

FORMAL INDICTMENT



CROWN LAND, **PRIVATE PROFIT,** COLONIAL CONTROL

A systematic indictment of the Government of Canada under Prime Minister Mark Carney for the continued dispossession of Indigenous peoples, the weaponization of the Indian Act, and the subordination of Aboriginal title to corporate extraction on stolen territories.

PRESENTED BY THE NATIONAL INDIGENOUS LAW CENTER
AND THE NATIONAL INDIAN ACT COUNCIL

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EXECUTIVE SUMMARY

This document constitutes a formal indictment of the Government of Canada, led by Prime Minister Mark Carney, for its systematic prioritization of private corporate profit over the inherent, constitutional, and internationally recognized rights of Indigenous peoples to their traditional territories. It details a pattern of legislative aggression, regulatory capture, and colonial continuity that masquerades as "reconciliation" while deepening the structural violence of land dispossession.

89%

OF CANADIAN LAND CLAIMED AS
"CROWN LAND" WITHOUT INDIGENOUS
CONSENT

\$16.3B

ALBERTA NON-RENEWABLE RESOURCE
REVENUE ALONE (2025-26), LARGELY
FROM INDIGENOUS TERRITORIES

1,300+

PENDING ADDITIONS TO RESERVE
APPLICATIONS, DELIBERATELY
BACKLOGGED BY OTTAWA

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GENUINE FREE, PRIOR, AND INFORMED
CONSENT MECHANISMS IN FEDERAL
LAW

THE CORE CHARGES

1. **The Building Canada Act (Bill C-5)** constitutes an unconstitutional power grab that pre-judges Indigenous consent, centralizes ministerial authority to override environmental and Indigenous rights laws, and fast-tracks resource extraction on unceded territories without free, prior, and informed consent (FPIC).
2. **The Indian Act** remains an active instrument of racial segregation, status erasure, and forced assimilation, with the government deliberately delaying Bill S-2 reforms while rushing corporate-enabling legislation through Parliament in 20 days.
3. **The Reserve System** functions as a system of territorial containment, deliberately underfunded and bureaucratically suffocated, while Crown land is leased, logged, mined, and drilled for private profit.

4. **Crown Land Management** systematically excludes Indigenous nations from decision-making over territories they have occupied since time immemorial, violating Section 35 of the Constitution Act, 1982, and the United Nations Declaration on the Rights of Indigenous Peoples (UNDRIP).

"It is clear their goal is to fast-track development in our territories, and eliminating red tape really means eliminating our rights. Our treaty is not red tape. Our rights are not red tape."

— GRAND CHIEF ALVIN FIDDLER, NISHNAWBE ASKI NATION

CHARGE I: THE BUILDING CANADA ACT — LEGISLATIVE AGGRESSION AGAINST INDIGENOUS TITLE

In June 2025, Prime Minister Mark Carney tabled Bill C-5, the *Building Canada Act*, as the centerpiece of his economic agenda. The legislation grants the federal cabinet sweeping authority to designate projects of "national interest," expedite their approval, and—critically—bypass or amend existing laws and regulations that might impede development. This is not regulatory reform. It is a direct assault on the constitutional and human rights of Indigenous peoples.

THE MECHANICS OF DISPOSSESSION

The Building Canada Act creates a centralized Major Project Office with the power to override the *Impact Assessment Act*, environmental safeguards, and—most egregiously—the Crown's duty to consult and accommodate Indigenous rights-holders. Section 22 of the bill explicitly empowers Cabinet to exempt specific projects from regulation. As legal scholars have noted, this "flies in the face of everything we know about responsible decision making."

Key Provisions of Bill C-5 That Violate Indigenous Rights

- **Pre-determination of "national interest":** The federal government effectively predetermines that economic benefit outweighs impact, refocusing regulatory process on "technical conditions and mitigation measures" rather than rights-based assessment.
- **No FPIC requirement:** Despite Canada's endorsement of UNDRIP in 2021, the Act contains no binding requirement for free, prior, and informed consent from affected Indigenous nations.
- **Cabinet override power:** Ministers can bypass or amend any existing law or regulation, granting enormous discretionary powers without democratic oversight.
- **Streamlined consultation:** The proposed "one-Crown consultation process" remains anchored in a Crown-dominated framework that prioritizes procedural consultation over genuine, consent-based decision-making.

INDIGENOUS OPPOSITION: DELIBERATELY IGNORED

The Assembly of First Nations (AFN) received a three-page backgrounder on the bill on May 23, 2025, with a demand for "immediate cooperation" on a seven-day deadline. National Chief Cindy Woodhouse Nepinak responded that the AFN "is not a one-stop shop for consultation or a rights holder," and that the Prime Minister was "failing to meet proper standards for consultation." Despite this, the bill passed the House of Commons on June 20, 2025, and the Senate by June 27—rammed through with Conservative support in under three weeks.

"This is the first time in 40 years that Canadian environmental assessment law has been written to serve political deals first and environmental responsibility second... This is not environmental assessment. It's a political playbook."

— ELIZABETH MAY, LEADER, GREEN PARTY OF CANADA

The contrast is instructive. While Bill C-5 was expedited through Parliament in 20 days, Bill S-2—legislation to end gender discrimination in the Indian Act—has been deliberately stalled. As Indigenous advocate Zoë Craig-Sparrow noted, the Liberals used "delays, lies and misrepresentation" to justify their slow pace on Indigenous rights legislation while moving at "lightning speed" to serve corporate interests.

CHARGE II: THE INDIAN ACT — AN INSTRUMENT OF ONGOING COLONIAL VIOLENCE

The Indian Act of 1876 is not a historical artifact. It is a living instrument of racial classification, territorial containment, and cultural genocide that the Government of Canada actively maintains, enforces, and weaponizes against First Nations peoples. Under Prime Minister Carney, this weaponization has not diminished—it has been reinforced through deliberate legislative delay and bureaucratic obstruction.

THE SECOND-GENERATION CUT-OFF: STATE-MANDATED STATUS ERASURE

Under the Indian Act, a First Nations person who has children with a non-status partner cannot pass on their status indefinitely. This "second-generation cut-off" is a mechanism of legislated extinction—designed to gradually eliminate the legal category of "Indian" and, with it, the Crown's treaty obligations. Bill S-2, drafted to comply with the B.C. Supreme Court's *Nicholas* ruling ordering Ottawa to restore Indian status to descendants of enfranchised peoples, has faced deliberate obstruction.

RED TEAM ANALYSIS: The government's claim that Bill S-2 requires extensive committee testimony is contradicted by its own behavior. The Building Canada Act—legislation affecting every major resource project on Indigenous territory—received minimal committee scrutiny and no meaningful Indigenous input. The differential treatment reveals the true hierarchy of government priorities: corporate profit over Indigenous personhood.

ENFRANCHISEMENT: THE FORCED SURRENDER OF IDENTITY

Historical enfranchisement policies required First Nations peoples to surrender their status—and with it, their community membership, treaty rights, and connection to their nations—in exchange for the nominal "privileges" of Canadian citizenship. The descendants of those who were forced or coerced into enfranchisement remain excluded from status today. The government's refusal to promptly remedy this ongoing discrimination is not bureaucratic caution; it is the active preservation of a system designed to legislate Indigenous peoples out of existence.

BLOOD QUANTUM AND THE POLITICS OF RACIAL PURITY

The Indian Act's status provisions operate on principles functionally indistinguishable from blood quantum laws used in other settler-colonial states. By progressively diluting status through intermarriage, the Act ensures that the number of "status Indians" declines over time, reducing the Crown's financial and legal obligations while leaving Indigenous nations with fewer recognized members to assert land and treaty rights. This is not accident. This is design.

"This is an issue of a violation of the charter and discrimination and forced assimilation in our Canadian laws. This is an egregious violation of our rights in this country, and I would think that that is something the prime minister would be paying urgent attention to."

— ZOË CRAIG-SPARROW, VICE-PRESIDENT, JUSTICE FOR GIRLS

CHARGE III: THE RESERVE SYSTEM —

APARTHEID BY ANOTHER NAME

The reserve system is frequently described in sanitized bureaucratic language—as "lands set aside for the use and benefit of First Nations." This description is a lie. The reserve system is a system of territorial apartheid: the forced concentration of Indigenous populations onto diminutive, resource-poor parcels of land while their original territories are exploited for private profit. It is the geographic architecture of Canadian colonialism, and it remains fully operational.

THE NUMBERS OF CONTAINMENT

INDICATOR	STATUS	SIGNIFICANCE
Reserve land as % of traditional territory	< 0.5%	Indigenous nations confined to less than half a percent of their original lands
Pending Additions to Reserve (ATR)	1,300+ applications	Years to decades of deliberate bureaucratic delay
Crown land available for extraction	89% of Canada	Controlled by federal/provincial governments for corporate leasing
Comprehensive Land Claims Policy	Active but contested	AFN calls it "inconsistent with Canadian and international law"

THE ADDITIONS TO RESERVE BACKLOG: BUREAUCRATIC STRANGULATION

The Additions to Reserve (ATR) process—through which First Nations can acquire additional land for housing, economic development, and cultural practice—is deliberately broken. There are over 1,300 pending ATR applications, with simple additions taking years and complex proposals taking decades. The AFN has explicitly rejected Canada's approach to ATR legislation, noting that the process lacks clear service standards, consistent tracking, and any effective mechanism to address provincial and municipal obstruction.

This is not administrative inefficiency. It is a structural barrier designed to prevent Indigenous nations

from expanding their land base while Crown land is freely allocated to mining, forestry, and energy corporations.

COMPREHENSIVE LAND CLAIMS: NEGOTIATING UNDER DURESS

The Comprehensive Land Claims Policy (CLCP) sets the federal government's approach to "modern treaties." The AFN has stated unequivocally that this policy "is inconsistent with Canadian and international law and is grounded in the denial of First Nations land rights." The Recognition of Indigenous Rights and Self-Determination (RIRSD) discussion tables, initiated in 2015 through a secret Cabinet mandate, lack transparency and impose strict confidentiality requirements that disadvantage First Nations while allowing federal negotiators to share information across tables.

"The vast majority of natural resource extraction is based on the leasing, permitting, and licensing of Crown Land... access to state corporations and private companies to build hydro and energy corridors, transportation infrastructure, and enable mining, forestry, and oil and gas development. They also alienate Indigenous peoples further from the land and water."

— YELLOWHEAD INSTITUTE, *LAND BACK: A RED PAPER*

CHARGE IV: CROWN LAND — THE EXTRACTION ECONOMY ON STOLEN TERRITORY

Eighty-nine percent of the land mass of Canada is classified as "Crown land"—a legal fiction that presumes the underlying title of the British Crown over territories that were never ceded, never surrendered, and never acquired through legitimate purchase from Indigenous nations. This presumption is the foundation of Canada's resource economy, and it is the mechanism by which Indigenous peoples are systematically excluded from the wealth generated on their own territories.

THE REVENUE MACHINE

\$17.1B

ALBERTA NON-RENEWABLE RESOURCE
REVENUE (2024-25) FROM CROWN LAND
EXTRACTION

\$12.0B

FEDERAL ENTERPRISE CROWN
CORPORATION REVENUES (2025-26),
MUCH FROM RESOURCE EXTRACTION

These figures represent only the direct government revenues. They do not capture the hundreds of billions in private corporate profits generated through mining, forestry, oil and gas, hydroelectric development, and infrastructure projects on territories where Indigenous nations hold unextinguished Aboriginal title and treaty rights. The Crown grants "user rights" to state corporations and private companies, collecting royalties and fees while Indigenous nations receive fractions—if anything—of the wealth extracted from their lands.

THE GITXAALA DECISION: COURTS ACKNOWLEDGE WHAT GOVERNMENTS DENY

In December 2025, the British Columbia Court of Appeal upheld the *Gitxaala* decision, ruling that the province's automatic online mineral claim registration system was inconsistent with UNDRIP because it granted mineral rights without any prior consultation with affected First Nations. The Court recognized that this system caused Indigenous peoples to "experience adverse physical impacts, including the loss of mineral rights and physical disturbances."

The provincial response? In April 2026, BC Premier David Eby proposed suspending sections of DRIPA (the Declaration on the Rights of Indigenous Peoples Act) for up to three years. His justification was revealing: instead of "eating the elephant one bite at a time," Eby complained, "the court has invited us to do it all at once, and that is just not possible." Translation: respecting Indigenous rights is inconvenient for the resource extraction timeline.

The "Free Entry" System: Colonial Land Grabs in the Digital Age

Canada's mineral tenure systems—across provinces and territories—were largely designed before modern consultation jurisprudence emerged. The "free entry" system allows prospectors to acquire mineral claims electronically, without any engagement with the Indigenous nations whose territories are being claimed. The *Gitxaala* decision signals that this system is legally indefensible, yet governments across Canada continue to resist reform because it threatens the speed and profitability of resource extraction.

THE CONSULTATION CHARADE

Canadian courts have established that the Crown has a "duty to consult" Indigenous peoples when contemplating actions that might affect Aboriginal rights. But as the Supreme Court held in *Haida Nation*, the Crown is *not* required to reach agreement—only to demonstrate a commitment to a "meaningful consultation process conducted in good faith." This procedural framework grants the Crown final decision-making authority while Indigenous peoples lack the power to veto development projects that infringe upon their rights and title.

The result? "Consultation" has become a box-checking exercise. Environmental assessments begin only after mineral claims or land dispositions have already been granted. Indigenous input is sought after the fundamental decisions have been made. As one analysis put it, "Current processes governing mineral resources and project development operate within Crown-controlled systems... which typically involve minimal Indigenous input and offer no decision-making power to Indigenous communities."

CHARGE V: MARK CARNEY — THE BANKER'S RECONCILIATION

Prime Minister Mark Carney came to office promising to "build Canada" and defend the economy against external threats. What he has built instead is a legislative architecture that accelerates resource extraction on Indigenous territories while systematically denying Indigenous nations the rights, resources, and respect required for genuine self-determination. His is a reconciliation of convenience—rhetorical gestures toward partnership paired with structural aggression against Indigenous title.

THE TIMELINE OF BETRAYAL

MAY 2025

AFN receives three-page backgrounder on Bill C-5 with seven-day deadline for input. National Chief Woodhouse Nepinak responds that the AFN is "not a one-stop shop for consultation."

JUNE 6, 2025

Bill C-5 tabled. Carney declares: "For too long, when federal agencies examined a project, their immediate question has been, 'Why?' With this new bill, we will ask ourselves, 'How?'" The question of Indigenous consent is rendered irrelevant.

JUNE 20, 2025

Bill C-5 passes House of Commons with Conservative support. Amendment promises "active and meaningful participation" but explicitly excludes guarantee of free, prior, and informed consent.

JUNE 27, 2025

Bill C-5 passes Senate without a single amendment, despite calls from Woodhouse Nepinak to explicitly include consent. Hassan Yussuff declares senators are doing "the best job possible"—a standard that serves Bay Street, not Indigenous rights.

JULY 2025

Carney holds "summits" with First Nations, Inuit, and Métis rights-holders. Some leaders leave "cautiously optimistic"; others leave "frustrated and unheard." The summits produce no binding commitments.

MAY 2026

Federal government releases "Getting Major Projects Built in Canada" discussion paper, proposing a "one-Crown consultation process" that streamlines Indigenous engagement—toward faster project approval, not toward consent.

JUNE 2026

Bill S-2 remains stalled in Parliament. Indigenous advocates accuse the Liberals of "delays, lies and misrepresentation." The contrast with Bill C-5's 20-day passage is stark and damning.

THE INHERITED BACKLOG: NOT INHERITED, MAINTAINED

Carney inherited a backlog of unresolved Indigenous issues: the First Nations clean water legislation (voted down by Conservative filibustering), stalled child welfare reform negotiations worth over \$47 billion, calls for a national inquiry into police violence against Indigenous people, and controversial Métis self-government legislation left to die on the House floor. But inheritance is not an excuse for maintenance. Under Carney's leadership, these issues have not been resolved; they have been buried beneath the urgent priority of "building Canada"—a euphemism for building pipelines, mines, and extraction corridors through Indigenous territories without consent.

"It has been Canada's weakness that it pats itself on the back for being a great champion of Indigenous peoples, an upholder of the rule of law and respect for Indigenous peoples' rights, while at the same time acting very differently through its legislation and practices."

— NATAN OBED, PRESIDENT, INUIT TAPIRIIT KANATAMI

CHARGE VI: THE DOCTRINE OF DISCOVERY — STILL THE HIDDEN FOUNDATION

In 2023, the Vatican formally repudiated the Doctrine of Discovery—the theological and legal fiction that granted European powers sovereignty over lands occupied by non-Christians. Canada has acknowledged that this doctrine, along with the related concept of *terra nullius*, is "racist, scientifically false, legally invalid, morally condemnable and socially unjust." Yet Canada's entire land tenure system remains constructed upon this repudiated foundation.

THE LEGAL FICTION OF CROWN TITLE

Canadian law presumes that the Crown holds "underlying title" to all lands within Canada's borders. This presumption is not based on purchase, treaty, or conquest in any legitimate sense. It is based on the Doctrine of Discovery—the same doctrine that Canada has formally denounced. Even where Indigenous nations have proven in court the continuity of their occupation, use, and unextinguished title from pre-contact to the present, "there is no legal pathway to resume full jurisdiction and governance authority over Indigenous lands."

This is not a technical legal problem. It is the structural hypocrisy at the heart of the Canadian state: the formal repudiation of colonial doctrines paired with the active maintenance of the legal and economic systems built upon them.

PRIVATE PROFIT, PUBLIC LAND, INDIGENOUS EXCLUSION

The "public land" framing of Crown land is itself a deception. Crown land is not managed for the public good. It is managed for extraction. Provincial and federal governments grant leases, permits, and licenses to private corporations for mining, forestry, oil and gas, and hydroelectric development. The revenues flow to government coffers and corporate shareholders. The environmental costs—deforestation, toxic tailings, disrupted watersheds, fragmented habitat—are borne by Indigenous communities and ecosystems.

What Crown Land Generates

- Corporate income tax revenue (\$101.5B federal, 2025-26)

What Indigenous Nations Receive

- No share of resource revenues without litigation

- Provincial resource royalties (Alberta: \$16.3B+ annually)
- Crown corporation profits (\$12B federal, 2025-26)
- Private sector extraction profits (hundreds of billions)
- Export revenues and GDP growth
- Procedural "consultation" with no veto power
- Environmental degradation of traditional territories
- Disruption of cultural and spiritual practices
- Incremental status erasure via the Indian Act

RED TEAM ANALYSIS: The government's defense—that Indigenous peoples benefit from economic development through employment and impact-benefit agreements—is a red herring. These "benefits" are negotiated from a position of structural disadvantage, often under duress, and they represent a fraction of the value extracted. They do not constitute justice; they constitute hush money.

CHARGE VII: VIOLATIONS OF INTERNATIONAL AND DOMESTIC LAW

The Government of Canada's conduct is not merely politically objectionable. It is legally indefensible under both international human rights law and Canada's own constitutional framework.

UNDRIP: ENDORSED IN PRINCIPLE, VIOLATED IN PRACTICE

Canada endorsed the United Nations Declaration on the Rights of Indigenous Peoples (UNDRIP) in 2021 and enacted federal implementation legislation. Yet the practical effect has been minimal. Governments continue to approve forestry, mining, energy, and infrastructure projects without specific Indigenous consent. The trend is toward "partnership, participation and relationship-building" rhetoric rather than the binding requirement of free, prior, and informed consent that UNDRIP mandates.

The *Kebaowek First Nation v. Canada Nuclear Laboratories* case (2025) affirmed that UNDRIP must inform the Crown's duty to consult and "requires deep consultation with the aim of consent." Yet the Court also found that FPIC "is not a right to veto proposed projects"—a judicial loophole that governments exploit to approve projects over Indigenous objections.

SECTION 35: CONSTITUTIONAL PROMISE, CONSTITUTIONAL BETRAYAL

Section 35 of the *Constitution Act, 1982* recognizes and affirms existing Aboriginal and treaty rights. The Supreme Court has held that this provision creates a constitutional duty to consult and accommodate. But the Court has also held that the Crown retains final decision-making authority. This creates a constitutional paradox: Indigenous rights are "recognized and affirmed," but the Crown can override them after going through the motions of consultation.

LEGAL STANDARD	WHAT IT REQUIRES	WHAT CANADA DOES
UNDRIP Article 32	FPIC before approving projects affecting Indigenous lands	Procedural consultation with no veto; projects approved over objections
Section 35, Constitution Act 1982	Duty to consult and accommodate Aboriginal rights	Consultation as box-checking; accommodation as mitigation, not consent

<i>Haida Nation</i> (SCC)	Meaningful consultation in good faith	Consultation after mineral claims granted; after decisions made
<i>Gitxaala</i> (BCCA)	Prior consultation before granting mineral rights	BC proposes suspending UNDRIP legislation for 3 years
<i>Yahey</i> (BCSC)	Cumulative effects assessment on treaty rights	Project-by-project approval ignoring cumulative impacts

THE SPECIFIC CLAIMS CONFLICT OF INTEREST

First Nations' specific claims—alleging breaches of the Crown's lawful obligations—are reviewed by a process in which the Government of Canada is simultaneously defendant, process manager, and claims adjudicator. First Nations have called for a fully independent specific claims process for decades. The government refuses, because an independent process would expose the scale of Crown liability and accelerate land and resource restitution.

DEMANDS: A PATH TO GENUINE RECONCILIATION

Reconciliation is not a metaphor. It is not a talking point. It is not a summit. It is the restoration of lands, the return of jurisdiction, and the recognition of Indigenous nations as equal partners in the governance of territories they have stewarded since time immemorial. The following demands are not requests. They are the minimum requirements for Canada to cease its ongoing violation of Indigenous rights.

IMMEDIATE LEGISLATIVE ACTIONS

1. **Repeal Sections 6 and 22 of the Building Canada Act**—the provisions that grant Cabinet power to override laws and pre-judge Indigenous consent. Amend the Act to require binding free, prior, and informed consent from all affected Indigenous rights-holders before any "national interest" project proceeds.
2. **Pass Bill S-2 without further delay**—and expand its scope to eliminate all gender discrimination in the Indian Act, including full restoration of status for all descendants of enfranchised peoples.
3. **Repeal the Indian Act**—and replace it with a framework developed through Indigenous-led processes that recognizes Indigenous self-determination, nationhood, and jurisdiction over citizenship.
4. **Repeal the Comprehensive Land Claims Policy**—and replace it with a First Nations-led process consistent with UNDRIP and full recognition of Indigenous land rights.

STRUCTURAL REFORMS

1. **Establish a fully independent Specific Claims Tribunal** with binding authority, independent funding, and no Crown conflict of interest.
2. **Reform the Additions to Reserve process** to clear the 1,300+ application backlog within 24 months, with clear service standards and provincial/municipal non-interference guarantees.
3. **Implement UNDRIP across all Crown laws**—not as aspirational language but as binding legal

requirement, including FPIC for all land and resource decisions.

4. **Transfer jurisdiction over Crown land management** to Indigenous nations in their traditional territories, with shared governance models where appropriate and full Indigenous jurisdiction where sought.

ECONOMIC JUSTICE

1. **Negotiate comprehensive resource revenue-sharing agreements** with all Indigenous nations whose territories generate resource wealth, retroactive to the commencement of extraction.
2. **Establish an Indigenous Land Restoration Fund** financed by a percentage of all resource revenues, dedicated to ecological restoration of territories degraded by extraction.
3. **End the "free entry" mineral claim system** nationwide. Require Indigenous consent before any mineral claim, timber license, or land disposition is granted.

THE CHOICE BEFORE CANADA

Canada cannot simultaneously claim to be a champion of human rights and maintain a system of legislated racial segregation, territorial dispossession, and corporate extraction on stolen land. The Prime Minister cannot speak of "building Canada" while tearing apart the constitutional and moral foundations of Indigenous-Crown relations.

The land is not Crown land. It never was.
The minerals are not federal resources. They never were.
The rivers are not provincial waters. They never were.

They are Indigenous lands, Indigenous resources, Indigenous waters—and they must be returned to Indigenous jurisdiction. Anything less is not reconciliation. It is continued colonialism with better public relations.

APPENDIX: SOURCES AND EVIDENCE

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This document was prepared on the traditional territory of the Wabanaki Confederacy, in Mi'kma'ki, part of the unceded lands of the Mi'kmaq people. The author acknowledges that all of Canada exists on Indigenous territories—treated, unceded, and sovereign—and that the production of this document does not exempt its author from the obligations of solidarity, restitution, and decolonization.