**Introduction**The Ontario Native Women’s Association (ONWA) is responding to the Expert Mechanism on the Rights of Indigenous People’s (EMRIP) call for inputs to inform their study on “Laws, legislation, policies, constitutions, judicial decisions and other mechanisms in which States had taken measures to achieve the ends of the United Nations Declaration on the Rights of Indigenous Peoples, in accordance with article 38 of the Declaration.” ONWA appreciates the opportunity to participate in the study.

ONWA is the largest and oldest Indigenous women’s organization in Canada, with over 50 years of experience and expertise in amplifying Indigenous women’s voices and advocating for solutions created and led by Indigenous women. ONWA was established to empower and support all Indigenous women and their families in Ontario through policy development, research, advocacy, community development and the provision of culturally grounded services and programs. ONWA is both a direct service provider organization, delivering culturally grounded services across Ontario, and an association of 13 Chapters (incorporated Indigenous women’s organizations) and 23 Councils (grassroots Indigenous women’s groups). Our inputs to the EMRIP’s study are informed by Indigenous women’s voices, our reports, including [Reconciliation with Indigenous Women](https://www.onwa.ca/_files/ugd/4eaa9c_be059fe0cd844671839aef58558d893d.pdf) (2020), and our submissions to Canada on the *United Nations Declaration on the Rights of Indigenous Peoples Act* (UNDA) and UNDA Action Plan (submitted December 2022, April 2023, and July 2023).

The EMRIP’s report entitled *Efforts to implement the United Nations Declaration on the Rights of Indigenous Peoples: establishing effective monitoring mechanisms at the national and regional levels for the implementation of the Declaration* (A/HRC/EMRIP/2023/3) examines good practices and lessons learned regarding States’ efforts to achieve the ends of UNDRIP, including effective mechanisms at the national and regional levels for the implementation. In this report, EMRIP notes that “recent developments in Canada regarding the rights of Indigenous Peoples provide a good example of concrete action taken by the State, and its political subdivision, for the effective implementation of the Declaration.”[[1]](#footnote-2) The reference to Canada includes both the passing of federal legislation, the UNDA, and the development of Canada’s first UNDA Action Plan.

ONWA would not characterize Canada’s action on UNDRIP as “concrete” but rather a continuation of decisions that have created barriers for Indigenous women during the engagement, implementation and monitoring and evaluation processes of UNDRIP. As the Special Rapporteur on the Rights of Indigenous Peoples noted in his 2023 Visit to Canada report, "[i]f political commitments are not followed by concrete actions with lasting impacts on Indigenous Peoples’ lives, the country’s perceived progressiveness at the international level will be questioned.”[[2]](#footnote-3) With Canada wrapping up its 4th Universal Periodic Review (UPR4), where Canada announced its intent to pursue a seat on the Human Rights Council, UNDRIP and the rights of Indigenous women need to be at the forefront of domestic and international dialogue.

**ONWA’s Key Inputs

UNDRIP Engagement**

Indigenous women have the right to participate in decision-making that affects their rights, through representative organizations they choose (UNDRIP Articles, 18, 19 and 23). ONWA remains concerned with the engagement process Canada undertook in the development of the UNDA Action Plan, the lack of ongoing engagement on implementation, and the ongoing negative impacts of Canada’s Nation-to-Nation/Distinctions-Based policy approach which is suppressing Indigenous women’s voices. ONWA’s April 2023 submission to Canada on the UNDA Action Plan noted the lack of sufficient time to engage Indigenous women across Ontario in a meaningful, measured, and comprehensive way. This concern was reiterated by the Special Rapporteur on the Rights of Indigenous Peoples’ 2023 Visit to Canada report. He noted that the “action plan has been criticized by Indigenous Peoples in Canada, who expressed the view that insufficient time had been provided for consultations.”[[3]](#footnote-4)

The most significant, high-level finding from ONWA’s past research and work is that Indigenous women and the organizations that represent them are the leading experts in all areas that impact them, their families, and communities.[[4]](#footnote-5) All current and future work related to our lives must centre around our voices, expertise, and recommendations; we must be consulted first and have a seat at all decision-making tables that relate to our unique needs. This finding and recommendation is non-negotiable. The active and ongoing participation of Indigenous women in all work related to our lives as individuals and their communities must be meaningful, transparent, and most importantly, based on free, prior, and informed consent.[[5]](#footnote-6)

ONWA has faced increased barriers and obstacles in our relationships with all levels of government due to Canada’s Nation-to-Nation/Distinctions-Based policy, which prioritizes engagement and funding for National Indigenous Organizations representing First Nation, Métis, and Inuit interests and *Indian Act* leadership. This policy upholds the paternalistic, colonial, and systemically sexist and racist practices that have long contributed to Indigenous women's marginalization and silencing, as it positions national organizations and *Indian Act* Chiefs, who are predominately male, as the leaders on Indigenous women’s issues. It is in direct contradiction to UNDRIP as it excludes Indigenous women, their agencies, and urban Indigenous agencies who are mandated to amplify the voices of Indigenous women as legitimate and equal partners in decision-making on issues that impact their rights and their lives. The current Nation-to-Nation/Distinction-Based policy does not align with the current reality of where Indigenous women and Indigenous peoples live and access services (88% of Indigenous peoples in Canada and 88% in Ontario live “off-reserve”), contributing to ongoing service gaps and unmet needs.

Indigenous women have a right to be represented by Indigenous women’s organizations of their choosing, and governments have an obligation to recognize them as legitimate representatives for Indigenous women’s specific needs. Without engagement with Indigenous women, we will continue to have our safety compromised. The failure to adopt an approach and policy for UNDRIP implementation that is inclusive of Indigenous women is a fundamental barrier to the advancement of human rights in any State.

**UNDRIP Implementation**

While Canada has enacted UNDRIP legislation and the UNDA Action Plan to map out implementation of the legislation, Canada, and all States, must enact and implement UNDRIP legislation across all State entities (provinces, territories, municipalities). This call was echoed in the recent UPR4 recommendations to Canada (recommendations 290 and 291), which call on Canada to bring federal, provincial and territorial legislation fully into line with the UNDRIP. In his 2023 Visit to Canada report, the Special Rapporteur on the Rights of Indigenous Peoples noted that to date, only the provinces of British Columbia and Quebec, and the Northwest Territories have undertaken similar initiatives to develop their own plans and approaches to UNDRIP implementation.[[6]](#footnote-7) While under Canadian principles of federalism, State entities (provinces and territories) are not required to develop their own plans and approaches to the implementation of UNDRIP, interjurisdictional alignment would enhance implementation of UNDRIP and the UNDA Action Plan and affirm the rights of Indigenous peoples in all areas of their lives. ONWA echoes the Special Rapporteur’s recommendation to Canada to encourage all provinces and territories to incorporate UNDRIP into legislation.[[7]](#footnote-8)

While the UNDA Action Plan includes commitments for Canada to work with Indigenous women’s organizations (action item 69[[8]](#footnote-9)) and with urban Indigenous organizations (action item 6[[9]](#footnote-10)) to define their own priorities and address local needs, implementation of UNDRIP and Canada’s UNDA Action Plan requires clear plans for action and investment into Indigenous women’s and urban organizations who are advancing priorities that are indigenous-led, preventative and trauma-informed. The EMRIP’s report notes that “[l]ike many human rights instruments, the chronic challenge is the extent to which it [UNDRIP] is being implemented.”[[10]](#footnote-11) The Special Rapporteur on the Rights of Indigenous Peoples recommended Canada “[p]rovide core sustainable funding for Indigenous women’s centres”[[11]](#footnote-12); yet, to date, Indigenous women’s’ work remain under/unfunded and unrecognized, which jeopardizes the implementation of UNDRIP and the UNDA Action Plan.

Without concrete action and funding, ONWA remains concerned that high-level action items in the UNDA Action Plan will not be implemented. This concern is premised on the lack of progress on other government commitments including those related to the National Inquiry on MMIWG’s Calls for Justice and Truth and Reconciliation Commission’s Calls to Action despite repeated calls and recommendations from the Special Rapporteur on the Rights of Indigenous Peoples and through the UPR process for immediate implementation.[[12]](#footnote-13)

**UNDRIP Accountability**

*Monitoring and Evaluation*

The EMRIP’s report notes that “[d]espite some progress, there is currently no effective monitoring mechanism to assess progress in the implementation of the Declaration.”[[13]](#footnote-14) Such is also the case in Canada. Despite UNDA and the UNDA Action Plan, Canada has not created the necessary mechanisms to implement or monitor progress on UNDRIP implementation.

ONWA echoes recommendations to Canada during the 4th UPR cycle for the immediate development of a domestic implementation mechanism to monitor implementation of all UPR recommendations (including those related to UNDRIP)[[14]](#footnote-15) and from the Special Rapporteur on the Rights of Indigenous Peoples, who recommended Canada set up an independent Indigenous-led human rights mechanism to monitor and enforce the implementation of UNDRIP and UNDA*.[[15]](#footnote-16)* As the EMRIP notes in their report, “it is important to view monitoring as a collaborative effort involving States, Indigenous Peoples, national human rights institutions, academia and international organizations.”[[16]](#footnote-17)

A domestic implementation mechanism, that includes Indigenous women and their organizations, is necessary to strengthen accountability, demonstrate progress and transparency, and is foundational to the successful implementation of all laws that uphold Indigenous peoples’ inherent individual and collective rights. A domestic mechanism would assist Canada in holding all levels of government, including provincial and territorial, to account in recognition that successful implementation of UNDRIP requires collaboration and leadership across governments and jurisdictions.

To further strengthen a domestic monitoring and implementation mechanism, in our own engagements on UNDRIP and the UNDA Action Plan, Indigenous women also recommended the need for a Federal Ombudsmen specific to the Declaration to review complaints about how existing laws infringe on the rights outlined in the Declaration.

*Public Education*

In the outcome document of the high-level plenary meeting of the General Assembly, known as the World Conference on Indigenous Peoples, “States pledged to take, in consultation and cooperation with Indigenous Peoples, appropriate measures at the national level, including legislative, policy and administrative measures, and to promote awareness of the Declaration among all sectors of society.”[[17]](#footnote-18) Yet, the EMRIP notes in their report that “for a multitude of reasons…[a]t the local or community level, Indigenous Peoples may not be sufficiently aware of their rights as outlined in the Declaration or how to demand the observance of those rights.”[[18]](#footnote-19)

In ONWA’s engagements with ONWA membership and community members on the UNDRIP and UNDA Action Plan, Indigenous women emphasized how important the Declaration is as a tool to be used in their bundles as it addresses all areas of their lives. Yet, Indigenous women identified a very important reality – not many people understand the Declaration. They also spoke of a lack of awareness about the Declaration particularly among Indigenous youth and children. They expressed concern that the Declaration is just another example of the government trying to implement something for people who do not know what it is, contravening informed consent.

To ensure accountability, Indigenous women recommend Canada develop a national public education campaign on the Declaration, which should include knowledge translation products and tools as well as educational forums that are co-designed and developed by Indigenous peoples and Indigenous organizations. Additionally, there must be education and awareness about how the Articles of UNDRIP can be upheld and enforced when there are violations, with the goal to help raise awareness, increase knowledge, and support the application of the Declaration.

**Closing Comments**

ONWA is a longstanding national leader in advocating for the safety of Indigenous women, girls, and Two Spirit people. Our roles as a leader in advocacy, policy, and direct services are informed and guided by the expertise of Indigenous women, who hold the solutions to keep one another safe. ONWA has published several reports that outline recommendations building on the experiences and knowledge of Indigenous women and can be used as resources to inform any implementation around UNDRIP. [[19]](#footnote-20),[[20]](#footnote-21)

While Canada has taken some steps to implement UNDRIP, concrete and meaningful action is still needed to protect the safety of Indigenous women and uphold our inherent rights. The intent of UNDRIP is to affirm and respect the rights of Indigenous peoples, especially Indigenous women and girls. Implementation must centre on relationship building based on mutual respect and understanding, reciprocity, and the betterment of all members of society to enact positive change.

1. [Expert Mechanism on the Rights of Indigenous People. Section A, paragraph 30, p 8. A/HRC/EMRIP/2023/3](https://www.ohchr.org/en/documents/thematic-reports/ahrc5463-efforts-implement-united-nations-declaration-rights-indigenous)  [↑](#footnote-ref-2)
2. [Report of the Special Rapporteur on the rights of Indigenous Peoples, José Francisco Calí Tzay. Visit to Canada. A/HRC/54/31/Add.2. Section v, paragraph 87, p. 17.](https://www.ohchr.org/en/documents/country-reports/ahrc5431add2-visit-canada-report-special-rapporteur-rights-indigenous) [↑](#footnote-ref-3)
3. [Report of the Special Rapporteur on the rights of Indigenous Peoples, José Francisco Calí Tzay. Visit to Canada. A/HRC/54/31/Add.2. Section III, paragraph 12, p. 3.](https://www.ohchr.org/en/documents/country-reports/ahrc5431add2-visit-canada-report-special-rapporteur-rights-indigenous) [↑](#footnote-ref-4)
4. ONWA. [Reconciliation with Indigenous Women (2021](https://www.onwa.ca/_files/ugd/4eaa9c_be059fe0cd844671839aef58558d893d.pdf)), [Journey to Safe Spaces (2016](https://www.onwa.ca/_files/ugd/33ed0c_1a2b7218396c4c71b2d4537052ca47cd.pdf)), and [Breaking Free (1989).](https://www.onwa.ca/_files/ugd/4eaa9c_2aa296f8bfd24059a1782f22c195af07.pdf) [↑](#footnote-ref-5)
5. Recommendations to Canada during the recent UPR4 cycle called for including free, prior and informed consent for all Indigenous Peoples in the UNDA Action Plan (recommendation 294). [↑](#footnote-ref-6)
6. [Report of the Special Rapporteur on the rights of Indigenous Peoples, José Francisco Calí Tzay. Visit to Canada. A/HRC/54/31/Add.2.](https://www.ohchr.org/en/documents/country-reports/ahrc5431add2-visit-canada-report-special-rapporteur-rights-indigenous) Section III, Paragraph 13, p 3-4. [↑](#footnote-ref-7)
7. [Report of the Special Rapporteur on the rights of Indigenous Peoples, José Francisco Calí Tzay. Visit to Canada. A/HRC/54/31/Add.2.](https://www.ohchr.org/en/documents/country-reports/ahrc5431add2-visit-canada-report-special-rapporteur-rights-indigenous) Section V, Paragraph 89(a), p 15 [↑](#footnote-ref-8)
8. Canada UNDRIP Act Action Plan, p42 <https://www.justice.gc.ca/eng/declaration/ap-pa/index.html> [↑](#footnote-ref-9)
9. Canada UNDRIP Act Action Plan, p44 [↑](#footnote-ref-10)
10. [Expert Mechanism on the Rights of Indigenous People. A/HRC/EMRIP/2023/3.](https://www.ohchr.org/en/documents/thematic-reports/ahrc5463-efforts-implement-united-nations-declaration-rights-indigenous) Section I, paragraphs 4, p 2 [↑](#footnote-ref-11)
11. [Report of the Special Rapporteur on the rights of Indigenous Peoples, José Francisco Calí Tzay. Visit to Canada. A/HRC/54/31/Add.2.](https://www.ohchr.org/en/documents/country-reports/ahrc5431add2-visit-canada-report-special-rapporteur-rights-indigenous) Section V, Paragraph 92(c), p 19 [↑](#footnote-ref-12)
12. [Report of the Special Rapporteur on the rights of Indigenous Peoples, José Francisco Calí Tzay. Visit to Canada. A/HRC/54/31/Add.2.](https://www.ohchr.org/en/documents/country-reports/ahrc5431add2-visit-canada-report-special-rapporteur-rights-indigenous) Section V, Paragraph 92(a), p 18; Recommendations to Canada during the recent UPR4 cycle (recommendation 304) [↑](#footnote-ref-13)
13. [Expert Mechanism on the Rights of Indigenous People. A/HRC/EMRIP/2023/3.](https://www.ohchr.org/en/documents/thematic-reports/ahrc5463-efforts-implement-united-nations-declaration-rights-indigenous) Section I, paragraph 7, p 2 [↑](#footnote-ref-14)
14. Recommendations to Canada during the recent UPR4 cycle (Recommendations 69 and 46) [↑](#footnote-ref-15)
15. Special Rapporteur. Visit to Canada. Section V, paragraph 89(b), p17 [↑](#footnote-ref-16)
16. [Expert Mechanism on the Rights of Indigenous People. A/HRC/EMRIP/2023/3.](https://www.ohchr.org/en/documents/thematic-reports/ahrc5463-efforts-implement-united-nations-declaration-rights-indigenous) Section I, paragraph 7, p 3 [↑](#footnote-ref-17)
17. [Expert Mechanism on the Rights of Indigenous People. A/HRC/EMRIP/2023/3.](https://www.ohchr.org/en/documents/thematic-reports/ahrc5463-efforts-implement-united-nations-declaration-rights-indigenous) Section I, paragraphs 6, p 2 [↑](#footnote-ref-18)
18. [Expert Mechanism on the Rights of Indigenous People. A/HRC/EMRIP/2023/3.](https://www.ohchr.org/en/documents/thematic-reports/ahrc5463-efforts-implement-united-nations-declaration-rights-indigenous) Section VI, paragraph 63, p 15 [↑](#footnote-ref-19)
19. [ONWA. “Reconciliation with Indigenous Women: changing the story of missing and murdered Indigenous women and girls” (2020).](https://www.onwa.ca/_files/ugd/4eaa9c_be059fe0cd844671839aef58558d893d.pdf) [↑](#footnote-ref-20)
20. [ONWA. “Journey to Safe Space: Indigenous Anti-Human Trafficking Engagement Report 2017-2018.”](https://www.onwa.ca/_files/ugd/33ed0c_1a2b7218396c4c71b2d4537052ca47cd.pdf) [↑](#footnote-ref-21)