



FEDERAL LAW AND POLICY REVIEW ISSUES

OVERVIEW

The Assembly of First Nations (AFN) has passed numerous resolutions calling for the review and overhaul of key areas of federal law, policy and operational practices. Violations of Treaty rights and inherent rights and title continue despite the recognition and affirmation of these rights under the Constitution and under international law.

During the 2015 federal election, the AFN called on all federal political parties to commit to a comprehensive review of federal law and policy. AFN advocacy work continued following the election of the current Liberal government led by Prime Minister Justin Trudeau.

In February 2017, Prime Minister Trudeau announced the establishment of a “Working Group of Ministers on the Review of Laws and Policies related to Indigenous People” (Ministerial Working Group). This Working Group is composed of six federal cabinet ministers led by the Minister of Justice (and Attorney General) Jody Wilson-Raybould. The Ministerial Working Group has been mandated to work with Indigenous people’s leadership as well as “stakeholders” including youth. The Working Group has been asked to assess and recommend what statutory changes and new policies are needed to meet Canada’s “constitutional obligations and international commitments to Indigenous Peoples”.

The AFN-Canada Memorandum of Understanding on Joint Priorities also commits Canada to work jointly with First Nations to decolonize and align federal laws and policies with the *United Nations Declaration on the Rights of Indigenous Peoples* and First Nations’ inherent and Treaty rights.

On July 14, 2017, the federal government released a statement of ten principles which the Ministerial Working Group developed on its own (*Principles Respecting the Government of Canada’s Relationship with Indigenous Peoples*). AFN has been informed the principles are intended as a starting point for instructions to federal officials.

At a meeting with the Working Group of Ministers on July 17, 2017, the National Chief outlined some steps to pivot towards a joint process to review federal laws, policies and operational practices. The National Chief also has emphasized the need for engagement and joint review of federal policies respecting “comprehensive claims”, inherent right to self-government, additions-to-reserve and specific claims.

UPDATE

The AFN continues to press for a properly resourced process of engagement with First Nations on federal law and policy review issues.

In January 2018, National Chief Bellegarde wrote to Minister Carolyn Bennett requesting her assistance in resolving an impasse on lead responsibility for engagement on the law and policy review.

On February 14, 2018, Prime Minister Justin Trudeau announced that the Government of Canada will develop, in full partnership with First Nations, Inuit, and Métis peoples, a “Recognition and Implementation of Indigenous Rights Framework (RIIRF).” The Prime Minister also announced that the Comprehensive Claim and the Inherent Rights

policies would be replaced and reiterated government support for Bill 262.

At the March 21, 2018, meeting under the AFN-Canada MOU on Joint Priorities, it was suggested by Canada that, in part, potentially new legislation could confirm a standard of rights for all government decisions going forward – aligning future laws and policies. The National Chief stated that legal and political change is needed to bring Canada in line with the United Nations Declaration on the Rights of Indigenous Peoples. Concerns were also expressed concerning the speed of the RIIRF engagement process, and the supporting materials provided by Crown-Indigenous Relations and Northern Affairs (CIRNA).

NEXT STEPS

The AFN expects nothing less than a full and meaningful process of engagement with First Nations, First Nations leaders, Elders, youth and other experts in our governance, rights, Treaties, title and jurisdiction. It is important that this work will happen as the government adopts into law Private Member’s Bill C-262 and the United Nations Declaration on the Rights of Indigenous Peoples Act. This Bill will help ensure our human rights and Indigenous

rights are upheld and protected throughout this work.

The AFN will work with Minister Carolyn Bennett and Minister Philpot to pursue joint review processes in key areas such as “comprehensive claims”, inherent right to self-government, additions-to-reserve and specific claims.