

# CIRN-ACK! Leaked Government document outlines the Indian Department's "Indigenous Agenda" and "Accomplishments" for 2019-2020

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**IN THE SPRING OF 2018**, Yellowhead Institute published our inaugural research report, *Canada's Emerging Indigenous Rights Framework: A Critical Analysis*. The report meant to assess the Trudeau government's progress and plans for Indigenous policy and law. We found that Canada was attempting to entrench a limited form of Aboriginal self-government that would devolve administrative responsibilities to communities but neglected to accompany those responsibilities with a transfer of resources and power.

While the Indigenous Rights Framework legislation was ultimately shelved, many of the related proposals eventually materialized. One major change was the splitting of the Department of Indian and Northern Affairs into the Department of Crown-Indigenous Relations and Northern Affairs Act (CIRNAC) and Department of Indigenous Services (ISC).

The law enabling the "new" department mandates that every year CIRNAC must report to Parliament "on the measures taken to advance self-determination and reconciliation with Indigenous peoples."

**While not expected to be tabled for a few more weeks, Yellowhead has an advance copy of the Report. It offers insights into CIRNAC's vision of reconciliation, self-determination and its accomplishments over the course of the past year.**

There are few surprises here. If anything, the *First Annual Statutory Report* reveals a remarkable lack of progress on Indigenous issues over the past year. What progress or accomplishments there are, revolve around funding commitments made by CIRNAC, proposed ideas that are still in development, or phantom initiatives with no evidence to support the department's claims. In many ways the Report reflects the limited attention Indigenous issues received during the 2019 Federal Election campaign into the present.

It appears as though the "most important relationship" has been downgraded.

## **CANADA'S "INDIGENOUS AGENDA"**

Leading the Government's approach to what they call the "Indigenous Agenda", CIRNAC has three core objectives: 1) closing socio-economic and service gaps (a goal shared with ISC), 2) acknowledging and addressing the past, and 3) creating conditions for self-determination and renewed relationships. The First Annual Statutory Report spends 18-pages on what they view as accomplishments in each area.

Paired with these areas of supposed progress - each addressed below - are definitions of self-determination and reconciliation. These are also revealing, given the chasm between their interpretation and the general understanding among Indigenous peoples.

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For instance, while the Truth and Reconciliation Commission defined reconciliation as restitution, the transformation of institutions and relationships of respect and dignity, CIRNAC prefers ongoing dialogue, “decolonizing federal structures”, and meaningful consultation and accommodation. The department omits restitution all-together. Meanwhile self-determination, viewed consistently by First Nations as inherent, is perceived by CIRNAC as delegated though “treaties (modern and historic), self-government agreements and taking part in decision-making processes.”

These conceptual gymnastics frame how CIRNAC interprets their accomplishments.

### **“CLOSING SOCIO-ECONOMIC GAPS”**

The shortest of the three sections in the report is on “closing the gap” as National Chief Perry Bellgarde likes to say. It is focused entirely on the response to COVID-19. While somewhat odd considering the pandemic emerged at the end of the reporting year, it is also likely that there is a report with more information from ISC on service delivery and closing gaps circulating as well.

In any case, addressing socio-economic gaps relating to the pandemic revolves exclusively around the funding provided for Indian Act First Nations (\$195 million), self-governing First Nations (\$20 million), Inuit (\$45 million), Metis organizations (\$30 million), and urban communities and regional organizations (\$15 million).

**While this funding was delayed, it was eventually welcomed by communities; even with tremendous uncertainty about what comes next. There is no indication in the annual report that funding will re-occur as the pandemic goes on. Nor is there reporting on the rationale, impact, or adequacy.**

That being said, Yellowhead has published work from [Robert Houle and Shiri Pasternak](#) on the limitations of the resources, as well as [Gina Starblanket and Dallas Hunt](#), on the failure of the federal government to take seriously treaty obligations in their funding allocations.

Basically it is not clear from the report how the COVID-19 community support fund was designed to close socio-economic gaps, nor whether it made any progress. Perhaps it is too soon to tell.

### **“ACKNOWLEDGING AND ADDRESSING THE PAST”**

While certainly more expansive, the section on “Addressing the Past” reveals an incredibly shallow understanding of the harm of ongoing settler colonialism in Canada. The report cites barely a sentence on “land management, the appropriations of reserve lands, control over Indigenous identity and residential schools” as policies once implemented that continue to have a negative impact. This so-called acknowledgement is painfully inadequate, obscuring the scope of historic and contemporary violence and theft that Canada—and the department — is responsible for.

(In some ways, the lack of progress reported by CIRNAC in this annual report makes more sense against the backdrop of their apparent ignorance).

Nonetheless, over the past year, there have been three areas of focus for CIRNAC: 1) the Missing and Murdered Indigenous Women and Girls Inquiry, 2) Implementation of the *United Nations Declaration on the Rights of Indigenous Peoples* (UNDRIP) legislation, and 3) Space for Indigenous people in downtown Ottawa.

On the MMIWG Inquiry, CIRNAC outlines funding that has been allocated to support a Commemorative Fund and build new shelters (no update on the completion was included). There is also the creation of a Federal-Provincial-Territorial Deputy Ministers Committee, which met last in May 2020 and provided updates on their plans, which have not been made public (if they exist). There is also the establishment of a national investigative oversight body at the Royal Canadian Mounted Police, which as far as we can tell, does not actually exist. Finally, there has been limited movement on a National Implementation Plan (NAP), which has been long awaited to breathe life into the Inquiry’s recommendations.

While CIRNAC cites the pandemic as the reason for delay, there was nearly a year between the release of the Calls to Justice and the arrival of COVID-19 in Canada.

As for the UNDRIP legislation, there is likewise little to speak of. The Prime Minister has committed to introducing the legislation by December 2020, and until then, CIRNAC is researching models and benchmarks. For full disclosure, staff from the Minister of Justice's office visited Yellowhead Institute for a preliminary discussion on this legislation in February 2019. (Yellowhead will also be publishing a Special Report on the implementation of B.C.'s legislation in Fall 2020). In any case, all we can say at this point - and all CIRNAC can say - is that this legislation is in development.

Finally, somehow, there is the "Indigenous Space" accomplishment. CIRNAC reports that "the Government of Canada and Indigenous partners have made some progress to establish an Indigenous presence in 100 Wellington Street" but that the delay stems from a lack of consensus among the Indigenous partners on how to include the Algonquin (on whose land Ottawa sits). This from a department that continues to insist on "distinctions-based policy" that recognizes only three general Indigenous groups (First Nations, Metis and Inuit) and no specific nations.

Like closing the socio-economic gaps section of the report, there is an absence of any initiatives that have any meaningful impact on the lives of Indigenous people. Funding for shelters is critical, yes, but does virtually nothing to actually end systemic violence. Aside from that, proposing a National Action Plan, UNDRIP legislation, or a single building on unceded Algonquin land, are remarkably weak accomplishments.

#### **"CREATING CONDITIONS FOR SELF-DETERMINATION AND RENEWED RELATIONSHIPS"**

The last piece in this section of the report revolves around the efforts to collaborate on revitalizing Indigenous governing institutions. This is the longest section and understandably so given CIRNAC's mandate. But it is also here where the spirit of the Indigenous Rights Framework lives on in the government's approach. While rejected by Indigenous leaders, it is clear that the policy apparatus to devolve responsibility to First Nations remains.

**That apparatus begins with mechanisms of co-development. It is undeniable that CIRNAC has facilitated more meetings and granted more access. The department notes bi-lateral agreements with the Assembly of First Nations (AFN), Metis National Council (MNC) and Inuit Taparasiit Kanatami (ITK). Meetings, however, do not equate to progress.**

There seems to have been the least amount of movement with the AFN, CIRNAC only able to mention "identify(ing) next steps for existing joint priorities as well as potential new priorities for discussion." Regarding the ITK relationship, CIRNAC notes apologies for harmful effects of federal policies imposed in the Qikiqtani region from 1950 to 1975 and the mis-management of the tuberculosis epidemic from the 1940s-1960s. Finally, the relationship between CIRNAC and MNC seems to be the most prolific, with a housing agreement, self-government talks, Crown-Metis Summits, and plans on Metis justice initiatives.

Independent of these discussions are the many negotiation tables spearheaded by CIRNAC and which help create their new model of self-government. Initially called Recognition of Indigenous Rights and Self-Determination discussion tables, these more local discussions have led to "81 signed preliminary-type agreements." Since these agreements are confidential it is unclear what they contain, though most address issues of Indigenous title and/or self-government, creating a new type of certainty regime for resource development.

It is at these tables where CIRNAC is crafting a new, broader self-government policy. Already they have created a B.C. based replacement of the *Inherent Right Self-Government and Comprehensive Claims* policies with the *Recognition and Reconciliation of Rights Policy for Treaty Negotiations* in British Columbia. While there has been little progress under the new policies, CIRNAC notes that "where there is interest, Canada is ready to discuss using the approaches found in the BC policy with negotiation partners elsewhere in the country."

Paired with this push for self-government are new fiscal policies that Yellowhead discussed

in the Rights Framework Report and will investigate further with the upcoming “Red Paper: Cash Back” in Winter 2021. While these policies are lauded in the report, there are lingering questions around how much input First Nations have actually had. Fiscal relations, after all, have traditionally operated on a take-it-or-leave-it basis.

#### **WHEN PARLIAMENT RETURNS**

There is more in the report not included here. Importantly, and consistent with its mandate, CIRNAC has a lengthy section on Northern Affairs, including a discussion of modern treaty implementation, devolution in Nunavut, Food Security and the Arctic Policy Framework. (These issues require an additional Brief). But there is also a lengthy discussion on consultation protocols and climate change mitigation that requires more scrutiny, too.

Eventually, when the House of Commons sits, MPs will most definitely be preoccupied with pandemic politics and on-going scandals. But this report will also be presented, sometime between now and October. It will be an opportunity - for Indigenous MPs in particular - to ask why, by even CIRNAC's own estimate, a mere 12 of the TRC's 91 Calls to Action have been implemented after 5 years (in December, **Yellowhead found** just nine have been implemented). Or where the evidence is for the progress noted on the MMIWG Calls to Justice.

**They may also like to know why the rejected Rights Framework process appears to be proceeding, what happened to the National Treaty Commission the Liberal government proposed during the campaign, or how the department somehow lacks a basic understanding of colonialism.**

These are questions that Indigenous leadership may consider asking as well. At the least, the often divided and siloed communities and regional organizations will have a more “global” view of where CIRNAC is now and where the department is headed. Though I think it's fair to say that, as usual, it's in the wrong direction.