

# DRAFT RESOLUTION #00/2018

## AFN Special Chiefs Assembly December 4 to 6, 2018, Ottawa (Ontario)

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**TITLE:** Rejection of the Recognition and Implementation of Indigenous Rights Framework and Associated Processes

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**SUBJECT:** Federal Legislation

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

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**SECONDED BY:** Chief Denise Stonefish, Eelunaapeewi Lahkeewit (Delaware Nation), ON

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### WHEREAS:

- A. The inherent rights, languages, laws, legal orders and governance structures of the Original Nations and tribes of Turtle Island have existed since time immemorial. The inherent right to self-determination pre-exists contact with foreign colonial governments, including the Canadian Constitution.
- B. The international right of self-determination is confirmed in Article 1(1) of the *International Covenant of Civil and Political Rights* and is confirmed by the UN Charter.
- C. 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.
  - 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 People or Nation of their nationhood or international status.

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- D. 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 *Principles Respecting the Government of Canada's Relationship with Indigenous Peoples* (Ten Principles) document which states that Canada will *aim* to secure FPIC.
  - ii. Call for the infringement of inherent and unextinguished rights and jurisdictions of First Nations. The Ten Principles document 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. Delimits First Nations inherent rights, Treaties and the international right of self-determination by enforcing the Canadian constitutional framework as the only vehicle to exercise our rights.
- E. 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. Further, no changes have been made to the Framework process despite its rejection by First Nations across the country.
- F. Despite Canada's commitment to a distinctions-based approach, the Framework is blanket legislation that attempts to accommodate First Nations, Inuit, and Metis despite their significant differences. The Metis are touted by government officials and the media as being supporters of the proposed Framework and make up 40% of those included in Discussion Tables by population. This is an attempt to fabricate support for the Framework and sideline First Nations opposition.
- G. There have been no changes to the Framework process since it was announced in February 2018, despite widespread criticism and outright rejection from First Nations across the country. Unilaterally developed policy and legislation that sets the parameters of Canada's relationship with First Nations is in direct contravention of the nation-to-nation relationship and Canada's obligations under international law.

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

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1. Confirm that only First Nations shall exclusively exercise our legal traditions, inherent rights, languages, authority and jurisdictions on our title and treaty lands and pursue Treaty based funding and related processes determined solely by First Nations.
2. Reject Canada's *Principles Respecting the Government of Canada's Relationship with Indigenous Peoples* (Ten Principles) as the basis of the relationship going forward. Joint principles of understanding must be developed in partnership with First Nations.
3. Reject the Recognition and Implementation of Indigenous Rights Framework (the Framework) and will take all necessary steps to prevent the passing of any legislation related to the Framework created by the federal government. **Reject in its entirety as having no force or effect the policies, 10 year funding grants and associated processes.**
4. Call on the Assembly of First Nations to support First Nations in developing their own nation-building processes, including law-making, institution-building, and research of traditional governance systems. It is imperative that First Nations begin developing standards of governance and law-making and begin to assert their inherent rights and unextinguished jurisdictions outside the purview of Canadian legislative control.
5. Affirm First Nations leaders, Elders, women, men, and youth have and continue to re-invigorate Indigenous languages, jurisdictions, and governance, in the spirit and intent of our Creator granted laws upon the lands we have inherited from our ancestors and hold in trust for future generations.