



STATEMENT OF CONSISTENCY

Bill 2: Missing Persons Act

Sponsoring Minister: The Honourable R.J. Simpson, Minister of Justice

Explanatory Note

Subsection 6(1) of the *United Nations Declaration on the Rights of Indigenous Peoples Implementation Act*, SNWT 2023, c 36 (“*UNDRIP Implementation Act*”) requires the Government of the Northwest Territories (“GNWT”), in collaboration and cooperation with Indigenous peoples, to take all reasonable measures to ensure the laws of the Northwest Territories (“NWT”) are consistent with the Declaration set out in the Schedule of the *UNDRIP Implementation Act*.

Subsection 8(1) of the *UNDRIP Implementation Act* requires the Attorney General to prepare a Statement of Consistency on behalf of the sponsoring Minister of a bill, indicating whether or not the bill is consistent with the Declaration and the rights recognized and affirmed under section 35 of the *Constitution Act, 1982*. The sponsoring Minister must table the Statement of Consistency before the second reading of the bill in the Legislative Assembly.

A Statement of Consistency is not required if an exception under subsection 8(3) of the *UNDRIP Implementation Act* applies.

A Statement of Consistency provides legal information to the Legislative Assembly about the bill’s potential impacts on rights of Indigenous peoples set out in the Declaration and the potential impacts on rights recognized and affirmed under section 35 of the *Constitution Act, 1982*. It is not intended to be a comprehensive overview of all conceivable inconsistencies with Indigenous and Aboriginal rights. A bill may see several amendments between second reading and its ultimate passage through the Legislative Assembly. Additional considerations relevant to the consistency of a bill with the Declaration and the rights recognized and affirmed under section 35 of the *Constitution Act, 1982* may arise through that process. A Statement of Consistency will not reflect an analysis of those changes.

Background

The *Missing Persons Act* (the “Bill”) was developed in response to the Calls for Justice of the National Inquiry into Missing and Murdered Indigenous Women and Girls (the “MMIWG Inquiry”). Specifically, the Call to Justice at 5.8 directed provinces and territories to enact



missing persons legislation.¹ The GNWT committed to develop missing persons legislation in 2021² and sought input directly from Indigenous governments and organizations to inform the development of the Bill.

Purpose

The purpose of this Bill, as set out in the Bill, is to assist the RCMP in locating a missing person in the absence of a criminal investigation.

Application

The Bill applies equally to all residents of the NWT. This Bill should be considered legislation of general application as it does not apply specifically to any indigenous government or organization in the NWT, nor any lands, waters or resources identified and set out in a land, resources or self-government agreement based in the NWT.

Impacts on Rights under the Declaration and Section 35 Aboriginal and Treaty Rights

This Bill does not impact rights under the Declaration, such as the right to self-determination and self-government, rights respecting lands, territories or resources, or environmental, economic, health, cultural, religious, language or other rights, nor does it impact aboriginal and treaty rights recognized and affirmed under section 35 of the *Constitution Act, 1982*.

Notably, this Bill may support or implement aspects of the Declaration, such as:

- **Civil and Political Rights, Article 7:** Both the limits on the RCMP's authority under the Bill and the rights guaranteed to Canadians under the Canadian Charter of Rights and Freedoms can help protect Indigenous individuals' rights under Article 7, to life, physical and mental integrity, liberty, and security of person.
- **Participation in decision-making, Article 18:** The steps the GNWT took to engage with Indigenous governments and Indigenous partners are consistent with Article 18, under which Indigenous peoples have the right to participate in decision-making in matters which impact their rights, through representatives chosen by themselves in accordance with their own procedures, as well as to maintain and develop their own Indigenous decision-making institutions.

¹ *Reclaiming Power and Place: The Final Report of the National Inquiry into Missing and Murdered Indigenous Women and Girls, Volume 1b* (Missing and Murdered Indigenous Women and Girls, 2019), at page 185.

² GNWT committed to developing missing persons legislation in a report tabled by Minister Caroline Wawzonek "Changing the Relationship: Draft GNWT Action Plan in Response to the Calls for Justice on Missing and Murdered Indigenous Women, Girls and 2SLGBTQQIA+ People" (8 December 2021) at Session 2 of the 19th Legislative Assembly.



- **Economic, health, and social rights, Article 22:** Since the Bill was developed in response to the MMIWG Inquiry's Calls to Justice, with the intent of improving the lives of women, girls and 2SLGBTQIA+ people, the Bill may indirectly support Article 22, which states that particular attention shall be paid to the special needs of Indigenous elders, women, youth, children, and persons with disabilities in the implementation of this Declaration.
- **Cultural, religious and linguistic rights, Article 13:** Although the Bill does not directly address cultural, religious and linguistic rights under Article 13, the context in which the Bill was developed (again, in response to the MMIWG Inquiry's Calls to Justice, with the intent of improving the lives of women, girls and 2SLGBTQIA+ people) may indirectly support cultural revitalization and the ability to transmit cultural, religious and linguistic rights to future generations.

UNDRIP Statement of Consistency

The Attorney General has examined the Bill for any inconsistencies pursuant to the obligation under subsection 8(1) of the *UNDRIP Implementation Act*. This review involved consideration of the context in which the Bill was created, as well as the text of the Bill.

In reviewing the Bill, the Attorney General is of the opinion that the Bill is consistent with the Declaration and section 35 of the *Constitution Act, 1982*.