

# OUR LAND IS OUR FUTURE

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### UNION OF B.C. INDIAN CHIEFS CHIEFS COUNCIL

JUNE 7<sup>TH</sup> – 8<sup>TH</sup>, 2023

MUSQUEAM COMMUNITY CENTRE, X<sup>w</sup>MƏƏK<sup>w</sup>ƏY<sup>ə</sup>M (MUSQUEAM TERRITORY)

**Resolution no. 2023-30**

#### **RE: Support for UBCIC Intervention in RR v VACFSS Judicial Review**

**WHEREAS** First Nations title and rights holders have the inherent right to self-determination, which includes jurisdiction over our children and families as constitutionally protected under Section 35 of the *Constitution Act*, 1982, described in the *United Nations Declaration on the Rights of Indigenous Peoples* (UN Declaration), and affirmed in *An Act respecting First Nations, Inuit and Métis children, youth and families*;

**WHEREAS** the UN Declaration, which the government of Canada has adopted without qualification, and has, alongside the government of British Columbia, passed legislation committing to implement, affirms:

**Article 7(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 21(2):** States shall take effective measures and, where appropriate, special measures to ensure continuing improvement of their economic and social conditions. Particular attention shall be paid to the rights and special needs of indigenous elders, women, youth, children and persons with disabilities.

**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;

**WHEREAS** in August 2016, the Vancouver Aboriginal Child and Family Services Society (VACFSS) apprehended four children from RR, an Afro-Indigenous mother. Between April 2017 and December 2018, VACFSS regulated, restricted, and denied RR access to her children. In September 2017, RR, filed a complaint with the BC Human Rights Tribunal (BCHRT), against VACFSS, alleging discrimination based on her race, ancestry, colour, and mental disability, in violation of sec. 8 of the *BC Human Rights Code*. On [November 22, 2022, the BCHRT determined](#) VACFSS had discriminated against RR's protected

characteristics under the *BC Human Rights Code*, and awarded RR compensation for injury to her dignity, feelings, self-respect, and costs for improper conduct by VACFSS and their former counsel;

**WHEREAS** on January 24, 2023, VACFSS [announced](#) they were appealing the BCHRT decision, arguing that the BCHRT had overstepped its jurisdiction, making decisions under the *Child, Family and Community Services Act* (CFCSA) which is under provincial authority, failed to give effect to the court orders and consequently undermined a final order of BC Provincial Court under the CFCSA, premised its decision on perceived flaws in the CFCSA legislation and denied VACFSS the right to a fair hearing by expanding the scope of the case without providing proper notice;

**WHEREAS** child welfare interventions and apprehensions have a disproportionate impact on First Nations children, families, and communities, and any restriction in access to justice perpetuates inequitable, classist, and racist child welfare practices, rooted in colonialism, resulting in adverse impacts on First Nations jurisdiction. The VACFSS's appeal could impact the ability of First Nations parents and caregivers to file human rights complaints, pertaining to discriminative child protection responses, with the BCHRT, against either MCFD or First Nations-run delegated service organizations;

**WHEREAS** by resolutions 2022-67, 2020-02, 2019-50 and 2019-25, the UBCIC Chiefs Council has directed the UBCIC Executive and staff to work with other organizations and the provincial and federal government to address systemic racism discrimination, and human rights violations, including the overrepresentation of First Nations children and youth in the BC child welfare system and the criminal justice system, as well as ongoing discriminative and racist child apprehension measures;

**WHEREAS** UBCIC has precedent to intervene in BCHRT complaints to provide a better understanding of the fraught relationship between First Nations peoples and the child welfare system rooted in the assimilatory purpose of residential schools, day schools, the 60s scoop, and ongoing millennial scoop; and

**WHEREAS** the UBCIC had to apply for intervenor status prior to the June 2023 Chiefs Council meeting, necessitating an Executive Resolution which was passed on May 25<sup>th</sup>, 2023, with the clause that this resolution would also need to be passed by the UBCIC Chiefs Council.

**THEREFORE BE IT RESOLVED** the UBCIC Chiefs Council fully supports an intervention by UBCIC into Vancouver Aboriginal Child and Family Services Society's (VACFSS) appeal of the BC Human Rights Tribunal (BCHRT) decision in the RR case in order to uphold the ability of First Nations parents and caregivers to file human rights complaints, pertaining to discriminative child protection responses, with the BCHRT;

**THEREFORE BE IT FURTHER RESOLVED** the UBCIC Chiefs Council directs the UBCIC Executive to retain legal counsel to seek intervenor status for UBCIC and to provide legal advice and representation in UBCIC's intervention in the *RR v VACFASS* judicial review, subject to resourcing; and

**THEREFORE BE IT FINALLY RESOLVED** the UBCIC Chiefs Council directs the UBCIC Executive to provide a comprehensive update and seek further direction on *RR v VACFASS* at the next UBCIC Chiefs Council meeting.

**Moved:** Chief Don Tom, Tsartlip First Nation  
**Seconded:** Chief Ralph Leon, Sts'ailes  
**Disposition:** Carried  
**Date:** June 8, 2023