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# Advancing Indigenous Rights through Indigenous Protected and Conserved Areas

## A Toolkit for Communities and Allies

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With thanks to the invitation from  
the  
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# THE GOALS OF THIS TOOLKIT

- Support the recognition of Indigenous-led conservation efforts
- Respond to barriers in establishing IPCAs, as protected areas and parks have traditionally assumed Crown-based authority
- Model the legal and policy basis needed to advance Indigenous-led governance in the establishment and management of protected areas



# An Introduction to IPCAs

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**IPCAs seek to improve the protection and conservation of lands and waters for future generations.**

## **Key Principles of IPCAs**

- Indigenous-led
- Represent a long-term commitment to conservation
- Elevate Indigenous rights and responsibilities



# Legal Authorities for IPCAs

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**The dominance of Western legal theory has narrowed the range of legal frameworks for protected areas**

- The failure to recognize Indigenous laws and their legitimacy means Indigenous communities who have established IPCAs pursuant to their Indigenous laws are often not recognized by the more dominant, Crown-legal structure.
- It also means that for lands where Indigenous communities have declared moratoriums on logging, mineral exploration or development, these protection measures may not be respected by virtue of not being established within the more dominant legal system.

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# PART 1 - TOWARDS PROTECTION

## Immediate Actions

Engaging community members in the development of an IPCA's vision, its planning and management processes is critical to the success of an IPCA. This chapter sets out some ideas for community involvement and engagement, drawing on the many resources and toolkits that already exist on this topic.

### 1. Developing the Vision

Creating a clear vision and mandate is a key element in establishing an IPCA. Inviting Elders, knowledge holders, women and youth to share their vision and hopes for the IPCA roots the effort in the voice of the community.[100] A number of resources, excerpted in our **Annotated Bibliography**, set out guidance for community-led IPCA projects, including:

*A primer on governance for protected and conserved areas* explores what governance means and its different models within Indigenous-led conservation measures. Governance quality is a focus of the document, where

*A toolkit to support conservation by indigenous peoples and local communities: building capacity and sharing knowledge for indigenous peoples' and community conserved territories and areas* presents a selection of practical resources, developed by numerous organizations, making them readily accessible to community-based organizations who manage Indigenous Peoples' and Community Conserved Territories and Areas (ICCAs). All of the resources in this toolkit are sorted into five "themes", which build on each other. The five themes include: documenting presence, management planning, monitoring and evaluation, communication, and values

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# Toolkit Preview

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## Aki Sibi IPCA

The Aki Sibi project forms an alliance of seven Algonquin communities, who seek to implement an IPCA on Algonquin territories. The Aki Sibi IPCA encompasses almost all of the Ottawa River Watershed.

Kebaowek First Nation and other Algonquin communities seek to use this IPCA for land protection, to harvest their traditional foods, and to protect biodiversity, and to protect

## Kitchenuhmaykoosib Inninuwug First Nation (KI) IPCA



In 2005, Kitchenuhmaykoosib Inninuwug (KI) First Nation declared a moratorium on mining exploration and logging on their homeland. In 2008, KI succeeded in having 23,000 sq km of their homeland withdrawn from mining exploration by Ontario, and existing claims and leases that were causing conflict were bought out by the Crown and withdrawn.

In 2011, the First Nation created the KI Watershed Declaration which places all of the Fawn River watershed off limits to industrial extraction under KI law.

KI First Nation is exploring the establishment of a Fawn River Area in the Fawn River watershed located in the Fawn River watershed to prevent industrial extraction and protect the watershed.

Originating approximately 80 km northeast of Cochrane, the North French River flows 280 km through the Canadian Shield towards James Bay. It is 660,000 hectares with 151,000 hectares already protected through a conservation reserve. The remaining 515,000 hectares remains unprotected and open to development.[94]

Since 2002, the North French River has been declared by the Moose Cree First Nation (MCFN) as permanently protected. This declaration was reaffirmed in 2015 and 2021. In 2019, the MCFN began exploring the feasibility of establishing an IPCA in the North French River Watershed.[92] In 2019, the watershed project was approved for funding by the Government of Canada under its Nature Fund Challenge Projects.[93]

MCFN received funding from Environment and Climate Change Canada and has also successfully secured a grant from the Canada Nature Fund with matching funding commitments from the Metcalf Foundation and International Boreal Conservation Campaign.[95]

According to then Chief of MCFN Patricia Faries, "[t]he North French River is one of its last sources of clean water for our people. Its protection and preservation are of paramount importance that's why we deemed it permanently protected in 2002 and reaffirmed it in 2015... Its protection is also of paramount importance to our people." [96]

## North French River Watershed



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## PART 2 - MITIGATING THREATS

### Interim Protection Measures

There are many challenges that come with creating IPCAs in Ontario, such as an unclear legal framework, lack of acceptance by the provincial government, absence of ethical space for Indigenous traditions, and a history of exclusion of Indigenous knowledge and priorities from conservation. It also takes a significant amount of time to formulate, establish and secure an IPCA.

This chapter explores the interim measures communities may pursue in order to protect the health of their lands and community, in response to external threats such as resource extraction projects. These suggestions are not exhaustive, vary in degree of complexity and may require a Nation to seek independent legal advice. This part of the toolkit sets out a number of options to consider when seeking to alleviate impacts to lands, air and water pending more permanent forms of protection.

#### 1. Restricting Lands from Mineral Exploration and Development under the Mining Act

There are two mechanisms through which lands can be withdrawn from mineral exploration and mining: first, by application to the Minister of Energy, Northern Development, Mines\* (MNDM)

The Minister can:

- (1) Order the withdrawal from prospecting, mining claim registration, sale and lease any lands, mining rights or surface rights where those lands and

# Toolkit Preview

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## PART 3 - LASTING SOLUTIONS

### Achieving Long Term Protection and Crown Legal Recognition

"The promise of IPCAs will ring hollow unless Canadians take steps to correct past wrongs and manage existing protected and conserved areas differently moving forward."

-Indigenous Circle of Experts in their report "We Rise Together"

#### 1. Current Legal Context for Protected Areas

Indigenous peoples across Canada were forcefully removed from their lands, which settlers used and designated in a myriad of ways including designating lands as national, provincial and territory parks and protected areas. [189] Traditional conservation models have failed to recognize Indigenous nations' intimate relationship with place and were created without their consent - to the extent that Indigenous people were

At the same time, Crown-imposed industry on First Nations' lands have had, and often continue to have, devastating impacts on Indigenous peoples' health, livelihood, and way of life. First Nations continue to be 'cleared from the land' to make way for industrial logging, mining, and damming.

**For government and non-governmental**

# Toolkit Preview

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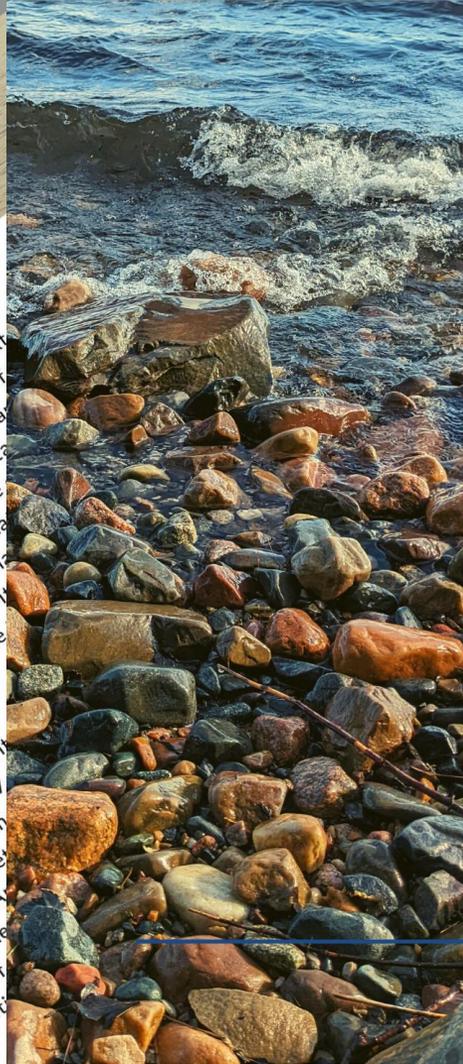
# Mississauga First Nation & Mississagi Delta Provincial Nature Reserve

## La Croix First Nation & Quetico Provincial Park

The Quetico Provincial Park Management Plan is an agreement between the Lac La Croix First Nation and Ontario Parks to manage Quetico Provincial Park. Established in 1913, Quetico Provincial Park is one of Ontario's largest and oldest wilderness parks, covering 4758 square kilometers. This park is located on the traditional territory of Lac La Croix First Nation.

The Quetico Provincial Park Management Plan was approved in September, 1977 and was revised in 1992 to reflect and support a renewed relationship between the Lac La Croix First Nation. "An Agreement of Co-Existence between the government of Ontario and the Lac La Croix First Nation relationship."

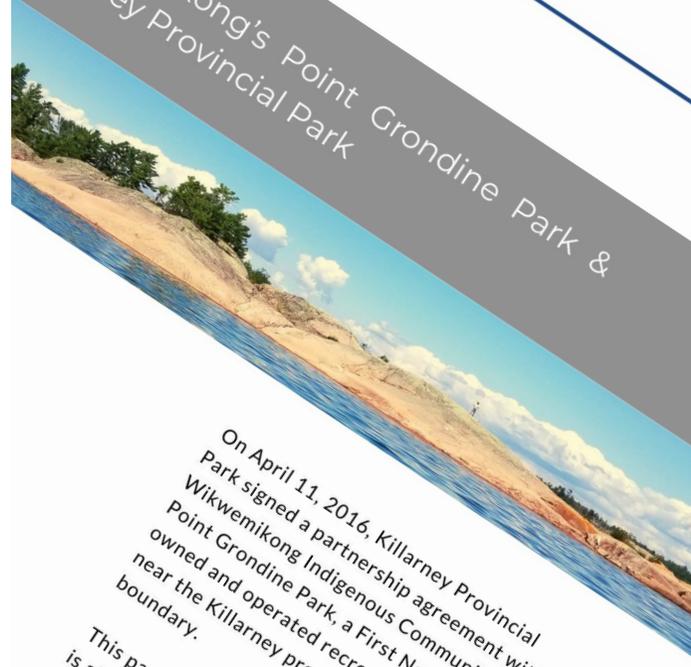
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The Mississagi Delta Provincial Park Management Plan exists between Ontario Parks and Mississauga First Nation, for the Mississagi Delta Provincial Nature Reserve (MDPNR). The MDPNR was established in 1985, encompasses 2,395 hectares and protects an extensive sand delta at the mouth of the Mississagi River, where the river enters the North Channel of Lake Huron. The Park Management Plan was approved in 1998.

According to the government of Ontario, "this park management planning process was initiated partially as a result of the signing of the Mississauga First Nation Northern Boundary Land Claim Agreement." The Thompson Township also formed a partnership with the Mississauga First Nation outside the mandate of the park planning process to oversee development projects on lands adjacent to the park.

## Wikwemikong's Point Grondine Park & Killarney Provincial Park



On April 11, 2016, Killarney Provincial Park signed a partnership agreement with Wikwemikong Indigenous Community's Point Grondine Park, a First Nation owned and operated recreational park near the Killarney provincial park boundary.

This partnership between the two parks is about exchanging knowledge about park management, creating training and job-shadowing opportunities, and according to Killarney Superintendent Jeremy Pawson, "...demonstrates sustainable resource development opportunities and resource sharing for both provincial parks and communities."



# Law Reform and IPCA Legislation

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The need for IPCA legislation, which recognizes both Indigenous and Crown legal traditions, and upholds the three key principles of IPCAs.

In the alternative or as a shorter-term measure, existing protected areas legislation should be amended to support IPCAs, as a distinct category of protected area.



Questions?

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Thank you!  
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