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UN Declaration on the Rights of Indigenous Peoples: **Canadians Should Embrace New Human Rights Instrument**

1. **Duty of Canada to promote and respect human rights.** The Purposes and Principles of the *UN Charter* require actions “promoting and encouraging respect for human rights ... for all”. This obligation applies to the United Nations and all member States. As a member of the Human Rights Council, Canada has a duty to “uphold the highest standards” in relation to human rights.
2. **Urgency of implementing the *UN Declaration*.** Indigenous peoples are among the most disadvantaged and vulnerable peoples in the world. They continue to suffer persistent and widespread discrimination and other grave human rights violations. Past and ongoing colonization and land and resource dispossession have resulted in their severe impoverishment. The security of 370 million Indigenous people globally is clearly at stake. In order to begin to redress this urgent situation, implementation of the *UN Declaration* is critical.
3. ***Declaration* is consistent with Canada’s Constitution.** The *UN Declaration* is consistent with the *Constitution Act, 1982* and reinforces the recognition and affirmation of Aboriginal and treaty rights in section 35 of the *Act*. The *Declaration* also promotes reconciliation, which is a central objective of s. 35.
4. ***Declaration* is consistent with the *Canadian Charter*.** Every provision of the *Declaration* must be “interpreted in accordance with the principles of justice, democracy, respect for human rights, equality, non-discrimination, good governance and good faith” (Art. 46). These are core principles and values in international law and in the *Canadian Charter of Rights and Freedoms*. This allows for both flexibility and balance. As an aspirational instrument, the *Declaration* does not upend the rule of law domestically or internationally.
5. **No new rights created.** The *Declaration* does not create new rights. It elaborates upon existing international human rights standards as they apply to Indigenous peoples. The *Declaration* is essential for the survival, dignity and well-being of the Indigenous peoples of the world. It reaffirms the cultural diversity of Indigenous peoples and the right to be different.
6. ***UN Declaration* is integral to Indigenous peoples’ development.** The *Declaration* is a vital instrument for advancing the economic, social, cultural and other forms of development of Indigenous peoples. In the *UN Millennium Declaration*, Heads of State committed themselves to “spare no effort to promote ... respect for all internationally recognized human rights and

fundamental freedoms, including the right to development.” In the global Indigenous context, the *UN Declaration* is an essential complement to achieving the *Millennium Development Goals*.

7. **Collective and individual rights are explicitly balanced.** The *Declaration* includes one of the most comprehensive balancing provisions that exist in international human rights instruments (Art 46).
8. **Right of self-determination conforms to international law.** The right of Indigenous peoples to self-determination in the *UN Declaration* reflects the same right which applies to “all peoples” in the two international human rights Covenants. Canada ratified these instruments more than 30 years ago and has a duty to “promote the realization of the right of self-determination” and “respect that right”. UN treaty monitoring bodies have repeatedly applied the right of self-determination in the Covenants to Indigenous peoples in Canada and other countries.
9. **Land and resource rights are consistent with Canadian and international law.** In the *Declaration*, Indigenous peoples’ land and resource rights are based on traditional occupation and use that is rooted well into the past. This is consistent with the rulings of the Supreme Court of Canada, as well as federal land claims policy. Similar criteria are highlighted in the jurisprudence of international human rights bodies.
10. **Declaration was overwhelmingly adopted by UN member States.** On September 13, 2007, the historic vote in favour of the *Declaration* in the General Assembly was 144-4. Only three other states – the United States, Australia and New Zealand – voted against the Declaration. Australia has since endorsed the Declaration while New Zealand and the US are reexamining their positions .
11. **Declaration supported strongly by world leaders and human rights experts.** The *UN Declaration* is endorsed by the UN Secretary-General, High Commissioner for Human Rights, international and regional human rights bodies and organizations, Special Rapporteurs, other independent experts and Indigenous peoples globally.
12. **CERD Committee urged Canada to support Declaration.** Canada's reasons for opposing the *UN Declaration* were unconvincing to the UN Committee on the Elimination of Racial Discrimination (CERD Committee). In its May 25, 2007 report on Canada, the Committee expressed regret about the government’s “change in position” and recommended that Canada “support the immediate adoption of the United Nations Declaration”.
13. **Harmonious and cooperative relations encouraged.** The *Declaration* explicitly encourages “harmonious and cooperative relations” between States and Indigenous peoples. Nine preambular paragraphs and 15 operative articles specify consultations, cooperation or partnership between Indigenous peoples and States.
14. **Strengthens international human rights system.** Adoption of the *Declaration* by the General Assembly creates a universal standard for the world’s Indigenous peoples, supports the vital work of the Human Rights Council and strengthens the international human rights system as a whole. Promotion of the *Declaration* is now an integral part of the mandate of the Special Rapporteur on the situation of the human rights and fundamental freedoms of Indigenous people. The Organization of American States (OAS) Working Group is using the *UN Declaration* as the “baseline for negotiations and ... a minimum standard” on the draft *American Declaration on the Rights of Indigenous Peoples*.