

Assembly of First Nations

50 O'Connor Street, Suite 200
Ottawa, Ontario K1P 6L2
Telephone: (613) 241-6789 Fax: (613) 241-5808
www.afn.ca



Assemblée des Premières Nations

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Ottawa, Ontario K1P 6L2
Téléphone: (613) 241-6789 Télécopieur: (613) 241-5808
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ANNUAL GENERAL ASSEMBLY
July 14-15-16, 2026, Ottawa, ON

Resolution no. 51/2026

TITLE: **Opposition to Bill C-21 and Rejection of Metis Illegitimate Rights Assertions**

SUBJECT: Justice and Treaties

MOVED BY: Simon Smith, Proxy, Tseycum Indian Band, BC

SECONDED BY: Jessica Boyer Bennett, Proxy, Ojibways of Batchewana First Nation, ON

DECISION Approved by the AFN Executive Committee by consensus.

WHEREAS:

- A.** The United Nations Declaration on the Rights of Indigenous Peoples (UN Declaration) states:
- i. Article 3: Indigenous peoples have the right to self-determination. By virtue of that right they freely determine their political status and freely pursue their economic, social, and cultural development.
 - ii. Article 26:
 - a. (1) Indigenous peoples have the right to the lands, territories and resources which they have traditionally owned, occupied or otherwise used or acquired.
 - b. (2) Indigenous peoples have the right to own, use, develop and control the lands, territories and resources that they possess by reason of traditional ownership or other traditional occupation or use, as well as those which they have otherwise acquired.
 - c. (3) States shall give legal recognition and protection to these lands, territories and resources. Such recognition shall be conducted with due respect to the customs, traditions and land tenure systems of the Indigenous peoples concerned.
- B.** First Nations are rights holders who hold inherent and Treaty rights set out in our own governance and legal systems, as well as constitutionally protected rights under Section 35 and 25 of the *Constitution Act, 1982*. First Nations alone interpret and describe our Inherent rights through our laws and legal traditions, customary law, and international law. In practice, this means that First Nations rights cannot be undermined by colonial interpretations of these rights.
- C.** The Article of the UN Declaration cited above apply to assertions of Métis Indigenous rights. Canada's efforts to give effect to these Articles in the context of Métis rights claims and related agreements must rest on the

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51 – 2026

Page 1 of 4

foundation of, and be entirely consist with, the legal test for Métis right as set out by the Supreme Court of Canada in *R. v. Powley* and the necessary historical facts required by the Powley test. The AFN General Assembly does not oppose Canada's recognition of Métis rights on this Basis.

- D. In 2003, the *R v. Powley* case resulted in the Supreme Court of Canada establishing a test to determine Métis Aboriginal rights under Section 35 of the *Constitution Act*, 1982. It requires a claimant to prove membership in a historic Métis community that continued into a contemporary community with a practice integral to that community's culture that existed prior to colonial control. The test also examines if the right was extinguished and if a current infringement is justified.
- E. Bill C-21, *An Act to give effect to the Red River Métis Self-Government Recognition and Implementation Treaty and to make consequential amendments to other Acts*, was introduced into the House of Commons on Thursday, February 12, 2026, and is currently at second reading. The Bill provides for the implementation of a self-government treaty between Canada and the Red River Métis in Manitoba.
- F. While distinct from Bill C-53, *An Act respecting the recognition of certain Métis governments in Alberta, Ontario, and Saskatchewan, to give effect to treaties with those governments and to make consequential amendments to other Acts*, which proposed a broader framework for the recognition of Métis governments and future treaty-making, Bill C-21 does not clearly define how future developments arising from such agreements may be negotiated between Red River Métis and the Crown. This, in turn, could have adverse impacts on First Nations rights and interests. Future Métis treaties could over time, raise questions regarding land, resources, and harvesting rights where claims overlap, and may give rise to potential conflicts or impacts on First Nations section 35 rights. Bill C-21 does not clearly establish mechanisms to address overlapping First Nations rights, jurisdiction, and interests are addressed.
- G. In Manitoba, the Crown recognizes Numbered Treaty territories (Treaties 1-5), alongside the Manitoba Métis Federation as the representative of the Red River Métis. However, there is no clear, transparent, or rights-based process to identify, prioritize, and reconcile the rights holders in the context of Aboriginal Title, resources, and economic participation. The lack of clear definitions and reconciliation of rights risks Crown decision-making infringing upon First Nations' constitutionally protected rights, creating conflict, undermining the honour of the Crown, and perpetuating the infringement and displacement of First Nations from their territories.
- H. The recognition and implementation of First Nations rights must be guided by a clear distinctions-based approach that respects the unique legal, historical, and constitutional foundations of different First Nations rights holders, and without such a protocol, there is a significant risk of the misapplication of distinct rights and the infringement of First Nations inherent and Treaty rights.
- I. The AFN has several resolutions concerning Bill C-21, including:
 - a. Resolution 61/2025, *Clarifying Approaches to Métis Rights in First Nations' Territories*;
 - b. Resolution 55/2024, *Continued Rejection and Denouncement of Métis Illegitimate Rights Assertions*;
 - c. Resolution 81/2023, *Urgent Protection of First Nations Inherent and Treaty Rights from Ongoing Illegitimate Rights Assertions*;
 - d. Resolution 44/2023, *Protect First Nations Rights and Interests from Unfounded Métis Rights*.

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- J. There have been an increased number of challenges in rights recognition between First Nations and the Métis. First Nations, often asserting historical and territorial claims, have taken legal recourse to address issues related to land use, resource management, and cultural heritage. The legal disputes arise from disputed overlapping historical and geographical connections, prompting First Nations to seek clarity and recognition within Canada's legal framework.
- K. Canada has committed to addressing these fundamental challenges through the following Action Plan Measures (APMs) of the *United Declaration on the Rights of Indigenous Peoples Act* Action Plan:
- a. APM #24 (Shared Priority), which commits the Government of Canada to "remove and address jointly identified barriers to settlement and co-develop approaches for the implementation of the right to self-determination through treaties, agreements and other constructive arrangements, as well as through new policies and legislative mechanisms.
 - b. APM #31 (Shared Priority), which commits the Government of Canada to "work in collaboration with Indigenous partners to identify opportunities to reform and strengthen the foundational elements that support rights-based negotiations and approaches."
- L. To date, Canada has not meaningfully implemented these commitments.
- M. The lack of a process to resolve such conflicts amounts to the Government of Canada offloading its responsibilities onto First Nations. First Nations do not have sufficient financial resources to engage in litigation to protect their rights and interest. Furthermore, the offloading of the Government of Canada's responsibilities onto First Nations has the potential to create a range of adverse effects and challenges.
- N. National, regional, and First Nations consultation processes are needed to develop respectful processes to recognize Inherent rights and jurisdiction while ensuring adequate safeguards to address overlapping claims and infringement of First Nations rights. Canada must establish fair, open, and timely mechanisms to secure recognition of First Nations' inherent and Treaty rights.

THEREFORE BE IT RESOLVED that the First Nations-in-Assembly:

1. Direct the Assembly of First Nations (AFN) to publicly oppose Bill C-21, *An Act to give effect to the Red River Métis Self-Government Recognition and Implementation Treaty and to make consequential amendments to other Acts*, which lacks clarity on defining the rights holders in the context of Aboriginal Title, resource, and economic participant risks. It creates a risk that Crown-decision making and future Métis agreements may infringe upon First Nations' constitutionally protected rights.
2. Direct the AFN to call upon the Government of Canada to conduct meaningful and adequate consultation with First Nations as is required under the *United Nations Declaration on the Rights of Indigenous Peoples Act*, prior to enacting laws that impact First Nations inherent, Constitutional and Treaty rights.
3. Direct the AFN to call upon the Government of Canada to develop, in full partnership with First Nations, a clear distinctions-based approach in all legislation, policy, and agreements impacting Indigenous rights, to ensure that the unique legal, historical, and constitutional foundations of First Nations inherent and Treaty rights are recognized, respected, to prevent the misapplication of rights with those of other Indigenous groups.

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51 – 2026
Page 3 of 4

4. Direct the AFN, at the request of and in collaboration with the First Nations of Treaties 1-5, and subject to available capacity and resources, to support their efforts to address the impacts of Bill C-21, including:
- a. Advocate for the Government of Canada to work with First Nations to identify and establish long-term and stable funding mechanisms, inclusive of First Nations laws and legal orders, and consistent with the Honour of the Crown, to facilitate nation-to-nation discussions on the implementation of First Nations Inherent Treaty rights.
 - b. Engage with Bill C-21 through parliamentary intervention and advocacy to ensure First Nations Inherent, Treaty, and Section 35 rights are upheld and respected.
 - c. Support First Nations rights holders, where requested and appropriate, in addressing and responding to disputed or overlapping rights assertions within their territories, including through political, legislative, legal interventions, information sharing and coordination and analysis

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51 – 2026
Page 4 of 4