



KASKA DENA COUNCIL

Our Past,  
Our Present,  
**Our Future.**

## Our Past 4

When and why was KDC established?	6 - 7
What is KDC's purpose?	8 - 9
What is KDC's mandate?	8 - 9
Why was KDC mandated to only advance interests of Kaska who are beneficiaries of a treaty settlement with Canada and BC?	10
How was KDC set up to be administered?	11
What was the historical work of the Kaska Dena Council?	12 - 13

## Our Present 14

What has changed?	14 - 15
What is the current situation regarding negotiations with BC & Canada?	16 - 17
What has KDC done to promote Kaska National unity?	18 - 19
What other work does KDC do to support communities?	20 - 21

## Our Future 22

Opportunity for unity.	22 - 23
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## KASKA DENA COUNCIL

# Our Past, Our Present and Our Future



Kaska Dena Council originated at a time when there was very little recognition of Indigenous Rights, and Kaska Dena needed an organization to fight and advocate for our rights and protect our land from being flooded by a dam on the Liard River. Many years have past, and now is time for KDC to evolve into an organization that meets our current needs; is grounded in our traditional laws and supports all Kaska in achieving our collective vision for our future.

This document has been prepared so that Kaska can review and recall the path we have travelled

and our accomplishments to date, how the political, environmental, and social climate has changed and consider what Kaska people would like to see Kaska Dena Council become now and into the future to meet our evolving needs.

We look forward to hearing your views and your vision of how you would like KDC to support Kaska in the future as we continue to strive toward protection of our Title and Rights, protection of our land and resources and create a sustainable future for our children and our grand children.

## When and why was KDC established?

During the 1980's BC Hydro proposed to dam the Liard River north of the Liard Hotsprings. In response to this threat, in 1981 Kaska members organized themselves and created the Kaska Dena Council to prevent BC Hydro from damming the Liard. See Appendix A for signatures of those who attended the first meeting to form KDC and its Constitution and Bylaws).

Kaska Dena Council then submitted a comprehensive claim to Canada in 1982 under their Claims Policy and it was accepted in 1983.

This was to show that Kaska Dena have a claim as aboriginal peoples and had not signed a Treaty.

KDC was formed as a Society in 1981 under the Yukon Societies Act and in 1983 under the BC Societies Act. It was established by Kaska members with a Constitution and Bylaws and was (is) required to maintain good standing through the [BC Societies Act](#).



## What is KDC's purpose?

The purpose of KDC as set out in its original Constitution is to represent those who are of Kaska ancestry and prior to 1940 were ordinarily residents in or used and occupied the Kaska Dena Ancestral Territory in British Columbia.

KDC's purpose is to also to promote, protect and implement Kaska law and legal orders with respect to the land and cultural heritage of the Kaska Dena, promote unity and sharing within the Kaska Nation, promote a community environment wherein all Kaska people can enjoy physical and spiritual health

## What is KDC's mandate?

A mandate was given to KDC by those Kaska Dena who reside in British Columbia, through an assembly at Rapid River in 1995. The mandate is "to advance the interests of Kaska individuals who are beneficiaries of a potential treaty settlement with Canada and BC. Committed to promoting and protecting Kaska Dena's Indigenous Rights and Title". This includes all the

and live with dignity and pride, work toward the recognition and affirmation of Aboriginal Rights and Title of the Indigenous Peoples of Canada, and do all things necessary to achieve the foregoing objectives.

In 2019 changes to the KDC Bylaws were passed by members at a KDC General Assembly held in Lower Post which updated the purpose of Kaska Dena Council. (See KDC Constitution and Bylaws: <https://kaskadenacouncil.com/download/kdc-constitution-and-bylaws/?wpdmdl=21591&refresh=6175f13e141fa1635119422>)

Kaska Dena and the Kaska Dena descendants who are not registered as an Indian under the Indian Act or are registered as an Indian under the Indian Act or other Indian Act Bands outside the Kaska Traditional Territory. KDC is not a rights holder. It represents the interests of those who are rights holders.



## Why was KDC mandated to only advance interests of Kaska who are beneficiaries of a treaty settlement with Canada and BC?

Kaska have always said that all Kaska belong to one Nation. Borders not of our making divided us and so our Ancestral Territory now lies in what is referred to as British Columbia, Yukon and NWT. Because of these borders we were treated as trans-boundary Indians, and we have had to negotiate with the Governments who govern those jurisdictions. Meaning, BC Indigenous Societies and Bands, (including KDC) had to negotiate with BC and Canada under the BC Treaty process while Yukon First Nations had to negotiate with Yukon and Canada under a Land Claims process.

There has been a mutual desire for decades for our communities to work together to protect the Kaska Ancestral Territory. Our leadership has known that to best serve our roles as land stewards, we must have one voice. However, within the multiple government jurisdictions of the Kaska Ancestral Territory, there have been fundamentally different views of Indigenous rights, ownership, and authority over lands and resources and different government-driven policies and negotiation processes.



## How was KDC set up to be administered?

KDC was established with a Constitution and Bylaws and as a registered BC Society, must comply to regulations under the BC Society's Act. It has historically and still to this day, is kept in good standing through annual reporting and an audit. KDC holds an Annual General Assembly where special resolutions are passed by members.

Kaska Dena Council represents its members, as per its mandate. To have changes to its bylaws or Constitution, KDC must notify members 60 days in advance of a General Assembly and present the proposed bylaw changes.

KDC has a Board of Directors that is comprised of the elected Chiefs and Deputy Chief of the Kaska

BC Indian Act Bands, family representatives of the ancestral communities of Fireside and Muncho, a representative of the hereditary system and three elected Executive (Chairperson, Vice-Chair of Finance and Vice Chair of Lands and Resources).

In 2019 a special resolution was passed to change the elected Executive at the next election (2021). The title of Vice Chair of Lands and Resources was changed to Vice Chair of Reconciliation and Research. Vice Chair of Finance was changed to a staff position and a new Vice Chair of Youth was created. The special resolution also amended the Bylaws to accommodate representation from Ross River and Liard on the KDC Board.

## What was the historical work of the Kaska Dena Council?

In 1992 the BC Treaty Commission was established by agreement among BC, Canada and the First Nations Summit and became the six-stage process for BC Indigenous Nations to negotiate a tri-partite Treaty Agreement. Chronology of BC Treaty Negotiations from 1982 to 2019 (Appendix B).



### BC NEGOTIATIONS:

Under Treaty Negotiations, and while still in Stage 4 of the BC Treaty Process (Negotiation of Agreement in Principle), KDC began to explore other opportunities based on reconciliation.

#### 2017

Canada tabled a concept for a reconciliation negotiations process and expressed their openness to negotiating a National approach with Kaska Dena.

#### 2019

KDC tabled an MOU at the tripartite negotiation table to transition from Treaty to a Reconciliation Agreement. The MOU was not signed off by all three parties, pending resolution of representation.

#### JUNE 2020

KFN, DRFN, DDC and KDC held a zoom meeting with the BC Minister of Indigenous Relations and Reconciliation to explore a Comprehensive Reconciliation Agreement (CRA) in BC through a Bi-lateral process. Kaska were told that BC did not have the funds to support a CRA with Kaska at this time.

### OTHER AGREEMENTS KDC WAS A PART OF:

- » Incremental Treaty Agreement & Amendments (<https://kaskadenacouncil.com/kdcagreements>)
- » Strategic Engagement Agreement (<https://kaskadenacouncil.com/kdc-agreements>)
- » Government to Government Table on Land & Resources
  - Fish and Wildlife Table
  - Conservancies, Parks and Protected Areas Table
  - Minerals Table
  - Strategic Land Use Planning Agreement (<https://kaskadenacouncil.com/kdc-agreements>)
  - Forestry Consultation and Revenue Sharing Agreement
- » Oil and Gas Interim Capacity Agreement
- » Muskwa-Kechika Management Area, Letter of Understanding (<https://kaskadenacouncil.com/kdc-agreements>)
- » Kaska Collaboration Agreement (<https://kaskadenacouncil.com/kaska-national-agreements>)
- » Ne-ah (Horse Ranch Range) Protected Area
- » Social Economic Participation Agreement Including Profit Sharing



## What has changed?

In the decades that the Kaska Dena Council has been negotiating with Canada and British Columbia, the rights and title of Indigenous peoples have, through court cases and legislation, advanced the inherent rights of Indigenous Peoples significantly. Loans, previously a requirement of the federal government for Indigenous Nations to support their negotiations have now been forgiven by the federal government.

Reconciliation has begun with both governments and will provide real advancements in self government and the rights of the Kaska Dena. Historically, Treaties were based on exchanging small parcels of land for rights and title – something the Kaska Dena and KDC have never been in agreement with. Our negotiations have always been based on protection and management of 100% of the Kaska Ancestral lands in British Columbia as demonstrated by the Kaska Land Model.

The Kaska Dena Council carries a long and proud history of defending the rights and title of the Kaska Dena in British Columbia. In providing for the defense of Kaska rights and title, the KDC has evolved a leadership and developed a team of technical support that has produced a number of significant milestones in self-government, and in the protection and management of 100% of the Ancestral Territory in British Columbia.

The passing of the *BC Declaration of Rights Indigenous Peoples Act* (DRIP Act in BC), and the passing into law of the United Nations Declaration of the Rights of Indigenous Peoples by the Federal Government in June 2021 means that the Rights and Title of Indigenous People cannot be taken away through negotiations. On the right are the milestones that have changed the nature of negotiations with government and have created the present negotiation climate:

### 2007

United Nations General Assembly adopted the Declaration on the Rights of Indigenous Peoples (UNDRIP)

### 2016

Canada endorsed the UNDRIP and set out 10 principles for negotiating with Indigenous Peoples. Canada drafted and tabled Legislative Bill 262 which when to third reading but never passed. Canada has also set up over 60 Reconciliation tables across Canada including RRDC and LFN.

### 2018

BC followed and set out the same 10 principles and passed Legislative Bill C-41 to implement the UNDRIP in BC.

### DEC 2018

Canada, BC, FN Summit (Tripartite Party) signed a principle's accord to transform the BCTC process based on the UNDRIP Legislation. As per the Principle's Accord approved Dec 2018, by Canada, BC and BC FN Leadership Council, the proper rights holders have a right to self-determination, the right to choose representation.

### 2018

The BC Treaty Commission's mandate was expanded to include supporting negotiating parties in implementing the United Nations Declaration on the Rights of Indigenous Peoples (UN Declaration), the Truth and Reconciliation Commission of Canada: Calls to Action (TRC Calls to Action), the Principles Respecting the Government of Canada's Relationship with Indigenous Peoples, and the recognition of First Nations title and rights.

### 2019

The provincial government passed the *Declaration on the Rights of Indigenous Peoples Act* (Declaration Act) into law in November 2019.

### 2021

On June 16, Canada's Senate voted to pass Bill C-15, the *United Nations Declaration on the Rights of Indigenous Peoples Act* (the UNDRIP Act or the Act), into law.



## What is the current situation regarding negotiations with BC & Canada?

Since 2019 the Kaska Treaty Side Table has been dealing with the issue of representation, which must be addressed before negotiations can continue. The opportunity is before Kaska to resume negotiations in accordance with the changes that have taken place with legislation such as the BC Declaration of the Rights of Indigenous Peoples Act, and Free, Prior and Informed Consent (FPIC). Following is a chronology of events which has brought us to our current situation regarding negotiations with BC and Canada:

### **JANUARY 24, 2018**

KDC filed a statement of Claim in the Yukon Supreme Court against the Yukon Government (KDC Wildlife Case) stating that the Yukon Government must Consult and Accommodate prior to issuing Hunting Licenses and Tags to sport hunters to hunt big game.

### **MARCH 2019**

The Judge ruled against the KDC stating that KDC had not demonstrated the authority to file the case. (Note: because of this ruling on a technicality, consultation with BC communities on hunting still does not occur even though Kaska Dena rights encompass all of the Kaska Ancestral territory regardless of community/band/non status. It is a collective right.)

### **MARCH 14, 2019**

Based on the outcome of the KDC Wildlife Case, Canada stated that the DDC has no rights, BC and the Yukon Gov take the same view. Note: This perspective is contrary to the BC DRIP legislation which states that Indigenous peoples have the right of self-determination.

BC, Yukon and Canada stated they will not negotiate with the KDC if the KDC is representing Daylu Dena Council.

### **MARCH 29, 2021**

KDC received a letter signed by Chief Charlie and Deputy Chief Schilling stating that effective immediately “Liard First Nation will be moving forward with any and all discussions pertaining to our Nation on a government to government basis.”

### **MARCH 31, 2021**

KDC responded to LFN acknowledging receipt of their letter.

### **APRIL 15, 2021**

KDC second response to LFN addressing their request for information.

**The parties, Canada, BC and KDC are now focusing on addressing representation while maintaining current agreements and process.**

## What has KDC done to promote Kaska National unity?

Over the course of the summer of 2020 and following the Liard First Nation election, KDC Chair Danny Case reached out to Kaska Leaders and offered to host a meeting to discuss Kaska National Unity and a one National table approach toward Negotiation.

Following is a chronology of events and meetings that KDC organized and or participated in to promote National Unity:



### **AUGUST 29-30, 2020**

Kaska Dena Council organized and hosted a National Leadership Gathering at Turnagain Lodge to discuss Kaska National Unity.

### **NOVEMBER 17, 2020**

KDC met with LFN Leadership to provide a briefing on KDC.

### **NOVEMBER 25-26, 2020**

Two Day National Leadership meeting organized by Kaska Dena Council. An outcome of this meeting was the request by Kaska Leadership for KDC to provide historical information and a proposal of how KDC could support National unity.

### **JANUARY 20-21, 2021**

KDC organized a National Leadership Meeting and provided information as requested including potential transitional structure for KDC to support National Unity.

Following this meeting Leadership agreed to meet on a monthly basis without KDC.





## What other work does KDC do to support communities?

Kaska Dena Council also supports communities through a number of initiatives including providing funding and technical support for:

- » Support of Elder and youth gatherings
- » Health and wellness initiative in BC Kaska communities
- » Research for green energy and potential tourism initiatives
- » Tourism strategies
- » Forestry Negotiations
- » Strategic Engagement Negotiations
- » Technical support to Kaska leaders or Band Administration as needed
- » Works with and supports Land protection like Dene K'eh Kusan
- » Creates and funds communication tools and processes



## Opportunity for unity.

This is an especially important time in the history of the Kaska Nation, as to where are we going as a Nation with the opportunity for Kaska to unite and be in the driver's seat.

The Declaration on the Rights of Indigenous Peoples Act in BC, including acknowledgement of Free, Prior and Informed Consent, as documented in the UNDRIP, along with acknowledgement that Indigenous People have the right to self determination, and the federal government's agreement to disregard jurisdictional boundaries and negotiate with Kaska as a Nation can put Kaska in in a position of strength.

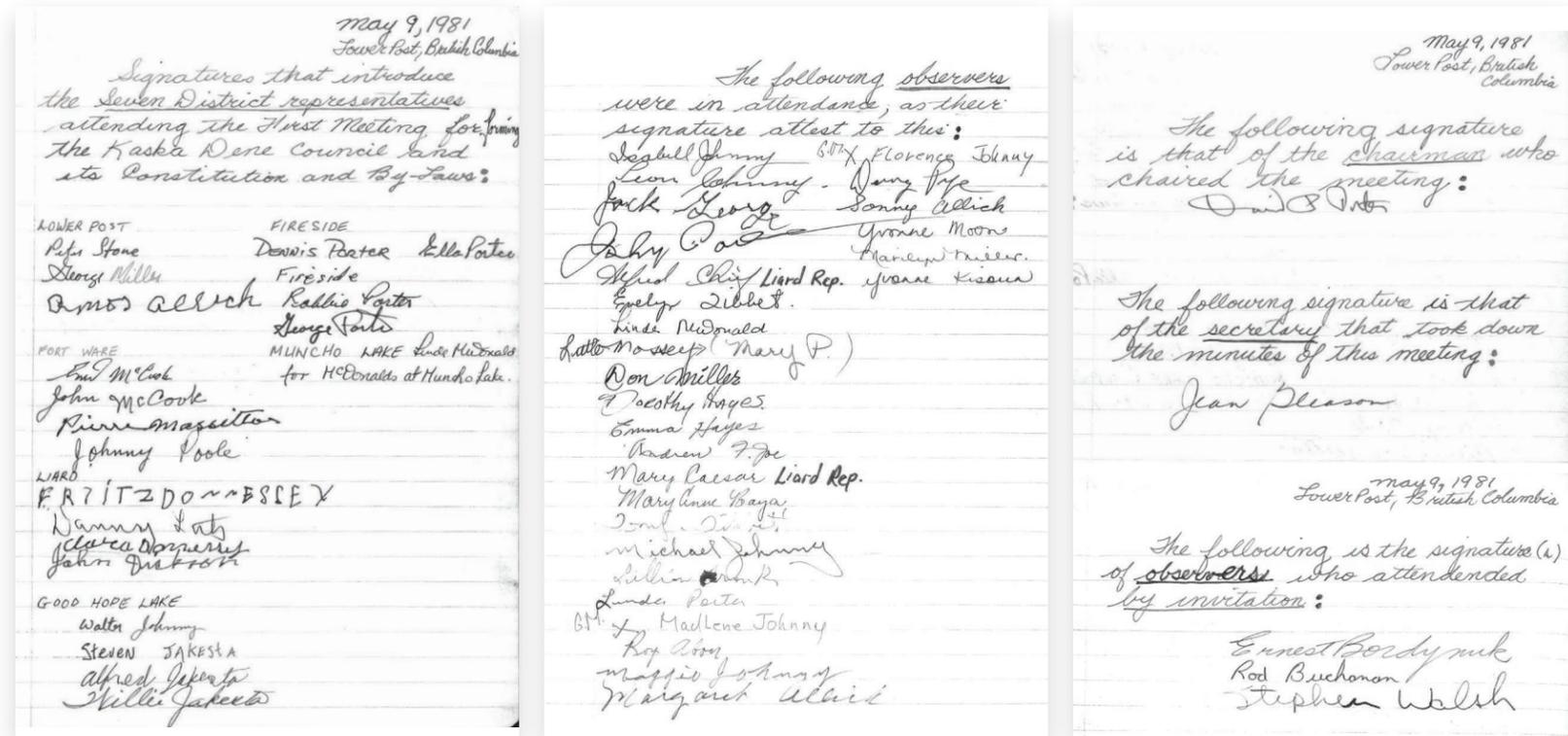
KDC originated at a time when there was very little recognition of Indigenous Rights, and Kaska Dena needed an organization to fight and advocate for our rights and protect our land from being flooded by a dam on the Liard River. Now is time for KDC to become an organization that is grounded in our traditional laws and supports all Kaska in achieving our collective vision for National Unity.

The opportunity is available for Kaska to unite as one Nation and organize ourselves as a united strong Nation, with a national approach to safeguard our lands, our resources our children's future, and to become the strong and rightful stewards of our Ancestral Territory.

### WE'D LIKE TO HEAR FROM YOU

If you would like to provide your comments or views, please submit by email to KDC Chair Danny Case: [danny.case8@gmail.com](mailto:danny.case8@gmail.com)

**First meeting to form Kaska Dena Council:**



**Following is a historical chronology of KDC's Negotiations from 1982 - 2019:**

- » 1982 KDC submitted a comprehensive claim to Canada under their Claims Policy.
- » KDC filed statement of intent to Negotiate a Treaty in 1993 through the BC Treaty Commission.
- » The Yukon Band Final Negotiations under the Umbrella Final Agreement where full on, but there was no negotiations process in BC.
- » KDC engaged in BC Treaty Process in about 1995.
- » January 1998, KDC Tabled comprehensive settlement proposal for southern Yukon Transboundary settlement under the UFA (as Trans-boundary Indians).
- » May 1998, KDC hosted a Northern Gathering in Lower Post with neighbouring FN's to discuss overlap issues as required by the BCTC.
- » In 2000, LFN and RRDC submitted their Statement of Intent as Trans-boundary Indians to the BCTC and joined the KDC table. (Letter from Canada to BCTC).
- » July 2002 Canada did not renew their mandate to negotiations with the Kaska Nation which included LFN, RRDC and KDC as Trans-boundary Indians.
- » KDC spent the next few year negotiating an abeyance agreement, placing all of its court cases in abeyance.
- » In the spring of 2008 – Canada, BC & KDC agreed to re-engage in negotiations in BC, LFN and RRDC chose to sit this one out. (Letter sent to BCTC).
- » KDC continued to negotiate Stage 4 (Agreement in Principle) under the BC Treaty process.
- » March 2019 – KDC negotiations were put on hold pending resolution of representation. The parties agreed to focus the discussions on representation and maintaining current agreements such as the Strategic Engagement Agreement and Forestry.

## Declaration on the Rights of Indigenous Peoples Act (Declaration Act):

Bill 41 – 2019: Declaration on the Rights of Indigenous Peoples Act [https://www.leg.bc.ca/content/data%20-%20%201d/p/41st4th/3rd\\_re...](https://www.leg.bc.ca/content/data%20-%20%201d/p/41st4th/3rd_re...)

**2019 Legislative Session: 4th Session, 41st Parliament**  
**THIRD READING**

The following electronic version is for informational purposes only.  
The printed version remains the official version.

Certified correct as passed Third Reading on the 26th day of November, 2019  
Kate Ryan-Lloyd, Acting Clerk of the House

**HONOURABLE SCOTT FRASER**  
**MINISTER OF INDIGENOUS RELATIONS**  
**AND RECONCILIATION**

**BILL 41 – 2019**  
**DECLARATION ON THE RIGHTS OF**  
**INDIGENOUS PEOPLES ACT**

**Contents**

- 1 Interpretation
- 2 Purposes of Act
- 3 Measures to align laws with Declaration
- 4 Action plan
- 5 Annual report
- 6 Agreements
- 7 Decision-making agreements
- 8 Offence Act
- 9 Power to make regulations
- 10 Commencement

**Schedule**

HER MAJESTY, by and with the advice and consent of the Legislative Assembly of the Province of British Columbia, enacts as follows:

**Interpretation**

1 (1) In this Act:

**"Declaration"** means the United Nations Declaration on the Rights of Indigenous Peoples set out in the Schedule;

**"Indigenous governing body"** means an entity that is authorized to act on behalf of Indigenous peoples that hold rights recognized and affirmed by section 35 of the *Constitution Act, 1982*;

**"Indigenous peoples"** has the same meaning as aboriginal peoples in section 35 of the *Constitution Act, 1982*;

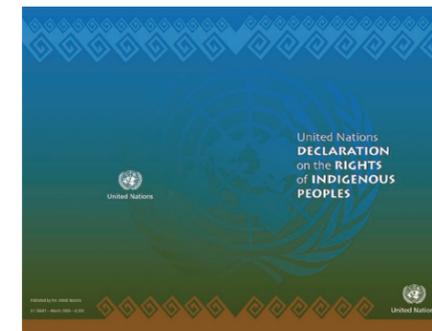
**"statutory power of decision"** has the same meaning as in the *Judicial*

1 of 15 2021-11-10, 7:02 a.m.

The British Columbia provincial government passed the Declaration on the Rights of Indigenous Peoples Act (Declaration Act) into law in November 2019. The Declaration Act establishes the UN Declaration as the Province's framework for reconciliation, as called for by the TRC's Calls to Action and sets out a process to align B.C.'s laws with the United Nations Declaration on the Rights of Indigenous Peoples.

To download a copy of the BC Declaration Act, go to:  
<https://www.leg.bc.ca/parliamentary-business/legislation-debates-proceedings/41st-parliament/4th-session/bills/third-reading/gov41-3>

To download a copy of the UNDRIP, go to:  
[https://www.un.org/esa/socdev/unpfii/documents/DRIPS\\_en.pdf](https://www.un.org/esa/socdev/unpfii/documents/DRIPS_en.pdf)



## United Nations Declaration on the Rights of Indigenous Peoples Act:

Department of Justice Canada / Ministère de la Justice Canada

**UNITED NATIONS DECLARATION ON THE RIGHTS OF INDIGENOUS PEOPLES ACT**

On June 21, 2021, the *United Nations Declaration on the Rights of Indigenous Peoples Act* received Royal Assent and immediately came into force. This legislation advances the implementation of the Declaration as a key step in renewing the Government of Canada's relationship with Indigenous peoples.

The purpose of this Act is to affirm the Declaration as an international human rights instrument that can help interpret and apply Canadian law. It also provides a framework to advance implementation of the Declaration at the federal level.

This Act requires the Government of Canada, in consultation and cooperation with Indigenous peoples, to:

- take all measures necessary to ensure the laws of Canada are consistent with the Declaration
- prepare and implement an action plan to achieve the Declaration's objectives
- table an annual report on progress to align the laws of Canada and on the action plan

This Act requires that the action plan include measures:

- to address injustices, combat prejudice and eliminate all forms of violence, racism and discrimination against Indigenous peoples, including elders, youth, children, persons with disabilities, women, men and gender-diverse and two-spirit persons
- to promote mutual respect and understanding, as well as good relations, including through human rights education
- related to the monitoring, oversight, follow up, recourse or remedy or other accountability with respect to the implementation of the Declaration

This action plan must also include measures for monitoring the implementation of the plan itself and for reviewing and amending the plan.

Canada

On June 21, 2021, the United Nations Declaration on the Rights of Indigenous Peoples Act received Royal Assent and immediately came into force. This legislation advances the implementation of the Declaration as a key step in renewing the Government of Canada's relationship with Indigenous peoples.

This Act requires that the action plan include measures: to address injustices, combat prejudice and eliminate all forms of violence, racism and discrimination against Indigenous peoples, including elders, youth, children, persons with disabilities, women, men and gender-diverse and two-spirit persons to promote mutual respect and understanding, as well as good relations, including through human rights education related to the monitoring, oversight, follow up, recourse or remedy or other accountability with respect to the implementation of the Declaration

To learn more about the Act go to:  
<https://www.justice.gc.ca/eng/declaration/about-apropos.pdf>



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