



BC ASSEMBLY OF FIRST NATIONS

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BCAFN SPECIAL CHIEFS ASSEMBLY
March 7 & 8, 2024
Online via Zoom

Resolution 05/2024

SUBJECT: INDIGENOUS RIGHTS AND BORDER MOBILITY

Moved BY: CHIEF DON TOM, TSARTLIP FIRST NATION

SECONDED BY: KUKPI7 ROSANNE CASIMIR, TK'EMLUPS TE SECWEPEMC

DECISION: CARRIED

WHEREAS:

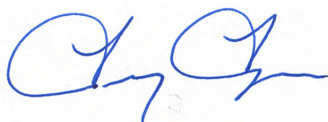
- A. On June 21, 2021, the United Nations Declaration on the Rights of Indigenous Peoples Act (UNDA) came into force. This Act requires the Government of Canada, in consultation and cooperation with Indigenous peoples, to:
 - a. Take all measures necessary to ensure that federal laws are consistent with the Declaration (Section 5).
 - b. Prepare and implement an action plan to achieve the objectives of the Declaration (Section 6).
 - c. Develop annual reports on progress and submit them to Parliament (Section 7).
- B. On June 20th, 2023, the Department of Justice tabled the UNDA National Action Plan (NAP) in Parliament, as mandated by Section 6 of the UNDA.
- C. The NAP identifies Shared Priority – Action Plan Measure #52, which states that the Government of Canada will take the following actions in consultation and cooperation with Indigenous peoples:

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- a. Pursue legislative amendments to the *Immigration and Refugee Protection Act*, amendments to relevant regulations and revisions to policies in order to address complex border crossing and migration challenges faced by Indigenous peoples divided by Canada's international borders, including options to amend Canada's right to entry provisions, and work and study permit requirements.
 - b. Engagement with Indigenous peoples and their representative organizations to implement the action plan measure was initiated in 2023, with a view to advancing amendments and policy reforms in 2024. In parallel, the Government of Canada will continue discussions with international partners on Indigenous border crossing issues.
- D. Indigenous peoples commonly report experiencing racism and traumatic experiences when using their Status Cards to cross the border into and out of the United States from/to Canada.
- E. International borders have seriously affected Indigenous Peoples living on their traditional territories. Legislation and policy related to border and mobility rights have the potential significantly impact Indigenous rights related to:
- a. Families;
 - b. Governance;
 - c. Traditional Practices;
 - d. Language Preservation;
 - e. Kinship;
 - f. Access to traditional food and medicines;
 - g. Experiences of Racism
 - h. Cultural ties; and
 - i. Economic opportunities.
- 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 9:** Indigenous peoples and individuals have the right to belong to an indigenous community or nation in accordance with the traditions and customs of the community or nation concerned. No discrimination of any kind may arise from exercising such a right.
- 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 12: (1)** Indigenous peoples have the right to manifest, practice, develop and teach their spiritual and religious traditions, customs and ceremonies; the right to maintain, protect, and have access in privacy to their religious and cultural sites; the right to use and control of their ceremonial objects; and the rights to the repatriation of their human remains.
- Article 18:** Indigenous peoples have the right to participate in decision-making in

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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.

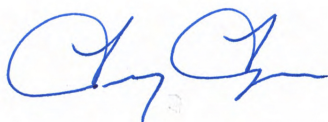
Article 24 (1): Indigenous peoples have the right to their traditional medicines and to maintain their health practices, including the conservation of their vital medicinal plants, animals and minerals. Indigenous individuals also have the right to access, without any discrimination, to all social and health services.

Article 33: (1) Indigenous peoples have the right to determine their own identity or membership in accordance with their customs and traditions. This does not impair the right of indigenous individuals to obtain citizenship of the States in which they live. **(2)** Indigenous peoples have the right to determine the structures and to select the membership of their institutions in accordance with their own procedures.

Article 36: (1) Indigenous people, in particular those divided by international borders, have the right to maintain and develop contacts, relations and cooperation, including activities for spiritual, cultural, political, economic and social purposes, with their own members as well as other peoples across borders. **(2)** States, in consultation and cooperation with indigenous peoples, shall take effective measures to facilitate the exercise and ensure the implementation of this right.

- G. In fulfillment of the UNDA NAP Shared Priority-APM #52, Canada Border Services Agency (CBSA) and Immigration, Refugees IRCC have begun to host regional roundtables with First Nations on potential amendments to the right to enter and remain in Canada, traveller modernization, travel documentation and other accompanying issues, including trade and entry of goods, and training of border service agents.
- H. The CBSA is responsible for managing and enforcing over 100+ Acts of Parliament for Canada's international borders and Ports of Entry. CBSA's Indigenous Affairs Secretariat was established in February 2018 to address border crossing issues for Indigenous peoples, including the facilitation of Indigenous travellers and their sacred goods.
- I. The IRCC's Indigenous Border Crossing Division is responsible for the right to enter and remain in Canada under the *Immigration and Refugee Acts*.
- J. The First Nations Leadership Council, inclusive of the BC Assembly of First Nations, the Union of BC Indian Chiefs, and the First Nations Summit, have, with the Department of Justice Canada, struck a BC-specific bilateral table on UNDA implementation to facilitate the inclusion of priorities and interests of First Nations in BC as the Government of Canada's moves forward with its efforts to implement the UNDA NAP.

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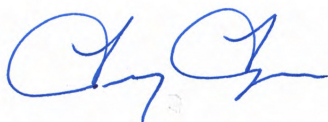
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- K. Potential legislative, regulatory or policy reforms addressing Border Issues and Indigenous Rights have not been brought to the attention of the FNLC-DOJ BC-Specific Table for UNDA implementation.
- L. As a result of the numerous potential impacts border legislation and policy decisions will have on the rights of First Nations, it is critical that First Nations are engaged in the development and implementation of legislative or policy amendments.

THEREFORE BE IT RESOLVED THAT:

1. The BCAFN Chiefs-in-Assembly call upon the Government of Canada to extend its engagement period on the *United Nations Declaration Act's* National Action Plan Shared Priority Measures #52 to more fully engage First Nations in BC on necessary legislative, regulatory and policy amendments;
2. The BCAFN Chiefs-in-Assembly calls on the Government of Canada to acknowledge unceded First Nations' Title, Rights and sovereignty with respect to Border Mobility;
3. The BCAFN Chiefs-in-Assembly calls on Canada to provide capacity funds to First Nations in BC to engage in the development of these legislative, regulatory and policy amendments; and
4. The BCAFN Chiefs-in-Assembly calls on Canada to provide resources to support the BCAFN in hosting an All-Chiefs Assembly to engage its membership in the development a coordinated position on Indigenous Rights and Border Mobility issues, including necessary legislative and policy reforms.

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