

# Indigenous Policy in Alberta: Considering the First 100 Days of UCP Rule

by Creezon lamsees

**IT HAS BEEN A WHIRLWIND** 100 days for the United Conservative Party (UCP) in Alberta following the formal return of conservatism in April. For regular Albertans, the UCP government has kept its promises by repealing the Carbon Tax, providing tax breaks for resource development companies, cancelling **projects** supported by the previous New Democrat government and threatening funding restrictions to just about every sector in the province. For Indigenous people, the UCP's process of undoing work done in the last four years has created a sense of unease and uncertainty.

**Indigenous individuals and communities will be impacted greatly by the ongoing repeals and impending policy shifts arising from campaign promises.**

In anticipation of further changes, it is worth considering what our communities stand to lose and what it will mean to be Indigenous in Alberta into the future.

## CAMPAIGN & POST-CAMPAIGN PROMISES

Towards the end of the UCP **platform**, they outlined how they would become a “true partner” with Indigenous communities. Providing a \$10 million litigation fund for pro-development Nations, advocating for a new consultation process with federal government and streamlining how Indigenous people receive federally funded services like health and education were all pitched to the public pre-election. However, since forming government, much of the discussion has focused on a proposal not included in their platform.

Leaders, Indigenous and non, have latched onto the notion of creating a Crown Corporation called the Aboriginal Opportunities Corporation (AOC), or recently the Indigenous Opportunities Corporation (IOC). This corporation is said to be supported by one billion dollars in loan guarantees and funded with \$24 million over 4 years. The high-level goal for the IOC is to allow communities greater participation in resource development projects. Engagement is ongoing, and details remain scant, but the province seems poised to create avenues for parties to borrow and trade equity in **projects**.

**If successful, it will no doubt provide an avenue for communities to become more involved in resource development. But it will also come with costs.**

The approach of Canada, provinces and territories towards Indigenous people has always been one of give a little and take a lot. They take the lands through Treaty, and give us the Indian Act as a consolation prize (though certainly debatable to call it a prize!).

The same is true with the IOC. First Nations and Métis communities had something taken in order for this new opportunity to exist.

In this case, it was the vastly popular and successful Alberta Climate Leadership Plan, funded through the Alberta Carbon Tax. The plan promised to return 3% of revenues to Indigenous communities through the Indigenous Climate Leadership Initiative (ICLI) and other programs. In 2016/2017 ICLI began with \$3 million for two pilot programs, rose to \$35 million in 2017/18 for seven programs and in 2018/19 topped out at over \$50 million. With the usual intake start date of April 1, 2019, long past without any word and the websites being removed from the internet, it is reasonable to assume that the programs have been shuttered. This translates to \$90 million in interest free grants for Indigenous communities and organizations gone before the summer was over. These funds assisted communities in creating climate plans, provided short-term employment, created solar panel arrays, evaluated energy efficiency of buildings, retrofitted existing structures and supported new builds including schools and houses.

### **Results like those funded from ICLI, which improve Indigenous life while protecting the environment will be hard to duplicate.**

#### **THE FUTURE OF CONSULTATION IN ALBERTA?**

A second loss for Indigenous communities is a provincial engagement and consultation process that was beginning to shift the relationship. The former government was committed to visiting every Indigenous community for one-on-one meetings to create meaningful dialogue. Within its first four months, the new government has retrograded to large consultations, a process in which the leadership of a large number of Nations wrestle for a chance to speak. Previous governments, both federal and provincial, have tried to utilize similar processes, only to be chastised by the Supreme Court of Canada. But this actually resembles an older attempt. In 2013, Alberta tried to “streamline” consultation by creating Bill-22: The Aboriginal Consultation Levy Act (2013). This bill sought to have Alberta collect funds from industry on behalf of Indigenous communities, then distribute said funds through the Aboriginal Consultation Office (ACO). In essence, placing the province, who is also the regulator, as the broker, in an already contentious consultation relationship.

### **This approach created an environment where consultation was viewed as more of a transactional process, rather than a relationship building and educational one.**

Under the provisions of Bill 22 the requirements of consultation for industry simply would have been an upfront fee based upon project scale. Thankfully the NDP government repealed that problematic approach, and surely the new UCP government would learn from that misstep.

Indeed, the current government has chosen a different approach to “fixing” consultation with Indigenous groups. In their platform, the UCP wrote; a UCP government will “Add economic development rights to the preamble of the Alberta Aboriginal Consultation policy to explicitly consider support from Indigenous communities for projects that affect them.”

### **But what does this change mean, and what are the ramifications?**

The First Nations Consultation Policy, and the Métis Settlements Consultation Policy, provide a high-level guide for how consultation will take place in the province. These policies were developed through engagements with communities and when compared side-by-side, appear quite similar for the swapping of Treaty Rights for Harvesting Rights, respectively. They provide guidelines for how parties will act, and how “meaningful” engagement can be carried out.

It is possible that by adding economic development rights to the policy, the entire process has been returned to a transactional nature. Industry could be given an opportunity to argue that their assistance in economic development in Indigenous communities should be seen as an aspect of consultation and a mitigation effort for any abrogation of rights (or, “accommodation”). If future environmental or cultural issues arise in a project and possible legal action taken, the courts may look

favourable on any mitigating steps by the proponent. Sources from within the government confirm that a huge hurdle encountered in the creation of the IOC was the realization that providing loans to communities was not the same as fulfilling the honour of the Crown. In fact, the SCC **has ruled** that the duty to consult can not be outsourced to third parties.

### **REINFORCING THE EDUCATION DISPARITY**

There has been a great deal of feather ruffling in the summer of 2019 and politicians have hinted that more changes are coming to the health and education policies regarding Indigenous people. The government **made a clear point** that “Indigenous students [will] have access to a provincial education system (paid for with federal dollars) that enables students to succeed.” It is well known that the federal government chronically underfunds on-reserve education, and in a recent case it was an underfunding of at minimum **\$3000 per student**. A large amount of this underfunding is tied to differing tuition systems, and the unwillingness of the province to apply their programs in Indigenous communities.

**The disparity in service is not only a lack of federal funding, but a hypocritical system that mandates provincial standards without provincial monies.**

The issue becomes even more compounded when students leave community to attend a provincial school. Funding begins to move more freely out of the community, and less is left for those remaining students. By choosing to emphasize that education will be paid for by federal dollars, the UCP is embracing the system of disparity, and signalling a reluctance to pay for anything deemed a federal responsibility.

### **BACKWARD MOMENTUM**

**Any headway Indigenous people were making regarding the jurisdictional hot-potato in the last four years will soon be scrapped.**

The battle to receive prompt and equitable services will continue to escalate. Initiatives that were intended to alleviate barriers will be tied up or defunded. A return to a state of have and have-not communities battling for partnership (or at least meeting time) with the province appears poised. The most vulnerable in our communities, those targeted by racism, misogyny and homophobia, are also likely to be threatened under this government. Finally, a policy of government assisting those that are willing to support their agenda appears on the horizon. There are warning signs in the fight taking place with the **Alberta Teachers Association (ATA)** and the unions. In Alberta, one should expect that Indigenous people be returned to the margins of society, blurred from the past, present and future of Alberta.