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SECTOR UPDATE
BRANCH: ECONOMIC DEVELOPMENT & INFRASTRUCTURE
SECTOR: ECONOMIC DEVELOPMENT
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What is the history of this issue and how does it impact First Nations?

The Assembly of First Nations (AFN) Economic Development Sector advocates for economic policies and programs that respect and mobilize First Nations self-determination, the rights of First Nations and both the traditional and market economies of First Nations. The Sector has been focused on ensuring First Nations are able to access economic supports related to the coronavirus response. As we move forward, the AFN is also advocating to ensure that First Nations are in a position to drive the economic recovery to a more prosperous, inclusive and sustainable future. The Economic Development Sector currently advocates on agriculture, trade, natural resources, connectivity, cannabis and gaming as part of a broader economic approach to advance the economic interests of First Nations.

The AFN's work on agriculture supports the implementation of the Chiefs-in-Assembly resolution on accessing economic agriculture opportunities. A First Nations Agriculture Strategy will articulate the need for increased First Nations participation and opportunities within the agriculture and agri-food sector. As a result, it will strengthen all aspects of the agriculture industry from First Nations actively engaging and benefiting in short- and long-term agriculture activities, resulting in enhanced economic opportunities in agriculture.

The *Cannabis Act* has legalized and created a framework to regulate the sale, distribution and taxation of cannabis for recreational use in Canada. At the direction of the Chiefs-in-Assembly, the AFN and the Chiefs Committee on Cannabis is advocating for recognition of First Nations jurisdiction within the overall administration of the *Cannabis Act* and drafted a legislative framework that creates greater inclusion of First Nations' participation in the cannabis industry.

Activity on trade has been in support of several Chiefs-in-Assembly resolutions, with the most recent being Resolution 37/2019, *Continued Advocacy on Canada's International Trade Agreements to achieve Economic Reconciliation*. Work has been focused on respecting the rights of Indigenous Peoples in trade agreements, and for trade programs and processes to include First Nations.

The AFN continues to advocate for inclusivity of opportunity and respect for the rights of First Nations to their natural resources. This includes working across several natural resources issues, ranging from the 2 Billion Trees initiative to clean energy development, to advocate that government policies and programs are sufficiently flexible to ensure accessibility by First Nations and to respond to the expressed needs of First Nations from these initiatives.

The Chiefs-in-Assembly have acknowledged the importance of First Nations economic participation in procurement through resolutions, including Resolution 38/2019, *Increasing First Nations Procurement Opportunities and Benefits*. Targeted Indigenous procurement under the federal Procurement Strategy for Aboriginal Business represents less than 1% of all federal procurement. Improved access to procurement represents a significant economic opportunity for First Nations businesses.



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In terms of connectivity, only 34.8% of First Nations have access to 50/10mbps and unlimited data, the minimum standard outlined by the Canadian Radio-television and Telecommunications Commission. The AFN will continue advocacy that is focused on the design and implementation of federal programs and policies that support the closure of the digital divide between First Nations and the rest of Canada.

For decades, First Nations have been advocating for greater inclusion within the gaming economy, whether through increased opportunities and benefit-sharing from land-based gaming enterprises, online gaming opportunities or single sports betting opportunities. The most recent development was the decriminalization of Single Sports Betting through a private members Bill in 2021. The Bill contained no provisions focused on enhancing First Nations participation in the gaming economy, despite persistent advocacy of First Nations throughout the legislative process.

How has the AFN's recent advocacy affected this area?

The completion of the 2020 Gap Analysis of Federal and Provincial Agriculture Programs and Services to First Nations Producers on Reserve Lands has provided baseline information for the development of an agriculture and agri-food strategic framework. The completed analyses to-date will support a First Nations agriculture strategy while also providing key indicators on existing barriers within the overall Agri-Partnership for First Nations.

In the wake of the passage of private member's Bill C-218, which decriminalized Single Sports Betting, the AFN has proposed to explore a process focused on enhancing participation of First Nations in the gaming economy, while strengthening opportunities for First Nations to exercise self-determination over regulation of gaming.

Natural Resources Canada's programs are being developed pursuant to Canada's strengthened climate plan, *A Healthy Environment, and a Healthy Economy*. It has been noted that except for the Smart Renewables Energy Program and possibly the Clean Fuels Program, the other programs discussed with the AFN do not seem to adhere to the commitments made in the strengthened climate plan, based on the recognition of rights, respect, cooperation, and partnership. Further dialogue with NRCan is needed to determine whether the plan can achieve these objectives by ensuring the full and effective participation of First Nations in policy and program governance.

In the area of Trade, recent progress includes work on an economic cooperation agreement being developed jointly by Asian-Pacific economies and Indigenous Peoples. This work will build upon our previous successes and inform development of the upcoming Canada-United Kingdom Trade Agreement.

The AFN continues to advocate for increased First Nations procurement opportunities, benefits, and to monitor the implementation of changes to policies to achieve a mandatory 5% target for all federal procurement. In addition, short-term changes have been made to the Indigenous procurement process and policies related to eligibility criteria, mandatory set-asides, a reporting framework, and an increased focus on culture change and training.



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The AFN has developed three research papers surrounding connectivity on spectrum licensing, telecommunications infrastructure cost modelling, and a broad view at Canada's Connectivity landscape as part of a project partnership with the Canadian Internet Registration Authority (CIRA). These papers provide information that aids in the advocacy for the AFN in discussions with Innovation, Science and Economic Development Canada (ISED) and informs First Nations on the connectivity topics. These papers can serve as a foundation for future connectivity policy pieces that will help close the digital divide faced by First Nations.

Where do we hope to go in the future?

The AFN will continue to work with the Chiefs Committee on Economic Development (CCED), the Chiefs Committee on Cannabis, the Chiefs Committee on Gaming and First Nations leadership on options to improve First Nations economic involvement in agriculture, trade, forestry, 2 billion trees initiative and natural resources. This will include completing a policy paper on Planning for New Investments and Approaches to support First Nations in the Economy and continuing the dialogue with Agriculture and Agri-foods Canada, Indigenous Services Canada, Natural Resources Canada, Innovation, Science and Economic Development and Global Affairs Canada to ensure an integrated and transformative approach to economic development policy and programming.

The *Cannabis Act* states that three years after coming into force, the government must commence a review of the impacts of cannabis on First Nations. This review is set to begin this year. Once the review begins, the Minister will have 18 months to provide its findings and recommendations to parliament. During this time, the AFN will advocate that the review contains a comprehensive analysis and recommendation to improve the impacts of cannabis on First Nations collective health status, First Nations economies and First Nations jurisdictions and rights. The AFN is currently working to engage in the three-year review of the federal legislation, with a view to maximize opportunities for First Nations to exert jurisdiction over cannabis as well as to benefit from legalization.

The AFN will continue to advocate for the full and effective participation of First Nations in the implementation of *A Healthy Environment, and A Healthy Economy*. While some progress is being made, there is more work to do related to policies, programs and elements of the strategy. In particular, understanding the United Nations Declaration on the Rights of Indigenous Peoples in reference to environmental and economic rights relevant to these programs and seeking ongoing opportunities for dialogue with First Nations leadership on rights and jurisdiction.

The AFN will continue to receive guidance from First Nations leadership and technicians on connectivity issues and priorities. There remains much work to do for First Nations broadband infrastructure, access to the internet and for specific connectivity funding and criteria that will build more capacity for First Nations economies and First Nations businesses and close the digital divide.



What is the history of this issue and how does it impact First Nations?

The Assembly of First Nations (AFN) Fisheries Sector is supported by the National Fisheries Committee (NFC), who advise and support the collective interests of First Nations in Canada on priorities related to fisheries, aquaculture, and oceans. The AFN Fisheries Sector continues to monitor activities impacting First Nations inherent and Treaty-protected rights, including monitoring Canada's considerations of the adverse effects of decisions on the rights of Indigenous Peoples when it unilaterally makes decisions under the Fisheries Act.

On April 19th, 2021, five Nuu-chah-nulth First Nations, Ahousaht, Ehattesaht, Hesquiaht, Tla-o-qui-aht and Mowachaht/Muchalaht (Five Nations) won a court victory when the British Columbia Court of Appeal reaffirmed the Five Nations' commercial right to fish any species in their territorial waters. Canada did not appeal this decision, which ended 15 years of litigation with the Five Nations. On August 4th, frustrated by lack of progress with Canada in bilateral negotiations, the Hereditary Chiefs of the Five Nations authorized fishing in their territories above the insufficient amounts sanctioned by Fisheries and Oceans Canada. There were no known charges, seizures, or violence related to their fishery.

The NFC has also been active in supporting the Sipekne'katik First Nation and all Mi'kmaq and Wolastoqey Nations in their pursuit to implement their livelihood fisheries as recognized in the Peace and Friendship Treaties (1752 and 1760/61), which are upheld and affirmed by *R. v. Marshall* (1999). 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*, directed the AFN and the National Fisheries Committee to hold Fisheries and Oceans Canada accountable for the violence and crimes perpetuated against the Mi'kmaq fishers of Sipekne'katik First Nation in the Fall of 2020. On September 8th, 2021, National Chief Roseanne Archibald visited Sipekne'katik First Nation in solidarity and support of their Treaty fisheries. Notably, the Fisheries and Oceans Canada enforcement presence waned after the National Chief's visit drew public attention to her statement that Canada needs to "stop criminalizing our Treaty rights" (National Chief Roseanne Archibald, September 9, 2021).

How has the AFN's recent advocacy affected this area?

The AFN released the 2021 Healing Path Forward prior to this year's federal election. The publication called on the next federal government to endorse the following three commitments related to fisheries:

1. Support the development of a mandate and framework for a National Secretariat to promote



- the implementation of all Supreme Court of Canada decisions related to fisheries;
2. Recognize and respect the authorities of First Nations to govern their fisheries resources in their territories; and
 3. Recognize and respect the equivalency of First Nations laws with Canada's fisheries regulations over fisheries resources in First Nations' territories.

In 2020-21, the AFN Fisheries Sector completed virtual technical workshops on changes to the *Canadian Navigable Waters Act* and the *Fisheries Act*. These workshops provided the opportunity to share information and discuss legislative amendments to the Acts related to First Nations' rights and interests.

With the guidance of the Indigenous Knowledge Advisory Group (IKAG), the AFN Fisheries Sector coordinated and facilitated four national Indigenous knowledge systems in fisheries technical workshops. A final summary report identifies key messages and informs capacity needs to establish and/or advance Indigenous knowledge protocols.

The AFN Fisheries Sector and IKAG plans to build on this work and is gathering support to develop and create an Indigenous Knowledge Protocol Toolkit. This toolkit will be made available to First Nations across Canada and will support First Nations in creating their own Indigenous Knowledge protocols.

The National Aquaculture Working Group (NAWG) considered First Nations priorities and interests relating to the proposed Aquaculture Act legislation. Starting in January, the AFN Fisheries Sector plans to host a series of virtual workshops. Working in collaboration with Fisheries and Oceans Canada, these workshops will provide First Nations with an opportunity to discuss and generate input into the co-development and co-design of an Aquaculture Act that reflects First Nations perspectives and supports reconciliation.

The AFN Fisheries Sector also organized a series of Indigenous Protected and Conserved Areas (IPCA) virtual workshops. The workshop participants, marine and fisheries practitioners from coastal First Nations, shared strategies, and considerations for advancing Indigenous-led marine conservation. A discussion paper on the subject explores technical, policy, and legal pathways to marine IPCA designations under First Nations' authorities. The paper supports opportunities for further policy development work.

Where do we hope to go in the future?

The AFN Fisheries Sector continues to advocate for the implementation of a modernized Fisheries Act that recognizes First Nations authorities. To guide this work, mandate and advocacy



instructions are provided in Resolution 04/2018 and Resolution 21/2017. The AFN Fisheries Sector will advocate that the Department of Fisheries and Oceans work with First Nations to revise regulations and policies that respect First Nations' Treaty-protected inherent rights, and to recognize and support First Nations' fisheries protection and enforcement authorities.

Resolution 23/2021 directs the AFN to advise the Prime Minister and the Minister of Fisheries and Oceans to work in collaboration with Yukon First Nations to launch a federal inquiry into the decline of Yukon River Chinook salmon. The Fisheries Sector continues to work with Yukon First Nations to direct the Government of Canada to prioritize and allocate resources to reverse the long-term decline of Yukon River Chinook Salmon.

The AFN Fisheries Sector will continue advocacy work related to the *Fisheries Act* and its implementation, especially in relation to Indigenous Knowledge Systems. The AFN Fisheries Sector will also continue to call on Fisheries and Oceans Canada to fund work for First Nations to develop their community Indigenous Knowledge protocols and related activities.

The NFC's Inland Working Group will continue to engage with the Freshwater Fisheries Marketing Corporation in its transformation intended to better serve and represent Indigenous fishers and communities. Since 1994, the AFN has passed four resolutions specifically on the Freshwater Fisheries Marketing Corporation on its role as the monopoly buyer of inland commercial fish from Indigenous fishers. These resolutions, which continue to guide the AFN's work, are 2/1994, AFN Task Force on the Freshwater Fish Marketing Corporation; 29/2003 *Freshwater Fish Marketing Corporation*; 12/2004 *Freshwater Fish Marketing Corporation*; 68/2004, *AFN Support for Inland Fisheries*; and 41/2011 *Lake Winnipeg Commercial Fisheries*.

The AFN Fisheries Sector continues its work to facilitate the engagement of First Nations and other parties in the co-development and co-design of the proposed Aquaculture Act. To facilitate First Nations' engagement, the AFN Fisheries Sector will continue to support and help build relationships with the Canadian Council of Fisheries and Aquaculture Ministers (CCFAM).

Mandated by AFN Resolution 07/2019, *First Nations Oceans Priorities at the Convention on Biological Diversity*, the AFN Fisheries Sector will continue to ensure that First Nations priorities are reflected in the development of a new Global Biodiversity Framework. This framework will be negotiated and finalized at COP-15 in April and May of 2022. In collaboration with the Environment, Lands, and Water Branch, the work on oceans governance and conservation will focus on addressing the gaps between the implementation of IPCAs in terrestrial and marine environments. The Oceans Working Group's Protection Plan subcommittee will continue its efforts to assess and improve the Oceans Protection Plan. Their assessment will ensure that the



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plan includes the needs, priorities, and contributions of First Nations.



What is the history of this issue and how does it impact First Nations?

The COVID-19 pandemic has exacerbated the gaps in infrastructure that First Nations experience, making clear the impacts of inadequate infrastructure and the importance of clean water in responding to a pandemic or health crisis. The pandemic has also caused a significant rise in demand for construction materials for housing and construction projects. This has signalled the need for urgent investments, funding adjustments and political action on the side of the federal government.

Prime Minister Trudeau committed to closing the infrastructure gap in his September 2020 Speech from the Throne, and the AFN Infrastructure sector continues to advocate for major investments to critical infrastructure, which are particularly important in the context of this pandemic and for First Nations overall health and wellbeing. Urgent investments are needed now to address the backlog of infrastructure in First Nations as are sustained investments to close the infrastructure gap.

How has the AFN's recent advocacy affected this area?

The AFN Infrastructure Sector continues to advocate for major federal government investments in critical infrastructure, as well as for federal government support for the creation of First Nations-led policies and solutions related to the access of safe, clean drinking water and adequate infrastructure. The First Nations-in-Assembly mandated the AFN through Resolution 12/2020 *Infrastructure Stimulus Funding for First Nations* to urge the federal government to proactively inform First Nations of financial matters and involve First Nations in all decisions relevant to closing the infrastructure gap in communities. It also called on the AFN to urge the federal government to make long-term funding commitments towards all First Nations community infrastructure and to change the current infrastructure process, towards the co-development of a new Indigenous infrastructure bank.

As a result of sustained advocacy, the federal government has agreed to work with the AFN towards the co-development of a new Operations and Maintenance (O&M) policy reform, which has been mandated by the First Nations-in-Assembly through Resolution 82/2019. This work is a high priority towards funding reform of First Nations Infrastructure Assets. To support the identification of First Nations overall infrastructure needs, the Infrastructure Sector has embarked on a National First Nations Needs study. The results of this study will inform Canada of First Nations infrastructure needs for the next 20 years. Furthermore, capacity development of a holistic Asset Management Plan standard for all First Nations infrastructure and assets is also planned for 2020-21. This collaboration has also resulted in Indigenous Services Canada (ISC)



announcements in O&M funding for water and wastewater from Budget 2019, the Fall Economic Statement and \$1.7 billion in Budget 2021.

Additionally, recent program announcements by Infrastructure Canada (INFC), which can now be accessed directly by First Nations without having to go through provinces or territories, signaled a shift away from the systemic discrimination in government programs and policies. Further collaborations with INFC will inform the Department of the importance of ensuring First Nations partnership in program development. The Infrastructure Sector has been facilitating information sessions with INFC and First Nations and First Nations organizations on these programs.

Where do we hope to go in the future?

The AFN Infrastructure Sector continues our work in 4 main areas:

1) O&M Policy Reform

- ISC's current O&M Policy for funded assets on First Nations is an outdated policy and does not adequately address asset repairs and maintenance costs.
- Our advocacy work on O&M Policy Reform is a high priority towards funding reform of First Nation Infrastructure Assets, as well as addressing the 2020 Speech from the Throne commitment to close the First Nations infrastructure gap by 2030.

2) Asset Management Planning (AMP)

- The AFN Infrastructure Sector works towards developing a First Nations-led Asset Management Planning (AMP) approach, building on past commitments, and increasing and expanding our collective awareness and knowledge of asset management and the role that AMP plays in decision-making in asset funding. In 2021, the Infrastructure Sector hosted AMP Train the Trainer sessions for regional technicians.

3) National First Nations Infrastructure Assessment.

- The infrastructure gap in First Nations must be defined to understand what this challenge looks like. The National First Nations Infrastructure Assessment will gather data, identify current First Nations assets and prepare analysis of current and future infrastructure needs.
- The sector continues to work with the federal government to set about identifying infrastructure needs for First Nations in all areas that are required immediately and for the future, which includes operations and maintenance needs to fully protect all assets.

4) Closing the Infrastructure Gap by 2030.



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- The 2020 Fall Economic Statement committed \$25.9 million to “accelerate the government’s ten-year commitment to close the infrastructure gap in Indigenous communities by supporting the co-development of infrastructure plans with Indigenous partners, which will help pave the way to address critical needs in First Nations, Inuit and Métis Nation communities.”
- The AFN has concerns on how ISC plans to move forward with the development of this Strategy which is to be established by 2022 and presented to the Department of Finance by spring 2023. We will continue to work with ISC to ensure engagement reflects and respects the mandates provided by the First Nations-in-Assembly.



What is the history of this issue and how does it impact First Nations?

As of October 15, 2021, there are 44 long-term drinking water advisories in effect in 32 First Nations. To date, Indigenous Services Canada (ISC) confirms that 118 long-term advisories have been lifted since November 2015. However, this report number includes only ISC-funded assets, and systems with 5 connections or more; they do not include the many First Nations on individual wells or cisterns. These numbers also do not include many advisories in British Columbia, and those within the Saskatoon Tribal Council.

It is of the utmost importance for the federal government to live up to their commitment of ending all long-term drinking water advisories and upholding the United Nations affirmed human right to safe water. The AFN continues to seek additional information from the federal government on their proposed Action Plan, including a transparent reporting and monitoring process.

The COVID-19 pandemic has further highlighted the impact of inadequate infrastructure and the importance of clean water in addressing health emergencies. Addressing these gaps is critical to ensuring the overall health and well-being of all First Nations. Therefore, the AFN also continues to advocate for and support the creation of First Nations-led policies and solutions related to access to clean and reliable drinking water.

Additionally, looming legislation, the impacts of climate change, questions around sustainable funding, and the implications of a new national water agency have stimulated further uncertainty, as they all have major impacts on First Nations access to safe, clean drinking water.

How has the AFN's recent advocacy affected this area?

The AFN continues to advocate for access to safe, clean and reliable drinking water for all First Nations. Specifically, the AFN continues to urge the federal government to invest in First Nations infrastructure, to close the infrastructure gap by 2030, and to prioritize the human right to safe drinking water through significant investments into water treatment and distribution for all First Nations.

As directed by resolutions from the First Nations-in-Assembly, the AFN has advocated to the federal government to commit to working in partnership with First Nations to repeal and replace the Safe Drinking Water for First Nations Act (SDWFNA) with co-developed, First Nations-led legislation. The AFN also facilitated regionally-led engagement sessions on important components of new legislation. Regional engagement sessions held across the country in



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February-March 2021 brought together First Nations leadership, Knowledge Keepers, water operators, technicians and youth from every region to discuss the next steps in the repeal and replacement of the SDWFNA.

Simultaneously, the AFN conducted regionally-led engagement sessions on the concept and approach to developing a Long-Term Strategy for Water and Wastewater post-2021, based on feedback and directed by resolutions from the First Nations-in-Assembly. These engagement sessions highlighted key regional water concerns, and the need to incorporate First Nations Rights and knowledge into any Strategy moving forward. The creation of a Long-Term strategy will also help fulfill the recent Throne Speech commitment to close the infrastructure gap on-reserve by 2030 and to developing sustainable and predictable funding mechanisms for First Nations water and wastewater.

In collaboration with the AFN Environment, Lands and Water Branch, we continue to advocate to Environment and Climate Change Canada (ECCC), for meaningful First Nations inclusion in any discussions regarding the development of the Canada Water Agency. The AFN advocates to ensure that First Nations are adequately engaged through a collaborative process that respects First Nations Inherent and Treaty rights, as well as free, prior and informed consent.

Where do we hope to go in the future?

Moving forward, the feedback received in the SDWFNA engagements will inform the work and discussions of the SDWFNA Joint Working Group, which will be struck in late 2021, and will help to develop the draft framework to guide the co-drafting of new legislation. The repeal and replacement of the SDWFNA with new legislation by First Nations, for First Nations, will ensure long-term and sustainable funding for First Nations water and wastewater, including adequate operations and maintenance funds.

Furthermore, the AFN Infrastructure Sector, which includes all water infrastructure, will continue its engagements in 2021-2022, with the purpose of building on the feedback and input received from First Nations during the 2020/2021 engagements. Based on the findings from the 2020/21 engagement process, the 2021/2022 sessions will focus on targeted discussions with specific groups, including youth, women, Elders and operators, and their perspectives on the development of a vision for a long-term water and wastewater strategy.

The AFN continues to urge the federal government to commit to co-developing and co-drafting strategies in true partnership with First Nations, including adequate funding commitments.



What is the history of this issue and how does it impact First Nations?

The evidence is clear: we are facing a joint climate and biodiversity crisis. As the AFN Environment Sector, our efforts will continue to lift-up the tireless leadership of First Nations in climate action, conservation, biodiversity and environmental health and work to ensure our collective well-being is appropriately rooted in our First Nations' worldview. A worldview that –while acknowledging the diversity– has a common foundation: an understanding that we are one with Mother Earth.

How has the AFN's recent advocacy affected this area?

In collaboration with the Advisory Committee on Climate Action and the Environment ('ACE'), the Environment Sector has advanced First Nations' self-determination and jurisdiction within the context of climate change, conservation and biodiversity, and environmental health. This has included advancing the AFN National Climate Strategy, Indigenous Protected and Conserved Areas (IPCAs), First Nations leadership in species at risk conservation, food security/sovereignty and environmental protection, as well as First Nations considerations for a 'green recovery' post-COVID.

CLIMATE ACTION

Since the passing of Resolution 05/2019, *Declaring a First Nations Climate Emergency*, the Environment Sector has continued to advance several priorities related to First Nations climate leadership, building on the first-ever AFN National Climate Gathering (March 3-4, 2020, Whitehorse, YT). Efforts have focused on continuing the strategic development of the AFN National Climate Strategy supported by various technical webinars and surveys. The Joint Committee on Climate Action (JCCA) has continued to work virtually, seeking to advance First Nations interests in the new federal climate plan, *A Healthy Environment and A Healthy Economy*. The third annual report of the JCCA was publicly released and can be found on AFN's website. A small delegation of AFN members travelled to Glasgow, United Kingdom for the twenty-sixth session of the Conference of the Parties to the UN Framework Convention on Climate Change (COP 26). Finally, the Environment Sector is currently planning for the next National Climate Gathering, hosted in the Fall of 2022.

CONSERVATION & BIODIVERSITY

The Environment Sector continues to advocate for the full and effective participation of First Nations in all efforts related to conservation and biodiversity. This includes sustained involvement in the federal Pathway to Canada Target 1 initiative including evolving governance, scoping, and prioritization discussions in support of First Nations-led conservation efforts and



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their critical contributions toward Canada's conservation goals to protect 25% of land and water by 2025, and 30% by 2030. Efforts to support First Nations-led species-at-risk (SAR) conservation and national network development are ongoing with three technical dialogue sessions tentatively scheduled to take place between January and March 2022. The Environment Sector has also maintained its participation in the Convention on Biological Diversity (CBD), specifically in the ongoing development of the CBD's Post-2020 Global Biodiversity Framework, which will establish the international benchmark for conservation and biodiversity efforts for the next decade. The Environment Sector remains engaged in exploratory discussions related to the evolving Federal Nature Agenda, including preliminary considerations for the establishment of a First Nations Nature Table.

ENVIRONMENTAL HEALTH

Efforts to expand the breadth and scope of the environmental health portfolio within the Environment Sector are ongoing. The Environment Sector has advanced a number of key issues including supporting First Nations technical dialogues on food security and sovereignty, and wildlife health issues (e.g., Chronic Wasting Disease and other zoonotic diseases). Pilot studies under the Food, Environment, Health and Nutrition of First Nations Children and Youth (FEHNCY) Study are continuing in two communities with initial outreach to six randomly selected First Nations in the Atlantic region. After more than 10 years of research, the final documents (final report, summary, and key findings and recommendations for decision-makers) of the First Nations Food, Nutrition and Environment Study (FNFNES) were released on October 21, 2021, via the AFN website. Finally, efforts are ongoing with Environment and Climate Change Canada's (ECCC) National Boreal Caribou Knowledge Consortium (NBCKC).

Where do we hope to go in the future?

Environmental advocacy is an issue of growing importance. The urgency with respect to the impacts of climate change, and other crises that are accelerated by climate change (e.g., biodiversity loss), compel the ACE and its associated committees to both challenge and inform governments with respect to the role of First Nations as stewards of Turtle Island. This grounding will continue to inform our efforts to empower First Nations as leaders in climate action, and conservation. It will also form the basis of the AFN's National Climate Strategy expected to be completed late in 2021, as well the hosting of a second major National Climate Gathering in 2022.

Key resolutions that guide and inform these efforts include:

- 120/2016, Establish a First Nations specific committee under the Species at Risk Act



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- 64/2018, Indigenous Protected and Conserved Areas – Pathway to Canada Target 1: Conservation 2020 Initiative
- 58/2018, First Nations Response to Chronic Wasting Disease
- 66/2018, North American Caribou Protection, Conservation, Management, and Recovery
- 03/2019, The Convention on Biological Diversity (CBD)
- 04/2019, Support for Food, Environment, Health and Nutrition of First Nations Children and Youth (FEHNCY) Study
- 05/2019, Declaring a First Nations Climate Emergency
- 95/2019, First Nations full partnership in the implementation of the Pan-Canadian Approach to Species at Risk Conservation in Canada
- 17/2020, Support for First Nations Climate Leadership, Food Sovereignty, Environmental Protection, Stewardship and Conservation



What is the history of this issue and how does it impact First Nations?

In this era of decolonization and reconciliation, Canadian law and policy must support the self-determination of First Nations, which has been severely undermined by colonial policies. The AFN rejects colonial approaches, while seeking to support First Nations' self-determination over their lands, territories, and resources.

First Nations have opted for a variety of ways to exercise their self-determination within this colonial context. Some First Nations exert self-determination through statute, such as the *First Nations Lands Management Act* or legislation specific to their Nation; others exert self-determination through historic treaties; while others seek to negotiate agreements that would recognize their territorial integrity and self-determination, such as through a modern treaty. Still other First Nations reject Canada's assertions of sovereignty outright and seek to exercise their self-determination through their own laws. Many First Nations use a combination of the above approaches to exercise self-determination.

Canada's policies and processes must recognize and respect the unique priorities and approaches that each First Nation chooses to pursue, and the AFN seeks to support each First Nation regardless of its approach. The AFN Lands Sector is focused on finding opportunities to support First Nations' self-determination through advocacy, policy and legislative initiatives, and by facilitating the cross-pollination of First Nations approaches through data collection and information sharing.

How has the AFN's recent advocacy affected this area?

In collaboration with the Chiefs Committee on Lands, Territories and Resources (CCoLTR), the AFN Lands Sector is supporting First Nations' self-determination over lands, territories, and resources through work on specific claims, Additions-to-Reserve (ATR), and federal approaches to the recognition of First Nations Title.

SPECIFIC CLAIMS

In 2020, the AFN passed resolution 09/2020, *Jointly Develop a Fully Independent Specific Claims Process*, calling on Canada to work directly with the AFN and the CCoLTR to develop an Independent Centre for the Resolution of Specific Claims consistent with the United Nations Declaration on the Rights of Indigenous Peoples (UN Declaration) and based on the following principles identified by First Nations during an 2019 AFN dialogue process:



1. **The Honour of the Crown** – The specific claims process must be consistent with the Honour of the Crown.
2. **Independence of all Aspects of Claims Resolution** – All aspects of the specific claims process must be handled independent of Canada.
3. **Recognition of Indigenous Laws** – The specific claims process must provide due recognition to the laws, legal orders and dispute resolution mechanisms as articulated by participating First Nations.
4. **No Arbitrary Limits on Compensation** – There must be no financial constraints, such as the \$150-million cap, on the jurisdiction of the Specific Claims Tribunal.

In 2021, the AFN finalized its draft Proposal and released it publicly for comment. All comments are being given full consideration to support AFN advocacy efforts and provide a clear First Nations vision for specific claims reform.

It is anticipated that Crown-Indigenous Relations and Northern Affairs Canada (CIRNAC) will require Cabinet approval prior to any substantive reform. The AFN will seek opportunities to participate highlighting the minimum standards for redress mechanisms outlined in the UN Declaration and AFN resolution 09/2020. If successful, the AFN and Canada will work together through a transparent process to jointly develop legislation and a fiscal framework to create a fully independent specific claims center consistent with the AFN Proposal and mandates.

ADDITIONS TO RESERVE (ATR)

In 2018, following a several federal unilateral legislative changes with implications for First Nations and land management, Chiefs-in-Assembly passed AFN Resolution 94/2018, *Reject Canada's Approach to Additions to Reserve Legislation*, which reaffirmed AFN mandates to reform the ATR process. In 2019, the federal Minister committed to work with First Nations to redesign the ATR policy. This, along with consistent AFN advocacy to engage resulted in the creation of a new bilateral Lands Table in 2020, focused on ATR reform and related land management issues. Through the Lands Table the AFN is seeking to ensure that ATR policy reform includes a robust review of the 2016 ATR policy and process, and meaningfully engages with First Nations.

The 2021 federal budget committed \$43 million over three years to support ATR policy re-design and to address an existing backlog of over 1300 ATRs.



The Lands Sector is seeking opportunities to identify ongoing challenges with the existing ATR Policy and process and will advocate for resources to support First Nations direct involvement in ATR review and reform.

FIRST NATIONS TITLE

AFN resolutions clearly reject the federal Comprehensive Land Claims Policy (CLCP) and support the multitude of approaches First Nations choose to assert their Inherent Title and jurisdiction in engaging with the Crown. AFN advocacy seeks to support these efforts and ensure no approach or strategy is adversely impacted as a result.

Currently, the Government of Canada is engaging with First Nations on Title and Rights through a variety of federal processes, including the CLCP and Recognition of Rights and Self-Determination Discussion Tables. While it is critical that First Nations be able to discuss their chosen priorities through a joint process of their choosing, it is equally important that the positions taken by the Government of Canada be guided by clear and transparent principles consistent with the Honour of the Crown and the minimum standards of the UN Declaration.

A lack of transparency and publicly available information with respect to federal processes creates uncertainty for First Nations, while confidentiality requirements place First Nations at a distinct disadvantage relative to the Crown, which has the internal capacity to coordinate its position relative to all First Nations. Addressing this inequity will involve working with federal officials through an AFN-Canada joint process to seek information on the ways First Nations are choosing to implement and assert their inherent Title and jurisdiction over their lands and territories.

In 2020, the AFN began focusing on data collection on existing federal approaches that address First Nations Inherent Title and jurisdiction. Moving forward, the AFN is looking for opportunities to facilitate dialogue with and among First Nations on how they would like the AFN to support their existing efforts through advocacy, policy development, or information sharing.

Where do we hope to go in the future?

Self-determination requires that First Nations have access to and control over their lands and territories, while also being able to participate in fair, impartial and transparent processes that facilitate the review and settlement of Canada's outstanding lawful obligations to First Nations. Supporting First Nations' self-determination guides efforts by the AFN Lands Sector and will form the basis for advocacy in 2021-22, which includes finalizing a proposal to reform the specific



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claims process, and a review of Canada's ATR process, which would form the basis for engagement with First Nations in 2022.

Key resolutions that guide the AFN Lands Sector include:

- 05/2010, *Support for Band & Reserve Status for Whitewater Lake First Nation in Ontario*
- 26/2012, *Additions to Reserve Process and Policy Reform*
- 48/2015, *Develop a Federal Comprehensive Land Claims Policy Based on the Full Recognition of Aboriginal Title*
- 17/2016, *Call on Canada to Update the Additions to Reserve Policy*
- 91/2017, *Support for a Fully Independent Specific Claims Process*
- 94/2018, *Reject Canada's Approach to Additions to Reserve Legislation*
- 05/2019, *Support for a First Nations led Engagement Process on Nation Building*
- 09/2020, *Jointly Develop a Fully Independent Specific Claims Process*
- 14/2020, *Issues with ability to register land under 53/60*



What is the history of this issue and how does it impact First Nations?

First Nations understand that a healthy ecosystem is fundamental to the exercise of our rights and laws. This understanding enables First Nations to live and sustainability utilize and take care of the resources within their territories. Regrettably, water located within First Nations' lands and territories often become polluted from outside sources. Industrial practices have the potential to adversely impact water, which contravenes First Nations inherent and Treaty rights. For instance, unsustainable agricultural irrigation and the diversion of waterways (e.g., dams) can lead to decreased levels of water quantity. Additionally, the pollution emitted from oil and chemical spills can lead to degraded water quality, disrupt delicate ecosystems and further contribute to water-borne illnesses and diseases that contaminate plants, animals and humans. In addition to industrial threats, climate change exacerbates many of these challenges with extreme weather events, which cause increased occurrences of both flooding and droughts. Amongst both freshwater and marine environments, First Nations have long observed and experienced first-hand, the many harmful effects of climate change. Both industrial practices and climate change are threatening the sustainability of water and must be redressed before this becomes irreversible.

Since First Nations women are traditionally known as the caretakers of water, it is customary that they, along with youth and gender-diverse people, protect, conserve and if necessary, defend water. Based on these responsibilities, they are the ones to make decisions related to water. Colonialism has widely invalidated natural law and the way that water is respected. This has led to a disconnect where the intergenerational transfer of knowledge of the roles and responsibilities of women have not been passed down from generation to generation. In this way, First Nations have suffered an immense loss of traditional roles, responsibilities, and practices. Moreover, the vast majority of policies involving water lack a clear and sufficient gender-based analysis that adequately embodies the critical voices of First Nations women.

How has the AFN's recent advocacy affected this area?

The AFN Water Sector supports First Nations' stewardship over inland and marine waters by supporting the implementation of the AFN's wide-ranging mandates and initiatives focused on water stewardship, which include jurisdiction over water (i.e., title and rights) and conservation initiatives (e.g., protected areas, habitat loss, biodiversity preservation) as seen in resolutions such as: 01/2019, *First Nations Treaty and Inherent Rights to Water* and 45/2016, *National Water Conservation and Protection Strategy for The Great Lakes* for example.



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The Water Sector will also work to elevate the role of women with respect to First Nations' rights and responsibilities in the protection and conservation of water and to support the intergenerational transfer of knowledge of these roles and responsibilities.

Where do we hope to go in the future?

The Water Sector has recently built capacity by hiring new staff and will continue to increase capacity to better support the AFN's wide-ranging mandates. This includes ongoing work to seek additional funding for programming around water, particularly with respect to First Nations women and water. In that regard, the Water Sector will look to advance First Nations' water leadership, with a specific focus on the role of women. Depending on the state of the COVID-19 pandemic, this could be through the coordination of a National Water Walk in the spring of 2022. Moreover, the sector is planning to engage on water issues at international fora to elevate the voices of First Nations and their contributions to water stewardship.

The Water Sector has also taken up the role to advance the work on the Sustainable Development Goals (SDGs). With respect to the SDGs, the sector plans to engage First Nations in the development of a First Nations-led SDG strategy and framework, which outlines their own vision for sustainable development, once there is a mandate in place. The sector is also planning a virtual national forum on the SDGs in early 2022.

As the Water Sector continues to establish itself, we hope to address issues such as climate change, contaminants, marine conservation, and impact assessments as well as other priorities that might be brought forward. Given the range of issues that the sector will participate in, we anticipate much greater cross-collaboration, across sectors and even branches.

The Water Sector will also be putting forth two resolutions at the upcoming Special Chiefs Assembly in December 2021, one regarding traditional roles of First Nations women and another on SDGs.

Traditional Roles of First Nations Women: The AFN will be looking for support of First Nations inherent rights, title and jurisdiction related to water stewardship, which includes an emphasis on the traditional roles of First Nations women. Because First Nations women have such a deep and interconnected relationship with water, the proposed resolution calls on the Government of Canada, as well as all provinces and territories, to improve and strengthen partnerships with First Nations that respects First Nations control of water and decision-making in all processes concerning water protection and conservation. This resolution also calls on Canada to recognize and apply a Gender Based Analysis Plus (GBA+) lens to all work that pertains to water. To date, most water-related policy and legislation excludes the critical voices of women, youth and



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gender-diverse people. We must ensure that our voices are heard at all decision-making tables where water is concerned.

Sustainable Development Goals (SDGs): Further in support of our work, the sector will introduce a resolution that supports a First Nations-led pathway to the Sustainable Development Goals that represents a First Nations self-determined vision of sustainable development. The Sustainable Development Goals are part of a United Nations (UN) resolution, that measures progress on environmental issues such as climate change, environment, and water, as well as recognizing social and economic issues such as poverty, hunger, health, education, clean energy and gender equality, among others. Through this resolution, we will call on Canada to work in full partnership with First Nations on First Nations' self-determination and participation in efforts related to the SDGs, and to enhance data sovereignty for measuring progress towards the achievement of the SDGs. This resolution is timely as Canada has recently developed a new domestic strategy to implement the SDGs, called the 2030 Agenda National Strategy.

Other key resolutions which will be supported by the AFN Water Sector include:

- 01/2019, *First Nations Treaty and Inherent Rights to Water*
- 93/2017, *Legal Recognition for Kichizibi (Ottawa River) Watershed*
- 20/2017, *Respecting Inherent Rights and Jurisdiction over Waters Parallel to the Review of Canada's Navigation Protection Act*
- 131/2016, *Protecting the Rights of Water Protectors: Review and Amendment of Anti-Terrorism Act, 2015*
- 69/2016, *Support for the Peel River Watershed in Yukon Territory*
- 45/2016, *National Water Conservation and Protection Strategy for The Great Lakes*
- 49/2015, *Protection of Algonquin Sacred Waterfalls Area: Akikodjiwan Kichi Zibi (Chaudiere Falls, Ottawa River)*



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RIGHTS & JUSTICE BRANCH: RIGHTS SECTOR:
BILL S-3 AND FIRST NATIONS CITIZENSHIP
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What is the history of this issue and how does it impact First Nations?

Beginning in the 1850's, colonial governments in what is now known as Canada, created and forcibly impose their own systems of law that determined the identification of Indians and Bands, thereby unilaterally imposing a foreign system of citizenship on First Nations.

Decades of First Nations advocacy, led by First Nations women, has culminated in a series of successful court cases addressing embedded and remaining gender-based discrimination, most recently the [Mclvor](#) case of 2009 and the [Descheneaux](#) case of 2015. Canada has been forced to create amendments to the *Indian Act* as a result, forcing the creation of Bill C-3, *Gender Equity in Indian Registration Act* in 2011 and, after a successful challenge in *Descheneaux*, Bill S-3, *An Act to amend the Indian Act in response to the Superior Court of Quebec decision in Descheneaux c. Canada (Procureur général)* in 2017.

Bill S-3 has come into force and the intention is to remove all gender-based discrimination in the *Indian Act* as it relates to Indian registration. As noted by the government itself, it is estimated that the full implementation of Bill S-3 could result in 270,000 to 450,000 newly registered individuals in total. The increase in the number of registered Indians has significant implications not only for First Nations governments, but all governments. The First Nations-in-Assembly have identified numerous associated issues, including the lack of resources to support these individuals, particularly regarding critical infrastructure, and the potential for individuals falsely claiming to be Indian, Aboriginal or Indigenous.

How has the AFN's recent advocacy affected this area?

Resolutions regarding First Nations citizenship and registration have mandated the AFN's work in this area, such as mandates from resolutions 36/2015, *Indian Status Application Process*; 53/2015, *The Right of First Nations to Determine their individual and Collective identities*; 59/2016, *First Nations Citizenship*; 71/2016, *Ducheneaux Decision: First Nation jurisdiction on Citizenship and Identity*; and 30/2017, *Inherent Authority to Define Citizenship*. As a result of these resolutions, the AFN is focused on ensuring that First Nations are informed of what the federal government is doing and proposing, as well as providing outward facing analysis and discussion papers to bring awareness to this long-standing issue and generational impacts. The AFN continues to advocate the position that First Nations must lead the process of confronting and addressing the impacts of gender-based discrimination, "Indian Registration", and First Nations citizenship and membership.



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Where do we hope to go in the future?

The Government of Canada claims that sex-based discrimination in Indian registration has been eliminated, however, fails to recognize the residual impacts from the preceding decades of those discriminatory policies as well as other non-gender-based inequalities within the *Indian Act*.

First Nations must lead the process of ‘standing up’ our own laws and legal systems to define who belongs to our Nations and how that belonging interfaces with colonial governments and their obligations to recognize our inherent and Treaty rights, our rights affirmed in Section 35 of the *Constitution*, as well as our rights affirmed in the UN *Declaration on the Rights of Indigenous Peoples*.

The Rights Sector continues to focus upon existing mandates to engage First Nations laws, governance, and jurisdiction as a process for First Nations to lead the way on identifying who is First Nations. Our mandated work will continue to provide information to update First Nation-in-Assembly on active processes undertaken by government, ongoing communication, via AFN Regional Offices, and gathering of information on First Nations community experience with the impacts of Bill S-3. Future and current support for existing and new materials and outward facing products prepared by AFN will further support First Nations in understanding and charting their own paths, as the rights-holders, in the intersection between Bill S-3, band membership/membership codes, and the capacity to determine membership as an inherent right.

The federal election of 2021 delayed work throughout government; with the appointment of a new Minister of Indigenous Services Canada (Patty Hajdu -Thunder Bay—Superior North, ON) and a new Minister of Crown-Indigenous Relations (Marc Miller - Ville-Marie—Le Sud-Ouest—Île-des-Soeurs, QC) it is expected that this work will resume. Further the passage of the *United Nations Declaration on the Rights of Indigenous Peoples Act* into law on June 21, 2021, will likely motivate continued work on addressing First Nations citizenship issues. The AFN will continue to provide updates to First Nations and advocate for First Nations to lead this important work.



SECTOR UPDATE
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EMERGENCY SERVICES
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What is the history of this issue and how does it impact First Nations?

First Nations that are at risk of flooding, wildfires, critical infrastructure damage, or other hazards rely on federal, provincial, and territorial governments to provide support when an emergency is declared. This is problematic on many fronts as the unilateral approach taken by governments has left First Nations powerless to respond and protect their citizens from pending emergencies. Without culturally relevant emergency management regimes or dedicated funding, First Nations are at a severe disadvantage and face additional risks due to a lack of equipment, personnel, and developed plans that incorporate prevention/mitigation strategies, training, emergency operations centres, and evacuation procedures in the event of an emergency or disaster.

How has the AFN's recent advocacy affected this area?

The AFN Emergency Services Unit (ES) has been advocating for First Nations to assume control of their own emergency management regimes and gain access to adequate and appropriate funding. Recent advocacy efforts in this area include the promotion of the development of First Nations-led emergency management regimes and ensuring all Indigenous Services Canada emergency management policies, processes, and procedures are inclusive of regional First Nations representation and contribution.

The ES Unit is mandated by the Chiefs-in-Assembly and includes Resolutions 03/2015, *First Nation Involvement in Emergency Preparedness*; 83/2019, *First Nations Control of Emergency Management*; 84/2019, *Call for Emergency Operations Management Planning in First Nations*; 85/2019, *Support for A Proposed First Nations Training Institute on Emergency Management*; and 94/2017, *Support for the Immediate Inclusion of First Nations in the Development of Emergency Management Agreements*.

In March of 2021, Emergency Services held the initial strategic planning session to develop a strategic plan for First Nations care and control of emergency management. The full development of the strategic plan is projected over a five (5) year period and will seek to ensure First Nations eligibility to assume the role and responsibility of the administration of emergency management programming from the federal government.

As of July 2021, the ES Unit has co-led and co-developed the Steering Committee on First Nations Home Flood Insurance Needs project with Indigenous Services Canada's Emergency Management Directorate. The focus of this project is to examine the issues and challenges faced by First Nations accessing flood insurance products.



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Where do we hope to go in the future?

The ES Unit will continue to develop and maintain respectful working relationships with federal, provincial, and territorial governments to increase cooperative and collaborative emergency management processes, and work towards the eventual transfer of emergency management responsibility, administration, and direct funding to First Nations.

The future goal for First Nations emergency management is for First Nations to become fully autonomous in driving and developing their own emergency management programs, and developing partnerships with federal, provincial, and territorial governments, and regional emergency management organizations.



What is the history of this issue and how does it impact First Nations?

The Canadian Residential School system was in existence for well over 100 years. Residential schools were not schools but rather institutions of assimilation and racism which were designed to forcibly remove First Nations children from their families and to eliminate their ties with their culture and nations. Residential Schools implemented a government mandated policy of cultural genocide and erasure against First Nations people. Many survivors suffered neglect and extreme forms of abuse including physical, sexual, and emotional abuse while attending these institutions. The legacy of Residential Schools has had many negative and lasting impacts upon generations of First Nations people.

Following many years of advocacy and the filing of a class action lawsuit in 2010, a negotiated agreement entitled the *Indian Residential School Settlement Agreement (IRSSA)* was reached between survivors of residential schools, the Assembly of First Nations (AFN), the federal government and representatives of the church entities which operated the residential schools. IRSSA provided for common experience payments and an Independent Assessment Process (IAP) to compensate survivors for the harms and abuse they suffered while attending these institutions. IRSSA also provided for the creation of the Truth and Reconciliation Commission of Canada (TRC). The TRC was mandated to share the experiences of residential school survivors and families, and to share this information with all Canadians. In 2015, the TRC produced a comprehensive Final Report with 94 Calls to Action, as well as 10 Principles for Reconciliation. The AFN fully supports the mandate and the work that was done by the TRC and continues to advocate for the complete implantation of all 94 Calls to Action.

How has the AFN's recent advocacy affected this area?

On May 27, 2021, Tk'emlups te Secwepemc announced that they had 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 children who attended these institutions.

On July 6, 2021, the AFN held an Annual General Meeting (AGM) where the Chiefs in Assembly passed emergency Resolution 01/2021, *Demanding Justice and Accountability for the Missing and Unidentified Children of Residential Schools*. The Resolution calls upon the federal government to work with First Nations in full partnership to take immediate action to recover all documents and relevant information to help inform search and investigations moving forward. Resolution 01/2021 fully supports the United Nations Resolution 60/147 "UN Basic Principles and



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Guidelines on the Right to a Remedy and Reparation for Victims of Gross Violations of International Human Rights Law and Serious Violations of International Humanitarian Law.” The Chiefs in Assembly also passed emergency Resolution 02/2021, *Preliminary Examination of the Prosecutor of the International Criminal Court*, which directs the AFN to support investigations of former residential school sites, support an intervention at the International Criminal Court (ICC), and invite the International Commissioner on Missing Persons to work with First Nations.

The federal government and the church entities must fully cooperate and work in full partnership with all First Nations who wish to undertake ground searches for the unmarked graves of their lost loved ones. The AFN is advocating for the disclosure of all documents that are in the possession of the federal government and the Catholic Church entities. In accordance with emergency Resolutions 01/2021 and 02/2021, the AFN is calling for an investigation by an international representative or rapporteur into the unmarked graves found at former residential school sites.

On October 27, 2021, the Vatican announced that Pope Francis has agreed to come to Canada “to help ongoing efforts at reconciliation with Indigenous people.” No date has been set for the visit and there is no commitment that Pope Francis will make a formal apology during his visit. On December 17-21, 2021, a delegation of Residential School survivors and leaders will be travelling to Rome to meet with the Pope Francis. The delegation has been organized and sponsored by the Canadian Council of Catholic Bishops (CCCB) and the purpose of the meeting is to “provide Pope Francis with a unique opportunity to hear directly from Indigenous peoples, express his heartfelt closeness, address the impact of colonization and learn more about the Church involvement in residential schools”.

The AFN Justice Sector has created a standing bi-weekly regional check-in call to help fill the information gap and track the progress First Nations are making with ground searches and recovery efforts. These calls provide a forum for sharing information and resources regionally for those First Nations who want to start the process of searching for unmarked graves.

Where do we hope to go in the future?

The AFN continues to demand the full implementation of the TRC’s 94 Calls to Action and complete transparency regarding documents and information in the possession of the federal government and the Catholic church entities. The AFN remains committed to ensuring First Nations have the resources to carry out searches into unmarked graves at former residential school sites and that those responsible are held accountable. Furthermore, the AFN feels strongly that there must be greater support for healing for First Nations people, which incorporates



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ceremony and cultural protocols. The AFN stands in solidarity with Residential School Survivors and the families who are seeking justice and healing.



What is the history of this issue and how does it impact First Nations?

Canada has created a system of legal and policy denial of First Nations' Treaty rights, inherent rights, title, and jurisdiction. First Nations have consistently advocated against these systems of legal and policy denial, and instead seek affirmation and recognition of their rights. In 1985, Canada created the Community-Based Self-Government Policy to address issues of Aboriginal self-government. In 1995, Canada created and unilaterally imposed the Inherent Right to Self-Government Policy (IRSG) on First Nations. The IRSG, along with the Comprehensive Land Claims Policy (CLCP) are key federal policies which guide Canada's approach to funding and negotiating modern Treaty agreements or self-government agreements with First Nations and other Indigenous Peoples.

First Nations have been consistently critical of these policies because they do not align with the full recognition of First Nations Rights, title and jurisdiction and often require a release or surrender of rights. Moreover, these policies have failed to keep pace with Canadian law, are incompatible with the *United Nations Declaration on the Rights of Indigenous Peoples*, and often fail to include adequate resourcing to support final agreements. The IRSG rejects First Nations sovereignty, subordinates our inherent rights to the *Charter*, denies our inherent jurisdiction, and requires individual negotiations over national agreements. In 1995, the Chiefs-in-Assembly mandated the AFN engage the IRSG, specifically through Resolution 5/95, *Proposed Federal Policy Framework on the Inherent Right of Self-Government*, and has consistently mandated the AFN to oppose these policies ever since.

Most recently, Canada has claimed a mandate outside the IRSG policy for "exploratory tables" under the "[Recognition of Indigenous Rights and Self-Determination discussion tables](#)" (RIRSD) structure; however, Canada will not reveal this mandate and to date has not negotiated a single final agreement outside of IRSG parameters though some 80+ tables are active and some 150 unique negotiations overseen by Crown-Indigenous Relations and Northern Affairs Canada (CIRNAC). The same colonial patterns in the IRSG appear to be present, specifically forcing negotiation of inherent rights (rather than outright recognition/affirmation) and the creation of three (3) tiers of subjects (negotiable, delegated, non-negotiable) which has led to outright rejection by the Chiefs-in-Assembly via Resolution 67/2018, *Rejection of the Recognition and Implementation of Indigenous Rights Framework and Associated Processes*. In 2019, following the collapse of the federal 'Recognition of Indigenous Rights Framework process,' Canada announced its desire to work with Indigenous partners, including the AFN, to finally replace the IRSG. The AFN was unable to support this approach because the timelines were insufficient and did not allow for the full participation of First Nations or Chiefs-in-Assembly. As an alternative,



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SECTOR: INHERENT RIGHT TO SELF-GOVERNMENT POLICY
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AFN Resolution 25/2019 *Support for a First Nations Led Engagement Process on Nation Building* reiterates previous resolutions rejecting the CLCP and IRSG and calls for a process to replace existing rights-based policies through a First Nations-led process.

Canada continues to negotiate with First Nations in over 150 Section 35 tables and processes, including over 80 RIRSD tables. There is a lack of clarity respecting these processes, a gap which must be addressed to ensure First Nations are better positioned to achieve the full recognition of their rights and are not funneled into systemically unfair and racist colonial processes that diminish and undermine our rights, specifically the inherent right to self-government.

How has the AFN's recent advocacy affected this area?

As mandated by the Chiefs-in-Assembly the AFN is advocating for a First Nations driven process on IRSG removal, along with other key policies. AFN Resolutions clearly reject the CLCP and IRSG and support the multitude of approaches First Nations choose to assert their inherent rights, title and jurisdiction and engage with the Crown. AFN advocacy seeks to support these efforts of First Nations and ensure no individual Nation's approach or strategy is adversely impacted as a result. Through Minister Bennett's 2019 Mandate Letter, Canada committed to continue "ongoing work with First Nations, Inuit, and Metis to redesign the Comprehensive Claims and Inherent Rights Policies." In late 2019, CIRNAC agreed to fund a joint process based on existing AFN mandates. Minister Bennett's ['Supplementary Mandate Letter'](#) of January 2021 did not specifically build upon this commitment.

The AFN continues to seek details about ongoing Discussion Tables and other federal approaches facilitating the negotiation of Section 35 rights outside the CLCP and IRSG framework. The lack of publicly available or updated information creates uncertainty for First Nations, while confidentiality requirements place First Nations at a distinct disadvantage when negotiating with the Crown, which is able to coordinate internally.

CIRNAC has yet to meet with the Rights Sector though they have outlined a Terms of Reference for the Joint Working group to replace the IRSG. The AFN is continuing the work on the study and scope of potential IRSG removal processes and improvement of rights assertion processes and avenues. The AFN is operating under Resolutions specific to IRSG which supports that legislation and regulation to be aligned with First Nations Inherent and Treaty rights, title and jurisdiction which will require removing/repealing the outdated IRSG policy for a First Nations led approach. These include:



- Resolutions 12/2016 – *Moving Beyond Federal Legislation to Establish a Nation to Nation Relationship*
- Resolution 08/2018 – *Implementing Canada’s Recognition and Implementation of Indigenous Rights Framework and Clarifying the role of the AFN*
- Resolution 39/2018 – *First Nations Determination of the Path of Decolonization*
- Resolution 67/2018 – *Rejection of the Recognition and Implementation of Indigenous Rights Framework and Association Processes*
- Resolution 25/2019 – *Support of a First Nations led Engagement Processes on Nation Building.*

Where do we hope to go in the future?

While Canada committed to review the CLCP and IRSG, there remains an urgent need to ensure this review includes all First Nations, while also being respectful of the multitude of ways in which First Nations assert their rights. The AFN is committed to supporting First Nations’ rights holders, no matter how they choose to engage with the Crown and will seek to ensure all federal policies are consistent with the full recognition of First Nations Treaty rights, inherent rights, title, and jurisdiction.

The objective for joint AFN–Canada discussions on CLCP and IRSG is to review all existing federal approaches designed to facilitate the recognition or negotiation of First Nations rights. This work could be used to support a First Nations driven process to create a unified and consistent federal approach to the recognition of First Nations Treaty rights, inherent rights, title and jurisdiction— one that creates space for the multitude of ways First Nations may choose to engage. Such a process would require further discussion and direction from First Nations leadership.

In the short-term, the AFN is advocating for greater transparency about existing federal processes so that First Nations are better positioned and aware when meeting to discuss their priorities and objectives. The AFN is also committed to developing updated statistics and data for public consumption about the various federal processes that currently exist, and the ways in which First Nations are choosing to assert their rights.

The AFN Rights Sector and the Lands Sector will host a Chiefs Committee on Lands, Treaty and Rights to discuss possible approaches to create positive momentum respecting a First Nations Framework on Rights and Title which includes full First Nations’ authority and jurisdiction over their lands, territories, resources and peoples, including the right to self-government.



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SECTOR: INHERENT RIGHT TO SELF-GOVERNMENT POLICY

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Part of this work is to ensure the assertion of First Nations Inherent Rights to self-determination are clearly understood to be inalienable and flow from collective occupation, ownership and control of First Nations lands, territories and resources, and are not subject to the racist Doctrine of Discovery and terra nullius and/or assumed Crown sovereignty. With the passage into law of the *United Nations Declaration on the Rights of Indigenous Peoples Act* on June 21, 2021, significant progress has been achieved. This law repudiates these doctrines in its preamble which is a significant positive sign as this is the first time legislation has explicitly rejected these doctrines. The federal election of 2021 delayed work throughout government; with the appointment of a new Minister of Indigenous Services Canada (Patty Hajdu -Thunder Bay—Superior North, ON) and a new Minister of Crown-Indigenous Relations (Marc Miller - Ville-Marie—Le Sud-Ouest—Île-des-Soeurs, QC) it is expected that this work will resume.

The outcome of a repealed or replaced IRSG and/or accompanying federal policies and approaches will facilitate the recognition of First Nations inherent right to self-government by the Crown and approaches that are consistent with First Nations human and Inherent Indigenous rights which include the right to self-determination and self-government. This is to be aligned to ensure First Nations self-government is fully supported through sufficient financial and human resources on an ongoing basis. The AFN will continue to provide updates to First Nations on this important work and support all First Nations in their efforts to overcome systemic barriers to our rights.



What is the history of this issue and how does it impact First Nations?

Issues regarding justice within and among First Nations peoples has historically been self-administered in accordance with each Nations' laws and systems of governance. However, due to the imposition of *Indian Act* policies, and discriminatory beliefs and actions against First Nations, First Nations people are vastly over-represented in Canada's justice system. According to Statistics Canada, Indigenous adults accounted for 30% of admissions to provincial or territorial custody and 29% of admissions to federal custody while only representing approximately 4% of the Canadian adult population. Meanwhile, Indigenous youth aged 12-17 made up of 43% of admissions to correctional facilities even though they represented 8% of Canada's youth population.

Past attempts to redress this situation have not addressed the continued growth of incarceration rates and negative interactions First Nations people experience with the justice system. Under s. 718(e) of the *Criminal Code* (otherwise known as the Gladue principle), judges are required to consider sanctions other than imprisonment for all offenders, and specifically pay attention to the unique circumstances of Aboriginal offenders. However as recent studies¹ have shown, the enactment of s.718(e) benefits non-First Nations people more than First Nations individuals. This is reflected in that fact that over-incarceration has only worsened since 2008. Statistics Canada reports a 30% increase of Indigenous people admitted to provincial custody and a 31% increase for those in federal custody since 2007/2008. The rates for Indigenous youth have risen nearly 40% within the same timeframe.

How has the AFN's recent advocacy affected this area?

The Chiefs-In-Assembly passed Resolution 07/2020, *Call for Reform to Address Institutional Racism in the Justice System*, directing the AFN to advocate for increased funding for Gladue reports, enhanced training for Gladue writers, and the increased implementation of the Gladue principle across Canada's justice system. Further, the resolution calls for sustained and increased funding for restorative and culturally informed justice programming in Canada while directing the AFN to continue advocating for all legislative and programmatic reforms in the justice system as outlined in Calls-to-Justice within the Final Report of the Inquiry into Missing and Murdered Indigenous Women, Girls, and 2SLGBTQQIA+ people.

As a direct result of the AFN's advocacy in this matter, in January 2021, Prime Minister Justin Trudeau mandated the Minister of Justice and Attorney General of Canada to address systemic

¹ <https://www.justice.gc.ca/eng/rp-pr/jr/gladue/p3.html>



inequities in the criminal justice system, including to promote enhanced use of pre- and post-charge diversion and to better enable courts to impose sentences appropriate to the circumstances of individual cases. The mandate letter also directed the Minister to develop an Indigenous Justice Strategy (IJS) with First Nations to address systemic discrimination and the overrepresentation of Indigenous people in the justice system.

The AFN continues discussions with the federal government regarding the development of a First Nations component to the IJS. The main objective of these discussions is to ensure that the IJS addresses issues such as systemic racism within Canada's justice system, fuller implementation and expansion of the Gladue principle (including the establishment and funding of First Nations and Gladue Courts), improving jury selection processes, and recognizing First Nations' jurisdiction over non-colonial models of justice.

Where do we hope to go in the future?

The AFN will carry out its mandate to advocate on matters regarding Justice and the First Nations Justice Strategy through the AFN's Justice Sector that was established in early 2020. Continued dialogue via different forums and discussion tables with First Nations will guide the AFN's advocacy to create substantial reforms to Canada's criminal justice system to address systemic discrimination and the problem of overrepresentation in provincial/territorial and federal corrections.



What is the history of this issue and how does it impact First Nations?

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

On June 3, 2021, the AFN released 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). The First Nations National Action Plan Framework is entitled “*Breathing Life into the Calls to Justice*” and was developed with direct input from First Nations survivors of gender-based violence and families of missing or murdered loved ones. The First Nations National Action Plan will contribute to the federal government’s MMIWG National Action Plan to End Violence Against Indigenous Women, Girls and 2SLGBTQQIA+ People (MMIWG2S+ NAP) and will be a driving force in the implementation of the 231 *Calls for Justice*.

How has the AFN’s recent advocacy affected this area?

The AFN continues to advocate that the voices of the families of missing and murdered First Nations women and girls are heard and respected. This important work will ensure that the National Inquiry’s *Calls for Justice* are implemented by all governments, private sectors and service providers.

The work of 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 2SLGBTQQIA+ people. Following the Annual General Assembly, the AFN Executive passed Resolution 08/2021 providing the mandate for the next phase of work to address MMIWG by calling upon the federal government to maintain a “families first” and distinction-based approach to all activities going forward. The resolution also directs the AFN to continue advocating for and to seek resources to carry out activities in support of full and meaningful implementation of the *Calls for Justice* and MMIWG2S+ NAP.

Where do we hope to go in the future?

The AFN believes it is of the utmost importance to raise awareness, and to work in partnership with governments in developing and implementing action plans, policies and partnerships as contained in the 231 *Calls for Justice* of the National Inquiry into Missing and Murdered



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MMIWG

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Indigenous Women and Girls. 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.



What is the history of this issue and how does it impact First Nations?

Since 1992, First Nation Police Services have been governed by 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, which has been a key factor in the inequities existing in First Nations policing when compared to non-First Nations police systems. Although funding for the FNPP has been renewed several times, the program's budget topped at \$105 million in 2007-2008 and remained frozen until 2018, when the federal government dedicated \$291 million to the FNPP. The investments however did not facilitate the expansion of the program, leaving many First Nations without police services.

First Nations leaders, and the Assembly of First Nations (AFN), have long advocated for changes to the FNPP. More specifically, calls have been made by First Nations leaders, advocates, and experts for a legislative framework that would give First Nations police access to funds and resources that are otherwise unavailable under the FNPP. As a result of this advocacy, the Minister of Public Safety and Emergency preparedness announced in 2020 that the federal government would work with First Nations to create a federal framework that recognizes First Nations policing as an essential service. The AFN has since been actively engaging with First Nations, the federal government, and other important stakeholders to ensure First Nations police receive equitable funds and resources they require to carry out their duties to First Nations citizens.

How has the AFN's recent advocacy affected this area?

At the December 2020 AFN Annual General Assembly, the Chiefs-In-Council passed Resolution 07/2020, *Calls to Reform and Address Institutional Racism in the Justice System*, which directed the AFN's advocacy toward the development of a new federal legislative framework that would provide equitable funding and resources for First Nations policing services. To meet this mandate, the AFN organized a National Forum on Policing and Justice in March 2021 wherein participants shared ideas of how to address the inequities First Nations police service face, and what a new legislative framework could look like.

Since the National Forum, the AFN struck a First Nations policing taskforce committee to provide support and guidance for the development of a new First Nations policing legislative framework. The committee is comprised of regional representatives, technical experts, and executive members of the First Nations Chiefs of Police Association. The committee's work takes a principled approach to ensuring that the legislative framework fully recognizes and financially



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supports First Nations policing as part of the Crown's fiduciary duty to First Nations people. The taskforce meets these ends by convening every month to create the principles, values, and approaches to developing the First Nations policing legislative framework.

Ensuring that First Nations voices are included in the development and implementation processes of a new First Nations policing legislative framework is a top priority of the AFN. The Justice Sector has set up engagement processes with each of the AFN's 10 regions so they can engage with key stakeholders to identify priority policy areas that affect First Nation policing in their region. These regional engagement processes will ensure any new First Nations policing legislation fits the unique needs and circumstances of First Nations themselves.

Where do we hope to go in the future?

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. Regional engagement processes will continue into the New Year as the AFN coordinates additional National Forums on First Nations policing to gain further insights on what is needed for the new legislative framework. Above all, the AFN will continue to advocate for upholding the jurisdiction of First Nations with respect to community safety, policing and by ensuring Canada respects First Nations' laws, customary traditions, and the inherent rights of all First Nations peoples.



What is the history of this issue and how does it impact First Nations?

Treaties between First Nations and colonial governments are the ethical and legal bedrock of Canada. The Royal Proclamation of 1763, amongst other agreements/documents/histories indicate the sovereign and sacred nature of these Treaties both historic and modern. Colonial governments have not respected or honoured Treaties fully. As Canada itself states [“\[O\]ver many centuries these relationships were eroded by colonial and paternalistic policies that were enacted into laws.”](#)

[Canada’s Speech from the Throne in 2019](#) stated that the government of Canada would “take new steps to ensure the Government is living up to the spirit and intent of the treaties, agreements, and other constructive arrangements made with Indigenous Peoples.” In 2019, the Minister of Crown-Indigenous Relations was mandated to co-develop a new distinctions-based process for the on-going review, maintenance, and enforcement of Canada’s treaty obligations, supported by a new National Treaty Commissioner’s Office (TCO) to be designed and established with Indigenous partners.

To date there are myriad Resolutions from the Chiefs-in-Assembly that engage the issues of respect for Treaties, both historic and modern. Most recently there are two specific Resolutions that mandate exploring the creation of a TCO by the AFN: Resolution 78-2015 - *Establish a Treaty Commissioner’s Office* and Resolution 87-2019 - *New Process for Negotiation and Implementation of International Treaties*.

How has the AFN’s recent advocacy affected this area?

Decades of First Nations and AFN advocacy for our Treaties being upheld, respected, affirmed and fully implemented led to Resolutions 78/2015 and Resolution 87/2019. The federal commitments referenced above represent a key opportunity for Treaty Nations. Further, the *United Nations Declaration on the Rights of Indigenous Peoples Act* could have significant impacts in support of Treaty recognition, respect, affirmation, and implementation. The federal election of 2021 delayed government work on the TCO but with the appointment of a new Minister of Crown-Indigenous Relations on October 26, 2021 it is expected that work will resume on this important issue.

The AFN was mandated to support Treaty First Nations to jointly establish a TCO. This work must be defined by each Treaty region and supported by the Chiefs-in-Assembly. The AFN successfully advocated for funding to support Treaty Nations to explore the development of a TCO by facilitating regional Treaty Nation engagement. Throughout 2020-2021, despite the COVID-19



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pandemic, the AFN supported those Treaty regions that wanted to conduct this work. The outcome of this regionally-led work will support a refined and informed approach for the creation of a TCO in the future with a focus on how engagements can fully respect the critical ceremonial protocols necessary to underpin this sacred and long-overdue work.

Where do we hope to go in the future?

The AFN's current Resolution mandates are specific to Treaties 1-11. The Parliamentary Standing Committee on Indigenous and Northern Affairs has a mandate to examine provincial Treaty Commissioners in both British Columbia and Nova Scotia, suggesting the government may be contemplating a broader scope for the TCO beyond simply the 'numbered' Treaties. The AFN is also aware that Modern Treaty First Nations are advancing a '[Modern Treaty Implementation Review Commission](#)' proposal, which is likely inconsistent with other First Nations views on the proper role of a Treaty Commissioner.

There are at least two potential vehicles for establishing a TCO, including passing federal legislation or issuing an Order-in-Council. Passing federal legislation takes considerable time and political will yet is generally considered to be 'future proof' (hard to unwind at a later date). Legislation is developed unilaterally by Parliament, although in light of Bill C-15 and ongoing legal developments by the Courts this may change.

An Order-in-Council, by contrast, can be developed quickly by the federal Cabinet, although by the same token, such an instrument can be changed quite easily by future governments. An Order-in-Council is related to the Royal Prerogative, and hence linked to the same powers the government used to enter into treaties. This linkage suggests it might be more possible to use a process to develop an Order-in-Council which is more consistent with the Treaty Relationship.

The Rights Sector will continue to work with the Chiefs-in-Assembly to follow-up on the state of the evolving federal mandate, and on AFN's work completed thus-far. The Rights Sector will also share with First Nations the results of our work completed in assessing options for Treaty Nations to establish a TCO. First Nations must address the question of how best to support Treaty Nations as they seek to have their Treaties upheld, respected, affirmed, and fully implemented in light of Canada's explicit intention to create a new National Treaty Commissioner's Office.



What is the history of this issue and how does it impact First Nations?

The United Nations Declaration on the Rights of Indigenous Peoples (UN Declaration) is an international legal instrument developed by First Nations and other Indigenous Peoples and groups that was adopted by the United Nations (UN) on September 13, 2007, after almost 25 years of collaboration between UN member states and Indigenous Peoples from around the world. Indigenous leaders from Turtle Island played a significant role in its development, including the drafting and negotiating to enshrine the rights that “constitute the minimum standards for the survival, dignity and well-being of the indigenous peoples of the world,” per article 43 of the UN Declaration. Almost every AFN Resolution since 2011 explicitly references Articles of the UN Declaration.

The UN Declaration required domestic implementation legislation to be operationalized in Canada. Former Member of Parliament, Romeo Saganash, tabled such legislation in the form of Private Member’s Bill C-262. However, in 2018, conservative Senators utilized procedural tactics to block Bill C-262 in the Senate and the bill failed. The Government of Canada then further committed that it would introduce co-developed legislation to implement the UN Declaration by the end of 2020.

When Bill C-262 was blocked by filibuster tactics in the Senate, Chiefs-in-Assembly passed a resolution in December 2019 calling for a government bill modelled on Bill C-262. AFN Resolution 86-2019, *Support for Federal Legislation to Create a Framework to Implement the UN Declaration*, states that a government implementation bill must be at least as strong as Bill C-262.

In December 2020, the AFN’s Annual General Assembly discussed UN Declaration implementation. In February 2021, the AFN held a two-day National First Nations Leadership Forum on Bill C-15 where hundreds of First Nations leaders discussed this important legislation from a diversity of perspectives. After hearing First Nations leadership on the proposed legislation, the AFN raised 12 recommendations through presentation to the House of Commons Standing Committee on Indigenous and Northern Affairs (INAN) to make Bill C-15 even stronger. Five recommended amendments were accepted which included the explicit rejection of all doctrines of superiority and reference to the *Doctrine of Discovery* and *terra nullius*; reducing the time for the Crown to table a National Action plan from three years to two; adding the term ‘systemic racism’ referring to elimination of violence and discrimination; and to explicitly reference Section 35 of the *Constitution Act, 1982* and the underlying constitutional principle and value of protecting Aboriginal and Treaty rights, where the following statement has been added,



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RIGHTS & JUSTICE BRANCH: RIGHTS SECTOR: UNITED NATIONS DECLARATION ON THE RIGHTS OF INDIGENOUS PEOPLES ACT November 2021

“Canadian courts have stated that such rights are not frozen and are capable of evolution and growth,” and including reference to pluralization of the word ‘purposes’ as a grammatical amendment. Bill C-15 received Royal Assent on June 21, 2021; the final version contained the AFN’s five (5) proposed amendments.

How has the AFN’s recent advocacy affected this area?

After on-going advocacy by the AFN, the 2021 federal budget included \$31.5 million over the next two years to support the co-development of the *United Nations Declaration on the Rights of Indigenous Peoples Act* National Action Plan (NAP) that must be tabled by the Crown within two (2) years.

The 2021 federal election delayed progress on the NAP as federal ministries were in ‘caretaker’ mode for months. In July of 2021 it was confirmed that the designated federal Ministry responsible for the legislation and the mandated activities contained therein would be the Department of Justice. With the announcement of a new federal cabinet on October 26, 2021, and Minister David Lametti continuing his role as the Minister of Justice and Attorney General the government is moving forward with the development of the NAP, as well as the other two operational components of the legislation, which are an ongoing process of annual reporting to parliament on implementation progress and an ongoing process to ensure Canada’s laws are consistent with the UN Declaration. All of these processes are mandated to be conducted in consultation and collaboration with Indigenous peoples and must use a co-development approach.

Where do we hope to go in the future?

The historic *United Nations Declaration on the Rights of Indigenous Peoples Act* is now law. As set out in Resolution 26/2019, the AFN Chiefs-in-Assembly “call upon the Government of Canada to develop with First Nations a national action plan to implement the UN Declaration.” The AFN continues to advocate for creation of a National Action Plan within two years, to be led by First Nations.



What is the history of this issue and how does it impact First Nations?

In 2019, First Nations-in-Assembly passed Resolution 79/2019, *Action Plan for First Nations Homelessness On and Off-Reserve*. This resolution mandates that the AFN develop a national First Nations homelessness strategy, which aims to improve the delivery of federal government programs as well as the related social and fiscal mechanisms to address homelessness for First Nations people. It advocates for a comprehensive, multi-partner approach to reducing, preventing, and ultimately eradicating First Nations homelessness in alignment with the goal of transitioning First Nations housing and infrastructure to First Nations management, control, and care.

Given the urgent need to address First Nations homelessness, the AFN and Employment and Social Development Canada (ESDC) are working to co-develop a national *Action Plan for First Nations Homelessness On and Off-Reserve*.

How has the AFN's recent advocacy affected this area?

The AFN continues to advocate to Canada for sustainable funding so that First Nations may exercise their right to care for members experiencing homelessness no matter where they live. The AFN has also provided recommendations to ESDC on establishing funding infrastructure so that the First Nations distinctions-based funding stream of *Reaching Home: Canada's Homelessness Strategy* can support programs and services addressing First Nations homelessness.

Three research projects on First Nations homelessness, including a literature review, environmental scan, and systems map of existing programs and services across Canada, were commissioned by the AFN to better understand the impact of homelessness on First Nations and identify opportunities for improved service delivery and coordination to meet the needs of First Nations experiencing homelessness.

The AFN is currently planning a series of engagement activities to help ensure that the development of a national First Nations homelessness strategy is First Nations-led and in alignment with First Nations' needs, priorities, and realities. Input will be sought from First Nations leadership and technicians during regional engagement sessions across Canada beginning in early 2022. AFN staff have also begun holding discussions with service providers, advocates, and other experts working in the homelessness sector in every region across Canada. A national survey for First Nations leadership and staff, service providers, and community



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members has also been launched to seek input on the development the National First Nations Homelessness Action Plan.

Where do we hope to go in the future?

Research and engagement outcomes will be used to begin drafting the National First Nations Homelessness Action Plan through the co-development process with ESDC. Potential areas for future research have been identified, such as a need for a nationally coordinated on-reserve Point-in-Time homelessness count. AFN will be exploring the feasibility of this and other research activities to strengthen the data and knowledge base used to inform the development of the Action Plan and other advocacy efforts. More engagement will be planned to ensure that a wide range of community input is included in the development of the Action Plan, as well as to review and validate any initial drafts of the Action Plan.



What is the history of this issue and how does it impact First Nations?

The COVID-19 pandemic continues to touch all aspects of our lives. It impacts our health care systems, economy, schools, communities, and families. First Nations have been disproportionately impacted throughout the pandemic, with case rates frequently exceeding those of the general Canadian population.

The latest end of summer wave of the pandemic came as a shock to many as we all hoped to gather again and resume much of our pre-pandemic lives. But despite the unpredictability, COVID-19 vaccines remain effective in reducing severe symptoms, hospitalizations, and deaths and that is a reason for maintaining hope and optimism. We know that more work remains, such as arranging booster shots for those at highest risk and preparing vaccine campaigns for our children.

The pandemic highlighted the existing inequities in housing, healthcare and supportive infrastructure in First Nations and underscored the health disparities that have made First Nations vulnerable to poorer outcomes from COVID-19. It has demonstrated that the health and well-being of First Nations in Canada continues to be affected by colonial governing structures, inconsistent policies, and underfunding compared to non-Indigenous communities. It has also shown that First Nations responded to the pandemic by drawing on their strengths of culture, community, and innovation. Pandemic responses supporting First Nations were shown to be most effective when First Nations were leaders and equal partners in their interventions.

How has the AFN's recent advocacy affected this area?

The AFN Executive Committee established the COVID-19 National Task Force by way of a motion at a duly convened meeting on April 21, 2020, to ensure the unique needs of First Nations are addressed during the global pandemic. The Task Force has been supported by working groups throughout the pandemic. Resolution 03/2020 provides the mandate for the Task Force to provide ongoing support to the AFN Executive Committee for the duration of the pandemic to support the mitigation of impacts of COVID-19 on First Nations.

The Task Force advocated for First Nations prioritization in the COVID-19 vaccine roll-out, inclusion of First Nations at COVID-19 decision making tables and highlighted the need for ongoing COVID-19 support resources. The Task Force emphasized the need for Provinces and Territories to engage, communicate and work closely with First Nations communities and leaders, including urban and off-reserve organizations, to support the vaccine roll-out campaigns. The Task Force worked to highlight funding needs and advocated for First Nations interests at



numerous working groups with federal government partners, including those specifically related to COVID-19, providing an opportunity for consistent input into discussions related to the COVID-19 response. Through these efforts, First Nations concerns have been brought forward.

The Task Force completed two key advocacy papers with the support of the AFN Data and Response and Recovery working groups. *'Lost in the Numbers: Learning about First Nations Health Data from the COVID-19 pandemic'* focused on data governance through the lens and experiences of COVID-19. *'A New Path Forward: Supporting First Nations throughout and beyond the COVID-19 pandemic'* speaks to the larger systemic issues that led to First Nations being more vulnerable to poor outcomes from COVID-19, First Nations-led responses and innovations as well as the inequities that have been exposed and that require action and change.

The Task Force hosted the AFN COVID-19 Virtual Forum on September 16, 21 and 23, 2021, with 320 registered participants showcasing 21 speakers from a range of communities, organizations, and sectors. Workshop sessions were held to continue the dialogue. Information shared from the forum will further inform advocacy efforts moving forward.

Funding for the AFN Regions through the Task Force proposals supported AFN regional offices in responding to their regional COVID-19 needs. While there are unique structures and priorities within each region, the funds were consistently utilized by the AFN regional offices to provide capacity support, including support for participation at federal, provincial, and territorial meetings, and helping to fund regional specific communications, research, and advocacy work.

Where do we hope to go in the future?

The COVID-19 Task Force will continue to advocate for First Nations pandemic supports as long as the pandemic persists, recognizing that we will be managing and mitigating the effects of the virus in some capacity for the foreseeable future. Emerging issues pose new challenges for First Nations such as access to proof of vaccination credentials and navigating the implementation of mandatory vaccinations for travel.

National Chief Archibald has emphasized that the work of the Task Force moving forward must focus on supporting post-pandemic recovery for First Nations through the development of a national advocacy plan. Given the cross-sectoral implications of recovery, content experts from across the AFN Secretariat will support the Task Force through providing expertise and input into this work, examining lessons learned and assessing impacts by utilizing the Task Force's discussion paper *'A New Path Forward'* as a starting point. As stated in AFN's *Healing Path Forward* document, "as the country and globe face the economic challenge of rebuilding



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SECTOR: HEALTH ISSUE: COVID-19

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following the COVID-19 pandemic, we must ensure First Nations are at the center of this effort and that every single person in this country is aware of how First Nations priorities impact Canada's success."



What is the history of this issue and how does it impact First Nations?

First Nations children in their early years are served by three federal programs: Aboriginal Head Start On Reserve program, Aboriginal Head Start Urban and Northern Communities Program, and First Nations and Inuit Child Care Initiative. Many First Nations offer supplementary early learning and childcare (ELCC) programs, including home visiting, land-based programs, and Elder storytelling. The federal ELCC programs for First Nations have been historically underfunded, underserved and inadequate to meet the needs of First Nations, with outdated formulas 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 best prepared to live happy and healthy lives.

In 2016, the AFN Chiefs-in-Assembly mandated the National Expert Working Group (NEWG) on First Nations Early Learning and Child Care to lead work on First Nations ELCC at the national level. The National Expert Working Group conducted two years of engagements to develop the First Nations ELCC Policy Framework, which outlined the vision, principles and goals of First Nations ELCC. The Framework envisioned happy, healthy First Nations children who are grounded and connected to their identity as First Nations, and who are supported by culturally and linguistically based programs and services that are determined by First Nations. This 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. The Indigenous ELCC Framework was released in 2018 with \$1.02 billion for First Nations over 10 years to support its implementation.

How has the AFN's recent advocacy affected this area?

The AFN has long advocated for increased supports for First Nations ELCC programs and services, including addressing the historic funding gaps. Budget 2021 proposed to invest \$30 billion over five years, beginning in 2021-22, and \$8.3 billion ongoing in ELCC across Canada. Of this, \$878.53 million over five years is dedicated to First Nations ELCC programs, services and governance, and additional investments in before- and after-school care and infrastructure were also committed. Budget 2021 also proposed to legislate a system of Canada-wide system of ELCC in Fall 2021.

The AFN submitted a proposal to Canada following Budget 2021 to support the NEWG to continue its work, including the development of a First Nations-determined funding model for ELCC mandated by AFN Resolution 59/2018, *First Nations Early Learning and Child Care Regional*



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SECTOR: SOCIAL DEVELOPMENT ISSUE: EARLY LEARNING AND CHILD CARE

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Funding Allocation Approach. The Chiefs-in-Assembly have been clear that funding to support this work must be sourced separately from program and service funds for First Nations; however, Canada has not yet provided this funding.

Childcare was a key priority in the 2021 Federal Election, with several of the major parties making significant commitments on ELCC. The Liberal Party reiterated the commitments made in Budget 2021 in their election platform, and the AFN expects to see these commitments reflected in the forthcoming Mandate Letters from the Prime Minister.

Where do we hope to go in the future?

As the implementation of the First Nations and Indigenous ELCC Frameworks continues at the First Nation, regional and national levels, the AFN will continue to advocate for First Nations governance, determination and jurisdiction over ELCC. As work towards a national system of childcare advances, including federal ELCC legislation, the AFN will continue to advocate for First Nations to lead this work in accordance with the First Nations ELCC Framework.



What is the history of this issue and how does it impact First Nations?

K-12 Education

The Languages and Learning Sector (the Sector) continues to make impactful strides toward First Nations control of First Nations education and K-12 Education Transformation supported by Assembly First Nations (AFN) Resolution 65/2017, *New Interim Funding Approach for First Nation Education*, and AFN Resolution 35/2019, *Additional Funding for First Nations Elementary and Secondary Education*. The goal of K-12 Education Transformation is to ensure opportunities are created for Treaty-based, regional, and/or local education partnerships to address the needs of students, schools, and First Nations through regional education approaches and funding models that provide more sufficient, predictable, and sustainable funding. This offers First Nations the opportunity to develop their own local, regional and/or Treaty based education agreements that identify the funding required to implement their vision of First Nations control over education.

Post-Secondary Education & Adult Education

In 2018, First Nations highlighted the need for additional supports in First Nations post-secondary education, and adult education in the First Nations Post-Secondary Policy Proposal. AFN Resolution 48/2018, *First Nations Post-Secondary Education Policy Proposal*, called for immediate investments in the Post-Secondary Student Support Program (PSSSP), Post-Secondary Partnerships Program (PSPP), First Nations PSE Engagement costs, and phased-in costs for First Nations transitional funding to support returning to school and learners requiring bridging or upgrading programming to access post-secondary education (PSE). Budget 2019 announced \$7.5M over three years for First Nations to engage and develop their First Nations-led local, regional, and Treaty-based post-secondary education models. A new policy authority is required for First Nations to negotiate and conclude these models.

In December 2020, First Nations-in-Assembly ratified Resolution 21/2020, *First Nations-led Local, Regional and Treaty-based Post-Secondary Education Models*, which directs the Chiefs Committee on Education (CCOE), National Indian Education Council (NIEC), and the AFN to collaborate with Indigenous Services Canada (ISC) to co-develop a Post-Secondary Education (PSE) Policy Proposal, which will supplement a Memorandum to Cabinet to obtain authority for Canada to negotiate with First Nations to conclude First Nations-led local, regional and Treaty-based PSE models.

Education Infrastructure

AFN Resolution 34/2019, *First Nations Education Infrastructure Review*, supports the work of the



CCOE, NIEC and AFN to engage in a federal education infrastructure policy and program review. The review will seek improvements that respect the inherent and Treaty right to education and advance First Nations control of First Nations education and regulation of First Nations education.

How has the AFN's recent advocacy affected this area?

K-12 Education

The Sector continues to advocate for regionalization and decentralization of ISC programs to create opportunities for quality and culturally relevant education for First Nations children.

The Sector is also continuing their work on supporting First Nations negotiating their Regional Education Agreements (REA). There are currently seven REA's that have been signed and concluded, three are near completion, and 46 REA's are underway.

The Sector is working diligently to ensure reform to the ISC's Supplementary Target Programs including the Education Partnership Program (EPP) and High-Cost Special Education Program (HCESP) are honouring the principles of First Nations control of First Nations education and maintaining alignment with K-12 Education Transformation.

The EPP is currently undergoing a review to ensure the program keeps pace with evolving education-related needs and priorities of First Nations. The review will also seek avenues to provide more stable and predictable funding and support successful service transfer of EPP through regionalization.

Post-Secondary Education & Adult Education

The AFN, NIEC, CCOE and ISC have held ongoing engagement sessions with First Nations to inform the co-development of the draft PSE Policy Proposal: First Nations-led, local, regional and/or Treaty-based Post-Secondary Education Models (PSE Policy Proposal). On September 28 and 29, 2021, the Sector hosted the AFN PSE Forum: First Nations-led Local, Regional and Treaty-Based Models. The event gathered experts in the field to review and discuss the co-developed draft PSE Policy Proposal for supporting First Nations PSE Models, and to receive an overview of the work underway on the First Nations Post-Secondary Institutions Costing Analysis. The event hosted discussions to seek feedback, comments, and questions from First Nations delegates to inform the drafting process and to ensure a strong First Nations voice within the document.

Budget 2021 committed \$350 million over five years, starting in 2021-22, to expand access to adult education by supporting First Nations students who wish to return to school and attain



their secondary school diploma, or upgrade in preparation for post-secondary education. The PSE Policy Proposal will provide program authorities to distribute the funding to First Nations based on their preferred model.

Education Infrastructure

The Sector continues to reform education infrastructure and the deficiencies identified by the CCOE and the NIEC. The CCOE has successfully negotiated improvements to ISC's *School Space Accommodation Standards (SSAS)*, which increased First Nations school sizes beyond the national standard and added new school spaces for future builds including language and culture rooms, knowledge keeper offices, counselling spaces, and outdoor classrooms.

In response to the new SSAS, the First Nations Education Capital Needs Assessment was updated. The capital needs for schools are \$3.8 billion over five years and \$11.1 billion over twenty years, and the capital needs for teacherages are \$977 million over five years and 1.5 billion over twenty years.

Where do we hope to go in the future?

K-12 Education

The Sector is dedicated to ensuring the 2021 federal investments of \$1.2 billion for K-12 education will meet the needs of all First Nations education programs and uphold First Nations' control of First Nations education.

Throughout 2021-2022, the Sector will continue to collaborate with the NIEC, CCOE, and First Nations to ensure that ISC's Supplementary Targeted Programs are responsive to First Nations' needs and support First Nations control over education. This includes additional work on the High-Cost Special Education program to ensure additional investments and that gaps are closed while ensuring First Nations have appropriate resources to identify their special education needs.

The Sector will also advocate for increased investments and multi-year funding to secure sustainable and predictable EPP funding for education systems. Increased investments for EPP will enable education organizations to plan and implement long-term strategies and better meet the needs of First Nations in their regions. Along with obtaining additional funding, the Sector will continue to advocate for regionalization to support the successful service transfer of EPP to First Nations' regional management.

Post-Secondary Education & Adult Education



First Nations-in-Assembly will be presented with the co-developed PSE Policy Proposal at the Special Chiefs Assembly in December 2021. The key decision items in the PSE Policy Proposal are to:

- approve the policy authority for ISCTo negotiate, conclude and fully implement First Nations-led local, regional, and Treaty-based post-secondary education models;
- allocate investments for additional investments with gradual implementation for First Nations-led local, regional, and Treaty-based post-secondary education models;
- provide funding for ongoing technical tables to prepare communities and regions for the final negotiation and conclusion of the agreement;
- implement interim funding until First Nations-led local, regional, and Treaty-based post-secondary education models are negotiated, concluded, and implemented; and
- expand and co-develop the Post-Secondary Education Terms and Conditions including provisions for PSSSP and PSPP.

If approved by First Nations-in-Assembly, the PSE Policy Proposal will be appended to a Memorandum to Cabinet and inform a Treasury Board submission, that is anticipated to be put forward for approval by Cabinet before April 2022. The Sector will work closely and diligently with ISC to ensure the Memorandum to Cabinet and Treasury Board submission reflects the perspectives, concerns, and priorities made by First Nations.

The Sector will ensure that adult education is considered as authorities are created. Furthermore, the Sector will work to advocate for the ongoing needs in adult education, and work with First Nations to identify the funding needs.



Education Infrastructure

To further address the deficiencies in funding for education infrastructure and support reform for education infrastructure investments, the Sector is committed to addressing the long-term changes to the SSAS, including increasing enrollment projections to ten years, improving special education space, and reviewing storage space.

A national assessment to identify the actual transportation costs in comparison to current education funding formulas is currently underway. This assessment will provide an examination of regional variations in transportation and provide a costing model through a report to support First Nations in their education formula negotiations. This report is expected to become available winter 2022.

Moreover, the School Priority Ranking Framework (SPRF), will be reviewed by the Sector and NIEC to ensure First Nations are involved in the priority ranking decisions and ensure a regional approach. This review of the SPRF will also ensure there is a transparent decision-making process that adheres to First Nations control of their education.



What is the history of this issue and how does it impact First Nations?

Canada developed the First Nations Child and Family Services (FNCFS) program in 1989 to regulate the services provided to First Nations after the closure of many of the schools in the Indian Residential School System. Intergenerational trauma and family breakdown caused by the Indian Residential School System has perpetuated First Nations' higher rates of involvement with child and family services in Canada. The underfunded, discriminatory, and protection-based program has led to the purposeful removal of unprecedented numbers of First Nations children from their families and Nations. Today, there are over 40,000 First Nations children involved with child and family services across Canada.

In 2007, the Assembly of First Nations (AFN) and the First Nations Child and Family Caring Society launched a case at the Canadian Human Rights Tribunal (CHRT) alleging that Canada was discriminating against First Nations children by underfunding the FNCFS program on-reserve and in the Yukon. On January 20, 2016, the CHRT found that Canada had discriminated against First Nations children in the provision of services simply because they are First Nations in its historic Merits Decision, 2016 CHRT 2. The CHRT ordered the federal government to immediately and completely overhaul the FNCFS program.

In January 2018, the AFN attended the Minister of Indigenous Services' Emergency Meeting on First Nations, Inuit and Métis Child and Family Services alongside First Nations leadership, experts, and technicians; Provincial and Territorial Ministers; and federal officials. At this meeting, a six-point action plan was announced to address the overrepresentation of Indigenous children in care. The actions committed to include ensuring that the CHRT orders are fulfilled, including the development of a new funding model; the promotion of culturally-appropriate prevention, early intervention and family reunification; and most notably, the co-development of new Indigenous child and family wellbeing legislation that supports Indigenous jurisdiction over services and policies.

In 2018, the Chiefs-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 wellbeing. 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 wellbeing, including the best interests of the child, cultural continuity, and substantive equality.



AFN Resolution 16/2019, *An Act respecting First Nations, Inuit and Métis children, youth and families—Transition and Implementation Planning*, established the Chiefs Committee on Child and Family Services and Self-determination (Chiefs Committee), in order to provide input, oversight and guidance on implementation of the Act. The Chiefs Committee advocated for a distinctions-based approach to implement the Act and negotiated the terms of this approach with Indigenous Services Canada (ISC). The Protocol regarding *An Act Respecting First Nations, Inuit and Métis children, youth and families* in relation to the Assembly of First Nations (the Protocol), between the AFN and Canada was signed on July 7, 2020. The Protocol is a mechanism to ensure First Nations lead the development of principles and processes related to the Act. It defines how Canada and the AFN will explore principles and processes that will support implementation of the Act, including input, control, and decision-making by First Nations. Under the Protocol, the Joint National Working Group (JNWG) was established in early 2021 to ensure that a First Nations distinctions-based approach is applied in the implementation of the Act. The JNWG has established its workplan, informed by the priorities of the Chiefs Committee.

How has the AFN's recent advocacy affected this area?

The AFN continues to advocate for dedicated funding to ensure meaningful transition to First Nations jurisdiction over child and family services under the Act, preliminarily estimated at \$3.5 billion over five years. Budget 2021 proposed to invest \$1 billion over five years, with \$118.7 million ongoing, to increase funding under the FNCFS Program. It further proposes to invest \$73.6 million over four years to support implementation of the Act. Due to the continued advocacy of the AFN, including the Chiefs Committee, the investment in FNCFS includes funding to support implementation of the CHRT Orders and to permanently ensure that First Nations youth who reach the age of majority receive the supports that they need, for up to two additional years.

The AFN worked with the Institute for Fiscal Studies and Democracy (IFSD) to develop a new funding model for FNCFS. The IFSD completed their [final report](#) on FNCFS funding in August 2020, proposing a bottom-up funding approach for FNCFS that addresses ISC's funding shortfalls, which were found by the CHRT to be discriminatory. The proposed approach uses a First Nations distinctions-based framework to understand the needs of First Nations children, a new operational model that considers the root causes of inequality, and a transition plan to move away from the current funding model and protection-focused system toward the new approach. The AFN has submitted this report to the CHRT for review.

The AFN has returned to the CHRT several times to address Canada's non-compliance with the orders on FNCFS and Jordan's Principle. In September 2019, the CHRT ordered Canada to pay the



maximum allowable compensation for victims of discrimination under the FNCFS Program and Jordan's Principle by way of its Compensation Decision, 2019 CHRT 39. In October 2019, Canada filed for judicial review of the Compensation Decision. The AFN worked with the Parties to the CHRT proceedings to outline a compensation framework further to the terms of the Compensation Decision. The Parliamentary Budget Officer estimated that the cost of complying with the Compensation Decision in terms of removed children and their families could amount to \$6.5 billion, while compensating those under the Jordan Principle aspects of the Compensation Decision could range from \$1.3 billion to \$15 billion. In June 2021, the AFN defended the CHRT's ruling on compensation in Federal Court and on September 29, 2021, the Federal Court of Canada upheld the Compensation Decision. Canada filed an appeal of the Federal Court's decision with the Federal Court of Appeal on October 29, 2021.

On August 26, 2021, the CHRT informed the AFN that they would be issuing a ruling from the bench on capital assets. The CHRT ordered Canada to fund capital assets for the delivery of child and family services and Jordan's Principle at actual cost, and to fund feasibility studies and needs assessments for capital projects. In September 2021, Canada filed for judicial review of this ruling. The CHRT released its full reasons in relation to the funding of capital assets on November 16, 2021, as provided in 2021 CHRT 41.

The National Advisory Committee on First Nations Child and Family Services (NAC) and the Consultation Committee on Child Welfare (CCCW) continue to monitor and guide the rulings of the CHRT orders. The AFN also filed a \$10 billion class action lawsuit to build on the work at the CHRT, including covering those victims who were excluded from the CHRT's ruling on compensation. The class action could ultimately extend compensation to First Nations children and families who suffered comparable discrimination as substantiated by the CHRT in its Merits Decision from 1991 onwards.

In order to support First Nations youth who would normally be aging out of the FNCFS program during the COVID-19 pandemic, the AFN successfully advocated for a moratorium on youth aging out of care to ensure continued access to the supports and services youth need, and for agencies to have any costs associated with continued care covered by Canada.

Where do we hope to go in the future?

The AFN will continue to advocate for immediate, mid, and long-term relief measures; compensation for all First Nations children and families subjected to the discriminatory provision of child and family services by Canada and for the CHRT orders to be fulfilled through the work of the Chiefs Committee, the NAC, the CCCW and the legal processes to which the



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AFN is a party. The AFN will also continue to increase awareness about the Act and its implementation, and advocate for a First Nations-determined funding model for implementation of the Act. Under the guidance of the Chiefs Committee, and supported by expert technical advice, the AFN's next steps within the Protocol are to establish the sub-working groups of the JNWG and implement the workplan.



What is the history of this issue and how does it impact First Nations?

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 measures 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 a federal announcement of \$144.2M 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 that will further 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 the overall Performance Measurement strategy of the First Nations Labour Market Strategy.

How has the AFN's recent advocacy affected this area?

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 centered 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 was 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, new fiscal instruments and respond to inflation and population growth will need to be completed. Ideally, this will be before the next FNLMS budget cycle (2023).

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

Where do we hope to go in the future?

The AFN Languages and Learning Sector with direction from the CCHRD and the Technical Working Group (TWG) is planning to co-develop a workplan 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 in time for the next First Nations Labour Market Strategy budget cycle in 2023. These efforts will also include advocating for First Nations accessing new investments as it relates to the overall economic recovery efforts as result of the COVID-19 pandemic. All this work will support First Nations' rights to improved economic and social situations and promoting access to greater economic independence for First Nations.

Advocacy efforts carried out by the AFN, CCHRD and TWG 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.

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 centered on a government-to-government relationship that recognizes First Nations jurisdiction and authority to govern and provide services.



What is the history of this issue and how does it impact First Nations?

The Languages and Learning Sector (the Sector) continues to focus on the full implementation of the federal *Indigenous Languages Act* (the Act), which received Royal Assent in June 2019 after decades of advocacy from First Nations across the country.

The Assembly of First Nations (AFN) is a member of the Joint Implementation Steering Committee (JISC) along with representatives from the Department of Canadian Heritage (DCH), Indigenous Languages Branch (ILB), Inuit Tapiriit Kanatami (ITK) and the Métis National Council (MNC). JISC's co-development work is currently centred on establishing a new distinctions-based Indigenous Languages Funding Model (Funding Model) to ensure there is adequate, sustainable, and long-term funding for all Indigenous-led revitalization efforts.

How has the AFN's recent advocacy affected this area?

Federal Budget 2019 committed \$333.7 million over five years, and \$115.7 million each year after that, and Budget 2021 proposed an additional \$275 million over five years, starting in 2021-2022 to support the reclamation, preservation, and revitalization of Indigenous languages and to implement the Act. While that was a significant increase in funding, those new investments have not been sufficient to meet the demands of First Nations. Further, the development of the new Funding Model is required to unlock 2023-24 and ongoing funding to support First Nations languages.

There is a significant gap between the funding requested by First Nations and the amount available. For 2021-22, First Nations requested \$101.3 million. Only \$24 million is available to First Nations for 2021-22. AFN continues to advocate for adequate, sustainable, and ongoing funding for First Nations language revitalization.

The Office of the Commissioner of Indigenous Languages (OCIL) was established in July 2021. In advance of the appointment, the Sector successfully advocated for the selection process to be modified to include First Nations representation on the Selection Committee. Ron Ignace was appointed as the Commissioner of OCIL, and Joan Greyeyes was appointed as the First Nations Director.

Where do we hope to go in the future?

AFN Resolution 10/2021 *Support for the co-development of a new distinctions-based Indigenous Languages Funding Model*, directs the Chiefs Committee on Languages, Technical Committee on Languages and the AFN to continue collaborating with regions, First Nations, First Nations



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educators, First Nations language experts, the Government of Canada, other Indigenous organizations, and other organizations as required, in developing a new Funding Model. A First Nations Funding Model will be presented to First Nations-in-Assembly at the Annual General Assembly July 2022 to ensure existing funding committed to in the 2019 Budget is unlocked and to support a budget ask for greater funding overall. The next steps for the Funding Model are:

- **Fall 2021:** AFN and TCOL will begin developing components for the First Nations Funding Model (including a regional funding allocation formula);
- **December 2021:** DCH will submit a Memorandum to Cabinet seeking a new program authority for the Minister of Canadian Heritage to enter into section 8 and 9 agreements and arrangements;
- **January-May 2022:** engagements with First Nations followed by co-development of a new funding model, inclusive of JISC, CCOL, TCOL, and First Nations recommendations;
- **AGA in July 2022:** AFN will seek ratification of the First Nations Funding Model. Subject to ratification at the AGA, the First Nations Funding Model will be formally shared with DCH; and
- **Summer 2022:** DCH will submit a Treasury Board Submission for acquiring the spending authorities that will be required for the new distinctions-based Indigenous Languages Funding Model and for unlocking Budget 2019 incremental funding for future years.

The Sector is beginning costing research with Indigenous researchers and is analyzing the results of a survey launched over the summer to improve baseline data about First Nations languages and to support advocacy efforts.

It is the constitutional and inherent right of each Indigenous government to direct, maintain and develop their own language and culture. First Nations must lead the recovery, reclamation, revitalization, and maintenance and normalization of Indigenous languages. Structures must be designed to support what First Nations need to achieve their vision and goals for language. First Nations rightfully expect to be involved in decisions about all allocation decisions. The Sector will continue to advocate for funding that meets the needs of First Nations, First Nations language experts, and language champions who lead language revitalization.



What is the history of this issue and how does it impact First Nations?

Transformative changes are required to address long-standing challenges and health inequities in the healthcare system. Securing sustainable funding and improving relationships to support First Nations led health care services and programs is a priority of the AFN Health Sector. Prior AFN resolutions, the Truth and Reconciliation Commission Calls to Action and the United Nations Declaration on the Rights of Indigenous Peoples (UNDRIP) serve as foundational pieces that guide the AFN Health Sector in this critical work.

Health is compromised by enduring deficits across the social determinants of health: poverty, overcrowded housing, food insecurity, and a piecemeal approach to health services and programming. First Nations participation in national and regional dialogues has articulated that true health and wellness systems are strengths-based, rooted in cultures, and include the treaty right to health as foundations to move towards resilience and growth.

While COVID-19 continues to be a key area of health focus, the AFN's Health Sector has also been busy working on other priority areas. One of those priorities is the potential co-development of distinctions-based health legislation, based on Resolution 69/2017, mandating the health sector to pursue this work. However, due to the federal election period and then the delay to have federal ministers appointed, co-development work with the federal, provincial and territorial governments has been stalled. We are now starting to meet with the federal government again to inform this work and ensure First Nations communities have the necessary information to participate in the engagement process.

In addition to this work, we are exploring distinctions-based mental health and wellness strategies and working with partners to address systemic racism in the healthcare system. Anti-Indigenous racism discussions have been taking place since October 2020 and the Health Sector will continue to advocate for health services that are equitable and culturally safe. Through this work the Government of Canada has allocated resources to develop cultural safety programs and the implementation of Joyce's Principle in the federal health system.

We continue to advocate for immediate, flexible, and increased supports through Community Support Funds and other programs to assist individuals and families in dealing with trauma that is further perpetuated by the current and future uncovering of unmarked graves and burial sites.

The AFN Health Sector works with regional partners and ISC on Digital Health policy and collaborative models through regular meetings and development of frameworks and



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recommendations. The Health Sector continues to ensure proper engagement occurs with rights holders around the potential transformation of the First Nations and Inuit Health Branch (FNIHB).

The Health sector has been raising awareness of the unique needs of First Nations persons with disabilities (FNPWD). The AFN Chiefs-in-Assembly have passed several resolutions on accessibility/disability, including AFN Resolution 98/2017, *Distinct First Nations Accessibility Legislation*, directing the AFN to work with Employment and Social Development Canada (ESDC) to develop distinct First Nations accessibility legislation by and for First Nations. An essential element moving forward is to host a virtual western regional discussion on February 3, 2022, and a virtual eastern regional discussion on February 10, 2022 to discuss key options for a *Distinct First Nations Accessibility Regime*.

Other initiatives and action include:

- The process of developing a National Life Promotion/Suicide Prevention Strategy is entering its second phase. The work is divided into three phases which include a scoping review, key informant interviews/table of experts, and the development of a national strategy. Taking a lifespan approach, the strategy will highlight life promotion skills and activities centred on resiliency.
- As announced in Budget 2021, the Indian Residential School Resolution Health Support Program will receive status quo funding. Advocating for a more permanent version of the support program will be one of the core workplan items for the mental wellness file 2021-2022. Work is underway to identify opportunities such as taking a continuum of care approach, researching self-sustaining models that would enhance the IRS RHS Program, gap analysis related to wage parity and overall employment equity. The ongoing need for appropriate supports was emphasized by the recoveries at residential school sites the past few months.
- With guidance from the Mental Wellness Committee and First Nations partners, the Health Sector will explore opportunities to update and implement the *Honouring Our Strengths: A Renewed Framework to Address Substance Use Issues Among First Nations People in Canada*. The framework outlines a vision for a comprehensive continuum of services and supports to guide community, regional, and national responses substance use issues among First Nations.
- The Health Sector continues to support the work of the National Aboriginal Council of



Midwives (NACM). We are currently developing an AFN Resolution with them and continue to support them in efforts to bring birthing closer to home for First Nations.

The Health Sector continues to support the Canadian Pediatric Society (CPS) through the CPS First Nations/Inuit/Metis Health Committee and assisted in the planning and facilitation of the International Meeting on Indigenous Child's Health (IMICH). This virtual conference was held September 10 – 11, 2021.

How has the AFN's recent advocacy affected this area?

The COVID-19 pandemic has had a significant impact on the Government of Canada workflow and priorities. However, the AFN continues to advocate for progress on First Nations priorities and initiatives, including increased funds to support First Nations during this unprecedented time in areas such as food security and mental health supports.

The AFN Health Sector continues to advocate for improved, robust food systems and food sovereignty and has collaborated with the AFN Environment, Social, and Economic Development Sectors on First Nations food systems and climate change and food sovereignty.

In partnership with the First Nations Information Governance Centre (FNIGC), a working group with AFN Health representatives is being formed to work towards examining the relationship between cannabis and mental wellness among First Nations.

Currently, the NIHB Joint Review Steering Committee (JRSC) is working towards completing the Medical Transportation Benefit Review which will be followed by a review of general Administrative and Operational Irritants.

The AFN's efforts to strengthen engagement with FNPWD, First Nations leadership, administrators, delivery and service providers and others is ongoing. This includes outreach through the distribution of several reports and surveys and professionally broadcasted interactive/accessible webinars continue to raise awareness, along with widespread use of social media. Several national interactive workshops on accessibility and disability rights and inclusion in climate action, infrastructure, health, housing, and Jordan's Principle, among others were coordinated.

Where do we hope to go in the future?

The AFN Health Sector will continue to collaborate with First Nations Partners in supporting the health and wellbeing of First Nations in areas including, but not limited to, Mental Wellness,



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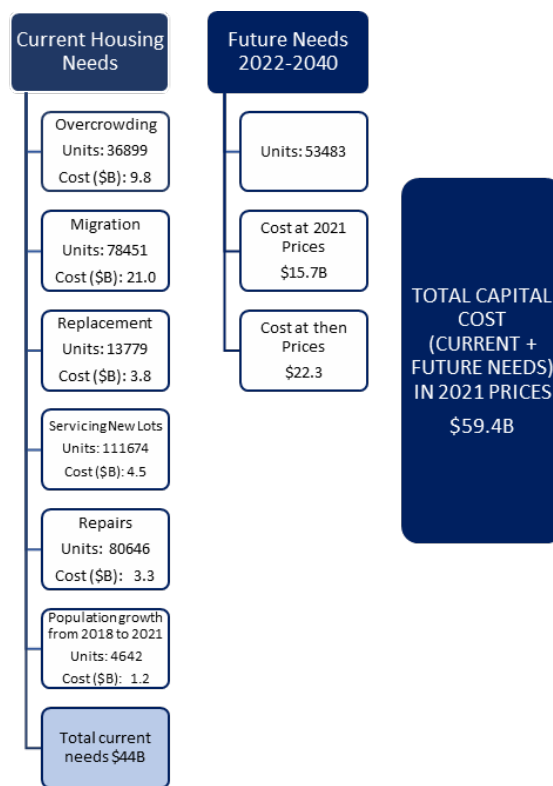
Pandemic Response and Recovery, Public Health, Family Wellness, Non-Insured Health Benefits, Anti-Racism in Health Care, and Distinctions-Based Health Legislation.



What is the history of this issue and how does it impact First Nations?

First Nations control of housing and a federal investment of \$60 billion would finally close the gap in First Nations housing.

The backbone to transformative change in First Nations' housing and related infrastructure is the National First Nations Housing and Related Infrastructure Strategy (the Strategy) adopted by Chiefs in 2018 providing the framework for First Nations to assume jurisdiction over housing and related infrastructure. Although implementation of the Strategy has started, it will not be fully operational until First Nations have access to funds to make it happen. Using housing data from the AFN-led national housing survey in 2018 and 2019, the Institute of Fiscal Studies and Democracy estimates the cost to close the housing gap in First Nations at \$40 billion (\$39.4 billion rounded up) and a further \$21 billion to build homes for 10% of citizens living away to migrate to their home communities.



The impacts of the housing crisis on First Nations are enormous. Overcrowding for instance, leads to health and socio-economic problems, homelessness and more. There is a significant fiscal shortfall that will require a large up-front investment with sustained funding increases for many years to address and mitigate housing needs. Closing the housing gap through investments can relieve these challenges now and for generations to come.



How has the AFN's recent advocacy affected this area?

Transformative change in First Nations Housing is imminent.

The AFN-led national housing survey, a clear picture of the cost of the housing needs, and partnership with the Federal Government has created an opportunity for transformative change in First Nations housing. Mandated by Chiefs' resolutions, the Chiefs Committee on Housing and Infrastructure (CCoHI), regional First Nations housing technicians, AFN staff, and our federal partners gathered the data and research needed to support a major change in how First Nations housing will be managed. In the August 2021 pre-budget submission, the AFN highlighted the need for \$44 billion over the next 10 years (\$60 billion by 2040) to bring First Nations housing to a standard at least equal to, and hopefully better than, that enjoyed by most Canadians. In the 2022 Federal Budget announcement, it is expected that the Minister of Finance will commit a significant investment to address decades of federally underfunded housing neglect. The AFN is currently pressing Federal officials to lay out the parameters of the new Federal First Nations housing policy in a co-developed Memorandum to Cabinet (MC). The anticipated result would be negotiated agreements with First Nations through which the Federal Government will provide the sufficient multi-year funding and the First Nations will manage their own housing systems.

Where do we hope to go in the future?

Strong advocacy by the CCoHI, Chiefs and all First Nations partners is needed now to not only fully secure federal acceptance of First Nations control of housing but also to obtain the investments required to close the housing gap.

To advance an MC and secure the needed investment, the AFN is implementing advocacy and communications to support leadership with materials such as factsheets, key messages, and suggested answers to questions to use in Chiefs' meetings with parliamentarians.

Other initiatives to advance First Nations jurisdiction over housing include:

- Developing a business plan for Chiefs' consideration to establish a National First Nations Housing Policy and Research Centre;
- Conducting preliminary work leading to the second national First Nations housing survey;
- Research in skills and capacity needs so that First Nations have access to a full range of housing professionals to effectively plan, lead, organize and control their housing;
- Providing ongoing support to help the Dene Nation reach its housing goals;
- Advocating for ISC and CMHC improvements in information sharing and transparency; and
- Advocating for Federal departments' improved understanding of Treaty and inherent rights, reconciliation, self-determination, and systemic discrimination in First Nations housing.



What is the history of this issue and how does it impact First Nations?

The On-Reserve Income Assistance Program (IA Program) is funded by Indigenous Services Canada (ISC). The IA Program provides income assistance to eligible persons living on First Nations reserves, and in the Yukon to meet their basic needs. The IA Program's rates for First Nations mirrors those of their province or territory of residence. The IA Program also offers Case Management and Pre-Employment Supports in some First Nations. These supports provide programming to help individuals move from income assistance to education and employment and have received strong positive feedback, but they are only available in about 29% of First Nations.

How has the AFN's recent advocacy affected this area?

The AFN has advocated to ISC to renew funding to reform the IA Program and for extended funding and expanded access to the Case Management and Pre-employment Supports. The IA Program needs to be reformed to address the difference in costs on- and off-reserve, varying access to programs and services to support clients, and the insufficiency of IA rates.

As well, the AFN and the Technical Working Group on Social Development (TWGSD) have advocated for increased supports to meet the needs of clients in the IA Program in the context of COVID-19. This advocacy led to a \$280 million investment into the IA Program to provide additional support to clients during the COVID-19 pandemic.

Where do we hope to go in the future?

The AFN has begun work with ISC to create new policy options for reform of the IA Program. The AFN is preparing to conduct a study on the gaps in services and data in the IA Program, pursuant to AFN Resolution 89/2019, *Continuing First Nations Income Assistance Reform*. This work will support the co-development process with AFN, ISC and the TWGSD. The TWGSD will hold regular virtual meetings and meet with others as needed to support the reform work.



What is the history of this issue and how does it impact First Nations?

[Jordan's Principle](#) is named in honour of Jordan River Anderson, a First Nations boy from Norway House Cree Nation in Manitoba who was born with complex medical needs. Jordan could have received home-based care, but because the governments of Canada and Manitoba could not agree on who would pay for his care, Jordan spent his entire life in hospital, where he passed at age 5 in 2005. Jordan's Principle ensures that First Nations children have access to the health, social and educational supports they need to thrive, regardless of where they live, and without denial, delay or disruption.

In 2007, the Assembly of First Nations (AFN) and First Nations Child and Family Caring Society filed a complaint at the Canadian Human Rights Tribunal (CHRT), alleging discrimination against First Nations children in the delivery and under-funding of First Nations Child and Family Services (FNCFS) and Jordan's Principle. In January 2016, the CHRT issued a landmark ruling finding that Canada was systemically discriminating against First Nations children on-reserve and in the Yukon in its historic Merits Decision, 2016 CHRT 2. It ordered Canada to immediately reform FNCFS and properly implement Jordan's Principle to ensure First Nations children's needs are met and their best interests are protected.

Jordan's Principle has approved over 1.15 million products, services and supports for First Nations children between July 2016 and August 31, 2021.

How has the AFN's recent advocacy affected this area?

The AFN continues to advocate for First Nations children to receive the products, services and supports they need, without delay, disruption or denial. The AFN has further advocated for First Nations to determine and advance their priorities for the future of Jordan's Principle, including greater First Nations control over Jordan's Principle. The AFN's advocacy led to an investment in Jordan's Principle of \$1.2 billion over three years in 2019.

The AFN has returned to the CHRT several times to address Canada's non-compliance with the orders on FNCFS and Jordan's Principle. This resulted in the CHRT's 2017 CHRT 14 decision which ordered Canada to cease its efforts to narrow the scope of Jordan's Principle, while identifying the key and expansive definitions associated with its application. In September 2019, the CHRT ordered Canada to pay the maximum allowable compensation for victims of discrimination under the FNCFS Program and Jordan's Principle by way of its Compensation Decision, 2019 CHRT 39.



In October 2019, Canada filed for judicial review of the Compensation Decision. The AFN has worked with the Parties to the CHRT to outline a framework for compensation under the Compensation Decision. In February 2021, the Parliamentary Budget Officer estimated that the cost of complying with the Jordan's Principle aspect of the Compensation Decision could range from \$1.3 billion to \$15 billion. The AFN also filed a \$10 billion class action lawsuit to build on the work at the CHRT, including covering victims who were excluded from the CHRT's Compensation Decision, namely all those who suffered comparable discrimination from 1991 onwards.

In November 2020, the CHRT issued a ruling to expand Jordan's Principle eligibility to include more First Nations children. Under the latest ruling, children who meet any of the following criteria are eligible for consideration under Jordan's Principle:

- First Nations children registered (or eligible to be registered) under the Indian Act, whether they live on- or off-reserve. This includes all children who will become eligible for Indian Act status under Bill S-3 implementation.
- First Nations children who have one parent/guardian who has or is eligible for Indian Act status, whether they live on- or off-reserve.
- First Nations children recognized as a citizen/member by their First Nation, regardless of Indian Act status eligibility, whether they live on- or off-reserve.
- First Nations children who ordinarily reside on-reserve.

This ruling also included a provision for funding for First Nations to increase capacity to identify and confirm children as members of their nation for the purposes of Jordan's Principle. On December 22, 2020, Canada filed for judicial review of the ruling. In June 2021, the AFN defended the CHRT's Compensation Decision and ruling on eligibility in Federal Court. On September 29, 2021, the Federal Court of Canada upheld both of the CHRT's rulings – an incredible victory for First Nations children and families. Despite public pressure and outcry, Canada filed an appeal of the Federal Court's ruling on October 29, 2021, with the Federal Court of Appeal.

In August 2021, the CHRT issued a letter of decision regarding capital assets, ordering Canada to fund capital projects for the delivery of child and family services and Jordan's Principle at actual cost, and to fund feasibility studies and needs assessments for capital projects. In September 2021, Canada filed for judicial review of this ruling. The CHRT released its full reasons in relation to the funding of capital assets on November 16, 2021, as provided in 2021 CHRT 41.



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Throughout the COVID-19 pandemic, Jordan's Principle has remained available to support First Nations children in accessing the health, social and education programs, services and supports they need. The AFN continues to advocate for consistency across regions in the programs, services and supports that are approved to ensure that all First Nations children, regardless of where they live, are receiving equitable services.

In March 2021, the AFN hosted a virtual gathering on First Nations innovation and determination in Jordan's Principle. The gathering brought together Knowledge Keepers, Youth, First Nations leadership, government officials, Service Coordinators and more to hear from First Nations implementing innovative models of service delivery and coordination and discuss First Nations control over Jordan's Principle.

Where do we hope to go in the future?

The AFN continues to advocate for First Nations-determined and led long-term implementation of Jordan's Principle. As Canada prepares for Jordan's Principle authority renewal in Fall 2022, the AFN is updating the Jordan's Principle Storyline, which was a policy document supported by the Chiefs-in-Assembly via AFN Resolution 27/2018, *Support for the long-term implementation of Jordan's Principle*. The AFN will continue to advocate for greater First Nations control over Jordan's Principle in the co-development of policy options with Canada, for the full implementation of the relevant CHRT's orders, and for the compensation of those First Nations children and families who faced discrimination in accessing associated services by way of the legal processes to which the AFN is a party.



What is the history of this issue and how does it impact First Nations?

The Social Development Sector advocates for First Nations control and jurisdiction over social development programs and policies across the life course as the foundation for holistic, sustainable, inclusive, and culturally based systemic reform, as directed by First Nations. For decades, the Assembly of First Nations (AFN) has advocated for improved funding for Indigenous Services Canada's (ISC) social programs, including the On-Reserve Income Assistance (IA) Program, the Assisted Living Program, and the Family Violence Prevention Program. The AFN has also advocated for increased funding for First Nations Early Learning and Child Care (ELCC), and for a coordinated, First Nations-led approach to ELCC, including co-developing the Indigenous ELCC Framework. These programs have been historically underfunded with flawed funding models that do not adequately address First Nations' unique needs. Poverty reduction and moving towards a better future for First Nations continues to be foundational to this advocacy.

In 2007, the AFN and First Nations Child and Family Caring Society filed a complaint at the Canadian Human Rights Tribunal (CHRT), alleging discrimination against First Nations children in the delivery and under-funding of First Nations Child and Family Services (FNCFS) and Jordan's Principle. In January 2016, the CHRT issued a landmark ruling, 2016 CHRT 2, finding that Canada was systemically discriminating against First Nations children on-reserve and in the Yukon. It ordered Canada to immediately reform FNCFS and properly implement Jordan's Principle to ensure that First Nations children's needs are met, and the best interests of children are protected.

How has the AFN's recent advocacy affected this area?

The AFN has increased First Nations' knowledge of Jordan's Principle and continues to advocate for First Nations children to receive the products and services they need without delay or denial, as well as advocating for First Nations determination over the future of Jordan's Principle. Throughout the COVID-19 pandemic, Jordan's Principle has remained available to support the health, social and education needs of First Nations children. In 2020, the CHRT expanded eligibility for Jordan's Principle to include all First Nations children, no matter where they live. The AFN continues to fight for compliance with the orders of the CHRT to ensure that First Nations children receive the supports they need.

In response to COVID-19, the AFN's advocacy focused on ensuring that First Nations ELCC providers are supported to safely serve First Nations children and families, which resulted in an



emergency investment of over \$70 million for the safe re-opening and delivery of First Nations ELCC services. Budget 2021 proposed to invest \$2.5 billion over five years in Indigenous ELCC, including capacity, creating childcare spaces and infrastructure investments, among others, and also commits to tabling federal ELCC legislation by Fall 2021. The AFN has submitted a proposal to Canada to continue the important work of implementing the First Nations ELCC Framework and developing a new funding model for First Nations ELCC.

The AFN's advocacy led to a \$270 million investment in 2020 to better support First Nations accessing IA during the pandemic. It also led to a proposed investment in Budget 2021 of \$540 million over two years to continue to address basic needs and increased program demand, and \$78.4 million over two years to extend Case Management and Pre-Employment Supports. The AFN hosted the virtual National Forum on First Nations Income Assistance: Reform for the Future in March 2021, which had over 900 viewers. The AFN has advocated for greater investments in the Family Violence Prevention Program, which received an investment of \$44.8 million over 5 years to build 12 new shelters on-reserve and in the territories.

The AFN played a critical role in advocating for and developing *An Act respecting First Nations, Inuit and Métis children, youth and families* (the Act), which recognizes First Nations' jurisdiction over child and family services and sets national standards for the best interests and wellbeing of First Nations children and youth in care. The Chiefs Committee on Child and Family Services and Self-Determination oversees First Nations-led implementation of the Act.

On July 7, 2020, then-National Chief Perry Bellegarde and Minister of Indigenous Services, Marc Miller, signed a Protocol regarding *An Act respecting First Nations, Inuit and Métis children, youth and families* (the Protocol). The Protocol is a three-year agreement that ensures a First Nations distinctions-based framework is applied when implementing the Act. The AFN is working with First Nations and Canada under the Joint National Working Group on Legislative Implementation of the Act in relation to First Nations (JNWG), established under the Protocol.

During COVID-19, the AFN's advocacy led to a moratorium on First Nations youth aging out of care to ensure that youth have continued access to the services and supports they need to thrive, and for agencies to be reimbursed for the costs of this continued care. Further, Budget 2021 proposed to increase the FNCFS budget by \$1 billion over five years, with \$118.7 million ongoing. This funding will, in part, permanently ensure that First Nations youth who reach the age of majority receive the supports that they need, for up to two additional years.



In the July 2020 Economic and Fiscal Snapshot, Canada committed over \$542 million over five years to support the implementation of the Act. Budget 2021 proposed a further investment of \$73.6 million over four years to support implementation of the Act. The AFN continues to advocate for additional funds to support First Nations-led implementation of the Act.

The AFN continues to urge Canada to comply with the CHRT's orders on FNCFS reform and Jordan's Principle, including the CHRT's Compensation Decision, 2019 CHRT 39, which ordered compensation for First Nations children and their families who were unnecessarily placed into FNCFS or denied necessary services under Jordan's Principle. In June 2021, the AFN stood up for First Nations children and the CHRT's Compensation Decision and Jordan's Principle eligibility in Federal Court during Canada's appeal of these rulings. On September 29, 2021, in a positive step on the healing path forward, the Federal Court of Canada upheld these decisions. Despite public outcry, Canada filed an appeal of the Federal Court's decision addressing compensation with the Federal Court of Appeal on October 29, 2021.

On August 26, 2021, the CHRT issued a letter indicating a forthcoming decision on capital assets for FNCFS and Jordan's Principle. The CHRT ordered Canada to fund actual costs for capital projects and fund feasibility studies for First Nations seeking to undertake new capital projects. In September of 2021, Canada filed for judicial review of this ruling. The CHRT released its full reasons in relation to the funding of capital assets on November 16, 2021, as provided in 2021 CHRT 41.

In September 2020, the AFN filed a monumental \$10 billion class action lawsuit to seek justice for the thousands of First Nations children and families that have been discriminated against by Canada's child and family services system and Jordan's Principle that were not covered by the CHRT's Compensation Decision. The AFN was moved to file this lawsuit because the Compensation Decision could not address the First Nations children and youth involved with the child and family services system from 1991 until 2005.

Where do we hope to go in the future?

Child and Family Services: The AFN continues to work with ISC and First Nations to implement the Act and advocate for a new sustainable funding model to implement the legislation. The AFN will continue to ensure that First Nations sovereignty over child and family services is upheld and respected, and that the number of First Nations children and youth in care is reduced and families are supported in order to thrive. The AFN will continue to fight for compensation for First Nations



children and their families for the harms they experienced due to Canada's discriminatory provision of child and family services by way of the legal proceedings in which the AFN is party.

Jordan's Principle: As Canada prepares for Jordan's Principle authority renewal in 2022, the AFN will continue to advocate for greater First Nations control over the long-term implementation of Jordan's Principle. The AFN is fighting for First Nations children and their families to see justice for the pain and suffering they experienced due to Canada's discriminatory approach to Jordan's Principle. Through the federal class action lawsuit and the compensation process ordered by the CHRT, the AFN will continue to seek fair and just compensation for these children and families.

Early Learning and Child Care (ELCC): The AFN will continue its advocacy for support for First Nations ELCC programs and providers during the COVID-19 pandemic and beyond and will continue to advocate for First Nations in the work towards a national system of ELCC and the implementation of the Budget 2021 and election platform commitments.

Social Programs: The AFN is beginning work on co-development of options for reform of the On-Reserve Income Assistance Program with ISC and is pursuing a study to identify data and service gaps in the IA Program as mandated by AFN Resolution 89/2019, *Continuing First Nations Income Assistance Reform*, which will inform the work on co-development. The AFN is also pursuing a project supporting the development of First Nations-specific indicators of poverty and wellbeing, as mandated by AFN Resolution 98/2019, *Poverty Reduction for All First Nations in Canada*. The AFN continues to push for greater investments in the Assisted Living, Long-Term Care, and Family Violence Prevention Programs.

Sustainable Development Goals (SDGs): The AFN will continue to advocate for greater First Nations' involvement in the decision-making process around the SDGs to ensure that Canada's implementation respects First Nations' right to self-determination and their own priorities for sustainable development. The AFN also plans to engage First Nations in the development of a First Nations-led SDG strategy and framework, which outlines their own vision for sustainable development, once there is a mandate in place. The AFN is also planning a virtual national forum on the SDGs in early 2022.



What is the history of this issue and how does it impact First Nations?

Transforming our world: the 2030 Agenda for Sustainable Development (2030 Agenda) is a United Nations Resolution unanimously adopted by the General Assembly in 2015 and affirmed over 40 times. The Agenda comes with 17 Sustainable Development Goals (SDGs) that articulate global action to eradicate poverty and sets a forward-looking path to a sustainable, prosperous planet with resilient peoples.

While the SDGs are seen as a huge improvement to the Millennium Development Goals (MDGs), First Nations were not directly involved in the consultation process, and there is still much to be done to ensure that their priorities are adequately reflected in the SDGs. Regardless, many gains have been made at the international level through the replacing of the MDGs with the SDGs. Foremost is the fact that the 2030 Agenda and the SDGs are rooted in the principles of universality, human rights, participation, equality and leaving no one behind, all core priorities for Indigenous Peoples. The SDGs have the potential to be transformative for Indigenous Peoples, if their implementation, especially at the national level, respects these principles, particularly if they are used along with other international instruments such as the *United Nations Declaration on the Rights of Indigenous Peoples* (UN Declaration). The SDGs are exceptionally pertinent to hold States like Canada accountable for their obligations to human rights protections, non-discrimination and equitable progress across the goals, especially among Indigenous Peoples.

In February 2021, the Government of Canada released [Moving forward together: Canada's 2030 Agenda National Strategy](#) to lay the foundations for the implementation of the SDGs domestically. The strategy acknowledges the health and socio-economic disparities facing First Nations and aims to support existing federal commitments focused on Reconciliation such as the implementation of the UN Declaration, the Truth and Reconciliation Commission's Calls to Action and the Calls to Justice from the National Inquiry into Missing and Murdered Indigenous Women and Girls. In July 2021, Canada released the [Federal Implementation Plan to the 2030 Agenda](#) to provide a coordination framework for the implementation of the SDGs; however, First Nations were not engaged in the development of this plan. Thus, much work remains to ensure that concrete steps are taken in the right direction and that First Nations are involved in the process.

While AFN has provided input on the 2030 Agenda National Strategy, there is a need for greater engagement to further inform the implementation of this strategy or for First Nations to consider developing their own SDG strategy and framework, once a mandate is in place. Additional work



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revolves around using the SDGs to advocate for closing the gap, expanding data to inform policy development, and holding Canada accountable for its human rights performance internationally.

How has the AFN's recent advocacy affected this area?

In 2019, Economic and Social Development Canada (ESDC) and the AFN agreed to work to create awareness, capacity and partnerships around the SDGs among First Nations. Since then, the AFN has been able to provide preliminary inputs to the 2030 Agenda National Strategy, but further engagement is needed to ensure an informed and endorsed strategy, as well as an informed implementation plan.

Moreover, the AFN has been supporting mandates that align with the individual SDGs and using engagement opportunities to highlight the connection between different issues and the SDGs. In this regard, the AFN hosted a session on the SDGs at the National Forum on Income Assistance, connecting the SDGs with poverty and income inequality. Through internal meetings and Chiefs Committees, the AFN will also link the SDG work with the work on climate change, environment, food security, health and education. The 2021 UN High Level Political Forum was focused around sustainable and resilient recovery for COVID-19 to achieve the SDGs. The AFN attended the event and drafted a discussion paper providing a snapshot of progress across highlighted SDGs against the context of COVID-19.

The AFN has been involved in numerous initiatives focused on indicators, frameworks and data, with an external Table on First Nations Data set up to share information on such initiatives, and advocate for First Nations-led data initiatives. The AFN will also continue to use the SDGs work to advocate for improving data to measure First Nations well-being, as well as to include them in the Quality of Life framework being developed by Finance Canada.

Where do we hope to go in the future?

The AFN will continue to advance progress on individual SDGs through its ongoing work, continue engagement with ESDC in the development and implementation of the 2030 Agenda National strategy, and build towards a resolution that will provide the AFN with the mandate to advance work on the SDGs. Further, the AFN will use the International Working Group as another platform for internal discussion on the ways the SDGs can advance First Nations rights. This will help in the following areas:



1. Canada's Performance on Human Rights

The 2030 Agenda sets out broader principles focused on human rights and rule of law, which, in the Canadian context, offer an opportunity for Canada to improve its human rights performance by ensuring that First Nations' inherent jurisdiction and legal traditions and systems are respected. Para 8 of the 2030 Agenda resolution envisions a world with universal respect for human rights and human dignity, rule of law, justice, equality and non-discrimination for all. However, Canada's performance on these human rights has been deficient especially when looking at Canada's obligations under other covenants. Every treaty body that reports on Canada has found that a great deal must be done to improve standards of living and human rights for Indigenous Peoples. The SDGs can be seen as one mechanism to reaffirm the UN Declaration and hold Canada accountable for its human rights performance.

2. Affirming the UN Declaration

The 2030 Agenda reaffirms the importance of human rights instruments and implementing the Agenda "in a manner that is consistent with the rights and obligations of States under international law" (paragraph 18 of the resolution). For Indigenous Peoples, this instrument is the UN Declaration, which sets out minimum standards that States must meet, as well as standards that are informed by the larger body of international human rights law such as binding international human rights Treaties and how these have been interpreted and applied to the situation of Indigenous Peoples. Moreover, the UN Declaration affirms the right of self-determination of Indigenous Peoples and their rights to their own development. As stated in Article 23 of the UN Declaration, "Indigenous Peoples have the right to determine and develop priorities and strategies for exercising their right to development." Both the 2030 Agenda resolution and the UN Declaration are thus mutually reinforcing.

3. Improving data collection to measure and address the gap

Many international treaty bodies have expressed numerous concerns about the gaps in the quality of life experienced by many Indigenous People compared with other Canadians. The SDGs can work alongside existing First Nations frameworks to advocate for data sovereignty, increased capacity for data governance and improving overall data collection to measure and then address the socio-economic gaps between First Nations and non-Indigenous Canadians. This is especially important in light of the COVID-19 pandemic, which has exacerbated inequality, making the coordination and cooperation on the collection and analysis of data even more important.

4. Reinforce focus on Individual issues



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The 17 SDGs reflect many of the issues faced by First Nations in Canada and can be used to reinforce these issues, such as poverty reduction, education, health and climate action. Moreover, the SDGs offer a holistic framework whereby many of these issues are interrelated. For example, efforts made to end poverty and hunger (Goals 1 and 2), will improve healthy lives (Goal 3), but they require progress across a number of issues such as improving education, gender equality and economic growth (Goals 4, 5 and 8). The SDGs can thus highlight the holistic and interconnected nature of the challenges faced by First Nations and be used to reinforce the advocacy for individual issues.

5. Domestic implementation of the SDG strategy

Canada has recently launched *Moving forward together: Canada's 2030 Agenda National Strategy* as well as the *Federal Implementation Plan to the 2030 Agenda*. While commitments to reconciliation have been reinforced under the strategy, First Nations will need to continue advocating for their involvement in the decision-making process around the SDGs to ensure that Canada's implementation respects First Nations' right to self-determination and their own priorities for sustainable development, while also ensuring that the strategy upholds the basic principles of the 2030 Agenda, including equality, participation and human rights protection, and a decolonized concept of the rule of law. Given that the national strategy recognizes alternative models of sustainable development, there is also an opportunity for First Nations to develop their own SDG strategy and framework, which outlines their own vision for sustainable development, once there is a mandate in place.



What is the history of this issue and how does it impact First Nations?

The priorities of First Nations are multi-faceted and interrelated. For example, economic development is intrinsically linked to lands, environment, health, and learning. To be most effective as a political advocate, the AFN must work in a coordinated and integrated way across all sectors. The office of the Vice President Strategic Policy Integration is responsible for ensuring a horizontal approach. This is done by facilitating strong relationships between the branches and sectors across the AFN through strategic working groups and by managing key horizontal files such as the new fiscal relationship and intergovernmental affairs.

How has the AFN's recent advocacy affected this area?

Several strategic working groups (Rights, International, Research and Statistics, Engagements, and Budget) have been established at the AFN Secretariat to improve information sharing, capacity building and coordination across the organization. The working groups have been taking on both longstanding and emerging issues. For example, the Budget Working Group helped prepare a Pre-Budget Submission for the 2022 federal budget cycle to advocate for key investments in housing, infrastructure, health, education, languages, economic development, and other areas. Through AFN advocacy, spending for Indigenous priorities has totalled more than \$45 billion in the last six budget cycles.

The AFN continues to work towards a new fiscal relationship with Canada to address the gaps in quality of life between First Nations people and non-Indigenous Canadians. The new fiscal relationship includes: the creation of 10-year grants that allow for flexibility to design and deliver services and reduce administrative and reporting burdens, replacing the Default Prevention and Management Policy with a new approach that supports First Nations capacity development, ongoing development of the National Outcome Based Framework as a mutual accountability mechanism, and an advisory committee on fiscal relations. One hundred and fifteen First Nations have opted for the 10-year grant so far, and Budget 2021 included \$2.7 billion to ensure funding for core programs and services provided through the 10-year grants addresses key cost drivers such as inflation and population growth.

A horizontal approach requires analysis of key issues that intersect across several sectors. For example, summary materials were publicly released on progress towards the Truth and Reconciliation Commission's Calls to Action. The development of a culturally relevant Gender-Based Analysis Plus (GBA+) framework and supporting tools is ongoing. During the 2021 federal general election, this sector provided key analysis on party platforms, statistical analysis on the potential impact of First Nations voters on specific ridings, and profiles on Indigenous candidates.



Parliamentary monitoring of legislative and committee developments with a focus on monitoring legislation that impacts First Nations is also ongoing.

Where do we hope to go in the future?

To advance AFN's advocacy strategies, the sector will continue to support intergovernmental affairs. The Permanent Bilateral Mechanism (PBM) is the encapsulating term for the work on joint priorities between Canada and the AFN since a Memorandum of Understanding was established in 2017. Work is underway to report on progress to date on the joint priorities identified through the PBM. Considering both the recent election of a new National Chief and the 2021 federal election, it is time to reflect on previous joint priorities and to renew the process. The Strategic Policy Integration team will aid in the preparation should a Leaders meeting be agreed upon. Also, the sector will aid in the preparation for the organization's participation at a Council of Federation meeting as necessary.

The strategic working groups will continue to meet monthly. There are several key longstanding and emerging issues that will benefit from the coordinated efforts of the sectors through the working groups. These include efforts around budget advocacy, international advocacy, the Sustainable Development Goals (SDGs), the implementation of the principles of OCAP™, and the *United Nations Declaration on the Rights of Indigenous Peoples Act*.