



RESEARCH BRIEF RFNG

Rebuilding
First Nations
Governance

From Commitment to Collaboration?

Canada's Action on UNDRIP in the global context

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As Indigenous peoples in Canada pursue self-determination and face increased pressures for industrial and resource development on their lands, we ask: What is Canada doing to implement UNDRIP? Are other countries doing more? How does the Declaration fit into a quickly changing landscape of Indigenous relations with Canadian governments?

On September 13, 2007 Canada voted against the United Nations Declaration on the Rights of Indigenous Peoples (UNDRIP or "Declaration") along with the United States of America, Aotearoa New Zealand and Australia. The Declaration was nonetheless adopted by the UN General Assembly with 143 member States voting in favour, 11 abstaining and 34 absent from voting¹. In 2015, Canada was the last of the four dissenting States to reverse its position. In 2021 it took a step further and legislated UNDRIP's implementation into the Canadian legal framework.

Canada's endorsement of UNDRIP has major implications for Canadian law and Indigenous relations. Perhaps the Declaration's best-known Article is number 32, outlining consultation and consent for land and resource development on Indigenous territories, but it has many parts that set out Indigenous peoples' rights to

¹ The abstainers were Azerbaijan, Bangladesh, Bhutan, Burundi, Colombia, Georgia, Kenya, Nigeria, Russian Federation, Samoa and Ukraine.

govern themselves and participate in decisions that affect them². As an international declaration, UNDRIP is non-binding on the domestic law of States that support it³. This means that its implementation, and its practical utility for advancing Indigenous rights within Canadian law - depends on the political will of Canadian governments (Wilkins, 2021, p.1). But there are other ways that non-binding international law can impact Canadian law, especially by acting as a guide for how courts and policymakers interpret existing law (Metallic, 2022, pp. 15-22). The Declaration can thus be seen as a normative framework for the relationship between Indigenous and non-Indigenous governments – one that shows how things should be, rather than how they are (Morales, 2019).

Canada's Actions Towards UNDRIP Implementation

Canada's action on UNDRIP has largely been through legislation and policy. The province of British Columbia (BC) took the lead in 2019 with a law that requires the BC government to ensure that provincial laws are consistent with UNDRIP. In 2021, the Canadian parliament passed similar legislation, as did the Government of the Northwest Territories in 2023. Crucially, federal legislation, the *United Nations Declaration on the Rights of Indigenous Peoples Act* (UNDRIPA) does not immediately implement UNDRIP but rather sets out a framework for its implementation⁴. The federal government followed up on this commitment with the UNDRIP Action Plan that sets out 181 priority indicators and objectives for implementation. This plan and subsequent reports provide a benchmark for tracking the national government's action on its UNDRIP commitments. The most recent annual report - tabled in August, 2025 - states that progress is incomplete and ongoing⁵. Concerningly, the report also states that only 20 of the 181 priority indicators were developed with Indigenous partners (Department of Justice Canada, 2025, p. 72).

Governments are increasingly being pressed on whether they're living up to their commitments; Two 2025 court decisions – *Gitxaala* and *Kebaowek* - reprimanded the federal and B.C. governments for making decisions without consideration of their responsibilities under the declaration. Both decisions dealt with development of minerals and energy - *Gitxaala* with BC's mineral claims regime and *Kebaowek* with the building of a nuclear waste facility. In the *Kebaowek* decision – recently upheld at appeal - the Federal Court ruled that the Declaration is part of Canada's positive law and therefore must be considered by the Crown as part of its duty

² See [RFNG's shortcut article](#) for a discussion of UNDRIP's relevance to First Nations within Canada.

³ This contrasts with international conventions and protocols, whose binding nature is set out in the Vienna Convention on the Law of Treaties.

⁴ S. 4(b) states that the purpose of the Act is to "provide a framework for the Government of Canada's implementation of the Declaration". S. 6 states that the responsible Minister must prepare and implement an UNDRIP Action plan within two years.

⁵ The report states that that six priority indicators are fully implemented, 37 are implemented contingent on funding review or new funding, 99 underway, and 28 in planning phases. The remaining 11 are listed as "not started", "on hold" or "without an update" in the most recent report. See p. 70 of *Department of Justice Canada. (2025). Fourth annual progress report on implementation of the United Nations Declaration on the Rights of Indigenous Peoples Act. [2025 Progress Report]*.

to consult⁶. In *Gitxaala*, which will be heard at appeal at the Supreme Court of Canada, the BC Court of appeal ruled the Declaration is the “minimum standard” for the interpretation of BC law⁷. The latest *Gitxaala* decision is part of a broader set of issues in BC where both major provincial political parties are considering walking back the province’s commitments in the Declaration on the Rights of Indigenous Peoples Act (DRIPA), which passed the legislature with unanimous support in 2019. In the interim, vociferous resistance from the official opposition Conservative Party and other voices has led NDP Premier David Eby to muse about amending the law. BC First Nation leaders oppose this (Waters, 2026)

These issues reflect a tension in Crown-Indigenous relations: the relationship between consultation and consent. Canada’s 2025 UNDRIP Progress Report recognized the need for “clarity on the consultation and cooperation requirement of the UN Declaration Act and its relationship to the section 35 constitutional duty to consult and to free, prior and informed consent” (p. 42). The *Building Canada Act*, which mentions UNDRIP in the preamble but not the main text, has been criticized because it does not explicitly safeguard s. 35 rights and consent in its plan for fast-tracking development projects deemed in the national interest (Indigenous Bar Association, 2025; Tsilhqot’in Nation Government, 2025). This legal and political turmoil exemplifies that Canada’s efforts to implement UNDRIP are facing serious tradeoffs and will require sustained willingness to collaborate with Indigenous peoples and governments.

Comparing Canada’s Record

To contextualize Canada’s UNDRIP actions, we surveyed the legal and policy landscapes of other UN States that also approved the Declaration, have a population of self-identified Indigenous peoples and legally recognize their distinct status⁸. We found that Canada is one of very few with legislation focused on implementing UNDRIP⁹. Shortly after the UN vote in 2007, Bolivia passed a law that is simply an exact copy of the Declaration, followed by a new constitution in 2009 in which Bolivia is identified as a plurinational state that recognized collective property rights for rural and Indigenous communities. However, practical implementation of UNDRIP did not directly follow from these changes (Rice, 2014; Chaney, 2024). Ecuador (2008) also has a post-UNDRIP constitution that affirms the Indigenous right to “free prior informed consultation” and redress if consent is not obtained¹⁰. Several other Latin American constitutions that pre-exist UNDRIP, like Canada’s, have language affirming Indigenous rights that fits with the spirit of the Declaration. As in Canada, UNDRIP has been applied by some courts to interpret and

⁶ For analysis of the *Kebaowek decision* (2025 FC 319), see Babony, 2025..

⁷ For analysis of the *Gitxaala decision* (2025 BCCA 430), see Abell et al., 2025

⁸ Many States that supported UNDRIP do not have a population of self-identified Indigenous peoples and therefore have no possibility of implementing it. Some states officially recognize self-identifying Indigenous peoples but in ways that avoids the application of UNDRIP to their law; for example, some states recognize Indigenous populations as ‘tribal’ or ‘minority’ peoples and/or maintain an official position that all their peoples are Indigenous.

⁹ To gauge the UNDRIP implementation actions of these 30 states, we conducted a high-level survey of each states’ legislation and policy using internet searches.

¹⁰ See Art. 57(7) of [Ecuador’s constitution](#).

expand previously recognized - and sometimes recognize new - Indigenous rights in Latin American and Caribbean countries (Toledo, 2023).

The other States that initially voted against the Declaration have referred to UNDRIP in policy but have not passed legislation. *Aotearoa* New Zealand attempted to institute a national plan for implementing *UNDRIP*, but in 2022 after the election of a new government, Cabinet put the plan on hold before abandoning it completely in 2024 (Te Puni Kokiri, 2025). Australia's recent public policy has in some ways reflected UNDRIP language, but the government maintains that it is not legally bound by UNDRIP¹¹. In the United States, the Department of the Interior had the lead role regarding UNDRIP from 2021-2024, with actions such as releasing guidelines on interactions on Tribal rights regarding resource extraction. Under the current U.S. administration, it appears that UNDRIP and Indigenous rights have been sidelined, with any mention of UNDRIP being archived on the U.S. government website.

Although there is no UNDRIP-specific legislation, the political institutions in Nordic countries make for interesting comparisons to Canada. Finland, Norway and Sweden all have Sámi Parliaments, but there are substantial differences among these institutions. The Norwegian *Sámediggi* is seen as the most autonomous and well-funded of the three, enabling substantive engagement in consultations. Like in Canada, process does not necessarily lead to consent as an endpoint (Josefsen & Saglie, 2024). Denmark and *Kalaallit Nunaat* (Greenland) have a unique political relationship, where the large Inuit majority population of the latter is self-governing since 2009. Several similarities to Canada can be identified. For example, *Kalaallit Nunaat*'s latitude to make decisions is constrained by financial dependence on Denmark leading to pressure for increased resource extraction. In addition, although Greenlandic is the official language, Danish still dominates in public administration (Calí Tzay, 2023).

Conclusion

Looked at in a global context, Canada's effort through legislation to implement the UN Declaration on the Rights of Indigenous Peoples is unmatched. So, how can this be squared with the fact that Canadian governments continue to act in ways that seem to violate the Declaration's social, economic and political provisions? Certainly, there is some utility in Canada's UNDRIP actions. Through UNDRIPA and related policy, the federal government has set out clear intentions that civil society and the courts can use to hold it accountable. But holding a map does not guarantee arrival at the destination.

UNDRIPA and similar pieces of provincial/territorial legislation are commitments to act and do not guarantee implementation in and of themselves (Metallic, 2022, p. 14). Some parts of the Declaration prescribe State actions, but UNDRIP is fundamentally about Indigenous

¹¹ A 2023 [report to Parliament](#) on the Application of UNDRIP states that "Australia is not legally bound by UNDRIP. According to the Attorney-General's Department, "as a matter of policy, though, Australia supports the Declaration and shares the declaration's underlying commitment to delivering real and lasting improvements for First Nations people[s] and their communities."

peoples' inherent rights to *govern themselves*. States can affirm and clarify these rights but cannot unilaterally implement them. Metallic (2022) asserts that the Declaration has the potential to “breathe life” into Canada’s legal foundation by guiding law-makers to proper understanding of the fundamental role of Indigenous legal orders in Canada. Abele et al. (2026) build on this argument by highlighting the emergence of an “Aboriginal third order of governance” in Canada that can be advanced by a sustained commitment to implementing *UNDRIP* through policy. A key part of this argument is that this is a “bottom-up process” driven by Indigenous peoples (thus far, largely through litigation) rather than Crown governments.

Until further notice through court decision or legislative change, the Crown is obligated to make decisions with reference to and guidance from *UNDRIP*. But the implementation of the Declaration must continue to come directly from the practices of Indigenous peoples and their governments, with Canadian governments playing a (very important) supporting role in this process: making sure that Canadian laws and policy support and empower rather than hinder implementation.

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