



October 25, 2019

## **Proposed provincial legislation a crucial step toward reconciliation in British Columbia**

Our nations and organizations welcome the tabling of Bill 41, the Declaration on the Rights of Indigenous Peoples Act, to provide a framework for implementing the *United Nations Declaration on the Rights of Indigenous Peoples* in British Columbia. The Coalition for the Human Rights of Indigenous Peoples is urging all members of the provincial legislature to support the Bill in a non-partisan manner.

The Coalition for the Human Rights of Indigenous Peoples is made up of Indigenous Nations, Indigenous peoples' organizations, civil society groups and individual experts and advocates. The Coalition has been deeply involved in the development, promotion and implementation of the *Declaration*. We are firmly convinced of the *Declaration's* vital importance for achieving justice, reconciliation, healing and peace.

Bill 41 provides a legislative framework for British Columbia to lead at the provincial level and move forward with the important and urgent work of implementing the *Declaration*. This framework will address the legacy of colonialism in B.C. laws and policies that continue to deny Indigenous peoples and individuals their basic human rights. We hope other provinces will follow the lead that B.C. has set.

The Act requires the province to collaborate with Indigenous peoples in developing an action plan to implement the *UN Declaration*. It also calls for a collaborative process to ensure that B.C. laws live up to the human rights affirmed in the *UN Declaration*.

The Truth and Reconciliation Commission's Calls to Action, which have been widely endorsed at the federal, provincial, and territorial levels, urged all governments to implement the *Declaration* as the framework for reconciliation in Canada.

Those opposing the *Declaration* focus on its provisions requiring the free, prior and informed consent (FPIC) of Indigenous peoples on decisions that affect their well-being. However, these provisions are wholly consistent with the existing requirements of international law, including how expert bodies have interpreted and applied international human rights Conventions including the *International Covenant on Civil and Political Rights* and the *UN Convention on the Elimination of all forms of Racial Discrimination*.

In Canadian legal tradition, international human rights instruments are considered as relevant and persuasive sources of interpreting human rights domestically. Canadian courts and tribunals are already using the *Declaration* in this way. In addition, specific commitments to uphold the

*Declaration* have already been written into a number of recent Canadian laws both provincially and federally.

Furthermore, the concept of FPIC is not foreign to Canadian law and legal history. Treaties would have no legitimacy without Indigenous consent. The Supreme Court of Canada in *Delgamuukw* (1997) and *Haida Nation* (2004) stated that Indigenous consent may be required on serious issues to prevent the Crown running roughshod over Indigenous rights and interests. In the *Tsilhqot'in* decision (2014) the Supreme Court defined Indigenous land title as including the requirement that decisions be made with Indigenous consent.

In other words, even without legislation to implement the *Declaration*, governments and courts would be called upon to respect and implement FPIC. Legitimate debate about implications of adhering to the *UN Declaration* cannot ignore these facts.

Crucially, the Act provides the opportunity for open and transparent collaboration between Indigenous peoples and the provincial government on how FPIC and other standards in the *Declaration* can be implemented in a consistent and principled manner.

In 2010 Canada formally endorsed the *UN Declaration* and expressed “confidence” that the *Declaration* is consistent with Canada’s Constitution and legal framework. More recently, the federal government has repeatedly pledged to fully implement the *Declaration*.

There is very wide spread support across the country for legislation to implement the *Declaration*. Similar legislation was passed by the federal Parliament in 2018 but died on the order paper after an unscrupulous campaign of filibustering by a handful of Conservative Senators.

As a legislative framework that includes regular reporting, the Act also provides the means to hold this and future governments accountable to the commitments that have been made to honour and respect the rights of Indigenous peoples.

Critically important in this Act is the opportunity for the province to work with Indigenous peoples on joint decision-making, including the recognition and affirmation of Indigenous governance.

The Truth and Reconciliation Commission clearly told us that reconciliation requires hard work by all sectors of society. Adoption of legislation at the provincial level is a vital part of this journey. We strongly encourage all Members of B.C. legislature to actively support the *Declaration on the Rights of Indigenous Peoples Act*.

## **Background**

The *UN Declaration* was the subject of one of the most extensive standard-setting processes ever undertaken in the international human rights system. The collaboration between Indigenous peoples and Canadian government representatives during the final years of negotiation was a key factor in developing a text that could attain broad, global support from both Indigenous Peoples and States. Today, the *Declaration* stands as a global human rights instrument, which to date has been reaffirmed 10 times by the UN General Assembly by consensus.

## **The Coalition for the Human Rights of Indigenous Peoples**

**[www.declarationcoalition.ca](http://www.declarationcoalition.ca)**

This statement was endorsed by the following organizations and individuals:

Amnesty International Canada

Assembly of First Nations

Assemblée des Premières Nations du Québec et Labrador / Assembly of First Nations of Quebec and Labrador

BC Assembly of First Nations

Canadian Friends Service Committee (Quakers)

First Nations Summit

Grand Council of the Crees (Eeyou Istchee)

Indigenous-Settler Relations, Mennonite Church Canada

KAIROS: Canadian Ecumenical Justice Initiatives

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.

Dr. Mariam Wallet Aboubakrine, Expert Member, UN Permanent Forum on Indigenous Issues

For more information on implementation of the *UN Declaration*, please see our factsheets at <https://www.declarationcoalition.com/more-info/>