



Native Women's  
Association of Canada

L'Association des  
femmes autochtones  
du Canada

Final Report:  
*United Nations Declaration  
on the Rights of Indigenous  
Peoples (UNDRIP) Act  
Implementation*

April 14, 2023

Legal Unit

Native Women's Association of Canada



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## Overview

Justice Minister David Lametti tells legal audiences the *United Nations Declaration on the Rights of Indigenous Peoples* (UNDRIP) can transform Canada's legal landscape and strip away built-in colonialism—if all partners are ready to do the work.<sup>1</sup>

The Native Women's Association of Canada (NWAC) is doing the work to advance gender-based priorities that advance Indigenous Women, Girls, Two-Spirit, Trans and Gender-Diverse (WG2STGD+) people's ability to freely access and claim their Indigenous rights. In April 2022, the Department of Justice (DOJ) committed to fund NWAC's participation in the engagement process to develop the *UN Declaration on the Rights of Indigenous Peoples' Act*<sup>2</sup> (UNDRIPA) Action Plan. This Action Plan is a mandatory step in Canada's commitment to align its laws with the UNDRIP.<sup>3</sup> NWAC's role is to advance Indigenous, gender-based feedback on how to enforce UNDRIP at the federal level.

NWAC first developed a list of gender-based priorities. Next, NWAC brought those priorities to the Indigenous WG2STGD+ people to validate and analyse. NWAC engaged with:

- Legal and academic experts
- Elders and Knowledge Keepers
- National Indigenous organizations
- Indigenous youth
- Indigenous WG2STGD+ people

NWAC produced an [interim report](#) in November 2022 reflecting its evolved priorities, and a set of recommendations, as Canada prepared its Draft Action Plan (DAP). NWAC developed informational resources to share with its grassroots members, to clarify some of the misunderstanding we heard in engagements about what UNDRIP means.<sup>4</sup>

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<sup>1</sup> See e.g., Zena Olijnyk, "Attorney General David Lametti urges Osgoode Hall law students to continue work of reconciliation" (30 March 2023), online: *Canadian Lawyer Magazine* <<https://www.canadianlawyermag.com/news/general/attorney-general-david-lametti-urges-osgoode-hall-law-students-to-continue-work-of-reconciliation/374817>>; Yves Faguy, "Interview with Justice Minister David Lametti" (4 February 2023), online: *CBA National Magazine*, <<https://nationalmagazine.ca/en-ca/articles/people/q-a/2022/interview-with-justice-minister-david-lametti>>.

<sup>2</sup> *United Nations Declaration on the Rights of Indigenous Peoples Act*, SC 2021, c 14 [UNDRIPA].

<sup>3</sup> *United Nations Declaration on the Rights of Indigenous Peoples*, GA Res 61/295, UNGAOR, 61st Sess, Supp No 53, UN Doc A/61/53 (2007) [UNDRIP].

<sup>4</sup> See NWAC's informational resources, pdfs online: <<https://nwac.ca/assets-knowledge-centre/FPIC-UNDRIP-Informational-Resources.pdf>>; <<https://nwac.ca/assets-knowledge-centre/Legal-Tool-UNDRIP-Informational-Resources.pdf>>.

This Final Report encompasses NWAC's research, engagements, interviews, analysis and guidance. Though it is called a Final Report, NWAC understands this is a first step on setting a framework to reconciliation in Canada. The UNDRIP is a set of rights inherent to Indigenous people and acts as a minimum standard.

This report is organized into two parts: Part I identifies the gaps and barriers Indigenous WG2STGD+ people face in accessing their Indigenous rights, as set out in the UNDRIP. These are the starting points this marginalized group faces. NWAC next provides responses to the DOJ's What We Learned to Date and DAP reports, identifying areas of agreement and disconnect. NWAC provides updated priorities and recommendations, and suggested wording for Canada's forthcoming Action Plan.

In Part II, this report shifts to amplify the feedback NWAC gathered directly from engagements with the Indigenous WG2STGD+ people impacted by UNDRIP. Building from these engagements, NWAC clarifies its priorities and outlines next steps for enforcing Indigenous peoples' rights under the UNDRIP.

NWAC looks forward to building its relationship with the DOJ, providing cooperation and consultation as Canada embarks on the journey of enforcing the UNDRIP across the country at the federal level. NWAC is committed to ensuring Indigenous WG2STGD+ people's voices are amplified to achieve their equitable inclusion in Canada's UNDRIP framework. In the words of NWAC's CEO Lynne Groulx, there is "nothing about us without us."

## Part I

### Gaps and Barriers Indigenous WG2STGD+ People Currently Face Accessing their Rights

NWAC's [Gender-Based Analysis](#) Plus (GBA+) analyzes data collected in this project through a women-centered approach. The GBA+ recognizes and accounts for intersecting and unifying identities and experiences of Indigenous women, girls, and gender-diverse people. NWAC's approach to GBA+ holds culture as a foundation and forwards the roles, responsibilities, rights, and needs of Indigenous women, girls, and gender-diverse people at the front of all policy decisions and implications.

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Resources.pdf>; and <<https://nwac.ca/assets-knowledge-centre/Indigenous-Education-UNDRIP-Informational-Resources.pdf>>.

The 'plus' in GBA+ refers to intersecting grounds that further inform the gender-based analysis. These grounds include, but are not limited to race, class, ability, sex, gender identity, sexual orientation, age, location, colonization impacts and cultural identity.

Indigenous WG2STGD+ people warrant specific attention as a marginalized group. It is NWAC's hope that Canada can better understand how its next steps enforcing the UNDRIP should account for the gaps and barriers Indigenous WG2STGD+ people currently face accessing their rights under the UNDRIP. Canada must respond to the ways systemic and structural factors impact Indigenous WG2STGD+ people. This analysis breaks down key issues that disproportionately affect Indigenous women by highlighting how the intersecting structures of sexism, racism, and colonialism impact Indigenous WG2STGD+ people in Canada.

### Barrier #1: Colonial Harms

Colonialism refers to the systemic spread of Euro-centric governance and control across the lands known as Canada. Though early settlers often relied on Indigenous women to form key alliances, provide medicines, and facilitate access to land-based resources, this power dynamic flipped. Colonization systemically disempowered Indigenous women and enacted their cultural genocide through legislation and policies aimed to affect their assimilation. This systemic disempowerment prevents Indigenous WG2STGD+ people from freely accessing their Indigenous rights under the UNDRIP.

Colonial harms include the of the Indian Residential School (IRS) system, the 60's scoop, discriminatory child and family services funding, the *Indian Act*, and sexual and physical violence culminating in the Missing and Murdered Indigenous Women and Girls (MMIWG) genocide.<sup>5</sup>

The Truth and Reconciliation Commission (TRC), National Inquiry into MMIWG (NIMMIWG) and Royal Congress on Aboriginal People (RCAP), among other issue-specific reports, identify colonial harms that contribute to the mistreatment of Indigenous women in Canada. The National Inquiry suggests various colonial measures silenced Indigenous women, contributing to their lack of safety and justice today. This lack of safety and justice compounds their intersecting experiences being female and Indigenous, subjecting them to both gendered and racial violence.

Colonial efforts to reduce and abuse Indigenous women and children began during Canada's colonial settlement. Settler state agents took many Indigenous children from their families, confined them in residential schools, and did not return them to their communities (if

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<sup>5</sup> *Reclaiming Power and Place: The Final Report of the National Inquiry into Missing and Murdered Indigenous Women and Girls*, (2019: Ottawa) [MMIWG].

they survived) until the children were teens. Today, this genocidal pattern persists. State agents remove disproportionately more Indigenous children from their homes and place them in non-Indigenous foster and adoptive homes at rates that rival the peak of IRS system.<sup>6</sup>

The federal *Indian Act* undermined the important roles Indigenous women played in their communities, severely impacting their power and agency.

Colonialism's harms manifest today as continuing patriarchal influences, hierarchies and hegemonic masculinity within many Indigenous communities. Indigenous women face barriers not just within male-dominated governance structures, but as victims to a crisis of violence enacted against them across the country and within their own homes. The DOJ records sexual assault rates self-reported by Indigenous women is more than triple that of non-Indigenous women.<sup>7</sup> They are also more likely to be subject to extreme violence and homicide than non-Indigenous women.<sup>8</sup>

Coupled with the devastating and destructive processes of victimization, dehumanization, stigmatization, systemic racism, sexualization, and criminalization that Indigenous women experience in Canada, they face increasing risk of being mistreated at a rate far exceeding any other population group.<sup>9</sup>

#### Barrier #2: Stereotyping and Bias

Stereotypes that disparage and disempower Indigenous WG2STGD+ people facilitate the legal, social, and political regulation of their movement within society. Legislation and policies today continue to confine Indigenous WG2STGD+ people to reserves, criminalize their behaviour, remove their children from their care and perpetuate violence to assert authority over their lands, bodies, and rights.

In the context of colonialism, the 'savage' trope was created to strip Indigenous communities of their rights, status and ultimately their land through the Doctrine of Discovery.<sup>10</sup> By creating the illusion of the savage, colonizers justified treating Indigenous People as unworthy and incapable of land ownership, thus undeserving of cultural autonomy and self-determination rights. Though the Doctrine of Discovery has been repudiated and is no longer recognized as a valid legal principle, these racist and sexist stereotypes continue to

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<sup>6</sup> *Ibid* at 635.

<sup>7</sup> Loanna Heidinger, "Intimate partner violence: Experiences of First Nations, Metis and Inuit women in Canada, 2018" (May 2021) Statistics Canada, online: < <https://www150.statcan.gc.ca/n1/pub/85-002-x/2021001/article/00007-eng.htm> >.

<sup>8</sup> *Supra* MMIWG, note 6.

<sup>9</sup> Office of the Correctional Investigator, *Annual Report: 2021-2022*, pdf online: < <https://www.ocibec.gc.ca/cnt/rpt/pdf/annrpt/annrpt20212022-eng.pdf> > [OCI].

<sup>10</sup> Sarah Runyon, "Correctional Afterthought: Offences Against the Administration of Justice and Canada's Persistent Savage Anxieties" (2020) 43 *Man LJ* 1.



blame Indigenous Peoples, especially Indigenous WG2STGD+ people, for the violence and difficulties they face.

Victim-blaming and perpetuating historic and systemic harms against Indigenous WG2STGD+ people poses a significant barrier to this group's ability to access their rights under the UNDRIP.

From a young age, Indigenous WG2STGD+ people internalize systemic and societal racism because it is continually reinforced and normalized. They see themselves portrayed as racialized, sexualized, non-human 'others' as they navigate their identities.<sup>11</sup> Historical stereotypes continue to play a pivotal role in rationalizing systemic prejudice, biased attitudes and behaviours towards Indigenous WG2STGD+ people in Canada.

### Barrier #3: Pathways and Needs

The pathways following colonization, racism and sexism, direct many Indigenous WG2STGD+ people to the margins. These include poverty, violence, mental illness, addiction, homelessness, poor health and housing, unemployment, low levels of education, and the lack of appropriate social support systems.<sup>12</sup> The TRC, NIMMIWG and RCAP, among other issue-specific reports, tell us these systemic factors are collective and specific barrier preventing Indigenous WG2STGD+ people from accessing their rights.

When studied, these pathways also highlight Indigenous women's needs. By virtue of their gender, Indigenous women generally require greater support to access emotional, cultural, mental health, addiction, and wellness, as well as education and vocational programming in colonial, racist and sexist structures.<sup>13</sup> Indigenous women need equitable access to the supports and services that will help them lift themselves out of oppression.

General and specific lack of understanding at all levels of service and support provision form a barrier to Indigenous WG2STGD+ people's ability to freely access their rights. For example, many of Canada's systems misinterpret Indigenous women's mental health challenges as symptomatic of being Indigenous rather than the compounding effects of colonial trauma.<sup>14</sup> This lack of understanding contributes to Canada's overall failure to adequately address Indigenous women's needs and the root causes informing their mental health issues.

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<sup>11</sup> Michaela M. McGuire & Danielle J. Murdoch, "(In)-justice: An exploration of the dehumanization, victimization, criminalization, and over-incarceration of Indigenous women in Canada" (March 2021) 24 *Punishment & Society* 4 [McGuire].

<sup>12</sup> Jessica Rumboldt, "An Analysis of the Over-Representation of Aboriginal Offenders in the Canadian Correctional System" (2015), 8 Footnotes, pdf online at: < <https://journal.lib.uoguelph.ca/index.php/footnotes/article/view/5268/5054>>.

<sup>13</sup> *Supra* McGuire note 11.

<sup>14</sup> *Supra* MMIWG note 6.



## What We Learned to Date- Feedback

### NWAC Supports

The DOJ based its What We Learned to Date Report (WWLD) on the *UNDRIP Act* on engagements, surveys, and written submissions from Indigenous partners, including NWAC's Interim Report, prepared and submitted to the DOJ on November 15, 2022.

Overall, the WWLD Report reflects NWAC's priorities and recommendations. Although there are no areas of disagreement between the WWLD report and the NWAC interim report, some NWAC recommendations are not included in the WWLD report.

### NWAC Critiques

The WWLD report does not reflect NWAC's Recommendation #6, urging Canada to strengthen support and funding for Indigenous women healing and rehabilitation centers.

The WWLD report mentions the need to take steps to end physical and sexual violence, but NWAC hopes the UNDRIP Action Plan will create a system for reporting and investigating sexual and physical assaults, run by Indigenous women. This would align with NWAC's Recommendation #9.

The WWLD report addresses the need to criminalize forced sterilization of Indigenous women, but NWAC emphasizes the need to appoint an independent and impartial body to investigate allegations of forced sterilization, as stated in NWAC's Recommendation #10.

Furthermore, the WWLD report does not address NWAC's Recommendation #11, ensuring Indigenous women can access ultrasound services easily and unrestrictedly to determine whether they have been forcibly sterilized without their knowledge or consent.


The WWLD report mentions the importance of cultural training in the healthcare system, but NWAC's Recommendation #20 asks Canada to fund training for Indigenous WG2STGD+ people for careers as doctors, nurses, midwives, and other roles within the healthcare system.

## UN Draft Action Plan - Feedback

### NWAC Supports

NWAC supports the DAP recognizes the diversity of the Indigenous peoples across Turtle Island and Inuit Nunangat.

NWAC supports **measure 9** in relation to Natural Resources Canada (NRC). This comprehensive measure demonstrates NRC's commitment to enforcing the UNDRIP's free, prior, and informed consent requirement. Additional information about the indicators and measures or monitoring,



assessing, and reporting implementation progress must be included in this measure. Timelines must also be established. Additional commentary and suggested language will be included further down the report.

NWAC supports **measure 10** in relation to Justice Canada. However, this measure calls for further clarification. The DAP must identify which federal laws will be reviewed and whether there will be any compensation for those who were subjected to forced sterilization. Additional commentary and suggested language will be included further down this report.

NWAC supports **measure 12** in relation to various government departments. This measure demonstrates Canada recognizes that addressing gender-based violence includes two critical components: addressing the root cause of violence to prevent it and providing immediate and practical solutions for people who are at risk or experiencing immediate gender-based violence. Additional information about the indicators and measures or monitoring, assessing, and reporting implementation progress must be included in this measure. Timelines must also be established.

NWAC supports **measure 13** in relation to various government departments.

NWAC supports **measure 14** in relation to various government departments. However, this measure calls for further clarification because it is written in an aspirational manner. Simply mentioning that one of the Action Plan's priority areas is to promote Indigenous 2SLGBTQI+ resilience and resurgence is insufficient.

NWAC supports **measure 51** in relation to Crown-Indigenous Relations and Northern Affairs Canada (CIRNAC). This measure demonstrates Canada's dedication to uphold Article 21 of the UNDRIP and section 35(4) of the *Constitution Act, 1982*. Additional commentary and suggested language will be included further down this report.

NWAC supports **measure 52** in relation to CIRNAC. Growing the capacity of Indigenous women grassroots organizations is essential to enable Canada to comprehend this marginalized group's needs. Additional commentary and suggested language will be included further down this report.

NWAC supports **measure 61** in relation to Indigenous Services Canada (ISC) and various departments. Increasing the number of Indigenous women entrepreneurs is an effective way to combat socioeconomic inequality and promote self-determination. Additional information about the indicators and measures or monitoring, assessing, and reporting implementation progress must be included in this measure. Timelines must also be established. Additional commentary and suggested language will be included further down this report.

NWAC supports **measure 71** in relation to Canadian Heritage. This measure demonstrates Canada's dedication to upholding Indigenous peoples cultural and self-determination rights guaranteed by the UNDRIP.

NWAC supports **measure 84** in relation to ISC. However, this measure could include more information about how women from Indigenous First Nations will be consulted while Bill C-38 is being studied. Additional commentary and suggested language will be included further down this report.

NWAC supports **measure 85** in relation to ISC. NWAC appreciates the DAP acknowledges the *Indian Act* was enacted during the colonial era and that, as such, it could never completely align with UNDRIPA. Additional commentary and suggested language will be included further down this report.

Many of the **health-related measures** that address the need to reduce health disparities and Indigenous peoples' self-determination about their healthcare are supported by NWAC.

### NWAC Critiques

In addition to the shared priorities, First Nations priorities, Inuit priorities, and Métis priorities, NWAC believes a section on WG2STGD+ people's priorities must also be included. According to section 35(4) of the *Constitution Act, 1982*<sup>15</sup>, both men and women are entitled to the same aboriginal and treaty rights. Numerous studies conducted in Canada reveal that Indigenous WG2STGD+ people face considerably more disadvantages than their cis-male counterparts. A section in Canada's Action Plan devoted to WG2STGD+ people's priorities would demonstrate Canada's dedication to honouring section 35(4) of the *Constitution Act, 1982* and Article 21 of the UNDRIP. True equality requires the application of substantive equality principles.<sup>16</sup>

The DAP should have included measures to ensure Canada facilitates Indigenous WG2STGD+ people's participation in political and economic decisions to address challenges of poverty, homelessness, food insecurity, and other socioeconomic concerns that affect them (NWAC Priority #1). Measures 51 and 52 do highlight the need for more Indigenous women participation in institutions and decision-making, but this is insufficient. Canada must encourage the establishment of Indigenous women's councils together with the work of Indigenous grassroots and women's organisations.

Although the DAP covers a lot of ground in terms of health care and self-determination rights, NWAC is unsatisfied because none of these measures specifically address the health disparities faced by Indigenous women (NWAC Priorities #3 and #11).

The honor of bearing children traditionally falls on women and persons with uteruses, who need special medical care during pregnancy. Given the gender-based disparities Indigenous WG2STGD+ people experience, it is crucial to address matters like health care from a gender-based perspective. Forced sterilization cases demonstrate that gender-based discrimination against Indigenous women occurs inside the healthcare system. It is also

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<sup>15</sup> *Constitution Act, 1982*, s 35(4), being Schedule B to the Canada Act 1982 (UK), 1982, c 11.

<sup>16</sup> *Fraser v Canada (Attorney General)*, 2020 SCC 28 at paras 40, 42, 47, 146, 217, 218, 219, 221.

important to keep in mind that WG2STGD+ people often serve as their community's healers. When it comes to traditional treatments and health knowledge, they play significant roles.

Language rights are addressed in DAP Measures 65 and 66, but the rest notably disregards the importance of early age language development as well as language revitalization and preservation (NWAC Priority #7). The way one develops their identity and contributes to their community's cultural survival is greatly influenced by language. Canada cannot fully enforce cultural rights without first emphasizing language rights.

The DAP's Measure 20 addresses the continued implementation of international human rights instruments. This measure, however, is linked to the functioning of an Indigenous independent monitoring system. Canada must be responsible for periodically reviewing recommendations from international human rights treaty bodies (NWAC Priority #8).

DAP Measures 43, 93, and 94 address Indigenous people's need for safe drinking water and access to healthy freshwater sources. However, none of these measures mention consulting Indigenous WG2STGD+ people. This is a significant failure because Indigenous WG2STGD+ people are the Keepers of the Water.

DAP Measures 40 to 44 relate to environment. Overall, NWAC is dissatisfied with the lack of specific goals and timelines. The lack of specificity demonstrates a lenient attitude towards environmental issues. Above all, it is critical to include in these measures the requirement for consulting with Indigenous WG2STGD+ people and giving them priority in decision-making in areas pertaining to the environment and climate change. Indigenous WG2STGD+ people care the most about preserving the environment within traditional roles and within modern Indigenous environmental sustainability frameworks. When discussing issues pertaining to the environment and climate change, Canada must consult them (NWAC Priority #12).

### Action Plan - Recommended wording

The DAP contained a limited synopsis of measures Canada will reflect in its final UNDRIP Action Plan. Based on the DAP and the feedback NWAC heard throughout engagements with experts and grassroots, NWAC submits the following recommendations. Thematically, NWAC's suggestions centre gender-based distinctions and inclusive language choices. NWAC's recommendations are bolded and underlined for convenience in comparing, not emphasis.

DAP Measure #1: **Consult and cooperate in good faith with Indigenous peoples, including WG2STGD+ people, to obtain their free, prior and informed consent before adopting and implementing any legislative or administrative measures that may affect them.** Develop a process and further direction for federal government departments to ensure bills and proposed regulations are consistent with the Declaration, building on initial interim guidance for assessing consistency of federal laws with the Declaration and **based on ongoing consultation and cooperation with Indigenous peoples**. (Justice Canada)

DAP Measure #2: Identify and prioritize existing federal statutes for review and possible amendment, including:

- A non-derogation clause **referring to UNDRIP** in the **federal Interpretation Act**. (Justice Canada)
- Exploring the development of an interpretive provision for inclusion in the *Interpretation Act* or other laws that provides for the use of the Declaration in the interpretation of federal enactments. (Justice Canada)
- Any other specific pieces of legislation either already under review or which Indigenous peoples and relevant departments have jointly identified as a priority for review.
- **When determining if a legislation conflicts with the UNDRIP or not, Canada must include Indigenous peoples' own representative institutions and obtain their free, prior and informed consent. Account for who is making the decision and assess whether they have the jurisdiction and inherent right to do so.**
- **Discriminatory clauses in laws, rules, and regulations must be removed in order for Canadian laws to be in compliance with the UNDRIP.** (All departments)

DAP Measure #3: Where a statute requires periodic review, responsible departments will conduct that review in a manner that ensures consistency with the Declaration **and responsive to a culturally relevant gender-based analysis.** (All departments)

DAP Measure #6: Fully implement Joyce's Principle and ensure it guides work to co-develop distinctions-based Indigenous health legislation to foster health systems that will respect and ensure the safety and well-being of Indigenous peoples. **Ensure that health systems account for Indigenous WG2STGD+ people's inherent right to health without gender-based discrimination within healthcare systems, both Indigenous and non-Indigenous.** (Indigenous Services Canada)

DAP Measure #8: Work with provinces and territories to address racism, achieve equity and support self-determination, with a view to combat racism, discrimination and barriers to accessing health services in Canada experienced by Indigenous peoples. **Ensure government respect and affirm Indigenous WG2STGD+ people and their communities right to self-determination over their health, including where they access care and who provides their healthcare.** (Indigenous Services Canada)

**DAP Measure #9:** Work collaboratively **and extensively** with Indigenous partners, industry, other federal departments and provinces and territories to identify options and approaches to

increase safety, security and equitable benefits in resource development for Indigenous women, girls and 2SLGBTQI+ people, including proposed approaches for empowering them to lead through increased participation in resource development (including in leadership positions), with a voice and say at all stages of the resource development project process.

These actions would ensure a better understanding of the root causes of gender-based violence related to resource development and a clear path to addressing them.

**Collect natural resource management priorities and concerns from Indigenous youth, including short- and long-term resource extraction principles that affirm Indigenous peoples' inherent right to conserve and protect the environment and the productive capacity of their lands or territories and resources.**

(Natural Resources Canada)

DAP Measure #10: Ensure that federal laws comprehensively protect Indigenous women, girls and 2SLGBTQI+ individuals from coerced sterilizations. **Create a standalone Criminal Code offense referring to forced and coerced sterilization of Indigenous WG2STGD+ people as an act destructive of their culture, provide a mechanism for pursuing historic crimes related to forced or coerced sterilization and set up an effective compensation system for those who have undergone such procedures without their consent.** (Justice Canada)

DAP Measure #12: Guided by the findings of The Final Report of the National Inquiry into Missing and Murdered Indigenous Women and Girls (MMIWG), work to end systemic violence against Indigenous women, girls, and gender-diverse people by:

- Continuing to implement the Federal Pathway to address the root causes of violence against Indigenous women, girls, and 2SLGBTQI+ people.
- Developing a comprehensive, **sustainably funded** Violence Prevention Strategy to expand culturally relevant supports for Indigenous women, children, families and 2SLGBTQI+ people facing gender-based violence
- Working in partnership with Indigenous Peoples and organizations, as well as provincial and territorial governments, and other partners to develop effective and culturally-appropriate solutions for people seeking to escape abusive environments including access to safe housing, shelters, counselling services, legal assistance and healing projects, across the country including on reserve, in the north and in urban areas.
- **Consult and cooperate with Indigenous WG2STGD+ people and grassroots organizations bi-annually to receive feedback, evaluate and report progress on implementation.**
- **Create measurable timelines (short, medium and long-term) and assign responsible authorities for all measures within the Federal Pathway.**



- **Commit to address all 231 Calls to Justice recommended by the NIMMIWG.**
- **Specify responsible authorities and dedicate sustainable funding.** (Various departments)

DAP Measure #13: Implement the National Action Plan to End Gender-Based Violence (GBV NAP) which was launched in November of 2022. The GBV NAP includes a Pillar specifically on Indigenous-led approaches which is complementary to and aligned with the MMIWG2S+ NAP. This Pillar 4 recognizes the importance of preventing and addressing GBV against Indigenous women, girls, and 2SLGBTQI+ people through Indigenous **WG2STGD+ people**-led approaches. **Support, through sustainable funding, programs developed and directed by members of First Nations, Inuit, and Métis communities that aim to reduce violence against Indigenous women, girls, and 2SLGBTQIA+ people.** (Various departments)

DAP Measure #14: Implement the Federal 2SLGBTQI+ Action Plan. Launched on August 28, 2022, the Action Plan aims at advancing rights and quality for 2SLGBTQI+ people in Canada. One of the priority areas of the Action Plan is to support Indigenous 2SLGBTQI+ resilience and resurgence. **Consult and cooperate with Indigenous 2SLGBTQIA+ people and representative organizations on a semi-annual basis to receive feedback, evaluate and report progress on implementation.**

(Various departments)

DAP Measure #17: Encourage federally regulated employers to work in partnership with their employees and Indigenous organizations and groups to ensure workplaces and practices are equitable and inclusive, while raising awareness of Indigenous culture. **Value and honour the culturally-driven contributions that Indigenous people make in the workplace and set up frameworks to protect and affirm their inherent right to pursue their economic development.** This work is to be done in a manner that is measurable. (Employment and Social Development Canada)

DAP Measure #18: Work with the National Judicial Institute to explore options for the provision of **mandatory** training on the Declaration to the judiciary. (Justice Canada)

DAP Measure #19: Develop and distribute communication and educational materials to ~~inform~~ **educate** Canadians, **Indigenous peoples and especially Indigenous youth** ~~on~~ about the



Declaration and the human rights of Indigenous peoples by June 2024. (Justice Canada and various departments)

DAP Measure #20: Establish an independent Indigenous rights monitoring, oversight, recourse or remedy or other accountability mechanism whose functions could include the following:

- Providing Indigenous peoples with access to and prompt decision through just and fair procedures for dispute and conflict resolution and effective remedies for infringements/violations of the individual and collective rights of Indigenous peoples
- Advancing, monitoring and/or reporting on implementation [of section 5] of the *Declaration Act*
- Promoting **and affirming** Indigenous rights through research and education
- Advancing initiatives to prevent and end systemic discrimination and other human rights violations experienced by Indigenous peoples
- Contributing to the ongoing implementation of international human rights instruments in Canadian law

Any Indigenous rights mechanism will:

- Include representation from First Nations, Inuit and Métis ~~and equitably reflect gender,~~  
**with particular attention to WG2STGD+ people. and other diversity**
- **Be led by Indigenous peoples**
- Be informed by the customs, traditions, rules and legal systems of Indigenous peoples and international human rights
- **Be shaped by an Indigenous gender-based plus analysis (IGBA)**
- Be accessible and easy to use for Indigenous peoples
- Be appropriately resourced
- Be complementary and not duplicative of other monitoring, oversight and dispute resolution mechanisms

DAP Measure #21: Publicly report on progress in an annual report to Parliament and work to ensure coordinated and comprehensive monitoring of implementation of the Action Plan across existing and new bodies that may be created. (Justice Canada)

- Include in the UNDA Annual Report on implementation a section describing progress towards dismantling the *Indian Act* ~~and~~ recognizing the self-determination of Indigenous nations, **and redressing Indigenous WG2STGD+ people's historic marginalization by paying particular attention to their full protection and guarantees against all forms of**

**discrimination.** (Crown-Indigenous Relations and Northern Affairs Canada, Justice Canada and various departments)

- Coordinate for the UNDA Annual Report the comprehensive reporting of the actions taken in consultation and cooperation with Indigenous peoples pursuant to section 5 by each relevant federal department and agency.

DAP Measure #30: Continue to support Indigenous Data Sovereignty and help to ensure that First Nations, Inuit, and Métis have the sustainable data capacity they need to deliver effective services to their Peoples, to tell their own stories, and to realize their respective visions for self-determination through legislative, regulatory and policy options, including efforts to streamline the sharing of federal data holdings with Indigenous partners; for Indigenous-led surveys; as well as for Indigenous-led data strategies. **Support Indigenous WG2STGD+ people's inherent right to self-determination and promote their inclusion in data management leadership positions.** (Indigenous Services Canada, various departments)

DAP Measure #31: Develop guidance on engaging with Indigenous peoples on natural resources projects in consultation and collaboration with Indigenous partners, and in collaboration with provinces, territories, and industry, that:

- o Aligns with the Declaration, including article 32.2, which calls for consultation and cooperation in good faith with the Indigenous peoples concerned in order to obtain free, prior and informed consent, prior to the approval of any project affecting their lands or territories and other resources
- o Provides practical recommendations for successful free, prior and informed consent implementation (including in situations where multiple regulatory processes are involved)
- o Supports the meaningful inclusion and integration of unique and localized Indigenous knowledge in the foundational design and governance of projects. **Focus to end the gender-based harms Indigenous WG2STGD+ people bear in the ongoing MMIWG genocide related to the resource extraction industry.**
- o **Mandate consultation and cooperation with Indigenous WG2STGD+ people grounded in their inherent 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.**

(Various departments)

DAP Measure #32: Work closely with Indigenous peoples to develop and implement actions to ensure Indigenous peoples and their communities equitably and consistently benefit from natural resource development that occurs on Indigenous lands. **Implement an Indigenous-designed mechanism that distributes various forms of benefits, including nonpecuniary benefits, to the most vulnerable Indigenous groups affected by natural resource development, particularly Indigenous WG2STGD+ people.** (Natural Resources Canada)

DAP Measure #36: Prioritize funding for Indigenous partners to support their capacity to provide fisheries, habitat, science, and oceans and marine-related services, and support participation in advisory and co-management processes and decision-making tied to aquatic resources and oceans management. **Pay particular attention to supporting Indigenous WG2STGD+ people's capacity; Consult and cooperate in good faith with Indigenous WG2STGD+ people in decision-making.** (Fisheries and Oceans Canada)

DAP Measure #41: Continue to support Indigenous **and WG2STGD+ people's** leadership in conservation through initiatives such as Indigenous Guardians and the Indigenous Partnerships Initiative that will provide capacity support until 2026. (Environment and Climate Change Canada, Parks Canada)

DAP Measure #43: Create a Canada Water Agency and advance the modernization of the *Canada Water Act* to reflect Canada's freshwater reality, including climate change and Indigenous rights. **Ensure the agency's framework affirms and protects Indigenous people's inherent right to maintain and strengthen their distinct relationships with waters and coastal seas, to uphold their responsibilities to future generations. Consult and cooperate in good faith with WG2STGD+ people and the Keepers of the Water on water-related issues in Indigenous communities across Canada.** (Environment and Climate Change Canada)

DAP Measure #51: Develop a strategic and holistic **approach to ensuring the right to self-determination of Indigenous women, including First Nations, Inuit and Métis women. This approach will honour and fully enforce existing rights while also establishing federal representation-based agreements** with Pauktuutit Inuit Women of Canada, Native Women's Association of Canada, and Les Femmes Michif Otipemisiwak. **These federal representation-based agreements with the three NIWOs will** support their ability to **advocate for Indigenous women's collective and individual rights, define** their own priorities, and partner with federal government departments to ensure programs, policies and **legislation comply with Indigenous**

**women's distinct rights and gendered needs.** (Crown-Indigenous Relations and Northern Affairs Canada).

DAP Measure #52: Increase the ability of grassroots organizations to bring forward the interests and perspectives of Indigenous women's and 2SLGBTQI+ grassroots organizations' voices to influence **and meaningfully engage** in the development of federal policy, programs, and legislation **through a consultation and cooperation process with capacity-building and sustainable core funding.** (Crown-Indigenous Relations and Northern Affairs Canada)

DAP Measure #56: Co-develop a new and more holistic long-term and continuing care framework, that is culturally appropriate, safe and accessible to Indigenous peoples is crucial in helping to improve the quality of aging and health outcomes. The Government of Canada anticipates the distinctions-based co-developed long-term care framework to be finalized by 2025. **The distinctions-based long-term care framework will include a gender-based analysis and specific actions to address Indigenous women, girls, and 2SLGBTQQIA+ people's lower health outcomes. This framework must affirm Indigenous peoples' inherent right to determine and develop health care services through their own institutions, include sustainable access to traditional medicines to maintain their health practices. The goal for this framework must be to fully realize Indigenous peoples' right to achieve the highest attainable standards of physical and mental health.** (Indigenous Services Canada)

DAP Measure #60: Advance economic reconciliation and address persistent economic barriers for Indigenous businesses and communities, including the impacts of colonization and inequitable policies. **Develop a program designed specifically to assist Indigenous WG2STGD+ people, run and managed by Indigenous organizations.** (Indigenous Services Canada and various departments)

DAP Measure #61: Increase Indigenous women's entrepreneurship to reduce socio-economic inequity between Indigenous and non-Indigenous populations and between Indigenous men and women; and support self-determination and economic reconciliation. **Support Indigenous women's entrepreneurship by implementing a microloan program. By 2025, loans to Indigenous women should grow by 50%.** (Indigenous Services Canada and various departments)

DAP Measure #62: Ensure that the equality rights of Indigenous persons with disabilities are respected **by incorporating substantive equality principles** in the design and delivery of Government of Canada programs, policies, and services. (Employment and Social Development Canada)

DAP Measure #65: Review, ~~and consider proposed amendments to~~ **and** strengthen the *Indigenous Languages Act* pursuant to parliamentary and independent review processes involving Indigenous governments and other Indigenous governing bodies and a variety of Indigenous organizations. **Provide sustainable resources for Indigenous language learning directed to Indigenous youth both within and outside their Indigenous communities, ensuring their right to access an education in their own language. Consult and cooperate with Indigenous communities to sustainably fund Indigenous language teacher training.** (Canadian Heritage)

DAP Measure #69: Explore approaches to protect Indigenous knowledge and recognize and reinforce the role of Indigenous knowledge systems and knowledge holders, **consulting and cooperating with Indigenous WG2STGD+ people,** in the stewardship of Parks Canada-administered heritage places. (Parks Canada)

DAP Measure #74: Deploy necessary efforts to ~~support~~ **uphold** Indigenous peoples' and communities' right to self-determination on socio-economic issues including access to post-secondary education, skills training, and employment. **Implement a strategy to include Indigenous culturally-relevant supports into Indigenous and non-Indigenous educational systems and workplaces and support Indigenous peoples in pursuing their education and economic goals. Empower and assist Indigenous youth to pursue an education in any environment, whether it is operated by Indigenous people or not, without experiencing discrimination. Fund and support the inclusion of Indigenous traditional knowledge and lessons within post-secondary education.** (Employment and Social Development Canada)

DAP Measure #75: Continue to advance and support self-determination in the provision of culturally competent early learning and childcare for Indigenous children, through the co-developed Indigenous Early Learning and Child Care Framework and dedicated federal investments to support its implementation. **Provide sustainable funding for the development of Indigenous language immersion programs to support Indigenous youth's early age**

language development in consultation and cooperation with Indigenous language keepers.  
(Employment and Social Development Canada)

DAP Measure #84: Support the adoption of Bill C-38, which seeks to address discrimination in the registration and membership provisions of the Indian Act. **Consult, cooperate and effectively engage with First Nations women to eliminate remaining gender-based inequities in implementing Bill C-38.** (Indigenous Services Canada)

DAP Measure #85: Co-develop a collaborative consultation process on a suite of broader reform, relating to registration and band membership issues, prior to any transition away from the *Indian Act*. (Indigenous Services Canada)

Canada recognizes that the *Indian Act* is a colonial-era law designed to exert control over the affairs of First Nations, and as such, the Act will never be fully aligned with UNDA. For Canada's laws to fulfill UNDA, the *Indian Act* must be repealed.

**Consult, cooperate and effectively engage with Indigenous WG2STGD+ people in the process of repealing and replacing the *Indian Act* in a way that affirms their inherent right to determine their own identities or memberships in accordance with their own customs and traditions, and to determine the structures to select the membership of their institutions in accordance with Indigenous-developed procedures.**

The government is seeking to make the Act's registration and band membership provisions more consistent with UNDA, until a clear consensus on a way forward on comprehensive change or the Act's repeal is possible.

DAP Measure #87: Collaborate with First Nation communities to create viable and respectful alternatives to the *Indian Act* in support of advancing reconciliation and First Nations self-determination. **Effectively engage Indigenous WG2STGD+ people in the decision-making framework, through a variety of mechanisms to ensure access to their inherent right to self-determination and identity are enforced.** (Crown-Indigenous Relations and Northern Affairs Canada, Indigenous Services Canada)

## NWAC's Priorities and Recommendations

### Initial Priorities and Recommendations

NWAC used the following gender-based priorities as topic guidelines during engagement sessions with experts and grassroots. Participants provided valuable feedback to NWAC on these priorities, as reflected in this report's Continued Engagement Feedback section.

**Priority 1:** To ensure Canada promotes opportunities for Indigenous WG2STGD+ people to make political and economic decisions that address the issues of poverty, homelessness, food insecurity and other socio-economic issues that affect them.

- **Recommendation #1:** Canada must increase Indigenous WG2STGD+ people's access to all levels of education through programs and funding. Both western and Indigenous education approaches must be a part of this commitment.
- **Recommendation #2:** Canada must improve Indigenous WG2STGD+ people's work opportunities by enacting regulations that encourage all parties to hire Indigenous WG2STGD+ people and prohibit any forms of discrimination against them.

**Priority 2:** To ensure Canada gives Indigenous communities, particularly Indigenous WG2STGD+ people, the autonomous right to determine their own membership.

- **Recommendation #3:** Canada must amend the *Indian Act* and fully dismantle the state-managed system centred on the Indian register, replacing it with an UNDRIP-compliant framework. Indigenous WG2STGD+ people must be consulted on what that framework should look like.

**Priority 3:** To ensure Canada addresses Indigenous WG2STGD+ people's health care issues, needs and priorities, including by addressing Indigenous People's health inequities and poorer health outcomes, as compared to non-Indigenous population of Canada.

- **Recommendation #4:** Canada must establish a strong accountability system addressing Indigenous WG2STGD+ people's health inequities and mandate cultural humility training for medical professionals
- **Recommendation #5:** Severe penalties must be enforced to stop the perpetuation of stereotypes and discriminatory experiences that deter Indigenous WG2STGD+ people from seeking medical care.
- **Recommendation #6:** Canada must strengthen support and funding for Indigenous WG2STGD+ people's rehabilitation centers.

**Priority 4:** To ensure Canada investigates the MMIWG final report's findings, end systemic violence against Indigenous WG2STGD+ people, and provide options to escape abusive environments.

- **Recommendation #7:** Canada must implement the recommendations of the TRC 94 Calls to Action and the MMIWG 231 Calls to Justice.
- **Recommendation #8:** Canada must significantly increase funding for Indigenous WG2STGD+ people to access safe housing, shelters, counselling services, legal assistance, and healing projects.
- **Recommendation #9:** Canada must create a system for reporting and investigating sexual and physical assaults, run by Indigenous WG2STGD+ people.



**Priority 5:** To ensure Canada investigates allegations of forced sterilization, criminalize it, and establish a reparation fund to compensate victims and their families.

- **Recommendation #10:** Canada must appoint an independent and impartial body to investigate allegations of forced sterilization and make recommendations to the government based on Indigenous community voices.
- **Recommendation #11:** Canada must establish a system that enables Indigenous women to access ultrasound services easily and unrestrictedly to determine whether they have been forcibly sterilized without their knowledge or consent. To establish what context is best supported, Indigenous women must be consulted.

**Priority 6:** To ensure Canada amends other sex-based discrimination issues not addressed by Bill C-38, depriving Indigenous People the right to belong to an Indigenous community.

- **Recommendation #12:** Canada should implement NWAC's recommendations that were made in the [Bill S-3 Indian Act final report](#), including the recommendation to repeal and replace the *Indian Act's* membership provisions with one aligning with the UNDRIP.

**Priority 7:** To ensure Canada preserves and revitalizes Indigenous languages and culture, and empower Indigenous WG2STGD+ people by educating families and communities on the benefits of early age language development.

- **Recommendation #13:** Canada should fund the development of Indigenous language immersion programs to support Indigenous youth's early age language development.
- **Recommendation #14:** Canada must support the development of land-based education with secure access to the land, dependable and safe transportation, and payment of Indigenous educators.

**Priority 8:** To ensure Canada implements human right recommendations from international human rights treaty bodies with the goal to promote and foster the socio-economic and cultural wellbeing of Indigenous women, girls, and gender-diverse people.

- **Recommendation #15:** Canada must respect and adhere to the international legal treaties and obligations by which they are bound. This includes human rights within the CEDAW, the ICCPR, the ICESCR, the UNGA resolution on environmental rights, and other UN-based human rights frameworks.

**Priority 9:** To ensure Canada consult with and include Indigenous WG2STGD+ people on matters and policies affecting their rights.

- **Recommendation #16:** Canada must establish broad consultation processes composed of Elders, children, title and rights holders, people without "Indian" status, people who live in metropolitan areas or outside of reserves, and people from all educational backgrounds. The dialogues arranged by the Canadian government must focus on economic, political, and legal issues and inform all legislative action impacting Indigenous people's rights.
- **Recommendation #17:** Canada must establish an Indigenous women's council that must be consulted on implementing the *UNDRIP Act*.

**Priority 10:** Ensure government increase water infrastructure, water distribution and community water treatment facilities, prioritizing Indigenous People's concerns of pollution and toxic substances in Canada that affect their communities.

- **Recommendation #18:** Canada must revise their federal water infrastructure goals to end all long-term and medium-term water advisories within two years.
- **Recommendation #19:** Canada must amend laws and policies to prevent pollution and toxic substances that affect Indigenous communities access to safe and clean water. Canada must include communities of Indigenous People who reside in urban and rural settings in developing these frameworks.

**Priority 11:** Ensure government provide Indigenous WG2STGD+ people and their communities with self-determination over their right to health, including where they access and who provides their healthcare.

- **Recommendation #20:** Canadian must fund training of Indigenous WG2STGD+ people for careers as doctors, nurses, midwives, and other roles within the healthcare system.

**Priority 12:** Ensure government includes Indigenous WG2STGD+ people in decision making relating to their natural environment such as measures to combat climate change and conserve the environment.

- **Recommendation #21:** Canada must ensure Indigenous WG2STGD+ people are included in decision-making and consultation frameworks at all levels from Band to provincial to federal decisions.

### Additional Priorities and Recommendations

Following engagements with Indigenous WG2STGD+ people and subject matter experts, NWAC provides the following additional priorities and recommendations.

**Priority 13:** To ensure Canada gives due consideration to Indigenous peoples' customs, traditions, rules and legal systems, prioritizing the reality of legal pluralism within Canada's legal framework, consulting and cooperating in good faith with Indigenous WG2STGD+ people.

**Recommendation #22:** Canada must acknowledge and uphold Indigenous peoples' right to practice and revitalize their own traditional legal systems, traditions and customs in the administration of justice.

## Part II

### Continued Engagement Feedback

#### Engagement Feedback to Draft Action Plan

##### Youth Engagement Session

##### Indigenous youth rights related to education

NWAC's youth engagement session attracted First Nations and Métis youth from across the country. Participants included high school and post-secondary students who shared their lived experiences related to their inherent right to education, as affirmed in UNDRIP Article 14.

Youth said they experience racism and discrimination from their non-Indigenous peers and school staff in educational settings. They feel they do not belong, and school is not a safe space for them. This is further exacerbated among Indigenous youth who grew up in the child welfare system. They feel disconnected from their culture and identity as a result.

The UNDRIP DAP minimally addresses Indigenous youth's right to education free from discrimination. Priority 96 identifies a need to support First Nations control of education to close education gaps. NWAC advocates for the UNDRIP DAP to include measures that empower and support Indigenous youth to receive an education in any setting, whether Indigenous-run or otherwise, without discrimination on the basis of their Indigeneity.

Indigenous youth face significant barriers accessing their right to education when they do not feel schools accommodate their mental health challenges. These barriers become even more difficult for Indigenous youth to navigate when they do not feel supported and accommodated to deal with their mental health challenges. Indigenous Peoples living on reserves are twice as likely as non-Indigenous people to experience major depression and other mental illnesses.<sup>17</sup> First Nations youth, in particular, are nine times more likely to experience mental health problems than their Canadian peers, according to the Library of Parliament.<sup>18</sup> Statistics Canada reports that suicide rates among First Nations youth are five to seven times that of non-Indigenous youth and Inuit youth at a rate of eleven times greater.<sup>19</sup>

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<sup>17</sup> Childs, R. "Behind the Headlines: A Look at indigenous Mental Health" (March 8, 2021), online: *Eli's Place* <<https://www.elisplace.org/behind-the-headlines-a-look-at-indigenous-mental-health/>> [Childs].

<sup>18</sup> *Ibid.*

<sup>19</sup> Statistics Canada, *Suicide among First Nations people, Métis and Inuit (2011-2016): Findings from the 2011 Canadian Census Health and Environment Cohort (CanCHEC)*, by Mohan B. Kumar & Michael Tjempkema, Catalogue No 99-011-X2019001 (Ottawa: Statistics Canada, 28 June 2019).

Mental health challenges for Indigenous youth are directly linked to colonial harms. Centuries of victimization through colonization, residential schools, child welfare programs (including the Sixties Scoop), and intergenerational trauma led to mental health challenges, higher rates of suicide, and substance abuse.<sup>20</sup> These harms are compounded on reserves and in isolated communities by the lack of housing, food security, and clean water essential for mental wellbeing.<sup>21</sup>

Indigenous youth told NWAC school curriculums are Eurocentric and colonial. They do not see themselves, their cultures, nor their histories reflected. This violates UNDRIP Article 15, which provides: “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.”<sup>22</sup>

#### Indigenous youth rights to language

Indigenous youth cannot access their right to learn their Indigenous language, due to lack of teachers and resources. Youth want more opportunities to support their Indigenous language learning, more land-based education and Elder-driven learning.

Article 14(1) of the UNDRIP, “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”<sup>23</sup> [emphasis added]. Canada must provide sufficient funding and resources for Indigenous communities’ right to self-determination and to education into alignment with UNDRIP.

DAP Priority 65 proposes amendments to the *Indigenous Languages Act*, and Priority 66 asks Heritage Canada to establish a process to engage Indigenous interests related to, *inter alia*, language. Indigenous youth need more commitments in Canada’s UNDRIP Action Plan to be able to access their right to learn in their Indigenous language. NWAC calls on Canada to provide teacher training and sustainable supports to provide Indigenous language learning resources to Indigenous youth within Indigenous education systems.

#### Indigenous youth need support to know and claim their rights

Many youth do not know their inherent rights as Indigenous People, as affirmed in the UNDRIP. Many were not even aware that they have distinctive-based rights as Indigenous Peoples. Priority 19 in the DAP identifies a need to educate Canadians generally about the UNDRIP, but we do not see efforts aimed specifically at Indigenous Peoples, nor their youth.

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<sup>20</sup> *Supra* Childs, note 17.

<sup>21</sup> *Ibid.*

<sup>22</sup> *Supra* UNDRIP note 3 Art 15.

<sup>23</sup> *Ibid* Art 14(1).

If Indigenous youth do not know and understand their inherent rights as Indigenous People, how will they claim them?

For example, One Indigenous youth told NWAC they faced significant barriers trying to access health care. These barriers include missing documentation and lack of transportation to hospitals and medical clinics. UNDRIP Article 24 affirms the equal right to access healthcare services without discrimination.

Distressingly, many youth told NWAC they did not have access to clean drinking water. This violates Article 21 of the UNDRIP, whereby “Indigenous peoples have the right, without discrimination, to the improvement of their economic and social conditions...in the areas of sanitation...and health.”<sup>24</sup>

Youth are also very concerned about climate change. Article 29 guarantees Indigenous peoples “right to the conservation and protection of the environment.”<sup>25</sup> Participants do not believe that the government takes Indigenous concerns about the land, waters, and other living beings seriously.

Holistic Indigenous healing interconnects family, community, spirituality, and nature. In Indigenous communities, wellness is about balance and harmony. The focus is on strengths not weaknesses, along with a sense of control over one’s own health. Indigenous treatment may include traditional teaching, spiritual practices like ceremonial prayers and songs, sacred remedies such as tobacco, sweetgrass, or sage, healing circles, sweat lodges, and consulting with Elders or healers.<sup>26</sup>

Many youth said learning about and engaging with Traditional Indigenous medicines helped them heal and stay connected to their cultural practices and ways of knowing. This aligns with Article 24, whereby Indigenous peoples have “the right to their traditional medicines.”<sup>27</sup>

### Grassroots Engagement Sessions

#### Right to self-determination over socioeconomic issues

Indigenous WG2STGD+ people want to exercise their right to self-determination within socioeconomic spheres. Participants told NWAC that increasing Indigenous WG2STGD+ people’s and grassroots organisations ability to represent the socioeconomic concerns in creating federal policy, programs, and legislation.

One participant said that the separation of powers within the *Constitution Act, 1982* made her feel as though Indigenous women lacked true self-determination over socioeconomic

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<sup>24</sup> *Ibid* Art 21.

<sup>25</sup> *Ibid* Art 29.

<sup>26</sup> *Supra* Childs note 17.

<sup>27</sup> *Supra* UNDRIP note 3 at Art 24.

matters. Lacking confidence in both the federal and provincial governments, Indigenous WG2STGD+ people believe that whenever they attempt to exercise their right to self-determination, the provincial government will oppose them, and the federal government will support them. To prevent provincial and federal jurisdictions from restricting Indigenous WG2STGD+ people's right to self-determination, mechanisms need to be put in place. They should not have to go to court or contend with the provincial and federal governments to claim this right.

Another participant drew attention to the Call for Justice 4.2:

'We call upon all governments to recognize Indigenous Peoples' right to self-determination in the pursuit of economic social development. All governments must support and resource economic and social progress and development on an equitable basis, as these measures are required to uphold the human dignity, life, liberty, and security of Indigenous women, girls, and 2SLGBTQQIA people. All governments must support and resource community-based supports and solutions designed to improve social and economic security, led by Indigenous women, girls, and 2SLGBTQQIA people. This support must come with long-term, sustainable funding designed to meet the needs and objectives as defined by Indigenous Peoples and communities.'<sup>28</sup>

#### Post-secondary education and assistance in accessing employment

One participant, a law student, said moving from high school to college was the greatest barrier to obtaining post-secondary education. Since many Indigenous students today are the first in their family to enrol in post-secondary education, they are left to figure out how the post-secondary system functions, beginning with the application process and continuing through all subsequent steps. Indigenous students would benefit from having access to people who can assist them through the entire process and with life skills like study advice or managing their money while they are in school.

Another participant said that Indigenous traditional knowledge and lessons need to be embraced and acknowledged in post-secondary education. The participant dropped an Indigenous course because it was clear that the Indigenous textbook was not authored by an Indigenous person. Indigenous peoples may experience impostor syndrome as a result of the "whitewashed" curriculum.

Regarding employment assistance programs, one participant shared her experience as a disabled Indigenous woman. Although the program placed her in a job, the role was not tailored to her needs as a disabled person, leaving her frustrated. Additionally, since it was not an Indigenous employment assistance program, it could not account for her unique

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<sup>28</sup> *Supra* MMIWG note 5.

requirements as an Indigenous woman. Disabled Indigenous peoples may be discouraged from seeking employment if they fear that they will not be understood.

Another participant raised the problem of systemic discrimination within the workplace. Despite their willingness to work hard, if Indigenous peoples feel their work is not appreciated, they will consider leaving their job because many Indigenous value systems place a high priority on dignity. Indigenous peoples must be respected, valued, and acknowledged for their distinctive qualities within workplaces.

#### Indigenous WG2STGD+ people's entrepreneurship

Indigenous WG2STGD+ people's relationships between their inherent right to self-determination and entrepreneurship advance economic reconciliation with Indigenous WG2STGD+ people.

One participant said she valued business acumen but did not want to become enmeshed in a capitalist value system. When considering how to encourage Indigenous WG2STGD+ people's entrepreneurship, it is critical to respect that they may measure success differently. For example, Indigenous WG2STGD+ people may not value bottom-line profits as highly as sharing wealth, in alignment with their traditions and teachings. Rather, Indigenous WG2STGD+ people value preserving culture, connecting to the land, protecting the environment and ensuring sustainability.

Many participants agreed that financial assistance is needed to promote Indigenous WG2STGD+ people's entrepreneurship. Establishing an improved lending system is essential to enabling Indigenous WG2STGD+ people to start businesses. One participant suggested lending money to Indigenous peoples without charging interest.

Another participant connected the concept of interest-free borrowing to the Indian Trust Fund. She thought money from the fund is utterly misused and supports colonialism through the fiscal relationship between the Crown and First Nations. It is critical to examine how Canada maintains a cycle of economic dependency.

#### Indigenous women and the repeal of the *Indian Act*

Participants stressed the importance of consultation with Indigenous WG2STGD+ people, specifically First Nations women living on reserves, because they are the ones most impacted by the *Indian Act*'s membership inequities.

There are some legitimate concerns about repealing and dismantling the *Indian Act* because doing so may jeopardise treaty obligations. Indigenous WG2STGD+ people must have a say. Indigenous WG2STGD+ people should be consulted in a variety of ways, including surveys and group meetings.

The Action Plan on *Indian Act* repeal and replace must happen gradually. The UNDRIP's requirement for free, prior, and informed consent must be given priority, honored, and upheld.



### Indigenous WG2STGD+ people's right to self-determination and healthcare

Indigenous WG2STGD+ people have been forcibly sterilised in public institutions, residential schools, and mental health hospital. Indigenous WG2STGD+ people want full control over their bodies. The answer may lie in health organisations run by Indigenous peoples.

### Preserving and revitalizing Indigenous languages and culture

Participants emphasized Indigenous language immersion and land-based education programs, must be sustainably funded.

Funding should not be limited to a single year, as it is currently. For Indigenous land-based education programs to truly have an impact on Indigenous students, they must begin at a young age and continue through adolescence and maturity.

One participant said she managed land-based education programs, using curriculum about medicine-picking, healing, and knowledge-transfer. Access to sweat lodges and moon lodges is also a part of these land-based education initiatives. She said experiencing Indigenous ways rather than just learning about them is so important because Indigenous peoples experience, embody, and sense things when they do them.

Indigenous peoples need to take groups of children out onto the land, then move on to groups of people of all ages, including adolescents and Elders. In this way, they are able remember who they are. When they practise their ceremonies and get closer, blood memory is activated, allowing them to connect to the knowledge handed down by their ancestors.

One participant suggested establishing Indigenous housing cooperatives in various communities so residents could join and build their own neighbourhoods. A community-based program on the traditional family life cycle, in which young people and Elders assist one another, would be nice. That program could incorporate language as well.

### Clean water crisis

According to Article 25 of the UNDRIP, Indigenous peoples have the right to maintain and strengthen their unique spiritual connection to the waters that they have historically owned or otherwise occupied. Participants discussed the need for Canada to always speak with Indigenous WG2STGD+ people when making decisions regarding water.

Indigenous WG2STGD+ people hold the traditional roles of water keepers, so it is crucial that Canada consult them regarding the water crisis. Canada is not necessary interacting with traditional knowledge keepers by consulting band counsels. Indigenous WG2STGD+ people in the community are the ones who possess the knowledge about water.

A participant stated that it is essential to consult Indigenous Two-Spirit people because they are healers in their communities. A key aspect of the Two-Spirit identity is their relationship to water because water plays such an important role in the healing and purification process.

The Canadian government must consult with Indigenous WG2STGD+ people regarding the issue of access to water because many of the single-parent Indigenous households are led by women. In their roles raising children, Indigenous women need water for cooking, cleaning, bathing their kids, and other daily activities – everything is connected to water. Additionally, children, pregnant women, and people with compromised immune systems are particularly vulnerable to the effects of hidden toxins in drinking water. Boil water advisories really make the lives of the Indigenous WG2STGD+ people much more challenging every day.

Participants expressed their frustration over large companies purchasing clean water and then reselling it to Canadians and Indigenous peoples at inflated prices. One participant characterised this process as "abusing the water and turning it into a commodity." Water usage, cost, and the reasons behind those decisions must be the subject of more debate.

Participants said the use of water in oil sands extraction has a serious detrimental impact on the ecosystem. They view this practise as disrespecting the spirit of the water, because water is not supposed to harm the ecosystem.

#### Environmental concerns and decision-making

Participants said environmental issues must be given the greatest attention alongside measures to track evolving environmental problems.

One participant said Indigenous WG2STGD+ people who protest projects impacting the environment run the risk of being arrested by the RCMP. Indigenous women recently detained for protesting against pipelines at a camp on traditional Wet'suwet'en territory in northwest British Columbia was discussed as such an example.

Another participant connected MMIWG with environmental harm because Indigenous women have gone through the same harm and atrocities perpetrated against the Earth. Participants said they have a hard time believing Canada will involve Indigenous WG2STGD+ people in environmental decision-making.

It is important for groups other than elected Indian act bands to take part in talks about environmental conservation legislation. One participant supported the idea of integrating Indigenous women's and grassroot organizations to establish government policies supporting environmental conservation legislation. It is essential to recognize that many bands and legally-recognized organizations may restrict what WG2STGD+ people can say and do related to consultation processes, like impact benefit agreements. For example, if bands have a contract or other legal arrangement with a business in the resource development sector, they might not be able to publicly criticize those projects. However, grassroots individuals and organizations can raise environmental concerns relating to these projects.

Indigenous WG2STGD+ people used to occupy positions of specialised expertise and decision-making in this area, but colonialism harmed this knowledge system.

One participant raised the flooding of reserve lands as a result of climate change. Numerous Indigenous communities situated in unfavourable areas have their infrastructure harmed during flooding.

#### Resource development and decision-making

Indigenous WG2STGD+ people require leadership roles, decision-making authority to enable them to successfully contribute to the resource development sector.

In Canada, there are 634 First Nations. One participant said that there are wide ranging priorities. For example, some First Nations, like the Cree, are interested in preserving their rights under the James Bay and Northern Quebec Agreement, while the Mi'kmaq nation is interested in protecting fishing rights. There needs to be extensive consultation to learn about people's priorities and concerns regarding natural resource management.

When making decisions related to the resource development, the impact on future generations must always be considered. The precise objective is to consider how the action will impact the next seven generations. Having Indigenous youth engaged in the resource development industry is another specific goal because they can contribute new ideas, encourage thinking outside the box, and contribute to a long-term approach.

#### Equitable benefits in resource development

Participants said Indigenous WG2STGD+ people must receive "equitable benefits" from resource development.

There are many benefits available besides financial ones. It is useful to consider how unconventional benefits can help families. Additionally, when considering equitable benefits, decision-makers must first assess whether the practise itself is equitable and whether it will cause harm to the environment. If the ecosystem suffers, so will the women.

Canada must support the partnership between Indigenous peoples and the mining companies extracting resources and profiting off the lands. It would be an equitable benefit if the resource extraction companies would give something back to Indigenous WG2STGD+ people 's organizations, for example. Also, building the infrastructure that Indigenous WG2STGD+ people need the most, such as childcare facilities, schools, secure housing, lodges, and health facilities, would be an equitable benefit.

Indigenous WG2STGD+ people consider themselves to be part of the land because they are directly affected by what occurs to the land. It is important to examine what the land can do for WG2STGD+ people and assist them to carry out their daily tasks. During the moon phase, some Indigenous WG2STGD+ people hold ceremonies, women's lodges, or other types of healing practices that rely on the land. Plants, animals, and other species harmed by pollution

and resource extraction mean customary foods and medicinal plants and properties may no longer be available.

Colonial issues cannot be solved with colonial solutions. Indigenous WG2STGD+ people have answers rooted in the land.

## Experts Engagement Session

### Section 5: Consistency of laws

The DAP's first three measures aim to align Canadian laws with the UNDRIP.

One participant said there appears to be an assumption that everyone interprets the UNDRIP in the same way. She said the precise interpretations of the *UNDRIP Act* wording requires further clarification. The expression "implementing the *UNDRIP Act*" refers to a top-down strategy. One participant said she prefers the expression "enforcing the *UNDRIP Act*" because it suggests a bottom-up approach and affirms Indigenous peoples are the ones carrying out the UNDRIP's enforcement.

The Indigenous people NWAC spoke to and that experts heard from desire a system in which their opinions and cultural practises are not only valued and respected, but also meaningfully considered. One lawyer said provincial-federal jurisdictional divides make it difficult for Indigenous peoples to interact with the Canadian government during the entire law-alignment process. To illustrate this barrier, she said though a First Nation may recommend how a law should change to be compliant with the UNDRIP, in the end, it is up to the federal or provincial governments to decide whether to consider those proposals. The participant said acknowledging Indigenous sovereignty throughout guarantees that laws and regulations are compliant with the UNDRIP.

Indigenous sovereignty includes the right to accept or reject certain legislative and/or regulatory amendments in the context of bringing the laws into compliance with the Declaration. When determining if a legislation conflicts with the UNDRIP or not, Canada must account for who is making the decision and whether they have the power to do so.

Every piece of Canadian legislation will, most likely, have some sort of effect on an Indigenous group or community. Therefore, to ensure that laws are consistent, it is crucial to consider laws and regulations that may not immediately come to mind.

To actively enable the *UNDRIP Act*, positive commitments, constructive responsibilities, and financial support are required. Discriminatory clauses in laws, rules, and regulations must be removed in order for Canadian laws to be in compliance with the UNDRIP. However, it is critical to go beyond simply eliminating elements that are directly in conflict with the UNDRIP; Indigenous WG2STGD+ people must be sufficiently represented in the consultation and cooperation mechanisms.

Canada's current strategy regarding the non-derogation clause (NDC) in the federal *Interpretation Act* is to only reference section 35 and treaty rights. The NDC must also refer to the UNDRIP.

#### Legal pluralism

Measure 11 of the DAP aims to increase access to justice for Indigenous peoples, strengthen communities and advance self-determination by providing on-going support of Indigenous law initiatives across Canada, strengthening community-based justice systems. Many participants emphasised the value of incorporating legal pluralism into Canadian law: Multiple legal systems existing within one society or region.

Indigenous peoples' inherent rights under their own legal systems are treated as secondary to common law and civil law systems, at best. It is important to recognize Indigenous legal orders because under these varying frameworks, Indigenous WG2STGD+ people have distinct legal rights.

One participant said Canada must acknowledge the rights of Indigenous peoples under their own legal systems. Every Indigenous legal system establishes rights for its members. For instance, Indigenous peoples who are members of the Cree community are granted rights under Cree law, Canadian law, and inherently, their rights as Indigenous People as affirmed in the UNDRIP.

#### Judicial education

There is a need for judicial education on UNDRIP and, more broadly, the fundamentals of Indigenous legal regimes. The DAP suggests working with the National Judicial Institute to train the judiciary on the Declaration under measure 18.

Participants endorsed this measure. One said the Canadian legal educational system, which also includes the education judges acquired, has failed Indigenous peoples. Judges' authority and power to render judgements affects people's lives, so an incomplete understanding of history can contribute to systemic discrimination impacts, like high rates of incarceration for Indigenous peoples.

One participant was currently putting on a course for judges related to Indigenous issues. Another said some judges were quite antagonistic and resistant when she was recruited to educate them on Indigenous concerns.

Another recommendation given was to rebuild Indigenous legal systems. Judges are unable to understand Indigenous law without any training.

### Oversight and accountability mechanism

The DAP's Measure 20 focuses on ensuring oversight and accountability for the Declaration's implementation. NWAC polled participants on their opinions of the idea of setting up an UNDRIP Commission and Tribunal where Indigenous people could file complaints if they believed one of their UNDRIP rights had been violated by the State or an individual.

Most participants supported establishing a UNDRIP Commission and/or Tribunal. Participants said having Indigenous peoples lead the Commission and/or the Tribunal is essential to ensure the institutions' legitimacy and to accurately reflect the rights and duty holders. The UNDRIP Commission and/or Tribunal would have more credibility if Indigenous peoples' voices were included in its development and composition.

One participant said that the Commission and/or Tribunal would be ineffective if individuals do not first understand their UNDRIP rights. For these institutions to function effectively, the general public, Indigenous peoples, and governments must all be better informed about the UNDRIP.

Some participants said a watchdog, rather than an accountability system necessarily having to be an UNDRIP Commission and/or Tribunal.

Another participant said that any accountability body cannot be a government-structured entity but must be driven from the bottom up and self-funded.

The Australian Peoples' Tribunal (APT) for Community and Nature's Rights was established as a permanent civil society institution to allow people to express their concerns about environmental degradation, describe their ideas for ecological justice and legal reform, and collaborate on the creation of socially just, Earth-centered societies. The APT aims to respond to situations where the current Australian legal system is perceived as failing to support community and nature's rights<sup>29</sup>.<sup>[1]</sup> This Tribunal might serve as an inspiration for Canada to establish an accountability system.

### Dismantling the *Indian Act*

The DAP's Measure 85 states that the *Indian Act* must be abolished for Canadian laws to comply with the UNDRIP. Participants suggested:

- Before the *Indian Act* is repealed, we should investigate what happens to citizenship membership when it comes to sections 6(1) and (2) of the *Indian Act*.
- It should be up to the First Nations, not the Minister, to decide who is Indian.
- Given that this system is still very colonial, we must carefully concentrate on the words used to describe jurisdiction.

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<sup>29</sup> Australian Peoples Tribunal. "About the Tribunal", online: <<https://tribunal.org.au/about/>>.

## Newly Identified Priorities

### *Indigenous WG2STGD+ people's participation in self-governance and self-determination*

Indigenous WG2STGD+ people are not freely accessing their inherent right to self-governance and self-determination in decision-making frameworks, violating UNDRIP Article 44.

Indigenous legal scholar Professor John Borrows committed two of his graduate students (Layne Clarke and Camille O'Sullivan) to prepare research to support NWAC's UNDRIP final report. Their findings in *Facilitating Indigenous Women's Equal Participation in Self-Governance, Self-Determination, and Decision Making Through Article 44 of UNDRIP*, identifies important gender-based concerns.

This paper argues UNDRIP Article 22 and 44 should be read in conjunction with UNDRIP, articles pertaining to self-determination (Article 3), self-government (Article 4), and decision-making (Article 18).

This research provides several recommendations for promoting Indigenous WG2STGD+ people's equal participation in Indigenous self-governance and decision-making:

1. Embed requirements for women's participation in governance and/or decision-making in legislation, constitutions, and other expressions of governance;
2. Embed gendered language into the language of rights;
3. Develop and fund initiatives to increase Indigenous women's power in governance; and,
4. Acknowledge the necessity for communities to confront violence against women through self-determination, self-government, and decision-making.

*Embed requirements for women's participation in governance and/or decision-making in legislation, constitutions, and other expressions of governance*

Women must be embedded in governance through legislation to break the cycle of sidelining Indigenous women's issues; women's participation will result in good governance.

One potential pathway to ensure women's participation in Indigenous governance and decision-making is to mandate positions for Indigenous women within the legislation, policy, and other governance documents (including constitutions or community charters) of current governing bodies.<sup>30</sup> Such inclusion is further justified by the sex-based equality guarantee found in section 35(4) of the *Constitution Act, 1982*. This would directly counter the false dichotomy between traditional Indigenous governance (often positioned as collective rights) and

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<sup>30</sup> Judith Sayers and Kelly A MacDonald "A Strong and Meaning Role for First Nations Women in Governance" in Judith Sayers et al, eds, *First Nations Women, Governance and the Indian Act: A Collection of Policy Research Reports* (Status of Women Canada's Policy Research Fund, 2001) 1 at 11.



Indigenous women's issues (which are counterposed as individual issues). Ultimately, a healthy community is a prerequisite to self-governance.

Legal scholar and UNDRIP researcher Brenda Gunn writes the gendered nature of traditional Indigenous governance makes it imperative for women to participate in governance.<sup>31</sup> Indigenous women have access to different knowledge than Indigenous men; without their voices in governance, that knowledge is lost.

#### Embed gendered language into the language of rights

The UNDRIP uses gender-neutral language throughout, including Articles 3 (self-determination), 4 (self-government), and 18 (decision making). This obfuscates the barriers Indigenous women face in accessing these spaces of authority in relation to self-determination, self-government, and decision making. One solution to this would be to embed gendered language into rights language to ensure equal access to decision-making authority is protected as an enumerated right.

International examples provide examples of gendered language being embedded into rights documents. For example, the women in the National Zapatista Liberation Army (EZLN, Ejército Zapatista de Liberación Nacional) were successful in having Indigenous women's rights language included in a rights declaration. Indigenous women in the ELZN created Women's Revolutionary Law (ZWRL) in response to their struggles with misogyny in the ELZN. The ZWRL was accepted by consensus by the EZLN in March 1993. This law is a ten-point document that guarantees women's rights to education, equal pay, and equal participation and leadership, as well as opposing forced marriage and denouncing male physical and sexual violence.<sup>32</sup> The ZWRL could be regarded as an embodiment of the ideal of the indivisibility of women's rights enshrining both civil and political rights as well as the protection of human rights violations that are usually gendered.<sup>33</sup> This example stands in contrast to the gender-neutral rights language of UNDRIP and is an example of how rights language can be articulated to ensure that Indigenous women are also protected and uplifted.

#### Develop and fund initiatives to increase Indigenous women's power in governance

Indigenous women's participation in governance must be accompanied by sweeping social change that includes supporting Indigenous men, mentorship programs in community, and

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<sup>31</sup> Brenda Gunn, "Bringing a Gendered Lens to Implementing the UN Declaration on the Rights of Indigenous Peoples" in John Borrows et al., eds, *Braiding Legal Orders* (Waterloo, ON: Centre for International Governance Innovation, 2019) 55 at 56

<sup>32</sup> Rauna Kuokkanen, *Indigenous Gender Justice as Restructuring Relations* (Oxford University Press, 2019) at 229-230.

<sup>33</sup> *Ibid* at 230.

restructuring funding agreements to support programs that will ensure women's participation in governance.<sup>34</sup>

Sustainable funding to support and encourage capacity building is essential to supporting Indigenous women to overcome the barriers imposed by colonization. These changes will need to respond to the local needs of the Indigenous governing bodies and of the lived experiences of the local Indigenous women.<sup>35</sup> Without the full support of Indigenous women in government, there will not be a full articulation of rights in a given community.

A report on a negotiation with Lutsel K'e Dene Nation found that the simple act of extending the period of negotiations and community engagement resulted in a greater response from Indigenous women in the community.<sup>36</sup> As a result, the women felt adequately represented in and satisfied with the outcome of the negotiation. Extending consultation and negotiation periods on projects can be one means of ensuring women are supported in engaging in decision making. Their participation will have a wider reach for benefiting the community.

Another example is the Voisey Bay Agreement, where women were at the negotiating table. This agreement is seen as significant because the negotiated benefits are different from the norm – they specifically guarantee training and employment for Inuit and Innu women.<sup>37</sup> This shows that capacity building arrangements for Indigenous women can be built directly into negotiated agreements, which direct the flow of power and monetary gains to Indigenous women and subsequently Indigenous children and families. If Indigenous women can be supported and encouraged into leadership positions, the whole community will benefit.

Acknowledge the necessity for communities to confront violence against women through self-determination, self-government, and decision-making

Women's fight for a place within Indigenous self-governance and the fight against sexualized violence directed at Indigenous women go hand-in-hand. Recognizing Indigenous women's rights and participation within collective structures of self-government brings not only economic prosperity and opportunities for job growth for women, but when women are in power, true change can happen. Self-governance that includes the voices of women can be an effective tool to combat violence against Indigenous women.

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<sup>34</sup> Jo-Anne Fiske et al., "First Nations Women and Governance: A Study of Custom and Innovation among Lake Babine Nation Women" in Judith Sayers et al, eds, *First Nations Women, Governance and the Indian Act: A Collection of Policy Research Reports* (Status of Women Canada's Policy Research Fund, 2001) at 55-56.

<sup>35</sup> Sari Graben, Angela Cameron, and Sarah Morales "Gender Impact Analysis of Impact Benefit Agreements: Representation Clauses and UNDRIP" in Ibironke T. Odumosu-Ayanu, Dwight Newman, eds, *Indigenous- Industry Agreements, Natural Resources and the Law* (New York: Routledge, 2020) 79 at 82.

<sup>36</sup> *Ibid* at 90.

<sup>37</sup> *Ibid* at 89.

Aboriginal rights jurisprudence poses difficulties to recognizing Indigenous peoples' inherent jurisdiction over violence against women. Self-determination and self-governance are necessary tools that enable nations to tackle violence against women from outside and within their communities. Jurisdiction over the issue of violence against women through self-determination and self-governance would further bolster grassroots, community-driven initiatives that currently thrive on minuscule budgets and volunteer labour.<sup>38</sup> Community-based initiatives, such as land-based activities and transmission of traditional knowledge can assist in revitalizing Indigenous culture – which many women were and continue to be barred from due to policies of assimilation through the *Indian Act*'s "marrying out rule"—and can contribute to building healthy relations within communities.<sup>39</sup> Indigenous-led restorative justice and dispute resolution programs have the potential to do the same; they allow for behaviour to be confronted within the community and according to Indigenous law, redefining social relations instead of focusing on violence as an individual pathology.<sup>40</sup>

#### NIO feedback on education

##### Indigenous WG2STGD+ people face barriers to entrepreneurship

Significant barriers prevent Indigenous WG2STGD+ people from pursuing entrepreneurship, blocking their access to their inherent right to freely pursue economic development as per UNDRIP Article 3. One of the biggest barriers Indigenous women face is access to capital. Many Indigenous women do not meet the eligibility requirements to be approved for a loan because they lack the credit history or credit score needed.

NWAC met with the representative responsible for the oversight of the Indigenous Women's Entrepreneurship Program (IWE) at the National Aboriginal Capital Corporations Association (NACCA) to learn more about the topic of Indigenous women's entrepreneurship.

The UNDRIP DAP identifies the need to address persistent economic barriers for Indigenous businesses at Priority 60, but this item does not address the further barriers Indigenous WG2STGD+ people experience by virtue of their intersectional identities. NWAC calls on Canada to include gender-specific directives in its UNDRIP Action Plan under Priority 60.


Indigenous WG2STGD+ people also face barriers accessing loans because many lack the supporting documents needed to prove their Indigenous ancestry. Colonial injustices and gender-based discrimination still prevent Indigenous women from improving their socioeconomic circumstances today. Having said that, a program that gave Indigenous women access to microloans would undoubtedly assist them in pursuing entrepreneurship.

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<sup>38</sup> *Supra* Kuokkanen at note 31 at 204.

<sup>39</sup> *Ibid* at 203-4.

<sup>40</sup> *Ibid* at 194-5.



Access to entrepreneurship and education are interconnected. Financial literacy presents a significant obstacle for many Indigenous WG2STGD+ people who want to pursue entrepreneurship. Their lower rates of education have a direct impact on their financial literacy (insert stats can citation). Examples of financial literacy include managing personal finances, banking, credit, and savings.

Indigenous women contribute to their communities as mothers and caregivers, leaving them less time to access their right to freely pursue their economic development. For them to be successful as entrepreneurs, they must access childcare supports that meet the minimum standards within the UNDRIP.

## Reinforced Priorities

### Free, prior and informed consent in resource extraction

Free, prior, and informed consent is an essential component of self-determination; it codifies Indigenous Peoples' right to the conservation and protection of the environment and the productive capacity of their lands or territories and resources.

UNDRIP Article 22 requires special consideration for women, the elderly, and children. Consent-based agreements and decision-making surrounding industrial projects must therefore explore how decisions may affect Indigenous women and their bodily autonomy. Self-determination and self-governance should enable Indigenous peoples to protect their communities from violence resulting from industrial projects. Canada's DAP affirms this at Priority 9.

Consent extends beyond resource extraction. The presence of industry on and around Indigenous lands and communities brings in largely male-dominated workforce camps that are sources of increased amounts of sexual violence against Indigenous WG2STGD+ People. Frontline health workers and MMIWG inquiry witnesses directly link temporary workers camps and increased instances of sexual, domestic, and family violence. Police often fail to take local complaints seriously. Temporary workers are also unknown to the community and can easily evade identification and scrutiny, especially if they reside in undocumented work camps set up by private entities.

Canada's UNDRIP Action Plan must affirm free, prior and informed consent within resource extraction. Priority 31 must include language that emphasizes the harms Indigenous WG2STGD+ People bear in the ongoing MMIWG genocide. Consent-based agreements involving resource extraction must guarantee Indigenous women's involvement in governance and decision-making.

## Gender-based Violence

Persistent, systemic violence undermines Indigenous WG2STGD+ People's rights to life and security, in direct violation of the UNDRIP Article 7 which provides Indigenous Peoples the right to be free from any act of genocide or any other act of violence, and Article 22 which ensures Indigenous women and children enjoy the full protection and guarantees against all forms of violence and discrimination.

Gender-based violence is a significant barrier to Indigenous WG2STGD+ People freely accessing their rights. Participants in NWAC's roundtables said that the absence of protection from assault has made it difficult for Indigenous women to join consultations and debates about the *UNDRIP Act* and to advocate for UNDRIP's enforcement.

The NIMMIWG findings directly connect the shockingly high prevalence of violence against Indigenous women, girls, and 2SLGBTQQIA people with ongoing Indigenous and human rights violations.<sup>41</sup>

As they battle the effects of intergenerational physical, sexual, and family violence, many Indigenous communities today still exhibit patriarchal influences, hierarchies, and hegemonic masculinity. According to the Department of Justice Canada, Indigenous women self-report sexual assault at a rate that is more than three times higher than that of non-Indigenous women.<sup>42</sup> Additionally, they are more prone than non-Indigenous women to be victims of severe assault and homicide.<sup>43</sup> This violence also tied to their extreme overrepresentation in custody as they encounter the justice system as a direct result of survival-related conduct<sup>44</sup>.

One of the key causes of the systemic violence that Indigenous women experience is the lack of state protection. Many participants in NWAC's roundtable discussions expressed doubt in the system that was designed to assist Indigenous women seeking protection. Racist police conduct is largely to blame for their mistrust. Indigenous women assert that police dehumanize and disdain them, and that this is obvious from their behaviors. One participant said that Indigenous women are aware of past incidents of sexual assault perpetrated by RCMP police against Indigenous women.

A system managed by Indigenous women, victims of physical and sexual assault would help other Indigenous WG2STGD+ People feel more comfortable denouncing the events and the perpetrators. One roundtable discussion participant said Indigenous women's murders

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<sup>41</sup> *Supra* MMIWG note 5.

<sup>42</sup> Statistics Canada, *Intimate partner violence: Experiences of First Nations, Metis and Inuit women in Canada, 2018* (Ottawa: Statistics Canada, (19 May 2021) online: [Intimate Partner Violence].

<sup>43</sup> *Supra* MMIWG note 5.

<sup>44</sup> *Ibid.*

were significantly underreported due to a lack of trust and safety within the system. Indigenous women need to be at the forefront, playing active roles in the system to feel safe and receive assistance.

Indigenous communities lack the necessary resources to gather evidence. Indigenous nurses with forensic training are needed and they require additional tools and supplies, such as rape kits. This would make it possible for Indigenous women to gather data effectively, and address transportation barriers that may cause sexual and physical abuse victims to skip appointments.

Indigenous WG2STGD+ People trying to leave abusive homes do not have many options to claim their right to safety. The extremely troublesome lack of housing options – including shelters and transition homes – for women trying to leave abusive environments is a significant barrier.

Additional funding from Canada is essential. Integrating the UNDRIP into Canadian law requires taking proactive measures to end the genocide against Indigenous women. Canada must fully finance treatment facilities and/or programs for victims of sexual and physical abuse that let Indigenous mothers bring their children.

Canada must act right away to end systematic violence against Indigenous women by answering the 231 MMIWG Calls to Justice with deadlines and accountability procedures to ensure measurable progress. Priority 12 in the DAP begins to address this need, but does not provide the necessary framework with measurable timelines, responsible authorities, and dedicated funding.

### *Indian Act: Status and Membership*

The time has come for Canada to enforce UNDRIP and repeal the *Indian Act*. There is a significant disconnect between the rights framework provided under the *Indian Act*, and that of UNDRIP. UNDRIP's assertion of Indigenous Peoples' right to self-determination is a right from which all others flow. The right to determine membership and develop political, economic and social systems cannot be freely claimed under the *Indian Act*, which prescribes a colonial governance structure and relegates membership determinations to a government agent.

The UNDRIP DAP reflects this at Priorities 21, 85 and 87, but NWAC would like to see specific language centering Indigenous WG2STGD+ people in the decision-making framework. This framework must also include measurable timelines, responsible authorities and assigned funding.

The *Indian Act* is a colonial, legal tool that has created specific disadvantages and harm to Indigenous WG2STGD+ People. Earlier iterations sought to achieve total cultural genocide by

eliminating the number of Indigenous People eligible to claim Indian Status under the Act. These provisions particularly discriminated against women, who did not enjoy legal agency nor standing to affirm their equal access to status. For decades, Indigenous women lost their status and the ability to pass status to their children for such acts as marrying a non-status man, having a child out of wedlock and hiding children from Indian Registrars collecting children to forcibly attend Indian Residential School facilities.

The *Indian Act*'s colonial structure eroded Indigenous women's identities and rights, facilitating the conditions leading to the ongoing Missing and Murdered Indigenous Women and Girls (MMIWG) genocide. The *Indian Act*'s membership provisions continue to systemically reduce the number of Indian-status holders in an ongoing attempt at assimilation.

NWAC has engaged in tireless advocacy for decades to dismantle this paternalistic legislation's harms. Legislative amendments have sought to remove many of the remaining gender-based inequities, because of numerous successful legal challenges, both in Canada and in international human rights bodies. Canada's most recent attempts under Bill C-38 do not go far enough to remove remaining inequities built into the Act's status registration provisions. Nor does Bill C-38 align with the inherent rights UNDRIP affirms Indigenous WG2STGD+ People possess.

In May 2022, NWAC prepared [a fulsome report](#) following Bill S-3, the second-last legislative attempt to remove gender-based inequities from the Indian Act's registration provisions. This report included 12 recommendations, including consulting Indigenous People on the repeal and replacement of the *Indian Act*.

In short, the *UNDRIP Act* cannot co-exist with the *Indian Act*, as written. The latter does not affirm nor recognize Indigenous People's inherent right to self-determine their membership and governance structures.

NWAC recommends full repeal and replacement of the *Indian Act*'s membership provisions, in ongoing consultation and cooperation with Indigenous Peoples, with specific inclusion of Indigenous WG2STGD+ People's representation.

### Women's Entrepreneurship

There are nearly 23,000 Indigenous women entrepreneurs across Canada, and Indigenous women are starting up and operating business enterprises at double the rate of non-Indigenous women.<sup>45</sup> Indigenous women have a lot to offer the business community; they provide many new and innovative products, services, and ideas. However, as described in more detail earlier

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<sup>45</sup>Ashley Richard, "Mikwam Makwa Ikwe (Ice Bear Woman): A National Needs Analysis on Indigenous Women's Entrepreneurship" (2021), online: *Women Entrepreneurship Knowledge Hub* <<https://www.readkong.com/page/mikwam-makwa-ikwe-ice-bear-woman-a-national-needs-7788706>>.



in this report, Indigenous women frequently face many challenges in starting and growing their businesses.

Although some of the barriers faced by Indigenous women entrepreneurs are barriers also experienced by women entrepreneurs in general, understanding the important distinctions between the two groups can help develop and implement meaningful policies for Indigenous women entrepreneurship's overall success. According to the 2016 Census, 22,245 Indigenous women were self-employed, at a rate far exceeding the self-employment of Indigenous men.<sup>46</sup> The National Indigenous Economic Development Board also proposes that an additional \$27.7B could be added to Canada's GDP if it addresses the gaps in economic outcomes between Indigenous and non-Indigenous Peoples.<sup>47</sup>

Article 21 of the UNDRIP states that "Indigenous peoples have the right, without discrimination, to [improve] their economic and social conditions."<sup>48</sup> Therefore, it is important for Canada to invest in Indigenous women entrepreneurship to address socioeconomic inequities. Not only do Indigenous women entrepreneurs make up a key segment of the Aboriginal Financial Institutions (AFI) market, but their communities benefit from Indigenous women entrepreneurship through:

- job creation for community members;
- shared skills and information with community members,
- acting as role models and inspiring others to strive for entrepreneurship goals; and
- becoming leaders within their community.<sup>49</sup>

Additionally, the TRC and the National Inquiry into MMIWG have issued calls to action pertaining to equitable access to economic opportunities by Indigenous women. Hence, addressing inequities would demonstrate their commitment to respond to the calls to action by the TRC and National Inquiry into MMIWG.

By drawing on the National Indigenous Economic Strategy for Canada (2022), NWAC echoes the Calls for Prosperity outlined in this report, with an emphasis on women's entrepreneurship. Canada must support organizations, financial and post-secondary institutions, employers, and all levels of government:

- Create a financial literacy and business curriculum;

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<sup>46</sup> *Ibid.*

<sup>47</sup> *Ibid.*

<sup>48</sup> *Supra* UNDRIP note 3, Art 21.

<sup>49</sup> Helen Bobiwash, "Indigenous Women Entrepreneurs" (2020), pdf online: NACCA < <https://nacca.ca/wp-content/uploads/2020/07/NACCA-IWE-Summary-Report.pdf>>.

- Develop mentorship programs;
- Foster a national network of Indigenous Chambers of Commerce;
- Create information and gateway platforms to navigate the range of resources and services for entrepreneurs; and
- Ensure that Indigenous Entrepreneurs have access to capital and enabling programs to fully participate in the Canadian economy.

The Women Entrepreneurship Knowledge Hub's report (2021) on Indigenous Women's Entrepreneurship indicates numerous recommendations on how Canada can support organizations, financial and post-secondary institutions, employers, and all levels of government overcome the challenges and barriers Indigenous women entrepreneurs frequently face. NWAC supports these recommendations:

- Organizations offering services to Indigenous women entrepreneurs should develop holistic and culturally relevant programming around personal financial literacy and business financial literacy for Indigenous women;
- Any and all programs developed should be designed, led, and implemented by Indigenous women for Indigenous women;
- Create more opportunities for diverse Indigenous women to hold decision-making positions in lending roles;
- Collaborate with the larger entrepreneurial ecosystem to create more microloans for Indigenous women;
- Ensure that any and all of the current requirements for funding are not discriminating against Indigenous women entrepreneurs, and that programs intended for Indigenous women entrepreneurs are inclusive and accessible.
- Ensure adequate and accessible training is available for Indigenous women entrepreneurs to break into fields traditionally dominated by men;
- Educate Indigenous women entrepreneurs on their rights and ensure they understand the financial landscape they are navigating, whether it is on or off reserve;
- Create more mentorship program opportunities by building meaningful relationships with potential Indigenous women mentors;
- Create wage subsidies that encourage the hiring and training of Indigenous women;
- Collaborate with national and local Indigenous governing bodies to invest in the infrastructure needed to ensure all Indigenous communities have access to reliable high-speed internet; and
- Build childcare into organizations and support programs so that motherhood is not a barrier to success.

### NIWO Consultations & Grassroots Relationship Building

DAP Measures 51 and 52 strengthen collaborations and consultations with national Indigenous women's organisations (NIWOs) and grassroots Indigenous organisations. Measure 51 aims to develop a strategic and holistic approach to implementing relationship agreements with Pauktuutit Inuit Women of Canada, NWAC, and Les Femmes Michif Otipemisiwak. These agreements are intended to support the NIWOs ability to determine and develop their own priorities and participate and partner with the federal government to inform programs, policy and legislation to address their distinct needs.

The duty to consult is rooted in section 35, which recognises and affirms Indigenous and treaty rights, and section 35(4), which affirms these rights are protected equally for both sexes. NWAC represents the voice of many Indigenous WG2STGD+ people who are rights holders under s 35. Establishing agreements with NIWOs such as NWAC is crucial throughout the whole *UNDRIP Act* implementation process.

The Canadian government must, in its consultations for implementing the *UNDRIP Act*, refrain from treating NIWOs as inferior organizations. Building relationships with NIWOs should be a top priority for the Canadian government, and NIWOs should always be consulted on matters affecting the rights of Indigenous WG2STGD+ people.

### UNDRIP Next Steps: Enforcement

Canada's UNDRIP Action Plan is the starting line. From this point forward, Indigenous Peoples across Turtle Island and Inuit Nunangat must be able to turn through its pages and see a path forward for themselves and their communities. The rights elucidated in the UNDRIP are inherent rights Indigenous people already possess, and yet many cannot freely access and claim them. Colonial harms, including legislated assimilation and genocidal practices, leave a long legacy of harm. Canada's Action Plan must provide a clear framework for reconciling with Indigenous Peoples.

To be a clear framework, Canada's Action Plan must include measurable timelines with short, medium and long-term goals. It must list responsible authorities who will remain accountable for their role in ensuring Indigenous people can freely access and claim their rights. The Action Plan must be tied to sustainable funding that ensures plans can be grounded in the elements needed to ensure their success.

Canada's Action Plan must proceed in partnership with Indigenous people. The UNDRIP are rights inherent to Indigenous People. As right-holders, they must be full and equal partners in all decisions impacting their collective and individual abilities to claim their rights.

NWAC anticipates that Canada's Action Plan and 2023 Annual Report will outline next steps in implementation and enforcement. As a national voice representing Indigenous

WG2STGD+ people, NWAC expects to play an active role alongside Canada and other Indigenous organizations on the path forward.

Canada's Action Plan must not just implement a plan, it must guarantee Indigenous People their free access to their rights. The UNDRIP lays out these rights within its Articles, and Canada must now enforce these rights. These rights are inherent, and minimum standards to ensure Indigenous Peoples' wellbeing. Until now, Canada's colonial laws and policies have not prioritized these minimum standards, and this is a chance to do better. The UNDRIP is Canada's framework for reconciliation, and the Action Plan is Canada's chance to make good on that promise.

## Annex A: NWAC Background

The Native Women's Association of Canada (NWAC) is a national Indigenous organization established in 1974 representing political voices of Indigenous women, girls, Two-Spirit, transgender, and gender-diverse+ ("WG2STGD+") people in Canada. NWAC is inclusive of First Nations—on- and off-reserve, status, non-status, and disenfranchised—Inuit, and Métis. An aggregate of Indigenous women's organizations from across the country, NWAC was founded on a collective goal to enhance, promote, and foster social, economic, cultural, and political well-being of Indigenous WG2STGD+ people in their respective communities and Canadian societies.

Today, NWAC engages in national and international advocacy aimed at legislative and policy reforms to promote equality for Indigenous WG2STGD+ people. Through advocacy, policy, and legislative analysis, NWAC works to preserve Indigenous culture and advance Indigenous WG2STGD+ people's wellbeing, and their families and communities. For more information about NWAC, click [here](#).

NWAC's role in the UNDRIP consultations was to facilitate Indigenous-led engagement sessions and to prepare findings and recommendations for the Canadian government's Action Plan, with a focus on gender-based priorities. To achieve this, NWAC undertook a broad range of activities, such as research, analysis, and leading engagement sessions. Participants in the sessions included grassroots organizers, subject matter experts, youth, Elders, Knowledge Keepers, legal scholars, lawyers, professors, service providers and other community members from across Turtle Island and Inuit Nunangat. NWAC hosted four engagement sessions in fall 2022, and additional meetings and online roundtables with experts, grassroots organizers, and youth in spring 2023 in response to Canada's Draft Action Plan. (For more information on methodology, see Annex B below.) The gender-based priorities identified in the research and analysis phase along with the feedback gathered during the roundtables constitutes the basis of NWAC's recommendations on the Action Plan.

## Annex B: Research Methodologies

For the Second Phase of this project, NWAC's primary objective was to gather Indigenous WG2STGD+ people's perspectives to inform the Government of Canada's Action Plan to implement the *United Nations Declaration on the Rights of Indigenous Peoples Act* (UNDRIP Act). After analysing Canada's DAP in March 2023 using a gender-based lens, NWAC hosted one expert roundtable, two grassroots roundtables, and one youth-focused roundtable. The aim of the second set of roundtables was to obtain substantive feedback on Canada's Draft Action Plan before Canada completes drafting its final Action Plan.

### Roundtable Engagements

NWAC organized and hosted one additional expert roundtable, two grassroots roundtables, and one youth-focused roundtable during the month of March 2023 to provide feedback to Canada to inform their final Action Plan to implement the *UNDRIP Act*. To ensure a national reach and to mitigate the risks related to the COVID pandemic, NWAC conducted all the engagements sessions online. NWAC developed three different background documents for the expert, grassroots, and youth-focused roundtables that were centered around our analysis of the gaps identified in the Draft Action Plan. They also focused on validating proposed measures and identifying additional measures. Each session was facilitated by experienced Indigenous women leaders and supported by Elders. The background documents were distributed to the participants for their review in advance of each session, along with guided discussion questions.

The aim of the engagement sessions was to cover various priority areas including self-determination, health, economic development, women's entrepreneurship, education, land, water and the environment, industry and resource development, violence, discrimination, Indigenous culture and language revitalization related to the UNDRIP. The expert roundtables were composed of individuals from a range of backgrounds including lawyers, academics, Indigenous leaders, and advocates. The expert roundtable discussions focused on legal and policy matters, measures related to oversight and accountability, consultations, and challenges associated with the DAP. NWAC's grassroots engagement sessions addressed how UNDRIP's rights impact Indigenous women and how these groups can effectively contribute their unique knowledge to developing UNDRIP-consistent federal laws, regulations, and policies. The youth-focused roundtable engaged youth in high school and post-secondary education on matters related to their identity, education, culture, language, and other community-related issues. The individuals who participated in the expert, grassroots, and youth-focused roundtables provided NWAC with invaluable information, perspectives, and experiences for our analysis and this final report would not have been possible without their time and knowledge. NWAC is thankful to those who participated in such challenging discussions and is hopeful Canada will take the recommendations to follow and apply them in their final Action Plan.

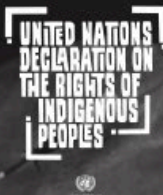


### Elder Guidance

Elders participated in each roundtable session by providing ceremonial openings, sharing their invaluable knowledge and experiences, and providing emotional and spiritual support to participants. The guidance, knowledge, support, and leadership provided by the Elders throughout this project to date has been integral both to the process and to the substantive information provided in this final report.

### Annex C: Informational Resources





## THE UNITED NATIONS DECLARATION ON THE RIGHTS OF INDIGENOUS PEOPLE ACT: THE RIGHT TO FREE, PRIOR, AND INFORMED CONSENT

### THE UNITED NATIONS DECLARATION ON THE RIGHTS OF INDIGENOUS PEOPLE (UNDRIP) RECOGNIZES INDIGENOUS PEOPLES' RIGHT TO SELF-DETERMINATION AND THE RIGHT TO FREE, PRIOR, AND INFORMED CONSENT (FPIC).

**What exactly does the right to free, prior, and informed consent entail?**

**FREE:** Consent is freely granted, without pressure, intimidation, or manipulation.

**PRIOR:** Consent is obtained far in advance of any authorization or start of activity.

**INFORMED:** The engagement and details of what should be disclosed before asking for consent as well as during the ongoing consent procedure.

**CONSENT:** A decision taken collectively by the rights holders and reached through a traditional community decision-making procedure.

**The right** to free, prior, and informed consent is specific to Indigenous People. It enables them to approve or reject activity that may impact them or their territory. Furthermore, **FPIC** allows Indigenous People to negotiate the terms under which projects and activities will be created, implemented, monitored, and evaluated.

**The right** to self-determination is closely related to the right to free, prior, and informed consent because it grants individuals control over their future economic, social, and cultural development.

**FPIC** changes the way non-Indigenous governments treat Indigenous Peoples' rights when obtaining their consent. FPIC means much more than consulting Indigenous People and then ignoring their concerns.

**FPIC** is the legal means through which Indigenous communities may voice their opinions and hold government accountable.

Before passing any laws or taking any measures that may impact Indigenous People, governments must seek their free, prior, and informed consent.

**NWAC** is working to make sure Canada honours its commitment to reconcile with Indigenous People by advancing Indigenous women's right to free, prior, and informed consent.

**The Native Women's Association of Canada (NWAC)** is a non-profit organization working to help Indigenous Women, Girls, Two-Spirit, Transgender, and Gender-Diverse (WG2STGD) People claim their rights as Indigenous people in their communities and Canadian societies.







## THE UNITED NATIONS DECLARATION ON THE RIGHTS OF INDIGENOUS PEOPLE ACT:



### INDIGENOUS EDUCATION PROTECTS INDIGENOUS CULTURE

**UNDRIP RECOGNIZES INDIGENOUS PEOPLES' RIGHT TO MAINTAIN AND DEVELOP THEIR UNIQUE CULTURES AND TRADITIONS.**

**INDIGENOUS PEOPLE HAVE THE RIGHT TO ESTABLISH AND CONTROL THEIR OWN EDUCATIONAL SYSTEMS AND INSTITUTIONS.**

**Indigenous-led education** takes over responsibility for culturally relevant teaching and learning methods and revitalizing Indigenous languages. Indigenous People have a right to be free from forced assimilation or genocide.

Canada's recently passed **UNDRIP** Act requires Canada to take appropriate measures, in collaboration with Indigenous People, to ensure that Indigenous People, particularly children, including those living outside their communities, can access education in their own culture and language, whenever possible.

**Indigenous women have an important role in helping their families and communities revitalize their culture, language, spirituality, and lands.**

**NWAC** is working to ensure Canada helps Indigenous People develop land-based education by providing safe and reliable transportation, secure access to the land, and funding for Indigenous instructors.

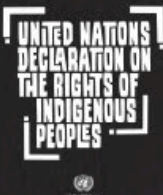
**NWAC** also promotes the **UNDRIP right to redress**, which requires Canada to provide recourse for colonial harms through efficient mechanisms, which may include restitution, created in collaboration with Indigenous People.

**The Native Women's Association of Canada (NWAC) is a non-profit organization working to help Indigenous Women, Girls, Two-Spirit, Transgender, and Gender-Diverse (WG2STGD) People claim their rights as Indigenous people in their communities and Canadian societies**

**To stay up to date on NWAC's work, follow us on social media.**







## THE UNITED NATIONS DECLARATION ON THE RIGHTS OF INDIGENOUS PEOPLE ACT: **A LEGAL TOOL**

### A NEW CANADIAN LAW CALLED THE UNITED NATIONS DECLARATION ON THE RIGHTS OF INDIGENOUS PEOPLE ACT (UNDRIP ACT)

#### TOOK EFFECT IN JUNE 2021.

This law requires Canada to align all its laws with the rights outlined in the United Nations Declaration on the Rights of Indigenous People (UNDRIP).

**UNDRIP** is a comprehensive international human rights instrument setting the minimum standards for Indigenous Peoples' survival, dignity, and wellbeing.

**UNDRIP** specifically identifies Indigenous women's rights as key to ensuring all Indigenous People access their rights.

Some wonder if the **UNDRIP** Act is performative reconciliation, and that it won't improve Indigenous women's lives.

**NWAC** has been holding conversations with Indigenous women, leaders, and Knowledge Keepers to advise Canada how UNDRIP should change laws and regulations so that they impact Indigenous women's day-to-day lives.

The **UNDRIP** Act legally binds Canada to take all necessary steps, in consultation and cooperation with Indigenous peoples, to ensure all Canadian laws are consistent with the UN Declaration.

In Summer 2023, Canada will release an action plan outlining precisely how the federal government will go about making Canadian laws compliant with the **UNDRIP** Act.

**NWAC** is a non-profit organization called the Native Women's Association of Canada (NWAC). We work to help Indigenous Women, Girls, Two-Spirit, Transgender, and Gender-Diverse (WG2STGD) People claim their rights as Indigenous people in their communities and Canadian societies.

To stay up to date on NWAC's work, follow us on social media.



Final Report:

*United Nations Declaration  
on the Rights of Indigenous  
Peoples (UNDRIP) Act*

Implementation



Native Women's  
Association of Canada

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L'Association des  
femmes autochtones  
du Canada