
Assembly of First Nations

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Assemblée des Premières Nations

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**ANNUAL GENERAL ASSEMBLY
JULY 11, 12, & 13, 2023; HALIFAX, NS**

Resolution no. 38/2023

TITLE: Recognize First Nations Laws and Legal Orders in the Specific Claims Process

SUBJECT: Specific Claims, Indigenous Laws and Legal Traditions

MOVED BY: Chief Wilfred King, Gull Bay First Nation, ON

SECONDED BY: Chief Calvin Sanderson, Chakastaypasin First Nation, SK

DECISION Carried by Consensus

WHEREAS:

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

- i. Article 3: Indigenous peoples have the right to self-determination. By virtue of that they freely determine their political status and freely pursue their economic, social, and cultural development.
- 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 decision-making institutions.
- 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.

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- 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 shall give due consideration to the customs, traditions, rules and legal systems of the indigenous peoples concerned and international human rights.
- B. Specific claims deal with the Government of Canada's outstanding legal obligations to First Nations. The resolution of specific claims is integral to reconciliation between the Government of Canada and First Nations.
- C. First Nations have their own distinct laws, legal orders, and dispute resolution mechanisms that must be recognized and applied in a manner equal with Canadian law.
- D. First Nations-in-Assembly passed Resolution 09/2020, Jointly Develop a Fully Independent Specific Claims Process which "supports the recognition of laws, legal orders, and dispute resolution mechanisms as articulated by participating First Nations."
- E. The Government of Canada is legally required to take effective measures to fully implement the UN Declaration, which includes ensuring First Nations laws, legal orders and dispute resolution mechanisms are fully recognized and included in processes that affect First Nations rights.
- F. Current funding for specific claims research is only \$12 million, where the need in 2023-2024 is over \$30 million. Over 90 First Nations were denied funding, while others who are actively researching have had their proposals rejected this year.
- G. The Assembly of First Nations (AFN) has developed a Council of Experts in Indigenous Laws (CEIL) to provide guidance on the inclusion of First Nations laws, legal orders, and dispute resolution mechanisms in the specific claims resolution process.

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

1. Direct the Assembly of First Nations (AFN) to call on the Government of Canada to work with First Nations to research, plan, and develop frameworks for the recognition of Indigenous laws, legal orders, and systems of land tenure in the specific claims process.
2. Direct the AFN to call on the Government of Canada to support the recognition of the laws, legal orders, and dispute resolution mechanisms as articulated by participating First Nations in all aspects of resolving specific claims, including in the conduct of adjudication, dispute resolution and negotiations.

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3. Direct the AFN to call on the Government of Canada to provide adequate resources and funding to First Nations to ensure that Indigenous laws, legal orders, and systems of land tenure are recognized at all stages of the specific claims process including immediately providing additional research funding to First Nations for the 2023-2024 fiscal year and renewing a 5-year funding envelope going forward to increase annual funding to meet actual needs.

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