



Gwich'in Steering Committee

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"In no case may a people be deprived of their own means of subsistence."
International Covenants on Human Rights

Update to Early Warning and Urgent Action Procedure Request Submitted by the Gwich'in Steering Committee et al.

*Respectfully Submitted to the Committee on the Elimination of Racial Discrimination
on January 11, 2021*

I. Background.

On November 13, 2019, the Gwich'in Steering Committee, Land is Life, Cultural Survival, First Peoples Worldwide, and the University of Colorado's American Indian Law Clinic submitted a request to the *Committee on the Elimination of Racial Discrimination* ("Committee") under its early warning and urgent action procedures.¹ On September 4² and December 10, 2020,³ the Gwich'in Steering Committee et al. provided an update on recent actions taken by the United States ("the U.S.") that further escalated the urgency and seriousness of the situation. In the past week, the United States has taken additional actions that require the immediate attention of the Committee to prevent conflict and to limit the scale and seriousness of violations of the International Convention on the Elimination of All Forms of Racial Discrimination ("Convention") by the U.S.

II. Recent actions by the United States require the immediate action of this Committee.

On January 5, 2020, the U.S. Bureau of Land Management conducted a lease sale for tracts of the Coastal Plan of the Arctic Refuge.⁴ 11 tracts of the 22 offered were leased, comprising 552, 802 acres of the Arctic Refuge.⁵ The Alaska Industrial Development and Export

¹ GWICH'IN STEERING COMM., "Request for Early Warning Measures and Urgent Action Procedures to the United Nations Committee on the Elimination of Racial Discrimination in relation to the United States of America" (Nov. 13, 2019) available at: https://www.colorado.edu/program/fpw/sites/default/files/attached-files/gwichin_steering_committee_request_to_cerd.pdf.

² GWICH'IN STEERING COMM. ET AL., "Update to Early Warning Measures and Urgent Action Procedure Request" (Sept. 4, 2020) available at: https://www.colorado.edu/program/fpw/sites/default/files/attached-files/gwichin_steering_committee_update_to_cerd_04_09_2020.pdf.

³ GWICH'IN STEERING COMM. ET AL., "Update to Early Warning Measures and Urgent Action Procedure Request" (Dec. 10, 2020) available at: https://www.colorado.edu/program/fpw/sites/default/files/attached-files/gwichin_steering_committee_update_to_cerd_12102020_1010547412.pdf.

⁴ "Trump Administration Conducts First ANWR Coastal Plain Oil and Gas Lease Sale," BUREAU OF LAND MANAGEMENT, available at: <https://www.blm.gov/press-release/trump-administration-conducts-first-anwr-coastal-plain-oil-and-gas-lease-sale> (last visited on Jan. 7, 2020).

⁵ "Oil and Gas Lease Sale – January 6, 2021," UNITED STATES DEPARTMENT OF THE INTERIOR BUREAU OF LAND MANAGEMENT, available at: https://www.blm.gov/sites/blm.gov/files/docs/2021-01/BLM-Alaska_2021-Coastal-Plain-Sale-Bid-Recap_20210106.pdf.

Authority (AIDEA, an Alaska state corporation), won nine tracts, and Knick Arm Services, LLC (a real estate and leasing firm) and Regenerate Alaska, Inc. (an oil company subsidiary) each won one. It is likely that lease sale will be finalized prior to the transfer of power to a new administration on January 20, 2020, creating vested property rights with the leaseholders. The state of Alaska has noted that it may one day sell their rights to oil and gas development companies.⁶ While this lease sale has only yielded less than 1% of the projected fund and many, including all major U.S. banks, have refused to finance these projects,⁷ there are still now 11 tracts with leases about to be finalized by the U.S. Government.

When the U.S. government finalizes these lease sales, it will be nearly impossible for the Gwich'in to invalidate the lease sale and to prevent permanent destruction to the area that they refer to as *Izhik Gwats'an Gwandaii Goodlit* or *The Sacred Place Where Life Begins*. The bidder may have rights to assert claims against the federal government if the next administration moves to cancel leases. This follows a fast-tracked lease sale announcement and plans for seismic explorations, both of which we have addressed in previous submissions to the Committee. The U.S. continues to proceed without adequate assessment of the impacts of the exploration and development on Indigenous rights and the environment and without adequately consulting with or obtaining the free, prior and informed consent of the Gwich'in and other impacted Indigenous Peoples. It remains critical that this Committee take steps to prevent further violations of the Convention.

III. The Committee must intervene immediately to avoid further conflict and prevent severe violations of the Convention by the United States.

Given the severe harm that would result from the United States' actions, the submitting organizations humbly request that the Committee immediately intervene and elevate the matter by undertaking the following actions:

- a. Send a follow-up letter to the United States urging the Department of the Interior to not finalize or expedite the lease sale;
- b. Send a follow-up letter to the United States urging the Bureau of Land Management to cancel or delay seismic testing;
- c. Request that the United States respond to the Committee's previous letters on this matter;
- d. Request that the Secretariat collect information from field presences of the Office of the High Commissioner of Human Rights and specialized agencies of the United Nations, national human rights institutions, and non-governmental organizations on the situation under consideration; and,
- e. Adopt a decision including the expression of specific concerns, along with recommendations for action, addressed to:
 - i. The United States;

⁶ Richards, Heather. "Ex-Trump official 'disappointed' by the ANWR sale he championed," ENERGYWIRE (Jan. 7, 2021) available at: <https://www.eenews.net/energywire/2021/01/07/stories/1063721993> (last visited on Jan. 7, 2021).

⁷ Cushing, Ben. "Not a Single Major US Bank Is Now Willing To Finance Arctic Drilling," SIERRA CLUB (Dec. 1, 2020) available at: <https://www.sierraclub.org/articles/2020/12/not-single-major-us-bank-now-willing-finance-arctic-drilling> (last visited Jan. 7, 2021).

- ii. The Special Rapporteur on contemporary forms of racism, racial discrimination and xenophobia and related intolerance, the Special Rapporteur on the situation of human rights and fundamental freedoms of indigenous people, or the independent expert on minority issues;
- iii. Other relevant human rights bodies or special procedures of the Human Rights Council;
- iv. Regional intergovernmental organizations and human rights mechanisms including the Inter-American Commission on Human Rights;
- v. The Human Rights Council; and
- vi. The Secretary-General through the High Commissioner for Human Rights, together with a recommendation that the matter be brought to the attention of the Security Council.

Thank you for your immediate attention to this escalating matter.