



FIRST PEOPLES'  
CULTURAL COUNCIL



BC MUSEUMS  
ASSOCIATION



# New National Museum Policy - Position Paper

Prepared by the First Peoples' Cultural Council's Heritage Program  
and the British Columbia Museums Association

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# Executive Summary

This paper presents the collective position of the First Peoples' Cultural Council (FPCC) and the British Columbia Museums Association (BCMA) on the urgent need for a new National Museum Policy (NMP) that centres on Indigenous rights and autonomy. This paper was developed in response to current work being undertaken by the Government of Canada to review and modernize the existing NMP, which was created in 1972 and last updated in 1990. FPCC and the BCMA have come together, walking alongside one another, to urge the Government of Canada to be fully engaged with and guided by the expertise of Indigenous Peoples, according to the principles of Free Prior and Informed Consent (FPIC) and in alignment with the United Nations Declaration on the Rights of Indigenous Peoples (UNDRIP)<sup>1</sup>, throughout the process of developing a new NMP.

The current NMP does not address key developments resulting from decades of Indigenous activism and advocacy, including UNDRIP, the Truth and Reconciliation Commission's (TRC's) 94 Calls to Action, the Calls for Justice by the Inquiry into Missing and Murdered Indigenous Women and Girls and the signing of the Declaration on the Rights of Indigenous Peoples Act (DRIPA) in B.C. Nor does it reflect recommendations flowing from the *Task Force Report on Museums and First Peoples*,<sup>2</sup> the International Council of Museums (ICOM) Code of Ethics<sup>3</sup> or the Canadian Museums Association's (CMA's) report *Moved to Action: Activating UNDRIP in Canadian Museums*.<sup>4</sup> The federal government's national engagement and review of the NMP is an opportunity for the Canadian government to make meaningful change by creating a more robust, influential and inclusive policy and protocols respecting Indigenous heritage and Canadian museums.

What will this mean for future relationships between Indigenous Peoples, their heritage and museums? Within the context of existing museums, it means concrete support for Indigenous Peoples' right to control the documentation, interpretation and representation of their cultures and heritage. Taking a more expansive view, Indigenous Peoples would have the infrastructure to house their belongings as appropriate to their distinctive laws and traditions. Museums would be places to celebrate and revitalize languages, arts, cultures and heritage. In these places, the belongings would be curated using systems of care that respect community legal traditions and protocols.

The BCMA and FPCC urge the Government of Canada to live up to its moral and legal obligations to uphold Indigenous Peoples' rights to interpret, commemorate and control their heritage by ensuring that modernization of the NMP aligns with UNDRIP and allied laws and policies developed over the past three decades. This cannot be accomplished without Indigenous Peoples' full participation and leadership. Recommendations presented at the end of this report describe concrete actions to be taken by Canada, the provinces and territories, in collaboration with Indigenous Peoples, to update the NMP and, more broadly, to ensure that Indigenous heritage revitalization is well-supported across museum and government sectors.


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1 UN General Assembly, United Nations Declaration on the Rights of Indigenous Peoples: resolution / adopted by the General Assembly, 2 October 2007, A/RES/61/295 [UNDRIP] online: <<https://www.un.org/development/desa/indigenouspeoples/declaration-on-the-rights-of-indigenous-peoples.html>>.

2 *Task Force Report on Museums and First Peoples, Turning the Page: Forging New Partnerships between Museums and First Peoples* (Canadian Museum Association and Assembly of First Nations, 1992) online: <[https://museums.in1touch.org/uploaded/web/docs/Task\\_Force\\_Report\\_1994.pdf](https://museums.in1touch.org/uploaded/web/docs/Task_Force_Report_1994.pdf)>.

3 Code of Ethics - International Council of Museums online: <<https://icom.museum/wp-content/uploads/2018/07/ICOM-code-En-web.pdf>>.

4 Stephanie Danyluk and Rebecca Mackenzie, *Moved to Action: Activating UNDRIP in Canadian Museums* (Canadian Museums Association, 2002) online: <[https://museums.ca/uploaded/web/TRC\\_2022/Report-CMA-MovedToAction.pdf](https://museums.ca/uploaded/web/TRC_2022/Report-CMA-MovedToAction.pdf) [Moved to Action report]>.



Together, the First Peoples' Cultural Council and the British Columbia Museums Association declare that **now is the time for a new National Museum Policy** that recognizes and affirms Indigenous Peoples' rights to and sovereignty over their cultural heritage in all its forms.

## Introduction

FPCC is a First Nations–governed B.C. Crown Corporation mandated to support the strengthening and rebuilding of First Nations knowledge systems disrupted by cultural genocide perpetrated through colonial and institutional systems. FPCC is focused on the revitalization of First Nations languages, arts and heritage. Through an approach grounded in recognizing and honouring First Nations knowledge systems, FPCC provides subject matter expertise, administers community-based grants programs and advocates for increased recognition and support for the inherent value of First Nations languages, arts, culture and heritage.

Founded in 1957, the BCMA creates a bright future for B.C.'s museums, galleries and related heritage communities through networking, advocacy, innovation and professional development. Since its founding, the BCMA has grown to include more than 450 members in every corner of the province, representing museums, art galleries, science centres, Indigenous cultural organizations, heritage sites, botanical and zoological

gardens, cultural centres, conservation institutes, exhibition galleries permanently maintained by libraries and archives, and nature reserves.

The BCMA and FPCC are aware of recent work undertaken by the Department of Canadian Heritage (PCH) and the Government of Canada to develop a new NMP. This paper provides an overview of the key laws, policies and other instruments informing the collective position taken by the BCMA and FPCC that **a new NMP must include strong, unequivocal support for Indigenous Peoples' control over their cultural heritage**. A brief survey of the current state of museum policy in Canada and abroad provides context for the paper's calls to update the NMP to address shortcomings related to Indigenous cultural heritage. The paper then describes the steps required for a new NMP that centres Indigenous Peoples and reflects the principles of UNDRIP. Finally, a set of recommendations is presented to guide the work of modernizing the NMP.

## Indigenous Jurisdiction Over Cultural Heritage

The last residential school in Canada closed in 1996, six years after the current NMP was published.<sup>5</sup> Until recently, most of Canada was in denial about this dark history and the systemic murders and abuses at residential schools, day schools, hospitals, farms and other institutions across the country where Indigenous children were forcibly held. Legal scholars Catherine Bell and Melissa Erickson describe the role Canadian cultural institutions played in the violent dispossession of Indigenous culture and heritage, alongside residential schools, in the context of the work of the Truth and Reconciliation Commission:

*Throughout this time Indigenous items, intangible heritage (e.g., images, recordings) and ancestral remains came to be within the control of museums, galleries, archives, libraries (cultural institutions) and other institutions (e.g., universities). As holders of this material and sites of public memory the TRC recognizes the significant roles that cultural institutions have in the process of reconciliation.<sup>6</sup>*

In the 30 years since the last NMP update, the museum sector has changed significantly, including its role within communities and its understanding of its history. **No longer are museums celebrated as “temples of the human spirit”<sup>7</sup> but instead are increasingly understood as institutions created to further colonial agendas** through the erasure and misappropriation of Indigenous arts, culture and heritage.

Recognizing Indigenous Peoples’ right to self-determination and jurisdiction over their cultural heritage is an important step towards advancing meaningful growth and change for Canada’s museum sector and Canadian and First Nations heritage more broadly. This includes recognizing Indigenous Peoples’ diverse and dynamic cultures and heritage and ensuring that the principles of UNDRIP and FPIC are the foundation upon which all policies and practices related to Indigenous heritage are constructed and carried out.

“Indigenous Heritage includes ideas, experiences, worldviews, objects, forms of expressions, practices, knowledge, spirituality, kinship ties, places and lands valued by Indigenous Peoples with each of these concepts being inextricably interconnected with each other.”  
– Indigenous Heritage Circle

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<sup>5</sup> Truth and Reconciliation Commission of Canada, *The Final Report of the Truth and Reconciliation Council of Canada*, online:

<<https://nctr.ca/about/history-of-the-trc/trc-website/>> [TRC].

<sup>6</sup> Catherine Bell and Melissa Erickson, *UNDRIP and Indigenous Heritage* (Canadian Museum Association, 2022) online:

<[https://museums.ca/uploaded/web/TRC\\_2022/UNDRIP%20Indigenous%20Heritage\\_en.pdf](https://museums.ca/uploaded/web/TRC_2022/UNDRIP%20Indigenous%20Heritage_en.pdf)> (p. 41).

<sup>7</sup> Government of Canada, *Canadian Museum Policy* (1990).

Although UNDRIP speaks to Indigenous heritage in its broadest sense, the Declaration is also specific about the ways that Indigenous Peoples can assert, exercise and protect their rights over their cultural heritage. For instance: <sup>8</sup>

- **Article 3** recognizes that “Indigenous peoples have the right to self-determination.”
- **Article 11** states that “Indigenous peoples have the right to practise and revitalize their cultural traditions and customs. This includes the right to maintain, protect and develop the past, present and future manifestations of their cultures, such as archaeological and historical sites, artefacts, designs, ceremonies, technologies and visual and performing arts and literature.”
- **Article 12** acknowledges Indigenous Peoples’ rights to “use and control ceremonial objects; and the right to the repatriation of their human remains.”
- **Article 31** affirms Indigenous Peoples’ rights to “maintain, control, protect and develop their intellectual property over [their] cultural heritage.”

This approach to Indigenous control over their cultural heritage is also reflected in contemporary approaches to museum ethics,<sup>9</sup> including the United Nations Educational, Scientific and Cultural Organization (UNESCO) 2015 recommendation on museums and collections, which states:

*In instances where the cultural heritage of indigenous peoples is represented in museum collections, Member States should take appropriate measures to encourage and facilitate dialogue and the building of constructive relationships between those museums and indigenous peoples concerning the management of those collections, and, where appropriate, return or restitution in accordance with applicable laws and policies.<sup>10</sup>*

<sup>8</sup> Ibid.

<sup>9</sup> Code of Ethics - International Council of Museums online: <<https://icom.museum/wp-content/uploads/2018/07/ICOM-code-En-web.pdf>>.

<sup>10</sup> Recommendation Concerning the Protection and Promotion of Museums and Collections, their Diversity and their Role in Society. UNESCO. Adopted by the General Conference at its 38th Session, Paris, 17 November 2015 online: <<https://unesdoc.unesco.org/ark:/48223/pf0000246331>> (Section III.18).

# The Current Landscape of Museum Policy

## Indigenous Holdings in Canadian Museums

Museums and collections-holding institutions care for millions of irreplaceable works of Indigenous art, culture and heritage. In 2019, the Government of Canada Survey of Heritage Institutions found that approximately 26% of heritage institutions reported that they house Indigenous cultural artifacts.<sup>11</sup> However, it is worth stressing that this data is self-reported and is likely to be higher, given that many heritage institutions are unsure of the provenance of their collections. Likewise, some institutions do not fall within the scope of existing federal museum policy (such as many university collections), and some may be reluctant to report the full extent of their collections in a federal survey.

**It is estimated that museums and heritage institutions hold roughly 6.7 million Indigenous cultural belongings, with eight of the largest institutions in Canada holding 94% of these.**

Roughly 1.3% of heritage institutions also report possessing Indigenous ancestral remains, with an estimated 2,500 ancestors held primarily in B.C. and Ontario. Again, this number is worth viewing critically since many collections-holding institutions are uncertain about the extent and provenance of Indigenous holdings in their collections, and some may misreport the true nature of their collections.<sup>12</sup>

All of these institutions are federally or provincially funded. Recognizing and respecting Indigenous and Canadian legal and ethical principles, including UNDRIP, means that Indigenous consent is required for many of these belongings and ancestors to remain within institutions, and their care must be coordinated in cooperation with affected Indigenous Peoples. In some instances, Indigenous Peoples may want all their belongings and ancestors returned.<sup>13</sup>

## Museum Policy: Canadian Examples

In 2016, the CMA briefed the Standing Committee on Canadian Heritage, stating that federal legislation pertaining to museums is out of date and largely “ignored by the governments, especially at the federal level.”<sup>14</sup> In the seven years since this briefing, very little has changed. In 2018, a private member’s bill, Bill C-391, “An Act Respecting a National Strategy for the Repatriation of Indigenous Human Remains and Cultural Property,”<sup>15</sup> was introduced. The proposed bill aimed to work collaboratively with First Nations, Inuit and Métis peoples to develop a national strategy for returning ancestors and “cultural property” to Indigenous Peoples. While Bill C-391 passed through the House of Commons, it ultimately stalled in the Senate after its first reading due to the 2019 federal election cycle.<sup>16</sup>

Today, the only provinces in Canada with legislation directed explicitly at repatriation and Indigenous museum holdings are Saskatchewan and Alberta. These provincial laws are limited to sacred and culturally sensitive material. The Royal Saskatchewan Museum Act (2007) calls on the Royal Saskatchewan Museum to develop a “policy to address the concerns of Aboriginal peoples about the access to and the care, use and repatriation of sacred and culturally sensitive objects originating with their cultures in the museum collections.”<sup>17</sup> In Alberta, the First Nations Sacred Ceremonial Objects Repatriation Act (2000) was enacted in aid of specific repatriation negotiations between the Blackfoot Nations of Alberta and the Glenbow Museum for the return of medicine bundles and other ceremonial items and also applies to the Royal Alberta Museum and all First Nations in Alberta.<sup>18</sup>

It is intended to “ensure First Nations communities have full ownership and responsibility [for] spiritual artifacts” that are “vital to the practice of First Nations’ sacred ceremonial traditions” and “to harmonize the role of museums in the preservation of human heritage with the aspirations of First Nations to support traditional values.”<sup>19</sup> Museum legislation in B.C. has provisions that speak to creating a repatriation policy for the Royal BC Museum but do not direct how it will be created. B.C. law is also limited to the interplay of repatriation with modern treaty negotiations and statutory and common law obligations.<sup>20</sup> These provincial legislative tools only apply to provincially recognized and funded museums and do not apply to the non-profit sector or many other organizations with Indigenous holdings.

Although these laws have helped to facilitate repatriation, they have many other limitations. As Bell observes, they:

*Can also be criticized on many levels when viewed through the lens of UNDRIP including the narrow scope of its application to peoples, institutions and items and ministerial control. Also important is to give equal consideration of Indigenous laws, effective mechanisms for shared decision-making and dispute resolution, addressing the burden placed on Indigenous peoples to seek out and identify their belongings, [and] access to information about collections, funding and other concerns raised by Indigenous peoples in relation to provincial and institutional repatriation laws and policies.<sup>21</sup>*

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11 Government of Canada Survey of Heritage Institutions, 2019 online: Government of Canada Survey of Heritage Institutions: 2019 - Canada.ca.

12 Ibid.

13 See e.g., UN Expert Mechanism on Rights of Indigenous Peoples, “Repatriation of ceremonial objects, human remains and intangible cultural heritage under the United Nations Declaration on the Rights of Indigenous Peoples” (UN Doc A/HRC/45/35) online: <<https://undocs.org/A/HRC/45/35>> [UN Expert Mechanism Report].

14 Museum Association of Canada, *The State of Museums in Canada Brief to the Standing Committee on Canadian Heritage*, (2016) online: <[https://museums.in1touch.org/uploaded/web/docs/Advocacy/CMA\\_Recommendations\\_CHPC\\_2016\\_EN.pdf](https://museums.in1touch.org/uploaded/web/docs/Advocacy/CMA_Recommendations_CHPC_2016_EN.pdf)>.

15 Canada, Bill C-391, “An Act Respecting a National Strategy for the Repatriation of Indigenous Human Remains and Cultural Property,” 1st Sess. 42nd Parl. (2019) (third reading February 19, 2019) online: <<https://www.parl.ca/DocumentViewer/en/42-1/bill/C-391/third-reading>>.

16 Catherine Bell and Melissa Erickson, *UNDRIP and Indigenous Heritage* (Canadian Museum Association, 2022) online: <[https://museums.ca/uploaded/web/TRC\\_2022/UNDRIP%20Indigenous%20Heritage\\_en.pdf](https://museums.ca/uploaded/web/TRC_2022/UNDRIP%20Indigenous%20Heritage_en.pdf)>.

17 Royal Saskatchewan Museum Act, SS 2007, c R-23.01, s 6.

18 RSA 2000, c F-14.

19 RSA 2000, (Preamble & s. 1(e)).

20 Museum Act, RSBC 1996, c 326.

21 Catherine Bell, “Repatriation and Provincial Heritage Legislation in Western Canada,” in Catherine Bell, et. al., *Workshop Report and Reflections: Repatriation and Provincial Heritage Law (Contemporary Issues in Practice, Policy and Reform)*, Appendix 3 (forthcoming, 2024)

## Museum Policy: International Examples

### Compared to other Western colonial states, Canadian policies, laws, and funding that speak to repatriation are overdue for modernization.

In the United States, the Native American Graves Protection and Repatriation Act (NAGPRA) was enacted before UNDRIP and was first and foremost human rights legislation. Among its many other features, it recognizes and respects Indigenous laws concerning the acquisition of Native American material within its scope. It also upholds the rights of Native American Tribes and Native Hawaiian organizations to repatriate and control their heritage and prohibits trade in such material and ancestral remains.

In Australia, the Indigenous Repatriation Program provides funds “to major Australian museums and to Aboriginal and Torres Strait Islander organizations to facilitate returns of both ancestral remains and secret sacred objects to communities.”<sup>22</sup> Internationally, the Australian government meets the cost of repatriating ancestral remains. Indigenous communities provide governance of the program in multiple ways, including an all-Indigenous advisory committee appointed by the Ministry of Arts to advise on policy, programs and strategic advice on cultural and management issues.

In Aotearoa/New Zealand, Karanga Aotearoa is a government-mandated authority created in 2003 to negotiate the repatriation of Māori and Moriori ancestral remains on behalf of the Māori and Moriori. Te Papa Tongarewa (Museum of New Zealand) is the designated entity to act on behalf of the government to do this work. The program hosts local seminars with Indigenous communities to gain feedback on the program, address new repatriation cases and provide updates. Program staff are responsible for researching each repatriation case and providing additional capacity to Indigenous communities to lead the work.

It is worth noting that Te Papa Tongarewa operates differently than many national museum models. Its executive team features not only a chief executive role but also a Māori co-leader who shares the strategic leadership roles of the institution. Indigenous staff, values and responsibilities are embedded in the operations and departmental leadership to a degree not seen in Canadian federal museums, galleries and heritage sites.<sup>23</sup>

While none of the above examples of legislation and policy are without flaws, even serious ones, they nevertheless show that the Government of Canada is significantly out of step with similar jurisdictions and, in some cases, quickly falling behind. While Canada has failed to demonstrate leadership in recognizing Indigenous self-determination in arts, culture and heritage for decades, it now has the potential and ability to make meaningful change, learn from other jurisdictions, collaborate with Indigenous communities from coast to coast to coast and create a new, more robust and inclusive policy and legislative framework.

## Preparing for a New Era in Museum Policy

In December 2020, the Government of Canada introduced legislation to implement UNDRIP, and in June 2023, it published a five-year action plan with the word “ajuinnata” in the title; this is an Inuktitut word meaning “a commitment to action/ to never give up.”<sup>24</sup> The plan includes “cross-cutting priorities” that are relevant to PCH, including the following:

- **Priority 94:** Establish a process to engage Indigenous peoples on go-forward UN Declaration-related interests relevant to arts, culture, commemorations and heritage.

<sup>22</sup> Australian Government, *Indigenous Repatriation* online: <<https://www.arts.gov.au/what-we-do/cultural-heritage/indigenous-repatriation#:~:text=The%20Indigenous%20Repatriation%20Program%E2%80%94Museum,to%20their%20communities%20of%20origin>>.

<sup>23</sup> *Supra* note 31.

<sup>24</sup> Government of Canada, *The United Nations Declaration on the Rights of Indigenous Peoples Act Action Plan* (2023) online: <<https://www.justice.gc.ca/eng/declaration/ap-pa/ah/pdf/unda-action-plan-digital-eng.pdf>>.



- **Priority 98:** Co-develop with First Nations, Inuit Treaty Organizations or their designates, and the Métis a distinction-based comprehensive approach, which will include legislative, programming and/or service measures, to enable the repatriation/rematriation of Indigenous cultural belongings and ancestral remains.

- **Priority 101:** Work in consultation and cooperation with First Nations, Inuit, and Métis to ensure appropriate measures are in place for Indigenous peoples to maintain, control, protect and develop their cultural heritage, traditional knowledge and traditional cultural expressions, including working in partnership with responsible government departments to ensure that Canada's intellectual property legislative and regulatory frameworks (e.g., Copyright Act, Trademarks Act, Patent Act) are consistent with the UN Declaration. (Specifically relevant to PCH and Innovation, Science and Economic Development Canada).

In response to TRC Call to Action 67, which calls on the CMA to work with Indigenous Peoples on a national review of museum practices and their alignment with UNDRIP, the CMA convened the Reconciliation Council, a group of Indigenous and settler museums and heritage experts. Together, this group produced *Moved to Action: Activating UNDRIP in Canadian Museums*, a report presenting a vision for new museum standards relating to governance, management, operations and relations with Indigenous Peoples. The first standard in the report focuses on repatriation:<sup>25</sup>

*The return of cultural belongings is to occur with the full involvement of the appropriate Indigenous Peoples as equal partners, with research and funding capacity coming from museums at every step.*

*Moved to Action* recognizes that implementing these new standards will take time, commitment and respect. In addition to the report, the CMA has supported the publication of a companion report on UNDRIP and Indigenous heritage and other resources and toolkits to help museums and their employees educate themselves and work on reaching these new standards.<sup>26</sup> However, this report and the recommendations are not achievable without the backing of federal law and policy, co-created with Indigenous Peoples, and sufficient long-term financial investment. **Implementing new standards requires the federal government's support for meaningful progress to be made.** It is important to note that the current NMP does not address these developments or reflect sector-specific recommendations flowing from the *Task Force Report on Museums and First Peoples*,<sup>27</sup> the International Council of Museums (ICOM) Code of Ethics<sup>28</sup> or the CMA's report *Moved to Action*.<sup>29</sup>

As a result of decades of advocacy by Indigenous Peoples, the past 30+ years have seen landmark actions directed at the impacts of colonialism. New and revised legislation, policies and calls to action have helped reframe how museums and collections-holding institutions must consider their contributions to past and ongoing colonization and misappropriation. They highlight the imperatives of Indigenous self-determination, stewardship and control over heritage in its various forms, as well as recognizing cultural losses and trauma brought about by colonization. These invaluable reports, policies and legislation happened after the NMP's last update in 1990, rendering the current New Museum Policy silent on a generation of consequential social and political progress and guiding knowledge and wisdom.

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25 Canadian Museums Association, 2022. *Moved to Action Report*. **Moved to Action: Activating UNDRIP in Canadian Museums – A Response to the Truth and Reconciliation Commission's Call to Action #67**.

26 Canadian Museums Association, 2022. *Moved to Action Resources*. **CMA | Canadian Museums Association**.

27 Task Force Report on Museums and First Peoples, *Turning the Page: Forging New Partnerships between Museums and First Peoples* (Canadian Museum Association and Assembly of First Nations, 1992) online: <[https://museums.in1touch.org/uploaded/web/docs/Task\\_Force\\_Report\\_1994.pdf](https://museums.in1touch.org/uploaded/web/docs/Task_Force_Report_1994.pdf)>.

28 Code of Ethics - International Council of Museums online: <<https://icom.museum/wp-content/uploads/2018/07/ICOM-code-En-web.pdf>>.

29 Stephanie Danyluk and Rebecca Mackenzie, *Moved to Action: Activating UNDRIP in Canadian Museums* (Canadian Museums Association, 2002) online: <[https://museums.ca/uploaded/web/TRC\\_2022/Report-CMA-MovedToAction.pdf](https://museums.ca/uploaded/web/TRC_2022/Report-CMA-MovedToAction.pdf)> [Moved to Action report].>

## Imagining Indigenous Museum Futures Under A New NMP

What is the future of museums? To recognize Indigenous rights, museums must also recognize Indigenous Peoples' right to control the documentation, interpretation and representation of their cultures and heritage. In this future, Indigenous Peoples would have the infrastructure to house their belongings as appropriate to their distinctive laws and traditions. Such spaces would be more than just museums; they would be vibrant, living spaces that connect landscapes, stories and communities. They would be places to celebrate and revitalize languages, arts, cultures and heritage. In these places, Indigenous belongings would be curated using systems of care that respect community legal traditions and protocols, for example, to determine access to and use of cultural belongings.

A new NMP must account for Indigenous Peoples' rights and the tremendous diversity across Nations and communities. The 2021 Census recorded over 1.8 million Indigenous people in Canada, including over one million people who identify as First Nations living on the lands colonially known as Canada.<sup>30</sup> More than 70 Indigenous languages are spoken across Canada. A single NMP developed through the institutional lens of government will not accommodate the diversity across Indigenous Peoples in Canada. A policy that does not consider the distinctiveness of Indigenous Nations cannot successfully support their nuanced, diverse and unique needs, governance structures and systems of cultural knowledge. Communities must be able to develop, support and change their policies and have autonomy over their arts, culture and heritage. **Transformational change in the NMP requires the inclusion and recognition of Indigenous legal orders, protocols, knowledge systems and heritage.** It also necessitates long-term, equitable funding for Indigenous communities to articulate and develop their laws and policies around heritage and to implement them as they see fit.

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<sup>30</sup> Statistics Canada. **Canada's Indigenous population - Statistics Canada (statcan.gc.ca)** June 21, 2023.

## Recommendations

For 30 years, Canada's museum and heritage sector has been guided by a policy framework rooted firmly in colonial ideology. It is past time to break from this outdated, harmful approach and to develop and formalize a new policy that recognizes Indigenous Peoples as owners and stewards of their culture. There are many steps toward harmonious collaboration, reconciliation and implementation of UNDRIP through a new NMP. As preliminary steps, FPCC and the BCMA recommend that Canada, the provinces and territories, in collaboration with Indigenous Peoples, do the following:

### Immediate Term Recommendations

- Support the development of a national strategy and budget to educate museums, galleries and archives about UNDRIP and its potential applications.
- Uphold and support federal commitments to co-create a strategy for repatriation with Indigenous Peoples.
- Support Indigenous-led research related to Indigenous laws, protocols and practices for repatriation and heritage management.
- Establish a base level of remuneration for Indigenous Knowledge Keepers, experts and Elders based on the recommendations in the CMA's Moved to Action report. This step includes ensuring that Indigenous expertise is given the same level of recognition as other types of expertise.
- Develop and institute policies to ensure museums, governments and agencies recognize Indigenous Peoples as the true owners of the treasures and knowledge they house and hold.
- Ensure equitable, inclusive and transparent pay and opportunities for Indigenous museum workers. This would involve researching pay

disparities within institutions, education opportunities, recruitment practices and hiring policies to encourage Indigenous People to work in and with the museum sector.

- Ensure sustainable, multi-year funding for Indigenous cultural centres, organizations and service providers, including infrastructure to house belongings and ancestors and to increase the capacity of Indigenous heritage organizations and communities so they can more meaningfully participate in decisions affecting their heritage and exercise control over their heritage.

## Medium-Term Recommendations

- Develop new policies that reflect Indigenous approaches to caring for heritage belongings held in museums. This includes conservation, preservation, loans and access practices.
- Provide land back for Indigenous Peoples, including space to house cultural properties and ancestors.
- Fund a national Indigenous-led institution to support repatriation efforts, best practices, training and funding allocation.
- Implement an accreditation system in which Indigenous museums or an Indigenous accreditation board could review and accredit Western institutions, such as museums and university programs related to Indigenous heritage and collections caretaking. The process of applying for and receiving accreditation could help Western institutions build their capacity to meet their obligations under UNDRIP.
- Support Indigenous Peoples' work to develop a report card for museums to ensure they meet the criteria for being better allies, working towards reconciliation, supporting repatriation and supporting equity, diversity and inclusion.<sup>31</sup>
- Support the implementation of a museum report card and develop an awards or recognition program for museums that have successfully met the requirements.

## Long-Term Recommendations

- Develop laws and policies that apply to all federally funded institutions housing Indigenous belongings, ancestral remains and intangible heritage. These laws and policies must reflect and honour Indigenous legal traditions and protocols related to repatriation and Indigenous jurisdiction in managing museum collections. A funding mechanism, like that provided through NAGPRA in the U.S., should also be included to assist museums and Indigenous Peoples in implementing these new laws and policies.
- Review and revise all federal and provincial laws and policies that intersect with Indigenous heritage for UNDRIP compliance, including appropriate levels of Indigenous control, Indigenous conservation principles and Indigenous laws and values. For instance, in the U.S., the Safeguard Tribal Objects of Patrimony (STOP) Act of 2021 prohibits the export of illegally obtained Native American cultural artifacts and facilitates their repatriation.<sup>32</sup>

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<sup>31</sup> For an example of such a report card, see the "Museum Commitment to Repatriation Report Card" developed by Lucy Bell.

<sup>32</sup> See online: <<https://www.congress.gov/117/plaws/publ258/PLAW-117publ258.pdf>>.

## Key Considerations For The NMP

Before enacting or adopting legislative and administrative measures, this work will require good faith consultation and cooperation with Indigenous Peoples to obtain their consent. This will be the case in the development of a new NMP. An example of this process being carried out successfully is the process leading to the federal Act Respecting First Nations, Inuit and Métis Children, Youth and Families (also known as Bill C-92), which expressly acknowledges Canada's commitment to implementing UNDRIP<sup>33</sup> and was co-developed with Indigenous Peoples.<sup>34</sup> An Indigenous-centred process guiding the modernization of the NMP will have to address the following issues that are currently stumbling blocks in museum policies and practices:

- Lack of transparent and publicly accessible repatriation policies.
  - Power imbalances and a lack of culturally appropriate dispute resolution processes.
  - Lack of obligation by custodial institutions to consider Indigenous laws in the management and care of collections and ancestors, ascertaining the legitimacy of title or an agreed-upon process for dispute resolution.
  - A need for mechanisms such as policies and funded programs to support revitalization and enforcement of Indigenous laws, including laws related to ownership and stewardship of belongings and intellectual property held in custodial institutions.
  - Lack of effective redress for cultural, intellectual, religious and spiritual property taken without consent or in violation of Indigenous laws.
- A need for a review of legislation and policies with a view to incorporating mechanisms for recognition of FPIC and Indigenous participation in matters affecting their heritage.
  - The need to remove the onus to locate relevant museum holdings and the costs of repatriation from First Nations, including:
    - The need to create inventories of relevant holdings, make them freely accessible to Indigenous Peoples and require institutions to share inventories with affected Indigenous rights-holders
    - A need for sufficient funding for the complex work involved in repatriation, including research, travel and communications; building community consensus and direction; supporting capacity building within communities; transport of belongings and ancestors back home; the internment of remains; and repositories for repatriated belongings and ancestors.
  - A need to widen the narrow focus on sacred and ceremonial objects as the only category for repatriation. This narrow focus can exclude other important Indigenous heritage belongings in different formats, such as archival material, recordings and digital holdings.
  - A need to prioritize repatriation in funding, law and policy. Many recent symposia and reports, including *Moved to Action*, recent publications by Indigenous organizations and the Repatriation and Provincial Heritage Law workshop held in Saskatchewan in 2023, identify repatriation as a priority.

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<sup>33</sup> SC 2019, c 24, Preamble.

<sup>34</sup> "The federal government held some 65 meetings and heard nearly 2,000 community, regional and national organizations as well as individuals, where, among other things, the importance of adopting standards compatible with the UN Declaration was emphasized." See *Renvoi à la Cour d'appel du Québec relatif à la Loi concernant les enfants, les jeunes et les familles des Premières Nations, des Inuits et des Métis*, 2022 QCCA 185 (CanLII), <<https://canlii.ca/t/jn7nb>> (English Version) at paras. 176-77.

- The lack of diplomatic interventions concerning international repatriations and funding support to Indigenous Peoples to research and engage in international repatriation, purchase significant items back and educate foreign and private holders of Indigenous ancestral remains, belongings and intangible heritage, including their significance to contemporary Indigenous Peoples and the rights of Indigenous Peoples.

## Now Is The Time For Action

As this paper has argued, the current NMP is a relic that doesn't speak to the current needs of Indigenous Peoples or the museum sector. The Government of Canada has a moral and legal obligation to recognize the autonomy of Indigenous Peoples to steward their arts, culture and heritage. Policy models and legislative frameworks to recognize Indigenous sovereignty exist in Canada and other jurisdictions. First Nations and other Indigenous communities have advocated for autonomy for centuries, and as the Alberta Museums Association's recent Reconsidering Museums research shows, 94% of Canadians agree that museums have an essential role to play in addressing social issues.<sup>35</sup> The arguments have been made repeatedly; now is the time for action.

The BCMA and FPCC urge the Government of Canada to use the ongoing NMP review process as an opportunity to live up to its obligations and recognize the rights of Indigenous Peoples through new legislation, policy and funding that support the full and unconditional implementation of UNDRIP throughout the museum sector. Such law and policy should extend to all institutions as a condition of federal funding and not be limited in scope to federal institutions.

If another 30 years go by with a National Museum Policy that does not support the rights of Indigenous Peoples, Canada will continue its legacy of ignoring the truth and failing to support reconciliation.

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<sup>35</sup> Reconsidering Museums, A New Vision for Museums: Anticipating and Activating Change in the Canadian Museum Sector (2023) online: <[https://reconsideringmuseums.ca/wp-content/uploads/2023/01/Report\\_Reconsidering-Museums.pdf](https://reconsideringmuseums.ca/wp-content/uploads/2023/01/Report_Reconsidering-Museums.pdf)>.



## Contact

To share your thoughts or to request more information about this paper please contact us.



**FIRST PEOPLES'**  
CULTURAL COUNCIL

First Peoples' Cultural Council  
1A Boat Ramp Road  
Brentwood Bay, B.C. V8M 1N9  
(250) 652-5952 | [info@fpcc.ca](mailto:info@fpcc.ca)  
[www.fpcc.ca](http://www.fpcc.ca)



**BC MUSEUMS**  
ASSOCIATION

BC Museum Association  
675 Belleville St.,  
Victoria, B.C. V8W 9W2  
(250) 356-5700 | [bcma@museum.bc.ca](mailto:bcma@museum.bc.ca)  
[www.museum.bc.ca](http://www.museum.bc.ca)