
Assembly of First Nations

50 O'Connor Street, Suite 200
Ottawa, Ontario K1P 6L2
Telephone: (613) 241-6789 Fax: (613) 241-5808
www.afn.ca



Assemblée des Premières Nations

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Ottawa, Ontario K1P 6L2
Téléphone: (613) 241-6789 Télécopieur: (613) 241-5808
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SPECIAL CHIEFS ASSEMBLY

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

Resolution no. 78/2023

TITLE: Establishing a Chiefs' Committee on the UN Declaration Act

SUBJECT: United Nations Declaration on the Rights of Indigenous Peoples

MOVED BY: Chief Jerry Jack, Mowachaht/Muchlaht First Nation, BC

SECONDED BY: Chief Annie Daisley, We'koqma'q First Nation, NS

DECISION Carried; 5 abstentions

WHEREAS:

- A. The *United Nations Declaration on the Rights of Indigenous Peoples* (UN Declaration) was adopted by the General Assembly of the United Nations in 2007.
- B. Canada endorsed the UN Declaration without qualification in 2016.
- C. In 2021, the Government of Canada enacted Bill C-15, *the United Nations Declaration on the Rights of Indigenous Peoples Act* (UNDA).
- D. Section 5 of the UNDA provides:
 - i. The Government of Canada must, in consultation and cooperation with indigenous peoples, take all measures necessary to ensure that the laws of Canada are consistent with the Declaration.
- E. Section 6 of the UNDA provides:
 - i. 6 (1): The Minister must, in consultation and cooperation with indigenous peoples and with other federal ministers, prepare and implement an action plan to achieve the objectives of the Declaration.
 - ii. 6 (2) The action plan must include:
 - i. measures to:
 - 1. address injustices, combat prejudice and eliminate all forms of violence, racism, and discrimination, including systemic racism and discrimination, against

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indigenous peoples and indigenous elders, youth, children, women, men, persons with disabilities and gender-diverse persons and two-spirit persons, and

2. promote mutual respect and understanding as well as good relations, including through human rights education; and

ii. measures related to monitoring, oversight, recourse or remedy or other accountability measures with respect to the implementation of the Declaration.

iii. 6 (3) The action plan must also include measures related to monitoring the implementation of the plan and reviewing and amending the plan.

iv. 6 (4) The preparation of the action plan must be completed as soon as practicable, but no later than two years after the day on which this section comes into force.

v. 6 (5) The Minister must cause the action plan to be tabled in each House of Parliament as soon as practicable after it has been prepared.

vi. 6 (6) After the action plan is tabled, the Minister must make it public.

F. In April 2023, First Nations-in-Assembly passed Assembly of First Nations (AFN) Resolution 20/2023, *United Nations Declaration on the Rights of Indigenous Peoples Act Draft National Action Plan*, which:

i. Calls upon the Government of Canada to proceed without delay to amend the United Nations Declaration on the Rights of Indigenous Peoples Act, for tabling the Action Plan with Parliament annually, in order that Indigenous Peoples be consulted and accommodated pursuant to Section 6(1) of the UNDRIP Act and Section 35 of the Constitution Act, 1982.

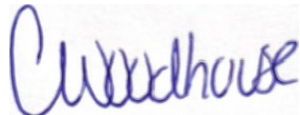
ii. In the event that the Government of Canada is unwilling or unable to amend Section 6 (4) of the UNDRIP Act, direct AFN to:

i. Call on the Government of Canada to commit to amending the Action Plan annually after June 21, 2023, following consultation that meets the requirements of the UNDRIP Act, and First Nations Inherent and Treaty rights, title, and jurisdiction.

ii. Call upon the Government of Canada to ensure additional funds and resources be made available to all First Nations who wish to participate in the consultation of the Action Plan, in order to meet the requirements of free, prior, and informed consent as per Article 19 of the United Nations Declaration on the Rights of Indigenous Peoples and the duty to consult and accommodate.

iii. Call on the Government of Canada to continue to consult and cooperate with First Nations title and rights and treaty holders and their representative institutions, where mandated by the First Nation, to review and co-develop amendments to the National Action Plan in order to address the gaps that have been identified by First Nations. This process must be supported by a national oversight body with representation from First Nations and Crown governments, to ensure transparency and the incorporation of First Nations submissions on the National Action Plan.

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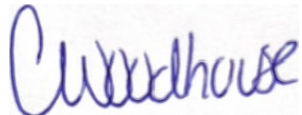
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- iv. Support First Nation and region-specific approaches that uplift First Nations right-holders and advance the implementation of the Declaration based on ongoing work, identified priorities and positions in relation to the UNDRIP Act, and the National Action Plan.
 - v. Call on the Department of Justice to provide a copy of all the proposals it has reviewed and approved, without restrictions, to the AFN.
- G. To date, Canada has failed to meet the expectations outlined in Resolution 20/2023 and called for by First Nations-in-Assembly.
- H. The UNDA requires Canada to continue to work with First Nations rights holders and their representative institutions and organizations as identified by First Nations rights holders, on all matters related to the implementation of the UN Declaration in Canada, including in all efforts to amend and/or review any future National Action Plans and develop the legislated Annual Report.
- I. First Nations must lead the process of achieving alignment of Canada's laws and policies with the UN Declaration.
- J. To date, no new funding has been announced to support First Nations in undertaking this critical work required under the UNDA.
- K. An Ad-Hoc Chiefs' Committee on the UN Declaration was established through executive motion at the AFN Executive Committee to ensure First Nation priorities were being advocated for during the development of the UNDA Action Plan. The Ad-Hoc Committee's mandate expired after the July 2023 Annual General Assembly. Due to its temporary nature, a Terms of Reference was not created for the Ad-Hoc Committee. A permanent Chiefs Committee on the UNDA will build upon the advocacy of the Ad-Hoc Committee.
- L. Article 7 (3) of the AFN Charter states:
 - i. The First Nations-in-Assembly shall, by way of resolution, establish a Chiefs' Committee from time to time that will lead work or take action on a specific subject.
 - i. Chiefs' Committee members shall be appointed by Regional Chiefs following each region's formal rules, policies and procedures for the operation of the regional AFN offices.
 - ii. The Chiefs' Committee shall draft a term of reference at its first meeting to guide the work and forward the terms of reference to the Executive Committee for approval. The terms of reference shall include, at a minimum standard, the authority, accountability, mandate, objectives, composition, reporting structure and timeline for the work by the Chiefs' Committee.
 - iii. The National Chief shall be an ex officio member of all Chiefs' Committees and shall assign, in a collaborative process with the Executive Committee, a member of the Executive Committee as the appropriate portfolio holder to act as the Chair of the Chiefs' Committee.
 - iv. The portfolio holder shall select a Co-Chair from the members of the Chiefs' Committee and the Co- Chair shall support the Chair and chair all meetings in the absence of the portfolio holder Chair.

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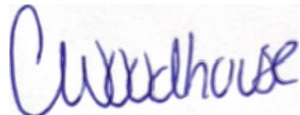
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- v. At no time does a Chiefs' Committee have the authority to pass motions that bind the Executive Committee or First Nations-in-Assembly, but instead, the Chiefs' Committee shall provide recommendations to the Executive Committee and the First Nations-in-Assembly for voting purposes.

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

1. Direct the Assembly of First Nations (AFN) to continue working with relevant federal and provincial ministries to support First Nations as the *United Nations Declaration on the Rights of Indigenous Peoples* (UN Declaration) is implemented.
2. Direct the AFN to transition the current Ad-Hoc Chiefs' Committee on the UN Declaration to become a standing Chiefs' Committee on the *United Nations Declaration on the Rights of Indigenous Peoples Act* (UNDA).
3. Direct the AFN Executive Committee to appoint, and in some cases reappoint, existing members as needed, to the Chiefs' Committee on the UNDA, in accordance with Article 7 (3) of the AFN Charter, to provide advice and direction on matters relating to the implementation of the UN Declaration.
4. Direct the Chiefs' Committee on the UN Declaration to create a Terms of Reference and to report back to First Nations in-Assembly on the status of implementation within Canada.
5. Direct the AFN to seek adequate resources to support the Chiefs' Committee as it advocates for the full implementation of the UN Declaration.

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