

**FEDERAL LAW  
AND  
POLICY REVIEW ISSUES****OVERVIEW**

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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”.

In July 2017, the Minister of Justice released 10 *Principles Respecting the Government of Canada’s Relationship with Indigenous Peoples*. The AFN has expressed concerns regarding the lack of Indigenous participation in the drafting of the Principles in addition to the language of ‘securing free, prior and informed consent’ which does not meet the standards in the United Nations Declaration on the Rights of Indigenous Peoples (UN Declaration).

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 emphasized the need for engagement and a joint review of federal policies respecting “comprehensive claims”, inherent right to self-government, additions-to-reserve and specific claims.

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

### UPDATE

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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 reaffirmed support for Bill C-262, *An Act to Implement the United Nations Declaration on the Rights of Indigenous Peoples*, which is now being

reviewed in the Senate. The Bill would require that the Government of Canada, in consultation and cooperation with Indigenous Peoples, develop and implement a national action plan to achieve the objectives of the UN Declaration.

Responding to Calls to Action #53 and #54 of the Truth and Reconciliation Commission, Canada has created an Interim Board of Directors to make recommendations on the creation of a National Council for Reconciliation. The Council will act as an independent national oversight body that will monitor Canada’s progress on reconciliation. This may include a review of Canada’s laws, policies and operational practices. The AFN will continue to advocate for a process which measures Government progress against the standards set out in the UN Declaration.

### NEXT STEPS

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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 Bill C-262. This Bill will help ensure our human rights and Indigenous rights are upheld and protected throughout this work.

The processes must be re-formulated, in a manner co-developed with First Nations, fully respecting First Nations inherent and treaty rights from the outset. Only this process will provide the necessary foundation for a new relationship.

