

# Indigenous Peoples

Indigenous Peoples is a collective term to encompass the diversity of cultures within First Nations, Inuit and Métis experiences. First Nations refers to persons who identify as such and who may or may not be registered under that title in the Indian Act. According to the Assembly of First Nations, the First Nations population represents over 50 distinct nations and language groups and is made up of 634 First Nations communities (or 'reserves'). Inuit people are descended from the ancient Thule people, and have occupied parts of Canada's northernmost regions thousands of years before European arrival. Métis people are descendants of mixed Indigenous and European ancestry have their own culture, language (Michif), traditional homeland (the Métis Nation Homeland includes Manitoba, Saskatchewan and Alberta, parts of Ontario, British Columbia, the Northwest Territories and the Northern United States) and a sense of nationhood.

Urban Indigenous Peoples experience homelessness at a disproportionate rate and make up a significant percentage of the homeless populations in cities. According to Patrick (2014) "Some sources have suggested that Indigenous homelessness in major urban areas ranges from 20 to 50 percent of the total homeless population, while others have reported that the range may be much wider – from 11 to 96 percent."

In fact, research by Belanger et al (2013) found that 1 in 15 Indigenous People in urban centres are homeless compared to 1 in 128 for the general population. This means that Urban Indigenous Peoples are 8 times more likely to experience homelessness.

Housing conditions on reserves and in Metis and Inuit communities are often sub-standard leading some researchers and Indigenous activists to state that on-reserve housing should also be considered part of homelessness.

Homelessness amongst Indigenous Peoples can be traced back to historical trauma, oppression, racism and discrimination. It can be argued that it should be considered as a consequence of colonization and exploitation resulting from the European conquest of North America. Significant abuse and cultural trauma occurred through the use of residential schools to house and educate Indigenous children. Furthermore, the 60s Sweep –which took Indigenous children and placed them in white foster homes within the child welfare system-- has led to unstable families and homes. Many of the personal issues (including familial dysfunction, substance use, addictions, health issues, community violence) faced by Indigenous Peoples and that act as contributors to homelessness can be directly linked to various types of historical trauma. Structural issues can include transitions from reserves to urban living, racism, landlord discrimination, low levels of education and unemployment.

As a result, research has shown that Indigenous Peoples experience lower levels of education, poorer health, higher rates of unemployment and lower income levels

compared to non-Indigenous people. There are also serious social issues stemming from the historical trauma including high incarceration rates and high suicides rates amongst youth.

## URBAN ABORIGINAL HOMELESSNESS IN CANADA



0 25% 50% 75% 100%

Source: Belanger, Y. et al. (2013). Homelessness, Urban Aboriginal People, and the Need for a National Enumeration. *Aboriginal Policy Studies*, 2(2), 4-33.



Vision Keeper's Council being commissioned at General Synod 2016

## How has the Anglican Church of Canada Responded?

- At its General Synod, 2010, it endorsed the UNDRIP, requested the Government of Canada to do the same, and committed to adopting the Declaration as a standard of practice within the Anglican Church of Canada.
- In 2016, the Vision Keeper's Council of Indigenous Elders and Youth was commissioned to hold the Anglican Church of Canada accountable to its commitment to UNDRIP.
- The Anglican Church of Canada has endorsed Bill C-262, a Bill to bring Canadian law in harmony with UNDRIP.

## Want to know more?

To learn more about Truth and Reconciliation work in the Anglican Church of Canada, please visit:

<http://www.anglican.ca/reconciliationtoolkit>

to order booklets of the UNDRIP, visit [www.kairos.org/resources](http://www.kairos.org/resources)

### Other titles in the series

- The Doctrine of Discovery
- The Royal Proclamation of 1763
- UN Declaration of the Rights of Indigenous Peoples

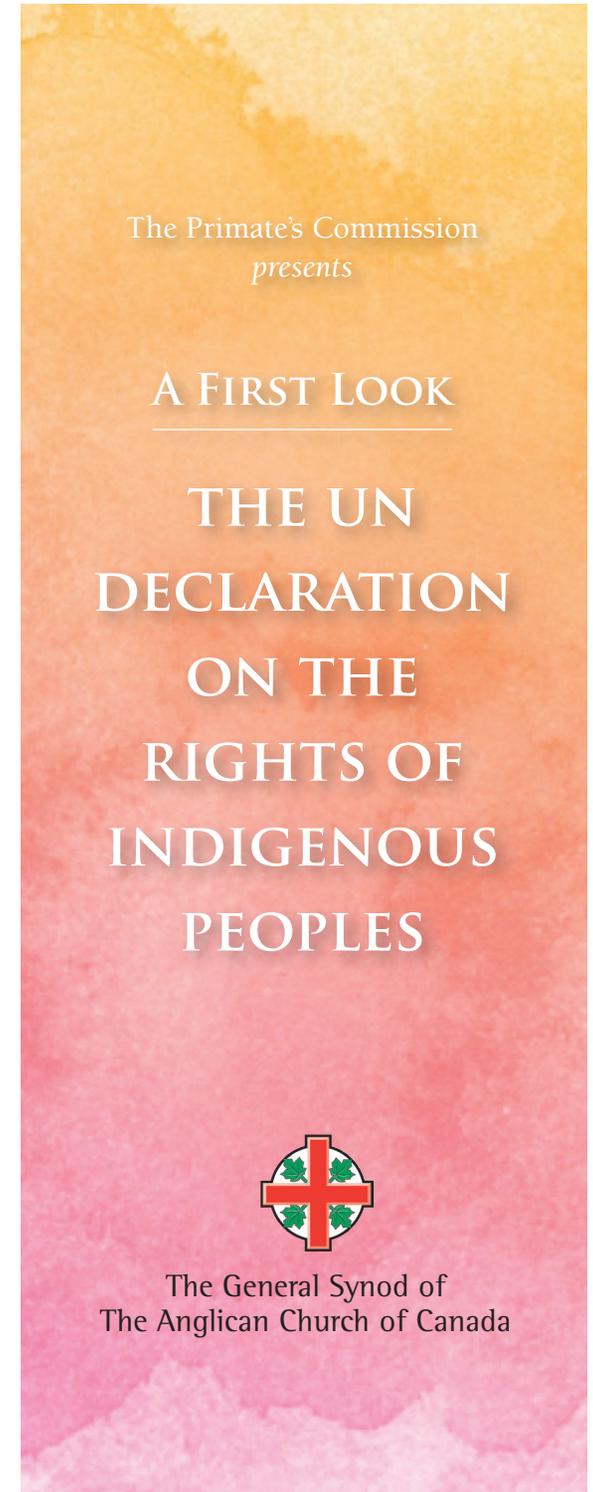
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# THE UN DECLARATION ON THE RIGHTS OF INDIGENOUS PEOPLES

## What is the UN Declaration on the Rights of Indigenous Peoples [UNDRIP]?

The UNDRIP sets the minimum standard for treatment of Indigenous people and states that the rights contained within it “constitute the minimum standards for the survival, dignity and well-being of the indigenous people of the world.” The UNDRIP contains 24 explanatory or “preambular” paragraphs and 46 articles. While it is not legally binding, it is a significant milestone on the march to protection and promotion of Indigenous rights.

The purpose is to provide a mechanism to protect the individual and collective rights of Indigenous peoples, as well as their rights to culture, identity, language, employment, health, education, protection of traditional lands, as well as other issues. The Declaration includes many provisions that relate to the right of Indigenous peoples to participate in decision-making.

*“All peoples have the right to freely pursue their economic, social and cultural development.”*

- UNDRIP

## What is meant by free, prior and informed consent [FPIC]?

**Free** does not involve coercion or manipulation — from government, company or organization.

**Prior** is made before activities are taken — given enough time to understand and make an informed decision

**Informed** is founded upon an understanding of the full range of issues and potential impacts.

**Consent** involves withholding or granting — saying yes or no to an activity, program or policy according to the decision-making method of their choice.

## What is FPIC about?\*

*It is about* building good relations by creating a starting point of mutual respect.

*It is about* Indigenous peoples’ right to self-determination.

*It is about* re-thinking the way we interact as Indigenous and non-Indigenous peoples.

*It is about* reducing conflict by giving those affected an equal voice before conflict-creating decisions are made.

*It is about* dialogue and understanding.

*It is about* ensuring Indigenous communities benefit from activities carried out on their lands.

*It is about* mitigating environmental and social impacts on Indigenous communities through the highest standard of precaution in any decision that could affect Indigenous territories.

*It is about* acknowledging the history of the land and Indigenous peoples’ relationship to it, as well as the historical wrongs of colonization.

\*from KAIROS Canada – used with permission

# How has the Anglican Church of Canada responded?

The Anglican Church of Canada has taken seriously its commitment to the 94 Calls and has taken steps to address them by:

- Hiring a full-time Reconciliation Animator to assist in monitoring the Church's responses and keeping the Church accountable to the Calls
- Taking action on all of the Calls to Action directed to the Church parties (59-61)
- Taking action on many of the Calls directed to "all parties" to the Settlement Agreement and engaging in conversation with other parties on the best way to take action on them.
- Taking action on and encouraging other Settlement Parties to act on Calls directed to them [example — endorsing Bill C-262 and requesting the Government of Canada to enshrine the UN Declaration on the Rights of Indigenous Peoples into Canadian law as per Calls # 43-44)

## Want to know more?

To learn more about Truth and Reconciliation work in the Anglican Church of Canada, please visit:

<http://www.anglican.ca/reconciliationtoolkit>

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The Primate's Commission  
*presents*

## A FIRST LOOK

# THE TRC 94 CALLS TO ACTION



The General Synod of  
The Anglican Church of Canada

# THE TRC 94 CALLS TO ACTION



Indigenous and non-Indigenous peoples take part in a traditional round-dance at the TRC Closing Events in Ottawa, June, 2015

## What are the TRC 94 Calls to Action?

As part of its Summary Report at the conclusion of its mandate in 2015, the Truth and Reconciliation Commission of Canada released a list of 94 ways Canada and all parties to the Indian Residential Schools Settlement Agreement could act to “redress the legacy of residential schools and advance the process of Canadian reconciliation”. These 94 ways are called the TRC Calls to Action.

*“We must be mindful that a process that will be as long and complicated as the reconciliation of seven generations of inequity will require stewardship, study and ongoing attention.”*

— commissioner Marie Wilson.

*“We have described for you a mountain. We have shown you the path to the top. We call upon you to do the climbing.”*

— Senator Murray Sinclair

The 94 Calls to Action are further broken down into 22 categories under the broader headings of “Legacy” (Calls 1-42) and “Reconciliation” (Calls 43-94).

The Legacy Calls to Action involve ways that damages due to the residential school system and experience can be redressed, and include sub-categories such as Child Welfare, Health and Justice.

The Reconciliation Calls to Action speak to ways that all Canadians and Indigenous peoples can be reconciled for a better future together and include many sub-categories including Legal Systems, Youth Programs, Commemorations, Business and Churches.



The TRC teepee set up in Ottawa as part of the TRC Closing Events.

## What you can do:

- Read the 94 Calls to Action (available online – see reverse for link to learn more)
- Adopt a Call to Action personally, with your Church, youth Group or other group to take action on
- Write your elected officials and encourage them to act on the Calls to Action
- Talk to others about the Calls and challenge them to adopt one (or more!) as well.

## How has the Anglican Church Responded?

At the 39<sup>th</sup> General Synod of the Anglican Church of Canada, the Synod voted to repudiate — or deny the validity — of the Doctrine of Discovery. The motion (A086) also requested that each Diocese and the larger Church:

- be made aware of the doctrine and its effects
- review ways that its systems still manifest the effects of the doctrine
- reflect upon its history and encourage all Anglicans to seek a greater understanding of Indigenous Peoples
- support Indigenous efforts to assert their sovereignty and have their inherent rights respected
- put pressure on Her Majesty, Queen Elizabeth II to publicly repudiate the claimed validity of the doctrine

The motion was submitted by the Anglican Council of Indigenous Peoples, but it is up to the whole Church — and indeed country — to take action to stand against the effects of the Doctrine of Discovery.

## Want to know more?

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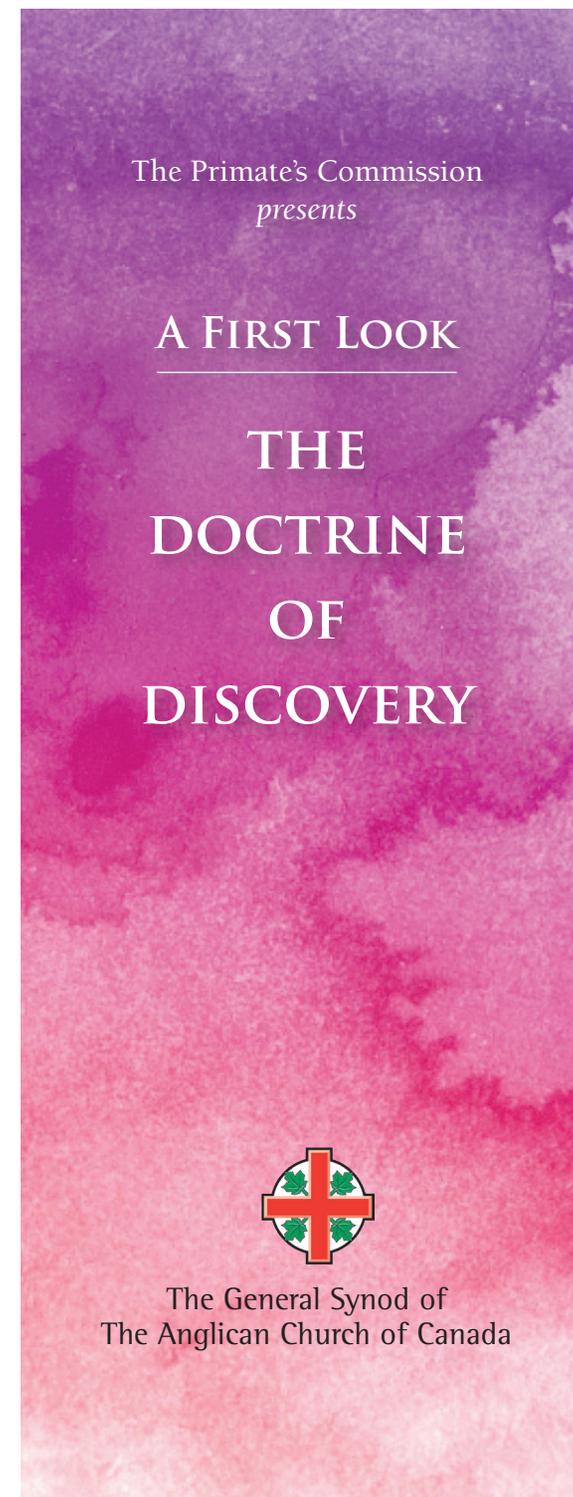
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# THE DOCTRINE OF DISCOVERY



Illustration of Christopher Columbus arriving in America. Credit: L. Prang & Co, Boston

## What is the Doctrine of Discovery?

The **Doctrine of Discovery** (sometimes called the Doctrine of Christian Discovery) is a set of beliefs and legal framework born out of a series of edicts issued by the pope in the 15th century.

*The edicts (known as Papal Bulls) asserted that any lands not inhabited by Christians were empty, unowned, and available to be discovered and claimed.*

The term “*terra nullius*” literally means “nobody’s land” and was applied to North America.

## What were the effects?

In applying the **Doctrine of Discovery** to what is now known as North America, colonial powers were able to take over and profit from the lands that had been inhabited by Indigenous Peoples from time immemorial. It enabled them to accumulate massive wealth by engaging in unlimited resource extraction.

*Further, the use of this doctrine was the basis for dehumanizing Indigenous Peoples.*

The doctrine was used as a criteria for gauging humanity. If there were no Christians (as defined by the Church powers) on the land, the land was considered empty — there were no humans.

This denial of the essential humanity of Indigenous peoples laid the groundwork for the many ways that racism and injustice manifested in the history of North America including:

- The residential school system
- The Indian Act
- The illegalization of Indigenous language and spiritual practice



First Nations protest - 2012 /The Canadian Progressive

## Where can we see the effects today?

We can still see the results of the **Doctrine of Discovery** at work today, through:

- Resource extraction without the free, prior and informed consent of the Indigenous people of the land
- Discrimination against Indigenous peoples as seen in the over-representation of Indigenous peoples in the child welfare system and the justice system
- The denial of the right of Indigenous Nations to self-determination and control their own traditional systems of governance and spiritual practice.



Indigenous Spiritual Ministry of Mishamikoweesh

## What does this have to do with the Church?

- As witnesses or ‘guarantors’ to the treaties and promises that the Royal Proclamation defends, we have a moral obligation to make sure that it is followed.
- It enshrines the nation-to-nation relationships between Indigenous and non-Indigenous Canadians (and Anglicans) that is at the heart of the kind of respect reconciliation requires.
- It guarantees that Indigenous Peoples are viewed as people with authority and rights — contrary to the principles of the Doctrine of Discovery, which the Anglican Church of Canada has repudiated.

## Want to know more?

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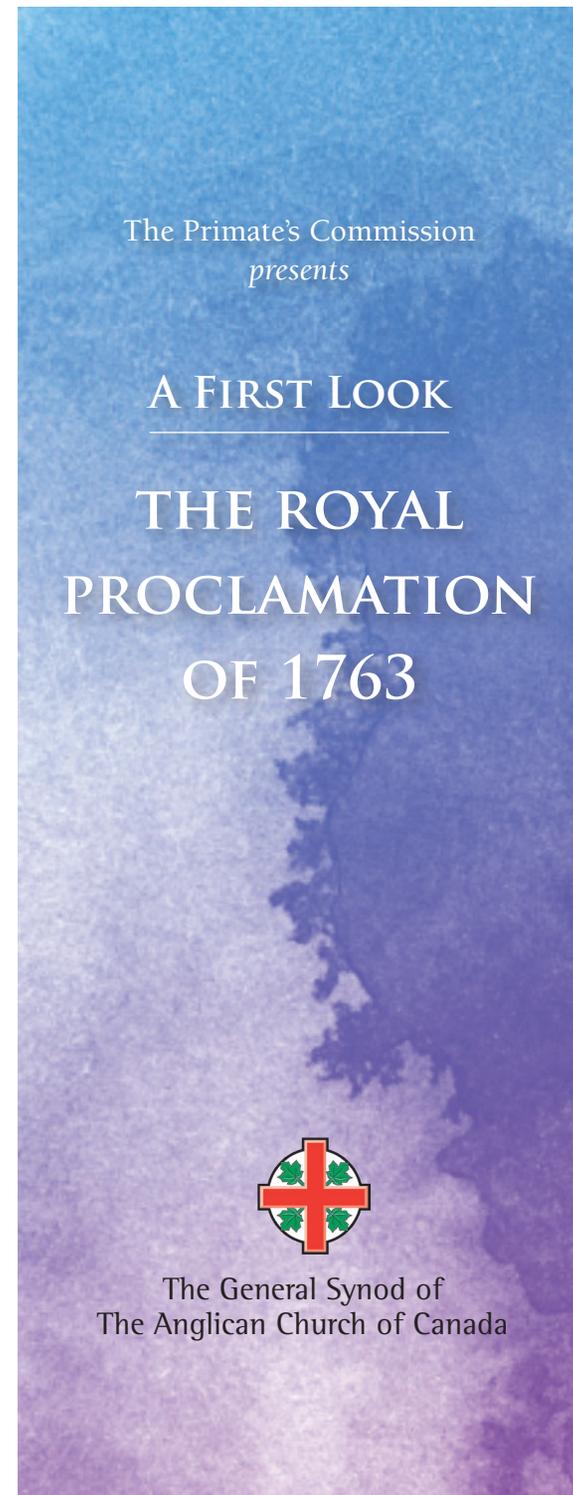
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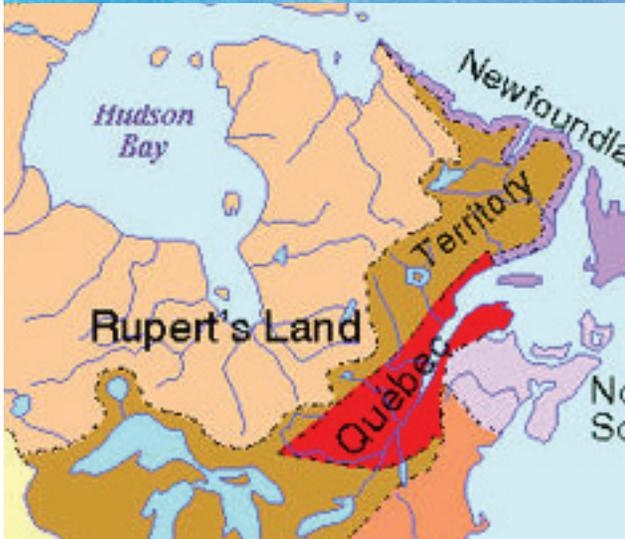
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# THE ROYAL PROCLAMATION OF 1763



Royal Proclamation Map: Canadian Encyclopedia

## What is the Royal Proclamation of 1763?

The Royal Proclamation is a document that set out guidelines for European settlement of Aboriginal territories in what is now North America. The Royal Proclamation was initially issued by King George III in 1763 to officially claim British territory in North America after Britain won the Seven Years War.

The Proclamation forbade settlers from claiming land from the Aboriginal occupants, unless it has been first bought by the Crown and then sold to the settlers. The Royal Proclamation further sets out that only the Crown can buy land from First Nations.

*In the Royal Proclamation, ownership over North America is issued to King George. However, the Royal Proclamation explicitly states that Aboriginal title has existed and continues to exist, and that all land would be considered Aboriginal land until ceded [given up] by treaty.\**

Most Indigenous and legal scholars recognize the Royal Proclamation as an important first step toward the recognition of existing Aboriginal rights and title, including the right to self-determination. In this regard, the Royal Proclamation is sometimes called “the Indian Magna Carta.” The Royal Proclamation sets a foundation for the process of establishing treaties and affirms the existing treaties..

\*text in this section adapted from UBC Indigenous Foundations:

[www.indigenousfoundations.arts.ubc.ca](http://www.indigenousfoundations.arts.ubc.ca)



Aboriginal Title and Rights Rally, Victoria, 2004. Photo: Northern Shuswap Tribal Council

## What is Aboriginal title?

Aboriginal title refers to the inherent Aboriginal right to land or a territory. The Canadian legal system recognizes Aboriginal title as a sui generis, or unique collective right to the use of and jurisdiction over a group's ancestral territories. This right is not granted from an external source but is a result of Aboriginal peoples' own occupation of and relationship with their home territories as well as their ongoing social structures and political and legal systems. As such, Aboriginal title and rights are separate from rights afforded to non-Aboriginal Canadian citizens under Canadian common law.

## THE INDIAN ACT

# SAID WHAT?

The *Indian Act* was created to control and assimilate Indigenous peoples and their communities. Throughout history, a number of shocking and discriminatory measures have been in place.

**1880**

Though not a law but a policy, Indigenous farmers are expected have a **permit** to sell cattle, grain, hay or produce. They must also have a permit to buy groceries and clothes.

**1885**

Indigenous peoples are banned from conducting their own **spiritual ceremonies** such as the **potlatch**. A pass system is also created and Indigenous peoples are **restricted from leaving their reserve** without permission.

**1914**

Indigenous peoples are required to ask for official permission before wearing any **"costume"** at public events. Dancing is outlawed off reserve. In 1925, it is outlawed entirely.

**1927**

Indigenous peoples are banned from hiring **lawyers or legal representation** regarding land claims against the federal government without the government's approval.

**1876**

The *Indian Act* is created. Any existing Indigenous self-government structures at this time are **extinguished**.

An Indian is defined as "*any **male person of Indian blood***" and their children. Provisions include: status women who marry non-status men lose status; non-status women who marry status men gain status and anyone with status who earns a degree or becomes a **doctor, lawyer** or **clergyman** is also enfranchised,

**1884**

Attendance in **residential schools** becomes mandatory for status Indians until they turn 16. Children are forcibly removed and separated from their families and are not allowed to speak their own language or practice their own religious rituals. The **sale of alcohol** to Indigenous peoples is prohibited.

**1886**

The definition of Indian is expanded to include "*any person who is reputed to belong to a particular band or who follows the Indian mode of life, or any child of such person.*" Voluntary enfranchisement is allowed for anyone who is "of **good moral character**" and "temperate in his or her habits".

**1918**

The Canadian government gives itself the power to **lease out Indigenous land** to non-Indigenous persons if it is being used for farming.

**1951**

After the Joint Committee of the Senate and House of Commons looks at the Act again in the late 1940s, the bans on dances, ceremonies and legal claims are **removed**. Women are now allowed to vote in **band council elections**. Provisions that are still in place include compulsory enfranchisement through marriage to a non-status man; Indigenous peoples who receive a **degree** or become a doctor, clergyman or lawyer lose status. 1951 amendments now enact the "**double mother rule**" which removes the status of a person whose mother and grandmother were given status through marriage.

1960

Indigenous peoples are finally allowed to **vote** in federal elections. That is to say, for nearly a century, Indigenous peoples were denied the right to vote on land that had been stolen from them.

1961

Compulsory enfranchisement is removed.

1969

The first Trudeau government announces its intentions to entirely eliminate the *Indian Act* with the **White Paper**. This draws great ire from Indigenous communities and the government abandons the idea.

1970

The Royal Commission on the Status of Women recommends that legislation be enacted to repeal **sexist** *Indian Act* provisions.

1978

Canada issues a **report** which acknowledges the sexist **marrying out rule** which strips status women of their status and benefits if they marry non-status men. Sandra Lovelace challenges this rule in the late 1970s, petitioning to the UN Human Rights Committee in her quest. In 1981, the committee finds that the loss of a woman's status upon marriage violates the *International Covenant on Civil and Political Rights*.

1973

The Supreme Court rules that **Indigenous rights to land** do indeed exist and cites the 1763 Royal Proclamation as proof. This translates into an actual victory in the following decade, when the Inuvialuit Claims Settlement Act comes into force in 1984, giving Inuit of the western Arctic **control over resources**.

1985

Bill C-31 comes into effect. The **marrying out rule** in the *Indian Act* is finally removed but further distinctions in status are created, with additional issues stemming from this distinction. Re-instated women are given 6(1)(c) status, while men retain 6(1)(a) status.

2010

Canada signs onto **UNDRIP**. This is the same year that the Liberal Opposition suggests the "6(1)(a) All the Way" amendment as Sharon McIvor brings her case forward. The Speaker of the House rules against the proposed amendment.

2011

**Bill C-3** comes into place to fill the gaps in Bill C-31, granting 6(2) status to grandchildren of women who regained status in 1985, but who only passed 6(2) status onto their children.

2015

In the **Descheneaux** Case, the Superior Court of Quebec rules that several provisions under section 6 of the *Indian Act* violate section 15 of the Canadian Charter of Rights and Freedoms.

2017

The Ontario Court of Appeal rules in favour of Lynn Gehl regarding **unstated parentage**. She is granted 6(2) status, and the issue of unstated parentage is included in Bill S-3.

2017

**Bill S-3** receives Royal Assent and covers issues related to the cousins issue, the siblings issue and the omitted minor child issue but leaves many other issues unaddressed.





# FIRST NATIONS COMMUNITIES

In considering First Nations in the context of income security reform, Ontario will need to recognize that nothing in any proposed new legislation shall be construed so as to abrogate or derogate from the Aboriginal and treaty rights of First Nations as recognized and affirmed in section 35 of the Constitution Act, 1982. The reforms will also need to recognize the federal government's fiduciary responsibility to First Nations, over and above current cost-sharing agreements.



Indigenous Nations on Turtle Island have traditionally implemented distinct systems of governance based on natural laws and teachings. As sovereign nations, Indigenous peoples have established treaties of peace, friendship, alliance and rights of passage to regulate trade and commerce and other relations of the most sophisticated international diplomacy.

Many of the First Nations communities in Ontario today are located within traditional territories that have been recognized in Treaties signed prior to most federal and provincial legislation. In the Ontario region there are currently 46 treaties that formalize the relationship between the Crown (government) and First Nations. These treaties were signed between 1781 and 1930<sup>87</sup> and affirm the rights of First Nations people on their lands<sup>88</sup>. Some of these treaties extend beyond provincial jurisdictions, which creates a number of challenges. Treaty rights and relationships and the inherent right to self-government are of paramount importance to First Nations.

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87 <https://www.ontario.ca/page/treaties#section-5>

88 [https://files.ontario.ca/firstnationsandtreaties\\_1.pdf](https://files.ontario.ca/firstnationsandtreaties_1.pdf)



The first Indian Act was passed by Parliament in 1876. Indian Agents were appointed to manage the lives of the Anishinaabe, Haudenosaunee, Cree and other First Nations people in First Nations communities across the province. They took control of virtually every aspect of First Nations life through the Indian Act, even pre-determining band numbers before birth and controlling estates after death. Although adaptations have been necessary, traditional First Nations governance remains. What First Nations need from Crown governments are the resources to exercise their own jurisdiction.

The impacts of historical events upon First Nations people and governments have been devastating. First Nations communities in Ontario are now among the most vulnerable populations in the province. They face significant challenges and hardships and a staggering proportion of community members live below the poverty line. Individuals and families struggle to make ends meet. A large majority do not have enough money to cover simple necessities like healthy food, and even those who are doing relatively better often have to choose from an array of processed and pre-packaged options rather than fresh food. In First Nations communities, the cost of healthy food (if available) is too high, food is generally scarce, and having to eat pre-packaged food results in increased health care costs. While multi-generational homes may reflect a strong commitment to family, limited housing options can lead to overcrowding and to people living together, including former spouses, through necessity rather than personal choice. The life expectancy of First Nations people is five to seven years less than non-Indigenous Canadians<sup>89</sup>.

The 133 First Nations communities in Ontario span most of the province and vary in distance to urban centres. First Nations communities may be small, with few services available. Most are isolated and face significant challenges in accessing services and benefits offered in urban settings. Service provision is costly in northern and remote communities and those located far from service hubs. Limited internet and broadband access impedes e-service access and the completion of ministry templates. Community members have to travel long distances to get proper health care, and are forced to move away to attend school or enrol in training programs that might give them the knowledge and skills to achieve their goals and increase community capacity. Communities often have seasonal economies and few employment opportunities.

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89 Fact Sheet: Quality of Life of First Nations, June 2011. Assembly of First Nations. Retrieved July 25, 2017 at [http://www.afn.ca/uploads/files/factsheets/quality\\_of\\_life\\_final\\_fe.pdf](http://www.afn.ca/uploads/files/factsheets/quality_of_life_final_fe.pdf)

Interactions with municipal, provincial and federal income support programs are complicated, frustrating, disjointed, and lack consideration for personal or individual circumstances and respect for the diversity that exists among First Nations. The intergenerational trauma caused by colonialism, the legacy of residential schools and other historical realities are compounded by historical and ongoing systemic discrimination within urban hubs across many sectors, including justice, legal, corrections, mental health, health and child welfare. Paternalistic mainstream organizations do not want to give up control in favour of First Nations governments and organizations, which are the actual service providers to First Nations clients.

In order for social services to be meaningful and effective in First Nations communities, First Nations must be full participants in the design of programs and services. This is critical in meeting the expectations and needs of First Nations people, correcting criticisms and structuring priorities. For First Nations to administer someone else's initiatives is not only a waste of human capital, it is also the administration of their own continued poverty.

First Nations social service administrators should be acknowledged for their expertise in providing culturally safe services and applying the philosophy that every door is the right door. First Nations have also demonstrated expertise in the development of specific tools and training. There is an ongoing need to build community capacity.

There is also a lack of integration across ministries in areas such as health and education. More flexibility could create new opportunities for program and policy design.

The First Nations Ontario Works caseload has grown since 2003, surpassing 11,000 cases in 2016–17. Of 133 First Nations communities, 101 are First Nations delivery partners, and 68 are providing full delivery serving 79 communities. This demonstrates First Nations' ability to deliver competent, fully fledged programs. Those that do not have access, by choice, to Ontario Works have bilateral agreements with the federal government to deliver income assistance. The ministry recognizes that there are challenges to full delivery in some communities: populations of less than 100, small Ontario Works caseload (less than 30), geographic remoteness, limited economic opportunities and small Band administrative structures.



While the recommendations noted above in the Roadmap will help to address some of these challenges, there are unique and specific changes that are critical for First Nations communities and must be included in any path forward on income security reform. If the trend of rising costs continues and the status quo of delivery remains, more people will fall into the depths of poverty. The need for a revised approach is more evident now than ever before. The Roadmap provides a real opportunity to thoroughly examine the way in which we support our most vulnerable populations. First Nations have a critical interest in being at the forefront of income security reform and participating in the modernization of current systems and technology, coming from a long-standing history of adapting to change.

It should also be noted that while the recommendations in the First Nations chapter are the result of the specific discussions and deliberations held at that table, the historic context and many of the issues identified are shared by Indigenous people living outside of First Nations communities as well. As such, many of the recommendations in this section would have positive impact across the province, including for Indigenous people living outside of First Nations communities, and should be considered by the province.

## SELF-GOVERNANCE AND RESPECT FOR FIRST NATIONS JURISDICTION

**Recommendation 16:** Take steps to ensure that social services are ultimately controlled by, determined by and specific to First Nations.

The unique status of First Nations and the extent of poverty and reliance on social assistance in First Nations communities necessitate a unique response. The final report of the Royal Commission on Aboriginal Peoples in 1996 referenced social assistance as, by far, the most important aspect of the social safety net for Indigenous communities<sup>90</sup>, and identified three principles for social assistance

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90 Report of the Royal Commission on Aboriginal Peoples, Vol. 3, Gathering Strength, p. 153. Ottawa, 1996. See <http://data2.archives.ca/e/e448/e011188230-03.pdf>

reform to address welfare dependency: Indigenous control over the design and administration of income support programs; programming that supports social and economic development in Indigenous communities; and a holistic approach rooted in Indigenous traditions and values that integrates social and economic development<sup>91</sup>. Article 5 of the United Nations Declaration on the Rights of Indigenous Peoples<sup>92</sup> affirms the right of Indigenous peoples to maintain and strengthen their distinct social, economic and other institutions, while retaining their right to participate fully, if they so choose, in the social and economic life of the state.

In keeping with First Nations' government-to-government relationship with Ontario and long-standing call for self-determined social services, as set out in 1991<sup>93</sup> and reiterated in a 1997 presentation to a Standing Committee on Ontario Works<sup>94</sup>, First Nations are looking to exercise inherent jurisdiction over all social service programs, and to develop and control these programs. First Nations require a legislative exemption that recognizes the authority of First Nations to opt out of elements of the provincial income security program as they choose in favour of more flexible, responsive approaches. The proposed wording of this legislative change needs to be developed in collaboration with First Nations.

A legislative opt-out clause will provide the basis for First Nations to plan, deliver and manage social assistance services that offer flexibility and allow for programs to evolve based on community needs and priorities, including family well-being, skills development and small business development. Accountability and reporting mechanisms will be negotiated to reflect First Nations' authority and desired outcomes.

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91 Report of the Royal Commission on Aboriginal Peoples, Vol. 2, Restructuring the Relationship, p. 930. See <http://data2.archives.ca/e/e448/e011188230-02.pdf>. These principles were endorsed by the Assembly of First Nations

92 United Nations Declaration on the Rights of Indigenous Peoples. UN General Assembly, Sept. 13, 2007. Canada adopted the Declaration in 2016

93 As outlined in All Ontario Chiefs-in-Assembly Resolution 91/34, described in the message from the First Nations Income Security Reform Working Group; [see page 27](#)

94 Presentation by Ontario Regional Chief Tom Bressette to the Standing Committee on Social Development regarding Bill 142, Social Assistance Reform Act. October 22, 1997. See [http://www.ontla.on.ca/web/committee-proceedings/committee\\_transcripts\\_details.do?locale=en&Date=1997-10-22&ParlCommID=54&BillID=&Business=Bill+142%2C+Social+Assistance+Reform+Act%2C+1997&DocumentID=18992](http://www.ontla.on.ca/web/committee-proceedings/committee_transcripts_details.do?locale=en&Date=1997-10-22&ParlCommID=54&BillID=&Business=Bill+142%2C+Social+Assistance+Reform+Act%2C+1997&DocumentID=18992)



## DETAILED RECOMMENDATIONS

**16.1** Based on First Nations' inherent right, First Nations should have the opportunity to develop and control their own social service programs.

**16.2** Recognize First Nations authority to create and implement their own model of Income Assistance.

**16.3** Engage with federal government and First Nations in a tripartite arrangement to ensure ongoing financial support for the new flexible, responsive approaches.

**16.4** Respect First Nations' autonomy and work with First Nations to develop an opt-out clause that explicitly recognizes their right to opt out of provisions in the Ontario Works legislative framework in favour of their own models. Establish communication processes for informing First Nations of the opt-out provisions and opportunities for piloting direct program delivery.

**16.5** Identify more flexible, responsive service approaches or models that First Nations could adapt, such as:

- Living with Parent rule
- Qualifying period for earnings exemptions
- Non-compliance rules
- Rental Income for Ontario Works recipients

- Spousal definition to be defined under the Family Law Act
- Participation requirements (voluntary)
- Shelter cost maximums, to be based on actuals

**16.6** Establish and communicate clear guidelines for provincial staff in accessing First Nations-owned data reflecting the principles of the Ownership, Control, Access and Possession protocol endorsed by the Assembly of First Nations.

**16.7** Commit to working with First Nations to design and launch pilots for the direct delivery of programs including the Ontario Disability Support Program, Employment Ontario, Assistance for Children with Severe Disabilities and Special Services at Home within their communities, with the long-term goal of First Nations delivery as they choose.

**16.8** Support the development of administrative forms and processes and training of First Nations social services staff to support the new flexible, responsive approach.

**16.9** Commit to working with First Nations (through PTOs, Tribal Councils or individual First Nations) to establish an implementation plan for First Nations to accept the responsibility for the design and delivery of programs to First Nations communities, such as: Ontario Works, Ontario Disability Support Program, Assistance for Children with Severe Disabilities, Special Services at Home, and Temporary Care Assistance.



**16.10** Take steps to ensure that First Nations will still be eligible for any new program dollars for any new programs that the Ontario government might develop after a First Nation has taken on self-governance in social assistance.

## FIRST NATIONS–BASED APPROACH

**Recommendation 17:** Broaden program outcomes to encompass social inclusion. Simplify processes and provide tools for a more holistic, individualized approach that offers wrap-around services.

Social support systems have always been a defining feature of First Nations cultural identity. Collective responsibility for the welfare of all members and providing assistance to those in need are fundamental principles which First Nations have maintained throughout their history to the present day. Given the loss of lands and resources and increasing dependency on welfare experienced in First Nations communities, there is an urgent need to replace the narrow focus and punitive aspects of social assistance with a system of holistic supports to address individual needs in First Nations communities.

A true First Nations–based approach will not focus solely on providing income assistance but will incorporate strategies that holistically encompass the four quadrants of living—physical, spiritual, mental and emotional well-being. Individuals and families must be supported by a network of programming that encourages them to build upon their skills to achieve a self-sustaining life. These supports would provide wrap-around services through a strengths-based approach that encourages personal success and independence, social inclusion, family wellness and community development, and provides additional supports for those in need. Community-based development approaches, rather than only using individual and family-focussed programs, can also be included.

Protecting the family unit is paramount for First Nations communities. Social assistance programs, rules and policies should promote family stability and support family revitalization.

Individuals and families should have access to wrap-around supports and services that recognize the diversity of personal, social and economic situations across First Nations communities. Relationships should be based on trust and respect, with a commitment to understanding and addressing intergenerational trauma. A holistic approach recognizes all aspects of the individual and supports their journey to well-being and self-sufficiency.

First Nations social service administrators have an in-depth knowledge and familiarity with the needs and challenges facing individuals and families in their communities, and are best suited to providing the appropriate supports and services.

## DETAILED RECOMMENDATIONS

### 17.1

The diverse goals, needs and paths of individuals should be recognized to encourage and promote personal success. This includes broadening program outcomes to include community engagement and social inclusion, as well as supporting individuals in increasing their employability.

### 17.2

First Nations social service programs should have recognition and support for their ability to provide:

- Income assistance to singles, couples and families.
- Pre-employment activities that include but are not limited to literacy, upgrading, employment experience, job-specific skills training, youth-specific initiatives, social enterprise and self-employment resources.
- Mental health and addictions referrals and early interventions.



- Community-based initiatives specific to language, culture, tradition and the community's economic and educational context.
- All of these services will be delivered in a First Nations holistic approach.

## 17.3

Community and social development training for First Nations staff.

## 17.4

Healing and wellness, life stabilization, social inclusion, pre-employment activities and developing essential skills should be recognized as significant achievements along the path to success.

## 17.5

Ontario Works self-employment rules should be aligned with ODSP to include those working part-time and seasonally. Self-employment rules, guidelines and eligibility assessments should be simplified and revised.

## 17.6

Encourage self-employment and social enterprises as viable options for First Nations peoples and communities.

## 17.7

Work with First Nations to promote information and create opportunities related to micro-loan availability and small business start-up, as well as federal and provincial programming.

## 17.8

First Nations social service administrators should continue to deliver employment-related services to promote a holistic approach towards supporting community members.

## 17.9

First Nations social service administrators should deliver and oversee Employment Ontario Employment Services and supports in their communities.

## 17.10

First Nations youth represent the future of First Nations communities and require access to services and supports earlier in life to achieve success in employment, education and transitioning to adulthood.

- Young people aged 14+ should have access to Ontario Works and ODSP employment supports.
- Provision of funding to support programming, social inclusion, cultural learning and knowledge-sharing between Elders and youth.

## 17.11

In recognition that ODSP should be delivered by First Nations, reduce barriers to ODSP by:

- Funding support staff to provide intensive case management and secure assessments to help individuals navigate ODSP.
- Supporting better access to health practitioners in First Nations communities to assist with the completion of the Disability Determination Package (DDP) through use of video or telehealth services.



- Increasing and expediting help with medical transportation costs.
- Ongoing supports for ODSP recipients and benefit units.
- Providing a supplementary benefit that is dedicated to individuals with disabilities receiving ODSP.
- Providing longer timelines to complete steps in the adjudication process as required.

**17.12** To support ongoing professional development for First Nations, tools, resources, funding and training should be in place.

**17.13** Promote/support healing and wellness among social services staff.

**17.14** The capabilities, skills and professional development of First Nations social service administrators should be better recognized and celebrated as critical to affecting the lives and outcomes of First Nations individuals receiving social assistance.

## ADEQUATE FUNDING FOR FIRST NATIONS

The income security system needs to better respond to the local economic and geographic circumstances of First Nations communities to help ensure people get the help they need to maintain an adequate standard of living and be lifted out of poverty.

The 1965 Indian Welfare Agreement between Canada and Ontario expanded the delivery of provincial Social Assistance (Ontario Works), Child and Family Services, Homemakers and Day Nurseries programs to include First Nations and on-reserve individuals throughout the province of Ontario. Under the Agreement, Canada reimburses Ontario for most of the cost of delivering these services according to a cost-sharing formula. However, this system has not kept pace with the growing needs in First Nations communities and the growth of provincial programming in municipalities. Work is needed among First Nations, the federal government and Ontario to improve and expand or replace the 1965 Agreement with respect to social assistance (Ontario Works and ODSP) as well as other areas. For example, one of the problems in the functioning of the 1965 Agreement with respect to Ontario Works specifically is the municipal contribution for administration. Currently the province funds administration costs through two separate funding lines with different cost-sharing agreements. The province funds 50% of the Cost of Administration funding line and 97.2% of the upload funding line. The upload funding line will be 100% provincially funded as of January 2018. Municipalities are expected to contribute their cost share through their property tax base and other revenues. In First Nations communities, the federal government is supposed to cover this amount. However, arbitrary caps placed on this contribution by Canada have resulted in underfunding and inequality for First Nations (i.e., insufficient amounts are available for administration, both when compared with municipal amounts and also when compared with First Nations' needs). This inequity needs to be addressed, to ensure that First Nations have adequate resources to properly administer and deliver the standard program, plus those required to design, create and govern new programs based on First Nations models.

Until further changes to the 1965 Agreement and fiscal relationships are in place, it would be better for Ontario to upload 100% of costs for First Nations and cost-share them through the 1965 formula, to ensure that inequitable results do not continue.

The First Nations Income Security Reform Working Group has identified the need for additional investments that demonstrate the intent is not to harm but to help support clients in their journey towards employment or social inclusion when employment is not realistic. The unique challenges and barriers to employment and economic development in First Nations communities and current conditions require remedial measures to ensure the income security system adequately supports First Nations individuals and families.

The Working Group also noted throughout this report that investments being proposed by the reforms, such as housing supports, tax-based children's benefits, refundable tax credits and core health benefits, often need modification to ensure that they fully benefit First Nations, regardless of the unique status of reserve land and First Nations' tax status.

## DETAILED RECOMMENDATIONS

- 18.1** Programs, services and supports provided through social assistance should better reflect the realities of living within First Nations communities.
- 18.2** Discretionary funding should be based on reimbursement of actual expenditures.
- 18.3** Rates should reflect the additional costs of living in First Nations communities, including remote and isolated communities (e.g., purchasing nutritious food, transportation costs).

**18.4** Address price-setting practices for food, goods and services in northern communities (e.g., Northern Store).

**18.5** Expand eligibility criteria for the Remote Communities Allowance to include a wider area.

**18.6** Recognize and apply the concept of using a First Nations-developed Remoteness Quotient that reflects the increased cost of living in remote First Nations.

**18.7** Develop a Transitional Support Fund (TSF) funding formula that is based on actual expenditures.

**18.8** Provide additional funding to support the Cost of Administration, especially for communities with smaller caseloads.

**18.9** Develop a supplementary case load tool and technology that accurately captures the actual case load data and is reflected in the Cost of Administration and discretionary benefits.

**18.10** Fund First Nations technology solutions.



## **ONTARIO 360 – INDIGENOUS EDUCATION – TRANSITION BRIEFING**

Closing the education gap between Indigenous and non-Indigenous Ontarians

### **Issue**

Ontario is home to about a fifth of Canada’s Indigenous peoples aged 0-24, nearly 85% of whom live off reserve. In total, this means that Indigenous peoples make up about 3.4% of the off-reserve population aged 0-24 in Ontario. While the federal government has jurisdiction over the provision of education on reserves, it is the responsibility of the provincial governments to provide education to both Indigenous and non-Indigenous peoples living off reserve. The incoming government should seek to implement policies that reduce the gap in schooling outcomes between Indigenous and non-Indigenous peoples living off reserves.

### **Overview: Improving the education system for Indigenous students**

In 2015, the Truth and Reconciliation Commission—the organization that emerged from the Indian Residential Schools Settlement Agreement and was tasked with documenting the history and impacts of the residential school system—released an executive summary of their findings along with 94 calls to action regarding the path towards reconciliation between Indigenous and non-Indigenous peoples in Canada. One of the major themes of the calls to action related to the current system in which Indigenous students are educated; 7 of the total 94 calls to action directly addressed education reform.

Although many of the calls to action pertaining to education are addressed to the federal government, there are several calls to action that outline the ways in which the provinces can step in and contribute towards reconciliation. Specifically, the provincial governments can assist in eliminating educational and employment gaps between Indigenous and non-Indigenous Canadians; they can assist in increasing education attainment levels and success rates, including the development of culturally appropriate curricula in schools,

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protecting the right to Aboriginal languages, enabling parents to participate in their children's education, respecting and honoring Treaty relationships; and they can help provide adequate funding to end the backlog of Indigenous peoples seeking a post-secondary education.

The Ontario government has already made several substantial steps towards ameliorating the provincial education system for Indigenous students. This includes the development of the Ontario Education Equity Action Plan in 2017 – a roadmap for identifying and eliminating discriminatory practices and systemic barriers that contribute to the persistence of inequality between Indigenous and non-Indigenous students. Among a range of different tactics, one of the most important initiatives is to develop a process of data collection, integration and reporting. This has the potential to greatly assist in identifying the largest barriers to achievement for Indigenous students, as well as the policies and procedures that help Indigenous students succeed.

In addition to the initiatives at the primary to secondary levels, the Ontario government recently announced sweeping changes to the Ontario Student Assistance Program – the primary source of financial aid for students in Ontario. Some of the changes include free tuition for students from households who make under \$50,000 annually, and the elimination of the individual contribution for Indigenous students.

## **The need for reform**

### *Identity Based Data*

**Note:** *any collection of data involving Indigenous Peoples must always be done in recognition of the principles of ownership, control, access and possession (OCAP®), especially for First Nation peoples, as outlined by the First Nations Information Governance Centre.*

The development of a system that collects identity-based data for students across Ontario will greatly assist in identifying barriers that Indigenous students face. It will also allow for rigorous quantitative evaluation of school and classroom practices that may benefit Indigenous students, like the inclusion of Indigenous cultures, histories, perspectives and contributions in

curricula. That being said, without a strategic plan to implement these policies gradually, and in a way that lends itself to causal evaluation, prior to their widespread implementation, we will not know for certain which classroom interventions work and why they work.

### *Ontario Student Assistance Program*

Given that access to financial support for post-secondary education is a persistent barrier for many Indigenous students, free tuition for students from households who make under \$50,000 will certainly have positive effects for many students who struggle to pay for their post-secondary education. Since the latest results of the 2016 Census of Population reveal that Indigenous peoples living off-reserve in Ontario earn less than non-Indigenous peoples living off-reserve—the median income of Indigenous peoples living off-reserve in Ontario in 2016 was \$26,877 compared to \$33,797 for the non-Indigenous population—Indigenous students may be more likely to qualify for free tuition under these new changes.

However, despite an expansion of the grants given to low income students, there will continue to be barriers faced by Indigenous students who do not have other sources of funding to supplement their OSAP funds.

Take as an example, the following two hypothetical situations:

A First Nations student who is finishing high school this year and will be entering the 1st year Bachelor of Science at Queen's University this September with the following additional characteristics: no children, parents alive, not disabled, will be living on their own for university, has no RRSP and no additional assets, parents divorced, income of parent with whom they currently reside is \$30,000, 2 other siblings in family who are not yet old enough to attend a post-secondary institution, \$5,000 in additional funding from an outside source (for example, the post-secondary student support program). This student is eligible for a \$9,200 grant to keep and a \$6,700 loan to repay under the new OSAP guidelines.

The same student would be eligible for a \$9,200 grant and a \$7,100 loan if they did not have the \$5,000 of additional funding. Thus, based on an

estimated total cost of schooling of \$19,413, the student without the additional funding source would not be able to cover the costs of their education without working while in school to supplement their funding. This student would be at further risk of not completing their program since OSAP is available for a maximum of 8 academic terms, i.e. 4 years. To the extent that Indigenous students often cite time constraints as a reason for leaving post-secondary programs—perhaps because of a need to work to supplement their funding—extending the number of academic terms available under OSAP could also be beneficial.

### **How to move forward**

**Note:** *any of the following recommendations must always be implemented in consultation with Indigenous communities throughout Ontario.*

Two of the ways in which the provincial government can facilitate a response to the calls to action put forth by the Truth and Reconciliation Commission are outlined below.

*Better data collection, implementation of potential policies in a way that lends itself to causal evaluation, and greater access to administrative data for researchers*

The Ministry of Education’s initiative to develop an identity-based tracking system will certainly aid in evaluating whether or not specific interventions assist in increasing education related outcomes where achievement gaps have been identified. However, these interventions must be implemented gradually and in such a way that lends itself to causal evaluation in order to know whether a specific program is helpful. For example, in addition to consultations with students, parents, community members, another method that can be used to quantify the effects of culturally relevant curriculum on academic outcomes is to introduce the new curriculum in a subset of classrooms (a “treatment” group), leaving the other classrooms as a “control” group. With the new tracking system, student outcomes in “treatment” classrooms could be compared over time and in relation to “control” classrooms.

In addition to the Ministry of Education's goal of working with education partners, they should also seek to develop relationships with researchers who may be able to assist in analyzing the administrative data. The province of British Columbia has led the way along this front among the provinces by developing an infrastructure that makes identity-based data available to researchers, policy makers, and other organizations. By expanding the access of this administrative data to include researchers a range of questions have been approached from several different perspectives. For instance, one paper by economists at Simon Fraser University has shown that Indigenous students tend to perform better when they are in a school with a greater portion of Indigenous students, suggesting that perhaps a larger share of Indigenous students may reduce the incidence of racism, or provide support for cultural identity. This in turn indicates that more needs to be done to fight racism in schools and to support cultural identities—like, for instance, the Ministry of Education's proposed culturally relevant curriculum.

This recommendation would contribute to the call to action from the Truth and Reconciliation Commission to eliminate educational gaps between Indigenous and non-Indigenous Canadians, it would also help to improve education attainment levels and success rates, and it would assist in our understanding of which aspects of culturally appropriate curricula are most beneficial for the success of Indigenous students.

#### *Increase accessibility to post-secondary education*

The incoming government of Ontario should revise the OSAP algorithm so that Indigenous students are able to cover their entire costs of schooling, even if they do not receive outside assistance from the federal government and if they take longer than 4 years to complete a bachelor's program.

Prior to 1989, the federal government provided full funding for First Nations and Inuit students to attend the post-secondary institution of their choice. The program went through substantial cutbacks in 1989, which I show in a recent working paper resulted in a decline in post-secondary attainment—primarily driven by those attending colleges. In addition, since 1997, the federal government has capped increases in post-secondary program spending at 2% per year—a cap that Prime Minister Justin Trudeau has said his government



will erase. This lack of financial assistance for Indigenous students has left many without adequate funding to complete their post-secondary studies.

By increasing the OSAP funding for Indigenous students, the provincial government will help ensure that any Indigenous student who wishes to attend a post-secondary institution will have the means to do so. Finally, providing financial assistance for post-secondary education also commits the provincial government to honoring the Treaty right to education outlined in the historic Numbered Treaties—the treaties that paved the way for the colonization of Western Canada—which benefitted both the federal and provincial governments alike.

This recommendation directly addresses the call to action to eliminate educational and employment gaps between Indigenous and non-Indigenous Canadians, as well as the call to honor Treaty Rights.

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