

OUR LAND IS OUR FUTURE

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UNION OF B.C. INDIAN CHIEFS
54TH ANNUAL GENERAL ASSEMBLY
SEPTEMBER 27TH TO 29TH, 2022
MUSQUEAM COMMUNITY CENTRE, x^wməθk^wəy^əm (MUSQUEAM TERRITORY)

Resolution no. 2022-67

RE: Canadian Human Rights Tribunal Case on First Nations Child & Family Services, Jordan's Principle, and Reform of Indigenous Services Canada, and the Related Agreement in Principle Dated December 31, 2021

WHEREAS numerous reports—including the *Joint National Policy Review Final Report*, June 2000—have documented federal/provincial jurisdictional disputes and the federal government's underfunding of the First Nations Child & Family Services (FNCFS) program and the resulting constraints on FNCFS agencies and egregious harms to children and families;

WHEREAS the First Nations Child & Family Caring Society (Caring Society) and the Assembly of First Nations (AFN) filed a discrimination claim in 2007 alleging Canada's inequitable funding of First Nations child and family services and its choice to not implement Jordan's Principle were discriminatory;

WHEREAS the *United Nations Declaration on the Rights of Indigenous Peoples* (UN Declaration), which the government of Canada has adopted without qualification, and has, alongside the government of BC, committed to implement, affirms:

Article 2: Indigenous peoples and individuals are free and equal to all other peoples and individuals and have the right to be free from any kind of discrimination, in the exercise of their rights, in particular that based on their indigenous origin or identity.

Article 7(1): Indigenous individuals have the rights to life, physical and mental integrity, liberty and security of person.

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(2): Indigenous peoples have the collective right to live in freedom, peace and security as distinct peoples and shall not be subjected to any act of genocide or any other act of violence, including forcibly removing children of the group to another group.

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;

WHEREAS the United Nations Human Rights Council, along with numerous other international human rights bodies, has criticized Canada's implementation of human rights norms and standards;

WHEREAS the Canadian Human Rights Tribunal (CHRT) substantiated the discrimination claim in 2016 CHRT 2 and ordered Canada to immediately cease its discriminatory conduct towards First Nations children and families, including those who are members of First Nations in British Columbia;

WHEREAS the Canadian Human Rights Tribunal ruling establishes that First Nations children and families are legally entitled to receive prevention services and least disruptive measures in a manner that is free of discrimination and accounts for unique community circumstances;

WHEREAS Canada chose not to comply with the order resulting in 21 non-compliance and procedural orders and 3 Federal Court orders against Canada since 2016;

WHEREAS in the wake of First Nations and public pressure following the confirmation of unmarked graves near residential schools and the Federal Court's dismissal of two of Canada's appeals, the federal government finally admitted that the discrimination was ongoing in the fall of 2021 and asked the parties to negotiate a resolution;

WHEREAS the complainants (Caring Society & AFN) and the interested parties (Chiefs of Ontario & Nishnawbe Aski Nation) and Canada entered negotiations to resolve outstanding discrimination and prevent its recurrence pursuant to the Canadian Human Rights Tribunal orders;

WHEREAS on December 31, 2021, an Agreement in Principle (AIP) including funding commitments of \$19.08 Billion over 5 years was signed as a framework for the negotiation of a Final Agreement on First Nations child and family services, Jordan's Principle, and reform of Indigenous Services Canada;

WHEREAS the AIP establishes the culturally based safety and well-being of First Nations children, youth, young adults and families as the paramount consideration and sets December 31, 2022, as the end of the Canadian Human Rights Tribunal's jurisdiction and April 1, 2023, as the implementation date for the "fully reformed" First Nations child and family services;

WHEREAS building on previous orders, the Canadian Human Rights Tribunal issued an order (2022 CHRT 8) by consent of the parties providing prevention, post-majority and other immediate measures

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coupled with an order on capital (2021 CHRT 41) securing in legal orders 75% of the \$19.08 billion over 5 years announced as part of the AIP;

WHEREAS community driven research to inform long term funding solutions for First Nations child and family services for First Nations, with and without agencies, is not due to be completed until the Spring of 2023 and dates for a final funding approach on Jordan's Principle are still being defined;

WHEREAS many First Nations not served by First Nations child and family service agencies are members of UBCIC and work to determine a long-term non-discriminatory funding approach for said First Nations is in the very early stages;

WHEREAS the Final Agreement will have a direct impact of unprecedented magnitude on the lives of First Nations children and their families and communities; and

WHEREAS the CHRT compensation orders are a minimum standard. No party is authorized to reduce or eliminate compensation amounts or supports for victims who are already legally entitled to \$40,000 plus interest in Canadian Human Rights Act compensation, and any changes must be aligned with the standard of Article 19 of the *UN Declaration and the Convention on the Rights of the Child*.

THEREFORE BE IT RESOLVED the UBCIC Chiefs-in-Assembly call on Canada to:

- a. Immediately release the full \$19.08 billion dollars in funding, in accordance with and as provided for in the Agreement-in-Principle on First Nations Child and Family Services (AIP), Jordan's Principle, and Indigenous Services Canada (ISC) departmental reform;
- b. Ensure that the Final Agreement must include provisions to cease Canada's operational and administrative discrimination in child and family services and Jordan's Principle and prevent the recurrence of discrimination on an ongoing basis beyond the 5-year funding provided for in the AIP;
- c. Ensure the Final Agreement protects the benefits for children, youth, and families as well as First Nations and First Nations agency service providers arising from the Canadian Human Rights Tribunal and associated orders as a minimum standard on an ongoing basis;
- d. Engage directly with British Columbia First Nations on proposed long-term funding approaches, including for First Nations without agencies and Jordan's Principle supports, and ensure that consultation and collaboration is informed and meets the requirements of Article 19 of the UN Declaration;

THEREFORE BE IT FURTHER RESOLVED the UBCIC Chiefs-in-Assembly direct the UBCIC Executive to advocate that:

- a. Implementation of the Final Agreement in areas affecting individuals who are First Nations children, youth and families who are citizens of First Nations in British Columbia be conducted with transparency and accountability to First Nations and permit First Nations an opportunity to engage with experts in British Columbia to assess the options and path forward;

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- b. The Assembly of First Nations take ongoing steps to include the National Advisory Committee on First Nations child welfare, Indigenous governing bodies and First Nation Title and Rights holders, and BC Indigenous Child & Family Services Directors in any proposals affecting First Nations' Child and Family Services and Jordan's Principle in British Columbia; and
- c. The Assembly of First Nations not sign any agreements that fetter its disclosure of information required by First Nations leadership to determine if they support the Final Agreement; and

THEREFORE BE IT FINALLY RESOLVED the UBCIC Chiefs-in-Assembly affirm that the Assembly of First Nations must advance positions consistent with the individual and collective rights of First Nations peoples, including a the standard of Article 19 of the UN Declaration and the Convention on the Rights of the Child.

Moved: Chief Greg Gabriel, Penticton Indian Band
Seconded: Louise Gordon, Taku River Tlingit First Nation (Proxy)
Disposition: Carried
Date: September 28, 2022

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