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## Assembly of First Nations

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## Assemblée des Premières Nations

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**ANNUAL GENERAL ASSEMBLY  
JULY 25, 26, & 27, 2017, REGINA, SK**

**Resolution no. 40/2017**

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**TITLE:** Call on Canada to Comply with the 2016 Canadian Human Rights Tribunal Orders

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**SUBJECT:** Child Welfare, Jordan's Principle

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**MOVED BY:** Chief Lynn Acoose, Sakimay First Nation, SK

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**SECONDED BY:** Chief George Cote, Cote First Nation, SK

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**DECISION** Carried by Consensus

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**WHEREAS:**

- A.** The United Nations Declaration on the Rights of Indigenous People 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 22 (2): States shall take measures, in conjunction with indigenous peoples, to ensure that indigenous women and children enjoy the full protection and guarantees against all forms of violence and discrimination.
- B.** Calls to Action #1 through #5 of the Truth and Reconciliation Commission of Canada affirm the need to address First Nation child welfare reform and to fully implement Jordan's Principle. The Prime Minister of Canada has formally agreed to implement all of the Calls to Action.
- C.** The Government of Canada has acknowledged the decision by the Canadian Human Rights Tribunal (2016 CHRT 2) that found Canada's provision of the First Nations Child and Family Services program, and failure to properly implement Jordan's Principle, to be discrimination on the basis of race and national ethnic origin.

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**PERRY BELLEGARDE, NATIONAL CHIEF**

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- D. The Chiefs-in-Assembly continue to express deep concern about Canada's ongoing non-compliance with the Canadian Human Rights Orders and failure to accept the direction of the Chiefs noted in Assembly of First Nations (AFN) Resolution 83-2016 *National Advisory Committee on INAC's Child Welfare Reform Engagement Strategy*.
- E. In a letter dated January 23, 2017 to Minister of Finance Bill Morneau, the AFN National Chief urged the federal government to comply with the CHRT ruling and the subsequent non-compliance orders, and put an end to the undisputed discriminatory funding regime that continues to negatively impact First Nations children.
- F. The latest CHRT decision (2017 CHRT 14) found Canada's narrow approach to Jordan's Principle to be discriminatory and linked to the tragic deaths of two 12-year old girls from Wapekeka First Nation. This order provides very clear direction to Canada to fully and properly implement Jordan's Principle to First Nations children on reserve and off reserve.
- G. The latest CHRT decision (2017 CHRT) directed Canada to apply the following principles in the implementation of Jordan's Principle:
- i. Jordan's Principle is a child-first principle that applies equally to all First Nations children, whether resident on or off reserve. It is not limited to First Nations children with disabilities, or those with discrete short-term issues creating critical needs for health and social supports or affecting their activities of daily living.
  - ii. Jordan's Principle addresses the needs of First Nations children by ensuring there are no gaps in government services to them.
  - iii. When a government service is available to all other children, the government department of first contact will pay for the service to a First Nations child, without engaging in case conferring, policy review, service navigation or any other similar administrative procedure before funding is provided.
  - iv. When a government service is not necessarily available to all other children or is beyond the normative standard of care, the government department of first contact will evaluate the individual needs of the child to determine if the requested service should be provided. Where such services are to be provided, the government department of first contact will pay for the provision of the services to the First Nations child.
  - v. Jurisdictional disputes between governments are not a necessary requirement for the application of Jordan's Principle.
- H. On June 23, 2017, Canada applied for a judicial review in Federal Court on sections of the Tribunal's order (2017 CHRT 14) that are designed to ensure First Nations children receive services without delays.

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- I. Indigenous and Northern Affairs Canada (INAC) commissioned Deloitte to conduct an audit on INAC's First Nations Child and Family Services Program. Canada refuses to release this audit to the National Advisory Committee on First Nations Child and Family Services (NAC) even though it would greatly assist the NAC in providing recommendations for program reform.
- J. Children, young people and families are sacred in First Nations communities, and Canada's failure to comply with the CHRT is unnecessarily causing many children to be placed into child welfare care and depriving First Nations children living on reserve and off reserves of life saving and life-wellness services. This is completely unacceptable and shall not continue.
- K. The Government of Canada has implied that First Nations are not ready for the resources required to close the gap in child welfare funding and that the resources could somehow do more harm.

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

- 1. Affirm the definition and approach to Jordan's Principle set out in the Canadian Human Rights Tribunal (CHRT) latest decision (2017 CHRT 14) and direct Canada to comply with all CHRT orders (2016 2; 2017 14).
- 2. Direct the Assembly of First Nations (AFN) to again inform the Prime Minister and Honourable Ministers Bennett, Philpott and Wilson-Raybould and federal government officials about the Chiefs-in-Assembly's deep concern regarding Canada's failure to comply with the CHRT orders and failure to comply with Resolution 83/2016 *National Advisory Committee on INAC's Child Welfare Reform Engagement Strategy* despite Canada's stated commitment to the United Nations Declaration on the Rights of Indigenous Peoples.
- 3. Direct the AFN to call on the Prime Minister and the Government of Canada too immediately and fully implement the CHRT orders and to drop Canada's appeal of sections of 2017 CHRT 14 designed to prevent service delays to First Nations children.
- 4. Direct the AFN to organize a National Day of Action on September 18, 2017, and further actions if required, in order to ensure Canada's full compliance with the CHRT decisions.

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