

Free, prior and informed consent, as it is considered in paragraphs 3 and 20 of the WCIP Outcome Document, could be interpreted as providing a veto to Aboriginal groups and in that regard, cannot be reconciled with Canadian law, as it exists.... Canada cannot support paragraph 4, in particular, given that Canadian law, recently reaffirmed in a Supreme Court of Canada decision, states the Crown may justify the infringement of an Aboriginal or Treaty right if it meets a stringent test to reconcile Aboriginal rights with a broader public interest.¹³

In a public statement, Indigenous leaders and their supporters said that Canada's concerns were unfounded, noting that

the notion that the *Declaration* could be interpreted as conferring an absolute and unilateral veto power has been repeatedly raised by Canada as a justification for its continued opposition to the *Declaration*. This claim, however, has no basis either in the *UN Declaration* or in the wider body of international law. Like standards of accommodation and consent set out by the Supreme Court of Canada, FPIC in international law is applied in proportion to the potential for harm to the rights of Indigenous peoples and to the strength of these rights. The word "veto" does not appear in the *UN Declaration*.... Canada keeps insisting that Indigenous peoples don't have a say in development on their lands. This position is not consistent with the *UN Declaration on the Rights of Indigenous Peoples*, decisions by its own courts, or the goal of reconciliation.¹⁴

Reflecting on the importance of the *Declaration* to First Nations, Inuit, and Métis peoples in Canada, Grand Chief Edward John, Hereditary Chief of the Tl'azt'en Nation in northern British Columbia, explained,

We have struggled for generations for recognition of our rights. We have fought for our survival, dignity and well-being, and the struggle continues. Canada's denial of First Nations' land rights falls well short of the minimum standards affirmed by the *Declaration* and demonstrates a clear failure by Canada to implement its human rights obligations. Prime Minister Harper's apology for Canada's role in the Indian Residential Schools acknowledged that the policy of assimilation was wrong and has no place in our country. Yet Canada's policy of denying Aboriginal title and rights is premised on the same attitude of assimilation. It is time for this attitude and the policies that flow from it to be cast aside. The *Declaration* calls for the development of new relationships based on recognition and respect for the inherent human rights of Indigenous peoples.¹⁵

The TRC considers "reconciliation" to be an ongoing process of establishing and maintaining respectful relationships at all levels of Canadian society. The Commission therefore believes that the *United Nations Declaration on the Rights of Indigenous Peoples* is the appropriate framework for reconciliation in twenty-first-century Canada. Studying the *Declaration* with a view to identifying its impacts on current government laws, policy, and behaviour would enable Canada to develop a holistic vision of reconciliation that embraces