

FIRST NATIONS SUMMIT

RESOLUTION #0217.19

SUBJECT: FIRST NATIONS JURISDICTION OVER CHILDREN AND FAMILIES

WHEREAS:

- A. Indigenous Peoples have the right to self-determination, which includes jurisdiction over our children and families. Canada's constitutional framework recognizes and protects the continuity of Indigenous laws and traditions.
- B. The inherent jurisdiction and authority of Indigenous Peoples over matters internal to them, including child welfare have been recognized in Canadian jurisprudence, such as *Connolly v. Wolrich*, *Casimer v. I.C.B.C.*, and *R. v. VanderPeet*.
- C. The *United Nations Declaration on the Rights of Indigenous Peoples* recognizes the right of Indigenous Peoples to flourish as Peoples caring for children and families according to our own languages, laws and social structures.
- D. First Nations and their representative organizations have continued to advocate for the reform of Child and Family Services due to the continued apprehension of First Nations children into foster care, and the lack of resources to assist families following apprehension.
- E. Many First Nations seek to exercise their inherent jurisdiction and authority in the management and development of their own Child and Family Services that respond to the unique needs of their communities.
- F. Removing First Nations children from their homes and placing them in foster care frequently leads to devastating outcomes, including: broken cultural and family ties, lack of academic achievement, substance abuse, suicides, and disconnection from language and territories.
- G. On May 30 and 31, 2016, the Province of British Columbia and the Political Executives of the BC Assembly of First Nations, First Nations Summit, and Union of BC Indian Chiefs (working together as the First Nations Leadership Council) co-hosted the First Nations Children and Families Gathering in Vancouver, BC. The purpose of the Gathering was to engage First Nations leaders, community organizations and service agencies, provincial and federal government representatives in a dialogue on short, medium and long term opportunities to improve outcomes for First Nations children, families and communities.

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- H. At the close of the Gathering, the Province and the First Nations Leadership Council committed to initiate a working group focused on addressing current policy and legislative frameworks related to First Nations children and families. Subsequent to this, Canada agreed to participate in tripartite working group discussions.
- I. Through resolutions at Chiefs' Assemblies (UBCIC Resolution no. 2016-44, FNS Resolution #1016.11, BCAFN Resolution 22/2016), the Chiefs in BC support in principle the Draft Action Framework and have directed the First Nations Leadership Council to bring a revised Action Framework, incorporating First Nations' feedback, to our upcoming Assemblies in February and March 2017. In the meantime, the Chiefs have directed that we continue engagement with both Canada and British Columbia to honourably engage in a robust and meaningful Indigenous-driven process to reform Indigenous child welfare in BC, informed by the Draft Action Framework.
- J. The Tripartite Working Group, comprised of representatives of BC, Canada, and BC First Nations through the First Nations Leadership Council, will focus on identifying opportunities to influence and realize systemic change to British Columbia's child welfare system, including the development of recommendations for creating legislative and policy space related to governance and jurisdiction, and planning for implementation.
- K. The Working Group does not replace any existing discussions or negotiations respecting child and family well-being that any member agency or ministry may currently have underway with additional partners, including First Nation communities and/or Aboriginal organizations, nor does it preclude Working Group member agencies or ministries from initiating new discussions or negotiations as needed.
- L. In the case of *Campbell et. al. v. Nisga'a Nation et. al.* 2000 B.C.S.C. 1123 (Campbell), the Court found the Aboriginal right to self-government has not been extinguished and continues to exist. This includes jurisdiction over First Nations children and families.

THEREFORE BE IT RESOLVED:

That the First Nations Summit Chiefs in Assembly:

- a) Accept the decision of, and affirm their support for the decision of, the Supreme Court of British Columbia in the case of *Campbell et. al. v. Nisga'a Nation et. al.* 2000 B.C.S.C. 1123 (Campbell);
- b) call on the First Nations Summit Task Group to remind the Government of BC that the Court in the *Campbell* case found the Aboriginal right to self-government has not been extinguished and continues to exist, and the decision must be respected and followed;
- c) affirm that the unextinguished right to self-government includes jurisdiction over First Nations children and families;

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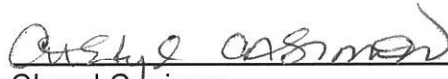
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- d) reaffirm support for *First Nations Summit Resolution #1016.11* [Draft Action Framework: Reconciliation, Self-Determination and Self-Government for Indigenous Children, Families and Nations in BC];
- e) recognize that each First Nation has the right to determine and develop their own child welfare models, legislation, regulations, policies and practice standards, and fully support any and all First Nations in exercising their respective jurisdiction and authority over the care and well-being of their children and families;
- f) fully support any and all First Nations' efforts to exercise and secure recognition of their jurisdiction and authority over children and families;
- g) fully support all Indigenous Nations' inherent right to care for their children, a right protected by the Constitution of Canada and recognized by the *United Nations Declaration on the Rights of Indigenous Peoples*; and
- h) fully support the work on Child Welfare reform currently underway 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.


MOVED BY: Chief Willie Blackwater, Gitsegukla Band
SECONDED BY: Chief Ann Louie, T'exelc (Williams Lake Indian Band)
DATED: February 10, 2017

Passed by consensus.

ENDORSED BY:


 Cheryl Casimer


 Robert Phillips


 Grand Chief Edward John