
Assembly of First Nations

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SPECIAL CHIEFS ASSEMBLY

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

Resolution no.81/2023

TITLE: Urgent Protection of First Nations Inherent and Treaty Rights from Ongoing Illegitimate Rights Assertions

SUBJECT: Treaties, Lands, Justice

MOVED BY: Chief Etienne Rich, Sheshatshiu Innu First Nation, NL

SECONDED BY: Chief Réal Mckenzie, Conseil des Montagnais de Matimekush, QC

DECISION Carried; 1 abstention

WHEREAS:

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

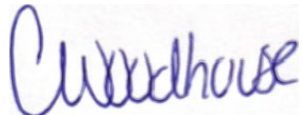
- i. Article 18: Indigenous peoples have the right to participate in decision-making in matters which would affect their rights, through representatives chosen by themselves in accordance with their own procedures, as well as to maintain and develop their own indigenous decision-making institutions.
- 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 26 (1): Indigenous peoples have the right to the lands, territories and resources which they have traditionally owned, occupied or otherwise used or acquired.
- iv. Article 26 (2): Indigenous peoples have the right to own, use, develop and control the lands, territories and resources that they possess by reason of traditional ownership or other traditional occupation or use, as well as those which they have otherwise acquired.

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- B. First Nations hold Inherent, Treaty and section 35 recognized rights, which the Government of Canada has failed to recognize, implement, and uphold since Confederation. Existing federal policies such as the Comprehensive Land Claims and Inherent Right to Self-Government Policies, are premised on extinguishing First Nations rights and title and do not provide First Nations with fair, open, and timely paths to rights recognition.
- C. First Nations are too often forced to prove they possess Inherent rights to self-government and jurisdiction over their lands and territories through the courts as they continue to wait for their Inherent rights to be fully recognized and upheld by the Government of Canada.
- D. Individuals and communities making false claims to be Indigenous to assert rights and obtain resources is an ongoing and increasingly prevalent problem. First Nations Inherent and Treaty rights are being impacted by groups, organizations, and individuals who are making illegitimate or unfounded rights assertions on the traditional and Treaty territories of First Nations. These rights assertions, which in many cases are being legitimized by the Government of Canada, undermine First Nations Inherent and Treaty rights and are antithetical to reconciliation.
- E. The Government of Canada is advancing draft legislation through Parliament and the Senate which recognizes illegitimate rights assertions from groups who lack the authority to represent rights holders. These bills have the potential to undermine First Nations rights and interests.
- F. Bill C-53, *An Act respecting the recognition of certain Métis governments in Alberta, Ontario and Saskatchewan* (Bill C-53), and Bill S-14, *An Act to amend the Canada National Parks Act*, illustrate the actions of the Government of Canada in recognizing illegitimate groups and unfounded rights assertions. These legislative initiatives also demonstrate a blatant disregard for potential impacts on First Nations rights and interests, and the need for adequate consultation. Bill C-53 and Bill S-14 have reached the committee stage in Parliament and the Senate respectively and may quickly become law if the Government of Canada does not reverse course.
- G. Bill S-14 would amend the *Canada National Parks Act* to recognize all current and future members of the NunatuKavut Community Council (NCC) as “traditional land users” with statutory rights to engage in a wide range of traditional activities within Akami-Uapishk^U, a National Park Reserve. This legislation recognition is being advanced by the Government of Canada despite the Incremental Treaty Agreement affirming the central role of Innu Nation in the management and operation of Akami-Uapishk^U and guaranteeing that the Government of Canada would consult the Innu about any legislation to add the Akami-Uapishk^U to the *Canada National Parks Act*.
- H. The NCC, formerly known as the Labrador Métis Nation, claim to represent a group of distinct “southern Inuit” in Labrador in an effort to secure benefits and resources at the expense of legitimate Indigenous groups in Labrador and Quebec. Nunatsiavut Government, Inuit Tapiriit Kanatami, and the Inuit Circumpolar Council have all repeatedly denounced NCC’s claims as fraudulent, stating that NCC is not Inuit and is not a right-bearing group. The Government of Canada has repeatedly rejected NCC’s land claim submissions

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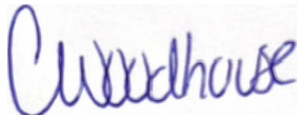
(four times, most recently in 2017) on the basis there was insufficient evidence that NCC is a s. 35 rights-holding people.

- I. Bill C-53 provides broad recognition to the Metis Nation of Ontario (MNO) as the representative government of Métis communities in Ontario, including six new Métis communities whose legitimacy First Nations have raised concerns about. First Nations were not consulted nor included in the negotiation and development of Bill C-53.
- J. AFN Resolution 44/2023, *Protect First Nations Rights and Interests from Unfounded Métis Rights Assertions*, calls on the Government of Canada to immediately withdraw Bill C-53 and to carry out a national consultation process with First Nations on illegitimate Indigenous rights assertions.

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

1. Direct the Assembly of First Nations (AFN) to urgently call on the Government of Canada to immediately begin working with First Nations to identify and establish flexible and fully funded mechanisms, inclusive of First Nations laws and legal orders, and consistent with the Honour of the Crown, to facilitate nation-to-nation discussions on the implementation of First Nations Inherent and Treaty rights.
2. Support Innu Nation in affirming that the NunatuKavut Community Council (NCC) does not hold s. 35 rights in Labrador or Quebec and direct the AFN to call on the Government of Canada to amend Bill S-14, *An Act to amend the Canada National Parks Act*, to remove any recognition of NCC.
3. Direct the AFN to call on the Government of Canada to affirm its commitment to fully implement Article 19 of the *United Nations Declaration on the Rights of Indigenous Peoples* by consulting with potentially impacted First Nations and obtaining their free, prior, and informed consent before adopting and implementing any legislative or administrative measures that may affect them.
4. Direct the AFN to engage with First Nations regarding how Bill C-53, *An Act respecting the recognition of certain Métis governments in Alberta, Ontario and Saskatchewan*, and Bill S-14 could be amended to ensure that First Nations inherent, Treaty and s.35 rights are upheld and respected if the Government of Canada proceeds with the legislative process to enact Bills S-14 or C-53.
5. Direct the AFN to support First Nations rights holders who oppose illegitimate rights assertions within their territories, including through political, legislative, legal interventions, information sharing and coordination and analysis.
6. Direct the AFN to seek resources to support these ends.

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