



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

LATE Resolution XX/2022

SUBJECT: RENEWAL OF SERVICE LEVEL AGREEMENT (SLA) REGARDING BRITISH COLUMBIA FIRST NATIONS CHILDREN AND FAMILIES

MOVED BY: CHERYL CASIMER, PROXY, ?AQ'AM FIRST NATION

SECONDED BY: CHIEF STUART JACKSON, LOWER NICOLA INDIAN BAND

DECISION:

WHEREAS:

- A. 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 and described in the *United Nations Declaration on the Rights of Indigenous Peoples* (UN Declaration).
- B. The UN Declaration, which the Governments of Canada and British Columbia have adopted without qualification, affirms:
 - **Article 3:** Indigenous peoples have the right to self-determination. By virtue of that right they freely determine their political status and freely pursue their economic, social and cultural development;
 - **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, as well as ways and means for financing their autonomous functions;
 - **Article 18:** Indigenous peoples have the right to participate in decision making in matters which would affect their rights, through representatives chosen by themselves in accordance with their own procedures, as well as to maintain and develop their own indigenous decision-making institutions;
 - **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;

- **Article 37:** Indigenous peoples have the right to the recognition, observance and enforcement of treaties, agreements and other constructive arrangements concluded with States or their successors and to have States honour and respect such treaties, agreements and other constructive arrangements; and,
- C. On January 26, 2016, and via subsequent rulings, the Canadian Human Rights Tribunal (CHRT) ordered Indigenous Services Canada (ISC) to cease its discriminatory practices and reform the national First Nations Child and Family Services (FNCFS) Program, policies, procedures, and agreements to comply with the CHRT's findings.
 - D. Through resolutions at the Chiefs' Assemblies (UBCIC Resolution no. 2016-44, FNS Resolution #1016.11, BCAFN Resolution 22/2016) the Chiefs in BC supported in principle the Draft Action Framework and directed the First Nations Leadership Council to bring a revised Action Framework, incorporating First Nations' feedback, to the Assemblies in February and March 2017; and directed continued engagement with both Canada and British Columbia to honorably engage in a robust and meaningful Indigenous-driven process to reform Indigenous child welfare in BC, informed by the Draft Action Framework.
 - E. Through resolutions at the Chiefs' Assemblies (UBCIC Resolution no. 2017-06, FNS Resolution #0217.19, BCAFN Resolution 06/2017) the Chiefs in BC endorsed and supported the work on Child Welfare reform under the Tripartite process between BC, Canada, and the BC Assembly of First Nations, First Nations Summit, and Union of BC Indian Chiefs, working together as the First Nations Leadership Council, and effectively and fully collaborating with First Nations Sectoral Councils, Delegated Agencies and the First Nations Directors Forum.
 - F. In 2017, the Government of Canada (represented by Indigenous Services Canada (ISC)), the Government of British Columbia (represented by the Ministry of Children and Family Development (MCFD)), and the BC Assembly of First Nations (BCAFN), the First Nations Summit (FNS) and the Union of BC Indian Chiefs (UBCIC), working collectively as the First Nations Leadership Council (FNLC) signed a Reconciliation Charter that committed the parties to work in partnership to achieve First Nations child welfare reform via a Tripartite Working Group (TWG) made up of Canada, the Province, and the FNLC to implement concrete actions to support legislative reform, program and policy development and an effective fiscal model to support First Nations children and families in BC.
 - G. In 2019, the Government of Canada enacted Bill C-92: *An Act Respecting First Nations, Inuit and Metis Children, Youth and Families*, affirming inherent Aboriginal and treaty rights, and supporting First Nations governments to pass laws, enforce laws and put in place coordination arrangements for all aspects of child and family services, based on First Nations laws, priorities, customs, traditions and practices.
 - H. By resolution 01/2019, the Chiefs-in-Assembly directed the Regional Chief, working with the UBCIC and FNS as part of the TWG, to create a detailed transition strategy to meet the needs of First Nations in BC for review and input by the Chiefs. This work is ongoing.
 - I. Canada provides funding to the Province through a bilateral Service Level Agreement (SLA) for costs of child and family service delivery for First Nations on-reserve that are not served by a Delegated Aboriginal Agency.

- J. While the broader transformation toward a new and effective fiscal model to support First Nations children and families in BC is taking place, as committed to in the Reconciliation Charter, an updated SLA continues to be used as an interim measure so that First Nations do not see disruptions in services.

THEREFORE BE IT RESOLVED THAT:

1. The BCAFN Chiefs-in-Assembly acknowledge the need in the interim for a bilateral “Strategic Level Agreement Regarding the Funding of Child Protection Services of First Nations Children Ordinarily Resident on Reserve” between Canada and BC (SLA) while at the same time confirming that focus must shift to the broader transformation of child and family services, including a new funding framework for all First Nations child and family services in BC. For greater clarity, BC First Nations are not a party to nor approve the bilateral SLA and remain committed to full and priority transformation of child and family services, including to fiscal relationships.
2. The BCAFN Chiefs-in-Assembly direct the Regional Chief, working with the UBCIC and FNS at the Tripartite Working Group on Children and Families (TWG), to request improvements in this renewed SLA, including:
 - a. Enhanced funding;
 - b. Incorporation of principles from *An Act respecting First Nations, Inuit and Metis Children, Youth and Families* and the Reconciliation Charter for First Nations Child & Family Well-being in British Columbia endorsed by resolution of the BCAFN Chiefs-in-Assembly; and,
 - c. Enhanced accountability and reporting to BC First Nations about the use, level, and outcomes of this funding.
3. The BCAFN Chiefs-in-Assembly direct the Regional Chief, working with the UBCIC and FNS at the TWG, to prepare a comprehensive update to the Chiefs on transformation of child and family services, including a new funding framework for all First Nations child and family services in BC, for the upcoming All Chiefs Meeting on Children and Families in November 2022, and seek a further mandate for key aspects of this work following this engagement with the Chiefs.



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

LATE Resolution XX/2022

**SUBJECT: COMPENSATION FOR CHILDREN AND FAMILIES WHO SUFFERED
DISCRIMINATION IN THE DELIVERY OF FIRST NATIONS CHILD & FAMILY
SERVICES AND JORDAN'S PRINCIPLE SERVICES**

MOVED BY: CHIEF CAMERON STEVENS, KISPIOX BAND

SECONDED BY: CHIEF HARVEY MCLEOD, UPPER NICOLA INDIAN BAND

DECISION:

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 their free, prior and informed consent before adopting and implementing legislative or administrative measures that may affect them.
- B. The First Nations Child & Family Caring Society (Caring Society) and the Assembly of First Nations (AFN) filed a discrimination complaint in 2007 alleging Canada's inequitable provision of First Nations child and family services and its choice to not implement Jordan's Principle were discriminatory.

- C. The Canadian Human Rights Tribunal substantiated the discrimination 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.
- D. The AFN passed Resolution 85/2018 calling for the maximum allowable compensation (\$40,000) for victims of discrimination under the FNCFS Program;
- E. The Canadian Human Rights Tribunal ordered Canada to pay \$40,000 per eligible victim for Canada's "willful and reckless" discrimination of the "worst order";
- F. Compensation orders in 2019 CHRT 30 and 2021 CHRT 7 were upheld by the Federal Court (T-1621-19 in 2021 FC 969);
- G. The Government of Canada appealed the Federal Court Decision (2021 FC 969) and subsequently announced its wishes to address the human rights damages in combination with two larger class actions: Moushoun et al. v. Attorney General of Canada and the Assembly of First Nations class action;
- H. Canada and counsel for both class actions announced an Agreement in Principle on the compensation on December 31, 2021, with an intent to develop a Final Settlement Agreement to resolve the compensation issue for both the human rights damages and the class actions;
- I. The AFN Chiefs did not pass any resolutions supporting the Agreement in Principle on compensation or authorizing negotiators to deviate from the CHRT orders on compensation or from the AFN's resolution calling for the maximum allowable amount for every victim of discrimination under the FNCFS program;
- J. The First Nations Summit passed a resolution on June 16, 2022 (FNS Resolution #0622.23) affirming that the AFN and Canada are not authorized to modify the CHRT's compensation entitlement order without the free, prior and informed consent of First Nations in British Columbia;
- K. On June 30, the AFN, class action parties and the Government of Canada reached a Final Settlement Agreement on compensation and immediately (without seeking the free, prior and informed consent of First Nations or their chiefs) filed a motion with the Canadian Human Rights Tribunal seeking an expedited hearing regarding the Tribunal's compensation orders;
- L. Article 10 of the Final Settlement Agreement on compensation requires the AFN, among other things, "to take all reasonable steps to publicly promote and defend the Agreement";
- M. At the Tribunal hearing, which took place on September 15 and 16, 2022, the Caring Society argued that the Final Settlement Agreement negatively impacts the rights of a number of children and families by reducing or eliminating their right to CHRT compensation and by waiving their rights to litigate against Canada for the harms they experienced flowing from Canada's discrimination—even if they receive no financial compensation under the Final Settlement Agreement;

- N. During the Tribunal hearing on September 16, 2022, AFN legal counsel was asked by the Tribunal if there were any objections to the Final Settlement Agreement by First Nations or others, and though they were in possession of the FNS resolution the AFN counsel did not disclose the FNS's objections in answer to the question.
- O. Chiefs in British Columbia have not been consulted on the Final Settlement Agreement and are therefore unable to exercise free, prior, and informed consent on any changes to the CHRT compensation orders.

THEREFORE BE IT RESOLVED THAT:

1. The BCAFN Chiefs-in-Assembly call upon Canada to immediately pay the CHRT-ordered compensation in the amount of \$40,000 plus interest owed to eligible victims and provide necessary supports pursuant to the CHRT orders;
2. The BCAFN Chiefs-in-Assembly affirm that AFN negotiators are not authorized to seek a reduction in the compensation amounts for eligible victims who are members of BC First Nations and must respect the compensation framework agreement and compensation entitlement order as set out in 2019 CHRT 39 and 2021 CHRT 7;
3. The BCAFN Chiefs-in-Assembly express concern regarding the AFN's agreement to Article 10 in the Final Settlement Agreement as it abrogates the AFN's duty to represent the interests of First Nations as authorized by the AFN Chiefs in Assembly and direct that the AFN:
 - a. withdraw its consent to this section of the agreement or in the alternative
 - b. fully disclose this obligation to First Nations governments, First Nations experts, the Courts and Tribunal, and the public and that an independent panel of experts and lawyers be appointed by the BCAFN to examine the Final Settlement Agreement and inform positions arising from it;
4. The BCAFN Chiefs-in-Assembly affirm that the AFN is not authorized to sign provisions such as Article 10 of the Final Settlement Agreement on behalf of BCAFN Chiefs-in-Assembly without their free, prior, and informed consent;
5. The BCAFN Chiefs-in-Assembly direct the AFN negotiators to seek the free, prior and informed consent of BC First Nations Chiefs before making any legal representations on any Final Agreement on Compensation that may have an impact on First Nations children, youth and families in British Columbia;
6. The BCAFN Chiefs-in-Assembly direct that any negotiations with Canada or class action counsel on any matters arising from 2016 CHRT 2 and subsequent orders or legal proceedings affecting BC First Nations children, youth, and families must be conducted in an open and transparent manner consistent with free, prior and informed consent of First Nations.



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

LATE Resolution XX/2022

SUBJECT: **CALL TO RESCIND AND REPUDIATE TERRA NULLIUS AND THE
DOCTRINE OF DISCOVERY**

Moved BY: **CHIEF JERRY JACK, MOWACHAHT/MUCHALAHT FIRST NATION**

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

DECISION:

WHEREAS:

- A. the Doctrine of Discovery and *terra nullius* are based on the presumed racial superiority of European Christian peoples and has been used to dehumanize, exploit, and subjugate Indigenous Peoples and dispossess Indigenous peoples of their lands and rights;
- B. the Truth and Reconciliation Commission of Canada: Calls to Action states:

45. *We call upon the Government of Canada, on behalf of all Canadians, to jointly develop with Aboriginal peoples a Royal Proclamation of Reconciliation to be issued by the Crown [which would include]:*

(i) Repudiate concepts used to justify European sovereignty over Indigenous lands and peoples such as the Doctrine of Discovery and terra nullius.

46. *We call upon the parties to the Indian Residential Schools Settlement Agreement to develop and sign a Covenant of Reconciliation that would identify principles for working collaboratively to advance reconciliation in Canadian society, and that would include, but not be limited to:*

ii. Repudiation of concepts used to justify European sovereignty over Indigenous lands and peoples, such as the Doctrine of Discovery and terra nullius, and the reformation of laws, governance structures, and policies within their respective institutions that continue to rely on such concepts

47. We call upon federal, provincial, territorial, and municipal governments to repudiate concepts used to justify European sovereignty over Indigenous peoples and lands, such as the Doctrine of Discovery and terra nullius, and to reform those laws, government policies, and litigation strategies that continue to rely on such concepts.

49. We call upon all religious denominations and faith groups who have not already done so to repudiate concepts used to justify European sovereignty over Indigenous lands and peoples, such as the Doctrine of Discovery and terra nullius.

- C. the very first recommendations of the **1996 Royal Commission on Aboriginal Peoples'** Report, was as follows:

1.16.1 To begin the process, the federal, provincial and territorial governments, on behalf of the people of Canada, and national Aboriginal organizations, on behalf of the Aboriginal peoples of Canada, commit themselves to building a renewed relationship based on the principles of mutual recognition, mutual respect, sharing and mutual responsibility; these principles to form the ethical basis of relations between Aboriginal and non-Aboriginal societies in the future and to be enshrined in a new Royal Proclamation and its companion legislation (see Volume 2, Chapter 2).

1.16.2 Federal, provincial and territorial governments further the process of renewal by:
(a) acknowledging that concepts such as terra nullius and the doctrine of discovery are factually, legally and morally wrong;
(b) declaring that such concepts no longer form part of law making or policy development by Canadian governments;
(c) declaring that such concepts will not be the basis of arguments presented to the courts;
(d) committing themselves to renewal of the federation through consensual means to overcome the historical legacy of these concepts, which are impediments to Aboriginal people assuming their rightful place in the Canadian federation; and
(e) including a declaration

- D. Canada's Parliament enacted legislation to implement the *United Nations Declaration on the Rights of Indigenous Peoples* (the UN Declaration) in 2021, and included in that legislation a clear statement that "all doctrines, policies and practices based on or advocating the superiority of peoples or individuals on the basis of national origin or racial, religious, ethnic or cultural differences, including the doctrines of discovery and *terra nullius*, are racist, scientifically false, legally invalid, morally condemnable and socially unjust"

- E. the governments of British Columbia and Canada have adopted without qualification, and legislation committing to implement, without delay, the Declaration, of which the following provisions are of utmost significance:

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, as well as ways and means for financing their autonomous functions;

Article 5: Indigenous peoples have the right to maintain and strengthen their distinct political, legal, economic, social and cultural institutions, while retaining their right to participate fully, if they so choose, in the political, economic, social and cultural life of the State;

Article 10: Indigenous peoples shall not be forcibly removed from their lands or territories. No relocation shall take place without the free, prior and informed consent of the indigenous peoples concerned and after agreement on just and fair compensation and, where possible, with the option of return;

Article 26 (1): Indigenous peoples have the right to the lands, territories and resources which they have traditionally owned, occupied or otherwise used or acquired,

(2) Indigenous peoples have the right to own, use, develop and control the lands, territories and resources that they possess by reason of traditional ownership or other traditional occupation or use, as well as those which they have otherwise acquired,

(3) States shall give legal recognition and protection to these lands, territories and resources. Such recognition shall be conducted with due respect to the customs, traditions and land tenure systems of the indigenous peoples concerned;

D. in 2018, the Assembly of First Nations released a paper entitled, *Dismantling the Doctrine of Discovery* which called on Canada to act on the following recommendations:

- 1) Acknowledge that this doctrine has had and continues to have devastating consequences for Indigenous peoples worldwide, including First Nations in Canada;
- 2) Reject doctrines of superiority as illegal and immoral, and affirm that they can never be a justification for the exploitation and subjugation of Indigenous peoples and the violation of human rights;
- 3) In full partnership with First Nations, examine how Canadian history, laws, practices and policies have relied on the doctrine of discovery;
- 4) Repudiate all doctrines of superiority in a legislative framework for implementation of the United Nations Declaration on the Right of Indigenous Peoples, developed together with Indigenous peoples;
- 5) Reinterpret Canadian law in a manner consistent with the United Nations Declaration on the Right of Indigenous Peoples and other contemporary international human rights standards;
- 6) Ensure that the violation of First Nations' rights to lands, territories and resources that were taken without their free, prior, and informed consent are effectively redressed; and
- 7) Ensure that the doctrine is not in any manner invoked in contemporary court cases or negotiations.

E. the *United Nations Declaration on the Rights of Indigenous Peoples Act* received royal assent in which it provides that "the Minister [of Justice] must, in consultation and cooperation with Indigenous peoples and with other federal ministers, prepare and implement an action plan to achieve the objectives of the Declaration;

F. the Bill C-15 action plan must include:

- (a) measures to
 - (i) address injustices, combat prejudice and eliminate all forms of violence, racism and

discrimination, including systemic racism and discrimination, against Indigenous peoples and Indigenous elders, youth, children, women, men, persons with disabilities and gender-diverse persons and two-spirit persons, and

(ii) promote mutual respect and understanding as well as good relations, including through human rights education; and

(b) measures related to monitoring, oversight, recourse or remedy or other accountability measures with respect to the implementation of the Declaration;

- G. in the landmark *Tsilhqot'in Nation v British Columbia* ruling, the Supreme Court ruled, "The doctrine of *terra nullius* (that no one owned the land prior to European assertion of sovereignty) never applied in Canada, as confirmed by the Royal Proclamation (1763)"
- H. Canadian courts, such as in the case of *St. Catherine's Milling and Lumber Company v. The Queen*, have relied on early United States Supreme Court decisions, such as *Johnson v. McIntosh*, that are based on the discovery doctrine. The Supreme Court of Canada has grounded its interpretation of section 35 of the Canadian Constitution on the racist and unjust legal principles that underlay the Doctrine of Discovery;
- I. BCAFN Resolution 30/2021 calls on the Pope to "renounce the doctrines of moral superiority that justified the church imposing its spirituality and beliefs";
- J. repudiating the Doctrine of Discovery and *terra nullius* and interpreting Canadian law in a manner consistent with the UN Declaration on the Rights of Indigenous Peoples and other contemporary international human rights standards is essential to advance reconciliation and uphold a nation-to-nation relationship between Indigenous peoples and the Crown.

THEREFORE BE IT RESOLVED THAT:

1. the BCAFN Chiefs-in-Assembly fully rejects the racist and colonial Doctrine of Discovery as a justification for forceful dispossession of sovereign Indigenous Nations from their territories;
2. the BCAFN Chiefs-in-Assembly fully supports and endorses the findings and recommendations outlined in the AFN's Dismantling the Doctrine of Discovery report and Recommendations 1.16.1 and 1.16.2 of the 1996 Royal Commission on Aboriginal Peoples, the Truth and Reconciliation Commission of Canada's Calls to Action related to the Doctrine of Discovery and *terra nullius*;
3. the BCAFN Chiefs-in-Assembly calls on King Charles III to renounce the Doctrine of Discovery and likewise to renounce all doctrines of moral superiority asserted in aid of colonialism so the Crown does not continue to rely upon or use these doctrines in aid of a colonial purpose, especially as the Crown has distinct and lasting fiduciary obligations to the Indigenous peoples in Canada and around the world, and
4. the BCAFN Chiefs-in-Assembly direct the Regional Chief to call on Canada and BC to repeal and reform all policies and legislation that are founded on the Doctrine of Discovery and *terra nullius* and recognize Indigenous inherent sovereignty, jurisdiction, and self-determination; and

5. the BCAFN Chiefs-in-Assembly direct the Regional Chief to call on the federal Minister of Justice, David Lametti, to include formal rescinding and repudiation of the Doctrine of Discovery in Canada's Bill C-15 Action Plan and to press Minister Lametti to ensure the policy and legislative measures in the Bill C-15 Action Plan reflect the rescinding and repudiation of the Doctrine of Discovery; and
6. the BCAFN Chiefs-in-Assembly direct the Regional Chief to continue to call on the Pope to rescind and repudiate the Doctrine of Discovery and *terra nullius* and recognize Indigenous inherent sovereignty, jurisdiction, and self-determination.



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

LATE Resolution XX/2022

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

MOVED BY: CHIEF CAMERON STEVENS, KISPIOX BAND

SECONDED BY: CHIEF HARVEY MCLEOD, UPPER NICOLA INDIAN BAND

DECISION:

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 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;
- 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 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.