
Assembly of First Nations

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**SPECIAL CHIEFS ASSEMBLY
DECEMBER 6, 7, & 8, 2016; GATINEAU, QC**

Resolution no. 71/2016

TITLE: Descheneaux Decision: First Nations Jurisdiction on Citizenship and Identity

SUBJECT: First Nations Citizenship

MOVED BY: Chief Kim Sandy-Kasprick, Northwest Angle #33 First Nation, ON

SECONDED BY: Chief Derrick Henderson, Sagkeeng First Nation, MB

DECISION Carried, 1 abstention

WHEREAS:

- A. The United Nations Declaration on the Rights of Indigenous Peoples (UN Declaration) states:
- i. Article 33 (1): Indigenous peoples have the right to determine their own identity or membership in accordance with their customs and traditions. This does not impair the right of indigenous individuals to obtain citizenship of the States in which they live.
 - ii. Article 33 (2): Indigenous peoples have the right to determine the structures and to select the membership of their institutions in accordance with their own procedures.
- B. On August 3, 2015, a Quebec Superior Court rendered its decision in *Descheneaux et al., v. Canada*. The court found sections to Indian registration under section 6 of the *Indian Act* violated the equality provisions guaranteed under the Canadian Charter because of difference in treatment in eligibility to Indian registration between Indian women, men and their descendants. The court delayed its decision to strike down the offending provisions of the *Indian Act* until February 3, 2017 to allow Canada to make the necessary legislative amendments.
- C. Canada has until February 3, 2017 to amend section 6 of the *Indian Act* to eliminate the gender-based inequalities in Indian registration and has committed to continue with an engagement process beyond the February deadline to examine broader issues relating to registration, band registration and citizenship.

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PERRY BELLEGARDE, NATIONAL CHIEF

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- D. On July 28, 2016, National Chief Perry Bellegarde stated, "This cannot simply be about amendments, but about working together to move beyond the Indian Act in a way that respects First Nations rights and is consistent with the UN Declaration on the Rights of Indigenous Peoples."
- E. First Nations assert First Nation sovereignty and self-determination and promote decolonization and gradual disengagement from the *Indian Act*.
- F. Jurisdiction on citizenship and other related issues (e.g. Identity and recognition of Treaty cards) ought to be part of the government process of reconciliation and commitment to repeal those laws of Canada that violate Indigenous rights.
- G. The Government of Canada introduced Bill S-3, An Act to amend the Indian Act (elimination of sex-based inequities in registration), in the Senate without adequate consultation with First Nations, resulting in legislation that does not meet the needs or respect the rights of First Nations.

THEREFORE BE IT RESOLVED that the Chiefs-in-Assembly:

1. Support those First Nations who wish to disengage and opt-out of the *Indian Act* at their own pace to develop governance regimes in accordance to their own customs and traditions.
2. Support those First Nations who aspire to implement their own citizenship laws without regard to section 6 of the *Indian Act*. Unequivocally support the elimination of the second generation cut-off provision found in section 6(1) and (2) of the *Indian Act* that results in a decline of registrants and members of First Nations.
3. Call on Canada to repeal the impugned provision in its entirety and to transfer the authority of citizenship and identity to the First Nations.
4. Acknowledge those First Nations that have Treaty with the Crown in right of the United Kingdom to have Treaty cards, and call upon Canada to jointly recognize the reinstatement of the Treaty cards.
5. Call upon Canada to withdraw Bill S-3 and consult and accommodate with First Nations in a manner consistent with section 35 of the Constitution Act of Canada prior to reintroducing any legislation to accommodate.

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PERRY BELLEGARDE, NATIONAL CHIEF