

Canada's United Nations Declaration on the Rights of Indigenous Peoples Act: EXPLAINED



This document answers common questions about the Government of Canada's UNDRIP law and its implementation.

Canada is developing a plan for applying the UN Declaration on the Rights of Indigenous Peoples to federal laws, policies, and institutions. AFN Yukon is sharing information about the planning and asking for feedback on what Yukon First Nations want to see from that plan. Visit afnyukon.ca for more information.

What is the United Nations Declaration on the Rights of Indigenous Peoples (UNDRIP) and Canada's UNDRIP Act (UNDA) all about?

- The Declaration describes fundamental human rights of Indigenous people around the world. It speaks to Indigenous women's, children's and Elders' rights. It also describes collective rights, such as ownership of, and decision-making about, lands and resources.
- The Declaration defines how countries (including settler governments) should relate to Indigenous peoples, and the basic standards they must follow to uphold the human rights of Indigenous peoples.
- UNDA is Canadian legislation meant to implement the rights outlined in the Declaration at a federal level. The legislation proposes aligning federal laws, policies, and processes with the rights guaranteed by the UN Declaration. UNDA will not impact territorial legislation in the Yukon, such as the Education Act.

Why and how is Canada developing a National Action Plan to implement the Declaration?

- The UNDA (the law that made the UN Declaration apply to federal matters) requires Canada to work with Indigenous peoples to create a "National Action Plan" to achieve the objectives of the Declaration
- This National Action Plan will outline actions Canada can take to make federal laws consistent with UNDRIP, and address injustices, combat prejudice and eliminate all forms of violence, racism and discrimination against Indigenous Peoples, including systemic racism and discrimination.
- Canada is asking Indigenous peoples and organizations, like AFN Yukon, to share their input into the structure and content of the plan. They funded Indigenous-led engagement projects so communities and groups could communicate what they would like to see in the National Action Plan

How will the Declaration and UNDA impact and strengthen Yukon First Nation rights under Land Claim and Self-Government Agreements?

- The Declaration requires states like Canada to recognize, uphold, and enforce treaties they enter into with Indigenous peoples. This includes Modern Treaties like Yukon First Nations' Final and Self-Government Agreements.
- Canada's UNDA could strengthen implementation of Yukon First Nations' Agreements, but it cannot take away from any rights affirmed by these agreements. In other words, the UN Declaration can support the full implementation of Final and Self Government Agreements, especially in areas where Canada is not meeting their obligations.

How do the Declaration and UNDA speak to rights and relationships between colonial borders?

- Article 36 of the Declaration discusses transboundary rights, stating that "Indigenous peoples, in particular those divided by international borders, have the right to maintain and develop contacts, relations and cooperation, including activities for spiritual, cultural, political, economic and social purposes, with their own members as well as other peoples across borders."
- In creating UNDA, Canada has acknowledged its responsibility in supporting Indigenous peoples' connections and kinship ties, across international borders. This means Canada's border laws and policies must recognize First Nations' relationships with communities located on the other side of colonial borders (like those in Alaska) and facilitate cross-border access to uphold those connections.

How will the Declaration and UNDA impact and strengthen Yukon First Nation rights in general?

- The Declaration strengthens Indigenous rights around the world by establishing a minimum standard of human rights that settler governments must guarantee Indigenous peoples. It does not remove or minimize any rights that First Nations already have.
- The Declaration and the UNDA could help Yukon First Nations in exercising their rights and autonomy, since the UNDA law requires the Government of Canada to follow the Declaration by changing its laws and policies.

How will UNDRIP be implemented in the Yukon specifically? What has the Yukon Government said about UNDRIP implementation in the territory?

Canada's UNDA does not apply to provincial or territorial laws. As the legislation is currently worded, the UNDA would only apply to Canada's relationship with Yukon First Nations, and federal laws and policies impacting Yukon First Nations.

The Yukon Government does not have any current plan to adopt the Declaration at the territorial level. However, in the agreement the Yukon NDP renegotiated in late January 2023 to support the Yukon Liberal minority government, there is a commitment to, "Seek consent from Yukon First Nations chiefs to start discussions on [UNDRIP.]

How will the Declaration and UNDA impact First Nations' rights to steward and manage their territories?

- The Declaration upholds the principles of 'free, prior, and informed consent' (FPIC). Article 26 recognizes that "Indigenous peoples have the right to the lands, territories and resources which they have traditionally owned, occupied or otherwise used or acquired."
- There are several other articles within the Declaration that establish Indigenous peoples' rights to maintain their spiritual connections to the land (Article 25); to own, use, develop, control and have legal recognition and protection of their territories (Article 26); and the right to the conservation and protection of the environment, as well as the ways that their lands or territories are used for production or economic purposes (Article 29).
- By adopting the Declaration through UNDA, Canada recognizes its duty to align its federal laws with the spirit of all the Articles in the Declaration, and should ensure FPIC is strictly and consistently followed.

How is UNDRIP being implemented by governments in Canada?

- Since the Government of the Northwest Territories formally adopted UNDRIP, The Government of the Northwest Territories formally adopted UNDRIP. They are working on implementation, including how the Declaration might help Indigenous Nations protect and preserve land, water, culture, and language for future generations.
- In British Columbia, the provincial government passed legislation called the Declaration of the Rights of Indigenous Peoples Act (DRIPA), and has since released its DRIPA Action Plan for realizing UNDRIP at a provincial level. The B.C. plan speaks to self-determination and self-government rights, Indigenous land title, Indigenous-specific racism and discrimination, and social, cultural, and economic well-being.

What categories of rights are included in UNDRIP?

- Equality and non-discrimination rights
- Self-determination, self-governance, and recognition and enforcement of treaties
- Security of the person
- Cultural, spiritual and language rights
- Education, information and media rights
- Free, prior and informed consent (FPIC)
- Economic and social rights (including development and health)
- Lands, territories, resources (including economic rights)
- Implementation and redress
- Treaties and agreements