

13th Session / Regional meetings of the Expert Mechanism on the Rights of Indigenous Peoples

The impact of COVID-19 on the rights of Indigenous peoples under the UN Declaration on the Rights of Indigenous Peoples

Submission for the Africa and North America regional meeting

Statement submitted by: Drew Lafond, President, Indigenous Bar Association, Canada

My name is Drew Lafond and I am a member of the Muskeg Lake Cree Nation and a descendant of the Secwepemc people in Canada. I am submitting this statement today in my role as the President of the Indigenous Bar Association, a non-profit association that supports the rights of Indigenous people in Canada.

The COVID-19 pandemic is worsening underlying legal, political, health, economic, and social injustices that Indigenous communities face. In April 2020, we partnered with researchers in the Department of Indigenous Studies at the University of Saskatchewan to conduct an online survey that examined the legal impacts of COVID-19.¹ The participants of the survey included 122 Indigenous and non-Indigenous lawyers working with Indigenous clients in the area of Indigenous legal advocacy.

The legal advocates most often spoke about jurisdictional issues – conflicts over who has the authority to regulate who is coming into Indigenous communities, who has authority in relation to a community's pandemic and health response, and ongoing jurisdictional issues that were happening prior to the pandemic, including the state undermining Indigenous laws and legal authority. The legal advocates also spoke about concerns regarding consultation and negotiations, where existing agreements and precedents meant to uphold Indigenous rights are too often being ignored in the interest of economic revitalization plans. During the COVID-19 pandemic, we are facing significant challenges in being able to centre our well-being and our legal rights, including our rights to health, access to our territories, to our laws, and to self-determination.

There are also clear gendered issues related to the COVID-19 pandemic, including increased family violence, disproportionate family care responsibilities faced by Indigenous women, access to safe and stable housing, gendered violence outside of the home, concerns about industry or "man camps" posing dangers to the health and safety of nearby Indigenous communities, and worsening economic inequalities for Indigenous women. These issues are concerning in terms of the injustices experienced by Indigenous women and also because they create barriers to Indigenous women's legal participation and rights.

Indigenous legal advocates and clients have found innovative ways to use technology to carry on with legal work. While some positive changes have been made to state institutions such as video conferencing in courts, these changes have been uneven and there are ongoing legal delays related to individual and collective Indigenous rights. There are also significant barriers in access to technology in which many Indigenous communities do not have well-resourced infrastructure for virtual legal work.

Overall, there is a need to listen to Indigenous communities, a need for increased resources to address chronic underfunding, and a need to address underlying inequalities so that Indigenous well-being and rights can be upheld during this pandemic, rather than further eroded.

¹ Project details: “Assessing Legal Issues and Challenges Faced in Indigenous Legal Advocacy During the COVID-19 Pandemic,” Dr. Emily Snyder, University of Saskatchewan (Project Leader, Principal Investigator), Drew Lafond, Indigenous Bar Association (Project Leader), Naiomi Metallic, Dalhousie University (Advisor), Brock Roe, President, Indigenous Bar Association Law Student Scholarship Foundation (Advisor), Dr. Simon Lambert, University of Saskatchewan (Advisor), Christy Anderson, University of Saskatchewan (Research Assistant). Funded by University of Saskatchewan and the Canadian Bar Association Law for the Future Fund.