

**SPECIAL CHIEFS ASSEMBLY****December 5,6,7, 2023, Ottawa, ON****Resolution no.88/2023**

TITLE: **Communal Protection Orders for Violent and Repeat Offenders in First Nations**

SUBJECT: Justice, Law Enforcement

MOVED BY: De-Anne Sack, proxy, We'koqma'q First Nation, NS

SECONDED BY: Chief Wilfred King, Kiashe Zaaging Anishinaabek First Nation, ON

DECISION Carried by Consensus

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

- i. Article 1: Indigenous peoples have the right to the full enjoyment, as a collective or as individuals, of all human rights and fundamental freedoms as recognized in the Charter of the United Nations, the Universal Declaration of Human Rights and international human rights law.
- ii. Article 5: Indigenous peoples have the right to maintain and strengthen their distinct political, legal, economic, social and cultural institutions, while retaining their right to participate fully, if they so choose, in the political, economic, social and cultural life of the State.
- iii. Article 34: Indigenous peoples have the right to promote, develop and maintain their institutional structures and their distinctive customs, spirituality, traditions, procedures, practices and, in the cases where they exist, juridical systems or customs, in accordance with international human rights standards.
- 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.

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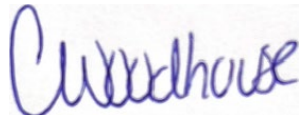
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- B. On June 3, 2019, the National Inquiry into Missing and Murdered Indigenous Women and Girls released their Final Report Reclaiming Power and Place and 231 Calls for Justice. The 231 Calls for Justice states:
- i. Call to Justice 1.5: We call upon all governments to immediately take all necessary measures to prevent, investigate, punish, and compensate for violence against Indigenous women, girls, and 2SLGBTQIA people.
 - ii. Call to Justice 5.2: We call upon the federal government to review and amend the Criminal Code to eliminate definitions of offences that minimize the culpability of the offender.
 - iii. Call to Justice 5.3: We call upon the federal government to review and reform the law about sexualized violence and intimate partner violence, utilizing the perspectives of feminist and Indigenous women, girls, and 2SLGBTQIA people.
 - iv. Call to Justice 5.9: We call upon all governments to ensure that protection orders are available, accessible, promptly issued, and effectively serviced and resourced to protect the safety of Indigenous women, girls, and 2SLGBTQIA+ people.
 - v. Call to Justice 5.16: We call upon federal, provincial, and territorial governments to provide community-based and Indigenous-specific options for sentencing.
- C. Many First Nations have community protection Laws, by-laws, and other laws where enforcement is contentious or non-existent. Many Assembly of Manitoba Chiefs (AMC) member First Nations execute Chief and Council Resolutions (“CCRs”, formerly known as Band Council Resolutions or BCRs), to banish violent and/or repeat offenders from First Nations.
- D. First Nations and leadership are left with no recourse as these community protection CCRs are routinely and openly defied, resulting in violent and repeat offenders returning to their respective First Nations.
- E. Current Canadian law does not empower the Royal Canadian Mounted Police (RCMP) to enforce trespassing charges with any means other than a nominal fine, and the violent and repeat offenders who are fined for trespassing often disregard the fines and openly defy the community protection orders.
- F. First Nations are communal people and have recognized the importance of the collective rights of the Nation and the priority of those collective rights over the rights of the individual.

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

1. Call on all levels of government to work with First Nations in seeking and enforcing communal protection orders for violent and repeat offenders and to work with First Nations in strengthening their legal institutions, including the enforcement of laws aimed at protecting their First Nations and First Nations citizens.
2. Direct the Assembly of First Nations (AFN) to seek resources to support working with First Nations to explore the creation or amendments to both federal and provincial legislation to define the scope and criteria for communal protection orders, as well as ensuring that such orders align with the cultural and legal frameworks of the respective First Nations.
3. Direct the AFN to collaborate with Justice Canada, Public Safety Canada, and Crown-Indigenous Relations and Northern Affairs to develop a clear process for seeking and enforcing communal protection orders against violent and repeat offenders.

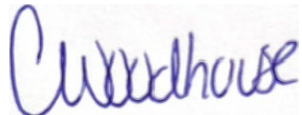
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4. First Nations have Modern Treaties that are nation-to-nation agreements recognized and affirmed under the *Constitution Act, 1982*, and nothing in this resolution is meant to or shall be interpreted so as to diminish, limit, impact, or supersede the ability of First Nations to exercise their inherent jurisdictions, to exercise and fulfill their rights and authorities under Modern Treaties, or to engage in their unique relationship with Canada.

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