The Congress of Aboriginal Peoples is a National Aboriginal Organizations recognized by the Government of Canada to represent the rights and interests of off-reserve Aboriginal people in Canada.

Recent census data indicates that - for people who identify themselves as Aboriginal - only 26% live on Indian Act reserves. The majority of Canada's Aboriginal population now lives off-reserve in urban, rural and remote areas of Canada.

Canada's colonial and paternalistic Indian Act stands as a sad monument to human rights violations against Canada's Aboriginal people. The Indian Act discriminates against Canada's indigenous population in three very specific ways.

First, the Indian Act divides Aboriginal people - communities and families - into those who are "entitled" and "not entitled" to be recognized for the purpose of government services. This distinction creates situations where family members have differential access to programs and it supports a hierarchy of entitlement for benefits such as housing, medical care, or education. Some groups of Aboriginal Canadians, notably the Metis and Non-Status Indians, fall entirely outside of the Indian Act and are marginalized by Canada as a result.

Secondly, the Government of Canada relies on the geographic boundaries of the reserve system to define their Constitutional responsibility for Aboriginal programs and services. Canada’s Aboriginal population is highly mobile. Many people leave their reserves and migrate into urban centres to obtain education and medical services, seek employment, or escape situations of violence and social dysfunction. The exercise of this choice forces them to abandon many of their Aboriginal and Treaty rights at the reserve boundary.

Finally, the Indian Act is the only piece of federal legislation in Canada that is exempt from the application of the Canadian Human Rights Act. The necessity for the exemption, which is known as Section 67 of the Canadian Human Rights Act, is clear and unequivocal proof that the Indian Act discriminates against Aboriginal people, particularly with respect to race and gender.

Perhaps the most disturbing influence of the Indian Act in modern times is that the devolution of programs and services to Indian Act Band Councils has made the Aboriginal leadership collaborators in the discrimination against their own people.

The Congress of Aboriginal Peoples has intervened in several court cases that challenge the constitutionality of the Indian Act including the Corbière case (which extended voting rights to off-reserve Registered Indians), the Sawridge and the McIvor cases (both of which challenge the Indian Act's registration provisions). These provisions have been denounced by CERD and the UN Human Rights Committee. We are also litigants in our own right on the Daniels case, which seeks equal recognition for Metis and Non-Status Indians who are outside of the Indian Act.

Madam Chairperson, there is a great deal of debate about the fundamental human rights of Aboriginal Canadians in Canada. We stand firm with our Indigenous Brothers and Sisters that the Canadian Government needs to revisit its position and accept the United Nations Declaration on the Rights of Indigenous Peoples. Human rights standards ensure the survival, dignity and well-being of all Indigenous Peoples.

We are encouraged by the Government of Canada's efforts to remove the Indian Act exemption from the Canadian Human Rights Act. If successful, this would implement the recommendation of the UN Special Rapporteur on the situation of Human Rights and Fundamental Freedoms of the Indigenous Peoples.

Unfortunately, the process has been frustrating to watch unfold. Partisanship is influencing the process and it appears that some legislators are more interested in promoting the lack of human
rights for Canada’s Aboriginal people in international forums than they are at ensuring Aboriginal people actually have equal access to human rights redress mechanisms in domestic matters.

The issue, once again, is the Indian Act and the confounding reluctance of some Aboriginal leaders and non-Aboriginal politicians to force it into full scrutiny and eventual compliance with the Canadian Human Rights Act.

Let me be clear, the Congress of Aboriginal Peoples is committed to the full recognition, protection, and guarantees of Indigenous Peoples fundamental human rights – both internationally and at home. Our organization will be consistent in its message. We fully support the Government of Canada in its effort to repeal Section 67 of the Canadian Human Rights Act in a way that retains a focus on fundamental human rights for all, with no exceptions.

RECOMMENDATION TO THE PERMANENT FORUM:

In conclusion, we reiterate the need for the Permanent Forum to request the Special Rapporteur on the situation of human rights and fundamental freedoms of Indigenous Peoples to undertake a study on the rights of urban indigenous peoples, paying particular attention to their ability to exercise and enjoy their economic and social rights at the eight session of the Permanent Forum.

The themes that could be considered in the study include cultural identity, equitable access to essential services, and the challenges facing indigenous youth and border issues.

National Chief
Patrick Brazeau