



## **kiskinohtahêw (s/he guides someone)**

*proposing a legal remedies action plan to support and implement the United Nations Declaration on the Rights of Indigenous Peoples (UNDRIP) in alignment with Canadian law*

**CAAN & the HIV Legal Network**  
*UNDRIP Action Plan*



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**MARCH 2025**

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# Objective

Produce an action plan that outlines in more detail specific measures (e.g. amendments to colonial laws or policies, new laws or policies) to ensure that Canada's laws are consistent with the *UN Declaration on the Rights of Indigenous Peoples* ("UN Declaration"), based on CAAN's priorities for action to ensure Canada is in line with the *United Nations Declaration on the Rights of Indigenous Peoples Act* (S.C. 2021, c. 14) ("UNDRIP Act") as it relates to Indigenous people living with HIV, hepatitis C (HCV), sexually transmitted and blood-borne infections (STBBI), and tuberculosis (TB). Details about the development of UNDRIP are found in Appendix A.

## Key articles of the UN Declaration of relevance to CAAN's priorities

### ARTICLE 2:

Indigenous peoples and individuals are free and equal to all other peoples and individuals and have the right to be free from any kind of discrimination, in the exercise of their rights, in particular that based on their indigenous origin or identity.

2. States shall take effective measures, in consultation and cooperation with the indigenous peoples concerned, to combat prejudice and eliminate discrimination and to promote tolerance, understanding and good relations among indigenous peoples and all other segments of society.

### ARTICLE 7:

1. Indigenous individuals have the rights to life, physical and mental integrity, liberty and security of person.

2. Indigenous peoples have the collective right to live in freedom, peace and security as distinct peoples and shall not be subjected to any act of genocide or any other act of violence, including forcibly removing children of the group to another group.

### ARTICLE 18:

Indigenous peoples have the right to participate in decision-making in matters which would affect their rights, through representatives chosen by themselves in accordance with their own procedures, as well as to maintain and develop their own indigenous decision-making institutions.

### ARTICLE 15:

1. Indigenous peoples have the right to the dignity and diversity of their cultures, traditions, histories and aspirations which shall be appropriately reflected in education and public information.

### ARTICLE 19:

States shall consult and cooperate in good faith with the indigenous peoples concerned through their own representative institutions in order to obtain their free, prior and informed consent before adopting and implementing legislative or administrative measures that may affect them.

**ARTICLE 21:**

1. Indigenous peoples have the right, without discrimination, to the improvement of their economic and social conditions, including, inter alia, in the areas of education, employment, vocational training and retraining, housing, sanitation, health and social security.

2. States shall take effective measures and, where appropriate, special measures to ensure continuing improvement of their economic and social conditions. Particular attention shall be paid to the rights and special needs of indigenous elders, women, youth, children and persons with disabilities.

**ARTICLE 22:**

1. Particular attention shall be paid to the rights and special needs of indigenous elders, women, youth, children and persons with disabilities in the implementation of this Declaration.

2. States shall take measures, in conjunction with indigenous peoples, to ensure that indigenous women and children enjoy the full protection and guarantees against all forms of violence and discrimination.

**ARTICLE 23:**

Indigenous peoples have the right to determine and develop priorities and strategies for exercising their right to development. In particular, Indigenous peoples have the right to be actively involved in developing and determining health, housing and other economic and social programmes affecting them and, as far as possible, to administer such programmes through their own institutions.

**ARTICLE 24:**

1. Indigenous peoples have the right to their traditional medicines and to maintain their health practices, including the conservation of their vital medicinal plants, animals and minerals. Indigenous individuals also have the right to access, without any discrimination, to all social and health services.

2. Indigenous individuals have an equal right to the enjoyment of the highest attainable standard of physical and mental health. States shall take the necessary steps with a view to achieving progressively the full realization of this right.

**ARTICLE 39**

Indigenous peoples have the right to have access to financial and technical assistance from States and through international cooperation, for the enjoyment of the rights contained in this Declaration.

**ARTICLE 40:**

Indigenous peoples have the right to access to and prompt decision through just and fair procedures for the resolution of conflicts and disputes with States or other parties, as well as to effective remedies for all infringements of their individual and collective rights. Such a decision shall give due consideration to the customs, traditions, rules and legal systems of the indigenous peoples concerned and international human rights.

**ARTICLE 44**

All the rights and freedoms recognized herein are equally guaranteed to male and female indigenous individuals.

# CAAN Recommendations in Key Issue Areas

## KEY FOCUS AREA 1: Provision of healthcare services

(Articles 2, 7, 15, 18, 19, 21, 22, 23, 24, 39, 40, 44):

*The evidence of discrimination and inequities in the provision of healthcare services to Indigenous people in Canada — and the corresponding disparities in health outcomes — has been highlighted and acknowledged time and time again by Canadian state and non-state actors. Indigenous health systems and traditional ways of being and knowing are crucial elements in ensuring the health and well-being of Indigenous populations in Canada. Ultimately, the provision of healthcare services is a key area of action to improve the situations of Indigenous people and to reduce transmission rates of HIV, HCV, and STBBI.*

### CAAN Recommendations:

- Conduct a review of health systems across Canada to identify barriers, forms of discrimination, and shortcomings in the provision of healthcare to Indigenous Peoples and set realistic targets to provide support with a focus on Indigenous health agency, accessibility and coordination particularly regarding HIV, HCV, STBBI, TB, and 2SLGBTQQIA+ health (**Health Canada; Indigenous Services Canada**).
- Utilize funds from the Indigenous Health Equity Fund to address disparities in access to quality healthcare and close gaps in health outcomes for Indigenous people across Canada, including by:

*"If you live in your First Nation, access to the same services that other community members receive in the mainstream health system is nowhere near where it should be.*

*I fight for my right to health care in my community, and I shouldn't have to travel outside the community to get the same access, to be healthy, to feel healthy, and to feel whole again." - November 14th Consultation participant*



- Increasing access to Indigenous mental health infrastructure and services, including substance use treatment and harm reduction services that are culturally safe;
- Increasing funding to support Indigenous health leaders to design health services, train Indigenous health professionals, and work with health partners on Indigenous priorities within traditional Indigenous health systems, including expanded access to traditional medicines and to Indigenous navigators to help people deal with the healthcare system in a culturally safe manner;
- Working with provincial and federal health ministries to examine ways in which traditional Indigenous ways of knowing and doing can be integrated within health policies in all points of healthcare services;
- Providing sustainable core funding and other material support to CAAN and other community-based Indigenous organizations in order to improve access to health information and peer supports for Indigenous people living with HIV, HCV, STBBI, TB, and members of the 2SLGBTQQIA+ community;



*"In Manitoba, the new provincial government is expanding care to Aboriginal Health and Wellness & funding of non-traditional health care workers, like Indigenous health care HIV/STBBI doula. We're seeing a shift from traditional, clinical care to kinship relationships, going out into community and offering health care outside of the traditional box of clinical care."*

**- November 7th Consultation participant**

*"We're seeing that people are less likely to go to formal community health centres for a variety of reasons, and so they're just not going to get tested, or they're not going to get treated. On the other hand, we have Mino Pimatisiwin Sexual Wellness Lodge, where it's actually a community of people, and we have the clinical part, we have nurses that come in at certain times, and they do the testing and treatment piece. But it's in the community. It's not in sort of like an area that people have to navigate to get to, and then we have cousins, aunties, who do the intervention work, providing that sort of cultural support. And then we have, you know, ceremonies, and we have traditional medicines."*

**- October 31st Consultation participant**

- Increasing access for Indigenous people to new healthcare technologies, including long-acting injectable HIV treatment and PrEP, and improve equitable access to telehealth for isolated and remote Indigenous communities;
  - Devising targeted measures with accompanying budgetary commitments to improve access to healthcare services for remote, isolated, rural, Northern, and fly-in Indigenous communities, including testing, treatment, and counselling for HIV, HCV, STBBI, and TB;
  - Training researchers, educators, ethics committees, medical professionals, and healthcare providers on cultural competency, systemic racism, Indigenous rights and their implications for sexual and reproductive health, HIV, HCV, STBBI, TB, and 2SLGBTQQIA+ rights (**Health Canada; Indigenous Services Canada; Public Health Agency of Canada**).
- Launch a comprehensive national commission/inquiry to examine the disproportionate number of Indigenous people acquiring and living with HIV, HCV, STBBI, and TB, and the health priorities of those who identify as 2SLGBTQQIA+ (**Health Canada; Indigenous Services Canada**).

*"I live in northeastern Alberta, where there are no programs and services available for HIV-positive people. One of the things that I'm finding is that health professionals inside the system know who is HIV-positive and getting care and treatment because they're getting medication sent to those locations. But they're not doing anything proactively to help create peer support networks of those people. I wish I had a network of peers that I could work with in my own area, and we could sit and lick each other's wounds and help each other out, and, you know, like, commiserate. All that good stuff, and, you know, celebrate. But I don't know who is in this area, and I can't just go and ask the health system say, Hey, can you give me a list? They're not going to give me a list."*

**- November 14th  
Consultation participant**



- Convene federal, provincial, and territorial Ministers of Health, as well as First Nations health authorities and a wide cross-section of Indigenous leaders, to discuss means of rendering HIV medication, as well as HIV prophylaxis like PrEP and PEP, fully funded by all provincial and federal health insurance plans (**Health Canada; Indigenous Services Canada**).
- Increase funding to provide HIV self-testing kits to remote and rural Indigenous communities, including linkage to accessible programs and services, treatment, counselling, peer supports, and relevant legal information (**Health Canada; Public Health Agency of Canada; Indigenous Services Canada**).
- Develop culturally relevant educational materials in conjunction with CAAN and other Indigenous community-based organizations on sexual and reproductive health for Indigenous people living with HIV, HCV, STBBI, and TB, and members of the 2SLGBTQQIA+ community, including materials and programming tailored to Indigenous youth for social media platforms (**Public Health Agency of Canada**).
- Review health transfer payments made by the federal government under the Canada Health Act to ensure consistency with the UNDRIP (**Health Canada; Indigenous Services Canada**).

*"With the recent increase in rates of STBBI, we need to provide HIV self-testing kits to promote in rural indigenous communities. But it's not enough that we are going to make it more available so others can do this in privacy. It is very important to make sure there's a support piece right from the beginning that we are going to pick up a kit, and you're going to go to your bathroom, and you're going to get whatever results you're going to get, and then what do you now? It's like tossing a child into open water and forcing them to learn how to swim. Where's the support? Where's the actual peer support in communities that have the access to self-test kits? Make sure that peers are there, so they know that if they get the results that just starts closing in the walls in that dark box, they don't stay in that dark box, that they know that we are here. We have complete readiness to just envelope you and provide support." - November 14th Consultation participant*





- Convene federal, provincial, and territorial Ministers of Health, as well as First Nations health authorities and a wide cross-section of Indigenous leaders, to review public health legislation nationwide to proscribe the use of detention as a response to individuals who have contracted infectious diseases and/or have experienced challenges in adhering to prescribed treatment or medication (**Public Health Agency of Canada, Health Canada**).
- Support an environmental scan of data collection systems and collectors in the healthcare system to ensure they are respecting the principles of OCAP in relation to the information and data collected and stored by third-party data companies (**Health Canada**).
- Increase funding under the National Housing Strategy and the Urban, Rural and Northern Indigenous Housing Strategy devoted to quality and affordable housing for Indigenous people (**Housing, Infrastructure and Communities Canada**).
- Increase funding aimed at combatting homelessness amongst Indigenous people, by funding culturally safe and Indigenous-led shelters and supportive housing services, including specific resources for key demographics such as women, girls, and 2SLGBTQQIA+ people fleeing violence and/or experiencing housing precarity, particularly in northern, remote, and rural communities and work with provincial and territorial authorities to ensure that people are not barred from shelters or housing services based on substance use (**Indigenous Services Canada, Housing, Infrastructure and Communities Canada, Women and Gender Equality**).

## Department of Justice Canada's 2023 UNDRIP Act Action Plan

### Key relevant recommendations:

- Fully implement Joyce's Principle and ensure it guides work to co-develop distinctions-based Indigenous health legislation to foster health systems that will respect and ensure the physical, mental, and cultural safety and well-being of Indigenous peoples. Co-development of the distinctions-based Indigenous health legislation will be undertaken with First Nations, Inuit, Métis, intersectional partners, and provinces and territories to inform potential legislative options (**Indigenous Services Canada**).<sup>[1]</sup>



- Work with partners, including Indigenous organizations, health systems partners, educational institutions and engage with provincial and territorial governments, to develop a longer-term national approach to addressing anti-Indigenous racism in health systems to support health equity and accessibility for Indigenous peoples. This work includes:
  - Developing a longer-term national approach to improving access to culturally safe health services and integrating cultural and patient safety in health systems;
  - Introducing measures to increase accountability within health systems;
  - Support for and capacity building in health human resources;
  - The longer-term approach will be informed by the ongoing National Dialogues, the renewal of Canada's Anti Racism Strategy, and the co-development of distinctions-based Indigenous health legislation in order to fully implement Joyce's Principle (**Indigenous Services Canada, Health Canada**).[2]
- Work with provinces and territories to improve fair and equitable access to quality and culturally safe health services, including through seamless service delivery across jurisdictions and meaningful engagement and work with Indigenous organizations and governments (**Indigenous Services Canada, Health Canada**).[3]
- Improve health equity through access to culturally appropriate health and wellness services and support for holistic approaches to healing, including community-based, land-based, culturally relevant and trauma-informed mental health services addressing – among other things – suicide and addictions crises (**Indigenous Services Canada**).[4]
- Continue to support Friendship Centres and other urban Indigenous organizations and coalitions in their work to identify and address local needs and priorities of urban/off reserve Indigenous peoples in a manner that is safe, secure, accessible and culturally relevant (**Indigenous Services Canada**).[5]
- Work with partners and Indigenous organizations on mental health promotion programming and prevention initiatives, including using distinctions-based approaches where feasible to support culturally safe, relevant and trauma-informed initiatives (**Public Health Agency of Canada**).[6]

- Support initiatives aimed at increasing First Nations control over service delivery, which represents an opportunity to foster a more accessible healthcare system for the communities they serve, ensuring that health services are high quality and culturally safe (**Indigenous Services Canada**).[7]
- Collaborate with First Nations organizations on a sustainable approach to transfer First Nations health programs and services through various health transformation initiatives, including in the following jurisdictions: British Columbia, Manitoba, Nova Scotia, Quebec, Ontario, and Saskatchewan (**Indigenous Services Canada**).[8]
- Support the improvement of health equity for Inuit and furthering the advancement of Inuit self-determination over health services, including by applying an Inuit Nunangat approach as an important priority for Inuit partners and a longstanding priority of the ICPC (**Indigenous Services Canada**).[9]



*"It's a colonial system, and we're Indigenous people, and we are coming from Indigenous organizations and expecting a colonial system to give us what we want. They're not going to give up their power. Government is never going to give up their power. So, we're going to take it and we're going to do it with this UNDRIP consultation and the recommendations and demands that we have. Because if we continue to ask the government and expect that they're going to help us, they're not (...) We're going to have to help ourselves, and we're going to do that by taking back power, consulting with leadership within our own organizations and our own tribal councils, our own leadership ways."*

**- November 14th  
Consultation participant**

*"In Northern Ontario, there is a transfer from Health Canada taking care of Indigenous health to an Indigenous health authority (The Sioux Lookout First Nations Health Authority); we need to look at the successes happening in different regions and share this with other regions."*

**- November 14th  
Consultation participant**

- Recognizing that a cooperative federal-provincial-territorial-Indigenous approach is necessary for the implementation of Canada's international human rights obligations, make best efforts to encourage provinces and territories to advance the implementation of these obligations in respect of Inuit both within and outside of Inuit Nunangat, including to improve social conditions, such as access to and delivery of health services.
  - This includes using available levers and developing clear and robust strategies, and new approaches where necessary and appropriate (**Various departments**).[10]
- Consistent with the commitment to co-develop approaches for the implementation of the right to self-determination and rights to health affirmed in the UN Declaration, Canada will ensure work continues with Métis governments and representative institutions to realize Métis-specific equal access to health services, improve equitable health outcomes for Métis people, and ensure the Métis Vision for Health informs the co-development of the distinctions-based Indigenous health legislation (**Indigenous Services Canada**).[11]

## KEY FOCUS AREA 2: Drug Policy

(Articles 2, 7,15, 19, 22, 24, 39, 44):

*Drug policy in Canada is rooted in racism and colonialism, and Indigenous communities have experienced long histories of drug policy harms. Among Indigenous people living with HIV in Canada, transmissions are attributable to injection drug use at a much higher rate than for non-Indigenous populations. On the whole, injection drug use, HIV, and HCV disproportionately affect Indigenous people and communities across Canada. Consequently, drug policy reform is an essential area of action to address the situation of Indigenous people in Canada when it comes to HIV, HCV, and STBBI.*

### CAAN Recommendations:

- Decriminalize and remove all sanctions for the simple possession of all drugs through the repeal of section 4 of the *Controlled Drugs and Substances Act* (CDSA) and section 8 of the *Cannabis Act* and fully expunge all criminal records from previous offences related to these activities (**Justice Canada; Public Safety Canada**).

- Decriminalize “necessity trafficking,” wherein individuals incur criminal liability for the selling and sharing of a controlled substance for subsistence purposes, to support the costs of their own personal drug use, or to provide a safe drug supply, by amending section 5 of the CDSA (**Justice Canada**).
- Implement non-custodial alternatives to incarceration for people who use drugs, including by making conditional sentences available for drug-related offences, in collaboration with Indigenous, Black, and other communities disproportionately affected by drug offences (**Justice Canada; Correctional Services Canada; Public Safety Canada**).
- Support the implementation and scale up of key interventions for people who use drugs, including by liaising with provincial and territorial counterparts to expand access across Canada, providing necessary legislative and regulatory exemptions to existing federal drug laws, and covering funding gaps where they exist (**Health Canada; Public Health Agency of Canada**):



*“You know that people have been using drugs for millions of years, and now it’s criminalized for the last, what, 150 or 100 years? And you know what kind of impact is that having on our communities? Well, that’s why our young people are dying from using the drugs and dying alone because they’re taking those drugs and they always think they’re going to be safe, but they aren’t. People end up using alone to protect themselves, due to the stigma, discrimination, and criminalization.”*

**October 31st Consultation participant**

*“I need to speak on my frustration and my understanding when it comes to drugs. In rural communities and First Nations communities, the condemning, shaming approaches are harmful.*

*We need to give the most effective approaches to bringing people towards healing rather than shaming, to seeing rather than just reacting and blanketing our people in more shame, more condemning behaviours.*

*Banning people from reserves, getting the police to come in and lay charges, or filling correctional and penitentiary institutes with more of our people and more shame, more condemning behaviours, won’t move us towards healing at all.”*

**November 14th Consultation participant**

- Support the implementation and scale up of key interventions for people who use drugs, including by liaising with provincial and territorial counterparts to expand access across Canada, providing necessary legislative and regulatory exemptions to existing federal drug laws, and covering funding gaps where they exist (**Health Canada; Public Health Agency of Canada**):
  - Collaborate with provincial and territorial health authorities to expand availability and accessibility of needle and syringe distribution programs, particularly for Indigenous people.
  - Streamline and remove the need for case-by-case exemptions for supervised consumption services, and collaborate with provincial and territorial health authorities to expand the availability and accessibility of a diversity of supervised consumption services, including supervised inhalation services, culturally safe services, and youth- and women-centred services, particularly in northern, remote, and rural communities.
  - Provide additional funding to community and public health bodies to provide accessible drug checking services to people who use drugs.
  - Fund expanded distribution of naloxone kits to Indigenous communities.
  - Remove regulatory barriers to prescribing controlled substances, and work with provincial and territorial counterparts to broaden access and availability of opioid agonist therapy and other legal, regulated alternatives to the toxic drug supply ("safe supply") for people who use drugs.
- Establish a single public health legal framework for controlled substances that enables the legalization and regulation of all controlled substances (**Health Canada; Justice Canada**).
- In collaboration with Indigenous organizations, develop best practice guidelines on Indigenous cultural programming for people who use drugs, to be shared with provincial and territorial counterparts (**Health Canada; Indigenous Services Canada**).
- Scale up funding to Indigenous community groups and organizations to provide accessible, high-quality, gender-sensitive, and culturally safe harm reduction services and programs for Indigenous people, reflecting the diverse traditions, cultures, languages and values of the different Inuit, Métis, and First Nations communities living in Canada (**Health Canada**).

- Increase funding and supports for trauma-informed and culturally safe drug education and substance use treatment, rehabilitation, and social reintegration services for Indigenous people, including significant investments in traditional healing practices (**Health Canada; Indigenous Services Canada**).
- Work with provincial and territorial counterparts to prioritize investments in and increase capacity of publicly funded, voluntary drug treatment programs to reduce barriers such as cost, long wait times, and restrictive eligibility criteria, in response to calls for involuntary drug treatment, which violates the rights and autonomy of people who use drugs and could lead to greater risk of overdose and other harms (**Health Canada**).

*"We need to increase and sustain funding for traditional and healing practices. There are almost ZERO culturally safe treatment options in Ontario. Most of them have barriers such as no co-morbidities, 90 days substance-free, etc. Kinship-based care and support systems, community care, are so vital. If they don't have that, people will struggle."*

**November 7th Consultation participant**

*"Forced treatment is a human rights issue and a violation of our self-determining rights, especially without access to traditional healing lodges and in-patient treatment at places like CAMH (months to years-long waitlist) is not even an option. Forced treatment is not the solution."*

**November 7th Consultation participant**

## KEY FOCUS AREA 3: Sex Work

(Articles 2, 7, 15, 18, 19, 21, 22, 39, 44):

*Indigenous women, trans, gender-diverse, and Two-Spirit people who sell or trade sex are over-represented in street-level sex work and consistently experience more intense levels of surveillance, harassment, and profiling by law enforcement, which exposes them to increased risks to their security and unwarranted interactions with the criminal legal system. The criminalization of sex work in Canada has had the effect of exposing sex workers to heightened precarity, the threat of criminalization, stigma, discrimination, and other harmful consequences, including increased barriers to health and social services and the reduced ability to take measures to protect their health and safety. Decriminalizing sex work is an important means of reducing the risk of HIV, HCV, and STBBI among sex workers, including Indigenous sex workers.*



## CAAN Recommendations:

- Repeal all sex work-specific offences in the *Criminal Code*, namely:

- Section 213(1): the “stopping traffic offence”;
- Section 213(1.1): the “communication offence”;
- Section 286.1: the “purchasing offence”;
- Section 286.2: the “material benefit offence”;
- Section 286.3: the “procuring offence”; and
- Section 286.4: the “advertising offence,”

and use existing criminal laws of general application to address violence and exploitation in the sex industry (**Justice Canada**).

- Cease law enforcement raids and detention of sex workers and those who provide supports and services to sex workers based on anti-trafficking and anti-sex work laws and work with provincial and territorial policing authorities to cease such campaigns (**RCMP; Public Safety Canada**).
- Work with provincial and territorial counterparts to initiate consultation process with sex workers, including Indigenous sex workers and sex worker-led organizations from across the country, to discuss legal frameworks regulating sex work (e.g. in relation to employment, public health, occupational health and safety standards, and youth protection) that are centred on human rights, sex worker autonomy, and labour protections (**Women and Gender Equality; Employment and Social Development Canada; Health Canada**).

*“We’re going around different avenues to hustle. We’re finding different ways, but so we don’t get charged, so we don’t get caught in a raid. No matter how you look at it, it’s still harmful. We’re still in a huge blanket of shame on an already shame-filling experience. (...) You’re going to put me in jail because I’m in the wrong and then we’re called all these really nasty names in community. (...) Don’t condemn me for doing it, ask my why I’m doing it and how you can better support me.”* **November 14th Consultation participant**





- Provide long-term funding to support sex worker-led Indigenous organizations to address human rights violations, improve social support systems, and furnish people with networks of community support, including outside major urban centres (**Women and Gender Equality; Indigenous Services Canada**).

*"Some Indigenous organizations see all sex work as exploitation, and we need to highlight the autonomy of sex workers. Sex work is not all exploitation, but it can be exploitative if sex workers aren't supported."*

**- November 7th consultation**

- Provide long-term funding to support sex worker-led Indigenous organizations to address human rights violations, improve social support systems, and furnish people with networks of community support, including outside major urban centres (**Women and Gender Equality; Indigenous Services Canada**).
- Invest in Indigenous community initiatives that seek to address homelessness and poverty and that provide services and measures of assistance directly to sex workers, including income support, housing, childcare, education, job training, and treatment and support for substance use (**Women and Gender Equality; Indigenous Services Canada**).
- Invest in initiatives to support sex worker-led Indigenous organizations and Indigenous people with lived experience of sex work to design and deliver training to challenge stigma and discrimination against sex work and to provide community awareness and education to Indigenous communities and to health and social services about the realities of sex work (**Women and Gender Equality; Indigenous Services Canada**).
- Provide long-term funding to support sex worker-led Indigenous organizations to address human rights violations, improve social support systems, and furnish people with networks of community support, including outside major urban centres (**Women and Gender Equality; Indigenous Services Canada**).



## Department of Justice Canada's 2023 UNDRIP Act Action Plan

### Key relevant recommendations:

- Through the Aboriginal Community Safety Planning (CSP) Initiative, continue to:
  - Support Indigenous-led efforts and community-based solutions that identify and address the unique safety and well-being priorities of Indigenous communities in a holistic and culturally relevant manner through the creation of community safety plans;
  - Support Indigenous rights, including rights to self-determination and self-government, by seeking community-informed and full consent before beginning the CSP process, which is foundational to its success;
  - Support capacity building within Indigenous communities as they deliver projects they have identified as a priority; and
  - Support action to address violence against Indigenous women and girls (**Public Safety Canada**).[12]



## KEY FOCUS AREA 4: Discrimination

(Articles 2, 15, 21, 22, 39, 40, 44):

*Discrimination against Indigenous people, including women, girls, children, youth, Elders, members of the 2SLGBTQQIA+ community, and Indigenous people living with HIV (IPHAs), undermines health, well-being, and the enjoyment of human rights guaranteed under the UNDRIP. Furthermore, discrimination, bias, and racism undermine effective responses to HIV, HCV, and STBBI and contribute to stigma and harmful consequences for people experiencing them. Ultimately, closing the gaps in health outcomes between Indigenous and non-Indigenous people in Canada must necessarily involve combating discrimination and prejudice, which continue to undercut efforts to foster reconciliation and safeguard the rights of Indigenous people.*

## CAAN Recommendations:

- Review federal funding arrangements to address issues of systemic discrimination and chronic underfunding in the provision of essential services (i.e. health, education, employment, housing, social services, etc.) to Indigenous people across the country, with a particular focus on Indigenous women, girls, children, youth, Elders, and 2SLGBTQQIA+ people (**Indigenous Services Canada**).
- Convene federal, provincial, and territorial ministers responsible for justice and human rights, along with a wide cross-section of Indigenous organizations, to develop a nationwide plan to combat rising hate and homophobia against diverse members of the 2SLGBTQQIA+ community and to take effective measures to combat prejudice and eliminate discrimination, including culturally relevant awareness campaigns to combat hate and homophobia (**Canadian Heritage; Justice Canada; Women and Gender Equality**).
- Incorporate an Indigenous human rights approach in conjunction with Indigenous community actors into the development of a national public education strategy aimed at combating discrimination against IPHAs and Indigenous members of the 2SLGBTQQIA+ community in employment, education, policing, the judicial system, and in accessing health and other services, by IPHAs and Indigenous members of the 2SLGBTQQIA+ community (**Canadian Heritage; Justice Canada; Women and Gender Equality**).
- Devote additional funding to support the work of Indigenous community-based organizations and peer networks in their efforts to address homophobia, stigma, and hate against members of the 2SLGBTQQIA+ community (**Women and Gender Equality; Indigenous Services Canada**).
- Intensify and develop cooperation and provide support to CAAN leadership in addressing issues of violence, racism, discrimination, and stigma against people living with HIV, HCV, STBBI, and TB, and 2SLGBTQQIA+ populations (**Canadian Heritage; Justice Canada**).



## Department of Justice Canada's 2023 UNDRIP Act Action Plan

### Key relevant recommendations:

- Co-develop a comprehensive approach to combat anti-Indigenous racism in support of Canada's new Anti-Racism Strategy (**Canadian Heritage**).[13]
- Provide program funding to support community-based initiatives to combat anti-Indigenous racism (**Canadian Heritage**).[14]
- Guided by the findings of the Final Report of the National Inquiry into Missing and Murdered Indigenous Women and Girls and the Métis-specific calls for Miskotahâ, work to end systemic violence against Indigenous women, girls, and gender-diverse people by:
  - Continuing to implement the Federal Pathway to address the root causes of violence against Indigenous women, girls, and 2SLGBTQI+ people;
  - Developing a comprehensive Violence Prevention Strategy to expand culturally relevant gender-based supports for Indigenous women, children, families, and 2SLGBTQI+ people facing gender-based violence; and
  - Working in partnership with Indigenous Peoples and organizations, as well as provincial and territorial governments, and other partners to develop effective and culturally appropriate solutions for people seeking to escape abusive environments including access to safe housing, shelters, counselling services, legal assistance, and healing projects, across the country including on reserve, in the north, and in urban areas (**Various departments**).[15]
- Continue to inform the implementation of the National Action Plan to End Gender-Based Violence (GBV), particularly Pillar 4, in conjunction with Indigenous Peoples. The National Plan to End GBV was launched in November 2022 and includes a pillar specifically on Indigenous-led approaches that is complementary to and aligned with the 2021 Missing and Murdered Indigenous Women, Girls, and 2SLGBTQI+ People National Action Plan. Pillar 4 recognizes the importance of preventing and addressing GBV against Indigenous women, girls, and 2SLGBTQI+ people through Indigenous-led, gender-based approaches (**Various departments**).[16]

- Implement Pillar 3 of the Federal 2SLGBTQI+ Action Plan, “Support Indigenous 2SLGBTQI+ Resilience and Resurgence,” focusing on advancing rights and equality of Indigenous 2SLGBTQI+ people through collaboration and cooperation with Indigenous peoples and national Indigenous organizations, governments, and representative institutions, while recognizing distinct cultural approaches to identity (**Various departments**).[17]

## KEY FOCUS AREA 5: Criminalization of HIV Non-Disclosure

(Articles 2, 7, 15, 19, 21, 22, 24, 44):

*The criminalization of HIV non-disclosure is a legal phenomenon that disproportionately affects Indigenous people in Canada, particularly Indigenous women. The current legal regime fuels many human rights violations and has no discernible public health benefits, as studies have demonstrated that criminalization may well disincentivize people from getting tested and knowing their HIV status, as well as impede open communication between people living with HIV and their healthcare practitioners. Reforming the Criminal Code to limit criminalization in the event of non-disclosure is thus necessary to safeguard the rights of people living with HIV, including Indigenous people.*

### CAAN Recommendations:

- Amend the *Criminal Code* to significantly limit criminal prosecutions of HIV non-disclosure, in accordance with the Canadian Coalition to Reform HIV Criminalization’s 2022 Community Consensus Statement, including by:
  - Enacting reforms to ensure that other *Criminal Code* provisions are not used to further stigmatize and discriminate against people living with HIV and STBBI, and limit criminalization to cases of intentional and actual HIV transmission;

*“One of the major barriers to disclosure is fear, which is heightened after HIV diagnosis. The fear of being jailed, the fear of condemnation, are emotionally impactful. It is hard to trust the system because of the risks, the fear of being jailed for unintentionally transmitting. It is heavy and traumatizing. The feeling of being watched and judged by the rest of community, who don’t have the knowledge of the medicine and the science. This is very stigmatizing. It’s hard to break the stigma. There is a risk that this fear and emotional impact will hinder people’s ability to follow treatment.”*

**November 14th Consultation participant**

- Removing HIV non-disclosure from the law of sexual assault, including designation as a sex offender; and
  - Explicitly excluding the possibility of criminal charges related to an allegation of non-disclosure, exposure, or transmission of HIV where someone took reasonable precautions to prevent transmission and/or engaged in activities that, according to the best available scientific evidence, posed no significant possibility of transmission, including: oral sex; anal or vaginal sex with a condom; anal or vaginal sex without a condom while having a suppressed viral load; or spitting and biting (**Justice Canada**).
- In the interim, until law reform has been adopted, convene the federal, provincial, and territorial Ministers of Justice and their respective directors of prosecution to review prosecutorial directives for cases involving allegations of HIV non-disclosure to align with the recommended limits on criminalization, including prioritizing the use of restorative and alternative justice processes where criminal charges are laid (**Justice Canada; Public Prosecution Service of Canada**).
  - Create a mechanism for individuals who have been previously convicted of a criminal offence related to HIV non-disclosure to have their convictions reviewed, and for said conviction to be expunged if it does not fit within the new limitations on the scope of criminalization (**Justice Canada; Public Safety Canada**).
  - Increase the reach of culturally sensitive and culturally relevant public health education campaigns, making sure to adjust public health messaging to promote widespread acceptance and understanding of the latest science behind HIV transmission risk, including scientific evidence on the impact of condom use and of viral suppression (as per the World Health Organization's latest guidance on the matter), beyond the message of "U=U" (**Public Health Agency of Canada**).
  - Create training materials on the scientific risks of HIV transmission and on the social science research on the harms of HIV criminalization for healthcare providers, as well as actors in law enforcement and the criminal legal system (**Public Health Agency of Canada; Justice Canada**).

## KEY FOCUS AREA 6: Criminal Legal & Prison Policy

(Articles 2, 7, 15, 19, 21, 22, 24, 44):

*The mass incarceration of Indigenous people among the Canadian prison population remains one of the most damaging intergenerational legacies of colonialism and residential schools, whose insidious consequences continue to ripple across all areas of society today. Rates of HIV and HCV are high among incarcerated Indigenous people, especially among Indigenous women, and the experience of incarceration contributes to worse health outcomes, including higher risks of HIV, HCV, and STBBI, by cutting individuals off from key community supports and denying or reducing their access to key health and harm reduction services. Therefore, addressing the situation of people experiencing incarceration is a crucial means of tackling the HIV, HCV, and STBBI crisis affecting Indigenous people across Canada.*

### CAAN Recommendations:

- In collaboration with Indigenous groups, develop and implement comprehensive action plans to address issue of anti-Indigenous bias, racism, and profiling in policing at the federal level, and work with provincial and territorial ministerial counterparts and policing bodies nationwide to address discrimination, racism, and profiling (**RCMP; Public Safety Canada**).
- Invest greater resources into mitigating the harms related to interactions between Indigenous people and the criminal legal system, including by funding community-based restorative justice programs, hiring Indigenous court workers, and prioritizing the use of non-custodial sentences (**Justice Canada**).
- Conduct a systematic review to ensure the proper implementation of federal correctional Health Services Standards in all federal institutions, guaranteeing that all people who are incarcerated have access to essential healthcare in prison, including mental health treatment, substance use treatment, and harm reduction services, equivalent to what is available in the community (**Correctional Services Canada; Public Health Agency of Canada**).
- Continue to implement and scale up evidence-based harm reduction policies and programs, ensuring availability and accessibility in all prisons in Canada, in a manner that is responsive to the needs of people who are incarcerated, including:



- Needle and syringe distribution programs;
  - Initiation and continuation of opioid agonist therapy;
  - Safe supply programs;
  - Sterile tattooing equipment;
  - Access to naloxone kits in living units; and
  - Free and easy access to condoms, dental dams, and lubricant (**Correctional Services Canada**).
- Provide all individuals in federal custody with voluntary access to HIV, HCV, and STBBI testing, treatment, and counselling (**Correctional Services Canada**).
  - Collaborate with provincial and territorial health authorities to transfer the authority and responsibility for provision of healthcare to people in federal prison from Correctional Services Canada to provincial/territorial health authorities (**Correctional Services Canada; Health Canada**).
  - Convene meeting of federal, provincial, and territorial ministers responsible for prisons and health to support plans for the transition of prison healthcare to provincial Ministries of Health, and for the development of common minimum guidelines for prison healthcare (**Correctional Services Canada; Health Canada**).
  - Review the *Criminal Code* with a view to reduce the impacts of excessively punitive and severe sentencing laws on Indigenous people, including through the elimination of all remaining mandatory minimum sentences (**Justice Canada**).
  - Prioritize the resourcing of First Nations, Inuit, and Métis governing bodies, communities, and organizations to develop and provide autonomous health services on an in-reach basis to Indigenous people in prisons and prioritize the decarceration of Indigenous people to services in the community, including but not limited to Indigenous-run services under sections 81 and 84 of the *Corrections and Conditional Release Act* (**Justice Canada; Correctional Services Canada; Public Safety Canada**).



- Conduct a review of culturally specific programming for Indigenous people in federal prisons, including based on the concerns raised by the Office of the Correctional Investigator in its annual reports. Ensure that any reforms to such programming are founded on providing holistic, trauma-informed, culturally safe and culturally appropriate care to all Indigenous people who are incarcerated, tailored to the specific needs of different Indigenous groups, and not unnecessarily hindered by administrative or “security”-related obstacles, including:
  - Culturally appropriate harm reduction services and counselling;
  - Dedicated services and programming for Indigenous women and for 2SLGBTQQIA+ people;
  - Proper resourcing, compensation, and reasonable working conditions for Indigenous liaison officers, Elders, peer support workers, and Knowledge Keepers;
  - Indigenous program operating models that are not limited by overly stringent eligibility criteria, which delay and create obstacles to program entry;
  - Elder-driven programming decisions;
  - Proper access to traditional medicines, cultural practices, and spiritual supports (e.g. spaces to conduct ceremonies, like smudging and sweat lodges, drumming circles, tobacco smoking, etc.);
  - Supporting ties between Indigenous community organizations and Indigenous people in prisons throughout the incarceration period and support systems for people in prison before their release to facilitate smoother reintegration into the community (**Justice Canada; Correctional Services Canada; Public Safety Canada**).
- In collaboration with Indigenous organizations, develop best practice guidelines on Indigenous cultural programming and on culturally safe healthcare services in correctional settings to be shared with provincial and territorial counterparts (**Correctional Services Canada**).
- Increase Indigenous representation among federal correctional staff and, in general, provide proper training to all staff – implemented and administered by external actors (with necessary monitoring and evaluation) – in cultural and professional competencies to meet the diverse needs of Canada’s prison population and to foster a culturally safe environment. Such a training should include content on human rights principles, Indigenous cultures, beliefs, and practices, and in-depth training on harm reduction and trauma-informed care (**Correctional Services Canada**).

- Leveraging the First Nations and Inuit Policing Program (FNIPP), engage and work with Indigenous communities and provinces and territories on approaches to enhance policing services that are professional, dedicated, and responsive to First Nations and Inuit communities, with a focus on supporting:
  - Culturally responsive policing in First Nations and Inuit communities;
  - Self-administered policing in First Nations communities;
  - Expansion of the FNIPP to additional First Nations and Inuit communities; and
  - Operational needs for current FNIPP communities (**Public Safety Canada**). [19]
  
- Correctional Service of Canada will continue to:
  - Reduce the disproportionate Indigenous population in correctional facilities through consultation, education, funding, and cooperation for policing and restorative justice initiatives;
  - Expand existing Section 81 Healing Lodge capacity, identify geographical gaps to capitalize on developing additional Healing Lodges, and revisit communities that previously expressed interest in a Section 81 Healing Lodge;
  - Provide effective, culturally competent, and non-discriminatory interventions and reintegration support for Indigenous people in prison;
  - Provide programs, policies and practices designed to respect gender, ethnic, cultural, and linguistic differences and are responsive to the special needs of Indigenous people in prison;
  - Work in collaboration with northern communities and Inuit stakeholders in shaping the Anijaarniq Strategy to address the needs of Inuit in prison to support successful reintegration into their home communities;
  - Promote the Indigenous Offender Reintegration Contribution and review existing recommendations to assist in meeting the reintegration and healing needs of Indigenous people in prison;
  - Provide employment and employability on-the-job and vocational training to Indigenous people in prison through CORCAN;
  - Actively participate in whole of government and pan-Canadian initiatives, such as the Indigenous Justice Strategy and the Federal Framework to Reduce Recidivism;
  - Communicate with the people who have been harmed by crime and give them the opportunity to communicate with the people in prison who harmed them through the Correctional Service of Canada's Restorative Opportunities;

- Improve implementation of the *Gladue* decision and other judicial decisions addressing Indigenous people's incarceration rates and mass incarceration in the criminal legal system, including by increasing funding for *Gladue* reports (**Correctional Services Canada; Justice Canada**).
- Increase accessibility of criminal record suspension, by waiving fees where applicable and by raising awareness about eligibility criteria and supporting applicants in navigating processes, in order to reduce barriers to education and employment (**Public Safety Canada**).

*"In the correctional centre in Iqaluit, all the people inside are Inuit, but the workers are foreigners who don't speak Inuktitut. It's important to be able to speak to a correctional officer in your own language. We need to make changes to certain rules when hiring correctional staff, to make sure they have more language capacity. This would help address discrimination and racism against Inuit people in prison."*

**- November 7th Consultation Participant**

*"People might get on treatment in prison (for HIV or Hepatitis C), and then when they get released they have nothing: no connection to care, no medication, no transitional care upon release. They're released on the street with nothing"*

**- November 7th Consultation Participant**

## Department of Justice Canada's 2023 UNDRIP Act Action Plan

### Key relevant recommendations:

- Increase access to justice for Indigenous people, strengthen communities, and advance self-determination by:
  - Finalizing an Indigenous Justice Strategy, in consultation and cooperation with Indigenous partners, provinces, and territories, that will provide the framework for concrete actions to address systemic discrimination and the overrepresentation of Indigenous people in the Canadian justice system (**Justice Canada and various departments**).
  - Providing on-going support for community-led work and initiatives related to revitalization and enforcement of Indigenous laws and legal orders. (**Justice Canada, Public Safety Canada, and various departments**).<sup>[18]</sup>



- Collaborate with the Learning and Development Branch of Correctional Service of Canada to formally educate staff about Indigenous Peoples; and
  - Proactively incorporate the requirement to consider Indigenous Social History as part of its decision-making framework (**Correctional Service of Canada**).[20]
- Support the safe and successful reintegration of Indigenous people in the criminal justice system into the community by:
  - Looking to reduce overrepresentation of Indigenous people in the criminal justice system by supporting rehabilitation and safer communities (including through culturally appropriate interventions), through the Federal Framework to Reduce Recidivism;
  - Collaborating with stakeholders to provide tailored supports for community reintegration;
  - Continuing to invest in Indigenous-led community corrections programming, through the Indigenous Community Corrections Initiative, to address the overrepresentation of Indigenous people in corrections and the criminal justice system by supporting community-led alternatives to custody and reintegration projects responsive to the unique circumstances of Indigenous people in Canada; and
  - Continuing to support culturally appropriate programs, led and designed by Indigenous organizations, to ensure appropriate attention and accountability towards Indigenous issues in the correctional systems and addressing overrepresentation of Indigenous people in prison, particularly women (**Public Safety Canada**).[21]
- Conclude a Justice and Policing Sub-Accord through the Canada-Métis Nation Permanent Bilateral Mechanism in order to end over-representation, reduce recidivism rates, ensure preventative and Métis culturally responsive restorative justice, achieve equity within Canada's justice system(s) for Métis citizens and advance Métis inherent rights to self-determination and self-government, including, but not limited to:
  - Federal data sharing agreements;
  - Sustainable funding and capacity for Métis governments to support their citizens who are incarcerated, interacting with, and having lived experience in the justice system, through initiatives including but not limited to Métis-specific restorative justice, comprehensive victims, family, and community services and supports, Gladue services, and other programs and services;

- Métis law and legal systems;
- Policing; and
- Other undertakings in relation to advancing the role of Métis governments (**Justice Canada and Public Safety Canada**).[22]

## KEY FOCUS AREA 7: Participation in decision-making + oversight & accountability

(Articles 2, 18, 19, 23, 39, 40, 44):

*Meaningful engagement, involvement, and participation of affected individuals and communities are core principles at the heart of both the struggles for the rights of Indigenous people and the rights of people living with HIV, allowing for richer policy recommendations and solutions that are responsive to lived realities of rights-holders. Oversight and accountability mechanisms are crucial to ensuring proper implementation of state obligations and to ensure that individuals and communities have recourse and remedies in the event where their rights are violated. As a result, participation in decision-making of Indigenous people, IPHAs, and representative community-based organizations, with requisite oversight and accountability mechanisms, should be central to any action plan aiming to uphold the rights of Indigenous people in relation to addressing HIV, HCV, and STBBI.*

### CAAN Recommendations:

- Fund the development of a consultation mechanism with an appointed Indigenous ombudsperson/oversight committee to monitor the meaningful involvement of IPHAs and, more broadly, the Greater Involvement of People living with HIV (GIPA) in the development and implementation of policies and practices that affect Indigenous people living with HIV, HCV, STBBI, TB, and members of the 2SLGBTQQIA+ community, including possibility of recourse, remedy, or accountability measures in case of non-compliance (**Indigenous Services Canada; Health Canada**).

*"We need different structures and processes that are focused on Indigenous frameworks, outside of settler systems. It is frustrating and tiresome to have to wade through settler narratives to get to doing something in the Indigenous way of doing"*

**November 14th**  
**Consultation participant**





- Support recruitment of Indigenous people living with HIV, HCV, STBBI, and TB, and members of the 2SLGBTQQIA+ community on national federal bodies and ethics committees and leadership roles, including Research Chairs at research centres and universities, to ensure meaningful and effective representation (**Natural Sciences and Engineering Research Council; Social Sciences and Humanities Research Council; Canadian Institutes of Health Research**).

## Department of Justice Canada's 2023 UNDRIP Act Action Plan

### Key relevant recommendations:

- Develop coordinated, whole-of-government approaches to the implementation of the right to participate in decision-making related to legislative, policy and program initiatives, consistent with the UN Declaration, including articles 18 and 19, which could include:
  - Elements to ensure relevant processes respect and reflect consultation and cooperation with affected Indigenous people to obtain their free, prior, and informed consent;
  - Measures to address barriers to full and effective participation by Indigenous people, including, for example, in relation to access to information and capacity supports;
  - Identifying and pursuing potential legislative changes and changes to Government of Canada decision-making practices and processes to implement the right to participate in decision-making; and
  - Providing guidance on identifying Indigenous representative institutions for the purposes of implementing the right to participate in decision-making (**Various departments**).[23]





- Strengthen Indigenous people's participation in decision-making through an improved whole-of-government approach to consultation and accommodation that is aligned with the UN Declaration, including by:
  - Co-developing consultation arrangements with Indigenous partners that establish agreed-upon duty to consult and engagement processes, in a manner that is consistent with self-determination objectives and free, prior, and informed consent; and
  - Establishing a permanent Indigenous advisory committee to guide the federal approach to consultation and to explore considerations for an Indigenous-managed consultation capacity support fund (**Crown-Indigenous Relations and Northern Affairs Canada**).[24]
- Utilizing a gender-based lens, develop a strategic and holistic approach to implementing relationship agreements with Indigenous women's organizations to ensure the equal rights of Indigenous women, including First Nations, Inuit, and Métis women. The agreements support these organizations' ability to advocate for Indigenous women's rights, define their own priorities, and partner with federal government departments to ensure programs, policies, and legislation respect/uphold Indigenous women's distinct rights and gendered needs (**Crown-Indigenous Relations and Northern Affairs Canada**).[25]
- Increase the ability of grassroots organizations to bring forward the interests and perspectives of Indigenous women's and 2SLGBTQI+ grassroots organizations' voices to influence the development of federal policy, programs, and legislation (**Crown-Indigenous Relations and Northern Affairs Canada**).[26]
- Strengthen Indigenous engagement by improving bilateral mechanisms with Indigenous partners, improving linkages between federal/provincial/territorial officials and Indigenous representatives across public health and healthcare systems and better aligning the Health Portfolio and Indigenous Services Canada on strategic direction (**Health Canada, Public Health Agency of Canada, Indigenous Services Canada**).[27]

- Establish an independent Indigenous rights monitoring, oversight, recourse, or remedy mechanism or mechanisms to provide Indigenous people with access to and prompt decisions through just and fair procedures for dispute and conflict resolution and effective remedies for infringements/violations of their individual and collective rights. Functions could also include:
  - Advancing, monitoring, and/or reporting on implementation of the UN Declaration and the UN Declaration Act, as part of ensuring accountability;
  - Promoting Indigenous rights through research and education;
  - Advancing initiatives to prevent and end systemic discrimination and other human rights violations experienced by Indigenous people; and
  - Contributing to the goal of rebuilding Indigenous governance and ongoing implementation of international human rights instruments in Canadian law.

Any Indigenous rights mechanism or mechanisms will:

- Be Indigenous-led and include representation from First Nations, Inuit, and Métis and equitably reflect gender and other diversity;
- Be distinctions-based by reflecting the distinct rights, interests, and circumstances of First Nations, Inuit, and Métis;
- Be informed by the customs, traditions, rules, and legal systems and legal understandings of Indigenous Peoples and international human rights;
- Be accessible and easy to use for Indigenous people;
- Be appropriately resourced; and
- Be complementary and not duplicative of other monitoring, oversight, and dispute-resolution mechanisms (**Justice Canada**).[28]



## KEY FOCUS AREA 8: Data Collection

(Articles 2, 15, 18, 19):

*Comprehensive, disaggregated, and inclusive data collection practices are important and necessary tools to inform evidence-based policy measures. Unfortunately, there is a dearth of data concerning the experiences of Indigenous people in Canada with respect to HIV, HCV, and STBBI, and a dearth of distinctions-based data that would help better inform existing and future policy measures in these areas. Therefore, improved data collection measures, policies, and practices will help to better serve Indigenous populations and to target key priority groups.*

### CAAN Recommendations:

- Develop a comprehensive data collection strategy, including through community, on-the-ground data collection, to better understand the realities of Indigenous people living with HIV, HCV, STBBI, and TB, and those who identify as 2SLGBTQQIA+, and to measure the extent of violence, racism, discrimination, and stigma affecting such people, with the goal of improving data collection, analysis, research, and evidence-based policy development across Canada (**Statistics Canada, Indigenous Services Canada**).
- Improve and increase the use of distinctions-based data collection on Indigenous people generally, and, specifically Indigenous people living with HIV, HCV, STBBI, TB and those who identify as 2SLGBTQQIA+ as priority populations (**Statistics Canada; Public Health Agency of Canada, Indigenous Services Canada**).
- Maintain data sovereignty and accessibility of raw data for Indigenous people, including respect for OCAP principles, and remove onerous fees required to access data concerning Indigenous people and communities (**Statistics Canada, Indigenous Services Canada**).

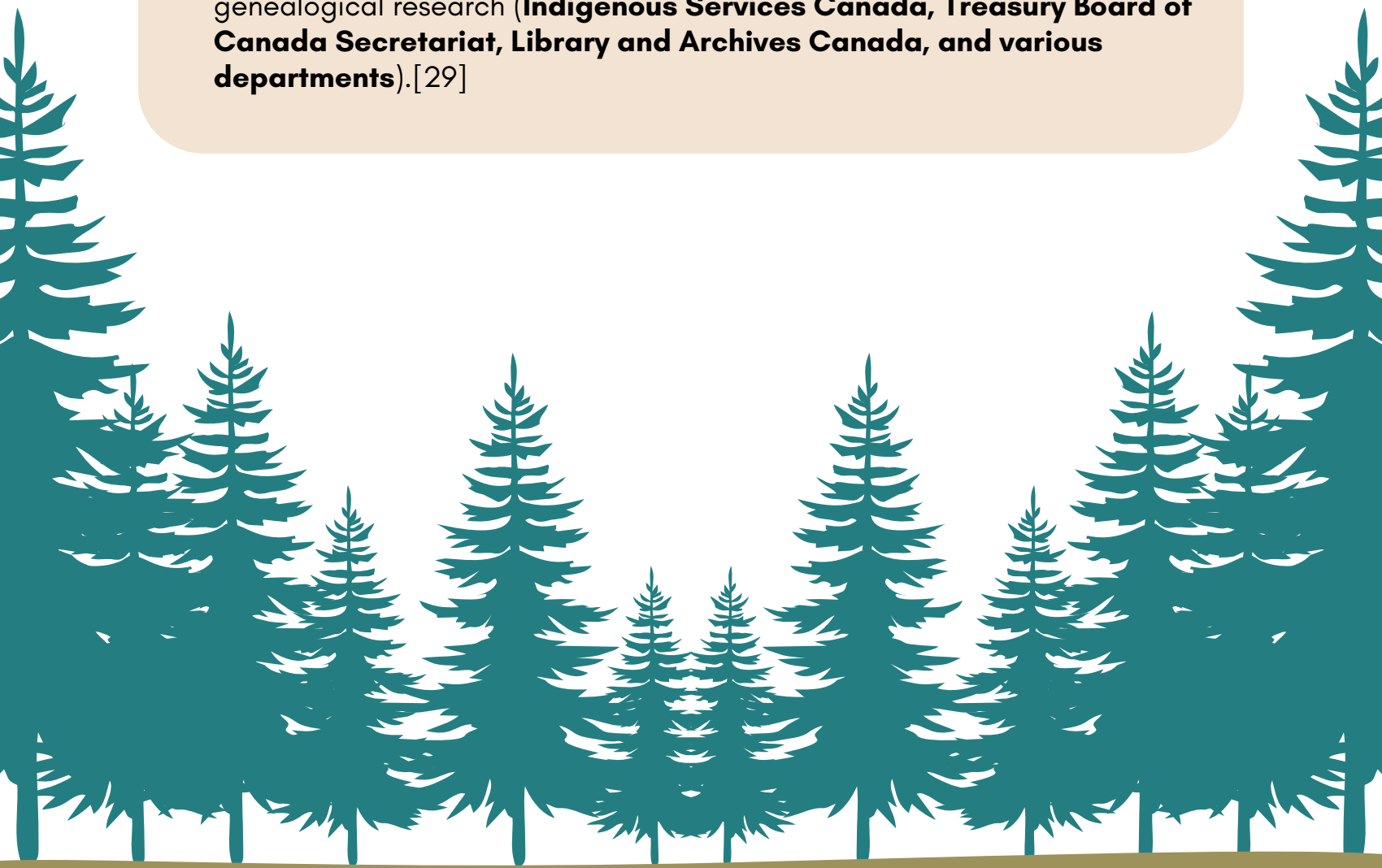
*"We need to see more of that strengths-based data coming showing successes and the programs that are working already, what makes us strong and healthy. We should be studying people that are doing living well with HIV. At PHAC, they study all the comorbidities, and they don't study resilience. We are the evidentiary support that you need to bring in the funding so we can better support those who are struggling."*

**November 14th Consultation participant**

## Department of Justice Canada's 2023 UNDRIP Act Action Plan

### Key relevant recommendations:

- Continue to support Indigenous Data Sovereignty and Indigenous-led data strategies through legislative, regulatory, and policy options to help ensure that First Nations, Inuit, and Métis have the sufficient, sustainable data capacity they need to control, manage, protect, and use their data to deliver effective services to their people, tell their own stories, participate in federal decision-making processes on matters that impact them, and realize their respective visions for self-determination. This should include nation-to-nation, Inuit-Crown, and government-to-government approaches to streamline timely sharing and access to federal data and information holdings with Indigenous partners, while respecting the privacy of individuals. This will support Indigenous jurisdiction over their data and enable Indigenous-led survey and other data collection strategies, such as for the purpose of processing claims; facilitating decision-making; and for genealogical research (**Indigenous Services Canada, Treasury Board of Canada Secretariat, Library and Archives Canada, and various departments**).[29]



# **APPENDIX A:**

## **Development of the United Nations Declaration on the Rights of Indigenous Peoples (UNDRIP)**

The United Nations Declaration on the Rights of Indigenous Peoples (UNDRIP) is a landmark international instrument that sets out the individual and collective rights of Indigenous Peoples. Its development was a lengthy and complex process, reflecting the diverse and often challenging experiences of Indigenous communities worldwide.

### **Historical Context:**

The journey towards UNDRIP began in the early 1980s, driven by the growing recognition of the need to protect the rights of Indigenous Peoples globally. The Working Group on Indigenous Populations (WGIP) was established in 1982 by the United Nations Economic and Social Council (ECOSOC) to address issues related to Indigenous Peoples' rights.

### **Drafting Process:**

The drafting of UNDRIP was a collaborative effort involving Indigenous representatives, states, and non-governmental organizations. The process was marked by extensive consultations and negotiations, aiming to balance the diverse interests and perspectives of all stakeholders. The draft declaration was first presented to the United Nations Sub-Commission on the Promotion and Protection of Human Rights in 1993.

### **Adoption:**

After more than two decades of negotiations, the United Nations General Assembly adopted UNDRIP on September 13, 2007. The declaration was passed with an overwhelming majority: 144 votes in favor, 4 against (Australia, Canada, New Zealand, and the United States), and 11 abstentions. Over time, the four countries that initially opposed the declaration have endorsed it.

## **Key Provisions:**

UNDRIP outlines a comprehensive framework for the recognition, protection, and promotion of the rights of Indigenous Peoples. Key provisions include:

1. **Self-Determination:** Indigenous Peoples have the right to self-determination, including the right to freely determine their political status and pursue their economic, social, and cultural development.
2. **Land and Resources:** The declaration recognizes Indigenous Peoples' rights to their lands, territories, and resources, which are essential to their cultural identity and survival.
3. **Cultural Rights:** Indigenous Peoples have the right to practice and revitalize their cultural traditions and customs, including the protection of their cultural heritage and intellectual property.
4. **Participation in Decision-Making:** Indigenous Peoples have the right to participate in decision-making processes that affect their rights, through representatives chosen by themselves in accordance with their own procedures.
5. **Free, Prior, and Informed Consent (FPIC):** States must consult and cooperate in good faith with Indigenous Peoples to obtain their free, prior, and informed consent before adopting and implementing legislative or administrative measures that may affect them.

## **Implementation and Challenges:**

The implementation of UNDRIP remains a work in progress, with varying degrees of commitment and success across different countries. Challenges include the need for legal and policy reforms, capacity-building, and addressing historical injustices and ongoing discrimination against Indigenous Peoples.

## **Canada's Endorsement and Implementation:**

Canada initially voted against UNDRIP in 2007 but endorsed it in 2010. In 2021, Canada passed the *United Nations Declaration on the Rights of Indigenous Peoples Act* (UNDRIP Act), committing to align Canadian laws with the principles of UNDRIP. The act mandates the development of an action plan to achieve the objectives of the declaration, reflecting a significant step towards reconciliation and the protection of Indigenous rights in Canada.

# ENDNOTES

[1] Department of Justice Canada, *United Nations Declaration on the Rights of Indigenous Peoples Act Action Plan*, [UNDRIP Act Action Plan] “Cross-cutting priorities: Addressing injustices, prejudice, violence, systemic racism and discrimination,” 2023, at page 26.

[2] *Ibid* at 26-27.

[3] *Ibid* at 27.

[4] *UNDRIP Act Action Plan*, “Cross-cutting priorities: Economic, health and social rights,” at page 43.

[5] *Ibid* at 44.

[6] *Ibid*.

[7] *UNDRIP Act Action Plan*, “First Nations Priorities: Economic, health and social rights,” at page 53.

[8] *Ibid*.

[9] *UNDRIP Act Action Plan*, “Inuit Priorities: Health and wellness,” at page 59.

[10] *Ibid*.

[11] *UNDRIP Act Action Plan*, “Métis Priorities: Economic, health and social rights,” at page 66.

[12] *UNDRIP Act Action Plan*, “Cross-cutting priorities: Civil and political rights,” at page 38.

[13] *UNDRIP Act Action Plan*, “Cross-cutting priorities: Addressing injustices, prejudice, violence, systemic racism and discrimination,” at page 26.

[14] *Ibid*.



[15] *Ibid* at page 27.

[16] *Ibid*.

[17] *Ibid*.

[18] *UNDRIP Act Action Plan*, "Cross-cutting priorities: Self-determination, self-government and recognition of treaties," at page 32.

[19] *UNDRIP Act Action Plan*, "Cross-cutting priorities: Civil and political rights," at page 38.

[20] *Ibid* at 39.

[21] *Ibid* at page 40.

[22] *UNDRIP Act Action Plan*, "Métis Priorities: Civil and political rights," at page 65.

[23] *UNDRIP Act Action Plan*, "Cross-cutting priorities: Participation in decision-making and Indigenous institutions," at page 41.

[24] *Ibid* at page 41-42.

[25] *Ibid* at page 42.

[26] *Ibid*.

[27] *Ibid*.

[28] *UNDRIP Act Action Plan*, "Ensuring oversight and accountability on the implementation of the UN Declaration," at page 29.

[29] *UNDRIP Act Action Plan*, "Cross-cutting priorities: Self-determination, self-government and recognition of treaties," at page 32.