

Indigenous human rights are not second-class rights



Without concerted leadership and ambition by Prime Minister Justin Trudeau, pictured on the Hill recently, and central agencies within the federal system, the UN Declaration Act risks becoming little more than symbolic legislation, writes Natan Obed. *The Hill Times* photograph by Andrew Meade

The health and well-being of our communities depends on the success of this work which would usher in a new era in Canada as well as a gold standard internationally for the implementation of Indigenous Peoples' rights.

Natan Obed

Opinion

Canada remains the first and only state to adopt national legislation to implement the rights affirmed by the UN Declaration on the Rights of Indigenous Peoples. However, without concerted leadership and ambition by the prime minister and central agencies within the federal system, the UNDRIP risks becoming little more than symbolic legislation.

UNDRIP, which received royal assent in 2021, is intended to end and prevent systemic discrimination against Indigenous Peoples. It is not a list of principles or aspirational policy goals. Sec. 5 of the act obligates the federal government, in consultation and co-operation with Indigenous Peoples, to take all measures necessary to ensure that the laws of Canada are consistent with the UN Declaration.

Inuit Tapiriit Kanatami identified a number of measures to achieve this obligation,

including legislative amendments enabling Inuit cross-border mobility and immigration (Article 36); new federal legislation enabling the systematic repatriation of Indigenous human remains and belongings (Article 12); and legislative amendments that would make federal transfers to provincial and territorial governments contingent on meeting service delivery standards (Article 2).

Despite their obligations under Sec. 5, many federal departments declined to include clear legislative commitments in the action plan developed under the act,

making it unclear if and how Sec. 5 will be implemented. Following the release of the action plan in August 2023, some departments continue to lack the mandates needed to implement their own action plan commitments.

Canada has an opportunity to set a new standard internationally for the recognition and implementation of Indigenous human rights. Passage of the UNDRIP is a historic first step that can help close the legislative and policy gaps that harm Inuit and other Indigenous Peoples.

Stronger ambition is needed within government to ensure that Canada's laws are actively being aligned with the rights affirmed by the UNDRIP, and that this work is happening in a coordinated way. This requires the prime minister to direct his cabinet ministers to pursue transformative legislative and policy changes.

One promising area of work that could be advanced immediately is in relation to immigration and Article 36 of the UNDRIP. Inuit and other Indigenous Peoples are divided by Canada's international borders. Immigration, Refugees, and Citizenship Canada pledged in the action plan to pursue amendments to Canada's immigration legislation, and to address other barriers to mobility and immigration.

First Nations are already eligible to enter the United States and to apply for permanent residency there on the basis of their Indigenous status. The federal government in Canada currently discriminates against Inuit by declining to recognize Inuit treaty organizations in the list of Indigenous Peoples it provides to the United States government for the purposes of determining eligibility for permanent residency.

Inuit in Alaska, Canada, and Greenland are divided by artificial borders that serve as barriers to co-operation, trade, and economic development and mobility. Amending Canada's immigration legislation to affirm a reciprocal right for Greenland Inuit and Alaska Inuit, and other U.S. Indigenous Peoples to enter Canada and apply for permanent residency here would help eliminate longstanding legal barriers that divide and isolate Indigenous Peoples from each other.

The rights affirmed by the UNDRIP can only be implemented if they are interpreted as legal rights and implemented and enforced accordingly. Our human rights are not second-class rights and deserve the same protection as the rights of other Canadians.

The health and well-being of our communities depends in large part on the success of this work, which would serve to usher in a new era in Canada as well as a gold standard internationally for the implementation of Indigenous Peoples' rights.

Natan Obed is president of Inuit Tapiriit Kanatami, the national organization for protecting and advancing the rights and interests of Inuit in Canada.

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