
Assembly of First Nations

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Assemblée des Premières Nations

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SPECIAL CHIEFS' ASSEMBLY
APRIL 3, 4, 5 & 6, 2023; OTTAWA, ON

Resolution no. 17/2023

TITLE: Prioritize Land Back Through All Federal Laws, Policies, and Programs

SUBJECT: Lands

MOVED BY: Judy Wilson, proxy, Osoyoos Indian Band, BC

SECONDED BY: Victor Linklater, proxy, Taykwa Tagamou Nation, ON

DECISION Carried by Consensus

WHEREAS:

- A. The United Nations Declaration on the Rights of Indigenous Peoples (UN Declaration) states:
- i. 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.
 - ii. 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.
 - iii. Article 26 (3): States shall give legal recognition and protection to these lands, territories and resources. Such recognition shall be conducted with due respect to the customs, traditions and land tenure systems of the indigenous peoples concerned.
 - iv. 28 (1): Indigenous peoples have the right to redress, by means that can include restitution or, when this is not possible, just, fair and equitable compensation for the lands, territories and resources which they have traditionally owned or otherwise occupied or used, and which have been confiscated, taken, occupied, used or damaged without their free, prior and informed consent.

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- v. Article 28 (2): Unless otherwise freely agreed upon by the peoples concerned, compensation shall take the form of lands, territories and resources equal in quality, size and legal status or of monetary compensation or other appropriate redress.
- B. For First Nations, the land is life. We have lived on our lands since time immemorial. As a result, we have deep cultural, spiritual, and economic ties to our lands and territories and a sacred responsibility to protect, nurture, and sustain the land, water, animals, and resources for future generations.
- C. The colonial and Canadian governments have taken, occupied, used, damaged, and stolen lands from First Nations. This was done through policy, law, coercion, lies, force, and many other harmful actions that amount to genocide. Furthermore, these acts, intended to accelerate the settlement of Indigenous lands, were inconsistent with applicable principles of domestic and international law and Indigenous laws, customs, and traditions.
- D. The doctrines of discovery and terra nullius are racist, unjust, and legally invalid. The assertion of Crown sovereignty is a legal fiction used to justify the theft of First Nations' lands.
- E. Despite the ongoing effort to sever First Nations from their lands, we are still overcoming and maintaining cultural, spiritual, and economic ties to our lands, territories, and resources.
- F. We have entered a new era in which the Government of Canada acknowledges its colonial past, which continues to reverberate outwards, harming all, despite apologies and commitments to change. The heart of reconciliation is the return of land to First Nations. Without land, there can be no reconciliation.
- G. Section 35 of the Canadian Constitution recognizes and affirms the existing Aboriginal and Treaty rights of the Aboriginal Peoples of Canada. Through the United Nations Declaration on the Rights of Indigenous Peoples Act, and the commitment to implement the UN Declaration, the Government of Canada is obliged to return lands to First Nations. The starting point of reconciliation is not an apology; it is taking active steps to return land to First Nations.
- H. Increasingly, First Nations youth, Elders, women, water warriors, and land defenders are being criminalized as they assert their rights to their lands. For reconciliation to be true, we need the Government of Canada and its provinces to take meaningful and swift action to demonstrate that our land rights are a priority.
- I. There are currently no effective federal policy mechanisms to facilitate the quick and efficient return of lands to First Nations. First Nations have explicitly rejected the Comprehensive Land Claims Policy (CLCP) and the Inherent Right to Self-Government Policy (IRSG) because they are based on a denial of our shared past.

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- J. The specific claims process is flawed and prioritizes financial compensation over the return of lands. While First Nations can purchase lands with money, the additions-to-reserve policy is costly, inefficient, and prioritizes third parties over First Nations.
- K. The Government of Canada has acknowledged its policy shortcomings but continues to prioritize accelerated negotiations through a suite of options, including Recognition of Indigenous Rights and Self-Determination Discussion Tables (RIRSD), rather than working with all First Nations to identify principled, transparent, and fairly funded alternatives consistent with the UN Declaration.

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

1. Direct the Assembly of First Nations (AFN) to call on the Prime Minister of Canada and the Crown to prioritize the return of lands to First Nations through all laws, policies, and processes.
2. Direct the AFN to call on the Government of Canada to work with all First Nations to identify open, transparent, and funded processes that prioritize the return of lands to First Nations through nation-to-nation discussions.
3. Direct the AFN to ensure adequate funding is provided for First Nations and their representative organizations to fully participate in the return of lands through nation-to-nation discussions.
4. Direct the AFN to seek funding and opportunities to support First Nations asserting self-determination and control over their lands through research, analysis, communications, and political intervention.

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