

NEGOTIATIONS, TREATIES, RECOGNITION,
UN DECLARATION



INDIGENOUS RIGHTS RECOGNITION IN BC
COLLECTION OF KEY POLICIES, LAWS AND STANDARDS

NEGOTIATIONS › TREATIES › RECOGNITION ›
UN DECLARATION

BC TREATY
COMMISSION



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Principals' Accord on Transforming Treaty Negotiations in British Columbia

December 1, 2018

PRINCIPALS' ACCORD

On Transforming Treaty Negotiations in British Columbia

(the "Accord")

BETWEEN

HER MAJESTY THE QUEEN IN RIGHT OF CANADA

As represented by the Minister of Crown-Indigenous Relations
(hereinafter "Canada")

AND

HER MAJESTY THE QUEEN IN RIGHT OF THE PROVINCE OF BRITISH COLUMBIA

As represented by the Minister of Indigenous Relations and Reconciliation
(hereinafter "British Columbia")

AND

THE FIRST NATIONS SUMMIT

As represented by the First Nations Summit Task Group
(hereinafter the "First Nations Summit")

(each a "Principal" and collectively the "Principals")



EARLY CROWN-INDIGENOUS HISTORY

Before the arrival of Europeans in British Columbia, Indigenous Nations lived as distinct and self-sufficient nations deeply connected to their homelands, with their respective languages, economies, and systems of laws and governance. Nations interacted through trade, social relations, sharing of resources, and, at times, warfare.

From the earliest days of its presence in North America, the British Crown pursued a policy, set out in the Royal Proclamation of 1763, that recognized Aboriginal title, and provided that only the Crown could acquire lands from First Nations, and only by treaty.

The Crown's treaty making policies, pursued throughout most of southern Canada, were abandoned in British Columbia and consequently only a small number of treaties – the Douglas Treaties on Vancouver Island and the extension of Treaty 8 into northeastern British Columbia – were concluded prior to the early 1900s. This unique history left British Columbia with what has been referred to as the “outstanding Indigenous land question.”

Since the assertion of sovereignty by the British Crown, various Crown ordinances, legislation, and policies have denied Aboriginal title and rights and the existence of Indigenous systems of governance. Destructive and assimilative policies such as the Indian Act and residential schools devastated First Nations families, resulted in the near extinction of Indigenous languages and marginalized and impoverished First Nations in their own homelands. Further, Crown policies denied First Nations

the right to vote, organize, and raise funds to retain legal representation to pursue outstanding land claims.

MODERN-DAY CONTEXT

The BC Claims Task Force was established in 1990 to determine how First Nations in British Columbia, British Columbia, and Canada could begin modern-day treaty negotiations and what those negotiations should include. In 1991, the BC Claims Task Force issued its report, which set out a blueprint for a made-in-British Columbia framework for negotiations. The report was accepted by the First Nations Summit in its entirety, however, British Columbia and Canada accepted only the report's 19 recommendations.

In 1992, the Prime Minister, Premier, and First Nations Summit Task Group signed the British Columbia Treaty Commission Agreement, establishing the British Columbia Treaty Commission and launching a new era of made-in-British Columbia treaty negotiations.

Although several treaties have been concluded under this treaty negotiations framework, treaty negotiations have proceeded more slowly and encountered more challenges than were initially anticipated. Negotiations have been complicated by the exceptional diversity and large number of First Nations whose territories cover most of British Columbia.

Recognition by the Canadian courts over the last number of decades that First Nations have Aboriginal title in British Columbia has provided a further impetus for the Crown to

address the outstanding Indigenous land question and work towards building a new relationship with First Nations. The recognition of the pre-existence of First Nations as sovereign peoples with title and rights to lands and resources remains fundamental to resolving this outstanding land question.

WHEREAS:

- A. The federal and provincial governments' relationships with Indigenous Nations have been steeped in colonialism. The failure of successive governments to respect Indigenous Nations' Aboriginal title and rights, and their distinct governments, laws, traditions and cultures, has had a profound and lasting impact on Indigenous Nations and undermined the social and economic growth of the country.
- B. Through the negotiation of modern treaties, the Principals seek to end the legacy of colonialism, recognize the vital place of Indigenous governments within the constitutional fabric of Canada, revitalize Indigenous languages and cultures, unlock economic development opportunities, close socio-economic gaps between Indigenous and non-Indigenous communities, and ensure a true sharing of prosperity.
- C. The Principals agree that we need to further improve and expedite treaty negotiations in British Columbia. While we have made progress in implementing many of the proposals in the report entitled *Multilateral Engagement Process to Improve and Expedite Treaty Negotiations in British Columbia* (the "Multilateral Engagement Report") released in 2016, we recognize that more work needs to be done to transform

treaty negotiations in British Columbia. This will support the conclusion of treaties, agreements and other constructive arrangements in a timely manner and advance reconciliation between the Crown and Indigenous peoples in British Columbia.

- D. Since the release of the Multilateral Engagement Report, Canada and British Columbia have adopted approaches to forge a new relationship with Indigenous peoples – a relationship based upon the recognition, affirmation and implementation of rights, respect, cooperation, and partnership, including commitments to:
- (i) implement the *United Nations Declaration on the Rights of Indigenous peoples* (UN Declaration), which sets out the minimum standards for the survival, dignity and wellbeing of Indigenous peoples;
 - (ii) implement the Truth and Reconciliation Commission's (TRC) 94 Calls to Action; and
 - (iii) negotiate treaties and other agreements that are consistent with the understanding that section 35 of the *Constitution Act, 1982* contains a full box of rights.
- E. Canada has released *Principles respecting the Government of Canada's relationship with Indigenous peoples* as the foundation for transforming how the federal government partners with and supports Indigenous peoples and governments. In addition, the Prime Minister announced the creation of a new Department of Crown-Indigenous Relations and Northern Affairs, as a symbol of Canada's commitment to supporting healthy and self-determining Indigenous Nations.

- F. British Columbia is working collaboratively with Indigenous peoples to establish a clear, cross-government vision for reconciliation to guide the adoption and implementation of the UN Declaration, the TRC's 94 Calls to Action, and the *Tsilhqot'in* Supreme Court decision. All BC Cabinet members have been tasked with finding ways to implement the UN Declaration through a review of the province's policies, programs, and legislation.

THEREFORE, THROUGH THIS ACCORD, THE PRINCIPALS:

1. Acknowledge the inherent nature of Aboriginal title and rights, which are tied to First Nations' homelands, territories, waters and resources, and that Aboriginal title includes an inescapable economic component and encompasses the right to choose to what uses Aboriginal title land can be put.
2. Agree that section 35 of the *Constitution Act, 1982* contains a full box of rights and that Aboriginal title and rights are not contingent on recognition by the Crown, government action, court declarations or agreements for their existence. Treaties, agreements and other constructive arrangements are a preferred means to support the exercise and implementation of Aboriginal title and rights and to advance legal and political reconciliation.
3. Acknowledge the remarkable resilience of Indigenous peoples and Nations. Against devastating odds, Indigenous Nations' inherent systems of governance, laws, cultures, practices and languages have survived.

4. Agree that this Accord is intended to be a foundation for transforming and strengthening the made-in-BC treaty negotiations framework in order to achieve legal and political reconciliation. Nothing in this Principals' Accord is intended to abrogate or derogate, nor should it be construed as abrogating or derogating, from the Aboriginal title and rights, treaty rights and human rights of Indigenous Nations in British Columbia.
5. Agree that extinguishment and surrender of rights, in form or result, do not have any place in modern-day Crown-Indigenous relations, treaty negotiation mandates, treaties or other agreements. Rather, Aboriginal title and rights are continued through treaties, agreements and other constructive arrangements. The Principals agree that the made-in-BC treaty negotiations framework is grounded in the recognition, affirmation and implementation of Aboriginal title and rights. The Principals also agree to support the implementation of existing treaties and treaty rights.
6. Respect the inherent right of each Indigenous Nation to select their own pathway to exercising self-determination, which may lead them to conclude treaties, agreements or other constructive arrangements that support the ongoing nation-to-nation relationship between Indigenous governments and the Crown.
7. Affirm the Crown's constitutional obligations to Aboriginal title and rights holders, whether or not they are participating in the negotiation of treaties.

8. Recognize that treaties are one of the principal mechanisms for implementing the UN Declaration and the TRC's 94 Calls to Action, in particular Call #45 for the federal government to:

... renew or establish treaty relationships based on principles of mutual recognition, mutual respect and shared responsibility for maintaining those relationships into the future; and reconcile Aboriginal and Crown constitutional and legal orders to ensure that Aboriginal peoples are full partners in Confederation, including the recognition and integration of Indigenous laws and legal traditions in negotiation and implementation processes involving Treaties, land claims, and other constructive agreements.

9. Agree that in reinvigorating treaty negotiations, the Crown's treaty negotiation mandates and approach to implementing treaties must:
- a. be based on recognition of Aboriginal title and rights and Indigenous human rights, consistent with domestic legal principles, including those set out in the *Tsilhqot'in* decision (2014), and with the UN Declaration; and
 - b. respect the TRC's 94 Calls to Action, as applicable, and the *Report of the British Columbia Claims Task Force* (1991).
10. Endorse the co-development of mandates at individual treaty negotiation tables and the co-development of policies through broader collective processes involving multiple Indigenous Nations.
11. In the spirit of seeking to improve and expedite treaty negotiations in British Columbia, agree to work collaboratively

to implement the remaining proposals set out in the Multilateral Engagement Report.

12. Commit to continually educate all citizens regarding the troubled history and relationship between the Crown and Indigenous peoples and our promise for a new, prosperous future.
13. Commit to meet at least twice a year in person and to continue to collaborate on addressing issues that may be impeding progress in treaty negotiations with the goal of further transforming treaty negotiations in British Columbia.
14. Agree to work in collaboration to:
 - a. advance legal and political reconciliation;
 - b. ensure that the made-in-BC treaty negotiations framework and treaty mandates are reflective of the recognition, affirmation and implementation of Aboriginal title and rights, including the economic component and decision-making authority arising from Aboriginal title;
 - c. address challenges that arise in treaty negotiations, including any issues that one or more Principals identify as a priority;
 - d. discuss the impact and application of any current and future recognition or reconciliation initiatives on the made-in-BC treaty negotiations framework; and
 - e. come together to support and celebrate the efforts and achievements of First Nations in British Columbia.

Recognition and Reconciliation of Rights Policy for Treaty Negotiations in BC

September 4, 2019

Recognition and Reconciliation of Rights Policy for Treaty Negotiations in British Columbia

Endorsed by the Principals on September 4, 2019



CONTEXT

1. In British Columbia, pre-existing inherent rights of Indigenous Nations continue to exist today and the reconciliation of pre-existing Indigenous sovereignty with assumed Crown sovereignty through treaties, agreements and other constructive arrangements remains largely outstanding.
2. Canada, British Columbia and the First Nations Summit adopted the 19 recommendations of the *Report of the British Columbia Claims Task Force* (1991) and established the British Columbia Treaty Commission and the British Columbia treaty negotiations framework. Between 1992 and 2019, three treaties were concluded with seven Indigenous Nations in British Columbia through the British Columbia treaty negotiations framework. Over the years, numerous reports, studies and initiatives have recommended ways to improve the British Columbia treaty negotiations framework.
3. Canada and British Columbia recognize that to facilitate greater progress in negotiations, current policies and mandates need to be reviewed and updated. Canada and British Columbia also wish to continue moving beyond historic legacies of Crown denial, unilateralism, and the doctrine of discovery to a new nation-to-nation relationship based on the recognition of rights, reconciliation, respect, cooperation and partnership.
4. Canada has adopted, without qualification, and British Columbia has fully adopted the *United Nations Declaration on the Rights of Indigenous Peoples* (2007), which sets out

minimum standards for the survival, dignity and well-being of Indigenous peoples.

5. Canada, British Columbia and representatives of Participating Indigenous Nations in British Columbia have, within the context of the British Columbia treaty negotiations framework, co-developed this British Columbia-specific recognition and reconciliation policy.

DEFINITIONS

6. For the purposes of this policy,
 - a) **“Participating Indigenous Nation”** means Indigenous peoples engaged in the negotiation of treaties, agreements and other constructive arrangements within the British Columbia treaty negotiations framework, whose Statement of Intent has been accepted by the British Columbia Treaty Commission; and
 - b) **“Treaties, agreements and other constructive arrangements”** means treaties as well as other agreements and constructive arrangements negotiated within the British Columbia treaty negotiations framework.

PURPOSE

7. Canada and British Columbia affirm and endorse the *Report of the British Columbia Claims Task Force (1991)* and its recommendations.
8. Canada and British Columbia endorse the *United Nations Declaration on the Rights of Indigenous Peoples (2007)*

as a foundation of the British Columbia treaty negotiations framework.

9. This policy will support, improve, and enable, and not limit, approaches to the negotiation of treaties, agreements and other constructive arrangements between and among Canada, British Columbia and Participating Indigenous Nations in British Columbia that:
 - a. are grounded in the recognition of the rights of Participating Indigenous Nations;
 - b. reconcile pre-existing Indigenous sovereignty with assumed Crown sovereignty;
 - c. do not extinguish the rights, including title of Participating Indigenous Nations, in form or result; and
 - d. are able to evolve over time based on the co-existence of Crown and Indigenous governments and the ongoing process of reconciliation of pre-existing Indigenous sovereignty with assumed Crown sovereignty.
10. This policy will enable flexible, innovative and collaborative approaches to the negotiation of treaties, agreements and other constructive arrangements, including through the co-development of mandates.
11. This policy establishes a framework for the reconciliation of Crown and Indigenous rights, including titles and jurisdictions, for Participating Indigenous Nations.
12. This policy does not define the legal status, nature, scope, content or geographic extent of any particular Indigenous Nations' rights, including title and self-government, or

how those rights co-exist with those of the Crown or other Indigenous Nations.

APPLICATION

13. This policy applies to all federal government departments, agencies and Crown representatives, including federal negotiators, in respect of the negotiation of treaties, agreements and other constructive arrangements.
14. This policy applies to the provincial Ministry of Indigenous Relations and Reconciliation in respect of the negotiation of treaties, agreements and other constructive arrangements. British Columbia also intends this policy will apply, as appropriate, to all provincial government ministries, agencies and Crown representatives.
15. This policy is not intended to abrogate or derogate, nor should it be construed as abrogating or derogating, from the inherent title and rights, treaty rights and human rights of any Indigenous Peoples in British Columbia or Canada. For greater certainty, this policy applies only to Participating Indigenous Nations and does not apply to any other Indigenous Nations in British Columbia. If an Indigenous Nation falls within the definition of “Participating Indigenous Nation” but does not want this policy to apply, it may indicate that it does not want to be a “Participating Indigenous Nation” for the purpose of this policy, and this policy will not apply to it.

PRINCIPLES

16. The negotiation of treaties, agreements and other constructive arrangements in British Columbia will be guided by the following, in no particular order:
 - a. *Constitution Act, 1867* and *Constitution Act, 1982*, including sections 25 and 35;
 - b. *United Nations Declaration on the Rights of Indigenous Peoples* (2007);
 - c. *Report of the British Columbia Claims Task Force* (1991) and its recommendations;
 - d. Truth and Reconciliation Commission's 94 Calls to Action, which call for repudiation of concepts such as the doctrine of discovery;
 - e. applicable customary international law; and
 - f. Indigenous laws and legal systems.
17. The rights of Participating Indigenous Nations continue to evolve. They are not frozen in time and are not contingent on state recognition, court declaration or treaty articulation for their existence or exercise.
18. Treaties, agreements and other constructive arrangements are the preferred methods of achieving the reconciliation of Crown title and the inherent titles of Participating Indigenous Nations, and the reconciliation of pre-existing Indigenous sovereignty with assumed Crown sovereignty. They will:
 - a. provide for the recognition and continuation of Indigenous rights;

- b. not extinguish, surrender or require the modification of the rights of Participating Indigenous Nations, in form or result;
 - c. not set out the specific nature, scope or extent of inherent Indigenous rights, except as otherwise agreed by the parties to the negotiations;
 - d. provide a framework for reconciling Crown title and the inherent titles of Participating Indigenous Nations, and pre-existing Indigenous sovereignty with assumed Crown sovereignty;
 - e. provide for the co-existence of Crown and Participating Indigenous Nation governments;
 - f. be capable of evolving over time and not require full and final settlement;
 - g. employ approaches that reflect the unique circumstances of each Participating Indigenous Nation rather than unilaterally developed, formulaic approaches and formulas; and
 - h. provide for the implementation of the *United Nations Declaration on the Rights of Indigenous Peoples* (2007), including the rights to redress and “free, prior and informed consent”.
19. Canada and British Columbia will fund the participation of Participating Indigenous Nations in the British Columbia treaty negotiations framework through non-repayable contributions rather than through loans. Funding will be allocated by the British Columbia Treaty Commission in accordance with the *British Columbia Treaty Commission Agreement* (1992).

20. Canada and British Columbia acknowledge their legal obligations to respect the rights of Indigenous Nations and Participating Indigenous Nations.
21. Overlaps and shared territories are a matter of importance and significance that have the potential to impact relations between Participating Indigenous Nations and neighbouring Indigenous Nations. The Crown acknowledges that it cannot unjustifiably infringe on the Aboriginal and treaty rights and titles of Indigenous Nations.
22. In the negotiation of treaties, agreements and other constructive arrangements, Canada and British Columbia will respect their legal obligations to all Canadians.
23. Reconciliation requires honourable processes of negotiations. The honour of the Crown is reflected, not just in the identification of the interests, but in how those interests are expressed. This requires the federal and provincial governments and their departments, ministries, agencies and officials to act with honour, integrity, good faith, fairness and genuine intention to reach agreement in all dealings with Participating Indigenous Nations. The overarching aim is to ensure that Participating Indigenous Nations are treated with respect and as full partners in Confederation, with their rights, treaties and agreements recognized and implemented.
24. Negotiations, including the co-development of mandates, should be conducted in an interest-based, non-adversarial manner, conducive to reaching agreements.

CO-DEVELOPMENT OF MANDATES

25. In the negotiation of treaties, agreements and other constructive arrangements, federal and provincial negotiators are authorized to co-develop mandates with Participating Indigenous Nations. Federal and provincial negotiators may employ incremental, staged or stepping stone approaches to the co-development of mandates.
26. All relevant federal government departments, agencies and Crown representatives will participate in the co-development of mandates.
27. The provincial Ministry of Indigenous Relations and Reconciliation will participate in the co-development of mandates. British Columbia also intends that, as appropriate, relevant provincial government ministries, agencies and Crown representatives will participate in the co-development of mandates.
28. Where the parties agree, Canada, British Columbia and Participating Indigenous Nations can also work together, through the co-development process set out in this policy, to find common ground to settle litigation outside of the courts.
29. Consistent with recommendation 2 of the *Report of the British Columbia Claims Task Force (1991)*, Canada, British Columbia or a Participating Indigenous Nation can raise any issue that it views as significant to the new relationship of reconciliation, including longstanding issues previously raised by a Participating Indigenous Nation that are not covered by existing federal or provincial mandates.

30. If any party to the negotiations raises an issue that it views as significant to the new relationship of reconciliation, the parties will create or identify options for addressing the issue, which could include the co-development of mandates.
31. In co-developing mandates, the following principles will apply:
 - a. there will be no “one size fits all” approach to the co-development of mandates;
 - b. co-developed mandates will take into account the diversity of Participating Indigenous Nations in British Columbia; and
 - c. the parties to the negotiations may address longstanding issues that are not covered by existing federal or provincial mandates.
32. Federal and provincial negotiators will use best efforts to work expeditiously with Participating Indigenous Nations to:
 - a. jointly design the process for co-developing a mandate in respect of the issue raised;
 - b. under the agreed-upon process, co-develop a mandate in respect of the issue raised;
 - c. develop non-binding documents that capture key components of codeveloped mandates; and
 - d. seek specific negotiating mandates from their respective decision-makers to negotiate and conclude binding agreements based on the non-binding documents.
33. Co-development will occur continuously from design of the co-development process to approval of the mandate,

through open and transparent discussions of issues being raised, while respecting the confidence of Cabinet processes.

34. In preparing submissions to Cabinet, Canada and British Columbia will work collaboratively with the Participating Indigenous Nation that participated in co-development of the mandate to ensure that its perspective is accurately reflected.

DISPUTE RESOLUTION

35. Canada and British Columbia, with the full and effective participation of Participating Indigenous Nations, will seek to support just, equitable and effective mechanisms and procedures for the prompt resolution of conflicts, disputes and impasses, giving due consideration to the customs, traditions, norms or legal systems of the Participating Indigenous Nations concerned. Where impasses cannot be resolved, Canada and British Columbia will be open to third-party facilitation and mediation. Canada, British Columbia and Participating Indigenous Nations may wish to develop a pre-approved list of facilitators and mediators to minimize delays.

SELF-DETERMINATION AND JURISDICTION

36. Recognition of the inherent right of self-determination of Participating Indigenous Nations in British Columbia is the starting point of negotiations to reconcile and achieve the co-existence of federal, provincial and Indigenous jurisdictions, laws and legal systems.
37. The inherent right of self-determination of Participating Indigenous Nations in British Columbia is recognized and

affirmed in section 35 of the *Constitution Act, 1982* and expressed in the *United Nations Declaration on the Rights of Indigenous Peoples* (2007).

38. Canada and British Columbia recognize that Participating Indigenous Nations in British Columbia have the inherent right of self-determination, which includes:
 - a. an inextricable link to the lands, territories and resources traditionally owned, occupied or otherwise used or acquired by Participating Indigenous Nations;
 - b. rights to determine their own identity and membership in accordance with their customs, traditions and laws;
 - c. inherent rights of jurisdiction and self-government;
 - d. laws, law-making authority and legal systems;
 - e. rights to determine, maintain, develop and strengthen their distinct political systems, institutional structures and representative institutions, through representatives chosen by themselves in accordance with their own procedures; and
 - f. rights to freely pursue economic, political, social and cultural development.
39. Canada and British Columbia recognize that section 35 of the *Constitution Act, 1982* contains a full box of rights, which means that Participating Indigenous Nations do not have to prove the existence of their constitutionally protected rights.
40. The Crown acknowledges that it is pursuing reconciliation negotiations with Indigenous Nations outside of this policy,

and the recognition of Indigenous rights by the Crown is not limited to negotiations under this policy.

41. Canada and British Columbia recognize that self-governing Participating Indigenous Nations are part of Canada's evolving system of cooperative federalism and distinct orders of government.
42. Federal and provincial negotiators may negotiate comprehensive, core or incremental treaties, agreements and other constructive arrangements to:
 - a. reconcile Crown and Indigenous jurisdictions, laws and legal systems;
 - b. support the co-existence of Crown and Indigenous jurisdictions and laws;
 - c. enable shared decision-making; and
 - d. implement Participating Indigenous Nations' rights to "free, prior and informed consent," consistent with federal and provincial commitments to implementing the *United Nations Declaration on the Rights of Indigenous Peoples* (2007).
43. Federal and provincial negotiators may negotiate comprehensive, core or incremental treaties, agreements and other constructive arrangements to address Participating Indigenous Nations' rights to redress, including just, fair and equitable compensation, consistent with federal and provincial commitments to implementing the *United Nations Declaration on the Rights of Indigenous Peoples* (2007).
44. Treaties, agreements, and other constructive arrangements under this policy are one pathway for enabling Indigenous

Nations to transition away from the *Indian Act*. Prior to concluding treaties, Canada and British Columbia will support the transition away from the *Indian Act* and colonial systems of administration. In pursuit of this objective, federal and provincial negotiators may negotiate the following types of agreements or constructive arrangements with Participating Indigenous Nations:

- a. comprehensive, core, sectoral (e.g., education or child welfare) or incremental self-government agreements or other constructive arrangements to support Participating Indigenous Nations to remove and replace the application of *Indian Act* band governance structures;
- b. agreements or other constructive measures that recognize the legal capacity of Participating Indigenous Nations; and
- c. measures directed at supporting nation-building and governance capacity-building for Participating Indigenous Nations.

FISCAL ARRANGEMENTS

45. A new government-to-government relationship requires new approaches and models for the co-existence and exercise of Canada's, British Columbia's and Participating Indigenous Nations' jurisdictions. Canada, British Columbia and Participating Indigenous Nations will seek to develop new fiscal arrangements to support treaties, agreements and other constructive arrangements.

TITLE

46. Negotiation of treaties, agreements and other constructive arrangements will be based on recognition of the inherent titles of Participating Indigenous Nations in British Columbia to their respective lands, territories and resources, which they have traditionally owned, occupied or otherwise used or acquired.
47. The inherent titles of Participating Indigenous Nations in British Columbia are recognized and affirmed in section 35 of the *Constitution Act, 1982* and are reflected in the *United Nations Declaration on the Rights of Indigenous Peoples (2007)*.
48. Canada and British Columbia recognize that the inherent titles of Participating Indigenous Nations in British Columbia include a number of attributes unique to each Participating Indigenous Nation, including Aboriginal title as recognized and affirmed under section 35 of the *Constitution Act, 1982*.
49. The parties will work collaboratively through negotiations to reconcile inherent titles with Crown title through treaties, agreements and other constructive arrangements. Components of inherent titles, which may be addressed in that context, may include:
 - a. legal interests in lands and resources, including rights of use and ownership;
 - b. an inescapable economic component, including the right to benefit from the land;
 - c. a jurisdictional component; and
 - d. decision-making authority.

50. Treaties, agreements and other constructive arrangements are the preferred methods of achieving the reconciliation of Crown title and the inherent titles of Participating Indigenous Nations.
51. In negotiating treaties, agreements and other constructive arrangements to reconcile Crown title and the inherent titles of Participating Indigenous Nations, negotiation tables may employ an incremental or stepping stone approach.
52. Federal and provincial negotiators may negotiate comprehensive, core or incremental treaties, agreements and other constructive arrangements to reconcile Crown title and the inherent titles of Participating Indigenous Nations that may include:
 - a. land transfers, including land transfers earlier in the negotiation process;
 - b. resource revenue sharing agreements and economic benefit sharing agreements;
 - c. shared decision-making in respect of lands and resources; and
 - d. jurisdictional arrangements that support the effective implementation of title.
53. Canada and British Columbia acknowledge that achieving the reconciliation of Crown title and the inherent titles of Participating Indigenous Nations through treaties, agreements and other constructive arrangements may take time. In the interim, consistent with recommendation 16 of the *Report of the British Columbia Claims Task Force* (1991), “the parties [will] negotiate interim measure agreements

before or during the treaty negotiations when an interest is being affected which could undermine the process.”

54. Participating Indigenous Nations each have unique perspectives about their title and rights in and to the lands, territories and resources that they have traditionally owned, occupied or otherwise used or acquired. These perspectives are grounded in their respective laws and legal systems. Federal and provincial negotiators will respect these perspectives when negotiating treaties, agreements and other constructive arrangements to reconcile Crown title and the inherent titles of Participating Indigenous Nations.
55. Throughout the process of negotiating treaties, agreements and other constructive arrangements, Canada and British Columbia will respect the titles and rights of Participating Indigenous Nations who have been wholly or partially dispossessed, displaced or dislocated from their lands, territories and resources.

SHARED TERRITORIES AND OVERLAPS

56. Canada, British Columbia, and Participating Indigenous Nations acknowledge the significance and importance of resolving issues relating to shared territories and overlaps among Indigenous Nations and Participating Indigenous Nations in British Columbia. The Crown further acknowledges that it has a constructive role to play in the resolution of these issues in the context of the negotiation of treaties, agreements and other constructive arrangements. Resolution of these issues will require ongoing efforts and may require

the development of new policies, policy annexes, tools, approaches and techniques. Proposals for further work in this area are set out in section 5 of Schedule A.

57. Consistent with recommendation 8 of the *Report of the British Columbia Claims Task Force* (1991), Canada and British Columbia acknowledge that Indigenous Nations are best placed to resolve shared territory and overlap issues amongst themselves.
58. Where two or more Indigenous Nations or groups have a shared territory and wish to enter into joint negotiations with Canada and British Columbia, federal and provincial negotiators may negotiate and enter into shared territory agreements and other constructive arrangements with these Indigenous Nations or groups in respect of the shared territory.

IMPLEMENTATION OF TREATIES, AGREEMENTS AND OTHER CONSTRUCTIVE ARRANGEMENTS

59. Guidance on the implementation of treaties, agreements and other constructive arrangements will be co-developed on a tripartite basis, will include Participating Indigenous Nations that have concluded modern treaties in British Columbia and will be set out in an annex.

EFFECTIVE DATE

60. This policy takes effect on September 4, 2019.

GENERAL PROVISIONS

61. For the purposes of negotiations with Participating Indigenous Nations, this policy supersedes and replaces the following:
- Statement on Claims of Indian and Inuit People*, 1973;
 - In All Fairness: A Native Claims Policy—Comprehensive Claims*, 1981;
 - Comprehensive Land Claims Policy*, 1986;
 - Federal Policy for the Settlement of Native Claims*, 1993;
 - The Government of Canada's Approach to Implementation of the Inherent Right and the Negotiation of Aboriginal Self-Government*, 1995;
 - Renewing the Comprehensive Land Claims Policy: Towards a Framework for Addressing Section 35 Aboriginal Rights (Interim Policy)*, 2014; and
 - Any other federal and provincial policies and directives to the extent of any conflict with this policy.

MONITORING, EVALUATION AND REVIEW

62. Canada and British Columbia will continually monitor and assess the effectiveness and implementation of this policy and ensure that problems and issues are addressed.
63. Canada, British Columbia and representatives of Participating Indigenous Nations will evaluate this policy annually for the first four years, with the first evaluation commencing one year following its coming into effect. After the fourth evaluation, Canada, British Columbia and the First Nations Summit will evaluate this policy every four years.

AMENDMENT

64. Any amendment to this policy must be co-developed and approved by Canada, British Columbia and Participating Indigenous Nations.

SCHEDULE A: COMMITMENTS TO FURTHER WORK

Canada, British Columbia and representatives of Participating Indigenous Nations will co-develop annexes in respect of the following issues in the context of treaties, agreements and other constructive arrangements:

[Please refer to the policy for the list of the 13 issues.]

The Report of the British Columbia Claims Task Force Recommendations

June 28, 1991

The Report of the British Columbia Claims Task Force

June 28, 1991

The First Nations of British Columbia
The Government of British Columbia
The Government of Canada

THE TASK FORCE RECOMMENDS THAT:

1. The First Nations, Canada, and British Columbia establish a new relationship based on mutual trust, respect, and understanding—through political negotiations.
2. Each of the parties be at liberty to introduce any issue at the negotiation table which it views as significant to the new relationship.
3. A British Columbia Treaty Commission be established by agreement among the First Nations, Canada, and British Columbia to facilitate the process of negotiations.
4. The Commission consist of a full-time chairperson and four commissioners — of whom two are appointed by the First Nations, and one each by the federal and provincial governments.
5. A six-stage process be followed in negotiating treaties.
6. The treaty negotiation process be open to all First Nations in British Columbia
7. The organization of First Nations for the negotiations is a decision to be made by each First Nation.
8. First Nations resolve issues related to overlapping traditional territories among themselves.
9. Federal and provincial governments start negotiations as soon as First Nations are ready.

10. Non-aboriginal interests be represented at the negotiating table by the federal and provincial governments.
11. The First Nation, Canadian, and British Columbian negotiating teams be sufficiently funded to meet the requirements of the negotiations.
12. The commission be responsible for allocating funds to the First Nations.
13. The parties develop ratification procedures which are confirmed in the Framework Agreement and in the Agreement in Principle.
14. The commission provide advice and assistance in dispute resolution as agreed by the parties.
15. The parties select skilled negotiators and provide them with a clear mandate, and training as required.
16. The parties negotiate interim measures agreements before or during the treaty negotiations when an interest is being affected which could undermine the process.
17. Canada, British Columbia, and the First Nations jointly undertake public education and information programs.
18. The parties in each negotiation jointly undertake a public information program.
19. British Columbia, Canada, and the First Nations request the First Nations Education Secretariat, and various educational organizations in British Columbia, to prepare resource materials for use in the schools and by the public.

Principles Respecting the Government of Canada's Relationship with Indigenous Peoples

July 14, 2017

 Department of Justice Canada / Ministère de la Justice Canada

PRINCIPLES

Respecting the Government of Canada's Relationship with Indigenous Peoples



Canada 

The Government of Canada is committed to achieving reconciliation with Indigenous peoples through a renewed, nation-to-nation, government-to-government, and Inuit-Crown relationship based on recognition of rights, respect, co-operation, and partnership as the foundation for transformative change.

Indigenous peoples have a special constitutional relationship with the Crown. This relationship, including existing Aboriginal and treaty rights, is recognized and affirmed in section 35 of the *Constitution Act, 1982*. Section 35 contains a full box of rights, and holds the promise that Indigenous nations will become partners in Confederation on the basis of a fair and just reconciliation between Indigenous peoples and the Crown.

The Government recognizes that Indigenous self-government and laws are critical to Canada's future, and that Indigenous perspectives and rights must be incorporated in all aspects of this relationship. In doing so, we will continue the process of decolonization and hasten the end of its legacy wherever it remains in our laws and policies.

The implementation of the *United Nations Declaration on the Rights of Indigenous Peoples* requires transformative change in the Government's relationship with Indigenous peoples. The UN Declaration is a statement of the collective and individual rights that are necessary for the survival, dignity and well-being of Indigenous peoples around the world, and the Government must take an active role in enabling these rights to be exercised. The Government will fulfil its commitment to implementing the UN Declaration through the review of laws and policies, as well as other collaborative initiatives and actions. This approach aligns

with the UN Declaration itself, which contemplates that it may be implemented by States through various measures.

This review of laws and policies will be guided by Principles respecting the Government of Canada's Relationship with Indigenous peoples. These Principles are rooted in section 35, guided by the UN Declaration, and informed by the Report of the Royal Commission on Aboriginal Peoples (RCAP) and the Truth and Reconciliation Commission (TRC)'s Calls to Action. In addition, they reflect a commitment to good faith, the rule of law, democracy, equality, non-discrimination, and respect for human rights. They will guide the work required to fulfill the Government's commitment to renewed nation-to-nation, government-to-government, and Inuit-Crown relationships.

These Principles are a starting point to support efforts to end the denial of Indigenous rights that led to disempowerment and assimilationist policies and practices. They seek to turn the page in an often troubled relationship by advancing fundamental change whereby Indigenous peoples increasingly live in strong and healthy communities with thriving cultures. To achieve this change, it is recognized that Indigenous nations are self-determining, self-governing, increasingly self-sufficient, and rightfully aspire to no longer be marginalized, regulated, and administered under the *Indian Act* and similar instruments. The Government of Canada acknowledges that strong Indigenous cultural traditions and customs, including languages, are fundamental to rebuilding Indigenous nations. As part of this rebuilding, the diverse needs and experiences of Indigenous women and girls must be considered as part of this work, to

ensure a future where non-discrimination, equality and justice are achieved. The rights of Indigenous peoples, wherever they live, shall be upheld.

These Principles are to be read holistically and with their supporting commentary. The Government of Canada acknowledges that the understandings and applications of these Principles in relationships with First Nations, the Métis Nation, and Inuit will be diverse, and their use will necessarily be contextual. These Principles are a necessary starting point for the Crown to engage in partnership, and a significant move away from the status quo to a fundamental change in the relationship with Indigenous peoples. The work of shifting to, and implementing, recognition-based relationships is a process that will take dynamic and innovative action by the federal government and Indigenous peoples. These Principles are a step to building meaning into a renewed relationship.

1. The Government of Canada recognizes that all relations with Indigenous peoples need to be based on the recognition and implementation of their right to self-determination, including the inherent right of self-government.

This opening Principle affirms the priority of recognition in renewed nation-to-nation, government-to-government, and Inuit-Crown relationships. As set out by the courts, an Indigenous nation or rights-holding group is a group of Indigenous people sharing critical features such as language, customs, traditions, and historical experience at key moments in time like first contact, assertion of Crown sovereignty, or effective control. The Royal

Commission on Aboriginal Peoples estimated that there are between 60 and 80 historical nations in Canada.

The Government of Canada's recognition of the ongoing presence and inherent rights of Indigenous peoples as a defining feature of Canada is grounded in the promise of section 35 of the *Constitution Act, 1982*, in addition to reflecting articles 3 and 4 of the UN Declaration. The promise mandates the reconciliation of the prior existence of Indigenous peoples and the assertion of Crown sovereignty, as well as the fulfilment of historic treaty relationships.

This principle reflects the UN Declaration's call to respect and promote the inherent rights of Indigenous peoples. This includes the rights that derive from their political, economic, and social structures and from their cultures, spiritual traditions, histories, laws, and philosophies, especially their rights to their lands, territories and resources.

Canada's constitutional and legal order recognizes the reality that Indigenous peoples' ancestors owned and governed the lands which now constitute Canada prior to the Crown's assertion of sovereignty. All of Canada's relationships with Indigenous peoples are based on recognition of this fact and supported by the recognition of Indigenous title and rights, as well as the negotiation and implementation of pre-Confederation, historic, and modern treaties.

It is the mutual responsibility of all governments to shift their relationships and arrangements with Indigenous peoples so that they are based on recognition and respect for the

right to self-determination, including the inherent right of self-government for Indigenous nations. For the federal government, this responsibility includes changes in the operating practices and processes of the federal government. For Indigenous peoples, this responsibility includes how they define and govern themselves as nations and governments and the parameters of their relationships with other orders of government.

2. The Government of Canada recognizes that reconciliation is a fundamental purpose of section 35 of the Constitution Act, 1982.

Reconciliation is an ongoing process through which Indigenous peoples and the Crown work cooperatively to establish and maintain a mutually respectful framework for living together, with a view to fostering strong, healthy, and sustainable Indigenous nations within a strong Canada. As we build a new future, reconciliation requires recognition of rights and that we all acknowledge the wrongs of the past, know our true history, and work together to implement Indigenous rights.

This transformative process involves reconciling the pre-existence of Indigenous peoples and their rights and the assertion of sovereignty of the Crown, including inherent rights, title, and jurisdiction. Reconciliation, based on recognition, will require hard work, changes in perspectives and actions, and compromise and good faith, by all.

Reconciliation frames the Crown's actions in relation to Aboriginal and treaty rights and informs the Crown's broader relationship with Indigenous peoples. The Government of Canada's approach

to reconciliation is guided by the UN Declaration, the TRCs Calls to Action, constitutional values, and collaboration with Indigenous peoples as well as provincial and territorial governments.

3. The Government of Canada recognizes that the honour of the Crown guides the conduct of the Crown in all of its dealings with Indigenous peoples.

The Government of Canada recognizes that it must uphold the honour of the Crown, which requires the federal government and its departments, agencies, and officials to act with honour, integrity, good faith, and fairness in all of its dealings with Indigenous peoples. The honour of the Crown gives rise to different legal duties in different circumstances, including fiduciary obligations and diligence. The overarching aim is to ensure that Indigenous peoples are treated with respect and as full partners in Confederation.

4. The Government of Canada recognizes that Indigenous self-government is part of Canada's evolving system of cooperative federalism and distinct orders of government.

This Principle affirms the inherent right of self-government as an existing Aboriginal right within section 35. Recognition of the inherent jurisdiction and legal orders of Indigenous nations is therefore the starting point of discussions aimed at interactions between federal, provincial, territorial, and Indigenous jurisdictions and laws.

As informed by the UN Declaration, Indigenous peoples have a unique connection to and constitutionally protected interest in their lands, including decision-making, governance, jurisdiction, legal traditions, and fiscal relations associated with those lands.

Nation-to-nation, government-to-government, and Inuit-Crown relationships, including treaty relationships, therefore include:

1. developing mechanisms and designing processes which recognize that Indigenous peoples are foundational to Canada's constitutional framework;
2. involving Indigenous peoples in the effective decision-making and governance of our shared home;
3. putting in place effective mechanisms to support the transition away from colonial systems of administration and governance, including, where it currently applies, governance and administration under the *Indian Act*; and
4. ensuring, based on recognition of rights, the space for the operation of Indigenous jurisdictions and laws.

5. The Government of Canada recognizes that treaties, agreements, and other constructive arrangements between Indigenous peoples and the Crown have been and are intended to be acts of reconciliation based on mutual recognition and respect.

This Principle recognizes that Indigenous peoples have diverse interests and aspirations and that reconciliation can be achieved in different ways with different nations, groups, and communities.

This principle honours historic treaties as frameworks for living together, including the modern expression of these relationships. In accordance with the Royal Proclamation of 1763, many Indigenous nations and the Crown historically relied on treaties for mutual recognition and respect to frame their relationships. Across much of Canada, the treaty relationship between the Indigenous nations and Crown is a foundation for ongoing cooperation and partnership with Indigenous peoples.

The Government of Canada recognizes the role that treaty-making has played in building Canada and the contemporary importance of treaties, both historic and those negotiated after 1973, as foundations for ongoing efforts at reconciliation. The spirit and intent of both Indigenous and Crown parties to treaties, as reflected in oral and written histories, must inform constructive partnerships, based on the recognition of rights, that support full and timely treaty implementation.

In accordance with section 35, all Indigenous peoples in Canada should have the choice and opportunity to enter into treaties, agreements, and other constructive arrangements with the Crown as acts of reconciliation that form the foundation for ongoing relations. The Government of Canada prefers no one mechanism of reconciliation to another. It is prepared to enter into innovative and flexible arrangements with Indigenous peoples that will ensure that the relationship accords with the aspirations, needs, and circumstances of the Indigenous-Crown relationship. The Government also acknowledges that the existence of Indigenous rights is not dependent on an agreement and, where agreements are formed, they should be

based on the recognition and implementation of rights and not their extinguishment, modification, or surrender.

Accordingly, this Principle recognizes and affirms the importance that Indigenous peoples determine and develop their own priorities and strategies for organization and advancement. The Government of Canada recognizes Indigenous peoples' right to self-determination, including the right to freely pursue their economic, political, social, and cultural development.

6. The Government of Canada recognizes that meaningful engagement with Indigenous peoples aims to secure their free, prior, and informed consent when Canada proposes to take actions which impact them and their rights, including their lands, territories and resources.

This Principle acknowledges the Government of Canada's commitment to new nation-to-nation, government-to-government, and Inuit-Crown relationships that builds on and goes beyond the legal duty to consult. In delivering on this commitment, the Government recognizes the right of Indigenous peoples to participate in decision-making in matters that affect their rights through their own representative institutions and the need to consult and cooperate in good faith with the aim of securing their free, prior, and informed consent.

The Supreme Court of Canada has clarified that the standard to secure consent of Indigenous peoples is strongest in the case of Aboriginal title lands. The Supreme Court of Canada has confirmed that Aboriginal title gives the holder the right to use, control, and manage the land and the right to the economic

benefits of the land and its resources. The Indigenous nation, as proper title holder, decides how to use and manage its lands for both traditional activities and modern purposes, subject to the limit that the land cannot be developed in a way that would deprive future generations of the benefit of the land.

The importance of free, prior, and informed consent, as identified in the UN Declaration, extends beyond title lands. To this end, the Government of Canada will look for opportunities to build processes and approaches aimed at securing consent, as well as creative and innovative mechanisms that will help build deeper collaboration, consensus, and new ways of working together. It will ensure that Indigenous peoples and their governments have a role in public decision-making as part of Canada's constitutional framework and ensure that Indigenous rights, interests, and aspirations are recognized in decision-making.

7. The Government of Canada recognizes that respecting and implementing rights is essential and that any infringement of section 35 rights must by law meet a high threshold of justification which includes Indigenous perspectives and satisfies the Crown's fiduciary obligations.

This Principle reaffirms the central importance of working in partnership to recognize and implement rights and, as such, that any infringement of Aboriginal or treaty rights requires justification in accordance with the highest standards established by the Canadian courts and must be attained

in a manner consistent with the honour of the Crown and the objective of reconciliation.

This requirement flows from Canada's constitutional arrangements. Meaningful engagement with Indigenous peoples is therefore mandated whenever the Government may seek to infringe a section 35 right.

8. The Government of Canada recognizes that reconciliation and self-government require a renewed fiscal relationship, developed in collaboration with Indigenous nations, that promotes a mutually supportive climate for economic partnership and resource development.

The Government of Canada recognizes that the rights, interests, perspectives, and governance role of Indigenous peoples are central to securing a new fiscal relationship. It also recognizes the importance of strong Indigenous governments in achieving political, social, economic, and cultural development and improved quality of life.

This Principle recognizes that a renewed economic and fiscal relationship must ensure that Indigenous nations have the fiscal capacity, as well as access to land and resources, in order to govern effectively and to provide programs and services to those for whom they are responsible.

The renewed fiscal relationship will also enable Indigenous peoples to have fair and ongoing access to their lands, territories, and resources to support their traditional economies and to share in the wealth generated from those lands and resources as part of the broader Canadian economy.

A fairer fiscal relationship with Indigenous nations can be achieved through a number of mechanisms such as new tax arrangements, new approaches to calculating fiscal transfers, and the negotiation of resource revenue sharing agreements.

9. The Government of Canada recognizes that reconciliation is an ongoing process that occurs in the context of evolving Indigenous-Crown relationships.

This Principle recognizes that reconciliation processes, including processes for negotiation and implementation of treaties, agreements and other constructive arrangements, will need to be innovative and flexible and build over time in the context of evolving Indigenous-Crown relationships. These relationships are to be guided by the recognition and implementation of rights.

Treaties, agreements, and other constructive arrangements should be capable of evolution over time. Moreover, they should provide predictability for the future as to how provisions may be changed or implemented and in what circumstances. Canada is open to flexibility, innovation, and diversity in the nature, form, and content of agreements and arrangements.

The Government of Canada also recognizes that it has an active role and responsibility in ensuring the cultural survival of Indigenous peoples as well as in protecting Aboriginal and treaty rights.

The Government of Canada will continue to collaborate with Indigenous peoples on changes to federal laws, regulations,

and policies to realize the unfulfilled constitutional promise of s.35 of the *Constitution Act, 1982*.

10. The Government of Canada recognizes that a distinctions-based approach is needed to ensure that the unique rights, interests and circumstances of the First Nations, the Métis Nation and Inuit are acknowledged, affirmed, and implemented.

The Government of Canada recognizes First Nations, the Métis Nation, and Inuit as the Indigenous peoples of Canada, consisting of distinct, rights-bearing communities with their own histories, including with the Crown. The work of forming renewed relationships based on the recognition of rights, respect, co-operation, and partnership must reflect the unique interests, priorities and circumstances of each People.

British Columbia Declaration on the Rights of Indigenous Peoples Act

November 28, 2019

DECLARATION ON THE RIGHTS OF INDIGENOUS PEOPLES ACT

[SBC 2019] CHAPTER 44

Assented to November 28, 2019

Contents

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Schedule

Interpretation

In this Act:

1 (1)

"Declaration" means the United Nations Declaration on the Rights of Indigenous Peoples set out in the Schedule;

"Indigenous governing body" means an entity that is authorized to act on behalf of Indigenous peoples that hold rights recognized and affirmed by section 35 of the *Constitution Act, 1982*;

"Indigenous peoples" has the same meaning as aboriginal peoples in section 35 of the *Constitution Act, 1982*;

"statutory power of decision" has the same meaning as in the *Judicial Review Procedure Act*,

HER MAJESTY, by and with the advice and consent of the Legislative Assembly of the Province of British Columbia, enacts as follows:

INTERPRETATION

1 (1) In this Act:

“Declaration” means the United Nations Declaration on the Rights of Indigenous Peoples set out in the Schedule;

“Indigenous governing body” means an entity that is authorized to act on behalf of Indigenous peoples that hold rights recognized and affirmed by section 35 of the *Constitution Act, 1982*;

“Indigenous peoples” has the same meaning as aboriginal peoples in section 35 of the *Constitution Act, 1982*;

“statutory power of decision” has the same meaning as in the *Judicial Review Procedure Act*.

(2) For the purposes of implementing this Act, the government must consider the diversity of the Indigenous peoples in British Columbia, particularly the distinct languages, cultures, customs, practices, rights, legal traditions, institutions, governance structures, relationships to territories and knowledge systems of the Indigenous peoples in British Columbia.

(3) For certainty, nothing in this Act, nor anything done under this Act, abrogates or derogates from the rights recognized and affirmed by section 35 of the *Constitution Act, 1982*.

- (4) Nothing in this Act is to be construed as delaying the application of the Declaration to the laws of British Columbia.

PURPOSES OF ACT

- 2 The purposes of this Act are as follows:
 - (a) to affirm the application of the Declaration to the laws of British Columbia;
 - (b) to contribute to the implementation of the Declaration;
 - (c) to support the affirmation of, and develop relationships with, Indigenous governing bodies.

MEASURES TO ALIGN LAWS WITH DECLARATION

- 3 In consultation and cooperation with the Indigenous peoples in British Columbia, the government must take all measures necessary to ensure the laws of British Columbia are consistent with the Declaration.

ACTION PLAN

- 4 (1) The government must prepare and implement an action plan to achieve the objectives of the Declaration.
 - (2) The action plan must be prepared and implemented in consultation and cooperation with the Indigenous peoples in British Columbia.
 - (3) The action plan must contain the date on or before which the government must initiate a review of the action plan.

- (4) After the action plan is prepared, the minister must, as soon as practicable,
 - (a) lay the action plan before the Legislative Assembly if the Legislative Assembly is then sitting, or
 - (b) file the action plan with the Clerk of the Legislative Assembly if the Legislative Assembly is not sitting.
- (5) The government may prepare a new action plan in accordance with this section.

ANNUAL REPORT

- 5** (1) Each year the minister must prepare a report for the 12-month period ending on March 31.
- (2) The report must be prepared in consultation and cooperation with the Indigenous peoples in British Columbia.
 - (3) In the report under subsection (1), the minister must report on the progress that has been made towards implementing the measures referred to in section 3 and achieving the goals in the action plan.
 - (4) On or before June 30 in each year, the minister must
 - (a) lay the report prepared for the 12-month period ending on March 31 in that year before the Legislative Assembly, if the Legislative Assembly is then sitting, or
 - (b) file the report prepared for the 12-month period ending on March 31 in that year with the Clerk of the Legislative Assembly, if the Legislative Assembly is not sitting.

AGREEMENTS

- 6** (1) For the purposes of this Act, a member of the Executive Council, on behalf of the government, may enter into an agreement with an Indigenous governing body.
- (2) Subsection (1)
- (a) is subject to section 7, and
 - (b) does not limit a power of the member to enter into an agreement under any other enactment.

DECISION-MAKING AGREEMENTS

- 7** (1) For the purposes of reconciliation, the Lieutenant Governor in Council may authorize a member of the Executive Council, on behalf of the government, to negotiate and enter into an agreement with an Indigenous governing body relating to one or both of the following:
- (a) the exercise of a statutory power of decision jointly by
 - (i) the Indigenous governing body, and
 - (ii) the government or another decision-maker;
 - (b) the consent of the Indigenous governing body before the exercise of a statutory power of decision.
- (2) A member authorized under subsection (1) to negotiate an agreement may enter into the agreement without further authorization from the Lieutenant Governor in Council unless the Lieutenant Governor in Council restricts the initial authorization to only the negotiation of the agreement.

- (3) Within 15 days after the Lieutenant Governor in Council authorizes the member to negotiate an agreement under subsection (1), the member must make public a summary of the local governments and other persons the member intends to consult before or during the negotiation.
- (4) An agreement entered into under subsection (1)
 - (a) must be published in the Gazette, and
 - (b) is not effective until the agreement is published in the Gazette or a later date specified in the agreement.
- (5) For certainty, subsection (4) applies to an agreement that amends an agreement entered into under subsection (1).

OFFENCE ACT

- 8 Section 5 of the *Offence Act* does not apply to this Act.

POWER TO MAKE REGULATIONS

- 9 The Lieutenant Governor in Council may make regulations referred to in section 41 of the *Interpretation Act*.

COMMENCEMENT

- 10 This Act comes into force on the date of Royal Assent.

SCHEDULE

(Section 1)

United Nations Declaration on the Rights of Indigenous Peoples
[see page 66].

Canada United Nations Declaration on the Rights of Indigenous Peoples Act

Assented to June 21, 2021

Second Session, Forty-third Parliament,
69-70 Elizabeth II, 2020-2021

Deuxième session, quarante-troisième législature,
69-70 Elizabeth II, 2020-2021

STATUTES OF CANADA 2021

LOIS DU CANADA (2021)

CHAPTER 14

CHAPITRE 14

An Act respecting the United Nations
Declaration on the Rights of Indigenous
Peoples

Loi concernant la Déclaration des Nations
Unies sur les droits des peuples autochtones

ASSENTED TO

JUNE 21, 2021
BILL C-15

SANCTIONNÉE

LE 21 JUIN 2021
PROJET DE LOI C-15

PREAMBLE

Whereas the United Nations Declaration on the Rights of Indigenous Peoples provides a framework for reconciliation, healing and peace, as well as harmonious and cooperative relations based on the principles of justice, democracy, respect for human rights, non-discrimination and good faith;

Whereas the rights and principles affirmed in the Declaration constitute the minimum standards for the survival, dignity and well-being of Indigenous peoples of the world, and must be implemented in Canada;

Whereas, in the outcome document of the high-level plenary meeting of the General Assembly of the United Nations known as the World Conference on Indigenous Peoples, Canada and other States reaffirm their solemn commitment to respect, promote and advance the rights of Indigenous peoples of the world and to uphold the principles of the Declaration;

Whereas, in its document entitled *Calls to Action*, the Truth and Reconciliation Commission of Canada calls upon federal, provincial, territorial and municipal governments to fully adopt and implement the Declaration as the framework for reconciliation, and the Government of Canada is committed to responding to those Calls to Action;

Whereas, in its document entitled *Calls for Justice*, the National Inquiry into Missing and Murdered Indigenous Women and Girls calls upon federal, provincial, territorial, municipal and Indigenous governments to implement the Declaration, and the Government of Canada is committed to responding to those Calls for Justice;

Whereas First Nations, Inuit and the Métis Nation have, throughout history and to this day, lived in the lands that are now in Canada with their distinct identities, cultures and ways of life;

Whereas Indigenous peoples have suffered historic injustices as a result of, among other things, colonization and dispossession of their lands, territories and resources;

Whereas the implementation of the Declaration must include concrete measures to address injustices, combat prejudice and eliminate all forms of violence, racism and discrimination, including systemic racism and discrimination, against Indigenous peoples and Indigenous elders, youth, children, women, men, persons with disabilities and gender-diverse persons and two-spirit persons;

Whereas all doctrines, policies and practices based on or advocating the superiority of peoples or individuals on the basis of national origin or racial, religious, ethnic or cultural differences, including the doctrines of discovery and *terra nullius*, are racist, scientifically false, legally invalid, morally condemnable and socially unjust;

Whereas the Government of Canada rejects all forms of colonialism and is committed to advancing relations with Indigenous peoples that are based on good faith and on the principles of justice, democracy, equality, non-discrimination, good governance and respect for human rights;

Whereas the Declaration emphasizes the urgent need to respect and promote the inherent rights of Indigenous peoples of the world which derive from their political, economic and social

structures and from their cultures, spiritual traditions, histories, philosophies and legal systems, especially their rights to their lands, territories and resources;

Whereas the Government of Canada recognizes that all relations with Indigenous peoples must be based on the recognition and implementation of the inherent right to self-determination, including the right of self-government;

Whereas the Government of Canada is committed to taking effective measures — including legislative, policy and administrative measures — at the national and international level, in consultation and cooperation with Indigenous peoples, to achieve the objectives of the Declaration;

Whereas the Government of Canada is committed to exploring, in consultation and cooperation with Indigenous peoples, measures related to monitoring, oversight, recourse or remedy or other accountability measures that will contribute to the achievement of those objectives;

Whereas the implementation of the Declaration can contribute to supporting sustainable development and responding to growing concerns relating to climate change and its impacts on Indigenous peoples;

Whereas the Government of Canada acknowledges that provincial, territorial and municipal governments each have the ability to establish their own approaches to contributing to the implementation of the Declaration by taking various measures that fall within their authority;

Whereas the Government of Canada welcomes opportunities to work cooperatively with those governments, Indigenous peoples and other sectors of society towards achieving the objectives of the Declaration;

Whereas the Declaration is affirmed as a source for the interpretation of Canadian law;

Whereas the protection of Aboriginal and treaty rights — recognized and affirmed by section 35 of the *Constitution Act, 1982* — is an underlying principle and value of the Constitution of Canada, and Canadian courts have stated that such rights are not frozen and are capable of evolution and growth;

Whereas there is an urgent need to respect and promote the rights of Indigenous peoples affirmed in treaties, agreements and other constructive arrangements, and those treaties, agreements and arrangements can contribute to the implementation of the Declaration;

Whereas respect for human rights, the rule of law and democracy are underlying principles of the Constitution of Canada which are interrelated, interdependent and mutually reinforcing and are also recognized in international law;

And whereas measures to implement the Declaration in Canada must take into account the diversity of Indigenous peoples and, in particular, the diversity of the identities, cultures, languages, customs, practices, rights and legal traditions of First Nations, Inuit and the Métis and of their institutions and governance structures, their relationships to the land and Indigenous knowledge;

Now, therefore, Her Majesty, by and with the advice and consent of the Senate and House of Commons of Canada, enacts as follows:

SHORT TITLE

1 This Act may be cited as the *United Nations Declaration on the Rights of Indigenous Peoples Act*.

INTERPRETATION

Definitions

2 (1) The following definitions apply in this Act.

Declaration means the United Nations Declaration on the Rights of Indigenous Peoples that was adopted by the General Assembly of the United Nations as General Assembly Resolution 61/295 on September 13, 2007 and that is set out in the schedule. (*Déclaration*)

Indigenous peoples has the meaning assigned by the definition *aboriginal peoples of Canada* in subsection 35(2) of the *Constitution Act, 1982*. (*peuples autochtones*)

Minister, for the purposes of any provision of this Act, means the federal minister designated as the Minister for the purposes of that provision under section 3. (*ministre*)

Rights of Indigenous peoples

(2) This Act is to be construed as upholding the rights of Indigenous peoples recognized and affirmed by section 35 of the *Constitution Act, 1982*, and not as abrogating or derogating from them.

Clarification

(3) Nothing in this Act is to be construed as delaying the application of the Declaration in Canadian law.

DESIGNATION OF MINISTER

Order designating Minister

3 The Governor in Council may, by order, designate any federal minister to be the Minister for the purposes of any provision of this Act.

PURPOSES OF ACT

4 The purposes of this Act are to

- (a) affirm the Declaration as a universal international human rights instrument with application in Canadian law; and
- (b) provide a framework for the Government of Canada's implementation of the Declaration.

MEASURES FOR CONSISTENCY OF LAWS AND ACHIEVING THE OBJECTIVES OF THE DECLARATION

Consistency

5 The Government of Canada must, in consultation and cooperation with Indigenous peoples, take all measures necessary to ensure that the laws of Canada are consistent with the Declaration.

Action plan

6 (1) The Minister must, in consultation and cooperation with Indigenous peoples and with other federal ministers, prepare and implement an action plan to achieve the objectives of the Declaration.

Content

(2) The action plan must include

(a) measures to

(i) address injustices, combat prejudice and eliminate all forms of violence, racism and discrimination, including systemic racism and discrimination, against Indigenous peoples and Indigenous elders, youth, children, women, men, persons with disabilities and gender-diverse persons and two-spirit persons, and

(ii) promote mutual respect and understanding as well as good relations, including through human rights education; and

(b) measures related to monitoring, oversight, recourse or remedy or other accountability measures with respect to the implementation of the Declaration.

Other elements

(3) The action plan must also include measures related to monitoring the implementation of the plan and reviewing and amending the plan.

Time limit

(4) The preparation of the action plan must be completed as soon as practicable, but no later than two years after the day on which this section comes into force.

Tabling in Parliament

(5) The Minister must cause the action plan to be tabled in each House of Parliament as soon as practicable after it has been prepared.

Action plan made public

(6) After the action plan is tabled, the Minister must make it public.

REPORT TO PARLIAMENT

Annual report

7 (1) Within 90 days after the end of each fiscal year, the Minister must, in consultation and cooperation with Indigenous peoples, prepare a report for the previous fiscal year on the measures taken under section 5 and the preparation and implementation of the action plan referred to in section 6.

Tabling in Parliament

(2) The Minister must cause the report to be tabled in each House of Parliament on any of the first 15 days on which that House is sitting after the report is completed.

Referral to committee

(3) The report stands permanently referred to the committee of each House of Parliament that is designated or established to review matters relating to Indigenous peoples.

Report made public

(4) After the report is tabled, the Minister must make it public.

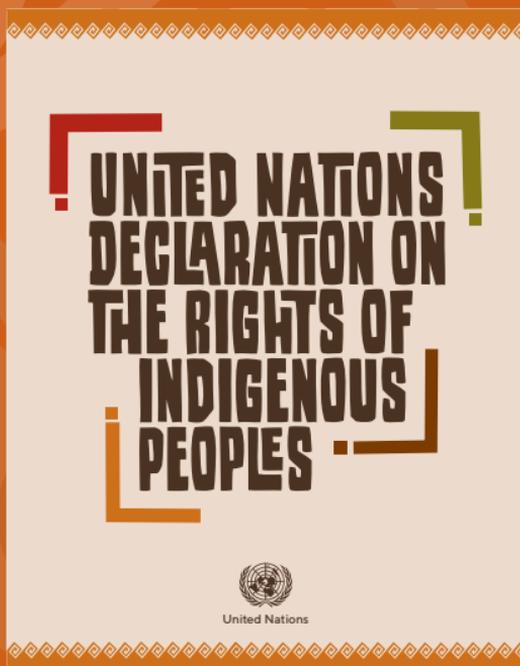
SCHEDULE

(Subsection 2(1))

United Nations Declaration on the Rights of Indigenous Peoples
[see page 66].

United Nations Declaration on the Rights of Indigenous Peoples

September 13, 2007



ANNEX

The General Assembly,

Guided by the purposes and principles of the Charter of the United Nations, and good faith in the fulfilment of the obligations assumed by States in accordance with the Charter,

Affirming that indigenous peoples are equal to all other peoples, while recognizing the right of all peoples to be different, to consider themselves different, and to be respected as such, Affirming also that all peoples contribute to the diversity and richness of civilizations and cultures, which constitute the common heritage of humankind,

Affirming further that all doctrines, policies and practices based on or advocating superiority of peoples or individuals on the basis of national origin or racial, religious, ethnic or cultural differences are racist, scientifically false, legally invalid, morally condemnable and socially unjust,

Reaffirming that indigenous peoples, in the exercise of their rights, should be free from discrimination of any kind,

Concerned that indigenous peoples have suffered from historic injustices as a result of, inter alia, their colonization and dispossession of their lands, territories and resources, thus preventing them from exercising, in particular, their right to development in accordance with their own needs and interests,

Recognizing the urgent need to respect and promote the inherent rights of indigenous peoples which derive from their political, economic and social structures and from their cultures, spiritual traditions, histories and philosophies, especially their rights to their lands, territories and resources,

Recognizing also the urgent need to respect and promote the rights of indigenous peoples affirmed in treaties, agreements and other constructive arrangements with States,

Welcoming the fact that indigenous peoples are organizing themselves for political, economic, social and cultural enhancement and in order to bring to an end all forms of discrimination and oppression wherever they occur,

Convinced that control by indigenous peoples over developments affecting them and their lands, territories and resources will enable them to maintain and strengthen their institutions, cultures and traditions, and to promote their development in accordance with their aspirations and needs,

Recognizing that respect for indigenous knowledge, cultures and traditional practices contributes to sustainable and equitable development and proper management of the environment,

Emphasizing the contribution of the demilitarization of the lands and territories of indigenous peoples to peace, economic and social progress and development, understanding and friendly relations among nations and peoples of the world,

Recognizing in particular the right of indigenous families and communities to retain shared responsibility for the upbringing, training, education and well-being of their children, consistent with the rights of the child,

Considering that the rights affirmed in treaties, agreements and other constructive arrangements between States and indigenous peoples are, in some situations, matters of international concern, interest, responsibility and character,

Considering also that treaties, agreements and other

constructive arrangements, and the relationship they represent, are the basis for a strengthened partnership between indigenous peoples and States,

Acknowledging that the Charter of the United Nations, the International Covenant on Economic, Social and Cultural Rights and the International Covenant on Civil and Political Rights, as well as the Vienna Declaration and Programme of Action, affirm the fundamental importance of the right to self-determination of all peoples, by virtue of which they freely determine their political status and freely pursue their economic, social and cultural development,

Bearing in mind that nothing in this Declaration may be used to deny any peoples their right to self-determination, exercised in conformity with international law,

Convinced that the recognition of the rights of indigenous peoples in this Declaration will enhance harmonious and cooperative relations between the State and indigenous peoples, based on principles of justice, democracy, respect for human rights, non-discrimination and good faith,

Encouraging States to comply with and effectively implement all their obligations as they apply to indigenous peoples under international instruments, in particular those related to human rights, in consultation and cooperation with the peoples concerned,

Emphasizing that the United Nations has an important and continuing role to play in promoting and protecting the rights of indigenous peoples,

Believing that this Declaration is a further important step forward

for the recognition, promotion and protection of the rights and freedoms of indigenous peoples and in the development of relevant activities of the United Nations system in this field,

Recognizing and reaffirming that indigenous individuals are entitled without discrimination to all human rights recognized in international law, and that indigenous peoples possess collective rights which are indispensable for their existence, well-being and integral development as peoples,

Recognizing that the situation of indigenous peoples varies from region to region and from country to country and that the significance of national and regional particularities and various historical and cultural backgrounds should be taken into consideration,

Solemnly proclaims the following United Nations Declaration on the Rights of Indigenous Peoples as a standard of achievement to be pursued in a spirit of partnership and mutual respect:

ARTICLE 1

Indigenous peoples have the right to the full enjoyment, as a collective or as individuals, of all human rights and fundamental freedoms as recognized in the Charter of the United Nations, the Universal Declaration of Human Rights and international human rights law.

ARTICLE 2

Indigenous peoples and individuals are free and equal to all other peoples and individuals and have the right to be free from any kind of discrimination, in the exercise of their rights, in particular that based on their indigenous origin or identity.

ARTICLE 3

Indigenous peoples have the right to self-determination. By virtue of that right they freely determine their political status and freely pursue their economic, social and cultural development.

ARTICLE 4

Indigenous peoples, in exercising their right to self-determination, have the right to autonomy or self-government in matters relating to their internal and local affairs, as well as ways and means for financing their autonomous functions.

ARTICLE 5

Indigenous peoples have the right to maintain and strengthen their distinct political, legal, economic, social and cultural institutions, while retaining their right to participate fully, if they so choose, in the political, economic, social and cultural life of the State.

ARTICLE 6

Every indigenous individual has the right to a nationality.

ARTICLE 7

1. Indigenous individuals have the rights to life, physical and mental integrity, liberty and security of person.
2. Indigenous peoples have the collective right to live in freedom, peace and security as distinct peoples and shall not be subjected to any act of genocide or any other act of violence, including forcibly removing children of the group to another group.

ARTICLE 8

1. Indigenous peoples and individuals have the right not to be subjected to forced assimilation or destruction of their culture.
2. States shall provide effective mechanisms for prevention of, and redress for:
 - (a) Any action which has the aim or effect of depriving them of their integrity as distinct peoples, or of their cultural values or ethnic identities;
 - (b) Any action which has the aim or effect of dispossessing them of their lands, territories or resources;
 - (c) Any form of forced population transfer which has the aim or effect of violating or undermining any of their rights;
 - (d) Any form of forced assimilation or integration;
 - (e) Any form of propaganda designed to promote or incite racial or ethnic discrimination directed against them.

ARTICLE 9

Indigenous peoples and individuals have the right to belong to an indigenous community or nation, in accordance with the traditions and customs of the community or nation concerned. No discrimination of any kind may arise from the exercise of such a right.

ARTICLE 10

Indigenous peoples shall not be forcibly removed from their lands or territories. No relocation shall take place without the free, prior and informed consent of the indigenous peoples

concerned and after agreement on just and fair compensation and, where possible, with the option of return.

ARTICLE 11

1. Indigenous peoples have the right to practise and revitalize their cultural traditions and customs. This includes the right to maintain, protect and develop the past, present and future manifestations of their cultures, such as archaeological and historical sites, artefacts, designs, ceremonies, technologies and visual and performing arts and literature.
2. States shall provide redress through effective mechanisms, which may include restitution, developed in conjunction with indigenous peoples, with respect to their cultural, intellectual, religious and spiritual property taken without their free, prior and informed consent or in violation of their laws, traditions and customs.

ARTICLE 12

1. Indigenous peoples have the right to manifest, practise, develop and teach their spiritual and religious traditions, customs and ceremonies; the right to maintain, protect, and have access in privacy to their religious and cultural sites; the right to the use and control of their ceremonial objects; and the right to the repatriation of their human remains.
2. States shall seek to enable the access and/or repatriation of ceremonial objects and human remains in their possession through fair, transparent and effective mechanisms developed in conjunction with indigenous peoples concerned.

ARTICLE 13

1. Indigenous peoples have the right to revitalize, use, develop and transmit to future generations their histories, languages, oral traditions, philosophies, writing systems and literatures, and to designate and retain their own names for communities, places and persons.
2. States shall take effective measures to ensure that this right is protected and also to ensure that indigenous peoples can understand and be understood in political, legal and administrative proceedings, where necessary through the provision of interpretation or by other appropriate means.

ARTICLE 14

1. Indigenous peoples have the right to establish and control their educational systems and institutions providing education in their own languages, in a manner appropriate to their cultural methods of teaching and learning.
2. Indigenous individuals, particularly children, have the right to all levels and forms of education of the State without discrimination.
3. States shall, in conjunction with indigenous peoples, take effective measures, in order for indigenous individuals, particularly children, including those living outside their communities, to have access, when possible, to an education in their own culture and provided in their own language.

ARTICLE 15

1. Indigenous peoples have the right to the dignity and diversity of their cultures, traditions, histories and aspirations which shall be appropriately reflected in education and public information.
2. States shall take effective measures, in consultation and cooperation with the indigenous peoples concerned, to combat prejudice and eliminate discrimination and to promote tolerance, understanding and good relations among indigenous peoples and all other segments of society.

ARTICLE 16

1. Indigenous peoples have the right to establish their own media in their own languages and to have access to all forms of non-indigenous media without discrimination.
2. States shall take effective measures to ensure that State-owned media duly reflect indigenous cultural diversity. States, without prejudice to ensuring full freedom of expression, should encourage privately owned media to adequately reflect indigenous cultural diversity.

ARTICLE 17

1. Indigenous individuals and peoples have the right to enjoy fully all rights established under applicable international and domestic labour law.
2. States shall in consultation and cooperation with indigenous peoples take specific measures to protect indigenous children from economic exploitation and from performing any work that is likely to be hazardous or to interfere with the child's

education, or to be harmful to the child's health or physical, mental, spiritual, moral or social development, taking into account their special vulnerability and the importance of education for their empowerment.

3. Indigenous individuals have the right not to be subjected to any discriminatory conditions of labour and, inter alia, employment or salary.

ARTICLE 18

Indigenous peoples have the right to participate in decision-making in matters which would affect their rights, through representatives chosen by themselves in accordance with their own procedures, as well as to maintain and develop their own indigenous decision making institutions.

ARTICLE 19

States shall consult and cooperate in good faith with the indigenous peoples concerned through their own representative institutions in order to obtain their free, prior and informed consent before adopting and implementing legislative or administrative measures that may affect them.

ARTICLE 20

1. Indigenous peoples have the right to maintain and develop their political, economic and social systems or institutions, to be secure in the enjoyment of their own means of subsistence and development, and to engage freely in all their traditional and other economic activities.

2. Indigenous peoples deprived of their means of subsistence and development are entitled to just and fair redress.

ARTICLE 21

1. Indigenous peoples have the right, without discrimination, to the improvement of their economic and social conditions, including, inter alia, in the areas of education, employment, vocational training and retraining, housing, sanitation, health and social security.
2. States shall take effective measures and, where appropriate, special measures to ensure continuing improvement of their economic and social conditions. Particular attention shall be paid to the rights and special needs of indigenous elders, women, youth, children and persons with disabilities.

ARTICLE 22

1. Particular attention shall be paid to the rights and special needs of indigenous elders, women, youth, children and persons with disabilities in the implementation of this Declaration.
2. States shall take measures, in conjunction with indigenous peoples, to ensure that indigenous women and children enjoy the full protection and guarantees against all forms of violence and discrimination.

ARTICLE 23

Indigenous peoples have the right to determine and develop priorities and strategies for exercising their right to development. In particular, indigenous peoples have the right to be actively

involved in developing and determining health, housing and other economic and social programmes affecting them and, as far as possible, to administer such programmes through their own institutions.

ARTICLE 24

1. Indigenous peoples have the right to their traditional medicines and to maintain their health practices, including the conservation of their vital medicinal plants, animals and minerals. Indigenous individuals also have the right to access, without any discrimination, to all social and health services.
2. Indigenous individuals have an equal right to the enjoyment of the highest attainable standard of physical and mental health. States shall take the necessary steps with a view to achieving progressively the full realization of this right.

ARTICLE 25

Indigenous peoples have the right to maintain and strengthen their distinctive spiritual relationship with their traditionally owned or otherwise occupied and used lands, territories, waters and coastal seas and other resources and to uphold their responsibilities to future generations in this regard.

ARTICLE 26

1. Indigenous peoples have the right to the lands, territories and resources which they have traditionally owned, occupied or otherwise used or acquired.

2. Indigenous peoples have the right to own, use, develop and control the lands, territories and resources that they possess by reason of traditional ownership or other traditional occupation or use, as well as those which they have otherwise acquired.
3. States shall give legal recognition and protection to these lands, territories and resources. Such recognition shall be conducted with due respect to the customs, traditions and land tenure systems of the indigenous peoples concerned.

ARTICLE 27

States shall establish and implement, in conjunction with indigenous peoples concerned, a fair, independent, impartial, open and transparent process, giving due recognition to indigenous peoples' laws, traditions, customs and land tenure systems, to recognize and adjudicate the rights of indigenous peoples pertaining to their lands, territories and resources, including those which were traditionally owned or otherwise occupied or used. Indigenous peoples shall have the right to participate in this process.

ARTICLE 28

1. Indigenous peoples have the right to redress, by means that can include restitution or, when this is not possible, just, fair and equitable compensation, for the lands, territories and resources which they have traditionally owned or otherwise occupied or used, and which have been confiscated, taken, occupied, used or damaged without their free, prior and informed consent.

2. Unless otherwise freely agreed upon by the peoples concerned, compensation shall take the form of lands, territories and resources equal in quality, size and legal status or of monetary compensation or other appropriate redress.

ARTICLE 29

1. Indigenous peoples have the right to the conservation and protection of the environment and the productive capacity of their lands or territories and resources. States shall establish and implement assistance programmes for indigenous peoples for such conservation and protection, without discrimination.
2. States shall take effective measures to ensure that no storage or disposal of hazardous materials shall take place in the lands or territories of indigenous peoples without their free, prior and informed consent.
3. States shall also take effective measures to ensure, as needed, that programmes for monitoring, maintaining and restoring the health of indigenous peoples, as developed and implemented by the peoples affected by such materials, are duly implemented.

ARTICLE 30

1. Military activities shall not take place in the lands or territories of indigenous peoples, unless justified by a relevant public interest or otherwise freely agreed with or requested by the indigenous peoples concerned.

2. States shall undertake effective consultations with the indigenous peoples concerned, through appropriate procedures and in particular through their representative institutions, prior to using their lands or territories for military activities.

ARTICLE 31

1. Indigenous peoples have the right to maintain, control, protect and develop their cultural heritage, traditional knowledge and traditional cultural expressions, as well as the manifestations of their sciences, technologies and cultures, including human and genetic resources, seeds, medicines, knowledge of the properties of fauna and flora, oral traditions, literatures, designs, sports and traditional games and visual and performing arts. They also have the right to maintain, control, protect and develop their intellectual property over such cultural heritage, traditional knowledge, and traditional cultural expressions.
2. In conjunction with indigenous peoples, States shall take effective measures to recognize and protect the exercise of these rights.

ARTICLE 32

1. Indigenous peoples have the right to determine and develop priorities and strategies for the development or use of their lands or territories and other resources.
2. States shall consult and cooperate in good faith with the indigenous peoples concerned through their own

representative institutions in order to obtain their free and informed consent prior to the approval of any project affecting their lands or territories and other resources, particularly in connection with the development, utilization or exploitation of mineral, water or other resources.

3. States shall provide effective mechanisms for just and fair redress for any such activities, and appropriate measures shall be taken to mitigate adverse environmental, economic, social, cultural or spiritual impact.

ARTICLE 33

1. Indigenous peoples have the right to determine their own identity or membership in accordance with their customs and traditions. This does not impair the right of indigenous individuals to obtain citizenship of the States in which they live.
2. Indigenous peoples have the right to determine the structures and to select the membership of their institutions in accordance with their own procedures.

ARTICLE 34

Indigenous peoples have the right to promote, develop and maintain their institutional structures and their distinctive customs, spirituality, traditions, procedures, practices and, in the cases where they exist, juridical systems or customs, in accordance with international human rights standards.

ARTICLE 35

Indigenous peoples have the right to determine the responsibilities of individuals to their communities.

ARTICLE 36

1. Indigenous peoples, in particular those divided by international borders, have the right to maintain and develop contacts, relations and cooperation, including activities for spiritual, cultural, political, economic and social purposes, with their own members as well as other peoples across borders.
2. States, in consultation and cooperation with indigenous peoples, shall take effective measures to facilitate the exercise and ensure the implementation of this right.

ARTICLE 37

1. Indigenous peoples have the right to the recognition, observance and enforcement of treaties, agreements and other constructive arrangements concluded with States or their successors and to have States honour and respect such treaties, agreements and other constructive arrangements.
2. Nothing in this Declaration may be interpreted as diminishing or eliminating the rights of indigenous peoples contained in treaties, agreements and other constructive arrangements.

ARTICLE 38

States, in consultation and cooperation with indigenous peoples, shall take the appropriate measures, including legislative measures, to achieve the ends of this Declaration.

ARTICLE 39

Indigenous peoples have the right to have access to financial and technical assistance from States and through international cooperation, for the enjoyment of the rights contained in this Declaration.

ARTICLE 40

Indigenous peoples have the right to access to and prompt decision through just and fair procedures for the resolution of conflicts and disputes with States or other parties, as well as to effective remedies for all infringements of their individual and collective rights. Such a decision shall give due consideration to the customs, traditions, rules and legal systems of the indigenous peoples concerned and international human rights.

ARTICLE 41

The organs and specialized agencies of the United Nations system and other intergovernmental organizations shall contribute to the full realization of the provisions of this Declaration through the mobilization, inter alia, of financial cooperation and technical assistance. Ways and means of ensuring participation of indigenous peoples on issues affecting them shall be established.

ARTICLE 42

The United Nations, its bodies, including the Permanent Forum on Indigenous Issues, and specialized agencies, including at the country level, and States shall promote respect for and full

application of the provisions of this Declaration and follow up the effectiveness of this Declaration.

ARTICLE 43

The rights recognized herein constitute the minimum standards for the survival, dignity and well-being of the indigenous peoples of the world.

ARTICLE 44

All the rights and freedoms recognized herein are equally guaranteed to male and female indigenous individuals.

ARTICLE 45

Nothing in this Declaration may be construed as diminishing or extinguishing the rights indigenous peoples have now or may acquire in the future.

ARTICLE 46

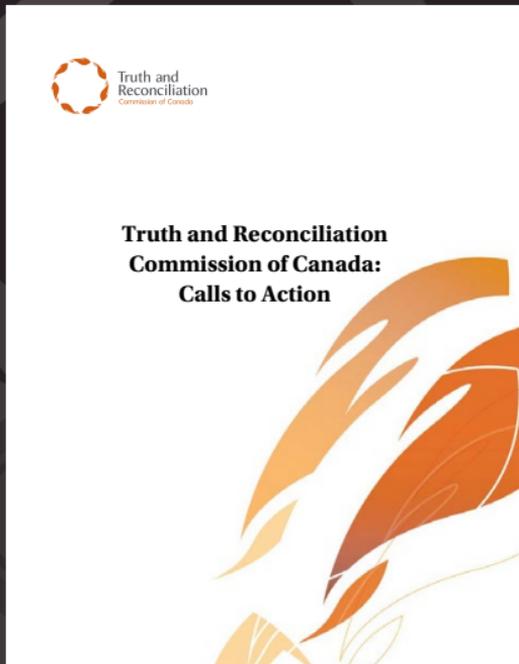
1. Nothing in this Declaration may be interpreted as implying for any State, people, group or person any right to engage in any activity or to perform any act contrary to the Charter of the United Nations or construed as authorizing or encouraging any action which would dismember or impair, totally or in part, the territorial integrity or political unity of sovereign and independent States.
2. In the exercise of the rights enunciated in the present Declaration, human rights and fundamental freedoms of all shall be respected. The exercise of the rights set forth in this Declaration shall be subject only to such limitations as are

determined by law and in accordance with international human rights obligations. Any such limitations shall be non-discriminatory and strictly necessary solely for the purpose of securing due recognition and respect for the rights and freedoms of others and for meeting the just and most compelling requirements of a democratic society.

3. The provisions set forth in this Declaration shall be interpreted in accordance with the principles of justice, democracy, respect for human rights, equality, non-discrimination, good governance and good faith.

Truth and Reconciliation Commission of Canada: Calls to Action

June 2, 2015



In order to redress the legacy of residential schools and advance the process of Canadian reconciliation, the Truth and Reconciliation Commission makes the following calls to action.

LEGACY

CHILD WELFARE

1. We call upon the federal, provincial, territorial, and Aboriginal governments to commit to reducing the number of Aboriginal children in care by:
 - i. Monitoring and assessing neglect investigations.
 - ii. Providing adequate resources to enable Aboriginal communities and child-welfare organizations to keep Aboriginal families together where it is safe to do so, and to keep children in culturally appropriate environments, regardless of where they reside.
 - iii. Ensuring that social workers and others who conduct child-welfare investigations are properly educated and trained about the history and impacts of residential schools.
 - iv. Ensuring that social workers and others who conduct child-welfare investigations are properly educated and trained about the potential for Aboriginal communities and families to provide more appropriate solutions to family healing.
 - v. Requiring that all child-welfare decision makers consider the impact of the residential school experience on children and their caregivers.

2. We call upon the federal government, in collaboration with the provinces and territories, to prepare and publish annual reports on the number of Aboriginal children (First Nations, Inuit, and Métis) who are in care, compared with non-Aboriginal children, as well as the reasons for apprehension, the total spending on preventive and care services by child-welfare agencies, and the effectiveness of various interventions.
3. We call upon all levels of government to fully implement Jordan's Principle.
4. We call upon the federal government to enact Aboriginal child-welfare legislation that establishes national standards for Aboriginal child apprehension and custody cases and includes principles that:
 - i. Affirm the right of Aboriginal governments to establish and maintain their own child-welfare agencies.
 - ii. Require all child-welfare agencies and courts to take the residential school legacy into account in their decision making.
 - iii. Establish, as an important priority, a requirement that placements of Aboriginal children into temporary and permanent care be culturally appropriate.
5. We call upon the federal, provincial, territorial, and Aboriginal governments to develop culturally appropriate parenting programs for Aboriginal families.

EDUCATION

6. We call upon the Government of Canada to repeal Section 43 of the *Criminal Code of Canada*.
7. We call upon the federal government to develop with Aboriginal groups a joint strategy to eliminate educational and employment gaps between Aboriginal and non-Aboriginal Canadians.
8. We call upon the federal government to eliminate the discrepancy in federal education funding for First Nations children being educated on reserves and those First Nations children being educated off reserves.
9. We call upon the federal government to prepare and publish annual reports comparing funding for the education of First Nations children on and off reserves, as well as educational and income attainments of Aboriginal peoples in Canada compared with non-Aboriginal people.
10. We call on the federal government to draft new Aboriginal education legislation with the full participation and informed consent of Aboriginal peoples. The new legislation would include a commitment to sufficient funding and would incorporate the following principles:
 - i. Providing sufficient funding to close identified educational achievement gaps within one generation.
 - ii. Improving education attainment levels and success rates.
 - iii. Developing culturally appropriate curricula.

- iv. Protecting the right to Aboriginal languages, including the teaching of Aboriginal languages as credit courses.
 - v. Enabling parental and community responsibility, control, and accountability, similar to what parents enjoy in public school systems.
 - vi. Enabling parents to fully participate in the education of their children.
 - vii. Respecting and honouring Treaty relationships.
11. We call upon the federal government to provide adequate funding to end the backlog of First Nations students seeking a post-secondary education.
 12. We call upon the federal, provincial, territorial, and Aboriginal governments to develop culturally appropriate early childhood education programs for Aboriginal families.

LANGUAGE AND CULTURE

13. We call upon the federal government to acknowledge that Aboriginal rights include Aboriginal language rights.
14. We call upon the federal government to enact an Aboriginal Languages Act that incorporates the following principles:
 - i. Aboriginal languages are a fundamental and valued element of Canadian culture and society, and there is an urgency to preserve them.
 - ii. Aboriginal language rights are reinforced by the Treaties.
 - iii. The federal government has a responsibility to provide sufficient funds for Aboriginal-language revitalization and preservation.

- iv. The preservation, revitalization, and strengthening of Aboriginal languages and cultures are best managed by Aboriginal people and communities.
 - v. Funding for Aboriginal language initiatives must reflect the diversity of Aboriginal languages.
15. We call upon the federal government to appoint, in consultation with Aboriginal groups, an Aboriginal Languages Commissioner. The commissioner should help promote Aboriginal languages and report on the adequacy of federal funding of Aboriginal-languages initiatives.
 16. We call upon post-secondary institutions to create university and college degree and diploma programs in Aboriginal languages.
 17. We call upon all levels of government to enable residential school Survivors and their families to reclaim names changed by the residential school system by waiving administrative costs for a period of five years for the name-change process and the revision of official identity documents, such as birth certificates, passports, driver's licenses, health cards, status cards, and social insurance numbers.

HEALTH

18. We call upon the federal, provincial, territorial, and Aboriginal governments to acknowledge that the current state of Aboriginal health in Canada is a direct result of previous Canadian government policies, including residential schools, and to recognize and implement

the health-care rights of Aboriginal people as identified in international law, constitutional law, and under the Treaties.

19. We call upon the federal government, in consultation with Aboriginal peoples, to establish measurable goals to identify and close the gaps in health outcomes between Aboriginal and non-Aboriginal communities, and to publish annual progress reports and assess long-term trends. Such efforts would focus on indicators such as: infant mortality, maternal health, suicide, mental health, addictions, life expectancy, birth rates, infant and child health issues, chronic diseases, illness and injury incidence, and the availability of appropriate health services.
20. In order to address the jurisdictional disputes concerning Aboriginal people who do not reside on reserves, we call upon the federal government to recognize, respect, and address the distinct health needs of the Métis, Inuit, and off-reserve Aboriginal peoples.
21. We call upon the federal government to provide sustainable funding for existing and new Aboriginal healing centres to address the physical, mental, emotional, and spiritual harms caused by residential schools, and to ensure that the funding of healing centres in Nunavut and the Northwest Territories is a priority.
22. We call upon those who can effect change within the Canadian health-care system to recognize the value of Aboriginal healing practices and use them in the treatment of Aboriginal patients in collaboration with Aboriginal healers and Elders where requested by Aboriginal patients.

23. We call upon all levels of government to:
 - i. Increase the number of Aboriginal professionals working in the health-care field.
 - ii. Ensure the retention of Aboriginal health-care providers in Aboriginal communities.
 - iii. Provide cultural competency training for all healthcare professionals.
24. We call upon medical and nursing schools in Canada to require all students to take a course dealing with Aboriginal health issues, including the history and legacy of residential schools, the *United Nations Declaration on the Rights of Indigenous Peoples*, Treaties and Aboriginal rights, and Indigenous teachings and practices. This will require skills-based training in intercultural competency, conflict resolution, human rights, and anti-racism.

JUSTICE

25. We call upon the federal government to establish a written policy that reaffirms the independence of the Royal Canadian Mounted Police to investigate crimes in which the government has its own interest as a potential or real party in civil litigation.
26. We call upon the federal, provincial, and territorial governments to review and amend their respective statutes of limitations to ensure that they conform to the principle that governments and other entities cannot rely on limitation defences to defend legal actions of historical abuse brought by Aboriginal people.

27. We call upon the Federation of Law Societies of Canada to ensure that lawyers receive appropriate cultural competency training, which includes the history and legacy of residential schools, the *United Nations Declaration on the Rights of Indigenous Peoples*, Treaties and Aboriginal rights, Indigenous law, and Aboriginal–Crown relations. This will require skills-based training in intercultural competency, conflict resolution, human rights, and anti-racism.
28. We call upon law schools in Canada to require all law students to take a course in Aboriginal people and the law, which includes the history and legacy of residential schools, the *United Nations Declaration on the Rights of Indigenous Peoples*, Treaties and Aboriginal rights, Indigenous law, and Aboriginal–Crown relations. This will require skills-based training in intercultural competency, conflict resolution, human rights, and antiracism.
29. We call upon the parties and, in particular, the federal government, to work collaboratively with plaintiffs not included in the Indian Residential Schools Settlement Agreement to have disputed legal issues determined expeditiously on an agreed set of facts.
30. We call upon federal, provincial, and territorial governments to commit to eliminating the overrepresentation of Aboriginal people in custody over the next decade, and to issue detailed annual reports that monitor and evaluate progress in doing so.
31. We call upon the federal, provincial, and territorial governments to provide sufficient and stable funding to

implement and evaluate community sanctions that will provide realistic alternatives to imprisonment for Aboriginal offenders and respond to the underlying causes of offending.

32. We call upon the federal government to amend the Criminal Code to allow trial judges, upon giving reasons, to depart from mandatory minimum sentences and restrictions on the use of conditional sentences.
33. We call upon the federal, provincial, and territorial governments to recognize as a high priority the need to address and prevent Fetal Alcohol Spectrum Disorder (FASD), and to develop, in collaboration with Aboriginal people, FASD preventive programs that can be delivered in a culturally appropriate manner.
34. We call upon the governments of Canada, the provinces, and territories to undertake reforms to the criminal justice system to better address the needs of offenders with Fetal Alcohol Spectrum Disorder (FASD), including:
 - i. Providing increased community resources and powers for courts to ensure that FASD is properly diagnosed, and that appropriate community supports are in place for those with FASD.
 - ii. Enacting statutory exemptions from mandatory minimum sentences of imprisonment for offenders affected by FASD.
 - iii. Providing community, correctional, and parole resources to maximize the ability of people with FASD to live in the community.

- iv. Adopting appropriate evaluation mechanisms to measure the effectiveness of such programs and ensure community safety.
35. We call upon the federal government to eliminate barriers to the creation of additional Aboriginal healing lodges within the federal correctional system.
36. We call upon the federal, provincial, and territorial governments to work with Aboriginal communities to provide culturally relevant services to inmates on issues such as substance abuse, family and domestic violence, and overcoming the experience of having been sexually abused.
37. We call upon the federal government to provide more supports for Aboriginal programming in halfway houses and parole services.
38. We call upon the federal, provincial, territorial, and Aboriginal governments to commit to eliminating the overrepresentation of Aboriginal youth in custody over the next decade.
39. We call upon the federal government to develop a national plan to collect and publish data on the criminal victimization of Aboriginal people, including data related to homicide and family violence victimization.
40. We call on all levels of government, in collaboration with Aboriginal people, to create adequately funded and accessible Aboriginal-specific victim programs and services with appropriate evaluation mechanisms.
41. We call upon the federal government, in consultation with Aboriginal organizations, to appoint a public inquiry into

the causes of, and remedies for, the disproportionate victimization of Aboriginal women and girls. The inquiry's mandate would include:

- i. Investigation into missing and murdered Aboriginal women and girls.
 - ii. Links to the intergenerational legacy of residential schools.
42. We call upon the federal, provincial, and territorial governments to commit to the recognition and implementation of Aboriginal justice systems in a manner consistent with the Treaty and Aboriginal rights of Aboriginal peoples, the Constitution Act, 1982, and the *United Nations Declaration on the Rights of Indigenous Peoples*, endorsed by Canada in November 2012.

RECONCILIATION

CANADIAN GOVERNMENTS AND THE *UNITED NATIONS DECLARATION ON THE RIGHTS OF INDIGENOUS PEOPLE*

43. We call upon federal, provincial, territorial, and municipal governments to fully adopt and implement the *United Nations Declaration on the Rights of Indigenous Peoples* as the framework for reconciliation.
44. We call upon the Government of Canada to develop a national action plan, strategies, and other concrete measures to achieve the goals of the *United Nations Declaration on the Rights of Indigenous Peoples*.

ROYAL PROCLAMATION AND COVENANT OF RECONCILIATION

45. We call upon the Government of Canada, on behalf of all Canadians, to jointly develop with Aboriginal peoples a Royal Proclamation of Reconciliation to be issued by the Crown. The proclamation would build on the Royal Proclamation of 1763 and the Treaty of Niagara of 1764, and reaffirm the nation-to-nation relationship between Aboriginal peoples and the Crown. The proclamation would include, but not be limited to, the following commitments:
- i. Repudiate concepts used to justify European sovereignty over Indigenous lands and peoples such as the Doctrine of Discovery and *terra nullius*.
 - ii. Adopt and implement the *United Nations Declaration on the Rights of Indigenous Peoples* as the framework for reconciliation.
 - iii. Renew or establish Treaty relationships based on principles of mutual recognition, mutual respect, and shared responsibility for maintaining those relationships into the future.
 - iv. Reconcile Aboriginal and Crown constitutional and legal orders to ensure that Aboriginal peoples are full partners in Confederation, including the recognition and integration of Indigenous laws and legal traditions in negotiation and implementation processes involving Treaties, land claims, and other constructive agreements.
46. We call upon the parties to the Indian Residential Schools Settlement Agreement to develop and sign a Covenant of

Reconciliation that would identify principles for working collaboratively to advance reconciliation in Canadian society, and that would include, but not be limited to:

- i. Reaffirmation of the parties' commitment to reconciliation.
 - ii. Repudiation of concepts used to justify European sovereignty over Indigenous lands and peoples, such as the Doctrine of Discovery and terra nullius, and the reformation of laws, governance structures, and policies within their respective institutions that continue to rely on such concepts.
 - iii. Full adoption and implementation of the *United Nations Declaration on the Rights of Indigenous Peoples* as the framework for reconciliation.
 - iv. Support for the renewal or establishment of Treaty relationships based on principles of mutual recognition, mutual respect, and shared responsibility for maintaining those relationships into the future.
 - v. Enabling those excluded from the Settlement Agreement to sign onto the Covenant of Reconciliation.
 - vi. Enabling additional parties to sign onto the Covenant of Reconciliation.
47. We call upon federal, provincial, territorial, and municipal governments to repudiate concepts used to justify European sovereignty over Indigenous peoples and lands, such as the Doctrine of Discovery and terra nullius, and to reform those laws, government policies, and litigation strategies that continue to rely on such concepts.

SETTLEMENT AGREEMENT PARTIES AND THE *UNITED NATIONS DECLARATION ON THE RIGHTS OF INDIGENOUS PEOPLES*

48. We call upon the church parties to the Settlement Agreement, and all other faith groups and interfaith social justice groups in Canada who have not already done so, to formally adopt and comply with the principles, norms, and standards of the *United Nations Declaration on the Rights of Indigenous Peoples* as a framework for reconciliation. This would include, but not be limited to, the following commitments:
- i. Ensuring that their institutions, policies, programs, and practices comply with the *United Nations Declaration on the Rights of Indigenous Peoples*.
 - ii. Respecting Indigenous peoples' right to self-determination in spiritual matters, including the right to practise, develop, and teach their own spiritual and religious traditions, customs, and ceremonies, consistent with Article 12:1 of the *United Nations Declaration on the Rights of Indigenous Peoples*.
 - iii. Engaging in ongoing public dialogue and actions to support the *United Nations Declaration on the Rights of Indigenous Peoples*.
 - iv. Issuing a statement no later than March 31, 2016, from all religious denominations and faith groups, as to how they will implement the *United Nations Declaration on the Rights of Indigenous Peoples*.

49. We call upon all religious denominations and faith groups who have not already done so to repudiate concepts used to justify European sovereignty over Indigenous lands and peoples, such as the Doctrine of Discovery and terra nullius.

EQUITY FOR ABORIGINAL PEOPLE IN THE LEGAL SYSTEM

50. In keeping with the *United Nations Declaration on the Rights of Indigenous Peoples*, we call upon the federal government, in collaboration with Aboriginal organizations, to fund the establishment of Indigenous law institutes for the development, use, and understanding of Indigenous laws and access to justice in accordance with the unique cultures of Aboriginal peoples in Canada.
51. We call upon the Government of Canada, as an obligation of its fiduciary responsibility, to develop a policy of transparency by publishing legal opinions it develops and upon which it acts or intends to act, in regard to the scope and extent of Aboriginal and Treaty rights.
52. We call upon the Government of Canada, provincial and territorial governments, and the courts to adopt the following legal principles:
- i. Aboriginal title claims are accepted once the Aboriginal claimant has established occupation over a particular territory at a particular point in time.
 - ii. Once Aboriginal title has been established, the burden of proving any limitation on any rights arising from the

existence of that title shifts to the party asserting such a limitation.

NATIONAL COUNCIL FOR RECONCILIATION

53. We call upon the Parliament of Canada, in consultation and collaboration with Aboriginal peoples, to enact legislation to establish a National Council for Reconciliation. The legislation would establish the council as an independent, national, oversight body with membership jointly appointed by the Government of Canada and national Aboriginal organizations, and consisting of Aboriginal and non-Aboriginal members. Its mandate would include, but not be limited to, the following:
- i. Monitor, evaluate, and report annually to Parliament and the people of Canada on the Government of Canada's post-apology progress on reconciliation to ensure that government accountability for reconciling the relationship between Aboriginal peoples and the Crown is maintained in the coming years.
 - ii. Monitor, evaluate, and report to Parliament and the people of Canada on reconciliation progress across all levels and sectors of Canadian society, including the implementation of the Truth and Reconciliation Commission of Canada's Calls to Action.
 - iii. Develop and implement a multi-year National Action Plan for Reconciliation, which includes research and policy development, public education programs, and resources.
 - iv. Promote public dialogue, public/private partnerships, and public initiatives for reconciliation.

54. We call upon the Government of Canada to provide multi-year funding for the National Council for Reconciliation to ensure that it has the financial, human, and technical resources required to conduct its work, including the endowment of a National Reconciliation Trust to advance the cause of reconciliation.
55. We call upon all levels of government to provide annual reports or any current data requested by the National Council for Reconciliation so that it can report on the progress towards reconciliation. The reports or data would include, but not be limited to:
 - i. The number of Aboriginal children—including Métis and Inuit children—in care, compared with non- Aboriginal children, the reasons for apprehension, and the total spending on preventive and care services by child-welfare agencies.
 - ii. Comparative funding for the education of First Nations children on and off reserves.
 - iii. The educational and income attainments of Aboriginal peoples in Canada compared with non- Aboriginal people.
 - iv. Progress on closing the gaps between Aboriginal and non-Aboriginal communities in a number of health indicators such as: infant mortality, maternal health, suicide, mental health, addictions, life expectancy, birth rates, infant and child health issues, chronic diseases, illness and injury incidence, and the availability of appropriate health services.

- v. Progress on eliminating the overrepresentation of Aboriginal children in youth custody over the next decade.
 - vi. Progress on reducing the rate of criminal victimization of Aboriginal people, including data related to homicide and family violence victimization and other crimes.
 - vii. Progress on reducing the overrepresentation of Aboriginal people in the justice and correctional systems.
56. We call upon the prime minister of Canada to formally respond to the report of the National Council for Reconciliation by issuing an annual “State of Aboriginal Peoples” report, which would outline the government’s plans for advancing the cause of reconciliation.

PROFESSIONAL DEVELOPMENT AND TRAINING FOR PUBLIC SERVANTS

57. We call upon federal, provincial, territorial, and municipal governments to provide education to public servants on the history of Aboriginal peoples, including the history and legacy of residential schools, the *United Nations Declaration on the Rights of Indigenous Peoples*, Treaties and Aboriginal rights, Indigenous law, and Aboriginal–Crown relations. This will require skills-based training in intercultural competency, conflict resolution, human rights, and anti-racism.

CHURCH APOLOGIES AND RECONCILIATION

58. We call upon the Pope to issue an apology to Survivors, their families, and communities for the Roman Catholic Church’s

role in the spiritual, cultural, emotional, physical, and sexual abuse of First Nations, Inuit, and Métis children in Catholic-run residential schools. We call for that apology to be similar to the 2010 apology issued to Irish victims of abuse and to occur within one year of the issuing of this Report and to be delivered by the Pope in Canada.

59. We call upon church parties to the Settlement Agreement to develop ongoing education strategies to ensure that their respective congregations learn about their church's role in colonization, the history and legacy of residential schools, and why apologies to former residential school students, their families, and communities were necessary.
60. We call upon leaders of the church parties to the Settlement Agreement and all other faiths, in collaboration with Indigenous spiritual leaders, Survivors, schools of theology, seminaries, and other religious training centres, to develop and teach curriculum for all student clergy, and all clergy and staff who work in Aboriginal communities, on the need to respect Indigenous spirituality in its own right, the history and legacy of residential schools and the roles of the church parties in that system, the history and legacy of religious conflict in Aboriginal families and communities, and the responsibility that churches have to mitigate such conflicts and prevent spiritual violence.
61. We call upon church parties to the Settlement Agreement, in collaboration with Survivors and representatives of Aboriginal organizations, to establish permanent funding to Aboriginal people for:

- i. Community-controlled healing and reconciliation projects.
- ii. Community-controlled culture- and language-revitalization projects.
- iii. Community-controlled education and relationship-building projects.
- iv. Regional dialogues for Indigenous spiritual leaders and youth to discuss Indigenous spirituality, self-determination, and reconciliation.

EDUCATION FOR RECONCILIATION

62. We call upon the federal, provincial, and territorial governments, in consultation and collaboration with Survivors, Aboriginal peoples, and educators, to:
 - i. Make age-appropriate curriculum on residential schools, Treaties, and Aboriginal peoples' historical and contemporary contributions to Canada a mandatory education requirement for Kindergarten to Grade Twelve students.
 - ii. Provide the necessary funding to post-secondary institutions to educate teachers on how to integrate Indigenous knowledge and teaching methods into classrooms.
 - iii. Provide the necessary funding to Aboriginal schools to utilize Indigenous knowledge and teaching methods in classrooms.
 - iv. Establish senior-level positions in government at the assistant deputy minister level or higher dedicated to Aboriginal content in education.

63. We call upon the Council of Ministers of Education, Canada to maintain an annual commitment to Aboriginal education issues, including:
- i. Developing and implementing Kindergarten to Grade Twelve curriculum and learning resources on Aboriginal peoples in Canadian history, and the history and legacy of residential schools.
 - ii. Sharing information and best practices on teaching curriculum related to residential schools and Aboriginal history.
 - iii. Building student capacity for intercultural understanding, empathy, and mutual respect.
 - iv. Identifying teacher-training needs relating to the above.
64. We call upon all levels of government that provide public funds to denominational schools to require such schools to provide an education on comparative religious studies, which must include a segment on Aboriginal spiritual beliefs and practices developed in collaboration with Aboriginal Elders.
65. We call upon the federal government, through the Social Sciences and Humanities Research Council, and in collaboration with Aboriginal peoples, post-secondary institutions and educators, and the National Centre for Truth and Reconciliation and its partner institutions, to establish a national research program with multi-year funding to advance understanding of reconciliation.

YOUTH PROGRAMS

66. We call upon the federal government to establish multi-year funding for community-based youth organizations to deliver programs on reconciliation, and establish a national network to share information and best practices.

MUSEUMS AND ARCHIVES

67. We call upon the federal government to provide funding to the Canadian Museums Association to undertake, in collaboration with Aboriginal peoples, a national review of museum policies and best practices to determine the level of compliance with the *United Nations Declaration on the Rights of Indigenous Peoples* and to make recommendations.
68. We call upon the federal government, in collaboration with Aboriginal peoples, and the Canadian Museums Association to mark the 150th anniversary of Canadian Confederation in 2017 by establishing a dedicated national funding program for commemoration projects on the theme of reconciliation.
69. We call upon Library and Archives Canada to:
 - i. Fully adopt and implement the *United Nations Declaration on the Rights of Indigenous Peoples* and the *United Nations Joint-Orentlicher Principles*, as related to Aboriginal peoples' inalienable right to know the truth about what happened and why, with regard to human rights violations committed against them in the residential schools.

- ii. Ensure that its record holdings related to residential schools are accessible to the public.
 - iii. Commit more resources to its public education materials and programming on residential schools.
70. We call upon the federal government to provide funding to the Canadian Association of Archivists to undertake, in collaboration with Aboriginal peoples, a national review of archival policies and best practices to:
- i. Determine the level of compliance with the *United Nations Declaration on the Rights of Indigenous Peoples* and the *United Nations Joint-Orentlicher Principles*, as related to Aboriginal peoples' inalienable right to know the truth about what happened and why, with regard to human rights violations committed against them in the residential schools.
 - ii. Produce a report with recommendations for full implementation of these international mechanisms as a reconciliation framework for Canadian archives.

MISSING CHILDREN AND BURIAL INFORMATION

71. We call upon all chief coroners and provincial vital statistics agencies that have not provided to the Truth and Reconciliation Commission of Canada their records on the deaths of Aboriginal children in the care of residential school authorities to make these documents available to the National Centre for Truth and Reconciliation.
72. We call upon the federal government to allocate sufficient resources to the National Centre for Truth

and Reconciliation to allow it to develop and maintain the National Residential School Student Death Register established by the Truth and Reconciliation Commission of Canada.

73. We call upon the federal government to work with churches, Aboriginal communities, and former residential school students to establish and maintain an online registry of residential school cemeteries, including, where possible, plot maps showing the location of deceased residential school children.
74. We call upon the federal government to work with the churches and Aboriginal community leaders to inform the families of children who died at residential schools of the child's burial location, and to respond to families' wishes for appropriate commemoration ceremonies and markers, and reburial in home communities where requested.
75. We call upon the federal government to work with provincial, territorial, and municipal governments, churches, Aboriginal communities, former residential school students, and current landowners to develop and implement strategies and procedures for the ongoing identification, documentation, maintenance, commemoration, and protection of residential school cemeteries or other sites at which residential school children were buried. This is to include the provision of appropriate memorial ceremonies and commemorative markers to honour the deceased children.
76. We call upon the parties engaged in the work of documenting, maintaining, commemorating, and protecting

residential school cemeteries to adopt strategies in accordance with the following principles:

- i. The Aboriginal community most affected shall lead the development of such strategies.
- ii. Information shall be sought from residential school Survivors and other Knowledge Keepers in the development of such strategies.
- iii. Aboriginal protocols shall be respected before any potentially invasive technical inspection and investigation of a cemetery site.

NATIONAL CENTRE FOR TRUTH AND RECONCILIATION

77. We call upon provincial, territorial, municipal, and community archives to work collaboratively with the National Centre for Truth and Reconciliation to identify and collect copies of all records relevant to the history and legacy of the residential school system, and to provide these to the National Centre for Truth and Reconciliation.
78. We call upon the Government of Canada to commit to making a funding contribution of \$10 million over seven years to the National Centre for Truth and Reconciliation, plus an additional amount to assist communities to research and produce histories of their own residential school experience and their involvement in truth, healing, and reconciliation.

COMMEMORATION

79. We call upon the federal government, in collaboration with Survivors, Aboriginal organizations, and the arts community, to develop a reconciliation framework for Canadian heritage and commemoration. This would include, but not be limited to:
- Amending the Historic Sites and Monuments Act to include First Nations, Inuit, and Métis representation on the Historic Sites and Monuments Board of Canada and its Secretariat.
 - Revising the policies, criteria, and practices of the National Program of Historical Commemoration to integrate Indigenous history, heritage values, and memory practices into Canada's national heritage and history.
 - Developing and implementing a national heritage plan and strategy for commemorating residential school sites, the history and legacy of residential schools, and the contributions of Aboriginal peoples to Canada's history.
80. We call upon the federal government, in collaboration with Aboriginal peoples, to establish, as a statutory holiday, a National Day for Truth and Reconciliation to honour Survivors, their families, and communities, and ensure that public commemoration of the history and legacy of residential schools remains a vital component of the reconciliation process.
81. We call upon the federal government, in collaboration with Survivors and their organizations, and other parties to the Settlement Agreement, to commission and install a publicly

accessible, highly visible, Residential Schools National Monument in the city of Ottawa to honour Survivors and all the children who were lost to their families and communities.

82. We call upon provincial and territorial governments, in collaboration with Survivors and their organizations, and other parties to the Settlement Agreement, to commission and install a publicly accessible, highly visible, Residential Schools Monument in each capital city to honour Survivors and all the children who were lost to their families and communities.
83. We call upon the Canada Council for the Arts to establish, as a funding priority, a strategy for Indigenous and non-Indigenous artists to undertake collaborative projects and produce works that contribute to the reconciliation process.

MEDIA AND RECONCILIATION

84. We call upon the federal government to restore and increase funding to the CBC/Radio-Canada, to enable Canada's national public broadcaster to support reconciliation, and be properly reflective of the diverse cultures, languages, and perspectives of Aboriginal peoples, including, but not limited to:
 - i. Increasing Aboriginal programming, including Aboriginal-language speakers.

- ii. Increasing equitable access for Aboriginal peoples to jobs, leadership positions, and professional development opportunities within the organization.
 - iii. Continuing to provide dedicated news coverage and online public information resources on issues of concern to Aboriginal peoples and all Canadians, including the history and legacy of residential schools and the reconciliation process.
85. We call upon the Aboriginal Peoples Television Network, as an independent non-profit broadcaster with programming by, for, and about Aboriginal peoples, to support reconciliation, including but not limited to:
- i. Continuing to provide leadership in programming and organizational culture that reflects the diverse cultures, languages, and perspectives of Aboriginal peoples.
 - ii. Continuing to develop media initiatives that inform and educate the Canadian public, and connect Aboriginal and non-Aboriginal Canadians.
86. We call upon Canadian journalism programs and media schools to require education for all students on the history of Aboriginal peoples, including the history and legacy of residential schools, the *United Nations Declaration on the Rights of Indigenous Peoples*, Treaties and Aboriginal rights, Indigenous law, and Aboriginal–Crown relations.

SPORTS AND RECONCILIATION

87. We call upon all levels of government, in collaboration with Aboriginal peoples, sports halls of fame, and other relevant

organizations, to provide public education that tells the national story of Aboriginal athletes in history.

88. We call upon all levels of government to take action to ensure long-term Aboriginal athlete development and growth, and continued support for the North American Indigenous Games, including funding to host the games and for provincial and territorial team preparation and travel.
89. We call upon the federal government to amend the Physical Activity and Sport Act to support reconciliation by ensuring that policies to promote physical activity as a fundamental element of health and well-being, reduce barriers to sports participation, increase the pursuit of excellence in sport, and build capacity in the Canadian sport system, are inclusive of Aboriginal peoples.
90. We call upon the federal government to ensure that national sports policies, programs, and initiatives are inclusive of Aboriginal peoples, including, but not limited to, establishing:
 - i. In collaboration with provincial and territorial governments, stable funding for, and access to, community sports programs that reflect the diverse cultures and traditional sporting activities of Aboriginal peoples.
 - ii. An elite athlete development program for Aboriginal athletes.
 - iii. Programs for coaches, trainers, and sports officials that are culturally relevant for Aboriginal peoples.

- iv. Anti-racism awareness and training programs.
- 91. We call upon the officials and host countries of international sporting events such as the Olympics, Pan Am, and Commonwealth games to ensure that Indigenous peoples' territorial protocols are respected, and local Indigenous communities are engaged in all aspects of planning and participating in such events.

BUSINESS AND RECONCILIATION

- 92. We call upon the corporate sector in Canada to adopt the *United Nations Declaration on the Rights of Indigenous Peoples* as a reconciliation framework and to apply its principles, norms, and standards to corporate policy and core operational activities involving Indigenous peoples and their lands and resources. This would include, but not be limited to, the following:
 - i. Commit to meaningful consultation, building respectful relationships, and obtaining the free, prior, and informed consent of Indigenous peoples before proceeding with economic development projects.
 - ii. Ensure that Aboriginal peoples have equitable access to jobs, training, and education opportunities in the corporate sector, and that Aboriginal communities gain long-term sustainable benefits from economic development projects.
 - iii. Provide education for management and staff on the history of Aboriginal peoples, including the history and legacy of residential schools, the *United Nations*

Declaration on the Rights of Indigenous Peoples, Treaties and Aboriginal rights, Indigenous law, and Aboriginal–Crown relations. This will require skills based training in intercultural competency, conflict resolution, human rights, and anti-racism.

NEWCOMERS TO CANADA

93. We call upon the federal government, in collaboration with the national Aboriginal organizations, to revise the information kit for newcomers to Canada and its citizenship test to reflect a more inclusive history of the diverse Aboriginal peoples of Canada, including information about the Treaties and the history of residential schools.
94. We call upon the Government of Canada to replace the Oath of Citizenship with the following: I swear (or affirm) that I will be faithful and bear true allegiance to Her Majesty Queen Elizabeth II, Queen of Canada, Her Heirs and Successors, and that I will faithfully observe the laws of Canada including Treaties with Indigenous Peoples, and fulfill my duties as a Canadian citizen.

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MARCH 2022