



Submission to the Parliamentary Standing Committee on Indigenous and Northern Affairs

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

*Submitted by*

O'Chiese First Nation – Treaty No. 6 Territory

**O'CHIESE FIRST NATION**

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## I. Introduction

Thank you for the opportunity to make submission regarding Bill C-15. I am the Chief of the O'Chiese First Nation. We are a tribe of *saulteaux*, *Anishinabek* living in the foothills of the Rocky Mountains in what is now known as Alberta. Our reserve is located north of the town of Rocky Mountain House. As you review our submission in Ottawa, I acknowledge the sovereign territories of the Algonquin Nation upon which your Parliament of Canada is situated.

It is important to acknowledge the long road of Indigenous advocacy in the work to complete the United Nations Declaration on the Rights of Indigenous Peoples. The advocacy efforts were supported by many of us in Treaty No. 6 territory as our Treaty rights have been continuously ignored and undermined by successive Federal Government officials. Our critique is not in the credible and important advocacy work over the years but in the attempts of the current Federal government to mark out the extent of the application of the UN Declaration in a limiting Canadian context. In the evolution of the UNDRIP over the years, there were a number of distinct drafts and over time, many Indigenous advocates had direct influence to develop the original version of the declaration; however, the final result was a universally adopted version in 2007. When the Liberals came into power in 2015, newly appointed Indian Affairs Minister Carolyn Bennett stated, "We intend nothing less than to adopt and implement the declaration in accordance with the Canadian Constitution." Adopting and implementing in accordance with Section 35 of the Canadian Constitution, without resolving and providing opportunities to resolve, outstanding business related to our Treaty relationship means that the issues we have raised over generations are being corralled into a cage.

As *saulteaux* peoples, we already know and operate on the understanding that our Treaty, Treaty No. 6, is international in scope and that Canadian legislation does not currently support the practicality of applying the true spirit and intent of the Treaty covenant on behalf of our peoples. This submission will outline our concerns with particular emphasis on the recent submission of C-15 before Canadian Parliament.

To be clear and forthright, O'Chiese First Nation, Treaty No. 6, rejects C-15 for the reasons outlined in this submission. We welcome any opportunity to discuss how the Treaty itself provides clear direction on all elements of the UN Declaration as it relates to our peoples.

On December 3, 2020, the C-15 legislation was introduced and achieved first and has subsequently received second reading. It is acknowledged that achieving Canadian legislation in support of the UN Declaration has been a long-standing objective of a variety of Indigenous organizations including the Assembly of First Nations; however, we must remind the INAN, that the AFN is not a rights holder in the context of the UN Declaration or Treaty No. 6 but is an advocacy organization only. As Chief of my Nation, I make this submission as the only representative of our people, the true rights holder. Any free, prior and informed consent, as articulated expressly by the UNDRIP, is held by our people. Every man, woman and child of our Nation holds the special rights given to us by the Creator and as specially articulated by the acknowledgement of our place in our territories in Treaty No. 6, which was signed by

representatives of the Crown on Behalf of Her Majesty the Queen of the United Kingdom of Great Britain and Ireland in 1876 and subsequently in adhesions such as ours in 1950.

To this end, this submission will make our concerns formally known as to the potential impacts on our rights by the enforcement of the Bill C-15 as it is currently drafted.

## II. Problems with Bill C-15

C-15 An Act respecting the United Nations Declaration on the Rights of Indigenous Peoples is in blunt terms a symbolic gesture. It is real time action that is needed and has been sorely missing even in this era where the Liberal Government of Canada has struggled to come to grips with meeting the many expectations presented to First Nations and Canadians in 2015. When the newly elected Prime Minister Justin Trudeau determined that the relationship with us was his 'most important,' there was raised a great expectation for recognition of our Treaty and in the many months and years since his pronouncement, our rights remain unrecognized. Our struggle was also acknowledged in the days and months of advocacy of former Member of Parliament Romeo Saganash's with his private members bill to implement the UNDRIP, C-262. In fact, former parliamentary member Saganash left his frustrated feelings completely out in the open when he admonished the Government of Canada for the delay in pursuing Canadian implementation. However, the application of the current legislation, C-15 An Act respecting the UN Declaration in domestic terms continues to undermine the very efforts of the many advocates who have come before in its inability to articulate a way forward. Why is that? To advance C-15 in the manner thus far will only exacerbate the long held and deep concern we have about the subjugating approach to our Treaty by the Government of Canada.

The following are O'Chiese First Nations key concerns thus far:

### 1. C-15 - UNDRIP Legislation as mere symbolism

The UN Declaration is intended to be an International instrument which works to support strong human rights for Indigenous peoples around the world. It is the ground floor with reference to the ways by which countries, states and nation states such as Canada can begin to ensure the rights of Indigenous peoples are protected and enforced in their own homelands. Disappointingly, C-15 is an Act that works to continue the long held colonial ideologies which underpin consecutive Canadian government policy under both the Liberal and Conservative banner allowing each to continue as they are without actually acting to pursue the strong goals and foundational changes which would make the UN Declaration truthfully transformational in the Canadian context. The legislation does not actually implement the UNDRIP, instead providing insubstantial language about providing a "framework for the Government of Canada's implementation of the Declaration."

## 2. The Inherent Right of the O'Chiese First Nation to Self-Determination

The central problem is the Bill-15 takes our internationally recognized Treaty and domesticates it into a limiting Canadian context. Bill C-15, if passed, will deny us the right of self-determination that the UN Declaration recognizes internationally. Canada's C-15 will take the UN Declaration and relegate the international expectations for recognition and place into already limited policy which undermine our Inherent and Treaty Rights here in Canada. For example, the Inherent Right of Self-Government Policy which has not been changed since 1995 states: "The inherent right of self-government does not include a right of sovereignty in the international law sense...implementation of self-government should enhance the participation of Aboriginal peoples in the Canadian federation." Additionally, across the spectrum of rights, health and social policies including the 1979 Indian Health Policy and 1989 Indian Health Transfer Policy work to transfer limited administrative control under the guise of Indian Self-Government without ever resolving the matter of the Treaty Right to Health and Treaty No. 6 Medicine Chest, Famine and Pestilence Clauses.

## 3. Manufactured Consent

Our peoples know that they have the right to know about how Canadian laws will impact their lives, especially laws that impact them directly. This is the case with C-15. During a global pandemic, the Government of Canada has decided to accelerate the pace by which they are pursuing Indigenous related legislation despite also committing to working with First Nations on subject matter such as these. Rather, the government has utilized the National organization, the Assembly of First Nations and provincial, territorial organizations to manufacture the consent to proceed as it has. This is not recognition of our right for self-determination and is not acceptable. Trust has been eroded in this approach and will continue this way if it continues.

## 4. Weakness of Application

Alberta has never indicated a willingness to discuss the outstanding business related to such Federal and Provincial cross-jurisdictional matters such as lands and natural resources except where it is compelled to under common law. Alberta has also never involved itself in social matters except where our members reside away from the reserve community. The current C-15 language is weak relative to the application of such a law nationally and certainly not provincially.

## 5. Section 35 – Constitution of Canada

The C-15 legislation will place the expectations of the UN Declaration into alignment and subjugation of Section 35 of the Constitution of Canada. Bluntly put, Section 35 must be interpreted in accordance with the UN Declaration on the Rights of Indigenous Peoples which upholds the Treaty relationship between our peoples and the Crown in Right of Canada, not the way currently intended by the proposed legislation.

## 6. Consultation – Honor of the Crown

O'Chiese First Nation has NEVER been proactively involved in free, prior and informed consent relative to the C-15 legislative instrument except for a single Zoom meeting in November 2020, which leaders found out about at the very last minute. This is clearly not a valid or honorable way of discussing a matter of such import. If the legislation proceeds, the impact will be seen on all aspects our peoples' lives and will influence many aspects of current and future deliberations with federal and provincial governments. This is not acceptable and only underscores the dishonor that the continued lack of recognition of our Treaty-Crown relationship does to Her Majesty.

### Final Statements:

- O'Chiese First Nations rejects the proposed C-15 legislation.
- The true spirit and intent of Treaty No. 6 must be implemented.
- The UN Declaration does not supersede the Treaty No. 6
- The UN Declaration on the Rights of Indigenous Peoples is intended as an instrument of international oversight to ensure our Inherent and Treaty Rights are implemented by states and nation states in the true spirit and intent as envisioned by our fore bearers.
- The UNDRIP should never be construed or used to override our abilities to ensure the relationship with the Crown proceeds under Treaty No. 6.
- Section 91 (24) remains a clear articulation of the Treaty-Crown relationship as acknowledged by the 1867 British North America Act and 1982 Constitution of Canada.
- Treaty Adherent Arrangements in O'Chiese First Nation must be prioritized in line with the Treaty relationship.