

ISSUES UPDATE

United Nations Declaration Act

History

The United Nations Declaration on the Rights of Indigenous Peoples (UNDRIP) was adopted by the United Nations General Assembly on September 13, 2007. The Declaration is the most comprehensive international legal instrument setting out the specific responsibilities of states and all sectors of society to respect and uphold the Inherent and Treaty rights of Indigenous Peoples. The Declaration is also the first international human rights instrument to explicitly and unconditionally recognize that Indigenous Peoples have an Inherent right to self-determination and that Indigenous Peoples must be free to exercise that right without discrimination. The Declaration is an international document that has been actively influenced and contemplated by First Nations leaders for decades.

On June 21, 2021, the *United Nations Declaration on the Rights of Indigenous Peoples' Act* (UNDA) received Royal Assent. The UNDA commits Canada to immediately undertake three key actions:

- Section 5—Make all laws of Canada consistent with the UN Declaration.
- Section 6—Create an Action Plan of measures and monitoring for that implementation.
- Section 7—Publicize progress through an Annual Report to Parliament.

Several mandates guide the AFN's advocacy in this work. Resolution 17/2021, *National Action Plan to Implement the United Nations Declaration on the Rights of Indigenous Peoples*, directs the AFN to support rights holders in co-developing an Action Plan to implement the UNDA, and to hold a dedicated Special Chief's Assembly to discuss UNDRIP as soon as practicable (April 3–6, 2023). Resolution 12/2022, *Call for Full First Nations Participation in the Implementation of the UN Declaration*, emphasizes meaningful and fully resourced First Nations participation in all operative provisions of the Act.

Resolution 13/2022, *First Nations Priorities to Guide the Crown's Implementation of the UN Declaration on the Rights of Indigenous Peoples*, directs the AFN to call upon the Crown, in all its forms, to take every action necessary to ensure laws and policies are consistent with the UN Declaration. Resolution 43/2022, *Call for Municipalities to Implement the United Nations Declaration on the Rights of Indigenous Peoples*, calls upon the federal, provincial, and territorial governments to explicitly legislate requirements for municipalities to implement the UN Declaration.

In March 2023, the Department of Justice released its draft Action Plan, which initiated the next phase in the implementation of the Declaration. This phase is centered around Canada validating its draft plan with First Nations, culminating in a final Action Plan that will be tabled in Parliament on June 21, 2023.

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AFN's recent advocacy

To date, the AFN's advocacy has been built around: (1) advocacy with Canada, (2) regional engagements, and (3) research.

To support First Nations with up to date information about the UNDA and to guide Canada towards a First Nations-led process, the AFN maintains close lines of advocacy with departmental representatives. Through these channels, the AFN advocates for:

- distinctions-based approaches to the UNDA and Action Plan;
- engagement processes that uphold principles of free, prior, and informed consent;
- transparency in decision-making; and
- departmental and inter-governmental coordination.

The AFN also advances First Nations UNDRIP priorities through:

- an *Ad Hoc Chiefs Committee on the United Nations Declaration on the Rights of Indigenous Peoples Act*;
- a submission to the Expert Mechanism's Rights of Indigenous Peoples

In addition, throughout 2022–2023, the AFN hosted five preliminary information sessions and supported cross-country gatherings relating to Climate Change, Water, and Language to disseminate key information on how those topics interface with the UNDA. The AFN will continue to support regional dialogue sessions in Spring/Summer 2023.

The AFN has worked with the *First Nations Information Governance Centre* to support a Canada-wide analysis on laws that are eligible to be reviewed under the UNDA to support First Nations-led data governance. The AFN also worked with legal counsel to review the Action Plan, and undertook a review of AFN mandates to support advocacy on the Action Plan.

Next Steps

The Department of Justice is accepting input on the Action Plan until early May. April to early May is the primary window to advocate for meaningful improvements to the Action Plan. The AFN will advocate directly with Canada based on views and established next steps from the April SCA. The AFN will also advocate for the inclusion of essential elements/measures based on mandates from First Nations-in-Assembly.

The AFN will continue to advocate for distinctions-based approaches, long-term funding, and policy reform to support rights holders using UNDRIP as a standard for rights-based accountability.