

Background on the UN Declaration on the Rights of Indigenous Peoples

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TRC & UN Declaration

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- We call upon federal, provincial, territorial, and municipal governments to fully adopt and implement the United Nations Declaration on the Rights of Indigenous Peoples as the framework for reconciliation.
- Call upon federation of law societies & law schools, public servants to provide/receive training on the UN Declaration
- Call on all levels of government to adopt and implement the UN Declaration
- Call upon the Government of Canada to develop a national action plan, strategies, and other concrete measures to achieve the goals of the Declaration
- Ensure Canadian institutions (including legal system) complies with UN Declaration
- As well as calling on corporate Canada to formally adopt and comply with the principles, norms, and standards



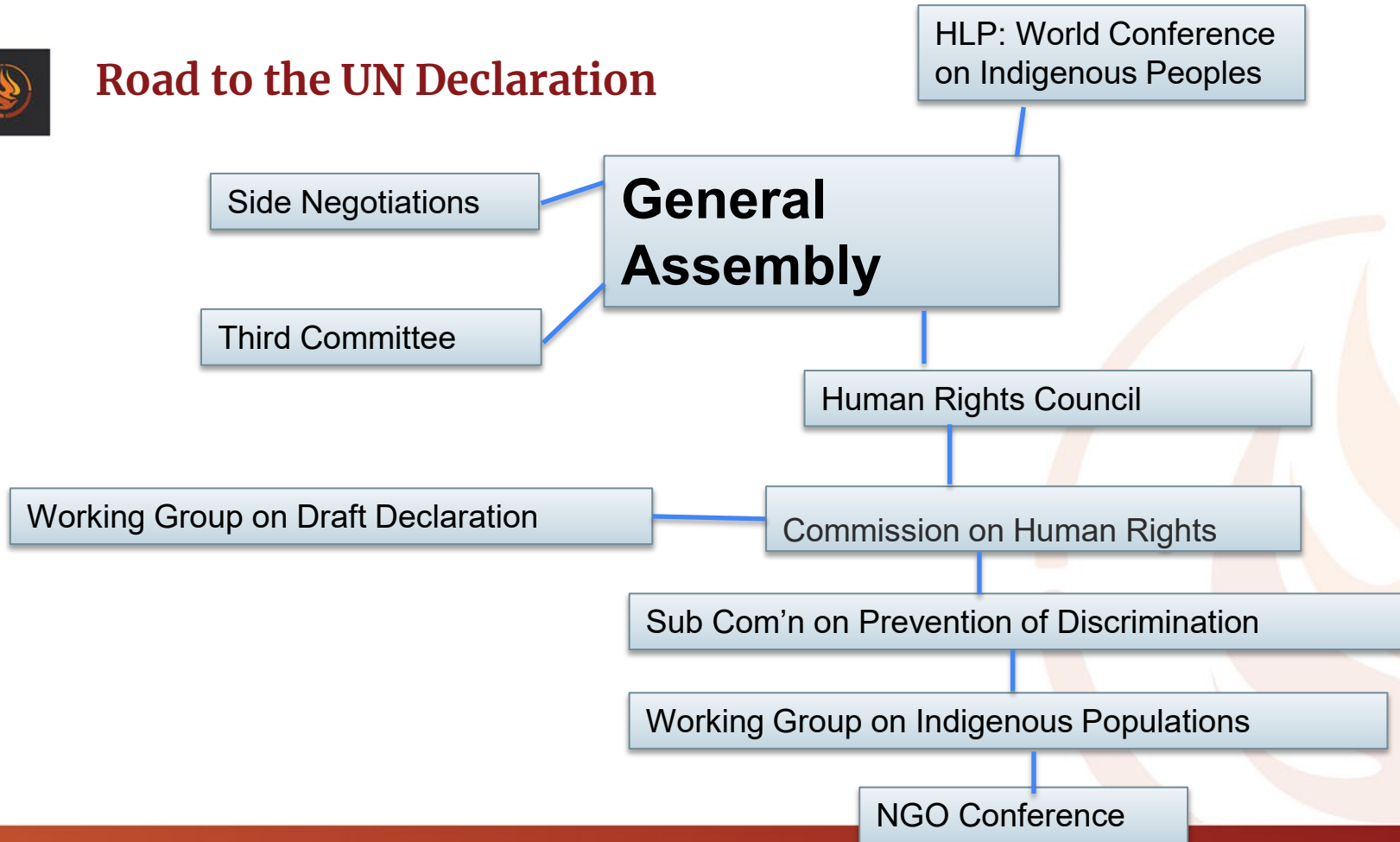
Why a declaration on the rights of Indigenous peoples?

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- *Affirming* that indigenous peoples are equal to all other peoples, while recognizing the right of all peoples to be different, to consider themselves different, and to be respected as such,
- *concerned* that indigenous peoples have suffered from historic injustices as a result of their colonization and dispossession of their lands, territories and resources, thus preventing them from exercising, in particular, their right to development in accordance with their own needs and interests
- *convinced* that the recognition of the rights of indigenous peoples in this declaration will enhance harmonious and cooperative relations between the state and indigenous peoples, based on principles of justice, democracy, respect for human rights, non-discrimination and good faith
- *Solemnly proclaims* the following UN Declaration on the Rights of Indigenous Peoples as a standard of achievement to be pursued in a spirit of partnership and mutual respect



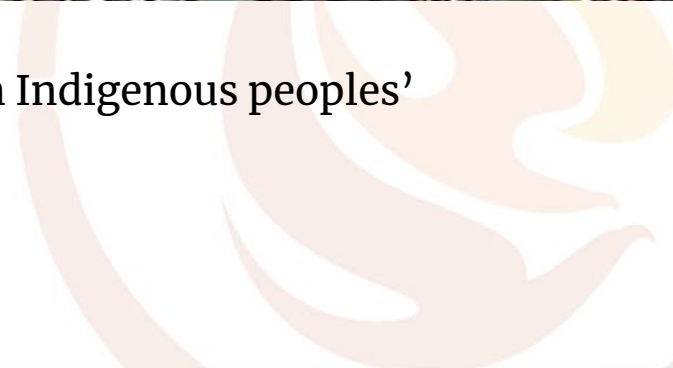
Road to the UN Declaration





Background to the UN Declaration

- Resolution adopted by GA Sept 13, 2007
- Declarations do not need to be ratified
- Not technically binding, but has solemn, legal effects
- Some provisions reflect other human rights (treaties) and customary intl law
- UN Charter requires all members to fulfill all their obligations in good faith
- Recognizes that the rights are inherent and grounded in Indigenous peoples' own customs, laws and traditions
- Sets out minimum standards – floors not ceilings
- Recognizes both individual and collective rights
- Does not define Indigenous peoples





Relevant International Instruments and Bodies

- International Labour Organization Convention 169
- Convention on the Elimination of All Forms of Racial Discrimination (**ICERD**)
- International Covenant on Civil and Political Rights (**ICCPR**)
- International Covenant on Economic and Social Rights (**ICESCR**)
- Convention on the Elimination of All Forms of Discrimination Against Women (**CEDAW**)
- Convention on the Rights of the Child (**CRC**)
- Universal Declaration of Human Rights
- American Declaration on the Rights and Duties of Man

International Bodies

- UN Expert Mechanism on the Rights of Indigenous Peoples
- UN Permanent Forum on Indigenous Issues
- UN Human Rights Council (Universal Periodic Review)
- UN Special Rapporteur on the Rights of Indigenous Peoples
- Inter-American Commission (and Court) of Human Rights

I am here to announce on behalf of Canada, that we are now a full supporter of the Declaration, without qualification. We intend nothing less than to adopt and implement the Declaration in accordance with the Canadian Constitution. ... By adopting and implementing the Declaration, we are breathing life into section 35 and recognizing it as full box of rights for Indigenous peoples. Canada believes that our constitutional obligations serve to fulfill all the principles of the Declaration, including "free, prior and informed consent."

Minister Bennett, UN PFII May 2016



Recognizing the fact that indigenous peoples are organizing themselves for political, economic, social and cultural advancement and in order to bring to an end all forms of discrimination and oppression wherever they occur,
Convinced that control by indigenous peoples over developments affecting them and their lands, territories and resources will enable them to maintain and strengthen their institutions, cultures and traditions, and to promote their development in accordance

with their own needs, interests and well-being of their children,
Convinced that the rights of the child, considering that the

LIFE & SECURITY

PART II

Consent on Civil and Political Rights, as well as the Vienna Declaration and

solemnly proclaims the following Additional Declaration on the Rights of Indigenous Peoples as a standard of reference to be pursued in a spirit of partnership and mutual respect:

PART I

FOUNDATIONAL RIGHTS

ARTICLE 1 UNIVERSAL RIGHTS

Indigenous peoples have the right to the full enjoyment, as a collective or as individuals, of all human rights and fundamental freedoms as recognized in the Charter of the United Nations, the Universal Declaration of Human Rights and international human rights law.

ARTICLE 4 A COMPONENT OF SELF-DETERMINATION

Indigenous peoples, in exercising their right to self-determination, have the right to autonomy or self-government in matters relating to their internal and local affairs, as well as ways and means for financing their autonomous functions.

ARTICLE 2 EQUALITY

Indigenous peoples and individuals are free and equal to all other peoples and individuals and have the right to be free from any kind of discrimination, in the exercise of their rights, in particular that based on their indigenous origin or identity.

ARTICLE 3 SELF-DETERMINATION

Indigenous peoples have the right to self-determination. By virtue of that right they freely determine their political status and freely pursue their economic, social and cultural development.

ARTICLE 5 DISTINCT INSTITUTIONS

Indigenous peoples have the right to maintain and strengthen their distinct political, legal, economic, social and cultural institutions, while retaining their right to participate fully, if they so choose, in the political, economic, social and cultural life of the State.

ARTICLE 6 LEGAL PERSONALITY

Every indigenous individual has the right to a nationality.

ARTICLE 7 INTEGRITY OF PERSONS & PEOPLES

1. Indigenous individuals have the rights to life, physical and mental integrity, liberty and security of person.
2. Indigenous peoples have the collective right to live in freedom, peace and security as distinct peoples and shall not be subjected to any act of genocide or any other act of violence, including forcibly removing children of the group to another group.

ARTICLE 8 INTEGRITY OF IDENTITY

1. Indigenous peoples and individuals have the right not to be subjected to forced assimilation or destruction of their culture.
2. States shall provide effective mechanisms for prevention of, and redress for:
a) Any action which has the aim or effect of depriving them of their integrity as distinct peoples, or of their cultural values or ethnic identities;
b) Any action which has the aim or effect of dispossessing them of their lands, territories or resources;
c) Any form of forced population transfer which has the aim or effect of violating or

undermining any of their rights;
d) Any form of forced assimilation or integration;
e) Any form of propaganda designed to promote or incite racial or ethnic discrimination directed against them.

ARTICLE 9 RIGHT TO COMMUNITY OR NATIONHOOD

Indigenous peoples and individuals have the right to belong to an indigenous community or nation in accordance with the traditions and customs of the community or nation concerned. No discrimination of any kind may arise from the exercise of such a right.

ARTICLE 10 RIGHT TO TRADITIONAL SPACE

Indigenous peoples shall not be forcibly removed from their lands or territories. No relocation shall take place without the free, prior and informed consent of the indigenous peoples concerned and after agreement on just and fair compensation and, where possible, with the option of return,

PART III

CULTURE, RELIGION & LANGUAGE

ARTICLE 11 CULTURE

1. Indigenous peoples have the right to practice and revitalize their cultural traditions and customs. This includes the right to maintain, protect and develop the past, present and future manifestations of their cultures, such as archaeological and historical sites, artifacts, designs, ceremonies, technologies and visual and performing arts and literature.
2. States shall provide redress through fair, transparent and effective mechanisms developed in conjunction with indigenous peoples concerned,

ARTICLE 13 LANGUAGE

1. Indigenous peoples have the right to revitalize, use, develop and transmit to future generations their histories, languages, oral traditions, philosophies, writing systems and literatures, and to designate and retain their own names for communities, places and persons.
2. States shall take effective measures to ensure that this right is protected and also to ensure that indigenous peoples can understand and be understood in political, legal and administrative proceedings, where necessary through the provision of interpretation or by other appropriate means.

ARTICLE 12 SPIRITUAL & RELIGIOUS TRADITIONS

1. Indigenous peoples have the right to manifest, practice, develop and teach their spiritual and religious traditions, customs and ceremonies; the right to maintain, protect, and have access in privacy

PART IV

EDUCATION, KNOWLEDGE, MEDIA & EMPLOYMENT

take effective measures, in order for indigenous individuals, particularly children, including those living outside their communities, to have access, when possible, to an education in their own culture and

and cooperation with the indigenous peoples concerned, to combat prejudice and eliminate discrimination and to promote tolerance, understanding and good relations among indigenous

ARTICLE 17 EMPLOYMENT

1. Indigenous individuals and peoples have the right to enjoy fully all rights established under international and domestic labour law.
2. States shall in consultation and cooperation with indigenous peoples take specific measures to protect indigenous children from economic exploitation and from performing any work that is likely to be hazardous or to interfere with the child's health or physical, mental, spiritual, moral or social development, taking into account their special vulnerability and the importance of education for their empowerment.
3. Indigenous individuals have the right not to be subjected to any discriminatory conditions of labour and, inter alia, employment or salary.

ARTICLE 14 MEDIA

1. Indigenous peoples have the right to establish their own media in their own languages and to have access to all forms of non-indigenous media without discrimination.
2. States shall take effective measures to ensure that State-owned media duly reflect indigenous cultural diversity. States, without prejudice to ensuring full freedom of expression, should encourage privately owned media to adequately reflect indigenous cultural diversity.

ARTICLE 15 KNOWLEDGE

1. Indigenous peoples have the right to the dignity and diversity of their cultures, traditions, histories and aspirations which shall be appropriately reflected in education and public information.
2. States shall take effective measures, in consultation

PART V

POLITICAL & ECONOMIC RIGHTS

10/16/2012

ARTICLE 16 EDUCATION

Indigenous peoples have the right to establish and their educational systems and institutions

providing education in their own languages, in a manner appropriate to their cultural methods of teaching and learning.

2. Indigenous individuals, particularly children, have the right to all levels and forms of education of the State without discrimination.

3. States shall, in conjunction with indigenous peoples,

PART VII

SELF-GOVERNMENT

ARTICLE 33



UN Declaration Act

- clarifies that the UN *Declaration* applies in Canada.
- requires the government to take action to ensure the laws of Canada are consistent with the UN *Declaration*.
- requires the government to develop and implement a national action plan to achieve the ends of the UN *Declaration* (June 2023).
- requires Canada to report regularly to Parliament on the implementation of the national action plan and the measures taken to ensure consistency of Canadian laws with the UN *Declaration*.
- This Act is to be construed as upholding the rights of Indigenous peoples recognized and affirmed by section 35 of the *Constitution Act, 1982*, and not as abrogating or derogating from them.



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