

Co-Development of Distinctions-based Indigenous Health Legislation



Why Legislation?

- ✓ A new approach as **current policy tools have not been enough** to close the gaps in health outcomes.
- ✓ An opportunity to do something creative and positive, and seek to **address systemic issues**.
- ✓ Can offer a **stable framework for change and for building trust**.
- ✓ Can provide all appropriate actors with the **necessary tools, including funding, to better enable Indigenous Peoples** to pursue their aspirations, goals, and interests, including the exercise of their rights, as they relate to health.
- ✓ Can offer a **concrete framework in which agreements and partnerships can occur** according to communities' needs.
- ✓ Can have commitments backed with **stable resources**.

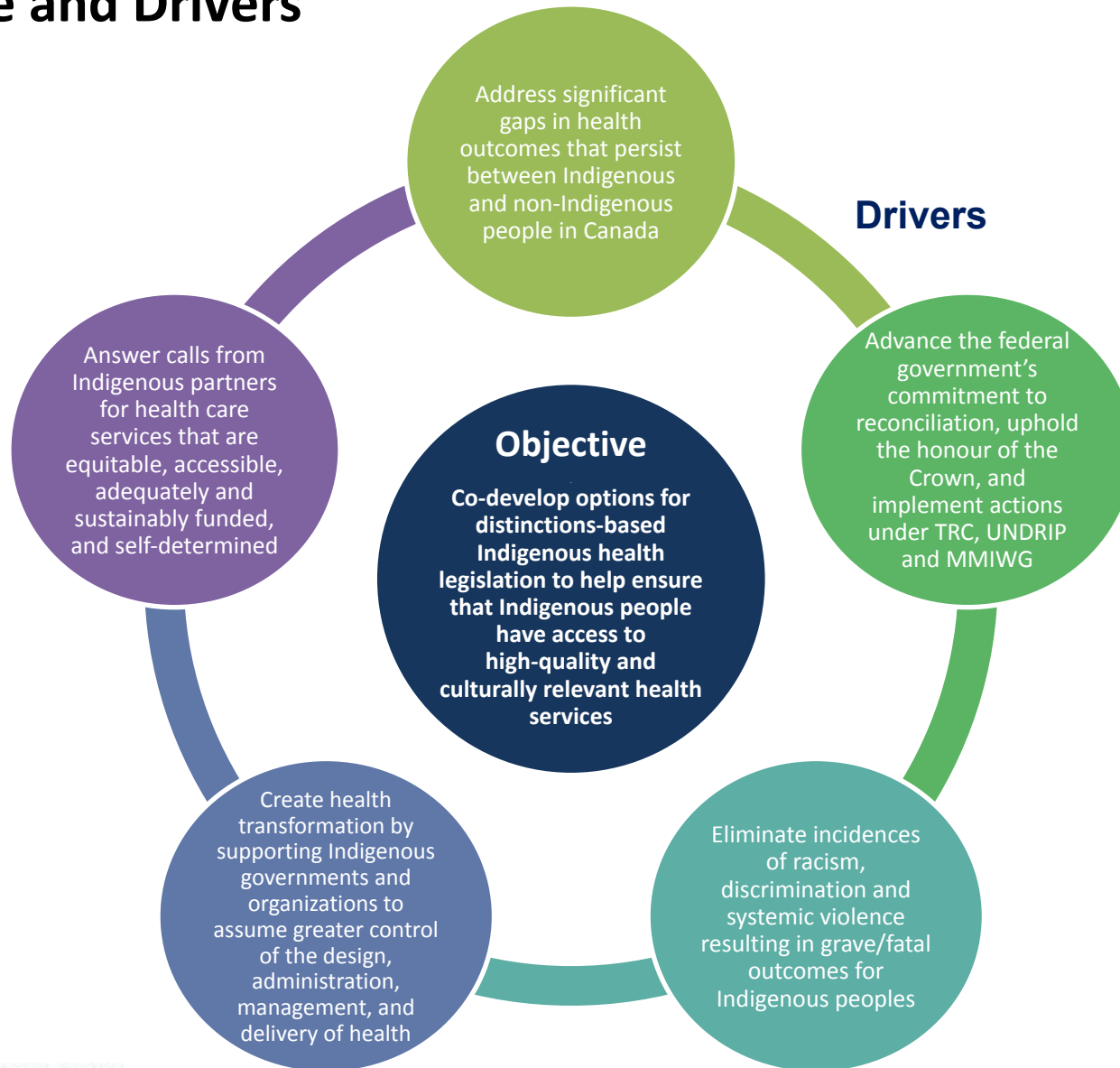
“When taken together, federal and provincial/territorial legislative and policy frameworks fail the test of seamlessness. They also fail to address shifts in jurisdiction related to changes in legislation, decentralization (or recentralization), self-government activities, or as a result of other arrangements.”

- Josée G. Lavoie, 2013

“In the Canadian context, the persistence and growth of Aboriginal health and social inequity signals that we are at a critical public health policy juncture; current policy reflects an historic relationship between Aboriginal people and Canada that fails the contemporary health needs of Canada’s Aboriginal peoples.”

- Richmond & Cook, 2016

Objective and Drivers



Timeline



Engagement

- Fall 2021 to Spring 2022
- Partners engage their membership

Co-Analysis

- Spring 2022 to Fall 2022
- Jointly summarize engagement input received

Co-development

- Fall 2022 to Spring 2023
- Co-development of legislative options

Drafting of the bill

- Spring to Fall 2023
- Bill is drafted by the Department of Justice

Introduction of the bill

- Winter 2024
- Parliamentary process begins

Implementation and Evaluation

- Spring 2024 and ongoing
- Support implementation through ongoing review and dialogue with partners

Engagement & “What We Heard” Report

Engagement:

- Funding was provided to First Nations, Inuit, and Métis Nation partners at national and regional levels to lead engagement with the constituents they represent.
- ISC hosted an Open Dialogue (see Annex A) and will facilitate engagement with provinces and territories.
- 35 engagements reports out of an expected 45 (78%) have been received thus far. The majority of the remaining reports are expected in the coming weeks.

“What We Heard” Report:

- With the input of partners, a first draft of the “What We Heard” report has been developed. This draft was shared with partners for feedback.
- The report summarizes the input the Government of Canada received from Indigenous partners on Indigenous Health Legislation. It aims to:
 - support a transparent process by providing a publicly available overview of what was heard from First Nations, Métis, Inuit and intersectional partners across the traditional territories of Canada; and
 - offer a starting point for working together on potential legislative options.
- The report does not speak for any one Indigenous community or organization; it is an anonymized summary of all input.

“What We Heard” Report Themes

Indigenous Peoples are treated and respected as equals and systems are transformed to remove settler-colonial policies and practices that are discriminatory

Indigenous Peoples can freely exercise their sovereignty and right to self-determination

Approaches to health are wholistic and encompass Indigenous ways of knowing and being, and the social determinants of health

Health Systems, health professionals, and Governments take responsibility for action and strengthen their accountability to Indigenous Peoples

Relationships between Indigenous Peoples and the Government of Canada are respectful

Equitable, adequate, sustainable and flexible funding is available to Indigenous Peoples

Indigenous Peoples control their data and information is available to support wellness

Critical health service needs are met

Supporting and building capacity in health human resources

Co-development

- The goal of this phase is to co-develop fully costed legislative options and drafting instructions by spring 2023 for the Minister of Indigenous Services to present to Cabinet colleagues for decision-making.
- The co-development process will be informed by engagement, be distinctions-based, and will honour articles 18 and 19 of the United Nations Declaration on the Rights of Indigenous Peoples.
- A specific co-development process with the Métis Nation has not yet been determined.
- Given that we need to move forward into the co-development phase, the co-development process will need to be responsive to partner readiness and be flexible enough to allow partners to join as they wrap up their engagements.

Discussion Question:

- **How do we organize ourselves for the next phase of this initiative – the co-development of legislative options? For instance:**
 - Who needs to be at the table?
 - What should the frequency of the meetings be to ensure we are meeting the timelines?
 - What are the milestones that need to be considered for this initiative?

Legislative Process

1

CABINET STAGE

- **Proposed government policy**
- **Policy review, consultations / engagement**
- **Co-development of options**
- Preparation of Memorandum to Cabinet (MC) – **Cabinet Confidence**
- Cabinet committee considers the MC and prepares a report. Cabinet as a whole ratifies the committee's report
- Department of Justice drafters prepare the bill, which is then reviewed by the minister of the sponsoring department and by the Government House Leader
- Notice of intent from Government House Leader to introduce bill in Parliament



2

PARLIAMENTARY STAGE

1. Introduction and first reading
2. Second reading
3. Committee stage
4. Report stage
5. Third reading

- When the bill passes these five steps in the House of Commons, it goes to the Senate
- When the bill passes these five steps in the Senate, it is almost law.
- The bill is referred to the Governor General (GG) seeking royal assent.



3

ROYAL ASSENT STAGE

- Royal assent may be granted in one of two ways: written declaration procedure or the traditional royal assent ceremony.
- The written declaration procedure involves the Clerk of the Parliaments—the Clerk of the Senate—meet with the GG, to present the bill with a letter indicating that they have been passed by both Houses and requesting that the bills be assented to.
- Once it is signed off and the two Houses of Parliament are notified of the declaration by the GG, it is considered assented.

The traditional procedure for royal assent involves a formal ceremony that takes place in the Senate chamber.



4

COMING INTO FORCE STAGE

- Once a bill has been granted royal assent, it becomes law and comes into force:
 1. either on that date; or
 2. at a date provided for within the act; or
 3. specified by an order of the Governor in Council.

Co-development

Parliamentary

Time at each stage varies depending on the complexity of the bill and the parliamentary environment (e.g. support/agenda).

Next Steps

- Establish an approach for the co-development phase with the Métis Nation.
- Co-develop fully-costed legislative options by Spring 2023.

Contacts:

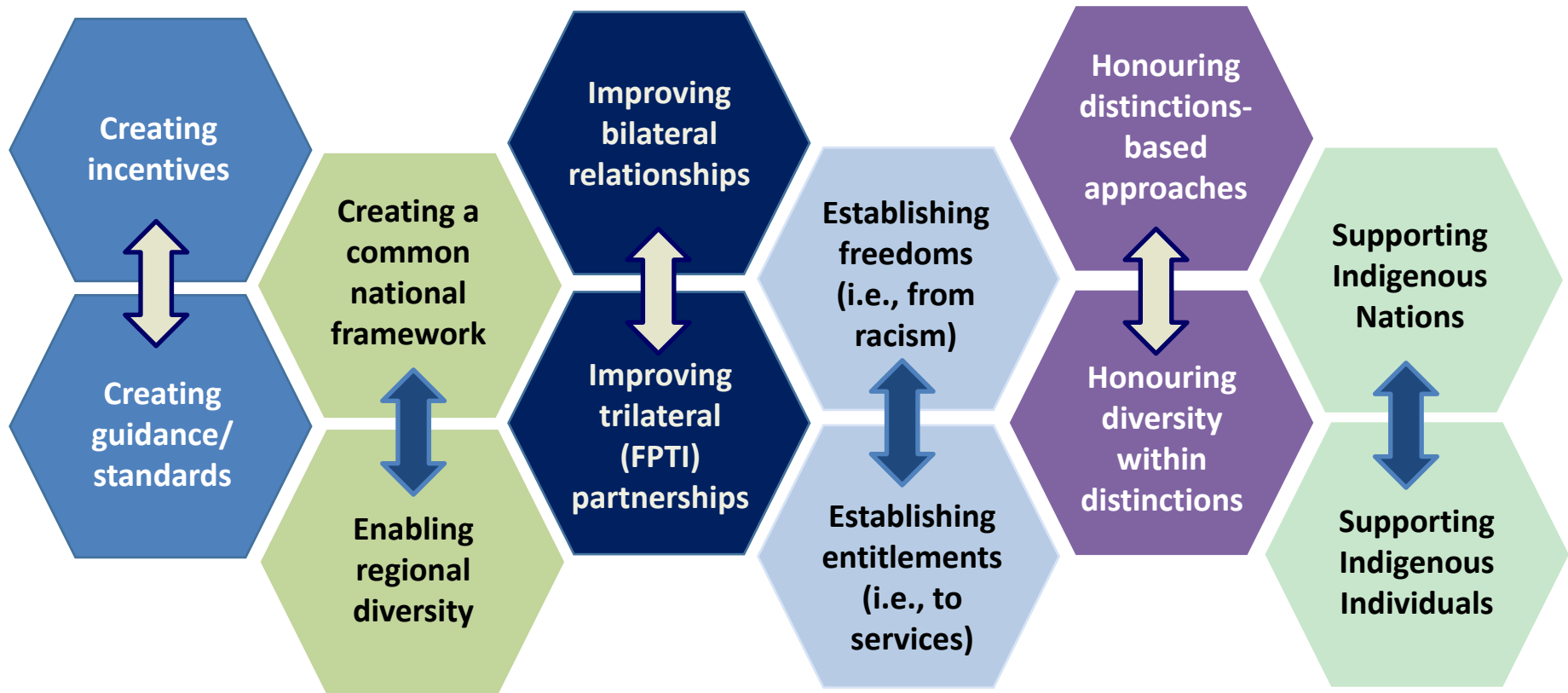
Jonathan Riou, A/Senior Director
Legislation and Transformation
ISC, National Capital Region
jonathan.riou@canada.ca

Judy White, Director
Health Legislation Engagement
ISC, National Capital Region
judy.white@canada.ca

Annex A - Streams of Engagement

STREAM 1 - Community/Regional Engagement	Community Members, Leaders, and Technicians: Treaty Organizations; Nations; Self-Governing Indigenous Nations; Tribal Councils; Chiefs; Inuit Land Claim Organizations; Inuit Outside of Inuit Nunangat; Métis Nation Governing Members; Indigenous Representative Organizations; Women; Elders; Youth; Health Directors/ Technicians/Professionals; Survivors; Provincial/Territorial Representatives & Service Providers	Underway
STREAM 2 - Targeted Outreach	Indigenous Women's Organizations; Urban Indigenous Organizations; Indigenous Youth Organizations; 2SLGBTQQIA+ Organizations; Métis Outside of the Métis Nation (e.g., Metis Settlements General Council, Northwest Territory Métis Nation); First Nations Health Managers Association; First Nations Information Governance Centre	Complete
STREAM 3 – National Engagement	Assembly of First Nations; Inuit Tapiriit Kanatami; Métis National Council; Self-Governing Indigenous Nations	Underway
STREAM 4 – Open Dialogue on Indigenous Health Legislation	Indigenous Academics; Indigenous Legal Experts; Traditional Knowledge Keepers & Elders; Students; Youth; Health Professionals	Complete
STREAM 5 – Provincial/Territorial Engagement	Ministry of Health; Ministry of Indigenous Affairs; Other Provincial/Territorial Ministries (as identified); Multilateral Engagement (where there is interest from Indigenous partners)	Initial Stages
STREAM 6 – IHL Inbox	General Public; Interested Groups	Complete

Annex B - Finding Flexibility in Possible Legislative Approaches



“The new legislation should not be about imposing solutions, but rather about opening the door for Indigenous peoples to choose their own solutions regarding healthcare services/wellbeing.”