

Liberals must give indigenous people ‘right to say no,’ AFN chief says

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The Liberal government must give Canada’s indigenous people the “right to say no” to development on their traditional lands as it embraces a United Nations declaration on aboriginal rights, National Chief Perry Bellegarde told a UN session Thursday.

However at a committee meeting later, Environment Minister Catherine McKenna dodged questions about whether the government intends to give such veto rights to indigenous people, arguing the declaration is about “respect” and “striving for consensus.”

At stake is what power First Nations and other aboriginal communities will exercise in decisions over whether projects such as mines, pipelines, hydroelectric dams and transmission lines get approved and built.

Indigenous Affairs Minister Carolyn Bennett and Justice Minister Jody Wilson-Raybould were in New York earlier this week and announced Canada’s unqualified support for the United Nations Declaration on the Rights of Indigenous Peoples, which includes the principle that they have the right to “free, prior and informed consent” over development on their traditional land.

The Liberal government has also promised to conduct “nation to nation” consultations with aboriginal communities over development and their rights. Canadian courts have said governments have a responsibility to consult First Nations on project that impact their lands or rights and accommodate their concerns. But the courts have explicitly not conferred upon them the right to reject projects that are declared to be in the national interest.

Appearing at the same week-long session where the ministers made their statement, Chief Bellegarde said the government should change its laws, regulations and policies - “especially those dealing with resource development” – to ensure that standard of “free, prior and informed consent” (FPIC) is applied.

“Recognizing indigenous peoples’ human rights, including the free, prior and information consent to development on our traditional lands and territories, will lead to greater peace and security for all,” he said. “FPIC, very simply, is the right to say yes, and the right to say no. It is much more than a process of consultation.”

At a parliamentary committee hearing in Ottawa later Thursday, Conservative MPs pressed Ms. McKenna on whether the government planned to provide veto power to aboriginal communities impacted by resource development.

“Clarity for the resource industry is important, and clarity for the aboriginal communities, because there are expectations out there,” MP Cathy McLeod, the Conservative critic on indigenous affairs, said while noting Chief Bellegarde’s statement. “So very simply: Does no mean no.”

But the minister would not be pinned down, except to say the rights enunciated in the UN declaration would be enshrined in “accordance with Canadian law and our constitution.”

“What is key if resources are to get to market, is that [the projects] be done in a sustainable way and they are done where we all strive for consensus,” she said. “We should be striving for consensus. And that’s why we are working to build trust through our environmental assessment process.”

However, Ms. McLeod noted that the government will never achieve consensus on some projects, such as controversial oil pipelines proposals like Kinder Morgan’s TransMountain expansion – which has drawn support from some First Nations along the route and adamant opposition from coastal communities. So will one indigenous community’s “right to say no” trump another’s “right to say yes,” she asked.

Ms. McKenna acknowledged there is not going to be unanimity. “But the only way you can build anything is when you have positive, respectful relationships,” she said.