



## BC ASSEMBLY OF FIRST NATIONS

1004 Landooz Road  
Prince George, BC V2K 5S3  
Website: www.bcafn.ca

**BCAFN ANNUAL GENERAL MEETING**  
**September 21, 22, & 23, 2022**  
**Hybrid - In person & online via Zoom**

**Resolution 34/2022**

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**SUBJECT:** 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

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**MOVED BY:** CHIEF CAMERON STEVENS, KISPIOX BAND

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**SECONDED BY:** KUKPI7 JUDY WILSON, NESKONLITH INDIAN BAND

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**DECISION:** CARRIED

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**WHEREAS:**

A. The United Nations Declaration on the Rights of Indigenous Peoples states:

- i. 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.
- ii. Article 7: 1. Indigenous individuals have the rights to life, physical and mental integrity, liberty and security of person. 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.
- iii. Article 19: States shall consult and cooperate in good faith with the indigenous peoples concerned through their own representative institutions in order to obtain

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their free, prior and informed consent before adopting and implementing legislative or administrative measures that may affect them.

- B. 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;
- C. 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 program and the resulting constraints on FNCFS agencies and egregious harms to children and families;
- D. 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;
- E. The Canadian Human Rights Tribunal 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;
- F. 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;
- G. 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;
- H. 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;
- I. 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;
- J. On December 31, 2021, an Agreement in Principle (AIP) 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;

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- K. 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;
- L. 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 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;
- M. 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; and
- N. The Final Agreement will have a direct impact of unprecedented magnitude on the lives of First Nations children and their families and communities.

**THEREFORE BE IT RESOLVED THAT:**

- 1. The BCAFN 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 Year 5 of 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. Extend the timeframe to end the Canadian Human Rights Tribunal's (the Tribunal) jurisdiction and fully implement the reformed funding approach in the Agreement in Principle, with an extension until such time (anticipated to be in 12 months, but possibly longer in the event of unforeseen circumstances) that First Nations are aware of the proposed long-term funding approaches and have had sufficient time to exercise their free, prior, and informed consent to any such approach that will directly affect BC First Nations and their citizens;
  - e. Extend the timeframe to end the Tribunal's jurisdiction and fully implement the reformed funding approach in the Agreement in Principle until such time as a fully-developed and

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transparent Alternative Dispute Resolution mechanism is implemented and approved by the Tribunal;

2. The BCAFN Chiefs-in-Assembly direct the BCAFN Regional Chief to advocate that:
  - a. Any negotiations on the Final Agreement that affect First Nations children, youth and families who are citizens of First Nations in British Columbia be conducted in an open and transparent manner with meaningful consultation with First Nations and First Nations' Child and Family Services and Jordan's Principle experts in British Columbia throughout the negotiating process;
  - b. The Assembly of First Nations ensures the meaningful participation of the National Advisory Committee on First Nations child welfare (NAC), 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;
  - c. The Assembly of First Nations only sign a Final Agreement in this matter after receiving in writing the free, prior, and informed consent of First Nations in British Columbia;
  - d. That the Assembly of First Nations not sign any agreements that fetter its disclosure of information required by First Nations leadership to exercise their free, prior and informed consent including, but not limited to, non-disclosure agreements, liability waivers or clauses requiring AFN to take any public or legal position that impacts First Nations children, youth and families that is not specifically authorized by the BCAFN Chief's in Assembly;
  
3. The BCAFN Chiefs-in-Assembly affirm that the Assembly of First Nations must seek the free, prior, and informed consent of First Nations in British Columbia prior to stating or implying a position on behalf of First Nations rights holders in British Columbia regarding matters flowing from 2016 CHRT 2 or the AIP.

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