

Standing Committee on  
Government Operations



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# Report on Bill 85: *United Nations Declaration on the Rights of Indigenous Peoples Implementation Act*

19<sup>th</sup> Northwest Territories Legislative Assembly

Chair: Mr. Rylund Johnson

**MEMBERS OF THE STANDING COMMITTEE ON  
GOVERNMENT OPERATIONS**

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September 27, 2023

SPEAKER OF THE LEGISLATIVE ASSEMBLY

Mr. Speaker:

Your Standing Committee on Government Operations is pleased to provide its *Report on Bill 85: United Nations Declaration on the Rights of Indigenous Peoples Implementation Act* and commends it to the House.



Mr. Rylund Johnson,  
Chair,  
Standing Committee on Government Operations

**STANDING COMMITTEE ON  
GOVERNMENT OPERATIONS**

**REPORT ON BILL 85: *UNITED NATIONS DECLARATION ON THE  
RIGHTS OF INDIGENOUS PEOPLES IMPLEMENTATION ACT***

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## STANDING COMMITTEE ON GOVERNMENT OPERATIONS

### REPORT ON BILL 85: *UNITED NATIONS DECLARATION ON THE RIGHTS OF INDIGENOUS PEOPLES IMPLEMENTATION ACT*

#### INTRODUCTION AND BACKGROUND

Bill 85: *United Nations Declaration on the Rights of Indigenous Peoples Implementation Act* (Bill 85)<sup>1</sup> received second reading on March 30, 2023, and was referred to the Standing Committee on Government Operations (Committee) for review.

The *United Nations Declaration on the Rights of Indigenous Peoples* (Declaration) is a comprehensive international human rights instrument. The Declaration sets out the minimum standards to ensure the survival, dignity, and well-being of Indigenous peoples.<sup>2</sup>

Bill 85 follows the *Calls to Action* from the Truth and Reconciliation Commission of Canada and *Calls for Justice* from the National Inquiry into Missing and Murdered Indigenous Women and Girls, which call on all levels of government to implement the Declaration.<sup>3, 4</sup> In 2019, the Legislative Assembly established a mandate for the Government of the Northwest Territories (GNWT) directing it to prioritize this work.<sup>5</sup> The Legislative Assembly then set up a Special Committee on Reconciliation and Indigenous Affairs (SCRIA) to seek and encourage discussions on implementing the Declaration within the Northwest Territories.<sup>6</sup> SCRIA delivered an interim “what we heard” report and a final report with recommendations.<sup>7, 8</sup>

Bill 85 is a historic piece of legislation. It is the third of its kind within Canada, following similar legislation in British Columbia<sup>9</sup> and at the federal level through the Government of Canada.<sup>10</sup> The Bill was developed in partnership between the GNWT and Indigenous Governments or Organizations (IGOs) through a working group of officials.<sup>11</sup> The Bill is also linked to a separate Memorandum of Understanding (MOU) that lays out a collaborative approach to implement the Declaration.<sup>12</sup> As of May 2023, the GNWT and 10 of 15 IGOs had signed the MOU.<sup>13</sup>

Bill 85 affirms that the Declaration applies in the Northwest Territories.<sup>14</sup> The GNWT will have to take “all reasonable measures” to ensure its laws, and their interpretation and application, are consistent with the Declaration.<sup>15</sup> Bill 85 also provides a framework for the GNWT and IGOs to collaborate and cooperate on implementing the Declaration.<sup>16</sup> Among other things, this framework:

- Requires a “statement of consistency” to be released with most new legislation, to explain whether new laws are consistent with the Declaration;<sup>17</sup>
- Sets up an Action Plan Committee, with members from the GNWT and IGOs, to

- co-develop a workplan on making existing laws and policies consistent with the Declaration;<sup>18</sup> and
- Affirms the authority of the GNWT to enter into shared decision-making agreements with IGOs.<sup>19</sup>

This report summarizes Committee's review of Bill 85, starting with our engagement with IGOs, the GNWT, and the public. This report also describes Committee's efforts to strengthen Bill 85, including 13 motions to amend the Bill – 10 of which were adopted at the clause-by-clause review – and eight recommendations.

## **PUBLIC ENGAGEMENT**

In April 2023, Committee received a public briefing from the Premier and her staff on Bill 85.<sup>20</sup> The Premier's presentation is included in Appendix A.

Between May 2023 and July 2023, Committee engaged the public. Our approach to engagement is described in Appendix B. Committee hosted six public meetings in Fort Simpson – Lídłıı Kúę,<sup>21</sup> Fort Smith – Thebacha,<sup>22</sup> Yellowknife – Sòmbak'è,<sup>23</sup> Tuktoyaktuk,<sup>24</sup> Inuvik,<sup>25</sup> and Déłıne.<sup>26</sup> Committee also set out to travel to Hay River, which the Hay River and Area Métis Local 51 had also specifically requested. When this summer's wildfires disrupted our public engagement plans, Committee held a virtual public briefing with Métis Local 51 instead.<sup>27</sup> About 50 people from across the Northwest Territories participated in these meetings.

Committee also sought written submissions on Bill 85. We sent over 100 targeted engagement letters to IGOs, local governments, advocacy associations, and non-profit organizations. Committee received detailed submissions from:

- The First Nations Child & Family Caring Society;
- The First Nations Financial Management Board;
- The City of Yellowknife; and
- The Hay River and Area Métis Local 51.

These four submissions are included in Appendix C. The Gwich'in Tribal Council also provided a confidential submission to facilitate Committee's discussion and review.

Committee appreciates everyone who offered their feedback at public meetings and in written submissions. Their participation demonstrates a commitment to promote the inherent rights of Dene, Métis, and Inuvialuit peoples in the Northwest Territories. Most participants welcomed Bill 85 as a positive step to advance Indigenous peoples' rights, and offered thoughtful ideas to improve the Bill, the Action Plan, and the GNWT's approach to implementing the Declaration more generally. The important themes, and Committee's thoughts on those themes, were:

- 1. Honouring existing treaties.** *Work to implement the Declaration must respect the provisions of existing treaties and agreements. Cede and surrender clauses should be removed from existing land claims agreements.*<sup>28</sup>

Committee agrees. Members have asked the Premier to not put cede and surrender clauses into land and resource agreements but have not received a commitment to take out such clauses from existing agreements.

- 2. Stronger language on Indigenous rights and roles.** *Bill 85 should ensure the Action Plan is drafted with IGOs “holding the pen” and is implemented in accordance with free, prior, and informed consent (FPIC).<sup>29</sup> The preamble should say the GNWT “will” implement the Declaration, rather than “should”.<sup>30</sup> The Bill should cite substantive equality as a guiding principle.<sup>31</sup>*

Committee notes that the Action Plan must be prepared through the Action Plan Committee, which finding is sufficient to ensure IGO participation in the drafting.<sup>32</sup>

Regarding FPIC, Committee is unclear on how the GNWT intends to interpret and implement FPIC.<sup>33</sup> Clarity matters in this area because, as SCRIA observed, people have different views on what FPIC means and operationalizing consent was stressed as the most important mechanism to realize reconciliation.<sup>34</sup> Committee is concerned at the risk of people being uncertain or disappointed in the absence of clear interpretation of FPIC. Committee is making a recommendation on this theme.

- 3. Specific Action Plan contents.** *The Action Plan should have to include specific measures to confirm rights, devolve jurisdiction, build institutional capacity, strengthen fiscal autonomy, set service standards, and facilitate nation-to-nation relationships. The Action Plan should also be an optional pathway to self-government.*

Committee agrees, and is making a recommendation on this theme.

- 4. Accountability.** *Bill 85 should include further accountability mechanisms beyond the annual report and the 5-year review.*

Committee agrees, and passed an amendment on this theme.

- 5. Funding support.** *The GNWT should set up a funding framework for the Action Plan Committee, and fund IGOs to build their capacity on implementing the Declaration.*

Committee agrees, and is making a recommendation on this theme.

- 6. Definition of “Indigenous Government or Organization”.** *Some participants found the Bill’s definition of IGO too open-ended,<sup>35</sup> while others felt the GNWT is failing to recognize all Indigenous groups in the Northwest Territories, specifically the Métis Local 51.*

Committee agrees that the Bill’s definition of IGO is too open-ended. Committee was unclear whether the Bill’s definition could range from Indigenous Governments to corporations and voluntary societies. Committee suggested an amendment to provide greater certainty that an IGO *must be a rights-bearing organization* as selected by Indigenous peoples to represent them.<sup>36</sup> The government indicated it would not concur, and Committee did not pursue the amendment at the clause-by-clause review.

Committee notes the lack of a consistent approach across government to this definition,

which was highlighted in the review of Bill 65: *Builders' Lien Act*. Committee believes the GNWT's inconsistent approach will cause problems in the future.

7. ***GNWT intervention in federal court case.*** *The GNWT's intervention in a federal court case to challenge whether Indigenous law can prevail over provincial and territorial law for child and family services is disappointing and contrary to the principles of the Declaration.*<sup>37</sup>

Committee also finds the GNWT's approach to the court case hard to reconcile with its commitment to implement the Declaration. We hope the forthcoming ruling will make this situation less likely in the future.

8. ***Institutional skepticism.*** *Some participants were skeptical the GNWT would meaningfully implement the Declaration. Some participants were also concerned about a perceived lack transparency of the Council of Leaders, Article 46 of the Declaration,*<sup>38</sup> *and the trustworthiness of the United Nations more generally.*

Committee notes these concerns, which highlight the necessity for policy work to implement the Declaration to tangibly improve the well-being of Indigenous residents, individually and collectively. In Tuktoyaktuk, for example, residents wanted to know how Bill 85 would help revitalize Inuvialuktun and ensure access to basic dental services. Actions to implement the Declaration should start right away, and not be on hold until the Action Plan is finalized in two years.

A more detailed summary of these themes is included in Appendix D. Committee encourages the GNWT, IGOs, and the Action Plan Committee to consider this input during the next steps to implement the Declaration. Committee recommends:

**Recommendation 1:** That the Government of the Northwest Territories, in collaboration and cooperation with Indigenous Governments or Organizations, develop and release a clear statement on how it interprets and intends to apply free, prior, and informed consent.

**Recommendation 2:** That the Government of the Northwest Territories, in collaboration and cooperation with Indigenous Governments or Organizations, include in the action plan developed under section 9 of Bill 85 specific measures to confirm rights, devolve jurisdiction, build institutional capacity, strengthen fiscal autonomy, set service standards, and facilitate nation-to-nation relationships, among others. This work should refer to the written submission of the First Nations Financial Management Board to Committee's review of Bill 85.

**Recommendation 3:** That the Government of the Northwest Territories should set up a funding framework to support Indigenous Governments or Organizations' capacity to engage with work to implement the Declaration going forward.



## AMENDMENTS

Committee put forward 13 draft motions to amend Bill 85. These are included in Appendix E of this report. The GNWT shared each draft motion with Indigenous Government representatives; negotiated together toward a consensus position; and confirmed acceptance from leadership.<sup>39</sup> The GNWT indicated it only supported amendments where there is consensus from Indigenous Governments, citing the unique nature of Bill 85 and its focus on the rights of Indigenous peoples. Committee welcomed this approach, as Article 19 of the Declaration says that legislation that affects Indigenous peoples must have their free, prior and informed consent.<sup>40, 41</sup>

Committee engaged extensively with the GNWT on the amendments to find wording that everyone could support. Committee commends the Law Clerk, the Deputy Law Clerk, the legislative drafters, departmental staff, and Indigenous Government representatives for their effective collaboration, which was essential to progress on this Bill. The government ultimately concurred with 10 of the 13 of the motions to amend at the clause-by-clause review, held on September 20, 2023.<sup>42</sup>

### 1. Excluding powers of the territorial court

The definition of “statutory power of decision” to which shared decision-making agreements could apply originally included powers of the Territorial Court.<sup>43</sup> Committee found this inclusion highly problematic, as it infringes upon judicial independence.

Committee put forward and adopted **Motion #1** to exclude powers of the Territorial Court, the Supreme Court, or the Court of Appeal from the relevant definition.

### 2. Clarifying timelines

Bill 85 required Ministers and Private Members to release the statement of consistency on new legislation “without delay.”<sup>44</sup> Committee was concerned this language was too vague. It allowed for situations where Members could lack access to the statement when voting on the principle of a bill at 2<sup>nd</sup> reading, or when reviewing the bill after 2<sup>nd</sup> reading. Committee believes the need for flexibility to advance urgent bills – even if a statement of consistency is not ready – may be justified at 1<sup>st</sup> reading, but not at 2<sup>nd</sup> reading. Committee also notes that appropriation bills, which could be required to advance quickly, are not required to have a statement of consistency.<sup>45</sup>

Committee put forward and adopted **Motion #2** to address this issue.

Committee was also concerned that Bill 85 did not include a deadline to complete the annual report.<sup>46</sup> Timely reporting is important because it provides relevant information

to hold governments to account and make better decisions.

Committee put forward and adopted **Motion #6** to require the annual report to be completed within 90 days after the end of each fiscal year. Several IGOs welcomed the added clarity. This timeline matches the standard set in BC's and Canada's legislation.<sup>47, 48</sup> Unlike these jurisdictions, the Northwest Territories requires the Minister to *co-develop* the annual report with the Action Plan Committee.<sup>49</sup> Committee encourages the GNWT and IGOs to collaborate on meeting the deadline.

### 3. Keeping Regular Members informed

Committee wanted to ensure that Regular Members are adequately informed of developments at the Action Plan Committee. This awareness matters because of the Action Plan Committee's position to influence the GNWT's agenda for legislative and policy work that Regular Members review and scrutinize.

Committee does not trust Cabinet to provide timely, comprehensive, and detailed updates regarding the Action Plan Committee's work. Committee wanted to require the Action Plan Committee to include a representative chosen by Regular Members who could relay information back to them. This approach worked well in several similar instances during the 19<sup>th</sup> Assembly.<sup>50</sup>

The GNWT was open to an amendment to address Committee's concerns. Committee put forward **Motion #3**, which required the Action Plan Committee to include a representative chosen by Regular Members. The motion also allowed the Action Plan Committee to restrict that representative from being a Regular Member as well as their rights of participation. Some IGOs were opposed in principle to allowing a Regular Member to act as a permanent observer on the Action Plan Committee. They were concerned that the political nature of a Regular Member could undermine a body that they expect to be non-political.

The GNWT and IGOs proposed a compromise that would prohibit the representative from being a Regular Member. Committee could not accept this proposal because Bill 85 does not similarly prohibit the GNWT or IGOs from choosing political figures. Committee wanted to ensure if the Action Plan Committee ever became a more political body, the law would not prohibit Regular Members from choosing a representative from among themselves. Committee and the GNWT were ultimately unable to find a compromise. Committee therefore recommends:

**Recommendation 4: That the Government of the Northwest Territories, in consultation with the Standing Committee on Accountability and Oversight and Indigenous Governments or Organizations, set up a mechanism that ensures Regular Members can access timely, comprehensive, and detailed information about the Action Plan Committee's work.**

#### 4. Promoting transparency

Committee felt that Bill 85 did not go far enough to promote the transparency of work to implement the Declaration. Transparency matters because it makes governments more accountable to each other and to residents. In this context, it can also strengthen the credibility of governments in doing this work. Committee was not satisfied with Bill 85's vague requirement for the action plan to follow a "*transparent process*."<sup>51</sup> The Bill lacked specific requirements to ensure key documents would be publicly disclosed.

Committee addressed transparency issues through five motions to amend. Four of the motions we put forward and adopted required the public disclosure of:

- The action plan – in **Motion #5 (subclause 9(4))**;
- The annual report – in **Motion #7**;<sup>52</sup>
- The examination of the consistency of proposed regulations with the Declaration and section 35 rights – in **Motion #10B**; and
- The results of the five-year review of the Act – in **Motion #13 (subclause 13(3))**. to require public disclosure of the results of the five-year review of the Act.

Committee put forward and adopted a fifth motion, Motion #8B, requiring the GNWT to notify Regular Members when it authorizes negotiations on a shared decision-making agreement. The motion also requires the timely public disclosure of any finalized agreements on a website.<sup>53</sup>

The motion represents a compromise. Committee would have preferred a requirement to disclose authorizations to negotiate to the public, not only to Regular Members. The GNWT opposed that proposal, citing concerns about violating Cabinet Confidences. The GNWT also wanted to maintain confidentiality to allow flexibility for negotiations to evolve.<sup>54</sup> Committee was not convinced these concerns outweigh the public interest in knowing, and notes that British Columbia requires some public disclosure in this area.<sup>55</sup> Committee therefore recommends:

**Recommendation 5: That the Government of the Northwest Territories should, without delay, make all authorizations provided to a Minister to negotiate or enter into a shared decision-making agreement under the *United Nations Declaration on the Rights of Indigenous Peoples Implementation Act* publicly available by publishing it on a government-maintained website.**

#### 5. Ensuring public engagement

Committee was disappointed that Bill 85, as originally drafted, was mostly silent on how the public would be engaged. Committee believes the GNWT should directly involve its public while developing and reviewing the action plan itself. The public's

concerns and aspirations should be consistently considered and directly reflected in the GNWT's position on the action plan.<sup>56</sup> Some Indigenous residents do not have a relationship with an IGO, so their only way to be involved is through the GNWT. Public engagement can also improve the quality of decisions and build confidence and trust in public government.<sup>57</sup>

IGOs were concerned that legislative requirements for *public engagement* could be confused with the GNWT's constitutional or legal duty for *Aboriginal consultation*. Committee acknowledges this concern but notes that the GNWT considers public engagement and Aboriginal consultation as distinct processes.<sup>58</sup>

Committee put forward and adopted two motions to require the GNWT to engage the public on two items:

- The action plan – **Motion #5 (subclause 9(3))**; and
- The five-year review – **Motion #13 (subclause 13(2))**.

Committee also considered a third amendment to require the GNWT to engage the public on shared decision-making agreements in draft form. IGOs strongly opposed this idea, citing its incompatibility with Nation-to-Nation negotiations, emphasizing the rarity of public involvement in such negotiations, and asserting that it would lead to needless delays without meaningfully enhancing transparency, as final agreements will be made public.

Committee accepted these concerns. However, Committee was uncomfortable with the lack of any GNWT accountability before entering these agreements. The GNWT is the public government of the Northwest Territories and must be accountable to its public. As a compromise, Committee put forward **Motion #8A**, which would require the GNWT to engage with Regular Members before entering a shared decision-making agreement.<sup>59</sup> The GNWT rejected the motion, citing continued IGO concerns. Committee therefore recommends:

**Recommendation 6: That the Government of the Northwest Territories provide notice to and seek comments from the Standing Committee of Accountability and Oversight before entering into a shared decision-making agreement under the *United Nations Declaration on the Rights of Indigenous Peoples Implementation Act*.**

## 6. Enhancing accountability and oversight

Committee was concerned that Bill 85 does not do enough to make the GNWT accountable for implementing the Declaration.<sup>60</sup> The First Nations Child & Family Caring Society also recommended further accountability mechanisms. Committee also notes that the Truth and Reconciliation Commission of Canada concluded that

“all levels of government must make a new commitment to reconciliation *and accountability*” [emphasis added].<sup>61</sup>

SCRIA’s final report highlighted the need for effective oversight, monitoring, and accountability.<sup>62</sup> SCRIA recommended that the legislation “include a mechanism that will monitor how the law is being implemented.” Committee agreed and put forward and adopted **Motion #11**, which basically implements SCRIA’s recommendation. The Action Plan Committee, which will develop the independent oversight mechanism should draw inspiration from SCRIA’s final report and federal Bill C-29: *An Act to provide for the establishment of a national council for reconciliation*.<sup>63, 64</sup>

Committee also identified a deficiency in the independence of the five-year review. Making the Action Plan Committee responsible for the review could create a conflict because this body also develops the action plan.<sup>65</sup> While the Action Plan Committee is suitable for oversight in many ways, Committee put forward **Motion #15**, calling for an independent person or entity chosen by the Action Plan Committee to lead the review. The GNWT rejected this motion, citing concerns from IGOs.

As a result, Committee put forward and adopted a compromise amendment – **Motion #13 (subclause 13(1))**. The motion explicitly states that the Action Plan Committee may choose an independent person or entity to lead the review. The GNWT did not object, considering the motion redundant. Because we exhausted legislative options to ensure an independent review, Committee recommends:

**Recommendation 7: That the Government of the Northwest Territories, in its capacity as a member of the Action Plan Committee, advocate for the Action Plan Committee to choose an independent person or entity to lead the five-year review of the *United Nations Declaration on the Rights of Indigenous Peoples Implementation Act*.**

## 7. Clarifying the relationship between the legislation and the MOU

Bill 85 mentions the Memorandum of Understanding (MOU) in two spots. Committee found these references problematic because they may allow the MOU – a non-legislative instrument – to require the GNWT to do things without oversight from the Assembly. Committee was particularly concerned that the reference in Section 10(2)(e) could enable changes to action plan priorities without legislative oversight.

Committee brought these concerns to the GNWT, but we were not satisfied with their response. Committee therefore sought to clarify the relationship between the two documents. We put forward and adopted **Motion #12**, which addresses situations where the MOU is in a conflict with the proposed *Act* and ensures the *Act* will prevail. The GNWT did not object, perceiving the motion as unnecessary. Committee welcomed the greater certainty.

## **BILL 85 AND PRIVATE MEMBER'S BILLS**

Bill 85 requires Private Members sponsoring a bill to table a statement without delay explaining whether the bill is consistent with the Declaration and section 35 rights.<sup>66</sup> Committee was displeased that Regular Members were not consulted on this proposal at any point before the Premier introduced the Bill.

Committee discussed extensively whether the requirement infringes on Members' privilege. Committee was advised that the answer is no – Members can still move ahead with Private Member's Bills, even if they are deemed inconsistent with the Declaration or with section 35 rights. As a result, Committee did not further consider changing or removing the requirement from the Bill.

However, Committee fears this requirement will have a chilling effect on Private Member's Bills. Members already face significant barriers to developing a Private Member's Bill. It is unclear whether and how Private Member's Bills must realize free, prior and informed consent (FPIC) to be deemed consistent with the Declaration. The GNWT's lack of clarity about FPIC does not help. Realizing FPIC could be challenging given Members' limited resources. Committee therefore recommends:

**Recommendation 8: That the Government of the Northwest Territories consult the Standing Committee on Accountability and Oversight when developing guidelines for statements of consistency required under the *United Nations Declaration on the Rights of Indigenous Peoples Implementation Act*.**

## **CONCLUSION**

At the September 20<sup>th</sup>, 2023, clause-by-clause review, Committee passed a motion to report Bill 85, as amended, to the Legislative Assembly as ready for consideration in Committee of the Whole.

This concludes the Standing Committee on Government Operations' review of Bill 85. Typically, Committee includes a recommendation in each report requesting a response from government within 120 days. The recommendation is then moved as a motion in the House and Cabinet is required to respond.<sup>67</sup> However, since the 19<sup>th</sup> Legislative Assembly will dissolve in less than 120 days, Committee has decided to leave out this recommendation and requests that the government provide a public response to this report, even of a preliminary nature, before the beginning of the 20<sup>th</sup> Assembly.

## ENDNOTES

<sup>1</sup> Bill 85 is available at:

[https://www.ntassembly.ca/sites/assembly/files/bill\\_85\\_united\\_nations\\_declaration\\_on\\_the\\_rights\\_of\\_indigenous\\_peoples\\_implementation\\_act.pdf](https://www.ntassembly.ca/sites/assembly/files/bill_85_united_nations_declaration_on_the_rights_of_indigenous_peoples_implementation_act.pdf).

<sup>2</sup> The *United Nations Declaration on the Rights of Indigenous Peoples* is available at:

[https://www.un.org/development/desa/indigenouspeoples/wp-content/uploads/sites/19/2018/11/UNDRIP\\_E\\_web.pdf](https://www.un.org/development/desa/indigenouspeoples/wp-content/uploads/sites/19/2018/11/UNDRIP_E_web.pdf).

<sup>3</sup> Call to Action #43 from the Truth and Reconciliation Commission of Canada “call[s] upon federal, provincial, territorial, and municipal governments to fully adopt and implement the *United Nations Declaration on the Rights of Indigenous Peoples* as the framework for reconciliation”. Available at:

[https://ehprnh2mwo3.exactdn.com/wp-content/uploads/2021/01/Executive\\_Summary\\_English\\_Web.pdf#page=198](https://ehprnh2mwo3.exactdn.com/wp-content/uploads/2021/01/Executive_Summary_English_Web.pdf#page=198).

<sup>4</sup> Call for Justice #1.2(v) from the National Inquiry into Missing and Murdered Indigenous Women and Girls “call[s] upon all governments, with the full participation of Indigenous women, girls, and 2SLGBTQQIA people, to immediately implement and fully comply with all relevant rights instruments, including [...] UNDRIP”. Available at: [https://www.mmiwg-ffada.ca/wp-content/uploads/2019/06/Calls\\_for\\_Justice.pdf#page=10](https://www.mmiwg-ffada.ca/wp-content/uploads/2019/06/Calls_for_Justice.pdf#page=10).

<sup>5</sup> In October 2019, Members of the Legislative Assembly set 22 priorities for the *Government of the Northwest Territories’ Mandate for the 19<sup>th</sup> Legislative Assembly*. One of those priorities was “Implementing the *United Nations Declaration on the Rights of Indigenous Peoples (UNDRIP)* within the constitutional framework of Canada to advance Reconciliation”. The government committed to work with Indigenous governments to create and implement an action plan that identifies changes required in GNWT legislation and policies to best reflect the principles set out in the Declaration. Available at:

[https://www.ntassembly.ca/sites/assembly/files/td\\_12-192.pdf#page=9](https://www.ntassembly.ca/sites/assembly/files/td_12-192.pdf#page=9).

<sup>6</sup> For more information, see the *Terms of Reference* for the Special Committee on Reconciliation and Indigenous Affairs. Available at: [https://www.ntassembly.ca/sites/assembly/files/td\\_211-192.pdf](https://www.ntassembly.ca/sites/assembly/files/td_211-192.pdf).

<sup>7</sup> The Special Committee on Reconciliation and Indigenous Affairs’ *Interim Report: What We Heard about the United Nations Declaration on the Rights of Indigenous Peoples and Negotiating Agreements* is available at: [https://www.ntassembly.ca/sites/assembly/files/cr\\_27-192\\_scria\\_interim\\_report\\_-\\_what\\_we\\_heard\\_about\\_the\\_undrip\\_and\\_negotiating\\_agreements\\_0.pdf](https://www.ntassembly.ca/sites/assembly/files/cr_27-192_scria_interim_report_-_what_we_heard_about_the_undrip_and_negotiating_agreements_0.pdf).

<sup>8</sup> The Special Committee on Reconciliation and Indigenous Affairs’ *Final Report: A Northwest Territories Approach to the UN Declaration on the Rights of Indigenous Peoples and Negotiating Agreements* is available at: [https://www.ntassembly.ca/sites/assembly/files/cr\\_44-192\\_scria\\_final\\_report\\_0.pdf](https://www.ntassembly.ca/sites/assembly/files/cr_44-192_scria_final_report_0.pdf).

<sup>9</sup> More information on British Columbia’s *Declaration on the Rights of Indigenous Peoples Act* is available at: <https://www2.gov.bc.ca/gov/content/governments/indigenous-people/new-relationship/united-nations-declaration-on-the-rights-of-indigenous-peoples>.

<sup>10</sup> More information on Canada’s *United Nations Declaration on the Rights of Indigenous Peoples Act* is available at: <https://www.justice.gc.ca/eng/declaration/index.html>.

<sup>11</sup> For more information, see the “Joint News Release: NWT Council of Leaders working together to implement the *United Nations Declaration on the Rights of Indigenous Peoples*” released on March 29, 2023. Available at: [https://www.gov.nt.ca/sites/flagship/files/documents/joint\\_release-nwt\\_council\\_of\\_leaders\\_working\\_together\\_to\\_implement\\_the\\_united\\_nations\\_declaration\\_on\\_the\\_rights\\_of\\_indigenous\\_peoples.pdf](https://www.gov.nt.ca/sites/flagship/files/documents/joint_release-nwt_council_of_leaders_working_together_to_implement_the_united_nations_declaration_on_the_rights_of_indigenous_peoples.pdf).

<sup>12</sup> The *Memorandum of Understanding for a Collaborative Approach To Implement the United Nations Declaration on the Rights of Indigenous Peoples in the NWT* is available at:

<https://www.eia.gov.nt.ca/sites/eia/files/nwtcol-undrip-mou.pdf>.

<sup>13</sup> The following ten Indigenous Governments or Organizations have signed the MOU as of May 2023:

- Acho Dene Koe First Nation
- Behdzi Ahda' First Nation
- Déljñę Got'jñę Government

- 
- Gwich'in Tribal Council
  - K'asho Got'ine of Fort Good Hope
  - K'atl'odeeche First Nation
  - North Slave Métis Alliance
  - Northwest Territory Métis Nation
  - Sahtu Secretariat Incorporated
  - Tłı̨chǫ Government

The following five Indigenous governments or Organizations have not signed the MOU as of May 2023:

- Akaitcho Dene First Nations
- Dehcho First Nations
- Inuvialuit Regional Corporation
- Nahanni Butte Dene Band
- Salt River First Nation

<sup>14</sup> See Section 4(a) of the proposed *Act*. Available at:

[https://www.ntassembly.ca/sites/assembly/files/bill\\_85\\_united\\_nations\\_declaration\\_on\\_the\\_rights\\_of\\_indigenous\\_peoples\\_implementation\\_act.pdf#page=4](https://www.ntassembly.ca/sites/assembly/files/bill_85_united_nations_declaration_on_the_rights_of_indigenous_peoples_implementation_act.pdf#page=4).

<sup>15</sup> See Section 5 of the proposed *Act*. Available at:

[https://www.ntassembly.ca/sites/assembly/files/bill\\_85\\_united\\_nations\\_declaration\\_on\\_the\\_rights\\_of\\_indigenous\\_peoples\\_implementation\\_act.pdf#page=5](https://www.ntassembly.ca/sites/assembly/files/bill_85_united_nations_declaration_on_the_rights_of_indigenous_peoples_implementation_act.pdf#page=5).

<sup>16</sup> See Section 4(b) of the proposed *Act*. Available at:

[https://www.ntassembly.ca/sites/assembly/files/bill\\_85\\_united\\_nations\\_declaration\\_on\\_the\\_rights\\_of\\_indigenous\\_peoples\\_implementation\\_act.pdf#page=4](https://www.ntassembly.ca/sites/assembly/files/bill_85_united_nations_declaration_on_the_rights_of_indigenous_peoples_implementation_act.pdf#page=4).

<sup>17</sup> See Section 7 of the proposed *Act*. Available at:

[https://www.ntassembly.ca/sites/assembly/files/bill\\_85\\_united\\_nations\\_declaration\\_on\\_the\\_rights\\_of\\_indigenous\\_peoples\\_implementation\\_act.pdf#page=9](https://www.ntassembly.ca/sites/assembly/files/bill_85_united_nations_declaration_on_the_rights_of_indigenous_peoples_implementation_act.pdf#page=9).

<sup>18</sup> See Sections 8, 9, and 10 of the proposed *Act*. Available at:

[https://www.ntassembly.ca/sites/assembly/files/bill\\_85\\_united\\_nations\\_declaration\\_on\\_the\\_rights\\_of\\_indigenous\\_peoples\\_implementation\\_act.pdf#page=10](https://www.ntassembly.ca/sites/assembly/files/bill_85_united_nations_declaration_on_the_rights_of_indigenous_peoples_implementation_act.pdf#page=10).

<sup>19</sup> See Section 12 of the proposed *Act*. Available at:

[https://www.ntassembly.ca/sites/assembly/files/bill\\_85\\_united\\_nations\\_declaration\\_on\\_the\\_rights\\_of\\_indigenous\\_peoples\\_implementation\\_act.pdf#page=12](https://www.ntassembly.ca/sites/assembly/files/bill_85_united_nations_declaration_on_the_rights_of_indigenous_peoples_implementation_act.pdf#page=12).

<sup>20</sup> Video of Committee's April 25, 2023, public briefing with the Premier and staff from the Department of Executive and Indigenous Affairs is available at: <https://www.youtube.com/watch?v=qEfiPEILm5M>.

<sup>21</sup> Video of Committee's May 1, 2023, public meeting in Fort Simpson – Lídłı̨ Kúę is available at:

<https://www.youtube.com/watch?v=BP0Gg-aZpKg>.

<sup>22</sup> Video of Committee's May 2, 2023, public meeting in Fort Smith – Thebacha is available at:

<https://www.youtube.com/watch?v=Ex1CPSpiAlw>.

<sup>23</sup> Video of Committee's May 3, 2023, public meeting in Yellowknife – Sòmbak'è is available at:

<https://www.youtube.com/watch?v=phd6Q-TimEE>.

<sup>24</sup> Due to technical constraints, video recording of Committee's May 4, 2023, public meeting in Tuktoyaktuk is not available.

<sup>25</sup> Video of Committee's May 5, 2023, public meeting in Inuvik is available at:

<https://www.youtube.com/watch?v=zgofzdaopxl>.

<sup>26</sup> Due to technical constraints, video recording of Committee's June 8, 2023, public meeting in Délı̨nę is not available.

<sup>27</sup> Video of Committee's July 26, 2023, public briefing with the Hay River and Area Métis Local 51 is available at: <https://www.youtube.com/watch?v=Z5P4dMzfQGo>.

<sup>28</sup> For example, the *Inuvialuit Final Agreement* includes a cede and surrender clause (3.(4)). Available at: <https://irc.inuvialuit.com/sites/default/files/Inuvialuit%20Final%20Agreement%202005.pdf#page=9>.

<sup>29</sup> The Declaration mentions the concept of "free, prior and informed consent" in five spots: articles 10, 11(2), 19, 28(1), and 29(2). Available at:

[https://www.ntassembly.ca/sites/assembly/files/bill\\_85\\_united\\_nations\\_declaration\\_on\\_the\\_rights\\_of\\_indigenous\\_peoples\\_implementation\\_act.pdf](https://www.ntassembly.ca/sites/assembly/files/bill_85_united_nations_declaration_on_the_rights_of_indigenous_peoples_implementation_act.pdf).



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<sup>30</sup> Paragraph 18 of Bill 85's preamble states: "Whereas the Government of the Northwest Territories recognizes that the Declaration *should* be implemented in the laws of the Northwest Territories" [emphasis added]. Available at: [https://www.un.org/development/desa/indigenouspeoples/wp-content/uploads/sites/19/2018/11/UNDRIP\\_E\\_web.pdf](https://www.un.org/development/desa/indigenouspeoples/wp-content/uploads/sites/19/2018/11/UNDRIP_E_web.pdf).

<sup>31</sup> Substantive equality is a legal principle that refers to achieving true equality in outcomes.

<sup>32</sup> See Section 10(1) of the proposed *Act*. Available at:

[https://www.ntassembly.ca/sites/assembly/files/bill\\_85\\_united\\_nations\\_declaration\\_on\\_the\\_rights\\_of\\_indigenous\\_peoples\\_implementation\\_act.pdf#page=11](https://www.ntassembly.ca/sites/assembly/files/bill_85_united_nations_declaration_on_the_rights_of_indigenous_peoples_implementation_act.pdf#page=11).

<sup>33</sup> Committee understands at least two different interpretations of FPIC – first, FPIC as a necessary condition to proceed with something, where the absence of consent from any IGO may result in a veto. And second, FPIC as an objective for consultation, which sets up a need to frame consultation procedures in a way that makes every effort to find consent, but without granting a veto power.

<sup>34</sup> Available at: [https://www.ntassembly.ca/sites/assembly/files/cr\\_27-192\\_scria\\_interim\\_report\\_-\\_what\\_we\\_heard\\_about\\_the\\_undrip\\_and\\_negotiating\\_agreements\\_0.pdf#page=57](https://www.ntassembly.ca/sites/assembly/files/cr_27-192_scria_interim_report_-_what_we_heard_about_the_undrip_and_negotiating_agreements_0.pdf#page=57).

<sup>35</sup> Section 1 of the proposed *Act* defines "Indigenous Government or Organization" as:

*"an entity that is authorized to act on behalf of Indigenous peoples that hold rights recognized and affirmed by section 35 of the Constitution Act, 1982 and chosen by those Indigenous peoples in accordance with their own procedures and decision-making institutions to represent them and to act on their behalf"*. Available at:

[https://www.ntassembly.ca/sites/assembly/files/bill\\_85\\_united\\_nations\\_declaration\\_on\\_the\\_rights\\_of\\_indigenous\\_peoples\\_implementation\\_act.pdf#page=7](https://www.ntassembly.ca/sites/assembly/files/bill_85_united_nations_declaration_on_the_rights_of_indigenous_peoples_implementation_act.pdf#page=7).

<sup>36</sup> Committee's suggested to change the definition of "Indigenous Government or Organization" to: *"an entity that is authorized by Indigenous peoples holding rights recognized and affirmed by section 35 of the Constitution Act, 1982, in accordance with their own procedures and decision-making institutions, to represent them and act on their behalf, in respect of those rights"*.

<sup>37</sup> The Attorney General of the Northwest Territories' intervention in SCC Court File No. 40061 in relation to the *Act respecting First Nations, Inuit and Métis children, youth and families* is available at:

[https://www.scc-csc.ca/WebDocuments-DocumentsWeb/40061/FM110\\_Intervener\\_Attorney-General-of-Northwest-Territories.pdf](https://www.scc-csc.ca/WebDocuments-DocumentsWeb/40061/FM110_Intervener_Attorney-General-of-Northwest-Territories.pdf).

The Inuvialuit Regional Corporation's intervention in the same case is available at: [https://www.scc-csc.ca/WebDocuments-DocumentsWeb/40061/FM270\\_Intervener-Inuvialuit-Regional-Corporation.pdf](https://www.scc-csc.ca/WebDocuments-DocumentsWeb/40061/FM270_Intervener-Inuvialuit-Regional-Corporation.pdf).

<sup>38</sup> Article 46 of the Declaration limits the rights described in the Declaration such that they must not infringe on the sovereignty of States. Available at:

[https://www.un.org/development/desa/indigenouspeoples/wp-content/uploads/sites/19/2018/11/UNDRIP\\_E\\_web.pdf#page=30](https://www.un.org/development/desa/indigenouspeoples/wp-content/uploads/sites/19/2018/11/UNDRIP_E_web.pdf#page=30).

<sup>39</sup> More specifically, the GNWT said: *"For any amendments to drafting of [Bill 85] being proposed, the GNWT would send the proposed amendments to all Indigenous government representatives that have been identified for this process. All representatives would have the opportunity to propose changes and differing opinions would be negotiated until there was a consensus in the group on the way forward, which would then be confirmed by leadership as being acceptable."*

<sup>40</sup> Available at: [https://www.un.org/development/desa/indigenouspeoples/wp-content/uploads/sites/19/2018/11/UNDRIP\\_E\\_web.pdf#page=18](https://www.un.org/development/desa/indigenouspeoples/wp-content/uploads/sites/19/2018/11/UNDRIP_E_web.pdf#page=18).

<sup>41</sup> Bill 85 also fell outside of the *Process Convention for the Introduction, Consideration and Enactment of Bills Drafted Pursuant to the Intergovernmental Council Legislative Development Protocol*. By contrast, Bill 74: *Forest Act*, was co-drafted using the Process Convention. The Process Convention is available at:

[https://www.ntassembly.ca/sites/assembly/files/td\\_885-192\\_process\\_convention-bills\\_pursuant\\_to\\_intergovernmental\\_council\\_legislative\\_development.pdf](https://www.ntassembly.ca/sites/assembly/files/td_885-192_process_convention-bills_pursuant_to_intergovernmental_council_legislative_development.pdf).

<sup>42</sup> Video of the September 20<sup>th</sup>, 2023, clause-by-clause review of Bill 85 is available at:

<https://www.youtube.com/watch?v=Jm2FhNtvkn0>.

<sup>43</sup> See Section 1(2) of the proposed *Act*. Available at:

[https://www.ntassembly.ca/sites/assembly/files/bill\\_85\\_united\\_nations\\_declaration\\_on\\_the\\_rights\\_of\\_indigenous\\_peoples\\_implementation\\_act.pdf#page=8](https://www.ntassembly.ca/sites/assembly/files/bill_85_united_nations_declaration_on_the_rights_of_indigenous_peoples_implementation_act.pdf#page=8).

<sup>44</sup> See Section 7(1) and 7(2) of the proposed *Act*. Available at:

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[https://www.ntassembly.ca/sites/assembly/files/bill\\_85\\_united\\_nations\\_declaration\\_on\\_the\\_rights\\_of\\_indigenous\\_peoples\\_implementation\\_act.pdf#page=9](https://www.ntassembly.ca/sites/assembly/files/bill_85_united_nations_declaration_on_the_rights_of_indigenous_peoples_implementation_act.pdf#page=9).

<sup>45</sup> See Section 7(3) of the proposed *Act*. Available at:

[https://www.ntassembly.ca/sites/assembly/files/bill\\_85\\_united\\_nations\\_declaration\\_on\\_the\\_rights\\_of\\_indigenous\\_peoples\\_implementation\\_act.pdf#page=10](https://www.ntassembly.ca/sites/assembly/files/bill_85_united_nations_declaration_on_the_rights_of_indigenous_peoples_implementation_act.pdf#page=10).

<sup>46</sup> See Section 11 of the proposed *Act*. While Section 11(3) required the report to be released within 30 days of *preparing* the report, there was no deadline to actually prepare the report. Available at:

[https://www.ntassembly.ca/sites/assembly/files/bill\\_85\\_united\\_nations\\_declaration\\_on\\_the\\_rights\\_of\\_indigenous\\_peoples\\_implementation\\_act.pdf#page=11](https://www.ntassembly.ca/sites/assembly/files/bill_85_united_nations_declaration_on_the_rights_of_indigenous_peoples_implementation_act.pdf#page=11).

<sup>47</sup> See Section 5(4) of British Columbia's *Declaration on the Rights of Indigenous Peoples Act*. Available at: <https://www.bclaws.gov.bc.ca/civix/document/id/complete/statreg/19044#section5>.

<sup>48</sup> See Section 7(1) of Canada's *United Nations Declaration on the Rights of Indigenous Peoples Act*. Available at: <https://laws-lois.justice.gc.ca/eng/acts/U-2.2/page-1.htm#h-1301616>.

<sup>49</sup> See Section 11(1) of the proposed *Act*. Available at:

[https://www.ntassembly.ca/sites/assembly/files/bill\\_85\\_united\\_nations\\_declaration\\_on\\_the\\_rights\\_of\\_indigenous\\_peoples\\_implementation\\_act.pdf#page=11](https://www.ntassembly.ca/sites/assembly/files/bill_85_united_nations_declaration_on_the_rights_of_indigenous_peoples_implementation_act.pdf#page=11).

<sup>50</sup> Several times in the 19<sup>th</sup> Assembly, a Regular Member attended meetings of the NWT Council of Leaders and briefed other Members confidentially afterward.

<sup>51</sup> See Section 10(2)(a) of the proposed *Act*. Available at:

[https://www.ntassembly.ca/sites/assembly/files/bill\\_85\\_united\\_nations\\_declaration\\_on\\_the\\_rights\\_of\\_indigenous\\_peoples\\_implementation\\_act.pdf#page=11](https://www.ntassembly.ca/sites/assembly/files/bill_85_united_nations_declaration_on_the_rights_of_indigenous_peoples_implementation_act.pdf#page=11).

<sup>52</sup> Motion #7 also addressed Bill 85's unusual approach to tabling the annual report. As drafted, Section 11(3) of the Bill required the annual report to go to the Clerk for tabling. But normally documents go to the Speaker for tabling or are otherwise tabled by Ministers or Members. Motion #7 clarified that it will be the Minister that tables the annual report, but that the Minister will also release the report as soon as it is ready, even if the Assembly isn't sitting, on a website.

<sup>53</sup> Before this amendment, Bill 85 only required final shared decision-making agreements to be published in the Gazette. With motion #8B, Committee sought to ensure these agreements would be published in a more relevant and accessible place.

<sup>54</sup> The GNWT explained that final agreements can be different from the starting point of negotiations.

<sup>55</sup> See Section 7(3) of British Columbia's *Declaration on the Rights of Indigenous Peoples Act*. This says that "within 15 days after the Lieutenant Governor in Council authorizes the member to negotiate an agreement under subsection (1), the member must make public a summary of the local governments and other persons the member intends to consult before or during the negotiation." Available at:

<https://www.bclaws.gov.bc.ca/civix/document/id/complete/statreg/19044#section7>.

<sup>56</sup> This is consistent with the "involve" engagement level in the *Public Engagement Employee Guide*.

Available at: [https://www.eia.gov.nt.ca/sites/eia/files/gnwt-public\\_engagement\\_guide.pdf#page=8](https://www.eia.gov.nt.ca/sites/eia/files/gnwt-public_engagement_guide.pdf#page=8).

<sup>57</sup> The GNWT's *Public Engagement Employee Guide* describes similar benefits to public engagement.

Available at: [https://www.eia.gov.nt.ca/sites/eia/files/gnwt-public\\_engagement\\_guide.pdf](https://www.eia.gov.nt.ca/sites/eia/files/gnwt-public_engagement_guide.pdf).

<sup>58</sup> This distinction is confirmed in the GNWT's *Public Engagement Employee Guide*. Available at:

[https://www.eia.gov.nt.ca/sites/eia/files/gnwt-public\\_engagement\\_guide.pdf#page=6](https://www.eia.gov.nt.ca/sites/eia/files/gnwt-public_engagement_guide.pdf#page=6).

<sup>59</sup> Committee felt this requirement would meaningfully increase accountability without needing to cause delay.

<sup>60</sup> Existing accountability mechanisms include oversight by the Action Plan Committee through the action plan, the annual report, the five-year review, and the Legislative Assembly's existing oversight roles.

<sup>61</sup> Available at: [https://ehprnh2mwo3.exactdn.com/wp-content/uploads/2021/01/Executive\\_Summary\\_English\\_Web.pdf#page=224](https://ehprnh2mwo3.exactdn.com/wp-content/uploads/2021/01/Executive_Summary_English_Web.pdf#page=224).

<sup>62</sup> See discussion around recommendation #3 in SCRIA's final report. Available at:

[https://www.ntassembly.ca/sites/assembly/files/cr\\_44-192\\_scria\\_final\\_report\\_0.pdf#page=9](https://www.ntassembly.ca/sites/assembly/files/cr_44-192_scria_final_report_0.pdf#page=9).

<sup>63</sup> A more detailed summary of Bill C-29 is available at:

[https://lop.parl.ca/sites/PublicWebsite/default/en\\_CA/ResearchPublications/LegislativeSummaries/441C29E](https://lop.parl.ca/sites/PublicWebsite/default/en_CA/ResearchPublications/LegislativeSummaries/441C29E).

<sup>64</sup> Bill C-29 contains several oversight mechanisms that Committee thinks should be considered for the

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Northwest Territories – notably, an independent body to monitor the progress of reconciliation and to oversee government programs, policies, and laws related to Indigenous peoples.

<sup>65</sup> The GNWT **said** several bodies were considered to lead the review – but chose the Action Plan Committee **for** its expertise in the work of implementation and because it already has representatives from all IGOs. However, the GNWT conceded that the Action Plan Committee is not an independent body.

<sup>66</sup> See Section 7(2) of the proposed *Act*. Available at:

[https://www.ntassembly.ca/sites/assembly/files/bill\\_85\\_united\\_nations\\_declaration\\_on\\_the\\_rights\\_of\\_indigenous\\_peoples\\_implementation\\_act.pdf#page=9](https://www.ntassembly.ca/sites/assembly/files/bill_85_united_nations_declaration_on_the_rights_of_indigenous_peoples_implementation_act.pdf#page=9).

<sup>67</sup> As required by Rule 9.4(5) of the *Rules of the Northwest Territories Legislative Assembly*. Available at:

[https://www.ntassembly.ca/sites/assembly/files/td\\_527-192.pdf#page=40](https://www.ntassembly.ca/sites/assembly/files/td_527-192.pdf#page=40).

**SPEAKING NOTES**  
**PREMIER COCHRANE**  
**THE UNITED NATIONS DECLARATION ON THE RIGHTS OF INDIGENOUS  
PEOPLES IMPLEMENTATION ACT**

**April 25, 2023**  
**Presentation to Standing Committee on Government and Operations**

- Thank you for the opportunity to discuss with you the recently tabled *United Nations Declaration on the Rights of Indigenous Peoples Implementation Act*.
- The tabling of this legislation is an important step towards our government's mandate priority of implementing the UN Declaration.
- I am looking forward to answering your questions about the legislation as well as about how it was developed in partnership with Indigenous governments.
- This legislation is yet another tool we have to formalize an ongoing relationship between the GNWT and Indigenous governments to support the long-term work of implementing the UN Declaration in the Northwest Territories.
- This legislation sets out a process to support the GNWT in undertaking the task of making our laws and policies consistent with the UN Declaration in a collaborative and transparent way.
- The drafting of this legislation has been done with Indigenous governments in a way that recognizes their diverse needs and priorities. This is consistent

with the requirements on the GNWT set out in the UN Declaration when undertaking implementation.

- Together the MOU and legislation are important pieces of work that I hope will guide our government in our continued collaboration with Indigenous governments in advancing reconciliation.



# *United Nations Declaration on the Rights of Indigenous Peoples Implementation Act (UNDRIP-IA)*

## Summary of proposed legislation

**April 25, 2023**

Government of  
Northwest Territories

# UNDRIP-IA Overview

- Development Process
- Content of the Law
- Challenges and Opportunities



# *Mandate of the Government of the Northwest Territories, 2019-2023*

GO-121-041

- Work with Indigenous governments and organizations (IGOs) to create and implement an action plan that identifies changes required in GNWT legislation and policies to best reflect the rights set out in the *United Nations Declaration on the Rights of Indigenous Peoples* (UN Declaration)





# Collaborative Process

- GNWT and IGO officials collaborated on the legislation through the UN Declaration Working Group (WG)
- The WG reported to, and was guided by, the NWT Council of Leaders on the approach to implementing the *United Nations Declaration on the Rights of Indigenous Peoples* (UN Declaration)



# Working Group Composition

- All IGOs were invited to participate
- Interested IGOs identified representatives to participate in the process
- A terms of reference guided the WG.
- Regular communications on progress provided to all IGOs, including non-participants



# NWT Council of Leaders GO-121-044

## (NWT COL)

- Commitment to implement the UN Declaration through an officials' WG was made at the NWT COL meeting on June 11, 2021
- WG presented recommendations on UN Declaration Implementation for NWT COL consideration and direction on November 18, 2021
- Continued support for the approach and the MOU obtained from NWT COL on September 27, 2022



# Development of Content

- Development of legislative framework to agree on the content of legislation
- Indigenous caucus of the working group (all officials outside GNWT) provided draft of legislation August 4, 2022
- Agreement on Legislative Framework and draft legislation reached by the WG in December 2022



# Communication with IGOs

- Letters with updates on progress were sent periodically to all IGOs
- Updates provided at NWT COL meetings for feedback and continuing support of direction



# Challenges with the Process

- Capacity of all governments to participate
- Tension of timelines (end of the 19th Legislature approaching deadline)
- Differing priorities (some governments wanted more focus on the Memorandum of Understanding as the priority)



# CONTENT OF PROPOSED LEGISLATION



# Content of Proposed Legislation

Key features of the proposal include:

- An extensive preamble
- Commitment for GNWT to implement the Declaration
- Statement of Consistency
- Co-development of an Action Plan with IGOs
- Affirmation of the Declaration's application to GNWT laws and policies
- Shared Decision-Making Agreements
- Reporting requirements
- Periodic Review and regulation-making powers





# Preamble and Definitions

- The preamble closely aligns with the preamble in the federal legislation
- Sets broad intention for the legislation and provides some background on the Declaration, including a repudiation of the doctrine of discovery and *terra nullius*
- Definitions based partly on BC legislation



# Purpose

- Affirm the Declaration as a universal human rights instrument with application in the NWT
- Affirm roles and responsibilities of Indigenous Governments and Organizations holding s. 35 Rights in the Declaration's implementation
- Mandate the GNWT's implementation of the Declaration in all its laws and policies.



# Aligning GNWT Laws with the Declaration

CO-12-05

- The Government of the Northwest Territories shall, in collaboration and cooperation with Indigenous peoples, take all reasonable measures to ensure that the laws of the Northwest Territories are consistent with the Declaration.
- GNWT laws must be interpreted and applied in a manner consistent with the Declaration



# Diversity Statement

- In implementing the Act, the GNWT shall consider the diversity of NWT Indigenous peoples, including their distinct languages, cultures, customs, practices, rights, legal systems, institutions, governances structures, relationships to the land and knowledge systems



# Measures for New Legislation

- A Statement of Conformance will be prepared by the Attorney General to ensure conformance with the Declaration, and rights recognized and affirmed under s.35 of the Constitution Act, 1982, prior to the tabling of any new or amended legislation



# Action Plan Committee

- An Action Plan Committee will be created to co-develop an Action Plan
- The Committee will be composed of the GNWT and IGOs in the NWT that wish to participate



# Action Plan

- Process to review, revise or replace GNWT's existing laws or policies, where necessary, to align with the Declaration
- The Action Plan will include a transparent process for how the activities under the Action Plan are concluded that incorporates consensual decision-making



# Reporting

- The Act requires regular reporting on progress of the activities under it through the tabling of an annual GNWT-wide report regarding the Action Plan
- Reporting requirements include, among other things, department-specific overviews and reporting, as well as Action Plan Committee recommendations.





# Shared Decision-Making Agreements (SDMAs) GO-121-058

- SDMAs allow Ministers to enter into agreements with IGOs to jointly exercise a statutory power or to obtain consent before the Minister exercises the power



# Shared Decision-Making Agreements (SDMAs) GO-121-059

- Agreements must have a clear scope of the decisions to be jointly made, and address how
  - accountability will be shared for decisions and any overlap between IGOs
  - are not to interfere with existing decision-making arrangements found in modern treaties



# Review and Regulations

- The Act will provide for periodic review of the legislation and the review will be led by the Action Plan Committee
- The Act will provide for the making of regulations for the implementation of the Act



# Challenges

- Outcome of legislation mostly unknown at this time since other jurisdiction are just starting to implement, so no lessons learned yet available
- Unclear how Courts will interpret law that affirms application of Declaration



# Opportunities

- The proposed GNWT law is expected to create mechanisms for working together with IGOs on implementation priorities
- The GNWT has the potential to be the first jurisdiction to develop a plan for UNDRIP implementation that is fully co-developed with IGOs



# Conclusion

- The UNDRIP-IA not only accomplishes a key item from the 19th Legislative Assembly's mandate, but also represents a significant step toward recognizing and implementing the rights of Indigenous Peoples in the NWT
- The same level of partnership with IGOs that went into the Bill's creation will be crucial for successful implementation





GO-121-064

# Questions/Discussion

Government of  
Northwest Territories

## **PUBLIC CONSULTATION**

### **Bill 85: United Nations Declaration on the Rights of Indigenous Peoples Implementation Act**

#### **WHAT IS THE COMMITTEE DOING?**

The Committee is meeting with the public for the review of the Bill 85: *United Nations Declaration on the Rights of Indigenous Peoples Implementation Act*.

Your feedback will help the Committee make changes to strengthen Bill 85.

#### **WHO IS THE COMMITTEE?**

The Committee is part of the Northwest Territories Legislative Assembly and is made up of Regular Members. The Committee oversees several GNWT departments, including the one that is proposing Bill 85.

#### **TOPICS FOR DISCUSSION**

##### **Implementing rights**

1. Which rights in the UN Declaration on the Rights of Indigenous Peoples are being violated?
2. What are the barriers to respecting Indigenous Peoples' rights?
3. What does it look like to implement each right in the UN Declaration?
4. Which laws and policies should be prioritized to make them consistent with the UN Declaration?
5. What could the government do to ensure free, prior, and informed consent (FPIC)?

##### **Action plan**

6. Who should be involved in making the action plan to implement the UN Declaration? Should the public have a role?
7. Is two years enough time to make the action plan?

##### **Oversight and accountability**

8. How should the government be held accountable for implementing the action plan? What kind of transparency is required?
9. Does the NWT need an independent entity to monitor progress?
10. How should results be measured?



# Submission to the Government of the Northwest Territories on Bill 85: *United Declaration on the Rights of Indigenous Peoples Implementation Act*



## Purpose

The purpose of this submission is to offer insights on the Government of Northwest Territories (GNWT) Bill 85: *United Nations Declaration on the Rights of Indigenous Peoples Implementation Act*, through the lens of supporting thriving First Nations children, young people, families, and communities.

## Introduction

First Nations, Metis and Inuit have called for Canada to respect their rights for generations. This call has been echoed in numerous reports, including but not limited to the Royal Commission on Aboriginal Peoples (1998), the Joint National Policy Review (2000), the Wen: De Reports (2005), the Truth and Reconciliation Commission (2015), and the National Inquiry into Missing and Murdered Indigenous Women and Girls (2019).

The reaction to these reports has been tepid, with successive governments choosing to take little to no action to uphold the various findings and recommendations of these reports. This points to a need for legislation that binds government to full implementation of the UNDA.

<sup>1</sup> *Bill 85: United Nations Declaration on the Rights of Indigenous Peoples Act*. (2023), p.3, para. 3.

<sup>2</sup> The Caring Society is party to an ongoing, 16-yearlong case at the Canadian Human Rights Tribunal (Tribunal), which, in 2016, found Canada to be racially discriminating against 165,000 First Nations children in its inequitable approach to funding the First Nations Child and Family Services (FNCFS) program and its flawed, narrow implementation of the scope of Jordan's Principle. Since the initial finding of discrimination in 2016, the Tribunal has issued 24 additional orders, many of them non-compliance orders against Canada. For more information, see: <https://fncaringsociety.com/i-am-witness/tribunal-timeline>.

## Section By Section Review:

### Preamble

Citing the outcome document of the World Conference on Indigenous Peoples, para. 3 of the preamble text describes how at this plenary, "Canada and other nations reaffirmed their solemn commitment to respect, promote, and advance the rights of Indigenous peoples".<sup>1</sup> What the text omits is that Canada was among the last states to sign on to *UNDRIP*, having voted against its adoption in 2007 alongside Australia, New Zealand, and the United States of America, recent history that cannot be forgotten. This is especially pertinent given the 24 non-compliance and procedural orders that the Canadian Human Rights Tribunal has issued to try to get Canada to stop its discrimination against First Nations children and families<sup>2</sup>.

The text also notes that the GNWT is "committed to exploring" accountability mechanisms in collaboration and cooperation with Indigenous peoples. There is a need for accountability mechanisms that go beyond annual reporting and updating the Action Plan every five years. It is critical that this language is firmly reflected in the legislation. For more on accountability mechanisms, the Caring Society recommends that the GNWT consult Dr. Naoimi Metallic's work<sup>3</sup> and contact her about accountability mechanisms. First Nations, Metis and Inuit young people have also indicated that government accountability is a key concern and recommendation<sup>4</sup>.

<sup>3</sup> See the recommendations of scholars Naoimi Metallic, Hadley Friedland, and Shelby Thomas in *Doing better for Indigenous children and families: Jordan's Principle accountability mechanisms report*: <https://digitalcommons.schulichlaw.dal.ca/reports/15/>

<sup>4</sup> See: Fayant, G. and Bach, A. (2022). *Children Back, Land Back: A Follow-Up Report of First Nations Youth in Care Advisors*. <https://fncaringsociety.com/publications/children-back-land-back-follow-report-first-nations-youth-care-advisors>. and Fayant, G. and Christmas, C. (2021). *Accountability in Our Lifetime: A Call to Honour the Rights of Indigenous Children and Youth*. <https://fncaringsociety.com/publications/accountability-our-lifetime-call-honour-rights-indigenous-children-and-youth>.

Similarly, the text notes that the GNWT recognizes that the Declaration *should* be implemented in the laws of the Northwest Territories, not that it *will* be. Given the longstanding inaction, it is insufficient to rely on the goodwill of government to implement and respect the rights of Indigenous peoples. This language should reflect an express commitment to implementing the *Declaration*, given that UNDRIP is the minimum threshold of Indigenous rights. It represents the floor, not the ceiling.

The Caring Society also recommends making mention of substantive equality as one of the guiding principles on which the GNWT's relationships with Indigenous peoples will be based, as is described in para. 10.

### Section 3: Binds Government of the Northwest Territories

Given that UNDRIP is non-binding on governments, the Caring Society is pleased to see that the GNWT will be bound to Bill 85. How will the non-binding character of UNDRIP at the federal level impact the implementation at the territorial level?

### Section 7: Statements: Government and non-government bills

The text describes that each Minister or Member introducing a bill to the Legislative Assembly must table, without delay, a Statement of Consistency indicating whether or not the bill is consistent with the Declaration. It is unclear what happens should the bill be deemed inconsistent with the Declaration. This raises questions regarding the binding provisions of the bill, as indicated in Section 3.

### Section 9 & 10: Co-development and Preparation, and Implementation

It is insufficient to rely on co-development processes and "equal partners" language, given this is a process that governments have used before, only to ignore the direction given by Indigenous people without providing reasons. The bill should incorporate free, prior, and informed consent (FPIC) in the implementation of the Action Plan<sup>5</sup>. It is unclear how or if the Bill's binding provisions in Section 3 would apply and how it

would be enforced.

<sup>5</sup> The Canadian Human Rights Tribunal in 2022 CHRT 41 notes that "FPIC is not strictly a lands and natural resources process" but applies to a "broader spectrum of issues concerning Indigenous Peoples and their involvement and participation in important decisions that concern them"<sup>5</sup>. Further, FPIC means that the

GNWT cannot ignore or disregard diverse views among First Nations in favour of obtaining consent from representative organizations.

May 12, 2023

Rylund Johnson  
Chair, Standing Committee on Government Operations

[committees@ntassembly.ca](mailto:committees@ntassembly.ca)

## Re: Bill-85

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Mr. Chair,

We write today regarding the United Nations Declaration on the Rights of Indigenous Peoples Implementation Act (**Bill 85**). We are heartened by the increased authorities specifically given to the Action Plan Committee, and overall, Bill 85 is in keeping with the change that Canada's Indigenous Peoples have been asking for in the implementation of this important international instrument.

While we see the great improvements between the extant United Nations Declaration on the Rights of Indigenous Peoples (UNDRIP) implementation legislation in Canada, we believe that the GNWT is in an excellent position to make its UNDRIP implementation legislation a leader that other forward-looking jurisdictions will model their legislation after.

Our recommendations are in keeping with previous recommendations we have made.<sup>1</sup>

### Collaboration and Cooperation and The Need for Indigenous-Led Co-Development

Bill-85 calls for “collaboration and cooperation” between the territorial government and Indigenous Governments and Organizations in implementing the Declaration. The Bill requires such collaboration and cooperation in making consistent the laws of the Northwest Territories with the Declaration<sup>2</sup> and in co-developing the action plan.<sup>3</sup>

Bill 85 describes that the Minister shall co-develop the action in collaboration and cooperation with Indigenous Groups and Organizations, as those terms are defined in the Act, and the Executive Council. The FMB recommends that one of the GNWT's Indigenous partners might “hold the pen” for drafting the action plan to support accountability and Indigenous-led progress. This could be included in the “Memorandum of Understanding for a Collaborative

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<sup>1</sup> For example, on May 4, 2023, we issued a comment letter to the Government of Canada regarding its draft Action Plan.

<sup>2</sup> Bill 85 at s. 5(1).

<sup>3</sup> Bill 85 at s. 9(1).

Approach to Implement The United Nations Declaration on the Rights of Indigenous Peoples in the NWT” (MOU) as a delegation from the Minister, or specifically in the text of the Bill.

In our view, this approach supports Indigenous Peoples growing capacity and wealth, and seizing opportunities to lead through Indigenous-led organizations and from the wisdom of Indigenous thought leaders. Indigenous-led solutions such as the *First Nations Fiscal Management Act*, the *First Nations Land Management Act* (and subsequent Framework Agreement on First Nations Land Management Act), and Indigenous institutions such as the First Nations Financial Management Board, First Nations Finance Authority, First Nations Tax Commission, Lands Advisory Board, National Indigenous Economic Development Board and many others support Indigenous leadership in making positive changes at a systemic level. Indigenous-led solutions are trusted by Indigenous governments and people, have better contacts and experience in First Nations communities, and are agile enough to keep pace with the needs of Indigenous peoples.

The roles of Indigenous governments and institutions must be recognized in UNDRIP legislation action plans and resourced accordingly to continue to build capacity in Indigenous communities. Increased and sustained capacity in more Indigenous communities will allow for greater participation in Indigenous-led solutions, ensuring communities can determine the best ways for them to respond to UNDRIP’s implementation and accurately represent their needs and goals. In our view, enabling one of the participating Indigenous Governments or organizations to be the primary drafter on the action plan will best ensure the spirit and intent of Bill 85’s co-development is achieved.

### Indigenous Jurisdiction

The sections of Bill-85 renounce colonialism and discrimination, embrace different Indigenous social structures and traditions, and make provision to uphold Indigenous rights via legislation, policy, and administrative measures. The GNWT has clearly and unambiguously stated their intentions to make consistent the laws of the Northwest Territories with UNDRIP through collaboration with Indigenous Groups and Organizations and through the one-of-a-kind approach of having the Attorney General table a Statement of Consistency regarding government bills. In our view, these actions demonstrate the GNWT’s support for the consistent reflection and application of Indigenous rights, including Modern Treaties.<sup>4</sup> FMB believes the natural next step in ensuring, nurturing, and supporting the consistent application of Indigenous rights is recognizing and implementing Indigenous jurisdiction and capacity, which allow Indigenous peoples to exercise their rights.

Having rights without the means to exercise them is a hollow victory, and one that does not achieve reconciliation. The inclusion and implementation of jurisdiction in the action plan will allow Indigenous Peoples to exercise their rights. The territorial government should ensure that

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<sup>4</sup> For example, Canada’s Collaborative Modern Treaty Implementation Policy, found at <https://www.rcaanc-cirnac.gc.ca/eng/1672771319009/1672771475448>

all subsequent development of legislation and policy pertaining to Indigenous rights incorporates elements of increased Indigenous jurisdiction.

As a starting point, the action plan might address the following:

- Jurisdictional clarity between Indigenous Governments and Organizations, on the one hand and territorial and municipal governments on the other;
- Legal paramountcy of Indigenous laws in their jurisdictions and clearly defined taxation rights;
- Standards for service delivery and option to transfer service responsibility to Indigenous governments;
- Autonomy over expenditures and use of traditional territories; and
- A mechanism to facilitate and acknowledge nation-to-nation relations.

The action plan ought to include specific initiatives to strengthen financial management capacity, revenue generation, and economic participation to fund the real cost of government for Indigenous communities, allowing those communities to fully realize and exercise their rights. This, and subsequent legislation and policy, will be powerful steps in the direction of reconciliation with Indigenous Peoples.

### Implementation and Capacity

We positively note the strong measures that Bill 85 would put in place for implementation. These include the MOU and the establishment of the Action Plan Committee.<sup>5</sup> We were pleased to see that s. 10(2)(e) of Bill 85 makes mandatory the provisions set out in the MOU for the action plan. These measures are novel as compared to other UNDRIP implementation legislation in the country. It is measures such as these that we think will cause the NWT to be a leader and precedent-setter in the country in relation to implementing UNDRIP.

While we were unable to find the MOU, we look forward to reviewing same when it becomes publicly available. We anticipate seeing clauses regarding financial capacity for participating Indigenous Governments and Organizations in order for such participants to execute their duties under the Memorandum, on the Action Plan Committee, and as may be otherwise required to implement Bill 85. Such capacity support will further enable the participating Indigenous Governments and Organizations to increase and fine-tune administrative capacity to undertake the work required in Bill 85 on an ongoing basis.

### Recommendations

Based on the foregoing, we recommend the following:

- Section 9(1) provides that the Minister will co-develop the Action Plan with Indigenous Governments or Organizations and the Executive Council. We would propose that the

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<sup>5</sup> Bill 85 at s. 8(1)

Act or Memorandum of Understanding ought to set out that a member of a participating Indigenous Government or Organization should “hold the pen” on the Action Plan, which is co-developed in the manner set out in section 9(1);

- Section 10(2) ought to specifically include provisions to be included in the Action Plan regarding:
  - Initiatives to strengthen financial capacity and revenue generation;
  - Fiscal powers, economic powers and taxation powers, that Indigenous governments require;
  - Sharing of wealth and authority;
  - Indigenous jurisdiction for the exercise of rights and powers;
  - Mechanisms that support capacity development in Indigenous Governments and Organizations;
  - Standards for service delivery and the option to transfer service responsibility to Indigenous governments;
  - Autonomy over expenditures and use of traditional territories;
  - A mechanism to facilitate and acknowledge nation-to-nation relationships;
- The Action Plan ought to be an optional pathway that supports self-government for interested Indigenous groups; and
- Provision should be made for capacity funding for participant Indigenous Governments and Organizations in the text of the Act or in the MOU;

These recommendations are rooted in some of the fundamental principles that FMB has seen support Indigenous Nations across Canada to move from managing poverty to managing wealth. These principles are more clearly stated in FMB's [RoadMap Project](#).

## Conclusion

Bill-85 sets out a unique and meaningful method of implementing UNDRIP. It includes good levels of detail in scope and in plans for implementation and signals a respectful approach to Indigenous Governments and Organizations that can grow trust and facilitate real reconciliation. We commend the GNWT on its approach to implementing UNDRIP and believe this approach to show leadership in this field.

**FIRST NATIONS FINANCIAL MANAGEMENT BOARD**

Per:



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Geordie Hungerford, CFA, CAIA, MBA, LLB  
Chief Executive Officer



CITY OF YELLOWKNIFE  
OFFICE OF THE MAYOR

June 23, 2023

Rylund Johnson  
Chair, Standing Committee on Government Operations  
Legislative Assembly of the Northwest Territories  
P.O. Box 1320  
Yellowknife, NT X1A 2L9

Sent via email – [committees@ntassembly.ca](mailto:committees@ntassembly.ca)

Dear Rylund Johnson,

**RE: Bill 85 – *United Nations Declaration on the Rights of Indigenous Peoples Implementation Act***

The City of Yellowknife appreciates the opportunity to provide feedback to the Standing Committee on Government Operations regarding Bill 85, *United Nations Declaration on the Rights of Indigenous Peoples Implementation Act*.

The City is pleased that the Northwest Territories is joining other Canadian jurisdictions that have established legislation affirming and implementing the United Nations Declaration on the Rights of Indigenous Peoples (the “Declaration”).

The City supports the Act as drafted and is particularly encouraged by the following aspects:

1. Clarity that “The laws of the Northwest Territories must be interpreted and applied in a manner consistent with the Declaration” (s. 5(2))
2. Requirement for review of all bills introduced to the Legislative Assembly for consistency with the Declaration (s. 7); and
3. The Action Plan and Reporting Requirements to ensure progress towards achieving the objectives of the Declaration.

The City is looking forward to working with the Government of the Northwest Territories and Indigenous Governments and Organizations in achieving the objectives of the Declaration. On a related note, the City is pleased to be planning our second annual Reconciliation Gathering, planned to take place on the evening of Tuesday, August 29<sup>th</sup>, and we would welcome the presence of Committee members at this important discussion.

Thank you for this opportunity to provide feedback to the Standing Committee on Government Operations.

Sincerely,



Rebecca Alty  
Mayor

DM#736407

KS





Hay River and Area Metis Local 51 would like to thank you for the opportunity to speak at this public consultation regarding Bill 85: United Nations Declaration on the Rights of Indigenous Peoples Implementation Act.

My name is Vince Mckay, a Cree Metis born and raised in Hay River. I am the president of the Hay River and Area Metis Local 51 which was established in 1980 under the then NWT Metis Nation.

We are here today to address a concerning issue that demands your attention and action. We find ourselves in the midst of a troubling situation within the government of the Northwest Territories, It is disheartening to acknowledge that the Metis Local 51 and some Metis people of the NWT, an integral part of the Indigenous community, are being left out of GNWT policy and procedures, ultimately denying them recognition as an Aboriginal group in the NWT.

Section 35 of the Constitution Act, 1982, recognizes and affirms the existing Aboriginal and treaty rights of the Indian, Inuit and Métis peoples of Canada. However not in the NWT. Some Metis lose their status as soon as they cross the 60<sup>th</sup> parallel.

The Hay River and Area Metis Local 51 have been passed over for decades, disregarded when it comes to GNWT programs and services. Only those Metis with Cree, Slavey and Chipewyan ancestry who resided in, used and occupied any part of the NWT on or before December 31, 1921 or their descendants are favored for Gov't programs and services.

It discriminates contrary to Sections 6 Canadian Charter of Rights and Freedoms - Rights to move and gain livelihood.

(2) Every citizen of Canada and every person who has the status of a permanent resident of Canada has the right:

a) to move to and take up residence in any province; and

b) to pursue the gaining of a livelihood in any province.

And Section 15 - Equality rights of the Canadian Charter of Rights and Freedoms

It also violates the proposed Bill 85 of the UN's Declaration of the Rights of Indigenous People, in particular under Articles, 2, 8, 14 and 21.

The UN's Declaration on the Rights of Indigenous Peoples is a historic and significant document that upholds the rights, dignity, and cultural heritage of Indigenous peoples around the world. It embodies principles such as self-determination, cultural preservation, and the right to participate in decisions affecting their lands and resources. The adoption of UN'S DECLARATION ON THE RIGHTS OF INDIGENOUS PEOPLES is a significant step towards rectifying the historical injustices suffered by Indigenous communities.

The Government of the Northwest Territories, would be, hypocritical, in enacting this Bill unless it includes all aboriginal groups like all the NWT Metis who are left out currently. The enactment of Bill 85, Will fail to fully uphold the principles enshrined in UN'S DECLARATION ON THE RIGHTS OF INDIGENOUS PEOPLES. By disregarding the Metis Local 51 and

denying them recognition as an Aboriginal group, the government is perpetuating systemic discrimination and further marginalizing an already marginalized community.

The Metis people have a rich and unique cultural heritage that is intertwined with the history of the Northwest Territories and Canada. Their distinct language, customs, and way of life have contributed significantly to the fabric of this region. Yet, despite their undeniable Indigenous identity, they continue to be excluded and denied their rightful place among the recognized Aboriginal groups.

This omission not only undermines the principles of equality and non-discrimination but also has far-reaching consequences for all the Metis people of the NWT and their ability to exercise their inherent rights. Without official recognition, they face barriers in accessing essential services, participating in decision-making processes, and preserving their cultural practices. This injustice not only hampers their present well-being but also threatens the preservation of their cultural heritage for future generations.

We must acknowledge that the failure to recognize the Metis Local 51 is a symptom of a larger problem within our society – the systemic discrimination faced by Indigenous peoples. This discrimination, rooted in historical injustices and colonial legacies, continues to perpetuate inequalities and denies Indigenous communities their rightful place in society.

It is incumbent upon us, as concerned citizens, to advocate for change and demand that the Government of the Northwest Territories rectify this situation. We must urge you, to enact Bill 85, to ensure that the Metis Local

51 will be recognized as an indigenous aboriginal group in accordance with UN'S DECLARATION ON THE RIGHTS OF INDIGENOUS PEOPLES and the Canadian Charter of Rights. This recognition is not just a matter of symbolism but a fundamental step towards justice, equality, and reconciliation.

Furthermore, we must call for an end to systemic discrimination against all Indigenous peoples in the NWT, regardless of their distinct identities or where they reside within Canada. It is our collective responsibility to ensure that the principles of UN'S DECLARATION ON THE RIGHTS OF INDIGENOUS PEOPLES are fully implemented, and the rights of all Indigenous communities are protected and respected.

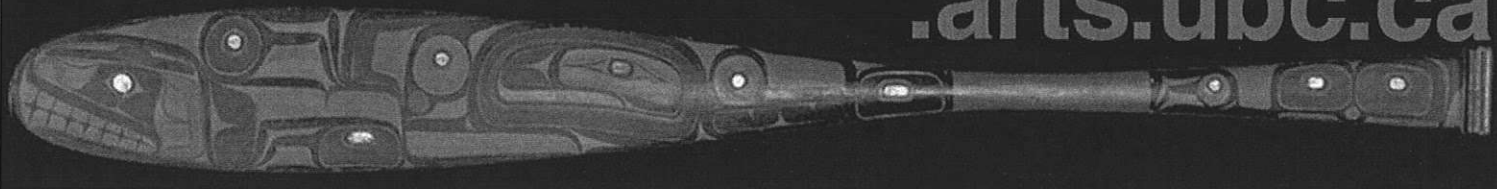
Any individual who identifies as Metis distinct from other Aboriginal peoples in the NWT and has an ancestral connection to a historic Metis community and is accepted by the modern Metis should be considered in this plan.

In this world today you can Identify as whoever and whatever you want. Yet...we are here today in front of you all, still fighting to identify and be recognized as Metis in our home country and territory of which many of us were born in.

Let us stand united in our commitment to justice, equality, and the inherent rights of Indigenous peoples. Together, we can bring about the change that is long overdue, creating a society that embraces and values the contributions of all its diverse members and to be fully in line with the United Nations Declaration on the Rights of Indigenous Peoples

Thank you





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SiteMap

## Métis

The term *Métis* refers to a collective of cultures and ethnic identities that resulted from unions between Aboriginal and European people in what is now Canada. *Métis* stems from the Latin verb *miscēre*, "to mix." The word initially referred to the children of these relationships, but over generations it came to refer to the distinct cultural identities these communities developed. In recent years, partially due to the Métis rights case *R. v. Powley* ([https://indigenousfoundations.arts.ubc.ca/powley\\_case/](https://indigenousfoundations.arts.ubc.ca/powley_case/)), the word *Métis* has shifted from referring to a single cultural identity produced by European-Aboriginal intermarriage across different communities, to applying to multiple identities that have arisen from diverse historical instances of Aboriginal-European heritage.

### Métis Identity

Métis peoples insist that they are part of a distinctive cultural group. However, Métis identity is frequently misinterpreted by non-Métis to refer simply to Aboriginal-European ancestry. Métis genesis is a vexing aspect of the discourse concerning Métis peoples. Some researchers, such as Olive Dickason, trace Métis origins to the policies employed by the French, whose traders were encouraged to seek marriage liaisons with Aboriginal peoples. Samuel de Champlain famously said in 1634, "our young men will marry your daughters, and we will be one people."<sup>1</sup> This reflected the French policy of recognizing and making use of established Aboriginal trading practices, including establishing family connections through marriage, which enabled settlers to better adapt to life in a foreign land.

Other researchers suggest that the genesis of Métis peoples took place in different ways at different times and places. As evidence, they point to the many and various locations that witnessed the development of Métis communities, including communities that were not only an amalgamation of European-Aboriginal unions, but also of unions between different First Nations.

The *Powley case* ([https://indigenousfoundations.arts.ubc.ca/powley\\_case/](https://indigenousfoundations.arts.ubc.ca/powley_case/)) in 2003 set the legal definition of "Métis" as people who have continued ties to a historical Métis community, and are accepted as such by that community. Yet Métis identity is also adopted by some *non-status* ([https://indigenousfoundations.arts.ubc.ca/indian\\_status/](https://indigenousfoundations.arts.ubc.ca/indian_status/)) Aboriginal peoples and others who have mixed Aboriginal and non-Aboriginal ancestry yet are not connected to a contemporary Métis society. Others use *Métis* as a blanket term to identify anyone with Aboriginal and non-Aboriginal ancestry, regardless of how that person may self-identify. Some groups who may be identified as Métis prefer to be called Half-Breeds (in recognition of their English/Scottish rather than French heritage). Others prefer the term *Otipemisiwak* which is a Cree term meaning "the people who rule themselves."

Many Métis groups have adopted terms of identity that separate their community from other Métis communities. An abundance of independent small-scale Métis societies are, perhaps problematically, represented by provincial and national organizations that seek to expand and develop further recognition of Métis rights in a collective sense. This relationship is not always mutually agreed upon or even desired by some communities.

Métis peoples have developed a rich material culture, which includes the recognizable Métis sashes, intricate beadwork, moose hair tufting, Red River carts, and so on. While this section does not go into detail on the Métis material culture and traditions, the following links are valuable resources for learning more about these ways in which Métis cultures are expressed.

- [Learn Michif](http://www.learnmichif.com/)  
(<http://www.learnmichif.com/>)
- [Manitoba Métis Resource Centre](http://www.metisresourcecentre.mb.ca/)  
(<http://www.metisresourcecentre.mb.ca/>)
- [Métis Museum](http://www.metismuseum.ca/)  
(<http://www.metismuseum.ca/>)

Contemporary Métis identities are also an important dimension of academic discourse on Métis peoples. As exemplified in the Powley case, the term *Métis* has come to hold legal and political significance. In fact, Métis rights discourse has been at the cutting edge of [Aboriginal rights](https://indigenousfoundations.arts.ubc.ca/aboriginal_rights) (https://indigenousfoundations.arts.ubc.ca/aboriginal\_rights) discourse in Canada ever since the Powley decision. The issue of Métis identity will continue to be the topic of much debate and discussion, since Métis rights depend on identifying the people who are entitled to such rights, and then specifying what those rights are. The navigation of legal rights and terms of identity for recognized or unrecognized Métis peoples has been and will continue to be a major area of academic, legal, and political inquiry in Canada. And as scholars and other recognized experts revisit the role that historic Métis communities have played in the development of Canada, there will be many contributions made towards defining and establishing Métis rights, and celebrating the place of Métis peoples in the Canadian landscape.

## The Red River Métis

One of the best-known Métis populations began in the Red River region of what is now Manitoba. In 1869, Canada purchased Rupert's Land from the Hudson's Bay Company, without consulting the inhabitants of the area. The Métis of Red River, fearing that their [title](https://indigenousfoundations.arts.ubc.ca/aboriginal_title) (https://indigenousfoundations.arts.ubc.ca/aboriginal\_title) and [rights](https://indigenousfoundations.arts.ubc.ca/aboriginal_rights) (https://indigenousfoundations.arts.ubc.ca/aboriginal\_rights) were being ignored, set up a National Committee of Métis to stop the land transfer until their rights and title had been recognized. This action and the ensuing events would become known as the Red River Rebellion. Under the leadership of Louis Riel, the Métis set up a provisional government at Red River with the goal of negotiating terms for entering into Confederation with Canada. They drafted a Métis Bill of Rights, which was then sent to Ottawa. The Bill demanded the following rights, among others: to elect their own legislature at Red River, to elect federal Members of Parliament, to have both French and English recognized as official languages, and to maintain Métis culture and customs. When a Canadian surveyor in Red River was tried and executed for treason by Riel's government, Prime Minister John A. Macdonald sent troops to assert Canada's control over the region. Canadians who did not support Riel saw his acts as treasonable and wanted him executed. Riel fled to the United States.

Despite these setbacks, the Métis provisional government won federal approval of the Manitoba Act, which took effect in 1870 and led to the creation of the province of Manitoba. The Manitoba Act recognized Métis title to the land within the province, and Section 31 set out 1.4 million acres to be allotted to Métis children. However, acceptance of this land explicitly extinguished their title.

Louis Riel returned to Red River in 1884, and the Métis sent a petition to Ottawa requesting title to lands already occupied by Métis families, provincial status for Saskatchewan, Alberta, and Red River (also known as Assiniboia), and better treatment of all Aboriginal peoples. The lack of satisfactory response from Canada led to the Northwest Rebellion which ended after two months. Riel was tried for treason and executed in Regina on November 16, 1885. The government, however, did agree to issue scrip coupons (see "Scrip," below) for land outside of Manitoba to the displaced Métis. Scrip Commissions were set up and continued to issue scrip until the first decade of the twentieth century.

Many people think of Red River as the centre of Métis genesis. Some scholars and experts, such as historian Arthur J. Ray, have termed this "Red River myopia," as it stems from an unbalanced academic focus on Métis communities in the Red River region. This emphasis has rendered invisible the histories of Métis communities elsewhere in Canada. Partially due to the *R. v. Powley* case, which focused on Métis of Sault Ste. Marie in Ontario, recent academic and legal research has turned to other historic Métis communities and begun to correct the imbalance. *Powley* has shown that Métis rights are defined by the local histories of Métis communities, not by the history of Red River. Nonetheless, the Red River history is an important component of Métis and Canadian histories.

## Scrip

"The history of scrip speculation and devaluation is a sorry chapter in our nation's history."

—Supreme Court of Canada, *R. v. Blais* [2003]<sup>2</sup>

Scrip is a certificate that can be exchanged for land (land scrip) or for money to buy land (money scrip). Scrip was used to transfer land to Métis peoples in Canada from 1885 until the 1920s. Land scrip allotted either 160 or 240 acres to a Métis individual. Authorities could allot the land anywhere in the province in which the scrip was issued, which caused many Métis individuals to relocate away from ancestral territories. Because of this, some chose not to receive their land at all. Money scrip certificates were worth either \$160 or \$240, based on the often inaccurate assumption that land sold for roughly \$1 per acre.

In 1872, the Dominion Lands Act was passed, which encouraged settlement in the west by allotting farmland to settlers. The Métis heads of household who had been denied land under the Manitoba Act were now given land in the form of scrip. Many people found the scrip system problematic and susceptible to fraud, in part because scrip had to be redeemed at Lands Title offices that were hundreds of kilometers apart, necessitating several days of travel by each grantee. Some people sent others to redeem scrip on their behalf; others left their scrip unclaimed. Frank Tough and Erin McGregor's examination of Métis scrip in Northwest Saskatchewan uncovered that, "of 742 land scrip coupons issued in the Claim Region, 725 were assigned to third parties, and only three coupons

were converted by the grantee to a Letter Patent.” The Métis felt the policy of scrip infringed upon their rights and title, particularly as they waited for scrip while watching non-Métis settle on what they viewed as their land. Many Métis simply left Manitoba for Saskatchewan and Alberta to begin anew. In 2007 the Manitoba Métis Federation (MMF) took Canada to court to claim that the Métis never did receive the land they were promised in 1870. They lost their case, but MMF president David Chartrand stated that he believes the judge misunderstood the nature of Aboriginal title and its application to the Métis. The MMF plans to appeal their case to the Supreme Court.<sup>3</sup>

For a case study of one Métis man’s experience with scrip, see Frank Tough and Erin McGregor’s “The Rights to the Land May Be Transferred’: Archival Records as Colonial Text—A Narrative of Métis Scrip,” in *Natives & Settlers, Now & Then: Historical Issues and Current Perspectives on Treaties and Land Claims in Canada*, Ed. Paul W. DePasquale. Edmonton: University of Alberta Press, 2007. 33-64.

## Métis Settlements

Alberta is the only province to recognize Métis title to the land. In 1938, the Albertan government passed the Métis Population Betterment Act. This established reserve land for Métis communities in central Alberta, known as settlements. Initially ten settlements were established, although at present there are only eight. The largest is Paddle Prairie at 169,909 ha<sup>4</sup> with a 2008 population of approximately 700 people.<sup>5</sup> There has been a gradual transition to Métis self-government within these settlements, starting with Métis title recognized for 512,000 ha of land in 1989, but the transition has also been met with challenges, such as political hurdles stemming from the failed Charlottetown Accord, and disagreements over management.<sup>6</sup> (#\_ftn3) The benefits and drawbacks of Métis settlements are widely debated, with arguments similar to those surrounding First Nations reserves (<https://indigenousfoundations.arts.ubc.ca/reserves>).

## Métis Rights and Contemporary Métis Issues

In the 1980s, with the patriation of the Constitution, Aboriginal groups wanted to ensure that Aboriginal rights would be constitutionally protected. They achieved this goal, with *Aboriginal* explicitly defined within Section 35 of the ([https://indigenousfoundations.arts.ubc.ca/constitution\\_act\\_1982\\_section\\_35](https://indigenousfoundations.arts.ubc.ca/constitution_act_1982_section_35)) Constitution Act, 1982 ([https://indigenousfoundations.arts.ubc.ca/constitution\\_act\\_1982\\_section\\_35](https://indigenousfoundations.arts.ubc.ca/constitution_act_1982_section_35)), as including First Nations, Inuit, and Métis peoples.

The ensuing First Ministers Conferences set out to define these rights. The Métis were represented within the Native Council of Canada (NCC), but Métis participants in the conferences felt that the Métis peoples needed their own voice. In 1983 they separated from the NCC to form their own national body, the Métis Nation of Canada (MNC). The MNC identifies its role as uniting the Métis peoples on a national level and working towards securing “a healthy space for the Métis Nation’s ongoing existence within the Canadian federation.”<sup>7</sup>

## R v. Powley

The 1982 Constitution guaranteed Aboriginal rights but did not define them. That was left to the courts. In 1998, *R. v. Powley* became a major test case in the arena of Métis rights, and the 2003 Supreme Court decision in the case remains the legal standard for determining what those rights are and who is entitled to them. Métis lawyer Jean Teillet worked on the Powley case. She summarizes *R. v. Powley* as follows:

On October 22, 1993, Steve and Roddy Powley killed a bull moose just outside Sault Ste. Marie, Ontario. They tagged their catch with a Métis card and a note that read “harvesting my meat for winter.” The Powleys were charged with hunting moose without a license and unlawful possession of moose. In 1998, the trial judge ruled that the Powleys have a Métis right to hunt that is protected by s. 35 of the *Constitution Act, 1982*. [After a series of appeals by the Crown] on September 19, 2003, the Supreme Court of Canada, in a unanimous judgment, said that the Powleys, as members of the Sault Ste. Marie Métis community, can exercise a Métis right to hunt that is protected by s. 35 of the Constitution.<sup>8</sup>

The courts further established the “Powley test” to determine what constitutes a Métis right, much as the Van der Peet test established guidelines to determine First Nations’ constitutional rights. The Powley test has ten components that examine whether the proposed right is a practice integral to Métis culture, whether the community it is connected to is Métis, what the historical time-frame of this right is, whether the right was extinguished or infringed upon, and so on. For more on the Powley test, please see our section on the Powley case ([https://indigenousfoundations.arts.ubc.ca/powley\\_case](https://indigenousfoundations.arts.ubc.ca/powley_case)). Once a right is identified, *Powley* further sets a process to identify who is entitled to such rights. *Powley* establishes that the individual must 1) self-identify as Métis, 2) have an ancestral connection to a Métis community, and 3) be accepted by that community as a member.

The Powley test is a continuation of the long-standing debate about who is Métis and who is not. For example, urban Métis are left out of the Powley decision, even though some Métis families have lived in the city for generations. The question of who should be entitled to Métis rights can create tensions between different Métis communities. Yet because the Powley case forces us to re-examine these



issues, it has brought a resurgence of academic and legal inquiry into Métis identity and Métis rights. In the same way the [Sparrow](https://indigenousfoundations.arts.ubc.ca/sparrow_case) ([https://indigenousfoundations.arts.ubc.ca/sparrow\\_case](https://indigenousfoundations.arts.ubc.ca/sparrow_case)) case has seen First Nations fishing rights grow into self-governance rights, some experts say Powley has the potential to develop similarly.

By Rick Ouellet & Erin Hanson

## Recommend resources

### Books & articles

Binnema, Theodore, Gerhard Ens, and R.C. Macleod, eds. *From Rupert's Land to Canada: Essays in Honour of John E. Foster*. Edmonton: University of Alberta Press, 2001.

Brown, Jennifer. *Strangers in Blood: Fur Trade Company Families in the Indian Country*. Vancouver: UBC Press, 1980.

Devine, Heather. *The People Who Own Themselves: Aboriginal Ethnogenesis in a Canadian Family, 1660–1900*. Calgary: University of Calgary Press, 2004.

Ens, Gerhard. "Dispossession or Adaptation?: Migration and Persistence of the Red River Métis, 1835–1890." *Canadian Historical Association, Historical Papers* 23, no. 1 (1988): 120–144.

Ens, Gerhard. *Homeland to Hinterland: The Changing Worlds of the Red River Métis in the Nineteenth Century*. Toronto: University of Toronto Press, 1996.

Pannekoek, Frits. "Métis Studies: The Development of a Field and New Directions." In *From Rupert's Land to Canada*, edited by Binnema et al, 111–128. Available online: <http://hdl.handle.net/2149/81> (<http://hdl.handle.net/2149/81>).

Pannekoek, Frits. *A Snug Little Flock: The Social Origins of the Riel Resistance, 1869–70*. Winnipeg: Watson & Dwyer, 1991.

Payment, Diane. *"The Free People—Otipemisiwak," Batoche, Saskatchewan, 1870–1930*. Ottawa: National Historical Parks and Sites, Canada Parks Service, 1990.

Peterson, Jacqueline, and Jennifer Brown, eds. *The New Peoples: Being and Becoming Métis in North America*. Winnipeg: University of Manitoba Press, 1985.

Sawchuck, Joe. "The Métis, Non-Status Indians, and the New Aboriginality: Government Influence on Native political Alliances and Identity." *Canadian Ethnic Studies* 17, no. 2 (1986): 133–146.

Sawchuck, Joe. "Negotiating an Identity: Métis Political Organizations, the Canadian Government, and Competing

Concepts of Aboriginality." *American Indian Quarterly* 25, no. 1 (2001): 73–92.

### Websites

Learn Michif. <http://www.learnmichif.com> (<http://www.learnmichif.com>).

An excellent, thorough website to learn about the Métis language Michif, as well as Métis cultures, history, and contemporary politics.

Metis Culture and Heritage Resource Centre: <http://www.metisresourcecentre.mb.ca/> (<http://www.metisresourcecentre.mb.ca/>).

Virtual Museum of Métis History and Culture, by the Gabriel Dumont Institute of Native Studies and Applied Research. <http://www.metismuseum.com/> (<http://www.metismuseum.com/>).

### Political Organizations

Métis National Council: <http://www.metisnation.ca/> (<http://www.metisnation.ca/>).

Métis Nation of BC: <http://www.mnbc.ca/> (<http://www.mnbc.ca/>).

Métis Nation of Alberta: <http://albertametis.com/> (<http://albertametis.com/>).

Métis Nation of Saskatchewan: <https://metisnation.sk.com> (https://metisnation.sk.com)

Manitoba Métis Federation: <http://www.mmf.mb.ca/> (http://www.mmf.mb.ca/)

Métis Nation of Ontario: <http://www.metisnation.org/> (http://www.metisnation.org/)

## Endnotes

<sup>1</sup> See *Jesuit Relations and Allied Documents 1610–1791, Vol V*, p 209. Available online

at [http://moses.creighton.edu/kripke/jesuitrelations/relations\\_01.html](http://moses.creighton.edu/kripke/jesuitrelations/relations_01.html)  
(http://moses.creighton.edu/kripke/jesuitrelations/relations\_01.html)

<sup>2</sup> Supreme Court of Canada, *R. v. Blais*, 2003 SCC 44, [2003] 2 S.C.R. 236. September 19, 2003. Available online at: <https://scc-csc.lexum.com/scc-csc/scc-csc/en/item/2077/index.do> (https://scc-csc.lexum.com/scc-csc/scc-csc/en/item/2077/index.do)

<sup>3</sup> Chartrand, David. "Louis Riel will smile: Appeal will find court decision on Métis flawed," *Winnipeg Free Press*, 6 January 2008. Available online at Manitoba Métis Federation, Land Claims Decisions. [Downloadable to view here.](https://www.google.com/url?sa=t&rct=j&q=&esrc=s&source=web&cd=&ved=2ahUKewjY4K-H4qPtAhWIhJ4KHa1QC9gQFjADegQIAhAC&url=https%3A%2F%2Fciaj-icaj.ca%2Fwp-content%2Fuploads%2Fdocuments%2F2015%2F10%2F909.pdf%3Fid%3D458%261600740679&usq=AOvVaw1-N7-D6F270cnnhRF3jViF) (https://www.google.com/url?sa=t&rct=j&q=&esrc=s&source=web&cd=&ved=2ahUKewjY4K-H4qPtAhWIhJ4KHa1QC9gQFjADegQIAhAC&url=https%3A%2F%2Fciaj-icaj.ca%2Fwp-content%2Fuploads%2Fdocuments%2F2015%2F10%2F909.pdf%3Fid%3D458%261600740679&usq=AOvVaw1-N7-D6F270cnnhRF3jViF)

<sup>4</sup> Métis Settlement General Council, Paddle Prairie Métis Settlement Profile. <https://msgc.ca/paddle-prairie-metis-settlement/>  
(https://msgc.ca/paddle-prairie-metis-settlement/)

<sup>5</sup> This figure is of 2008. Alberta First, Paddle Prairie Métis Settlement. <https://open.alberta.ca/dataset/d3004449-9668-4d02-bb88-f57d381a6965/resource/7a60ffcb-b3a8-4a5c-baa6-e409309cb8e0/download/2015-08-metissettlementprofile.pdf>  
(https://open.alberta.ca/dataset/d3004449-9668-4d02-bb88-f57d381a6965/resource/7a60ffcb-b3a8-4a5c-baa6-e409309cb8e0/download/2015-08-metissettlementprofile.pdf)

<sup>6</sup> Dickason, Olive. *Canada's First Nations*. 3rd Ed. Don Mills: Oxford University Press, 2002. 351.

<sup>7</sup> Métis National Council, overview. <https://www2.metisnation.ca/about/> (https://www2.metisnation.ca/about/)

<sup>8</sup> Teillet, Jean. "R. v. Powley, A Summary of the Supreme Court of Canada Reasons for Judgment." Pape & Salter Barristers and Solicitors. Available online at: [http://albertametis.com/wp-content/uploads/2015/08/MétisRights\\_Powley\\_supremecourtsummary.pdf](http://albertametis.com/wp-content/uploads/2015/08/MétisRights_Powley_supremecourtsummary.pdf)  
(http://albertametis.com/wp-content/uploads/2015/08/MétisRights\_Powley\_supremecourtsummary.pdf)

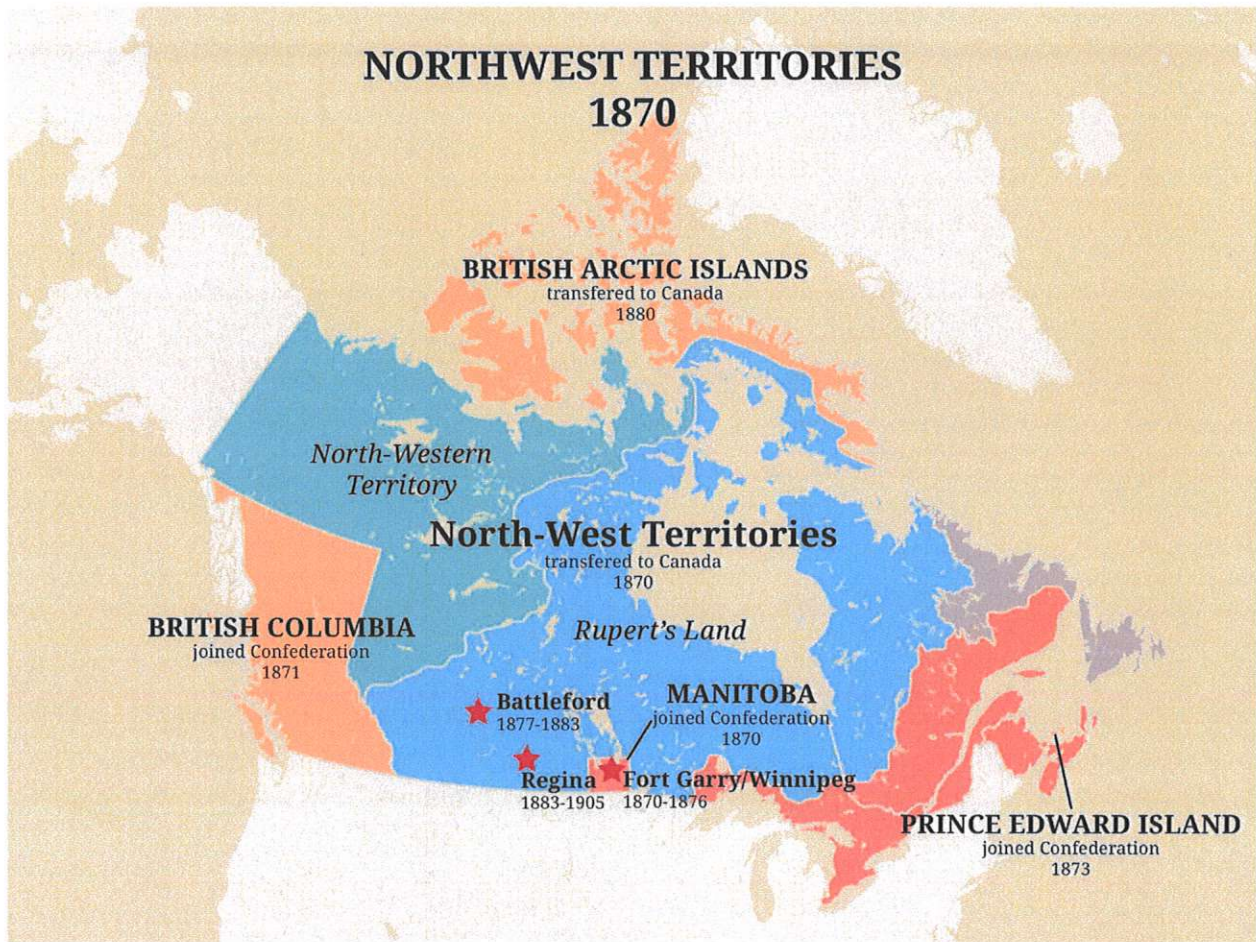
[credits](https://indigenousfoundations.web.arts.ubc.ca/credits/) (https://indigenousfoundations.web.arts.ubc.ca/credits/) [contact us](https://indigenousfoundations.web.arts.ubc.ca/contact-us/) (https://indigenousfoundations.web.arts.ubc.ca/contact-us/) [index](https://indigenousfoundations.web.arts.ubc.ca/glossary/) (https://indigenousfoundations.web.arts.ubc.ca/glossary/)

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**FIRST NATIONS  
& INDIGENOUS STUDIES**  
THE UNIVERSITY OF BRITISH COLUMBIA

# NORTHWEST TERRITORIES 1870



# North-West Territories (1870–1905)

Article by

David J. Hall

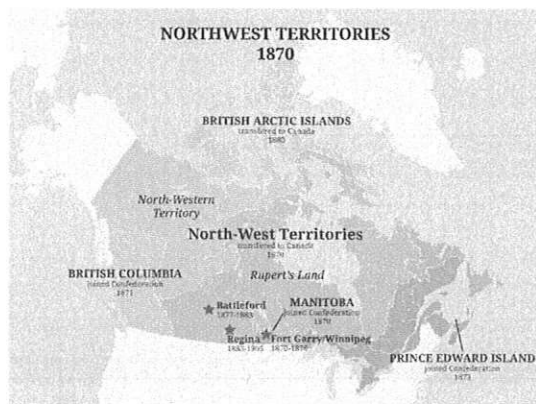
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The North-West Territories was the first Canadian territory. It was Established on 15 July 1870. As a territory, the region became part of Canada. But it lacked the population, economic and infrastructure resources to attain provincial status. It thus fell under the jurisdiction of the federal government. It covered a vast area, stretching west from a disputed boundary with Labrador, across the northern portions of present-day Quebec and Ontario, through the Prairies to British Columbia, and north from the 49th parallel to the Arctic Ocean. The territory was subject to numerous boundary changes before 1905. At that time, the provinces of Saskatchewan and Alberta were carved out of the southwest portion of the region. In 1906, the remaining territory was renamed the Northwest Territories.



North-West Territories, 1870

(courtesy Prince of Wales Northern Heritage Centre)

The British transferred the Arctic Archipelago to Canada on 1 September 1880. It was added to the NWT. The discovery of gold in Yukon in 1896 brought about the need for a local government. In 1898, the federal government officially separated Yukon from the NWT and made it a territory. (See Yukon and Confederation.) In 1912, the boundaries of Quebec, Ontario and Manitoba were extended to their present locations.

The District of Keewatin was created in 1876. Its boundaries, which also changed periodically, extended north of Manitoba to the Arctic Ocean, east to Hudson Bay and north of Ontario.

## Internal Boundary Changes

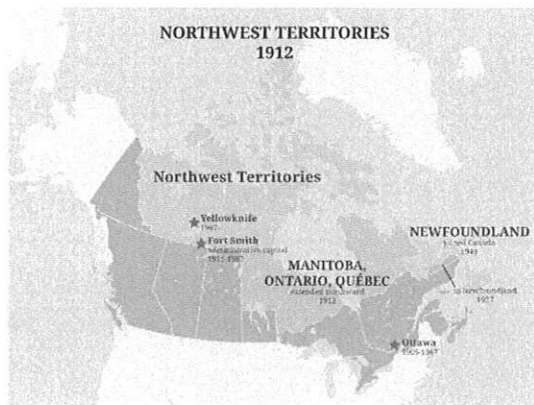
In 1882, the federal government created four provisional districts in the south and west of the NWT. They included Assiniboia, Saskatchewan, Alberta and Athabasca. In 1895, additional provisional districts were created. They were Ungava (the northern part of present-day Quebec), Mackenzie (between the 60th parallel and the Arctic Ocean), Franklin (the Arctic Archipelago) and Yukon. Also in 1895, the boundaries of Athabasca, formerly limited to the north of Alberta, were extended east to Keewatin.

## Early Development and the North-West Territories Act

The federal government always intended that the prairie and parkland portion of the western territories — what is now Alberta, Saskatchewan and Manitoba — would be the prime focus of White settlement and economic development. It negotiated seven Numbered Treaties with Indigenous peoples between 1871 and 1877. These treaties covered territory from just west of Ontario to the Rocky Mountains. They were intended to ensure peaceful settlement. The government also surveyed a route for the transcontinental railway. In 1873, it established the North-West Mounted Police to enforce the law.

Administration of government policy in the NWT was conducted through the Department of the Interior. It was established in 1873. In 1875, it passed the North-West Territories Act. The Act provided a framework for governance. It allowed for a

1897. Official status for the French language was terminated in 1892. The NWT then moved to impose centralized state control over the denominational school system.



### Northwest Territories, 1912

(courtesy Prince of Wales Northern Heritage Centre)

Throughout the territorial period, the federal government retained control of the region's public lands and natural resources (except on reserves). This ensured national control of the settlement process. It also integrated the West into the national economy. However, as a result, the territorial government was denied the revenue from lands and resources, as well as control of development, that the provinces enjoyed (except for Manitoba).

Other factors also contributed to western resentment. Protective tariffs benefited central Canada. The CPR operated as a monopoly for years to ensure its viability. Vast areas of land were granted to the railways and the HBC. And freight rates were structured to benefit the railways at the expense of the farmer. The struggle to wrest provincial status from a resistant federal government, led most notably by Frederick Haultain, helped to entrench in the territories a deep suspicion of Ottawa. It also established a history of protest and a commitment to ideals of local control and direct democracy.

The increasing protests bore fruit in September 1905. The government of Sir Wilfrid Laurier created the provinces of Saskatchewan and Alberta. (See Autonomy Bills.) However, Ottawa entrenched public and separate school systems in the provincial constitutions. It also retained federal control of public lands and natural resources in the new provinces, making the process highly controversial.

## POLITICAL ISSUE AFFECTING SUPPLEMENTARY BENEFITS

### Statement from GNWT Caroline Cochrane:

*'In the past, members of the Metis Local #51 may have received certain supplementary benefits from the GNWT if they were at that time part of the NWTMN. However, as the NWTMN developed and approved new eligibility criteria based on Metis ancestry living in the NWT pre-1921, this meant that some Hay River Metis (current members of the Metis Local 51) could no longer qualify for these supplementary benefits.'*

**What we know: Membership of HR and Area Metis Local 51 or HRMN currently not recognized as part of the SSMTC or the new NWTMN, therefore benefits have been removed.**

### HISTORY REGARDING NWTMN

HRMN – Hay River Metis Nation Local 51

HRMDC – Hay River Metis Development Corp

RBA – Regional Bi-lateral Agreement

HRDC – Aboriginal Human Resource Development – Gov't

AFFA – Aboriginal Flexible Funding Agreement – Gov't

NWTMN- Northwest Territories Metis Nation (Includes Local 51)

NWTMN- Northwest Territory Metis Nation (Excludes Local 51)

SSMTC – South Slave Metis Tribal Council (Includes Local 51)

- It appears that the Metis Nation of the NWT was formed in **1972**. Found in a proposal for a 25<sup>th</sup> anniversary book, letter attached. The New NWTMN was formed in **2000**.
- It appears that Local 51 was registered in **1980**.
- It appears that the Hay River Metis Nation was registered in **1995**.
- In **1996** a New Regional Bilateral Agreement – Aboriginal Human Resource Development was signed with the SSMTC. This agreement was good until 1999. This agreement names SSMTC as including Hay River Metis Nation Local #51 as well as Fort Smith and Fort Resolution and outlines any monies given and the requirements to Canada as well a projected cash flow. Letter attached.
- The South Slave Metis Framework Agreement – dated **August 1996**, includes and names HRMN Local 51 as well as Smith and Resolution Locals, with all being represented under the name of South Slave Metis Tribal Council (SSMTC). The purpose of this agreement created two stages, the first stage was negotiate 'agreement in principle' of subjects identified (Land etc). Which was signed in July 2015. The second stage was the negotiation of self government and Canada would be bound by its policy entitled: Aboriginal Self-Government, Approach to implementation of inherent right and the negotiation of aboriginal self government. Three parties involved in this are Canada, GNWT & SSMTC. On the GNWT website for agreements they mention that

- Attached is the South Slave Metis Tribal Council By-Law, registered in **Feb 1998**. The Document contains what is most likely the first occurrence of the determining date of **December 31, 1921**. Which indicates that this date and occupation of the South Slave will determine whether you a full member of the Metis and belong to the NWTMN. It was at this point we no longer were being considered members of the NWTMN. However, we still are Hay River Metis Nation and we remain indigenous Metis to Canada but not to NWT.
- Letter dated **April 1, 1998** from Metis Education & Training Initiative Strategy to Norma Dean, HRDC mentions that at the 97/98 Annual General Meeting it was passed unanimously to amend its constitution and bylaws removing Hay River and Area Metis Nation Local #51 as a member community. That on **Feb 8, 1998** the Regional Manager of Metis, directed the Hay River and Area Metis Nation Local 51 to cease its involvement in Metis and deliver assets and files to SSMTC. That a **March 15, 1998** shows that the HRMN Local 51 refused to comply. That in **April 1, 1998**, the SSMTC board directed the executive to take all necessary steps to remove the assets and files being held in the HRMN Local 51 office. We know that this was attempted as we have, on file, a letter between Wallbridge & Assoc and Jr. Harrington; attempting to get the Aboriginal building as well as HRMDC, and funds allotted to us through the Gov't (IRMA) which they were not successful in obtaining.
- As per the Szabo & Co. (lawyers) document, dated **April 15, 1998** to Rocky Simpson; in their response to the issue which at that time is the revocation of HRMN membership in SSMTC and whether SSMTC could deny funding to HRMN under the RBA and AFFA, or just withhold funding on an arbitrary basis and await an action by HRMN for damages, or mandatory injunction, (which of course nothing was initiated by HRMN). In light of the denied supplementary benefits for our group, mainly SFA and Health care, I believe this is where it was left off and is now what this board faces. The first page of Szabo & Co. letter to Rocky Simpson dated April 15, 1998. These lawyers advised HRMN as follows; that a court, could rule that SSMTC has a fiduciary responsibility to fund HRMN that a court could rule that the membership of HRMN cannot be arbitrarily revoked. That the legal basis for this outcome is there and a court could do so, ruling in HRMN favor. They also say this ruling may lead the SSMTC to remedy this by seeking a court order to the effect that the membership of HRMN was duly revoked. Within this document, he also, in detail explains Fiduciary Obligations and Administrative law, that revoking its 'founding' members is not to be taken lightly and that based on the information this lawyer had the SSMTC did not have the authority to revoke the membership of the HRMN. I would think that they had their meeting in the above point (Feb 1998 change in SSMTC By-Law) and attempted this revoking of HRMN membership in this fashion. It's a very interesting letter.
- In **January 2000**, President George Morin of Metis Nation, did a press release calling for change to the Metis Nation of the NWT. Due to Bill C31 which eliminated members from the Metis Nation who acquired treaty status under this bill. Options in this letter called for the Metis Nation to dissolve and transfer assets to another organization before March 2000. This must have been the option they chose and likely removed the (s) in Territories and re-instated a new Metis Nation without the 's'. Thereby, in effect, removing member's they no longer wanted to include. Letter is attached. I also have a Metis Nation Strategic Plan dated 1995 and an Administrative Policy dated 1996, which I can hand out at the next meeting if anyone wants to read through



- **The Agreement in Principle dated July 2015 (not printed you can go to the website) NWTMN Land and Resources Agreement in Principle;**  
[https://www.eia.gov.nt.ca/sites/eia/files/final\\_nwtmn\\_aip\\_signed\\_on\\_july\\_31\\_2015.pdf](https://www.eia.gov.nt.ca/sites/eia/files/final_nwtmn_aip_signed_on_july_31_2015.pdf)

WITHIN the 'agreement in principle' is everything regarding the new rules surrounding Fish Harvesting, Wildlife Harvesting, Plant Harvesting, Tree harvesting, Land, Parks, Water. This Agreement includes NWTMN (Ft Res., Ft. Smith and Gov't council), GNWT & Canada – 5 parties. If you read Chapter 3: Eligibility and Enrolment, it does not seem to exclude Local 51 members, however in the 'formerly called' SSMTC By-Laws, who are now the new NWTMN we know we are excluded from 'agreement in principle'. The 'agreement in principle' holds the SSMTC/NWTMN accountable for their membership, however it does not actually point out 1921, in itself within this agreement. The Final agreement is still not complete.

Please have a look at the NWTMN website, there are some interesting comments, such as they call the South Slave Metis Framework Agreement the NWTMN Framework agreement, which we know was signed in 1996. This is not the correct name of the agreement at all, but if they say it's the NWTMN it fools people into thinking it's a separate agreement and excludes Local 51, which we know actually includes Local 51.

NWTMN is formerly SSMTTC, however, they still negotiate under this agreement and the former name. By the time the second stage of the 'agreement in principle' rolled around the names mentioned only include the Hay River Metis Gov't council, Smith Council, Resolution Council. Local 51 is no longer mentioned. The 'agreement in principle' refers to NWTMN which, at this point in 2015, is meant to only include the new NWTMN.

The item of interest here is that, the South Slave Metis Framework agreement, which is the agreement for the two stages, mentions Local 51 as well as the formerly named SSMTTC, and is still under negotiation, however without Local 51.

- I've attached a copy of **1997** filing of the Constitution and By-Laws of the Metis Nation-Northwest Territories. Which according to Corporate Registry, at some point, was involuntarily dissolved. In these by-laws is the community membership and acceptance. This is where I have heard that all members of Local 51 were accepted into the NWT Metis Nation. By letting the original NWTMN dissolve and creating a new NWTMN without the 's' it likely enabled them to justify the purge of unwanted community acceptance members.

I've done a quick search on the NWT Metis Nation in Corporate Registry and see the original society, dissolved (involuntary), which means no financials and boards have been filed for such a long period of time that the Gov't dissolves the organization. There are many others (Locals) in the same situation as well. Notice that there is the (s) in Territories and this is the one I believe we could possibly re-instate for the rest of the metis in this position.

METIS NATION - NORTHWEST TERRITORIES	Society	700204	Northwest Territories		Involuntary Dissolution
The Metis Nation - Northwest Territories	Society	700204		Former Name	

This is the current one on the web for the new metis nation NWTMN which includes the 3 entities (Smith, Resolution and HR council), you will notice that they remove the (s) Northwest Territory Metis Nation.

Name	Entity Type	File No.	Jurisdiction	Name Type	Status
NORTHWEST TERRITORY MÉTIS NATION	Society	701305	Northwest Territories		Active

- **The Agreement in Principle dated July 2015 (not printed you can go to the website) NWTMN Land and Resources Agreement in Principle;**  
[https://www.eia.gov.nt.ca/sites/eia/files/final\\_nwtmn\\_aip\\_signed\\_on\\_july\\_31\\_2015.pdf](https://www.eia.gov.nt.ca/sites/eia/files/final_nwtmn_aip_signed_on_july_31_2015.pdf)

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Theme	Sub-theme	Details	Source
Honouring existing treaties	1 <b>GNWT not honouring existing treaties</b>	Rory Voudrach “highly recommended” that the GNWT honour existing treaties, to respect the provisions of the land claim agreements and that existing rights be protected.	Fort Simpson – Łíídlıı Kúęé Yellowknife – Sômbak'è Inuvik
	2 <b>Cede and surrender clauses</b>	Committee heard desire for the GNWT to remove cede and surrender clauses from existing land claims agreements.	Inuvik
Stronger language on Indigenous rights and roles	3 <b>“Holding the pen”</b>	Section 9(1) on drafting the Action Plan should set out that an Indigenous Government or Organization should “hold the pan” on the Action Plan.	FNFMB
	4 <b>FPIC</b>	The bill should incorporate free, prior, and informed consent (FPIC) for implementing the Action Plan. “Equal partners language” is insufficient.	Caring Society
	5 <b>“Should” implement the Declaration</b>	Bill 85 says the GNWT “should” implement the Declaration. That should be changed to “will”. The language should reflect an express commitment to implement the Declaration, given that UNDRIP is the minimum standard.	Caring Society
	6 <b>Substantive equality</b>	Substantive equality should be mentioned as a guiding principle for the GNWT’s relationships with Indigenous Peoples.	Caring Society
Specific Action Plan contents	7 <b>More specific Action Plan requirements</b>	Action Plan should be required to include: <ul style="list-style-type: none"> <li>- Initiatives to strengthen financial capacity and revenue generation.</li> <li>- Fiscal powers, economic powers and taxation powers, that IGs require.</li> <li>- Sharing of wealth and authority.</li> <li>- Indigenous jurisdiction to exercise rights and powers.</li> <li>- Mechanisms that support capacity development in IGOs.</li> <li>- Standards for service delivery and the option to transfer service responsibility to IGs.</li> <li>- Autonomy over expenditures and use of traditional territories.</li> </ul> <p>A mechanism to facilitate and acknowledge nation-to-nation relationships.</p>	FNFMB
	8 <b>Optional pathway to self-government</b>	Action Plan should be an “optional pathway that support self-government for interested Indigenous groups”.	FNFMB



Theme	Sub-theme	Details	Source
<b>Accountability</b>	9 <b>Accountability mechanism</b>	Further accountability mechanisms beyond the annual report and 5-year review are needed in the legislation. The government should build on Dr. Naiomi Metallic's work.	Caring Society
<b>Funding support</b>	10 <b>Funding Framework</b>	Committee heard concern that the Action Plan Committee didn't have clear funding support.	Fort Smith - Thebacha
	11 <b>Financial capacity</b>	Committee heard many organizations don't have funding to hire legal experts to know how to move forward with UNDRIP. There should be a provision for capacity funding for IGOs in the Act or in the MOU	Fort Simpson – Łíídlıı Kúę FNFMB
<b>Definition of "Indigenous Government or Organization"</b>	12 <b>Definition too open-ended</b>	Committee heard concerns that the definition of "Indigenous" is "open-ended" and "not defined".	Fort Simpson - Łíídlıı Kúę Inuvik
	13 <b>Certain Indigenous groups unrecognized</b>	The Government of the Northwest Territories is failing to recognize the Métis Local 51 and some Métis people of the Northwest Territories as an Indigenous group in the Northwest Territories.	Métis Local 51
<b>GNWT intervention in federal court case</b>	14 <b>Intervention inconsistent with UNDRIP</b>	Committee heard disappointment about the GNWT's intervention at the Supreme Court on Indigenous child and family services law.	Inuvik
<b>Institutional skepticism</b>	15 <b>Distrust of GNWT</b>	Committee heard that the bill sounds like "feel good statements" that don't have "substance".	Fort Simpson – Łíídlıı Kúę Yellowknife – Somba K'e
	16 <b>Transparency of Council of Leaders</b>	Committee heard concerns that the NWT COL has an unclear legal standing, lack of accountability to the people, and poor transparency of its activities.	Tuktoyaktuk
	17 <b>UNDRIP Article 46</b>	Committee heard concern about UNDRIP Article 46. Article 46 says that nothing in the Declaration authorizes undermining the territorial integrity or political unity of independent States.	Fort Smith - Thebacha
	18 <b>Distrust of United Nations</b>	Committee heard that people "were not in agreement" with the United Nations or the Sustainable Development Goals.	Fort Simpson – Łíídlıı Kúę

MOTION

UNITED NATIONS DECLARATION ON THE  
RIGHTS OF INDIGENOUS PEOPLES  
IMPLEMENTATION ACT

**That clause 1 of Bill 85 be amended**

- (a) in subclause (1), by deleting the definitions "statutory power" and "statutory power of decision" and substituting the following:

"statutory power of decision" means a power or right conferred by an enactment to make a decision deciding or prescribing

- (a) the legal rights, powers, privileges, immunities, duties or liabilities of a person or entity, or  
(b) the eligibility of a person or entity to receive, or to continue to receive, a benefit or licence, whether or not the person or entity is legally entitled to it,

but does not include any power or right conferred on the Territorial Court, Supreme Court or Court of Appeal. (*pouvoir législatif de décision*)

- (b) by deleting subclause (2).

MOTION

LOI DE MISE EN ŒUVRE DE LA  
DÉCLARATION DES NATIONS UNIES SUR  
LES DROITS DES PEUPLES AUTOCHTONES

**Il est proposé que l'article 1 du projet de loi 85 soit modifié :**

- a) au paragraphe (1), par abrogation des définitions de «pouvoir législatif» et de «pouvoir législatif de décision» et par substitution de ce qui suit :

«pouvoir législatif de décision» À l'exclusion de tout pouvoir ou droit conféré par la Cour territoriale, la Cour suprême ou la Cour d'appel, s'entend du pouvoir ou droit conféré par une loi de déclarer ou de déterminer :

- a) soit les droits, pouvoirs, privilèges, immunités, devoirs ou obligations d'une personne ou d'une entité;  
b) soit l'admissibilité de personnes ou d'entités à recevoir ou à continuer à recevoir un avantage ou une autorisation, qu'elles y aient juridiquement droit ou non. (*statutory power of decision*)

- b) par abrogation du paragraphe (2).

MOTION

UNITED NATIONS DECLARATION ON THE  
RIGHTS OF INDIGENOUS PEOPLES  
IMPLEMENTATION ACT

**That Bill 85 be amended in each of subclauses 7(1) and (2) by striking out "must table, without delay, a Statement of Consistency" and substituting "must, before second reading, table a Statement of Consistency".**

MOTION

LOI DE MISE EN ŒUVRE DE LA  
DÉCLARATION DES NATIONS UNIES SUR  
LES DROITS DES PEUPLES AUTOCHTONES

**Il est proposé que les paragraphes 7(1) et (2) du projet de loi 85 soient modifiés par suppression de «dépose, sans délai, un énoncé de comptabilité» et par substitution de «dépose, avant de procéder à leur deuxième lecture, un énoncé de comptabilité».**

MOTION

UNITED NATIONS DECLARATION ON THE  
RIGHTS OF INDIGENOUS PEOPLES  
IMPLEMENTATION ACT

**That Bill 85 be amended by deleting subclause 8(2) and substituting the following:**

Members

- (2) The Action Plan Committee must be comprised of
- (a) members appointed by Indigenous Governments or Organizations of the Northwest Territories;
  - (b) members appointed by the Government of the Northwest Territories; and
  - (c) subject to subsection (2.1), one member appointed by motion of the Standing Committee on Accountability and Oversight or any successor committee that may be established by the Legislative Assembly.

Limited membership

- (2.1) The Action Plan Committee may, in respect of a member appointed under paragraph (2)(c), limit or specify
- (a) the classes of persons eligible for appointment; and
  - (b) the rights of participation of the member in the work of the Action Plan Committee.

MOTION

LOI DE MISE EN ŒUVRE DE LA  
DÉCLARATION DES NATIONS UNIES SUR  
LES DROITS DES PEUPLES AUTOCHTONES

**Il est proposé que le projet de loi 85 soit modifié par suppression du paragraphe 8(2) et par substitution de ce qui suit :**

- (2) Le comité de plan d'action se compose, à la fois :

- a) de membres nommés par les gouvernements ou organisations autochtones des Territoires du Nord-Ouest;
- b) de membres nommés par le gouvernement des Territoires du Nord-Ouest;
- c) sous réserve du paragraphe (2.1), un membre nommé par motion du comité permanent de la reddition de comptes et la surveillance ou tout nouveau comité constitué par l'Assemblée législative.

- (2.1) Le comité de plan d'action peut, à l'égard du membre nommé en vertu de l'alinéa (2)c), limiter ou préciser, à la fois :

- a) les catégories de personnes admissibles à la nomination;
- b) les droits de participation du membre aux travaux du comité de plan d'action.



MOTION

UNITED NATIONS DECLARATION ON THE  
RIGHTS OF INDIGENOUS PEOPLES  
IMPLEMENTATION ACT

**That Bill 85 be amended by adding the following after subclause 9(2):**

Opportunity  
for public  
engagement

(3) The Minister shall ensure that there is an opportunity for public engagement on the action plan developed under subsection (1).

Publication

(4) The Minister shall, without delay, make the action plan developed under subsection (1) publicly available

- (a) by publishing it on a website maintained by the department responsible for the administration of this Act; and
- (b) by any other means the Minister considers to be appropriate.

MOTION

LOI DE MISE EN ŒUVRE DE LA  
DÉCLARATION DES NATIONS UNIES SUR  
LES DROITS DES PEUPLES AUTOCHTONES

**Il est proposé que le projet de loi 85 soit modifié par adjonction, après le paragraphe 9(2), de ce qui suit :**

(3) Le ministre veille à ce que le public ait la possibilité de s'exprimer sur le plan d'action élaboré en vertu du paragraphe (1).

Possibilité  
d'engagement  
public

(4) Le ministre met sans délai, à la disposition du public, le plan d'action élaboré en vertu du paragraphe (1) :

Publication

- a) d'une part, en le publiant sur un site Web géré par le ministère responsable de l'administration de la présente loi;
- b) d'autre part, par tout autre moyen que le ministre estime approprié.

MOTION

UNITED NATIONS DECLARATION ON THE  
RIGHTS OF INDIGENOUS PEOPLES  
IMPLEMENTATION ACT

**That subclause 11(1) of Bill 85 be amended by deleting "After the end of each fiscal year" and substituting "Within 90 days after the end of each fiscal year".**

MOTION

LOI DE MISE EN ŒUVRE DE LA  
DÉCLARATION DES NATIONS UNIES SUR  
LES DROITS DES PEUPLES AUTOCHTONES

**Il est proposé que le paragraphe 11(1) du projet de loi 85 soit modifié par suppression de «Suivant la fin de chaque exercice» et par substitution de «Dans les 90 jours suivant la fin de chaque exercice».**

MOTION

UNITED NATIONS DECLARATION ON THE  
RIGHTS OF INDIGENOUS PEOPLES  
IMPLEMENTATION ACT

**That Bill 85 be amended by deleting subclauses 11(3) and (4) and substituting the following:**

Publication

- (3) The Minister shall, upon completion of the report under subsection (1),
- (a) make the report publicly available by publishing it on a website maintained by the department responsible for the administration of this Act; and
  - (b) table the report before the Legislative Assembly at the earliest opportunity.

MOTION

LOI DE MISE EN ŒUVRE DE LA  
DÉCLARATION DES NATIONS UNIES SUR  
LES DROITS DES PEUPLES AUTOCHTONES

**Il est proposé que le projet de loi 85 soit modifié par abrogation des paragraphes 11(3) et (4) et par substitution de ce qui suit :**

(3) Le ministre, après l'achèvement du rapport préparé en vertu du paragraphe (1), à la fois : Publication

- a) le rend disponible au public en le publiant sur un site Web géré par le ministère responsable de l'administration de la présente loi;
- b) le fait déposer devant l'Assemblée législative dans les meilleurs délais.

MOTION

UNITED NATIONS DECLARATION ON THE  
RIGHTS OF INDIGENOUS PEOPLES  
IMPLEMENTATION ACT

**That Bill 85 be amended by adding the following after subclause 12(2):**

Information  
provided

(2.1) Before entering into an agreement under this section, a Minister authorized under subsection (1) shall provide notice to and seek comments from the Standing Committee on Accountability and Oversight, or any successor committee that may be established by the Legislative Assembly.

MOTION

LOI DE MISE EN ŒUVRE DE LA  
DÉCLARATION DES NATIONS UNIES SUR  
LES DROITS DES PEUPLES AUTOCHTONES

**Il est proposé que le projet de loi 85 soit modifié par insertion, après le paragraphe 12(2), de ce qui suit :**

Renseignements  
fournis

(2.1) Avant de conclure un accord en vertu du présent article, le ministre autorisé en vertu du paragraphe (1) donne avis au comité permanent de la reddition de comptes et la surveillance ou à tout nouveau comité constitué par l'Assemblée législative et sollicite ses commentaires.

MOTION

UNITED NATIONS DECLARATION ON THE  
RIGHTS OF INDIGENOUS PEOPLES  
IMPLEMENTATION ACT

**That Bill 85 be amended by adding the following after subclause 12(3):**

Information published

(3.1) The Minister shall, without delay, make an agreement entered into under subsection (1) publicly available by publishing it on a website maintained by the department responsible for the administration of this Act.

Information provided

(3.2) The Minister shall, without delay, provide notice to the Standing Committee on Accountability and Oversight, or any successor committee that may be established by the Legislative Assembly, of an authorization provided to a Minister by the Executive Council under subsection (1).

MOTION

LOI DE MISE EN ŒUVRE DE LA  
DÉCLARATION DES NATIONS UNIES SUR  
LES DROITS DES PEUPLES AUTOCHTONES

**Il est proposé que le projet de loi 85 soit modifié par adjonction, après le paragraphe 12(3), de ce qui suit :**

(3.1) Le ministre rend public, sans délai, en publiant sur un site Web géré par le ministère responsable de l'administration de la présente loi, l'accord conclu en vertu du paragraphe (1).

Renseignements publiés

(3.2) Le ministre donne sans délai avis de l'autorisation donnée à un ministre par le Conseil exécutif en vertu du paragraphe (1) au comité permanent de la reddition de comptes et la surveillance, ou tout autre comité successeur que l'Assemblée législative peut constituer.

Renseignements fournis

MOTION

UNITED NATIONS DECLARATION ON THE  
RIGHTS OF INDIGENOUS PEOPLES  
IMPLEMENTATION ACT

**That clause 15 of Bill 85 be deleted and the following substituted:**

15. (1) The *Statutory Instruments Act* is amended by this section.

(2) Subsection 2(3) is amended by adding the following after paragraph (b):

(b.1) it is consistent with the Declaration as defined in subsection 1(1) of the *United Nations Declaration on the Rights of Indigenous Peoples Implementation Act* and the rights recognized and affirmed under section 35 of the *Constitution Act, 1982*;

(3) The following is added after subsection 2(4):

Publication

(5) The results of an examination completed under paragraph (3)(b.1) must be made publicly available on a website readily available to the public.

MOTION

LOI DE MISE EN ŒUVRE DE LA  
DÉCLARATION DES NATIONS UNIES SUR  
LES DROITS DES PEUPLES AUTOCHTONES

**Il est proposé que l'article 15 du projet de loi 85 soit supprimé et remplacé par ce qui suit :**

15. (1) La *Loi sur les textes réglementaires* est modifiée par le présent article.

(2) Le paragraphe 2(3) est modifié par insertion, après l'alinéa b), de ce qui suit :

b.1) il est compatible avec la Déclaration au sens du paragraphe 1(1) de la *Loi de mise en œuvre de la Déclaration des Nations Unies sur les droits des peuples autochtones* et les droits reconnus et confirmés en vertu de l'article 35 de la *Loi constitutionnelle de 1982*;

(3) Cette même loi est modifiée par insertion, après le paragraphe 2(4), de ce qui suit :

(5) Les résultats de l'examen effectué en vertu de l'alinéa (3)b.1) sont mis à la disposition du public sur un site Web facilement accessible au public. Publication

MOTION

UNITED NATIONS DECLARATION ON THE  
RIGHTS OF INDIGENOUS PEOPLES  
IMPLEMENTATION ACT

**That subclause 10(2) of Bill 85 be amended by**

- (a) deleting "; and" at the end of the English version of paragraph (d) and substituting a semi-colon; and**
- (b) adding the following after paragraph (d):**

(d.1) a mechanism for oversight of the implementation of the action plan; and

MOTION

LOI DE MISE EN ŒUVRE DE LA  
DÉCLARATION DES NATIONS UNIES SUR  
LES DROITS DES PEUPLES AUTOCHTONES

**Il est proposé que le paragraphe 10(2) du projet de loi 85 soit modifié par :**

- a) suppression de «; and», à la fin de l’alinéa d) de la version anglaise, et par substitution d’un point-virgule;**
- b) insertion, après l’alinéa d), de ce qui suit :**

d.1) un mécanisme de surveillance de la mise en œuvre du plan d’action;

MOTION

UNITED NATIONS DECLARATION ON THE  
RIGHTS OF INDIGENOUS PEOPLES  
IMPLEMENTATION ACT

**That Bill 85 be amended by adding the following after clause 2:**

Conflict,  
inconsistency  
with  
Memorandum

2.1. In the event of a conflict or inconsistency between a provision of this Act or the regulations and a provision of the Memorandum, the provision of this Act or the regulations prevails to the extent of the conflict or inconsistency.

MOTION

LOI DE MISE EN ŒUVRE DE LA  
DÉCLARATION DES NATIONS UNIES SUR  
LES DROITS DES PEUPLES AUTOCHTONES

**Il est proposé que le projet de loi 85 soit modifié par insertion, après l'article 2, de ce qui suit :**

2.1. Les dispositions de la présente loi ou de ses règlements l'emportent sur toute disposition incompatible du protocole d'entente.

Incompatibilité  
avec le  
protocole  
d'entente



MOTION

UNITED NATIONS DECLARATION ON THE  
RIGHTS OF INDIGENOUS PEOPLES  
IMPLEMENTATION ACT

**That Bill 85 be amended by deleting clause 13 and substituting the following:**

Five-year  
review

13. (1) A review of this Act and its effectiveness shall be conducted no later than five years after its coming into force by

- (a) an independent person or entity appointed by the Action Plan Committee;
- or
- (b) if no person or entity is appointed under paragraph (a), the Action Plan Committee.

Opportunity  
for public  
engagement

(2) A review conducted under subsection (1) must include an opportunity for public engagement.

Publication

(3) The results of any review conducted under subsection (1) must be made publicly available on a website readily available to the public.

MOTION

LOI DE MISE EN ŒUVRE DE LA  
DÉCLARATION DES NATIONS UNIES SUR  
LES DROITS DES PEUPLES AUTOCHTONES

**Il est proposé que le projet de loi 85 soit modifié par suppression de l'article 13 et par substitution de ce qui suit :**

13. (1) Un examen de la présente loi et de son efficacité est effectué au plus tard cinq ans suivant son entrée en vigueur, selon le cas :

- a) selon ce qui est prévu au protocole d'entente;
- b) si aucune personne ou entité n'est désignée en vertu de l'alinéa a), le comité de plan d'action.

Examen dans  
les cinq ans

(2) L'examen effectué en vertu du paragraphe (1) doit prévoir la possibilité d'engagement du public.

Possibilité  
d'engagement  
public

(3) Les résultats de tout examen effectué en vertu du paragraphe (1) sont mis à la disposition du public sur un site Web facilement accessible au public.

Publication

MOTION

UNITED NATIONS DECLARATION ON THE  
RIGHTS OF INDIGENOUS PEOPLES  
IMPLEMENTATION ACT

**That Bill 85 be amended by deleting subclause 13(1) and substituting the following:**

Five-year  
review

13. (1) A review of this Act and its effectiveness shall be conducted no later than five years after its coming into force by an independent person or entity appointed by the Action Plan Committee.

MOTION

LOI DE MISE EN ŒUVRE DE LA  
DÉCLARATION DES NATIONS UNIES SUR  
LES DROITS DES PEUPLES AUTOCHTONES

**Il est proposé que le projet de loi 85 soit modifié par suppression de l'article 13 et par substitution de ce qui suit :**

13. (1) Un examen de la présente loi et de son efficacité est effectué au plus tard cinq ans suivant son entrée en vigueur par une personne ou une entité indépendante désignée par le comité de plan d'action.

Examen dans  
les cinq ans