

OUR LAND IS OUR FUTURE

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Union of B.C. Indian Chiefs
CHIEFS COUNCIL

JUNE 10TH & 11TH, 2024

SHXWHÁ:Y VILLAGE COMMUNITY CULTURAL CENTER (STÓ:LŌ TERRITORY)

Resolution no. 2024-19

RE: FNLC Intervention in Caring Society's Motion Regarding Canada's Failure to Adhere to the CHRT Orders on Jordan's Principle

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* which constitutional validity was confirmed by the Supreme Court of Canada in *Reference re An Act respecting First Nations, Inuit and Métis children, youth and families*, 2024 SCC 5;

WHEREAS on February 23, 2007, the Assembly of First Nations (AFN) and the First Nations Child and Family Caring Society (Caring Society) filed a complaint with the Canadian Human Rights Commission alleging that Canada was discriminating against First Nations in the provision of child and family services on reserve by providing insufficient and inequitable funding for those services;

WHEREAS in *First Nations Child and Family Caring Society of Canada et al. v. Attorney General of Canada (for the Minister of Indian and Northern Affairs Canada)*, 2016 CHRT 2 (the Merit Decision), the Canadian Human Rights Tribunal (the Tribunal) found Canada was discriminating against First Nations children and their families by failing to implement the full scope of Jordan's Principle and denying First Nations children the equal provision of child and family services, and ordered Canada to stop its discriminatory policies and practices and to take immediate measures to implement the full meaning and scope of Jordan's Principle;

WHEREAS since the 2016 Merit Decision, the Tribunal has issued numerous procedural and non-compliance orders against Canada. The case is ongoing, and the Tribunal retains jurisdiction over these orders;

WHEREAS the UN Declaration, which the government of Canada has adopted without qualification, and has, alongside the government of B.C., passed legislation committing to implement, affirms:

Article 21(2): States shall take effective measures and, where appropriate, special measures to ensure continuing improvement of (indigenous peoples’) 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(1): Particular attention shall be paid to the rights and special needs of indigenous elders, women, youth, children and persons with disabilities in the implementation of this Declaration.

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 24(2): Indigenous individuals have an equal right to the enjoyment of the highest attainable standard of physical and mental health. States shall take the necessary steps with a view to achieving progressively the full realization of this right;

WHEREAS on December 31, 2021, Canada signed onto an Agreement-in-Principle for the long-term reform of the First Nations Child and Family Services (FNCFS) Program and Jordan’s Principle, to ensure no First Nations child experiences discrimination again, and is negotiating a Final Settlement Agreement with the parties to the Merit Decision, excluding the Caring Society, which withdrew from this process in December 2023 to bring a non-compliance order against Canada;

WHEREAS by resolution 2016-04, 2022-67 and 2024-02, the UBCIC Chiefs Council called on Canada to uphold the Merit Decision and subsequent orders, and to ensure that the Final Settlement Agreement includes provisions to cease Canada’s operational and administrative discrimination in the FNCFS Program and Jordan’s Principle;

WHEREAS on December 12, 2023, the Caring Society filed a motion with the Tribunal, seeking several orders regarding Canada’s willful and chronic failure to adhere to the Tribunal's orders on Jordan's Principle, including an order that Canada address its backlog of Jordan’s Principle requests (the Motion), noting “a significant number of unopened requests and backlogs” for Jordan’s Principle in the B.C. Region;

WHEREAS a unique context exists in B.C. as it relates to FNCFS and health, and it is critical to bring a B.C.-specific perspective on the issues outlined in the Motion and the impacts on First Nations children and families;

WHEREAS the First Nations Leadership Council (FNLC) is a collaborative, political working relationship between the UBCIC, the B.C. Assembly of First Nations, and the First Nations Summit, and is well-placed to ensure a B.C.-specific perspective is put before the Tribunal in the Motion; and

WHEREAS the UBCIC, as part of the FNLC, had to apply for interested status prior to the June 2024 Chiefs Council meeting, necessitating an Executive Resolution which was passed on May 23rd, 2024, 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 into the First Nations Child and Family Caring Society (Caring Society)’s motion regarding Canada’s willful and chronic failure to adhere to the Canadian Human Rights Tribunal (CHRT)'s orders on Jordan's Principle before the CHRT;

THEREFORE BE IT FURTHER RESOLVED the UBCIC Chiefs Council directs the UBCIC Executive, working with the First Nations Summit and the B.C. Assembly of First Nations as the FNLC, to retain legal counsel to apply for interested party status for the FNLC in the Caring Society’s motion against Canada before the CHRT, and to provide legal advice and representation for the FNLC if the application is granted, subject to resourcing; and

THEREFORE BE IT FINALLY RESOLVED the UBCIC Chiefs Council directs the UBCIC Executive to provide a comprehensive update on the intervention in the Caring Society’s motion against Canada at the next UBCIC Chiefs Council meeting.

Moved: Kukpi Lee Spahan, Coldwater Indian Band
Seconded: Chief Jerry Jack, Mowachaht-Muchalaht First Nations
Disposition: Carried
Date: June 10, 2024