



## BC ASSEMBLY OF FIRST NATIONS

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

**Resolution 12/2024**

**SUBJECT: AMENDMENT OF THE HERITAGE CONSERVATION ACT**

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**Moved by: CHIEF ARNOLD LAMPREAU, SHACKAN INDIAN BAND**

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**SECONDED BY: KUKPI7 LEE SPAHAN, COLDWATER INDIAN BAND**

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**DECISION: CARRIED**

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### WHEREAS:

- A. the *Heritage Conservation Act*, RSBC 1996, c 187 (HCA), is founded upon and perpetuates racist colonial worldviews and does not recognize First Nations title and rights, nor does it adequately address the needs and interests of First Nations as it relates to our culture and heritage resources. The regulatory framework provided for in the HCA prevents First Nations from protecting our sacred sites, the sanctity of our belongings and the remains of our ancestors in accordance with our traditional laws and customs;
- B. the Province of BC and the Federal Government, which has no heritage protection, have failed to protect our cultural heritage resources through heritage protection legislation such as the provincial HCA, which has resulted in the widespread destruction of our sacred sites, burial grounds and other significant cultural heritage sites. This legislative failure has left our sacred cultural heritage vulnerable to further threat from development and resource extraction, despite First Nations' consistent calls for years to amend the HCA to better protect our aforementioned resources;

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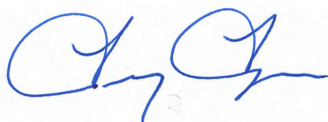
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**Terry Teegee, BC Regional Chief**

- C. First Nations have the right to practice and revitalize our cultural traditions and customs as an aspect of their inherent right of self-determination, including self-government, as affirmed in the *United Nations Declaration on the Rights of Indigenous Peoples* (UN Declaration) and also as recognized and affirmed under section 35 of the *Constitution Act, 1982*;
- D. 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 11:** Indigenous peoples have the right to practice and revitalize their cultural traditions and customs. This includes the right to maintain, protect and develop the past, present and future manifestations of their cultures, such as archaeological and historical sites, artefacts, designs, ceremonies, technologies and visual and performing arts and literature.
- 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 the use and control of their ceremonial objects; and the right to the repatriation of their human remains.
- 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 25:** Indigenous peoples have the right to maintain and strengthen their distinctive spiritual relationship with their traditionally owned or otherwise occupied and used lands, territories, waters and coastal seas and other resources and to uphold their responsibilities to future generations in this regard.
- 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

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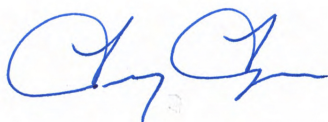
recognize and adjudicate the rights of indigenous peoples pertaining to their lands, territories and resources, including those which were traditionally owned or otherwise occupied or used. Indigenous peoples shall have the right to participate in this process.

**Article 32(1):** Indigenous peoples have the right to determine and develop priorities and strategies for the development or use of their lands or territories and other resources;

- E. the BCAFN Chiefs-in-Assembly supported the creation and the work of the Joint Working Group on First Nations Heritage Conservation (JWGFNHC) by Resolution 02/2008, with the purpose of identifying First Nations issues and concerns, developing options and make recommendations to 1) create a meaningful role for First Nations in provincial heritage conservation; 2) improve the protection and conservation of First Nations heritage sites, cultural property and ancient human remains in BC; and 3) protection for sacred and spiritual sites or areas. One of the areas the JWGFNHC has focused on is the need to update the HCA and associated management regime;
- F. in 2019, the Province of B.C. unanimously passed the *Declaration on the Rights of Indigenous Peoples Act* (Declaration Act) committing to implement the UN Declaration, which requires the Province of B.C., in consultation and cooperation with Indigenous peoples, to take all measures necessary to ensure that the laws of B.C. are consistent with the UN Declaration, and to develop and implement action plans to achieve the objectives of the UN Declaration;
- G. by Resolution 25/2021, the BCAFN Chiefs-in-Assembly called on the Province of B.C., in partnership with the UBCIC, and the First Nations Summit, working collaboratively as the First Nations Leadership Council (FNLC), 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 B.C. First Nations;
- H. the Province of B.C. committed in the 2022 Declaration Act Action Plan (Declaration Action Plan) to work with First Nations to “reform the *Heritage Conservation Act* to align with the UN Declaration including shared decision-making and the protection of First Nations, cultural, spiritual, and heritage sites and objects” (Action 4.35);
- I. First Nations have identified and endorsed by resolution the following key aspects for inclusion in the amended HCA, including but not limited to:
- Enhanced First Nations authority as key decision-makers;
  - Amending privatization and governments giving preferential treatment to land owners;
  - Repatriation of artifacts and the need for repositories in First Nations territories;
  - Increased recognition of title, rights, and ownership of cultural heritage;
  - Amendment of language to clearly reflect First Nations values and rights recognition;

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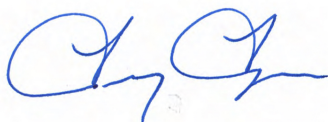
- Inclusion of intangible cultural heritage, for example, protection of ancestral burial grounds;
  - Elimination of blanket permits given without the Free, Prior, and Informed Consent of First Nations;
  - Extending the protection of cultural and heritage sites post 1846;
  - Increased focus on protection of First Nations values, rather than just scientific values;
  - Increased resourcing for public education and for First Nations to develop methods and policies for Training Programs; and
- J. the JWGFNHC, which includes members appointed by the FNLC following engagement with First Nations in 2007, and the Provincial government, has been leading the HCA transformation process (HCATP), guided by the mandate established by resolutions of BC First Nations and other inputs provided through engagement; and
- K. efforts were made to develop a near-term package of legislative amendments which would be the first phase of incremental transformation of the HCA, and these legislative amendments were presented to First Nations and stakeholders in fall 2023. As described in “What We Heard” reports, First Nations participants shared that the near-term package was insufficient to ensure full alignment with the UN Declaration and the mandate previously established by resolution.

**THEREFORE BE IT RESOLVED THAT:**

1. the BCAFN Chiefs-in-Assembly rejects an incremental approach to the *Heritage Conservation Act* (HCA) reform and calls for a comprehensive transformation of the HCA, consistent with the UN Declaration, to be developed for a future legislative session in order to ensure that the mandate established by resolution, the feedback received from First Nations including in the “What We Heard Reports”, and the standards of the UN Declaration are all integrated;
2. the BCAFN Chiefs directs the Regional Chief to work with the Union of BC Indian Chiefs and First Nations Summit, together as the First Nations Leadership Council, and the Joint Working Group on First Nations Heritage Conservation, in leading an overhaul of the HCA to ensure it is consistent with the UN Declaration; and
3. the BCAFN Chiefs-in-Assembly call upon the Province of B.C. to consult and cooperate with title and rights holders in the process of HCA transformation to ensure it is consistent with the UN Declaration, and affirm and uphold First Nations' unceded inherent rights and sovereignty with respect to heritage conservation, and to report to First Nations about how their feedback has been substantively addressed in legislative materials.

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