



## BC ASSEMBLY OF FIRST NATIONS

1992 Landooz Road  
Prince George, BC V2K 5S3  
Website: [www.bcafn.ca](http://www.bcafn.ca)

**BCAFN ANNUAL GENERAL MEETING**  
**October 28, 29 & 30, 2025**  
**Hybrid - In person & online via Zoom**

**Resolution 46/2025**

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**SUBJECT:** **ENSURING CANADA AND BRITISH COLUMBIA ENABLE LAND RESTITUTION AS  
A WIDELY AVAILABLE REMEDY IN SPECIFIC CLAIMS SETTLEMENTS**

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**Moved by:** **CHIEF DAN MANUEL, UPPER NICOLA BAND**

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**SECONDED BY:** **CHIEF DALTON SILVER, SUMAS FIRST NATION**

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**DECISION:** **CARRIED**

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**WHEREAS:**

- A. The specific claims process is one of the few mechanisms available for First Nations to exercise their right to redress for historical breaches by the Crown;
- B. Redress of these historical wrongs is Canada's lawful obligation and the honour of the Crown necessitates just action on the part of both the Government of Canada and the Province of British Columbia, including the full, fair, and equitable negotiation of all claims, regardless of value;
- C. The *United Nations Declaration on the Rights of Indigenous Peoples* (UN Declaration) states:

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

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and informed consent before adopting and implementing legislative or administrative measures that may affect them.

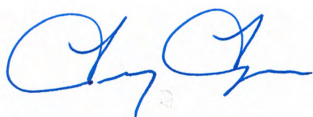
Article 26(1): Indigenous peoples have the right to the lands, territories and resources which they have traditionally owned, occupied or otherwise used or acquired.

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 rights 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.

- i. Article 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, used or damaged without their free, prior and informed consent.
  - ii. 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.
- D. The federal Specific Claims Policy has included the return of land as a remedy for historical breaches of the Crown's lawful obligations to First Nations since the policy was formalized in 1982 in "Outstanding Business: A Native Claims Policy" and this remains consistent in the current policy, "Justice At Last";
  - E. Canada's application of the Specific Claims Policy typically only provides for financial compensation without any serious consideration given to the return of land or compensation in kind, despite the specific claims policy providing for the return of illegally stolen lands;
  - F. The return of land is a necessary component of the resolution of specific claims and First Nations in British Columbia have made it clear that the return of lands is a top priority for change in Canada's negotiation mandates and the specific claims process overall, and immediate steps must be taken to ensure land restitution is a widely available and accessible remedy for First Nations;
  - G. The prevalence of climate disasters and the overarching climate emergency make the issue of land restitution particularly acute and the need for action urgent;
  - H. Federal mechanisms of redress for historical land losses must prioritize and provide for self-determination of First Nations through the return of land and jurisdiction to First Nations and include the Government of British Columbia in negotiations since both the federal and provincial Crowns are implicated in First Nations' land losses and the province continues to alienate land and conduct activities on First Nations' lands without obtaining their free, prior, and informed consent (FPIC) in violation of the international minimum standards contained in the UN Declaration, the

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federal *UN Declaration on the Rights of Indigenous Peoples Act* and the provincial *Declaration on the Rights of Indigenous Peoples Act* ("Declaration Act");

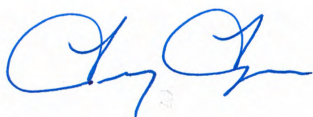
- I. First Nations have identified key barriers to land return as remedy in specific claims, including the Crown's exclusive focus on monetary compensation and its failure to advance land restitution in negotiation mandates, the protection of Third Party and Crown interests over First Nation interests, and poor supports and planning regarding land transfers from the Crown or Third Parties, including barriers regarding the additions to reserve (ATR) process, securing advance payments for lands under threat of sale, and establishing a consistent, effective, and efficient mechanisms for provincial involvement;
- J. Barriers to land return must be urgently addressed and strategic, coordinated action must be undertaken by both the federal and provincial governments in full partnership with First Nations;
- K. Protocols and agreements with the Province of British Columbia need to be pursued so First Nations are not left to tackle barriers on an ad hoc basis, as is the case outside of the specific claims process when First Nations are forced to take their issues to court;
- L. The recent Cowichan decision is a prime example of the controversies that arise when First Nations take the Crown and its delegates to court to regain access to their traditional lands by pursuing an Aboriginal title claim. Following the court decision, politicians, the public and media have driven misinformation to further divide communities and has resulted in a recent attempt to repeal the Declaration Act, which failed in BC parliament by a small margin of 48-40; and
- M. As with the *Haida Nation Recognition Act*, BC and Canada should be working with all First Nations in BC who are pursuing agreements to recognize Aboriginal title, which has the opportunity to provide more clarity to fee simple title holders and create less societal division and temper anti-Indigenous and anti-UN Declaration rhetoric.

**THEREFORE BE IT RESOLVED THAT:**

- 1. The BCAFN Chiefs-in-Assembly re-affirm to the Federal and Provincial Government that First Nations have the right, in accordance with *United Nations Declaration on the Rights of Indigenous Peoples* to pursue land restitution as a remedy when negotiating the resolution of their specific claims;
- 2. The BCAFN Chiefs-in-Assembly call on the Federal Government to work with First Nations to establish concrete pathways, including mandates, protocols and agreements to include the formal participation of the Province of British Columbia in the specific claims process; and
- 3. The BCAFN Chiefs-in-Assembly call on the Regional Chief and BCAFN staff, in coordination with the Union of BC Indian Chiefs and the First Nation Summit, to prepare a public-facing strategy that identifies the barriers created by the Province of BC that undermine the specific claims process.

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