



**NORTHWEST TERRITORIES  
LEGISLATIVE ASSEMBLY  
TERRITOIRES DU NORD-OUEST  
ASSEMBLÉE LÉGISLATIVE**

**MEETING  
GO 13-20-24**

**STANDING COMMITTEE ON GOVERNMENT OPERATIONS**

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**MONDAY, MAY 27, 2024**

**DET'ANCHOGH KÚÉ - EAGLE ROOM - YELLOWKNIFE, NT**

**10:30 AM**

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**AGENDA**

1. Prayer
2. Review and Adoption of Agenda
3. Declarations of Conflict of Interest
4. In-Camera Matters:
  - a. United Nations Declaration on the Rights of Indigenous Peoples Implementation Act
5. New Business
6. Deferred Business
7. Date and Time of Next Meeting: Wednesday, May 29, 2024 at 12:00 P.M.
8. Adjournment



<p style="text-align: center;"><b>Detailed Agenda</b></p> <p style="text-align: center;"><b>Item</b></p>	<p style="text-align: center;"><b>Recommend</b></p>
<p>4. In-Camera Matters:</p> <p style="padding-left: 20px;">a. United Nations Declaration on the Rights of Indigenous Peoples Implementation Act – Update with Minister Simpson</p> <p style="padding-left: 40px;">Opening Remarks Minister Simpson – <b>Attachment 1</b></p> <p style="padding-left: 40px;">Presentation Deck – <b>Attachment 2</b></p> <p style="padding-left: 40px;">Briefing Note – <b>Attachment 3</b></p> <p>5. New Business</p> <p>6. Deferred Business</p> <p>7. Date and Time of Next Meeting: Wednesday, May 29, 2024 at 12:00 P.M.</p> <p>8. Adjournment</p>	<p>Information</p> <p>Information</p> <p>Information</p>

**Standing Committee on Government Operations**  
**Opening Remarks for an In-Camera Briefing on Status of the Implementation**  
**of the United Nations Declaration on the Rights of Indigenous Peoples**

**May 27, 2024**

**Minister of Executive and Indigenous Affairs**

Mr. Chairperson, thank you for inviting me today to speak to the progress being made on the implementation of the *United Nations Declaration on the Rights of Indigenous Peoples*.

Today I am joined by:

- John MacDonald, Secretary to Cabinet/Deputy Minister, Executive and Indigenous Affairs;
- Shawn McCann, Deputy Secretary, Indigenous and Intergovernmental Affairs, Executive and Indigenous Affairs;
- Anne-Marie Guedon, Manager, Indigenous Affairs, Executive and Indigenous Affairs; and
- Ronna Sharegan, Ministerial Special Advisor.

Today's presentation will provide Members with an update on the progress being made by the Government of the Northwest Territories to implement the Declaration in the Northwest Territories in collaboration and cooperation with Indigenous governments.

The GNWT is committed to implementing the Declaration across all of its departments, laws, and policies. We are the first jurisdiction in Canada to have legislation implementing the Declaration that was fully co-drafted with Indigenous governments and Indigenous organizations.

The *United Nations Declaration on the Rights of Indigenous Peoples Implementation Act* provides a framework for the GNWT to collaborate with Indigenous governments and Indigenous organizations to collectively determine priorities for implementing the Declaration to meet the needs of all residents of the NWT.

The co-drafting process has led to the inclusion of features in the legislation unique to the Northwest Territories such as the Statement of Consistency which ensures all new laws are consistent with the UN Declaration and the Action Plan Committee, that enables close collaboration with Indigenous governments and Indigenous organizations on the implementation of the *Act*.

Collaboration on this work is currently underway. The development of the action plan to guide implementation has already begun and an annual report is currently on track to be made public this summer.

The GNWT continues to extend an open invitation to all Indigenous governments and Indigenous organizations to participate in this meaningful and cooperative work.

I look forward to providing you with an update on the status of this work, as well as being available to answer any questions you may have. Regular communication between the GNWT and the Standing Committee on the implementation of the UN Declaration was a recommendation of the last Assembly and hopefully this briefing is the first of many.

With your permission, I will now ask Ms. Guedon to lead Members through the presentation.

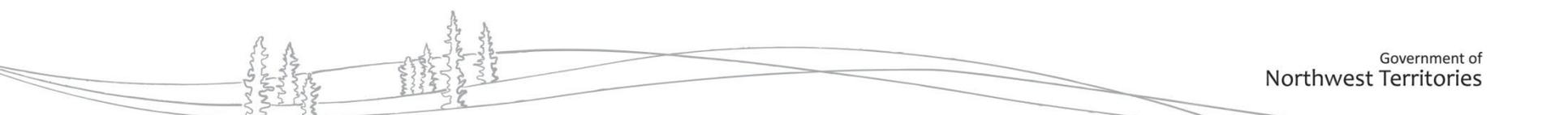
Thank you.



# UNDRIP Implementation Act

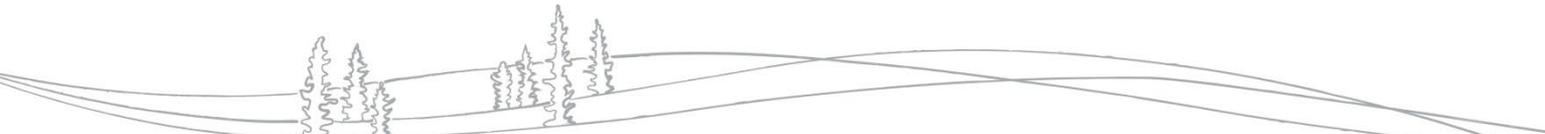
Work currently underway

May 2024



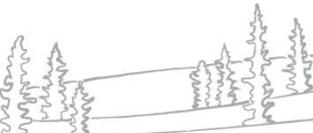
- General overview of UNDRIP-IA
- Action plan process
- Statement of Consistency
- Shared Decision-Making Agreements
- The annual report

# United Nations Declaration on the Rights of Indigenous People Implementation Act



# Implementation legislation

- The *United Nations Declaration on the Rights of Indigenous Peoples Implementation Act* (Act) was passed on October 6, 2023.
- The legislation was entirely co-developed in cooperation with Indigenous governments and Indigenous organizations through a working group of officials.



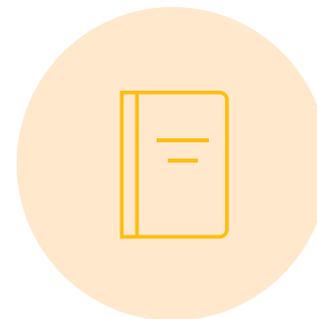
# What is the UNDRIP IA?



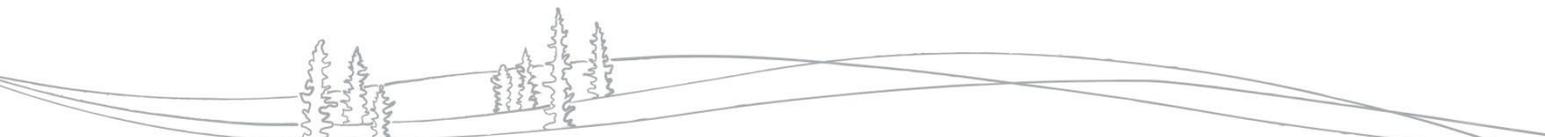
COLLABORATIVELY DRAFTED WITH  
INDIGENOUS GOVERNMENTS



BUILT ON THE FOUNDATION OF  
EXISTING LEGISLATION IN OTHER  
JURISDICTIONS WITH MANY OF THE  
SAME FEATURES



PRIMARILY LAYS OUT THE  
MECHANISMS THAT WILL BE USED TO  
ADVANCE THE IMPLEMENTATION OF  
THE DECLARATION



# What are the main aspects of the law?



Creation of an action plan and the collaborative work of the Action Plan Committee (underway)



Statement of Consistency for new laws and alignment of existing laws over time through action plan

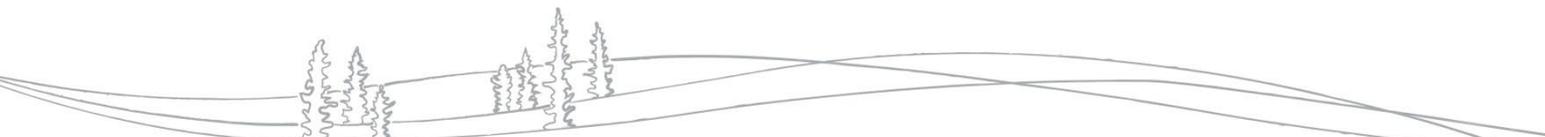


The potential to negotiate shared decision-making agreements regarding statutory decisions of Ministers



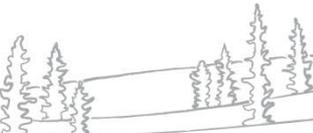
Annual reporting to show progress of the implementation of the UNDRIP

# Action Plan



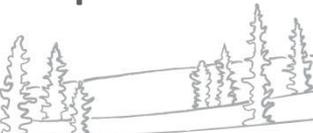
# Action Plan

- 10 (1) The Minister shall, in collaboration and cooperation with Indigenous Governments or Organizations of the Northwest Territories and the Executive Council, **co-develop an action plan to achieve the objectives of the Declaration.**



# Action Plan Committee

- Was created as a requirement under the Act.
- Finalized a Terms of Reference to guide the internal operations and collaborative relationship between members of the APC.
- Fulfills certain obligations, including setting implementation priorities through an action plan.
- Currently working on identifying actions and tasks for the action plan.



# Action Plan Committee Membership

- “Indigenous Government or Organization”
  - *means an entity that is authorized to act on behalf of Indigenous peoples that hold rights recognized and affirmed by section 35 of the Constitution Act, 1982 and chosen by those Indigenous peoples in accordance with their own procedures and decision-making institutions to represent them and to act on their behalf.*
- Currently **12** Indigenous governments have identified representatives to participate. Open invitation to all Indigenous Governments and Organizations to participate



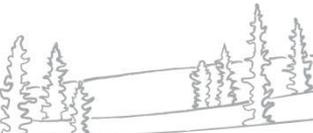
**Behdzi Ahda First Nation**

**K'ASHO GOT'INE**

Government of Northwest Territories

# Producing the action plan

- Will be a 5-year plan.
- Conversations about capacity will inform the selection of priorities.
- Under the Act, it must be completed and tabled in the Legislative Assembly by the fall of 2025.
- The APC has begun to work on the action plan.
  - Indigenous governments and the GNWT have all begun to identify priorities for potential actions.



# Priorities of the APC

- Collaboration among Indigenous governments to define and identify shared priorities for potential actions.
- Examples of potential action items could include:
  - Redefining roles and communication standards in the NWT Emergency Management Act,
  - Reflecting culturally safe, respectful and holistic approaches in principles in health care, including supports for medical travel
  - Reevaluating education policies, including teaching staff allocations and dedicated teacher housing.
- Alignment of action items with the priorities of the NWT Council of Leaders



# 11 (2) – The action plan must also include:

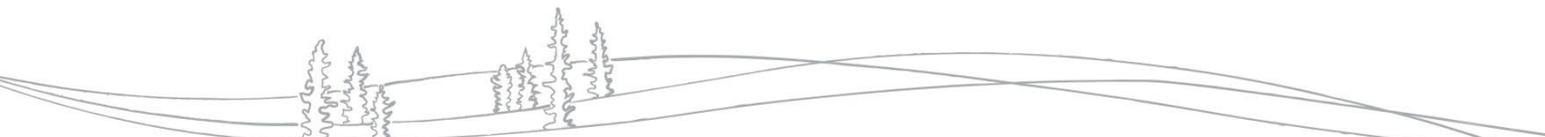
- (a) a transparent process for how the activities under the action plan are to be carried out that incorporates **consensual decision-making** among the GNWT and IGIOs, as equal partners;
- (b) clear **time-lines and objectives** to track and ensure accountability;
- (c) a **process or measures to review**, revise or replace existing GNWT laws or policies, where necessary, including the introduction of new laws or policies, to create consistency with the Declaration;
- (d) provisions to require the **review and development of amendments** to the action plan;
- (e) a **mechanism for oversight** of the implementation of the action plan
- (f) any other measures or processes that may be described in more detail in **the Memorandum.**

# Next Steps

- The APC will identify:
  - measurable actions to implement the action plan,
  - a tracking progress reflected in the annual report.
- The continued leadership of Indigenous governments in the APC will be vital to ensure that the Act's implementation remains aligned with the UN Declaration and Indigenous perspectives.
- Capacity needs continue to be a challenge for Indigenous governments to participate in the work of the Action Plan Committee, in addition to other co-governance forums.

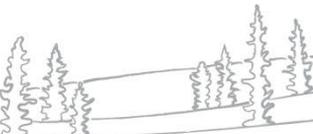


# Statement of Consistency



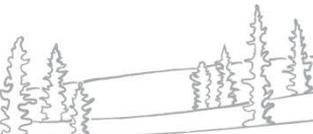
# Measures for new legislation

- A **Statement of Consistency** to be prepared by the Attorney General to ensure consistency with the UN Declaration, and rights recognized and affirmed under s.35 of the *Constitution Act*, 1982, prior to the tabling of any new or amended legislation.
- Legislation coming from regular members will also require a Statement of Consistency to be developed by MLAs.

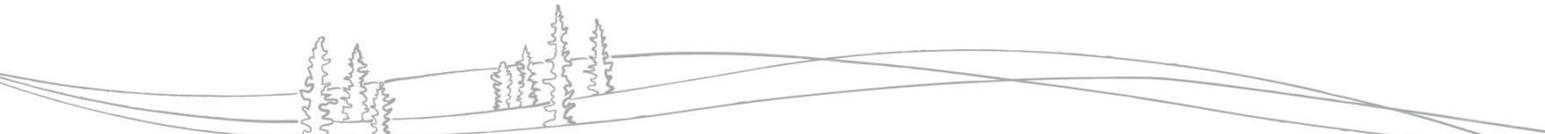


# Existing legislation and policies?

- Process to be determined as part of the Action Plan
- Priority legislation and policies to be determined in Action Plan process.

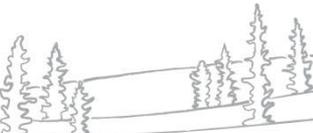


# Shared Decision-Making Agreements



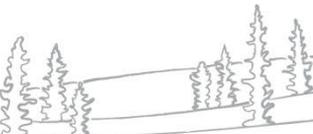
# Shared Decision-Making Agreements

Allow Ministers to enter into agreements with Indigenous governments to jointly exercise a statutory power or to obtain consent before the Minister exercises.

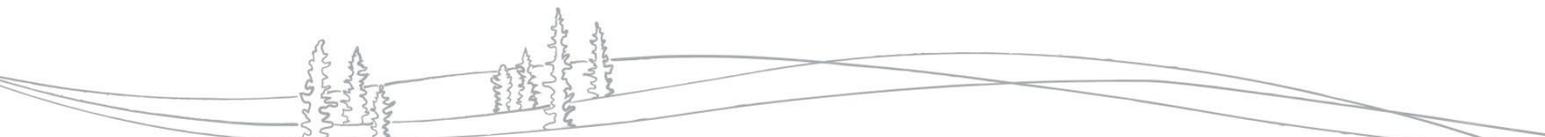


# Shared Decision-Making Agreements

- Are an expansion of a feature found in the British Columbia's UN Declaration legislation.
- Require a clear scope of the decisions to be jointly made and address shared accountability for decisions as well as any overlap.
- Must respect existing treaty and Aboriginal rights and set out the process to reach decisions.

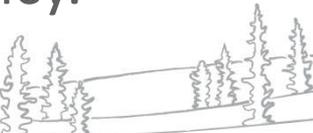


# Annual report



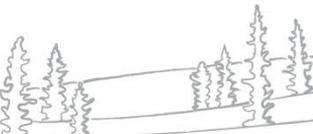
# Annual report

- From the Act: *The Minister shall, in collaboration and cooperation with the APC produce and annual report.*
- The Act requires regular reporting of progress under the Act via the tabling of an annual GNWT-wide report regarding the Action Plan
- Report on the measures taken under the Act and the preparation and implementation of departmental actions and initiatives for the action plan by each department and public agency.

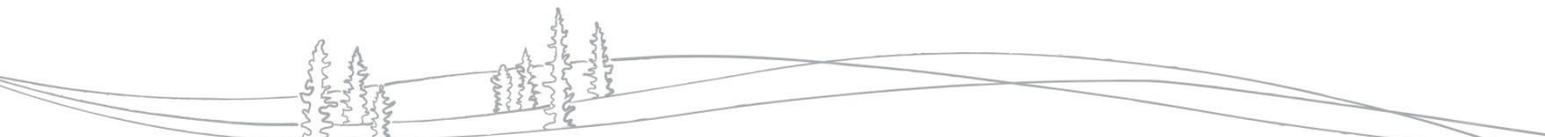


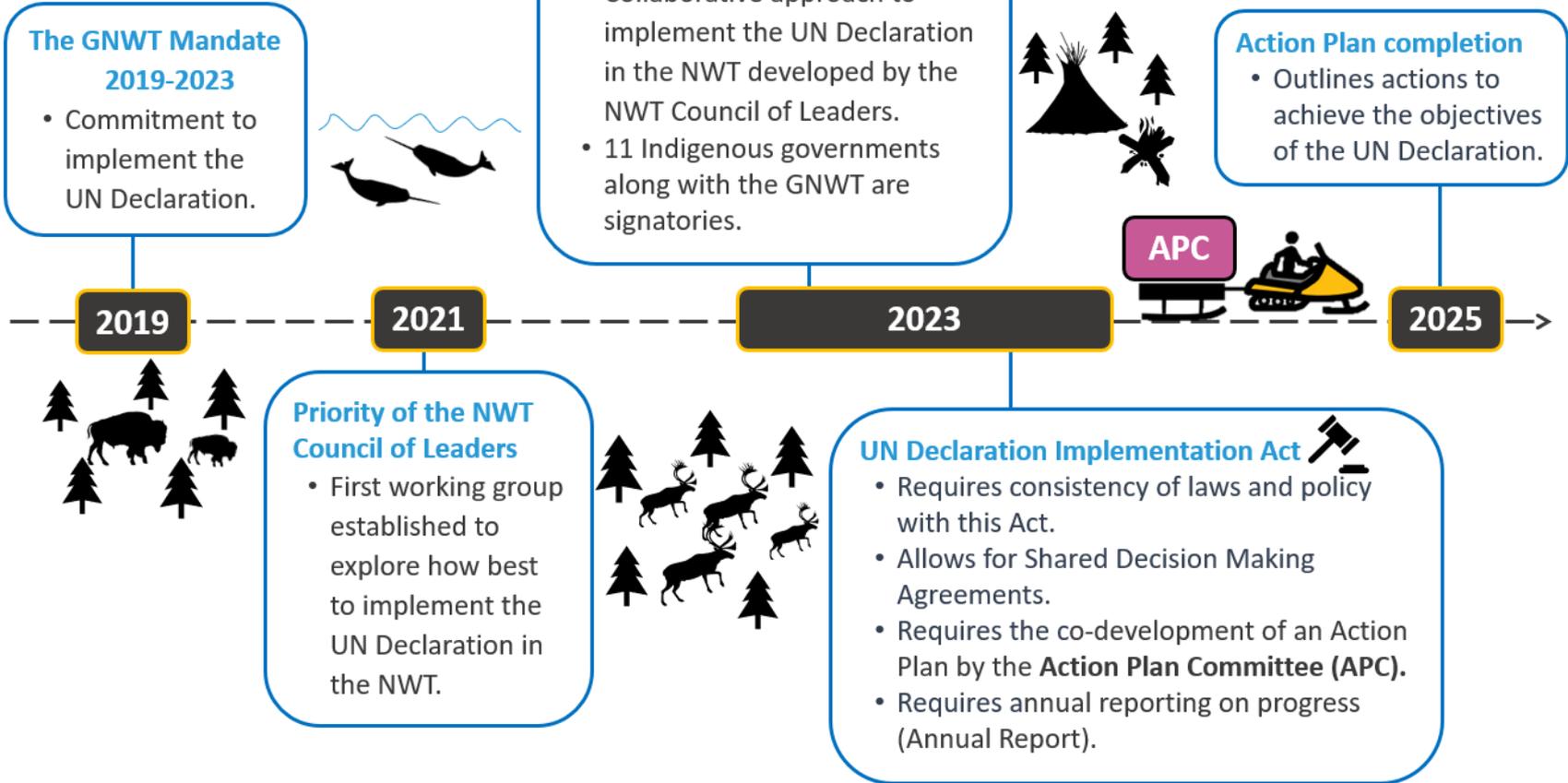
# The annual report must also include:

- (a) **recommendations** by the Action Plan Committee for proposed amendments to legislation and policies to be consistent with the Declaration;
- (b) **department-specific overviews** and reporting;
- (c) an update on all **outstanding matters** identified in previous tabled reports; and
- (d) an identification of **any emerging concerns** or priorities.



# Discussion





**Attachment 3**

## Briefing Note

### *United Nations Declaration on the Rights of Indigenous Peoples Implementation Act*

#### UNDRIP

The United Nations Declaration on the Rights of Indigenous Peoples<sup>1</sup> (Declaration), also referred to as UNDRIP, is a comprehensive international human rights instrument. The Declaration sets out the “minimum standards for the survival, dignity, and well-being of Indigenous Peoples.”<sup>2</sup>

The Declaration is guided by the purpose and principles of the Charter of the United Nations, which recognizes and affirms Indigenous people’s inherent rights. The Declaration reference 46 articles that speak about rights to:

- Land
- Culture and language
- Self-determination
- Non-discriminatory or oppressive practices
- Protection of elders, women, and children
- Survive and develop
- Liberty and freedom
- Participate in any decision that affects Indigenous people

#### Federal Legislation

Canada fully endorsed the Declaration in 2016, and in June 2021, passed the *United Nations Declaration on the Rights of Indigenous Peoples Act*,<sup>3</sup> a landmark piece of federal legislation aimed at harmonizing Canada’s laws with the Declaration. The federal Act provides direction for the Government of Canada to implement the declaration in consultation and cooperation with Indigenous Peoples.



## 19<sup>th</sup> Assembly Mandate

In 2019, the Legislative Assembly established a mandate for the Government of the Northwest Territories' (GNWT) directing it to prioritize the work of implementing the Declaration.<sup>4</sup> The GNWT committed to:<sup>5</sup>

1. Work with Indigenous governments to create and implement an action plan that identifies changes required to GNWT legislation and policies to best reflect the principles set out in the Declaration, and
2. Collaborate with the federal government and Indigenous governments to support Canada's efforts to implement the Declaration.

As part of its Mandate, the 19<sup>th</sup> Assembly committed to:

1. Developing a Terms of Reference
2. Establishing a working group with Indigenous governments
3. Completing an implementation plan
4. Reporting on program changes

The Legislative Assembly then set up a Special Committee on Reconciliation and Indigenous Affairs (SCRIA) to seek and encourage discussions on implementing the Declaration within the NWT.<sup>6</sup> SCRIA delivered an [interim "What We Heard" report](#) and a [final report with recommendations](#).

## Bill 85

On March 29, 2023, the GNWT introduced [Bill 85: The United Nations Declaration on the Rights of Indigenous Peoples Implementation Act](#). Bill 85 was a historic piece of legislation. It was the third of its kind within Canada, following similar legislation in British Columbia.<sup>7</sup> The Bill was developed in partnership between the GNWT and Indigenous Governments or Organizations (IGOs) through a working group of officials.<sup>8</sup> The Bill is also linked to a separate Memorandum of Understanding (MOU) that lays out a collaborative approach to implement the Declaration.<sup>9</sup> As of May 2024, the GNWT and 10 of 15 IGOs had signed the MOU.<sup>1</sup>

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<sup>1</sup> The following five Indigenous governments or Organizations have not signed the MOU as of May 2024:

- Akaitcho Dene First Nations
- Inuvialuit Regional Corporation
- Salt River First Nation
- Dehcho First Nations
- Nahanni Butte Dene Band



The Bill describes the process that the GNWT will follow to ensure that future laws, regulations, and policies, procedures, and arrangements of the GNWT are consistent with the human rights set out in the Declaration. It also mandates a process for the GNWT to collaborate with IGOs to ensure existing laws, regulations, policies, procedures, and arrangements are examined to make them consistent with the Declaration over time.

## Standing Committee Review

Bill 85 was referred to the Standing Committee on Government Operations (Committee) for review. Committee tabled the Report on Bill 85: *United Nations Declaration on the Rights of Indigenous Peoples Implementation Act*<sup>10</sup> (Report) in September 2023. The Report summarizes Committee's review of Bill 85 and describes Committee's efforts to strengthen the Bill – including thirteen motions to amend the Bill (10 of which were adopted at the clause-by-clause review), and eight recommendations.

Typically, Committee includes a recommendation in each report requesting a response from the government within 120 days. The recommendation is then moved as a motion in the House and Cabinet is required to respond.<sup>11</sup> However, since the 19<sup>th</sup> Assembly dissolved in less than 120 days from when the Report was tabled, Committee did not include that recommendation.

## *United Nations Declaration on the Rights of Indigenous Peoples Implementation Act*

The Act was passed into law in October 2023. The goals of the Act are to:

- Confirm that the Declaration is a universal human rights instrument. It is important to the Indigenous Peoples of the Northwest Territories (NWT) and should be part of the process of developing new laws and reviewing and amending existing ones.
- Direct that the laws of the NWT must be interpreted in a manner consistent with the Declaration; and
- Provide a process for the GNWT to work with IGOs in a government-to-government relationship to determine how the Declaration will be implemented in ways that will improve the lives of the people of the NWT.

The Act will:



- Direct the Attorney General of the Northwest Territories to compare the Declaration with any new laws being proposed, including the amendment of existing laws, and provide that analysis in writing through a Statement of Consistency when any new laws or changes to laws are being proposed.
- Create an Action Planning Committee of GNWT and IGO representatives to work together to develop an Action Plan to identify priorities and tasks to advance the implementation of the Declaration in the NWT.
- Confirm that the GNWT can enter into shared decision making agreements with IGOs where an IGO requests when it is possible and beneficial to do so.
- Require public review and reporting on the activities identified in the Act and Action Plan to provide an update on the work being done and make that information available to the public in an annual report.
- Direct the GNWT to make steady progress to ensure the UN Declaration is considered in all decisions about laws and policies affecting Indigenous Peoples.
- Support the implementation of historical and modern treaties in the NWT.

## Next Steps

On February 20, 2024, the Standing Committee on Government Operations of the 20<sup>th</sup> Assembly requested a response to the 19<sup>th</sup> Assembly Committee Report. The Department of Executive and Indigenous Affairs committed to providing a complete response to address the recommendations contained in the report by the end of the May-June sitting.



## Potential Questions

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1 How will NWT UNDRIP legislation help to advance the goals of Indigenous Peoples having autonomy over their lands?

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2 When will the GNWT have the Action Plan

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3 How will the GNWT meaningfully implement the Declaration?

What tangible actions will the GNWT take in the next 3.5 years to implement the Declaration?

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4 Will the GNWT be reviewing their policies against the principles of UNDRIP?

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5 The Dene Nation has stated opposition to the Declaration<sup>12</sup>, what is the GNWT doing to work with Indigenous Governments and Organizations that have not signed the MOU?

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6 Will the GNWT work to remove cede and surrender clauses from existing land claim agreements?

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7 Is the GNWT prepared to fund IGOs to build their capacity on implementing the Declaration?

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8 Will the GNWT make an independent facilitator available to all negotiation tables?

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## Endnotes

<sup>1</sup> United Nations Declaration on the Rights of Indigenous Peoples. Available at :

[https://www.un.org/development/desa/indigenouspeoples/wp-content/uploads/sites/19/2018/11/UNDRIP\\_E\\_web.pdf](https://www.un.org/development/desa/indigenouspeoples/wp-content/uploads/sites/19/2018/11/UNDRIP_E_web.pdf)

<sup>2</sup> United Nations Department of Economic and Social Affairs, Social Inclusion. Available at :

<https://social.desa.un.org/issues/indigenous-peoples/united-nations-declaration-on-the-rights-of-indigenous-peoples#:~:text=It%20establishes%20a%20universal%20framework,specific%20situation%20of%20Indigenous%20Peoples>

<sup>3</sup> Canada's United Nations Declaration on the Rights of Indigenous Peoples Act received assent in June 2021.

Available at: <https://www.laws-lois.justice.gc.ca/eng/acts/u-2.2/page-1.html>

<sup>4</sup> In October 2019, Members of the Legislative Assembly set 22 priorities for the Government of the Northwest Territories' Mandate for the 19th Legislative Assembly. One of those priorities was "Implementing the United Nations Declaration on the Rights of Indigenous Peoples (UNDRIP) within the constitutional framework of Canada to advance Reconciliation." The government committed to work with Indigenous governments to create and implement an action plan that identifies changes required in GNWT legislation and policies to best reflect the principles set out in the Declaration. Available at: [https://www.ntassembly.ca/sites/assembly/files/td\\_12-192.pdf#page=9](https://www.ntassembly.ca/sites/assembly/files/td_12-192.pdf#page=9).

<sup>5</sup> Mandate of the Government of the Northwest Territories (2019-2023). Available at :

<https://www.eia.gov.nt.ca/en/gnwt-mandate-2020-2023/united-nations-declaration-rights-indigenous-peoples-undrip#:~:text=Implementing%20the%20United%20Nations%20Declaration,all%20GNWT%20departments%20and%20agencies>.

<sup>6</sup> For more information, see the Terms of Reference for the Special Committee on Reconciliation and Indigenous Affairs. Available at: [https://www.ntassembly.ca/sites/assembly/files/td\\_211-192.pdf](https://www.ntassembly.ca/sites/assembly/files/td_211-192.pdf).

<sup>7</sup> More information on British Columbia's Declaration on the Rights of Indigenous Peoples Act is available at:

<https://www2.gov.bc.ca/gov/content/governments/indigenous-people/new-relationship/united-nationsdeclaration-on-the-rights-of-indigenous-peoples>.

<sup>8</sup> For more information, see the "Joint News Release: NWT Council of Leaders working together to implement the United Nations Declaration on the Rights of Indigenous Peoples" released on March 29, 2023. Available at:

[https://www.gov.nt.ca/sites/flagship/files/documents/joint\\_release-nwt\\_council\\_of\\_leaders\\_working\\_together\\_to\\_implement\\_the\\_united\\_nations\\_declaration\\_on\\_the\\_rights\\_of\\_indigenous\\_peoples.pdf](https://www.gov.nt.ca/sites/flagship/files/documents/joint_release-nwt_council_of_leaders_working_together_to_implement_the_united_nations_declaration_on_the_rights_of_indigenous_peoples.pdf)

<sup>9</sup> The Memorandum of Understanding for a Collaborative Approach To Implement the United Nations Declaration on the Rights of Indigenous Peoples in the NWT is available at: <https://www.eia.gov.nt.ca/sites/eia/files/nwtcol-undrip-mou.pdf>

<sup>10</sup> Standing Committee on Government Operations Report on Bill 85: *United Nations Declaration on the Rights of Indigenous Peoples Implementation Act*. Available at : <https://www.ntlegislativeassembly.ca/content/report-bill-85%C2%A0-united-nations-declaration-rights-indigenous-peoples-implementation-act>

<sup>11</sup> As required by Rule 9.4(5) of the Rules of the Northwest Territories Legislative Assembly. Available at:

[https://www.ntassembly.ca/sites/assembly/files/td\\_527-192.pdf#page=40](https://www.ntassembly.ca/sites/assembly/files/td_527-192.pdf#page=40)

<sup>12</sup> Some Dene and Indigenous scholars say Article 46 – which asserts that Indigenous peoples cannot take actions that "impair, totally or in part, the territorial integrity or political unity of sovereign and independent states" – dilutes the rest of the Declaration. For more information, see Cabin Radio's article, available at:

<https://cabinradio.ca/124995/news/politics/nwt-introduces-act-to-implement-un-declaration/>