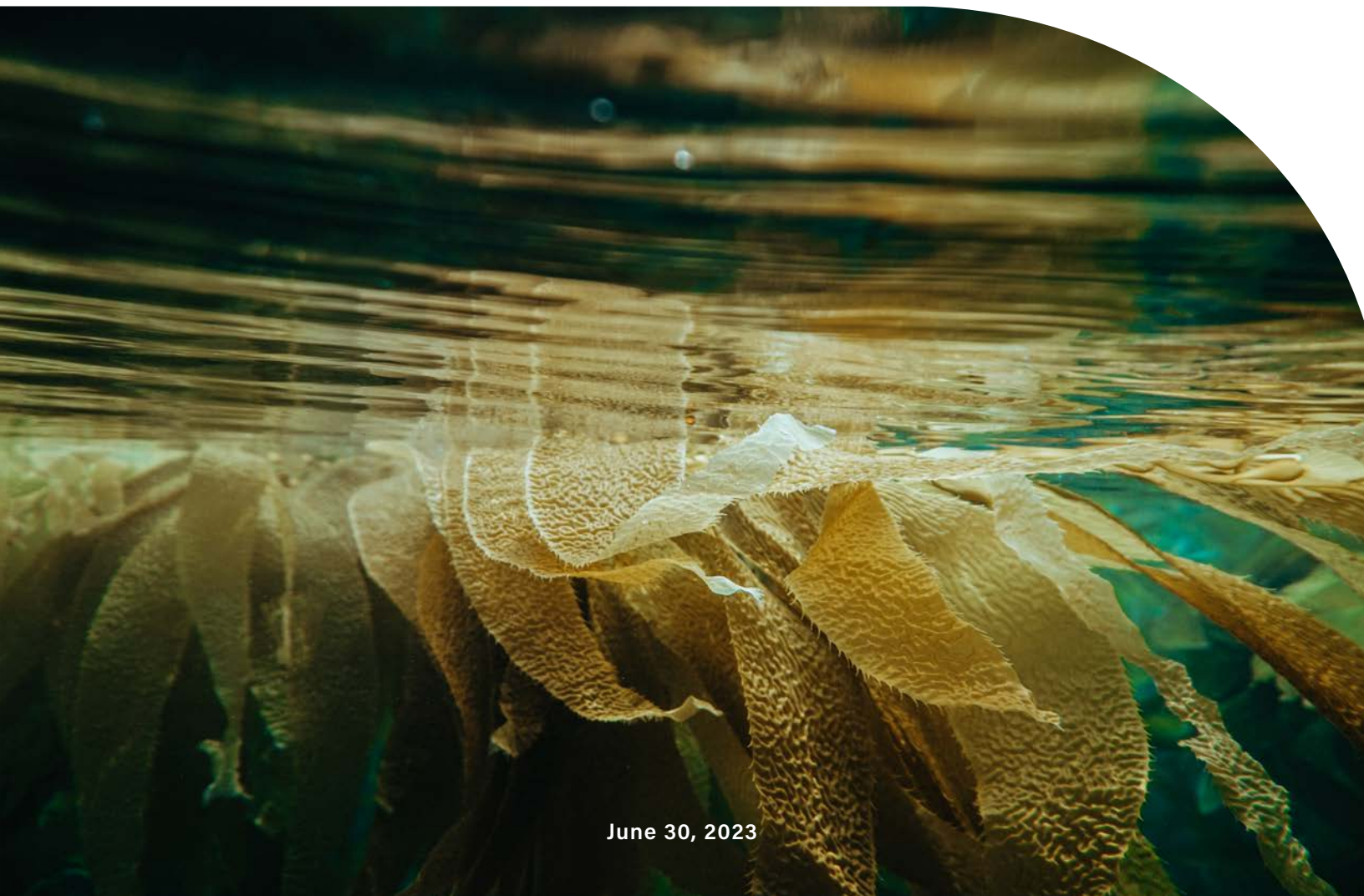




**First Nations  
Fisheries Council**  
of British Columbia

# Stemming the Tide: Getting Below the Surface

Introducing An Indigenous Framework for Safeguarding  
Wild Fish, Aquatic Habitats and First Nations Communities through  
the *United Nations Declaration on the Rights of Indigenous Peoples*



June 30, 2023

# ABOUT THE FIRST NATIONS FISHERIES COUNCIL OF BRITISH COLUMBIA

Through the *BC First Nations Fisheries Action Plan*, First Nations in British Columbia (BC) have directed the First Nations Fisheries Council of BC (FNFC) to support them in protecting, reconciling, and advancing their Aboriginal Title and Rights and Treaty Rights as they relate to fisheries and the health and protection of aquatic resources. FNFC's priorities are to develop effective governance mechanisms, form collaborative relationships among First Nations organizations, and work together to build a cohesive voice on fisheries and other aquatic resource matters.

FNFC is not a rights-holding organization. FNFC's role is to provide information and resources, and support First Nations' positions where their collective interests align.

This document does not represent a consensus of First Nations' perspectives on the *United Nations Declaration on the Rights of Indigenous Peoples* (UNDRIP), *United Nations Declaration on the Rights of Indigenous Peoples Act* (UNDA) or *Declaration on the Rights of Indigenous Peoples Act* (DRIPA). It is not prescriptive, nor does it speak on behalf of any First Nations rights holders. This document does not satisfy the Crown's legal duty of consultation.

**FNFC acknowledges and thanks the First Nations delegates that contributed their advice and feedback to this document during two FNFC-facilitated policy forums held in February and March 2023.**

FNFC also recognizes significant contributions from:

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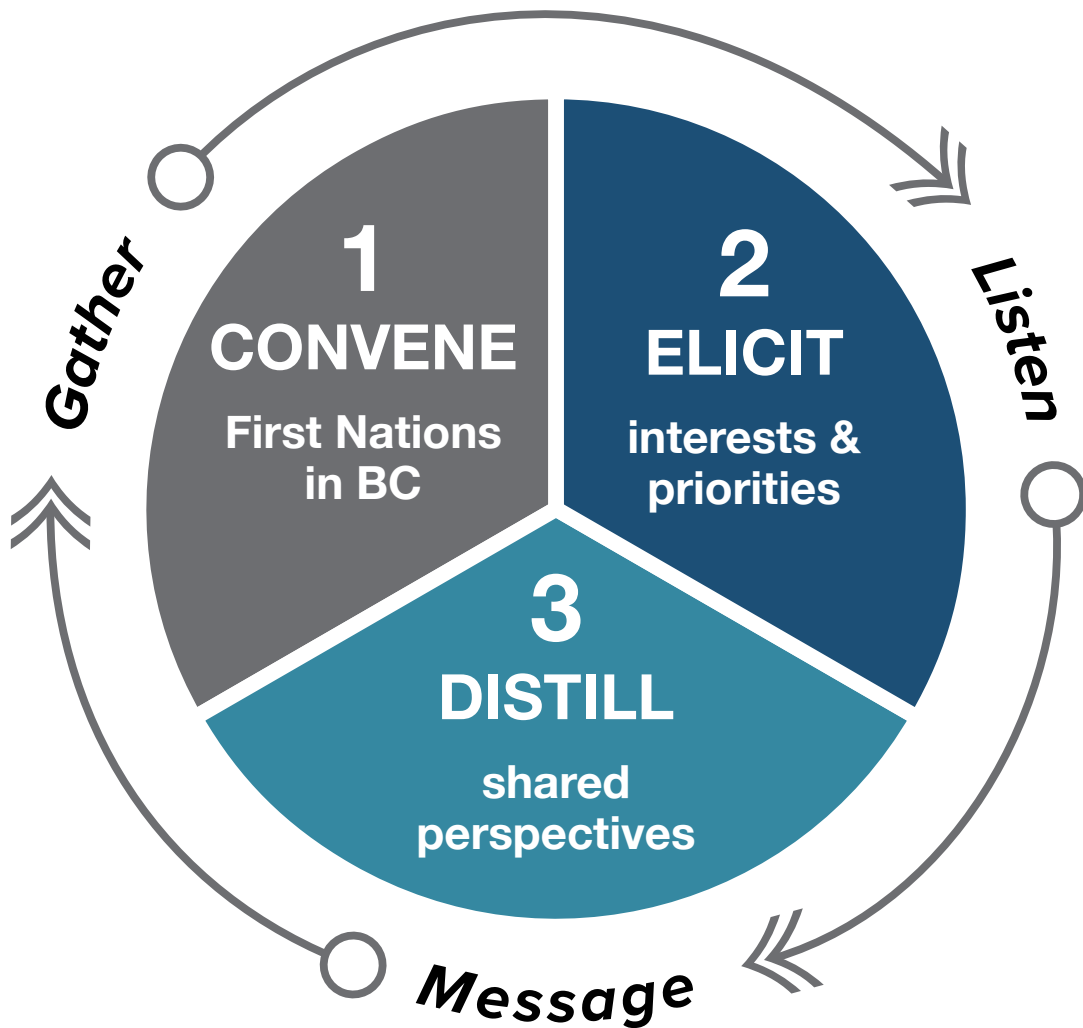


IMAGE 1: FNFC Engagement Process to Identify Shared First Nations Interests and Priorities

# LIVING WORK

FNFC hosted two policy forums on February 21, 2023, and March 21, 2023, with First Nations delegates from across BC to elicit broad feedback on how the Government of Canada can implement UNDRIP to support the long-term safeguarding of BC's aquatic resources and habitats.

The Tier 1 forums (First Nations only) were convened to identify common key policy priorities pertaining to fish, fisheries and aquatic resources for First Nations in BC, and how actions to advance UNDRIP implementation can support those priorities.

**This report intentionally builds on several broad recommendations made to the Province of BC in FNFC's 2021 report, *"Turning the Tide: Actions to Implement the Declaration on the Rights of Indigenous Peoples Act in the Context of Fish, Fisheries, and Aquatic Habitats in British Columbia."* The recommendations presented to the BC government serve as helpful launch points from which to refine more tailored recommendations for how Crown governmentsthe federal government can successfully implement UNDRIP within the context of the BC fishery.**

Given that the federal government released its UNDRIP action plan in June 2023, this report provides concrete recommended implementation activities to advance UNDRIP. These recommendations build from First Nations' priorities identified in recent projects, programs, submissions, reports, and meetings undertaken by FNFC, First Nations, and Crown governments, as well as through resolutions from First Nations leadership, communities, and Indigenous organizations. FNFC also worked with a team of policy analysts and experts in scoping and supporting the content and materials for the two policy forums.

*FNFC acknowledges that the feedback elicited from policy forum participants is reflective of those that were in attendance. First Nations in BC have a diverse spectrum of perspectives that this report may not fully capture.*

Because UNDRIP implementation is an ongoing process, FNFC will continue to communicate, validate, and refine the recommendations and feedback heard at FNFC's 2023 policy forums in future engagement processes with First Nations. A companion toolkit will also support this ongoing process and guide First Nations and Crown governments on how to effectively implement UNDRIP.

***Overall, this work is "living" and will continue to evolve and change in response to First Nations' concerns and key issues. The proposed Indigenous model for UNDRIP implementation can also be adapted and utilized by individual First Nations to articulate and bring forward their specific interests on policy priorities.***

- >> *"Turning the Tide: Actions to Implement the Declaration on the Rights of Indigenous Peoples Act in the context of Fish, Fisheries, and Aquatic Habitats in British Columbia"* is available online:  
[https://www.fnfisheriescouncil.ca/wp-content/uploads/2022/02/2021.06.07-FNFC\\_TurningTheTides\\_report-FINAL-1.pdf](https://www.fnfisheriescouncil.ca/wp-content/uploads/2022/02/2021.06.07-FNFC_TurningTheTides_report-FINAL-1.pdf)
- >> *The United Nations Declaration on the Rights of Indigenous Peoples* is available online:  
<https://social.desa.un.org/issues/indigenous-peoples/united-nations-declaration-on-the-rights-of-indigenous-peoples>

## Indigenous Framework for UNDRIP Implementation

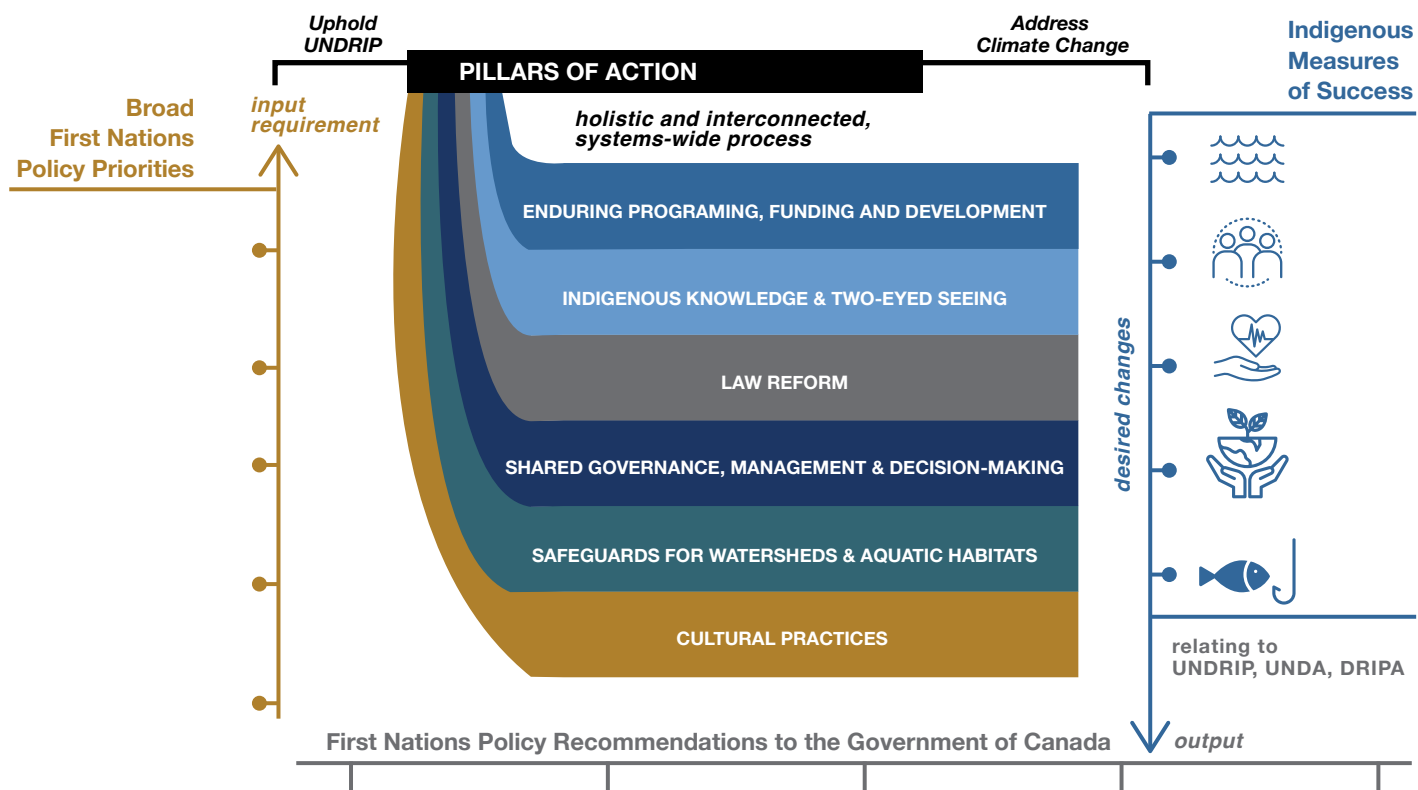


IMAGE 2: Suggested Indigenous Framework for Implementing UNDRIP



# EXECUTIVE SUMMARY

The *United Nations Declaration on the Rights of Indigenous Peoples* (UNDRIP) articulates and affirms a broad range of collective and individual rights that constitute the minimum standards to protect the rights of Indigenous peoples and contribute to their survival, dignity, and well-being.

Canada officially adopted UNDRIP in 2021 through the *United Nations Declaration on the Rights of Indigenous Peoples Act* (UNDA). The accompanying Action Plan, which outlines the Government of Canada's approach for implementing UNDRIP, was released in June 2023. For First Nations in British Columbia (BC), this signifies a tremendous, positive, and critical shift in the ongoing management, protection and conservation of resources located within their traditional lands and/or territories.

To ensure compliance with its own legislation, the Government of Canada must, in consultation and cooperation with Indigenous peoples, take all measures necessary to ensure that the laws of Canada are consistent with UNDRIP.

**This paper introduces an Indigenous framework for UNDRIP implementation (see Image 2) that can be used by First Nations, the Government of Canada, and other Crown agencies to implement recommendations for UNDRIP action effectively and appropriately while simultaneously strengthening outcomes for BC's aquatic resources and habitats. The suggested model brings the differing world views of First Nations in BC together with Western systems to conceptualize and articulate how UNDRIP implementation can be collaboratively advanced to meet the interests and holistic priorities of First Nations (see Image 3).**

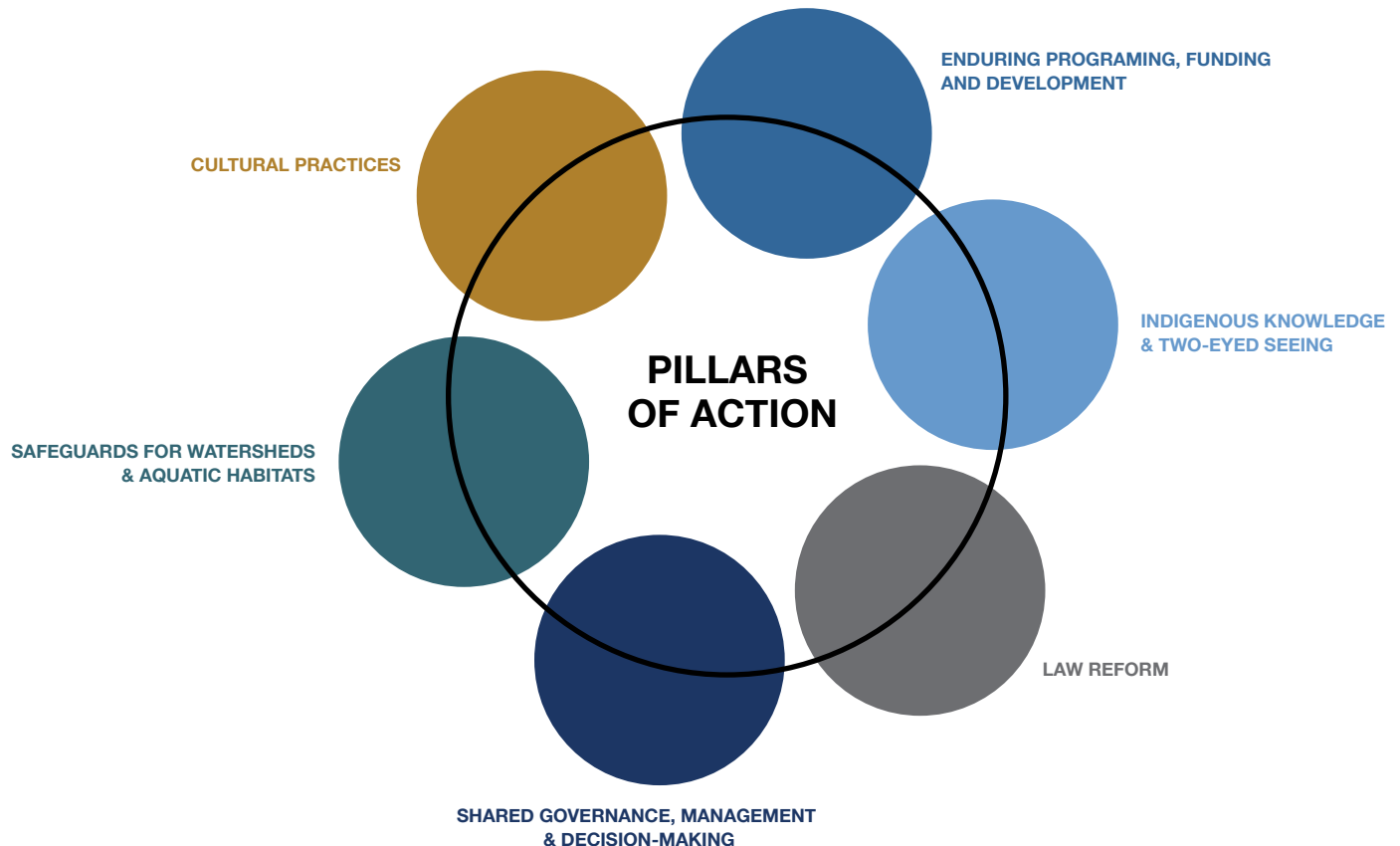


Using the proposed model, six **PILLARS OF ACTION** recommending how the Government of Canada can best implement UNDRIP emerged through input from First Nations delegates at two 2023 policy forums:

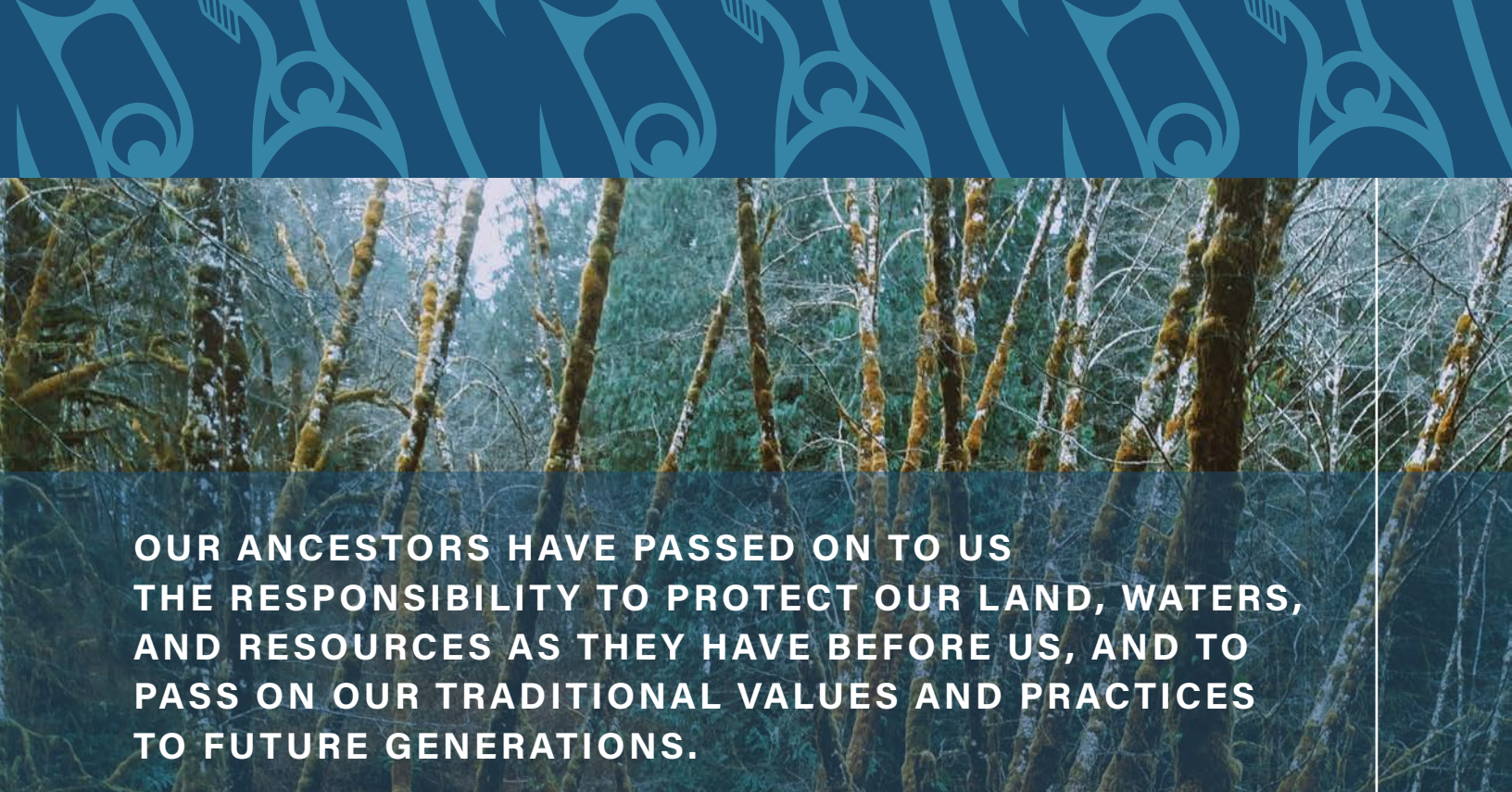
- 1. ENDURING PROGRAMMING, FUNDING AND CAPACITY DEVELOPMENT FOR FIRST NATIONS AND CROWN GOVERNMENT(S):** Stable, long-term, consistent funding and capacity development is required for First Nations and Crown government(s) to support First Nations at the co-governance and local/ watershed scales to manage fish, fisheries, and aquatic habitats. This includes ensuring both federal and provincial funding opportunities are explicitly designed to support First Nations–led initiatives and implement equitable revenue-sharing models.
- 2. INDIGENOUS KNOWLEDGE AND TWO-EYED SEEING:** Building new systems and processes for Indigenous Knowledge will actively support decision-making, consistent with First Nations distinct Indigenous Knowledge protocols, laws, processes, and protections. Indigenous Knowledge must be equitable with Western systems when it comes to establishing initiatives, determining outcomes, collecting data, and making decisions. Two-eyed Seeing supports the weaving of both systems and taking strengths from both Indigenous Knowledge and Western systems to make decisions and manage effectively.
- 3. LAW REFORM:** First Nations and Crown agencies collectively have the responsibility to bring BC natural resource management laws that impact fish and fish habitat into alignment with UNDRIP. This includes:
  - Reviewing and updating legislation, including the *Fisheries Act* as a priority, to uphold UNDRIP.
  - Enacting crosscutting reforms to natural resource laws to recognize and uphold First Nations Title and Rights, Treaty Rights, jurisdiction, and Indigenous Knowledge.
  - Strengthening protections for fish and aquatic habitat.
  - Enabling joint and consent-based decision-making.
- 4. SHARED GOVERNANCE, MANAGEMENT AND DECISION-MAKING:** There is a need to leverage habitat-focused opportunities to support the development of First Nations-led/designed compensation and redress models and establish enduring government-to-government structures and processes. These must be tailored to appropriate levels, based on a foundation of joint and consent-based decision-making, including:
  - Development of effective processes on a trilateral scale that support First Nations and Crown agencies to collaborate on policy, laws, strategies, and initiatives with province-wide effect
  - Implementation of joint and consent-based decision-making and management for fish, fisheries, and aquatic habitat with self-determining rights holders (whether on an individual First Nation basis or among multiple Nations agreeing to work together at regional or watershed levels).
  - Ensuring First Nations receive a fair share of the benefits derived from the use and harvest of water, fish, and other resources in their lands and/or territories.



- 5. SAFEGUARDS FOR WATERSHEDS AND AQUATIC HABITAT:** There is a need to address habitat loss to protect and restore BC's lakes, rivers, and streams that sustain healthy wild fish, aquatic life, community economies, and First Nations food security. This includes supporting First Nations to undertake territory-wide planning to guide activities on the land (and in the water) and resource First Nations' long-term environmental stewardship programming.
- 6. CULTURAL PRACTICES:** Culture is the lifeblood of a vibrant society, expressed in the many ways First Nations tell their stories, celebrate, share teachings, remember the past, entertain, and imagine the future. Many Indigenous traditions, ceremonies and practices are becoming lost through the devastation occurring to fish, fisheries, and aquatic resources. It is critical that cultural practices are preserved and restored.



**IMAGE 3: Six Pillars of Action** to support UNDRIP implementation



**OUR ANCESTORS HAVE PASSED ON TO US  
THE RESPONSIBILITY TO PROTECT OUR LAND, WATERS,  
AND RESOURCES AS THEY HAVE BEFORE US, AND TO  
PASS ON OUR TRADITIONAL VALUES AND PRACTICES  
TO FUTURE GENERATIONS.**

*First Nations in BC will work together—based on respect for each other and the natural world—to address issues in the fishery for our common good and to enhance the well-being of our communities. We will strive to maintain healthy aquatic ecosystems and species and restore them as necessary. We will work in partnership and share management responsibility based on our ownership of our territories and our right to manage the fishery. We will work with other governments and third parties to ensure recognition and respect of our Title and Rights, and conservation and appropriate management of the resource.*

**—2007 First Nations Fisheries Action Plan Vision**

BC First Nations Fisheries Action Plan. (2007). Available online:

<https://www.fnfisheriescouncil.ca/wp-content/uploads/2015/09/FNFC-Action-Plan-full-version-2007.pdf>



# 1. INTRODUCTION

## 1.1 A NEW ERA OF HEALING AND RECONCILIATION

The *United Nations Declaration on the Rights of Indigenous Peoples* (UNDRIP) is a comprehensive international human rights roadmap to advance reconciliation with Indigenous peoples. It articulates and affirms a broad range of collective and individual rights that constitute the minimum standards to protect the rights of Indigenous peoples and contribute to their survival, dignity, and well-being. These include the right(s) to:

- Equality and non-discrimination
- Self-determination, self-government, and the recognition of treaties
- Lands, territories, and resources
- Participation in environment management
- Civil and political structures and processes
- Participation in decision-making and Indigenous institutions
- Economic and social equity
- Implementation and redress
- Culture, religion, and language
- Education and media

UNDRIP also outlines the responsibilities of states and governments to protect and uphold these rights. Critically, UNDRIP requires states to consult and cooperate in good faith to obtain the Free, Prior, and Informed Consent of Indigenous peoples before adopting and implementing any legislative or administrative measures that may affect them.

Canada's adoption of UNDRIP under the *United Nations Declaration on the Rights of Indigenous Peoples Act* (UNDA) received Royal Assent on June 21, 2021.<sup>1</sup> For First Nations in British Columbia (BC), this signifies a tremendous and positive shift on the ongoing management, protection, and conservation of resources located within the traditional lands and/or territories of First Nations. The Government of Canada's UNDRIP implementation Action Plan, written by Canada's Department of Justice (DOJ), was released on June 21, 2023. The Action Plan combines the advice and feedback from significant Indigenous engagement efforts into recommended strategies that Crown agencies will need to undertake to effectively implement UNDRIP within all mechanisms and functions of government, including legislation, policy, jurisdiction, and authority.

This report advances the Action Plan of UNDA as well as related UNDRIP implementation activities. It supports the ongoing work by the Government of Canada, First Nations leadership, First Nations rights holders, and First Nations Fisheries Council of BC (FNFC) to give meaningful effect to UNDRIP and achieve tangible outcomes for BC's fish, fisheries, and aquatic habitats. The recommendations within this report specifically focus on actions within the Government of Canada's assumed authority; however, given interjurisdictional overlaps, the recommendations also support FNFC's efforts to inform UNDRIP implementation with the Province of BC.

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1. The Province of British Columbia was the first jurisdiction in Canada to fully adopt UNDRIP. BC's 2019 *Declaration on the Rights of Indigenous Peoples Act* (DRIPA) establishes UNDRIP as the Province's framework for reconciliation, as called for by the Truth and Reconciliation Commission of Canada's *Calls to Action*. This marked a critical first step toward making UNDRIP an enduring reality for not only BC, but Canada overall.



## 1.2 PURPOSE OF THIS PAPER

This paper introduces an **Indigenous model for UNDRIP implementation** that can be used by First Nations, the Government of Canada, and other Crown agencies to implement recommendations for UNDRIP action effectively and appropriately while simultaneously strengthening outcomes for BC's aquatic resources and habitats. The suggested model brings together the differing world views of First Nations in BC and Western systems to conceptualize and articulate how UNDRIP implementation can be collaboratively advanced to meet the interests and holistic priorities of First Nations.

This paper additionally identifies concrete changes for how federal law, policy, and practice can advance UNDRIP implementation under UNDA in the context of First Nations priorities related to the fish, fisheries, and aquatic habitats of BC.

### THE PURPOSE OF THIS REPORT IS TWO-FOLD:

1. To demonstrate how the proposed Indigenous model for UNDRIP implementation can be used as an effective tool to support First Nations and Crown governments to work together to uphold First Nations Title and Rights, Treaty Rights, jurisdiction, and authority by incorporating Indigenous Knowledge, values, practices, and systems into concrete changes in legislation, policies and programs.
2. To provide the Canadian Government with concrete, actionable recommendations for implementing UNDRIP in relation to First Nations' priorities regarding the safeguarding of aquatic resources, aquatic habitats and First Nations communities in BC. The recommendations are aimed at protecting wild fish and their habitats while upholding First Nations self-determination and authority.

### RECOMMENDATIONS FOCUS ON SIX PILLARS OF ACTION:

1. ENDURING PROGRAMMING, FUNDING AND CAPACITY DEVELOPMENT FOR FIRST NATIONS AND CROWN GOVERNMENT(S)
2. INDIGENOUS KNOWLEDGE AND TWO-EYED SEEING
3. LAW REFORM
4. SHARED GOVERNANCE, MANAGEMENT AND DECISION-MAKING
5. SAFEGUARDS FOR WATERSHEDS AND AQUATIC HABITATS
6. CULTURAL PRACTICES

## UNDRIP ARTICLES SPECIFIC TO FISH, FISHERIES, AND AQUATIC RESOURCES POLICY AND LEGISLATION

UNDRIP consists of 46 articles that describe a variety of collective and individual rights and the responsibilities of states and governments for protecting and upholding these rights.

Recognizing that the 46 articles have varying relevance to fish, fisheries, and aquatic resources, and that some articles are more suited to advance First Nations' interests in a shared manner while others are more aligned to be discussed bilaterally by rights-holders, FNFC focused the recommendations in this paper on four suggested UNDRIP articles: 27, 28, 29 and 32. These four articles were reviewed at both policy forums to establish a focus for First Nations priorities related to the aquatic resources and habitats within their lands and/or territories.

**TABLE 1: FNFC Identified Four UNDRIP Articles as Being More Relevant to Fish, Fisheries, and Aquatic Resources and Advancing First Nations Priorities in a Common Manner**

<b>UNDRIP Article</b>	<b>Summary - Indigenous peoples have the right(s) to...</b>
<b>27</b>	Participate in transparent processes established and implemented by the State, that recognize and adjudicate Indigenous peoples' rights regarding their lands, territories, and resources.
<b>28</b>	Redress for waters and water resources within their territories which have been confiscated, taken, occupied, used, or damaged without Free, Prior, and Informed Consent.
<b>29</b>	Conserve and protect the environment and the productive capacity of their territories, including waters and water resources, with assistance programs for Indigenous peoples for carrying out conservation and protection initiatives.
<b>32</b>	Just and fair redress for projects affecting their lands or territories, particularly in connection with the development, utilization, or exploitation of mineral, water, or other resources.

***These four articles were reviewed at both policy forums to establish a focus for First Nations priorities related to aquatic resources and habitats within their lands and/or territories.***



TABLE 2A: Correlation between the First Pillar of Action and Four reviewed UNDRIP articles

	<b>Pillar of Action</b> (*FNFC Interpretations Only)
<b>UNDRIP ARTICLE</b>	<b>1. Enduring Programming, Funding and Capacity Development for First Nations and Government(s)</b>
<b>ARTICLE 27</b>	First Nations require enduring resources and capacity to effectively engage and collaborate with Government agencies. Project-based funding (B-based) does not promote enduring capacity development for First Nations.
<b>ARTICLE 28</b>	Capacity and funding for First Nations is needed to effectively engage with Crown agencies to determine impacts to their communities and identify appropriate redress. Indigenous Peoples have the right to redress for the lands, waters and aquatic resources within their territories which have been confiscated, taken, occupied, used, or damaged without their Free, Prior, and Informed Consent.
<b>ARTICLE 29</b>	The Crown must take effective measures to ensure, as needed, that enduring funding and capacity is provided for programmes that contribute to monitoring, maintaining, and restoring the health of First Nations and First Nations communities.
<b>ARTICLE 32</b>	Funding and capacity are necessary to support First Nations to determine and develop priorities and strategies for the development or use of their territories, including waters and water resources therein. The Crown must gain First Nations Free, Prior, and Informed Consent in the approval of any project affecting their lands or territories and other resources.

TABLE 2B: Correlation between Second Pillar of Action and Four reviewed UNDRIP articles

	Pillar of Action (*FNFC Interpretations Only)
UNDRIP ARTICLE	2. Indigenous Knowledge and Two-Eyed Seeing
ARTICLE 27	Effective and transparent processes necessitate the recognition of Indigenous Knowledge and Indigenous systems and make efforts to weave together Indigenous Knowledge and Western science to support First Nations participation and management.
ARTICLE 28	Using Two-Eyed Seeing and recognizing Indigenous Knowledge to understand the impacts to First Nations and take appropriate redress.
ARTICLE 29	Programs for monitoring, maintaining, and restoring the health of First Nations need to be developed, and implemented with First Nations using First Nations systems and holistic worldviews. (This includes embedding Indigenous Knowledge as outlined in <i>Article 31</i> ). Indigenous Knowledges must be made equitable with Western systems.
ARTICLE 32	Use Indigenous Knowledge and Two-Eyed Seeing to establish and implement priorities and strategies that ensure First Nations benefit from the development or use of their territories, including waters and water resources.

TABLE 2C: Correlation between Third Pillar of Action and Four reviewed UNDRIP articles

	<b>Pillar of Action</b> (*FNFC Interpretations Only)
<b>UNDRIP ARTICLE</b>	<b>3. Law Reform</b>
<b>ARTICLE 27</b>	That the foundations of Western systems and laws have been imposed upon First Nations, which in many cases, have caused harm and discrimination with how Crown governments engage with First Nations. UNDRIP should guide how legislation and policies are changed. Redress, reversal and upholding of case law is mandatory.
<b>ARTICLE 28</b>	Imposed systems and laws have enabled activities that contribute to the impacts felt by First Nations, and extraction of resources within their territories without their Free, Prior and Informed Consent.
<b>ARTICLE 29</b>	First Nations develop and implement programs, funded and established by the State, to monitor, maintain, and restore the health of Indigenous Peoples and their lands, territories, and resources. Law reform reflects recognition of First Nations authority, law and governance over water and aquatic resources within their territories.
<b>ARTICLE 32</b>	Free, Prior, and Informed Consent is required in the approval of any project affecting First Nations lands or territories and other resources. Law reform recognizes First Nations jurisdiction, authority, law and governance over their lands/territories, waters and resources.

TABLE 2D: Correlation between Fourth Pillar of Action and Four reviewed UNDRIP articles

	Pillar of Action (*FNFC Interpretations Only)
UNDRIP ARTICLE	4. Shared Governance, Management and Decision-Making
ARTICLE 27	Recognizing respective authorities of First Nations and Crown governments in management and decision-making processes, in a manner that reflects First Nations as rights holders. Upholding First Nations self-determination and the authority of First Nations governments.
ARTICLE 28	Support First Nations governments to participate in and make decisions for their communities that reflect Free, Prior and Informed Consent.
ARTICLE 29	First Nations and Crown agencies must equitably participate in bilateral and/or trilateral decision-making where First Nations are appropriately resourced by the Crown with capacity to do so.
ARTICLE 32	The Free, Prior, and Informed Consent of First Nations is required to undertake activities that may impact their livelihoods and the environment. Specifically, this addresses developments, use of resources (e.g., forestry, land use, mining, water, etc.) and other activities that can similarly impact the environment.

TABLE 2E: Correlation between Fifth Pillar of Action and Four reviewed UNDRIP articles

	<b>Pillar of Action</b> (*FNFC Interpretations Only)
<b>UNDRIP ARTICLE</b>	<b>5. Safeguards for Watersheds and aquatic habitat</b>
<b>ARTICLE 27</b>	Indigenous laws and management systems, including traditional and cultural customs, should be recognized, and given due process as part of management processes with Indigenous peoples and Crown governments.
<b>ARTICLE 28</b>	Where Crown decisions and actions to manage resources have infringed on First Nations rights, Crown governments need to take action to compensate for impacts to First Nations and their communities. This includes working with First Nations communities to understand the type and level of impacts and appropriate course of action to remedy.
<b>ARTICLE 29</b>	Conservation and protection of the environment and the productive capacity of First Nations territories, including waters and water resources are designed and implemented by First Nations using Indigenous Knowledges, systems, processes and governance.
<b>ARTICLE 32</b>	First Nations maintain rights, treaty rights, and jurisdiction over their territories, including waters and water resources. First Nations have a right to access funding from environmental damages (e.g., habitat damage) or resource use (e.g., permits and licenses), without the need to compete with stakeholder organizations or Crown entities.





TABLE 2F: Correlation between Sixth Pillar of Action and Four reviewed UNDRIP articles

	Pillar of Action (*FNFC Interpretations Only)
UNDRIP ARTICLE	6. Cultural Practices
ARTICLE 27	Respect for Indigenous cultural practices are woven into transparent processes for collaboration and engagements. Crown agencies should make distinct and unique efforts with Indigenous peoples to reconcile how Western laws are interpreted alongside Indigenous laws and respect their respective authorities to govern and manage the lands, waters, and resources of their lands and/or territories.
ARTICLE 28	That water and water resources are intrinsic to the cultural practices of First Nations and contribute to the livelihoods that First Nations communities have built prior to Western colonization.
ARTICLE 29	Need to protect the land, water and water resources that support First Nations' cultural practices and support future generations to practice culture, traditions and customs.
ARTICLE 32	Respect for the lands and resources that support First Nations' cultural practices, and justly consider previous damages and mitigation measures is required. The Free, Prior, and Informed Consent of First Nations is required to undertake activities that may impact their livelihoods and the environment, specific to the use of resources (e.g., forestry, land use, mining, water, etc.) and other activities that can similarly impact the environment.



## 2. INTRODUCING AN INDIGENOUS MODEL FOR UNDRIP IMPLEMENTATION

Reconciliation is an ongoing journey that will require shared responsibilities and collaboration between the Government of Canada and First Nations in BC. While the federal government will need to take tangible steps to change legislation, policies and programs, input and guidance from First Nations is vital to this process. It is by working together that First Nations and Crown agencies can achieve meaningful effect in regard to implementing UNDRIP.

Through the ongoing engagement of First Nations delegates in BC, an **Indigenous framework for implementing UNDRIP** is emerging – one that combines the best of Indigenous and Western knowledges, practices, and governance into a new way of affecting change. The suggested model brings together these differing world views to conceptualize and articulate how UNDRIP implementation can be collaboratively advanced to meet the interests and holistic priorities of First Nations. Given the common systems-wide worldview that First Nations recognize, **all policy recommendations to implement UNDRIP must additionally address climate change.**

**When contextualized through the protection of aquatic resources in BC, a cultivated subset of specific First Nations recommendations for implementing UNDRIP emerges. The proposed model presents a unique opportunity to pilot action in adapting current Crown policy, legislation, decision-making practices, and governance frameworks, to better align with the requirements of UNDA and UNDRIP implementation.**

### **SPECIFICALLY, THE MODEL BRINGS TOGETHER:**

- **POLICY PRIORITIES** that reflect specific initiatives or broad issues that resonant with First Nations in BC and are relevant to the management, protection and safeguarding of fish, fisheries and aquatic resources
- **PILLARS OF ACTION** that offer a holistic, systems-wide approach to assess broad First Nations' policy priorities and ensure they are reflective of reconciliation and will support UNDRIP implementation.
- **INDIGENOUS MEASURES OF SUCCESS** that articulate desired outcomes and changes (reflective of the emerging policy recommendations and inclusive of First Nations knowledges and evaluation)
- **POLICY RECOMMENDATIONS** on specific actions and changes to the Government of Canada to advance UNDRIP implementation and address climate change while realizing meaningful change for First Nations in BC.

The suggested framework is a way to cross-reference First Nations' policy priorities against one or more of the pillars of action to ensure the policy recommendations made to the Government of Canada are in alignment with Indigenous rights as established through UNDRIP.

Recognizing that the priorities identified have varying degrees of relevance to the six pillars of action, this model serves as a framework to evaluate how various First Nations' policy priorities would be reflected in UNDRIP implementation through the pillars of action which are in turn, reflective of First Nations Rights, Title, jurisdiction and authority. The model also provides a structured process to evaluate emerging and context-specific policy priorities as identified by different First Nations.





cousins in canoe, Skidegate, Haida Gwaii - photo from FNFC collection

The objective of the framework is to establish a consistently applied, collaborative decision-tree where Crown agencies can actively work together with First Nations as articulated through UNDRIP and associated legislation. When converged with First Nations' policy urgencies, the pillars of recommended action build upon one another through a strong framework for implementing UNDRIP.



## 2.1 ESTABLISHING BROAD FIRST NATIONS' POLICY PRIORITIES (See *input requirement*: IMAGE 4)

First Nations' policy priorities related to fish, fisheries, and aquatic resources range widely across ecosystems, governance structures, cultural protocols, and localized geography. As a launching point, a suggested list of five broad First Nations' policy priorities to funnel UNDRIP implementation through includes:

1. Food Security
2. Water Security
3. Guardianship Community-Based Environmental Monitoring
4. Pacific Salmon Treaty (between Canada & USA)
5. Fisheries That Support First Nations' Livelihoods

These five priorities were polled as the top common issues from First Nations delegates at the FNFC policy forums and are interchangeable examples of First Nations' interests that can be advanced via UNDRIP within the context of managing, protecting and safeguarding fish, fisheries, and aquatic resources. They also serve as a common starting point for identifying broad matters of interest to First Nations in BC. It is acknowledged that policy priorities can shift based on urgency, issues and opportunities, and that priorities may also differ by First Nations, regions, and topics of importance.

**By establishing First Nations' policy priorities as the first step in each UNDRIP implementation action, First Nations and Crown agencies have a collective opportunity to realize UNDRIP's promise and potential for achieving tangible outcomes for wild fish, aquatic habitat, and First Nations communities. It can also help to focus initiatives that can contribute to UNDRIP implementation.**



## Indigenous Framework for UNDRIP Implementation

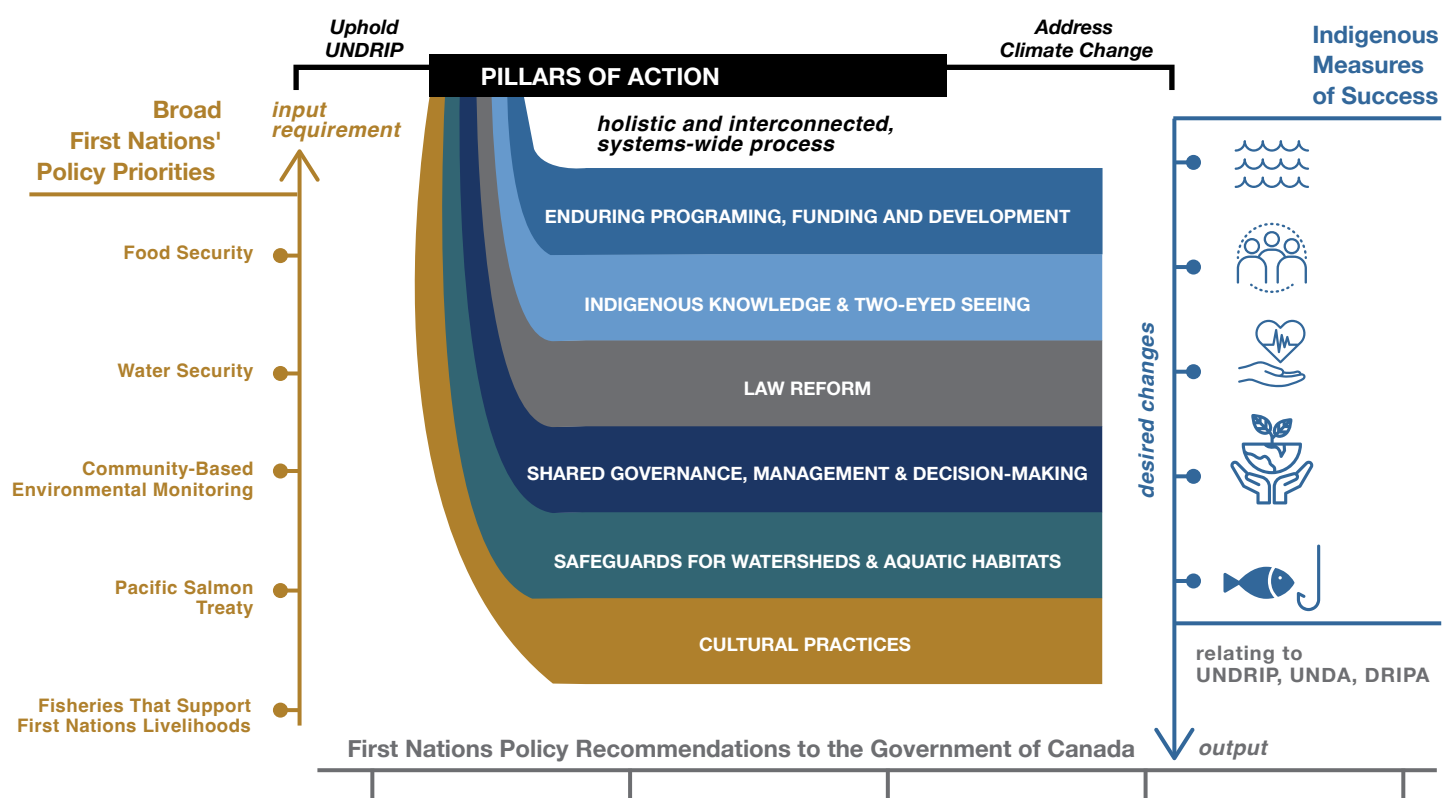


IMAGE 4: Suggested Indigenous Model for Implementing UNDRIP: *Broad First Nations' Policy Priorities*



## 2.2 INDIGENOUS PILLARS OF ACTION (See *systems-wide process*: IMAGE 3)

Throughout discussions held at the two policy forums, several themes that capture how First Nations understand UNDRIP implementation emerged. When connected to the aforementioned priorities established by First Nations, these themes become strong **“PILLARS OF ACTION”** through which to assess First Nations’ priorities and house UNDRIP implementation.

- 1. Enduring Programming, Funding and Capacity Development for First Nations and Crown Government(s)**
- 2. Indigenous Knowledge and Two-Eyed Seeing**
- 3. Law Reform**
- 4. Shared Governance, Management and Decision-Making**
- 5. Safeguards for Watersheds and Aquatic Habitat**
- 6. Cultural Practices**

The six cross-cutting pillars of action (building from the *Turning the Tide* report) related to First Nations-identified policy priorities form a holistic approach of how First Nations describe and view UNDRIP implementation. The pillars are interconnected and provide a systems view of what UNDRIP implementation broadly means to different First Nations in BC. The pillars of action capture broad categories of what needs to be reflected in any discussion relating to actioning UNDRIP. For First Nations in BC, each of the six pillars is required to cumulatively uphold UNDRIP implementation.

Broadly, Canadian policy priorities most often reflect a Western lens of issues that can generally relate back to Crown government policies and programs. These policy priorities (that reflect individual topics) are often brought forward to First Nations for input and feedback, rather than co-creation. This boxes any change into specific mandates and/or issue-based approaches to action. Using Indigenous pillars of action helps present an alternative approach to affecting change – one that prioritizes a whole-systems approach. It presents a holistic perspective in line with First Nations’ priorities that demonstrates how everything is and should be connected.

Viewing UNDRIP through a holistic approach allows both First Nations and Crown agencies to collaborate more effectively as both Indigenous and Western world views are embedded within a singular framework for implementing change. It is only by merging the best of Indigenous world views with Western approaches that lasting, positive change can occur. When First Nations and Crown agencies can see their world views, systems and approaches represented in a singular model for implementation, the recommendations for actionable steps are more readily agreed to by both parties. It also enables First Nations and Crown agencies to more effectively communicate and work with each other, recognizing the different lens and perspectives that First Nations and Crown government systems may have when coming to collaborative tables and advancing issues.

## 2.3 MEASUREMENTS OF SUCCESS (See *desired changes*: IMAGE 3)

For many First Nations in BC, measurements of success can be linked back to the health, culture and identities of their communities and protecting for future generations. Measures of success may be more qualitative, and tie to the narratives and stories that First Nations in BC describe when envisioning progress. It will be critical to measure the success of this model and resulting recommendations of action.

It is recommended that **key Indigenous indicators of success** be developed to measure UNDRIP implementation against. To do this, policy recommendations should be framed in a positive way and include humanizing aspects of celebrating successes.

***“I know this is successful if I can envision my great-great-grandchildren doing this work.”*** – First Nations participant, UNDRIP Policy Forum Dialogue 2, March 2023

First Nations forum delegates noted that it will be important to not only evaluate outcomes and processes, but to celebrate achievements and learn from those successes. In the Indigenous model for UNDRIP implementation, measures of successes are contextualized within individual policy priorities and reflect how individual pillars of action can play a part towards achieving success within First Nations established outcomes.

## 2.4 ADDRESSING UNDRIP AND CLIMATE CHANGE SIMULTANEOUSLY

From an initial set of policy priorities presented at the two policy forums, First Nations identified two broad policy concerns that have cross-cutting implications that must be factored into all other policy priorities: **UNDRIP implementation** and **climate change**. These are best viewed as umbrella priorities that must be reflected and built into the foundation of any and all UNDRIP implementation recommendations and actions.

***“[Climate change] is just like UNDRIP – you have to have it be part of everything – we have to keep it always as top of consideration.”***

– First Nations participant, UNDRIP Policy Forum Dialogue 2, March 2023

Together, these two key policy priorities can be used to contextualize more specific First Nations collective priorities and recommendations for action. Given the Government of Canada’s commitments under UNDA (and in BC, DRIPA), and the critical impacts damaging BC’s environment and natural resources, it is suggested that all UNDRIP implementation recommendations and associated actions should strive to connect and have relevancy to these two umbrella priorities. In other words, they both must be baked into the foundation of all legislation, policy and law in both BC and Canada more widely and be top of mind at every step.

***“Climate change is one of those overarching things that needs to get woven through all of the priorities, but also emphasized so it doesn’t get lost.”*** – First Nations participant, UNDRIP Policy Forum Dialogue 2, March 2023

### 3. RECOMMENDATIONS BY PILLAR

The correlation between each pillar of action and recommended UNDRIP implementation policy actions in relation to the four UNDRIP articles (27, 28, 29 and 32) assessed for this paper are summarized below. Using the Indigenous model of UNDRIP implementation, the following 50 recommendations are areas where the Government of Canada can focus efforts on implementing UNDRIP in the context of the BC fishery.

**Given the numerous policy recommendations mentioned, a starting list of 10 recommendations made specifically to the Department of Justice for collaborating with FNFC to implement the UNDRIP Action Plan are identified in Section 4.2 of this report.**

The following thematic pillars of action and corresponding policy recommendations are opportunities for First Nations and Crown agencies to inform UNDRIP implementation to achieve tangible outcomes for wild fish, aquatic habitat, and First Nations communities in BC. A companion toolkit will focus on how the Indigenous model of UNDRIP implementation can be applied more specifically to common First Nation policy priorities. This toolkit will be workshopped with First Nations in forthcoming engagement sessions in 2023-2024 and will serve as an accompaniment resource to this report.

#### 3.1 ENDURING PROGRAMMING, FUNDING AND CAPACITY DEVELOPMENT FOR FIRST NATIONS & CROWN GOVERNMENT(S)

**CHALLENGE:** First Nations cannot genuinely exercise their rights within the fisheries and aquatic resources sector when they lack sustainable, reliable capacity and funding. While First Nations are leading tremendous work within their lands and/or territories to govern and manage fish, fisheries, and aquatic habitat, and to engage with Crown governments, they do so while experiencing major resource and capacity deficits and disparities. Inequitable governance structures and processes limit meaningful First Nation involvement in decision-making at all scales and scopes, with “top-down” decisions often imposed onto First Nations. This is further exacerbated by short-term funding programs (e.g., B-Based funding) that often put First Nations in a reactive position and provide limited flexibility for future planning. While some First Nations organizations receive A-based funding to support capacity, in many cases, the amounts provided have not increased meaningfully over the past five- to ten- years and do not take inflation and increasing costs into account. Stagnant amounts of funding create significant challenges for First Nations to maintain existing programs and capacity, let alone develop new ones. This results in projects and employment opportunities that are difficult to sustain. This approach to programming and funding mechanisms has prohibited First Nations from building enduring capacity and becoming appropriately resourced to manage and protect the aquatic resources and habitats located within their lands and/or territories.

**OUTCOME SOUGHT:** Canada must establish and expand stable, multi-year, A-based core funding that supports First Nations to implement long-term governance and management (including employment opportunities and initiatives in fisheries programs, restoration, monitoring, science, stewardship, food security, land-based aquaculture, planning, Indigenous Knowledge, and the revitalization of Indigenous legal orders), and capacity for engaging with Crown governments. Sufficient, stable, and predictable resources are required to enable meaningful and long-term First Nations participation in a collaborative tripartite space with Crown agencies. In addition, First Nations must receive a fair share of the benefits derived from the use and harvest of water, fish, and other resources in their territories. Furthermore, First Nations do not have the resources to constantly onboard new Crown representatives. Crown departments must also receive ongoing funding, capacity, and resources to internally onboard staff on working effectively with First Nations, including how and when to recognize Indigenous Knowledge, authority and jurisdiction. However, funding for strengthening Crown operations cannot come at the expense of First Nations or First Nations core funding.

## PILLAR 1: RECOMMENDATIONS TO THE GOVERNMENT OF CANADA

1. IDENTIFY AND IMPLEMENT ONGOING REVENUE-SHARING MECHANISMS so that First Nations receive a meaningful share of benefits derived from the use of fisheries, aquatic resources, and their land and/or territories.
2. CROWN AGENCIES MUST WORK WITH FIRST NATIONS, through collaborative or shared governance processes where they exist, to co-develop funding requests to Treasury Board that can better support program needs.
3. Leveraging the success of salmon conservation stamps, ALLOCATE A DEDICATED PORTION OF FISHING LICENSES FEES to provide for First Nations capacity towards fish and fisheries programs through a First Nations salmon stamp, created with First Nations to help increase funding for First Nations programs that support the protection and conservation of salmon and fisheries. Funding should be housed and distributed through an Indigenous organization resourced to support First Nations to access the funds available to them.
4. INCREASE RESOURCES FOR LONG-TERM, PREDICTABLE CORE FUNDING to First Nations organizations to work in structured Tier 1 and Tier 2 processes to advance shared priorities and enduring programs.
5. DESIGN CROWN INITIATIVES AND INTERVENTIONS to provide stable, multi-year core funding to First Nations fish, fisheries, and aquatic habitat initiatives (i.e., Watershed Security Fund, Pacific Salmon Strategic Initiative (PSSI), Trilateral Salmon Accords, Guardianship program, etc.).
6. SUPPORT TRAINING AND CAPACITY DEVELOPMENT PROGRAMS to advance First Nations career opportunities in the fish, fisheries, and habitat sectors.
7. SUPPORT FIRST NATIONS IN EXPANDING ECONOMIC OPPORTUNITIES and working with Canada to design and implement a *Blue Economy*. Prioritize for First Nations fisheries that support their livelihoods and cultures, while also contributing in part to Canada's Blue Economy.
8. UPDATE A-BASED FUNDING TO ACCOUNT FOR INCREASING COSTS OVER TIME. Conduct regular assessments (two- to four-years) to determine impacts from inflation to support increasing First Nations costs.
9. INVEST, at minimum, \$5 MILLION OVER 5 YEARS FOR FIRST NATIONS CAPACITY to effectively participate alongside Canada at the Pacific Salmon Commission (PSC) process and to support First Nations engagements prior to and during re-negotiations for the *Pacific Salmon Treaty*.
10. SUPPORT FLEXIBILITIES FOR FIRST NATIONS TO BUILD CAPACITY to implement fishery programs that contribute to their food security, including fisheries and stock assessment activities.



## 3.2 INDIGENOUS KNOWLEDGE AND TWO-EYED SEEING

**CHALLENGE:** Most, if not all, Crown policies, legislature, and decision-making processes regarding fish and aquatic habitat management and conservation is driven by Western sciences and currently excludes Indigenous Knowledge or uses it in a piecemeal, extractive manner. Although some new laws direct Crown governments to consider Indigenous Knowledge in decision-making (e.g., Fisheries Act), many challenges and capacity gaps must be addressed to ensure this is done respectfully and appropriately with First Nations rights holders. For many First Nations, Indigenous Knowledge goes beyond a factor of consideration: it is a foundation to governance and decision-making for their communities.<sup>2</sup>

Indigenous Knowledges are multifaceted. Given the diversity of cultural practices and traditions among the First Nations in present-day BC, there is no singular way in which Indigenous Knowledge can or should be accessed and incorporated into government or any other decisions.<sup>3</sup> There are nuances that must be considered on a community level, and there are trust issues that must be addressed broadly across many, if not all, First Nations communities. Two-Eyed Seeing is an approach of inquiry and solution-making where people come together to view the world through an Indigenous lens with one eye (perspective), while the other sees through a Western lens. Indigenous Knowledge must be equitable with Western science when it comes to developing programs and initiatives, determining outcomes, collecting data, and making decisions.

**OUTCOME SOUGHT:** Canada must ensure that Indigenous Knowledge is embedded within all levels of decision-making (which must be joint and consent-based), consistent with and respecting First Nations Indigenous Knowledge protocols, laws, processes, and protections. Two-Eyed Seeing will guide UNDRIP implementation and balance Indigenous and Western sciences, technologies and cultures in its development, design, and application. This will allow First Nations and Crown agencies to collaboratively design new and equitable systems and approaches that benefit all.

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2. Note: It is ultimately up to First Nations to define Indigenous Knowledge for their communities.

3. BC has the greatest diversity of Indigenous cultures in Canada and is home to 34%+ of Canada's First Nation communities. There is no one-size-fits-all approach to working with Indigenous Knowledge as it is subjective to those who have built and maintained it through thousands of years of individual and collective experiences, histories, cultures, traditions, and stewardship practices.





## PILLAR 2: RECOMMENDATIONS TO THE GOVERNMENT OF CANADA

1. BUILD CAPACITY AND UNDERSTANDING among Crown government staff and decision-makers about the laws, protocols, complexities, and considerations for interacting with and implementing Indigenous Knowledge.
2. DEVELOP PROCESSES THAT WEAVE INDIGENOUS KNOWLEDGE WITH WESTERN SCIENCE SYSTEMS — including support and appropriate resourcing for the necessary Indigenous Knowledge governance systems, agreements, and protocols required.
3. EXPAND THE CONSIDERATION AND INCLUSION OF INDIGENOUS KNOWLEDGE IN DECISION-MAKING PROCESSES. Build from changes made during the Fisheries Act and Canadian Navigable Waters Act amendments and apply these to other laws to include stronger language that acknowledges the respective authorities of First Nations and Crown agencies and how they can work together in shared decision-making processes.
4. PROVIDE FUNDING THAT ENABLES AND SUPPORTS FIRST NATIONS COMMUNITIES TO ENGAGE WITH KNOWLEDGE HOLDERS, to understand appropriate process and protocols to include Indigenous Knowledge.
5. CREATE A FRAMEWORK TO INCLUDE INDIGENOUS KNOWLEDGE IN MANAGEMENT AND DECISION-MAKING PROCESSES, which in turn can guide potential inclusion into the next *Pacific Salmon Treaty*.
6. SUPPORT FIRST NATIONS IN DESIGNING COMMUNITY-BASED ENVIRONMENTAL MONITORING PROGRAMS that can incorporate Indigenous knowledge and recognition within science programs.

### 3.3 LAW REFORM

**CHALLENGE:** Thus far, the emergence of First Nations' leadership in the conservation and protection of natural resources has been hindered both by an imbalance of power in governance and a reluctance by Crown agencies to relinquish authority to First Nations. Many pieces of Canadian legislation, such as the *Fisheries Act*, *Oceans Act*, and *Canadian Navigable Waters Act*, impact the regulation and management of fish and aquatic habitat within First Nations lands and/or territories. It should be recognized that Canada's legal system was established then imposed on First Nations in BC, and that many existing laws (and subsequent regulations, policies and programs) do not recognize inherent rights, Aboriginal Title and Rights, Treaty Rights, or Indigenous Knowledge, nor allow for Free, Prior, and Informed Consent and joint decision-making. To be consistent with UNDRIP, existing and new laws must be reformed and developed with a reconciliation lens based on respect and recognition of respective authorities between First Nations and federal and provincial governments. Equitable trilateral decision-making is required.

**OUTCOME SOUGHT:** Canada must reform natural resource management laws to:

- Uphold First Nations inherent rights, Aboriginal Title and Rights, Treaty Rights, jurisdiction, and Indigenous Knowledge,
- Strengthen protections for fish and aquatic habitat, rather than the economy, and
- Enable equitable, joint, consent-based, decision-making.



photo from FNFC collection

### PILLAR 3: RECOMMENDATIONS TO THE GOVERNMENT OF CANADA

1. CREATE A TASK GROUP WITH INDIGENOUS PEOPLES AND ACTION PLAN implementation teams to review and update Canada's laws and legislation to reflect UNDRIP and recognize Indigenous rights.
2. CONSIDER AN IMMEDIATE APPROACH THAT REFLECTS THE INTENT AND NECESSITY – while creating appropriate timelines for updates to take place – of establishing a broad “*UNDRIP Implementation Legal Framework*” to discontinue outdated legislation inconsistent with UNDRIP.
3. ADOPT THE PROPOSED “*UNDRIP IMPLEMENTATION FRAMEWORK*” to guide the drafting of the proposed *Aquaculture Act* in the context of UNDRIP and working with First Nations.
4. ESTABLISH PREAMBLE LANGUAGE FOR ALL CANADIAN LEGISLATION that affirms and upholds First Nations inherent and constitutionally protected Aboriginal Title and Rights, Treaty Rights, jurisdiction, authority, laws, and Indigenous Knowledge.
5. RESPECT AND SUPPORT IMPLEMENTATION OF FIRST NATIONS DISTINCT LAWS, policies, and Indigenous management systems for fish, fisheries, and aquatic habitat.
6. RESPECTING FIRST NATIONS AUTHORITY AND SELF-DETERMINATION, enable Indigenous laws to substitute for Western legislation.
7. DESIGNATE THE *FISHERIES ACT* AS AN IMMEDIATE PRIORITY FOR FRAMEWORK APPLICATION/ REFORM to address key identified issues, including prioritizing water for ecosystems and fish and addressing the *First in Time, First in Right* allocation system.
8. ENACT INITIAL CROSSCUTTING REFORMS that apply to each of BC's natural resource management laws.
9. ACKNOWLEDGE THE IMPACTS OF IMPOSED WESTERN LAWS, including the *Indian Act*, on First Nations communities. Prioritize work with First Nations to replace the *Indian Act* to allow First Nations to move beyond this Act and related policies and programs.
10. RECOGNIZE, THROUGH CHANGES TO LAWS AND POLICIES, THE DISTINCTION BETWEEN RIGHTS-BASED AND PRIVILEGE-BASED FISHERIES. First Nations fisheries that support their livelihoods and cultures are rights-based fisheries that should come second only to conservation concerns.
11. CREATE A LEGAL MECHANISM WITH FIRST NATIONS to designate Canada's waters to have the same legal rights as humans.

### 3.4 SHARED GOVERNANCE, MANAGEMENT AND DECISION-MAKING

**CHALLENGE:** UNDRIP implementation cannot occur without a cohesive, co-management approach that identifies and upholds First Nations as rights holders. Without equitable and recognized authority, First Nations are purposefully excluded from the decision-making processes and resulting initiatives that impact the fish, fisheries and aquatic habitats of their lands and/or territories. This creates immense legal risk to Canada as jurisdiction/authority is not defined clearly between First Nations, provinces, and the federal government. In addition, First Nations continue to bear the costs of resource development and extraction in their territories without receiving fair compensation or benefits from those activities.

**OUTCOME SOUGHT:** To implement UNDRIP effectively, Canada must establish stable government-to-government structures and processes, tailored to the appropriate levels, based on a foundation of joint and consent-based decision-making. This includes:

- Development of effective processes on a **trilateral scale** that support First Nations and Crown agencies to collaborate on policies, laws, strategies, and initiatives with BC-wide effect
- Implementation of joint and consent-based decision-making and management for fish, fisheries, and aquatic habitat with self-determining rights holders (whether on an individual First Nation basis or among multiple Nations agreeing to work together at regional or watershed levels).
- Respect and recognition of First Nations authority and jurisdiction, to be able to self-govern their communities and manage their lands and/or territories and resources.
- Ensure First Nations receive a fair share of the benefits derived from the use and harvest of water, fish, and other resources in their lands and/or territories.





## PILLAR 4: RECOMMENDATIONS TO THE GOVERNMENT OF CANADA

1. **RESOURCE AND SUPPORT FIRST NATIONS CO-GOVERNANCE** in the development, coordination, and decision-making for provincial and federal funding initiatives (e.g., BC Salmon Restoration and Innovation Fund (BCSRIF), Watershed Security Fund, PSSI) by leveraging the trilateral salmon protection work currently being developed between First Nations in BC, the Province of BC and Department of Fisheries and Oceans Canada (DFO) to pilot trilateral governance structures, understand how to better align Crown resources, and work together with First Nations in a co-governance structure.
2. **ESTABLISH SHARED DECISION-MAKING IN SPECIES AT RISK ACT (SARA) listings** by way of a First Nations Committee working in equitable consensus making with the Minister of Environment and Climate Change Canada (ECCC).
3. **ESTABLISH GOVERNANCE, MANAGEMENT, AND DECISION-MAKING WITH FIRST NATIONS RIGHTS HOLDERS** to rebuild implementation plans to identify targets and fishery limit reference points for fish stocks.
4. **BORROWING FROM BC'S APPROACH TO LICENSING TENURES FOR AQUACULTURE, MOVE TOWARDS CONSENT-BASED LICENSING** as a condition of licensing where First Nations collaboration, consent and partnerships should be required before activities occur on their lands or within their territories.
5. **INCREASE COMMUNICATIONS AND TRAINING WITH NON-INDIGENOUS STAKEHOLDERS** (and within government)) to address racism and build awareness of First Nations Rights, Title, and jurisdiction and the non-negotiable need to uphold and honour First Nations rights and authority granted under UNDRIP, UNDA, the Constitution of Canada and appropriate case law (i.e., *R. v. Guerin* (1984), *R. v. Sparrow* (1990), *R. v. Hamelin* (2010), *Ahousaht et. al. v Canada* (2021), *R. v. Gladstone* (1996), *R. v. Williams* (1998), *R. v. Marshall* (1999), *Tsilhqot'in Nation v. BC* (2014), *R. v. Kapp* (2008), *Delgamuukw v. BC* (1997), and *R. v. Morton* (2015), etc.)
6. **SUPPORT FIRST NATIONS PROGRAMS THAT UPHOLD FIRST NATIONS AUTHORITY** to manage and protect their lands and territories, and the resources within. Enable First Nations structures that put First Nations back onto their lands and waters to protect, rebuild and conserve the environment.
7. **ENABLE FIRST NATIONS TO TAKE AN ACTIVE MANAGEMENT ROLE** to protect food security for their communities. This must be done in advance of third-party interests or lobbying effort.
8. **WORK WITH THE PACIFIC SALMON COMMISSION'S FIRST NATIONS CAUCUS** to refresh its role and responsibility in the PSC process, to better support First Nations participation and working alongside Canada as equal partners and co-managers of fisheries resources.



## 3.5 SAFEGUARDS FOR WATERSHEDS AND AQUATIC HABITAT

**CHALLENGE:** Fish need suitable environmental conditions to live and reproduce. Even without human intervention, the existence of good fish habitat is dependent on several factors, such as water flow, water quality, the presence of sufficient food, and the lack of excessive numbers of predators and competitors. Cumulative impacts resulting from human development, such as climate change, forestry, agriculture, urban development, mining, water allocation, and invasive species, are driving major and rapid declines in wild fish and other aquatic life, undermining First Nations livelihoods and community food security.

**OUTCOME SOUGHT:** To implement UNDRIP effectively, Canada must invest in resilient aquatic habitats and watersheds that sustain healthy wild salmon runs, and robust aquatic life, as well as First Nations community well-being, thriving economies, and food security — with First Nations leading or co-leading land and water planning and stewardship efforts to address land/territory-specific issues.

### PILLAR 5: RECOMMENDATIONS TO THE GOVERNMENT OF CANADA

1. **DESIGN THE WATERSHED SECURITY FUND to provide stable, multi-year core funding to First Nations fish, fisheries, and aquatic habitat initiatives.**
2. **ENABLE FIRST NATIONS TO LEAD/CONDUCT RESTORATION AND LAND USE PLANNING, authorized under Indigenous laws (i.e., recognize Indigenous laws as an equivalent substitute to authorize permits under *Fisheries Act*, *Canadian Navigable Waters Act*, etc.).**
3. **CREATE ENABLING LEGISLATION AND POLICIES that streamline efforts, through partnership agreements, to expand Canada's support and co-designation of Indigenous Protected and Conserved Areas (IPCAs) as national parks or national wildlife areas.**
4. **SUPPORT COORDINATION OF A PROVINCIAL-SCALE TECHNICAL NETWORK for First Nations experts to convene and collaborate on fisheries and natural resources technical interests.**
5. **SUPPORT MORE RESILIENT ECOSYSTEMS AND HABITATS TO ACCOUNT FOR CLIMATE CHANGE IMPACTS. Create more responsible fishing plans that promote rebuilding of fish stocks.**
6. **DEVELOP WATER SECURITY PLANS WITH FIRST NATIONS that protect resources from extraction and exploitation without the Free, Prior and Informed Consent of First Nations.**

## 3.6 CULTURAL PRACTICES

**CHALLENGE:** Culture is the lifeblood of a vibrant society, expressed in the many ways First Nations tell stories, celebrate, share teachings, remember the past, pass on knowledge and practices to future generations, entertain, and imagine the future. It is critical that cultural practices are preserved and restored as much Indigenous tradition, ceremony and practice is becoming lost through the devastation occurring to fish, fisheries, and aquatic resources (i.e., how can First Nations teach their children to fish, when there are no fish left?). The future of First Nations, their identities, and prosperity hinges on their abilities to pass on and carry out cultural practices.

**OUTCOME SOUGHT:** To implement UNDRIP effectively, Canada must:

- Respect First Nations cultural practices and the linkages they have with the lands, waters and territories.
- Enable First Nations to incorporate cultural practices into their programs and activities.
- Develop broad recognition that cultural practices are integral to many First Nations and space should be provided to support their practices.

## PILLAR 6: RECOMMENDATIONS TO THE GOVERNMENT OF CANADA

1. **WORK WITH FIRST NATIONS CULTURE LEADERS** to understand how Crown government staff and agencies can support cultural practices within programs and activities.
2. **EVALUATE POTENTIAL IMPACTS TO FIRST NATIONS' CULTURAL PRACTICES** when considering activities that may impact their lands, waters, and resources.
3. **BUILD BETTER UNDERSTANDING OF THE IMPORTANCE OF FIRST NATIONS CULTURAL PRACTICES** and seek ways to work with First Nations to incorporate them when conducting socio-cultural studies and evaluations.
4. **EMBED INDIGENOUS LANGUAGES, PROTOCOLS AND TRADITIONAL PRACTICES** into policy, legislation and decision-making processes.
5. **WORK COLLABORATIVELY WITH FIRST NATIONS TO DEVELOP INDIGENOUS EVALUATION METRICS** that focus on measures of success and incorporate Indigenous Knowledge (e.g., principles of seven generations sustainability).
6. **RESPECT THAT FIRST NATIONS HAVE PREFERRED MEANS, TIMING, MECHANISMS AND APPROACHES** to fishing and harvesting aquatic resources. Crown agencies must work with First Nations to implement and realize Indigenous fisheries and fishing practices (e.g., using fishing weirs) as equitable, appropriate, and critical for protecting culture, traditions, and teachings.
7. **WORK WITH FIRST NATIONS TO REFRAME POLICY** into holistic, whole systems understandings rather than being focused on mandates and/or singular initiatives/Crown agency portfolios.
8. **DEVELOP AND MANDATE Crown cultural competency training and capacity development.**
9. **SUPPORT FIRST NATIONS TO ACTIVELY PRACTICE THEIR CULTURES** by supporting more opportunities for establishing First Nations fisheries and rebuilding fisheries programs within First Nations communities.

## 4. CONCLUSION

### 4.1 COMMITTING TO RECONCILIATION

Implementing UNDRIP is a significant step forward on the shared path of reconciliation. It will contribute to building renewed government relationships with Canada's First Nations, Inuit, and Métis peoples, based on affirmation of rights, respect, cooperation and partnership.

A collaborative approach is an important step to achieving First Nations rights under UNDRIP. Adopting UNDRIP is just a starting point for advancing reconciliation efforts, as UNDRIP alone does not contain details for achieving meaningful change. It is through commitment and action that the government can implement UNDRIP and the reconciliation process meaningfully. By working together with First Nations in every step of the process, Crown agencies will usher in a new era of policies, laws, and relationships, based on recognition and respect.

In the fish, fisheries, and aquatic habitat context, substantial reforms are needed to bring laws, policies, and practices into alignment with UNDRIP. These are not quick fixes and will take sustained commitment, time, resources, and leadership by the federal government and First Nations working in partnership and collaboration.

However, as this Direction Paper outlines, there are many concrete places for the federal government to begin—from initiating law reform, to enabling new governance structures, to supporting First Nations capacity and economic opportunities with dedicated, multi-year core funding.

### 4.2 POLICY RECOMMENDATIONS TO CANADA'S DEPARTMENT OF JUSTICE

To inform the federal Department of Justice's Action Plan to implement UNDRIP across all mechanisms and functions of government (including legislation, policy, jurisdiction, and authority), **the following 10 recommendations are considered key priorities.**

- 1. Increase resources for long-term, predictable core funding to First Nations organizations to work in structured Tier 1 and Tier 2 processes to advance shared priorities and enduring programs.**
- 2. Create a task group with Indigenous peoples and Action Plan implementation teams to review and update Canada's laws and legislation to reflect UNDRIP and recognize Indigenous rights and establish Preamble language for all Canadian legislation that affirms and upholds First Nations inherent and constitutionally protected Aboriginal Title and Rights, Treaty Rights, jurisdiction, authority, laws, and Indigenous Knowledge.**
- 3. Resource and support First Nations co-governance in the development, coordination, and decision-making for provincial and federal funding initiatives (e.g., BCSRIF, Watershed Security Fund, PSSI) by leveraging the trilateral salmon protection work currently being developed between First Nations in BC, the Province of BC and DFO to pilot trilateral governance structures, understand how to better align Crown resources, and work together with First Nations in a co-governance structure.**

4. Design the Watershed Security Fund to provide stable, multi-year core funding to First Nations fish, fisheries, and aquatic habitat initiatives.
5. Crown agencies must work with First Nations, through collaborative or shared governance processes where they exist, to co-develop funding requests to Treasury Board that can better support program needs.
6. Leveraging the success of salmon conservation stamps, allocate a dedicated portion of fishing licenses fees to provide for First Nations capacity towards fish and fisheries programs through a First Nations salmon stamp, created with First Nations to help increase funding for First Nations programs that support the protection and conservation of salmon and fisheries. Funding should be housed and distributed through an Indigenous organization resourced to support First Nations to access the funds available to them.
7. Expand the consideration and inclusion of Indigenous Knowledge in decision-making processes. Build from changes made during the Fisheries Act and Canadian Navigable Waters Act amendments and apply these to other laws to include stronger language that acknowledges the respective authorities of First Nations and Crown agencies and how they can work together in shared decision-making processes.
8. Establish shared decision-making in SARA listings by way of a First Nations Committee working in equitable consensus making with the Minister of Environment and Climate Change Canada.
9. Enable First Nations to lead/conduct restoration and land use planning, authorized under Indigenous laws (i.e., recognize Indigenous laws as an equivalent substitute to authorize permits under Fisheries Act, Canadian Navigable Waters Act, etc.).
10. Work collaboratively with First Nations to develop Indigenous evaluation metrics that focus on measures of success and incorporate Indigenous Knowledge (e.g., principles of seven generations sustainability).













**First Nations  
Fisheries Council**  
of British Columbia

