Submission to the House of Commons' Standing Committee on Access to Information, Privacy and Ethics (ETHI) Regarding Its Study of the *Access to Information Act*

Union of BC Indian Chiefs' British Columbia Specific Claims Working Group
December 5, 2022

INTRODUCTION

Specific claims are historical grievances brought against the federal government by First Nations when Canada fails to fulfill its lawful obligations as set out in statutes, treaties, agreements, or the Crown's reserve creation policies. The historical actions illegally undertaken by colonial governments and successive governments of Canada have resulted in First Nations' widespread dispossession of their reserve lands, villages, fishing areas, burial and other sacred sites, as well as access to water and other resources. There are hundreds of unresolved claims in Canada that continue to impact First Nations economically, socially, and culturally.

This submission proceeds on the basis that Canada's *Access to Information Act* and its regulatory and procedural mechanisms are neither adequate nor appropriate to upholding and implementing First Nations' right of redress for historical grievances against the federal government and impedes their access to justice. This determination is based on foundational, legally supported human rights principles and Canada's public commitment to prioritize reconciliation with Indigenous peoples and uphold the honour of the Crown.

First Nations claims researchers across the country have identified systemic problems with Canada's processes for accessing information held by the federal government. Claims researchers repeatedly cite as barriers to justice Canada's conflict of interest in controlling access to records required by First Nations to provide evidence of Canada's historical wrongdoing, as well as issues with obtaining timely and complete access to information. Legislative and administrative remedies are ineffective and indicate a need for independent oversight and dedicated staff who understand the reconciliatory imperative of resolving First Nations' historical claims.. Overall, there must be a new system of information management developed in full partnership with First Nations.

WHO WE ARE

Union of British Columbia Indian Chiefs (UBCIC) is a not-for-profit organization that supports First Nations in asserting and implementing their inherent Title and Rights, Treaty Rights, and Right of Self-Determination as peoples. The UBCIC is also an NGO in Special Consultative Status with the Economic and Social Council of the United Nations. Through the **British Columbia Specific Claims Working Group (BCSCWG)**, we advocate for the fair and just resolution of specific claims arising in BC and advancing specific claims as a national political priority. Working in ongoing dialogue with First Nations, claims research units, legal counsel, and others, we hold Canada accountable for changes to policy and practices and advocate for systemic reform to uphold the rights of First Nations as articulated in the *United*

Nations Declaration on the Rights of Indigenous Peoples (UN Declaration). The UBCIC's research staff rely upon federal access to information mechanisms to obtain necessary records from public bodies in the course of their work on behalf of First Nations in BC. The UBCIC advocates at the federal and provincial levels to ensure government transparency and accountability and to remove existing barriers to First Nations' access to information.

FOUNDATIONAL PRINCIPLES TO ENSURE FIRST NATIONS' ACCESS TO JUSTICE

Our discussion of how Canada's *Access to Information Act* affects First Nations claims researchers' full access to justice is founded upon the following principles:

1. First Nations' human rights must be fully upheld
2. Canada's reconciliatory mandate must be an actionable priority
3. First Nations have unique information rights
4. Full access to information is integral tothe specific claims resolution process
5. Canada must uphold the honour of the Crown

Principle 1: First Nations' human rights must be fully upheld

On June 21, 2021, the *United Nations Declaration on the Rights of Indigenous Peoples Act* (UN Declaration Act) received royal assent and came into force in Canada and as such all necessary measures must be taken to ensure that the *UN Declaration on the Rights of Indigenous Peoples* (UN Declaration) is upheld and its objectives are met. The Prime Minister's December 16, 2021 mandate letters to ministers direct each of them to implement the UN Declaration and work in partnership with Indigenous peoples to advance their rights.

First Nations' right to redress for historical losses is articulated in article 28 of the UN Declaration, while article 27 requires that processes of redress must be fair, independent, impartial, open, and transparent, and incorporate Indigenous laws and worldviews. Article 40 articulates Indigenous peoples' right to effective and timely remedies, and article 19 sets out the minimum standards states must meet, including obtaining Indigenous peoples' free, prior, and informed consent, in the development of all legislative, regulatory, and administrative regimes that affect them.[1]

Human rights principles such as self-determination, respect for First Nations rights and title holders, and obtaining First Nations' free, prior, and informed consent must be incorporated into and underpin all processes for developing, reviewing, and amending federal access to information and privacy legislation and associated regulatory and administrative processes.

Principle 2: Canada's reconciliatory mandate must be an actionable priority

[1] *United Nations Declaration on the Rights of Indigenous Peoples*, Resolution adopted by the General Assembly, September 13, 2007. Available at https://www.un.org/development/desa/indigenouspeoples/wp-content/uploads/sites/19/2018/11/UNDRIP_E_web.pdf

Just and fair redress for historical losses is a legal right and a political imperative if Canada intends to move toward reconciliation with First Nations. Reconciliation has been deemed by the courts and all levels of government to be in the public interest and a political priority. The Department of Justice's 2018 *Principles Respecting the Government of Canada's Relationship with Indigenous Peoples* recognizes that reconciliation is a fundamental purpose of section 35 of the *Constitution Act, 1982*, and should guide the transformation of the relationship between Indigenous peoples and the Crown, and guide the implementation of the UN Declaration.[2]

The December 16, 2021 mandate letter from the Prime Minister to the Treasury Board President underscores "the need to move faster on the path of reconciliation". Canada's access to information regimes, including all processes of review and reform, must align with Canada's explicit public reconciliatory objectives. Concrete actions to advance reconciliation must be taken in full partnership with First Nations, as per article 19 of the UN Declaration.

Principle 3: First Nations have unique information rights

First Nations have unique rights of data sovereignty that are supported by the UN Declaration and embedded within First Nations' laws, protocols, and governance structures. Rights of data sovereignty rest on principles of ownership, control, access, and possession,[3] and the decisions each Nation makes regarding their exercise and implementation.

While the full extent of First Nations' data sovereignty rights is beyond the scope of this submission,[4] it is important to note that among the types of information included in the accepted definition of First Nations' data is information "[a]bout First Nations reserve and traditional lands, waters, resources, and the environment,"[5] much of which is held by federal government departments and essential for First Nations to substantiate historical grievances against Canada.

First Nations' right of data sovereignty conflicts with Canada's unilaterally controlled access to information regime and the colonial system it reinforces and perpetuates. The stated purpose of the *Access to Information Act* is "to enhance the accountability and transparency of federal institutions in order to promote an open and democratic society and to enable public debate on the conduct of those institutions."[6] Canada rationalizes public access to information in accordance with "the principles that government information should be available to the public, that necessary exceptions to the right of access should be limited and specific and that decisions on the disclosure of government information should be reviewed independently from government." The type of information that may be sought through access to information processes is defined as "government information" under Canada's ownership, possession, and control.

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[2] Department of Justice Canada, *Principles Respecting the Government of Canada's Relationship with Indigenous Peoples*, 2018.
[3] Defined by the First Nations Information Governance Centre as OCAP® principles.
[4] Please see First Nations Information Governance Centre, *Exploration of the Impacts of Canada's Information Management Regime on First Nations' Data Sovereignty*, August 2022.
[5] Ibid, p. 8.
[6] *Access to Information Act*, section 2.

Data sovereignty principles and the OCAP® principles highlight a gap in understanding between the *Access to Information Act*'s stated purpose in assuming ownership over records pertaining to First Nations, and Canada's numerous and varied breaches of its legal obligations to First Nations. The vital importance of First Nations having access to historical records held by the federal government and their right of redress mean that First Nations have a unique interest and a unique right of access to information that is qualitatively different from that of a Canadian citizen.

A true Nation-to-Nation approach that upholds the rights of First Nations articulated in the UN Declaration demands that Canada recognize and respect First Nations' data sovereignty over their own records and facilitate full access to records held by the federal government and its agencies that First Nations are able to utilize as they deem necessary.

Principle 4: Full access to information is integral tothe specific claims resolution process

Full access to information is necessary for First Nations to participate in Canada's mechanisms of redress for the resolution of First Nations' historical claims. The federal specific claims process and Specific Claims Tribunal require First Nations to submit documentary evidence to support their claims.

Canada's *Specific Claims Policy and Process Guide* sets out strict requirements for filing a specific claim in "Annex A, Minimum Standard" (legislatively enforced through the Specific Claims Tribunal Act).[7] The "Minimum Standard for Kind of Information" requires a First Nation to submit an historical report and supporting documents (complete copies of primary documents and relevant excerpts of secondary documents) that substantiate a First Nation's allegations of Canada's wrongdoing laid out in the claim. A single claim often requires hundreds of evidentiary documents to substantiate an allegation. The "Minimum Standard for Form and Manner" requires supporting documents to be complete, as well as accurately and fully referenced. A claim will not be deemed officially filed by the Minister of Crown-Indigenous Relations unless the minimum standard is met, thereby excluding the claim from an assessment on its validity and acceptance for negotiation by Canada's Specific Claims Branch. Similarly, a claim that does not meet the minimum standard is excluded from adjudication at the Specific Claims Tribunal since to become eligible at the Tribunal, a claim must have first received an assessment from the Specific Claims Branch.

Since the majority of documents required to support First Nations' historical grievances are in the possession and control of federal government institutions, First Nations must have full access to this information in order to participate fully and fairly in processes to resolve specific claims.

Principle 5: Canada must uphold the honour of the Crown

The Supreme Court of Canada, in its 2004 decision in Haida, has stressed the Crown's obligation to act honourably in the resolution of claims.[8] The notion that the Crown must act honourably in

[7] The Minimum Standard is also set out as a requirement in section 16 of the federal *Specific Claims Tribunal Act*.
[8] 2004 SCC 73.

all its dealings with Indigenous peoples has been reiterated by the British Columbia Court of Appeal and the Specific Claims Tribunal.[9] Since Crown honour extends to the resolution of claims, Canada must take all necessary steps to ensure that First Nations have complete and timely access to the information they require to resolve their claims. The Department of Justice's *Principles Respecting the Government of Canada's Relationship with Indigenous Peoples* acknowledges, "The Government of Canada recognizes that it must uphold the honour of the Crown, which requires the federal government and its departments, agencies, and officials to act with honour, integrity, good faith, and fairness in all of its dealings with Indigenous peoples."[10]

Specific claims rest on the whether Canada fulfilled its legal obligations to First Nations in the context of its fiduciary obligations, such as to protect First Nations' recognized interests in land, in the creation of Indian reserves, in seeking surrenders, or expropriating Indian reserve lands for a public purpose. The fiduciary nature of the historical relationship between First Nations and the Crown results in Canada's duty to fully disclose documents in its possession since they are in the interests of First Nations seeking resolution of their historical grievances.

CANADA'S CONFLICT OF INTEREST IN CONTROLLING ACCESS TO INFORMATION IMPEDES FIRST NATIONS' ACCESS TO JUSTICE

Specific claims arise when Canada fails to fulfill its legal obligations to First Nations. Canada's specific claims policy requires First Nations to substantiate their historical claims with documentary evidence. The majority of the historical evidence First Nations require to support their claims is controlled by Canada in federal government institutions. Since Canada controls access to the evidence First Nations require to substantiate their historical claims against the Crown through the *Access to Information Act*, it is in an unfair and untenable conflict of interest.

Canada's conflict of interest in controlling access to records First Nations must obtain to support their claims against the Crown is an extension of the conflict of interest inherent in the specific claims process itself. For decades First Nations have advocated unequivocally for a fully independent specific claims resolution process that fully eliminates Canada's conflict of interest from all parts of the process. This includes its control of the funding, management and assessment of claims made against it, its control over access to the documentary evidence required to support claims, and its reliance solely on Canada's system of common and civil law used to assess and adjudicate claims.

The First Nations Information Governance Centre recognizes that in reconceptualizing information management in Canada to include data sovereignty, Canada must give "due regard to the Crown's position as potential adversary in First Nations claims against the Crown and facilitate free, liberal, and timely access to data for claims research."[11] Canada's conflict of interest is the overarching barrier to First Nations' full and equitable access to justice, violates

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[9] A. Lombard and A. Charette, "Crown Honour and the SCT: Honourable Litigation?" prepared for the BC Specific Claims Working Group, September 13, 2018.

[10] Department of Justice, *Principles Respecting the Government of Canada's Relationship with Indigenous Peoples*, 2018.

[11] First Nations Information Governance Centre, "Exploration of the impact of Canada's information management regime on First Nations Data," August 2022.

the human rights principles articulated in the UN Declaration, obstructs reconciliation based on trust and mutual respect between sovereign, self-determining Nations, and renders the "honour of the Crown" a duplicitous trope.

The First Nations claims community regularly expresses concerns related to Canada's conflict of interest in managing access to information requests and determining what information is disclosed to a requesting First Nation. Those concerns arise in part from Canada's overly zealous and inconsistent application of statutory exemptions, but also because Canada unilaterally determines the relevance of requested documents without the need to provide justification to the requestor on documents which are not disclosed because Canada deems them irrelevant. Relevance must be determined by the researcher investigating the nature of a First Nation's allegation of historical wrongdoing by Canada, rather than the party alleged to have committed the wrongdoing.

Claims researchers also cite the Crown-Indigenous Relations' practice of retaining records deemed to have "business value to the department" instead of transferring them to Library and Archives Canada. What "business value" entails has never been explained by the department.[12] Consequently, tens of thousands of boxes of records remain at department offices or warehouses, compromising the physical integrity of the materials and First Nations' access to a complete historical record.

Claims researchers also tell us that they have no confidence that the government provides them with the full extent of the document package or existing information pertaining to their requests and linked it directly to Canada's control of the process. Since Canada decides what to release regarding records in legal claims made against itself, First Nations are systemically disadvantaged in terms of equality and fairness in accessing justice.

Recent cases involving the Crown's disclosure of documents in a high value claim give no reason to be confident that the Canada will act honourably. In a case before the Canadian Human Rights Tribunal in *First Nations Child Caring Society v. Canada*, Canada knowingly failed to disclose over 90,000 relevant documents to the complainant, many of which were prejudicial to its case, causing significant costs and protracted delay.[13] Further, the Crown was found to have inappropriately interpreted the exemptions to disclosure under the *Access to Information Act*, resulting in the redaction of relevant information not subject to proper exemption. The disclosure regime largely relies on the Crown's honour to disclose fully and exempt lawfully.

Political and legal frameworks adopted by Canada now mandate fair, independent, transparent, and open mechanisms of redress for First Nations' historical land-related losses. Canada is presently engaged with the Assembly of First Nations and First Nations representatives to jointly develop a new independent institutional body to manage and assess claims in accordance with the human rights standards articulated in the UN Declaration. Access to information must be a

[12] This message was communicated by Pierre Desroches, then Director, Corporate Information Management Directorate, CIRNAC and ISC (Indigenous Services Canada), in an email to Jody Woods, UBCIC Research Director, September 6, 2018.
[13] *First Nations Child and Family Caring Society of Canada et al v Canada*, 2019 CHRT 1.

key component of that initiative to ensure First Nations' full access to justice for the resolution of their specific claims.

SYSTEMIC PROBLEMS WITH ACCESS TO INFORMATION PROCESSES

First Nations researchers cite significant systemic problems with federal access to information processes that create barriers to receiving the information they require to support their specific claims. These barriers include prolonged, unreasonable, and costly delays receiving records, as well as delays receiving clear communication regarding the status of filed requests. Researchers also highlight overly broad and inconsistently applied exemptions by Canada's access to information analysts, and excessively redacted documents compromising their ability to obtain the full extent of existing information to support First Nations' claims. Claims researchers also report a deterioration in the system overall since the beginning of the COVID pandemic. The systemic problems highlighted by claims researchers contravene the legally supported principles to ensure full access to justice for First Nations.

Prolonged and unreasonable delays receiving responses and records

Extensive delays are the norm for First Nations claims researchers, who are required, due to the complex and historical nature of specific claims, to make multiple requests for access to large volumes of records that span lengthy time periods – often decades, if not timeframes exceeding one hundred years or more. As a result, federal departments often have large volumes of records pertaining to requests for records and that must be reviewed.

Faced with such large volumes of records, analysts routinely ask claims researchers to significantly narrow the scope of their requests to mitigate delay, but this narrowing is antithetical to the researchers' purpose. Testifying before the Senate Committee regarding Bill C-58, former Chair of the Indian Specific Claims Commission Senator Renée Dupuis stated:

> *…the system does not work well. In terms of the access to information system or a preliminary request, people may have an idea what they are looking for, but do not know what the record actually contains. That is very difficult to predict, and the answer in some cases is that the record is too voluminous. This is not a satisfactory way for the*
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> *government to fulfill its legal obligations. Moreover, it leaves the First Nation entirely at the government's mercy.*[14]

Extensions are the norm due to structural shortcomings

Section 9 of the *Access to Information Act* allows government institutions to extend the 30-day time limit in some circumstances. First Nations claims researchers report that extensions are the norm and that it routinely takes more than 90 days from the date of submitting a request to receive any records at all, often taking between three to nine months to receive records after making a request. Several UBCIC researchers have reported to us that they are still waiting on responses to access to information requests that they filed in 2019.

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[14] Senator Renée Dupuis testimony to the Senate Committee on Legal and Constitutional Affairs, November 8, 2018.

When claims researcher were asked to cite the reasons they were given by information analysts explaining the need for a time extension, the majority reported that time extensions were due to "departmental impacts because of COVID", "understaffing resulting in an inability to deal with the large volume of requests", "interference with government operations", and that "the system is overwhelmed." According to one researcher, an information manager at one government department stated candidly that the access to information system was not designed to handle the volume of requests that are submitted now on a regular basis and protracted delays are unavoidable. Many claims researchers note that the extensive delays receiving responses to their access to information requests result in financial burdens for their organizations or individual First Nations. Representatives of claim research units highlight the potential punitive impacts on their annual funding allocations due to failures to meet projected work plan timelines as a result of delays receiving necessary records to develop claims.

Prolonged systemic delays contravene principles that ensure First Nations' access to justice
The prolonged, unreasonable, and systemic delays receiving responses to access to information requests contravene the principles outlined above that must be upheld to ensure First Nations have full access to justice for historical grievances. Since access to information is an integral part of the specific claims process, the rampant delays described by claims researchers jeopardize First Nations' ability to access and participate in mechanisms of redress, as is their right under article 28 of the UN Declaration. The extent and nature of the delays receiving records contravenes First Nations' right to a timely remedy as set out in article 40. First Nations' right to a "fair, independent, impartial, open, and transparent" process of redress as articulated in article 27 is also breached since Canada's representatives at the Specific Claims Branch and Department of Justice are not subject to the same delays in obtaining federally held records they require to assess First Nations' claims and conduct their own research. The delays First Nations experience receiving records they require as evidence for their claims undermines data sovereignty principles. Finally, the lack of clear and timely communication by Canada's representatives around access processes and delays compromises both the honour of the Crown and reconciliation as First Nations' distrust that they are being treated fairly.

Overly broad and inconsistently applied exemptions
Under the *Access to Information Act* federal government institutions have legislative authority to refuse to disclose information to requestors based on a number of criteria. The various criteria include records obtained in confidence from other governments, records related to international affairs, law enforcement and investigations, audits and investigations, safety of individuals, national economic interests, as well as personal and third-party information, and information pertaining to government operations, a wide category that includes advice and solicitor-client privilege.

First Nations claims researchers report that sections 13 (government confidences), 19 (personal information), 20 (third party information), and 23 (solicitor-client privilege) are routinely invoked by Canada, even in cases where disclosure would not prejudice a third party or constitute an unreasonable invasion of privacy under the Act. They also report that the disclosure provision given to government institutions under section 8(2)(k) of the *Privacy Act*, which implicitly recognizes the resolution of First Nations claims and grievances as a matter of justice, often fails to yield the necessary disclosure of records.

The discretionary application of the Act leads to vast inconsistencies and results in gaps in the historical records and makes it difficult to substantiate allegations. Researchers describe having to file separate access to information requests to individual government departments likely to be holding the same set of records in the hope of piecing together a complete picture based on inconsistently applied exemptions and redactions.

Canada's use of exemptions contravenes principles that ensure First Nations' access to justice Since First Nations are compelled to produce evidence-based historical reports to participate in processes of redress for their historical land claims and grievances against Canada, the above noted challenges obtaining complete records are a substantial barrier to First Nations' access to justice. The right to redress cannot be upheld if First Nations are prevented from accessing the entirely of records they are required to produce under the specific claims policy and the *Specific Claims Tribunal Act*. As First Nations claims researchers' information requests are subject to exemptions under the Act, Canada's comparative access to the full extent of records held by federal institutions contravenes article 27 of the UN Declaration, which sets out as a minimum standard that redress processes must be "fair, independent, impartial, open and transparent". The relationship between Canada's use of exemptions and delay also undermines First Nations' right to timely and effective remedies (article 40).

Importantly, Canada's failure to provide complete records when First Nations require them to support their historical claims wholly undermines First Nations' full access to justice. The discretionary system of reviewing records for disclosure and applying exemptions to providing complete records to First Nations claims researchers creates a legislatively sanctioned unfairness since Canada's agents decide what is released, to the detriment of First Nations seeking justice for their claims. Canada's conflict of interest here is incontrovertible. Canada should uphold the honour of the Crown by recognizing its inherent conflict of interest and First Nations' right of data sovereignty by facilitating full access to records required for substantiating claims.

AVAILABLE LEGISLATIVE AND ADMINISTRATIVE REMEDIES ARE INEFFECTIVE

The legislative and administrative remedies enacted to date to assist First Nations claims researchers continue to be ineffective in ensuring full access to justice for First Nations in resolving their historical claims against Canada. Legislative initiatives, such as including provisions allowing the disclosure of personal information under the *Privacy Act*,[15] provisions to file formal complaints under the *Access to Information Act*,[16] and amendments to the *Access to Information Act* introduced under Bill C-58 have done little to ensure First Nations have access to the evidence they require to support their claims. The Department of Indian and Northern Affairs Canada's introduction of an informal access to information policy in 1999, updated in

[15] Under section 8(2)(k) of the *Privacy Act*, personal information controlled by government institutions may be disclosed "*to any aboriginal government, association of aboriginal people, Indian band, government institution or part thereof, or to any person acting on behalf of such government, association, band, institution or part thereof, for the purpose of researching or validating the claims, disputes or grievances of any of the aboriginal peoples of Canada*".

[16] Sections 30 to 37 of the *Access to Information Act* set out the provisions related to the Information Commissioner's investigation of complaints.

2017,[17] to alleviate First Nations' need to go through formal and time-consuming access procedures when obtaining records from that department is ineffective. This is due to understaffing, poor communication, and an adversarial approach to implementation, resulting in non-disclosure of records, lengthy delay, lack of communication, and a lack of accountability.

Available legislative and administrative remedies enacted to date to assist First Nations claims researchers do not ensure full access to justice for First Nations in resolving their historical claims against Canada. First Nations cannot exercise their right to redress for historical grievances if they cannot obtain the supporting evidence the process requires.

ENGAGEMENT ON REFORM

Changes to Canada's *Access to Information Act*, regulatory framework, and administrative procedures, will have a unique impact on First Nations' abilities to access and achieve justice for their historical grievances against the Crown. As such, all legislative, regulatory, and administrative reviews must make meaningful, direct dialogue with First Nations a priority. This work must be guided from the outset by transparency, due process, and full enactment of the government-to-government approaches articulated in the UN Declaration.

RECOMMENDATIONS

We submit the following recommendations to ensure First Nations' full and fair access to justice for resolving their historical claims against the Crown:

1. Human rights principles such as self-determination, respect for First Nations rights and title holders, and obtaining First Nations' free, prior, and informed consent must be incorporated into and underpin all processes for developing, reviewing, and amending federal access to information legislation and associated regulatory and administrative processes.
2. Canada's conflict of interest in controlling First Nations' access to records they require to substantiate their claims against the Crown must be fully eliminated. Treasury Board must work in full partnership with First Nations and their representative organizations to work toward developing a new information access regime that upholds First Nations rights as articulated under the UN Declaration, including the right of First Nations' data sovereignty.
3. In the interim, Canada must recognize its duty of full disclosure and uphold the honour of the Crown by working in full partnership with First Nations to develop a mechanism of independent oversight that ensures First Nations' full and timely access to records held by federal government institutions for purposes of substantiating historical claims.
4. Canada must take immediate steps to make First Nations' requests for access to information held by federal government institutions a priority by hiring additional dedicated staff to expedite existing and impending requests as soon as possible.
5. Canada's information analysts and staff must be informed about First Nations specific claims and First Nations' rights of redress and information rights, as well as the

[17] Please see https://www.rcaanc-cirnac.gc.ca/eng/1584194702771/1584194720627.

imperative of Crown-Indigenous reconciliation. They must also be instructed that they too are required to uphold the honour of the Crown.

6. Canada must remove the $5 application fee for First Nations claims researchers making requests for records under the *Access to Information Act*.

Canada must take immediate steps to make meaningful, direct dialogue with First Nations and their representative organizations a priority from the outset of all future policy work. Engagement that occurs as an afterthought with unrealistic time constraints or is under-resourced fails to uphold the transparency, due process, and full enactment of the government-to-government approaches articulated within the UN Declaration.