

BUSINESS AND RECONCILIATION:

**How can investors evaluate the efforts of
Canadian public companies?**

Author: Delaney Greig and Andrijana Djokic

Published by the Shareholder Association for Research & Education (SHARE), July 2017



SHARE is a Canadian leader in responsible investment services. SHARE provides policy development, proxy voting and shareholder engagement services to investment managers, public and multi-employer pension funds, foundations, and faith-based organizations, as well as investment and governance educational programs for pension trustees and other investment decision-makers, and practical research on important and emerging responsible investment issues.

This discussion paper has been prepared as part of an ongoing project on Investment and Reconciliation, with the generous support of the Edmonton Community Foundation, Inspirit Foundation, the McConnell Family Foundation, and Vancity Community Foundation.

SHARE would like to thank Jory Cohen, Martin Garber-Conrad, Derek Gent, Mary Jane Loustel, Dawn Madahbee Leach, Paul-Emile McNab, Sophie Mechin, Andrea Nemtin, Nick Pelosi, Craig Stumpf-Allen, Kathryn Teneese for reviewing earlier drafts of the paper and providing valuable comments and guidance.

Thanks also to internal reviewers and editors: Peter Chapman, Laura Gosset, Tamara Herman, Norah Murphy and Kevin Thomas.

SHARE is solely responsible for the content of this paper.

For more information on SHARE, please visit: www.share.ca

BUSINESS AND RECONCILIATION: How can investors evaluate the efforts of Canadian public companies?

Table of contents

Introduction: Locating business and investors in reconciliation	4
Institutional investors and Call to Action 92	6
The business case for reconciliation	7
Our study	8
Results and discussion	11
Diversity and corporate leadership	11
Employment, training and contracting	12
Respect for international Indigenous rights	14
Community investment	15
Results by sector index	16
Conclusion	18
Appendix: summary of findings	19
Endnotes	20

BUSINESS AND RECONCILIATION: How can investors evaluate the efforts of Canadian public companies?



Although the corporate sector is not a direct party to Treaty and land-claims agreement negotiations, industry and business play an extremely significant role in how the economic, social, and cultural aspects of reconciliation are addressed, including the extent to which opportunities and benefits are truly shared with Indigenous peoples and the environment of traditional homelands is safeguarded."

Truth and Reconciliation Commission Report¹

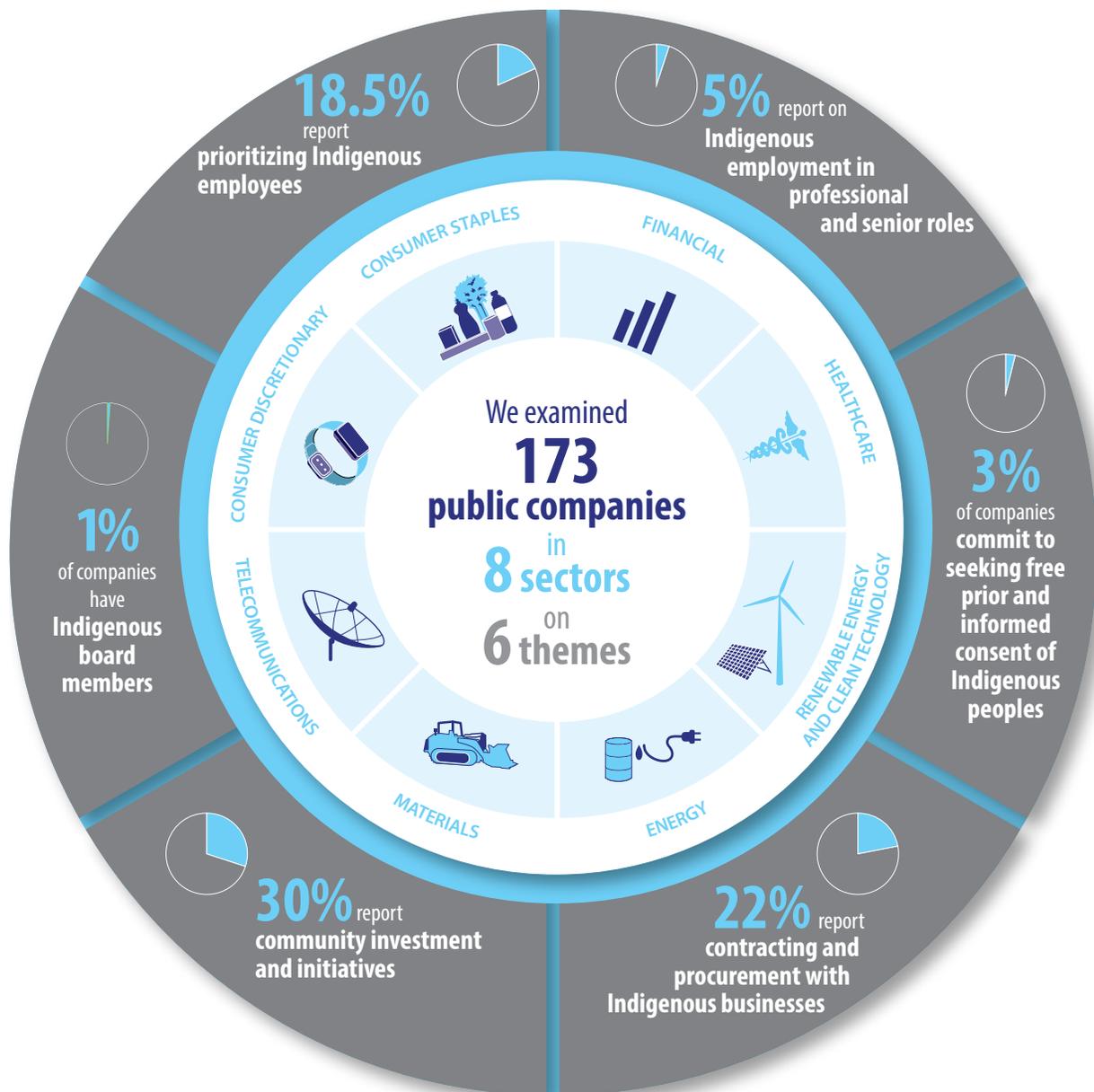
INTRODUCTION: Locating business and investors in reconciliation

In 2015, the Truth and Reconciliation Commission of Canada (TRC) issued its final report on the legacy of Canadian residential schools, which affected generations of Indigenous peoples² in Canada and their relationships with non-Indigenous Canadians. The TRC report provides a roadmap for a reconciliation process aimed at building better relationships between the Indigenous and non-Indigenous peoples in Canada. Through its report, the TRC issued 94 specific Calls to Action targeting all parts of Canadian society, from governments to educators, from sports organizations to the corporate sector.

In response to the TRC Calls to Action, individuals and organizations in all areas of Canadian society have reflected on their own activities and committed to participate in reconciliation in their lives and work. A community of more than 75 Canadian philanthropic and community foundations came together through the Circle on Philanthropy and Aboriginal Peoples to sign a *Declaration of Action* setting out their pledge to demonstrate leadership on reconciliation by harnessing their voices, networks, projects and resources in support of the TRC Calls to Action.³ Some of these foundations are supporting the Calls to Action by exercising their leverage as institutional investors. They are using their position as shareholders to engage with the companies in which they invest about implementing Call to Action 92, which speaks to business and reconciliation.

This discussion paper contributes to that process by reviewing the public disclosures of 173 TSX-listed Canadian companies in eight sector indices to benchmark their current reporting around their relations with Indigenous peoples and the substance of Call to Action 92. We hope to spark further conversation about the policies, practices and disclosure that institutional investors, Indigenous peoples and all Canadians can and should expect from Canadian companies.

Study highlights



Institutional investors and Call to Action 92

The TRC Call to Action 92 calls “on the corporate sector to adopt the *United Nations Declaration on the Rights of Indigenous Peoples* as a reconciliation framework and to apply its principles, norms and standards to corporate policy and core operational activities involving Indigenous peoples and their lands and resources.”⁴

Call to Action 92: Business and reconciliation

We call upon the corporate sector in Canada to adopt the *United Nations Declaration on the Rights of Indigenous Peoples* as a reconciliation framework and to apply its principles, norms, and standards to corporate policy and core operational activities involving Indigenous peoples and their lands and resources. This would include, but not be limited to, the following:

- i. Commit to meaningful consultation, building respectful relationships, and obtaining the free, prior, and informed consent of Indigenous peoples before proceeding with economic development projects.
- ii. Ensure that Aboriginal peoples have equitable access to jobs, training, and education opportunities in the corporate sector, and that Aboriginal communities gain long-term sustainable benefits from economic development projects.
- iii. Provide education for management and staff on the history of Aboriginal peoples, including the history and legacy of residential schools, the *United Nations Declaration on the Rights of Indigenous Peoples*, Treaties and Aboriginal rights, Indigenous law, and Aboriginal–Crown relations. This will require skills based training in intercultural competency, conflict resolution, human rights, and anti-racism.

As a widely-signed United Nations declaration, *UNDRIP* is the internationally accepted standard for protection of and respect for the rights of Indigenous peoples.⁵ In 2010 Canada issued a qualified endorsement of *UNDRIP*. In 2016 it removed these qualifications and committed to fully implement *UNDRIP*.⁶ Although *UNDRIP* is directed at states and not the private sector, it sets out principles and norms that if applied by corporations would ensure that their corporate policies and activities respect Indigenous rights and contribute to reconciliation.⁷

Call to Action 92 identifies three key actions for corporations to take to facilitate reconciliation:

- committing to obtain the free, prior and informed consent of Indigenous peoples before proceeding with projects;
- ensuring access to jobs, training and education, and long term benefits from economic development; and,
- providing management and staff education on Indigenous history and rights and training intercultural competency and anti-racism.

Institutional investors can support implementation of Call to Action 92 by engaging with companies in their portfolios to encourage corporate policies, practices and

disclosures that support reconciliation, and indicate whether and how a company is applying *UNDRIP*. Not only can this foster reconciliation, it can also foster better business practices that contribute to long-term, sustainable shareholder value.

However, for investor engagements to be effective, a significant knowledge gap needs to be addressed around investors' understanding of Indigenous values and economic interests; corporate best practices; and, what corporate disclosure is most relevant, practical, and effective to advance reconciliation and inform investment decisions. With this discussion paper we begin to delve into this information gap and invite conversation about what investors, Indigenous peoples and Canadians can expect from Canadian companies in reconciliation.

The business case for reconciliation

Behaving in a way that supports reconciliation is the responsibility of all Canadians, including investors and corporations. However, a company's decisions about how it relates to Indigenous peoples as business partners, employees and stakeholders also have significant implications for the company's own operations and bottom line in the short and long term.

The risks to companies that fail to develop positive Indigenous relations are well documented, including reputational damage, regulatory intervention, litigation, project delays and disruptions, shut downs and financial loss.⁸

Ktunaxa Nation Council Chair Kathryn Teneese has had substantial experience with mining and other industry in her traditional territory. Speaking at the British Columbia Pension Forum, she explained to pension trustees that investors and companies need to shift their mindset away from seeing Indigenous peoples simply as a risk to be managed.⁹ When investors rely solely on a risk framework to assess relationships with Indigenous peoples, they overlook the broader importance of reconciliation to the economy and their portfolios. Exciting opportunities are created in a wide range of industries by (as TRC Call to Action 92 urges) taking on *UNDRIP* as a business framework for action: a new and growing talent pool and customer base; long-term reliable business partners; local employees, suppliers and contractors; development of new and innovative services and products; and greater operational stability.¹⁰

The Indigenous economy was projected to contribute 31 billion dollars to Canadian GDP in 2016.¹¹ Indigenous businesses and economic development corporations are active in all sectors of the economy, yet many note difficulty developing relationships with other companies.¹² The Indigenous population is younger and growing faster than Canada's population as a whole. The National Aboriginal Economic Development Board estimates that if Indigenous Canadians were given the same education, training and employment opportunities as other Canadians, their contributions could increase Canada's GDP by 27.7 billion dollars annually.¹³

"Investing in Indigenous peoples is an investment in Canada's future prosperity."

Economic opportunities and equity for Indigenous peoples in Canada means opportunities for the entire Canadian economy. Dawn Madahbee, Interim Chair of the National Aboriginal Economic Development Board, explains: “Investing in Indigenous peoples is an investment in Canada’s future prosperity.”¹⁴ Incorporating *UNDRIP* into business practices and implementing Call to Action 92 will contribute to both the process of reconciliation and the development of a productive, sustainable and inclusive Canadian economy.

The TRC makes clear in its conclusion that:

*“First Nations, Inuit, and Métis peoples today want to manage their own lives. In terms of the economy, that means participating in it on their own terms. They want to be part of the decision-making process. They want their communities to benefit if large-scale economic projects come into their territories. They want to establish and develop their own businesses in ways that are compatible with their identity, cultural values, and world views as Indigenous peoples. They want opportunities to work for companies that are proactively addressing systemic racism and inequity.”*¹⁵

Our study

This discussion paper presents the results of a review of the public disclosures of 173 TSX-listed Canadian companies in eight sector indices to benchmark current reporting about business and reconciliation. The sector indices covered are:

1. Capped Financial;¹⁶
2. Capped Healthcare;
3. Capped Consumer Discretionary;
4. Capped Consumer Staples;
5. Capped Energy;
6. Capped Materials;
7. Capped Renewable Energy and Clean Technology; and
8. Capped Telecommunications.

We reviewed the companies’ disclosures using a broad set of indicators in under six themes:

- Recognition of Indigenous peoples in diversity policies and corporate leadership;
- Employment and Advancement of Indigenous employees;
- Contracting and procurement opportunities for Indigenous businesses;
- Providing employment-related training and education;
- Commitment to upholding Indigenous rights; and,
- Community investment and support.

To arrive at these indicators we began with the priorities identified in TRC Call to Action 92 and included indicators used in the Canadian Council for Aboriginal Business (CCAB) Progressive Aboriginal Relations (PAR) program.¹⁷ Both Call to Action 92 and PAR are Indigenous-led mechanisms to define expectations of corporate behaviour in relation to Indigenous peoples.

PROGRESSIVE ABORIGINAL RELATIONS PROGRAM

The CCAB PAR program is a voluntary verification and certification program that assesses corporate performance on Indigenous relations. After a company works through an internal management and reporting process, a third party verifies company reports on outcomes and initiatives in four performance areas: leadership action, employment, business development, and community relations. Finally, the company material and verifier findings are reviewed by a jury from the Indigenous business community and the company is awarded a certification level. For more information, visit: www.ccab.com.

For each company we looked for discussion of the themes in its publicly-available disclosures, including its most recent corporate annual information form (AIF), proxy circular, corporate social responsibility report, sustainability report, diversity and inclusion report, and company website. All information was collected during the summer and fall of 2016.

While some best practices rise to the top, we found that most Canadian companies fail to report information about their policies, practices or relations with Indigenous peoples.

Because only publicly-available information was used, the findings reflect the relative importance that company executives and boards place on disclosure of an issue. The volume and quality of disclosure that a company provides about issues related to Indigenous peoples can be influenced by:

- a) the degree to which Indigenous interests are considered “material” to the business and its operations;
- b) the degree to which its leadership believes that the company’s investors and other stakeholders are concerned about these issues;
- c) the degree to which investors have indicated interest in these disclosures; and,
- d) the degree to which disclosures are expected and/or encouraged by regulators.

Further, our reliance on corporate self-reporting means that our study may not have fully captured a company’s performance. It is possible that a company’s practice could be further ahead of its disclosure. Some companies may be highly-engaged on Indigenous employment, but have not yet clearly communicated this publicly. At the same time, others may include extensive discussion of the issue, but are achieving little in practice. For investors, both adequate and accurate information is critical. For this reason, we included a range of indicators for each theme.

We hope that through feedback on this discussion paper and conversations in accompanying workshops we will be able to refine the set of measures, identifying key performance indicators that reveal the most useful information about a company and provide the best framework for investors to contribute to reconciliation as active owners.

INDICATORS

Diversity and corporate leadership

- Does the issuer's board diversity policy, or discussion in lieu of an official policy, address Indigenous heritage and identity on the board of directors?
- Has the issuer established targets for Indigenous representation on the board?
- Does the issuer identify any board members of Indigenous heritage and identity?
- Does the issuer's board diversity policy, or discussion in lieu of an official policy, address Indigenous heritage and identity of senior management or executive officers?
- Has the issuer established targets for Indigenous representation within senior/executive management?
- Does the issuer discuss Indigenous heritage/identity in regards to general employee diversity policies and programs?

Employment and advancement

- Does the issuer state that they prioritize the employment of Indigenous persons?
- Has the issuer established targets for Indigenous employment?
- Has the issuer worked with Indigenous agencies, organizations or communities for recruitment of Indigenous employees?
- Does this issuer provide qualitative information about Indigenous employment?
- Does the issuer provide quantitative information about Indigenous employment?
- Does the issuer provide quantitative information by role or level?

Contracting and procurement

- Does the issuer provide qualitative information about contracting and/or supplier procurement opportunities for Indigenous peoples?
- Does the issuer provide quantitative information about contracting and/or supplier procurement opportunities for Indigenous peoples?

Training and education

- Does the issuer provide qualitative information about provision or support for training and education for Indigenous peoples relevant to its area of work?
- Does the issuer provide quantitative information about provision or support for training and education for Indigenous peoples relevant to its area of work?

Indigenous rights

- Does the issuer commit to seek the free, prior and informed consent of Indigenous peoples?
- Does the issuer commit to apply *UNDRIP*?
- Does the issuer acknowledge or commit to *ILO Convention 169*?

Community investment

- Does the issuer provide any information about other relevant Indigenous community funding or initiatives?

Results and discussion

EDUCATING NON-INDIGENOUS MANAGEMENT AND EMPLOYEES

Several reviewers and collaborators from Indigenous communities and organizations spoke to us about the importance of the third part of Call to Action 92: education on Indigenous history and rights and training on intercultural competency and anti-racism for non-Indigenous management and employees.

Because information about the scope and content of internal corporate training and education is very rarely covered in reporting to investors, we did not directly study this aspect of Call to Action 92 in the indicators we looked for in this initial paper. Nevertheless, education and training for company management and employees is an essential precondition to the success on any of the indicators measured.

To effectively implement *UNDRIP* in a company's practices, the people who operate within the company and represent it in society must have the understanding, capacity and commitment to work with Indigenous peoples in ways that respect their cultural values, world views, rights and experience. The question of internal training and education should form part of the discussion between shareholders and companies.

Diversity and corporate leadership

Diversity and inclusion have received significant attention in the investor literature, particularly with respect to increasing gender diversity in senior corporate levels. The Canadian Securities Administrators now require issuing companies to report on the number of women in board and executive officer positions, and on their policies and targets to enhance representation of women in these positions.¹⁸ Economic arguments for ethnic and gender diversity in corporate leadership have been articulated for many years.¹⁹ However, rarely do diversity discussions consider to the representation and contributions of Indigenous people in board and executive officer positions. Few companies have diversity policies or plans that address Indigenous representation among employees and corporate leadership.

Only three of the 173 companies surveyed identified Indigenous heritage or identity as a quality sought in identifying board candidates. Two of these companies had persons who identify as Indigenous on their boards – the only companies in the study with Indigenous board members. This is consistent with the Canadian Board Diversity Council's 2016 report card, which found that only 0.6 percent of seats on the boards of the FP 500 companies were held by Indigenous persons, the lowest level since that survey began in 2010.²⁰ If representation were reflective of the percentage of Canadian population that is Indigenous, at least 4.3 percent of board seats should be held by Indigenous persons.²¹ Similarly, only two companies discussed Indigenous heritage as a priority for executive officer and senior management appointments.

Attention to Indigenous heritage in the general employee pool was somewhat stronger among issuers. Eighteen percent of companies referenced Indigenous peoples as a priority group in statements on general employee diversity. Although reference in a general employee diversity policy or statement does not tell an investor the degree to which the company is actively seeking to recruit, retain and promote Indigenous employees, it does indicate that a company is attentive to the issue and willing to be publicly accountable for its commitment.

INDIGENOUS PEOPLES AS PROPORTION OF CANADIAN POPULATION AND CORPORATE BOARD MEMBERS



The results suggest that specifying Indigenous heritage in a general diversity policy may be a precursor to setting targets and programs to enhance the recruitment of Indigenous employees. A large portion of the companies that identified Indigenous heritage as a priority for employee diversity, also reported Indigenous employment information and progress.

Employment, training and contracting

Because of strong population growth and pervasive underemployment, increasing Indigenous employment requires focused effort. Recruitment, advancement, contracting and training are critical areas for business action on reconciliation. Even when accounting for differing labour force participation rates, the National Aboriginal Economic Development Board found that Indigenous peoples are underemployed relative to non-Indigenous Canadians in most economic sectors.²² Targeted recruitment and training strategies are required for companies to gain and retain Indigenous employees.

Similarly, if the 27.7 billion-dollar potential growth in the Indigenous economy is to be realized, Indigenous employees need opportunities for advancement and Indigenous businesses need to be considered for contracts and partnerships. According to the CCAB, key challenges facing Indigenous businesses in contracting and partnerships include finding out about opportunities, maintaining relationships of trust at a distance, and meeting the scale required for contracts with larger companies.²³ None of these challenges are insurmountable. They are all areas that companies can work to address through their approach to contracting.

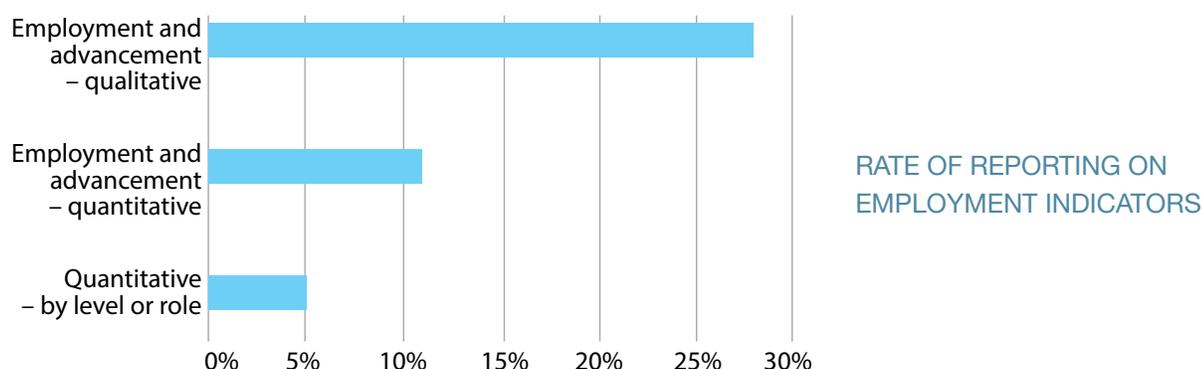
Employment and advancement

Almost 20 percent of companies reported mechanisms to prioritize the employment of Indigenous peoples in some way, whether through impact benefit agreements, programs to attract a local labour force, or as part of a broader recruitment strategy. For example, almost one-quarter of financial companies and all telecommunications companies reported some prioritization of Indigenous employment.

Unlike materials and energy companies which also performed relatively well in this area, the financial and telecommunications sectors are rarely involved in direct impact benefit or community agreements. For these sectors attention to

Indigenous hiring may be motivated by reasons such as market diversification, optimizing their talent pool, or a mandate to see their workforce better reflect the Canadian population.²⁴ Alternatively, those companies that are federally regulated may be comfortable with disclosure of employment metrics because they are already required to report annually to the federal government on the representation of designated groups, including Indigenous peoples, in their workforce, and on their employment equity measures under the *Employment Equity Act*.²⁵ The industries covered by this legislation include telecommunications, banking, railways and pipelines.

While a significant proportion of companies provided descriptive information about Indigenous employment within the company, few provided quantitative information about the number of Indigenous employees in the company or targets for recruitment. Reporting on advancement and the types of roles held by Indigenous peoples was particularly poor. Only nine companies reported the proportion of Indigenous employees by job types and levels across the company. This information is important to identify when a company has gone beyond employing Indigenous peoples in entry-level or site-specific “shovel-in-hand” work to employing them across the corporate hierarchy and supporting their advancement.



When seeking to recruit Indigenous employees, 15 percent of companies worked with Indigenous agencies or organizations to support this process. Such partnerships can provide culturally-specific communication and networking support to build relationships with Indigenous communities and provide introductions to Indigenous persons who have relevant skills, but would not otherwise be captured in recruitment efforts.²⁶ Companies that reported having sought outside expertise from Indigenous advisors were also more likely to report on other employment and contracting metrics.

Training and education

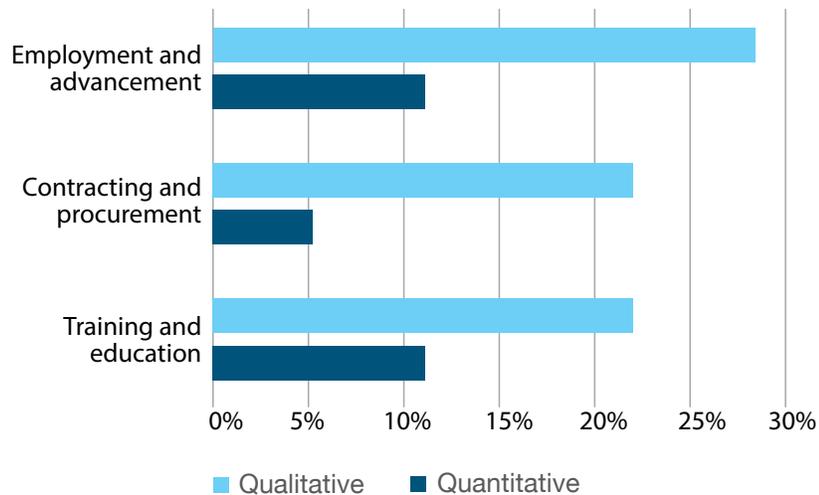
Many companies reported providing funding, training programs, or other educational opportunities specifically for Indigenous peoples. Twenty-three percent of all companies reported some type of education or training. Attention to education and training is positive; however, the actual significance of these opportunities is unclear. Only five percent of companies disclosed any quantitative

data about their training and education activities, such as the amount of money provided in scholarships or how many people participated in training programs. Further, the majority of qualitative and quantitative information reported by issuers focused on case studies, philanthropy, or individual local programs rather than explaining how the company is involved in training across its operations or the way in which educational opportunities translate to employment and advancement in the company itself.

Contracting and procurement

Twenty-three percent of companies also described specific contracting or procurement opportunities for Indigenous businesses and economic development corporations. The overlap between companies providing education and training and those involved in contracting and procurement was significant. Some companies had developed preferential pre-screening programs for supplier and contracting systems or worked with Indigenous communities and organizations to develop lists and networks of Indigenous suppliers. These notable exceptions aside, most companies reported on highly localized one-off procurement or contracting for specific projects or locations rather than comprehensive company-wide systems and opportunities.

RATE OF REPORTING ON EMPLOYMENT, CONTRACTING AND TRAINING: QUALITATIVE VS QUANTITATIVE INFORMATION



Respect for international Indigenous rights

Respect for Indigenous rights entails compliance with the highest international standards of Indigenous rights. These rights are set out in *UNDRIP* and the International Labour Organization Convention Concerning Indigenous and Tribal Peoples (*ILO 169*).²⁷

A key element of *UNDRIP*, and in part *ILO 169*, is the free, prior and informed consent (FPIC) of Indigenous peoples for decisions and activities affecting them, or their lands, territories or other resources.²⁸ While the FPIC obligation in *UNDRIP* was developed by and targeted at states, companies that operate in Canada need to

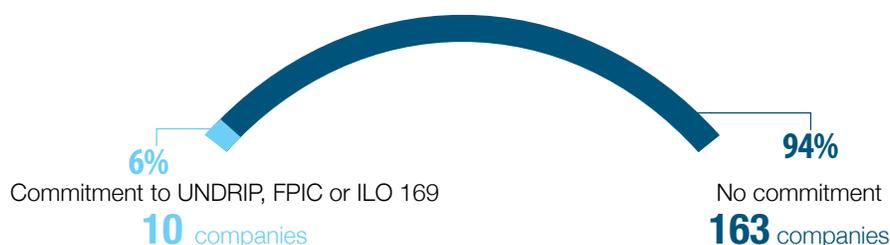
comply with FPIC to ensure long-term, stable operations and respectful relations with affected peoples. This has been made evident by the failure and delay of recent pipeline proposals in Canada.

Furthermore, companies have a responsibility to seek and obtain FPIC under other international instruments including the United Nations Guiding Principles on Business and Human Rights, United Nations Global Compact, and International Finance Corporation Performance Standards, as well as many sector specific international standards.

Assembly of First Nations National Chief Perry Bellegarde explains what FPIC means for companies in practice: “Before you try to build anything, before you try to build a pipeline, before you try to build a mine, you build a respectful relationship with Indigenous peoples, one that respects inherent rights and Indigenous peoples’ rights.”²⁹

Few Canadian companies make any commitment to international Indigenous rights standards. Only ten of the 173 companies surveyed made some form of commitment to *UNDRIP*, FPIC in particular, or *ILO 169*. Only five companies specified a commitment to FPIC: one financial company, one energy company and three mining companies.

Although some companies made commitments to respect Indigenous rights under Canadian law, such statements did not equate to a commitment to international Indigenous rights standards. While Canadian law goes some of the way to protecting Indigenous rights, at present, it does not clearly meet the standards of *UNDRIP* or *ILO 169*.³⁰



COMPANIES REPORTING
COMMITMENT TO RESPECT
INDIGENOUS RIGHTS

Community investment

Another way that companies can be involved in reconciliation is through relevant and appropriate investment in the communities of Indigenous peoples involved in, or impacted by, a company’s activities. This was the most active area of reporting in the study. Fully one-third of companies reported some form of financial support or initiative involving Indigenous communities or groups external to their company. For many companies these initiatives were a part of their broader philanthropic activity and were the only area of Indigenous relations on which they reported.

Although these contributions and initiatives can be beneficial, they are often short term, ad hoc and self-interested. In some instances, a community may not welcome this type of involvement from companies, particularly where the community has

.....
*“Before you try to build anything,
 before you try to build a pipeline,
 before you try to build a mine, you
 build a respectful relationship with
 Indigenous peoples, one that respects
 inherent rights and Indigenous
 peoples’ rights.”*

ongoing concerns around project impacts and Indigenous rights. To be meaningful and contribute to reconciliation, community investment must involve joint planning, ongoing dialogue and relationship building. It also needs to align with the goals and interests of the Indigenous communities involved. Without contextual detail, assessing whether and how community investment from companies contributes to reconciliation is difficult.

Results by sector index

1. Financial (*banks, insurance and financial services*)

Many listed financial institutions provided good disclosure on employment contracting and training. More than 20 percent of companies in the sector disclosed qualitative information in these areas, but few went on to provide quantitative details. Only one company made a commitment to respect free, prior and informed consent in its activities. Notably, Canada's large banks led the sector in discussing and reporting on Indigenous indicators more generally.

2. Healthcare (*health and pharmaceutical equipment, supplies, technology and services*)

The healthcare sector disclosed the least information of all the sectors in our review. Of the five companies reviewed, only one instance of reporting on an indicator was identified. The dearth of reporting in this sector is particularly notable because of the need for healthcare services and products specific to growing Indigenous populations. Representation of Indigenous peoples in the industry would help ensure that the services and products developed address the needs of Indigenous patients and consumers.

3. Consumer Discretionary (*non-essential consumer products such as durable goods, apparel, entertainment, automotive and media*)

Companies in the consumer discretionary sector performed extremely poorly, with no reporting on most indicators. Only two of 25 companies provided some qualitative reporting around Indigenous employment and contracting. Given the diverse activities of this sector from consumer goods to manufacturing to culture and entertainment, and the sector's significance in daily life in Canadian communities, the poor performance is surprising. It points to untapped opportunities for new partnerships and approaches that would benefit Indigenous communities and businesses, as well as publicly listed consumer-facing companies.

4. Consumer Staples (*essential consumer goods such as food and beverages*)

Disclosure of indicators relevant to reconciliation was negligible among consumer staples companies. The only exception was a company operating stores in remote and Arctic communities. It discussed Indigenous recruitment for employees, board and management. However, with 56 percent of Indigenous peoples living in urban areas,³¹ all consumer staples companies have an interest in considering Indigenous supplier and employee opportunities.

5. Energy (*oil and gas equipment, services, production and transportation*)

Although companies in the energy sector report more about Indigenous relations than those in many other sectors, their levels of disclosure do not match with the importance of Indigenous relations to their operations. Only 34 percent of energy companies reported any information about Indigenous relations. Most of this reporting related to community investment, or qualitative information about employment, contracting and education. Although several energy companies have developed Indigenous relations policies, only one company addressed *UNDRIP* and FPIC in its policy.

6. Materials (*forestry, mining and metals, equipment, services and production*)

While the study did find that a high proportion of companies in the sector report Indigenous relations information, much of the disclosure by materials companies was narrative and anecdotal. For example, with respect to Indigenous employment, half of materials companies provided qualitative information, but only 13 percent provided quantitative employment information and only one gave quantitative employment information by job type or level. Within this employment information both the qualitative and quantitative data was dominated by case study or project-specific information. A similar reporting pattern was found for information on contracting and procurement, and training.

More positively, six of the 10 companies that made a commitment to an international Indigenous rights standard were materials companies. Most of these companies had made their commitments through Indigenous rights policies developed in the last three years. This pattern suggests a movement among materials companies to look to international best practice, in addition to local legal requirements, to guide their relations with the Indigenous peoples.

7. Renewable Energy and Clean Technology (*wind, solar, hydro and other renewable energy utilities, technology and services*)

Disclosure by renewable energy and clean technology companies was poor across the board. This result is surprising because it does not reflect the high interest in renewable energy among First Nations and the impact of large scale energy projects on Indigenous peoples. In Canada, many of the current and proposed wind, solar and hydro developments are located within Indigenous lands and territories. Renewable energy developments present both potential economic opportunities for Indigenous communities and potential adverse impact to their lands and way of life.³² In the case of hydro, in particular, the scale of impacts can match that of non-renewable resource development.³³ Only three of the 19 companies in this sector provided employment and contracting information, while four discussed community investments and initiatives. These initiatives included innovative joint-ownership ventures with First Nations. No companies in this sector addressed Indigenous rights standards.

8. Telecommunications (*wired and wireless telecommunications services*)

The telecommunications sector was an unexpected leader in disclosure on Indigenous relations. Only four companies were included in this sector index. All stated that they prioritize Indigenous employment, and provided both qualitative and quantitative information about Indigenous employees. Three companies also provided information about Indigenous employment by role or level and three had preferred supplier programs for Indigenous-run companies. However, none of the telecommunications companies had taken the step to include Indigenous representation in diversity policies for the board or senior management.

Conclusion

A public issuer is required by law to disclose any information that is material to the business. Voluntary public reporting, on the other hand, depends on whether a company's board and management determine that information is important and relevant to stakeholders, whether or not it is material. Unfortunately, our findings show that many issuers in Canada often do not consider their performance with respect to Indigenous peoples to be either relevant or material.

For these reasons, current public reporting provides a limited window into a corporation's policies and practices, and is insufficient for investors to know which issuers are conducting business in a way that supports reconciliation. Companies may be doing more to advance Indigenous relations, employment, advancement, training, and contracting than is apparent from their public reporting. If so, this information is not publicly available to shareholders.

Institutional investors – philanthropic and community foundations, pension funds, religious institutions, Indigenous trusts and others – can advance the actions articulated in TRC Call to Action 92 by communicating to issuers about their interest in improved transparency around policies, practices and reporting on Indigenous relations and about the standards and scope of reporting they desire.

SHARE's research and shareholder engagement program uses multiple information sources and direct dialogues with issuers to develop a fuller picture of a company's environmental, social and governance risks and opportunities. Our institutional investor clients urge companies to improve voluntary public disclosure to supplement the limited information shareholders currently receive. We believe that if investors do not ask, issuers will not tell. The engagement program will be using the results of this study to inform ongoing and new dialogues with companies to improve their practices and performance in Indigenous relations and reconciliation.

Fortunately, companies do not need to start from scratch. As our study has found, positive examples of policies, practices and disclosure already exist among Canadian issuers. Companies can draw on these examples and on standards of best practice to help guide them in building operations that support reconciliation and a more productive, sustainable and inclusive economy.

RECONCILIATION ACTION PLANS

In Australia organizations of all types and sizes including corporations and institutional investors have been developing and implementing Reconciliation Action Plans (RAPs) since 2006 through Reconciliation Australia, a national non-profit that promotes reconciliation in Australia by building relationships, respect and trust.

A RAP sets out the practical actions that an organization commits to take towards reconciliation in the workplace and economy. It is written as a business plan with actions, implementation plans, and targets clearly identified. Participating entities make their reports public by posting their RAPs and annual progress updates on the Reconciliation Australia website. Canadian companies and institutional investors may find Australian RAPs useful information sources and models to guide their action on reconciliation or development of their own RAPs. For more information, visit: www.reconciliation.org.au.

This discussion paper is intended to contribute to a wider conversation amongst Indigenous and non-Indigenous investors, businesses and leadership on the ways in which investment practices can incorporate the goal of reconciliation in a meaningful way. For SHARE's team the process of preparing and workshopping this paper contributes to our own continuing education on Indigenous rights and history, and to understanding the role our organization can play in supporting reconciliation.

We welcome your participation in the discussion. If you would like to know more about SHARE's work on Business and Reconciliation and the ongoing activities of participating foundations, please contact us.

Appendix: Summary of findings

Results show percentage of companies disclosing on an indicator	Financial (26 companies)	Healthcare (5 companies)	Consumer Discretionary (25 companies)	Consumer Staples (11 companies)	Energy (38 companies)	Materials (45 companies)	Renewables & Clean Tech (19 companies)	Telecommunications (4 companies)	Total (173 companies)
Diversity and Corporate Leadership									
Board policy	0.0%	0.0%	0.0%	9.1%	2.6%	0.0%	0.0%	0.0%	1.7%
Board target	0.0%	0.0%	0.0%	0.0%	0.0%	0.0%	0.0%	0.0%	0.0%
Indigenous board member	0.0%	0.0%	0.0%	9.1%	2.6%	0.0%	5.3%	0.0%	1.2%
Senior Management policy	0.0%	0.0%	0.0%	9.1%	0.0%	0.0%	5.3%	0.0%	1.2%
Senior Management targets	0.0%	0.0%	0.0%	0.0%	0.0%	0.0%	0.0%	0.0%	0.0%
Employee diversity reference	30.8%	0.0%	8.0%	27.3%	12.2%	20.0%	5.3%	100.0%	17.9%
Employment and Advancement									
Prioritize employment	23.1%	0.0%	4.0%	9.1%	15.8%	28.9%	5.3%	100.0%	18.5%
Employment targets	3.9%	0.0%	0.0%	0.0%	2.6%	2.0%	0.0%	0.0%	2.3%
Indigenous recruitment partners	26.9%	0.0%	0.0%	0.0%	15.8%	15.6%	0.0%	100.0%	13.9%
Qualitative data	30.8%	0.0%	8.0%	9.1%	23.7%	48.9%	15.8%	100.0%	28.3%
Quantitative data	26.9%	0.0%	0.0%	9.1%	2.6%	13.3%	0.0%	100.0%	11.0%
Quantitative data by level	15.4%	0.0%	0.0%	9.1%	0.0%	2.0%	0.0%	75.0%	5.2%
Contracting and Procurement									
Qualitative data	19.2%	20.0%	8.0%	9.1%	23.7%	31.1%	15.8%	75.0%	22.0%
Quantitative data	3.9%	0.0%	0.0%	0.0%	10.5%	8.9%	0.0%	0.0%	5.2%
Training and Education									
Qualitative data	23.1%	0.0%	0.0%	9.1%	29.0%	33.3%	10.5%	75.0%	22.0%
Quantitative data	7.7%	0.0%	0.0%	0.0%	7.7%	8.9%	0.0%	0.0%	5.2%
Indigenous Rights									
FPIC	3.9%	0.0%	0.0%	0.0%	2.6%	6.7%	0.0%	0.0%	2.9%
UNDRIP	0.0%	0.0%	0.0%	0.0%	2.6%	6.7%	0.0%	0.0%	2.3%
ILO 169	0.0%	0.0%	0.0%	0.0%	0.0%	4.5%	0.0%	0.0%	1.7%
Community Investment									
Community Funding or initiatives	30.8%	0.0%	4.0%	18.2%	28.9%	48.9%	21.0%	100.0%	29.7%

Endnotes

- ¹ Truth and Reconciliation Commission of Canada, *Canada's Residential Schools: The Final Report of the Truth and Reconciliation Commission of Canada*, (2015), v6 Reconciliation, p 204, online at: <http://www.trc.ca/websites/trcinstitution/index.php?p=890> [TRC Report].
- ² Indigenous peoples include people who identify as First Nations, Inuit, and Métis.
- ³ The Circle on Philanthropy and Aboriginal Peoples in Canada, *The Philanthropic Community's Declaration of Action*, (2015), online at: <http://www.philanthropyandaboriginalpeoples.ca/declaration>.
- ⁴ *Supra* note 1 at 240.
- ⁵ *United Nations Declaration on the Rights of Indigenous Peoples*, 2 October 2007, UN GA, 61st sess, UN Doc A/RES/61/295, Online at: <https://documents-dds-ny.un.org/doc/UNDOC/GEN/N06/512/07/PDF/N0651207.pdf?OpenElement> [UNDRIP].
- ⁶ Tim Fontaine, "Canada officially adopts UN declaration on rights of Indigenous Peoples", CBC News (10 May, 2016) Online at: <http://www.cbc.ca/news/indigenous/canada-adopting-implementing-un-rights-declaration-1.3575272>
- ⁷ United Nations Global Compact, *A Business Reference Guide to the United Nations Declaration on the Rights of Indigenous Peoples*, (2013), <https://www.unglobalcompact.org/library/541> [UNGC Guide].
- ⁸ *Ibid.*
- ⁹ Kevin Thomas, *It's not just about risk*, (28 Feb 2017) Shareholder Association for Research and Education, Online at: <http://share.ca/its-not-just-about-risk>.
- ¹⁰ See for example: UNGC Guide, *supra* note 7.
- ¹¹ Sonya Gulati and Derek Burleton, *Special Report: The Long and Winding Road towards Aboriginal Economic Prosperity*, (2015) TD Economics, Online at: <https://www.ccab.com/wp-content/uploads/2016/11/TD-AboriginalEconomicProsperity.pdf> [TD Special Report].
- ¹² See for example: Canadian Council for Aboriginal Business, *Promise and Prosperity: The 2016 Aboriginal Business Survey*, (2016), Online at: <https://www.ccab.com/wp-content/uploads/2016/10/CCAB-PP-Report-V2-SQ-Pages.pdf>.
- ¹³ Fiscal Realities Economists, *Reconciliation: Growing Canada's Economy by 27.7 Billion*, (2016) National Aboriginal Economic Development Board, Online at: http://naedb-cndea.com/reports/naedb_report_reconciliation_27_7_billion.pdf.
- ¹⁴ National Aboriginal Economic Development Board, *Without equal economic opportunities, there can be no reconciliation with Indigenous Canadians*, (22 Nov 2016) Blog Post, Online at: <http://www.naedb-cndea.com/without-equal-economic-opportunities-no-reconciliation>.
- ¹⁵ TRC Report, *supra* note 1 at p 206.
- ¹⁶ "Capped" describes a characteristic of the composition of an index. For TSX capped sector indices the relative weight of any single company in the sector index cannot exceed 25%.
- ¹⁷ Canadian Council for Aboriginal Business, *Progressive Aboriginal Relations*, Online at: <https://www.ccab.com/programs/progressive-aboriginal-relations-par> [PAR].
- ¹⁸ CSA Multilateral Staff Notice 58-308, *Staff Review of Women on Boards and in Executive Officer Positions: Compliance with NI 58-101 Disclosure of Corporate Governance Practices* (28 Sept, 2016) Canadian Securities Administration, Online at: http://www.osc.gov.on.ca/en/NewsEvents_nr_20160928_new-results-women-on-boards.htm.
- ¹⁹ See for example a summary of research in Catalyst, *Why Diversity Matters* (2013), online at: <http://www.catalyst.org/knowledge/why-diversity-matters>.
- ²⁰ Canadian Board Diversity Council, *2016 Annual Report Card*, (2016), Online at: www.boarddiversity.ca/report_card.
- ²¹ Statistics Canada, *Aboriginal Peoples in Canada: First Nations People, Métis and Inuit*, (2013) National Household Survey 2011, Online at: <http://www.statcan.gc.ca/pub/91-552-x/2015001/hl-fs-eng.htm>.
- ²² Fiscal Realities Economists, *Investing in Canada's Future Prosperity: An Economic Opportunity for Canadian Industries*, (2017) National Aboriginal Economic Development Board, Online at: <http://www.naedb-cndea.com/reports/reconciliation-investing-in-canada's-future-prosperity.PDF>.
- ²³ Canadian Council for Aboriginal Business, *Relationships and Reciprocity: Exploring Aboriginal Business*,

(2015), Online at: <https://www.ccab.com/research/ccab-research-series/relationships-and-reciprocity/relationships-and-reciprocity-2016>.

²⁴ TD Special Report, *supra* note 11.

²⁵ *Employment Equity Act* SC 1995, c 44 at s 17-18

²⁶ See for example Canadian Council for Aboriginal Business, Online at: <https://www.ccab.com/>; Indigenous Works, Online at: <https://indigenouworks.ca/en>.

²⁷ *UNDRIP*, *supra* note 5; *Convention concerning Indigenous and Tribal Peoples in Independent Countries*, 27 June 1989, UN ILO, 76th sess (entered into force 05 Sept 1991), Online at http://www.ilo.org/dyn/normlex/en/f?p=NORMLEXPUB:12100:0::NO::P12100_ILO_CODE:C169 [ILO 169].

²⁸ *UNDRIP*, articles 10, 11, 19, 28, 29, 32; ILO 169 articles 13-19.

²⁹ Gloria Galloway, "Ottawa drops objections to UN Resolution on Indigenous Consent", *The Globe and Mail* (24 Apr 2017), Online at: <http://www.theglobeandmail.com/news/politics/ottawa-drops-objections-to-un-resolution-on-indigenous-consent/article34802902>.

³⁰ For discussions of gaps between Canadian law and International Indigenous rights law see: Centre for International Governance Innovation, *UNDRIP Implementation Braiding International, Domestic and Indigenous Laws*, (2017) Online at: <https://www.cigionline.org/sites/default/files/documents/UNDRIP%20Implementation%20Special%20Report%20WEB.pdf>

³¹ Indigenous and Northern Affairs Canada, *Urban Indigenous Peoples*, (2016), Online at: <http://www.aadnc-aandc.gc.ca/eng/1100100014265/1369225120949>.

³² Nicole Ireland, "First Nations see economic future in Canada's growing clean energy industry" *CBC News* (05 Nov 2016), Online at: <http://www.cbc.ca/news/indigenous/first-nations-pursue-canada-clean-energy-economy-1.3829405>; Eniko Horvith et al, *Investor Briefing: Renewable Energy Impacts on Communities: Managing Investors' Risks and Responsibilities*, (2017) Business and Human Rights Resource Centre, Online at: <https://business-humanrights.org/en/renewable-energy-investor-briefing-managing-risks-responsibilities-for-impacts-on-local-communities>.

³³ See for example, Canadian Press, "Manitoba Premier apologizes to First Nation for damage done by dam" *The Globe and Mail* (20 Jan 2015), Online at: <https://www.theglobeandmail.com/news/national/manitoba-premier-apologizes-to-first-nation-for-damage-done-by-dam/article22541829>.



Box 11171, Royal Centre, 26th Floor,
1055 West Georgia Street
Vancouver, BC V6E 3R5

T: 604 408 2456
F: 604 408 2525
E: info@share.ca

www.share.ca