

**Notes for an address by:**

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**To the Symposium on Implementing the UN Declaration on the Rights  
of Indigenous Peoples: Priorities, Partnerships, and Next Steps**

**Organized by the Canadian Coalition for the Rights of Indigenous  
Peoples**

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## Introduction

*Gilakas'la.*

Thank you for that very kind introduction. Good evening, everyone, and welcome.

I would like to acknowledge that we are on the traditional territory of the Algonquin people, and thank the Canadian Coalition for the Human Rights of Indigenous Peoples for inviting me to speak tonight. Along with my good friend and colleague, Minister Carolyn Bennett, I am honoured to bring greetings from the Prime Minister of Canada.

There is a very important focus in this Symposium: we are here to discuss the work of "implementing" the *United Nations Declaration on the Rights of Indigenous Peoples: Priorities, Partnerships, and Next Steps*.

As you all know, the UN Declaration was completed in 2007 after years of diligent work – of course including by many of the people in this room. I thank all of you who contributed to this historic achievement.

A decade has now passed. After years of reservations and qualifications by the previous government, I was very proud that our government fully and unequivocally endorsed the UN Declaration in May 2016.

The endorsement of the UN Declaration was reaching the starting line, not the finishing line. What this means today, in 2017, is that we are beyond old debates about "what" the minimum standards for the survival and dignity of Indigenous peoples should be. The work of this moment in history is to take action and show "how" these minimum standards will be given life in tangible ways.

To say it another way, the time for talk and debate about the UN Declaration is over. The time for action implementing it in Canada is now.

So again I applaud the fact that the focus of this Symposium is on the implementation of the UN Declaration.

Over the past two years, our government has taken many steps on the path of implementation. We are changing how the government engages and works with Indigenous peoples, including initial shifts in negotiation, implementation and litigation approaches. There have been specific initiatives around Indigenous languages, impact assessment, and fisheries, as well as new social investments, and the formation of new processes such as the Working Group of Ministers for the review of laws, policies, and operational practices.

Tonight, I wanted to announce another step in that implementation.

With the direction and leadership of Prime Minister Trudeau, our government will support Bill C-262. This Bill acknowledges the application of the UN Declaration in Canada, and calls for the alignment of the laws of Canada with the UN Declaration.

I would like to acknowledge the many individuals and organizations that have advanced this bill, including the tireless work of MP Romeo Saganash, as well as the many other MPs, including members of our caucus, who have supported versions of this bill over many years.

However, this step alone will not accomplish the full implementation of UNDRIP. A comprehensive approach, one that our government is committed to, will require other appropriate measures, including legislative measures, through the development of a recognition of rights framework.

And this is my main focus tonight. While a lot of positive steps have been taken, and Bill C-262 builds on those, we have far more work to do to effect reconciliation, implement the UN Declaration and establish relations based on the recognition of Indigenous rights.

To understand what this work involves, let me share with you my own definition of what "reconciliation" means. In my view:

*Reconciliation means confronting and ending the legacy of colonialism in Canada, and replacing it with a future built on Indigenous self-determination.*

"Colonialism" and "Indigenous self-determination and self-government" are antithetical to each other. To reach a future where self-determination and self-government are fully respected, it means we will have removed the structures and restrictions of colonialism and

embrace and encourage a reality where Nations are reconstituting, rebuilding, and thriving.

This definition of reconciliation is reflected at the core of the UN Declaration. Article 3 and Article 4 state:

"Indigenous peoples have the right to self-determination. By virtue of that right, they freely determine their political status and freely pursue their economic, social and cultural development."

"Indigenous peoples, in exercising their right to self-determination, have the right to autonomy or self-government in matters relating to their internal and local affairs, as well as ways and means for financing their autonomous functions".

Throughout the Declaration, we see the affirmation of the rights and roles of Indigenous peoples in defining their structures, governing their lands and resources, educating their children and youth, transmitting their knowledge, language, and culture, and living their way of life.

I also define reconciliation in this way because it is personal to me, and based on my own experience and learning.

Being born and raised as an Indigenous woman in this country has meant – like First Nations, Métis, and Inuit peoples across this country – that I was born into a colonial reality. I observed and experienced what the administration of my community and nation under the *Indian Act* has meant, and the disempowerment and harms it has perpetuated. This has included poverty and marginalization, as well as the division of my people - the Kwakwaka'wakw people on the west coast of Canada – into many bands and groupings, and interference with our laws and governing structures.

At the same time, under the guidance of my grandmother, parents, and family I saw the resilience and strength of Indigenous peoples striving for self-determination.



In the work of carrying forward our culture, laws, identity, governing structures, roles, and responsibilities - my people, like Indigenous peoples across the country, have responded to colonialism through efforts at self-determination and rebuilding their governments. Ending the colonial structures that impeded that self-determination was the life's work of my grandmother and father, and of countless Indigenous leaders across the country, who advocate for full inclusion of First Nations, Métis, and Inuit peoples in Canada. Self-determination is at the heart of what reconciliation, and the implementation of the UN Declaration, is about.

So what actions do government and Indigenous peoples need to take to make such a vision a reality?

On the part of government we must come to grips with the undeniable fact that our legislation, policies, and operational practices do not reflect the recognition of Indigenous peoples, laws, governments, and rights, and are not aligned with minimum standards set out in the Declaration. The work before us is to reflect recognition and the minimum standards at the heart of legislation and policy.

Aligning federal laws with the UN Declaration, such as through C-262, is one part of this, but there are three other foundations that need to be laid.

First, the standard of recognition of rights, including the right of self-determination and the inherent right of self-government, must be entrenched as the basis for conduct by federal officials in decision-making, negotiations, and actions. It is by setting the standard of recognition that proper relations can be built, and truly co-operative work can unfold.

Setting the standard of recognition also means that the minimum standards of the UN Declaration would have to be integrated and reflected in all aspects of how federal officials approach and undertake their work. This is what the Declaration itself points to when it speaks of "co-operative measures having to be taken to achieve its ends."

Setting the standard of recognition would also be a major step in the fulfilment of the promise of section 35. We have been stuck in 35 years of litigation about whether rights exist, and what they mean – when we could and should have been spending 35 years co-operatively implementing the full box of section 35 rights based on their recognition. By entrenching the standard of recognition, we can finally get to that point.

A first step was taken by our government through the 10 *Principles Respecting the Government of Canada's Relationship with Indigenous Peoples*. For those of you who have not had an opportunity to review these principles, I would encourage you to do so. They demonstrate our Government's commitment to recognition, and address many of the issues that will be vital to achieving reconciliation, including treaty implementation, the honour of the Crown, free prior and informed consent, and the recognition of rights. The next step has to be recognition principles and standards being binding in legislation, and reflected in policies and practices.

Second, we must create mechanisms to help facilitate and support Indigenous self-determination, and the inherent right of self-government, including transition out of the *Indian Act*.

Indigenous nations across the country are doing the work of advancing their visions and priorities for how they will govern their peoples, lands and resources. This work, however, is hampered by the obstacles that existing federal laws and policies have created. Thankfully, this has been changing, but too slowly and not evenly. There have been successes, from sectoral governance agreements to modern treaties and land claims agreements.

Today, the typical pattern of Crown-Indigenous relations is that decades of negotiations are required for rights recognition and implementation. Alternatively, millions of dollars might be spent in treaty implementation and litigation, often with negotiations still being needed. This is true for Indigenous governance rights, and Indigenous rights more broadly. This denial and delay has to stop, as we need to ensure that the space is created for all Indigenous peoples to succeed.

We have to shift to a context that embraces the many diverse paths that Indigenous peoples may choose to follow and where Indigenous nations who are ready and willing have the supports in place to move towards self-government. There also needs to be positive obligations on the federal government to respond to the visions and priorities that Indigenous nations set as a self-determining peoples. Canada must create the legislative and policy space so that the directions Indigenous peoples determine for themselves can become their reality.

Third, for generations, justifiable mistrust has built up in the Crown-Indigenous relationship. Governments have often not followed through on promises made and understandings reached, including historic treaties. Further, the struggle to implement modern treaties and land claims agreements, and the acceleration in the use of the courts in recent decades, illustrate the on-going impacts of this mistrust.

Of course, the failure to uphold such agreements and understandings is wholly inconsistent with the Declaration, and the standards set out in Article 37. Indigenous peoples have a right to see such understandings recognized and respected.

We have to continue to build a climate and culture where commitments are followed through, and actions and words are aligned. This is something that is being worked on across government. For example, at the Department of Justice we are actively working to align our decision-making and approaches to litigation with the recognition of rights and the imperative of reconciliation.

In doing this work, we will also advance a shift from conflict and litigation to co-operation as the norm of our relations. This requires new mechanisms for accountability, and new opportunities for the federal government and Indigenous peoples to collaboratively resolve disputes that arise on the path of recognition and implementation of their rights.

In addition to these three actions, there is vitally important work Indigenous peoples must define and undertake for themselves.

Self-determination means that Indigenous peoples are setting their own priorities, defining and refining their visions of governance now and into the future, and working to continue to build the capacity to make those a reality. No Crown government – or anyone else - can lead or do this work.



This means hard questions have to be asked and answered by Indigenous peoples. This is not easy – and many of the answers will require challenging common assumptions and rejecting things that are currently taken for granted.

Some of these questions include the following:

- How will you organize your government into the future?
- What processes and structures will you use to confirm your laws?
- What mechanisms will be used to ensure the legitimacy of your governments, and the participation and support of your members?
- What are the ways in which you foresee interacting with Crown governments in making decisions, and implementing your laws and policies?
- What are the capacities that need to be built to give life to or propel this vision of government?

- How will the Declaration be reflected in the structures, modes of operation, and standards that guide your current or future governance?

It also, means, particularly for First Nations, that the divisions caused by the imposition of the *Indian Act* and the imposition of Band Councils as an impoverished notion of government have to be addressed. Part of the work of self-determination is figuring out how each traditional rights-bearing collective will work and govern together in protecting their culture, way of life, lands, resources, and society. Reconstituting as peoples and nations, and rebuilding governments, go hand in hand in ending colonization and meeting the promise held in the Declaration and section 35 of our *Constitution*.

We are in a moment of transition – with vast work before us to implement the UN Declaration, and move beyond our colonial reality.

There is no roadmap to follow. If we are doing our work in implementing the UN Declaration properly, we will be setting an example that people across the globe will look towards.

Our government is a partner with Indigenous peoples in doing this work. The weeks and months ahead will be moments of tremendous action, including along the lines I have outlined today. It will challenge us to bring the best of ourselves to this work, and to confront the tough choices.

I think this is one of the most exciting moments in the history of this country. It is a moment of fulfilling promises. Through this transformative work, a new future will be possible for generations to come.