



## BC ASSEMBLY OF FIRST NATIONS

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**BCAFN ANNUAL GENERAL MEETING**  
**September 14, 15 & 16, 2021**  
**Online via Zoom**

**Resolution 25/2021**

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**SUBJECT:** **IMPLEMENTATION OF THE *DECLARATION ON THE RIGHTS OF INDIGENOUS PEOPLES ACT* - ACTION PLAN AND ALIGNMENT OF LAWS**

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**MOVED BY:** **CHIEF JAMES HOBART, SPUZZUM INDIAN BAND**

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**SECONDED BY:** **CHIEF BYRON LOUIS, OKANAGAN INDIAN BAND**

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**DECISION:** **CARRIED**

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**WHEREAS:**

- A. the *United Nations Declaration on the Rights of Indigenous Peoples* ("UN Declaration") was adopted by the General Assembly in September 2007, after more than 20 years of discussions and is the most comprehensive, universal international human rights instrument explicitly addressing the economic, social, cultural, political, spiritual and environmental rights of Indigenous peoples;
- B. on November 28, 2019, Bill 41 *Declaration on the Rights of Indigenous Peoples Act* ("the Declaration Act") received Royal Assent in the British Columbia Legislature;
- C. the UN Declaration, which the government of Canada has adopted without qualification, and has, alongside the government of BC, committed to implement, affirms:  
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.

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**Terry Teegee, BC Regional Chief**

Article 2: Indigenous peoples and individuals are free and equal to all other peoples and individuals and have the right to be free from any kind of discrimination, in the exercise of their rights, in particular that based on their indigenous origin or identity;

- D. the Declaration Act establishes the UN Declaration as *the* framework for reconciliation, enabling new decision-making agreements between the Province and Indigenous governing bodies, and requires the provincial government to: ensure that new and existing laws are consistent with the UN Declaration; develop and implement an action plan in consultation and cooperation with Indigenous peoples to achieve the objectives of the UN Declaration; and, monitor progress through public annual reporting;
- E. informed by dialogue with BC First Nations and First Nations Organizations, and mandated by previous resolutions at each of the UBCIC, BCAFN and FNS assemblies, the First Nations Leadership Council has been working with and informing the efforts of the Province in its obligations under the Declaration Act, including alignment of laws and the development of an action plan;
- F. the Province issued a consultation draft of the Declaration Act action plan on June 11, 2021 for review and input primarily from Indigenous peoples in BC and has opened an online platform to receive this feedback; and
- G. the Province continues to advance legislation that is not consistent with its obligations under the Declaration Act to ensure that legislative initiatives are aligned with the standards set out in the UN Declaration. A report *Taking "All Measures Necessary" to Ensure Laws are Consistent with the United Nations Declaration on the Rights of Indigenous Peoples* issued in April 2021 by the University of British Columbia Indian Residential School Dialogue Centre proposed seven strategies to advance progress in the alignment of laws:
  - 1. A requirement placed on the Attorney General to make a statement of the legislature that a proposed Bill, upon its introduction in the legislature, is consistent with the UN Declaration.
  - 2. Establish a non-derogation clause through the *Interpretation Act* to confirm that all enactments are to be construed as upholding the rights of Indigenous Peoples in both section 35(1) and the UN Declaration, and not abrogating or derogating from them.
  - 3. Establish an advisory committee made up of experts in Indigenous rights, UN Declaration, and constitutional law to provide recommendations to both Indigenous and Crown governments on the development of a process for review of existing laws for consistency, and/or reviewing proposed new laws and providing recommendations on whether they are consistent with the UN Declaration.
  - 4. Upon tabling of a Bill, release a public opinion by an advisory committee or independent legal expert on whether a Bill is consistent with the UN Declaration, and what steps may be taken now or in the future to further advance consistency with regards to that legislation.
  - 5. Establish a joint law review and reform process made up of leading experts, who would undertake to provide recommendations on legal changes to achieve consistency.

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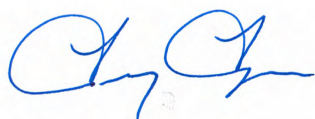
6. Establish a policy on working in partnership with Indigenous Peoples in the legislative development process.
7. Establish new mechanisms and forms of dispute resolution, and approaches to avoid adversarial litigation including a litigation directive similar to that of the federal government and mechanisms such as the use of mediation rosters, the creation of dispute resolution institutions, and the establishment of new oversight and accountability mechanisms.

**THEREFORE BE IT RESOLVED THAT:**

1. the BCAFN Chiefs-in-Assembly reiterates that First Nations in BC have their own Indigenous legal orders and laws and ways of being that take precedence over any provincial laws and processes, and that any First Nations engagement on the provincial for the Declaration Act action plan consultation draft is in no way a substitute for First Nations providing their consent;
2. the BCAFN Chiefs-in-Assembly calls on the Province of British Columbia, in partnership with the UBCIC, BC Assembly of First Nations and First Nations Summit, working collaboratively as the First Nations Leadership Council, to directly engage with Title and Rights Holders on the Declaration Act action plan consultation draft;
3. the BCAFN Chiefs-in-Assembly calls on the Province of British Columbia to confirm how the views and input of Title and Rights Holders and their own Indigenous laws will take priority and precedence in the finalization of the Declaration Act action plan;
4. that the BCAFN Chiefs-in-Assembly calls on the Province of British Columbia to implement immediate interim improvements to ensure that laws planned to be tabled in the fall are consistent with the UN Declaration. These interim improvements must consider the advice described in the report *Taking "All Measures Necessary" to Ensure Laws are Consistent with the United Nations Declaration on the Rights of Indigenous Peoples*; and
5. that the BCAFN Chiefs-in-Assembly calls on the Province of British Columbia, in partnership with the UBCIC, BC Assembly of First Nations, and the First Nations Summit, working collaboratively as the First Nations Leadership Council, to engage with BC First Nations and legal experts on additional measures to ensure that all new and existing provincial laws are consistent with the UN Declaration and are developed in consultation, cooperation and collaboration with BC First Nations.

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