



Canadian Ecumenical
Justice Initiatives /
Initiatives œcuméniques
canadiennes pour
la justice

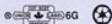
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310 Dupont Street, Suite 200
Toronto Ontario
Canada M5R 1V9
tel: 416.463.5312
toll-free: 1.877.403.8933
fax: 416.463.5569
www.kairoscanada.org



NGO Shadow Report

Submission of information by KAIROS to the Human
Rights Committee [HRC] for the examination of
Canada's Sixth [6th] Report during July 2015

29 May 2015

KAIROS: Canadian Ecumenical Justice Initiatives (KAIROS)

KAIROS: Canadian Ecumenical Justice Initiatives (KAIROS) unites eleven Canadian Christian churches and religious organizations in a faithful ecumenical response to the call to “do justice, and to love kindness, and to walk humbly with your God” (Micah 6:8) by advocating for social change and transformation. KAIROS’ work focuses on issues of human rights and ecological justice, with a long-standing overarching priority being Indigenous rights. In partnership with a wide range of local, national and international organizations, KAIROS aims to educate and promote awareness of Indigenous rights, to empower individuals and groups at the local level to respond, and in certain cases, to call for changes in federal and provincial policy.

Canada’s Ratification and Implementation of the ICCPR

Canada ratified the ICCPR on 19 May 1976; recognized the competence of the HRC under Article 41 on 29 October 1979; ratified the first Optional Protocol on 19 May 1976 and the second Optional Protocol on 29 November 2005. The implementation of the ICCPR in Canada is carried out principally through the constitutionally entrenched Canadian Charter of Rights and Freedoms in 1982, through human rights Acts and Commissions at the federal, provincial and territorial levels, and through the Criminal Code and other legislative measures. It is important to note that Articles 25 and 35 of Canada’s Constitution Act, 1982 guarantee and confirm the rights of Aboriginal peoples (Indigenous peoples) in Canada.

Submission Summary

KAIROS has examined the list of issues published by the HRC in October 2014 in relation to Canada’s sixth (6th) report and submits that certain Canadian laws, policies and practices, with respect to those issues, contravene several provisions of the International Covenant, whose contraventions are set out below. KAIROS and its members have been deeply involved in the Truth and Reconciliation Commission (TRC) that is currently concluding in Canada. We wish to emphasize that many of the issues raised in the following paragraphs must be seen in the context of the violent legacy of Canada’s Indian residential schools which have led to systemic problems and intergenerational effects on the Indigenous peoples of Canada.

Measures in Violation of the ICCPR

1. Disappearances of Aboriginal (Indigenous) Women and Girls

KAIROS is concerned with the disproportionately high rates of violence against Aboriginal women and girls, which have culminated in a large number of missing and murdered Aboriginal women. In 2014, the Royal Canadian Mounted Police released a report entitled “Missing and Murdered Aboriginal Women: A National Operational Overview.” The report found that police-recorded incidents of Aboriginal female homicides and unresolved missing Aboriginal females totaled 1,181, with 164 missing and 1,017 homicide victims, which exceeded previous public estimates.ⁱ This total indicates that Aboriginal women are over-represented among Canada’s missing and murdered women. It must be noted that Aboriginal women have also been disproportionately affected by Canadian legislation and practices, including gender inequality within the Indian Act, which when coupled with deeply entrenched stereotypes and everyday racism often results in violence being directed at women and girls. KAIROS and its members have been involved for several years with initiatives such as Sisters in Spirit (led by the Native Women’s Association of Canada) and other grassroots groups that accompany families of missing and murdered women, conducting research and raising awareness of the alarmingly high rates of violence against Aboriginal women and girls in Canada.ⁱⁱ In response to this situation, KAIROS has joined the Native Women’s Association of Canada (NWAC), and other Canadian civil society organizations, in calling for a National Inquiry into missing and murdered Aboriginal women and girls in Canada. Furthermore, KAIROS has called on the federal government to begin immediately to work with Indigenous women’s organizations, families of missing and murdered women, and their allies on a meaningful, coordinated and sustained response to the CEDAW recommendations urging Canada to address this issue on a urgent basis (6 March 2015)ⁱⁱⁱ; a response that addresses the systemic causes of this ongoing violence and the impunity surrounding many of the cases.^{iv} In an interview on 19 December 2014, the Prime Minister stated that “[an inquiry] isn’t really high on our radar,”^v and subsequently ignored calls for any National Inquiry. KAIROS argues that by refusing to address this nation-wide issue, the Government of Canada is in violation of Articles 2, 3, 6(1), 9(1), and 26 of the ICCPR.

2. The Continuous Precarious Situation of Aboriginal Peoples

Based on information from the most recent Canadian census, the current population of Aboriginal peoples (Indigenous peoples) is approximately 1.4 million people, which represents 4.3% of the Canadian population.^{vi} Of this population, it is estimated that 40% of Indigenous children in Canada live in poverty as measured by the Low Income Measure.^{vii} It has been estimated that nearly half of the housing on First Nations (Aboriginal) reserves was identified as needing repairs.^{viii} As of March 31, 2015, there were 135 Drinking Water Advisories in effect in 90 First Nations communities across Canada, excluding the province of British Columbia.^{ix} Among Aboriginal communities, suicide rates are twice the national average and, in some communities, are 11 times the Canadian average.^x It is clear that Indigenous peoples in Canada continue to live in a precarious situation.

In April 2014, the *United Nations Special Rapporteur on the rights of indigenous peoples*, James Anaya, released a report on the situation of indigenous peoples in Canada. In it he notes that “It is difficult to reconcile Canada’s well-developed legal framework and general prosperity with the human rights problems faced by indigenous peoples in Canada, which have reached crisis proportions in many respects. Moreover, the relationship between the federal Government and indigenous peoples is strained, perhaps even more so than when the previous Special Rapporteur visited Canada in 2004, despite certain positive developments since then and the shared goal of improving conditions for indigenous peoples.”^{xi} These human rights problems are grounded in historic discriminatory policies and practices, most notably the residential school era. The National Aboriginal Health Organization recognizes that as a result of experiences in residential schools, many Indigenous communities continue to experience the effects of intergenerational trauma, and that this violence is particularly potent for Indigenous women and girls, contributing to the high number of Missing and Murdered Aboriginal Women, as discussed in paragraph 1. The National Aboriginal Health Organization argues that “the shared collective experiences of trauma experienced by First Nations peoples, coupled with related collective memories, and persistent sociocultural disadvantages, have acted to increase vulnerability to the transmission and expression of intergenerational trauma effects.”^{xii} These effects are further exacerbated by funding discrepancies and systemic racism that currently exists in Canada. The *UN Special Rapporteur on the rights of indigenous peoples* recognized three critical areas in which indigenous peoples lag behind the general population, including education, housing, and health and well-being.^{xiii} KAIROS submits that the failure of the Government of Canada to provide adequate funding and to amend policies to address the continuous precarious situation of Indigenous peoples constitutes a violation of Articles 2, 6(1), 9, and 26 of the ICCPR.

3. Disparities on the Rights of Children

Through its partnerships with Indigenous organizations, KAIROS has seen a long-standing pattern of providing less government funding for child welfare services to First Nations children on reserves than is provided to non-Aboriginal children. KAIROS has joined the Assembly of First Nations and the First Nations Children and Family Caring Society of Canada in supporting a Human Rights complaint pursuant to Section 5 of the Canadian Human Rights Act. The Assembly of First Nations notes that “the issue is that First Nations children and youth living on reserve and attending on-reserve schools across Canada are denied access to the same standard and quality of primary and secondary education programs and services to that available to children and youth living off reserve.”^{xiv} Obtaining a definitive picture of relative funding of education for Indigenous children and youth is difficult, but multiple studies reveal a significant gap in funding. In 2013, the *Globe and Mail* reported, “The federal government has capped yearly increases for First Nations education funding at 2 per cent since 1996 and provides about \$7,000 per student compared with roughly \$10,000 per student that the provinces provide to the schools within their jurisdictions.”^{xv} This discrimination is historic, systemic and on-going and affects approximately 70,000 First Nations children and young people. KAIROS argues these continued discrepancies in the quality of services for Aboriginal children and youth constitutes a violation of Articles 24, 25 and 26 of the ICCPR.

4. The Legacy of Indian Residential Schools and the Truth and Reconciliation Commission

KAIROS submits that the precarious situation described in paragraphs 2 and 3 above is directly linked to the violent legacies of Canada's Indian residential schools, which ran from the 1870s until 1996. During this time, Indigenous children were forcibly taken from their homes and put into schools or institutions funded by the federal government and run by various churches and religious orders. The schools had the explicit purpose of destroying their students' family and community bonds, their languages, their cultures and their identities. Thousands of Indigenous children died during this period from the various forms of abuse suffered in these residential schools. Generations of children who did survive often grew up estranged from their cultures and languages, and their children and grandchildren continue to feel the impacts of the individual and communal trauma of residential schools to this day. The residential school period "continues to cast a long shadow of despair on indigenous communities, and many of the dire social and economic problems faced by aboriginal peoples are linked to this experience."^{xvi}

Finally, on 11 June 2008, the Prime Minister made a historic Statement of Apology to former students of Indian Residential Schools, on behalf of the Government of Canada. As a component of the Indian Residential Schools Settlement Agreement (following a class action lawsuit against the government and the churches), in 2008 the Government of Canada also established the Truth and Reconciliation Commission to "facilitate reconciliation among former students of Indian Residential Schools, their families, their communities and all Canadians"^{xvii}. In June 2015, the findings of the Truth and Reconciliation Commission will be released. KAIROS strongly urges that the HRC presses the Government of Canada to act on the forthcoming findings and recommendations of this report and continue to promote reconciliation between Indigenous peoples and all Canadians, and in doing so uphold Articles 1, 2 and 25 of the ICCPR.

5. Implementation of the United Nations Declaration on the Rights of Indigenous Peoples

On 12 November 2010, Canada became one of the last countries to endorse the United Nations Declaration of the Rights of Indigenous Peoples (UNDRIP), but unfortunately with many reservations. In 2007, at the time of the vote during the United Nations General Assembly, and since, Canada placed on record its opposition to various provisions of the UNDRIP, including provisions dealing with lands, territories and resources, and free, prior and informed consent. In 2015, a private member's bill (C-641) was introduced in the Parliament of Canada by Romeo Saganash, a member of the opposition, whose enactment would require the Government of Canada to take all measures necessary to ensure that the laws of Canada are in harmony with the Declaration (UNDRIP). In response to this bill, Government Member of Parliament Mark Strahl, Parliamentary Secretary to the Minister of Aboriginal Affairs and Northern Development Canada, told the House of Commons that "in the strongest terms, our government rejects this notion."^{xviii} The bill was defeated by the government majority on 6 May 2015. By voting against a bill to fully recognize and implement the UNDRIP, which is considered an essential tool for eliminating human rights violations against Indigenous peoples, KAIROS submits that Canada is in violation of Articles 1, 2, and 26 of the ICCPR.

Conclusions

In this submission, KAIROS respectfully requests the HRC to raise the above cited issues with the Canadian government during the review of Canada's sixth (6th) report in July 2015 and to recommend changes in its policies and practices that would require Canada to take seriously its commitments and responsibilities to Indigenous peoples within the framework of the ICCPR, the UN Charter, the UN Declaration on the Rights of Indigenous Peoples, and all human rights standards.

29 May 2015

Contact Persons: Ed Bianchi, Program Coordinator, KAIROS, ebianchi@kairoscanada.org
 Rob Shropshire, Co-Chair of the KAIROS Dignity and Rights Circle,
 rshrop1@yahoo.ca

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