First Nations Leadership Council

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News Release

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FNLC and BCCLA Celebrate Landmark Decision of the British Columbia Court of Appeal

(xʷməθkʷəy̓əm (Musqueam), sḵwx̱wú7mesh (Squamish) and səlilwətaɬ (Tsleil-Waututh)/Vancouver, B.C.) The First Nations Leadership Council (FNLC) and the BC Civil Liberties Association (BCCLA) congratulate and uplift the Gitxaala and Ehattesaht Nations on today's landmark victory at the British Columbia Court of Appeal (BCCA). FNLC and BCCLA jointly intervened in the case.

The decision breathes new life into the *Declaration on the Rights of Indigenous Peoples Act* (Declaration Act) and affirms the substantive legal effect of the *United Nations Declaration on the Rights of Indigenous Peoples* (UN Declaration). It places the provincial government's de-prioritization of UN Declaration implementation into serious question, specifically not following its own Interim Approach for the development and passing of several key pieces of streamlining legislation, notably the *Renewable Energy Projects (Streamlined Permitting) Act* and the *Infrastructure Projects Act*.

The BCCA reversed the lower court's "unduly narrow approach to the legal effect of the Declaration Act" and held that the Declaration Act incorporates the UN Declaration into British Columbia's (B.C.) positive law. Further, the BCCA confirmed that the provincial government must consult and cooperate with First Nations to address inconsistencies between the UN Declaration and the laws of B.C., and that the question of whether a law of B.C. is consistent with the UN Declaration is justiciable. The provincial government cannot continue its ad hoc and discretionary approach to creating new law that is inconsistent with the UN Declaration.

Grand Chief Stewart Phillip, UBCIC President, stated, "From the beginning, we have emphasized that the provincial government's position on the legal effect of the Declaration Act was inconsistent with the substantial collaborative and cooperative effort that went into developing it. The BCCA's decision, and its observation that the provincial government's 'intransigence…does not contribute to the cooperative consultative dynamic to which all concerned should aspire', confirms what we have long understood: that reconciliation requires honourable conduct, good faith, and respect for commitments made. It's time for us to get on with the important work of reconciliation, together."

Regional Chief Terry Teegee, remarked, "This legal victory sends a ground-shaking message to the provincial government: the Declaration Act is legally binding and cannot be implemented or interpreted in a unilateral Crown approach. The Declaration Act is justiciable and First Nations in B.C. may enforce the legal requirement of consistency with the UN Declaration. The provincial government must honour in good faith the legal commitment it made to the First Nations of this Province."

"Today we celebrate and hold up the Gitxaala and Ehattesaht Nations for the significant time and resources they invested into advancing this litigation and holding the provincial government accountable," stated Robert Phillips of the First Nations Summit Political Executive. He added, "the clear outcome of their persistence and dedication to the protection of their rights is a win for all First Nations in British Columbia."

“BCCLA joins in the celebration of today’s decision affirming the legal effect of the UN Declaration in B.C. Indigenous rights must be honored and respected. The work of truth and reconciliation is now and belongs to us all, including the judiciary. There is no reason why the Declaration Act should not be legally enforceable when the government is shirking its duty to align the laws of B.C. with the rights and standards set out in the UN Declaration,” said Veronica Martisius, BCCLA Litigation Staff Counsel

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The First Nations Leadership Council is comprised of the political executives of the BC Assembly of First Nations (BCAFN), First Nations Summit (FNS), and the Union of BC Indian Chiefs (UBCIC). Further information can be found at www.fnlc.ca.

BCCLA works to promote, defend, sustain, and extend civil liberties and human rights across Canada. BCCLA focuses on the relationship between people and the state, and the ways state action can promote or prevent the full protection and enjoyment of these rights and liberties. Our work seeks to achieve systemic change through litigation, policy-based law reform and public engagement including education. We are committed to the protection of inherent human dignity and strive to achieve a society in which people benefit from the meaningful and substantively equal enjoyment of Charter-protected rights and liberty interests. We recognize that liberty, dignity and equality are mutually-reinforcing.

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