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## The Political Implications of UNDRIP in Canada

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# Opinion: The Political Implications of UNDRIP in Canada

Alden Eakins  
January 5, 2021

2020 was a year of drastic change. Although many headlines were centered on COVID-19, close behind it was the death of George Floyd, putting the #BLM movement onto center stage right next to the virus. With a greater focus on social justice as a result of Floyd's death, this allowed Canada an opportunity to move one step further with their reconciliation efforts, helping to further [strengthen the countries relationship with Indigenous Peoples](#).

During the 2019 Federal Election, the Liberals, among other political parties, [vowed](#) to implement *The United Nations Declaration on the Rights of Indigenous Peoples*, a mechanism by which Trudeau's cabinet and other MP's could use to take one step further in reconciliation efforts throughout Canada.

So, what is the [UNDRIP](#)? The UNDRIP is an international instrument setting out the rights of Indigenous people. It deals with the basic human rights within an Indigenous context. It sets out, according to the document itself, what the rights that constitute the minimum standard for the survival, dignity and well-being of the Indigenous peoples of the world.

Canada has historically accepted the principles that UNDRIP set forth. However, previous [cabinets](#) have taken [issue with its provisions](#) around land claims and the degree of free and informed consent needed in resource development, among other economic interests, from an array of stakeholders within Canada, including natural resource companies.

UNDRIP's slow adoption, in conjunction with previously held views on the document itself, sets up a lively conversation as to the broad implications that various worldviews hold regarding the adoption of UNDRIP, and how that affects Canada moving forward.

Previous cabinets asserted that Indigenous and treaty rights are protected in Canada through a unique framework. These rights are enshrined in the *Constitution Act of 1982*, including our *Charter of Rights and Freedoms*. The rights are complemented by practical policies that adapt to our evolving reality. This framework continues to be the cornerstone by which parliament, and by extension Canada, promotes and protects the rights of Indigenous People in Canada.

As a result, this assumes that UNDRIP need not be adopted, as there is both legislation and customs that supports and satisfies both Indigenous Peoples rights, while concurrently, satisfying the rights of companies or other economic actors looking to move forward with Oil & Gas or other natural resource projects who may have land claims in the event UNDRIP is adopted.

One example striking this balance are "[impact benefit agreements for First Nations](#)," which have evolved as a norm between First Nations and other stakeholders in a given project. Prior to a company or stakeholder moving forward, a negotiation through an impact benefit agreement takes place to ensure equal distribution and equity from the project to the First Nation.

That makes sense, given that it's their land. This very process could act as acknowledgement by a nation, helping validate projects that adhere to sacred principles of Treaty Governments or bands themselves. This potentially acts as a proxy for UNDRIP's adoption, while maintaining balance with those who do not agree with its provisions.

Yet, in light of this tension being relaxed through impact benefit agreements, some Indigenous Peoples claim UNDRIP is a pure political move, which simply pays them some sort of [lip service](#). Despite this view, by not adopting UNDRIP, it suggests a sort of ambivalence towards the mission of reconciliation, resulting in the opposite effect altogether. Ultimately this signals some political parties don't really care about UNDRIP at all. Trudeau, his cabinet, and other MP's supporting the adoption of UNDRIP are more likely than not on the right side of the coin here.

So, if impact benefit agreements exist as they do today, why not adopt UNDRIP? Although tension may arise from land claims as a result of its adoption, wouldn't the impact benefit agreements act as a consistent way of moving forward with respect to economic development project, satisfying both parties in a transaction or project, while maintaining a reasonable degree of reconciliation and consideration for Indigenous Peoples?

So far, B.C. is the only jurisdiction that has adopted the UNDRIP into domestic legislation. They passed their act to adopt the UN Declaration on November 28, 2019. Since then, nothing has really changed on the ground in the way consultation are being carried out, helping to affirm the notion of impact benefit agreements and their effectiveness.

An array of Indigenous [lawyers](#) concludes that "most companies, most resource development corporations have gotten it that they have work with the First Nations."

Many corporations have adapted to the need for further reconciliation through respectful consultation. [In B.C., Indigenous economic participation is among the highest in Canada](#), signaling a potentially positive balance between UNDRIP and other documents involved with economic participation.

Ultimately, implementing UNDRIP would put greater [responsibility](#) on the federal government to introduce an action plan to reconcile the declaration with pre-existing documents like impact benefit agreements, helping to delineate the difference between the two and how it relates to moving forward with reconciliation efforts for all parties, in what seems to have grown into a political and economic debate as to UNDRIP and its intentions.