CONFEDERACY OF TREATY SIX FIRST NATIONS

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SUBMISSION TO THE SENATE STANDING COMMITTEE ON BILL C15

As the descendants of the Original Peoples, we retain our own laws and governments. When the Crown approached our peoples to enter into a peace and friendship treaty in 1876, we used our laws and inherent authority to allow the Crown's subjects to live amongst our Peoples. We submit to the Standing Committee of the Senate; our legal status has not changed since 1876. The Senate as the Chamber of sober second thought should consider the present action by the government as a violation of our rights under Treaty and our rights of sovereign Peoples as recognized by British law since 1580. (We reference – Alberico Gentili – a scholar working and writing at Oxford.) There are long legal histories on both sides of these discussions: Our laws and British laws.

The Confederacy of Treaty Six Chiefs representing sixteen (16) Treaty Nations together work on common issues related to our Treaty. Our Nations entered into a Peace and Friendship Treaty with the British Crown in 1876 – there are adhesions to the Treaty – Ermineskin and O'Chiese. Our ancestors agreed to allow the Queen's subjects to live in our territory and use our lands to the depth of a plough. This is a clear example of operation of the two legal systems.

The entering into treaty by the Crown was based on the *Royal Proclamation of 1763*. The Proclamation was a result of the Indians allied to Britain assisting them in the wars taking place in North America. The *Royal Proclamation* acknowledged that lands of the Indian Nations and Tribes were never surrendered to the Crown. Furthermore, the *Royal Proclamation* set out the process for the Crown to enter into our territory – through an agreement made in public without force. The Royal Proclamation remains part of the laws of Canada directing the state to act Honourably in dealings with Treaty Peoples.

In entering into Treaty, we did not surrender, cede or release our lands to the Crown. The Crown representative asked for and received the right to live amongst our Peoples in peace and friendship. We have always honoured our relationship despite the numerous actions of governments who have not brought honour to the Crown. We still continue to follow the Treaty commitments.

In relation to the present situation, Canada in working with incorporated organizations as their partners to introduce Bill C15 legislation during a pandemic. We provided no mandate to allow any organization to engage in such work.

During Senate testimony Assembly of First Nations (AFN) stated they had a mandate to proceed to engage in this kind of work. There was an old resolution to seek a collaborative process which failed and several requirements that were not met. As a result, this Bill should have never have made it to the floor of the House of Commons.

In the December 2020 AFN Assembly of Chiefs, a resolution was tabled to support work under C15 but this resolution was withdrawn without a vote. It pains us to point out the obvious, it is completely inappropriate for any organization to reach back into their stockpile of resolutions to find one that might give them legitimacy in the eyes of the Canadian government. For Canada to suddenly act on an outdated resolution when they have ignored hundreds of others over the years does not work for Treaty Peoples.

One other point related to process: on the 12th of June 2017, Prime Minister Trudeau and Perry Bellegarde signed a Memorandum of Understanding on Joint Priorities. We call the Senators attention to Article III: The Parties (Canada and AFN) agree that individual First Nations are not bound by any outcome or recommendation developed under this MOU. Our Nations are not bound by any work done by AFN and Canada in the drafting of C15.

There was no engagement with our Nations. We are fully aware that Canada attempted to have some sort of process whereby we would submit our names and email addresses to hear information about the Bill. This is not meaningful engagement and happened after the Bill had passed two readings in the House of Commons.

We want to remind the Senators that the issue of engagement based on procedural fairness remains the guiding principles of the Royal Proclamation. In this case, we learnt from Minister Bennett's comments in the Standing Committee that the United Nations Declaration on the Rights of Indigenous Peoples (UNDRIP) is not included as part of the operational component of Bill C15. It is an appendix. This means that the UNDRIP does not form part of this Bill. Referencing another document, providing whereas clauses, or appendices is non-binding, of no force and effect and in reality, are meaningless.

In 1982, our Peoples were in London opposing the patriation of the Canada's constitution. At that time, the present Prime Minister's father undertook a commitment to the British government that they would do a complete review of the laws in Canada that affect Indians and correct those laws to align them with 91(24) Indians and Lands Reserved for Indians. This work never took place. However, Canada spent millions of dollars to comb through their laws and correct those laws in relation to women – but nothing in relation to our rights.

There have been examples of Canada enacting laws that would be reviewed in within four years, however, all it provides is the ability for the Minister of Justice to point to the section and talk about work plans. You cannot legislate legal duties and obligations into a work planning process, nor can a unilateral determination on how impacts to rights would be resolved. Allowing this Bill to proceed is a fundamental violation of the UNDRIP.

The government of Canada has bound itself to numerous international legal standards such as the Covenant on Civil and Political Rights, the Covenant on Economic, Social and Cultural Rights, the Convention on the Elimination of Racial Discrimination. All international instruments have legally binding provisions on the right of self-determination for all Peoples.

Through Bill C15, Canada is trying to change the international accepted definition of Indigenous Peoples which refers to Indigenous Peoples who were present at the time of Contact. Our Treaties recognized our right to determine our own citizenship. However, Canada has interfered with our inherent rights and continues to interfere with the introduction of a new definition of "indigenous" through C-15, in effect changing the UNDRIP to conform to CANDRIP (Canada's definition).

Justice Minister Lemetti told the members of the Senate that free, prior and informed consent (FPIC) does not mean a "veto". We remind the Senators that none of Confederacy Chiefs or Nations has ever used the word "veto". At all times, we call for the honour of the Crown to be upheld. The World Bank has accepted that Indigenous Peoples have a right to FPIC and have produced materials on the operationalization of the right. The Committee on the Elimination of Racial Discrimination (CERD) has been writing letters to Canada since 2005 to recognize Indigenous Peoples' right to FPIC. In April 2021, CERD again wrote to Canada regarding the devasting situation on the east coast related to the Treaty Rights of Indigenous Peoples. It is completely erroneous for Minister of the Crown Lemetti to make such statements before the Senate when Canada has agreed to be bound by these international instruments. It is also inappropriate for Minister Bennett to indicate that she would work with her "indigenous partners" to develop a scheme on the issue of FPIC. We remind the members of the Senate that Minister Bennett and her partners do not possess the right of FPIC nor the right to unilaterally change the concept and content. Those collective rights remain with the Nations.

The Confederacy of Treaty Six Chiefs using our inherent authority passed a resolution R04/2021/03/16 which was adopted by consensus of Treaty 6, 7 and 8 Chiefs to reject Bill C15, on March 17th, 2021. The AFN was notified and instructed to cease and desist in their present activities. Our Chiefs are acting on our own laws that have existed long before Canada. We do not need to have any state validate us. In 1876, the Crown accepted that we had that legal authority to conclude a treaty with her representative. Nothing has changed since 1876, we are still allied to the Crown in peace and friendship.

WHEREAS:

1. The Treaty Chiefs of Treaty No. 6, Treaty No. 7, Treaty No. 8 (Alberta) did meet in a duly convened meeting at the offices of the Tribal Chiefs Ventures in Treaty No. 6 Territory on March 16 and 17, 2021;
2. The Chiefs derive their authority from the Creator and the citizens of their respective Nations/Tribes, and in the exercise of their inherent authority and Treaty Rights are beneficiaries of all aspects of international law;
3. Indigenous Peoples over a period of five years from 1985 until 1990 drafted at the United Nations, a Declaration on their rights;
4. The United Nations system dominated by state governments took until 2007 to pass a resolution at the General Assembly, a greatly changed original Declaration;
5. The final document contained language designed to integrate our lands into the state of Canada in complete violation of our Peace and Friendship Treaties;
6. Canada working with the Assembly of First Nations and other organizations drafted Bill C-15 to enact the United Nations Declaration on Indigenous Peoples into Canadian Law;
7. Organizations are not rights holders;
8. There was no process to engage the Nations on any discussion on the contents of the Bill C-15;
9. Bill C-15 changes the definition of Indigenous Peoples who were present at the time of contact (which is the United Nations definition) to a "pan aboriginal" definition using Canada's Constitution Act, 1982;
10. Bill C-15 would ensure that Canada has territorial integrity over our territories despite our Peace and Friendship Treaties;
11. In 2012, the United Nations Committee on the Elimination of Racial Discrimination asked

12. Canada to provide the UN with document or documents to show that the state owned the territories and resources of Indigenous Peoples;
13. To this date, Canada has not provided those documents;
14. Bill C-15 would be evidence of Canada's ownership of our territories and resources;
15. Bill C-15 was read into Parliament on December 3, 2020, with second reading on February 17, 2021; and
16. There has been no process to engage the Nations leaving the Nations to ask for time before the Standing Committee to voice objections to the present Bill C-15.

THEREFORE BE IT RESOLVED THAT THE ASSEMBLY OF TREATY CHIEFS:

1. Reject Bill C-15 in it's entirety;
2. Ask Canada be asked to withdraw Bill C-15;
3. Direct Canada start to engage in processes that respect our Treaties and our right to free, prior and informed consent;
4. Will appear at the Standing Committee to present their case against Bill C-15;
5. Prepare a draft submission to the Standing Committee, for the House of Commons Standing Committee and the Senate Standing Committee;

FINALLY, WE RECOMMEND THE WITHDRAWAL OF BILL C-15 AND THAT A MEANINGFUL CONSULTATION OCCUR. ALTERNATIVELY, THAT AMENDMENTS BE MADE TO ENSURE THAT OUR RIGHTS ARE RESPECTED AND PROTECTED.