

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

PROCEDURES SPECIALES DU
CONSEIL DES DROITS DE L'HOMME

Mandate of the Special Rapporteur on the rights of indigenous peoples

UNITED NATIONS
OFFICE OF THE UNITED NATIONS
HIGH COMMISSIONER FOR HUMAN RIGHTS

SPECIAL PROCEDURES OF THE
HUMAN RIGHTS COUNCIL

REFERENCE: UA Indigenous (2001-8)
CAN 3/2012

2 January 2013

Excellency,

I have the honour to address you in my capacity as Special Rapporteur on the rights of indigenous peoples pursuant to Human Rights Council resolution 15/14.

In this connection, I would like to draw the attention of your Excellency's Government to information I have received regarding the **alleged hunger strike carried out by the Chief of the Attawapiskat First Nation in protest of recent legislative developments as well as the social and economic conditions affecting indigenous peoples in Canada**. This letter follows up on my related communications of 19 December 2011 and 10 May 2012 regarding the situation of the Attawapiskat First Nation.

According to the information received:

Chief Theresa Spence of the Attawapiskat First Nation initiated a hunger strike on 11 December 2012 in Parliament Hill in Ottawa in order to protest recent legislative actions alleged to negatively impact indigenous peoples, alleged violations of treaty rights, and ongoing critical social and economic conditions in Attawapiskat and other aboriginal communities in Canada. Chief Spence is asking that the Prime Minister and the Governor General meet with indigenous leaders in order to address issues of concern. Various demonstrations by indigenous peoples in Ottawa and other parts of Canada have also been carried out.

The hunger strike and protests have been prompted in part by a federal omnibus budget implementation bill introduced by the Prime Minister, the "Jobs and Growth Act, 2012" (Bill C-45), which was recently passed by the Canadian parliament in December 2012. Bill C-45 sets forth the Government's agenda of job creation, economic development, tax and pension system reforms and also amends various laws including the Indian Act, the Fisheries Act, the Navigable Waters Act and the Canadian Environmental Assessment Act. It has been alleged that Bill C-45 and the legislative changes it institutes were approved without the input of Aboriginal peoples nor consideration for their concerns of how those

changes may affect the waters, fisheries and natural resources they consider integral to their cultures and to their fishing and hunting rights recognized in treaties.

With respect to the changes in the Indian Act, Bill C-45 modifies the voting requirements by which First Nation communities designate areas within reserve lands for business investment and economic development projects promoted by outside third parties. It reduces the number of meetings necessary for approval of these land designations and requires a simple majority vote of meeting participants to approve land designations instead of the previous requirement of a majority of eligible voters in a community. Concern has been expressed that these changes to the Indian Act would lead to reserve lands being leased out for economic development activities without providing adequate opportunity for discussion by community members.

The hunger strike and protests generated by Bill C-45 have reportedly led to a call by Aboriginal leaders towards a dialogue with indigenous peoples and of the need to resolve their pressing social and economic conditions. Chief Spence has publicly expressed that it was necessary to begin a hunger strike, despite the risks to her life, in order to make the Government aware of the dire and critical situation still faced by indigenous peoples and the implications of the recent reforms under Bill C-45 as previously described. Reportedly, as of yet, the Prime Minister and Governor General have not expressed their willingness to meet with Aboriginal leaders in order to address the issues that led to Chief Spence's hunger strike and the recent protests by indigenous peoples throughout Canada. However, the Minister of Aboriginal Affairs, John Duncan, has offered to meet with her.

In light of the information contained in this communications, I would be interested in knowing your Excellency's Government's views on the accuracy of the information contained in this letter, and I would be grateful to receive any additional information your Government may deem relevant. In particular, I would like to know if a meeting between Aboriginal leaders, the Prime Minister and Governor General is being considered in order to address the concerns related to Bill C-45 and the ongoing social and economic conditions of Attawapiskat and other First Nations. In addition, I would like to receive additional information about Bill C-45 and whether prior to its passage, indigenous peoples were provided an opportunity to provide their input regarding provisions that may affect their rights and interests. Finally, I would like to receive information about any measures being taken to monitor Chief Spence's health during her hunger strike.

Given the urgent nature of the concerns expressed, I would appreciate a response from your Excellency's Government within 30 days. I undertake to ensure that your Excellency's Government's response will be taken into account in my assessment of this situation and in developing any recommendations that I make for your Excellency's Government's consideration pursuant to the terms of my mandate.

Please accept, Excellency, the assurances of my highest consideration.

James Anaya
Special Rapporteur on the rights of indigenous peoples