



## **Position Paper: Access to Opportunity**

**5<sup>th</sup> National Indigenous Women's Summit  
Toronto, March 6-8, 2017**

# **The 5<sup>th</sup> National Indigenous Women's Summit**

## **Empowering Indigenous Women Now and Into the Future**

### **Position Paper: Access to Opportunity**

#### Introduction

The challenges of gaining access to opportunity are numerous for Indigenous women seeking education, employment, entrepreneurial ventures, and trades training and apprenticeships. Services in urban centres may be more comprehensive and accessible than those available to a women living on reserve in a rural or remote area, but there are still systemic issues within Canada that contribute to tangible and intangible barriers. As Bob Joseph explains, the roots of these barriers can be traced back to early European settlement in Canada.<sup>1</sup> The archaic anthropological view of Indigenous peoples as a non-society because they lacked the governmental and legal structure of European civilization became the backbone of law and policy which continues, through precedent, in our current court cases concerning Indigenous peoples. Assimilation policies, residential schools, enfranchisement, and of course the *Indian Act*, are the root causes of the current poverty, dependency mentality, poor health, and lower than average educational achievements and other social indicators.

#### Barriers faced by Indigenous Women in Accessing Opportunity

Barriers faced by Indigenous women seeking to earn a living include literacy and education barriers. The 2011 Census<sup>2</sup> provides some comparison data between Indigenous and non-Indigenous people (Table 1). It also shows a trend indicating that younger people may be achieving higher academic benchmarks than their older cohort. The 2016 Census data will be available Fall 2017 and a more definitive and current pattern may be seen.

**Table 1: Comparison of Indigenous and Non-Indigenous Age Groups and Education level by age. Canada 2011.**

	35-44 years		55-64 years	
	Indigenous	Non-Indigenous	Indigenous	Non-Indigenous
Completed High School	68%	88.7%	58.7%	79.5%

Please Note: 36/863 inhabited reserves were incompletely enumerated. That data is missing from the 2011 database used to tabulate the statistics for all three tables.

Table 2 is a comparison of Education levels achieved between Indigenous and non-Indigenous populations. Table 3 breaks down these numbers into Indigenous men and women, providing the additional comparison of two age cohorts. It can be seen that a greater percentage of the

**Table 2: Comparison of Indigenous and Non-Indigenous Proportion of Education achievements according to level in the 25-64 age bracket. Canada 2011.**

	25-64 years	
	Indigenous (3.7% of total population in this age group)	Non-Indigenous
Postsecondary qualification	48.4%	64.7%
Trades	14.4	12.0
College Diploma	20.6	21.3
University certificate or diploma below bachelor level	3.5	4.9
University Degree	9.8	26.5
No certificate, diploma or degree	28.9	12.1
High School diploma or equivalent	22.8	23.2

younger age group has completed postsecondary qualifications and this proportional increase is greater for Indigenous women than for men.

**Table 3: Proportion of Indigenous people by levels of educational attainment, sex, and age groups, Canada 2011.**

Selected levels of educational attainment	Indigenous Women		Indigenous Men	
	35-44 years	55-64 years	35-44 years	55-64 years
Postsecondary qualifications	55.3	46.5	48	47.1
Trades certificate	9.9	10.1	19.3	22.3
College Diploma	27.1	21.4	18.3	14.1
University certificate below bachelor	4.6	4.8	2.7	3.2
University degree	13.6	10.2	7.6	7.6

Cultural differences, racism, and discrimination become barriers to employment. Poverty and inadequate housing are additional hurdles to overcome from childhood to adulthood. Attending school with a hungry stomach and inadequate clothing makes it more difficult to learn. Later in life, a young woman trying to support her family has to somehow juggle care and feeding of children with pursuing training and/or education. Social determinants are integrated and inseparable from the ability to go to school, to receive training and apply for jobs.

The violence experienced by First Nation women can be attributed in part to the poor economic status of First Nation people. Limited outcomes and opportunities are also a

reflection of discrimination that prolong the devaluation of First Nation women. If Canada is to address issues of violence against Indigenous women, the government and the private sector need to recognize the role they play in perpetuating barriers to women.

### The United Nations Declaration on the Rights of Indigenous Peoples

The UN Declaration was adopted in 2007 and finally given full support without qualification by Canada in May 2016. It is meant “to spur countries to change their laws, practices, and programs.”<sup>3</sup> The significance of this document for Indigenous women is that it affirms the existing right of Indigenous women:

- to be part of decision-making in matters that will affect their rights
- to have nationality and the right to belong to an Indigenous community or nation, based on traditions and customs of the community or nation involved
- to all levels and forms of state education without discrimination and the ability to share with future generations their histories, languages, oral traditions, philosophies and literatures
- to have equal rights with men when it comes to participating in politics and public affairs, and representing their communities and countries
- to have nation state take measures to improve their economic and social conditions

Additionally, UNDRIP affirms the Indigenous people’s ability to protect land and water for future generations. It may afford the opportunity to have more control over resource development in and near their communities, including how wealth is shared. UNDRIP also affirms Indigenous people’s rights to self-determination, to pursue economic and social development, to create partnerships that are collaborative, cooperative, and affirms that

free, prior and informed consent is necessary when deciding whether and when development should proceed.<sup>4</sup>

The Charter of the United Nations indicates that all levels of government within Canada are required to respect and promote human rights. Laws have to abide by the standard of human rights set in the UN Declaration. A harmonized cohesive whole is necessary to overcome the discrimination rampant within the framework of the Government of Canada and within the private sector.

Saganash and Joffe (2005) explain that the purpose of International human rights law is to safeguard individuals and peoples, “including those who are the most vulnerable.”<sup>5</sup> This certainly encompasses Indigenous people who are thought to be “the most vulnerable and dispossessed peoples in the world.”<sup>6</sup> Additionally, within Canada we have many different Indigenous groups comprising peoples who are unique from each other with their own languages, culture, and laws. This contributes to the difficulty of developing solutions since a one-size-fits-all will not work: “It is neither logical nor scientific to treat them as the same peoples as their neighbours, who obviously have different languages, histories, and cultures.”<sup>7</sup>

When addressing these priorities, it is important to remember that the social determinant silos of health, child welfare, education, housing, and so on, are inter-related and interconnected. There is a clear requisite of collaboration and cooperation across governments, agencies, the private sector, and Indigenous peoples to be able to combat systemic discrimination and disregard of human rights.

## Child Welfare

Within the child-welfare silo, the travesty of injustice to Indigenous children and families is compounded further by the lack of action on the part of the Government of Canada in responding to the Human Rights Tribunal.<sup>8</sup> Wien, Blackstock, Loxley & Trocmè point out that “First Nation child welfare agencies have shown that they are much better than provincial agencies in finding ways to care for children in need within their own communities, and in providing services that are culturally appropriate”<sup>9</sup> but they need adequate resources to do so. Even with a Human Rights Tribunal lighting a fire under the Government of Canada, the adequate resources are not there.

## Access to Health Care

Consider the recommendations of the Auditor General’s report of 2015 which focussed on access to health services for First Nations in Manitoba and Ontario: Health Canada was admonished to play a key role in establishing effective coordinating mechanisms to respond to priority health issues. And yet policies still exist that do not accommodate Indigenous people’s right to health and well-being.

## Adequate Funding for Education

A 2011 Senate Report concerning First Nations education noted: “Of significant concern to witnesses, and to members of the Committee, is that the federal funding formula does not take into account all of the educational components required to operate a modern school system.”<sup>10</sup> A study of Ontario’s educational policies and statements revealed many aspects that

were discriminatory in nature, similar to those found in the decision of the Human Rights Tribunal concerning discrimination in child welfare practices.<sup>11</sup>

#### Discrimination Within the Criminal Justice System

The 2016 Auditor General's report on Indigenous offenders demonstrates that more efficient clerical processes may improve timely access to services for Indigenous offenders. Currently, the delays result in limiting access to the benefits of early parole (such as a half-way house and supervised re-entry into a community). The Prime Minister's mandate to close the gaps within the criminal justice system related to mental health care is another indicator of known persisting discrimination.

#### Canada's Full Support of UNDRIP through a Law and Policy Review

So integral is UNDRIP to all endeavors concerning Indigenous people that the Truth and Reconciliation Commission has indicated it as a fundamental principle and guideline for reconciliation. UNDRIP, which delineates basic Indigenous rights, and rests within broader identified human rights, should guide every law and policy that touches the lives of Indigenous peoples in Canada. The Assembly of First Nations has identified the Federal Law and Policy Review as an important undertaking in the harmonizing of Canadian laws with the standards set out in UNDRIP. The mandate given by the Prime Minister to the Minister of Justice and the Minister of Indigenous and Northern Affairs regarding this review is "to ensure that the Crown is fully executing its consultation and accommodation obligations, in accordance with its constitutional and international human rights obligations, including Aboriginal and Treaty rights."

The challenge lies in holding the government to their mandate. Because of the inevitable time lag that occurs following such a pronouncement, it becomes the role of Indigenous people and organizations to incorporate and remind, at every opportunity, the Rights of Indigenous Peoples and the TRC: Calls to Action. Even so, it is not a straight road to implementation – the “desk-clerk law”<sup>12</sup> and systemic discriminatory attitudes are prevalent and pervasive within government offices administering programs that are supposed to meet basic human needs.

### Conclusion

The National Indigenous Women’s Summit may unearth many practical efforts to address priority issues of access to opportunity. Undergirding them all should be a commitment to promoting the United Nations Declaration, to be relentless in quoting Indigenous rights to support change. These rights do not flow from UNDRIP. These are inherent rights.

## Endnotes

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<sup>1</sup> Joseph, B. (Oct 1, 2013). 8 Basic Barriers to Aboriginal Employment. *Working Effectively With Indigenous Peoples*. Blog. Accessed 17-02-13 via: <http://www.ictinc.ca/8-basic-barriers-to-aboriginal-employment>

<sup>2</sup> Census Data on this issue from 2016 has not been released yet.

<sup>3</sup> The Canadian Research Institute for the Advancement of Women – FemNorthNet. 2016. Fact Sheet #10 Resource Development in Northern Communities: Local Women Matter. Social Sciences and humanities Research Council of Canada.

<sup>4</sup> The Canadian Research Institute. 2016.

<sup>5</sup> Saganash, R. & Joffe, Paul. 2005. Eliminating State Discrimination. *Lectures (OAL) at Sheldonian Theatre, Oxford, on Indigenous Peoples and International Human Rights Eliminating State Discrimination*. Accessed 17-02-11 via <http://www.gcc.ca/archive/article.php?id=229>

<sup>6</sup> Saganash & Joffe. 2005.

<sup>7</sup> E.-I. Daes, *Explanatory note concerning the draft declaration on the rights of indigenous peoples*, U.N. Doc. E/CN.4/Sub.2/1993/26/Add.1, at 2, para. 7 Accessed 17-02-11 via

<sup>8</sup> Canadian Human Rights Tribunal (January 26, 2016). File: T1340/7008.

<sup>9</sup> Wien, F., Blackstock, C., Loxley, J. & Trocmè, N. (2007). Keeping First Nations children at home: A few Federal policy changes could make a big difference. *First Peoples Child & Family Review: A Journal on Innovation and Best Practices in Aboriginal Child Welfare Administration, Research, Policy & Practice* 3(1), p. 12.

<sup>10</sup> Canada Senate (2011). Reforming First Nations Education: From Crisis to Hope, *Report of the Standing Senate Committee on Aboriginal Peoples*.

<sup>11</sup> Nishnawbe Aski Nation. (2016). Streamlining Delivery of and Access to Counselling Services for First Nations Students.

<sup>12</sup> Desk-clerk law is a euphemism describing a public servant doing his/her job, oblivious to mandates, legislation, and policies that have fundamentally changed the context within which they do their jobs. It indicates a gap in communication and accountability.