

House of Commons Standing Committee on Finance



Congress of Aboriginal Peoples

Congrès des peuples autochtones

2021 Pre-Budget Submission

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Summary of Recommendations:

1. Reform the “Distinctions Based Approach” to respect the self-determination of off-reserve and non-Status Indigenous peoples and their right to select their own representative organizations, by including CAP and its PTOs in co-development of policy.
2. Support capacity-building in off-reserve and non-Status Indigenous communities with an investment of \$5 million per year in ongoing support funding, and \$2m per year for 10 years to support Political Accord implementation.
3. Invest \$5M in strategy co-development with CAP on program expansion and \$20M in programming allocations to serve Métis, non-Status and off-reserve youth post-secondary needs over 5 years.
4. Create a \$20M annual set-aside allocation under the UPIP program, for urban and rural community-based programs and services for Indigenous families run by CAP PTOs.
5. Invest \$5 million over 3 years for strategy co-development and \$100M annually in dedicated carve-outs for non-Status, Métis and Southern Inuit families under the NHS.

Background:

The Congress of Aboriginal Peoples (CAP) was founded in 1971 as the Native Council of Canada (NCC) to represent the interests of Métis and non-Status Indians. It emerged as a voice for the “forgotten peoples” in response to structural and systemic exclusion of our peoples in federal policy. During constitutional talks, the NCC was a leader negotiating for Aboriginal and Treaty rights in section 35 of the Constitution Act, 1982, and for Aboriginal peoples to include Métis peoples.

CAP is the national voice for 10 provincial and territorial affiliate organizations (PTOs), working collectively to advance the interests, rights, and needs of our constituents¹. We are mandated to improve the socioeconomic conditions of our peoples living in urban, rural and remote areas.

Throughout our history CAP has been a change-maker for all Indigenous peoples. CAP championed the historic action, *Daniels v. Canada*, and in 2016 the Supreme Court of Canada unanimously confirmed that Métis and non-Status Indians are Indians under section 91(24) of the Constitution Act, 1982.

CAP has also advocated for programming off-reserve Aboriginal peoples, such as the Urban Native Housing Program and Rural Native Housing Program under CMHC, along with leading initiatives for economic development, skills training, healthcare, and education.

Constituency:

At present, over 70% of the Indigenous population in Canada lives off-reserve, and the majority (51.8%) live in Urban areas of 30,000 or more². Out of 1.6 million total Indigenous people in Canada, an estimated 744,000 Indigenous people have Indian Status³, while the remainder do not.

Despite ongoing need among off-reserve, non-Status and unaffiliated groups, services for Indigenous people primarily focus on the on-reserve population, members of “Distinctions-Based” organizations, and their affiliates.

Urban Indigenous peoples face poorer health outcomes, higher rates of poverty and violence, and overrepresentation in the Canadian justice and correctional systems. Métis and non-Status people are among the most socially and economically disadvantaged groups in Canada, a reality rooted in colonialism and its impacts⁴.

¹ PTOs include: NunatuKavut Community Council, Native Council of Prince Edward Island, New Brunswick Aboriginal Peoples Council, Alliance Autochtone du Quebec, Native Council of Nova Scotia, Ontario Coalition of Indigenous People, Coalition of Indigenous Peoples of Saskatchewan, Indigenous Peoples Alliance of Manitoba, Aboriginal Congress of Alberta Association, North West Indigenous Council.

² Statistics Canada, Aboriginal peoples in Canada: Key results from the 2016 Census, The Daily, (2017) Catalogue No 11-001-X.

³ Statistics Canada, Aboriginal peoples in Canada: Key results from the 2016 Census, The Daily, (2017) Catalogue No 11-001-X.,

⁴ *Daniels v Canada* (Minister of Indian Affairs and Northern Development), 2014 FCA 101 at para 70, 371 DLR (4th) 725 [Daniels FCA]

The MMIWG inquiry Calls to Justice highlighted the barriers facing Indigenous people from accessing programs and services, and demanded that “All programs must be no-barrier, and must apply regardless of Status or location”. This must become a principle guiding all Indigenous programming in Canada.

CAP-Canada Political Accord:

On December 5, 2018, Minister of Crown-Indigenous Relations, Carolyn Bennett, and National Chief Robert Bertrand and National Vice-Chief Kim Beaudin of the Congress of Aboriginal Peoples signed the Canada-Congress of Aboriginal Peoples Political Accord. The Accord confirms that “the Congress is a national representative organization whose PTO memberships can and do include some rights-holding Indigenous peoples”.

As one of only five National Indigenous Representative Organizations, the Accord is an important step towards a renewed relationship between the Congress of Aboriginal Peoples and Canada—one based on respect, co-operation, and partnership.

CAP has continued negotiations with CIRNA to implement the CAP-Canada Political Accord from 2018-2020. Priority issue areas include: MMIWG, Post-Secondary Education, Family Services, Housing, Languages, and Justice. In coordination with CAP national and PTOs, policy recommendations to meet the needs of off-reserve and non-Status Indigenous people are being developed. This process requires the support of Parliament to facilitate the implementation of recommendations.

COVID-19 Response:

CAP has submitted recommendations for both round 1 and 2 of the “Urban Indigenous Response Fund” process. Identified needs among off-reserve and non-Status communities totalled over \$16 million. So far, it was announced that \$5.4 million in funding would be provided. While this initial funding allocation is an important measure to support off-reserve and non-Status Indigenous people, significant gaps remain in the services accessible to our constituents.

Services required include transportation, personal protective equipment (PPE), medication, food, and a range of other supports that can assist Indigenous people in self-isolation, or who are experiencing economic hardship due to COVID.

CAP was not invited to participate in discussions on pandemic response measures. This was rooted in the “Distinctions-Based Approach”, which caused COVID funding for urban and off-reserve Indigenous communities to lag far behind allocations for streams allocated to the 3 “Distinctions-Based” organizations and their affiliates.

1. Reform the “Distinctions-Based Approach” to end the exclusion of off-reserve and non-Status Indigenous people, by explicitly acknowledging off-reserve/non-Status communities as a distinct group:

Inclusive co-development of legislation means consulting with representatives of off-reserve, non-Status, Métis and Southern Inuit peoples. These voices have been missing from such initiatives as COVID-19 pandemic response measures, Bill C-92 on child and family services and Bill C-91 on Indigenous languages.

The government must consider the unique needs of the off-reserve and non-Status populations. CAP is the chosen representative organization for rights-holding peoples across the “distinctions-based categories”, including First Nations people who reside off-reserve and are registered yet may or may not have band membership, non-Status Indians, Métis peoples and Southern Inuit.

New approaches founded on inclusion, self-determination and UNDRIP would support the renewal of Canada’s relationship with our peoples and work towards the goal of reconciliation with all Indigenous peoples.

RECOMMENDATION: Reform the “Distinctions Based Approach” to respect the self-determination of Indigenous peoples and their right to select their own representative organizations, by including CAP and PTOs in co-development of policy.

2. Provide sustainable capacity support funding for non-Status and off-reserve representative organizations.

Canada has a long history of funding NIOs as representative bodies for Indigenous peoples. Capacity building for CAP and PTOs is an essential foundation for implementing the CAP-Canada Political Accord and developing strategies to respond to the 2016 Daniels decision. It will also empower CAP as a strong partner for achieving federal commitments to act on UNDRIP, the Truth and Reconciliation Commission’s Calls to Action and the National Inquiry into Missing and Murdered Indigenous Women and Girls’ Calls for Justice.

CAP and its PTOs have critical roles representing the rights, needs and interests of our peoples, yet without adequate investments we are falling behind. If chronic underfunding continues, so will under-representation of these voices in federal policy and program development.

Government benefits from our perspectives and solutions to create change, close socio-economic gaps, and strengthen urban and rural Indigenous communities. Stable funding supports the necessary operational capacity to represent and meet the needs of our grassroots constituency.

RECOMMENDATION: Support capacity-building in off-reserve and non-Status Indigenous communities with an investment of \$5 million per year in ongoing support funding, and \$2m per year for 10 years to support Political Accord implementation.

3. Co-Develop Strategies to include CAP constituents in programming for Indigenous people, with an initial concentration on post-secondary education supports.

The Royal Commission on Aboriginal Peoples (RCAP), the Daniels case and Missing and Murdered Indigenous Women and Girls (MMIWG) inquiry have brought to light the gaps in access to services faced by the off-reserve, Métis and non-Status populations.

RCAP recommended equity among Aboriginal peoples, and “rules of access that give an equal chance for physical and social health to all Aboriginal peoples.”⁵

At the Federal Court in Daniels, Justice Phelan observed the consequences of federal exclusion “produced a large population of collaterally damaged people...” as a result of being “deprived of programs, services and intangible benefits recognized by all governments as needed.”⁶

The National Inquiry into MMIWG directed legal imperatives that “all programs must be no barrier, and must apply regardless of Status or location” (Call for Justice 1.1) and for “substantive equality in the funding of services for Indigenous women, girls, and 2SLGBTQQIA people... regardless of jurisdictional lines, geographical location, and Status affiliation or lack thereof” (Call for Justice 3.6).⁷

A number of key federal programs continue to have barriers for residence or Status affiliation such as the Post-Secondary Student Support Program, the Non-Insured Health Benefits for First Nations and Inuit, and the University and College Entrance Preparation Program.

To narrow the post-secondary education gap for the Métis, non-Status and off-reserve populations, the Federal Government must begin to invest in expanding post-secondary student support. Data shows that 52.1% of non-Status Indigenous people between 25-64 had a post-secondary qualification, falling far short of the 64.7% of the non-Aboriginal population.⁸ Other indicators also show poorer outcomes: the non-Status population had an unemployment rate of 12.7% and a median income of \$26,145, compared to 7.4% unemployment and \$34,604 median income for the non-Aboriginal population.

RECOMMENDATION: Invest \$5M in strategy co-development with CAP on program expansion and \$20M in programming allocations to serve Métis, non-Status and off-reserve youth post-secondary needs over 5 years.

4. Support Programming for urban Indigenous communities

Multiple CAP PTOs are already engaged in program delivery, providing much-needed services to the off-reserve community in culturally-safe housing, employment training, languages and family supports, while other PTOs are looking to develop this capacity.

Increased funding under the Urban Programming for Indigenous Peoples (UPIP) program, with set-aside allocations for organizations serving our constituency, would build community-based programs to address unmet needs, such as youth programming, addictions services and community wellness

⁵ Royal Commission on Aboriginal Peoples, Report of the Royal Commission on Aboriginal Peoples, (1997) Vol. 3 c. 2.4, at 205.

⁶ 6 Daniels FCA at para 70.

⁷ National Inquiry into Missing and Murdered Indigenous Women and Girls, Reclaiming Power and Place: The Final Report, Executive Summary, (2019)

⁸ Statistics Canada, The educational attainment of Aboriginal peoples in Canada, (2018) Catalogue no. 99-012-X2011003.

planning. In addition, CAP also urges that the Federal Government ensure funding intended to support newly registered Indians under Bill S-3: An Act to amend the Indian Act (elimination of sex-based inequities in registration) is directed to off-reserve organizations that provide services where they live.

The Parliamentary Budget Officer found that only about 2% of those who become eligible for Status under Bill S-3 will move onto reserve and that First Nations with custom membership rules would “exclude virtually all additional individuals granted Status”. Many people affected by Bill S-3 look to CAP’s PTOs as their political representatives and service providers. CAP calls for \$20M in annual set-aside allocations, under the UPIP program, for CAP’s PTOs to run urban and rural community-based programs and services for Indigenous families.

RECOMMENDATION: Create a \$20M annual set-aside allocation under the UPIP program, for urban and rural community-based programs and services for Indigenous families run by CAP PTOs.

5. Create a set-aside under the National Housing Strategy for off-reserve and non-Status Indigenous housing.

CMHC figures show 18% of all Aboriginal households live in Core Housing Need (CHN), compared to 12% of non-Aboriginal Canadian households. Affordability is the primary driver of CHN for the off-reserve Aboriginal population, with 42,000 households spending 50% or more of their income on shelter.⁹

CAP is calling for a carve-out of funding within National Housing Strategy (NHS) programs to protect and develop housing for Indigenous families in cities and rural communities. RCAP recommended support for off-reserve Aboriginal people by reinstating and increasing funding for new social housing and mortgage subsidies through CMHC, providing greater autonomy and flexibility to Aboriginal service deliverers and expanding rental subsidies (Recommendation 3.4.14).¹⁰

Within existing NHS funds for new construction financing, housing repair and renewal, rental construction financing, the government can remove barriers for competitive proposal-based processes to target funds where they are needed the most in the off-reserve Indigenous community. CAP is also seeking a federal commitment to co-developing an Urban/Rural Indigenous Housing Strategy. Indigenous housing solutions must be led by Indigenous communities affected.

So far, the NHS has focused Indigenous strategy development through “distinctions-based” NIOs, to the exclusion of off-reserve and non-Status representative organizations. A community-driven strategy is required for assessing and meeting the specific housing needs of Indigenous people in rural and urban settings.

⁹ Canada Mortgage and Housing Corporation, The Housing Conditions of Off-Reserve Aboriginal Households, (2019), online: <https://www.cmhc-schl.gc.ca/en/data-and-research/publications-and-reports/socio-economichousing-conditions-off-reserve-aboriginal-household>

¹⁰ RCAP, Vol. 3 c. 5 at 384-385.

RECOMMENDATION: Invest \$5 million over 3 years for strategy co-development and \$100M annually in dedicated carve-outs for non-Status, Métis and Southern Inuit families under the National Housing Strategy (NHS).