

# Assembly of First Nations

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# Assemblée des Premières Nations

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**SPECIAL CHIEFS ASSEMBLY**  
**December 2-3-4, 2025, Ottawa, ON**

**Resolution no. 51/2025**

**TITLE:** **Recognition and Respect of First Nations Inherent Right to Jurisdiction over Child and Family Services across Regional Boundaries**

**SUBJECT:** Children and Families

**MOVED BY:** Kukpi7 Michael Christian, Splatsin, BC

**SECONDED BY:** Chief Lynn Kenoras-Duck Chief, Adams Lake Indian Band, BC

**DECISION:** Carried by consensus

**WHEREAS:**

A. The *United Nations Declaration on the Rights of Indigenous Peoples* (UN Declaration) states:

- i. 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.
- ii. Article 7(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 8(2): States shall provide effective mechanisms for prevention of, and redress for:
  - (a) any action which has the aim or effect of depriving them of their integrity as distinct peoples, or of their cultural values or ethnic identities.
- iv. 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.
- v. Article 22(1): Special attention shall be paid to the rights and special needs of Indigenous elders, women, youth, children and persons with disabilities in the implementation of this Declaration.
- vi. Article 23: Indigenous peoples have the right to determine and develop priorities and strategies for exercising their right to development. In particular, Indigenous peoples have the right to be

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**51 – 2025**

**Page 1 of 4**

actively involved in developing and determining health, housing and other economic and social programs affecting them and, as far as possible, to administer such programs through their own institutions.

- vii. 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.
- B. First Nations have a sacred responsibility for their children and possess the Inherent right of jurisdiction over the care and wellbeing of their children and families that arises from their pre-existence as sovereign and self-governing peoples, pre-dating the establishment of the colonial state in Canada.
- C. The Inherent right of First Nations to oversee the wellbeing of their children, youth and families is affirmed and protected under Section 35 of the *Constitution Act, 1982*.
- D. Through a process of legislative genocide, Crown governments justified the forced removal and assimilation of First Nations children under federal, provincial, and territorial laws, resulting in the vast overrepresentation of First Nations children and youth in the child welfare system and the oppression of First Nations traditional methods of child rearing and legal orders.
- E. In response to the ongoing removal of their children, the Splatsin Indian Band passed the *By-law for the Care of Our Indian Children #3-1980* to reaffirm and assert Splatsin jurisdiction over the care and welfare of their own children, and First Nations in British Columbia (BC) organized to oppose Crown jurisdiction over their children through the Indian Child Welfare Caravan. For over 45 years, Splatsin and other First Nations in BC and across Canada have continued to assert their Inherent rights and jurisdiction over the care and wellbeing of their children, youth and families.
- F. Through the process of devolution, delegated Indigenous child welfare authorities were created and intended to support First Nations to have greater authority over the care and wellbeing of their children and families. However, these authorities have been restrained by provincial and territorial child welfare legislation and inequitable funding from Canada, resulting in the ongoing removal of First Nations children and a misalignment with First Nations legal orders.
- G. *An Act respecting First Nations, Inuit and Metis children, youth and families* (the Federal Act) came into force on January 1, 2020, affirming the Inherent right of First Nations to enact laws in relation to child and family services and that such Inherent rights are protected under Section 35 of the *Constitution Act, 1982*.
- H. The Federal Act requires that an Indigenous Governing Body give notice and make reasonable efforts to enter into a coordination agreement with Canada and the government of each province or territory in which it intends to exercise legislative authority and jurisdiction over child and family services, for the First Nation's child and family services law to be recognized as paramount over the provincial or territorial law. This has created a patchwork of First Nations laws across provincial and territorial boundaries that are not uniformly recognized.
- I. Despite having Inherent and legal jurisdiction over child and family wellbeing, First Nations who have enacted child and family services laws continue to have their jurisdiction and laws ignored by provincial governments and by Indigenous child welfare authorities operating under provincial laws.

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- J.** The disregard and disrespect for First Nations child and family services laws by certain provinces, and Indigenous child welfare authorities operating under provincial laws, has the effect of further displacing and disconnecting First Nations children and their families from their culture, identity and communities, and in some cases, fracturing Nation-to-Nation protocols by bolstering 'divide and conquer' processes.
- K.** The cultural genocide and assimilation of First Nations children and families will not be remedied until First Nations inherent jurisdiction, rights, and legal orders in relation to child and family services and wellbeing are fully recognized and respected by all Crown governments and Indigenous child welfare authorities operating under provincial laws, regardless of regional boundaries.

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

1. Call on Canada and all provinces and territories to recognize and respect the Inherent and legislative jurisdiction of First Nations who have enacted child and family services laws, regardless of regional boundaries, and to immediately collaborate with willing First Nations on the development of interprovincial and territorial coordination agreements through the establishment of a streamlined process, and to remove arbitrary and systemic barriers to First Nations exercising their jurisdiction regardless of geographical location.
2. Call on the Government of Canada, provinces, and territories to provide long-term, sustainable, stable, and predictable funding and resources to First Nations who are exercising their inherent and legislative jurisdiction under the *An Act respecting First Nations, Inuit and Metis children, youth and families* (the Federal Act) to ensure they may exercise this jurisdiction across regional boundaries.
3. Direct the Assembly of First Nations (AFN) to urge the Government of Canada, provinces, and territories to recognize, respect, and uphold the inherent and legislative jurisdiction of First Nations over their children and families, and to advocate for adequate and sustainable resources for First Nations to exercise this jurisdiction.
4. Call on the Government of Canada, all provinces and territories, and direct the AFN to ensure that implementation of the Federal Act across all regions recognizes and respects the inherent jurisdiction and authority of First Nations child and family services laws regardless of geographical location and without delays or interference from provincial and territorial governments, or Indigenous child welfare authorities operating under provincial laws.
5. Affirm that First Nations rights, title, and jurisdiction shall be recognized and respected by Indigenous child welfare authorities providing child and family services on behalf of First Nations and Indigenous governments.
6. Call upon the Judiciary of Canada, including all provincial and territorial courts, to recognize and affirm the inherent and legislated jurisdiction of First Nations over their children, youth, and families in all judicial proceedings regardless of regional boundaries.
7. Urge Canada, in full partnership with First Nations, to establish mandatory judicial education for all courts on First Nations inherent jurisdiction, legal orders, Nation-based kinship systems, customary law, and child and family wellbeing laws.

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8. Call on Canada and the provinces and territories to work directly with First Nations to ensure that they are affirming and recognizing the paramountcy of First Nations laws over conflicting provincial or territorial legislation.
9. Demand all provinces and territories, when engaged, to ensure that any placement, guardianship, and permanency decisions involving First Nations children uphold First Nations' legal orders and Inherent rights, and that such decisions must not be made without consultation and cooperation, and the free, prior, and informed consent of the child's First Nation government or Indigenous Governing Body.
10. Advocate for the creation of mechanisms to address situations where courts or provincial/territorial systems fail to recognize First Nations jurisdiction, to ensure First Nations' Inherent rights are upheld and that children are not further displaced from their families, communities, cultures, and Nations.
11. Call on the AFN to report on this resolution's progress annually to the First Nations-in-Assembly to ensure improvement for, and accountability to, our children.
12. Call on the Prime Minister to convene a First Ministers' meeting as per the Prime Minister's commitment to the First Nations-in-Assembly on December 3, 2025, and to include Indigenous governing bodies at this meeting to ensure that their issues will be discussed.
13. Call on provincial and territorial governments to work respectfully with Indigenous governing bodies to ensure the recognition and implementation of First Nations laws in provincial and territorial legislation related to child welfare.
14. Call on Canada, the provinces, the territories, and all Indigenous child welfare authorities to recognize and uphold First Nations' inherent jurisdiction over data relating to their children and families, including ownership, control, access, possession (OCAP) and stewardship of such data, consistent with the First Nations principles of OCAP® and the standards set out in the *United Nations Declaration on the Rights of Indigenous Peoples*.

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