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## Assembly of First Nations

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## Assemblée des Premières Nations

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**Special Chiefs Assembly  
December 7, 8, 9, 2021, Ottawa (Ontario)**

**Resolution no. 36/2021**

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**TITLE:** Call for Recommitment, Funding and Clear Timeline for Development and Implementation of a National First Nations Justice Strategy

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**SUBJECT:** Justice

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**MOVED BY:** Chief David Monias, Pimicikamak, Cree Nation, MB

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**SECONDED BY:** Chief Harvey McLeod, Upper Nicola Band, BC

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**DECISION** Carried; 1 objection; 1 abstention

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**WHEREAS:**

- A. The United Nations Declaration on the Rights of Indigenous Peoples (UN Declaration) states:
- i. 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.
  - ii. 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.
  - iii. Article 34: Indigenous peoples have the right to promote, develop and maintain their institutional structures and their distinctive customs, spirituality, traditions, procedures, practices and, in the cases where they exist, juridical systems or customs, in accordance with international human rights standards.
  - iv. Article 39: Indigenous peoples have the right to have access to financial and technical assistance from States and through international cooperation, for the enjoyment of the rights contained in this Declaration.
- B. One enduring legacy of colonialism in Canada, as confirmed by countless studies, reports, inquiries, and commissions, includes systemic anti-Indigenous racism in society and within Canadian institutions.

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- C. One expression of this legacy is that Indigenous peoples remain grossly overrepresented in interactions with the justice system, notably in corrections. Thirty percent of inmates in Canadian prisons are Indigenous, despite comprising 5% of the country's population. The number of incarcerated Indigenous Peoples in Canada has grown by 44% since 2010, while non-Indigenous prison populations have decreased by 13.7%. Indigenous women are even more overrepresented at 42% of female prison populations.
- D. It has been demonstrated time and again that there is an urgent need for a coordinated approach to transforming the justice system by dismantling colonial justice structures and reawakening Indigenous legal orders and traditions, consistent with the standards of Indigenous self-determination and self-government in the UN Declaration.
- E. The implementation of the Calls to Action of the Truth and Reconciliation Commission and implementation of the National Action Plan in response to the Final Report of the Missing and Murdered Indigenous Women and Girls Inquiry (MMIWG2S+) remain delayed, further demonstrating the depth of systemic anti-Indigenous racism, that upholding Indigenous rights in relation to justice are still not a national priority, and that the lives affected by this crisis are less worthy of intervention.
- F. First Nations across the country, working at the community level and collectively, have been developing solutions to the urgent crises in the justice system.
- G. In March of 2020, the BC First Nations Justice Council's (BCFNJC) "*BC First Nations Justice Strategy*" was adopted by First Nations across British Columbia and was formally endorsed by the Province of BC, establishing a clear roadmap for transforming the justice system in the province. It is the first-of-its-kind First Nations-led comprehensive justice strategy that contains many elements and lines of action that can be taken at a national scale to advance reforms to the current justice system and steps to begin the process of reawakening Indigenous legal orders and traditions.
- H. Throughout the development of the *BC First Nations Justice Strategy*, and with the direction of BC First Nations, the BCFNJC has advocated for Canada to be a full partner in the development and implementation of a comprehensive national justice strategy with First Nations across Canada consistent with the minimum standards in the UN Declaration.
- I. On March 5, 2020, the BC Chiefs-in-Assembly endorsed Resolution 16/2020 "*Support for the Development of a National First Nations Justice Strategy*" calling for the development of a National First Nations Justice Strategy to be led by the Chiefs of the Assembly of First Nations, supported by the AFN Chiefs-in-Assembly. The resolution further seeks to ensure the development of a National First Nation Justice Strategy, including key elements from the *BC First Nations Justice Strategy*.

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- J. On January 15, 2021, the Minister of Justice and Attorney General of Canada was given a revised Mandate Letter with direction to, "Develop, in consultation and cooperation with provinces, territories and Indigenous partners, an Indigenous Justice Strategy to address systemic discrimination and the overrepresentation of Indigenous people in the justice system" supported the Minister of Crown-Indigenous Relations, the Minister of Indigenous Services, the Minister of Northern Affairs, and the Minister of Public Safety and Emergency Preparedness.
- K. On August 15, 2021, the Prime Minister dropped the writ for a September 20, 2021, federal election, which in effect put a stop to efforts to develop a national Indigenous Justice Strategy.
- L. The Liberal Party of Canada released its 2021 election platform on September 1, 2021. While the document commits to advancing Indigenous jurisdiction in the administration of justice, it does not contain a specific reference to the development of a national Indigenous Justice Strategy.

**THEREFORE BE IT RESOLVED that the Chiefs-in-Assembly:**

1. Direct the Assembly of First Nations (AFN) to advocate and work with the Minister of Justice and Attorney General of Canada and relevant ministries to urgently co-develop a strategic framework to develop and implement a National First Nations Justice Strategy with adequate funding to support regional and community-based, self-determined holistic approaches to justice that are grounded in First Nations principles, protocols, laws, and traditions, including ensuring the framework is consistent with the minimum standards in the *United Nations Declaration on the Rights of Indigenous Peoples*.
2. Direct the AFN to advocate for a clear timeline and funding for a National First Nations Justice Strategy to be attached to the upcoming federal budget.
3. Direct the AFN to draw from existing work on the transformation of the justice system being championed by First Nations across the country, including, for example, the *BC First Nations Justice Strategy*, as the National First Nations Justice Strategy is developed.

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