

Indigenous Heritage and the United Nations Declaration on the Rights of Indigenous Peoples

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IHC • CPA

Indigenous Heritage Circle
Cercle du patrimoine autochtone

INDIGENOUS HERITAGE and the UNITED NATIONS DECLARATION on the RIGHTS of INDIGENOUS PEOPLES

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Haa usteeyi Celebration for National Tlingit Day, Teslin, YT

Photo: Minnie Clark

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MEETINGS

June Bam-Hutchison, Interim Director of the San and Khoi Centre; **Chief Martinus Fredericks**, Paramount Chief of the Aman (Nama) Traditional Council; **Taurig Jenkins**, High Commissioner of the Goringhaicona Khoi Khoi Traditional Indigenous Council; **Bradley Van Sitters**, Khoisan activist; and **Sharon Groenmeyer**, Research Officer, Transformation, Health Sciences, University of Cape Town, South Africa.

Claire Charters, Ahonuku | Associate Professor, Manutaki | Director, Te Puna Rangahau o te Wai Ariki | Aotearoa Centre for Indigenous Peoples and the Law, Waipapa Taumata Rau | University of Auckland, New Zealand.

Terri Janke, Solicitor Director of Terri Janke and Company, Indigenous lawyer of Wuthathi/Meriam heritage.

Elisabeth Middleton, Professor, Department of Native American Studies, Yocha Dehe Endowed Chair in California Indian Studies, University of California, Davis.

David Schimpky, Director of Secretariat, and **Barbara Filion**, Culture Programme Officer, Canadian Commission for the United Nations Educational, Scientific and Cultural Organization (CCUNESO).

Katharine Turvey, Museums & Society Coordinator, International Council of Museums (ICOM), Paris. Indigenous Heritage Circle

In addition to board members Karen Aird, Tim Bernard, Melody Lepine, and Kisha Supernant, who were interviewed for this report, Catherine Bell and Cody Groat contributed insights and advice. Eliot McRae, the IHC administrator, provided important support to the project and the consultants.

INTRODUCTION

PURPOSE AND SCOPE

This report explores how the principles and articles of the United Nations Declaration on the Rights of Indigenous Peoples (the Declaration, or UNDRIP) can help inform practices, policies, and legislation to better protect Indigenous heritage. The report was prompted, in part, by the passage of the United Nations Declaration on Rights of Indigenous Peoples Act¹ (UNDRIP Act), which commits the Government of Canada and its departments and agencies to prepare a plan to implement the Declaration. Many of the interviewees work professionally in cultural heritage, and many of their recommendations focus on their areas of expertise, but they all have a broad understanding of Indigenous heritage and how it intersects with other areas of community concern, such as economic development, health, and education.

SUPPORT FOR THE STUDY

This study, including the observations and recommendations, was defined and completed under the direction of the Indigenous Heritage Circle (IHC), with funding from Parks Canada. The study was informed by the knowledge, insights, and opinions of Indigenous people who work for heritage institutions (Indigenous controlled and not), are involved in heritage at a grassroots level in their communities, or have specialized knowledge of the Declaration in the context of justice. Given the time frame and funding for the project, the IHC asked that the authors interview around 20 individuals. Accordingly, the observations and recommendations are based on this set of interviews.

METHODOLOGY

The study was conducted from December 2021 to March 2022. A literature review was initiated in December–January and added to in February as more references were suggested through meetings and interviews. Meanwhile, the interview guide, a comprehensive list of potential people to interview, and a consent form that included permission to include individual identities and words in the report were developed for approval by IHC. Authors shared the quotes and their acknowledgements with interviewees for approval prior to publication, but the report itself was reviewed by only a few IHC board members before being circulated to a wider public.

During the short time in which this report was written, there were significant developments in the implementation of UNDRIP. First, Prime Minister Trudeau wrote in his December 2021 Ministerial Mandate Letters, “I am directing every Minister to implement the United Nations Declaration on the Rights of Indigenous Peoples and to work in partnership with Indigenous Peoples to advance their rights.”² Second, the recent delegation of Indigenous leaders, Elders, and residential school survivors that met with Pope Francis in Rome on March 28 to April 1, 2022, to discuss the lasting impact on Indigenous communities of the residential school system, and the role played by members of the Catholic Church, acted in the spirit of UNDRIP. Whether or not they mentioned UNDRIP directly, they demonstrated the importance of Indigenous heritage. Finally, the Government of British Columbia released its Action Plan on the Declaration on March 30, 2022.³ Given how rapidly the environment is changing, the findings of this report need to be considered within the context of the time in which they were written.

¹ Canada, *United Nations Declaration on the Rights of Indigenous Peoples Act*, s.c. 2021, c 14, assented to 2021-06-21, online at <https://laws-lois.justice.gc.ca/eng/acts/U-2.2/page-1.html>.

² Prime Minister of Canada, Mandate Letters, 16 December 2021, online at <https://pm.gc.ca/en/mandate-letters>.

³ British Columbia, Ministry of Indigenous Relations and Reconciliation, *Declaration on the Rights of Indigenous Peoples Act Action Plan, 2022-2027, 2022*, online at www2.gov.bc.ca/assets/gov/government/ministries-organizations/ministries/indigenous-relations-reconciliation/declaration_act_action_plan.pdf.

Interviewees were selected based upon several criteria, including a diversity of Indigenous identities (First Nations, Métis, and Inuit; those who grew up in an Indigenous community and those who did not), geographic locations, heritage disciplines, and other areas of expertise related to the Declaration. Interviews were conducted by phone or videoconference from January to March 2022. Results were analyzed and recommendations developed at the end of February. The draft report was reviewed by IHC and revised prior to design. A summary was prepared for translation into three Indigenous languages: ᓂᐱᐃᐅᐅᐃᐅᐅ nēhiyawēwin (Plains Cree), Inuktitut, and Mi'kmawí'simk.

In addition to interviews with individuals in Canada, meetings were held with individuals in Australia, New Zealand, and the United States – the three countries besides Canada with Indigenous Peoples involved in the development of UNDRIP that did not initially ratify the Declaration. These meetings were conducted to learn these individuals' current thinking about implementing UNDRIP from their experience. A meeting was also held with Indigenous colleagues in South Africa because of related work that one of the consultants has been doing there on human remains management and repatriation. Each of these countries has significant Indigenous populations. Finally, individuals from the Canadian Commission for UNESCO and the International Council of Museums were consulted to see where UNDRIP fits within their strategic priorities.

The full list of interviewees and individuals consulted is found in the acknowledgements section above. The observations and recommendations included in this study reflect what was shared during the interviews and meetings and are not those of the authors or IHC. The authors recognize that there are many perspectives and areas of knowledge that are not represented in this report and that the process of implementing the Declaration will take many years. This is simply a first step.



Photo: Fred Cattroll

BACKGROUND

MEANING OF INDIGENOUS HERITAGE

The Indigenous Heritage Circle (IHC) explored the meaning of the term ‘Indigenous heritage’ in workshops across Canada that were organized by the IHC alone or with Parks Canada. The following definition emerged from these conversations and guides what ‘Indigenous heritage’ means in this report.

IHC DEFINITION OF INDIGENOUS HERITAGE

Indigenous heritage is complex and vibrant. Indigenous heritage encompasses ideas, experiences, belongings, artistic expressions, practices, knowledge, and places that are valued because they are culturally meaningful and connected to shared memory. Indigenous heritage cannot be separated from either Indigenous identity or Indigenous life. It can be inherited from ancestors or created by people today.

Interviewees provided with this definition were asked what the term ‘heritage’ means to them. They expressed their definitions of heritage in their own ways, with an emphasis on the importance of land, place, language, and identity, and as something that is equally “about the future as it is about the past.”⁴ Some people recalled learning about themselves, their histories, and their communities from parents and grandparents, but others were forced to take extra steps to access their heritage because they had been separated from their Indigenous communities for historical and often traumatic reasons, such as generations attending residential schools, the Sixties Scoop, and family separations. Madeleine Redfern explained how she re-engaged with her Inuit culture and heritage after living for some time outside Nunavut as a child and adult:

Listening to my Inuk grandmother [in my youth] had a lasting impact on me. With the birth of my daughter, I reintegrated into the Inuit community and with IQ [Inuit Qaujimajatuqanit]. I found support and direction. I wanted my daughter to be part of Inuit life in Ottawa, so I volunteered and did advocacy work with the intention of learning more.⁵



Hunting, near Resolute, NU

Photo: Devon Manik

⁴ Ry Moran, interview with Catherine C. Cole, 28 February 2022.

⁵ Madeleine Redfern, interview with Julie Harris, 10 January 2022.

Whether learning directly from Elders and family or through other means, the process of learning about one's Indigenous protocols, territories, languages, and history is also part of the practice of Indigenous heritage.

UNITED NATIONS DECLARATION ON THE RIGHTS OF INDIGENOUS PEOPLES

UNDRIP was adopted by the United Nations (UN) in 2007 after 25 years of persistent advocacy by Indigenous Peoples about the repeated violations of their human rights, as defined in the United Nations' Universal Declaration of Human Rights.

UNDRIP is an eloquent call for recognition of both individual human rights and Indigenous collective rights. While a UN declaration on its own does not have the status of a law, the aspirations of a declaration can influence law and policy in sovereign states like Canada. John Borrows, a constitutional law and Indigenous Law expert, explains that a declaration is “a statement of intent for future action. This directs the parties' work in a particular field, in this case in the field of human rights as it deals with Indigenous peoples.”⁶ With respect to its application in law and the courts, scholars of Indigenous rights and law have explained that a declaration is different than a treaty or a convention because it is not binding. However, a declaration can, through various ways, become interwoven with national laws.

Indigenous Peoples in Canada travelled hand in hand with Indigenous Peoples in other countries on every step of the difficult journey toward adoption of the Declaration. When Canada, the United States, New Zealand, and Australia all refused to sign the Declaration in 2007, Canada was particularly vocal about its opposition to the principle of free, prior, and informed consent (FPIC) stated in Article 19 and to the wording of Article 26 that “Indigenous peoples have the right to the lands, territories and resources which they have traditionally owned, occupied or otherwise used or acquired.”⁷

Finally, in 2016, Canada officially adopted the Declaration. In 2019, the Province of British Columbia passed the Declaration on the Rights of Indigenous Peoples Act.⁸ In 2021, Bill C-51 was passed by the Parliament of Canada to plan for the implementation of the Declaration at the federal level.⁹ The Northwest Territories is currently developing legislation to implement UNDRIP.

Since the United Nations adopted the Declaration, courts in Canada have made reference to it as embodying important principles regarding the government's relationship with Indigenous Peoples.¹⁰ The Government of Canada has also established guidelines for supporting human rights defenders internationally who are pressing for rights affirmed in the Declaration,¹¹ and Indigenous Nations and

⁶ John Borrows, “Rights & Responsibilities: Implementing UNDRIP in B.C. and in Our Own Communities,” *The UN Declaration on the Rights of Indigenous Peoples in Canada: Lessons from B.C.* (Yellowhead Institute, December 2020): 9. Online at <https://yellowheadinstitute.org/wp-content/uploads/2020/12/yellowhead-institute-bc-undrip-report-12.20-compressed.pdf>.

⁷ United Nations, “Resolution adopted by the General Assembly on 13 September 2007, 61/295. United Nations Declaration on the Rights of Indigenous Peoples,” 13 September 2007, online at <https://documents-dds-ny.un.org/doc/UNDOC/GEN/N06/512/07/PDF/N0651207.pdf?OpenElement>. [All references to articles in the Declaration in this report use the wording from this document.]

⁸ British Columbia, Declaration on the Rights of Indigenous Peoples Act [SBC 2019] online at www.bclaws.gov.bc.ca/civix/document/id/complete/statreg/19044. United

⁹ Canada, *United Nations Declaration on the Rights of Indigenous Peoples Act*.

¹⁰ Thomas and Saik'uz First Nation v. Rio Tinto Alcan Inc., 2022 (BCSC 15), online at <https://canlii.ca/t/jlnn6>.

¹¹ Global Affairs Canada, “Voices at Risk: Canada's Guidelines on Supporting Human Rights Defenders,” 2019, online at www.international.gc.ca/world-monde/assets/pdfs/issues_development-enjeux_developpement/human_rights-droits_homme/rights_defenders-guide-defenseurs_droits_en.pdf?_ga=2.122400907.1691986911.1649037846-27147403.1649037844.



Regional Chief Gerald Antoine (Dene Nation/NT), Assembly of First Nations, and Wilton (Willie) Littlechild, Ermineskin Cree Nation, AB, in Rome, 1 April 2022. Regional Chief Antoine and former chief Littlechild were deeply involved in the drafting and passage of UNDRIP. Photo: Fred Cattroll

communities in Canada have turned to UN rapporteurs to examine issues through the lens of the Declaration.

The Declaration has two parts. The first part is a preamble that explains why the Declaration is needed, the principles it embodies, and the aspirations it represents. The second part consists of 46 articles. Article 1 states:

Indigenous peoples have the right to the full enjoyment, as a collective or as individuals, of all human rights and fundamental freedoms as recognized in the Charter of the United Nations, the Universal Declaration of Human Rights and international human rights law.

Sa'ke'j Youngblood Henderson, one of Canada's most experienced Indigenous Law experts, as well as one of the people involved in developing the Declaration, has explained that Article 1 binds the Declaration to the Universal Declaration of Human Rights, while the remaining articles "clarify and envisage the beginning of a process in the states to actualizing or realizing the interrelated human rights of Indigenous peoples."¹² In his analysis, the Declaration's flexible process allows for countries and Indigenous Peoples "to engage in dialogue and gradually ... to achieve shared consensus on issues that are especially complex or sensitive."

Article 4 of the Declaration speaks of "self-determination"; Article 5 notes the "right to maintain and strengthen their distinct political, legal, economic, social and cultural institutions." The Declaration includes repeated references to principles related to collective rights, non-discrimination, autonomy, fairness, and FPIC. The range of matters covered is very broad, such as education, laws, membership, customs, lands, and resource development.

¹² James (Sa'ke'j) Youngblood Henderson, "The Necessity of Exploring Inherent Dignity in Indigenous Knowledge Systems," *Braiding Legal Orders: Implementing the United Nations Declaration on the Rights of Indigenous Peoples* (Waterloo, ON: Centre for International Governance Innovation, 2019): 226,

John Borrows advised that the Declaration “has to be read holistically, that is, that the declaration takes its meaning and principles from other parts of the document.”¹³ The principles and rights articulated in its preamble and articles cannot be separated from each other or from the necessity for Indigenous Peoples to apply their own knowledge and understanding to them. By following Indigenous teachings, the application of the Declaration will involve more than “Let’s do this and not do that.” Borrows explained that “It’s about how do we create something together that allows us to have an ongoing set of possibilities that could open us to different outcomes depending on the circumstances.”

THE UNITED NATIONS DECLARATION ON THE RIGHTS OF INDIGENOUS PEOPLES ACT (2021)

On June 21, 2021 – National Indigenous Peoples Day – the UNDRIP Act came into force in Canada. The objective of the Act is to advance federal implementation of the Declaration. It requires the federal government and its departments and agencies to create a road map to implement the Declaration in Canada in partnership with Indigenous Peoples. The road map is to include, among other things, an action plan and a review of federal laws to align with the Declaration.

The federal government has outlined guiding principles for the UNDRIP Act:¹⁴

- Using the Declaration’s preamble as a guide for the work
- Viewing the Declaration as a framework for reconciliation, healing, and peace
- Respecting and promoting the inherent rights of Indigenous Peoples
- Addressing discrimination and racism and denouncing discriminatory doctrines, policies, and practices
- Affirming the constitutional protection of Aboriginal and treaty rights and affirming that such rights are not frozen but can evolve and grow
- Taking into account the diversity of Indigenous Peoples
- Respecting treaty rights, treaties, and other agreements
- Basing all relations on Indigenous Peoples’ inherent right to self-determination, including the right of self-government.

The UNDRIP Act affirms:

- The Act will uphold Aboriginal and treaty rights protected by section 35 of the *Constitution Act, 1982* and not lessen them in any way
- The Declaration already has application as a tool to interpret Canadian law
- The Government of Canada has a commitment to work with Indigenous Peoples to implement the Declaration
- Implementation is expected to be done over time, in collaboration with Indigenous Peoples.

The UNDRIP Act states that the Declaration is “affirmed as a source of interpretation of Canadian Law” and that the “Government of Canada must, in consultation and cooperation with Indigenous peoples, take all measures necessary to ensure that the laws of Canada are consistent with the Declaration.”

¹³ John Borrows, interview with Julie Harris and Madeleine Redfern, 27 January 2022.

¹⁴ Justice Canada, “Fact Sheet – The United Nations Declaration on the Rights of Indigenous Peoples Act,” online at www.justice.gc.ca/eng/declaration/fact-fiche.html.

Implementation of the Declaration on any timeline will not be a simple process; much of the burden will fall on the shoulders of Indigenous Peoples, who will need to examine more closely their own legal traditions and how their laws should be applied. As Madeleine Redfern said:

The implementation of UNDRIP will require spaces for Indigenous Peoples to express their frustrations and alienations and have governments sit back to learn and listen. It's an opportunity for governments to admit that they need to shift their thinking. But it also requires Indigenous Peoples to really step up because it's a process, not a magic wand. It requires us to be involved and think about what it means for us.¹⁵

INDIGENOUS HERITAGE AND THE DECLARATION

The terms 'culture,' 'traditions,' 'expressions,' 'arts,' and 'languages' are found in many Articles in the Declaration, which is a strong indication of the importance attached to the rights of Indigenous Peoples to protect and define their identity and heritage collectively. Equally important is the right of Indigenous Peoples to define the meaning of these terms.

Karine Duhamel observed:

People don't always connect [UNDRIP] with heritage immediately; it's not the first thing people think about when they think about UNDRIP. So, I think there's a real opportunity within the heritage sector to set the tone for this, to say that we're going to do this but it's going to be based first on restitution and redress, on making things right, on creating that basis from which better relationships with communities, better stories, authentic stories can be shared.¹⁶

Although all Articles in the Declaration are interrelated and informed by principles of self-determination, certain Articles speak more expressly to issues of Indigenous heritage. In addition to four articles cited below this list, these principles include:

- Article 3: cultural development
- Article 5: strengthen cultural institutions and participation
- Article 8: redress for dispossession
- Article 15: dignity of public information
- Article 18: participate in decision making
- Article 24: knowledge/traditional plants
- Article 25: spiritual relationships to the land and water
- Article 28: redress for confiscated resources
- Article 29: protection and conservation of resources.

Articles 11, 12, 13, and 31 are specific in outlining rights related to Indigenous heritage.

¹⁵ Madeleine Redfern, interview with Julie Harris, 10 January 2022.

¹⁶ Karine Duhamel, interview with Catherine C. Cole, 17 January 2022.

Article 11

1. Indigenous peoples have the right to practise and revitalize their cultural traditions and customs. This includes the right to maintain, protect and develop the past, present and future manifestations of their cultures, such as archaeological and historical sites, artifacts, designs, ceremonies, technologies and visual and performing arts and literature.
2. States shall provide redress through effective mechanisms, which may include restitution, developed in conjunction with indigenous peoples, with respect to their cultural, intellectual, religious and spiritual property taken without their free, prior and informed consent or in violation of their laws, traditions and customs.

Article 12

1. Indigenous peoples have the right to manifest, practise, develop and teach their spiritual and religious traditions, customs and ceremonies; the right to maintain, protect, and have access in privacy to their religious and cultural sites; the right to the use and control of their ceremonial objects; and the right to the repatriation of their human remains.
2. States shall seek to enable the access and/or repatriation of ceremonial objects and human remains in their possession through fair, transparent and effective mechanisms developed in conjunction with the indigenous peoples concerned.

Article 13

1. Indigenous peoples have the right to revitalize, use, develop and transmit to future generations their histories, languages, oral traditions, philosophies, writing systems and literatures, and to designate and retain their own names for communities, places and persons.
2. States shall take effective measures to ensure that this right is protected and also to ensure that indigenous peoples can understand and be understood in political, legal and administrative proceedings, where necessary through the provision of interpretation or by other appropriate means.

Article 31

1. Indigenous peoples have the right to maintain, control, protect and develop their cultural heritage, traditional knowledge and traditional cultural expressions, as well as the manifestations of their sciences, technologies and cultures, including human and genetic resources, seeds, medicines, knowledge of the properties of fauna and flora, oral traditions, literatures, designs, sports and traditional games and visual and performing arts. They also have the right to maintain, control, protect and develop their intellectual property over such cultural heritage, traditional knowledge, and traditional cultural expressions.
2. In conjunction with indigenous peoples, States shall take effective measures to recognize and protect the exercise of these rights.

In discussing articles 11 and 12 specifically, Karine Duhamel explained that these articles include “redress through effective mechanisms” (Article 11.2) and “access and/or repatriation of ceremonial objects and human remains” (Article 12.2). In her words, “these are the pieces that I need to happen first.” She added:

I think we often, as a country, want to skip to the reconciliation part of things; we don’t want to do the underlying work... Some necessary acknowledgements and restitutions need to occur that the rest of the enjoyment of cultural rights and the telling of stories need to be predicated on. Getting objects back and being able to work with communities and facilitate the sharing of these stories rather than tell the stories for them is key.¹⁷

In speaking about remedies for past harms, interviewees also advised that decisions about whether remedies are necessary and which measures to take must be guided by Indigenous voices and Indigenous Law.¹⁸



Nk'Mip Desert Culture Centre, BC
Photo: Catherine C. Cole

¹⁷ Karine Duhamel, interview with Catherine C. Cole, 17 January 2022.

¹⁸ See also, Lucas Lixinski, “Article 11 of the United Nations Declaration on the Rights of Indigenous Peoples – Heritage Recognition, but Little Control and No Remedies,” *SSRN Electronic Journal*, 2020, online at <https://ssrn.com/abstract=3741009>.

INTERNATIONAL PERSPECTIVES ON UNDRIP

When the UN General Assembly adopted UNDRIP in 2007, an overwhelming 143 nations were in favour, with only four – Australia, Canada, New Zealand, and the United States – opposed. All but the US have since changed their position. With the passage of Bill C-15, Canada, although a late signatory, is the first nation to adopt UNDRIP in domestic law.

Australia adopted UNDRIP in 2009, but it has not yet become legally binding nationally. However, it is influencing law and policy in other ways. The *Uluru Statement from the Heart*¹⁹ calls for a First Nations Voice in the Australian Constitution and for empowering Aboriginal and Torres Strait Islander people to “have a direct say on any national laws, policies and programs affecting them.”²⁰ It calls for a Makarrata Commission to manage agreement-making with the Australian government and oversees a process of truth-telling about Australia’s history and colonization.²¹ There have been some steps toward implementation in the State of Victoria, where the *Advancing the Treaty Process with Aboriginal Victorians Act*²² draws on British Columbia’s Declaration on the Rights of Indigenous Peoples Act (DRIPA)²³ and provides a way for Indigenous rights to be enshrined within the law of Victoria. UNDRIP is also being considered in government policy. For example, the report *A Way Forward*, which followed Rio Tinto’s 2020 destruction of 46,000-year-old rock shelters at Juukan Gorge, argues that lawmakers “must take seriously the public awareness of international developments” like UNDRIP and is seen as a turning point in Indigenous control over land management.²⁴

Indigenous lawyer Terri Janke has developed a 10-step framework to recognize Indigenous rights and offers regular True Tracks workshops for those interested in improving their engagement processes and increasing their understanding of Indigenous Cultural and Intellectual Property. The workshops have been widely adopted by government agencies, universities, and the business community.²⁵ Australia has also developed *The Community Guide to the UN Declaration on the Rights of Indigenous Peoples*, which contains a section on language, culture, and spiritual identity, along with suggestions about how Aboriginal and Torres Strait Islander people can use UNDRIP.²⁶ The document also includes guidelines that may be useful as models for the heritage and other sectors in Canada. Examples include the *Our Knowledge, Our Way* guidelines for land and sea management²⁷ and *The Australian Business Guide to Implementing the UN Declaration on the Rights of Indigenous Peoples*.²⁸

¹⁹ Uluru Statement from the Heart (2017) <https://ulurustatement.org/>.

²⁰ Conversation between Terri Janke, Solicitor Director of Terri Janke and Company, Indigenous lawyer of Wuthathi/Meriam heritage, and Catherine C. Cole, January 10, 2022.

²¹ Federation of Victorian Traditional Owner Corporations, *UNDRIP and Enshrining Aboriginal Rights, Discussion Paper No. 3* (Melbourne, Australia: 2020): 4, 12-16, online at <https://apo.org.au/sites/default/files/resource-files/2021-02/apo-nid311229.pdf>

²² *Advancing the Treaty Process with Aboriginal Victorians Act 2018 (Treaty Act)*, Parliament of Victoria, online at www.legislation.vic.gov.au/in-force/acts/advancing-treaty-process-aboriginal-victorians-act-2018/001.

²³ British Columbia, Declaration on the Rights of Indigenous Peoples Act.

²⁴ Joint Standing Committee on Northern Australia, *A Way Forward Final report into the destruction of Indigenous heritage sites at Juukan Gorge* (Canberra: Commonwealth of Australia, 2021): xii and xxvi, online at https://parlinfo.aph.gov.au/parlInfo/download/committees/reportjnt/024757/toc_pdf/AWayForward.pdf;fileType=application%2Fpdf.

²⁵ Terri Janke, *True Tracks: Respecting Indigenous Knowledge and Culture*. Australia (University of New South Wales Press, 2021); *New tracks: Indigenous knowledge and cultural expression and the Australian intellectual property system* www.terrijanke.com.au/new-tracks.

²⁶ Australian Human Rights Commission, *The Community Guide to the UN Declaration on the Rights of Indigenous People*, 2010: 50, online at https://humanrights.gov.au/sites/default/files/document/publication/declaration_community_guide.pdf.

²⁷ Woodward, E. et al, eds. *Our Knowledge Our Way in Caring for Country: Indigenous-led Approaches to Strengthening and Sharing Our Knowledge for Land and Sea Management. Best Practice Guidelines from Australian experiences* (NAILSMA and CSIRO, 2020), online at www.csiro.au/en/research/indigenous-science/indigenous-knowledge/our-knowledge-our-way.

²⁸ Global Compact Network Australia, KPMG Australia and the University of Technology Sydney (UTS), *The Australian Business Guide to Implementing the UN Declaration on the Rights of Indigenous Peoples* (2020), online at https://unglobalcompact.org.au/wp-content/uploads/2020/11/Australian-Business-Guide-to-Implementing-the-UN-Declaration-on-the-Rights-of-Indigenous-People_FINAL.pdf.

New Zealand adopted UNDRIP in 2010; in 2019, a Working Group chaired by Claire Charters released a plan to implement UNDRIP titled *He PuaPua: Report of the Working Group on a Plan to Realise the UN Declaration on the Rights of Indigenous Peoples in Aotearoa/New Zealand*.²⁹ However, the plan was not implemented. Now, Te Puni Kōkiri, the Ministry of Māori Development, is leading the creation of a Declaration Plan to guide the government's progress toward the Declaration's aspirations. The Ministry worked closely with the National Iwi Chairs Forum and the Human Rights Commission on an extensive engagement process between June 2021 and March 2022 to allow all Māori, whether living in their marae or in an urban setting, to participate in workshops. Workshops were comprised of Māori participants and Māori facilitators; this engagement took place entirely online due to COVID-19.³⁰ Following this extensive engagement process, the government intends to release a new Declaration Plan in February 2023.³¹ Claire Charters believes that "the Declaration is a tool, a vehicle, to realize Māori claims under the Treaty of Waitangi." New Zealand is also using BC's DRIPA and Action Plan as models.

The United States initially voted against UNDRIP and has still not adopted it. In 2010, President Obama announced qualified support for the Declaration, but his administration took the position that the Declaration's concept of 'self-determination' is limited by existing laws and policies of the United States. Yet, Indigenous advocates recognize the importance of continuing to cite UNDRIP in court to eventually give it the force of law. Prominent Indigenous people – including Pawnee lawyer Walter Echo-Hawk, whose book *In the Light of Justice: The Rise of Human Rights in Native America & the UN Declaration of the Rights of Indigenous Peoples* (2013)³² is considered the ground-breaking work on the subject – have led the debate about UNDRIP. As is the case in Canada, to what degree UNDRIP is being acknowledged varies from state to state.

Some Indigenous governments in the United States are choosing to implement the Declaration themselves, beginning with a review of their own tribal laws to confirm that they are consistent with the Declaration. They are also translating the Declaration into their own languages, developing implementation plans, and adopting it as tribal law.³³ This process of braiding a UN instrument with other types of law is not new: the Universal Declaration of Human Rights has been incorporated through this kind of process into many national constitutions and legal codes. Some American tribes have chosen to focus new laws on specific Articles – such as Article 11, concerning the right to practise and revitalize their cultural traditions and customs, and Article 13, concerning rights to language. These tribal laws are then cited in both tribal legal institutions and practices as well as being used in advocacy with various levels of government.³⁴

²⁹ Claire Charters et al, *He PuaPua: Report of the Working Group on a Plan to Realise the UN Declaration on the Rights of Indigenous Peoples in Aotearoa/New Zealand*. I Whiringa-ā-Rangi, 2019, online at <https://iwichairs.maori.nz/wp-content/uploads/2015/07/He-Puapua-for-OIA-release.pdf>; conversation between Catherine C. Cole and Charters, a Māori academic from the Ngāti Whakaue, Tūwharetoa, Ngāpuhi and Tainui tribes who specialises in indigenous peoples' rights in international and constitutional law, 21 February 2022.

³⁰ Of course, such a process, while laudable, would be much more complicated, time consuming and expensive in Canada due to our vast size and the large number of distinct Indigenous peoples; as well, the relationship between all Māori and the Government of New Zealand is outlined in the Treaty of Waitangi, whereas Indigenous/ government relationships in Canada are defined by numerous treaties, land claims and other agreements.

³¹ Te Puni Kōkiri, "UN Declaration on the Rights of Indigenous Peoples," online at www.tpk.govt.nz/en/whakamahia/un-declaration-on-the-rights-of-indigenous-peoples.

³² Walter Echo-Hawk, *In the Light of Justice: The Rise of Human Rights in Native America & the UN Declaration of the Rights of Indigenous Peoples* (Colorado: Fulcrum Publishing, 2013).

³³ Examples, such as the Muscogee Declaration, are describe in: Colorado Law, *Project to Implement the United Nations Declaration on the Rights of Indigenous Peoples Tribal Implementation Toolkit*, [2020], online at <https://un-declaration.narf.org/wp-content/uploads/Tribal-Implementation-Toolkit-Digital-Edition.pdf>.

³⁴ Colorado Law, *Project to Implement the United Nations Declaration on the Rights of Indigenous Peoples Tribal Implementation Toolkit*.



Gwaii Haanas National Park Reserve and Haida Heritage Site, BC

Photo: Elisabeth Joy

The US has enacted legislation that advances some rights articulated in UNDRIP that related to Indigenous heritage. Among these laws is the Native American Graves Protection and Repatriation Act, passed in 1990.³⁵ The Act is not a comprehensive Indigenous heritage act and is not entirely in keeping with UNDRIP, as institutions, rather than Indigenous people, maintain decision-making authority.³⁶

While South Africa was not one of the countries to vote against adopting UNDRIP initially, that nation is instructive because of its history as both being colonized and having colonized its neighbours Namibia and Botswana. Indigenous people there share the same concerns as Indigenous Peoples in Canada, such as threats to Indigenous languages, loss of Traditional Knowledge, and disruption of relationships to traditional lands. In South Africa, cultural revitalization is also important. Indigenous heritage activists invoke UNDRIP to bring the weight of international values to bear in local heritage debates; they recognize the potential power of UNDRIP as a UN Declaration. A current example in the courts is the Two Rivers Urban Park in Cape Town, a sacred site where over 500 years ago Khoi and

³⁵ National Parks Service, "Native American Graves Protection and Repatriation Act," online at www.nps.gov/subjects/nagpra/index.htm.

³⁶ Conversation between Catherine C. Cole and Elisabeth Middleton, Professor, Dept. of Native American Studies, Yocha Dehe Endowed Chair in California Indian Studies, University of California, Davis, February 9, 2022.

San people fought off a Portuguese attack in one of the first and most successful anti-colonial battles in Africa – and where Amazon wants to build its new Africa headquarters.³⁷ The activists are arguing for assessment of the park for Grade 1 heritage status from the South African Heritage Resources Agency.

In addition to UNESCO and its cultural divisions, other international non-governmental organizations, such as the International Council of Museums, are supporting the implementation of UNDRIP. The Council launched an initiative to decolonize museums about five years ago that is now being revived with UNDRIP as the baseline, along with the UN Sustainable Development Goals, particularly Goal #10: Reduced Inequalities.³⁸

There have also been international disciplinary approaches, such as the Intellectual Property Issues in Cultural Heritage (IPinCH), a 2006 to 2016 collaboration of scholars, students, heritage professionals, community members, policy makers, and Indigenous organizations across the globe. Based at Simon Fraser University, IPinCH explored the rights, values, and responsibilities of material culture, cultural knowledge, and the practice of heritage. A series of case studies and position papers are available online and inform many heritage projects around the world.³⁹



Métis arrow sash

Photo: Fred Cattroll

³⁷ Conversation between Catherine C. Cole and Dr. June Bam-Hutchison, Interim Director of the San and Khoi Centre, University of Cape Town and her colleagues: Chief Martinus Fredericks, Paramount Chief of the Aman (Nama) Traditional Council; Taurig Jenkins, High Commissioner of the Goringhaicona Khoi Khoi Traditional Indigenous Council; Bradley Van Sitters, Khoisan activist; and Dr. Sharon Groenmeyer, Research Officer, Transformation, Health Sciences, 24 January 2022.

³⁸ Katherine Turvey, in conversation with Catherine C. Cole, 12 January 2022; Katherine Turvey is now leading the Decolonizing Museums initiative.

³⁹ Intellectual Property Issues in Cultural Heritage (IPinCH), online at www.sfu.ca/ipinch/.

WHAT WE HEARD

Large governmental approaches involving legislation and planning are only part of the story of the Declaration. Indigenous people working in various areas of heritage, including those we interviewed for this report, have important perspectives on the work to be done to protect, honour, and revitalize Indigenous heritage.

Observations and recommendations from interviews conducted for this report are organized into three groups – Jurisdictions, Capacity Building, and Awareness. The recommendations are categorized into two broad types – Immediate and Long-term. In some cases, recommendations were prioritized by interviewees, while in others, the authors categorized them after weighing input from several interviewees. The categorization is not intended to suggest that the Immediate recommendations are the most important, but simply that they can be addressed immediately to strengthen Indigenous control over Indigenous heritage. Some of the most important priorities will take time to implement, but they should still be initiated now.

A general observation made in the interviews is the reality that Indigenous heritage faces many headwinds. Kisha Supernant said:

If we imagine heritage as worldviews, and systems of knowledge, and language, and place, and land, and relationships, so much of that was deliberately broken apart by the state, and sometimes under the guise of heritage.... Until we can bring those pieces back together, we can't talk about reconciliation.⁴⁰

While there is some promise in the actions of institutions with cultural heritage mandates – including museums, cultural centres, libraries, and archives – and meaningful developments, such as the establishment of the Office of the Commissioner of Indigenous Languages, progress has been too slow. As Madeleine Redfern said, “Heritage should be an integral fabric of everyday life. But non-Indigenous culture is so pervasive – language, architecture, artworks, etc. – that little room is left for Indigenous culture.”⁴¹ Jurisdictional conflicts and incoherence between the federal government and the provinces and territories impact how Indigenous heritage is identified, honoured, protected, and revitalized. Investments in Indigenous heritage often remain stuck within tight boxes created for conventional ideas about heritage that are incongruous with the meaning of the term as understood by Indigenous Peoples.⁴²

“Our language has been transliterated and translated. Some terms have lost some of their meaning, but we have linguists now who are trying to break those apart,” explained Tim Bernard. “We have to return to the stories, to the legends, to the language, to start to bring back our ... existence, which is not the right word, but our story.”

Interviewees emphasized the importance of giving communities opportunities to take more control of Indigenous heritage to allow living heritage to thrive in the future, not just as a means of preserving something that existed in the past. Article 11 of the Declaration, which states that “Indigenous peoples have the right to practise and revitalize their cultural traditions and customs,” reinforces the

⁴⁰ Kisha Supernant, interview with Catherine C. Cole, 20 January 2022.

⁴¹ Madeleine Redfern, interview with Julie Harris, 10 January 2022.

⁴² Parks Canada divides many of its operations and programs into divisions that it calls ‘Nature’ and ‘History and Culture.’ For Indigenous Heritage, culture and nature are intertwined to the extent that protection of both needs to be addressed.

Declaration as having a restorative purpose. The article recognizes that more than ‘preservation’ is needed to begin to undo so much damage from centuries of colonialism. For Mi’kmaq, revitalization is very important, as it is for so many nations and communities. “Our language has been transliterated and translated. Some terms have lost some of their meaning, but we have linguists now who are trying to break those apart,” explained Tim Bernard. “We have to return to the stories, to the legends, to the language, to start to bring back our ... existence, which is not the right word, but our story.”⁴³

JURISDICTIONS

Federal

Interviewees discussed options to create more coherence for Indigenous heritage in federal contexts while meeting the needs and rights of Indigenous communities. Each of the participants referenced shortfalls in the way that the federal government identifies, conserves, honours, and supports Indigenous heritage. Concerns were expressed in terms of government silos that limit support and appropriate stewardship of Indigenous heritage. “As an example,” explained Karen Aird, “Indigenous heritage and Indigenous language are completely braided together so you can’t pull them apart. But the silos are impenetrable.”⁴⁴

Various federal organizations are responsible for different aspects of heritage. Among others, they include the Department of Canadian Heritage and its funding programs, Library and Archives Canada, the National Arts Centre, national museums, the Canadian Conservation Institute, Parks Canada, and the Canada Council for the Arts. Public committees and boards, including more than a dozen within Canadian Heritage alone, would benefit from Indigenous representation.

Interviewees raised concerns about the inequity in funding for Indigenous and colonial heritage; this is relevant to Article 2 of the Declaration, which states that Indigenous People have “The right to be free from any kind of discrimination.” At a minimum, this means that investment and protection for Indigenous heritage must be equal, in the fullest meaning of the word, to investment and protection for other types of heritage. Since Indigenous heritage has been woefully underfunded, there is a need to catch up as well.

For many non-Indigenous cultural heritage institutions, such as museums and performing arts organizations, primary sources of revenue include charitable giving and corporate sponsorships. Indigenous institutions have less access to these revenue streams. The federal government does provide dedicated investment for Indigenous-led heritage initiatives, but the amount is inadequate, and program guidelines are too restrictive in terms of which activities are eligible for investment and



Métis beadwork, Chimney Coulee archaeological site, SK. Photo: Kisha Supernant

⁴³ Tim Bernard, interview with Julie Harris, 4 March 2022.

⁴⁴ Karen Aird, interview with Catherine C. Cole and Julie Harris, 7 February 2022.

the time frames expected. Even small Indigenous heritage projects may require additional time to integrate Indigenous knowledge and languages and to respect community protocols.

Interviewees also discussed the importance of federal government agencies and institutions undertaking reviews and revisions of existing policies and standards to align federal actions with the Declaration. Key examples were a new National Museums Policy and Parks Canada policies and standards, such as the Cultural Resource Management Policy, the Standards and Guidelines for the Conservation of Historic Places in Canada, and the Principles and Guidelines for Ecological Restoration in Canada's Protected Natural Areas. The lack of comprehensive federal heritage and archaeology policies was also noted.

Other specific issues related to legislation were also referenced, including establishing repatriation legislation, revising existing legislation regarding intellectual property, and reviewing the National Museums Act and the Library and Archives Act. Comments were also made about the Access to Information Act and Privacy Act, which should be revised to remove barriers for Indigenous communities to retrieve data and records specific to their communities. Since the release in 1992 of the *Task Force Report on Museums and First Peoples*,⁴⁵ individual museums have developed repatriation policies, but there is no national policy or support for such initiatives or for Indigenous Peoples to negotiate with museums and collectors around the world.

Other federal policies to be examined include Treasury Board's Guide to the Management of Movable Heritage Assets and the Policy on Management of Real Property. The movable heritage policy concerns "cultural heritage as the tangible evidence of human experience, such as artifacts, archives, printed material, cultural products, architectural heritage, sacred sites, and archaeology."⁴⁶ Resources listed in the policy to assist federal managers include national museums and professional organizations, but no advice is given about Indigenous heritage and Indigenous stewardship. The Treasury Board Policy on Management of Real Property⁴⁷ requires "cultural and environmental stewardship that contributes to the preservation and protection of our heritage and the environment," but it only references heritage as heritage buildings and national historic sites; it is silent on Indigenous heritage associated with federal real property.

Due to the wide gap that exists between the needs of Indigenous heritage and the protection and forms of honour identified in existing legislation and policies, a priority for the federal government should be federal heritage legislation that fully addresses the protection of Indigenous heritage and an appropriate level of control by Indigenous Peoples. Among the common threads relating to the review of legislation was the urgent need for institutions to recognize that culturally sensitive materials, Indigenous Knowledge, and difficult history must be identified, cared for, and honoured in a good way through advice and involvement of Indigenous communities, Knowledge Keepers, and Elders.

⁴⁵ Assembly of First Nations and The Canadian Museums Association, *Task Force Report on Museums and First Peoples* (1992), online at https://museums.in1touch.org/uploaded/web/docs/Task_Force_Report_1994.pdf.

⁴⁶ Canada, Treasury Board, "Guide to the Management of Movable Heritage Assets," online at www.tbs-sct.gc.ca/pol/doc-eng.aspx?id=13872.

⁴⁷ Canada, Treasury Board, "Policy on Management of Real Property," online at www.tbs-sct.gc.ca/pol/doc-eng.aspx?id=12042.

Recommendations for the Government of Canada

Immediate Priorities

1. Establish the National Council for Reconciliation, as per the Truth and Reconciliation Commission's Calls to Action 53 to 56, to monitor and report on progress toward reconciliation generally and the implementation of UNDRIP specifically
2. Develop a federal strategy for Indigenous Cultural Heritage that includes objectives to bring more coherence to identifying, honouring, protecting, and revitalizing Indigenous heritage that involves all levels of government and Indigenous governments.
3. Prepare a Government of Canada statement on the meaning of Indigenous heritage that can be integrated into policy and program tools and assessments by all government departments.
4. Establish mandatory and meaningful seats on federal boards and advisory councils for Indigenous people.
5. Work quickly to bring highly qualified Indigenous individuals into senior government positions.
6. Provide more flexibility for official language requirements for Indigenous people working in the federal civil service who know, or are learning, their languages.
7. Expand investment in Indigenous cultural centres that embrace all types of heritage, including museum-type collections and spaces for cultural activities.

Long-term Priorities

1. Revise all laws that intersect with Indigenous heritage to include appropriate levels of Indigenous control, Indigenous conservation principles, and Indigenous values.
2. Revise the Cultural Property Export and Import Act to strengthen the protection of Indigenous heritage, and require Indigenous participation on the Canadian Cultural Property Export Review Board.
3. Revise the National Parks Act to ensure full access of Indigenous Peoples to their traditional lands.

PROVINCIAL AND TERRITORIAL GOVERNMENTS

Indigenous heritage issues, especially those that cross geographical boundaries, can be caught in the middle of jurisdictional conflicts between the federal government and the provinces and territories. The example of the woodland caribou was described by Melody Lepine.

The woodland caribou is a significantly threatened species. Under the Species at Risk Act, the federal government says, "Okay, we need to protect caribou" ... but then Canada says, "Well, we don't have jurisdiction over their habitat, that's Alberta. Alberta owns the land, and the land is their home, and that's their habitat that needs protection." And Alberta says, "Well, Canada, we need your funding to protect caribou, but we're going to protect caribou this way," which is not really to the standards of the federal government. It becomes a jurisdictional fight over everything ... And the First Nations, we get stuck in the middle. We support the federal government trying to protect caribou, so we sign a Section 11 agreement with them ... But Alberta is not serious about protecting caribou because they don't want to protect their habitat, because they're supporting more and more development. So, we go back and forth trying to solve the jurisdiction issues because we want to protect caribou because that's part of our heritage, our relationship with woodland caribou.⁴⁸

⁴⁸ Melody Lepine, interview with Catherine C. Cole, 25 January 2022.



Archaeological sites, Qaummaarviit Territorial Park near Iqaluit, NU.

Photo: Catherine C. Cole

The federal Indigenous Languages Act may provide a useful model for a framework to support, promote, and protect Indigenous heritage across jurisdictions. Section 8 of the Indigenous Languages Act states that “The Minister may cooperate with provincial or territorial governments, Indigenous governments or other Indigenous governing bodies, Indigenous organizations or other entities” to “efficiently and effectively support Indigenous languages in Canada.”⁴⁹ This approach could help achieve goals, as stated in the Act, that are “consistent with the rights of Indigenous peoples recognized and affirmed by section 35 of the Constitution Act, 1982 and the powers and jurisdictions of Indigenous governing bodies and of the provinces and territories.”⁵⁰

Indigenous heritage is often seen as a responsibility for the federal government, but so much heritage legislation and programming in a conventional sense is a responsibility of provinces and territories. Convincing these governments to focus on the needs and rights of Indigenous Peoples has been difficult. Archaeological heritage, for example, is regulated through provincial and territorial legislation that was developed without engaging with Indigenous people.

Even when provinces or territories are compelled by law to address Indigenous heritage, the losses continue. In the case of Nunavut, for example, where the Nunavut Agreement and the Inuit Language Protection Act provide legal frameworks for language protection, Inuit languages are in danger. Nellie Kusugak expressed her dismay that “Inuktitut has to be taught as a second language now. I never thought that we would be losing Inuktitut fluency so quickly. The issue of language protection is urgent.”⁵¹

⁴⁹ Canada, *Indigenous Languages Act* (S.C. 2019, c. 23), online at <https://laws-lois.justice.gc.ca/eng/acts/I-7.85/page-1.html>.

⁵⁰ *Indigenous Languages Act* (S.C. 2019, c. 23).

⁵¹ Nellie Kusugak, interview with Julie Harris, 18 February 2022.

RECOMMENDATIONS FOR PROVINCES AND TERRITORIES

Immediate Priorities

1. Federal, provincial, and territorial Culture and Heritage Ministers' meetings should include the Declaration as a standing topic for the agendas.
2. All provinces and territories should enact legislation to implement the Declaration, as was done in British Columbia and is underway in Northwest Territories.
3. Establish new organizations, or expand the scope of existing organizations, in all provinces and territories to be similar in mandate and impact to British Columbia's First Peoples' Cultural Council, which is the only Crown corporation of its type in Canada that is Indigenous led and is dedicated to supporting greater Indigenous control over Indigenous heritage.

Long-term Priorities

4. Examine heritage and cultural legislation and policies to include Indigenous heritage, as it is understood by Indigenous Peoples, and ensure that the concepts of stewardship and protection are relevant to Indigenous heritage values, protocols, and methods.
5. Assess provincial/territorial legislation and policy for compatibility with the Declaration, and revise provincial and territorial legislation as required.

CAPACITY-BUILDING

Capacity-building means ensuring that the necessary conditions are in place to respect Indigenous Peoples' rights to preserve and practise their heritage – conditions ranging from institutional capacity to Indigenous nation or community capacity and individual capacity. Centuries of colonization have impacted the distinctiveness, cultural values, and identities of Indigenous Peoples, and current state actions and institutions are not moving quickly enough to either stop the damage or redress past harms. The Declaration requires more than adjustments to legislation and heritage programs. Capacities within both Indigenous nations and communities and non-Indigenous organizations must be strengthened to protect and honour Indigenous heritage.

Capacity-building includes training, professional development, community support, and infrastructure. For Indigenous people, training often begins in their own communities, where learning about heritage is part of their identity. Some individuals choose to apply their knowledge of Indigenous heritage in more conventional settings, such as museums and archives, where a blend of types of knowledge is highly valued. From the beginning of their careers, they face obstacles in gaining credit for their knowledge of Indigenous heritage and finding a training path that goes beyond the standard pedagogy of museum, archives, and library training.

Once Indigenous people are working in heritage, they have few opportunities for professional development specific to Indigenous heritage in Canada through membership in Indigenous-led organizations where there are robust opportunities to learn and discuss shared challenges. As Heather George said, "Indigenous heritage practitioners need the funding and space to gather ... so that we can have these conversations annually. Then, if government agencies want to find out what's going on, that's where they go. Indigenous Heritage Canada needs core funding."

There are few Indigenous-led national or provincial heritage institutions, with the National Centre for Truth and Reconciliation, the nascent Office of the Commissioner of Indigenous Languages, and BC's First Peoples' Cultural Council being notable exceptions. Ry Moran observed that governments need



Todd Labrador, Acadia First Nation, NS, building a Mi'kmaq birch bark canoe at the Lunenburg School of the Arts
Photo: Julie Harris

to make “a substantial and significant investment in both the infrastructure necessary to enable UNDRIP, the training necessary to enable UNDRIP, and the financial resources to put into motion the practice of heritage preservation and, fundamentally, that cycle our transmission of our heritage to future generations.”⁵² Enduring institutions – dynamic and accessible places for teaching, learning, discovery, resurgence, reflection, and remembering – are needed. The proposed National Memorial to Residential School Survivors, which is envisaged as so much more than a conventional monument, could be an example.

More Indigenous-led museums and cultural centres should be developed at provincial and community levels, including in former residential schools, where appropriate. Many communities want to create heritage facilities that will serve multiple goals – as places to hold and share historical materials, ancestral remains, and cultural belongings while also serving to protect and reinvigorate languages and cultural practices.

At the territorial level, it is imperative that the Nunavut Inuit Heritage Centre be developed as quickly as possible. The need for a territorial heritage centre was identified in Article 33 of the Nunavut Agreement. The heritage centre will address rights identified in the Declaration, including the right to practise and revitalize cultural traditions and to protect and develop cultural heritage and others. Heritage institutions that are not Indigenous led and that manage Indigenous heritage need to be transformed. They need to decolonize their practice: to hire Indigenous staff; provide specialized internships, mentorships, and residencies for Indigenous colleagues; develop experimental labs

⁵² Ry Moran, interview with Catherine C. Cole, 28 February 2022.

to explore ways to integrate Indigenous approaches and practices into traditional disciplines; and support the learning of Indigenous languages, not just the other official language. Non-Indigenous staff need to be trained in UNDRIP and in Indigenous ways to ensure a safe and welcome environment for Indigenous heritage workers. Both Indigenous and non-Indigenous heritage workers require training in trauma-informed practice. Indigenous people working for nations and communities on Indigenous heritage matters share concerns with people working in non-Indigenous heritage settings. They need sustainable investment, permanent jobs with decent wages (and, in some cases, housing), and more opportunities for training – and different types of education and training – not only for themselves, but for succession planning.

Large non-Indigenous organizations and institutions do not necessarily know how to support Indigenous people. They need to realize that a part of an Indigenous person's development is to participate in culture and heritage because it's a lived thing. Organizations must be flexible to make space for things like participating in ceremony or going out on the land hunting or harvesting medicine or developing language skills. Indigenous people gain knowledge and see the world differently than non-Indigenous people do, whether by working alongside Elders or being on the land. Spiritual or cultural experience should be valued as highly as academic experience, which can be less important than cultural experience in Indigenous contexts. Participating in Indigenous ways should be valued by organizations as a means of gaining knowledge and building relationships.

Both Indigenous heritage workers and non-Indigenous heritage professionals working on Indigenous heritage need a fundamentally different type of training that would reduce the silos of materials practice among museums, archives, libraries, and galleries that are irrelevant to Indigenous Peoples' practices. Lisa Prosper suggested that "We should be thinking about a more organic, community-based way of training for work in the heritage sector,"⁵³ similar to what Ry Moran described as "an Indigenous Memory Worker pathway."⁵⁴ Non-Indigenous heritage workers currently receive very little teaching about the Indigenous experience in Canada; they need to learn the truth before working toward reconciliation.

Kisha Supernant concurred:

We need to continue to change the way we raise the next generation of heritage professionals. Otherwise, there's a danger that we're just going to keep reproducing the same structures and systems that we're in ... I train the next generation of archaeologists – even non-Indigenous people – to really understand the differences between an Indigenous conception of heritage and an archaeological Western conception.⁵⁵

John Moses made a similar observation about the conservation discipline: "Conservation is no less a values-laden social practice than it is a technical scientific pursuit. There's a growing awareness of the need to incorporate traditional ways of dealing with ancestor objects; a big challenge facing the Canadian conservation profession right now is a lack of professional workforce diversity."⁵⁶ More – and better – training that incorporates not just technical expertise but cultural expertise is required. Moses pointed out the recent increase in the number of Indigenous graduates in various heritage disciplines; he noted that they are being hired by universities and non-Indigenous museums that are focusing on indigenization and can offer more job security and better salaries than Indigenous cultural organizations do.

⁵³ Lisa Prosper, interview with Julie Harris, 24 January 2022.

⁵⁴ Ry Moran, interview with Catherine C. Cole, 28 February 2022.

⁵⁵ Kisha Supernant, interview with Catherine C. Cole, 20 January 2022.

⁵⁶ John Moses, interview with Catherine C. Cole, 14 January 2022.

Jeffery Ward is a spiritual traditional person – a Sundance leader, pipe carrier, and lodge keeper who runs a museum. He compared the time required to get advanced degrees with the time required to attain spiritual roles:

When you Sundance, the first four years you're fasting in the fall, you're fasting in the spring, you fast while you dance. So that's like high school. Then you're a leader for four years. You're not fasting, but you make a commitment for another four years. That's your BA. Then you commit for another four years. So that's your MA ... and then another four years is like a doctorate. So, if I'm a Sundancer for the last sixteen years, spiritually, I'm up here [gesturing high above], but that is not recognized.⁵⁷

No operational investments are available for Indigenous heritage organizations. Project investment available through the Museums Assistance Program is limited, and the ways in which it can be used are restrictive. The question of equitable investment between investment in colonial history and in Indigenous heritage came up in a few specific examples. On the positive side, the Yukon Umbrella Final Agreement's Chapter 13 "Catch Up/Keep Up" provisions require the Yukon government to increase support for Indigenous heritage. In many other instances, however, no commitment to equitable funding is offered, and evidence about the size of the gap is easy to find. Two examples discussed in the interviews were the search for and conservation of the Franklin ships *Erebus* and *Terror* and objects collected from them (estimated to be about \$34 million over ten years), and the restoration of the *Bluenose II* (\$24 million).⁵⁸

Communities may not have the capacity to address UNDRIP from a heritage perspective because of other pressing issues. Many Indigenous individuals and communities are in survival mode, dealing with immediate concerns such as the lack of safe drinking water, food security, poverty, language retention, mental health, and high suicide rates. The commitment to advocating for support for heritage must be placed within a larger context. Heather George noted that "Communities or nations need to be able to have space, time and resources to develop our own policies and procedures."⁵⁹ Jeffery Ward spoke about the "challenge for people whose parents weren't raised in ceremony."⁶⁰ As

Kisha Supernant said,

While we know that Indigenous heritage in particular is so essential for healthy, vibrant Indigenous futures, oftentimes we're still in the realm of survival because of the ongoing settler/colonial state and the way it creates this sub-standard living on reserve and a lot of the traumas of residential school and Sixties Scoop ... I do think heritage has a role to play, so it's figuring out not just funding for heritage projects, but what kind of system and structures need to be in place to empower communities to build the capacity to be able to assert their rights.

⁵⁷ Jeffery Ward, interview with Catherine C. Cole, 25 January 2022.

⁵⁸ No audited report on all spending for efforts regarding the *Erebus* and *Terror* were located, but in 2021, the federal budget proposed an investment of \$15 million over three years, in addition to funding the search projects. See "Canada Promises Funding to Conserve Sir John Franklin's Shipwrecks," National Parks Traveler, 21 April 2021, online at www.nationalparkstraveler.org/2021/04/canada-promises-funding-serve-sir-john-franklins-shipwrecks. Funding for the *Bluenose II* project are shown in: Report of the Auditor General to the Nova Scotia House of Assembly, *Bluenose II Restoration Project*, January 2015, online at <https://oag-ns.ca/sites/default/files/publications/2015%20-%20NSOAG%20-%20Bluenose%20II.pdf>.

⁵⁹ Heather George, interview with Catherine C. Cole, 4 February 2022.

⁶⁰ Jeffery Ward, interview with Catherine C. Cole, 25 January 2022.



Interpretation centre at Wanuskewin Heritage Park, Saskatoon, SK.
Photo: Wanuskewin Heritage Park

Nika Collison reinforced the social benefits of heritage work. It is understood that “the ability to have autonomy over heritage will facilitate the ability to address socio-economic issues.”⁶¹ For these reasons, Indigenous people need to be at the centre of this transformation, with time and investments allowing for the costs of Elders, Knowledge Holders, and heritage professionals to come together to move this process forward in a good way.

Indigenous Knowledge would benefit in some cases from protection through intellectual property laws. Reform of the Canadian Copyright Act is needed with advice from Indigenous people with expertise in related areas, including law, libraries, and artistic production. As Camille Callison said, the Act needs to “respect, acknowledge, affirm, and recognize Indigenous Peoples’ ownership.”⁶² Indigenous Knowledge protection protocols and agreements with Indigenous groups who have holdings in libraries, archives, and cultural memory institutions could be developed to respect the Indigenous cultural concept of copyright, which is often located in but not limited to oral traditions, songs, dance, storytelling, anecdotes, place names, hereditary names, and other forms of Indigenous Knowledge.⁶³

Some conversations also turned directly toward Bill C-391, an Act respecting a national strategy for the repatriation of Indigenous human remains and cultural property.⁶⁴ The Bill stalled before the 2019 federal election, but study and debate on its direction and content demonstrated that such

⁶¹ Jisgang Nika Collison, interview with Catherine C. Cole, 1 February 2022.

⁶² Camille Callison, interview with Catherine C. Cole, 18 February 2022.

⁶³ Camille Callison, Truth and Reconciliation Report and Recommendations. Submission to the Canadian Federation of Library Associations. Recommendation #8.

⁶⁴ Parliament of Canada, “C-391 An Act respecting a national strategy for the repatriation of Indigenous human remains and cultural property,” online at www.parl.ca/LegisInfo/en/bill/42-1/C-391. *The bill completed its first (and only) reading in the Senate of 20 February 2019.*

legislation is needed to support groups that are seeking the return of belongings and ancestors as well as the institutions that are anxious to make repatriation possible.⁶⁵ Repatriation means much more than collecting belongings and placing them, physically, in a location chosen by Indigenous people. As expressed by John Moses, “It’s about the repatriation of traditional cultural expressions, Indigenous intellectual property, and traditional knowledge that is vested in the objects that comprise the collections.”⁶⁶

Recommendations for Capacity-Building

Immediate Priorities

1. Build capacity within both the Indigenous heritage community and non-Indigenous heritage organizations to address Indigenous issues.
2. Transform the approach of non-Indigenous heritage organizations toward Indigenous issues and staff.
3. Support the development of the Nunavut Inuit Heritage Centre and other infrastructure priorities for Indigenous Peoples, such as provincial Indigenous heritage centres and a national Indigenous museum or heritage centre, either in a single location or developed as a network.
4. Provide additional consistent, sustained, multi-year investment in Indigenous heritage organizations and programs.
5. Properly fund the Indigenous Heritage Circle and the National Indigenous Knowledge and Language Alliance to allow them to develop a coordinated strategy to address Indigenous heritage in its broadest sense and provide support for Indigenous heritage in professional and community contexts.

Long-term Priorities

1. Recognizing that circumstances vary considerably among nations and communities, look to the Indigenous Rights and Self-Determination discussion tables as a possible model for how heritage can be addressed within a human rights and social justice context, although they currently function in few communities and would need to be expanded to all.
2. Develop new and different educational and training programs for Indigenous and non-Indigenous heritage workers to decolonize approaches.
3. Pass legislation respecting the repatriation of Indigenous ancestral remains and cultural belongings.
4. Revise the National Digitization Strategy to address Indigenous concerns.
5. Reform the Canadian Copyright Act to address the need to protect Indigenous Knowledge.⁶⁷

⁶⁵ Some people supported the Bill, while others think it needs more work, and that a dispute mechanism should be created while waiting for a more complete piece of legislation.

⁶⁶ John Moses, interview with Catherine C. Cole, 14 January 2022.

⁶⁷ See: World Intellectual Property Organization (WIPO) – Intergovernmental Committee on Intellectual Property and Genetic Resources, Traditional Knowledge and Folklore, online at www.wipo.int/tk/en/igc/; www.un.org/esa/socdev/unpfii/documents/DRIPS_en.pdf; and the Updated Set of Principles for the Protection and Promotion of Human Rights through Action to Combat Impunity (2005), more commonly known as the Joinet/Orentlicher Principles, online at www.derechos.org/nizkor/impu/principles.html.



Archaeologist Kisha Supernant working with ground-penetrating radar (GPR) equipment at the Former Muscowequan Indian Residential School National Historic Site.

Photo: William (Liam) Wadsworth, Institute of Prairie and Indigenous Archaeology, University of Alberta

AWARENESS

Increased awareness about the Declaration – what it means, its principles, and how it intersects with Indigenous Law – is needed now to be more fully prepared for consultations on its implementation. Non-Indigenous people involved in all parts of the heritage sector should deepen their understanding of reconciliation, Indigenous rights, and the Declaration.

Museum professionals need to be incredibly humble in [Indigenous communities] because it's despite museums, and despite the Indian Act, and despite the Canadian government that those ceremonies and that knowledge continue to exist.⁶⁸

—Heather George

The importance of the Declaration is clear. Calls to adopt or implement it in Canada have been repeated since the 1990s. Recent examples include the Qikiqtani Truth Commission in 2010,⁶⁹ the Truth and Reconciliation Commission in 2015,⁷⁰ and the National Inquiry into Missing and Murdered Indigenous Women and Girls in 2019.⁷¹ Nonetheless, public awareness is low. Indigenous and non-Indigenous people should be learning more about what it means and how it will impact

⁶⁸ Heather George, interview with Catherine C. Cole, 4 February 2022.

⁶⁹ Qikiqtani Truth Commission, "Final Report Recommendations," [2010], online at www.qtcommission.ca/sites/default/files/public/files/qia-qtc_recommendations_poster_en.pdf.

⁷⁰ Truth and Reconciliation Commission of Canada, *Truth and Reconciliation Commission of Canada: Calls to Action*, 2015, online at https://ehprnh2mwo3.exactdn.com/wp-content/uploads/2021/01/Calls_to_Action_English2.pdf.

⁷¹ National Inquiry into Missing and Murdered Indigenous Women and Girls, *Calls for Justice*, 2019, online at www.mmi-wg-ffada.ca/wp-content/uploads/2019/06/Calls_for_Justice.pdf.

our relationships and practices moving forward. People also need to understand that UNDRIP has different levels of significance for various communities, depending on whether they have other agreements with the state that acknowledge and respect the rights referenced in the Declaration. Heritage institutions, including non-Indigenous ones, will have important roles to play in raising awareness about the Declaration and about Indigenous rights, experiences, and histories that underpin its aspirations. For some, such as the Canadian Museum of Human Rights, the narratives may be focused directly on the Declaration.⁷² For others, however, furthering the understanding of Indigenous heritage is a responsibility that is central to their mandates. Darlene Brander explained that the vision of Wanuskewin Heritage Park, for example, is “to be a living reminder of our sacred relationship with the land.” The work of the park is also guided by Wanuskewin’s mission to “elevate the understanding and appreciation of Northern Plains Indigenous cultures.”⁷³ The Mi’kmawey Debert Cultural Centre is an institution under development in Nova Scotia with a similar mandate. Tim Bernard explained that the centre is one of the most powerful opportunities that Mi’kmaq have to tell their history. “Our history is not shared very well ... A few books have been written, but all the components will be stitched together for a story starting 13,000 years ago.”⁷⁴ Tom Johnson suggested that “people involved in writing the Declaration, such as James (Sa’ke’j) Youngblood Henderson and Russel Barsh” be interviewed because “they can help us see how the Declaration and its articles can benefit Indigenous nations in a positive way.”⁷⁵

The value of increasing awareness is also related to strengthening knowledge of both the value of and need to respect the legal principle of free, prior, and informed consent (FPIC). FPIC is a framework of information gathering and decision-making rooted in Article 3’s right of self-determination. As emphasized in many other interviews, Angie Bain views the federal UNDRIP Act as signalling “a potential change in our relationship [with governments and non-Indigenous people] and a willingness to look at things differently. The emphasis on free, prior, and informed consent is a key to any optimism we have. We have been asking for this, internationally and nationally, for a long time.”⁷⁶



Fencing in front of the former Kamloops Indian Residential School, Tk'emlúps, BC

Photo: Julie Harris

⁷² See, in particular, Karine Duhamel, “The United Nations Declaration on the Rights of Indigenous Peoples,” Canadian Museum for Human Rights, online at <https://humanrights.ca/story/the-united-nations-declaration-on-the-rights-of-indigenous-peoples>.

⁷³ Darlene Brander, in conversation with Julie Harris, 29 January 2022.

⁷⁴ Tim Bernard, interview with Julie Harris, 4 March 2022.

⁷⁵ Thomas (Tom) Johnson, interview with Julie Harris, 17 January 2022.

⁷⁶ Angie Bain, interview with Julie Harris, 9 February 2022.

Through FPIC, the Declaration has a built-in pathway to move forward through all stages of implementation. John Moses noted:

Within the museums and heritage field there is indeed a legal duty to consult. In this day and age, it's a very big issue about who gets to speak on issues of indigeneity within the museums and heritage-related disciplines, who gets to speak on whose behalf regarding these issues of indigeneity, and whose values and assumptions form the basis of conservation decision-making – whether we're talking about individual artifacts and works of art or entire monuments and historic sites and cultural landscapes.⁷⁷



Writing-on-Stone / Áisina'i'pi World Heritage Site, AB

Photo: Ryan Shackleton

Melody Lepine said:

Developers are aware of the importance of free, prior and informed consent, but I think First Nations need to provide them with consent and don't understand the need for government to also receive consent ... We hold the government, the Crown, responsible for what the impacts are to our rights, and there is going to be a time when "you, Company, we may give you consent, but we may not give the Crown consent ... because they have not addressed our concerns."⁷⁸

⁷⁷ John Moses, interview with Catherine C. Cole, 14 January 2022.

⁷⁸ Melody Lepine, interview with Catherine C. Cole, 25 January 2022.

All heritage institutions have responsibilities to look carefully at what they are doing and how they are addressing the principles of the Declaration. The implementation of the Declaration by the federal government should include proof that an organization receiving federal funds has its own plan to address UNDRIP. For Lisa Prosper, “Heritage organizations should have the easiest job of implementing UNDRIP and addressing Indigenous heritage. That’s their job. Understanding their practice through an Indigenous cultural heritage lens absolutely makes sense.”⁷⁹ Non-Indigenous heritage institutions should be leaders in supporting opportunities for Indigenous people to participate in their heritage. Some possibilities include providing space for ceremony, allowing time for being on the land or spending time with Elders, and supporting Indigenous language training. While museums, historic and archaeological sites, and archives provide physical evidence of Canada’s genocide against Indigenous peoples, there is little awareness that these belongings were often extracted from communities illegally or unethically and that repatriation and restitution are rights under UNDRIP. There is also a general misunderstanding that Indigenous history is told only through oral history. The physical record – including maps, textual materials, and Indigenous and non-Indigenous objects – is also important and needs to be preserved and accessible; in many cases, the language used to describe and catalogue these items needs to be changed. Camille Callison described a project that the National Indigenous Knowledge and Language Alliance is initiating to develop a framework for ‘Respectful Terminology.’⁸⁰

The issue of commemoration through statues and naming that serves to misrepresent history and celebrate harms done to Indigenous Peoples was also raised in interviews. As Kisha Supernant noted, “It’s not that we should forget history, but what are we celebrating about history? Who are we upholding as the heroes of the past? When you’re upholding as heroes of the past people who committed genocide against Indigenous peoples, you’re saying that it’s okay to have done that.” Common to all interviews was a challenge that comes from the way that ‘heritage’ and ‘culture’ are defined, especially by the federal government, which places so much emphasis on heritage as related to real property (as seen in the federal Policy on the Management of Real Property), national parks and historic sites, the performing arts, and museums. The Department of Canadian Heritage, for example, describes itself as playing “a vital role in the cultural, civic and economic life of Canada” and speaks of the billions of dollars that these sectors bring into the Canadian economy,⁸¹ but it disperses funding through a number of grants and programs that rarely, if ever, address Indigenous heritage holistically.

It is hard to overemphasize the importance of land, snow, ice, and waters in raising awareness about the importance of the Declaration. Kisha Supernant reflected on this in a discussion about the definition of Indigenous heritage used by the IHC:

*One of the things that resonates with me about the way the Indigenous Heritage Circle frames Indigenous heritage is that you cannot separate out land from relations, from historical objects, from knowledge systems, from ways of understanding the world, from our stories. All these things are interconnected in a way that non-Indigenous definitions of heritage don’t make space for.*⁸²

⁷⁹ Lisa Prosper, interview with Julie Harris, 24 January 2022.

⁸⁰ Camille Callison, interview with Catherine C. Cole 18 February 2022.

⁸¹ Canadian Heritage, “Canadian Heritage,” www.canada.ca/en/canadian-heritage.html.

⁸² Kisha Supernant, interview with Catherine C. Cole, 20 January 2022.

As explained by Ry Moran, “We have to think about how we’re going to reconstitute these natural relationships, or these rightful relationships, with the land itself ... We can’t have a conversation about heritage unless we’re having a conversation about the land.”⁸³

Recommendations for Awareness

Immediate Priorities

The federal government should:

1. Add a reference to the Declaration in agreements that the Government of Canada makes with Indigenous Peoples to confirm that the Government of Canada is as committed to upholding the Declaration as it is to upholding Canada’s Constitution.
2. Initiate an awareness campaign about UNDRIP in collaboration with the Indigenous Heritage Circle.
3. Develop an implementation guide for the heritage sector in Canada for governmental and non-governmental, Indigenous and non-Indigenous organizations.
4. Develop a report card and toolkit that will enable organizations to implement and monitor their compliance with UNDRIP.
5. Continue to expand investments in Indigenous cultural centres that embrace all types of heritage, including museum-type collections and spaces for cultural activities.

Longer-term Priority

The federal government should

1. Require all organizations receiving heritage funding to demonstrate their plan to implement the Declaration.

⁸³ Ry Moran, interview with Catherine C. Cole, 28 February 2022.

Water is boss. If you protect water, you protect everything ... Without water – our freshwater, our delta – we would have no culture, no heritage ... If we lose our delta, I know our culture is literally done.

—Melody Lepine



St. Lawrence River

Photo: Fred Cattroll

MOVING FORWARD

Everyone interviewed for this study recognizes the many challenges faced in protecting, honouring, and revitalizing Indigenous heritage.⁸⁴ They know that there is a long road ahead for Indigenous Peoples to study and apply their own laws in determining priorities and directions. Heather George described UNDRIP as a “starting point,” adding that “we need to be able to have the space and the time and the resources to create our own policies and procedures.”⁸⁵ John Borrows said that “‘The time it takes’ needs to be respected. It is fundamental to Indigenous Law.”⁸⁶

Although the federal government has made the implementation of UNDRIP a priority, Indigenous heritage organizations, institutions, and practitioners do not have the financial or human resources of their counterparts in government to meet with them as equals and to address this task from Indigenous perspectives. To begin this process in a good way, the three crucial and immediate priorities are for governments to:

- invest in the Indigenous Heritage Circle (IHC) and the National Indigenous Knowledge and Language Alliance (NIKLA)
- invest in national and provincial/territorial heritage institutions and organizations, and
- invest in new – and different – education and training for Indigenous heritage practitioners and non-Indigenous heritage practitioners and in institutions and organizations with mandates that include Indigenous heritage.

These actions are essential to allow Indigenous Peoples to have the time, resources, and support necessary to fully engage in the implementation of UNDRIP.

The national Indigenous heritage organizations receive no federal operational funding, whereas many non-Indigenous heritage organizations receive funding from the federal government, including through the tax system and endowments, as well as professional and institutional memberships and other revenue sources. Examples include the National Trust, the Canadian Museums Association, the Association of Canadian Archivists, the Canadian Federation of Library Associations, the Canadian Parks and Wilderness Society, and others. All of these organizations have recently begun to respect and advance Indigenous heritage within their own mandates, but none are Indigenous led and none are Indigenous voices for Indigenous heritage. There is an urgent need to address this gap through federal investment in Indigenous heritage organizations that can fully engage in discussions related to the implementation of the Declaration and other matters. The IHC and other groups, such as NIKLA, are volunteer organizations with no staff or sustainable funding.

⁸⁴ IHC board members Karen Aird and Madeleine Redfern were invited to provide evidence on the topic of Heritage Preservation and Protection in Canada to the House of Commons Standing Committee on Environment and Sustainable Development in September 2017. They discussed the meaning of Indigenous heritage, the importance of having a Canada-wide Indigenous-led heritage organizations, and other topics about the implementation of the Declaration. Based on this evidence, the Committee recommended that the Federal government support an indigenous-led initiative for the protection of places that are important to Indigenous communities. See: House of Commons, Standing Committee on Environment and Sustainable Development, Evidence, Thursday, September 28, 2017, online at <https://www.ourcommons.ca/DocumentViewer/en/42-1/envi/meeting-74/evidence> and <https://www.ourcommons.ca/DocumentViewer/en/42-1/ENVI/report-10/page-99#25>.

⁸⁵ Heather George, interview with Catherine C. Cole, 4 February 2022.

⁸⁶ Interview with John Borrows, 27 January 2022.

Similarly, there are many national and provincial/territorial non-Indigenous heritage organizations and institutions, most of which – even if they include Indigenous heritage – focus on the preservation and promotion of colonial heritage. There are relatively few community or provincial/territorial Indigenous heritage organizations across the country, and support for them is uneven at best. Each province and territory should establish an organization with a mandate like that of BC’s unique First Peoples’ Cultural Council to support Indigenous languages and arts and cultural heritage, provincially or territorially. Moreover, as recommended, more cultural centres that are focused on the heritage of individual nations or peoples should be established and supported with appropriate funding.

Finally, and following on the recommendations for capacity-building, there needs to be a new – and different – approach to education and training both for Indigenous heritage practitioners and for non-Indigenous heritage practitioners, institutions, and organizations with mandates that include Indigenous heritage. These actions are essential to enable Indigenous Peoples to have the time, resources, and support necessary to fully engage in the implementation of UNDRIP. Heritage organizations and institutions need to respect that cultural knowledge and skills are as important as technical or disciplinary knowledge and skills. Those working in Indigenous heritage should engage in Indigenous cultural practices, some of which take place during regular office hours. Non-Indigenous heritage organizations need to provide more support for Indigenous heritage practitioners, and Indigenous heritage organizations must have the resources to hire Indigenous staff and pay them competitive rates, allowing them to remain in their chosen field and work in Indigenous heritage organizations rather than in universities or non-Indigenous government heritage institutions. While all recommendations in this report are important, without addressing – or at least beginning to address – these three issues, Indigenous people will be unable to participate in the implementation of UNDRIP as equals.



Sarah Fox preparing salmon for Tlingit Day, Teslin, YT
Photo: Minnie Clark

The authors are very grateful to the interviewees for generously sharing their knowledge, commitment to Indigenous heritage, and stories. While acknowledging that there is a significant amount of work required to implement the Declaration from a heritage perspective, several interviewees commented that this is an opportunity to ensure that Indigenous heritage flourishes. As Nika Collison noted, we should not “let these words be chained to paper.”⁸⁷

⁸⁷ Jisgang Nika Collison, interview with Catherine C. Cole, 1 February 2022.

LITERATURE REVIEW

INTRODUCTION

This literature review contains a range of sources related to Indigenous heritage in the context of the Declaration. Most entries are by Indigenous authors and presenters and are primarily from 2016 or later to provide the most recent research, scholarship, submissions, reporting, recommendations, and commentary. Most entries are available directly online and include audio-visual sources. Several entries respond specifically to the Government of Canada's United Nations Declaration on the Rights of Indigenous Peoples Act (Bill C-15), which plans for the implementation of the Declaration federally, and to British Columbia's Declaration on the Rights of Indigenous Peoples Act, which is intended to create a path to implement the Declaration provincially. Other entries underscore the connections between the aspirations of the Declaration and the findings and recommendations of the Truth and Reconciliation Commission of Canada and the National Inquiry into Missing and Murdered Indigenous Women and Girls. This literature review also attempts to complement a bibliography about the Declaration that is currently (April 2022) being completed by Catherine Bell and Kienna Shkopich-Hunter.

The entries are arranged as follows.

- The text of the Declaration, together with information from the Government of Canada
- A selection of responses and commentaries about the Declaration, both general and specific to cultural heritage
- A selection of entries about the possibilities and challenges of implementing the Declaration
- A selection of voices and perspectives on Indigenous cultural heritage that provide insight into the aspirations and paths forward for the Declaration
- Heritage specific considerations – explicit and implicit – which are grouped as follows:
 - 1) Archeology, 2) Archives and Libraries, 3) Arts and Heritage, 4) Collections, Conservation, Preservation, and Repatriation, 5) Digital and Data, 6) Intangible Heritage, 7) Intellectual Property, 8) Landscapes, Places, and Sites, 9) Indigenous Languages, and 10) Traditional Knowledge

While an entry is consigned to only one category, there are many instances of overlap. Here are some examples. Water, a sacred, cultural, and environmental concern, is addressed in several entries in the Implementation and Perspectives sections as well under Indigenous Knowledge, whereas Indigenous languages are accorded a heritage category yet also matter significantly to every part of Indigenous heritage and Indigenous Law. Or consider entries taken up with the dissemination, protection, and sovereignty of data, digital or otherwise, which are found in many sections and categories, including Implementation, Archaeology, Archives and Libraries, and Intellectual Property.

The same might be said for the Declaration itself. The specific concern with heritage in Articles 11, 12, and 31 – as well as its implications in others, such as Articles 5, 25, and 29 – connect to several acts, laws, policies, and declarations enacted or proposed. Various entries try to address this reality. Because the Declaration includes the principle of free, prior, and informed consent, several entries address this topic in the context of cultural heritage. Finally, the vast majority of entries pertain to the Declaration in the Canadian context, but sources from Australia, New Zealand, the United Kingdom, and the United States are also included.



Photo: Mi'kmawey Debert Cultural Centre, NS

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Photo: Devon Manik

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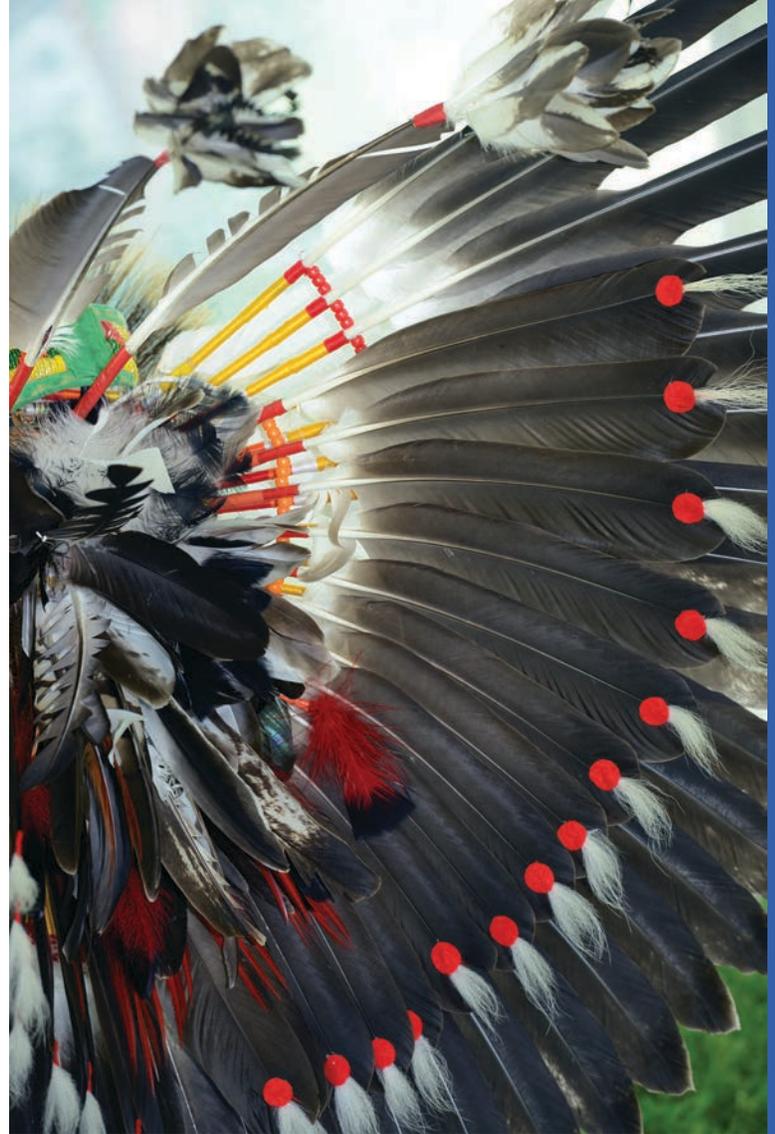


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