

Item 3. Special Theme: Peace, justice and strong institutions: the role of indigenous peoples in implementing Sustainable Development Goal 16”

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Gaps in Rulings + Actions:

- CAP notes a pattern of rulings, legal decisions and recommendations related to issues impacting Indigenous people which lack follow-up and action from government to redress the underlying issue.
- "Daniels" decision -
 - The Supreme Court issued a unanimous legal decision in 2016, acknowledging that CAP's constituents, the Metis and non-Status Indigenous people in Canada are "Indians" and an area of federal responsibility.
 - In the subsequent years the government has not acted to include those groups into policymaking or acknowledge their rights.
 - Examples of this non-recognition over the past year include a failure to invite representatives to give Metis and non-Status Indigenous perspectives for alternatives to jail, for youth incarceration, COVID measures, and drug law amendments.
- Federal Appeals Court - Solitary Confinement.
 - In March 2019 Provincial courts ruled there could be no extended solitary confinement beyond 15 days.
 - The government abolished "solitary confinement" and created "structured intervention units" in response to the ruling, in November 2019.
 - Since that legislation was implemented, oversight of prisoner treatment has shown that many prisoners held in these "Structured Intervention Units" continue to meet the UN definition of "torture" through solitary confinement.
 - When COVID hit prisons, even more prisoners were moved into solitary confinement for isolation purposes.
 - CAP has heard from multiple sources that prisoners continue to be subjected to extended solitary confinement for quarantine.
 - The Canadian Federal Government has not acted on release and early parole for inmates under COVID, despite that being the recommended action from both CAP, and the Office of the Correctional Investigator.
- The Office of the Correctional investigator:
 - In February 2021 called on Government to act on COVID in prisons.
 - The OCI called for more early release programs, credit for time served in isolation, and better protection of prisoners while they are in custody.
 - CAP made those same calls in April 2020.
 - The government has not acted on the CAP call to action in April 2020 or the OCI call to action in February 2021.
 - OCI does invaluable work, but lacks the tools for making prisons act on their recommendations and holding institutions accountable.
- SDG #16 Targets:
 - Target 16.1: Reduce violence Everywhere
 - Violence against Indigenous people in custody
 - CAP notes the elevated rate of violence in corrections experienced by Indigenous inmates in Correction Services Canada and at the Provincial levels.

- Use of excessive force is noted in Office of the Correctional Investigator reports, such as use of flash-bang grenades in confined quarters.
 - Structural violence such as solitary confinement and “Dry Cell” inhumane conditions also threaten the safety and dignity of Indigenous inmates.
 - o Missing and Murdered Indigenous Women and Girls –
 - Studies continue to show elevated levels of violence experienced by Indigenous women, girls, and gender and sexual minorities.
 - Indigenous men and boys are also subject to elevated levels of violence across different community types.

- Target 16.2: Protect children from abuse, exploitation, trafficking and violence
 - o 52% of youth in the child welfare system are Indigenous, despite representing only 7% of the total youth population.
 - Non-Status and off-Reserve communities have been designated as non “Rights-Holders” under the “Act respecting First Nations, Inuit and Métis children, youth and families” which came into force January 1, 2020
 - The designation as “non-Rights Holders” denies those communities access to financial resources to provide care for youth, and legal rights to assume jurisdiction over child welfare issues.
 - This exclusion leaves those communities vulnerable to actions by non-Indigenous child welfare agencies.
 - o Discrepancies are found under the youth Criminal Justice³ system as well, highlighting “Foster care to prison” connections:
 - Aboriginal youth accounted for 46% of admissions to correctional services in the 10 reporting jurisdictions in 2016/2017, while representing 8% of the general youth population in those same jurisdictions.
 - Aboriginal youth are overrepresented in both custody and community supervision, accounting for 50% of custody admissions and 42% of community supervision admissions.

- Target 16.3: Promote the rule of law and ensure equal access to justice
 - o CAP highlights the ongoing increase in the share of indigenous inmates in Canada. Figure below from OCI - (See document shared via email for remaining text)