



BC ASSEMBLY OF FIRST NATIONS

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BCAFN SPECIAL CHIEFS ASSEMBLY

March 7 & 8, 2024

Online via Zoom

Late Resolution 02/2024

SUBJECT: CALL FOR MUNICIPALITIES TO IMPLEMENT THE UN DECLARATION

MOVED BY: CHIEF DON TOM, TSARTLIP FIRST NATION

SECONDED BY:

DECISION:

WHEREAS:

- A. In 2015, the Truth and Reconciliation Commission (TRC) released its Final Report, including 94 Calls to Action, which state:
 - Call to Action #43: We call upon federal, provincial, territorial, and municipal governments to fully adopt and implement the UN Declaration as the framework for reconciliation.
 - Call to Action #47: We call upon federal, provincial, territorial, and municipal governments to repudiate concepts used to justify European sovereignty over Indigenous peoples and lands, such as the Doctrine of Discovery and terra nullius, and to reform those laws, government policies, and litigation strategies that continue to rely on such concepts.
- B. Following the release of the TRC's Calls to Action, both Canada and BC committed to fully commit, adopt and apply the UN Declaration, taking steps to acknowledge and recognize its legally binding nature through the enactment of the *Declaration on the Rights of Indigenous Peoples Act*, SBC 2019, c 44 (the Declaration Act), and the federal

United Nations Declaration on the Rights of Indigenous Peoples Act, SC 2021, c 14, which requires all laws in Canada and British Columbia to align with the UN Declaration;

- C. On March 30, 2022, the Government of British Columbia released its Action Plan, developed in consultation and cooperation with Indigenous peoples, as required by section 4 of the Declaration Act. The Action Plan identifies goals and outcomes that form the long-term vision for the implementation of the UN Declaration in the province;
- D. Under the delegated authority in Canadian law, specifically the *Community Charter*, *Vancouver Charter* and *Local Government Act*, municipal governments may take administrative measures that affect Indigenous peoples and their inherent rights;
- E. Local governments play a significant role in the lives of Indigenous peoples (land use planning, environmental protection, emergency planning, economic development, delivery of services, with related impacts on housing, the drug poisoning crises, policing and safety); however, not all municipalities in BC have taken action to adopt and implement the UN Declaration, as required by the Declaration Act, and there remain disagreements over what obligations municipalities owe to First Nations;
- F. The UN Declaration, which the government of Canada has adopted without qualification and has, alongside the government of BC, passed legislation committing to implement, affirms:

Article 4: Indigenous peoples, in exercising their right to self-determination, have the right to autonomy or self-government in matters relating to their internal and local affairs, as well as ways and means for financing their autonomous functions.

Article 5: Indigenous people 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.

Article 10: Indigenous peoples shall not be forcibly removed from their lands or territories. No relocation shall take place without the free, prior and informed consent of the indigenous peoples concerned and after agreement on just and fair compensation and, where possible, with the option of return.

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;

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.

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. **(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. **(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.

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 right 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

- G. There is an urgent need to review, clarify and deepen First Nations relationships with municipal governments and for municipalities to revise their policies, practices, and approaches to governance to recognize and implement the UN Declaration and an inclusive and distinctions-based approach in its dealings with Indigenous peoples; and
- H. Meaningful implementation of the UN Declaration requires municipal governments to, among other things, obtain the free, prior and informed consent of Indigenous peoples through their own respective institutions, combat prejudice and eliminate discrimination, take effective and special measures to ensure continuing improvement of the economic and social conditions of Indigenous peoples, and establish and implement assistance programs for Indigenous peoples to preserve and protect the environment and the protective capacity of their territories.

THEREFORE BE IT RESOLVED THAT:

1. The BCAFN Chiefs-in-Assembly call on the provincial and federal governments to explicitly legislate requirements for municipalities to implement the UN Declaration and to strengthen accountability measures to ensure local governments are taking all measures necessary to meet the minimum standards of the UN Declaration and are reporting on such actions and their work in consultation and cooperation with First Nations of the territories where they exist;
2. The BCAFN Chiefs-in-Assembly call on municipal governments to strengthen unique First Nation-municipal relations, to continuously work in consultation and cooperation with First Nations in BC, and to uphold and implement the UN Declaration as required by the Declaration Act; and
3. The BCAFN Chiefs-in-Assembly instructs the BCAFN Regional Chief and the BCAFN staff to develop a toolkit, in partnership with the UBCIC and the FNS as the FNLC to guide the implementation of the UN Declaration within a municipal framework.