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## Assembly of First Nations

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## Assemblée des Premières Nations

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**Special Chiefs Assembly  
December 7, 8, 9, 2021, Ottawa (Ontario)**

**Resolution no. 40/2021**

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**TITLE:** Recognition of Governance and Treaty Governance

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**SUBJECT:** Governance

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**MOVED BY:** Chief Dennis Meeches, Long Plain First Nation, MB

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**SECONDED BY:** Chief Calvin Bruneau, Papaschase First Nation, AB

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**DECISION** Carried; 3 abstentions

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**WHEREAS:**

- A. The *Royal Proclamation of 1763* is the first legal recognition by the British Crown of Indigenous sovereignty and land rights. It set out the general principles of Treaty-making recognizing First Nations rights to the land and the right to self-govern. These rights are to be respected and honoured.
- B. First Nations in Canada have spent over a century and an abundance of resources to prove and assert their Treaty and Inherent Rights through the adversarial, burden of proof, court-based litigation process that has proved limiting to Indigenous rights jurisprudence.
- C. The current common law approach claims that First Nation rights must be specific to community rather than general in nature.
- D. Canada's *Inherent Right Policy* (1995) recognized the Indigenous right to self-government as a constitutionally protected right under section 35, granting Aboriginal communities the right to negotiate self-government agreements with the Government of Canada. The *Inherent Right Policy* continued to impose federal and provincial oversight over Indigenous communities exercising their inherent right to self-determination.
- E. In 1996, the *Report of the Royal Commission of Aboriginal Peoples* called for renewed national reconciliation efforts involving Canada, governments, and First Nations peoples. RCAP proposed the creation of an *Aboriginal Nations Recognition and Government Act*.
- F. Twenty years later, Canada announced the development of an *Indigenous Rights Recognition Framework* to provide a statutory alternative to litigating Indigenous rights in the courts. The AFN raised significant concerns in the

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**Certified copy of a resolution adopted on the 9th day of December 2021 in Ottawa, Ontario**

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**ROSEANNE ARCHIBALD, NATIONAL CHIEF**

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consultation process and the intended outcomes of the framework, thus halted the process and called for a new process led by the First Nations. This framework was never tabled in the House of Commons.

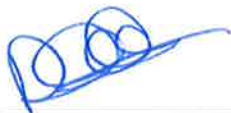
- G. Despite the First Nations attempts to advance the recognition of rights forward, Canada continues to impose legislative and policy instruments, and rights recognition “discussion tables” as a mechanism to divert the process of proving rights in the courts. Neither the statutory nor judicial approaches will serve First Nations interests as they remain rooted in Canada’s principle of constitutional supremacy.
- H. Constitutional amendments, judicial processes, and statutory alternatives are mechanism to serve Canada’s need for recognition to define how they fulfill their Treaty, legal, and constitutional obligations to First Nations. First Nations do not require these mechanisms to assert our Treaty, inherent, and legal rights. The onus is on Canada to harmonize their legislations with the First Nations’ governance systems.
- I. There are 70 historic treaties in Canada signed between 364 First Nations and the Crown.
- J. Treaty One Nations consist of the following First Nations: Brokenhead Ojibway Nation, Long Plain First Nation, Peguis First Nation, Roseau River Anishinabe Nation, Sagkeeng First Nation, Sandy Bay Ojibway Nation and Swan Lake First Nation.
- K. Treaty One Nations assert their right to self-determination and right to maintain and develop their own political and economic institutions through the collective renewal of Treaty One governance systems consistent with historical Treaty relations and protocols.

**THEREFORE BE IT RESOLVED that the Chiefs-in-Assembly:**

- 1. Recognize Treaty One Nations, as the Signatories of Treaty Number One, as a collective First Nations government in full legal force and effect.
- 2. Direct the Assembly of First Nations to support the development, establishment, and operationalization a self-governed First Nations institution that:
  - a. Recognizes First Nation Government, Collective First Nation Government, and Treaty Government Constitutions.
  - b. Defines the actions, institutional processes, and enforcement mechanisms for First Nations to give force and effect to the provisions of the United Nations Declaration on the Rights of Indigenous Peoples.
  - c. Develops a First Nations “Charter of Rights” that validates First Nation legal traditions, systems, and laws.

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