



## What is the history of this issue and how does it impact First Nations?

In 1923, Haudenosaunee Chief Deskaheh traveled to the League of Nations to hold colonial states accountable to respecting Treaties, advocating for First Nations sovereign rights to live in peace free from legal, economic, and political dispossession, oppression and displacement. In 1977, the Indigenous delegation to the United Nations (UN) led and advocated for the creation of the *UN Declaration on the Rights of Indigenous Peoples* (UN Declaration) to increase Indigenous advocacy at the international level.

Due to decades of First Nations leadership and advocacy, the United Nations Declaration on the Rights of Indigenous peoples was adopted by the UN General Assembly on September 13, 2007. The UN Declaration does not create new rights, rather, it affirms pre-existing or inherent rights of Indigenous peoples as distinct and unalienable and embodies the collective right to self-determination. The UN Declaration sets out the minimum standards that are necessary to uphold these rights and ensure ‘the dignity, survival and well-being’ of Indigenous Peoples around the world.

Despite initial opposition, Canada has now fully endorsed the UN Declaration without reservation. Canada’s responsibility to uphold the UN Declaration is further designated in the Calls to Action 43 and 44 of the Truth and Reconciliation Commission of Canada (TRC), calling on federal, provincial, territorial, and municipal governments to fully adopt and implement the UN Declaration as the framework for reconciliation. The National Inquiry on Missing and Murdered Indigenous Women and Girls and Two Spirited peoples (MMIWG2S+) also called for the federal implementation of the UN Declaration.

The UN Declaration has become a central piece in everyday advocacy by First Nations upholding their rights to self-determination in decision-making, policy, law, and in exercising inherent and Treaty rights.

The introduction of Romeo Saganash’s Bill C-262 *An Act to ensure that the laws of Canada are in harmony with the United Nations Declaration on the Rights of Indigenous Peoples* aimed to hold Canada accountable to the UN Declaration under federal and domestic law. However, the Bill was not passed by Parliament.

Significant work by the AFN and First Nations advocates led to the passing of the *United Nations Declaration on the Rights of Indigenous Peoples Act* (UNDA) into Canadian law on June 21, 2021. The Act commits Canada to work with Indigenous Peoples to align its laws and policies with the UN Declaration, to table a public National Action Plan in no more than two years from the date



of royal assent, and to complete an annual report to Parliament on these measures within 90 days of the end of each fiscal year.

### How has the AFN's recent advocacy affected this area?

Following royal assent of the UNDA, First Nations-in-Assembly passed AFN Resolution 17/2021, *National Action Plan to implement the United Nations Declaration*, calling for the AFN to advocate for rights holders to lead all processes related to UN Declaration implementation. The AFN was also mandated to hold a Special Chiefs Assembly to discuss the UN Declaration. The Assembly is currently in the planning process and expected in late 2022. The Resolution also called on the AFN to report back to First Nations-in-Assembly at every national gathering on the status of the National Action Plan until it is tabled to the public. The first opportunity to do so is at the 2022 Annual General Assembly. Since the passing of the Resolution, the AFN has continually advocated for First Nations' participation and leadership in the commitments within the UNDA.

The 2021 federal budget set aside \$31.5 million over two years to support the co-development of a UNDA National Action Plan to be tabled by the Crown. This fell short of AFN budget requests of \$200 million over five years to support rights holders. In 2022 Canada budgeted an additional \$68.5 million over five years for UNDRIPA implementation, with another \$11 million ongoing for the Department of Justice, as lead Ministry for the UNDA, to support First Nations' participation and leadership in the development of the National Action Plan called for in the UNDA. The AFN will continue this advocacy as the resources provided to date are not fully sufficient to support rights holders leading these processes.

To date, Canada's engagement process with First Nations on the UNDA National Action Plan has not sufficiently addressed First Nations' needs and timelines during the pandemic. To address this, the AFN advocated for and achieved extensions and adaptations of Canada's application-based funding process so that First Nations would have more time to receive support to engage in this important process. The AFN continues to call for expanded resources, both financial and procedural, to support First Nations as the rightful leaders of the UN Declaration implementation process.

The AFN also monitors Canada's intention to modify the federal Interpretation Act for the purposes of creating a Universal Non-Derogation Clause for First Nations. The AFN has advocated again that this process does not adequately hold space for all impacted First Nations to provide their free, prior, and informed consent. The AFN advocated for and achieved a delay in Canada's engagement processes and continues to support those Nations interested in this issue.



### Where do we hope to go in the future?

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The UNDA commits Canada to walk the path of decolonization and enter a new era of relations with First Nations. This path is guided by the UN Declaration, the longest negotiated international legal instrument in UN history. The principles and guidance of the UN Declaration, hard fought and won by First Nations internationally, and, at the national level with the UNDA, is the foundation for First Nations to lead the implementation of the UN Declaration over the coming months, years, and decades.

Federal government laws, policies, processes and the outcomes of its actions must be judged by and held to the standards of the UN Declaration. This will be a multi-generational process and we are at the very beginning, making the path forward even more critical to do in a good way.

Guided by First Nations-in-Assembly, the AFN will continue to support First Nations with focus on the operational components of the UNDA, tracking and reporting back to First Nations on Canada's progress towards aligning its laws and policies with the UN Declaration, engaging meaningfully and with resources on the National Action Plan, ensuring monitoring and updating through future annual reports to Parliament include and uphold First Nations voices and views. The AFN will continue to work to ensure that Canada delivers on its Constitutional obligations to First Nations through the lens of the Declaration.