

March 23, 2022

Standing Senate Committee on Fisheries and Oceans  
c/o François Michaud, Clerk of the Committee  
**via email: [pof@sen.parl.gc.ca](mailto:pof@sen.parl.gc.ca)**

Dear: Senate Committee Members;

**Re: Summary of Recommendations**

Thank you for the opportunity to present to your committee and for the generous time allowed to answer questions. The questions were thoughtful and particularly relevant to your study.

As per your request, please see attached, a summary of my recommendations for you to consider including in your report from your Study on the implementation of Indigenous Rights-Based Fisheries.

I would be happy to answer any further questions or provide clarifications as needed.

Sincerely,



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Chair in Indigenous Governance  
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## **Summary of Key Recommendations\***

### **(1) Immediately exempt Mi'kmaw peoples (and other impacted First Nations) from federal fisheries laws, regulations, rules, policies, mandates and practices;**

- Via legislative amendment, Order in Council, and/or Policy Directive or the most expedient way to accomplish this on an interim basis;

### **(2) Limit DFO's enforcement role to protecting Mi'kmaw peoples exercising their rights to engage in their fisheries and that includes protecting them from violence by non-Native fishers;**

- This includes limiting the RCMP's enforcement role with regards to fisheries, to protecting Mi'kmaw peoples exercising their rights in engage in their fisheries; and
- This also applies to any related enforcement agency, like the Coast Guard for example;

### **(3) Federal government must immediately engage with Mi'kmaw representatives, as chosen by the Mi'kmaq (traditional leaders, elected leaders, experts, advisers, advocates and/or representatives of the fishers), with a view to setting up a process(es) to address the following:**

- Review of all fisheries laws, regulations, policies, mandates, and practices to ensure compliance with:
  - inherent Mi'kmaw powers, jurisdiction, and laws;
  - constitutionally-protected Aboriginal and treaty rights; and

- all international human rights laws, declarations, conventions, protocols, and treaties to which Canada is a signatory; prioritizing the implementation of the United Nations Declaration on the Rights of Indigenous Peoples (UNDRIP) which Canada agreed to do under Bill C-15; and
- Negotiate matters related to fisheries governance which are to be exclusive to the Mi'kmaw and which matters – if any - will be jointly governed in partnership with the federal government and/or provincial government(s) (where applicable);

**(4) The federal government must immediately provide the ways and means necessary for the Mi'kmaq to bolster their governance structures related to fisheries, including but not limited to:**

- Hiring personnel;
- Engaging professional services to support governance and management of fisheries (legal, policy, financial, scientific, etc);
- Expanding infrastructure (including land);
- Expand training and education;
- Expand supports for Mi'kmaw fishers of all backgrounds, including but not limited to individual food fishers, ceremonial fishers, livelihood fishers, and/or commercial fishers;
- Support Nation-to-Nation negotiations;

- Funding to engage in public education in relation to Mi'kmaw inherent rights, Aboriginal rights, treaty rights, and human rights under UNDRIP in relation to fisheries;
- Support ongoing inter-governmental relationships; and
- Support ongoing relationships between local First Nations and local non-Native communities;

**(5) Federal government must urgently file its response to the United Nations Committee for the Elimination of Racial Discrimination (UN CERD) with regards to UN CERD's Early Warning and Urgent Action communication in relation to the violation of Mi'kmaw human rights in relation to the fishery.**

- The federal response must be made public so as not to undermine federal transparency and accountability and their legal and fiduciary obligations to the Mi'kmaq;

**(6) Federal government must implement recommendations from United Nations human rights treaty bodies in relation to Mi'kmaw human rights, including, but not limited to;**

- Recommendations from various country-specific reports;
- the calls for action from the United Nations Committee for the Elimination of Racial Discrimination pursuant to their Early Warning and Urgent Action procedures in relation to Mi'kmaw fishing rights; and
- take all steps necessary to implement UNDRIP as agreed to in Bill C-15 (and any other applicable international human right);

**(7) Federal government must work with its departments and agencies, especially the RCMP and DFO, to address systemic racism in its laws and polices and also in its behaviours towards Mi'kmaw peoples – in partnership with the Mi'kmaq.**

**(8) Federal government must engage in inter-governmental and public engagement, advocacy and education in relation to affirming, supporting, and protecting the Mi'kmaw rights in relation to fisheries;**

- This should include a public apology for past instances of portraying Mi'kmaw peoples as criminals or acting outside of the law and written jointly with Mi'kmaq;

**(9) Federal government should include, as part of its longer-term discussions with Mi'kmaw peoples, reparations for generations of violations of Mi'kmaw collective rights to engage in, benefit from, protect, and govern their fisheries, which would include, but are not limited to:**

- Financial compensation; and
- Expunging any criminal, civil, or regulatory convictions for Mi'kmaw who have engaged in their fishery.

**\*Important Notes**

- The Mi'kmaw right to fish and govern their fishery does not require, as a pre-requisite, any agreement with the federal government;
- Mi'kmaw will have representatives of their own choosing for different purposes as they see fit, which may include: traditional leaders, elected First Nation leaders, experts, advocates, representatives of fishers and Mi'kmaw women leaders;
- Negotiations may take place at the Nation-level and/or or local community level and includes jurisdiction of the Mi'kmaw Nation and governments over their citizens and members regardless of where they reside;
- Pathways for moving forward must be decided at the local level – in Mi'kma'ki – and not by national organizations, committees or advisers, unless specifically mandated by the Mi'kmaq;
- Mi'kmaq alone decide who has Mi'kmaw fishing rights in Mi'kma'ki;
- Mi'kmaw rights and governance over fisheries does not mean the exclusion of local non-Native fishers or communities from engaging in a fishery governed by the Mi'kmaq; and
- I do not speak for all Mi'kmaw peoples and there may be different recommendations, positions, and/or agreements with Mi'kmaq at local levels, at different times and in varied circumstances.