



## Presentation to the Standing Committee on Indigenous and Northern Affairs (INAN)

Regarding Bill C-15:

*An Act respecting the United Nations Declaration on the Rights of Indigenous Peoples*

March 23, 2021

8am (PST)

1. [Acknowledgements]
2. Thank you to the Committee for the invitation to offer some remarks. I am honoured, to speak on the topic of federal legislation to implement the *United Nations Declaration on the Rights of Indigenous Peoples* (the "Declaration").
3. This marks a significant turning point in the history of this country and follows an historic occasion in the Province of British Columbia.
4. On November 28, 2019 the *Declaration on the Rights of Indigenous Peoples Act* (or DRIPA as it is known) passed unanimously in the BC Legislature.
5. DRIPA was widely supported by First Nations in British Columbia. It represents a sea change from the provincial government's tradition of denying and opposing our title, rights and existence as distinct Peoples and acceptance of the Truth and Reconciliation Commission Call to Action Call #43 to adopt and implement the Declaration as "the framework for reconciliation."
6. DRIPA was also strongly supported by the BC Business Council, BC Chamber of Commerce, BC Tech Association and other industry organizations.
7. This was a turning point in BC. While much hard work lies ahead, we are starting see a shift toward the human rights-based approach required by the Declaration.
  - a. As an example, last fall, the BC Government commissioned a comprehensive review of anti-Indigenous racism in the provincial healthcare system, promoting Article 24 of the Declaration affirming Indigenous peoples' right to access to health care without discrimination.
8. Historic and recent events demonstrate the imperative for concrete measures to address racism in our society and the responsibility of the public governments to act. The UN Declaration is a global human rights instrument and human rights cannot be fully enjoyed where there is racism and discrimination.
9. The anti-Indigenous racism and discrimination that continues today underscores the appropriateness of a human rights-based approach to reconciliation. Reconciliation cannot be based on denial of rights or racism, which is inherently contradictory and incompatible with upholding human rights.
10. Bill C-15, with improvements, is an important next step in Canada's implementation of the Declaration. It is a long overdue pathway for change, predicated on respect for human and inherent rights, and repudiation and eradication of racist and colonial constructs and doctrines that have no place in this country or our relationships.

11. The Preamble is important as it speaks of our collective history in Canada and the legacy of colonialism that has had tragic and profound impacts on First Nations across the country - underscoring the *need* for the UN Declaration to apply in Canada.
12. The Bill must be clear that Canada is repudiating doctrines advocating superiority like the doctrine of discovery and *terra nullius*. Old interpretations of Indigenous rights from an era based on colonial denial cannot continue.
13. It must also be clear that implementation of the UN Declaration is a responsibility of all of government to take actions and ensure consistency of laws, as required under section 5. Appropriate funding mechanisms must also form an integral part of this implementation.
14. Further, it is imperative that the “cooperation and consultation” carried out under the Bill reflects the constitutional relationship between the Crown and Indigenous peoples and key standards of the Declaration, such as free prior and informed consent. The Bill must clarify that specific mechanisms and a plan are needed for achieving consistency of laws.
15. The new pathway will see the laws of Canada shift to be more inclusive and respectful of rights and our unique relationship, and new actions and approaches of partnership and participation.
16. Bill C-15 will complement the BC Declaration Act and contribute to a strengthened foundation for Crown-Indigenous relations and reconciliation in BC, where treaties were not concluded throughout the province and the Land Question remains largely outstanding, as does the implementation of the pre-confederation Douglas Treaties and Treaty 8.
17. The implementation of the Declaration through laws and action by both Canada and the Province of British Columbia will be a strong foundation for innovation and principled negotiations, improving and expediting the negotiation and conclusion of robust, enduring human rights-based treaties, agreements and other constructive arrangements in British Columbia.
18. The work of upholding and protecting Indigenous human rights is urgent, particularly during a global health pandemic where human rights of vulnerable populations are inordinately impacted. The “urgent need to respect and promote the inherent rights of Indigenous Peoples” is stated in the Preamble and there are many actions that can and must be taken immediately and not be delayed. This should be reflected in the timeframes in the Bill.
19. Chiefs in British Columbia have indicated they believe this legislation meets the floor of former Bill C-262, though they have identified areas where improvements are needed to address some drafting issues that may cause confusion, and to reinforce issues of importance, such as those I have referred to here.
20. We have provided you with a written table of our recommended improvements, which we are happy to make ourselves and our technical staff available to further brief you on should you wish more information regarding our position.
21. Mussi Cho.