



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

Improvements Proposed to Indigenous and Northern Affairs Committee, House of Commons

C-15 Current Wording	Improvement(s)	Rationale
<b>PREAMBULAR PROVISION (“PP”)</b>		
<b>PP6</b> Whereas First Nations, Inuit and the Metis Nation have, throughout history and to this day, lived in the lands that are now in Canada with their distinct identities, cultures and ways of life;		The provision should be deleted as the diversity clause is already in PP 22. The paragraph is not accurate as First Nations, Metis and Inuit have not similarly lived on the lands in all regions and areas of what is now Canada since 1867.
<b>PP8</b> Whereas the 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;	<b>PP8</b> Whereas the implementation of the Declaration must include concrete measures to address injustices, combat prejudice and eliminate all forms of racism, 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 word “racism” must be added to this provision for completeness of intention. The phrase “systemic discrimination” is not necessarily inclusive of racism, which has several dimensions. Racism can be direct, indirect, systemic, implicit or otherwise. Must be expansive and meet the letter and spirit of The <i>International Convention on the Elimination of All Forms of Racial Discrimination</i> , 1970 Can T.S. no. 28.
<b>PP9</b> Whereas all doctrines, policies and practices based on or advocating the superiority of peoples or individuals on the basis of national origin or racial, religious, ethnic or cultural differences, are racist, scientifically false, legally invalid, morally condemnable and socially unjust;	<b>PP9</b> Whereas all doctrines, policies and practices based on or advocating the superiority of peoples or individuals on the basis of national origin or racial, religious, ethnic or cultural differences, including the doctrines of discovery and <i>terra nullius</i> , are racist, scientifically false, legally invalid, morally condemnable and socially	Reference to the doctrines of discovery and <i>terra nullius</i> need to be added to the paragraph. Crown laws, policies and practices have often denied the existence of First Nations peoples and Indigenous rights. Among the most harmful and discriminatory doctrines used to dispossess Indigenous peoples are those of discovery and <i>terra nullius</i> . These are based on moral and religious superiority and should be specifically referenced as invalid to break away from the colonial era.
<b>INTERPRETATION</b>		
<b>Rights of Indigenous peoples</b> (2) This Act is to be construed as upholding the rights of Indigenous peoples recognized and affirmed by section 35 of the <i>Constitution Act</i> , 1982, and not as abrogating or derogating from them.	<b>Rights of Indigenous peoples</b> (2) This Act is to be construed as upholding the rights of Indigenous peoples recognized and affirmed by section 35 of the <i>Constitution Act</i> , 1982, and not as diminishing or abrogating or derogating from them.	The affirmation of rights should track language that was in previous Bill 262, and in UNDRIP itself. (Article 37)



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<b>INTERPRETATION</b>		
<b>Clarification</b> (3) Nothing in this Act is to be construed as delaying the application of the Declaration in Canadian law.	2(4) For greater certainty, the rights of Indigenous peoples, including treaty rights, must be interpreted flexibly so as to permit their evolution over time and any approach constituting frozen rights must be rejected.	This new provision is necessary to avoid interpretation of Indigenous rights based on outmoded assumptions and prejudices with the view that Indigenous customs, traditions and rights are frozen in stereotypes based on prejudices that associate rights drawn from non-Indigenous peoples' beliefs regarding the past lives or circumstances of First Nations peoples.
	2(5) For greater certainty, nothing in this Act is to be construed so as to diminish or extinguish the rights of Indigenous peoples, including treaty rights.	This new provision is necessary to save future interpretations or application of Bill C-15 that might have the effect of diminishing or extinguishing the rights of Indigenous peoples, including Treaty rights. This is a non-derogation clause.
<b>PURPOSE OF ACT</b>		
<b>Purpose</b> 4 The purpose of this Act is to  (a) affirm the Declaration as a universal international human rights instrument with application in Canadian law; and  (b) provide a framework for the Government of Canada's implementation of the Declaration.	<b>Purposes</b> 4 The purposes of this Act are to  (a) affirm the Declaration as a universal international human rights instrument with application in Canadian law; and  (b) provide for the implementation of the Declaration.	This "purpose" provision was not in the former Bill C-262, but there is similar a "purposes" clause in the <i>BC Declaration Act</i> .  Section 4 includes two items related to the purpose. First, "affirmation" and secondly, to "provide a framework." However, the purpose is expressed in the singular, which is confusing and should be amended to "purposes of this Act are," or the accurate plural construction. The use of "framework" should be removed from 4 (b) due to previous negative experiences with Canada developing frameworks and imposing those unilaterally on First Nations.



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<b>PURPOSE OF ACT</b>		
		In addition, the words “Government of Canada’s” should be removed from 4(b) as Canada’s obligation to implement the Declaration, notably through the consistency of laws requirement in section 5, is not only limited to the Government of Canada but also engages Parliament.
<b>MEASURES FOR CONSISTENCY OF LAWS AND ACHIEVING THE OBJECTIVES OF THE DECLARATION</b>		
<b>Action plan</b> 6 (1) The Minister must, in consultation and cooperation with Indigenous peoples and with other federal ministers, prepare and implement an action plan to achieve the objectives of the Declaration.	6 (1) The Minister must, in consultation and cooperation with Indigenous peoples and with other federal ministers, prepare and carry out an action plan to achieve the objectives of the Declaration.	<p>The use of word “implement” in 6 (1) relates to Minister’s obligation to prepare an Action Plan. However, the term confuses implementation of the Declaration with preparation and implementation of an Action Plan. Many First Nations leaders have expressed concern about the impression left by this confusion, and it must be corrected. Use of terminology “implement” and “implementation” in the Bill should be confined to the specific purpose which is to implement the Declaration. Other synonyms should be substituted for the word implement to avoid confusion and conflict in interpretation.</p> <p>To be more precise, the term “implement” in this provision could be replaced by the phrase “carry out.”</p>



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<b>MEASURES FOR CONSISTENCY OF LAWS AND ACHIEVING THE OBJECTIVES OF THE DECLARATION</b>		
<b>Content</b> (2) The action plan must include <ul style="list-style-type: none"> <li>a) measures to               <ul style="list-style-type: none"> <li>(i) 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;</li> <li>(ii) promote mutual respect and understanding as well as good relations, including through human rights education; and</li> </ul> </li> </ul>	6 (1) The Minister must, in consultation and cooperation with Indigenous peoples and with other federal ministers, prepare and implement carry out an action plan to achieve the objectives of the Declaration. <ul style="list-style-type: none"> <li>a) measures to               <ul style="list-style-type: none"> <li>(i) address injustices, combat prejudice and eliminate all forms of racism, 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;</li> </ul> </li> </ul>	Add “racism” to the provision. As noted in relation to PP8, concern is that “systemic discrimination” is not explicit enough to identify racism, which has several dimensions and must be eradicated in all forms.
<b>Time limit</b> (4) The preparation of the action plan must be completed as soon as practicable, but no later than three years after the day on which this section comes into force.	(4) The preparation of the action plan must be completed as soon as practicable, but no later than two years after the day on which this section comes into force.	The time frame is too long for preparation of an Action Plan, given urgency of the work and crisis for Indigenous peoples. Recommend shorten the timeframe in this provision to two (2) years. Canada has committed to full implementation of the Declaration for many years and further delay is not warranted nor does it reflect well on the Honour of the Crown, having repeated those commitments at the United Nations and in Canada.





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

*Improvements Proposed to Indigenous and Northern Affairs Committee, House of Commons*

C-15 Current Wording	Improvement(s)	Rationale
<b>REPORT TO PARLIAMENT</b>		
<p><b>Annual report</b></p> <p>7 (1) Within 90 days after the end of each fiscal year, the Minister must, in consultation and cooperation with Indigenous peoples, prepare a report for the previous fiscal year on the measures taken under section 5 and the preparation and implementation of the action plan referred to in section 6</p>	<p>7 (1) Within 90 days after the end of each fiscal year, the Minister must, in consultation and cooperation with Indigenous peoples, prepare a report for the previous fiscal year on the measures taken under section 5 and the preparation and implementation carrying-out of the action plan referred to in section 6.</p>	<p>The use of the expression “implementation” or “implement” in the Bill should only be used in relation to the key objective of implementing the Declaration in Canada. Other uses of the expression should be replaced with terminology such as “carrying-out” to avoid confusion in current and future interpretation or application of the legislation. All instances that indicate use of expression “implement” or “implementation,” other than in relation to implementing the Declaration, should be substituted with alternative language such as “carry out” or “carrying out.”</p>