

# OUR LAND IS OUR FUTURE

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UNION OF B.C. INDIAN CHIEFS  
56<sup>TH</sup> ANNUAL GENERAL ASSEMBLY  
SEPTEMBER 24<sup>TH</sup> – 26<sup>TH</sup>, 2024  
MUSQUEAM COMMUNITY CENTRE, X<sup>W</sup>MƏƏK<sup>W</sup>ƏYƏM (MUSQUEAM TERRITORY)

Resolution no. 2024-47

## RE: Call for Crown to Uphold and Implement First Nations Jurisdiction over Children and Families

**WHEREAS** assimilative government policies have caused, and continue to cause, profound harm and intergenerational trauma amongst Indigenous children, families, and communities across Canada and the overrepresentation of Indigenous children in provincial child welfare systems;

**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 B.C., passed legislation committing to implement, affirms:

**Article 3:** Indigenous peoples have the right to self-determination.

**Article 4:** Indigenous peoples, in exercising their right to self-determination, have the right to autonomy or self-government in matters relating to their internal and local affairs.

**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 13:** Indigenous peoples have the right to revitalize, use, develop and transmit to future generations their histories, languages, oral traditions, philosophies, writing systems and literatures.

**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;

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**WHEREAS** Canada has committed to advancing implementation of the UN Declaration through the enactment of *An Act respecting First Nations, Inuit and Métis children, youth and families*, S.C. 2019, c. 24, (Federal Act) (preamble);

**WHEREAS** British Columbia has enacted the *Indigenous Self-Government in Child and Family Services Amendment Act* (formerly known as Bill 38 – 2022), which B.C. considers “an important step in meeting government’s commitments under the *Declaration on the Rights of Indigenous Peoples Act* and achieving the goals in the Declaration Act Action Plan, Theme 1: Self Determination and Inherent Right of Self Government”;

**WHEREAS** the Federal Act affirms that Indigenous peoples have an inherent right to self-government, including jurisdiction in relation to child and family services, and the Supreme Court of Canada recently upheld the constitutional validity of this affirmation;

**WHEREAS** the Supreme Court of Canada has also recognized that the affirmation of inherent jurisdiction in the Federal Act invites Indigenous communities to weave together Indigenous, national, and international laws in order to protect the well-being of Indigenous children and families through coordination between Indigenous, provincial, and federal governments;

**WHEREAS** through the Federal Act, Canada has affirmed the need to respect the diversity of all Indigenous peoples, including the diversity of their laws, cultures, languages, customs, and traditions (preamble);

**WHEREAS** since the implementation of the Federal Act, First Nations across Canada have been working to advance the implementation of their inherent jurisdiction and developing unique systems and approaches that reflect their distinct laws, customs, traditions, and values, as well as the specific needs of their children and families;

**WHEREAS** Canada and British Columbia have been negotiating with First Nations seeking to secure long-term, needs-based, sustainable funding agreements for their jurisdiction over children and families, and coordination of services with external providers;

**WHEREAS** by UBCIC Resolutions 2023-26 (Fiscal Framework Development for Resumption of Jurisdiction by First Nations over Children and Families), 2019-20 (Federal Child Welfare Legislation), 2018-10 (Support for Gitksan and Wet’suwet’en Jurisdiction over Children and Families), 2017-06 (First Nations Jurisdiction Over Children and Families), 2016-44 (Draft Action Framework: Reconciliation, Self-Determination, and Self-Government for Indigenous Children, Families and Nations in B.C.), and 2016-24 (Reform of Indigenous Child Welfare System in B.C.), the UBCIC Chiefs Council has affirmed First Nations jurisdiction over children and family services and has supported work to reform the child welfare system and child and family services;

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**WHEREAS** despite the aforementioned, progress towards implementation has been significantly hampered by both governments resisting accepting or funding Indigenous service delivery models that do not align with existing federal and provincial policies, and/or that require adjustments to existing provincial child welfare practices;

**WHEREAS** specifically, federal funding policy narrowly defines “prevention” services and severely limits funding for that sector, while British Columbia is unwilling to commit its Ministry of Children and Family Development to abide by First Nations laws in which a First Nation implements a concurrent service delivery model and does not take over jurisdiction with respect to “protection” services;

**WHEREAS** British Columbia is further suggesting that, unlike other Indigenous governing bodies, modern treaty Nations are not entitled to the beneficial scheme of the Federal Act; and

**WHEREAS** First Nations are being forced to delay the exercise of their inherent jurisdiction while they advocate for the adequate recognition and integration of their laws, while Indigenous children and families continue to experience harm in the existing child welfare system.

**THEREFORE BE IT RESOLVED** the UBCIC Chiefs-in-Assembly call on the governments of Canada and British Columbia to:

- Take any steps necessary to recognize and uphold the rights of all First Nations to: a) develop the child and family service delivery models that best support their community needs, and b) enact and implement their own laws to support those service delivery models. These steps may include entering into agreements that bind Crown servants and amending or interpreting legislation where necessary;
- Find new ways to successfully integrate provincial services concurrently with a First Nation’s service delivery model;
- Review and adjust the existing framework of dichotomizing “prevention” and “protection” services so as to incorporate and support concurrent models and the reality of overlapping, holistic supports and services programming;
- Ensure that provincial and federal funding is not restricted or limited in a way that disadvantages some First Nations over others, based on their preferred service delivery model, needs, or jurisdictional framework, and ensure that provincial and federal funding is provided to uphold and support revitalization of Indigenous laws including technology supports; and
- Recognize that modern treaty Nations are entitled to the application of *An Act respecting First Nations, Inuit and Métis children, youth and families*, S.C. 2019, c. 24 in exercising law-making authority over their children and families, the same as other First Nations in Canada.

**Moved:** Judy Wilson, Osoyoos Indian Band (Proxy)  
**Seconded:** Chief Roger Williams, Xenigwet’in First Nation  
**Disposition:** Carried  
**Date:** September 25, 2024

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