



Chief David Monias
Pimicikamak Okimowin

“Making UNDRIP Enforceable in Canada”

March 25, 2021 - Treaty One Territory, Winnipeg, Manitoba

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Question asked by many:

“Is UNDRIP Enforceable in Canada?”

- Answer:

- “No”

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Question asked by many:

“Will Bill C-15 make UNDRIP Enforceable in Canada?”

- Answer:

- “No”

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Question asked by many:

“Can Bill C-15 be Amended to make
UNDRIP Enforceable in Canada?”

- Answer:

- “Yes”

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Objective of Amendment Drafting:

- *“To make the principles of UNDRIP enforceable in Canada”*

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- *“The central objective in making the principles of UNDRIP enforceable in Canada is to turn the legal and constitutional paradigm around 180 degrees...”*

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- *“...by having mining companies and forestry companies and energy companies take Canada to court over actions taken by government to recognize, affirm and protect Indigenous rights...”*

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- *“...instead of the current and historic paradigm in which First Nations endlessly take Canada to court for failing to take actions to recognize, affirm and protect Indigenous rights...”*

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“Promises, Promises” - Lessons Learned about enforcing rights recognized and affirmed by s. 35 of the *Constitution Act, 1982*

- *Since 1982, Canada has done a very poor job of making administrative and judicial decisions to enforce the protection of rights recognized and affirmed by s. 35 of the Constitution Act*

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“Promises, Promises” - Lessons Learned about enforcing rights recognized and affirmed by s. 35 of the *Constitution Act, 1982*

- *In 1991, the Manitoba Aboriginal Justice Inquiry recommended that:*
- *“The Interpretation Acts of Manitoba and Canada be amended to provide that all legislation be interpreted subject to Aboriginal and treaty rights.”*

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“Promises, Promises” - Lessons Learned about enforcing rights recognized and affirmed by s. 35 of the *Constitution Act, 1982*

- *The Manitoba Interpretation Act* was amended to include at Section 8:

- ***“Aboriginal rights protected***

8 No Act or regulation is to be interpreted so as to abrogate or derogate from the aboriginal and treaty rights of the aboriginal peoples of Canada that are recognized and affirmed by section 35 of the Constitution Act, 1982.”

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Example Core Amendments to C-15

- Amend the federal *Interpretation Act* to establish an enforceable “UNDRIP affirmation clause”:
- ***“Every Act or regulation is to be interpreted and administered in accordance with the Declaration and no Act or regulation is to be interpreted or administered so as to abrogate or derogate from the Declaration.”***

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Example Core Amendments to C-15

- Amend Section 2 by replacing the non-derogation clause to reflect the language of the amendment to the *Interpretation Act*:
- ***“This Act is to be interpreted and administered as protecting the aboriginal or treaty rights of the Indigenous peoples of Canada that are recognized and affirmed by section 35 of the Constitution Act, 1982, and not as abrogating or derogating from them.”***

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Example Core Amendments to C-15

- Enure the Crown is bound by the amended Bill C-15 and the requirement to enforce UNDRIP:
- ***“The Crown is bound by this Act.”***

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Example Core Amendments to C-15

- Amend the federal *Interpretation Act* to include a Universal Non-Derogation clause:
- ***“Every Act and regulation is to be interpreted and administered as protecting the aboriginal or treaty rights of the Indigenous peoples of Canada that are recognized and affirmed by section 35 of the Constitution Act, 1982, and not as abrogating or derogating from them.”***

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Conclusions

- Properly amended, Bill C-15 is an opportunity to advance and enforce in Canada the internationally recognized rights of Indigenous Peoples in a manner that is consistent with aboriginal and Treaty rights.
- ***“For as long as the sun shines, the grass grows and the rivers flow.”***



Ekosani! Masi Cho! Miigwech!