



SUSTAINABLE DEVELOPMENT AND THE HUMAN RIGHTS OF INDIGENOUS PEOPLES

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**COALITION FOR THE HUMAN RIGHTS OF
INDIGENOUS PEOPLES**
DECLARATIONCOALITION.CA

SUSTAINABLE DEVELOPMENT GOALS:

ONE

End poverty in all its forms everywhere

TWO

End hunger, achieve food security and improved nutrition and promote sustainable agriculture

THREE

Ensure healthy lives and promote well-being for all at all ages

FOUR

Ensure inclusive and quality education for all and promote lifelong learning

FIVE

Achieve gender equality and empower all women and girls

SIX

Ensure access to water and sanitation for all

SEVEN

Ensure access to affordable, reliable, sustainable and modern energy for all

EIGHT

Promote inclusive and sustainable economic growth, employment and decent work for all

NINE

Build resilient infrastructure, promote sustainable industrialization and foster innovation

TEN

Reduce inequality within and among countries

ELEVEN

Make cities inclusive, safe, resilient and sustainable

TWELVE

Ensure sustainable consumption and production patterns

THIRTEEN

Take urgent action to combat climate change and its impacts

FOURTEEN

Conserve and sustainably use the oceans, seas and marine resources

FIFTEEN

Sustainably manage forests, combat desertification, halt and reverse land degradation, halt biodiversity loss

SIXTEEN

Promote just, peaceful and inclusive societies

SEVENTEEN

Revitalize the global partnership for sustainable development

INTRODUCTION

Indigenous peoples have a long history of engaging with the United Nations and other international bodies to press for recognition of their inherent rights and to bring pressure on governments in Canada to uphold these rights in law, policy, and practice. Decades of Indigenous advocacy led to the adoption in 2007 of the *UN Declaration on the Rights of Indigenous Peoples*, which firmly rejects all colonial doctrines, affirms Indigenous peoples' inherent right to self-determination and provides a roadmap for how states and Indigenous peoples can work together to put the Indigenous peoples' human rights into practice. In 2021, the federal government adopted national legislation setting out a clear legal commitment to fully implement the *Declaration*, including through development of a national action plan for implementation, as well as reform of laws, policies and regulations to ensure consistency with the requirements of the *Declaration*. The province of British Columbia has also adopted implementation legislation and has already created its first implementation plan in collaboration with Indigenous peoples.

In parallel with the development of the *UN Declaration*, there has been growing attention within the UN system to the need to promote a better balance between human rights, social and economic development and environmental protection. In 2015, the UN adopted a global framework called *Transforming Our World: The 2030 Agenda for Sustainable Development*. The *2030 Agenda* includes the highly publicized UN Sustainable Development Goals (SDGs). Although Indigenous peoples were not centrally involved in the development of the 2030 Agenda, the way that they were in the development of the *UN Declaration*, Indigenous leaders and advocates did have some influence on its content. The *2030 Agenda* makes a number of direct references to the health and well-being of Indigenous peoples. This framework also speaks to many of the most critical issues facing Indigenous peoples in Canada, including community safety, access to health care, adequate housing, clean water, and traditional livelihoods, as well as environmental protection and the climate crisis.

Making connections between the *UN Declaration* and the *2030 Agenda* is important in light of Canada's significant commitments to achieving the sustainable development

goals. The provisions of the *UN Declaration* can help address critical gaps in the *2030 Agenda* on vital themes such as self-determination, land rights and treaties. In

turn, the *2030 Agenda's* vision of ambitious action to address social, economic and environmental needs can also bolster implementation of the *UN Declaration* in Canada. It's clear that Indigenous peoples should have a central role in determining how the sustainable development goals are implemented. It is also vital to ensure that the rights of Indigenous peoples are not violated in the name of sustainable development.

Despite these interconnections and interdependencies, the global sustainable development framework is rarely referenced in relation to the rights of Indigenous peoples in Canada. The SDGs are more often associated with the field of international development than with meeting the pressing needs of Indigenous peoples in Canada. Conversely, the rights of Indigenous peoples are often overlooked in considering how the SDGs can be realized in Canada. While the government of Canada has made numerous commitments to implement both the *UN Declaration on the Rights of Indigenous Peoples* and the SDGs, as have some provinces and territories, these commitments tend to be considered in isolation from each other.

The goal of this paper is to help bridge that gap. The specific purpose is to explore the relationship between Canada's commitments to sustainable development and Canada's obligation to implement the *UN Declaration on the Rights of Indigenous Peoples*. The paper examines how the *2030 Agenda* and the *UN Declaration* can be used together to help address critical concerns of Indigenous peoples, including responding to climate change and other threats to the natural environment.

The paper begins by noting that values associated with sustainability, such as responsible stewardship of the environment, the importance of caring for all members of society and the necessity of long-term thinking and planning, are central to the knowledge systems and laws of many Indigenous peoples. The ability of Indigenous peoples to put their ecological knowledge into practice depends on restoration of Indigenous lands and respect for the inherent right to make their own decisions, according to their own laws and traditions, including decisions over how their lands should be used and conserved.

The second part of the paper provides a more detailed examination of the *2030 Agenda* and the SDGs. This includes discussion of the central importance of In-

Indigenous peoples' human rights to the *2030 Agenda* and consideration of specific provisions in the SDGs around issues such as environmental stewardship, community health and well-being, safe drinking water, education and community safety that provide critical substance to what is meant by sustainable development.

The third section of the paper provides a short review of the broader concept of sustainable development within the United Nations system and why sustainable development should be understood as a human right that all governments are obligated to respect and uphold. This is followed in the fourth section by an examination of the global minimum standards set out in the *UN Declaration* and the implications for how sustainable development is interpreted and implemented. The paper concludes by examining federal, provincial and territorial obligations and commitments around sustainable development and what they may mean for Indigenous peoples.

This paper is the product of many conversations with experts engaged with Indigenous rights and community development. The process of developing the paper included a series of virtual meetings held in late 2021 and early 2022, as well as an Expert Symposium on the *UN Declaration* and Sustainable Development organized at the University of British Columbia in April 2022. In addition, the paper draws on video interviews carried out by Kanien'kehá:ka filmmaker Ellen Gabriel as part of this project. These videos, a full recording and a summary report of the symposium and a number of factsheets are available online on the website of the Coalition for the Human Rights of Indigenous Peoples: DeclarationCoalition.ca/SDGs

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The Coalition for the Human Rights of Indigenous Peoples is a network of Indigenous Nations, Indigenous peoples' organizations, human rights groups and individual experts and advocates. The Coalition works to promote the implementation of international standards for the rights of Indigenous peoples including particularly the *UN Declaration on the Rights of Indigenous Peoples*.

This paper is endorsed by the following Nations, organizations and individuals:

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BC Assembly of First Nations

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1. SUSTAINABLE DEVELOPMENT AND INDIGENOUS LAW

It has often been observed that the concept of sustainable development is not new. For millennia, Indigenous peoples around the world have been able to live on the land in ways that not only preserve fragile ecosystems, but also actively cultivate the diversity of plant and animal species. In the Expert Symposium carried out as part of this project, keynote speaker Dalee Sambo Dorrough, an Inuk scholar and legal expert, said, “The idea of living in balance with the natural world for the benefit of future generations is embedded in our knowledge systems, our lifeways, our languages, our protocols, our customs, our values, our practices, our institutions—in everything about us.” She also said, “Indigenous peoples could not have survived otherwise.”

Numerous studies have confirmed that those territories where Indigenous peoples still maintain their unique customs, and continue to manage the lands according to their own laws and governance systems, are associated with key indicators of ecological health, such as high biological diversity, and with critical ecological functions such as carbon storage in forest soils and permafrost.¹ This demonstrated ability to foster healthy and diverse ecosystems, while supporting Indigenous economies and cultures through sustainable harvesting and land use, is a testament to the continued vitality and global importance of Indigenous laws, protocols and ecological knowledge systems.

Indigenous peoples across Turtle Island have shared teachings and protocols that have direct parallels with

the global concepts of sustainability. To take just one example, the Unama’ki Institute of Natural Resources has described the Mi’kmaq concept of *Netukulimk* as

the use of the natural bounty provided by the Creator for the self-support and well-being of the individual and the community. *Netukulimk* is achieving adequate standards of community nutrition and economic well-being without jeopardizing the integrity, diversity or productivity of our environment.²

The significance of Indigenous knowledge systems and practices is now widely acknowledged, including in global environmental accords such as the landmark 2015 Paris Climate Accord.³ There is also growing recognition of the diverse benefits to Indigenous peoples and non-Indigenous people alike when Indigenous peoples are able to manage their own lands and resources.

A recent initiative to bring together Indigenous and non-Indigenous people engaged in the creation of Indigenous Conservation Areas in Canada found that these projects have a wide range of benefits, including promoting respect for Indigenous knowledge systems and preserving spaces for revitalization and practice of Indigenous cultural traditions and languages. The report of the gatherings also said that Indigenous Conservation areas can be “beacons of reconciliation” between Indigenous peoples and non-Indigenous people by “demonstrating how to live well and respect each other and the land.”⁴ The report further noted that an important benefit of Indigenous conservation areas was creation the “long-term sustainable employment potential for local and regional residents.”⁵

¹ One estimate suggests that lands managed by Indigenous peoples account for more than one third of the best preserved ecosystems in the world. Intergovernmental Science-Policy Platform on Biodiversity and Ecosystem Services (IPBES), *Summary for Policymakers of the Global Assessment Report on Biodiversity and Ecosystem Services*, 2019. https://ipbes.net/sites/default/files/inline/files/ipbes_global_assessment_report_summary_for_policymakers.pdf; Indigenous territories are currently believed to shelter fully 80 percent of the world’s biological diversity. The rate of ongoing biodiversity loss in these territories is also lower than in the rest of the world. Claudia Sobrevilla, *The Role of Indigenous Peoples in Biodiversity Conservation: The Natural but Often Forgotten Partners*, The World Bank, 2008. Rights and Resources, “A Global Baseline of Carbon Storage in Collective Lands: Indigenous and Local Community Contributions to Climate Change Mitigation,” September 2018. https://rightsandresources.org/wp-content/uploads/2018/09/A-Global-Baseline_RRI_Sept-2018.pdf A recent international study concluded that Indigenous land management was the single most critical factor in “keeping species numbers high” in hundreds of ecosystems in Canada, Brazil and Australia, as compared to lands “preserved” by parks and other state protections. University of British Columbia, “Biodiversity highest on Indigenous-managed lands: UBC-led study highlights importance of collaborating with Indigenous communities to protect species,” 31 July 2019. <https://news.ubc.ca/2019/07/31/biodiversity-highest-on-indigenous-managed-lands/>

² Unama’ki Institute of Natural Resources, *Netukulimk*. <https://www.uinr.ca/programs/netukulimk>

³ *Paris Agreement*, as contained in the report of the Conference of the Parties on its twenty-first session, FCCC/CP/2015/10/Add.1, done at Paris, 12 December 2015, http://unfccc.int/files/home/application/pdf/paris_agreement.pdf

⁴ The Indigenous Circle of Experts, *We Rise Together: Achieving Pathway to Canada Target 1 through the Creation of Indigenous Protected and Conserved Areas in the Spirit and Practice of Reconciliation*, 22 March 2018. https://static1.squarespace.com/static/57e007452e69cf9a7af0a033/t/5ab94aca6d2a7338ecb-1d05e/1522092766605/PA234-ICE_Report_2018_Mar_22_web.pdf

⁵ The Indigenous Circle of Experts, *We Rise Together: Achieving Pathway to Canada Target 1 through the Creation of Indigenous Protected and Conserved Areas in the Spirit and Practice of Reconciliation*, 22 March 2018. https://static1.squarespace.com/static/57e007452e69cf9a7af0a033/t/5ab94aca6d2a7338ecb-1d05e/1522092766605/PA234-ICE_Report_2018_Mar_22_web.pdf

The Indigenous Leadership Institute notes that by providing flexible, well-paid and meaningful work connected to Indigenous cultural values, Indigenous land management projects can be particularly beneficial for providing access points for Indigenous women's entry into the job market.⁶ Using a social return on investment analysis, which looks at social and environmental values as well as economic values, the Indigenous Leadership Institute found that every dollar spent on the Indigenous Conservation areas and guardian programs generated a 250 percent return.⁷

It is important to note, however, that in order for Indigenous peoples to put their ecological knowledge into practice, Indigenous peoples must have secure access to the specific lands and waters around which their knowledge systems have evolved. They must also have the opportunity to apply and uphold the Indigenous laws and protocols in which their knowledge systems are embedded. Furthermore, the community members who hold this knowledge, and who are entrusted with upholding the laws and protocols of their Nation, must be recognized and respected by settler governments.

John Borrows, an Anishinaabe legal scholar, has written:

Indigenous peoples should not be romanticized as “children of the forest,” who have always lived in a blissful state of nature before Europeans arrived. Indigenous peoples have caused environmental damage in the past through depletion of various parts of their world. This damage is also apparent in the present. Many Indigenous histories attest that this damage occurred when their laws were ignored. There are significant lessons to learn from these precedents. Indigenous peoples will cause environmental damage in the present or future *if their environmental laws are not recognized and affirmed by themselves and others* [emphasis added].⁸

During the Expert Symposium, Patricia Nash of the Unama'ki Institute of Natural Resources, talked about

the role of Mi'kmaw Elders in guiding the Institute's development of Indigenous protected and conserved areas. She said that the “Elders have told us that... we must relearn the ways of taking care of the Earth and each other.”

A LAND BASE FOR SUSTAINABILITY

Recovery and practice of Indigenous ecological knowledge and laws requires secure access to vital lands and territories, and the recognized authority to administer those lands. In 1996, the Royal Commission on Aboriginal Peoples (RCAP)—commenting on the tiny fraction of Indigenous lands that remain in Indigenous control—stated that “[w]ithout adequate lands and resources, Aboriginal nations ... will be pushed to the edge of economic, cultural and political extinction.”⁹ In the quarter century since the RCAP report, while some Indigenous peoples have been successful in restoring portions of their lands, many others have experienced continued, devastating erosion of their land base, especially from the acceleration of destructive development activities and, increasingly, from the impacts of the global climate crisis.

For example, in 2021 a British Columbia court found that the cumulative impacts of oil and gas fields, pipelines, forestry, mining, the damming of the Peace River and other resource development in the traditional territory of the Blueberry River First Nation had now reached a “tipping point.” As a consequence, the court concluded, the First Nation could no longer “meaningfully exercise” rights to hunt, fish and trap—despite these rights being protected by their Treaty with the Crown—leading to their way of life being significantly diminished.¹⁰

An October 2020 report by the international NGO Human Rights Watch, based on interviews with First Nations in three regions of Canada, concluded that the global climate crisis is already significantly affecting First Nations health and livelihoods through marked decline

⁶ Indigenous Leadership Institute, *Indigenous-Led Conservation Job and Economic Opportunities that Work for Nature*, https://static1.squarespace.com/static/5f8367238502ed181766aaf0/t/5fb3f91fd793133be93cf61f/1605630283073/ILI-Guardians-Policy-Brief_English.pdf

⁷ Indigenous Leadership Institute, *Indigenous-Led Conservation Job and Economic Opportunities that Work for Nature*, https://static1.squarespace.com/static/5f8367238502ed181766aaf0/t/5fb3f91fd793133be93cf61f/1605630283073/ILI-Guardians-Policy-Brief_English.pdf

⁸ John Borrows, “Indigenous Environmental Laws: Purpose, Scope, Recognition, Interpretation and Enforcement,” Paper prepared for the Centre for Indigenous Environmental Resources (CIER), December 2006. http://www.yourcier.org/uploads/2/5/6/1/25611440/john_borrows_-_purpose_scope_recognition_interpretation_and_enforcement_3.pdf

⁹ Royal Commission on Aboriginal Peoples, “Restructuring the Relationship,” *Report of the Royal Commission on Aboriginal Peoples* (Ottawa: Canada Communication Group, 1996), vol. 2(2), at p. 557.

¹⁰ *Yahey v British Columbia*, 2021 BCSC 1287, para 115, paras 540-541. The BC government has chosen not to appeal this decision. For an analysis, see Robert Hamilton and Nick Ettinger, “*Yahey v British Columbia* and the Clarification of the Standard for a Treaty Infringement,” ABLaw.ca, 24 September 2021.

in plant and animal species and through loss of access to lands due to severe weather effects, flooding and forest fires. The report warned that “there is evidence that the worst is yet to come.”¹¹

At the same time, Indigenous peoples continue to face widespread discrimination and marginalization in their engagement with the Canadian economy and the society. This includes discriminatory underfunding of basic services in Indigenous communities, mistreatment at the hands of public institutions including police and hospitals and the longstanding failure to properly address the harms inflicted by racist and colonial laws that have undermined Indigenous languages and cultures.

During our April 2022 symposium, participants also emphasized that many Indigenous laws and practices associated with sustainability are profoundly gendered: people of different genders hold different responsibilities to the family, the community and land and are the custodians of corresponding knowledge systems. The colonial assault on Indigenous peoples disrupted Indigenous families and devalued the roles and responsibilities of Indigenous women and girls. As participants, Indigenous men and boys have also struggled with issues of pride and self-worth as it becomes harder to make a living from traditional occupations.

The practice of Indigenous systems of sustainability requires a restoration of Indigenous societies, including in particular the protection and recovery of lands and territories and recognition of Indigenous peoples’ inherent right to make decisions according to their own laws and values. The purpose of this paper is not to suggest that there are simple or easy solutions. However, as will be explored below, sustainable development understood as a human right, and interpreted in a manner consistent with the rights protections provided by the *UN Declaration on the Rights of Indigenous Peoples*, provides another potentially useful tool to advocate for transformative change in the relationship between Canada and First Nations, Inuit and Métis peoples. This is at a time when the imperative of restoring lands to Indigenous control has never been more urgent for the well-being of Indigenous peoples and for the health of the global environment.

2. THE 2030 AGENDA FOR SUSTAINABLE DEVELOPMENT AND THE UN SUSTAINABLE DEVELOPMENT GOALS

In 2015, the member states of the United Nations adopted *Transforming Our World: The 2030 Agenda for Sustainable Development*¹² which sets out 17 Sustainable Development Goals or SDGs. These goals include ending poverty in all forms everywhere, clean and sustainably managed water for all, decent work for all and urgent action to combat climate change. The *2030 Agenda* acknowledges that these goals are “supremely ambitious” and can only be accomplished through profound changes in society and the economy.

The member states of the United Nations adopted the *2030 Agenda* by consensus. Since adopting the *2030 Agenda*, the UN General Assembly has passed more than 80 consensus resolutions underlining the importance of all countries taking concrete action to achieve the SDGs.¹³ Many of the SDGs speak to urgent, daily concerns facing Indigenous peoples. For each SDG, there are a number of more specific targets setting out steps that must be taken to realize the goals. For example, target 1.5, under the heading of SDG 1 (“End poverty in all its forms everywhere”) calls on states to “build the resilience of the poor and those in vulnerable situations and reduce their exposure and vulnerability to climate-related extreme events and other economic, social and environmental shocks and disasters.”

There are 169 targets in total. Some of these targets specifically refer to Indigenous peoples. For example, under the goal of ending hunger, the *2030 Agenda* sets a target that includes doubling the income of small-scale food producers, particularly Indigenous peoples. Under the goal of inclusive and equitable education for all, the *2030 Agenda* sets the target of “ensuring equal access to all levels of education and vocational training” for Indigenous peoples.

In addition to the specific goals and targets, the *2030 Agenda* also sets out a broader framework that helps define what the often-used term “sustainable development” really means. The *2030 Agenda* is not a legally

¹¹ Human Rights Watch, “My Fear is Losing Everything”: Climate Change and First Nations Right to Food in Canada, 21 October 2020. <https://www.hrw.org/report/2020/10/21/my-fear-losing-everything/climate-crisis-and-first-nations-right-food-canada>

¹² General Assembly, *Transforming Our World: the 2030 Agenda for Sustainable Development*, UN Doc. A/RES/70/1 (25 September 2015) (without vote), http://www.un.org/en/ga/search/view_doc.asp?symbol=A/RES/70/1. In regard to the Sustainable Goals and Targets, see also <https://unstats.un.org/sdgs/report/2019/The-Sustainable-Development-Goals-Report-2019.pdf>

¹³ Paul Joffe, “Bill C-15 – Sustainable Development and Climate Change,” Assembly of First Nations, 24 January 2021, https://www.afn.ca/wp-content/uploads/2021/01/C-15_Climate_ENG-1.pdf

binding instrument. However, as will be set out in later sections of this paper, the *2030 Agenda* is grounded in established and emerging international human rights standards and can be used to provide greater substance and meaning to the legal and political commitments of states.

The *2030 Agenda* emphasizes the obligation to protect the planet for the benefit of present and future generations. Such references to present and future generations have been a consistent feature of how sustainable development has been defined within the UN system. In itself, this marks a significant departure from Western legal traditions that have typically assumed that only the current generation can hold rights.¹⁴

The *2030 Agenda* also rejects the idea that there should be any trade-off between economic development, protection of the environment, and respect for human rights. The *2030 Agenda* states instead that development has three dimensions—social, environmental and economic—and that all three must be “balanced and integrated.”

Agenda 2030 underlines that it is not enough to simply guard against development activities having unintended negative consequences. One of the first lines of the *2030 Agenda* is the statement, “We pledge that no one will be left behind.” This commitment to leave no one behind is repeated throughout the *2030 Agenda*. This means that there must be an inclusive and just approach to determining what forms of development are permitted and prioritized.

Just because a particular project promises to generate wealth or jobs for some, that doesn’t necessarily mean it will benefit everyone. An inclusive and just decision-making process requires a close examination of how any proposal may impact or benefit different sectors of society and people of different genders.

Alongside this commitment to inclusivity and fairness, the *2030 Agenda* includes a clear and explicit call to prior-

itize the needs of individuals and groups who have been most marginalized or excluded. The *Agenda* states, “We will endeavour to reach the furthest behind first.”

The UN General Assembly has repeatedly underlined the particular relevance of these principles to the rights and needs of Indigenous peoples. For example, a December 2020 resolution states that the call to leave no one behind and reach the furthest behind first “includes Indigenous peoples who should participate in, contribute to and benefit without discrimination from the implementation of the *2030 Agenda*.” A January 2021 resolution encourages all UN member states “to give due consideration to all the rights of indigenous peoples in fulfilling the commitments undertaken in the *2030 Agenda for Sustainable Development* and in the elaboration of national action plans and programmes as well as international and regional programmes, applying the pledge to leave no one behind and to endeavour to reach the furthest behind first.”¹⁵

GAPS AND SHORTCOMINGS IN THE SUSTAINABLE DEVELOPMENT FRAMEWORK

Many commentators have noted that despite recognition of the close connections between the SDGs and Indigenous peoples, the implementation framework adopted by the UN does not adequately reflect Indigenous realities or values.¹⁶ For example, the SDGs define extreme poverty as an income of less than \$1.25 a day. The Indigenous Major Group, formed to promote Indigenous participation in international processes related to the SDGs, states that for Indigenous peoples any definition of poverty cannot be based on income alone, but must also address access to lands and resources essential to culture, livelihoods and subsistence.¹⁷ Similarly, although the goal on education specifically refers to Indigenous peoples in one of its targets, the *2030 Agenda* does not distinguish between colonialist or assimilationist approaches to education and those education systems that respect and promote Indigenous culture, languages, traditions and worldviews.¹⁸

¹⁴ “The great majority of our current legal systems, whether Common Law or Civil Law, concentrate almost exclusively on the rights of those who are living here and now. These appear to be the only bearers of rights in modern legal systems. However, this is a very limited view. It does not accord with the philosophies that traditional wisdom has bequeathed to us.” Judge G.G. Weeramantry, “Achieving Sustainable Justice Through International Law,” in Cordonier Segger and Judge C.G. Weeramantry, eds., *Sustainable Justice: Reconciling Economic, Social and Environmental Law*, Martinus Nijhoff Publishers, 2005, pp. 25-6.

¹⁵ UN General Assembly, *Resolution adopted by the General Assembly on 18 December 2019, Agenda item 67 (a): Rights of Indigenous Peoples*, UN Doc. A/RES/76/148, 16 December 2021 (without a vote).

¹⁶ See for example, Mandy Li-Ming Yap & Krushil Watene, “The Sustainable Development Goals (SDGs) and Indigenous Peoples: Another Missed Opportunity?,” *Journal of Human Development and Capabilities*, 20:4, 2019, pp. 451-467 <DOI: 10.1080/19452829.2019.1574725> And Danielle Deluca, “What Do The Sustainable Development Goals Mean For Indigenous Peoples?” *Cultural Survival Quarterly*, Dec 2017. <https://www.culturalsurvival.org/publications/cultural-survival-quarterly/what-do-sustainable-development-goals-mean-indigenous>

¹⁷ Indigenous Peoples Major Group, *Policy brief on sustainable development goals and post-2015 development agenda*, 2015, <https://sustainabledevelopment.un.org/content/documents/6797IPMG%20Policy%20Brief%20Working%20Draft%202015.pdf>

¹⁸ Omolara O. Odulaja and Regine Halseth, *The United Nations Sustainable Development Goals and Indigenous Peoples in Canada*. National Collaborating Centre for Aboriginal Health, November 2018, p. 20. <https://www.nccah-cnca.ca/docs/determinants/RPT-UN-SDG-IndPeoplesCanada-Halseth-Odulaja-EN.pdf>

HOW DOES THE WORLD DEFINE “SUSTAINABLE DEVELOPMENT”?

In 2015, the national governments that make up the United Nations reached consensus on a global agenda to address some of the most urgent economic, social and environment issues facing the world.

The agenda that they adopted, called *Transforming Our World: The 2030 Agenda for Sustainable Development*, sets out a detailed framework for action. Countries like Canada have agreed to put that framework into practice.

Transforming Our World says sustainable development

- balances social, environmental and economic needs, including the needs of future generations
- promotes inclusion, justice, peace and “lasting protection of the planet”
- includes a commitment to combating systemic racism and all forms of discrimination
- prioritizes the needs of those who have been most marginalized or excluded
- must be consistent with international law

The 2030 Agenda sets out 17 Sustainable Development Goals as well as related targets for achieving this vision. These Goals and targets should be implemented alongside the UN Declaration on the Rights of Indigenous Peoples.

A report by the National Collaborating Centre on Indigenous Health notes that Target 10.3 of the *2030 Agenda* (“Ensure equal opportunity and reduce inequalities of outcome”) is to be measured by a single indicator: “the proportion of the population reporting having personally felt discriminated against or harassed within the 12 months on the basis of a ground of discrimination prohibited under international human rights law.” The authors point out that this frames discrimination from an individualistic and short-term perspective, rather than highlighting the collective and systemic discrimination faced by Indigenous peoples. They write,

While this indicator may be sufficient for capturing isolated instances of discrimination and/or harassment as reported to Human Rights Tribunals or the justice system, it is insufficient for capturing the scope and scale of discrimination and racism that Indigenous peoples experience within economic, social and political settings; through federal and provincial laws, policies, and services provision; within law enforcement, justice, education, child welfare, and health care systems; in the media; and elsewhere.¹⁹

Perhaps the most glaring omission in the SDG framework is the absence of any specific targets for restoration of lands to Indigenous peoples. This is despite the widely acknowledged “inextricable link” between land rights and the health and wellbeing of Indigenous peoples.²⁰

The Indigenous Major Group has also expressed concern about the tendency to gloss over the distinct needs and rights of Indigenous peoples by simply including Indigenous peoples in lists of so-called “vulnerable groups” meant to benefit from the SDGs. The Indigenous Major Group notes that “[u]niversal goals require specific targets, indicators, and appropriate special measures to address Indigenous peoples’ distinct needs in the development process so as to overcome historic structural inequalities and ongoing risks of human rights violations.”²¹

Others have noted the need to expand the SDGs based on diverse perspectives and experiences of Indigenous

¹⁹ Omolara O. Odulaja and Regine Halseth, *The United Nations Sustainable Development Goals and Indigenous Peoples in Canada*. National Collaborating Centre for Aboriginal Health, November 2018, p. 30. <https://www.nccah-ccnsa.ca/docs/determinants/RPT-UN-SDG-IndPeoplesCanada-Halseth-Odulaja-EN.pdf>

²⁰ UN Economic and Social Council, *Report of the international expert group meeting on the theme “Sustainable Development in the Territories of Indigenous Peoples”*, UN Doc. E/C.19/2018/7, 21 February 2018, para. 9.

²¹ Indigenous Peoples Major Group, *Policy brief on sustainable development goals and post-2015 development agenda*, 2015, <https://sustainabledevelopment.un.org/content/documents/6797IPMG%20Policy%20Brief%20Working%20Draft%202015.pdf>

peoples. For example, in the Arctic context, it has been suggested that there should be SDGs on equitable sharing of resources, sustainable governance and life on the ice and permafrost, among others.²²

In addition, the UN Permanent Forum on Indigenous Issues has expressed concern over the risk of states making decisions in the name of sustainable development without regard for the rights, cultural values and needs of Indigenous peoples. The Permanent Forum said it is important that all implementation measures “are culturally sensitive and respect Indigenous peoples’ self-determination as well as collective rights in terms of land, health, education, culture and ways of living.”²³

As considered in the remaining sections of this paper, interpreting the SDGs so that they better reflect Indigenous experiences and are consistent with the human rights of Indigenous peoples in international law—especially the minimum standards set out in the *UN Declaration*—can help fill these gaps and significantly strengthen the SDGs as a tool that can genuinely benefit Indigenous peoples.

3. THE HUMAN RIGHT TO SUSTAINABLE DEVELOPMENT

International human rights law recognizes that all individuals and all societies are inherently valuable and deserving of dignity and respect. As a result, human rights are understood to be “inalienable”—meaning that these rights exist as an essential element of who we are as human beings and human societies. Inalienable rights are not granted by governments and they cannot be taken away. The purpose of international human rights laws and standards is to set out measures that must be taken to prevent violation of these inalienable rights, to provide the opportunity for all individuals and societies to

fully enjoy their human rights, and to ensure that justice is done when rights are ignored or violated.

For all human rights, there are corresponding obligations. These obligations are moral, political and legal in nature²⁴ and apply to all levels of government. In some cases, human rights obligations also apply to society more broadly, including to private corporations. This is true, for example, of the obligation to avoid actions that violate the rights of others.

Human rights obligations can be introduced in courts and tribunals to support claims for justice. They can be used in public advocacy to build public pressure for action. They can also be used to catalyze reforms to laws and policies at all levels of government.

The SDGs are sometimes described as being merely aspirational because they are not part of any formal international treaty. Some authors have suggested that while the concept of sustainable development has a long history within the UN, there is still little clarity about whether the *2030 Agenda* and the SDGs are merely lofty goals or whether they represent obligations for which states can be held accountable.²⁵ Below, however, we set out an argument that sustainable development itself is increasingly recognized as an inalienable human right with corresponding state obligations, and that the SDGs provide a pathway for implementing the right to sustainable development and established international human rights—including the human rights of Indigenous peoples.

The term “sustainable development” entered wide use after a 1987 report by the UN World Commission on Environment and Development, known as the *Brundtland Report*. The *Brundtland Report* defined “sustainable development” as “development that meets the needs of

²² Tatiana S. Degai & Andrey N. Petrov, “Rethinking Arctic sustainable development agenda through indigenizing UN sustainable development goals,” *International Journal of Sustainable Development & World Ecology*, 17 Jan 2021, p. 2. DOI: 10.1080/13504509.2020.1868608. Based on workshops at the UN Permanent Forum, the authors propose the following five Arctic SDGs:

SDG 18: Sustainable Governance and Indigenous Rights: “traditional governance systems rooted in generational knowledge, consensus and sharing.”

SDG 19: Resilient Indigenous Societies, Livelihoods and Knowledge Systems: “here the emphasis is on cultural vitality, Indigenous languages, engagement of Indigenous knowledge in decision-making, as well as thriving of Indigenous livelihoods, practices, economies and communities.”

SDG 20: Life on Ice and Permafrost: “the importance of ice and permafrost for the Indigenous Peoples and all Arctic residents.”

SDG 21: Equity and Equality in Access to Natural Resources.

SDG 22: Investment in Youth and Future Generations.

²³ United Nations Permanent Forum on Indigenous Issues, “Indigenous peoples and the *2030 Agenda*,” 2016. <http://www.un.org/esa/socdev/unpfii/documents/2016/Docupdates/backgroundSDG.pdf>

²⁴ The former UN Special Rapporteur on the rights of Indigenous peoples, James Anaya, wrote that implementation of the *UN Declaration on the Rights of Indigenous Peoples* “should be regarded as political, moral and, yes, legal imperative without qualification.” James Anaya, *Statement of the Special Rapporteur on the situation of human rights and fundamental freedoms of indigenous people, Expert Mechanism on the Rights of Indigenous Peoples*, 15 July 2010. <https://unsr.jamesanaya.org/?p=354>.

²⁵ Riccardo Pavoni and Dario Piselli, “The Sustainable Development Goals and International Environmental Law: Normative Value and Challenges for Implementation,” *Veredas do Direito, Belo Horizonte*, v.13, n.26 (May/August 2016), pp. 13-60 <http://dx.doi.org/10.18623/rvd.v13i26.865>

the present without compromising the ability of future generations to meet their own needs.”²⁶

Considered in isolation, the term sustainable development is vague and potentially open to misuse. If states and private interests are free to define sustainability in any way they want, potentially anything could be labelled “sustainable development.” An expert meeting convened by the UN Permanent Forum on Indigenous Issues noted “history is replete with one-size-fits-all approaches to sustainable development that are based on a Western (often neoliberal) notion of development that prioritizes economic growth over all other considerations, such as the environment or well-being.”²⁷

Within the United Nations and related processes, however, the term sustainable development has been repeatedly invoked to define a more holistic or integrative approach to development that emphasizes the interconnection of poverty reduction, social justice and environmental protection.²⁸ Such an approach more closely aligns with the ways in which Indigenous peoples have defined sustainability.

The high-profile 1992 UN Conference on Environment and Development, also known as the Earth Summit, adopted 27 principles on sustainable development. This document, the *Rio Declaration on Environment and Development*, begins with the principle that all human beings “are entitled to a healthy and productive life in harmony with nature.” The *Rio Declaration* also states that “[i]n order to achieve sustainable development, environmental protection shall constitute an integral part of the development process and cannot be considered in isolation from it.”

At the following World Summit on Sustainable Development, the Johannesburg conference in 2002, participating states issued a declaration acknowledging “a collective responsibility to advance and strengthen the interdependent and mutually reinforcing pillars of sustainable development—economic development, social development and environmental protection—at the local, national, regional and global levels.”²⁹

In 2012, twenty years after the Earth Summit, national governments participating in the follow-up Rio+20 conference agreed by consensus on “the need to further mainstream sustainable development at all levels, integrating economic, social and environmental aspects and recognizing their interlinkages, so as to achieve sustainable development in all its dimensions.” The outcome document reaffirmed all the principles of the *Rio Declaration*.

In July 2015, the UN General Assembly adopted by consensus the *Addis Ababa Action Agenda of the Third International Conference on Financing for Development*. The *Action Agenda* stated:

Our goal is to end poverty and hunger, and to achieve sustainable development.... We commit to respect all human rights, including the right to development. We will ensure gender equality and women’s and girls’ empowerment. We will promote peaceful and inclusive societies and advance fully towards an equitable global economic system where no country or person is left behind, enabling decent work and productive livelihoods for all, while preserving the planet for our children and future generations.³⁰

From the outset, UN processes around sustainable development have recognized that this framework has particular significance in relation to Indigenous peoples. Principle 22 of the 1992 *Rio Declaration* states: “Indigenous people and their communities ... have a vital role in environmental management and development because of their knowledge and traditional practices. States should recognize and duly support their identity, culture and interests and enable their effective participation in the achievement of sustainable development.”³¹ The 2015 *Addis Ababa Action Agenda* specifically recognized “the importance of the *United Nations Declaration on the Rights of Indigenous Peoples* in the context of global, regional, national and subnational implementation of sustainable development strategies.”³²

²⁶ World Commission on Environment and Development, *Our Common Future*, New York: Oxford University Press, 1987, p. 43.

²⁷ UN Economic and Social Council, *Report of the international expert group meeting on the theme “Sustainable Development in the Territories of Indigenous Peoples,”* UN Doc. E/C.19/2018/7, 21 February 2018, para. 9.

²⁸ Riccardo Pavoni and Dario Piselli, “The Sustainable Development Goals and International Environmental Law: Normative Value and Challenges for Implementation,” *Veredas do Direito, Belo Horizonte*, v.13, n.26 (May/August 2016), p. 17. <http://dx.doi.org/10.18623/rvd.v13i26.865>

²⁹ World Summit on Sustainable Development, *Johannesburg Declaration on Sustainable Development*, 4 September 2002.

³⁰ General Assembly, *Addis Ababa Action Agenda of the Third International Conference on Financing for Development* (Addis Ababa Action Agenda), UN Doc. A/RES/69/313 (27 July 2015) (adopted without a vote), Annex, para. 1.

³¹ United Nations Conference on Environment and Development, *Rio Declaration on Environment and Development*, A/CONF.151/26, vol.I, 14 June 1992.

³² United Nations Commission on Sustainable Development, *The future we want*, Rio de Janeiro, Brazil, 20-22 June 2012, UN Doc. A/CONF.216/L.1 (19 June 2012), endorsed by General Assembly, UN Doc. A/RES/66/288 (27 July 2012) (without vote), para. 49.

The Outcome Document of the 2014 World Conference on Indigenous Peoples³³—adopted by consensus of the UN General Assembly—includes numerous references to sustainable development and the interconnections between the rights of Indigenous peoples and global sustainability. For example, the Outcome Document states, “We encourage Governments to recognize the significant contribution of indigenous peoples to the promotion of sustainable development, in order to achieve a just balance among the economic, social and environmental needs of present and future generations, and the need to promote harmony with nature to protect our planet and its ecosystems, known as Mother Earth in a number of countries and regions.” The Outcome Document also affirms the commitment of UN member states “to respecting the contributions of indigenous peoples to ecosystem management and sustainable development, including knowledge acquired through experience in hunting, gathering, fishing, pastoralism and agriculture, as well as their sciences, technologies and cultures.”

The *UN Declaration* itself includes a specific reference to sustainable development. Its preamble includes the statement, “Recognizing that respect for indigenous knowledge, cultures and traditional practices contributes to sustainable and equitable development and proper management of the environment.” A parallel regional human rights declaration adopted by the Organization of American States, the *American Declaration on the Rights of Indigenous Peoples*, builds on and further strengthens the *UN Declaration* by affirming that Indigenous peoples have the right to “conserve, restore, and protect the environment and to manage their lands, territories and resources in a sustainable way.”³⁴

There is a strong argument to be made that these references to sustainable development, in the *UN Declaration*, the *American Declaration*, the World Conference Outcome Document and elsewhere, are part of a clear trajectory within the progressive development of international law—strongly impacted by Indigenous peoples’ advocacy—to recognize that sustainable development is a hu-

man right with corresponding government obligations.³⁵ In fact, the UN Committee on the Elimination of Racial Discrimination, in a September 2015 response to concerns raised by Indigenous peoples in Colombia and Afro-Colombians, specifically referred to “their right to sustainable development.”³⁶

The recognition of sustainable development as a human right is significant. Dinah Shelton, the former Inter-American Commission on Human Rights Special Rapporteur on the Rights of Indigenous Peoples, has said that affirmation of a human “elevates” government responsibilities “above a mere policy choice that may be modified or discarded at will. Rights are inherent attributes of human beings that must be respected...”³⁷ During the Expert Symposium, Dr. David Boyd, UN Special Rapporteur on Human Rights and the Environment, explained that recognition of human rights is a proven catalyst for stronger and more effective laws, improved implementation, and better outcomes on the ground. He said, “A rights-based approach puts a human face on the problem, focuses on the most vulnerable among us, and prevents so-called solutions from violating human rights. At the end of the day, human rights-based approaches have proven to be the most effective and equitable way to solve these problems.”

BRIDGING THE RIGHT TO DEVELOPMENT AND THE RIGHT TO A HEALTHY ENVIRONMENT

Recognition of sustainable development as a human right bridges two important dimensions of human rights. The first is the right to the continued improvement, without discrimination, of the social and economic foundations of life and wellbeing. This is known as the right to development. The second is the right to the preservation—and restoration—of the lands, waters and ecosystems that sustain life. This is generally known as the right to a healthy environment.

In a 1997 case that pitted development benefits against environmental concerns, the International Court of

³³ General Assembly, *Outcome document of the high-level plenary meeting of the General Assembly known as the World Conference on Indigenous Peoples*, UN Doc. A/RES/69/2 (22 September 2014) (without a vote). https://www.un.org/en/ga/search/view_doc.asp?symbol=A/RES/69/2

³⁴ *American Declaration on the Rights of Indigenous Peoples*, AG/RES. 2888 (XLVI-O/16), adopted without vote by Organization of American States, General Assembly, 46th sess., 15 June 2016.

³⁵ Paul Joffe, *Indigenous Peoples’ Human Rights, UN Declaration and Sustainable Development in International Law*, April 14, 2017. <https://quakerservice.ca/wp-content/uploads/2017/12/Indigenous-Peoples%E2%80%99-Human-Rights-UN-Declaration-and-Sustainable-Development-in-International-Law-Joffe-2017.pdf>

³⁶ UN Committee on the Elimination of Racial Discrimination, *Concluding observations on the combined fifteenth and sixteenth periodic reports of Colombia*, 25 September 2015, UN Doc. CERD/C/COL/CO/15-16, para. 22.

³⁷ Dinah Shelton, “Human rights and the environment: substantive rights”, in Malgosia Fitzmaurice, David M. Ong, and Panos Merkouris, eds., *Research Handbook on International Environmental Law*, Edgar Elgar, 2010, pp. 265-281.

SUSTAINABLE DEVELOPMENT IS A HUMAN RIGHT

The national governments that form the United Nations have agreed that sustainable development must respect human rights. This is set out in the UN's 2030 Agenda for Sustainable Development.

The vision of sustainable development in the 2030 Agenda also incorporates measures to uphold many established human rights. These include:

- Freedom from discrimination
- The right to development
- The right to health
- The right to water
- The right to safety and security
- The right to a healthy environment

These rights are also protected in the *UN Declaration on the Rights of Indigenous Peoples*.

Recognizing sustainable development as a human right establishes that all governments have obligations to uphold this right. This includes creating conditions—through law, policy, programmes and financial assistance—so that the right can be protected and enjoyed. It also requires governments to take meaningful action to undo the harm caused by any violations of the right.

Justice referred to the “concept of sustainable development.” In a supplementary decision, the Vice-President of the Court, Judge C.G. Weeramantry argued that sustainable development should be understood not as a mere concept but as a legal principle that harmonizes two rights: the right to development and the right to a healthy environment. Of the later, he wrote, “The protection of the environment is a *sine qua non* for numerous human rights such as the right to health and the right to life itself. It is scarcely necessary to elaborate on this as damage to the environment can impair and undermine all the human rights spoken of in the *Universal Declaration* and other human rights instruments.”³⁸

The 1976 *International Covenant on Economic, Social and Cultural Rights* is a legally binding international treaty that is considered one of the central pillars of the international human rights system. The first article of the *Covenant* affirms the right of all peoples to self-determination. The article also explicitly links self-determination to social and economic wellbeing. The *Covenant* states that the right to self-determination includes the right to “freely pursue economic, social and cultural development” and the right to “freely dispose of their natural wealth and resources.” The same article also states that “[i]n no case may a people be deprived of its own means of subsistence.”

Other rights affirmed in other articles in the *Covenant* include

- the right to an adequate standard of living, “including adequate food, clothing and housing”;
- the right to enjoy “the highest attainable standard of physical and mental health”;
- the right to education;
- the right to employment;
- the right to fair and decent wages and to safe and healthy working conditions;
- the obligation to ensure special protection and assistance to fulfill the rights of children and youth; and
- the right to take part in cultural life.

Over time, the international human rights system has recognized additional economic, social and cultural

³⁸ International Court of Justice, *Case Concerning the Gabčíkovo-Nagymaros Project* (Hungary/Slovakia), 1997, Separate Opinion of Vice-President Weeramantry, pp. 88-9. <https://www.icj-cij.org/public/files/case-related/92/092-19970925-JUD-01-03-EN.pdf>

rights which are considered necessary to fulfill the rights and obligations explicitly named in the *Covenant*. This includes, for example, the right to clean water and sanitation.

In 1986, the United Nations General Assembly adopted the *Declaration on the Right to Development*.³⁹ This declaration defines the right to development as including “equality of opportunity for all in their access to basic resources, education, health services, food, housing, employment and the fair distribution of income.”

The *Declaration on the Right to Development* also states that all national governments should adopt development policies “that aim at the constant improvement of the well-being of the entire population and of all individuals.” The *Declaration* states that these policies should foster “active, free and meaningful” public participation in all forms of social and economic development, and that the goal should be “the fair distribution of the benefits.”

The *Declaration on the Right to Development* and the *International Covenant on Economic, Social and Cultural Rights* both recognize that full enjoyment of rights like the right to health and the right to education necessarily requires ongoing attention and effort. The *Covenant* requires every state that has joined the treaty to act “to the maximum of its available resources” toward the ultimatum goal of full realization of economic, social and cultural rights.

This requirement is known as “progressive realization.” What progressive realization means is that, in itself, the persistence of poverty or ill-health is not necessarily a violation of state obligations. The question is whether the government has done everything in its power—whether it has acted to the maximum of its available resources—to address public needs and whether it has done so without discrimination.

Of particular significance in an Indigenous rights context, the *Declaration on the Right to Development* specifically

highlights government obligations to address the ongoing harms caused by colonialism and the denial of the right to self-determination. The *Declaration* calls on states to “take resolute steps to eliminate the massive and flagrant violations of the human rights of peoples and human beings affected by situations such as those resulting from apartheid, all forms of racism and racial discrimination, colonialism ... and refusal to recognize the fundamental right of peoples to self-determination [emphasis added].”

While the *Declaration on the Right to Development* and the *International Covenant on Economic, Social and Cultural Rights* both refer to “natural wealth and resources,” neither explicitly refer to the natural environment. Nonetheless, the international human rights system has clearly recognized that degradation of the natural environment—and climate change in particular—create direct threats to the enjoyment of a wide range of economic, social and cultural rights including the right to an adequate standard of living, the right to housing and the right to food.⁴⁰

The Human Rights Council has commented on the “immediate and far-reaching” threats to human rights from climate change, while the Committee on the Rights of the Child and the Special Rapporteur on Hazardous Substances and Wastes have both noted how mercury and other environmental contaminants threaten children’s right to health.⁴¹ The UN Special Rapporteur on the Rights of Indigenous Peoples has written that environmental degradation threatens numerous rights of Indigenous peoples, including their rights to life, health and property.⁴² UNESCO has also commented on the reciprocal nature of cultural rights and environmental protection, noting, “While it is widely acknowledged that the degradation of the natural environment, in particular traditional habitats, entails a loss of cultural and linguistic diversity, new studies suggest that language loss, in its turn, has a negative impact on biodiversity conservation.”⁴³ In the context of increasing threats and violence against those who speak out against environmental destruction, it is also important to note

³⁹ GA Res. 41/128, UN Doc. A/41/925 (1986).

⁴⁰ Human Rights Council, *Report of the Independent Expert on the issue of human rights obligations relating to the enjoyment of a safe, clean, healthy and sustainable environment*, John H. Knox, 20 December 2013, A/HRC/25/53.

⁴¹ Cited in Human Rights Council, *Report of the Independent Expert on the issue of human rights obligations relating to the enjoyment of a safe, clean, healthy and sustainable environment*, John H. Knox, 20 December 2013, A/HRC/25/53, paras 19-25.

⁴² Human Rights Council, *Report of the Special Rapporteur on the rights of indigenous peoples, James Anaya: Extractive industries operating within or near indigenous territories*, 11 July 2011, A/HRC/18/35.

⁴³ UNESCO, “Biodiversity and linguistic diversity: Maintaining indigenous languages, conserving biodiversity, <http://www.unesco.org/new/en/culture/themes/ endangered-languages/biodiversity-and-linguistic-diversity/>. A parallel observation is included in the federal *Act respecting Indigenous languages* which states that “efforts to protect the vitality of Indigenous languages contribute to the enrichment of Indigenous knowledge as well as to the prevention of the loss of cultural diversity, biodiversity and spirituality ...” Statutes of Canada, 2019, c. 23, preamble.

that there is also a large body of commentary and jurisprudence from international, regional and human rights bodies on the safety and security of land defenders.⁴⁴

The interconnection of human rights and the environment leads to the recognition of state obligations to protect the environment. In a 2017 report, the UN Special Rapporteur on the Issue of Human Rights Obligations Relating to the Enjoyment of a Safe, Clean, Healthy and Sustainable Environment explained that governments have an obligation to provide effective protection against “environmental harm that interferes with the enjoyment of human rights.” The Special Rapporteur noted that “the loss of ecosystem services and biodiversity threatens a broad spectrum of rights, including the rights to life, health, food, water, culture and non-discrimination. States therefore have a *general obligation to safeguard biodiversity* in order to protect those rights from infringement. That obligation includes a *duty to protect against environmental harm from private actors* [emphasis added].”⁴⁵

In 2019, the UN Human Rights Committee, in an updated general comment on state obligations to uphold the right to life, noted, “Environmental degradation, climate change and unsustainable development constitute some of the most pressing and serious threats to the ability of present and future generations to enjoy the right to life.”⁴⁶ For this reason, the Committee said that state obligations in human rights and environmental law are interconnected:

Implementation of the obligation to respect and ensure the right to life, and in particular life with dignity, depends, inter alia, on measures taken by States parties to preserve the environment and protect it against harm, pollution and climate change caused by public and private actors. States parties should therefore ensure sustainable use of natural resources, develop and implement substantive environmental standards, conduct environmental impact assessments and consult with relevant States about

⁴⁴ Romina Picolotti and Marie-Claire Cordonier Segger, “Enforcing Sustainable Development through the Inter-American Human Rights System,” in Cordonier Segger and Judge C.G. Weeramantry, eds., *Sustainable Justice: Reconciling Economic, Social and Environmental Law*, Martinus Nijhoff Publishers, 2005, pp. 513-546.

⁴⁵ Human Rights Council, *Report of the Special Rapporteur on the issue of human rights obligations relating to the enjoyment of a safe, clean, healthy and sustainable environment: Note by the Secretariat*, UN Doc. A/HRC/34/49 (19 January 2017), para. 33.

⁴⁶ Human Rights Committee, General Comment No. 36 – Article 6: right to life, 3 September 2019. CCPR/C/GC/36, para. 62.

THE SDGS AND THE CLIMATE CRISIS

The impacts of the global climate crisis are already being felt in the territories of Indigenous peoples. Coastal ice, permafrost and boreal forest are among the critical ecosystems that must be protected—to sustain Indigenous economies and societies and to prevent further acceleration of the climate crisis.

The UN Sustainable Development Goals call for urgent action to combat climate change and address its impacts (SDG 13). Targets associated with this goal include:

- Strengthen resilience and the capacity to adapt to climate change;
- Integrate climate change measures into national policies, strategies and planning; and
- Improve education, awareness-raising and capacity.

A wide range of other SDGs are also relevant to climate change, including ensuring access to sustainable energy (Goal 7); ensuring sustainable production and consumption (Goal 12); conserving ecosystems and using lands and waters sustainably (Goals 14 and 15); and strengthening global partnerships (Goal 17). The SDGs acknowledge that the primary framework for global action on climate change is the UN Framework Agreement on Climate Change. In addition, the UN Agenda for Sustainable Development calls for all actions on sustainable development to be consistent with international human rights standards.

Around the world, Indigenous peoples are combining traditional knowledge and new technologies to develop innovative ways to protect their lands and waters. These solutions depend on Indigenous peoples having the opportunity and the resources to make and implement their own decisions, as set out in the *UN Declaration on the Rights of Indigenous Peoples*.

activities likely to have a significant impact on the environment, provide notification to other States concerned about natural disasters and emergencies and cooperate with them, provide appropriate access to information on environmental hazards and pay due regard to the precautionary approach.⁴⁷

As early as 1993, a UN Special Rapporteur on Human Rights and the Environment noted that there was widespread support among international and regional human rights bodies, and within legal precedents established at the national level, to recognize that there is a “human right to a satisfactory environment.”⁴⁸ The Special Rapporteur concluded that the right to a satisfactory environment must be considered an indispensable element of the right to development.⁴⁹ The Special Rapporteur also noted Indigenous peoples’ “special ties with the land” as well as the necessity of a safe natural environment for the protection and realization of Indigenous peoples’ human rights.⁵⁰

In October 2021, the UN Human Rights Council voted unanimously to adopt a resolution recognizing “the right to a clean, healthy and sustainable environment as a human right.” The resolution also notes that “the right to a clean, healthy and sustainable environment is related to other rights and existing international law.”⁵¹

The Human Rights Council resolution was the result of years of advocacy involving Indigenous peoples from around the world as well as numerous non-governmental organizations and other advocates. Responding to its adoption by the Human Rights Council, the UN High Commissioner for Human Rights, Michelle Bachelet, stated, “I am gratified that the Council’s action today clearly recognises environmental degradation and climate change as interconnected human rights crises. Bold action is now required to ensure this resolution on

the right to a healthy environment serves as a springboard to push for transformative economic, social, and environmental policies that will protect people and nature.”⁵²

In July 2022, a resolution recognizing the human right to a clean, healthy and sustainable environment was in turn adopted by the UN General Assembly.⁵³ The resolution notes “while the human rights implications of environmental damage are felt by individuals and communities around the world, the consequences are felt most acutely by women and girls and those segments of the population that are already in vulnerable situations, including indigenous peoples, children, older persons and persons with disabilities.” The resolution specifically cites the 2030 Agenda and its commitments “ensuring that no one is left behind” and “to achieving sustainable development in its three dimensions—economic, social and environmental—in a balanced and integrated manner.”

What all of this means, is that there is a well-established human right to development, a new consensus around a human right to a healthy environment, and—at the very least—a strong case to be made that there is also a human right to sustainable development. As set out in the previous section of this paper, the *2030 Agenda* and the SDGs provide concrete detail of what sustainable development must look like, down to the level of targets and measurable indicators of progress. Because all human rights entail governmental and societal obligations, it is appropriate therefore to expect that governments will take their commitments to the SDGs seriously, that they will take action “to the maximum of available resources” to implement these commitments and that they will be held accountable if they fail to do so.

⁴⁷ Human Rights Committee, General Comment No. 36 – Article 6: right to life, 3 September 2019. CCPR/C/GC/36, para. 62.

⁴⁸ Sub-Commission on Prevention of Discrimination and Protection of Minorities, *Second progress report prepared by Mrs. Fatma Zohra Ksentini, Special Rapporteur, Human Rights and the Environment*, 26 July 1993, E/CN.4/Sub.2/1993/7, para. 123.

⁴⁹ Sub-Commission on Prevention of Discrimination and Protection of Minorities, *Second progress report prepared by Mrs. Fatma Zohra Ksentini, Special Rapporteur, Human Rights and the Environment*, 26 July 1993, E/CN.4/Sub.2/1993/7, Paras. 125, 130.

⁵⁰ Sub-Commission on Prevention of Discrimination and Protection of Minorities, *Second progress report prepared by Mrs. Fatma Zohra Ksentini, Special Rapporteur, Human Rights and the Environment*, 26 July 1993, E/CN.4/Sub.2/1993/7, Para. 126.

⁵¹ Human Rights Council, Resolution adopted by the Human Rights Council on 8 October 2021, A/HRC/RES/48/13.

⁵² Office of the High Commissioner for Human Rights, “Bachelet hails landmark recognition that having a healthy environment is a human right”, 8 October 2021, <https://www.ohchr.org/EN/NewsEvents/Pages/DisplayNews.aspx?NewsID=27635&LangID=E>

⁵³ UN General Assembly, Seventy-sixth session, Agenda item 74 (b), “The human right to a clean, healthy and sustainable environment”, UN Doc A/76/L.75. <https://digitallibrary.un.org/record/3982508?ln=en>

4. THE SDGs AND THE UN DECLARATION ON THE RIGHTS OF INDIGENOUS PEOPLES

The *UN Declaration on the Rights of Indigenous Peoples* was adopted by the UN General Assembly in September 2007 after more than two decades of intensive debate and negotiation. Indigenous peoples played an active role in development of the *Declaration*, working to ensure that its provisions reflected the values and most urgent needs of Indigenous peoples around the world. The long process leading to the *Declaration's* adoption, and the previously unprecedented direct involvement of rights holders in that process, lend support to the *Declaration* being recognized as a highly authoritative global standard.

The *UN Declaration* brings together a wide range of standards that were previously established within the international human rights system. The purpose of the *Declaration* was not to create new rights, but to set out how existing rights need to be interpreted and protected in an Indigenous context. There is a clear expectation that all states will respect and implement its provisions.

The *UN Declaration* includes the explicit statement that its provisions constitute global “minimum standards for the survival, dignity and well-being” of all Indigenous peoples (Article 42). As a consequence, all laws, policies, and programs enacted by any government—including measures to implement the SDGs—must live up to or exceed the minimum standards set out in the *Declaration*.

All the provisions of the *UN Declaration* work together, reinforcing and lending meaning to each other. All the articles of the *Declaration* are relevant to implementation of the *2030 Agenda* and the SDGs.

A frequently quoted report of the Danish Institute for Human Rights states that one-third of the SDG targets are linked to the *UN Declaration*.⁵⁴ The limitation of this analysis is that it looks only at those articles that have key words and exact phrases in common with individual SDG targets. For example, in this analysis Article 3 (the right to self-determination) is linked to only three SDG targets. Article 5 (the right to maintain Indigenous peoples' own cultural and governance institutions) and

Article 18 (the right to participate in decision-making through Indigenous peoples' own representatives and procedures) are linked only to those targets explicitly referring to institutional capacity, planning and decision-making. Articles 27 (processes to recognize and adjudicate Indigenous land rights) and 40 (right to access to and prompt decision through just and fair procedures for resolution of conflicts and disputes) are never referenced.

A more helpful approach is to consider the ways in which various articles in the *Declaration* reinforce each other and together provide an overarching framework for any implementation of the SDGs. The following is a summary of some of the ways in which the *UN Declaration* provides minimum standards for all SDG implementation.

One of the most significant achievements of the *UN Declaration* is its clear affirmation that the right to self-determination—the collective right of all peoples to make their own decisions and determine their own peoples—can no longer be denied to Indigenous peoples. Article 3 of the *Declaration* explicitly affirms that Indigenous peoples have the right to self-determination by virtue of which they must be able to “freely determine their political status and freely pursue their economic, social and cultural development.”

The language in the *UN Declaration* is closely based on the common first article of the *Covenant on Civil and Political Rights* and the *Covenant on Economic, Social and Cultural Rights*. The fact that the right to self-determination affirmed in the *Declaration* is the same right enjoyed by all Nations—and not a discriminatory lesser right—is affirmed by the language of the preamble to the *Declaration*. The preamble repudiates racist and colonial doctrines like the Doctrine of Discovery, which as the UN Expert Mechanism on the Rights of Indigenous Peoples has noted, have “dispossessed and disempowered Indigenous peoples.”⁵⁵ The preamble also acknowledges that international law, including two human rights covenants, “affirm the fundamental importance of the right to self-determination of all peoples, by virtue of which they freely determine their political status and freely pursue their economic, social and cultural development.” The preamble goes on to state that “nothing in

⁵⁴ Indigenous Navigator, “Where are Indigenous Peoples' Rights in the Sustainable Development Goals?” https://indigenousnavigator.org/sites/indigenousnavigator.org/files/media/document/Navigator_UNDRIP-SDGs.pdf

⁵⁵ Human Rights Council, *Free, prior and informed consent: a human rights-based approach – Study of the Expert Mechanism on the Rights of Indigenous Peoples*, 10 August 2018. A/HRC/39/62

this Declaration may be used to deny any peoples their right to self-determination, exercised in conformity with international law.”

The right to self-determination runs as a thread through the entire *UN Declaration*. The right is expressed in phrases like “the right to determine and develop” and the “right to control.” For example, the *Declaration* states that Indigenous peoples have the right to “determine and develop priorities and strategies for exercising their right to development,” including in areas such as health and housing, and to administer their own programs and services if they choose (Article 23). Indigenous peoples also have the right to “determine and develop priorities and strategies for the development or use of their lands or territories and other resources” (Article 32.1). These provisions identify Indigenous peoples as the primary decision-makers with respect to sustainable development on their lands and in their communities.

The *Declaration* also recognizes that governments in exercise of their own jurisdictions have a duty to engage with Indigenous peoples as nations represented by their own governments and governance processes. The *Declaration* repeatedly calls on states to “consult and cooperate” with Indigenous peoples. In decisions affecting Indigenous peoples’ lands, territories and resources (Articles 10, 28, and 32.2); their cultural, intellectual, religious and spiritual property (Article 11); and their rights more broadly (Article 19), the *Declaration* calls on states to obtain the free, prior and informed consent (FPIC) of Indigenous peoples.

These requirements are distinct from the general norm of democratic governance which requires that individuals and other stakeholders be consulted on decisions that affect them. The requirements of the *Declaration* also go beyond the Constitutional “duty to consult” with Indigenous peoples as developed in Canadian jurisprudence. The duty to consult assumes that final decision-making authority rests with federal, provincial or territorial governments. The use of the phrase “consult and cooperate” and the inclusion of FPIC requires a very different relationship in which the authority of Indigenous peoples to exercise their own jurisdiction must be respected by other governments.

As a consequence, it is clear that Indigenous governance and governance institutions have the authority

to make their own decisions about how to implement sustainable development within their own jurisdictions. Furthermore, federal, provincial, territorial and municipal governments, in undertaking their own plans for sustainable development, must “consult and cooperate” with Indigenous peoples as Nations through their freely chosen representatives. Where the plans and proposals of these governments or private interests overlap with Indigenous jurisdictions or may significantly impact the exercise of Indigenous peoples’ human rights, decisions must proceed only with the free, prior and informed consent of Indigenous peoples.⁵⁶

The *Declaration* states that Indigenous peoples have the right to maintain and strengthen their own unique forms of governance (Article 5) and to determine for themselves the process by which decisions are made and who will represent them in any engagement with other governments or institutions (Article 18). The *UN Declaration* recognizes the diversity of Indigenous governance traditions and the reality that these are living traditions that continue to grow and evolve. Different Nations will make different choices about how they make decisions and who represents them. Article 34 reinforces the rights in Articles 5 and 18 and adds that Indigenous peoples have the right to “promote, develop and maintain their institutional structures and their distinctive customs, spirituality, traditions, procedures, practices ... in accordance with international standards.”

These provisions in the *UN Declaration* directly oppose colonial practices of imposing Westernized modes of governance on Indigenous peoples or arbitrarily deciding who will be regarded as “spokespersons” for Indigenous Nations. One implication is that state processes for collaborating with Indigenous peoples in implementation of the SDGs must be responsive to the protocols and procedures chosen by the various Indigenous Nations with whom States engage.

The *UN Declaration* affirms the right of all Indigenous peoples “to practise and revitalize their cultural traditions and customs” (Article 11). The *UN Declaration* explicitly states that “Indigenous peoples and individuals have the right not to be subjected to forced assimilation or destruction of their culture” (Article 8). Measures to fulfill other human rights must contribute to the revitalization of Indigenous cultures, rather than their diminishment.

⁵⁶ See, Coalition for the Human Rights of Indigenous Peoples, Self-determination & Free, Prior and Informed Consent: Understanding the United Nations Declaration on the Rights of Indigenous Peoples, 1 February 2021. <https://quakerservice.ca/wp-content/uploads/2021/02/Backgrounder-on-self-determination-and-FPIC.pdf>. And Human Rights Council, *Free, prior and informed consent: a human rights-based approach – Study of the Expert Mechanism on the Rights of Indigenous Peoples*, 10 August 2018. A/HRC/39/62

For example, the *Declaration* states that Indigenous peoples have the right to “establish and control their own educational systems, providing education in their own languages, in a manner appropriate to their cultural methods of teaching and learning” (Article 14) and to have the “dignity and diversity of their cultures, traditions, histories and aspirations...appropriately reflected in education and public information” (Article 15.1). These standards for the protection and promotion of Indigenous cultures and cultural traditions should apply to all implementation of the SDGs.

The *Declaration* also protects against discrimination, including by calling for specific attention to the multiple, intersecting forms of discrimination experienced by diverse sectors of Indigenous society. Article 21 affirms Indigenous peoples’ right, without discrimination, to the improvement of their economic and social conditions. This includes such areas as education, employment, vocational training, housing, sanitation, health and social security. States must, in particular, take into account “the rights and special needs of Indigenous elders, women, youth, children and persons with disabilities” (Article 21.2). Article 22 states more broadly that, “in the implementation of this *Declaration*,” —meaning in the implementation of all its provisions—“particular attention shall be paid to the rights and special needs of Indigenous elders, women, youth, children and persons with disabilities.” This would include measures, “in conjunction with Indigenous peoples, to ensure that Indigenous women and children enjoy the full protection and guarantees against all forms of violence and discrimination” (Article 22.2). Again, these provisions are clearly overarching in nature and must be upheld in all measures to implement the SDGs.

A central theme of the *UN Declaration* is the right of Indigenous peoples to own, use, develop and control the lands, territories, and resources that they possess by reason of traditional ownership or other occupation or use (Article 26.2). Article 26.3 calls on states to provide legal recognition and protection to these lands, territories and resources. Such legal recognition and protection shall be carried out with “due respect to the customs, traditions and land tenure systems of the Indigenous peoples concerned.” Wherever lands, territories and resources have been taken from Indigenous peoples, or have been damaged or contaminated, states will provide redress—especially the return of lands (Article 28)—and will establish “fair, independent, impartial, open and transparent” processes to resolve any disputes (Article 27). Article 29.1 affirms that Indigenous peoples have the right to the conservation and protection of the environment and

the productive capacity of their lands, territories and resources.

These rights are reinforced by other provisions in the *Declaration*. Article 7.2 states that Indigenous peoples have the collective right to live in “freedom, peace and security as distinct peoples.” This provision, read together with the lands, territories and resources provisions, affirms that Indigenous peoples have the right to the security of their lands and resources. Read together with the environmental protection provisions referred to earlier (Article 29), the right to live in freedom, peace and security can also be understood as including the right to environmental security.

In addition, the *Declaration* states that Indigenous peoples have the right to have access to financial and technical assistance to realize these and other rights set out in the *Declaration* (Article 39). Article 4, on Indigenous self-government, specifically states that Indigenous peoples have the right to “ways and means for financing their autonomous functions.” This reinforces the positive obligation of states to work collaboratively with Indigenous peoples to ensure that the rights set out in the *Declaration* can actually be lived and enjoyed. Support to Indigenous peoples to implement their own sustainable development initiatives is one form such assistance could take.

Many of these provisions of the *UN Declaration* are also found in the *American Declaration on the Rights of Indigenous Peoples*. The *American Declaration* was developed through a similar, lengthy process of negotiation between states and Indigenous representatives. The Organization of American States (OAS), which is based in Washington, D.C., adopted the *American Declaration* by consensus in June 2016. The *American Declaration* is applicable to all states in North, Central, and South America and the Caribbean. Although the Government of Canada has yet to make the same public commitment to implementation that it has for the *UN Declaration*, the *American Declaration* is nonetheless fully applicable in Canada.

While many of the provisions of the *American Declaration* are similar to the *UN Declaration*, some are unique in their content or wording. For example, the *American Declaration* states:

“Indigenous peoples have the right to live in harmony with nature and to a healthy, safe, and sustainable environment, essential conditions for the full enjoyment of the rights to life and to their spirituality, cosmovision, and collective well-being.”

Because the *UN Declaration* and the *American Declaration* are both explicitly intended to provide minimum—rather than maximum—standards, wherever there is a difference, the higher standard of the two must apply.

Implementing sustainable development and the SDGs, and responding to climate change more broadly, requires real and meaningful change. It is vital that the urgency of taking action not be used as an excuse to push aside the rights of Indigenous peoples and to inflict further harm on Indigenous communities. All levels of government must work with Indigenous peoples to identify and support solutions that advance and fulfill their rights.

CANADIAN IMPLEMENTATION OF THE UN DECLARATION

In June 2021, the Canadian Parliament adopted national legislation to implement the *UN Declaration*. The *Act respecting the United Nations Declaration on the Rights of Indigenous Peoples* sets out a number of requirements to take concrete action to implement the *Declaration*. The first is that the Act requires the federal government to “take all measures necessary to ensure that the laws of Canada are consistent with the Declaration.” This is to be done “in consultation and cooperation with Indigenous peoples.” Secondly, the Act requires the federal government to work with Indigenous peoples to develop a “concrete” national action plan to fully implement the *Declaration*. The Act specifically requires that this action plan include measures to “address injustices, combat prejudice and eliminate all forms of violence, racism and discrimination, including systemic racism and discrimination, against Indigenous peoples and Indigenous elders, youth, children, women, men, persons with disabilities and gender-diverse persons and two-spirit persons.”

Finally, the Act specifically requires that any such action plan include accountability measures such as monitoring and oversight, as well as recourse or remedy should the government fail to uphold its obligations. The federal government is also required to report regularly to Parliament on progress made toward implementation.

Given the many interconnections between sustainable development and the human rights of Indigenous peoples, these requirements of the *UN Declaration* implemen-

tation act have significant implications for the measures Canada must take to fulfill its sustainable development obligations. In fact, the implementation act specifically acknowledges that “implementation of the Declaration can contribute to supporting sustainable development and responding to growing concerns relating to climate change and its impacts on Indigenous peoples.”

In addition to the *UN Declaration* implementation act, commitments to implement the *UN Declaration* have been included in the preamble of eleven other federal laws. This includes the following:

- In 2021, the federal government adopted the *Canadian Net-Zero Emissions Accountability Act*, which stipulates: “When establishing a greenhouse gas emissions reduction plan, the Minister must take into account the United Nations Declaration on the Rights of Indigenous Peoples.” In its preamble, the Act highlights Canada’s commitment to “advancing the recognition-of-rights approach reflected in section 35 of the Constitution Act, 1982 and in the United Nations Declaration on the Rights of Indigenous Peoples and to strengthening its collaboration with the Indigenous peoples of Canada with respect to measures for mitigating climate change.”
- The federal law governing approval of resource development and other projects says that the first purpose of impact assessment is to “foster sustainability” (*An Act to enact the Impact Assessment Act*, 2019). The preamble to the *Impact Assessment Act* also references Canada’s commitment to implement the *UN Declaration*.

British Columbia is by far the most advanced province in terms of adopting legislation relating to the *UN Declaration*. In 2022, BC adopted provincial legislation to implement the *UN Declaration*.⁵⁷ This legislation also recognized the link between the *UN Declaration* and sustainable development, stating in its preamble “that respect for indigenous knowledge, cultures and traditional practices contributes to sustainable and equitable development and proper management of the environment.” In March 2022, the province released its first action plan for implementing the *Declaration*.⁵⁸ The action plan has four themes: self-determination and inherent right of self-government, title and rights, ending Indigenous-specific racism and discrimination and social, cultural and economic wellbeing. Under each theme, the

⁵⁷ S.B.C. 2019, c. 44.

⁵⁸ Government of British Columbia, *Declaration on the Rights of Indigenous Peoples Act Action Plan 2022-27*, 30 March 2022. https://www2.gov.bc.ca/assets/gov/government/ministries-organizations/ministries/indigenous-relations-reconciliation/declaration_act_action_plan.pdf

action plan includes goals, desired outcomes and action. Sustainability is repeatedly referenced in the outcomes. For example, one intended outcome is “a more inclusive, innovative, and sustainable economy for the benefit of present and future generations that reflects Indigenous values, interests, goals and worldviews.” The action plan also refers to “more inclusive, sustainable and low carbon economies”, “clean and sustainable energy”, “sustainable water management”, and “sustainable, safe, reliable and affordable transportation options.”

5. CANADA'S COMMITMENTS TO SUSTAINABLE DEVELOPMENT

As set out below, the Government of Canada has made numerous statements expressing its commitment to implement the *2030 Agenda* as a whole and the Sustainable Development Goals in particular. In addition, legal commitments to sustainability have been included in a wide range of federal laws. Provincial and territorial governments have also made significant commitments to sustainability. Together, these commitments should provide a strong foundation for a rigorous and concerted national effort to implement the SDGs.

The federal government has, in fact, provided significant funding to a wide range of sustainability initiatives, including many led by Indigenous peoples. This paper is itself a product of a process of research and dialogue that would not have been possible without funding through the federal government's SDG Unit. That being said, funding a large number of worthwhile initiatives is not the same thing as having a comprehensive strategy in keeping with the seriousness of Canada's commitments.

In November 2022, the federal government released its sustainable development strategy for 2022-2026.⁵⁹ This was the fifth sustainable development strategy adopted by the Government of Canada⁶⁰ and the first to be explicitly organized in relation to the SDGs. While previous strategies had been focused primarily on environmental aspects of sustainability, with this latest strategy, the government states that it has taken “initial steps to incorporate broader dimensions of sustainable development, such as culture and Indigenous rights.”

This was also the first federal sustainable development strategy to be prepared since Canada adopted national legislation requiring consistency with the *UN Declaration on the Rights of Indigenous Peoples*. The strategy states that the Government of Canada “recognizes the importance of involving Indigenous Peoples in developing the Federal Sustainable Development Strategy given their inherent rights and treaty rights, Traditional Knowledge and unique understanding of, and connection to, the lands, waters and ice.”

The domestic legal framework for creating and implementing a sustainable development strategy is set out in the federal *Sustainable Development Act*, first passed in 2008 and most recently amended in December 2020. The *Sustainable Development Act* states that such a strategy must ensure that decision-making related to sustainable development is “transparent and subject to accountability to Parliament,” must promote coordinated action and must respect “Canada's domestic and international obligations relating to sustainable development.” The Act also requires that the strategy include goals, measurable targets “and an implementation strategy for meeting each target.”

Under the *Sustainable Development Act*, the federal government maintains a Sustainable Development Advisory Council.⁶¹ Six of the positions on the 26-member council are reserved for Indigenous experts. In addition to the input from this council, the latest federal strategy includes short statements from the Assembly of First Nations, the Inuit Tapiriit Kanatami, the Métis National Council and the Native Women's Association of Canada. These statements are worth reading in their own right as expressions of the diverse ways in which Indigenous peoples are interpreting and applying the SDGs.

Significantly, the new federal strategy explicitly incorporates Canada's obligations under the *UN Declaration Act*. Co-development of an action plan to implement the *UN Declaration* is named as a target of SDG implementation. The annual reporting required under the *UN Declaration Act* is included as part of how the federal government will measure implementation of the SDGs. This is found under SDG 10 (reduce inequality), which the strategy has reframed to include “reconciliation with Indigenous peoples”.

⁵⁹ Environment and Climate Change Canada, *Achieving a Sustainable Future: Federal Sustainable Development Strategy 2022 to 2026*. Tabled in Parliament November 2, 2022. <https://www.fsds-sfdd.ca/en>

⁶⁰ The previous strategies covered the periods 2010 to 2013, 2013 to 2016, 2016 to 2019 and 2019 to 2022.

⁶¹ See: <https://www.canada.ca/en/environment-climate-change/services/sustainable-development/sustainable-development-advisory-council.html>

Despite this positive development, the *UN Declaration* is not well-integrated in the strategy. Apart from SDG 10, the strategy references the *Declaration* in relation to only two other SDGs: SDG 13 (taking action on climate change) and SDG 16 (named as “fair and accessible justice system, enforce environmental law and manage impacts”) and even then, the *Declaration* is not incorporated into the specific targets and strategies that are set out for these other two goals.

Furthermore, the strategy is inconsistent in how it addresses Indigenous peoples’ right to self-determination and the standard of free, prior and informed consent. Under SDG 13 (climate action), the strategy states that the Government of Canada “will continue to work with First Nations, Inuit and Métis representatives and rights-holders to develop and implement a model of partnership for climate action that empowers *self-determined climate action and the expression of Indigenous and Treaty rights, jurisdictions, governance, and legal traditions* through climate action, and progressively vests authorities and resources in the hands of Indigenous governments [emphasis added].” This same section goes on to note that implementation of the *UN Declaration* includes free, prior and informed consent. However, under Goal 16, which include the federal process for regulating resource development, the strategy commits only to “meaningfully consult, engage and accommodate Indigenous Peoples,” stating that project approval may require that the project proponent demonstrate how “Indigenous communities... can have their views heard and their Indigenous Knowledge considered.” This falls far below the standard of consent already established by the Supreme Court of Canada⁶² and is inconsistent with the requirements of the *UN Declaration*.⁶³

Not only does the strategy do a poor job of promoting consistency with the *UN Declaration*, it also generally fails to acknowledge the central importance of human rights to the SDGs. Although the strategy refers to Indigenous peoples’ inherent and treaty rights, many other rights that are central to the SDGs, such as the right to health,

the right to education, the right to culture, the right to development or the right to a healthy environment, are never mentioned. This is a lost opportunity. A consistent, rights-based framework would help send an important message to civil servants, public institutions and private corporations that measures to implement the SDGs are – in the words of Dinah Shelton, quoted earlier in this paper – more than “a mere policy choice that may be modified or discarded at will.”⁶⁴

The new federal strategy includes Indigenous specific targets or strategies under almost all the SDGs.⁶⁵ Some are very concrete and specific. For example, Goal 6 includes a commitment that by March 31, 2026, 97% of First Nations public drinking water systems funded through Indigenous Services Canada will meet the bacteriological standards set out in the Guidelines for Canadian Drinking Water Quality. Goal 14 includes a commitment to “establish 10 national marine conservation areas by the end of 2026, working with Indigenous communities on co-management agreements for these national marine conservation areas. Other commitments, however, are less clearly defined. For example, Goal 2 (food security) includes a commitment to work collaboration with Indigenous partners to “improve Indigenous and northern food security by supporting local, community-led and defined projects that reduce dependence on the southern food industry and the associated costs for northern communities.” Goal 3 (health) commits the federal government to “continue to work closely with Indigenous partners to support distinctions-based, Indigenous-led, culturally-relevant and community-based approaches to mental wellness for First Nations, Inuit and Métis.”

The various Indigenous-specific commitments set out in the new strategy are all important in their own right, responding to urgent needs and priorities long-identified by Indigenous peoples. There is a strong sense, however, that the strategy is mostly a compilation of existing commitments and policy directions, rather than a coherent, integrated strategy consistent with the transforma-

⁶² See *Delgamuukw v. British Columbia*, [1997] 3 S.C.R. 1010; *Haida Nation v. British Columbia (Minister of Forests)*, [2004] 3 S.C.R. 511, 2004 SCC 73; and *Tsilhqot’in Nation v. British Columbia*, 2014 SCC 44, [2014] 2 S.C.R. 256.

⁶³ For an analysis of why domestic and the UN Declaration require more than mere consent, see: Coalition for the Human Rights of Indigenous Peoples, *Self-determination & Free, Prior and Informed Consent: Understanding the United Nations Declaration on the Rights of Indigenous Peoples*, February 2021. www.declarationcoalition.ca

⁶⁴ Dinah Shelton, “Human rights and the environment: substantive rights”, in Malgosia Fitzmaurice, David M. Ong, and Panos Merkouris, eds., *Research Handbook on International Environmental Law*, Edgar Elgar, 2010, pp. 265-281.

⁶⁵ The new federal strategy includes Indigenous specific targets or strategies in all but three of the SDGs: these are SDG 8 (inclusive and sustainable economic growth), SDG 9 (green infrastructure), and SDG 17 (strengthen partnerships for global action).

tive goals set by the SDGs. This has been a long-standing criticism of how the federal government has approached SDG implementation.

In 2019, Anishinaabe researcher and author Riley Yesno wrote that Canada’s implementation of the SDGs has followed a path that is very familiar to Indigenous peoples. She said that while the individual components of Canada’s plan may be worthwhile in their own right

[n]one of these approaches are transformational. Consultation and increased dollars are not enough to bring about the changes Indigenous communities deserve or the impact the *2030 Agenda* seeks to achieve; these types of changes necessitate a restructuring of power and jurisdiction; a provision of tools and capacity so Indigenous people can chart their own paths to self-determination.⁶⁶

The federal Commissioner of the Environment and Sustainable Development, part of the Office of the Auditor General, has also raised serious concerns about the development of Canada’s strategy. These concerns are set out in reports published in 2018 and 2021.

In 2018, the Commissioner concluded that the federal government’s 2016-19 strategy was “inconsistent” with Canada’s commitment to implement all dimensions of the *2030 Agenda* “as the strategy focused largely on environmental sustainability and less on economic and social sustainability.”⁶⁷ Overall, the Commissioner concluded that at the time of the audit there was “no engagement strategy on how to include other levels of government and Canadians in a national dialogue on the 2030 Agenda,” no “plan or system to measure, monitor, and report on the progress in achieving the goals,” and no “federal governance structure” to resolve these shortcomings.⁶⁸

The Commissioner’s 2021 report noted that considerable progress had been made since 2018. However, the Com-

missioner also found that Canada’s strategy still largely consisted of “broad ambitions” rather than concrete and measurable targets, that there was still no plan for implementation across all federal departments and no clear and detailed reporting of actual progress toward realizing the goals.⁶⁹

The Commissioner called on the federal government to:

- clearly articulate measurable targets;
- clarify the roles and responsibilities of federal departments and agencies;
- support effective cooperation with other levels of government and other stakeholders; and
- clearly define the reporting process...to ensure transparency to Canadians.

REPORTING AND EVALUATION

The *2030 Agenda* calls for “systematic follow-up and review” of SDG implementation “to support accountability to our citizens.”⁷⁰ In addition to any national evaluation and reporting on SDG implementation, the *2030 Agenda* encourages states to make voluntary reports through the UN system. Participation in the process has varied. Some states have never submitted a voluntary report while others are now signed up to submit a second, third or even fourth report. Canada made its only voluntary report in 2018 and has not yet scheduled an additional report. The federal government has stated that Canada will present one additional voluntary report to the UN by 2030.

In its one voluntary report to date, Canada notes that “[m]any Indigenous people do not enjoy the same quality of life as other Canadians, due to the impacts of colonialism compounded by a long history of neglect and failed policies—such as the Indian Residential School system.”⁷¹ The 144-page report goes on to note some of the gaps in quality of life between Indigenous and non-Indigenous

⁶⁶ Riley Yesno, “UNDRIP and the SDGs: There’s no sustainable future without Indigenous rights”, *Alliance 2030*, June 2019, <https://alliance2030.ca/undrip-and-the-sdgs-theres-no-sustainable-future-without-indigenous-rights>

⁶⁷ Commissioner of the Environment and Sustainable Development, *Report 2: Canada’s Preparedness to Implement the United Nations’ Sustainable Development Goals*, Office of the Auditor General of Canada, March 2018, para. 2.28. https://www.oag-bvg.gc.ca/internet/English/parl_cesd_201804_02_e_42993.html

⁶⁸ Commissioner of the Environment and Sustainable Development, *Report 2: Canada’s Preparedness to Implement the United Nations’ Sustainable Development Goals*, Office of the Auditor General of Canada, March 2018, para. 2.21. https://www.oag-bvg.gc.ca/internet/English/parl_cesd_201804_02_e_42993.html

⁶⁹ Commissioner of the Environment and Sustainable Development, *Report 1: Implementing the United Nations’ Sustainable Development Goals*, Office of the Auditor General of Canada, March 2021. https://opencanada.blob.core.windows.net/opengovprod/resources/20c4d8f9-ef3b-4ddf-936e-2517dbf40735/parl_cesd_202104_01_e.pdf?sr=b&sp=r&sig=/kWWLYnS3HqUB58vDLziOvQbP%2B99WfsvboekjpsF8%3D&sv=2015-07-08&se=2022-03-04T15%3A59%3A32Z

⁷⁰ General Assembly, *Transforming Our World: the 2030 Agenda for Sustainable Development*, UN Doc. A/RES/70/1 (25 September 2015) (without vote), para. 47. http://www.un.org/en/ga/search/view_doc.asp?symbol=A/RES/70/1.

⁷¹ Government of Canada, *Canada’s Implementation of the 2030 Agenda for Sustainable Development: Voluntary National Review*, 2018. https://sustainabledevelopment.un.org/content/documents/20312Canada_ENGLISH_18122_Canadas_Voluntary_National_ReviewENv7.pdf

peoples, including higher rates of infectious disease, greater likelihood of experiencing violence, greater food insecurity and lower average educational attainment. The report also sets out some of the specific ways that funding for services and supports in Indigenous communities have significantly expanded under the Trudeau government, including investing in First Nations drinking water systems and response to high tuberculosis rates in Inuit communities.

Overall, while acknowledging the serious challenges facing Indigenous peoples, the 2018 report paints a flattering portrait of federal efforts to implement the SDGs. There is no acknowledgement of the serious concerns raised by the federal Commissioner of the Environment earlier the same year. There is also no acknowledgement of the conflicts that have arisen between Indigenous peoples and the federal government over how sustainability has been interpreted in federal decisions to authorize resource development projects impacting Indigenous territories and cultures. This is despite the fact that high profile cases such as Clyde River had recently been decided before the Supreme Court, while other cases like Trans Mountain pipeline and the Site C dam were the subject of ongoing litigation and the attention of international human rights bodies.

In addition to the federal sustainable development strategy, the federal government has also developed a higher-level strategy for implementing the *UN 2030 Agenda*.⁷² That strategy sets out 30 processes to track progress toward realizing the *2030 Agenda* in Canada. Of these “30 actions to track to 2030”, seven are specific to Indigenous peoples:

- “Develop long-term inclusive engagement plans with Indigenous partners and communities, National Indigenous Organizations, Modern Treaty organizations and self-governing Indigenous governments to further implement the 2030 Agenda.”
- “Support First Nations, Métis and Inuit-led research initiatives, protocols and governance structures, and partner with schools, universities, academic institutions and research networks to support research, development, resource sharing and youth engagement in the SDGs.”
- “Enhance data disaggregation and the recognition of Indigenous identity across the Canadian Indicator Framework to the extent possible, and enhance

the future integration of Indigenous-owned, community-based data, building on work like the National Outcome-Based Framework’s development of Indigenous indicators of poverty, health and well-being.”

- “Implement the 2030 Agenda with full regard for the rights of Indigenous Peoples by protecting and promoting these rights, as reflected in the Principles respecting the Government of Canada’s relationship with Indigenous Peoples, the TRC’s Calls to Action, the National Inquiry into Missing and Murdered Indigenous Women and Girls’ Calls to Justice and the UN Declaration.”
- “Consult with National Indigenous Organizations and Indigenous communities to ensure that the 2030 Agenda is implemented collaboratively and in ways that respect the rights of First Nations, Inuit and Métis to self-determination, and support participation in implementation, follow-up and review processes.”
- “Raise awareness about Indigenous ways of knowing among all Canadians.”
- “Support the development of resources that connect the past, present and future experiences of First Nations, Inuit and Métis communities in Canada to the 2030 Agenda.”

Strikingly, when Canada’s 2030 strategy was released in 2021, it included the claim that all of the processes specific to Indigenous peoples were “on track.” The document supported this claim by referring to engagement and agreements with National Indigenous Organizations and to the fact that the government “recognizes the importance of embedding the rights of Indigenous Peoples in 2030 Agenda implementation” and “commits to ensuring implementation of the 2030 Agenda reflects Indigenous perspectives.”

Canada has also developed a separate indicator framework which is used by Statistics Canada to monitor and assess progress toward meeting the SDGs. The Canadian Indicator Framework includes 73 broad ambitions but only 27 measurable targets. Of these targets, one is specific to First Nations (“All of the long-term drinking water advisories on public systems on reserve are to be resolved”) and one is specific to Inuit (“Eliminate tuberculosis across Inuit Nunangat by 2030, and reduce

⁷² Employment and Social Development Canada, *Towards Canada’s 2030 Agenda National Strategy: Interim Document*, 2019. <https://www.canada.ca/en/employment-social-development/programs/agenda-2030/national-strategy.html>

the incidence of active tuberculosis by at least 50% by 2025”).⁷³ There are no other Indigenous-specific targets.

During the Coalition’s expert seminar, participants stated that for SDG implementation to be accurately tracked, assessment must be carried by Indigenous peoples based on criteria of their own choosing. This, in turn, requires resources for Indigenous peoples to carry out monitoring and assessment at the community level, as well as access to a baseline of disaggregated statistics data across all government departments and all jurisdictions.

A FEDERAL STRATEGY VS. A NATIONAL STRATEGY

Another ongoing concern about Canada’s approach to SDG implementation is the failure to develop a truly national strategy, inclusive of provincial and territorial governments as well as Indigenous governments. The latest federal sustainable development strategy includes a number of commitments to work with the provinces and territories. For example, it refers to existing agreements on child care and the goal of finalizing conservation agreements currently under negotiation. However, the strategy does not include any commitments negotiated between the federal government and other governments in Canada: it is strictly a federal strategy rather than a national strategy.

In fact, in 2021, in its progress report on the then current 2019-2022 strategy the federal government noted that it “supports environmental sustainability *within the*

constraints of its jurisdiction and authorities [emphasis added].”⁷⁴ The decision to develop a federal strategy, rather than working with other levels of government to produce a truly national strategy, has been sharply criticized by the Commissioner of the Environment and Sustainable Development.⁷⁵ The Commissioner’s 2021 audit cites a response from Employment and Social Development Canada, in which the Department referred to the federal government as being simply “one of many stakeholders.”⁷⁶ The Commissioner noted that while cooperation across jurisdictions is essential, other countries with similar divisions of powers have been able to develop meaningful national implementation plans. The Commissioner stated that rather than being just one of many stakeholders, “the federal government must provide strong leadership even if implementation requires the involvement of many others.”⁷⁷

There is an established principle of international law that divisions of power within a state — such as the different jurisdictions of the federal, provincial and territorial governments — cannot excuse the failure to uphold national human rights obligations. For example, the *International Covenant on Civil and Political Rights* includes an explicit statement that its provisions “shall extend to all parts of federal states without any limitations or exceptions.”⁷⁸ Commentary by the UN Human Rights Committee, the independent expert body established to oversee implementation of the Covenant, is clear that the obligations under that treaty apply to “all branches of government (executive, legislative and judicial)... at whatever level — national, regional or local.” Furthermore, the Committee has stated explicitly that the branch of government “that usually represents the State

⁷³ Statistics Canada, Canadian Indicator Framework, <https://sdgcif-data-canada-oddccic-donnee.github.io>

⁷⁴ Environment and Climate Change Canada, *2021 Progress Report on the 2019-2022 Federal Sustainable Development Strategy*, https://publications.gc.ca/collections/collection_2021/eccc/En1-46-2021-eng.pdf

⁷⁵ Commissioner of the Environment and Sustainable Development, *Report 1: Implementing the United Nations’ Sustainable Development Goals*, Office of the Auditor General of Canada, March 2021. https://opencanada.blob.core.windows.net/opengovprod/resources/20c4d8f9-ef3b-4ddf-936e-2517dbf40735/parl_ces-d_202104_01_e.pdf?sr=b&sp=r&sig=/kWWLYnS3HqUB58vDLziOVvQbP%2B99WfsvboekjpscF8%3D&sv=2015-07-08&se=2022-03-04T15%3A59%3A32Z

⁷⁶ The federal response cited in the Commissioner’s report is as follows: “The United Nations’ 2030 Agenda for Sustainable Development is a whole-of-society initiative to effect change for a better world. The federal government, *as one of many stakeholders*, cannot advance the 2030 Agenda and its Sustainable Development Goals in isolation. Recognizing that all levels of government, academia, non-governmental organizations, Indigenous peoples, and all Canadians have a role to play in, and responsibility for, implementing the 2030 Agenda and advancing the goals, Employment and Social Development Canada will finalize the 2030 Agenda national strategy in winter 2021. The objective of the national strategy is to create an enabling environment to continue to mobilize a whole-of-society effort to advance the goals.... The department is committed to advancing the 2030 Agenda and its goals. However, the department cannot impose or compel other federal departments and agencies or the provinces and territories and other levels of government to undertake or advance work under their respective mandates, nor can the department act as the decision maker for any other federal department or agency or any other level of government. *It remains the prerogative of individual federal departments and agencies, other levels of government, and all other stakeholders to adopt, implement, and advance the 2030 Agenda and its goals* [emphasis added].”

⁷⁷ Office of the Auditor General of Canada, “Commissioner of the Environment and Sustainable Development’s Opening Statement to the news conference,” March 22, 2021. https://www.oag-bvg.gc.ca/internet/English/osm_20210422_e_43817.html

⁷⁸ *International Covenant on Civil and Political Rights*, Article 50. <https://www.ohchr.org/en/professionalinterest/pages/ccpr.aspx>. See also, UN Human Rights Committee (HRC), *General comment no. 31 [80], The nature of the general legal obligation imposed on States Parties to the Covenant*, 26 May 2004, CCPR/C/21/Rev.1/Add.13. <https://www.refworld.org/docid/478b26ae2.html> and Vienna Convention on the Law of Treaties, https://legal.un.org/ilc/texts/instruments/english/conventions/1_1_1969.pdf

Party internationally” (in this case the federal government) has a particular obligation to ensure that national obligations are met. This means working cooperatively with the provinces and territories — and with Indigenous peoples — to advance shared approaches to human rights implementation.

FOUNDATIONS FOR A NATIONAL STRATEGY

As noted earlier in this paper, recent federal legislation for implementation of the *UN Declaration* sets out significant commitments to work collaboratively with Indigenous peoples to realize the objectives of *Declaration*, including through law reform, development of a national action plan and creation of reporting and accountability mechanisms. These measures should have an impact on how the federal government approaches implementation of its parallel and interconnected obligations in respect to the *2030 Agenda*. In fact, the federal government’s first progress report on implementation of the *UN Declaration Act* refers to its Sustainable Development Strategy as one of the ways that the federal government is already taking action in fulfilment of the requirements of the *UN Declaration*.⁷⁹

It is also important to note that many provinces and territories have already adopted legislation recognizing the principles of sustainable development. This should strengthen the potential for collaboration across jurisdictions. For example, British Columbia recognizes principles of sustainability in its *Environmental Assessment Act*,⁸⁰ and its *Poverty Reduction Strategy Act*,⁸¹ as well as the *Declaration on the Rights of Indigenous Peoples Act* referred to above.

Among other laws passed by provinces and territories, the *Yukon Environment Act* stands out for its extensive provisions reflecting core principles of sustainable development. The Act requires consideration of the environment to be integrated in “all decisions of the Gov-

ernment of the Yukon, including policies, programs, budgeting, funding, regulatory initiatives, plans, developments, and projects.” The Act sets out the following principles,

- (a) economic development and the health of the natural environment are inter-dependent;
- (b) environmental considerations must be integrated effectively into all public decision-making;
- (c) the Government of the Yukon must ensure that public policy reflects its responsibility for the protection of the global ecosystem;
- (d) the Government of the Yukon is responsible for the wise management of the environment on behalf of present and future generations; and
- (e) all persons should be responsible for the consequences to the environment of their actions.

The *Yukon Environment Act* also refers to “the implementation of Canada’s international environmental obligations.”

In addition, Canadian courts have used the concept of sustainability in their interpretation of the constitutional rights of Indigenous peoples. In the landmark 1997 *Delgamuukw* decision, the Supreme Court of Canada concluded that an inherent aspect of the Aboriginal title is the necessity to manage the lands and resources in a way that will “sustain future generations of Aboriginal peoples.”⁸² In the 2014 *Tsilhqot’in* title decision, the Supreme Court said lands under Aboriginal title cannot be “developed or misused in a way that would substantially deprive future generations of the benefit of the land.”⁸³

In the recent Blueberry River case, referred to above, a BC court ordered the province to “act with diligence to consult *and negotiate* for the purpose of establishing timely enforceable mechanisms to assess and manage the cumulative impact of industrial development on Blueberry’s treaty rights, and to ensure these constitutional

⁷⁹ Government of Canada, *Annual progress report on implementation of the United Nations Declaration on the Rights of Indigenous Peoples Act*, June 2022. https://justice.gc.ca/eng/declaration/report-rapport/2022/pdf/UNDA_AnnualReport_2022.pdf

⁸⁰ S.B.C. 2018, c. 51, see especially s. 2(2)(ii)(A)-C).

⁸¹ S.B.C. 2018, c. 40. Section 4 refers to the *UN Declaration*. However, as indicated in this paper, poverty reduction as a whole is relevant to sustainable development and Indigenous peoples must not be left behind.

⁸² *Delgamuukw v. British Columbia*, [1997] 3 S.C.R. 1010, para. 166.

⁸³ *Tsilhqot’in Nation v. British Columbia*, 2014 SCC 44, para. 74.

rights are respected [emphasis added].”⁸⁴ Although the decision does not reference the *UN Declaration* or sustainable development, the remedy ordered by the court arguably represents a meeting point of key principles of Indigenous rights and environmental law.⁸⁵ The provincial government has not appealed the decision.

All of these examples underline that there are significant obligations—as well as opportunities—to advance implementation of the SDGs, in conjunction with the *UN Declaration*, across federal, provincial and territorial jurisdictions.

CONCLUSION

As noted earlier, this paper is the product of a series of discussions held among Indigenous experts and allies beginning in the fall of 2021, as well as an Expert Symposium held in person and online in April 2022. During these discussions it was noted that accurate evaluation of SDG implementation must incorporate indicators developed by Indigenous peoples and be carried out by Indigenous peoples or in collaborations with Indigenous peoples.

Sustainable development is not a mere aspiration. There is an emerging consensus in the international community that sustainable development is a human right with corresponding state obligations. The *2030 Agenda for Sustainable Development*, the *UN Declaration on the Rights of Indigenous Peoples*, and other international human rights instruments provide the content of that right and a blueprint for how that right should be upheld and fulfilled.

Critically, all measures to implement the Sustainable Development Goals must be consistent with the rights of Indigenous peoples as affirmed in international human rights instruments and the treaties and other agreements between specific Nations and the Crown. This includes:

- Recognition of the inherent right of Indigenous peoples to determine their own development goals and strategies through their own institutions and processes, consistent with their own laws, traditions and worldviews.

- Financial and other support for Indigenous governments and institutions to effectively exercise their jurisdiction in respect to sustainable development, including monitoring and assessing the health and wellbeing of Indigenous communities and other indicators determined by Indigenous peoples.
- Measures to ensure that Indigenous peoples—as rights holders—have an effective role in the creation and implementation of a national sustainable development strategy.
- Timely and effective access to redress and undo the harms caused by unsustainable modes of development.

Sustainable development is not a mere aspiration. It is also not an abstraction. Indigenous peoples have long practiced sustainability through their laws and knowledge systems. Sustainability is concrete and practical. Similarly, unsustainable forms of development have direct impact on the health and wellbeing of Indigenous communities, families and individuals. Participants in our April 2022 Expert Symposium emphasized the urgency of taking action and the necessity to use every tool at our disposal to advance the rights of Indigenous peoples.

⁸⁴ *Yahey v British Columbia*, 2021 BCSC 1287, para 115, para 1888.

⁸⁵ Gavin Smith and Jack Jones, “Tipping Points: The Far-Reaching Implications of *Yahey v British Columbia* for Stopping the Degradation of Ecosystems and Biodiversity”, West Coast Environmental Law, July 2021. <https://www.wcel.org/sites/default/files/publications/2021-07-blueberryriverfns-casecomment-final.pdf>



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