Understanding the Authority and Mandate of Indigenous Organizations to Represent Off-reserve, Non-status, and Non-band member Indigenous Peoples

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1. Introduction

There has long been a tension between First Nations (*Indian Act* bands) and provincial/territorial affiliates of the Congress of Aboriginal Peoples (CAP) over who is the legitimate representative of off-reserve band members. This is made more complicated by the existence, especially since the passage of Bill C-31 in 1985, of "status Indians" who do not have membership in a band, as well as "non-status Indians." Many of these three groups of Indigenous individuals see the CAP affiliates as their representatives in political discourse. Yet, there is generally a lack of recognition by settler-state governments and legislated authority for CAP affiliates to represent the interests of these Indigenous people in political and legal discourse. These issues with the recognition of the legitimacy of CAP's representation and the authority of CAP to act in the interests of Indigenous peoples living off-reserve or lacking status or band membership are reflected formally and informally in federal policy; this reinforces gaps in the provision culturally-appropriate services to the off-reserve population.

2. What are the provisions in the *Indian* Act that provide for a First Nation's authority to govern? Does this authority to extend to off-reserve settings?

The *Indian Act*, R.S.C. 1985, c. I-5, is the primary source of the authority of the vast majority of band councils (First Nations governments) to govern band members and the management of reserve lands.[1] The primary source of band councils' authority within the *Indian Act* is contained in their powers to make by-laws, in sections 81, 83, and 85.1. Subsection 81(1) states that:

> 81 (1) The council of a band may make by-laws not inconsistent with this Act or with any regulation made by the Governor in Council or the Minister, for any or all of the following purposes, namely,
>
> (a) to provide for the health of residents on the reserve and to prevent the spreading of contagious and infectious diseases;
> (b) the regulation of traffic;

[1] Some First Nations govern under the terms of self-government agreements negotiated with the Government of Canada, but there are very few comprehensive self-government agreements in Canada; in fact, there is a total of 25 self-government agreements in Canada governing 43 Indigenous communities, while there is a total of 634 recognized First Nations in Canada. As well, other legislation, such as the *First Nations Land Management Act*, S.C. 1999, c. 24, the *Family Homes on Reserves and Matrimonial Interests or Rights Act*, S.C. 2013, c. 20, the *First Nations Goods and Services Tax Act*, S.C. 2003, c. 15, s. 67, and the *First Nations Oil and Gas and Moneys Management Act*, S.C. 2005, c. 48 provide First Nations band governments with additional authority, but the *Indian Act* is the primary source of First Nations' authority to govern, but only provide them authority on reserves.

(c) the observance of law and order;
(d) the prevention of disorderly conduct and nuisances;
(e) the protection against and prevention of trespass by cattle and other domestic animals, the establishment of pounds, the appointment of pound-keepers, the regulation of their duties and the provision for fees and charges for their services;
(f) the construction and maintenance of watercourses, roads, bridges, ditches, fences and other local works;
(g) the dividing of the reserve or a portion thereof into zones and the prohibition of the construction or maintenance of any class of buildings or the carrying on of any class of business, trade or calling in any zone;
(h) the regulation of the construction, repair and use of buildings, whether owned by the band or by individual members of the band;
(i) the survey and allotment of reserve lands among the members of the band and the establishment of a register of Certificates of Possession and Certificates of Occupation relating to allotments and the setting apart of reserve lands for common use, if authority therefor has been granted under section 60;
(j) the destruction and control of noxious weeds;
(k) the regulation of bee-keeping and poultry raising;
(l) the construction and regulation of the use of public wells, cisterns, reservoirs and other water supplies;
(m) the control or prohibition of public games, sports, races, athletic contests and other amusements;
(n) the regulation of the conduct and activities of hawkers, peddlers or others who enter the reserve to buy, sell or otherwise deal in wares or merchandise;
(o) the preservation, protection and management of fur-bearing animals, fish and other game on the reserve;
(p) the removal and punishment of persons trespassing on the reserve or frequenting the reserve for prohibited purposes;
(p.1) the residence of band members and other persons on the reserve;
(p.2) to provide for the rights of spouses or common-law partners and children who reside with members of the band on the reserve with respect to any matter in relation to which the council may make by-laws in respect of members of the band;
(p.3) to authorize the Minister to make payments out of capital or revenue moneys to persons whose names were deleted from the Band List of the band;
(p.4) to bring subsection 10(3) or 64.1(2) into effect in respect of the band;
(q) with respect to any matter arising out of or ancillary to the exercise of powers under this section; and
(r) the imposition on summary conviction of a fine not exceeding one thousand dollars or imprisonment for a term not exceeding thirty days, or both, for violation of a by-law made under this section.

Subsection 83(1) states that:

83 (1) Without prejudice to the powers conferred by section 81, the council of a band may, subject to the approval of the Minister, make by-laws for any or all of the following purposes, namely,

(a) subject to subsections (2) and (3), taxation for local purposes of land, or interests in land, in the reserve, including rights to occupy, possess or use land in the reserve;
(a.1) the licensing of businesses, callings, trades and occupations;
(b) the appropriation and expenditure of moneys of the band to defray band expenses;
(c) the appointment of officials to conduct the business of the council, prescribing their duties and providing for their remuneration out of any moneys raised pursuant to paragraph (a);
(d) the payment of remuneration, in such amount as may be approved by the Minister, to chiefs and councillors, out of any moneys raised pursuant to paragraph (a);
(e) the enforcement of payment of amounts that are payable pursuant to this section, including arrears and interest;
(e.1) the imposition and recovery of interest on amounts that are payable pursuant to this section, where those amounts are not paid before they are due, and the calculation of that interest;
(f) the raising of money from band members to support band projects; and
(g) with respect to any matter arising out of or ancillary to the exercise of powers under this section.

Thirdly, subsection 85.1(1) states that:

85.1 (1) Subject to subsection (2), the council of a band may make by-laws

(a) prohibiting the sale, barter, supply or manufacture of intoxicants on the reserve of the band;
(b) prohibiting any person from being intoxicated on the reserve;
(c) prohibiting any person from having intoxicants in his possession on the reserve; and
(d) providing for exceptions to any of the prohibitions established pursuant to paragraph (b) or (c).

Other provisions of the *Indian Act* that empower band councils are sections 20 and 60 (dealing with control of reserve lands), sections 64 and 66 (dealing with expenditure of band monies) and section 10 (providing bands authority to control their membership if a majority of the electors in the band consent). As one can see, other than section 10, all of these empowering provisions address people on reserves, activities on reserves, band monies, or reserve lands themselves and do not provide band councils with authority beyond reserve lands.

3. Do First Nation bands have the authority to act as representatives of non-band members and non-status people?

No, they do not. As they are elected by their "electors", who are defined in both the *Indian Act* and the *First Nations Election Act*, S.C. 2014, c. 5, as persons on the band list, they can only

represent band members; band councils would have no more legitimate a right to claim authority to represent non-band members or "non-status Indians" than they would a right to claim the authority to represent non-Indigenous Canadians. Thus, non-status Indigenous people require representation through other means.

4. **If an off-reserve member of a CAP affiliate has registered Indian status and membership with a First Nation band as defined under the *Indian Act*, do they have the right to choose to designate the CAP affiliate as their legitimate representative organization? Are there mechanisms for designating the CAP affiliate as their chosen representative for political representation and service delivery? If not, how could such mechanisms be created and what would these mechanisms look like?**

An individual is always free to decide who speaks for them, simply by declaring that one group speaks for them and that another does not. In the case of an off-reserve member of a CAP affiliate who is also a member of a First Nation band, they can declare the CAP affiliate to be their legitimate representative organization if they so wish, and turn their back on participating in band elections and seeking any services from their bands.

Several CAP affiliates have clear rules of membership which limit who qualifies for membership. NunatuKavut does not allow full members to also be members of any other Indigenous organization (see https://nunatukavut.ca/membership/ for the rules of membership with NunatuKavut). Membership in the Native Council of Nova Scotia, the Ontario Coalition of Indigenous Peoples, the New Brunswick Aboriginal Peoples Council, the Native Council of PEI, and the Indigenous People's Alliance of Manitoba is limited to those who are not resident on reserves (see http://ncns.ca/wp-content/uploads/2019/05/bylaws-changed-feb-2018.pdf for the Native Council of Nova Scotia by-law #2 on membership, https://o-cip.ca/files/2915/8179/9848/Final_Appliciation_for_Membership.pdf for the rules of membership with the Ontario Coalition, https://nbapc.org/membership/ for the rules of membership in the New Brunswick Aboriginal Peoples Council, http://www.ncpei.com/sites/default/files/page-attachments/Application%20for%20Membership.pdf for the rules of membership for the Native Council of PEI, and http://ipamcanada.ca/wp-content/uploads/2020/01/IPAM-Condensed-Application-Form-Press-Ready-V2.pdf for the rules of membership for the Indigenous People's Alliance of Manitoba). While less clear about its rules of membership, the website of the Aboriginal Congress of Alberta Association (https://www.aboriginalcongress.com/goals-of-acaa) states that it represents "all off-reserve Indigenous people of Alberta who are not otherwise affiliated or represented." As such, its membership rules may be as strict as those of NunatuKavut. For those who have registered Indian status and could be a First Nation band member if they so chose, choosing to be a full member of these organizations rather than a member of a First Nation band is, effectively, a declaration that the individual has chosen the CAP affiliate as its representative for political representation and service delivery.

5. What examples are there of CAP affiliates being recognized as representatives of off-reserve, non-status, and non-member Indigenous people? Are there examples of CAP affiliates being recognized as such in the courts? Are there examples of them being invited to participate in meetings with governments as representative organizations?

There have been numerous occasions on which CAP, its predecessor the Native Council of Canada (NCC), and provincial/territorial affiliates have been recognized as legitimate representative organizations for off-reserve, "non-status", and non-band-member Indigenous people. This is true both of the courts and executive governments. Appendix I to this briefing paper identifies occasions of both.

As to recognition of CAP and its affiliates in the courts, the Congress, the NCC, and provincial/territorial affiliates have been granted intervenor status in numerous cases over the years. In Canada, only governments can intervene in court cases as of right; all other parties that wish to be intervenors must apply for intervenor status and have it granted by the court. Therefore, to be granted intervenor status is a recognition that an organization, such as CAP, represents an interest and can contribute something of value to the judges' decision. The decisions identified in the appendix, however, are ones in which the courts specifically identify CAP/NCC or provincial/territorial affiliates as representative organizations or the courts refer to intergovernmental meetings in which CAP or its affiliates participated, as an indication that governments recognize them as representative organizations. The Congress and the NCC, the Ontario Métis and Non-Status Indian Association (predecessor to the Ontario Coalition of Indigenous Peoples), the NunatuKavut and its predecessor, the Labrador Métis Nation, the Alliance Autochtone du Quebec, the Native Council of Nova Scotia, the New Brunswick Aboriginal Peoples Council, and the Native Council of Prince Edward Island were all identified in this way in various judicial decisions.

As to recognition by governments, as the appendix indicates, CAP and the NCC have frequently, indeed regularly, been invited to participate in national intergovernmental meetings along with the Assembly of First Nations, the Inuit Tapiriit Kanatami (formerly the Inuit Tapirisit of Canada), the Métis National Council, and other national Indigenous organizations since the 1983 to 1987 constitutional conferences on Aboriginal issues and the Charlottetown Accord negotiations. As well, CAP affiliates in Atlantic Canada have quite regularly been invited to participate in policy and program development efforts, as well as policy and program implementation, by provincial governments as representatives of off-reserve or "non-status" Indigenous people equal in status to other Indigenous governments in their province. Clearly, CAP/NCC and its provincial affiliates are often seen representative organizations that have a valuable place in intergovernmental negotiations and government policy development and implementation. This is especially true for provincial governments in Atlantic Canada, which involve CAP's Atlantic Canadian provincial affiliates in policy development and implementation extensively.

6. Are there examples of occasions on which gaps in representation and service delivery for off-reserve, non-status, and non-member communities have been raised with governments by CAP affiliates?

Yes, there are numerous examples of occasions on which both CAP and its affiliate organizations have raised gaps in representation and service delivery for off-reserve, "non-status Indian", and non-member communities with governments. Appendix II identifies a number of press statements and news releases in which these CAP and its affiliates have done so, but these are just a sample of the occasions on which they have done so.

7. Why has the current hierarchy of recognition of representative organizations developed? Are there examples of circumstances in which government policies and actions reinforce this hierarchy? Are there examples of how this hierarchy creates gaps in the representation of particular groups of Indigenous peoples in government decision-making and in the provision of services to particular groups of Indigenous peoples?

The current hierarchy of recognition of representative organizations is a reflection of the federal government's biases, which have served to create biased policies and legislation. A number of scholarly commentaries, such as ones by Evelyn Peters, Yale Belanger, and Julie Tomiak,[2] have noted that this recognition bias has deep-seated sources in colonial-state efforts to dispossess Indigenous peoples from prime urban spaces by normalizing perceptions that Indigenous peoples were small groups of nomadic hunters who lived in the bush, far from settler-state society, and who therefore did not "belong" in urban environments. Thus, Indigenous people who returned to the cities were constructed by the government as having abandoned their Indigeneity and, instead, accepted "modern" Canadian norms. As Belanger has pointed out, prior to 1999, Indigenous people living in off-reserve communities were not considered to possess Aboriginal rights and even as recently as 2011 the federal government still did not recognize the collective rights of urban Indigenous communities.[3] As well, the federal government's recognition bias is, in part, an outcome of the greater comfort of federal officials and Ministers with recognizing the communities that the federal government has created and governs the membership in and operation of through legislation such as the *Indian Act*. An entity created by federal law is inherently more readily cognizable to, and seen as worthy of recognition by, federal officials than is an entity that it does not control the definition of.

There are numerous examples of federal government policies and actions reinforcing this hierarchy and of the hierarchy creating gaps in the representation of particular groups of Indigenous peoples in government decision-making and in the provision of services to particular

[2] Evelyn Peters "Geographies of Aboriginal People in Canada" 45 *Canadian Geographer* (2006) 1:138; Yale Belanger "The United Nations Declaration on the Rights of Indigenous Peoples and Urban Aboriginal Self-Determination in Canada: A Preliminary Assessment" 1 *aboriginal policy studies* (2011) 1:132; Julie Tomiak "Contesting the Settler City: Indigenous Self-Determination, New Urban Reserves, and the Neoliberalization of Colonialism" 49 *Antipode* (2017) 4:928.

[3] Belanger, p. 143.

groups of Indigenous peoples. Appendix II to this report identifies a number of examples of such biases and the gaps they create, including CAP's exclusion from First Ministers' Meetings with National Indigenous Leaders and gaps in child welfare legislation, health care, and in fisheries quota allocations.

8. **What are the opportunities for moving away from the current hierarchy of recognition established by settler-state governments? How can alternative recognition processes be established? What would such processes look like? How can Indigenous legal orders inform alternatives?**

Regrettably, one suspects that, given the deep-seated basis for the current hierarchy of recognition within the norms of the federal bureaucracy, the primary strategy for moving the federal government away from its current hierarchy of recognition would through litigation, or at least the threat of successful litigation and the embarrassing media that could accompany a federal government loss. *Canada (Attorney General)* v. *Misquadis*, [2004] 2 FCR 108, gives one hope that litigation to end the federal government's hierarchy of recognition could be successful. *Misquadis* (a Federal Court of Appeal decision which was not appealed to the Supreme Court of Canada) reinforces that off-reserve and "non-status Indian" communities have been discriminated against compared to on-reserve, "status" First Nations people, Inuit, and Métis. The decision concluded that denying off-reserve and "non-status Indian" communities the level of control over programs provided to reserve communities (i.e. reinforcing the hierarchy of recognition in federal policy) was discriminatory and not a "reasonable limit" on the equality rights of off-reserve and "non-status Indian" communities. As Rothstein J.A. said, "Having regard to Lemieux J.'s factual finding that the primary benefit of the Strategy was local community control over the delivery of human resources programming, it is clear that the Strategy did have the effect of treating members of band and non-band communities differently." (para. 13) He also noted that "Lemieux J. drew on *Corbière*, *Lovelace*, and the Royal Commission on Aboriginal Peoples to find that HRDC's refusal to enter into the first type of AHRDA with the Respondents' communities perpetuated the historical disadvantage and stereotyping of off-reserve Aboriginal communities. … He noted that AHRDS is a general ameliorative program designed to benefit all Aboriginals regardless of where they live and held that HRDC had failed to recognize the fact that the Respondents' lived in communities which were functioning Aboriginal communities as worthy of recognition as reserve-based communities. (para. 24) This decision should, thus, help to strengthen a claim by urban Indigenous communities that they should have the same recognition and access to services, opportunities to exercise self-determination, and intergovernmental arrangements as recognized First Nations, Inuit, and Métis.

As well, the *United Nations Declaration on the Rights of Indigenous Peoples*, and the current federal government's commitment to implement the Declaration in Canadian law and policy, should be able to help force the federal government to move away from its current hierarchy of recognition and, instead, accept the recognition of Indigenous communities established through alternative, self-determined, processes of community identity formation. Article 3 of the Declaration states that "Indigenous peoples have the right to self-determination. By virtue of that right they freely determine their political status and freely pursue their economic, social

and cultural development", while article 5 states that "Indigenous peoples have the right to maintain and strengthen their distinct political, legal, economic, social and cultural institutions, while retaining their right to participate fully, if they so choose, in the political, economic, social and cultural life of the State."

Given the federal government's commitment to implement the Declaration, a complementary strategy to litigation could be a media/public advocacy strategy that advocates for the inclusion in legislation to implement the Declaration a provision that requires the federal government to recognize the equality of the status of all representative organizations of Indigenous peoples established through legitimate processes of collective self-determination, as part of its commitment to implementing articles 3 and 5 of the Declaration. Such a recommended provision could also require the federal government to provide all recognized organizations with equal access to policies, programs, services, and negotiations for the exercise of authority. It could go even further and specifically recognize the equal status of the Assembly of First Nations, the Congress of Aboriginal Peoples, the Inuit Tapiriit Kanatami, the Métis National Council, the Native Women's Association of Canada, Paktuutit Inuit Women of Canada, and the Métis National Council of Women as national representative organizations of Indigenous people.

If the one could get the federal government to adopt the principle that all representatives of Indigenous communities that are established through self-determined processes of community identity formation and representation must be treated equally, the opportunity would arise for Indigenous communities to adopt processes of community formation and legitimation that are informed by Indigenous legal orders. Ultimately, of course, a process of community identity formation and the establishment of an organization to speak on behalf of the community must be appropriate to the community and seen as legitimate in the eyes of those who are represented by the Indigenous organization they create. As such, no modern Indigenous community could simply adopt the traditional, pre-contact legal order of an Indigenous society, as the world in which Indigenous peoples live today has changed since the period prior to contact with European settlers. Nonetheless, the legal and political orders of Indigenous societies that existed prior to effective European control of North America could inspire valuable discussion among modern urban Indigenous communities of what they would like to see in their modern representative community institutions.

The process of securing recognition of the community and the authority of the community's institutions to speak and act on behalf of the community needs to begin with the community making choices through internal, community-based discourse in which the community members have voice. Recognition by the Crown of self-determined representatives of an Indigenous community, such as off-reserve or "non-status" communities, as legitimate representatives of the community would constitute a significant step forward in securing the recognition by the Crown of the right of off-reserve and "non-status" Indigenous communities to self-determination.

APPENDIX I – RECOGNITION OF CAP AND AFFILIATE ORGANIZATIONS AS REPRESENTATIVE ORGANIZATIONS BY COURTS AND EXECUTIVE GOVERNMENTS

A. Court decisions in which CAP/NCC and provincial/territorial affiliates are recognized as representative organizations

The Congress of Aboriginal Peoples, its predecessor, the Native Council of Canada, and provincial/territorial affiliates have been granted intervenor status in numerous cases over the years. In Canada, only governments can intervene in court cases as of right; all other parties that wish to be intervenors must apply for intervenor status and have it granted by the court. Therefore, to be granted intervenor status is a recognition that an organization, such as CAP, represents an interest and can contribute something of value to the judges' decision. The following decisions, however, are ones in which the courts specifically identify CAP/NCC or provincial/territorial affiliates as representative organizations or the courts refer to intergovernmental meetings in which CAP or its affiliates participated, as an indication that governments recognize them as representative organizations. The Congress and its predecessor, the Native Council of Canada, Ontario Métis and Non-Status Indian Association (predecessor to the Ontario Coalition of Indigenous Peoples), the NunatuKavut and its predecessor, the Labrador Métis Nation, the Alliance Autochtone du Quebec, the Native Council of Nova Scotia, the New Brunswick Aboriginal Peoples Council, and the Native Council of Prince Edward Island were all identified in this way in various judicial decisions.

1. CAP/NCC:

***Ontario Public Service Employees Union* v. *Ontario Metis and Non-Status Indian Association*, 1980 CanLII 2989 (ON LRB)**

This was an application for certification of OPSEU as the union for the Ontario Métis and Non-Status Indian Association which raised division-of-powers questions. In the course of its decision, the Ontario Labour Relations Board identified both the Ontario Métis and Non-Status Indian Association and the Native Council of Canada as representative organizations. The Board stated that:

> The Ontario Metis and Non-Status Indian Association … was incorporated … as a charitable corporation without share capital. The objects set out in the letters patent are as follows:
>
> > "(a) To carry out programmes consistent with those of a charitable organization for the advancement of the level of education, training and opportunity, and for the relief of poverty among the Metis and non-status Indians of Ontario;
> >
> > (b) To bring together isolated Metis and non-status Indian organizations so that they can have more strength in unity;
> >
> > (c) To develop the social and economic needs of the Metis and non-status Indians of Ontario;"

… The Association's aims and objects are listed in its constitution and by-laws as follows:

> "a) to carry out programs consistent with those of a charitable nonprofit organization for the social, cultural, education and economic advancement of the Metis and Non-Status Indian people of Ontario.
>
> b) to inform the general public of Ontario of the aims and objects of the Association and to secure the co-operation of the non-native community in our struggle for identity and recognition in Canadian society.
>
> c) to assist Metis and Non-Status Indian people of Ontario to organize at the local level, to affiliate with the Association for the purposes of actively participating in the development of their communities.
>
> d) specifically to engage, as an Association, in programs designed to assist in furthering the education opportunities and employment opportunities of the Metis and Non-Status Indians of Ontario and wherever possible to obtain or raise funds from any sources for these purposes.
>
> e) to develop and operate in conjunction with federal, provincial and municipal agencies a housing program designed to provide safe, healthy, adequate shelter for the native people of Ontario.
>
> f) to co-operate with all other native organizations whose aims and objects are similar to those of the Association.
>
> g) generally, to assist in the improvement of existing programs and services and to develop new programs and services designed to meet the special needs of the native people of Ontario."

Any resident of the Province of Ontario who is eighteen years or over, who is of native ancestry, and who is *not* a registered Indian within the meaning of the *Indian Act,* is eligible for full membership in the Association. The spouse of any such person (whether or not he/she is of native ancestry) is also eligible for full membership. In addition, any interested person who supports the aims and objects of the Association, may become an associate member upon payment of the prescribed fees. Any group of twelve or more persons qualified for full membership, and residing in Ontario, may form a local association which can become affiliated with the respondent. …

The Association operates solely within Ontario although it is affiliated with the Native Council of Canada — "an umbrella organization" of Metis, Status and Non-Status Indian groups operating on a nation-wide basis. Membership in the Native Council of Canada is voluntary. (paras 2-4)

***Native Women's Assn. of Canada* v. *Canada*, 1992 CanLII 8499 (FC), [1992] 2 FC 462; 1992 CanLII 8495 (FCA), [1992] 3 FC 192; 1994 CanLII 27 (SCC), [1994] 3 SCR 627**

These decisions stemmed from a constitutional challenge by the Native Women's Association of Canada to their exclusion from the funding provided to the Assembly of First Nations, the Inuit Tapirisat of Canada, the Native Council of Canada, and the Métis National Council and their involvement in the negotiations that led to the Charlottetown Accord in 1992. In the course of these decisions, the courts at all levels recognized the Native Council of Canada as a representative organization. At the Federal Court of Appeal level, Mahoney J.A. noted that "The Native Council of Canada … is a national organization incorporated in 1972 to advance the rights and interests of Métis, non-status Indians and off-reserve registered Indians throughout Canada. … It is composed of provincial and territorial organizations. Each provincial and territorial organization sends delegates to an annual meeting which elects a president and vice-president who, with the president of each constituent organization, constitute the executive."

In the Supreme Court of Canada's majority judgement, Sopinka J noted that "On March 12, 1992, the Minister Responsible for Constitutional Affairs announced that representatives of the four national Aboriginal organizations (AFN, NCC, ITC and MNC) were invited to participate in a multilateral process of constitutional discussions regarding the Beaudoin-Dobbie Committee Report. The purpose of these meetings was to prepare constitutional amendments that could be presented to Canada as a consensus package." (para 5) Later on, he noted, as had the Federal Court, Trial Division, that

> in a letter written February 12, 1992 to the Right Honourable Joe Clark, Minister Responsible for Constitutional Affairs, NWAC made a request for funding and participation equal to the other four national Aboriginal organizations. On March 2, 1992, the Minister responded that the national associations represent both men and women and he encouraged NWAC to work within the Aboriginal communities to ensure its views are heard and represented. The Minister also noted that, in recognition of the need for funding, the Contribution Agreements required that the national organizations specifically direct portions of their funding to Aboriginal women's issues. Furthermore, he stated that the concerns of NWAC would not be rectified through the addition of another seat to the constitutional table. (para 7)

***Canada* v. *Corbiere*, [1997] 1 FC 689**

The *Corbiere* case was a challenge to the limitation in the *Indian Act* that only band members "ordinarily resident" on reserves were able to vote for band councils. At the Federal Court of Appeal level, the Court recognized the Congress of Aboriginal Peoples as a national representative organization, with the description that "CAP is a national organization which represents approximately 750,000 off-reserve and non-status Indian and Métis people."

***Métis National Council of Women* v. *Canada*, 2000 CanLII 14806 (FC); 2005 FC 230 (CanLII)**

This case was a challenge from the Métis National Council of Women to their exclusion from a federal government-run process designed to address unemployment among Indigenous

peoples and funding for Indigenous groups to participate in this process. The 2000 decision was a decision on a motion to strike the claimants' Statement of Claim. In the course of the decision on that matter, Giles ASP noted that

> The [federal] government decided to do something about the unemployment of Aboriginal people. For this purpose it nominated a committee composed of members of various organizations namely, Assembly of First Nations ("AFN"), Inuit Trapirisat Canada ("ITC"), Métis National Council ("MNC"), Native Women's Association of Canada ("NWAC"), National Association of Friendship Centres ("NAFC"), Congress of Aboriginal Peoples ("CAP"). The function of the committee was to advise the government with regard to government spending intended to provide jobs and job training for Aboriginal people. At that time the corporate plaintiff did not exist. (para 6)

The 2005 decision was the substantive decision of the Federal Court, Trial Division. In the course of the decision, Kelen J stated that "During the course of the [Post-Pathways] program, concerns were raised about whether the RBA [regional bilateral agreement]-holders could properly address the needs of Aboriginal peoples living in urban environments. As a result, HRDC [Human Resources Development Canada] implemented a special initiative in which approximately $22 million was allocated to three different Aboriginal organizations: the National Association of Friendship Centres, the NWAC and the Congress of Aboriginal People."

***R.* v. *Powley*, 2001 CanLII 24181 (ON CA)**

Powley is a well-known decision which was the first Métis Aboriginal rights case before the Supreme Court of Canada; the Supreme Court's decision also set out the process for determining who is a member of an Aboriginal rights-bearing Indigenous community. In the decision at the Ontario Court of Appeal level, in the course of upholding the trial judge's decision that charging the Powleys with illegal hunting violated their Aboriginal rights, Sharpe J.A., for the Court, observed that "The Congress of Aboriginal Peoples is a national organization representing Métis and off-reserve Indian peoples, composed of 12 provincial and territorial affiliates." (para 4)

***Misquadis* v. *Canada (Attorney General)*, 2002 FCT 1058 (CanLII), [2003] 2 FC 350; 2003 FCA 370 (CanLII); 2003 FCA 473, [2004] 2 FCR 108**

Misquadis was an equality-rights challenge to Human Resources Development Canada's decision to exclude CAP affiliates from being a signatory to Aboriginal Human Resources Development Agreements, unlike affiliates of the other national Indigenous groups. Ultimately, the Federal Court of Appeal found HRDC to be in breach of the equality rights of those represented by CAP affiliates (2003 FCA 473). At the trial level, Lemieux J found that HRDC had breached the equality rights of the complainants. In the course of discussing the previous, post-Pathways program of HRDC, Lemieux J noted that "CAP is a national organization speaking for Aboriginal people not covered by the *Indian Act*, for Indians who have regained their status, and for the Aboriginal population not residing on-reserves."

***Halcrow* v. *Canada (Attorney General)*, 2003 FCT 782 (CanLII), [2003] 4 FC 1043**

This case was a challenge to the *Indian Band Election Regulations* and *Indian Referendum Regulations* of 2000 for contravening the Aboriginal and treaty rights of First Nations because they were drafted without adequate consultation with First Nations. In the course of his decision, Dawson J noted that the Government of Canada included the Congress of Aboriginal Peoples both in its consultation process on the regulations (and provided CAP funding to allow it to consult its members) (para 6) and complete a clause-by-clause review of the draft regulations in 2000 (para 15). This would suggest that the Government of Canada saw CAP as a valuable, representative organization to involve in the regulation-drafting process

***Daniels* v. *Canada (Minister of Indian Affairs and Northern Development)*, 2002 FCT 295 (CanLII), [2002] 4 FC 550; 2013 FC 6 (CanLII), [2013] 2 FCR 268; 2014 FCA 101 (CanLII); 2016 SCC 12 (CanLII), [2016] 1 SCR 99**

Daniels was a claim that Métis and "non-status Indians" were "Indians" for the purposes of understanding the extent of federal jurisdiction over "Indians" in s. 91(24) of the *Constitution Act, 1867*. The 2002 decision was a decision on an ultimately unsuccessful motion by the federal government to strike Daniels' Statement of Claim. In the course of that decision, Hargrave P noted that "The Congress of Aboriginal Peoples (the Congress) represents Métis and non-status Indian peoples throughout Canada."

The 2013 decision is the Federal Court, Trial Division's substantive decision on the merits of the claim. In the course of deciding that Métis and "non-status Indians" are "Indians" for the purposes of s. 91(24), Phelan J observed that "CAP is a body corporate that offers representation to Métis and non-Status Indians throughout Canada. Its objectives include 'to advance on all occasions the … interest of the Aboriginal people of Canada and to co-ordinate their efforts for the purpose of promoting their common interests through collective action'." (para 40) He also commented that "CAP has played a key position in the modern-day discussions between native groups and the federal government …" (para 44) and "In March 1983, the prairie Métis … formed their own organization – the Métis National Council [MNC]. Thereafter, at the various constitutional discussions involving native issues, the MNC were present along with the NCC/CAP." (para 46) This decision was appealed to the Federal Court of Appeal which made its decision in 2014. In the course of his decision, Dawson JA identified CAP as "a corporation which represents Métis and non-status Indian peoples throughout Canada. … The Congress of Aboriginal Peoples sued as a public interest plaintiff." (para 9)

***First Nations Child and Family Caring Society of Canada and Assembly of First Nations and the Canadian Human Rights Commission* v. *Attorney General of Canada (Representing the Minister of Indigenous and Northern Affairs Canada)* 2019 CHRT 11**

This decision came out of a request by the Congress to be added as an interested party in the latest of a number of human rights challenges to the federal government's underfunding of child and family services for First Nations children. In the course of granting CAP a limited interested party status, the Tribunal panel stated that "the Panel is satisfied that the CAP would bring additional expertise that could add to the deliberations of the Tribunal. The Panel also

believes that CAP's position outlined in its submissions supports the Caring Society's position and remedy sought. However, the Panel also believes the CAP can bring a different perspective in terms of the remedy impacting them." (para 46)

2. NunatuKavut/Labrador Métis Nation (LMN):

***The Labrador Metis Nation* v. *Newfoundland and Labrador*, 2006 NLTD 119 (CanLII); 2007 NLCA 75 (CanLII)**

This case was a claim by the Labrador Métis Nation that the provincial government had a duty to consult them on the extension of the Trans-Labrador Highway; the LMN was successful at the trial level. In the course of making his decision, Fowler J. made several comments in favour of the representativeness of the Labrador Métis Nation of the Métis of Labrador. His comments include "It is also apparent that the organization representing the Metis is a single entity, 'The Labrador Metis Nation.' … There was no evidence before me of any conflicting claims and indeed it seems to be generally accepted that the Labrador Metis Nation is the representative body for all those claiming aboriginal Metis status and the only organization to be dealt with on all levels." (para 34) He also noted that "the aboriginal community can be represented by an agent, in this case the Labrador Metis Nation or LMN. … Clearly in the instant case the Metis people of Labrador have chosen the LMN as their agent to make their case for them." (para 60) Thirdly, he noted that

> It seems to me … that for the Crown to have been engaged in complex negotiations on a Constitutional level concerning aboriginal rights issues with a corporate person representing the Inuit people on the one hand and now take the position that it is improper to do so when dealing with the Labrador Metis people on the other hand is simply confusing and not in keeping with the high principled honour of the Crown. If I were to agree with the Crown on this issue, that is, that it is impossible for an aboriginal people to have representation by a corporate person as agent then I would have to conclude that the Labrador Inuit Land Clams Agreement can be challenged on that basis since it was signed not by any governing body of the Inuit community, or council of elders, or chief, but by the incorporated Labrador Inuit Association or LIA. Clearly the Government of Canada and the Government of Newfoundland and Labrador as representatives of the Queen treated the LIA as the agent for and indeed representing the Inuit people of Labrador. I would think that they are now estopped from refusing the same recognition to the Labrador Metis Nation as the agent representing the Labrador people claiming Aboriginal status as Metis people. (paras 68-70)

On appeal, the decision of the trial judge was affirmed; Barry J.A., for the Court, decided that

> I reject the Crown's submission that a corporate plaintiff may not be the vehicle for enforcement of an aboriginal right to consultation. … In the present case, the LMN has established through its memorandum and articles of association, including the preamble to its articles, that it has the authority of its 6,000 members in 24 communities to take measures to protect aboriginal rights. … Anyone becoming a member of the LMN should be deemed to know they were authorizing the LMN to deal on their behalf to pursue the

objects of the LMN, including those set out in the preamble to its articles of association. This is sufficient authorization to entitle the LMN to bring the suit to enforce the duty to consult in the present case. This well-publicized case has been proceeding since May, 2005. No evidence was presented that any of the 6,000 LMN members or any other aboriginal person questioned the authority of the LMN to act on their behalf. (paras 46-7)

***Nunatukavut Community Council Inc*. v. *Newfoundland and Labrador Hydro-Electric Corporation (Nalcor Energy)*, 2011 NLTD 44 (CanLII); 2012 CanLII 73234 (NL SC); 2014 NLCA 46 (CanLII)**

This case, too, was a duty to consult claim by the Nunatukavut Community Council (the successor to the LMN). The 2011 case involved the Nunatukavut Community Council seeking an injunction to stop public hearings into the Lower Churchill River hydroelectric projects until the courts decided on their claim. In the course of refusing to grant such an injunction, Handrigan J. determined that "Nunatukavut Community Council Inc. is a corporation which represents the Inuit Aboriginal people of central and southern Labrador." (para 2) In 2012, the Newfoundland and Labrador Supreme Court, Trial Division decided to grant Nalcor Energy's request for an injunction against the Nunatukavut Community Council to prevent them from disrupting construction of the Muskrat Falls hydro-electric project. In the course of his decision, Stack J. noted that "NunatuKavut Community Council (NCC) is the non-profit entity that represents the Inuit-Métis of south and central Labrador." (para 2) The NCC appealed this decision and the Court of Appeal decided to allow the appeal and dissolve the injunction. In the course of his decision, Green C.J.N.L. found the NCC to be "a body representing Labrador Métis…" (para 2)

***Grand Riverkeeper, Labrador Inc.* v. *Canada (Attorney General)*, 2012 FC 1520 (CanLII)**

This was another attempt to stop the Lower Churchill hydroelectric project, this time by quashing the environmental assessment and preventing the government from issuing permits. In deciding not to grant the applicants' requests, Near J. identified the NunatuKavut Community Council as "a Labrador Aboriginal organization registered as a society under the laws of Newfoundland and Labrador. NunatuKavut was previously named Labrador Métis Nation." (para 2)

***Nunatsiavut* v. *Canada (Attorney General)*, 2015 FC 492 (CanLII)**

This is another duty to consult challenge to the Muskrat Falls hydroelectric project by the Government of Nunatsiavut. In the course of deciding , Strickland J. described the NunatuKavut Community Council as "representing the Inuit Aboriginal people of central and southern Labrador…" (para 187)

***Nunatukavut Community Council Inc.* v. *Canada (Attorney General)*, 2015 FC 981 (CanLII)**

This case, too, was a duty to consult challenge to the Muskrat Falls hydroelectric project. In the course of deciding that the federal government had met its duty to consult, Strickland J. described the NunatuKavut Community Council in the following way: "The NunatuKavut

Community Council Inc. describes itself as the self-governing organization representing the interests of the Inuit descendants (sometimes referred to as Inuit-Metis) of central and southern Labrador." (para 3)

***Anderson* v. *Canada (Attorney General)*, 2016 CanLII 76817 (NL SC)**

This decision approves a settlement of a class-action suit brought by Indigenous peoples in Newfoundland and Labrador who attended schools, dormitories, and orphanages in the province against the federal government. In his reasons, Stack J. identifies the NunatuKavut Community Council as "the representative governing body for approximately 6,000 Inuit of south and central Labrador, collectively known as the Southern Inuit of NunatuKavut." (footnote 1 to para 24)

***R.* v. *L.S.*, 2017 CanLII 145096 (NL SC)**

This case was a constitutional challenge to the representativeness of the jury list for an Indigenous person's criminal trial. In dismissing the challenge, Murphy J. noted that Nunatukavut was both the name of the territory and "the organization representing the Inuit of Southern Labrador" (para 2) and that "the Nunatukavut Community Council advocates on behalf of the southern Inuit" (para 46)

***R.* v *Noble*, 2017 CanLII 32931 (NL PC)**

This was a criminal case in which an Indigenous accused pled guilty to a number of drug-related charges, one of which was dismissed by the Court. In the course of his decision, Joy J. noted that the accused was a member of the "NunatuKavut First Nation, a mostly Inuit-Settler Métis Nation, whose members live in Central and Southern Labrador" (para 21) and that "the NunatuKavut First Nation … is a First Nation, without a land claim or self-government agreement and without a reserve, made up of beneficiaries of Métis heritage." (para 25)

3. Alliance Autochtone du Quebec:

***Canada (Procureur général)* c. *Martin*, 2005 CanLII 2083 (QC CQ)**

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This was a decision on a request by the Government of Canada to refuse to grant party status to someone who wanted to raise constitutional questions in an Aboriginal fishing rights case. In making his decision, Dumais J.C.Q. described the Alliance Autochtone du Québec as a legal person dedicated to the defense and promotion of the collective interests of aboriginal people living off reserve in Quebec, and noted that it brings together 74 off-reserve communities throughout Quebec, that the federal government has always recognized it as the political organization representing off-reserve Indigenous peoples living in Quebec and that, with this recognition, comes funding to enable the Alliance to defend the interests of its members and negotiate with governments. ("une personne morale vouée à la défense et à la promotion des intérêts collectifs des autochtones vivant hors réserve au Québec. L'Alliance regroupe 74 communautés décimées sur tout le territoire du Québec et vivant hors réserve. L'AAQ a toujours été reconnue par le gouvernement fédéral comme l'organisme politique représentatif des autochtones vivant hors réserve au Québec et s'exprime par des rapports soutenus avec les

instances gouvernementales. De plus, cette reconnaissance accorde aux organisations autochtones des fonds pour leur permettre de défendre et négocier avec les gouvernements, les programmes et politiques en lien avec leurs membres.) (paras 8-11)

***Carle* c. *Nault*, 2005 CanLII 29993 (QC CS); 2005 CanLII 30280 (QC CS); 2005 CanLII 37096 (QC CS)**

These decisions all related to a conflict within the Alliance Autochtone du Québec about the Grand Chief at the time, Guillaume Carle. In the course of her decisions, Trudel C.J.S. noted that the Alliance was a legal person constituted under the *Companies Act* of Quebec which represents 26,000 off-reserve Indigenous people in the province (L'Alliance autochtone du Québec inc. … est une personne morale de droit privé constituée suivant la Partie III de la *Loi sur les compagnies du Québec*. Elle regroupe environ 26,000 membres généralement décrits comme étant des autochtones vivant hors réserve.) (para 1 in each case) The case continued into 2014, with a request by Carle to have the lawyers for Nault disqualified from representing him. In the course of her decision on this question, Goulet J.C.S. also identified the Alliance as a legal person constituted under the *Companies Act* of Quebec to promote the interests of off-reserve Indigenous people and that it had a membership of approximately 26,000. ("L'Alliance Autochtone du Québec ci-après «AAQ» est une personne morale de droit privé constituée suivant la Partie III de la Loi sur les compagnies du Québec. Elle a pour objectif de promouvoir les intérêts des autochtones vivant hors réserve et regroupe environ 26 000 membres.") (para 5)

***Carle* c. *Dubé*, 2005 CanLII 48149 (QC CS)**

This decision, too, was related to the same conflict within the Alliance over the leadership of Guillaume Carle as the case above. In the course of his decision, Bédard J.C.S. also identified the Alliance as a legal person established under the *Companies Act* of Quebec, which represented approximately 26,000 off-reserve Indigenous people in the province ("L'A.A.Q. est une personne morale constituée suivant la Partie III de la *Loi sur les compagnies du Québec*. Elle regroupe 26 000 membres, généralement décrits comme des autochtones vivant hors réserves.") (paras 3-4)

***Communauté métis autochtone de Maniwaki* c. *Jolivette*, 2006 QCCS 2546 (CanLII)**

This decision, too, arose out of the conflict over Guillaume Carle's leadership of the Alliance. In the course of making his decision in this case, Bédard J.C.S. again described the Alliance Autochtone du Québec as a corporation composed of approximately 26,000 members who were Métis, Inuit, or off-reserve First Nations people. ("une corporation qui, jusqu'à l'automne 2005, regroupait 26 000 membres, métis, inuit ou autochtones vivant hors réserve.")(para 2)

***Communauté autochtone Muskwa de Mistassini (Communauté de l'Ours)* c. *Bérubé*, 2006 QCCS 4212 (CanLII); 2007 QCCA 1804 (CanLII)**

This case, too, is in regard to the continuing conflict within the Alliance Autochtone du Québec over leadership, in this case leading a local organization to split from the AAQ. In the course of

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his decision, Duchesne C.J.S. identified the AAQ as a non-profit society organized to defend the collective interests of off-reserve Indigenous peoples in Quebec ("Alliance Autochtone du Québec, ci-après appelée « l'AAQ », … est une société sans but lucratif qui vise à défendre les intérêts collectifs des autochtones hors réserve du Québec.") (para. 3) Upon appeal, Dutil J.A., for the Court of Appeal, found that the AAQ was a legal person incorporated under the *Companies Act* of Quebec for the purpose of defending and promoting the interests of off-reserve Indigenous peoples in Quebec. ("… une personne morale constituée en 1972 en vertu de la Partie III de la *Loi sur les compagnies du Québec* (*L.C.Q.*). Elle a pour but de défendre et de promouvoir les intérêts des autochtones hors réserve du Québec.") (para 6)

***Québec (Procureure générale)* c. *Churchill*, 2009 QCCQ 17349 (CanLII)**

This was a case in which the defendants sought to argue that they had an Aboriginal right to fish, in defending an illegal fishing charge. In the course of deciding to reject the requested stay of proceedings, Côté J.C.Q. noted that the Alliance was founded in 1971 to represent the interests of non-status and off-reserve Indigenous peoples. ("l'Alliance autochtone du Québec (l'AAQ) fondée en 1971 pour regrouper tous les autochtones non inscrits vivant en dehors des réserves.") (para 9) He also found, however, that both the Government of Quebec and the Government of Canada would only agree to allow members First Nations represented by a band council, not AAQ affiliates, to exercise their Aboriginal right to fish. ("En ce qui concerne les activités de chasse et pêche, le législateur a adopté l'article 24.1 de la Loi sur la conservation de la faune (L.R.Q. c. C-61.1) autorisant le gouvernement à conclure, avec les différentes communautés autochtones, des ententes de chasse, de piégeage et de pêche. La loi réserve cependant de telles ententes aux seules communautés représentées par un conseil de bande, de telle sorte que seules les personnes inscrites à titre d'Indien, en vertu de la Loi sur les Indiens (L.R., 1985, ch. I-5) et membres d'une bande signataire, peuvent bénéficier de telles ententes". – para 14; "Le Règlement de pêche du Québec (1990, DORS/90-214) adopté en vertu de la Loi fédérale sur les pêches s'applique à la gestion et la surveillance de la pêche de certaines espèces de poissons telles que le saumon dans les eaux visées par le règlement. L'article 5 prévoit cependant que le règlement ne s'applique pas à la pêche autorisée par un permis accordé en vertu du Règlement sur les permis de pêche communautaires des Autochtones (DORS/93-332). Le règlement prévoit également que le ministre autorisé à délivrer de tels permis pour le Québec est le ministre des Ressources naturelles et de la Faune du Québec. Toutefois, même si le règlement ne définit pas les communautés autochtones visées, le ministre semble s'inspirer des critères contenus à l'article 24.1 de la Loi sur la conservation de la faune et n'accepte de délivrer des permis qu'aux seules communautés représentées par un conseil de bande." – para 16; "Les défendeurs allèguent que tout comme le ministre du Québec, le ministre fédéral a toujours refusé de discuter avec les membres de l'AAQ de l'octroi de tels permis alors qu'il accepte de le faire avec des organisations similaires dans d'autres provinces." – para 20).

***Canada (Procureur général)* c. *Martin*, 2009 QCCQ 17350 (CanLII); 2010 QCCQ 4399 (CanLII)**

This, too, was an Aboriginal fishing rights case, once again presided over by Côté J.C.Q. The first decision was on a request by the defendants for a stay of proceedings. In the course of his

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decision, he once again found the AAQ to have been founded founded in 1971 to represent the interests of non-status and off-reserve Indigenous peoples. (“l'Alliance autochtone du Québec (l'AAQ) fondée en 1971 pour regrouper tous les autochtones non inscrits vivant en dehors des réserves.”) (para 9) He also found once again, however, that both the Government of Quebec and the Government of Canada would only agree to allow members First Nations represented by a band council, not AAQ affiliates, to exercise their Aboriginal right to fish. (“En ce qui concerne les activités de chasse et pêche, le législateur a adopté l'article 24.1 de la Loi sur la conservation de la faune (L.R.Q. c. C-61.1) autorisant le gouvernement à conclure, avec les différentes communautés autochtones, des ententes de chasse, de piégeage et de pêche. La loi réserve cependant de telles ententes aux seules communautés représentées par un conseil de bande, de telle sorte que seules les personnes inscrites à titre d'Indien, en vertu de la Loi sur les Indiens (L.R., 1985, ch. I-5) et membres d'une bande signataire, peuvent bénéficier de telles ententes”. – para 14; “Le Règlement de pêche du Québec (1990, DORS/90-214) adopté en vertu de la Loi fédérale sur les pêches s'applique à la gestion et la surveillance de la pêche de certaines espèces de poissons telles que le saumon dans les eaux visées par le règlement. L'article 5 prévoit cependant que le règlement ne s'applique pas à la pêche autorisée par un permis accordé en vertu du Règlement sur les permis de pêche communautaires des Autochtones (DORS/93-332). Le règlement prévoit également que le ministre autorisé à délivrer de tels permis pour le Québec est le ministre des Ressources naturelles et de la Faune du Québec. Toutefois, même si le règlement ne définit pas les communautés autochtones visées, le ministre semble s'inspirer des critères contenus à l'article 24.1 de la Loi sur la conservation de la faune et n'accepte de délivrer des permis qu'aux seules communautés représentées par un conseil de bande.” – para 16; “Les défendeurs allèguent que tout comme le ministre du Québec, le ministre fédéral a toujours refusé de discuter avec les membres de l'AAQ de l'octroi de tels permis alors qu'il accepte de le faire avec des organisations similaires dans d'autres provinces.” – para 20).

The second decision was on a request from the prosecutor that the defendants’ request for a stay of proceedings be dismissed. Côté J.C.Q. again observed that the AAQ was founded in 1971 to represent “non-status Indians”. (“fondée en 1971 pour regrouper les Autochtones qui ne sont pas des Indiens inscrits au sens de la Loi sur les Indiens…”) (para 3)

***Québec (Procureure générale)* c. *Boland*, 2010 QCCQ 4398 (CanLII)**

This case was identical to the 2010 *Martin* case and, in fact, was decided with it by Côté J.C.Q., who again found that the AAQ was founded in 1971 to represent “non-status Indians”. (“fondée en 1971 pour regrouper les Autochtones qui ne sont pas des Indiens inscrits au sens de la Loi sur les Indiens…”) (para 2)

***Québec (Procureur général)* c. *Béchamp*, 2011 QCCQ 11234 (CanLII)**

This, too, was an Aboriginal fishing rights case, with a request for a stay of criminal proceedings and a motion from the prosecution to dismiss the requested stay; the request for a stay was based again on the refusal of the Government of Quebec to negotiate an Aboriginal hunting and fishing arrangement with the AAQ that would allow the AAQ to provide hunting and fishing

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licences to its members. In the course of making his decision on the question, Benoit J.P. determined that the AAQ represents Métis and "non-status Indians" in Quebec for the purpose of defending and promoting their rights and interests. ("Cette association regroupe des «métis et des indiens sans statut». La raison d'être de cette association est la défense et la promotion des droits et intérêts de ses membres.") (para 18)

***Québec (Procureur général)* c. *Tremblay*, 2013 QCCQ 7773 (CanLII)**

This is yet another Aboriginal fishing rights case in which the prosecutors seek to dismiss the defendants' requested stay of proceedings. In the course of her decision, Thibault C.J.Q. identifies the Alliance as an organization that represents "non-status Indians" in Quebec ("l'Alliance autochtone du Québec (A.A.Q.) qui regroupe les autochtones qui ne sont pas des indiens inscrits au sens de la Loi sur les indiens.") (para 4)

***Romain* c. *Bertrand*, 2016 QCCS 526 (CanLII); 2016 QCCA 1986 (CanLII); 2017 QCCS 719 (CanLII); 2017 QCCS 4294 (CanLII)**

This case involves another conflict within the Alliance Autochtone du Québec over the position of Grand Chief. In the course of his decision on the question in the first case, Bédard, J.C.S. identified the Alliance as a legal person, incorporated under the *Companies Act* of Quebec, with approximately 20,000 members that exists to defend the interests of the off-reserve Indigenous people of Quebec. ("L'AAQ est une personne morale, incorporée en vertu de la partie III de la Loi sur les compagnies, L.R.Q. ch-38. L'AAQ compte environ 20 000 membres et a pour objectif de défendre les intérêts des autochtones résidant hors réserve au Québec.") (paras 3-4) In deciding the appeal of Bédard J.C.S.'s decision, the Quebec Court of Appeal again declared that the AAQ was a not-for-profit corporation, with approximately 20,000 members, whose mission was to promote and represent the interests of the off-reserve Indigenous peoples of Quebec. ("L'A.A.Q. est une personne morale sans but lucratif, comptant environ 20 000 membres, dont la mission est de promouvoir et de représenter les intérêts des Autochtones qui résident à l'extérieur des réserves au Québec.") (para 2)

The conflict returned to the *Cour superieur* in 2017. In the course of making a decision on the requested orders, Bédard J.C.S. once again identified the AAQ as a legal person, incorporated under the *Companies Act* of Quebec, with approximately 20,000 members that exists to defend the interests of the off-reserve Indigenous people of Quebec. ("L'AAQ est une personne morale, incorporée en vertu de la partie III de la Loi sur les compagnies, L.R.Q. ch-38. L'AAQ compte environ 20 000 membres et a pour objectif de défendre les intérêts des autochtones résidant hors réserve au Québec.") (paras 2-3) The conflict over the leadership of the AAQ came before Bédard J.C.S. again later in 2017; in his decision in this case, Bédard J.C.S. again noted that the AAQ w as a legal person, incorporated under the *Companies Act* of Quebec, with approximately 26,000 members, that exists to defend the interests of the off-reserve Indigenous people of Quebec. (" L'AAQ est une personne morale incorporée en vertu de la Partie III de la *Loi sur les compagnies*. L'AAQ compte 26 000 membres. Elle a pour objectif de défendre les intérêts des autochtones résidant hors réserves." (paras 14-15)

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***Romain* c. *Castonguay*, 2018 QCCS 3677 (CanLII); 2019 QCCS 3892 (CanLII)**

This case, too, was about internal conflict within the AAQ. In the first decision, Bouchard J.C.S. declared that the AAQ was an organization with approximately 26,000 members that existed to defend the interests of off-reserve Indigenous peoples in Quebec. ("L'AAQ, qui compte 26 000 membres, a pour objectif de défendre les intérêts des autochtones résidant hors réserve.") (para 5) In the second, 2019, decision on a request to annul the 2017 and 2018 Annual General Assemblies of the Alliance, and therefore the election of the Grand Chief and others, Bouchard J.C.S. noted that the AAQ is a non-profit corporation governed by the Quebec *Companies Act* whose purpose is to defend and promote the rights and interests of the off-reserve Indigenous peoples of Quebec; he noted that the Alliance had approximately 30,000 grouped into local communities in five administrative regions ("L'AAQ est une corporation à but non lucratif régie par la Partie III de la Loi sur les compagnies, ayant pour objet de défendre et de promouvoir des droits et des intérêts d'autochtones vivant hors réserves. Les quelque 30 000 membres de l'AAQ sont regroupés en communautés locales elles-mêmes rattachées à l'une ou l'autre de cinq régions administratives") (paras 4-5)

4. Native Council of Nova Scotia:

***Martin* v. *Canada (Attorney General)*, 2002 FCT 1117 (CanLII)**

This case is, at heart, a dispute over whether the Mi'kmaq band governments have an exclusive right to represent the interests of off-reserve band members or whether this class of persons can be represented by the Native Council of Nova Scotia. In the course of his decision, Kelen J. noted that the Native Council of Nova Scotia was an incorporated society representing the interests of off reserve Mi'kmaq in Novia Scotia and that it established a natural life management authority, known as the Netukulimkewe'l Commission (the "Commission"), which held an Aboriginal Communal Fishing License on behalf of the Native Council, issued under the authority of the federal *Fisheries Act* and the *Aboriginal Communal Fishing Licenses Regulations*. He also notes that the license recognized the Commission as the administrative authority for ATRA passport holders and that, beginning in 1992, the Commission was a party to the successive annual Working Agreements and Aboriginal Fishing Agreements with the Department of Fisheries and Oceans. (paras 3-4) Kelen J. observed, however, that, in January 2001, the Department of Fisheries and Oceans informed the NCNS the department did not intend to consult directly with it or the Commission in future negotiations for fishing agreements. He also observed that the Federal Court, Trial Division removed the NCNS as a party to this litigation in 2002 (2002 FCT 6); the Court decided that, as an incorporated body, it could not hold Aboriginal and treaty rights and was therefore not a proper representative party to the proceedings. (para 3)[4]

[4] I would note, however, that this is inconsistent with the Newfoundland and Labrador Court of Appeal's later decision in *The Labrador Metis Nation* v. *Newfoundland and Labrador*, 2007 NLCA 75 (CanLII).

***R.* v. *Morrell*, 2004 NSPC 4 (CanLII)**

This case concerns an Indigenous fisher charged with offences under the federal *Fisheries Act*. As Batiot JPC noted in his decision, "Since the early 1990's, certain aboriginals are permitted, under an Aboriginal Communal Fishing License, to be involved in a food fishery during the close period. This is authorized by the Department of Fisheries and Oceans (DFO) and the Regulations it administers. Several members of various native bands partake in this fishery, under the auspices of the Native Council of Nova Scotia, and more particularly through the Netukulimkewe'l Commission which issues to such member, for LFA 34, up to three yellow tags." (para 12)

***R.* v. *Walker*, 2005 NSPC 1 (CanLII)**

This was an Aboriginal hunting rights case. In the course of his decision, Curran PCJ noted that "Since the late 1990s, as a matter of policy if not of law, the provincial government has not required Nova Scotia Mi'kmaq to be licensed when hunting deer or other species. Anyone with a 'status card' related to a Nova Scotia Mi'Kmaq band or an 'ATRA' (Aboriginal and Treaty Rights Access) Passport issued under the auspices of the Native Council of Nova Scotia has been treated as if validly licensed. It is particularly interesting that ATRA Passports may be issued to anyone with Mi'kmaq ancestry, whether 'status' or 'non-status' and whether from Nova Scotia or elsewhere." (para 12)

***Mime'j Seafoods Ltd.* v. *Nova Scotia (Workers' Compensation Appeals Tribunal),* 2007 NSCA 115 (CanLII)**

In this case, Mime'j, a company owned by the Native Council of Nova Scotia, denied that it was an employer for the purposes of the Nova Scotia *Workers' Compensation Act*. Rather, it claimed that it was merely an entity that existed to hold fishing licences on behalf of off-reserve Indigenous people, as the federal Department of Fisheries and Oceans required that Aboriginal fishing licences be held by an "Indian band" or some other Indigenous entity recognized in Canadian law; it made these licences available to off-reserve Indigenous community members through a series of community-based joint venture agreements. In the course of his decision on this question, MacDonald CJNS, for the Court of Appeal, noted that the Native Council of Nova Scotia was "an incorporated society dedicated to protecting the rights of off-reserve Aboriginals living in Nova Scotia." (para 2)

***Native Council of Nova Scotia* v. *Attorney General of Canada*, 2008 FCA 113 (CanLII)**

The Federal Court of Appeal decision in 2008 was an appeal of a decision at the Federal Court, Trial Division to dismiss an application to review a federal Department of Fisheries and Oceans condition in a licence issued to the Council. In the course of deciding the dismiss the appeal, the Federal Court of Appeal stated that "The Council had been created in 1974 to assist and to give voice to Mi'kmaq and other Aboriginal people living off-reserve in Nova Scotia." (para 2)

***Native Council of Nova Scotia* v. *Attorney General of Canada*, 2011 FC 72**

This case was a challenge to the 2011 census by the Native Council of Nova Scotia, the New Brunswick Aboriginal Peoples Council, and the Native Council of Prince Edward Island, all three of which were described by Zinn J as "self-governing organizations representing off-reserve aboriginal peoples in their respective provinces. Each is a member of the Maritime Aboriginal Peoples Council, an aboriginal Intergovernmental Council which advocates at the regional level." (para 2)

***Bear Paw Pipeline Corporation Inc. (Re)*, 2016 NSUARB 162 (CanLII)**

The Nova Scotia Utility and Review Board issued Bear Paw Pipelines a permit to construct a pipeline under certain conditions. Paragraph 16 of the permit directs that "Bear Paw shall communicate directly with aboriginal groups, including the Native Council of Nova Scotia ('NCNS') and the Fishers Group regarding the proposed pipeline route and construction."

***R.* v. *Martin*, 2016 NSPC 14 (CanLII)**

This is an Aboriginal fishing rights case. In the course of deciding to grant a stay of proceedings to the Indigenous defendants, Ross J observed that "At Tab 26, a briefing note from 1998 states that 'in addition to the five Cape Breton Bands, the Native Council of Nova Scotia has indicated that they will not oppose hook-and–release in Cape Breton under these circumstances." (para 269) and that "Kathi Stewart (previously Matthews) was a Director of Aboriginal Fisheries upon retirement from DFO in 2009…. Her branch of DFO was charged with developing a response to the *Sparrow* decision from the SCC [Supreme Court of Canada]. It worked with the 16 First Nations in the Scotia-Fundy region and with the Native Council of Nova Scotia and attempted to achieve a food fishery (*Sparrow*) agreement with each community in each year. From 1994 onwards, following the *Marshall* decision from the SCC, it worked likewise to achieve commercial (*Marshall*) agreements." (para 274)

5. New Brunswick Aboriginal Peoples Council:

***R.* v. *Lavigne*, 2007 NBQB 171 (CanLII)**

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This was an Aboriginal hunting rights case. In the course of his decision, McIntyre J described the New Brunswick Aboriginal Peoples Council as "an organization for status and non-status Indians who live off-reserve." (para 22)

6. Native Council of PEI:

***Gallant* v. *Canada (Attorney General)*, 2007 FC 1 (CanLII); 2007 FCA 392 (CanLII)**

This case was an application for judicial review of a decision of Human Resources and Skills Development Canada to enter into a single Aboriginal Human Resources Development Agreement for Prince Edward Island with the Mi'kmaq Confederacy of PEI. In the course of deciding that HRSDC had breached the equality rights of the members of the Native Council of PEI , Pinard J. noted that the Native Council was "a non-profit organization that advocates for

Aboriginal persons living off-reserve in P.E.I." (para 3) This decision was then appealed to the Federal Court of Appeal, which allowed the appeal; in the course of the decision, Desjardins JA reiterated the trial judge's description that "The Native Council is a non-profit organisation that advocates for Aboriginal persons living off-reserve in PEI." (para 4)

Conclusion:

One can clearly see from this bibliography of cases that, in numerous judicial decisions, courts at all levels and in several provinces, as well as the Federal Court, have recognized CAP and its provincial/territorial affiliates as legitimate representatives of off-reserve and "non-status Indian" Indigenous peoples in Canada.

B. Government documents demonstrating recognition of CAP/NCC or provincial/territorial affiliates by federal, provincial, territorial governments as intergovernmental partners

1. Intergovernmental meetings involving CAP (from the Canadian Intergovernmental Conferences Secretariat website)**:**

November 18, 1997 – meeting of provincial/territorial Premiers and leaders of the National Aboriginal Organizations (including CAP) – see https://scics.ca/en/product-produit/news-release-24824/

May 19-20, 1998 – meeting of federal/provincial/territorial Ministers Responsible for Aboriginal matters and leaders of the National Aboriginal Organizations (including CAP) – see https://scics.ca/en/product-produit/news-release-meeting-of-federal-provincial-territorial-ministers-of-aboriginal-affairs-and-leaders-of-national-aboriginal-organizations/

December 16, 1999 – meeting of federal/provincial/territorial Council on Social Policy Renewal, leaders of the five National Aboriginal Organizations (including CAP), and federal/provincial/territorial Ministers Responsible for Aboriginal Affairs – see https://scics.ca/en/product-produit/news-release-25238/

May 11, 2001 – meeting of federal/provincial/territorial Ministers Responsible for Aboriginal matters and leaders of the National Aboriginal Organizations (including CAP) – see https://scics.ca/en/product-produit/news-release-24468/

December 7, 2001 – meeting of federal/provincial/territorial Ministers Responsible for Aboriginal matters and leaders of the National Aboriginal Organizations (including CAP) – see https://scics.ca/en/product-produit/news-release-24532/

November 1, 2002 – meeting of federal/provincial/territorial Deputy Ministers responsible for Aboriginal matters and senior representatives of the National Aboriginal Organizations – see https://scics.ca/en/conference/federal-provincial-territorial-meeting-of-deputy-ministers-responsible-for-aboriginal-matters-and-senior-representatives-of-national-aboriginal-organizations-3/

November 15, 2002 – meeting of federal/provincial/territorial Ministers Responsible for Aboriginal Affairs and leaders of the National Aboriginal Organizations (including CAP) – see https://scics.ca/en/product-produit/news-release-25370/

September 13, 2004 – special meeting of First Ministers and Aboriginal Leaders – see https://scics.ca/wp-content/uploads/CMFiles/800041004_131EFH-3212011-964.pdf

February 24-25, 2009 – CMEC Summit on Aboriginal Education, with leaders of the National Aboriginal Organizations (including CAP) and regional Aboriginal organizations – see https://scics.ca/en/product-produit/news-release-ministers-of-education-open-cmec-summit-on-aboriginal-education-february-24-2009/; https://scics.ca/en/product-produit/news-release-working-together-to-improve-the-educational-achievement-of-aboriginal-learners-february-25-2009/

October 29, 2009 – meeting of provincial/territorial Ministers responsible for Aboriginal Affairs and the National Aboriginal Organizations (including CAP) and establishment of an Aboriginal Affairs Working Group – see https://scics.ca/en/product-produit/news-release-cross-canada-cooperation-on-aboriginal-affairs-priorities-key-to-achieving-concrete-results/; https://scics.ca/en/product-produit/recommendations-adopted-by-the-aboriginal-affairs-working-group/; https://scics.ca/en/product-produit/backgrounder-ministers-and-national-aboriginal-leaders-acknowledge-importance-of-cooperation-on-aboriginal-affairs/

April 28, 2010 – meeting of provincial/territorial Ministers Responsible for Aboriginal Affairs and leaders of the National Aboriginal Organizations (including CAP) – see https://scics.ca/en/product-produit/news-release-moving-forward-on-a-plan-to-improve-the-quality-of-life-for-aboriginal-peoples/; https://scics.ca/en/product-produit/backgrounder-provincial-and-territorial-ministers-responsible-for-aboriginal-affairs-and-leaders-of-the-national-aboriginal-organizations/

February 24, 2011 – Council of Ministers of Education of Canada meeting with leaders of the National Aboriginal Organizations (including CAP) – see https://scics.ca/en/product-produit/news-release-canada's-ministers-of-education-hold-meeting-with-national-aboriginal-organizations/

April 19, 2011 – meeting of provincial/territorial Ministers Responsible for Aboriginal Affairs and leaders of the National Aboriginal Organizations (including CAP) – see https://scics.ca/en/product-produit/news-release-working-together-to-improve-socio-economic-outcomes/

April 11, 2012 – meeting of provincial/territorial Ministers Responsible for Aboriginal Affairs and leaders of the National Aboriginal Organizations (including CAP) – see https://scics.ca/en/product-produit/news-release-working-together-to-improve-socio-economic-outcomes-for-aboriginal-peoples-across-canada/; https://scics.ca/en/product-produit/official-photo-meeting-of-federal-provincial-territorial-ministers-responsible-for-aboriginal-affairs-and-leaders-of-the-national-aboriginal-organizations/

April 17, 2013 – meeting of provincial/territorial Ministers Responsible for Aboriginal Affairs and leaders of the National Aboriginal Organizations (including CAP) – see https://scics.ca/en/product-produit/news-release-working-together-to-improve-opportunities-for-aboriginal-peoples-across-canada/; https://scics.ca/en/product-produit/official-photo-meeting-of-provincial-territorial-ministers-responsible-for-aboriginal-affairs-and-leaders-of-the-national-aboriginal-organizations/

November 18-19, 2013 – meeting of provincial/territorial Ministers Responsible for Aboriginal Affairs and leaders of the National Aboriginal Organizations (including CAP) – see https://scics.ca/en/product-produit/news-release-working-together-to-improve-opportunities-and-outcomes-for-aboriginal-peoples-across-canada/; https://scics.ca/en/product-produit/official-photo-meeting-of-provincial-territorial-ministers-of-aboriginal-affairs-and-leaders-of-the-national-aboriginal-organizations/

May 13, 2014 – meeting of provincial/territorial Ministers Responsible for Aboriginal Affairs and leaders of the National Aboriginal Organizations (including CAP) – see https://scics.ca/en/product-produit/news-release-working-together-to-improve-opportunities-and-outcomes-for-aboriginal-peoples-across-canada/; https://scics.ca/en/product-produit/official-photo-ministers-responsible-for-aboriginal-affairs-and-leaders-of-the-national-aboriginal-organizations/

September 14-15, 2017 – one session with the CAP, AFN, NWAC and Women of the Métis Nation at the meeting of federal/provincial/territorial Ministers responsible for Justice and Public Safety – see https://scics.ca/en/product-produit/news-release-justice-and-public-safety-ministers-conclude-two-days-of-meetings-on-shared-justice-and-security-priorities/ "Working together to address public safety and justice issues for Indigenous communities"

November 9, 2017 – meeting between federal/provincial/territorial Status of Women Ministers and CAP, AFN, ITK, MNC, NWAC, Pauktuutit Inuit Women of Canada, and Women of the Métis Nation prior to the meeting of federal/provincial/territorial Ministers responsible for the Status of Women – see https://scics.ca/en/product-produit/news-release-status-of-women-ministers-advance-key-priorities-affecting-women-and-girls/

June 20, 2018 – meeting between the federal/provincial/territorial Ministers responsible for Culture and Heritage with the leaders of the AFN, CAP, and ITK prior to the meeting of federal/provincial/territorial Ministers responsible for Culture and Heritage – see https://scics.ca/en/product-produit/news-release-culture-and-heritage-priorities-discussed-at-federal-provincial-and-territorial-ministers-annual-meeting/

October 18, 2018 – meeting between federal/provincial/territorial Status of Women Ministers and CAP, AFN, ITK, NWAC, Pauktuutit Inuit Women of Canada, and Women of the Métis Nation prior to the meeting of federal/provincial/territorial Ministers responsible for the Status of Women – see https://scics.ca/en/product-produit/news-release-status-of-women-ministers-gather-in-whitehorse-for-further-collaboration-on-priorities-affecting-women-and-girls-in-canada/

2. Government of PEI-Native Council of PEI:

Prince Edward Island Physical Education Curriculum, Grade 10, PED 401A (Department of Education and Early Childhood Development, Government of Prince Edward Island, 2014) identifies the Native Council of PEI, along with the MI'kmaq Confederacy of PEI, as a "First Nations representative". – see https://www.princeedwardisland.ca/sites/default/files/publications/eelc_ped401a.pdf

Housing Action Plan for Prince Edward Island 2018-2023 Progress Report (2019) action item 47, "Collaborate and partner with First Nations and Indigenous groups to address affordable housing needs" included "Project-specific engagement with Native Council of PEI" as an indicator of progress and identified "Continued engagement with Native Council of PEI and the Mi'kmaq Confederacy of PEI on needs" as a next step item. – see

https://www.princeedwardisland.ca/sites/default/files/publications/web_progress_report_housing_2020.pdf, p. 18

The Province of Prince Edward Island Response to Community Needs Assessment on Emergency Shelters (Department of Social Development and Housing, Government of Prince Edward Island, November 2019) notes, on p. 7 that government officials, the Temporary Housing Task Team, "Met with Native Council of PEI to discuss housing development opportunities." In response to the consultant's recommendation to "Explore a partnership with First Nations and Indigenous provincial organizations to seek a solution for culturally appropriate supports and programs for Indigenous people off reserves experiencing homelessness." – see https://www.princeedwardisland.ca/sites/default/files/publications/web_cna_recommendations_and_progress.pdf

Native Council of PEI is described in a February 21, 2020 announcement "Community organizations receive funding for housing initiatives" as "the self-governing authority for Indigenous peoples residing off-reserve and represents the rights, needs and interests of status and non-status Mi'kmaq, Metis and Inuit peoples off-reserve in Prince Edward Island." – see https://www.princeedwardisland.ca/en/news/community-organizations-receive-funding-housing-initiatives

Aboriginal Cultural Connections: A Child Protection Resource Guide (Department of Community Services and Seniors, Government of Prince Edward Island, date unknown) includes an extensive description of the Native Council of PEI (p. 17) in which it is described as a "community of Aboriginal peoples residing on Mi'kmaq traditional ancestral homeland." – see https://www.princeedwardisland.ca/sites/default/files/publications/aboriginal_cultural_connections.pdf

The *Department of Education and Early Childhood Development Annual Report 2010-2011* noted, on p. 79, that "an Aboriginal Education Transitions Task Group has been established that includes representation from the First Nations, the department, the Department of Innovation and Advanced Learning, the school boards, schools, the Native Council, UPEI, and Holland College. The mandate of the group is to identify barriers and gaps for Aboriginal learners and take steps to address them. An action plan has been developed by the group that includes built-in accountability measures." – see https://www.princeedwardisland.ca/sites/default/files/publications/eelc_annual_report_2010-11.pdf

On the other hand, while the *Department of Education and Early Childhood Development Annual Report 2013-2014* identified, on p. 9, "Deepening the collaborative working relationship with the Mi'kmaq Confederacy of PEI (MCPEI), the Native Council of PEI (NCPEI), and Aboriginal Affairs and Northern Development Canada (AANDC)" as one of the "major strategic objectives of the Tripartite Education Forum", that Forum was strictly composed of the PEI Department, the Mi'kmaq Confederacy of PEI and the Aboriginal Affairs and Northern Development Canada. Similarly, the *Department of Education and Early Childhood Development Annual Report 2014-2015* again identified "Deepening the collaborative working relationship with the Mi'kmaq

Confederacy of PEI (MCPEI), the Native Council of PEI (NCPEI), and Aboriginal Affairs and Northern Development Canada" as a "major strategic objective" of its work on Aboriginal education (p. 20), it only stated that the Department was working in collaboration with the three First Nations on PEI and the Mi'kmaq Confederacy of PEI – see https://www.princeedwardisland.ca/sites/default/files/publications/eelc_annual_report_2013-14.pdf; https://www.princeedwardisland.ca/sites/default/files/publications/eelc_annual_report_2014-15_2.pdf

3. Government of New Brunswick-New Brunswick Aboriginal Peoples Council:

In its March 2, 2001 news release "All-Terrain Vehicle Task Force seeks input", the Department of Public Safety notes that "The task force includes representation from … NB Aboriginal Peoples Council, MAWIW Council of First Nations, and the departments of Public Safety, Business New Brunswick, Justice, Natural Resources and Energy, Transportation, and Environment and Local Government." – see https://www.gnb.ca/cnb/news/ps/2001e0195ps.htm

In its April 25, 2007 new release "Province provides funding for Aboriginal Employment Facilitator position", the Department of Post-Secondary Education, Training and Labour and the Aboriginal Affairs Secretariat noted that the announced position "was created in association with the Aboriginal Employment Service Initiative (AESI). The AESI is a First Nation, provincial and federal partnership with the goal of building greater inclusiveness of aboriginal peoples in the workforce. Other members of this partnership include … the NB Aboriginal Peoples Council, as well as the provincial Department of Aboriginal Affairs." – see https://www.gnb.ca/cnb/news/pet/2007e0513pe.htm

The Aboriginal Affairs Secretariat's April 30, 2007 submission to the Commission on Post-Secondary Education in New Brunswick, "Aboriginal Access to Post-Secondary Education in New Brunswick", notes that New Brunswick First Nations have four Aboriginal Human Resources Development Agreements, between the federal government and MAWIW Council, Inc., First Nations Human Resource Development Council Corp., the New Brunswick Aboriginal Peoples Council, and the North Shore Micmac District Council, Inc. (p. 5) – see https://www.gnb.ca/cpse-ceps/EN/docs/Aboriginal%20Affairs%20Secretariat%20main.pdf

In the March 4, 2010 news release "Investment made in youth partnerships", the Department of Education noted that the New Brunswick Aboriginal Peoples Council was a member of the steering committee formed to implement the New Brunswick Youth Strategy – see https://www.gnb.ca/cnb/news/edu/2010e0311ed.htm

In the September 2014 *Directory of Financial Aid for Persons with Disabilities in New Brunswick* prepared by the Premier's Council on the Status of Disabled Persons, the New Brunswick Aboriginal Peoples Council is identified as an Aboriginal organization recognized by the New Brunswick Aboriginal Affairs Secretariat (p. 86) – see https://www2.gnb.ca/content/dam/gnb/Departments/pcsdp-cpmcph/pdf/directories/DirectoryofFinancialAid2014En.pdf

In the March 8, 2017 news release "Province represented at National Indigenous Women's Summit", the New Brunswick Aboriginal Affairs Secretariat stated that "First Nations delegates from New Brunswick included … members of … the New Brunswick Aboriginal Peoples Council…." – see https://www2.gnb.ca/content/gnb/en/news/news_release.2017.03.0299.html

On the other hand, in its January 2016 *Summary of Public and First Nations Participation* in the environmental impact assessment of the proposed Sisson Brook tungsten and molybdenum mine, the New Brunswick Department of Environment and Local Government noted that "At the public meeting in Stanley, a representative of the NBPAPC said that the Crown had an obligation to consult with them. However, no-one had done so. (p. 35) – see https://www2.gnb.ca/content/dam/gnb/Departments/env/pdf/EIA-EIE/sisson/SummaryOfParticipationSisson.pdf

4. Canada (Department of Fisheries and Oceans)-New Brunswick Aboriginal Peoples Council:

In its *Project Effects Determination Report* under the *Canadian Environmental Assessment Act, 2012* for the New Mills Containment Cell, from February 20, 2018, the federal Department of Fisheries and Oceans observed that "As a result of the DTC [duty to consult] assessment, aboriginal consultation was pursued further for this project as there may be impacts on potential or established Aboriginal or Treaty Rights. Notification letters will be delivered to the Mi'kmaq First Nations of New Brunswick, along with the Elsipogtog First Nation, Mi'gmawe'l Tplu'taqnn Incorporated (MTI), and the New Brunswick Aboriginal Peoples Council (NBAPC) to initiate consultation on this project." – see https://www2.gnb.ca/content/dam/gnb/Departments/env/pdf/EIA-EIE/Registrations-Engegistrements/documents/EIARegistration1499.pdf

On the other hand, in its Project Effects Determination Report under the *Canadian Environmental Assessment Act, 2012* for wharf decommissioning at Chocolate Cove, Curry Cove, and Richardson Wharf, from November 27, 2017, the federal Department of Fisheries and Oceans intended to only provide the New Brunswick Aboriginal Peoples Council with a project notification, while organizing consultations with Mi'kmaq and Wolastoqey First Nations and the Mi'gmawe'l Tplu'taqnn Incorporated (MTI) and Wolastoqey Nation in New Brunswick (WNNB) (p. 3) – see https://www2.gnb.ca/content/dam/gnb/Departments/env/pdf/EIA-EIE/Registrations-Engegistrements/documents/EIARegistration1502.pdf]

5. Government of Nova Scotia-Native Council of Nova Scotia:

The "Aboriginal Links in Nova Scotia" webpage on the Nova Scotia Office of Aboriginal Affairs website identifies the Native Council of Nova Scotia as "The Self-Governing Authority for the large community of Mi'kmaq/Aboriginal Peoples Residing Off-Reserve in Nova Scotia throughout tradition Mi'kmaq Territory" – see https://novascotia.ca/abor/resources/links/aboriginal/

Appendix 11 of the *Report of the Royal Commission on the Donald Marshall Jr. Prosecution* observes that "Aboriginal people living off reserve are represented by the Native Council of Nova Scotia." (p. 349) – see https://novascotia.ca/archives/pdf/marshall/1-5-Appendices.pdf

In its October 21, 1998 news release announcing the establishment of the Council on Mi'kmaq Education, the Department of Education and Culture noted that "The council is made up 13 representatives appointed by the minister. Members are from a number of organizations representing the Mi'kmaq community: the Native Council of Nova Scotia, …. Other members of the council include Mi'kmaq representatives from the regional school boards, and three representatives from the Mi'kmaq community at large." – see https://novascotia.ca/news/release/?id=19981021001

The Office of Aboriginal Affairs 2002-2003 *Business Plan* identified the Native Council of Nova Scotia as an "off-reserve Aboriginal organization" as part of the "Planning Context" section, on p. 1 – see https://novascotia.ca/abor/docs/business-plans/business-plan-2002-2003.pdf

The Office of Aboriginal Affairs 2003-2004 *Business Plan* states that "that "Other Aboriginal organizations include the Native Council of Nova Scotia which provides a range of services, primarily to Aboriginal people living off-reserve …" (p. 3) as part of the "Planning Context" section – see https://novascotia.ca/abor/docs/business-plans/business-plan-2003-2004.pdf

In its 2004-2005 *Business Plan*, the Office of Aboriginal Affairs again noted that "Other Aboriginal organizations include the Native Council of Nova Scotia which provides a range of services, primarily to Aboriginal people living off-reserve …" (p. 3) and stated, on p. 7, that "The Office will continue to work with First Nations, Tribal Councils and the Native Council of Nova Scotia to identify community issues and determine what role the Province can play in helping to resolve those issues." – see https://novascotia.ca/abor/docs/business-plans/business-plan-2004-2005.pdf

The words of the 2004-2005 *Business Plan* of the Office of Aboriginal Affairs were repeated in the 2005-2006 and 2006-2007 *Business Plans* – see https://novascotia.ca/abor/docs/business-plans/business-plan-2005-2006.pdf; https://novascotia.ca/abor/docs/business-plans/business-plan-2006-2007.pdf

The description of the Native Council of Nova Scotia in the previous years' Office of Aboriginal Affairs *Business Plans* was repeated at p. 4 of the 2007-2008 *Business Plan*, which also stated, on p. 8, that "In addition to its work with the Tripartite Forum, the Office of Aboriginal Affairs will continue to work with First Nations, Tribal Councils and the Native Council of Nova Scotia to identify community issues and determine what role the province can play in helping to resolve those issues." – see https://novascotia.ca/abor/docs/business-plans/business-plan-2007-2008.pdf

The Office of Aboriginal Affairs 2006-2007 *Annual Accountability Report*, issued September 21, 2007, item on "Aboriginal Housing" notes that "… the office is working with the Native Council of Nova Scotia, tribal councils, the Mi'kmaq Native Friendship Centre, Tawaak Housing, the NS Native Women's Association to ensure a collaborative and inclusive approach is taken …" (p. 9) – see https://novascotia.ca/abor/docs/accountability-reports/Accountablility-Report-2006-2007.pdf

The *Province of Nova Scotia Consultation with the Mi'kmaq: Interim Consultation Policy* of June 19, 2007 identifies the Native Council of Nova Scotia as one of "Other Mi'kmaq organizations", stating that "The Native Council of Nova Scotia (NCNS) is an organization that includes non-status and off-reserve status Mi'kmaq, and has an interest in a variety of natural resource matters." (p. 5) – see https://novascotia.ca/abor/aborlearn/docs/Nova-Scotia-Interim-Consultation-Policy-June-1807.pdf

In the May 2009 edition of its *Proponents' Guide: Engagement with the Mi'kmaq of Nova Scotia*, the Office of Aboriginal Affairs advised proponents, as part of its advice to "Notify Mi'kmaq early in the development process", to contact the Native Council of Nova Scotia, as well as Chiefs and band councils (p.5). As well, on p. 9 of "Appendix A: Definitions", the Guide stated that "The Native Council of Nova Scotia advocates for Aboriginal people primarily residing off-reserve in Nova Scotia." – see https://www.novascotia.ca/abor/docs/Proponants-Guide.pdf

In the November 2012 edition of its *Proponents' Guide: The Role of Proponents in Crown Consultation with the Mi'kmaq of Nova Scotia*, the Office of Aboriginal Affairs again advised proponents, as part of its advice to "Notify Mi'kmaq early in the development process", to contact the Native Council of Nova Scotia, as well as Chiefs and band councils (p. 3). As well, in the "Appendix A: Definitions" on p. 8, the Guide again stated that "The Native Council of Nova Scotia advocates for Aboriginal people primarily residing off-reserve in Nova Scotia." – see https://novascotia.ca/nse/ea/docs/ea-proponents-guide-to-mikmaq-consultation.pdf

In its August 2017 document *Parents as Career Coaches: Helpful Web Resources 2017-2018*, the Department of Education identified the Native Council of Nova Scotia as an organization that "provides services to Mi'kmaq/Aboriginal peoples residing off-reserve in Nova Scotia throughout traditional Mi'kmaq territory." – see https://www.ednet.ns.ca/cbl/files-cbl/documents/PACC%20Web%20Resources%20July%202017.pdf

Nova Scotia's *Ministerial Education Act* Regulations, as amended effective October 22, 2018, identify the Native Council of Nova Scotia as one of the First Nation organizations to recommend people for appointment to the Council on Mi'kmaq Education (s. 31); the *Ministerial Education (CSAP) Act Regulations*, as amended effective September 3, 2019, also do so in s. 27 – see https://novascotia.ca/just/regulations/regs/edmin.htm; https://novascotia.ca/just/regulations/regs/ed-cmin.htm

6. Government of Canada-NunatuKavut:

The September 5, 2019 news release "Moving Forward on Self-Determination: MOU Between Canada and the Nunatukavut Community Council" announced that the federal Minister of Crown-Indigenous Relations and the President of the Nunatukavut Community Council signed a Memorandum of Understanding on self-determination to "work in partnership to explore new ways to strengthen their relationship and address the priorities identified by NCC." – see https://nunatukavut.ca/article/moving-forward-on-self-determination-mou-between-canada-and-the-nunatukavut-community-council/

7. Government of Newfoundland and Labrador-NunatuKavut:

The March 28, 2011 news release from the Department of Child, Youth and Family Services "Minister Announces New Organizational Structure" stated that "'Government recognizes that some communities in the province face unique challenges, particularly our most isolated communities in Labrador,' said Minister Johnson. 'We have committed to developing an innovative service delivery model incorporating aboriginal perspective for the Labrador region, and have established a Steering Committee including leaders from the Innu Nation, Nunatsiavut Government and the Nunatukavut Community Council to guide this work.'" – see https://www.releases.gov.nl.ca/releases/2011/cyfs/0328n05.htm

In its 2011-2012 *Annual Report*, the Women's Policy Office notes that it works with representatives of the NunatuKavut Community Council, along with other Indigenous groups in the province. (p. 5) – see https://www.gov.nl.ca/exec/osw/files/publications-wpo-annualreport-11-12.pdf

The Intergovernmental and Aboriginal Affairs Secretariat *Activity Plan 2011-2014* again noted that the Secretariat advocated with the federal government to make a decision on the NunatuKavut Community Council land claim and continued to encourage the federal government to provide members of the Council with access to federal programs and services. (p. 17) – see https://www.gov.nl.ca/exec/iias/files/igas_act_plan_2011_14.pdf

On June 14, 2011, Labrador and Aboriginal Affairs and Executive Council issued a news release "Newfoundland and Labrador Aboriginal Delegation to Attend National Aboriginal Women's Forum". The news release notes that the NunatuKavut Community Council was one of the provincial Indigenous governments and organizations that accompanied the provincial Minister of Aboriginal Affairs as part of the Newfoundland and Labrador delegation. – see https://www.releases.gov.nl.ca/releases/2011/laa/0614n04.htm

The Labrador and Aboriginal Affairs Office 2014-2015 *Annual Report* comments that "The Labrador Aboriginal Training Partnership (LATP) was established in 2009 in preparation for major resource developments in Labrador. LATP was mandated, in collaboration with the Nunatsiavut Government (NG), the Innu Nation, the NunatuKavut Community Council (NCC) and Nalcor Energy, to develop and oversee a comprehensive training plan to prepare individuals for employment opportunities. It was co-funded by the Provincial Government and the Federal Government, in partnership with the NG, Innu Nation, NCC and Nalcor Energy." (p. 11) On p. 22, the Annual Report notes that the Labrador and Aboriginal Affairs Office (or LAAO) "Advocated for the Federal Government to make a decision regarding the land claim of the NunatuKavut Community Council, Inc. and continued to encourage the Federal Government to provide access to federal programs and services to all Aboriginal people in the province to which they are entitled: In 2014-2015, LAAO discussed the NunatuKavut Community Council Inc.'s land claim with Aboriginal Affairs and Northern Development Canada and continued to urge the Government of Canada to make a decision on that claim." (also reiterated at pp. 19, 24) – see https://www.gov.nl.ca/exec/las/files/AR-2014-15_LAAO.pdf

In the December 3, 2014 news release "Enhancing Employment Through the Labrador Aboriginal Training Partnership", the Minister of Advanced Education and Skills spoke of "the success of the Labrador Aboriginal Training Partnership. This partnership is between the Innu Nation, the Nunatsiavut Government and the NunatuKavut Community Council and the Nalcor Energy-Lower Churchill Project." – see https://www.releases.gov.nl.ca/releases/2014/aes/1203n10.aspx

The June 18, 2015 news release from Executive Council "Minister Celebrates National Aboriginal Day" quotes the Newfoundland and Labrador Minister of Labrador and Aboriginal Affairs saying that "We are fortunate to have many Aboriginal governments and organizations in this province including … NunatuKavut Community Council…." – see https://www.releases.gov.nl.ca/releases/2015/exec/0618n05.aspx

The September 2015 *What We Heard* Report to the Minister of Transportation and Works from the Minister's Advisory Committee on Labrador Transportation Marine Services noted in the Executive Summary (p. 3) that the Minister asked the Nunatukavut Commuity Council to appoint a member of the Advisory Committee, along with the Innu Nation, the Nunatsiavut Government, and key stakeholders. – see https://www.tw.gov.nl.ca/publications/what_we_heard.pdf

In Premier Ball's December 14, 2015 mandate statement, he states "I will work with Aboriginal people and governments, including the … NunatuKavut Community Council …, in concert with the federal government, to ensure development decisions are made with openness, transparency, and accountability, incorporating concerns and interests of Aboriginal communities." He then stated that "I will also encourage the federal government to render a decision on the land claim of the Nunatukavut Community Council …" (p. 3) – see https://www.gov.nl.ca/wp-content/uploads/Premier_Ball_Mandate.pdf

In the April 19 2016 news release "Provincial Government Announces new Labrador Aboriginal Nutritional and Artistic Assistance Program" from Executive Council, the Government announced that the new funding would be distributed between the NunatuKavut Community Council ($20,000), the Nunatsiavut Government ($20,000) and the Innu Nation ($10,000) and stated that "The Aboriginal governments will administer the funding for activities such as nutritional programs, community freezer programs, food banks and promotion of artists and artistic endeavours", thus recognizing the NunatuKavut Community Council as a government. – see https://www.releases.gov.nl.ca/releases/2016/exec/0419n03.aspx

In the October 26, 2016 news release "Provincial Government and Indigenous Leaders Make Significant Progress on Muskrat Falls Issues" from Newfoundland and Labrador Executive Council announced that "The Government of Newfoundland and Labrador, Innu Nation, Nunatsiavut Government, and the NunatuKavut Community Council met to address concerns regarding the health and well-being of the people of Labrador as related to the Muskrat Falls project." It also stated that "The Government of Newfoundland and Labrador, in partnership with the three Indigenous leaders, has committed to resolving several key issues surrounding the pending flooding of the Muskrat Falls reservoir" and that "as agreed by all parties, an

Independent Expert Advisory Committee (IEAC) will be established. The IEAC will be comprised of representatives of the Innu Nation, Nunatsiavut Government, the NunatuKavut Community Council, and federal, provincial and municipal governments." – see https://www.releases.gov.nl.ca/releases/2016/exec/1026n01.aspx

In the Government of Newfoundland and Labrador's May 2017 submission to the National Inquiry into Missing and Murdered Indigenous Women, the government noted that "IIAS [Intergovernmental and Indigenous Affairs Secretariat] officials met with Miawpukek First Nation in Conne River in April 2016 and the Nunatsiavut Government, Innu Nation, and NunatuKavut Community Council, Inc., in Happy Valley-Goose Bay in April 2016." (p. 2) The government also noted that "The Provincial Government has begun work to improve the provincial curriculum, including the recently established Aboriginal Education Advisory Committee, which includes Indigenous governments and organizations throughout the province. The Provincial Government also notes the recent multilateral initiative of the regional health authorities, supported by provincial Indigenous governments and organizations, the Federal Government, and Government of Newfoundland and Labrador, to develop cultural competency training packages for staff and officials throughout the four health authorities. … The development of this project was overseen by a provincially based advisory committee consisting of representation from Government of Newfoundland and Labrador, each Regional Health Authority, Health Canada, Miawpukek First Nation, Qalipu Mi'kmaq First Nation, Mushuau Innu First Nation, Sheshatshiu Innu First Nation, Nunatsiavut Government and NunatuKavut Community Council." (p. 7) – see https://www.gov.nl.ca/exec/iias/files/What_We_Heard_May2017.pdf

The May 26, 2017 news release from Executive Council "First Indigenous Leaders Roundtable Advances Mutual Goals of Indigenous Communities and Provincial Government" notes that the NunatuKavut Community Council was one of the Indigenous governments and organizations that participated in the Roundtable – see https://www.releases.gov.nl.ca/releases/2017/exec/0526n15.aspx

The Intergovernmental and Indigenous Affairs Secretariat 2017-2018 *Annual Report* identified that "Major progress in the of Repatriation of the Beothuk remains of Demasduit and her husband, Nonosabasut, occurred on May 25, 2017 with the signing of a Declaration by the Miawpukek First Nation, Qalipu First Nation, Innu Nation, Nunatsiavut Government, and NunatuKavut Community Council, which expressed their support, as the contemporary Indigenous people of the Province, for this Repatriation." (pp. 6-7, reiterated at p. 26) It also highlighted that the provincial government was continuing to advocate for a federal decision on the NunatuKavut Community Council land claim, citing the example of a letter from Premier Ball to federal Minister Bennett dated September 12, 2017 urging the federal government to make a decision on the land claim as quickly as possible (p. 17) and the Independent Expert Advisory Committee on the Muskrat Falls hydroelectric project that had been established by agreement between the provincial government and the Nunatsiavut Government, the Innu Nation, and the NunatuKavut Community Council (pp. 17-18). It also identified the Secretariat's advocacy for the federal government to make a decision on the NunatuKavut Community Council's land claim as an indicator of performance on the 2018-2019 objective that "By March

31, 2019, the Secretariat will have further continued to support initiatives to build positive relationships with Indigenous governments, organizations, communities and people of the Province. (p. 27) – see https://www.gov.nl.ca/exec/iias/files/IIAS-AR-2017-18.pdf

On January 26, 2018, the Department of Children, Seniors and Social Development issued a news release "Minister Dempster Reaffirms Provincial Commitment to Address Over-Representation of Indigenous Children and Youth in Care", in which the Department commented that "Any work provincially will be done in collaboration and cooperatively with Innu Nation, Sheshatshiu Innu First Nation, Mushuau Innu First Nation, Nunatsiavut Government, NunatuKavut Community Council, Miawpukek First Nation and Qalipu First Nation." – see https://www.gov.nl.ca/releases/2018/cssd/0126n07/

As noted in the Department of Finance's March 27, 2018 news release "Building for Our Future", the Finance Minister commented in the 2018 Budget Speech that the provincial government was continuing to work closely with the NunatuKavut Community Council, along with the Innu Nation and the Nunatsiavut Government, to address concerns of the people of Labrador about their health and well-being in relation to the Muskrat Falls hydroelectric project – see https://www.gov.nl.ca/releases/2018/fin/0327n05/

The April 11, 2018 news release from the Department of Municipal Affairs and Environment "Final Recommendations Provided by Independent Expert Advisory Committee" stated that "The Provincial Government will remain in partnership with the Innu Nation, Nunatsiavut Government, and the NunatuKavut Community Council and municipalities to continue working together to address issues of methylmercury associated with the Muskrat Falls Project." – see https://www.gov.nl.ca/releases/2018/mae/0411n03/

Executive Council's June 8, 2018 news release "Indigenous Leaders Roundtable Provides Forum for Discussion on Matters of Common Interest" points out that the NunatuKavut Community Council was one of the Indigenous governments and organizations that participated in the second Indigenous Leaders Roundtable, as it had in the first one in 2017. – see https://www.gov.nl.ca/releases/2018/exec/0608n07/

The April 4, 2019 Speech from the Throne stated that "In the coming months, leaders of Indigenous Governments and Organizations will be invited to engage in the third annual Indigenous Leaders Roundtable with the Premier, to advance matters of mutual importance to Indigenous communities. At the first Indigenous Leaders Roundtable in 2017, a declaration was signed by Nunatsiavut Government, Innu Nation, NunatuKavut, Miawpukek First Nation, and Qalipu First Nation in support of the repatriation of the remains of Beothuk individuals held by National Museums Scotland." (p. 6) – see https://www.exec.gov.nl.ca/thronespeech/2019/ThroneSpeech2019.pdf

The July 23, 2019 news release from Executive Council, "Premier Ball Says Agreement Reached with Indigenous Groups will See Social and Health Benefits for Communities", announced that the Government had reached an agreement with the Innu Nation and the NunatuKavut Community Council in relation to the Muskrat Falls hydroelectric power generation project and stated that engagement with the Innu Nation, the NunatuKavut Community Council and the

Nunatsiavut Government is ongoing. – see https://www.gov.nl.ca/releases/2019/exec/0723n01/

The September 2019 *Summary: Aquaculture Governance Stakeholder Consultations* from the Department of Fisheries and Land Resources states that the NunatuKavut Community Council was one of the five Indigenous governments and organizations to which the Department sent formal correspondence, including a copy of the proposed aquaculture policy changes for their review and feedback to the Department (p. 4) – see https://www.fishaq.gov.nl.ca/publications/pdf/Summary_Aquaculture_Governance_Consultation_2019.pdf

The Government of Newfoundland and Labrador's *Five Year Operating Plan, Forest Management District 20 (Sandwich Bay, Labrador) – Operating Period January 1 2020-December 31, 2024* states in the Executive Summary that "Every attempt was made to include all stakeholders including representatives from Innu Nation and NunatuKavut including the signing of an annual Forest Management Consultation Agreement with NunatuKavut." (p. vi) It also states in the Introduction that "In addition to public consultation sessions, the Provincial Government has signed a Forest Management Consultation Agreement with NunatuKavut Community Council to facilitate their participation in the process." (p. 1) – see https://www.mae.gov.nl.ca/env_assessment/projects/Y2019/2049/2049%20-%20FMD20%20Operating%20Plan%20(2020-2024).pdf

The Backgrounder to Executive Council's October 6, 2015 news release "Provincial Government Launches New Violence Prevention Action Plan" identifies the NunatuKavut Community Council as one of the ten "Aboriginal Governments and Organizations" that is a violence prevention initiative partner – see https://www.releases.gov.nl.ca/releases/2015/exec/1006n01.aspx

Clearly, from this summary of interactions between governments and CAP/NCC and its provincial/territorial affiliates, governments have frequently recognized CAP and affiliates as legitimate representatives of off-reserve Indigenous people and "non-status Indians" that have a valuable place in intergovernmental negotiations and government policy development and implementation, especially for provincial governments in Atlantic Canada, which involve CAP's Atlantic Canadian provincial affiliates in policy development and implementation extensively.

APPENDIX II – EXAMPLES OF OCCASIONS ON WHICH CAP, AFFILIATES RAISED GAPS IN REPRESENTATION, SERVICE DELIVERY FOR OFF-RESERVE, NON-STATUS, NON-MEMBER COMMUNITIES WITH GOVERNMENTS

1. Congress of Aboriginal Peoples (since January 1, 2019):

February 28, 2019 press statement, "Government is leaving out Indigenous children that are off-reserve, Métis and non-status in new child welfare legislation – Congress of Aboriginal Peoples" expresses concern about the exclusion of CAP from the process of developing *An Act respecting First Nations, Inuit, and Métis children, youth and families* – see http://www.abo-peoples.org/wp-content/uploads/2019/03/Press-Statement-CAP-outraged-at-Indigenous-child-welfare-legislation-Feb-28-19.pdf

March 18, 2020 press statement, "Prime Minister excludes off-reserve and non-status Indigenous people from COVID-19 response" expresses concern about the exclusion of CAP from COVID-19 response planning meetings with Indigenous organizations – see http://www.abo-peoples.org/wp-content/uploads/2020/03/Press-Statement-COVID-19-Indigenous-Briefing-Response-EN.pdf

March 3, 2020 press statement, "First Ministers Meeting: 'Repeating the mistakes of Coastal GasLink pipeline'" expresses concern about the exclusion of CAP from the proposed March 12 meeting of First Ministers and Leaders of National Indigenous Organizations – see http://www.abo-peoples.org/wp-content/uploads/2020/03/CAP-First-Ministers-Meeting-Press-Release-EN.pdf

January 8, 2020 press statement, "CAP on C-92 coming into force: A biased process resulted in a biased policy" expresses concern about the exclusion of CAP from the process of developing *An Act respecting First Nations, Inuit, and Métis children, youth and families* – see http://www.abo-peoples.org/wp-content/uploads/2020/01/CAP-Press-Release-Child-Welfare-Coming-into-Force-EN.pdf

December 18, 2019 press statement, "Ministerial Mandate Letters – Promising initiatives, but flawed approach to Indigenous policy" expresses concern about Ministerial mandate letters focussing solely on the federal government's relationship with select National Indigenous Organizations of their choosing and excluding CAP – see http://www.abo-peoples.org/wp-content/uploads/2019/12/Edit-CAP-Press-Release-Mandate-Letters_CSJ_PS2-EN.pdf

July 9, 2019 press statement, "CAP advocates for children and families at Premiers' meeting" discusses the results of CAP's involvement in the meeting of the Council of the Federation – see http://www.abo-peoples.org/wp-content/uploads/2019/07/Bilingual-Press-Statement-July-9-Meeting-of-the-Federation-Council-Big-River.pdf

June 20, 2019 press statement, "'We will not be forgotten' – Day of Action, Congress of Aboriginal Peoples" discusses the CAP-led day of action against exclusion and discrimination against off-reserve, non-status, Métis, and southern Inuit peoples – see http://www.abo-

peoples.org/wp-content/uploads/2019/06/Press-Statement-We-Will-Not-Be-Forgotten-—-Day-of-Action.pdf

June 12, 2019 press statement, "The Government's report on S-3 consultations is a disappointment!" expresses CAP's "outrage" with the report on the consultations over the bill on Indian registration, band membership, and First Nations citizenship – see http://www.abo-peoples.org/wp-content/uploads/2019/09/S3-Consultations-report-is-a-disappointment.pdf

April 26, 2019 press statement, "'Our peoples will not be forgotten' – The Congress of Aboriginal Peoples brings the continued discrimination against Indigenous peoples in Canada to the United Nations Permanent Forum on Indigenous Issues" identified a CAP event in New York, as part of the UN Permanent Forum on Indigenous Issues meeting – see http://www.abo-peoples.org/wp-content/uploads/2019/04/Press-Statement-UNPFII.pdf

March 19, 2019 press statement, "Forgotten Again: The Congress of Aboriginal Peoples offended by discrimination under the federal budget" expresses CAP's "outrage" about the federal budget – see http://www.abo-peoples.org/wp-content/uploads/2019/03/Press-Statement-Mar-20.pdf

January 10, 2019 press statement "The Congress of Aboriginal Peoples agrees non-status children can't be excluded by the federal government under Jordan's Principle" congratulates the First Nations Child and Family Caring Society for its human rights challenge to federal underfunding of health care to off-reserve First Nations children – see http://www.abo-peoples.org/wp-content/uploads/2019/01/Press-Statement-CHRT-Hearing-Non-status.pdf

2. NunatuKavut Community Council:

March 10, 2020 – news release, "Muskrat Falls Inquiry final report concludes NunatuKavut not adequately consulted; calls for action" expresses the NCC's satisfaction with the final report of the Muskrat Falls Inquiry – see https://nunatukavut.ca/article/muskrat-falls-inquiry-final-report-concludes-nunatukavut-not-adequately-consulted-calls-for-action/

April 8, 2019 – news release, "NCC renews call for suspension of commercial capelin fishery" points out the NCC's desire to have the commercial capelin fishery in the off NunatuKavut – see https://nunatukavut.ca/article/ncc-renews-call-for-suspension-of-commercial-capelin-fishery/

March 18, 2019 – news release, "NunatuKavut calls on Government of Canada for fairness and equity in fisheries management decisions" indicates that the NCC wants the federal Department of Fisheries and Oceans to take full account of Indigenous rights and cultural attachment in shrimp quota allocations – see https://nunatukavut.ca/article/nunatukavut-calls-on-government-of-canada-for-fairness-and-equity-in-fisheries-management-decisions/

3. Alliance autochtone du Québec:

October 22, 2019 – communiqué "Processus de Collaboration sur les inscription des Indiens, l'appartenance à une bande et la citoyenneté des Premières Nations" discussed the

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participation of the AAQ in consultations on Bill S-3 – see http://www.aaqnaq.com/accueil/nouvelles-et-communiques/2018-2/

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4. Northwest Indigenous Council:

Spencer Sterritt, "Advocates meet in Nanaimo to tackle lack of supports for urban Indigenous people" Nanaimo Now News, January 31, 2020 expresses concern about the lack of supports for, and lack of federal or provincial government recognition of the Crown's fiduciary duty to, off-reserve Indigenous people – see http://www.nwindigenous.org/wp-content/uploads/2020/02/Nanaimo-Now-News-Advocates-meet-in-Nanaimo-to-tackle-lack-of-supports-for-urban-Indigenous-people-_-Nanaimo-News-NOW-_-Nanaimo-British-Columbia-_-News-Sports-Weather-Obituaries-Real-Estate.pdf

Wawmeesh Hamilton, "Urban Indigenous people forgotten in UNDRIP talks, say advocates" CBC News, January 26, 2020 expresses concern that urban Indigenous people were left out of government consultations on implementing the UN Declaration on the Rights of Indigenous Peoples – see http://www.nwindigenous.org/wp-content/uploads/2020/02/CBC-Urban-Indigenous-people-forgotten-in-UNDRIP-talks-say-advocates.pdf

Wawmeesh Hamilton, "Northwest Indigenous Council aims to advocate for B.C.'s urban aboriginal people" CBC News, June 2, 2015 discusses the purposes of the then-new NWIC – see http://www.nwindigenous.org/wp-content/uploads/2020/02/CBC-Northwest-Indigenous-Council-aims-to-advocate-for-B.C.s-urban-aboriginal-people-_-CBC-News.pdf

Peter Mothe, "Northwest Indigenous Council formed to give voice to B.C.'s urban Indigenous communities" Georgia Straight, May 6, 2015 discussed the purposes of the then-new NWIC – see http://www.nwindigenous.org/wp-content/uploads/2020/02/Georgia-Straight-Northwest-Indigenous-Council-formed-to-give-voice-to-B.C.'s-urban-indigenous-communities-_-Georgia-Straight-Vancouvers-News-Entertainment-Weekly.pdf

5. Native Council of Nova Scotia:

March 1, 2019 news release "Exclusion of off-reserve brought to Standing Committee" discusses the appearance of the Chief of the NCNS before the House of Commons Standing Committee on Indigenous and Northern Affairs – see http://ncns.ca/exclusion-of-off-reserve-brought-to-standing-committee/

6. New Brunswick Aboriginal People's Council:

March 2020 news release "NBAPC official response to the discriminatory exclusion of CAP to the First Ministers' Meeting" registered the NBAPC's disappointment that CAP was not invited to attend the planned March 12-13, 2020 First Ministers Meeting with National Indigenous Leaders – see https://nbapc.org/wp-content/uploads/2020/03/Justin-Trudeau-Letter-First-Ministers-Meeting.pdf

March 21, 2019 news release "NBAPC official statement in response to the federal pre-budget announced on March 19, 2019" expresses the NBAPC's frustration with discrimination against

non-status and off-reserve indigenous people in the 2019 federal Budget – see https://nbapc.org/wp-content/uploads/2019/03/NBAPC-official-statement_Federal-buget_19March2019.pdf

March 21, 2019 news release from NBAPC, NCNS, NCPEI "Atlantic Native Councils voice frustrations about the new federal pre-election budget put forward" also expresses the frustration of these three organizations with the 2019 federal Budget – see https://nbapc.org/wp-content/uploads/2019/03/Press-Release_March192019_Federal-buget.pdf

7. Native Council of Prince Edward Island:

December 1, 2017 "Open letter to Wade MacLauchlan" expresses the NCPEI's concerns about discrimination against the Council and off-reserve Mi'kmaq – see http://www.ncpei.com/news/open-letter-wade-maclauchlan

November 17, 2016 news release "The Native Council wants to believe in the Province's newly released Mental Health and Addictions Strategy" expresses the NCPEI's caution about the adequacy of the provincial government's new Mental Health and Addictions Strategy for off-reserve Mi'kmaq – see http://www.ncpei.com/news/native-council-wants-believe-province's-newly-released-mental-health-and-addictions-strategy

September 14, 2016 news release "NCPEI urges study by federal government" expresses the NCPEI's desire to see the federal government conduct a national engagement and reconciliation study focussing on off-reserve Indigenous peoples and involving CAP – see http://www.ncpei.com/news/ncpei-urges-study-federal-government

March 3, 2016 news release "NCPEI disappointed in Prime Minister Trudeau's failure to uphold promises made to the Indigenous peoples of Canada at the recent First Ministers' Meeting" expresses the NCPEI's disappointment about the lack of progress on promises made at the First Ministers' Meeting on issues important to off-reserve Mi'kmaq – see http://www.ncpei.com/news/ncpei-disappointed-prime-minister-trudeaus-failure-uphold-promises