomat.

"The Committee is further concerned that the realization of the Site C dam without free, prior and informed consent, would permanently affects the land rights of affected indigenous peoples in the Province of British Columbia. Accordingly, it would infringe indigenous peoples' rights protected under the International Convention on the Elimination of All Forms of Racial

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Discrimination.”

Canada missed an August 2018 deadline to report back to the committee on the Site C project, which was approved by the federal government in 2014 and green-lighted by B.C.'s new NDP government in December 2017.

Amnesty International spokesperson Craig Benjamin told The Narwhal that the federal and B.C. governments “misinterpreted” the UN committee’s 2017 recommendation that work on the Site C project be suspended, pending a full review in collaboration with Indigenous peoples that includes identifying alternatives to the irreversible destruction of Indigenous lands.

Both governments “took far too casual an approach” to the committee’s languishing request for an update, he said.

“That was very much reflective of their view that they could get away with that, that they could ride on their reputation as a human rights defender and that the committee wouldn’t take them to task,” said Benjamin, Amnesty Canada’s campaigner for the human rights of Indigenous peoples.

“They’re discovering now just how seriously the committee takes this issue.”

Grand Chief Edward John, a lawyer and hereditary chief of Tl’azt’en First Nation in B.C.’s northern interior, pointed out that the Trudeau government has repeatedly committed to forging a new relationship with Indigenous peoples and to upholding international human rights standards.

“If that’s the case then there needs to be action on this matter,” said John, a former member of the UN Permanent Forum on Indigenous Issues.

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“Canada can’t condemn China on its human rights record while at the same time a UN body is questioning its ability to deal with human rights issues dealing with Indigenous peoples in this country,” John said in an interview.

Both the federal and B.C. governments have pledged to uphold the UN Declaration on the Rights of Indigenous Peoples, which states that resource projects like the Site C dam must have the free, prior and informed consent of affected Indigenous communities.

Roland Willson, chief of West Moberly First Nations, one of the nations challenging the legality of the Site C dam, has called the project “cultural genocide.”

Among many other impacts, the dam’s reservoir would flood dozens of places of cultural and spiritual significance for Treaty 8 nations, including Indigenous gravesites. It would also destroy traditional hunting and trapping grounds, poison bull trout and other fish with methylmercury and eliminate habitat for more than 100 species vulnerable to extinction.

Benjamin pointed out that the committee is not asking Canada for any more information about its decision to approve the Site C dam and to issue multiple permits for the 9-year construction project, whose price tag has soared from \$6.6 billion to \$10.7 billion.

“There’s really no room here for Canada to respond and offer excuses.”

The UN committee sent the letter to the Trudeau government following a 5-page letter it received from the Union of B.C. Indian Chiefs noting Canada’s failure to report back to the committee and asking the committee to elevate the status of the case.

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“We are gravely concerned at Canada’s disregard for the CERD [Committee on the Elimination of Racial Discrimination] recommendations and the rights of Indigenous peoples in general,” said the November 20 letter from the UBCIC executive, a copy of which was shared with The Narwhal.

The letter also noted that First Nations were denied an interim injunction to halt work on Site C until their civil suits could be heard. The UBCIC said it is concerned that “irreparable harm will be done before the court is able to rule on this crucial outstanding issue of the impact on Treaty Rights.”

Amir’s letter encourages Canada to seek expert UN advice on the rights of Indigenous peoples through a mechanism that provides states with technical advice and helps facilitate dialogue with Indigenous peoples — a mechanism Canada has strongly supported in the international arena.

“That’s a huge, good piece of advice for Canada and the provincial government,” commented Chief Judy Wilson, secretary treasurer of the Union of B.C. Indian Chiefs.

“I think the letter is timely, seeing that we have not only Site C but the Taseko mine and the Wet’suwet’en [standoff over construction of oil and gas pipelines] and... the TransMountain pipeline,” said Wilson, who attended a meeting of the UN Committee on the Elimination of Racial Discrimination in Geneva in 2017 and spoke to committee members about the Site C project and other issues of pressing importance to Indigenous communities in B.C.

“Clearly the nations are saying they have not given their consent and they’re still ploughing through with major projects through territories,” Wilson told The Narwhal. “Canada has not responded to that. In all of their reconciliation talks and announcements they’re largely ignoring that.”

Benjamin called the letter a “pretty serious blow to the complacency of the federal and provincial governments.”

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The B.C. government has taken the view that ignoring treaty rights obligations and continuing with business as usual is “perfectly okay” while the fundamental issue of constitutionally protected rights is still before the courts, Benjamin said.

“Here we have one of the world’s top human rights bodies, the body specifically established to address racial discrimination, not only contradicting this view [and] saying this is not okay but elevating it to this level of urgency.”

Global Affairs Canada requested e-mailed questions from The Narwhal that, once received, were left unanswered.

Wilson said the Union of B.C. Indian Chiefs sent a letter to the federal government this week asking them to respond to the UN committee’s request to suspend Site C dam construction.

“The federal government signed those conventions, those covenants,” she said. “The human rights one is a major one and the UN declaration [on the rights of Indigenous peoples] is the global human rights standard.”