

WORKING TO DEFEAT



ON-RESERVE POVERTY

December 17th, 2020

The Right Honourable Justin Trudeau, P.C, M.P.
Prime Minister of Canada
Office of the Prime Minister
80 Wellington Street
Ottawa, ON K1A 0A2
Justin.trudeau@parl.gc.ca

Dear Prime Minister,

Re: Concerns with Bill C-15

I am writing to you to express the concerns and perspectives on Bill C-15 on behalf of the National Coalition of Chiefs.

The National Coalition of Chiefs (NCC) was established in 2017 with a mandate to defeat on-reserve poverty through Indigenous participation in Canada's natural resource industry. The NCC provides a forum for pro-development Chiefs and leaders to communicate the positive side of resource development while advocating for policies that pave the way for more Indigenous involvement in the industry, as employees, contractors, partners and owners.

While the affirmation of Indigenous rights is always welcome, there are implications to this legislation, as currently drafted, that is likely to have negative impacts on the many Indigenous communities that rely on resource development as a source of jobs, business contracts and own source revenues. I do not want to see symbolic gestures of reconciliation come at the expense of food on the table for Indigenous peoples.

Furthermore, the lack of consultation is a flag for Indigenous leaders and communities across Canada. While the NCC was able to meet once with the Minister of Justice, there was an understanding that we would meet further to discuss our issues and concerns. The current comment period is far too short for us to consult with our representatives of Parliament.

I am not a lawyer, but I have spent my professional life in First Nations administration and the oil and gas industry and know first-hand what happens when federal bureaucracy gets in the way of responsible resource development. However well-intentioned C-15 is, in my discussions with legal experts, industry

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representatives and investment bankers, introducing another layer of uncertainty and risk to development in Indigenous territories. This is because it provides no clarity on who can provide or deny consent on behalf of Indigenous nations – be it Chief and Council, hereditary Chiefs, or small groups of activists; and implies that a single nation can deny consent – a veto in practice if not in name – on large linear projects such as a pipeline, railroad or electric transmission line.

I have heard numerous politicians, Indigenous leaders and academics promise that this legislation will actually bring certainty to resource development. Of course that is an opinion from people who don't work in the private sector and don't need to go out and attract investment to keep their jobs or take care of their families. It is incumbent on Parliament to actually hear from those who are asked to attract investment into projects whether C-15 is adding certainty and confidence for them, and whether this makes it more or less likely that they will enter into projects with Indigenous nations as partners.

I know, and have experienced, that there are activist groups that will use any legal tool they can to stop any kind of resource development, be it forestry, hydro, mining or oil and gas, and I fully anticipate that C-15 will be used as a tool not to protect Indigenous rights as intended, but to use Indigenous rights as a pretext to delay or stop development. This sort of "hijacking" of Indigenous rights for other purposes creates conflict and long lasting divisions within our communities and in the broader Canadian society. Ambiguity in the law creates conflict and hampers the development of our economy.

Why should the National Coalition of Chiefs care if the resource industry can proceed with projects or not? I suppose if you conceive of Indigenous people as victims of industry, who need the federal government and the Courts to protect them, then C-15 adds one more barrier between industry and Indigenous peoples and that is seen as a good thing.

But if you conceive of First Nations as self-determining nations who require a functioning economy in order to exercise their sovereignty, and of Indigenous peoples as entrepreneurs, workers and business men and women, then you would understand that we intend to be the project proponents in the future: owners and equity stakeholders that need to go out and attract our own investment, and be competitive and have clear and predictable approval processes in order to do so. We have been handicapped by the Indian Act, and by the extra layers of federal bureaucracy that complicates and impedes all land development on reserves, for more than a century. And our people are poorer for that. So I ask you to work on removing barriers to Indigenous economic development, not adding to them.

I want to close by reminding you that UNDRIP does not just provide Indigenous peoples with the right to say no to development; it also supports our right to say yes:

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Article 32: Indigenous peoples have the right to determine and develop priorities and strategies for the development or use of their lands or territories and other resources.

The choice here isn't between either recognizing UNDRIP, or not. It is about being much more careful about how you, as legislators, draft C-15, so that it doesn't impose unintended costs that Indigenous peoples will once again bear the brunt of. The resource industry can simply choose to invest in other countries – and I have seen in the past six years they have done exactly that. But the simple fact is that our communities need resource development here in Canada in order to thrive and achieve economic self-determination. Please do not rush through legislation that undermines that.

I respectfully request two things:

1. Delay the bill until after the COVID crisis. The NCC Chiefs, like all Indigenous leaders, are unable to travel to Ottawa now to speak directly with our representatives of Parliament. Of all federal legislation this one especially requires direct consultation regarding our concerns and aspirations.
2. Please provide more detailed information regarding the three-year action plan outlined in the bill. We need this to make an informed assessment on the likely outcomes and consequences of the legislation. We would have preferred that the three-year development of the action plan preceded any UNDRIP legislation.

Our Chiefs look forward to continuing this conversation in the new year. Seasons greetings to you and your families.

Sincerely,

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