

Shame on Canada for opposing the UN Indigenous Peoples declaration

By Alex Neve

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After more than two decades of protracted negotiations, the new UN Human Rights Council approved a long overdue, sorely needed UN Declaration on the Rights of Indigenous Peoples (UNDRIP), and referred the declaration to the full UN General Assembly for final adoption on June 29, 2006. The UNDRIP was then adopted by the General Assembly on Sept. 13, 2007. It was a spectacular day for the protection of human rights worldwide.

But there was a very worrying and shameful footnote to that day for Canadians. Before the Human Rights Council and again before the General Assembly, Canada mounted forceful opposition to this new declaration, and actively sought to have this crucial new human rights instrument defeated, weakened or delayed.

A letter to the Canadian government regarding the UNDRIP was endorsed by more than 100 legal academics and lawyers across the country, who are experts in constitutional law, aboriginal rights and human rights. The letter unequivocally refutes the government's assertion that the UNDRIP contravenes the Canadian constitution and urgently calls on the government to abandon its ongoing position of aggressive opposition to this vitally important UN human rights document.

Fortunately, very few countries, apart from Russia, stood with Canada in opposition to the UNDRIP before the Human Rights Council. And only three, Australia, New Zealand and the United States, before the full General Assembly. 144 countries enthusiastically voted in favour of the UNDRIP, recognizing the valuable role it would play in addressing one of the world's most serious human rights problems.

It was a profound disappointment - and for Canada's indigenous peoples, a moment of immense betrayal - that Canada took this position both before the Human Rights Council and the General Assembly. But what is perhaps even more shocking, is that Canada continues to actively subvert and weaken the UNDRIP, even after its overwhelming adoption by the General Assembly.

In numerous recent international settings, Canada insists that the UNDRIP has no applicability in Canada because Canada did not vote in favour of its adoption. We heard this at the UN Human Rights Council, at a meeting of states that have ratified the Convention on Biological Diversity and most recently at the Organization of American States.

Canada's position is deeply troubling. Without a doubt, it is further undermining the traditional reputation of Canada for taking principled positions and asserting valuable leadership when it comes to strengthening international human rights protection. Canada's position, in many ways, drives a stake through the very integrity of the international human rights system, for indigenous peoples and everyone.

The essence of Canada's position is that states should feel free to disregard a UN decision, such as the adoption of an important human rights declaration, if they have not voted in favour of it. This easy out for human rights violators therefore is obvious - always raise your hand with the no side when UN member states take action to address human rights concerns or to elaborate principles for the protection of human rights.

Canada provides a debilitating model for others to follow: governments faced with high levels of violence against women should simply vote against UN resolutions that call for safety and equality for women; governments who turn a blind eye to the use of torture in their prisons, vote against UN resolutions that lay out recommendations for preventing torture. As long as you have voted no, the authority of the UN apparently does not apply. What could be more debilitating to the struggle to advance a strong global human rights order? Opt in if you feel like it; opt out if you would rather not. It does not matter if an overwhelming majority of states are in favour. A UN General Assembly vote means nothing if you did not vote in favour of it.

It is important to remember that we are not talking about a treaty. A treaty - which is formal, legally-binding and enforceable - does require individual governments to agree. This only applies to those states that have officially ratified and signed on.

This is a declaration. It is a document that is meant to give guidance to governments as to the steps they should take in better protecting and upholding the rights of indigenous peoples. It is a document to which governments should aspire. Something that points to the way forward. It does not have the legal weight of a treaty. It is not a source of directly enforceable legal obligations. It provides the basis for taking progressive steps - around the world, including in Canada - to finally address the glaring, widespread human rights violations that are the global reality for indigenous peoples everywhere.

Canada's opposition to the UNDRIP was unfounded during both negotiations and voting. Canada's continued opposition does great damage and disservice to the entire international system for the protection of human rights. This has to end.

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