
Assembly of First Nations

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Assemblée des Premières Nations

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ANNUAL GENERAL ASSEMBLY
JULY 12, 13, & 14, 2016; NIAGARA FALLS, ON

Resolution no. 42/2016

TITLE: International Child Custody

SUBJECT: Child Welfare

MOVED BY: Chief Byron Louis, Okanagan Indian Band, BC

SECONDED BY: Chief Wayne Christian, Spltasin First Nation, BC

DECISION Carried by Consensus

WHEREAS:

- A. International child custody disputes are among the most complicated, excruciatingly difficult battles parents and family can encounter:
- B. International custody disputes are very difficult to navigate for parents and lawyers, as there are two countries legal systems and two parents with strong opinions as to where the child should live and with whom.
- C. A foreign court may hold values that will affect the outcome of the custody battle, such as a different culture, which may have a profound effect on custody determinations, and some religions have certain perceptions about the specific roles of each parent in a child's life.
- D. The Hague Convention provides for the immediate return of children who are taken from their country of "habitual residence" in violation of "custody rights". However, it is not concerned with substantive custody questions or even with jurisdiction.
- E. A child's First Nation heritage is one of many factors used in the determination of who should have custody of the child. The extent of the role this factor plays in determining the best interests of the child, or children, depends on the facts of the particular case.
- F. The need for preserving and nurturing the child's First Nation cultural identity is a factor that is not universally applied in the international fora.

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PERRY BELLEGARDE, NATIONAL CHIEF

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Head Office/Siège Social

- G.** The Government of Canada has taken the position that, while Canada fully supports the rights of First Nations Peoples, the government cannot intervene in cases pertaining to Canadian individuals in any private matter under the jurisdiction of a foreign court.

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

- 1.** Reaffirm that children and youth are vital to the exercise, retention, and growth of First Nations' culture, values, traditions and languages, and their transmission to future generations.
- 2.** Affirm that First Nation children and youth have the right to be raised within their culture, language, and tradition, and have the right to fully participate in the cultural life of their Indigenous community.
- 3.** Encourage the federal government to adopt mechanisms to support First Nations communities and families seeking the return and/or repatriation of First Nation children with their Indigenous communities in cases of international custody matters, including offering consular services in foreign jurisdictions.

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PERRY BELLEGARDE, NATIONAL CHIEF