

Resolution – Treaty 7 Chiefs Meeting
October 25, 2016

TITLE: Treaty Citizenship Response to the Descheneaux Decision

SUBJECT: Citizenship

MOVED BY: Chief Vincent Yellow Old Woman, Siksika Nation

SECONDED BY: Chief Darcy Dixon, Bearspaw Nakoda First Nation

WHEREAS:

- A.** In the Descheneaux decision, the Court found that provisions of the Indian Act unjustifiably violate equality provisions under the Canadian Charter of Rights and Freedoms because they treat eligibility to Indian registration differently between Indian women as compared to Indian men and their descendants.
- B.** In the decision, the Court struck down the provisions, but suspended the implementation of its decision to allow the Government of Canada to make amendments to the Indian Act. The Court also indicated that the amendments should address other inequities in Indian registration.
- C.** The Crown in the Right of Canada has a duty to consult with First Nations on legislative amendments to the Indian Act and other legislation that affects Inherent and Treaty Rights of First Nations. Unilateral changes to legislation without proper consultation is unconstitutional and will be challenged by the Treaty Chiefs of Treaty 7
- D.** The Fall 2016 INAC Engagement Sessions is not adequate consultation nor does it meet the requirements under the United Nations Declaration on the Rights of Indigenous Peoples (UNDRIP) and other international laws.
- E.** The *United Nations Declaration on the Rights of Indigenous Peoples* specifically states:

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 the exercise of such a right.

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 22 (2) - States shall take measures, in conjunction with indigenous peoples, to ensure that indigenous women and children enjoy the full protection and guarantees against all forms of violence and discrimination.

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.

Article 33 (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 37 (1) - Indigenous peoples have the right to the recognition, observance and enforcement of treaties, agreements and other constructive arrangements concluded with States or their successors and to have States honour and respect such treaties, agreements and other constructive arrangements.

Article 37 (2) - Nothing in this Declaration may be interpreted as diminishing or eliminating the rights of indigenous peoples contained in treaties, agreements and other constructive arrangements.

Article 38 - States, in consultation and cooperation with indigenous peoples, shall take the appropriate measures, including legislative measures, to achieve the ends of this Declaration.

F. The Organisation of American States Declaration on the Rights of Indigenous Peoples specifically states:

Article 24 (1) - Indigenous peoples have the right to the recognition, observance, and enforcement of the treaties, agreements and other constructive arrangements concluded with states and their successors, in accordance with their true spirit and intent in good faith and to have the same be respected and honored by the states. States shall give due consideration to the understanding of the indigenous peoples as regards to treaties, agreements and other constructive arrangements.

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

1. Direct the Crown in the Right of Canada to conduct a thorough review of the Indian Act and other legislation specific to membership and citizenship, to be done with Indigenous representatives in accordance with the Original Spirit and Intent of Treaty;
2. Demand the Crown in the Right of Canada fully comply with the United Nations Declaration on the Right of Indigenous People as well as the Organisation of American States Declaration on the Rights of Indigenous Peoples;
3. Remind the Government of Canada that Prime Minister Justin Trudeau stated:

"No relationship is more important to me and to Canada than the one with Indigenous peoples. It is time for a renewed relationship with Indigenous peoples based on recognition of rights, respect, cooperation and partnership."

And that Minister Carolyn Bennett stated at the United Nations Permanent Forum in New York City on May 10, 2016:

"I'm here to announce, on behalf of Canada, that we are now a full supporter of the Declaration without qualification."

4. Call upon the Crown in the Right of Canada to include Indigenous Treaty representation during its deliberations and review of the provisions of the Indian Act that affect membership and citizenship, and generally, to properly consult on all legislation that affects Inherent and Treaty Rights of First Nations;
5. Call upon the Crown in the Right of Canada to act in the best interest of maintaining Inherent Treaty Rights as Treaties are Sacred International Agreements as Treaties specifically outline the Treaty Relationship between Indigenous Nations and the successor of the Crown;
6. Treaty No. 6 Indigenous Nations have the right to exercise Self-Determination in all matters that may or may not directly or indirectly impact their individual Nations as respective signatories to Treaty No. 6;

7. Treaty Indigenous Nations have never consented to the extinguishment of their right to Jurisdiction or their right to preside over matters that directly or indirectly impact their Nations, to any Government body, more specifically to INAC or any level of Government;
8. Treaty Nations shall renew and continue to strengthen Indigenous-lead lobbying efforts to ensure the continued protection of Inherent Treaty Rights;
9. Call on Crown in the Right of Canada to acknowledge the recognition as Treaty Indians under Treaty No.6 and Call to Action the reinstatement of Treaty Cards for Treaty No. 6 Indigenous Nations; all Nation Citizens including any future Citizens to automatically get a Treaty Membership Card as we are Treaty Peoples; and

***Draft Resolution – Confederacy of Treaty 6 Chiefs Meeting
October 25, 2016***

TITLE: Treaty Citizenship Response to the Descheneaux Decision

SUBJECT: Citizenship

MOVED BY: Chief Irvin Bull, Louis Bull Tribe

SECONDED BY: Chief Bernice Martial, Cold Lake First Nation

WHEREAS:

- A. In the Descheneaux decision, the Court found that provisions of the Indian Act unjustifiably violate equality provisions under the Canadian Charter of Rights and Freedoms because they treat eligibility to Indian registration differently between Indian women as compared to Indian men and their descendants.
- B. In the decision, the Court struck down the provisions, but suspended the implementation of its decision to allow the Government of Canada to make amendments to the Indian Act. The Court also indicated that the amendments should address other inequities in Indian registration.
- C. The Crown in the Right of Canada has a duty to consult with First Nations on legislative amendments to the Indian Act and other legislation that affects Inherent and Treaty Rights of First Nations. Unilateral changes to legislation without proper consultation is unconstitutional and will be challenged by the Treaty Chiefs of Treaty 6, 7 & 8.
- D. The Fall 2016 INAC Engagement Sessions is not adequate consultation nor does it meet the requirements under the United Nations Declaration on the Rights of Indigenous Peoples (UNDRIP) and other international laws.
- E. The *United Nations Declaration on the Rights of Indigenous Peoples* specifically states:

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 the exercise of such a right.

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 22 (2) - States shall take measures, in conjunction with indigenous peoples, to ensure that indigenous women and children enjoy the full protection and guarantees against all forms of violence and discrimination.

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.

Article 33 (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 37 (1) - Indigenous peoples have the right to the recognition, observance and enforcement of treaties, agreements and other constructive arrangements concluded with States or their successors and to have States honour and respect such treaties, agreements and other constructive arrangements.

Article 37 (2) - Nothing in this Declaration may be interpreted as diminishing or eliminating the rights of indigenous peoples contained in treaties, agreements and other constructive arrangements.

Article 38 - States, in consultation and cooperation with indigenous peoples, shall take the appropriate measures, including legislative measures, to achieve the ends of this Declaration.

F. The Organisation of American States Declaration on the Rights of Indigenous Peoples specifically states:

Article 24 (1) - Indigenous peoples have the right to the recognition, observance, and enforcement of the treaties, agreements and other constructive arrangements concluded with states and their successors, in accordance with their true spirit and intent in good faith and to have the same be respected and honored by the states. States shall give due consideration to the understanding of the indigenous peoples as regards to treaties, agreements and other constructive arrangements.

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4. Call upon the Crown in the Right of Canada to include Indigenous Treaty representation during its deliberations and review of the provisions of the Indian Act that affect membership and citizenship, and generally, to properly consult on all legislation that affects Inherent and Treaty Rights of First Nations;
5. Call upon the Crown in the Right of Canada to act in the best interest of maintaining Inherent Treaty Rights as Treaties are Sacred International Agreements as Treaties specifically outline the Treaty Relationship between Indigenous Nations and the successor of the Crown;
6. Treaty No. 7 Indigenous Nations have the right to exercise Self-Determination in all matters that may or may not directly or indirectly impact their individual Nations as respective signatories to Treaties No. 7;

7. Treaty Indigenous Nations have never consented to the extinguishment of their right to Jurisdiction or their right to preside over matters that directly or indirectly impact their Nations, to any Government body, more specifically to INAC or any level of Government;
8. Treaty Nations shall renew and continue to strengthen Indigenous-lead lobbying efforts to ensure the continued protection of Inherent Treaty Rights;
9. Call on Crown in the Right of Canada to acknowledge the recognition as Treaty Indians under Treaty No.7 and Call to Action the reinstatement of Treaty Cards for Treaty No. 7 Indigenous Nations; all Nation Citizens including any future Citizens to automatically get a Treaty Membership Card as we are Treaty Peoples; and

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TSUUT'INA NATION

OFFICE OF THE CHIEF

9911 Chiila Blvd., Tsuut'ina, AB T2W 6H6

Telephone: (403) 281-4455 Fax: (403) 251-6061

November 21, 2016

His Excellency the Right Honourable David Johnston
Governor General of Canada
Rideau Hall 1 Sussex Drive
Ottawa ON K1A 0A1

Dear Sir:

Re: Amendments to the Indian Act

In the Descheneaux decision, the Court found that certain provisions of the Indian Act unjustifiably violated equality provisions under the Charter of Rights and Freedoms.

The Court struck down the provisions, but suspended the implementation of its decision to allow the Government of Canada to make amendments to the Indian Act. The Court also indicated that the amendments should address other inequities in Indian registration.

The Government of Canada has a duty to consult with Treaty Indians on legislative amendments to the Indian Act and other legislation that affects the constitutionally protected Inherent and Treaty Rights of Treaty First Nations.

Treaty First Nations never consented to the Indian Act or amendments thereto that created Status Indians. The Indian Act must be amended to recognize the Inherent and Treaty Rights of Treaty Indians, and must be amended to reinstate Treaty Cards for Treaty Indians.

We continue to look forward to the implementation by the Government of Canada of the United Nations Declaration on the Rights of Indigenous Peoples, which includes:

“the right to the recognition, observance and enforcement of treaties, agreements and other constructive arrangements concluded with States or their successors and to have States honour and respect such treaties, agreements and other constructive arrangements.

On behalf of Treaty 6 (Alberta) and 7, I am asking for immediate action.

Yours Truly,

TSUUT'INA NATION


Regena Crowchild
Councillor

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OFFICE OF THE CHIEF

9911 Chiila Blvd., Tsuut'ina, AB T2W 6H6

Telephone: (403) 281-4455 Fax: (403) 251-6061

November 21, 2016

Honourable Carolyn Bennett
House of Commons
Ottawa, Ontario
K1A 0A6

Dear Madam:

Re: Amendments to the Indian Act

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Yours Truly,

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Regena Crowchild
Councillor

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Telephone: (403) 281-4455 Fax: (403) 251-6061

November 21, 2016

Honourable Jody Wilson-Raybould
House of Commons
Ottawa, Ontario
K1A 0A6

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Telephone: (403) 281-4455 Fax: (403) 251-6061

November 21, 2016

Right Honourable Prime Minister Justin Trudeau
80 Wellington Street
Ottawa, Ontario
K1A 0A2

Dear Sir:

Re: Amendments to the Indian Act

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