
Assembly of First Nations

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Assemblée des Premières Nations

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Annual General Assembly
July 5, 6, 7, 2022, Vancouver, BC

Resolution no. 13/2022

TITLE: First Nations Priorities to Guide the Crown's Implementation of the UN Declaration on the Rights of Indigenous Peoples

SUBJECT: Rights

MOVED BY: Chief Sheldon Kent, Black River First Nation, MB

SECONDED BY: Chief Rene Chaboyer, Cumberland House Cree Nation, SK

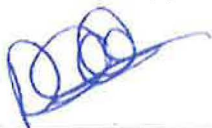
DECISION Approved by the AFN Executive Committee by consensus.

WHEREAS:

A. The *United Nations Declaration on the Rights of Indigenous Peoples* (UN Declaration) states:

- i. Preambular paragraph 19: Encouraging States to comply with and effectively implement all their obligations as they apply to indigenous peoples under international instruments, in particular those related to human rights, in consultation and cooperation with the peoples concerned,
- ii. Preambular paragraph 23: Recognizing that the situation of indigenous peoples varies from region to region and from country to country and that the significance of national and regional particularities and various historical and cultural backgrounds should be taken into consideration,
- iii. 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.
- iv. Article 18: Indigenous peoples have the right to participate in decision-making in matters which would affect 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.

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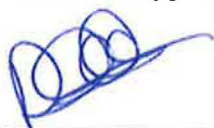


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- v. Article 19: States shall consult and cooperate in good faith with the indigenous peoples concerned through their own representative institutions in order to obtain their free, prior and informed consent before adopting and implementing legislative or administrative measures that may affect them.
- vi. Article 25: Indigenous peoples have the right to maintain and strengthen their distinctive spiritual relationship with their traditionally owned or otherwise occupied and used lands, territories, waters and coastal seas and other resources and to uphold their responsibilities to future generations in this regard.
- vii. Article 26 (1): Indigenous peoples have the right to the lands, territories and resources which they have traditionally owned, occupied or otherwise used or acquired.
- viii. Article 26 (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.
- ix. Article 26 (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.
- x. Article 32 (1): Indigenous peoples have the right to determine and develop priorities and strategies for the development or use of their lands or territories and other resources.
- xi. Article 32 (2): States shall consult and cooperate in good faith with the indigenous peoples concerned through their own representative institutions in order to obtain their free and informed consent prior to the approval of any project affecting their lands or territories and other resources, particularly in connection with the development, utilization or exploitation of mineral, water or other resources.
- xii. Article 32 (3): States shall provide effective mechanisms for just and fair redress for any such activities, and 24 appropriate measures shall be taken to mitigate adverse environmental, economic, social, cultural or spiritual impact.
- xiii. Article 36 (1) Indigenous peoples, in particular those divided by international borders, have the right to maintain and develop contacts, relations and cooperation, including activities for spiritual, cultural, political, economic and social purposes, with their own members as well as other peoples across borders.

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- xiv. Article 37 (1): Indigenous peoples have the right to the recognition, observance and enforcement of treaties, agreements and other constructive arrangements concluded with States or their successors and to have States honour and respect such treaties, agreements and other constructive arrangements.
- B. The *United Nations Declaration on the Rights of Indigenous Peoples Act* commits Canada, in consultation and cooperation with Indigenous peoples, to:
- i. Take all measures necessary to ensure the laws of Canada are consistent with the UN Declaration per Section 5.
 - ii. Prepare a National Action Plan to achieve the UN Declaration's objectives within two years of royal assent that includes measures for monitoring, oversight, recourse or remedy or other accountability measures with respect to the implementation of the Declaration per Section 6.
 - iii. Prepare within 90 days of each fiscal year an annual report on the measures Canada has taken under the Act, and to table that annual report in parliament as soon as practicable thereafter and make that plan public per Section 7.
- C. The First Nations-in-Assembly have passed numerous Resolutions calling for the immediate and principled implementation of the UN Declaration in Canada including:
- i. 32/2019, *Support the Declaration by Indigenous Nations and Peoples on Indigenous Territories, Colonial Doctrines and the Underlying Myth of Crown Title*;
 - ii. 86/2019, *Federal legislation to create a framework for implementation of the United Nations Declaration on the Rights of Indigenous Peoples*; and,
 - iii. 17/2021, *National Action Plan to Implement the United Nations Declaration on the Rights of Indigenous Peoples*
- D. Many First Nations have been forced to put forth explicit Declarations, Statements, Policies and other expression of their inherent rights to their territories because of the Crown's colonial policies regarding the sacred natural resources of our territories at the federal, provincial and territorial levels.
- E. One example of these First Nations' expression of their inherent rights to their territories in the face of provincial disregard for First Nations rights is the Declaration on Natural Resources on Treaty 5 Territory which states:

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- i. We declare, we have a right to the lands, territories and resources which we have traditionally owned, occupied or otherwise uses or acquired as per Article 26 (1) of the UN Declaration on the Rights of Indigenous Peoples, 2007. Furthermore, we have an inherent and treaty right to continue with our mode of life to make a living as articulated in our Treaties. With certainty, this includes an unfettered right to trade and commerce. We further vow to protect our territories so our children may continue to hunt, fish, and gather the medicines forever from our territories.
- ii. [...] The Crown at both the federal and the provincial levels have taken a unilateral approach in the interpretation of the Treaties that only serves to benefit them. This violates the articles of our sacred Treaties and our basic human rights to access our own resources to sustain our peoples and our governments.

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

1. Affirm that the Crown, in all of its forms whether federal, provincial, or territorial, is obliged to respect, uphold and protect the human rights of First Nations including self-determination as articulated in the UN Declaration.
2. Affirm that First Nations Declarations, Statements, Policies and other expression of their inherent rights to their territories that must necessarily be respected as the Crown implements the UN Declaration.
3. Acknowledge the Declaration on Natural Resources on Treaty 5 Territory as one such expression of inherent rights; and, to advocate for this Declaration and all others to be considered and respected in the National Action Plan the UNDA National Action Plan co-development process over the coming year.
4. Call upon the Crown, in all of its forms whether federal, provincial or territorial, to take every action necessary to immediately ensure their laws and policies are consistent with the UN Declaration.
5. Remind the Crown, in all of its forms whether federal, provincial or territorial, that the unilateral imposition of provincial and territorial boundaries on First Nations requires the Crown, in all of its forms, to ensure its differing laws, policies and practices that impact First Nations are consistent with the UN Declaration.
6. Declare that those provincial and territorial governments that refuse to cooperate with the federal government in implementing the UN Declaration are intentionally denying First Nations human rights as expressed in the UN Declaration.

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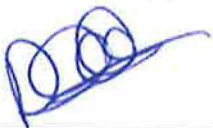


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7. Direct the Assembly of First Nations (AFN) to establish an ad-hoc National Expert Panel on the United Nation Declaration on Indigenous Peoples Act National Action Plan to support research and analysis for First Nations interested in contributing to the National Action Plan creation and implementation over the next two years.
8. Direct the AFN to ensure that members of the National Expert Panel be selected from each AFN region and that they be tasked with considering issues of aboriginal rights, title, use and management of First Nations territories, homelands and waterways with a focus on identifying tangible steps for the Crown, in all of its forms whether federal, provincial, or territorial, to ensure that their laws are consistent with the UN Declaration.
9. Direct the National Expert Panel once convened to undertake an analysis on the purported "cede, release, surrender and yield" provision in the text of Treaties #1-11 for their consistency with the UN Declaration and to present this analysis back to the First Nations-in-Assembly for their consideration as soon as practicable.
10. Direct the AFN to continue international advocacy on behalf of First Nations by advocating for the repeal of States and other internationally influential body's doctrines, laws, and policies that are inconsistent with the UN Declaration; specifically advocating to the Catholic Papacy to formally rescind the Doctrine of Discovery during their visit to Canada and to advocate to the Catholic Papacy and the Canadian Government to formally rescind and repudiate the Doctrine of Discovery by the end of this calendar year.

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