



13 September 2020

Public Statement

Anniversary of the Global Adoption of the *UN Declaration on the Rights of Indigenous Peoples* National Implementation More Urgent than Ever

The *United Nations Declaration on the Rights of Indigenous Peoples* was adopted by the UN General Assembly 13 years ago, on September 13th 2007, as a global minimum standard to address widespread, severe, and systemic violations of the collective and individual human rights of Indigenous peoples.

Since that time, the *Declaration* has been reaffirmed nine times by the General Assembly by consensus. No country in the world formally opposes it.

The *Declaration* does not create new rights. It affirms the pre-existing, inherent human rights of Indigenous peoples, which constitute the “minimum standards for the survival, dignity and well-being of the Indigenous peoples” globally. Implementation of the *Declaration’s* minimum standards within Canada is long overdue.

The federal government has publicly committed to introducing legislation to guide national implementation of the *Declaration*.

The process of moving such legislation forward must not be allowed to languish in endless hearings and debate.

As Canada continues to cope with the tragic impacts of the COVID-19 pandemic, and grapples with the challenges of reopening and rebuilding the economy, implementation of the *Declaration* is now more urgent than ever.

Worldwide, COVID-19 and the economic impacts of measures to contain the pandemic are hardest felt by marginalized and vulnerable populations, including Indigenous peoples. Federal legislation to implement the *Declaration* is needed to protect and rebuild Indigenous Nations in this moment of crisis.

Importance of fall session of Parliament

Indigenous Nations, organizations, and land defenders, human rights groups, and other civil society partners are urging the federal government to bring the proposed implementation legislation before the House of Commons at the earliest opportunity so that it can be passed into law during this session of Parliament.

The Truth and Reconciliation Commission of Canada called the *Declaration* “the framework for reconciliation.” The *Declaration* lays the foundation for peaceful, collaborative and mutually beneficial relationships between Indigenous peoples and states by ensuring that the basic human rights of Indigenous peoples can no longer be simply ignored or pushed aside.

Those who continue to oppose implementation of the *Declaration* have focused their attacks on the very provisions most essential to reconciliation.

Self-determination, and its essential corollary, free, prior and informed consent, are about bringing an end to a long and tragic history of governments in Canada imposing arbitrary and profoundly harmful decisions on Indigenous peoples. “Consent” should not be confused with “veto” – which implies an absolute right, regardless of the facts and law in any given case. Misunderstandings and misinformation over Indigenous consent cannot continue to delay and obstruct federal legislation to implement the *Declaration*.

Implementing the *Declaration* is the necessary next step in the positive evolution of Canadian law and policy, which today increasingly recognize the decision-making authority and jurisdiction of Indigenous governments. The *Declaration* creates space for legal pluralism and for the laws and legal systems of Indigenous peoples to be respected and upheld. Respect for the right of self-determination is also essential to the health and wellness of Indigenous peoples.

Federal legislation will not bring about an overnight transformation.

As agreed by the federal government, Bill C-262 - the former private member’s bill on the *Declaration* - will be the “floor” for the proposed legislation. C-262 was intended to establish a process for the government to work with Indigenous peoples to identify reforms needed to bring federal laws and policies into line with the requirements of the *Declaration*. Specific reforms in areas such as resource development would inevitably involve further consultation and, if laws are to be changed, additional Parliamentary debate.

Crucially, however, adoption of implementation legislation will provide the immediate benefit of resolving ongoing uncertainty and confusion resulting from years of federal government delays in implementing the *Declaration*. Adoption of implementation legislation will clearly communicate to other levels of government, to industry, and to the public the federal government’s intention to uphold its human rights commitments and obligations in a spirit of partnership and collaboration with Indigenous peoples.

In 2019, the British Columbia legislature adopted by consensus the *Declaration on the Rights of Indigenous Peoples Act*. BC is the first province to adopt legislation committed to the implementation of the *Declaration*. To a large extent, this Act was modeled on C-262. The Act continues to contribute significantly to positive exercise of human rights by Indigenous peoples and to harmonious relations in the province.

Importance of a new relationship

The *Declaration* provides the basis for decolonization and upholding the rights of Indigenous peoples, including the inherent right to self-determination.

Political leaders of all stripes have talked about the importance of building a new relationship with First Nations, Inuit and Métis peoples throughout Canada. Putting those promises into action is essential to meeting Canada's fundamental legal and moral obligations. It is also essential to building a healthy, strong and inclusive society.

The past year has demonstrated the tragic consequences of failing to close the wide gulf in health, quality of life, and access to justice between Indigenous and non-Indigenous individuals and communities in Canada.

While the COVID-19 pandemic affects us all, it is clear that the greatest burden is borne by those who have been provided with the least resources for staying healthy. Addressing the crisis of unsafe water, overcrowded housing, and employment insecurity among Indigenous communities in Canada is not something that can be put off until after the pandemic.

Media attention to incidents of police violence against Indigenous peoples and racialized communities has similarly put a spotlight on the dangers created by systemic racism in policing. At the same time, as the National Inquiry on Missing and Murdered Indigenous Women and Girls demonstrated, the Canadian justice system has long failed to provide adequate protection to those in greatest need, including Indigenous women, girls and two-spirit persons facing threats of violence.

The systemic racism faced by First Nations, Inuit and Métis peoples further underlines the importance and urgency of ensuring that Indigenous peoples have the opportunity and resources to determine for themselves what measures are needed to best protect the safety and health of their communities.

We all hope that the coming year will be one of healing and rebuilding. Critically, as Canada moves forward, we need to do more than build back: we need to build back better and different.

The opportunity for Indigenous peoples to make their own decisions, based on their own laws, traditions and values, and the assurance that other orders of government will respect and support those decisions, is crucial to ensuring that economic development decisions and the design and provision of social services will be sustainable and meet the real and urgent needs of Indigenous peoples in Canada.

Long overdue implementation of the *Declaration* is key.

Background

Human rights declarations are adopted globally by the UN General Assembly. The expectation that national governments will create national action plans to implement the *UN Declaration on the Rights of Indigenous Peoples* is set out in a series of consensus resolutions of the UN General Assembly, including the outcome document of the 2014 World Conference on Indigenous Peoples.

Bill C-262, a private members bill to establish a legislative framework for implementation of the *Declaration*, was passed by the House of Commons in 2018 and would already be part of Canadian law except for filibustering in the Senate.

The Coalition for the Human Rights of Indigenous Peoples (www.declarationcoaliton.ca)

This statement was endorsed by the following organizations and individuals:

Assembly of First Nations

Amnesty International Canada /
Amnistie Internationale Canada

BC Assembly of First Nations

BC Treaty Commission

Canadian Friends Service Committee (Quakers)

First Nations Summit

Grand Council of the Crees (Eeyou Istchee) /
Cree Nation Government

Indigenous World Association

KAIROS: Canadian Ecumenical Justice Initiatives

Mennonite Church Canada, Indigenous-Settler
Relations

Union of British Columbia Indian Chiefs

Dr. Sheryl Lightfoot, Canada Research Chair of
Global Indigenous Rights and Politics, University
of British Columbia

Dr. Wilton Littlechild, International Chief for
Treaties 6, 7 and 8 and former Commissioner of
the TRC of Canada

Dr. Mariam Wallet Aboubakrine, Présidente,
Association Tinhinan Canada and member
Tinhinane Sahel

Ellen Gabriel, Kanien'kehá:ka Activist from
Kanehsatà:ke

Professor Brenda Gunn, Robson Hall Faculty of
Law, University of Manitoba