

Request for Follow-up Concerning Hearing No. 26, 161st Period of Sessions Inter-American Commission on Human Rights

The present request concerns the hearing entitled “Impact of Executive Orders ‘Border Security and Immigration Enforcements Improvements;’ ‘Protecting the Nation from Foreign Terrorist entry into the United States;’ ‘Expediting Environmental Reviews and Approval for High Priority Infrastructure Projects’ on Human Rights in the United States,” to be held on March 21, 2017 in the context of the Inter-American Commission on Human Rights’ 161st Period of Sessions. As civil society organizations invited to participate in this hearing, and partner organizations, we respectfully suggest that the Inter-American Commission on Human Rights take specific action to monitor the relevant developments and guide the United States government in aligning its practices and policies with its human rights obligations.

With regard to the executive orders related to immigration, border security, and refugee admissions, we respectfully request that the honorable Inter-American Commission on Human Rights:

1. Urge the United States government to rescind these executive orders and the related guidance on their implementation as necessary to comply with its obligations to respect, protect, and fulfill the human rights of migrants regardless of immigration status, asylum seekers, refugees, and their families;
2. Engage in ongoing monitoring of implementation of these executive orders and related policy developments, including by:
 - 2.1. endeavoring to carry out an on-site visit to the United States and to the Mexican and Canadian sides of the U.S.-Mexico and U.S.-Canada borders to observe and monitor the implementation and impact of these executive orders and related policies on border and immigrant communities, migrants, asylum seekers, Indigenous Peoples, refugees, and their families;
 - 2.2. initiating and maintaining close coordination between the IACHR and relevant United Nations human rights mechanisms on these issues. In particular, we request that IACHR – including through its Rapporteurship on the Rights of Migrants, Rapporteurship on the Rights of Women, and Rapporteurship on the Rights of the Child – communicate and coordinate with the United Nations special procedures in the relevant thematic areas for the purpose of conducting any country visits or follow-up to country visits and issuing joint statements regarding pertinent developments; and,
 - 2.3. gathering information on the impacts of the executive orders in other countries of the region during hearings and country visits. We request that the IACHR make room in its hearing and working meeting agendas for the topic of U.S. immigration and refugee admissions policy at its upcoming sessions to be held outside the United States, particularly the July and September 2017 sessions.
3. Follow up on implementation of its recommendations issued in previous cases involving the human rights of migrants in the United States, and fulfillment of the general obligations identified therein, including the cases of Wayne Smith, Hugo Armendariz, *et al.*; Andrea Mortlock; Ferrer-Mazorra *et al.*; Leopoldo Zumaya, Francisco Berumen Lizalde, *et al.*; and Haitian Interdiction.

4. Follow up on the problems identified and recommendations issued in its thematic and country reports related to the rights of migrants, specifically including the *Report on Immigration in the United States: Detention and Due Process* (2010) and *Human Rights Situation of Refuge and Migrant Families and Unaccompanied Children in the United States of America* (2015).
5. Communicate with civil society organizations to request relevant information and updates as helpful to monitor developments and follow up on prior recommendations in cases and reports.
6. Issue timely press releases on significant developments related to the hearing, including State responses or lack thereof.
7. Request adoption of precautionary measures where appropriate to prevent irreparable harm to a person or a group of people that will come about as a result of the implementation of the executive orders.
8. Examine the human rights impacts of a proposed border wall on the cultural, social, political, civil, and economic rights of Indigenous Peoples whose traditional lands, cultural practices, and sacred sites will be directly affected.
9. Examine the role of corporations in violation of human rights associated with the implementation of the executive orders, especially in the context of construction of the border wall and expansion of immigration detention.

With regard to the Executive Order on Expediting Environmental Reviews and Approval for High Priority Infrastructure Projects, we respectfully request that the honorable Inter-American Commission on Human Rights:

1. Urge the United States government to rescind or modify the Executive Order and related presidential memorandums, their implementation, or future guidance on implementation as necessary to comply with its obligations to respect, protect, and fulfill the human and treaty rights of individuals, communities, and Indigenous Peoples affected by major infrastructure projects;
2. Examine the impacts of this Executive Order on the rights affirmed in the American Declaration on the Rights of Indigenous Peoples, in particular in Articles 3, 16, 19, 24, 29, and 31.
3. Engage in ongoing monitoring of environmental and cultural impact reviews, and the process for obtaining free, prior, and informed consent for the construction of major infrastructure projects in the United States, with particular focus on the Dakota Access and Keystone XL pipelines, including by:
 - 3.1. endeavoring to carry out an on-site visit to Standing Rock Sioux Reservation in North Dakota, United States to observe and monitor the impact of the Dakota Access Pipeline on local communities, particularly on Indigenous Peoples, as well as any violations of the right to peaceful assembly; and,
 - 3.2. initiating and maintaining close coordination between the IACHR and relevant United Nations human rights mechanisms, including treaty bodies and special procedures, on these issues. In particular, we request that the Special Rapporteur on Freedom of Expression; Rapporteurship on the Rights of Indigenous Peoples; the Rapporteurship on Human Rights Defenders; and the Unit on Economic, Social and Cultural Rights communicate and jointly monitor the situation with the United Nations special

procedures in the relevant thematic areas for the purpose of conducting any country visits and issuing joint statements regarding pertinent developments.

4. Follow up on implementation of its recommendations in previous hearings, cases, and thematic reports related to Indigenous Peoples' rights and the environment in the United States, especially the report on *Indigenous Peoples, Afro-Descendent Communities, and Natural Resources: Human Rights Protection in the Context of Extraction, Exploitation, and Development Activities*.
5. Consult and directly engage with sovereign tribal governments and representatives of Indigenous Peoples impacted by infrastructure projects such as the Dakota Access Pipeline, including for the purpose of assessing the impacts of those projects on human rights; rights recognized in treaties concluded with indigenous nations; and, respect for the right to free, prior, and informed consent.
6. Communicate with civil society organizations to request relevant information and updates as helpful to monitor developments and follow up on prior recommendations in cases and reports.
7. Issue timely press releases on significant developments related to the hearing, including State responses or lack thereof.
8. Request adoption of precautionary measures where appropriate to prevent irreparable harm to a person, a group, or Indigenous Peoples that will come about as a result of the implementation of the executive orders.

We commend and thank the Commission for examining these issues at its own initiative, and reiterate our willingness to provide information and analysis that may facilitate continued monitoring and follow-up.

Respectfully submitted on behalf of:

American Civil Liberties Union (ACLU)
Center for Justice and International Law (CEJIL)
International Justice Resource Center
American-Arab Anti-Discrimination Committee (ADC)
*Harvard Immigration and Refugee Clinical Program
Hope Border Institute
International Indian Treaty Council
International Human Rights Clinic, University of Washington

*does not take a position on the recommendations pertaining to Executive Order on Expediting Environmental Reviews and Approval for High Priority Infrastructure Projects