



Public Statement

June 29, 2023

Joint Statement on the Release of Canada's *UN Declaration on the Rights of Indigenous Peoples Act* National Action Plan: Effective oversight and accountability mechanisms critical to implementation of the *UN Declaration on the Rights of Indigenous Peoples*

A federal action plan tabled in Parliament on June 21 marks a promising – but flawed – beginning to Canada's implementation of the *United Nations Declaration on the Rights of Indigenous Peoples*.

The *UN Declaration* is the most comprehensive international human rights instrument affirming the collective rights of Indigenous Peoples and the individual rights of members of Indigenous Nations. Indigenous Peoples worked for more than two decades to have this instrument adopted by the United Nations.

After years of opposition to the *Declaration*, in 2021 Canada became one of the first countries in the world to pass national legislation to fully implement the *UN Declaration*, including adoption of a comprehensive national action plan. The significance of this cannot be understated.

The first action plan to be created under the implementation act commits to numerous, important reforms and initiatives brought forward by Indigenous Peoples, such as:

- A commitment to formally withdraw the federal government's longstanding, much criticized Comprehensive Land Claims and Inherent Right Policies and issue a public statement affirming that "the extinguishment of rights is not a policy objective."
- Exploring options to provide training on the *UN Declaration* to judges; and
- Establishing an independent Indigenous rights monitoring, oversight, and recourse mechanism or mechanisms

However, the plan also includes significant inconsistencies, from section to section and in respect to the actual requirements of the *UN Declaration* itself.

One of the most concerning of these is the repeated reference to "seeking the consent" of Indigenous Peoples. The *UN Declaration* affirms Indigenous Peoples' right to self-determination, including the right to grant or withhold consent to proposals that may have significant impact on their rights. Expert interpretation of the *Declaration* is clear that states



must do more than “seek consent”: states must respect the decisions that Indigenous Peoples make for themselves, including when that decision is to say “no”.

Current inconsistencies in the federal action plan reflect the misunderstanding and resistance to the *UN Declaration* that still linger inside many corners of government. This is why it is critical that strong oversight and accountability systems be put in place as soon as possible to ensure meaningful, ongoing involvement of Indigenous Peoples in bringing this action plan to life.

In addition to the commitment to eventually establish an independent Indigenous rights mechanism or mechanisms, the plan also includes a commitment to create an advisory body. However, the action plan leaves it open to the government’s discretion whether and when this body will be called upon. This raises serious concerns about the meaningful involvement of Indigenous Peoples in the critical next steps of putting this initial action plan into place over the coming weeks and months.

Moreover, any oversight and accountability mechanisms must be properly funded and must be structured and supported to ensure that the rights of all Indigenous Nations, and the diversity of their needs and perspectives, are respected and addressed.

Canada’s National Action Plan cannot be interpreted in a vacuum. The Plan must be interpreted in the context of Indigenous Peoples’ right to self-determination, which is unequivocally affirmed in Canadian law and binding on federal, provincial and territorial governments. In the preamble of the federal *Act respecting the United Nations Declaration on the Rights of Indigenous Peoples*, the Government of Canada recognizes that “all relations with Indigenous peoples must be based on the recognition and implementation of the inherent right to self-determination, including the right of self-government”.

The Action Plan uses ambiguous terms such as Indigenous partners, organizations, groups, and representative organizations. The Coalition is concerned that this ambiguity may sow confusion regarding the collective rights of Indigenous Peoples, and therefore we feel it is necessary to state clearly that in international law, the term “peoples” is a synonym for “nation.” Only peoples or nations, not communities or groups, hold the right to self-determination.

The new action plan contains numerous positive initiatives, many of which are already underway. It is important, however, to emphasize that Canada’s *UN Declaration Implementation Act* requires consistency with the *Declaration* in all government laws, policies and regulations. The Act also requires that implementation be carried out in consultation and cooperation with Indigenous Peoples. These requirements must be upheld at every stage of rolling out this first action plan.

The Coalition for the Human Rights of Indigenous Peoples (www.declarationcoaliton.com)

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This statement was endorsed by the following organizations and individuals:

Amnesty International Canada English Section

Amnistie internationale Canada francophone

British Columbia Assembly of First Nations

British Columbia Treaty Commission

Canadian Friends Service Committee

Cheryl Knockwood, Chair, Nova Scotia Human Rights Commission

First Nations Summit

Grand Council of the Crees (Eeyou Istchee)/Cree Nation Government

Lea Nicholas MacKenzie, former Special Advisor on Indigenous Issues at the Canadian Mission to the UN

Professor Sheryl Lightfoot, University of British Columbia

Union of British Columbia Indian Chiefs