

CCPR - International Covenant on Civil and Political Rights

145 (TBC) Session (02 Mar 2026 - 19 Mar 2026)

Consideration of State Reports

Canada NGO Submission

We are pleased to offer this joint submission on behalf of the Coalition for the Human Rights of Indigenous Peoples (Canada), including the following individuals and organizations:

Ellen Gabriel, Kanehsatà:ke Land Defenders; Grand Chief Edward John; Hup-Wil-Lax-A Kirby Muldoe; Lea Nicholas-MacKenzie; Mariam Wallet Med Aboubakrine, Association Tinhinan; Canadian Friends Service Committee; Indigenous World Association; Tl'azt'en Dakelh Nation; and Union of British Columbia Indian Chiefs

Suggested Question #1:

The federal government has stated that it will be “firmly guided by the principle of free, prior, and informed consent,”¹ when considering the rights of Indigenous Peoples that may be affected by development projects designated as being “in the national interest” under the newly passed *Building Canada Act*. What procedures and mechanisms will the Government of Canada put in place to ensure projects proceed only if free, prior, and informed consent is granted, consistent with the minimum standards affirmed in the *UN Declaration on the Rights of Indigenous Peoples*?

Recommendation #1:

That the federal government work in consultation and cooperation with Indigenous Peoples to establish effective procedures and mechanisms, including those that ensure monitoring, oversight, and recourse or remedy, to ensure that 1) the rights of Indigenous Peoples are carefully considered prior to the approval of resource extraction projects and other development activities and 2) that projects with the potential to adversely impact the rights of Indigenous Peoples proceed only on the basis of free, prior, and informed consent, consistent with the *UN Declaration on the Rights of Indigenous Peoples*.

Suggested Question #2:

Indigenous Peoples in Canada were given only six days to consider the draft text of the *Building Canada Act* prior to it being tabled in Parliament. This was despite the dramatic impact the intended fast-tracking of regulatory processes could have on their lands and territories, and on the exercise of their human rights. How is this process consistent with Article 17 of the *UN Declaration* and with Canadian legislation requiring that “the Government of Canada must, in consultation and cooperation with Indigenous

¹ Canada. *House of Commons Debates*, 27 May, 2025 (King Charles III), <https://www.canada.ca/en/privy-council/campaigns/speech-throne/2025/speech-from-the-throne.html>.

peoples, take all measures necessary to ensure that the laws of Canada are consistent with the *Declaration*?²

Recommendation #2:

Consistent with commitment to fully uphold the *UN Declaration on the Rights of Indigenous Peoples*, the Government of Canada should put in place procedures and mechanisms to ensure that future legislation impacting the rights of Indigenous Peoples will be developed in consultation and cooperation with Indigenous Peoples and will be adopted only with their free, prior, and informed consent.

Suggested Question #3:

The Government of British Columbia has recently announced the intention to amend critical provincial human rights legislation with the goal of scaling back the power courts have in shaping reconciliation efforts in the province, thereby potentially weakening the ability of Indigenous Peoples to cite the *UN Declaration on the Rights of Indigenous Peoples* in court challenges to provincial laws and policies. Can the province explain how:

- a) unilateral amendment of the *UN Declaration Act* would be consistent with its commitments to reconciliation with Indigenous Peoples; and,
- b) how efforts to limit enforceability of the rights set out in the *Declaration* would not limit Indigenous Peoples' access to justice and create a de facto discriminatory double standard in human rights protection in the province.

Recommendation #3:

The universality of human rights and the nature of States as entities that include subnational governments oblige Canadian federal, provincial, and territorial governments together to take all measures necessary to ensure that the rights protections elaborated in the *UN Declaration on the Rights of Indigenous Peoples* are upheld and advanced in law, policy, and regulation. The Province of British Columbia must ensure that planned amendments to its *UN Declaration Act* are carried out in full collaboration with Indigenous Peoples, are consistent with the Province's duty to respect, protect and fulfill all human rights without discrimination, and are adopted only with the free, prior and informed consent of Indigenous Peoples.

Background

The Committee's list of issues for Canada's seventh periodic report on the Covenant on Civil and Political Rights calls on Canada to "provide specific information

² *United Nations Declaration on the Rights of Indigenous Peoples Act*, S.C. 2021, c.14, s 5.

on steps taken to obtain the free, prior and informed consent (FPIC) of indigenous peoples, including indigenous women, whose lands and territories are affected by any legislation or projects.”³ Given Canada’s recent passage of the *Building Canada Act*, this matter is extremely urgent.

The *Building Canada Act*, adopted by Parliament in June 2025, is intended to streamline the regulatory process for approving large-scale development projects by empowering senior members of government to declare that a project is in the national interest and thereby suspend other legislative, regulatory, and assessment requirements. While referencing the *UN Declaration*, the Act explicitly sets a lower bar for project approval, requiring only “consultation” with Indigenous Peoples, not “consultation and cooperation” or “free, prior and informed consent”, the two interconnected standards at the heart of the *Declaration*.

The content of the Act was shared with Indigenous Peoples only six days before it was introduced in Parliament. The bill was proclaimed into law only 20 days later. Given the significant implications of the Act for the rights of Indigenous Peoples, this process was utterly inadequate and failed to meet the standard of free, prior and informed consent required by Article 19 of the *UN Declaration*.

Canada’s seventh periodic report to the Human Rights Committee contains firm commitments to the standard of free, prior, and informed consent. This commitment includes assurances that the implementation of this standard will be based on the meaningful participation of Indigenous Peoples and full consideration of Indigenous Peoples’ rights and interests.⁴ However, the Government of Canada has not clarified how it will uphold this standard, especially in the context of an explicit drive to accelerate the approvals process.

The Coalition is also deeply concerned by political developments in the province of British Columbia. British Columbia’s provincial government has explicitly stated it intends to roll back its legislative commitment to uphold the *UN Declaration*.

In 2019, the provincial legislature adopted the *Declaration on the Rights of Indigenous Peoples Act*, a groundbreaking piece of implementation legislation, developed in collaboration with Indigenous Peoples. The Act states that the provincial government “in consultation and cooperation with the Indigenous peoples … must take all measures necessary to ensure the laws of British Columbia are consistent with the Declaration.”⁵

In a recent BC Court of Appeal decision the court found that this commitment is legally enforceable, permitting the *UN Declaration* to be used in court interpretation of

³ United Nations, Human Rights Committee, *List of issues prior to submission of the seventh periodic report of Canada CCPR/C/CAN/QPR/7*, Geneva, Switzerland: UN Headquarters, 2021, 5.

⁴ United Nations, Human Rights Committee, *Seventh periodic report submitted by Canada under article 40 of the Covenant, due in 2022 CCPR/C/CAN/7*, Geneva, Switzerland: UN Headquarters, 2025, 28.

⁵ *Declaration on the Rights of Indigenous Peoples Act*, SBC 2019, s 3.

the province's human rights obligations.⁶ Responding to the ruling, Provincial Premier David Eby expressed the intent to amend the legislation to prevent its use in this way in the future, saying it is "absolutely crucial" that the provincial government, and not the courts, "remain in control" of deciding how the *Declaration* should be implemented.⁷

Attempting to amend provincial legislation to limit Indigenous Peoples' access to redress through the courts for violations of their fundamental human rights would be contrary to how our democratic system works and the respective roles of the executive, legislative and judicial branches. Additionally, it would be contrary to the province's commitment to honour and uphold the *Declaration* and would violate international human rights standards on access to justice, including Article 40 of the *Declaration* itself. Further, the Premier's proposed amendments could undermine the rule of law and threaten the independence of the judiciary by limiting the ability of the courts to interpret the law.

⁶ *Gitxaala v British Columbia (Chief Gold Commissioner)*, 2023 BCSC 1680.

⁷ Andrew Kurjata, "Eby says B.C. may revise DRIPA legislation, worries court is in the 'drivers seat'. CBC News, 5 December 2025. <<https://www.cbc.ca/news/canada/british-columbia/eby-dripa-gitxaala-ruling-9.7005087>>.