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| TITLE: | First Nations and the *Canadian Human Rights Act* and the repeal of s. 67 |
| SUBJECT: | Human Rights |
| MOVED BY: | Chief Shane Gottfriedson, Kukpi7, Tk'emlúps te Secwépemc, BC |
| SECONDED BY: | Chief Wayne Christian, Kukpi7, Splatsin First Nation, BC |
| DECISION: | Carried; Opposed: 5; Abstentions: 1 |

WHEREAS:

A. *An Act to amend the Canadian Human Rights Act* came into effect on June 18, 2008 with the following provisions:
   I. a non-derogation clause protecting existing Aboriginal and treaty rights (s 1.1);
   II. a due regard clause with respect to First Nations legal traditions and customary laws (s.1.2);
   III. a comprehensive review in June 2013 and a subsequent report to Parliament in 2014 (s. 2 (1) and (2));
   IV. a 36 month transition period (to June 2011) for First Nation governments including Tribal Councils to prepare for the repeal (s. 3); and
   V. an order for a joint report to Parliament by June 2011 by Canada and national aboriginal organizations to undertake a study on the "preparation, capacity and fiscal and human resources required in order" for First Nation communities to comply with the Canadian Human Rights Act (s. 4).

B. The Chiefs-in-Assembly mandated the AFN to act in a facilitative and coordinating role with the Government of Canada and the Canadian Human Rights Commission in carrying out activities to assist First Nations in preparing for the implementation of the *Canadian Human Rights Act* (Resolution no. 05/2008).

C. Between January and March 2010, the AFN held 9 regional engagement sessions and one think tank attended by a total of 216 persons. In addition, surveys were sent out to participants in advance of the

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regional meetings. Results were reported in a final report, *Assessing the Readiness of First Nations Communities for the Repeal of Section 67 of the Canadian Human Rights Act,* which addresses the extent of the preparation, capacity and fiscal and human resources that will be required in order for First Nations to meet the challenges under the Act.

D. Among numerous findings, the report indicated that: 1) awareness of the repeal of section 67 and the Act is low; 2) communities have various levels of existing capacity to create and review policies to ensure compliance with the Act and First Nations human rights principles; and 3) according to a preliminary readiness assessment of community infrastructure, approximately 1,700 public buildings and 21,000 band-owned houses are estimated to require accessibility improvements.

E. During the 36 month transition period, INAC has thus far failed to work with First Nations to prepare them for the application of the Canadian Human Rights Act beginning in June 2011.

F. Despite the repeal of section 67, INAC continues to argue that the *Canadian Human Rights Act* is inapplicable to First Nations people in complaints before the Canadian Human Rights Tribunal.

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

1. Direct the AFN to request that the Government of Canada immediately begin to make resources available to ensure that First Nations can meet new responsibilities flowing from the application of the Canadian Human Rights Act.

2. Direct the AFN to urge the Government of Canada and the Canadian Human Rights Commission to recognize and develop opportunities for First Nation specific human rights mechanisms.

3. Direct the AFN to urge the Government of Canada and the Canadian Human Rights Commission to advance critical work to support human rights for persons with disabilities by seeking solutions to barriers such as completing an asset review of all relevant infrastructures.

4. Direct the AFN to urge the Government of Canada to cede their jurisdictional arguments on the application of the *Canadian Human Rights Act* before all complaints currently before the Canadian Human Rights Tribunal and allow First Nations people access to human rights protections as afforded to all other Canadians.

5. Direct the AFN to request the Government of Canada to appoint First Nation people as Members on the Canadian Human Rights Tribunal.

6. Direct the AFN to urge the Canadian Human Rights Tribunal to increase its complement of First Nations employees and legal experts and to ensure all Tribunal Members are provided on-going education on First Nations political, social and legal histories.

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7. Affirm that this legislation is imposed on our Nations and is only applicable until such time as First Nations have developed and implemented their own Human Rights models according to their traditions and inherent authority, consistent with the UNDRIP.

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