



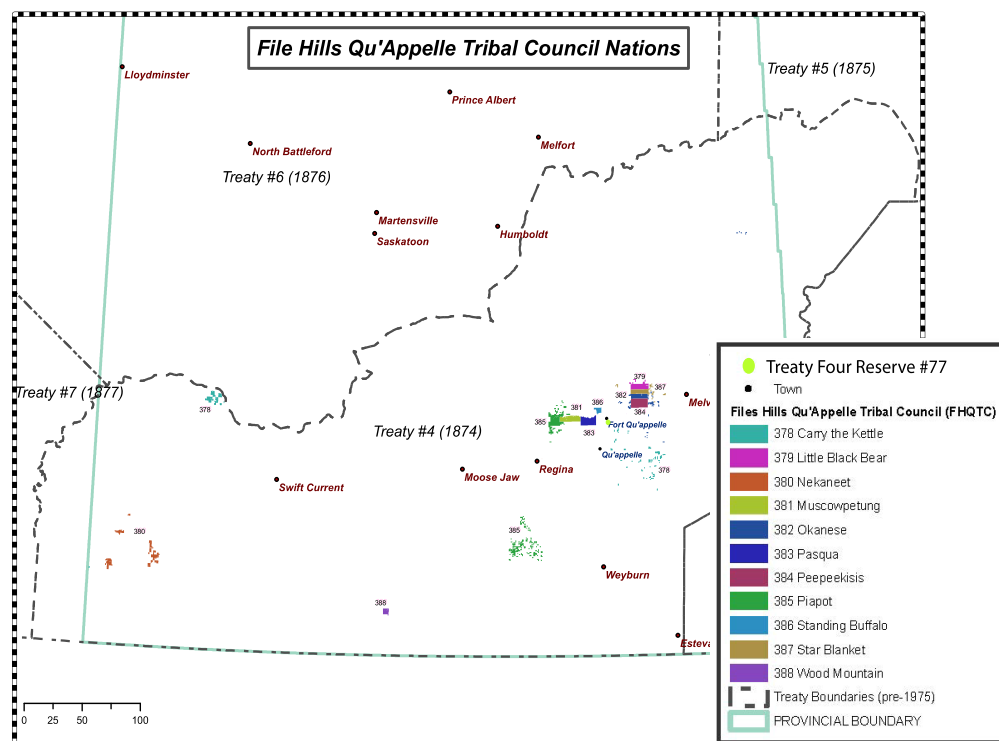
**FILE HILLS QU'APPELLE TRIBAL COUNCIL**

**Submission regarding Bill C-15 to the  
Parliamentary Standing Committee on Indigenous and Northern Affairs**

**April 8<sup>th</sup>, 2021**

## OVERVIEW

The File Hills Qu'Appelle Tribal Council (FHQTC) represents 11 member First Nations and over 17,000 Citizens. FHQTC Nations are comprised of distinct and diverse multilingual cultural identities of the Lakota, Dakota, Nakoda, Cree (Nehiyaw), and Saukteaux (Anishinaabe) Nations. FHQTC First Nations have systems of individual autonomous governance, collective governance and have ancestral occupation of lands beyond Treaty 4 Territory.



**Figure 1.** Map of the File Hills Qu'Appelle Tribal Council First Nations. This map does not include Lands in the claims process, the full extent of Traditional Territories, or Treaty Land Entitlement Lands/Minerals in fee simple.

As our First Nations govern in duality as individual sovereign Nations and as collectives of sovereign Nations, the FHQTC receives and advances the collective interests of the 11 Member First Nations and their Citizens who are the true rights holders. It is with their consultation that we submit this brief regarding our position on Bill C-15, *An Act respecting the United Declaration on the Rights of Indigenous Peoples* (Bill C-15) to the Parliamentary Standing Committee on Indigenous and Northern Affairs.

## BILL C-15 ANALYSIS

FHQTC Nations maintain the paramountcy of their Inherent and Treaty Rights as a mechanism for establishing the relationship between First Nations and the Crown. When considered through

the lens of an international human rights instrument, the *United Nations Declaration on the Rights of Indigenous Peoples* (UNDRIP), has the potential to support pragmatic advancements in the relationship between First Nations and the Crown.

In September 2020, Canada presented its Speech from the Throne which contained a commitment to introduce UNDRIP legislation before the end of the calendar year. In December 2020, Bill C-15 was introduced in the House of Commons, after brief and limited consultations with First Nations peoples in October and November.

Our Nations support the general concerns that have been expressed by other First Nations and Indigenous Organizations, such as:

- the preamble is top-heavy and the Bill itself actually lacks substance;
- the way the Bill frames the relationship between the Crown and Indigenous Peoples is contrary to the position of many rights holders and could be seen as seeking to preserve troubling aspects of the *status quo*;
- the Bill does not actually implement UNDRIP, which raises questions about the seriousness of the federal government to actually do so;
- there are many parts of the Bill which are inconsistent, if not contradictory; and
- the timeline provided to undertake the creation of an action plan suggests a lack of true commitment.

Bill C-15 uses the word “consultation” in many places. FHQTC is concerned that this will allow the Crown to take a legalistic approach by applying a “duty to consult” framework. If so, this would turn the important work of implementing UNDRIP into a check-box exercise where the Crown could do whatever it wants and later claim that it has met its legal obligation.

First Nations have already experienced the impacts of biased legislation, policy analysis and program development, which frustrates and often impedes progress as a result of the *Indian Act*, particularly as it relates to education, housing, lands, resources, environment, economic development, health programs and services, social development, governance, etc. While certainly not perfect, UNDRIP has the potential to move forward in a more positive direction if Canada is serious about doing so.

The 11 Member First Nations of FHQTC offer the following recommendations as opportunities for Canada to demonstrate its true commitment to the implementation of this legislation.

| Current Wording  | Proposed Amendments   | Rationale/Comments   |
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| <p><b>Preamble</b></p> <p><b>Preambular Paragraph (PP) 6</b> Whereas First Nations, Inuit and the Métis 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;</p> <p><b>PP7</b> Whereas Indigenous peoples have suffered historic injustices as a result of, among other things, colonization and dispossession of their lands, territories and resources;</p> <p><b>PP8</b> Whereas the implementation of the Declaration must include concrete measures to address injustices, combat prejudice and eliminate all forms of</p> | <p><b>PP6</b> Whereas First Nations, Inuit and the Métis Nation have, throughout <u>their</u> history and to this day, live in the lands that are now in Canada, and they have distinct cultures and ways of life, <u>that require that a distinctions-based approach in implementing the Declaration;</u></p> <p><b>PP7</b> Whereas Indigenous peoples have suffered from historic injustices as a result of, among other things, the colonization and dispossession of their lands, territories and resources, <u>thus preventing them from exercising their right to development in accordance with their own needs and interests;</u></p> <p><b>PP8</b> Whereas the implementation of the Declaration must include concrete measures to address injustices, combat prejudice and eliminate all forms of</p> | <p>First Nations, Inuit and the Métis Nation are distinct with their own history and Canada must implement the Declaration following a distinctions-based approach.</p> <p>The colonization and dispossession of their lands, territories and resources prevented Indigenous Peoples from exercising their right to development. This expansion of historic injustices is taken from the preamble of the <i>American Declaration on the Rights of Indigenous Peoples</i> adopted June 15, 2016.</p> <p>Racism violates lives, values and our right to equality. All forms of racism, including systemic racism, needs to be eliminated and thus included in the implementation of the Declaration. Failure to do so will continue to</p> |

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| <p>violence and discrimination, including systemic discrimination, against Indigenous peoples and Indigenous elders, youth, children, women, men, persons with disabilities and gender-diverse and two-spirit persons;</p> <p><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;</p> <p><b>PP15</b> Whereas the implementation of the Declaration can contribute to supporting sustainable development and responding to growing concerns relating to climate change and its impacts on Indigenous peoples;</p> | <p><u>racism</u>, violence and discrimination, including systemic discrimination, against Indigenous peoples and Indigenous elders, youth, children, women, men, persons with disabilities and gender-diverse and two-spirit persons;</p> <p><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, <u>including the doctrines of discovery and terra nullius</u>, are racist, scientifically false, legally invalid, morally condemnable and socially unjust;</p> <p><b>PP15</b> Whereas the implementation of the Declaration can contribute to supporting sustainable development and responding to growing concerns relating to climate change <u>and cumulative impacts and effects</u> and its impacts on Indigenous peoples' <u>Inherent and Treaty Rights</u>;</p> | <p>perpetuate the very issues that FHQTC is trying to address.</p> <p>In May 2012, the United Nations Permanent Forum on Indigenous Issues denounced the doctrine of discovery as the “shameful” root of all the discrimination and marginalization Indigenous peoples face today:<br/> <a href="https://www.un.org/press/en/2012/hr5088.doc.htm">https://www.un.org/press/en/2012/hr5088.doc.htm</a></p> <p><u>Laws and policies of the federal and provincial government continue to be based in whole or in part on these shameful “doctrines.”</u></p> <p>Cumulative impacts and effects must be considered in all legislation supporting sustainable development, in addition to climate change. Both cumulative impacts and effects and climate change have direct impacts on the exercise of Inherent and Treaty rights.</p> |
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| <p><b>Purpose of Act</b></p> <p><b>Purpose</b></p> <p>4 The purpose of this Act is to</p> <p>(a) affirm the Declaration as a universal international human rights instrument with application in Canadian law; and</p> <p>(b) provide a framework for the Government of Canada's implementation of the Declaration.</p>       | <p><u>(b) implement the Declaration.</u></p>  | <p>Revision to subsection to implement the Declaration as follow through by the Government of Canada's commitment from the Throne Speech "to introduce legislation to implement the United Nations Declaration on the Rights of Indigenous Peoples".</p> |
| <p><b>Measures for Consistency of Laws and Achieving the Objectives of the Declaration</b></p> <p><b>Consistency</b></p> <p>5. The Government of Canada must, in consultation and cooperation with Indigenous peoples, take all measures necessary to ensure that the laws of Canada are consistent with the Declaration.</p> | <p>5. The Government of Canada must <u>work together</u> with Indigenous peoples <u>to</u> take all measures necessary to ensure that the laws of Canada are consistent with the Declaration, <u>including co-development of additional laws.</u></p> | <p>Canada must do more than merely "consult" with First Nations. True reconciliation means working together to ensure that the laws of Canada are consistent with the Declaration. And this will require jointly developing new laws as well.</p>        |

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|  | <p><b><u>Consequential Amendments</u></b><br/> <u>5(1) Any consequential amendments to or the creation of new policies and regulations as a result of this Act will be done in cooperation and co-development with Indigenous peoples.</u></p> | <p>New section. In order for Canadian laws to be consistent with the Declaration, other policy and regulatory instruments will need to be amended and/or developed.</p> <p><b>Additional Comment:</b> There is concern that this section is too vague - no plan, no timeframes, and no definition or parameters of what constitutes “all measures necessary”. Based on a distinctions-based approach, Indigenous peoples who must be consulted, must be the Indigenous rights-holders.</p> |
| <p><b>Action plan</b></p> <p>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.</p> <p><b>Content</b></p> <p>(2) The action plan must include</p> <p>(a) measures to</p> | <p>6(1) The Minister must, <u>work together</u> with Indigenous peoples and with other federal ministers, prepare and implement an action plan to achieve the objectives of the Declaration.</p>   | <p>FHQTC First Nations would like the opportunity to be a part of the Canada’s process with respect to the development of an Action Plan.</p>  |

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| <p>(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, and</p> <p>(ii) promote mutual respect and understanding as well as good relations, including through human rights education; and</p> <p>(b) measures related to monitoring, oversight, recourse or remedy or other accountability measures with respect to the implementation of the Declaration.</p> <p><b>Other elements</b></p> <p>(3) The action plan must also include measures related to monitoring the implementation of the plan and reviewing and amending the plan.</p> | <p>(i) address injustices, combat prejudice and eliminate all forms of <u>racism</u>, 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, and</p> <p><u>(3) (a) The action plan must include resources for Indigenous participation and cooperation related to developing, monitoring, implementing, reviewing and amending the plan.</u></p> | <p>Racism violates lives, values and our right to equality. All forms of racism, including systemic racism, needs to be eliminated and thus included in the action plan to achieve the objectives of the Declaration. Failure to do so will continue to perpetuate the very issues that FHQTC is trying to address.</p> <p><b>Comment:</b> FHQTC First Nations recommend strong oversight and accountability measures be put in place to ensure commitment and adherence.</p> <p>New subsection (3)(a). First Nations require the resources to be meaningful participants in the preparation and implementation of an action plan to achieve the objectives of the Declaration as per section 6(1). FHQTC First Nations would like the ability to solicit their own Expert Resources to provide relevant subject matter context (Child and Family Services, Education, Justice, Social Work, Lands and Resources, Housing, etc...). Additionally, resources are required to participate</p> |
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| <p><b>Time limit</b></p> <p>(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.</p> |  | <p>and cooperate relating to the development, monitoring, implementing, reviewing, and amending the action plan.</p> <p><b>Comment:</b> FHQTC recommends that the legislators maintain commitment and priority to develop the action plan as expeditiously as can be done given consultations – ensuring resolution and true reconciliation.</p> |
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