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# Assembly of First Nations

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# Assemblée des Premières Nations

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## SPECIAL CHIEFS ASSEMBLY

December 5,6,7, 2023, Ottawa, ON

Resolution no. 77/2023

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**TITLE:** Call for Canada to Consult on All Amendments Pursuant to the *UNDRIP Act*

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**SUBJECT:** Rights

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**MOVED BY:** Chief Sidney Peters, Glooscap First Nation, NS

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**SECONDED BY:** Chief Michelle Glasgow, Sipekne'katik First Nation, NS

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**DECISION** Carried; 4 abstentions

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### WHEREAS:

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

- i. 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.
- 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 38: States in consultation and cooperation with indigenous peoples, shall take the appropriate measures, including legislative measures, to achieve the ends of this Declaration.
- iv. Article 39: Indigenous peoples have the right to have access to financial and technical assistance from states and through international cooperation, for the enjoyment of the rights contained in this Declaration.

B. On June 21, 2021, the Government of Canada passed the *United Nations Declaration on the Rights of Indigenous Peoples Act (UNDA)*. Section 5 of the UNDA requires Canada to take all measures necessary to ensure that the laws of Canada are consistent with the UN Declaration. Section 6 of the UNDA requires

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Certified copy of a resolution adopted on the 5th day of December 2023 in Ottawa, Ontario

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the Minister of Justice to prepare and implement an Action Plan to achieve the objectives of the UN Declaration.

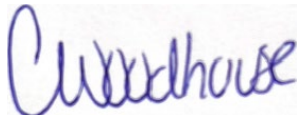
- C. On June 21, 2023, the federal government announced the National Action Plan (the Action Plan) to implement the UN Declaration. The 2023-2028 Action Plan was the result of two years of consultation with Indigenous Peoples. However, the Action Plan contains gaps when it comes to implementing the UN Declaration.
- D. The UNDA requires Canada to continue to work with First Nations rights holders and their representative institutions and organizations as identified by First Nations rights holders.
- E. Assembly of First Nations (AFN) Resolution 20/2023, *United Nations Declaration on the Rights of Indigenous Peoples Draft National Action Plan*, called on First Nations-in-Assembly to support First Nation and region-specific approaches that uplift First Nations rights holder and advance the implementation of the UN Declaration based on ongoing work, identified priorities and positions in relation to the UNDA, and the Action Plan.
- F. The Crown has a duty to consult and accommodate on all matters when the Crown has real or constructive knowledge of the potential existence of Aboriginal or Treaty rights and contemplates conduct that might adversely affect such rights.
- G. All legislative, policy and regulatory amendments made pursuant to the *UNDA* inherently impact First Nations rights by nature of the Act itself. The amendment of laws as per Section 5 of the UNDA can trigger a duty to consult.

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

1. Call on the Assembly of First Nations (AFN) to demand the Government of Canada obtain the free, prior, and informed consent of all First Nations and consult on all amendments to federal legislation, policy, or regulation which may affect First Nations rights pursuant to Section 5 of the *United Nations Declaration on the Rights of Indigenous Peoples Act (UNDA)*.
2. Direct the AFN to call on the Government of Canada to ensure that the implementation of the UNDA does not infringe, diminish, or derogate in any way from existing section 35 rights.
3. Call on the AFN to advocate for the full implementation of the UNDA National Action Plan Measures.
4. Call on the AFN to demand long-term and sustainable funding for First Nations to participate meaningfully in the implementation of the National Action Plan and *United Nations Declaration on the Rights of Indigenous Peoples (UN Declaration)* processes, including consultation processes.
5. Direct the AFN to report to First Nations-in-Assembly annually on the state of the implementation of the UN Declaration within Canada.

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