



# Bill C-15: United Nations Declaration on the Rights of Indigenous Peoples Act

On December 3, 2020, the Minister of Justice and Attorney General of Canada introduced Bill C-15, *The United Nations Declaration on the Rights of Indigenous Peoples Act*. Introducing legislation to advance full implementation of the Declaration is a key step in renewing the Government of Canada's relationship with Indigenous peoples.

The purpose of this Bill is to affirm the Declaration as a universal international human rights instrument with application in Canadian law and provide a framework for the Government of Canada's implementation of the Declaration.

Once passed by Parliament, this legislation would require the Government of Canada, in consultation and cooperation with Indigenous peoples, to:

- take all measures necessary to ensure that the laws of Canada are consistent with the Declaration
- prepare and implement an action plan to achieve the Declaration's objectives
- table an annual report on progress to align the laws of Canada and on the action plan

As written, this Bill would require that the action plan include measures:

- to address injustices, combat prejudice and eliminate all forms of violence and discrimination against Indigenous peoples, including elders, youth, children, women, men, persons with disabilities, and gender-diverse and two-spirit persons
- to promote mutual respect and understanding, as well as good relations, including through human rights education
- related to the monitoring, oversight, recourse or remedy or other accountability with respect to the implementation of the Declaration

This action plan will also include reviewing and amending the plan and measures for monitoring the implementation of the plan itself.

If the legislation is passed by Parliament, the Government of Canada, in collaboration with Indigenous partners, will begin preparing the action plan and upon its completion, table the plan in both the House of Commons and the Senate, and make it available to the public.

### ***Why do we need legislation?***

If passed by Parliament, the legislation would create a lasting framework to advance the federal implementation of the Declaration in collaboration with Indigenous peoples. This framework will help to establish accountability and provide greater clarity regarding the path forward for Indigenous peoples, communities, industry and all Canadians. A legislative framework will also ensure sustained and continued efforts to uphold the rights of Indigenous peoples now and in the future. This proposed legislation also responds to the Truth and Reconciliation Commission Call to Action 43 and the National Inquiry into Missing and Murdered Indigenous Women and Girls' Calls for Justice.

In this way, this Bill provides a clear vision for the future, ensuring that, moving forward, federal laws reflect the standards set out in the Declaration, while also respecting Aboriginal and treaty rights as recognized and affirmed in the Constitution.

## ***How did the Government of Canada work with Indigenous peoples on this Bill?***

Building on the support from Indigenous groups for former Private Member's Bill (PMB) C-262, and following discussions with Indigenous partners, the Government of Canada used Bill C-262 as the floor for discussions on a new legislative proposal. The Government of Canada developed the proposed legislation through engagement with representatives of National Indigenous Organizations, modern treaty partners and self-governing nations, rights-holders, Indigenous youth, Indigenous women, gender-diverse and two-spirit people, regional and other Indigenous organizations. The feedback received through this engagement process has shaped the development of the proposed legislation.

The Government of Canada also held discussions with provincial and territorial governments and industry stakeholders.

## ***How does the government Bill compare with former Private Member's Bill C-262?***

As with former PMB C-262, this government Bill would require the federal government, in consultation and cooperation with Indigenous peoples, to take all measures necessary to ensure that federal laws are consistent with the Declaration, prepare and implement an action plan to achieve the objectives of the Declaration and report annually to Parliament on progress made in implementing the legislation. The proposed federal legislation on the Declaration would only impose obligations on the federal government.

Areas where this Bill differs from PMB C-262 include the addition of:

- new language in the preamble, including to: highlight the positive contributions the Declaration can make to reconciliation, healing and peace as well as harmonious and cooperative relations in Canada; recognize the inherent rights of Indigenous peoples; reflect the importance of respecting treaties, agreements and constructive arrangements; highlight the connection between the Declaration and sustainable development; and emphasize the need to take diversity of Indigenous peoples into account in implementing the legislation
- a purpose clause to address application of the Declaration in Canadian law and to affirm the legislation as a framework for federal implementation of the Declaration
- clearer and more robust provisions on the process for developing and tabling the action plan and annual reports

### ***What is free, prior and informed consent?***

References to “free, prior and informed consent” are found throughout the Declaration. They emphasize the importance of recognizing and upholding the rights of Indigenous peoples and ensuring that there is effective and meaningful participation of Indigenous peoples in decisions that affect them, their communities and territories.

Free, prior and informed consent is about working together in partnership and respect. In many ways, it reflects the ideals behind the relationship with Indigenous peoples, by striving to achieve consensus as parties work together in good faith on decisions that impact Indigenous rights and interests. Despite what some have suggested, it is not about having a veto over government decision-making.

It is important to understand free, prior and informed consent in context: different initiatives will have different impacts on Indigenous peoples’ rights. Free prior and informed consent may require different processes or new creative ways of working together to ensure meaningful and effective participation in decision-making.

## ***What does this mean for the existing duty to consult?***

The Government of Canada has a constitutional duty to consult and accommodate Indigenous groups when it considers measures that might adversely impact potential or established Aboriginal or treaty rights. This has been consistently confirmed by the Courts. The Government has consistently worked to uphold this duty and has shown its commitment to taking additional steps to do so. If passed, this legislation would not change Canada's existing duty to consult Indigenous groups, or other consultation and participation requirements set out in other legislation like the new Impact Assessment Act. What it would do is inform how the Government approaches the implementation of its legal duties going forward. Additionally, it would do so in a way that provides greater clarity and creates greater certainty over time for Indigenous groups and all Canadians.

## ***What does this mean for natural resource development?***

As explained above, the Government of Canada has a constitutional duty to consult and accommodate Indigenous groups when it considers measures that might adversely impact potential or established Aboriginal or treaty rights, including resource projects. This Bill would not create new obligations or regulatory requirements for industry; rather, it would support the Government's implementation of its constitutional duty.

This Bill and its provisions for the development of an action plan provide an avenue to work collaboratively with Indigenous partners to identify priority areas and strategies for the implementation of the Declaration. This legislation will help guide a collaborative path forward that builds stronger relationships and greater predictability and certainty over time, while encouraging partnerships throughout the resource sectors. The Bill does not create new obligations or regulatory requirements for industry.

## ***What does this mean for fisheries in Canada?***

Fisheries, oceans, aquatic habitat, and marine waterways are economically and culturally significant for Indigenous peoples. The sustainable use of the fishery resource, the protection of fish and fish habitat, the conservation and management of our oceans, and through the Canadian Coast Guard, the safety of those on the water and the protection of the marine environment, are shared priorities held in common with Indigenous peoples in Canada and the Government of Canada.

The Government of Canada works with Indigenous peoples through well-established processes to seek input in decision-making and management activities; for example, advisory councils, collaborative management arrangements, and bilateral discussions. Through these relationships, the Government of Canada collaborates with Indigenous peoples in a manner that gives voice to the Declaration.

Bill C-15 does not immediately change any operations, policies, or laws related to the Department of Fisheries and Oceans or the Canadian Coast Guard. The *Fisheries Act* and all license conditions will remain in place. The development of the action plan would be a venue to advance discussions Indigenous peoples may wish to have on measures to achieve the objectives of the Declaration. The Government of Canada will work to ensure that there is a safe, orderly, and sustainable environment for all harvesters engaged in the fishery.

## ***Does Bill C-15 affect provinces and territories?***

Bill C-15 will only impose obligations on the federal government. This proposed legislation is intended to create a framework to support the Government of Canada to further implement the Declaration.

Bill C-15 affirms that the Declaration is a universal international human rights instrument with application in Canadian law. This means that the Declaration is an important source to interpret provincial and federal law. In fact, provincial and federal courts are already using the Declaration in this regard.

The Truth and Reconciliation Commission called on all levels of government to adopt the Declaration as the framework for reconciliation. Many provincial and territorial governments in Canada are also using the Declaration as the framework for reconciliation and to actively engage with Indigenous peoples on matters that affect them.

The preamble to Bill C-15 specifically recognizes that provincial and territorial governments have their own approaches and authorities relating to the implementation of the Declaration, and that the obligations set out in the bill apply specifically to the Government of Canada, in consultation and cooperation with Indigenous peoples. This includes the requirement to take all measures necessary to ensure that the laws of Canada that fall within federal authority are aligned with the Declaration, the development of an action plan by the Government of Canada, and the tabling of annual reports in Parliament. Together, these provide a framework for the federal government's implementation of the Declaration. Nothing in the federal legislation would prevent provinces or territories from developing their own plans and approaches for implementation of the Declaration, or require them to do so.

## ***What does implementing the Declaration mean for Canada?***

The proposed legislation will provide a shared road map for Indigenous peoples, industry, communities and government to work better together. It will help strengthen relations between the Government of Canada and Indigenous peoples. It will also ensure Indigenous rights are carefully considered in reviewing and updating laws that affect those rights.

Among the main goals of the Declaration is to facilitate the exercise of Indigenous peoples' right to self-determination, as part of contributing to better and more equitable economic, social, health and other outcomes. Through implementing the Declaration, we will develop a stronger, more sustainable, and predictable path for everyone to work together as partners, with a shared stake in Canada's future.

Recent events have also underscored the persistence and harm of systemic racism and discrimination that Indigenous people face on a daily basis. Bill C-15 would require the Government of Canada, in consultation and cooperation with Indigenous peoples, to prepare an action plan that includes measures to address injustices, combat prejudice and eliminate all forms of violence and discrimination against Indigenous people.

Over time, implementing the Declaration will deepen understanding and respect, while creating stronger and healthier Indigenous communities and contributing to economic growth. That means jobs and opportunities that benefit all, while protecting the land, air and water. It means building a brighter future and a better Canada for all.

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**[CANADA.CA/DECLARATION](https://canada.ca/declaration)**