



Government
of Canada

Gouvernement
du Canada

2018



ENGAGEMENT TOWARDS A RECOGNITION AND IMPLEMENTATION OF RIGHTS FRAMEWORK

Public Engagement Guide

“Our efforts to build a better relationship with Indigenous peoples in Canada are not only about righting historical wrongs. They are about listening and learning and working together. They are about concrete actions for the future.”

Prime Minister Justin Trudeau

Canada 

Note to reader: This document may be updated throughout the engagement to respond to what we are hearing.

For information regarding reproduction rights, please contact:

aadnc.communicationspublications.aandc@canada.ca

www.canada.ca/indigenous-northern-affairs

1-800-567-9604

TTY only 1-866-553-0554

QS-6390-000-EE-A1

Catalogue: R5-686/2018E

ISBN: 978-0-660-25055-7

© Her Majesty the Queen in Right of Canada, 2018. This publication is also available in French under the title: Mobilisation visant un cadre pour la reconnaissance et la mise en oeuvre des droits.

PURPOSE

The Government of Canada is committed to renewing the relationship with First Nations, Inuit and Métis peoples based on the recognition of rights, respect, cooperation and partnership. To live up to this commitment, the Government of Canada is undertaking major reforms to its laws and policies to ensure the constitutional commitments made to Indigenous peoples are respected. The recognition and implementation of Indigenous rights is central to Canada's relationship with First Nation, Inuit and Métis peoples and to advance the vital work of reconciliation. We also know Indigenous communities that have control over the decisions affecting their communities have better socio-economic outcomes.

As part of the ongoing journey of reconciliation, the Government of Canada has launched a national engagement to help develop a Recognition and Implementation of Rights Framework.



WHAT DOES A RECOGNITION OF RIGHTS APPROACH MEAN?

All Canadians have rights and freedoms. *The Constitution Act, 1982*, including the Charter of Rights and Freedoms, outlines these rights. Indigenous rights are also recognized and affirmed in section 35 of the *Constitution Act, 1982*. These refer to the collective rights held by Indigenous peoples under our Constitution.

First Nation, Inuit and Métis peoples are descendants of the first people who lived in what is now known as Canada. They have unique rights that are recognized and protected by the Constitution, but laws and policies are needed to support the exercise of those rights. The Government of Canada is working with First Nation, Inuit and Métis peoples to create the federal laws and policies needed to fully and clearly put those rights into practice.

The goal is to chart a new way forward for the Government of Canada to work with First Nations, Inuit and Métis peoples, and to end decades of mistrust, poverty, broken promises and injustices.

Recognition and Implementation of Indigenous Rights – A Framework

A Recognition and Implementation of Rights Framework will ensure that the Government of Canada respects constitutionally-protected Indigenous rights and provides policies and mechanisms for Indigenous peoples to exercise their rights. The Framework will support Indigenous peoples' treaty rights and their inherent rights, as recognized in section 35 of the *Constitution Act, 1982* while also meeting the objectives outlined in the *United Nations Declaration on the Rights of Indigenous Peoples*.

Part of this work means that new federal laws, policies and operational practices will be developed to support the rebuilding of Indigenous nations and governments, and advance Indigenous self-determination, including the inherent right of self-government.

Recognizing and implementing Indigenous rights is essential to achieve a strong, more prosperous and economically inclusive Canada. Prosperity for Indigenous peoples means prosperity for all of Canada.



Building on What We Have Heard

This work builds on decades of tireless advocacy by Indigenous leaders and communities, as well as several reports and studies, including the Royal Commission on Aboriginal Peoples, which have all called for a shift in the way the Government of Canada recognizes and implements Indigenous rights.

Indigenous partners have been instrumental in advancing the conversation around the recognition and implementation of rights through the negotiation of modern treaties, self-government agreements, and more recently through Recognition of Indigenous Rights and Self-Determination discussions. They have helped contribute to this shift in the Government of Canada's approach.

Focus of Engagement

Through the engagement process with First Nations, Inuit and Métis peoples, as well other partners and key stakeholders, Canada expects to formalize the recognition and implementation of Indigenous rights through new legislation and policies.

While specific components of this Framework will be based on the results of this engagement, legislative and policy elements of the Framework may include:

- ▶ Legislation to formalize the standard of recognition of Indigenous rights as the basis for all government relations with Indigenous Peoples;
- ▶ A new policy that reflects the unique needs of First Nations, Inuit and Métis peoples to replace the current *Comprehensive Land Claims Policy* and the *Inherent Right to Self-Government Policy*;
- ▶ Reforming government policies and practices to support the implementation of treaties and self-government agreements;
- ▶ Mechanisms to support the rebuilding of Indigenous nations and governments, and advance Indigenous self-determination and the inherent right of self-government;
- ▶ Creating new dispute resolution approaches to address rights related issues, including overlapping territories and treaty implementation, that move us from conflict to collaboration;
- ▶ Tools to strengthen a culture of federal government accountability and build greater trust between Indigenous peoples and the federal government; and,
- ▶ Legislation establishing the two new departments that will replace Indigenous and Northern Affairs Canada with a mandate that better serves the distinct needs of First Nations, Inuit and Métis peoples.

KNOWLEDGE TO BUILD ON:

- Report on the Royal Commission on Aboriginal Peoples, 1996
- *The Lornie Report on Acceleration of BC Common Table Treaty Negotiations*, 2011
- *Forging Partnerships, Building Relationships: Aboriginal Canadians and Energy Development* – Douglas Eyford, 2013
- The work of the Senior Oversight Committee on Comprehensive Claims, 2014
- *A New Direction: Advancing Aboriginal and Treaty Rights* – Douglas Eyford, 2015
- *A Matter of National and Constitutional Import: Report of the Minister's Special Representative on Reconciliation with the Métis: Section 35 Métis Rights and the Manitoba Metis Federation Decision* – Thomas Isaac, 2016
- Truth and Reconciliation Commission Calls to Action, 2015
- Multilateral Engagement Process to Improve and Expedite Treaty Negotiations in British Columbia, 2016
- The work of the Working Group on the Review of Laws and Policies Related to Indigenous Peoples, including the *Principles Respecting the Government's Relationship with Indigenous Peoples*
- The work of the Office of the Treaty Commissioner in Saskatchewan and the Treaty Relations Commission in Manitoba
- Collaborative Fiscal Policy Development Process with Self-Governing Groups
- The work of the Permanent Bilateral Mechanisms
- Over 50 Recognition of Indigenous Rights and Self-Determination Discussion Tables

Working Together to Build a New Relationship

For too long, Indigenous peoples in Canada have had to prove their rights existed and fight to have them recognized through costly court challenges. To truly renew the relationship between Indigenous peoples and Canada, the Government of Canada needs a comprehensive and far-reaching approach, which supports and empowers Indigenous communities as they shape their own future and find their own way forward.

Part of this work means new federal laws, policies, and operational practices will be developed to support the rebuilding of Indigenous nations and governments, and advance Indigenous self-determination, including the inherent right of self-government.

Led by the Minister of Crown-Indigenous Relations and Northern Affairs, the Government of Canada is engaging First Nations, Inuit and Métis peoples, as well as other partners and key stakeholders. Engagement will centre on the legislative and policy changes necessary to reform government policies and practices, to ensure the constitutional commitments made to Indigenous peoples are respected.

The Recognition and Implementation of Rights Framework will be introduced in 2018 and will form the basis for all relations between Indigenous Peoples and the Government of Canada moving forward.

“Reconciliation calls upon us all to confront our past and commit to charting a brighter more inclusive future. We must acknowledge that centuries of colonial practices have denied the inherent rights of Indigenous peoples. At last, we must work together with Indigenous peoples to design an approach in which inherent and treaty rights can be recognized and Indigenous peoples can be supported in implementing those rights. As we move towards the next 150 years of Canada, I envision a country that is more inclusive of First Nations, Inuit and the Métis peoples. Making this shift is fundamental to the growth and prosperity of Canada.”

The Honourable Carolyn Bennett, M.D., P.C., M.P.
Minister of Crown-Indigenous Relations and Northern Affairs

QUESTIONS FOR ENGAGEMENT

The Government of Canada is undertaking a major reform of its laws and policies to ensure the constitutional commitments made to Indigenous peoples are respected. To achieve this, the government is launching an engagement process with First Nations, Inuit and Métis peoples, as well as other partners and key stakeholders, to develop a Recognition and Implementation of Rights Framework.

This engagement is an opportunity for us all to advance this work together. We look forward to embarking on this historic journey and hearing your perspectives on how we can advance true and meaningful change.

Engagement will take place through various means, including in-person meetings and by email at Indigenous-Rights@canada.ca as well as through www.canada.ca/indigenous-rights. More information about these opportunities to provide input is available at the end of this document.

Tell Us What You Think

Together, we need to explore practical ways to support Indigenous peoples to give effect to their jurisdictions and laws, in order to determine their own political, economic and social structures.

Policy Reforms and New Laws

1. The *Constitution Act, 1982* outlines the rights and freedoms of all Canadians. Canada also has laws, policies, and practices through which these rights are recognized and implemented. What are the legislative and policy changes that are necessary to reform government policies and practices in order to ensure Indigenous rights are fully implemented?

2. How can the Government of Canada improve the implementation of historic treaties and resolve historical grievances?

3. How can the Government of Canada improve the implementation of modern treaties and self-government agreements?

4. What distinctions-based approaches could replace the current *Comprehensive Land Claims Policy* and the *Inherent Right to Self-Government Policy*?

5. How would you define the role Provinces and Territories have in recognizing and implementing the inherent and treaty rights of First Nations, Inuit, and Métis peoples?

Nation Building

The Royal Commission on Aboriginal Peoples (RCAP) defined an Indigenous nation as a sizeable body of Indigenous people with a shared sense of national identity that constitutes the predominant population in a certain territory or collection of territories – the report estimated the existence of 60 to 80 nations.

6. How would you define an Indigenous nation? If it differs from RCAP, how so?

7. Who should determine who is an Indigenous nation and who is not?

8. When it comes to First Nations, do modern treaty groups, traditional governments or retribalization factor into defining nations?

9. What role does the re-empowerment of women play in defining and rebuilding Indigenous nations?

10. What functions and powers should Indigenous nations have?

11. How can the Government of Canada support nation (re)building and nation recognition?

Departmental Transformation - Indigenous Services Canada

12. How can the department ensure it addresses the distinct needs of First Nations, Inuit and Métis peoples?

Departmental Transformation - Crown-Indigenous Relations and Northern Affairs Canada

17. What are the obstacles to exercising self-determination and / or self-government?

18. How can the Department of Crown-Indigenous Relations and Northern Affairs be structured and operate to best support Indigenous nations exercising self-determination and self-government? What could help you better exercise your community's self-determination? What tools or policies could support your community?

19. For those currently participating in Recognition of Indigenous Rights and Self-Determination discussions, modern treaty and / or self-government negotiations, what is your community seeking to achieve? How can we ensure youth and community members are engaged in the process?

20. Do you see a role for institutions to support and advance the exercise of self-determination and self-government? How can Crown-Indigenous Relations and Northern Affairs facilitate the establishment of institutions and work in partnership with them to advance self-determination and self-government (e.g., potential Indigenous-led institutions, arms length organizations, oversight institution)?

21. What role could an institution play to support dispute resolution? What type of disputes (e.g., historical grievances, disputes regarding the recognition and implementation of rights) could it work to resolve and between whom (Crown-Indigenous, Indigenous-Indigenous)?

22. Where do you see the two new departments needing to operate together? Where do you see their work overlapping?

Provide Us With Your Feedback

Additional information can be found at www.canada.ca/indigenous-rights. Please provide us with your input directly. Write to Minister Bennett at droitsautochtones-indigenoustrights@canada.ca or:

Policy Development and Coordination Branch

Treaties and Aboriginal Government Sector
Aboriginal Affairs and Northern Development
10 Wellington, 8th Floor
Gatineau (Québec) K1A 0H4