



For Immediate Release
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Canada's Denial of Adequate Services Discriminates Against On-Reserve First Nation Children and Families, Canadian Human Rights Tribunal Rules

OTTAWA - The Indigenous Bar Association (IBA) congratulates the efforts of Dr. Cindy Blackstock of the First Nations Child and Family Caring Society of Canada, as well as, Assembly of First Nations on this monumental victory in the decision from the Canadian Human Rights Tribunal (CHRT). Further, the IBA fully supports the CHRT's findings that the Government of Canada's funding policies continue to have adverse impacts on First Nation families and children on-reserve and that these adverse impacts propagate the historical disadvantage and trauma suffered by Aboriginal people, in particular, systemic results of the Residential Schools system.

The IBA calls upon the Government of Canada to take immediate steps to address outdated funding policies. These policy directives and inadequate funding have negatively impacted First Nations children and families as far back as Residential Schools being imposed. In order to alleviate the continuing historical disadvantage, the aim, as set out in the CHRT's decision, should be to "eliminate discrimination".

"The CHRT has identified Canada's denial of adequate child and family services, as directly perpetuating the harmful control that Canada has exerted over Aboriginal culture and identity. This cycle of control must stop." says Koren Lightning-Earle, President of the Indigenous Bar Association.

"This decision confirms what First Nations agencies, leaders and children's advocates have been saying for decades. The path to reconciliation lies in ensuring that Indigenous children have the same access to services as all other children in Canada" said Lightning-Earle.

The CHRT decision outlines a number of significant findings including that, "...*human rights principles, both domestically and internationally, require AANDC to consider the distinct needs and circumstances of First Nations children and families living on-reserve – including their cultural, historical and geographical needs and circumstances – in order to ensure equality in the provision of child and family services available to them.*"

In addition to outlining the factors that have specifically contributed to prolonging disadvantages, the CHRT acknowledged, "...*the suffering of those First Nations children and families who are or have been denied an equitable opportunity to remain together or to be reunited in a timely manner. We also recognize those First Nations children and families who*

are or have been adversely impacted by the Government of Canada's past and current child welfare practices on reserves."

To this point the historical Governments of Canada are well aware of the long-standing problems and harms being inflicted on First Nation children and families and has done little about it. The shortfalls and harms of these historical discriminatory funding practices are documented in the NPR (2000), Wende reports (2004-05) and Reports of the Auditor General of Canada (2008) and (2011), in addition, to the Government's own internal reviews which showed inequities in the FNCFS programs.

The IBA urges the newly elected Government of Canada to adopt those remedies as set out by the co-complainants, the First Nations Child and Family Caring Society and the Assembly of First Nations, in their final submissions to the CHRT. Resolutions to address the systemic discrimination in the FNCFS program and funding including, but not limited to:

- ! Provide funding for a jointly commissioned study relating to child welfare in First Nation communities, specifically, to determine the most effective means of providing care for First Nations children and families;
- ! That, newly named department, INAC fund and participate in a joint policy development initiative with the AFN, FNCFS and other First Nation child and family welfare experts, to be agreed upon, that will work in consultation with the Commission and report back to the Tribunal annually on establishing effective long-term child welfare services regime and funding for First Nation families, which will be in keeping with the following principles:
 - a. Support First Nation rights to self-governance that will enable First Nation solutions to child and family welfare as established by experts, and set out in the Royal Commission on Aboriginal Peoples;
 - b. INAC funding of child and family welfare services for First Nations in keeping with the principles of UNDRIP supporting the rights of Indigenous Peoples' to raise and protect children and structure families;
 - c. Is consistent with the fiduciary relationship and obligations between the Crown and First Nations;
 - d. Is consistent with reconciliation between the Crown and First Nations; and,
 - e. To eliminate federal child welfare policies that perpetuates the historical disadvantage of First Nation children and families.

The time for change is now. Systemic discrimination requires purposive approach to remedies. Such remedies should be designed to correct the discrimination and to prevent a future recurrence of the discrimination. The IBA calls upon the current Government of Canada to abolish its long standing historical policy and practices of denying adequate child welfare services to First Nations on reserve. Failure to do so will continue to have disastrous and long term effects on Aboriginal peoples across Canada.

The IBA is a national association comprised of Indigenous (First Nations, Inuit and Metis) lawyers, legal academics, articling clerks and law students, including graduate and post-graduate law students. The IBA is a not-for-profit federal corporation mandated, amongst other things, to promote the advancement of legal and social justice for Indigenous peoples in Canada, as well as the reform of laws and policies affecting Indigenous peoples.

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