



March 3, 2016

Via Email: [dragisa.adzic@tribunal.gc.ca](mailto:dragisa.adzic@tribunal.gc.ca)

**Dragisa Adzic**  
Registry Officer  
Canadian Human Rights Tribunal  
160 Elgin Street, 11<sup>th</sup> Floor  
Ottawa, ON K1A 1J4

Dear Mr. Adzic:

**Re: FNCFCSC et al. v. Attorney General of Canada (Tribunal File T1340/7008)**

In respect of the above matter, enclosed is one electronic copy of the Assembly of First Nation's submissions in response to the Panel's February 10<sup>th</sup> directive requesting clarification on several immediate relief items.

The enclosed submissions are submitted on behalf of co-counsel for the AFN, David C. Nahwegahbow and Stuart Wuttke.

Electronic copies of the AFN's submissions have been delivered to the parties via email, and printed copies will soon be delivered via registered mail.

Thank you for your time.

Respectfully,

NAHWEGAHBOW, CORBIERE

Per: **Thomas Milne**, Associate  
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Encl: AFN Submissions



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**CANADIAN HUMAN RIGHTS TRIBUNAL**

B E T W E E N:

**FIRST NATIONS CHILD AND FAMILY CARING SOCIETY OF CANADA  
and the ASSEMBLY OF FIRST NATIONS**

Complainants

- and -

**CANADIAN HUMAN RIGHTS COMMISSION**

Commission

- and -

**ATTORNEY GENERAL OF CANADA  
(representing the Minister of Indian and Northern Affairs)**

Respondent

- and -

**CHIEFS OF ONTARIO and AMNESTY INTERNATIONAL CANADA**

Interested Parties

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**WRITTEN SUBMISSIONS of the ASSEMBLY OF FIRST NATIONS  
REGARDING IMMEDIATE RELIEF ITEMS PURSUANT TO PANEL'S FEBRUARY 10, 2016 DIRECTIVE**

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## Overview

1. The Co-Complainant, Assembly of First Nations (AFN), provides the following submissions on the Panel's outstanding questions on remedies as requested. The AFN understands with respect to immediate relief which the Panel has communicated is to be dealt with as expeditiously as possible; followed by the parties' requests for mid to long-term relief, and finally the requests for compensation under ss. 53(2)(e) and 53(3) of *Canadian Human Rights Act (CHRA)*.
2. Below, we address each of the immediate relief items identified in the Panel Chair's letter to the parties dated February 10, 2016 in the directive provided in that letter. The AFN supports the Caring Society's submissions on immediate relief. The AFN adds, however, that while immediate adjustments to the existing program are necessary only full reform of the First Nations Child and Family Services Program (FNCFS Program) will achieve the goal of equality for First Nations children and families.
3. AANDC was ordered to cease (i) discriminatory practices and to reform the FNCFS Program and 1965 Agreement to reflect the Panel's decision (2016 CHRT 2); and, (ii) applying a narrow definition of Jordan's Principle and take measure to implement its full meaning and scope.
4. The AFN understands since the Tribunal's decision, the Respondent, AANDC, has not taken any necessary steps to cease its discriminatory practices nor has it ceased applying a narrow definition of Jordan's Principle.
5. Consistent with the Panel's authority found in section 53(2)(a) of the *CHRA* and the Truth and Reconciliation's Calls to Actions – already accepted and endorsed by the Respondent – the AFN submits any orders from the Panel consider these broad principles and provide direction to the parties that relief must:
  - a. Be made in full consultation with First Nations;
  - b. Uphold First Nations' right to self-determination;
  - c. Comply with Indigenous laws;

- d. Align with the articles of the United Nations Declaration on the Rights of Indigenous Peoples;
- e. Incorporate the Crown's duty to consult and accommodate, and;
- f. Respect the role of First Nation communities to develop and implement their own child welfare systems.

### **Changes to the FNCFS Program**

- 6. The AFN submits the immediate changes to the FNCFS Program must be aimed at ceasing the discriminatory practices as found by this Panel and prevent any discriminatory practices from occurring in the future. An Order for immediate relief to the FNCFS Program should be meaningful but temporary until such time that the FNCFS Program can be completely overhauled. The AFN submits that a new and improved FNCFS Program must be developed by experts in full consultation with and the consent of First Nations Peoples and governments.
- 7. The AFN submits the Respondent provide immediate funding as is required to eliminate the discrimination found by this Panel. The AFN also submits the Respondent report to this Panel regarding the steps it plans to take, including a timeline, to implement this immediate budget adjustment.
- 8. The AFN requests that the Panel order negotiations between the Complainants, interested parties and the Respondent to create both mid-term and long-term remedies along with a fully resourced accompanying implementation plan and that such a process take no longer than 8 weeks to complete. At the conclusion of negotiations, the parties shall present the results to the Panel. The AFN requests that these negotiations be fully funded for all parties by the Respondent, which includes the parties' representatives and experts. It is not the intention of the AFN to hold up the immediate relief from being implemented while long-term relief is negotiated.
- 9. The AFN reaffirms our position that the Panel order the immediate remedies as set out by the Caring Society, which should remain in place until a new FNCFS Program is fully implemented.

## **FNCFS Program Budget Adjustment**

10. The AFN submits the FNCFS budget adjustment should be reflected in the current fiscal year budget of the federal government to address the Panel's order for the Respondent to cease its discriminatory practices in relation to the funding of First Nation child welfare.
11. Further, Panel found such discriminatory funding practices are not a recent phenomenon committed by the Respondent, AANDC, but are rather historic, perpetual and systemic within the federal government's administration of First Nations programs.
12. Therefore, the AFN seeks an Order that:
  - a. the Respondent create permanent budget adjustments and significant funding increases to achieve substantive equality as a means of redress to implement the Tribunal's decision – particularly in relation to the Respondent's legacy of stereotyping and prejudice against Aboriginal Peoples through colonialism, displacement and residential schools, and that such budget adjustment not perpetuate the historical disadvantages endured by Aboriginal Peoples. Such budget adjustments must focus on closing the socio-economic gap between First Nations and the rest of Canadian society, as well as advancing better outcomes for First Nation children in the immediate and remain until mid- and long-term remedies are addressed and implemented;
  - b. the Respondents fundamentally change the system that sustains and perpetuates stereotyping and prejudice against Aboriginal Peoples by including annual performance evaluations and assessments of every member of the civil service at all levels up to and including Deputy Ministers along with any of its agents, successors or assigns related to the provision of services to Aboriginal Peoples – including but not limited to the AANDC and the Department of Justice. Such annual evaluations must include clear and specific metrics specifically designed to demonstrate how each individual has contributed to closing the socio-economic gap with respect to Aboriginal Peoples;

- c. the Respondents fully fund the development of intercultural competency programming to be developed and delivered by the AFN to all federal employees whose job descriptions and annual evaluations mandate a closing of the socio-economic gap with respect to Aboriginal Peoples;
- d. based on the underdeveloped scholarship and research as evidenced in this Complaint in relation to First Nation children in care and the myriad of associated issues, that for a minimum of ten years, the Respondents fully fund research and scholarship in relation to measuring the provision of child welfare services for First Nations children along with intertwined issues such as, but not limited to, control over and access to education, the revitalization of Indigenous legal orders, access to the economy and control over lands and resources. Such research and scholarship funding should be managed by a scholar-based oversight body independent from the Respondents;
- e. the Respondents fully fund annual conferences for the presentation of research and scholarship for each of the next ten years immediately following the first year of research and scholarship as set out in (d), above; and,
- f. representatives of the Respondents must attend such annual conferences as a means of furthering intercultural competency and understanding through research in order to both address and eliminate the underlying systemic discrimination found by this Tribunal as against Aboriginal Peoples.

**Transition from Directive 20-1 and EPFA to EPFA+**

13. The AFN submits that Directive 20-1 cannot be fixed and should be abolished altogether. Replacing directive 20-1 requires effective consultation with First Nations, which cannot occur in six months. Six months is a minimum timeframe until a joint policy development initiative is established. The AFN further submits that abolishing Directive 20-1 to an EPFA like model does not necessarily require tripartite negotiations with the Provinces, as funding for equitable CFS programs and services can be implemented and funded by the federal government alone.

14. Further, the AFN notes a majority of First Nations children are apprehended for neglect, in the form of a failure to supervise and failure to meet basic needs. Poverty, poor housing and substance abuse are common risk factors on reserves that call for early counselling and support services for children and families to avoid the intervention of child protection services.
15. Therefore, until a new FNCFS Program is established and fully implemented, the AFN seeks an Order that:
- a. the Respondent immediately provide funding to all First Nations CFS Agencies to support a wide array of prevention programs and such funding or reimbursements for FNCFS Agencies and services be equitable to what the Provincial governments currently funds;
  - b. prevention be reimbursed at actuals and cover the spectrum of issues faced by First Nations people on reserve and should account for the higher costs of goods, travel and daily living in northern, rural and isolated communities;
  - c. the Respondent immediately amend the EPFA program to reflect adjustments for increasing costs over time for such things as salaries, benefits, capital expenditures, legal, cost of living, and travel.

### **Jordan's Principle**

16. In light of the Panel's finding on Jordan's Principle, the AFN adopts the Caring Society submissions in regards to Jordan's Principle. The AFN submits that discussions regarding the full implementation of Jordan's Principle must occur during the negotiations of the long-term remedies.

### **1965 Agreement**

17. In addition to adopting the Caring Society's submissions, the AFN also adopts the submission of the interested party, the Chiefs of Ontario, on this particular immediate relief item.

## Other Relief

18. The Executive Summary of the Truth and Reconciliation Commission of Canada (TRC) was released in June 2015 which included 94 Calls to Action. Appended to these submissions at Appendix "A" is a copy of the 94 Calls to Action. The AFN submits that Action Items 1(ii), 1(v) and 3 are relevant to the immediate relief items in this matter, that read as follows:

1. We call upon the federal, provincial, territorial and Aboriginal governments to commit to reducing the number of Aboriginal children in care by:

...

(ii) Providing adequate resources to enable Aboriginal communities and child-welfare organizations to keep Aboriginal families together where it is safe to do so, and to keep children in culturally appropriate environments, regardless of where they reside.

...

(v) Requiring that all child-welfare decision makers consider the impact of the residential school experience on children and their caregivers.

...

3. We call upon all levels of government to fully implement Jordan's Principle.

19. On December 15, 2015, the Final Report of the TRC was released at a public event held in Ottawa, ON. Prime Minister Trudeau was in attendance and submitted an official statement from his office about the 94 Calls to Action. Specifically, the Prime Minister stated "And we will, in partnership with Indigenous communities, the provinces, territories, and other vital partners, fully implement the Calls to Action of the Truth and Reconciliation Commission, starting with the implementation of the United Nations Declaration on the Rights of Indigenous Peoples." Appended to these submissions at Appendix "B" is a copy of the Prime Minister's statement at the TRC Event.

## **Conclusion**

20. The AFN remains willing to work with all parties to develop solutions that are acceptable and effective. The AFN submits that long-term and systemic change is required to fully redress the discrimination First Nations children and families have suffered under the FNCFS Program, and that such change must be done in pursuit of the strengthening the nation-to-nation relationship between First Nations and the Crown.

**ALL OF WHICH IS RESPECTFULLY SUBMITTED.**

March 3, 2016



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**David C. Nahwegahbow & Stuart Wuttke**  
Co-Counsel for the Complainant  
Assembly of First Nations

## Appendix "A"



**Truth and  
Reconciliation**  
Commission of Canada

# **Truth and Reconciliation Commission of Canada: Calls to Action**



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**2015**

Truth and Reconciliation Commission of Canada, 2012

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# Calls to Action

In order to redress the legacy of residential schools and advance the process of Canadian reconciliation, the Truth and Reconciliation Commission makes the following calls to action.

## Legacy

### CHILD WELFARE

1. We call upon the federal, provincial, territorial, and Aboriginal governments to commit to reducing the number of Aboriginal children in care by:
  - i. Monitoring and assessing neglect investigations.
  - ii. Providing adequate resources to enable Aboriginal communities and child-welfare organizations to keep Aboriginal families together where it is safe to do so, and to keep children in culturally appropriate environments, regardless of where they reside.
  - iii. Ensuring that social workers and others who conduct child-welfare investigations are properly educated and trained about the history and impacts of residential schools.
  - iv. Ensuring that social workers and others who conduct child-welfare investigations are properly educated and trained about the potential for Aboriginal communities and families to provide more appropriate solutions to family healing.
  - v. Requiring that all child-welfare decision makers consider the impact of the residential school experience on children and their caregivers.
2. We call upon the federal government, in collaboration with the provinces and territories, to prepare and
  - publish annual reports on the number of Aboriginal children (First Nations, Inuit, and Métis) who are in care, compared with non-Aboriginal children, as well as the reasons for apprehension, the total spending on preventive and care services by child-welfare agencies, and the effectiveness of various interventions.
3. We call upon all levels of government to fully implement Jordan's Principle.
4. We call upon the federal government to enact Aboriginal child-welfare legislation that establishes national standards for Aboriginal child apprehension and custody cases and includes principles that:
  - i. Affirm the right of Aboriginal governments to establish and maintain their own child-welfare agencies.
  - ii. Require all child-welfare agencies and courts to take the residential school legacy into account in their decision making.
  - iii. Establish, as an important priority, a requirement that placements of Aboriginal children into temporary and permanent care be culturally appropriate.
5. We call upon the federal, provincial, territorial, and Aboriginal governments to develop culturally appropriate parenting programs for Aboriginal families.

### EDUCATION

6. We call upon the Government of Canada to repeal Section 43 of the *Criminal Code of Canada*.
7. We call upon the federal government to develop with Aboriginal groups a joint strategy to eliminate

educational and employment gaps between Aboriginal and non-Aboriginal Canadians.

8. We call upon the federal government to eliminate the discrepancy in federal education funding for First Nations children being educated on reserves and those First Nations children being educated off reserves.
9. We call upon the federal government to prepare and publish annual reports comparing funding for the education of First Nations children on and off reserves, as well as educational and income attainments of Aboriginal peoples in Canada compared with non-Aboriginal people.
10. We call on the federal government to draft new Aboriginal education legislation with the full participation and informed consent of Aboriginal peoples. The new legislation would include a commitment to sufficient funding and would incorporate the following principles:
  - i. Providing sufficient funding to close identified educational achievement gaps within one generation.
  - ii. Improving education attainment levels and success rates.
  - iii. Developing culturally appropriate curricula.
  - iv. Protecting the right to Aboriginal languages, including the teaching of Aboriginal languages as credit courses.
  - v. Enabling parental and community responsibility, control, and accountability, similar to what parents enjoy in public school systems.
  - vi. Enabling parents to fully participate in the education of their children.
  - vii. Respecting and honouring Treaty relationships.
11. We call upon the federal government to provide adequate funding to end the backlog of First Nations students seeking a post-secondary education.
12. We call upon the federal, provincial, territorial, and Aboriginal governments to develop culturally appropriate early childhood education programs for Aboriginal families.

#### **LANGUAGE AND CULTURE**

13. We call upon the federal government to acknowledge that Aboriginal rights include Aboriginal language rights.

14. We call upon the federal government to enact an Aboriginal Languages Act that incorporates the following principles:
  - i. Aboriginal languages are a fundamental and valued element of Canadian culture and society, and there is an urgency to preserve them.
  - ii. Aboriginal language rights are reinforced by the Treaties.
  - iii. The federal government has a responsibility to provide sufficient funds for Aboriginal-language revitalization and preservation.
  - iv. The preservation, revitalization, and strengthening of Aboriginal languages and cultures are best managed by Aboriginal people and communities.
  - v. Funding for Aboriginal language initiatives must reflect the diversity of Aboriginal languages.
15. We call upon the federal government to appoint, in consultation with Aboriginal groups, an Aboriginal Languages Commissioner. The commissioner should help promote Aboriginal languages and report on the adequacy of federal funding of Aboriginal-languages initiatives.
16. We call upon post-secondary institutions to create university and college degree and diploma programs in Aboriginal languages.
17. We call upon all levels of government to enable residential school Survivors and their families to reclaim names changed by the residential school system by waiving administrative costs for a period of five years for the name-change process and the revision of official identity documents, such as birth certificates, passports, driver's licenses, health cards, status cards, and social insurance numbers.

#### **HEALTH**

18. We call upon the federal, provincial, territorial, and Aboriginal governments to acknowledge that the current state of Aboriginal health in Canada is a direct result of previous Canadian government policies, including residential schools, and to recognize and implement the health-care rights of Aboriginal people as identified in international law, constitutional law, and under the Treaties.
19. We call upon the federal government, in consultation with Aboriginal peoples, to establish measurable goals to identify and close the gaps in health outcomes

between Aboriginal and non-Aboriginal communities, and to publish annual progress reports and assess long-term trends. Such efforts would focus on indicators such as: infant mortality, maternal health, suicide, mental health, addictions, life expectancy, birth rates, infant and child health issues, chronic diseases, illness and injury incidence, and the availability of appropriate health services.

20. In order to address the jurisdictional disputes concerning Aboriginal people who do not reside on reserves, we call upon the federal government to recognize, respect, and address the distinct health needs of the Métis, Inuit, and off-reserve Aboriginal peoples.
21. We call upon the federal government to provide sustainable funding for existing and new Aboriginal healing centres to address the physical, mental, emotional, and spiritual harms caused by residential schools, and to ensure that the funding of healing centres in Nunavut and the Northwest Territories is a priority.
22. We call upon those who can effect change within the Canadian health-care system to recognize the value of Aboriginal healing practices and use them in the treatment of Aboriginal patients in collaboration with Aboriginal healers and Elders where requested by Aboriginal patients.
23. We call upon all levels of government to:
  - i. Increase the number of Aboriginal professionals working in the health-care field.
  - ii. Ensure the retention of Aboriginal health-care providers in Aboriginal communities.
  - iii. Provide cultural competency training for all health-care professionals.
24. We call upon medical and nursing schools in Canada to require all students to take a course dealing with Aboriginal health issues, including the history and legacy of residential schools, the *United Nations Declaration on the Rights of Indigenous Peoples*, Treaties and Aboriginal rights, and Indigenous teachings and practices. This will require skills-based training in intercultural competency, conflict resolution, human rights, and anti-racism.

## JUSTICE

25. We call upon the federal government to establish a written policy that reaffirms the independence of the

Royal Canadian Mounted Police to investigate crimes in which the government has its own interest as a potential or real party in civil litigation.

26. We call upon the federal, provincial, and territorial governments to review and amend their respective statutes of limitations to ensure that they conform to the principle that governments and other entities cannot rely on limitation defences to defend legal actions of historical abuse brought by Aboriginal people.
27. We call upon the Federation of Law Societies of Canada to ensure that lawyers receive appropriate cultural competency training, which includes the history and legacy of residential schools, the *United Nations Declaration on the Rights of Indigenous Peoples*, Treaties and Aboriginal rights, Indigenous law, and Aboriginal-Crown relations. This will require skills-based training in intercultural competency, conflict resolution, human rights, and anti-racism.
28. We call upon law schools in Canada to require all law students to take a course in Aboriginal people and the law, which includes the history and legacy of residential schools, the *United Nations Declaration on the Rights of Indigenous Peoples*, Treaties and Aboriginal rights, Indigenous law, and Aboriginal-Crown relations. This will require skills-based training in intercultural competency, conflict resolution, human rights, and anti-racism.
29. We call upon the parties and, in particular, the federal government, to work collaboratively with plaintiffs not included in the Indian Residential Schools Settlement Agreement to have disputed legal issues determined expeditiously on an agreed set of facts.
30. We call upon federal, provincial, and territorial governments to commit to eliminating the overrepresentation of Aboriginal people in custody over the next decade, and to issue detailed annual reports that monitor and evaluate progress in doing so.
31. We call upon the federal, provincial, and territorial governments to provide sufficient and stable funding to implement and evaluate community sanctions that will provide realistic alternatives to imprisonment for Aboriginal offenders and respond to the underlying causes of offending.
32. We call upon the federal government to amend the Criminal Code to allow trial judges, upon giving reasons, to depart from mandatory minimum sentences and restrictions on the use of conditional sentences.

33. We call upon the federal, provincial, and territorial governments to recognize as a high priority the need to address and prevent Fetal Alcohol Spectrum Disorder (FASD), and to develop, in collaboration with Aboriginal people, FASD preventive programs that can be delivered in a culturally appropriate manner.
34. We call upon the governments of Canada, the provinces, and territories to undertake reforms to the criminal justice system to better address the needs of offenders with Fetal Alcohol Spectrum Disorder (FASD), including:
  - i. Providing increased community resources and powers for courts to ensure that FASD is properly diagnosed, and that appropriate community supports are in place for those with FASD.
  - ii. Enacting statutory exemptions from mandatory minimum sentences of imprisonment for offenders affected by FASD.
  - iii. Providing community, correctional, and parole resources to maximize the ability of people with FASD to live in the community.
  - iv. Adopting appropriate evaluation mechanisms to measure the effectiveness of such programs and ensure community safety.
35. We call upon the federal government to eliminate barriers to the creation of additional Aboriginal healing lodges within the federal correctional system.
36. We call upon the federal, provincial, and territorial governments to work with Aboriginal communities to provide culturally relevant services to inmates on issues such as substance abuse, family and domestic violence, and overcoming the experience of having been sexually abused.
37. We call upon the federal government to provide more supports for Aboriginal programming in halfway houses and parole services.
38. We call upon the federal, provincial, territorial, and Aboriginal governments to commit to eliminating the overrepresentation of Aboriginal youth in custody over the next decade.
39. We call upon the federal government to develop a national plan to collect and publish data on the criminal victimization of Aboriginal people, including data related to homicide and family violence victimization.
40. We call on all levels of government, in collaboration with Aboriginal people, to create adequately funded and accessible Aboriginal-specific victim programs and services with appropriate evaluation mechanisms.
41. We call upon the federal government, in consultation with Aboriginal organizations, to appoint a public inquiry into the causes of, and remedies for, the disproportionate victimization of Aboriginal women and girls. The inquiry's mandate would include:
  - i. Investigation into missing and murdered Aboriginal women and girls.
  - ii. Links to the intergenerational legacy of residential schools.
42. We call upon the federal, provincial, and territorial governments to commit to the recognition and implementation of Aboriginal justice systems in a manner consistent with the Treaty and Aboriginal rights of Aboriginal peoples, the *Constitution Act, 1982*, and the *United Nations Declaration on the Rights of Indigenous Peoples*, endorsed by Canada in November 2012.

## Reconciliation

### **CANADIAN GOVERNMENTS AND THE UNITED NATIONS DECLARATION ON THE RIGHTS OF INDIGENOUS PEOPLE**

43. We call upon federal, provincial, territorial, and municipal governments to fully adopt and implement the *United Nations Declaration on the Rights of Indigenous Peoples* as the framework for reconciliation.
44. We call upon the Government of Canada to develop a national action plan, strategies, and other concrete measures to achieve the goals of the *United Nations Declaration on the Rights of Indigenous Peoples*.

### **ROYAL PROCLAMATION AND COVENANT OF RECONCILIATION**

45. We call upon the Government of Canada, on behalf of all Canadians, to jointly develop with Aboriginal peoples a Royal Proclamation of Reconciliation to be issued by the Crown. The proclamation would build on the Royal Proclamation of 1763 and the Treaty of Niagara of 1764, and reaffirm the nation-to-nation relationship between Aboriginal peoples and the Crown. The proclamation would include, but not be limited to, the following commitments:

- i. Repudiate concepts used to justify European sovereignty over Indigenous lands and peoples such as the Doctrine of Discovery and *terra nullius*.
  - ii. Adopt and implement the *United Nations Declaration on the Rights of Indigenous Peoples* as the framework for reconciliation.
  - iii. Renew or establish Treaty relationships based on principles of mutual recognition, mutual respect, and shared responsibility for maintaining those relationships into the future.
  - iv. Reconcile Aboriginal and Crown constitutional and legal orders to ensure that Aboriginal peoples are full partners in Confederation, including the recognition and integration of Indigenous laws and legal traditions in negotiation and implementation processes involving Treaties, land claims, and other constructive agreements.
46. We call upon the parties to the Indian Residential Schools Settlement Agreement to develop and sign a Covenant of Reconciliation that would identify principles for working collaboratively to advance reconciliation in Canadian society, and that would include, but not be limited to:
- i. Reaffirmation of the parties' commitment to reconciliation.
  - ii. Repudiation of concepts used to justify European sovereignty over Indigenous lands and peoples, such as the Doctrine of Discovery and *terra nullius*, and the reformation of laws, governance structures, and policies within their respective institutions that continue to rely on such concepts.
  - iii. Full adoption and implementation of the *United Nations Declaration on the Rights of Indigenous Peoples* as the framework for reconciliation.
  - iv. Support for the renewal or establishment of Treaty relationships based on principles of mutual recognition, mutual respect, and shared responsibility for maintaining those relationships into the future.
  - v. Enabling those excluded from the Settlement Agreement to sign onto the Covenant of Reconciliation.
  - vi. Enabling additional parties to sign onto the Covenant of Reconciliation.

47. We call upon federal, provincial, territorial, and municipal governments to repudiate concepts used to justify European sovereignty over Indigenous peoples and lands, such as the Doctrine of Discovery and *terra nullius*, and to reform those laws, government policies, and litigation strategies that continue to rely on such concepts.

**SETTLEMENT AGREEMENT PARTIES AND THE UNITED NATIONS DECLARATION ON THE RIGHTS OF INDIGENOUS PEOPLES**

48. We call upon the church parties to the Settlement Agreement, and all other faith groups and interfaith social justice groups in Canada who have not already done so, to formally adopt and comply with the principles, norms, and standards of the *United Nations Declaration on the Rights of Indigenous Peoples* as a framework for reconciliation. This would include, but not be limited to, the following commitments:
- i. Ensuring that their institutions, policies, programs, and practices comply with the *United Nations Declaration on the Rights of Indigenous Peoples*.
  - ii. Respecting Indigenous peoples' right to self-determination in spiritual matters, including the right to practise, develop, and teach their own spiritual and religious traditions, customs, and ceremonies, consistent with Article 12:1 of the *United Nations Declaration on the Rights of Indigenous Peoples*.
  - iii. Engaging in ongoing public dialogue and actions to support the *United Nations Declaration on the Rights of Indigenous Peoples*.
  - iv. Issuing a statement no later than March 31, 2016, from all religious denominations and faith groups, as to how they will implement the *United Nations Declaration on the Rights of Indigenous Peoples*.
49. We call upon all religious denominations and faith groups who have not already done so to repudiate concepts used to justify European sovereignty over Indigenous lands and peoples, such as the Doctrine of Discovery and *terra nullius*.

**EQUITY FOR ABORIGINAL PEOPLE IN THE LEGAL SYSTEM**

50. In keeping with the *United Nations Declaration on the Rights of Indigenous Peoples*, we call upon the federal government, in collaboration with Aboriginal organizations, to fund the establishment of Indigenous law institutes for the development, use, and

understanding of Indigenous laws and access to justice in accordance with the unique cultures of Aboriginal peoples in Canada.

51. We call upon the Government of Canada, as an obligation of its fiduciary responsibility, to develop a policy of transparency by publishing legal opinions it develops and upon which it acts or intends to act, in regard to the scope and extent of Aboriginal and Treaty rights.
52. We call upon the Government of Canada, provincial and territorial governments, and the courts to adopt the following legal principles:
  - i. Aboriginal title claims are accepted once the Aboriginal claimant has established occupation over a particular territory at a particular point in time.
  - ii. Once Aboriginal title has been established, the burden of proving any limitation on any rights arising from the existence of that title shifts to the party asserting such a limitation.

#### **NATIONAL COUNCIL FOR RECONCILIATION**

53. We call upon the Parliament of Canada, in consultation and collaboration with Aboriginal peoples, to enact legislation to establish a National Council for Reconciliation. The legislation would establish the council as an independent, national, oversight body with membership jointly appointed by the Government of Canada and national Aboriginal organizations, and consisting of Aboriginal and non-Aboriginal members. Its mandate would include, but not be limited to, the following:
  - i. Monitor, evaluate, and report annually to Parliament and the people of Canada on the Government of Canada's post-apology progress on reconciliation to ensure that government accountability for reconciling the relationship between Aboriginal peoples and the Crown is maintained in the coming years.
  - ii. Monitor, evaluate, and report to Parliament and the people of Canada on reconciliation progress across all levels and sectors of Canadian society, including the implementation of the Truth and Reconciliation Commission of Canada's Calls to Action.
  - iii. Develop and implement a multi-year National Action Plan for Reconciliation, which includes research and policy development, public education programs, and resources.

- iv. Promote public dialogue, public/private partnerships, and public initiatives for reconciliation.

54. We call upon the Government of Canada to provide multi-year funding for the National Council for Reconciliation to ensure that it has the financial, human, and technical resources required to conduct its work, including the endowment of a National Reconciliation Trust to advance the cause of reconciliation.
55. We call upon all levels of government to provide annual reports or any current data requested by the National Council for Reconciliation so that it can report on the progress towards reconciliation. The reports or data would include, but not be limited to:
  - i. The number of Aboriginal children—including Métis and Inuit children—in care, compared with non-Aboriginal children, the reasons for apprehension, and the total spending on preventive and care services by child-welfare agencies.
  - ii. Comparative funding for the education of First Nations children on and off reserves.
  - iii. The educational and income attainments of Aboriginal peoples in Canada compared with non-Aboriginal people.
  - iv. Progress on closing the gaps between Aboriginal and non-Aboriginal communities in a number of health indicators such as: infant mortality, maternal health, suicide, mental health, addictions, life expectancy, birth rates, infant and child health issues, chronic diseases, illness and injury incidence, and the availability of appropriate health services.
  - v. Progress on eliminating the overrepresentation of Aboriginal children in youth custody over the next decade.
  - vi. Progress on reducing the rate of criminal victimization of Aboriginal people, including data related to homicide and family violence victimization and other crimes.
  - vii. Progress on reducing the overrepresentation of Aboriginal people in the justice and correctional systems.
56. We call upon the prime minister of Canada to formally respond to the report of the National Council for Reconciliation by issuing an annual "State of Aboriginal Peoples" report, which would outline the government's plans for advancing the cause of reconciliation.

## PROFESSIONAL DEVELOPMENT AND TRAINING FOR PUBLIC SERVANTS

57. We call upon federal, provincial, territorial, and municipal governments to provide education to public servants on the history of Aboriginal peoples, including the history and legacy of residential schools, the *United Nations Declaration on the Rights of Indigenous Peoples*, Treaties and Aboriginal rights, Indigenous law, and Aboriginal–Crown relations. This will require skills-based training in intercultural competency, conflict resolution, human rights, and anti-racism.

## CHURCH APOLOGIES AND RECONCILIATION

58. We call upon the Pope to issue an apology to Survivors, their families, and communities for the Roman Catholic Church's role in the spiritual, cultural, emotional, physical, and sexual abuse of First Nations, Inuit, and Métis children in Catholic-run residential schools. We call for that apology to be similar to the 2010 apology issued to Irish victims of abuse and to occur within one year of the issuing of this Report and to be delivered by the Pope in Canada.
59. We call upon church parties to the Settlement Agreement to develop ongoing education strategies to ensure that their respective congregations learn about their church's role in colonization, the history and legacy of residential schools, and why apologies to former residential school students, their families, and communities were necessary.
60. We call upon leaders of the church parties to the Settlement Agreement and all other faiths, in collaboration with Indigenous spiritual leaders, Survivors, schools of theology, seminaries, and other religious training centres, to develop and teach curriculum for all student clergy, and all clergy and staff who work in Aboriginal communities, on the need to respect Indigenous spirituality in its own right, the history and legacy of residential schools and the roles of the church parties in that system, the history and legacy of religious conflict in Aboriginal families and communities, and the responsibility that churches have to mitigate such conflicts and prevent spiritual violence.
61. We call upon church parties to the Settlement Agreement, in collaboration with Survivors and representatives of Aboriginal organizations, to establish permanent funding to Aboriginal people for:
- i. Community-controlled healing and reconciliation projects.

- ii. Community-controlled culture- and language-revitalization projects.
- iii. Community-controlled education and relationship-building projects.
- iv. Regional dialogues for Indigenous spiritual leaders and youth to discuss Indigenous spirituality, self-determination, and reconciliation.

## EDUCATION FOR RECONCILIATION

62. We call upon the federal, provincial, and territorial governments, in consultation and collaboration with Survivors, Aboriginal peoples, and educators, to:
- i. Make age-appropriate curriculum on residential schools, Treaties, and Aboriginal peoples' historical and contemporary contributions to Canada a mandatory education requirement for Kindergarten to Grade Twelve students.
  - ii. Provide the necessary funding to post-secondary institutions to educate teachers on how to integrate Indigenous knowledge and teaching methods into classrooms.
  - iii. Provide the necessary funding to Aboriginal schools to utilize Indigenous knowledge and teaching methods in classrooms.
  - iv. Establish senior-level positions in government at the assistant deputy minister level or higher dedicated to Aboriginal content in education.
63. We call upon the Council of Ministers of Education, Canada to maintain an annual commitment to Aboriginal education issues, including:
- i. Developing and implementing Kindergarten to Grade Twelve curriculum and learning resources on Aboriginal peoples in Canadian history, and the history and legacy of residential schools.
  - ii. Sharing information and best practices on teaching curriculum related to residential schools and Aboriginal history.
  - iii. Building student capacity for intercultural understanding, empathy, and mutual respect.
  - iv. Identifying teacher-training needs relating to the above.
64. We call upon all levels of government that provide public funds to denominational schools to require such schools to provide an education on comparative religious studies, which must include a segment on

Aboriginal spiritual beliefs and practices developed in collaboration with Aboriginal Elders.

65. We call upon the federal government, through the Social Sciences and Humanities Research Council, and in collaboration with Aboriginal peoples, post-secondary institutions and educators, and the National Centre for Truth and Reconciliation and its partner institutions, to establish a national research program with multi-year funding to advance understanding of reconciliation.

#### **YOUTH PROGRAMS**

66. We call upon the federal government to establish multi-year funding for community-based youth organizations to deliver programs on reconciliation, and establish a national network to share information and best practices.

#### **MUSEUMS AND ARCHIVES**

67. We call upon the federal government to provide funding to the Canadian Museums Association to undertake, in collaboration with Aboriginal peoples, a national review of museum policies and best practices to determine the level of compliance with the *United Nations Declaration on the Rights of Indigenous Peoples* and to make recommendations.
68. We call upon the federal government, in collaboration with Aboriginal peoples, and the Canadian Museums Association to mark the 150th anniversary of Canadian Confederation in 2017 by establishing a dedicated national funding program for commemoration projects on the theme of reconciliation.
69. We call upon Library and Archives Canada to:
- i. Fully adopt and implement the *United Nations Declaration on the Rights of Indigenous Peoples* and the *United Nations Joint-Orientlicher Principles*, as related to Aboriginal peoples' inalienable right to know the truth about what happened and why, with regard to human rights violations committed against them in the residential schools.
  - ii. Ensure that its record holdings related to residential schools are accessible to the public.
  - iii. Commit more resources to its public education materials and programming on residential schools.
70. We call upon the federal government to provide funding to the Canadian Association of Archivists to undertake, in collaboration with Aboriginal peoples, a national review of archival policies and best practices to:

- i. Determine the level of compliance with the *United Nations Declaration on the Rights of Indigenous Peoples* and the *United Nations Joint-Orientlicher Principles*, as related to Aboriginal peoples' inalienable right to know the truth about what happened and why, with regard to human rights violations committed against them in the residential schools.
- ii. Produce a report with recommendations for full implementation of these international mechanisms as a reconciliation framework for Canadian archives.

#### **MISSING CHILDREN AND BURIAL INFORMATION**

71. We call upon all chief coroners and provincial vital statistics agencies that have not provided to the Truth and Reconciliation Commission of Canada their records on the deaths of Aboriginal children in the care of residential school authorities to make these documents available to the National Centre for Truth and Reconciliation.
72. We call upon the federal government to allocate sufficient resources to the National Centre for Truth and Reconciliation to allow it to develop and maintain the National Residential School Student Death Register established by the Truth and Reconciliation Commission of Canada.
73. We call upon the federal government to work with churches, Aboriginal communities, and former residential school students to establish and maintain an online registry of residential school cemeteries, including, where possible, plot maps showing the location of deceased residential school children.
74. We call upon the federal government to work with the churches and Aboriginal community leaders to inform the families of children who died at residential schools of the child's burial location, and to respond to families' wishes for appropriate commemoration ceremonies and markers, and reburial in home communities where requested.
75. We call upon the federal government to work with provincial, territorial, and municipal governments, churches, Aboriginal communities, former residential school students, and current landowners to develop and implement strategies and procedures for the ongoing identification, documentation, maintenance, commemoration, and protection of residential school cemeteries or other sites at which residential school children were buried. This is to include the provision of

appropriate memorial ceremonies and commemorative markers to honour the deceased children.

76. We call upon the parties engaged in the work of documenting, maintaining, commemorating, and protecting residential school cemeteries to adopt strategies in accordance with the following principles:
- i. The Aboriginal community most affected shall lead the development of such strategies.
  - ii. Information shall be sought from residential school Survivors and other Knowledge Keepers in the development of such strategies.
  - iii. Aboriginal protocols shall be respected before any potentially invasive technical inspection and investigation of a cemetery site.

#### **NATIONAL CENTRE FOR TRUTH AND RECONCILIATION**

77. We call upon provincial, territorial, municipal, and community archives to work collaboratively with the National Centre for Truth and Reconciliation to identify and collect copies of all records relevant to the history and legacy of the residential school system, and to provide these to the National Centre for Truth and Reconciliation.
78. We call upon the Government of Canada to commit to making a funding contribution of \$10 million over seven years to the National Centre for Truth and Reconciliation, plus an additional amount to assist communities to research and produce histories of their own residential school experience and their involvement in truth, healing, and reconciliation.

#### **COMMEMORATION**

79. We call upon the federal government, in collaboration with Survivors, Aboriginal organizations, and the arts community, to develop a reconciliation framework for Canadian heritage and commemoration. This would include, but not be limited to:
- i. Amending the Historic Sites and Monuments Act to include First Nations, Inuit, and Métis representation on the Historic Sites and Monuments Board of Canada and its Secretariat.
  - ii. Revising the policies, criteria, and practices of the National Program of Historical Commemoration to integrate Indigenous history, heritage values, and memory practices into Canada's national heritage and history.

- iii. Developing and implementing a national heritage plan and strategy for commemorating residential school sites, the history and legacy of residential schools, and the contributions of Aboriginal peoples to Canada's history.

80. We call upon the federal government, in collaboration with Aboriginal peoples, to establish, as a statutory holiday, a National Day for Truth and Reconciliation to honour Survivors, their families, and communities, and ensure that public commemoration of the history and legacy of residential schools remains a vital component of the reconciliation process.
81. We call upon the federal government, in collaboration with Survivors and their organizations, and other parties to the Settlement Agreement, to commission and install a publicly accessible, highly visible, Residential Schools National Monument in the city of Ottawa to honour Survivors and all the children who were lost to their families and communities.
82. We call upon provincial and territorial governments, in collaboration with Survivors and their organizations, and other parties to the Settlement Agreement, to commission and install a publicly accessible, highly visible, Residential Schools Monument in each capital city to honour Survivors and all the children who were lost to their families and communities.
83. We call upon the Canada Council for the Arts to establish, as a funding priority, a strategy for Indigenous and non-Indigenous artists to undertake collaborative projects and produce works that contribute to the reconciliation process.

#### **MEDIA AND RECONCILIATION**

84. We call upon the federal government to restore and increase funding to the CBC/Radio-Canada, to enable Canada's national public broadcaster to support reconciliation, and be properly reflective of the diverse cultures, languages, and perspectives of Aboriginal peoples, including, but not limited to:
- i. Increasing Aboriginal programming, including Aboriginal-language speakers.
  - ii. Increasing equitable access for Aboriginal peoples to jobs, leadership positions, and professional development opportunities within the organization.
  - iii. Continuing to provide dedicated news coverage and online public information resources on issues of concern to Aboriginal peoples and all Canadians,

including the history and legacy of residential schools and the reconciliation process.

85. We call upon the Aboriginal Peoples Television Network, as an independent non-profit broadcaster with programming by, for, and about Aboriginal peoples, to support reconciliation, including but not limited to:
- i. Continuing to provide leadership in programming and organizational culture that reflects the diverse cultures, languages, and perspectives of Aboriginal peoples.
  - ii. Continuing to develop media initiatives that inform and educate the Canadian public, and connect Aboriginal and non-Aboriginal Canadians.
86. We call upon Canadian journalism programs and media schools to require education for all students on the history of Aboriginal peoples, including the history and legacy of residential schools, the *United Nations Declaration on the Rights of Indigenous Peoples*, Treaties and Aboriginal rights, Indigenous law, and Aboriginal-Crown relations.

#### **SPORTS AND RECONCILIATION**

87. We call upon all levels of government, in collaboration with Aboriginal peoples, sports halls of fame, and other relevant organizations, to provide public education that tells the national story of Aboriginal athletes in history.
88. We call upon all levels of government to take action to ensure long-term Aboriginal athlete development and growth, and continued support for the North American Indigenous Games, including funding to host the games and for provincial and territorial team preparation and travel.
89. We call upon the federal government to amend the Physical Activity and Sport Act to support reconciliation by ensuring that policies to promote physical activity as a fundamental element of health and well-being, reduce barriers to sports participation, increase the pursuit of excellence in sport, and build capacity in the Canadian sport system, are inclusive of Aboriginal peoples.
90. We call upon the federal government to ensure that national sports policies, programs, and initiatives are inclusive of Aboriginal peoples, including, but not limited to, establishing:
- i. In collaboration with provincial and territorial governments, stable funding for, and access to, community sports programs that reflect the diverse

cultures and traditional sporting activities of Aboriginal peoples.

- ii. An elite athlete development program for Aboriginal athletes.
  - iii. Programs for coaches, trainers, and sports officials that are culturally relevant for Aboriginal peoples.
  - iv. Anti-racism awareness and training programs.
91. We call upon the officials and host countries of international sporting events such as the Olympics, Pan Am, and Commonwealth games to ensure that Indigenous peoples' territorial protocols are respected, and local Indigenous communities are engaged in all aspects of planning and participating in such events.

#### **BUSINESS AND RECONCILIATION**

92. We call upon the corporate sector in Canada to adopt the *United Nations Declaration on the Rights of Indigenous Peoples* as a reconciliation framework and to apply its principles, norms, and standards to corporate policy and core operational activities involving Indigenous peoples and their lands and resources. This would include, but not be limited to, the following:
- i. Commit to meaningful consultation, building respectful relationships, and obtaining the free, prior, and informed consent of Indigenous peoples before proceeding with economic development projects.
  - ii. Ensure that Aboriginal peoples have equitable access to jobs, training, and education opportunities in the corporate sector, and that Aboriginal communities gain long-term sustainable benefits from economic development projects.
  - iii. Provide education for management and staff on the history of Aboriginal peoples, including the history and legacy of residential schools, the *United Nations Declaration on the Rights of Indigenous Peoples*, Treaties and Aboriginal rights, Indigenous law, and Aboriginal-Crown relations. This will require skills based training in intercultural competency, conflict resolution, human rights, and anti-racism.

#### **NEWCOMERS TO CANADA**

93. We call upon the federal government, in collaboration with the national Aboriginal organizations, to revise the information kit for newcomers to Canada and its citizenship test to reflect a more inclusive history of the diverse Aboriginal peoples of Canada, including

information about the Treaties and the history of residential schools.

94. We call upon the Government of Canada to replace the Oath of Citizenship with the following:

I swear (or affirm) that I will be faithful and bear true allegiance to Her Majesty Queen Elizabeth II, Queen of Canada, Her Heirs and Successors, and that I will faithfully observe the laws of Canada including Treaties with Indigenous Peoples, and fulfill my duties as a Canadian citizen.

## Truth and Reconciliation Commission of Canada

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## Appendix "B"

# STATEMENT BY PRIME MINISTER ON RELEASE OF THE FINAL REPORT OF THE TRUTH AND RECONCILIATION COMMISSION

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Ottawa, Ontario – 15 December 2015

The Prime Minister, Justin Trudeau, issued the following statement after receiving the Final Report of the Truth and Reconciliation Commission:

“The Indian residential school system, one of the darkest chapters in Canadian history, has had a profoundly lasting and damaging impact on Indigenous culture, heritage, and language. As a father and a former teacher, I am overwhelmingly moved by these events.

“Seven years ago the Government of Canada apologized for this abhorrent system. The apology is no less true, and no less timely, today. The Government of Canada ‘sincerely apologizes and asks forgiveness of the Aboriginal peoples of this country for failing them so profoundly’.

“Today, on behalf of the Government of Canada, I have the honour of accepting the Commission’s Final Report. It is my deepest hope that this report and its findings will help heal some of the pain caused by the Indian residential school system and begin to restore the trust lost so long ago.

“To the former Indian residential school students who came forward and shared your painful stories, I say: thank you for your extraordinary bravery and for your willingness to help Canadians understand what happened to you. As the previous government expressed so eloquently in its formal apology: your courage ‘is a testament to [your] resilience as individuals and to the strength of [your] cultures...The burden of this experience has been on your shoulders for far too long. The burden is properly ours as a government, and as a country’.

“Moving forward, one of our goals is to help lift this burden from your shoulders, from those of your families, and from your communities. It is to accept fully our responsibilities – and our failings – as a government and as a nation.

“This is a time of real and positive change. We know what is needed is a total renewal of the relationship between Canada and Indigenous peoples. We have a plan to move towards a nation-to-nation relationship based on recognition, rights, respect, cooperation and partnership, and we are already making it happen.

“A national inquiry into missing and murdered Indigenous women and girls is now underway. Ministers are meeting with survivors, families, and loved ones to seek their input on how best to move forward. We have also reiterated our commitments to make significant investments in First Nations education, and to lift the two per cent cap on funding for First Nations programs.

“And we will, in partnership with Indigenous communities, the provinces, territories, and other vital partners, fully implement the Calls to Action of the Truth and Reconciliation Commission, starting with the implementation of the United Nations Declaration on the Rights of Indigenous Peoples.

“We recognize that true reconciliation goes beyond the scope of the Commission’s recommendations. I am therefore announcing that we will work with leaders of First Nations, Métis Nation, Inuit, provinces and territories, parties to the Indian Residential School Settlement Agreement, and other key partners, to design a national engagement strategy for developing and implementing a national reconciliation framework, informed by the Truth and Reconciliation Commission’s recommendations.

“The Government of Canada is committed to walking a path of partnership and friendship with Indigenous peoples. Today’s Final Report marks a true milestone on that journey. Again I thank the survivors, their families, and communities for this monumental achievement towards healing and reconciliation. I also thank Commission Chair Justice Murray Sinclair, and Commissioners Chief Wilton Littlechild and Dr. Marie Wilson who worked tirelessly to bring to light the truth about residential schools in Canada.”