

FACTSHEET – 4th cycle
UNIVERSAL PERIODIC REVIEW OF CANADA

CHILD RIGHTS AND INDIGENOUS RIGHTS

LOOKING IN ONTARIO



SUMMARY OF KEY ISSUES FROM PREVIOUS CYCLES

Canada noted the recommendation made by Uruguay during the second cycle with regards to missing information on original birth registrations, most notably the **names of unwed fathers that had been illegally removed from 1960 to 1980** in the province of Ontario. The recommendation asked for the names to be restored. In 2012, this matter was raised at the UN Committee on the Rights of the Child. Canada did not implement their recommendation. In 2013, the Expert Mechanism on the Rights of Indigenous Peoples (EMRIP) heard the statement read out by Looking in Ontario. The Special Rapporteur on Indigenous Rights, Professor Anaya, was also informed of this, ahead of his visit to Canada in the same year. Again, Canada did not implement the recommendation. Non-adopted people are allowed to restore the father's names now but not adoptees. In 2005, **Ontario made it illegal** for adoptees to do so.

NATIONAL FRAMEWORK

Birth registrations are not covered by a Federal National Framework. They come under the remit of the provinces and territories of Canada. Ontario has violated the UN Convention on the Rights of the Child by illegally removing an element of identity from birth registrations. Although the Canadian Federal government has the legal power of **Federal Paramountcy** to over-ride provincial laws that violate UN Conventions as well as Federal laws that are active in the provinces, Canada refuses to use it.

It should be noted that Indigenous peoples do fall under the jurisdiction of the Federal Canadian government and therefore the Federal government has a duty of care to protect Indigenous heritage, including ancestry. This was enforced in the 60's Scoop class action in which the Ontario Superior Court ruled in 2017 that such practices constitute **"Cultural Genocide"** (Looking in Ontario provided evidence for this). The Federal government was forced to pay compensation nationwide. Despite recommendations from Looking in Ontario, the restoration of fathers' names was excluded from the reparations.

CHALLENGES

Adoptees are still being denied the right to have their father's names on their original pre-adoptive birth registrations, even when both mother and father consent. It now appears that **100 percent of unwed fathers' names are missing from adoptee pre-adoptive original birth registrations from 1960 to 1980** even though they had the legal right to be named on them at the time. This pattern seems to have been repeated right across Canada.

IMPACTS

Adoptees are being denied half their ancestry. If the father is missing from the original birth registration, he is not allowed identifying information to reunite with the adoptee in the same way as the mother is. This also has a **severe impact on Indigenous people** in Canada as this can affect their status rights. Many Indigenous and non-Indigenous families were victims of **forced adoption** from 1950's to 1990's in Canada according to Senate reports. This adds to **their anguish**.

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CHALLENGES

The Federal government refuses to intervene, even when the province commits a criminal act in having information removed illegally and removes any mechanism to put it right.

Some provinces have made it illegal for adoptee original birth registrations to be corrected by the Registrar General.

Adoption is being used as an excuse not to correct pre-adoptive records.

IMPACTS

There is no Federal over-sight of the provinces with regards to vandalised records. There is no mechanism where people can make a complaint about corrupted records, so people are forced to accept errors and omissions on their birth documents. It makes them feel helpless.

People are being forced to accept mistakes and omissions on their birth registrations, with no redress of any kind at any level.

Adoptees are being made to feel like 2nd class citizens with less human rights as non-adopted people are allowed to add information onto their original birth registrations.

RECOMMENDATIONS

- 1) The Federal government must demand that all provinces allow adoptees to have the legal right to correct their original birth registrations by the end of the year and pass any legislation or repeal legislation that is required to achieve this. If provinces refuse to do this, the Federal Government must use the legal power of Federal Paramountcy to ensure that the provinces comply with this demand. The infrastructure is already in place to achieve this.
- 2) The Federal government should appoint a Federal Commissioner to uphold Recommendation Number 1 across all provinces. This should be done by the end of the year.
- 3) Give the original parents of the adoptee and the adoptee the legal right to put the father's name on the pre-adoptive original birth registration of the adoptee when both parents consent. In cases of deceased fathers, DNA from relatives should be used. The Federal government must compel all provinces to do this, even if this means invoking Federal Paramountcy. This should be done by the end of this year as victims are running out of time.
- 4) With immediate effect, the Federal and Provincial governments must stop using adoption as an excuse not to correct pre-adoption records, especially in light of illegal deletions, omissions and forced adoptions. Other countries correct their pre-adoptive records – so should Canada.

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We work in collaboration with many other NGOs including the 60's Scoop Network