ANNUAL GENERAL ASSEMBLY
July 15, 16, & 17, 2008, Quebec City, QC

Resolution no. 05/2008

SUBJECT:	Implementation of Bill C-21, Repeal of s. 67 of the *Canada Human Rights Act*
MOVED BY:	Chief Lisa Shaver, Penelakut Indian Band, BC
SECONDED BY:	Chief Marianna Couchie, Nipissing First Nation, ON
DECISION:	Carried (4 opposed).

WHEREAS:

A. The Government of Canada moved unilaterally to introduce legislation to repeal s. 67 of the *Canada Human Rights Act*, which exempted the Federal Government and First Nations governments from the provisions of that Act, without consultation with First Nations;

B. Amendments were made to Bill C-21 to:

   i. ensure the repeal of s. 67 would not abrogate or derogate from the protection provided for existing aboriginal or treaty rights in section 35 of the *Constitution Act,* 1982 (non-derogation clause);

   ii. interpret and apply the Act in a manner that gives due consideration to First Nations legal traditions and customary laws, particularly the balancing of individual rights and interests against collective rights and interests (interpretive clause);

   iii. provide for a review of the impacts of the repeal of s. 67 within 5 years of its receiving royal assent, and a report to be submitted to both Houses of Parliament;

   iv. provide for a transition period of 36 months before the Act applies to First Nation governments; and

   v. call for a study to identify the extent of the preparation, capacity and fiscal and human resources that will be required in order for First Nations communities and organizations to comply with the *Canadian Human Rights Act; and*

C. Bill C-21 specifically calls for these activities to be conducted with First Nations' representative organizations.

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Phil Fontaine, National Chief

THEREFORE BE IT RESOLVED that:

1. The Chiefs-in-Assembly oppose the unilateral introduction and passage of Bill C-21.

2. The Chiefs-in-Assembly request that the Government of Canada immediately begin the study of existing preparation, capacity, fiscal, and human resources required by First Nations to implement this Act in a joint process with the Assembly of First Nations, and that adequate resources be required to ensure First Nations can be fully engaged in this process.

3. The Chiefs-in-Assembly mandate the Assembly of First Nations to act in a facilitative and coordinating role with the Government of Canada and the Canadian Human Rights Commission in carrying-out these activities to assist First Nations in preparing for the implementation of the *Canada Human Rights Act*.

4. The Chiefs-in-Assembly urge that the Canadian Human Rights Commission to increase its complement of First Nations commissioners, employees and legal experts, and to ensure that all commissioners are provided on-going education on First Nations political, social and legal histories.

5. The Chiefs-in-Assembly direct that specific activities be undertaken to:

    i. develop interpretive principles and guidelines regarding First Nations legal traditions and customary laws and the balancing of individual rights and interests against collective rights and interests;

    ii. identify options for recognizing First Nations jurisdiction over human rights, including necessary First Nations institutions, which could include the development of First Nations Human Rights Acts or Codes, First Nations Commissions and First Nations Tribunals;

    iii. explore existing First Nation alternative dispute resolution mechanisms, identify best practices and develop options; and,

    iv. develop a tool-kit and communications materials for First Nations governments and citizens to ensure they are aware of their rights and responsibilities under the *Act.*

6. The Chiefs-in Assembly urge the Government of Canada and the Canadian Human Rights Commission to provide adequate and ongoing fiscal resources to:

    I. enable each First Nation to internally review any required amendments to policies, by-laws, codes and similar instruments to comply with the Canada Human Rights Act;

    II. enable First Nations to defend against complaints under the Human Rights Act and to satisfy any awards; and

    III. enable First Nations, regional organizations, provincial organizations, and the AFN to implement the necessary public education component.

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7. The AFN Executive consider legal strategies to address issues related to this legislation and to seek legislative amendments that address First Nations interests.

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