

## UNDRIP ACTION PLAN: CAP's Submissions to Date

### CAP's Initial Submissions – October 2022

The content for the initial submissions arose from engagement sessions hosted at CAP's AGA in Ottawa on September 24, 2022. At those sessions, legal counsel for CAP gave presentations on the Declaration and the UNDRIP Act, followed by roundtable discussion between community members. Approximately 100 delegates from CAP's 11 PTOs attend the presentations and participated in the roundtable discussions.

Based on these discussions, CAP recommended the Action Plan include the following:

1. Elimination of the second-generation cut-off for status eligibility in the *Indian Act*;
2. Inclusion of non-status Indians and off-reserve (non-MNC) Métis in the Post-Secondary Education Benefits and Non-Insured Health Benefits programs;
3. Define "Indigenous Governing Body" in policy and legislation to include representative organizations like CAP and its PTOs. This would allow these organizations to administer programs or exercise legislative authority under federal legislation like the *Act respecting First Nations, Inuit and Métis children, youth and families* (Bill C-92) or the *Indigenous Languages Act*;
4. Abandonment of the "distinctions-based approach" to federal Indigenous policy.
5. Proactive measures to include CAP and its PTOs in all its legislative and administrative initiatives affecting Indigenous peoples;
6. Amendment of the *UNDRIP Act* to provide that it becomes self-executing; i.e. that an affected person or organization may seek relief in the Superior Courts if their rights under the Declaration are infringed; and
7. Engagement by the federal government with CAP and its PTOs prior to the release of the annual reports required by the UNDRIP Act.

### CAP's Supplementary Submissions - December 2022

The supplementary submissions arose from CAP's discussions with the Department of Justice UNDRIP Secretariat, which provided input on the following:

- Laws that were inconsistent with the Declaration;
- The structure of the Action Plan;
- Measures related to monitoring and accountability for under the Action Plan; and
- Measures related to reviewing and amending the Action Plan.

CAP hosted an additional virtual engagement session on these topics on December 1, 2022. As in the previous sessions, counsel for CAP gave a short presentation, followed by breakout room discussions. Approximately 30 community members from CAP's PTOs attended the supplementary engagement session

Based on these discussions, CAP recommended the Action Plan also include the following:

1. Abandonment of the “distinctions based approach” in order to achieve equality for and among Indigenous peoples. CAP stressed that this approach is underinclusive, imposes the government’s choice of representatives on Indigenous peoples and has the effect of segregating, devaluing, and/or ignoring off-reserve status and non-status Indigenous peoples.
2. CAP reiterated that CAP and its PTOs (and other representative organizations like them) ought to be included in the definition of “Indigenous Governing Body.” This would ensure that CAP is consulted, and receives funding and programing.
3. Consideration of the needs of off-reserve Indigenous peoples in all aspects of the Action Plan. In terms of structure, CAP recommended the Action Plan:
  - a. Include a “note to reader” explaining the terms and definitions used to describe Indigenous peoples;
  - b. Explain and consider issues related to Métis group membership, and specifically address those Métis who do not identify as part of the MNC;
  - c. If the term “First Nations” is used to describe Indian Act Bands, the Action Plan should explain that “First Nations” is not a term found in the Constitution, and is not equivalent to “Indian” as found in the Constitution;
  - d. Any chapter on “First Nations” or Indian Act Bands must also consider the needs of off-reserve and non-status Indigenous peoples; and
  - e. any chapter on Inuit must also consider those Inuit peoples living outside of Inuit Nunangat.
4. The creation of an independent UNDRIP Act Monitoring and Oversight Committee (the “Committee”) to monitor the implementation of the Action Plan and the Declaration. The Committee should include members from, at a minimum, each of the five NIOs recognized by the government of Canada.
5. Annual reports on UNDRIP’s implementation should also include contributions from, at a minimum, the five NIOs. The Action Plan should include funding for these organizations to monitor its implementation.
6. The creation of an independent commission or tribunal for timely, cost-effective recourse and remedies for the breach of UNDRIP by the federal government, including declarations on the validity/applicability of federal laws.