



## **Bill C-15 – Sustainable Development and Climate Change**

*Paul Joffe (January 24, 2021)*

In Bill C-15 – *United Nations Declaration on the Rights of Indigenous Peoples Act*, sustainable development and climate change are highlighted in PP15 as follows:

Whereas the implementation of the *Declaration* can contribute to supporting sustainable development and responding to growing concerns relating to climate change and its impacts on Indigenous peoples ...

To date, Canada has played an increasingly active role in international processes relating to the *UN Declaration*, sustainable development and climate change. For decades, Indigenous peoples worldwide have also played an active role in advancing these critical issues.

The inclusion of sustainable development and climate change in the preamble of the federal bill to implement the *UN Declaration* is important because they are so critical both now and in the future.

### **I. Sustainable development – relevant provisions in *UN Declaration***

In the 11<sup>th</sup> preambular para. of the *Declaration*, it is affirmed:

*Recognizing* that respect for indigenous knowledge, cultures and traditional practices contributes to **sustainable and equitable development** and proper management of the environment ...

Relevant articles in the *UN Declaration* include:

Right to be free from any kind of discrimination in the exercise of their rights, in particular that based on their Indigenous origin and identity, art. 2; right to self-determination (includes economic, social and cultural development), art. 3; right to development, arts. 3, 20, 23 and 32; right to self-government, art. 4; right to security as distinct peoples, art. 7(2); right not to be subjected to forced assimilation or destruction of culture, art. 8; right without discrimination to the improvement of their economic and social conditions, art. 21; right to conservation and protection of the environment, art. 29(2); right to maintain, control, protect and develop Indigenous cultural heritage, as well as the manifestations of their cultural heritage and of their sciences, technologies and cultures, art. 31; right to their own traditions, cultures and institutions, arts. 5, 9, 11-13, 15, 32(1), 34; right to effective remedy, art. 40; right to exercise rights, subject only to limitations in accordance with international human rights obligations, art. 46(2) and in accordance with principles in art. 46(3)



In addition to the same preambular paragraph on sustainable development as in the *UN Declaration*, the *American Declaration on the Rights of Indigenous Peoples* <sup>2</sup> includes the following paragraphs in article XIX:

1. Indigenous peoples have the **right to live in harmony with nature and to a healthy, safe, and sustainable environment**, essential conditions for the full enjoyment of the rights to life and to their spirituality, cosmovision, and collective well-being.
2. Indigenous peoples have the right to conserve, restore, and protect the environment and to **manage their lands, territories and resources in a sustainable way**.

It is important to note that the most significant international instrument addressing sustainable development is *Transforming Our World: The 2030 Agenda for Sustainable Development*.<sup>3</sup> In particular, States resolved:

between now and 2030, to *end poverty and hunger everywhere*; to combat inequalities within and among countries; to build peaceful, just and inclusive societies; to *protect human rights and promote gender equality and the empowerment of women and girls*; and to *ensure the lasting protection of the planet and its natural resources*.<sup>4</sup>

Clearly, the above resolution affirms the application of sustainable development to all human rights. Thus, it cannot be said that sustainable development has more limited application to the human rights of Indigenous peoples in the *UN Declaration*. To date, the *2030 Agenda for Sustainable Development* has been reaffirmed by the UN General Assembly by consensus more than 80 times.

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<sup>2</sup> *American Declaration on the Rights of Indigenous Peoples*, AG/RES. 2888 (XLVI-O/16), adopted without vote by Organization of American States, General Assembly, 46<sup>th</sup> sess., Santo Domingo, Dominican Republic, 15 June 2016.

<sup>3</sup> General Assembly, *Transforming Our World: The 2030 Agenda for Sustainable Development*, UN Doc. A/RES/70/1 (25 September 2015) (adopted without a vote).

<sup>4</sup> *Ibid.*, at 3 (*Declaration*), para. 3. [emphasis added]



Further, as underlined in General Assembly, *Rights of indigenous peoples*, UN Doc. A/RES/75/168 (16 December 2020) (without a vote), those furthest behind must be reached first, including Indigenous peoples:

Recalling the **2030 Agenda for Sustainable Development, and stressing the need to ensure that no one is left behind and to endeavour to reach the furthest behind first, including indigenous peoples**, who should participate in, contribute to and benefit **without discrimination** from the implementation of the 2030 Agenda ...<sup>5</sup>

Thus, there is an urgency to ensure that sustainable development applies to and benefits Indigenous peoples as a priority.

## II. Climate change – relevance of *UN Declaration*

In Canada (Governor General), *A Stronger and More Resilient Canada*, Speech from the Throne, To Open the Second Session of the Forty-Third Parliament of Canada, September 23, 2020, the far-reaching scope and consequences of climate change were described as follows:

Canadians ... know **climate change threatens our health, way of life, and planet**. They want climate action now, and that is what the Government will continue to deliver. (p. 22)

...

As part of its plan, the Government will:

...

Invest in **reducing the impact of climate-related disasters, like floods and wildfires**, to make communities safer and more resilient ... (p. 23)

International human rights law complements the *United Nations Framework Convention on Climate Change*.<sup>6</sup> It does so by underlining that international cooperation is not only expedient but **also a human rights obligation and that its central objective is the realization of human rights**. In particular, a specific “Local Communities and Indigenous Peoples Platform” has been created to address climate change issues “consistent with international law”. Moreover, the *UN Declaration* “**in its entirety**” is emphasized as relevant to all functions of this Platform involving Indigenous peoples.

<sup>5</sup> See also General Assembly, *Rights of indigenous peoples*, UN Doc. A/RES/73/156 (17 December 2018) (without a vote), preamble; and General Assembly, *Rights of indigenous peoples*, UN Doc. A/RES/72/155 (19 December 2017) (adopted without vote), preamble.

<sup>6</sup> *United Nations Framework Convention on Climate Change*, opened for signature 4 June 1992, 1771 U.N.T.S. 107.



In this regard, see the United Nation Framework Convention on Climate Change (Subsidiary Body for Scientific and Technological Advice), Decision 2/CP.24, *Local Communities and Indigenous Peoples Platform*, FCCC/CP/2018/10/Add.1 (30 December 2018), preamble:

*Emphasizing* that the **purpose and functions** of the Local Communities and Indigenous Peoples Platform and its Facilitative Working Group will be carried out **consistent with international law**,

*Also emphasizing, in its entirety, the United Nations Declaration on the Rights of Indigenous Peoples in the context of the implementation of the functions of the Local Communities and Indigenous Peoples Platform involving indigenous peoples ...*

In regard to the central relevance of Indigenous peoples' human rights in addressing climate change, see, generally, the *Paris Agreement* adopted in 2015.<sup>7</sup> Its preamble affirms:

*Acknowledging* that **climate change is a common concern of humankind**, Parties should, when taking action to address climate change, respect, promote and consider their **respective obligations on human rights**, the right to health, the **rights of indigenous peoples**, local communities, migrants, children, persons with disabilities and **people in vulnerable situations** and the right to development, as well as gender equality, empowerment of women and intergenerational equity,

In 2020, the UN General Assembly adopted by consensus the resolution entitled *Protection of global climate for present and future generations of humankind*.<sup>8</sup> In particular, it highlighted “the importance for all countries of averting, minimizing and addressing loss and damage associated with the adverse effects of climate change, including extreme weather events and slow-onset events, and the **role of sustainable development in reducing the risk of loss and damage** ...”<sup>9</sup> In this whole context, the General Assembly noted the “ongoing work and potential of the Local Communities and Indigenous Peoples Platform of the United Nations Framework Convention on Climate Change”.<sup>10</sup>

As illustrated above, the rights of Indigenous peoples and the *UN Declaration* are profoundly linked to sustainable development. At the same time, climate change is likely to have far-reaching effects on Indigenous peoples and their human rights.

## Conclusion

Based on all of the above, both “sustainable development” and “climate change” are highly relevant to the human rights of Indigenous peoples. Both will impact Indigenous peoples in very different ways. The inclusion of both of these issues in Bill C-15 underscores their significance.

<sup>7</sup> “Adoption of Paris Agreement”, Decision 1/CP.21, as contained in the report of the Conference of the Parties on its twenty-first session, FCCC/CP/2015/10/Add.1, Paris (12 December 2015), <http://unfccc.int/files/home/application/pdf/decision1cp21.pdf>, Annex.

<sup>8</sup> General Assembly, *Protection of global climate for present and future generations of humankind*, UN Doc. A/RES/75/217 (21 December 2020) (adopted without vote).

<sup>9</sup> *Ibid.*, para. 18. [emphasis added]

<sup>10</sup> *Ibid.*, para. 22.