

United Nations Declaration on the Rights of Indigenous Peoples

Canada adopted the United Nations Declaration on the Rights of Indigenous Peoples in 2016 and efforts to implement the Declaration are in process.

Adoption: The Declaration was adopted by the UN General Assembly on 13 September 2007.

Entry into force: Not Applicable (non-binding agreement)

Number of signatories and ratifications/accessions: Originally, 143 in favour, 11 abstentions, and four against, including Canada.

Summary information

This Declaration specifies 46 articles and their subsets which recognize the Indigenous peoples of the world as a unique cultural demographic, and attempts to provide the necessary means of self-determination as well as delineating the responsibilities of the states in which Indigenous peoples reside in order to ensure they are supplied with the necessary tools for this objective. The document recognizes that Indigenous peoples have the same universal human rights as others, in addition to special areas of concern for protection such as their cultural identity, democratic and judicial rights, and economic autonomy.

The United Nations Declaration on the Rights of Indigenous Peoples (UNDRIP) was adopted by the UN General Assembly on September 13, 2007. At the time of adoption, 177 countries supported it, with 11 abstentions and four votes against. The countries voting against the UNDRIP included Canada, the United States, Australia, and New Zealand. Since that time, however, all countries have announced their official support.

History

Published September 13, 2007, UNDRIP is a product of thirty years of collaboration between groups representing Indigenous peoples around the world and international bodies such as First Peoples Worldwide and the UN Permanent Forum on Indigenous Issues.

The foundations for UNDRIP were first laid with the signing of the Universal Declaration of Human Rights (UNDHR) in 1948. With the establishment of a standard minimum of treatment for all peoples came security for many groups, including Indigenous peoples, but also a recognition of its failings. Amongst these was the realization that the UNDHR was insufficient in addressing the special needs and rights of Indigenous peoples that they should be accorded as the first humans of their land. Over the next several decades Indigenous peoples continued to fight for their rights and recognition, but it wasn't until the 1970s that a broader international movement began to form.

In 1977 the first formal Indigenous leaders delegation travelled to the United Nations, ahead of which there had been no united front, with “Indigenous Peoples” being the umbrella term for thousands of culturally distinct groups found all over the world. In the context of a widespread North American Indigenous rights movement and the era of civil rights, work began on what would eventually become UNDRIP.

Key Provisions

UNDRIP is an 18 page document which begins with a statement establishing the context in which the declaration is published and its intentions. Designed to be an informative document, and statement of global will, the Declaration establishes a number of major areas within which Indigenous peoples should have access to or control over. The 46 articles fall into the following broad categories:

- Right to choose own political status and government (self-determination)
- Political, legal, economic, social and cultural institutions
- Protection of land
- Protection of language, customs and traditions
- Protection against labour exploitation
- Consultation and decision making rights in all matters which impact them
- Special attention to Indigenous “elders, women, youth, children and persons with disabilities”
- Right to be actively involved with health, housing, and other economic and social programmes, and should administer these programmes through their own institutions as much as possible (article 23)
- Determination of own identity and membership, with simultaneous protection of citizenship of the State they live in
- Communication rights with each other and others
- Right to “prompt decision through just and fair procedures for the resolution of conflicts and disputes with States or other parties, as well as to effective remedies for all infringements of their individual and collective rights.”

In addition to these, the Declaration repeatedly says that governments in control of the state boundaries in which Indigenous groups live must provide the necessary methods of assistance to enable Indigenous peoples to satisfy these areas of concern as efficiently and respectfully as possible. It also notes that none of these articles “may be interpreted as diminishing or eliminating the rights of Indigenous peoples contained in treaties, agreements and other constructive arrangements,” and that “nothing in this Declaration may be construed as diminishing or extinguishing the rights Indigenous peoples have now or may acquire in the future” (Article 37.2 and 45).

Canada's commitments and responsibilities

On November 12, 2010, two and a half years after its initial publication, Canada endorsed UNDRIP, while still maintaining that it was an “aspirational” document. This occurred in the context of the Conservative government making efforts to signal support for Indigenous peoples. The then-ministry of Aboriginal Affairs and Northern Development Canada (now split into the ministries of Crown-Indigenous Relations and Indigenous Services) noted:

In 2007, at the time of the vote during the United Nations General Assembly, and since, Canada placed on record its concerns with various provisions of the Declaration, including provisions dealing with lands, territories and resources; free, prior and informed consent when used as a veto; self-government without recognition of the importance of negotiations; intellectual property; military issues; and the need to achieve an appropriate balance between the rights and obligations of Indigenous peoples, States and third parties. These concerns are well known and remain. However, we have since listened to Aboriginal leaders who have urged Canada to endorse the Declaration and we have also learned from the experience of other countries. We are now confident that Canada can interpret the principles expressed in the Declaration in a manner that is consistent with our Constitution and legal framework.

(Aboriginal Affairs and Northern Development Canada, November 12, 2010)

In addition to support of UNDRIP, the federal government also made an official apology to the former students of Indian Residential Schools, created the Truth and Reconciliation Commission (which concluded in 2015), and made other well publicized signals of support for Canada's Indigenous population.

After the election of a Liberal government, the National Inquiry into Missing and Murdered Indigenous Women and Girls was convened in 2016. It concluded with the publication of its final report in June 2019.

In May 2016, Canada officially removed its objector status to UNDRIP.

During the 2019 federal election, the Liberal Party, who eventually won, pledged to table legislation that would implement UNDRIP.

International monitoring and implementation

As a non-binding declaration, there are no methods of international monitoring to ensure global implementation of the articles as stated in UNDRIP. However, as a global standard for Indigenous rights, it is frequently referenced as a measurement by which Indigenous issues are judged by. As such, many Indigenous organizations make reference to UNDRIP in tracking individual cases, and thus establish an informal method of tracking its implementation.

References

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C169 Indigenous and Tribal Peoples Convention, 1989

First Peoples Worldwide “The Indigenous Movement”

Indian Law Resource Center, “Implementing UNDRIP - Key Actions and Dates for Tribal Leaders”

Ornelas, Roxanne T. “Implementing the Policy of the U.N. Declaration on the Rights of Indigenous Peoples” The International Indigenous Policy Journal, vol. 5, 1.

Understanding and Implementing the UN Declaration on the Rights of Indigenous Peoples: An Introductory Handbook, Indigenous Bar Association 2011

United Nations Permanent Forum on Indigenous Issues

Truth and Reconciliation Commission

National Inquiry into Missing and Murdered Indigenous Women and Girls