

Canada's international human rights law obligations to suspend construction of the Coastal GasLink Pipeline and stop use of force against the Wet'suwet'en

Lawyers' Rights Watch Canada releases international law brief

IMMEDIATE RELEASE

17 March 2020 – Canada and British Columbia (BC) are in breach of Canada's international law obligations when they refuse to comply with a 2019 [UN decision](#) calling for the immediate suspension of the Coastal GasLink Pipeline project, said Lawyers' Rights Watch Canada (LRWC) in a [legal brief](#) released Tuesday. The use of force against the Wet'suwet'en and other peaceful protestors also violates international law, the report says.

LRWC's report summarizes the international law obligations of Canada and BC to comply with the 13 December 2019 Decision of the UN Committee on the Elimination of Racial Discrimination (UN Committee) calling on Canada to take measures to fulfill Canada's binding international law duties under the *International Convention on the Elimination of All Forms of Racial Discrimination* (the Convention). Canada ratified the Convention in 1970. The report also discusses Canada's obligations to guarantee the rights to property, equality and non-discrimination for Indigenous Peoples in the Inter-American human rights system.

The report summarizes the Committee's Decision 1(100), issued under its Early Warning and Urgent Action Procedure, including the Committee's concern about continuation of large-scale projects without free, prior and informed consent, and alarm at threats of violence against Indigenous Peoples. The Committee was "disturbed by forced removal, disproportionate use of force, harassment and intimidation by law enforcement officials against indigenous peoples who peacefully oppose large-scale development projects on their traditional territories."

The UN Committee called on Canada to "immediately halt the construction of the Coastal GasLink pipeline in the traditional and unceded lands and territories of the Wet'suwet'en people, until they grant their free, prior and informed consent, following the full and adequate discharge of the duty to consult." The UN Committee also called on Canada "to guarantee that no force will be used against the Wet'suwet'en people."

"This is not the first time Canada has ignored recommendations of UN bodies," noted Gail Davidson, LRWC's Executive Director and report co-author. "Canada and BC have persistently disregarded UN recommendations that Canada comply with its legal obligations to respect, protect and fulfill the rights of Indigenous Peoples."

"Canada has repeatedly claimed it has complied with its duty to consult," said Heather Neun, co-author of the report. "Both the UN and Inter-American human rights systems emphasize that consultation requires that the affected Indigenous people is able to significantly influence the State's decision-making processes and decisions, and have any concerns fully addressed. International law also requires that the State obtains their free, prior and informed consent in

cases of large-scale development or extraction projects that would have a major impact within Indigenous Peoples' territories.”

“LRWC also takes issue with government officials' misuse of the term ‘rule of law’,” said Davidson. “The rule of law emerged as a safeguard against tyranny and the arbitrary use of power,” added Davidson. “It is incorrect to use the term to justify summary enforcement of laws and decisions that violate or restrict internationally protected rights,” she emphasized.

The UN definition of the rule of law requires that domestic statutes and court orders be interpreted and enforced consistently with Canada's international human rights law obligations arising from treaties to which Canada is a State Party and from customary international law binding on Canada. The report cites several Supreme Court of Canada decisions emphasizing the importance of international human rights law “as the underpinning of the rule of law.”

LRWC's report emphasizes that Canada is obligated to respect and comply with the 13 December 2019 Decision of the Committee calling on Canada to:

- immediately halt the construction of the Coastal GasLink pipeline in the traditional and unceded lands and territories of the Wet'suwet'en, until they grant their free, prior and informed consent, following the full and adequate discharge of the duty to consult;
- cease the forced eviction of the Wet'suwet'en from their traditional territories;
- guarantee that no force will be used against Wet'suwet'en; and
- guarantee that the Royal Canadian Mounted Police and associated security and policing services will be withdrawn from their unceded traditional lands.

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Full report at: <https://www.lrwc.org/canada-legal-brief-international-law-wetsuweten/>

Press release at: <http://www.lrwc.org/canada-lrwc-releases-legal-brief-on-canadas-international-law-obligations-to-wetsuweten-press-release/>

See LRWC's previous LRWC release of 12 February 2020: <https://www.lrwc.org/canada-and-bc-violate-un-injunction/>

LRWC is a committee of lawyers and other human rights defenders who promote international human rights law, the rule of law, the integrity of legal systems and advocacy rights globally, through advocacy, education and legal research. LRWC has Special Consultative Status with the UN Economic and Social Council.