

UN indigenous rights declaration ready for the next step as Bill C-15 passes

Almost 14 years after the United Nations adopted a framework establishing the rights of Indigenous people, Canada is finally on the brink of implementing the historic document.

Despite concerns being raised by some opposition MPs over exactly what adopting the United Nations' Declaration on Indigenous Rights (UNDRIP) will mean legally, the minority Liberal government, with the aid of the NDP and Bloc Quebecois, passed Bill C-15 by a 210-118 margin on May 25. It now goes to the Senate for final approval.

Bill C-15, *An Act respecting the United Nations Declaration on the Rights of Indigenous Peoples*, forces the federal government to bring all of Canada's laws into line with the UNDRIP.

This is the second time since the United Nations passed the non-binding declaration in September 2007 that Ottawa moved to fold the UNDRIP principles into Canadian law. A 2018 private member's bill died in the Senate when Parliament dissolved for the 2019 election.

Many Catholic, faith and social justice organizations support declaring fidelity to the UN declaration. The Canadian Conference of Catholic Bishops, in an April 26 statement from its executive committee, called for the "timely and necessary inclusion of UNDRIP within Canadian law (to) thus contribute to truly respectful and just relations in this land."

The CCCB statement came on the heels of an April 21 endorsement from the Canadian Religious Conference that called the bill "instrumental for renewing the spirit of reconciliation in Canada and encouraging the work of decolonization, in order to establish right relationships and a common vision for the future of our country."

The Truth and Reconciliation Commission, which wrapped up in 2015, also made adopting the principles of the declaration within Canadian law a key recommendation in its final report.

But Conservative and Bloc Quebecois MPs are concerned with what Bill C-15 will mean in practice because they claim the Liberal government has not clearly stated how UNDRIP will interact with existing Canadian law. Of particular concern is how Bill C-15 will be interpreted going forward in relation to FPIC, "free, prior and informed consent." Some have argued it will give First Nations veto power over development.

A number of provincial governments have expressed similar concerns.

“What Bill C-15 proposes is unique, because no other UN declaration has a legislative declaration with application in Canadian law,” said Conservative MP Arnold Viersen.

“I would say we are well on our way to developing systems in Canada that fit in with UNDRIP and come into free, prior and informed consent. As our laws develop, with requirements to consult, we see companies going out and consulting,” he said, adding he is worried that Bill C-15 as it stands now may actually end up creating “confusion.”

“We are looking for clarity on a number of things, and this bill would not do anything to clarify any of these issues,” he said.

But Justice Minister David Lametti said the government has been clear the UNDRIP reaffirms the government’s commitment to make sure that Indigenous people are consulted in a meaningful manner, but dismisses the idea that it would give a form of veto power.

“FPIC is about meaningful consultation, discussion and dialogue with Indigenous peoples affected by a particular decision, say a resource development project, that they be at the table from the beginning,” said Lametti.

“There is no way it should be precisely defined at the outset.”

But Viersen said the government has not made it clear if at the end of the day the duty to consult will in fact be interpreted as a veto by the courts.

“If the government is insistent that it does not mean a veto, what does it mean? What does that consultation piece look like? Does the jurisprudence on duty to consult still stand?” he said.

Not all Indigenous groups are on board with UNDRIP. The Association of Iroquois and Allied Indians in Ontario is the most prominent of several smaller Indigenous organizations who believe C-15 doesn’t go far enough in recognizing prior Indigenous sovereignty over lands and resources.

-With Catholic Register files