

CANADA

In 2021, Indigenous women continued to lead many of the calls for progress, justice, and recognition of Indigenous Peoples' rights and title in Canada. These Indigenous women leaders include: Kukpi7 (Chief) Judy Wilson, who joined an Indigenous delegation to COP26 calling for significant action on climate change amidst the devastating impacts of the climate emergency on Indigenous Peoples in Canada; Mary-Ellen Turpel-Lafond, whose 2020 report on systemic racism within British Columbia's (BC) public health care system led to a significant change to meet the needs of Indigenous patients; Cindy Blackstock, who continues to draw attention to Canada's discriminatory treatment of Indigenous children in Canada's Child and Family Services; Molly Wickham, an Indigenous land defender who continues to defend her clan's traditional territory from the encroachment of the Coastal GasLink LNG project; and Kukpi7 Rosanne Casimir, who announced the confirmation of 200 unmarked graves of Indigenous children and infants at the site of a previous Indian Residential School.

Murdered and missing Indigenous women and girls

In June 2021, in response to the ongoing crisis of Canada's murdered and missing Indigenous women, Canada released the *Federal Pathway to Address Missing and Murdered Indigenous Women, Girls and 2SLGBTQIA+ People*,¹ and the *2021 Missing and Murdered Indigenous Women, Girls, and 2SLGBTQIA+ People National Action Plan*.

The action plan was co-developed with the federal, provincial and territorial governments alongside Indigenous leaders, families and women's groups as a follow-up to the 2019 National Inquiry into Missing and Murdered Indigenous Women and Girls and its 231 recommendations. The COVID-19 pandemic has been cited as a delaying factor in the release of this plan and the community engagements required to inform it.

Indigenous leaders have criticized the action plan as an inadequate response to the crisis identified in the 2019 inquiry.²

The NWAC Sisters in Spirit Initiatives (SIS) have confirmed that, between 2005 and 2010, there were 582 cases of missing and/or murdered Indigenous women and girls over a span of 20 years. Further, they found that only 53% of murder cases in NWAC's SIS database had been solved, compared to 84% of all murder cases across the country.³

Confirming these findings, the Royal Canadian Mounted Police released a report in 2013 revealing 1,181 cases of missing and/or murdered Indigenous women and girls.⁴

UNDRIP

Bill C-41

In November 2019, British Columbia became the first province in Canada to enshrine the human rights of Indigenous Peoples into law by unanimously passing Bill 41, the Declaration on the Rights of Indigenous Peoples Act.⁵ The Act establishes a process by which to align BC's laws with the UNDRIP. The Act was developed in partnership with provincial Indigenous representative organizations (the BC Assembly of First Nations, the First Nations Summit, and the Union of BC Indian Chiefs). This legislation requires the co-development of an action plan to achieve provincial alignment with the Declaration over time, with appropriate transparency and accountability mechanisms.

In addition, the legislation allows the province to enter into agreements with a broader range of Indigenous governments. Further, it provides a framework for decision-making between Indigenous governments and the province on areas of joint concern. The Act will be far reaching, covering a range of policy areas including Children and Families, Fisheries and Aquaculture, Agriculture and Ranching, Forestry, Environmental Assessment, Mining and more.

2021 mirrored 2020 in its lack of progress in implementing the Declaration on the Rights of Indigenous Peoples Act. By way of example, there has been no action by the province to reform any of its mining laws to bring them into line with the Declaration.

This lack of action spurred the Gitxaala Nation to file a court case in the BC Supreme Court in October 2021 challenging the province's "free entry" mineral staking regime.⁶

In an attempt to rectify the situation, the BC First Nations Energy and Mining Council published *Indigenous Sovereignty: Implementing Consent for Mining on Indigenous Lands*,⁷ a new report setting out 25 recommendations to compel mining companies and prospectors to secure the approval of First Nations governments and obtain consent-based access to First Nations' lands.

Indigenous leaders have criticized the province for not having yet transformed the legislative process to ensure new and existing laws are consistent with the UNDRIP.⁸ The province has not made substantial progress in shared decision-making agreements with title- and rights-holders and has not concluded an action plan for the Declaration's implementation.⁹

Bill C-15

In the summer of 2021, the federal government of Canada adopted Bill C-15, *An Act respecting the United Nations Declaration on the Rights of Indigenous Peoples*.¹⁰

Bill C-15, collaboratively developed with Indigenous organizations and leaders following decades of Indigenous advocacy, affirms the Declaration as a universal international human rights instrument with application in Canadian

law and provides a framework for the Government of Canada's implementation of the Declaration. The bill further seeks to bring Canada's laws into alignment with the Declaration. To achieve these objectives, in consultation and cooperation with Indigenous Peoples, the Federal government will develop and implement an action plan that will include measures to address injustice, prejudice, violence and discrimination against Indigenous Peoples and promote mutual respect and understanding as well as good relations. Measures will also include specific mechanisms to monitor, provide oversight, resource or remedy, or other accountability measures with regard to implementation of the Declaration. The Bill provides a three-year timeline for the collaborative development of the action plan. Although the bill has received wide support from Indigenous groups and leaders, there are some that remain sceptical of Canada's political will to act on its obligations.¹¹ This mistrust has been fuelled by Canada's response to ongoing conflicts surrounding its promotion of the resource sector and the assertion of Indigenous rights by Indigenous land defenders.

Residential schools

2021 bore witness to the confirmation of hundreds of unmarked graves of Indigenous children and infants at the sites of Canada's Indian Residential Schools and the recognition of the first National Day of Truth and Reconciliation. The Canadian Indian Residential School System was a concentrated effort by the Canadian government to remove Indigenous children from their families and destroy Indigenous cultures and families. The Indian Residential Schools operated for well over 100 years, with at least 150,000 First Nations, Métis and Inuit students subjected to the system, and the last school only closed in 1996.

Created by the settlement of a class action lawsuit, survivors of the Indian Residential School system established the Truth and Reconciliation Commission (TRC) of Canada in 2008. The TRC spent six years meeting with survivors across Canada and collecting their stories, hearing from over 6,000 witnesses. The TRC published its findings in 2015, including 94 Calls to Action necessary to redress the residential school legacy and advance the process of Canadian reconciliation (see also *The Indigenous World 2016*).

The TRC found that the intentions and actions of Canada and those that operated the residential schools met the definition of cultural genocide, or the purposeful destruction of those structures and practices that allow a group to continue as a group, including languages, spiritual practices and the transmission of cultural values and identity. The truth gathering processes also revealed stories of extreme violence, sexual abuse, torture and criminal negligence, resulting in severe intergenerational trauma and death.

Starting in the spring of 2021, ground penetrating radar surveys have confirmed hundreds of sites of unmarked graves in the grounds of former residential schools. As of January 2022, more than 1,800 confirmed or suspected unmarked graves have been identified, with many more locations yet to be searched.¹²

The confirmation of these graves has led to renewed calls for Canada to implement the now nearly seven-year-old Calls to Action of the TRC. A December 2021 study by the Yellowhead Institute¹³ found that only 11 of the 94 calls to action have been fully implemented. Critically, the Yellowhead scholars also distinguish between symbolic and significant systemic actions. They found that Canada had been quick to move on symbolic gestures while reticent to implement the systemic changes the TRC called for.

One of the more symbolic calls to actions was the recognition of a National Day of Truth and Reconciliation, which was held for the first time on 30 September 2021.

Coastal GasLink

Canada observed renewed conflict between the RCMP and Indigenous land defenders opposed to the Coastal GasLink LNG project (CGL) in 2021. The Province of BC authorized a military style raid on peaceful land defenders resulting in at least 15 supporters being arrested, amidst an ongoing climate crisis.

These actions were but the most recent events in a longstanding conflict revolving around plans to build a 670-kilometre pipeline to transport natural gas from north-eastern BC to LNG Canada's export terminal in Kitimat on BC's coast. Despite having been reviewed by the BC Environmental Assessment process and obtaining the approval and required permits from the provincial and federal governments, a large portion of the pipeline crosses the territory of the Wet'suwet'en Nation, a route rejected by most of the Nation's hereditary chiefs who remain fiercely opposed to the project and the potential impacts it will have on their lands and way of life. This is further complicated by the veiled Indian Act band councils that constitute the Wet'suwet'en Nation having signed benefit agreements with both Coastal GasLink and the BC Government.

In 1997, hereditary Wetsuwet'en and Gitksan chiefs won a landmark ruling in the Supreme Court of Canada when all nine judges affirmed the existence of Aboriginal title post-Confederation. The Wet'suwet'en, like most First Nations in the province of British Columbia, have not signed treaties with the Crown nor ceded their respective territories through sale or loss of territories due to warfare.

In an expression of their Indigenous and sovereign rights, Wet'suwet'en hereditary chiefs, members and supporters have reoccupied their territory and established several checkpoints and healing camps.

These checkpoints and camps have formed the epicenter of the conflict. On 14 November 2021, members of the Gidimt'en clan enforced the eviction of CGL workers from their lands, giving them an eight-hour period to peacefully evacuate. The RCMP responded on 20 November by arresting 29 of the Indigenous land defenders over two days of action.¹⁴

COVID-19

Despite the nationwide lifting of many restrictions, some Indigenous communities have opted to keep strict health protocols in place as they continue to deal with the significant health impacts of the Omicron variant of the ongoing COVID-19 pandemic.¹⁵

As of 22 February 2022, over 87% of individuals aged 12 and older in First Nations, Inuit and territorial communities have received a second dose of an approved COVID-19 vaccine, and over 25% have received a third/booster dose. Over 49% of individuals aged 5 to 11 have received at least one dose.¹⁶

Children and families

In December 2021, Canada announced a historic Agreement in Principle on long-term reform of the First Nations Child and Family Services Program and Jordan's Principle. Under the terms of the Agreement in Principle, Canada will provide C\$20 billion to children on reserve and in the Yukon who were unnecessarily removed from their homes between 1 April 1991, and 31 March 2022, with another C\$20 billion being allocated to help reform the First Nations Child and Family Services Program.

Alongside other Indigenous child welfare advocates, Cindy Blackstock, Executive Director of the First Nations Child & Family Caring Society of Canada, has been leading the calls for Canada to reform and address the country's longstanding discrimination in First Nations child welfare and inequitable public services.

The Canadian Human Rights Tribunal (CHRT) issued a landmark decision in 2016, finding that Canada was discriminating against First Nations children, families and communities through inequitable funding formulas for First Nations child and family services. Since the 2016 ruling, the CHRT has issued over 30 non-compliance orders, which Canada has repeatedly appealed.

On 29 September, Justice Favel of Canada's Federal Court, dismissed two of Canada's appeals while confirming Canada's obligations of reconciliation. In October, Canada appealed this decision, continuing to fight Indigenous children in court, while in December announcing that the Agreement in Principle critically highlighted by Blackstock is not binding and awaits concrete action.

Health care

In November 2020, Mary-Ellen Turpel-Lafond released her report: *In Plain Sight: Addressing Indigenous-specific Racism and Discrimination in B.C. Health Care*.¹⁷

This report was a direct response to reports of systemic racism in BC hospital emergency departments. The report found that, of the more than 2,700 Indigenous Peoples surveyed, 84% had reported experiencing discrimination within the health care system. The report made a number of findings which bely "a major problem of Indigenous-specific racism in the BC health care system. This problem has significant impacts on Indigenous patients, women and health care workers. It contributes to inequitable health outcomes, including in the context of the public health emergencies of COVID-19 and the overdose crisis."¹⁸ The report makes 24 recommendations aimed at advancing structural and comprehensive change.

In the year since the report's launch, significant progress has been noted, including amendments to the *BC Human Rights Code*, appointment of BC First Nations people into leadership roles across the health system, and efforts to renew First Nations health plans and governance structures.¹⁹

Climate change – COP26

Throughout 2021, Indigenous communities experienced devastating climate emergencies and ecological disasters, including devastating forest fires that destroyed the entire town of Lytton, atmospheric rivers resulting in extreme rain, winds, landslides and floods, widespread evacuations, and a deadly heatwave.

Considering the disproportionate impacts of climate change on Indigenous communities, First Nations leaders continue to call on Canada to advance meaningful government-to-government relations that recognize First Nation jurisdiction in all areas, including emergency management.

In addition, Indigenous delegates, including Kukpi7 (Chief) Judy Wilson, Secretary-Treasurer of the Union of BC Indian Chiefs and Chief of the Neskonalith Indian Band, travelled to Glasgow to attend the COP26 to raise awareness of Indigenous Peoples' vulnerabilities to the climate emergency and to urge world leaders to expedite a just transition away from old-growth logging, oil and gas expansion and to halt the ongoing environmental degradation, biodiversity loss and climate-related environmental catastrophes.²⁰

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