
Assembly of First Nations

55 Metcalfe Street, Suite 1600
Ottawa, Ontario K1P 6L5
Telephone: 613-241-6789 Fax: 613-241-5808
www.afn.ca



Assemblée des Premières Nations

55, rue Metcalfe, Suite 1600
Ottawa (Ontario) K1P 6L5
Téléphone: 613-241-6789 Télécopieur: 613-241-5808
www.afn.ca

ANNUAL GENERAL ASSEMBLY
July 24, 25 & 26, 2018, VANCOUVER, BC

Resolution no. 39/2018

TITLE: First Nations Determination of the Path to Decolonization

SUBJECT: Federal Legislation

MOVED BY: Chief R. Don Maracle, Mohawks of the Bay of Quinte First Nation, ON

SECONDED BY: Chief Jessica Hill, Oneida Nation of the Thames, ON

DECISION: Carried; 21 Objection; 4 Abstentions

WHEREAS:

- A. The First Nations' inherent right to self-determination pre-exists contact with external governments and cannot be surrendered, extinguished, or modified. It is affirmed in the preamble and articles 3 and 4 of the United Nations Declaration on the Rights of Indigenous Peoples (UN Declaration) and the UN Charter which clearly supports the right to self-determination of peoples. This right to self-determination, along with the preemptory norms of non-discrimination and equality for all peoples, must be considered when interpreting international law related to maintaining the territorial integrity of states (e.g. article 46 of the UN Declaration).
- B. The relationship between First Nations and Canada has been and must continue to be governed by international law.
- i. Treaties concluded with European powers or their successors are international Treaties of peace and friendship, created for the purpose of coexistence rather than submission to the overall jurisdiction of colonial governments.
 - ii. The Canadian government has at no point been able to provide proof that First Nations have expressly and of their own free will renounced their sovereign attributes. Our position is that Indigenous Peoples have never renounced their international juridical status as Nations or Peoples.
 - iii. The cornerstone of the *Vienna Convention on the Law of Treaties* is the principle of *pacta sunt servanda* (agreements must be kept), meaning that Canada cannot unilaterally nullify Treaty arrangements.

Certified copy of a resolution adopted on the 26th day of July, 2018 in Vancouver, British Columbia

PERRY BELLEGARDE, NATIONAL CHIEF

39 – 2018

Page 1 of 3

Head Office/Siège Social

Unit 5 — 167 Akwesasne International Rd., Akwesasne, ON K6H 5R7 Telephone: 613-932-0410 Fax: 613-932-0415
Suite no 5 — 167, chemin Akwesasne International, Akwesasne (ON) K6H 5R7 Téléphone: 613-932-0410 Télécopieur: 613-932-0415

- iv. Non-Treaty First Nations maintain their status as Nations and at no point has this status been voluntarily relinquished.
 - v. Terra nullius, conquest, and armed force have been determined to be illegitimate methods of depriving a Peoples or Nation of their nationhood or international status.
- C. The Recognition and Implementation of Rights Framework (the Framework) and associated processes undermine the true Nation-to-Nation relationship between First Nations and Canada as they:
- i. Openly reject free, prior, and informed consent (FPIC) as a guiding principle of the relationship between Canada and First Nations. This is made evident by the *Principles Respecting the Government of Canada's Relationship with Indigenous Peoples* (Ten Principles) document which states that Canada will only *attempt* to honour FPIC. This amounts to little more than consultation.
 - ii. Call for the infringement of inherent and unextinguished rights and jurisdictions of First Nations. The *Ten Principles* clearly states that infringement of Aboriginal rights will continue unabated in situations where Canadian courts find it "justified" or where it is found to be in the best interest of the Nation.
 - iii. Assert that the Canadian constitutional framework is the only vehicle for the exercise of inherent rights by First Nations.
- D. The Truth and Reconciliation Commission's (TRC) 94 Calls to Action, among other things, speak to the need for:
- i. a new Nation-to-Nation relationship;
 - ii. a new Royal Proclamation that resets the relationship;
 - iii. recognition of Aboriginal title and tenure that includes the clear fact that First Nations did not consent to surrenders in Treaties with Queen Victoria or King George.
- E. Further, the Supreme Court of Canada in *Tsilhqot'in Nation v British Columbia* stated, "Aboriginal title confers ownership rights, including: the right to decide how the land will be used; the right of enjoyment and occupancy of the land; the right to possess the land; the right to the economic benefits of the land; and the right to proactively use and manage the land."
- F. The Federal Government has not responded to our call in Assembly of First Nations (AFN) Resolution 08/2018, *Implementing Canada's Recognition and Implementation of Indigenous Rights Framework and Clarifying the Role of the AFN*, to change the Framework to the "Protection and Affirmation of Rights and Title Framework".

Certified copy of a resolution adopted on the 26th day of July, 2018 in Vancouver, British Columbia



PERRY BELLEGARDE, NATIONAL CHIEF

- G. The Framework sidelines important questions of Aboriginal title, Treaty obligations, land rights, and access to natural resources to avoid recognizing substantive forms of First Nations jurisdiction. Regions like Ontario have rejected the current process.

THEREFORE BE IT RESOLVED that the Chiefs-in-Assembly:

1. Confirm that only First Nations can determine the path to decolonization and reconciliation.
2. Establish a First Nations' led process to draft a new Royal Proclamation binding on the Crown in right of Canada and all of the provinces and territories.
3. Call on Canada to set-aside its *Principles Respecting the Government of Canada's Relationship with Indigenous Peoples* (Ten Principles) as the basis of the relationship going forward. Regions such as Ontario and British Columbia have their own principles that must be respected in their relationships going forward.
4. Halt the "Recognition and Implementation of Rights" process going forward and insist that Canada participates in a First Nation-led negotiation with Canada to mutually establish principles to observe and implement the United Nations Declaration on the Rights of Indigenous Peoples, including a joint action plan for such implementation.
5. Call on Canada to confirm it is committed to an independent international arbitrator to resolve disputes between Treaty partners and within the Nation-to-Nation relationship.
6. Call on Canada to immediately convene a meeting with First Nations to discuss this issue.

Certified copy of a resolution adopted on the 26th day of July, 2018 in Vancouver, British Columbia


PERRY BELLEGARDE, NATIONAL CHIEF