

# Assembly of First Nations

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# Assemblée des Premières Nations

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**SPECIAL CHIEFS ASSEMBLY**  
December 2-3-4, 2025, Ottawa, ON

**Resolution no. 62/2025**

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**TITLE:** Ensuring Rights-based Negotiations and Economic Accommodations are Mandated and Directed by Rights-bearing First Nations, not Provincial-Territorial Organizations without Authority

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**SUBJECT:** Governance, Rights Protection, Economic Benefits

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**MOVED BY:** Chief Kelsey Jacko, Cold Lake First Nation, AB

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**SECONDED BY:** Eric Tootoosis, Proxy, Poundmaker First Nation, SK

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**DECISION:** Carried by consensus

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**WHEREAS:**

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

- i. Article 4: Indigenous peoples, in exercising their rights to self-determination, have the right to autonomy or self-government in matters relating to their internal and local affairs, as well as ways and means for financing their autonomous functions.
- ii. 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.
- iii. Article 28(1): Indigenous peoples have the right to redress, by means that can include restitution or, when this is not possible, just, fair and equitable compensation, for the lands, territories and resources which they have traditionally owned or otherwise occupied or used, and which have been confiscated, taken, occupied, used or damaged without their free, prior, or informed consent.
- iv. Article 28(2): Unless otherwise freely agreed upon by the peoples concerned, compensation shall take the form of lands, territories and resources equal in quantity, size and legal status or of monetary compensation or other appropriate redress.

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*Cindy Woodhouse*

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- B.** The Assembly of First Nations (AFN) is mandated to advocate for and protect the Inherent, Treaty, and Aboriginal rights of First Nations, and to ensure that any negotiations, agreements, or accommodations involving those rights are directed and authorized by the rights-bearing Nations themselves.
- C.** Section 35 of the *Constitution Act, 1982* recognizes and affirms the existing Aboriginal and treaty rights of First Nations, which are collective rights held by the Nation and not by political or service delivery organizations.
- D.** Provincial/Territorial Organizations (PTOs) are political or advocacy bodies that, while often serving important roles in coordination and representation, are not themselves rights-bearing entities and have no inherent legal standing to negotiate or settle rights-based matters without explicit and documented mandates from the rights holders.
- E.** Across Canada, instances have arisen where PTOs have entered into rights-based negotiations or accepted economic accommodation measures from governments or industry without transparent, prior, and informed legal mandates from the impacted First Nations, resulting in:
  - i.** Undermining of First Nations' Inherent and Treaty rights;
  - ii.** Erosion of Nation-to-Crown relationships; and
  - iii.** Diversion of economic benefits away from directly impacted First Nations.
- F.** The lack of a mandated, transparent process for PTO involvement in rights-based negotiations risks violating the principle of free, prior, and informed consent (FPIC) under the UN Declaration and undermines the integrity of Section 35 rights protections.

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

- 1. Affirm that rights-based negotiations with the federal or provincial governments, as well as participation in economic accommodation measures arising from the infringement of Section 35 rights, must be conducted only by, or under the express legal authority of, the rights-bearing First Nations whose rights are directly impacted.
- 2. Call upon all governments (federal, provincial, territorial) to immediately cease entering into rights-based negotiations or granting economic accommodations with Provincial/Territorial Organizations (PTOs) unless such organizations are acting under a clear, documented, and legally enforceable mandate from the rights holders.
- 3. Direct the Assembly of First Nations (AFN) to develop and advocate for a national policy standard that:
  - a.** Requires governments to verify the mandate of any organization claiming to negotiate or receive benefits on behalf of First Nations;
  - b.** Establishes that all economic accommodations arising from infringements must flow directly to the impacted rights-bearing First Nations, not to PTOs or third-party entities without rights-holder authorization; and
  - c.** Ensures transparency and accountability in all rights-based negotiation processes.

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*Woodhouse*.

4. Call upon the federal and provincial governments to respect the Nation-to-Crown relationship by engaging directly with the rights holders in any negotiations, settlements, or accommodations affecting their Section 35 rights.
5. Direct the AFN to report back at a future Assembly on positive examples of PTOs engaging with appropriate mandates, the impacts on rights holders, and recommended strategies to protect the direct rights-holder relationship with the Crown.

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