

United Nations Declaration on the Rights of Indigenous Peoples Act

History

The United Nations Declaration on the Rights of Indigenous Peoples (UN Declaration) is an international instrument adopted by the United Nations on September 13, 2007, that, according to Article 43, enshrines the rights that “constitute the minimum standards for the survival, dignity and well-being of the Indigenous peoples of the world.” The UN Declaration protects collective rights that may not be addressed in other human rights charters that emphasize individual rights, safeguarding the individual rights of Indigenous Peoples. The UN Declaration is the product of almost 25 years of deliberation by UN member states and Indigenous groups.

After decades of advocacy by First Nations, the Parliament of Canada passed the *United Nations Declaration on the Rights of Indigenous Peoples Act* (UNDA), providing a roadmap to implement the UN Declaration based on lasting reconciliation, healing, and cooperative relations. The Department of Justice released its Action Plan Measures on June 21, 2023, which seek to provide a guide for the Government of Canada to achieve the UN Declaration’s objectives. The Department of Justice also released the second Annual Report on the implementation of the UN Declaration.

AFN’s recent advocacy

Since the Royal Assent of the UNDA in 2021, the AFN has advocated for rights-holders to lead all processes related to implementation. Various resolutions passed by First Nations-in-Assembly have called for continuous advocacy for First Nations’ participation and leadership in Canada’s commitments to uphold the standards of the UN Declaration, including in Action Plan Measures and Annual Reporting. The AFN has focused closely on Section 5 of the UNDA, which calls for Canada’s laws, policies, regulations, and directives to be aligned with the UN Declaration.

To date, the AFN has completed significant research and engagement to ensure that the UNDA Action Plan reflects the unique needs and priorities of First Nations. The AFN has worked with the First Nations Information Governance Centre (FNIGC) to support a Canada-wide analysis of laws that are eligible to be reviewed under the UNDA and to support First Nations-led data governance. Additionally, the AFN held a dedicated Special Chiefs’ Assembly on the UNDA and Canada’s draft Action Plan. The AFN completed five preliminary regional engagement sessions and attended numerous cross-country gatherings relating to: Climate Change, Water, Language, Housing and Homelessness, Natural Resource Transfer Act, and Fishing to provide key information on how those topics interact with the UNDA.

The AFN is committed to reporting First Nations concerns and advancing our priorities via international accountability mechanisms, such as Enhanced Participation for First Nations at the UN General Assembly and calls for input to the Expert Mechanism on the Rights of Indigenous Peoples (EMRIP). The AFN provided a submission for an EMRIP report on monitoring mechanisms for UNDRIP at the regional and national levels.

The AFN also continues to monitor Canada's intentions to amend the federal *Interpretation Act* with the introduction of Bill S-13 to the Senate on June 8, 2023. The AFN is concerned that the bill does not refer to the standards affirmed by the UN Declaration. As an interpretive aide for the judiciary and legislative decision-makers on federal legislation, a non-derogation clause referencing the Declaration will require every law to be construed by the Government of Canada as being consistent with the Declaration.

Next Steps

The AFN continues to advocate for the full implementation of First Nations Inherent and Treaty Rights, including the inherent right to self-determination. Federal laws, policies, and processes, as well as the outcomes of Canada's actions, must be judged by and held to the standards of the UN Declaration, particularly given that a formal legal obligation now exists for Canada to ensure that its laws, policies, regulations, and directives are consistent with the UN Declaration. The AFN will continue to advocate for long-term funding and policy reform consistent with the UN Declaration.

In addition, to help address knowledge gaps on the UN Declaration within First Nations communities, the AFN is working to build a UNDA toolkit that aims to support First Nations. This toolkit will assist First Nations in identifying UN Declaration principles and provide tools to advocate for consistency with the UN Declaration in any policy, regulation, or law. This toolkit will also incorporate considerations of First Nations Principles of OCAP® (ownership, control, access, and possession). The AFN will work with the AD-Hoc Chief's Committee on the *United Nations Declaration on the Rights of Indigenous Peoples Act* to determine how First Nations can use this toolkit to better understand the UN Declaration, the UNDA, the Action Plan Measures, and the consistency of laws.