

Declaration on the Rights of Indigenous Peoples Act

The provincial government passed legislation to implement the United Nations Declaration on the Rights of Indigenous Peoples (UN Declaration), which the Truth and Reconciliation Commission confirms as the framework for reconciliation. The new *Declaration on the Rights of Indigenous Peoples Act* creates a path forward that respects the human rights of Indigenous peoples while introducing better transparency and predictability in the work we do together.

The Province worked with the First Nations Leadership Council (BC Assembly of First Nations, First Nations Summit and Union of BC Indian Chiefs), who were directed by First Nations Chiefs of B.C., to develop the legislation.

The legislation requires:

- alignment of B.C.'s laws with the UN Declaration; and
- an action plan that includes consistent public reporting.

Over time as laws are modified or built, they will be aligned with the UN Declaration.

In addition to these core components, the legislation allows for flexibility for the Province to enter into agreements with a broader range of Indigenous governments. An additional component creates a mechanism for decision-making opportunities for Indigenous governments on matters that impact their citizens. This work has already started with environmental assessment and child welfare.

WHY LEGISLATE?

The Province recognizes its role in the enduring oppression and harms faced by Indigenous peoples due to colonialism – including vast numbers of Indigenous children in government care, and disturbing levels of poverty, suicide and discrimination – and the need for real solutions.

B.C.'s relationship with Indigenous peoples has often been rife with conflict. First Nations have pursued litigation as their only recourse to protect their rights. The Constitution of Canada recognizes and protects Indigenous peoples' rights on their territories, and the courts have clearly upheld those rights.

The *Declaration on the Rights of Indigenous Peoples Act* provides a legislative framework for recognizing the constitutional and human rights of Indigenous peoples and aligning B.C.'s laws with the internationally recognized standards of the UN Declaration, as well as the legal rights of Canadian Indigenous peoples.

With the legislation, the Province, Indigenous peoples, businesses and local governments will have better tools to build effective relationships and a robust and sustainable economy together.

There are many examples in B.C. of how working together creates benefits for First Nations, business and industry and the Province. These include forestry with shíshálh Nation near Sechelt and land-use planning with Tahltan Nation in Northwestern B.C.

The legislation will help create more opportunities for Indigenous peoples, families, businesses and communities in B.C. It aims to establish a more secure, predictable and collaborative path forward – which will help develop B.C.'s economy and create good jobs, and protect Indigenous rights and the environment.

HOW WILL IT SUPPORT INDIGENOUS GOVERNMENT AGREEMENTS WITH B.C.?

B.C. already makes some agreements with various kinds of Indigenous governments, and this legislation will simply provide a clearer mechanism to do so. The Declaration Act will allow the Province to enter into agreements with Indigenous governments besides Indian Act Bands and incorporated organizations (such as societies). This means the provincial government could enter into agreements with other forms of Indigenous governments – for example multiple Nations working together as a collective, or hereditary governments – where those Nations so choose. An important criteria is that the Indigenous government or entity is recognized by its citizens as representing their Nation.





WHAT WILL IT MEAN FOR DECISION-MAKING?

The *Declaration on the Rights of Indigenous Peoples Act* provides discretion for new decision-making agreements between the provincial government and Indigenous governments, where decisions directly affect Indigenous peoples.

A number of current pieces of legislation reference First Nations government involvement in provincial government statutory decision-making, such as the *Heritage Conservation Act* and *Haida Gwaii Reconciliation Act*. In addition, the 2018 *Environmental Assessment Act* includes collaborative decision-making. But many types of collaborative decision-making between the Province and First Nations have been informal and difficult to implement.

The Declaration Act will provide structure and add clear processes for how joint decision-making would happen, with administrative fairness and transparency. Like any other government, Indigenous governments exercising decision-making authority have clear processes and rules, as well as accountability for any decisions.

Such agreements can support predictability for good projects to move ahead, and a mechanism for Indigenous peoples to fully participate in decisions that affect them.

Legislative amendments would be required to enable joint decision-making if such mechanisms are not already in place within the other relevant legislation.

ENGAGEMENT

In 2017, every Cabinet minister in the provincial government was tasked with a mandate to implement the UN Declaration and the Truth and Reconciliation Commission's Calls to Action. The provincial government subsequently announced in 2018 its commitment to legislation that implements the UN Declaration.

Adopting the UN Declaration in B.C. is a component of the Confidence and Supply Agreement with the B.C. Green Party.

The organizations of the First Nations Leadership Council received mandates through resolutions from First Nations Chiefs in B.C. to work with the Province to implement the UN Declaration in B.C. The legislation is the first objective of the 2018 Joint Agenda: Implementing the Commitment Document – Concrete Actions: Transforming Laws, Policies, Processes and Structures (news.gov.bc.ca/files/BC_FNLC_Actions.pdf), and was reiterated in the 2019 Throne Speech and Budget 2019.

The provincial government and the First Nations Leadership Council started engaging with Indigenous leaders and organizations, business and labour leaders and municipalities throughout the province in 2019, in anticipation of the legislation being introduced in the fall of 2019. Engagement with First Nations and stakeholders will continue throughout the fall and beyond as the action plan mandated by the Act is developed.

UN DECLARATION ON THE RIGHTS OF INDIGENOUS PEOPLES

In 2007, the United Nations General Assembly adopted the UN Declaration. It includes 46 articles covering all facets of the rights of Indigenous peoples such as culture, identity, religion, language, health, education and community.

The UN Declaration emphasizes the Indigenous rights to live in dignity, to maintain and strengthen Indigenous institutions, cultures and traditions and to pursue self-determined development, in keeping with Indigenous needs and aspirations.

The UN Declaration does not create new rights. It upholds the same human rights and fundamental freedoms recognized in the Charter of the United Nations, the Universal Declaration of Human Rights and international human rights law.

The UN Declaration has been adopted by 148 countries, including Canada.

The Truth and Reconciliation Commission called on all governments in Canada to fully adopt and implement the UN Declaration as a framework for reconciliation.

