



ANNUAL GENERAL ASSEMBLY
September 3-4-5, 2025, Winnipeg, MB

Resolution no. 18/2025

TITLE:	Supporting First Nations Right to Self-Determination beyond Co-development to Advance Distinct First Nations Accessibility Legislation
SUBJECT:	Health, Justice, Accessibility/Disability
MOVED BY:	Chief Derek Nepinak, Minegozibe Anishinabe First Nation, MB
SECONDED BY:	Andre Bear, Proxy, Little Black Bear First Nation, SK
DECISION	Carried; 5 Opposition; 5 Abstention

WHEREAS:

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

- i. Article 12(1): Indigenous peoples have the right to manifest, practise, develop and teach their spiritual and religious traditions, customs and ceremonies; the right to maintain, protect, and have access in privacy to their religious and cultural sites; the right to the use and control of their ceremonial objects; and the right to the repatriation of their human remains.
- ii. 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.
- iii. Article 27: States shall establish and implement, in conjunction with indigenous peoples concerned, a fair, independent, impartial, open and transparent process, giving due recognition to indigenous peoples' laws, traditions, customs and land tenure systems, to recognize and adjudicate the rights of indigenous peoples pertaining to their lands, territories and resources, including those which were traditionally owned or otherwise occupied or used. Indigenous peoples shall have the right to participate in this process.
- iv. Article 40: Indigenous peoples have the right to access to and prompt decision through just and fair procedures for the resolution of conflicts and disputes with States or other parties, as well as to effective remedies for all infringements of their individual and collective rights. Such a decision

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shall give due consideration to the customs, traditions, rules and legal systems of the indigenous peoples concerned and international human rights.

- B. The Truth and Reconciliation Commission's Calls to Action include #48, (ii) to respect Indigenous peoples' right to self-determination in spiritual matters, including the right to practice, develop, and teach their own spiritual and religious traditions, customs, and ceremonies, consistent with Article 12(1) of the UN Declaration.
- C. In 2022, the Assembly of First Nations (AFN) published a *Draft for Discussion: Position Paper on Co-development with the Assembly of First Nations* (AFN Position Paper) in response to numerous resolutions directing the AFN to co-develop with the Government of Canada, legislative, policy, or funding approaches for implementation nationally.
- D. While the AFN Position Paper was developed only to support the AFN and Canada to discuss and articulate principles of co-development to guide their work under the *AFN-Canada Memorandum of Understanding on Joint Priorities*, it does reaffirm some of First Nations' basic expectations with respect to nation-to-nation processes and consultation and accommodation, among other things.
- E. The AFN Position Paper stated that any co-development processes between the AFN and the federal government do not discharge the Crown's duty to consult and accommodate individual First Nations. It asserts that the AFN cannot give consent on behalf of any First Nation and instead works to ensure that First Nations rights, perspectives and concerns are recognized and upheld.
- F. The AFN Position Paper further outlined several key principles, asserting specifically that "co-development" does not replace First Nations' inherent jurisdiction, nor should federal frameworks be interpreted as a substitute for First Nations law-making processes.
- G. Important advances have been made to support the priorities of First Nations through collaborative processes with the federal government, such as the 2021 adoption of the *Act respecting the United Nations Declaration on the Rights of Indigenous Peoples*. In practice, however, processes described as "co-development" have varied widely and often fall short of meeting First Nations Inherent and Treaty rights, as well as the federal government's legal obligations. The collapse of the federal governments' Rights Recognition process is one such example.
- H. Recognizing that federal frameworks are not a substitution for First Nations law-making processes, AFN Resolution 71/2024, *Rejecting the Accessible Canada Act and Advancing Distinct First Nations Accessibility Legislation*, (DFNAL) mandates the AFN to advance DFNAL, developed by First Nations for First Nations. DFNAL is grounded in First Nations' right to self-determination and jurisdiction and rooted in time immemorial legal traditions upholding the rights of the Lands, the Waters, and the Peoples.
- I. "Co-development" has been used to adjust several existing federal laws. In contrast, externally guided processes by federal government departments often interfere and stand in contradiction to each First Nations' Inherent right to revitalize their own time immemorial traditional laws and legal processes. The creation of a new distinct First Nations-led DFNAL, based on First Nations Inherent right to develop their own laws, are rooted in ceremonies, languages, customs and culture stemming from the land that are

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diverse and unique to each First Nation, and must proceed without interference from federal departments such as Employment Social Development Canada (ESDC).

- J. On March 5-6, 2025, the AFN Chiefs Committee on Health (CCOH) met in Vancouver B.C., to discuss concerns that ESDC is insisting on the co-development of DFNAL, and in so doing, ESDC is interfering with First Nations inherent jurisdiction to advance DFNAL through a process led by First Nations for First Nations. This action by ESDC is therefore in direct conflict with Resolution 71/2024.
- K. The CCOH also raised concerns that ESDC continues to implement the *Accessible Canada Act* (ACA) Accessor Training Project in First Nations. The undertaking of an ACA associated project in First Nations directly conflicts with Resolution 71/2024 where the AFN, First Nations and the regions were not included in the development of the Accessor Training Project and where this activity neglected to respect the UN Declaration's principles of free, prior and informed consent (FPIC), as well as the First Nations principles of OCAP® (ownership, control, access and possession).
- L. DFNAL is rooted in First Nations traditional laws, customs and ceremonies, aimed at revitalizing First Nations legal traditions and systems that were suppressed during Canadian colonization. Moreover, First Nations are recognized as custodians of Natural Law or First Laws coming from the Creator, as the caretakers of the Land, and Waters, including First Nations obligations to restore Ancestral teachings.
- M. The Two Row Wampum Belt of the Haudenosaunee Peoples honours and affirms the principle of peaceful coexistence between the two distinct worldviews of First Nations and the Canadian Framework depicted with two parallel rows of beads, representing a First Nations canoe and a colonial ship traveling the river of life together with each vessel, charting its own path and purpose, without interference from the other. This time-honoured Treaty reflects the ongoing need for mutual respect and parallel, yet separate governance.

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

1. Direct the Assembly of First Nations (AFN) to advocate that Employment Social Development Canada (ESDC) and other federal departments cease any actions that re-colonize First Nations in the context of co-developing Distinct First Nations Accessibility Legislation (DFNAL) and affirm that co-development must not replace or diminish First Nations' Inherent right and jurisdiction to self-determination in advancing DFNAL.
2. Call on ESDC to engage directly with AFN on matters related to the *Accessible Canada Act* (ACA) and the Accessor Training Project, as a national advocacy organization working with First Nations, rather than proceeding with third-party contractors.
3. Direct the AFN to seek funding to secure resources from ESDC and Justice Canada to support the development of a draft framework on the Revitalization of First Nations Legal Traditions that enables collaboration with the federal government and a whole of government approach to advancing First Nations self-determined approaches where "co-development" may not be the appropriate mechanism or approach to advancing First Nations rights and sovereignty.

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