

First People's Governance

“Indigenous self-government is the formal structure through which Indigenous communities may control the administration of their people, land, resources and related programs and policies, through agreements with federal and provincial governments.” – [Indigenous Self-Government in Canada](#)

Indigenous peoples had their own forms of government for thousands of years before settlers arrived. Overtime, the colonial government imposed a paternalistic governing system and stripped communities of their self-governance. The *Indian Act* imposed a colonial governing system upon Indigenous communities and continues to determine how many communities are governed today. The *Indian Act*, passed in 1876, takes authority away from the Nations and put it in the hands of the Federal Government.

The struggle for self-government has been going on for decades, but in light of Canada's endorsement of the United Nations Declaration on the Rights of Indigenous Peoples and the recommendations of the Truth and Reconciliation Commission there is a renewed effort on the Federal Government's side to advance Indigenous self-government. Learn more about [Self-government](#).

United Nations Declaration on the Rights of Indigenous Peoples

Work towards UNDRIP began in the 80s but was only adopted by the UN in 2007. At the time, Canada was one of the four countries to vote against it (the other being New Zealand, the United States, and Australia). In 2010, Canada and the other three countries endorsed it but with reservations. Finally, after a change in government and the Truth and Reconciliation Commission's calls adopt UNDRIP as a framework for reconciliation, Canada fully endorsed UNDRIP without reservations in 2016.

Not the same as an international treaty. For it to have any force in a signatory country, that country must pass laws incorporating the terms.

Since 2016, the government has referenced UNDRIP in a handful of laws and policies. In December 2020, the government introduced Bill C-15 *The United Nations Declaration on the Rights of Indigenous Peoples Act*. If passed, [Bill C-15 would confirm UNDRIP as a universal human rights instrument that applies to Canadian law](#).

How do rights under UNDRIP relate to human rights? See Article 46 of UNDRIP:

Article 46

1. Nothing in this Declaration may be interpreted as implying for any State, people, group or person any right to engage in any activity or to perform any act contrary to the Charter of the United Nations or construed as authorizing or encouraging any action which would dismember or impair, totally or in part, the territorial integrity or political unity of sovereign and independent States.
2. In the exercise of the rights enunciated in the present Declaration, human rights and fundamental freedoms of all shall be respected. The exercise of the rights set forth in this Declaration shall be subject only to such limitations as are determined by law and in accordance with international human rights obligations. Any such limitations shall be non-discriminatory and strictly necessary solely for the purpose of securing due recognition and respect for the rights and freedoms of others and for meeting the just and most compelling requirements of a democratic society.
3. The provisions set forth in this Declaration shall be interpreted in accordance with the principles of justice, democracy, respect for human rights, equality, non-discrimination, good governance and good faith.

United Nations: [UNDRIP](#)

Federal Government: [Backgrounder: Bill C-15: United declaration on the Rights of Indigenous Peoples](#)

Canadian Lawyer Magazine: [Bill C-15 to affirm UNDRIP as human rights instrument applicable to Canadian Law & Indigenous law expert explains how UNDRIP advances the law of consultation and consent](#)

UBC: [UN declaration on the rights of Indigenous Peoples](#)

Indian Act

The Indian Act was originally enacted to assimilate Indigenous Peoples and attempted to do so through paternalistic policies and bans on cultural practices. Some of the most egregious policies barring First Nation Peoples from hiring lawyers, and sexist rules which attached a woman's First Nations status to her husband's. In 1925, the Indian Act even outlawed dancing as a means to crush Indigenous culture. The Act controlled who was legally considered "Indian", removing status from people for reasons having nothing to do with how they identify or their heritage.

"For nearly a century, it was effectively illegal to be a First Nations person in a traditional sense, and impossible to interact with non-Indigenous society in any meaningful way without losing status."

– The Canadian Encyclopedia



The horrific realities of World War 2 lead to a change in attitude toward human and minority rights in Canada. As a result, the government made amendments to the Indian Act in 1951 to remove some of the most overtly discriminatory sections such as the ban on cultural practices and the prohibition against Indigenous People hiring lawyers. However, many discriminatory and paternalistic policies remained intact, including those that particularly disempowered First Nations women. Women would still lose their Indian Status by marrying a non-Indian man until 1985.

Many reforms and attempted reforms to the Indian Act have happened over the years but it remains a problematic instrument. Nevertheless, the debate goes on as to whether to get rid of the Act entirely, or continue with the reform process.

For an interesting discussion on what to do with the Indian Act, see [The Indian Act: What to do with it?](#)

https://indigenousfoundations.arts.ubc.ca/the_indian_act/

<https://www.thecanadianencyclopedia.ca/en/article/indian-act>