



Assembly of First Nations

## **ANNUAL GENERAL ASSEMBLY**

*July 11-13, 2023 • Halifax Convention Centre, Halifax, Nova Scotia*

**ISSUES UPDATES 2022-2023**





The Assembly of First Nations (AFN) is the national body representing First Nations governments and approximately one million people living on-reserve and in urban and rural areas. The National Chief is elected every three years and receives direction from the First Nations-in-Assembly. The AFN is dedicated to advancing the priorities of First Nations through review, study, response and advocacy on a broad range of issues and policy matters.

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55 Metcalfe Street, Suite 1600, Ottawa, ON K1P 6L5  
Telephone: 613-241-6789 | Toll-free: 1-866-869-6789  
[www.afn.ca](http://www.afn.ca)

*Artwork Designed by Latash Kinem and Ta7taliya Nahanee, Squamish*

Medicine Eagle brings together Squamish Eagle from lines representing forward motion with eagle vision within a sacred Medicine Wheel for balance, holding each of the four directions, lifting all humanity on its wing.



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### ECONOMIC DEVELOPMENT & INFRASTRUCTURE BRANCH

#### Clean Drinking Water

##### History

Since passing the *Safe Drinking Water for First Nations Act* (SDWFNA) in 2013, First Nations have extensively criticized the Act for imposing unjust liability on First Nations without proper resources and for granting sweeping enforcement, legislative and judicial powers to the Crown. As a result, the AFN has been persistently advocating for its repeal and replacement, as directed by the First Nations-in-Assembly through numerous Resolutions, including Resolutions 26/2015, 88/2017, 01/2018, 26/2018, and 14/2019. The SDWFNA was repealed in June 2022, following the advocacy of the AFN and the National Class Action Settlement Agreement, which committed the federal government to repeal the SDWFNA and replace it with new legislation in consultation with First Nations by December 31, 2022.

Pursuant to the mandate of the First Nations-in-Assembly, the AFN has urged Canada to meaningfully co-develop the replacement legislation with First Nations and has engaged with every region across the country since 2019 for feedback from First Nations on the key elements of the proposed replacement legislation, which have subsequently formed the basis of the AFN's advocacy strategy, as necessary components that needed to be included in Canada's draft, throughout the AFN's discussions and negotiations with Canada.

At the December 2022 Special Chiefs Assembly, the First Nations-in-Assembly

passed Resolution 23/2022, *Re-Commitment to Co-Development of Replacement Legislation for Safe Drinking Water for First Nations*, which directs the AFN to call on Canada to recommit to meaningful co-development of legislation that includes the following "critical requirements" as presented to ISC by AFN and First Nations during the development of the current draft: **recognition of rights over source waters, minimum binding national standards, commitment to funding, liability protection for First Nations governments, water governance structures led by First Nations, and mechanisms to address management of transboundary source waters.**

However, despite clear direction from the First Nations-in-Assembly on the inclusion of these critical requirements and sustained advocacy from the AFN and First Nations to co-develop legislation, Canada's current draft of the legislation does not address the 'critical requirements,' which risks failing to ensure that First Nations will have access to the human right to safe drinking water and sanitation, leaving First Nations unprotected.

##### AFN's recent advocacy

Since Canada's release of the draft consultation legislation to mark the beginning of the consultation period in February 2023, the AFN has indicated that it does not support the draft bill in its current form, and urged Canada to recommit to co-development.

On May 16, 2023, Ontario Regional Chief Hare sent a letter to Minister Hajdu, which reiterated its position and insisted Canada seek an expanded mandate to develop



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legislation that addresses the needs and concerns of First Nations. The letter also underscored Canada's obligation to ensure this legislation is consistent with the UN Declaration on the Rights of Indigenous Peoples. The AFN's firm advocacy has successfully delayed the introduction of the legislation for the time being, given that the original date of the introduction was proposed for April 2023.

Moreover, in response to Canada's release of the consultation draft, the AFN immediately conducted a legal analysis of the proposed Act to support First Nations in their review of the Legislation; AFN also led regional engagement sessions to ensure that all First Nations have a meaningful opportunity to share their comments on the proposed Act.

Overall, the AFN's sustained advocacy has been successful in creating space for stronger legislation through the inclusion of governance and refined wording to address specific concerns of First Nations.

Advocacy from the AFN and First Nations urging Canada to address the five critical requirements in the legislation led to notification on May 29th that Minister Hajdu has delayed introduction of the legislation until September 2023.

### Next Steps

Moving forward, AFN will continue to meet regularly and work with ISC counterparts to push for an expansion of the Minister's mandate and for amendments to address the five critical requirements to ensure that First Nations are protected.

At the same time, regular meetings with the AFN Internal Joint Technical Working Group, the Chiefs Committee on Housing and Infrastructure (CCoHI), and the Regional Water Coordinators will ensure the sharing of information on progress and guidance on the next steps.

The AFN remains committed to supporting the co-development and co-drafting of legislation on safe drinking water, wastewater, and related infrastructure with ISC. The AFN will continue to call on Canada to carefully co-develop legislation with First Nations technical expertise to ensure it will advance the highest standards for the safety, health, and well-being of First Nations and all those who reside, work, or visit First Nations lands and territories.

The AFN will continue to advocate for and support the creation of First Nations-led policies and solutions related to safe, clean, and reliable drinking water while working with our federal partners to close the water and wastewater infrastructure gap.







## Economic Development

### History

The Assembly of First Nations (AFN) Economic Development Sector advocates for economic policies and programs that respect First Nations' self-determination in both the market and traditional economies of First Nations. The sector advocates for economic recovery, prosperity, inclusion, and sustainability. To this end, current advocacy efforts address trade and procurement, natural resources, gaming, connectivity, and Cannabis.

**Cannabis:** The federal government initiated the mandated three-year review of the federal cannabis framework. Under the *Cannabis Act*, the federal government must review the Act and its administration three years after coming into force. The *Cannabis Act* legalized and created a framework regulating the sale, distribution, and taxation of Cannabis for recreational use in Canada. As directed by First Nations-in-Assembly and the Chiefs Committee on Cannabis, the AFN advocates for the recognition of First Nations jurisdiction in the Cannabis industry.

**Connectivity:** The Government of Canada committed to connecting 100% of Canadians to high-speed internet by 2030. Currently, 38% of First Nations have access to 50/10Mbps, the minimum standard outlined by the Canadian Radio-television and Telecommunications Commission. The AFN advocates for First Nations access to high-speed, affordable, and scalable digital connectivity by 2030.

**Natural Resources:** The Government of Canada committed to working with the AFN and with rights-holders to identify and support First Nations priorities related to Canada's Climate plan and to explore options for advancing reconciliation with First Nations communities. The AFN works towards creating space for First Nations to exercise self-determination over natural resources in their territories and governing whether and how these resources should be developed. This includes ensuring equitable sharing of benefits from resource development. Generally, the AFN advocates that Natural Resources Canada policies and programs are sufficiently accessible, flexible, and responsive to First Nations' needs.

**Gaming:** A gaming dialogue session was held during the 2017 AFN AGA, which allowed participants to discuss inherent jurisdiction over gaming. First Nations provided their perspective on engaging with provinces, federal government, and law enforcement on the issue of gaming. Under the *Criminal Code* of Canada, all forms of gaming are considered illegal unless the gaming activity or operations falls within the exemption set out in section 207 of the *Criminal Code*. For First Nations to fully participate in gaming as a source of revenue for the economies, the *Criminal Code* will require amendments.

**Procurement:** First Nations-in-Assembly acknowledged the importance of economic participation in procurement via Resolution 38/2019, *Increasing First Nations Procurement Opportunities and Benefits* and Resolution 49/2021, *Next Steps on First Nations and Procurement*. Targeted Indigenous procurement under the federal Procurement





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Strategy for Aboriginal Business represents less than one percent of federal procurement. First Nations' enhanced access to procurement is essential. Following the AFN advocacy on increasing procurement opportunities and benefits for First Nations, in April 2022, Canada did implement a mandatory Indigenous procurement target of five percent to be phased in over three years.

#### AFN's recent advocacy

**Cannabis:** The AFN is advocating that the government of Canada fully engage with First Nations on the review of the *Cannabis Act*. The AFN is developing a scoping paper focused on the jurisdiction and health of First Nations in the Cannabis industry. To further advocacy efforts, a set of recommendations will be developed within the scoping paper based on the engagement sessions held with First Nations and the Chiefs Committee on Cannabis (CCC).

**Connectivity:** The completion of the Closing the Infrastructure Gap (CTIG) by 2030 report provided a First Nations review and identified 38% of First Nations households as connected to the CRTC minimum internet speed standard. The CTIG report also identified a \$5.2 billion investment into connectivity infrastructure for First Nations by 2030 to close the digital divide. The AFN is continuing advocacy toward ensuring First Nations have access to high-speed digital connectivity, including a review of the spectrum licensing process for incorporating First Nations spectrum sovereignty and First Nation-specific funding and criteria for federal connectivity programs.

**Trade:** The AFN is working on expanding trade-related economic opportunities and market access for First Nations goods and services internationally and inter-nation. This includes advocating for First Nations to participate in and monitor several international collaborations and agreements that include:

- Indigenous Peoples Economic and Trade Arrangement (IPETCA): a non-binding cooperation-based arrangement between four Participating economies: Canada, Australia, Aotearoa New Zealand and Chinese Taipei
- Central Bank Network for Indigenous Inclusion: formed in January 2021, its members include the Bank of Canada, the Federal Reserve, the Reserve Bank of Australia, and the Reserve Bank of New Zealand | Te Pūtea Matua.
- Comprehensive and Progressive Agreement for Trans-Pacific Partnership (CPTPP): a free trade agreement between Canada and ten other countries in the Asia-Pacific: Australia, Brunei, Chile, Japan, Malaysia, Mexico, New Zealand, Peru, Singapore, and Vietnam.
- Canada-United States-Mexico Agreement (CUSMA): In Canada, legislation implementing the CUSMA received Royal Assent on March 13, 2020. While there is more work to do, the provisions addressing Indigenous Peoples in the CUSMA have made it the most inclusive international trade agreement for Indigenous Peoples to date.

The emphasis has been on respecting the rights of Indigenous Peoples, advocating for







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trade and an Indigenous Peoples chapter in all trade agreements, and trade programs and processes to include space for First Nations.

**Natural Resources:** NRCan programs are being developed under Canada's strengthened climate plan, *A Healthy Environment, and a Healthy Economy*. Investments in the natural resource sector have been identified in previous budgets that will advance economic reconciliation, increase involvement and engagement with First Nations governments and businesses in the Canadian economy, support regional and locally driven economic platforms to engage in the economy and result in economic growth and enhanced First Nations economic development capacity. The AFN has messaged that Canada must work to fully involve First Nations at all levels of decision-making, including the relationship between industry and jurisdictions with First Nations. This includes NRCan's ongoing development of the department's key natural resource initiatives on the Canadian Critical Minerals Strategy, the Regional Energy and Resources Tables, the National Benefit Sharing Framework and Small Modular Reactors.

**Gaming:** the AFN is working on identifying capacity supports to assist in implementing Resolution 18/2022, *Support for Criminal Code Amendments Regarding Gaming Jurisdiction*. The resolution states that the *Criminal Code* of Canada prevents First Nations from entering the gaming sector unless they have a licence from a province of Canada. Therefore, the AFN is advocating for amendments to section 207 of the *Criminal Code* of Canada to recognize First Nations

jurisdiction over gaming. This also includes calling on Canada to support any consequential amendments to federal legislation required to give effects to specific amendments to the *Criminal Code* of Canada.

**Procurement:** The AFN continues to advocate for increased First Nations procurement opportunities and benefits and monitoring Canada's mandate to ensure five percent of all federal contracts are awarded to businesses managed and led by Indigenous Peoples. The Government of Canada has also implemented short-term changes to the Procurement Strategy for Indigenous Business (PSIB) to better support First Nations and Indigenous businesses' access to procurement opportunities. Procurement structural capacity and support for First Nations is an important consideration. National Indigenous economic organizations, the AFN, and National Indigenous Organizations (NIOs) are undertaking research, and in January 2023, completed a draft business plan to examine the merits of establishing a collaborative national Indigenous procurement organization to grow the Indigenous economy through enhanced public and private procurement. The report is expected to be completed by Summer 2023.

#### Next Steps

The AFN will continue to work with the Chiefs Committee on Economic Development (CCED) and the Chiefs Committee on Cannabis (CCC) to enhance First Nations' economic involvement. This will include continued dialogue with Indigenous Services Canada, Natural







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Resources Canada, Innovation, Science and Economic Development, and Global Affairs Canada, to ensure integrated and transformative approaches to economic development policy and programming.

**Cannabis:** The review of the *Cannabis Act* will be carried out by an independent panel of experts appointed by the Minister of Health. The AFN will advocate that the Government of Canada and its expert panel engage directly with First Nations on the legislative review. The AFN will seek guidance from the CCC regarding the *Cannabis Act* and the recommendations from the scoping paper.

**Connectivity:** First Nations engagement is needed to develop a First Nations connectivity strategy to ensure 100% of First Nations have high-speed digital connectivity by 2030 and are not abandoned in closing the digital divide. The AFN will continue to advocate for specific connectivity funding, criteria, and access to connectivity programs and training for First Nations businesses to support the closure of the digital divide between First Nations and Canada.

**Natural Resources:** The AFN will support the full participation of First Nations in the implementation of NRCan Initiatives, ensuring that environmental, economic and rights considerations are adequately reflected in NRCan frameworks, programs, and policies. The AFN will also advocate for equitable access and First Nations participation in all NRCan initiatives that are proposed and currently underway. Engagement with First Nations on the Critical Minerals Strategy, Regional Energy

Resource Tables, Net-Zero Emissions and National Benefits Sharing Framework must be transparent, inclusive of capacity supports, jurisdictional concerns, as well as regulatory and legislative changes that would give shape to the new policy that will respond to the First Nations concept of reconciliation.

**Gaming:** The AFN will be seeking funding to support the work of the Chiefs Committee on Gaming and seek out key amendments as outlined in Resolution 18/2022. Asserting inherent jurisdiction over gaming and recognition from governments will continue to be a priority as First Nations move to fully participate in the gaming economy in Canada. As capacity support is secured, the AFN and the Chiefs Committee on Gaming will identify a path forward in engaging governments.

**Procurement:** To support Canada's achievement of a five percent Indigenous procurement target, the AFN will advocate for First Nations' access to procurement supports and capacity, trade opportunities, quality data, and changes to the contracting environment. To receive continued guidance by the CCED on the creation of an Indigenous-led entity on procurement and receive guidance on the definition of a First Nations business to achieve the five percent procurement target. The work is now shifting towards longer-term recommendations focusing on a transformational procurement approach.

**Contact:** Alison Anderson, Director, Economic Development Sector, [aanderson@afn.ca](mailto:aanderson@afn.ca)



## Fisheries

### History

The Assembly of First Nations (AFN) Fisheries Sector supports the National Fisheries Committee (NFC), which advises and supports the collective interests of First Nations in Canada on priorities related to fisheries, aquaculture, and oceans. The NFC is co-chaired by the Fisheries portfolio holders: British Columbia Regional Chief Terry Teegee, New Brunswick Regional Chief Joanna Bernard, Prince Edward Island Regional Chief Darlene Bernard, and Chief Roderick "Junior" Gould of the Mi'kmaq Abegweit First Nation.

This update covers three key areas of recent advocacy and activity:

1. Over the last decade, Yukon River chinook salmon of Canadian origin have experienced the worst returns in their history. More than half of their populations have been lost since historical returns have been recorded, and the numbers are still trending lower toward extirpation. First Nations have relied on returning salmon as a central food source, and salmon form a central part of First Nations cultural and customary practices. As a result, the First Nations-in-Assembly passed Resolution 06/2021, *Yukon River Chinook Salmon of Canadian-Origin*, that provided AFN with a mandate to call upon the Government of Canada to initiate an inquiry into this decline and to organize, in partnership with affected First Nations, a strategy to identify the

causal factors and to address those factors to reverse the population decline.

2. In 2016, the Government of Canada launched the Oceans Protection Plan (OPP), a \$1.5 billion interdepartmental strategy aimed at protecting Canada's coasts and waterways. Budget 2022 proposed an additional \$2 billion for the OPP over nine years, starting in 2022-23, for renewal and expansion.

First Nations communities have deep connections to Canada's coasts and waterways and all the fish and wildlife that use those bodies of water. Therefore, they are deeply interested in protecting those environments and the life they support. Resolution 52/2018, *First Nations Inclusion in Canada's Oceans Protection Plan*, provided AFN with a mandate to work collaboratively with the Government of Canada to address long-term capacity funding to affected First Nations; to promote the inherent rights, Treaties, title, and jurisdiction of First Nations; to require any Government of Canada legal or policy framework to respect said rights, Treaties and title; and to work with appropriate departments in securing core and capacity funding for First Nations and regional work associated with the OPP.

3. Fisheries and Oceans Canada (DFO) and the regulation or otherwise management of First Nations fisheries came into the public view in a very pronounced way in 2020 when Sipekne'katik First Nation strategically undertook their own self-governed lobster fishery in accordance with their established Treaty rights. The response from DFO included







harassment of First Nations fishers, gear seizure, and general ambivalence toward non-First Nations harvesters who, at the time, were actively destroying First Nations vessels and gear, including a well-known warehouse. In response to this, AFN received a mandate through Resolution 08/2020, *Systemic Racism in all federal agencies, including Fisheries and Oceans Canada's Response to Sipekne'katik First Nation's Inherent Rights-based Fishery* to, among other things, call upon the Minister of DFO and the Canadian Coast Guard to address systemic racism within DFO with particular attention to the enforcement branch.

#### AFN's recent advocacy

1. **Salmon:** As a Co-signatory with Chief Nicole Tom of the Little Salmon/Carmacks First Nations based in the Yukon, NFC Co-Chair Regional Chief Teegee, in November 2022, issued a letter to Prime Minister Justin Trudeau calling attention to the catastrophic decline of Yukon River Chinook Salmon and requesting the Government of Canada to focus more attention and resources toward understanding this complex dynamic and reversing the trend.

In March 2023, the AFN secured funding to assist in the development of an AFN–Yukon Region-led initiative, which came in the form of a Government Relations and Public Outreach campaign to raise awareness of what is happening to the salmon stocks in the Yukon. This Government Relations and Public Outreach campaign has been presented

to Yukon First Nations Chiefs through the AFN – Yukon Regional Leadership meetings and remains at their discretion in terms of its implementation. These plans may have utility as templates for similar campaigns in other regions.

2. **Oceans Protection Plan (OPP):** The AFN, Transport Canada (TC) Community Engagement and Partnerships (OPP), and Canadian Coast Guard (CCG) Indigenous Relations Branch formed an OPP Assessment Working Group in January 2022 to undertake the joint assessment work. The Working Group met roughly every two weeks from January 2022 until January 2023. AFN has been waiting since March 2022 for TC approvals of the methods and best practices framework to move forward with the assessment work.

Through various Working Group meetings, it was deemed necessary to develop a Terms of Reference to clarify how the AFN, TC, and CCG will collaborate on the assessment. The Terms of Reference were drafted collaboratively and a version is ready for review. The draft Terms of Reference includes:

- Sections on the purpose of the assessment.
- Guiding principles.
- Structure and approach.
- Regional engagement.
- Communications and information-sharing.
- Review, amendment, and termination.

- 3.





3. **First Nations Fisheries & Fisheries and Oceans Canada (DFO):** In April 2022, the AFN submitted an extensively researched report to the Senate Standing Committee on Fisheries and Oceans whose specific area of study was the Implementation of Indigenous rights-based fisheries across Canada. This report examined prominent Supreme Court Case decisions, including the *Sparrow Decision* (1990), the *Marshall Decision* (1999), and the *Ahousaht Decision* (2009). In each case, there is a common thread of structural racism influencing how First Nations harvesters are viewed and treated.

The AFN was pleased to submit this comprehensive written report to the Senate Committee in support of the ongoing need to have the Government of Canada recognize First Nations rights-based fisheries as constitutionally protected and ensure the full implementation of the First Nations Right to Fish for Food, Social and Ceremonial Purposes, which does not require Government of Canada licensing or management of any kind.

### Next Steps

All AFN policy sectors will support the implementation of the National Action Plan to the *United Nations Declaration on the Rights of Indigenous Peoples Act* (UNDA), including as it relates to fisheries. The proper implementation of Supreme Court Case decisions with respect to First Nations Treaty rights to harvest is both an AFN mandate and an essential element to implementing the UNDA. We will support work currently underway through regional offices and regional AAROM bodies, such as the *Save Our Salmon* campaign in the Yukon and the transition away from Open-Pen Net Fish Farming in British Columbia. We will always promote First Nations fisheries and advocate for DFO to work with First Nations, provinces, and territories to revise regulations and policies to respect First Nations' Treaty-protected inherent rights and empower First Nations' authorities in fisheries protection and enforcement.

### Contact:

James MacDonald,  
Director of Fisheries,  
[jmacdonald@afn.ca](mailto:jmacdonald@afn.ca)





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## Environment

### History

In 2019, the AFN First Nations-in-Assembly passed Resolution 05/2019, *Declaring a First Nations Climate Emergency*. That resolution formally recognized that we are in a global climate emergency. Paired with the pre-recognized catastrophe of biodiversity loss, these twin crises present the challenge of our time. The AFN continues its work to address these crises while recognizing and respecting First Nations' Inherent Rights, Title, jurisdiction, and self-determination. The AFN progresses this work with the understanding that First Nations are critical drivers in healing the relationship with and fulfilling our responsibilities to Mother Earth.

### AFN's recent advocacy

The AFN receives its mandates from First Nations-in-Assembly and guidance from the Advisory Committee on Climate Action and the Environment (ACE). Through these mandates, the AFN continues to advocate for the recognition of the voices and cultures of First Nations as caretakers and stewards of the lands, water, and ice. This work includes advancing four distinct but overlapping program areas: Climate Action, Conservation and Biodiversity, Environmental Health, and Impact Assessment. These areas encompass a large scope of work in which First Nations hold extensive knowledge. First Nations must be involved to achieve positive outcomes for future generations.

### CLIMATE ACTION

Since Resolution 05/2019 passed, the AFN has continued to advance several priorities related

to First Nations climate leadership. The AFN hosted two successful National Climate Gatherings and completed the final draft of the AFN National Climate Strategy. The National Climate Strategy will be presented to First Nations-in-Assembly in July 2023. The National Climate Strategy and the First Nations Climate Lens were developed through many engagements with First Nations and will be critical in advancing First Nations climate actions and solutions.

The Joint Committee on Climate Action (JCCA) has continued its efforts to advance First Nations interests in various federal climate policy processes. Recently, the JCCA participated in the development of draft First Nations targets and indicators for the National Adaptation Strategy Report. The JCCA released the 2022 JCCA Annual Report to the National Chief and Prime Minister. Additionally, the JCCA is reviewing its progress-since-inception to explore new opportunities to enhance the effectiveness of the body.

Finally, an AFN delegation will attend the 28th session of the Conference of the Parties (COP 28) of the UN Framework Convention on Climate Change (UNFCCC) in Dubai, UAE, in November of 2023.

### CONSERVATION AND BIODIVERSITY

The AFN continues its advocacy and technical work to effectively position First Nations at critical junctures of emerging conservation and biodiversity policy in Canada. Following federal commitments at Biodiversity COP 15 to halt and reverse biodiversity loss, and through a parallel commitment to implement the *United*





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*Nations Declaration on the Rights of Indigenous Peoples (UNDRIP)*, First Nations in Canada are positioned at the forefront of conservation efforts moving forward, including at the global level.

To support this, the AFN is actively collaborating with Canada to establish a First Nations Nature Table (FNNT), which will begin its work in the latter half of 2023. The FNNT will be a strategic, technical-level table to assess and advise Canada on the implementation of the Kunming-Montreal Global Biodiversity Framework. This commitment by Canada, along with commitments at Climate COP 27, aims to address the twin crises of climate change and biodiversity loss. The AFN continues to advocate for Indigenous Peoples who are directly impacted by these crises.

As the traditional caretakers of Mother Earth, First Nations Peoples in Canada disproportionately bear the negative impacts of a rapidly changing climate and loss of species and habitat diversity. This strong linkage to Mother Earth positions First Nations as leaders in the work to halt and reverse biodiversity, habitat loss, and the impacts of climate change.

In February and March 2023, the AFN hosted three First Nations virtual dialogue sessions (Pacific, Central, Maritime) on the conservation, management, and protection of culturally significant species. This work represented a continuation of similar technical dialogues in 2022. These discussions included culturally appropriate and alternative terminologies and perspectives relating to species at risk, ecosystems, traditional lands, cultural places and spaces,

Indigenous conservation approaches, Indigenous knowledge, and the development of a First Nations network of practitioners that work on species at risk-related activities and programs on the ground. Also discussed were approaches and activities that First Nations are taking to address their priorities for species at risk and conservation.

The AFN will consolidate the results of these dialogues in 2023–2024 to identify the next steps to elevate First Nations perspectives into species-at-risk related policies and programs. Additionally, the AFN provides a strong linkage between First Nations and Parks Canada, advising—in tandem with expert consultants—on how best to incorporate First Nations history and culture into Parks operations and narratives, and advancing Traditional Knowledge-based management techniques within the parks process.

AFN Environment remains engaged in advocating for wildlife health, through active engagement in Chronic Wasting Disease (CWD) research and prevention. The AFN formed the CWD working group and participates in the National Boreal Caribou Knowledge Consortium (NBCKC) and Indigenous Knowledge Circle (IKC).

#### ENVIRONMENTAL HEALTH

First Nations continue to express concerns regarding environmental protection and pollution prevention as their territories, environment, and rights are under constant threat from the adverse impacts of toxic substances and industrial activities. Recognizing the significance of these concerns, the AFN is seeking renewed relationships with Canada to





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advance a holistic environmental health approach to chemical management and environmental protection. This includes identifying and establishing First Nations-led approaches to environmental protection.

Further, the AFN remains engaged on Bill S-5 (*An Act to Amend the Canadian Environmental Protection Act, 1999*), which recently completed third reading in the House of Commons. We will continue to engage Canada on aspects of Bill S-5 that impact First Nations, including the need to address regulatory gaps.

In addition, the AFN continues to work in partnership with Health Canada and four university partners to advance research efforts under the Food, Environment, Health, and Nutrition of First Nations Children and Youth (FEHNCY) study. After a successful pilot study, the full FEHNCY study commenced in the Atlantic region in the fall of 2022, as well as in the Saskatchewan Region in the spring of 2023.

#### IMPACT ASSESSMENT

For decades, First Nations have advocated for involvement in energy development on their lands and traditional territories and the related government approval processes. The 2019 *Impact Assessment Act* and Canadian Energy Regulator Act created space for First Nations participation to develop regulations regarding energy projects. Both of those Acts require regulators and proponents to consider the potential adverse effects that a project may inflict on the rights of Indigenous Peoples in Canada.

The AFN is currently developing a communication plan for 2023–2024

regarding policy and regulatory changes to ensure First Nations co-development is executed meaningfully. The AFN will continue to advocate for the full and meaningful inclusion of First Nations, regional organizations, and provincial and territorial bodies at all intervention points throughout the regulatory process of all projects. The Environment Sector intends to advance the following priority areas in its work with the Impact Assessment Agency: Indigenous Cooperation Agreement Regulations, Reconciliation Framework, Cost Recovery Model(s), an Indigenous Knowledge Policy Framework, and Ministerial Project Lists.

#### Next Steps

Growing recognition of the biodiversity and climate change crises has elevated environmental protection and advocacy work. Building on federal commitments at Climate COP 27 in Egypt and Biodiversity COP 15 in Montreal, both in 2022, work related to climate change and biodiversity, respectively, have received global focused attention and commitments.

The AFN will continue to advance work related to the resolutions below, at the guidance of the ACE and JCCA, and as directed by the First Nations-in-Assembly. Urgent action is required to address climate change and biodiversity loss, and First Nations Peoples in Canada will continue to guide national and international efforts to combat these crises. The resolutions below and current advocacy work showcase critical progress required to help Canada achieve its ambitious conservation and climate related targets.





Commitments at COP 27 (UNFCCC) and COP 15 (CBD) made by global governments pledge to uplift Indigenous voices and meaningfully recognize Indigenous rights and responsibilities in this regard. The AFN will continue to advocate domestically and internationally to position Indigenous Peoples as leaders in environment related work, as caretakers and stewards of their traditional territories.

#### Key Resolutions that guide and inform these efforts include:

- Resolution 120/2016, *Establish a First Nations specific committee under the Species at Risk Act.*
- Resolution 13/2017, *Chronic Wasting Disease.*
- Resolution 22/2017, *Joint Committee on Climate Action.*
- Resolution 23/2017, *Parks Canada Pathway to Canada Target 1\_ Conservation 2020 Initiative.*
- Resolution 73/2017, *Environmental and Regulatory Reviews*
- Resolution 79/2017, *Indigenous Protected and Conserved Areas*
- Resolution 07/2018, *Addressing First Nations Rights, Title, and Jurisdiction in Bill C-69: Impact Assessment Act, Canadian Energy Regulator Act, and the Navigation Protection Act*
- Resolution 58/2018, *First Nations Response to Chronic Wasting Disease*
- Resolution 64/2018, *Indigenous Protected and Conserved Areas – Pathway to Canada Target 1: Conservation 2020 Initiative*
- Resolution 65/2018, *Closing the Environmental Protection Regulatory Gap on First Nation Lands*
- Resolution 69/2018, *First Nations Full, Direct, and Unfettered Participation in Bill C-69 including Regulatory and Policy Co-Development*
- Resolution 03/2019, *The Convention on Biological Diversity (CBD)*
- Resolution 04/2019, *Support for Food, Environment, Health and Nutrition of First Nations Children and Youth (FEHNCY) Study*
- Resolution 05/2019, *Declaring a First Nations Climate Emergency*
- Resolution 06/2019, *Respecting First Nations Inherent and Constitutionally Protected Rights in the Project List for the Impact Assessment Act*
- Resolution 44/2019, *Supporting First Nations Guardians*
- Resolution 95/2019, *First Nations full partnership in the implementation of the Pan-Canadian Approach to Species at Risk Conservation in Canada.*
- Resolution 17/2020, *Support for First Nations Climate Leadership, Food Sovereignty, Environmental Protection, Stewardship and Conservation*
- Resolution 45/2021, *Support for the Conservation through Reconciliation Partnership*
- Resolution 57/2022, *First Nations Nature Table*
- Resolution 21/2023, *Replacing First Nations Lands Lost Due to Climate Disasters*
- Resolution 22/2023, *First Nations Engagement on Canada's 2030 Emissions Reduction Plan*





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### ENVIRONMENT, LANDS, WATER BRANCH

## Water Stewardship

### History

Water is essential for life to exist and connects all living beings on and to Mother Earth. First Nations have the responsibility to protect and sustainably conserve marine and fresh water to safeguard healthful conditions for future generations. First Nations women have a deep-rooted kinship to water that is borne of their role as water protectors. First Nations recognize that fully protected and sustainably conserved marine and fresh water culminates in plentiful ecosystems and healthy communities. First Nations' ability to steward, exercise Inherent and Treaty Rights, and maintain intimate connections with water has been increasingly threatened by climate change and other human-generated threats. Thus, all waters *must* be fully protected.

### AFN's recent advocacy

The Assembly of First Nations (AFN) is mandated to support First Nations' stewardship of inland and marine waters in a manner that upholds rights, title, and jurisdiction and advocate for the inclusion of First Nations women, youth, and gender-diverse peoples as primary decision-makers where water is implicated. Mandated by the First Nations-in-Assembly, our work is characterized by three broad themes: marine conservation and biodiversity, sustainable development goals, and marine and freshwater protection.

### MARINE CONSERVATION AND BIODIVERSITY

The AFN continues to drive Canada's commitment to First Nations-led conservation, which furthering reconciliation and addressing the biodiversity and climate crisis.

Internationally, the AFN's advocacy efforts focused on ensuring that First Nations rights, knowledge systems, and priorities were reflected in the recent Kunming-Montreal Global Biodiversity Framework (GBF). Through our participation at the 15th Conference of the Parties on the Convention on Biological Diversity (CBD), led by Regional Chief Kluane Adamek, the AFN secured strong language on respecting the rights of Indigenous Peoples to our lands, waters, territories, resources, and protecting and promoting knowledge systems in the GBF. The AFN continues to support the advancement of Indigenous Protected and Conserved Areas (IPCAs) by First Nations. IPCAs empower First Nations' stewardship responsibilities regarding lands and waters and facilitates the assertion of First Nations sovereignty and rights. Guided by the Advisory Committee on Climate Action and the Environment (ACE), the AFN developed a report with 21 recommendations on how the Government of Canada can support First Nations' establishment of marine IPCAs. Over the past year, the AFN presented this report to First Nations and federal agencies to support capacity-building, knowledge-sharing, and develop a shared understanding of the challenges, opportunities, and strategies to support First Nations-led marine conservation.





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To enhance AFNs' advocacy on this issue, the AFN attended the 5<sup>th</sup> International Marine Protected Area Congress (IMPAC 5) held February in Vancouver, B.C. At this global event, Regional Chief Kluane Adamek and Regional Chief Terry Teegee urged Canada to adopt a whole-of-government approach to marine conservation and to support First Nations-led conservation, emphasizing that marine conservation actions *must* be led by First Nations and reflect our knowledge systems, laws, and governance.

### **SUSTAINABLE DEVELOPMENT GOALS**

As Canada sets out to achieve the United Nations (UN) Sustainable Development Goals (SDGs) and the 2030 Agenda for Sustainable Development, which sets out an ambitious roadmap for the future of our planet, the AFN's advocacy has been focused on ensuring that no First Nation is left behind. Furthermore, First Nations' participation and leadership in the implementation of the SDGs, encompassing social, economic, and environmental principles, is fundamental.

In March 2023, the AFN brought our advocacy on First Nations-led water stewardship to the UN Water Conference, the first UN conference to occur in over forty years. The Water Conference focused on water-specific SDGs and mobilizing action to address the global water crisis. At the UN headquarters in New York, our delegation, led by Regional Chief Cindy Woodhouse, and Judy Wilson, Proxy for Regional Chief Adamek, was clear in asserting that First Nations must lead responses to the global water crisis and advocated for our priorities in the UN Water Action Agenda.

Under the guidance of the ACE, the Water Sector initiated an analysis of the

Sustainable Development Goals based on last year's virtual First Nations-led knowledge exchange gathering. The Sector is planning further information-sharing engagements with First Nations and will continue to hold the Government of Canada accountable for the existing inequities in the lived realities of First Nations.

### **MARINE AND FRESHWATER PROTECTION**

The AFN also works to support First Nations in protecting their marine and fresh waters and advocates for the respect of First Nations' Inherent and Treaty Rights where industrial activities may impact surface and groundwater. The Nuclear Waste Management Organization (NWMO) is currently engaged in a site selection process for a community to host a deep geological repository (DGR) to permanently store high-level radioactive waste in the form of used nuclear fuel.

The AFN is monitoring the site selection process for the deep geological storage of nuclear fuel and is advocating to ensure concerns of First Nations communities whose lands are being considered to host a DGR are being addressed. The NWMO has indicated they will not move forward with a DGR in First Nations traditional territory without the consent of the host Nation. Given the potential risks to water, the AFN developed a preliminary report on the potential adverse impacts of nuclear waste on land and water. The AFN is now establishing an engagement plan to further assess First Nations concerns and identify gaps. Outreach will occur with affected and interested Nations.

The Sector is also working to develop informational materials related to the





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NWMO's Adaptive Phased Management (APM) process that will be shared with First Nations.

### Where do we hope to go in the future?

Over the next year, the AFN will continue to advocate for improved First Nations control in decision-making, Indigenous-led conservation supports, and wholistic, whole-of-government approaches related to fresh and marine water. The AFN also remains steadfast in calling on Canada to apply a gender-responsive approach to all water-related work. This is important as the Government of Canada moves forward to establish the new Canada Water Agency (CWA) and to modernize the Canada Water Act. The AFN will work to ensure First Nations' rights and priorities are respected and will advocate for adequate resources and funding for First Nations to participate in this process.

The AFN will advocate for the equitable, respectful, and effective implementation of the new biodiversity targets and goals in the GBF across Turtle Island. To halt and reverse biodiversity loss by 2030, the AFN must ensure a wholistic, whole-of-government approach to Canada's biodiversity strategy that reflects First Nations Inherent Rights and responsibilities to lands and waters.

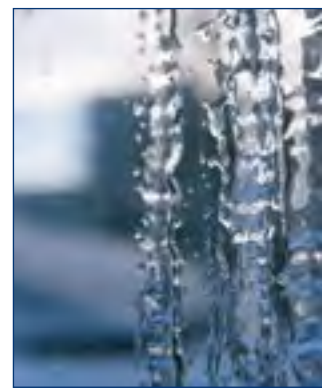
The AFN will continue to advance our marine IPCA report with federal agencies, including Fisheries and Oceans Canada (DFO), Environment and Climate Change Canada (ECCC), and the Parks Canada Agency (PCA), to identify pathways to implement the report's recommendations. We will continue to support First Nations by developing marine IPCA support tools, advocating for long-term sustainable funding, building IPCA awareness, and collaborating on marine IPCA recommendations.

Additionally, the AFN is preparing to participate at the upcoming United Nations High-Level

Political Forum and SDG Summit in New York later this year, to hold Canada accountable to its domestic and international commitments related to the SDGs. The AFN continues to advocate for a distinctions-based approach to the SDGs, calling on the federal government to co-develop a First Nations-led pathway to achieve sustainable development goals.

With the guidance of the ACE and First Nations that surround the Kichi Sibi (Ottawa River), the AFN is taking steps to organize its first annual AFN National Water Walk that aims to raise awareness about worsening water quality issues relating to First Nations and to uplift First Nations women, youth, and gender-diverse peoples that work to protect it. To further advance our mandate, the AFN will deliver information-sharing webinars related to water walks to highlight the critical need to respect and protect water through ceremony. Furthermore, the Sector is developing a water walk planning guide to support First Nations communities in planning water walks in their communities.

Expected to occur at the 2023 Annual General Assembly, the AFN will be supporting a resolution for consideration by the First Nations-in-Assembly relating to mine tailings spills. Current mining and mineral claim staking and prospecting permits are being accepted by provincial and territorial governments without the free, prior, and informed consent (FPIC) of First Nations. Often, mine tailings spills go unreported and result in long-term adverse environmental impacts to critical water sources. The AFN is seeking a mandate to advocate to ensure that all mining projects taking place on or near First Nations lands and water adhere to the standards of the UN Declaration, including the principle of FPIC, to ensure that community water sources are protected for generations to come.





## Additions-to-Reserve

### History

First Nations have been critical of the Government of Canada's Additions to Reserve (ATR) policy and process for years due to the inability to add lands to reserves in a timely and efficient manner. In 2019, the Government of Canada committed to reforming the ATR policy and process. Canada committed \$43 million over three years in Budget 2021 to support policy reform and process improvements.

In 2022, Crown-Indigenous Relations and Northern Affairs Canada (CIRNAC) initiated a phased approach to ATR reform. This approach began with preliminary engagements through the fall of 2022, followed by a call for funding proposals to support substantive engagement with First Nations in 2024. Following this engagement, CIRNAC plans to undertake an analysis and co-develop reform options with First Nations for validation and approval.

### AFN's recent advocacy

Since 2020, the Assembly of First Nations (AFN) has actively advocated for ATR Policy improvements through a Lands Table established with CIRNAC. This process provides a joint technical space to share information, provide feedback, and facilitate analysis of the ATR policy and process and includes a national ATR survey initiated in 2022 by the AFN.

In 2023, First Nations-in-Assembly passed AFN Resolution 17/2023, *Prioritizing Land Back Through All Federal Laws, Policies and Programs*. This resolution calls on the Government of Canada to facilitate and prioritize the return of lands to First Nations. The ATR Policy is one of many ways First Nations can reacquire their lands. The AFN's recent advocacy efforts are focused on ensuring that ATR policy changes are driven by the needs and priorities of First Nations and implemented with respect for First Nations Rights and self-determination.

### Next Steps

Building on a past analysis of the ATR policy and process and recent efforts such as the 2022 national ATR survey, the AFN will engage with First Nations on ATR reform to determine how policy and legislative change can better support the return of lands to First Nations communities. This work is crucial for advancing reconciliation and will contribute to the long-term healing and well-being of First Nations.







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### ENVIRONMENT, LANDS, WATER BRANCH

## Specific Claims Co-Development Process

### History

For generations, First Nations have called for a new, fully independent specific claims process to facilitate the negotiation and resolution of their claims against the Crown. Under the current process, the Government of Canada is the defendant and manages all elements of the process, determines the level of funding First Nations receive to participate, and accepts or rejects First Nations claims for negotiation based on Canada's own legal advice.

AFN Resolution 09/2020, *Jointly Develop a Fully Independent Specific Claims Process*, calls on Canada to work directly with the Assembly of First Nations (AFN) and the Chiefs Committee on Lands, Territories and Resources (CCoLTR) to co-develop a fully independent specific claims process consistent with the *United Nations Declaration on the Rights of Indigenous Peoples* and based on the following four principles:

- Maintenance of the Honour of the Crown
- Independence in all aspects of Claims Resolution
- Recognition of Indigenous Laws
- No Arbitrary Limits on Compensation

### AFN's recent advocacy

In November 2022, the AFN and Crown-Indigenous Relations and Northern Affairs Canada (CIRNAC) formally launched the

Specific Claims Implementation Working Group (SCIWG) to co-develop a consensus-based model for an Independent Centre for the Resolution of Specific Claims. The SCIWG meets regularly and is making progress on a joint proposal.

In 2023, the AFN brought together a group of prominent Indigenous legal experts to provide guidance to the SCIWG on the recognition of Indigenous laws in the specific claims process. The Council of Experts in Indigenous Laws (CEIL) has met regularly and is participating in an Indigenous Laws Gathering in Vancouver, B.C., in June 2023. This event is a critical opportunity to learn from First Nations leaders and Knowledge Keepers on how Indigenous laws, traditions, customs, and land tenure systems must be included in the resolution of claims.

### Next Steps

The AFN will continue to work through the SCIWG and the CCoLTR to advance the development of a consensus-based proposal for an Independent Centre for the Resolution of Specific Claims.

The AFN and CIRNAC will seek opportunities to engage with First Nations on this work in 2023/24. The final proposal will be subject to review by Federal Cabinet and by First Nations-in-Assembly in 2024/25. The AFN anticipates any new legislation receiving Royal Assent by the spring of 2025.





## Specific Claims Access to Information

### History

First Nations require access to records and materials held by the Government of Canada to substantiate specific claims. This requires First Nations to seek access through the Government of Canada's *Access to Information Act* and *Privacy Act*, collectively known as the information management regime. A provision of the *Privacy Act* specifically grants First Nations the right to access otherwise protected personal information for claim research and substantiation.

In 1999, Crown-Indigenous Relations and Northern Affairs Canada (CIRNAC) introduced an internal department directive affirming First Nations Rights and for their researchers to access information held by the department for the purpose of validating claims. This directive established an informal access process, enabling First Nations to bypass the more rigid and obstructive formal access framework. In 2022, the National Claims Research Directors (NCRD) voiced concerns about CIRNAC unilaterally imposing new, arbitrary requirements for First Nations to disclose prejudicial information related to potential claims before granting requested records. These arbitrary requirements were imposed without consultation or justification and are inconsistent with the principle of access to justice.

### AFN's recent advocacy

The Assembly of First Nations (AFN) participated in the Treasury Board of Canada's 2020 review of the information management regime. In a letter to the President of the Treasury Board, the Honourable Mona Fortier, the AFN reiterated the requirement that the Government of Canada meaningfully consult and include First Nations in further changes to the information management regime in a manner that is consistent with the *United Nations Declaration on the Rights of Indigenous Peoples*.

In 2023, the NCRD issued an open letter to the Minister of Crown-Indigenous Relations, Marc Miller, calling for the reversal of CIRNAC's unliteral and arbitrary changes to the established informal access to information process. Numerous First Nations and claims research units supported the open letter, as well as Regional Chief Paul Prosper and the Chiefs Committee on Lands, Territories and Resources (CCoLTR).

### Next Steps

The AFN Lands Sector will continue to monitor this issue and identify opportunities to call upon the Government of Canada to meet its obligations under domestic and international law and respect the principle of Ownership, Control, Access, and Possession (OCAP®) in the fair and just resolution of specific claims. The AFN Lands Sector will also seek opportunities to support ongoing advocacy and leadership by the NCRD on these important issues.







## Bill C-38 and Citizenship

### History

Through the imposition of the *Indian Act*, the Government of Canada enforced an oppressive system of legislative assimilation that continues to impede First Nations identities. The *Indian Act* system of membership is a denial of First Nations self-determination and has caused severe harm to First Nations, including generations of First Nations women and their descendants.

In response to litigation from First Nations, the Government of Canada has incrementally removed certain discriminatory elements of the *Indian Act* through policy, regulatory, and legislative measures. In 2017, the Government of Canada initiated Bill S-3, *An Act to Amend the Indian Act, in response to the Superior Court of Quebec decision in Descheneaux c. Canada (Procureur general)*. Bill S-3, which was designed to remove all gender-based discrimination in the *Indian Act*, came into force in 2019. That Bill failed to address the broader denial of self-determination in the registration provisions of the *Indian Act*.

In 2021, a group of plaintiffs launched a constitutional challenge (*Nicholas v. AGC*) to address ongoing inequities faced by individuals with a family history of enfranchisement under the *Indian Act*. After a brief period of engagement, the Minister of Indigenous Services, Patty Hajdu, introduced Bill C-38 in Parliament to remedy the impacts of historical enfranchisement under the *Indian Act*. Bill C-38 completed its first

reading in Parliament in December 2022. Bill C-38 will proceed to a second reading at an undetermined date.

### AFN's recent advocacy

First Nations-in-Assembly passed AFN Resolution 42/2022, *Demand for Consultation on Amendments to the Indian Act (1985)*. That resolution called on the Government of Canada to halt legislative amendments until Canada has adequately consulted with First Nations and provided the necessary resources for community engagement. The AFN continues to monitor Bill C-38 and has called on the Government of Canada to provide adequate resources to all First Nations to engage with their community members. AFN National Chief RoseAnne Archibald sent a letter to Minister Hajdu in March 2023 calling for the immediate withdrawal of Bill C-38 until further engagement could take place.

### Next Steps

The AFN will continue to monitor Bill C-38 and any actions that may impact First Nations citizenship. The AFN will seek opportunities to intervene and update First Nations-in-Assembly. The AFN will also continue to call on the Government of Canada to provide First Nations with adequate resources to engage with their community members and exercise self-determination over their citizenship processes.





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## New Fiscal Relationship

### History

Fiscal relations are critical components of Nation-to-Nation relationships. Crown-First Nations fiscal relationships must support and ensure respect for First Nations Inherent Rights, Treaties, Title, and Jurisdiction, and First Nations participation in economic growth. First Nations governments and institutions must have access to sufficient, predictable, long-term funding to achieve well-being for their Nations and citizens.

Decades of fiscal policies focused on compliance and reporting requirements rather than empowering First Nations governments to design services based on the priorities of their citizens, along with insufficient funding of First Nations governments, are barriers to progress. These longstanding challenges affect socio-economic outcomes, innovation, and the strengthening of financial management, human resources, IT systems, and other essential structures required for good governance and services.

The AFN remains committed to the co-development and design of a new fiscal relationship that moves towards sufficient, predictable, and sustainable funding for First Nations Governments as envisioned in the 2019 report of the Joint Advisory Committee on Fiscal Relations (JACFR) and remains in line with the inherent right to self-determination and jurisdiction over socio-economic growth and affairs as expressed in the *United Nations Declaration on the Rights of Indigenous Peoples*.

The work on the new fiscal relationship is called for by reports and mandated by AFN Resolutions:

- *A New Approach: Co-Development of New Fiscal Relationship between Canada and First Nations*, co-authored by the AFN and Indigenous Services Canada, published December 2017.
- Resolution 66/2017, *AFN-Canada Joint Report on Fiscal Relations*, which calls upon Canada to implement the key actions recommended in the JACFR report, including to establish a permanent advisory committee, pursue the co-development of recommendations to increase revenue generation opportunities, create 10-year grants, replace the Default Prevention and Management Policy with a cooperative approach that supports First Nations, and co-develop an approach to repeal the First Nations Financial Transparency Act and replace it with a mutual accountability framework supported by First Nations-led audit and statistical functions.
- *Honouring our Ancestors by Trailblazing a Path to the Future*, authored by the Joint Advisory Committee on Fiscal Relations, June 2019.
- Resolution 24/2019, *Engage Extensively with First Nations on the Report of the Joint Advisory Committee on Fiscal Relations*, which called on the JACFR, the AFN, and ISC to engage with First Nations on the report and its recommendations and called on the JACFR to report to the First Nations-in-





Assembly about the findings from those engagements.

- AFN's governance sector (New Fiscal Relations) provides updates through dialogue sessions at Chiefs Assemblies but will call for a mandate to reconvene JACFR before bringing back engagement findings to be shared at an upcoming Assembly.

#### AFN's recent advocacy

Based on Resolution 66/2017, the AFN and Canada co-developed the New Fiscal Relationship (NFR) Transfer, a new funding mechanism designed to offer First Nations an alternative to funding through contribution agreements. The NFR Transfer provides several significant benefits, including:

- a 10-year term (most contribution agreements have shorter terms),
- design and delivery services flexibility,
- ability to allocate, manage, and use funding to better accommodate local needs and changing circumstances and priorities,
- unspent funds retention, and
- reduced administrative and reporting burdens.

As of May 2023, 143 First Nations have opted-in to the grant. Discussions with ISC and Indigenous partners are underway about expanding the grant's eligible recipients to include Tribal Councils and First Nations Health Authorities.

While Canada has longstanding programs that support the delivery of services in First Nations communities, programs such as Band Support Funding, Employee Benefits, Tribal Council Funding, and Professional and

Institutional Development are based on outdated designs and are considerably under-resourced. Canada agrees that First Nation governance needs to be modernized, including:

- In the immediate term, by developing a proposal to support First Nations governance (in line with the commitment made in Budget 2018); and
- In the longer term, by revising and developing policies, programs, and legislative frameworks that support First Nations governance in the context of a modern fiscal relationship.

The AFN continues to call on Canada to rescind the Default Prevention and Management Policy (DPMP) and replace it with a collaborative approach that supports First Nations capacity development and mutual accountability while respecting the rights and authority of First Nations.

The JACFR envisioned a new fiscal relationship premised on shared responsibilities and mutual accountability. It called for an accountability framework to measure and report on the closure of socioeconomic gaps in conjunction with the development of options for statutory transfers between Canada and First Nations. As per JACFR recommendations, ISC is currently engaging with First Nations leadership and regions about the draft National Outcomes-based Framework (NOBF) and expects to complete the engagements by Fall 2023. The NOBF is subject to change based on the feedback provided by First Nations in this engagement process.





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#### Next Steps

ISC is in the process of preparing two Memoranda to Cabinet (MC) for submission in Fall 2023. The first MC will include the following:

- Expanding the NFR Grant to aggregates such as Tribal Councils and First Nations Health Authorities.
- Seeking additional policy authority to undertake further work on remaining JACFR recommendations, including the establishment of a First Nations Auditor General Office and the creation of a First Nation Data and Statistical Institute.
- The repeal of the *First Nation Financial Transparency Act*.

The second MC is for the Modernization of Governance initiative, which includes developing a new funding formula that supports community needs in specific program areas and supports existing First Nations institutions that serve First Nations needs in respect of governance capacity. The AFN maintains that key elements of a New Fiscal Relationship between Canada and First Nations includes new funding arrangements and recognition of First Nations' jurisdiction, and the transfer of service delivery to First Nations governments and First Nations-led institutions. This work includes mutual accountability and must ensure a means for measuring progress toward closing the socioeconomic gaps, such as the national outcomes-based framework.

#### Bill C-21 Firearms Legislation

##### History

Bill C-21 will introduce a "freeze" on the sale, purchase, or transfer of handguns in Canada but does not completely ban their use. Specific individuals and businesses are exempted under the proposed Act. The federal government has stated that Bill C-21 is part of a comprehensive strategy to address gun violence and strengthen gun control. Notably, however, Bill C-21 does not address the illegal sale of handguns but instead attempts to further restrict the legal sale and ownership of handguns.

On November 24, 2022, the House of Commons Standing Committee on Public Safety and National Security met to complete a "clause by clause" reading of Bill C-21. Liberal MP Paul Chiang made a proposed amendment to Bill C-21 after the Bill passed the second reading. The amendment added long guns (rifles) to the banned list. The proposed clause would effectively ban any rifle or shotgun that could potentially accept a magazine with more than five rounds, whether or not it has such a magazine. The amendment also prohibited, by name, a large number of semi-automatic firearms that do not have detachable magazines and do not meet the definition of an "assault-style firearm." These include several long guns used mainly by hunters.





#### AFN's recent advocacy

On November 3, 2022, Regional Chief Teegee appeared before the House of Commons Standing Committee on Public Safety and National Security on behalf of the Assembly of First Nations (AFN) while Bill C-21 was in second reading. Regional Chief Teegee raised concerns with respect to Bill C-21's implications for First Nations Inherent, constitutional, and Treaty rights to hunt and harvest. Regional Chief Teegee also raised concerns with respect to the application of "red flag" and "yellow flag" provisions for First Nations. None of the amendments proposed by the AFN were incorporated in the subsequent amendment of Bill C-21 on November 24, 2022.

At the December 2022 Special Chiefs Assembly, First Nations-in-Assembly passed Resolution 39/2022, *Opposition to Bill C-21 Federal Gun Control Legislation*. This emergency resolution publicly opposes Bill C-21, calls upon the federal government to conduct proper and adequate consultation with First Nations, and directs the AFN to advocate for amendments to Bill C-21. This opposition and criticism from other stakeholders pressured the federal government to withdraw the November 24, 2022, amendment to Bill C-21.

On May 12, 2023, Public Safety introduced revised amendments to Bill C-21, which removed the previous list of prohibited weapons, including long guns (rifles), and delegates the classification of prohibited weapons to a regulation under the *Firearms Act*. The amendments essentially "grandfather" hunting rifle models prohibited in the previous version of Bill

C-21. However, any new similar types of hunting rifles will be prohibited. The amendments also include a non-derogation clause referencing section 35 of the *Constitution Act*.

#### Next Steps

The AFN continues to monitor the progress of Bill C-21 and believes it is of the utmost importance to raise awareness with respect to Bill C-21's implications for First Nations Inherent, constitutional, and Treaty rights to sustenance hunting and harvesting. The AFN also calls upon the Government of Canada to conduct proper and adequate consultation with First Nations as required under the *United Nations Declaration on the Rights of Indigenous Peoples Act*, before enacting laws that impact First Nations rights to sustenance hunting and harvesting.







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## MMIWG2S+ and 2SLGBTQIA+

### History

For many years, the Assembly of First Nations (AFN) pressed for a national inquiry into the crisis of missing and murdered Indigenous women and girls. The AFN advocated for a national inquiry that would support survivors and families and ensure all governments and policing services meet their obligations to protect the fundamental human rights of Indigenous women and girls.

In 2021, the AFN Women's Council carried out a National Engagement process in all AFN Regions to develop the National Action Plan to end violence against Indigenous women and girls. The AFN Women's Council worked with regions to host 85 virtual sessions across Canada, with 1,144 people participating through virtual meetings, surveys, written submissions, and video submissions. The regional engagement informed the development of a First Nations National Action Plan in response to the 231 Calls for Justice from the National Inquiry into Missing and Murdered Indigenous Women and Girls (MMIWG) entitled: *Breathing Life into the Calls to Justice*. This First Nations National Action Plan will contribute to the federal government's MMIWG National Action Plan to End Violence Against Indigenous Women, Girls and 2SLGBTQIA+ People (MMIWG2S+ NAP) and will be a driving force in the implementation of the 231 *Calls for Justice*.

### AFN's recent advocacy

The AFN continues to call for the voices of the families of missing and murdered First Nations women and girls to be heard and respected. This important work will ensure that all governments, private sectors, and service providers implement the National Inquiry's Calls for Justice. Implementing the National Inquiry's Calls for Justice and the MMIWG2S+ NAP is crucial to recognizing and upholding the human rights of First Nations women, girls, and 2SLGBTQIA+ people.

Following the 2021 Annual General Assembly, the AFN Executive passed Resolution 08/2021, *Implementation of the National Action Plan to End Violence Against Indigenous Women, Girls, and 2SLGBTQIA People*, providing the mandate for the next phase of work to address MMIWG by calling upon the federal government to maintain a "families first" and distinctions-based approach to all activities going forward. The resolution also directs the AFN to continue advocating for and seeking resources to carry out activities in support of the full and meaningful implementation of the *Calls for Justice* and MMIWG2S+ NAP.

The AFN hosted a hybrid National MMIWG2S+ Gathering in Vancouver, B.C., from February 14–16, 2023, which was planned with a "families first" and trauma-informed approach. The Gathering was an opportunity for MMIWG2S+ survivors and families to reflect on the work completed to date and discuss the actions needed to end violence against First Nations women, girls, and 2SLGBTQIA+ Peoples.





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On June 3, 2023, the AFN released the report *Connecting Hearts & Making Change – Building on Breathing Life into the Calls for Justice*, which reflects the voices of MMIWG2S+ survivors and families who attended the Gathering. *Connecting Hearts & Making Change* also reinforces the priority frameworks from *Breathing Life into the Calls for Justice* and provides unique additions to the four pillars: Justice, Human Security, Health and Wellness, and Culture as Safety.

#### Next Steps

The AFN continues important advocacy to raise awareness and work with governments to develop and implement action plans, policies, and partnerships as contained in the *231 Calls for Justice* of the National Inquiry into Missing and Murdered Indigenous Women and Girls. The AFN will continue to advocate for the implementation of the National Action Plan and the *231 Calls for Justice* in accordance with a “families first,” trauma-informed, and distinctions-based approach and to advocate for survivors and families to be at the centre of implementation and monitoring processes. The implementation of the *Calls for Justice* and the National Action Plan will not only promote and ensure the safety and security of First Nations women and girls, but also uphold their important roles in ensuring the continued improvement, growth, and success of all First Nations.

The Government of Canada released Budget 2023, which included nearly \$125 million towards implementation of the MMIWG2S+ NAP, including \$2.2 million over five years to establish an oversight mechanism to monitor and report on the progress of

implementation. The AFN will work to establish an independent accountability mechanism within the AFN to produce and publish an annual report on implementing the *231 Calls for Justice*. This will include tracking the actions and items undertaken and those still outstanding to report back to First Nations-in-Assembly. The AFN will also continue to advocate for long-term sustainable funding to address and prevent all forms of gender-based violence targeting First Nations women, girls and 2SLGBTQIA+ Peoples.





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#### Policing

##### History

Since 1992, First Nations Police Services have been funded through the federal government's First Nations Policing Policy (FNPP). While the FNPP was intended to contribute to the improvement of social order, public security, and personal safety in First Nations, the FNPP has been chronically underfunded. This chronic underfunding is a key factor in the inequities existing in First Nations policing compared to non-First Nations police systems.

In December 2020, the Minister of Public Safety and Emergency Preparedness announced that Public Safety Canada (PSC) would create new First Nations policing legislation. The federal government committed to working with First Nations to create a federal framework that recognizes First Nations policing as an essential service. Since the announcement, the AFN has worked closely with First Nations leaders and Chiefs of Police to develop policy options for a legislative framework. This framework would replace the current FNPP, that for the last 30 years, led to inequitable standards and resources for First Nations police services. Following the federal government's announcement on developing a new legislative framework for First Nations Policing, PSC carried out their own virtual engagement sessions to seek input on the development of the First Nations Policing legislation.

##### AFN's recent advocacy

The AFN continues to work towards meeting the mandates<sup>1</sup> of First Nations-in-Assembly by providing support to regions to conduct engagement processes. This allows First Nations to provide direct input into the policing legislative framework and ensures that First Nations are leading the development of legislation. First Nations-led processes are central to addressing systemic racism against First Nations and enabling First Nations rights to self-determination as outlined in customary laws, historic Treaty processes, and the *United Nations Declaration on the Rights of Indigenous Peoples*.

The AFN held the third National Policing Forum in May 2023 in Calgary, Alberta. At the forum, participants discussed First Nations Policing as an essential service, and each AFN Region gave updates from their own regional engagement sessions, including concerns expressed with the FNPP. The forum provided an opportunity for First Nations leaders, First Nations police officers and policing experts, among others, to consider options in the development of a legislative framework for First Nations Policing as an essential service.

The AFN First Nations Policing Taskforce continued to meet throughout the year to provide support and guidance for the development of a policing legislative framework. The taskforce includes regional representatives, technical experts, and executive members of the First Nations



<sup>1</sup> Resolution 07/2021, *Creation and Implementation of Legislation for First Nations Policing as an Essential Service*; Resolution 34/2021, *Support for Regionally Developed First Nations Policing Service*.



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Chiefs of Police Association. The taskforce's work takes a principled approach to ensuring that the legislative framework fully recognizes and financially supports First Nations policing as part of the Crown's fiduciary duty to First Nations Peoples.

### Next Steps

The AFN is dedicated to the full implementation of a First Nations policing legislative framework that both secures the proper funding and resources for First Nations police services and supports non-colonial, community-based models, as required by each community wishing to participate in the framework.

## Residential Schools and Unmarked Graves

### History

The Canadian Residential School system existed for well over 100 years. Residential schools were not schools but rather institutions of assimilation and genocide that were designed to forcibly remove First Nations children from their families and eliminate their ties with their culture and Nations. Residential schools implemented a government-mandated policy of cultural genocide and erasure against First Nations Peoples. On May 27, 2021, Tk'emlups te Secwepemc announced they found the remains of 215 children from the former Kamloops Indian Residential School in a mass, unmarked grave near the residential school site. Since this discovery, there have been efforts from First Nations across Canada to carry out similar searches of former residential school sites to discover the truth about missing First Nations children who attended these institutions.

On June 8, 2022, Kimberly Murray, a member of the Kahnésatake Mohawk Nation, was appointed as the Independent Special Interlocutor for Missing Children and Unmarked Graves and Burial Sites associated with Indian Residential Schools. The Special Interlocutor works closely and collaboratively with Indigenous leaders, communities, survivors, families, and experts to identify needed measures and recommend a new federal legal framework to ensure the respectful and culturally appropriate treatment and protection of





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unmarked graves and burial sites of children at former residential schools.

#### AFN's recent advocacy

A delegation of residential school survivors and leaders travelled to Rome, Italy, to meet with Pope Francis on March 31, 2022, to seek justice for genocide in Catholic-run residential institutions, including an apology to be delivered in Canada. On April 1, 2022, Pope Francis jointly addressed First Nations, Métis, and Inuit delegations, apologizing for the role Catholics had in operating residential institutions and asking for the forgiveness of Indigenous Peoples. The delegations were organized and sponsored by the Canadian Council of Catholic Bishops. These delegations provided the Pope with the opportunity to listen to stories shared by survivors and address the ongoing trauma and suffering that Indigenous Peoples continue to experience, especially in light of the recent discoveries of unmarked graves.

In December 2022, the First Nations-In-Assembly passed Resolution 30/2022, *Call to Formally Repudiate the Doctrine of Discovery*, which directs the AFN to call on the Pope to rescind and repudiate the Doctrine of Discovery and terra nullius and recognize First Nations inherent sovereignty, jurisdiction, and self-determination. It also directs the AFN to call on King Charles and the Minister of Justice of Canada to renounce all doctrines of moral superiority asserted in aid of colonialism so that the Crown does not continue to rely on or use these doctrines in aid of colonial purposes, especially as the Crown has distinct and lasting fiduciary

obligations to Indigenous Peoples in Canada.

On March 30, 2023, the Vatican formally repudiated the "Doctrine of Discovery," officially declaring that a historic policy used to justify colonial exploitation is "not part of the teaching of the Catholic Church." The repudiation of this doctrine is long overdue and will require more effort and commitment from the Catholic Church regarding how they will begin to enact meaningful change following this announcement. The AFN wants to ensure that policy and legislation measures in the *United Nations Declaration on the Rights of Indigenous Peoples Act* Action Plan reflect the rescinding and repudiation of the Doctrine of Discovery.

#### Next Steps

The AFN continues to demand the full implementation of the Truth and Reconciliation Commission's 94 Calls to Action and complete transparency regarding documents and information in the possession of the federal government and Catholic church entities. The AFN remains committed to ensuring First Nations have the resources to carry out searches for unmarked graves at former residential school sites and that those responsible are held accountable. Furthermore, the AFN advocates for greater support for healing for First Nations Peoples, which incorporates ceremony and cultural protocols. The AFN stands in solidarity with residential school survivors and the families seeking justice and healing.





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## United Nations Declaration on the Rights of Indigenous Peoples Act

### History

The United Nations Declaration on the Rights of Indigenous Peoples (UN Declaration) is an international instrument adopted by the United Nations on September 13, 2007, that, according to Article 43, enshrines the rights that “constitute the minimum standards for the survival, dignity and well-being of the Indigenous peoples of the world.” The UN Declaration protects collective rights that may not be addressed in other human rights charters that emphasize individual rights, safeguarding the individual rights of Indigenous Peoples. The UN Declaration is the product of almost 25 years of deliberation by UN member states and Indigenous groups.

After decades of advocacy by First Nations, the Parliament of Canada passed the *United Nations Declaration on the Rights of Indigenous Peoples Act* (UNDA), providing a roadmap to implement the UN Declaration based on lasting reconciliation, healing, and cooperative relations. The Department of Justice released its Action Plan Measures on June 21, 2023, which seek to provide a guide for the Government of Canada to achieve the UN Declaration’s objectives. The Department of Justice also released the second Annual Report on the implementation of the UN Declaration.

### AFN’s recent advocacy

Since the Royal Assent of the UNDA in 2021, the AFN has advocated for rights-holders to lead all processes related to implementation. Various resolutions passed by First Nations-in-Assembly have called for continuous advocacy for First Nations’ participation and leadership in Canada’s commitments to uphold the standards of the UN Declaration, including in Action Plan Measures and Annual Reporting. The AFN has focused closely on Section 5 of the UNDA, which calls for Canada’s laws, policies, regulations, and directives to be aligned with the UN Declaration.

To date, the AFN has completed significant research and engagement to ensure that the UNDA Action Plan reflects the unique needs and priorities of First Nations. The AFN has worked with the First Nations Information Governance Centre (FNIGC) to support a Canada-wide analysis of laws that are eligible to be reviewed under the UNDA and to support First Nations-led data governance. Additionally, the AFN held a dedicated Special Chiefs’ Assembly on the UNDA and Canada’s draft Action Plan. The AFN completed five preliminary regional engagement sessions and attended numerous cross-country gatherings relating to: Climate Change, Water, Language, Housing and Homelessness, Natural Resource Transfer Act, and Fishing to provide key information on how those topics interact with the UNDA.

The AFN is committed to reporting First Nations concerns and advancing our priorities via international accountability mechanisms, such as Enhanced Participation







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for First Nations at the UN General Assembly and calls for input to the Expert Mechanism on the Rights of Indigenous Peoples (EMRIP). The AFN provided a submission for an EMRIP report on monitoring mechanisms for UNDRIP at the regional and national levels.

The AFN also continues to monitor Canada's intentions to amend the federal *Interpretation Act* with the introduction of Bill S-13 to the Senate on June 8, 2023. The AFN is concerned that the bill does not refer to the standards affirmed by the UN Declaration. As an interpretive aide for the judiciary and legislative decision-makers on federal legislation, a non-derogation clause referencing the Declaration will require every law to be construed by the Government of Canada as being consistent with the Declaration.

### Next Steps

The AFN continues to advocate for the full implementation of First Nations Inherent and Treaty Rights, including the inherent right to self-determination. Federal laws, policies, and processes, as well as the outcomes of Canada's actions, must be judged by and held to the standards of the UN Declaration, particularly given that a formal legal obligation now exists for Canada to ensure that its laws, policies, regulations, and directives are consistent with the UN Declaration. The AFN will continue to advocate for long-term funding and policy reform consistent with the UN Declaration.

In addition, to help address knowledge gaps on the UN Declaration within First Nations communities, the AFN is working to build a UNDA toolkit that aims to support First

Nations. This toolkit will assist First Nations in identifying UN Declaration principles and provide tools to advocate for consistency with the UN Declaration in any policy, regulation, or law. This toolkit will also incorporate considerations of First Nations Principles of OCAP® (ownership, control, access, and possession). The AFN will work with the AD-Hoc Chief's Committee on the *United Nations Declaration on the Rights of Indigenous Peoples Act* to determine how First Nations can use this toolkit to better understand the UN Declaration, the UNDA, the Action Plan Measures, and the consistency of laws.





## Early Learning & Child Care

### History

Federal programs for First Nations Early Learning and Child Care (ELCC)—including Aboriginal Head Start On-Reserve, Aboriginal Head Start Urban and Northern Communities, and the First Nations and Inuit Child Care Initiative—have been historically underfunded, underserved, and inadequate to meet the needs of First Nations. With outdated and stagnant funding undermining the ability of these programs to truly support First Nations children and families, the Assembly of First Nations (AFN) has led calls for change in these services for decades to ensure that First Nations children are properly supported in their early years.

In 2016, the First Nations-in-Assembly mandated the National Expert Working Group (NEWG) on First Nations ELCC to lead engagements to develop the First Nations ELCC Policy Framework, which outlines the vision, principles, and goals of First Nations ELCC. The Framework envisions happy and healthy First Nations children who are grounded and connected to their identity as First Nations and supported by culture and language-based programs and services determined by First Nations. The Framework was endorsed by AFN Resolution 83/2017, *Support for the National First Nations Early Learning and Child Care Policy Framework*, supporting it as the First Nations component of the Indigenous ELCC Framework that was released in 2018, along with a \$1.02 billion investment over ten years for First Nations ELCC.

### AFN's recent advocacy

Pursuant to mandates given by First Nations-in-Assembly regarding the development of a First Nations-determined funding model for ELCC, the AFN has contracted the Institute of Fiscal Studies and Democracy to lead research with First Nations to develop a funding model that reflects First Nations' needs and priorities with respect to ELCC. The NEWG oversees this work and will provide guidance and insight to the IFSD in collaboration with regional ELCC governance tables and First Nations experts. The work is anticipated to be completed by March 31, 2024.

The AFN has long advocated for increased supports for First Nations ELCC programs and services, including addressing historic funding gaps. Budget 2021 proposed investing \$30 billion over five years, beginning in 2021-22, and \$8.3 billion ongoing in ELCC across Canada; of this, \$878.53 million is dedicated to First Nations ELCC. Pursuant to AFN's advocacy, Budget 2021 also made historic investments in First Nations ELCC infrastructure, totalling more than \$250 million over three years.

Budget 2021 further proposed legislating a Canada-wide system of ELCC, which was tabled in the House of Commons in December 2022 as Bill C-35, *An Act respecting early learning and child care in Canada*. In 2022, the First Nations-in-Assembly passed AFN Resolution 08/2022, *Early Learning and Child Care Legislation*, outlining First Nations priorities for federal ELCC legislation and asserting that federal ELCC legislation must respect First Nations rights to self-determination and jurisdiction over ELCC, calling on Canada to engage directly with rights







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holders. In early 2023, the AFN, with input from the NEWG, prepared a submission to the Standing Committee on Human Resources, Skills and Social Development and the Status of Persons with Disabilities. The AFN's submission expressed concerns about the lack of engagement and Free, Prior and Informed Consent from First Nations in the development of Bill C-35, pointed to the need to recognize and support First Nations jurisdiction and rights, and emphasized the importance of long-term funding for First Nations ELCC.

#### Next Steps

The AFN continues to monitor the progress of Bill C-35 as it advances through the legislative process and will continue to advocate for First Nations rights and jurisdiction in this process. The AFN will continue to monitor the implementation of Budget 2021 investments in First Nations ELCC to ensure that First Nations children, families, and communities are supported by First Nations-determined and -delivered, high-quality, culture- and language-based ELCC. The AFN will continue to advocate for First Nations governance, self-determination, and jurisdiction over ELCC in the implementation of the First Nations and Indigenous ELCC Frameworks, and in the development of a national childcare system.

#### Contact:

Stephanie Wellman,  
Director of Social Development,  
[swellman@afn.ca](mailto:swellman@afn.ca) Education Infrastructure

## Education Infrastructure

### History

Assembly of First Nations (AFN) Resolution 34/2019, *First Nations Education Infrastructure Review*, supports the work of the Chiefs Committee on Education (CCOE), National Indian Education Council (NIEC) and AFN to engage in a federal education infrastructure policy and program review. The review ensures improvements to education infrastructure with respect to First Nations Inherent and Treaty rights to education and advances First Nations control of First Nations education.

In 2022, AFN Resolution 46/2022, *Education Infrastructure Capital Reform*, was passed, which supports a new co-development process to improve how First Nations receive capital for education infrastructure. The Resolution indicates that the AFN, CCOE, and NIEC will lead a co-development process that creates new authorities and reform that ensure First Nations can include capital into their existing or new education agreements.

### AFN's recent advocacy

On April 1, 2023, the newly co-developed School Space Accommodation Standards (SSAS) were implemented across Canada, which ensures all new First Nations school builds or renovations will result in First Nations students having the most space per student compared to the rest of Canada. The SSAS is the national standard that regulates education infrastructure development on-reserve and now includes several improvements since the last amendments





made in 2021. These improvements include alleviating enrollment pressures by designing schools with the largest design horizon in Canada, reforming inclusive education space allocations, and ensuring First Nations adult learners are incorporated during the design phase. The implementation of these new standards completes a year-long co-development process with Indigenous Services Canada (ISC).

### Next Steps

With the most advanced school standards in Canada, the AFN is advocating for greater investments in education infrastructure to build these schools, including First Nations schools in the Yukon and Northwest Territories. With no new funding for First Nations schools in the 2023 federal budget, the gap in education infrastructure will continue to widen over the already estimated \$4.7 billion gap.

Since Resolution 46, 2022, passed, the AFN Languages and Learning Sector has been working to develop a reform plan that amends various authorities to include major education infrastructure capital into Regional Education Agreements. Official correspondence has been sent to Patty Hajdu, Minister of Indigenous Service Canada, seeking further co-development and formal commitments to proceed with these priorities.

## First Nations Health

### History

The Assembly of First Nations (AFN) Health Sector continues to push for transformative change through sustainable adequate funding, capacity building, and improved relationships to support First Nations-led healthcare services and programs. Underpinning this approach is the recognition of inherent First Nations and Treaty Rights to health. AFN resolutions passed by First Nations-in-Assembly mandate Health Sector work. The Chiefs Committee on Health (CCOH), the First Nations Health Technicians Network, the Truth and Reconciliation Commission Calls to Action and the United Nations Declaration on the Rights of Indigenous Peoples (UNDRIP) all provide further guidance to the AFN Health Sector related to this critical work.

First Nations' health and wellness continue to be compromised by deficits across the social determinants of health, evident in poverty, overcrowded housing, and a piecemeal approach to health services and programming. In national and regional dialogues, First Nations have articulated that true health and wellness systems are strengths-based, rooted in cultures, guided by First Nations themselves, and include the Treaty Right to health as foundations to move towards resilience and growth.

### AFN's recent advocacy

The proposed distinctions-based Indigenous health legislation is a crucial file with the





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potential to significantly improve First Nations health outcomes. Resolution 16/2023, *Distinctions-Based Indigenous Health Legislation* provides a mandate for the AFN to continue to collaborate with the federal government on developing health legislation, provided the legislation is consistent with UNDRIP and the Royal Commission on Aboriginal Peoples principles; that Crown-Indigenous Relations and Northern Affairs Canada are part of the legislative process (given the need to recognize the Treaty right to Health); and that the work is led by a newly established Leadership Table, mainly consisting of the CCOH members. The AFN Health Sector continues to provide analysis and updates to First Nations to keep them informed on the process, and meeting with federal government representatives to help guide the federal work on this file. The AFN Health Sector held a national health legislation forum on May 31 and June 1 to further the national dialogue on this topic.

Resolution 10/2018, *Resources for Engagement on Distinct First Nations Accessibility Legislation*, directs the AFN to work with Employment Social Development Canada (ESDC) to develop distinct First Nations accessibility legislation. The AFN secured funding to advance dialogue circles with First Nations persons living with disabilities to gather input on options to inform a distinct First Nations accessibility law and to develop a draft framework to determine the state of accessibility in First Nations. These dialogue sessions align with funding from the ESDC and AFN Engagement Protocol Agreement to inform Canada's Disability Inclusion Action Plan and National Autism Strategy, which are core to advance elements for a draft accessibility framework. The Health

Sector also continues to work with other AFN sectors to ensure all large meetings and forums are inclusive to accessible audiences and to help position the AFN as a national model for accessibility for First Nations across Canada.

First Nations clients, leadership, and service providers continue to encounter challenges with the Non-Insured Health Benefits (NIHB) program, as identified by NIHB Navigators (representing all regions), as well as the 2022 Standing Committee on Indigenous and Northern Affairs Report 6 – *Moving Towards Improving the Health of Indigenous Peoples in Canada: Accessibility and Administration of the Non-Insured Health Benefits Program*. Resolution 61/2022, *Reforming Non-Insured Health Benefits Travel Policies*, directs the AFN to continue the NIHB Joint Review and to engage First Nations in isolated, northern, and remote communities to fully comprehend the barriers to equitable health care. The AFN will continue to work with and advocate for First Nations to address NIHB program challenges through advocacy tables, such as the NIHB Navigators and NIHB-AFN Joint Review Steering Committee.

Other key advocacy areas include mental health wellness and substance misuse, ensuring First Nations perspectives are central and there is a renewed focus on strengths-based and land-based healing, elimination of tuberculosis, anti-Indigenous racism in the health care system, COVID-19 recovery, digital health services, data sovereignty, and collaborating with other AFN sectors to address social determinants of health.





### Next Steps

The AFN Health Sector will prioritize several engagement processes with First Nations over the coming months. These processes include:

- Co-drafting of distinctions-based Indigenous health legislation, particularly in Fall 2023 (and supporting AFN's Leadership Table).
- Working with First Nations regions and Indigenous Services Canada to determine the process for dispersing the Indigenous Health Equity Fund (\$2 billion over ten years) funding.
- Collaborating with AFN Social Development Sector on policy recommendations for the Government of Canada on a wholistic long-term and continuing care framework (by reforming the Assisted Living and First Nations and Inuit Home and Community Care Programs).
- Hosting a national roundtable to discuss challenges and identify solutions for the NIHB program.

Finally, the AFN Health Sector will be working with the Chiefs Committee on Health and other First Nations representatives to advocate for significant investments in First Nations health funding in Budget 2024 as part of the Pre-Budget Submissions process. This work will include supporting AFN leadership in meeting with federal government representatives and officials to articulate targeted funding needs that are essential to improve health outcomes for First Nations. First Nations Housing

### First Nations Housing

#### History

The Assembly of First Nations (AFN) Housing and Homelessness Sector continues working jointly with Indigenous Services Canada (ISC) and Canada Mortgage and Housing Corporation (CMHC) to resolve the housing crisis by implementing the National First Nations Housing and Related Infrastructure Strategy (the Strategy). Activities have included supporting the national housing portfolio holder, Regional Chief Cindy Woodhouse, in her meetings and letters that remind federal ministers of the First Nations' rights and Treaty rights to housing, federal obligations thereto and the overall expectations of Chiefs as expressed through resolutions.

Other 2022-23 initiatives included requesting, through the federal pre-budget consultation process, a federal housing investment of \$60 billion; collaborating with AFN's Infrastructure Sector in the development of the Closing The Infrastructure Gap by 2030 (CTIG) costing report; continued research to support the Strategy's implementation such as the proposed creation of the National First Nations Housing Policy and Research Centre; the development of partnerships with entities like the Federal Housing Advocate; and encouraging and supporting the Chiefs Committee on Housing and Infrastructure to undertake a series of related advocacy activities.







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#### AFN's recent advocacy

AFN is proud to have influenced the Federal Budget announcement in April 2022 of almost \$3 billion over five years for First Nations housing. That investment contrasts with the result of the CTIG by 2030 report, which revised the estimate to close the housing gap by 2030 to \$135.1 billion.

No funding was announced for First Nations on-community housing in the Federal Budget 2023. However, the 2023 federal budget announced \$4 billion over seven (7) years for urban, rural and northern off-community Indigenous housing. In late 2022, the First Nations-in-Assembly directed the AFN through Resolution 60/2022, *First Nations Involvement in the Urban, Rural and Northern Indigenous Housing Strategy*, to co-develop the First Nations distinct portion of the federal government's Urban, Rural, and Northern Indigenous Housing Strategy (URN) expected in late 2023. ISC offered AFN participation in a pan-Indigenous process to influence the allocation of \$281.5 million it committed in 2022 for urgent off-community housing. AFN declined and counter-offered that ISC works with AFN through a pre-existing distinctions-based joint committee. ISC has so far ignored the AFN's proposal, and in April 2023, it authorized a new national pan-Indigenous organization to allocate the funds.

Meanwhile, AFN is coordinating regional input and working closely with CMHC to develop the URN Strategy jointly. The allocation of \$4 billion for URN housing has yet to be decided. The AFN also submitted housing-related proposals to be included as federal commitments in the Action Plan to implement

the United Nations Declaration on the Rights of Indigenous Peoples.

#### Next Steps

Our priority is to advocate for First Nations' access to the required capital identified in the CTIG by 2030 costing report through a combination of multi-year federal grants and improved access to loans. That access to capital is coupled with activities to implement dual governance and management objectives: to improve the ISC policy to gradually transfer control of housing services to First Nations and to jointly develop new programs and improve existing ones through which the 2022 federal investment will flow to First Nations.

The AFN will also continue to press ISC to co-develop a distinctions-based First Nations portion of the federal Urban, Rural and Northern Indigenous Housing Strategy (URN). Advocacy in housing will also include input into and alignment with the National First Nations Homelessness Action Plan, the need for matching community infrastructure investments, securing additional lands on which to build, ways to reduce the exceedingly high housing insurance requirements, housing supports to the Dene Nation, the development of a First Nations housing performance measurement framework based on community well-being, more flexible options regarding CMHC's bonding requirements for First Nations housing contractors, increased awareness and response to federal accessibility requirements and improved ISC and CMHC openness and transparency in accessing its housing information.





## First Nations Labour Market

### History

**Resolution 25/2018**, *Next Steps on a Distinct First Nations Labour Market Strategy*, provides direction to the AFN and Chiefs Committee on Human Resource Development (CCHRD) to affirm First Nations' rights to better economic and social circumstances, mandating measure to eliminate personal and institutional impediments to First Nations' access to labour market opportunities and supporting access and alternatives for greater economic independence.

As outlined in the November 2020 Fall Economic Statement, the impact of the COVID-19 pandemic on the First Nations labour market led to a federal announcement of \$144.2 million for the Indigenous Skills and Employment Training (ISET) Program. The initial investment in the ISET program assists the First Nations Labour Market in the immediate term. However, it is essential to continue advocating for further support to meet the needs of the First Nations workforce as determined by First Nations. To do so, an effort is required to monitor and evaluate the ongoing impact of the pandemic on the First Nations Labour Market.

In addition to COVID-19 considerations, other efforts require determining research to identify First Nations Labour Market needs and the path forward to transfer First Nations jurisdiction and governance over Labour Market services for First Nations. First Nations leaders, in partnership with

Canada, are seeking to improve socio-economic outcomes for First Nations, and a key component of this depends on the inputs, activities, outcomes, and overall Performance Measurement strategy of the First Nations Labour Market Strategy.

### AFN's recent advocacy

**Resolution 25/18**, *Next Steps on a Distinct First Nations Labour Market Strategy*, directed the CCHRD to call on the Government of Canada to work with First Nations on a new approach for human capital development centred on a government-to-government relationship that recognizes First Nations jurisdiction and authority to govern and provide services.

The Government of Canada has acknowledged the importance of a distinctions-based approach that recognizes the unique needs of First Nations. ESDC launched the Indigenous Skills and Employment Training (ISET) Program on April 1, 2019, which included a distinct First Nations Labour Market stream. The CCHRD communicated to the Minister of Employment, Workforce Development and Labour that the long-term investments (10 years) realized in Budget 2018 were a good starting point and relief on the freeze on investments in place since 1999. The CCHRD and the Minister agreed that work to support additional indexed investments for governance capacity and new fiscal instruments that respond to inflation and population growth will need to be completed.

First Nations leadership has made progress on establishing a Distinct First Nations







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Labour Market Strategy within the ISET program, starting in 2019-2020. This includes investments of \$1.1 billion over 5 years, 10-year agreements for longer-term planning, a small increase in funding, and opportunities to improve the strategy through an evergreen approach.

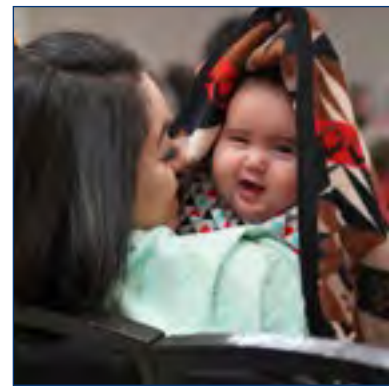
#### Next Steps

The AFN, with advice from the CCHRD and the Technical Working Group (TWG), is planning to co-develop a work plan focused on new agreement implementation, performance measurement, capacity building assessment and monitoring, enhancement for labour market information and research to undertake the effects of inflation and population growth, and ongoing pandemic recovery in time for the next First Nations Labour Market Strategy budget cycle in 2023. These efforts will also include advocating for First Nations to access new investments related to the overall economic recovery efforts due to the COVID-19 pandemic. All this work will support First Nations' rights to improved economic and social situations and promote access to greater economic independence for First Nations.

Advocacy efforts carried out by the AFN, the CCHRD and the Technical Working Group will include seeking ongoing investments and additional support for training and employment, including youth employment and will ensure priorities outlined in the 2021 Speech from the Throne and Minister's Mandate Letter are upheld and acted upon.

In March 2022, ESDC returned to Treasury Board with an update on the co-developed Performance Measurement Strategy. The Sub-Technical Working Group on Human Resource Development provided feedback on the need to include qualitative data and data driven by agreement holders. The success stories of the ISET program cannot solely be told through quantitative data, and a mechanism needs to be implemented to allow for ISET holders to share their stories. Feedback also addressed funding shortfalls due to population increases, rising cost of living, and inflation.

Affirmed by Resolution 25/18, the CCHRD will continue to call upon the Government of Canada to work with First Nations on implementing a new approach for human capital development centred on a government-to-government relationship that recognizes First Nations jurisdiction and authority to govern and provide services.





## First Nations Languages Funding Model

### History

Assembly of First Nations (AFN) Resolutions 10/2021, *Support for the co-development of a distinctions-based Indigenous Languages Funding Model*, and 17/2022, *Support for the First Nations Languages Funding Model*, supports the Chiefs Committee on Languages (CCOL) AFN, and Technical Committee on Languages (TCOL) on the development and implementation of a First Nations Languages Funding Model.

### AFN's recent advocacy

Over the past year, the AFN has been working with the TCOL, CCOL and the Department of Canadian Heritage (DCH) on the development and implementation of an interim First Nations Languages Funding Model, which includes revising the First Nations Regional Allocation Formula for Indigenous Languages Component (ILC) funding starting in 2023-24. The new allocation formula will ensure First Nations regions receive equitable funding of the existing financial commitments from the Government of Canada.

In support of the development and implementation of the First Nations Languages Funding Model, the AFN also completed *Revitalizing First Nations Languages: A Costing Analysis*. This report identifies the costs for First Nations language, reaching approximately \$2 billion annually for language initiatives outside of schools. The analysis was used to inform

part of the AFN's 2023 pre-budget submission. While Budget 2023 did not provide any new funding for language revitalization, the AFN will continue to use these estimates in advocacy efforts for increased funding for languages. Finally, on March 29, 2023, the CCOL recommended an interim Revised Regional Allocation Formula based on several factors, including the number of languages, population, language vitality, number of First Nations, and remoteness. This allocation formula addresses First Nations concerns regarding an equitable funding approach and will be brought forward through a new resolution for First Nations-in-Assembly to consider at the upcoming Annual General Assembly.

### Next Steps

The Languages and Learning Sector will continue to support the implementation and strengthening of the Indigenous Languages Act (ILA), including through engagement in the upcoming Parliamentary Review of the Act. The Sector is also prioritizing enhanced budget advocacy, including new Pre-Budget Submission amendments for the 2024 federal budget to ensure annual funding to First Nations supports the full implementation of language revitalization.







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## Homelessness

### History

In 2019, First Nations-in-Assembly passed Resolution 79/2019, *Action Plan for First Nations Homelessness On- and Off-Reserve*, mandating the AFN to develop a National First Nations Homelessness Action Plan to improve the delivery of federal government programs as well as the related social and fiscal mechanisms to address homelessness for First Nations.

The Action Plan will advocate for a comprehensive, multi-partner approach to reducing, preventing, and ending First Nations homelessness. This work aligns with the AFN's National First Nations Housing and Related Infrastructure Strategy and the goal of transitioning First Nations housing and related infrastructure to First Nations management, control, and care.

### AFN's recent advocacy

To date, the AFN has completed significant research and engagement to ensure that the Action Plan is supported by evidence and reflects First Nations' needs and priorities related to homelessness. This includes three research projects: a literature review, an environmental scan, and a systems map. AFN has also completed a national survey, 16 regional engagement sessions, and conversations with homelessness service providers.

A draft of the National First Nations Homelessness Action Plan is currently being developed based on all research and

engagement conducted to date. This draft will be brought forward to First Nations-in-Assembly at the December 2023 Special Chiefs Assembly for approval and to seek a mandate to proceed with implementation.

AFN and Infrastructure Canada (INFC) hold regular meetings as a Joint Technical Working Group (JTWG) to guide the development process for homelessness initiatives, including First Nations distinctions-based funding under *Reaching Home*. AFN Housing and Homelessness staff are currently working with Regional Housing Technicians to identify the process to administer this funding in each region. AFN is advocating for this funding to roll out expediently and without further delay, as many regions have already determined how funding should be administered within their region and are ready to proceed with an agreement with INFC as soon as possible.

### Next Steps

Ahead of bringing forward a draft Action Plan for approval from First Nations-in-Assembly in December, further engagement will take place to allow First Nations to review and provide input and direction on the draft Action Plan as it is being finalized. A resolution from First Nations-in-Assembly formalizing the adoption of an Action Plan will give the AFN a renewed mandate to continue to advocate for program and service reform, immediate and long-term funding, as well as the urgent action required to address and end homelessness for First Nations based on the Action Plan.

The AFN will continue to advocate for immediate and urgent responses to homelessness, recognizing that long-term





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funding and policy reform fall short of addressing the immediate needs of First Nations citizens currently experiencing homelessness. To that end, AFN is working with INFC, the Canada Mortgage and Housing Corporation (CMHC), and Indigenous Services Canada (ISC) to identify possible sources of funding to address urgent First Nations homelessness needs and priorities.

To help address knowledge and data gaps on homelessness within First Nations communities, the AFN is developing a methodology to support First Nations in gathering their own data on homelessness, in line with the First Nations Principles of OCAP® (Ownership, Control, Access and Possession). The intention is for this data to be owned and controlled by First Nations so that it can be used by First Nations for their own advocacy, funding proposals, and service delivery, as well as for AFN to develop a framework to analyze this data nationally to help fill data gaps on First Nations homelessness. A prototype of the methodology is currently being finalized, and AFN will work with regions to begin testing it through a pilot project to seek further input and refine the methodology.

### Income Assistance

#### History

The On-Reserve Income Assistance (IA) Program is funded by Indigenous Services Canada (ISC) and provides income assistance to eligible persons living on-reserve and in the Yukon to meet basic needs. The IA Program's rates for First Nations mirror those

of the province or territory, which fails to account for the higher cost of living and unique circumstances in First Nations, particularly for rural, remote, and northern communities. The IA Program also offers Case Management and Pre-Employment Supports in some First Nations that support individuals to move from income assistance to education and employment. Despite receiving strong positive feedback, these supports are only available in approximately 29% of First Nations outside the province of Ontario.

#### AFN's recent advocacy

The Assembly of First Nations (AFN) has advocated for over a decade for ISC to reform the IA Program and for extended funding and expanded access to Case Management and Pre-employment Supports. From 2018 to 2020, ISC funded First Nations-led engagements on the IA Program that identified several aspects of the program that do not meet the needs of First Nations clients, case managers, and communities, including rates that fail to meet client needs, insufficient resourcing to administer the program and supports, and failure to incorporate First Nations knowledge and governance over the IA Program.

The AFN co-developed policy recommendations to reform the IA Program with ISC and the Technical Working Group on Social Development (TWGSD), ensuring that reform leverages the First Nations-led engagements. The First Nations-in-Assembly supported the policy recommendations via Resolution 07/2022, *Reform of the On-Reserve Income Assistance Program*, that included First Nations governance over the IA Program to meet IA client and family needs, increasing IA rates to





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account for the actual cost of living on-reserve; strengthening wrap-around supports for IA clients, including a particular focus on those with special and additional needs; increased resources and resourcing to support administration and case managers; First Nations-designed data strategies and collection; and infrastructure investments to enable First Nations to administer their own IA Program. ISC utilized the co-developed policy recommendations to inform their Memorandum to Cabinet in early 2023. In May 2023, the AFN was notified that Cabinet supported the First Nations-developed policy recommendations; however, Budget 2023 did not include the financial investments to implement these reforms. The AFN will continue to advocate for the necessary investments to implement the long-overdue reforms to the IA Program.

The 2022 Fall Economic statement invested \$100.2 million over three years, starting in 2022-23, to support work placements for First Nations youth through the Income Assistance-First Nations Youth Employment Strategy pilot. Further, it provided \$309 million in 2023-24 for the IA Program to continue providing status quo services to First Nations while reform continues. In April 2023, the Government of Canada announced \$192.6 million to provide an inflation relief benefit of approximately \$300 per month for IA clients for six months.

### Next Steps

The AFN remains committed to reforming the IA Program through a First Nations-led approach that shifts First Nations from surviving to thriving. As reform progresses, the AFN will assess the financial requirements for IA Program reform, per AFN Resolution 07/2022. The AFN will

continue to oversee and provide input on the reform of the IA Program through the TWGSD, including guiding implementation.

The AFN will continue to monitor the progression of Bill S-233, *An Act to develop a national framework for a guaranteed livable basic income*. Currently, Bill S-233 does not consider the socioeconomic realities of First Nations, nor does it contemplate how a guaranteed livable basic income would interact with existing social supports, including the IA Program. Further, the AFN will continue to monitor the progress and implementation of Bill C-22, *An Act to reduce poverty and to support the financial security of persons with disabilities by establishing the Canada disability benefit and making a consequential amendment to the Income Tax Act*. The AFN will continue to seek opportunities to advocate for the meaningful inclusion of First Nations priorities and considerations in the legislation and implementation.





## Jordan's Principle

### History

In 2007, the Assembly of First Nations (AFN) and the First Nations Child and Family Caring Society filed a complaint at the Canadian Human Rights Tribunal (CHRT), alleging discrimination against First Nations children and families in the delivery and underfunding of the First Nations Child and Family Services (FNCFS) Program and Jordan's Principle. In January 2016, the CHRT found that the Government of Canada was discriminating against First Nations children on-reserve and in the Yukon, and ordered the government to immediately reform the FNCFS Program and properly implement Jordan's Principle to meet the needs of First Nations children and ensure their best interests are protected.

In September 2019, the CHRT ordered the Government of Canada to pay the maximum allowable compensation for victims of discrimination under the FNCFS Program and Jordan's Principle dating back to 2006/2007. In 2020, the AFN filed a class action lawsuit to build on the work at the CHRT, including compensating individuals dating back to 1991 and setting the path forward for long-term reform. In December 2021, the AFN, the Government of Canada and other parties reached an Agreement-in-Principle (AIP) on compensation and a second AIP on long-term reform. On June 30, 2022, the AFN reached a Final Settlement Agreement (FSA) on compensation for First Nations children and their caregivers affected by discrimination under the FNCFS Program and Jordan's Principle.

The AFN has also led work to advance First Nations rights and jurisdiction pertaining to child and family well-being. In 2018, the First Nations-in-Assembly passed AFN Resolution 11/2018, *Federal Legislation on First Nations Child Welfare Jurisdiction*, supporting federal enabling legislation on First Nations child and family well-being. The co-developed legislation, *An Act respecting First Nations, Inuit, and Metis children, youth, and families* (the Act), received Royal Assent on June 21, 2019, and came into force on January 1, 2020. The Act affirms First Nations' inherent rights to self-determination and jurisdiction and establishes national principles for child and family well-being, including the best interests of the child, cultural continuity, and substantive equality.

Jordan's Principle, named in honour of Jordan River Anderson, ensures First Nations children have access to the supports they need to thrive, regardless of where they live, without denial, delay, or disruption. Between July 2016 and February 2023, Jordan's Principle has approved over 2.56 million products, services, and supports for First Nations children.

### AFN's recent advocacy

The AFN advocates for First Nations children to receive the products, services and supports they need to thrive, without delay, denial, or disruption, and for First Nations to determine and advance their priorities for implementing Jordan's Principle. This advocacy led to an investment of \$4 billion over six years in Budget 2022 for continued implementation of Jordan's Principle.







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Central to reform of the FNCFS Program is changing how the Program is funded to address the discriminatory shortfalls. Under the direction of the AFN, the Institute of Fiscal Studies and Democracy (IFSD) has developed a needs-based, bottom-up, and results-based funding model for the FNCFS Program and is working with First Nations to test the proposed reformed funding model, including with those asserting jurisdiction under the Act. The results of this research are anticipated in September 2023.

Also, as per Resolution 40/2022, *To Ensure Quality of Life to the First Nations Child and Family Services Program and Jordan's Principle*, AFN advocates ensure that reforms are based on evidence, respect First Nations rights, and ensure substantive equality, best interests of the children and appropriate services that reflect the distinct needs and circumstances of First Nations. The resolution calls for revised timelines to reach an FSA on long-term reform to allow for engagement to ensure that First Nations rights to Free, Prior and Informed Consent are respected. In response, the AFN and the Caring Society have proposed new negotiation timelines that align with the IFSD's research.

Pursuant to the AFN's advocacy, in November 2021, the CHRT ordered the Government of Canada to pay for the purchase and construction of capital assets that support the delivery of Jordan's Principle. This is a positive step towards addressing critical gaps caused by persistent underfunding. As of April 2023, over 241 requests had been approved.

In September 2022, the AFN sought the CHRT's endorsement of the compensation FSA; however, the CHRT noted that while the FSA substantially satisfied its 2019 compensation orders, more work was required. In December 2022, AFN Resolution 28/2022, *Final Settlement Agreement on Compensation for First Nations Children and Families*, established First Nations' priorities for compensation, including supporting the representative plaintiffs and all survivors and victims of discrimination to receive due compensation. Pursuant to further negotiations in early 2023, the AFN and other parties reached a revised FSA valued at over \$23.3 billion, which the First Nations-in-Assembly approved in April 2023 by way of AFN Resolution 04/2023, *Revised Final Settlement Agreement on Compensation for First Nations Children and Families*.

In September 2021, the Government of Quebec challenged the constitutionality of the *Act respecting First Nations, Inuit and Métis children, youth, and families* in the Quebec Court of Appeal. In February 2022, the Court upheld much of the Act but struck sections 21 and 22.3, which give First Nations laws the "force of law as Federal law." The federal government appealed the decision at the Supreme Court of Canada, where the AFN participated as an intervenor. In December 2022, the AFN defended the Act and First Nations rights to self-determination and jurisdiction over their children and families, arguing that First Nations have always had the inherent right to self-government. The Supreme Court is expected to render a decision on this matter in 2023.





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#### Next Steps

The AFN continues to advocate for First Nations children and families in negotiations on long-term reform of the FNCFS Program and implementation of Jordan's Principle, guided by First Nations-led research, engagement and relevant CHRT orders. The AFN continues to co-chair the Expert Advisory Committee to reform Indigenous Services Canada to prevent the recurrence of discrimination within the department. In addition to recent regional engagements, the AFN will lead engagement with First Nations on long-term reform throughout fall 2023 towards seeking approval of a Final Settlement Agreement on long-term reform in December 2023.

The AFN will continue to advocate for First Nations impacted by discrimination in the FNCFS Program and Jordan's Principle at the CHRT and Federal Court of Canada, where the FSA on compensation will proceed for endorsement. Further, the AFN will ensure the compensation process is trauma-informed, coupled with a simple application process that is supported by wellness services. The AFN has established an information line for First Nations to learn about compensation and long-term reform. Access the information line by calling 1-888-718-6496.

#### Contact:

Stephanie Wellman,  
Director of Social Development,  
[swellman@afn.ca](mailto:swellman@afn.ca)







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## PROGRESS ON REALIZING THE TRUTH AND RECONCILIATION COMMISSION'S CALLS TO ACTION – JUNE 2023

### Overview

The Assembly of First Nations (AFN) provides annual updates assessing the progress toward the full implementation of the [Truth and Reconciliation Commission of Canada 94 Calls to Action](#) released on June 2, 2015. This report card identifies advancements made since June 2022.

Last summer, during Pope Francis' visit to Canada, AFN National Chief RoseAnne Archibald provided a message to Survivors of Residential Institutions. In her message, the National Chief acknowledged that generations of Indigenous children have experienced and continue to experience trauma because of colonialism—colonial systems, colonial beliefs, and colonial mindsets—as perpetrated and justified by the 1493 papal bull supporting the Doctrine of Discovery. Both the First Nations delegation who travelled to Rome and the National Chief called for the Doctrine of Discovery to be revoked in fulfillment of Call to Action 49, which asks for all religious denominations and faith groups to repudiate concepts used to justify European sovereignty over Indigenous lands and peoples. The repudiation of the Doctrine of Discovery by Pope Francis was a significant step taken following the Papal Visit.<sup>1</sup>

Eight years after the release of the final report, Survivors and intergenerational Survivors continue to ask for the 94 Calls to Action to be fully implemented. The pain inflicted on First Nations people by the Residential Institution system continues to affect First Nations communities. Over the past year, there were several steps forward in implementing the Calls to Action, including the completion of Calls to Action 49, 67 and 70; however, further work is needed to accelerate the progress to implement the Calls to Action.

The AFN remains committed to advocating for the implementation of all TRC 94 Calls to Action, following the mandate set out in AFN Resolution 01/2015, Support for Implementation of all Calls to Action. Since 2015, more than 20 AFN resolutions have been passed, directing the AFN to continue to advocate for justice for Survivors and to work with the federal government to achieve substantial progress on implementing the Calls to Action.

***"Our commitment to Truth, Reconciliation, and breaking the cycles of colonialism can only succeed when we lift up the voices of First Nations people and foster safe and vibrant communities."***

—AFN National Chief RoseAnne Archibald

### METHODOLOGY

The AFN tracks the implementation of the Calls to Action through an assessment of its advocacy and joint work with the Government of Canada on implementing the TRC Calls to Action. The AFN also utilizes the following resources for analysis and monitoring of progress on implementing the Calls to Action.

- [Indigenous Watchdog](#)
- [CBC News Beyond 94](#)
- [Yellowhead Institute 2021 Status Update](#)
- [Government of Canada](#)

<sup>1</sup> AFN Resolution 30/2022, *Call to Formally Repudiate the Doctrine of Discovery*.



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Where action on a Call has been undertaken, the AFN utilizes the following system to track its progress:

✓ No Progress » ✓ Little Progress » ✓ Moderate Progress » ✓ Significant Progress » ✓ Complete

### Steps Forward June 2022-2023:

- **Child and Family Services:** Canada, the AFN and other Parties continue to work towards a Final Settlement Agreement to reform the First Nations Child and Family Services Program and fully implement Jordan's Principle. Following orders from the Canadian Human Rights Tribunal in 2022, areas of progress include implementing prevention funding, capital funding, post-majority supports for youth aging out of care, and working to implement a Back-to-Basics approach to Jordan's Principle.
- **Doctrine of Discovery:** On March 30, 2023, the Vatican formally repudiated the Doctrine of Discovery, which is composed of the 15th-century papal bulls or decrees that legitimized the colonial-era seizure of Indigenous lands and form the basis of some property law today.
- **Settlements:** The Federal Court approved the Gottfriedson Band class settlement agreement for \$2.8B that will be transferred into an Indigenous-led trust to allow for communities that have opted-in to the class action to support work around the revitalization of Indigenous languages and culture. The original lawsuit is about the collective harm suffered by Indigenous communities as a group because of Indian Residential Schools. This settlement aims to revitalize Indigenous languages, culture, and heritage to support communities in healing and to renew Canada's relationship with Indigenous Peoples.
- **Missing Children and Burial Information:** A Special Interlocutor was appointed to coordinate the government's response to the unmarked graves identified at several former residential school sites. In November 2022, the Special Interlocutor released a Progress Update Report on the early progress on their mandate, including a description of future plans and common barriers.
- **National Centre for Truth and Reconciliation:** Canada announced \$60M in funding towards the overall cost of the National Centre for Truth and Reconciliation's (NCTR) new facility. With this funding, the NCTR will build an international learning centre where Survivors, their families, and people from across Canada and around the world can come to learn the truth about Residential Schools.
- **Museums and Archives:** In October 2022, the Canadian Museum Association (CMA) released *Moved to Action: Activating UNDRIP in Canadian Museums* as "a response to the Truth and Reconciliation Commission's Call to Action 67 under the guidance of the CMA Reconciliation Council." That report makes ten key recommendations and establishes 30 new standards for implementing the United Nations Declaration on the Rights of Indigenous Peoples and supporting Indigenous self-determination in museums.
- **Museums and Archives:** While there is no specific "Canadian Association of Archivists," the Canadian archival community established a Steering Committee on Canada's Archives. This Steering Committee released the report *Reconciliation Framework: The Response to the Report of the Truth and Reconciliation Commission Taskforce*, providing "a road map of sorts, setting out a vision, foundational principles, and a transformative path forward for the archives profession in Canada."
- **Indigenous Human Rights:** The Minister of Crown-Indigenous Relations announced the appointment of the Ministerial Special Representative who will provide advice and recommendations through engagement with Survivors, families, partners, and organizations, to create an Indigenous and Human Rights Ombudsperson. Federal Budget 2023 allocated \$1.6M over two years to support this initiative.





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### Steps Backward June 2022-2023:

- **Church Apologies and Reconciliation:** The Pope delivered his apology in Maskwacis, Alberta, in Treaty Six territory on the site of the former Ermineskin Indian Residential School. The Pope did not apologize for the Roman Catholic Church as an institution, nor did he acknowledge the Roman Catholic Church's role in abuses suffered at Church-run institutions.
- **National Council for Reconciliation:** On December 1, 2022, Bill C-29, *An Act to provide for the establishment of a national council for reconciliation*, completed its third reading in the House of Commons. Bill C-29 moved into review in the Senate and completed its second reading on May 4, 2023. The National Council for Reconciliation will provide much needed independent oversight and accountability regarding government action on the implementation of the 94 Calls to Action. It will also act as a mechanism for advancing and promoting reconciliation between the Crown and First Nations. The AFN raised concerns with Bill C-29 while the legislation was in the House of Commons and during review in the Senate. Specifically, the nomination process for the First Board of Directors is concerning because the current version of the legislation gives the Minister the authority to nominate and appoint two-thirds of the NCR's First Board of Directors, which brings into question the true independence of the NCR.
- **Child Welfare:** The Government of Quebec's challenge to Bill C-92, *An Act respecting First Nations, Inuit and Métis children, youth and families*, continues to be considered at the Supreme Court, with Manitoba, Alberta, and Northwest Territories having joined Quebec in arguing that it is unconstitutional for the legislation to supersede provincial authority over the delivery of child and family services by affirming First Nations rights to self-determination.
- **Health:** Despite the commitments made by all levels of government in each of the three national dialogues on Indigenous Health convened after the death of Joyce Echaquan, governments have refused to invite any of the national Indigenous advocacy groups to participate in national health funding meetings that were held in Ottawa in February 2023.
- **Sports & Reconciliation:** In October 2022, the B.C. government announced that it would not support a First Nations-led bid to host the 2030 Winter Olympic and Paralympic Games, where four First Nations were hoping to host them.
- **Education:** While new investments were made in Budget 2021 for First Nations Early Learning and Child Care (ELCC) as part of Canada's commitments towards a national system of ELCC, the introduction of Bill C-35, *An Act respecting early learning and child care in Canada*, in December 2022 marks a significant step back as Canada failed to meaningfully engage with First Nations in the development of this legislation, side-stepping First Nations rights to Free, Prior and Informed Consent.



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## PROGRESS ON REALIZING THE TRUTH AND RECONCILIATION COMMISSION'S CALLS TO ACTION – JUNE 2023

### Child Welfare (1-5)

**Moderate progress** was made in this area. In alignment with CTA 1 and CTA 3, Canada has taken steps towards the long-term reform of the First Nations Child and Family Services (FNCFS) Program and full and proper implementation of Jordan's Principle, including implementing prevention funding, capital funding, and post-majority supports for youth aging out of care, and implementing a Back-to-Basics approach to ensure Jordan's Principle is meeting the needs of First Nations children and youth. As part of long-term reform, research is underway towards a First Nations-determined, needs-based funding model for FNCFS. The AFN is guiding reform as a party to negotiations to ensure that long-term, systemic changes are implemented to adequately meet the needs of First Nations children, youth, families, and communities and address the harm that decades of underfunding and discrimination have caused; however, much work remains to ensure that this progress positively impacts First Nations.

With respect to CTA 4, despite progress made in recent years following the passage of *An Act respecting First Nations, Inuit and Métis children, youth and families*, there have been significant missteps in recognition of First Nations rights and jurisdiction over children and families. The Supreme Court of Canada is set to rule on the constitutionality of the federal government's child and family services law, Bill C-92, after hearing arguments in December 2022. The Government of Quebec initially challenged Bill C-92 in the Quebec Court of Appeal, arguing that it was unconstitutional for the legislation to supersede provincial authority over child and family services by affirming First Nations rights and jurisdiction. Since then, Manitoba, Alberta and the Northwest Territories have joined Quebec in challenging Bill C-92. The AFN was also granted intervenor status in the case and stood up for First Nations rights at the Supreme Court of Canada.

### Health (18-24)

**Moderate progress** was made in this area. Canada is carrying out engagement to co-develop distinctions-based Indigenous health legislation with First Nations, Inuit, and the Métis Nation to improve access to high-quality and culturally relevant services. Budget 2023 saw \$2B over 10 years for a distinctions-based Indigenous Health Equity Fund. That fund will address unique challenges Indigenous Peoples face when accessing healthcare services and support immediate and long-term Indigenous health priorities.

### Education (6-12)

**Moderate progress** was made in this area. While Budget 2022 included investments of \$310.6M over five years to support better student outcomes through Regional Education Agreements, no new investments were identified in Budget 2023 despite six additional Regional Education Agreements requesting \$780 million. Billions in investments are still needed to alleviate overcrowding and poor conditions in First Nations education facilities, which require immediate replacement or additions to eliminate education and employment gaps and discrepancies in education funding for First Nations. The most recent First Nations high school attainment rates on a broader scale indicate that 58% of First Nations young adults aged 20 to 24 living on-reserve had a high-school certificate or equivalent compared to 93% of non-Indigenous Canadians. Closing the education gap would result in First Nations employment boosted by over 100,000 additional jobs, a 44.2% increase in total First Nations output, and a 15.5% increase in total First Nations employment.

No progress was made on CTA 9, which calls on the government to publish annual reports comparing education funding for First Nations children on-reserve and off-reserve. The latest report on the official government website, *Delivering on the Truth and Reconciliation Commission Calls to Action*, is for the 2016–2017 fiscal year. That report also does not address federal funding for schools off-reserve vs on-reserve, nor does it report on educational and income attainments for Indigenous vs non-Indigenous peoples. Data reporting is essential to evaluate progress on implementing the Calls to Action.

With respect to CTA 12, while new investments were made in Budget 2021 for First Nations Early Learning and Child Care (ELCC) as part of Canada's commitments towards a national system of ELCC, the introduction of Bill C-35, *An Act respecting early learning and child care in Canada*, in December 2022 marks a significant step back as Canada failed to meaningfully engage with First Nations in the development of this legislation, side-stepping First Nations rights to Free, Prior and Informed Consent.

### Language and Culture (13-17)

**Moderate progress** was made in this area. Since the passing of Bill C-91, the *Indigenous Languages Act*, the implementation of the legislation has been at a standstill. The Office of the Commissioner of Indigenous Languages is not fully operational four years after the enactment of the legislation. Funding to support agreements under Bill C-91 to provide language programs and services in relation to education, health, administration of justice, and in undertaking research studies to support languages will end in 2024–2025 without new investments. As a result of inaction to implement Bill C-91 and failure to commit to long-term funding models, this Section has been downgraded from Significant Progress to Moderate Progress.

### Justice (25-42)

**Little progress** was made in this area. In January 2021, the Minister of Attorney General was mandated to develop an Indigenous Justice Strategy to address systemic discrimination and the overrepresentation of Indigenous Peoples in the justice system. This work is to be undertaken in consultation and cooperation with Indigenous partners, provinces, and territories. Justice Canada completed their first wave of engagement in February 2023, and conduct a second wave of engagement in Fall 2023.

June 3, 2023, marks the fourth anniversary of the release of *Reclaiming Power and Place: The Final Report of the National Inquiry into Missing and Murdered Indigenous Women and Girls*. The federal government, with contributing partners, released the National Action Plan to end violence against MMIWG and 2SLGBTQIA+ in 2021 and has subsequently released Annual Progress reports in 2022 and 2023. While significant investments were committed in Budget 2021, the AFN continues to call upon the federal government to accelerate the implementation of the National Action Plan, 231 Calls for Justice, and to disclose in a transparent manner how funding for implementation is being allocated.





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### United Nations Declaration (43-44)

**Moderate progress** was made in this area following the passing of C-15, *An Act respecting the United Nations Declaration on the Rights of Indigenous Peoples*. On March 20, 2023, the federal government released their draft action plan to achieve the objectives of the United Nations Declaration, as well as to take measures to ensure that federal laws are consistent with the Declaration and to report annually on progress. The draft action plan includes measures that reflect many of the priorities and proposals shared by Indigenous partners during their first phase of engagement. The second phase of engagement will be focused on validating the proposed measures in the draft action plan—modifying them as necessary—and identifying any gaps that require additional measures. The action plan must be finalized by June 2023.

### Royal Proclamation & Covenant of Reconciliation (45-47)

**Little progress** was made in this area. The federal government has not created a Royal Proclamation of Reconciliation, nor formally repudiated the concepts of the Doctrine of Discovery and terra nullius. A subcommittee of the all-parties table to the Indian Residential School Settlement Agreement is working to develop a draft Covenant of Reconciliation. Once the draft is complete, the subcommittee will conduct engagement sessions with residential school Survivors' communities, Indigenous organizations, churches, and related partners.

### National Council for Reconciliation (53-56)

**Little progress** was made in this area. Bill C-29, *An Act to Provide for the Establishment of a National Council for Reconciliation*, completed its second reading in the Senate on May 4, 2023. The National Council for Reconciliation (NCR) will provide much needed independent oversight and accountability with respect to government action on the implementation of the 94 Calls to Action. It will also act as a mechanism for advancing and promoting reconciliation between the Crown and First Nations. The AFN raised concerns with Bill C-29 in the House of Commons and the Senate on the independence of the NCR. Another concern raised by AFN is that Bill C-29 fails to legislate multi-year funding for the NCR.

### Settlement Agreement Parties & the United Nations Declaration (48-49)

**Little progress** was made in this area. On March 30, 2023, the Vatican formally repudiated the Doctrine of Discovery. The Vatican also declared that the papal bulls did not adequately reflect the equal dignity and rights of Indigenous Peoples and have never been considered expressions of the Catholic faith. On July 27, 2022, the Canadian Conference of Catholic Bishops asked the Vatican to issue a statement on the Doctrine of Discovery, which they had already repudiated in 2016 when they issued *The Doctrine of Discovery and Terra Nullius: A Catholic Response*.

### Museum & Archives (67-70)

**Significant progress** was made with the completion of CTA 67 and CTA 70. In April 2019, Canadian Heritage announced funding for the Canadian Museums Association (CMA) to undertake a national review of museum policies. In October 2022, CMA released *Moving to Action: Activating UNDRIP in Canadian Museums*, which completes CTA 60 and makes clear that museums have always been at the center of Canada's colonial project and that they are "inextricably linked to the erasure of the histories of Indigenous Nations."

While there is no specific "Canadian Association of Archivists," the Canadian archival community established a Steering Committee on Canada's Archives. In 2022, the Reconciliation Framework: The Response to the Report of the Truth and Reconciliation Commission Taskforce was released, which "provides a road map of sorts, setting out a vision, foundational principles, and a transformative path forward for the archives profession in Canada." The recommendations outlined in the Reconciliation Framework complete CTA 70.

### Education for Reconciliation (62-65)

**Little progress** was made in this area. On November 23, 2022, the Minister of Innovation, Science, and Industry, along with the National Centre for Truth and Reconciliation (NCTR), announced the launch of a funding opportunity to establish a national research program to advance the understanding of reconciliation as part of a response to CTA 65. This initiative invests up to \$6 million over five years to fund projects that contribute to the collective understanding of truth and reconciliation, including addressing residential school history, the ongoing legacy of residential schools, and past Canadian policies of assimilation in one or more areas, including child welfare, education, language, culture, health, and justice.

### Equity in the Legal System (50-52)

**Little progress** was made in this area. Construction of a National Centre for Indigenous Laws at the University of Victoria began in Fall 2022, with completion scheduled for Fall 2024. Funding for the National Centre for Indigenous Laws was announced in budget 2019 with \$9.1 million starting in the fiscal year 2019–2020. This facility will be an iconic, exemplary, and Indigenous-informed space for the learning and practice of Indigenous Laws within the University of Victoria's dual degree program in Canadian Common Law and Indigenous Legal Orders. Regarding the process of adopting legal principles on Aboriginal title claims, the governments and the courts have not yet adopted these legal principles.

### Missing Children and Burial Information (71-76)

**Moderate progress:** was made in this area. In August 2021, the federal government announced additional investments of approximately \$320 million to support Indigenous community-led work surrounding burial sites. This included \$83 million to support community-led efforts to locate, document, commemorate and memorialize burial sites associated with former residential institutions and honour families' wishes to bring children's remains home. As of January 11, 2023, CIRNAC received 127 formal requests totalling over \$273.2 million from Indigenous communities and organizations for activities relating to residential schools. To date, 97 funding requests totaling \$99.3 million have been approved by CIRNAC.

A Special Interlocutor was appointed to coordinate the government's response to the unmarked graves identified at several former residential school sites. The Special Interlocutor hosted gatherings on affirming Indigenous data sovereignty and community control over knowledge and information, supporting the search and recovery of missing children, addressing trauma in the search and recovery of missing children, and upholding Indigenous laws.

### Youth Programs (66)

**Moderate progress** was made. Budget 2022 provided a 2-year extension to the Canadian Roots Exchange to support youth leadership development with an additional \$12.6 million investment. The pilot program is moving into its final year and will initiate targeted engagements with Indigenous youth to inform recommendations to the Government of Canada for more permanent funding and a longer-term approach to fulfill CTA 66.



Assembly of First Nations

# ANNUAL GENERAL ASSEMBLY

July 11-13, 2023 • Halifax Convention Centre  
Halifax, Nova Scotia

Halifax (Kijipuktuk) is located in Mi'kma'ki, the ancestral and unceded territory of the Mi'kmaq people



## PROGRESS ON REALIZING THE TRUTH AND RECONCILIATION COMMISSION'S CALLS TO ACTION – JUNE 2023

### Church Apologies and Reconciliation (58-61)

**Moderate progress** was made in this area.

On July 25, 2022, Pope Francis delivered his apology in Maskwacis, Alberta, on Treaty Six territory on the site of the former Ermineskin Indian Residential School. The Pope did not apologize for the Roman Catholic Church as an institution, nor did he renounce the Doctrine of Discovery while in Canada. The Pope did not acknowledge the abuses suffered in the schools and did not commit to any acts of atonement, reparation, return of Indigenous artifacts held in the Vatican Museum or access to residential school records held in Church archives.

### National Centre for Truth and Reconciliation (77-78)

**Little progress** was made in this area. The federal government announced \$60 million in funding towards the overall cost of the National Centre for Truth and Reconciliation's (NCTR) new facility. With this funding, the NCTR will build an international learning centre where Survivors, their families, and people from across Canada and around the world can come to learn the truth about residential schools.

In November 2022, the federal government announced funding of \$28.5 million over five years for the NCTR to collect, review, and make accessible residential school records and support community-led efforts to locate and identify unmarked burials. The funding will support numerous initiatives, including the National Residential School Student Death Register, the online National Cemetery Register, and the National Advisory Committee on Missing Children and Unmarked Burials. The NCTR has still not accessed records and data from some church denominations and government archives. In January 2022, however, the federal government indicated that it would share more than 850,000 documents related to Residential Schools.

### Training for Public Servants (57)

**Significant progress** was made in this area. The federal government introduced a non-mandatory "Indigenous Learning Series" for all public service employees, although not all the course content aligns with the specific "actions" identified in CTA 57. The Canada School of Public Service is developing curriculum for federal public servants around reconciliation and the findings of the Truth and Reconciliation Commission report. Provinces, territories, and municipalities are at different degrees of commitment and implementation.

### Commemoration (79-83)

**Moderate progress** was made in this area. In June 2022, Bill C-23, *An Act respecting places, persons and events of national historic significance or national interest, archeological resources and cultural and natural heritage*, was tabled in the House of Commons. C-23 modifies the composition of the Historic Sites and Monuments Board of Canada to include three new positions for First Nations, Métis, and Inuit representatives. Bill C-23 is dedicated to the designation and protection of federally owned historic places and will result in a stronger voice for Indigenous Peoples in determining the people, places and events considered to be of national historic significance and interest in Canada. On December 2, 2022, the House of Commons began the second reading of Bill C-23.

### Business & Reconciliation (92)

**Little progress** was made in this area. In June 2022, a National Indigenous Economic Strategy was released. The National Indigenous Economic Strategy was developed by over 20 Indigenous organizations and presents a strategy for Indigenous economic development to be used by Indigenous entities and communities, all levels of government, corporate Canada, and non-Indigenous organizations and institutions. The corporate sector has not collectively adopted UNDRIP nor formally committed to management level training of UNDRIP or the legacy of residential schools.

### Media & Reconciliation (84-86)

**Significant progress** was made in this area with CTA 84 and CTA 85 completed. Under CTA 85, APTN produces more than 80 per cent Canadian content, the vast majority of which reflects the cultures, languages, and perspectives of Indigenous Peoples. APTN's content is available in English, French, and from year to year, between 15 and 23 Indigenous languages. While some journalism schools in Canada offer courses on Indigenous history, not all are mandatory, and not all include all the criteria cited in CTA 86.

### Newcomers to Canada (93-94)

**Moderate progress** was made in this area. Bill C-8, *An Act to amend the Citizenship Act (Truth and Reconciliation Commission of Canada's call to action number 94)* achieved Royal Assent on June 21, 2021. The Department of Immigration, Refugees and Citizenship Canada revised a study guide, study materials, and a new citizenship kit for newcomers in partnership with Indigenous Peoples. A date for release of those documents has not been determined.

### Sports & Reconciliation (87-91)

**Significant progress** was made in this area. In October 2022, the B.C. government announced that it would not support a First Nations-led bid to host the 2030 Winter Olympic and Paralympic Games — four First Nations were hoping to host the events. In a statement, the B.C. government worried that billions of dollars in direct costs would jeopardize its "ability to address pressures facing British Columbians right now." No amendments to the *Physical Activity and Sport Act*, were made to support reconciliation with the policies stated in CTA 89.

The 10th North American Indigenous Games will be held from July 15–23, 2023, in Kijipuktuk (Halifax) and Millbrook First Nation, Nova Scotia. The Games will bring together 756 Indigenous Nations to celebrate, share and reconnect through sport and culture. The mission of the Games is to improve the quality of life for Indigenous Peoples by supporting self-determined sports and cultural activities which encourage equal access to participation in the social/cultural/spiritual fabric of the community in which they reside, and which respects Indigenous distinctiveness.





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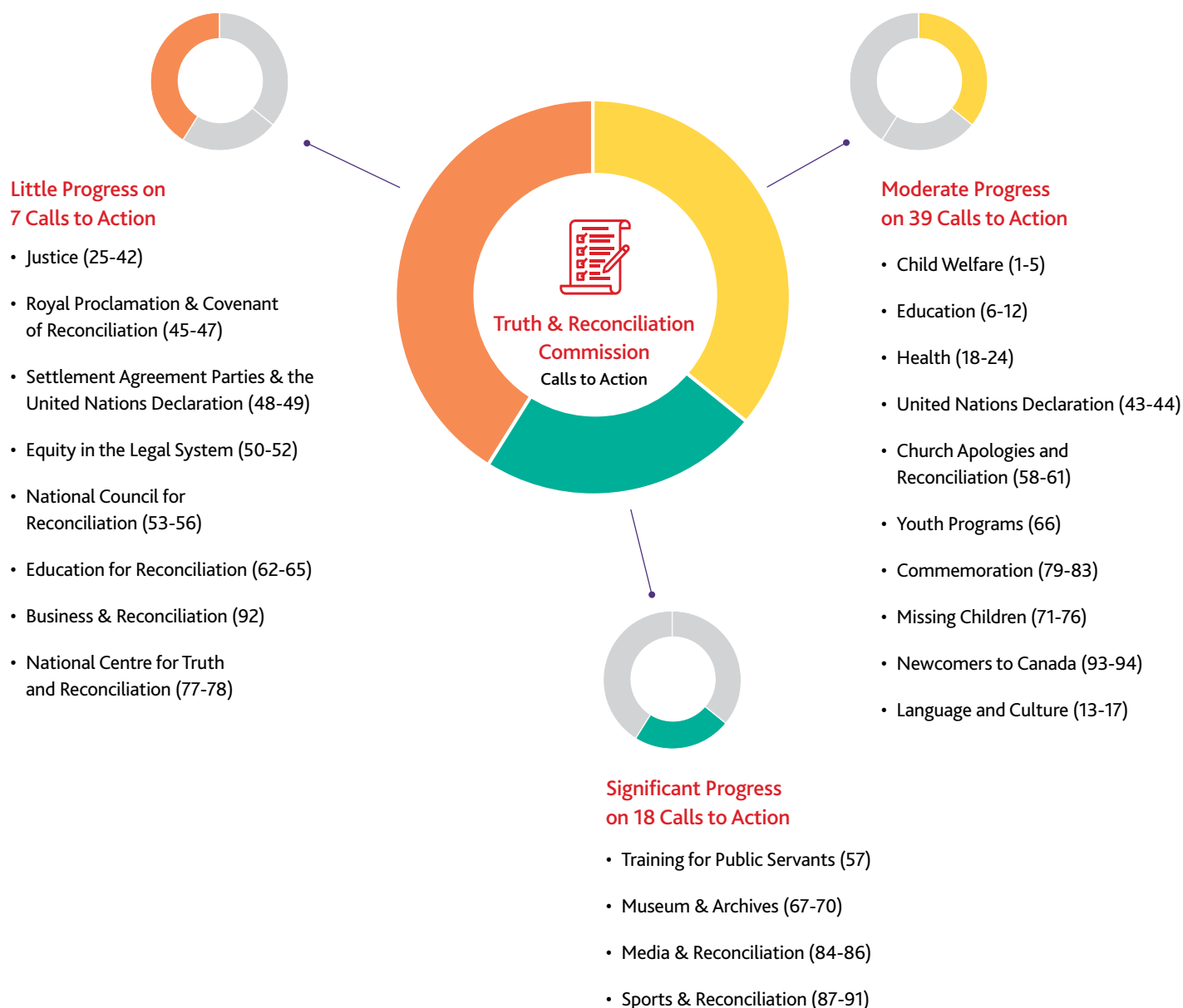
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## PROGRESS ON REALIZING THE TRUTH AND RECONCILIATION COMMISSION'S CALLS TO ACTION – JUNE 2023

### Assessing Completion Progress by Category

Below is a diagram that illustrates the AFN's assessment of progress in each category of the Truth and Reconciliation Commission's Calls to Action.





55 Metcalfe Street  
Suite 1600, Ottawa  
Ontario K1P 6L5  
Tel: 613.241.6789  
Fax: 613.241.5808