

Group of Experts & Attorneys in Human Rights & Indigenous Peoples' Rights
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Delegation from French Guyana
Delegation from New Caledonia

To: Human Rights Committee
8-14 Avenue de la Paix
CH 1211 Geneva 10 Switzerland

Subject: Presentation of an alternative report on the situation in New Caledonia

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Honourable Members of the Human Rights Committee,

In view of the Committee's upcoming session, we would like to submit for your consideration the present report, which focuses on the situation of the Indigenous Peoples of New Caledonia.

French legislation and institutional practices are contrary to the inherent rights of Indigenous Peoples. Various violations of the International Covenant on Civil and Political Rights are committed by the French State to the detriment of Indigenous Peoples.

France is responsible for derailing the self-determination process in New Caledonia.

Since May 13, New Caledonia's pro-independence movement has been calling for mobilization, following the vote in Paris by the National Assembly on a law to recast the Caledonian electoral body, a process initiated to achieve full sovereignty for the Kanaky. The 1988 agreement has been called into question ever since the French State decided that decolonization was a thing of the past and changed the rules, without improving them. This poisonous situation has had dramatic consequences. Night after night of violence have resulted in the deaths of six people: two gendarmes and four civilians.

It would be good to have a statement from the Committee specifically on the situation in New Caledonia.

Thank you for your attention to this communication, and please accept, honourable members of the Committee, the expression of our best wishes.

France's colonial amnesia will not make us forget that, in 1946, the United Nations drew up a list of non-self-governing territories to be decolonized. Today there are 16 such territories, including New Caledonia.

The Peoples of certain Pacific territories want to exercise their right to self-determination. Whether as inhabitants of a non-self-governing territory or of a French overseas territory, the Indigenous people of New Caledonia (the Kanak People) have specific rights, including the right to autonomy and self-government in all matters relating to their internal and local affairs.

To live in a colony is to live according to laws and regulations decided beyond our control.

We are the Indigenous people of Neuwo Noré Jawa mè TIRI, located in central New Caledonia, the great royal chiefdom from which Grand Chief ATAÏ originated. He was beheaded on September 1, 1878 by the colonial army, supported by some Indigenous chiefdoms. His head was sent as a war trophy to France, where it was displayed in a jar of formaldehyde, became shrunken, and was stored at the Museum of Natural History in Paris.

Our people, present on the territory of New Caledonia for over 5,000 years, has been the prey and victim of an unscrupulous colonizing state: without liberty, without equality, without fraternity.... Instead, our people experienced it as a forced passage! France finally recognized this fact in 1998 and drew the appropriate conclusions (Nouméa Accord).

Source: Extract from the Preamble to the Accord on New Caledonia signed in Nouméa on May 5, 1998

“Preamble

1. On 24 September 1853, when France claimed ‘Grande Terre’, which James Cook had named ‘New Caledonia’, it took possession of a territory in accordance with the conditions of international law, as recognised at that time by the nations of Europe and America. It did not establish legally formalised relations with the indigenous population. The treaties entered into with the customary authorities in 1854 and subsequent years did not represent balanced agreements but were, in fact, unilateral instruments.

This territory, however, was not empty.

Grande Terre and the outlying islands were inhabited by men and women now known as Kanaks. They had developed their own civilisation, with its traditions and languages, in which custom, which governed social and political life, prevailed. Their cultural and spiritual life was expressed through various forms of creativity.

The Kanak identity was based on a particular relationship with land. Each individual and each clan defined itself in terms of a specific link to a valley, a hill, the sea or a river estuary and carried in its memory the acceptance of other families on its land. The names attached by tradition to each element of the landscape and the taboos affecting some of these, as well as the customary ways, gave structure to space and exchanges.

2. The colonisation of New Caledonia occurred as part of a broad historical movement which saw the European countries impose their domination on the rest of the world. In the 19th and 20th centuries, many men and women came, either with the conviction that they were bringing progress, or inspired by their religious faith, or sent against their will or seeking a second chance in New Caledonia. They settled and started families there. They brought with them their ideals, knowledge, hopes, ambitions, illusions and contradictions. Some of them, especially the cultured people, priests and pastors, doctors and engineers, administrators, soldiers and political leaders, looked differently upon the original inhabitants, showing greater understanding and genuine compassion.

Through their scientific and technical knowledge, the Territory's new communities participated in mining and agricultural activity, often under difficult circumstances, and, with the help of the State, in the shaping of New Caledonia. Their determination and inventiveness made it possible to use resources and lay a foundation for development.

The relationship of New Caledonia with the distant motherland long remained marked by colonial dependency, a one-sided relationship and a refusal to recognise specific characteristics, from which the new communities, in their aspirations, also suffered.

3. The time has come to recognise the shadows of the colonial period, even if it was not devoid of light.

The impact of colonisation had a long-lasting traumatic effect on the original people.

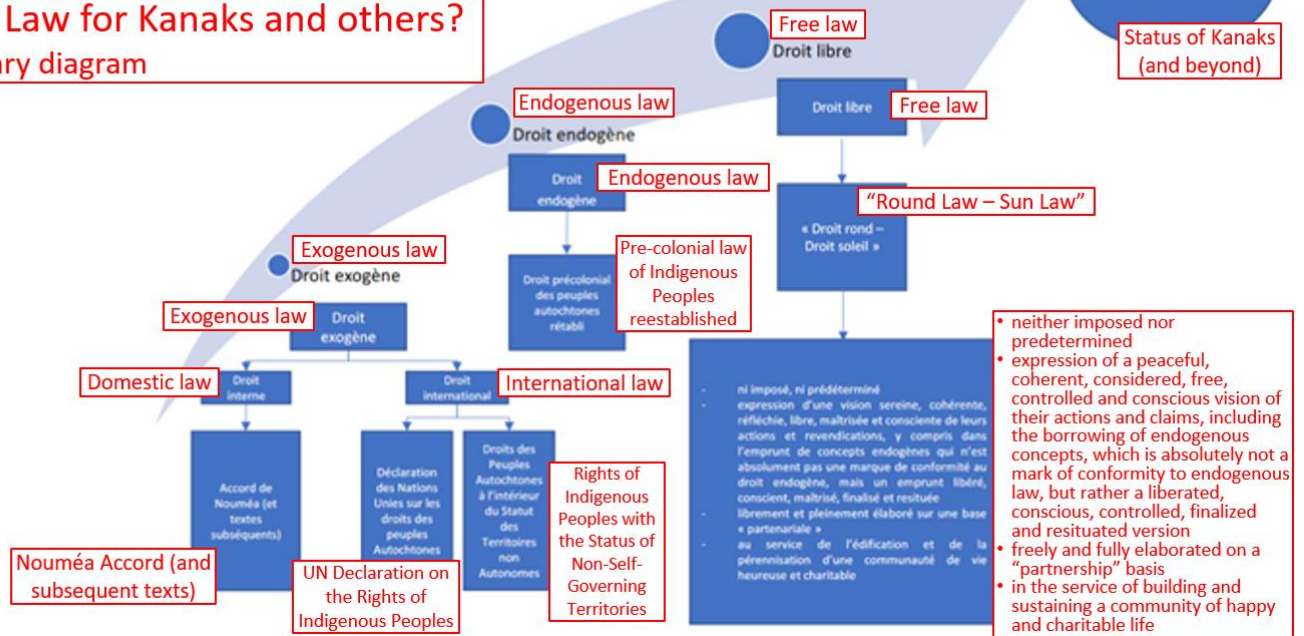
Some clans lost their names when they lost their land. Large-scale land colonisation caused considerable population movements, in which the Kanak clans saw their subsistence resources depleted and their places of memory lost. This process of dispossession engendered a loss of identity markers.”

The political and legal translation and management of the recognition of Kanak sovereignty adopted in 1998 ultimately proved unsatisfactory. The ongoing and growing malaise of the Kanak population is the sad expression of this. It was therefore vital to propose, discuss, adopt and implement a new translation and a new management. This is still not really the case. In particular, we need to get away from a partisan logic, aggravated by the use of voting, which is incapable of dealing peacefully, and for the happiness of all, with an issue that touches the most intimate part of every inhabitant of New Caledonia, and especially every Kanak (“silent partnership” as a way of discussing and deciding on the status of New Caledonia, towards founding a full, real and lasting community of happy and charitable life). We also need to move away from a strict and paralyzing binary logic between an endogenous or exogenous vision of the future Caledonian society, and plunge fully and serenely into a free vision of it (“*Droit rond-Droit soleil*” [“Round Law-Sun Law”]).

Quel Droit pour les Kanaks et les autres?

Schéma synthétique

What Law for Kanaks and others?
Summary diagram



The creation of Indigenous tribes in 1867, comprising part of the 3 phases of land dispossession in our traditional Jawa mè TIRI territory, located in central New Caledonia:

- September 24, 1853 - 77,963 hectares of land were dispossessed,
- Decree of December 19, 1877 covering more than 10,000 hectares of cantonment land, which were once again dispossessed following the insurrection of Grand Chief ATAÏ,
- The handshake between Jean-Marie TJIBAOU and Jacques LAFLEUR definitively erases the abuses concerning the redistribution of several thousand hectares of land by the Land Office, now ADRAF, for the benefit of the Neuwo Noré Jawa mè TIRI clans – Ascélineau Report.

The restitution in 2014 of the human remains of Chief ATAÏ and his companion (DAO) by the French State was a step towards building a common destiny.

Seven years later, on September 1, 2021, the burial of the human remains of our elders was the second step towards a common destiny, with the presence of the State, represented by the High Commissioner of the Republic in New Caledonia, as well as all of the republican political classes, including Ms. Sonia BACKES and Mr. Nicolas MEZTDORF. On the same day, our DAWERI clan agreed to place a commemorative plaque in tribute to the European victims of 1878, despite the opposition of members of the Customary Senate and elected representatives of the pro-independence political class of the Kanak and Socialist National Liberation Front ("FLNKS").

We went to great lengths to have this commemorative plaque, erected by Ms. Sonia BACKES and Mr. Nicolas METZDORF, accepted on the WEREHA site, out of respect for the Nouméa Accord, an agreement of PEACE for all Caledonians.



From left to right: Louis MAPOU – President of the Government of New Caledonia, Cyprien POAERO KAWA, Son of Grand Chief Bergé KAWA and spokesman for the Neuwo Noré Jawa mè TIRI Indigenous Grand Chiefdom, Yvon Kona – Senator for Aire XARACUU and President of the Customary Senate in 2021, Nicolas METZDORF – Mayor of the LA FOA Commune and current deputy for the 2nd constituency at the National Assembly, recently appointed rapporteur for the constitutional bill to modify the electoral body for elections to Congress and the provincial assemblies in New Caledonia, Sonia BACKES – President of New Caledonia’s Southern Province – Former Minister of Citizenship, Father Rock APIKAOUA, Patrice FAURE – High Commissioner of the French Republic in New Caledonia, Rock WAMYTHAN – President of the New Caledonian Congress, Joseph PERONNET – Mayor of the MOINDOU Commune, Alosio SAKO – President of the RDO/FLNKS party member, General Valéry PUTZ – Superior Commander of the FANC.

PEACE has been undermined by the Customary Senate and our politicized customary areas, plagued by the individual postures of the pro-independence political class.

By appointing Ms. Sonia BACKES as senior civil servant, Minister of Citizenship, as well as Mr. Nicolas METZDORF, Mayor of the LA FOA Commune and current deputy of the 2nd constituency at the National Assembly, recently appointed rapporteur for drafting the constitutional bill aimed at modifying the electoral body relating to the elections of the Congress and the provincial assemblies in New Caledonia, the State has reaffirmed its commitment to the Loyalist political classes, dangerously compromising its neutrality deriving from the May 5, 1998 Peace Accord, to which it is a signatory.

For several days now, we have been witnessing tragic and murderous events in New Caledonia, the result of 40 years of neglect towards the Indigenous people, who are subjected to daily marginalization and discrimination.

FLNKS represents only a minority of the Indigenous people and displaces the prerogatives of the sovereign Indigenous clans, the majority of whom are represented by the chiefdoms in New Caledonia. The Customary Senate, which claims to represent the Indigenous people, failed in its responsibilities and prerogatives during the 3rd referendum and the COVID-19 global health crisis, by taking initiatives without the prior informed consent of the Kanaky Indigenous People. We deplore the French government’s lack of impartiality and perhaps lack of political farsightedness, and we call for a United Nations mission to be mandated as a matter of urgency, represented by special Indigenous and rights rapporteurs.