



Bill C-15 FAQ

Bill C-15: An Act respecting the *United Nations Declaration on the Rights of Indigenous Peoples*

The Assembly of First Nations has long advocated for full implementation of the *UN Declaration on the Rights of Indigenous Peoples* and the passage of federal legislation to provide statutory commitments to implementation. After a previous implementation bill, Romeo Saganash's private Member's Bill C-262, was blocked in the Senate, the AFN Chiefs in Assembly passed a resolution requiring the AFN to work toward new legislation based on C-262 and containing at least the same essential provisions. In early December, the federal government tabled Bill C-15, setting out a framework for implementation of the *UN Declaration*. In a public response to Bill C-15, National Chief Perry Bellegarde stated that while there was room for improvement, Bill C-15 met the test of being at least as strong as Bill C-262.

Would Bill C-15 turn the *Declaration* into Canadian law?

No. If Bill C-15 is passed by Parliament, it will start a process of reforming Canadian laws to ensure they meet the minimum standards required by the *Declaration*. However, the *UN Declaration* remains an international human rights instrument, that is to be used to interpret domestic law including the Canadian Constitution.

There is already an established principle of Canadian law that international human rights standards like the *Declaration* can be used to interpret laws passed by the federal, provincial and territorial governments. First Nations are already using the *Declaration* to advance our rights, including in court, in negotiations, and in public campaigns. The new bill will not interfere with that. It affirms the existing legal effect of the *Declaration* as international human rights instrument having application in Canadian law.

The bill also contains the explicit provision that “Nothing in this Act is to be construed as delaying the application of the *Declaration* in Canadian law”.

Why does the Bill refer to the Constitution and s.35?

Bill C-15 includes a standard provision known as a “non-derogation clause.” This provides an important assurance that measures to implement the *Declaration* must not be used in an attempt to reduce or diminish any rights already recognized and protected in law, including Treaty rights. This does not constrain interpretation of the rights in the *Declaration* itself.

This clause, and the reference to the Constitution in the preamble, also make it clear that First Nations can use the *Declaration* to help interpret rights protected in the Constitution.

There is nothing in the Bill asserting that the Constitution, or the history of how the Constitution has been interpreted in Canadian courts would define, limit, or diminish the inherent rights affirmed by the *Declaration*.

What is the significance of the preamble?

The preamble to any law tells future governments, civil servants, and the courts how it should be interpreted. The preamble to Bill C-15 is particularly important because passage of the Bill will be the start of a process of developing an action plan and reforming Canadian laws.

What does Bill C-15 say about the Doctrine of Discovery?

The preamble to Bill C-15 includes important language on rejecting “all forms of colonialism” and “all doctrines, policies and practices based on or advocating the superiority of peoples or individuals.” This includes the Doctrine of Discovery.



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What does Bill C-15 say about self-determination?

The preamble states that the Government of Canada “recognizes that all relations with Indigenous peoples must be based on the recognition and implementation of the inherent right to self-determination, including the right of self-government.”

What does Bill C-15 say about Treaties?

The preamble also states that “there is an urgent need to respect and promote the rights of Indigenous peoples affirmed in treaties, agreements and other constructive arrangements.”

What does Bill C-15 say about racism and violence against Indigenous women, girls and two spirit persons?

The preamble to the Bill takes note of the fact that both the Truth and Reconciliation Commission of Canada and the National Inquiry on Missing and Murdered Indigenous Women and Girls called for implementation of the *Declaration*.

The preamble also states that “implementation of the *Declaration* must include concrete measures to address injustices, combat prejudice and eliminate all forms of violence and discrimination, including systemic discrimination, against Indigenous peoples and Indigenous elders, youth, children, women, men, persons with disabilities and gender-diverse persons and two-spirit persons.” The body of the Bill states that such measures must be part of the government’s implementation plan.

What does it mean to say that the *Declaration* has “application in Canadian law”?

One of the stated purposes of the Bill is to “affirm the *Declaration* as a universal international human rights instrument with application in Canadian law.” With this statement, the federal government is recognizing its legal obligation to uphold the *UN Declaration*.

First Nations have already had success in using the *UN Declaration* in court as a tool to advance positive and beneficial interpretation of federal, provincial and territorial laws. In the past, the federal government has tried to oppose the *Declaration* being used in this way. One of the purposes of the new Bill is to ensure that this won’t happen again. The Bill then goes one step further to require the federal government to actively reform other laws to make sure they are consistent with the requirements of the *UN Declaration*.

Can Bill C-15 be blocked just like C-262?

There are many steps to passing a Bill. Government Bills like C-15 are harder to stall than private Member’s bills like C-262. At the same time, no one knows how long the current session of Parliament will last. If the process of debating and bringing Bill C-15 goes on too long, there is a real danger that the Bill will not be passed.