

Assembly of First Nations

50 O'Connor Street, Suite 200
Ottawa, Ontario K1P 6L2
Telephone: (613) 241-6789 Fax: (613) 241-5808
www.afn.ca



Assemblée des Premières Nations

50, rue O'Connor, Suite 200
Ottawa, Ontario K1P 6L2
Téléphone: (613) 241-6789 Télécopieur: (613) 241-5808
www.afn.ca

SPECIAL CHIEFS ASSEMBLY
December 3, 4, 5, 2024, Ottawa, ON

Resolution no. 88/2024

TITLE: Implementing the Chiefs' Direction to End Canada's Discrimination in First Nations Child and Family Services

SUBJECT: Children and Families

MOVED BY: Chief Trevor Prince, Sandy Bay Ojibway First Nation, MB

SECONDED BY: Chief Jason Daniels, Swan Lake First Nation, MB

DECISION Carried; 70 opposed; 6 abstentions

WHEREAS:

- A. First Nations affirm the love we have for our children and our collective goal of ensuring that they grow up proud of who they are, able to speak their languages and free of the multi-generational burden of Canada's discrimination;
- B. First Nations honour the Residential School Survivors and the Truth and Reconciliation Commissioners who included child and family services and Jordan's Principle as the top Calls to Action;
- C. First Nations honour the Murdered and Missing Women and Girls and Members of the 2SLGBTQAI community who identified child and family services and Jordan's Principle as priorities in the MMIWG Final Report Calls to Justice;
- D. Canada's widespread and ongoing discrimination towards First Nations children through Residential Schools, the 60's Scoop and its contemporary underfunding of vital public services for First Nations fuel factors such as multi-generational trauma, addictions, poverty, poor housing and domestic violence that contribute to First Nations children going into care at 19.2 times higher rates than non-Indigenous children and other harms.
- E. The *United Nations Declaration on the Rights of Indigenous Peoples* (UN Declaration) states:
 - i. 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.

Certified copy of a resolution adopted on the 4th day of December, 2024 in Ottawa, ON

Chuxhouse.

CINDY WOODHOUSE NEPINAK, NATIONAL CHIEF

88 – 2024
Page 1 of 4

- ii. 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.
 - iii. 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 honor and respect such treaties, agreements, and other constructive arrangements.
- F. In 2016 CHRT 2, the Canadian Human Rights Tribunal (CHRT) substantiated a human rights complaint filed by the First Nations Child and Family Caring Society (Caring Society) and the Assembly of First Nations (AFN) in 2007 regarding Canada's discriminatory and inequitable First Nations Child and Family Services (FNCFS) and its repeated failure to respect and implement Jordan's Principle named after Jordan River Anderson of Norway House Cree Nation. Canada was ordered to immediately cease its discriminatory conduct. Canada failed to do so and over 20 procedural and non-compliance orders have been issued to date.
- G. 2016 CHRT 2 and subsequent CHRT orders have confirmed that Canada must take account of the distinct circumstances of the child and family and ensure services are culturally appropriate.
- H. The parties (CHRT Parties) to the 2007 Canadian Human Rights Act complaint included:
- i. Complainant: AFN;
 - ii. Complainant: Caring Society;
 - iii. Commission: Canadian Human Rights Commission; and
 - iv. Interested Parties: Amnesty International (granted in 2009 to address international human rights law), Chiefs of Ontario (granted in 2009 respecting the 1965 Indian Welfare Agreement), Nishnawbe Aski Nation (NAN): (Granted in 2016 regarding remoteness in NAN territory) and the BC Leadership Council (Granted 2024 respecting Jordan's Principle affecting First Nations in British Columbia).
- I. In December of 2023, Canada entered into confidential negotiations with some of the CHRT Parties hereinafter referred to as the FSA Parties: AFN, Chiefs of Ontario, Nishnawbe-Aski Nation to complete an FSA on child and family services while other CHRT Parties are not included (Caring Society, Canadian Human Rights Commission, and Amnesty International).
- J. The Caring Society was not a party as Canada had breached the Agreement in Principle (AIP) providing a framework for the negotiations by not complying with Jordan's Principle resulting in tragic harms and deaths of children. The Caring Society filed a non-compliance motion against Canada to address its failure to follow through on CHRT orders on Jordan's Principle – a step that was prohibited under the AIP framework.
- K. The negotiations failed to implement the direction of the First Nations-in-Assembly who adopted AFN Resolution 40/2022, *To Ensure Quality of Life to the First Nations Child and Family Services Program and Jordans Principle*, requiring that the CHRT parties retain the right to return to the Tribunal to address

Certified copy of a resolution adopted on the 4th day of December, 2024 in Ottawa, ON

Chuxhouse.

Canada's discrimination, regional experts inform the draft FSA and that the Parties return with options for First Nations Leadership to consider.

- L.** On July 11, 2024, the FSA Parties released an incomplete draft of the FSA (draft FSA) in English only. The French version followed about a month later. The FSA Parties did not entertain substantive amendments, and the proposed approach had significant flaws in governance, funding durability and security, and ensuring non-discrimination. Paragraph 45 of the draft FSA also provided for regional approaches, but Canada was not obligated to provide additional funding to ensure those regional variations that are essential to taking full account of the distinct circumstances of the child and ensure services are culturally appropriate.
- M.** Contrary to Canada's obligations under Inherent rights, the UN Declaration and Treaty Rights, the draft FSA also required that First Nations cede their decision making over the reformed funding approach that would directly affect First Nations children to a secret committee.
- N.** Paragraph 379 of the draft FSA required approval by First Nations Leadership. After conducting due diligence by consulting independent legal and child and family services experts, the First Nations-in-Assembly rejected the draft FSA and voted to reset the negotiation process.
- O.** The Assembly of First Nations has not yet publicly and clearly agreed to implement the direction in the resolutions adopted by the First Nations-in-Assembly.

THEREFORE BE IT RESOLVED that the First Nations-in-Assembly:

- 1.** Call on Canada and direct the Assembly of First Nations (AFN) to publicly and fully commit to respecting and following the direction of the First Nations-in Assembly arising from the rejection of Draft Resolution 01-2024, and adoption of Resolutions 60-2024 and 61-2024 at the Special Chief's Assembly held on Treaty 7 Territory on October 16-18, 2024.
- 2.** Direct the AFN Executive to adopt an approach that:
 - a.** Ensures that any new proposal for long term reform in First Nations child and family services provide for a national umbrella agreement to ensure non-discrimination with regional agreements that take full account of the distinct circumstances, cultures and the Inherent rights of the children and the First Nations they belong to; and
 - b.** Ensures that such regional agreements are funded in a manner that safeguards First Nations children, youth and families from discrimination now and forever.
- 3.** Urge Canada to discharge its duty to consult and AFN to reject any proposal to supplant and/or adversely affect Canada's duty to consult, Honor of the Crown and other obligations to First Nations.

Safeguarding First Nations rights and approval processes:

- 4.** Direct the AFN to ensure that First Nations Chiefs and Proxies can vote on the Long-Term Reform (LTR) Agreements virtually, in-person, or by another means (via specific accommodation to a Chief or Proxy); to accommodate First Nations Leadership who are unable to attend in person due to community circumstances or emergencies; to ensure that no changes are to be made to the voting procedure, including quorum or approval thresholds; and not to undertake other measures that adversely affect the

Certified copy of a resolution adopted on the 4th day of December, 2024 in Ottawa, ON

Cindy Woodhouse

direction given by the First Nations-in-Assembly at the meeting on October 16-18, 2024 on Treaty 7 territory.

5. Direct the AFN Executive to support the First Nations Child and Family Caring Society to lead any process to achieve non-discrimination (also known as long term reform) for child and family services and Jordan's Principle in keeping with the Resolutions passed at the Special Chiefs Assembly on October 16-18, 2024.

Respect

6. Call on AFN to withdraw and apologize for any and all public statements that suggested or implied that First Nations Child and Family Service Agencies led the campaign to defeat the draft Final Settlement Agreement (FSA). Such comments are disrespectful of our front-line workers and of the Chiefs who exercised their due diligence to review the text of the draft FSA and rejected it on that basis alone.
7. Require AFN to get approval for any further public statements from the Children's Chief's Commission once established and by a public and majority vote of the Executive in the interim.

Certified copy of a resolution adopted on the 4th day of December, 2024 in Ottawa, ON

Cindy Woodhouse

CINDY WOODHOUSE NEPINAK, NATIONAL CHIEF

88 – 2024
Page 4 of 4