

The Two Frameworks Inside *DRIPA*.

What the Declaration on the Rights of Indigenous Peoples Act actually did, what the courts have done with it, and whether Canadian governance is cultivating dependency or building self-determination — examined honestly, with the receipts.

SUBJECT	METHOD	PERIOD	VERDICT
BC DRIPA (2019) & Federal UNDRIPA (2021)	Primary law, court rulings, StatCan, industry data	November 2019 — May 2026	Mixed evidence. Architecture matters.

The math, in *three sentences*.

Canada built a rights architecture for Indigenous people. The architecture has two doors inside it — one opens onto ownership, fiscal jurisdiction, and capable institutions; the other opens onto consultation, grievance, and litigation. Outcomes diverge sharply by which door governments push people through.

\$11.2B

FEDERAL INDIGENOUS SPENDING ABOVE HISTORICAL GROWTH (2015/16 – 2021/22)¹

14.1×

INDIGENOUS-TO-NON-INDIGENOUS FOSTER-CARE DISPARITY, 2021 (WAS 12.4× IN 2011)²

40

LONG-TERM DRINKING WATER ADVISORIES STILL ACTIVE (MAY 2026, 38 COMMUNITIES)³

\$45B+

CAPITAL UNDER FNMPC-ADVISED INDIGENOUS EQUITY PROJECTS (2024 PORTFOLIO)⁴

TL;DR · THE FIVE THINGS THAT MATTER

- **The acts were drafted as procedural.** BC's DRIPA (Nov 2019) and the federal UNDRIPA (June 2021) committed governments to *align laws with UNDRIP through consultation* — not to grant new substantive rights. Both passed unanimously in BC; both were sold as "minimum standards."
- **The courts read them broader.** The BC Court of Appeal's December 2025 *Gitxaala* ruling held DRIPA *does* create enforceable obligations. The August 2025 *Cowichan* trial decision recognized Aboriginal title over land held in fee simple in Richmond, BC — the first such ruling in Canadian history.
- **FPIC is "not a veto" on paper.** The Federal Court (*Kebaowek*, 2025) confirmed FPIC means heightened consultation, not unilateral refusal. *In practice*, section 7 consent agreements (Tahltan, Shíshálh, Haida) hand Indigenous governing bodies co-decision power that functions as a veto when the Crown declines to override.
- **Spending tripled. Outcomes did not.** Federal Indigenous spending rose \$11.2 billion above its historical growth trajectory between 2015 and 2022 (Fraser Institute, MacIntosh & Eisen). The child-welfare disparity ratio *widened* from 12.4× to 14.1× across the same period. Drinking water and suicide gaps remain entrenched. The dependency critique cannot be dismissed.
- **Where Indigenous communities moved to ownership, outcomes moved.** Cedar LNG (Haisla 50.1%), Coastal GasLink equity (16 nations, 10%), Westcoast pipeline (38 BC nations, May 2025), the First Nations Tax Commission's \$15B in assessed reserve land value. The architecture works when it pushes through the *ownership* door. The empirical signal is unmistakable.

Seven years, three *distinct* turns.

On November 28, 2019, John Horgan's BC NDP government passed Bill 41 unanimously. Every party voted yes. DRIPA made British Columbia the first jurisdiction in Canada to legislate the UN Declaration on the Rights of Indigenous Peoples into provincial law. Nineteen months later, on June 21, 2021, Parliament passed Bill C-15, the federal UNDRIPA.

Then three things happened, in sequence.

First — the action plans came out.

BC's plan landed in March 2022: 89 priority actions over five years. The federal plan followed in June 2023: 181 measures running to 2028. Both were lit reception affairs. Both promised "co-development." Both deferred the hard questions.

Second — the courts began interpreting.

In September 2023, the BC Supreme Court ruled in *Gitxaala Nation v. British Columbia (Chief Gold Commissioner)* that DRIPA did *not* incorporate UNDRIP into domestic law, and that section 3 was non-justiciable. The BC Court of Appeal overturned that on December 5, 2025 — holding DRIPA *does* create enforceable obligations and all BC laws must be construed consistent with UNDRIP. On August 7, 2025, the BC Supreme Court issued *Cowichan Tribes v. Canada*, recognizing Aboriginal title over approximately 732 acres in Richmond, BC, including land held in fee simple — and declaring fee-simple titles to those lands "defective and invalid." First case of its kind in Canadian history.

Third — the politics curdled.

By January 2026, Premier David Eby publicly committed to amending DRIPA to "scale back the power courts have in shaping reconciliation efforts." By March, his government floated suspending parts of the Act. By April, after pushback from more than a hundred First Nations, the suspension legislation was scrapped. The Angus Reid Institute's April 2026 survey found Eby's approval had collapsed from 53% to 33% in thirteen months. The BC Conservatives led in vote intention by ten points. **Fifty-three percent of British Columbians believe DRIPA "goes too far." Forty-seven percent support repeal. Twenty-six percent of 2024 NDP voters agree.**

Two months later, in February 2026, the Carney federal government signed a rights-recognition agreement with the Musqueam Indian Band covering much of Metro Vancouver. Pierre Poilievre demanded the prime minister "defend private property rights in B.C." The fight is no longer about whether reconciliation matters. It is about *what architecture* reconciliation will be built on — and who decides.

"British Columbia's unusual 'go it alone' approach to pursuing reconciliation with Indigenous peoples carries risk for many business operators as well as for the overall investment climate."

§ 02 WHAT THE ACTS ACTUALLY DO

Five sections. *One declaration. Forty-six articles.*

BC DRIPA (2019)

Five operative sections. Section 2 declares the purposes. Section 3 — the one fought over in court — requires that "in consultation and cooperation with the Indigenous peoples in British Columbia, the government must take all measures necessary to ensure the laws of British Columbia are consistent with the Declaration." Section 4 requires an action plan; section 5 requires annual reporting. Sections 6 and 7 authorize agreements with "Indigenous governing bodies" — section 7 specifically providing for joint or consent-based decision-making.

The Declaration itself is appended as a schedule. Its 46 articles include Article 19, requiring consultation "to obtain their free, prior and informed consent before adopting and implementing legislative or administrative measures that may affect them"; and Article 32, applying the same standard to resource development. Article 46 contains a balancing clause — nothing authorizes action that would "dismember or impair the territorial integrity or political unity of sovereign States."

Federal UNDRIPA (2021)

Mirrors the BC act. Section 5: the federal government "must, in consultation and cooperation with Indigenous peoples, take all measures necessary to ensure that the laws of Canada are consistent with the Declaration." Section 6 requires an action plan; section 7 requires annual progress reporting.

The action plans, by the numbers

PLAN	RELEASED	ACTIONS	PERIOD	LATEST REPORTED PROGRESS
BC DRIPA Action Plan	March 30, 2022	89	2022 – 2027	Work underway on 78 / 89 (2024–25 report)
Federal UNDA Action Plan	June 21, 2023	181	2023 – 2028	Started on 170 / 181; 6 complete (2025 report)

FPIC — what the text says vs. what advocates and critics claim

This question has driven nearly every DRIPA controversy. The plain text of both acts does not use the word "veto." UNDRIP doesn't either. The acts say only that governments will take measures to align laws "in consultation and cooperation." They do *not* directly impose FPIC as a legal requirement on Crown decision-makers in individual project approvals.

THE PROPONENTS' READING

Consent is not veto.

A veto is arbitrary and unilateral; consent is the outcome of a process actively seeking agreement. UNDRIP requires good-faith consultation aimed at consent and acceptance that the answer may be no — but the Crown retains authority to proceed where it can justify infringement under s. 35. The Federal Court endorsed this in *Kebaowek* (2025): FPIC is "not a veto" but requires "a deep level of consultation and negotiations geared toward a mutually accepted arrangement."

THE CRITICS' READING

De facto veto, by another name.

Dwight Newman: UNDRIP's text supports both narrow and broad readings, and operationalizing the broad reading is impractical. Tom Isaac: Bill 41 is "impractically broad" — aligning every BC statute with all 46 UNDRIP articles is impossible. Ellis Ross, former Haisla chief, in 2019 second reading: "If the Crown doesn't make a decision until they get that final agreement... if that's not a veto, I'd like some explanation on what that is."

Both sides are partly right. The acts do not enact a veto in their words. But implementation — section 7 agreements with named First Nations, the contemplated 2024 Land Act amendments, the modernized Mineral Tenure Act being designed under the *Gitxaala* remedial timeline — has moved toward arrangements in which Indigenous governing bodies hold co-decision-making power that, where consent is withheld, functions as a veto unless the Crown overrides it. The Crown has shown little appetite to override. The Tahltan agreements (2022) on Red Chris and Eskay Creek and the shíshálh swiya Dock Management Plan are concrete examples.

§ 03 THE LEGAL TRACK

Two rulings *broke the silence.*

Gitxaala v. BC — 2023 BCSC 1680 → 2025 BCCA

The trial decision (September 26, 2023) by Justice Ross was the first judicial consideration of DRIPA. The court held BC's online mineral tenure system breached the duty to consult (declaration suspended 18 months for redesign). It also held DRIPA section 2 does *not* implement UNDRIP into BC law and section 3 is *not* justiciable. Justice Ross: "I find that the petitioners are not entitled to any relief under DRIPA or UNDRIP."

On December 5, 2025, the BC Court of Appeal majority overturned the trial court's DRIPA interpretation, holding DRIPA creates legally enforceable obligations and all BC laws must be construed consistent with UNDRIP. The dissent agreed with Justice Ross. Calgary law professor Nigel Bankes (ABlawg) called the reaction overheated: while sections 4 and 5 are not justiciable, "some elements of section 3 may be justiciable. The majority judgment confirms that consistency may be a justiciable question, at least where the Crown denies any inconsistency."

The Association for Mineral Exploration, led by CEO Todd Stone, called on Eby to appeal to the Supreme Court. Eby's government pivoted instead to amending DRIPA.

***Cowichan Tribes v. Canada* — 2025 BCSC 1490**

The longest trial in Canadian history (513 days, concluded November 2023). Justice Young ruled on August 7, 2025 that the Cowichan Tribes held Aboriginal title to approximately 732 acres on Lulu Island in Richmond, BC, and an Aboriginal right to fish for food in the south arm of the Fraser River.

The decision did three things never done before: (a) found Aboriginal title over an area substantially held in fee simple; (b) held BC did not have jurisdiction to extinguish Aboriginal title and Crown grants did not displace it; (c) declared Canada and Richmond's fee-simple titles in the title lands "defective and invalid" — suspended 18 months for negotiations. Property worth an estimated \$1.3–2 billion fell within the claim area.

The Cowichan have stated they have no intention of pursuing private property. But the reasoning raises the question of what happens if a different First Nation does. Within days, BC, Richmond, Canada, the Vancouver Fraser Port Authority, the Musqueam, and the Tsawwassen all filed appeals.

"Aboriginal title is a prior and senior right to land."

— JUSTICE YOUNG, *COWICHAN TRIBES V. CANADA*, 2025

Other significant decisions

- ***Reference re An Act respecting First Nations, Inuit and Métis children, youth and families*** (2024 SCC 5) — SCC upheld Bill C-92, endorsing recognition of Indigenous jurisdiction in child welfare. First major SCC ruling engaging UNDRIPA implementation logic.
- ***Kebaowek First Nation v. Canadian Nuclear Laboratories*** (2025 FC 319) — Federal Court held the Canadian Nuclear Safety Commission erred by failing to consider UNDRIP. Most extensive judicial analysis of FPIC to date, concluding it is "not a veto" but requires "a deep level of consultation and negotiations geared toward a mutually accepted arrangement."
- ***Council of the Haida Nation agreements*** — On April 14, 2024, BC and the Haida Nation signed the *Gaayhlxid/Gihlagalgang "Rising Tide" Haida Title Lands Agreement*, recognizing Haida Aboriginal title throughout Haida Gwaii. Confirmed by the Haida Nation Recognition Amendment Act, 2024 (royal assent May 16, 2024). A parallel federal "Big Tide" Agreement followed; in early 2025 the BC Supreme Court issued a declaration of Haida Title to all of Haida Gwaii. The agreements explicitly protect existing private property and local government jurisdiction.

Academic verdict

The most balanced reading comes from Bankes: **the acts are not the radical departure critics feared, but neither are they empty declarations.** They are creating, slowly, a parallel architecture of recognition that lives in negotiated agreements (Tahltan, Shíshálh, Haida, Musqueam) and that courts are increasingly willing to enforce. Dwight Newman (Saskatchewan) holds Canada's section 35 framework already meets or exceeds UNDRIP requirements. Bruce McIvor

(First Peoples Law) holds the consent/veto distinction is false framing used by governments to maintain colonial status quo. Tom Isaac (Cassels) holds literal implementation of Bill 41 risks "upheaval of the entire legal system." All three readings have a basis in the text.

§ 04 THE ECONOMIC TRACK

The projects got *built*. They cost more.

The projects critics cited as evidence of regulatory capture have largely been built — but at significantly higher cost than budgeted. This is the most important empirical fact in the DRIPA debate. It is consistent with two different interpretations: (a) the framework imposes a manageable risk premium but does not block development; (b) the framework is degrading capital efficiency in ways that compound over time. The honest reading is that both are partially true.

PROJECT	STATUS	FINAL COST	ORIGINAL ESTIMATE	INDIGENOUS PARTICIPATION
LNG Canada Phase 1	First cargo June 30, 2025	≈ \$40 B	\$40 B (on budget)	\$4.9 B+ in Indigenous & local contracts
Coastal GasLink	In service late 2023	\$14.5 B	\$6.2 B	20/20 elected nations signed; 16 took 10% equity
Trans Mountain Expansion	Commercial May 1, 2024	\$34.2 B	\$7.4 B	\$4.8 B (25%) in Indigenous contracts; 3,000+ workers
Site C Dam	Fully operational late 2025	≈ \$16 B	\$8.8 B	Negotiated agreements with affected nations
Cedar LNG	Construction July 2024; in-service late 2028	US \$3.4 B (FID 2024)	—	Haisla 50.1% / Pembina 49.9%

Of projects critics warned would die, most got built. What did not include Northern Gateway (cancelled 2016, pre-DRIPA), Energy East (cancelled 2017), Teck Frontier (withdrawn 2020) — cancellations difficult to attribute primarily to DRIPA.

Investor confidence: the Fraser numbers

BC's trajectory on the Fraser Institute Annual Survey of Mining Companies (Policy Perception Index, excluding mineral endowment): **2021: 28/84; 2022: 27/62; 2023: 32/86; 2024: 32/82; 2025: 31/68**. On the Investment Attractiveness Index, BC ranked 13/82 in 2024, falling to 20/68 in 2025. Fraser attributes the decline "largely due to investor concerns over

disputed land claims and protected areas." Seventy-six percent of BC respondents in the 2025 survey said uncertainty over disputed land claims deters investment. Comparators: Alberta 3/68 on policy; Saskatchewan 2nd globally on investment attractiveness; Ontario 2nd globally (up from 15th in 2024).

This is not proof DRIPA is the *cause* — respondents flag many concerns. But it is consistent evidence that BC's distinctive Indigenous-rights architecture imposes a measurable risk premium on resource investment that does not exist in other Canadian jurisdictions.

The quiet revolution: Indigenous-led equity ownership

The First Nations Major Projects Coalition, representing more than 175 First Nations, currently advises on 18 major projects with combined capital value over **CAD \$45 billion**. Key transactions:

- **Coastal GasLink (2022)**. 16 First Nations obtained options for a combined 10% equity stake.
- **Cedar LNG (2024)**. Haisla 50.1% / Pembina 49.9%. First Indigenous majority-owned LNG facility in the world. Haisla equity financed through First Nations Finance Authority.
- **Westcoast Pipeline (May 2025)**. 38 BC First Nations acquired minority equity in Enbridge's Westcoast in a \$736 million transaction.
- **North Coast Transmission Line**. First Nations expected to hold ~50% equity.
- **Ontario electricity transmission**. ~50% First Nations equity.

Federally, the 2024 Indigenous Loan Guarantee Program (\$5 billion) and BC's \$1 billion First Nations Equity Financing Framework provide the capital plumbing earlier deals lacked. FNMPC CEO Mark Podlasly (Nlaka'pamux Nation):

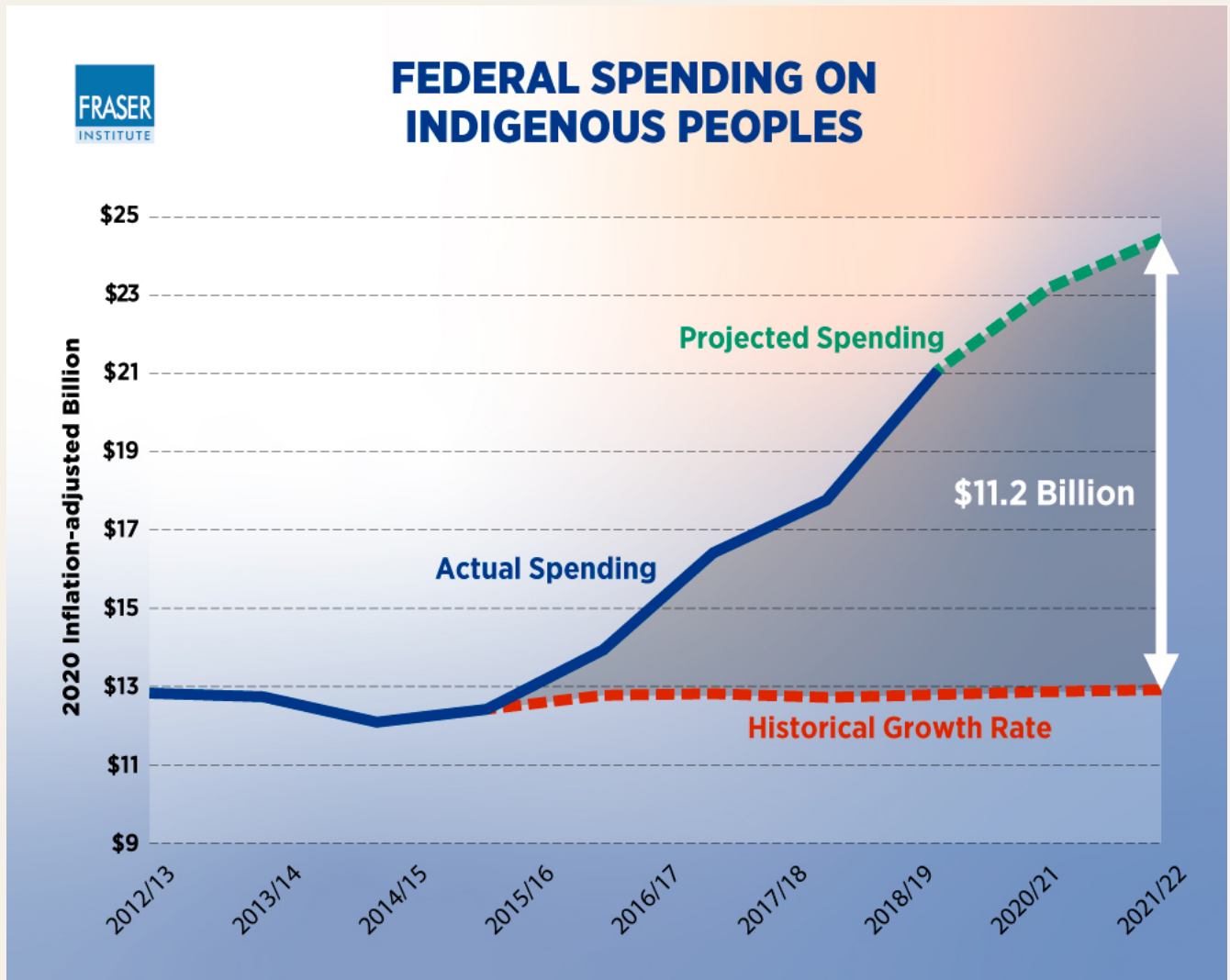
"It's not nations asking for grants anymore. Nations want to co-invest."

— MARK PODLASLY, CEO, FIRST NATIONS MAJOR PROJECTS COALITION

This is the economic story missed in the political controversy. The dollars associated with equity ownership and direct contracting are substantial and growing. The enabling framework is partly DRIPA and UNDRIPA — and partly a parallel architecture (the 2023 FMA amendments creating the First Nations Infrastructure Institute, the FNTC, FNMPC, the Indigenous Loan Guarantee Program) running *alongside* the rights-and-consultation framework.

Spending tripled. *The gaps held.*

This is where the dependency thesis lives or dies. The honest record is uncomfortable for every side of the argument.



Federal spending on Indigenous peoples, 2012/13 — 2021/22 (2020 dollars).

SPENDING ROSE **\$11.2 BILLION ABOVE THE PRE-2015 GROWTH TRAJECTORY** IN JUST SEVEN YEARS. SOURCE: FRASER INSTITUTE, MACINTOSH & EISEN, *THE TRUE STORY OF FEDERAL GOVERNMENT SPENDING ON INDIGENOUS PEOPLES*, 2021.

The chart above is the single most important piece of evidence in the DRIPA debate, and it has nothing to do with DRIPA directly. It shows what happened to federal Indigenous spending under the Trudeau government's reconciliation agenda — spending that rose from approximately \$13 billion in 2014/15 to a projected \$24 billion by 2021/22, an \$11.2 billion increase above the pre-2015 growth rate in just seven years.

The question the chart forces is: **where did the money go, and did outcomes move?** The next four indicators are the honest answer.

Income and employment

Per StatCan (Cat. 75-006-X, 2023, 2021 Census): employment rate of Indigenous adults aged 25–64 was 61.2% versus 74.1% for non-Indigenous — a 12.9-point gap. Within Indigenous groups: 56.6% First Nations, 68.8% Métis, 55.2% Inuit. ISC's analysis of 2020 median employment income found the largest gap between Registered Indians on reserve (\$29,400) and non-Indigenous Canadians (\$47,600) — \$18,200. ISC acknowledges the narrowing was partly because non-Indigenous median income *fell* by \$3,800 over the period. In 2022, 18.8% of Indigenous people lived in low-income households versus 10.7% of non-Indigenous.

Child welfare — the disparity widened

Indigenous children represent 53.8% of children in care nationally yet only 7.7% of children under 15. More than 3% of Indigenous children in private households in 2021 were in foster care vs. 0.2% of non-Indigenous. **The disparity ratio grew from 12.4× in 2011 to 14.1× in 2021 — the gap widened during exactly the DRIPA/UNDRIPA period.** In Manitoba, 91% of 9,172 youth in care in 2024–25 were Indigenous. Federal FNCFS spending tripled from \$680 million (2016) to \$3.571 billion (2023–24); the proposed \$47.8 billion 10-year reform Final Agreement (July 2024) was rejected by the AFN First Nations-in-Assembly (October 2024) as inadequate.

Drinking water — a promise still unkept

Trudeau's 2015 promise to end all long-term drinking water advisories by March 2021 was not met. Per Indigenous Services Canada's active advisories page (updated May 6, 2026), **40 long-term drinking water advisories remain active in 38 communities**, with 154 lifted since November 2015. The 2025 Auditor General rated progress "unsatisfactory," noting nine advisories have been in place over a decade and ISC had implemented only 47% of prior audit recommendations. The First Nations Clean Water Act (Bill C-61) died on the order paper when Parliament was prorogued in January 2025.

Suicide

The most recent comprehensive national StatCan study (Kumar and Tjepkema, CanCHEC 2011–2016, published 2019): First Nations suicide rate 24.3 per 100,000 person-years — three times the non-Indigenous rate (8.0). Inuit rate 72.3 — approximately nine times non-Indigenous. Métis 14.7 — approximately twice. **No newer national update has been published.** The absence is itself striking — a reconciliation framework that does not publish current Indigenous suicide data five years into its operation is not a framework measuring its own outcomes seriously.

Which nations have benefited, which have not

Clearest beneficiaries: the Haisla Nation (Cedar LNG, LNG Canada, HaiSea Marine — Chief Crystal Smith: "We're tired of managing poverty. It's time that we now manage prosperity"); the Tahltan Nation (consent agreements on Red Chris and Eskay Creek); the Haida Nation (Rising Tide); the 16 Coastal GasLink equity nations; the 38 Westcoast pipeline nations. The First Nations Tax Commission reports FMA First Nations have generated billions in investment, with assessed reserve land value now exceeding **\$15 billion**.

Other nations remain in crisis. Pimicikamak Cree Nation (Manitoba), Kashechewan First Nation (Ontario), and Kugaaruk (Nunavut) all faced severe drinking water emergencies in January 2026. Neskantaga First Nation's boil water advisory — the longest in Canada — first issued 1995, remained unresolved in 2026.

THE PATTERN

Nations with strong governance institutions, proximity to resource development, and capable economic leadership have transformed their circumstances within the DRIPA framework. Nations without those preconditions have not, regardless of framework. This is the Harvard Project finding (Cornell and Kalt, 35 years of research across 575 US tribal nations) almost exactly: **self-governance plus institutional capacity drives improvement; self-governance without capacity does not.**

§ 06 THE INDIGENOUS CRITICS

The voices the framework *does not amplify*.

The Indigenous voices opposing DRIPA — or opposing the rights-claiming framework more broadly — are real, articulate, and a minority within the Indigenous political class. The BC First Nations Leadership Council, the AFN, the First Nations Summit, UBCIC, the Modern Treaty Alliance, and the majority of Indigenous lawyers and academics support DRIPA. The 100+ Indigenous organizations mobilized against Eby's 2026 amendments demonstrate the depth of Indigenous political investment in the framework. But the critics' arguments are substantive and cannot be dismissed.

Calvin Helin — Tsimshian, Lax Kw'alaams

Son of a hereditary chief, lawyer and entrepreneur, Helin is the most prominent Indigenous voice for the dependency critique. His 2006 book *Dances with Dependency: Indigenous Success Through Self-Reliance* — a six-time bestseller — argues the "welfare trap" of government dependency has been *more destructive* to Indigenous communities than colonial extraction, and that economic self-sufficiency rooted in personal responsibility and pre-contact traditions of trade is the only sustainable path to dignity. His follow-up *The Economic Dependency Trap* extends this. Helin's coalition of 35 First

Nations behind the Eagle Spirit pipeline corridor was an attempt to demonstrate Indigenous economic leadership; the project was killed by the federal tanker moratorium (Bill C-48), illustrating that even Indigenous-led projects face political vetoes from non-Indigenous environmental coalitions.

Manny Jules — Tk'emlúps te Secwépemc

Chief Commissioner of the First Nations Tax Commission, former chief 1984–2000. Has spent four decades building the institutional architecture for Indigenous fiscal jurisdiction. His view: First Nations must "move at the speed of business" and real self-determination depends on *fiscal jurisdiction* — the power to tax, borrow on credit markets, own and develop land — not consultation rights. The 1988 Kamloops amendment (property-tax jurisdiction), the 2005 First Nations Fiscal Management Act (creating FNTC, FNFMB, FNFA), and 2023 amendments (Bill C-45, creating the First Nations Infrastructure Institute) are products of his persistence. The First Nations Resource Charge proposal is under active development.

"You can't have an economy based on just government. You have to have the economic engine as individuals... there are only three classes of individuals in Canada that cannot own property: mentally handicapped individuals, minor children, and First Nations living on a reserve."

– MANNY JULES, FNTC CHIEF COMMISSIONER

Jules's proposed First Nations Property Ownership Act has been resisted by many band governments. The fiscal-autonomy school's argument cuts deep: **DRIPA's section 7 agreements give Indigenous governing bodies power but do not put resources into the hands of individual Indigenous people.**

Ellis Ross — Haisla

Former chief councillor during the LNG Canada negotiations, BC Liberal/United MLA for Skeena, now federal Conservative MP. The most prominent serving Indigenous politician critical of DRIPA. His critique has three pieces:

1. **Legal.** DRIPA is "redundant" to existing s. 35 protections and SCC jurisprudence (*Haida Nation v. BC*, 2004).
2. **Political.** By framing reconciliation as a non-negotiable identity-category framework, DRIPA "pits natives against non-natives for political purposes."
3. **Practical.** Lack of clarity about consent vs. veto creates investment uncertainty that *costs Indigenous communities opportunity.*

Ross's success in the Haisla case is, in his telling, the *alternative* model: s. 35 plus negotiated benefit and equity agreements, not DRIPA.

Other voices

Dale Swampy (Samson Cree Nation, National Coalition of Chiefs founder): the majority of First Nations chiefs support natural resource development; the framing of First Nations as obstacles is largely false. **Karen Restoule** (Anishinaabe, Macdonald-Laurier Institute): UNDRIPA implementation has been bureaucratically dominated.

From "*impractically broad*" to repeal.

BC Conservatives under John Rustad (former BC Aboriginal Relations Minister, ousted as leader December 2025) have called for DRIPA repeal since 2024. Per CBC News (April 25, 2026): "All five candidates running for the leadership of the Conservative Party of B.C. said during a debate in Vancouver on Friday that they would repeal the Declaration on the Rights of Indigenous Peoples Act." Of the nine candidates who originally entered, four (Banman, Bhangu, Jones, Hamm) suspended their campaigns by April 12, 2026. Interim leader Trevor Halford: DRIPA has failed to deliver "stability and reconciliation progress" and "a full repeal actually gives certainty."

Federally, Conservative Leader Pierre Poilievre has not called for UNDRIPA repeal but has challenged the Carney government over Cowichan and the Musqueam agreement.

The academic critics

Bruce Pardy (Queen's, Fraser Institute) has written that DRIPA, if implemented as written, would "set up a whole new norm," shift BC away from the Westminster model, and make BC an "untenable host" for resource enterprise. **Tom Flanagan** (Calgary, emeritus) has argued the rights-and-grievance framework cannot deliver economic outcomes and fee-simple property reform on reserve (Jules's approach) is the necessary precondition. **Dwight Newman** (Saskatchewan, Macdonald-Laurier Institute) provides the most academically rigorous critique — not repeal but careful drafting and limited scope.

The "two-tier citizenship" critique

The argument (Pardy explicitly): s. 35 plus DRIPA s. 7 agreements create tiered citizenship with constitutional protections varying by ethnicity. The rebuttal (Turpel-Lafond, Sinclair, most Indigenous legal scholars): s. 35 rights are *historical-political* rather than racial — they recognize the prior existence of Indigenous nations as polities, not ethnicities. The Pender Harbour and Area Residents Association's 2024 constitutional challenge to DRIPA raises the s. 3 Charter (democratic rights) argument — DRIPA empowers governing bodies for which non-Indigenous residents cannot vote — pending before the BC Supreme Court.

The *best* argument for keeping the architecture.

Honest assessment requires presenting the strongest case *for* DRIPA, not the weakest. Four pillars:

Moral / historical.

TRC Calls to Action 43 and 44 explicitly called on Canadian governments to adopt UNDRIP as a "framework for reconciliation." The MMIWG Inquiry (2019) issued parallel calls. UNDRIP itself is the product of decades of Indigenous advocacy at the UN; the Harper government endorsed it (with reservations) in 2010. Reconciliation is not optional; the question is the architecture.

Legal / constitutional.

Section 35 already protects Aboriginal and treaty rights; SCC has emphasized reconciliation as the constitutional purpose. DRIPA and UNDRIPA add UNDRIP as an interpretive lens. *Kebaowek* articulated this: UNDRIP is "an interpretive lens" applied to s. 35, requiring "a deep level of consultation." This is incremental, not revolutionary.

Economic / developmental.

Scott Fraser (the minister who introduced Bill 41) and Murray Rankin have argued legal certainty is *better* served by clear principles for shared decision-making. Eby's "economic reconciliation" framing (echoed by AFN National Chief Cindy Woodhouse Nepinak and the Indigenous Loan Guarantee Program) presents reconciliation and growth as mutually reinforcing. The empirical record — Cedar LNG, Coastal GasLink equity, LNG Canada contracts, Haida — is offered as evidence.

Practical / procedural.

BC's 2024–25 Annual Report documents progress on 78 of 89 actions. The federal 2025 report documents work begun on 170 of 181 measures. This is incremental institutional work, not a sweeping reordering.

"One of the greatest uncertainties for project development in B.C. is not knowing if a project has the consent of affected First Nations. Laws that are co-developed... will deliver economic, legal certainty and predictability."

– REGIONAL CHIEF TERRY TEEGEE, BC AFN

§ 09 THE DECISIVE QUESTION

Two frameworks. *One law.*

The honest reading: DRIPA and UNDRIPA contain both frameworks the dependency thesis distinguishes. They are ambiguous instruments serving either pattern. The policy work that matters is determining which.

FRAMEWORK A

Rights · Consultation · Grievance

Indigenous communities positioned as bearers of rights to be consulted, to consent, to litigate. The Crown owes duties. The relationship is perpetual negotiation in which the strongest political resource is the assertion of grievance. Outputs: court rulings (*Cowichan, Gitxaala*), consent agreements, political demands.

FRAMEWORK B

Ownership · Fiscal Autonomy · Capable Governance

Indigenous communities positioned as owners, investors, governments. The Crown opens fiscal and jurisdictional space. The relationship centers on capable institutions — tax commissions, finance authorities, infrastructure institutes, major project coalitions, equity ownership. Outputs: tax revenues, project equity, infrastructure, employment, own-source revenue.

Both coexist within the DRIPA / UNDRIPA architecture. The choice is *which* governments and Indigenous leaders deepen. The empirical evidence — Haisla's transformation, Tahltan consent agreements applied to mining, the Coastal GasLink and Westcoast equity deals, the FNTC's \$15 billion in assessed reserve land value — strongly supports Framework B as the channel where measurable Indigenous well-being is improving. The framework Helin, Ross, and Jules object to — the "dependency mindset" of perpetual welfare and grievance — is real, persistent, and observable in communities where Framework B capacity does not exist.

The Harvard Project finding

The most rigorous comparative evidence on Indigenous self-governance and outcomes comes from the Harvard Project on American Indian Economic Development (HPAIED, founded 1987), led for nearly four decades by economists Joseph P. Kalt and Stephen Cornell. The central finding, from 35+ years of comparative empirical work across 575 US tribal nations:

"When Native nations make their own decisions about what development approaches to take, they consistently out-perform external decision makers on matters as diverse as governmental form, natural resource management, economic development, health care, and social service provision."

— CORNELL & KALT, HARVARD PROJECT ON AMERICAN INDIAN ECONOMIC DEVELOPMENT

But — critically — the finding extends: "**For development to take hold, assertions of sovereignty must be backed by capable institutions of governance.**" Nations do this as they adopt stable decision rules, establish fair and independent mechanisms for dispute resolution, and separate politics from day-to-day business management.

Applied to DRIPA: the *direction* (more Indigenous self-determination) is supported by the evidence. The *form* matters enormously. Self-determination through equity ownership, fiscal jurisdiction, and capable institutions (the Jules/FNMPC/Helin model) maps directly onto Harvard's findings. Self-determination through grievance-based rights litigation and s. 7 consent vetoes maps less cleanly.

Partial corroboration. *Not validation as a general principle.*

WHERE THE DEPENDENCY THESIS IS CORRECT

The framework emphasizing rights-claiming, consultation, grievance, and litigation does measurably entrench a posture in which Indigenous communities engage with the state through demanding accommodation. The persistence of poor on-reserve outcomes (water, child welfare, suicide), the *widening* of the child-welfare disparity from 12.4× to 14.1× during the DRIPA era, and the inability of massive federal spending increases (FNCFS tripled to \$3.57 billion; overall Indigenous spending \$11.2B above trajectory) to close outcome gaps are consistent with the dependency critique. Calvin Helin's argument that the welfare-and-grievance posture has been more destructive than colonial extraction is a strong claim the evidence does not refute.

WHERE IT IS WRONG, OR ONLY PARTLY RIGHT

The framework combining self-determination *with* institutional capacity, fiscal jurisdiction, and equity ownership has produced the most dramatic improvements in Indigenous well-being on record. The Haisla transformation, Tahltan governance development, FMA First Nations' \$15 billion in assessed reserve land value, FNMPC's \$45 billion equity portfolio — these are not artifacts of dependency but of a *self-determination plus economic agency* framework. The Indigenous-owned enterprise sector (~\$50 billion contribution to Canadian GDP, ~75,000 Indigenous-owned businesses per CCAB/CCIB self-reported estimates) has grown substantially during exactly the period the dependency thesis would predict stagnation.

THE DECISIVE VARIABLE

Outcomes depend less on whether governments enact identity-category legislation than on whether that legislation channels Indigenous engagement through *institutions that build capacity* (tax jurisdiction, equity ownership, governance) or *institutions that reward grievance* (rights litigation, consultation without economic outcomes). DRIPA and UNDRIPA, ambiguously, do both. Repeal would lose the equity and recognition gains. Maintaining without amendment would deepen the litigation and uncertainty costs. The harder, better path is to push the architecture toward Framework B and constrain Framework A.

Push the door. *Constrain the other.*

For the federal government

1. Resist calls to repeal UNDRIPA. The framework is producing measurable economic benefits through equity participation.
2. Deepen Framework B: expand the Indigenous Loan Guarantee Program from \$5 billion to \$20 billion over five years; ratify the First Nations Resource Charge; pass FMA Phase IV amendments.
3. Clarify FPIC: explicitly adopt the *Kebaowek* framework — heightened consultation, not unilateral veto — as federal interpretation in Impact Assessment Act regulations.
4. Reintroduce and pass the First Nations Clean Water Act with substantial federal funding.
5. Trigger threshold: if Indigenous socioeconomic indicators (employment, income, child welfare, drinking water) do not show measurable improvement by 2030, conduct a public review and refocus on Framework B.

For the BC government

1. Do not repeal DRIPA, but amend to: (a) clarify s. 3 imposes procedural and interpretive obligations only; (b) define FPIC consistent with *Kebaowek*; (c) protect fee-simple title via statutory carve-out.
2. Accelerate the *Gitxaala* response: complete the modernized Mineral Tenure Act on schedule with clear procedural rules. Do not repeat the secretive 2024 Land Act process.
3. Aggressively pursue the Cowichan appeal and seek SCC guidance on Aboriginal-title-over-fee-simple.
4. Replicate the Haida Title Lands model — explicit recognition coupled with explicit private property and local government protections — where the title case is strong.
5. Trigger threshold: if BC's Fraser Investment Attractiveness ranking falls below 30 for two consecutive years, conduct an independent review of section 7 consent agreement practice.

For Indigenous communities and organizations

1. Continue building Framework B institutions: FNTC, FNFMB, FNFA, FNII, FNMPC, modern treaty implementation, own-source revenue systems.
2. Where Framework A (rights litigation) is used, use it strategically to open jurisdictional space for Framework B — as Haida, Tahltan, and Tsilhqot'in have done — not as an end in itself.
3. Take the Helin / Jules critique seriously: build institutional capacity that turns rights into economic agency.

For private actors

1. Engage First Nations as economic partners and potential equity holders from project inception. The Cedar LNG and Coastal GasLink models are the future.
2. Support transparent legal reform of FPIC and s. 7 frameworks — uncertainty hurts everyone, including First Nations seeking project investment.

§ 12 CAVEATS & METHODOLOGY

What this briefing cannot *fully* tell you.

1. **Indigenous outcome data is incomplete.** The most recent comprehensive national suicide data (Kumar and Tjepkema, StatCan) is 2011–2016 CanCHEC published 2019. No newer national update exists — a striking gap in Canadian public health surveillance.
2. **Causal attribution is difficult.** COVID-19, commodity cycles, federal government change, and macroeconomic conditions shape Indigenous outcomes 2019–2026. DRIPA is one variable among many.
3. **Selection bias in industry data.** Fraser Institute rankings reflect mining-executive perceptions and can amplify ideologically charged narratives. They are the best comparative data available, not an unbiased measurement.
4. **The Cowichan ruling is on appeal** and may be modified or overturned. The full implications cannot be assessed until SCC review.
5. **"Indigenous" is not monolithic.** The critics (Helin, Jules, Ross, Swampy) are real but a minority within the Indigenous political class. Neither voice is "more authentic." The user thesis tested here is partially supported, not validated as a general principle.
6. **The framework is young.** DRIPA is six years old; UNDRIPA five. Action plans run to 2027 and 2028. Five more years of data will tell us more than this briefing can.
7. **The clearest single takeaway:** the legal architecture matters less than the institutional and economic substance of what that architecture is used for. A regime of rights without ownership produces neither dignity nor prosperity. A regime of ownership without rights produces neither legitimacy nor stability. The Canadian DRIPA experiment is, in the end, a test of whether a Canadian framework can deliver both at once — and as of May 2026, the answer is genuinely uncertain.

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