



CAPP
**DISCUSSION PAPER ON
IMPLEMENTING THE UNITED
NATIONS DECLARATION ON
THE RIGHTS OF INDIGENOUS
PEOPLES IN CANADA**

Preamble

In 2007 the General Assembly of the United Nations adopted the United Nations Declaration on The Rights of Indigenous Peoples (UNDRIP).

The Truth and Reconciliation Commission of Canada issued 94 Calls to Action in its Final Report including a call to governments and the corporate sector to adopt UNDRIP and apply its principles, norms and standards;

In 2015, the governments of Alberta and Canada committed to implement UNDRIP. These commitments present an opportunity to transform the relationship between Indigenous Peoples and all Canadians.

CAPP endorses UNDRIP as a framework for reconciliation in Canada. We support the implementation of its principles in a manner consistent with the Canadian Constitution and law.

CAPP member companies acknowledge the importance of reconciliation in Canada. We view natural resource development as linked to the broader Canadian reconciliation process. Within this process, we acknowledge our activities have impacted Indigenous communities. Our industry has a role in building respectful and mutually beneficial relationships with Indigenous Peoples. CAPP calls upon its member companies to ensure employees continue to receive appropriate education and awareness training regarding Indigenous Peoples in Canada.

Building Understanding

Industries, governments and Indigenous Peoples must find new ways to work together. Understanding and implementing UNDRIP in the Canadian context raises questions that require clarity and some level of consensus that can only be achieved through dialogue. CAPP is keenly interested and prepared to take an active role in that dialogue, which must lead to action and sustainable outcomes.

The following represents CAPP's preliminary thoughts on themes which frame the discussion on implementing UNDRIP in Canada and which we believe are relevant to our industry. We intend this document as a contribution to an important discussion.

The Canadian Context

Canada has a legal and constitutional framework for the protection of Aboriginal and Treaty rights which has been developed over many decades. The Canadian legal system, including the courts, provides protection for these rights. In our view, UNDRIP should be implemented in Canada in a manner consistent with the Canadian Constitution and law.

Preservation of Human Rights

CAPP member companies understand that Indigenous Peoples in Canada experience social and political disadvantage and discrimination. UNDRIP affirms that Indigenous Peoples are equal to all other people. We strongly support the protections set out in UNDRIP for human rights and fundamental freedoms including the right to be free from all forms of discrimination.

Recognition of Culture and Education

CAPP supports the protection of cultural rights set out in UNDRIP in the context of Canadian law such as the rights to maintain cultural institutions, to practice and revitalize cultural traditions and customs, including spiritual customs and ceremonies, and the right to be respectfully reflected in public information and education. Our member companies strive to work collaboratively with Indigenous communities to respect their unique cultures and traditional knowledge. We recognize the importance of these practices and traditions to Indigenous communities and to all Canadians.

CAPP member companies frequently work with Indigenous communities on educational related objectives. Consistent with this practice, CAPP is supportive of the rights identified in UNDRIP in relation to education including the right to access culturally appropriate education without discrimination.

Right to Self Determination

CAPP member companies recognize that developing strong governance in self-determining Indigenous communities promotes reconciliation and supports strong decision making and community well-being. The right of self-determination is supported in Canadian policy and law. CAPP supports the right of self-determination in UNDRIP in this context including the right to maintain distinct political, social and cultural practices and institutions as well as increased participation of Indigenous Peoples in decisions which affect them.

Free Prior and Informed Consent

Free, prior and informed consent (FPIC) has its genesis in the right of self-determination. CAPP understands FPIC as an important set of principles to ensure protection of the rights of Indigenous Peoples through the process of meaningful engagement and consultation. These procedures should result in the avoidance or mitigation of project related impacts.

Like the protection of Aboriginal and Treaty rights in the Canadian Constitution, FPIC provides Indigenous communities with rights of increasing participation and protection depending on the degree of impact on the exercise of Aboriginal and Treaty rights. This reflects the guidance of the Supreme Court requiring the Crown to balance the interests of Indigenous Peoples with the interests of broader society.

We understand FPIC to mean that decisions by Indigenous communities are made freely and without coercion, in advance of regulatory project decisions, and with appropriate information and consultation about the project or decision. CAPP supports this articulation of FPIC and the principles enshrined in the Canadian Constitution and law.

In practice, CAPP member companies regularly seek to and achieve FPIC with Indigenous communities as discussed above, through meaningful discussions that can lead to the mitigation of project-related impacts. CAPP looks forward to continuing to build on these successes.

Economic and Social Sustainability

Strong, self-determining Indigenous communities will benefit all Canadians by making Canada more prosperous and more competitive in a global market place. The UNDRIP affirms that Indigenous Peoples have the right to improve their economic and social conditions. We believe Indigenous communities should share in the prosperity from resource development. As an industry, we seek the participation of Indigenous communities in a sustainable manner that supports our mutual objectives. CAPP member companies contribute in various ways including community investment, employment and business opportunities. We believe this has been a successful approach to engaging Indigenous communities in the Canadian economy. We regard this as a part of our role in contributing to accommodation for land uses that impact Indigenous Peoples. We recognize that other accommodation measures between government and Indigenous Peoples may also be necessary.

While we acknowledge that the resource extraction industries, including ours, have an important role in contributing to the economic and social sustainability of Indigenous Peoples in Canada, government has the primary responsibility. It is important for government to fulfill its duty in reconciliation and not pass this responsibility or cost on to industry. Our industry should play its role by engaging meaningfully with Indigenous Peoples about its projects and the associated economic benefits. Government must also play its role.