

Overview

Legal Analysis of Bill C-6

1. The initial review of Bill C-6 has identified a number of departures from what was agreed upon in the 1998 Joint Task Force Report which may compromise the ability of the new body to assist in resolving claims in an expeditious, fair and impartial manner.
2. There is deep concern with the conflict of interest and the Minister's role in managing the ICB process. The independence of the Commission and Tribunal are undermined by the retention of unilateral federal authority over appointments and the processing of claims.
3. Appointments are to be made upon the recommendation of the very Minister who is charged with defending the Crown against such claims. There is no provision for consultation with First Nations in the Bill.
4. There are no effective timelines provided for under the Commission process. There are far too many opportunities for federal delay built into the process. This Bill has been characterized as institutionalizing delay.
5. Bill C-60 appears to be worse than the current process, where a Commission of Inquiry is available to all claims that are rejected by Government, regardless of potential monetary value. Under the Bill First Nations will be required to waive federal liability over \$ 7 million to access the Tribunal.
6. The definition of a specific claim has been narrowed from the existing policy. Claims arising from specific treaty provisions are now to be restricted to land.
7. This Bill does not provide for a substantial financial commitment and is more about limiting federal liability, than settling claims. It offers little hope for addressing the growing backlog in specific claims in the foreseeable future.
8. The structure and procedures for the proposed Centre are more narrowly prescribed than the flexibility recommended by the Joint Task Force.
9. There is no provision for a joint review of the process, which is being left to the discretion of the Minister.