



# 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.

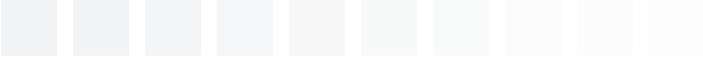
**17.12** To support ongoing professional development for First Nations, tools, resources, funding and training should be in place.

**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.

