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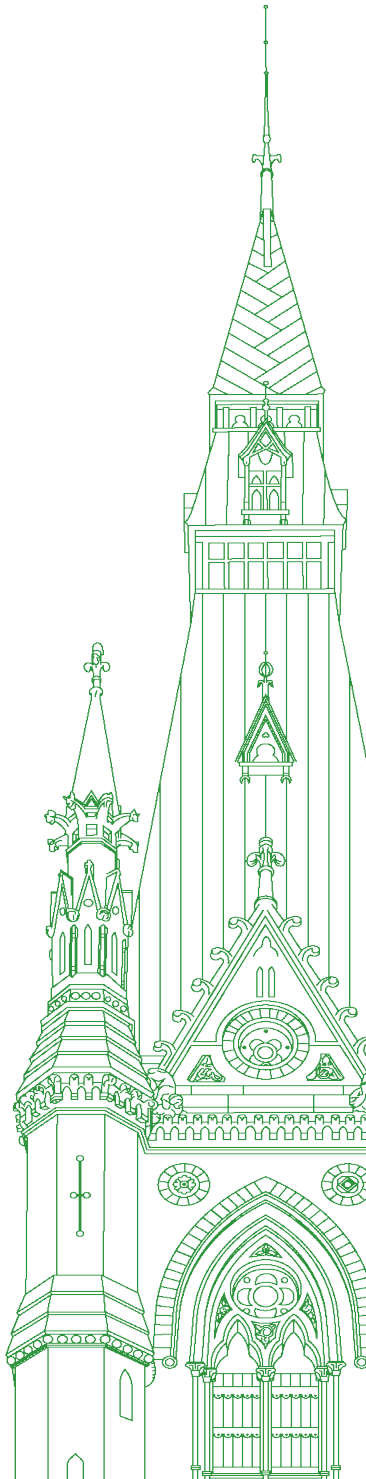

Chair: Mr. Bob Bratina

# Standing Committee on Indigenous and Northern Affairs

**Tuesday, April 13, 2021**

● (1105)

[*English*]

**The Chair (Mr. Bob Bratina (Hamilton East—Stoney Creek, Lib.)):** I call this meeting to order.

I will start by acknowledging that when in Ottawa, we meet on the traditional unceded territory of the Algonquin people. Here, where I am, is the traditional territory of the Anishinabe, Haudenosaunee and Chonnonton first nations.

Pursuant to Standing Order 108(2) and the motion adopted on February 25, the committee is continuing its study of the subject matter of Bill C-15, an act respecting the United Nations Declaration on the Rights of Indigenous Peoples, and to make related and consequential amendments to other acts.

To ensure an orderly meeting, participants may speak and listen in the official language of their choice. The globe icon at the bottom of the screen allows you to select either the floor, English or French. Choose what you want, and if you do speak in two languages, English and French, you don't need to change that. The technology will pick it up.

When speaking, ensure that your video is turned on. Please speak slowly and clearly. When you're not speaking, your mike should be on mute.

Pursuant to the motion adopted on March 9, I must inform the committee that Natan Obed has not completed the technical pretest.

With us today by video conference, from the AFN, are National Chief Perry Bellegarde, Wilton Littlechild and Mary Ellen Turpel-Lafond.

Thank you, all, for taking the time to appear.

The committee is being asked to allow an extension for the witness statement time beyond the current approved six minutes. As chair, I am reluctant to adjust the rule in view of the unfairness to the previous witnesses and the precedent it will create for future witnesses. As well, we have a number of written submissions that have taken more than six minutes to read, which suggests to me that, as we often tell witnesses, any matters or points of view they feel might have been missed or need further emphasis would be accepted after the meeting as supplemental documents to their brief.

In view of this, I now ask the committee for unanimous consent that notwithstanding the routine motion governing time for opening remarks and questioning of witnesses that the AFN be allotted up to 15 minutes for their opening presentation. Those who do not wish to give unanimous consent, please unmute now to indicate so.

Is there anyone who is opposed to unanimous consent for the extension?

Seeing none, we approve the extension for 15 minutes to Mr. Bellegarde and his associates.

Perry, welcome. It's so nice to have this opportunity to hear from the AFN.

Please go ahead for 15 minutes.

**National Chief Perry Bellegarde (Assembly of First Nations):** Thank you, Chair, and thank you to all of the committee members for agreeing to the 15-minute time.

[*Witness spoke in Cree*]

[*English*]

That was just a little bit in Cree for my friends and relatives.

I'm very happy to be here with all of you.

I used one of my spirit names, King Thunderbird Child. That is one of the names I carry. I'm from Little Black Bear First Nation and Treaty 4 territory in southern Saskatchewan. I gave thanks to the creator for this beautiful day and I acknowledged as well the Algonquin peoples here in the Odawa territory, where I'm sitting and working from today, their ancestral lands.

Chairman Bratina and honourable committee members, thank you so much for this opportunity.

I also want to acknowledge Mary Ellen Turpel-Lafond, who is with me on this presentation, and Willie Littlechild as well. I acknowledge them and thank them for their work.

Our Assembly of First Nations has long supported the adoption of a clear and strong legislative blueprint to advance the implementation of the United Nations declaration.

I appeared before this committee three years ago to support the adoption of Bill C-262, the private member's bill brought forward by Romeo Saganash, so I'm very pleased to now speak in support of a government bill that builds on the foundations of Bill C-262.

The Assembly of First Nations chiefs-in-assembly have passed numerous resolutions calling for the full implementation of the declaration. These resolutions included support for the adoption of Bill C-262.

When a filibuster prevented Bill C-262 from coming to a final vote in the Senate, where it did have sufficient support to be passed, our Assembly of First Nations chiefs-in-assembly passed a resolution in December 2019 calling for a government bill as strong or stronger than Bill C-262. That's my mandate. That's the direction the chiefs of Canada gave me as national chief: to get a government bill that's as strong as Bill C-262.

Bill C-15 meets that test. Bill C-15 provides a principled and pragmatic path forward to ensure that Canada respects and upholds fundamental human rights that have been affirmed and reaffirmed by the international community many times through consensus resolutions of the UN General Assembly.

I want to emphasize that the declaration did not create new rights, and neither does this proposed new bill. They also do not impinge on or detract from any inherent or treaty rights.

When I testified before this committee about Bill C-262, I felt very strongly that a collaborative and coordinated approach to implementing the declaration was critical to closing the social and economic gap facing first nations people.

Today, I am even more convinced that implementation legislation is the right way forward. I also applaud the work of elected officials in other jurisdictions who have taken steps to implement the United Nations declaration and note the chiefs' work with British Columbia in achieving the unanimous passage of a law in the Legislative Assembly of British Columbia on November 28, 2019.

Given the deep racism and discrimination that first nations still face every day, Bill C-15's critical commitment to combat all forms of discrimination makes this bill both timely and urgent. I have seen how in B.C., with the implementation of the declaration, important work has been undertaken to address the racism against indigenous peoples in the health care system, using the standards in the declaration to bring people together in the health care system.

Now, we know that every bill can be improved. Since the tabling of Bill C-15, we have heard critiques and suggestions for improvement—most importantly, from indigenous peoples ourselves. Some AFN regional chiefs and first nations leadership have appeared before you and have identified areas for improvement from their regional perspectives. You should listen carefully to those positions. In Canada, some first nations are in support of Bill C-15 and some are against Bill C-15, while others support it with amendments.

What I am tabling today is a contribution from the Assembly of First Nations that constitutes some relatively straightforward suggestions for improvements. These are intended to respond to the overall objective of first nations to make the bill stronger and clearer. So this is indeed an historic moment.

● (1110)

The Truth and Reconciliation Commission of Canada looked closely at the UN declaration and concluded that the declaration was “the framework for reconciliation at all levels and across all sectors of Canadian society.” They set that out as their first principle of reconciliation. That's how important the declaration is as a source of guidance and as a foundation for action.

Canadians have embraced the cause of reconciliation; implementation legislation is crucial to bringing that commitment to life.

With the improvements we've tabled, Bill C-15 will better enable us to move forward in a collaborative and coordinated way, consistent with first nations treaty and inherent rights and Canada's legal obligations.

I'd like to review those 12 improvements right now.

Number one is preamble clause 6. It's our recommendation that this provision is not accurate and should be deleted.

Number two is preamble clause 8. It's our recommendation that the word “racism” be added to this clause. Racism is a critical daily concern for first nations, and we believe strongly that it should be named.

Number three is preamble clause 9. It's our recommendation that the paragraph include explicit reference to the doctrines of discovery and terra nullius, and to be clear that, as the Supreme Court of Canada said in the Tsilhquot'in Nation case in 2014, these doctrines should not be part of the law or policies of Canada.

With regard to clause 2(2), it's our recommendation that the non-derogation clause be revised to more accurately reflect the working of the UN declaration, article 37, the previous approach in Bill C-262, and wording has been provided for you to consider.

Number five, it's also recommended that you consider adding two new clauses in the interpretation section, clause 2, to avoid any confusion or misinterpretation on some matters of great importance to first nations. The first of these two new clauses is clause 2(4):

> For greater certainty, the rights of Indigenous peoples, including treaty rights, must be interpreted flexibly so as to permit their evolution over time and any approach constituting frozen rights must be rejected.

This provision is important because we cannot permit interpretation of treaty rights or any of the rights of indigenous peoples as frozen in time. Approaches that reflect stereotypes and old ideas, especially on treaty rights, must be overcome as an ongoing obstacle to moving forward.

Number six, and the second of the two new clauses, is 2(5):

> For greater certainty, nothing in this Act is to be construed so as to diminish or extinguish the rights of Indigenous peoples, including treaty rights.

This provision makes it clear that extinguishment of the rights of indigenous peoples is not acceptable under any circumstances and cannot be part of Canada's laws or policies. Indigenous peoples have been subject to policies that sought to extinguish our rights and identities, such as the residential schools and other unilateral crown policies. Extinguishment is a systemic barrier to reconciliation that Canada must permanently and clearly reject.

Number seven, it's our recommendation that the subtitle for clause 4 or the purpose section is incorrect and it should be titled "Purposes". Romeo Saganash spoke to this issue in his appearance on March 11. This is an obvious grammatical problem, but could lead to inaccurate interpretation in the future and should be fixed, as it has been flagged by first nations as a concern. I urge you to correct this at this study of the bill by committee members.

Number eight, in this same clause, it's recommended that the word "framework" be removed. As acknowledged in the preamble of this bill, the UN declaration itself is the framework, and reference to other frameworks simply cause confusion.

Number nine, I also note that the reference to the "Government of Canada" in the purpose clause 4 must be removed because Canada's obligation extends not just to government, but to Parliament, and this wording as it currently reads is inaccurate. The phrase "Government of Canada" could simply be removed, and I recommend you do that as we show in the table submitted.

● (1115)

Number 10, it is recommended that the time frame set out in clause 6 for the action plan be reduced from the three years to two years. Implementation is already long overdue. Canada should have begun implementing the declaration when it was adopted as a global minimum standard in 2007. Canada has been committed to implementing the declaration without qualification since 2017. I don't think it's necessary to wait another three years.

Number 11—which is similar to the preamble provision in number eight—the recommendation is to add the word "racism". This word also must be added to paragraph 6(2)(a), as the wording is tracked in both parts of the bill.

Finally, number 12, I recommend that the words "implement", "implementing" and "implementation" be used in the bill only in relation to implementing the declaration. For all other uses, I recommend that expressions like "carry out" be substituted, and you will see those suggestions in the table attached. If I have missed other examples, as the First Nations Leadership Council of British Columbia has indicated in their submission to you, I recommend that we adopt those recommendations to ensure that the entire bill is corrected, so that "implementation" is only used in relation to implementing the declaration.

Bill C-15 deserves the support of this committee and the support of all members of Parliament and senators. In my view, the improvements we have brought forward are modest and reasonable, and I urge you to adopt them when your committee gets to that part of your deliberations.

To conclude, I want to be very clear. The AFN is eager to see Bill C-15 move forward to final votes in the House of Commons and the Senate as soon as possible. First nations leaders and legal experts like Chief Littlechild poured their heart and soul into the creation of the declaration. They did this for a reason. They went to the United Nations year after year for more than two decades because they saw this international human rights instrument as key to building a new relationship with Canada.

Canadian government officials were also active participants through that long process at the United Nations. In fact, Canada deserves a lot of credit for helping to build support among other states so that the declaration could be finalized and adopted. This is something that we accomplished together and something that Canadians can be proud of. Yet, despite what was accomplished, more than 13 years have passed now since the declaration was adopted by the UN General Assembly, more than 13 years since the UN proclaimed the declaration as "the minimum standards for the survival, dignity and well-being of the indigenous peoples [in all regions] of the world." In this time we have had expressions of support for the declaration from federal, provincial, territorial and municipal governments of all political stripes.

Canada has been part of numerous consensus resolutions at the UN committing to domestic implementation. Canada has made commitments to the indigenous peoples of the world that it would implement the declaration. It's time to complete this and make good on these commitments by working together. Canada has added the commitment to implement the UN declaration into the text of other laws passed by Parliament, including important bills on the inherent right of self-government in relation to child welfare and indigenous languages. What we still lack, however, is the legislation that implements the declaration and sets us on a course of recognition of rights and provides a framework for reconciliation, as the TRC wisely called for action. Bill C-15 provides that path. It's important for first nations, and I believe it is important for all Canadians to seize this opportunity now. We need to hear the words "royal assent" before the end of June.

Thank you. *Kinanaskomitinawow*.

● (1120)

**The Chair:** Chief Bellegarde, thanks so much. Also, thank you for the accompanying documents that were submitted. That will help us to keep track as we prepare.

Mr. Clerk, is Mr. Littlechild technically okay?

**The Clerk of the Committee (Mr. Naaman Sugrue):** I do see him. I'll ask him to introduce himself and tell us where he's calling from, and the interpreters will let me know if we can continue.

**The Chair:** Mr. Littlechild, would you please go ahead with your mike just to get the sound check?

**Grand Chief Wilton Littlechild (Assembly of First Nations):** [*Witness spoke in Cree*].

Good morning to everyone, all your excellencies.

My name is Willie Littlechild and I'm addressing you from Ponoka, Alberta.

**The Chair:** We're good.

We will go now to our six-minute round of questioners.

We have Mr. Schmale, Mr. Battiste, Madam Gill and Ms. Gazan.

Mr. Schmale, go ahead for six minutes, please.

**Mr. Jamie Schmale (Haliburton—Kawartha Lakes—Brock, CPC):** Thank you very much, Chair.

Thank you to our witnesses for being here. It's a very important conversation. As has been pointed out in many speeches in the House of Commons, the Conservative party does support the goals and aspirations of UNDRIP. We do have some concerns with it—I don't think that is any secret—in terms of free, prior and informed consent and what that actually means.

Chief Bellegarde, maybe I will start with you if that's okay.

You have stated previously that first nations communities have the right to say no to projects. I would like to understand what that means.

The Government of Canada currently has the authority to make final decisions with respect to the approval of major projects after meaningful consultations with indigenous rights holders. Its current role involves giving due considerations to the concerns and interests identified by different rights holders, and making a decision balancing those interests and the interests of the broader Canadian society.

I guess my first question to you, sir, is whether you believe that Bill C-15impedes the government's authority to make a final decision if an indigenous community says no.

**National Chief Perry Bellegarde:** Thank you, Mr. Schmale, for the question.

I will make some comments and I will ask Mary Ellen and Willie to jump in after, so I will be brief.

I have always said that for indigenous people, one of the most important rights we have is the right to self-determination, and that is the right to say yes or to say no. Each project should be assessed on its own merits, case by case. That's how it should be. The whole push is to have the rights holders and title holders involved with public sector, private sector and all levels of government to jointly make decisions going forward. That's the best approach.

To me, that's what this bill speaks to—joint decision-making, getting involved sooner rather than later so you avoid blockades and you avoid legal battles.

That's my quick comment on it right now. I will ask Mary Ellen and Willie maybe to join in as well.

**Dr. Mary Ellen Turpel-Lafond (Assembly of First Nations):** Thank you, National Chief.

Good afternoon, everyone. I'm zooming into our circle from the territory of the Musqueam, Squamish and Tsleil-Waututh peoples in beautiful Vancouver today.

I want to contribute to the response to the question by just saying, with the greatest amount of respect, that some of the commentary about this bill, particularly promoting the idea that free, prior and informed consent is a dangerous concept, is incorrect and represents a kind of fearmongering that's rooted in fundamental misunderstandings about how consent is operationalized as well as about the current status of the law in Canada.

The law in Canada is quite strong that first nations in particular on their core territories when projects are under way, if they go forward without proper involvement, engagement, or consent of the first nations.... There has been a significant amount of litigation because there has been uncertainty, and some of these fundamental human rights principles have not been protected.

The concept of free, prior and informed consent is already enshrined in law. How it's operationalized is the key. Certainly, there has been a significant amount of work done on this, in particular in the British Columbia context where the UN declaration was fully supported in November 2019. It brought into British Columbia law the concept of working closely. Whether it's mining companies or other companies, they work very closely with first nations from the beginning. The whole concept is to operationalize that in a positive way that respects and upholds the rights of indigenous peoples. It is not against development. Concepts of sustainable development and involvement of community are there.

The idea that free, prior and informed consent is some kind of a veto is simply not supported, and that is not how it's operationalized.

I would just add to the national chief's response to your question to say that it is very important. Article 19 is very significant. It promotes stability and certainty in the economy. It's quite a valuable concept. Our experience has been, contrary to some of the fearmongering about it, that it's a valuable concept. Of course, it is internationally endorsed that it become more explicitly part of the statutory foundation of Canada.

● (1125)

**Mr. Jamie Schmale:** Maybe I could jump in quickly to clarify some misconceptions. It's not that we as Conservatives believe that UNDRIP or Bill C-15 will mean that the bill is against development. That's not what we're saying. We're asking about this because there's no clear definition. When a first nation says no to a project, does that mean the project is dead, or does the government have the authority to make a final decision?

I'll open the floor to anyone who wants to answer.

**Dr. Mary Ellen Turpel-Lafond:** I'm happy to respond to that.

Obviously, governments have authority. We've just had a decision by the Supreme Court of Canada on peace, order and good government and the carbon tax. Governments have authority to make decisions in the best interests of a number of things. The key piece about this legislation and the issue you're raising is that the authority that government has, the executive or administrative branch of government, should be exercised in a way that's consistent with the rights of indigenous peoples, which is something that hasn't been there for a long time.

If government makes a decision and knows full well that they will be violating and infringing the rights of indigenous peoples, the declaration speaks to that situation by ensuring that, if you're taking lands and resources of indigenous peoples without fair process, that also has to be addressed. We can't have this conversation in isolation. Clearly, the Government of Canada has authority and powers. This is not removing any authority and powers. It is saying that we want to end the process of this very colonial approach to taking indigenous peoples' lands, supporting projects and developments on those lands without their consent, engagement, and involvement and to operationalize a different set of practices.

The question isn't for indigenous people about what the powers of government are. The powers of government are well known. The issue is how they get exercised. Hopefully this bill will help us shift into a more positive direction.

**The Chair:** Thanks very much for that response.

Mr. Battiste, you have six minutes. Go ahead.

**Mr. Jaime Battiste (Sydney—Victoria, Lib.):** My first question is for Mary Ellen.

I know that you are a member of an indigenous peoples commission at the Indigenous Bar Association. I'd like to get your thoughts on the following. Do you believe that the UN declaration is consistent with the Canadian Constitution, specifically the rights in sections 35 and 52?

**Dr. Mary Ellen Turpel-Lafond:** First of all, we all know how hard fought it was to add the rights to into the Constitution Act in 1982 in section 35, as well in section 25 of the charter. Unfortunately, the history of the last 40 years has been one where indigenous peoples have had to fight hard for the recognition of their rights, including recognition of their title.

A lot of that jurisprudence has been really hard because, for some of us who have been involved in those cases, the Crown has taken a very adversarial and hostile approach to the existence of the rights of indigenous peoples, and it has been a challenge. Section 35 of the Constitution Act is a very important provision that indigenous people fought hard for. While it has been interpreted mostly by courts, where there are no indigenous people present, those rights are very important.

The declaration as an international instrument is there to assist us to have a better discussion about the right of indigenous people in section 35, because the declaration brings good information and value in terms of what the standards, principles and rights should be.

In my view, the declaration is a way of interpreting our constitutional rights that gives us a better set of understandings of how to frame issues for indigenous people. I know that the national chief has spoken a lot about the issues of racism and discrimination.

If we look at article 2 of the UN declaration, which says that indigenous people have rights like all other human beings, including the right to be free from discrimination, I'm sure no one on this committee would disagree with that, but that isn't expressed very clearly in our charter or in our Constitution and needs to be reinforced, because we have seen very much, for instance during this pandemic, how much systemic discrimination and racism indigenous people are experiencing.

The Constitution of Canada is there. Those rights are there. They are important, but the declaration provides through this bill an opportunity to promote a more reconciliation-focused approach to get away from the highly conflictual, adversarial approach and to shift to recognition of rights. It's extremely valuable legally, but it does not in any way take away from the constitutional rights of indigenous people, and there is a non-derogation clause in Bill C-15. The national chief has tabled some suggestions on how that should probably be strengthened to better reflect Bill C-262 based on the concerns of first nations. There is delicate balancing when we implement international laws, and Bill C-15 does support that.

● (1130)

**Mr. Jaime Battiste:** My next question is for Grand Chief Littlechild.

I want to start by commending you and the words of our national chief, Perry Bellegarde, where he said you've poured your heart and soul into this legislation. I remember, almost 20 years ago, being a member of the Assembly of First Nations National Youth Council and the chair of that organization. We were sitting around the table of the AFN executive when you came in and spoke to our need for government legislation around UNDRIP, and for us to recognize it in Canada.

After 20 years of this task that you've taken on, how does it feel to see government legislation moving forward on UNDRIP today? Can you give us a sense of where we've been over the past 20 years to get to this point?

**Grand Chief Wilton Littlechild:** Thank you very much for your kind words.

First of all, I am not speaking for the Confederacy of Treaty Six or the Treaty 6 First Nations. I am speaking as an individual.

The accurate time frame now is actually 43 years. Some people think the debate lasted 20 years. It actually started in 1977, before some of you were even born. In any event, sitting here through the votes in Geneva, in New York, and a potential vote here, I have to withhold my emotion, and my horse races inside me until I hear the words “royal assent”.

I feel encouraged. I feel positive that we are going in the right direction. After all, we didn't go to the United Nations or the Organization of American States to cause anyone any trouble. We went there because our treaties were being violated on a daily basis. It was our elders and our leaders who instructed me to bring attention, in the global arena, to the fact that our treaties were being violated, and, as we speak, they continue to be violated.

I look with anticipation that we will adopt this legislation. There will be a turning of a page in Canadian history, looking forward to a more positive relationship throughout the country.

● (1135)

**The Chair:** Thank you, Mr. Battiste.

[*Translation*]

Mrs. Gill, you have the floor for six minutes.

**Mrs. Marilène Gill (Manicouagan, BQ):** Thank you, Mr. Chair.

I would like to thank the witnesses for joining us today. We are very grateful to you.

I would like to ask a question about the preamble of the bill. The Assembly of First Nations has stressed its importance on a number of occasions. Just now, Chief Bellegarde proposed a number of amendments to the preamble. In terms of the legal interpretation of the act, how important is the preamble and any amendments made to it?

I don't know who can answer my question. Perhaps Ms. Turpel-Lafond would like to do so.

**National Chief Perry Bellegarde:** Thank you very much, Mrs. Gill.

[*English*]

I would refer to our constitutional legal experts to answer the importance and relevance of the preambular paragraphs. We did make some recommendations to strengthen them.

I'll ask Mary Ellen to lead off with a response to your good question.

**Dr. Mary Ellen Turpel-Lafond:** Thank you for that question.

First of all, with regard to the status of the preamble, as you know, preambles are an aid to interpretation. They are not independently enforced, but they are an aid and they state the framework for the legislation. The preamble is important, and the preambular provisions to this bill are very valuable, strong and important.

As the national chief has submitted on behalf of AFN, there is a requirement, though, in our respectful view, for improvements. In particular, we've highlighted three of them. One is very straight forward, adding the word “racism”, which appears to be an oversight.

On the more substantive one, which is recognizing and denouncing the concept of terra nullius and the doctrine of discovery, that is important in the preamble. It, of course, remains open to members of Parliament or senators to think about whether or not they would like that substantively in the body of the bill as well as the preamble. It does have force in the preamble, but it is quite important to be clear that the doctrine of discovery and terra nullius are specifically doctrines of moral superiority that should be rejected. I know that's been testified to by others during these hearings.

The interpretive value of a preamble is significant. When there's ambiguity, the preamble is used and looked at. The preamble sets the broad context of promoting reconciliation, responding to the Truth and Reconciliation Commission, and, more importantly, in contrast to Bill C-262, when Romeo Saganash's very important bill came forward, it did not have some of the preamble provisions that are here. It was a different kind of bill—a different time.

However, the emphasis on addressing racism, discrimination and all forms of violence against indigenous people is important in the preamble as well as in the action plan, because indigenous peoples, in the last number of years, have been the target of specific violence when they've stood up to assert rights. They have attracted that.... We've had many issues with policing and so forth, and this is quite important, as the national chief tabled today, that this preamble be strengthened accordingly.

[*Translation*]

**Mrs. Marilène Gill:** Thank you, Chief Bellegarde and Ms. Turpel-Lafond.

I would like to ask another question. Ms. Turpel-Lafond said that certain comments about Bill C-15 indicate that some people would be afraid if it were passed. I find that very interesting.

Ms. Turpel-Lafond, can you tell us more about those comments, which are not really objective? Can you re-state the facts about the bill?

Have you noticed anything else that is problematic in the discourse around the bill?

● (1140)

[*English*]

**Dr. Mary Ellen Turpel-Lafond:** I'm certainly happy to reflect on this. There are two kinds of concerns, as you well know as committee members, that have been raised, and national chief has spoken to these.

First of all, there is an element of what I would call “fearmongering” about the concept of free, prior and informed consent, that somehow that will cause economic damage and so forth. In fact, free, prior and informed consent, and operationalizing that by having industry, government and first nations work together appropriately early, in the context of recognizing the rights, provides more economic stability, certainty and security.

It should have been operationalized a long time ago. Unfortunately, many first nations had to assert their rights and have them clearly recognized in the Supreme Court.

Some of the fears around that are misplaced, in my respectful view, and the AFN, the chiefs of Canada, have been very clear to say that this shift needs to be more complete. That's one very important area.

The other area, I would conclude, is that there indigenous people have concerns about any legislation, because there has been a cycle of trust and mistrust in terms of the actions of government. It's very important—as I think a well-known indigenous leader, Ellen Gabriel, wrote recently about this—that this bill has the potential to break that cycle of trust and mistrust and shift to a better foundation. While no single legislation can do that—relationships need to be strengthened and supported—this legislation goes a long way to beginning that process, very much supported at the legal and technical levels, and, of course, as national chief has said, clearly mandated through resolution by the chiefs in assembly at the AFN level.

**The Chair:** Thank you very much.

Now we go for six minutes to Ms. Gazan.

**Ms. Leah Gazan (Winnipeg Centre, NDP):** Thank you so much, Chair.

I'd like to welcome all the guests here today to committee.

Can you explain your understanding of subclause 2(2) of Bill C-15? It refers to section 35, and some people claim that because of that, the bill won't have any impact. Is that accurate? The question is for either the national chief or Madam Turpel-Lafond.

**National Chief Perry Bellegarde:** Maybe I'll ask Mary Ellen to go first, and then I'll make some comments right after her. I'm just bringing up the act here.

**Dr. Mary Ellen Turpel-Lafond:** Yes, thank you.

The reference in the bill to section 35 is one that, again, has been the source of some misunderstanding in some of the debate. Section 35 is in the Constitution Act. It was hard fought for. There are many first nations across Canada that have fought hard to get their rights affirmed through section 35, and they would very much like to have that there.

However, we know that in interpreting section 35, there have been decisions made over the years in a process that has not fully supported reconciliation and not fully supported this. There are concerns about some of those decisions and their harshness. But referring to section 35 is something that is pretty straightforward, because we already have it in the Constitution Act.

The idea is not in any way to limit the UN declaration to some sort of context of what was decided in an individual case. That's not how legislation works, and that's not how section 35 works. We're creating space with this bill to breathe greater life into section 35, but for those first nations who choose not to want to take their cases to court or to advance their rights in the context of section 35 and prefer to rely on, for instance, their treaties specifically, there's nothing that's limiting them.

I would say that the language, and in particular the proposals the AFN has brought forward, has been carefully prepared for you and your recommendation at this level by the national chief based on feedback and input from the chiefs of Canada. That is where it comes from. We are recommending some improvements to the text to be able to provide greater support for first nations who have brought forward these concerns. We don't think these are major corrections or changes. It's just a question of this being your opportunity to refine and improve the bill, and we are recommending some refinements and improvements to you.

● (1145)

**National Chief Perry Bellegarde:** Just further to that, Leah, as well, the new clause that I recommended, 2(4), says “For greater certainty, the rights of Indigenous peoples, including treaty rights, must be interpreted flexibly so as to permit their evolution over time and any approach constituting frozen rights must be rejected.”

We're trying to strengthen it, because we believe that section 35 is a full box of rights. We don't want to get into that debate of whether it is a full box or an empty box. It's a full box, with the inherent right to self-determination and self-government in there as well. We're just trying to be clearer in our recommendations within this new piece of legislation going forward.

**Ms. Leah Gazan:** Thank you so much, National Chief. I ask that question because I know that there has been some criticism or concern that this act Canadianizes or makes UNDRIP subject to Canadian law and section 35 of the Constitution. I would argue that's a legal misread.

Would you agree with that statement, and if so, can you please expand on that, Madam Turpel-Lafond or National Chief?

**National Chief Perry Bellegarde:** I'd agree with that statement, but I go to my learned colleague, Mary Ellen, for further comments.

**Dr. Mary Ellen Turpel-Lafond:** I agree fully with that statement. The declaration is an international instrument. It does contain the minimum standards. Through this bill, the laws of Canada will be aligned and will become more consistent through a process, and there is an action planning process. It does not take the UN declaration and subordinate it to some other process. That's not how this works. International instruments, conventions and the like must be implemented in Canada through implementing legislation like we have here or like was passed in the Province of British Columbia.

It does not alter our constitutional framework. What it does is raise our sights up to a standard that's been long overdue. Of course, there are no new rights in the declaration, but the way it is articulated advances meaningful reconciliation, as the Truth and Reconciliation Commission said, because the declaration itself can provide a framework.

I would be in full agreement with the statement that you've made. Unfortunately, some of the misunderstanding that is out there.... Again, I understand where it may come from because indigenous people have had many, many bad experiences, both with government and elsewhere, in trying to assert and seek recognition of rights. This is a shift, and it's a shift that's a major shift in Bill C-15 because it puts us on the foundation of recognition and working together differently. It should not be adversarial, which is why the Assembly of First Nations has very strongly supported this since Romeo Saganash brought it forward in the House of Commons as a private member's bill.

**Ms. Leah Gazan:** So, it would have application in the interpretation of indigenous rights, just as the constitution, indigenous law, treaties, agreements and, going forward, court decisions do, right?

**Dr. Mary Ellen Turpel-Lafond:** I would agree with that. Thank you.

**The Chair:** Thank you.

**Ms. Leah Gazan:** Okay. Thank you.

**The Chair:** We're at time there.

We'll go to the five-minute round now.

Mr. Vidal, you're up first for five minutes.

**Mr. Gary Vidal (Desnethé—Missinippi—Churchill River, CPC):** Thank you, Mr. Chair.

Thank you, National Chief and other witnesses today. We do appreciate your time and contributions to this process.

I want to follow up a little bit on what my colleague, Mr. Schmale, did in his first round of questioning, and then I'll move on to a couple of other things if I can squeeze the time in.

Minister Lametti, on Bill C-15, specifically said that, if passed, this bill will not change Canada's existing duty to consult with indigenous people or change the other consultation and participation requirements under other legislation such as the new Impact Assessment Act. I know that you've responded to the question of veto and that you've responded to some of those matters to my colleague. Do you agree with this statement by Minister Lametti? Does the implementation of Bill C-15 change the government's decision-making ability in the context of projects?

**National Chief Perry Bellegarde:** I'll make some quick comments, and I'll ask my lawyer friends, as well, to make some comments.

Thank you for the question, Mr. Vidal. Good morning to you. I was going to make my comments earlier on, as well, to Mr. Schmale's question about it. The federal government has jurisdiction, and provincial governments have jurisdiction, but don't forget first nations governments as well. They also have certain jurisdiction. It should be a joint decision-making process with our full involvement. That's what has to happen going forward.

We've always been excluded, and that's the issue and concern: that things need to be addressed going forward. Unilateral decisions cannot be made. There has to be a co-operative, collaborative working-together approach, and rights and title holders have to be involved going forward. That's my quick comment on that: don't forget the other jurisdiction as well.

Mary Ellen, maybe you can comment from the legal perspective.

● (1150)

**Dr. Mary Ellen Turpel-Lafond:** Yes, I can. I don't know the exact context in which the Attorney General made the comments, but I can certainly say that consent is part of the law of Canada now. In terms of the government's obligation to create a proper framework for consultation, engagement and consent, that has been determined by the Supreme Court of Canada on multiple occasions.

It's important, again, to emphasize that consent and veto are not the same thing. Consent is not a veto over resource development. No rights, of course, are absolute, and government has government powers. We're acutely aware of that. One of the issues with this bill is to operationalize that concept very early so that first nations, as governments, are engaged with the proper rights holders early in processes where there are developments and that indigenous people are not excluded from development.

In fact, if we look at some provinces like British Columbia, I think the highest number of new mining permits have been given to companies working closely with first nations and where free, prior and informed consent of the nations have guided that work. I think the Attorney General's words about the existing framework.... I'm not sure what they are. I do know that Bill C-15 can add to and support that, but the legal framework is already—

**Mr. Gary Vidal:** Thank you. I'm sorry. I hate to be rude, but they give me such limited time and I want to get to another question. I appreciate that.

I have one follow-up question. I've had a lot of people reach out to me—people who are concerned about the opportunity to develop linear projects. Many of these are indigenous organizations that are looking to create prosperity for their communities and their members.

I get that you've clarified the difference between veto and consent, but on a linear project, in your opinion, who gets to give or withhold the consent? Granted, not everybody's always going to agree; I totally understand that.

**Dr. Mary Ellen Turpel-Lafond:** I'm certainly happy to respond to that because, as you well know, one of the issues that we're dealing with as we try to move away from this deeply colonial era of Canada's Indian Act, aided by the declaration, is that the rights of indigenous people and indigenous governments can.... The rights holders select the governments and they must be able to do that. We've been seeing that revitalization in British Columbia in particular, where hereditary leaders have been able to move forward and enter into agreements and so forth.

The question is, what government do they work with? It has to be the government supported by the indigenous people, not the government picked in the colonial way.

We are in a transition process. The challenge we have is if you have a proponent of a project and that proponent has engaged one or two indigenous people and says that this is appropriate license from indigenous people to go forward, you will have a problem. You must properly engage with the rights-holders and title-holders and their government. This is where much of the work of industry and government has fallen down. This declaration act and the shifts it will bring will bring greater clarity to that process.

Even just getting the support of an Indian Act band, for example, may not deal with all of the rights-holders and title-holders in an area where traditional territory is held by an indigenous people. The declaration act provides support here. The declaration itself provides a new framework that can help reduce some of that conflict and operationalize these principles better, both for business and for government.

**The Chair:** Thank you very much.

Mr. Anandasangaree, you have five minutes, please.

**Mr. Gary Anandasangaree (Scarborough—Rouge Park, Lib.):** Thank you, Mr. Chair.

I really want to thank the esteemed panel for being here. It feels like déjà vu. You were here a couple of years ago on this.

I'd like to ask Grand Chief Littlechild first about the importance of legislating UNDRIP. Many observers have indicated that UNDRIP is being interpreted in Canadian law already. Why is it important to legislate it within the framework of Bill C-15? Why is UNDRIP so important to the concept of reconciliation?

● (1155)

**National Chief Perry Bellegarde:** You're muted, Willy.

**Grand Chief Wilton Littlechild:** I'm sorry, I was saying again that this is for Treaty 6. I'm not speaking for them.

Now I've forgotten the question.

**Mr. Gary Anandasangaree:** I was asking about the importance of legislating UNDRIP and its contribution to reconciliation.

**Grand Chief Wilton Littlechild:** Yes. I was going to offer two examples of why we do this. The Jay Treaty is one example. The other treaty is in the Migratory Birds Convention Act. Those are international agreements. One, the Jay Treaty, only goes one way, because Canada did not pass legislation to ratify the Jay Treaty. It did ratify, in the case of the migratory birds convention, by way of legislation. We thus have a Migratory Birds Convention Act that allows indigenous peoples to hunt migratory birds under the treaty right to hunt.

The same thing happens here, with this legislation. For the UN declaration to be implemented, we need this legislation to do it.

Why is it important to reconciliation? That's the primary goal I have in working on this. There are at least nine [*Technical difficulty—Editor*] in the bill.

To go back to the very first question about free, prior and informed consent, that and the declaration are calls to action for us to work together.

It's for us to work together; that's why this declaration is important. That's why we as a commission set it out as the primary principle. It is a call on us to work together—to have better working relationships, for example. That's why it's important. It really is key to going forward together.

**Mr. Gary Anandasangaree:** Thank you, sir.

I want to ask about the action plan. Maybe, Professor Turpel-Lafond, you could comment. I know you're in British Columbia.

The national chief is suggesting that the three-year action plan being contemplated here be reduced to two years. How realistic is it to have a review of laws within that time frame? Right now, as worded, it says that the action plan would be completed “as soon as practicable”. How realistic do you think it is to go to two years?

**The Chair:** You have a minute. Go ahead.

**Dr. Mary Ellen Turpel-Lafond:** I think it's realistic and necessary. There's no reason why, within the Government of Canada, significant work can't be under way at this point to prepare for that action plan. We have multiple recommendations, of commissions and others, that identify the core areas of the action plan.

It is important because the rights of indigenous people are a priority, and if it's multiple years out, we will not be seeing progress. I think this is a modest proposal that the national chief has suggested: that it be moved from three years to two years.

**The Chair:** Thank you very much.

**Mr. Gary Anandasangaree:** Thank you.

**The Chair:** Madam Gill, you have two and a half minutes.

[*Translation*]

**Mrs. Marilène Gill:** Thank you, Mr. Chair.

Chief Bellegarde, you wish to see the bill receive royal assent before June. Does your association have any other fears about seeing this bill passed?

**National Chief Perry Bellegarde:** Thank you very much, Mrs. Gill.

● (1200)

[*English*]

The only fear that we have about the bill is that we're running out of time. That's the biggest fear. We're already into April. You have May and June. The sitting days are getting to be few. We need to get it out of the House of Commons and into the Senate as soon as possible.

My biggest fear, then, is that we are running out of time and will have a missed opportunity again. We need to work together as soon as possible to get this passed. We know that COVID-19, the pandemic, surrounds us; we know there's a budget coming down next week; we know there is an election coming. We need to seize this moment and not miss the opportunity to get Bill C-15 passed. It is a road map to reconciliation.

I think it's time that we get this done. I'm asking all members of Parliament and the Senate to get this done as soon as possible. That's my biggest fear: that we're going to run out of time.

[*Translation*]

**Mrs. Marilène Gill:** Thank you, Chief Bellegarde.

I will continue along the same lines. You are recommending that the three-year period for preparing the action plan be two years instead, because you have waited too long. I imagine that strengthens your desire to see the bill passed quickly. I don't know if you want to comment on that.

**National Chief Perry Bellegarde:** That is exactly right.

**Mrs. Marilène Gill:** Thank you.

I have no further questions, Mr. Chair.

[*English*]

**The Chair:** Thank you very much.

We will go now to Ms. Gazan for two and a half minutes.

**Ms. Leah Gazan:** Thank you, Chair.

National Chief, you already answered my question about your mandate to co-develop this legislation, but some have argued that a second mandate would have been required for you to support Bill C-15.

I'd like to give you an opportunity to respond to that.

**National Chief Perry Bellegarde:** Ms. Gazan, thanks for the question.

There is no question that we operate from our chiefs-in-assembly mandate, and I indicated earlier that when Bill C-262 was not passed in the Senate, our chiefs met in assembly and said "National chiefs, AFN, go get a government bill that's as strong as, or better than, Bill C-262." That is what Bill C-15 represents. It is a bill that is as strong or better. Part of that dialogue and support for Bill C-262 was the eventual hope to see it in legislation, so that carries through to Bill C-15. We have numerous resolutions of support for the UN declaration itself, as well as for legislation going forward.

There are a lot of people—and it's first nations politics as well—some who like it and some who don't. Some will say, "Oh, the national chief should not be saying this; he doesn't have a mandate." We do have a mandate, and because of that mandate we are pushing very hard for this and it's an opportunity that we don't want to lose. That's my response to the question.

It's a very good question. We have a resolution by our AFN chiefs-in-assembly, and that's what we're building on and implementing.

**Ms. Leah Gazan:** I would argue that it's like Canadian politics, with all four different parties sitting around the table not agreeing on things all of the time.

Thank you so much for your clarification on that.

Mr. Chair, how long do I have?

**The Chair:** You have 45 seconds.

**Ms. Leah Gazan:** Okay.

Do you believe Bill C-15 will be a game changer for first nation communities in moving forward with a greater respect for our rights?

**National Chief Perry Bellegarde:** Yes, because you have to jointly develop a national action plan. You have to do that together. That's very key. You have to get the laws and policies of Canada that don't respect aboriginal rights, title or jurisdiction, that don't respect treaty rights. They have to get in line. Therefore, it is a game changer. We're dealing with outdated policies that are about termination of rights, title and jurisdiction.

I'm talking about the comprehensive claims policy, the specific claims policy, the additions to reserve policy and the inherent right to self-government policy, which are all outdated. They need to be changed and brought up to speed for recognition of rights, title and jurisdiction, and move towards treaty implementation.

It is a game changer, and this is going to be another arrow in our quiver. We have to launch it.

**The Chair:** Thank you.

**Ms. Leah Gazan:** Thank you so much.

**The Chair:** Thank you, Ms. Gazan.

Mr. Viersen, you have five minutes.

**Mr. Arnold Viersen (Peace River—Westlock, CPC):** Thank you, Mr. Chair.

I thank the honourable witnesses for being here, particularly the national chief. I understand this might be one of the last times we see him here, as he is not running for re-election, so I thank him for his work there as well.

Chief Bellegarde, in terms of the purpose of the bill, the purpose of the act, you said you wanted to change the language around in it. For me, that's where the big stumbling block comes in this bill, the purpose to "affirm the declaration as a universal international human rights instrument with application in Canadian law". What does that actually mean? Free, prior and informed consent is a big part of that, but can we make the term "duty to consult", which has been clarified and defined by the courts, equal, the same as "free, prior and informed consent", or do we then throw all that jurisprudence out and start over with a competition between the two concepts?

I just wonder what your thoughts are on that. I think if we pull that piece out of the bill, subclause 4(a), and under "provide a framework for", just say, "building of Canadian law going forward", that would be more tenable.

What are your thoughts on that?

● (1205)

**National Chief Perry Bellegarde:** Just very quickly, thank you for the question. I made some recommendations. I'll go back to my 12 recommendations and I refer you all back to them. That's what we'd like to see.

To be clear, on the purpose of the act, it's just the implementation of the UN declaration, to take out the word "framework". The purpose of the act is to provide for the implementation of the declaration. You have the United Nations declaration, passed by the UN. How do nation states give that legal effect? That's the purpose of the bill. I'm very clear on the purposes of the act.

I'll ask Mary Ellen to respond.

I'm kind of a bush lawyer, so I'll refer this to the constitutional lawyers.

**Dr. Mary Ellen Turpel-Lafond:** There are a couple of things. As the national chief said in his submission today, we would first of all correct it to say "purposes" of the act. There are two, not one, so there is an error there. We're hoping that through your work as a committee some of these issues might be able to be corrected.

In terms of the comment you made, though, about how this will impact existing jurisprudence and so forth, I think it's very clear that this will bring greater assistance to understanding some of these key areas. That's particularly where there's been a flashpoint, where there's been a denial of the rights of indigenous people. It doesn't push aside all the jurisprudence. It simply doesn't do that. The declaration being implemented brings into the discussion the article's rights and standards in the declaration.

Therefore, it isn't quite legally as you suggested. Legally, what happens—

**Mr. Arnold Viersen:** Yes. I don't think it pushes them aside. It just introduces a new concept that we will now have to argue about, right? That's—

**Dr. Mary Ellen Turpel-Lafond:** Well, with respect, the declaration has been already used. Parts of the declaration, like the prohibition against genocide, have the status of customary international law. The declaration has been used in court cases, and used quite valuably in court cases, to help understand these concepts. In particular, there's the work of the Canadian Human Rights Tribunal to address the rights of indigenous children. There's been extensive reliance on the declaration there.

So that hasn't take anything away. It isn't a disruptive factor. It's additive. It's supports proper context and framework. The experience to date is that it is being applied, but Bill C-15, if it should pass through this House and Senate, I think will provide a more stable and clear foundation for that work to proceed.

**The Chair:** You have one minute, Mr. Viersen.

**Mr. Arnold Viersen:** My experience with lack of clarity when it comes to major projects and decision-making is that it just postpones the project. It doesn't allow for a quick decision-making process, which then leads to the project just disappearing. The proponent of the project just moves to a different jurisdiction and does something else. We see that in British Columbia. The financial markets give the province of British Columbia a 1% risk factor when it comes to doing business there. They cite UNDRIP as part of that, just because of the tension between the two different terms.

If we removed paragraph 4(a), so we could leave the title as "Purpose", and fixed your framework word, I think that would fix a lot of those concerns.

**The Chair:** We're right at time. Thanks, Mr. Viersen.

We'll go to Mr. van Koeverden, our last speaker, for five minutes.

**Mr. Adam van Koeverden (Milton, Lib.):** Thank you, Mr. Chair.

I really appreciate everybody being here. Thank you for your leadership. Thank you for your guidance. Thanks for your recommendations. I'm quite in awe of the work you've all done.

To my colleague MP Gazan, on your comment regarding disagreeing, I find myself sitting here and agreeing with you all the time. I hope it's mutual. I pretty much agree with you on this issue and most others almost all the time.

That said, there are some things that I've disagreed with and that I think a lot of us have disagreed with. I'm hoping that you can emphasize some of the mischaracterizations or a little bit of the co-opting of ambiguities that I don't think really exist.

My question is perhaps for Madam Turpel-Lafond—I could tell she was anxious to answer the previous one, so I'll just give her the floor there—or really for whomever would like to take it. The question is about two things. That's the co-opting or sort of mischaracterization of an indigenous perspective as somehow unanimous, and the continual mis-characterization of FPIC as being a veto or a roadblock in the way of progress.

I'll let you take it from there.

● (1210)

**Dr. Mary Ellen Turpel-Lafond:** Sure. I'm happy to just say that it is fearmongering to suggest that somehow the rights of indigenous people will make the Canadian economy not work. To point to British Columbia and say that is particularly laughable and inaccurate. I'm in British Columbia, and I've worked very closely on the implementation of the declaration. An unprecedented number of mining permits went forward with the support of first nations. In fact, the implementation of the declaration has clarified the rules and operationalized the rules in a new, respectful sort of structure. We're seeing a lot of good work emerge. That's absolutely the case.

Your other point was about the tokenism and the suggestion that a single indigenous person who may be opposed or whatever to something represents all indigenous people. Of course, you as a committee will hear from not only the chiefs and leaders of the Assembly of First Nations but also from other organizations. You will hear from the representatives of the indigenous governments.

Fundamentally, this bill is about changing how the Government of Canada works so that the Government of Canada and Parliament can get their relationships lined up in the post-colonial structure not based on these Indian Act and other concepts that have constrained us. We need to keep the focus on what's happening here. This bill is an important piece of Canadian legislation that can help restructure things so that many of the disputes we're talking about that are roadblocks will be removed and will usher in a new era. No single bill will be perfect, but let's be really clear about what the bill does. It certainly doesn't deserve the kind of fearmongering that certainly we've heard about free, prior and informed consent.

**National Chief Perry Bellegarde:** I would add that before governments try to build anything, they must first build the respectful relationship with the rights and title holders. That will prevent blockades and legal challenges. You'll find sustainable development projects going forward once that happens. That's the key: Joint decision-making, full involvement and inclusion of the rights and title holders, that's what this speaks to.

To me, that creates economic certainty. It creates provinces and territories that are ripe for investment. That's really good for the economy, and that's what we want to do, because first nations, again, are starting to strengthen equity ownership in major projects. They are moving beyond the impact benefit agreements and revenue-sharing things. We're looking at equity ownership, but in sustainable development, going forward. As long as the rights and title holders are fully involved with the different levels of government and industry, you'll find that good, sweet common ground. That's really what that speaks to.

**Mr. Adam van Koeverden:** Thank you, and we'll make sure the comments are in bold in the report.

**The Chair:** I want to thank all of our witnesses today. This has been a really valuable exercise, and we have a lot to think about. We also appreciate the documents, as I mentioned earlier, provided by Chief Bellegarde. Submitting those, and having them in front of us, will help us as we make our deliberations.

We will suspend briefly to arrange our next panel.

● (1210)

(Pause)

● (1215)

**The Chair:** We'll resume now as we have quorum.

By video conference, from the Inuit Tapiriit Kanatami, we have President Natan Obed, accompanied by Tania Monaghan, senior legal adviser.

President Obed, you have the floor for six minutes.

**Mr. Natan Obed (President, Inuit Tapiriit Kanatami):** Thank you so much, Chair.

It is very good to be here with you all this morning for such an important topic. I believe you have the submission we sent along yesterday.

I am the president of Inuit Tapiriit Kanatami, the national representational organization for Canada's 65,000 Inuit. We live primarily in Inuit Nunangat. Our homeland spans approximately 35% of Canada's land mass and approximately 75% to 80% of Canada's coastline. We have been instrumental in protecting Canada's sovereignty in the Canadian Arctic. We have signed modern treaties, or land claim agreements, with the Government of Canada, and we do not fall under the Indian Act.

We have had many colonial experiences that are consistent with the treatment of first nations and Métis. We have many things that are unique about our relationship with Canada and our relationship with the provinces and territories in the ongoing colonization and, now, in the ongoing reconciliation process in this country.

Inuit Tapiriit Kanatami welcomes Bill C-15 as a promising opportunity to close legislative and policy gaps that contribute to human rights violations against the Inuit, as well as for preventing discrimination and providing recourse and remedy for human rights violations experienced by our people.

ITK worked positively and constructively with the federal government on the development of Bill C-15 within a relatively short time frame for legislative development and within the parameters of the government's legislative mandate. Recognizing these limiting factors, Bill C-15 should be further strengthened by amending it to include provisions that enable the creation of an independent indigenous human rights commission. We liken this to having something that is very good and making it even better. The amendments that we have tabled are improvements upon our already positive support for Bill C-15, as we had already provided support for it upon first reading it.

Federal legislation is necessary to implement the UN declaration in Canada. While many articles of the UN declaration are already recognized as binding rules of customary international law, affirmation of the UN declaration in domestic statutes provides additional guidance on the legal effort of the rights affirmed by the UN declaration. In the absence of legislation, indigenous peoples are likely to continue to seek implementation of the UN declaration in courts and in administrative tribunals.

The UN declaration fills the gap that previously existed in the international human rights regime as an instrument that promotes and protects the distinct status and rights of indigenous peoples. The adoption of the UN declaration by the UN General Assembly curbed attempts by traditional international law to subsume indigenous peoples and entrench a colonial view of indigenous nations, peoples and communities. After 25 years of dialogue and negotiation between indigenous peoples and member states, the international community managed to finalize every article affirmed in the UN declaration.

Human rights experts associated with the UN recognized this gap in the human rights regime. Indigenous peoples worked to create political pressure to respond to the alarming and urgent human rights violations facing Inuit in the Arctic and indigenous peoples elsewhere in the world.

In this regard, it must be noted that Inuit representatives prioritized this work through the Inuit Circumpolar Council. Representatives of the Inuit Circumpolar Council worked, from 1982 until the UN declaration in 2007, as leaders in a global indigenous movement for the UN to consider and ultimately adopt the UN declaration. We were motivated by the need to develop a human rights framework that safeguards our people and the integrity of our communities.

It's important to note that the rights affirmed in the UN declaration are not new rights; rather, they are rights that have been recognized in domestic law in numerous countries across the globe and in international law. The outcome of the UN declaration provides the distinct cultural context of indigenous peoples, both as individuals and as collectives, with important economic, social, cultural, spiritual, gendered and political rights that are responsive to our distinct status and rights as indigenous peoples.

● (1220)

Bill C-15, as you see before you, is very focused on two particular concepts: one, the alignment of laws and policies within this country with the UN declaration; and two, the creation of an action plan. We do hope we can focus this conversation and ensure that everyone who's reviewing it and everyone who considers it sees this as filling a gap in our human rights review, in the Canadian domestic human rights regime. Indigenous peoples' rights are human rights. This is a class of human rights that needs this particular legislation, and we do hope that Canadians accept the rights of indigenous peoples as human rights in this country.

*Nakurmiik*. Thank you.

**The Chair:** Thank you very much, Mr. Obed.

The first round of six-minute questions goes to Mr. Viersen, Mr. van Koeverden, Ms. Gill and Ms. Gazan.

Mr. Viersen.

**Mr. Arnold Viersen:** Thank you, Mr. Chair.

Thank you to Mr. Obed for appearing today. We appreciate it when he shows up.

The crux of the bill is part four, the purpose of the act. There are two parts to that. It talks about affirming the declaration as a universal human rights instrument with application in Canadian law. The second is providing a framework for the Canadian government to implement that declaration. The Conservatives have no issue with the implementation of the declaration as a framework, as an aspirational document. We have an issue with the introduction into Canadian law of new concepts and new words that have not been tested by our courts.

As somebody who's worked on several private members' bills, I know the difference between the way I say things and the fact that, often, when the legislative drafters come back with it, I have to ask why they have used a certain word, and they say it's because that word has been tested by the courts. They know what it means. The words I wanted to use haven't been tested by the courts, particularly around the idea of free, prior and informed consent. That terminology sounds a lot like the duty to consult, but it is different terminology, and we haven't tested it in the courts.

I'm wondering, Mr. Obed, if you'd be interested in commenting on the application of the instrument in Canadian law. From my perspective, will that not introduce new terms and concepts that have not been tested in court and will lead to more court challenges and court decisions that will have to be hard fought and hard won in the future, particularly around large energy projects or large infrastructure projects?

**Mr. Natan Obed:** Thank you for the question. It's great to see you as well.

In our journey, Inuit have tried to work productively with Canada and with the provinces and territories where Inuit live since we were forced to. We have made many constructive arrangements with the Government of Canada through land claim agreements and other mechanisms that allow for our human rights to be respected, but that also allow for natural resource extraction, education or government administration to happen in a way that is consistent with the international human rights regime.

Yes, there is still a reckoning for Canada and this bill is a part of it. It's one of the main reasons this is so important. It's so that Canadians will understand and recognize that there is still work to do to respect indigenous peoples' human rights and that there are classes of Canadians who do not have the same access to recourse and remedy for violations of human rights as other Canadians.

There's been a lot of conversation back and forth around the risks associated with the adoption of this particular piece of legislation for particular sectors. I'll echo some of the statements that were made in previous sessions, where a stronger foundation of respect for indigenous peoples' human rights leads to a stronger economy and a stronger foundation. Any corporation that wishes to work with indigenous peoples or on indigenous peoples' lands will be in a place to be more prosperous, not less.

That said, Inuit, in relation to first nations and Métis, have much more clarity around a number of these foundational steps. Our land claim agreements should be upheld and seen as ways in which the rest of the country can work with first nations and Métis, especially in resource extraction, in governance or in relationships with government.

● (1225)

**Mr. Arnold Viersen:** Thank you.

Again, I'm tripping over the difference between free, prior and informed consent and the duty to consult. Those questions have been quite answered in Nunavut, for example. Would it not be more helpful to maybe have that in the clarification part of this bill, where we just say that, for greater clarity, free, prior and informed consent and duty to consult are equivalent terms?

**The Chair:** You have 30 seconds.

**Mr. Natan Obed:** Yes.

Again, the UN declaration is an amalgamation of existing human rights that indigenous peoples have. The interpretation of an international instrument is another thing. Whether Canada likes it or not, indigenous peoples globally have the right to free, prior and informed consent. I think that's the most important concept here.

**The Chair:** Thank you very much, Mr. Obed.

We go to Mr. van Koeverden for six minutes.

**Mr. Adam van Koeverden:** Thank you very much, Mr. Chair.

Hi, Mr. Obed, and Ms. Monaghan. Thank you very much for joining us today. It's lovely to have you with us.

In place of an acknowledgement, I just want to acknowledge the tremendous impact the Inuit invention of the kayak had on my life. There's no single thing that has provided my life with more purpose. That's because the Inuit invented something that I've enjoyed for my whole life. *Nakurmiik* for that.

There are a couple of big, fundamental issues some members of this committee have really struggled with developing any sort of consensus around. In the previous hour, we heard from Chief Bellegarde and others about the lack of ambiguity between the terms “free, prior and informed consent” and “veto” and others. Another large stumbling block that my colleague indicated we seem to be tripping over is the acknowledgement of systemic racism, solutions for systemic racism and some of the things that systemic racism has led to.

In previous visits to this committee, Mr. Obed, you've talked about systemic racism having a significant impact on poverty and the injustice in Inuit Nunangat. I know this bill and the UNDRIP won't solve all of those problems, but I would love to hear from you on ways that you can imagine UNDRIP getting us a little bit closer to that mutual ambition of a far less racist Canada that will provide more economic and social mobility and greater human rights to all Inuit.

● (1230)

**Mr. Natan Obed:** Thank you for the question. It's great to see you as well, Adam.

I can't help but think right away about the link between free, prior and informed consent and education or language. It isn't just natural resource extraction that we're talking about and which indigenous peoples have the right to.

Think about how in this country there are places where there is a society with a dominant language that is not English or French, with land claim agreements and with relationships with the Government of Canada, but no recognition of Inuktitut, our language, as an official language of our homeland by the federal government. We're not talking about a few people here and there who have somehow managed to maintain an indigenous language. We're talking about entire regions of Inuit Nunangat whose dominant language is Inuktitut: the language on the streets, the language in the house.

This country still does not recognize and do what it has to in order to uphold our linguistic rights in the education context, the workplace context and the administration of services. These are the types of things that over time the UNDRIP legislation, hopefully, will allow us to address more substantially than we have in the past. We went through five years of indigenous language legislation conversations, and ultimately Canada could not find a way to figure out how to uphold our indigenous linguistic rights in our homeland.

This type of legislation will allow for a greater foundation to have those conversations and to demand, especially at the federal level, that the recognition of our existing human rights include the recognition of our rights to use our language in our communities and also in the way in which we interact with the federal government.

**Mr. Adam van Koeverden:** Thank you.

Ms. Monaghan, would you care to comment at all on any of the legal matters that may be specific to Inuit Nunangat and Bill C-15 that we may have missed from the AFN? I'm not a lawyer, so I can't really ask you an appropriate question, but I would ask for your insight.

**Ms. Tania Monaghan (Senior Legal Advisor, Inuit Tapiriit Kanatami):** Thanks for including me in the questioning.

I think what is an important point to make from an ITK perspective is that we've already looked towards what work we can do in terms of identifying Inuit priorities throughout the implementation of the UN declaration.

Seeing royal assent for this bill is a really critical step in advancing that work, but through the Inuit-Crown partnership committee, we've already prioritized the advancement of this work and the early identification of Inuit priorities in the information forming the action plan itself. We're also looking at how we can take article-by-article implementation moving forward should this bill advance and receive royal assent.

We're already looking forward to moving that work forward and hope to be able to see this work advance. Inuit priorities are a large part of the inclusion of the implementation, of course, in taking a distinctions-based approach.

Thank you.

**Mr. Adam van Koeverden:** Thank you.

**The Chair:** You're down to 10 seconds.

**Mr. Adam van Koeverden:** I'll concede.

**The Chair:** Thanks very much.

We move on to Madame Gill for six minutes.

[*Translation*]

**Mrs. Marilène Gill:** Thank you, Mr. Chair.

My thanks to Mr. Obed and Ms. Monaghan for joining us today. We are very grateful to them.

In his remarks, Mr. Obed mentioned independent indigenous commissions. That is an amendment that the association has requested on a number of occasions.

Could you tell us more about it, please?

● (1235)

[*English*]

**Mr. Natan Obed:** Thank you for the question. I will start on a conceptual level and then I'll allow Tania to speak specifically to some of the considerations within the proposed amendment.

The legislation as it stands is quite broad. The creation of an action plan has great potential, but it also is so broad that it doesn't necessarily give us the confidence that an action plan alone will allow for recourse or allow for remedy to happen in places where indigenous peoples' human rights or classes of human rights for indigenous peoples have been violated in this country.

There's an existing human rights regime in this country, but I think we can all agree that historically it has done a very poor job of hearing, understanding and then ruling on indigenous peoples' human rights violations. The ability of this bill to change the landscape in this country for indigenous peoples is largely dependent upon the ability of an individual indigenous person or a group of indigenous peoples to find a way to have recourse for active violations of human rights. This particular commission that we have been lobbying for since 2017 would aid and abet that particular process to ensure that Canada actually does change and that there is a place where indigenous peoples can go other than the existing human rights tribunals that would have expertise within this particular area or field, and would allow for meaningful solutions to the outstanding challenges we have around human rights violations against indigenous peoples.

Tania, would you like to add any comments?

**Ms. Tania Monaghan:** Sure. Maybe I'll begin by noting that the ITK board of directors met recently and passed a resolution to unanimously support the passage of Bill C-15, noting, as President Obed remarked in his opening statement, the interest in seeking some improvements or strengthening the particular section of the bill in order to advance this commission's concept that's been a long-standing position of ITK. In the written brief that's been circulated in both languages to the committee for consideration, at page 4 there's a lengthy section of proposed amendments that really delve into the concept further.

The proposal to strike paragraph 6(2)(b) is really just in the interest of carving out a space where this would realistically fall within the current structure of the bill. There's an interest of course in acknowledging the establishment of the indigenous human rights commission as well as in laying out some interest in content regarding how the strategy could be approached to develop this further, including of course familiar language and other legislative mechanisms, associated time limits, advisory committees, and taking a distinctions-based approach similar to what we've seen in the Indigenous Languages Act, and considering the appointment of commissioners.

I'll end there. Thank you.

[*Translation*]

**Mrs. Marilène Gill:** Thank you, Mr. Obed and Ms. Monaghan.

I'd like to ask you very generally about your wishes. You have proposed a series of amendments. What are your priorities in terms of Bill C-15, apart from having it passed?

I'd also like to hear your thoughts about the action plan. Do you want the plan that will follow when the bill is passed to be prepared more quickly?

[*English*]

**Mr. Natan Obed:** It is incredibly important for Canada to recognize and affirm the UN declaration and to make its first attempt to harmonize Canadian law with the provisions within the UN declaration. It's a massive undertaking, and this legislation really just scratches the surface of that. If you look at it from an obligation perspective, the obligations in real terms are really the creation of the action plan and then the tabling of the action plan in the House of Commons.

Even though this is a tremendous undertaking, it really comes down to goodwill across a number of different priority areas. We would love to have that goodwill. That starts with the passage of the legislation and then it rolls through to the co-development of the action plan. We will get to the content pieces as they are presented to us, but, yes, this is a new relationship, if you will.

● (1240)

**The Chair:** Thank you very much.

Ms. Gazan, please go ahead for six minutes.

**Ms. Leah Gazan:** Thank you so much, Mr. Chair.

My first question is for President Obed and Madam Monaghan.

What impact, if any, would Bill C-15 have on Inuit communities, some of whom have signed on to modern treaties?

**Mr. Natan Obed:** In many cases, Inuit are ahead of the curve when it comes to the signing and implementation of modern treaties. That said, there are still outstanding human rights violations that affect Inuit as well as first nations and Métis. I don't need to look much further than the national inquiry on murdered and missing indigenous women and girls, whose final report and calls for justice give examples of the human rights gap that exists between other Canadians and Inuit women in Inuit Nunangat and in Canada, who face challenges and rights violations.

Land claims didn't solve everything. They really focused on land transaction and security on both sides, but mostly, for the federal government, on land title and then a new relationship in the way of development and in governance. Land claims didn't really solve the challenges relating to health care, education or just broad human rights challenges that Inuit face relating to racism.

This piece of legislation and the the implementation of an action plan would truly fill in those gaps where we have strong foundations in our modern treaties, but we also have huge gaps, especially social gaps, that weren't covered in those treaties and are still outstanding today.

**Ms. Leah Gazan:** Maybe I'll give time to Madam Monaghan to respond quickly as well. Then I have one other question.

**Ms. Tania Monaghan:** Just quickly, I'll jump in on land claims implementation and some of the social inequities that President Obed referenced. Throughout the work of the Inuit-Crown partnership, there are 10 priority areas that have been identified. A recent one is, of course, what I referenced earlier, the legislative priority section dedicated towards looking at the implementation of the U.N. declaration and ultimately, hopefully, through this particular bill being passed into law. Through that process we do see the interest in advancing some of the areas where we've seen some delay, maybe some interest in having a different approach, identifying policy gaps, looking to implement policy and work in response to Inuit priorities identified through the land claim regions and through ITK in order to see the full implementation of the bill.

We utilize the Inuit-Crown partnership as a forum at the leadership and senior officials levels to ensure that there is transformative change and a whole-of-government approach in the way that the inequities and challenges facing the Inuit are addressed.

We see the opportunity here as a building block that's also intersectioned across all of the 10 priority areas through that particular forum. We're hopeful, of course. At the core of that is the struggle with some of the issues through land claims implementation and the ability for the bill and that particular process to right certain wrongs that have been at the top of the experience for Inuit lately.

Thank you.

● (1245)

**Ms. Leah Gazan:** I have one follow-up question. One of the suggestions we've heard at this committee time and time again by the Conservatives, as certainly repeated again by my colleague Mr. Viersen, is to incorporate a definition of FPIC into Bill C-15. I believe it would be somewhat dangerous to have one definition for all situations in Canada, given our very diverse political and legal contracts, modern treaties, treaties 1 to 11 and unceded territories.

I was wondering if you could comment on that.

**Mr. Natan Obed:** Thanks.

The UN declaration is more than just one particular paragraph. Free, prior and informed consent is really a small part of a much larger picture of the recognition of indigenous peoples' human rights.

It's unfortunate that some political parties or some individual Canadians have decided to fight indigenous peoples' human rights and the assertion and implementation of our rights through this particular mechanism. I find that it has no merit. I also do not agree that we should take any one provision of the declaration and define it within a Canadian domestic construct within a legislation that is meaning to do something very different. So that's—

**The Chair:** We're at time.

To get the next round of questions in completely, we'll need to extend the meeting, and I need a motion for that.

Ms. Gazan, would you move that we extend the meeting?

**Ms. Leah Gazan:** I move for an extension.

**The Chair:** All in favour?

(Motion agreed to)

**The Chair:** Thank you very much.

We will go now to our five-minute round. I have Mr. Vidal, Ms. Zann, Ms. Gill, Ms. Gazan, Mr. Schmale and one other.

Gary Vidal, please go ahead for five minutes.

**Mr. Jamie Schmale:** Actually, Chair, I'm going to take Gary's spot.

**The Chair:** Go ahead.

**Mr. Jamie Schmale:** Thank you, Chair.

Thank you, witnesses.

I want to continue with the conversation we were just having that Ms. Gazan brought up.

We, as legislators, have to examine every piece of legislation—not every piece of legislation is perfect—and we have to vote yes or no on the words of the legislation.

We have seen many organizations come forward that are concerned about the lack of a definition of FPIC.

Mr. Obed, I want to clarify—and I appreciate your comments—whether the ITK is satisfied that if Bill C-15 were to pass, it would meet the UNDRIP requirement found in article 19?

**Mr. Natan Obed:** I'm sorry. Is that under UNDRIP article 19 or a particular piece of domestic legislation?

Could you clarify the question, please?

**Mr. Jamie Schmale:** Under article 19 of the UN Declaration on the Rights of Indigenous Peoples, it says that "States shall consult and cooperate in good faith with... indigenous peoples" and "to obtain their free, prior and informed consent before adopting and implementing [laws] that may affect them."

I guess what I'm asking is whether it is possible that Bill C-15 can move forward without doing that consultation ahead of the passage of the bill.

**Mr. Natan Obed:** There was a co-development phase of the legislation, which included the Assembly of First Nations, the Métis National Council and the Inuit Tapiriit Kanatami. We, on our part, have worked through our Inuit Tapiriit Kanatami board of directors. Those four presidents who sit as our voting members are presidents of the four Inuit land claim agreement regions and are elected by each of their constituencies. They have the confidence of their particular people, and then in turn direct Inuit Tapiriit Kanatami to have national positions.

Tania Monaghan referenced the passage of a resolution last week supporting Bill C-15. There are also, on a concurrent path, consultation sessions that the Government of Canada had with Inuit in relation to this bill.

It is for each of the indigenous peoples of this country to answer that question for their respective peoples. For Inuit, we have a democratic process that has led to the support of this bill.

There has been a federal consultative process, which happens in every single piece of legislation. That is not exhaustive to every Canadian, but it attempts to understand and adhere and incorporate the views of individual Canadians, as well as the positions of representatives of Canadians.

I believe, for Inuit, this has been met and the legislation should proceed, but I cannot speak for first nations or Métis.

● (1250)

**Mr. Jamie Schmale:** Okay.

Would it be fair to say that all Inuit communities have been consulted?

**Mr. Natan Obed:** No, I don't think that's a fair statement. The consultation process by the federal government is not exhaustive for any piece of legislation at any time, just like the positions of individual Inuks will never be unanimous on any one issue.

I think it's interesting that we are still at a place in this country where Canadians choose whether or not to believe indigenous peoples have self-determination based on whether or not it suits their interests.

I have just outlined a democratic process. I've also outlined the Canadian government's democratic process to pass legislation. By the terms that you're presenting, I don't think that any piece of legislation would ever pass in this country.

**Mr. Jamie Schmale:** That's exactly why we're trying to get a definition of "free, prior and informed consent". I think if we have to do our work here in the committee process, in the legislative process, and if we don't do that, it would leave a lot of unanswered questions and, potentially, for the courts to decide on that definition if we aren't doing everything we can in this forum in the legislative branch.

We have put forward many arguments from indigenous communities that have raised concerns about this process and the fact that there isn't a definition, and it isn't clear, and the lack of certainty.

We've heard from organizations that are saying this could hamper development going forward. It can significantly increase the risk factor for major projects. This is why it's so important.

Look, we support the spirit of the legislation. We just want to ensure that we do our work here so that there is certainty going forward and so that the courts aren't determining this five, 10, or 15 years from now, continuing to hold up this process.

**The Chair:** We're at the time.

Perhaps a response can come in the next rounds of questioners.

We go now for a five-minute question period with Ms. Zann.

**Ms. Lenore Zann (Cumberland—Colchester, Lib.):** Thank you, Mr. Chair.

Thank you to the witnesses for being here.

I have to say that time is of the essence, and I do believe that we've been waiting too long and need to move on with this. We've heard from many different witnesses who have said that this will actually help decide projects going forward and take away some of that uncertainty, so I am of the mind that we need to move on with it.

I want to ask Mr. Obed this. In addition to the specific Truth and Reconciliation Commission's calls to action 43 and 44, which call on government to fully adopt and implement the declaration and develop an action plan to achieve its goals, the declaration is also referenced throughout the calls to action and in the final report of the national inquiry into missing women and girls.

Can you expand on why you think that the Truth and Reconciliation Commission and the national inquiry both emphasize the declaration as such a key part of reconciliation, and also offer your own views on how this could help prevent the blight of racist, misogynistic violence and femicide of indigenous women and girls?

● (1255)

**Mr. Natan Obed:** The Royal Commission on Aboriginal Peoples, the Truth and Reconciliation Commission, and then the National Inquiry into Missing and Murdered Indigenous Women and Girls all had different mandates. They all had different reasons for being. At the heart of it was human rights, and the violation of human rights of a specific group of people in Canada. It happened to be first nations, Inuit and Métis in all three cases.

The findings are then consistent in that human rights are being violated today. It is a necessity for the Government of Canada and for Canadians to understand this reality and address it. The UN declaration is a very powerful tool in an international human rights context. It is one of many tools that not only the commissioners of the MMIWG and all of the witnesses who brought forward testimony during that process talked about, but also something that through the Truth and Reconciliation Commission became such a massive part of the reckoning of the residential school experience. It was the unbelievable human rights violations that took place over the course of 100 years in this country, in communities across southern Canada. These are communities that you probably lived in—"you" being committee members.

We have the ability now to set a new course, and the ability to affirm human rights, instead of violating them. We have the ability to do better as a country, and to respect first nations, Inuit, and Métis women and girls, instead of putting them at risk for genocide.

These are the things we can do today. This bill allows for this movement to push forward rather than the status quo of the past, which has done so much harm, but which has been encapsulated by so much thoughtful work over the past 20 years with so many tears through the witnesses and the people who lived through this and continue to live through this today.

Their voices need to be heard. This is one of the ways the Government of Canada can say, "Yes, we have heard you, this country does need change, and this international human rights instrument needs to be fully implemented in this country."

**Ms. Lenore Zann:** I have heard you, and I hear you.

You've also indicated ITK's position regarding Bill C-15. You stated that it would be strengthened if it were amended to include the establishment of an indigenous human rights commission.

Could you expand on why that is so important? Can we hear your thoughts about others who have said that the development of the action plan could be used to explore this establishment instead?

**Mr. Natan Obed:** The commission is filling an implementation gap. It is a mechanism to allow for the greatest possible implementation of this legislation. It is merely meant to be an aid. I would hope that committee members would read it, and imagine that this particular commission would help do the best possible job of implementing the spirit and intent of the bill.

**The Chair:** Thank you, Mr. Obed.

[*Translation*]

Mrs. Gill, you have the floor for two and a half minutes.

**Mrs. Marilène Gill:** Thank you, Mr. Chair.

At recent meetings of the committee, some people have indicated that it would be good to include women in the preamble. In fact, I heard Mr. Obed talk about that just now.

Do you believe it will be a plus to make reference to women in the preamble of the bill?

● (1300)

[*English*]

**Mr. Natan Obed:** As somebody who is in the co-development process, perhaps Tania could address that. I'm supportive of any language that recognizes the importance of women and girls in this particular process.

Tania.

**Ms. Tania Monaghan:** In terms of the co-development process that President Obed referenced, ITK had an interest and a position to ensure there was inclusion of that in the implementation of the final inquiry report and the calls for justice. It is a particular priority of ITK to make references specific to women, and addressing issues that have significantly impacted indigenous women and girls, and also inter-related family violence with indigenous men and boys. Any inclusion of references to these to strengthen the bill would be a positive change.

[*Translation*]

**Mrs. Marilène Gill:** Thank you, Mr. Obed and Ms. Monaghan.

By way of closing, I would like to find out your main fears about the bill. Are there items that are not included, either in the form of amendments, changes or any of your own ideas?

[*English*]

**Mr. Natan Obed:** We've listened closely to not only Inuit perspectives but also Canadian perspectives on this piece of legislation. We've also listened to ministers and governments speak about indigenous people's rights and what may happen with the adoption or passage of Bill C-15.

I think there is sometimes an overstatement of what this bill actually will do, especially on day one. Industry's fears about natural resource extraction, I think, are a strange bogeyman that exists, but it is of less concern to me when it comes to the implementation of this bill than it would be to how to use the provisions in the bill to get the change that we all believe and want. We desperately need the bill to pass, but we also need it to be strengthened.

**The Chair:** Thank you very much.

Ms. Gazan, you have two and a half minutes.

**Ms. Leah Gazan:** Thank you, Mr. Chair.

In addition to the Conservatives holding indigenous peoples and people to a higher standard of democracy than we even see in colonial electoral systems, I want to go back to this question again.

Madam Monaghan, one of the suggestions we've heard at this committee from the Conservatives, as repeated by Mr. Viersen, is that we need to incorporate a definition of FPIC into Bill C-15. I think it would be somewhat dangerous to have a single definition for all situations in Canada, given our diverse legal and political context with modern treaties, numbered treaties and unceded territories.

Could you please provide your thoughts on that?

Thank you.

**Ms. Tania Monaghan:** I think of your question in light of how we came here prepared to discuss proposed amendments for the inclusion of the indigenous human rights commission, and part of the intention behind the language that's before you I'll lean on to answer your question in relation to defining FPIC in the bill.

We see it as problematic. It's not providing the space and the time for consultation and dialogue between each of the distinctions-based groups. There are very distinct and unique circumstances and relationships with the Crown between all three—first nations, Inuit and Métis—so we simply do not foresee an ability to include such detailed language or definitions to confine and to create limitations on what could be discussed, elaborated on and interpreted moving down the line.

I know that I'm leaning back into the proposed amendments that we're seeking, but there was an interest to have a broader approach there that I think would also be the response to the question of having an FPIC definition. It's just simply not a good way to respect the distinct nature of each group and also to rely on the information and the dialogue consultation necessary with rights holders and other interested groups.

Thank you.

● (1305)

**The Chair:** Thanks very much.

Mr. Vidal, do I have you for our next question?

**Mr. Gary Vidal:** I think you do, Mr. Chair. Thank you so much.

I'm working in a five-minute slot, right? Thank you.

President Obed, I want to just talk briefly about the action plan for a couple of minutes and give you an opportunity to respond to that. Many of the witnesses we've heard, many of the people that I've talked to, have expressed a desire to pursue that action plan in the context of removing some of the uncertainty and being able to provide clarity on some of the questions that people on all sides of this debate are asking.

I think back to when you appeared as a witness on the oath that we talked about. You talked about a lot of the work that had been done ahead of time and how it should have been pretty easy to move from the oath to the actual booklet and information that was to be provided to new citizens.

In the context of the action plan, we've heard people talking about a wasted three years with what happened after Bill C-262 until now. I'd be curious as to your perspective on whether that time was maybe lost when we could have been developing the action plan and getting a bunch of the frameworks in place, kind of rolling up our sleeves and doing the hard work that could have been done to remove some of the uncertainty and to bring clarity on many of the questions that people are asking about this piece of legislation.

**Mr. Natan Obed:** Our position doesn't include specific revisions to the timeline, but I think the points you raise are very well taken. Government does need time, but it certainly seems, in all of the processes that I've been involved in or am privy to, that it's always a rush at the end. Many times, a three-year window ends up being a six-month work plan. Whether it's a piece of legislation or a specific amendment to a program, government is famous for not doing things unless it is under a very strict timeline, and I'm talking about any department at any time.

If the time frame is moved and is moved closer, that also, hopefully, would indicate goodwill and the ability to see this as the priority that it is.

**Mr. Gary Vidal:** Thank you for that.

I want to pursue that discussion maybe just a little further with Ms. Monaghan, the senior legal adviser. We just heard the president say that if everything gets left to the end, we end up rushing at the end. I'm an accountant, not a lawyer, but I can assure you that when I'm rushing things at the end, there's a greater risk of me not getting it right, so to speak.

I'm curious. From a legal perspective, do you have some thoughts on the fact that when we rush all of it at the end, when we try to ram it through at the end, there's a risk of not getting it right and not getting the consultation process right?

**Ms. Tania Monaghan:** I can only speak to the process for Inuit as part of ITK. As I referenced earlier, with the connection through the Inuit-Crown partnership committee, we've already slotted space to prioritize this particular work through this relationship and these priority areas specifically under legislative priorities, working towards the identification of Inuit priorities to implement the UN declaration and identify priorities as they will be framed in the action plan.

We also have an opening and an obligation to look towards the strategic work plan as part of this Inuit-Crown partnership. For Inuit, we see that space as the ability to ensure that Inuit priorities are front and centre and that there's an ability through that process, which is inclusive of not just ITK but also the four Inuit land claim regions as well as representation from Pauktuutit Inuit Women of Canada and the Inuit Circumpolar Council of Canada.

Through that particular forum, we see the opportunity to not just roll our sleeves up and get the work done, but also to ensure that we keep our federal counterparts accountable. Through the structure and governance of the committee, we have an ability to do those check-ins throughout the year, should it be two or three years. That's how we hope to ensure that Inuit priorities are accounted for. However, we can't speak to the other groups and the complexities that some are facing.

● (1310)

**The Chair:** Thanks, Ms. Monaghan.

Our final questioner is Marcus Powlowski for five minutes.

**Mr. Marcus Powlowski (Thunder Bay—Rainy River, Lib.):** International agreements have to be incorporated into domestic law to be legally binding in the country. With this legislation, that's what we're doing with UNDRIP.

We're not the first country that has done this. My understanding is that a number of other countries have in some way or other incorporated UNDRIP into domestic legislation.

The Conservatives are quite concerned about the legal interpretation of "free, prior and informed consent". My understanding is that when the courts look to interpret such terms, they look to international agreements to inform their interpretation, and perhaps to what other courts in other countries have done when interpreting those provisions.

Given that I don't think we're the first jurisdiction to be doing this, can I ask you what the interpretation of those provisions has been in other jurisdictions? Does it mean a veto?

**Mr. Natan Obed:** The term "veto" does not appear within the provisions of UNDRIP, especially in regard to free, prior and informed consent. It is very clear, and it is an international instrument, just like conventions such as the UN charter.

It's fascinating to me that somehow, for indigenous peoples, all of a sudden the rules of engagement from a domestic Canadian perspective to an international community are out the window. We don't have these conversations in regard to the UN charter. We also don't have them concerning the rights of children or rights under many different conventions attempting to allow for human rights to be expressed and enjoyed globally. Somehow, with indigenous people, this doesn't seem to be acceptable, and that is really frustrating.

For the interpretation globally with respect to free, prior and informed consent, we have great examples of nation states that have recognized this concept. We also have many nation states that have not and that have violated indigenous peoples' human rights and have not allowed for free, prior and informed consent.

I hope that Canada wishes to be among the former and wants to uphold indigenous peoples' human rights and the rights that all peoples have.

Free, prior and informed consent, really, is an international concept. It isn't exclusive to indigenous peoples. The democratic processes that are put in place by nation states to allow these rights to exist and for people to exercise them is what is happening here today in real time. I hope that people can appreciate that.

● (1315)

**Mr. Marcus Powlowski:** Ms. Monaghan, do you want to add anything? I don't think I have much time to ask another question.

**Ms. Tania Monaghan:** I believe that President Obed summed up. I take his response and position on your particular question.

Thank you.

**Mr. Marcus Powlowski:** How much time do I have, Mr. Chair?

**The Chair:** You have 30 seconds,

**Mr. Marcus Powlowski:** I have to throw out a question that you're not going to be able to answer in 30 seconds.

Does the Inuit position, from the historical experience of the Inuit in Canada, differ significantly from the first nations' position with respect to UNDRIP?

**Mr. Natan Obed:** Inuit Tapiriit Kanatami has not necessarily been in the same rooms as first nations and Métis in the last 10 to 15 years when it comes to UNDRIP legislation in Canada. We have had our positions all the way through. They may have been slightly different from those of first nations or Métis. In the development of the declaration itself, however, Inuit worked very closely with first nations and Métis domestically and internationally and then also with the global indigenous community. We thus really did feel as though we were part of the global effort to create the declaration.

**The Chair:** Thank you very much for that.

Thank you so much, again, witnesses. This has been a remarkable session, I think, for all of us on the committee. I believe we're honestly working hard toward a resolution of these things. In the meantime, we'll be meeting again on Thursday on this very topic.

This committee is now adjourned.