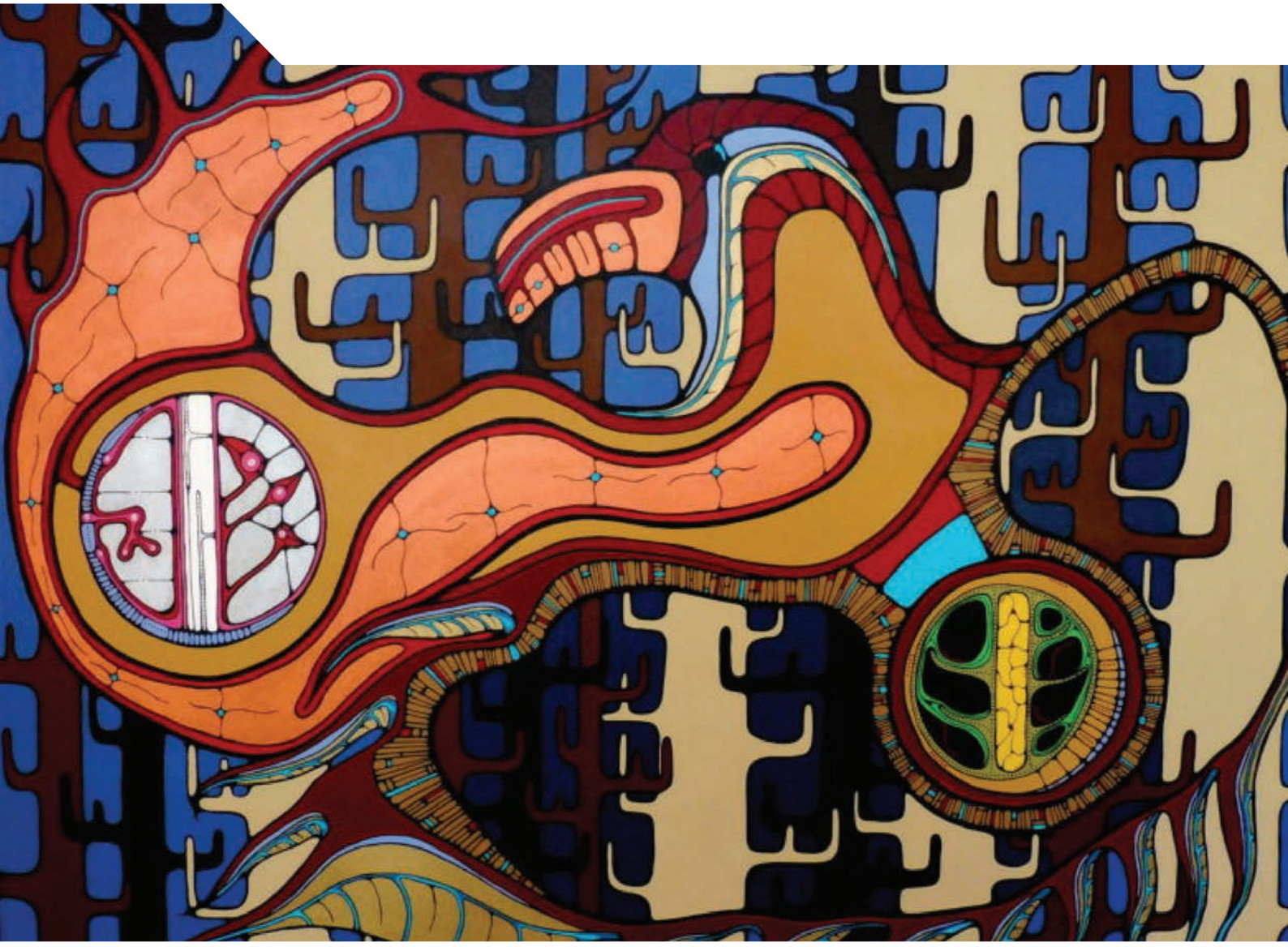
OECD Rural Policy Reviews

Linking Indigenous Communities with Regional Development in Canada



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BETTER POLICIES FOR BETTER LIVES

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Foreword

Approximately 1.7 million people in Canada self-identify as Indigenous, which is 5% of the total population. In Canada today, the Constitution Act (1982) recognises three groups: Indians (now referred to as First Nations), Inuit, and Métis. Among the three groups, First Nations are the largest (at 60% of the total), followed by Métis (36%), and Inuit (4%). Indigenous peoples make a vital contribution to the culture, heritage and economic development of Canada. This report mainly focusses on economic development issues for First Nations and Inuit. Further work is needed to engage with the particular circumstances of the Métis.

Historical legacies of colonialism continue to shape the well-being of Indigenous People in Canada today. Beginning in the 16th century, Indigenous nations established trade and diplomatic relations with new arrivals from Europe. As European settlements expanded across Canada, Indigenous nations were weakened by disease, environmental degradation, illegal occupation and loss of control over traditional territories and resources. These losses in turn weakened a pre-existing sophisticated level of governance, spiritual practice, social cohesion and culture. Over many decades, Indigenous peoples' on-going resistance to their lack of control and opportunity has eventually brought about some recognition and reparation to the systemic social, political, economic and cultural discrimination they have endured, due, in no small part to successful court challenges and courageous traditional and contemporary leaders.

The regional and local dimension is important to Indigenous economic development because of the strong attachment – in economic, social, cultural and spiritual terms - that Indigenous peoples have with traditional territories. Evidence shows that geography is key to understanding the nature of Indigenous economies. Indigenous peoples are more likely to live in predominantly rural regions (60%, which is 33% more than the non-Indigenous population). The population is also growing faster, has a younger age profile, and is important to future labour supply in rural regions. However, Indigenous Canadians are also more likely to experience poorer socio-economic outcomes. Gaps in well-being between Indigenous and non-Indigenous peoples are higher in rural than in urban regions. For example, the gap in the unemployment rate is 10 percentage points in rural remote areas compared to 5 percentage points in urban ones.

The current Canadian Government has a strong commitment to reconciliation with Indigenous Canadians. This report builds on this progress and commitment. It provides recommendations to the Canadian Government about how to support better economic development outcomes for Indigenous peoples at a local and regional level. First, improving the quality of the statistical framework and the inclusion of Indigenous peoples in the governance of data. This includes improving data about Indigenous entrepreneurship and business, and empowering Indigenous institutions to collect and utilise their own data. Second, land is a fundamental asset for Indigenous economic development. The study identifies opportunities to improve the fairness and transparency for how Indigenous peoples can secure land tenure and the use of tools, such as land use planning, to promote community economic development. Third, entrepreneurship provides opportunities for

Indigenous peoples to use assets and resources in ways that align with their objectives for development. Framework conditions for Indigenous rural entrepreneurship could be improved in areas such as digital connectivity and financial literacy. Fourth, an approach to governance is needed that adapts policies to places, and that empowers Indigenous institutions and communities. Greater co-ordination is needed between levels of government, including a stronger involvement of Indigenous peoples as partners in the decision-making process.

This OECD report provides actionable recommendations for all levels of governments in Canada to work in partnership with Indigenous peoples in order to develop vibrant Indigenous economies. It contributes to the work programme of the OECD on regional and rural development, and was approved by the Regional Development Policy Committee (RDPC) on 19 November 2019.

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The report was co-ordinated by Tamara Krawchenko, Policy Analyst, and Chris McDonald, Policy Analyst, under the supervision of José Enrique Garcilazo, Head of the Regional and Rural Policy Unit in the Regional Development and Tourism Division led by Alain Dupeyras. Tamara Krawchenko was the lead drafter of the report with contributions from Chris McDonald, Laura Springare and Ana Monroy Moreno (Chapter 2), and Lorena Figueiredo (Chapter 3). Jonathan Barr, José Enrique Garcilazo, and Alain Dupeyras also provided comments on the draft. We would also like to thank Professor Frances Abel from Carleton University's School of Public Policy and Administration for contributing to the first chapter, and Professor David Freshwater from the University of Kentucky's School of Agricultural Economics for contributing to Chapter 5.

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Abbreviations and acronyms

AANDC	Affairs and Northern Development Canada
AAS	Aboriginal Affairs Secretariat's
ABS	Australian Bureau of Statistics
ACC	Aboriginal Capital Corporations
ACDF	Aboriginal Community Development Fund
ACFDC	Aboriginal Community Futures Development Corporations
ACOA	Atlantic Canada Opportunities Agency
ADL	Aboriginal Developmental Lenders
AFI	Aboriginal Financial Institutions
AFN	Assembly of First Nations
ALUS	Alternative Land Use Services
APS	Aboriginal Peoples Survey
ART	Aboriginal Resource Tax
ATR	Additions to Reserve
BCAAFC	BC Association of Aboriginal Friendship Centres
BCFNDGI	British Columbia First Nations' Data Governance Initiative
BCR	Band Council Resolution
BDC	Business Development Bank of Canada
BEST	Business and Entrepreneurship Skills Training
BNAA	British North America Act
BWA	Boil water advisory
CAB	Certification for Aboriginal-owned businesses
CAU	Consultation and Accommodation Unit
CCAB	Canadian Council of Aboriginal Businesses
CCP	Comprehensive Community Planning
CCPP	Comprehensive Community Planning Program
CCSA	Contract Capacity Set-Asides
CDGI	Canadian Geospatial Data Infrastructure
CEAA	Canadian Environmental Assessment Act
CFI	Carbon Farming Initiative
CFO	Community futures organisations
CIHR	Canadian Institutes of Health Research
CIRNAC	Crown-Indigenous Relations and Northern Affairs Canada
COAG	Council of Australian Governments

COMFIT	Community Feed-In-Tariff
CROP	Community and Opportunities Planning
CWB	Community Well-being
DGIC	Director General Investment Committee
DNC	Do not consume
DNU	Do not use
DWA	Drinking water advisories
EA	Environmental assessment
EBD	Entrepreneurship and Business Development
EDC	Economic development corporations
ESDC	Employment and Social Development Canada
FDI	Foreign direct investment
FHRMIRA	Family Homes on Reserves and Matrimonial Interests or Rights Act
FLERC	Frog Lake Energy Resource Corporation
FMA	Fiscal Management Act
FNCIDA	First Nations Commercial and Industrial Development Act
FNFA	First Nations Finance Authority
FNFMA	First Nations Fiscal Management Act
FNFMB	First Nations Financial Management Board
FNIGC	First Nations Information Governance Centre
FNLMA	First Nations Land Management Act
FNSI	First Nations Statistical Institute
FNTC	First Nations Tax Commission
FNU	First Nations University
FPIC	Free, prior, and informed consent
FPT	Federal Provincial Territorial
FPTIF	Federal, Provincial, Territorial and Indigenous Forum
GDP	Gross Domestic Product
GNWT	Government of the Northwest Territories
GVC	Global Value Chains
HDI	Human Development Index
HHL	Hawaiian home lands
HKKAR	He kai kei aku ringa
IAO	Inter-governments Affairs Office
IBA	Impact-benefit agreements
IBA	Indigenous Business Australia
IGF	Indigenous Growth Fund
IIPH	Institute of Indigenous Peoples' Health
INAC	Indigenous leadership and community
IP	Intellectual Property
IPA	Indigenous Protected Areas

IPP	Indigenous Procurement Policy
ISAA	Intergovernmental Strategic Aboriginal Alignment
ISC	Indigenous Services Canada
ISCC	Indian Specific Claims Commission
ISET	Indigenous Skills and Employment Training
ISIA	Intergovernmental Strategic Indigenous Alignment
IUCN	International Union for Conservation of Nature
KKETS	Kiikenomaga Kikenjigewen Employment & Training Services
KMK	Kwilmu'kw Maw-klusuaqn
KRLUP	Keewatin Regional Land Use Plan
MOC	Memorandum of Collaboration
MOU	Memorandum of understanding
MTCC	Membertou Trade and Convention Centre
NACCA	National Aboriginal Capital Corporations Association
NAEDB	National Aboriginal Economic Development Board
NAEOP	Northern Aboriginal Economic Opportunities Program
NAICS	North American Industry Classification System
NAN	Nishnawbe Aski Nation
NBRLUP	North Baffin Regional Land Use Plan
NEAHR	Network Environments for Aboriginal Health Research
NEF	Nunavut Economic Forum
NHS	National Household Survey
NIO	National Indigenous Organisations
NOC	National Occupational Classification
NPC	Nunavut Planning Commission
NTI	Nunavut Tunngavik Incorporated
NWT	Northwest Territories
OCAP	Ownership, Control, Access and Possession
OSR	Own-source revenues
PAR	Progressive Aboriginal Relations
PES	Payments for Environmental Services
PPP	Public private partnerships
PR	Predominantly rural
PSAB	Procurement Strategy for Aboriginal Business
PU	Predominantly urban
RCAP	Royal Commission on Aboriginal Peoples
RDA	Regional Development Agencies
RDPC	Regional Development Policy Committee
REACHE	Responsible Energy Approaches for Community Heat and Electricity
REGI	Regional Economic Growth through Innovation
RPF	Registered Professional Forester

SAO	Senior Administrative Officer
SCC	Supreme Court of Canada
SCLU	Social, cultural, and land use
SDG	Sustainable Development Goals
SGS	St'at'mic Government Services
SME	Small and medium-sized enterprises
SPI	Strategic Partnerships Initiative
SSHRC	Social Sciences and Humanities Research Council of Canada
SSRP	South Saskatchewan Regional Plan
TCR	Tribal Council Resolution
TKUA	Traditional Knowledge and Use Assessment
TLE	Treaty Land Entitlement
TRC	Truth and Reconciliation Commission
UN	United Nations
UNDRIP	United Nations Declaration on the Rights of Indigenous Peoples

Executive summary

Assessment

Geography is important to understanding Canada's Indigenous economy and better data is needed to inform policy decision-making. The Indigenous population is distributed unevenly across Canada, ranging from as little as 2% of the population on Prince Edward Island (2 730 persons) to as much as 86% in Nunavut (30 545 persons) in 2016. The Indigenous population is more likely to be located in predominantly rural regions. Approximately 60% of Canada's Indigenous population live in rural regions, compared to 27% for the non-Indigenous population. Although the well-being of the Indigenous population is improving, significant gaps compared to the non-Indigenous population remain, and these gaps are larger in rural than in urban areas. For example, the gap in the unemployment rate is 10 percentage points in rural remote areas, compared to 5 percentage points in urban areas. Indigenous communities in rural remote areas face a range of challenges associated with educational attainment, housing, water and sanitation, and digital connectivity. Although there have been significant advances in statistical frameworks to measure these issues, there is a need to improve business and economic data, and include Indigenous communities and institutions in decision-making about ongoing data collection efforts.

Enhancements in processes to secure land tenure and tools to mobilise its development potential will create new economic opportunities for Canada's Indigenous people. Secure rights to land can increase autonomy, generate revenues and create economic opportunities. These rights are derived from an attachment to land that encompasses material and cultural reproduction that preceded European settlement. Understood in these terms, Indigenous rights to land are communal and indivisible. Specific procedures have been established for Indigenous groups to secure land rights that can be improved by measures such as reducing financial risks and better mechanisms to monitor implementation. The collective nature of Indigenous property rights can create barriers to the use and development of land. The default position in the Indian Act is that the government is in charge of land and resource administration on reserve land. Over time, mechanisms have been introduced to increase Indigenous control over land use planning, land leasing, and harmonising regulatory frameworks with Provinces. Improvements can be realised in the use of these mechanisms through more targeted financial and technical support, better data about land and resource use, and consultation protocols at the sub-national level. The use of traditional lands extends to how natural resource projects (mining and energy), which includes how to operationalise the principle of Free Prior and Informed Consent (FPIC), and guidance to support benefit-sharing agreements.

Enhancing policies and institutions to facilitate access to finance, business expertise and public procurement markets will enable further growth in the Canadian business sector. Indigenous entrepreneurship occurs in an institutional context that emphasises the importance of kinship relations, the reproduction of traditional knowledge and culture, and linking businesses to community economic development. Indigenous entrepreneurs have a higher presence in the primary sector (food and agriculture, forestry, and mining),

construction and other non-traded services, and lower presence in higher value business services (e.g. finance and insurance, scientific and technical services). Rates of entrepreneurship are also lower than among the non-Indigenous population. These outcomes reflect the higher proportion of Indigenous peoples living in rural areas, and barriers to business growth such as the indivisible nature of Indigenous lands, discrimination and poor credit histories. The Canadian Government has supported the establishment of Aboriginal Financial Institutions (AFIs), specific loan instruments and business support programs, as well as preferential procurement policies to improve the environment for Indigenous entrepreneurship. However, more can be done to help these institutions to attract private capital, deliver better entrepreneurship training and support services, and to reduce entry barriers for small firms to the public procurement market.

Implementation arrangements that better adapt policies to places and empower Indigenous communities as partners in economic development, are needed. Historically in Canada, Indigenous policies were government-led, directed at Indigenous peoples, and did not support self-determination. In recent decades, there has been progress in shifting toward a partnership approach that empowers Indigenous peoples. Further efforts are needed, however, to implement policies in a way that is tailored to different places, empowers Indigenous communities to deliver on their objectives for development, and contributes to stronger regional economies. A place-based approach to Indigenous economic development succeeds where there is a strong vision for community economic development with mechanisms to prioritise and sequence investment in framework conditions - from infrastructure and services to skills development, mentorship and access to finance. A national policy framework for Indigenous economic development and effective multi-level governance is central to operationalising this approach. This includes enhancing coordination across levels of government to deliver shared outcomes with Indigenous communities, and improving engagement and consultation practices.

Recommendations

1. Indigenous Canada – trends and data needs

- Improve the quality of data about Indigenous businesses and entrepreneurship by agreeing to a common definition, and establishing a common registry.
- Improve Indigenous community well-being data by expanding the range of indicators available and developing user-friendly data portals designed for local decision makers.
- Strengthen engagement with Indigenous organisations regarding data collection by establishing more formalised governance arrangements for the inclusion of Indigenous peoples and organisations in the work of Statistics Canada.

2. The importance of land for Indigenous economic development

- Improve the framework for Indigenous peoples to secure land through the comprehensive land claims policy by supporting Indigenous groups with the capacity to effectively undertake negotiations.
- Develop better procedures for First Nations to increase existing reserve land through the Treaty Land Entitlements and State-assisted land acquisitions process including by assisting First Nations to resolve third party disputes, and establishing a shared national/provincial programme of land purchase.

- Develop better tools for Indigenous groups to use land by providing templates for land code and associated regulations, and by ensuring there are mechanisms in place to have meaningful consultation with regards to land use planning of municipal and other authorities on adjacent lands.
- Strengthen the negotiating power of Indigenous groups in the context of impact-benefit agreements (IBA), including by elaborating a common set of tools and templates that Indigenous groups can draw upon to start negotiations.

3. Enabling Indigenous entrepreneurship and community economic development

- Strengthen support to the AFI sector by incentivising private investment and facilitating collaboration to scale up projects.
- Strengthen the Federal Governments Procurement Strategy for Aboriginal Business by requiring large scale contractors to advertise subcontracting opportunities on the government's procurement website, and establishing binding procurement targets and set asides.
- Enhance the role of Canada's Regional Development Agencies (RDAs) by ensuring staff have regionally specific cultural competency training, there is recruitment and mentoring of Indigenous staff, and that opportunities are created to link Indigenous entrepreneurs with the local business environment.

4. Improving governance and policies for place-based Indigenous economic development

- Consider the development of a national Indigenous economic development strategy that can support alignment of policy objectives and responsibilities across different levels of government, and define short, medium- and long-term measurable outcomes.
- Improve coordination across levels of government to implement a place-based approach to Indigenous economic development including by strengthening engagement with provinces to coordinate investments and realise economies of scale in the provision of infrastructure and services.
- Improve engagement practices with Indigenous communities across all levels of government including by establishing a cooperation regarding the Duty to Consult Memorandum of Understandings with all provinces and territories.
- Strengthen capacities by supporting the implementation of the Indigenous Community Development National Strategy that delivers appropriate support for community planning, and strengthening incentives for collaboration between First Nation communities and between municipalities/provinces.

Assessment and recommendations

The purpose of this study is to provide recommendations to the Canadian Government about how to improve economic development outcomes for Indigenous peoples at a local and regional level. There is no simple way to summarise the colonial history and contemporary economic circumstances of Indigenous peoples in Canada. 'Indigenous people' is a heterogeneous term that refers to the original nations and peoples of what is now called Canada. In Canada today, the Constitution Act (1982) recognizes three groups: Indians (now referred to as First Nations), Inuit and Métis. This report mainly engages with economic development issues for First Nations and Inuit. Further work is needed to address the particular circumstances of the Métis. In past decades, the Canadian Government has made significant progress in recognising the right of Indigenous peoples to self-determination. Treaty rights were affirmed in the Constitution Act (1982) and the Canadian Government has committed to a nation-to-nation relationship with Indigenous peoples. This study, and its recommendations, are within the framework of this overarching commitment.

Assessment 1: Indigenous Peoples in Canada – trends and data needs

Indigenous peoples are more likely to live in rural areas and experience poorer socio-economic outcomes

Canada has a diverse and growing Indigenous population that is distributed unevenly across the national territory. Around 1 670 000 individuals in Canada self-identify as Indigenous people, corresponding to 4.9% of the total population in 2016. Among the three groups, First Nations are the largest (at 60% out of total), followed by Métis (36%) and the Inuit population (4%). Indigenous populations are experiencing a greater pace of demographic change than that of non-Indigenous populations in Canada. From 2006 to 2016, the Indigenous population increased at twice the rate of the non-Indigenous population. This is the result of higher fertility rates and increasing propensity to self-identify as Indigenous. The Indigenous population is concentrated in certain provinces and territories across Canada ranging from as little as 2% of the population in Prince Edward Island (2 730 persons) to as much as 86% in Nunavut (30 545 persons) in 2016. The largest Indigenous population resides in Ontario (374 000 or 3% of the province's total population); however, within the northern part of the province, the Indigenous population comprised 17% out of total in 2016.

The Indigenous population is younger and is concentrated in rural areas compared to the non-Indigenous population. The average age of the Indigenous population was 32.1 years in 2016 while the average age of non-Indigenous population was 40.9 years. The share of working age (15-64) Indigenous peoples is the same as that of non-Indigenous peoples. Compared with the non-Indigenous population, there are more children aged 14 and under (+11%) and less people aged 65 and over (-9%). Approximately 60% of Indigenous peoples lived in predominantly rural areas in 2016, which is 33% more than the share of non-Indigenous peoples living in predominantly rural areas (the corresponding

difference for urban regions is -30%). The share of Indigenous peoples living in remote rural areas is declining (from 63.8% in 2001 to 58.8% in 2016), and is rising in urban areas (from 24.1% in 2001 to 27.4% in 2016). The increasing propensity to self-identify as Indigenous has played a key role in these changes.

The well-being of Indigenous peoples is a key inclusive growth challenge for Canada. Indigenous Services Canada (ISC) has developed a Community Well-Being Index that measures the well-being of Indigenous (namely First Nations and Inuit) and non-Indigenous communities across Canada. Over the past three decades, the well-being of Indigenous peoples in Canada has improved. However, gaps with the non-Indigenous population have not narrowed because the well-being of the non-Indigenous population is increasing at a faster rate. On average, results from the community well-being index demonstrate that Indigenous communities have systematically lower scores than non-Indigenous peoples with respect to income, education, housing and labour market outcomes. In 2016, the average Indigenous communities index score (the average of First Nation and Inuit communities' score) was 58.6; this is 18.9 lower than the index of non-Indigenous communities. At the national level, the greatest differences are found in the indicator for housing where the difference between Indigenous and non-Indigenous communities is 27.1 percentage points. Differences in income are also large (21.9). Indigenous communities have the smallest difference relative to non-Indigenous communities in terms of labour force participation (15.9). Of the 100 lowest ranking communities in the Community Wellbeing Index, 98 are First Nations communities.

Gaps in socio-economic outcomes between Indigenous and non-Indigenous populations are higher in rural areas. Indigenous communities with closer access to centres of economic activity and lower transport costs have higher levels of well-being. This is evident when looking at different components of well-being. For example, in 2016, the difference in the unemployment rate between Indigenous and non-Indigenous peoples is the largest in rural remote areas, where the unemployment rate of Indigenous peoples was 19% and the unemployment rate of non-Indigenous peoples was 9% (gap of 10 percentage points). The smallest gap was in urban regions, where the unemployment rate of Indigenous peoples was 12% and non-Indigenous peoples was 7% (gap of 5 percentage points). Similarly, educational attainment is lowest in rural remote regions (43%) with a gap of -14 percentage points compared to the non-Indigenous population in these regions. In rural regions close to cities, the rate of educational attainment of Indigenous persons is higher (at 51%) and the gap between Indigenous and non-Indigenous peers is less (-1 percentage points).

Indigenous communities, particularly those in rural remote areas, face significant challenges related to infrastructure. Rural areas face structural disadvantages associated with higher transport costs, thin markets, and lower levels of human capital. Infrastructure—transportation, energy, telecommunications, housing, health and education infrastructure and vital amenities like sewage and water—are fundamental to a community's well-being and its prospects for economic development. This is compounded in Canada with its large land mass and cold winters. In the case of Indigenous communities, some of these infrastructure deficit issues include that:

- 70% of Indigenous communities rely on Diesel fuel generation which is unpredictable and expensive.
- First Nations communities are 90 times more likely to be without piped water and it is estimated half of the water systems on First Nations reserves pose a medium or high health risk to their users.

- A reported 40% Indigenous peoples living in Canada's far north reside in overcrowded households and mould is a frequent problem.
- 8% of adults living on-reserve in 2008–2010 lacked any type of sanitation system.

The overall quality of data in Canada is high in an international context – but there are opportunities for improvement

The data framework for Indigenous peoples in Canada is relatively advanced. The quality and reliability of data related to the Indigenous population is generally high in Canada compared to other OECD countries with Indigenous populations and draws on consistent and therefore comparable definitions of Indigenous groups. Data collection is embedded in the national census and specific population-based surveys. Despite this, data gaps remain and the need for improved data is well recognised. This includes:

- Data about entrepreneurship and business. Current survey instruments are limited in sample size, focus on self-employment, and do not survey on-reserve businesses, including community owned social and economic enterprises.
- The Community well-being index is an important tool but the range of indicators are limited and could be extended to cover issues such as housing, infrastructure, training and health.
- There is a need to include Indigenous communities and institutions in data governance covering issues such as the choice of indicators and sample frames to produce sufficiently disaggregated data to inform decision-making.
- Better efforts are needed to empower local Indigenous institutions to collect local area data about population, businesses, lands and resources.

There are ongoing efforts by the government of Canada to enhance both the quality and timeliness of Indigenous related data. This includes supporting and partnering with Indigenous-led organisations in order to enhance their own data collection efforts. There are also a variety of Indigenous organisations in Canada that collect and disseminate statistical information. Statistics Canada has a consultation mechanism at a working level in place through Aboriginal Liaison Advisers. However, there is a need to include Indigenous representative organisations at a higher level to provide strategic advice on setting directions for Indigenous related data collection. Data collection practices related to Indigenous peoples are also fragmented within the Federal Government. There is a need to improve the coordination of this data collection, and to identify opportunities to improve the sharing and use of Indigenous data.

Recommendation 1: Indigenous Canada – trends and data needs

Improve the **quality of data about Indigenous businesses and entrepreneurship** by:

- Establishing an agreed national definition of an Indigenous business.
- Producing an annual state of the Indigenous economy report, highlighting progress and leading practices.
- Supporting the establishment of a common registry of Indigenous-owned businesses.

- Supporting Indigenous organisations to develop a typology of community-led business entities.

Improve **Indigenous community well-being data** by:

- working across the Federal Government in collaboration with Indigenous organisations to expand the range indicators and incorporate other data sources.
- Including or expanding community capacity building and training activities in federal funding for Indigenous organisations.
- Developing user-friendly data portals designed for local decision makers.

Strengthen **engagement with Indigenous organisations regarding data collection** by:

- Developing a multi department strategy to coordinate on Indigenous statistics and data and work with Indigenous communities and organisations on an ongoing basis.
- Establish more formalised governance arrangements for the inclusion Indigenous peoples and organisations in the work of Statistics Canada through an advisory body.
- Increase the recruitment of Indigenous persons in Statistics Canada.

Assessment 2: The importance of land for Indigenous economic development

Since colonisation, the British Crown and the Canadian Government have established policies and legal mechanisms for Indigenous peoples to access, protect and use land in Canada. To different degrees, these policies and legal mechanisms recognise the right to protect and use lands and waters for traditional livelihoods, knowledge and culture. The British Crown and Canadian Government agreed to historical treaties with First Nations, which included these land rights in the form of protected First Nation Reserves. Within the framework of a treaty, First Nations can increase their land base through two mechanisms - the "Specific Claims Process" and the "Treaty Land Entitlement Claim". First Nations can also acquire land and have it converted to reserve status through an "Addition to Reserve" procedure. In 1973, the Canadian Government adopted the Land Claims Policy or "modern treaties" that provides a contemporary legal framework for comprehensive land claim agreements. This study examines and recommends how to improve the efficiency and effectiveness of this legal framework and associated procedures. Once land is secured, there is a need for mechanisms and tools to use it for community and economic development, and negotiate benefits with project proponents. The study also includes recommendations about how to improve land use planning, environmental management, leasing, and benefit-sharing agreements on Indigenous lands.

Land is fundamental to Indigenous community and economic development – but these opportunities are limited by historical and institutional factors

Land is a fundamental asset for sustainable economic development and land rights are critical for self-determination. Rights to land can increase autonomy, generate revenues and create economic opportunities. Access to land puts Indigenous people in a stronger negotiation position to leverage and protect their interests. However, land is not just an economic asset for Indigenous peoples. Land provides sustenance for current and future generations; it is connected to spiritual beliefs, traditional knowledge and teachings; it is fundamental to cultural reproduction; moreover, commonly held land rights reinforce

nationhood. Indigenous peoples ought to reconcile these goals, depending on how they relate to and connect with land. Understood in these terms, the right to land ought to be collective and indivisible. Within this framework, interests to land may be allocated, without disrupting the collective nature of the land title. Internal sub-divisions of land may facilitate housing construction and maintenance, propel business development and create bankable interests on land, e.g. via leasing.

Access to land and resources is limited and uneven for Indigenous peoples across Canada. The delimitation, access and right to land and waters by Indigenous peoples is one of the most contentious political issues in Canada. Not every Indigenous group has this right assured, up to today. For instance, non-Status Indians are not considered members of reserves and cannot claim lands and for the Métis, who are one of the three Indigenous peoples of Canada, the very existence of land rights remains disputed. Some of the Indigenous groups who have had the right to land recognised are renegotiating their treaties and other groups are currently negotiating them (70 as of September 2019). Historically, land allocation policies assigned Indigenous peoples to confined and isolated tracts of land. Indigenous peoples in Canada disproportionately continue to have a small, fragmented land base, with limited commercial and residential use, limited natural resources, far from access centres and with limited ability to expand. For example, 80 per cent of First Nations reserves are below 500 hectares in size, which makes it harder to establish infrastructure, development projects and viable businesses. These arrangements are one of the factors contributing to the relatively poorer socio-economic outcomes experienced by Indigenous peoples in Canada.

Treaties are currently a key mechanism for First Nations and Inuit to secure land tenure and there are opportunities to improve the fairness, efficiency, transparency of these processes

Treaties provide a secure and effective way for Indigenous groups to augment their land base through tenure recognition. Between 1701 and 1923, the Government of Canada signed historic treaties with Indigenous communities, which included rights to land. In 1973, the Government of Canada adopted Comprehensive *Land Claims Policy* in 1973 and updated it in 1986. It sets the legal framework for Indigenous groups, the Government of Canada and the appropriate Territory or Province to negotiate agreements - called modern treaties. An agreement can relate to issues such as transfers of land ownership; environment and wildlife management; financial compensation; a self-governance agreement (since 1995); and the sharing of resource revenue. Since 1973, 25 comprehensive land claims have been signed and are in effect, whereas at least other 28 are being negotiated as of November of 2018. Although this represents enormous progress, some challenges remain. This includes an inconsistency between the UNDRIP and the requirement that Indigenous groups extinguish certain rights as a prerequisite of an agreement, the financial risks for Indigenous groups resulting from the cost of negotiation, and the lack of clear monitoring and accountability arrangements related to implementation.

There are two main mechanisms for First Nations to address past wrongs in historic treaties. The first is a specific claims process that revises an existing treaty due to breaches or lack of implementation of a treaty by the government. Specific claims often cover land related issues such as insufficient provision of reserve land as was promised in a treaty. The Government of Canada has negotiated 460 specific claims as of March 2018, and hundreds are outstanding. Specific claims settlements have successfully generated opportunities for development in some Indigenous communities. The second is a Treaty Land Entitlement

Claim that only relates to land issues. The Federal Government negotiates with a First Nation (and often a provincial government) to receive land specified in a historic treaty (through either buying land, or selecting from a sample of unoccupied Crown Land). These processes take a significant amount of time and there is a need to improve the transparency and accountability related to implementation at different steps, create opportunities for knowledge sharing amongst First Nations to help them assess and make claims, and address the lack of technical expertise and capacity of First Nations to implement their obligations.

There are also mechanisms for First Nations to acquire land that require some procedural improvements

First Nations can also acquire outside of treaty processes, and this can bring significant benefits. Expansion of the land base can be undertaken through purchases in the free market, additions to reserve, facilitated acquisition via state-sponsored purchases, or priority in the purchase of state-owned lands. Land acquisition enables the development of infrastructure or energy projects, creating economic zones, investing in residential property or establishing nature conservation areas. Band councils can purchase freehold (fee simple) land in the market and hold it collectively in their name. Purchases are made at market prices and depend on own-source revenues. The federal policy of Additions to Reserve (ATR) is an instrument to confer reserve status to land owned by an Indigenous group. It can be applied when the government is committed to reserve creation, when there is compensation for land acquisition, and a First Nation needs additional land for community purposes. First Nations have often regarded the ATR process as lengthy and opaque. For example, a study on urban ATRs conducted by the National Aboriginal Economic Development Board finds that the average length of time to complete an urban ATR is 4.2 years compared to the six months to a year required for a municipal council to approve a boundary extension.

Addressing technical and financial capabilities and cost issues will enable First Nations to take advantage of greater control over land management

Land use planning serves the critical roles of balancing public and private interests, reducing any potential for conflict between uses, and ensuring environmental quality and sustainability. How land is used in a community both now and in the future is linked to broader strategic goals of community development. The default position is for First Nations to abide by the Indian Act whereby the government is in charge of land and natural resources administration in reserves. Considering the restrictions imposed by the Indian Act, the government has created policies to progressively transfer land management responsibility to First Nations. The First Nations Land Management Act (FNLMA), enacted in 1999, allows First Nations to take responsibility for land use, develop land codes, and environmental management and enforcement laws. This enables First Nations to align land management practices to community objectives, increase own source revenues, and create development opportunities. On the downside, there is insufficient recognition of how land use disputes can be resolved using traditional mechanisms of consensus building, and considerable set up and operational costs. Some modern treaties include the establishment of co-management boards that support land use planning. Similar issues exist in terms of technical and financial capacity, and also having data available to understand and map land use.

Indigenous land is indivisible and without the right tools and incentives it cannot be transferred or use as security for loans – this creates barriers to economic development

Indigenous groups hold land collectively in Canada and this can create barriers to economic development. Indigenous groups cannot transfer land to others, not even to band members – the Crown retains the ownership. The ultimate indivisibility and inalienability of Indigenous lands are important to avoid the fragmentation and loss of reserve lands. The features of indivisibility and inalienability can coexist with individual interests in land. An Indigenous band can lease lands to third parties, who will enjoy the same attributes. In addition, they can issue certificates of possession to band members, who can use, access and enjoy the fruits of land. To make land available for leasing, a band council has to receive approval to designate land and surrender it for a period of time (under lease). Leasing enables land parcels to be used as security for a loan. Similarly, band councils can issue certificates of possession to an individual member, which can then be used a loan guarantee. These instruments enable First Nations to use land to gain access to credit and create opportunities to invest in assets, attract investment and create jobs. A key for First Nations is ensuring these instruments are linked to objectives in a broader community plan that is based on a dialogue with community members.

Inconsistencies and gaps in land and environmental regulation impacts negatively on First Nations

Land and environmental management issues vary according to the level of legal jurisdiction and administrative control over land (federal, provincial, municipal and First Nations). Traditional lands that are outside of reserves and treaties will be under provincial or territorial authority and hence regulated by different land use and environmental planning regimes. This creates regulatory gaps that often impede land development on reserve lands, contribute to land use conflicts, and result in lower infrastructure and service standards (for example water and sanitation). Provinces and First Nations can address this challenge in two ways. First Nations can adhere to provincial regulations for specific projects on reserve lands, under the First Nations Commercial and Industrial Development Act (FNCIDA). The other way is for Provinces and Territories to improve collaboration with Indigenous groups. This includes clarifying consultation protocols to engage Indigenous representatives in policy-making processes, including land use regional planning and local environmental assessment, and creating co-management arrangements related to public land.

Indigenous peoples need to have an effective say over natural resource projects on their lands

In Canada, benefit-sharing agreements enable Indigenous communities to negotiate monetary and non-monetary benefits with project proponents for developments on their lands. Non-monetary compensation can range from employment opportunities, training and business development to infrastructure construction and provision of services. Financial compensation can take the form of royalties (based on the value of mineral output), tax on profits, single up-front payments, annual fixed payments, equity participation or shareholding. The efficacy of these benefit-sharing agreements can be improved with dialogue and agreement up-front regarding procedural rules, Indigenous communities having a proactive strategy to link the project with their development objectives and an agreed mechanism to monitor and enforce the agreement. Governments

can play a value-adding role in supporting benefit-sharing agreements by providing guidance about the negotiating process, template agreements, data and by registering agreements.

Indigenous peoples should have a say in the assessment of projects that affect their lands, traditional activities, livelihoods and commercial interests. Consultation in environmental decision-making has been in the spotlight in recent years. On the one hand, the international principle of Free, Prior and Informed Consent has generated debates among international organisations, academics and social movements. On the other hand, natural resource development projects that affect Indigenous territories and livelihoods have been a major source of controversy. Governments can improve inclusion in these decision-making processes by agreeing with Indigenous peoples on how to operationalise the principle of FPIC, and by better coordinating permitting processes at a federal and provincial level.

Recommendation 2: The importance of land for Indigenous economic development

Improve the framework for Indigenous peoples to secure land through the **comprehensive land claims policy** by:

- Ending the practice of requiring that Indigenous rights holders extinguish their inherent and/or treaty rights as a prerequisite for an agreement.
- Supporting Indigenous groups with the capacity to effectively undertake negotiations.
- Developing independent and ongoing monitoring mechanisms in order to ensure that the commitments made by the Government of Canada in comprehensive land claim agreements are met in a timely and effective manner.

Develop better procedures for First Nations to increase existing reserve land through the **Treaty Land Entitlements and State-assisted land acquisition processes** by:

- Tracking the overall time it takes to convert lands to reserve status and demonstrate progress periodically—report publicly and include in departmental performance indicators.
- Working closely with First Nations to assist them in their efforts to resolve third-party interests.
- Undertaking a national audit of surplus government land to identify opportunities for set asides.
- Establishing a portfolio of land to be made available for future land claim settlements.
- Establishing a shared national/provincial programme of land purchase.

Develop **better tools for Indigenous groups to use land** by:

- Providing legal templates for opting First Nations to start building their land codes and associated regulations in order to facilitate the law enactment, reduce the need to resort to external consulting, and avoid the proliferation of unique property rights regimes (within the framework of the FNLM Act).

- Ensuring community plans detail which land can be available for leasing and land codes regulate intended use and accepted levels of nuisance.
- Ensuring there are mechanisms in place for Indigenous communities to have meaningful consultation with regards to the land use planning of municipal and other authorities that have jurisdiction on or near their traditional territories.

Strengthen the negotiating power of Indigenous groups in the context of **impact-benefit agreements** (IBA) by:

- Providing all the necessary information on environmental conditions, sub-surface resources, land uses, competing economic interests and other elements that Indigenous groups may not be aware of.
- Referring companies to a legitimate regional or national Indigenous organisation that can serve as the contact point with local groups.
- Elaborating a common set of tools and templates from which Indigenous groups can draw to start negotiations.
- Facilitating workshops among Indigenous negotiators and leaders to share experiences and good practices in agreement-making.

Assessment 3: Enabling Indigenous entrepreneurship and community economic development

Indigenous entrepreneurship, particularly in rural areas, has some unique characteristics that require specific policy and program responses

Indigenous-owned businesses are embedded in a unique cultural context, often shaped by traditional knowledge and connected with natural resources. Indigenous entrepreneurship also exists in an institutional context that emphasises the importance of kinship relations, the reproduction of traditional knowledge, language and culture, and linking business to community economic development. Key factors that make Indigenous entrepreneurship and business distinct are:

- Rights to land and resources - for example, the co-management agreements in the North West Territories, Yukon and Nunavut signed in the 1990s give rights over minerals developments to Indigenous peoples there.
- Close kinship relations - around 750 000 Indigenous people in Canada live in Indigenous settlements and their average size is 407 people. Businesses that operate in such an environment are intimately linked to the community and its members.
- Traditional knowledge and cultural practices – including an emphasis on collectivism and balancing business activities with culture.
- Hybrid economies – combining business activities with harvesting, processing, and distributing wild foods and resources.
- Unique regulatory and taxation arrangements – lack of transferability of land, lack of clarity about regulatory frameworks, and tax exemptions for economic activities on reserve land.

Specific policies and programmes are required to address these differences, and improve the business environment for Indigenous entrepreneurs.

Business and entrepreneurship are important to creating opportunities for Indigenous peoples but there are barriers to growth and innovation

Entrepreneurship and business growth are fundamental to creating opportunities for Indigenous peoples. Entrepreneurship presents Indigenous peoples the opportunity to use assets and resources in ways that align with their objectives for development and can generate opportunities for own-source revenues. However, Indigenous peoples have lower rates of entrepreneurship than non-Indigenous populations. Typical market failures such as asymmetric information and the inefficient allocation of credit are often more pronounced in the Indigenous small business sector. Almost two-thirds of Indigenous business owners rely on personal savings as their main source of finance and over half report accessing finance as "very" or "somewhat" difficult. This is due to the indivisible nature of Indigenous lands (often held collectively in trust), discrimination and poor credit histories.

Indigenous businesses demonstrate innovation and – while generally small – they have a higher propensity to export. Indigenous entrepreneurship is difficult to profile due to a lack of national data, particularly for businesses on reserves. One of the best sources for Indigenous business data is the National Aboriginal Business Survey (2016) conducted by the Canadian Council for Aboriginal Business. Based on this survey, the majority of Indigenous businesses are male owned (63%) and had no employees (64%), and approximately a third (27%) were registered on a reserve. A higher share of Aboriginal businesses introduces new products/services, or new production/delivery processes relative to the broader Canadian small business sector—thus implying a higher propensity to innovate, particularly in manufacturing industries. Among small businesses, aboriginal businesses are more than twice as likely as all small businesses to export and sending their products to a broader geographic base than other small exporters. Indigenous businesses are more likely to sell their goods and/or services outside Canada (to US or other countries) if they are in the arts/entertainment or accommodation and food services industries. This may be related to their location. Firms in more rural or remote areas need to seek larger markets for their services and products.

The Indigenous business sector is characterised by micro-enterprises and this constrains growth opportunities and access to markets. Poor access to finance impairs businesses growth and development opportunities. This may contribute to the high number of Indigenous businesses that are sole proprietors (61%) and unincorporated (73%). Sole proprietorship—where the business and the operator are the same—is the most common structure for new business across Canada because it relatively informal and easy to create. Tax law treats a sole proprietorship business as an income source for the proprietor; consequently, the proprietor is personally liable for all functions and debts of the business. Related to this point, only three Indigenous entrepreneurs out of ten report having a formal business plan. This is reflected in the characteristics of business registered under the Procurement Strategy for Aboriginal Business where close to 80% are micro-enterprises.

Indigenous groups can build scale in economic development by setting up community owned corporations

Aboriginal economic development corporations (EDCs) are the economic and business development arm of a First Nation, Métis or Inuit government. These community-owned businesses invest in, own and/or manage subsidiary businesses with the goal of benefiting the Indigenous citizens that they represent and are a major economic driver in communities and a source of local employment. There are many examples across Canada of EDCs using their revenues to reinvest in their communities and to support

education and training for members in order to ensure that they are well placed to take advantage of the community's economic opportunities. The majority of EDCs (72%) been operational for over a decade; the average length of operation is 18 years. Four in ten (38%) EDCs report being a major employer in their community and the majority of employees (72%) are Aboriginal peoples. First Nations communities pursue a variety of businesses such as natural resources (oil and gas, minerals, agriculture, fishing and forest products), land development (shopping centres, industrial parks and residential housing) and entertainment and hospitality (casinos, hotels and restaurants).

Geography shapes the resources and markets available to Indigenous entrepreneurs and a range of opportunities exist across different parts of Canada

Geography is fundamental to understanding the Indigenous business sector. Rural areas with a large Indigenous population have a very different economy than the average region within a country due to very small and remote settlements, traditional culture and livelihoods, and greater reliance on primary industries (forestry, minerals, hydrocarbons, renewable energy, fishing and aquaculture). Accessibility to cities, natural resources and amenities shapes the potential resources and markets available to Indigenous entrepreneurs. The following typology is used to help understand potential development trajectories for Indigenous economies in rural areas: rural areas close to cities (with or without natural resources and amenities) and rural remote areas (with or without natural resources and amenities). Indigenous communities in each of these types of regions pursue different economic development strategies, for example, those close to cities focus on integrating with a larger metropolitan area, whilst those in remote areas specialise in the tradeable sector.

Across different types of rural regions, Indigenous peoples are developing businesses in the tradeable sector and meeting local needs. Indigenous entrepreneurs have a higher presence in specialised in primary industries (food and agriculture, forestry, and mining) and construction which can be vulnerable to economic and commodity fluctuations. In terms of the non-tradable sector, business opportunities exist in terms of meeting local demand (e.g. retail, cleaning and house maintenance, health and well-being, and the provision of public services)—however these are based on very small markets. There are also opportunities in the management and use of natural resources such as parks management and tourism. Generally, Indigenous firms tend to have a lower presence in producer services (firms with high knowledge content and that sell services to other businesses).

Over recent decades, Indigenous groups and the Canadian Government have developed a strong institutional framework to support Indigenous business and economic development

The Canadian Government has a range of business programmes targeted for Indigenous peoples that aim to build capability and grow markets. These aim to address historical and ongoing discrimination, and issues related to accessing capital, particularly those operating on reserves. The Canadian Government provides targeted support in three areas. The first is business development, capital and support services, which focuses on Indigenous-owned businesses and includes support to a network of Aboriginal Financial Institutions (AFIs). The second is community economic development programmes that provides funding to First Nations to mobilise land assets, establish businesses and develop partnerships with industry. The third is the procurement strategy

for Aboriginal businesses that includes mandatory set asides, inclusion of Aboriginal participation criteria in contracts, and incentives for joint ventures between Indigenous and non-Indigenous businesses. In addition, there are a range of programmes provided at the provincial and territorial level.

Indigenous groups and government have supported the development of a network of organisations to promote economic development. Over the past four decades, the Government of Canada has provided support to AFIs that provide financial services and business support to Indigenous-owned businesses and local communities. There are three types of AFIs across Canada: i) the Aboriginal Capital Corporations (ACC), ii) Aboriginal Community Futures Development Corporations (ACFDC) and iii) Aboriginal Developmental Lenders (ADL). The National Aboriginal Capital Corporations Association (NACCA) supports the work of these AFIs. Over the last three decades AFIs have made an estimated 46 000 loans worth over CAN$ 2.6 billion. There is also support organisations for First Nations for fiscal issues and financing infrastructure and regional development such as the First Nations Finance Authority (FNFA). The National Aboriginal Capital Corporations Association (NACCA) supports the work of these AFIs. There are also a range of different Indigenous business associations including the Canadian Council of Aboriginal Businesses (CCAB). Besides, providing practical support for business and economic development this network of organisations generates a range of positive outcomes related to advocacy, sharing knowledge, and generating economies of scale.

Within this framework, there are a number of supply and demand side measures that would support growth in the Indigenous business sector

On the supply-side, key constraints for Indigenous businesses and community owned enterprises relate to accessing finance, entrepreneurial skills, and digital connectivity. AFIs are presently undercapitalised to support medium-sized companies and demand from small businesses in their regions. The next steps in the Indigenous developmental lenders' evolution is to pool their resources to increase economies of scale to increase the amount of finance available, reduce risk and attract the interest of institutional investors. A coherent policy for the future of AFIs is also lacking which can prioritise the development of public funding mechanisms and facilitation support from government to achieve this outcome. Indigenous entrepreneurs in remote and rural communities also face difficulty in accessing business training skills programs, such as book keeping, basic accounting, marketing, recruitment, intellectual property, human resources planning, business plan and project management. Remote communities also face difficulties in terms of accessing banking and financial services (for example in the Territory of Nunavut only three communities out of a total of 25 have bank branches). This is compounded by the relative lack of high quality and reliable broadband for Indigenous peoples, particularly in rural remote areas. In Canada, broadband is now considered a universal service with a commitment to have 100% of households and businesses at 50 Mbps/10 Mbps by 2036. However, 10-15 years is a long-time considering trends in the digitalisation of business activities and public services.

On the demand-side, governments can take additional steps to increase market access for Indigenous businesses. The federal government spends some $23 billion on goods and services and the Procurement Strategy for Aboriginal Businesses (PSAB) has been instrumental in increasing demand for goods and services from Indigenous businesses. However, current arrangements are difficult for small businesses to access. It is more burdensome for procurement contracts to be awarded to multiple smaller firms than to a larger firm, and the PSAB tends to support well-established Aboriginal businesses, rather than smaller and newer businesses. The Indigenous economy is often not well understood

and lacks visibility. This takes a number of forms. Indigenous communities are often not visible in mainstream industry and economic development policies (at a national, provincial or municipal level) and consequently they miss access to associated programs and activities. For First Nations on reserves, there can be a lack of knowledge about how regulations and business investments work on reserve land which can limit their attractiveness for investments or business development.

In addition, Canada's RDAs can also play a stronger role and need to be better connected to Indigenous communities

Canada's Regional Development Agencies (RDAs) can also play a stronger role in promoting Indigenous entrepreneurship and business development. Canada's RDAs were first established in the late 1980s and today cover all provinces and territories. They bring a regional lens to federal economic development policy and translate national goals to the regional and local level. They focus on innovation, community economic development, and policy and advocacy. The regular programming of RDAs can often be a poor fit for Indigenous businesses because of its emphasis on innovation and commercialisation. RDAs play an important role in terms of business acumen and business contacts (facilitating and relationship building) and access to expertise; however, in many cases, the RDAs are not very well connected to Indigenous communities, or to the work of lead departments for Indigenous affairs. Efforts to better connect Indigenous communities with regional development will fail unless they come from an understanding of what Indigenous communities want for their own development.

Recommendation 3: Enabling Indigenous entrepreneurship and community economic development

Strengthen **support to the Aboriginal Financial Institutions (AFI) sector** to provide assistance to Indigenous businesses by:

- Incentivising private investment and facilitating collaboration among AFIs to scale up projects.
- Increasing support for AFIs and other relevant Indigenous service providers to provide capacity building activities (e.g. entrepreneurial and procurement coaching, financial literacy, private sector matching, participation in local chambers of commerce).

Improve **accessibility to broadband** for rural Indigenous communities by:

- Enabling co-funding and partnerships between Federal and provincial governments to provide broadband for Indigenous communities in rural and remote areas.
- Providing yearly reporting on the quality of broadband in Indigenous communities and report on progress in meeting connectivity goals.

Strengthen the **Federal Governments Procurement Strategy for Aboriginal Business** (PSAB) by:

- Expanding the existing database of Aboriginal businesses to include a goods and services search function (along with key word and geography).
- Requiring large-scale contractors to advertise subcontracting opportunities on the government's procurement website to attract small to medium-sized businesses.

- Establishing binding procurement targets and set asides for Federal government procurement.
- Reporting on and providing annual government-wide reporting on PSAB contracts and their value.
- Considering the use of procurement loans for Indigenous business as part of its business development, capital and support services.

Enhancing the role of Canada's **Regional Development Agencies (RDAs)** in supporting Indigenous entrepreneurship by:

- Ensuring that staff have regionally specific cultural competency training and that there is recruitment and mentoring Indigenous staff.
- Developing opportunities to connect local entrepreneurs with Indigenous entrepreneurs and communities in the regions.
- Actively communicating with Indigenous communities and organisations and share leading practices of engagement and programme design across RDAs.
- Developing programmes with the flexibility to meet Indigenous business and infrastructure needs.
- Updating performance measures to reflect success for Indigenous businesses and effective engagement with Indigenous communities.

Assessment 4: Improving governance and policies for place-based Indigenous economic development

A place-based approach to Indigenous economic development requires changes in how government works and relates to Indigenous peoples

Historically in Canada, Indigenous policies were government led, directed at Indigenous peoples, and did not support self-determination. There has been progress in shifting toward a partnership approach that empowers Indigenous peoples. Further efforts are needed to implement policies in way that is tailored to different places, empowers Indigenous communities to deliver on their objectives for development, and contributes to stronger regional economies. A place-based approach to Indigenous economic development succeeds where there is a strong vision for community economic development with mechanisms to prioritise and sequence investment in framework conditions – from infrastructure and services to skills development, mentorship and access to finance. Effective multi-level governance is central to operationalising this approach. Four key elements are identified for the effective governance of place-based Indigenous development:

- Development of an opportunity-oriented national policy framework for economic development that incorporates Indigenous values and perspectives, is adapted to characteristics of different places, encourages community-led development and defines measurable outcomes.
- Designing effective co-ordination mechanisms between different levels of government and with Indigenous peoples that result in alignment of policies, the realisation of synergies and fosters local and regional partnerships to support Indigenous communities achieve their development objectives.

- Collaboration with Indigenous peoples through high levels of participation and engagement, which includes Indigenous peoples in decision-making processes and policymaking as partners recognising the need to share power.
- Empowering Indigenous communities by strengthening governance capacities (e.g. strategic planning and regional alliances) and improving fiscal relations.

A national policy framework for Indigenous economic development would help clarify policy priorities, roles and responsibilities, and coherence across and between levels of government

Canada does not presently have an overarching national strategy for Indigenous economic development but instead delivers a range of programmes directed to Indigenous communities or individuals. The Canadian Government had a *Federal Framework for Aboriginal Economic Development* (2008) that focused on entrepreneurship, human capital, community assets, and partnerships. Although it acknowledged the importance of inter-governmental co-ordination, there were no systemic measures to align federal, provincial and municipal planning and resource allocation decisions, or a framework for monitoring the achievement of outcomes. Priorities for the Indigenous portfolio are currently articulated in Department Plans (2018-19) for Indigenous Services Canada (ISC) and Crown-Indigenous Relations and Northern Affairs Canada (CIRNAC). The Government of Canada has 200 departments and agencies; of these, around a third have some direct relationship with Indigenous peoples. Canadian departments dealing with Indigenous affairs at present coordinate their work in a number of ways—from informal meetings, to working groups and more formalised place-based initiatives. However, there is not a genuine whole of government perspective. National strategies in Australia and New Zealand provide some lessons on how to improve policy coherence by:

- Encouraging the alignment of objectives across levels of government and sectors.
- Incentivising policies to adjust to local needs, characteristics and aspirations.
- Valorising Indigenous perspectives on economic development, including cultural assets and aspirations.
- Defining short-, medium- and long-term measurable outcomes and evaluating progress on that basis.

Canada's federal system of government presents challenges in terms of implementing a place-based approach to Indigenous economic development. Indigenous self-government is part of Canada's system of cooperative federalism and forms a distinct order of government. Some of the features of this system include the role of Indigenous organisations as intergovernmental partners in provincial-federal negotiations, formalised agreements between First Nations and municipalities to govern land use, infrastructure and service delivery issues, and separate policy frameworks, programmes and consultation arrangements for Indigenous peoples at the provincial and territorial level. The federal government has a direct relationship with Indigenous peoples who fall under the *Indian Act* for the delivery of healthcare, education and all forms of social provision; for everyone else, provincial and territorial governments deliver these services. Inuit and Metis peoples do not fall under the Indian Act and as a result, there are different Federal and provincial programs and services for them. Consequently, multi-level governance gaps affecting

Indigenous peoples and communities are common. Four key governance challenges are identified:

- Lack of cooperation between First Nations and provinces in infrastructure and service delivery issues.
- Indigenous economies and development ambitions are often absent from provincial and territorial economic development strategies.
- National guidelines and standards for engagement with Indigenous communities on environmental licensing are not always met by provinces and are poorly coordinated between departments.
- Provincial and municipal infrastructure land use planning frequently bypasses First Nations as a matter of jurisdiction—treating these areas as a 'blank space' and leading to very different levels of investments in adjacent communities.

Improvements to engagement and consultation practices and strengthening local capacities is essential to implementing a place-based approach to Indigenous economic development

Effective practices of engagement between federal, provincial and municipal governments, industry/businesses and Indigenous communities are critical for implementing place-based policies in support of economic development. Indigenous communities are not just stakeholders, but are rights holders and as such, engagement practices need to be structured to meet these obligations. Aboriginal and treaty rights are recognised in Canada's *Constitution Act*, and this has evolved through a series of Supreme Court of Canada decisions. Different forms of engagement are needed for different purposes. In some cases, informing or consulting is appropriate where the issues or impacts on an Indigenous community are minor. For substantive projects or changes to policies and legislation, co-development or empowerment is appropriate. CIRNAC plays a central role within the Government of Canada in terms of consultation by developing guidelines on duty to consult, training to federal departments, and coordinating federal agencies on consultation with Indigenous peoples. Further improvements to this framework can be achieved by reducing turnover amongst staff working with Indigenous communities, establishing co-operation with sub-national governments, and addressing capability gaps across Federal departments and agencies.

Community capacity is fundamental to self-determination and to a renewed Nation-to-Nation relationship in Canada. Indigenous communities across Canada are overcoming legacies of colonisation by developing quality leadership, strong corporate governance, and sound financial management and sustainable practices. The Canadian Government is also shifting from a centralised to a more decentralised approach to governance and fiscal relations that empowers Indigenous communities. A good example of this is the Comprehensive Community Planning Program (CCPP) that provides frameworks, guidance and tools to support local community planning. However, further funding and support is needed for to First Nations to improve local planning frameworks and support collaboration with other First Nations, municipalities and provinces on areas of common interest. The Government is also committed to working toward a new fiscal relationship with First Nations that is more long-term, flexible and outcomes-based. Government fiscal transfers that cover areas such as support for governance and administration, infrastructure and housing, and strategic planning are critical for First Nations. Funding is currently provided on a short-term, project-by-project basis, and this

creates administrative burdens for First Nations and reduces their capacity to undertake longer term planning.

Recommendation 4: Improving governance and policies for place-based Indigenous economic development

Consider the development of a **national Indigenous economic development strategy** that:

- Supports the alignment of policy objectives across levels of government and sectors.
- Incentivises the adjustment of policies to local needs, characteristics and aspirations.
- Includes Indigenous perspectives on development, including cultural assets and aspirations.
- Clarifies roles and responsibilities (across levels of government and sectors).
- Defines short/medium and long-term measurable outcomes.

Improve **coordination across levels of government** to implement a place-based approach to Indigenous economic development by:

- Strengthening engagement with provinces to coordinate investments and realise economies of scale in the provision of infrastructure and services.
- Using formalised agreements between levels of governments and Indigenous communities to address issues of strategic importance and monitor their implementation.
- Advancing a new fiscal relationship with First Nations along the lines of the agreement between the Canadian Government and the Assembly of First Nations (more funding flexibility, supporting capacity development, and an advisory committee to monitor implementation and provide advice).

Improve **engagement practices with Indigenous communities** across all levels of government by:

- Establishing cooperation regarding the Duty to Consult MOUs with all provinces and territories.
- Acting as a broker and to encourage provinces and municipalities to set up MOUs with First Nation, Inuit and Métis communities.

Strengthen capacities by supporting the **implementation of the Indigenous Community Development National Strategy** that delivers appropriate support for community planning, and strengthening incentives for collaboration between First Nation communities and between municipalities/provinces.

Chapter 1. Overview of Indigenous governance in Canada: Evolving relations and key issues and debates

This chapter presents an overview of the constitutional, political and practical circumstances pertinent to linking Indigenous communities with regional development in Canada. It reviews the historical and current arrangements of First Nation, Inuit and Métis relations with Canadian institutions, and provides an introduction to three key debates: First Nations' prospects for getting out from under the Indian Act; conflicts over land and resources management and; the role of Indigenous knowledge in contemporary decision-making.

Introduction

'Indigenous people' is a heterogeneous term that refers to the original nations and peoples of what is now called North America. In Canada today, the Constitution Act (1982) recognises three groups: Indians (now referred to as First Nations), Inuit and Métis. Despite constitutional recognition of their (undifferentiated) "existing aboriginal and treaty rights" (Section 35), citizens in these groups live with constitutional and legal divisions, the most important of which for First Nations is the *Indian Act*. Status under the *Indian Act* places individuals and First Nation communities in a relationship with the federal government unlike that of any other group of people in Canada.

Both demography and history are important to understanding current issues in the relationship between Indigenous people and the rest of Canadian society. Demographic change is underway and it will be important for future development. Indigenous people are the fastest growing segment of the Canadian; they are younger than the Canadian general population, and they are increasingly urban (see Chapter 2). In contrast, in many parts of the northern two-thirds of Canada, First Nation, Métis and Inuit comprise a large minority or the majority of the population.

Historical relations between Indigenous people and the settler societies include a number of key moments, specific to location and people. For example, the Royal Proclamation of 1763, the Treaty at Niagara (1764) and many other treaties defined the relationship between most First Nations and the Crown in the eastern and central parts of present-day Canada. Far western and northwestern First Nations are affected by the laws made pursuant to these milestones, though many remain without treaty. Some First Nations, Inuit and Métis are party to treaties negotiated since 1975, referred to as comprehensive land claim agreements or modern treaties. Some modern treaties have self-government provisions, some do not and some self-governments do not have a modern treaty. Taken together, the treaties, evolving jurisprudence since 1982, and influential public enquiries have created a complex legal field in which Indigenous peoples' land and other rights have been steadily specified.

Three key contemporary areas of debate and discussion include: i) self-government and the movement to supersede *Indian Act* government; ii) conflicts over land use and economic development; and iii) the role of Indigenous knowledge in policy and decision-making. Currently, a movement among First Nations to get out from under the *Indian Act* coincides with a federal policy opening to respond; there is a real prospect that more and more First Nations will build upon past experience to remove themselves from the Act's jurisdiction. Disputes over land use and economic development have been a long-standing feature of Indigenous-settler relations, and they are likely to accelerate even as Canada moves to align its laws with the United Nations Declaration on the Rights of Indigenous Peoples (UNDRIP). Conflict over land use has been 'regularised' in many parts of the country, as modern treaties create institutions for this purpose and as federal environmental assessment processes adapt to legal requirements related to consultation and accommodation. None of these procedures though reduces the development pressure on Indigenous lands and resources. Incorporation of Indigenous knowledge in federal/provincial/territorial decision-making is a frequently appearing requirement or aspiration, but there are reasons to be cautious about the extent to which it is possible. Here it is useful to distinguish between local knowledge based upon empirical observations over long periods, and ethically grounded knowledge or cosmological concepts that are not easy to bring into modern resource use discussions.

This chapter provides background information necessary to understanding the links between Indigenous communities in Canada and regional development.[1] It begins with an explanation of key terminology and a demographic overview followed by an historical overview of policy and institutional settings related to Indigenous peoples in Canada follows, by way of situating current circumstances and debates. These sections inform the concluding discussion of key debates and challenges regarding Indigenous economic development in Canada.

Key terminology

To make sense of the current situation concerning regional development and Indigenous communities, and to interpret demographic data, it is essential to understand some basic definitions and distinctions.

The original nations and peoples[2] of what is now Canada include the Mi'kmaq, Mohawk, Anishnabe, Cree, Dakota, Piikani, Kainaiwa, Inuit, Dene, Haida nations and many others. In the estimate of the Royal Commission Aboriginal Peoples, Indigenous peoples living in Canada comprise between 60-80 nations.[3] For millennia, they have occupied all of the land from the Atlantic to the Pacific to the Arctic Ocean. Historically, they made their livings in a variety of ways, including hunting, fishing, gathering, farming, and trade in raw materials and manufactures. These occupations persist, though now Indigenous people also participate in every facet of the contemporary Canadian economy. Original political forms varied from small self-governing units to hierarchical societies and confederacies. In the thousands of years before they had contact with European migrants, the original peoples of course went through many changes, but due to massive epidemics and other losses after European contact, much of this history has been obscured.[4]

Today, the original nations and peoples retain their languages and ways of life to some degree, but all have been in various ways reorganised. For official purposes and in relations with modern state institutions, other names for them have come into use:

- The collective noun 'Indigenous peoples', analogous to the term 'European', is used to refer to the descendants of all of the original nations and peoples of northern North America.
- The synonymous term 'Aboriginal peoples' is still used in the Canadian Constitution, though under the influence of the United Nations Declaration on the Rights of Indigenous Peoples and international law it is being supplanted.
- Both terms --'Indigenous' and 'Aboriginal'-- are artefacts of the arrival of European settlement, useful for distinguishing the societies that were here from the societies of the new arrivals who began to settle around 500 years ago, but otherwise concealing important national and cultural differences.[5]

While the most salient and accurate terms are the names used by Indigenous nations and peoples to identify themselves, for the purposes of statistical record keeping, program eligibility, and some political processes, other distinctions have been created. The *Constitution Act (1982)* in Section 35 recognises 'the existing aboriginal and treaty rights of Indians, Inuit and Métis.' It is generally accepted that these three constitutional categories exhaust the possible ways of being Indigenous, although in most parts of Canada, the term 'Indian' has been replaced by 'First Nation'. Similarly, in Canada 'Inuit' has replaced the older term 'Eskimo' which is now considered by many to be pejorative, and similarly Métis is used rather than 'Half-breed'.[6]

An older distinction survives, and still has practical effect. This is the legal distinction between people who have 'status' under the *Indian Act*, and those who do not. Someone who has status is registered on a list maintained by the Department of Indigenous Services (hence the near synonym for Status Indian, 'Registered Indian').[7] A person who is so registered is usually but not necessarily a member of an "Indian Band," and is subject to the federal *Indian Act*. The *Indian Act* assigns 'province-like' responsibilities for Status Indians' health, education and social welfare provision to the federal executive branch, even while it makes Status Indians subject to provincial laws of general application. Importantly, people subject to the *Indian Act* also, for decades, did not have the rights of full Canadian citizens. For example, between 1927 and 1951, Status Indians were prohibited from raising funds for the purposes of political self-representation, and they did not have the right to vote in federal elections until 1960. Status Indians are also subject to Band Council bylaws, which is another jurisdictional layer that creates uncertainties around application in specific contexts (e.g., provincial/territorial hunting regulations versus Band Council conservation bylaws).

Although the original idea of Indian registration was to keep track of people who were ethnically (actually, in the nineteenth century language, racially) Indigenous, it has always been possible for people with no Indian heritage to have Indian status. Until 1985, women who married status Indian men automatically became status Indians, whatever their heritage, and their children were also status Indians. Conversely, Status Indian women automatically lost their status upon marriage to a non-status man.[8] In addition, because the original registration process was imperfect and missed registering individuals who were Indians, and because it has always been possible for registered Indians to choose 'enfranchisement' –that is to renounce their Indian status to become full Canadian citizens—there are individuals who consider themselves to be Indians, who are members of Indian families and communities, but who are not listed on the Indian Register.

The other two constitutional groups, Inuit and Métis, were never registered under the *Indian Act*, although both have been subject to now-abandoned enrolment procedures.[9] Inuit names were difficult for early missionaries and government officials to understand and pronounce. Attempts were made to assign new names, and ultimately, in 1941, federal officials assigned each person a number, which was embossed on a disk which Inuit then wore around their necks. The practice of numbering Inuit citizens was abandoned within a couple of decades, and most began to use given names and surnames for official purposes. Traditional names may still be used in everyday life.

Métis, who are members of an Indigenous society that grew up in the western Canadian plains during the 18th century, were never subject to registration or the *Indian Act*. Métis individuals were listed during the late 19th century during an attempt at the settlement of their land rights through the issuing of 'scrip', which entitled them to land or a cash settlement.

Outside of the Indian Register, there can be some debate about specific individuals' claims to Indigenous identity. For statistical and most program administration purposes, self-identification is accepted. The Canadian Census asks whether a person is an Aboriginal person if they are First Nations, Métis or Inuk. As might be expected, there are far more people with Indigenous ancestry than there are people who identify themselves as Indigenous.

Presently, self-identified Indigenous people comprise between 4-5% of the total Canadian population, and this proportion is increasing (see Chapter 2 for overview of demographic trends). Due to a much higher birth rate and to increases in self-identification, their numbers

are growing much more quickly than is the non-Indigenous population.[10] There are important regional variations in population distribution:

- Inuit are the large majority in three of their four northern homelands (referred to as Inuit Nunangat); for example, in Nunavut they comprise 85% of the population. About 20% of Inuit now live in southern Canadian cities, with Ottawa and Montreal having the largest numbers.
- Canada's population is highly centralised, with most people living within 500 km of the border with the United States. In this area, Indigenous people are a small proportion of the population –around 4%.
- In most of the northern 2/3 of Canada, Indigenous peoples form a large proportion of the population. In certain regions (Nunavut, much of the Northwest Territories, parts of northern Manitoba, northern Saskatchewan and Yukon outside of the capital, Whitehorse) they are the majority.
- Over the last several decades, Indigenous people have become urban dwellers. Around a quarter of the total Indigenous population live in the twelve largest Canadian cities (Census Metropolitan Areas).

Concerning measures of social well-being, there are strong regional differences and significant differences *within* each group as well (see Chapter 2 for discussion). Nevertheless, one can note that social indicators generally reveal that well-being for Indigenous people as a whole is lower than those that prevail in the general Canadian population. To take one example, while almost two thirds of the non-Aboriginal population had attained at least one post-secondary certification in 2011, about half of Aboriginal people had done so.[11]

Legal and jurisdictional frameworks

Each Indigenous nation and people has its own original legal framework and constitution. These laws and constitutions have been under assault since the arrival of missionaries, whose teachings undermined traditional authorities and rules. Other pressures on the original legal systems included loss of social cohesion and cultural memory due to new diseases and loss of land, and ultimately the consolidated efforts of state institutions, which came at different times in different parts of Canada. In general, in Canada, colonial policy grew more intrusive through the nineteenth century, shifting from diplomacy to control and containment to assimilation. For First Nations, the principal legal instrument was the *Indian Act*, passed soon after Confederation. Métis efforts to be self-governing were put down with force in two confrontations in the late 19th century, resulting in the loss of land and dispersal of Métis throughout western Canada. Inuit societies experienced major disruptions to their own forms of social control mainly during and after the Second World War, when the United States military presence and then Canadian state interventions began.

In many places, Indigenous peoples are establishing new forms of government.[12] Inuit have established their own governments in three of four Inuit regions. One is exclusive to Inuit (Nunatsiavut in Labrador) while in other regions there is "public government" in which participation is open to all residents (Nunavut and Kativik Regional Government). Inuvialuit, in the fourth region of Inuit Nunangat, have a treaty negotiated in 1984, and an agreement in principle which was signed in 2015 (hence, the process has not been fully concluded). Their representative body is the Inuvialuit Regional Corporation. Some First Nations and a smaller number of Métis are also parties to modern treaties, and have created

governing institutions pursuant to those treaties (Box 1.1). In other places, First Nations governed by the *Indian Act* are building alternative institutions with the long run goal of removing themselves from *Indian Act* jurisdiction. This has resulted in a wide range of evolving forms of self-determination on self-government.

Indigenous laws also include treaties with other Indigenous nations and with the principal settler powers – most importantly, with the French and British Crowns and the Crown in right of the Government of Canada. The treaties and other relationships among Indigenous nations and peoples and the rest of Canadian society and governments have been the object of political action and reform, in the legal system no less than in other facets of life. This is illustrated by evolving constitutional law.

Since 1982, the *Constitution Act* has been the most important statement of settler-state law relevant to Indigenous peoples. It recognises "existing aboriginal and treaty rights," explicitly including modern treaties (also known as comprehensive land claim agreements) and the Royal Proclamation of 1763 (a statement of the British Crown that recognises Indigenous sovereignty).

Box 1.1. The recognition of Métis rights

The recognition of the Aboriginal rights of Métis has evolved recently in Canada. The 1982 Constitution was the first document to recognise Métis in the category "Aboriginal" and protect the Métis people's "existing aboriginal and treaty rights" in Section 35. Against the perception that recognition had been merely symbolic and that Métis possessed no existing rights, in 2003 the Supreme Court of Canada ruled on R. v. Powley. Powley's direct impact allowed broader Métis hunting on traditional territory and instituted a legal test for rights-bearing Métis communities. Because of Canada's jurisdictional division of powers, which assigns land and resource management to the provinces, Powley was also a driver of provincial-level negotiations in Manitoba, Saskatchewan, Alberta, Ontario, and British Columbia.

Building from Powley, two more Supreme Court decisions, MMF v. Canada, 2013, and Daniels v. Canada, 2016, have challenged Canada's delegation of Métis issues to the provinces. In MMF v. Canada the court found that the federal government had failed in its constitutional obligation to protect Métis interests in the 1870s allocation of Manitoba lands. In effect, the court identified the need for a bilateral relationship between the Manitoba Métis Federation and the Government of Canada. In Daniels v. Canada the Supreme Court stands for the proposition that Métis fall within federal, as opposed to provincial, jurisdiction. Although the federal government may not have a legal duty to exercise its legislative authority, it does have "a legal duty to negotiate in good faith to resolve land claims."

In 2016 Thomas Isaac, the Ministerial Special Representative to Lead Engagement with Métis, released a report containing 17 recommendations for a new framework to address Section 35 Métis rights. The recommendations range from registration of Métis people to the elaboration of consultation agreements to the revision of the comprehensive land claims policy or development of other policy in order to address Métis rights claims.

Since 2017, Canada has engaged in Recognition of Indigenous Rights and Self-Determination discussions with each of the governing members of the Métis National Council as well as the Métis Settlements General Council. In 2018, Canada signed the first

fiscal agreement with the Manitoba Metis Federation which will be used to support the social, cultural and economic well-being of the Métis community in Manitoba. This represents a significant shift and real action to advance reconciliation, since for decades Métis rights had gone unrecognised.

Adapted from: "The lands…belonged to them, once by the Indian title, twice for having defended them…and thrice for having built and lived on them": The Law and Politics of Métis Title and Better Late Than Never? Canada's Reluctant Recognition of Métis Rights and Self-Government.
Sources: Newswire (2019[1]), "Historic self-government agreements signed with the Métis Nation of Alberta, the Métis Nation of Ontario and the Métis Nation-Saskatchewan", https://www.newswire.ca/news-releases/historic-self-government-agreements-signed-with-the-metis-nation-of-alberta-the-metis-nation-of-ontario-and-the-metis-nation-saskatchewan-877461716.html (accessed on 27 October 2019); Metis agreements signed by the Minister of CIRNAC.

Evolving jurisprudence

Aboriginal and treaty rights in the Constitution Act

A series of Supreme Court of Canada (SCC) and lower court cases have given substance to the recognition of existing aboriginal and treaty rights in the Constitution Act (1982):[13]

- *R. v. Sparrow* (1990) was the first SCC case to interpret Section 35. The decision asserts that the burden of proof is on the Crown to justify negative infringements on Section 35 rights, and outlines what came to be known as the Sparrow Test to determine when infringement was permitted.
- *Delgamuukw and Gisdayway v. British Columbia* (1997) clarified the definition and content of Aboriginal title in relation to self-government, describing Aboriginal title as a right to the land itself that includes a right to decide how those lands are used.
- The Supreme Court of Canada's *Haida* (2004), *Taku River Tlingit* (2004) and *Mikisew Cree* (2005) decisions further clarified, developed, and expanded the principles advanced in *Delgamuukw and Gisdayway*, finding a duty to consult and duty to accommodate Indigenous landholders in areas without treaty but where Indigenous title has been proven or is asserted.
- The *Tsilhqot'in* (2014) decision asserted that "the dual perspectives of the common law and of the Aboriginal group bear equal weight in evaluating a claim for Aboriginal title".[14] Tsilhqot'in is the first case where the court found that the specific Indigenous group had Aboriginal title. It stated that Tsilhqot'in consent was required before there could be infringements on title lands, and recommended that the Crown seek consent before title was proven. The SCC has also ruled on the protection of Indigenous rights to lands that are covered by modern treaty.
- Most recently, in late 2017 in *Nacho Nyak Dun, et al.* the SCC ruled in favour of Indigenous parties to the Yukon Umbrella Agreement that the Yukon Government did not have the right to circumvent land use planning provisions outlined in the treaty.

In the past decade and a half, the trajectory of jurisprudence has evolved from a procedure for *justifying* infringement on Section 35 rights to finding that Section 35 *recognises, affirms* and *protects* rights. In stages, the SCC explored the consequences of this for

decision-making over land use, expressed in the phrase "the duty to consult and accommodate", which is a duty on all those who would use Indigenous lands.[15]

Importantly, many Supreme Court cases on these issues have occurred in British Columbia with First Nations without an original treaty. In at least some cases, such as R. v. Sparrow, the absence of a treaty extinguishing rights to land/resources has been central argument to Sparrow's defence.

The status and rights of Inuit and Métis

The courts have also been important in clarifying the status and rights of Inuit and Métis. For Inuit, a SCC reference in 1939 determined that even if they lived in a province (in this case, Quebec) they fell under Section 91 (24) of the *British North America Act* (now the *Constitution Act 1867)* which assigns federal responsibility to "Indians and lands reserved for the Indians." There have been three important decisions affecting the legal status of Métis rights:

1. *R. v. Powley* (2003) established harvesting rights, but also set a legal test for determining who is Métis for the purposes of Section 35.
2. Métis land rights in Manitoba were advanced by *Manitoba* Métis *Federation v. Canada* (2013). The Court declared that Canada failed to uphold and honour of the Crown when implementing land provisions of Manitoba Act and recognised the duty of diligence as part of the honour of the Crown.
3. In 2016, the Supreme Court of Canada decision in *Daniels* determined Métis and non-status Indians to be "Indians" under Section 91(24) of the Constitution – and thus, a federal responsibility.

This sequence of legal decisions shows the impact of Section 35 on Canadian law with respect to both Indigenous identity and Indigenous title. While this movement is important, critics have pointed out that the courts still fail to fully recognise Indigenous sovereignty and the independent status of Indigenous law.[16] Further court cases, and further elaboration of the principles, may be expected.

Jurisdiction over Indigenous affairs

The great divide among Indigenous people in Canada is between those who fall under the *Indian Act* and those who do not, but there is nothing simple about how this divide has worked out in practice. First Nation citizens who are governed under the *Indian Act* and reside on reserve fall under federal jurisdiction for healthcare, education and many forms of social provision that are for the rest of the population a matter of provincial responsibility. Their reserve lands and collective wealth are under federal control, managed "in trust" –unless they have taken advantage of certain federal programs that provide for a degree of independent economic management and funding arrangements (discussed below). Despite the dominant role of the federal government, Section 88 of the *Indian Act* provides that provincial laws of general application apply to individuals who are governed under the *Indian Act*.

Negotiation of a modern treaty removes the First Nations parties from *Indian Act* jurisdiction, but they remain a federal responsibility under Section 91(24) of the Constitution Act. The modern treaties also create a number of government-to-government relationships with relevant provincial and territorial governments.

As noted above, since the Supreme Court of Canada reference in 1939, Inuit have fallen under federal jurisdiction; there is therefore, for example, a First Nations and Inuit Health Branch to dispense funding and develop programs. Inuit have never been governed under the *Indian Act*, however, and there has been no equivalent piece of legislation for them. Furthermore, with the settlement of comprehensive land claim agreements (otherwise known as modern treaties, discussed elsewhere in this report), different arrangements have been made for social provision for Inuit. Each comprehensive land claim agreement or modern treaty includes specific arrangements for the funding and delivery of social services, for land management and for other governance functions.

Métis have never been subject to the *Indian Act*. For health, education and social provision they are served in similar fashion to the general population, though there are now many federal programs (in employment and business development for example) for which they are eligible as Indigenous people.

Actors, roles and responsibilities: A complex field

From Indigenous governments to Indigenous organisations – there are a vast number of institutions across Canada

Indigenous governments include what many would call *Indian Act* Band administrations – on-reserve governments set up by the *Indian Act* – through to Band governments with increasing degrees of autonomy negotiated through the federal self-government process. Band councils and government-funded service agencies have been critiqued for being organised to serve the interests of the Canadian state, as opposed to First Nations interests or laws (Taiaiake Alfred, 2009[2]). As such, they be an inappropriate focus for "planning or leading the cause of indigenous survival and regeneration" (Taiaiake Alfred, 2009[2])

There are also Indigenous governments that have been established consequent to the negotiation of a comprehensive land claim agreement (a modern treaty), such as the Tlicho Government in the Northwest Territories, the Nunatsiavut Government in Labrador, and the unique Nunavut Territorial Government, which is a public government for all of the residents of the territory (not just Indigenous).[17]

The modern treaties were signed by beneficiary or representative organisations – the legal entities that administer the terms of the agreement on behalf of the Indigenous parties to the agreement. Their role includes managing the cash and capital owned jointly by the Indigenous parties, discharging a number of other responsibilities specified in the modern treaties, and increasingly, speaking as the voice of their citizens and members.

There are hundreds of Indigenous organisations serving a number of purposes: political advocacy, service delivery, economic development, and research. Often a single organisation will combine more than one of these roles. Political advocacy organisations exist at the federal, provincial and territorial levels, and in few cases, at the city level. For example: the Assembly of First Nations represents First Nations across Canada; the First Nations Child and Family Caring Society of Canada is a Canada-wide think tank and advocacy organisation devoted to child welfare; the Indigenous Leadership and Development Institute, based in Winnipeg, is a non-profit organisation devoted to leadership development and training. However, it bears noting that modern treaties and self-government agreements are not necessarily represented by the Assembly of First Nations.

This is a rich institutional landscape involving many actors who do not speak with one voice. Public policies and investments on Indigenous lands need to develop ways of meaningfully engaging with this diversity of voices. This is complex, and involves overcoming inherent power asymmetries and yet it is fundamental to the successful implementation of FPIC principles.

The federal government has direct obligations to Indigenous peoples, but the scope of provincial-Indigenous relations is less well defined

The Government of Canada has a direct relationship with Indigenous peoples and government that is grounded in Section 35 of the Constitution Act, 1982. This provides constitutional protection to the Indigenous and treaty rights of Indigenous peoples in Canada and in different pieces of legislation and agreements, which governed these relations. For example, the *Indian Act* has governed and controlled virtually every aspect of the lives of Status Indians. The federal government's relationship with Indigenous peoples has evolved in recent decades and will continue to do so. These relations differ for Métis, Inuit and Status Indians depending on whether they live on or off reserve. Virtually every federal department has specific responsibilities related to Indigenous–Crown relations. The most prominent for decades has been the Department of Indian Affairs and Northern Development, which was split into two ministries in 2017: Crown-Indigenous Relations and Northern Affairs Canada and Indigenous Services Canada.[18] In 2017, the Government of Canada has established permanent bilateral mechanisms with First Nations, Inuit and Métis Nation leaders to identify joint priorities, co-develop policy and monitor progress: Government of Canada and First Nations bilateral mechanism, the Inuit-Crown Partnership Committee, and the Government of Canada and Métis bilateral mechanism.

There is an evolving consensus that federal government fiscal relations with First Nations, Métis and Inuit should evolve from contributions which involve a great deal of administration, towards the types of formula-driven funding that characterise federal/provincial/territorial transfer payments. (Donna Conna, 2011[3]). This would give First Nations greater discretion in using their funds and would focus accountability on benefits to community members.

While the federal government has direct relations and obligations to Indigenous peoples in Canada, relations with provincial governments are less clear. Provincial/territorial governments in Canada hold responsibility for a wide range of matters that are important for Indigenous peoples including natural resources development, infrastructure, health and education. Meanwhile, devolution remains pending for Nunavut. For those living on reserves, the federal government bears responsibility for these matters; while for those off reserve, it is the provincial/territorial government that fulfils this role. As such there can be a disconnect between these two spaces in term of how they are regulated and how public investments are delivered. This will be discussed at length in Chapter 5. The need to improve multi-level governance and Indigenous relations in Canada is well recognised. In an effort to address this, in 2016, the Aboriginal Affairs Working Group (consisting of provincial and territorial ministers of Aboriginal affairs and leaders of the national Indigenous organisations) was transformed into the Federal, Provincial, Territorial and Indigenous Forum (FPTIF). This forum is mandated to identify priority issues, monitor progress and map out future areas for collaborative effort as well as advance reconciliation.

While provincial-territorial Indigenous relations may not be directly legislated, nevertheless, almost all provincial and territorial governments have departments or agencies devoted to maintaining a relationship with the Indigenous residents; most have

several. For example, the Province of Alberta has established an Aboriginal Consultation Office, an office for Stewardship and Policy Integration, for First Nation Relations, Métis Relations, Indigenous Women and various programs to support business development.

In a similar vein, municipalities are increasingly recognising the need to provide their Indigenous populations with services and infrastructure for community development. Municipalities are developing methods to strengthen their engagement with Indigenous voices on such issues and land use and community planning and development, and culture and heritage recognition and valorisation. Toronto, Vancouver, Edmonton and Winnipeg have all established Aboriginal offices and/or advisory committees in an attempt to move beyond *ad hoc* approaches to more systemic and institutional involvement (Newhouse, 2016[4]).

Historical overview

It is impossible to understand the current situation in Canada, or Indigenous peoples' objectives, without an understanding of the history of non-Indigenous settlement and consequence interactions. It is a history long obscured and misrepresented, now in the process of retrieval and revision thanks in part to the work of several commissions of inquiry.[19]

Beginning in the 16th century, Indigenous nations and peoples of what is now Canada established economic and diplomatic relations with new arrivals from various parts of Europe, as these traders, missionaries and explorers arrived on various shores. There are thus many 'contact histories' – indeed, a history for every nation and people in all regions of Canada –and these should not be conflated. It is possible, however, to outline the main stages of contact history at a high level of generality, bearing in mind that actual relationships evolved in different times and at different paces, subject to different degrees of cooperation, diplomacy, conflict and contamination by diseases.

The first French and British traders and wealth seekers initially accepted the terms of the Indigenous landholders they encountered. They had no choice but to do this, as almost without exception they relied upon the Indigenous people they encountered for food and technology. They also sought trade, mostly for furs, local knowledge about the location of promising mineral deposits, and fish. European sojourners who came for fish, principally cod, temporarily basing themselves on the east coast while they salted the catch. Traders, fishers and explorers sought varying degrees of contact with local people, who generally controlled the degree and format of intercourse. On the prairies, the commercial relations of the fur trade prevailed for well over 100 years beginning in the 18th century, while for eastern Arctic Inuit, contact with European explorers and missionaries was minimal for almost 300 years after first encounters, followed by the intense 'invasion' of Canadian and American military and other state personnel during the Second World War.

These contacts occurred during the great age of European mercantile expansion. Like the Dutch, Spanish and Portuguese (and later other countries) the French and British monarchies were engaged in a global competition for raw materials and trading opportunities; from their perspective, due to considerations of climate and terrain, most of the northern half of North America was not as desirable as the southern parts of the continent for settlement and the export of surplus population to plantations. Ultimately, though, both French and British settlements were established in what is now Canada.[20] They formed alliances with Indigenous nations as North America developed as one of many theatres of imperial conflict.

Original Mutual Recognition: The Royal Proclamation and the Treaty at Niagara

The 1763 Treaty of Paris that ended of the Seven Years War resolved the future European presence in North America. It left almost all formerly French territories in British hands and confirmed British (and in the south west, Spanish) control of the continent. The disposition of these lands was addressed in George III's Royal Proclamation of 1763, which set the terms of governance for the French-speaking colonies that had come under British rule, provided substantial North American land grants to soldiers, and took a number of measures designed to control further westward movement of settlement into Indigenous lands. Specifically, the Indigenous nations west of the continental divide were declared to be under Crown protection and the right to make treaty with them was reserved to the British Crown. This provision likely added to grievances held in the Thirteen Colonies, which began a successful war of secession in 1776. Thus, the end of the eighteenth century found most of present-day Canada assigned to British imperial aspirations, and relations with Indigenous nations and peoples a matter of British Crown policy. To the south, there was a restive, frequently hostile neighbour.

Many, but not all, of the Indigenous nations who were most directly affected by the land and diplomatic arrangements in the Royal Proclamation convened a great meeting of about 2 000 chiefs from 24 nations at Fort Niagara in 1764. In the face of the shifting military balance among European powers, the Indigenous nations reached agreement among themselves and negotiated a treaty with the British superintendent of Indian Affairs, William Johnson. They ratified the terms of the Royal Proclamation and knit Great Britain into the web of alliances and diplomatic arrangements that had long governed relations among Indigenous nations. These included, in eastern North America, the Silver Covenant Chain, which stood for the system of alliances designed to preserve the peace and regulate the sharing of land. Thus, the Treaty at Niagara was supposed to be honoured by new settlers moving into territories claimed by Britain, which would become Canada.

Indigenous Diplomacy: Indigenous Diplomacy: Treaties Signed Between 1701 and 1923

Conventionally, treaties between European powers and Indigenous nations in northern North America are grouped temporally: historic treaties (1701-1923) and the modern treaties (1975-present). Treaties concluded prior to 1867 were to establish and renew peaceful relations, defend the colonies and open the lands of the Great Lakes to settlement. After Confederation, treaties were concluded to secure Canada's title over the West, open the lands for settlement and secure peaceful relations with First Nations. Aside from some adhesions (a mechanism for groups to sign on to existing treaties) there were no further land negotiations until the 1970s. When negotiations over land were halted by the Dominion government in the 1920s, there were almost no treaties in British Columbia, and none in present day Nunavut and Yukon Territory.

As settlement of North America proceeded and Indigenous nations were weakened by disease and loss of the natural resources upon which they depended, federal legislation (the *Indian Act*) and administrative control replaced diplomacy and interdependence. Indigenous parties to the treaties did not abandon their original purposes and understanding of the treaties, but for decades they had scant capacity to insist that they be appropriately recognised, respected and implemented.

The Indian Act

By the time the last numbered treaties were being negotiated, most of southern Canada was occupied and linked together by a transcontinental railway. Provincial governments had been assigned jurisdiction over "Crown land" under the British North America Act (BNAA)[21] that established Canada. Crown land refers to public land – that is, all land not already in private hands.[22] From another perspective, most of the so-called Crown land is Indigenous land, since Canada was fully occupied when European claims were made.

Despite the treaty provision that the Indigenous parties should enjoy the use of their entire traditional territory in perpetuity, provinces enthusiastically promoted development on these lands. The BNAA assigned jurisdiction over "Indians and lands reserved for the Indians" to the Dominion government. The Dominion government established a system of reserves, small tracts of land to which the Indigenous parties were confined. The *Indian Act*, passed in 1869 and consolidating prior British legislation, became an instrument of control and forced social transformation. The Act and attendant federal policies undermined the capacity of Indigenous governments by banning long-standing Indigenous governance practices, forcing Indigenous people to live in small, isolated communities, enforcing accountability "out" to the executive branch of the federal government, imposing direct control by a resident Indian agent and later control through onerous accountability mechanisms. These same provisions also created a federal Indigenous Affairs bureaucracy that is oriented to control, oversight and enforcement.[23] The *Indian Act* assigned control over reserve land and reserve economic development to the federal executive branch, effectively to public servants. For many years, this control was very heavy handed: Indians were not allowed to leave the reserve to work without a pass from the Indian agent, nor could reserve residents undertake other economic ventures (such as selling their produce or renting their pastures) without this person's permission. Political activity was equally controlling –the rules of Band government were enforced, including such measures as biannual elections of Chief and Council. After 1927 Indians were prohibited from raising funds for the purposes of self-representation, and they did not have the right to vote in federal elections until 1960.

Indigenous Resistance and the New Era of Treaty-making

Over decades, Indigenous peoples' resistance to their lack of democratic control and the loss of their traditional land eventually brought about constitutional and legal change. Indigenous pressure that treaties be respected and their traditional land rights recognised never ceased, but it was given new momentum after the Second World War. Indigenous veterans, who had served in much greater proportion than their numbers in the general population, returned to inequality. In some cases, their homes had literally been appropriated under the War Measures Act to serve military purposes, while Status Indians returned to unequal legal status. They began to organise. They were part of a global mobilisation of resistance to such discrimination and unequal treatment, resulting in Indigenous rights movements in all of the settler Dominions, the struggle against apartheid in South Africa, and the United States civil rights and Indian rights movements, to mention just a few. At the same time, a wave of revulsion against ethnically based legal and illegal discrimination passed through all of the Second World War combatant countries, creating a much more receptive environment for change. In Canada, one consequence was the first important revision of the *Indian Act* in decades. The most discriminatory provisions were removed in 1951, including the prohibition against fund-raising for the purposes of political self-representation. These changes liberated even more energy, so that through the 1950s

and 1960s, Status Indians and ultimately non-Status, Métis and Inuit also, began to form organisations to fight for recognition of their land rights and more control over the terms of their lives as Canadians (or as some might prefer, Indigenous Peoples living in Canada).

Two federal initiatives of the 1960s had a powerful impact on the Indigenous movement.[24] In 1965, the federal government commissioned University of British Columbia professor Harry Hawthorn to lead a task force to investigate Indian conditions in Canada. After research and Canada-wide discussion with Status Indian leaders, the task force reported, proposing the concept of 'Citizens Plus' to express the view that Status Indians should have all the rights and responsibilities of other Canadian citizens while they also held special rights arising from treaties. The Hawthorn report was generally favourably received by Indian leaders –but it was apparently ignored by the new Liberal government elected in 1968 led by Pierre Trudeau. As is well known, Trudeau was an anti-nationalist and opposed "special rights" based on ethnicity. Within a year, his government produced a White Paper (that is, a discussion paper), the Statement on Indian Policy, that proposed a different vision.[25] The White Paper asserted strongly that Status Indians should have full citizenship rights and responsibilities, but no special rights, and it envisioned the orderly phasing out of both treaty provisions and special federal responsibilities. The reaction from Status Indians people was immediate, and almost entirely negative. They insisted upon respect for the treaties and for their special relationship to the Crown (represented by the federal government), and rejected any unilateral actions by the federal government to alter the relationship (Cardinal, 1969[5]).[26]

While the White Paper, coming on the heels of the more acceptable analysis in Hawthorn Task Force Report, was a catalyst for mobilisation, it was not the source. The struggle for respect for treaty rights had begun in the 1950s. In addition, there were other concerns. The integration of the Canadian and United States economies during the Second World War continued into the post-war years, with Canadian water, hydroelectric power, lumber and mineral resources in high demand. Most of these resources were found in the mid-North, on Indigenous lands previously undisturbed by industrial capitalism. In northern Quebec and the Mackenzie Valley in the late 1960s, and subsequently in other parts of the north, Indigenous people mobilised to secure land rights and to gain some control over the pace and direction of northern development.

Thus, Indigenous people across the country were well-organised and mobilised by the late 1970s, when the Trudeau government began to discuss the patriation of the Canadian constitution. Ultimately, the Indigenous organisations and their allies in the New Democratic Party were successful in entrenching "existing aboriginal and treaty rights" (Sec. 35) in the Constitution Act (1982), and introducing some other protective provisions. Section 35 of the Constitution Act states that:

- The existing aboriginal and treaty rights of the aboriginal peoples of Canada are hereby recognised and affirmed.
- In this Act, "aboriginal peoples of Canada" includes the Indian, Inuit and Métis peoples of Canada.

Furthermore, Section 25 of the Act notes that: "guarantee in this Charter of certain rights and freedoms shall not be construed so as to abrogate or derogate from any aboriginal, treaty or other rights or freedoms that pertain to the aboriginal peoples of Canada including (a) any rights or freedoms that have been recognised by the Royal Proclamation of October 7, 1763; and (b) any rights or freedoms that now exist by way of land claims agreements or may be so acquired".

Despite inclusion of existing aboriginal and treaty rights (Sec. 35) in the Constitution Act (1982), the substantial meaning of the phrase "hereby recognised and affirmed" could not be reached, the drafters provided for a series of First Ministers Conferences to follow patriation (Sec. 37). These concluded in 1987 with no agreement. A final attempt to specify the meaning of Sec. 35 was made during the negotiation of what came to be called the Charlottetown Accord, an omnibus effort to deal with a number of outstanding constitutional issues. The Charlottetown Accord was defeated in a national referendum in 1992, ending over a decade of popular mobilisation and elite accommodation on matters constitutional.

As no political resolution to the meaning of Sec. 35 was achieved, it has fallen to the courts to interpret these provisions, aided by an active cohort of specialist constitutional lawyers and by the work of the Royal Commission on Aboriginal Peoples.

The Royal Commission on Aboriginal Peoples and the Reconciliation Agenda

The Royal Commission on Aboriginal Peoples was appointed in 1991 in the aftermath of the failure of the post-1982 constitutional conferences, and the outbreak in 1990 of serious conflict over the use of Indigenous lands at Kanesatake (Oka, Quebec) (York and Pindera, 1991[6]).

An inquiry of unprecedented scope, the Commission published a number of interim studies, and a five volume final report that offers a reinterpretation of Canadian history with Indigenous relations at the centre, and recommendations covering virtually every outstanding issue in that relationship –from health to veteran's affairs to land rights and treaties. The Commission envisioned a new relationship between Indigenous nations and peoples and the Crown and Canadian governments, captured in the phrase 'nation-to-nation'. By this the Commission meant a relationship characterised by mutual recognition, mutual respect, sharing, and mutual responsibility. "Aboriginal governments" were understood to be one of three orders of government in the federation.

The federal response to the Royal Commission came in early 1998. *Gathering Strength: Canada's Aboriginal Action Plan* avoided using the term nation-to-nation, preferring to speak of "partnership" among Aboriginal people, other levels of government, and the private sector. Other sections of Gathering Strength affirm the inherent right of self-government, the treaty relationship, and the importance of recognizing "Aboriginal governments" but avoided explicit recognition of original Indigenous sovereignty. A Statement of Reconciliation endorsed the version of Canadian history put forth by the Commission and acknowledged the harm that had been done by Indian Residential Schools. Ultimately, after legal action by the Assembly of First Nations and more negotiation, a formal apology was issued, a compensation program was rolled out, and the Truth and Reconciliation Commission (TRC) was struck, reporting in 2015.

The TRC offered an opportunity to the hundreds of people who were directly and intergenerationally affected by the residential school system and the abuses there to speak of the harm that was done to them. It exposed this history to the general Canadian public, and in issuing 93 calls to action, galvanised many segments of Canadian society - as well as governments and public institutions - into action. This process continues.

Another watershed moment occurred in 2015 when the newly elected Trudeau government committed to progress in Indigenous affairs. This was followed by a number of actions, beginning with the inclusion of the following sentence in all Ministerial mandate letters:

> *No relationship is more important to me and to Canada than the one with Indigenous Peoples. It is time for a renewed, nation-to-nation relationship with Indigenous Peoples, based on recognition of rights, respect, co-operation, and partnership.*

In May 2016, Canada announced its full support, without qualification, of the United Nations Declaration on the Rights of Indigenous Peoples. In April 2017 Canada formally retracted its concerns regarding paragraphs 3 and 20 on the 2014 Outcome Document from the World Conference on Indigenous Peoples.

Box 1.2. Reconciliation—a Canadian project moving from words to actions: What will it take to implement?

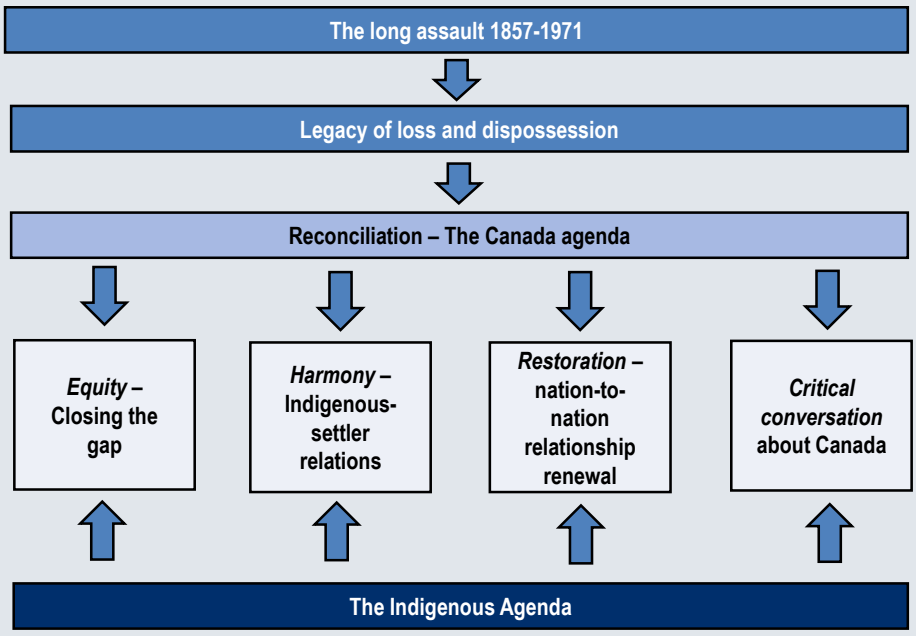
Prime Minister Justin Trudeau's government mandate letters and 2015 speech to the Assembly of First Nations Special Chiefs Assembly marked a change in tone and signified a new era that has the potential to transform its relationship with Indigenous peoples.

As noted by Newhouse (2016[4]), the story of Indigenous peoples is predominately told through the lens of colonisation: the historical period from the Gradual Civilization Act of 1857, which encouraged Indians to assimilate into Canadian society through the process of enfranchisement and adoption of European values, to the withdrawal of the much-criticised White Paper Statement of Indian Policy in 1971. Throughout this period, public policy-makers saw Indigenous peoples as a 'problem'. As a result, Indigenous people endured more than a century of assault on their lands, economies, cultural practices, knowledge and identities.

Reconciliation has become the public policy focus for addressing the impact of this legacy. It consists of remedial efforts designed to close quality-of-life gaps and improve the relationship between Indigenous and other peoples within Canada and governance actions intended to bring Indigenous peoples and their institutions into the structures and processes established for Canada. Part of this undertaking is a critical examination of Canada itself, and this requires an understanding of the political goals of Indigenous peoples.

A large number of governments, agencies and organisations are now taking steps to address particular calls to action within their mandates. Indigenous peoples had little or no influence upon the public policies that animated the 'Long Assault' (the period between 1857 and 1971). While Indigenous peoples expect to have significant influence over the policies that will lead to a reconciled Canada, it would be unfair to place the burden of reconciliation upon them. Those who lead Canada's public institutions need to spearhead the reconciliation effort and work to expand support for change within Canadian society as a whole.

Figure 1.1. The four aspects of reconciliation as envisioned by Indigenous leaders



Source: Newhouse, D. (2016[4]), "Indigenous peoples, Canada and the possibility of reconciliation", http://irpp.org/research-studies/insight-no11/ (accessed on 13 December 2018).

These are important changes in direction from political leadership. There have also been some important institutional changes. In August 2017, the federal government announced the dissolution of the old Department of Indian Affairs and Northern Development, and the creation of two new ministries explicitly modelled on a recommendation of the Royal Commission on Aboriginal Peoples. The Department of Crown-Indigenous Relations and Northern Affairs will have responsibility for whole-of-government coordination and creation of the new relationship between federal authorities and Indigenous peoples ("nation-to-nation, Inuit-Crown, and government-to-government"). The second ministry, of Indigenous Services, will be given responsibility for improved service delivery and eventual transfer of service delivery to self-governing Indigenous authorities.

Table 1.1. Selected policy milestones in Indigenous-Crown relations

1763	Royal Proclamation affirms Indigenous land right and Crown prerogatives
1764	Treaty at Niagara ratifies Royal Proclamation
1867	Confederation through the British North America Act creates the Dominion of Canada
1869	*Indian Act* consolidates earlier legislation, embedding colonial law
	Métis Provisional Government constituted in the Red River Settlement
1871	Treaty 1 concluded
1885	Métis resistance defeated; Riel hanged
1921	Treaty 11, last numbered treaty, negotiated
1927	*Indian Act* amended to prohibit fund-raising for political purposes
1951	Major revision of *Indian Act*
1960	Federal franchise extended to Status Indians
1969	White Paper on Indian Policy

1973	Calder et al. v. Attorney-General of British Columbia [1973] Supreme Court decision: Acknowledged Aboriginal title is an existing Aboriginal right and provided legal grounding for the James Bay and Northern Quebec Agreement.
1975	James Bay and Northern Quebec Agreement—first modern treaty
1982	Patriation of the Constitution
1985	Some gender discrimination removed from *Indian Act*
1990	Crisis at Kanesatake (Oka) over land rights
1992	Charlottetown Accord defeated
1995	Inherent Right to Self-Government Policy responds to Supreme Court decisions
1996	Final Report of the Royal Commission on Aboriginal Peoples
1999	Nunavut Territory created pursuant to modern treaty
2015	Final report of the Truth and Reconciliation Commission of Canada
2016	Canada announces its full support for the United Nations Declaration on the Rights of Indigenous Peoples
2019	The Final Report of the National Inquiry into Missing and Murdered Indigenous Women and Girls

Key debates in Indigenous peoples' economic development

Contemporary controversies and political issues are a legacy of the contest over land prompted by European "discovery" of the new world and its settlement. Settlement patterns, state formations, industrial structure and political culture have all been forged by this history. Three contemporary areas of debate and discussion are consequences of this history:

- Self-government and the movement to remove Indian Act administration.
- Challenges of economic development and the long shadow of conflicts over land use and capitalist development.
- The ways in which Indigenous knowledge can inform public policy, particularly environmental and economic decision-making.

The origins and basic shape of the 21st century *Indian Act* lie in British colonial policy. Indigenous peoples' continuing desire to both protect their lands and earn their livings from them lie behind contemporary conflicts over land use and resource development – and attendant dilemmas in Indigenous communities about how to manage these. Many wish to do this from within the values and relying upon the insights of their own cultures, even while they work through the institutions of democratic government that structure Canadian political life.

Getting out from under the Indian Act

The *Indian Act* has no defenders. It is widely recognised that the lineaments of the unjust period of colonialism are baked into every section and clause. The *Indian Act* was an instrument of containment and control, aiming at the extinction of Indigenous peoples as peoples, and is irredeemable.

Yet repeated attempts to abolish the *Indian Act* have met with resistance from First Nations. There are a number of reasons for this. First, and probably most importantly, First Nations' history of relations with state institutions has given them little reason to be optimistic about a radical change to their legal condition designed and imposed from outside. Changes will have to be led by the people they will affect. Second, for First Nation people as for other Canadians, the most proximate order of government is the most visible and the most important. The *Indian Act* has structured political life on reserves for seven or eight generations. It is familiar. Third, the Act has long embodied First Nations' relationships with federal institutions, so that it has become associated with treaty rights, security of land

tenure on reserves, and the federal fiduciary responsibility. If it is abolished, what will happen to these? Finally, there is the matter of building an alternative constitution. While in most places traditional political institutions and values have survived, they have been pushed aside or driven underground. Even if the prohibitions on traditional governance practices have been expunged from the *Indian Act* and federal policy, it is challenging to understand how they might be built and adapted into a modern government capable of interaction with other orders.

Beyond several unsuccessful (and well-intended) efforts by federal leaders to unilaterally abolish the *Indian Act*,[27] there have been a number of efforts over the years to establish "paths" for First Nation governments to follow as they work their way out from under the *Indian Act*. These include the 1996 Framework Agreement on First Nation Land Management ratified by the 1999 *First Nations Land Management Act* (FNLMA), which delegates certain land management responsibilities under the *Indian Act* to Band Councils, which eliminates the need to seek Ministerial approval on lands-related decisions. The 2006 First Nations Fiscal Management Act (FNFMA) provides a legislative and institutional framework allowing Fist Nations to exercise jurisdiction over core government functions and supports their socio-economic development goals. This Act established three institutions:

- The First Nations Financial Management Board supports Indigenous governments to implement financial administration laws for good governance and sound financial management.
- The First Nations Tax Commission advances Indigenous taxation, including property taxation and local revenues generation.
- The First Nations Finance Authority enables Indigenous governments to access capital through the bond market at rates comparable to other levels of government.

Box 1.3. An evolving framework for First Nations land management: The First Nations Land Management Act

The Framework Agreement on First Nation Land Management and the *First Nations Land Management Act* (FNLMA) establish a legislative framework for the direct and autonomous governance of reserve lands by First Nations. In 1991, a group of First Nation Chiefs approached the Government of Canada with a proposal to opt out of 33 provisions in the *Indian Act* pertaining to land and resources. This proposal led to the negotiation of the Framework Agreement on First Nation Land Management by 14 First Nations and Canada in 1996, and later ratified in 1999 by the *First Nations Land Management Act*. In December 2018, amendments were passed to the FNLMA that contain Canada's first reference to a commitment to the United Nations Declaration on the Rights of Indigenous Peoples (UNDRIP) in a piece of legislation.

The Framework Agreement led to the establishment of the Lands Advisory Board and Resource Center to assist the 14 First Nations in implementing their own land management Regime. Under First Nations Land Management, responsibility for the creation, administration, and enforcement of laws governing the management of reserve land, environment and resources is transferred to First Nations when a community-developed land code comes into effect. First Nations operating under their own land codes cannot return to *Indian Act* land management.

As of October 2019, 79 First Nations are operating under their land code, 55 First Nations are working to develop a land code and a further 10-15 First Nations will be voting to ratify their land code in the next 12 months.

After a First Nation begins the process of assuming jurisdiction under First Nation Land Management, it receives two types of funding:

- Developmental funding for establishing a land code, negotiating an individual agreement and holding a ratification vote.
- On-going operational funding for managing land, natural resources and environment, as determined by a formula and set out in the individual agreement.

The implications of this new framework for First Nations land management is discussed at length in Chapter 3.

Source: Background questionnaire.

There has been some interest in both paths. Out of a total of 619 First Nations recognised by the Government of Canada, 84 operate under the Framework Agreement on First Nation Land Management and the FNLMA and 54 are actively working towards this. Under the FNFMA: 282 First Nations have opted in and 125 First Nations are collecting property tax generating over $66 million annually.

Since 1995, a third path has existed –the negotiation of self-government agreements. These now exist in great variety, not all of which have been negotiated by First Nation governments.[28] There are 26 Comprehensive Land Claim agreements and four standalone Self-Government agreements.[29] Of the 26 Comprehensive Land Claim Agreements, 18 include Self-Government provisions or have accompanying Self-Government Agreements. The self-government agreements that have been negotiated to date are relatively few in number, and they are extremely heterogeneous. Some self-government agreements are explicitly recognised as treaties under Section 35 of the Constitution Act (Deline Agreement), while others are explicitly excluded (Sioux Valley Dakota). Some are government-to-government agreements intended to provide a vehicle for an *Indian Act* administration to work out from under the *Indian Act*, while others complement existing comprehensive claims agreements (that have supplanted the *Indian Act*) with government-to-government arrangements. The Tlicho Agreement concluded in 2005 includes both land and governance provisions in one document –that is, it is both a comprehensive land claim agreement and a self-government agreement. At the other extreme, there are sectoral self-government agreements. For example, under the Mi'kmaq Education Partnership, the members of Mi'kmaw Kina'matnewey (a coalition of twelve First Nations) control and deliver education to their citizens. Similarly, the Anishnabek Nation (Union of Ontario Indians) has the Anishinabek Educational Institute.

None of three 'paths' (the FNLMA, the FNFMA, the Inherent Right to Self-Government policy) represent in themselves a radical break with the *Indian Act*, but they do create a somewhat different opportunity structure for the many First Nations who choose to begin to move out from under the *Indian Act*. A fourth path can also be considered. One that includes First Nations-directed and/or led solutions for all new legislation affecting First Nations (e.g., the proposed Safe Drinking Water for First Nations Act), further supported by permanent bi-lateral mechanisms between the Government of Canada and First Nations, Inuit and Métis Nation leaders as well as joint Canada-Indigenous working groups.

Independent of government policy initiatives, there is a growing grassroots movement for internal development and change towards self-government. This movement is rarely covered in news reporting and can be difficult to spot from a distance, but it is Canada-wide. Indigenous organisations working in this field include the Centre for First Nations Governance, a corps of Indigenous researchers and community developers who have been working with First Nations on governance issues for nearly twenty years, the Indigenous Leadership Development Institute which offers a curriculum of professional development courses to First Nation and other Indigenous organisations, and the newly formed think tank, the Yellowhead Institute at Ryerson University.[30] Putting these developments together with the expansion of university programs in the fields of Indigenous studies and Indigenous governance and the growing cohort of Indigenous students, it seems likely that grassroots movements to displace the *Indian Act* and to build healthy community governance practices rooted in recovered Indigenous traditions and language will grow.

An outstanding question remains: by what means and on what schedule will the efforts to transform the federal administration of Indigenous affairs keep pace with both the current political direction from above, and the pressures for change from First Nation communities? To date, none of the top-down initiatives to supersede the *Indian Act* have gone very far, in part for the reasons mentioned above, but also because they have not broken with the ethos of central control, a conditioned response that is buttressed by the doctrine of ministerial responsibility. Until Ministers of the Crown replace this responsibility with practical nation-to-nation and government-to-government relations, the spirit of the *Indian Act* will animate administrative behaviour.

Conflicts over land and land management

Land, and sovereignty over land, is at the heart of the relationship between Indigenous peoples and the Crown (see Chapter 3 for in-depth discussion). Indigenous peoples, and initially the Crown, used treaties to establish appropriate diplomatic relationships and to agree upon a protocol for sharing use of the land. As is well known, many provisions of the treaties were not respected, particularly the provisions concerning shared land, and particularly by the provincial governments whose constitutional reliance upon "Crown land" for revenue provided an incentive to ignore treaty rights. Provincial governments have generally taken the position that whatever the wording of the treaty, all lands except the small portion of Indigenous peoples' traditional territory allocated for a reserve, are to be seen as Crown lands (or waters) and are open to provincial disposition.[31] It seems likely that recent Supreme Court of Canada decisions will be undermining this position (see Tsilhqot'in decision discussed above) but this process is just beginning. Of as yet unknown impact is the legislation currently before Parliament that will require that all Canadian laws be brought into harmony with the UNDRIP. In this discussion, Article 21 is pertinent:

- Indigenous peoples have the right to determine and develop priorities and strategies for the development or use of their lands or territories and other resources.
- States shall consult and cooperate in good faith with the indigenous peoples concerned through their own representative institutions in order to obtain their free and informed consent prior to the approval of any project affecting their lands or territories and other resources, particularly in connection with the development, utilisation or exploitation of mineral, water or other resources.

- States shall provide effective mechanisms for just and fair redress for any such activities, and appropriate measures shall be taken to mitigate adverse environmental, economic, social, cultural or spiritual impact.

These provisions are in line with the trend in Canadian jurisprudence, but there are still many outstanding matters of implementation. And while these matters are forward-looking, there remains a need to redress errors of the past.

Since 1973, these actions and federal treaty violations have been subject to review through the specific claims process. The specific claims process addresses "claims made by a First Nation against the federal government which relate to the administration of land and other First Nation assets and to the fulfilment of Indian treaties, although the treaties themselves are not open to renegotiation" (Office of the Auditor General of Canada, 2016[7]).

The modern treaties that have been negotiated since 1975 have provisions that make them less likely to be disregarded. Each modern treaty is detailed and specific, and each is given effect by complementary legislation. It is accepted that the treaty must be respected by both orders and all branches of government, though this has not always been done.

The modern treaties set up procedures for decisions about land use, by specifying the degree of control each signatory has over categories of land in the Indigenous nation's traditional territory, and frequently through a system of co-management boards, appointed jointly by the Indigenous parties to the treaty and the relevant other orders of government. Self-government agreements also contain environmental chapters, which bestow Indigenous governments with the responsibility to create environmental protection laws, which can encompass pollution, waste management, water quality, air quality, etc. In addition to treaty land management, national parks are also created pursuant to modern treaties and provide another example of effective co-management.

Such measures do not eliminate conflict but they do provide regularised means for resolving it.[32] An example of such boards is the Nunavut Impact Review Board, established under the Nunavut Agreement to review and make recommendations concerning all major development projects proposed for Nunavut. Another with a more specific focus is the Porcupine Caribou Management Board, with specific responsibility to oversee the protection of this herd. There are similar boards in Labrador, Northwest Territories and Yukon. Development proposals which involve interprovincial impact may also be considered by the federal environmental assessment panels, and the National Energy Board. Federal procedures are being revised currently as Bill C-69 moves through Parliament. Land use conflicts also arise between municipal governments and neighbouring Indigenous nations. There are far fewer mechanisms for resolving these peacefully.[33] The 1990 armed confrontation at Kanesatake/Oka mentioned earlier was prompted by a municipal government's interest in constructing a golf course in Mohawk traditional territory and the standoff at Caledonia Ontario over the construction of a subdivision on Haudenosaunee lands are just two examples (York and Pindera, 1991[6]; DeVries, 2011[8]).

Sometimes conflict over land use is primarily a matter of property rights, as in the 1995 Ipperwash Crisis, where members of the Stoney Point Ojibway Band sought to regain lands that had been appropriated from their reserve during the Second World War under the War Measures Act. Instead of being returned after the war, the reserve land was converted to a provincial park. After a prolonged standoff, the shooting death of one of the protesters, and a public inquiry, the land was returned to the Stoney Point Band in 2016.

Conflicts over land and land management are also apparent where the rights of hereditary chiefs are not considered in developments on their traditional land. A present example of

this conflict the case of the Gidimt'en of the Wet'suwet'en hereditary chiefs and the construction of the Coastal GasLink pipeline in British Columbia. It is the position of TransLink Canada – owners of the Coastal gas pipeline – the Impact Benefit Agreement that they have signed with the elected Wet'suwet'en band council permits them to proceed with the construction of the pipeline across Wet'suwet'en traditional territories. While bands derive their authority from the *Indian Act*, and were originally created as a means for Canadian authorities to better control Indigenous communities, Wet'suwet'en hereditary authority is embodied in titles passed down through generations and from the distinct relationship between a clan and its territories (McCreary, Tyler; Budhwa, 2019[9]). A 1980s court case on the territorial-rights of Wet'suwet'en hereditary chiefs and their Gitxsan neighbours that eventually rose to the Supreme Court of Canada established that the Tribe's territorial sovereignty, pending proof of surrender, by treaty, is legitimate.[34] However, the provincial government continues to assert the rights to natural resources development across these lands wherein provincial environmental assessments can proceed absent the consent of the hereditary chiefs.

On many other occasions, though, debates over land use and resource management lead into a debate about capitalism and its impact on Indigenous communities. Capitalism is of course a global system, encompassing us all and affecting how every person on the planet makes a living and makes a life. Many Indigenous communities in Canada, though, retain a social memory of other ways of being, and in northern and rural communities, retain also the capacity to make a living more loosely articulated to capitalist relations than is possible for most urban dwellers. The desire to continue to live partly by harvesting (hunting, fishing, gathering) is manifest in human behaviour, and in provisions for resource management and access to lands that are negotiated in modern treaties. In northern Canada, the trade-off between jobs related to resource development and protection of the lands is a sharp one that has been played out in every public hearing on development projects since the Berger Inquiry of the 1970s. The Inquiry report's title, *Northern Frontier, Northern Homeland*, says it all.[35] The same issues are at play in current debates about the Kinder-Morgan Pipeline expansion, through Indigenous lands, from the Alberta oil sands to the Pacific coast.

Indigenous Knowledge and Economic Development Decision-Making

The roughly synonymous terms Indigenous knowledge, Indigenous environmental knowledge, traditional knowledge, and traditional environmental knowledge have come into common usage over the last four decades, surfacing in debates over the opening of Indigenous lands to non-renewable resource development. The terms generally refer to human understanding (facts, generalisations, theories and explanations) that is particular to and arises from a nation or people's history, language, economic, political and social practices, and culture. Much Indigenous knowledge is in principle intercultural communicable, but may not be entirely accessible to those who do not speak the appropriate language.

While this definition seems clear enough, in fact the term Indigenous knowledge is used in different senses and for different purposes.[36] In practice, the term can refer to a *distinctive political and social perspective and set of interests, rooted in shared history.* In this meaning of the term, what is referred to as a people's shared way of understanding human life, identifying problems and approaching social resolution. This shared understanding arises naturally as people live together in society over many generations, and when confronted by a similar challenge from outside, they will tend to defend their interests or respond to opportunities in similar (but surely not identical) ways. This is the kind of

knowledge that is tapped in many forms of citizen consultation and public participation – in regulatory hearings, for example.

On the other hand, sometimes traditional Indigenous knowledge means *local knowledge*, the specific, empirical knowledge that arises from long and intimate experience of a particular place, built up socially, passed on to subsequent generations, and available to be shared. This kind of Indigenous knowledge is most compatible with scientific investigation, and may be relatively easily shared. Like scientific knowledge, Indigenous local knowledge is specific, empirically testable, and capable of explanation in segments –as, for example, caribou hunters and caribou biologists might share information about animal behaviour, and compare predictions.

There is a third sense of the term that is much less compatible with either scientific knowledge or public policy decision-making. Indigenous knowledge can be understood to be *an ethical-epistemological-cosmological understanding of how to live in the world, how best to be human, of understanding responsibilities to others and to the world.* This entails understanding the relations among all things, and in this way of approaching human existence, making no sharp distinctions among humans, animals, birds, waters, land, mountains and so on. It is difficult to write about this kind of knowledge in English or any modern language, because these now have embedded different concepts and distinctions.

Two articles in the UNDRIP are pertinent to understanding the role of Indigenous Knowledge in development decision-making:

- *Article 27:* States shall establish and implement, in conjunction with indigenous peoples concerned, a fair, independent, impartial, open and transparent process, giving due recognition to indigenous peoples' laws, traditions, customs and land tenure systems, to recognise and adjudicate the rights of indigenous peoples pertaining to their lands, territories and resources, including those which were traditionally owned or otherwise occupied or used. Indigenous peoples shall have the right to participate in this process.
- *Article 31:* Indigenous peoples have the right to maintain, control, protect and develop their cultural heritage, traditional knowledge and traditional cultural expressions, as well as the manifestations of their sciences, technologies and cultures, including human and genetic resources, seeds, medicines, knowledge of the properties of fauna and flora, oral traditions, literatures, designs, sports and traditional games and visual and performing arts. They also have the right to maintain, control, protect and develop their intellectual property over such cultural heritage, traditional knowledge, and traditional cultural expressions.

These principles are generally in line with current Canadian public policy, though they do raise the question of the proper operationalisation of the Supreme Court of Canada decisions discussed earlier in this chapter, which place a duty on Canadian governments (in right of the Crown) to "consult and accommodate" Indigenous peoples on whose lands development is proposed. There is still a lack of consensus about what constitutes an appropriate level of accommodation, and the question of whether the injunction to accommodate ever sanctions an Indigenous veto over what happens on their traditional lands.

Indigenous people have taken a number of steps towards managing the use of their knowledge by others. The OCAP® principles –Ownership, Control, Access and Possession—were developed to explain appropriate behaviour to those who would do research in Indigenous communities. They do not distinguish among the types of

Indigenous knowledge briefly characterised above (First Nations Information Governance Centre, 2014[10]). Many Indigenous governments and some organisations have procedures for review and approval of research projects, akin to the ethics review boards established at Canadian universities.

The Canadian research community has been coming to terms with these issues since at least the 1970s. While there is a growing body of scholarship and discussion about methodology and epistemology, no consensus has emerged and it remains the case that the discussion itself has been confined to Indigenous scholars and non-Indigenous scholars who would work with Indigenous peoples.[37]

No single document can adequately summarise the colonial history and present circumstances of present-day Canada. This chapter provides a perspective on the historical roots of Indigenous – Canada relations, by way of situating present conditions and some of the key issues facing Indigenous people and other Canadians today. The treaties and their affirmation in the Constitution Act 1982 and subsequent jurisprudence provide the legal foundation for the multiple processes of self-determination currently underway. Each of these has had an impact on the institutional structure of Canada, and they will continue to do so. By this means, social forces introduce durable change.

Notes

[1] It is important to recognize that any introductory overview of this nature inevitably obscures important differences in historical experience and current circumstances. While Indigenous peoples in Canada share the experience of displacement and colonialism, each has a unique history and individual members of each nation or people will have had differing experiences, and may have differing views, on any important matter.

[2] When speaking English and French, most Indigenous people now use the English and French terms 'nation' to refer to their societies, while Inuit generally prefer 'people'.

[3] For a map of the original territories in the years around the time of European contact see http://native-land.ca.

[4] For example, the great smallpox pandemic of the 18th century on the Great Plains brought death to one-half to two-thirds of prairie people (Binnema, 2004[16]).

[5] Various terms are also applied to those Canadians who are not descended from the original societies of North America. In speaking of colonization, this chapter employs the term 'European' because the colonizing powers came from Europe, but of course contemporary Canadians are descended from people born on every continent. The terms 'settler' and 'settler society' are used to refer to the non-Indigenous people of contemporary Canada.

[6] 'Eskimo' is still used in Alaska, and occasionally by older people in Canada's western Arctic. On Métis history and identity (as well as terminology) see (Andersen, 2014[23]).

[7] The term 'Indian' is still used by some people in western Canada particularly, but increasingly the term 'First Nation' is preferred. The older term "Native" as a synonym for Aboriginal is still current (as in the Faculty of Native Studies at the University of Alberta), but some find it to be pejorative.

[8] Others lost their status when they graduated post-secondary school (i.e. become a lawyer, doctor, etc.).

[9] In 2016, A Supreme Court of Canada ruling (Daniels v Canada/Indian Affairs and Northern Development 2016 SCC 12) held that when used in s. 91(24) of the Constitution, 'Indians' was intended to include the Métis and non-status Indians. However, this does not make Métis and non-status Indians 'Indians' under the Indian Act. In practice, the decision lays open the possibility for

the federal government to negotiate improved programmes and services with Métis and non-status Indians but provides no specific legal obligation for the federal government to so.

[10] For a useful summary of recent trends see (Statistics Canada, 2018[13]).

[11] All of the figures above are derived from Statistics Canada sources. Aggregate measures of social wellbeing have limited value for the present study, as local conditions vary markedly. For example, contrary to the Canada-wide situation, there are communities where educational attainment exceeds the surrounding area (as is the case for Kitigan Zibi Anishnabeg in west Quebec).

[12] For an overview of northern governing institutions in the modern treaty period, see (Abele et al., 2009[15]). On transformation of Indian Act governments, see (Borrows, 2010[17]).

[13] This is a review of some key cases, not a full account of the evolving jurisprudence. For a fuller discussion, see (McNeil, 2007[19]; 1996[18]).

[14] Tsilhqot'in Nation v. British Columbia, 2014 SCC 44, Para. 14 and 97.

[15] That this is more than a formal requirement became clear in a 2016 SCC decision in Clyde River (Hamlet) v. Petroleum Geo Services Inc., which ruled that the National Energy Board had not undertaken sufficient consultation and accommodation with the Nunavut community of Clyde River.

[16] John Borrows, "Sovereignty's Alchemy: An Analysis of Delgamuukw v. British Columbia" Osgood Hall Law Journal. 37(3) (Fall 1999); Michael McCrossan and Kiera Ladner. "Eliminating Indigenous Jurisdictions: Federalism, the Supreme Court of Canada, and Territorial Rationalities of Power" Canadian Journal of Political Science 49 (3): 411-431 (September 2016); Michael McCrossan. "Contaminating and Collapsing Indigenous Space: Judicial Narratives of Canadian Territoriality" Settler Colonial Studies 5(1): 20-39 (2015); Val Napoleon, "Thinking About Indigenous Legal Orders" in R. Provost and C. Sheppard, eds. Dialogues on Human Rights and Legal Pluralism. Ius Gentium: Comparative Perspectives on Law and Justice. Vol. 17. Dordrecht: Springer, 2013; Karen Drake and Adam Gaudry, "'The lands...belonged to them, once by the Indian title, twice for having defended them...and thrice for having built and lived on them': The Law and Politics of Métis Title" Osgoode Hall Law Journal 54 (1) (Fall 2016).

[17] The Tlicho Government in the Northwest Territories are an example of an agreement that contains both a CLCA and self-government provisions.

[18] The Department of Indian Affairs and Northern Development has legally changed its name as of the 2019 – Bill C97 – which establishes the Department of Crown-Indigenous Relations and Northern Affairs Canada and the Department of Indigenous Services.

[19] The Truth and Reconciliation Commission (2008-2015) is the most recent of these. It sparked a national process of truth-seeking and reconciliation related to the residential school system and its consequences. Other important commissions are the Royal Commission on Aboriginal Peoples (1991-1996) which offered a version of Canadian history that included Indigenous peoples' experience, and the on-going Inquiry into Missing and Murdered Indigenous Women and Girls (2016 – present). In addition to these Canada-wide inquiries, there have been a number of others appointed in provinces.

[20] For an account of the early contact period that takes account of climate (and the Little Ice Age) see Sam White, A Cold Welcome: The Little Ice Age and Europe's Encounter with North America. Cambridge and London: Harvard University Press, 2017.

[21] The British Parliament passed the British North America Act [1867] establishing the Dominion of Canada. Since 1982, the BNAA has been known as the Constitution Act [1867] and it has of course been superseded by the Constitution Act [1982].

[22] There is both federal and provincial crown land. When they created Alberta and Saskatchewan, federal government initially retained jurisdiction over natural resources.

[23] Abele 2007 and a few other Indian Act sources.

[24] Canada, Indian Affairs Branch, A Survey of the Contemporary Indians of Canada: A Report of Economic, Political, Educational Needs and Policies. Ottawa, 1966; Canada, Statement of the Government of Canada on Indian Policy. Ottawa, 1969; Sally Weaver, Making Canadian Indian Policy: The Hidden Agenda 1968-70. Toronto: University of Toronto Press, 1970.

[25] In 1969 the "white paper" officially entitled the "Statement of the Government of Canada on Indian policy" was proposed by Trudeau and Jean Chretien (Minister of Indian Affairs) at the time as a "definitive means of dealing with First Nations issues".

[26] Cardinal (1969[5]) argues point for point against Pierre Trudeau's vision of the future of Indian-Crown relations as expressed in the White Paper. The title of the book is a play on Trudeau's campaign slogan, 'the just society.'

[27] The 1969 White Paper on Indian Policy was one such initiative; more recently, in 2002, the First Nations Governance Act was introduced by the then-Liberal government to replace the Indian Act. Some other associated laws (see discussion below) were passed, but the Governance Act met determined opposition from First Nation organizations and was never introduced.

[28] For example, this count includes the Nunavut Agreement, negotiated by Inuit of that territory, which is unique in creating, by treaty, a new public government jurisdiction in Canada, and also the Nunatsiavut Agreement, which established the Labrador Inuit government.

[29] There are also 3 sectoral agreements: 2 education agreements and 1 governance agreement.

[30] For more information see Centre for First Nations Governance Transformational Governance Project at https://www.youtube.com/watch?v=8OQfniNnjic and http://fngovernance.org/news/news_article/from_indian_act_to_self_determination, the Indigenous Leadership Development Institute at http://www.ildii.ca, and the Yellowhead Institute at https://tvo.org/article/current-affairs/get-to-know-canadas-new-indigenous-think-tank.

[31] It is noted that some provinces are undertaking to apply a more cooperative approach by entering into resource revenue sharing agreements with Indigenous governments.

[32] On co-management boards and their impact, see (Rodon, 2008[12]; 2003[20]; White, 2006[11]).

[33] Mechanisms to resolve land use conflicts in Canada differ by province/territory as specified in provincial legislation municipal affairs.

[34] For an overview of this case the actions that the Wet'suwet'en, together with the Gitksan have taken to have their hereditary rights recognised see (Temper, 2019[21]).

[35] Canada, Northern Frontier, Northern Homeland: Final Report of the Inquiry into the Construction of a Pipeline in the Mackenzie Valley. Ottawa, 1977.

[36] For more detailed explanation and analysis, see Frances Abele , "Between Respect and Control: Traditional Indigenous Knowledge in Canadian Public Policy" in Michael Orsini and Miriam Smith, eds. Critical Policy Studies: Contemporary Canadian Approaches. Vancouver: UBC Press, 2006. (Abele, 2007[14]).

[37] For a sample, see Shawn Wilson, Research is Ceremony: Indigenous Research Methods. Fernwood, 2008; Dan Wulff, "Unquestioned answers: A review of research is ceremony: Indigenous research methods." The Qualitative Report 15.5 (2010): 1290-1295. See also lectures cached at https://carleton.ca/indigenousresearchethics/ (Wilson, 2008[24]; Wulff, 2010[22]).

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Chapter 2. Profile of Indigenous Canada: Trends and data needs

The objective of this chapter is to assess economic development and well-being outcomes for Indigenous peoples in Canada, and how to improve statistical frameworks and data governance. The chapter begins by profiling Indigenous socio-economic and demographic trends. The chapter then examines Indigenous community well-being and the importance of geography particularly remoteness and its implications for economic development. Profiles of Indigenous businesses, entrepreneurship and community-led economic development are then discussed. The chapter ends with a discussion of how Indigenous data could be improved in terms of data collection and dissemination, with a specific focus on understanding Indigenous businesses and economies.

Key findings and recommendations

Key findings

- Indigenous Canadians—First Nations people, Métis and Inuit—are diverse peoples with unique cultures, histories and languages.
- There are different ways to self-identify as Indigenous on the Canadian Census: as First Nations, Métis, Inuit and/or as a Status Indian and/or as a member of a First Nation/Indian band.
- Around 1 670 000 individuals in Canada self-identify as Indigenous people, corresponding to 4.9% of the total population in 2016. Among the three groups, First Nations are the largest (at 60% out of total), followed by Métis (36%) and the Inuit population (4%).[1]
- Compared to the non-Indigenous population, the Indigenous population is younger, growing faster, and more likely to be located in predominantly rural regions (approximately 60% of Indigenous Canadians compared to 33% for non-Indigenous peoples live in predominantly rural regions).
- Although the well-being of Indigenous peoples has improved in Canada over recent decades, the pace of improvement has lagged the non-Indigenous population and gaps in well-being have increased. These gaps are also larger in predominantly rural regions.
- The Indigenous business sector plays an important role in generating wealth and jobs for local communities, and some of these businesses are competitive and national and international markets. They are more likely to export and have a higher propensity to innovate.
- The national statistical system for Indigenous Canadians is advanced in an international context but gaps remain in terms of business data, and incorporating Indigenous values and perspectives into well-being frameworks. In addition, more can be done to improve local area data and build the data capabilities of Indigenous organisations.

Recommendations

Improve the **quality of data about Indigenous businesses and entrepreneurship** by:

- Establishing an agreed national definition of an Indigenous business.
- Producing an annual state of the Indigenous economy report, highlighting progress and leading practices.
- Supporting the establishment of a common registry of Indigenous-owned businesses.
- Supporting Indigenous organisations to develop a typology of community-led business entities.

Improve **Indigenous community well-being data** by:

- Working across the Federal Government in collaboration with Indigenous organisations to expand the range indicators and incorporate other data sources.
- Including or expanding community capacity building and training activities in federal funding for Indigenous organisations.
- Developing user-friendly data portals designed for local decision makers.

Strengthen **engagement with Indigenous organisations regarding data collection** by:

- Developing a multi department strategy to coordinate on Indigenous statistics and data and work with Indigenous communities and organisations on an ongoing basis.
- Establish more formalised governance arrangements for the inclusion Indigenous peoples and organisations in the work of Statistics Canada through an advisory body.
- Increase the recruitment of Indigenous persons in Statistics Canada.

Introduction

Indigenous Canadians—First Nations people, Métis and Inuit—are diverse peoples with unique cultures, histories and languages. Socio-economic outcomes and quality of life differ for these populations across Canada and yet, across far too many indicators (e.g., health, education, employment, and access to quality housing) Indigenous peoples fair poorer than non-Indigenous Canadians. These inequalities are well documented and have been the subject of numerous reports and commissions over the years.[2]

This is a task for reconciliation—to improve the socioeconomic outcomes and quality of life for Indigenous peoples across Canada. This task is all the more pressing due to the fact that the Indigenous population is young and growing. They will be Canada's future leaders and there is an urgency to ensure that they are enabled to fulfil their vast potential.

A profile of Indigenous businesses across Canada demonstrates this potential. Indigenous businesses are present in every sector of the economy and they, like the Indigenous population, are growing (Canadian Council for Aboriginal Business, 2016[1]).[3] An understanding of the unique characteristics and needs of Indigenous businesses, particularly in rural areas, is critical in order design effective policies and programmes to help them flourish. In support of these aims, better mechanisms are needed to collect and share data in a manner that is useful and acceptable to Indigenous peoples and communities.

This chapter presents an overview of Indigenous peoples, communities and businesses in Canada and discusses how data could be strengthened in order to better support evidence-based decision-making for Indigenous economic development and well-being. The chapter proceeds in four parts. It first profiles Indigenous socio-economic and demographic trends. Second, it examines Indigenous community well-being and the importance of geography—that is, the remoteness of Indigenous communities in Canada and implications for economic development. Third, it profiles Indigenous businesses and, entrepreneurship in Canada and community-led economic development. The chapter ends with a discussion of how Indigenous data could be improved in terms of data collection and dissemination, with a specific focus on understanding Indigenous businesses and economies.

Box 2.1. A note on terminology

Statistics construct a powerful reality and have numerous implications for how public policies are designed and delivered (Walter and Andersen, 1992[2]). The following chapter draws on data produced by Statistics Canada (Canada's national statistical agency) and the Canadian Council for Aboriginal Business.

The manner in which Indigenous peoples are defined and enumerated differs greatly across countries. In Canada, Aboriginal peoples are defined in the Constitution Act as including the Indian, Inuit and Métis peoples of Canada (1982, Section 35/2). Aboriginal identity refers to whether the person identifies with the Aboriginal peoples of Canada. This includes those who are First Nations (North American Indian), Métis or Inuk (Inuit) and/or those who are Registered or Treaty Indians (that is, registered under the Indian Act of Canada), and/or those who have membership in a First Nation or Indian band. Aboriginal peoples of Canada are defined in the Constitution Act, 1982, Section 35 (2) as including the Indian, Inuit and Métis peoples of Canada.

Registered Indians are persons who are registered under the Indian Act of Canada. Treaty Indians are persons who belong to a First Nation or Indian band that signed a treaty with the Crown. Registered or Treaty Indians are sometimes also called Status Indians.

Membership in a First Nation or Indian band refers to whether or not a person is a member of a First Nation or Indian band. An Indian band is defined as a body of Indians for whose collective use and benefit lands have been set apart or money is held by the Crown, or who have been declared to be a band for the purpose of the Indian Act. Many Indian bands have elected to call themselves a First Nation and have changed their band name to reflect this. With the 1985 amendment to the Indian Act of Canada (Bill C-31), many Indian bands exercised the right to establish their own membership code, whereby it was not always necessary for a band member to be a Registered Indian according to the Indian Act.

Within Statistics Canada's Canadian Census, Indigenous People are distinguished as Registered Indian, Métis, Non-Status Indian, Inuit and other Aboriginal (respondents who identify with more than one Indigenous group or as a Band member with no Aboriginal identity and no Registered Indian Status) (Statistics Canada, 2017[3]). Practices across government departments can differ. For example, ISC and CIRNAC do not use the same labels or even group definitions as Statistics Canada—e.g., Registered Indian vs. Status First Nations. Not all departments define groups in the same way, which can result in different statistics being reported.

As noted by Guimond et al. (2015[4]) there are 'fuzzy group boundaries' between definitions and there are in fact 15 different possible responses related to origin, covering single (e.g., North American Indian) and multiple (e.g., North American Indian and non-Aboriginal) responses. For example, in 2016 census question on Aboriginal identity provided eight possibilities: North American Indian, Métis, Inuit, non-Aboriginal and four multiple Aboriginal responses (e.g., North American Indian and Métis).

Sources: Statistics Canada (2018[5]), *Definitions, Data Sources and Methods*, https://www.statcan.gc.ca/eng/concepts/index (accessed on 17 December 2018); Statistics Canada (2017[3]), *Aboriginal Peoples Reference Guide, Census of Population, 2016*, https://www12.statcan.gc.ca/census-recensement/2016/ref/guides/009/98-500-x2016009-eng.cfm; Walter, M. and C. Andersen (1992[2]), *Indigenous Statistics: A Quantitative Research Methodology*, https://books.google.fr/books?hl=en&lr=&id=ycP_AAAAQBAJ&oi=fnd&pg=PA5&dq (accessed on 2 March 2018); Guimond, É., N. Robitaille and S. Senecal (2015[4]), "Fuzzy definitions and demographic explosion of Aboriginal populations in Canada from 1986 to 2006", http://dx.doi.org/10.1007/978-3-319-20095-8_12.

Socio-economic and demographic profile of Indigenous Canadians

There are important differences between the three groups of Indigenous peoples—First Nations people, Métis and Inuit—in terms of history, socio economic outcomes, and the places where they reside. For First Nations, a further differentiation is whether individuals live on or off reserve. As such, disaggregation between First Nations people, Métis people and the Inuit is made wherever possible in this report.

It bears acknowledging that there are large number of in-depth studies on Indigenous socio-economic and demographic trends which highlight diverse experiences across Canada, both among and between Indigenous groups and peoples. Furthermore, there is a growing body of scholarship which examines the interconnectedness of social-economic outcomes with health, community wellbeing and historical and contemporary experiences of cultural suppression, racism and gender violence (Harper, Anita Olsen; Thompson, 2017[6]). This section provides but a brief overview of key socio-economic and demographic trends, informing subsequent chapters.

Population and demography

Canada has a diverse and growing Indigenous population

Around 1 670 000 individuals in Canada self-identify as Indigenous people, corresponding to 4.9% of the total population in 2016. Among the three groups, First Nations are the largest (at 60% out of total), followed by Métis (36%) and the Inuit population (4%).[4] First Nations people, Métis and Inuit across Canada have diverse histories and cultures and speak numerous languages (around 70 as reported in the 2016 Census).

The First Nations population includes those who are members of a First Nation/Indian Band and those who are not, and those with or without registered or treaty Indian status under the Indian Act. There are more than 600 unique First Nations/Indian Bands in Canada. Around three-quarters (76.2%) of the people who self-identify as First Nation have registered or treaty Indian status (Statistics Canada, 2017[7]). Of those with registered or treaty Indian status, 44.2% lived on reserve in 2016 (Statistics Canada, 2017[7]). Both the on-reserve (+12.8%) and off-reserve (+49.1%) First Nations population grew from 2006 to 2016 (Statistics Canada, 2017[7]).

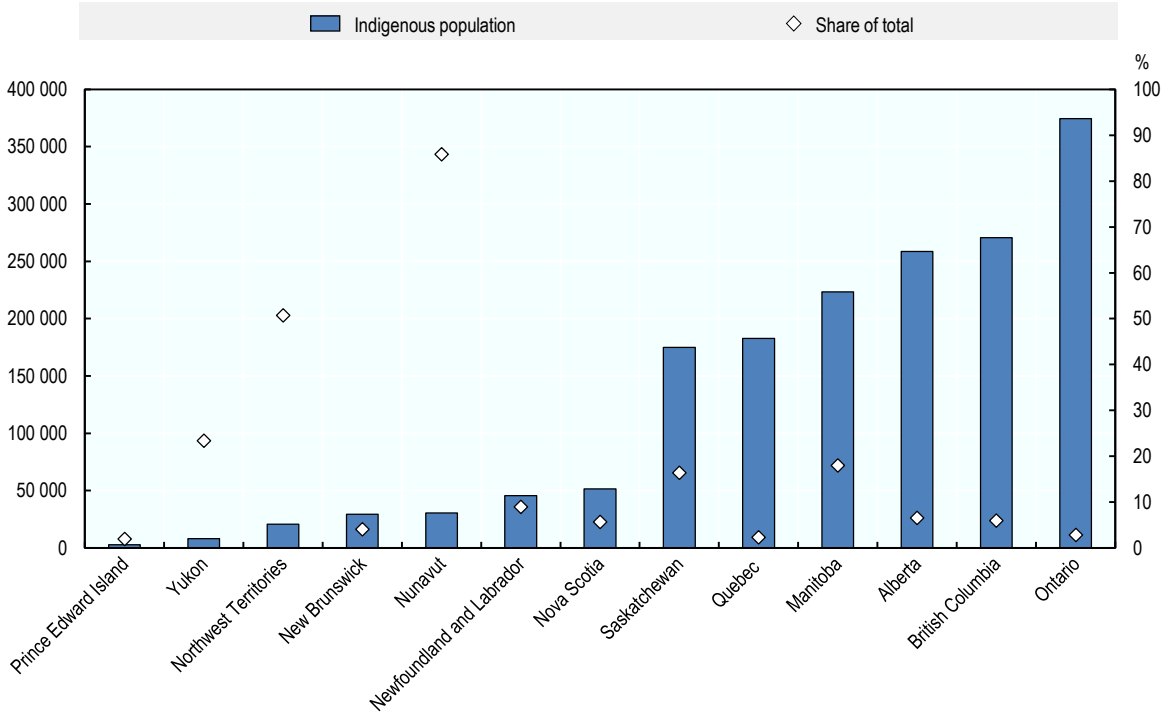
The Indigenous population represents a larger part of the total population in the West and North

The Indigenous population is concentrated in certain provinces and territories across Canada ranging from as little as 2% of the population in Prince Edward Island (2 730 persons) to as much as 86% in Nunavut (30 545 persons) (Figure 2.1). Across Canada, the First Nations population is mostly concentrated in the western provinces; the majority of Métis reside in Ontario and the western provinces, largely in metropolitan areas; and three quarters of the Inuit reside in Inuit Nunangat (Statistics Canada, 2017[7]).[5]

Ontario has the largest Indigenous population in terms of total size; approximately 374 400 peoples in Ontario self-identified as Indigenous in 2016 (Statistics Canada, 2017[8]). Ontario is also the most populous province in Canada and as such, while large overall, the Indigenous population constitutes just 3 percent of the total population of the province. However, within the northern Ontario, the Indigenous population comprises 17% out of total (Statistics Canada, 2017[9]). Ontario is home to 127 federally recognised First Nations communities, 109 of which are in Northern Ontario, includes 34 remote reserves.

Canada's northern territories have the highest share of Indigenous population out of the total population, at 86% (Nunavut), 51% (Northwest Territories) and 23% (Yukon).

Figure 2.1. Indigenous population distribution by TL2 regions and territories, 2016

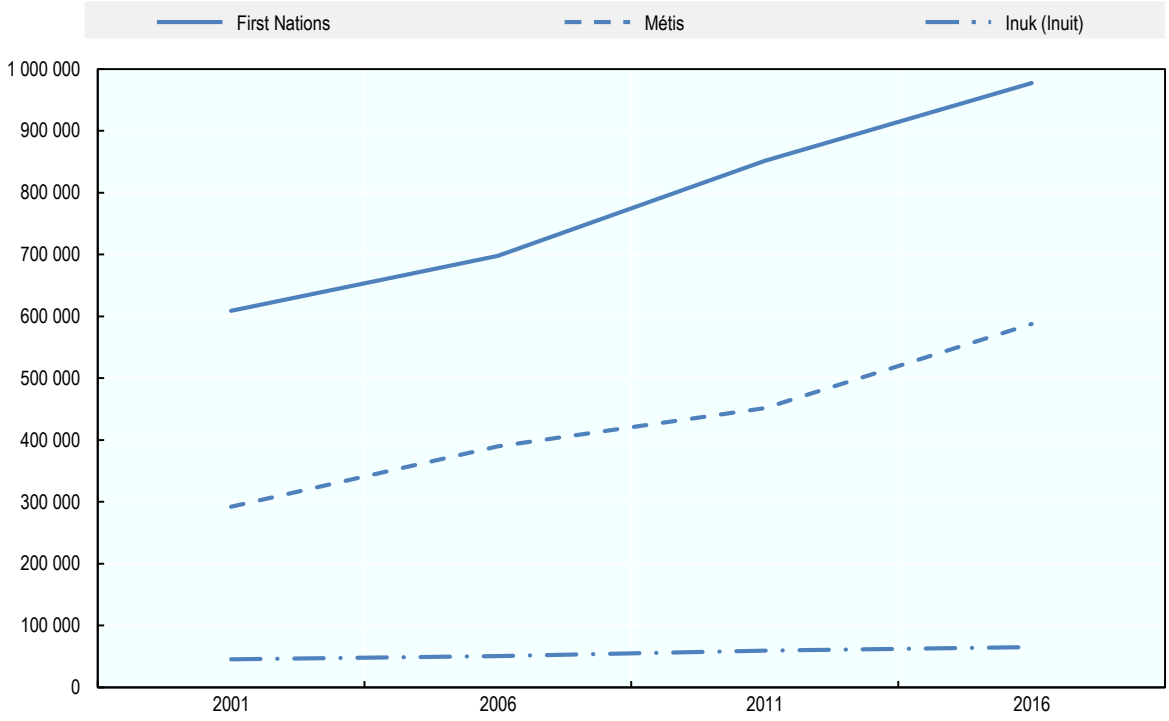


Note: Indigenous population includes individuals who have identified themselves as Indigenous in the 2016 Census of Population survey.
Source: Statistics Canada, (2016[10]), *2016 Census of Population*.

Indigenous populations are experiencing a greater pace of demographic change than that of non-Indigenous populations in Canada (Statistics Canada, 2015[11]). From 2006 to 2016, the Indigenous population increased at four times the rate of the non-Indigenous population. Furthermore, the number of individuals who self-identify as Indigenous grew across all groups between 2001-2016: the Métis population doubled and the First Nations grew and Inuit populations grew by respectively by 60% and 44% (Figure 2.2).

The rapid population growth of Indigenous peoples can be explained by two factors. Firstly, Indigenous peoples tend to have higher fertility rates than non-Indigenous people, particularly in the case of First Nations people and Inuit.[6] Secondly, response mobility played a key role in the demographic growth of non-Status First Nations and Métis population during 1996-2006 (Caron-Malenfant et al., 2014[12]) (Aboriginal Affairs and Northern Development, 2012[13]). Response mobility refers to the phenomenon where individuals changed their identity from one census to the other (intergenerational response mobility) and where ethnic identity of parents and child differ from each other.

Figure 2.2. Population change by Indigenous group, 2001-2016



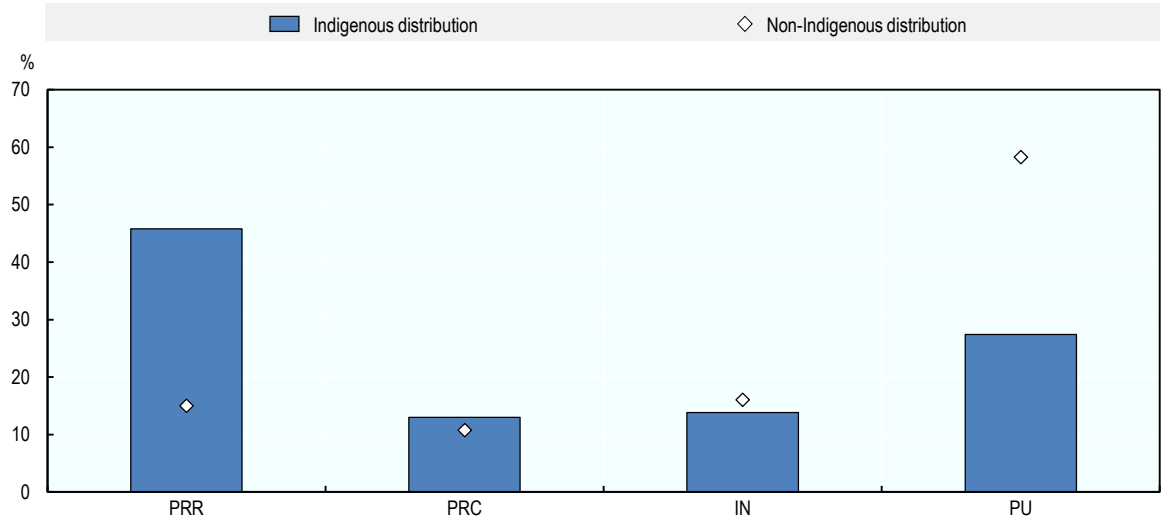
Note: Figures refer to individuals who identified themselves as Indigenous (single identity).
Sources: Calculation based on data from Statistics Canada (2001[14]), *2001 Census of Population*; Statistics Canada (2011[15]), *2011 National Household Survey*; Statistics Canada, (2017[8]), *2016 Census Population Tabulations*, https://www12.statcan.gc.ca/census-recensement/2016/dp-pd/index-eng.cfm.

The Indigenous population is predominantly rural and remote

Roughly 60% of Indigenous peoples lived in predominantly rural areas in 2016 (Statistics Canada, 2016[10]). This was 33% more than the share of non-Indigenous peoples living in predominantly rural regions (see Box 2.2 for an explanation on the OECD TL3 regional typology). In predominantly rural regions, 46% of the Indigenous peoples lived in rural remote regions and about 15% in rural regions close to cities. In contrast, 27% of the Indigenous peoples lived in predominantly urban regions in 2016. This was 30 percentage points less than the share of non-Indigenous Canadians living in predominantly urban regions. The shares of Indigenous and non-Indigenous peoples living in intermediate regions is quite similar; 14% of the Indigenous peoples lived in intermediate regions (2 percentage points less than non-Indigenous).

Low density and remote areas influence resident outcomes. These areas have less diversified economies, more limited access to services and educational opportunities, and face higher transportation costs. In many rural communities, costs of transportation are very high or even for some, precarious (e.g., remote fly-in communities which may only be accessible by winter road). Rurality and remoteness are correlated with such factors as lower labour market attachment, lower educational attainment rates and poorer health outcomes (OECD, 2016[16]).

Figure 2.3. Share of Indigenous and non-Indigenous populations by type of TL3 region, 2016



Note: Based on OECD TL3 regional typology: PRR: Predominantly rural remote; PRC: Predominantly rural close to city; IN: Intermediate; and PU: Predominantly urban.
Source: Statistics Canada (2016[10]), *2016 Census of Population*.

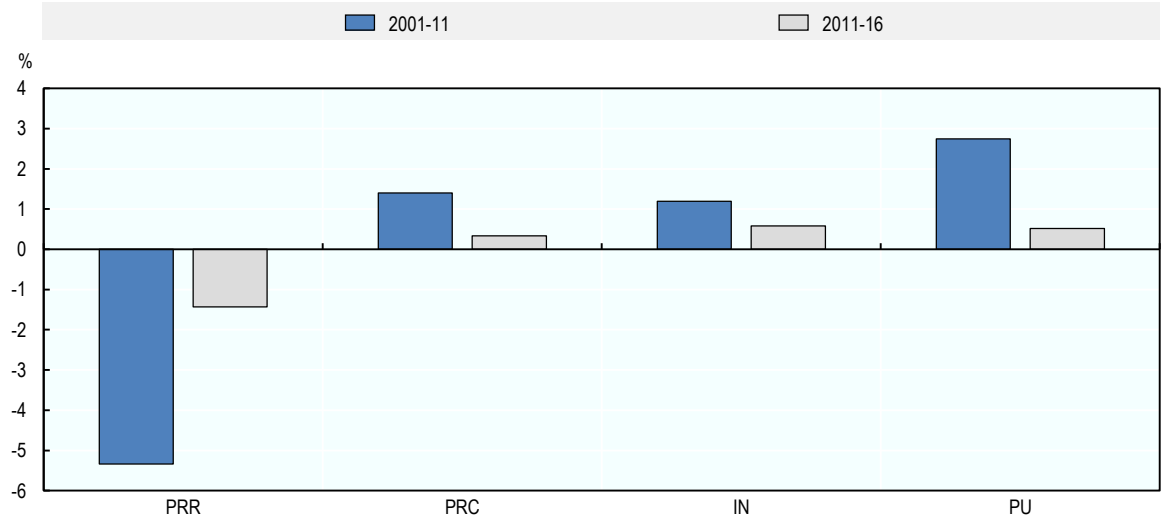
While a large share of the Indigenous population lives in predominantly rural remote regions, these regions are also experiencing population decline in recent years. The share of Indigenous peoples in rural remote regions has gradually decreased from 63.8% to 59.9% between 2001 and 2011 and from 59.9% to 58.8% between 2011 and 2016 (Figure 2.4). In contrast, the share of Indigenous peoples in urban areas rose from 24.1% to 26.9% between 2001 and 2011 and to 27.4% 2016.

The demographic evolution of Indigenous and non-Indigenous people by type of region is in similar: rural regions are shrinking and urban regions are growing. However, population decline in rural regions is lower for Indigenous peoples than for non-Indigenous people. Response mobility plays a key role in shaping these trends for the Indigenous population. For example, the number of self-reported Métis population in Atlantic Canada experienced a meteoric surge in recent years, with Indigenous population growth rates as high as 237%, 199% and 198% in St. John's, Halifax and Moncton (Statistics Canada, 2017[7]).

The Aboriginal population is growing much faster than the non-Aboriginal population, especially in Canadian cities. From 1996 to 2006, ethnic mobility was the primary factor in that growth. This held true for the Métis in particular. Métis have typically been recognised as a mixed-descent identity—a feature which has been critiqued by some as leading to an ever widening racial category that undermines the Métis Nation as a self-governing Indigenous nation with associated rights (Andersen, 2014[17]).

In terms of geographical mobility (i.e., the movement of people from one place to another), it is important to note that the First Nations population continues to grow both on and off reserve. Therefore, while mobility contributes to some urban population growth, there is no widespread phenomenon of persons moving from reserves to cities (Statistics Canada, 2017[7]).

Figure 2.4. The change in distribution of Indigenous population by type of TL3 region, 2001-11 and 2011-16



Note: Based on OECD TL3 typology containing four categories: predominantly urban (PU), intermediate (IN), predominantly rural close to a city (PRC) and predominantly rural remote. (PRR).
Sources: Calculation based on data from Statistics Canada (2001[14]), *2001 Census of Population*; Statistics Canada (2011[15]), *2011 National Household Survey*; Statistics Canada, (2017[8]), *2016 Census Population Tabulations*, https://www12.statcan.gc.ca/census-recensement/2016/dp-pd/index-eng.cfm.

Box 2.2. OECD territorial levels and their classification

The OECD has developed a regional typology of Territorial Level 3 (TL3) regions to compare regional performance across member countries. The OECD taxonomy defines TL3 regions as predominantly urban (hereafter referred to as urban), intermediate and predominantly rural (hereafter referred to as rural). This taxonomy, established in 1991, is designed for facilitating international comparability of data. With this aim, it applies the same criterion and selects comparable units among OECD member countries. The OECD scheme distinguishes between two levels of geography within countries: a local community level and a regional level. Local communities are defined as basic administrative units or small statistical areas. They are classified as either rural or urban using a population density threshold. In a second step, TL3 regions, which correspond to larger administrative units or functional areas, are defined as predominantly urban, intermediate or rural with a criterion measuring the share of population living in rural communities.

The first step in the OECD territorial typology is that of classifying "local units" (administrative entities at a geographical level lower than TL3) as rural if their population density is below 150 inhabitants per km2. In a second step, the local units are aggregated into TL3 regions and classified as "predominantly urban", "intermediate" and "predominantly rural" using the percentage of population living in rural local units. A third step takes into account possible reclassification of predominantly rural and intermediate units based on the population size of their main agglomeration.

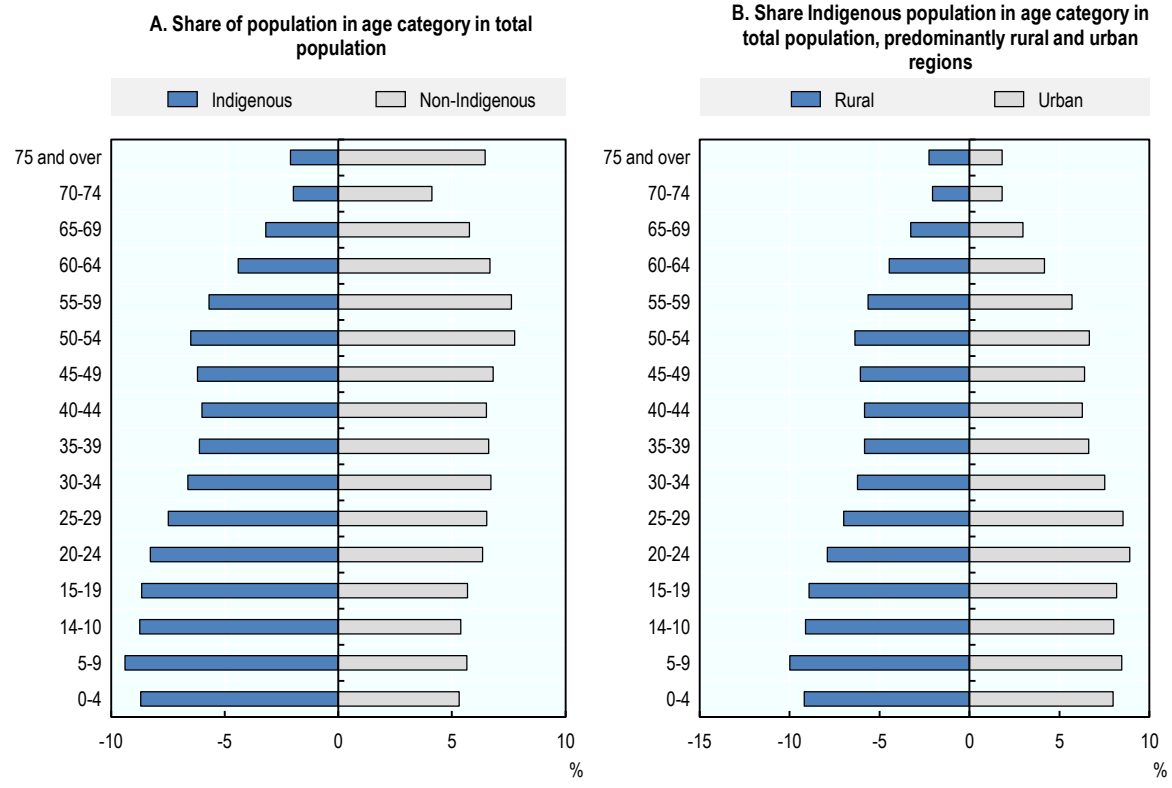
Source: Brezzi, M., Dijkstra, L. and Ruiz, V. (2011[18]), "OECD Extended Regional Typology: The Economic Performance of Remote Rural Regions", http://dx.doi.org/10.1787/5kg6z83tw7f4-en.

The Indigenous population is younger on average…

Canada's Indigenous population is younger on average than the non-Indigenous population (see Figure 2.5). The average age of the Indigenous population was 32.1 years in 2016 while the average age of non-Indigenous population was 40.9 years. Among the different Indigenous groups in Canada, Métis (34.7 years) are on average older than First Nations people (30.6 years) and Inuit (27.7), who are the youngest (Statistics Canada, 2017[19]).

The Indigenous population has a much higher share of children and youth than the non-Indigenous population. Indigenous children, aged 14 and under, represent almost one-third (27%) of the total Indigenous population while the corresponding figure of non-Indigenous peoples stands around 16%. In contrast, the share of the elderly population, aged 65 and above, represent much larger share of non-Indigenous population (16%) than Indigenous population (7%). The share of working age (15-64) of the Indigenous peoples is at the same level as the working age of non-Indigenous peoples; the Indigenous working age population is around one-percentage point smaller than the share of non-Indigenous working age population.

Figure 2.5. Age pyramid, 2016



Note: Based on OECD TL3 typology: predominantly urban (PU) and predominantly rural (PR).
Source: Statistics Canada (2016[10]), *2016 Census of Population*.

…particularly in rural areas

The Indigenous predominantly rural population is younger than the predominantly urban one (28% versus 24% for people aged 14 years and under), and has a slightly smaller working age population (64% versus 69%) and higher share of elderly persons (38% versus 31% aged over 65) (Figure 2.5). It is as yet unclear what the implications of these demographic and geographic trends will be for the future—e.g., whether younger populations on reserve will move to urban areas in the future or stay where they are leading to increases in the rural working age population. Regardless, Canada's young Indigenous population will form an important part of the country's future leaders, employees and entrepreneurs.

The Centre for the Study of Living Standards estimates that over the 2011-2036 period, the contribution of Aboriginal people to future labour force growth in Canada may be "as high as 21 per cent under the scenario that age-specific participation rates between Aboriginal and non-Aboriginal population close by 2036 and response mobility continues as current rates" (Drummond et al., 2017[20]). In terms of regional variations, this contribution may be as high as 83.1 per cent, 72.9 per cent and 52.2 per cent in the three territories (Yukon, Nunavut and Northwest Territories), Saskatchewan, and Manitoba, respectively (Drummond et al., 2017[20]).

While life expectancy is increasing across all Indigenous groups, it remains lower than the non-Indigenous population—by as much as 15 years

Life expectancy at birth, defined as the average number of years a new-born child would live if prevailing patterns of mortality at the time of its birth were to stay the same throughout their life. The life expectancy rates of Indigenous peoples in Canada are lower than that of non-Indigenous peoples in Canada for both men and women. In the case of Inuit men, life expectancy is 15 years lower than that of non-Indigenous men (Table 2.1). Across different Indigenous groups, Métis have the highest life expectancy rate (77 years), followed by First Nations (73 years) (Public Health Agency of Canada, 2017[21]).

Table 2.1. Life expectancy by Indigenous and non-Indigenous peoples, 2016

	Men	Women
First Nations	73	78
Métis	74	80
Inuit	64	73
non-Indigenous	79	83

Source: Public Health Agency of Canada (2017[21]), *Health Status of Canadians 2016: Report of the Chief Public Health Officer - How Healthy Are We?*, https://www.canada.ca/en/public-health/corporate/publications/chief-public-health-officer-reports-state-public-health-canada/2016-health-status-canadians/page-4-how-healthy-are-we-life-expectancy-birth.html (accessed on 28 January 2019).

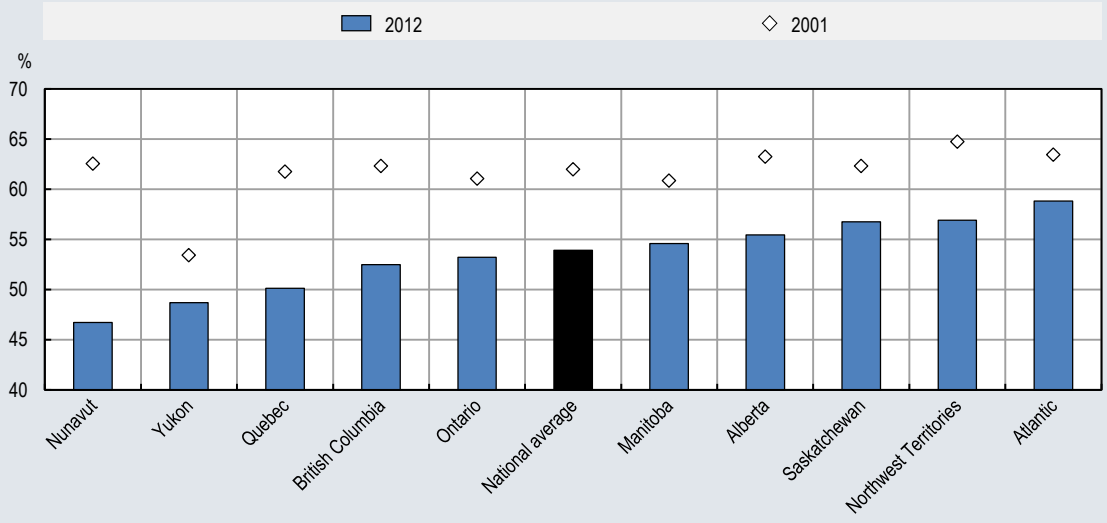
Health is a crucial element of well-being. Good health enables individuals to participate in the activities that they value, and to pursue the lives that they want to live. Therefore, it affects people's ability to take part in the formal and informal economy, acquire new skills and to live good quality lives. Across a wide range of indicators, the health of Indigenous peoples remains poorer than that of non-Indigenous Canadians with higher rates of infant mortality, suicides (particularly among youth), chronic diseases and infectious diseases, especially for those residing on reserves in rural areas (Richmond and Cook, 2016[22]). Self-assessed health status corroborates these disparities (Box 2.3).

Box 2.3. Perceived health status of Indigenous peoples

The results from perceived health indicators align with the life expectancy rates. Indigenous peoples are less likely to report their health as very good or excellent than non-Indigenous peoples are (Gionet and Roshananfshar, 2013[23]). In 2012, 54% of the Indigenous peoples reported their health as excellent or very good, which is 10 percentage points lower than non-Indigenous peoples (Gionet and Roshananfshar, 2013[23]). Among different Indigenous groups, the Inuit were most likely to report health as excellent or very good (55%) and First Nations living on-reserve were less likely to report their health as excellent or very good (44%) (Gionet and Roshananfshar, 2013[23]). Worryingly, the health status of Indigenous adults has deteriorated from 2001 to 2012 while socioeconomic inequalities in health among Indigenous Canadians have increased between First Nations and Métis groups (Hajizadeh et al., 2018[24]).

Figure 2.6. Percentage of Indigenous persons self-reporting "excellent" or "very good" health

Persons aged 6 and older



Note: Atlantic includes Newfoundland and Labrador, Prince Edward Island, Nova Scotia, and New Brunswick.
Sources: Statistics Canada (2019[25]), *Perceived General Health by Aboriginal Identity*, Table 41-10-0001-01, https://www150.statcan.gc.ca/t1/tbl1/en/tv.action?pid=4110000101; Gionet, L. and S. Roshananfshar (2013[23]), "Select health indicators of First Nations people living off reserve, Métis and Inuit", in *Health at a Glance*; Hajizadeh, M. et al. (2018[24]), "Socioeconomic inequalities in health among Indigenous peoples living off-reserve in Canada: Trends and determinants", http://dx.doi.org/10.1016/J.HEALTHPOL.2018.06.011.

Education

Rates of educational attainment for Indigenous peoples are lowest for those residing in rural and remote areas

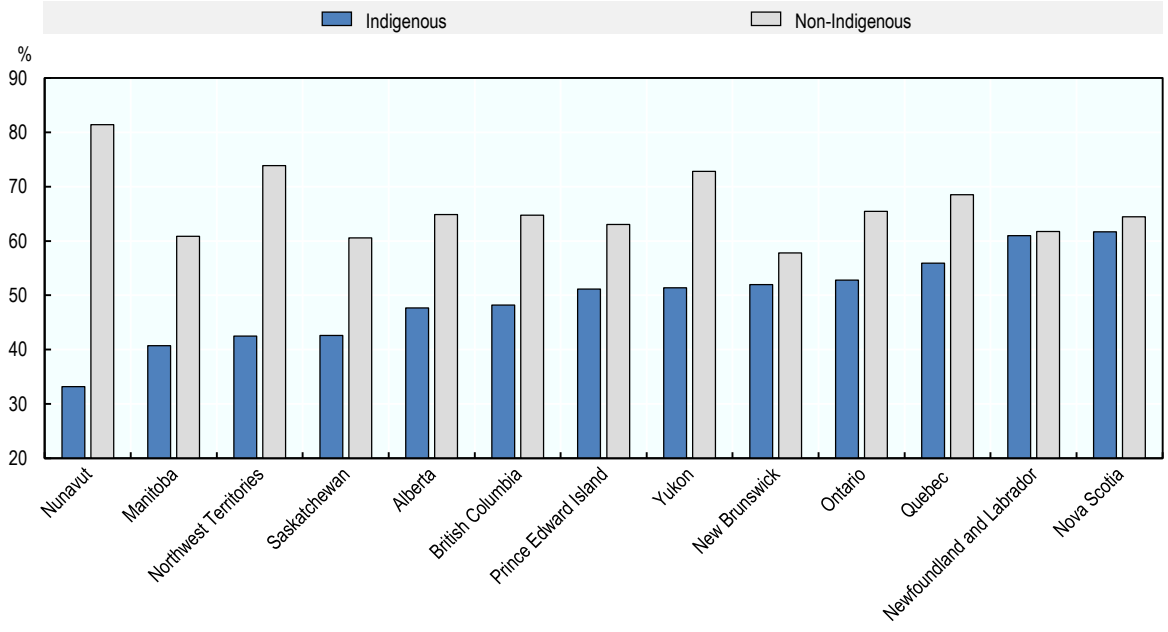
Levels of educational attainment strongly influence labour force participation. It is associated with better employment possibilities and higher incomes and other aspects of individuals' well-being beyond material considerations. For instance, there is a positive

relationship between better health outcomes and education as well as satisfaction in life in more generally.

Indigenous peoples in Canada have lower rates of educational attainment than their non-Indigenous peers and sizable literacy, numeracy and technology skill gaps, which impacts wages (Hu, Daley and Warman, 2017[26]). These gaps are greatest in the northern territories (Nunavut, Northwest Territories and Yukon) and also in the province of Alberta. It is estimated that the direct cumulative economic benefits to Canada of closing the Aboriginal educational attainment gap between 2011 and 2031 could be as large as $261 billion (Calver, 2015[27]).

Indigenous peoples across Canada face a number of barriers to accessing high quality education in the places where they live. Reflecting this, the educational attainment rate is lowest in rural and remote regions (at 43%), representing a gap of -14% when compared to non-Indigenous peers in these regions. According to the OECD regional TL3 typology, in rural regions close to cities, the rate of educational attainment of Indigenous persons is higher (at 51%) and the gap between Indigenous and non-Indigenous peers is narrowed (-0.8%). Rural and remote communities have more limited educational offerings and may require that students complete secondary schooling and higher in larger towns and cities. Such is the case for example for the remote fly-in community of Neskatanga First Nation in Ontario where children past the ages of grade 8 complete their studies in the city of Thunder Bay, often residing away from their parents to do so (300 kilometres away). Beyond remoteness, socioeconomic conditions, the use of a Eurocentric curriculum and the legacy of residential schools are other factors that have contributed this educational gap (Charbonneau, 2017[28]) (see Box 2.4 on residential schools in Canada).

Figure 2.7. Educational attainment of Indigenous and non-Indigenous peoples by province and territory, 2016



Note: Educational attainment rate refers to individuals aged 15 years and over with at least secondary education completed.
Source: Statistics Canada, (2016[10]), *2016 Census of Population*.

Indigenous peoples have made gains in high school and postsecondary completion in the past decade

The share of Indigenous persons obtaining a secondary degree or higher has increased over the past decade (2006-2016). The greatest increase in educational attainment rates of Indigenous peoples was reported in intermediate regions (6 percentage points) and in rural remote regions (5 percentage points). Respectively, the change in education rates in rural close to cities and urban areas has been a more moderate (3-4 percentage points). However, due to the change in educational attainment rates of non-Indigenous peoples, the gap in education between Indigenous and non-Indigenous peoples have remained unchangeable in rural remote and urban regions. In rural regions close to cities, the gap has reduced by 1 percentage points and increased by 1 percentage points in intermediate regions (between 2006-2016).

Data from the Aboriginal Peoples Survey (Aborigional Peoples Survey, 2017) provides additional context. It indicates that the percentage of the population that completed a postsecondary certificate diploma or degree was highest for the Métis (45%), followed by First Nations persons living off reserve (40%) and Inuit (28%). There is no data for First Nations persons living on reserve. This rate of completion increased for all groups between 2006-16, but was highest in the case of the Métis (increasing by 6%) followed by FN living off reserve (4%) and Inuit (3%). Meanwhile, the percentage with less than a high school diploma dropped in all cases by a similar amount (8-9 percentage points). Again, there is large variation between groups with the Inuit having the highest percentage of the population with less than a high school diploma (52% in 2016), followed by FN off reserve (32%) and Métis (25%).

Table 2.2. Share of Indigenous peoples by group and highest educational attainment level, 2016

Persons ages 15 and over

	% completion postsecondary certificate diploma or degree 2016	% completion postsecondary certificate diploma or degree 2006	% less than a high school diploma 2016	% less than a high school diploma 2006
Métis	46	40	25	34
First Nations (off reserve)	40	36	32	40
Inuit	29	26	52	61

Source: Statistics Canada (2018[29]), *Labour Market Experiences of Métis: Key Findings from the 2017 Aboriginal Peoples Survey*, https://www150.statcan.gc.ca/n1/pub/89-653-x/89-653-x2018002-eng.htm.

Box 2.4. Addressing the legacy of cultural assimilation policies in education

Indigenous peoples in many countries across the OECD have suffered terribly under policies of assimilation wherein education has played a major role. In Canada, the residential schools system was central to this policy. As noted in the very first paragraph of the Introduction to the 2015 Summary Report of the Truth and Reconciliation Commission published in 2015:

> *For over a century, the central goals of Canada's Aboriginal policy were to eliminate Aboriginal governments; ignore Aboriginal rights; terminate the Treaties; and, through a process of assimilation, cause Aboriginal peoples to cease to exist as distinct legal, social, cultural, religious, and racial entities in Canada. The establishment and operation of residential schools were a central element of this policy, which can best be described as "cultural genocide." (Truth and Reconciliation Commission of Canada, 2015[30])*

At least 150 000 First Nation, Métis, and Inuit students passed through residential schools in Canada. They were run by church denominations (mainly Roman Catholic, Anglican, United, Methodist and Presbyterian), and the government's partnership with them remained in place until the late 1960s. Most of these schools had closed by the 1980s, although the last federally supported residential schools remained in operation until the mid-1990s.

In 2015. The Canadian Government pledged to immediately move to implement all 94 Calls to Action of the Truth and Reconciliation Commission and to make new investments in First Nations education and to enter into detailed negotiations with Indigenous peoples (Truth and Reconciliation Commission of Canada, 2015[31]). Those Calls to Action include following basic equalising measures to address gaps in educational attainment and funding. They also include a call to better reflect Indigenous pedagogies, histories and knowledge in Canadian curriculum.

Sources: OECD (2017[32]), "Indigenous peoples and education in participating Canadian provinces and territories", https://doi.org/10.1787/9789264279421-5-en; Truth and Reconciliation Commission of Canada (2015[31]), *Truth and Reconciliation Commission of Canada: Calls to Action*, http://www.trc.ca/websites/trcinstitution/File/2015/Findings/Calls_to_Action_English2.pdf (accessed on 20 December 2018); Truth and Reconciliation Commission of Canada (2015[30]), *Honouring the Truth, Reconciling for the Future Honouring the Truth, Reconciling for the Future Summary of the Final Report of the Truth and Reconciliation Commission of Canada*, http://www.trc.ca/websites/trcinstitution/File/2015/Findings/Exec_Summary_2015_05_31_web_o.pdf (accessed on 20 December 2018).

Income

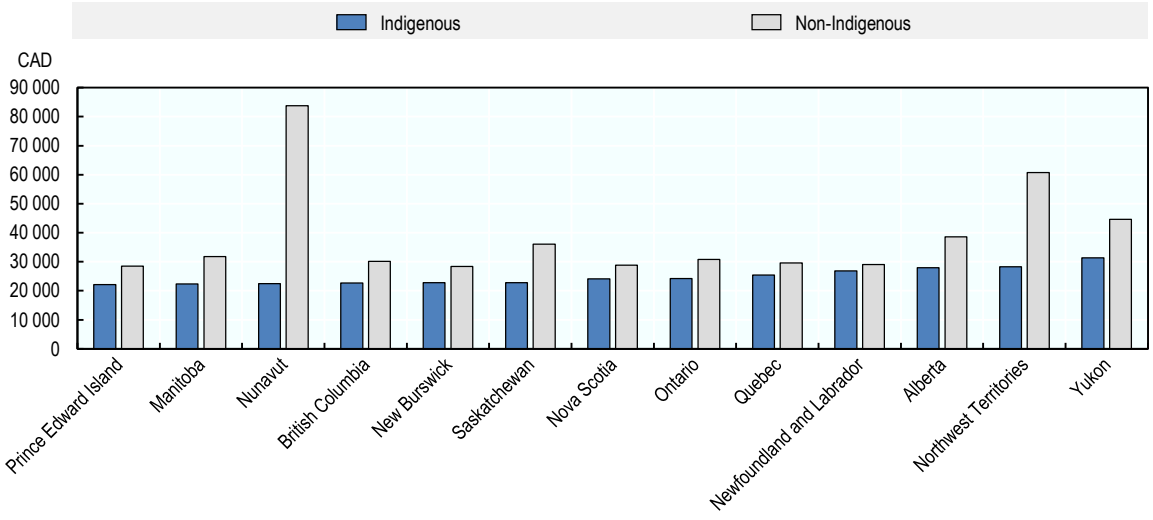
Earnings gaps persist and are highest in the northern territories

The persistent and large gaps in average income between Indigenous and non-Indigenous peoples are well documented (Maxim et al., 2008[33]). These differences are partly explained by lower Indigenous labour market force participation rates, lower rates of educational attainment, higher unemployment rates and higher rates of participation in the informal economy (e.g., the social and subsistence economy) (Natcher, 2018[34]).[7] Geography also plays a role, with there being fewer employment options for those residing in rural and remote areas. The NAEDB estimates that the economic loss resulting from the gaps in economic outcomes between Indigenous and Non-Indigenous Canadians is as much

as $27.7 CAN billion annually (equivalent to around 1.5% of the Canadian economy) (National Aboriginal Economic Development Board, 2017[35]).

Income gaps vary by region across Canada and are largest in the northern territories (Nunavut, the Yukon and the Northwest Territories). Employment in the northern territories are concentrated in the public sector and in the mining, oil and gas extraction industries. These jobs are frequently filled by those from out-of-province and have higher than average salaries to attract mobile labour and expertise. In terms of income gaps, Nunavut stands out; the median after tax income of the non-Indigenous population is significantly higher than that of the Indigenous population (approximately $84 000 versus $23 000). This is partly explained by the prevalence of public service employment, which is the largest source of employment in Canada's most recently established territory (est. 1999). Of all government employees in Nunavut, just over half were Inuit (52%) in 2017; this is significantly below the share of the Inuit population in the territory overall (86% of total population) (Nunavut Statistics, 2018[36]). It is an ongoing goal of the Nunavut government to increase the share of Indigenous employment in the public service to better reflect the society it serves.

Figure 2.8. Median after tax income by province and territory, Indigenous and non-Indigenous people, 2016



Note: Median after-tax income for individuals ages 15 years and over.
Source: Statistics Canada (2016[10]), *2016 Census of Population*, Catalogue no. 98-400-X2016170.

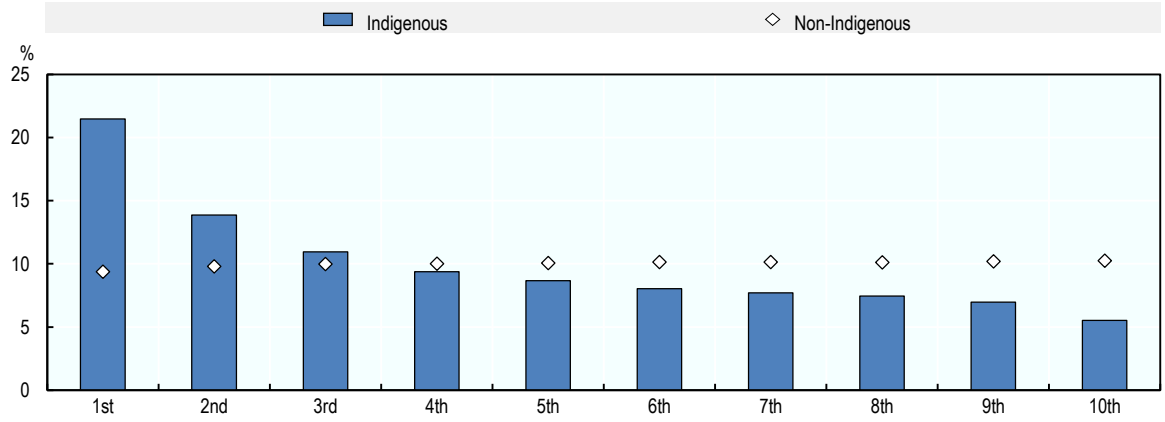
First Nations incomes are lowest on-reserve

Among Indigenous populations, First Nations people living on-reserve experience the largest earnings disparity, followed by males who identify as First Nations and live off-reserve (Lamb, Yap and Turk, 2018[37]). Off-reserve First Nations incomes are higher than those on-reserve. While on-reserve First Nations had a median after tax income of income of $18 222 in 2015, off-reserve First Nations had a median after tax income of $30,983 (Statistics Canada, 2018[38]). This can be due to a range of factors including a lack of access to markets and capital. But the historical legacies of the 1876 Indian Act also loom large. The Indian Act gave the government control of First Nation economic and resource development and land use and treated First Nation peoples as "wards of the state." It is only

in recent decades that this is changing and that First Nations are gaining control over their resources and lands, generating improved employment opportunities on reserve.

Related to this, Indigenous populations face higher rates of relative poverty, especially young First Nations people on reserve. Four out of every five First Nation reserves have median incomes that falls below the poverty line.[8]

Figure 2.9. Percentage of Indigenous and non-indigenous people in each income decile group (after-tax), 2016



Source: OECD (2018[39]), "Percentage of Indigenous People in each income decile group (after-tax), 2016", https://doi.org/10.1787/9789264300477-graph14-en.

Non-market activities are also important

Market activities capture just one part of Indigenous income and material wellbeing; informal and subsistence-based economies also play an important role. This may include exchanging services and skills without monetary compensation alongside household provisioning such as harvesting, processing and sharing food. These activities are often characterised as meeting the basic needs of households—however, they may also fill broader cultural and spiritual roles, reinforcing Indigenous knowledge and links to kinship and community (Natcher, 2018[40]; Simpson, 2018[41]).

Canada's Aboriginal Peoples Survey provides some indication of the importance of informal and subsistence based activities, termed "other labour activities" in the survey.[9] Most (59%) First Nations people living off reserve and Métis over the age of 15 reported participating in other labour activities during the year. In order of prevalence these activities include: hunting, fishing or trapping; gathering wild plants; making clothes or footwear; making carvings, drawings, jewellery or other kinds of artwork (Statistics Canada, 2018[42]).

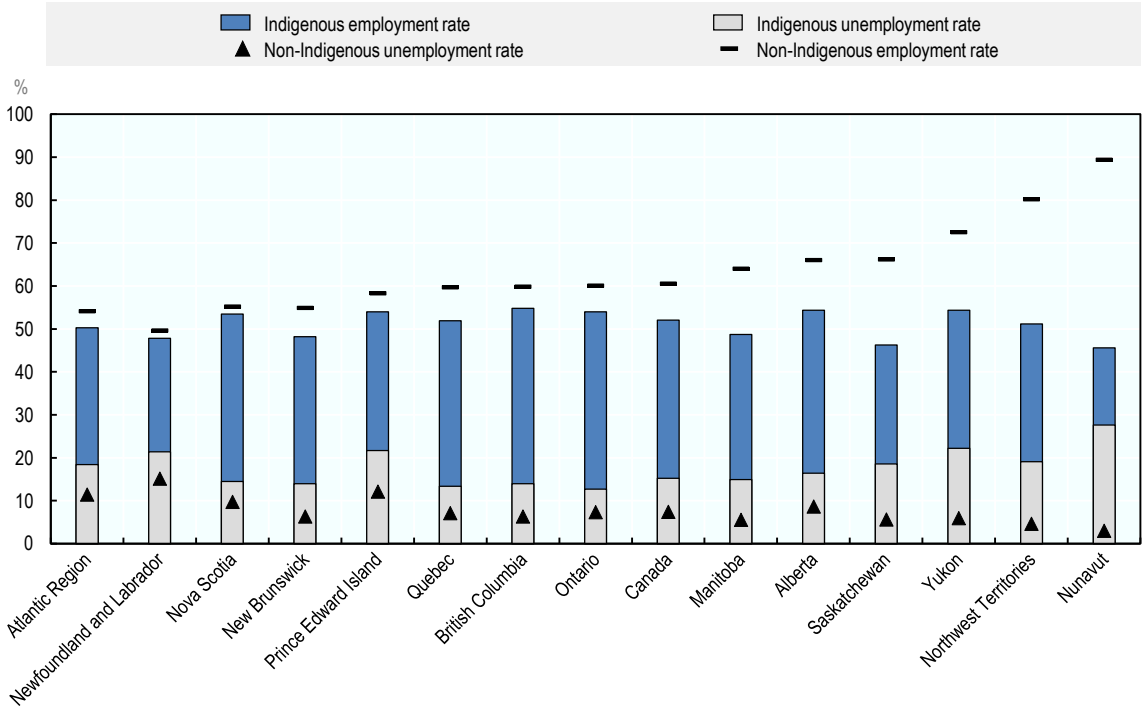
These types of activities are particularly important for the Inuit, most of whom reside in Inuit Nunangat where there is extreme cold for much of the year, high food prices and high rates of food insecurity (Huet, Rosol and Egeland, 2012[43]). Over three quarters (78%) of Inuit aged 15 or older participated in other labour activities during the past year with around 16% undertaking these activities to supplement their income. Over half (56%) reported hunting, fishing and trapping in the past year and 42% gathered wild plants. Making clothes or footwear and making carvings, drawings, jewellery or other kinds of artwork was also common (27% and 18%) respectively (Statistics Canada, 2018[44]).

Labour market participation

Indigenous labour market outcomes are poorest in northern and remote areas

The Indigenous population in Canada has historically had lower labour force participation and employment rates, and a higher unemployment rate than the non-Indigenous population. These gaps in employment rates between Indigenous and non-Indigenous populations in Canada are lowest in the Atlantic Provinces and the greatest in the northern territories (Nunavut, North West Territories, and Yukon) (Figure 2.10). Geography and accessibility influence these outcomes, with Indigenous persons living in remote northern locations having fewer employment opportunities than those nearer urban agglomerations which have more diversified economies. Among Indigenous groups, the employment rate of Métis was the highest, followed by Inuit and First Nations peoples (Statistics Canada, 2017[8]).

Figure 2.10. Employment and unemployment rates by province and territory, Indigenous and non-Indigenous, 2016



Note: Employment rate refers to employed population aged 15 years and over.
Source: Statistics Canada (2016[10]), *2016 Census of Population*.

Indigenous employment was severely impacted by the 2008 economic recession

The employment rates of Indigenous people residing in predominantly rural regions in Canada ranged from 46% to 56% in 2016 (Statistics Canada, 2017[8]). Among these, the employment rate of Indigenous people residing in rural regions close to cities was 10 percentage points higher than those in rural remote regions. Employment rate of Indigenous peoples in urban areas stood at 58% in 2016 and the gap between Indigenous people and non-Indigenous people is much lower than in rural regions (at 4 percentage points) (Statistics Canada, 2017[8]).

The employment rates of Indigenous peoples decreased over the past decade and Indigenous people were more severely affected by the 2008 economic recession. The largest decrease is recorded in rural regions close to cities where Indigenous peoples' employment rates decreased from 60% to 56% in 2006-2016. Similarly, the employment rate of Indigenous peoples in urban regions decreased from 61% to 58% over the same period (Statistics Canada, 2017[8]).

The change has been more moderate in rural remote and intermediate regions. On average, the employment rate decreased from 48% to 46% in rural remote regions and from 55% to 54% in intermediate regions between 2006-2016. An identical pattern is detected when looking at the change of employment rates of non-Indigenous peoples. In rural remote and urban regions the employment rate of non-Indigenous peoples decreased by 2 percentage points (from 59% to 57% and from 64% to 64%) and in rural regions close to cities the decrease was 3 percentage points (from 63% to 60%) between 2006-2016 (Statistics Canada, 2017[8]).

The unemployment rate of Indigenous peoples by province/territory varies from 12.7% to 27.6% (see Figure 2.10). Indigenous peoples in rural remote regions are more likely to report unemployment than Indigenous peoples in other regions. These trends correspond to the unemployment patterns of non-Indigenous peoples; non-Indigenous peoples in rural remote regions have the highest unemployment rate (9%) while those living in urban regions have the lowest (7%) (2016) (Statistics Canada, 2017[8]). The difference in the unemployment rate between Indigenous and non-Indigenous peoples is the largest in rural remote areas, where the unemployment rate of Indigenous peoples is 19% and the unemployment rate of non-Indigenous peoples is 9%, and smallest in urban region, where the unemployment rate of Indigenous peoples is 12% and non-Indigenous peoples is 7%.

Between 2006-2016, the unemployment rate of Indigenous peoples increased. In urban regions, the unemployment rate increased from 10% to 12%; in rural regions close to cities from 11% to 13%; while in rural remote regions, the unemployment rate of Indigenous peoples has remained the same at 19% (Statistics Canada, 2017[8]). Overall, individuals living in rural regions of Canada have lower rates of educational attainment and poorer labour market outcomes. Moreover, inequalities between on-reserve First Nations populations and other communities in Canada have been reported in educational outcomes, housing quality, poverty and health services, among others.

A shortage of jobs was the most commonly self-reported barrier to employment

Responses from the 2017 Aboriginal Peoples Survey illuminate self-reported barriers to finding employment. For all groups surveyed (Métis, Inuit and FN living off reserve), a shortage of jobs was the most commonly reported barrier to employment. Beyond this, there are differences revealed by age and gender. For example, younger Inuit were more likely to report not knowing where to look for work and not know what kind of job to look for than those of core working age. A lack of work experience was another commonly reported barrier to employment among Inuit surveyed. This highlights the importance of labour market training and assistance and job training/work experience.

Similarly, young FNs living off reserve self-reported a lack of work experience and not knowing where to find jobs as a major barrier; also, about half of women (51%) and 40% of men reported that not having enough education or training for available work made it difficult to find work. First Nations people in Saskatchewan (51%) and British Columbia (44%) were more likely to report that not having the means of transportation to get to available jobs caused them difficulty in finding work than those in Atlantic Canada (28%[E]),

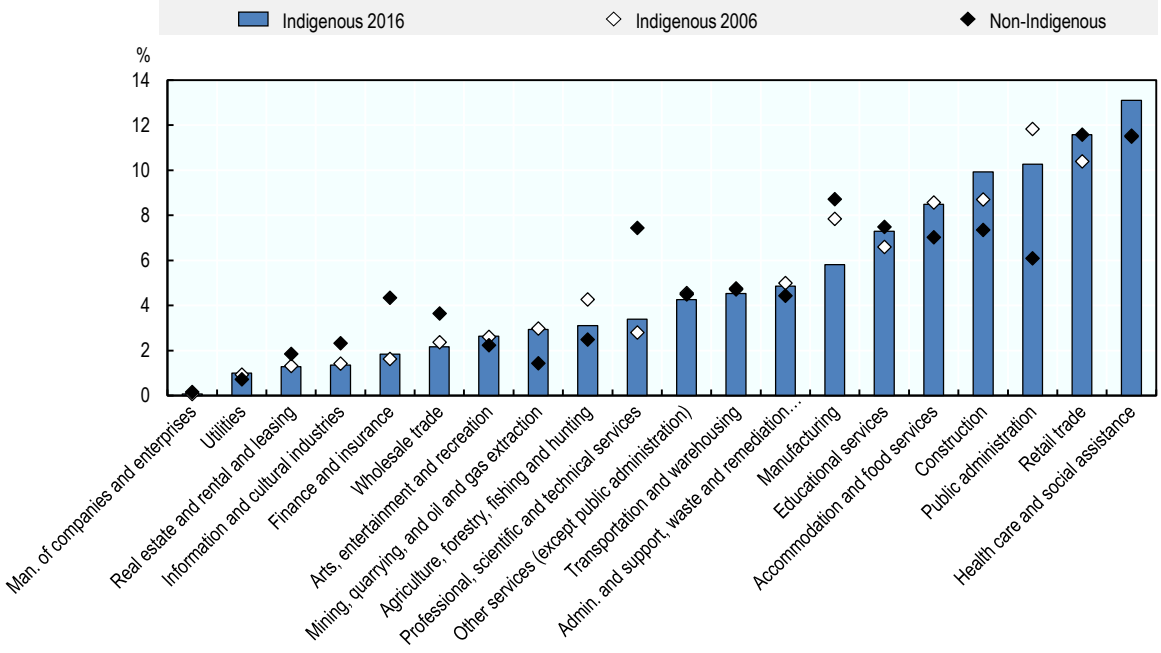
Quebec (29%) and Ontario (33%). Métis self-reported similar obstacles to employment to that of FN living off reserve and Inuit, citing a lack of work experience and not enough education and training as common barriers.

Data from the 2011 National Household Survey (NHS) indicates that Aboriginal workers with higher levels of education (bachelor degree or higher) were less likely to be overqualified than their non-Aboriginal counterparts; but Aboriginal workers with lower levels of education (less than university level) were more likely to be overqualified than non-Aboriginal workers (Park, 2018[45]).

Indigenous peoples have higher propensities for employment in health care, social assistance and public administration than non-Indigenous persons; but they are underrepresented in business services and manufacturing

The top three industries where Indigenous peoples are employed are health care and social assistance (13%), retail trade (12%) and public administration (10%) (Figure 2.11). Indigenous people are more likely to be employed in the health care and social assistance sectors, and in public administration, construction and accommodation and food industries than non-Indigenous people. The share of Indigenous employment in public administration is particularly high compared to non-Indigenous (at 10% versus 6%). Two factors explain this. Firstly, public administration employment is highest in the northern territories, which is mostly covered by modern treaties, and many First Nations in the Northern territories also have self-government agreements. Secondly, Indigenous peoples are underrepresented in "knowledge industries"—e.g., professional, managerial and technical occupations—which tend to require post-secondary education and generally pay better. In this category, there is a 4-percentage point gap between Indigenous and non-Indigenous peoples.

Figure 2.11. Share of employment by industry, Indigenous and non-Indigenous, 2016



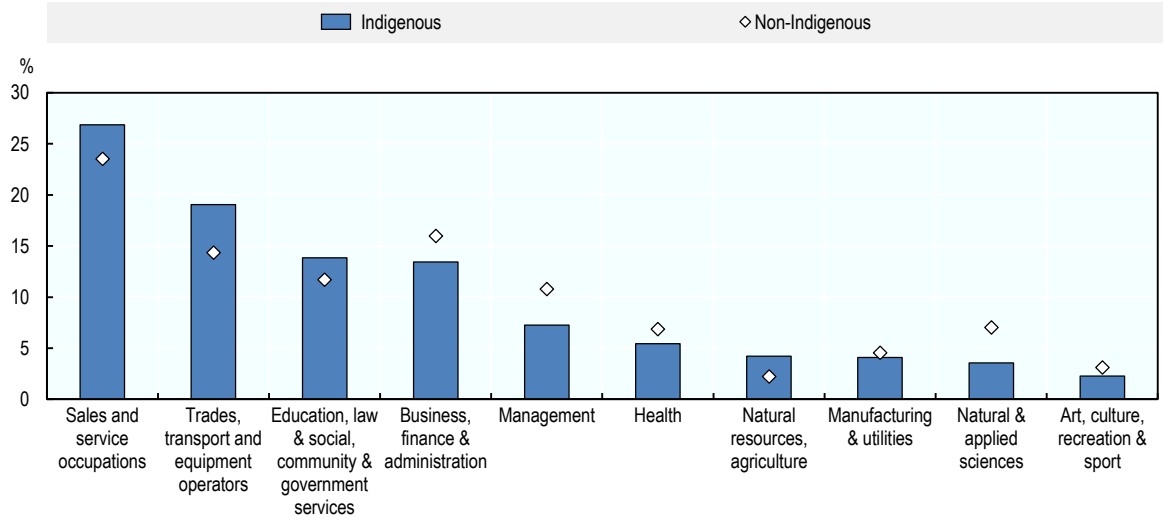
Note: Industry by North American Industry Classification System (NAICS).
Source: Statistics Canada (2016[10]), *2016 Census of Population*.

Between 2006-2016, Indigenous employment in the public administration, and agriculture, forestry, fishing and hunting sectors increased at a national level. In contrast, the Indigenous employment rate in tertiary sectors such as health care and social assistance and retail trade declined between 2006 and 2016.

At the occupational level, the Indigenous population has the highest share of employment in sales and service occupations (27%), followed by trades transport and equipment operators (19%), and education, law and social and community government services (14%). The share of employment in these occupational categories is slightly higher than that of the non-Indigenous population (24%, 14% and 12% respectively). As noted above, Indigenous peoples are underrepresented in knowledge professions including business, finance and administration and management and natural and applied sciences in comparison to non-Indigenous shares of employment in these occupations (Figure 2.12).

Figure 2.12. Share of Indigenous and non-Indigenous employment by occupation, 2016

Persons aged 15 and older



Note: Employment by National Occupational Classification (NOC).
Source: OECD (2018[46]), "Employment distribution of the Indigenous and non-Indigenous identity populations by occupation, persons aged 15 and older, %, 2016", https://doi.org/10.1787/9789264300477-graph12-en.

Rates of self-employment among Métis are almost double the Canadian average

In 2016, 85% of Métis worked in a permanent job and of these, 14% reported being self-employed (Statistics Canada, 2017[47]). This rate of self-employment is significantly higher than that of the Canadian average (at 8.3%) and stands out above that of FN living off reserve (11% self-employed) and Inuit self-employment (6%). Of those that were self-employed, 43% owned an incorporated business and over a third of self-employed persons had employees. In contrast, rates of incorporation and employees are lower for FN living off reserve and Inuit.

The vast majority of Indigenous self-employed did not receive outside assistance for their businesses in 2017; 91% of Métis did not receive outside assistance for their business, while for FN living off reserve and Inuit this figure stood at 88% and 72% respectively (Statistics Canada, 2017[47]). Where individuals did receive outside assistance, their sources differ. For example, Métis were mostly likely to use private banks, while FN off

reserve were most likely to receive assistance from an Aboriginal Government, Aboriginal organisation, or Aboriginal financial institution.

Table 2.3. Rates of self-employment and entrepreneurship for Indigenous people by group, 2017

	Percentage self-employed out of total employed persons	Percentage incorporated business ownership out of self-employed	Percentage of self-employed with employees
Métis	14	43	32
First Nations (off-reserve)	11	36	30
Inuit	6	36	26
Canada (all)	8.3	n/a	n/a

Note: Data from the Aboriginal Peoples Survey, Statistics Canada excludes First Nations on reserve.
Sources: Statistics Canada (2018[42]), *Labour Market Experiences of First Nations People Living Off Reserve: Key Findings from the 2017 Aboriginal Peoples Survey*, https://www150.statcan.gc.ca/n1/pub/89-653-x/89-653-x2018003-eng.htm; OECD (2019[48]), "Self-employment rate", https://dx.doi.org/10.1787/fb58715e-en (accessed on 24 January 2019).

Community well-being

Indigenous communities have systematically lower level of community well-being than non-Indigenous ones

Well-being has gained attention as a regional development policy concept because it captures a number of factors that are important to the competitiveness of places, and helps to reinforce the importance of complementarities between different sectoral policies.

Indigenous Services Canada (ISC) has developed a Community Well-Being Index that measures the well-being of Indigenous (namely First Nations and Inuit) and non-Indigenous communities across Canada. It is based on the United Nations Development Programme's Human Development Index (HDI) and it encompasses indicators such as education, labour force activity, income and housing, leaving out indicators measuring the level of social capital or environmental factors.

Communities are scored based on how they perform in these socio-economic indicators for years 1981-2016 (5-year periods). Prior to its first release, there was no method in place to track the level and development/ progress of Indigenous community socio-economic well-being. The community well-being index is the first attempt to measure systematically Indigenous well-being at a community level in Canada.

On average, results from the community well-being index demonstrate that Indigenous communities have systematically lower scores than non-Indigenous peoples with respect to income, education, housing and labour market outcomes. In 2016, the average Indigenous communities index score (the average of First Nation and Inuit communities' score) was 58.6; this is 18.9 lower than the index of non-Indigenous communities. At the national level, the greatest differences are found in the indicator for housing where the difference between Indigenous and non-Indigenous communities is around 27.1 points. Differences in income are also large (21.9). Indigenous communities have the smallest difference to non-Indigenous communities in labour force participation (15.9).

When comparing the community well-being index of First Nations and Inuit communities at a national level, the results that Inuit Communities have 4.7 higher score than First

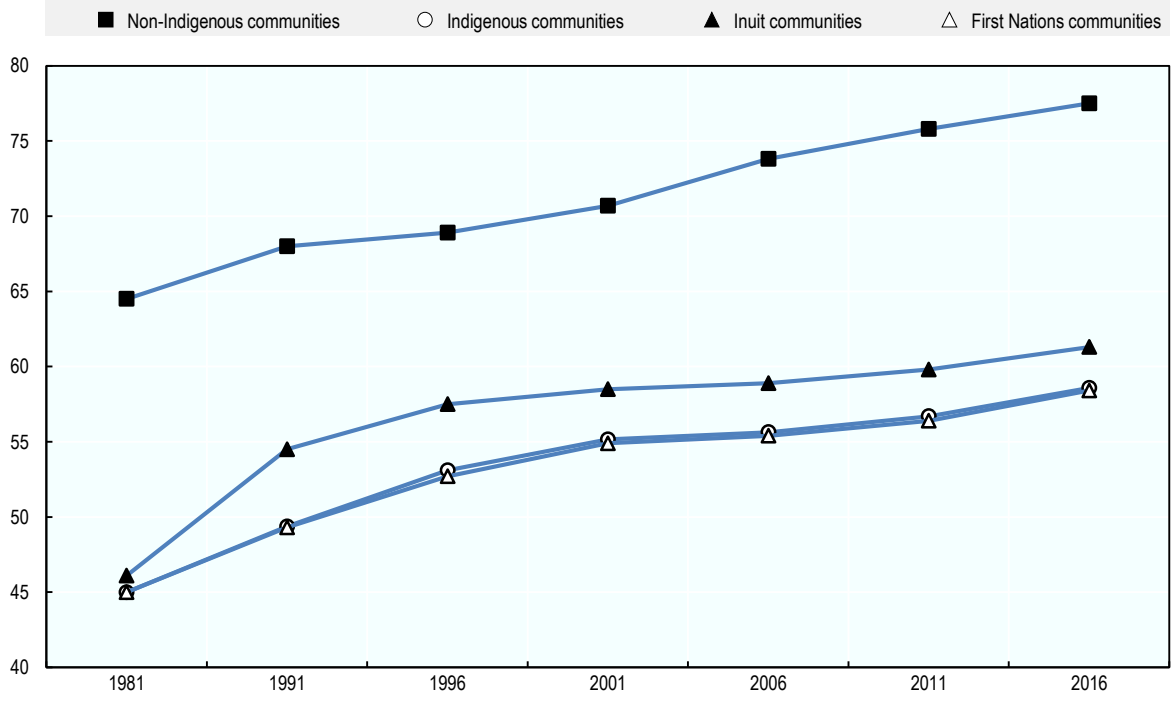
Nation Communities (35.5). However, there are dimensions, in which First Nations communities tend to perform slightly better than Inuit communities (e.g. education and housing). Inuit communities have generally higher levels of incomes (67.8) and higher rates of labour force participation (75.6) than First Nations communities (53.5 and 69.2).

Indigenous community well-being improved between 1981-2016

The Community Well-being Index (CWB) for Indigenous communities has improved in the past decades. In 2011-16, the CWB index improved for Indigenous communities in general by 1.9 percentage points. In this time, the change of CWB was greater in Inuit communities than in First Nations communities. The CWB index for Inuit communities increased by 3.7 from 36.5 to 40.2, whereas the increase in the CWB index of First Nations Communities was 0.9 points lower. When considering non-Indigenous communities, the Community Well-being Index increased by 2.4 in 2011-16. Generally, Inuit communities have a higher index rating than First Nations communities (on average 4 percentage points).

Despite of the improvements in the overall index scores for Indigenous communities, the gap to non-Indigenous communities have not narrowed. In fact, the gaps for all four components had widened. The widened gap is a result of higher growth rates of the components for non-Indigenous communities.

Figure 2.13. Change in the community well-being index, Canada, 1981-2016



Source: Indigenous and Northern Affairs Canada (2019[49]), *The Community Well-Being (CWB) Index*, https://open.canada.ca/data/en/dataset/56578f58-a775-44ea-9cc5-9bf7c78410e6 (accessed on 19 September 2018); 2016. See: Resource Development and Well-being in Northern Canada https://www.iap-socent.be/sites/default/files/ANSERJ%20%2807%29%20104-123.pdf.

Box 2.5. First Nations Community well-being: Findings from the 2008/2010 First Nations Community Survey

Between 2008-2010, the First Nations Information Governance Centre (Ottawa, Ontario) produced a follow up survey to the First national Regional Health Survey focused on community well-being. This survey provides another source of data through which to understand well-being on First Nations communities. Some of the highlights from this work include:

- **Communities are affected by chemical and environmental hazards.** 10% of communities indicated being within 100 kilometres of an oil refinery and 11% reported being within 100 kilometres of a chemical factory. More than one-in-three communities indicated experiencing an environmental hazard in the past 5 years, including flooding (40%) and forest fires (33%).
- **Housing shortages are widespread.** 94% of communities have a waiting list for housing (80% of which is for at least 2 years). At least one-third of communities report that not all community homes have electricity or indoor plumbing.
- **Nutrition and healthy eating programs are common, but access to healthy food remains a challenge.** One out of five communities report not having a store within 20 kilometres where fresh food can be purchased.
- **Band employment predominates**. 8 out of 10 jobs involve working for the First Nations band. The majority of residents who complete college and university (60%) did not to return to work in the community.
- **The majority of communities have access to an early childhood program and childcare within the community**. The majority of communities (76%) have at least one school the majority of which (86%) are controlled and managed by the First Nation. Of those with one school, 17% offer education up to junior high level (grades 7-8) and 37% offer education up to grade 12. Almost all (91%) offer First Nations language training and First Nations culture and traditions in the curriculum.
- **Health services are focussed on prevention.** The majority of communities offered health services oriented toward prevention, such as diabetes prevention (93%), pre/postnatal care (90.0%), foetal alcohol syndrome prevention and awareness (79%), HIV/AIDS prevention and awareness (77%), and suicide prevention (76%). The majority of communities did not have a hospital (2.5%); just over half (56%) reported that an external hospital was within 50 kilometres; while over a quarter (27%) reported that the nearest hospital was more than 100 kilometres away Approximately three out of four communities (71%) indicated that the First Nations managed and controlled its own local health care centre, nursing station, health station, or health office.
- **The majority of the sample communities (86%) reported that they administered their own income support programs.** However, only one-in-three communities have developed their own policies related to income support (34%). At least half of communities (51%) reported that the average length of income support was for 4 or more years. More than half of First Nations communities have services and programs targeted for youth. Approximately one in five communities (21%)

indicated having a safe care area, such as a shelter or transition home for victims of violence.

- **Cultural Identity:** Many communities have avenues for community members to improve, learn or re-learn their First Nations language. Most commonly language training and immersion took place in schools (69%); however, approximately one-third (39%) of communities indicated offering First Nations language classes for adults. Cultural activities were more common than language classes; 91% of communities reported that they arrange traditional cultural activities such as powwows, feasts, or potlatches.
- **A third of all communities have least one self-governance agreement.** Of those communities with an agreement, the majority indicated agreements for self-governance of government, education and land management. A higher proportion of communities indicated that they are currently negotiating at least one self-government agreements (48%). More than half of responding communities indicated that they have delegated its government authority to another body within the First Nations. The majority of communities (81.7%) indicated that the First Nation Council/government provides members with regular updates on Chief and Council activity (e.g., activities). A minority of First Nations Council/government councillors/members and Chiefs were female: 89% of communities had 3 or fewer female/government members and 15% of communities had a female chief (leader of the community).

Source: First Nations Information Governance Center (2015[50]), *Placing Individual Health in Context: Report of the 2008/10 RHS Community Survey*, https://fnigc.ca/sites/default/files/docs/report_of_the_2008_10_rhs_community_survey_revised_july_2015.pdf.

Subjective assessments of well-being highlight the importance of social, cultural and land use issues for First Nations

Empirical assessments of wellbeing can be complemented by subjective assessments—that is, how community members themselves perceive their well-being. A study by Kant et. al (2014[51]) of multi-domain subjective well-being of two Canadian First Nations communities highlights the importance of considering both approaches. Through a structured questionnaire administered to households, community members themselves identified key domains of well-being and contributing factors, and helped specify models linking overall well-being, domains' satisfactions and contributing factors (Kant et al., 2014[51]). The social, cultural, and land use (SCLU) domain was found to be the most important contributor to well-being, and SCLU factors contributed to all other domains'—Education, Employment, Income, Health, and Housing—satisfactions. Within this key domain, land laws, traditional diets, social ties, and cultural sites were viewed as critical elements.

Social, cultural and land use factors are not included in CIRNAC's Community Well-being Index; this is perhaps in part because these indicators can be more difficult to measure. However, as the study by Kant et. al. (2014[51]) demonstrate, these factors are deemed to be of highest importance by community members themselves.

Many Indigenous communities face infrastructure deficits and poor housing conditions, particularly those that are rural and remote

Infrastructure—transportation, energy, telecommunications, housing, health and education infrastructure and vital amenities like sewage and water—are fundamental to a community's well-being and its prospects for economic development. As large landmass with relatively low population density and cold winters, Canada faces a number of infrastructure challenges, particularly in small, rural and remote communities.[10] Indigenous peoples, notably First Nations living on reserve and remote Inuit communities, disproportionality face inadequate infrastructure.

A Canada-wide picture of the extent of this infrastructure deficit for Indigenous communities is not available; however, separate studies indicate the scope of the problem. For example:

- Data from Indigenous communities energy database reveals 70% rely on Diesel fuel generation which is unpredictable and expensive (Natural Resources Canada, 2019[52]).[11]
- First Nations communities are 90 times more likely to be without piped water (United Nations, 2009[53]) and half of the water systems on First Nations reserves pose a medium or high health risk to their users (Webster, 2015[54]) (see Box 2.6 for discussion).
- A reported 40% of Indigenous peoples living in Canada's far north reside in overcrowded households and mould is a frequent problem (Webster, 2015[54]).
- 8% of adults living on-reserve in 2008–2010 lacked any type of sanitation system (FNIGC, 2011[55]).

Of the 100 lowest ranking communities in the Community Wellbeing Index, 98 are First Nations communities. Inadequate infrastructure including overcrowded and mould-ridden housing, unsafe water systems, expensive and unpredictable energy infrastructure are major factors contributing to these low rankings (Webster, 2015[54]).

Box 2.6. First Nations' access to clean drinking water

Homes in First Nations communities are 90 times more likely to be without piped water, and even communities with updated drinking water treatment systems experience frequent drinking water advisories (United Nations, 2009[53]). As of October 2018, there were 67 long-term drinking water advisories (DWAs) and 43 short-term ones for First Nations communities across Canada, excluding the territories and British Columbia (Government of Canada, 2018[56]). DWAs are issued as a preventive measure to protect public health and can be in the form of a boil water advisory (BWA), do not consume (DNC) or do not use (DNU), although BWAs are by far the most common. Although some DWAs are only in place for a day to allow for maintenance or repairs, others can be in effect for years due to problematic treatment systems, poor source water quality, lack of trained operators or damaged infrastructure (Murphy et al., 2016[57]).

The complex governance structures surrounding First Nations in Canada hinders the ability to implement significant change (Morrison, Bradford and Bharadwaj, 2015[58]). In non-First Nations communities, water and wastewater operations are regulated by provincial or territorial governments, and generally administered by municipalities, which own the

majority of public water systems and charge residents fees. But on reserves this is a shared responsibility between the First Nations community (Band Councils) and the federal government (ISC/CIRNAC, Health Canada and Environment and Climate Change Canada). Band Councils must ensure that water services follow protocols for the design, construction, maintenance and operation of facilities and are responsible for routine testing and sampling of drinking water. CIRNAC is responsible for funding the capital cost of the treatment and distributions systems, as well as a portion of the operating and maintenance. It can be challenging for First Nations to have the technical capacities on site to manage water utilities; moreover, in some cases, the water infrastructure is simply inadequate and requires capital investments.

The government of Canada has pledged to lift all long-term drinking water advisories by March 2021 (Government of Canada, 2018[59]). Progress has been made in 2018 in reducing the number of communities facing boil-water advisories; and yet, as these advisories are lifted in some communities, more are added to the list. Ensuring that First Nations have reliable access to clean water demands both investments in operations (skills training, recruitment and retention of operators) and ongoing capital investments.

Sources: Government of Canada (2018[59]), *Ending Long-term Drinking Water Advisories*, https://www.sac-isc.gc.ca/eng/1506514143353/1533317130660 (accessed on 11 October 2018); Thompson, E., Y. Post and E. McBean (2017[60]), "A decade of drinking water advisories: Historical evidence of frequency, duration and causes", http://dx.doi.org/10.1080/07011784.2017.1387609; Morrison, A., L. Bradford and L. Bharadwaj (2015[58]), "Quantifiable progress of the First Nations Water Management Strategy, 2001-2013: Ready for regulation?", http://dx.doi.org/10.1080/07011784.2015.1080124; United Nations (2009[53]), *State of the World's Indigenous Peoples*, https://books.google.fr/books?hl=en&lr=&id=ko109fkqEGUC&oi (accessed on 11 October 2018); Government of Canada (2018[59]), *Ending Long-term Drinking Water Advisories*, https://www.sac-isc.gc.ca/eng/1506514143353/1533317130660 (accessed on 11 October 2018); Government of Canada (2018[56]), *Short-term Drinking Water Advisories*, https://www.canada.ca/en/indigenous-services-canada/services/short-term-drinking-water-advisories-first-nations-south-60.html (accessed on 11 October 2018); Murphy, H. et al. (2016[57]); "Using decision trees to predict drinking water advisories in small water systems", http://dx.doi.org/10.5942/jawwa.2016.108.0008.

Canada's commitment to achieving the United Nations' 2030 Agenda for Sustainable Development presents an opportunity to improve Indigenous community well-being indicators

The government of Canada is committed to implementing the 2030 Agenda which includes commitments to eradicating global poverty, achieving gender equality, fostering economic growth, protecting the environment, and building effective, accountable, and transparent institutions, among other objectives. Five federal organisations have been assigned the lead on coordinated efforts to implement the 2030 Agenda; CIRNAC is one of these lead departments. It is responsible for supporting Indigenous peoples and the North in the implementation of the sustainable development goals that are directly linked to its mandate.

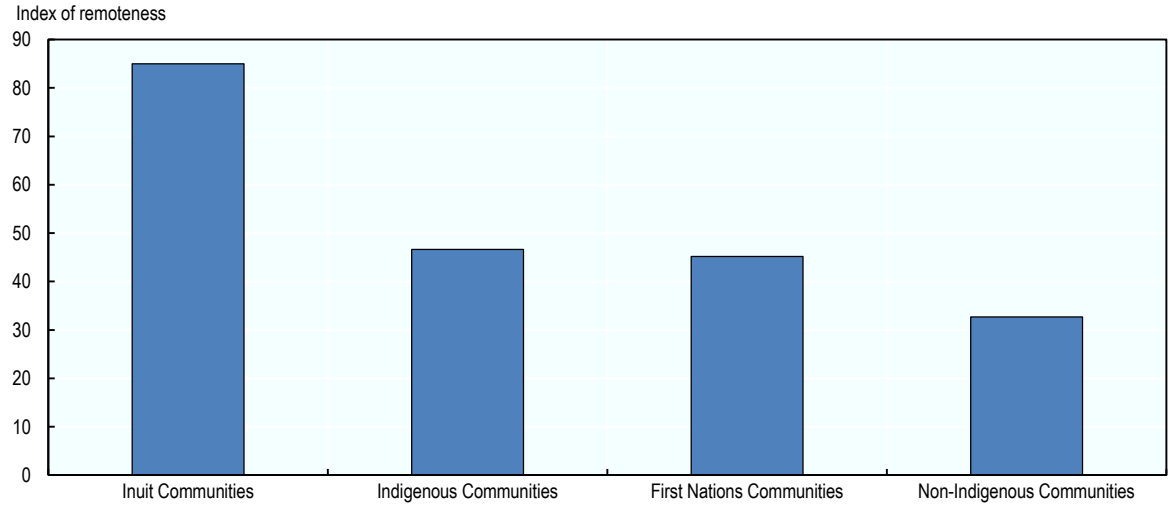
To date CIRNAC has matched a sample of its priorities with 16 sustainable development goals, including some targets (Office of the Auditor General of Canada, 2018[61]). As reported in the 2018 Auditor General of Canada's 2018 spring report, Canada is presently ill-prepared to track and monitor the implementation of the SDG targets. For example, the report finds that: sustainable development is narrowly defined; there is no federal governance structure in place that articulates roles and responsibilities between departments; there is no federal communications plan or engagement strategy; there is no national implementation plan and few targets; and there is no system to measure results or progress toward national targets (Office of the Auditor General of Canada, 2018[61]). The

respective lead departments have committed to progress on developing a coordinated response across all of these areas. Given the large differences in socio-economic outcomes between Indigenous and non-Indigenous communities, the SDG targets present an opportunity to development robust indicators drawing on data from across multiple departments.

Community accessibility

Approximately 46% of Indigenous peoples lived in predominantly rural remote regions in Canada and that those Indigenous peoples in remote regions are worse off in terms of socio-economic factors than Indigenous peoples living urban regions. Empirical evidence has explained regional differences in socio-economic outcomes by geography. It has been recognised that proximity to economic activities plays a key role in shaping a region's socio-economic opportunities (Alasia et al., 2017[62]). Remote communities face much higher transportation costs which impacts a wide range of factors from the accessibility of services to the cost of doing business. It also impacts the delivery of basic community infrastructure.

Figure 2.14. Median index of remoteness by Indigenous group, 2011



Notes: Data for Indigenous Communities excludes Métis Communities. The concepts and methodology of the remoteness index are presented in the following working paper: Alasia et al. (2017[58]).
Source: Elaboration based on data provided by Statistics Canada on 27 September 2018.

Statistics Canada in close collaboration with ISC/CIRNAC has developed an index of remoteness for Canadian communities. The index measures the proximity to centres of economic activity, and accounts for the proximity to and the size of the population agglomerations as well as for actual travel costs by different modes of transportation and their seasonal availability. A comparison across Indigenous groups reveals that Inuit communities have the highest median remoteness index across all groups. Compared to First Nations, the median index of Inuit communities is about 40 index points higher, while it is about 50 index points higher compared to the median index for non-Indigenous communities. This comes as no surprise since approximately 73% of the Inuit population is located in northern parts in Canada with no or limited access to national road network

Inuit Nunangat (Inuit regions). In fact, 38 out of 46 Inuit communities are accessible only by air transportation.

When looking at how remoteness index varies among communities, it becomes apparent that the variation observed between Indigenous communities is wider than the variation observed between non-Indigenous communities. The standard deviation of Indigenous communities is 0.19 index points which is 0.04 index points higher than the variation of non-Indigenous communities. The standard deviation summarises the distribution of remoteness index of communities in a single figure. By this measure, the smallest variation in remoteness index is found in Inuit communities with standard deviation of 0.146 index points. Once again this is not surprising, as a majority of the Inuit population is concentrated in specific regions in Canada. First Nations communities has the highest variation of the remoteness index (0.18).

Table 2.4. Standard deviation of remoteness index by Indigenous group and non-indigenous population, 2011

	Median	Mean	Standard deviation
First Nations	44	0.46	0.18
Inuit	85	0.78	0.146
Indigenous	45	0.47	0.19
Non-Indigenous	32	0.32	0.15

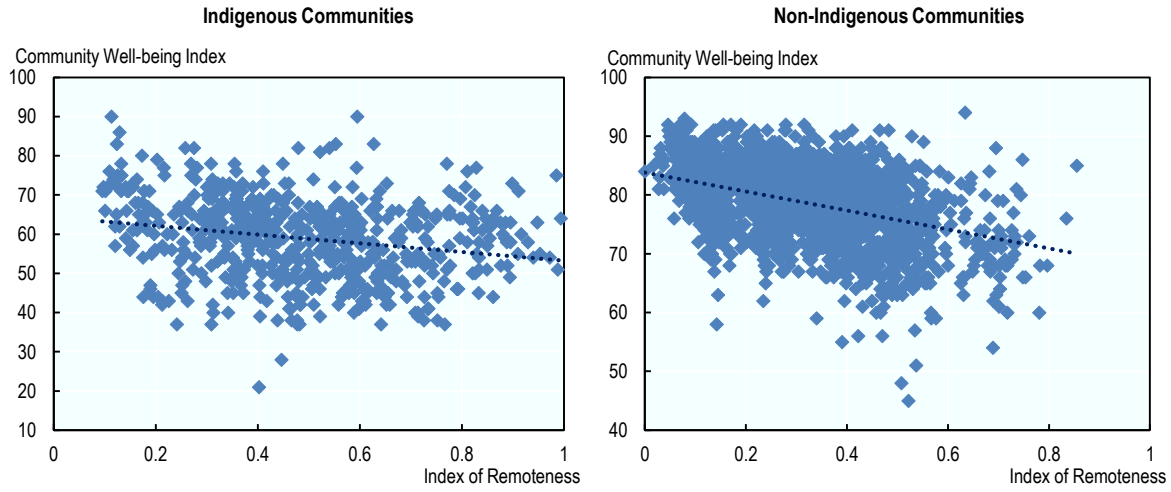
Notes: Data for Indigenous Communities excludes Métis Communities. The concepts and methodology of the remoteness index are presented in the following working paper: Alasia et al. (2017[58]).
Source: Elaboration based on data provided by Statistics Canada on 27 September 2018.

More accessible Indigenous communities have higher levels of well-being, as shown by the correlation between the remoteness index and community well-being (Figure 2.16). The same holds for non-indigenous communities although in this case the association is stronger: the correlation between community well-being and remoteness is relatively small for Indigenous communities (-0.30) and moderate in the case of non-Indigenous ones (-0.38). The comparison between remoteness and community well-being also makes evident that Indigenous communities have high level of remoteness associated with low levels of well-being at levels not observed for non-indigenous communities. In other words, there is no non-indigenous counterpart in terms of the most remote Indigenous communities and communities with the lowest levels of well-being.

Similar trends can be observed, when looking at the correlations between CWB and RI within Indigenous communities. Both cases show a negative linear relationship (Figure 2.16). The Pierson's coefficient measure reveals a moderate correlation for Inuit and First Nations communities (-0.34 and -0.36 respectively).

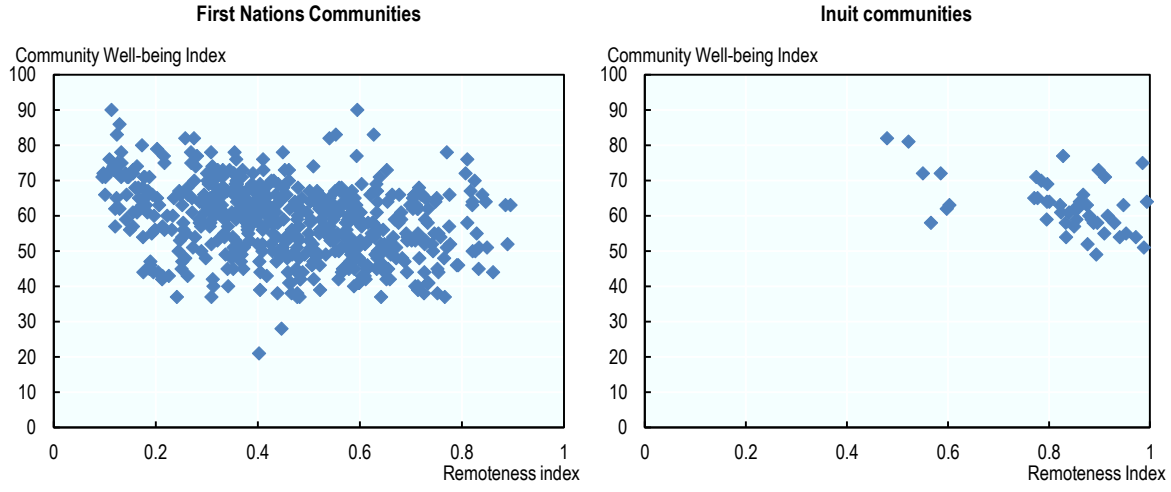
In terms of median distance to the closest city, the average median travel time to a closest city in predominantly rural remote regions is 514 minutes. However, travel time does not provide an adequate measure of proximity when comparing communities having no or limited access to the road network, with those connected to the main road network. For instance, the northernmost territory Nunavut is not connected to the mainland by roads and therefor the only option to travel is by airway or sea. Air travel in the north is expensive and often disrupted due to weather conditions in the winter months.

Figure 2.15. Community well-being index and Index of remoteness 2011, by ethnicity



Notes: Data for Indigenous Communities is excludes Métis Communities. The concepts and methodology of the remoteness index are presented in the following working paper: Alasia et al. (2017[58]).
Sources: Elaboration based on data provided by Statistics Canada on 27 September 2018; Indigenous and Northern Affairs Canada (2019[49]), *The Community Well-Being (CWB) Index*, https://open.canada.ca/data/en/dataset/56578f58-a775-44ea-9cc5-9bf7c78410e6 (accessed on 19 September 2018).

Figure 2.16. Community well-being index and Index of remoteness 2011, by Indigenous group



Notes: The concepts and methodology of the remoteness index are presented in the following working paper: Alasia et al. (2017[58]).
Source: Elaboration based on data provided by Statistics Canada on 27 September 2018; Indigenous and Northern Affairs Canada (2019[49]), *The Community Well-Being (CWB) Index*, https://open.canada.ca/data/en/dataset/56578f58-a775-44ea-9cc5-9bf7c78410e6 (accessed on 19 September 2018).

Digital connectivity

Canada lags behind in digital connectivity compared to other OECD countries. For example, mobile broadband subscriptions per 100 inhabitants stood at 72 in Canada and 102.4 on average across the OECD in 2016 (OECD, 2017[63]). Moreover, despite significant investments by the public and private sectors to support broadband deployment, access to high-speed internet is lowest in rural and remote areas, and continues to lag behind for minority groups including the Inuit and First Nations peoples (Office of the Auditor General of Canada, 2018[64]).

Digital connectivity differs among Indigenous groups according to their geographical location and group age. Most (93% in 2017) Métis have access to the internet at home. A lower share of Métis in rural areas have internet access at home (88%) compared to those in small (93%), medium (94%), and large population centres (95%). Across Canada, home internet access among Métis was higher in BC (96%), than in Quebec (89%), the Northwest Territories (90%) and Saskatchewan (90%). Access also varied across age groups as 98% of young Métis had internet access, compared to 95% of core working age Métis and 86% of older Métis (Statistics Canada, 2018[29]).

While data from the Aboriginal Peoples Survey indicates that the percentage of the population with access to home internet is higher for Métis and First Nations off-reserve than that of Canada overall, this figure should be interpreted with caution as it does not account for the quality of the bandwidth. For example, Groups such as the First Nations Technology Council in British Columbia report that 75 percent of First Nations communities in British Columbia do not have adequate internet (e.g., they are unable to download a pdf attachment in an email due to slow connectivity) (First Nations Technology Council, 2018[65]).

Table 2.5. Digital connectivity

Persons aged 15 and older

	Percentage population with access to home internet (total)	Percentage population accessed internet on wireless device in the past month
Métis	93	81
First Nations off-reserve	90	79
Inuit	75	73
Canada (total population)	86	n/a

Sources: Statistics Canada (2018[29]), *Labour Market Experiences of Métis: Key Findings from the 2017 Aboriginal Peoples Survey*, https://www150.statcan.gc.ca/n1/pub/89-653-x/89-653-x2018002-eng.htm; OECD (2017[63]), *OECD Digital Economy Outlook 2017*, https://dx.doi.org/10.1787/9789264276284-en.

Profile of Indigenous businesses and entrepreneurship

Indigenous entrepreneurship is defined here as the creation, management and development of new ventures by Indigenous people for the benefit of Indigenous people. This encompasses both profit-generating activities and those pursued for social reasons – to the benefit of the community. It may take the form of sole proprietorship, partnership, corporation or cooperative including community-led economic development practices that align with diverse Indigenous cultural, spiritual and environmental worldviews. The outcomes and entitlements derived from Indigenous entrepreneurship may extend to enterprise partners and non-Indigenous stakeholders. This section profiles Indigenous

businesses and entrepreneurship by distinguishing between two forms: i) that which is led by individuals and ii) that which is community, band or nation-led.

Profile of Indigenous businesses in Canada

Indigenous businesses demonstrate innovation and – while generally small – they have a higher propensity to export

According to the 2011 National Household Survey (NHS), around 43 000 First Nations, Inuit and Métis in Canada own businesses across Canada (Canadian Council for Aboriginal Business, 2016[1]). Indigenous entrepreneurship is difficult to profile due to a lack of national data, particularly for businesses on reserves. One of the best sources for Indigenous business data is the National Aboriginal Business Survey which is conducted by the Canadian Council for Aboriginal Business.[12] The 2016 survey captured data on 1 101 Indigenous business owners across Canada: 2% of whom were Inuk; 46% First Nations and 50% Métis. The majority of the captured Indigenous businesses were male owned (63%) and most of the businesses had no employees (64%) (Table 2.6). Of all of the businesses surveyed, roughly a third (27%) were registered on a reserve. The vast majority of these businesses were concentrated in Ontario (26%), followed by British Colombia (21%) and Alberta (14%) (Canadian Council for Aboriginal Business, 2016[1]).

Table 2.6. Summary statistics for Aboriginal businesses, 2016

	In/Out of reserve		Gender		Employees	
	Not on a reserve	On a reserve	Female	Male	Have employees	No employees
Total	763	306	402	699	399	702
Share	69.3	27.8	36.5	63.5	36.2	63.8

Source: Canadian Council for Aboriginal Business (2016[1]), *Promise and Prosperity: 2016 Aboriginal Business Survey*, https://www.ccab.com/wp-content/uploads/2016/10/CCAB-PP-Report-V2-SQ-Pages.pdf (accessed on 23 October 2018).

A higher share of Aboriginal businesses introduce new products/services, or new production/delivery processes relative to the broader Canadian small business sector—thus implying a higher propensity to innovate, particularly in manufacturing industries (TD Economics, 2017[66]).[13] Aboriginal businesses are also reported to be more than twice as likely to have introduced a new product or service over the prior three years, and nearly three times more likely to have brought in new ways of doing things than the broader Canadian business sector (TD Economics, 2017[66]). While Aboriginal businesses tend to be small, and like all small businesses, have a relatively lower propensity to export; among small businesses, aboriginal businesses are more than twice as likely as all small businesses to export and sending their products to a broader geographic base than other small exporters (TD Economics, 2017[66]). This may be related to their location. Firms in more rural or remote areas need to seek larger markets for their services and products.

Table 2.7. Share of Aboriginal businesses covered in the survey by province, 2016

Province	Total	Share
Ontario	298	27.1
British Columbia	231	21.0
Alberta	155	14.0
Manitoba	113	10.3
Quebec	104	9.5
Saskatchewan	94	8.6
Northwest Territories	29	2.7
Newfoundland and Labrador	28	2.6
Nova Scotia	17	1.6
Nunavut	13	1.2
New Brunswick	9	0.8
Yukon	8	0.7
Prince Edward Island	1	0.1

Source: Canadian Council for Aboriginal Business (2016[1]), *Promise and Prosperity: 2016 Aboriginal Business Survey*, https://www.ccab.com/wp-content/uploads/2016/10/CCAB-PP-Report-V2-SQ-Pages.pdf (accessed on 23 October 2018).

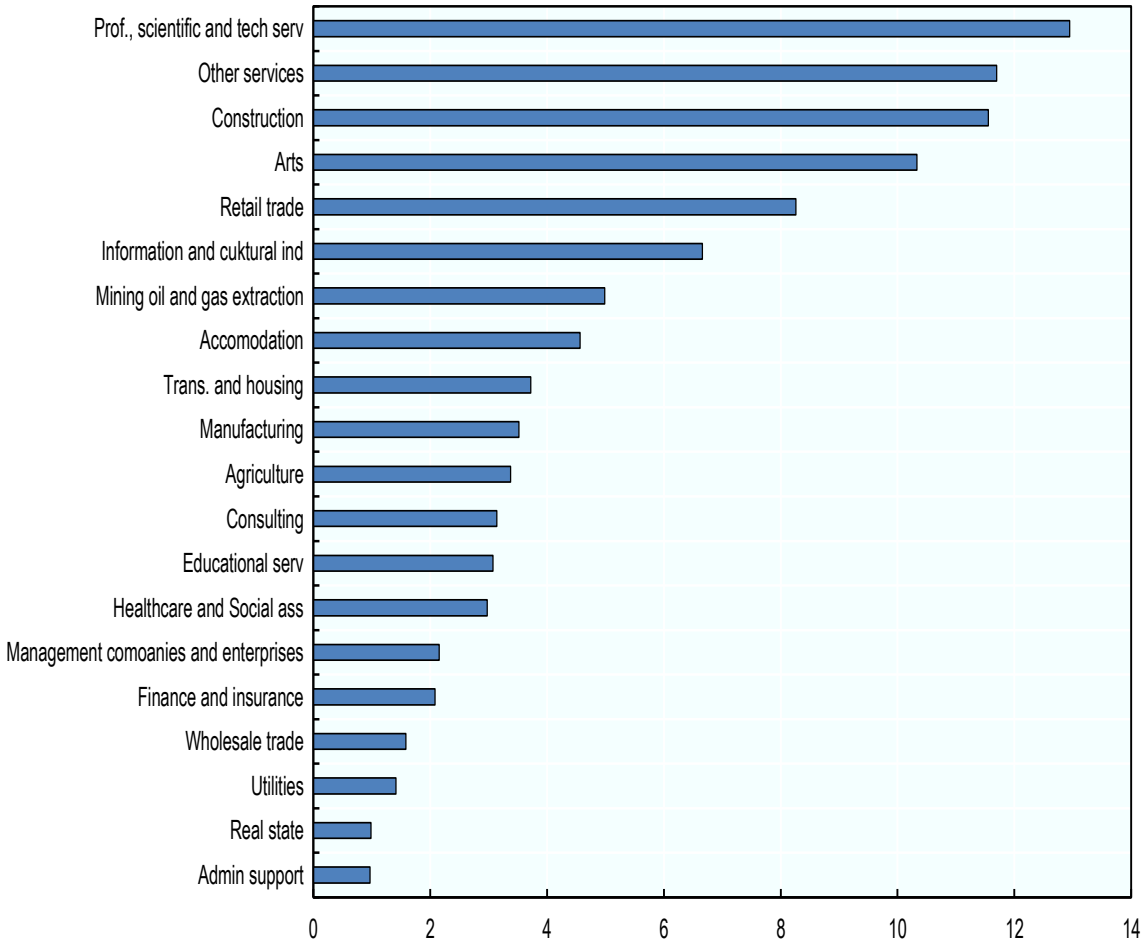
The majority of Indigenous firms surveyed in the National Aboriginal Business Survey are focussed on professional scientific and technical services (13%), other services (12%), and construction (12%). Following this, art (10%) and retail trade (8%) are the most common industries. Business in the remaining industries comprise less than a 5% share each (Figure 2.17).

Access to financing is one of the most commonly reported barriers to business development

The majority (65%) of Indigenous business owners rely on personal savings as a main source of financing their businesses on an initial and ongoing basis (Canadian Council for Aboriginal Business, 2016[1]). More than half reporting finding sources of financing for their business as "very" or "somewhat" difficult and this is deemed to be a growing issue that impairs their businesses growth and development (Canadian Council for Aboriginal Business, 2016[1]). Moreover, when a lender or programs for financing are found, 45% of businesses owners report challenges meeting lender requirements. Related to this point, only three Indigenous entrepreneurs out of ten report having a formal business plan (Canadian Council for Aboriginal Business, 2016[1]).

In terms of business structures, the majority (61%) of Indigenous entrepreneurs are sole proprietary and are unincorporated (73%) (Canadian Council for Aboriginal Business, 2016[1]).[14] Sole proprietorship—where the business and the operator are the same—is the most common structure for new business across Canada because it relatively informal and easy to create. Tax law treats a sole proprietorship business as an income source for the proprietor; consequently, the proprietor is personally liable for all functions and debts of the business. Incorporation is usually done for more mature business (those with annual revenue of around CAN $50 000 or more) and requires meticulous financial statements and yearly audits.

Figure 2.17. Share of Indigenous businesses by Industry, percentage out of total, 2016



Source: Canadian Council for Aboriginal Business (2016[1]), *Promise and Prosperity: 2016 Aboriginal Business Survey*, https://www.ccab.com/wp-content/uploads/2016/10/CCAB-PP-Report-V2-SQ-Pages.pdf (accessed on 23 October 2018).

Businesses located on reserves have unique characteristics

Probability analysis indicates that Aboriginal businesses are more likely to sell their goods and/or services outside Canada (to US or other countries) if: they are in the arts/entertainment or accommodation and food services industries; have older owners, and have accessed a government loan which may simply reflect that there are specific government programmes targeted to on-reserve (e.g. to address a lack of housing collateral). On the other hand, the likelihood is lower for businesses located on-reserve and for those with no employees (Table 2.8) are.[15]

It is further found that the probability that a business locates on a reserve is lower: if the business owner has a higher school level; if the business has no employees; or if the business owner identifies as Métis (Table 2.9).

Table 2.8. Determinants of Aboriginal businesses selling to international markets

Dependent variable is a dummy that takes the value of one if the Aboriginal business had client countries other than Canada (including the U.S.).

Variable	Estimate	Std. Error	Z value	Pr(>|z|)
On-reserve	-0.451185**	0.224199	-2.012	0.044174
No employees	-0.396441**	0.193419	-2.050	0.040399
Age of owner	0.026343***	0.007334	3.592	0.000
Government loan	0.546900**	0.239875	2.280	0.0261

Note: Regression includes 13 province, 20 industry dummies and a constant (not reported) and controls for gender, Aboriginal identity (First Nations, Métis, Inuk), age of owner, being in a reserve, and having taken a government loan. Government loan is a dummy that takes the value of one if the business took a Provincial/territorial government grants or loans; Federal government grants or loans (Aboriginal Affairs and Northern Development Canada/AANDC); or Aboriginal lending agencies or capital corporations. Only significant categories of categorical variables reported. Province dummy statistically significant at the 95% level of confidence for Quebec (positive with respect to British Columbia). Industry dummies significant and negative for Mining and Oil and Gas Extraction, Construction and Finance and Insurance and positive for Arts, Entertainment and Recreation (baseline is Agriculture, Forestry, Fishing and Hunting).
Significance codes: *** 0.001; ** 0.05; * 0.1.
Sources: Canadian Council for Aboriginal Business (2016[1]), *Promise and Prosperity: 2016 Aboriginal Business Survey*, https://www.ccab.com/wp-content/uploads/2016/10/CCAB-PP-Report-V2-SQ-Pages.pdf (accessed on 23 October 2018); 2015 National Aboriginal Business Survey.

Table 2.9. Determinants of on-reserve Aboriginal business location

Dependent variable is a dummy that takes the value of one if the Aboriginal business declared to be located in a reserve and zero otherwise

Variable	Estimate	Std. Error	Z value	Pr(>|z|)
Métis identity (baseline first nations)	-3.76325***	0.30137	-12.487	0.000
No employees (baseline less than 10 employees)	-0.41236*	0.22684	-1.818	0.06908

Note: Regression includes 13 province dummies and a constant (not reported) and controls for gender, Aboriginal identity (First Nations, Métis, Inuk), age of owner, educational level and having taken government loan. Government loan is a dummy that takes the value of one if the business took a Provincial/territorial government grants or loans; Federal government grants or loans (Aboriginal Affairs and Northern Development Canada/AANDC); or Aboriginal lending agencies or capital corporations. Only significant categories of categorical variables reported. Province dummy statistically significant at the 95% level of confidence for Ontario (positive with respect to British Columbia) and Quebec (positive with respect to British Columbia). Educational level dummies significant and negative for educational levels (Completed elementary (Grade 7 or 8); Some high school (Grades 9-11); Completed high school (Grades 12 or 13 or OAC); Some community college, vocational, trade school (or some CEGEP); Completed community college, vocational, trade school (or complete CEGEP); Some university (no degree); Completed university (Bachelor's Degree); Post graduate/professional school (Master's Degree, Ph.D., etc.)) with respect to baseline of Some elementary (Grades 1-6).
Significance codes: *** 0.001; * 0.1.
Sources: Canadian Council for Aboriginal Business (2016[1]), *Promise and Prosperity: 2016 Aboriginal Business Survey*, https://www.ccab.com/wp-content/uploads/2016/10/CCAB-PP-Report-V2-SQ-Pages.pdf (accessed on 23 October 2018); 2015 National Aboriginal Business Survey.

The majority of Indigenous firms registered under the Procurement Strategy for Aboriginal Business (PSAB) are micro enterprises

An additional source of information on Indigenous businesses is the Procurement Strategy for Aboriginal Business (PSAB). PSAB aims to increase the number of Aboriginal firms participating in the federal procurement process. The PSAB is open to all Aboriginal businesses and since its establishment in 1996 has awarded more than 100 000 contracts to Aboriginal suppliers with an estimated value of CAN $3.3 billion (Crown-Indigenous Relations and Northern Affairs Canada, 2019[67]).[16]

Of the 1 069 registered businesses, the majority are microenterprises with 9 employees or less (78%) are small enterprises with between 10-49 employees (7%). Most are located in Ontario (30% out of total) of British Columbia (25% out of total) and the services industry is the largest industry represented among these firms.

Only five enterprises are large, with over 250 employees (1%) and just 15 are medium enterprises with between 50-249 employees (out of total). Only 16% of Indigenous businesses registered in the PSAB export.

Community-led economic development

While Indigenous entrepreneurship might entail individual, for-profit activities, there is a tenancy towards egalitarianism, sharing and communal activity (Dana, 2015[68]). This communalism extends to business ownership structures such as Aboriginal economic development corporations (EDCs)—the economic and business development arm of a First Nation, Métis or Inuit government. These community-owned businesses invest in, own and/or manage subsidiary businesses with the goal of benefiting the Indigenous citizens that they represent and are a major economic drivers in communities and a source of local employment (Canadian Council of Aboriginal Business, 2016[69]). There are many examples across Canada of EDCs using their revenues to reinvest in the community capital investments as well as education and training for members in order to ensure that they are well placed to take advantage of the community's economic opportunities.

The Canadian Council of Aboriginal Businesses 2016 survey of EDCs provides a useful overview of this businesses sector:

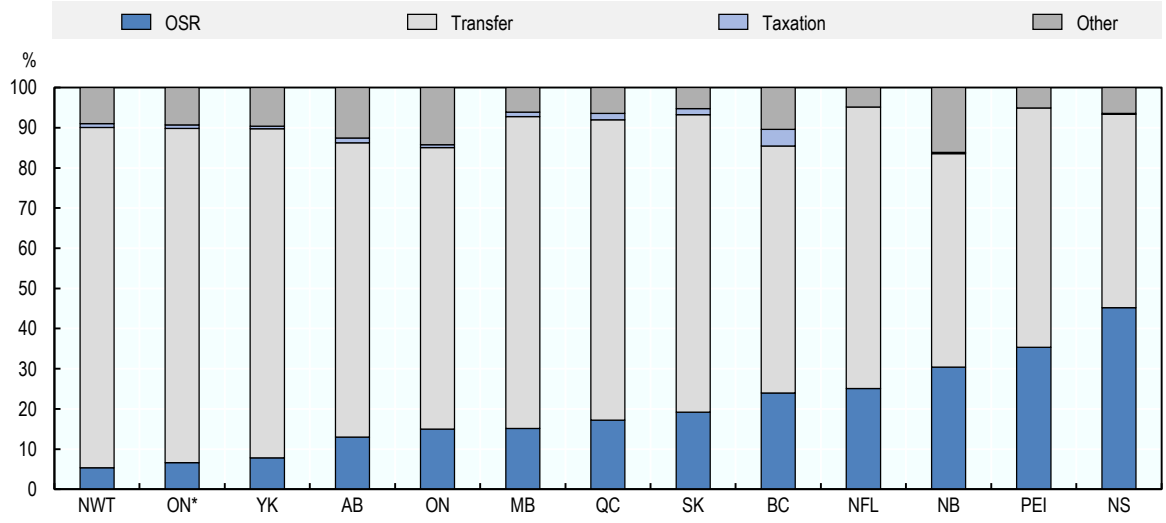
- The majority of EDCs (72%) been operational for over a decade; the average length of operation is 18 years.
- The majority (68%) are small businesses, having less than 100 employees and almost half (46%) had total sales revenues of $5 million or more for the previous fiscal year.
- Four in ten (38%) EDCs report being a major employer in their community and the majority of employees (72%) are Aboriginal peoples (Canadian Council for Aboriginal Business, 2016[70]).

The growth of these EDCs and other community led forms of economic development are a relatively new endeavour. The 1876 Indian Act gave the government control of Indian economic and resource development and land use. The Act historically prevented First Nations communities from engaging in economic development. The growth of EDCs and other forms of cooperative or community led development is paving the way to self-determination.

Community economic development generates "own-source revenues" (OSR)—money that First Nations earn for themselves rather than receive from government transfers. At a national level, OSR is about one-fifth of the total revenue of First Nations governments. It is estimated the total amount of OSR is now in excess of $2 billion a year (some First Nations do not make public reports). That is a significant amount compared with the roughly $6.5 billion transferred to the same First Nations by governments in fiscal 2016-17. The extent to which First Nations are able to generate own source revenues differs considerably; the top 1 percent of First Nations generated roughly 10% of OSRs (2016).

First Nations in the Atlantic Provinces demonstrate the highest level of Own Source Revenues by share. British Columbia stands out across First Nations in Canada for having a comparatively larger share of tax revenue (Figure 2.8). In an analysis of 64 First Nations in Ontario on the extent to which increases in own-source revenue are associated with improved community wellbeing, the expected benefit is modest; a 20 percent increase in per capita own source revenue is associated with a one percent increase in the CWB index (Vining and Richards, 2016[71]). This outcome could be due to the fact that the CWB index is an imprecise measure of community wellbeing times lags in development outcomes alongside the importance of a community's framework conditions such as access to quality education and health services. More research is needed to understand different EDC structures and their community benefits.

Figure 2.18. First Nations revenues, by province and territory, 2016



Note: OSR: Own Source Revenues.
Source: Data provided by Crown-Indigenous Relations and Northern Affairs Canada on 6 September 2018.

First Nations communities pursue a variety of businesses such as natural resources (oil and gas, minerals, agriculture, fishing and forest products), land development (shopping centres, industrial parks and residential housing) and entertainment and hospitality (casinos, hotels and restaurants). These ventures are a key strategy for community economic development as communities with funds/revenue from land claims settlements, natural resources development or other activities seek to leverage these resources to develop sustainable businesses that generate local revenue and employment and improve the lives of their members. The extent to which EDCs may be an effective vehicle for community development depends on a wide range of factors including ownership structures and land rights; a point returned to in Chapter 5.

Box 2.7. Indigenous Economic Development Corporations in Canada

Indigenous Economic Development Corporations (EDC) form the business arm of First Nations, Métis and Inuit communities. They are typically structured to count the members of the community as their "shareholders" and are governed by an independent corporate board (though some have political representation as well). Taking stock of Indigenous EDCs in Canada, they tend to follow a similar development trajectory, moving from lower-complexity and lower competition ventures towards those that are more complex and increasingly knowledge-based.

A recent survey of EDCs with land holdings in the Saskatoon region found that these entities have mixed outcomes; they tend to either make little or no profits or generate large revenues (over $1 million annually) (Saskatchewan First Nations Economic Development Network, 2019[72]). Some examples of EDCs across Canada include:

- *Shopping centres*: Squamish First Nation in North Vancouver and Westbank First Nation in Kelowna, B.C.
- *Winery*: Osoyoos First Nation in B.C. (NK'Mip Cellars).
- *Air North airline*: Vuntut Gwitchin First Nation in the Yukon, Vuntut Development Corp.
- *Support services to the diamond mining industry:* Tlicho First Nations north of Yellowknife.
- *Casinos*/gaming: Whitecap Dakota First Nation in Saskatchewan (Dakota Dunes Casino) and the Chippewas of Rama First Nation in Ontario (Casino Rama).
- *Food production*: Lac la Ronge First Nation's Northern Lights Foods.

Source: Saskatchewan First Nations Economic Development Network (2019[72]), *Aboriginal Economic Development Corporations: A Good Model, But Room for Improvement*, http://sfnedn.com/2016/06/11/aboriginal-economic-development-corporations-a-good-model-but-room-for-improvement-by-heather-exner-pirot/ (accessed on 20 March 2019).

Improving Indigenous data and enhancing Indigenous data governance

Addressing gaps in data collected by governments

Despite quality statistical data on Indigenous peoples in Canada, gaps remain

The quality and reliability of data related to the Indigenous population is generally high in Canada compared to other OECD countries with Indigenous populations and draws on consistent and therefore comparable definitions of Indigenous groups. Despite this, data gaps remain and the need for improved data is well recognised. There are ongoing efforts by the government of Canada to enhance both the quality and timeliness of Indigenous related data and to support and partner with Indigenous-led organisations in order to enhance their own data collection efforts. There are also a variety of Indigenous organisations in Canada that collect and disseminate statistical information. Among the various data gaps, there is a clear need for better information on Indigenous businesses and entrepreneurship and Indigenous economies more generally. There is also a need to better

capture community well-being and to develop indicators that are useful to communities themselves.

There are two main sources of national statistical information on Indigenous peoples in Canada: the national Census of population and the Survey on Indigenous Peoples. The Census is the basic demographic and socioeconomic information on all Canadians and it provides data at the national, regional, and community levels. There are a number of limitations with the Census that make it difficult to have a complete picture of Indigenous peoples and economies. For example, identity information has been collected differently over the years (e.g., the wording and format of the Aboriginal questions were different between the 2006 and 2011 Census) rendering them less comparable and changes were made to the definition of reserves.[17] 2016 was the first time that Statistics Canada released results showing specific First Nations ancestry groups (Statistics Canada, 2018[73]).

The Survey of Indigenous Peoples comprises two separate surveys:

- The Aboriginal Peoples Survey covering First Nations living off reserve, Inuit and Métis, which has been conducted by Statistics Canada since 1991, with an off-reserve focus since 2006. Approximately 44% of the status First Nations population lives in reserve areas and the majority of the Inuit populations live in Northern communities; therefore the surveys (other than the Census), leave out an important part of the Indigenous peoples in Canada. Consequently, some estimates for the First Nations people are imprecise. It is noted that the collection of on-reserve information is part of the mandate of FNIGC—thus, this FNIGC plays a role in filling this data gap.
- The First Nations Regional Social Survey of on-reserve populations (including northern First Nation communities) which is conducted by the First Nations Information Governance Centre. The name of this survey changes to reflect the theme of the survey cycle. For the previous survey cycle focused on education and employment, the title of the on-reserve survey was "The First Nations Early Childhood, Education, and Employment Survey" (or FNREEES). For the current survey cycle focused on participation in the economy, the title of the survey is the "First Nations Labour and Employment Development Survey" (or FNLED).

Taken together, the two surveys collect data on a different theme every survey cycle, along with core indicators that can be tracked over time. The survey initiative is funded by Indigenous Services Canada, Crown-Indigenous Relations and Northern Affairs, and Employment and Social Development Canada and was provided with permanent funding through Budget 2019.

In terms of other surveys, the Community Well-Being (CWB) database provides data on economic activity for 673 Indigenous communities. However, it only includes consistent data for 357 of these communities every five years between 1991 and 2016 when there are over 1 000 First Nations and Inuit communities in Canada (Feir et al., 2017[74]). Moreover, it measures only four components of well-being: education, employment, housing, and income. While these are important aspects of well-being, the index did not include critical variables such as health, environment, and especially language, and culture which First Nations have identified as critical to well-being (Office of the Auditor General of Canada, 2018[75]). There are many reasons for the lack of ability to follow CSDs over time, such as changes in geography for communities, rules regarding confidentiality, and resulting suppression, etc.

Other national surveys conducted by Statistics Canada such as the General Social Survey, Labour Force Survey and Canadian Community Health Survey include questions that allow for Indigenous identifiers; however, while Indigenous people are identified and selected, there are not always enough Indigenous people included in the sample to provide high quality estimates below the national level and/or disaggregated for the separate Indigenous groups (First Nations, Métis, Inuit). Furthermore, most of these surveys do not collect information either on reserve or in northern communities. About 44% of the status First Nations populations lives in on reserve areas and majority of the Inuit populations lives in Northern communities, therefore the surveys other than Census of population, leaves out important part of the Indigenous peoples in Canada and as a result, some estimates for the First Nations people or the Inuit are imprecise. Table 2.10 outlines the main surveys and the Census which either include Indigenous identity or that are entirely focused in Indigenous peoples and communities in Canada.

While Statistics Canada produces the majority of statistical studies that include Indigenous identity, there are other institutions which have also produced focused studies. For example, the First Nations Information Governance Centre (FNIGC, est. 2005) is an incorporated non-profit organisation operating with a special mandate from the Assembly of First Nations' Chiefs in Assembly. In collaboration with Regional Partners, FNIGC gathers data on a wide range of issues important to First Nations people and the communities they live including a community survey, regional early childhood, education and employment surveys and a labour and employment and development survey. The First Nations University (FNU, est. 1976)—a post-secondary institution—has also conducted a number of surveys on Indigenous issues over the years such as an Urban Aboriginal Peoples Survey which profiles that population across 11 Canadian cities. A final survey of note is the Aboriginal Business Survey which is conducted by the Canadian Council of Aboriginal Business—a non-profit organisation—that works to improve the economic self-reliance of Aboriginal communities while assisting corporate businesses. The Aboriginal Business Survey is conducted with Aboriginal small businesses across Canada and is presently in its third round.

Table 2.10. Main national surveys on Indigenous population and communities in Canada

Title	Description	Includes Indigenous identity	Surveys on-reserve population	Frequency	Organisation
Aboriginal Business Survey	Profile of Aboriginal businesses and their owners—where they operate, who their clients are and who they employ.	Yes	Yes	Irregular	Canadian Council of Aboriginal Business
Aboriginal Peoples Survey	National survey of First Nations people living off reserve, Métis and Inuit living in Canada	Yes	No	Every 5 years	Statistics Canada
Canadian Community Health Survey	Annual survey	Yes	No	Annual	Statistics Canada
Canadian Income Survey (formerly Survey on Labour and Income Dynamics)	Longitudinal household survey	Yes	No	Yearly	Statistics Canada
Census	National mandatory Census of population	Yes	Yes	Every 5 years	Statistics Canada

Title	Description	Includes Indigenous identity	Surveys on-reserve population	Frequency	Organisation
Community Well-Being (CWB) database	A community's CWB index score based on an assessment of composed of data on income, education, housing conditions and labour force activity.	N/A	N/A	Every five years following the release of the new census data, 2016	Indigenous Services Canada
First Nations Community Survey, Regional Early Childhood, Education and Employment Surveys	National survey of First Nations communities	Yes	Yes	Every five years	First Nations Information Governance Centre
First Nations Labour and Employment and Development Survey	National survey of First Nations communities	Yes	Yes	Every five years	First Nations Information Governance Centre
Labour Force Survey	Monthly household survey sampling approximately 54,000; population 15 years of age and older	Yes	No	Monthly	Statistics Canada
National Apprenticeship Survey	Occasional survey of Canadian apprentices	Yes (2014)	No	Occasional	Statistics Canada
National Graduates Survey	Cohort analysis 2 years and 5 years post degree completion	Yes	No	Occasional	Statistics Canada
Urban Aboriginal Peoples Survey	Captures the values, experiences and aspirations of Aboriginal peoples living in 11 Canadian cities	Yes	No	2009	First Nations University of Canada

Note: The 2011 Census was in fact a voluntary National Household Survey, not a Census; the mandatory Census of the population was reinstated in 2016.
Sources: Mckellips, F. (2015[76]), *Aboriginal Labour Market Information in Canada: An Overview*, http://www.csls.ca/reports/csls2015-15.pdf (accessed on 4 February 2019); Canadian Council for Aboriginal Business (2016[1]), *Promise and Prosperity: 2016 Aboriginal Business Survey*, https://www.ccab.com/wp-content/uploads/2016/10/CCAB-PP-Report-V2-SQ-Pages.pdf (accessed on 23 October 2018).

Improving the quality of Indigenous data on businesses and entrepreneurship and community well-being

Statistics construct power relations – they shape social realities, conveying a powerful truth –and as such, need to be very thoughtfully employed, especially for groups that have been traditionally marginalised (Walter and Andersen, 1992[2]). In effect, the realities that statistics convey influence the design and evaluation of public policies that impact Indigenous peoples and communities. For example, in Canada (as in other countries like Australia), census data is used to construct the funding formulas for Indigenous employment and training programmes and data indicators influence the design and delivery of a range of other programmes and services. As such, it is important that Indigenous perspectives are included in the design and administration of these instruments so that they may be better structured to reflect Indigenous priorities and values such as culture and traditional knowledge and capture the unique aspects of the Indigenous economy.

More needs to be done to capture Indigenous businesses and entrepreneurship

While Canada has relatively good data compared to other OECD countries with Indigenous populations, gaps remain, particularly for data on Indigenous businesses and

entrepreneurship. Statistics Canada's Aboriginal Peoples Survey (conducted every five years) includes some questions related to self-employment, business ownership and the major obstacles to businesses development for First Nations peoples off reserve and Inuit and Métis populations. However, it gives a limited picture of business dynamics and does not survey on-reserve First Nations. The Census asks questions about self-employment and this is used as a proxy in order to gauge levels of entrepreneurship: self-employed persons can be sorted based on Aboriginal identity questions in the Census. However, Indigenous business in Canada may be band owned/community owned – and as such, the scale and scope of Indigenous businesses is under-represented in the Census. Other sources of information on Indigenous businesses in Canada such as Statistics Canada's Canadian business counts—counts of active businesses by industry classification and employment-size categories for Canada and the provinces and territories—do not include a question on Aboriginal identity.[18] This data can be cross-listed with communities where there are large Indigenous populations in order to estimate business activities, but this is far from exact.

On business financing, the National Aboriginal Capital Corporations Association (NACCA) and Crown-Indigenous Relations and Northern Affairs Canada have data from Aboriginal Financial Institutions (AFIs) across the country in addition to CIRNAC program contributions. However, this is not publicly available. As noted by NACCA, AFIs, have adopted a variety of definitions for what constitutes an Aboriginal entrepreneur which is reflective of their client basis (National Aboriginal Capital Corporations Association, 2017[77]). For example, the Alberta Indian Investment Corporation caters to Status Indian entrepreneurs, or corporations/partnerships that are owned in majority by Status Indians (i.e., 51 percent or more) while the Apeetogosan (Métis) Development Inc. caters to Métis and non-status Indian entrepreneurs (National Aboriginal Capital Corporations Association, 2017[77]). In terms of knowledge gaps, there is a limited understanding of the extent to which Indigenous firms are engaged in international trade.

One of the best sources of data on Indigenous business is the Canadian Council of Aboriginal Business' (CCAB) Aboriginal Business Survey. CCAB's proprietary list of Aboriginal businesses holds information on close to 10 000 businesses, compared to the Government of Canada's Aboriginal Business Directory, which contains around 3 000 entries. Their national *Promise & Prosperity* survey is conducted every five years through telephone interviews with 1 000 Aboriginal businesses and they are developing new research on *National Perspectives on Aboriginal Economic Development*.[19] CCAB's membership demands that the data that is collected be treated with a great deal of privacy, and as such, the dataset is not readily publicly available – but is accessible by request. It is accessed by a special platform which is designed so that users may use and view the data, but not be holders of it themselves. While this is important for data protection and privacy reasons, it does render the data less readily usable. NACCA has some data on which industries Indigenous businesses operate within. But the larger issue remains, there are major data gaps and different data sources can often not be easily aligned (e.g. NHS, Business Patterns, CCAB, NACCA etc.).

Some steps to take in order to improve Indigenous economic/business data are:

- **Establish an agreed national definition of an Indigenous business.** An agreed national definition would greatly improve the comparability of data across organisations. This definition should be developed in close consultation with Indigenous organisations including Aboriginal Finance organisations.
- **Capture more refined data on industry and size.** Indigenous economic/business data would be improved by adding a breakdown of employment by industry and

additional breakdowns by size of business and employment income and education into key Statistics Canada data sets.

- **Add in Aboriginal identity questions into some of the key datasets.** There are many existing datasets that could be used to capture Indigenous businesses data by adding a question on Aboriginal identify – e.g., Canadian business counts.
- **Consider Indigenous territories in standard statistical geography.** Indigenous geography can exist within, or cut across the borders of standard statistical geographies. In Canada, Census subdivisions generally match up to First Nations reserve lands and can be identified therein. However, there are other traditional geographies to consider along these lines. Countries like the United States have developed categorisations of Indigenous lands to better capture these Indigenous geographies in national statistics (see Box 2.8).
- **Produce an annual state of the Indigenous economy report, highlighting progress and leading practices.** The National Aboriginal Economic Development Board (a Governor in Council appointed board) produced an Aboriginal Economic Progress Report for the first time in 2012 which benchmarks socio-economic indicators and assesses the state of the Aboriginal economy and in 2015 it released a progress report on these indicators (National Aboriginal Economic Development Board, 2015[78]). This is an important resource; however, it relies largely on Census data for which there are a number of limitations. This resource could be improved by including a broader range of resources and potentially, a direct survey of Indigenous business which could capture leading practices.

  Support the establishment of a common registry of Indigenous-owned businesses. At present there is no common registry of Indigenous owned businesses. There are registries for Aboriginal Procurement at the federal level and some separate registries at the provincial or territorial levels, but no overall business registry. Even within adjacent communities there can be very low awareness of Indigenous businesses and so, such a resource is of wider interest beyond just government procurement (research interviews).

Box 2.8. Considering Indigenous territories in standard statistical geography

Statistical agencies also tend not to consider how Indigenous peoples understand territory or geography. National statistical agencies work within their standard statistical geography, which provides them a framework for survey design, sample selection and data collection that has a geographical dimension. The boundaries, determined in the standard statistical geography, reflect how countries are divided into administrative units and in some cases functional economic areas. They tend not to consider how territorial lands of Indigenous peoples are formed.

Indigenous geography can exist within, or cut across the borders of the standard statistical geographies. Without this geography statistics are not going to be as useful as they could be for Indigenous peoples. The United States has sought to address this problem by introducing a Hierarchy of American Indian, Alaska Native, and Native Hawaiian Areas which works as a tool for data agents to collect more useful and accurate data for Indigenous peoples (US Census Bureau, 2019[79]).

This includes, for example:

- **Hawaiian home lands (HHLs)**. Areas held in trust for Native Hawaiians by the state of Hawaii, pursuant to the Hawaiian Homes Commission Act of 1920, as amended. The Census Bureau obtains the names and boundaries for HHLs from state officials. The names of the homelands are based on the traditional ahupua'a names of the Crown and government lands of the Kingdom of Hawaii from which the lands were designated or from the local name for an area. Being lands held in trust, HHLs are treated as equivalent to off-reservation trust land areas with the American Indian Trust Land/Hawaiian Home Land Indicator coded as "T."
- **Joint-use areas**. These are applied to any American Indian area by the Census Bureau, means an area that is administered jointly and/or claimed by two or more American Indian tribes. The Census Bureau designates legal joint-use areas as unique geographic entities equivalent to a reservation for the purpose of presenting statistical data.
- **Off-reservation trust lands:** These are areas for which the United States holds title in trust for the benefit of a tribe (tribal trust land) or for an individual American Indian (individual trust land). Trust lands can be alienated or encumbered only by the owner with the approval of the Secretary of the Interior or his/her authorised representative. Trust lands may be located on or off a reservation; however, the Census Bureau tabulates data only for off-reservation trust lands with the off-reservation trust lands always associated with a specific federally recognised reservation and/or tribal government.

Source: US Census Bureau (2019[79]), *2010 Geographic Terms and Concepts - American Indian, Alaska Native and Hawaiian Native Areas*, https://www.census.gov/geo/reference/gtc/gtc_aiannha.html (accessed on 14 February 2019).

New surveys and methods are needed in order to capture community-led enterprises

While existing datasets can be strengthened, there is a broader issue that self-employment is a poor proxy for Indigenous entrepreneurship. Self-employment does not capture community led economic activities—e.g., First Nations development corporations, social enterprises. Such economic activities are incredibly important, particularly for First Nations. As noted by Sengupta et al. (2015[80]) the legal organisational structures followed by different Canadian governments have been proven ill-suited for capturing Indigenous social enterprise. There is no nationally recognised status for social enterprise and they take a range of forms—e.g., non-profit or for-profit entities, or incorporated as cooperatives. A large number of Indigenous organisations exhibit characteristics of cooperatives but are not formally registered as such and some may earn revenues in the grey market (Sengupta, Vieta and McMurtry, 2015[80]). The Canadian Council for Aboriginal Business surveys Indigenous business, but does not include any types of non-profit organisations. In sum, these entities are important to the Indigenous economy and moreover to cultural reproduction, self-determination and yet, very little is known about their scale, and scope beyond individual case studies.

Dedicated surveys are needed to capture the important activities and contributions of Indigenous community-led enterprises. This is a sensitive issue. Indigenous communities may not want to share the details of their business activities widely. Any such undertaking should thus be led by an Indigenous organisation (or organisations) and requires consent

of participating communities from an early design phase. Some steps towards improving data on community-led enterprises are:

- **Support Indigenous organisations to develop a typology of community-led business entities.** Doing so would form the basis of comparative research/survey on this topic. This could be conducted in partnership with government and universities, but should be led by Indigenous organisations themselves.
- **Develop protocols for data protection and privacy for the collection of community-led enterprise data.** As an initial step, protocols need to be in place in order to ensure confidentiality and address the need to balance the desire for a strong understanding of business dynamics while protecting information. Communities could be involved in variable selection and structure.

Incorporating Indigenous values and perspectives into measuring economic development and well-being

More robust and timely community well-being indicators are needed

Well-being is a multi-dimensional concept that captures both material and non-material factors, focussing on people's quality of life. The values and perspectives of Indigenous peoples have generally not been incorporated into countries well-being frameworks and policy agendas. Current debates and perspectives about how to better reflect Indigenous values and perspectives in the Sustainable Development Goals are a good example of this (see Box 2.9) (ILO, 2015[81]). Only a few countries, such a New Zealand, have created frameworks that focus on the well-being of Indigenous people from their perspective (Stats NZ, 2013[82]). The incorporation of Indigenous values and perspectives into well-being frameworks is vital as it helps policymakers to better tailor policies to the needs and aspirations of Indigenous peoples, and monitor progress over time.

Canada's Community Well-Being (CWB) index includes various indicators of socio-economic well-being which are combined to give each community a well-being "score". These scores are used to compare well-being across First Nations and Inuit communities with well-being in non-Aboriginal communities over time. It is the only index that produces comparative community level data. This data could be an important policy tool to understand conditions in Indigenous communities and how they fare over time. However at present, this index data is not adequately robust and the release of the data post census has been slow (over 2 years).

A 2018 report by Canada's Auditor General underscored this point; it describes the indicators as "limited", the sampling methods "poor" and engagement with Indigenous organisations and communities in the production of the index as inadequate (Office of the Auditor General of Canada, 2018[75]). It noted that Indigenous Services Canada has access to volumes of available data from multiple sources which it could draw on to more comprehensively compare well-being relative to other Canadians and across First Nations communities. For example, data from the First Nation Community Profiles with information on housing needs and water quality, Employment and Social Development Canada data about participation in skills training for Indigenous and Health Canada information about First Nations health (Office of the Auditor General of Canada, 2018[75]).

Indigenous Services Canada has responded to the 2018 audit with a commitment to improve this indicator alongside its engagement practices with Indigenous organisations. Some steps to meet these goals are:

- **Work with other federal government departments and Indigenous organisations to expand the range indicators and incorporate other data sources**. As noted above, Canada's Community Well-Being Index considers only a limited number of variables. These should be expanded to include both objective and subjective elements and alongside indicators on civic participation and governance, environmental quality, and accessibility to services. Data on Indigenous income would be more robust if it included indicators that capture the nature of Indigenous hybrid economies (where they exist), food security and cultural values. Several variables such as housing need, water quality etc., many of which are available from other Federal government sources. The Index would also be improved by incorporating provincial data and data from non-governmental sources (e.g., First Nations Information Governance Centre, NACCA).
- **Add subjective assessments of well-being and include indicators that are important to Indigenous peoples such as culture and traditional knowledge**. Subjective measures of overall quality of life are built into numerous surveys in Canada and around the world, and are increasingly analysed and used as indicators of human well-being and social progress. Yet, even in Canada, federal surveys exclude Aboriginal peoples on-reserve and, in general, there are very few data sources on life satisfaction among Aboriginal respondents (Barrington-Leigh and Sloman, 2016[83]). For example, First Nations on reserve respondents to life satisfaction questionnaires in Canada have reported that total income is not appropriately measured by the standard income question (Barrington-Leigh and Sloman, 2016[83]).
- **Develop a specific Index to better understand the dynamics among Indigenous communities.** While Canada's Community Well-Being Index focusses on Indigenous and non-Indigenous community comparability at present, an additional Indigenous-focussed index with a broader array of variables could provide a useful tool for understanding community conditions *among* Indigenous communities wherein the addition of non-Indigenous comparables might otherwise limit culturally relevant questions.

A 2018 Data Strategy Roadmap for the Federal Public Service report reinforces several of these points (Government of Canada, 2018[84]). One of the stated goals of therein is to recognise that Indigenous Peoples have an inherent right to self-determination, co-develop with Indigenous partners distinctions-based strategies to advance Indigenous data governance and institutional capacity. One promising example of how such co-development is proceeding is the work of Indigenous Services Canada and the Assembly of First Nations to co-develop a National Outcomes-Based Framework comprising indicators of mutual interest to ensure accountability in the context of a new fiscal relationship.

Box 2.9. Global approaches to measuring well-being and Indigenous peoples

International standards provide another starting point for considering how to measure well-being and development outcomes for Indigenous peoples. The United Nations Declaration on the Rights of Indigenous Peoples (UNDRIP) is a non-legally binding instrument that was adopted by the UN General Assembly in 2007 in Resolution 61/295 with 143 votes in favour, 4 against and 11 abstaining. Since then, the four countries voting against (Australia, Canada, New Zealand and the United States) have changed their position and now support the Declaration. The UNDRIP has 46 Articles which identify a number of elements which are important when considering place-based economic development issues for Indigenous peoples. This includes rights to participate in decision-making about development, facilitating cross-border trade and economic activities, free, prior and informed consent about development on Indigenous lands, measures that ensure productivity and conservation of Indigenous lands, and maintaining distinct institutions. It also identifies a number of aspects that should be considered when measuring Indigenous wellbeing such as traditional knowledge and cultural practices, and the maintenance of language.

The UNDRIP was also developed in the context of an increasing recognition of the need to go beyond GDP and other economic measures to develop a better understanding of how societies are performing. This recognition is reflected in the United Nations (UN) Sustainable Development Goals (SDGs). The SDGs were adopted by the UN General Assembly in 2015 in Resolution 70/1 and outline shared development goals and indicators across 17 different areas.

The SDGs include a commitment to "leave no one behind" which is particularly relevant given the poorer socio-economic outcomes generally experienced by Indigenous peoples across different countries. Indigenous peoples make up only 5 per cent of the global population; however, it is estimated that they make up 15 per cent of the world's poor and about one-third of the world's 900 million extremely poor rural people (United Nations, 2010). The SDGs include 6 specific references to Indigenous peoples including SDG2 (agricultural output of Indigenous small-scale farmers) and SDG4 (equal access to education for Indigenous children). The UN Permanent Forum on Indigenous Issues has identified a number of ways to strengthen the Indigenous perspectives within the SDGs including developing indicators of land use, disaggregation of measures for Indigenous populations, and strengthening the capacity of Indigenous peoples to participate in reporting on the implementation of the SDGs. The sub-national dimension is particularly important given the heterogeneous conditions facing Indigenous peoples across national territories.

Source: United Nations (2018[85]), *The Permanent Forum and the 2030 Agenda*, United Nations For Indigenous Peoples, https://www.un.org/development/desa/indigenouspeoples/focus-areas/post-2015-agenda/the-sustainable-development-goals-sdgs-and-indigenous/recommendations.html (accessed on 7 February 2019).

Empowering Indigenous communities to collect and use data to support local decision-making

While data gaps are a long-standing challenge, the field is changing and the number of data sources has multiplied in recent years. For example, the Federal department Natural Resource Canada is now including Indigenous Traditional Knowledge in its impact assessments for major projects. There are opportunities for new approaches to data

development such as data sharing, repurposing administrative data and technology-driven data sources. There is also the potential to make greater use of administrative data; though this is difficult due to confidentiality requirements. However, effective data governance underpins the successful uses of these new and emerging sources.

The growing number of Indigenous organisations that are conducting surveys and research on issues that matter to them and their membership is a promising development. These surveys fill an important gap and, – as noted by FNU – Indigenous-led surveys can lead to greater cultural sensitivity.

> *Previous studies have tended to view Aboriginal Canadians largely through a "problem lens" – that is, simply as targets for social services. The UAPS survey sought to fully capture urban Aboriginal peoples as complex individuals and communities. In doing so, we uncovered a broader range of narratives and scenarios than one typically encounters via the news and other media. Many of the survey findings suggest that Canadian cities are becoming sites of connection, engagement and cultural vitality for a large number of Aboriginal peoples. (UAPS, 2010[86])*

Many of the existing data sources are not designed specifically to Indigenous peoples but for the dominant population which leads to that surveys that do not include questions that are specifically important for Indigenous peoples (Kovach, 2015[87]; Riddell et al., 2017[88]). Furthermore, as the sample frames are generally designed for the total population, the sample size of Indigenous peoples is not sufficient to provide reliable data at national and subnational level. As such, existing information fails to capture or provide the essential and relevant information that is needed to make informed decision on how to improve the quality of life for Indigenous peoples.

Beyond the content of such surveys, there is a broader issue of trust which reinforces the importance of Indigenous data sovereignty—particularly with regards to culturally sensitive topics. Indigenous peoples and communities may have a mistrust of government-conducted surveys—for good reason given the long history of discrimination. For example, some First Nations reserves are incompletely enumerated in the Census because the community will not grant permission—though it bears noting that this number has steadily declined since the 1980s (Statistics Canada, 2019[89]).[20] Any discussion of improving data quality should proceed with these sensitivities in mind and consider not just data *for* Indigenous peoples and communities, but also data production *with* and *by* Indigenous peoples and communities. This is importance for self-determination.

At their 2016 Annual General Assembly, the AFN Chiefs-In Assembly agreed (Resolution no. 57/ 2016) that Indigenous data sovereignty be recognised as "the cornerstone of nation-building." In particular that called for the Government of Canada's support in developing regional information governance centres across Canada. To help realise this aim the FNIGC is working closely with its ten regional survey delivery partners. Each region is unique and at a different stage of development but all ten regions will be engaged in this work via the development of a National Data Governance Strategy, which will determine in part how they will inter-relate and come together to do national-level work, while respecting that the visions and goals of First Nations vary by community and region.

With this in mind, Canada's First Nations Information Governance Centre (FNIGC) has developed a set of standards on how First Nations data should be collected, protected, used, or shared. Standing for ownership, control, access and possession, OCAP® asserts that First Nations have control over data collection processes in their communities, and that

they own and control how this information can be used. FNIGC has developed a training programme around these principles and that note that while the principles provide guidance, their application in use is context dependant and should involve the community in question (FNIGC, 2019[90]). Canada's First Nations designed, implemented and led FN Regional Health Survey is an example of these principles in action. Across Canada there are different data sharing agreements and governance arrangements with First Nations, Métis and Inuit. For example, the British Columbia First Nations' Data Governance Initiative (BCFNDGI) which provides community well-being profiles, data governance and community planning tools and Alberta's Regional First Nations Information Governance Centre which is primarily funded by Health Canada. As noted by BCFNDGI, what is needed is a National Data Governance Strategy that aligns these regional approaches with broader political and reporting reform initiatives across governments (BCFNDGI, 2019[91]).

Enhancing community data for decision making

Data also needs to be collected at a local level because each Indigenous community, and the information that is relevant for them, is different. Indigenous peoples and communities' vision on economic development and well-being also may differ from the view of the dominant population. Issues such as connection to the land, culture and kinship relationships tend to be more important. Therefore, it is crucial that Indigenous peoples defines measures and methodologies that provide a basis for more informed decisions about realising their aspirations and objectives for development.

Data at the community level encounters a common problem to small areas studies. For example, those communities that had a global non-response greater than or equal to 0.5 (or 50%) are not available in the 2011 Community Well-Being database in accordance with Statistics Canada data quality standards for the 2011 National Household Survey (NHS). For confidentiality reasons, data about populations in small places needs to be supressed. If there is community buy-in, communities may wish to undertake their own studies on such topics as community wellbeing, or, as is increasingly common in Canada, so called 'leakage studies' that look at how community members spend money and whether there are greater opportunities to increase spending within the community itself. However, this is not the case of environmental indicators, which can also be important for community development. For example, First Nations communities are beginning to survey their traditional lands in order to create GIS maps of the assets that are important to them. This data will not necessarily be shared with others outside of the community. The government of Canada has supported geospatial mapping in Indigenous communities through the Canadian Geospatial Data Infrastructure (CDGI) User Need Assessments and the Geomatics Community of Practice and Land Use Planning Initiative.

The government of Canada has supported Indigenous data sovereignty by providing funding to such groups as the First Nations Information Governance Centre (FNIGC) that administers surveys on topics that are important to Indigenous Canadians. FNIGC receives its funding through agreements with Health Canada, and Indigenous and Northern Affairs Canada, and Employment and Social Development Canada and the organisation partners with regional organisations and governments across Canada to design and administer surveys (e.g., on health outcomes, early childhood education, and employment).

Box 2.10. Indigenous data sovereignty

'Indigenous Data sovereignty' is the management of information in a way that aligns with the laws, practices and customs of a nation-state in which it is located (Daly, Devitt and Mann, n.d.[92]). Articles 18 and 19 of the United Nations Declaration on the Rights of Indigenous Peoples (UNDRIP) have reinforced the importance of Indigenous data sovereignty, stipulating that specifies that "Indigenous peoples have the right to participate in decision-making in matters which affect their rights", and that "states are required to 'consult and cooperate in good faith with Indigenous peoples through their own representative institutions in order to obtain their free, prior and informed consent before adopting and implementing legislative or administrative measures that may affect them" . In answer to this call, there have been a proliferation of guidelines how to deliver on these principles.

Table 2.11. Indigenous Data Sovereignty principles: select countries

Country	Organisation(s)	Principles
New Zealand	Aotearoa/NZ. Te Mana Raraunga, the Māori Data Sovereignty Network	• Whakapapa and whanaungatanga: Recognising the connectedness between the material, natural and spiritual worlds • Rangatiratanga: Iwi(tribal)/Māori rights to own, access, control and possess data from them or about them and their environs • Kotahitanga: Collective vision and unity of purpose • Manaakitanga: Ethical data use to progress iwi/Māori aspirations for wellbeing • Kaitiakitanga: Sustainable data stewardship
United States	US Indigenous Data Sovereignty Network (USIDSN)	The USIDSN is in the principles development phase. Draft principles include recognition of inherent sovereignty; protection of Indigenous data; a commitment to aligning with Indigenous values for intergenerational collective wellbeing; a focus on relationships between Indigenous nations and other stakeholders; for IDG; and the honouring of Indigenous knowledge.
Canada	First Nations Information Governance Center OCAP®	• Ownership of data; • Control - First Nations hold on how the data are collected, used and disclosed; • Access - whereby First Nations have access to any data about them; and • Possession - whereby all First Nations data fall within First Nations jurisdiction.
Australia	Maiam nayri Wingara	• Exercise control of the data ecosystem including creation, development, stewardship, analysis, dissemination and infrastructure. • Data that is contextual and disaggregated (available and accessible at individual, community and First Nations levels). • Data that is relevant and empowers sustainable self-determination and effective self-governance. • Data structures that are accountable to Indigenous peoples and First Nations. • Data that is protective and respects our individual and collective interests.

Source: Daly, A., S. Devitt and M. Mann (eds.) (n.d.[92]) (n.d.), *Good Data*, Theory on Demand, Issue 29, https://eprints.qut.edu.au/125605/1/Good_Data_book.pdf#page=28 (accessed on 21 March 2019).

These are important initiatives, but there is also a need to focus on how communities themselves can have better local data for decision-making. Indigenous organisations and communities need to be empowered to collect data about their people, land and resources and businesses to support local planning. Enabling Indigenous peoples' "data sovereignty" will ensure better alignment between data collection and the needs and aspirations of Indigenous peoples, and also empower them to use it to inform decision-making. The example of Yawuru Nations "Knowing our Community" survey (Western Australian), serves to illustrate this point (Box 2.11).

Box 2.11. The Yawuru Nation: "Knowing our Community" and well-being survey

The Yawuru "Knowing our Community" household survey is a good example of how Indigenous-led survey design and data collection can lead to improved quality of data and meaningful use of information for changes.

The survey was established together with the Kimberley Institute, (a not for profit organisation), and the Australian National University. The need for own survey first occurred after the native title determination that gave Yawuru Nation assets that needed to be allocated efficiently. As a result, NBY, not-for-profit organisation owned by the Yawuru native title holders, started to look for socio-economic information to support the negotiations with public and private investors. However, lack of data about the Yawuru community and poor data quality of official data lead to the decision of designing an own household survey. The results from Yawuru's own community survey showed how ABS provides under-estimated population counts therefore it provided more accurate information about the community. The Yawuru "Knowing our Community" household survey is a first of its kind in Australia since no other indigenous community have ever been responsible for designing survey, collecting and analysing data about their own community before.

After conducting their first community survey, the Yawuru Nation has continued providing data about their community. In 2015, they conducted a well-being survey that they designed to measure the community's well-being. Through interviews, they conceptualised their well-being framework and identified the key indicators to describe the well-being of their people. The final indicators included more Indigenous community specific indicators such as access to fishing spots and sharing a catch with family and friends to measure the connection to the country, together with some of the standard socio-economic indicators.

The Yawuru well-being survey is a great example of why and how Indigenous peoples' well-being should be measured at the local level. One of the key findings were that the individual's well-being is interlinked with the overall well-being of the community.

The results from these two surveys highlight how designing of well-being surveys at the community level is essential for providing meaningful information about the community for the community to measure and monitor their well-being and make improvements. Indigenous-led survey design enabled the Yawuru Nation, important actors in the Broome society, to work towards fulfilling their goals and responsibilities.

Sources: Taylor, J. et al. (2012[93]), "Statistics for community governance: The Yawuru Indigenous population survey of Broome", http://caepr.cass.anu.edu.au/research/publications/statistics-community-governance-yawuru-indigenous-population-survey-broome (accessed on 14 February 2019); Yap, M. and E. Yu (2016[94]), Yap, M. and E. Yu (2016), "Operationalising the capability approach: Developing culturally relevant indicators of indigenous wellbeing – An Australian example", http://dx.doi.org/10.1080/13600818.2016.1178223.

It is important that local data for Indigenous decisions makers be supported by capacity building efforts such as training community members on how to use existing data and how to collect their own indicators, including the use of GIS technologies. The Government of Canada could help to enhance Indigenous community-level data for decision making by:

- **Including or expanding community capacity building and training activities in federal funding for Indigenous organisations.** The Government of Canada partners with Indigenous organisations in some cases and also funds them in order to develop new questionnaires and data sets on a wide range of issues. This is important work that has led to more robust indicators on a wider range of variables. However, more could be done to support Indigenous community members and decisions makers through community capacity building and training initiatives. Developing and supporting networks of GIS practitioners should be a key part of this work given how central land use and environmental considerations are to community and economic development.
- **Developing user friendly data portals designed for local decision makers.** Data sets need to be accessible and easy to use, while respecting confidentiality requirements. More actions are needed to translate data (often contained only in reports) into a useable and searchable platform comparable across years.

Improving federal engagement with Indigenous organisations on statistics

The Canadian government is strengthening its engagement with Indigenous organisations regarding data collection—but much remains to be done

There are several federal departments and agencies that collect and produce relevant data for Indigenous peoples and communities. The quality of their data and their commitments to effective engagement practices are mixed.

Canada's national statistical agency—Statistics Canada—has made strides in terms of consultations with national Indigenous organisations in recent years (Morris, 2016[95]). The organisation interacts with a number of National Indigenous Organizations (NIOs) at the working level where NIOs help provide context to Statistics Canada's analytic research work on Indigenous populations. For example, in anticipation of the 2021 Census of Population, Statistics Canada held over 70 face-to-face discussions with Indigenous groups across the country over 2017/2018 (in addition to public online discussions) (Statistics Canada, 2018[96]). Through its Aboriginal Liaison Program it also works with First Nations, Métis and Inuit communities and organisations to help them determine their data needs, help them find and understand the data that is available for their communities, and keep them informed about Statistics Canada information activities. Aboriginal Liaison Advisors are located across each Province and Territory. The organisation interacts with a number of NIOs at the working level where NIOs help provide context to Statistics Canada's analytic research work on Indigenous populations. These are positive developments and are similar to practices undertaken by the national statistical bodies in the United States and Australia. However, they do not extend to the inclusion of Indigenous persons and organisations within the governance of statistical matters impacting them as in Australia where an advisory body has been established—for example, the Roundtable on Aboriginal and Torres Strait Islander Statistics (Box 2.12). As such, Statistics Canada's engagement practices remain more at a working level, addressing issues on an 'as needed' basis.

Statistics Canada is just one department among many that develops indicators important to understanding Indigenous peoples and community characteristics. Virtually every federal department has specific responsibilities related to Indigenous–Crown relations and as such, collects some data. Some of the most important federal departments in this regard are Indigenous Services Canada and CIRNAC as well as Health Canada and Natural Resources Canada. Federal departments are working in different ways to strengthen their data on different Indigenous populations and to improve their engagement with Indigenous communities and key stakeholders. This is a work in progress. For example, as has been previously noted, the Auditor General's 2018 spring report has highlighted improvements that could be made to Indigenous Services Canada. Specifically it noted the inadequate measurement of well-being; the limited use of available data; incomplete reporting on well-being and a lack of meaningful engagement (Office of the Auditor General of Canada, 2018[75]). Similarly, much work remains to be done in tracking and benchmarking the implementation of the UN Sustainable Development Agenda 2030—including the work of lead departments like CIRNAC (Office of the Auditor General of Canada, 2018[61]).

Box 2.12. The inclusion of Indigenous peoples in the governance of national statistical agencies: Australia and the United States

Australian Bureau of Statistics

The Australian Bureau of Statistics (ABS) has two main governance mechanisms to include Indigenous peoples in the development data, methodological issues, and the release, dissemination and use of data. The first is an advisory body - the Roundtable on Aboriginal and Torres Strait Islander Statistics – that was established in 2013. This advisory body provides advice on operational issues related to the enumeration of Indigenous peoples and improving data quality. Its membership is made up of Indigenous peoples who have experience of working with Indigenous communities on data issues. The second are Engagement Managers and Engagement Officers located in various State and Territories offices throughout Australia. These staff engage directly with Indigenous communities and institutions to increase understanding of ABS data and tools, provide statistical training, and improve the quality and relevance of statistics for Indigenous peoples. The work by the ABS on Indigenous issues is coordinated by the Centre of Excellence for Aboriginal and Torres Strait Islander Statistics. Its functions include informing and engaging with Indigenous peoples and institutions, assessing and identifying improvements to the statistical framework, improving enumeration, and assisting Indigenous institutions in the use of statistics.

US Census Bureau

The Inter-governments Affairs Office (IAO) of the U.S Census Bureau serves as the principal coordination point for tribal affairs and is the advisor to the director and executive staff on tribal issues and concerns. The role of IAO includes coordinating across Federal Government agencies on data issues and collaborating with tribal leaders and national organisations. Its core activities include:

- Developing and promoting use of the "My Tribal Area" data tool.
- Tribal Affairs Liaison team that works directly with tribal leaders.
- Supporting the Remote Alaska Enumeration Team.

- Promoting census products and disseminating information to tribes.

Sources: Australian Bureau of Statistics (2019[97]), *ABS Round Table on Aboriginal and Torres Strait Islander Statistics*, https://www.abs.gov.au/websitedbs/D3310114.nsf/Home/Round+Table (accessed on 1 April 2019); US Census Bureau (2019[98]), *Intergovernmental Affairs: Tribal Affairs*, https://www.census.gov/aian (accessed on 1 April 2019).

The Auditor General's 2018 call to the Government to make better use of the data that it is collecting and to work directly with First Nations has reopened the debate about role that an overarching federal authority dedicated to Indigenous data issues could play (Assembly of First Nations, 2018[99]) (Office of the Auditor General of Canada, 2018[75]). Canada's creation of such an entity was short lived. The First Nations Statistical Institute (FNSI)—a federal crown corporation—was created through legislation passed in 2005, became operational in 2008 and was abolished in 2014.[21] It was established in order to provide statistical information on, and analysis of, the fiscal, economic and social conditions of First Nations; promote the quality, coherence and compatibility of First Nations statistics and their production in accordance with generally accepted standards and practices through collaboration with First Nations, federal departments and agencies, provincial departments and agencies, and other organisations; work with, and provide advice to, federal departments and agencies and provincial departments and agencies on First Nations statistics; work in cooperation with Statistics Canada to ensure that the national statistical system meets the needs of First Nations and Canada; and build statistical capacity within First Nation governments.

The capacity building elements—supporting the data and statistical needs of First Nations so they can better meet their own policy and planning needs—is particularly important. It was intended that this would involve outreach in order to increase the knowledge of the importance of statistics in First Nations communities as well as supporting First Nation capacity to gather, analyse and apply statistics in evidence-based decision-making processes. Despite being quasi-independent from the Government of Canada, FNSI was a Crown corporation, which provides sufficient powers to collect and adequately protect statistical information. Other organisations collecting statistics are not bound to the same privacy provisions (for example, exemption from giving a testimony with respect to personal or sensitive information before a court). One of the organisation's first pieces of work was to organise an ongoing environmental scan of the types of services needed by First Nation people and organisations. While other agencies have competencies for Indigenous statistics – e.g., Indigenous and Northern Affairs Canada has developed a centre of excellence for statistics within the Department and is supporting other First Nation organisations to conduct work — the FNSI was unique in the way that it could work across departments to bring a global view to these issues.

The federal government could strengthen its inter-departmental collaboration and capacity building activities and engagement with Indigenous organisations regarding data collection by:

- **Developing a multi department strategy to coordinate on Indigenous statistics and data and work with Indigenous communities and organisations on an ongoing basis**. The FNSI was one way in which to achieve this objective. There are others. The key issue is that these competencies need to coordinate across departments and engage with Indigenous groups in an ongoing basis that includes capacity building efforts. At the moment, there are separate efforts that often exist

around a strategy – e.g., Arctic policy dialogue – absent ongoing coordination and the relationships that support good practices. In the United States, this coordination role across departments is filled by the Inter-governments Affairs Office (IAO) of the U.S Census Bureau and in Australia by the Centre of Excellence for Aboriginal and Torres Strait Islander Statistics (Box 2.12). It is noted that—as one of the five lead departments for Canada's implementation of the United Nations' 2030 Agenda for Sustainable Development—CIRNAC together with other federal entities are developing and communicating a governance structure to manage this process.[22] This offers an opportunity for multi departmental co-ordination on Indigenous statistics as well.

- **Establishing more formalised governance arrangements for the inclusion Indigenous peoples and organisations in the work of Statistics Canada through an advisory body**. Statistics Canada liaises with NIOs and Indigenous communities at a working level on an ongoing basis and related to the timing of major statistical products such as the Census. These are positive practices. Adopting a more formal advisory body on these issues could regularise these practices and help the organisation take a strategic and long-term view on evolving data needs. The Australian Bureau of Statistics' Roundtable on Aboriginal and Torres Strait Islander Statistics provides one example of how to do this. The Roundtable meets twice a year to work on improving data quality, engagement strategies and statistical literacy. ABS also has an Indigenous Communication Strategy in support of its census work.
- **Increasing the recruitment of Indigenous persons in Statistics Canada.** Statistics Canada has the second lowest percentage of Aboriginal employees out of all Canadian departments at 2.4% (Government of Canada, 2018[100]).[23] It is a general goal of the Canadian government that the public service reflect the population that it serves (see *Public Service Employment Act*) and the department is not meeting these goals. Statistics Canada, like other Canadian federal departments, should establish diversity goals, which include Indigenous persons. This forms, for example, one part of the Australian Bureau of Statistics' Reconciliation Action Plan (2013) which specifies the goal of increasing the recruitment and retention of Aboriginal and Torres Strait Islander peoples in the organisation.

Box 2.13. Fostering a new generation of Indigenous research in Canada: Canada's research councils

Canada's research funding (as in Australia and Norway) offer targeted funding support for either Indigenous researchers or Indigenous research. Canada has some of the most comprehensive programmes to support Indigenous research among OECD countries with Indigenous populations. This funding helps to establish the research careers of Indigenous academics in a wide variety of fields and offers targeted supports for Indigenous research including establishing research networks and partnerships with Indigenous communities and peoples. Between these actions and the commitment of Universities across Canada to increase the number of Indigenous students and professors, a new generation of Indigenous scholars are making their mark in a wide array of disciplines.

The Social Sciences and Humanities Research Council of Canada (SSHRC) is implementing several pilot measures intended to support research by and with Aboriginal Peoples (known as Aboriginal Talent Measures). These include:

- An opportunity for applicants to self-identify as Aboriginal, allowing SSHRC to track and assess participation and success rates for First Nations, Métis, Inuit and other Indigenous doctoral and postdoctoral applicants (this information is not used in the adjudication process).
- An opportunity to identify a proposed programme of study as Aboriginal research, such that SSHRC's Guidelines for the Merit Review of Aboriginal Research will apply.
- An opportunity to identify and detail additional special circumstances that might impact the academic careers of some Aboriginal applicants (Social Sciences and Humanities Research Council of Canada, 2018[101]).

SSHRC has also identified the experiences and aspirations of Aboriginal Peoples in Canada as essential to building a successful shared future as one of six key future challenge areas that are likely to emerge for Canada in the next few decades. SSHRC encourages and promotes research on this topic through several of its funding programmes (Social Sciences and Humanities Research Council of Canada, 2018[101]).

Similarly, Canada's Institute of Indigenous Peoples' Health (IIPH) fosters the advancement of a national health research agenda to improve and promote the health of First Nations, Inuit and Métis peoples in Canada, through research, knowledge translation and capacity building (Canadian Institutes of Health Research, 2018[102]). It is one of the thirteen Institutes of Canadian Institutes of Health Research (CIHR). IIPH provides research funding supports in the form of grants, funding of capacity building programmes and training for aboriginal researchers. This work is supported by the IIPH Network Environments for Aboriginal Health Research (NEAHR) initiative which allows researchers to continue their studies while working alongside aboriginal people (Canadian Institutes of Health Research, 2018[102]).

Sources: Canadian Institutes of Health Research (2018[102]), *Institute of Indigenous Peoples' Health*, http://www.cihr-irsc.gc.ca/e/8172.html (accessed on 8 April 2018); Social Sciences and Humanities Research Council of Canada (2018[101]), *Social Sciences and Humanities Research Council of Canada*, http://www.sshrc-crsh.gc.ca/home-accueil-eng.aspx (accessed on 8 April 2018).

Notes

[1] These figures refer to those who identified as single identity.

[2] For example Adelson (2005[108]), Wilson and Macdonald (2010[110]), Gordon and White (2014[109]).

[3] While there is a lack of longitudinal data on Indigenous businesses in Canada, 2011 National Household Survey estimated that 37 685 Aboriginal individuals were self-employed across Canada, which is an increase from 34 045 in 2006; 27 210 in 2001; and 20 195 in 1996 (National Aboriginal Capital Corporations Association, 2017[77]).

With little to no longitudinal data available to track the growth and decline of Aboriginal businesses, we're left to guess what the possible trends mean

[4] Statistics Canada has defined the Aboriginal population in Canada the same way since 1996. Prior to that, the Indigenous population was defined on the basis of reported ancestry. The figures refers to single response.

[5] Inuit Nunangat is composed of four regions in Canada: The Inuvialuit Region in the Northwest Territories, the territory of Nunavut, Nunavik in northern Quebec, and Nunatsiavut in northern Labrador.

[6] The fertility rates of Indigenous people are higher than that of the non-Indigenous population in Canada (2.2 versus 1.6 children per woman in 2011). Among the three Indigenous groups, Inuit women and First Nations women had the highest fertility rates (at 2.7 and 2.4 children per woman respectively in 2011); the rate for Métis women was lower (at 1.8 children per woman in 2011) (Statistics Canada, 2017[7]).

[7] The income figures analysed here do not include non-monetary income of Indigenous peoples. Non-monetary sources of income are generated through traditional activities such as subsistence hunting, fishing and farming. Usually, the market prices of these sources of income cannot be estimated which may be due to the reluctance of Indigenous populations to monetise these activities. Non-monetary income is likely to be more significant for the quality of life of Indigenous people than for non-indigenous people, particularly in rural areas, due to the role of subsistence hunting, fishing and harvesting.

[8] 81% of reserves had median incomes below the low-income measure of $22,133 per individual (2016 Census).

Canada uses the Low Income Cut Off (LICO, Low Income Measure (LIM) and the Market Basket Measure (MBM) in order to measure relative poverty; Statistics Canada does not use any absolute poverty measures). Each of these measures have some drawbacks for Indigenous populations. The LICO and MBM are not available for peoples living on reserves, and while the LIM includes calculation with data from on reserves, the last tem this was conducted in 2006 (Brittain and Blackstock, 2015[103]). The LICOs also does not cover individuals living in the northern territories (Brittain and Blackstock, 2015[103]).

[9] The 2017 Aboriginal Peoples Survey is a voluntary national survey of Inuit, Métis and First Nations people living off reserve, aged 15 years or older. The 2017 survey was its fifth cycle.

[10] Canada's population density in 2016 was around 4 persons per square kilometre; this stands in contrast to the figure of the OECD as a whole, at approximately 38 persons per square kilometre.

[11] Costs for diesel generation varies by community. As one example, the North Spirit Lake First Nation reportedly spends 1 million dollars CAN on diesel fuel each year which is equivalent to approximately $2 400 per person yearly heating costs (CBC News, 2016[104]).

[12] The 2016 Aboriginal Business Survey is a "telephone survey with 1,101 First Nations, Métis and Inuit business owners across Canada, conducted from February 10 to March 10, 2015. The margin of error for a sample of 1,101 is +/- 3.0 percentage points, 19 times in 20. The margin of error is greater for results pertaining to regional or other subgroups of the total sample" (Canadian Council for Aboriginal Business, 2016, p. 51[1]).

[13] The study reports that "among the major industries, particularly strong incidences of innovation were reported among those in the manufacturing (where 94% of firms reported introducing a new product and/or service), management (79%), consulting (76%), and education (74%) sectors" (TD Economics, 2017[66]).

[14] There are for types of business structures in Canada: sole proprietorship, partnership, corporation and co-operative.

[15] All regressions include province dummies, sector of activity dummies, gender, indigenous group, dummy for in/out reserve, dummies for number of employees, dummies for educational level of owner, age of owner, dummy for government loan. The estimation method is generalised linear

regression (binomial with logit link) using weights from survey. So if a variable is not mentioned in the results it's because it wasn't significant (this does not apply to the province and sector of activity dummies).

[16] The list of procurement vendor contracts adds to around 242 million (Open Canada, 2017[106]).

[17] Note that the 2011 Canadian Census is in fact a National Household Survey as the mandatory long form Census was abolished in 2011. It was later reinstated for the 2016 Census of population.

[18] Statistics Canada defines Aboriginal identity' as: "whether the person identified with the Aboriginal peoples of Canada. This includes those who are First Nations (North American Indian), Métis or Inuk (Inuit) and/or those who are Registered or Treaty Indians (that is, registered under the Indian Act of Canada), and/or those who have membership in a First Nation or Indian band. Aboriginal peoples of Canada are defined in the Constitution Act, 1982, Section 35 (2) as including the Indian, Inuit and Métis peoples of Canada." In the Canadian Census, Aboriginal identity is derived from data collected in three questions: Aboriginal group (Question 18); Registered or Treaty Indian status (Question 20); and Membership in a First Nation or Indian band (Question 21). In Question 18, respondents could respond 'Yes, First Nations (North American Indian),' 'Yes, Métis,' 'Yes, Inuk (Inuit)' or 'No, not an Aboriginal person' by checking off the appropriate mark-in circle. In Question 20, respondents could respond 'No' or 'Yes, Status Indian (Registered or Treaty).' In Question 21, respondents could respond 'No' or 'Yes, member of a First Nation/Indian band.' (Statistics Canada, 2017[105]).

[19] In 2019 CCAB completed in-person interviews in more than 100 Aboriginal communities located across Canada as part of the National Perspectives on Aboriginal Economic Development research project. This research is the first to be completed of its kind in Canada – providing insights directly from the actors involved in driving economic prosperity within urban and on-reserve Aboriginal community economies. The actors surveyed include: Chief and Councils, Aboriginal Economic Development Corporations, Trust Officers, Economic Development Officers, Band-Owned Businesses and Financial Lenders, the National Perspectives on Aboriginal Economic Development research provides valuable insight into the economic realities of Aboriginal communities.

[20] For example, while in 1986, there were 136 incompletely enumerated Indian reserves and Settlements, this number was just 14 in the 2016 Census (Statistics Canada, 2018[73]).

[21] The Act created four new institutions and was titled: An Act to provide for real property taxation powers of first nations, to create a First Nations Tax Commission, First Nations Financial Management Board, First Nations Finance Authority and First Nations Statistical Institute (Justice Laws, 2005[107]).

[22] The five lead departments for Canada's response to the United Nations' 2030 Agenda for Sustainable Development are: Employment and Social Development Canada,, Environment and Climate Change Canada, Global Affairs Canada, Indigenous and Northern Affairs Canada, and Status of Women Canada.

[23] Data on employment equity in the Public Service of Canada is for the fiscal year 2016 to 2017 Office of the Governor General's Secretary. Statistics Canada has the second lowest percentage of Aboriginal employees among federal departments; the department of Finance has the lowest at 2.4%. This analysis excludes the small agencies of the International Joint Commission, Office of the Commissioner of Lobbying of Canada, Copyright Board Canada, RCMP External Review Committee, Canadian Space Agency, Administrative Tribunals Support Service of Canada all of whom have a much lower % of Aboriginal employees out of total or for which data is unreported because data for small numbers is supressed (Government of Canada, 2018[100]).

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Chapter 3. The importance of land for Indigenous economic development

The objective of this chapter is to assess and provide recommendations about how to improve the ways Indigenous peoples in Canada secure and use land. The chapter starts by offering an historical contextualisation of Indigenous lands and explores how they can promote community development. The second section sets out the Indigenous land rights framework in Canada, which differs between First Nations, Métis and Inuit. The chapter then explores how treaty rights have evolved in recent years and outlines mechanisms to expand the land base. Following this, the chapter examines how Indigenous groups can better manage land, participate in or undertake land use planning, establish objectives for community development and obtain revenues from land. The chapter ends with a discussion of Indigenous land rights in relation to natural resource development projects, including frameworks for participation and consultation.

Key findings and recommendations

Key findings

- Land is a fundamental asset for sustainable economic development for Indigenous peoples, and land rights are critical for self-determination.
- Indigenous peoples in Canada disproportionately continue to have a small, fragmented land base, with limited commercial and residential use, limited natural resources, far from urban centres and with limited ability to expand.
- Indigenous peoples have different levels of property rights over different lands (reserves, fee simple land, and modern treaty lands), and have mechanisms available to obtain these lands. In recent decades, these mechanisms have been utilised to increase the Indigenous land base.
- Security of tenure is associated with improved economic outcomes. Opportunities for development vary according to the land base and the defined land rights regime, as well as by location, proximity to service centres, population size, resource endowment and institutional capacity.
- There are a range of tools that can be implemented in the Indigenous land tenure system to empower Indigenous peoples and improve economic development outcomes (including land use planning, leasing, and certificates of possession). There are opportunities to improve the efficiency of these tools, and build the capacity of Indigenous groups to utilise them.
- Once land tenure is secured, it provides the basis to negotiate benefit sharing agreements with project proponents. These agreements can be a catalyst for development if they are linked to a community plan, have dispute resolution mechanisms, and provide for project closure and remediation.

Key recommendations

Improve the framework for Indigenous peoples to secure land through the **comprehensive land claims policy** by:

- Ending the practice of requiring that Indigenous rights holders extinguish their inherent and/or treaty rights as a prerequisite for an agreement.
- Supporting Indigenous groups with the capacity to effectively undertake negotiations.
- Developing independent and ongoing monitoring mechanisms in order to ensure that the commitments made by the Government of Canada in comprehensive land claim agreements are met in a timely and effective manner.

Develop better procedures for First Nations to increase existing reserve land through the **Treaty Land Entitlements and State-assisted land acquisition processes** by:

- Tracking the overall time it takes to convert lands to reserve status and demonstrate progress periodically—report publicly and include in departmental performance indicators.

- Working closely with First Nations to assist them in their efforts to resolve third-party interests.
- Undertaking a national audit of surplus government land to identify opportunities for set asides.
- Establishing a portfolio of land to be made available for future land claim settlements.
- Establishing a shared national/provincial programme of land purchase.

Develop **better tools for Indigenous groups to use land** by:

- Providing legal templates for opting First Nations to start building their land codes and associated regulations in order to facilitate the law enactment, reduce the need to resort to external consulting, and avoid the proliferation of unique property rights regimes (within the framework of the FNLM Act).
- Ensuring community plans detail which land can be available for leasing and land codes regulate intended use and accepted levels of nuisance.
- Ensuring there are mechanisms in place for Indigenous communities to have meaningful consultation with regards to the land use planning of municipal and other authorities that have jurisdiction on or near their traditional territories.

Strengthen the negotiating power of Indigenous groups in the context of **impact-benefit agreements** (IBA) by:

- Providing all the necessary information on environmental conditions, sub-surface resources, land uses, competing economic interests and other elements that Indigenous groups may not be aware of.
- Referring companies to a legitimate regional or national Indigenous organisation that can serve as the contact point with local groups.
- Elaborating a common set of tools and templates from which Indigenous groups can draw to start negotiations.
- Facilitating workshops among Indigenous negotiators and leaders to share experiences and good practices in agreement-making.

Land. If you understand nothing else about the history of Indians in North America, you need to understand that the question that really matters is the question of land. Thomas King, The Inconvenient Indian (2012), pg. 218.

Land is a fundamental asset for sustainable economic development. This is no different for Indigenous communities in Canada and it is a reason why land rights are critical for self-determination. However, land is much beyond just an economic asset for Indigenous peoples. Land provides sustenance for current and future generations; it is connected to spiritual beliefs, traditional knowledge and teachings; it is fundamental to cultural reproduction; moreover, commonly held land rights reinforce nationhood.

The history of Indigenous lands in Canada is one of disposition and isolation. Indigenous land rights in Canada have been strengthened by successive court cases and administrative processes that have evolved to better address such issues as expanding the land base.

Despite this, Indigenous rights frameworks are by no means settled and they remain one of the most politically contentious issues to this day. Major infrastructure projects such as the expansion of the Trans Mountain oil pipeline have been halted by unanimous decision of the federal court of appeal because of the government of Canada's failure to address the concerns of some First Nations.[1] And yet, the extent to which First Nations are able to assert their rights over their land remains unclear – particularly when those rights come up against major developments of national interest.

This chapter explores how Indigenous groups access, protect and use land in Canada according to their own objectives, respecting the principle of self-determination. The chapter primarily focusses on First Nations and Inuit land rights and land management. Since the 1970s, modern treaties and self-governance agreements have been signed between the Crown, the province or territory and Indigenous peoples. Taking this historical evolution into consideration, the report traces a path of advancement and points out areas for further improvement. The recent recognition of Métis land rights is briefly discussed, too.[2]

The chapter proceeds in five parts. The first section offers historical contextualisation of Indigenous lands and explores how they can promote community development. The second section sets out the Indigenous land rights framework in Canada, which differs between First Nations, Métis and Inuit. The third section explores how treaty rights have evolved in recent years and outlines mechanisms to expand the land base. Following this, the chapter examines how Indigenous lands can support sustainable economic development. More precisely, it investigates how Indigenous groups can better manage land, participate in or undertake land use planning, establish objectives for community development and obtain revenues from land. The chapter ends with a discussion of Indigenous land rights in relation to natural resource development projects, including frameworks for participation and consultation. Throughout, the chapter offers recommendations on how to strengthen the Indigenous land rights regime and governance in Canada.

Land: From dispossession to ongoing reconciliation

Land rights are a contentious issue, but necessary to achieve reconciliation

The delimitation, access and right to land and waters by Indigenous peoples[3] is one of the most contentious political issues in Canada. Not every Indigenous group has the right to land assured, up to today. For instance, non-Status Indians are not considered members of reserves and cannot claim lands, while for the Métis, who are one of the three Indigenous peoples of Canada, the very existence of land rights remains disputed (Drake and Gaudry, 2016[1]). Treaty renegotiation takes place in Canada today. Other groups are currently negotiating treaties for the first time – more than 70 are under negotiation as of September 2019. Furthermore, when land rights *are* defined, it remains to be decided on a case-by-case basis whether development projects can take place or not. The extent to which Indigenous peoples have the right to be consulted about or to veto projects in their traditional territories is disputed (Land, 2016[2]). Controversial cases such as the expansion of Kinder Morgan's Trans Mountain Pipeline corroborate this point. The company has negotiated benefit agreements with 43 Indigenous communities out of a total of 133 affected by the project, but consent is far from being reached: 53 First Nations in British Columbia have formed a treaty alliance against the project, and other First Nations have signed a petition against the project.[4]

The Truth and Reconciliation Commission makes some Calls to Action about land rights, albeit not dealing extensively with the issue (TRC, 2015[3]). The Call to Action 45 urges the Government of Canada to jointly develop with Aboriginal peoples a Royal Proclamation of Reconciliation to be issued by the Crown. It called on the Government of Canada to:

- Adopt the *United Nations Declaration on the Rights of Indigenous Peoples* (UNDRIP), which the Government did in 2016, and implement the *Declaration* as the framework for reconciliation.
- Repudiate concepts used to justify European sovereignty over Indigenous lands and peoples such as the Doctrine of Discovery and *terra nullius* (see definition on Box 3.1 below).
- Renew or establish Treaty relationships based on the principles of mutual recognition, mutual respect, and shared responsibility for maintaining those relationships into the future.
- Reconcile Aboriginal and Crown constitutional and legal orders to ensure that Aboriginal peoples are full partners in Confederation, including the recognition and integration of Indigenous laws and legal traditions in negotiation and implementation processes involving Treaties, land claims, and other constructive agreements (TRC, 2015[3]).

Indigenous title to land pre-exists colonisation and European Laws. By virtue of historical occupation and customary law, Indigenous peoples in Canada are dutiful holders of their traditional lands. In this sense, Treaties should be honoured, renegotiated when needed and negotiated where non-existent and this process should be guided by the principles of mutual recognition and respect, rather than dominance, as was often the case in the early days of treaty making in Canada. By force of the Call to Action 45 and its interpretation, Indigenous land rights compose the Reconciliation and Truth project.[5]

Box 3.1. Dispossession and subjugation: The role of the Doctrine of Discovery and *terra nullius*

15th century English legal scholarship forwarded the Doctrine of Discovery, with long lasting ramifications for Indigenous rights. The Doctrine provided that newly arrived Europeans immediately and automatically acquired legally recognised property rights over Indigenous lands and also gained governmental, political and commercial rights over the inhabitants without the knowledge or consent of Indigenous peoples.

The notion of *terra nullius*, meaning empty or void land, is one of the key elements of the Discovery Doctrine. The Doctrine argues that the lands that were not possessed or occupied by any person or nation, or were occupied by non-Europeans but not being used in a fashion that European legal systems understood or approved were considered empty and available to be claimed. Indigenous lands fell into the category of not being governed according to European laws and cultures, and were thus available for Discovery claims. Moreover, given the nomadic nature of many Indigenous Nations, lands may have appeared empty and available but were actually part of the traditional lands used by Indigenous groups.

The Doctrine has been severely criticised as a fictional justification of the European colonisation and of the subjugation of Indigenous peoples and lands around the world. Despite this, it is only in recent decades that the governments and courts of Australia, Canada, New Zealand and the United States have sought to overcome this Doctrine of land dispossession.

Source: Adapted from Miller, R. et al. (2010[4]), *Discovering Indigenous Lands*, http://dx.doi.org/10.1093/acprof:oso/9780199579815.001.0001.

Historic dispossession of Indigenous lands has resulted in limited reserve land

Colonialism left a legacy of economic dependency and a situation of relative deprivation of Indigenous Peoples in Canada (Alfred, 2009[5]). Land allocation policies have been part of this process by establishing reserves and assigning Indigenous peoples to confined and isolated tracts of land. The Final Report of the Royal Commission on Aboriginal Peoples, the most comprehensive study to date on this matter, identifies land dispossession as one of the root causes of this condition (RCAP, 1996[6]). The Parliament of Canada has recognised that "the alienation of land and resources has been a major contributor to the economic marginalisation of Aboriginal peoples in Canada" (Parliament of Canada, 2012, as cited in (PRA, 2016[7])). The Government of Canada has signalled that a sufficient land base, local governance and community capacity are fundamental conditions for community economic development (Table 3.1).

Table 3.1. Conditions for community economic development

Land base	A sufficient base of **useable land** as part of the community's physical assets, which may include land appropriate for conventional economic development, land suitable for traditional pursuits, and land for community purposes such as housing and recreation.
Local Governance	Having in place **rules and systems that work** so that community governance, land management, and other necessary elements of the day-to-day operation of community affairs are effective and efficient and create accountability, credibility, and fairness. A high degree of control over **local decision-making**, which results in First Nations having the necessary autonomy and freedom to pursue their own goals, in their own way, and arises from timing and methods that make sense for the local conditions and for the goals and aspirations of their community.
Community capacity	A level of **community capacity** that results in community members having the abilities, skills, and sense of influence necessary to undertake change in their community.

Source: AANDC (2013[8]), *Creating the Conditions for Economic Success on Reserve Lands: A Report on the Experiences of 25 First Nation Communities*, https://www.aadnc-aandc.gc.ca/eng/1372346462220/1372346568198#tab16 (accessed on 30 November 2018).

Throughout Canadian history, Indigenous peoples have been dispossessed of their traditional territories and forcefully moved to lands in worse locations or of inferior quality in order to make way for the growth of the settler society. When reserves were created, they were generally located away from the best lands in terms of agriculture and trade as the settler population expanded (RCAP, 1996[6]). Consequently, many reserve lands have little natural resources and are located at great distance from major population centres. As of 1996, almost 80 per cent of First Nations were located more than 50 kilometres from the nearest access centre (RCAP, 1996[6]).

Indeed, while representing 4.9% of the total population, Indigenous peoples hold around 626 000 km² or 6.3% of the total landmass of Canada. Most of it lies north of the 60th

parallel, whilst in the southern provinces, which are home to approximately 95% of all Indigenous Peoples within Canada, only 37 000 km² are held by Indigenous groups, that is 0.5% of Canada's land mass (Göcke, 2013[9]).

In short, Indigenous lands disproportionally have disadvantageous attributes, which include:[6]

- **Small Land Base**: Approximately 0.5 % of the Canadian land mass south of the 60th parallel.
- **Limited Commercial and Residential Use**: The federal land allocation policy has largely allocated reserve lands away from high quality and urban lands as the population expanded.
- **Patchwork Nature**: 80 per cent of First Nations reserves are below 500 hectares in size, which makes it harder to establish infrastructure, development projects and viable businesses.
- **Limited Natural Resources**: Reserve lands generally have low agricultural or mineral potential.
- **Limited Territorial Expansion Ability**: The ability of band councils to expand their land base is reduced, albeit policies such as Additions to Reserve and Specific Claims negotiation process seek to expand these possibilities.
- **Effects of nearby activities:** Surrounding activities and development in close proximity to reserves can place pressure on reserve boundaries and/or cause environmental degradation on or around the reserve.

In the face of this evidence, the Royal Commission on Aboriginal Peoples (RCAP, 1996[6]) concluded that a reliable land base is a pre-condition for autonomous self-governance. A significant expansion of lands owned and controlled by Indigenous peoples would provide a reasonable basis for achieving economic self-reliance (Alfred, 2009[5]). It would contribute to a more effective use of taxation powers, which have been greatly affected by the abovementioned land allocation policy (Belley, 2000[10]).[7] Economic independence is an important pre-condition for sustainable self-governance regimes.

More than 20 years after the publication of this major study, these conclusions hold true. Indigenous peoples in Canada disproportionately continue to have a small, fragmented land base, with limited commercial and residential use, limited natural resources, far from access centres and with limited ability to expand. The fair and prompt resolution of outstanding land claims would significantly address this problem. In addition, instruments to expand the land base must be consistently adopted, which are treaty-making, comprehensive claims policy, specific claims policy, land acquisition in the market, Additions to Reserve, right to pre-emption and facilitated land purchases.

Métis title is pending broader recognition

Métis were first recognised as a distinct right-holding group with the passage of the 1982 Constitution Act. Section 35 of the Constitution Act affirmed existing Aboriginal and treaty rights and recognised Métis as one of the three distinct Indigenous groups in Canada, alongside the Indians and the Inuit. In 2003, the Supreme Court of Canada set a legal test for rights-bearing Métis communities and recognised that Métis have broader hunting rights on traditional territory (Powley decision). Refer to Chapter 1 for this discussion.[8]

The Métis did not enjoy a distinct land base from which to strengthen their identity and culture or govern themselves as First Nations in reserves did. Historically, the only

exception is the province Alberta, where there is a unique history of Métis. A provincial legislative basis for the establishment of the Métis Settlements was successfully negotiated under the Métis Population Betterment Act of 1938. The eight Métis Settlements of Alberta (Buffalo Lake, East Prairie, Elizabeth, Fishing Lake, Gift Lake, Kikino, Paddle Prairie and Peavine) comprise 1.3. million acres of land and have a population of around 5,000 people.

Apart from that, federal government policies related to Indigenous lands have not included Métis. Until today, the Comprehensive Land Claims Policy does not include the Métis. Likewise, the Specific Claims Policy is restricted to First Nations dealing with historical grievances related to historic treaties and land management. The Addition to Reserve process anticipates consultation to Métis, but has reportedly been defective. Special Claims from the Métis may be accepted in a case-by-case basis, but the lack of a standard procedure renders decision-making more lengthy, complex and ambiguous. In all, the Métis did not benefit significantly from these policies, except when they had other Indigenous groups by their side. For instance, in 1993, the Sahtu Dene and Métis signed a Comprehensive Land Claim Agreement which, among other provisions, granted title to 41,437 square kilometres of land in the Northwest Territories.

Given the lack of recognition of Métis title in government policies, Métis have resorted to the Courts. In the Manitoba Metis Federation decision, the Supreme Court of Canada ruled that the federal government had failed to appropriately carry out its promise in the 1870 Manitoba Act to set aside 5 565 square kilometres of land for the 7 000 children of the Red River Métis. Besides recognising the breach of treaty, which in itself has major significance, the Manitoba Metis Federation decision set ground for reconciliation. In November 2016, the Manitoba Métis Federation-Canada Framework Agreement on Advancing Reconciliation was signed.

In all, Canada has recognised Métis rights by different levels. In 2019, for instance, the Government of Canada signed Métis Government Recognition and Self-Government Agreements with the Métis Nation of Alberta, Métis Nation of Ontario and the Métis Nation of Saskatchewan. The agreements address core governance issues such as leadership selection, internal operations and citizenship. Commenting on these agreements, Thomas (2016) notices that future developments on these agreements may allow a more comprehensive analysis about where the recognition of Métis land rights is heading.

To conclude, Thomas (2016), in the Report "A matter of national and constitutional import: report of the minister's special representative on reconciliation with Métis: section 35 Métis rights and the Manitoba Métis Federation decision", recommends that Canada develops a policy to expressly address Métis Section 35 rights claims and related issues, founded on the legal principle of reconciliation. Moreover, because the Crown as a whole, federal and provincial, is accountable for its obligations to Métis as Section 35 rights-bearing Aboriginal peoples, the Report recommends them to work together to develop a joint process by which to address unresolved Métis Section 35 rights claims and related issues (Thomas, 2016).

For Indigenous peoples, land has spiritual and cultural value, beyond a utilitarian view

Access to land is a condition for Indigenous development, however conceptualised. Considering that Indigenous peoples have the right to self-determination and the right to development, only they can determine if and how to use their traditional territories. They are the ones to establish how eventual uses collide or not with their worldviews, spiritual beliefs and cultural practices. Right to land can increase autonomy, generate revenues and

create economic opportunities, but it can also be used without any direct monetary benefit, for environmental conservation and cultural preservations. Indigenous peoples ought to reconcile these goals, depending on how they relate to and connect with land.

The manner in which land is thought about and used by Indigenous peoples goes beyond that of conventional (Western) conceptions of land as an economic asset. The spiritual beliefs and worldviews of Indigenous peoples are deeply rooted on their connection with land and often with related subsistence activities of hunting, fishing and gathering. Access *to* or ownership *of* land can also orient social relations including rules for leadership, marriage, inheritance and group belonging. Indigenous stewardship of land contributes to environmental preservation and biodiversity. Access to land puts Indigenous people in stronger negotiation position to leverage and protect their interests. These different aspects do not exclude, but complement one another. Land rights are therefore crucial to the maintenance of the collective identity of Indigenous groups.

Understood in these terms, the right to land ought to be held collectively.[9] Collective land rights are crucial for the preservation of Indigenous peoples' identities and for their subsistence as such. In some circumstances, e.g. in cities, it may be more convenient and even necessary to own land individually. Furthermore, individual interests to land may be allocated, without disrupting the collective nature of the land title. Internal sub-divisions of land may facilitate housing construction and maintenance, propel business development and create bankable interests on land, e.g. via leasing.

> *... [R]esorting to a private property regime only promises to shift Aboriginal economic dependency from the Crown to lenders. This is a subtle way of completing the centuries-old goal of the colonizers – assimilation – now re-packaged as "economic opportunity." This is not to say that someday an on-reserve private property regime could not be a useful tool in the hands of our First Nations. Reserves near urban centres, equipped with adequate training, education and infrastructure, sufficient land to meet the needs of their members, and reasonable employment rates, may find some advantage to being able to borrow against and even market portions of their lands. It is more difficult to foresee how privatization will assist remote communities. Lands in these territories will lack any significant market value. These are Canada's most impoverished and troubled reserves, and aside from opportunistic resource companies, little outside interest in these lands exists. (Rowinski, 2010[11])*

To conclude this section, access to land and natural resources is fundamental for the material and social reproduction of Indigenous peoples. In the words of the former United Nations Special Rapporteur for Rights of Indigenous Peoples, James Anaya: "securing the rights of Indigenous Peoples to their lands is of central importance to Indigenous Peoples' socioeconomic development, self-determination, and cultural integrity" (Anaya, 2012[12]). The Article 29 of the United Nations Declaration on the Rights of Indigenous Peoples (UNDRIP) states that:

> *1. Indigenous peoples have the right to the conservation and protection of the environment and the productive capacity of their lands or territories and resources. States shall establish and implement assistance programmes for indigenous peoples for such conservation and protection, without discrimination.*
>
> *2. States shall take effective measures to ensure that no storage or disposal of hazardous materials shall take place in the lands or territories of indigenous peoples without their free, prior and informed consent.*

Indigenous land rights frameworks

Indigenous peoples have different levels of property rights over different lands

Colonialism ushered in a governance of land rights regime that was alien to Indigenous peoples and that was imposed upon them. While these legal frameworks have evolved, they, to this day, do not necessarily 'sit' easily with Indigenous land governance regimes (including its cultural, spiritual and community-based elements). Thus, the following discussion of land rights frameworks is premised by the acknowledgement that Canadian jurisprudence has defined property in a specific way and evolved from European property rights regimes. As specific land rights regimes have been established to govern "Indian lands" and these too are premised on a western view, they continue to be challenged in court and they continue to evolve.

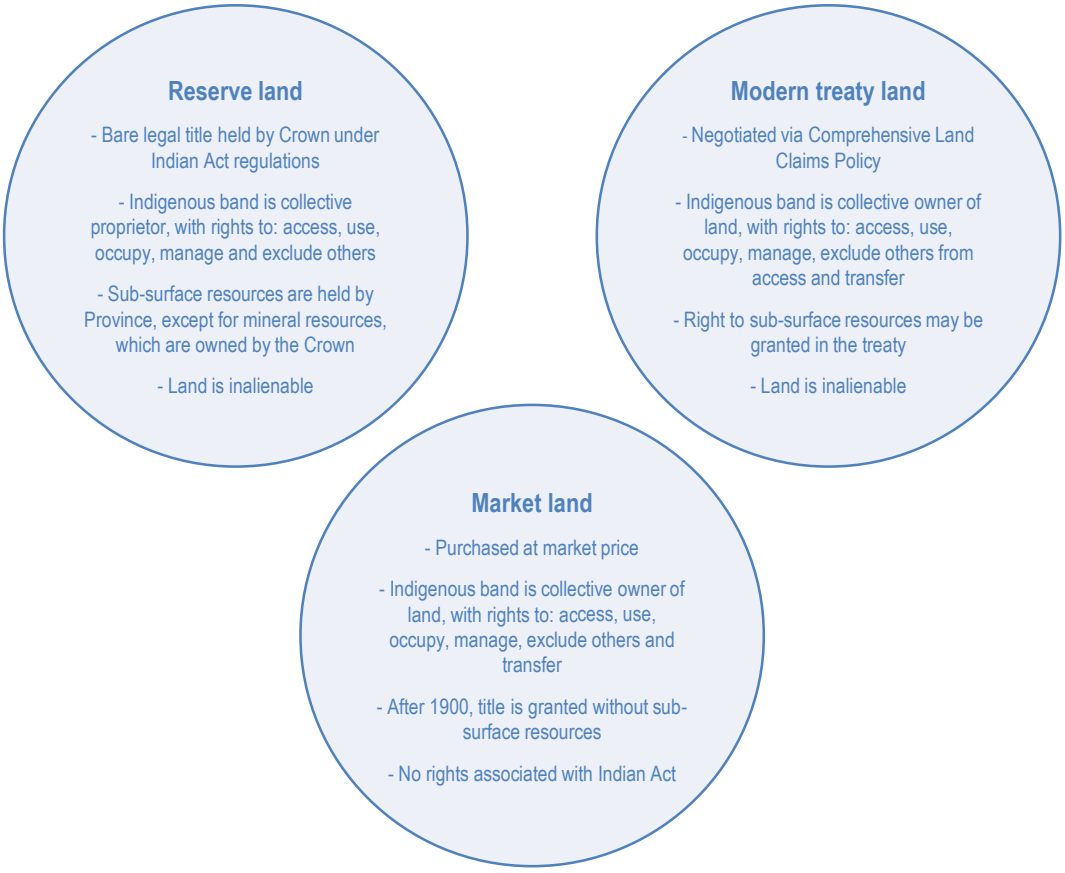
"Land" can be interpreted as encompassing the buildings that sit on it, the air above it and the underground, including water and, sometimes, sub-surface natural resources. "Land" translates into the legal framework as property rights, which express a relation between an individual or a group that holds right to land and the others who do not. As a "bundle of rights", they are composed of five attributes: access, extraction, management, exclusion and alienation. The owner can access the land and exclude others from accessing, can use the land and enjoy its fruits and can transfer it to third parties, onerously or gratuitously. Indigenous individuals or groups that hold land freely acquired in the market are the rightful owners, but this land does not enjoy the special protection that reserves do under the *Indian Act*. The proprietor of land does not have the right to transfer land, as it occurs in Canadian reserves, where the First Nations have the right to exclusive use and occupation but the final title to land rests with the Crown.

Historic treaties comprised the creation of federal reserves, which are the most common expression of collective rights to land. The *Indian Act* defines reserve land as "a tract of land, the legal title to which is vested in Her Majesty, which has been set apart by Her Majesty for the use and benefit of a band". As a bare legal title, title is in the Crown but the use, occupation and beneficial interests in the land are set apart for the Indigenous band.[10] Once reserves are constitutionally protected (section 35 of the *Constitution Act*, 1982), the federal government cannot unilaterally diminish or take them away. The band council is the proprietor of reserve land, by which they hold the right to exclusive use and occupation, inalienability and the communal nature of the interest. Reserves have exemption from property and estate taxes. According to Statistics Canada, in 2011 there were more than 600 First Nations/Indian bands in Canada and 3 100 Indian reserves.

Indigenous individuals or band councils can also acquire fee simple land in the market, becoming its rightful owners. In this case, land will not have the special protection status granted under the *Indian Act*. It is subjected to taxation as any other piece of land and can be sold again in the market.

Besides reserves and market-price land, Indigenous peoples may address unresolved title to their traditional territories by negotiating a modern treaty through the *Comprehensive Land Claims Policy*. Comprehensive land claim agreements can be negotiated in areas where land and resources have not been dealt with previously. They typically take the form of a tripartite agreement between the Indigenous group, the Government of Canada and the province and territorial government. They result on the allocation of ownership rights to land and contain provisions for economic development.

Figure 3.1. Indigenous land rights in Canada



Note: The figure takes into account land rights of First Nations and Inuit recognised and declared by the State. Unresolved Aboriginal title to traditional territories is not included, neither are land rights of Métis.

Harvesting, hunting and fishing rights are collective rights granted in reserve and fee simple lands, and are considered treaty rights. In the territories traditionally occupied by Indigenous peoples which are not part of reserves or owned as fee simple land, fishing and hunting rights, exclusive or not, may still be granted. These traditional activities have cultural, ecological and social value, and are thus important for the collective subsistence of Indigenous groups.[11] In the James Bay and Northern Quebec Agreement, for instance, exclusive fishing and hunting rights are attributed in certain lands, where non-exclusive rights are attributed in another one. It may also be the case that Indigenous peoples are given permission by private owners to hunt and fish in their lands.

Ownership of sub-surface resources varies from agreement to agreement. Under the *Comprehensive Land Claims Policy*, the right to sub-surface resources is not automatically included; rather, the agreement must grant it explicitly. In reserves, sub-surface resources are owned and administered by the respective Province or Territory, which is the regional level of government in Canada (Göcke, 2013[9]). According to the division of governmental responsibilities under the Canadian Constitution, Provincial governments hold authority over natural resources exploitation and might grant the rights to explore sub-surface resources to potential developers. Provincial governments are obliged to consult the impacted Indigenous and neighbouring communities in order to determine the socio-environmental impacts of exploration, and its employment and business opportunities for

local residents. Equally applied to the national government and private developers, the duty to consult is discussed at further length in the section on Natural resource development projects and Indigenous communities later in this chapter.

Box 3.2. The largest Aboriginal land claim settlement in Canadian history: The Nunavut Land Claim Agreement

In the 1970s, the Inuit Tapiriit Kanatami (Inuktitut syllabics: ᐃᓄᐃᑦ ᑕᐱᓕᑦ ᑲᓇᑕᒥ) – a non-profit organisation representing over 60 000 Inuit in Canada, put forward the idea of creating a Nunavut territory. This idea grew over time, culminating in the 1993 Nunavut Land Claim Agreement between the Tunngavik Federation of Nunavut (now Nunavut Tunngavik Incorporated), the Government of Canada and the Government of the Northwest Territories. It led in 1999 to the creation of Nunavut, via the amendment of the *Nunavut Act,* 1993.

This is the largest Aboriginal land claim settlement in Canadian history, covering a vast territory of 1 877 787 km^2 across Northern Canada and the Arctic Archipelago. The Nunavut Land Claim Agreement addresses a comprehensive range of political and environmental rights concerning issues such as land, water and environmental management regimes, conservation areas, wildlife management and others.

Aboriginal title: between proof and extinguishment

Indigenous title needs to be proven and declared by courts or recognised by the government in order to acquire its full expression in law. Treaty negotiations, which include the historic process of creating reserves and the modern process under the *Comprehensive Land Claims Policy*, are a means to recognise Indigenous title to land. Treaties grant land to Indigenous groups based on pre-existing title to land, originated from their customary law and given the pre-colonial history of use and occupation. However, many treaties covered a parcel of land which was smaller than the one originally claimed by the group as their traditional territory. By accepting this treaty land, the Indigenous group would have to relinquish the right to claim traditional land in the future: this is the extinguishment of Indigenous title.

Many treaty negotiations in Canada have not been yet concluded because the First Nations involved are not willing to accept extinguishment. Canada's first modern treaty, signed with the Cree and Inuit of Northern Québec in 1975, contained this provision. One of the leading negotiators of this process, Dr. Ted Moses, has affirmed that the extinguishment of Indigenous titled contained in the Treaty was highly contentious and problematic, but was ultimately accepted in order to obtain a settlement, develop their lands and consolidate an autonomous governance regime. To other Indigenous leaders – for instance the negotiators of the Petapan Treaty in the Lac Saint Jean region of Québec – relinquishing the right to claim back the whole extension of their traditional territory would undermine the foundations of Indigenous identity and sovereignty and would thus be unacceptable. Indeed, the agreement-in-principle of the Petapan negotiation states that the treaty shall not exhaustively enumerate or replace Indigenous rights, including Indigenous title, of the First Nations eventually provided with treaty rights.

Some agreements mitigate extinguishment by creating categories of land with different levels of rights and interests: a fraction of the traditional territory is granted full ownership rights, whereas other portions are held as fee simple. For example, the Umbrella Final

Agreement signed with the Self-Governing Yukon First Nations (1993) encompasses three categories of settlement land. In lands of Category A, each Yukon First Nation has surface and sub-surface rights to land and keeps Aboriginal rights, titles and interests in these lands. In Category B designation, the Yukon First Nations own the surface rights but not the sub-surface rights, and still maintain Aboriginal rights, title and interests in these lands. The third category is fee simple ownership, whereby they have complete ownership of the land's surface but do not have Aboriginal rights, titles and interests.[12] The government has a duty to consult and accommodate Indigenous interests wherever Indigenous title remains unproven but is reasonably presumed to exist. Canadian courts have repeatedly weighed in on whether these duties have been adequately met (Wilson-Raybould, 2014, p. 500[13]). The federal, the provincial and territorial governments and third parties must meet this standard of consultation, which applies to the reserves and the traditional territories.

Recognition of Aboriginal title in different treaties and government policies is not a settled issue. In the specific claims process, there is opportunity to correct previous land allocations that may be perceived as unjust or whose implementation may have been incomplete. Many Indigenous groups are undertaking treaty negotiations for the first time. For others, while reserves do not fully represent their territory, a treaty that grants rights to land but imposes the extinguishment of the remaining Indigenous title would not be acceptable. In September 2019, a new policy for treaty negotiation was endorsed in British Columbia, recognising the legal and constitutional nature of indigenous title and rejecting extinguishment (Box 3.4). In all, the Government of Canada and Indigenous groups face a difficult, politically charged task when allocating land rights and defining their boundaries.

Deriving wealth from land: opportunities for community economic development

Indigenous peoples must be at a position to derive wealth from their land and natural resources should they so choose, as public and private actors everywhere do. Across OECD countries, land and buildings constitute by far the most important share of wealth, making up 86% of total capital stock (roughly evenly split between land and property), with a corresponding value of USD 249 trillion (OECD, 2017[14]). For Indigenous peoples, the value of land may be more difficult to assess, because of the challenges of measuring the social and cultural aspects of land. Even then, this demonstrates the importance of land as a basis for community development and cultural reproduction. When Indigenous peoples can manage land, it means they can use, protect and develop it according to their own objectives: such is the definition of governance. In short, governance of land use holds the promise of Indigenous-led socioeconomic development.

Opportunities for community development vary according to the land base and the defined land rights regime, as well as by location, proximity to service centres, population size, resource endowment and institutional capacity. A small land base implies lower levels of wealth and restricted ability to host firms, infrastructure projects and housing. Larger places are able to host more firms, which leads to a greater variety of business types and potential for competition among forms in the same type of business, both for sales and workers. However, as discussed above, Indigenous lands in Canada tend to be small and fragmented. Reserve lands located in or close to cities have higher value and in such cases, even small reserves may be able to leverage these assets for community economic development.

The land rights regime determines different levels of competencies for land management and project development. These in turn translate into different degrees of autonomy and institutional capacity. For instance, in reserves under the *Indian Act*, the government is responsible for land management, but if the band council opts for First Nations Land

Management (under the Framework Agreement on First Nation Land Management and the First Nations Land Management Act), there is a significant increase in the level of responsibilities and competences. Indigenous groups who signed modern treaties granting them full ownership rights over land also hold full responsibility for land use governance, as is the case with Nunavut, for instance.

Opportunities for community economic development and Indigenous entrepreneurship more broadly are linked to a community's size and accessibility. Remote communities have smaller labour markets. While reserves tend to have small populations, many members of Indigenous nations live off-reserves for jobs, educational opportunities or better housing offer. The relationships between these groups can be a real asset. Strong relations between community members living on and off reserve can help to broaden business opportunities, link to larger markets and may also boost on reserve incomes through remittances. These relationships differ across First Nations and may be reinforced in cases where off reserve members maintain voting rights for band leadership.

Location is an important factor. Small communities in close proximity to larger places or with a specific and highly valuable resource endowment have considerably greater opportunities than do small isolated communities. Those closer to cities have access to a larger market and tend to have more services-oriented businesses. In contrast, small isolated communities have more limited economic development options; for such places, natural resources endowments are key, for example, fish stocks, minerals or a high value tourist amenity. Resource extraction and its subsequent export provides employment and income both for local people and for other workers who migrate to the community. Larger communities are less reliant on their natural resource endowments, since their economies are driven by manufacturing, trade and the provision of services, both to the local population and through exports. The OECD has developed a typology for Indigenous economic development in rural areas (Box 3.3).

Box 3.3. Typology for Indigenous economic development in rural areas

The OECD's work on regional development policy has long emphasised a geographical lens on economic development. The more people inhabit a place, the more its character will be defined by second-nature geography – by human beings and their activities. Where settlement is sparse, first-nature geography inevitably dominates – less human settlement and activity necessarily implies a larger role for natural factors, such as the climate or landforms, in shaping economic opportunities. The following typology of economic development in rural areas outlines for ideal types:

1. **Remote Indigenous communities with abundant natural resources and amenities** – these places are longer than a 60 minute drive from a population centre of 50 000 people or more, and have opportunities for commercial development related to minerals, hydrocarbons, renewable energy, fishing and aquaculture, food production, and nature based tourism. A key issue for these communities will be how to invest own-source revenues in ways that support economic value adding and diversification, and building/attracting the necessary skills to support business growth, while promoting the sustainable management of resources for future generations.

2. **Remote Indigenous communities where natural resources and amenities are limited or absent** – these places lack natural resources available for commercial use, and economic development is limited to the internal market and some tourist opportunities (e.g. handicrafts). In these places government transfers, subsistence hunting and fishing, and local bartering and sharing through partnerships or service agreements with neighbouring communities and/or other Indigenous groups will play a greater role in supporting community well-being. A key issue for these communities will be ensuring access to public services that offer a sufficient quality of life to retain younger people.
3. **Indigenous communities close to cities abundant natural resources and amenities** – these places are within a 60-minute drive of a population centre of 50 000 people or more with sufficient land and resources available to develop commercial opportunities related to renewable energy, food production, and tourism. A key issue for these communities will be integrating with the wider urban/regional economy and governance arrangements to maximise the benefit of their resource base.
4. **Indigenous communities close to cities where natural resources and amenities are limited or absent** – these places are close to cities but do not have sufficient land size or the natural resources that enable commercial scale development opportunities. However, even land parcels are small, this may still present opportunities for retail and industrial land development, and collaboration with local municipalities on planning and infrastructure is important to activating these opportunities.

Source: OECD (2019[15]), *Linking Indigenous Communities with Regional Development*, https://dx.doi.org/10.1787/3203c082-en.

Indigenous communities have different starting points to derive wealth from land depending on their location and resource endowment. These factors are not controlled by them; that is, it something they either have or not. Yet, sound land and water management and land use planning can strengthen the initial position of Indigenous communities. Furthermore, adequate consultation and negotiation instruments in the context of sub-surface resources exploitation can put Indigenous peoples in a position to derive benefits and to influence the direction of development.

Evolving treaty rights and expanding reserve land

A sufficient base of usable land is a necessary condition for economic opportunities in Indigenous communities (AANDC, 2013[8]). A poor land base, either because of small size, lack of utility, remoteness, due to underservicing in terms of infrastructure or environmental degradation caused by flooding or nearby development means fewer assets to leverage in development efforts. Historically, Indigenous peoples' land has been diminished in Canada due to dispossession and alienation. However, in the past 50 years there have been growing efforts to (if partially) recover and strengthen this land base.

The most secure and effective way to augment the Indigenous land base is through tenure recognition. Formal title is associated with greater preservation of the cultural and linguistic diversity of Indigenous peoples (Oxfam/International Land Coalition/Rights and Resources Initiative, 2016[16]). Tenure security is positively associated with improved economic outcomes (Aragón, 2015[17]). Canadian research demonstrates that formal property rights in the form of modern treaties reduce transaction costs, increase resource extraction on Indigenous lands and are associated with higher local income (Aragón, 2015[17]). The results are driven by an increase in wages and employment income, as opposed to other changes associated with treaties such as financial compensation or expansion of the public sector.[13]

Better property rights regimes may facilitate contracts but are not a sufficient condition for development. They still require the existence of economic opportunities. The starting conditions in reserves may not be conducive to development, for instance, when reserves are located in remote rural areas, with few business opportunities and low levels of human capital. Besides markets, supportive institutions are needed to amplify the gains from formalisation, including Indigenous practices and community governance structures (Baxter and Trebilcock, 2009[18]).

Indigenous groups can obtain land through different mechanisms:

1. Modern Treaty;
2. Purchase in the free market or with preference from the State; or,
3. Via state-sponsored policies of facilitated acquisition (2016 Additions to Reserve / Reserve Creation Policy Directive).

This section investigates how these mechanisms work in Canada, bringing the experience of other countries and offering suggestions for reform. A mechanism will be more or less pertinent depending on the land rights regime adopted by the Indigenous group and on provincial regulations applicable in the area.

Modern treaty-making

Treaties are a particular type of agreement that must contain:

- Recognition of the Indigenous group as a 'distinct political community', rather than a minority group within the existing state.
- Negotiation of the terms of the agreement that are fair and undertaken in good faith.
- Inclusion of responsibilities and obligations for the parties, to bind them in an ongoing relationship (Petrie, 2018[19]).

Treaties often recognise land rights, although it is not mandatory that they do so. It is an important element because a group's territory is closely linked with their collective identity and holds potential for development opportunities. As discussed earlier in the Chapter, historic treaties have made First Nations bands the collective proprietor of reserve lands, whereas some modern treaties create categories of lands with different types of rights and interests. A few modern treaties confer right to land without extinguishment of Aboriginal title. Treaties are thus a fundamental mechanism of recognition of formal title to land.

Treaty negotiations are both a historical and an ongoing process. Between 1701 and 1923, the Government of Canada signed agreements with Indigenous communities. These are called historic treaties. Nevertheless, when the State has not fulfilled obligations or

satisfactorily implemented treaties, Indigenous groups may pursue judicial claims or negotiate specific land claims. Furthermore, many Indigenous groups are still undertaking treaty negotiations for the first time, which demonstrates how much this issue lies unresolved. These are called modern treaties and have been signed since 1973. They may include comprehensive land claims and self-government agreements. Lastly, it is worth noting that some Indigenous groups prefer not to engage in negotiation processes because doing so would demand an extinguishment of Aboriginal title.

Comprehensive Land Claims Policy—the modern treaty process

The Government of Canada adopted the *Comprehensive Land Claims Policy* in 1973 and updated it in 1986. It allows Indigenous groups, the Government of Canada and the appropriate Territory or Province to negotiate agreements, also called modern treaties. An agreement can refer to: transfers of land ownership; land, water, heritage, environment and wildlife management; financial compensation; a self-government agreement (since 1995); an economic development strategy; and sharing of resource revenue. Since 1973, 26 comprehensive land claims have been signed and are in effect, whereas at least other 56 are being negotiated as of November of 2018. Examples of treaties under negotiation are: Innu Nation Claim (Newfoundland and Labrador); Atikamekw Nation Council Comprehensive Land and Self-Government Claims (Quebec); Algonquins of Ontario (Ontario); and Inuit Transboundary Negotiations in Northern Manitoba (Manitoba).

The *Inherent Right Policy* of 1995 solidified the recognition of Indigenous peoples' right to self-government. According to this policy, Indigenous peoples of Canada "have the right to govern themselves in relation to matters that are internal to their communities, integral to their unique cultures, identities, traditions, languages and institutions, and with respect to their special relationship to their land and their resources." (FMB, 2018[20]). Self-government provisions can compose modern treaties or constitute a stand-alone agreement, accompanied by sectoral dispositions on health, education or other policy sector.

All land claims and comprehensive land claim agreements are constitutionally protected under Section 35. They cannot be amended or abrogated without the consent of all signatories. Sectoral agreements and stand-alone self-government agreements are not constitutionally protected, except the Déljnę Final Self-Government Agreement, which builds upon the Sahtu Dene and Métis Comprehensive Land Claim Agreement of 1994. Currently there are about 50 self-government negotiation tables across the country, at various stages of the process. Many of those are being addressed in conjunction with modern treaties.[14]

Canada has concluded 32 modern agreements with aggregations of Inuit, Métis and First Nations, between comprehensive, stand-alone and sectoral self-government agreements (FMB, 2018[20]) (Table 3.2). Since 2015 federal officials have been engaging in conversations with Indigenous groups, both within treaty negotiation processes and those outside treaty negotiations to address their rights, interests, and needs. These conversations, termed "Recognition of Indigenous Rights and Self-Determination discussions", seek to better respond to the needs and priorities identified by communities and focus on closing socio-economic gaps between Indigenous and non-Indigenous Canadians and advancing greater self-determination. Since 2015, Canada has signed 64 preliminary type agreements with Indigenous groups and are currently negotiating at 87 RIRSD tables.

Table 3.2. Modern agreements concluded (2018)

Type of agreement	Agreement
Land claims and comprehensive claims agreements	James Bay and Northern Quebec Agreement (1977) Nunavik Inuit Land Claims Agreement Quebec (2008) Labrador Inuit Land Claims Agreement (2005) Tlicho Agreement (Northwest Territories) (2005) Nisga'a Final Agreement (British Columbia) (2000) Tsawwassen First Nation Final Agreement (British Columbia) (2009) Maa-nulth First Nations Final Agreement (British Columbia) (2011) Eeyou Marine Region Land Claims Agreement (Quebec) (2012) Sahtu Dene and Métis Comprehensive Land Claim Agreement (1994) Nunavut Land Claims Agreement (1993) Tla'amin Final Agreement (2014) Northeastern Quebebec Agreement (2008) Inuvialuit Final Agreement/ Western Arctic Claim (1984) The Carcross/Tagish First Nation Final Agreement (2005) Champagne and Aishihik First Nations Final Agreement (1993) Kluane First Nation – Final Agreement (2003) Kwanlin Dun First Nation Final Agreement (2005) Little Salmon / Carmacks First Nation Final Agreement (1997) Nacho Nyak Dun First Nation Final Agreement (1993) Selkirk First Nation Final Agreement (1997) Gwich'in Comprehensive Land Claim Agreement (1992) The Ta'an Kwach'an Council Final Agreement (2002) Teslin Tlingit Council Final Agreement (1993) Tr'ondëk Hwëch'in Final Agreement (1998) Vuntut Gwitchin First Nation Final Agreement (1993)
Stand-alone self-government agreements	Westbank First Nations Self-Government Agreement (British Columbia) (2005) Deline Final Self-Government Agreement (2016) Cree Nation Governance Agreement (1978) Sioux-Valley Dakota Nation Self-Government Agreement (2014) Sechelt Indian Band Self-Government Act (1986)
Sectoral self-government agreements	Mi'kmaq Education Agreement (Nova Scotia) (1997) Anishinabek Nation Education Agreement (Ontario) (2017)

Sources: AANDC (2010[21]), *The Government of Canada's Approach to Implementation of the Inherent Right and the Negotiation of Aboriginal Self-Government*, https://www.aadnc-aandc.gc.ca/eng/1100100031843/1100100031844 (accessed on 12 December 2018). ; FMB (2018[20]), *First Nations Governance Project - Phase 1*, https://fnfmb.com/sites/default/files/2018-09/2018_FN-Governance_Project_phase1-low-res_update.pdf (accessed on 29 November 2018).

The Government of Canada and some provinces have attempted reforms to streamline treaty negotiations. While the treaty-making process is cumbersome and slow, it remains fundamental to advancing the reconciliation agenda. In British Columbia there has been a history of advancements that recently culminated in the principle of "no extinguishment" in treaty negotiations (Box 3.4). This built on previous efforts in British Columbia such as the Common Table Report (2008[22]) and the Lornie Report (2011[23]).

A 2018 report of the Standing Committee on Indigenous and Northern Affairs of Canada's House of Commons argued that, in its current form, the government's policies and processes serve to prevent Indigenous communities from achieving a fair resolution of their claims (Mihychuk, 2018[24]). Thus, despite the aforementioned efforts in British Columbia and elsewhere, revisions to strengthen the treaty negotiation process have been slow going and much remains to be done.[15]

As of the end of 2018, the government of Canada is undertaking discussions with Indigenous communities and organisations on the creation of a new "rights recognition" legislative framework that would give effect to UNDRIP articles related to self-determination, self-government and models of governance (FMB, 2018[20]). This may provide further impetus for long-needed reforms. In support of these efforts, the Government of Canada should consider:

- Ending the practice of requiring that Indigenous rights holders extinguish their inherent and/or treaty rights as a prerequisite for an agreement.[16]
- Supporting Indigenous groups with the capacity to effectively undertake negotiations.
- Develop an independent and ongoing monitoring mechanisms in order to ensure that the commitments made by the Government of Canada in comprehensive land claim agreements are met in a timely and effective manner.
- Ensure that those negotiating land claims agreements from the government's side have high-level decision-making authority (e.g., Ministerial authority).
- Continue adopting mediation and other alternative dispute resolution mechanisms, where appropriate.[17]

Fulfilment and implementation of historic treaties

First Nations may seek the fulfilment and implementation of historic treaties. For instance, a historic treaty may have promised a certain amount of land to a First Nation, but the Nation received less of it. In such instances, First Nations can make a claim to the government to receive the land that was promised or to obtain appropriate compensation, if it is not possible to get the land back. Another example relates to when the government handles money on behalf of the First Nation, but the Nation deems irregularities in the process. In such instances, the First Nation can again make a claim to assess the extent of the irregularity and potentially receive compensation for it. This section discusses the fulfilment and implementation of historic treaties through two policies adopted by the government: Specific Claims and Treaty Land Entitlement (TLE).

Box 3.4. Engagement for improved treaty negotiations in British Columbia

With the exception of the Douglas treaties and the extension of Treaty 8 in the northeast of the province, no pre-1975 treaties were signed in British Columbia. In 1990, the British Columbia Claims Task Force was created to recommend how Canada, British Columbia, and First Nations in British Columbia could negotiate treaties. The Task Force completed its report in 1991, and Canada, British Columbia, and the First Nations Summit accepted all of its 19 recommendations. These included the establishment of the British Columbia Treaty Commission and the creation of the made-in-British Columbia treaty negotiations process.

Since then, Canada, the First Nations Summit and the Province of British Columbia – the Principals – have been working collaboratively to strengthen and improve treaty negotiations, advance reconciliation and make progress on concluding agreements in the province.

In 2015, the Principals– agreed to establish a multilateral engagement process to improve and expedite treaty negotiations in British Columbia. The Principals acknowledged the need to employ greater flexibility to reach treaties by supporting constitutionally protected core agreements with side agreements, sectorial treaties and condensed Agreements-in-Principle. It also recognised that the funding process should be more transparent, with greater accountability. Dedicated funding and best practices guidance are needed to address territorial overlaps among First Nations.

In 2019, the Principals of the BC treaty negotiations process endorsed an important new policy, the *Recognition and Reconciliation of Rights Policy for Treaty Negotiations in British Columbia.* Co-developed by Canada, British Columbia, and the First Nations Summit, the policy makes it clear that negotiations will be based on the recognition of the inherent rights of Indigenous peoples. The new policy is unequivocal in rejecting extinguishment of existing Aboriginal rights and title, and directs that treaties not require full and final settlement and are capable of evolution. This brings the federal and provincial policies in-line with the original spirit and intent of the treaty negotiations process. The policy also acknowledges that negotiations must be based in good faith, the honour of the Crown, and will respect the *United Nations Declaration on the Rights of Indigenous Peoples*.

Sources: AANDC (2016[25]), *Multilateral Engagement Process to Improve and Expedite Treaty Negotiations in British Columbia Proposals for the Principals' Consideration*, http://www.cio.gov.bc.ca/cio/intellectualproperty/index.page (accessed on 30 November 2018); Global Newswire (2019[26]), "Canada, British Columbia, and First Nations Summit endorse new negotiating policy: Indigenous rights recognition and no extinguishment", https://www.globenewswire.com/news-release/2019/09/06/1912375/0/en/Canada-British-Columbia-and-First-Nations-Summit-endorse-new-negotiating-policy-Indigenous-rights-recognition-and-no-extinguishment.html; Government of Canada (2019[27]), *The Recognition and Reconciliation of Rights Policy for Treaty Negotiations in British Columbia*, https://www.canada.ca/en/crown-indigenous-relations-northern-affairs/news/2019/09/the-recognition-and-reconciliation-of-rights-policy-for-treaty-negotiations-in-british-columbia.html.

Specific Claims Policy—a mechanism to settle disputes related to land and other claims

Specific claims deal with past wrongs against First Nations, in relation to historic treaties. They are a voluntary process to settle disputes through negotiation, outside the judicial system.[18] The principles and process are established in the Specific Claims Policy, which was created in 1982 and significantly amended in 1990 and 2007. The goal of this process is to discharge the Federal Governments lawful obligations related to the administration of land and other First Nation assets and to the fulfilment of Indian treaties, though the treaties themselves are not open to renegotiation.

Not all specific claims are land-related, but many are. They can enable the administration of land and other assets or the fulfilment of First Nations treaties. For example, a specific claim could concern the insufficient provision of reserve land as promised in a treaty or the improper handling of First Nation money by the federal government in the past.

The Government of Canada has negotiated 464 specific claims as of March 2018. Hundreds are outstanding, including: 249 claims accepted for negotiation, 68 claims that lie before the Specific Claims Tribunal and 160 claims that are under assessment. Specific claims settlements successfully generated opportunities for development in some Indigenous communities (Box 3.5).

Box 3.5. Claim settlements and their outcomes: examples from across Canada

Claims negotiations are large undertakings and can take years to be realised. The following examples illustrate how some claims have been settled and their outcomes for community economic development.

- **The Onion Lake Cree Nation:** In 1994, the Onion Lake Cree Nation and the Government of Canada successfully negotiated a Treaty Land Entitlement Specific Claim. Monetary compensation of approximately USD 30 million translated into joint ventures with private energy partners and allowed exploration and development on about 140 000 acres of existing and new treaty land.
- **Keeseekoowenin First Nation:** The reserve land at Clear Lake was taken away by the government in 1935 for the creation of the Riding Mountain National Park, without the consent of the community. The door to a negotiated settlement opened in 1991, when the federal government recognised that the park boundaries should not have included the reserve. By 2005, Canada and the First Nation had reached a settlement on two claims: all 435 hectares of the former reserve land at Clear Lake were returned to the First Nation, and they also received approximately $ 12 million in compensation. The claim settlement paved the way for the First Nation and Parks Canada to begin to rebuild their relationship and to work together.
- **Abenaki Nation**: The Abenaki Nation was established on two reserves, Odanak and Wôlinak, located on the South shore of the St. Lawrence River, and a third reserve, Crespieul, 400km away. In the end of the 19th century, timber was being illegally pillaged from this reserve. The government's response was to surrender the land for auction. In 1996, under Canada's Specific Claim Policy, the Abenaki Nation filed a request aiming to obtain compensation for the government having authorised the surrender of lands, in what characterised a breach of its fiduciary obligations. In 2007, after 4 years of negotiations, the two parties agreed that the

Abenakis would permanently give up their rights to the Crespieul territory, in exchange for a net compensation of 4.5 million dollars. The agreement was ratified after a referendum submitted to community members.

Source: Crown-Indigenous Relations and Northern Affairs Canada (2015[28]), *Success Stories: Acts, Agreements and Land Claims*, https://www.rcaanc-cirnac.gc.ca/eng/1306932724555/1539953769195 (accessed on 11 December 2018).

There have been growing calls for the reform for the Specific Claims Policy over the years. The 1990 Oka/Kahnesatake crisis galvanised a need for action and a newly independent Indian Specific Claims Commission (ISCC) was created in 1991 with a renewed focus on mediation and improving processes for First Nations claims (Indian Claims Commission, 2009[29]). The ISCC was replaced in 2009 by a permanent, independent adjudicative body staffed by Superior Court Judges—the Specific Claims Tribunal. The new Tribunal was established by the Specific Claims Action Plan which included the creation of a dedicated fund of $250 million per year for ten years for the resolution of specific claims.

There have been ongoing discussions on how to strengthen and improve the Specific Claims Policy in recent years (AANDC, 2013[30]) (Mihychuk, 2018[24]). While recognising the many improvements that have been made, further actions to strengthen the Specific Claims Policy are needed. These include:

- Expanding the eligibility criteria to include claims based on the non-fulfilment of treaty rights.
- Enhancing the system of monitoring and reporting on claims at all stages of the claims process.
- Facilitating research and knowledge sharing among First Nations in order to help them assess the basis and the value of their specific claims.
- Developing an independent office and reporting framework to monitor how commitments made by the Government of Canada in specific claim agreements are being implemented.

Box 3.6. Violent clashes and Indigenous land rights: The 1990 'Oka crisis,' Quebec

Having been successively disposed of their traditional lands over a number of decades by the settler community, a group of Mohawk First Nations took a stand in 1990 against a court ruling that permitted the expansion of a golf course over their lands in Oka, Quebec. This protest and blockade of the area ended in a violent confrontation between a group of Mohawk and local activists and Canadian military and Quebec police forces. One Mohawk elder and one Quebec policy officer were killed and many were injured. It was a definitive low point in Indigenous-settler relations and it highlighted the failure of Canada's legal system to adequately address Indigenous rights and concerns. The Oka Crisis played an important role in the establishment of the Royal Commission on Aboriginal Peoples.

The protest ended through negotiations between the Mohawk protestors and the Quebec provincial government and Canadian federal government. The Canadian Federal government ended up purchasing the land and cancelling the planned expansion. Additional plots of land were purchased by the Canadian government in 2001 (Government of Canada,

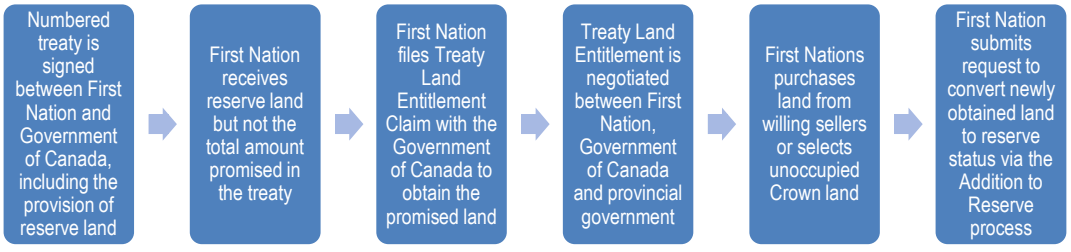
2019[31]). This land is set aside for the use and benefit of the Mohawks of Kanesatake as lands reserved for the Indians within the meaning of paragraph 24 of section 91 of the Constitution Act, 1867 but not as a reserve within the meaning of the *Indian Act* (Government of Canada, 2019[31]).

Sources: Government of Canada (2019[31]), *Kanesatake Interim Land Base Governance Act*, https://laws-lois.justice.gc.ca/eng/acts/K-0.5/index.html (accessed on 25 March 2019); Canada History (2019[32]), *Oka*, http://www.canadahistory.com/sections/eras/pcs%20in%20power/Oka.html (accessed on 25 March 2019); York, G. and L. Pindera (1991[33]), *People of the Pines: The Warriors and the Legacy of Oka*, https://books.google.fr/books/about/People_of_the_Pines.html?id=7M51AAAAMAAJ&redir_esc=y (accessed on 4 September 2018).

Treaty Land Entitlement (TLE)—rectifying historical dispossession

A First Nation may file a Treaty Land Entitlement Claim with the Government of Canada when they did not receive all the land specified in their historic treaty. The Government of Canada negotiates with the First Nation, typically with the involvement of the provincial government, to provide the promised amount of reserve land. Once an agreement is reached, the First Nation has two options to pursue land acquisition: buy it in the market from willing sellers, or select from a sample of unoccupied Crown land. Once the land is acquired, the First Nation may submit a proposal of conversion to reserve status, under the Additions to Reserve process. Figure 3.2 summarises this process.

Figure 3.2. The Treaty Land Entitlement Process



As of 2016, 90% of the agreements had been reached in the provinces of Manitoba and Saskatchewan.[19] In 1997, 21 Manitoba First Nations signed a TLE Framework Agreement with the federal and the provincial governments. Since then, other 8 Manitoba First Nations have entered into individual settlements. The Government of Canada committed to pay $190 million for land purchases and processing costs, whereas Manitoba would provide 1.2 million acres of unoccupied Crown land. The balance will be acquired from willing private landowners.

In Saskatchewan, a similar negotiation process took place. In 1992, 25 First Nations in signed a TLE Framework Agreement, under which the provincial and federal governments would provide $440 million over 12 years to buy land, mineral rights and improvements, including buildings and structures affixed to the land. These First Nations may purchase federal, provincial or private land anywhere in Saskatchewan, from willing sellers. As of 2016, 23 out of the original 25 First Nations had acquired the minimum amount of land required to be set apart as reserve.[20] No mechanism of selection of unoccupied Crown land has been set up.

The responsibilities of the provincial government differ in each framework agreement. In Manitoba, the province supplies unoccupied Crown land previously selected by the First Nation. In Saskatchewan, the province provides funds for the acquisition of land, and may willingly sell land to the First Nations, if they are willing to buy. In both cases, the province gets to review the selected lands and ensure that provincial interests are addressed prior to achieving reserve status. In the TLE Agreements there is variety of matters that affect provincial interests, such as land and mineral acquisitions, water and roadway matters and the resolution of third- party and utility interests.[21]

First Nations can and should be strategic about land acquisition. Considering that TLE agreements typically confer a 10- or 20-year period to carry out land purchases, they can benefit from this time lag to make strategic purchases that reflect a unified vision for the future of the Nation. In this sense, some communities have elaborated land acquisition plans, in alignment with their community development plans. Environment Site Assessments are also conducted to determine the environmental condition of the proposed reserve land to ensure there is no contamination. The land would need to be remediated to the applicable environmental standard before reserve creation can be approved.

To illustrate the point of strategic land acquisition, in 2012 the Peguis First Nation in Manitoba created an advisory committee of land selection and acquisition. The committee seeks to acquire lands that can provide sound economic and cultural opportunities and contribute to the long term of well-being of community members. They have elaborated a strategic framework, observing the provisions set out in the community comprehensive plan, according to which land selection must never be separated from the process and outcomes of community development.[22]

Beyond addressing historical injustices, the process of Treaty Land Entitlement provides an opportunity for First Nations to pursue community development. As already discussed, land acquisition can function as the basis for housing, energy, infrastructure and other economic development projects which may have long-lasting positive outcomes for the community.

The example of the Muskeg Lake Cree Nation in Saskatchewan is illustrative. They filed one of the earliest TLE claims, being awarded 48 640 acres of land in 1983. Among others, the Nation selected 35 acres of unoccupied Crown land in a suburb of Saskatoon, which then became the first urban reserve in Canada specifically created to house a First Nations economic development project. The Band formed an economic development corporation, called *Aspen Developments,* to pursue collective development on the selected land and to provide funding to community members for business endeavours. A commercial centre was created and today it hosts 40 businesses, among retail outlets, medical, insurance and legal offices, employing over 300 people. The Nation charges property and sales tax akin to what would have been paid on non-reserve property. This demonstrates how the recognition of land rights has catapulted Band-led, community-oriented development in an urban area.

Successive reports by the Office of the Auditor General of Canada have recommended improvements to the Treaty Land Entitlements process (Office of the Auditor General of Canada, 2009[34]) (Office of the Auditor General of Canada, 2005[35]). While the Government of Canada has attempted reforms to mechanisms such as Additions to Reserve Process, the TLE remains to be tackled. To this end, the Government of Canada should:

- Develop and implement a plan clarifying the explicit steps to process outstanding selections and to meet commitments to reduce the processing time for treaty land

entitlement selections from initial Band Council Resolution to conversion to reserve status.

- Track the overall time it takes to convert lands to reserve status and demonstrate progress periodically—report publicly and include in departmental performance indicators.
- Organise the land selection files with the documentation necessary to facilitate conversion to reserve status.
- Work closely with First Nations to assist them in their efforts to resolve third-party interests.
- Continue working with First Nations through regular work planning sessions to develop an action plan for selections, which include setting up timelines and a strategy for conversions to reserve status, as well as providing ongoing support for them to meet their obligations.

Land Acquisition

The Royal Commission on Aboriginal Peoples (RCAP) recommends a large scale reallocation of lands by rational criteria, that would result in a significant expansion of lands "wholly owned and controlled" by First Nations, as well as a "share in the jurisdiction and benefit from a further portion of their traditional lands" (Taiaiake Alfred, 2009[36]). Land acquisition is an instrument to expand the land base, which, as discussed above, is important to overcome the limited land base of Indigenous peoples in Canada since European arrival. Outside of modern treaty-making, expansion of the land base can be undertaken through purchases in the free market, additions to reserve, facilitated acquisition via state-sponsored purchases, or priority in the purchase of state-owned lands.

Through land acquisition, Indigenous groups can purse their own path of development. It may include developing infrastructure or energy projects, creating economic zones, investing in residential property or establishing nature conservation areas. This provides greater certainty for individuals to invest in productive activities on land themselves. It is thus a stimulus for band-led investment as well as private investment. Depending on the location, the new land can forge linkages with band members living in urban areas, or create another cluster of members outside original reserve land. These linkages may be of economic nature but also social or cultural. It may also be that land acquisition raises awareness about the Indigenous group, for instance if the land is located in an urban centre or due to its location has visibility. Showing their presence across the territory, beyond the reserve, can also change the stigma still associated with Indigenous reserves as no-go zones. This land may become part of a functional fabric, having ecological functions and possibly economic ties.

Market value land acquisition

Band councils can purchase freehold (fee simple) land in the market and hold it collectively in their name. Financial resources are a pre-condition: purchases done at the market follow market prices and, depending on the location and size of land, prices may be high. Indigenous groups that have been somewhat economically successful and count with significant own-source revenues tend to resort to this option more often than those who have not. The Millbrook First Nation of Nova Scotia, for instance, has acquired 1 500 acres of fee simple land – as large as their reserve land. This land, which includes property in

Halifax, the capital city of Nova Scotia, has been developed for productive purposes such as commercial and residential. This asset base generates revenues to the First Nation, which can then be reverted into the general budget, paying for social services, infrastructure and community development projects. Moreover, bands can lease out the land for third parties, generating revenue flows to the community while building up a solid asset base.

As shown in the example above, a regime in which inalienable reserve land coexists with ordinary freehold land can be positive. While ensuring that core land remains in the community, other land can be used as collateral for credit and to develop economic activities. Bands have some options towards more fruitful land acquisitions at market value:

- Develop a land acquisition strategy and align it with the community comprehensive plan, in order that land acquisitions achieve community goals and enhance the collective well-being.
- Convert the acquired land to reserve status via the Additions to Reserve process.
- Lease out land: without special status, through simple lease in the market, or, with reserve status, through the land designation process.

State-assisted land acquisition

The options for state-assisted land acquisition in Canada are limited. Through the Treaty Land Entitlement (TLE) process, First Nations can select unoccupied Crown land or receive funds to acquire land, in the context of previously unfulfilled treaty obligations. This instrument is thus restricted to cases where historic treaties had not been duly implemented. When a modern land claim is settled through a Comprehensive Land Claim, the Government of Canada typically grants monetary funds and lands the signatory Indigenous group. Here, as in the TLE process, land acquisition takes place because the government has to meet treaty obligations, the difference being that in the case of comprehensive claims they are new.

The Government of Canada could assist the acquisition of land by Indigenous peoples outside the context of treaty making. In New Zealand, for instance, the Crown gives priority in the purchase of Crown land to Indigenous tribes, whenever the Crown is willing to sell. This policy is called Right to First Refusal. Tribes list Crown-owned land of their interest and, if a Crown agency wishes to dispose of land contained in this list, they are obliged to give preference to the tribe.[23] The property is acquired at market price, as freehold title.

One caveat of the Right to First Refusal policy is the short time span of 20 days between the formal offer of land and the decision to acquire it. To circumvent this caveat, the Government of New Zealand designed an online portal, the Crown Property Disposals Portal. This portal allows tribes to access detailed information about properties as soon as they enter the disposals process, including maps and locations, land area, covenants and photos. This way, tribes obtain complete information up to 18 months sooner than the formal offer is made. With this extra time, they are better positioned to decide about buying a property or not. Furthermore, the Portal allows tribes to respond to Right of First Refusal offers online, rather than by post, making the process easier.[24]

In Australia, the government has a policy of land acquisition, executed by the Indigenous Land and Sea Corporation. The ILSC, as an independent government statutory authority, acquires land that would not otherwise be available to Indigenous peoples and subsequently diverts it to Indigenous organisations. Since 1995, the ILSC has acquired 246 properties, of which 170 have been divested, adding 5.8 million hectares to the estate of Indigenous

peoples in Australia. Increasing Indigenous people's access to land is rightfully regarded as a key mechanism to engender economic social, cultural and environmental benefits in their favour.[25]

In light of this analysis, the Government of Canada could strengthen the State-assisted land acquisition process by:

- Undertaking a national audit of surplus government land to identify opportunities for set asides.
- Together with provinces, establishing a portfolio of land to be made available for future land claim settlements.
- Establishing a shared national/provincial programme of land purchase.
- Setting up an authority to manage this portfolio of available land and this programme of land purchase, with a mandate to transfer land directly to First Nations and to support them in their own land acquisitions, as the Australian Indigenous Land Corporation does.
- Working together with First Nations to address third-party interests which may delay the transfer of land, possibly via the National Additions to Reserve Advisory Committee, which already has this competence, albeit limited to the Additions to Reserve process.
- Operationalising the preferential acquisition of government land to First Nations, as in the New Zealand Right to First Refusal policy.
- Developing an online portal with information about government land to be disposed of and with information about the possibility of preferential acquisition by First Nations, as in the New Zealand Crown Property Disposals Portal.

Additions to reserve

The federal policy of Additions to Reserve (ATR), created in 1972, is an instrument to confer reserve status to land owned by an Indigenous group. It allows conversion of status from freehold land to reserve land for Indigenous groups under the authority of the *Indian Act.* It does not serve for acquisition or negotiation of land per se. It takes place when:

- The government is legally obliged or committed to contemplate reserve creation;
- A tribunal decision conferred compensation that can be used for land acquisition; or
- A First Nation needs additional reserve land for community purposes, such as to accommodate community growth, protect culturally significant sites or promote economic development.

The process starts when a band submits a proposal to the government, identifying the land parcels to be converted and, where they have not yet been acquired, manifesting the intention to do so. The government assesses the proposal according to its cost-effectiveness, level of environment protection, third-party interests and public access concerns. Once the government approves it, the conversion of purchased land takes place (PRA, 2016[7]). Addition may be either urban or rural and can be contiguous or non-contiguous. The First Nation may decide whether they want to create a new reserve or add the land to an existing

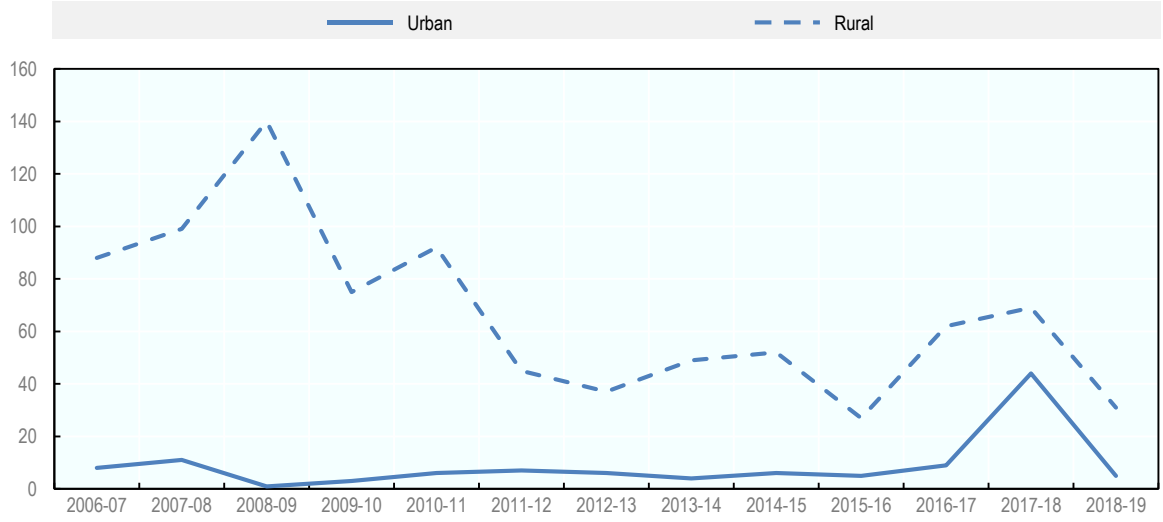
reserve. The additional land is managed under the *Indian Act,* or can be brought under Land Code for those First Nations participating in the First Nation Land Management regime.

Since 2006, Canada has approved 981 additions, adding more than 1 million acres of land to reserve.[26] Approximately 1 300 files are currently active, which, once approved, would add an additional 1.3 million acres of reserve land for Canada's First Nations.[27] Additional files are anticipated as new agreements are being negotiated and existing agreements are fulfilled.

Additions to Reserve can bring significant economic and fiscal benefits. It allows bands to pursue community development goals, to support business creation and to collect property and sales tax. An urban location can generate more benefits, as it is more conducive to business purposes and in general urban land tends to be more valuable. Therefore, it can be strategic for tribes to acquire land in urban areas and do so even if it is a non-contiguous addition. There is a growing interest in the creation of satellite urban reserves through the ATR policy (NAEDB, 2014[37]).

Nonetheless, to some First Nations it is difficult to afford land in the proximity of urban areas, which tends to be more expensive (NAEDB, 2014[37]). Indeed, between 2006 and 2018, of the 981 approved processes, 866 were for rural reserves and 115 for urban ones. Figure 3.3 shows this variance across fiscal years.

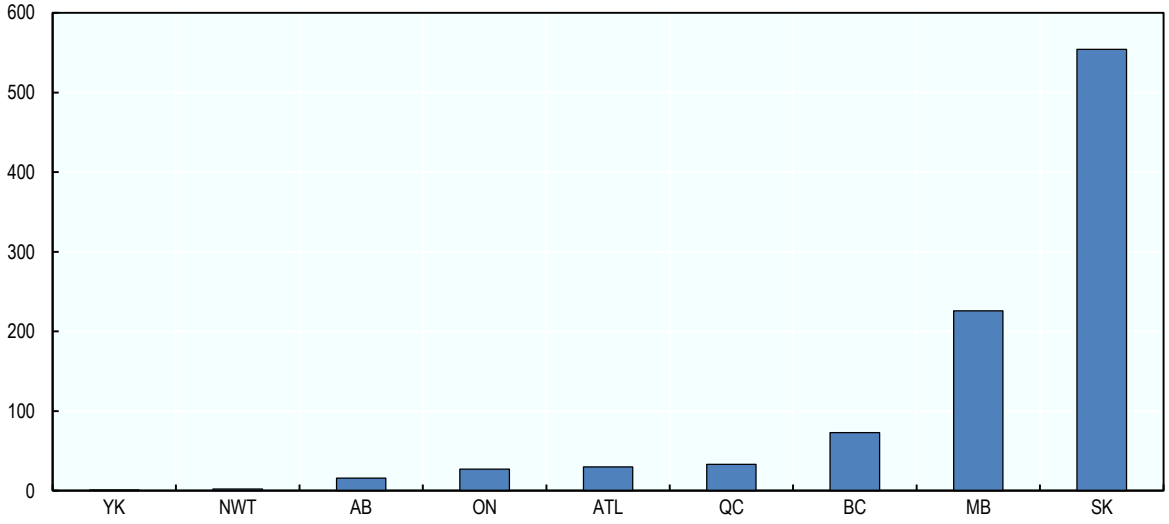
Figure 3.3. Urban and rural approved ATRs (2006-2018)



Source: Data obtained from Crown-Indigenous Relations and Northern Affairs Canada via personal e-mail communication.

Besides the variation between urban and rural ATRs, there is also significant variation across regions (Figure 3.4). Out of 979 approved ATR submissions between 2006 and 2018, the vast majority has taken place in Saskatchewan and Manitoba (554 and 226, respectively). In Yukon and the Northwest Territories, very few were concluded, only 1 and 2, respectively – for reasons which are explained further below.

Figure 3.4. Approved ATRs by regions (2006-2018)



Source: Data obtained from Crown-Indigenous Relations and Northern Affairs Canada via personal e-mail communication.

This variation can be explained by two factors. For one, according to information obtained with the government, the majority of ATRs was approved under Treaty Land Entitlement processes (736), against 224 that are detached from any TLE process. As only the provinces of Saskatchewan and Manitoba have established TLE Framework Agreements with the government, they are responsible for 90% of all TLE processes in Canada. It is thus logical that most ATRs are approved in these two provinces, most probably attached to a TLE claim. Secondly, the negotiation of modern treaties in Yukon and Northwest Territories has granted extensive ownership rights to settlement land, which ultimately renders the ATR process unnecessary. In Yukon, 11 of the 14 First Nations have Final Agreements, with ownership of and decision-making powers on settlement land.

Lastly, it is worth noting that not all First Nations welcome this policy. During the OECD's study missions and workshops, some First Nations indicated that they would prefer to engage in treaty negotiations to extend their rights to traditional territories, rather than pursuing an ATR process, which is limited to the creation of reserve land. That is to say, an ATR claim could be mistaken by an implicit recognition that the reserve land corresponds to the territory of a First Nation, whereas in fact the traditional territory is claimed over much larger tracts of land. This is a complex point because it refers to how Indigenous groups interpret government policies and draw strategies of action from them. It does not mean that all groups share this view, or that the ATR policy denies the notion of traditional territory, both of which are not true. It means that, for rhetorical and political purposes, some Indigenous groups may prefer to refuse taking part in ATR process and to focus on obtaining recognition of their traditional territory.

First Nations have often regarded the ATR process as lengthy and opaque. Government's approval can take years, especially because third-party interests and public access concerns have to be extensively evaluated and accommodated. For example, a study on urban ATRs conducted by the National Aboriginal Economic Development Board finds that the average length of time to complete an urban ATR is 4.2 years compared to the six months to a year required for a municipal council to approve a boundary extension (NAEDB, 2015[38]). Considering that the process is similar for land obtained after a Treaty Land Entitlement and given the level of scrutiny in the TLE process, the conversion of land into reserve status

should be streamlined. Yet it has been reported that it takes an average of eight years in Manitoba alone (Mihychuk, 2018[24]).

In 2016, after a round of consultations, the Government of Canada issued a policy directive to improve the ATR process in general (AANDC, 2016[39]). The directive instructs that interests be assessed collaboratively, bringing together municipal governments, the band council and other Indigenous groups and third parties. It has also made the land selection area more flexible. Importantly, the directive allows "community addition" of land for economic development purposes, which may enable investment in economic interests (AANDC, 2016[39]). Through this collaborative approach, the government intends to address conflicts and negotiate positions is less time and with better results. These are important reforms to the ATR process.

More reforms came through the Bill C-86, which received Royal Assent on December 2018. This Bill enacted the *Addition of Lands to Reserves and Reserve Creation Act* and signalled the intent to introduce amendments to the *First Nations Land Management Act,* in order to streamline the Additions to Reserve process (Government of Canada, 2019[40]). In continuing to strengthen the effectiveness of the ATR process in future, the Government of Canada should consider:

- Working with municipalities to shorten the length of time it takes to implement an ATR. The number of ATR requests and the length of time that they take to be resolved should be publicly reported on.
- Offering more direct support for land acquisition, especially in urban areas or in their vicinity, where land is more valuable.
- Strengthening the dispute resolution mechanisms to negotiate with third party interests such as municipalities.
- Increasing funding and resources to support environmental assessments and surveys.

Managing land for sustainable economic development

Indigenous land management

A typology of Indigenous land management

Indigenous land management can be divided in three ideal types,[28] according to the land rights regime and the degree of autonomy under which an Indigenous group operates. They are: self-governance, co-management and co-existence. Self-governance refers to the conditional autonomy granted to an Indigenous group by the State to manage lands and natural resources located within it. It should not be mistaken with self-government, where there is independency to rule their own affairs.

Applying this typology to Canada, reserve lands under the First Nations Land Management Regime and fee title settlement lands granted in modern treaties fall into the self-governance type. Reserve lands granted in historic treaties fall under the administrative responsibility of the Band Council, but it is the government that ultimately decides about the management of land and water. Hence, reserves do not constitute a case of self-governance or joint governance. Traditional territories outside reserves or treaty land are best characterised by co-existence. Some natural parks, watersheds and conservation areas

are jointly managed by Indigenous representatives and government institutions. See Table 3.3 for more details:

Table 3.3. A typology of Indigenous land management, applied to Canada

Type	Definition	In Canada
Self-governance	The Indigenous group has been empowered by the State with conditional autonomy over the management of Indigenous lands and natural resources located within it. It may derive from comprehensive land claim agreements or from specific agreements that hand over regulatory authority over environmental issues to the Indigenous group.	- Treaty settlement land granted through comprehensive land claim agreements with the Crown; - Reserve land under the First Nations Land Management Act.
Joint land management (or co-management)	The Indigenous group shares the responsibility and the authority over land issues with government authorities. It may arise with the creation of: - Specific institutions, such as natural resources boards and land councils, composed equally by Indigenous and non-Indigenous representatives; or - Protected areas, such as parks or natural reserves, with a shared management model.	Joint institutions for environmental governance, including the co-management of treaty settlement areas (for example, joint environmental boards, natural parks or shared watershed management).
Coexistence	Indigenous groups are an interested party in land management issues that affect their territories, directly or indirectly. They have no autonomy to decide over such issues, but there is a Duty to Consult on the part of the Government of Canada, e.g. environmental licensing and regional land use planning.	In traditional territories outside the reserves, where Indigenous groups have traditional fishing and hunting rights, exclusive or not.

An Indigenous group may be part of more than one category: the typology presented here is land-based, not group-based. For instance, an Indigenous group who has signed a comprehensive land claim agreement has fee title to settlement land, falling under the self-governance type, whereas over their extended traditional territory they do not have the right to exclusive access or use, thus falling under the category of co-existence. For example, there are three categories of land to the Inuit under the James Bay and Northern Quebec Agreement (1975). Category I lands are owned collectively by Indigenous land-holding corporations (self-governance of aspects related to land management). Category II and III lands are owned by the government of Québec, in which the Inuit have fishing and hunting rights (exclusive or not) and may have consultation and compensation rights – thus falling under the co-existence type.

Within the category of self-governance, case-by-case differences exist. Where treaties and agreements regulate nation-to-nation relations, conditions and powers are not uniformly attributed. To illustrate, many comprehensive land claim agreements granted decision-making powers to Indigenous groups in what regards land use and environmental issues in their territories (Simons and Pai, 2008[41]). In some agreements, Indigenous groups own mines and mineral resources, such as in the 11 Self-Governing Agreements of Yukon First Nations , while in others they only receive resource royalties, such as in the Nunavut Land Claim Agreement (Simons and Pai, 2008[41]).

Towards greater autonomy and capacity to manage Indigenous land

Well-built land management laws can have positive impacts on community economic development. Band members benefit from clear rules regarding the development, conservation, protection, management, use and possession of reserve lands. This also holds true for external investors and partners, be they private or public. These rules, if coherent

and oriented to the long-term, can guide the promotion of community well-being. They can also ensure that the use of land is strategic, well planned and coordinated. Lastly, clear and transparent regulations provide an incentive to invest in upkeep and to develop productive activities on land.[29]

The management of Indigenous lands and waters has been the object of debate and reforms in the past 30 years in Canada. It is generally agreed that Indigenous groups who hold reserve lands and/or treaty lands should have more autonomy to manage their lands, and correspondingly more administrative, technical and financial capacity to do so. However, without increasing their financial and technical capacity, First Nations communities may not have the ability to comply with regulations, or may become unreasonably burdened by them.

The government has created programmes to progressively transfer land management responsibility to opting First Nations and to support them in this endeavour. Programmes have focused on those First Nations who are signatories of comprehensive land claims agreements (modern treaties). However, Indigenous groups which co-manage environmental areas with the government or who have the right to access and use their traditional territories but no autonomy to manage them have not encountered a similar level of government support.

This section discusses how the management of Indigenous lands can be made adequate for Indigenous peoples. Adequacy here refers to respecting Indigenous values and governance forms, sustaining local capacity and allowing sustainable development opportunities to flourish within the community. Through this lens, different instruments and programmes are examined and options for reforms are presented, starting with programmes to transfer land management authority to Indigenous peoples and to give them capacity to lease land, then discussing issues around water management and the promotion of cohesive territorial development.

Transferring land management authority to First Nations

Land use planning serves the critical roles of balancing public and private interests, reducing any potential for conflict between uses, and ensuring environmental quality and sustainability. This is so because land use planning offers a comprehensive characterisation of the environment and instructs a spatial logic such that services and infrastructure can be more effectively delivered. How land is used in a community both now and in the future is linked to broader strategic goals of community development. For this reason, participatory practices wherein community members are involved in a plan's elaboration are increasingly adopted.

Land use planning is important for rural and urban communities alike, but in different ways. Places with a larger population are going to have more pressures on land use, which requires detailed land use regulations and zoning to manage present and future uses. In rural communities, the pace of land use change can be much slower and such mechanism may not be as important. Instead, there may be an emphasis on monitoring environmental quality with indicators (as opposed to zoning for planned future use).

First Nations with reserve lands abide to the *Indian Act*. According to this legislation, the government is in charge of land and natural resources administration in reserves. This means that the government ultimately decides about the management of land and water in reserve lands, including administering revenue moneys, negotiating land exchanges and expropriating land. The *Indian Act* does not provide an adequate framework around which to develop environmental protection laws or regulations. Moreover, all land transactions

require consent, including uses such as: agriculture, public utilities, timber, sand and gravel, road rights of way, lawful possession, set aside and leasing (requires designation). Consent can be obtained from the Chief and Council through Band Council Resolution (BCR) or from the Band membership through referendum.

Considering the restrictions imposed by the *Indian Act*, the government has created policies to progressively transfer land management responsibility to opting First Nations. The main policies made available for First Nations with reserve lands are the Reserve Land and Environmental Management Program and the First Nation Land Management regime.

The Reserve Land and Environmental Management Program, created in 2005, funds First Nations to develop capacity related to land and environmental management activities. The programme is a preparatory process before First Nations are able to assume the responsibility for land management in reserves. Incremental by nature, the programme allows First Nations to function at any one of three levels of increasing responsibility: training and development, operational level or delegated authority. The key functions covered are community-based land use planning; lands and natural resources management; environmental management and compliance management (monitoring and enforcement). As of May 2019, there were 126 active participants: 16 training and development First Nations, 100 operational First Nations and 10 delegated authority First Nations.

The First Nations Land Management Act (FNLMA), enacted in 1999, allows First Nations to opt out of the land and resources provisions of the *Indian Act* through ratification of the Framework Agreement on First Nation Land Management.[30] The administration of land and natural resources becomes their responsibility, although ownership remains with the government of Canada. This is so because title to reserve is unchanged by the Framework Agreement on FNLM. First Nations also administer their revenue moneys and have law enforcement powers. Though not a primary objective, it can be a step toward comprehensive self-government agreements. As of May 2019, 162 First Nations had adhered to the Framework Agreement, being 134 active. Among those, 79 are operational, while 55 are developing a land code.

First Nation adherents to the Framework Agreement receive financial and technical assistance to enact a land code. The land code sets out basic provisions regarding the exercise of rights and powers over land – being thus the umbrella law for more specific land regulations. The land code can also contain matrimonial real property laws. FNLM First Nations have the powers to develop their own environmental management and enforcement laws, including environmental assessment procedures, as long as they meet provincial or territorial standards. While these provisions are not in place, the environmental assessment process defined by the Government applies. They can also negotiate voluntary exchanges of land. Table 3.4 summarises the differences between land management powers under the *Indian Act* and under the FNLM regime:

Table 3.4. Land management powers under First Nations Land Management and the Indian Act (2017)

Responsibility / Competency	First Nations Land Management	Indian Act
Law Making Powers	FNs with land codes have power to make laws respecting use of land, including environmental assessment and protection. Section 81 by-law making powers continue to apply to FNLM First Nations	First Nations have the power to pass laws on a variety of subjects relating to reserve land and band members (Indian Act by-laws as defined in Section 81).
Matrimonial Real Property Laws	Must be developed.	No applicable section in the Indian Act – the Family Homes on Reserves and Matrimonial Interests or Rights Act (FHRMIRA) fills this legislative gap.
Land Management Powers	FNs have power to manage own lands in accordance with the Framework Agreement.	Minister has final authority over matter.
Revenue Moneys	All Indian revenue moneys must be transferred to the First Nation.	CIRNAC administers Indian revenue moneys.
Protection of First Nation Land	FN lands are not to be sold, exchanged, conveyed or transferred unless exchanged or expropriated as outlined in the Framework Agreement.	No equivalent protection in Indian Act.
Voluntary exchanges of land	FNs can negotiate land exchanges, with compensation of equivalent parcel of land. Canada's consent required to confirm exchange and set aside land as reserve.	CIRNAC negotiates land exchanges pursuant to the Additions to Reserves policy.
Enforcement of Laws	Power to establish and punish offences, establish enforcement procedures and appoint Justice of the Peace.	By-law enforcement powers for Band Council or Police.
Environmental Management	Powers to enact environmental laws.	No specific provision.
Environmental Assessment	FN should develop environmental assessment process, subject to adequate funding and expertise. CEAA applies as interim measure (choice of 1992 or 2012 standard).	Environmental reviews are conducted under Canadian Environmental Assessment Act (CEAA) 2012.
Expropriation	Land can only be expropriated by Crown with consent of Governor in Council and only in very limited circumstances.	Reserve lands can be expropriated broadly, with the consent of the Governor in Council.
Compensation from expropriation	Must include land of equal or greater size or of comparable value.	Monetary compensation is contemplated.
Liability	Canada is liable for acts or omissions before the Land Code comes into effect. FN is liable after.	Canada is liable.
First Nations Land Registers	Established under the FNLM regime and then maintained by CIRNAC/ISC.	CIRNAC/ISC maintains ILRS.

Source: INAC (2017[42]), *Overview of Land Management in Saskatchewan*, http://sfnedn.com/wp-content/uploads/2017/12/Indigenous-Agriculture-Summit-Overview-of-Land-Management-on-reserve-INAC-112217.pdf (accessed on 13 December 2018).

First Nations have reported significant benefits from entering the FNLM regime. First, the inherent right to govern reserve lands and resources is recognised. In addition, they gain the legal capacity to acquire and hold property, to borrow, contract, invest money, be party on legal proceedings, directly collect and control land revenues and mortgage individual interests. These powers can reflect in taxation and revenue creation from land use activities. Autonomy also reflects in the ability to make laws and regulations in a timely and

transparent fashion, and in respect of each First Nation's practices and traditions. This translates into more certainty for landholders, and stronger law enforcement capacity.

While First Nations are supported to develop their own culturally appropriate land codes, land use plans, and mechanisms for dispute resolution, the FNLM regime does not break with a Western view of planning and land management that has predominated since the *Indian Act*. In doing so, it continues to favour technical rigour and administrative clarity, which is, for example, a requirement for existing land registry systems. Yet at the same time, it discourages the perpetuation of already existing Indigenous decision-making methods. To illustrate, land use conflicts may be solved through traditional mechanisms of consensus building, which may be formal or not, e.g. via dialogue tables or meetings of senior members. It does not have to be through a technical agent who sits in an office with a pile of administrative records. This bias may also be manifest in the way that zoning regulations are defined. Most municipalities in Canada do so by confining given uses – residential, commercial, and industrial, etc. – to specific zones. Adopting a similar strategy, FNs would be encouraged to create zones in which uses and purposes are allowed. However, considering that Indigenous groups may already have ways of defining preferred uses for land and their conflict resolution mechanisms, the regime should be open to less rigid forms of zoning. One example is nuisance-based zoning, in which all uses are allowed, as long as they respect the threshold of tolerated impacts, as defined by the community.

Lastly, the regime has considerable setup and operational costs. Opting First Nations have to invest significant resources to set up the system, for which they receive financial and technical assistance from the government. They also have high operational costs, especially if they create administrative offices in the fashion of municipal land use planning authorities. In the future, autonomous revenue sources will be necessary, such as taxation from land use activities (titling, transfer, leasing, licensing). Taxation to process individual land use activities is already a possibility in the FNLM regime, as per Sections 12.4 to 12.7 of the Framework Agreement. Taxation of property itself is possible under the First Nations Fiscal Management Act.

In all, the transfer of land management authority is a process that requires time, resources and capacity. Land administration, as a highly technical issue, needs competent staff, with a dedicated office and technical capacity to compile information, produce maps, enact laws and enforce regulations. A non-judicial authority has to be set up to solve eventual disputes regarding land uses, property rights and environmental violations. These processes should be simple and clear, avoiding excessive administrative burdens. Moreover, these costs could be mitigated by supporting the mechanisms for decision-making and conflict resolution that already exist within each Indigenous group. Bands do not have to become an Indigenous version of municipalities. They ought to have the autonomy to manage their land and natural resources in a way that is compatible with their vision for development, in respect of their capacity levels and in a cost-effective manner.

Making the most of the FNLM regime

The FNLM regime has enabled greater autonomy over land management issues. Notwithstanding, its effectiveness could be strengthened by:

- Increasing the presence of Indigenous individuals in the activities of the Resource Centre established by the Lands Advisory Board to assist First Nations with their local land use planning activities and investing in building bridges between government requirements and the aspirations of First Nations.

- Providing legal templates for opting First Nations to start building their land codes and associated regulations in order to facilitate the law enactment, reduce the need to resort to external consulting, and avoid the proliferation of unique property rights regimes.
- Encouraging FNs to adopt nuisance rules as an alternative to zoning.
- Continuing to support opportunities for opting FNs to meet and share knowledge.
- Encouraging FNs to adapt already existing conflict resolution mechanisms to solve land use conflicts.
- Supporting FNs in addressing conflicts involving customary holdings, which currently is a gap in the government's capacity.
- Fostering dialogue between First Nations and corresponding provincial government in what regards territorial development regulations and standards.

Land use planning on reserve and treaty settlement lands

First Nations may undertake land use planning on reserve lands (historic treaties) or on treaty settlement lands (modern treaties). In fact, First Nations under a comprehensive land claims agreement as part of a modern treaty already have this responsibility defined in the agreement. Likewise, those who are under the First Nations Land Management regime in their reserves already have their competencies and obligations defined in specific provisions. This section focusses on the challenges and possibilities of land use planning in reserve or treaty land. Regulation of leases and certificates of possessions is a topic that relates to land use planning, which is discussed in the following section. The potentials and risks of land tenure formalisation have already been presented in the Chapter.

Land use planning within First Nation reserves has generally been unsuccessful. Historical factors explain why: a historical-colonial legacy of imposing western planning models onto Indigenous cultures has generated land use plans that are inappropriate to Indigenous land views, underappreciate their planning traditions and engender cultural conflicts ((Millette, 2011[43]); (Prusak, Walker and Innes, 2016[44]); (Jojola, 2013[45])). Beyond being inappropriate, these land use plans require a level of technical capacity that is in most cases absent at the local level – this is true of many small and rural communities across Canada. In addition, year-to-year funding structures can discourage the formulation of long-term plans and this in turn hinders the prospects of generating a constructive debate around community goals and visions for the future (Wilson-Raybould, 2014[13]). Importantly, unlike regular community plans, plans in Indigenous communities have no legal status, which yields low levels of implementation (Wilson-Raybould, 2014[13]). Without operational provisions, planning shows little results.

In an effort to address this lack of adequacy and effectiveness, the Government of Canada has been reviewing support programmes. Well-developed land use planning may unlock economic opportunities and improve infrastructure on reserves. Better and emergency environmental management are also anticipated positive consequences. The government supports stand-alone land use plans as well as encourages linkages with community comprehensive plans (Wilson-Raybould, 2014[13]).

First Nations' powers to enact land use plans derive from two sources. Under subsection 81(1) of the *Indian Act*, Nations have powers to make by-laws regarding reserve sub-division, building construction and maintenance, and regulation of commercial

activities. Some Nations have used this power to enact "municipal-type" zoning and land use bylaws on reserve (Wilson-Raybould, 2014[13]). In treaty lands, this jurisdiction derives from Comprehensive Land Claims Agreement.

Some modern treaties include the establishment of co-management boards that support land use planning. These boards, comprised of members nominated by the Indigenous organisation and the provincial/territorial and federal governments, engage communities to define their vision, goals and land use challenges. They work with communities, industry and other stakeholders to develop a land use plan, which is later made publicly available. They also give recommendations on water and renewable resources. Co-management boards are an example of shared decision-making making between government and local resource users (Box 3.7).

Box 3.7. The Land and Water Boards of the Mackenzie Valley

The regulatory regimes in the Northwest Territories are a direct result of the negotiation of comprehensive land claim agreements. One regulatory regime is established pursuant to the Inuvialuit Final Agreement and the other is established pursuant to the Gwich'in, Sahtu and Tlicho final agreements and entrenched in the *Mackenzie Valley Resource Management Act* (1998).

The *Mackenzie Valley Resources Management Act* (1998) has created co-management boards to carry out land use planning, regulate the use of land and water and, if required conduct environmental assessments and reviews of large or complex projects. The Act also provides for the creation of a Cumulative Impact Monitoring Program (the NT CIMP) and an environmental audit to be conducted once every five years.

The 4 Land and Water Boards of the Mackenzie Valley regulate the use of land and water and the deposit of waste. They issue and manage land use permits and water licenses. The Boards have additional duties with respect to reviewing and issuing permits and licenses for transboundary projects and regulating land and water use in the unsettled claim regions.

Source: MVLWB (n.d.[46]), *Co-management*, https://mvlwb.com/content/co-management

One of the goals of land use planning is to bring regulatory certainty and clarity. Well-defined boundaries, simplification of standards and conflict-resolution mechanisms have to be enacted. Regulation should also include private forms of property rights, through the instruments of leasing of designated lands and certificates of possession. In addition, Nations have to develop a zoning system that works for them. It can be based on types of uses or in nuisance levels, which would make it more flexible. Alternatively, it could be decided case-by-case in community meetings, respecting local traditions of consensus-driven decision-making. That is, it is not necessary to reproduce the zoning model of most municipalities, which is based in restrictions of uses.

Another important goal of land use planning is to engender a participatory and culturally adequate process. Consultation with the community should be as broad as possible and incorporate traditional forms of decision-making. The plan should contain provisions with the aim of preserving and protecting their culture, heritage and language. It should promote a shared vision for community development, for instance by linking land use planning with comprehensive community planning efforts.[31]

First Nations have the difficult task of pursuing a "third space" of planning. This space ought to accommodate and adapt the dominant Western planning practices, which bring certainty and legality, and the traditional practices of land management, based on Indigenous traditional knowledge (Porter et al., 2017[47]). As summarised by Brown et al. (2016, pp. 25-26[48]), Indigenous community land management systems might include the following components:

1. A community led strategic vision for social, economic and cultural development that is linked to medium- and longer-term goals and for how land should be used including the desired role of business.
2. A comprehensive land inventory that provides clear accessible and usable information about the land base, including land tenure arrangements.
3. A land use plan (linked to the strategic vision and land inventory) that outlines the preferred uses of a FNs existing land base.
4. A land code that specifies community and individual rights and responsibilities in the land.
5. The means of implementing and enforcing a code fairly and effectively.
6. An institutionalised means of resolving disputes that is insulated by political interference and respected by the FN community and Canadian and applicable provincial governments.

To these, it could be added:

7. Increased access for communities, Tribal Councils and Political Territorial Organizations to federal and provincial technical resources and expertise.
8. Individualised training for communities and Tribal Councils.

In practical terms, it requires consultation, engagement and capacity-building at the local level and progressively advancing towards autonomous Indigenous planning (Box 3.8).

Box 3.8. Indigenous planning: an emergent paradigm

Indigenous planning is an emergent paradigm in planning discourse that aims to reclaim the historic, contemporary, and future-oriented planning approaches of Indigenous communities across western settler states like Canada, the United States, New Zealand, and Australia.

Processes of Indigenous planning connect people (e.g., tribe, nation), place (i.e., land, environment, resources), knowledge (i.e., traditional, contemporary), values and worldview (e.g., attitudes, beliefs, ethics, principles), with decisions (i.e., process, institutions) and practices (e.g., application, approaches), to enhance the well-being of the community. It is a powerful tool for answering fundamental community questions such as "What kind of society are we trying to build?" or "How do we get there from here?" or "How do all these projects fit together?". It can serve as a useful tool for practicing sovereignty and strengthening political community and autonomy among Indigenous nations.

Community authority and control is central to Indigenous planning, setting the terms for processes of public engagement through to the exercise of leadership by chief and council.

Plan implementation and the sustainability of community planning may be difficult without having planning personnel to embed it within the processes of administrative and political decision making. Whether planning personnel would be hired by individual First Nation bands or by their regional tribal councils that encompass several bands is something to be determined in each instance by the authorities themselves.

Three principles should guide Indigenous planning.

1. The process must follow from the Indigenous worldview.
2. Indigenous voices do not require translation, and western planners must stop trying to translate Indigenous culture and values through the operational logic of settler institution.
3. Native self is the essence of Indigenous knowledge, and that what may appear from the outside as a natural progression in community affairs (e.g., a new style of housing) must be assessed through the lens of individual and collective community desires.

Sources: Jojola, T. ((2013[45])), "Indigenous planning: Towards a seven generations model", in Walker, R., T. Jojola and D. Natcher (eds.), *Reclaiming Indigenous Planning*, McGill-Queen's University Press, Montreal;; Prusak, Y., R. Walker and R. Innes (2016[44]), "Toward Indigenous planning? First Nation community panning in Saskatchewan, Canada", http://dx.doi.org/10.1177/0739456X15621147.

There are many positive examples of land and marine use plans across Canada and a growing body of practices to learn from. For example, in British Columbia, Shíshálh Nation elaborated a *Strategic Land Use Plan* (June 2007) which summarises their values and describes a vision for how their terrestrial and inter-tidal (beach) resources should be protected, managed and used now and into the future. Also in British Columbia, the Squamish Nation signed a Land-Use Agreement with the provincial government, creating a framework for collaborative land management. A complementary Collaborative Agreement for the Management of Protected Areas set up a process for managing protected areas, including new conservancy areas and existing provincial parks.

Developing a robust land management system is a substantial undertaking requiring both community dialogue and engagement and technical expertise. The Government of Canada could strengthen land use planning on reserve and treaty lands by:

- Supporting Indigenous communities and organisations build capacity to develop land use plans, land codes, and zoning maps that clearly identify areas of protection on ecological and cultural grounds, and for potential economic development.
- Provide technical support for Indigenous communities to collect data about land and water resources and map it to inform regulatory decision-making, and to identify opportunities for economic development.

While the Government of Canada has an instrumental role to play in supporting such capacity building efforts, provincial and municipal governments alongside groups such as the Canadian Association of Planning are key partners in this process.

Private property rights, collective benefits

Holding land collectively can go hand in hand with private forms of property rights

Indigenous groups under the *Indian Act* hold land collectively in Canada. They cannot transfer land to others, not even to band members – the Crown retains the ownership. Individuals cannot be proprietors of Indigenous land enjoying the special protection under the *Indian Act*. The ultimate indivisibility and inalienability of Indigenous land are important to avoid the fragmentation and loss of reserve lands, to perpetuate the traditional livelihoods of Indigenous groups and to foster the collective well-being of Indigenous communities.

Some have argued in favour of making Indigenous land ordinary freehold (Flanagan, Le Dressay and Alcantara, 2010[49]). In this line of reasoning, the imposition of inalienability under the *Indian Act* would constitute a paternalistic approach that prevents Indigenous peoples from unlocking economic opportunities. Without disregard for these arguments, historic dispossession and exclusion justify the need to protect communal and intergenerational interests on land. In short, inalienability helps preserve Indigenous Estate.[32]

The features indivisibility and inalienability can coexist with individual interests in land. While preserving these features, individuals can have some property rights to specific tracts of land. As indicated in the section about land rights, the proprietor of land, in this case the band, can use, access and manage land, enjoy the fruits of it and exclude others from using it. An Indigenous band can lease lands to third parties, who will enjoy the same attributes. In addition, they can issue certificates of possession to band members, who can use, access and enjoy the fruits of land. These two instruments are discussed at more length below, not before highlighting their advantages for community economic development in reserves.

Granting access to credit

It is true that the inalienability clause has hampered access to credit for Indigenous peoples. Because Indigenous lands cannot be sold, they cannot be mortgaged or set aside as collateral for loans. Houses in reserve land may be owned, but, since the land is not under full ownership, the value of what can be put for equity is significantly lower. Only the value of the materials used to build the house counts, not the value of the house plus the land it sits on. To circumvent this restriction, Canadian tribes put machinery and equipment as collateral for loans. Even then, the level of credit that Indigenous people can access ranks far below those of non-Indigenous people, in what is a clear position of disadvantage.

To address this disadvantage, bankable interests in land can be generated. Bankability is a measure of a bank's willingness to take that asset as security for a loan. Leasing land is a form to increase its bankability. It maintains the underlying communal title while creating a sufficiently transferable interest to be used as collateral for loans. Through land designation and subsequent leasing, bands can obtain financing from private institutions. Indeed, section 89(I.I) of the *Indian Act* expressly allows leasehold interests in designated lands to be subject to mortgage, charge, pledge, attachment, levy, seizure, distress and execution. Importantly, while doing so, bands retain absolute control on the way that land is developed, as the lessee has to abide to bands' land use regulations and provisions.

Some bands have also used certificates of possession to obtain mortgages. The Six Nations reserve in Ontario is a good example.[33] Band members with a certificate of possession

approach the Bank of Montreal or the Royal Bank for a housing loan. If the bank approves the land, a guarantee is asked. The band council provides this guarantee, but in exchange asks the individual to formally transfer the CP to them for the length of the loan. When the loan is paid off, the certificate of possession returns to the member.

Besides that, financing schemes that do not depend on land have been made available to Indigenous peoples. Indigenous financial institutions pay a particularly important role in providing loans and financial services to small Indigenous businesses. They can also provide training to increase the financial literacy of Indigenous managers and entrepreneurs. The First Nations Financial Authority, for instance, provides First Nations access to long-term loans without requiring collateral, and with preferable interest rates. However, because this financial assistance is not linked with land, it is not discussed in detail in this chapter.[34]

Promoting economic investment

It is widely accepted that private property rights generate positive economic outcomes. Research conducted on Canadian reserves finds that private forms of land tenure, such as certificates of possession and leasing, incentivise investment in physical and human capital (Aragón and Kessler, 2018[50]). Improved housing quality, better water quality and higher public spending are among the most noticeable results of investments.[35] These lead to higher living standards for Band members and thus improve the collective well-being of tribes. Moreover, through leasing bands can raise public funds, which again contributes to public spending and generates investment in collective goods and services.

Improvements in income and employment opportunities, however, are not as significant. An alleged 'de Soto' effect of private property rights in Canadian reserves has not been found (Aragón and Kessler, 2018[50]). Aragón and Kessler (2018, p. 29[50]) attest that there is no evidence that "existing forms of private land tenure have led to significant increases in Aboriginal incomes on reserve."

Certificates of Possession may provide entrepreneurs and residents with a high degree of tenure security. This is so because certificates of possessions are defined under the *Indian Act*, which is standard across the country, eliminating the variability of Indigenous tenures and thus reducing uncertainty. Moreover, certificates of possession have been widely enforced by non-Indigenous courts. Courts have acknowledged that CP holders retain the attributes of private title afforded to owners of land in fee simple, except for alienability (Baxter and Trebilcock, 2009[18]).

Land designation

Reserve lands can be available for leasing. First, the band council has to obtain ministerial approval to "designate" them. It is a requirement to be able to access the leasing provisions available under paragraph 53(1)(b) of the *Indian Act*. Designation is a conditional surrender of land for a determined length of time. The land maintains its reserve status but is administered differently, as certain sections of the *Indian Act* no longer apply to it. Once designated, land can then be leased. The lease is transferable to third parties, enforceable in the courts and temporary by nature. In short, land designation is an instrument that makes leasing conditional to ministerial approval.

First Nations under the First Nations Land Management regime may lease out land without ministerial approval. Under this Framework, First Nations opt out of the land provisions of the *Indian Act* and become the management authority over the land. Once a land authority

is created and a Land Code is enacted, the First Nation can lease out land without having to seek approval from the government authority. This scheme provides far greater powers over land issues than it is the case under the *Indian Act* but on counterpart demands that the First Nation develops its own codes and regulations and applies them strictly.

Leased lands may be less valuable than equivalent land located off reserves. Reasons for this are the conditions imposed in the leases, but also the need to adjust to Band local regulations, while investors lack knowledge about them, or have to deal with uncertainty. In the case *Musqueam Indian Band v. Glass* (2000), the Supreme Court considered that "Indian reserve features" implied a reduction of 50% in the appraised value of land. Without discussing here whether this estimate is correct or not, this case shows how much the appraisal of designated land is a disputed issue, and a difficult task.

Land leasing has to be better regulated, in order to benefit communities:

- Community plans should detail which land can be available for leasing and land codes should set up regulations of intended use and accepted levels of nuisance. Leases should not disrupt the spatial fabric of the community but be integrated into it.
- The wider community should be consulted about whom the land is leased to and for which purposes. Having greater community control over leases would contribute to generating investments that are aligned with community objectives. It is noted that at present any changes to land use on a reserve needs to be approved by FN referendum of eligible voters in which quorum is achieved.
- In case land is sub-leased, a portion of revenues should still revert to a collective entity, in order to generate benefits to all band members, not only to individuals.
- Lease conditions should be periodically revised, even during the validity of the lease. The value of the lease and which uses are authorised should be part of the revision. Additional conditions may eventually be set to ensure heritage, cultural and environmental protection.
- In case periodic revisions are not possible, reducing the length of leases would force revision of the conditions and values.

Certificates of possession

Certificates of possession constitute a formal way to allocate land rights, authorised under the *Indian Act.* The band council, which is the rightful holder of collective reserve lands, allocates certificates to individuals who occupy pieces of this land. The certificate transfers the right of possession to the individual, who can then build a house on it, or a commercial venture. Individuals cannot formally lease the land out to third parties, but informally many do so – these illegal leases are called buckshee leases.[36] The CP scheme, if adequately applied, could contribute to greater flexibility of land occupation patterns in reserves. In addition, it would encourage possessors to engage in productive endeavours and increase their sense of responsibility over it.

Certificates of possession are infrequently and unevenly used in Canadian reserves. In 2012, there were 40,841 Certificates of Possession, concentrated in British Columbia, Ontario, and Quebec, which amounted to 3% of reserve land (Ballantyne, 2017[51]). In many reserves, Certificates of Possession coexist with leases and customary holdings – a mixture of formality and informality. The extent of its use is not well understood, due to the lack of available data. Certificates of Possession have to be registered in the Indian Land Registry

System, but not all Nations abide to it. In fact, Elizabeth Bastien (2006[52]) estimated that 50 percent of all Bands do not use the *Indian Act* system of lands registry at all, and of the ones that do so, 34% of them use it very minimally.

The more consistent use of certificates of possession could reduce informality levels in reserves. In the absence of certificates, informal land tenure proliferates on reserves (customary holdings). Customary holdings are not considered lawful possessions under the *Indian Act*: differently from CPs, they have no legal status and are not enforced by Courts. Besides the lack of certainty generated by the widespread use of customary holdings, they are also associated with lower housing quality and less investment in upkeep and maintenance (Aragón and Kessler, 2018[50]); (Ballantyne, 2017[51]). These findings resonate with classical economic theory according to which informality hinders development.

Certificates of possession have generated some issues in reserves, for the way that they are administered. Although the emission of a certificate requires ministerial approval, future uses are not closely regulated. Once the certificate is issued, there is little control over future land uses, and whether the certificate is informally transferred to non-band members. This relates to the problem that not every band council has a community development strategy or has the authority to create land zoning schemes. In that case, certificates of possession may cut up the reserve land fabric in difficult ways, or make the best parts of reserve land unavailable for community development purposes (AANDC, 2013[8]).

In this respect, band councils ought to better control and regulate the emission of certificates of possession, by:

- Enacting and enforcing land use regulations and community development plans.
- Conditioning the approval of CPs to alignment with community land use regulations and economic development plans.
- Systematically registering CPs in the Indian Land Registry System.
- Enforcing the prohibition of transferring CPs to external stakeholders (buckshee leases) and imposing stricter penalties for violators, which may include the termination of the CP.
- Supporting band members that hold CPs in obtaining loans. One option for Band councils is to guarantee the loan with the bank, in exchange of asking the CP holder to temporarily transfer it back to the band council while the loan is not returned.

Aligning land use regulations across the traditional territory

Land and environmental management issues vary according to the level of legal jurisdiction and administrative control over land. As discussed, reserve lands are regulated under the *Indian Act*, which is a federal legislation. When a band opts into the First Nations Land Management regime, they no longer abide to the land management provisions of the *Indian Act*. Ancestral lands off-reserve are, on their turn, under provincial or territorial authority and hence regulated by regional land-use plans.[37]

This two-tiered governance structure means that there is not a single regulation that equally applies to traditional lands on reserve and off-reserve. This creates regulatory gaps that often impede land development on reserve lands (Wilson-Raybould, 2014, p. 510[13]). Where there is a gap, the lack of enforceable standards lowers the bar of service provision. In water infrastructure, for instance, it has led to a situation in which many Indigenous communities lack access to clean drinking water.[38] Other areas that can be affected include:

solid waste, septic tanks, spill reporting and response, environmental emergencies, hazardous waste, and air quality. Furthermore, it increases transaction costs for potential developers and investors, who have to deal with two different regulatory regimes. For bands, it creates a situation in which they lack control over the activities and uses that occur in ancestral lands off-reserves, while the territory of the reserve, quite contrarily, is not well-integrated into the surrounding area. This can lead to adverse impact on lands, natural resources and waters from unregulated activities, inability to pursue polluters for damages and impose fines, increased costs and liabilities to First Nations (e.g., contaminated sites, illegal dumping) and delays to concluding self-government agreements.

An improved regulatory framework of land use would generate investment incentives. For external investors, such as private businesses and municipalities, would mean more clarity and certainty. For bands, it would facilitate forming partnerships to invest in infrastructure projects that cut across the reserve but extend to the surrounding territory. For provinces, it brings forth a more cohesive view of the territory and welcomes Indigenous groups into consultation procedures, fulfilling their duty to consult, as well as strengthens existing legislative tools.

Provinces and First Nations could address this challenge in two ways. First Nations could adhere to provincial regulations for specific projects on reserve lands, under the First Nations Commercial and Industrial Development Act (FNCIDA). The other way is for Provinces and Territories to clarify consultation protocols to engage Indigenous representatives in policy-making processes, including land use regional planning and local environmental assessment.

Adopting provincial regulations: FNCIDA

The First Nations Commercial and Industrial Development Act (FNCIDA) is federal legislation that authorises the incorporation of provincial laws to specific projects on reserve lands. The Act, enacted in 2006 and amended in 2010, was led by a group of First Nations with the goal of achieving more comprehensive regulation of major commercial and industrial development on reserves (Wilson-Raybould, 2014, p. 510[13]). Development can be led by the First Nation alone or in partnership with private or public stakeholders, or it can be a venture conducted solely by private investors.

Concisely, the Act provides for the adoption of regulations on reserves that are compatible with provincial rules off-reserve. Provincial laws do not generally apply to reserve lands, despite there often not being equivalent Federal legislation. This creates uncertainty for developers when developing reserve lands. By adopting regulations that are compatible with provincial ones, the federal government increases certainty for the public and developers on reserves, while minimizing costs (Wilson-Raybould, 2014, p. 510[13]).

Participating First Nations request the federal government to adopt new regulations. Each First Nation will have to address its particular circumstances in a separate FNCIDA regulation. The Nation and the federal government, together with the respective province, develop these regulations, which are specific to a project and to previously defined tracts of land. With these regulations and after signing a tripartite agreement, the province supports the monitoring and enforcement of this new regulatory regime.

So far, this process has proven to be best suited for major commercial developments, once it requires significant resources and time investment. The British Columbia Assembly of First Nations (Wilson-Raybould, 2014[13]) prepared a checklist for First Nations willing to adopt FNCIDA regulations (Table 3.5).

Table 3.5. Checklist for First Nations to adopt FNCIDA regulations

Step	Actions
Project Identification and Proposal	• Prepare the formal written proposal and include supporting documentation. • Approve a council resolution supporting the development of regulations under FNCIDA. • Hold exploratory project discussions with key stakeholders (e.g., regional office of Indigenous relations and services; outside investors).
Project Review and Selection	• Complete a legal risk assessment and cost-benefit analysis. • Complete an evaluation of the proposal, including a detailed review of the project, the regulatory needs, the feasibility of using FNCIDA, the level of community support, and more.
Negotiation and Drafting	• Prepare the project work plans, specifying required resources, key milestones, plans for engaging stakeholders (who, when and how), strategies for risk management and target timelines. • Negotiate and sign the tripartite agreement with the federal government and the province. • Negotiate and put in place all required land tenure instruments.
Administration, monitoring and enforcement	• Construct project facilities and infrastructures. Start project operation • Assist the province in its administration, monitoring and enforcement of the regulations, as set out in the tripartite agreement.

Source: Wilson-Raybould, J. (2014[13]), *Governance Toolkit: A Guide to Nation Building*, http://bcafn.ca/wp-content/uploads/2016/06/Governance-Toolkit.pdf (accessed on 29 November 2018).

Engaging Indigenous communities in regional and municipal land use planning

One of the intractable problems that arises in Canada regarding how land is used is the question of jurisdiction. While Indigenous peoples have a direct (to varying degrees) relationship with the Government of Canada, their relationship with provinces is less well-defined. As such – much is left to good will in terms of how Indigenous people and communities are involved in provincial and municipal policymaking. Moreover, because municipalities are "creatures of the provinces" their mandates to work with First Nations are provincially defined. Federalism thus raises many practical challenges to overcome in terms of how land is governed across these regimes and the relationship and rights of Indigenous peoples therein.

For example, regional and municipal land use plans seldom include Indigenous reserve lands. As reserve lands lie under federal jurisdiction, provinces and municipalities do not integrate them into their spatial planning frameworks. The image of a "blank" space left purposely in regional maps is most compelling. In Québec, for instance, the territory of the reserves is not portrayed in provincial maps, and there are no relations between the planning administration and the reserves.

Yet impacts and overlaps are most strongly felt at the local level. Provincial and municipal government land use decisions and zoning can affect reserve lands, particularly where adjacent land uses on- and off-reserve are incompatible. Environmental degradation, road infrastructure, energy projects, water management are all issues that likely affect a reserve and its surrounding municipalities or, if remote, lands owned by the regional level of government. Moreover, it is not uncommon that traditional territories cut across municipal or regional lands, case in which the local authorities have to manage and regulate competing land uses.

Under a functional perspective, the links that Indigenous territories have with surrounding

areas have to be better framed and operationalised. This would generate better understanding of shared needs and means to address it. It can support the development of more well-structured partnerships for infrastructure development. It is relevant thus regardless of the land management model in place.

Considering these interactions, sub-national governments should engage with Indigenous communities on matters related to land use planning. Developing mechanisms to discuss planning issues with First Nations is likely to be mutually beneficial. These arrangements can be set out in memorandums of understanding or other agreements. Another possibility is to create nature conservation areas and to manage them jointly between the sub-national government and a First Nation. Moreover, impact studies and land use assessments could include estimations about the impacts of given activities on Indigenous lands. Governments could also consult with Indigenous peoples about significant sites to be protected, and in so doing help to preserve Indigenous heritage, culture and traditions. To illustrate, in the South Saskatchewan Region, municipal land use assessments have to include local histories and heritage sites of significance for the Indigenous groups of the area (Box 3.9).

Box 3.9. Municipal planning and Indigenous heritage: a good practice from Canada

The South Saskatchewan Regional Plan (SSRP) requires that municipalities consider the broader implications of land use, growth, and development, including on historical resources. Until now, however, these considerations largely excluded pre-settlement Indigenous heritage sites, many of which are more difficult for city planners to identify. These spaces include ceremonial and sacred sites, wildlife corridors, traditional hunting grounds, as well as places with significant narrative history.

In April 2016, the City of Lethbridge initiated its Traditional Knowledge and Use Assessment (TKUA) by holding a ceremony jointly hosted by Elders and officials from the Kainai, Piikani and Siksika Nations. Through the TKUA, the municipality is able to work collaboratively with these three nations to create a greater understanding of the local Indigenous heritage of the region. Traditional land use experts from these three nations are working in partnership with a local archaeology firm to identify, document, and capture the history of the Siksikaisitapi (Blackfoot Peoples) in this region for thousands of years.

The TKUA is part of a larger relationship building process between the City of Lethbridge and its Blackfoot neighbours. Reflecting the spirit and intent of the Truth and Reconciliation Commission of Canada's Calls to Action, the TKUA is working closely with the Blackfoot Confederacy to understand and protect this history. In this way, it is the Indigenous nations themselves who are empowered to gather information and tell their histories. The work of the TKUA is an example of reimagining the relationship between municipalities and Indigenous communities, and promoting reconciliation at the local level. The City of Lethbridge has shown significant efforts to acknowledge Indigenous histories as essential and foundational to city planning, rather than something that can be accommodated after development.

Source: AUMA (2017[53]), *Municipal Planning Hub*, https://www.auma.ca/sites/default/files/Advocacy/Programs_Initiatives/Municipal_Planning_Hub (accessed on 12 December 2018).

Indigenous peoples may wish to pursue economic activities related to hunting, fishing and sub-surface natural resources, or authorise others to do so. As seen above, Indigenous

peoples may retain rights over sub-surface resources if explicitly granted in modern treaties – otherwise the ownership lies with the government. In the Nunavut Agreement, for example, the Nunavut Tunngavik Incorporated (NTI) holds such mineral rights. NTI had, as of 2009, signed 80 mineral exploration agreements with 15 different companies, granting them rights to explore 20% of sub-surface Inuit Owned Lands.[39]

Besides granting exploration rights to others, Indigenous communities may pursue these activities themselves. In Canada's Northwest Territories (NWT), the 27 Dene First Nations fully own and operate a mining company, called DEMCo. DEMCo pursues mining activities with a strong sense of community engagement and environmental preservation.[40]

The relationship between Indigenous communities in regional and municipal land use planning could be strengthened by:

- Including Indigenous representatives in the elaboration of regional plans regarding territorial development, mining, water, and environmental protection.
- Ensuring there are mechanisms in place for Indigenous communities to have meaningful consultation with regards to the land use planning of municipal and other authorities that have jurisdiction on or near their traditional territories.
- Creating opportunities for Indigenous peoples to benefit from fishing, hunting and sub-surface resources by:
    - Developing and updating data that provides information on the quantity and quality of these resources.
    - Ensuring that traditional knowledge and practices are incorporated into planning and licensing decision-making about the use of natural resources.
    - Clarifying ownership rights over natural resources, and providing commercially viable pathways to exploit these resources, and/or lease them to third parties.
- Creating agreements that enable the co-management of nature conservation areas on traditional territories, and give opportunities for Indigenous peoples to generate economic development opportunities from them (e.g. land stewardship, eco-system services, and tourism activities).

Natural resource development projects and Indigenous communities

This section addresses how the regulations and decision-making processes around natural resource development projects can be inclusive and respectful of Indigenous peoples[41]. It focusses on two disputed issues: Impact and Benefit Agreements (IBAs) and consultation in environmental decision-making, gravitating around the meaning and implementation of Free, Prior and Informed Consent (FPIC). It departs from the assumption that Indigenous engagement in the policy-making and decision-making process should:

- Start early in the project development cycle, even before a specific project is designed, to include the planning and regulatory dimension (setting the rules).
- Structure a deliberative and negotiated process (not just information giving).
- Carry out negotiations in good faith with the goal of reaching consent.
- Compose a transparent and clear process with sufficient information to make informed decisions and with institutional support from the government.

- Respect the timeframes set by Indigenous peoples and their cultural practices.
- Include sincere attempts to share powers and functions, through contracts or agreements.
- Involve government officials that have cultural competency to understand the diversity of Indigenous communities and that appreciate their local knowledge.
- Count with agreed and transparent conflict resolution mechanisms, as well as mechanisms for monitoring and enforcement.

Impact and Benefit Agreements

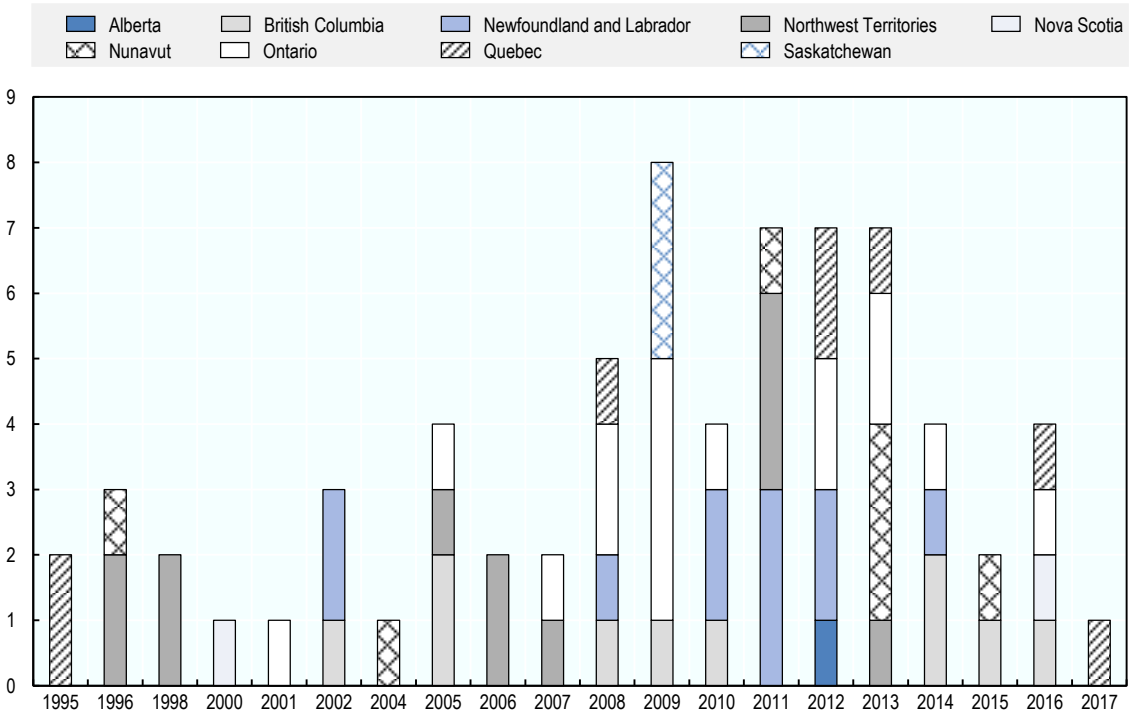
Benefit-sharing agreements are contract-making opportunities by which Indigenous peoples negotiate monetary and non-monetary benefits with corporations, in the context of project development (e.g. a mining or major infrastructure project). Through benefit-sharing agreements, Indigenous groups can exert some influence in defining the conditions for its entering into operation. The project should secure the continuous reproduction of their traditional ways of life.

In Canada, benefit-sharing in large scale development projects is agreed upon through Impact and Benefit Agreements (IBA). IBAs are negotiated between resource-sector corporations, Indigenous communities and sometimes governments, to minimise environmental and socio-economic impacts of resource exploitation. In exchange of developing their projects, corporations provide additional environmental impact assessment and monitoring, as well as settle financial compensation, provision of jobs and eventual environmental restoration.

Yet in many cases there is no obligation to do conclude negotiations.[42] The government is not a party of these agreements and their content is confidential. Because of this confidentiality, parties entering new negotiations are typically unaware of precedent negotiations, which may weaken the claims of Indigenous communities (Richardson, 2008[54]). The OECD has noted that agreements seldom result in changes to the project itself, and may actually serve the purpose of discouraging Indigenous peoples from making complaints in environmental assessment procedures or judicial proceedings (OECD, 2017[55]). In a similar line, others have stressed that the negotiation process associated with IBAs undermines the deliberative ethic at the core of the Free, Prior and Informed Consent (Papillon and Rodon, 2017[56]).

As of 2017, 510 agreements had been signed between Indigenous groups and mining companies, among IBAs, memoranda of understanding and surface lease agreements. Of these, 410 are still active. Counting just the number of active Impact and Benefit Agreements, there are 71, signed between 1995 and 2017. It is logic that older agreements are no longer active: as the mining activity moves in cycles, many sites have probably gone out of operation. The distribution across states is as below:[43]

Figure 3.5. Active Impact and Benefit Agreements across Canada (2017)



Source: Own elaboration based on Natural Resources Canada data obtained through personal communication.

The content of IBAs

Benefit-sharing agreements typically cover labour, economic development, community well-being, environmental, financial and commercial issues (Sosa and Keenan, 2001[57]). Provisions therefore verse on:

- Preferential hiring, Indigenous staffing quotas, and seniority in the event of layoffs.
- Capacity building, apprenticeship and training.
- Priority bidding for local entrepreneurs to meet the supply needs of industry and additional efforts to support them in complying with the bidding criteria.[44]
- Cultural recognition programs, including work-site language protection and local dietary provisions for Indigenous workers.
- Heritage protection: a general prohibition on the accessing of Indigenous lands, hunting grounds, and burial and sacred sites by non-Indigenous.
- Environmental provisions, in addition to or in concert with the ones determined at the environmental assessment process.
- Social issues: mental health counselling, financial and infrastructural support for community projects, recreational programs, and special provisions to protect social groups at risk, such as women and children.

The environmental provisions of benefit-sharing agreements should complement the ones agreed upon in the environmental assessment (EA). More precisely, these provisions ought to be decided after impact assessment results and cannot replace the EA. There is a concern

that benefit-sharing provisions might supersede the regulatory framework of environmental licensing, which has general rules and internal coherence. The risk is that environmental protection granted by law would be weakened in favour of contractual provisions. It is thus important that Indigenous communities and governments do not engage in or authorise negotiations with companies before the EA studies are undertaken. Environmental protection shall not be traded-off for economic benefits.

Furthermore, members of Indigenous communities should be involved in the assessment studies required for setting environmental and heritage protection conditions (see also the section below on environmental licensing). There are many examples in this direction, for instance, in the Ekati Diamond Mine in Canada, community elders have helped identifying burial and hunting sites that require protection (O'Faircheallaigh, 2015[58]).

Besides substantive provisions, benefit-sharing agreements ought to have procedural rules about how the negotiation is being carried, how the agreement will be implemented and how to solve conflicts. Procedural rules should thus concern:

- Negotiation protocol: authorised representatives of each party, degree of involvement of third parties e.g. government or regional Indigenous bodies, consultation with community, information-sharing and confidentiality.
- Timeframe of engagement: time granted for consultation, periodicity of meetings, expected timeline of the process, etc.
- Means of delivering compensation, for instance through community payments, individual claims or specific trust funds.
- Legal provisions about dispute resolution mechanisms, review and amendments.
- Monitoring and enforcement of the agreement, e.g. by creating a monitoring committee, conducting assessment studies or other means.

Another element to be negotiated is the implementation of the agreement. In the past, the absence of action plans and monitoring mechanisms has led to inefficient or absent fulfilment of the obligations set up in agreements. Governments can require companies to show an action plan that demonstrates how the agreement will be upheld. For that to happen, the government must have some sort of oversight or authority over the process. Moreover, governments can create a monitoring committee to assess progress in the implementation of the agreement. Alternatively, they can provide assistance for Indigenous groups and organisations to set up their own monitoring committees.

Moreover, action plans must include provisions on the phasing out of operations. The cessation of activities is a phase of the project cycle and as such one that should be prepared for in advance. The phasing out plan may include provisions about lay-off, training, business development support and future use and maintenance of community infrastructure. The closure plan can be required in state legislation, as it is in Alaska, and communities can be involved in its elaboration (Box 3.10).

Box 3.10. Community Input Into Red Dog Mine Closure Plan

The Red Dog mine in northwest Alaska was developed under an operating agreement between Teck Alaska and the NANA Regional Corporation, a Native corporation owned by the local Inupiat people. The operation has injected more than a half billion dollars into the local economy, and over 50% of its current employees are NANA shareholders.

Although mining at Red Dog is expected to continue for another 20 years, State of Alaska law requires the operation to develop and fund a comprehensive closure plan. The company worked with Teck and NANA to get stakeholder input. That effort began with the development of reports describing the technically viable closure options. The options were presented at a series of public meetings, and an Inupiat-language DVD was produced and provided to all of the homes in the directly affected communities.

Two multi-stakeholder workshops were organised to review the options and provide feedback on stakeholder preferences. About 65 people attended the first workshop, and 45 attended the second. The participants included representatives of the communities of Noatak and Kivalina, a subsistence harvesting committee comprised of elder hunters from the region, Teck and NANA staff, State regulators, NGOs and technical specialists.

The workshops applied a number of innovations designed to help participants provide considered and clear feedback. Participants were grouped according to their primary interests, and each group was asked a series of questions that reflected their own perspective. For example, the elder hunters were asked "will this option protect subsistence uses of the area?", whilst the regulators were asked "will this option protect downstream water quality?". Answers were gathered from each group and compiled to show group preferences. Individuals were also polled and their preferences compiled. The group and individual results showed clear preferences that became the basis of a Closure and Reclamation Plan filed in 2008, and accepted by the State in mid-2009.

Source: Hockley, D. (2009[59]), "Community input into Red Dog mine closure plan", https://www.srk.com/files/File/newsletters/SRKnews41-social-assessment-A4.pdf.

Types of compensation

Indigenous groups can accrue financial compensation and non-monetary compensation. Non-monetary compensation can range from employment opportunities, training and business development to infrastructure construction and provision of services. Financial compensation can take the form of royalties (based on the value of mineral output or output), tax on profits, single up-front payments, annual fixed payments, equity participation or shareholding.

Financial resources can be collected directly by the Band or be allocated to investment funds. An investment fund is a fund that invests its money in assets that earn income, or that due to other strategies is able to increase its capital stock. It is considered a good practice because it generates autonomous financial resources to support sustainable regional economic development for the future, beyond the duration of the project (Söderholm and Svahn, 2014[60]). There are operational costs in hiring fund administrator, approving plans with the community and ensuring accountability.

More and more agreements have been designed to provide a combination of the two types of benefits. It has been recognised that monetary compensation, while often legally

required, seldom ensures that lives and livelihoods of affected communities are adequately restored (Loutit, Mandelbaum and Szoke-Burke, 2016[61]). Community-wide benefits are more sustainable in the long run because they build up the infrastructure and the skills that allow Indigenous peoples to take advantage of employment opportunities that are brought by the investment.

Box 3.11. Community benefit agreement examples

In Canada, the *Raglan Agreement*, signed in 1995 between the mining company and the affected Indigenous group, emphasises the importance of cultural sensitivity in employment as a key means of retaining Indigenous employees. Specifically, the agreement seeks to encourage social harmony within the workforce by promoting inter-cultural understanding through cross-cultural training for all supervisors and managers, inviting local artists to perform outside of working hours at the project site, organizing sports events between employees and residents, and ensuring access to traditional food sources.

In Australia, the *Argyle Diamond Mine Participation Agreement*, signed in 2004, supersedes the 20-year-old "Good Neighbour Agreement". It is the result of a renegotiation process, conducted in a far more participative manner, and supported by ethnographic and genealogical studies. In the Management Plan Agreement, the company commits to helping traditional owners establish businesses and develop good management practices. Where appropriate, an Argyle employee would help the business on an ongoing basis for three years. This case demonstrates how community development agreements can help local businesses to develop.[45]

Conditions for a fairer negotiation process

The negotiation of benefit-sharing agreements can yield difficulties. Power imbalances may compromise the ability of Indigenous groups to reach favourable agreements. These are groups which typically have less financial resources, less technical capacity and less human capital available to invest in demanding negotiation processes with governments and mining companies (Black and McBean, 2017[62]). This section elaborates on these difficulties and provides some indications of what governments can do to strengthen the Indigenous position.

Access to information is foundational for Indigenous peoples to participate in decision-making processes. Information has to be up-to-date and freely accessible, without need for registration of personal data or payment. It has to be accompanied by supporting documents, such as guidebooks or booklets, to render it more comprehensible. If necessary, information should be available in the Indigenous language, and a public official that speaks the Indigenous language should be put at disposal to clarify questions.

In addition, the confidentiality of benefit-sharing agreements works against Indigenous peoples. It weakens their bargaining power, because the terms and conditions of previous agreements signed with other Indigenous groups remain unknown. It may create divisions amongst Indigenous groups, as one may perceive that benefits have been unequally allocated. It prevents Indigenous group from seeking assistance from third parties, even if only for informational purposes. As a whole, it means that Indigenous groups cannot learn from past experiences.

Governments can address this problem by making key aspects of benefit-sharing agreements available. They can keep online databases of signed agreements. In Australia, for instance, the Native Title Tribunal has the complete list of registered ILUAS, with date of signature, name of the parties, state and date of commencement.[46] The content of agreements is not however disclosed. In Canada, as already said, IBAs remain confidential. Whilst it is true that some clauses of agreements may need to remain confidential, for example the ones on market shares and amount of monetary compensation, other clauses could and should be freely disclosed.

Indigenous peoples must be able to negotiate project development with companies from a position of strength. This requires clarity about rules and fair negotiation procedures. Governments must be at a position of oversight, which should not be mistaken with interfering in the negotiation. They can provide standards and guidelines about how to act. They need to make information available, assist when needed and publish relevant information. They should also monitor the implementation of agreements and make companies accountable for what they had agreed.

Indigenous communities can get support not only from the government but also from other communities that had been involved in similar negotiation processes in the past. By sharing information and experiences they can be much more prepared. Indigenous organisations are another source of knowledge, and many of them have developed negotiation workshops, leadership courses and community toolkits on benefit-sharing agreements.

On the side of companies, the bottom line is negotiating in good faith. It includes respecting the timelines and conditions set by Indigenous people, adopting transparent rules of conduct, sharing information on a regular basis, holding meetings in accessible language and location, supporting financially the Indigenous negotiation team and being truly open to discuss alternative proposals. The Box 3.12 provides a list of leading practices on agreement-making for companies.

Box 3.12. Leading practices for Community Development Agreements

A Community Development Agreement or CDA can be a vital mechanism for ensuring that local communities benefit from large-scale investment projects, such as mines or forestry concessions. In formalizing agreements between an investor and a project-affected community, CDAs set out how the benefits of an investment project will be shared with local communities. In some countries CDAs are required by domestic legislation; in others, they are entered into voluntarily. The most effective CDAs are also adapted to the local context, meaning that no single model agreement or process will be appropriate in every situation. Nonetheless, leading practices are emerging which can be required by governments or voluntarily adopted by companies and communities. Some leading practices from a review of available agreements from the extractive sector in Australia, Canada, Laos, Papua New Guinea, Ghana and Greenland are as follows.

- Develop a pre-negotiation agreement, such as a memorandum of understanding, that establishes among other things the negotiation framework and funding for each stage. Commence culturally sensitive orientation programs and/or negotiations training to ensure meaningful negotiations and approval of the final agreement.

- Ensure community participation in the agreement-making process, including informed decision-making during negotiations and involvement in completing impact assessments.
- Benefit sharing means more than financial compensation for use of the land or displacement; it includes non-monetary benefits, such as employment opportunities, training of locals, business development support, infrastructure and provision of services.
- There must be strong, accountable governance arrangements in the agreement to facilitate effective implementation. A system of ongoing monitoring and review with mechanisms would allow for adjustment of the terms of the agreement when necessary.
- The agreement must plan for project closure and legacy issues. Agreements should include action plans for dealing with expected and unexpected closure at the outset and create a closure taskforce at the time of execution of the agreement.
- As far as possible, agreements should not be confidential, consistent with the objectives of transparency, accountability and good governance. Confidentiality provisions can weaken the capacity and power of local communities by prohibiting them from communicating with the media and other stakeholders for advice, support and information.

Governments can encourage investors to adopt these good practices and, in some cases, mandate such practices through legislation or regulations. Conduct extensive research and consult widely to identify all communities, and the individuals who will represent them, in the negotiation process.

Source: Loutit, J., J. Mandelbaum and S. Szoke--Burke (2016[61]), *Emerging Practices in Community Development Agreements*, http://ccsi.columbia.edu/files/2016/02/Emerging-practices-in-CDAs-Feb-2016-sml.pdf.

The Government of Canada should support the elaboration of benefit sharing agreements that combine monetary and non-monetary benefits; establish an action plan and dispute resolution mechanisms; and provide for project closure and remediation. Specific actions include:

- Supporting and encourage project proponents to engage in dialogue and meetings with Indigenous groups prior to submitting projects for approval, and agreeing upfront on the terms and procedures for engagement (e.g. timing, location, language and translation, and financial support).
- Creating opportunities to strengthen the negotiation power of Indigenous groups, by:
  - Providing all the necessary information on environmental conditions, sub-surface resources, land uses, competing economic interests and other elements that Indigenous groups may not be aware of.
  - Referring companies to a legitimate regional or national Indigenous organisation that can serve as the contact point with local groups.
  - Elaborating a common set of tools and templates from which Indigenous groups can draw to start negotiations.

  - Facilitating workshops among Indigenous negotiators and leaders to share experiences and good practices in agreement-making.
  - Creating an online platform that maps and registers signed impact-benefit agreements.
- Developing databases that systematically record and publish benefit-sharing agreements (excluding commercial-in-confidence information), in order to ensure more transparency and, ultimately, more accountability.
- Monitoring the implementation of benefit-sharing agreements, through a specific commission or administrative body or by obliging companies to report regularly on the outcomes of them.

Consultation in Environmental Decision-Making

The environment is an area of shared jurisdiction in Canada. The Supreme Court of Canada has ruled that all levels of government (including municipalities through delegated authority) have important roles to play in environmental protection; however, the federal government holds the largest role due to the scope of its powers. The Canadian federal government is responsible for environmental laws relating to "trade and commerce, navigation and shipping, fisheries, criminal law, aboriginal lands and people, taxation, anything that is a national concern or emergency, residual power over anything not specifically covered in either list, and to make laws for the peace, order and good government of Canada" and its own lands (Surtees, 2019[63]). Provincial powers extend to "mines, minerals and non-renewable resources, forestry, electricity, public lands the province owns, municipal institutions, matters of a local or private nature, local works and undertakings and property and civil rights within the province" (Surtees, 2019[63]).

Consultation in environmental decision-making has been at the spotlight in recent years. On the one side, the international provision of Free, Prior and Informed Consent has generated debates among international organisations, academics and social movements. On the other side, natural resource development projects that affect Indigenous territories and livelihoods have been a major source of controversy. The Trans Mountain Pipeline project illustrates this point exemplarily (OECD, 2017[55]). Put together, the meaning of consultation in environmental management processes that lead to decisions about the approval of natural resource development projects is ongoing discussion.

Public consultation is a prominent feature of Canadian government decision making. The federal, provincial and territorial governments are obliged to consult with Indigenous groups, in accordance with the Guidelines for Federal Officials to Fulfil the Duty to Consult (2011).[47] Case law of the Supreme Court of Canada further reiterates this obligation. In addition, formal consultation protocols provide for assessing the environmental implications of projects on Indigenous lands.[48] Public participation is ensured in the environmental assessment process through notification, reasonable timing for public comment, provision of accessible information and transparent reporting of results (OECD, 2017[55]).

However, Indigenous peoples often feel they have not had the opportunity to meaningfully participate in environmental decision-making (OECD, 2017[55]). They have claimed that consultation often occurs too late in the process, giving them too little influence over the decision. They feel that there is no possibility to question the existence and design of those projects, once the debate gravitates around the terms of compensation agreements. In the end, the fact that a compensation is accepted would give legitimacy to the project.

Erratic and limited consultation processes impose yet another barrier in the capacity of Indigenous peoples to fight against projects that would affect them disproportionally and negatively. Dumpsites, dams, tire deposit, incinerators… projects that clearly bring more negative than positive consequences are commonly proposed in Indigenous lands. This disproportionate burden in polluting, and nuisance-generating projects is labelled environmental racism (OECD, 2017, p. 82[55]).

A practical agreement is yet to be reached. Indigenous peoples would like recognition as right-holders rather than stakeholders in the context of natural resource management. They claim a special status in environmental decision-making that would give them the right to veto projects. Even though the government has committed to fully implement the UNDRIP, assuming an obligation to achieve consent would be too big a step, as it would dramatically reduce the likelihood of several natural resources projects of strategic importance taking place. FPIC should be, in this understanding, the guiding principle for consultation.

Box 3.13. Environmental racism in Canada

Environmental racism is a term used to describe circumstances where hazardous and harmful pollutant sites are located near areas with large minority populations. It describes racial discrimination in environmental policymaking. The term was coined in the early 1980s as a response to protests against a North Carolina landfill being located in a disproportionately poor and African American county (Bullard, 1993[64]). Since that time, a large literature has documented the disproportionate location of such sites near low income minorities across a wide range of countries including in Canada among, for example, African Nova Scotians and Indigenous Canadians (Fryzuk, 1996[65]; Buzzelli, 2008[66]; Wiebe, 2016[67]).

Sources: Bullard, R. (1993[64]), *Confronting Environmental Racism: Voices from the Grassroots*, South End Press, https://books.google.fr/books?hl=en&lr=&id=yVr9lhrrTVwC&oi=fnd&pg=PA1 (accessed on 25 March 2019).; Fryzuk, L. (1996[65]), *Environmental Justice in Canada: An Empirical Study and Analysis of the Demographics of Dumping in Nova Scotia*, http://www.nlc-bnc.ca/obj/s4/f2/dsk3/ftp04/mq24966.pdf (accessed on 25 March 2019); Buzzelli, M. (2008[66]), *Environmental Justice in Canada - It Matters Where You Live*, http://citeseerx.ist.psu.edu/viewdoc/download?doi=10.1.1.503.1447&rep=rep1&type=pdf (accessed on 25 March 2019); Wiebe, S. (2016[67]), *Everyday Exposure: Indigenous Mobilization and Environmental Justice in Canada's Chemical Valley*, https://books.google.fr/books?hl=en&lr=&id=1PNJDAAAQBAJ&oi=fnd&pg=PP1&dq=landfills (accessed on 25 March 2019).

Options to improve the Environmental Assessment process

In 2017, the OECD conducted an Environmental Performance Review of Canada, with recommendations on how to improve environmental management. Among them, the OECD recommended the Government of Canada increase the transparency of the environmental assessment procedure by starting it at the early project design phase and ensuring closer integration between EA and permitting at the provincial level. Since then, an important piece of legislation on the environmental assessment procedure was enacted, Bill C-69. In June 2019, Bill C-69 obtained Royal Assent.[49] This Bill enacts the Impact Assessment Act, which includes an emphasis on early planning and engagement with Indigenous peoples, proponent information provided at the outset of early planning and strengthened cooperation with provincial governments.

Moreover, federal strategic environmental assessments should be introduced at the provincial level in order to ensure its application to regional and local land-use plans and to evaluate and address cumulative environmental effects of economic activities (OECD, 2017[55]). Starting in 2018-2019, Canada has invested $15.5 million over 5 years to establish the Indigenous Centre of Expertise for Cumulative Effects Assessment and Management, in collaboration with Indigenous experts, practitioners and researchers specializing in cumulative effects science.[50]

Departing from Bill C-69 and counting with the expertise of this new Centre, the Government of Canada should define and implement the concept of Indigenous communities' "free, prior and informed consent" (FPIC) with regards to land use and natural resource management (OECD, 2017[55]):

- **Guidelines on how to operationalise the FPIC principals are needed and Indigenous organisation should be involved in their elaboration.** The guidelines should clearly define whom to consult, once discussions with community leaders may not reflect a community's opinion, putting implementation at risk. It should also define FPIC, particularly whether the right to oppose a project constitutes a veto in EA processes (Papillon and Rodon, 2016[68]). These guidelines should include how Indigenous views will be expressed in the final assessment report in a manner that is inclusive and participatory. Indigenous communities and organisations need greater capacity in order to meaningfully participate in the EA process.
- **Foremost, EA processes should clearly outline how FPIC principles will be met, including in the terms of reference.** Indigenous organisations should collaborate as full partners in the drafting of the relevant legislations, policies and guidelines, in consistence with the principle of collaborative consent (Papillon and Rodon, 2016[68]). In order to be effective partners in this process, Indigenous community engagement could be supported through access to the relevant training and expertise and capacity building.
- **Finally, the EA needs to be better integrated between EA and permitting at the provincial level.** Once the consultation/deliberation phase is completed, invite the Indigenous community to participate in the preparation of the assessment report, either through the inclusion of a section dedicated to the positions expressed by the community or through a more hands-on collaborative process in the drafting. (OECD, 2017[55]) (Papillon and Rodon, 2016[68]). Indigenous communities and organisations are frequently asked to engage in consultations and often express burnout by time consuming nature of these requests. Participation in these consultation processes needs to be meaningfully structured such that those who give the time know that their voices will be included and considered in a specific way and within a specific timeframe.

Box 3.14. From Principle to Practise: Implementing FPIC federally and provincially in Canada

The 2007 United Nations Declaration on the Rights of Indigenous Peoples (UNDRIP) established the principle of Free, Prior, and Informed Consent as an international norm that *ought to* guide relations between Indigenous peoples, states, and extractive industries. However, the gap from principle to practice can be considerable (Papillon and Rodon, 2017[56]). Canada's initial hesitation in signing on to the declaration stemmed from its incompatibility with existing Canadian law and the fact that the Canadian government does not recognise the FPIC principle as a veto right against resource development and administrative and legislative decision-making. A decade after UNDRIP, Canada removed its objector status, but the implementation of FPIC remains aspirational.

Part of the delay in implementation stems from the fact that provincial and territorial governments have an important role to play. Canada's constitutional division of powers gives provinces purview over natural resources development and many issues related to the environment and land use. The implementation of FPIC principles must involve the dedication of all levels of government. In this, the government of British Columbia may lead the way. The Government of British Columbia's 2019 throne speech committed the province to being the first in Canada to introduce legislation to implement UNDRIP and promised to co-develop legislation with the First Nations Leadership Council and other Indigenous organisations (Austin, 2019[69]). The government stated that this legislation would form the foundation for the Province's work on reconciliation, mandating government to bring provincial laws and policies into harmony with the Declaration (Austin, 2019[69]). Inviting Indigenous organisations to collaborate as full partners in the drafting of the relevant legislations, policies and guidelines is consistent with the principle of collaborative consent and an important first step.

Sources: Papillon, M. and T. Rodon (2017[56]), "Proponent-Indigenous agreements and the implementation of the right to free, prior, and informed consent in Canada", http://dx.doi.org/10.1016/J.EIAR.2016.06.009; Austin, J. (2019[69]), *2019 Speech from the Throne*, https://www.leg.bc.ca/content/data%20-%20ldp/Pages/41st4th/ThroneSpeech_2019.pdf (accessed on 25 March 2019).

Notes

[1] The judgement from the federal Court of Appeal on the case of *Tsleil-Waututh Nation et al. v. Attorney General of Canada et al.* notes that: "at the last stage of the consultation process, a stage called Phase III, Canada fell well short of the minimum requirements imposed by the case law of the Supreme Court of Canada" and that "the law requires Canada to do more than receive and record concerns and complaints" (Federal Court of Appeal, 2018[75]).

[2] The reduced focus on Métis rights is a limitation of this study. Since more material and literature are available on First Nations and Inuit rights, desk research suffered from the same bias. During the missions, the OECD had very few or no opportunities to meet with Métis representatives. Furthermore, Métis rights, and even more so in what concerns land rights, have been recognised by the courts and the government of Canada much more recently than the rights of First Nations and Inuit. The task of providing a concise analysis for the general reader may fall short in the face of ongoing recognition. In all, Further international comparable work on Métis land rights is needed.

[3] The term Indigenous is used throughout the chapter to refer to the first peoples of the land that today corresponds to the country of Canada, in alignment with international conventions and declarations.

[4] Information retrieved from: (Global News, 2018[76]).

[5] The Truth and Reconciliation is broader and more disputed than just land rights. Some view it as rebuilding nation-to-nation relations and ensuring sovereignty, whereas to other groups it is a matter of identity politics. Some emphasise environmental justice, others the difficult issue of intergenerational trauma. When stating that land rights are part of the Truth Reconciliation project, it is meant that they are a component part of a government policy. It is not the whole of it, it is not the only issue at stake, but for the purposes of this chapter is an important one.

[6] Information on the disadvantageous attributes of Indigenous lands was retrieved from (RCAP, 1996[6]), (Alfred, 2009[5]) and (Belley, 2000[10]).

[7] An insufficient land base is consistently regarded as a barrier to First Nation government taxation, together with low states of economic development and political barriers. See (Department of Indian Affairs and Northern Development, 1997[90]).

[8] The remainder of this section draws on (Thomas, 2016[91]) "A matter of national and constitutional import: report of the minister's special representative on reconciliation with Métis : section 35 Métis rights and the Manitoba Métis Federation decision", Gatineau, Qué. : Indigenous and Northern Affairs Canada, 2016. 46p.

[9] Indigenous organisations and bands have positioned themselves in defence of the collective nature of Indigenous rights to land, against a proposal to create individual fee simple title to land in reserves. The proposal of the First Nations Property Ownership Act was met with great resistance. It was deemed to damage the core of Indigenous connection to land and to undermine the land base, by creating a patchwork of conflicting interests and by facilitating the transfer of land to third parties. For a critique, see (Pasternak, 2015[87]).

[10] These lands are not legally held "in trust," although the relationship is often characterised as being trust-like (Wilson-Raybould, 2014[13]).

[11] For a detailed account of harvesting, fishing and hunting rights, see: (Imai, 2017[80]).

[12] Information retrieved from: https://www.sgsyukon.ca/settlement-lands/.

[13] Formalisation reforms have to be accompanied by clearly defined boundaries and conflict resolution mechanisms. They ought to respect local Indigenous cultural practices and governance structures. Formalisation also entails costs, such as the one of creating and administering a formal titling system. As Baxter and Trebilcock argue: "Given rich non-formal regimes, formal institutions may map poorly onto First Nation's existing land tenure arrangements, thus creating conflict and greater insecurity where interest holders are unsure which system applies. Even in the absence of strong Indigenous institutions, formalization may create insecurity and conflict where individual property boundaries have been left intentionally fuzzy or undefined by the community. Additional costs to formalization also exist. The monetary cost of designing and administering a formal titling system can obviously be quite high, depending on the complexity of the system and the quantity of registered interests and transactions." (Baxter and Trebilcock, 2009, p. 64[18]).

[14] Information retrieved from: (Government of Canada, 2019[78]) (September 2019).

[15] In the sense, see the report *Resolving Aboriginal Claims: A Practical Guide to Canadian Experiences*, also for a good overview of the comprehensive claims process and self-government agreements (Indian Affairs and Northern Development Canada, 2003[73]).

[16] Note that this recommendation was made in the final chapter of the Royal Commission on Aboriginal Peoples: "Aboriginal land rights do not need to be extinguished to achieve a settlement of land claims or to agree to or implement new treaties" (RCAP, 1996[93]).

[17] These recommendations are informed by previous scholarship on this matter including the those of the 2018 report of the Standing Committee on Indigenous and Northern Affairs of Canada's House of Commons (Mihychuk, 2018[24]).

[18] All the information on specific claims was retrieved from (Government of Canada, 2015[77]).

[19] Information retrieved from (INAC, 2016[92]).

[20] The technical name for this minimum amount of land that is to be acquired and set apart as reserve is "shortfall". After a First Nation acquires its Shortfall Acres it may use any remaining funds to acquire additional reserve land, up to the maximum number of acres the First Nation is entitled to have transferred to reserve status through its settlement agreement. This land is called "Equity Acres." The money may also be used to enhance the community and for economic development. Information retrieved from (Government of Saskatchewan, n.d.[79])

[21] Information retrieved from: (Government of Saskatchewan, n.d.[79]).

[22] Information retrieved from: (IUS, 2012[83]).

[23] In fact, the Indigenous tribe has the third priority in acquisition. The first priority goes to other government departments or local authorities, if they need the land for public purposes such as building a road. The second priority goes to those from whom the land was acquired, or its successors. Still, this policy places tribes in a much better position to acquire land that is already of their interest.

[24] Information retrieved from: (LINZ, 2017[84]).

[25] Information retrieved from (ANAO, 2013[74]).

[26] Source: Personal communication with Government of Canada.

[27] Source: Personal communication with Government of Canada.

[28] Ideal types are simplified models. They express pure typologies, which rarely exist in the world. That is, within countries, more than one type can co-exist and there may be alternatives to them. There is nonetheless conceptual relevance in such simplification.

[29] See (NAEDB, 2014[37]).

[30] Canada became a signatory to the Framework Agreement on First Nation Land Management in 1996 with 14 First Nations. In 1999, the First Nations Land Management Act (FNLMA) received Royal Assent, which ratified the Framework Agreement and made it a statutory instrument. Information retrieved from (INAC, 2017[81]).

[31] For more information about comprehensive community planning, refer to: (FMB, 2018[20])and (Stonecircle Consulting, 2018[89]).

[32] The First Nations Property Ownership Act, first proposed in 2006, is no longer being debated. The legislative act endorsed the view that private ownership is key to unlock economic opportunities for First Nations. Opponents of the Act alleged that private ownership undermines intergenerational transmission of Indigenous land and the perpetuation of traditional livelihoods. For a defence of the Act, see (Flanagan, Le Dressay and Alcantara, 2010[49]). For a critique, see (Pasternak, 2015[87]). Another reason why this Act deserves scepticism relates to the risks of land fragmentation and absent owners, present in the United States and in New Zealand. The report *Linking Indigenous Communities with Regional Development* (OECD, forthcoming) contains a more detailed analysis of these risks.

[33] As noted by (Flanagan, Le Dressay and Alcantara, 2010, p. 96[49]).

[34] For more information, see: (Indigenous Services Canada, 2017[82]).

[35] In verbis: "we find that existing property rights, notably individual rights of lawful possession, have measurably improved housing outcomes on reserve. In addition, private property rights on collectively held land, that is, designated land and permits, are associated with markedly higher band spending and improvements in water quality." (Aragón and Kessler, 2018, p. 29[50]).

[36] "A Buckshee Lease is a common term that is used to describe an illegal lease under section 28(1) of the *Indian Act*, where lands are leased by the First Nation or a CP Holder outside of the provisions of the *Indian Act*. These types of leases are frequently encountered on Indian Reserves for short term and minimal rental payment leases, because the leasing process under the administration of the AANDC is lengthy, expensive, and time consuming. Where there is a tenancy dispute, the tenant has no rights if the Band or CP Holder wishes to evict the tenant, because the courts have found Buckshee Leases to be unenforceable. A Buckshee Lease has no security of tenure, and the lessee has no right to possession. Buckshee Leases are generally used for recreational or agricultural purposes, campgrounds, or primary residences, and are fairly common in Canada, because of the complexities created by the *Indian Act*." (Munnings, 2015, p. 25[70]).

[37] Regional plans typically contain high-level objectives and policies for growth management, environmental protection, regional-scale infrastructure and economic development (OECD, 2017[55]).

[38] In a 2018 report, the David Suzuki Foundation notes: "Safe water supply off-reserves is the responsibility of the provincial governments. But First Nations and the reserves they live on fall under the jurisdiction of the federal government. This two-tiered governance structure means that, while most communities benefit from binding provincial water quality regulations, there are no such enforceable regulations on reserves." (Lukawiecki, 2018[71]).

[39] Information retrieved from (Johnson, 2009[72]).

[40] In the words of DEMCo's CEO, in a 2015 interview: "Before we do anything, we sit down with the community and go through everything that we're doing. That's what they want. They want that engagement, that conversation and being able to participate. (…) I think Dene participation will help develop a responsible legislative and regulatory framework. First Nations don't want to start big initiatives just to make money and then ruin the land and the environment and the water. It's a balanced approach that has got to ensure that the positive and negative impacts of mining and exploration are well understood" (Renders, 2015[88]).

[41] This section draws on work published in the report *Linking Indigenous Communities with Regional Development* (OECD, forthcoming).

[42] The Nunavut Land Claim Agreement and the Labrador Inuit Agreement both require the conclusion of IBAs for major developments. Some of the NWT agreements require that negotiations commence, though there is no guaranteed outcome.

[43] Data obtained through personal e-mail communication from Natural Resources Canada, Government of Canada.

[44] Noting that Indigenous entrepreneurs do not always meet the criteria set in companies' tendering processes, in terms of financial capacity and skills, IBAs have included additional criteria to support them. Sosa and Keenan (2001[57]) have identified ways that governments can support Indigenous participation in bidding: "a) requiring the mining company and to provide information about the company's tendering process; b) requiring the mining company or government to give or fund workshops on how to prepare tenders; c) providing extensions to Aboriginal businesses in the preparation of tenders; d) requiring that the company assist Aboriginal businesses to secure financing by, for example, providing them with letters of intent or conditional contracts; or by encouraging Aboriginal and non-Aboriginal enterprises to form joint ventures; e) requiring that the company give Aboriginal businesses advance payments in order to help them to initiate contracts; f) allowing aboriginal businesses to use the company's infrastructural services, such as roads and airstrips, and g) "unbundling" contracts, that is, dividing complex contracts into smaller, simpler components that are tailored to specific Aboriginal businesses".

[45] The two examples were retrieved from Loutit, Mandelbaum and Szoke--Burke (2016[61]).

[46] Available at Search Register of Indigenous Land Use Agreements (2018[85]).

[47] Case law of the Supreme Court of Canada further reiterates the existence of the duty to consult, but diverge on whether it includes the obligation to achieve consent or not. In the Tsilhqot'in Nation v. British Columbia case (2014), the Supreme Court ruled the Crown must obtain consent from the Indigenous community rather than just fulfil the duty to consult. Other cases attest different interpretations. For a more complete analysis, see (Land, 2016[2]).

[48] As the OECD *Environmental Performance Reviews: Canada* further details: "The duty to consult Indigenous groups is a key part of the federal government's activities. The government of Canada signs consultation protocols with Indigenous groups to create a process for consulting on potential adverse effects on Indigenous rights. (…) In the environmental domain, such consultations concern policy and regulatory development, EA, licensing and permitting, etc. (…) Several provinces (e.g. Alberta and Quebec) are revising policies for consultation with Indigenous peoples to take account of these [from Indigenous peoples] concerns and move towards "co-creating" engagement approaches." (OECD, 2017, p. 104[55]).

[49] Information retrieved from: (Parliament of Canada, 2019[86]) (September 2019).

[50] See the official website: https://www.aadnc-aandc.gc.ca/eng/1553539034821/1553539063871.

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Chapter 4. Enabling rural Indigenous entrepreneurship

The objective of this chapter is to assess and provide recommendations to improve the policy framework for Indigenous entrepreneurship, particularly in rural areas. The chapter begins by discussing the framework conditions for Indigenous entrepreneurship with a focus on rural areas, the unique aspects of Indigenous entrepreneurship and the rights framework and regulatory environment specific to the Indian Act. Areas of competitive advantages and opportunities for Indigenous entrepreneurship are then identified. Third, the chapter assesses the main government policies at the federal and provincial levels that support Indigenous entrepreneurship and the main Indigenous organisations that are involved delivering services and providing strategic advice. The chapter ends by examining some of the key policy levers that can support Indigenous entrepreneurship.

Key findings and recommendations

Key findings

- Entrepreneurship gives Indigenous peoples the opportunity to generate own-source revenues, create jobs, and invest in communities in ways that align with their objectives for development.
- Access to cities and resource endowments or amenities, along with the quality of local institutions, shapes the development pathways and growth potential of different First Nations.
- There are many examples of First Nations mobilising local assets to develop opportunities in the tradeable sector (energy and mining, tourism, and forestry), and for meeting local demand and addressing social needs.
- The Canadian Government has made good progress in the last four decades in economic development policies, for example, by supporting the establishment of a network Aboriginal Financial Institutions (AFIs), and implementing preferential procurement for Indigenous businesses.
- Despite this progress, market failures such as asymmetric information and the inefficient allocation of credit, when combined with legacy costs of long-term welfare dependency and poor infrastructure, results in lower levels of entrepreneurial activity.
- The enabling environment for rural Indigenous entrepreneurship can be supported by improving the access that Indigenous-owned businesses have to capital and markets (e.g. community development finance, broadband, and procurement).

Key recommendations

Strengthen **support to the Aboriginal Financial Institutions (AFI) sector** to provide assistance to Indigenous businesses by:

- Incentivising private investment and facilitating collaboration among AFIs to scale up projects.
- Increasing support for AFIs and other relevant Indigenous service providers to provide capacity building activities (e.g. entrepreneurial and procurement coaching, financial literacy, private sector matching, participation in local chambers of commerce).

Improve **accessibility to broadband** for rural Indigenous communities by:

- Enabling co-funding and partnerships between Federal and provincial governments to provide broadband for Indigenous communities in rural and remote areas.
- Providing yearly reporting on the quality of broadband in Indigenous communities and report on progress in meeting connectivity goals.

Strengthen the **Federal Governments Procurement Strategy for Aboriginal Business** (PSAB) by:

- Expanding the existing database of Aboriginal businesses to include a goods and services search function (along with key word and geography).
- Requiring large-scale contractors to advertise subcontracting opportunities on the government's procurement website to attract small to medium-sized businesses.
- Establishing binding procurement targets and set asides for Federal government procurement.
- Reporting on and providing annual government-wide reporting on PSAB contracts and their value.
- Considering the use of procurement loans for Indigenous business as part of its business development, capital and support services.

Enhancing the role of Canada's **Regional Development Agencies (RDAs)** in supporting Indigenous entrepreneurship by:

- Ensuring that staff have regionally specific cultural competency training and that there is recruitment and mentoring Indigenous staff.
- Developing opportunities to connect local entrepreneurs with Indigenous entrepreneurs and communities in the regions.
- Actively communicating with Indigenous communities and organisations and share leading practices of engagement and programme design across RDAs.
- Developing programmes with the flexibility to meet Indigenous business and infrastructure needs.
- Updating performance measures to reflect success for Indigenous businesses and effective engagement with Indigenous communities.

Introduction

Indigenous entrepreneurship is the creation, management and development of new ventures *by* Indigenous people *for the benefit* of Indigenous people.[1] This definition encompasses both profit-generating activities and those pursued for social reasons – to the benefit of the community. It may take the form of sole proprietorship, partnership, corporation or cooperative and includes community-led economic development practices that align with diverse Indigenous cultural, spiritual and environmental worldviews. The outcomes and entitlements derived from Indigenous entrepreneurship may extend to enterprise partners and non-Indigenous stakeholders.

Indigenous entrepreneurship matters because vibrant Indigenous businesses and economies are fundamental to self-determination. Rebuilding Canada's relations with Indigenous Peoples—First Nations, Métis and Inuit—requires rebalancing political and *economic* power.[2] Hence the emergence of the term *Economic Reconciliation*. Indigenous entrepreneurship supports self-determination by reducing dependency relationships and by

increasing decision-making autonomy. As noted in the RCAP "Self-government without a significant economic base would be an exercise in illusion and futility" (RCAP, 1996[1]).

It has been estimated that if the First Nation and Inuit economy were to operate at the same level as the Canadian economy, this could result in an additional contribution of $3.675 billion to Canada's GDP (NAEBD, 2017, p. 21[2]). Processes of colonisation and policies of assimilation have resulted in a lack of entrepreneurial activity and higher rates of individual dependency (in the form of welfare), and collective forms of dependency (in the form of government programs and subsidies) for Indigenous peoples in Canada and elsewhere across the OECD. Indigenous businesses can help overcome dependency by providing local employment opportunities for residents and generating own-revenue for public goods including the provision of services on traditional lands. These businesses also reduce income leakage from local communities and travel costs for residents, and if they can penetrate external markets, also generate multiplier effects. This enables Indigenous peoples to generate own-source revenues that can support community and economic development on their own terms.

This chapter focuses on Indigenous entrepreneurship in *rural areas*, which face specific challenges. Rural businesses experience greater distances to markets for goods and services, smaller labour markets, poorer access to finance and specialised services, limited infrastructure and business premises and, limited access to educational and skills training. The chapter examines the nature of rural Indigenous entrepreneurship and key factors that can help to overcome these limitations including: i) having a strong place-based vision and priorities for Indigenous economic development in order to coordinate investments and foster specialisation; ii) ensuring that there is an enabling regulatory environment governing investment and capital accumulation; and, iii) ensuring that Indigenous-owned businesses have access to capital and markets (e.g. community development finance and procurement). Throughout, these issues are examined through the lens of economic geography in order to understand how Indigenous businesses fit within the broader regional economy.

The chapter proceeds in three parts. First, it discusses framework conditions for Indigenous entrepreneurship with a focus on rural areas, the unique aspects of Indigenous entrepreneurship and the rights framework and regulatory environment specific to the *Indian Act*. Second, it explores some of the areas of competitive advantages and opportunities for Indigenous entrepreneurship across a number of areas. Third, it describes the main government policies at the federal and provincial levels that support Indigenous entrepreneurship and the main Indigenous organisations that are involved delivering services and providing strategic advice. The chapter ends by examining some of the key policy levers that can support Indigenous entrepreneurship. It offers recommendations on how to improve the current set of policies and programmes for Indigenous business development.

Framework conditions for Indigenous entrepreneurship – people, places and institutions

Indigenous communities across Canada face vastly different development conditions. Many Indigenous communities across Canada lack access to quality infrastructure, housing and services which leads to lower quality of life and wellbeing and fundamentally inhibits their development. Gaps in community well-being between Indigenous and non-Indigenous are large (AAND, 2018[3]). In general, Indigenous people experience poorer health, social, and economic outcomes across a wide range of measures compared to

non-Indigenous Canadians (as detailed in Chapter 2). The reasons for these inequalities are many, but at the forefront lay the legacies of colonialism and government paternalism which have caused great harm to Indigenous peoples. As discussed in Chapter 3, ongoing uncertainties regarding rights over land and its development in many cases—a key community asset and much more—also hinders self-determination. Far too many Indigenous communities face these conditions and the OECD joins the voices of the many independent commissions, government reports and academic studies that have called this state of affairs unacceptable.

While the framework conditions are challenging in far too many Indigenous communities across Canada—a growing number of places are able to deliver quality of life and employment opportunities. For example, the services economy of the Milbrook First Nation, located adjacent to Truro, Nova Scotia and the natural resources activities of the Cree First Nations of James Bay, Quebec. The research underpinning this report has included field visits to diverse Indigenous communities across Canada in order to better understand these different conditions and their implications for business and community economic development and for the policies and programmes that support them. Indigenous communities that face such issues as limited accessibility, inadequate housing and infrastructure require targeted support, including funding and capacity building. In such cases, business opportunities are limited and economic development may be led more from the community level (e.g. by band management or First Nations development corporations) or entail small-scale individual ventures. In communities with favourable development conditions such as those with strong natural resource endowments or amenities or those that are urban or close to cities, there may be a much wider range of business and economic development opportunities, encompassing both community-led and individual entrepreneurship. This chapter emphasises the importance of these framework conditions, recognising that all communities should be enabled to participate in economic development *on their own terms*.

Rurality and remoteness: implications for Indigenous entrepreneurship and community development

Key rural development strategies—improving accessibility and increasing activities in tradeable sectors

A community's economic development opportunities are shaped by such factors as the size and characteristics of its population, its proximity and accessibility to other places, its resource endowments and amenities, and the strength of local institutions. For rural regions and communities, proximity to cities and the size and performance of the tradeable sector are critical (OECD, 2016[4]). As such, four main options can be pursued by rural regions to influence these drivers of productivity growth:

- Specialise in natural resource exploitation and stewardship, which includes mining, forestry, food production, renewable energy, tourism, and ecosystem services (particularly for remote areas).
- Strengthen rural-urban linkages through shared governance and policies, and better infrastructure connections.
- Be integrated in Global Value Chains (GVCs). Forward and backward linkages (re-bundling) are critical to maximise value-added of natural resource industries and foreign direct investment (FDI) through the creation of a network of local suppliers.

- Develop territorially differentiated products and services through mobilisation of local assets, and leveraging consumer preferences for local or tradeable products.

In order to foster economic development, Indigenous communities in rural areas must take advantage of context-specific assets that are immobile and that are areas of absolute advantage. Each of these strategies has different policy implications for Indigenous communities—these are elaborated as a typology in Table 4.1.

Table 4.1. Typology of development opportunities for Indigenous communities in rural areas

Type	Characteristics	Development Strategy
1. Indigenous communities close to cities abundant natural resources and amenities	Within a 60-minute drive of a population centre of 50 000 people or more. Sufficient land and resources available to develop commercial opportunities related to renewable energy, food production, and tourism.	A key issue for these communities is integrating with the wider urban/regional economy and governance arrangements to maximise the benefit of their resource base.
2. Indigenous communities close to cities where natural resources and amenities are limited or absent	Close to cities but do not have sufficient land size or the natural resources that enable commercial scale development opportunities.	Despite small land parcels, there may be opportunities for retail and industrial land development, and collaboration with local municipalities on planning and infrastructure is important to activating these opportunities.
3. Remote Indigenous communities with abundant natural resources and amenities	Longer than a 60-minute drive from a population centre of 50 000 people or more. Have opportunities for commercial development related to minerals, hydrocarbons, renewable energy, fishing and aquaculture, food production, and nature-based tourism.	A key issue for these communities is how to invest own-source revenues in ways that support economic value adding and diversification, and how to build/attract the necessary skills to support business growth.
4. Remote Indigenous communities where natural resources and amenities are limited or absent	Lack natural resources available for commercial use, and economic development is limited to the internal market and some tourist opportunities (e.g. handicrafts). Government transfers, subsistence hunting and fishing, and local bartering and sharing will play a greater role in supporting community well-being.	A key issue for these communities is ensuring access to public services that offer a sufficient quality of life to retain younger people.

Source: OECD (2019[5]), *Linking Indigenous Communities with Regional Development*, https://dx.doi.org/10.1787/3203c082-en.

Indigenous communities that are urban or close to cities tend to be better linked to infrastructure and services (e.g., health and education), have access to larger markets and have a larger labour pool to draw from. Such communities are more likely to have a services-based economy and tend to be more economically diversified. Those with natural resources and amenities are able to develop commercial opportunities in such sectors as renewable energy, food production, and tourism. For example, Millbrook First Nation which has used its prime location outside the Halifax metropolitan in Nova Scotia area to develop a fully serviced and easily accessible commercial hub for retail, recreation and leisure (Millbrook First Nation, 2018[6]). For communities that are close to cities but where natural resources and amenities are limited or absent there are fewer businesses opportunities; and yet, the benefits of proximity to a city and relative accessibility may still lend themselves to development opportunities (e.g. retail and industrial land development) and firms that provide services to nearby residents.

In contrast, communities that are rural and remote face a much more challenging set of circumstances for entrepreneurship. Greater distances to markets and the costs associated with this require that businesses focus on areas of competitive and absolute advantage. While rural firms benefit from some lower costs (e.g. greater availability and lower cost of land), they pay a distance premium in accessing markets which limits the types of activities that are undertaken. With the exception of tourism (where a market is brought to a place), remote rural entrepreneurship generally takes place outside of the services sector and it often based on natural resources including forestry, minerals, hydrocarbons, renewable energy, fishing and aquaculture. Many of these industries are capital intensive and require large long-term investments before gains are realised. This requires a great deal of capacity and capital to undertake, and as such, it is common for Indigenous communities to enter into business partnerships with established firms or to negotiate economic and community benefits. These types of economic opportunities are not without their challenges and they need to consider environmental sustainability. There is a need for better collaboration with a wider range of partners (e.g., consulting firms and contractors who conduct projects) to ensure environmental sustainability is built into proposals. There are inherent power asymmetries when Indigenous communities negotiate or form partnerships with firms involved in natural resources exploitation. Even for business endeavours that are led by communities themselves, it can be a challenge to ground business practices in community-based values and maintain sustainable practices. Some development opportunities may never be considered or supported for these reasons.

The typology in Table 4.1 presents a way in which to think about some basic conditions that shape entrepreneurship related to geography. However, it does not address three other important factors: i) the quality of the community institutions, ii) the development objectives of the community and iii) the quality of infrastructure and services. It is clear that two communities with equivalent geographic and development conditions can have very different economic outcomes. Differences in the quality of local institutions – the ability to identify and implement a development strategy, and or, differences in objectives – are an important explanatory factor for these divergences. It is equally important to recognise that the development objectives of a community may differ. Finally, it is important to highlight that basic infrastructure and services—from housing and sanitation to education and broadband—are fundamental to any community's economic development and well-being.

The field missions to FN and Inuit communities conducted as part of this study illustrate these dynamics (see Chapter 6). For example, the Mississaugas of the Credit First Nation (MNCFN) are an example of a combination of the first and second typologies. They are a First Nations community that is located close to a city – the city of Brantford, Ontario, population around 134 000 – where on-reserve natural resources and amenities are limited beyond farmland but where there are many natural resources within the broader traditional territories. The community's economic development strategy rests on several pillars. The compensation from the Toronto Purchase land claim has helped the MNCFN build capacity and strengthen its internal governance. The MNCFN have leveraged their proximity to the city of Brantford to develop some services (a plaza with gas bar) and most of the businesses on reserve are services oriented. The band's newly created economic development corporation is exploring future strategies for economic development including franchises (e.g., hotel chain), building facilities, pooling capital and knowledge, developing more in urban centres (e.g., Indigenous business hub in Toronto) and focussing efforts on import

substitution. MNCFN are interested in equity partnerships and revenue sharing and are also involved in consultation and development within treaty and traditional territories.

In contrast to the above example, rural remote communities face even greater challenges for basic infrastructure provision and access to services; this presents a major hindrance to community economic development and business activities. The experiences of Neskataga First Nation illustrate these challenges. Neskataga First Nation is an Oji-Cree First Nation band government located in northern Ontario along the shores of Attawapiskat Lake, 430 kilometres northeast of Thunder Bay. It is a remote fly-in community of 300 people and is accessible by a winter road. Neskataga are Treaty 9 signatories—a territory spanning most of Northern Ontario—along with other First Nations. The right framework conditions need to be in place for economic development opportunities to proceed. Basic infrastructure and living conditions are not being met in Neskataga. The band government is focussed on addressing pressing social and health issues and infrastructure needs. Northern Ontario is rich in natural resources, including chromite and large investments are now being made to open this area to further development which impacts FNs and their treaty lands—known as the 'Ring of Fire' developments. These investments have the potential to bring benefits to the FNs communities in Northern Ontario such as Neskataga which are among the most socioeconomically disadvantaged in Canada. Yet as the same time, many of these communities do not have the basic framework conditions in place in order to benefit from this new activity and there are ongoing concerns about the impact of mining activity on the delicate wetlands environments in the north alongside concerns about impact on culture and community (e.g., the growth of large and predominantly male work camps in the territory).

These two examples—Mississaugas of the Credit FN and the Neskataga FN serve to illustrate how different the framework conditions are for community and economic development within the same province of Ontario. Potentials for economic development differ considerably. Programme design needs to be flexible and adaptive to these different contexts and development priorities—a point that will be returned to.

The unique features of Indigenous entrepreneurship

Indigenous entrepreneurs are represented in all sectors of the economy across Canada and reflect every business type – from small businesses based on sole proprietorship to large corporate enterprises (though the latter are less common) (CCAB, 2016[7]). While many Indigenous businesses are like any other, they can also have unique features such as an emphasis on communal goals, strong links to land, and alignment with Indigenous culture, values and worldviews (Peredo et al., 2004[8]) (Croce, 2017[9]) (Hindle and Lansdowne, 2005[10]). Recognition of these oft-present characteristics is important in order to design relevant and culturally acceptable policies and partnerships. Moreover, Indigenous peoples in Canada have specific rights to lands, resources and self-determination which impacts individual and community led business activities.

Rights frameworks structure economic activity, access to resources and land

The rights of Indigenous peoples to land and resources in Canadian law shapes Indigenous economies (and much besides). This issue has been discussed at length in Chapter 3 as regards land rights which differ considerably between the types of agreements that have been signed between Indigenous peoples and governments (past and present). For example, pre-Confederation agreements such as the Peace and Friendship Treaties 1725-1779 with the Mi'kmaq did not cede territory to the British. This stands in contrast to post

Confederation agreements with Canada where Indigenous peoples were required to cede land to the Crown and co-manage the lands that they retained with the Canadian federal government (Brown, Doucette and Tulk, 2016[11]). The co-management agreements in the North West Territories, Yukon and Nunavut signed in the 1990s give rights over minerals developments to Indigenous peoples there. Meanwhile in British Columbia, the treaty making process is ongoing. Finally, in Manitoba, a 2013 Supreme Court of Canada ruling on the land rights of Metis in the province has opened negotiations on what could be the second largest Indigenous land claim in Canadian history after Nunavut.

Numerous court cases over the years have added to the body of jurisprudence on the scope of these rights, particularly as regards commercialisation of natural resources. Section 35 of Canada's Constitution Act (1982) states that "the existing aboriginal and treaty rights of the aboriginal peoples of Canada are hereby recognised and affirmed." The Supreme Court of Canada has referenced the pre-contact era and traditional practices in many of its decisions regarding the rights of Indigenous peoples to the commercial use of land and related resources (e.g., fisheries). Such interpretations can make it difficult for communities to adopt contemporary practices; however the same logics have been instrumental in asserting Aboriginal title to land and resources (based on historical use). There have been a series of Supreme Court decisions in Canada since the 1990s on Indigenous rights to commercial fisheries that illustrate these dynamics. Legal interpretations have stressed that a right to commercial fisheries exists for an Indigenous group where it can be proven that this has been an integral part of their culture. In cases where this issue has not yet been settled by law, there are some examples of temporary agreements across Canada between the Department of Fisheries and Oceans and First Nations to participate in commercial fisheries (Durette, 2018[12]).

Indigenous rights in Canada are by no means fully settled for all nations and peoples, especially in British Columbia where treaties have not been signed with the majority of FNs. Rights to land and resources are the subject of ongoing discussions and across Canada new issues continuously arise, demanding reactions from governments and courts. This changing environment—wherein Indigenous rights are being recognised, reaffirmed and interpreted by policy and law on an ongoing basis—means that policies need to be flexible and adaptive to changing contexts.

The centrality of community and kinship

While Indigenous entrepreneurship might entail individual, for-profit activities, there is a tenancy towards egalitarianism, sharing and communal activity (Dana, 2015[13]). Around 750 000 Indigenous people in Canada live in Indigenous settlements including First Nations reserves, Inuit communities and Métis settlements in Alberta. Such communities tend to be small; their average size is 407 people.[3] As such, they tend to be close-knit, with strong kinship relations. Businesses that operate in such an environment are intimately linked to the community and its members. They generally need to have community buy-in to operate and their practices should be aligned with community goals. In effect, they need a strong social licence to operate. Because Indigenous land rights (hunting, fishing, rights over traditional territorials etc.) in Canada are generally held by the community and not individuals, any activities that draw on these resources must either be communal in nature, or at minimum, have been granted the permission of the community in order to be exercised (Dana, 2015[13]). This too reinforces a communal perspective.

This communalism extends to business ownership structures. Cooperatives are an increasingly important form of business organisation used by Indigenous communities to

forward social and economic development. While some argue that Indigenous cooperative development in Canada has historically been associated with colonisation policies, today they take a wide range of forms and often demonstrate an commitment to 'Quadruple Bottom Line' goals –i.e., financial, social, environmental and cultural goals (Sengupta, 2015[14]).[4] For example, Arctic Co-operatives Limited—a cooperative federation owned and controlled by 32 community-based cooperative business enterprises across northern Canada that coordinates resources, consolidates purchasing power and provides operational and technical support to its members (Arctic Co-operatives Ltd., 2019[15]).

Aboriginal economic development corporations (EDCs)—the economic and business development arm of a First Nation, Métis or Inuit government—are another such example. These community-owned businesses invest in, own and/or manage subsidiary businesses with the goal of benefiting the Indigenous citizens that they represent and are a major economic drivers in communities and a source of local employment (CCAB, 2016[16]). There are around 260 EDCs across Canada. They use their revenues to reinvest in the community capital investments as well as education and training for members in order to ensure that they are well placed to take advantage of the community's economic opportunities. For example, Makivik—an organisation mandated to speak on behalf of the Inuit of Nunavik—created the Nuvviti Development Corporation in 2017 to operate its subsidiary companies and joint venture partnerships. Makivik owns large business enterprises that generate jobs buy also promotes social and economic development including the protection of the Inuit language and culture and the natural environment (Makivik Corporation, 2018[17]). Social enterprises are also proliferating. For example, the Indigenous-owned social enterprise energy company Aki in Manitoba that works with First Nations to start green businesses in their communities, creating local jobs and growing strong local economies.

The community embeddedness of much Indigenous entrepreneurship can bring both benefits and drawbacks. For example, businesses in small close-knit communities need to navigate internal or intra-band politics. It is important that the activities of a firm do not detract from other community members' activities. Achieving alignment among multiple goals can be challenging, particularly when it involves natural resource exploitation. For example, in an analysis of how community values have been integrated into commercial forestry by the Tl'azt'en First Nation (British Columbia), logging activities by the First Nation-owned firm led to conflict in the community by interfering with the trapping lines of community members (Booth and Skelton, 2011[18]). Achieving "quadruple bottom line" prerogatives is not easy—in the case of the Tl'azt'en First Nation conflicts between these objectives occurred despite a commitment to sustainable forestry practices. Also, Indigenous firms (particularly those that are community-owned) may need to ensure that hiring benefits family members in the community equally, regardless of their competencies.[5] Community and kinship dynamics of Indigenous entrepreneurship demand a sensitivity to these types of issues and require methods to resolve conflicts among community members. New economic activities – particularly those that are land intensive or that draw on natural resources – need to develop community consensus and to proceed with caution; activities which take time.

Land and eco-system protection

The spiritual beliefs and worldviews of Indigenous peoples are deeply rooted in their connection with land and to the subsistence activities of hunting, fishing and gathering (see Chapter 3 for discussion). Indigenous economies prior to colonial contact were subsistence-based, featured redistribution (a gift economy) and involved widespread trade (Natcher,

2009[19]). Subsistence and gift economies remain important to many Indigenous peoples today. As such, land rights are crucial to the maintenance of the collective identity of Indigenous groups and access to land and natural resources is fundamental for their material reproduction—be this through traditional subsistence activities or leading socioeconomic development. Subsistence activities (harvesting, processing, sharing, consuming, etc.) serve both economic, social and cultural functions. Subsistence "represents a seamless whole, where culture, economy and environment overlap, and boundaries become blurred" (Natcher, 2013[20]).

These deep-rooted connections to the land structure Indigenous entrepreneurship in a number of ways. Any activities that impact upon land (including how the community is accessed by road etc.) requires community acceptance. For example, it can be important that business activities leave an intact ecosystem such that the fish, wildlife, and plants required for spiritual/cultural maintenance and traditional practices and diet are ensured (Booth and Skelton, 2011[18]). Sacred sites require strong protection and for some communities, this may extend to the entire traditional territory. In practice, this may entail, a preference for activities that have a limited environmental impact, despite them being less lucrative. While land is a key asset for Indigenous economic development, it important to recognise that this is a western view and that land from an Indigenous perspective has a multitude of meanings. The manner in which legal frameworks recognise land rights can be poorly fit to this Indigenous view.

Because of the importance of land across its multiple dimensions—cultural, spiritual, ecological etc.—Indigenous communities are often portrayed as anti-development. However, the values of sustainable development are not necessarily anti-development values but rather a call to develop in a way that does not harm ecology or future generations and that is sensitive to culture and traditional knowledge. In the words of Chief Percy Guichon, Tsi Del Del:

> "All the First Nation communities in the Tsilhqot'in are developing economic strategies and always have been. Our people have the same hopes and dreams as the Canadian society in general…. But we will not create jobs at any cost to the environment. We will not create economic development at the expense of a sacred lake. We will not destroy anything valuable that relates to our teachings of our cultural and spiritual connections just for the sake of a new Dodge 4 × 4." Alexis Creek, as quoted in the Canadian Environmental Assessment Agency *(2010[21]) in (Kunkel, 2017[22]).*

There is a multiplicity of Indigenous perspectives on this issue. Land is fundamentally important and this resource is treated in different ways by different Indigenous groups. There are no monolithic views, but it is notable that even those First Nations that support the resource development in Canada and that have entered into agreements with major oil firms express the importance of having a safe environment and balancing environmental and economic development objectives (CBC News, 2019[23]).

Culture and Traditional Knowledge

Culture (i.e., value systems) are entwined with entrepreneurial activity. Indigenous culture tends to emphasise high collectivism/low individualism, low power distance and low uncertainty avoidance (Lindsay, 2005[24]). While this may not necessarily influence the degree to which entrepreneurial activities are undertaken, it does have a range of implications for how Indigenous entrepreneurs (individual or community-led) identify opportunities and structure their business practices.[6] For example, it leads to a tendency to

focus on achieving both economic and non-economic objectives in support of, for example, community development, environmental sustainability and cultural reproduction. The Huron-Wendat Nation in the Canadian province of Quebec illustrate how these multiple goals might be achieved. The Huron-Wendat Nation own a hotel and conference centre that are a source of employment for community members; skills training programmes have been adopted to support job readiness. Moreover, the premises are linked to the Huron-Wendat Nation Museum. The First Nation has combined its business venture with opportunities to teach others of its culture, language and traditions, reinforcing them in the process.

The manner in which Indigenous entrepreneurs draw on culture within their practices demands care that integrity is maintained, avoiding "stale stereotypes," "partial realities" and "monolithic views" on Indigenous history and identity (Hollinshead, 1992[25]). It also demands recognition that culture evolves. Culture may be a part of Indigenous entrepreneurship in a variety of forms—from traditional arts and crafts to contemporary media and digital forms. As an example, the elder institution of storytelling wherein memories to knowledge are transmitted to other generations have been translated into digital storytelling through such initiatives as Aboriginal Territories in Cyberspace (AbTeC). These applications extend from digital art to gaming (Winter and Boudreau, 2018[26]).

The tradition of storytelling is one facet of Traditional Knowledge—that is, "a cumulative body of knowledge and beliefs, handed down through generations by cultural transmission, about the relationship of living beings (including humans) with one another and with their environment" (Horowitz, 2015[27]). Indigenous people living in traditional settlements tend to negotiate a balance between social and cultural obligations with business operations that will vary between individuals, kinship groups and clans (Taylor 2008). Customary activities and traditional knowledge can be understood as an area of 'absolute advantage' because it is embedded within a particular location and embodied within close kinship networks that is not well-understood or shared with outside groups (e.g. as demonstrated by Indigenous arts, handicrafts, and music). It is important that community members agree to the parameters of its use in commercial activities. Clan chiefs and elders who have vested with authority over intellectual, cultural and biological resources and the application and sharing of traditional knowledge for commercial purposes, including possible eco-cultural play an important role in developing guidelines for how Traditional Knowledge can be shared (Turner, Berkes and Turner, 2012[28]). For example, it can be important to develop consensus around rules and protocols to guide tourism development including areas of common-property and parameters. This includes how local and elders' knowledge may be shared with visitors including areas that are "off-limits" such as certain domains of knowledge (e.g. medicinal plant knowledge, and particular stories and teachings) as well as access to specific physical locations and activities (e.g. some harvesting locations, sacred sites, gravesites, and certain feasts) (Turner, Berkes and Turner, 2012[28]).

The commercial applications Traditional Knowledge can struggle with being valued or recognised as legitimate in areas such as health or natural resource management. Further, because Traditional Indigenous technologies are not the property of the individual inventor, other actors (non-Indigenous entrepreneurs and corporations) can appropriate Indigenous technologies. There are growing efforts to recognise and protect Indigenous Intellectual Property (IP) rights through legal instruments regarding the use and protection of traditional knowledge, traditional cultural expressions, and biological material. Better addressing Indigenous IP issues relates to international and national legal frameworks related to trade, copyright, trademarks, and IP. Nation states and non-government organisations can also

institute programmes related to the certification of Indigenous products and services to better protect Indigenous entrepreneurs.

In Canada, some efforts to use trademark laws have met with success. For example, the "igloo tag" and the "Genuine Cowichan Approved" certification marks have been developed in order to ensure the authenticity of Aboriginal goods (Udy, 2015[29]). The “igloo tag” was developed by Indian and Northern Affairs Canada in 1959 for Inuit artists while the Cowichan Band Council of British Columbia established its certification mark to protect its traditional clothing production. As another example, the Snuneymuxw First Nation in British Columba registered the symbols depicted in ancient petroglyphs found in the Nanaimo River Estuary; this was done in order to protect the sacred symbols from culturally inappropriate use, and to prevent their erosion (Udy, 2015[29]).

Building economically viable and profitable businesses that also fulfil the broad socio-cultural, political and ecological objectives of many Indigenous communities is neither an easy nor a straightforward proposition (Turner, Berkes and Turner, 2012[28]). Decisions about economic development and any trade-offs that that might require need to reflect the diverse perspectives of Indigenous communities and nations.

The hybrid economy

The above-mentioned features—the importance and culture, connections to land and environmental stewardship—means that Indigenous economies may have hybrid characteristics combining for profit activities with a substance and sharing economy. Harvesting, processing, and distributing wild foods and resources is a central component of many Indigenous economies, and particularly the northern social economy (Natcher, 1988[30]) (Berkes et al., 1994[31]).

This social economy (and Canada’s climate and ecology more generally) is under growing stress on several fronts. Canada’s northern regions are at the forefront of climate change impacts. The Government of Canada’s latest research alarmingly finds that Canada is warming on average at a rate twice as fast as the rest of the world and that Canada's Arctic has seen the deepest impact and will continue to warm at more than double the global rate—the report suggests that these impacts are likely irreversible (Environment and Climate Change Canada, 2019[32]). This is having and will have widespread repercussions on the life of northern peoples, their environment and ecology of the north. Some of the impacts of climate change are already being felt in Canada including rising sea levels, severe weather conditions, melting sea ice, forest fires, and flooding. Indigenous peoples in the Arctic region depend on hunting for polar bears, walrus, seals and caribou, herding reindeer, fishing and gathering, not only for food to support the local economy, but also as the basis for their cultural and social identity. At the same time, mining and oil and gas developments are expanding in the northern territories as permafrost melts and ice free channels open up across the Canadian artic sea (Prowse et al., 2009[33]). Both trends are having a profound effect on hybrid economies and social and life more generally in the Canadian north.

Business regulation and taxation on reserve

Many Indigenous businesses operate just like any other, following provincial or sometimes federal regulations and municipal bylaws depending on the nature of their activities. But there are several ways in which the regulatory environment facing businesses on a reserve (Indigenous or otherwise) are different than those elsewhere in Canada due to provisions in the Indian Act. For example:

- **Reserve land is federally administered.** Reserve land is owned by the federal government ("the Crown"), administered by Indigenous Services Canada and managed by First Nations governments. This can present a lack of clear accountability for decision-making and adds administrative and regulatory burdens compared to business development in the rest of Canada. Contracts and leases for on-reserve land are between three parties—the proponent, the Minister of INAC, the FN government, pleading to higher transaction costs. Federal regulations may span multiple departments and, depending on the business activity, approvals from multiple departments may be required. It can cost four to six times as much to put together a major investment project on reserve and it takes much longer to take a project from the proposal to operating stages (Richard, Calla and Le Dressay, 2007[34]). Consequently, even favourably located reserves have low business presence and see potential investment diverted to adjacent jurisdictions even when these alternative locations are less favourably sited. FNs who have opted out of certain portions of the Indian Act related to land management have great administrative control over these matters.
- **A Band Council Resolution (BCR) and/or a Tribal Council Resolution (TCR) is required to start a business in a First Nation community**. This is a recorded decision made by a First Nation band council which requires the support of a majority of chief and councillors at a meeting of the council (Community Futures Manitoba, 2016[35]).
- **Federal, provincial and FN government regulatory jurisdiction may be unclear.** Provincial laws of 'general application' are meant to apply on-reserve but only if they do not if they impinge upon areas of federal jurisdiction. For example, while Band owned businesses are usually regulated under the federal Canada Labour Code; most private businesses fall under the provincial Employment Standards Code. Some matters, such as building code requirements and health and safety regulations, may involve inspections from both the federal and provincial/territorial governments on reserve (as opposed to just a provincial or territorial government elsewhere). Where there are relevant regulations pertaining to two or more governments, it may be unclear which ones a business is to follow. Uncertainties lie even where section 88 is intended to apply as provinces are reluctant to enforce provincial laws on-reserve (NAEBD, 2017, p. 17[2]). Furthermore, on some issues, there are no relevant federal laws; such is the case for the resolution of landlord and tenancy disputes which instead fall to the court system. Under the First Nations Commercial and Industrial Development Act, FNs can opt in to federal or provincial legislation.
- **Commercial land zoning/designations, land leases, and land registries need to be approved by the federal government** (CIRNAC).[7] In some cases, FNs governments maintain their own land registry system as a replace to or in addition to the INAC registry. A 2008 comparison of these business development steps both on and off-reserve in Canada found the process on reserve to take two and a half times as long (Richard, Calla and Le Dressay, 2007[34]). Changes to land use need to be approved by FN referendum of eligible voters in which quorum is achieved. The location, zoning and land designation process can be complex and time consuming. Federal funding for new business on reserve lands cannot be accessed until the land designation process is completed (Community Futures Manitoba, 2016[35]). First Nations who have opted in to the First Nations Land Management

Act (FNLMA) have more jurisdiction over land use governance. In effect, the FNLMA removes 44 sections of the Indian Act, enabling FNs to develop their own laws about land use, the environment and natural resources and take advantage of cultural and economic development opportunities (INAC, 2018[36]).

- **Land cannot be used as collateral to raise financial capital because it is federally owned, is inalienable and cannot be seized by banks upon loan default (section 89/1, Indian Act)**. This complicates access to credit such as mortgage loans, resulting in a closed market and limited access to financing to be guaranteed by the government (NAEBD, 2017, p. 16[2]) (see case of Membertou for example Box 4.1). Long term leases or on-site structures are sometimes accepted as loan collateral but challenges in accessing capital remain a significant obstacle to business development.[8] It is noted modern treaty signatories who own their own land are an exception to this.
- **First Nation governments have limited taxation powers; however, the First Nation Fiscal Management Act and the First Nations Goods and Services Tax Act expands these possibilities for those that opt-in**. FNs can levy property taxes (as per section 83 of Indian Act), but their taxing authority is subject to various conditions and approvals. The First Nation Fiscal Management Act (2006) expands taxation powers for sales taxes, goods and services taxes and personal income taxes and property taxes. A minority of First Nations employ these instruments presently—e.g., an estimated 30% hold property taxing powers (First Nations Tax Commission, 2019[37]). The Financing Secured by Other Revenues Regulations limits the revenues First Nations may use to leverage financing—e.g., First Nations are unable to use the First Nations Goods and Services Tax to leverage other sources of finance (NAEBD, 2017, p. 17[2]).
- **Some federal and provincial taxes may not apply to Status Indians for on-reserve income.** Under sections 87 and 90 of the *Indian Act*, Status Indians do not pay federal or provincial taxes on employment, investment and business income, as long as the revenue generating activity is located on reserve subject to tax guidelines connecting the income to a reserve (Government of Canada, 2018[38]).[9] The location of the income is the determinative factor; simply living on a reserve does not guarantee that income is tax exempt (e.g., investment income earned outside of a reserve is not exempt). Also, a Status Indian living off-reserve can still earn income which is situated on a reserve and thus be exempt from tax. The Supreme Court of Canada has ruled that the purpose of this exemption is to preserve the entitlements of Status Indians to their reserve lands and to ensure that the use of their property on their reserve lands is not eroded by taxes.

These form some of the ways in which First Nations reserves are a unique business environment. Some of the features of the Indian Act may provide a positive incentive for businesses such as the tax incentive for Status Indians to locate their business on a reserve (or for community-led enterprises). However, there are also a number of drawbacks, the inability to leverage land rights for capital and regulatory delays being chief among these. The Indian Act is thus a doubled-edge sword. On the one hand it is paternalist and was not designed to enable economic development and entrepreneurship. But at the same time it protects important rights like the right to land; albeit land rights are narrowly defined and in many cases by no means settled. The opt-in Framework Agreements on *First Nation Land Management* have offered a helpful workaround to these issues.

Overall, encouraging new businesses on reserve (either from within the community or without) demands the knowledge to effectively navigate regulatory issues between the appropriate levels of government, depending on the activity. This can present perceived or real risks for new businesses which discourages investment. Moreover, large business projects require infrastructures such as paved roads, fire service, healthcare facilities, and industrial-scale water system. Limited infrastructure on-reserve land creates uncertainties for potential investors.

Box 4.1. Section 89 of the Indian Act challenges: Example of the Membertou hotel and convention centre, Nova Scotia, Canada

The challenges faced by Membertou FN in its plans to construct a hotel that would attract more business to the community's Membertou Trade and Convention Centre (MTCC) and support future development projects highlight the practical implications of Section 89 of the Indian Act. The Chief and council had several options available to them, each with repercussions for how the project would be financed and deliver benefits to the community:

1. *Locate the hotel on reserve land a few kilometres away from the MTCC*: Locating the hotel on reserve land would be beneficial for Aboriginal employees and customers, given the tax exemptions that apply to reserve lands, but it would make it difficult, if not impossible, to obtain financing for the hotel through a traditional chartered bank.
2. *Surrender and designate reserve land a few kilometres away from the convention centre, then locate the hotel on it*: if the reserve land was surrendered and designated, it could be leased and, because the band would have given up its interest in it, it could be used as collateral to obtain financing for the development.
3. *Issue a certificate of possession for the reserve land a few kilometres away from the convention centre, then locate the hotel on it:* It was unclear to the chief and council how such an arrangement might be viewed by the banks and impact access to financing.
4. *Locate the hotel on community-owned fee simple land going through an addition to reserve (ATR) process*: The ATR process can take more than a decade and would require surrendering the land to the Crown to be administered by the Minister of INAC. When fee simple land becomes reserve land, however, it loses value (in that it can no longer be used as collateral to securitise a loan). Further, they could not guarantee that a request for ATR would be approved for economic development purposes, since it could be perceived as creating an unfair advantage given the tax exemptions that apply on reserve lands.
5. *Have community-owned fee simple land rezoned for commercial development, then locate the hotel on it* (without going through the ATR process).

Given Membertou's reluctance to surrender and designate reserve land, the second option was quickly dismissed. After weighing the options, the First Nation opted to construct the hotel on fee simple land which was rezoned by the adjoining municipality (option 5). This case study serves to illustrate some of the decisions that FNs need to make when pursing economic development activities.

Source: Excerpted from Brown, K. and J. Tulk (2017[39]), *Case Studies in Aboriginal Business: Membertou Hotel*, http://www.cbu.ca/crawford (accessed on 3 May 2019).

Competitive advantages for rural Indigenous entrepreneurship

As discussed, a lack of population density and longer distance to markets are some of the features that make entrepreneurship in a rural setting unique, and more challenging. OECD research on this topic has found the tradeable sector in rural areas to be an important competitive advantage these activities are connected with an immobile asset—e.g., primary industries like agriculture, mining, forestry, fishing and aquaculture and integrated services like energy production, services and manufacturing.

Indigenous entrepreneurs have a higher presence in specialised in primary industries (food and agriculture, forestry, and mining) and construction which can be vulnerable to economic and commodity fluctuations. In terms of the non-traded sector, business opportunities exist in terms of meeting local demand (e.g. retail, cleaning and house maintenance, health and well-being, and the provision of public services)—however these are based on very small markets. There are also opportunities in the management and use of natural resources such as parks management and tourism. Generally, Indigenous firms tend to have a lower presence in producer services (firms with high knowledge content and that sell services to other businesses). This section provides an overview of some of the main industries and growth opportunities for rural Indigenous entrepreneurship in Canada. It explores both the factors for success and the main challenges faced by firms operating in these sectors.

Renewable energy

Canada has vast untapped renewable energy potential that can play a key role in meeting future demand while advancing the decarbonisation of the power sector and maintaining affordable energy prices (OECD, 2017[40]). Renewable energy as a percentage of total primary energy supply in Canada is around 17%; this is above the OECD average of 10% but is significantly below northern Scandinavian countries which have a similar climate and geography to Canada (OECD, 2019[41]).[10] While there is no federal target for renewable energy development, most provinces have their own renewable targets that are helping to drive increased investment as are feed-in-tariff systems in the case of Ontario (OECD, 2017[40]).

Of renewable energy sources, hydroelectricity accounts for over half of Canada's renewable energy output, with Quebec having the largest share of hydro power generation of any other province in Canada. In bears noting that while Environment Canada considers hydro power to be a renewable and low-emission option for power generation, it does emit some greenhouse gases (Environment Canada, 2019[42]). Furthermore, hydro power installations and transmission lines can also negatively impact river ecology and natural environments (Couto and Olden, 2018[43]). These are complex issues for which the size of scale of the energy installation is an important consideration.[11]

Renewable energy generation is a development strategy for remote and off-grid communities

Renewable energy businesses can provide a viable source of income and jobs for Indigenous communities. They are especially important for northern and remote communities that rely on expensive diesel generators—presenting a cleaner, cheaper and more reliable alternative. There are 366 off-grid communities in Canada of which over half are Indigenous; together these communities have a population of around 200 000 (NRCAN, 2019[44]).[12] Of these off-grid communities, roughly 86 per cent are primarily dependent on

diesel for generating electricity (Conference Board of Canada, 2016[45]). Costs are high: in Kugaaruk, Nunavut, for example, the un-subsidised residential electricity rate is reported to be over 9 times as high ($1.14/kWh) as the Canadian average ($0.12/kWh) (Conference Board of Canada, 2016[45]).

For the past decade, Indigenous businesses have successfully penetrated clean power (hydro, wind, solar power, geothermal, tidal, and/or biomass) and renewable energy markets; this includes facilities that are fully or partly owned and operated by Indigenous business-owners and communities. In 2017 there were approximately 150 renewable energy projects with Indigenous involvement compared to just 20 in 2008; between 2009 and 2017 the sector generated 15 300 direct jobs for Indigenous workers and CAN $842 million in employment income (CBC News, 2017[46]). In 2017, the majority of the projects were hydroelectric (63%) followed by wind power (24%), with the remaining projects (13%) a mix of solar and biomass (CBC News, 2017[46]). Examples include:

- **Wind power generation:** In Northern Ontario, the Henvey Inlet First Nation has partnered with a private developer on a 300-megawatt wind farm. The project is expected to earn around CAD 10 million per year for the 900-member community as a result of a 50% equity stake in the project. It is expected to provide an average of 300 jobs during construction, as well as 20 direct permanent jobs during operation. Funding will be used for health, education and improved infrastructure in the community. Provincial price incentives have played a key role in attracting private interest. These include Ontario's feed-in-tariff for renewable energy and an "adder" for Indigenous participation that increases with the proportion of involvement (OECD, 2017[40]).
- **Bio-charcoal from wood**. The company BioChar Boréalis is a partnership between Pekuakamiulnuatsh Takuhikan and the Domaine-du-Roy county municipality following the initiative of the First Nations Forestry Industry of Quebec (FFPNQ) (BioChar Boréalis, 2019[47]). It is establishing a network of companies to produce and market high value-added bioproducts.
- **Hydroelectricity.** Gitchi Animki hydroelectric plant, located in White River, Ont., is a $200-million plant that is 50 per cent owned by the Ojibwa community of Pic Mobert. It was built in partnership with Regional Power Incorporated.

Land rights are fundamental to realising these projects and projects require community acceptance in order to be successful. The government of Canada has programmes to support renewable energy developments in Indigenous communities and this is also focus of some provincial programmes as well (e.g., Alberta and British Columbia). A good example is the Northern Responsible Energy Approaches for Community Heat and Electricity (REACHE) Program that provides funding for renewable energy and efficiency, and prioritises projects that demonstrate Indigenous leadership and community engagement (INAC, 2019[48]). The vast majority (86%) of all Indigenous hydro, wind and solar projects are built in three provinces: BC, Ontario and Quebec (CBC News, 2017[46]). This in part reflects the difference in energy systems and regulations for this sector across Canada. Public policies play a very important role in structuring investment incentives for renewable energy.

While there are some fully Indigenous-owned renewable energy firms, the majority are a form of joint partnership with a private energy firm. There are several reasons for this. Many renewable energy projects such as hydro power are long-term ventures and investments for which projects can take years to bring into service and a decade or longer to turn a profit. It is very useful to have an established business partner in the field with the

right technical expertise. Joint partnership projects can be structured very differently with either majority or minority Indigenous ownership, royalty agreements, and/or employment benefit agreements. The benefits of such agreements can differ and in some cases their effectiveness requires that there be complementary projects in place such as skills training and upgrading in order to take advantage of employment benefits.

Such factors as high capital investment costs, high levels of technical expertise, fluctuating energy prices, and unclear environmental impact can make these projects risky and challenging to take on. As noted by Krupa (2012[49]) both levels of government in Canada could facilitate the growth of Indigenous-owned renewable energy firms by supporting additional funding and financing bodies dedicated to Indigenous projects, continuing education programs that incentivise on-reserve First Nations peoples to build their own project development capacity and, in the case of provincial governments, including price adders for both generation and transmission. The operating environment varies considerably from province to province in renewable energy (e.g. Alberta's deregulated market vs. British Columbia's crown corporation BC Hydro). Some positive examples of mechanisms to promote Indigenous involvement in the clean energy sector in Canada are the First Nations Power Authority (https://fnpa.ca), established in 2011 in Saskatchewan and the BC Indigenous Clean Energy Initiative (http://www.newrelationshiptrust.ca/initiatives/bcicei).

Renewable energy firms need to seek consent and secure social acceptance from communities in advance. In the case of Indigenous communities, this means dealing with potential conflicts between renewable energy and traditional livelihoods. The location should also be optimal for renewable energy and mature technologies deployed to reduce cost and risk. Renewable energy should also be integrated with local supply chains related to forestry, agriculture, and fisheries and aquaculture.

Forestry and fisheries

The Indigenous forestry sector faces a number of constraints that limit growth

Over a third of Canadian territory is forested and around 70% of Indigenous communities in Canada are situated in or near forested areas (FPAC, 2019[50]). Indigenous communities and peoples have a dual relationship with the forestry sector. On the one hand they may be involved in businesses in the sector themselves; and on the other hand they have a major stake in forestry that occurs in their territories. The vast majority (90%) of Canada's forests are owned and managed by the provincial and territorial governments on behalf of Canadians; the remaining 2% of all Canadian forests are owned and managed by Indigenous peoples; 2% is owned by the federal government and 6% is private property (NRCAN, 2015[51]). While the share of land owned and managed by Indigenous peoples may be comparatively small, Indigenous interests holding Crown land tenure represents a significant share of forest volume which is growing as modern treaties are negotiated and through government-led tenure reform and joint ventures with industry (NRCAN, 2015[51]).[13] Indigenous peoples hold the right to harvest timber from public land under forest tenure agreements (these agreements differ by jurisdiction across Canada).

Legislative authority over forestry management is a matter of shared federal and provincial/territorial jurisdiction in Canada. The federal government has legislative authority over matters relating to the national economy, trade, international relations, federal lands and parks, and constitutional, treaty and political responsibilities for Indigenous peoples (NRCAN, 2015[51]). Provinces and territories have legislative authority

over the conservation and management of forest resources on their own public land – which is the majority of all such land in Canada. They are thus key regulatory actors in the forestry sector and provincial/territorial regulations differ across Canada.

Canada is the world's fourth-largest forest product exporter. While the export value of the sector and its contribution as a major economic driver in communities has declined in the past decade, it continues to be an important part of the Canadian economy and a major source of employment (Statistics Canada, 2018[52]). Around 2% out of total Indigenous employment is in the forestry sector (2015) and there over 1 400 Indigenous firms within the sector (Statistics Canada, 2018[52]) (NRCAN, 2015[51]). There are three main activities within the forestry sector in Canada: i) solid wood product manufacturing which comprises almost half of the Canadian market; ii) pulp and paper product manufacturing which comprises around a third of the Canadian market and; iii) forestry and logging a fifth of Canadian market (NRCAN, 2019[53]). Business activities may be structured as joint ventures – e.g., the Waswanipi Cree First Nation in Quebec silvaculture and timber harvest joint venture with Domtar.

Indigenous communities and businesses interested in timber extraction tend to desire to leave ecosystems intact and respect sacred sites; this can be poorly accommodated by industrial forestry regimes, the majority of which practice clear cutting and use herbicides for reforestation which can be contrary to the wishes of Indigenous communities (Booth and Skelton, 2011[18]; OPFA, 2018[54]). While there is growing interest in an Indigenous forestry sector within the Canadian government, few forest companies have moved to adopt its tenets encompasses sustainable forest management. There is a growing market for sustainably sourced products and Indigenous firms could successfully fill this demand. Indigenous forest companies have expressed an interest in First Nation origin product differentiation (NAFA, 2011[55]). However, several constraints limit the growth of this sector. One of the major constraints facing this sector is a lack of access to land larger tenures:

- The reserve land base is too small.
- Most Crown forest land is already allocated to non-Indigenous commercial forestry companies and FNs need to compete for forest tenures as they become available.
- A lack of Indigenous experts in non-Indigenous forestry science and practice forces a reliance upon professional outsiders with different values.
- Forestry operation and development costs are often prohibitive.
- As regulated by government, conventional forestry operations poorly accommodate Aboriginal ethics/values or constitutionally recognised rights (Booth and Skelton, 2011[18]).

The National Aboriginal Forestry Association has long advocated for a specific First Nation tenure and improved access to forest lands, and several provinces have allocated volumes of timber to First Nations (NAFA, 2019[56]). In some parts of Canada this issue may be resolved through the conclusion of modern treaties that include greater land settlements and additional access to timber rights (e.g., Nisga'a Treaty). Co-management agreements between First Nations and forest industries (i.e., shared responsibility and control over management and profits) also present an opportunity to increase land tenure. However, as noted by Booth and Skelton (2011[18]), these types of agreements may be unsuitable if they do not fit Indigenous values for land management or where they do not recognise constitutionally guaranteed title and rights.

When a large tenure is achieved, technical and developmental requirements may be prohibitive for an economically challenged First Nation (Booth and Skelton, 2011[18]). While funding is available through the federal First Nations Forestry Program, developing internal professional expertise can pose a challenge. Industrial forest operations require the oversight of Registered Professional Forester (RPF) which is an accredited profession in Canada requiring a 4-year university degree and an apprenticeship; few First Nation members hold that designation.

Enabling the growth of this sector requires actions on several fronts. Addressing forest tenure, supporting skills development, business development and access to capital for forestry businesses and potentially, support for market segmentation efforts. More generally, compatibility between Indigenous forestry practices and that of the wider industry could be improved. Internationally, this issue gained attention at the 1992 at the United Nations Conference on the Environment and Development where the state on Forest Principles recognised the importance of Indigenous peoples' rights. There are several forestry standards certifications in Canada presently, each addressing Indigenous rights and interests to varying degrees.[14]

Indigenous fisheries and aquaculture are well developed in some regions—but with access limitations

Fish and seafood is one of Canada's largest food sectors and one of its most valuable exports; in 2016 exports in this sector were valued at CAN $6.6 billion (Fisheries and Oceans Canada, 2016[57]). Within the sector, aquaculture is one of the fastest growing activities. The federal government in Canada is responsible for the regulation and management of fisheries and aquaculture industries in Canada (through Fisheries and Oceans Canada); provinces and territories also have responsibilities for the management of this sector and these differ according to jurisdiction across Canada.[15]

Indigenous fisheries have expanded since the momentous Marshall decision (which established the right to 'fish for a "moderate livelihood" and as a result of modern treaties which include fisheries provisions.[16] Fisheries under communal licences now generate $120 million in annual landings, and 2 800 jobs (NAFFIII, 2017[58]). There is potential for growth in the sustainable fisheries market for which Indigenous businesses could be competitive (e.g., eco-certification). Fisheries are a managed resource with many fish resources under threat. Therefore, fisheries have controlled access (commercial catches are regulated through licenses). Further, in some instances, legal framework for access to fisheries have been established, but negotiations on how to implement this in practice are ongoing (e.g., Nuu-chah-nulth, BC). There are over 50 Aboriginal communities in Canada involved in aquaculture sector as producers and service providers and it is a growing sector (Waubetek Business Development Corporation, 2016[59]).

There are a number of constraints facing the Indigenous fisheries and aquaculture industries in Canada. In the case of the fisheries, it is a regulated industry of a managed resource and as such, there are ecological constraints on the industry which are different than that of the aquaculture industry (though aquaculture does have environmental impacts as well depending on the type that is preformed—i.e., closed versus open systems). Where the two industries are similar is in the high upfront capital costs and specialised expertise. A recent analysis of Indigenous aquaculture potential finds that access to capital, limited technical and business expertise and robust business plans, and the reluctance of non-aboriginal partners to invest in business partnerships located on reserve lands or in First Nations territories are some of the major obstacles facing the industry (Waubetek Business

Development Corporation, 2016[59]). Furthermore, while numerous federal and provincial economic development programs exist, many remain under-used in support of Indigenous aquaculture development.

There are ongoing efforts to advance a more collaborative approach to the governance and management of fisheries resources and associated economic opportunities. In 2017 a Reconciliation Framework Agreement between the Government of Canada and the Coastal First Nations in British Columbia was developed to enhance the role of Coastal First Nations signatories in the planning, management, monitoring and maintenance of healthy fisheries resources within the North and Central Coast area, furthering predictability and stability in the management of fisheries resources, and enhancing the well-being of Coastal First Nations communities (Government of Canada, 2017[60]). Furthermore, the Government of Canada is presently revising the Fisheries Act which includes addressing reconciliation with Indigenous peoples.[17] The proposed changes that aim to help advance reconciliation with Indigenous peoples include:

- Requiring that the traditional knowledge of Indigenous peoples be considered for habitat decisions, and protecting that knowledge from being disclosed once provided to the Minister.[18]
- Requiring that any adverse effects on the rights of Indigenous peoples be considered when making decisions under the Fisheries Act.
- Enabling agreements with Indigenous governing bodies to carry out the purposes of the Act.
- Enabling the creation of advisory panels which may include Indigenous representation.
- Providing certainty for harvesters by enabling new regulations that would allow the issuance of leases or licences for a period greater than 9 years (Fisheries and Oceans Canada, 2019[61]).

These changes go some way to address the fact that Indigenous practices and knowledge are often not integrated into or reflected in national regulations and policies. In BC, the provincial governments adopted a policy in 2018 mandating that, come 2022, all west coast fish farms will have to have First Nations approval before their tenure is renewed.

The Indigenous fur industry is relatively small but new technologies have potential to scale production while maintaining sustainable practices

Trapping is a traditional subsistence activity of Indigenous peoples and was a foundation of Canada's colonial economy. Canada's fur trade today continues in both subsistence and commercial forms; on the commercial end the fur trade consists of both tapping activities and fur farms. Canada's fur trade contributes nearly $1 billion to the Canadian economy annually and Canadian trappers and fur farm owners earn more than $320 million annually in pelt sales (Fur Institute of Canada, 2019[62]). Canada's most important fur markets are U.S., China, Hong Kong and Europe. The trade directly employs an estimated directly 60 000 Canadians full and part-time and there are an estimated 50 000 active trappers of which half are Aboriginal people (Fur Institute of Canada). There are a number of spin off activities associated with this sector (e.g., feed and equipment suppliers, veterinary and research services, by-product production, marketers, business services, transport, crafts and design sectors).

It is extremely difficult to make a living off of trapping in Canada. The most economical businesses in this sector are those that produce furs on a large scale with fur farms and mass processing. In contrast traditional approaches to trapping and processing fur are based on sustainable practices and use every part of the wild animal which is more time consuming and costly than the industrial model. There are efforts in Canada to find some middle ground for the industry. For example, St Félicien Cegepin Quebec's, Centre for Fur Valorisation has developed eco-responsible technologies in order to increase production with as little waste as possible, respect the spirit of Indigenous traditions, and show respect for the animals as well.

Mining and extractive industries

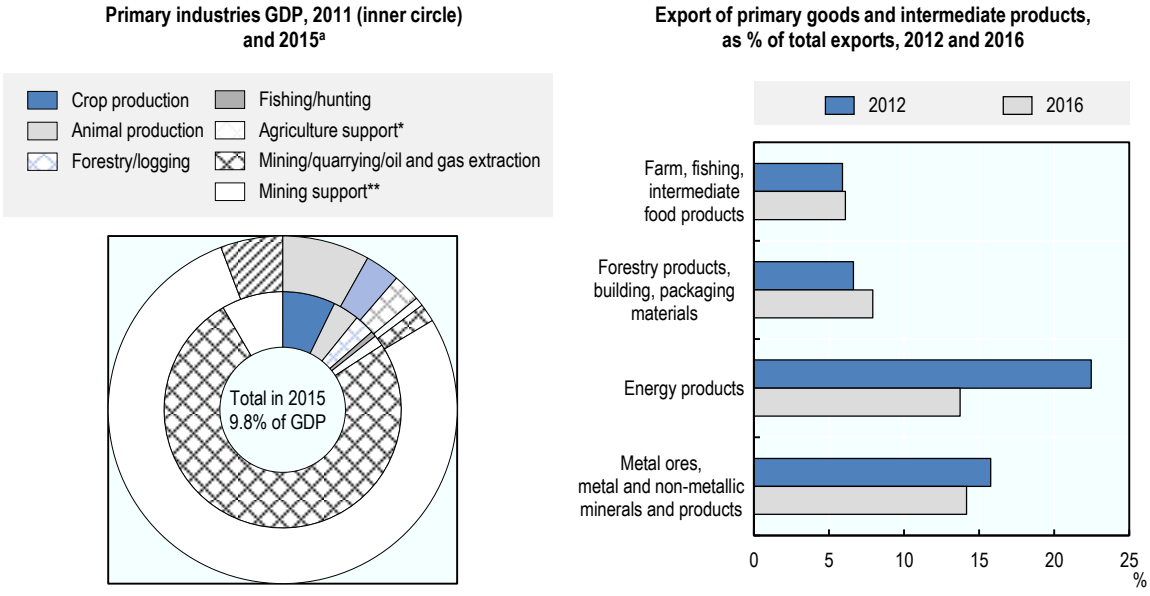
The mining and extractive industries are a major share of the Canadian economy—with large scale developments across northern Canada

Canada is one of the world's top five producers of crude oil, natural gas, primary aluminium and copper. The rise in international oil prices has shifted the country's industrial mix to become increasingly weighted towards oil and gas. Between 2000 and 2015, oil production increased by 76%, owing mainly to a threefold increase in unconventional production from oil sands in the province of Alberta (IEA, 2017[63]). While the sharp fall in oil prices since mid-2014 has depressed business investment in the mining, and oil and gas sector, it remains a part of the Canadian economy (Figure 4.1). In 2016, approximately 16 500 Indigenous persons were employed in the minerals sector and approximately 11 400 in the oil and gas sector (NRCAN, 2019[64]).

These industries bring a combination of opportunities and threats – and need to be carefully managed

Resource development is both an economic opportunity and a threat to Indigenous lands (both reserve and traditional territories) and peoples. Mining and extractive industries have historically been a source of conflict and dispossession for Indigenous peoples—conflicts that continue to this day (e.g., TransCanada pipeline project).[19] Mining and extractive industries can be highly socially disruptive and environmentally harmful, irrevocably alternating the ecosystem, landscape and way of life (Huseman and Short, 2012[65]). Activities such as fracking and mining have already, and will continue to have, negative impacts on the environment (pollution, declining populations of native species, displacement) and the communities' ability to maintain traditional activities such as hunting, trapping and fishing. It can also have impacts on sacred sites and contradicts the way nature is viewed and can create local inequalities between the mining and non-mining populations. Many reserve lands and traditional territories have natural resources that the private sector and governments would like to extract. Indigenous communities struggle to find the balance between preservation and economic growth amidst asymmetries of power –i.e., large corporations and businesses negotiating with small communities. Support for the sector varies. For some Indigenous communities, these activities have been an important source of revenue, employment and improved infrastructure, especially in remote locations where limited alternatives for economic development often force Indigenous peoples into making compromises. Communities need access to accurate information on previous and planned activities in order to have a comprehensive characterisation of the environment (i.e., cumulative effects) to support environmental protection goals.

Figure 4.1. Mining and extractive industries dominate the Canadian economy



Note:
* Support activities for agriculture and forestry.
** Support activities for mining and oil and gas extraction
a) According to the North American Industry Classification (NAICS) 2007 and based on data expressed at 2007 chained prices.
Sources: Statistics Canada (2018[66]), *Gross Domestic Product (GDP) at Basic Prices, by Industry, Monthly (x 1,000,000)*,Table 379-0031 and Table 228-0059, https://www150.statcan.gc.ca/t1/tbl1/en/tv.action?pid=3610043401; CANSIM (database) in OECD (OECD, 2017[40]), *OECD Environmental Performance Reviews: Canada 2017*, https://dx.doi.org/10.1787/9789264279612-en.

Canadian legislation has increased the role of First Nations in large scale industrial developments and provides for First Nations to become trustees of oil and gas revenues, displacing the federal government.[20] Agreements with mining and resources companies may include a suite of monetary and non-monetary benefits such as hiring of local community members, contracting with Indigenous-owned businesses, scholarships, revenue sharing, and the payment of royalties. These agreements can facilitate the growth of Indigenous-owned businesses in areas such as construction and logistics to provide services to mining operations, and job opportunities for local people. This can be achieved through mechanisms such as companies agreeing to specific targets for Indigenous procurement, and encouraging or mandating larger companies to form joint ventures with local Indigenous owned enterprises. The federal and provincial governments encourage companies to negotiate impact-benefit agreements with Indigenous peoples to settle financial compensation, provision of jobs and eventual environmental restoration (OECD, 2017[40]). However, companies are under no obligation to do so, the government is not a party to the agreements, and the agreements seldom result in changes to the project itself.

In some cases, Indigenous communities may also take on an equity stake in mining and resources businesses by investing own-source revenues. This gives Indigenous communities decision-making power in the conduct of these operations, provides an incentive for them to grow the business, and provides a sustainable income stream. Some communities have opted to set up their own mining and resources companies. An example of this is the Frog Lake Energy Resources Corporation, which is owned by the Frog Lake First Nation in Alberta (Box 4.2).

Box 4.2. Frog Lake Energy Resources Corporation

Frog Lake First Nation has a population of 2 500 people and is located about 2.5 hours to the west of Edmonton in Alberta, Canada. The First Nation has a reserve of 55 000 acres which has oil and gas reserves within it. Members of the community established the Frog Lake Energy Resource Corporation (FLERC) in 2000 without any assets, cash flow or staff. The board of FLERC includes local businesspeople, and members of the Tribal Council of Frog Lake First Nation. In 2003, the Corporation formed a joint venture with other oil and gas companies (current partners include Perpetual Energy, Canadian Natural, and Petromin), and then acquired mineral leases from the First Nation. By 2008, FLERC production exceeded 1000 barrels per day, and by 2009 operations were financed by internal cash flow. In 2012, FLERC formed a joint venture to undertake production off reserve lands and by 2013 it was debt free and production was exceeding 3000 barrels per day.

FLERC is strongly linked with the community's vision for development. The operations of FLERC are based on the principle of "sustainable wealth creation" and it has developed the following vision statement: "*By 2020, we will be recognized for our ability to continuously create business opportunities and deliver long-term value for the benefit of the members of the Frog Lake First Nation and its partners*." This includes creating opportunities for employment amongst local youth, for local businesses to participate in the value-chain, and by investing in community development and charitable activities.

FLERC is a leading example of Indigenous-led approach to mining and extractive industries. There are a number of key lessons to note. The first is the establishment and growth of a business that is integrated with the community's strategy for development. The mission and strategic priorities of FLERC are clearly linked to delivering better community outcomes, and tribal leaders are part of the governance of the enterprise. The second is how joint ventures can be utilised to access capital and expertise to grow a business opportunity. This supported the establishment and growth of FLERC and has now put it in a position to participate as an equity partner in other projects. The third is that this approach can mean Indigenous communities are genuine partners in resource developments, and indeed can drive the process.

Sources: Frog Lake Energy Resources Corp. (2018[67]), *History*, http://www.flerc.com/history/ (accessed on 5 February 2019); Frog Lake Energy Resources Corp. (2013[68]), *Frog Lake Energy Resources Corp.*, https://www.afn.ca/uploads/files/usb2013/2-f.pdf (accessed on 5 February 2019).

Mining and extractive industries are capital intensive, have high start-up costs requiring major upfront investments, and are highly technical; investments are subject to a complex regulatory environment and can be risky due to the industry's cyclical nature and international market exposure. It can also be highly remunerative for both employees and firms and have long term payoffs. Another feature of the sector is that major benefits often leak out of the local community. For example, a recent of two Inuit regions of Canada (Nunavik and Nunatsiavut) has found that an estimated 70% of all local Inuit-owned businesses derive less than 10% of their overall revenues from mining in an economy with mining as the predominant sector (Belayneh, Schott and Rodon, 2018[69]). Therefore, one of the challenges going forward is to develop strategies that maximise the impacts of these revenues in the local economy.

Indigenous communities are building capacity to effectively engage with the mining and extractive industries and ensure their concerns are addressed

Natural resources on public lands are owned and regulated by provincial/territorial governments; meanwhile, "Indians, and lands reserved for Indians" are a federal jurisdiction. Canadian governments have a duty to consult and, where appropriate, accommodate Indigenous peoples with rights and interests over lands where development is proposed. But usually, companies involved in natural resource extraction and mining consult directly with Indigenous peoples – with no governmental intermediary. There is no consistent consultation protocol or policy on the forms of accommodation required and the constitutional duty to consult. Engagement with mining and resources sector can be complex and protracted, leading to very different outcomes of the Indigenous communities involved.

This can lead to confusion and mistrust. Experiences of the Abenaki Nation with oil and gas on their traditional territories illustrate some of the concerns with the industry and how it operates (OECD interviews). Representatives from the oil and gas industry expressed an interest in developing projects on their lands, to which the FN expressed opposition due to the activity's increase in the salinity levels in the nearby river resulting from dumping of salt brine. A technical solution to this problem is reverse osmosis; however, this is not required under current Canadian regulations. Further, it was noted that the oil and gas companies consulted with the Chiefs, not the communities, or the Mi'kmaq Council and that the company ignored the traditional uses of land by the Mi'kmaq in their research related to the project. For these reasons, engagement with the firm was unsuccessful, despite the fact that these are surmountable challenges.

Effective engagement is bidirectional. There is a need to build capacity among Indigenous businesses and communities to be able effectively engage with the mining and extractive industries and articulate their development objectives and concerns; likewise there is a need for these firms to improve their engagement and support for the communities that they are working in. Industry practices on this front are mixed. Canadian federal and provincial/territorial governments have an important role to play as regulators of this sectors and in supporting capacity building efforts for Indigenous firms and communities.

In this regard, northern Ontario's new Centre of Excellence for Indigenous Mineral Development is a promising undertaking (partnership with Laurentian University in Ontario to centralise data and contacts). The centre aims to enhance the participation of the Indigenous people in the mining industry, and to assist industry and government through information sharing and best practice protocols with Indigenous engagement, including understanding environmental data. The initiative received funding from the Government of Canada (through FedNor). The Canadian Aboriginal Minerals Association also plays a key role in advocating how to improve Indigenous relations with this sector, such as the requirements for Indigenous Community Consultation and the environmental impact and assessment process (Canadian Aboriginal Minerals Association, 2018[70]).

Another practice of note is the Waubetek Business Development Corporation's work with Indigenous businesses and FNs to help communities develop strategies that define their interests and terms of engagement with mining industries. Their Aboriginal Strategy for Mining in North East Ontario focuses on four strategic areas: mining industry knowledge, awareness and capacity; mining industry relations; developing a skilled Aboriginal workforce; and developing Aboriginal businesses and partnerships (Waubetek Business Development Corporation, 2019[71]). The later includes establishing a mine supply and

service network as a not for profit organisation and maintaining a register of Aboriginal that can supply the mining sector.

Box 4.3. The extractive industries and meeting the UN Sustainable Development Goals

In September 2015, the 17 Sustainable Development Goals (SDGs) were adopted by the UN General Assembly in Resolution 70/1. They define a shared agenda for sustainable development to the year 2030. Demand for raw materials including those related to the extractive industries is expected to double by 2060 which major environmental and social consequences. Mineral and energy resources are important across all of the 17 SDGs, and they encourage an integrated view of development.

The SDGs provide a strong signal to the industry to adopt socially and environmentally sustainable practices. As summarised by Sacks and Sack in the introduction to the World Bank Group's oil gas and mining handbook (Cameron, 2017[72]):

- *Sustainable development depends on the minerals mined from the earth.* The development and rapid scale-up and deployment of renewable energies will further increase demand for a variety of minerals and metals. So too will the ubiquitous mobile Internet technologies, which utilise a range of mineral products to enable our new global information society.
- *For mineral-rich countries, the rents generated from the extraction of their resources can fund public investments in health, education, infrastructure, and other public goods that are critical for the achievement of the SDGs.* Strategic linkages from the extractive sectors to other sectors of the economy can also help to advance employment and innovation.
- *The management of the extractive sector, and the policies and practices of both governments and their private sector partners, determine the impacts of the extractive processes on air and water quality, biodiversity, gender-based and other forms of inequality, public health, and human rights.* In the past, extractive industries have often damaged the environment, created social tensions, and contributed to poor governance through bribery, capital flight, and the waste of resource rents. The SDGs provide key guideposts for sustainable management of extractive resources in relation to both people (with regard to inclusive processes and access to information, for instance) and the environment.
- *SDG 13—to take urgent action to combat climate change and its impacts—will require a deep and rapid shift in how the world approaches its hydrocarbon resources.* Known reserves of coal, oil, and gas greatly exceed the levels that can be burned in line with the Paris Climate Goal (part of SDG 13) of keeping global warming "well below 2 degrees C." The world must therefore make a quick transition to low-carbon energy and create effective and fair mechanisms to share the adjustment burden.

The success or failure of the SDGs depends on "how individual governments, companies, and the world as a whole approach the management and governance of mineral and energy resources" (Cameron, 2017[72]). This is a complex and highly technical sector to manage which has long term and often irreversible consequences for environmental and human health. The SDGs encourage all stakeholders to think broadly about these impacts; consider

social, economic, and environmental consequences in tandem and; embrace a longer-term view of the industry and the need for more sustainable practices.

Figure 4.2. Major issue areas for mining and SDGs



Note: EIDs, emerging infectious diseases; OSH, occupational safety and health; TVET, technical, vocational and educational training; CCS, carbon capture and storage: IFF, illicit financial flows; FPIC, free, prior and informed consent; PPPs, public private partnerships.
Sources: Cameron, S. (2017[72]), *Oil, Gas, and Mining: A Source Book for Understanding the Extractive Industries*, http://www.eisourcebook.org (accessed on 3 April 2019); UNDP (2016[73]), *Mapping Mining to the SDGs: An Atlas*, https://www.undp.org/content/undp/en/home/librarypage/poverty-reduction/mapping-mining-to-the-sdgs--an-atlas.html (accessed on 3 April 2019).

A number of FNs have proposed the creation of an Aboriginal Resource Tax (ART) which would create a common structure for these benefits. ART would formally tax resource and resource infrastructure projects and expansions taking place on (traditional) territories—this practice would replace the present practice of negotiating unique financial arrangements every time a project infringes on First Nations title or potentially a Treaty right (Fiscal Realities, 2015[74]). The province of British Columbia addresses this issue by having revenue sharing arrangements for mining royalties, stumpage fees, and oil and gas revenues. Under such arrangement a percentage of the revenue from the resource extraction goes to the Indigenous community through a trust, which can then be invested by them in new enterprises, local infrastructure, community services etc.

Land management and environmental services

Climate change is one of the top threats that Indigenous peoples face in relation to Indigenous lands. Indigenous people are among the first to face the direct consequences of climate change owing to their dependence upon and close relationship with the environment and its resources. Climate change exacerbates the difficulties already faced by vulnerable Indigenous communities, including political and economic marginalisation, loss of land and resources, human rights violations, discrimination and unemployment. Some of the concerns facing Indigenous peoples include the change in species and availability of traditional food sources, more unpredictable and extreme weather events and the safety of traveling in changing ice and weather conditions—all of which pose serious challenges to human health and food security.

Payments for environmental services are limited across Canada and there are few programmes directed to Indigenous communities

Land management and environmental services present a growing opportunity in the context of policy responses to climate change and environmental degradation. Recent research indicates that about a third of the greenhouse gas reductions needed by 2030 can be provided by the restoration of natural habitats, but such solutions have attracted just 2.5% of the funding for tackling emissions (Monbiot, 2019[75]). Payments for Environmental Services (PES) are being increasing applied across the world as a response to this challenge (Wunder, 2008[76]).

PES is a market-based environmental policy instrument to achieve ecosystem services provision. The basic principle is that the user or beneficiary of the environment pays for the services provided by it (fresh water supply, storm and flood protection, pollination). These ecosystem services can be grouped into four categories:

1. Provisioning services (products such as food and fresh water).
2. Regulating services (benefits from the regulation of the ecosystem such as air quality and pollination).
3. Cultural services (non-material benefits such as recreation and aesthetic experiences).
4. Supporting services (e.g. photosynthesis and nutrient recycling) (UNDP, 2019[77]).

Indigenous communities can be paid for the provision of these services, which puts a monetary value on their expertise in land and water management practices that have accumulated over thousands of years. It bears recognition that this approach has been critiqued by some as monetising relationships to nature (Reid and Nsoh, 2018[78]).

Over the past three decades hundreds of PES schemes have been implemented around the world with varying levels of success. There are two main approaches within PES:

- The Markets for Ecosystem Services (MES – based on the polluter pays principle) that address negative environmental externalities.
- The Payments for Ecosystem Services (PES) or "steward earns principle," based on positive environmental externalities (Grima et al., 2016[79]).

Despite the potential of PES in Canada for forestry and wetlands management, such programmes are not well developed, particularly for Indigenous communities, and very few are province/territory-wide schemes.

The longest-running PES in Canada is the "Alternative Land Use Services" (ALUS) which is run by a Canadian NGO (Kolinjivadi, Mendez and Dupras, 2019[80]). The programme currently operates in six provinces and offers annual payments to farmers and ranchers for the environmental services that they provide on agricultural landscapes. Between 2008 and 2017, the program has enrolled over 10 000 acres of wetlands and pollinator habitat respectively; reforested over 2500 acres; and, distributed $4.3 million to 830 farmers and ranchers across Canada (ALUS Canada, 2019[81]). This programme has no specific Indigenous component. The potential of PES in Indigenous communities should be explored for a range of services – e.g., forestry management, watershed management, coastal preservation.

Box 4.4. Payment for ecosystem services: Ecuador, Australia

Ecuador's SocioPáramo programme forestry conservation incentives

The Ecuadorian Ministry of the Environment (MEA)'s SocioBosque program is designed to conserve the country's remaining privately and communally owned forests. The programme aims to protect and enhance biodiversity, carbon, and water, while also contributing to poverty alleviation through direct compensation to community and individual landowners. It provides up to $30 USD per hectare per year for forestry conservation. The programme is open to individual or collective land title and is designed with "pro-poor" criteria such as higher payments levels for smaller enrolled land areas and inclusion of poverty levels in the official prioritisation model (Bremer, Farley and Lopez-Carr, 2014[82]).

Australia's carbon credits for fire management on Aboriginal lands

Australia's National law for a Carbon Farming Initiative (CFI) established methods for reducing volumes of greenhouse gases (nitrous oxide and methane) released in the burning of grassy fuels, leaf litter and fine woody fuels. Fire is used to maintain savanna systems and under CFI there are efforts to re-establish fire regimes closer to traditional practice. Aboriginal communities and their organisations have taken up opportunities to earn carbon credits with some enthusiasm. By the end of 2015, ten projects working over several million hectares of mostly Indigenous land had sought to deliver credits to government under formal contracts that include substantial penalties for under-delivery (Robinson, James and Whitehead, 2016[83]).

New Zealand iwi rights to water

The Freshwater Iwi Leaders Group, established in 2007, is proceeding to resolve with the Crown how to recognise iwi proprietary rights in freshwater quantity and quality. One avenue being explored by the Leaders Group to provide recognition of Māori water is to introduce a royalty regime under which Māori would be paid for the commercial use and pollution of their waters. There are already royalties applied in New Zealand, particularly in relation to the extraction of coal, precious metals, oil and gas, geothermal energy, sand and gravel, and more recently coastal space. Taxes on the commercial use of freshwater resources and allocating revenues to Māori who have proprietary interests would be one way for the Crown to meet its Treaty obligations. Alternative forms of recognition of Māori rights in freshwater bodies could be considered, such as granting legal personhood to a water body, or granting ownership of the bed and water column of a water body to Māori trust. For example, the Te Awa Tupua [River with Ancestral and Extraordinary Power]

framework for the Whanganui River affords the highest level of protection – legal personality – to Te Awa Tupua.

Sources: Robinson, C., G. James and P. Whitehead (2016[83]), "Negotiating Indigenous benefits from payment for ecosystem service (PES) schemes", http://dx.doi.org/10.1016/J.GLOENVCHA.2016.02.004; Bremer, L., K. Farley and D. Lopez-Carr (2014[82]), "What factors influence participation in payment for ecosystem services programs? An evaluation of Ecuador's SocioPáramo program", http://dx.doi.org/10.1016/J.LANDUSEPOL.2013.08.002; OECD (2017[40]), *OECD Environmental Performance Reviews: Canada 2017*, https://dx.doi.org/10.1787/9789264279612-en.

Land management programmes are increasingly common

While PES programmes are relatively uncommon across Canada, Indigenous land and water management is growing. As one Canadian example, in 2017 the Ahousaht First Nation took over management of Maquinna Provincial Park near Tofino, British Columbia, as part of an agreement with the provincial government. The management plan foresees the creation of between 15 to 20 jobs for the Ahousaht community associated with tourist activities at hot springs located within the park. The First Nations chiefs in the area are interested in extending the approach to the entire Clayoquot Sound region, helping them to diversify the economy, increase local employment and improve the connection of people to the land (OECD, 2017[40]).

Such stewardship can extend to the water. On the Pacific Coast, the Coastal Stewardship Network and Guardian Watchmen Programs are working to build local capacity to actively monitor environmental conditions and enforce rules and develop first responder capabilities in the case of oil spills or other disasters (Bennett et al., 2018[84]). This approach has been a success in other OECD countries as well. See for example the government of Australia's Indigenous Protected Areas (IPA) and Ranger programs (Box 4.5). These programmes provide direct funding to Indigenous groups for land and water management, and these groups have also diversified to access private and philanthropic funding. [21] This can include earning revenues from carbon credits.

Box 4.5. Employment opportunities through Indigenous Land Management: Australia

The Australian Government's Indigenous Protected Areas (IPA) programme enables land and sea country to be managed according to the wishes of the Traditional Owners. IPAs are voluntary arrangements through which Indigenous communities dedicate their lands or sea country to be set aside formally for conservation purposes. These areas are then recognised by the Australian Government as part of the National Reserve System and deliver important Indigenous land management, cultural, social, and economic and employment outcomes. There are currently 75 dedicated IPAs which contribute over 65 million hectares, or more than 44 per cent, of the National Reserve System. Most IPAs are dedicated under International Union for Conservation of Nature (IUCN) management categories V or VI.

These outcomes are also shared, and in many cases strengthened by the Government's funding for Indigenous rangers. Through their projects, ranger groups protect, conserve and manage environmental and cultural values. Projects can include, but are not limited to, activities such as the management of threatened species, invasive weeds and feral animal control, biosecurity activities, fire management, management of coastal and marine systems, visitor and information management, community engagement and education.

These projects often contribute to economic development opportunities more broadly such as fee for service work on behalf of government agencies, research and philanthropic organisations and the private sector; tourism enterprises; and carbon initiatives. The Indigenous ranger funding supports 118 ranger groups across the country and together with IPAs, the two programmes employ over 2 900 Indigenous Australians to work on land and sea country.

Source: Response to OECD Survey from Australian Government (2018).

Cultural industries and tourism

The Canadian Indigenous cultural industry has made its mark nationally and globally

From the film industry, to fashion, art, books, music and traditional crafts, Indigenous Canadians have gained world-wide recognition for their creative endeavours. These take the form of large to medium sized firms, small businesses, creative collective enterprises and the works of individual artists. This is a large and dynamic sector that has been supported by a wide range of institutions such as the Aboriginal Peoples Television Network which has been in existence for over 20 years and the Canadian Council for the Arts (among many others).[22]

Creative and artistic endeavours are connected to social and economic development and wellbeing. For Indigenous artists, these activities may be based on traditional knowledge and customary practices, but equally so they might be entirely contemporary or bridge both perspectives. Heritage and culture have dynamic potential; it is possible to reconcile both tradition and innovation, past and present (Hindle and Lansdowne, 2005[10]). An example of some successful Indigenous businesses in this sector include:

- Manitobah Mukluks is an example of a business that produces traditional products such as leather moccasins, mukluks and fringed bags. Sales grew as Manitobah Mukluks started distributing to retailers such as Town Shoes. Kate Moss, Megan Fox and Jessica Biel became customers, which, along with global marketing and a growing social media presence, sparked overseas interest. Today, the company sells its goods in 21 countries, from Russia to Japan, and sales are five times what they were three years ago.
- Nk'Mip Cellars is North America's first Indigenous-owned and -operated winery. It overlooks the shores of Osoyoos Lake in the Okanagan Valley, and sits on natural desert land surrounded by sagebrush and vineyards. Nk'Mip Cellars is open year-round and offers special events that celebrate native traditions.
- Native Earth Performing Arts is Canada's oldest professional Indigenous theatre company, in business for over 35 years. They are dedicated to creating, developing and producing professional artistic expressions of the Indigenous experience in Canada.
- The Indigenous Performing Arts Alliance is a member-driven organisation of professional Indigenous performing artists and arts organisations. IPAA serves as a collective voice for its members and for Indigenous performing arts in Canada. IPAA provides leadership, support, representation, advocacy, and practical assistance for the national development of Indigenous performing arts.

The cultural industries in rural and remote locations need access to markets. Some in the Indigenous cultural industry in Canada have been highly successful at overcoming this limitation. For example, many Inuit artists are well represented with their artwork available in top galleries across the world. Government support has been instrumental in promoting this industry since the 1930s. But for many others, distance and access are a challenge, including access to timely and affordable postal services, access to digital technologies and artistic facilities (e.g., sound studios) and access to input materials. A key point for public policy is to recognise that cultural development is linked to economic development and well-being. It is an industry that serves multiple important functions—from traditional healing, to cultural reproduction and increasing the knowledge and visibility of Indigenous perspectives and voices.

There is growing demand for Indigenous tourism offerings

Tourism is a rapidly growing rural economic activity across OECD countries. Rural tourism tends to be either nature connected and/or linked to culture and experiences. Rural Indigenous communities that are in a relatively high amenity location with adequate access will have opportunities to develop tourism businesses. The key for communities is developing a package of experiences that attract people to spend more and/or stay longer. This focus can reduce overall numbers of visitors whilst also generating sufficient revenues. This tourism package can have a number of elements, such as:

- Accommodation on traditional lands close to high amenity landscapes (mountains, forests, rivers, lakes and the ocean).
- Activities linked to traditional Indigenous hunting and fishing.
- Arts and cultural activities (handicrafts, music and dance).

In combination, these assets and activities increase the attractiveness of the experience to the participant and increase income and employment opportunities for the community. The other element to consider is how Indigenous tourism ventures are developed, which is important because they directly relate to the protection and use of Indigenous lands and culture. A model which is based on outside actors coming into communities to sell experiences, build accommodation, or undertake fishing activities is unlikely to deliver long-term sustainable growth benefits for communities. Instead, Indigenous communities should take the lead in developing tourism ventures on their own terms and in a way that is linked to local business, employment and skill development opportunities (Coria and Calfucura, 2012[85])

There is growing demand for Indigenous tourism offerings. The Conference Board of Canada estimates that the Indigenous tourism industry generated $1.7 billion in direct economic benefits in 2017 (up from $1.4 billion in 2014) (Conference Board of Canada, 2019[86]). Indigenous tourism is outpacing growth in the tourism industry overall (Conference Board of Canada, 2019[86]). While the Conference Board of Canada's most recent analysis shows that air transportation and resort casinos are the largest contributors in terms of employment and GDP, cultural offerings are also important. For example: guided adventures, wilderness and wildlife viewing tours complemented with cultural interpretations provided by Indigenous people; authentic, hands on interactive tourism experiences incorporating opportunities to meet Indigenous people engaged in the production of Indigenous foods and crafts; sample local foods; learning about community traditions, legends, mythology, art, culture, flora, fauna and; "tastes" of Indigenous cultures

incorporated into mainstream tours, as an enhancing of broader travel experiences (Butler and Hinch, 2007[87]).

This sector has many established businesses and a potential for further growth. But it also faces some challenges. Indigenous businesses sometimes struggle to meet the requirements to be competitive in the cultural tourism sector, to provide market ready products and services, and to have product development and marketing activities that attract mainstream travel industry partners (Butler and Hinch, 2007, p. 48[87]). Businesses may also need community buy-in—demanding discussions with community members about how to share their culture in appropriate ways.

Some of the common challenges to the development of this sector identified by Aboriginal tourism operators:

- Having tourism businesses operate in line with local capacities, cultural values, and community interests.
- Obtaining political and community consensus to undertake initiatives.
- Delivering market ready products and services.
- Meeting financial and bureaucratic requirements.
- Intra band politics (Butler and Hinch, 2007, p. 49[87]).

In order to ensure the continued growth of the Indigenous tourism sector, the Government has included Indigenous tourism as one of the key action areas in tourism strategy, with the aim to grow the number of export-ready Indigenous tourism businesses by 130, create over 40,000 new jobs in the Indigenous tourism sector, and increase Canada's annual GDP by $300 million from Indigenous tourism by 2021 (implemented by the Indigenous Tourism Industry of Canada).[23] It will for example support the development of a one-stop shop for visitors to choose an immersive, authentic Indigenous experience. There are a number of other government initiatives that support the sector such as the Federal Provincial Territorial (FPT) Tourism Strategy, which was agreed to through the Nunavut Declaration in 2016 and Parks Canada's work with Indigenous partners to offer Indigenous visitor experiences and to integrate Indigenous views, history and heritage into national parks, marine conservation areas and historic sites managed by the Agency.

The services sector in rural and remote regions

Linking up to local and regional markets

The services sector is the largest share of the Canadian economy and has the largest share of businesses – Indigenous businesses are represented in all of these activities. The sector encompasses a wide range of activities including non-commercial activities, such as health and education which have the largest share of Indigenous employment by industry in Canada and retail trade, which has the second highest (see Chapter 2, Figure 1.2). It also includes commercial services, wholesale and retail trade, transportation, communications and utilities, and financial and legal services.

This sector can be challenging for rural and remote businesses and communities as it fundamentally requires access to a market. Businesses that have been successful in these regions are often fulfilling niche markets related to local demand. For example, First Air, which is now the largest airline in Canada's Arctic, with service between 30 northern communities and connections to Ottawa, Montreal, Winnipeg and Edmonton. The airline

was purchased by Makivik Corp., the organisation representing the Inuit of Northern Quebec, in 1990. The airline employs more than 1 000 employees, almost half of whom live in the Arctic. It is thus contributing to the artic economy not just in its ownership model but in employment.

There is a huge potential to further develop Indigenous businesses in the services sector but they need the right framework conditions to be in place in order to be successful. This includes such factors as accessible and affordable postal services, high speed internet access or even such basic factors as a reliable energy supply and clean drinking water. Beyond this, there is an issue of informality and a lack of regulation for some businesses on reserves.

Keeping the value of economic activities in communities

There is growing interest in how firms – both those that are private and community led – can keep their economic gains within local markets. Indigenous communities across Canada have conducted "economic leakage" studies to this effect. They document where households are spending their funds both within the community and without in order to assess local market opportunities. Even among communities in a rural region there can be low awareness of the types of businesses that exist locally – especially where there is a degree of informality to the sector. Thus, one complimentary strategy to this is to develop an up-to-date local business directory.

In regions where there are large industrial developments, there are opportunities for businesses to form part of the supply chain. An example is One Windigo Catering ltd. Which offers camp management, catering, housekeeping and laundry services to Goldcorp's Musselwhite mine at their fly-in camp on Opapimiskan Lake. The catering company is owned by five First Nation communities in north western Ontario and has since expanded services to Thunder Bay. An effective regional development strategy can help to foster these linkages and develop opportunities in order to ensure that industries benefit local economies as much as possible.

Programmes and services to support Indigenous entrepreneurship

Across Canada there are a wide variety of programmes and services for individuals wishing to start a business. Given this, one might ask, why are specific programmes needed for Indigenous peoples? The answer to this question lay on several fronts. As outlined in Chapter 1, Indigenous peoples have faced historical and ongoing discrimination which has negatively impacted their well-being, and which has fostered economic dependence—one aspect of colonisation. Furthermore, while some Indigenous firms might look and operate like any other, many others are unique and many lack access to capital. As such, they require specific programmes and supports to overcome these challenges – particular for those operating on reserves.

Canadian federal, provincial and territorial government have developed a number of programmes in support of Indigenous entrepreneurship and there are a rich array of Indigenous organisations that provide these services across Canada as well as a growing number of National Indigenous Organisations (NIOs) that raise the profile of this sector, build expertise and champion leading practise. This section provides a brief overview of this landscape. It describes the main government programmes to support Indigenous entrepreneurship and the Indigenous organisations involved.

The Government of Canada's programmes for Indigenous business and community economic development

In 2009 the Government of Canada released the Federal Framework for Aboriginal Economic Development which set a whole-of-government) approach to better align federal investments, respond to new and changing economic conditions and lever partnerships with Indigenous peoples and communities for economic developed. Under the current government this approach has evolved to focus instead on key departments. Priorities for the Indigenous portfolio are articulated in departmental mandate letters and in the Department Plans (2018-19) for Indigenous Services Canada (ISC) and Crown-Indigenous Relations and Northern Affairs Canada (CIRNAC).

Today there are hundreds of different economic programmes and services available to Indigenous entrepreneurs and communities across Canada. CIRNAC and ISC between them fund almost 50 different programmes, services and initiatives to First Nations, Inuit and Northern communities, governments and individuals and Aboriginal and Métis organisations—most of these programmes are focussed on infrastructure, health and social services, but a number also focus on Indigenous business and economic development. Of these, there are three main types of business and economic development programmes:

- **Business development, capital and support services.** In terms of the first type of programme, the federal government directly provides funding to Indigenous businesses through its programmes and has funded a range of Indigenous organisations to deliver these services as well. Some of these have been operational for decades and have built significant institutional capacity in the Indigenous business sector such as Aboriginal Entrepreneurship Programme which is delivered by Indigenous led non-profit entities (National Aboriginal Capital Corporations Association and the Aboriginal Financial Institution Network) (Box 4.6). Some AFIs are incorporated as for-profit entities but in practice operate as social purpose organisations.
- **Community economic development programmes.** These programmes encompass a range of priorities, from assisting FNs to make the most of land and environmental management to helping them grow established businesses or identify new opportunities and partner with industries.[24] For example, the Community Opportunity Readiness Program provides start-up funds to undertake pre-development activities and funding to develop in-house expertise and management skills related to a new economic opportunity (INAC, 2019[88]). Another programme of note is the Strategic Partnerships Initiative (SPI) which provides assistance to increase Indigenous participation in complex economic development opportunities, particularly in the natural resource sectors. The SPI is a federal horizontal initiative that coordinates federal efforts, stimulates partnerships between federal and non-federal partners and addresses funding and program gaps that are not covered by other federal programs.

- **The Procurement Strategy for Aboriginal Business (PSAB).** This programme was established in 1996 as a response to the underrepresentation of Indigenous businesses in federal procurement. This policy entails: i) mandatory procurement set-asides for all federal contracts with a value greater than CAN$5 000 for goods or services delivered to a primarily Indigenous population; ii) voluntarily procurement set asides; iii) joint ventures and partnerships with other Indigenous or non-Indigenous businesses for procurement bids; and iv) Aboriginal criteria for prime contracts (this can be a mandatory requirement or as rated evaluation criteria to ensure sufficient content from Indigenous suppliers). Note that this programme does not entail a specific funding amount for Indigenous businesses – it is an administrative policy.

In terms of portfolios among the federal family that support Indigenous-owned businesses, Innovation, Science and Industry, along with six Regional Development Agencies provide industry support and economic development programming aimed at starting up and maintaining a business.[25] While Canada's RDAs all report a priority to promote Indigenous businesses and economic development, this does not always take the form of specific Indigenous targeted programmes—a point that will be returned to.[26] The Business Development Bank of Canada offers developmental loans to support Indigenous entrepreneurs. Beyond these programmes, a number of other departments and agencies are involved in specific sectoral initiatives such as Aboriginal arts grants and supports for Indigenous businesses in the agricultural and forestry sectors.[27]

Box 4.6. Canada's Aboriginal Entrepreneurship Program

The Aboriginal Entrepreneurship Program (Crown Indigenous Relations and Northern Affairs) supports Indigenous business creation and growth by increasing access to equity capital. In the spirit of the reconciliation, the Department, in 2015, transferred the administration and delivery of the Aboriginal Entrepreneurship Program to the National Aboriginal Capital Corporations Association and Aboriginal Financial Institutions network. This has provided to the network more flexibility to manage the program and be more responsive to the Indigenous entrepreneur's need and reality. The National Aboriginal Capital Corporations Association and the Aboriginal Financial Institution network have built a track record of efficient service delivery, proximity with the clients and of legitimacy in the community.

In term of program design, the Aboriginal Entrepreneurship Program is the only program offering non-repayable contributions to help Indigenous entrepreneurs either start-up their business and/or leverage funding to get a loan with mainstream banks. The Aboriginal Entrepreneurship Program includes a suite of five sub-programs (Table 4.2). Canada's 2019 budget proposes to increase funding to the Aboriginal Entrepreneurship Program by providing $17 million over three years, starting in 2020–21 (Government of Canada, 2019[89]). Some provincial programs provide grants as well. From the federal government, CanNor (The federal government's northern regional development agency), also delivers a targeted programme in this area.

Table 4.2. Canada's Aboriginal Entrepreneurship Program

Sub-programme	Description
Aboriginal Developmental Lending Allocation	Encourages Aboriginal Financial Institutions to make developmental loans. It compensates Aboriginal Financial Institutions for loan losses associated with developmental lending. It also provides additional compensation for costs associated with pre and post loan care which assists the entrepreneur and increases probability of repayment.
Aboriginal Capacity Development Program	Provides financial assistance to Aboriginal Financial Institutions for capacity development for core functions, governance, management and operational functions including financing assistance for loan management information systems and other information technologies as well as for strategic planning. The National Aboriginal Capital Corporations Association approves and allocates the funding to Aboriginal Financial Institutions based on the applications submitted.
Aboriginal Business Financing program	Enables Aboriginal Financial Institutions to provide needs-based financial assistance to Indigenous entrepreneurs for business start-up, acquisition and expansion. It also includes the provision of financial assistance for business planning and business advisory services for aspiring and existing Indigenous Aboriginal entrepreneurs.
Enhanced Access Program	Provides additional loan capital to an Aboriginal Financial Institution in order to support a business that is located in one of the few areas of the country in which no AFIs operate.
Interest Rate Buy-down Program	Assists the Aboriginal Financial Institutions themselves to leverage additional lending capital from commercial sources such as banks and trust companies.

Sources: Indigenous Services Canada (2018[90]), *Aboriginal Business and Entrepreneurship Development*, https://www.aadnc-aandc.gc.ca/eng/1375201178602/1375202816581 (accessed on 10 April 2018); Government of Canada (2019[89]), *Budget 2019: Chapter 3 - Advancing Reconciliation*, https://www.budget.gc.ca/2019/docs/plan/chap-03-en.html (accessed on 11 April 2019).

Indigenous developmental lenders: Canada's Aboriginal Financial Organisations

Aboriginal financial institutions have proliferated since the late 1980s—increasing access to finance for small to medium sized firms

There are a wide range of non-governmental Indigenous organisations across Canada that provide targeted supports to Indigenous businesses or build capacity in that sector (e.g., through data or shared practices) (Table 4.3).The majority of these were first established in the late 1980s/early1990s have strong and established relationships with community members and business owners. While these are non-governmental institutions, many of them are funded in wholly or in part by the federal government.

Some of the main Indigenous organisations focussed on financing businesses are Aboriginal Financial Institutions (AFIs) and their umbrella organisation the National Aboriginal Capital Corporations Association (NACCA). NACCA supports the mandate of AFIs and manages the network in terms of reporting authority (INAC has devolved responsibility for AFI policy to NACCA). There are 59 Aboriginal Financial Institutions across Canada; they are Indigenous-owned and controlled financial institutions which provide non-repayable contributions, developmental lending and business support to Indigenous businesses. They were established to address a lack of commercial credit due to some of the aforementioned limitations in the *Indian Act*, alongside the challenges of

remoteness and a lack of financial literacy faced by Indigenous businesses and entrepreneurs when working with mainstream banks. Over the last three decades AFIs have made an estimated 46 000 loans worth over $2.6 billion; each year over $100 million in new loans are made to Indigenous businesses, 500 start-ups are financed, and 750 existing businesses are financed (NACCA, 2019[91]). NACCA estimates the total direct economic impact of AFI activity at $300 million while creating or maintaining 4 000 full-time employment jobs; each dollar invested by the Government of Canada has been recycled in new loans 8.4 times (NACCA, 2019[91]).

The pan-Canadian network of Aboriginal Financial Institutions (AFIs) fill an incredibly important role in providing access to finance for Indigenous businesses and other business support services. They serve a market that the private sector would likely not fill and mostly lend to small businesses. There are three types of AFIs across Canada: i) the Aboriginal Capital Corporations (ACC), ii) Aboriginal Community Futures Development Corporations (ACFDC) and iii) Aboriginal Developmental Lenders (ADL). Each serve a slightly different purpose. Community Futures (of which AFCDC are one part) are a network of 267 offices across Canada focussed on rural development that provide business financing to small local businesses (e.g., small business loans, tools, training and events for people wanting to start, expand, franchise or sell a business). They work in partnership with other business lenders, educational institutions, not-for-profits and community governments. Only a few of the Community Futures programmes are Aboriginal exclusive. Unlike most AFIs, Community Futures programmes can also deliver economic development strategies.

Canada also has Indigenous-owned banks such as the First Nations Bank of Canada and the Peace Hills Trust Bank (owned by the Samson Hills Cree) which are regulated by the Office of Superintendent of Financial Institutions and have to follow policies like all banks in Canada.[28] Trusts form another source of revenue that can be used for business development and generating revenues on traditional lands through taxation. For example, in Ontario there is an agreement that a percentage of the revenue from casino revenues goes to 130 FN governments. This is a public policy decision and was achieved through a negotiated process which then forms a source of capital for business development. Canada's federally owned Business Development Bank focussing on lending services for SMEs has an Indigenous Entrepreneur Loan programme, Aboriginal Business Development Fund, and Growth Capital for Aboriginal Businesses (BDC, 2019[92]).

Even with all of these initiatives, there remains unmet demand for Indigenous business investment. While there has been more than a hundred percent growth in the amount of capital at work in the First Nation and Inuit business community between 2003 and 2013—the gap between the amount of capital accessed by these groups and other Canadians has almost doubled over this period (NAEBD, 2017[2]).[29] As such, commercial banks also have an important role to play in lending to Indigenous businesses—all major banks in Canada have such services to some extent.[30] The Capital for Aboriginal Prosperity and Leadership (CAPE) Fund is another source of finance for Indigenous businesses of note – it is a $50 million private-sector investment fund initiated by 21 of Canada's leading companies, individuals and US based Foundations. The Fund focuses on projects which are linked, either through ownership, employment or geographic proximity, to an Aboriginal group or community.

Table 4.3. Select Indigenous-owned banks and lending institutions in Canada

Organisation	Date established	Description
Aboriginal Financial Institutions	1980s onwards	Offer financing to First Nations, Métis, and Inuit businesses and communities. AFIs were created in the late 1980s and early 1990s by Aboriginal leaders, the Government of Canada, and a Native Economic Development Program initiative to address the lack of available capital to finance Aboriginal small-business development. AFIs are also supported by regional development agencies (RDAs).
First Nations Bank of Canada	1996	A federally chartered bank serving Indigenous and Non-Indigenous people throughout Canada. Effective Nov 1, 2009 the Bank is over 80% owned and controlled by Indigenous shareholders from Alberta, Saskatchewan, Manitoba, Yukon, Northwest Territories, Nunavut and Quebec.
First Nations Finance Authority	1992	Non-profit Aboriginal government-owned and controlled institution built to provide all First Nations and Aboriginal governments with the same finance instruments that other levels of government in Canada have at their disposal to build safe, healthy and prosperous communities.
National Aboriginal Capital Corporations Association	1997	A membership-driven national association for a network of Aboriginal Financial Institutions (AFIs).
Peace Hills Trust	1980	First Nation Financial Institute owned by the Samson Cree Nation offering financial and retail banking to First Nations and non-First Nations clients.

Sources: NACCA (2019[93]), *National Aboriginal Capital Corporations Association*, http://nacca.ca; FNFA (2019[94]), *First Nations Finance Authority*, https://fnfa.ca/en; CCAB (2019[95]), *Canadian Council for Aboriginal Business*, https://www.ccab.com; AFOA Canada (2019[96]), *AFOA Canada*, http://www.afoa.ca.

Indigenous-led programmes for community economic development and financial management

While the aforementioned programmes are focussed on financial services to Indigenous businesses, there are also a number of organisations that support Indigenous community economic development and financial management. This speaks to the unique position of FNs for community-led economic development and the proliferation of economic development corporations. Three such institutions were established by the First Nations Fiscal Management Act (FNFMA) which provides First Nation governments with authority over financial management, property taxation and local revenues and financing for infrastructure and economic development: i) the First Nations Tax Commission (FNTC), ii) the First Nations Financial Management Board (FNFMB); and iii) the First Nations Finance Authority (FNFA) (Table 4.4). Also, in support of professional development, AFOA Canada focusses on financial and management skills, training and capacity building for Indigenous professionals.

A number of organisations also work on better connecting and improving relations between Indigenous communities and businesses and non-indigenous companies. For example, the Canadian Council for Aboriginal Business (CCAB) provides business development offerings, including certification for Aboriginal-owned businesses, guidance for companies in their relations with Aboriginal groups and peoples and connects Aboriginal entrepreneurs with tools, training and networks to strengthen and scale their businesses (CCAB, 2019[97]).

Table 4.4. Select national organisations focussed on community economic development and financial management

Organisation	Date established	Description
AFOA Canada (formerly Aboriginal Financial Officers Association of Canada)	1999	A not-for-profit association founded to help Indigenous people better manage and govern their communities and organisations through financial and management practices and skills. Focuses on the capacity development and day-to-day needs of those Indigenous professionals who are working in all areas of finance, management, band administration, leadership and program management.
Canadian Council for Aboriginal Business (CCAB)	1982	Non-profit organisation that developed business offerings, including certification for Aboriginal-owned businesses (CAB) and companies with Progressive Aboriginal Relations (PAR).
First Nations Financial Management Board	2006	A shared-governance corporation which assists First Nations in strengthening their local financial management regimes and provides independent certification to support borrowing from First Nations Finance Authority and for First Nations economic development. The FNMB was established by the First Nations Fiscal Management Act (FMA).
First Nations Tax Commission	2006	The FNTC is a shared-governance corporation that regulates and streamlines the approval of property tax and new local revenue laws of participating First Nations, builds administrative capacity through sample laws and accredited training, and reconciles First Nation government and taxpayer interests. The FNTC was established by the First Nations Fiscal Management Act (FMA).
First Nations Finance Authority	2006	A non-profit corporation that permits qualifying First Nations to work co-operatively in raising long-term private capital at preferred rates through the issuance of bonds, and also provides investment services to First Nations. The FNFA was established by the First Nations Fiscal Management Act (FMA).

Source: Justice Laws (2005[98]), *First Nations Fiscal and Statistical Management Act*, https://laws-lois.justice.gc.ca/eng/annualstatutes/2005_9/FullText.html (accessed on 4 February 2019).

A growing number of organisations provide strategic policy advice

The aforementioned Indigenous institutions such as NACCA, the First Nation Financial Authority, the Canadian Council for Aboriginal Business and AFOA Canada, to name a few, support, promote and facilitate the innovation and growth of Indigenous businesses—but they also provide strategic advice on the needs of the sector and how to work with both public and private partners to better meet these needs. Among these, the National Indigenous Economic Development Board (NIEBD, est. 1990) is in a unique position. NIEBD is a Governor in Council appointed board—comprised of First Nations, Inuit, and Métis business and community leaders from across Canada—mandated to provide strategic policy advice to the federal government on issues related to Indigenous economic development (NAEDB, 2016[99]).

Taken together, these organisations serve to:

- Help local Indigenous financial institutions to advocate for their interests with governments.
- Give Indigenous peoples an independent voice in debates and policy processes related to economic development.
- Provide a forum to share best practices and build capacity through events and networking.

- Provide a mechanism to deliver government support and programmes to local Indigenous businesses.
- Provide a platform that enables local institutions to build scale and attract private capital.
- By building scale, can enable local institutions to attract institutional investors, which is critically important in terms of growing the overall capital base for the Indigenous economy by accessing private sector finance—an area that has not been fully exploited.

Compared to many other OECD countries with Indigenous populations, Canada has a rich landscape of institutions that are dedicated to supporting Indigenous entrepreneurship that raise the visibility of Indigenous entrepreneurship in Canada. There are also a number of Aboriginal business associations and industry-specific Indigenous organisations that serve their members' interests.

Provincial and territorial programmes for Indigenous businesses and for community economic development

Provincial and territorial governments also deliver programmes and funding for Indigenous business development (Table 4.5). The majority fund Indigenous organisations to deliver such services as opposed to offering direct service delivery.[31] In some cases, provincial/territorial governments also fund or directly provide services that are unique to regional conditions and the populations being served. For example, in Nunavut there is a fisheries and fur programme with eligibility for advanced payments for sealskins and small tools grants for craftspeople in the Qikiqtani region. Programmes for FN community economic development across Canada differ considerably. For example, in British Columbia, the Ministry of Indigenous Relations and Reconciliation focuses its efforts on promoting Indigenous community participation in the clean energy sector.

Aboriginal procurement is uncommon at the provincial level. Currently, only three provinces in Canada have Aboriginal Procurement initiatives: British Columbia, Manitoba and Ontario. In British Columbia these are voluntary guidelines while in Manitoba, specific contracts can include Indigenous business set asides and/or mandatory Indigenous business participation. In the case of Ontario, there are voluntary set-asides.

Table 4.5. Main Indigenous business and community economic development programmes/funds by province and territory

BC	Alberta	Saskatchewan	Manitoba	Ontario	Quebec	NS	NB	NWT
Indigenous Business Advisory Centres	Urban Indigenous Initiatives Program	Clarence Campeau Development Fund*	Métis Economic Developme nt Fund (MEDF)*	The Business and Community Fund Program	Aboriginal Initiatives Fund III	Aboriginal Community Developme nt Fund (ACDF)	The Aboriginal Affairs Secretariat's (AAS) Grants Program	Community Economic Developme nt (SEED)
Aboriginal Business and Entrepreneurs hip Skills Training (BEST) program	Aboriginal Business Investment Fund	Saskatchewan Indian Equity Foundation Inc. (SIEF)*	First Peoples Economic Growth Fund (FPEGF)*	Economic Diversificati on Grants Program				Micro Business (SEED)

BC	Alberta	Saskatchewan	Manitoba	Ontario	Quebec	NS	NB	NWT
First Citizens Fund Business Loan Program	Aboriginal Economic Partnerships Program	SaskMetis Economic Development Corporation (SMEDCO)*		Regional Partnership Grants Program				
First Nations Clean Energy Business Fund	Employment Partnerships Program							

Note: the provinces of Newfoundland, Prince Edward Island and the territories of Yukon and North West Territories do not have any specific Indigenous targeted programmes in these areas (business and community economic development).
Source: Own analysis of provincial and territorial programmes across Canada.

Policy levers to strengthen Indigenous entrepreneurship in Canada

The preceding sections provided an overview of the framework conditions for Indigenous entrepreneurship, have outlined some of the main competitive advantages for Indigenous firms and community-led development in rural and remote regions and have described the main government programmes to support Indigenous entrepreneurship. This section offers recommendations on how to strengthen Indigenous entrepreneurship in rural areas, focusing on: i) access to finance, ii) increasing access to banking and business activities, iii) mainstreaming Aboriginal procurement strategies, iv) protecting Indigenous intellectual property; v) strengthening entrepreneurial skills and financial literacy; vi) increasing the visibility of Indigenous economies and supporting business partnerships; and, vii) strengthening the role of Canada's regional development agencies in supporting Indigenous entrepreneurship.

Access to land and related resources is also one of the most important factors that enables Indigenous entrepreneurship. This topic has been discussed at length in Chapter 3 and as such is not addressed in this section.

Increasing access to finance

Ongoing efforts are needed to strengthen access to finance

Indigenous businesses, particularly those located on reserves, commonly face challenges accessing finance. Where finance is accessed, it is uneven. For example, among First Nations communities in Canada, just 15% of communities are responsible for 65% of the borrowing activity—these activities are concentrated among well-endowed communities most of which are using land and financial management powers outside of the Indian Act (NAEBD, 2017, p. 9[2]).

Canada's private banking sector is showing a growing interest in serving Indigenous business needs and managing community trusts. For example, two of the country's largest banks manage over 1 billion in First Nations trust investments (Shecter, 2015[100]). Canada also has successful private banking-Indigenous partnerships such as the First Nations Bank of Canada.[32] Despite these initiatives, lending gaps remain, particularly for small rural Indigenous businesses. Ongoing efforts are needed to strengthen access to finance. This section outlines three options to increase access to finance for Indigenous businesses:

- Scaling up the work of Indigenous developmental lenders in Canada and increasing their attraction of private capital.

- Expanding Indigenous owned credit unions.
- Exploring the potential of social impact investments.

Evolving Indigenous developmental lenders—scaling up, accessing private capital and aligning services

AFIs are presently undercapitalised to support medium-sized companies and demand from small businesses in their regions. The next steps in the Indigenous developmental lenders' evolution is to pool their resources and attract more private sector capital. Increasing economies of scale can help increase the amount of finance available, reduce risk and attract the interest of institutional investors. AFIs can do this by creating common loan pools around larger scale projects within a region (or at a cross-regional and/or national scale). Making this happen may require some brokering and incentives from the government.

To date there have been some positive examples of scaling up larger investment projects and accessing private funds—e.g., attracting private sector capital through bond issuing. However, progress has been slow. Each AFI has their own board and there is a lack of incentives in place to cooperate. The federal government and NACCA could help to facilitate greater collaboration. Feedback from the finance/banking industry has indicated that there is a perception of risk with lending to this community and that there are limited vehicles by which to make private investments (e.g. debt fund that could invest in AFIs). Policies can help to address these issues by:

- Addressing risk perceptions and strengthening relations with the private banking sector.
- Working with Indigenous institutions (such as NACCA) and other social finance intermediaries to set up appropriate investment vehicles.[33]
- Exploring the feasibility of using the tax system to incentivise private investment (e.g., level of administrative costs).
- Facilitating collaboration among AFIs to scale up projects and attract private capital.

With the devolution of the Indigenous entrepreneurship programmes to NACCA, the organisation is now responsible for managing the reporting relationship with AFIs. A robust system of metrics on the impact of their activities and up to date reporting will help strengthen the visibility of AFIs and their attractiveness/potential as an investment vehicle. NACCA is presently working on developing an improved metrics system which will include a snapshot of AFIs on social and economic indicators.

Public funding remains critical to AFIs' success

While attracting private sector funding is an important strategy for AFIs, public funding remains critical to their success. AFIs do not at present generate enough returns to satisfy private sector investments—even those interested in social finance. In 1996, funding for establishing the ACCs and supporting what is now the Aboriginal Entrepreneurship Program was $80 000 000 annually or $122.4M in today's dollars. The total budget for these activities in 2018 was $33.9M; 72% less than in 1996 (NACCA). The Government of Canada's 2019 budget proposes significant new investments—it proposes to create an Indigenous Growth Fund managed by NACCA that would help AFIs (including Métis Capital Corporations and others) to support more Indigenous entrepreneurs, and larger

scale projects by providing up to $100 million. This anchor investment will help AFIs broaden their clientele and potentially lend to larger businesses which is a much-needed gap to be filled in the Indigenous finance landscape. However it is not yet clear if these will be repayable funds or a long-term concessional loan.

Aligning programme delivery across the AFI network

Funding sources and reporting relationships vary across the AFI network. Most AFIs are federally funded but they were originally set up by two separate departments (Indigenous Services Canada ISC and Innovation, Science and Industry, ISI) and to this day they have access to different programs due to that split. Also, the federal government supports regional economic development programming through Regional Development Agencies (e.g. CanNor, WD, FedDev, FedNor, ACOA, CEDQ).[34]

Each of the RDAs (with the exception of CanNor and ACOA) is responsible for a couple Indigenous CFDCs and have varying degrees of internal expertise. As a result there is a need to build knowledge and/or develop novel approaches (e.g. co-locating regional CIRNA or ISC staff at the RDAs) in order to ensure the needs of Indigenous businesses and AFIs are adequately met across the country.[35] It is reported that the present system can in some cases lead to a duplication of efforts wherein CFDCs have access to various loan capital pools that are underutilised (interviews). In addition to this, some AFIs have received provincial and territorial funding; while these investments are laudable, there is very little coordination to ensure policy alignment with federal initiatives. One reported outcome of this lack of coordination is that a program (whether it be provincial, RDA or even programs delivered by the CIRNAC branch) will provide capital to some AFIs; those same AFIs will then rely on the Aboriginal Entrepreneurship Programme delivered through NACCA to support the delivery of these loans, thus putting increasing pressure on shrinking budgets. Practices do differ across Canada. For example, in Atlantic Canada, ACOA capitalises the AFI's investment fund, and provides operational support to deliver those funds

In order to deliver more effective and consistent high-quality financing and business services through its AFI network, the government of Canada should:

- Develop a national policy framework for AFIs in order to improve coordination between the RDA and the AEP.
- Pool existing public capital support for AFIs into a single fund.

Expanding Indigenous-owned credit unions

Credit unions are not-for-profit organisations that serve their members. Like banks, credit unions accept deposits, make loans and provide a wide array of other financial services; but as member-owned services they are uniquely focused on their clients who have a stake in their governance. Profits made by credit unions are returned back to members through reduced fees, higher savings rates and lower loan rates. Many credit unions across Canada well connected to their communities and have a depth of knowledge of local markets and conditions. For all of these reasons they are a good fit for Indigenous businesses and support community-led economic development.

In 2011, The Supreme Court ruled that interest income earned on investments held at an on-reserve financial institution could be treated as tax exempt (Dubé v. Canada, 2011 SCC 39). As such, credit unions located on reserves can provide status Indians (either living on or off-reserve) with interest-bearing investment opportunities that have tax-exempt interest

income. This presents a considerable opportunity for credit unions to increase their presence and services in these areas. AFIs have used this strategy by attracting First Nations investors for an on-reserve vehicle that generates on reserve mortgages as a tax-free investment.

There are relatively few Indigenous-owed credit unions across Canada. One of the most well-established is the *Caisse Populaire Kahnawake* in Quebec (est. 1987). This is related to not just access to finance but access to banking serviced as well. Many Indigenous communities are 'banking deserts'—Canada's four largest banks collectively have less than 50 Aboriginal branches, banking outlets, or banking centres located on-reserve (NACCA, 2017[101]). Credit Unions could be one solution to help fill this void.

The potential to expand such enterprises should be explored—e.g., resources on how to set up credit unions, share expertise, and build capacity in the sector. There have been discussions among NACCA's stakeholders around the possibility of transitioning AFIs into a credit union model (NACCA, 2019[91]). Though, there are a number of reported hesitations to this approach, such as the current focus on consolidating financial institutions, high start-up costs and the limitation on commercial lending capacities.

The potential of social impact investments

Indigenous enterprises are uniquely placed to take advantage of social impact financing. This is a relatively new approach to investment that aims to generate measurable social and environmental benefits alongside a financial return. For example, social impact financing has been used in Australia to manage water allocations (Box 4.7). This type of investing can take a number of forms notably:

- *Social impact bonds*: contracts between the government, investors and service providers to trial innovative interventions.
- *Social impact investment funds*: larger-scale funds that invest in social impact investments.
- *Social enterprises*: businesses that aim to achieve both financial return and social outcomes (Whitbread, Susan; Linnane, Katie; Davidson, 2017[102]).

With the exception of social enterprises which are relatively common, there has been limited use of these instruments to date in Canada in Indigenous communities. One recent initiative to note is the announcement in the federal 2019 Budget that NACCA will be provided with capital from the Social Finance Fund to leverage other sources of (impact) capital. This is an example of an effort to attract social impact investors to provide loan capital for the AFIs. In that sense the Indigenous Growth Fund (IGF) is a social impact investment fund. NACCA in collaboration with its government partners is now in the process of developing the details around the capitalisation of the IGF. Another initiative of note is the creation of an ethical investment platform by the non-profit organisation SVX in 2017 which the First Nations Bank of Canada has joined with the aim of attracting social impact investors.

More research is needed on the feasibility of this financing vehicle for Indigenous communities and businesses. Governments play a key role in setting the framework conditions for social impact markets by for example, risk sharing and co-investing, setting and monitoring outcomes assessments. There is limited knowledge at the moment of the social impact market and it potential for Indigenous businesses and communities.

Box 4.7. Social impact investment fund: The Australian Murray–Darling Basin Balanced Water Fund

This water investment fund is Australia's first to address environmental, agricultural, social and financial outcomes. The fund is a collaboration between Nature Conservancy Australia and Kilter Rural. The fund invests in water entitlements (permanent water rights) in the southern Murray–Darling Basin and generates financial return for wholesale investors through capital appreciation and annual lease of entitlements, and trade of temporary water allocations.

The fund also supports social and environmental benefits. When water is scarce and demand is higher, more water is made available to agriculture, providing water security for farmers. When water is plentiful and agricultural demand is lower, more water is made available to wetlands, targeting areas of high ecological and Indigenous cultural significance. This has benefits for wetland restoration and supporting threatened freshwater species and helping conserve sites of important cultural and spiritual significance to Indigenous people. Initial capital raised in 2015 comprised $22 million in equity and $5 million in debt. The second capital raising closed in March 2017.

Source: Australian Government Treasury (2017[103]), *Social Impact Investing*, https://treasury.gov.au/consultation/social-impact-investing (accessed on 10 April 2019).

Increasing access to banking and business services

Rural and remote communities face major barriers in access to banking and business services. Many Indigenous communities across Canada do not have branch services on or near their territories most and a lack of internet connectivity inhibits e-banking. The Territory of Nunavut serves as an illustrative example; only three communities out of a total of 25 have bank branches. There are no roads connecting the communities in Nunavut and they are only accessible by air or sea. Internet access in the territory is via satellite, resulting in high costs and limited bandwidth and limits access for Nunavummiut (residents of Nunavut) to basic services like online banking, tax filing, etc. Lack of digital access is also a challenge for Indigenous businesses situated on-reserve, especially in the Territories and Atlantic provinces (CCAB, 2016[7]).

Canada's rural, northern and remote communities are chronically underserved by broadband—this needs to change

Many Indigenous communities across Canada urgently need access to high quality and reliable internet broadband. Canada declared broadband as part of its universal service frameworks in 2016 and recently set a 50 Mbps/10 Mbps goal for all households and businesses and aims to reach this target for 90% of households and businesses by end of 2021, with the remaining 10% to achieve them within 10 to 15 years (OECD, 2018[104]). Internet service providers must also offer the option of unlimited data for fixed broadband services. Canada's national goal also includes a mobile component, which calls for the latest mobile wireless technology to be available not only to all homes and businesses, but also along major Canadian roads.

It is positive that Canada has set these goals for broadband and has set up a broadband fund for underserviced areas.[36] However, its impacts in Indigenous communities needs to be monitored. 10-15 years (the goal for the remaining 10% of communities) is a very long

time for access to these technologies given their critical functions in remote communities. Furthermore, while it is positive that carriers are required to contribute towards a universal service framework to support service expansion, they are still not mandated to provide services. Instead, they can access these funds through a competitive process. There has been some success with using public-private partnerships to connect Indigenous communities with broadband. For example, in Ontario, a non-profit broadband corporation (SWIFT) has worked with the private sector to provide broadband in rural and urban areas through a P3 that included the federal government, Indigenous communities and University of Guelph through their Regional and Rural Broadband project (R2B2). A 2016 study of federal funding for Indigenous broadband points to a number of inadequacies – commenting that the current suite of measures are "complex", "in flux" and "inadequate" (Blake, McMahon and Williams, 2016[105])

Much more needs to be done to connect rural communities, particularly in Canada's vast north.

- **Broadband funding through ISC's infrastructure fund does not enable co-funding and partnerships, particularly with the provincial departments of infrastructure (interviews)**. These requirements should be revisited.
- **The Government of Canada should provide yearly reporting on the quality of broadband in Indigenous communities and report on its progress in meeting its connectivity goals**.
- **The CRTC's mapping of underserviced communities should be used to assess the share of Indigenous communities that remain poorly connected**.[37] This indicator should form one part of Community wellbeing indicators.

Beyond e-services, the potential of the Canadian postal services to act as banking branches in rural communities should be explored

Canada has a crown corporation for postal services which have a presence in small towns across Canada and also serve rural and remote Indigenous communities. Having a well-functioning postal service is critical for rural businesses. In some countries—e.g., UK, France, Switzerland, New Zealand, Brazil and Italy—the national postal service serves are more than a mail carrier but also delivers postal banking services. The expansion of such services in Canadian rural area should be explored. They are beneficial for rural Indigenous and non-Indigenous communities alike.

Not only do these services increase access to banking, but they are lucrative for the postal companies involved. For example, PostFinance in Switzerland represents over half of the Group's operating profits, while in France, the contribution of the postal bank to La Poste Group's overall operating profit is around a quarter, roughly the same as that of the parcels business (Universal Postal Union, 2016[106]).

Navigating access to business programmes and services for Indigenous peoples—improving web platforms

There are many online business planning services and online resources available for new entrepreneurs in Canada – but many are not well suited to the needs of Indigenous entrepreneurs. The government of Canada's main online business portal is a hub for accessing such services in Canada; however, it does not mention business development on reserve lands and the unique regulatory issues therein.[38] Mainstreaming this content would

help mainstream Indigenous business development. There is no one-stop-shop to understand the complex regulatory environment for business development on reserves. This content needs to be strengthened. It is important not just for Indigenous businesses but for business partnerships and the broader public as well.

There are a wide range of programmes and services accessible to Indigenous businesses across Canada that are delivered by different organisations including some provincial/territorial programmes. The federal government's main websites for services for Indigenous peoples should be more client focussed—oriented around the types of services that individuals need to access based on who they are as opposed the current sites which are often focused on programme structure. In effect, the web content presumes knowledge of government programmes in order to access services. This same critique applies to many provincial and territorial governments across Canada as well. Individuals are interested in accessing the right programmes for their business needs regardless of the government providing it. Single window services are a leading practice in this regard (Box 4.8).

Furthermore, as a result of the 2017 decision to split the department of Indigenous and Northern Affairs Canada into two new departments, many websites refer to the old departmental interface and it is not clear if this information therefore out of date and the assignment of competencies across the two departments is unclear.

The Government of Canada should strengthen is web-platforms for accessing online business services and programmes by:

- Reorienting websites to reflect the types of services that individuals need to access (instead of the programmes that are being delivered).
- Working with provincial and territorial governments to better inform individuals of the suite of programmes and services available to them across Canada, including provincial and territorial initiatives.
- Including Indigenous programmes on the government's business services portal for all Canadians (as opposed to segmenting the content only within CIRNAC).
- Complete the migration of web-content from the Government of Canada's previous department for Indigenous affairs to the new one (CIRNAC and ISC).

Box 4.8. Access to government programs and services through Single Window Service Centres: The North West Territories

In 2010 the Government of the Northwest Territories (GNWT) initiated a pilot project establishing Single Window Service Centres. Each office is staffed with a Government Service Officer, many of which, who speak an Aboriginal language and provide assistance to residents in small communities in accessing GNWT and Government of Canada programs and services.

In 2014, the Single Window Service Centre model was recognised for its innovative management and received the bronze medal for the Institute of Public Administration /Deloitte Public Sector Leadership Award. This model is unique to the Northwest Territories with its success being rooted in respecting the traditional and cultural needs of residents. Since the program was launched in 2010 it has grown across the Northwest Territories from 8 to 20 single window service centres.

Access to business services navigators—the importance of person-to-person relationships

Even where business services and access to funding programmes are made more user friendly, there is no replacement for person-to-person assistance navigating services. Indigenous businesses need client focussed and individualised business support. For example, only around a third of Indigenous entrepreneurs have a formal business plan (CCAB, 2016[7]). Individualised support can help to structure an effective business strategy and help ideas come to fruition.

The devolution of many Indigenous business services to third party providers alongside the variety of federal, provincial/territorial programmes can make it very difficult for an individual to know if they are accessing the correct services for their business needs. Professionals who are well trained in the suite of services and programmes available and who can help individuals navigate these in terms of eligibility and requirements are critical. For example, AFIs are a main point for contact for accessing a range of federal and provincial programmes and as developmental lenders they offer a range of business supports. Many of their clientele may be in hard to reach territories and as such, it can be difficult to have in person contact. In some cases, AFIs representatives will travel to communities to provide supports in person (e.g., mentorship and business support programmes), but these travel costs can be prohibitively expensive. Presently AFIs fund these services from funds for every loan made through the aboriginal development lending allocation programme they are using this to offset the cost of business development.

In-person services should be considered an essential part of providing business services to Indigenous communities. The Government of Canada should:

- Provide increased funding support to AFIs and other relevant Indigenous service providers for capacity building activities (e.g. entrepreneurial and procurement coaching, financial literacy, private sector matching, participation in local chambers of commerce).

Mainstreaming Aboriginal Procurement strategies in the federal government

Preferential public procurement (adjusting policies regarding the purchase of goods, services and works by governments and state-owned enterprises to meet social objectives) has been used as a lever in some countries to expand access to markets for Indigenous-owned businesses. These schemes have been critiqued on the basis that they distort markets and increase costs, which outweighs the benefit of achieving their secondary objectives. However, preferential treatment and targets can help overcome barriers to market access by providing strong and predictable increases in demand for goods and services for disadvantaged population groups.

The United States has the longest-running programme to support public procurement from Indigenous businesses through the Small Business 8(a) Program, which was established in 1978 (U.S. Small Business Administration, 2018[107]). The Australian Government established its Indigenous Procurement Policy (IPP) in 2015 (Department of the Prime Minister and Cabinet, 2018[108]). In Canada, the Federal government began a specific focus on Indigenous businesses in its public procurement through its *Procurement Strategy for Aboriginal Businesses* (PSAB) in 1996 (INAC, 2018[109]).

Mainstreaming Aboriginal procurement

The federal government spends some $23 billion on goods and services; the Procurement Strategy for Aboriginal Business (PSAB) has been instrumental in opening access for Indigenous businesses (PSWC, 2018[110]).[39] Since its inception the programme has been refined several time and new targets have been added. Federal Ministries have been mandated to increase procurement, but this does not entail binding procurement targets. The existing targets are related to, for example, the percentage increase in participation to procurement processes by businesses owned by Indigenous peoples.[40] Beyond PSAB, the majority (80%) of modern treaties have some specific and legally binding procurement obligations tied to comprehensive land claim agreements (areas within the Yukon, British Columbia, the Northwest Territories, Nunavut, northern Quebec and northern Labrador). All government procurements are first reviewed against modern treaties before other considerations such as the Procurement Strategy for Aboriginal Business are applied.

CIRNAC is responsible for the Procurement Strategy for Aboriginal Business serves to provide advice and guidance to federal departments and agencies on its application. There is a national coordinators network with over 100 members to help implement this and the Aboriginal Business Directory is a key tool used to identify and register Indigenous businesses.

The highest-value contracts under the PSAB are typically in health services, construction, accommodation, office supplies, information technology equipment and software, and informatics professional services (Liao, Orser and Riding, 2018[111]). Most Canadian small firms do not participate in federal procurement. It is more burdensome for procurement contracts to be awarded to multiple smaller firms than to a larger firm. Beyond the preference of the purchasers, many smaller firms find it challenging to both meet procurement requirements and go through what are often administratively demanding requests for proposals involving up front investments. These are universal challenges – Indigenous or otherwise. Those SME suppliers that are successful in federal procurement tend to be on average, larger and older, and disproportionately concentrated in the knowledge- and technology-based sectors, and in construction (Liao, Orser and Riding, 2018[111]). An internal review of the programme has expressed concerns that PSAB might "act as a mechanism to support already well-established Aboriginal businesses, and may have less relevance to smaller and newer businesses or budding entrepreneurs" (INAC, 2014[112]).

Proximity also matters to programme access. While federal departments operate across Canada, there is a concentration of procurement in the capital city of Ottawa, and firms located there have greater opportunities (depending on the goods and services being offered). Access can also be limited by a lack of digital access; the federal procurement system only accept electronic bids limits the participation of some smaller businesses located in remote areas that do not have access to broadband Internet.

Some steps that can be taken to improve Indigenous procurement are to:

- **Increase programme access by making the process more supplier-oriented in terms of simplifying the amount of information needed.** Provide requests in plain language form and accept paper bids where applicable/possible, and consider breaking down larger RFPs into smaller contracts.
- **Develop targeted training initiatives to help match businesses with procurement contracts**. For example, training on how to design effective bids; how to take better advantage of regional opportunities; offer training to support

newer and smaller Aboriginal firms to navigate the procurement environment). Another strategy to consider is to develop and implement an independent network of professional procurement advisors/coaches to assist Indigenous entrepreneurs navigate the procurement supply chain and assist procurement agents and organisation meet and exceed their Indigenous procurement targets

- **Align procurement policies, processes, procedures, and practices in order to ensure ease and consistency of experiences for suppliers across all federal government departments and agencies.**
- **Develop a list of commodities and services that Indigenous businesses can supply to be shared across all federal departments.** The current database of Aboriginal businesses has a limited search function by key word and geography which limits its use.
- **Require large-scale contractors to advertise subcontracting opportunities on the government's procurement website to attract small to medium-sized businesses.**
- **Consider establishing binding procurement targets and set asides for Federal government procurement.** Presently departments that purchase more than $1 million worth of goods, services, and construction each year are responsible for setting their own performance targets (except in the case of land claims agreements where there are binding targets).
- **Consider mainstreaming PSAB with a whole of government approach. Presently CIRNAC is in charge of the PSAB while the Public Services and Procurement Canada department is the central purchasing agent for government.** As noted by NIOs, this would raise the visibility of the programme across all departments and help develop more consistent targets across departments (Liao, Orser and Riding, 2018[111]). Presently, successful programme implementation targets set by individual departments; as such, "PSPC has no point of reference for what the targets are, how close departments are to meeting them, and, therefore, are limited in how much they can intervene or suggest doing voluntary set-asides" (Gagné, 2018[113]).
- **Strengthen how procurement targets are being used and reported on.** It is reported that PSAB targets are "not being shared with those doing procurement, are not being assessed against performance in reports, and are not providing feedback until two to three years after the fact" (Gagné, 2018[113]). This data should be more rigorously used and reported on in departmental performance evaluations.
- **Provide annual government-wide reporting on PSAB contracts and their value.**
- **Consider the use of procurement loans for Indigenous business as part of its business development, capital and support services.** In the Australian context, Indigenous Business Australia (IBA) provides a number of different loan facilities to Indigenous entrepreneurs. Business loans of AUD 10 000 to AUD 5 000 000 are provided for working capital requirements, purchase of existing businesses, plant and equipment, and other commercial assets. Flexible provisions are provided in these loans, for example, a procurement loan (up to 2 years) is provided to cover initial capital costs related to the awarding of a contract through the Indigenous

Procurement Policy (IPP) or another government programme (Indigenous Business Australia, 2019[114]).

The Government of Canada is reviewing the federal approach to Indigenous procurement including the Procurement Strategy for Aboriginal Business and a discussion paper prepared for this expertise has identified several of the above-noted recommendations including mandatory set asides.[41]

The above-noted recommendations are directed towards the federal government which has a well-established Aboriginal procurement strategy. But provincial/territorial and municipal governments are equally important actors in this regard and is the private sector. Only three provinces in Canada have explicit Aboriginal Procurement initiatives and they are largely voluntary. The federal government has a lot of knowledge to share about how these strategies could be strengthened by other levels of government and how to design effective policies and work with Aboriginal businesses. A federal/provincial/territorial working group or some over vertical mechanism to share policy learning could provide the needed nudge to strengthen these policies for governments across Canada.

Box 4.9. Private sector Indigenous procurement strategies

Multi-national firms are increasingly adopting preferences for minority groups in their tendering processes, even where they are not required, as a corporate social responsibility measure. There is also an economic rationale for Indigenous procurement, for example by minimising transportation costs and building stable relationships with suppliers (CCAB, 2016[115]). Large-scale mining and extractive and energy projects generate economic impacts for local economies in terms of backward linkages (use of machinery and logistics to extract resources), forward linkages (processing and services) and final demand (expenditure of income from resource extraction). Evidence suggests these impacts are limited in the case of Indigenous businesses in a mining context with most benefits flowing in terms of direct employment. This is consistent with other research showing that local linkages are difficult to develop, particularly in rural remote regions. Often local Indigenous communities can miss the benefits due to unequal relationships in the negotiation process and lack of capacity to capture supply chain opportunities. Barriers to Indigenous businesses realising these opportunities can include limited experience and skill development, complexity and size of contracts, inadequate access to information and limited capital.

In recent years, there has been significant growth in benefit-sharing agreements in Australia and Canada as corporations have adjusted their procurement policies and benefit agreements have sought to address these barriers. This can include setting specific target in the proportion of the mining operation's goods and services being provided by Indigenous businesses, setting up local Indigenous business registries, and a greater focus by corporates on relationship building with local Indigenous communities. These "wrap around" supports are a key success factor and can extend to the provision of low-interest loans, onsite training and health services, structuring procurement to incentivise joint ventures between local Indigenous firms and large contractors.

Source: OECD (2019[5]), *Linking Indigenous Communities with Regional Development*, https://dx.doi.org/10.1787/3203c082-en.

A user-friendly database of Indigenous businesses could help to mainstream Indigenous procurement

Research interviews with a wide range of Indigenous communities and organisations conducted as part of this study have highlighted the need for a user-friendly database of Indigenous businesses. Presently such content is held across a number of different web platforms, but none is comprehensive or easily searchable by geography. Even adjacent Indigenous communities can have low knowledge of the types of services and businesses provided in the other despite an interest in local procurement (research interviews). This would facilitate Indigenous procurement strategies more broadly across the public and private sectors—e.g., a mining firm that is interested in accessing services for local Indigenous communities.

To address this, the government of Canada could:

- Support the creation of a well-designed and comprehensive database of Indigenous businesses.

Such data could be drawn from the PSAB list but would also be complemented by the type of data held by AFIs, NIOs and Indigenous industry and business associations as well as provincial and territorial databases where they exist. In developing such a system, it is important that there be some checks to ensure that eligible businesses are Indigenous owned and operated. There is a balance to be struck in terms of the rigour of these checks and their administrative costs and level of intrusiveness. This work could be undertaken either by a government department or agency, or it could be administered by a professional Indigenous institution.

Protecting Indigenous intellectual property

Indigenous forms of knowledge and cultural expression challenge western rule frameworks and programmes that are designed to protect intellectual property (IP). Patents, copyrights and trademarks enable people to benefit from technologies and products they create. In the case of Indigenous people's technologies and products are based on tacit knowledge that has been handed down orally across generations. Because they are not the result of scientific discovery or have not been scientifically tested, they may not be valued or recognised as legitimate in areas such as health or natural resource management. Traditional Indigenous products and technologies are also not the property of the individual inventor. As a result, there is a risk that other actors (non-Indigenous entrepreneurs and corporations) may appropriate Indigenous products and technologies.

There is a growing need to develop legal instruments regarding the use and protection of traditional knowledge, traditional cultural expressions and biological material (Drahos and Frankel, 2012[116]). As noted in the UNDRIP, noting in particular Article 31, which provides that:

- "Indigenous peoples have the right to maintain, control, protect and develop their cultural heritage, traditional knowledge and traditional cultural expressions, as well as the manifestations of their sciences, technologies and cultures, including human and genetic resources, seeds, medicines, knowledge of the properties of fauna and flora, oral traditions, literatures, designs, sports and traditional games and visual and performing arts. They also have the right to maintain, control, protect and develop their intellectual property over such cultural heritage, traditional knowledge, and traditional cultural expressions.

- In conjunction with Indigenous peoples, States shall take effective measures to recognise and protect the exercise of these rights."

The World Intellectual Property Organization's Intergovernmental Committee on Intellectual Property and Genetic Resources, Traditional Knowledge and Folklore is currently working on this issue. The goal is to create an international legal instrument that can protect traditional knowledge, cultural expressions and genetic resources (WIPO, n.d.[117]). In lieu of this process, nation states and non-governmental organisations can also institute programmes related to the certification of Indigenous products and services to protect Indigenous entrepreneurs, traditional knowledge and cultural expressions. For example, in Sweden, Sámi handcrafters have developed a system to signify authenticity of their products (Box 4.10). Canada has similar systems. For example, there is a certification of Inuit art which was recently taken over by the Inuit art foundation from the Canadian government.

Box 4.10. Certification of Indigenous products and Intellectual Property: The case of the Sámi in Sweden

How Indigenous methods, techniques and products be protected is an ongoing issue for Sámi peoples who have seen their knowledge and knowledge used for commercialisation without consent. Sámi handcrafters on the Swedish side hold the *duodji* mark (which is owned by the Sámi cultural organisation). Individuals who wish to have their products included under the Sámi *duodji* mark need to submit them to the group to review in order to ensure that they are produced with authentic traditional techniques and materials in order to guarantee their quality and authenticity as a Sámi *duodji* product. While consumers who are knowledgeable can seek out this mark in order to ensure that they have purchased an authentic product, this does not address the mass replication and use of Sámi designs and technologies by non-Sámi firms.

There are ongoing efforts by groups such as Sámi *Duodji* Foundation to secure intellectual copyrights and there is a growing need to address this. The Sámi *Duodji* Foundation seeks to build the case for this and to potentially pursue litigation against cultural appropriation. These issues are common to many Indigenous peoples. The United Nations Declaration on the Rights of Indigenous Peoples (2007) provides a broad recognition of Indigenous intellectual property rights and stipulates that, in conjunction with Indigenous peoples, states should take effective measures to recognise and protect the exercise of these rights (Rimmer, 2015[90]). At present, Sámi organisations are not sufficiently resourced to pursue these matters through judicial processes.

Source: OECD (2019[118]), *Linking the Indigenous Sami People with Regional Development in Sweden*, https://dx.doi.org/10.1787/9789264310544-en.

Certification systems are important and offer knowledge for buyers; however they do not address the appropriation and commercialisation of Indigenous knowledge and cultural expression. This concept has not been mainstreamed into Canada's core legislation protecting intellectual and cultural property. For example, Canada's Copyright Act does not currently include protection of Indigenous knowledge and languages (CFLA-FCAB, 2018[119]). There are debates in Canada and other countries with Indigenous populations about whether Indigenous intellectual property can be accommodated by existing legislative frameworks or whether these are antithetical to Indigenous knowledge creation

and would be better accommodated by a separate guiding protocols (Oguamanam, 2017[120]). However, the latter would however would have limited legal enforcement. Therefore, it is recommended that the Government of Canada:

- **Amend Canada's Copyright Act to protect Indigenous knowledge from unauthorised use and to ensure that Indigenous concepts of ownership are respected, while enabling the originating community to actively exploit the knowledge, as recommended by the Canadian Federation of Library Scientists** (CFLA-FCAB, 2018[119]). Doing so would strengthen the protection of Indigenous intellectual property in Canada.

Strengthening entrepreneurial skills and financial literacy

Entrepreneurial skills cover both cognitive and non-cognitive skills required to start and operate a business, which can include creativity, strategic planning, financial literacy, mobilising resources, managing uncertainty and teamwork (OECD, 2019[121]). The skills can be developed across the spectrum of lifelong learning starting with the primary and secondary school system through to the postsecondary education system, business development programmes, training and support. This is a multi-faceted issue that is being tackled in a number of ways across Canada:

- *Primary and secondary school system*. In Canada, the 13 provinces and territories are responsible for education, while the federal government is responsible for the education of First Nation students who attend on-reserve schools. For some remote rural FNs, only primary education is offered and children need to complete their education as boarding students in another community. Education on reserves has been chronically underfunded.[42] There are ongoing efforts across Canada that aim to deliver culturally relevant programming to Indigenous students. For a review of promising practices in supporting success for Indigenous students see OECD (2017[122]).
- *Tertiary education* (Universities, community colleges). There are efforts across Canada to recruit and support Indigenous students, to develop culturally relevant programmes and to develop flexible programmes that can meet labour market needs and expand opportunities (e.g., the Northern Ontario Internship Program that removes the requirement that applicants be recent university or college graduates). There are also a number of Indigenous colleges and universities in Canada, which aim to promote Indigenous leadership in education and training.[43]
- *Skills and employment training*. The federal government (through Employment and Social Development Canada) provides funding for a network of organisations across Canada that provide skills and employment training for Indigenous peoples (Box 4.11) and there are a number of joint federal-provincial-territorial funded programmes as well.[44] See OECD (2018[123]) for a review of Indigenous employment and skills strategies in Canada with a focus on the ISET programme.
- *Entrepreneurial coaching and financial literacy*. Aboriginal Financial Institutions support entrepreneurial coaching and financial literacy.

It is more difficult for Indigenous entrepreneurs in remote and rural communities to access business training skills programs, such as bookkeeping, basic accounting, marketing, recruitment, intellectual property, human resources planning, business plan and project management. While free online business skills training is widely available, poor internet

connectivity hinders its use. Moreover, the job-readiness of residents of Indigenous communities is a pressing issue particularly in remote communities where there is less access to basic education, higher education and business advisory services (accounting, tax, legal, etc.). There is a need for improved financial literacy and essential skills development as well as industry-specific job training responsive to the needs of the private sector.

For rural and remote communities, targeted programmes that are delivered to a group of individuals related to emerging opportunities are particularly important. These needs might arise due to the presence of new industries in a region or the growing role of Indigenous administration and community-led enterprises. Over the course of fieldwork conducted for this study, several communities were not able to take advantage of new employment in the community because of a lack of training – sometimes basic training such as high school completion. Up-front planning on projects and early discussions on how to help individuals get job ready for specific opportunities where they live are critical. How this is achieved will differ depending on the community and type of credentials needed. It is equally the case that new industries can lead to demand for new businesses, which require entrepreneurial skills to develop (e.g., forming part of supply chains).

Delivering on this requires dedicated relationship building with community members in order to adopt place-based solutions that can help to overcome unique challenges. This is much more than delivering a programme – it often entails 'wrap-around' supports so that individuals who receive training are able to be successful in their communities. These efforts can be time consuming and require a combination of individualised and community-based supports such as housing. Interviewees report that such wrap around supports are worth investing in and can lead to long term change in rural communities. This is the basic premise of the community wellbeing approach discussed in Chapter 5, which is a leading practice. It has also been described as an informal way of delivering skills training in rural areas by federal and provincial partners; an approach that is found to be very effective, but that is not necessarily reported on or evaluated due to confidentiality requirements.

Access to education, skills, training and business mentorship are an essential component of community-led development (discussed Chapter 5). Rural and rural remote communities face unique barriers to accessing such programmes and need unique and targeted solutions to overcome them. Many skills and employment training programmes are focussed on delivering services in urban areas. New strategies are needed to reach Indigenous rural dwellers.

Box 4.11. The Government of Canada's skills and employment training programmes for Indigenous peoples

The department Employment and Social Development Canada (ESDC) has had skills and employment training programmes for Indigenous peoples since the 1990s. Presently, the two programmes focussed on these issues are:

1. The new Indigenous Skills and Employment Training (ISET) programme which offers training for skills development; training for employment; mentoring for high-demand jobs; targeted job coaching to Indigenous people, including Indigenous people with disabilities; and childcare support.[45]

2. The Skills and Partnership Fund which is a project-based, time limited program to support Indigenous peoples to develop the skills and training to secure jobs in emerging or untapped economic development opportunities.

These are delivered through a devolved model wherein Indigenous organisations design and deliver labour market programs to clients. In some cases, training and employment support to Indigenous clients is delivered through sub-projects or agreements with third parties. See OECD (2018[123]) for a review of Indigenous employment and skills strategies in Canada with a focus on the ISET programme.

Are skills and employment training programmes reaching rural communities?

Canada's Indigenous Skills and Employment Training (ISET) Program is delivered through 82 agreement holder organisations across the country as well as two national organisations. The number of ISET service delivery organisations across Canada differs by province (Table 4.6). Ontario, which has the largest share of the Indigenous population in Canada at 22%, also has the largest share of service providers at 18. This translates to one service providing organisation per 20 800 Indigenous people in Ontario. In contrast, the province of Saskatchewan has one service provider per 87 510 Indigenous persons. Thus, one Indigenous organisation delivering skills and employment training programmes in Saskatchewan needs to serve four times more people than in the province of Ontario and around 8 times more than in New Brunswick. This raises the questions as to whether rural dwellers in particular are adequately being served.

Table 4.6. Indigenous skills and employment services providers, Canada

Province	No of ISET service delivery organisations	Service provision per capita for Indigenous population	Share of Indigenous population out of total Indigenous population (%)
Prince Edward Island	1	2 730	0.2
Yukon	2	4 098	0.5
Northwest Territories	7	2 980	1.2
New Brunswick	4	7 346	1.8
Nunavut	3	10 182	1.8
Newfoundland and Labrador	6	7 622	2.7
Nova Scotia	2	25 743	3.1
Saskatchewan	2	87 510	10.5
Quebec	5	36 568	10.9
Manitoba	4	55 828	13.3
Alberta	13	19 896	15.5
British Columbia	15	18 039	16.2
Ontario	18	20 800	22.4

Sources: ESDC (2019[124]), *Aboriginal Agreement Holders*, https://www.canada.ca/en/employment-social-development/services/indigenous/agreement-holders.html (accessed on 21 April 2019); OECD (2018[123]), *Indigenous Employment and Skills Strategies in Canada*, https://dx.doi.org/10.1787/9789264300477-en.

The potential of Social Impact Bonds for employment and training

Friendship Centres are a hub for innovation within urban Aboriginal communities. In British Columbia, together with government and private sector partners, Friendship Centres are experimenting with Social Impact Bonds, a relatively new method of funding and delivering social services. Using Social Impact Bonds, the BC Association of Aboriginal Friendship Centres (BCAAFC) is testing the success of culture-based employment programs in a specified number of BC Friendship Centres (National Association of Friendship Centres, 2013[125]). The replicability of this model in rural areas should be explored.

Support for community-owned enterprises

The Canadian Government provides the greatest level of support for community-owned enterprises, compared to other countries through its Community Opportunity Readiness Program (INAC, 2018[126]). This includes contributions for capacity building and technical expertise, along with funding for equity and community economic infrastructure. Equity funding provides for some of the costs associated with establishing, acquiring or expanding a community-owned business whilst economic infrastructure includes contributions to improving local roads, energy, and water and waste systems. This programme also provides support through direct contributions for feasibility studies, impact assessments, promotional strategies and commercial advisory services. Also, the Aboriginal Entrepreneurship Program supports a sizable number of community owned businesses as well through, with a contribution limit $250,000 for community-owned businesses.

The government of Canada has also supported the development industry-specific resource 'hubs' that provide guidance on how to work with onsite staff, recruit experts, consult with technical experts, and negotiate with corporations and governments and build connections between stakeholders (Cafley and McLean, 2016[127]). For example, northern Ontario's new Centre of Excellence for Indigenous Mineral Development. This fill a critical need for effective and well-informed community development involving natural resources industries.

In northern Canada (Yukon, Northwest Territories, Nunavut), CanNor delivers a number of programmes, including the Northern Aboriginal Economic Opportunities Programme (NAEOP). NAEOP's projects falls into two streams - the Community and Opportunities Planning (CROP) stream and the Entrepreneurship and Business Development (EBD) stream. The program is intended to increase the participation of northern Indigenous communities and businesses in a wide variety of economic opportunities.

Taken together, these are important programmes; however they tend to be focussed on natural resources development. Community-led development can take a number of forms and the government of Canada should consider loosening eligibility to capture a broader range of economic activities.

Increasing the visibility of Indigenous economies and supporting business partnerships

Increasing the visibility of Indigenous economies

The Indigenous economy is often not well understood and lacks visibility. This takes a number of forms. Indigenous communities are often not visible in mainstream industry and economic development policies (at a national, provincial or municipal level) and as a

consequence they miss out on access to associated programs and activities. For FNs on reserves, there can be a lack of knowledge about how regulations and business investments work on reserve land which can limit their attractiveness for investments or business development.

Indigenous economic development should be everyone's business. Already in the last decade the visibility of Indigenous economies in Canada has strengthened. Canadian NIOs have been highly instrumental in shifting these narratives which has been reflected in Canadian media. Actions on this front take many forms and are not just the purview of governments. Within the Canadian public service, the Government of Canada can strengthen the visibility and awareness of Indigenous economies by:

- Ensuring that an understanding of Indigenous economies is part of the cultural sensitivity training received by public servants.
- Championing successes and sharing expertise on leading practices of engagement.
- Including the participation of Indigenous businesses in trade missions.
- Reducing barriers/increasing flexibility for Indigenous businesses to access programs and finance.

Promoting Indigenous-non-Indigenous businesses partnerships

Among the industries profiled earlier in the chapter, many Indigenous businesses are comprised of Indigenous-non-Indigenous partnerships. Many communities are increasing expressing that they wish to have an ownership stake in firms operating on their lands as opposed to an IBA because it provides them with more control and long-term benefits. This is particularly important rural areas where industries may be highly technical and require intensive up-front capital investments that partnerships with other established firms can help overcome. While rural Indigenous community may have unique assets that lends themselves to business development, they may need an established partner to realise them and strengthen access markets. Hence, there is a need to match businesses to opportunities (see for example Box 4.12). One of the main limitations to equity partnerships is access to capital. The Government of Canada could help strengthening the position of FNs as equity partners by:

- **Developing a loan guarantee instrument to facilitate equity participation in natural resource projects.**

Box 4.12. Business matching for Indigenous-non-Indigenous businesses partnerships

This is the basic premise of Advanced Business Match—forums held across Canada (and the United States) that connect Indigenous and non-Indigenous entrepreneurs, businesses and government agencies (ABM, 2019[128]). Across Canada municipal governments have also attended these events. The business matching events are supported by several provincial and territorial governments across Canada along with AFIs. Using an electronic matching system they serve to connect those with similar interests in order to develop business opportunities. These events have taken place in cities across Canada with a wide range of businesses participating. This type of model could be strengthened by increasing the access of rural Indigenous communities and business in order to increase their participation.

Source: ABM (2019[128]), *About*, https://advancedbusinessmatch.com/about/ (accessed on 11 April 2019).

Enhancing the role of Canada's Regional Development Agencies in supporting Indigenous entrepreneurship

Linking Indigenous peoples with regional development requires a depth of understanding of Indigenous development objectives and worldviews

The government of Canada's main business and economic development programmes since the 1990s have come into maturity and are implemented by a pan-Canadian network of Indigenous and community-based organisations. The role of Canada's regional development agencies in delivering support for Indigenous entrepreneurship is less established and as such, there is an opportunity to strengthen its scope and focus its efforts.

Canada's regional development agencies were first established in the late 1980s and today cover all provinces and territories.[46] They bring a regional lens to federal economic development policy and translate national goals to the regional and local level. They are generally focussed business innovation (60%) and to a lesser extent, community economic development (35%) and policy advocacy (5%) (Box 4.13). RDAs, together with local and provincial/territorial governments and businesses, help entrepreneurs access capital and provide business support and support infrastructure investments important for economic development.

All RDAs across Canada also have a mandate to support Indigenous entrepreneurship. The Government of Canada's inclusive growth agenda, and more specifically its Innovation and Skills Plan and Investing in Regional Innovation and Development framework, have provided new direction for the country's six RDAs. These new priorities include a focus on Indigenous economic development with the RDAs tasked to collectively support at least 250 Indigenous projects over five years with an aim to develop assets and diversify the economies of Indigenous communities. CanNor is unique as it was mandated at the time of its creation and has targeted Indigenous programs including the Northern Aboriginal Economic Opportunities Program (NAEOP) which includes two streams - the Community and Opportunities Planning (CROP) stream and the Entrepreneurship and Business Development (EBD) stream.

This does not generally take the form of specific programmes, but rather is a part of their regular programming which can often be a poor fit for Indigenous businesses because of its emphasis on innovation and commercialisation.[47] RDAs play an important role in terms of business acumen and business contacts (facilitating and relationship building) and access to expertise; however in many cases, the RDAs are not very well connected to Indigenous communities. It is also reported that they tend to be poorly connected with the work of the lead departments for Indigenous affairs: ISC and most importantly for economic development, CIRNAC (interviews). Efforts to better connect Indigenous communities with regional development will fail unless they come from an understanding of what Indigenous communities want for their own development. Those interviewed for this study have emphasised this point and report that existing programmes are often a poor fit.

For Canada's RDAs to be successful in meeting their priorities for Indigenous economic development, they will need to develop strong relations with Indigenous communities and leaders and adopt a flexible approach to programme delivery. Presently, the shared Terms and Conditions for the RDA's Regional Economic Growth through Innovation (REGI) does allow for some flexibility in funding Indigenous businesses. Further, the end beneficiaries of the RDA's ecosystem funding to business supports or business serving organisations can support Indigenous businesses and entrepreneurs, and ecosystem projects

that target underrepresented groups are prioritised for their inclusive benefits. Many recent targeted national initiatives such as the Women Entrepreneurship Strategy and Canadian Experiences Fund also have funding prioritised funding for Indigenous clients. RDAs should work to better communicate the flexibility of their programming to their Indigenous stakeholders. Other options include allocating a pool of funding for Indigenous entrepreneurs and businesses and applying innovative means of bringing in these stakeholders into the innovation economy (e.g. linking our funding to innovation ecosystem players to required partnership, inclusion or engagement with Indigenous entrepreneurs, businesses or communities).

As one positive example, Canada's Quebec Economic Development Program (QEDP) CED has eased restrictions for Indigenous-controlled NPOs and SMEs. The design of these more flexible intervention parameters resulted from engagement sessions with various Indigenous representatives and are aligned with government priorities. They allow for an intervention with Indigenous communities and beneficiaries that is more tailored to their needs.

Box 4.13. Policy priorities and policy instruments of Canada's Regional Development Agencies

RDAs operate with an approximately CAD 1 billion budget. CanNor is a unique case. Through its Northern Project Management Office, the Agency coordinates federal participation in the territorial environmental review processes and maintains the Crown consultation record for major projects. South of 60th parallel, this responsibility is held by Natural Resources Canada. CanNor also delivers Indigenous-targeted economic development programming through contribution programs.

RDAs divide their spending across three core priorities: i) business innovation (60%); ii) community development (35%); and iii) knowledge mobilisation/policy advocacy (5%) (Bradford, 2017[129]). With these three activities, the RDAs deliver numerous programmes and services. Programming can be grouped into four main policy instruments: financial assistance, knowledge mobilisation, and community-based development.

1. *Financial assistance*: RDAs use transfer payments to provide assistance for economic and community development to private businesses, non-profit organisations, and other levels of government. Such contributions and grants are delivered through various mechanisms, including inter-governmental partnership agreements and contribution agreements with local organisations. The guiding principles of RDA investments are: first, that they are targeted to finance commercial and non-commercial development initiatives that would otherwise have been postponed or abandoned if left solely to market criteria; and second, all payments to other orders of government must respect jurisdictional responsibilities while ensuring accountability to citizens for expenditures and results.
2. *Knowledge mobilisation*: The RDAs have been active in policy research and advocacy. This has taken various forms, including partnerships with prominent think tanks to report on region-specific trends and priorities, working with educational institutions to promote youth entrepreneurship and scientific learning, and positioning regional firms in the global marketplace through the development of community-based strategic plans and international benchmarking of economic performance. Increasingly, the RDAs are undertaking regional risk analysis in

consultation with local stakeholders and funding partners as a means to calibrate programming, channel expenditures and implement temporary, targeted initiatives responding to problems or pressures specific to the region or a sub-region within.

3. *Community-based development*: The RDAs support the local activities of the community futures organisations (CFOs). Dating back to the mid-1980s, the CFOs bring together volunteer boards and RDA staff to plan and deliver business services, investment funds and community strategies. Decision making takes place at a local level through a board of directors, involving local volunteers and community organisations. The federal government contributes through the RDAs nearly CAD 100 million to support 257 CFOs located outside major metropolitan areas. Funding can be used to provide repayable financing to local businesses, training for small and medium-sized enterprises, strategic community planning, and support for community-based projects. This includes funding for Aboriginal Community Futures Development Corporations (ACFDC).

Source: Excerpt summarised from: Bradford, N. (2017[129]), "Canadian regional development policy: Flexible governance and adaptive implementation", https://www.oecd.org/cfe/regional-policy/Bradford_Canadian-Regional-Development-Policy.pdf (accessed on 23 April 2019).

RDA performance indicators should incentivise Indigenous engagement

How support for Indigenous entrepreneurship is reflected in departmental plans differs by RDA. In some cases, Indigenous entrepreneurship is framed as an objective of economic diversification (e.g., WD, FedDev), while in others it is addressed from the perspective that Indigenous peoples (along with women and persons with disabilities) are economically disadvantaged (Table 4.7). The main departmental results indicator for all RDAs is the percentage of SMEs that are majority owned by Indigenous people in the province/territory. This is a general indicator which is not directly related to the work of the RDA in its respective province or territory. Moreover, in a number of cases, RDAs report having met their targets (e.g., FedDev, FedNor, WD) which calls into question if the correct percentages have been set in the first instance.

Canada Economic Development for Quebec Regions (CED) has taken a different approach in its strategic plan. It notes that success in this area is defined on:

- The number of informal dialogue mechanisms between CED representatives and Indigenous community representatives or businesspeople with a goal of one mechanism per region, based on the interest of the Indigenous communities concerned.
- The number of new projects supporting the economic growth of an Indigenous community or business with a goal of 40 new economic development projects approved within the next 5 years (Canada Economic Development for Quebec Regions, 2017[130]).

This type of performance indicator should be mimicked by other RDAs. It incentivises the RDAs to invest in relationship building with Indigenous entrepreneurs and communities and to work with them on an ongoing basis. RDAs should also report on their programme funding to Indigenous businesses and Indigenous communities in the case of infrastructure investments.

Table 4.7. Canadian federal Regional Development Agencies' performance measures for Indigenous entrepreneurship

	Priority	Results indicator	Measurement	Priority industries identified	Major regional initiatives
Atlantic Canada Opportunities Agency (ACOA)	Support economic growth in Indigenous communities	Percentage of SMEs that are majority-owned by Indigenous people	1.3% of Indigenous ownership of SMEs	Tourism, fisheries and aquaculture, arts and culture, business and community development.	Atlantic Growth Strategy
Canada Economic Development for Quebec Regions (CED)	Foster the participation of Indigenous peoples contributing to the economic growth of Quebec by encouraging entrepreneurship and social innovation	Number of informal dialogue mechanisms between CED representatives and Indigenous community representatives or businesspeople.*	1 mechanism per region, based on the interest of the Indigenous communities concerned.	Clean technology commercialisation, funding and adoption; Natural resource operations and related goods and services; tourism.	
		Number of new projects supporting the economic growth of an Indigenous community or business.*	40 new economic development projects approved within the next 5 years.		
		Percentage of SMEs that are majority-owned by Indigenous people.	0.5% of Indigenous ownership of SMEs		
Canadian Northern Economic Development Agency (CanNor)	Whole-of-government priority to create job opportunities and economic growth for Indigenous people	The percentage of northern and Indigenous firms supported by the Agency still operating after three years	Target of 38%; results 2018 86%.	Natural resources development, tourism, fisheries, mining, arts and culture, industry community and business development	Arctic Policy Framework (September 2019)
		The proportion of Indigenous economic development community planning investments relative to business investments	Year-over-year increase in business investments relative to community planning investments.		
Federal Economic Development Agency for Southern Ontario (FedDev Ontario)	Inclusive growth for Indigenous economic development; Communities are economically diversified in southern Ontario	Percentage of SMEs that are majority-owned by women, Indigenous people, youth, visible minorities and persons with disabilities in southern Ontario	At least 0.8% of SMEs are majority-owned by Indigenous people		Southern Ontario Growth Strategy (Summer 2019)

	Priority	Results indicator	Measurement	Priority industries identified	Major regional initiatives
Federal Economic Development Initiative for Northern Ontario (FedNor)	Identify and resolve barriers to Indigenous participation in the economy	Percentage of SMEs that are majority-owned by women, Indigenous people, youth, visible minorities and persons with disabilities in southern Ontario	At least 1.0% of SMEs are majority-owned by Indigenous people	Technologies for health and well-being of rural and remote Indigenous communities; micro-grids and green/clean energy generation; tourism, mining.	
Western Economic Diversification Canada (WD)	Communities are economically diversified in western Canada	Percentage of SMEs that are majority-owned by Indigenous people in western Canada	At least 2.2% Indigenous owned SMEs		

Note: *As reported in the Strategic Plan.
Sources: ACOA (2018[131]), *Atlantic Canada Opportunities Agency Departmental Plan 2018-2019*, http://www.acoa-apeca.gc.ca/eng/publications/ParliamentaryReports/Documents/DP/2019%20DP%20-%20MAIN%20DOCUMENT_EN%20108%20(002).pdf (accessed on 1 April 2019); Canada Economic Development for Quebec Regions (2017[130]), *Strategic Plan 2021 - For a More Innovative, Clean and Inclusive Quebec Economy*, http://www.dec-ced.gc.ca (accessed on 1 April 2019); Canada Economic Development for Quebec Regions (2018[132]), *2018-19 Departmental Plan*, Canada Economic Development for Quebec Regions, https://www.dec-ced.gc.ca/eng/resources/publications/dp/2018-2019/373/index.html (accessed on 1 April 2019); CanNor (2018[133]), *2017-18 Departmental Results Report*, Canadian Northern Economic Development Agency, http://www.cannor.gc.ca/eng/1539370322363/1539370386301 (accessed on 1 April 2019); FedDev Ontario (2018[134]), *2018-19 Departmental Plan*, http://www.feddevontario.gc.ca/eic/site/723.nsf/eng/h_02426.html?OpenDocument (accessed on 23 April 2019); FedDev Ontario (2019[135]), *2019–20 Departmental Plan*, http://www.feddevontario.gc.ca/eic/site/723.nsf/eng/h_02484.html?OpenDocument (accessed on 23 April 2019).

Staff composition should be reflective of the population it serves

Having Indigenous staff is important to serving Indigenous populations and is a priority of the Government of Canada's diversity and equity policies. The proportion of Indigenous staff varies greatly across RDAs. They are greatest in the north where Aboriginal employees form a quarter of CanNor's staff; meanwhile in Ontario their small numbers have been suppressed in reporting. Staff diversity should be considered alongside efforts at improving Indigenous engagement.

One of the reasons for CanNor's higher level of Indigenous employment is that the department is required to meet federal obligations established under Article 23 of the Nunavut Land Claims Agreement, which establishes a level of Inuit representation in government employment in the Nunavut Settlement Area. CanNor also serves as the "central coordinating office" to implement the Pilimmaksaivik initiative (through the Federal Center of Excellence for Inuit Employment in Nunavut).

A corrigendum has been issued for this page. See:
http://www.oecd.org/about/publishing/Corrigendum-Linking-Indigenous-Canada.pdf

Table 4.8. Employment Equity in RDAs, 2016-2017

Regional Development Agency	Percentage of Aboriginal employees out of total employees
Atlantic Canada Opportunities Agency (ACOA)	2.7
Canada Economic Development for Quebec Regions (CED)	Information for small numbers has been suppressed in reporting
Canadian Northern Economic Development Agency (CanNor)	25
Federal Economic Development Agency for Southern Ontario (FedDev Ontario)	1
Federal Economic Development Initiative for Northern Ontario (FedNor)	N/A
Western Economic Diversification Canada (WD)	5

Source: Government of Canada (2018[136]), *Employment Equity in the Public Service of Canada for the Fiscal Year 2016 to 2017: Statistical Tables*, https://www.canada.ca/en/treasury-board-secretariat/services/values-ethics/diversity-equity/employment-equity-annual-reports/employment-equity-public-service-canada-2016-2017-statistical-tables.html#toc1 (accessed on 31 March 2019).

Flexible programming and stronger Indigenous engagement

The different RDAs across Canada have varying relationships with Indigenous businesses and communities. These practices are not generally institutionalised (with the exception of CanNor) and as such, their success depends in large measure on working relationships in the regions between the RDA, subnational governments, and Indigenous communities. RDAs could be much more active as an interface with Indigenous communities in support of economic and community development and entrepreneurship. As the face of the federal government in the regions they play an important role in delivering place-based policies, adapting flexible solutions where there are gaps in access to finance for firms, community economic development and infrastructure. The connections between the RDAs (which fall under the Department of Innovation, Science and Economic Development) and that of ISC and CIRNAC should be strengthened in order to better connect Indigenous communities with regional development.

Overall, the Government of Canada's Regional Development Agencies can strengthen their programming and relevance for Indigenous entrepreneurs and businesses by:

- **Strengthening their knowledge of and relationship with Indigenous communities in the regions.** This involves taking the time to travel to communities to understand their needs as opposed to expecting individuals to seek support and access the existing suit of programmes. RDAs should increase understanding and awareness of local Indigenous economies; their knowledge mobilisation activities can support this objective. This could serve to increase the visibility of Indigenous development interests and firms and could help to better connect Indigenous communities with regional and local economies. The extent to which these activities are already taking place across Canada's RDAs differs – some RDAs have established collaboration with regional Indigenous organisations and have adopted a proactive community capacity-building approach. In other cases such actions are nascent.
- **Ensuring that staff have regionally specific cultural competency training and that there is recruitment and mentoring Indigenous staff**. Furthermore,

secondment opportunities between the RDAs, CIRNAC and ISC would help to strengthen connections between the work of the departments on Indigenous issues.

- **Developing opportunities to connect local entrepreneurs with Indigenous entrepreneurs and communities in the regions**. These actions can take a number of forms including business matching (Box 4.12), facilitating business and community partnerships, including Indigenous perspectives and communities in joint strategies etc. These actions require strong working relationships with Indigenous forms and communities and a knowledge of their development interests.
- **Actively communicating with Indigenous communities and organisations and share leading practices of engagement and programme design across RDAs.** Some RDAs such as CanNor have a greater expertise in delivering programmes that are relevant to Indigenous communities particularly in a rural and remote context. These experiences should be shared across the network in terms of how to work better with Indigenous communities and how to adapt programmes to meet their needs.
- **Developing programmes with the flexibility to meet Indigenous business and infrastructure needs.** Many programmes under the RDAs are presently not a good fit for Indigenous entrepreneurs or community led development. There is administrative burden across the various funding programmes and these could be better aligned to streamline applications and programs need to be better aligned. RDAs staff report working individually to help individuals navigate this system more efficiently; but these processes could be improved for the general framework.
- **Updating performance measures to reflect success for Indigenous businesses and effective engagement with Indigenous communities**. The current suite of departmental performance indicators based on the number of Indigenous owners of SMEs in provinces and territories is poorly related to the work of RDAs. These performance indicators should be updated to reflect how RDAs work with Indigenous entrepreneurs and communities, how they communicate with them and, the types of funding and services offered and the outcomes of these specific initiatives.

This chapter has focused on landscape of Indigenous entrepreneurship in Canada including the programmes that support the sector and the main competitive advantages of rural Indigenous firms.

Underlying the success of Indigenous entrepreneurship is effective governance. That is, effective relations and engagement between governments and industries and Indigenous organisations and communities; effective governance and coordination across departments within a government; and the strategic capacity of communities themselves. This issue forms the subject of Chapter 5.

Notes

[1] The definition of Indigenous entrepreneurship is contested in the literature both in terms of how it is defined as a concept as well as the potential to reconcile western entrepreneurship with Indigenous culture (see (James et al., 2018[142]) for discussion). Broadly defined, it is simply entrepreneurship undertaken by Indigenous people. A more nuanced view is that entrepreneurship is embedded in a particular territorial and institutional context, and social forms of organisation based around kinship embedded in particular places have an important influence in shaping Indigenous businesses and economies. This report recognises both types and there relative importance depending on where a community is located and its potential for a services versus natural resources based economy.

[2] This sentiment was expressed, for example in Canada's *Royal Commission on Aboriginal Peoples* (1996[146]); it was viewed as the core element underpinning the hundreds of recommendations contained in the report.

[3] Based on data from the community well-being index 2011 (INAC, 2019[153])

[4] Cooperatives were utilized by successive British, Canadian, and provincial governments as a policy tool to increase European settler control over land, permanent settlement of Indigenous communities to limit their use of land, and to secure Arctic Sovereignty (see (Sengupta, 2015[14]).

[5] These types of dynamics were documented in the case of Tanizul Timber Company which was established by the Tl'azt'en First Nation (British Columbia). See (Booth and Skelton, 2011[18]).

[6] While the literature on this subject has often presumed that individualism is positively correlated with entrepreneurial activity, a comprehensive analysis by Pinillos and Reyes (2011[145]) based on Global Entrepreneurship Monitor data indicates that this relationship is modified by the level of economic development.

[7] INAC maintains three types of land registry systems.

[8] Houses in reserve land may be owned, but if the land is not under full ownership, the value of what can be put for equity is significantly lower. It would be only the value of the materials used to build the house, not the value of the house plus the land it sits on. To circumvent this restriction, some First Nations use machinery and equipment as collateral for loans. Even then, the level of credit that Indigenous peoples can access, based on the property on reserve lands, ranks far below those of non-Indigenous people, in what is a clear position of disadvantage.

[9] Businesses on a reserve need to collect the federal Goods and Services Tax (GST) of 5% that is charged on most goods and services in Canada but GST does not apply to goods bought on a reserve by Indians, Indian bands, and unincorporated band-empowered entities. Records of sales made to a Status Indian, including their name, band, and treaty number (Community Futures Manitoba, 2016[35]). Certain provincial taxes may apply on other business activities (e.g., electricity, tobacco).

[10] In 2015 it stood at 18.2% in 2015 (OECD, 2017[40]).

[11] For example, BC Utilities Commission assessment of British Columbia's Site C hydro power project found that this form of energy production generates significantly fewer jobs, produces energy at a higher cost and entails significantly higher risks of future costs than alternatives such as (UBC Programme on Water Governance, 2019[149]). In the case of site C, BC Hydro has as a result of this installation stopped taking any applications for new renewable projects that would sell power to the grid; this has reportedly reduced the economic viability of some FNs renewable energy projects (The Narwhal, 2018[148]).

[12] Of the off grid remote Indigenous communities, the majority are located in the province of British Columbia (18%) followed by the North West Territories (15%) and Nunavut (15%) (NRCAN, 2019[44]).

A corrigendum has been issued for this page. See:
http://www.oecd.org/about/publishing/Corrigendum-Linking-Indigenous-Canada.pdf

[13] For example, in 2013, Indigenous interests held more than 13% of Crown forest harvest volume (NRCAN, 2015[51]).

[14] The National Aboriginal Forestry Association has assessed the Forest Stewardship Council's certification system to be the most robust in meeting Indigenous rights and interests across a wide range of criteria (Smith and Perreault, 2017[137]).

[15] For a summary of the responsibilities of fisheries and ocean management by province and territories see (Canada Oceans Directorate, 2009[140]).

[16] For a list of applicable modern treaties see (Fisheries and Oceans Canada, 2019[141]).

[17] Fisheries Act – provides for regional regulation by provinces to ensure sustainable commercial harvests. Proposed amendments introduced in Parliament in 2018 (Feb 8th, Bill C-68) will require the Minister of Fisheries and Oceans, when making decisions, to consider any adverse effects that the decision may have on the rights of Indigenous peoples of Canada.

[18] As per the proposed Indigenous Traditional Knowledge Policy Framework, confidential Indigenous knowledge would not be disclosed without written consent. Should Bills C-68 and C-69 receive royal assent, consequential amendments may be proposed to the Access to Information Act.

[19] Many of the modern land claims treaties have been signed in large measure so that major energy projects could go ahead such as the first modern Canadian land claims settlement, the JBNQA (Rodon, 2018[147]).

[20] See the First Nations Oil and Gas and Moneys Management Act which provides for First Nations to become trustees of oil and gas revenues, displacing the federal government (federal financial administration) to allow for more diversified investment of revenues.

[21] A good example in Australia is Indigenous fire management practices that have shown to reduce the intensity of bushfires and therefore reduce the amount of carbon released into the atmosphere. These land management practices have also been driven by, and enabled, technological innovations. For example, the Yarwu Indigenous community in Western Australia is developing capability in GIS mapping to support their land and water management practices. This also supports sustainable development objectives by identifying the best places for water extraction and use, clarifying sites of social and cultural significance, and places where commercial development is not appropriate.

[22] For example, the Canadian Council for the Arts "Creating, Knowing and Sharing" program provides funding to support the creative capacity and professional development of First Nations, Inuit and Métis artists and arts organizations; the reclamation, retention, renewal and transmission their cultural knowledge and creative practice; the exploration, creation and production of customary and contemporary arts practice; the presentation, exhibition, and sharing of works in Canada and internationally; and strengthens and supports the presence of First Nations, Inuit and Métis arts in communities.

[23] See Indigenous Tourism Association of Canada (2019), Accelerating Indigenous Tourism Growth in Canada, https://indigenoustourism.ca/corporate/wp-content/uploads/2019/03/18-10-Accelerating-Tourism-Growth-Booklet-v7.pdf.

[24] Community economic development services for land and environmental management are related to the Reserve Land and Environment Management Program (RLEMP), First Nations Land Management (FNLM). These stem from opt-out provisions under the Indian Act (i.e., First Nations Land Management Act and Addition of Land to Reserves and Reserve Creation Act).

[25] Canada's Regional Development Agencies are: the Atlantic Canada Opportunities Agency (ACOA); Canada Economic Development for Quebec Regions (CED); Canadian Northern Economic Development Agency (CanNor); the Federal Economic Development Agency for Southern Ontario (FedDev Ontario); the Federal Economic Development Initiative for Northern Ontario (FedNor) and; Western Economic Diversification Canada (WD). Although FedNor operates out of Innovation Science and Economic Development (ISED) it is still counted as one of the RDAs.

[26] As reported in Departmental Plans 2018-2019 and Strategic plans (where applicable). Some RDAs have specific Indigenous targeted programmes such as CanNor's Northern Aboriginal Economic Opportunities Program (NAEOP); in other cases, RDAs state a mandate to support Indigenous businesses but no targeted programmes exist (there are however basic performance measures).

[27] The Canada Council for the Arts provides grants for Aboriginal artists; Agriculture and Agri-Food Canada's Indigenous Agriculture and Food Systems Initiative supports agriculture businesses and; Natural Resources Canada's Indigenous Forestry Initiative (IFI) provides funding to support Indigenous-led economic development in Canada's forest sector (Canada Council for the Arts, 2019[139]; AAFC, 2019[138]; NRCAN, 2019[143]).

[28] As of 2009, the First Nations Bank of Canada became more than 80 per cent aboriginal-owned and controlled. Its assets have grown every year for 14 years.

[29] "The growth of capital at work in the First Nation and Inuit business community has increased from $2.8 billion in 2003 to $5.9 billion in 2013; the share of market capital as a proportion of total business financing capital increased to 53.8% in 2013 from 39.4% in 2003. Despite the overall increase in capital at work in Canada during this period, the gap between mainstream and the First Nation/Inuit on a population adjusted basis almost doubled from $41.8 billion in 2003 to $83.3 billion in 2013." (NAEDB, 2017[151]).

[30] This is a growing market. For example, in 2018, the Royal Bank of Canada completed a C$545 million bond issue for the Fort McKay and Mikisew Cree bands - the largest ever private investment by a First Nation –for a 49% stake in a Suncor Energy storage facility.

[31] In some cases, this entails joint federal/provincial/territorial funding. For example both the government of Canada and the Government of New Brunswick are a funding partner of the Joint Economic Development Initiative (JEDI) which provides Indigenous business services.

[32] The First Nations Bank in Saskatchewan which was established in 1996 as a partnership between the Federation of Saskatchewan Indian Nations and the large commercial TD Bank. It is now a chartered bank with over CAD 440 million in assets and is over 80% owned and controlled by Aboriginal shareholders from Alberta, Manitoba, Northwest Territories, Nunavut, Quebec, Saskatchewan and Yukon. The capacity for 74 First Nations to pool resources and develop a partnership with a mainstream bank was instrumental in creating this larger scale institution. Intermediary institutions provide a matchmaking function by linking different actors in the market and creating liquidity. The development of effective intermediaries together with other reforms (data, support for Indigenous enterprises, regulatory reform) could potentially have a transformative effect on Indigenous economic development—expanding this model.

[33] It is noted that a 2016 evaluation of CIRNAC's business capital and support services programme recommended that the department "establish incentives to attract interest and investment from the private and other sectors to leverage additional capital and diversify the portfolios of AFIs" (INAC, 2016[152]). Since this evaluation NACCA has developed the Indigenous Growth Fund in consultation with an internal AFI working group.

[34] Note that, when created, CanNor was given the mandate for IED in territory. As a result, many of ISC programming no longer applies there.

[35] Note: Community futures in the territories was devolved to the territorial government. As a result, CanNor has never been responsible for CFDCs unlike the other RDAs.

[36] The Canadian Radio-television and Telecommunications Commission established a CAN $750 million fund to improve broadband Internet access services in underserved areas in 2019.

[37] See: https://crtc.gc.ca/cartovista/fixedbroadbandandtransport_en/.

[38] See: https://www.canada.ca/en/services/business/start/register-with-gov.html.

[39] The qualifying criteria are Indigenous peoples who live in Canada, own at least 51% of their business, and have their business registered in the Aboriginal Business Directory.

[40] This includes measuring the proportion of procurements that are awarded to different types of SMEs and gathering gender-based data and industry-specific data. It has been reported that communicating these goals to procurement officers and to potential suppliers is critical (questionnaire).

[41] See Indigenous and Northern Affairs Canada (2019), Modernization of Indigenous participation in procurement: discussion paper, https://www.aadnc-aandc.gc.ca/eng/1554219055004/1554219078355#chp1.

[42] For example, a 2016 report by Canada's Parliamentary Budget Officers indicates that education on reserves has been underfunded by as much as 50% compared to provincially delivered education (Parliamentary Budget Officer, 2016[144]).

[43] For example, the First Nations University of Canada and the Saskatchewan Indian Institute of Technologies.

[44] For example, the BC Ministry of Advanced Education, Skills and Training with additional funding from the Canada-BC Labour Market Agreement and the Vancity Credit Union funds the Aboriginal BEST program which provides support for job creation and skills training.

[45] The Indigenous Skills and Employment Training (ISET) Program replaced the Aboriginal Skills and Employment Training Strategy (ASETS) April 2019. The new ISET Program includes four distinct labour market strategies for First Nations, Inuit, Métis and Urban/Non-affiliated persons.

[46] The government of Canada created the first regional development agencies with separate departmental structures and ministers of state for Atlantic Canada and Western Canada in 1987: the Atlantic Canada Opportunities Agency (ACOA) and the Western Economic Diversification Canada (WED) respectively. A few years later, similar agencies emerged for Quebec regions (CEDQ) and in Northern Ontario, an entity located within Industry Canada, FedNor. In 2009, two new agencies were established, the Federal Development Agency for Southern Ontario (FedDev) and the Canadian Northern Development Agency (CanNor), completing a pan-Canadian regional development policy framework. See Bradford (2017[129]) for an overview of RDAs and Canadian regional development policy.

[47] Exceptions include RDA funding to Community Futures AFIs and CanNor's NAEOP programme.

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Chapter 5. Improving governance for place-based Indigenous economic development

The objective of this chapter is to assess and provide recommendations about supporting the implementation of a place-based approach to Indigenous economic development. The chapter begins by explaining why a place-based approached is central to supporting Indigenous entrepreneurship and economic development. The following sections discuss the four key elements for the effective governance of place-based Indigenous development described above and offer recommendations on how they could be improved/supported in Canada at both the national and sub-national levels.

Key findings and recommendations

Key findings

- A place-based approach to Indigenous economic development succeeds where there is a strong vision for community economic development with mechanisms to prioritise and sequence investment in framework conditions - from infrastructure and services to skills development, mentorship and access to finance.
- Effective multi-level governance is central to operationalising this approach. Four key elements are identified for the effective governance of place-based Indigenous development:
  - Development of an opportunity-oriented national policy framework for economic development that incorporates Indigenous values and perspectives, is adapted to characteristics of different places, encourages community-led development and defines measurable outcomes.
  - Designing effective co-ordination mechanisms between different levels of government and with Indigenous peoples that result in alignment of policies, the realisation of synergies and fosters local and regional partnerships to support Indigenous communities achieve their development objectives.
  - Collaboration with Indigenous peoples through high levels of participation and engagement, which includes Indigenous peoples in decision-making processes and policymaking as partners recognising the need to share power.
  - Empowering Indigenous communities by strengthening governance capacities (e.g. strategic planning and regional alliances) and improving fiscal relations.

Key recommendations

Consider the development of a **national Indigenous economic development strategy** that:

- Supports the alignment of policy objectives across levels of government and sectors.
- Incentivises the adjustment of policies to local needs, characteristics and aspirations.
- Includes Indigenous perspectives on development, including cultural assets and aspirations.
- Clarifies roles and responsibilities (across levels of government and sectors).
- Defines short/medium and long-term measurable outcomes.

Improve **coordination across levels of government** to implement a place-based approach to Indigenous economic development by:

- Strengthening engagement with provinces to coordinate investments and realise economies of scale in the provision of infrastructure and services.
- Using formalised agreements between levels of governments and Indigenous communities to address issues of strategic importance and monitor their implementation.

- Advancing a new fiscal relationship with First Nations along the lines of the agreement between the Canadian Government and the Assembly of First Nations (more funding flexibility, supporting capacity development, and an advisory committee to monitor implementation and provide advice).

Improve **engagement practices with Indigenous communities** across all levels of government by:

- Establishing cooperation regarding the Duty to Consult MOUs with all provinces and territories.
- Acting as a broker and to encourage provinces and municipalities to set up MOUs with First Nation, Inuit and Métis communities.

Strengthen capacities by supporting the **implementation of the Indigenous Community Development National Strategy** that delivers appropriate support for community planning, and strengthening incentives for collaboration between First Nation communities and between municipalities/provinces.

Introduction

Indigenous community economic development and entrepreneurship excels where rights to land and resources are recognised and stable, where Indigenous peoples and communities are engaged on the issues that impact them, where there is a strong vision for community economic development and where the right framework conditions—from infrastructure and services to skills development, mentorship and access to finance—are in place.

Effective governance is central to realising all of these aims. There are four key elements for the effective governance of place-based Indigenous development:

1. **Coordinating national policies**: Having an opportunity-oriented national policy framework that incorporates Indigenous values and perspectives, is adapted to characteristics of different places, encourages community-led development and defines measurable outcomes.
2. **Aligning objectives and policy implementation across levels of government**: Designing effective co-ordination mechanisms between different levels of government and with Indigenous peoples that result in alignment of policies, the realisation of synergies and fosters local and regional partnerships to support Indigenous communities achieve their development objectives.
3. **Engaging Indigenous peoples and communities in decision-making:** Collaboration with Indigenous peoples through high levels of participation and engagement, which includes Indigenous peoples in decision-making processes and policymaking as partners recognising the need to share power.
4. **Strengthening community capacity for self-determination**: Empowering Indigenous communities and strengthening governance capacities (e.g. capabilities such as financial management, and brokers who can mediate local conflicts and build relationships with non-Indigenous organisations) (OECD, 2019[1]).

This chapter proceeds in five parts. It starts with an explanation of why a place-based approached is central to supporting Indigenous entrepreneurship and economic development. The following sections discuss the four key elements for the effective governance of place-based Indigenous development described above and offer recommendations on how they could be improved/supported in Canada at both the national and sub-national levels (province, territory and municipality).

Why a place-based approach to Indigenous economic development matters

The OECD's framework for Indigenous economic development takes place-based approach: 'place' is fundamental to Indigenous identity and shapes economic development and well-being outcomes for Indigenous peoples (OECD, 2019[1]). Different territories and communities have different endowments, histories and accessibility to markets and opportunities. Developing these places requires addressing multiple factors (human capital, infrastructure, innovative capacity) in an integrated way that aligns with local circumstances. Local communities have the knowledge about these circumstances and should lead decision-making about development. Therefore, policy and governance arrangements are needed to mobilise this potential in a way that is driven by local communities. This has implications for how governments work within their own bureaucracies and across levels of government:

- Policies should be adapted to the needs and circumstances (social, economic, cultural, geographic, environmental, etc.) of different places and communities.
- Different levels of government should coordinate in order to ensure that policies and programmes are better matched to regional and local conditions.
- Policies should also be integrated horizontally—across one level of government, in order to mutually reinforce the impacts of different actions on a given policy outcome.

Governments play a key role in setting the framework conditions for Indigenous economic development through their strategy setting, policy design and implementation, and brokering between stakeholders (OECD, 2019[1]). These governance arrangements can either serve to build local capacity to promote economic development, or act to inhibit it and promote dependency.

Historically, across OECD member countries, policies targeted at Indigenous peoples have created systems of disempowerment—taking away Indigenous rights, identity and culture, dispossessing them of their traditional lands and their ability to govern themselves by eroding their social capital and leadership capabilities. But this is changing in Canada and elsewhere (Box 5.1). In Canada, there is a commitment to reconciliation with Indigenous peoples which includes economic reconciliation. Rights frameworks are evolving, new treaties are being signed and some of the old paternalistic legislation like the *Indian Act* is being chipped away at through new agreements that offer stronger self-determination for land management and finance.

Box 5.1. Indigenous self-determination and governance

Self-determination implies different forms of governance that enable Indigenous communities to take control over decisions that affect their lives and livelihoods. However, trajectories of Indigenous self-determination and the governance reforms that help realise them are uneven between and within countries. What constitutes good governance for Indigenous peoples is also a contested concept (Tsey et al., 2012[2]).

Studies have shown a positive association between effective local Indigenous governance and reduced welfare dependency and the emergence of economic activity, higher levels of multi-dimensional well-being, improved resource use and increases in the contribution to regional non-Indigenous economies (Cornell and Kalt, 2003[3]; Vining and Richards, 2016[4]). These findings are consistent with a wider literature that examines the association between the quality of institutions and regional economic performance (Morgan, 1997[5]; Wood and Valler, 2004[6]; Rodríguez-Pose, 2013[7]). Cornell and Kalt (2003[3]) and Cornell (2006[8]) propose three key reasons why self-governance results in better long-term outcomes for Indigenous peoples:

- Citizens are engaged in collective efforts to improve community well-being.
- Policy choices are more likely to reflect the interests, needs and aspirations of Indigenous peoples.
- Transparency and accountability of local leaders and decision-making capacities are improved.

However, a number of key conditions need to be in place for this to be effective particularly capable governing institutions that are matched to the social and cultural characteristics of Indigenous groups and avoid pitfalls such as corruption, nepotism, confusion about roles and responsibilities, and lack of accountability (Cornell, 2006[8]; Tsey et al., 2012[2]).

International standards also strengthen the basis for a new and more equitable relationship with national and subnational governments (Daes, 1984[9]). The Indigenous and Tribal Peoples Convention (1989) of the International Labour Organization is based on principles of self-determination and sets out rights in relation to land, employment, education and training, and social security.[1] The UN Declaration on the Rights of Indigenous Peoples was adopted by the UN General Assembly in 2007 in Resolution 61/295 with 143 votes in favour, 4 against and 11 abstaining. Since then, the four countries voting against (Australia, Canada, New Zealand and the United States) have changed their position and now support the Declaration. The declaration sets out a framework of minimum standards for the survival, dignity, well-being and rights of Indigenous peoples. It promotes their full and effective participation in all matters that concern them as well as their right to remain distinct and to pursue their own priorities in economic, social and cultural development (UN, 2008[10]).

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Coordinating national policies

Coordinating across federal departments

Responsibility for Indigenous issues at the national level can be centralised or distributed across multiple ministries and agencies. Canada, like Australia and the United States, has a centralised approach to Indigenous policymaking: there are designated ministries or departments that are responsible for Indigenous affairs and lead on this subject matter along-side regional offices that act as an interlocutor between the national government and Indigenous communities.

This centralised approach with deconcentrated regional offices allows governments to tailor policies and build relationships with communities, as the point of contact is clear. At the same time, it gives rise to the danger of operating in silos and separating mainstream policymaking from Indigenous issues. As a result, it can create policy gaps as well as information gaps between ministries responsible for Indigenous peoples and those delivering mainstream policy. Therefore, a central challenge in Canada—and one faced by other OECD countries with Indigenous peoples—is how to co-ordinate across departments on the host of issues that involve Indigenous peoples.

Canada has two lead departments for Indigenous affairs

In 2017, the Trudeau government dissolved Canada's lead department for Indigenous affairs and replaced it with two separate ones—Indigenous Services Canada (ISC) and Crown-Indigenous Relations and Northern Affairs Canada (CIRNAC)—a structure which was recommended by the Royal Commission on Aboriginal Peoples (RCAP, 1996[11]).[2] The two new departments are tasked as follows:

- CIRNAC is tasked with better whole-of-government coordination on nation-to-nation, Inuit-Crown, and government-to-government relationships; to accelerate the negotiation of self-government and self-determination agreements; and to advance recognition and implementation of rights approaches that will last well beyond this government.
- ISC is tasked with ensuring a consistent, high quality, and distinctions-based approach to the delivery of services to First Nations, Inuit and Métis people. It is noted that one fundamental measure of success will be that appropriate programs and services will be increasingly delivered, not by the Government of Canada, but instead by Indigenous Peoples as they move to self-government (PMO, 2017[12]).

Reflecting on the purpose of this departmental reorganisation, the newly appointed Minister of ISC remarked "we are tearing down the outdated and paternalistic structure of old designed to enforce the *Indian Act* and replacing it with new departments that are

distinctions-based and rooted in the recognition of rights, respect, co-operation and partnership" (CBC News, 2017[13]).

Both departments are important for place-based Indigenous development

Both CIRNAC and ISC share a priority for community and regional development. The results and priorities for CIRNAC are outlined in Table 5.1. ISC delivers the infrastructure and services that sustain FNs communities—e.g., sustainable infrastructure (water and sanitary systems, schools, housing); responding better to environmental risks and disasters; and supporting capital investments to reduce diesel dependency and promoting energy efficiency. Meanwhile CIRNAC delivers a range of programmes and services important for entrepreneurship and economic development and is responsible for government relations with Indigenous peoples.

While these departments provide a range of initiatives and programmes, they do not add up to a coherent long-term vision for economic development that has been developed in partnership with Indigenous peoples and that articulates their values and aspirations for development.

Each newly created department has its own Minister, which has led to some concern that the work of the two departments will lead to less cooperation across the relevant files and policy silos.[3] This is particularly important for areas of shared jurisdiction for community and regional development. However, it has also consolidated some functions within a single department; for example, some health services delivered by other departments were moved over to ISC and as such, has improved policy coherence. In time, the outcomes of this reorganisation should be evaluated to see if it is delivering on its objectives and if the work of the two departments remain coordinated where possible (e.g., shared indicators, coordination on how communities are engaged to reduce burden, coordination on public investments).

Table 5.1. Crown-Indigenous Relations and Northern Affairs Canada, priorities for community and regional development, 2018-19

Results	Priority actions
Indigenous communities advance their business development and economic growth	● Entrepreneurship and small and medium-sized enterprises (SME) programmes, and improving procurement outcomes ● National Indigenous Economic Development Board and stakeholder engagement ● Supporting commercial and industrial projects, and oil and gas developments ● Local economic and community development initiatives
Indigenous and northern communities strengthen their capacity to adapt to changing environments	● Climate change adaptation measures ● Food and nutrition programmes in northern Canada
Land and resources in Indigenous communities and the north are sustainably managed	● Initiatives to reduce the dependency of remote communities in diesel power ● Regulatory reforms related to environmental assessments and oil and gas developments ● Environmental and resource management programmes ● Addressing contaminated lands and solid waste management

Source: Adapted from Crown-Indigenous Relations and Northern Affairs (2018[14]), *2018-19 Departmental Plan*, https://www.aadnc-aandc.gc.ca/eng/1523210699288/1523210782692 (accessed on 24 January 2019).

Regional offices act as an interlocutor between the national departments and Indigenous communities

While the two lead departments for Indigenous affairs are based in the national capital region (Ottawa, Ontario and Gatineau, Quebec), there are also regional offices across the country that are important interlocutor between national policies and regional/place-based specificities and relations with Indigenous communities. Australia and the United states also have such regional offices associated with their lead ministry for Indigenous affairs.

Regional offices implement the programmes and policies derived by their departments. However, it is important that policy development be informed by the experiences of those working locally. Mechanisms should be in place to communicate operational issues in order to identify gaps and develop new ways of working.

Many other departments deliver services, programmes or enact policies important to Indigenous peoples

While there are two lead departments for Indigenous affairs at the federal level in Canada, many other departments are important as well. The Government of Canada has 200 departments and agencies; of these, around a third have some direct relationship with Indigenous peoples in terms of their mandate and responsibilities and/or the services and programmes they provide and another fifth are also important to them.[4] For example:

- All of Canada's national research agencies fund research on Indigenous issues and support Indigenous scholars.
- Canada's national arts, culture, parks, media and heritage departments and agencies fund Indigenous artists and historians and collaborate with organisations and communities to raise the profile of Indigenous creative contributions and histories.
- The departments responsible for natural resources, infrastructure, oil and gas, the environment and climate change and environmental protection all work on files that impact Indigenous communities and peoples and have a duty to consult with them.
- Canada's health agencies provide research and analysis on how to improve the health outcomes of Indigenous peoples.
- Statistics Canada, along with a number of other departments, collects data and conducts research which is important to understanding Indigenous peoples and communities and their economic, cultural and social development and changing environmental conditions.
- Canada's regional development agencies support Indigenous community development and entrepreneurship in the regions (though, as noted, this role could be strengthened) (see Chapter 4).

This names just a few of the main areas in which Indigenous affairs are addressed across federal departments; there are many others.

The communities engaged as part of this study reported that their most important relations are with CIRNAC/ISC at federal level. They report being engaged with other ministries on some occasions, but this is dependent on the context—e.g. Fisheries, Infrastructure. In contrast, relationships with the federal Regional Development Agencies were reported to be less prominent or low. The main horizontal coordination mechanisms at the federal level are:

- Memoranda of understanding or other agreements—e.g., Procurement Strategy for Aboriginal Business and Senior Procurement Advisory Committee.
- Inter-ministerial committees—e.g., the Strategic Partnerships Initiative.
- Less formal working committees/groups and ad hoc meetings.

Cross-departmental coordination through the Strategic Partnerships Initiative

Effective place-based Indigenous community economic development and support for entrepreneurship does not sit neatly within one department's or even government's purview. Collaborative governance on a whole range of multi-sectoral issues are often needed—combing both place-based and individually-scaled interventions (e.g., infrastructure, investments, housing, leadership, mentorship, skills training). Where governments, Indigenous organisations and communities are able to work in this manner, they have seen some very successful outcomes and have been able to address development across multiple dimensions.

This approach to strategic partnerships has begun in Canada and was reported by the Indigenous interviewees engaged in this study to be an effective practice. Initiated in 2010, the Strategic Partnership Initiative provides a coordinated federal response to existing and emerging Indigenous economic development opportunities (Aboriginal Affairs and Northern Development, 2014[15]). It aims to ensure the participation of Indigenous Peoples in the realisation of complex economic opportunities, by coordinating the efforts and investments of multiple federal partners. An annual budget of CAN$14.45 million is available to support projects in key sectors of the Canadian economy such as mining, fisheries, forestry, agriculture and energy.

Currently, 17 federal agencies and departments are part of the program that is organised around the Director General Investment Committee (DGIC). The DGIC includes membership from all SPI member departments. It makes final funding decisions on initiatives, validates and prioritises opportunities for investments. It also identifies relevant federal government departments that have a role to play in supporting any given initiative, and ensures that they work together with Indigenous groups to advance these opportunities. It also enables federal partners to strategically engage other levels of government and private sector partners so they may leverage additional funding or in-kind support. The DGIC completes a review of detailed proposals from federal departments on opportunities for consideration under the program.

Indigenous partners cannot apply directly for funding to SPI and it is not a fund that directly supports economic development projects. Further, it is meant to be used to leverage funding form a variety of sources. There have been 38 SPI initiatives since 2010 with 400 communities involved and 125 partnerships. The SPI fund has spent around CAN$ 100 million since 2010 and has leveraged around $200 million in the projects that have been undertaken. The SPI is an innovative programme that was designed to fill gaps in existing programmes.

Advancing a place-based approach to Indigenous economic development

One aspect of strengthening cross-departmental co-ordination on Indigenous economic development is a place-based approach. Supported by the Strategic Partnerships Initiative (SPI) ISC has launched a community well-being project with a group of First Nation communities in northern Ontario that employs a holistic, place-based approach to community development (Indigenous Services Canada, 2018[16]). The process focuses on

community-identified priorities and requires government partners to step up their roles as developmental partners, committing to joint development and implementation of community-specific action plans. This new approach structures financing around a FN's priorities and recognises FNs as developmental partners. This is particularly important for Northern Ontario where there are large scale chromite mining and smelting investments which will impact FNs communities and which are taking place on their traditional territories.

A recent evaluation indicates that significant progress has been made in the participating FNs in the areas of housing, skills and training, financial management and governance, and mental health and addictions. The community well-being project has successfully addressed some of the core social challenges that have challenged economic development opportunities in the communities. The assessment highlighted the following success factors of the approach:

- Government as a neutral secretariat.
- Comprehensive community assessment is a starting point; based on these assessments there might be multiple options for early initiatives, depending to some extent on the strengths of the community, its own priorities and its institutional supports.
- Place-based management approach – all of the players working collaboratively on community priorities.
- A community development approach that is based on identifying and building on community assets rather than one focusing primarily on community deficits.
- Producing "early wins" builds confidence in the process among partners.
- Tackling challenges in governance and related management functions early on (i.e. organisational capacity) is very important for making progress on other priorities.
- The need to have a lead senior official with proper skill set and experience to give communities the assurance that the government is serious and to lead interdepartmental and intergovernmental collaboration (Indigenous Services Canada, 2018[16]).

This pilot has been positively assessed by some of the communities involved and there is support for this approach. The challenge is now to translate the pilot into systemic policy and governance reforms. These pilot initiatives need to have an evaluation framework, and feedback mechanisms should be established to mainstream the lessons from them—integrating them into wider policymaking and linking it to other tools such as Comprehensive Community Planning (CCP). This pilot should be a part of economic development initiatives going forward.

Further work is needed to improve horizontal cooperation within the department building on the SPI to break down silos and approach problems in a comprehensive manner. A key issue for the programme is how to effectively engage the relevant provincial partners. The success of the SPI—and multi departmental coordination more generally—depends on a number of factors: from dedicated individuals who work to build strong relationships towards a common goal alongside political leadership and commitments from senior civil

servants and Indigenous communities alike. However, national policies frameworks can also play a central coordinating role.

Developing a national policy framework for Indigenous economic development

Canada does not currently have a national strategy for Indigenous economic development—does it need one?

Canada, like Sweden and the United States, does not presently have an overarching national strategy for Indigenous economic development but instead delivers a range of programmes directed to Indigenous communities or individuals. This stands in contrast to Australia and New Zealand where there are such national frameworks.

The previous Harper government had a *Federal Framework for Aboriginal Economic Development* (2008) that focused on entrepreneurship, human capital, community assets, and partnerships (INAC, 2018[17]). Although it acknowledged the importance of inter-governmental co-ordination, there were no systemic measures to align federal, provincial and municipal planning and resource allocation decisions. Progress reports on implementation focused on activities and programme outputs, but there was no framework for monitoring the achievement of outcomes. Under the Trudeau government, priorities for the Indigenous portfolio are articulated in Department Plans (2018-19) for Indigenous Services Canada (ISC) and Crown-Indigenous Relations and Northern Affairs Canada (CIRNAC).

Incoming federal governments each have their own political agenda and view of economic reconciliation which is to be expected and as such, approaches to Indigenous economic development have changed in Canada over the years. Approaches also evolve with jurisprudence, as Indigenous rights are continuously redefined. However, where federal strategies are focussed on activities and programme outputs, the implications for the conditions of Indigenous economic development can be lost. There should be an overarching goal and a way to monitor progress on key indicators overtime that is consistent, regardless of political priorities.

Learning from Australia and New Zealand

Australia and New Zealand have taken steps to build more coherent economic development policies for Indigenous peoples through national strategies that define their approach towards Indigenous economic development.

New Zealand's *He kai kei aku ringa* – for place-based development grounded in Māori culture

New Zealand's *He kai kei aku ringa* (HKKAR) together with its newly defined refresh, titled E RERE, sets itself apart from the other strategies through a focus on place-based development and grounding in Māori culture (Te Puni Kōkiri, 2012[18]) (Te Puni Kōkiri, 2017[19]). New Zealand first established HKKAR—the Crown Māori Economic Growth Partnership and national Māori Economic Development Strategy—in 2012. The strategy is focussed on growing a productive, innovative and internationally connected Māori economy. The title of the strategy translates to "provide the food you need with your own hands"—thus highlighting the economic self-determination of Māori people and the fact that this development programme is especially oriented at Māori and driven by *whānau.*

The strategy defines 6 goals to achieve by 2040 and defined 26 recommendations in a 2012-27 action plan to achieve these goals. The six goals are:

1. Greater educational participation and performance.
2. Skilled and successful workforce.
3. Increased financial literacy and savings.
4. Government in partnership with Māori enabling growth.
5. Active discussion about the development of natural resources.
6. Māori Inc. as a driver of economic growth.

The strategy positions the government as an enabler, empowering *whānau* and Māori Inc. to foster economic growth by creating a favourable business environment and providing better public services. For instance, one of the actions involves the creation of an information-sharing platform between Māori entities and the government to better match mainstream programmes to Māori needs.

The strategy also identifies a way of working with communities to identify their unique needs and developed place-based solutions. Iwi and collectives determine their own skill needs, using existing government services or developing their own tools. Outcomes of the strategy were evaluated in 2017 and highlighted that 42 000 more Māori people were in work since 2012 and unemployment rate had decreased by 2.3% – while still being more than double the national rate of 5.2. Many government agencies have grown their own Māori capabilities and embedded Māori approaches in their programmes, through co-design, collaboration, leadership and networks, to increase Māori participation.

The most recent iteration of the strategy titled E RERE ("to leap, run, fly") focusses on increasing employment, growing Māori enterprises, increasing Māori participation in regional economics and upskilling the Māori workforce. Importantly, it identifies and develops a cross-agency plan to encourage greater Māori participation in regional planning for and implementation of the Regional Growth Programme.

Australia's three Indigenous economic development strategies – shifting towards more Indigenous involvement and localised approaches

Australia's Indigenous economic development is shaped by three different national strategies: the Closing the Gap Strategy, the Indigenous Economic Development Strategy 2011-2018 and the Indigenous Business Strategy. The Closing the Gap Strategy, set up by the Council of Australian Governments (COAG) in 2008, represents a joint effort between all Australian governments. It also provides a broader framework for Indigenous economic development and business policies. Closing the Gap is organised around seven themes, which cover aspects such as early childhood and school education, employment and health, and economic development. Targets and indicators are established across these different policy themes. In terms of economic development, all states and territories have aligned in setting up Indigenous employment strategies, creating Indigenous targets in the public services and developing a strategic framework for Indigenous economic participation. On the downside, the strategy has not delivered on its targets and was criticised for being too deficit-focused and for not developing an understanding of how to capitalise on Indigenous assets and opportunities. After ten years, only three out of seven targets on track.

The Australian Government's Indigenous Economic Development Strategy was released in 2011 and recognises the differences between urban, rural and remote locations. It highlights that ability to participate in the broader economy is often dependent on access to employment opportunities, markets, services, infrastructure, education, etc. and defines challenges according to specific locations. The strategy specifies the need to continue working with states, territories, other ministries as well as the private sector on specific goals, as is the case in reforming the vocational education and training system with states and territories or working with the national statistical bureau on collecting data on the Indigenous private sector. An evaluation framework for the strategy is not specified.

Finally, the Indigenous Business Sector Strategy is a ten-year strategy that aims to help Aboriginal and Torres Strait Islanders build sustainable businesses, so they are able to support themselves, their families and contribute to the prosperity of their communities. Self-supporting Indigenous businesses are defined as a key for economic independence. It defines four areas of action: i) better business support, ii) improved access to finance; iii) stronger connections and relationships and iv) harnessing the power of knowledge, meaning better sharing of information and data. Each area contains actions that national, state and territory governments, Indigenous businesses and the private sector undertake in partnership, yet the specific responsibilities of the Commonwealth or states and territories are not defined.

What a national strategy for Indigenous economic development in Canada could deliver

As has been noted throughout this study, the links between Indigenous community economic development and regional development in Canada are often weak – though this differs across the county depending on context (e.g., Métis, FNs treaty and non-treaty and Inuit in Nunavut who have territorial government). For First Nations, this weakness stems in large measure due to jurisdictional divisions and the fact that their relationship with most direct with CRNAC and ISC—departments that have regional offices but not necessarily a strong regional connection to economic development. Moreover, FNs fall under federal jurisdiction in Canada and are therefore, excluded in state/province or regional level planning.

The national strategies in Australia and New Zealand are unique to their own contexts and multi-level government relations. However, they do serve to illustrate how national strategies can galvanise action, monitor progress and coordinate across levels of government by:

- *Encouraging the alignment of objectives across levels of government and sectors.* Strategies can help adopt a whole-of-government approach to Indigenous economic development. For example, New Zealand's Ministry of Business, Innovation and Employment and Te Puni Kōkiri (Ministry of Māori Development) have a cross-agency plan which requires agencies to identify gaps in service provision and develop approaches for addressing these gaps. In the Canadian context, such co-ordination could serve to better coordinate the work of ISC, CIRNAC and the RDAs, which each fall under separate ministers.
- *Incentivising policies to adjust to local needs, characteristics and aspirations.* Strategies can address place-based dynamics and identify how policies and services can be adapted to these conditions—setting up separate frameworks to address them (e.g., urban, rural, remote).

- *Valorising Indigenous perspectives on economic development, including cultural assets and aspirations.* National Strategies such as New Zealand's HKKAR emphasise that Indigenous economic development might differ from non-Indigenous development objectives and connect economic development to language and culture. Strategies differ from departmental plans in that they can include meaningful engagement with Indigenous peoples to reflect their diverse worldviews and development objectives.
- *Defining short-, medium- and long-term measurable outcomes*. The national strategies in Australia and New Zealand each take a different approach to monitoring and evaluation. Leading practices to be adopted are to: define measurable outcomes with an intervention logic that links them to policy levers; provide funding for context-specific data collection and analysis; have regular monitoring and communication of progress toward achieving outcomes; clarify accountabilities for outcomes; ensure policy learning (including failures) are translated into practice (OECD, 2019[1]). One leading practice in this regard is Australia's new (2018) Evaluation Framework for policies and programmes which is based on the principle that each policy intervention should articulate its intended impact, and its effectiveness measured on that basis. This means shifting from measuring inputs (the amount of resources dedicated to Indigenous economic development) and outputs (the amount of infrastructure or services delivered) to outcomes (impacts on agreed outcomes such as income and employment).

Canadian departments dealing with Indigenous affairs at present coordinate their work in a number of ways—from informal meetings, to working groups and more formalised initiatives like the Strategic Partnership Initiative. This is however not whole of government perspective. The Government of Canada should consider:

- **Developing a national economic development strategy, with well-defined roles for partners involved.** Such a strategy could—if well-conceived with Indigenous support—be an effective way to galvanise action and monitor progress across the whole of government on this issue and would provide an important focus on Economic Reconciliation.

Aligning objectives and policy implementation across levels of government

Indigenous self-government is part of Canada's system of cooperative federalism

Indigenous self-government is part of Canada's system of cooperative federalism and forms a distinct order of government. Some unique features of this system include:

- Indigenous organisations are established intergovernmental partners where federal-provincial negotiations directly concern their interests (e.g., 2004 Kelowna Accord) (Papillon, 2012[20]).
- There are bilateral and trilateral negotiations at the local level, with specific First Nations under the *Indian Act* or a self-government agreement, some of which also include a comprehensive land claims agreement.
- Most Canadian provinces have policy frameworks to manage their relations with Indigenous peoples (e.g., British Columbia and Ontario, have consultation

guidelines under which they recognise the "government-to-government" nature of their relationship with First Nations, Métis and Inuit groups).

- All provinces/territories have a dedicated ministry or administrative branch responsible for relations with Indigenous peoples (in Nunavut this is a whole of government perspective).
- Provinces, territories, and Indigenous groups sign agreements on how they want to work with one another on a wide range of issues—from economic initiatives to natural resources co-management agreements.[5]
- Many municipal governments have offices of Indigenous affairs, have developed protocol documents for Indigenous engagement and some have signed inter-governmental agreements with Indigenous communities on specific issues.

There are positive developments to highlight across Canada in terms of how these relations are evolving. And yet gaps remain, particularly concerning how Indigenous communities are linked to regional and rural development efforts.

The obstacle of jurisdiction

The issue of jurisdiction for Indigenous affairs is one of the most intractable challenges facing Canada and one that has proven an obstacle to linking Indigenous communities with regional and rural development. The federal government has a direct relationship with "Indians" who fall under the *Indian Act* for the delivery of healthcare, education and all forms of social provision; for everyone else, provincial and territorial governments deliver these services.[6] Provinces and territories each have their own Indigenous secretariats that provide funding and services to off-reserve Indigenous peoples.

However, in practice, these divisions are not so clear. The relationship with those who fall under modern treaties differs in terms of government to government relations. Furthermore, while Inuit do not fall under the *Indian Act*, they do fall under federal jurisdiction and there are federal programmes directed to them alongside territorial/provincial ones. Finally, while Métis have never been subject to the *Indian Act*, there are federally funded services for them as well. It also bears recognising that relationship can evolve. The relationship between "Indians" who fall under the *Indian Act* and that of the federal government has shifted in the past few decades—the system has "evolved from a highly centralized, hierarchical, and fairly homogenous system concentrated in federal hands to what is now a far more complex multilevel structure of governance in which Indigenous governments play a growing role" (Papillon, 2012[20]).

Municipalities generally engage in a limited manner with Indigenous communities—however, practices are changing. In some parts of the country where there are large urban Indigenous populations, engagement is well established and there are specific policies and programmes/services for Indigenous peoples. Overall, there is a need for longer term strategic approaches to engagement between levels of government and Indigenous communities.

Beyond jurisdiction for Indigenous affairs, there is also the matter of jurisdiction over sectoral policies that are *important to* Indigenous communities. Of foremost importance is that provincial and territorial governments have purview over infrastructure and natural resources—activities that impact traditional Indigenous lands and territories.

Consequently, multi-level governance gaps impacting Indigenous peoples and communities are common. For example:

- Reserves are an island of federal governance on provincial land and that these two levels of government do not generally cooperate to align their services, leading to diverging conditions between the province and the reserves and situations in which services and infrastructures are inaccessible to FNs.
- Indigenous economies and development ambitions are often absent from provincial and territorial economies development strategies;
- National guidelines and standards for engagement with Indigenous communities on environmental licensing is not met by provinces and poorly coordinated between departments (interviews).
- Provincial and municipal infrastructure development and land use planning frequently bypasses FNs as a matter of jurisdiction—treating these areas as a 'blank space' and leading to very different levels of investments in adjacent communities.

Indigenous economic development involves multiple levels of government and encompasses different sectoral policies including economic development, land use, infrastructure and skills. As such, strong relationships with local and regional governments are needed in order to coordinate public investments, deliver services and connect regional and local economies to Indigenous business interests.

Provincial/territorial-Indigenous relations

Provincial and territorial governments all have departments/secretariats/offices for Indigenous affairs and deliver a range of programmes (in Nunavut this is a whole of government perspective). While there are a growing number of programmes focused on supporting Indigenous business and community economic development, the vast majority of initiatives for Indigenous peoples delivered by the provinces and territories are focussed on social, health and education policies and to a lesser extent, community infrastructure provision.[7] The FNs communities interviewed as part of this study noted that the relationships with the provinces are generally limited to Indigenous affairs, despite the importance of natural resources and environmental management on traditional territories. Several commented that Indigenous perspectives and engagement are too often absent from provincial economic development strategies, that relations are generally poor, and that consequently, there is recourse to the courts to resolve disputes which is costly and time consuming.

Provincial/territorial-Indigenous relations can vary considerably across Canada. Incoming governments have purview to shape these relations and this can lead to an inconsistent policy environment. Positive relations built between a provincial government and Indigenous communities over a series of years can become acrimonious with a shift in the political landscape (interviews). In contrast, the relationship with the federal government is often more stable because of how rights and obligations are defined in law—though, as noted earlier, this too evolves.

The inclusion of Indigenous economic development in strategic plans

Less than half of all provincial/territorial strategic plans include reference to Indigenous economic development

Provincial/territorial strategy documents articulate government priorities and agendas. As such, the visibility and inclusion of Indigenous economies and development ambitions in

such strategy documents sends an important signal to the public service that this is a priority issue and a matter for the whole of government. An analysis of these provincial and territorial strategic documents finds that just over half (7 out of 13) address Indigenous issues (Table 5.2).[8] Of these, five provinces and territories explicitly address Indigenous economic development in their strategic documents in some way. For example:

- Manitoba's Look North Programme provides an analysis and action plan for northern development based on the capacities of different place (North Economic Task Force, 2017[21]). It was elaborated together with Indigenous leadership and specifically prioritises Indigenous engagement and partnerships with industry and government. Meanwhile, the provinces strategy for economic development addresses access to capital and business development programming for Indigenous entrepreneurs.
- British Columbia's strategic plan explicitly recognises the need for economic Reconciliation and focuses on the delivery of programmes, services and infrastructure investments to enable community economic development (British Columbia, 2018[22]).
- The Government of Ontario's 2019 budget also explicitly addresses support for Indigenous economic development—describing it as one of "the highest ongoing priorities." The budget promised new funding for Indigenous entrepreneurship and a number of programmes to encourage economic opportunities for Indigenous peoples. However, at the same time, the budget delivers a 15 per cent cut in core funding for the Ministry of Indigenous Affairs, which will likely harm core service delivery for this population (Government of Ontario, 2019[23]).
- While Saskatchewan's most recent budget does not address Indigenous entrepreneurship, an earlier 2012 economic development strategy in the province did focus on these issues and highlighted the importance of partnerships with tribal councils, individual First Nations and First Nation businesses to increase employment, businesses and engagement in the economy (Government of Saskatchewan, 2012[24]).
- Nunavut's economic development strategy is presently being updated; the 2003 version is grounded in an Indigenous perspective to economic development and adopts a place-based lens. This is complemented by five sectoral economic development strategies (arts and crafts; energy; mining; tourism; and, transportation) (Carlson, Johnston and Dawson, 2018[25]).

Table 5.2. Inclusion of Indigenous people and communities in provincial and territorial strategic plans

Province	Title of strategic planning document	Year	Inclusion of Indigenous peoples/communities in strategic planning document	Indigenous economic development addressed	Policy focus
Alberta	Province of Alberta Strategic Plan	2018/18-2021/22	Yes	No	Child services; labour force participation
British Columbia	Province of British Columbia Strategic Plan	2018/18-2021/22	Yes	Yes	Reconciliation with FNs including economic Reconciliation; anti-poverty strategy; mental health and addictions services and infrastructure; clean energy
Manitoba	Growing Manitoba's Economy	2018	Yes	Yes	Access to capital; business development programming
New Brunswick	The New Brunswick Economic Growth Plan	2016	No	No	n/a
Newfoundland and Labrador	The Way Forward	2017	Yes	No	Education; community engagement; land claims; cultural sensitivity training in Dept. of Justice
Nova Scotia	Budget: Opportunities for growth; ONE NS report	2017-2018	No	No	n/a
Ontario	Budget: Protecting What Matters	2019	Yes	Yes	Funding to support Indigenous economic development
Prince Edward Island	A framework for Economic Growth	2017	No	No	n/a
Quebec	Budget	2018	No	No	n/a
Saskatchewan	Budget	2018	No	No	n/a
Northwest Territories	Economic opportunities strategy	2018	No	No	n/a
Nunavut	Nunavut Economic Development Strategy	2003	Yes	Yes.	Strategy grounding in Inuit perspectives and reflective of Inuit economy
Yukon	Yukon Budget	2019	Yes	Yes	Infrastructure

Note: Own analysis based on strategic documents. Note that not all provinces and territories have strategic plans. Economic development strategies or government budget analysed in lieu of strategic plan where applicable. Nunavut's Economic Development Strategy is currently in process of being updated.

Sources: Alberta (2018) Province of Alberta Strategic Plan; BC (2018) Province of British Columbia Strategic Plan; Manitoba (2018) Growing Manitoba's Economy; NB (2016) The New Brunswick Economic Growth Plan; NFL (2017), The Way Forward; NS (2017), Budget 2017-2018: Opportunities for growth; Ontario (2019[23]) Budget 2019: Protecting What Matters; PEI (2017), A framework for Economic Growth; Quebec (2018), Budget 2018; Saskatchewan (2018), Budget 2018; NT (2018), Economic opportunities strategy 2018; Nunavut (2003), Nunavut Economic Development Strategy; Yukon (2018), Budget 2018.

While these are positive examples, it remains that less than half (40%) of Canadian provinces address Indigenous economic development in their core strategic documents. The profile of Indigenous entrepreneurship and community economic development stands to be improved from this whole-of-government perspective in several provinces. Echoing this, Indigenous interviewees engaged as part of this study commonly expressed that Indigenous economic development is poorly understood by regional policy makers. This analysis of regional development strategies confirms that Indigenous economic development is not mainstreamed in strategic policy documents—and as such reflects this limited visibility. In New Zealand, most regions have an economic action plan which outlines the role of Māori and the local Māori economy in achieving the region's development objectives (Box 5.2).

Box 5.2. The Manawatū-Whanganui Economic Action Plan: New Zealand

In New Zealand, most regions have an economic action plan which may outline the role of Māori and the local Māori economy in achieving the region's development objectives. In Aotearoa/New Zealand, collaboration has enhanced outcomes in the Māori economy in the Manawatū-Whanganui region through regional alliances between iwi, industry, councils, marae, and government. They are also creating the broader institutional arrangements to formalise these networks and work better with government.

An Economic Action Plan *Te Pae Tawhiti* was developed, by business leaders, iwi, hapū, and councils in partnership with central government with the assistance of a university. The Plan is based on economic analysis, consultation data and best practice research and incorporates the ideas, priorities and aspirations that Māori people for economic growth and is underpinned by concepts of autonomy and self-management. It recognises the importance of regional alliances between iwi, industry, councils, and government, and that succeeding in the global marketplace will require alliances that deliver economies of scale, collective value and impact. It is building various institutional arrangements considered important to sustain the strategy including:

- an alliance of all iwi in the region, irrespective of Treaty settlement status, to provide direction and leadership
- a subsidiary company or companies which actively co-invests in, and develops Māori commercial ventures.

Source: Accelerate 25 Manawatū-Wahanganui (Accelerate 25 Manawatū-Wahanganui, 2016[26]), *Manawatū-Whanganui Economic Action Plan*.

Municipal-Indigenous intergovernmental relations

Among the levels of government in Canada, municipalities (which are constitutionally 'creatures of the provinces') are the least directly engaged with Indigenous affairs; however, practices differ by place and province/territory. A recent Canadian survey of municipal mayors and councillors found that Indigenous affairs is seen as primarily the purview of the federal and to a less extent provincial/territorial governments; but at that same time is viewed as a central issue for multi-level governance, including municipalities (Lucas and Smith, 2019[27]). There are some regional variations to this finding. In contrast to local politicians in other regions, Quebec's municipal politicians see Indigenous relations

as distinctly lacking multi-level government involvement, largely because the federal government is seen to be much more prominent in this area (Lucas and Smith, 2019[27]).

Municipal-Indigenous engagement

Municipal-Indigenous intergovernmental relations in Canada takes several forms. Municipalities across Canada are strengthening how they engage with their own Indigenous populations, improving how they deliver services to them, working to address and eradicate systemic racism, and are developing protocols of engagement and strengthening working relationships with Indigenous communities (both urban and adjacent).

Canadian cities with the largest Indigenous populations are leading the way in terms how to work forge a government to government relationship and embrace Indigenous values and cultural understanding in their work. Calgary, Toronto, Vancouver, Edmonton, and Winnipeg all have offices of Indigenous affairs and many have developed protocols for how to work with Indigenous peoples and communities. For example, the city of Calgary's Indigenous Policy Framework which is grounded in a local Indigenous perspective and privileges Traditional Knowledge throughout (Box 5.3). These types of policy frameworks are important, but it comes down to how they are in practice implemented across municipal departments.

Multi-level government partnerships

Municipalities have also developed partnerships with other levels of government of strategic actions on Indigenous affairs. For example, in 2010, the federal government together with the province of Manitoba and the city of Winnipeg signed a Memorandum of Collaboration (MOC) to work together and better align resources to improve socio-economic outcomes for Indigenous peoples in Winnipeg and to improve the capacity of Indigenous organisations to carry out their mandates. Senior Officials established an Intergovernmental Strategic Indigenous Alignment (ISIA) Working Group to develop a five-year strategic plan with the representation of the City of Winnipeg (Manager of Indigenous Relations), the province of Manitoba (Indigenous and Municipal Relations), and Indigenous and Northern Affairs Canada (Manitoba Regional Director) (City of Winnipeg, 2019[28]).

A 2015 evaluation of these efforts points to some of the common challenges encountered by multi-level governance on Indigenous affairs. The evaluation found that deep alignment between the project partners was difficult to achieve and that project implementation was challenged by four significant creative tensions (tensions between inside-outside actors, product delivery versus process, short-term versus long-term visions, and tensions between accountability and learning/policy innovation). It also found that the volume, pace and quality of the work was limited by "side-of-the-desk participation, membership turnover, and insufficient resources for coordination support" (City of Winnipeg, 2015[29]).

While those involved in MOC reported developing positive working relationship and implemented some projects, the initiative reported a lack of mobilisation and strong engagement from the Indigenous communities. The issue of engagement is critical here. Initiatives such as this one can come to rely on service providers to speak on behalf of Indigenous communities at the expense of building on models of urban governance recommended by RCAP (Heritz, 2018[30]). Forging these relationships takes time but will lead to longer term institutionalisation and success. Hence, dedicated and stable staff are noted as a key factor for success.

Box 5.3. Municipal policy frameworks for Indigenous relations: The case of Calgary, Alberta

The city of Calgary's Indigenous Policy is strongly grounded in a local Indigenous perspective and privileges Traditional Knowledge throughout; it is part of the City's 10-year Strategic Plan. It is oriented around four components.

1. Ways of Knowing.
2. Ways of Engaging.
3. Ways of Building Relationships.
4. Ways Towards Equitable Environments.

The policy framework was developed with the engagement of Traditional Knowledge Keepers and community leaders from Treaty 7 First Nations, members of the Calgary Aboriginal Urban Affairs Committee (CAUAC), urban Indigenous community leaders and organisation representatives, and City staff from across business units (Calgary Aboriginal Urban Affairs Committee, 2015[31]). Importantly, the framework is described as "a flexible starting point and a unique departure from a conventional needs-based policy" (Calgary Aboriginal Urban Affairs Committee, 2015[31]). This speaks to the need to transform the policy approach away from a passive role for Indigenous peoples based on an understanding of them as a vulnerable population towards sustained, meaningful and mutually beneficial ways of working together. As such, the framework and policy actions underlying it are grounded in the need to forge a new relationship, increase the cultural understanding of municipal employees in the ways that they work with FNs and Indigenous peoples and valuing Indigenous traditional knowledge, perspectives and development ambitions.

This is fundamentally about a cultural shift within the municipal bureaucracy. This approach – which puts Indigenous perspectives front and centre—is to be applauded. Cultural awareness and common understanding set the policy environment from which other initiatives, protocols, strategies, and efforts will grow. This policy framework states the ambition.

But it comes down to how this guidance is implemented in practice. The city of Calgary has Aboriginal Urban Affairs Committee since the late 1970s which acts as an advisory committee to municipal council. This committee acts to place ongoing attention on Indigenous affairs. The city should intermittently review of how its policy framework is being implemented in practice in order to adapt and learn from both policy achievements and failures. This is no easy task since one important aspect of the strategy is demands a shift in cultural understanding.

Source: Calgary Aboriginal Urban Affairs Committee (2015[31]), (2015), *Indigenous Policy Framework for The City of Calgary*, http://www.calgary.ca/CSPS/CNS/Documents/CAUAC/Indigenous-Policy-Framework.pdf (accessed on 30 April 2019).

Indigenous-municipal agreements

Finally, there are a growing number of Indigenous-municipal agreements across Canada. For example, a 2011 review of such agreements in the Province of British Columbia by Nelles and Alcantara found around 100 of which there were four main types:

- *Relationship building* (37% out of total sample): General statements that seek to improve municipal/regional relationships with First Nations. These documents often reference the importance of mutual recognition and respect as a basis for the partnership and contain commitments to transparency and communication.
- *Focussed on decolonisation* (11% out of total): A variant of the broader relationship-building type with the goal of establishing long-term cooperative relationships between local/regional and First Nations authorities. Decolonisation explicitly recognise that the First Nation signatories historically occupied the lands that are now under the administration of municipal and/or regional authorities.
- *Capacity building* (1%): Commit local or regional authorities to help First Nations establish and develop their governing structures
- *Focussed on jurisdictional negotiation* (49% out of total): All agreements that involve the transfer of responsibilities for service, infrastructure, resources and/or territory that lie within the jurisdiction of one party to the other and any agreements that result in shared jurisdiction in those areas (Nelles and Alcantara, 2011[32]).

The relative lack of capacity building agreements in this BC sample is notable. Such agreements could be an important part of developing a shared vison for economic development, but are uncommon. The use of shared service and infrastructure agreements is however very positive and national organisations such as the Federal of Canadian Municipalities have developed resources to support their establishment (e.g., developing shared service agreement templates).

While larger Canadian cities are adopting some notable practices, smaller municipalities and towns in rural areas often have less structured engagement with Indigenous communities. While they may be functionally connected to Indigenous communities, there can be policy gaps in terms of how municipalities engage with Indigenous communities and how services and infrastructure are provided/connected to them. Smaller administrations often have less capacity to work across functionally interconnected territories. This is a common challenge and one that public policies can help to address by for example, incentivising joint co-operation through funding programmes.

Coordinating across levels of government and strengthening multi-level government relations

Vertical coordination and alignment between the provinces and federal level are needed and yet there are few formal mechanisms to achieve this. Much depends on good will between the parties involved. Political interest and support is absolutely critical to the success of these initiatives.

There is no one monolithic mechanism to address these issues. Different types of agreements and ways of working evolve and are connected to place-based dynamics, Indigenous rights, history and identity, and the political imperatives of governments. See for example the Mi'kmaq-Nova Scotia-Canada Tripartite Forum which was founded in the late 1990s in order to strengthen relationships and resolve issues of mutual concern affecting Mi'kmaw communities—the manner in which this forum involved all FNs within a single province is unique (Box 5.4).

Box 5.4. The Mi'kmaq-Nova Scotia-Canada Tripartite Forum

The Mi'kmaq-Nova Scotia-Canada Tripartite Forum is a unique governance model. Formed in 1997 as a partnership between the Nova Scotia Mi'kmaq, the Province of Nova Scotia and the Government of Canada, the group works to strengthen relationships and to resolve issues of mutual concern affecting Mi'kmaw communities (Tripartite Forum, 2018[33]). This includes a focus on enhancing legal clarity on rights issues and reducing social and economic disparities. One of the Forum's successes has been the Mi'kmaw Kina'matnewey education programme; there are presently 11 band run schools in Nova Scotia, more than half of the teachers are Mi'kmaq. Educational attainments rates have been growing and Atlantic Canada now has the highest rate of aboriginal students attending university in Canada.

The Mi'kmaq-Nova Scotia-Canada Tripartite Forum has seven committees – co-chaired by each party – one of which is the economic development committee which includes First Nations, higher education and training, business organisations representatives.[9] The Economic Development Working Committee develops a yearly work plan and is required to submit year-end reports to the Steering Committee identifying the activities completed or underway. The focus of the work plan in 2017-2018 was Indigenous tourism development, addressing the Truth and Reconciliation Calls to Action, increasing access to procurement and supply chain opportunities both within Indigenous communities and the private sector, and increasing the capacity of Indigenous communities to undertake business planning and proposal writing.

The Economic Development Working Committee is a mechanism to build relationships and trust and share information. No one entity is responsible for Indigenous economic development in Nova Scotia. As such, the Tripartite Forum serves to help coordinate economic development programs for each First Nation including procurement between FNs. The Forum has laid a basis for dialogue and joint action.

Source: Tripartite Forum (2018[33]), *Tripartite Forum – A partnership of: Mi'kmaq + Nova Scotia + Canada*, https://tripartiteforum.com/ (accessed on 24 October 2018).

The federal government has a leadership role to play

The Canadian federal government's jurisdiction, legal obligations and commitment to nation-to-nation relations means that it has a leadership role in strengthening multi-level government-Indigenous relations. Previous chapters have recommended key actions in this regard including:

- Increasing the understanding, awareness and visibility of Indigenous economies through better statistics and data (Chapter 2).
- Implementing the concept of Free Prior and Informed Consent for land use and natural resource management, including integrated EA processes at the provincial level (Chapter 3).
- Coordinating with provincial/territorial governments on support for business development, community-led enterprises, skills training; expanding Aboriginal procurement strategies; and strengthening the role of Canada's RDAs in Indigenous economic development (Chapter 4).

One of the central issues to tackle is coordinating public investments across levels of government. There are currently some mechanisms to co-ordinate public investment across level of government with Indigenous communities, but these processes are not well aligned between levels of government—there are information gaps and economies of scale are not being realised (see Annex 5.A for assessment). There are also major power asymmetries between subnational governments and Indigenous communities to overcome for such co-ordination. To this end, the Government of Canada could:

- Strengthen its engagement with provinces to coordinate investments and realise economies of scale in the provision of infrastructure and services.
- Use formalised agreements between levels of governments and Indigenous communities to address issues of strategic importance and monitor their implementation.

Improving engagement and participatory decision-making

The duty to consult

Engagement can take many forms—from informing to empowering

Effective practices of engagement between federal, provincial and municipal governments, industry/businesses and Indigenous communities are critical for strong place-based policies in support of economic development.

Engagement practices can take many forms, with implications for the power of decision making of the actors involved. In 1969, Sherry Arstein illustrated this concept succinctly with the "ladder of citizen participation" which specifies different 'rungs' indicating the degree of participation—from non-participation to some degree of participation, for instance through information or consultation to opportunities for exerting agency though making decisions in partnerships, delegated power or citizen control (Arnstein, 1969[34]). This framework has since been revised by the International Association for Public Participation (IAP2). It serves as a useful way to conceptualise the levels of Indigenous engagement, as well as its challenges.

The least intensive forms of engagement are those that seek to simply 'inform' whereby information is shared in a one directional manner with no opportunity to impact decision making or change outcomes. In contrast "consulting" entails an exchange of views, while 'involving' means that the input of Indigenous peoples may shape the final output. 'Collaboration' on the other hand entails shared decision-making power, while 'empowering' places full decision-making power in the hands of Indigenous peoples or communities.

Different forms of engagement are needed for different purposes. It is neither desirable nor feasible to structure all forms of engagement along the right side of the spectrum (see Table 5.3 below). In some cases, informing or consulting is appropriate where the issues or impacts on an Indigenous community are minor. For substantive projects or changes to policies and legislation, co-development or empowerment is appropriate.

Table 5.3. IAP2s Public Participation Spectrum adapted for Indigenous peoples

	Inform	Consult	Involve	Collaborate	Empower
Public Participation Goal	To provide the public with balanced and objective information to assist them in understanding the problem, alternatives, opportunities and/or solutions.	To obtain public feedback on analysis, alternatives and/or decisions.	To work directly with the public throughout the process to ensure that public concerns and aspirations are consistently understood and considered.	To partner with the public in each aspect of the decision including the development of alternatives and the identification of the preferred solution.	To place the final decision-making in the hands of the public.
Application to the Indigenous context	One-way relationship, Indigenous peoples are informed on new policies or developments.	Two-way relationship, Indigenous peoples are invited to present their opinion on specific topics but no obligation to take views into consideration in the final outcome.	Indigenous peoples are involved in all aspects of the policy circle, their input is reflected and considered in the final output.	Indigenous peoples, share the decision-making power with non-Indigenous counterparts through memoranda of understanding or joint-management agreements.	Indigenous peoples have full decision-making power over a certain service or matter.

Source: IAP2 Federation (2019[35]), *IAP2's Public Participation Spectrum*, https://www.iap2.org.au/Tenant/C0000004/00000001/files/IAP2_Public_Participation_Spectrum.pdf (accessed on 24 January 2019).

The legal duty to consult and accommodate demands actions from all governments—this has been inconsistent in Canada

Indigenous communities are not just stakeholders, but are *rights holders* and as such, engagement practices need to be structured to meet these obligations. Since 1982, Canada's *Constitution Act* recognises and affirms "existing aboriginal and treaty rights," (including modern treaties and the Royal Proclamation of 1763) and a series of Supreme Court of Canada (SCC) and lower court cases have given substance to the recognition of these rights and their implications for decision-making on a wide range of activities—e.g., regulatory project approvals, licensing and authorisation of permits, operational decisions, policy development, negotiations. The Government of Canada has a duty to consult, and where appropriate, accommodate Indigenous groups when it considers conduct that might adversely impact potential or established Aboriginal or treaty rights. This interpretation of rights is ongoing as new cases arise–e.g., the land claim rights of Métis in Manitoba.

The duty to consult and accommodate, where appropriate, has been bolstered by the 2007 UNDRIP a non-legally binding instrument which sets out the principle of free, prior, and informed consent (FPIC) as an international norm that *ought to* guide relations between Indigenous peoples and States in a number of areas. The Canadian government does not recognise FPIC principles as a veto right against resource development and administrative and legislative decision-making (Assembly of First Nations, 2019[36]). The implementation of FPIC requires the dedication of all levels of government; provinces/territories in particular have been slow to respond. The Government of British Columbia's has committed in its 2019 Throne speech to being the first province in Canada to introduce legislation to implement UNDRIP and has promised to co-develop legislation with the First Nations Leadership Council and other Indigenous organisations. This builds on the work of existing shared decision-making protocols (Box 5.5).

To demonstrate Canada's commitment to address issues of Aboriginal consultation and accommodation, a federal Action Plan was announced in November 2007. The Consultation and Accommodation Unit (CAU) was established within Aboriginal Affairs and Northern Development Canada (AANDC) in early 2008 to implement the Action Plan. CIRNAC is the touch point across the federal government on how to deliver effective consultations. This includes:

- Delivering training to federal departments on Indigenous rights, the scope of consultation and extent of accommodation required and how to design and deliver meaningful consultation processes. Thousands of federal employees from all government departments and agencies have received such training.
- Develops guidelines on the duty to consult.
- Coordinates with federal departments and agencies on consultation protocols for a whole-of-government approach to consultation and accommodation, and manages the repository of consultation protocols across Canada and MOUs (INAC, 2019[37]).

At the working level, there is a Consultation and Accommodation Interdepartmental Team with representatives from 14 federal departments and agencies that meets to discuss policy and operational issues and coordinate consultation efforts. The team evaluates ideas and presents suggestions for government departments and agencies as they encounter new challenges related to the duty to consult.

Provincial/territorial governments across Canada (and a growing number of municipalities) have also developed protocols on how to consult and engage with Indigenous peoples on matters that impact them and there are detailed guidelines and protocols on matters that impact Indigenous lands.

Facilitating this work, the Canadian Government maintains the Aboriginal and Treaty Rights Information System—a web-based, geographic information system that locates Indigenous communities and displays information relating to their potential or established Aboriginal or treaty rights.[10]

Implementing the principles of free, prior and informed consent—a work in progress

Guidelines are more formalised on matters related to land rights and large infrastructure investments such as Environmental Assessment procedures and Canadian courts have ruled as to whether governments and industries have structured these engagement practices adequately. Two key points here are that:

- The Supreme Court of Canada has confirmed that Aboriginal title gives the holder the right to use, control, and manage the land and the right to the economic benefits of the land and its resources.
- The Indigenous nation, as proper title holder, decides how to use and manage its lands for both traditional activities and modern purposes, subject to the limit that the land cannot be developed in a way that would deprive future generations of the benefit of the land (Department of Justice, 2019[38]).

Projects on Aboriginal title lands can be halted where the duty to consult has been inadequate—as was recently ruled for the expansion of the Trans Mountain oil pipeline.[11] Chapter 2 provides a discussion of environmental decision-making and recommendations to implement FPIC.

The government of Canada is presently undertaking discussions with Indigenous communities and organisations on the creation of new "rights-based approaches" which aim to give effect to UNDRIP articles related to self-determination, self-government and models of governance (FMB, 2018[39]). This is a promising development, but it will only be successful if provincial/territorial governments also support and implement these principles as they control important aspects of environmental licencing, industry, and infrastructure and other matters important to Indigenous peoples.

While issues relating to land and how it is used are central to Indigenous community economic development, they are not the only matters of importance. There are a wide range of policies at all level of government that impact Indigenous communities and that could be better designed with them in mind—from public procurement policies, to business services and training and industry promotion events (e.g.., tourism, forestry). Governments and industries should not just focus on statutory obligations for Indigenous engagement but instead include Indigenous voices as a part of the everyday policy process where possible, while respecting how frequently and the extent to which Indigenous peoples wish to engage on the topics that matter to them.

Box 5.5. Kunst'aa guu-Kunst'aayah Reconciliation Protocol with British Columbia

A wide range of government activities could be bolstered by an Indigenous perspective on economic development. The Haida Nation has negotiated a unique agreement with British Columbia, the Kunst'aa guu-Kunst'aayah Reconciliation Protocol that provides that decision-making is truly shared. The protocol is supported by provincial legislation, the Haida Gwaii Reconciliation Act (Government of British Colombia, 2019[40]). Both provide that there is shared decision-making on Haida Gwaii (a number of small islands off British Columbia's west coast) through the Haida Gwaii Management Council.

The Haida Gwaii Management Council consists of two members appointed by resolution of the Haida Nation after consultation with British Columbia, two members appointed by the lieutenant governor in council after consultation with the Haida Nation, and a chair appointed both by resolution of the Haida Nation and by the lieutenant governor in council. A decision of the council must be made by consensus of the members, and failing consensus, by a majority vote of members. The council has an important governance role with respect to forest management, protected areas, and heritage and culture.

Source: British Columbia Assembly of First Nations (2014[41]), *Governance Toolkit - A Guide to Nation Building*, http://www.bcafn.ca (accessed on 15 October 2018).

With whom to consult?

A central part of designing effective engagement strategies is knowing whom to consult with. This is not entirely straightforward when it comes to Indigenous peoples in Canada. Indigenous governments include band governments with different degrees of autonomy and Indigenous governments that have been created through negotiation of a comprehensive land claim agreement (a modern treaty).[12] However there are also hereditary chiefs in some parts of Canada who speak for their Bands. There are ongoing cases in Canada where FNs Bands have given approval for major infrastructure/energy projects on their lands but where the hereditary chiefs have not (see case of Gidumt'en Clan in Smithers, B.C. regarding the Coastal GasLink pipeline project). Canadian governments

have no agreement on the rights of hereditary chiefs and it is likely that this issue will be left to courts to adjudicate.

Modern Treaties provide greater clarity regarding the duty to consult. They include specific provisions concerning consultation, and provide a process on how to consult. The modern treaties were also signed by beneficiary or representative organisations—the legal entities that administer the terms of the agreement on behalf of the Indigenous parties to the agreement. They increasingly speak as the voice of their citizens and members as a collective; however, this role is not always appreciated by the communities themselves and can be a matter of contention. There are also hundreds of Indigenous organisations and political advocacy organisations across Canada, many of which consult with governments.

This is a rich institutional landscape involving many actors who do not speak with one voice. Public policies and investments on Indigenous lands need to develop ways of meaningfully engaging with this diversity of voices. This is complex, and involves overcoming inherent power asymmetries and yet it is fundamental to the successful implementation of FPIC principles. The question of whom to consult depends on the issues involved and the legal requirements therein. But in some cases, it remains unclear and unresolved. The federal government has a major role to play in identifying the relevant partners in engagement and helping to structure practices across levels of government. The Crown has a duty to consult and, where appropriate, accommodate when the Crown contemplates conduct that might adversely impact asserted or established Aboriginal or Treaty rights.

From guidelines to structured engagement practices

What makes for 'good' engagement practices? The basic principles for effective and meaningful engagement with Indigenous peoples and communities are well established and include:

- Relationship building based on trust, recognition and respect, including acknowledging the inherent rights of Indigenous Peoples.
- Timely communication and knowledge exchange, including engagement at an early stage of a project/ongoing engagement.
- Respect for Indigenous Knowledge, perspectives and community interests and ambitions.
- Adhering to ethical data protocols and confidentiality based on informed consent.
- Clearly articulating how information will be used, how it will impact and inform decisions making.

Governments and industries have a wide variety of 'good practice' guidelines for engagement with Indigenous peoples/communities and there are training and certification courses offered across Canada on this topic.

In some cases, these types of engagement guidelines are evolving into more structured practices which set out how communities want to be engaged on their own terms. For example, some Indigenous groups have started to develop their own consultation protocols and have signed individual agreements with the federal or provincial governments (see Box 5.6). This is an important step in clarifying roles, responsibilities and obligations of different parties in the engagement process. Individual agreements between Indigenous Groups and the government are an important opportunity to define consultation agreements

based on the local needs and circumstances and enable Indigenous peoples to set their own standards in co-operation with the government. At the same time, bespoke agreements that advance quicker than the federal government's renewal process will lead to the application of different consultation standards.

Box 5.6. Canadian Consultation/Reconciliation Agreements Mississaugas of the New Credit – Federal Government

In 2018, the Mississaugas of the New Credit, a southern Ontario First Nation, have strengthened their relationship with the Federal Government through the signature of a consultation protocol agreement. The protocol sets out a clear process for fulfilling Canada's duty to consult with the Mississaugas of the New Credit First Nation and establishes the parties' respective obligations. It is designed to promote more effective and efficient engagement, defining the following aspects:

- Procedure for giving notice of projects.
- Outline of the consultation process, including for Aboriginal title claims.
- Elements for successful resolution.
- General information, including improvements and changes to the protocol.
- Funding provided by Canada.
- Confidentiality.

Leading up to the agreement, the parties established a Recognition of Indigenous Rights and Self-Determination discussion table and signed a Memorandum of Understanding defining the nature of their collaboration.

Source: CIRNAC (2019[42]), "Canada and the Mississaugas of the New Credit First Nation forge new relationship with signing of consultation protocol", https://www.canada.ca/en/crown-indigenous-relations-northern-affairs/news/2018/09/canada-and-the-mississaugas-of-the-new-credit-first-nation-forge-new-relationship-with-signing-of-consultation-protocol.html (accessed on 4 May 2019).

Relationship building matters

Trust and understanding are built over time and are fundamental to effective relations. This is not just a key issue for engagement practices but underpins successful relations more generally. This has been repeatedly raised by the communities interviewed as part of this study as one of the most important issues for them.

Understanding the culture of Indigenous communities is essential for policy making. Mainstream legislative regimes generally do not incorporate culturally appropriate language and considerations to strengthen and leverage the commercialisation of Indigenous traditional knowledge into the Canadian economy. Some key policy and regulatory challenges include the lack of a broad-based understanding of culture sensitivities and social issues related to systemic racism and the presence of a traditional economy for Indigenous people and the role these factors have in the active participation of the Indigenous population in the mainstream economy. Policy and regulatory regimes often do not reflect the presence of a traditional economy that Indigenous people are engaged in. This may have an impact on their availability or ability to participate in the mainstream labour force in a manner that may differ in terms of social norms, schedules,

etc. There is also a need to consider the impact of systemic racism in society such as off-reserve businesses not hiring Indigenous people.

Effective relationship building has implications for how governments train, mentor and support their staff to work with Indigenous communities. Spending time in communities to understand their interests and ambitions is fundamental (Liao, Orser and Riding, 2018[43]). Travel is an essential part of the job. While this has been quite well established within federal and provincial/territorial departments dedicated to Indigenous affairs, it if far less established as a practice in sectoral departments. This needs to change. Moreover, it is critical that policy makers (and not just programme officers) travel to meet Indigenous leaders in their communities, should this be desired and welcomed, in order to understand the issues they face since in order to learn how to improve programmes and services.

Beyond this, Indigenous communities report that staff turnover can be very detrimental to relationship building. Changing positions is a normal part of career development in bureaucracies, but is challenging from the perspective of relationship building with Indigenous communities. The Government of Canada should:

- Examine how staffing and retention strategies can support career progression and employee training while reducing employee turnover for those who have established ties with the Indigenous communities.
- Where there is staff turnover for individuals who work closely with Indigenous communities, every effort should be made to plan for those leaving their positions to overlap with incoming staff in order to help train/mentor them and establish relations.

The government of Canada has a leadership role to play in improving engagement practices

The Government of Canada has committed itself to Reconciliation with Indigenous peoples and to forging a nation to nation relationship. Developing effective engagement practices has been central to this and there are ongoing efforts to strengthen and improve these processes. This includes a wide range of activities, from ensuring that staff have the right cultural competencies, to aligning consultation processes across departments, implementing early engagement and perhaps most critically, working to strengthen the capacity of Indigenous communities to engage on their own terms (see next section). Front and centre of these efforts are the Government of Canada's 2018 *Principles respecting the Government of Canada's relationship with Indigenous peoples* aim to end the denial of Indigenous rights that led to disempowerment and assimilationist policies and practices (Department of Justice, 2019[38]). They fundamentally assert that Indigenous nations are self-determining, self-governing, increasingly self-sufficient, and rightfully aspire to no longer be marginalised, regulated, and administered under the *Indian Act* and similar instruments (Box 5.7).

The government of Canada has established bilateral relationships with FNs and other Indigenous governments. But other levels of government together with industry are critical to the success of Indigenous communities. A lack of strong multi-level governance relations and inconsistent and inadequate engagement practices in many parts of the country has hindered Indigenous economic development.

Box 5.7. Principles respecting the Government of Canada's relationship with Indigenous peoples

In 2018 the government of Canada released the "Principles respecting the Government of Canada's relationship with Indigenous peoples." The Principals are described as a necessary starting point for the government (Crown) to engage in partnership, and a significant move away from the status quo to a fundamental change in the relationship with Indigenous peoples. The ten Principles are a step to building meaning into a renewed relationship:

1. All relations with Indigenous peoples need to be based on the recognition and implementation of their right to self-determination, including the inherent right of self-government.
2. Reconciliation is a fundamental purpose of section 35 of the Constitution Act, 1982.
3. The honour of the Crown guides the conduct of the Crown in all of its dealings with Indigenous peoples.
4. Indigenous self-government is part of Canada's evolving system of cooperative federalism and distinct orders of government.
5. Treaties, agreements, and other constructive arrangements between Indigenous peoples and the Crown have been and are intended to be acts of reconciliation based on mutual recognition and respect.
6. Meaningful engagement with Indigenous peoples aims to secure their free, prior, and informed consent when Canada proposes to take actions which impact them and their rights on their lands, territories, and resources.
7. Respecting and implementing rights are essential and that any infringement of section 35 rights must by law meet a high threshold of justification which includes Indigenous perspectives and satisfies the Crown's fiduciary obligations.
8. Reconciliation and self-government require a renewed fiscal relationship, developed in collaboration with Indigenous nations, that promotes a mutually supportive climate for economic partnership and resource development.
9. Reconciliation is an ongoing process that occurs in the context of evolving Indigenous-Crown relationships.
10. A distinctions-based approach is needed to ensure that the unique rights, interests and circumstances of the First Nations, the Métis Nation and Inuit are acknowledged, affirmed, and implemented.

Source: Department of Justice (2019[38]), *Principles Respecting the Government of Canada's Relationship with Indigenous Peoples*, https://www.justice.gc.ca/eng/csj-sjc/principles-principes.html (accessed on 5 May 2019).

The government of Canada has a leadership role to play in improving engagement practices with Indigenous communities across all levels of government. To this end, the Government of Canada should:

- Establish cooperation regarding the Duty to Consult MOUs with all provinces and territories. The Government of Canada established an MOU on *Cooperation Regarding Duty to Consult* with the Government of Nova Scotia in 2012. Since that

time no other MOUs have been signed with provincial or territorial governments. Duty to Consult MOUs should be treated as living documents and coordination activities should be reported on yearly as part of departmental reporting. At present, the outcomes of the yearly work plan associated with the MOU is unclear.

- Act as a broker and to encourage provinces and municipalities to set up MOUs with First Nation, Inuit and Métis Communities.
- Share lessons and best practices on how to develop a whole-of-government perspective for more effective Indigenous engagement (to overcome policy silos).
- Champion the importance of investing in community capacity building activities across all levels of government so that Indigenous communities can more effectively advocate their interests and articulate their development objectives.

Increasing engagement in decision-making requires capacities for effective governance within Indigenous communities. Past policies have dismantled traditional Indigenous structures and this has eroded Indigenous community governance and leadership capacity, which poses challenges for participatory decision-making. As such, governments have a key role in strengthening the capabilities of Indigenous communities to deliver their own programmes and services and realist their economic development objectives (the subject of the following section).

Relationships with provincial and municipal governments are critical. These differ considerably across Canada. There are some promising practices to highlight. On August 31, 2010, the governments of Canada and Nova Scotia signed a historic agreement with the Mi'kmaq Nation, establishing a process whereby the federal and provincial government must consult with the Mi'kmaq Grand Council before engaging in any activities or projects that affect the Mi'kmaq in Nova Scotia. This covers most, if not all, actions these governments might take within that jurisdiction. This is the first such collaborative agreement in Canadian history including all First Nations within an entire province.

Community capacity and self-determination

Community capacity is fundamental to self-determination and to a to a renewed Nation-to-Nation relationship in Canada. Colonisation dismantled historical governance structures and replaced them with institutions dependent upon the state and/or religious organisations. Indigenous communities are working to overcome this legacy by developing quality leadership, strong corporate governance, and sound financial management and sustainable practices.

The path from self-administration to self-government is shaped by matters of jurisdiction, government form and function, revenue generating abilities, accountability relations and intergovernmental relations (Table 5.4). In recognition of this, the Government of Canada is shifting many of its policies and practices to strengthen the capacity and agency of Indigenous communities. Self-determination is the goal, but there are several pathways to get there. In many cases, paternalistic policies remain in place while in others, policies are increasingly support the agency and decision making of Indigenous communities. This is a large topic with many dimensions. This section focuses on three key aspects: i) fiscal relations; ii) strategic planning; and iii) building scale and regional alliances.

Table 5.4. Self-administration versus self-government

Self-Administration		Self-government
Is largely limited to management decisions within programmes	**Jurisdiction**	Ranges from decisions about governmental form and resource use to intergovernmental relations, civil affairs and development strategies
Is typically shaped or imposed by outsiders, usually the federal government	**Governmental form**	Is designed by Indigenous Nations
Are to administer social programmes and to distribute jobs, resources and money to citizens	**Core governmental functions**	Are to establish constitutional foundations for government and self-determined development; make and enforce laws; make and implement policy decisions; provide for fair and non-political dispute resolution; administer programmes
Is largely from other governments; efforts to increase revenue focus on lobbying for additional transfers of funds	**Revenue**	Is from diverse sources (may include transfers); efforts to increase revenues focus on various options under Indigenous control (e.g. tribal enterprises, permits and fees, taxation)
Typically goes in one direction, having to do with community accountability to funders for how funds are used and for permission to act	**Accountability**	Goes both ways, having to do with Indigenous nations' accountability to their own citizens for governing well, their accountability to funders for how funds are spent and outside governments' accountability to Indigenous Nations for policy decisions
Requires consultation; the assumption is that other governments know what is best for First Nations, and should at least talk to them about it	**Intergovernmental relations**	Are partnerships (decisions made jointly where joint interests are involved); the assumption is that Indigenous Nations and other governments can work together in a relationship of mutual respect to determine what is best for both

Source: Adapted from Cornell, S. (2007[44]), *Remaking the Tools of Governance: Colonial Legacies, Indigenous Solutions: Strategies for Governance and Development*, https://arizona.pure.elsevier.com/en/publications/remaking-the-tools-of-governance-colonial-legacies-indigenous-sol (accessed on 29 October 2018).

Improving fiscal relations

FNs own source revenues (OSR) are growing and Canada's opt-in legislation is being used by some FNs to increase their jurisdiction over fiscal matters. Nationally, OSR is about one-fifth of the total revenue of First Nations governments (see Chapter 2). But, funding from the federal government remains absolutely critical and as such, national funding programmes structure FNs in investments, programme delivery and governance. Table 5.5 provides an outline of the key federal programmes important for community economic development. These programmes are of five main types:

1. Support for governance and administration.
2. Community preparedness for economic development opportunity (focus on natural resources).
3. Infrastructure, housing and energy investments.
4. Strategic planning and land management.
5. Indigenous advocacy and rebuilding nations.

Table 5.5. Key federal programmes for Indigenous community economic development

Programmes name	Focus	Funding type
Band Support Funding	Helps First Nations with the costs of local government and with administering services	Yearly grant
Community Opportunity Readiness	To address the financial needs of Aboriginal communities when they are in pursuit of, and wish to participate in, an economic opportunity	Project based
First Nation Infrastructure Fund	Supports infrastructure projects for which there are long-standing community needs	Project based
First Nation On-Reserve Housing Program	To provide more and better-quality housing in First Nation communities in Canada (excludes BC)	Annual funding allocation. Does not cover full housing costs.
First Nations Land Management Regime	Assists First Nations in implementing their own land management outside of the *Indian Act*	i) developmental funding, ii) transition funding; ongoing operational funding
Indigenous Representative Organizations - Basic organisational capacity funding	Basic organisational capacity funding towards the core operations of national, provincial, territorial and/or regional representative Indigenous organisations and national Aboriginal women's organisations representing the interests, issues, and concerns of their members.	Proposal based
Lands and Economic Development Services Program	Supports community economic development planning, capacity development initiatives and proposal development, development of land codes, individual agreements, land management systems and environmental agreements	Operational and project-based funding
Nation Rebuilding Program	Funding support for activities facilitating Indigenous groups' own path to reconstituting their nations.	Five-year contribution agreements
Northern Responsible Energy Approach for Community Heat and Electricity Program	Funds renewable energy and energy efficiency projects, and related capacity building and planning in northern Canada	Project based
Professional and Institutional Development Program	Funds projects that develop the capacity of communities to perform ten core functions of governance	Proposal based
Reserve Lands and Environment Management Program	Provides targeted funding for lands and economic development support services	Project based
Strategic Partnerships Initiative	Provides targeted funding for lands and economic development support services particularly in the natural resource sectors	Led by federal government departments

Source: CIRNAC/ISC (2019[45]), *Funding Programmes*, https://www.aadnc-aandc.gc.ca/eng/1425576051772/1425576078345 (accessed on 5 May 2019).

Most funding programmes are project-based which means that FNs need to put together proposal that are then assessed by the federal government. In the case of infrastructure, housing and energy investments, one of the reported challenges with these programmes is that they can have short timeframes over which the funds need to be used. In northern environments, it can be very difficult to deliver projects in the required timeframes—also, the construction costs in northern climates are much higher. Some programmes (e.g., infrastructure allocations) underfunded relative to need. First Nations reserves face an estimated infrastructure gap of around $30 billion and current funding amounts are inadequate (CBC News, 2018[46]). This also means that FNs compete with one another for limited funds, which breeds resentment.

Funding formulas can also generate a disincentive for development. For example, the band support funding is meant to provide a stable funding base to facilitate effective community governance and the efficient delivery of services. Funding declines relative to the value of major capital projects and the number and value of federal, provincial, and territorial agreements.[13] This can make transitions to economic independence challenging from one year to the next. This could be remedied by building lead time into funding formulas in order to support fiscal transitions.

Over the past few years there have been efforts to streamline programmes. For example, five community-based economic and land management support programmes were combined into the Lands and Economic Development Services Program. This is positive; but it remains that face very high reporting requirement and administrative burdens which are increased by a reliance on project based funding (OAG, 2011[47]).

Beyond these programme funds, annual contribution agreements concluded between the federal government and some First Nation communities. These short-term arrangements typically cover about 80% of operating costs, leaving communities to find other revenue sources to top-up their operating budgets. The shortfall exacerbates the challenge of providing public necessities such as roads and public buildings on jurisdictions and leaves inadequate funds to maintain existing infrastructure (Cafley and McLean, 2016[48]). Until recently there was a 2% cap on increases to funding transfers to First Nations communities which contributed to this underinvestment.

Box 5.8. Canada's First Nations Fiscal Management Act

The *First Nations Fiscal Management Act* (FNFMA) is opt-in legislation that provides an innovative, First Nations-led legislative and institutional framework to enable First Nations to exercise jurisdiction over fiscal matters, including financial management, local revenue generation, and financing of infrastructure and economic development. The Act created three institutions to oversee the regime and support First Nations which are exercising powers under the legislation.

- The First Nations Tax Commission (FNTC) is a shared-governance corporation that regulates and streamlines the approval of property tax and new local revenue laws of participating First Nations, builds administrative capacity through sample laws and accredited training, and reconciles First Nation government and taxpayer interests.
- The First Nations Financial Management Board (FNFMB) is a shared-governance corporation which assists First Nations in strengthening their local financial management regimes and provides independent certification to support borrowing from First Nations Finance Authority and for First Nations economic development.
- The First Nations Finance Authority (FNFA) is a non-profit corporation that permits qualifying First Nations to work co-operatively in raising long-term private capital at preferred rates through the issuance of bonds, and also provides investment services to First Nations.

Source: Excerpt from Government of Canada (2019[49]), *First Nations Fiscal Management*, https://www.aadnc-aandc.gc.ca/eng/1393512745390/1393512934976 (accessed on 27 October 2019).

A new fiscal relationship with First Nations—from project planning to strategic investments

It is very challenging to plan the development of a community on the basis of project and year to year funding. In recognition of this, in 2017, the Canadian Government and the Assembly of First Nations signed a memorandum of understanding (MOU) to develop a new fiscal relationship. The MOU focused on three issues:[14]

- *Providing more funding flexibility to support effective and independent long-term planning.* The Government of Canada is proposing to work with First Nations Financial Institutions and the Assembly of First Nations on the creation of ten-year grants for communities determined by First Nations institutions to be ready to move to such a system. Participating communities would commit to reporting to their own members on their priorities and targets and on a common set of outcomes outlined in an accountability framework.
- *Replacing the default prevention and management policy with a new, proactive approach that supports capacity development*. This approach would be based on current pilot projects, which are being conducted with the First Nations Financial Management Board.
- *Establishing a permanent Advisory Committee to provide further guidance and recommendations on a new fiscal relationship*. Taking into account regional interests, the Committee would help shape strategic investments, propose options to address the sufficiency of funding, including a New Fiscal Policy model, and could co-develop an accountability framework supported by First Nations-led institutions. This would streamline reporting mechanisms and support First Nations in their primary responsibility of reporting to their citizens. It would also include an outcome-based framework aligned with United Nations Sustainable Development Goals, including key well-being and socio-economic markers to measure progress in closing gaps (Indigenous Services Canada/The Assembly of First Nations, 2017[50]).

The Canadian Government is implementing the principles of this agreement through its *Collaborative Self-Government Fiscal Policy* led by Crown-Indigenous Relations and Northern Affairs Canada. The initiative aims to create a framework for fiscal arrangements that is transparent, flexible and enables First Nations to deliver services that help close gaps in socio-economic outcomes between Indigenous and non-Indigenous peoples.

The OECD agrees with this approach: the creation of ten-year grants will help FNs deliver sound investments strategies based on their own strategic priorities; a capacity building model is needed for FNs facing financial constraints; and requirements for financial transparency should not only be one directional towards the federal government, but should engage community members and support sound governance and accountability.

Strategic planning and community development

'*Where are we, where do we want to be, how do we get there and how well are we doing*?' These are the central questions that communities need to ask themselves regarding their social, cultural and economic development. Strategic planning (or comprehensive community planning) can start these conversations and manage a community's (or communities') development ambitions on an ongoing basis. This type of planning can take several forms. It may, for example, entail a vision of the future and a series of short, medium

and long-term development goals that have been elaborated on the basis of community engagement. Typical components include: i) an overview of a community's mission, vision and values; ii) an analysis of the current state of affairs (e.g., community challenge, assets and opportunities), ii) strategic priorities, and iv) prioritisation for actions.

Strategic planning is used by municipalities of all sizes and rural communities across the OECD but it is of particular importance for Indigenous communities in Canada given the role of community economic development corporations and the importance of community consent for business development on Indigenous lands. Strategic plans also send an important signal to potential investors or business partners on the community's development interests and terms of engagement. They are a key tool to support community economic development and are used to direct the work of FN governance (chief and council), prioritise activities and form basis for all other plans.

Strategic plans can be elaborated by a single community or a connected set of communities. They are meant to tackle a community's development in comprehensive terms and are linked to sectoral strategies. Developing a strategic plan can be time consuming and often requires specialised skills such as community asset mapping, knowledge and use of environmental indicators, land use planning and knowledge of government regulations across different sectors (e.g., natural resources management, health). Few communities visited over the course of this study had detailed strategic plans, but those that had undertaken this exercise (e.g., Missisaguas of New Credit FN in Ontario) found them to be a critical tool to galvanise action and prioritise investments.

Canada has developed an excellent strategy for Indigenous Community Development—now it needs to fund it and implement it

The government of Canada presently supports strategic community planning in a number of ways. Shifting from a project-based approach and towards block or longer-term funding which is linked to strategic planning for First Nations is key to this approach. Another fundamental part of it is the *Indigenous Community Development National Strategy*. Led by ISC and CIRNAC and co-developed with Indigenous advisors the strategy supports community development through a holistic, strength-based, and community-led process with the principles of cultural competence and respect for Indigenous knowledge at its core. The strategy rests on four pillars;

- Pillar 1: Community-driven, nation-based planning initiatives and capacity building.
- Pillar 2: Indigenous community-to-community learning by identifying.
- Pillar 3: Building and strengthening collaboration and partnerships within and across government departments to implement priorities identified by Indigenous communities.
- Pillar 4: Strengthen government's awareness of cultural diversity.

The strategy includes Comprehensive Community Planning Program (CCP)—a tool to support strategic planning. To date, approximately one-quarter of First Nations, or 162, have Comprehensive Community Plans. The plans typically cover areas such as Governance, Land and Resources, Health, Infrastructure Development, Culture, Social, Education and Economy (INAC, 2016[51]). Such plans are more common in some parts of the country than others. For example, strategic community planning has been well-used by FNs across British Columbia and there is an established mentoring programme for

communities that have gone through this process to share leading practices (INAC, 2016[52]).

Comprehensive Community Planning includes the development of goals, objectives and a plan of action to work towards fulfilling the community's vision and can include elements of social, economic and physical environments. Planning supports communities as they develop their short, medium and/or long term plans that identify key priorities in the areas of health, family and education, employment, land and environment, infrastructure and housing, governance, and culture, as determined by the communities themselves, all of which are interrelated and interdependent. This is a pivotal tool to inform national and sub-national plans. It is a community-led process that enables an entire community to build a roadmap to sustainability, self-sufficiency and improved governance capacity.

Indigenous-led CCP increases the likelihood that community initiatives are developed from within the community that will guide decision-making regarding community priorities. The CCP becomes a foundation, building upon strengths and existing plans and work that has already been done. It becomes a basis for next steps, like more technical land use planning or advancing a treaty process. It manages the cumulative effects of development, moving beyond the reactive.

This strategy has been thoughtfully conceived and is grounded in a place-based approach to community led development. It complements Canada's ambitions to forge a new fiscal relationship—one element reinforces the other. It also includes much-needed mechanisms to strengthen multi-level governance and place-based policies. It is designed such that regional offices will foster partnerships and new relationships with the Indigenous communities and other partners within their regions. Finally, it proposes Indigenous community development mentors across Canada who would support the expansion of community-to-community learning into other sectors (housing, economic and social development). These are incredibly important initiatives to that establish new ways of working based on community-led prerogatives. However, the Strategy, including CCP, remains unfunded.

The government of Canada could strengthen its support for strategic community planning by:

- **Funding the implementation of the *Indigenous Community Development National Strategy.*** Canada's lead departments for Indigenous affairs have committed themselves to implementing the strategy; funding is needed to set this place-based and capacity building approach into action.
- **Increasing access to strategic planning services offered by NIOs for non-*Indian Act* First Nations.** Presently the First Nations Fiscal Management Act (FMA) only permits access to FMBs services for *Indian Act* First Nations.
- **Expanding the role of IFIs to include support for strategic planning activities**.
- **Simplify the community and infrastructure planning framework for First Nations (consolidate planning requirements), and providing support for multiple First Nations communities to undertake joint community and infrastructure planning**.
- **Incentivising collaboration between First Nation communities, provinces and municipalities.** Municipalities generally have a poor understanding of adjacent First Nations communities. There are good examples of cooperation, but some kind of third-party facilitation is often required. For example, the Community Economic

Development Initiative provides funding for facilitation and technical support for joint planning between First Nations and local municipalities (e.g., waste management). This project-based funding makes joint planning possible, but it does not set a strong incentive to do so.

Box 5.9. Supporting Indigenous-led local development: Australia

The *Empowered Communities Plan* (2013) is a nation-wide initiative in Australia that provides an example of supporting Indigenous-led local development (Empowered Communities, 2018[53]). The programme focuses on supporting Indigenous authority and responsibility to empower local Indigenous leaders to create and drive solutions according to their communities' needs. Indigenous leaders from eight remote, regional and urban communities across Australia developed the programme in collaboration with the federal government. To drive the implementation of the Indigenous Empowerment policy on the ground, each region establishes development agendas. The five-year development agendas are prepared by the Indigenous people of an Empowered Communities region and require the communities to commit to conditions including school attendance, participation in work and addressing alcohol and drug offences.

Another example is the Northern Territory Governments' Local Decision-Making Initiative that was launched in 2017 and aims to transfer government service delivery to Aboriginal people and organisations based on their community aspirations. The ten-year plan sets out to build strong Aboriginal governance capable of driving local solutions to local problems. The Northern Territory government and Indigenous communities work together to develop bespoke pathways focused on each community for instance including housing, local government, education, training and jobs, healthcare, children and families as well as law and justice. This is done building on already existing structures and only if strong community support is secured (Northern Territory Government, 2017[54]).

Depending on the needs of the community, they can decide on the level of control they want to exercise over certain services, providing them with the option to take over control of otherwise government-run services. This signifies a first step towards enabling more self-determination, acknowledging that communities are best placed to understand their needs and respecting their connection to country and cultural fit. Essential for both these programmes is that they do not duplicate each other and establish competing programmes initiated by different levels of government, in this case, the federal and the territory level. Consequently, incentives for community planning should not be solitary policies having an effect in isolated places but need to be sufficiently liked to and embedded in other, more mainstream regional plans and aligned across different government levels.

Sources: Empowered Communities (2018[53]), *Our Journey*, https://empoweredcommunities.org.au/our-journey/ (accessed on 24 January 2019); Northern Territory Government (2017[54]), *What is Local Decision Making?*, https://dcm.nt.gov.au/__data/assets/pdf_file/0011/442289/local_decision_making.pdf (accessed on 23 September 2018).

Regional alliances between Indigenous communities

The final way that communities can build capacity is to form regional alliances with other communities. FNs across Canada has developed such regional associations that take on a range of roles (Box 5.10):

- Supporting governance and capacity building of FNs (e.g., accountability and financial management).
- Delivering services and programmes.
- Coordinating infrastructure investments.
- Business development.
- Advocacy and communications.

These types of organisations fill an increasingly important role in the communities they serve. There is a need for more regional support institutions that are non-profit and non-political. Presently when communities need this type of support, they often they hire consultants, which is expensive and creates a relation of resentful dependency.

The success of these types of regional entities hinges in large measure on their effectiveness communicating their programs and work on economic development to the member communities. In some cases, constituent FNs may view these regional bodies as solely service organisations, which should not take on political advocacy roles. But in other cases, such political advocacy is in fact the goal and may form part of an ongoing political project to reconstitute FNs.

The Royal Commission on Aboriginal Peoples recommended that Aboriginal nations need to be reconstituted and there is growing interest in such an approach. The basic unit of governance of a First Nations is a band, which is a creation of the *Indian Act*. Those who did not qualify for status in a band were excluded. Bands are often too small to be effective as a unit of government. Also, this structure has sometimes set up bands to compete with one another for resources and recognition (a fact which may be exploited by governments and industry). Each Nation has a common history, language and territory; if FNs work together as a Nation they can pool resources and know how to realise their development objectives. This is an ongoing political project which would change how FNs collectively voice their interests.

Box 5.10. Examples of First Nations building scale for leadership and decision-making: Canada

St'at'imc Governance Services

One example for capacity building between Indigenous communities can be found in British Columbia, Canada. The St'át'imc First Nation, made up of 10 different 10 Nation Bands, formed a unified governance structure the St'át'imc Chiefs Council (SCC). The structure represents the original inhabitants of a territory that is located in the southern Cost Mountains and the Fraser Canyon region of British Columbia. While respecting the integrity and autonomy of each community, the council body is seeking to build collective strength through unification. Aside from protecting St'át'imc jurisdiction it seeks to foster and self-sufficiently and self-determination. In 2011 the St'at'imc signed a landmark agreement with a local electric distributor and the province to address grievances relation to construction and operation of hydro facilities. In the process the SCC set up the St'at'mic Government Services (SGS), which are crucial for advancing capacities in all member communities (St'at'mic Government Services, 2019[55]).

SGS programs address capability gaps concerning organisational governance, financial management, human resources and leadership. This is done by developing their own manuals addressing each of the issues and three-year strategic plan that contains annual work plans and tools to track, demonstrate and evaluate organisational results. Specific examples with regards to capacity building include a skills inventory and gap analysis conducted in 2015. It identifies local employment demand and determines available skills at the community level. Further it provides recommendations and strategies to meet the skills required informing the development an education and training plan (St'at'mic Government Services, 2015[56]). The nation has also set-up a scholarship program including post-secondary education, health careers, St'at'mic Language and Culture and St'at'mic Nation Capacity building for instance, Economic Development, Governance and Knowledge Management.

Mi'kmaq Nation

Prior to colonisation, the Mi'kmaq territory (Mi'kma'ki) covered Nova Scotia, New Brunswick, Prince Edward Island, and Newfoundland. Mi'kma'ki was divided into seven districts that was led by a District Chief. These Chiefs came together to form the Mi'kmaw Grand Council that governed the whole territory. Colonisation and settlement disrupted these traditional forms of governance. The primary form of governance for contemporary Mi'kmaw are reservations formed under the *Indian Act*.

Within Nova Scotia, Mi'kmaq First Nations are coming together to collaborate at larger scale. The Mi'kmaq Nation Economic Development Strategy was developed through the Tripartite Forum Economic Development Committee. It outlines five directions to strengthen and build the Nation:

- Assessing capacity of each community and the Nation to become economic development ready and establishing implementation and operational management plans, practices, decision-making processes, accountability and financial management.
- Planning business development opportunities for each community.
- Partnership development to work on business development and diversification, business agreements, community revenue and development, skills and capacity, meaningful employment and social well-being within the Nation.
- Lands and assets to ensure the Nation continues to invest in and preserve the Mi'kmaw culture, language and connection to the land and its resources, increase skills and employment, and develop strong leaders to reach the Nation's goals.
- Community led development by establishing clarified roles and responsibilities between communities, the Nation and support organisations, and, by revitalizing a culture of participation through prosperous individuals, communities and the Nation.

Matawa First Nations

Matawa First Nations was established in 1988, initially to provide a variety of services and programs in their First Nations. With time it has developed in a regional "powerhouse" that unites First Nations and helps them to support each other to pursue social and economic opportunities by focussing collective efforts and setting strategic priorities. Their

Corporation is structured along three Pillars. Firstly, the Matawa First Nations Management that runs a large variety of services and programs. This includes a Financial Advisory Services (capacity development in terms of governance, management and financial advisory, working with Band, Finance and Program Managers) as well as Economic Development (encouraging a diverse private sector and entrepreneurial culture, comprehensive community economic development planning), Ring of Fire Office (Coordinating Activities to help communities benefit from the ring of fire, information sharing on mining exploration, assists in negotiations). In addition they have two other structures, running operations in the profit and not-for profit sector. These are the not-for-profit Kiikenomaga Kikenjigewen Employment & Training Services (KKETS) and the Minawshyn Development Corporation that is engaged in regional development in relation to infrastructure, resource development and construction (see Chart below).

Matawa First Nations have a well-conceived mission and vision, defining their aims and values, as well as sound management processes. Overall, they aim to combine modern socio-economic development opportunities with traditional culture and heritage and are concerned with building capacity and economic prosperity fit their futures generations and aim to succeed in the national economy. Their three Values are 1) Work Together 2) Dynamic Sustainable Communities 3) Uphold Quality of Life.

Sources: own elaboration; St'at'mic Government Services (2019[55]), (2019), *St'at'mic Government Services: Relationships, Mandate and Accountability*, http://statimc.ca/wp/wp-content/uploads/2016/04/sgs-mandate-responsibilities-and-accountabilities-report.pdf (accessed on 18 October 2018); St'at'mic Government Services (2015[56]), *St'át'imc Skills Gap Analysis 2015*, http://statimc.ca/wp/wp-content/uploads/2016/04/st-at-imc-skills-gap-analysis-2015.pdf (accessed on 18 October 2018).

Notes

[1] The 1989 ILO Convention (No. 169) concerning indigenous and tribal peoples is binding on the 23 States that have ratified it. Canada has not ratified the Convention.

[2] Canada's lead department for Indigenous affairs has had several names over the years – the most recent iteration was Indian and Northern Affairs Canada (INAC).

[3] See CIRNAC and ISC consultations on departmental reorganisation for the opinions of Indigenous organisations on this matter.

[4] Based on an analysis of all Canadian federal departments and agencies by mandate, services and programmes important to Indigenous peoples and communities. Analysis based on ranking according to departments/agencies that are most important/relevant (35% out of total), less directly important/relevant (22% out of total) and not directly important or relevant (44% out of total) (N=200).

[5] These agreements range from memorandums-of-understanding to provisions leading to substantial legislative amendments. As noted by Papillon (2012[20]) these agreements "create contractual rather than jurisdictional obligations for the signatories... they do not alter the constitutional authority of provinces, let alone the federal government".

[6] Canada's Constitution lays out the jurisdictional boundaries between the federal and provincial governments. Section 91(24) gives full jurisdiction of Indians and lands set aside for Indians to the federal government who manages Indigenous affairs in accordance with the *Indian Act*.

[7] Based on a pan-Canadian analysis of programmes and services for Indigenous peoples.

[8] This analysis is based on provincial and territorial strategic plans where they exist, and otherwise is based on an analysis of economic development strategies or government budgets where the latter are not available. It bears noting that while Indigenous perspectives and economic development may be absent in these strategic documents, they are sometimes addressed separately in sectoral strategies such as strategies for forestry or tourism.

[9] The committees include: Executive Committee; Officials Committee; Steering Committee; Working Committees which address a number of key topics such as Culture and Heritage, Economic Development, Education, Health, Justice, Social, and Sport and Recreation. Each level has representation from each of the three parties: the Nova Scotia Mi'kmaq, the Province of Nova Scotia and the Government of Canada.

[10] See Government of Canada (2019[59]), *Aboriginal and Treaty Rights Information System*.

[11] The judgement from the federal Court of Appeal on the case of *TsleilWaututh Nation et al. v. Attorney General of Canada et al.* notes that: "at the last stage of the consultation process, a stage called Phase III, Canada fell well short of the minimum requirements imposed by the case law of the Supreme Court of Canada" and that "the law requires Canada to do more than receive and record concerns and complaints" Project permits are halted until this is rectified.

[12] For example, the Tlicho Government in the Northwest Territories, the Nunatsiavut Government in Labrador, and the unique Nunavut Territorial Government, which is a public government for all of the residents of the territory.

[13] https://www.aadnc-aandc.gc.ca/eng/1100100013828/1100100013833#chp18.

[14] The Government of Canada has created a collaborative self-government fiscal policy in order to address the fiscal relationship between Canada and self-governing Indigenous Governments. The policy offers both principles to guide these remati0ns and model of how they will work across government departments. See Government of Canada (2019), "Canada's collaborative self-government fiscal policy" https://www.rcaanc-cirnac.gc.ca/eng/1566482924303/1566482963919.

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Annex 5.A. OECD Principles for Public Investment across Levels of Government

The success of place-based Indigenous economic development policy efforts depends upon multiple levels of government – Indigenous, subnational, national and sometimes supranational – working together toward shared outcomes. This type of alignment and co-ordination can be difficult because different levels of governments and agencies work to different objectives and accountabilities. To help countries address multi-level governance gaps and challenges, the OECD has developed the Principles on Effective Public Investment Across Levels of Government.

The purpose of the OECD Principles is to help governments at all levels assess the strengths and weaknesses of their public investment capacity, using a whole-of-government approach, and set priorities for improvement (OECD, 2014[57]). The *OECD Principles for Public Investment Across Levels of Government* – particularly those related to co-ordinating mechanisms – provide a framework to help assess and identify ways to address multi-level governance challenges associated with place-based Indigenous economic development. The relevant principles for Indigenous economic development and a summary of the adaptations are outlined in Table 5.A.2. They serve to demonstrate that for the vast majority for actions, the system is not in place or not functioning well.

Table 5.A.1. Evaluation criteria

Value	Criteria
2	System is in place and works in a satisfactory way
1	System is in place, but improvements are needed
0	System is not in place or not functioning well

Table 5.A.2. Assessment of coordination for public investment across levels of government for Indigenous communities

Objective	Indicator	
To engage in planning for regional development that is tailored, results-oriented, realistic, forward-looking and coherent with national objectives	COHERENT PLANNING ACROSS LEVELS OF GOVERNMENT Mechanisms exist to ensure that local and regional Indigenous development priorities or plans are reflected in plans at a national and sub-national level	1
	TAILORED, PLACE-BASED DEVELOPMENT PLAN There is correspondence between an evidence-based assessment of needs and strengths on Indigenous lands and planned projects for those communities	1
	CLEAR PUBLIC INVESTMENT PRIORITIES There is a clear and authoritative statement of public investment priorities for Indigenous communities at national and regional levels	1

Objective	Indicator	
To co-ordinate across sectors to achieve an integrated place-based approach	COMPLEMENTARITIES RELATED TO INFRASTRUCTURE INVESTMENTS Consideration is given to complementarities between investments in public infrastructure and investment in services and capacity building for place-based Indigenous communities	1
	COMPLEMENTARITIES ACROSS SECTORS Attention is given to potential complementarities and conflicts among investments by different ministries/departments for place-based Indigenous communities	1
	CROSS SECTORAL COORDINATION Formal or informal mechanisms exist to co-ordinate across sectors (and relevant departments/agencies) at a regional and local scale for place-based Indigenous communities	1
To support decisions by adequate data	FORWARD-LOOKING INVESTMENT PLANS Public agencies work in a coordinated way with place-based Indigenous communities to assess the potential contribution of investments to current competitiveness, sustainable development and community well-being	0
	DATA AVAILABILITY FOR INVESTMENT PLANNING Data is available and used to support local and regional assessment and planning processes by place-based Indigenous communities	0
To coordinate across levels of government to reduce asymmetries of information	COORDINATION BODIES ACROSS LEVELS OF GOVERNMENT There are formal mechanisms/bodies for local and regional co-ordination of public investment (formal platforms and ad hoc arrangements) for place-based Indigenous communities across levels of government	0
	CROSS-SECTORAL APPROACH These coordination bodies/mechanisms have a multi-sector approach	0
	MOBILISATION OF COORDINATION ARRANGEMENTS Co-ordination mechanisms are mobilised regularly and produce clear outputs/outcomes	0
	EFFICACY OF COORDINATION PLATFORMS Stakeholders' perception (or empirical data) regarding the efficacy of these different platforms is collected and reported upon	0
	CONTRACTUAL AGREEMENTS/PARTNERSHIPS Contractual agreements/partnerships across levels of government have been developed to manage joint responsibilities for public investment targeted to place-based Indigenous communities	0
To align priorities across the national and sub-national levels	CO-FINANCING ARRANGEMENTS There are co-financing arrangements for public investment targeted to place-based Indigenous communities	0
To co-ordinate with other jurisdictions to achieve economies of scale across boundaries	HORIZONTAL COORDINATION Cross-jurisdictional partnerships involving investment are possible (between Indigenous communities on Indigenous lands, between Indigenous communities and surrounding municipalities, and between different portfolios and levels of government)	0
	CROSS-SECTORAL APPROACH Cross-jurisdictional partnerships for place-based Indigenous communities cover more than one portfolio area	**0**
	INCENTIVES FROM HIGHER LEVELS OF GOVERNMENT	0

Objective	Indicator	
	National and sub-national government provide incentives for cross-jurisdictional co-ordination between organisations with jurisdiction over Indigenous lands and surrounding municipalities	
	EFFECTIVENESS OF HORIZONTAL COORDINATION The share of investments involving use of cross-jurisdictional co-ordination arrangements at the sub-national level can be measured by mechanism and/or by sector	0
To plan investment at the right level	DEFINITION OF REGIONS There are different spatial scales for working with Indigenous peoples that reflect different units of social organisation (kinship and language groups, local community, and nation)	0
	USE OF FUNCTIONAL REGIONS These different spatial scales are used to plan and allocate resources	0
To engage public, private and civil society stakeholders throughout the investment cycle	MECHANISMS TO INVOLVE STAKEHOLDERS Mechanisms exist to identify and involve community stakeholders on Indigenous lands throughout the investment cycle	0
	FAIR REPRESENTATION OF STAKEHOLDERS Fair representation of different Indigenous community stakeholders in the investment cycle consultation process is guaranteed (to avoid capture situations within communities)	0
	ACCESS TO INFORMATION Stakeholders have easy access to timely and relevant information throughout the investment cycle	0
	FEEDBACK INTEGRATED IN DECISION-MAKING PROCESS Community stakeholders on Indigenous lands are involved at different points of the investment cycle and their feedback is integrated into investment decisions and evaluation	0
To design and use monitoring indicator systems with realistic, performance promoting targets	PERFORMANCE MONITORING IN PLACE A performance monitoring system is used to monitor public investment implementation on Indigenous lands	0
	TIMELY REPORTING The monitoring systems facilitate credible and timely reporting of expenditure and performance	0
	OUTPUT AND OUTCOMES The indicator system incorporates output and outcome (results) indicators	0
	TARGETS Part of the indicators are associated with measurable targets	0
To use monitoring and evaluation information to enhance decision making	PERFORMANCE MONITORING INFORMATION IS USED IN DECISION-MAKING Performance information contributes to inform decision-making at different stages of the investment cycle	0
To conduct regular and rigorous ex-post evaluation	EX POST EVALUATIONS Ex-post evaluations of public investment outcomes on Indigenous lands are regularly conducted	0

Source: Assessment based on Questionnaire for Linking Indigenous Communities with Regional Development: Canada; Framework adapted from Recommendation of the Council on Effective Public Investment Across Levels of Government (OECD, 2014[58]).

Chapter 6. Community profiles

The objective of this chapter is to provide a profile of each of the communities visited as part of this study. This includes their governance, framework conditions for development, economic development strategies and key economic development issues for the future.

A community's economic development opportunities are shaped by such factors as the size and characteristics of its population, its proximity and accessibility to other places, its resource endowments and amenities, and the strength of local institutions. In order to foster economic development, Indigenous communities in rural areas must take advantage of context-specific assets that are immobile and that are areas of absolute advantage. Each of these strategies has different policy implications for place-based Indigenous communities.

The field missions and research interviews with ten different Indigenous communities and Tribal Councils across Canada that have been conducted as part of this study have illuminated how place-based and institutional dynamics and framework conditions influence economic strategies and development outcomes.[1] This chapter profiles seven Indigenous communities that were visited as part of this work, representing different geographies:

- **Rural close to city**: Mississaugas of the Credit First Nation (Ontario); Millbrook First Nation (Nova Scotia); and Mashteuiatsh Community First Nation, Québec.
- **Rural remote**: Gjoa Haven and Pangnirtung, Nunavut and Neskantaga, Ontario.
- **Urban**: Kahnawà:ke, Mohawk Nation, Québec.

As outlined in the typology of development opportunities for Indigenous communities in rural areas (Chapter 4), each of these geographies has implications for a community's economic development strategy. Those that are urban or close to cities are better linked to infrastructure and services (e.g., health and education), have access to larger markets and have a larger labour pool to draw from; and tend to be more economically diversified. Rural and rural remote communities on the other hand face greater distances to markets and higher costs for a range of factors (transport, public services). Remote rural entrepreneurship is often based on natural resources—with capital intensive activities that may require large long-term investments before gains are realised.

This chapter proceeds by providing a profile of each of the communities visited as part of this study focussing on their governance, framework conditions for development, economic development strategies and key economic development issues for the future.

Rural close to a city

Mississaugas of the Credit First Nation, Ontario Canada

The Mississaugas of the Credit First Nation (MNCFN) has approximately 2 500 members, half of which live on reserve.[2] The reserve is located close the city of Brantford (population 134 000), which is approximately 100km (or 2 hours travelling time) from central Toronto with its population of 5.4 million. While the reserve lands consist of approximately 6 000 sq. acres, the Mississauga of New Credit's traditional lands extend to 3.9 million sq. acres and include the area of the city of Toronto for which Canada paid $145 million in compensation for the lands. The majority of these funds were put in a trust to support the FNs community and economic development (known as the Toronto Purchase).

Members elect a Band Council every 2 years (one Chief and seven councillors). The administration of the Band Council and community is organised into 9 departments: Housing; Public Works; Education; Consultation and Accommodation (including archaeology, environment and land use); Media and Communications; Social and Health services; Sustainable Economic Development; Children's Centre; and, Lands, Research and Membership. In addition to housing on reserve, community infrastructure and facilities

include: an Elementary School (kindergarten to Year 8), administrative buildings, Ekwaamjigenang Children's Centre, a Community Centre, and Public Library.

Table 6.1. Profile of Mississaugas of the Credit First Nation

Reserves	Type of region	Intermediate
	Size of reserve	2 392.60
	Population	2 540
Governance	Type of government	Band
	Size of council	Seven councillors and one chief
Income	Average total income	76% of the province's average total income
Labour force participation	Employment rate (%)	52.7
	Main industries (%)	Manufacturing, construction (18) and other services (18)
Education	Population aged 15 and over with a diploma (%)	75
	Of which population with university diploma (%)	7.1
Mobility	Lived at the same address 5 years ago (%)	70

Source: Indigenous and Northern Affairs Canada (2019[1]), *First Nation Profiles*, http://fnp-ppn.aandc-aadnc.gc.ca/fnp/Main/Search/SearchRV.aspx?lang=eng (accessed on 18 April 2019).

A multi-pronged community economic development strategy

The Mississauga's of the New Credit have a strategic plan (released in 2017) and the community has developed the following vision/mission statement:

> *"The Mississaugas of the Credit First Nation look to our Anishinabe roots to guide our vision for the future as a strong, caring, connected community who respects the earth's gifts and protects the environment for future generations. Our identity includes our history, language, culture, beliefs and traditions which we strive to incorporate into the programs and services offered to our community."*

The community's economic development strategy rests on several pillars and 19 priority actions. The seven pillars of the Plan are:

- Inclusive prosperity, economic growth and job creation (including improving transport connections and establishing a business incubator).
- Well-being and well-ness (establishing a health and well-ness centre on reserve).
- Environment and sustainability (including becoming a leader in fighting climate change).
- Education and awareness (including tailoring the school curriculum to include language and culture).
- Independent and sovereign people (including cultural development, and establishing a centre for First Nations in Greater Toronto).
- Infrastructure, community and membership development (including improving access to communications and information technologies, and managing infrastructure assets).

- Inclusive leadership and governance (including capacity building for decision-makers) (Mississaugas of the New Credit First Nation, 2017[2]).

The economic development strategy of the MNC focuses on attracting private sector investment and job creation and reducing reliance on government funding and programs. MCFNs proximity to Toronto and its location on major transport routes to the United States via New York State and Michigan are competitive advantages. The reserve also has a large amount of land that is not allocated for urban settlement, and is at sufficient scale for commercial and industrial development.

The MCFN has an articulated policy of only attracting investment that is consistent with traditional values (environmental stewardship, social inclusiveness and respect for traditional culture and values across the generations). Key priority actions related to economic development and wealth creation are outlined below (Table 6.2).

Table 6.2. MCFN Priority Actions

Priority action	Initiatives
Collaboration hub and wealth creation opportunities	Creating a First Nation themed conference and hotel centre in Greater Toronto Establishing community business enterprises related to retail, construction, and real estate management
Establish a Business Incubator	Provide space for start-ups and early stage business (linked to management and staff training, marketing and finance)
Improve transport connections	Provision of more sustainable transport options (public transport, car share and ride hailing services) Attract investment in transport and logistics linked to Hamilton International Airport

Source: Mississaugas of the New Credit First Nation (2017[2]), *The Mississaugas of the New Credit First Nation Strategic Plan*, http://mncfn.ca/wp-content/uploads/2017/09/MNCFN-Strategic-Plan-Final.pdf (accessed on 6 April 2019).

Building capacity and expanding economic development opportunities

The compensation from the Toronto Purchase land claim has helped the MCFN build capacity and strengthen its internal governance. Peace Hills Trust funds are managed by corporate trustees. Every year, the fund accrues around 5-8 million dollars that are used by the Nation to fund programmes and services, including education. The Band Council has around 100 staff and an additional 120 employees work in the MNCFN's many departments (e.g., public works, housing, social and health services, business development corporation and education). As such, the Band is a major employer of community members and has focussed efforts to build its institutional capacity including professional training for employees and skills upgrading (e.g., through a partnership with Mohawk college); the MCFN also employs persons that are not community members. The community has identified many development opportunities and has a new "Seven Pillars" strategic plan, but still needs to build the human resources in order to implement ideas (though this is increasing with time). There are ongoing efforts to improve governance structures and develop a professional and adaptable administration.

The MCFN have leveraged their proximity to the city of Brantford to develop some services (a plaza with gas bar) and most of the businesses on reserve are services oriented. Access to public services and quality infrastructure do remain a hindrance and there is a lack of full service lots on which to develop new business opportunities along with limited broadband connectivity. The community has a preference to develop externally oriented services on its outskirts as opposed to bringing people into the heart of the community.

Private businesses are generally not licenced on reserve. As such, they do not necessarily follow provincial regulations—a factor which limits their growth and encourages informality in the business sector.

The band's newly created economic development corporation is exploring future strategies for economic development including franchises (e.g., hotel chain), building facilities, pooling capital and knowledge, developing more in urban centres (e.g., Indigenous business hub in Toronto) and focussing efforts on import substitution. MCFN are interested in equity partnerships with outside businesses and revenue sharing agreements. For example, they have partnered with the crown corporation Ontario Power for a solar project. This partnership was a product of the government of Ontario's 2009 Feed and Tariff Programme (FIT) for which participants are paid a guaranteed price over a 20-year contract term (40 years for waterpower projects) for all the electricity that is generated and delivered to the Ontario grid. The FIT program assigns Contract Capacity Set-Asides (CCSAs) for specific types of priority projects including those with more than 50 per cent economic participation by Aboriginal communities (Government of Ontario, 2009[3]).

MCFN are also involved in consultation and development within treaty and traditional territories. They recently signed the first ever bilateral duty to consult protocol with the government of Canada which outlines how they will be consulted on developments in their treaty and traditional lands (Government of Canada, 2018[4]). MCFN receives 150 to 180 notifications of development on treaty territory per month wherein the community assess any potential for economic involvement and through its Department of Consultation and Accommodation, is directly involved in all planning and development within MNCFN's traditional territory. This multi-pronged development strategy demonstrates that the MCFN are building their internal capacity and seeking out new development opportunities that they can leverage to support their community's development.

Assertion of rights and presence (e.g., cultural presence) over traditional territories are a key part of this strategy. The MCFN have stressed that the heart of the treaty process has always been about stewardship over its traditional territory and sharing—i.e., giving use does not extinguish rights (O'Rourke, 2018[5]). These rights continue to be defined: in September of 2016 the Mississaugas of the Credit First Nation filed an Aboriginal Title Claim to Waters within the Traditional Lands of the Mississaugas of the New Credit (MNCFN, 2019[6]). The MCFN have established an office in the city of Toronto which is their homeland and is developing its relationships with all levels of government, and are involved in some major development projects such as a Toronto Don Mouth Naturalization and Port Lands Flood Protection Project where they have stressed an interest in the preservation of any future Aboriginal artefacts that may be identified and the management of contaminated soils (Government of Ontario, 2014[7]). MCFN have developed their own archaeological standards and guidelines (Mississaugas of the New Credit First Nation, 2018[8]). MNCFN, like many FNs across Canada, are putting traditions and culture at the forefront of their strategic development agenda.

Key economic development issues for the future

The MCFN report being poorly connected with local and regional development. One of the challenges faced is that the relationship between FNs and the provincial government is less formalised than that of the federal government and there can be radical changes between administrations in terms of how FNs are consulted with on major development projects impacting their territory and in relations more generally. Moreover, despite their proximity to the nearby city of Branford and other towns, the connections between these communities

can be weak. It is reported that there is limited knowledge about their community and its development ambitions within the broader community/region. Increasing the visibility and awareness of the MNC FN within the broader community and region is an important step for improved cooperation with municipal governments, private actors and the local society more generally.

Key economic development issues of the future are:

- Leveraging the community's presence in Toronto for expanded economic development activities, including the potential of an Addition to Reserve.
- Developing and expanding the current on-reserve commercial zone which is at capacity.
- Coordinating with other nearby FNs to identify opportunities in order to meet local demand and stimulate new businesses.

Millbrook First Nation, Nova Scotia

Millbrook First Nation is one of the 13 First Nations in Nova Scotia, Canada, and is part of the Mi'kmaq Nation. The Millbrook reserve was established in 1886 and added to in the early 20th century.[3] Millbrook (along with Membertou FN in Nova Scotia) has achieved a high level of economic prosperity. In 1916 additional Mi'kmaq people from Halifax were moved to the reserve to facilitate reconstruction after the explosion of 1917. The band was able to maintain a strong local government over much of the 20th century even as the Canadian and Nova Scotia governments exerted greater control over band governance and tried to encourage assimilation. Today Millbrook has both an elected Band Council and a parallel traditional governance structure with a large overlap, resulting from individuals who have semi-hereditary traditional leadership roles also being elected to the Band Council.

Table 6.3. Profile of Millbrook First Nation, Nova Scotia

Reserves	Type of region	Predominantly rural remote
	Size of reserve	302.3
	Population	1 923
Governance	Type of government	Band
	Size of council	12 councillors and one chief
Income	Ratio of average total income to Province's average total income (%)	61
Labour force participation	Employment rate (%)	41.1
	Main industries (%)	Other services (14.7) and health, education (12.3)
Education	Population aged 15 and over with a diploma (%)	73
	of which population with university diploma (%)	11.7

Note: Predominantly rural region refers to OECD typology.
Source: Indigenous and Northern Affairs Canada (2019[1]), *First Nation Profiles*, http://fnp-ppn.aandc-aadnc.gc.ca/fnp/Main/Search/SearchRV.aspx?lang=eng (accessed on 18 April 2019).

Millbrook's advantageous location has been an important part of its economic development strategy

In December 2017 the main reserve (Millbrook 27) had a population of roughly 900 people with about another 800 people living either off-reserve or on smaller reserves – Cole Harbour, Sheet Harbour and Beaver Lake. The main reserve is adjacent to the town of Truro with a population of 12 000, and both communities are located in Colchester County which has a population of just over 50 000. Highway 102, the main road connecting Halifax to central Canada, cuts through the reserve with an interchange providing direct access to and from the highway. The region is located near the head of the Bay of Fundy in a significant tourism region, and is a bit under a two-hour drive from two major metropolitan regions, Halifax, Nova Scotia and Moncton, New Brunswick.

The main reserve covers 851 acres, much of which is arable land. The main geographic advantages of the reserve are, its proximity to Truro, which provides much of the basic infrastructure to the reserve, and its location on a major four lane highway halfway between two major urban places. While Millbrook is not part of a metropolitan region, it has reasonable access to Halifax, the largest urban area in Atlantic Canada, and is part of the Colchester County regional economy that offers a wide range of goods and services. The reserve is strongly connected both to the local economy and to opportunities to serve people passing by on Highway 102, whether for business or tourism purposes. The reserve hosts a variety of commercial enterprises, some owned by the reserve, others by band members and others by non-indigenous people. These businesses provide both local goods and services, and cater to transient customers. The reserve purchases educational services from the Truro school system, and obtains water, sewer, emergency services and other public services from Truro. The town of Truro also offers access to a hospital, a community college, a branch campus of Dalhousie University and various recreational facilities.

Additions to reserve have helped expand economic opportunities

Millbrook First Nation was part of the following treaties with colonial powers: 1725-26, 1749, 1752 and 1760-61. In 2002, they joined the negotiation process Kwilmu'kw Maw-klusuaqn (KMK), which had been initiated in 2001 to reach agreement on outstanding issues regarding Aboriginal and Treaty Rights of the Mi'kmaq with the government of the Province of Nova Scotia. They became signatory of the KMK Framework Agreement in 2007, which set the details of the negotiation procedure. However, in 2016, the Millbrook First Nation withdrew from the Nova Scotia Process. The Chief Bob Gloade stated at the occasion the importance of transparency in negotiations and the need to take responsibility for their own governance as a community. Mi'kmaq leadership expressed concern about the uncertainty of negotiation outcomes and the long-term implications of an eventual Treaty revision.

The Millbrook band has both added to reserve land through the traditional Indian Act approach and purchased land that it holds in fee simple status as a way to expand the footprint of the main reserve. In addition it continues to add land in satellite holdings, particularly in locations where there are clear economic development opportunities, such as Cole Harbour, which is adjacent to Halifax and where the band acquired additional land. The band makes use of indigenous land claims to acquire reserve land and has also bought land in the private market. Because the Mi'kmaq did not cede land rights in their treaties, they are well positioned to claim any surplus federal land their traditional territory. Because existing reserves in Nova Scotia were established and populated with people from a wide

range of coastal communities there are credible grounds for claiming sites that may be geographically distant from a reserve.

Strong leadership, entrepreneurial activity and collective vision have been key to success

Over the past 30 years, the Millbrook band has engaged in a successful economic development strategy that has taken full advantage of the geographic potential of the reserve and an associated range of opportunities for business development. However the main factor for this economic success has been a combination of strong leadership, entrepreneurial activity and collective vision. The band relies on both band owned enterprises and individual entrepreneurs, and over time has greatly increased its own source revenue from a growing number of businesses. As own source revenue has increased and the business competence of the band has developed over time larger and more complex investments have been undertaken. These include a number of joint ventures with relatively large non-indigenous corporations that allow the band to participate in more complex development opportunities both on the reserve and in other parts of Nova Scotia.

The initial impetus was the sale of traditional crafts at roadside stands and a gas station along Highway 102 in the 1980s that captured customers going to and from Halifax. Because the highway bypasses Truro there was considerable opportunity to expand services to travellers as traffic increased. By 1990 development on both sides of the highway had reached a point that an overpass was required. When it was constructed in the early 2000s this provided both an opportunity for further development and reconnected band members on both sides of the highway.

The band's economic success reflects a long run strategy that first focussed on addressing social issues in the 1970s, enhancing education in the 1980s, and, building on these foundations, undertaking more typical economic development actions since the 1990s. The majority of the band's development efforts are in the services and construction sectors. Retail services have been a particular focus with major expansion into hotels, restaurants and vehicle service once the interchange was in place. These are either owned and operated by the band or managed through joint ventures with non-indigenous partner organisations. In addition, the band has taken advantage of gaming opportunities both through bingo and electronic gaming machines. The band has also developed a significant construction capability both for new construction and maintenance of reserve buildings and infrastructure. These activities both suit the local economic opportunities and fit the profile of the reserve labour force. While the majority of workers in on reserve business are band members there are significant employment opportunities for local workers from Truro and other communities.

Community planning is structured around a holistic view of development, one that includes social, mental, emotional, spiritual and physical aspects of the community and its members. There is an emphasis on education and training, as vehicles to create opportunities for young people. They also pursue free enterprise, often forming long-term business partnerships, via joint ventures and/or long-term land leases.

A diversified economy and effective governance

The economic base of Millbrook is diversified. It consists of real estate development, fisheries, technology, gaming and tobacco. Since 2001, the five main contributors to the business enterprise revenues of the Band have been Millbrook Fisheries, Millbrook

Tobacco Store, Millbrook Treaty Gas, Gaming Commission Revenues and Rental Authority. Notable projects include:

- **The Truro Power Centre,** a mixed-use business park and lifestyle centre inaugurated in 2011. It consists of a lease of federal land signed by the Band Council with private partners. It hosts a hotel, a recreational vehicle retailer, an aquaculture facility, a multiplex theatre, and the Millbrook Culture and Heritage Centre. The Band Council also owns Caldwell Glen Developments, which has apartment complexes in Cole Harbour, among them retirement units.
- **Millbrook Fisheries** is another venture operated by the Band Council. Through a fishing agreement with the Federal Department of Fisheries and Oceans, they own 50 fishing licenses and 14 boats. They count with a wharf and freezer at Sheet Harbour, and a community wharf constructed in Joggins. The fishery activity is being developed in addition to the trout aquaculture facility in Truro Power Centre.
- **Technology investment**s include software and programme development. The Band has a partnership agreement with General Dynamics Canada, whereby they constructed a building that was then leased to General Dynamics to house the Maritime Helicopter Project. Another initiative is Millbrook Technologies Inc., a company specialised in the design, development and delivery of customised software. They have already successfully developed programmes for Chiefs of Ontario and the Province of Nova Scotia.
- **The Millbrook Culture and Heritage Centre** offers a multimedia presentation of the history of the Mi'kmaw people, including ancient artefacts, stunning quillwork and beadwork. This Centre is part of the recommended itinerary "Nova Scotia Nature and First Nations". Developing a sustainable Aboriginal tourism sector, focused on educational activities and cultural experiences, is an area to be further explored. A study from 2011 on Mi'kmaq tourism in Nova Scotia revealed that international tourists have strong interest in these types of activity, and concluded that active marketing is important to reach this audience (Lynch et al., 2011[9]). They also signalled that cultural centres such as the Millbrook Culture and Heritage Centre can act as a meeting place and allow the Mi'kmaq to learn and reconnect with their culture.
- **Truro Millbrook Wind Limited Partnership** owns and operates a wind energy generation facility located 5km southwest of Truro, Nova Scotia, on private land. The project is part of the Nova Scotia Department of Energy's Community Feed-In-Tariff (COMFIT) program, and began supplying energy to Nova Scotia Power in January 2015. The energy produced is enough to power thousands of homes with stable, local and clean renewable energy.

Millbrook First Nation has been praised for its leadership on economic development, receiving awards and mention in government and academic publications.

Key economic development issues for the future

Millbrook FN has been very successful at leveraging the benefits of its location into a range of business activities and had linked its economic development with social development—own source revenues are used to re-invest in public goods (infrastructure, social participation, human capital development).

The community's key economic development strategy for the future are to expand its land based through addition to reserve (ATR) process. At present this process is subject to long delays and needs to be improved (as recommended in Chapter 3). There are emerging business opportunities in the Cannabis industry, renewable energy, and gaming which will be a focus over the coming years. It will be critical these activities proceed alongside engaging local community members in employment and training as well.

Mashteuiatsh Community First Nation, Québec

Mashteuiatsh is an Innu First Nation reserve located in the vicinities of the Lake Saint Jean, 7km from the city of Roberval, in the region of Saguenay-Lac-Saint-Jean, in the province of Québec. Founded in 1856, it is the oldest Innu reserve in Canada. Several accounts stress the historical importance of this territory as a place of gathering and exchange among Innu people. The Innu are one of the 11 Indigenous First Nations in Québec, not to be confounded with the Inuit. The denomination Mashteuiatsh was officially attributed in 1985; traditionally, this group called themselves Pekuakamiulnuatsh (Ilnuatsh du Pekuakami). They speak a western mountain dialect of the Innu language, but French is the vehicular language (Teoran, 2006[10]).

As of 2017, the registered population is of 6 562 people, being 2 085 residents of the community and 4 447 living off-reserve. The population is composed of families of different origins: besides Innu, there are Abénakis, Attikameks and Cris, and mixed-race people (Teoran, 2006[10]).[4] Teoran identifies three types of co-existing identities in the reserve: the Innu of the forest, which are the "original" population and often "traditionalist"; the mixed-race people and Indigenous from other Nations, who tend to be more progressive in matters of local economic development; and the whites married to Indigenous people, who in practical terms keep a respectful distance from the Innu culture and do not intervene in community affairs (Teoran, 2006, p. 43[10]) .

Table 6.4. Profile of Mashteuiatsh Community

Reserves	Type of region	Predominantly rural remote
	Size of reserve	1 522
	Population	6 811
Governance	Type of government	Band
	Size of council	One chief and six councillors
Income	Ratio of average total income to Province's average total income (%)	71.8
Labour force participation	Employment rate (%)	40.3
	Main industries (%)	Health, education (10.2) and Manufacturing, construction (8.2)
Education	Population aged 15 and over with a degree (%)	62.2
	of which population with university degree (%)	9.2
Mobility	Lived at the same address 5 years ago (%)	72.5

Source: Indigenous and Northern Affairs Canada (2019[1]), *First Nation Profiles*, http://fnp-ppn.aandc-aadnc.gc.ca/fnp/Main/Search/SearchRV.aspx?lang=eng (accessed on 18 April 2019).

Economy focussed on forestry and sustainable tourism

Inhabitants of the reserve frequent the neighbouring urban centres with regularity, for services and commercial activities. They either work or depend on welfare assistance; in any case they are not isolated from the surrounding society. Youth needs to complete secondary education outside the community, as the local offer stops at elementary school.

The local economy is based on logging, construction, transport, and arts and handicrafts. Hunting and fishing are traditional activities (castor, bear, salmon and lake fish). There are approximately 130 businesses on the Mashteuiatsh reserve, among food, restaurants, hotel and camping accommodations, auto mechanics, taxi, arts and handicrafts, plumbing and electrician, translation, hardware and convenience store (Nametau Innu, 2010[11]).

In terms of services for entrepreneurs, *Développement Piekuakami Ilnuatsh* (DPI), a limited partnership, manages contracts signed with major businesses and state corporations. A local development organisation, the Mashteuiatsh SDEI, further provides financial support and assistance for business development, such as drawing business plans. The band council helps by providing the necessary infrastructure for business. For instance, they designated land to create an industrial zone in the reserve—one of the few communities to have done so across Canada.

Forestry is the most important sector of activity, after the public and the para-public sectors. Innu forestry entrepreneurs manage businesses of harvesting and transportation of wood and reforestation in which Aboriginal interests hold the majority of shares and decision-making powers. Their main reason to start a business was to become one's own boss and to help the community. The social impact of business, especially in terms of job creation and support to youth, is an important element of Indigenous entrepreneurship, as identified in the literature (Beaudoin, Lebel and Bouthillier, 2009[12]).

Another important sector of activity is sustainable tourism. Tourism is not a new sector of activity for the Mashteuiatsh, having existed, at varying degrees since the 19th century. Since 1977, the Amerindian Museum promotes and preserves the Innu culture. Handicrafts and hunting and fishing excursions with local guides have long existed. Other activities are carried out off-reserve, such as excursions in the forest, with storytelling and food experiences. According to the Mashteuiatsh SDEI, a coherent and strategic vision for the tourism industry is missing. The offer of accommodation and food is quite limited, and there is competition from nearby cultural sites. The tourism strategy of 2017, elaborated by SDEI, is to be put in place by a steering committee over the course of 2018 (SDEI, 2017, p. 33[13]).

Governance and strategic planning

The official name of the band is the *Montagnais du Lac-St-Jean*. It is composed of one chief and six councillors, elected for three-year mandates. The band council manages the provision of social and health services in the community centre, as well as the existing public facilities – an Indigenous museum, primary and elementary schools, a youth centre, a sports centre and the church (Teoran, 2006[10]).

They are affiliated to the Mamuitun Tribal Council, which is composed of four other bands (Pessamit, Essipit, Matimekush-Lac John and Uashat mak Mani-Utenam). The Tribal Council was created in 1990 and became operational in 1992. Its mission is to provide technical services to the bands, notably on matters of community planning, construction and infrastructure, skills development, and natural resources exploitation. Its main fields of expertise are architecture, engineering and public management. The Council can also help

bands access external resources to carry projects or studies (Conseil Tribal Mamuitun, 2018[14]).

The Mashteuiatsh elected council (Katakuhimatsheta) is the main body that enacts documents and guidelines for community development. The main strategic document, the "Priority and Orientations 2017-2021", presents an overview of the community, including:

1. The good quality of community infrastructure.
2. The numbers of skilled workers are growing, while the language and the traditional knowledge continue to be preserved.
3. Social instability due to persistent poverty and identity conflicts.
4. Limited access to external funds and little autonomy to manage programmes.
5. Strong engagement of First Nation to promote sustainable development that respects cultural values and gravitates towards autonomy.

Departing from this document, a "Strategic Plan for Economic Development 2017-2022" was elaborated by the band council and community development associations (DPI, SDEI and SHAM). They signalled as conditions for the success of the plan: community mobilisation, improved coordination among development organisations; more transparent decision-making; and reduced bureaucratic red tape for entrepreneurs and researchers. The plan identifies challenges and objectives for the sectors of forestry, energy, mining, tourism and commerce and services.

The community also has a 2017 spatial plan, which deals with the occupation and management of the traditional territory Tshitassinu (Pekuakamiulnuatsh Takuhikan, 2017[15]). The plan defends the protection of traditional territory while recognising that some areas can be set as priority for occupation and development. It signals that co-existence with non-Indigenous land users is hampered by the lack of information and sensitivity about what traditional occupation means.

Negotiation of the comprehensive land claim Agreement

The *Montagnais du Lac St-Jean* have been negotiating a comprehensive land claim agreement with the governments of Canada and Québec since 1979. Initially, 5 other Nations were included in the process, but 3 have withdrawn since then. As of today, the other Indigenous Nations involved are the *Innue Essipit* and the *Montagnais de Natashquan*. The Petapan Treaty has undergone extensive consultation processes. Each of the three Nations will pass a referendum to decide on the ratification.

The Treaty will grant self-government powers over the continuous territory of *Innu Assi*, imposing an end to land encroachments. The Nations will no longer be subject to the Indian Act (Regroupement Petapan, 2015[16]). It regulates matters of governmental autonomy, justice administration, finance, land regime, culture and heritage, socioeconomic development, fishing and hunting, environment and natural parks. The Nations will have exclusive land rights, without extinguishment of Aboriginal rights to land. Consequently, they will have exclusive fishing and hunting rights.

Nations will be able to much greater control over economic development. Even though the Crown still holds mineral and hydroelectric rights, any project will be subject to the assent of Nations. Nations will participate as co-owners of extractive projects. Future projects will also contain benefit-sharing mechanisms, including priority in hiring local workforce.

Moreover, Nations will receive a cash settlement, which is a monetary compensation for the sum of past developments that they were excluded from.

The counterpart of autonomy is that Nations will have to become self-sufficient. Within 12 years of the signature of the agreement, it is foreseen that federal funds will no longer be transferred to the communities and the Nations will have to collect taxes and generate revenues on their own. Promoting local economic development, either in partnership with the government or by themselves, will become an even stronger imperative.[5]

Key economic development issues for the future

There are two key issues facing Mashteuiatsh FN: i) the negotiation of the Petapan Treaty; ii) regional land use planning and harmonisation with provincial regulation. The conclusion of the negotiation of the Petapan Treaty with the 3 Nations will put an end to the legal uncertainty that has surrounded this issue for the past 40 years. As recommended in Chapter 3, and in line with the recommendations made by the Standing Committee on Indigenous People of the House of Commons of Canada (Mihychuk, 2018[17]), the government should give consideration to ending the practice of requiring that Indigenous rights holders extinguish their inherent and/or treaty rights as a prerequisite for an agreement. It should also give continuity to the strategy of engagement underlined in the *Guide of Good Practices for Sustainable Business Partnerships between the Innu community and regional actors* (Groupe de travail Premières Nations, 2015[18]), by raising awareness about the guide, facilitating exchanges and partnerships and supporting Indigenous entrepreneurs. Other key issues are:

- To revise the land use plan for the traditional territory (Tshitassinu) to take into consideration the fact that the community does not have exclusive access and use rights over it, and that, in its current form, the plan does not have legal validity.
- To develop a strategic plan for the industrial park.
- To invest in skills training of local population in restauration and development of local products in order to promote cultural tourism and diversify the local offer. A partnership with the Centre of Technology Transfer of Saint Félicien (Cegep) could help realise these aims.[6]

Rural remote

Gjoa Haven and Pangnirtung, Nunavut

Nunavut means “our land” in the Inuit language. It is Canada’s largest and newest territory with 35 944 inhabitants from which four-fifth are Inuit. Nunavut encompasses three administrative regions: Baffin, Kitikmeot and Kivalliq. The capital of Nunavut is Iqaluit. In the 2016 Census of population survey, about 96 per cent inhabitants identified themselves as Inuk (Inuit). Inuit is one of the three official Indigenous groups in Canada.

Territory faces challenges related to social problems such as alcohol and other subsidies abuses, crime and unemployment. Currently, 21.5 percent of the Nunavut labour force is unemployed, the rate is higher than the national average. The largest employer in the region is the government of Nunavut.

Governance, Nunavut Agreement and land use

The land claims settlement discussion started in the 1970s. In 1993 two Acts were proposed to the Canadian Parliament: the first was Nunavut Land Claims Agreement and the second was Nunavut Act. Nunavut was established in 1999 under the Nunavut Land Claims Agreement (now referred as Nunavut Agreement). The title was given to the Nunavut Settlement Area based on their traditional and current use and occupation of the lands, waters and land-fast ice. The Agreement is the largest comprehensive land claim settlement reached between a state and Indigenous Peoples in the world. It consists of over 40 chapters, which goes beyond the ownership and management of lands, including articles on creation of Nunavut and Government of Nunavut, Inuit employment in government, and Inuit participation in social and cultural policy-making.

The government of Nunavut is a public government and it differs from other governments of Canada with one important difference: it operates within the framework of the Nunavut Agreement. The Nunavut Agreement legally obligates the government to consult with the 85 percent Inuit population on a wide range of issues that have an impact on the lives of Nunavut Indigenous People.

The government has a new mandate: Tuuraqtavut. It will guide the work of the government of Nunavut until 2021. The mandate has five key priorities:

1. Work towards the well-being and self-reliance of their people and their communities.
2. Develop their infrastructure and economy in ways that support a positive future for their people, their communities, and their land.
3. Provide education and training that prepares children, youth, and adult learners for positive contributions to society and for meaningful employment.
4. Strengthen Nunavut as a distinct territory in Canada and the world.
5. Work in partnership to advance the goals and aspirations of Nunavummiut.

Under the Nunavut Agreement 1993, the Nunavut Tunngavik Inc. (NTI) was created to protect the rights of the Inuit. NTI is the organisation that represents Inuit under the Agreement. NTI's mission is to promote Inuit economic, social and cultural well-being through the implementation of the Nunavut Agreement. NTI is governed by a Board of Directors elected by Nunavut Inuit.

The Nunavut Planning Commission (NPC) is established under the Nunavut Agreement and is responsible for the development, implementation and monitoring of land use plans in the Nunavut Settlement Area. Currently, Nunavut has two land use plans: the North Baffin Regional Land Use Plan (NBRLUP) and the Keewatin Regional Land Use Plan (KRLUP). These land use plans provide guidance and direction for the conservation, development and utilisation of land within their respective planning regions. The NPC is preparing a land use plan that will cover the whole territory. The drafted plan will guide which parts of the territory are open for exploration and resource development, and which areas are protected. The land use plan will not be ready until at least 2022.

Economic opportunities and bottlenecks to development

Nunavut is a region which is highly dependent on government transfers and public employment with potential for future private sector growth and investment. The private sector economy includes local non-tradeable activities (e.g. construction, retail), and a

tradeable sector limited to mining, fisheries and small-scale tourism. The home market is small and government employment is important to the stability of the overall economy – a key to generating job opportunities and wealth in the future is expanding the tradeable sector (mining, fisheries and tourism related services).

The Nunavut Economic Development Strategy (NEDS1) 2003-2013 was focused on four pillars: the land, their people, their community economies and their territorial economy. Each of these pillars incorporated number of strategic priority areas which had specific action plans such as youth economic development and sustainable land use. As a consequence of NEDS1, Nunavut Economic Forum (NEF) was established. NEF is an independent organisation representing all levels of government, Inuit organisations and a broad range of Nunavut organisations focused on various aspects of the Nunavut economy. This strategy is currently in the process of being updated.

There is a diversity of experiences across the 25 local communities across the region. The region has a vision and strategy for economic development and opportunities related to expanding mining/ fisheries and to a lesser degree tourism. Each community is at a different point in its economic development journey. There is a strong focus on community led development and creating more business and employment opportunities for local people. Many of the key institutions in Nunavut are relatively young (20-25 years old), and they are maturing. The Arctic is increasingly important from a geo-political and economic point of view, which presents opportunities for investment and future development. However there are a number of bottlenecks/ barriers to delivering on these opportunities. These include:

- **Infrastructure and accessibility**: Transport costs are high and have risen in recent decades. This increases the cost of doing businesses in the territory, and flows through into the quality of infrastructure, skills formation, and cost of living etc. There is a lack of a long-term land use and infrastructure planning and there is no assessment of infrastructure needs and the costs of maintaining capital stock. Many communities have growing populations and there is a need for more housing and community amenities.
- **Governance and capacity building**: There is a complex governance environment due to tensions between the regional government (represents interest of whole community) and Inuit organisations (represents Inuit interests). This manifests itself at a strategic level in terms of the agreed vision and priorities for Nunavut, and at an operational level in terms of the complementarities between programs and support provided for community economic development in Nunavut. Local governments are small administration that lack capacity and experience high staff turnover. Funding for capacity building is needed on a longer-term basis.
- **Programmes and services are poorly adapted to small remote communities.** Programs and government services need to be more flexible to operate effectively in such a remote environment, problems existing in accessing program/infrastructure funding and implementing it (matching requirements, administrative burdens, deadlines for expenditure, scheduling and cost of services create barriers to access and effective utilisation).
- **Lack of data.** There is poor availability of data and capacity to use it in policy development and decision-making at a regional level, and there seems to be an absence of data use at the local (Hamlet) level. Fisheries present an enormous

opportunity for Nunavut but there is a lack of data about the quantity of the resource and how quotas should be set.

Pangnirtung

Pangnirtung is located in the Qikiqtaaluk Region on Baffin Island. It has a population of 1 481 which increased by almost 4% over the past five years. The hamlet is located on a coastal plain at Pangnirtung Fjord. The hamlet has gained international recognition for its artisans who produce outstanding traditional sculptures, lithographic prints and woven tapestries. The community operates a turbot fishery and has recently seen major investments in its port facilities. The community has a hotel and is home to the Uqqurmiut Inuit Arts Centre, with its studios and shops. There is currently no Community Economic Development Plan in place for Pangnirtung with an overall vision statement and long-term goals for community development.

Table 6.5. Profile of Pangnirtung, Nunavut

Reserves	Type of region	Predominantly rural remote
	Size of hamlet	777
	Registered population	1 481
Governance	Type of government	Hamlet
	Size of council	Mayor and 8 councillors
Income	Ratio of average total income to Provinces average total income (%)	83.5
Labour force participation	Employment rate (%)	48.5
	Main industries (%)	Public administration (27) and retail trade (14)
Education	Population aged 15 and over with a degree (%)	42.9
	of which population with university degree (%)	7.7
Mobility	Lived at the same address 5 years ago (%)	63.4

Source: Statistics Canada Census Profile, 2016 Census.

Key economic development issues for the future

Pangnirtung has successfully developed a commercial fishery and tourism industry; both of which have potential for further growth. Going forward, the community should develop a strategic plan to guide its medium- and longer-term development.

Recent social issues in the committee have highlighted how important it is to engage Pangnirtung's large youth population; a robust economic development strategy is a key part of this. Beyond this, the community urgently needs new investments in housing and amenities for its growing population. Reliance on diesel generation is one the major costs of the hamlet; investments in renewable energy could free up much needed budgets to focus on social and economic priorities.

Gjoa Haven

Gjoa Haven is a community in Kitikmeot region, situated 250 km above the Arctic Circle, with population of 1,197 peoples in 2016. The community was founded by an artic explorer named Roald Amundsen in 1903. Amundsen set up a camp near the area and stayed there researching the magnetic North Pole. The Inuit people living near the area, now called Gjoa Haven (named after the ship of Roald Amundsen), came and traded goods with Amundsen

and his crew. After Amundsen departure, the Inuit people settled in the area and the community of Gjoa Haven was founded.

Table 6.6. Profile of Gjoa Haven, Nunavut

Reserves	Type of region	Predominantly rural remote
	Size of community	2 847
	Registered population	1 324
Governance	Type of government	Hamlet
	Size of council	Mayor and 8 councillors
Income	Ratio of average total income to Province's average total income (%)	70
Labour force participation	Employment rate (%)	41
	Main industries (%)	Public administration (24.4) and retail trade (14)
Education	Population aged 15 and over with a degree (%)	34.9
	of which population with university degree (%)	4.2
Mobility	Lived at the same address 5 years ago (%)	76.2

Source: Statistics Canada Census Profile, 2016 Census.

Gjoa Haven is a typical Nunavut community with respect to livelihoods and the economy. The municipal government of Gjoa Haven is the Hamlet of Gjoa Haven. The Hamlet has eight locally elected councillors and a mayor. Senior Administrative Officer (SAO) manages the city council and supervises local departments such as community economic development, land usages and other community services. Like other hamlets and municipalities in Nunavut, the Hamlet of Gjoa Haven receives transfer payments from the government of Nunavut and the city council makes decision how to allocate the money transfers.

Gjoa Haven community plan outlines the policies of the city council for managing the physical development of the Hamlet. The aims of this plan are:

- To create a safe, healthy, functional, and attractive community that reflects community values and culture.
- To promote the Plan as a tool for making effective and consistent decisions regarding land use and development in the community.
- To ensure an adequate supply of land for all types of uses to support the growth and change of community.
- To build upon community values of participation and unity to support community projects and local economic development.
- To protect the natural beauty of "Nuna" and retain waterfront and hinterland areas for public uses and traditional activities.
- To ensure that concerns of erosion, steep slopes and snow drifting are addressed for the long-term health and safety of the community.

In Gjoa Haven, unemployment rates are higher than the average unemployment of Nunavut. Approximately 36.5 percent of the labour force is unemployed. The biggest employers in Gjoa Haven are the government of Nunavut and the city council.

Key economic development issues for the future:

The Hamlet of Gjoa Haven is entrepreneurial and open to economic development. But to date, there has not been a focussed economic development strategy and there is no in-depth assessment of the types of opportunities that have potential.

Key economic development issues for the future are:

- Updating the community's development plan to identify key economic assets and development opportunities.
- Taking stock of the community's potential for a commercial fishery and seeking clarity on requirements for commercial fishing quotes (e.g., 5 years of exploratory fishing required before able to obtain a commercial quota).

Like Pangnirtung, Gjoa Haven has major infrastructure investments needs and relies on expensive diesel generation to meet its energy needs.

Neskantaga First Nation, Ontario

Rural remote communities face the greatest challenges for basic infrastructure provision and access to services, presenting a challenging environment for community economic development. The experiences of Neskantaga First Nation illustrate these challenges. Neskantaga First Nation is an Oji-Cree First Nation band government located in northern Ontario along the shores of Attawapiskat Lake, 430 kilometres northeast of Thunder Bay, Ontario. It is a very remote community located north of the 52nd parallel.[7] It can only be reached by plane (Lansdowne Airport, run by the Ministry of Transportation) or in the winter, by ice roads which are weather dependant and may only be open for along a few weeks a year. Due to its remoteness, it is a challenge to deliver basic infrastructure and costs are high for energy, food and building supplies. For example, fuels costs for the diesel power generator are approximately CAN 2-3 million annually.

While Neskantaga reserve is 830.5 hectares in size, Neskantaga territory extends beyond the reserve and includes territory that is shared with the province. Members of Neskantaga, like many remote First Nation communities, supplement their living by hunting and fishing and use the land for traditional and cultural purposes. As will be discussed, the broader region is seeing an influx of investments related to mining developments (the "Ring of Fire" developments) which on the one hand, has the potential to bring benefits to the community through employment, royalties and new road infrastructure and but which may also threaten access to land and contaminate the environment.

The total registered population of Neskantaga First Nation is 491 as of September 2019.[8] The population of Neskantaga First Nation (both those residing on and off reserve) is younger than that of the population of the province as a whole (at approximately 28 years versus 41 for the province of Ontario in 2016). The average income of Neskantaga First Nation members was almost half as low as that of the provincial average in 2006 (see Table 6.7). It is important to note that there can be discrepancies between reported data across Government of Canada sources – e.g., differences in reported population between Statistics Canada and Indigenous Services Canada. Data collection difficulties very often stem from the community exercising its option not to participate, rather than the limitation of government attempts to collect such data. Data may also be supressed for some variables due to the small size of the community (for confidentiality purposes).

Table 6.7. Profile of Neskantaga First Nation

Reserves	Type of region	Predominantly rural remote
	Size of reserve	831.5
	Registered population	491 (2019)
Governance	Type of government	Band
	Size of council	Chief and four councillors
Income	Ratio of average total income to Province's average total income (%)	48.4 (2006)
Labour force participation	Employment rate (%)	43.8 (2016)
	Main industries (%)	Other services (24.2) and health, education (18.2) (2016)
Education	Population aged 15 and over with a degree (%)	28.1 (2016)
	of which population with university degree (%)	0 (2016)
Mobility	Lived at the same address 5 years ago (%)	87.5 (2016)

Note: Income refers to year 2006; data for the year 2016 is not available. Data for multiple years reported, as noted in table.
Source: Indigenous and Northern Affairs Canada (2019), *First Nation Profiles*, http://fnp-ppn.aandc-aadnc.gc.ca/fnp/Main/Search/SearchRV.aspx?lang=eng (accessed on 18 April 2019).

Framework conditions for development are not met

The right framework conditions need to be in place to support social and economic development. Basic infrastructure and living conditions are not being met in Neskantaga. The band government needs to first focus on addressing pressing social and health issues and infrastructure needs before tackling economic development and it cannot do this alone, federal funding is required. The community has made national headlines for its persistent boil water advisories (going on 20 years now) and social issues, including high rate of suicides and poor health outcomes (Thompson, Post and McBean, 2017[19]). The existing water plant, which was only operational for two years, needs upgrading, renovation and improvement in order to supply potable drinking water. Providing safe drinking water is among the top priorities for the community and a commitment of the federal government.[9] The community has secured the funding to develop a new water treatment system, but the project has stalled as of August 2019.

In 2013, the Neskantaga issued an emergency declaration following two consecutive suicides of two young boys. Up to 2016, the small community counted four suicides and 20 suicide attempts (CBC News, 2016[20]). While ad-hoc programs were installed in response, for instance psychologists and councillors were sent from the federal and provincial government, these programs are not sustainably delivered and could not prevent a further two deaths in the grief-stricken community. The Band council declared it would not lift the state of emergency until living conditions in the community improved, including the boil water advisory and overcrowded housing. Living conditions are poor with as many as five families living in a single home; mould is common in homes leading to health problems (CBC News, 2016[20]).

Governance arrangements

Neskantaga Band Council is elected under a custom electoral system every two years. The next elections will take place in 2019. At a regional level, Neskantaga First Nation is a member of the Matawa First Nations Tribal Council and the Nishnawbe-Aski Nation, a

Tribal Organisation representing most of the First Nations in Northern Ontario. The community recently transitioned from co-managed to self-management within nine months. They recently hired a new band manager, adopted new financial policies, developed a new management action plan, developed a new HR policy, a new organisational structure and met with their community continuously.

Neskantaga First Nation are signatories to Treaty 9, also known as the James Bay Treaty. Treaty 9 was established in 1905 between the Government of Canada, the Government of Ontario and a range of First Nation Governments in Northern Ontario. It is one of the first tripartite agreements concluded involving a province. The treaty covers more than 2/3 of the territory of the Province of Ontario. The purpose of Treaty 9 was to secure the interests of the resident Cree and Ojibwa Nations to lands and resources to make way for settlement and resource development. The treaty contains provisions for cash treaty payments, the creation of reserves, education and hunting, fishing and trapping rights. The treaty states that that reserve land "shall be held and administered by His Majesty, for the benefit of the Indians," and that "in no ways shall the said Indians, or any of them, be entitled to sell or otherwise alienate any of the lands allotted to them as reserves" – these contentious provisos limit self-governance and land use. Since its inception, Indigenous leaders have argued that the treaty does not include what was promised to the First Nations. In 2011, the Mishkeegomang Nation questioned the validity of the treaty in a lawsuit.

Community services

Neskantaga is served by one school for children up to the age of grade nine. Children above grade nine go to Thunder Bay to continue their education. Other community assets include: a community centre, a community radio station and various programmes and various services such as child and family services, economic development, the family wellbeing program, Neskantaga education centre, the fire department and health services. In terms of private services, the community has one grocery store which is not owned by the community (the Northern Store) along with a postal outlet (Canada Post).

Neskantaga Council provides information, training and educational workshops to enhance employability and develop skills and is responsible for development of plans for the use of traditional lands for community members, works to access funding for band-owned business ventures and provides coaching in areas such as business plan development and assistance in obtaining financial support for people wanting to start own business. In 2014, the Neskantaga Training Centre opened which offers online learning access to secondary and post-secondary institutions, safety training courses, and trades and technical certifications.

Neskantaga First Nation has participated in the Community Wellbeing Pilot Project (Ring of Fire) funded by Indigenous Services Canada. Based on this work, Neskantaga's ongoing and emerging priorities are the need to strengthen financial management and governance, address critical infrastructure needs such as housing and water management and to address metal health and addictions. Overall, the Community Wellbeing Pilot Project aims to improve health and well-being and tests a place-based, whole-of-government single-window approach. It aims to improve community readiness to take part in economic opportunities presented by mining developments in the region.

The Ring of Fire development

Northern Ontario is rich in natural resources, including chromite. Large investments are now being made to open this area to further development which impacts FNs and their

treaty lands—known as the 'Ring of Fire' developments. The area is approximately 5 000 square kilometres (km²) in size, with most mineral discoveries to date located within a 20-kilometre–long strip. For perspective, the Ring of Fire covers an area slightly smaller than the Calgary Metropolitan Area (5,108 km²). It has a known mineral potential of approximately $60 billion and the first commercial quantities of chromite discovered in North America (Chong, 2014[21]). Neskantaga and other First Nations have the potential to benefit from royalties as well as jobs and new infrastructure. Yet, the project also presents considerable ecological challenges as it is located in delicate wetlands that function as important carbon storage. Communities also have concerns about the growth of large and predominantly male work camps operating in the north.

Mining operations can only proceed after First Nations on the land are duly consulted and accommodated. Negotiations with the provincial government are complex, as priorities diverge. In 2014, the province and the nine member Matawa First Nations signed a regional framework agreement to work together such matters as environmental monitoring, resource revenue sharing and infrastructure. While some other FN Treaty 9 signatories have entered into Impact Benefit agreements (IBAs) with mining firms to date, Neskantaga have not.[10] However, Neskantaga FN remains engaged in consultation and negotiations for environmental assessments and impact benefit agreements regarding mining on its traditional lands.

IBAs can differ considerably in scope and content and may include monetary (e.g., royalty agreements) and non-monetary (e.g., employment) benefits. For communities like Neskantaga where rates of high school completion are low, employment related benefits may not readily be drawn on. These types of considerations are faced by a host of Canada's northern communities, including those in the arctic where wealth fails to contribute to the development remote communities given that have little capacity to retain wealth due to intense economic leakage (Rodon, 2018[22]). The provincially funded Regional Framework Agreement involved community consultation and negotiation with FNs on the environmental assessment process, the setup of community benefit funds, infrastructure development and issues around revenue sharing. In 2018, a new provincial government came into power in Ontario and ended this consultation process, though negotiations continue with a less formalised structure (Ross, 2018[23]).

Neskantaga First Nation has partnered with Webequie, Eabametoong, and Nibinamik First Nations to complete a regional community service corridor study to examine the benefits of developing an all-season transportation corridor connecting First Nation communities in the area with existing roadways, enabling them to capitalise on opportunities related to resource development in the region, including the Ring of Fire.

Key economic development issues for the future

Neskantaga has pressing social and infrastructure needs. It is challenging to consider economic development opportunities given this context. The Ring of Fire developments have the potential bring employment and fiscal benefits through an impact benefit agreement with industry. However, community members are ill-prepared to take advantage of some of the typical aspects of an IBA such as employment because they do not have the appropriate qualifications. Moreover, they may not wish to support these activities given their potentially negative environmental and social impacts.

Neskantaga have proven their governance capabilities having transitioned from co-managed to self-management within nine months and they have a development strategy in place that is focussed on meeting community needs. The community plans to continue

on the trajectory of upgrading housing and basic infrastructure such as the water treatment facility. A next step to consider is for the community to purchase and operate its only store (the Northern store), so that profits stay in the community. While Neskantaga continues to engage with the Ring of Fire development, funding is needed to take part in this important work. The withdrawal of funding for the Regional Framework Agreement hinders this process.

Box 6.1. Matawa First Nations Management

Matawa First Nations Management Inc. is a Tribal Council representing nine Ojibway and Cree First Nations: Aroland First Nation; Constance Lake First Nation; Eabametoong First Nation; Ginoogaming First Nation; Neskantaga First Nation; Long Lake 58 First Nation; Marten Falls First Nation; Nibinamik First Nation and Webequie First Nation. It is one of over 70 Tribal Councils funded by Indigenous Services Canada (ISC) to support the administration and management costs associated with operating a regional service delivery organisation. These services include: band management, capital and housing management, community infrastructure, economic development, education, lands, registration and membership and, social development. It is important to note that the decisions of the Tribal Council are not necessarily recognised by the communities and the community band councils and there can be friction between the Matawa Tribal Councils service delivery functions and its advocacy efforts.

All nine member First Nations that are part of Matawa Tribal Council are also part of Treaty 9, with the exception of Long Lake #58 which lies within the boundaries of the Robinson Superior Treaty of 1850. The Matawa First Nations are also members of Nishnawbe Aski Nation (NAN), where the Matawa Chiefs come together with 41 other Northern and Northwestern Ontario First Nation Chiefs for political advocacy and to work on common issues.

Matawa Tribal Council

Matawa First Nations was established in 1988, initially to provide a variety of services and programs in their First Nations. With time it has united First Nations and helps them to support each other to pursue social and economic opportunities by focussing collective efforts and setting strategic priorities. The Corporation is structured along three Pillars. The Matawa First Nations Management that runs a large variety of services and programs. This includes a Financial Advisory Services (capacity development in terms of governance, management and financial advisory, working with Band, Finance and Program Managers) as well as Economic Development (encouraging a diverse private sector and entrepreneurial culture, comprehensive community economic development planning), Ring of Fire Office (Coordinating Activities to help communities benefit from the ring of fire, information sharing on mining exploration, assists in negotiations). In addition they have two other structures, running operations in the profit and not-for profit sector. These are the not-for-profit Kiikenomaga Kikenjigewen Employment & Training Services (KKETS) and the Minawshyn Development Corporation that is engaged in regional development in relation to infrastructure, resource development and construction.

Matawa First Nations aim to combine modern socio-economic development opportunities with traditional culture and heritage and are concerned with building capacity and economic prosperity fit their futures generations and aim to succeed in the national

economy. Their three values are 1) work together 2) dynamic sustainable communities 3) uphold quality of life.

Infrastructure

In late 2017, Matawa First Nations received $69.2M to build broadband internet network for five of their remote fly-in communities. The funds will be allocated to Rapid Lynx, a regional telecommunications company established by the Matawa First Nations in January 2017 to build and administer an 881 km fibre-optic cable network connecting the remote communities and make the network community owned. Both the construction and operational phases of the project will mean employment for First Nation members across the Matawa region and local businesses that support this work. The financing came after 5 years of lobbying.

Source: Matawa (2019[24]), *Matawa - First Nations Management*, http://www.matawa.on.ca/ (accessed on 6 May 2019).

Urban

Kahnawà:ke, Mohawk Nation, Québec

Mohawks of *Kahnawà:ke* or *Kahnawake* (Kahnawákeró:non) are one of the eight communities that make up the Mohawk (Kanien:keha'ka) Nation.[11] Their main reserve (Kahnawake 14) lies along the St Lawrence River in Quebec, just across from the city of Montreal. The band also shares an uninhabited reserve (Doncaster 17) with another band, the Mohawks of Kanesatake, which is used for hunting, fishing and spiritual purposes. Kahnawake Reserve encompasses 4 902 hectares (12 113.1 acres) and Doncaster Reserve has 7 900 hectares (19 521.33 acres). In 2018 the band had 11 205 members of which 3 123 live off reserve.[12]

The Kahnawà:ke of the Mohawk Nation are one of five member nations of the Haudenosaunee Confederacy—meaning the People of the long house (the other nation members are the Oneidas, Onondagas, Cayugas, and Senecas).[13] The Haudenosaunee Confederacy have historically occupied a large portion of the territory south of the Saint Laurence River and below Lake Ontario.

Mohawk traditional territories extended west from Vermont up to the St. Lawrence River, down to what is now the southern border of New York State and west to roughly the Ontario and Quebec border before European arrivals.[14] The Mohawk population now numbering just under 50 000 is widely dispersed across a small number of reserves, with the largest number of Mohawks being in Quebec, Ontario and New York.

In 1680 the French Crown granted lands to the Jesuits to set up a mission for the Iroquois of the Sault, now the Mohawks of Kahnawà:ke, which was gradually encroached upon by settlers. The original land grants consisted of 40-50 000 acres of land. After Confederation, the Indian Act allowed the Canadian government to expropriate additional land for rail, road, power lines and seaway infrastructure. The Mohawks of Kahnawà:ke have filed multiple claims against Canada regarding these events.

Table 6.8. Profile of Kahnawà:ke Mohawk Nation

Reserves	Type of region	Predominantly urban region
	Size of reserve	Kahnawake reserve 4 902 Doncaster reserve 7 900
	Population	11 093
Governance	Type of government	Band
	Size of council	One chief and 11 councillors
Income	Ratio of average total income to Province's average total income	
Labour force participation	Employment rate	
	Main industries	
Education	Population aged 15 and over with a degree	
	of which population with university degree	

Source: Indigenous and Northern Affairs Canada (2019[1]), *First Nation Profiles*, http://fnp-ppn.aandc-aadnc.gc.ca/fnp/Main/Search/SearchRV.aspx?lang=eng (accessed on 18 April 2019).

One of the largest bands in Canada

The population of roughly 8 000 individuals living on the reserve makes this one of the largest bands in Canada and by far the largest band located within a major metropolitan area. The community has other defining features. Because it lies on the south shore of the St. Lawrence River, directly across from the Island of Montreal, it plays a key role in transportation infrastructure. Both a major railway and bridge pass through the reserve as well as several highways and the main canal of the St Lawrence Seaway. These transport routes are vital to the Montreal region, but less so for the people of Kahnawà:ke, who see them as an intrusion on their territory and culture that provides little economic benefit. Discussion with local stakeholders indicated that while most members of the band spoke French a hundred years ago, today very few are fluent in French. This may reduce opportunities for economic and social participation of band in the surrounding metropolitan region.

As an urban reserve, development opportunities are radically different than rural reserves that are geographically isolated. A close proximity to Montreal provides access to a broad array of goods and services and connection to a range of supply chains and industries. While the Reserve has approximately 12 000 acres of land, much of it is prime farmland. Especially following the numerous expropriations, there is too little land to provide a significant amount of income and employment from farming for the population. There are challenges in terms of expanding the size of the reserve by adding contiguous land, since the reserve is now surrounded by commercial and residential development.

Long-established governance

The traditional Haudenosaunee system of governance is thought to have influenced the structure of the United States Constitution. The exact date of the founding of the Confederacy by the prophet known as the Peacemaker is unknown, however, it is described said to be 'time immemorial, making it one of the first and longest lasting participatory democracies in the world.[15] Within each nation there was a system of clans that were common across the confederacy. Clans followed a matrilineal structure with each nation having overlapping clans, but with different numbers of clans per nation. Mohawk people are organised into three clans – Wolf, Bear and Turtle. Other Nations have different clan

numbers with the Onondaga having all nine clans. Individuals in one clan can move from one Nation to another by marrying a member of the same clan from another nation. Because the clan structure cuts across the Six Nations and is the basic unit of social organisation it became a main link for the Confederacy.

Each clan in each nation provided one member to a 50-person Grand Council that provided common leadership for the nations. Below the Grand Council is a Council of Chiefs for each nation that deals with local issues. Traditionally Chiefs were chosen by the mothers of each clan to govern and represent the clam and could be deposed by these women.

While the traditional system of governance remains in place and still plays an important role, governance is now shared with an administrative structure imposed by the Indian Act. Each band elects a Chief and members of a Band Council to manage internal government functions on a reserve and act as counterparty to the federal government. Tensions exist on most reserves between these two structures, with one having formal administrative power and the other relying on traditional authority.

A diversified urban economy

The Kahnawà:ke local economy in the 1800s moved to a reliance on farming as the area around Montreal steadily urbanised. As agriculture modernised, it required fewer people and a greater investment in equipment and livestock that was difficult for the members of the band to provide. While women still had a role in farming, opportunities for men became more limited. However, in 1886 construction of an iron bridge across the St. Lawrence River provided an initial opportunity for work in construction. This initial activity led to male members of the band becoming a dominant force in high rise steel construction in Canada and the United States.

During the 20th Century, several hundred members of the community could be working at any time on high rise construction projects as steel workers. The high wages associated with this work and the significant number of individuals involved in it led Kahnawà:ke to become the highest income reserve in Canada through the 1990s. More recently, employment in high rise steel has declined due to a combination of less building activity, a shift in construction methods, and more restrictive immigration regulations by the United States.

For an extended period of time the Mohawks of Kahnawà:ke engaged in a profitable cigarette retail and manufacturing industry that relied on the large local market in Montreal. Because reserve tobacco sales are exempt from provincial and federal taxes, cigarettes can be sold at a lower price. The development of cigarette manufacturing added more profit and increased on-reserve employment.[16] Declining cigarette consumption and increased difficulty in obtaining tobacco have reduced sales and employment in recent years.

Like many other reserves near large urban populations, the Mohawks of Kahnawà:ke have a large gaming enterprise. However, unlike most reserves that continue to rely on gamblers who are physically present in gaming establishments, the Mohawks of Kahnawà:ke have moved into on-line gaming.[17] The community managed Gaming Commission offers gambling licenses to internet-based poker, casino, and sports sites. It has established Kahnawà:ke as a substantial player in that field of business. For instance, Mohawk Internet Technologies (MIT), a local data center located within the territory, hosts and manages many internet gambling websites and is a large employer.

The large reserve population offers considerable opportunity for public sector employment including, health, education, construction and maintenance, police and judicial services and

other local services. The local public sector now employs about 40% of the workforce. However, the majority of funding for the public sector continues to flow from the Canadian government, although it is increasingly supplemented by own-source revenue.

Nevertheless, in 2015, 23% of the active labor force aged 15 to 24 was unemployed.[18] A lack of French skills contributes to the high unemployment rates among Mohawks in Kahnawà:ke according to the Kahnawà:ke Economic Development Commission. Most people in the community speak English as well as their native language, while local businesses like cigarette vendors, the golf course and restaurants increasingly look for employees speaking French. Opportunities for work off-reserve are also limited by skill gaps and ongoing mutual suspicion between the two cultures that hampers better economic integration.

The legacy of the Oka Crisis

In August 1990 the Mohawks of Kanesatake (later also Kahnawà:ke), were involved in a major land dispute with the Canadian Government over an area called "the Pines", used as an Indigenous burial ground close to the municipality of Oka. In 1970 the establishment of a golf club partly built on 'the Pines' without Mohawk consent, sparked outrage by the band. The Mohawks of Kanesatake submitted land claims over 'the Pines'; however, they were rejected by the Federal government. This led to growing frustrations in the community. In 1989, an extension of the Gold Club was announced by the city of Oka which lead to a violent conflict between the Mohawks and the Quebec police force and later the Canadian military. The Mohawk Warrior Society, a group of Mohawks present in Kanesatake and Kahnawà:ke, blocked access to the lands in question in protest. The Mohawks of Kahnawà:ke joined the protest to demonstrate solidarity, blocking the Mercier Bridge leading to Montreal. Unsuccessful negotiations and hardening positions resulted in Canadian military intervention in late August 1990. While the Mohawk warriors in Kahnawà:ke negotiated a deal that lead to the reopening of the Mercier Bridge, armed military forces dismantled the main blockage at 'the Pines', ending the crisis in September 1990. The golf course expansion was cancelled.

Following this, the Royal Commission on Aboriginal Peoples was established to address issues of Aboriginal land status. It resulted in a 20-year agenda to implement real change in the relationship between Canada and its Indigenous population and urges Canadians to begin a national process of reconciliation. The issue of who holds title of the land of 'the Pines' remains unresolved, while no further development of the land is pursued. Land disputes continue to affect relations among the Mohawks of Kahnawà:ke, and the Governments of Quebec and Canada. While land use in Canada is largely a function that the provinces have delegated to local authorities, when First Nations are involved the Federal government is inevitably a party because only it can negotiate directly with the First Nation (in the case where the First Nation has a treaty).

Key economic development issues for the future

The Band Council is currently exploring efforts to better understand the economic development objectives and concerns of the community. Its ability to do this is hampered by a lack of data because the Mohawks of Kahnawà:ke do not participate in federal and provincial data collection programs. This leaves the Council having to collect its own data in a mostly ad hoc manner.

Key development problems on the reserve include an increasing mismatch between workforce skills and opportunities for both on and off-reserve employment. In addition,

low skill workers have unrealistic wage expectations based on legacy jobs in steel and tobacco that will not return. In addition, the Council sees limited opportunities for youth to engage with employers through summer jobs as another barrier.

Given this, some of the main economic development issues for the future are:

- Developing an up to date economic development strategy based on sound local data.
- Leveraging the success of existing business to develop new opportunities.
- Tackling the skills divide with flexible training programmes geared to job readiness and smooth transition to employment in partnership with local community colleges.

Notes

[1] These include: Hamlet of Gjoa Haven (phone-based), Nunavut'Millbrook First Nation, Nova Scotia; Kahnawá:ke Mohawk Territory, Quebec; four leaders of Mi'kmaq Nations from Nova Scotia and New Brunswick; Mashteuiatsh First Nation, Quebec; Matawa Tribal Council (represents 9 First Nations including Neskantaga), Ontario; Mississaugas of New Credit, Ontario; Neskantaga First Nation, Ontario; Pangnirtung, Nunavut and St'at'imc Nation, British Colombia (phone-based).

[2] The Mississaugas of the New Credit First Nation is part of the Ojibwe (Anishinabe) Nation. In the local Indigenous language (Anishinaabemowin) Mississaugas relates to the word "Missisakis" or many river mouths (referring to their location on the Great Lakes). In the mid-1700s, the Ojibwe occupied almost all of Southern Ontario (around the shores of Lakes Huron, and Lake Superior). The arrival of European settlers in Canada disrupted the settlement traditional lands, and resulted in shifting alliances and conflicts between different First Nations. The Mississauga's of New Credit moved south-east from their historical lands in the 1700s. The River they settled at (Credit River) was named because the tribe was known to honour its credit in dealings with French and English fur traders during this 18th century. After the British defeat in the American Revolutionary War in 1781, some of those who were still loyal to the British Crown moved to Canada. These Loyalist settlers mainly moved to the area which is now known as Ontario. The "Toronto Purchase" of 1787 between the British Crown and the Mississauga's of the New Credit enabled the settlement of what is now known as Toronto.

[3] Having lived in the banks of the Salmon River since the late 1700s, relocation to the present area occurred in 1886. The reserve was then 35 acres. In 1916, additional population from Halifax County was relocated to this reserve, in the aftermath of the Halifax Explosion. For this reason, additional 120 acres of land were purchased around that time. It is reported to be the first experiment of centralisation by the Department of Indian Affairs. The current location is composed of seven reserves, namely: Millbrook 27, Beaver Lake 17, Truro (27A, 27B and 27C), Cole Harbour 30 and Sheet Harbour 36. As of December 2017, the population of Millbrook First Nation community was 1 864 people (with 935 of that number living off-reserve).

[4] Mixed race is translated from the French "métis", to designate those who originate from inter-racial marriages between an Indigenous person and a white person. It is not to be confounded with Métis, which is one of the three recognised Aboriginal peoples in Canada.

[5] Information retrieved from: http://montrealgazette.com/news/innu-within-reach-of-historic-land-settlement.

[6] Information about the centre available at: http://www.cegepstfe.ca/.

[7] The Assembly of First Nations has developed an Index of Remoteness which extends the methodology developed by Statistics Canada in the 2017 report "Measuring Remoteness and Accessibility – A set of Indices for Canadian Communities." See Assembly of First Nations (2018),

remoteness indicators and First Nation education funding," https://www.afn.ca/wp-content/uploads/2018/07/Remoteness-report.Final_.May7-2018.pdf for details.

[8] INAC (2019) Registered population, http://fnp-ppn.aandc-aadnc.gc.ca/fnp/Main/Search/FNRegPopulation.aspx?BAND_NUMBER=239&lang=eng.

[9] The Trudeau government has made the promise to eradicate all drinking water advisories on First Nations by 2021. In January Indigenous Services Minister announced that the list of long-term advisories stands at 91 and more than 1 000 drinking water systems would now be eligible for support from Indigenous Services Canada. Discussion highlight that it is not only the funding that is lacking behind to stop boil water advisories but also the role indigenous peoples have with regards to decision making in the operation and acceptance of the new systems to be installed.

[10] In 2017 the Ontario government announced it had reached agreements with three First Nations bands (the Webequie, Marten Falls and Nibinamik) to build a highway connecting the Webequie and Nibinamik communities to the provincial highway system, allowing for the development of a proposed mine site.

[11] http://www.kahnawake.com/community/history.asp.

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Linking Indigenous Communities with Regional Development in Canada

Canada's Constitution Act (1982) recognises three Indigenous groups: Indians (now referred to as First Nations), Inuit, and Métis. Indigenous peoples make a vital contribution to the culture, heritage and economic development of Canada. Despite improvements in Indigenous well-being in recent decades, significant gaps remain with the non-Indigenous population. This study focuses on four priority issues to maximise the potential of Indigenous economies in Canada. First, improving the quality of the statistical framework and the inclusion of Indigenous peoples in the governance of data. Second, measures to improve the fairness and transparency for how Indigenous peoples can secure land tenure and the use of tools and such as land use planning to use it to promote community economic development. Third, promoting entrepreneurship so Indigenous peoples can use assets and resources in ways that align with their objectives for development. Fourth, implementing an approach to governance that adapts policies to places, and empowers Indigenous institutions and communities.

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