

Re-Imagining the Introduction, Use, and Application of the Native American Graves Protection & Repatriation Act in Canada

Breakout Session Presentation and Activity



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Who Are We?

Brennan Manoakesick

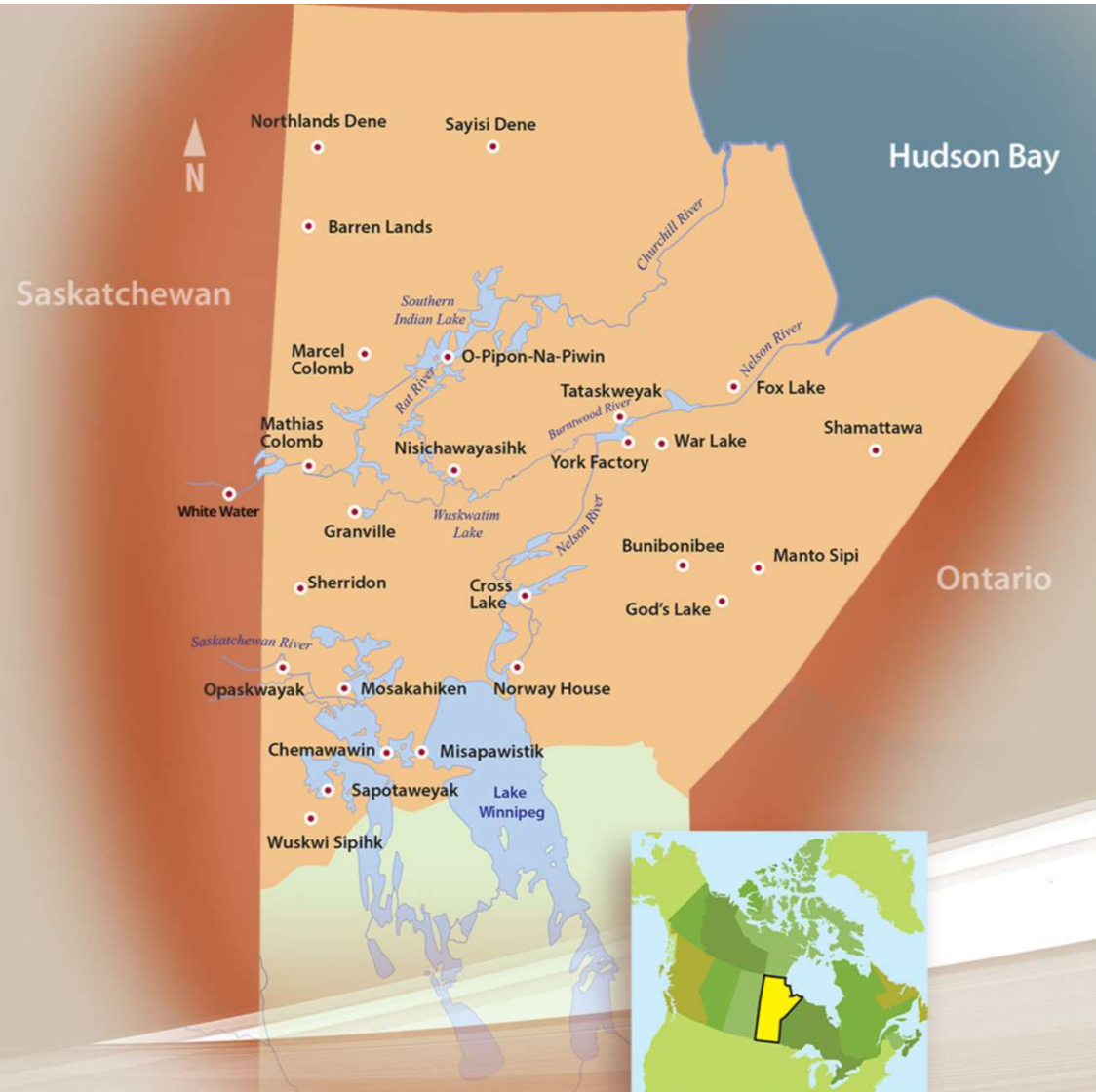
Director of Intergovernmental Relations

Maegan Courchene

Project Manager of the Path Forward Project

What is MKO?

MKO is a non-profit, political advocacy organization that provides a collective voice on issues of inherent, Treaty, Aboriginal and human rights for the citizens of the sovereign First Nations we represent. The MKO First Nations are signatory to Treaties 4, 5, 6 and 10



MKO Path Forward for Investigations of Former Indian Residential School Sites Project (*Path Forward Project*)

The Path Forward Project is an initiative to uncover the truth and support affected communities and families through several investigative processes. The Path Forward Project provides guidance, assistance, and support to MKO communities, Survivors, and families involved in searching, identifying, commemorating, and repatriating deceased and missing children at former residential schools, hospitals, and sanitoriums.

The Path Forward Project will be involved in:

- Research and Storing Records
- Capacity Building & Information Sharing
- Community Engagement & Outreach
- Regional Healing Gatherings
- Community Support and **Advocacy**



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Purpose of Presentation and Activity

1. Provide an overview of the United States Legislation known as Native American Graves Protection and Repatriation Act (NAGPRA).
2. Explain why talking about the NAGPRA in the United States is important and can benefit Indigenous Nations in Canada.
3. Share information on the upcoming *Protecting Our Ancestors Conference*.
4. Hear from you!



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What is NAGPRA?

- **Native American Graves Protection and Repatriation Act (NAGPRA)** is federal legislation in the United States of America. It was enacted November 16th, 1990.
- The NAGPRA addresses the rights of Native Americans and Native Hawaiians to cultural items including Ancestral remains, funerary objects, sacred objects, and objects of cultural patrimony.
- The NAGPRA prescribes processes for the return of Native American human remains and cultural items, and the protection of Native American burial sites.
- The NAGPRA requires federally funded institutions and agencies such as museums, universities, state agencies, and local governments to repatriate or transfer Native American human remains and other cultural items to the appropriate holders.
- The NAGPRA has evolved into a federally-funded national program.

<https://www.nps.gov/subjects/nagpra/getting-started.htm>



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What does NAGPRA Require of Federal Agencies?

Federally funded institutions and agencies such as museums, universities, state agencies, and local governments are required to repatriate or transfer Native American human remains and other cultural items to the appropriate holders.

These institutions therefore are required to do the following:

- Consult with lineal descendants, Indian Tribes, and Native Hawaiian organizations on Native American human remains and other cultural items;
- Protect and plan for Native American human remains and other cultural items that may be removed from federal or Tribal lands;
- Identify and report all Native American human remains and other cultural items in inventories and summaries of holdings or collections; and
- Provide notice prior to repatriating or transferring human remains and other cultural items.



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Ancestral Remains & Ancestral Belongings

Native American Remains:

Physical remains of a human body of a person or Native American ancestry

Funerary Objects:

Any Object that may be part of a burial or ceremony, which is reasonably believed to have been placed with or near individual human remains at the time of death or later

Associated Funerary Objects:

Objects that were made exclusively for burial purposes and are linked with an identified set of human remains in possession or control of a museum or federal agency or rejoin with an identified set of human remains

Sacred Objects:

Objects that have historical, traditional, or cultural importance



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Key Takeaways

- Federal agencies receiving Federal funds **must** comply with NAGPRA.
- Federal agencies, the State of Hawai'i, Indian Tribes, and Native Hawaiian organizations must protect Native American human remains or cultural items on Federal or Tribal lands.
- NAGPRA is **not** an international law.
- NAGPRA only applies to federally recognized tribes.
- NAGPRA only applies to federally funded agencies.
- NAGPRA only applies to federal lands.



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Why are we discussing NAGPRA in Canada?

- Lack of effective protection for Ancestral remains and belongings, including the remains of children buried in unmarked graves of former Indian Residential Schools.
- There is *no matter of first principle* in place to support the urgent effective and conclusive protection of human remains, sacred objects, funerary objects and cultural patrimony of Indigenous nations.
- Core principles and processes of the 1990 Native American Graves Protection and Repatriation Act (NAGPRA) can be looked to for inspiration and consideration.
- ***NAGPRA-like law in Canada could address the following:***
 - Cultural affiliation of Remains and Items
 - Custody
 - Control
 - Treatment
 - Decision-making authority over repatriation or disposition



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TRC Calls to Action

Call to Action 75 of the Truth and Reconciliation Commission of Canada calls upon the federal government to:

“Work with provincial, territorial, and municipal governments, churches, Aboriginal communities, former residential school students, and current landowners to develop and implement strategies and procedures for the ongoing identification, documentation, maintenance, commemoration, and **protection** of residential school cemeteries or other sites at which residential school children were buried. This included the provision of appropriate memorial ceremonies and commemorative markers to honour the deceased children.”



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UNDRIP

Article 12 of the United Nations Declaration on the Rights of Indigenous Peoples States:

1. Indigenous peoples have the right to manifest, practice, develop and teach their spiritual and religious traditions, customs and ceremonies; the **right to maintain, protect, and have access in privacy to their religious and cultural sites**; the right to the use and control of their ceremonial objects; and **the right to the repatriation of their human remains.**
1. States shall seek to enable the access and/or repatriation of ceremonial objects and human remains their possession **through fair, transparent, and effective mechanism developed in conjunction with indigenous peoples concerned.**



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Continuing Obligation of Canada

Canada holds a continuing and persisting constitutional duty and obligation for the children pursuant to Section 91 (24) of the British North American Act, 1867.

This is due to the fact that the children perished and are now located where they are as a direct result and consequence of the exercise by Canada of Section 91 (24) of the BNA Act through the federal Orders in Council and the amendments to the Indian Act which established and operated the Indian Residential School system.



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Protecting our Ancestors Conference



Event Description:

Manitoba Keewatinowi Okimakanak Inc. (MKO) and Sioux Valley Dakota Nation (SVDN) are co-hosting the Protecting Our Ancestors Conference. This Conference will address the need for legislation similar to the Native American Graves Protection and Repatriation Act of the United States, known as NAGPRA, to ensure the protection, control, disposition and repatriation of Ancestral remains and belongings.

Date:

February 20th – 22nd, 2024

Location:

RBC Convention Centre, Winnipeg, Manitoba

Register Here: <https://www.protectingourancestorsconference.com/>

Registration Closes February 2nd, 2024



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Discussion Activity...



*Ekosani.
Masi Cho.*

For more information, please contact Maegan Courchene
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