

FEDERAL COURT

B E T W E E N:

ATTORNEY GENERAL OF CANADA

APPLICANT/MOVING PARTY

- and -

**FIRST NATIONS CHILD AND FAMILY CARING SOCIETY OF CANADA,
ASSEMBLY OF FIRST NATIONS, CANADIAN HUMAN RIGHTS
COMMISSION, CHIEFS OF ONTARIO, AMNESTY INTERNATIONAL
and NISHNAWBE ASKI NATION**

RESPONDENTS/RESPONDING PARTIES

MOTION RECORD OF THE RESPONDENT/RESPONDING PARTY

ASSEMBLY OF FIRST NATIONS

Volume 3 of 3

NAHWEGAHBOW, CORBIERE

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Assembly of First Nations

Co-Counsel for the Respondent/Responding
Party,

Assembly of First Nations

TAB 3

FEDERAL COURT

B E T W E E N:

ATTORNEY GENERAL OF CANADA

APPLICANT

- and -

**FIRST NATIONS CHILD AND FAMILY CARING SOCIETY OF CANADA, ASSEMBLY
OF FIRST NATIONS, CANADIAN HUMAN RIGHTS COMMISSION, CHIEFS OF
ONTARIO, AMNESTY INTERNATIONAL
and NISHNAWBE ASKI NATION**

RESPONDENTS

Affidavit of Jonathan Thompson
(Affirmed November 8, 2019)

I, JONATHAN THOMPSON, of the City of Ottawa, in the Province of Ontario, AFFIRM:

1. I am the Director of Social Development at the Assembly of First Nations and, in that capacity, I have personal knowledge of the matters to which I hereinafter affirm and wherever so stated I verily believe them to be true.
2. The Assembly of First Nations (hereinafter "AFN") is a national advocacy organization representing First Nation citizens in Canada, which includes more than 900,000 people living in 634 First Nation communities and in cities and town across the country. The AFN is mandated to represent and protect the rights and interests of First Nations peoples in Canada, as set out in its Charter. The AFN has an office located at 55 Metcalfe Street, Suite 1600 in Ottawa, Ontario.

Introduction

3. As the Director of Social Development at the AFN, I have been involved in First Nations child welfare policy for many years prior to the filing of the Complaint in this matter. I also testified in the Tribunal hearing of this matter and have been heavily involved in the remedies stage following the Tribunal's Decision that was issued in January 2016.
4. Under my direction, AFN's Social Unit has been heavily involved in conducting research and advocating for changes in the federal government's First Nations Child Welfare Program. Beginning in 1998 and concluding with the issuance of the National Policy Review in June 2000, the AFN highlighted substantial deficiencies and inequities in Canada's First Nation Child Welfare Program. Of importance, the Report noted that the Department of Indian Affairs and Northern Development (DIAND) funding per capita per child in care was 22% lower than the average in selected provinces. The funding formula also did not provide a realistic amount of maintenance funding, in particular those small agencies serving less than 801 children.
5. Canada was provided a copy with the findings of the National Policy Review and did not fully accept its recommendations or findings. Canada proposed additional joint work and research to verify the findings of the National Policy Review. Beginning in 2000, the AFN, First Nations Child and Family Caring Society of Canada (Caring Society) and DIAND began collaborative work on reviewing the First Nations Child and Family Services Program.
6. In 2005, a series of reports on the First Nations Child and Family Services program was released, the Wen:de Reports. This multidisciplinary research project brought together experts in First Nations child welfare, economics, management information systems, law, and social work. Findings indicated that First Nations children were over represented at every level of the child welfare decision making continuum including reports to child welfare, case substantiation rates, and admissions to state care. Research results found that First Nations child and family service agencies were inadequately funded in almost every area of operation ranging from capital

costs, prevention programs, standards and evaluation, staff salaries and child in care programs. The disproportionate need for services amongst First Nations children and families coupled with the under-funding of the First Nations child and family service agencies that serve them has resulted in an untenable situation.

7. In particular, the Reports took issue with the lack of prevention or least disruptive measures allowable under Canada's First Nations Child and Family Services. In essence, in order for an on-reserve child welfare agency to get reimbursed for providing a service to a child in need, the child had to be placed into state care. This resulted in a perverse incentive that artificially placed tens of thousands of First nation children into care.
8. Despite the finding of the Wen:de Reports, Canada refused to undertake meaningful reforms to the program. As a result, on February 27, 2007 the AFN and Caring Society filed a complaint with the Human Right Commission alleging discrimination in the provision of a service. Since the filing of the human rights complaint, the Auditor General of Canada and others have issued reports on the Canada's First Nations Child Welfare Program and recommended reforms.
9. The Canadian Human Rights Tribunal issued its landmark ruling in this matter on January 26, 2016 (2016 CHRT 2). The Tribunal found that the Complaint was substantiated; that First Nations children and families living on reserve and in the Yukon were denied equal child and family services and/or differentiated adversely in the provision of child and family services. The Tribunal has ordered Aboriginal Affairs and Northern Development Canada (AANDC) to cease its discriminatory practices and reform its policies to reflect the findings in this decision. AANDC was also ordered to cease applying its narrow definition of Jordan's Principle and to take measures to immediately implement the full meaning and scope of Jordan's principle
10. The AFN, the Caring Society and the interested Parties have made many recommendations to assist Canada in complying to with the decisions of the Tribunal.

11. When Canada was unwilling or unable to fully comply with the Tribunal's directions, the AFN participated in various non-compliance motions with the Tribunal to compel Canada to end its discriminatory conduct. The Tribunal has issued seven subsequent non-compliance orders against Canada as follows: 2016 CHRT 10; 2016 CHRT 16; 2017 CHRT 7; 2017 CHRT 14; 2018 CHRT 4; 2019 CHRT 7; and 2019 CHRT 39.
12. Sadly, I believe and understand that the discrimination in the FNCFS Program and its shortcomings that were identified in the Tribunal's decision are continuing due to the Respondent's failure to address, explore and reform the FNCFS Program with the AFN.

AFN Charter and Mandate

13. The AFN was established pursuant to and operates under its Charter, under which the principal objects are:
 - a. To protect our succeeding generations from colonialism;
 - b. To reaffirm our faith in fundamental human rights, in the dignity and worth of the human person, in the equal rights of men and women and of our First Nations large and small;
 - c. To establish conditions under which justice and respect for the obligations arising from our international treaties and from international law can be maintained; and
 - d. To promote social progress and better standards of life among our peoples.

AFN Resolutions

14. The AFN derives authority from specific mandates provided through resolutions from the First Nations Chiefs-in-Assembly. The mandates and resolutions are made pursuant to the AFN's broader Charter objectives. They are passed by the First Nations-in-Assembly, a body comprised of all the 634 Chiefs of the First Nations across Canada.

15. In December 2006, Resolution No. 53/2006 was passed by the Chiefs Assembly on consensus which approved the AFN to submit a joint complaint with the First Nation Child and Family Caring Society (hereinafter “Caring Society”) to the Canadian Human Rights Commission regarding the inequitable levels of child welfare funding provided to First Nations children and families on reserve. The human rights complaint was later filed in February 2007. A copy of Resolution No. 53/2006 is attached to my affidavit at **Exhibit “A”**.
16. In July 2016, the Chiefs-in-Assembly discussed Canada’s lack of progress in implementing the remedies as ordered in the Tribunal’s Decision, 2016 CHRT 2, issued on January 26, 2016. A resolution 62/2016 entitled “Full and Proper Implementation of the historic Canadian Human Rights Tribunal decisions in the provision of child welfare services and Jordan’s Principle” was discussed and passed. The resolution calls upon the Government of Canada to take immediate and concrete actions to implement and honour the Canadian Human Rights Tribunal findings in its decision, 2016 CHRT 2, and all subsequent orders, and to implement Jordan’s Principle across all First Nations and all federal government services. It also calls upon the Government of Canada to honour its commitment to fully implement the Truth and Reconciliation Commission’s recommendations. A copy of Resolution No. 62/2016 is attached to my affidavit as **Exhibit “B”**.
17. Later, in December 2016, the AFN’s Special Chiefs’ Assembly was held, and Resolution No. 83/2016 was passed to express the deep concern by all First Nations across Canada regarding Canada’s failure to immediately and fully comply with the Canadian Human Rights Tribunal’s decisions. Resolution No. 83/2016 affirms the National Advisory Committee (NAC) and associated Regional Tables proposed by the AFN and the Caring Society to be the legitimate process to provide advice to the Chiefs and Federal Government on reforming the FNCFS Program and implementation of Jordan’s Principle. A copy of Resolution No. 83/2016 is attached to my affidavit as **Exhibit “C”**.
18. In 2017, First Nations remained concerned about the lack of progress in Canada’s implementation of the Tribunal’s rulings. Resolution 40/2017 was passed instructing

the AFN to 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. A copy of Resolution No. 40/2017 is attached to my affidavit as **Exhibit "D"**.

19. The Caring Society issued the Spirit Bear Plan in 2017. The Plan calls for Canada immediately comply with all rulings by the Canadian Human Rights Tribunal, immediately cease its discriminatory funding of First Nations child and family services, and end all of the inequalities in the provision of services to First Nation children. A copy of Spirit Bear Plan is attached to my affidavit as **Exhibit "E"**. The Chiefs in Assembly have endorsed the Spirit Bear Plan through Resolution 92/2017, which is attached to my affidavit as **Exhibit "F"**.
20. During the December 2018 Special Chiefs Assembly, First Nations leadership discussed the need for compensation to be awarded to all children, their siblings and parents/caregivers for the harms they collectively suffered as a result of the unnecessary apprehensions and lack or denial of services from Canada's First Nations Child and Family Services Program. Parallels were drawn from the Indian Residential Schools Settlement Agreement's Common Experience Payment recognizing that the experience of living at an Indian Residential School(s) had impacted all students who attended these institutions. The Common Experience Payment addressed or compensated all former students for the emotional abuse suffered, the loss of family life, forced labor, and the loss of language, culture and spiritual guidance. Children apprehended under the First Nations Child Welfare Program suffered many of these same symptoms.
21. Resolution 85/2018 calls on Canada to ensure that any financial compensation or award owed to the First Nations children and youth in care or other victims of discrimination should be the maximum allowable under the Canadian Human Rights Act. The Chiefs noted that the discrimination was willful and reckless, causing ongoing trauma and harm to children and youth, and resulted in a humanitarian crisis. The Resolution also demands that the compensation be made available without the need for further evidence to support the maximum financial award for

compensation to the victims of discrimination. A copy of Resolution No. 85/2018 is attached to my affidavit as **Exhibit “G”**.

Unilateral Consultations with FNCFS Agencies are Ineffective

22. Shortly after the Tribunal’s main decision in January 2016, Canada attempted to circumvent the AFN despite AFN’s mandates to follow-up on the implementation of the Tribunal’s Decision. Both Indigenous-Crown Relations Canada and Health Canada engaged in consultations directly with First Nations Child and Family Services Agencies about reforming the FNCFS Program.
23. In correspondence dated October 28, 2016 from Margaret Buist, Director General, INAC, to all FNCFS Agencies across Canada, engaged consultations and included a questionnaire that sought to acquire information from agencies about their respective needs and circumstances to inform INAC’s thinking on new funding approaches. The letter also offered a one-time funding opportunity. A copy of the October 28, 2016 letter is attached to my affidavit as **Exhibit “H”**.
24. The concern AFN had at the time was the questionnaire and information being provided to First Nation Child Welfare Agencies did not fully reflect the Tribunal’s orders. In short, Canada was not seeking the proper information consistent with the Tribunal’s Order.
25. The Tribunal agreed that Canada was not properly communicating with First Nation Child Welfare Agencies. In 2018 CHRT 4, the Tribunal ordered Canada to “communicate clearly to Agencies any immediate relief ordered by the Panel in order to ensure that these measures are implemented fully, properly, and in a manner to reduce the adverse impacts on First Nations children.”
26. The Tribunal also Ordered Indigenous and Northern Affairs Canada to enter into a protocol on consultations with the AFN, the Caring Society, Chiefs of Ontario, NAN and the Canadian Human Rights Commission to ensure that “consultations are carried out in a manner consistent with the honor of the Crown and to eliminate the discrimination substantiated in the *Decision*”. A copy of the Consultation Protocol is attached to this to my affidavit as **Exhibit “I”**.

Compensation Order

27. On September 6, 2019, the Tribunal issued its decision on compensation in 2019 CHRT 38, which is the subject to this judicial review. The Tribunal Ordered compensation for each child and his/her parents or grandparents (if the primary caregiver) up to the maximum amount allowable under the Canadian Human Rights Act. The Order would apply where: a child was unnecessarily apprehended after January 1, 2006; a child necessarily apprehended but placed outside of their families and/or communities after January 1, 2006; and a child that was unnecessarily removed to obtain essential services, or wasn't apprehended but experienced gaps or delays of services that would have been available under Jordan's Principle between December 1, 2007, and November 2, 2017.
28. The Tribunal found that Canada willfully and recklessly discriminated against Indigenous children living on reserve by failing to provide funding for child and family services. The Tribunal noted that "Canada's conduct was willful and reckless resulting in what we have referred to as a worst-case scenario under our Act".
29. The Tribunal found that all First Nation children similarly suffered as a result of Canada's systemic racial discrimination. The Tribunal opted for an approach to compensation similar to the Indian Residential Schools Settlement Agreement's Common Experience Payment, where all children were compensated for emotional abuse suffered, the loss of family life, the loss of language culture. When a child is removed from the family there is a real and traumatic interruption in a family's ability to care for the child and pass on the families customs and traditions.
30. It is important to note that the Tribunal's Order is not the final and concluding order on the issue of compensation. The Tribunal determined there is a need to establish an independent process for distributing the compensation for victims/survivors and ordered Canada to enter discussions with the AFN and the Caring Society on this issue.
31. The task set by the Tribunal was for Canada, the AFN and Caring Society to enter into discussions, attempt to resolve any outstanding issues and develop a

comprehensive compensation scheme. The Parties are to return to the Tribunal no later than December 10, 2019 on their progress or recommend a compensation scheme, on consent, for the Tribunal to consider.

AFN's Efforts to Engage Canada Since the Compensation Order

32. On September 6, 2019, shortly after the Tribunal's compensation decision, National Chief Perry Bellegarde and Regional Chief Kevin Hart issued a press release, on behalf of the AFN. The AFN called on Canada to respect the decision of the Tribunal and not judicially review the Tribunal's decision. The press release also expressed the AFN's willingness to work with Canada to give life to the compensation Order to ensure those individuals affected by Canada's discrimination receive compensation. A copy of National Chief Perry Bellegarde's press release dated September 6, 2019 is attached to my affidavit as **Exhibit "J"**.
33. A meeting of the Child Welfare Consultation Committee was held on September 9, 2019. During this meeting the AFN and other parties advised Canada that they were willing to work with the Department to develop a compensation scheme as required by the Tribunal. Canada was provided a list of preliminary subject matters in which the parties could launch into exploratory discussions on a compensation scheme. Canada advised the parties that they were still reviewing the decision and could not undertake discussions at this time. A copy of the Record of Decision of the September 9th, 2019 meeting of the Consultation Committee on Child Welfare is attached to my affidavit as **"Exhibit K"**.
34. Despite Canada's inability and/or unwillingness to work with the AFN on developing a compensation scheme pursuant to the Tribunal's Order, the AFN and Caring Society have been meeting on a bi-weekly basis since September 17, 2019 to develop a common position on compensation and to ready submissions to the Tribunal for December 10, 2019 on the Compensation Process.
35. Since my informal efforts to persuade Canada to initiate and engage in discussions with the AFN was not successful, the AFN decided to make a formal request to Canada begin consultations on a compensation process. Mr. Stuart Wuttke, AFN's

General Counsel, wrote the Department of Justice on October 24, 2019 expressing AFN's disappointment and frustration regarding Canada's lack of engagement. Mr. Wuttke reiterated AFN's position that the Tribunal merely requested the parties work together to develop viable proposals on a compensation scheme. The AFN stated Canada inability to meet the December 10, 2019 deadline is self-inflicted as they have taken or refused to take any steps to meet with the AFN and Caring Society. The AFN also advised Canada that should discussions commence and progress is made on the compensation scheme, the AFN is prepared to seek an extension of time with the Tribunal. A copy of Mr. Wuttke's letter to the Department of Justice is attached to my affidavit as **Exhibit "L"**.

Canada's public statements on Compensation

36. Shortly after the filing of the judicial review in this matter, the Department of Indigenous Services Canada issued a press release on October 6, 2019 stating its rationale for filing the application. The press release purports to state that issues such as who is to be compensated, financial resources required and impact on CHRT decisions raises issues requiring a judicial review. A copy of the said press release is attached to my affidavit as **Exhibit "M"**.
37. The relief sought by Canada in this judicial review by Canada appears to contradict recent public statements made by the Government of Canada by the Prime Minister and various ministers since the application for judicial review was filed. These representatives of Canada have repeatedly stated that Canada agrees compensation will be paid to the victims of Canada's discriminatory conduct.
38. In particular, on October 4, 2019 the Honourable Seamus O'Regan, Minister of Indigenous Services Canada, tweeted that Canada agrees that compensation should be part of the healing process. He stated that the government is committed to engaging in discussions around compensation for the benefit of those individuals who were impacted by its discriminatory conduct. A copy of a screen shot of these tweets is attached to my affidavit as **Exhibit "N"**.

39. On October 7, 2019, the Right Honourable Justin Trudeau, Prime Minister of Canada stated that Canada will be compensating the victims of discrimination during the English language Leaders' Debate. A copy of the transcript of the leaders debate is attached to my affidavit as **Exhibit "O"**.
40. On October 10, 2019, the Prime Minister restated that Canada agreed with the Tribunal, and said that the federal government had to compensate First Nations children and was committed to having discussions about compensating the victims of discrimination during the French language Leaders' Debate. The Prime Minister Trudeau also stated that the December 10, 2019 timeframe set by the Tribunal did not give the federal government enough time to have conversations about compensation. The video of this debate can be found at <https://www.macleans.ca/politics/french-language-federal-leaders-debate-2019-english-translation-live-video/>.
41. On October 13, 2019, Adam Vaughan, Parliamentary Secretary to the Minister of Families, Children and Social Development tweeted that compensation would be granted but that Canada could not act until after the election. A copy of a screen shot of these tweets is attached to my affidavit as **Exhibit "P"**.

First Nation views on Compensation

42. Pursuant to the CHRT's request that the AFN and Caring Society provide direction on how this compensation could be distributed to qualifying youth in a good way by December 10, 2019, the AFN and Caring Society approached the Youth in Care Canada (YICC) to host a gathering of First Nations youth to discuss and provide recommendations about First Nations child welfare and 2019 CHRT 39. YICC is a national non-profit run by and for youth in and from child welfare systems across the country. The organization has produced youth-led reports and hosted gatherings of youth in and from care in the past.
43. YICC's Gathering of First Nations Youth in and from Care was hosted by the AFN and Caring Society on October 25, 2019 at AFN's offices in Ottawa. Approximately

20 youth who experienced life in child welfare system participated in the gathering. The participants were able to provide both the AFN and Caring Society a youth perspective and experience-informed advice on possible methods for distribution of compensation from 2019 CHRT 39. This advice is especially important given such large financial compensation packages could increase risks of harm in certain personal and/or family contexts.

44. A copy of a draft report of the said youth gathering is attached to my affidavit as **Exhibit "Q"**.
45. I make this affidavit in support of the AFN's motion and for no other purpose.

AFFIRMED BEFORE ME at
Ottawa, in the Province of Ontario,
on the 8th day of November, 2019



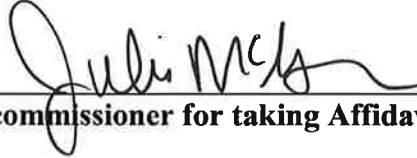
Notary Public, Commissioner of Oaths.

Julie McGregor
Barrister & Solicitor
LSO# 49076P

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Jonathan Thompson

**This is Exhibit "A" referred to in the
Affidavit of Jonathan Thompson,
Affirmed before me, on this 8th day of
November, 2019.**

A handwritten signature in black ink, appearing to read "Julie McGregor", written over a horizontal line.

A commissioner for taking Affidavits

**Julie McGregor
Barrister & Solicitor
LSO# 49076P**

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SPECIAL CHIEFS ASSEMBLY
December 5, 6 & 7, 2006, Ottawa, ON

Resolution no. 53/2006

SUBJECT: FIRST NATIONS CHILD & FAMILY SERVICES

MOVED BY: Chief Connie Big Eagle, Ocean Man First Nation, SK

SECONDED BY: Grand Chief Tim Thompson, Mohawk Council of Akwesasne, QC

DECISION: Consensus

WHEREAS the AFN Chiefs-in-Assembly have passed resolutions (23/2004, 60/2000 and 5/2004) supporting the implementation of the 17 recommendations of the First Nations Child and Family Services (FNCFS) *Joint National Policy Review* recommendations; and

WHEREAS Canada has signed the *United Nations Convention on the Rights of the Child* guaranteeing specific rights for children including the right to non-discrimination and preservation of families and Indigenous culture; and

WHEREAS the Assembly of First Nations signed a Memorandum of Understanding with the First Nation Child and Family Caring Society of Canada (FNCFCS) on November 21, 2006 for the purposes of advocating to address recommendations in the *Joint National Policy Review* and the *Wen: de "The Journey Continues"*; and

WHEREAS since the completion of the FNCFS *Joint National Policy Review* in June 2000 and the *Wen: de "The Journey Continues"* 2005 report, very little progress has been made to address the inadequate and inequitable funding provided to FNCFS agencies by the federal government; and

WHEREAS FNCFS agencies are unable to provide services that are needed to allow children to remain safely in their homes thereby reducing the numbers of First Nations children being taken into child welfare care; and

Certified copy of a resolution adopted on the 7th day of December, 2006 in Ottawa, ON

Phil Fontaine, National Chief

53 - 2006

Head Office/Siège Social

Page 1 of 2

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Territoire de Akwesasne, RR#3, Ile de Cornwall (Ontario) K6H 5R7 Téléphone: (613) 932-0410 Télécopieur: (613) 932-0415

WHEREAS the number of First Nations children entering the care of the child welfare system continues to rise at an alarming rate with an estimated 27,000 First Nations children currently in care; and

WHEREAS the lack of funding affects FNCFS agencies on a national scale and the lack of action on the part of INAC and the federal government to address this inequitable situation is of significant concern to First Nations leadership; and

WHEREAS the report does not take into consideration Ontario's significant population and complete child welfare statistics; and

WHEREAS the 1965 Ontario Welfare Agreement was unique to Ontario and provided a funding formula for First Nations child and family services; and

WHEREAS there is a clear need for a strong political statement to advocate and pressure the federal government for the immediate implementation of the FNCFS *Joint National Policy Review* and *Wen: de "The Journey Continues"* recommendations which would result in substantive improvements for FNCFS agencies and leading to improvements for First Nations children and families.

THEREFORE BE IT RESOLVED that the AFN Chiefs-in-Assembly approve the submission of a joint complaint by the AFN and the FNCFS to the Canadian Human Rights Commission regarding the inequitable levels of child welfare funding provided to First Nations children and families on reserve pursuant to the Department of Indian and Northern Affairs Canada's (INAC) funding formula for First Nations Child and Family Services known as Directive 20-1 and the 1965 Welfare Agreement in Ontario.

FURTHER BE IT RESOLVED that the AFN pursue negotiations with the federal government to implement the *Joint National Policy Review* and *Wen: de* recommendations.

Certified copy of a resolution adopted on the 7th day of December, 2006 in Ottawa, ON

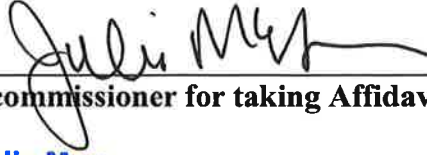


Phil Fontaine, National Chief

53 - 2006

Page 2 of 2

**This is Exhibit "B" referred to in the
Affidavit of Jonathan Thompson,
Affirmed before me, on this 8th day of
November, 2019.**

A handwritten signature in black ink, appearing to read "Julie McGregor", written over a horizontal line.

A commissioner for taking Affidavits

**Julie McGregor
Barrister & Solicitor
LSO# 49076P**

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

Resolution no. 62/2016

TITLE: Full and Proper Implementation of the historic Canadian Human Rights Tribunal decisions in the provision of child welfare services and Jordan's Principle

SUBJECT: Child Welfare

MOVED BY: Cheryl Casimer, Proxy, Tobacco Plains Indian Band, BC

SECONDED BY: Chief Ian Campbell, Squamish Nation, BC

DECISION Carried by Consensus

WHEREAS:

- A. The Federal Government of Canada funds First Nations child and family services on reserve through Indigenous and Northern Affairs Canada (INAC).
- B. Jordan's Principle is a child-first principle which provides, in the matter of public services available to all other children, that where jurisdictional disputes arise between Canada and a province or territory, or between government departments in the same government, the government or department of first contact pays for the service, and can seek reimbursement from another government or department after the fact.
- C. As an example, First Nations children in British Columbia are funded in accordance with Directive 20-1 which provides the lowest level of child welfare funding among INAC's four funding approaches. This means that culturally based prevention services to keep children safely at home are not available, contributing to growing numbers of children in foster care.
- D. In 2007, the First Nations Child and Family Caring Society of Canada (the Caring Society) and the Assembly of First Nations (AFN) filed a complaint pursuant to the *Canadian Human Rights Act* alleging that INAC's provision of First Nations child and family services to over 163,000 First Nations children is discriminatory and that implementation of Jordan's Principle is flawed, inequitable and thus discriminatory under the *Canadian Human Rights Act* (CHRT 1340/7008).

Certified copy of a resolution adopted on the 13th day of July 2016 in Niagara Falls, Ontario


PERRY BELLEGARDE, NATIONAL CHIEF

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- E. On January 26, 2016, the Canadian Human Rights Tribunal (the Tribunal) issued its decision (2016 CHRT 2) regarding the complaint filed in February 2007 by the Caring Society and the AFN, finding among other things that:
- i. Canada's design, management and control of the First Nations Child and Family Services Program (FNCFS), along with its corresponding funding formulas and the other related provincial/territorial agreements, have resulted in the denial of services to many First Nations children and families living on-reserve and that the FNCFS Program resulted in adverse impacts for them because it was based on flawed assumptions about First Nations communities that did not reflect the actual needs of those communities.
 - ii. The FNCFS Program's two main funding mechanisms incentivized removing First Nations' children from their families.
 - iii. INAC's narrow interpretation and implementation of Jordan's Principle results in service gaps, delays or denials, and overall adverse impacts on First Nations children and families on-reserve.
 - iv. The racial discrimination arising from Canada's provision of the First Nations Child and Family Services Program and failure to implement Jordan's Principle is widening the historical disadvantage of residential schools.
- F. Subsequent to the Tribunal's decision, Canada unilaterally announced the budget allotments for First Nations child and family services without meaningful consultation with First Nations and unilaterally made an announcement about Jordan's Principle without meaningful consultation with First Nations. Budget 2016 is a five year budgetary plan where \$71 million is provided for child and family services for fiscal 2016/2017 and 54% of the planned funding is allocated for the year of the next federal election or the year after. This incremental budget approach fails to adequately consider children's development and the severity of the harms posed to children by unnecessary removals from their families.
- G. Such actions and impacts are inconsistent with the *United Nations Convention on the Rights of the Child* and articles of the *United Nations Declaration on the Rights of Indigenous Peoples*, which 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.

Certified copy of a resolution adopted on the 13th day of July 2016 in Niagara Falls, Ontario


PERRY BELLEGARDE, NATIONAL CHIEF

- iii. INAC's narrow interpretation and implementation of Jordan's Principle results in service gaps, delays or denials, and overall adverse impacts on First Nations children and families on-reserve.
 - iv. The racial discrimination arising from Canada's provision of the First Nations Child and Family Services Program and failure to implement Jordan's Principle is widening the historical disadvantage of residential schools
- H. In its decision, the Tribunal made several orders, including:
- i. Cease its discriminatory practices regarding the FNCFS Program and reform the program.
 - ii. Cease applying a narrow definition of Jordan's Principle.
 - iii. Take measures to immediately implement the full meaning and scope of Jordan's Principle.
- I. The Tribunal also retained jurisdiction over the complaint to allow for gathering of further information regarding the immediate and long-term remedies sought by the Caring Society and the AFN, and to seek further information regarding the compensation sought for First Nations children impacted by child welfare practices on-reserve between 2006 and January 26, 2016.
- J. On April 26, 2016, the Tribunal issued a second decision (2016 CHRT 10) expressing concern with Canada's compliance with 2016 CHRT 2 and compelling Canada to confirm implementation of Jordan's Principle by May 10, 2016 and file detailed reports regarding its compliance with the non-discrimination order regarding First Nations Child and Family Services funding.
- K. The Tribunal is expected to issue a third order on remedies in the coming weeks.
- L. Prime Minister Justin Trudeau committed to implement all 94 Calls to Action of the Truth and Reconciliation Commission. A number of Calls to Action urge all levels of government to reduce the number of Aboriginal children in care and to provide adequate resources to support communities and child-welfare organizations in keeping families together.
- M. The Tribunal's order coupled with the Government of Canada's commitment to reconciliation requires that the federal government take immediate action.

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

- 1. Respectfully call upon the Government of Canada to:
 - a. Honour its commitment to fully implement the Truth and Reconciliation Commission's recommendations regarding children and families.

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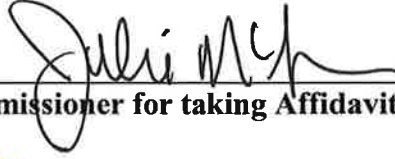
PERRY BELLEGARDE, NATIONAL CHIEF

- b. Take immediate and concrete actions to implement and honor the Canadian Human Rights Tribunal findings in *First Nations Child & Family Caring Society of Canada et al. v. Attorney General of Canada* (2016 CHRT 2) and all subsequent orders, and implement Jordan's Principle across all First Nations and all federal government services.
 - c. Allocate sufficient resources immediately to remedy the discrimination against children and their families, taking into full account the best interests of First Nations children, their vulnerability, development, and the significant harms posed by unnecessary placements in child welfare care resulting from insufficient and discriminatory prevention services.
 - d. Immediately and fully implement the measures outlined in the document entitled "First steps in fixing the inequities in First Nations child and family services: Immediate action reforms, Directive 20-1" and "First steps in fixing the inequities in First Nations child and family services: Immediate reforms, Enhanced Prevention Focused Approach" and "First steps in fixing the inequities in First Nations child and family services: Immediate reforms, 1965 Indian Welfare Agreement" to provide some immediate relief to the children's suffering while the longer-term issues are resolved.
 - e. Cease unilateral action without consultation with First Nations and cease engaging in bi-lateral discussions with provinces and/or territories regarding First Nations children without the participation of First Nations, and fully commit to full consultation with First Nations and First Nations child and family service agencies and the parties to *First Nations Child and Family Caring Society of Canada v. Attorney General of Canada* (CHRT 1340/7008) to fully remedy the discrimination.
2. Support the revitalization of the AFN National Advisory Committee on child and family services with equal representation of First Nations across the country.

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PERRY BELLEGARDE, NATIONAL CHIEF

**This is Exhibit "C" referred to in the
Affidavit of Jonathan Thompson,
Affirmed before me, on this 8th day of
November, 2019.**

A handwritten signature in black ink, appearing to read "Julie McG", written over a horizontal line.

A commissioner for taking Affidavits

**Julie McGregor
Barrister & Solicitor
LSO# 49076P**

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**SPECIAL CHIEFS ASSEMBLY
DECEMBER 6, 7, & 8, 2016; GATINEAU, QC**

Resolution no. 83/2016

TITLE: National Advisory Committee on INAC's Child Welfare Reform Engagement Strategy

SUBJECT: Child Welfare

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

SECONDED BY: Chief Arnold Paul, Temagami First Nation, ON

DECISION Carried by Consensus

WHEREAS:

- A. The United Nations Declaration on the Rights of Indigenous Peoples (UN Declaration) states:
- i. Article 15 (2): States shall take effective measures, in consultation and cooperation with the indigenous peoples concerned, to combat prejudice and eliminate discrimination and to promote tolerance, understanding and good relations among indigenous peoples and all other segments of society.
 - ii. Article 17 (2): States shall in consultation and cooperation with indigenous peoples take specific measures to protect indigenous children from economic exploitation and from performing any work that is likely to be hazardous or to interfere with the child's education, or to be harmful to the child's health or physical, mental, spiritual, moral or social development, taking into account their special vulnerability and the importance of education for their empowerment.
- B. The Truth and Reconciliation Commission of Canada Calls to Action #1 and #3 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.

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Page 1 of 4

- C. In 2007, the First Nations Child and Family Caring Society of Canada (the Caring Society) and the Assembly of First Nations (AFN) filed a complaint pursuant to the *Canadian Human Rights Act* alleging that Indigenous and Northern Affairs Canada's (INAC) provision of First Nations child and family services to over 163,000 First Nations children is discriminatory and that implementation of Jordan's Principle is flawed, inequitable and thus discriminatory under the *Canadian Human Rights Act* (CHRT 1340/7008).
- D. On January 26, 2016, the Canadian Human Rights Tribunal (CHRT) issued its decision (2016 CHRT 2) regarding the complaint filed in February 2007 by the Caring Society and the AFN. The CHRT substantiated the complaint and concluded that First Nations children and families living on reserve and in the Yukon are discriminated against in the provision of child and family services by INAC and further found that Canada's implementation of Jordan's Principle is discriminatory. In its decision, the CHRT made several orders, including:
- i. Cease its discriminatory practices, and reform the First Nation Child and Family Services program (FNCFS).
 - ii. Cease applying a narrow definition of Jordan's Principle.
 - iii. Take measures to immediately implement the full meaning and scope of Jordan's Principle.
- E. Shortly after the CHRT January 26, 2016 decision, the AFN and the Caring Society initiated discussions with INAC to re-establish the National Advisory Committee (NAC) and Regional Tables to oversee recommendations for medium and long term relief related to the CHRT decision and to provide general advice on program reform. The NAC and Regional Tables is a joint committee composed of First Nations child and family service experts appointed by AFN Regional Chiefs, the AFN, the Caring Society, and INAC. This process was used for the Joint National Policy Review of First Nations Child and Family Services (2000) and the Wen:de reports in 2005. INAC agreed to the process in general but failed to respond to correspondence in a timely fashion resulting in substantial and unnecessary delays in establishing the NAC.
- F. On both April 26, 2016, and September 14, 2016, INAC was issued with two supplemental rulings from the CHRT. The CHRT found that INAC compliance to the rulings was inadequate. The CHRT made further specific orders regarding FNCFS funding and ordered Canada to apply Jordan's Principle to all First Nations children on and off reserve, to cease case conferencing before the child receives the service and apply it to all jurisdictional disputes.
- G. In response to Canada's failure to fully comply with the CHRT orders, the NDP tabled an opposition motion on October 27, 2016 calling on the government to comply with the historic rulings of the CHRT ordering the end of discrimination against First Nations children. On November 1, 2016, the NDP motion was unanimously passed by the House of Commons. The motion specifically called for the government to:

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PERRY BELLEGARDE, NATIONAL CHIEF

- i. Immediately investing an additional \$155 million in new funding for the delivery of child welfare – the identified shortfall for this year – and establish a funding plan for future years that will end the systemic shortfalls in First Nations child welfare.
 - ii. Implement the full definition of Jordan's Principle as outlined in a resolution passed by the House on December 12, 2007.
 - iii. Fully complying with all orders made by the CHRT and stop fighting Indigenous families in court who are seeking access to services covered by the federal government.
 - iv. Make public all pertinent documents related to the overhaul of child welfare and the implementation of Jordan's Principle.
- H. On October 27, 2016, without consulting with the AFN or the Caring Society, INAC Minister Carolyn Bennett appointed a Ministerial Special Representative on First Nations child and family services (MSR) whose role is to advise the government as it executes its engagement strategy with provinces, territories and child welfare agencies to overhaul the FNFCs program.
- I. To date, these engagement processes have been led by the MSR, without consultation with the AFN or the Caring Society. To date, the engagement process appears to have been conducted in an ad hoc manner, absent any terms of reference or accountability mechanisms, needed to clarify the goals and outcomes of the MSR and ensure the work is conducted in a manner consistent with the UN Declaration and domestic law.
- J. In the spirit of Article 15 (2) and 17 (2) of the UN Declaration, accountable engagement processes should be meaningful and guided by clear terms of reference developed in consultation with First Nations and First Nations child and family service agencies that clearly outline the intent, scope, impacts and accountability mechanisms of the engagement. Such procedures have been lacking throughout INAC's engagement plan.

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

1. Express deep concern regarding Canada's failure to immediately and fully comply with the Canadian Human Rights Tribunal (CHRT) decision.
2. Call on Canada to immediately comply with any and all orders issued by the CHRT without reservation.
3. Fully support the opposition motion passed in the House of Commons on November 1, 2016 and call on Canada to take immediate steps to fully comply with the motion.
4. Call on Canada to affirm that the National Advisory Committee (NAC) and Regional Tables process proposed by Assembly of First Nations and the First Nations Child and Family Caring Society is the legitimate process to provide advice to the Chiefs and federal government on First Nations child and family services reform and the implementation on Jordan's Principle.

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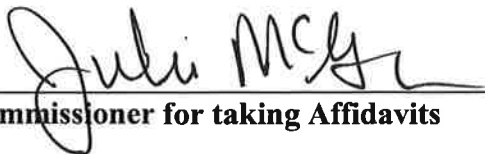
5. Call on Canada to immediately provide the information, resources and support necessary for the NAC and Regional Tables process to convene and complete their work.
6. Inform Canada that the Ministerial Special Representative on First Nations child and family services (MSR) engagement process is not a replacement for the NAC and Regional Tables process and in no way should prejudice Canada's full and proper compliance with the CHRT decisions.
7. Call on Canada to immediately refocus the mandate of the MSR to enhance the internal capacity of INAC and other federal departments to implement the CHRT decisions (2016 CHRT 2; 2016 CHRT10; 2016 CHRT 16 and any further orders) and the Truth and Reconciliation Commission of Canada Calls to Action. This includes, but is not limited to, shifting Indigenous and Northern Affairs Canada operating culture to promote non-discrimination, reconciliation, and observance of the United Nations Declaration on the Rights of the Indigenous Peoples and the Organization of American States American Declaration on the Rights of Indigenous Peoples, by designing and delivering professional training and performance measures for every member of the civil service up to and including Deputy Ministers along with any of its agents, successors or assigns related to the provision of services to First Nations peoples on and off reserves.

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PERRY BELLEGARDE, NATIONAL CHIEF

**This is Exhibit "D" referred to in the
Affidavit of Jonathan Thompson,
Affirmed before me, on this 8th day of
November, 2019.**

A handwritten signature in black ink, appearing to read "Julie McGregor", written over a horizontal line.

A commissioner for taking Affidavits

**Julie McGregor
Barrister & Solicitor
LSO# 49076P**

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

Resolution no. 40/2017

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

SUBJECT: Child Welfare, Jordan's Principle

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

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

DECISION Carried by Consensus

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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Page 1 of 3

- 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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PERRY BELLEGARDE, NATIONAL CHIEF

- 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:

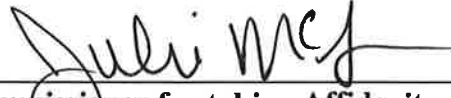
- 1. Affirm the definition and approach to Jordan's Principle set out in the Canadian Human Rights Tribunal (CHRT) latest decision (2017 CHRT 14) and direct Canada to comply with all CHRT orders (2016 2; 2017 14).
- 2. Direct the Assembly of First Nations (AFN) to again inform the Prime Minister and 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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PERRY BELLEGARDE, NATIONAL CHIEF

**This is Exhibit "E" referred to in the
Affidavit of Jonathan Thompson,
Affirmed before me, on this 8th day of
November, 2019.**

A handwritten signature in black ink, appearing to read "Julie McGregor", written over a horizontal line.

A commissioner for taking Affidavits

**Julie McGregor
Barrister & Solicitor
LSO# 49076P**



Spirit Bear Plan




End Inequalities in Public Services for First Nations Children, Youth and Families

First Nations children and families living on reserve and in the Territories receive public services funded by the federal government. Since confederation, these services have fallen significantly short of what other Canadians receive. This injustice needs to end and Spirit Bear's Plan will do just that.

Spirit Bear calls on:

- 1 CANADA** to immediately comply with all rulings by the Canadian Human Rights Tribunal ordering it to immediately cease its discriminatory funding of First Nations child and family services. The orders further require Canada to fully and properly implement Jordan's Principle (www.jordansprinciple.ca).
- 2 PARLIAMENT** to ask the Parliamentary Budget Officer to publicly cost out the shortfalls in all federally funded public services provided to First Nations children, youth and families (education, health, water, child welfare, etc.) and propose solutions to fix it.
- 3 GOVERNMENT** to consult with First Nations to co-create a holistic Spirit Bear Plan to end all of the inequalities (with dates and confirmed investments) in a short period of time sensitive to children's best interests, development and distinct community needs.
- 4 GOVERNMENT DEPARTMENTS** providing services to First Nations children and families to undergo a thorough and independent 360° evaluation to identify any ongoing discriminatory ideologies, policies or practices and address them. These evaluations must be publicly available.
- 5 ALL PUBLIC SERVANTS**, including those at a senior level, to receive mandatory training to identify and address government ideology, policies and practices that fetter the implementation of the Truth and Reconciliation Commission's Calls to Action.

SHOW YOUR SUPPORT!

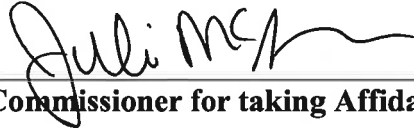
-  **SPREAD THE WORD ON TWITTER** using **#SpiritBearPlan** and copy **@CaringSociety**
-  **CONTACT YOUR MEMBER OF PARLIAMENT** and ask them to support the Spirit Bear Plan
-  **CONTACT US** to learn more at **info@fncaringsociety.com**



First Nations Child & Family
Caring Society of Canada

www.fncaringsociety.com

**This is Exhibit "F" referred to in the
Affidavit of Jonathan Thompson,
Affirmed before me, on this 8th day of
November, 2019**

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A Commissioner for taking Affidavits

**Julie McGregor
Barrister & Solicitor
LSO# 49076P**

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SPECIAL CHIEFS ASSEMBLY
December 5, 6 & 7, 2017, Ottawa, ON

Resolution no. 92/2017

TITLE: Support the Spirit Bear Plan to End Inequities in all Federally Funded Public Services for First Nations Children, Youth and Families

SUBJECT: Child Welfare

MOVED BY: Chief Duke Peltier, Wikwemikong Unceded First Nation, ON

SECONDED BY: Chief Melvin Hardy, Biinjitiwaabik Zaaging Anishinaabek (Rocky Bay), ON

DECISION: Carried by Consensus

WHEREAS:

- A.** The United Nations Declaration on the Rights of Indigenous Peoples 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.** The Chiefs-in-Assembly have passed Resolutions 40/2017 *Call on Canada to Comply with the 2016 Canadian Human Rights Tribunal Orders*, 83/2016 *National Advisory Committee on INAC's Child Welfare Reform Engagement Strategy* and 62/2016 *Full and Proper Implementation of the Historic Canadian Human Rights Tribunal Decisions in the Provision of Child Welfare Service and Jordan's Principle* requiring Canada to fully and immediately comply with the Canadian Human Rights Tribunal (CHRT) rulings to end discriminatory funding of child and family services and to properly implement Jordan's Principle.
- C.** There is longstanding, credible evidence of inequities in federally funded public services available to First Nations children, youth and families and these inequities have never been fully addressed.
-

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PERRY BELLEGARDE, NATIONAL CHIEF

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Page 1 of 2

SPECIAL CHIEFS ASSEMBLY

December 5, 6 & 7, 2017, Ottawa, ON

Resolution no. 92/2017

- D. The Spirit Bear Plan, as developed by the First Nations Child and Family Caring Society of Canada, is designed to address all inequities in federally funded public services by:
- i. Calling on Canada to immediately comply with all rulings by the CHRT ordering it to immediately cease its discriminatory funding of First Nations child and family services and to fully and properly comply with Jordan's Principle.
 - ii. Calling on Parliament to ask the Parliamentary Budget Officer to remedy with public funds the shortfalls in all federally funded public services provided to First Nations children, youth and families (i.e., early childhood education, K-12 education, health, water, child welfare, etc.).
 - iii. Ensure that government departments providing services to First Nations children and families undergo a thorough and independent evaluation to identify any ongoing discriminatory ideologies, policies and practices and address them, which must be made public upon completion.
 - iv. Ensure that all public servants, including those at a senior level, receive mandatory training to identify and address government ideology, policies and practices that fetter the implementation of the Truth and Reconciliation Commission's Calls to Action.

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

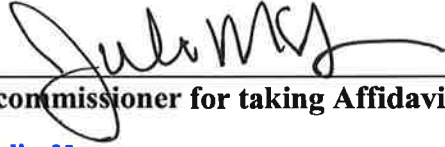
1. Support the Spirit Bear Plan as developed by the First Nations Child and Family Caring Society of Canada.
2. Direct the Assembly of First Nations to write a letter of support for the implementation of the Spirit Bear Plan to the Prime Minister of Canada, the Minister of Indigenous Services, the Minister of Health and the Minister of Indigenous and Crown Relations.

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PERRY BELLEGARDE, NATIONAL CHIEF

**This is Exhibit "G" referred to in the
Affidavit of Jonathan Thompson,
Affirmed before me, on this 8th day of
November, 2019.**

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A commissioner for taking Affidavits

**Julie McGregor
Barrister & Solicitor
LSO# 49076P**

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**SPECIAL CHIEFS ASSEMBLY
DECEMBER 4, 5, AND 6, 2018, OTTAWA, ON**

Resolution no. 85/2018

TITLE:	Financial Compensation For Victims of Discrimination in the Child Welfare System
SUBJECT:	Child Welfare
MOVED BY:	Mary Teegee (Maoxw Gibuu) Proxy, Takla First Nation, BC
SECONDED BY:	Jennifer Cox, Proxy, Paq'tnkek First Nation, NS
DECISION	Carried by Consensus

WHEREAS:

- A. The overrepresentation of First Nations children and youth in care, and in the child welfare system, is a humanitarian crisis. This crisis requires immediate and urgent legislative policy and human rights action and compensation to address this crisis.
- B. The harmful legacies of residential schools, the disproportionate number of First Nations children in care, the consequences of involvement in child welfare systems, and the related loss of language and denial of culture and human rights has led to this humanitarian crisis.
- C. *The United Nations Declaration on the Rights of Indigenous Peoples* (the UN Declaration) is the framework for reconciliation and transformation of child welfare law. The UN Declaration must be an integral aspect of any legislation or policy to respond to the child welfare crisis in Canada for First Nations children and youth.
- D. *The United Nations Convention on the Rights of the Child*, and all relevant international human rights instruments and comments relevant to children and families should inform federal child welfare legislation.
- E. The Truth and Reconciliation Commission of Canada (TRC) Calls to Action #1 through #5 call on federal, provincial and territorial governments to take action to improve child welfare. Call to Action #4 calls upon the federal government to enact child welfare legislation.

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85-2018

Page 1 of 2

Head Office/Siège Social

Unit 5 — 167 Akwesasne International Rd., Akwesasne, ON K6H 5R7 Telephone: 613-932-0410 Fax: 613-932-0415
Suite no 5 — 167, chemin Akwesasne International, Akwesasne (ON) K6H 5R7 Téléphone: 613-932-0410 Télécopieur: 613-932-0415

- F. The *Assembly of First Nations and the First Nations Child and Family Caring Society of Canada v. Attorney General of Canada* decision of the Canadian Human Rights Tribunal's 2016 (CHRT 2), and subsequent compliance rulings, found systemic discrimination due to longstanding and proven inequities in the federally-funded on-reserve First Nations Child and Family Services Program. The shortfalls in funding and lack of substantive equality for First Nations children, youth and families, were acknowledged by Canada.
- G. The Assembly of First Nations (AFN) has passed five resolutions directly related to child welfare reform: Resolution 01/2015, *Support for the Full Implementation of the Truth and Reconciliation Commission of Canada's Calls to Action*; Resolution 62/2016, *Full and Proper Implementation of the Historic Canadian Human Rights Tribunal Decisions in the Provision of Child Welfare Service and Jordan's Principle*; Resolution 83/2016, *National Advisory Committee on INAC's Child Welfare Reform Engagement Strategy*; Resolution 40/2017, *Call on Canada to Comply with the 2016 Canadian Human Rights Tribunal Orders* and Resolution 11/2018, *Federal Legislation on First Nations Child Welfare Jurisdiction*.

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

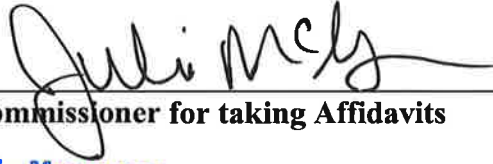
1. Call on Canada to ensure that any financial compensation or award owed to the First Nations children and youth in care, or other victims of discrimination, should be the maximum allowable under the *Canadian Human Rights Act*, based on the fact that the discrimination was willful and reckless, causing ongoing trauma and harm to children and youth, and resulted in a humanitarian crisis.
2. Call on Canada to ensure that financial compensation or awards also be provided to each sibling, parent or grandparent of a child or youth brought into care as a result of neglect or medical placements resulting from Canada's discriminatory policies, and such compensation should be the maximum allowable under the *Canadian Human Rights Act*.
3. Demand that Canada immediately inform the Human Rights Tribunal that the victims of discrimination—the First Nations children and youth in care between February 2006-2019 (or the date when the Tribunal finds there has been compliance with the human rights order)—are entitled to be considered for compensation up to the maximum amount available by law.
4. Demand that Canada accept that no further evidence from the Assembly of First Nations (AFN) or the First Nations Child and Family Caring Society of Canada (Caring Society) is required to support the maximum financial award for compensation to the victims of discrimination.
5. Call-upon the AFN National Chief and Executive Committee to work in collaboration with the Caring Society to ensure that the administration and disbursement of any payments to victims come from funds other than the awards to the victims so that no portion of the quantum awarded can be rolled back or claimed by lawyers or others administering or assisting victims.

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PERRY BELLEGARDE, NATIONAL CHIEF

**This is Exhibit "H" referred to in the
Affidavit of Jonathan Thompson,
Affirmed before me, on this 8th day of
November, 2019.**

A handwritten signature in black ink, appearing to read "Julie McGregor", written over a horizontal line.

A commissioner for taking Affidavits

**Julie McGregor
Barrister & Solicitor
LSO# 49076P**



October 28, 2016

Letter sent via electronic mail

Dear First Nations Child and Family Services Agencies (Executive Directors, Directors, and Managers,

In response to the January 26, 2016 Canadian Human Rights Tribunal decision and the Truth and Reconciliation Commission's Calls to Action, Indigenous and Northern Affairs Canada (INAC) has committed to reform the First Nations Child and Family Services Program (the Program) to address child welfare on reserve. To ensure that our work reflects the needs of all partners, we are engaging with First Nations, provincial and territorial partners, as well as service providers and other experts. We are looking forward to reaching out in the coming weeks to share information about our engagement approach and how we intend to connect with partners and stakeholders.

The purpose of this letter is to offer you two one-time funding opportunities as a part of the engagement and reform process. These two opportunities are available for each Agency and you may apply for one or both of those opportunities.

The funding opportunities are explained in more detail below but in summary are as follows:

Part 1) INAC will fund \$25,000 for you to provide INAC with information about your Agency's distinct needs and circumstances to inform our thinking on new funding approaches; and/ or

Part 2) INAC will fund up to \$75,000 to develop and implement culturally-based programs and tools for the community (ies) that your Agency serves.

INAC is aware that many agencies are already working in partnership to determine how to address their needs and circumstances as well as to develop and implement culturally-based programs and tools. INAC will support agencies partnering together and working with other First Nations organizations, to coordinate their participation in this process, given work underway, in various regions.

Part 1: Distinct needs and circumstances

As part of the engagement and reform process, INAC will be examining funding approaches that equip service providers to best address the needs of children and families in the communities they serve. As part of this process, INAC would like to invite you to provide information about your agency's distinct needs and circumstances, the associated costs to meet these needs, and the factors that impact the way you deliver child and family services. This information will help INAC to better understand the reality on the ground, and inform the path forward.



To support you to gather this information, INAC will provide \$25,000 for each agency through your regional INAC office. Please contact them directly. Ideally we would like to receive this information on your needs by June 30, 2017.

INAC is open to agencies describing their actual needs, and the funds required to meet those needs, as they know them best. Some examples of areas agencies may wish to provide information on include:

- 1) The agency's ability to provide prevention services and programs to maintain children safely in their family environment
- 2) The percentage of children in care and families in need in the communities served
- 3) Understanding what services are available in the community and the need for accessing services off-reserve
- 4) The prevention and post-care needs of children and families (e.g. cultural programming, early intervention, prevention, after care services.)
- 5) How remoteness and geographic isolation impacts an agency's ability to provide services (e.g. with respect to travel costs, higher costs of living, other additional costs)
- 6) The caseload ratios of protection and prevention workers needed to provide services and/or achieve results for communities
- 7) How to better understand and mitigate issues of recruitment, retention and training of agency staff
- 8) Needs and options for how best to operate a small agency
- 9) The scope and range of legal fees needed to support children in care
- 10) Building/ capital repair needs
- 11) Any other areas of need and/or particular circumstances you deem applicable to community needs in the area that you serve.

Part 2: Culturally-based programs and tools development and improvement

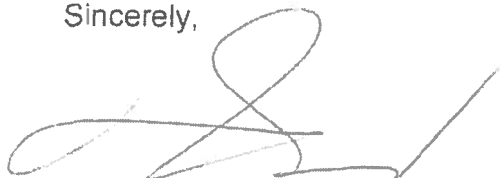
INAC will make available up to \$75,000 for each interested agency to support their development or updating and implementation of:

- a) A culturally-based vision for your programming and service work (e.g., Touchstones of Hope), and/or
- b) Culturally-based child and family service standards/ evaluation mechanisms, and/ or the delivery of programs, development of prevention tool-kits, best practices guides, etc.

This funding will be proposal-based and is available in either 2016-2017 or 2017-2018. Your regional INAC office will be pleased to provide you more detail. For reporting purposes, INAC is interested in receiving documentation that details your visioning work and/ or the program activities or practices work your agency has developed.

We continue to support your work providing child and family services rooted in a culturally respectful and community-based understanding for the needs of healthy children, families and communities as a whole. Throughout the broader Program reform engagement process, INAC will continue to gather information on agency needs and circumstances and want to ensure that we hear from all agencies and service providers. We welcome all suggestions for engaging at the community level that you may have.

Sincerely,

A handwritten signature in black ink, appearing to be 'Margaret Buist', written over a light blue horizontal line.

Margaret Buist

C.c. Provincial or Yukon Government area(s) responsible for Child and Family Services

C.c. INAC Regional Director Generals



Le 28 octobre 2016

Lettre envoyée par courrier électronique

Chers organismes des services à l'enfance et à la famille des Premières Nations
(directeurs exécutifs, directeurs et gestionnaires),

Dans le but de répondre à la décision du Tribunal canadien des droits de la personne prise le 26 janvier 2016 ainsi qu'à l'appel à l'action lancé par la Commission de vérité et réconciliation, Affaires autochtones et du Nord Canada (AANC) s'est engagé à réformer le Programme des services à l'enfance et à la famille des Premières Nations (le Programme) afin de régler les enjeux liés aux services de protection de l'enfance dans les réserves. Afin que nos travaux prennent en compte les besoins de tous les partenaires, nous consultons les Premières Nations, les partenaires provinciaux et territoriaux, les fournisseurs de services de même que d'autres spécialistes. Nous avons hâte de mettre en œuvre cette consultation au cours des prochaines semaines et partager l'information au sujet de l'approche que nous prendrons à cet égard, ainsi que la façon avec laquelle nous avons l'intention de communiquer avec les partenaires et les intervenants.

Le but de la présente lettre est de vous offrir, dans le cadre du processus de consultation et de réforme, deux possibilités de financement ponctuel. Ces deux possibilités sont offertes à tous les organismes; il vous est donc possible de présenter une demande pour l'une ou l'autre de ces possibilités de financement, ou les deux.

Les possibilités de financement sont expliquées plus en détail ci-dessous, en voici d'abord un résumé :

- 1) AANC offre un financement de 25 000 \$ pour que vous lui soumettiez des précisions sur les besoins et le contexte particuliers de votre organisme afin de guider sa réflexion sur de nouvelles approches en matière de financement;
- 2) AANC offre jusqu'à 75 000 \$ pour l'élaboration et la mise en œuvre de programmes et d'outils adéquats sur le plan culturel pour la ou les communauté(s) auxquelles votre organisme offre des services.

AANC est conscient que de nombreux organismes travaillent déjà en partenariat afin de déterminer comment répondre à leurs besoins et à leurs contextes particuliers ainsi que pour l'élaboration et la mise-en-œuvre de programmes et outils axés sur la culture. AANC aidera les organismes à collaborer avec d'autres organisations des Premières Nations afin de coordonner leur participation à ce processus, compte tenu des activités déjà en cours dans diverses régions.



1) Besoins et contexte particuliers

Dans le cadre du processus de consultation et de réforme, AANC examinera des approches de financement qui permettront aux fournisseurs de services de répondre le plus adéquatement possible aux besoins des enfants et des familles des communautés pour lesquelles ils offrent des services. Pour ce faire, AANC vous invite à fournir de l'information sur les besoins et le contexte particuliers à votre organisme, sur les coûts à assumer pour répondre à ces besoins et sur les facteurs qui ont des répercussions sur la façon dont vous fournissez les services à l'enfance et à la famille. Ces informations aideront AANC à mieux comprendre la réalité sur le terrain ainsi que la voie à suivre dans l'avenir.

Pour vous aider à recueillir ces informations, AANC, par l'intermédiaire de votre bureau régional, offre 25 000 \$ pour chaque organisme. Idéalement, nous aimerions recevoir l'information au sujet de vos besoins et contextes particuliers d'ici le 30 juin 2017.

Les organismes peuvent décrire leurs besoins réels, et les fonds requis pour satisfaire à ces besoins, puisque ce sont eux qui les connaissent le mieux. Voici des exemples d'informations que les organismes pourraient souhaiter soumettre :

- 1) La capacité de l'organisme à fournir des services et des programmes de prévention visant à maintenir les enfants dans un environnement familial sécuritaire.
- 2) Le pourcentage d'enfants pris en charge et de familles dans le besoin dans les communautés servies.
- 3) La connaissance des services offerts dans la communauté et le besoin d'accéder à des services hors des réserves.
- 4) Les besoins en matière de prévention et de soins ultérieurs à la prise en charge des enfants et des familles (programmes culturels, intervention rapide, prévention, services en soins ultérieurs, etc.).
- 5) Les répercussions de l'éloignement et de l'isolement géographique sur la capacité de l'organisme à fournir des services (coût des déplacements, coût de la vie élevé, autres coûts, etc.)
- 6) Les ratios de cas pris en charge par les travailleurs affectés à la protection ou à la prévention nécessaires pour fournir des services et/ou obtenir des résultats pour les communautés.
- 7) Les enjeux liés au recrutement, au maintien en poste et à la formation du personnel afin de mieux comprendre et atténuer les problèmes.
- 8) Les besoins des petits organismes et les meilleurs modes de fonctionnement pour eux.
- 9) L'étendue et la diversité des frais juridiques à assumer pour aider les enfants pris en charge.
- 10) Les besoins en matière de réparations aux bâtiments ou aux immobilisations.
- 11) Autre information liée aux besoins ou contexte particuliers des communautés pour lesquelles vous offrez des services.

2) Programmes et outils de développement et d'amélioration adéquats sur le plan culturel

AANC rendra disponible un montant pouvant s'élever jusqu'à 75 000 \$ pour chaque organisme afin de soutenir l'élaboration ou la mise à jour et la mise en œuvre :

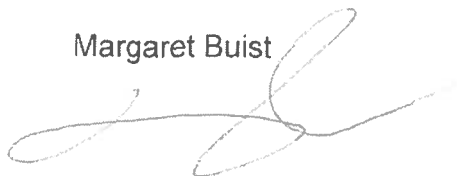
- a) d'une vision adéquate sur le plan culturel à l'égard des programmes et services offerts (par exemple, *Touchstones of Hope*); et/ou
- b) de normes de services ou de mécanismes d'évaluation des services à l'enfance et à la famille adéquats au plan culturel, et/ou la prestation de programmes, la création de trousseaux de prévention ou des guides sur les pratiques exemplaires, etc.

Il s'agit d'un financement axé sur les propositions, qui sera fourni en 2016-2017 ou en 2017-2018. Le bureau d'AANC de votre région se fera un plaisir de vous donner de plus amples renseignements. En ce qui concerne les fins de préparation de rapports, AANC souhaite recevoir des documents qui précisent votre vision et/ou les activités ou pratiques en matière de programmes que votre organisme aura élaborées.

Nous continuons de soutenir vos travaux en vue de fournir des services à l'enfance et à la famille qui découlent d'une compréhension globale des besoins des enfants, des familles et des collectivités, qui sont axés sur la communauté et qui respectent sa culture. Tout au long du plus vaste processus de consultation au sujet de la réforme du Programme, AANC continuera de recueillir de l'information sur les besoins et le contexte des organismes. Nous voulons nous assurer de connaître le point de vue de tous les organismes et de tous les fournisseurs de services. Nous accueillons toutes les suggestions au sujet de la consultation au niveau communautaire que vous souhaitez nous fournir.

Recevez, Madame/Monsieur, mes plus sincères salutations.

Margaret Buist



c.c. Gouvernements provinciaux et du Yukon, responsables des services à l'enfance et à la famille

c.c. Directeurs généraux régionaux d'AANC

**This is Exhibit "I" referred to in the
Affidavit of Jonathan Thompson,
Affirmed before me, on this 8th day of
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A commissioner for taking Affidavits

**Julie McGregor
Barrister & Solicitor
LSO# 49076P**

CANADIAN HUMAN RIGHTS TRIBUNAL

BETWEEN:

FIRST NATIONS CHILD AND FAMILY CARING SOCIETY OF CANADA

- and -

ASSEMBLY OF FIRST NATIONS

Complainants

- and -

CANADIAN HUMAN RIGHTS COMMISSION

Commission

- and -

ATTORNEY GENERAL OF CANADA

(Representing the Minister of Indigenous and Northern Affairs Canada)

Respondent

- and -

CHIEFS OF ONTARIO

- and -

NISHNAWBE ASKI NATION

Interested Parties

CONSULTATION PROTOCOL

(ENTERED INTO PURSUANT TO AN ORDER OF THE TRIBUNAL)

WHEREAS, the First Nations Child and Family Caring Society of Canada ("Caring Society"), a non-profit organization committed to research, policy development, public education, and public engagement to support the well-being of First Nations children, youth and families, and the agencies that work with them, is a co-complainant in this matter;

WHEREAS, the Assembly of First Nation ("AFN"), a national advocacy organization that works on behalf of over 600 First Nations on issues such as Treaty and Aboriginal rights, education, housing, health, child welfare and social development, is a co-complainant in this matter;

WHEREAS, the Canadian Human Rights Commission ("Commission"), in appearing before the Tribunal at a hearing, represents the public interest pursuant to section 51 of the *Canadian Human Rights Act* ("CHRA");

WHEREAS, the Attorney General of Canada, representing the departments responsible for meeting the Government of Canada's provision of services to Indigenous peoples, is the Respondent in this matter ("Canada");

WHEREAS, the Chiefs of Ontario ("COO"), is an advocacy forum and secretariat for collective decision-making, action, and advocacy for the 133 First Nations communities located in the Province of Ontario, which was granted interested party status to speak to the particularities of on-reserve child welfare services in Ontario;

WHEREAS, the Nishnawbe Aski Nation ("NAN"), is a political territorial organization that represents the socioeconomic and political interests of 49 First Nation communities located in Northern Ontario, which was granted interested party status in these proceedings, at the remedies stage to provide the perspective of delivering child and family services to remote and northern communities in Ontario;

WHEREAS, the Caring Society and the AFN (the "Complainants") commenced a federal human rights complaint under section 5 of the *CHRA* in 2007, joined by COO and Amnesty International in 2009 and by NAN in 2016 (the "Interested Parties"), as well as the Commission, alleging past and ongoing discrimination by Canada against First Nations children and their families by providing, amongst other things, inadequate funding to First Nations Child and Family Services Agencies ("FNCFS Agencies") for the delivery of child protection services on-reserve and in the Yukon, as well as by failing to implement Jordan's Principle;

WHEREAS, the Canadian Human Rights Tribunal ("Tribunal") issued its Decision, 2016 CHRT 2, on January 26, 2016, ("*Decision*") substantiating the Complaint, that made extensive findings of discrimination against Canada with respect to its administration of and delivery of services under the First Nations Child and Family Services Program ("FNCFS Program") and 1965 federal-provincial *Memorandum of Agreement Respecting Welfare Programs for Indians* ("*1965 Agreement*"), and amongst other things, ordered Canada to cease its discriminatory practices and reform the FNCFS Program and *1965 Agreement* to reflect its findings in the *Decision*; it also ordered Canada to cease applying its narrow definition of Jordan's Principle and take measures to immediately implement the full meaning and scope of Jordan's Principle;

WHEREAS, the Tribunal retained jurisdiction to ensure the implementation of its Decision, and subsequently directed that implementation be done in three steps, namely: (1) immediate relief; (2) mid to long term relief; and (3) compensation, and has reserved its ruling regarding the Complainants' motion for an award against Canada in relation to the costs of its obstruction of the Tribunal's process in relation to document disclosure and production;

WHEREAS, the Tribunal has thus far been focussed on immediate relief and has issued five compliance Rulings, including, 2016 CHRT 10, dated April 26, 2016 (immediate relief orders); 2016 CHRT 16, dated September 14, 2016 (further immediate relief orders); 2017 CHRT 7, March

29, 2017 (immediate relief orders specific to NAN motions); 2017 CHRT 14, dated May 26, 2017 (immediate relief and remedial orders regarding Jordan's Principle) (collectively "compliance Rulings"); and 2018 CHRT 4, dated February 1, 2018 (the "February 1st Ruling");

WHEREAS the February 1st Ruling included the following Order in paragraph 431:

[431] Canada is ordered, under section 53(2)(a) of the *CHRA*, to consult not only with the Commission, but also directly with the AFN, the Caring Society, the COO and the NAN on the orders made in this ruling, the *Decision* and its other rulings. Therefore, INAC is ordered to enter into a protocol on consultations with the AFN, the Caring Society, the COO, the NAN and the Commission to ensure that consultations are carried out in a manner consistent with the honour of the Crown and to eliminate the discrimination substantiated in the *Decision* by **February 15, 2018**. The parties will report to the Tribunal on the progress of implementation of this order and any issues that arise by **February 8, 2018**.

WHEREAS the orders made in the February 1st Ruling are attached as Schedule 1 to this Consultation Protocol;

WHEREAS Canada has endorsed the *United Nations Declaration on the Rights of Indigenous Peoples* ("UNDRIP") and has repeatedly confirmed that Canada is a full supporter of UNDRIP, without qualification;

WHEREAS the *United Nations Declaration on the Rights of Indigenous Peoples* ("UNDRIP"), applies to this Protocol, including but not limited to the following Articles: Articles 3 and 4, which declare that Indigenous peoples have the right of self-determination and self-government; Articles 2, 9, 15, 21 and 22, which provide that Indigenous peoples are to be treated equally and free from discrimination; Article 7(2), which provides that "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"; Article 8 (1), which says that "Indigenous peoples and individuals have the right not to be subjected to forced assimilation or destruction of their culture"; Article 19, which provides that "States shall consult and cooperate in good faith with the indigenous peoples concerned through their own representative institutions in order to obtain their free, prior and informed consent before adopting and implementing legislative or administrative measures that may affect them"; and Article 24(1), which provides that "Indigenous . . . individuals also have the right to access, without any discrimination, to all social and health services.";

WHEREAS Canada has committed to implementing the Calls to Action of the Truth and Reconciliation Commission (TRC), including Nos. 1 – 5 on child welfare, particularly No. 1 ii, which calls on the federal government to reduce the number of Aboriginal children in care by "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 ..." and No. 3 , which calls "upon all levels of government to fully implement Jordan's Principle";

WHEREAS, Canada has committed to Reconciliation with Indigenous Peoples and to renew the Nation-to-Nation relationship with First Nations, and to develop policies in partnership with First Nations based on the recognition of rights, respect, cooperation and partnerships;

AND WHEREAS, in accordance with the Order in paragraph 431 of the February 1st Ruling, Canada, the Complainants, the Interested Parties, and the Commission ("the Parties") have worked in partnership to develop this Consultation Protocol;

THEREFORE, the Parties agree as follows:

Purpose and Objectives

1. The purpose of this Consultation Protocol is to fulfill the Tribunal's Order in paragraph 431 of the February 1st Ruling, to develop a protocol to govern consultations that Canada has been ordered to engage in direct consultation "not only with the Commission, but also directly with the AFN, the Caring Society, the COO and the NAN on the orders made in this ruling, the *Decision* and its other rulings . . . to ensure that consultations are carried out in a manner consistent with the honour of the Crown and to eliminate the discrimination substantiated in the *Decision*".
2. The objectives of the parties in pursuing the consultations contemplated by this Protocol are as follows:
 - a. To promote mutual understanding, meaningful communication, transparency and cooperation amongst the parties, and to facilitate Canada's consultation with First Nations, FNCFS Agencies and other rights holders and stakeholders in a manner that is consistent with the honour of the Crown, while at the same time ensuring that the immediate and mid and long term relief measures are developed and implemented in an effective and cooperative manner.
 - b. To ensure that the knowledge, skills, interests and expertise of the respective complainants, interested parties, and the Commission, and their employees, officers and consultants are combined and focused on the project of eliminating Canada's systemic discrimination in the delivery of child and family service on reserves and in the Yukon, which includes as a first step analyzing the needs assessments completed by FNCFS Agencies, and doing a cost-analysis of the real needs of FNCFS Agencies.
 - c. To ensure that all the parties work in a cooperative fashion to assist Canada in ensuring that it ceases its discriminatory practices and reforms the FNCFS Program

and 1965 Agreement to reflect the findings in the *Decision*, and ceases applying its narrow definition of Jordan's Principle and takes measures to immediately implement the full meaning and scope of Jordan's Principle.

- d. To address what the Tribunal in paragraph 47 of the February 1st Ruling refers to as the "mass removal of children". As the Tribunal states: "There is urgency to act and prioritize the elimination of the removal of children from their families and communities".
- e. To ensure Canada eliminates those aspects of its funding formulas/models that fully fund apprehensions but underfund prevention, thereby creating a perverse incentive, which results in unnecessary apprehension of First Nations children from their families and communities.
- f. To ensure Canada develops an alternative system for funding child and family services, including prevention, intake and investigation, building repairs, legal fees, the child service purchase amount and small agency costs for First Nations children and families on-reserve and in the Yukon, based on actual needs which operates on the same basis as Canada's current funding practices for funding child welfare maintenance costs, that is, by fully reimbursing actual costs for these services, as determined by FNCFS Agencies to be in the best interests of the child and to develop and implement the methodology including an accountability framework in consultation with the Complainants, Commission and Interested Parties.
- g. To promote substantive equality for First Nations children, families and communities on reserves and in the Yukon in the delivery of child and family services, particularly in light of their higher level of needs because of historical disadvantages suffered by First Nations families, children and communities as a result of the legacy of colonialism and Indian Residential Schools.
- h. To eradicate Canada's systemic discrimination in the provision of child and family services for First Nations children, families and communities on reserves and in the Yukon, and to prevent it from reoccurring by addressing and changing systemic behaviors and patterns that led to the systemic discrimination, which was substantiated by the Tribunal.
- i. To ensure that Canada's administration of the FNCFS Program and 1965 Agreement is delivered in a culturally appropriate manner, and in line with the diversity and unique cultural, linguistic, historical and geographical needs and circumstances of First Nations across the country, particularly in northern and remote communities.

Principles and Parameters

3. The consultation contemplated by this Consultation Protocol shall be based on the following principles and parameters, which are acknowledged and accepted by all parties:
- a. As the Panel reiterated at paragraph 180 of the February 1st Ruling, "... the best interest of the child is the primary concern in decisions that affect children. . . ."
 - b. However, the Panel also noted "that removing children from their families as a first resort rather than a last resort was not in line with the best interests of the child. **This is an important finding that was meant to inform reform and immediate relief (see the *Decision* at paras 341-349).**"
 - c. The consultation must respect First Nations' right of to self-determination, reconciliation, and the renewal of the nation-to-nation relationship with the Crown. In this regard, stopping the removal of children from their Nations and the unnecessary removal from their families is essential for First Nation self-determination and for rebuilding self-sustaining communities.
 - d. This Consultation Protocol will be rooted in the honour of the Crown and upholding and promoting the rights of Indigenous children, applying all relevant provisions and principles from the *CHRA*, the *Convention on the Rights of the Child (including UNCRC General Comment 11)*, the *United Nations Declaration for the Rights of Indigenous Peoples*; and other applicable rights frameworks.
 - e. Canada is obligated and has sufficient authority under Canadian law to effect the changes to its child and family services policies and programs, which were ordered by the Tribunal in its Decision and Rulings, and need not wait for the provinces to act.
 - f. The consultation provided for in this Protocol is intended to complement and support, but shall not be a substitute for, the direct relationship between Canada and First Nations at the regional and community levels.
 - g. Canada acknowledges that it also has a relationship with FNCFS Agencies, and that effective implementation will require Canada to continue to work directly with them, to negotiate funding agreements and terms that reflect actual needs of First Nations children, youth and families.
 - h. As the Tribunal noted at paragraph 67 of the February 1st Ruling, "Nations are distinct and have distinct needs. A one-size fits all approach is not helpful and was found to be discriminatory in the *Decision*. This is why the Panel has previously ordered [Canada] to respond to specific needs while reforming and consulting with partners, Indigenous communities, Indigenous governments, FNCFS Agencies, provinces and

parties in this case.”

- i. At the same time, the Tribunal said at paragraph 55 of the February 1st Ruling: “... while Canada advances that it needs to consult with all First Nations’ communities, which in our view remains paramount for long term reform, the Panel does not think consultation prevents Canada from implementing immediate relief.”
- j. The Tribunal has indicated at paragraph 236 of the February 1st Ruling that the Orders in that Ruling and the consultations provided for herein, are subject to the following additional parameters, that is, the orders apply “Until such time as one of the options below occur:
 1. Nation (Indigenous)-to Nation (Canada) agreement respecting self-governance to provide its own child welfare services.
 2. Canada reaches an agreement that is Nation specific even if the Nation is not yet providing its own child welfare services and the agreement is more advantageous for the Indigenous Nation than the orders in this ruling.
 3. Reform is completed in accordance with best practices recommended by the experts including the NAC and the parties and interested parties, and Eligibility of reimbursements from prevention/least disruptive measures, building repairs, intake and investigations and legal fees services are no longer based on discriminatory funding formulas or programs.
 4. Evidence is brought by any party or interested party to the effect that readjustments of this order need to be made to overcome specific unforeseen challenges and is accepted by the Panel.”

Subject Areas of Consultation and Collaboration

4. The Tribunal has directed that the implementation of its Decision be done in three steps, namely: (1) immediate relief, (2) mid to long term relief and (3) compensation. Canada commits to consult in good faith with the Complainants, the Commission and Interested Parties on all the three steps, to the extent of their respective interests and mandates.
5. The scope and processes for the consultation will vary for the three steps. As a general rule, and as indicated by the Panel, at paragraph 177 of the February 1st Ruling: “It is inevitable, consultations need to be meaningful and broad, including rights holders, different Indigenous governance, Indigenous youth, the parties and experts. However, the parties and the Tribunal had valuable information to assist the immediate relief aspect which was meant to provide remedy quickly. This is why the Panel distinguished between immediate and long term relief.”

Consultations on Immediate Relief

6. As directed by the Tribunal, given the urgency of the immediate relief measures, the Parties shall focus consultations, as a priority, on implementing immediate relief measures identified in the Decision and in the Rulings, particularly those in the February 1st Ruling, attached as Schedule 1.
7. Canada agrees to engage in meaningful and good faith consultations with the other Parties respecting all the immediate relief orders issued by the Tribunal in the Decision and all of the Rulings, including the Orders in Schedule 1, and to report to the Tribunal according to the deadlines provided in the said Orders. Should the parties propose and the Tribunal agree to modifications to its Orders, this Consultation Protocol shall be updated accordingly. The orders and deadlines in Schedule 1 are summarized as follows:
 - **Needs Assessment and Cost Analysis** - Undertake a cost-analysis of the real needs of FNCFS Agencies, including prevention/least disruptive measures, intake and investigation, building repairs and legal fees related to child welfare, based on the needs assessments provided by FNCFS Agencies and other existing studies, to be completed and report to the Tribunal by **May 3rd, 2018**.
 - **New Funding System Based on Actual Needs** - To develop and implement an alternative system (including methodology and an accountability framework) for funding prevention/least disruptive measures, intake and investigation, legal fees, and building repairs services for First Nations children and families on-reserve and in the Yukon, to be based on actual needs and operate on the same basis as Canada's current funding practices for funding child welfare maintenance costs, that is, by fully reimbursing actual costs for these services, as determined by the FNCFS Agencies to be in the best interests of the child; to be completed by **April 2, 2018** and report back to the Panel by **May 3, 2018**.
 - **Reimbursement Based on Actual Costs Retroactive to January 26, 2016** - Canada to provide funding on actual costs for least disruptive measures/prevention, building repairs, intake and investigations and legal fees in child welfare to be reimbursed retroactive to January 26, 2016 by **April 2, 2018**.
 - **Child Service Purchase Amount** - To develop and implement an alternative system (including methodology and an accountability framework) for funding child service purchase amount services for First Nations children and families on-reserve and in the Yukon, based on actual needs, which operates on the same basis as Canada's current funding practices for funding child welfare maintenance costs, that is, by fully reimbursing actual costs for these services, as determined by the FNCFS Agencies to be in the best interests of the child, by **April 2, 2018** and report back to the Panel by **May 3, 2018**.

- **Child Service Purchase Amount Reimbursement Based on Actual Costs Retroactive to January 26, 2016** -- Canada to provide funding on actual costs for child service purchase amount in child welfare, to be reimbursed retroactive to January 26, 2016 by **April 2, 2018**.
- **Small First Nation Agencies Needs Assessment and Cost Analysis** - Undertake a cost-analysis of the real needs of small FNCFS Agencies, based on the needs assessments provided by FNCFS Agencies and other existing studies, to be completed and report to the Tribunal by **May 3rd, 2018**.
- **New Funding System Based on Actual Needs for Small First Nation Agencies** - To develop and implement an alternative system (including methodology and an accountability framework) for funding small FNCFS Agencies, to be based on actual needs and operate on the same basis as Canada's current funding practices for funding child welfare maintenance costs, that is, by fully reimbursing actual costs for these services, as determined by the FNCFS Agencies to be in the best interests of the child; to be completed by **April 2, 2018** and report back to the Panel by **May 3, 2018**.
- **Small First Nations Agencies Reimbursement Based on Actual Costs Retroactive to January 26, 2016** -- Canada to provide funding on actual costs for small FNCFS Agencies, to be reimbursed retroactive to January 26, 2016 by **April 2, 2018**.
- **Reliable Data Collection, Analysis and Reporting Methodology** -- Canada, to provide by **March 5, 2018** a reliable data collection, analysis and reporting methodology, as well as ethical research guidelines respecting Indigenous peoples that include protection of Indigenous intellectual property for approval by the Panel upon further submissions by the parties, to guide all data collection process resulting from all the orders for actual costs in this ruling.
- **Stop Reallocation of Funds** -- Canada to stop unnecessarily reallocating funds from other social programs, especially housing, if it has the adverse effect to lead to apprehensions of children or other negative impacts outlined in the *Decision* by **February 15, 2018**.
- **Immediate Relief Investments to have no Adverse Impacts** -- Canada to ensure, that any immediate relief investment does not adversely impact indigenous children, their families and communities by **February 15, 2018**.
- **Evaluate Social Programs** -- Canada to evaluate all its Social Programs for Indigenous peoples by **April 2, 2018**, in order to determine and ensure any reallocation is necessary and does not adversely impact First Nation children and families.

- **Analyze Mental Health Programs to Identify Gaps** -- Canada to analyze all its programs that fund mental health for First Nations on reserve and in the Yukon and clearly establish which ones fund what in order to identify gaps in services to First Nations children by **April 2, 2018**.
 - **Fund Actual Costs for Mental Health Services in Ontario** – Gaps in mental health services available to First Nations children in Ontario were recognized as a discriminatory effect of the *1965 Agreement*. Canada was ordered to fund actual costs of mental health for services to First Nations children and youth from Ontario retroactively to January 26, 2016 by February 15, 2018, or within 15 business days after the receipt of documentation of expenses.
 - **Fund Actual Costs for Band Representatives in Ontario** – Canada was ordered to fund Band Representative Services for Ontario First Nations, Tribal Councils, or FNCFS Agencies at the actual cost of providing those services retroactively to January 26, 2016 by February 15, 2018 or within 15 business days after receipt of the documentation of expenses and until such time as studies have been completed or until a further order of the Panel.
 - **Assess FNCFS Agencies Deficits** -- Canada to identify which FNCFS Agencies including the NAN agencies have child welfare or health services related deficits, and assess those deficits, and report to the Tribunal by **May 3, 2018**.
 - **Communication of Immediate Relief Orders to FNCFS Agencies** -- Canada to communicate clearly to FNCFS Agencies any immediate relief ordered by the Panel in order to ensure that these measures are implemented fully, properly, and in a manner to reduce the adverse impacts on First Nations children by **March 15, 2018**.
8. The Parties agree to engage in good faith consultations with Canada on immediate relief measures, to the extent of their respective interests, mandates and constituencies. Without limiting the generality of the foregoing:
- a. The Caring Society will promote the interests of First Nations families and children as well as FNCFS Agencies;
 - b. AFN will represent First Nations, their citizens and institution's interests nationally,
 - c. COO will advocate for the interests of First Nations in Ontario;
 - d. NAN will represent the interests of First Nations, FNCFS Agencies and families and children within the NAN territory; and
 - e. The Commission will represent the public interest.
9. The Complainants, Interested Parties and the Commission each agree to work with their

respective constituencies to facilitate consultations on the development and implementation of immediate relief measures, to the extent possible given the urgency of these measures.

10. The other Parties will jointly review Canada's proposed policy changes, strategies, standards and communication materials to help ensure that Canada complies with the Tribunal's Decision and Rulings, and that the policies are in keeping with the best interests of the child under the United Nations Convention on the Rights of the Child, including as interpreted by the UN Committee on the Rights of the Child in General Comment #11, and the United Nations *Declaration on the Rights of Indigenous Peoples*. Alternatively, the Parties can offer alternatives where Canada's proposed policies, strategies, standards and/or communication materials fall short of compliance or meeting the best interests of First Nations children and their families.
11. The Complainants and Interested Parties will, where appropriate, jointly develop strategies to assist Canada in its implementation of the Tribunal's Decision and Rulings and Canada acknowledges the Complainants' and Interested Parties' expertise in this regard.
12. Canada accepts that it has responsibility for the full implementation of the Tribunal's *Decision*, the further existing compliance orders, and the February 1st Ruling.
13. The parties shall establish a **Consultation Committee**:
 - a. The role of the Committee shall be to oversee the development and implementation of immediate relief measures, including those under Jordan's Principle, and its role shall be extended to mid and long term relief measures unless otherwise agreed by the parties,
 - b. The Committee shall be composed of one (two) senior official(s) named by each of the parties, and each party shall be entitled to technical support including legal counsel,
 - c. Committee representatives will report and seek authority, as appropriate, from their respective political leaders,
 - d. The Committee shall be co-chaired by the Complainants,
 - e. The Committee shall develop its own procedures, and
 - f. Where the parties are unable to reach agreement on any matter, the Committee may consider engaging a mediator to assist in resolving the matter, or any party may refer the matter to the Tribunal.
14. As required, but at least once per year, the Minister of Indigenous Services, the National Chief of the AFN, the Executive Director of the Caring Society, the Chief Commissioner of the Commission, the Regional Chief of the COO, and the Grand Chief of NAN will meet to discuss high level issues related to this Consultation Protocol. The annual meeting will be held on a date set after consultation among the parties. Additional meetings will be

scheduled if all parties agree such a meeting is required. Meetings will be scheduled with not less than fourteen days' notice and subject to the availability of all parties.

15. Canada agrees to fund the work envisioned by this Consultation Protocol, as outlined in an agreed upon workplan, and with the exception of the participation of the Commission. Without limiting the generality of the foregoing, this will include the costs of the Committee, Committee meetings, preparing for meetings, memos, opinions, advices and all communications. It will also include the consultation-related fees and disbursements of experts and legal counsel (excluding litigation), and meetings and consultations of each of the Parties, with the exception of the costs of the Commission. The Committee shall establish a work-plan and budget at the outset.
16. Canada agrees to provide all information necessary for the Committee to do its work in a timely fashion, except where such information is explicitly and clearly protected by operation of law. In such cases, Canada will provide the requestor a detailed explanation in writing of its reasons for withholding the information within 5 business days of the request of withholding of the information. Where there are legal concerns about the provision of information, the parties will work to find solutions so that sufficient information may be shared.

Building Awareness and Training

17. Canada acknowledges that building awareness and training will be needed to address the systemic discrimination identified in the Decision and Rulings of the Tribunal, and that this extends to the consultations envisioned by this Protocol. Accordingly, upon signing this Protocol, the parties will work together to develop a plan to build awareness and training for all of Canada's employees and contractors who are or who will foreseeably be involved in the implementation of the protocol. Canada will provide a copy of the Protocol, as well as the Caring Society's information sheet, dated February 1, 2018, to all employees and contractors, and confirm with them that they have read and understood it.

Consultations on Mid to Long Term Relief

18. The Parties acknowledge that they have an obligation to engage in consultations on mid and long term relief, and to enter into a Protocol to guide these consultations. However, the Tribunal has not yet ruled on mid to long term relief issues, so a final Protocol on mid to long term relief may be premature. Nevertheless, the parties agree that this Protocol may be amended to apply to mid and long term relief, as well as compensation issues. The purpose and objectives in this Protocol, as well as the principles and parameters shall apply equally to mid and long term relief.
19. However, the scope of the consultations and the processes envisioned for the mid to long term relief shall be significantly different. Given the nature of the measures, the

consultations will be much broader. With regard to mid to long term relief, the Panel at paragraph 177 of its February 1st Ruling said: "It is inevitable, consultations need to be meaningful and broad, including rights holders, different Indigenous governance, Indigenous youth, the parties and experts."

20. Moreover, there is an expectation that the Parties will discuss the role of existing committees, including the National Advisory Committee and Regional Tripartite/Technical Tables in the carriage of mid to long term reforms. At paragraphs 176 and 177 of the February 1st Ruling, in response to a comment by Minister Bennett about reconstituting the NAC and the Regional Committees, the Tribunal agreed with the minister for the "long term aspect" of the reform process. In the meantime, the Parties will develop approaches, for the Tribunal's consideration, to address and resolve long-term relief requested but not yet ordered by the Tribunal such as, but not limited to, compensation.
21. The Parties, working with their respective constituencies as appropriate, will jointly develop strategies to address and implement mid-term and long-term reforms to the FNCFS Program and *1965 Agreement*, consistent with human rights, access to health, community capacity building, social development, First Nations' jurisdiction, treaty relationships, and the protection and retention of culture, language, customs and traditions in the First Nations context. This work will complement and not replace efforts towards mid-term and long-term reforms led by the NAC, Regional Committees, and First Nations.

Capacity and Funding

22. Canada will provide the Complainants and Interested Parties with sufficient and adequate funding to ensure that their organizations can fully participate in the implementation of the Consultation Protocol, and in the consultation process itself, which includes the involvement of their respective legal counsel.
23. Canada will also make sufficient and adequate funding available to retain qualified experts or consultants to undertake any research, studies or assessment required to support the full implementation of the orders. Canada will consult the parties and pay for persons who may be deemed experts once it is agreed upon by all parties. Canada will fund parties to retain proposed experts where there is agreement between all parties that one or more of the other parties are better placed to enter into a specific needed contract. Prior to retaining a proposed expert, Canada shall disclose to the parties, the proposed expert's CV, proposal and Canada's proposed statement of work. No one will be considered an expert unless all parties agree.
24. Canada will provide the Complainants and Interested Parties with a yearly budget forecast on an annual basis setting out the allotment of funding for the coming year, based on an agreed upon workplan.

Term, Termination and Amendment

25. Consistent with the Order of the Tribunal, this Consultation Protocol shall remain in force until the immediate and mid to long term remedies are completely implemented, unless it is replaced by mutual agreement or the Parties or terminated earlier by determination of the Tribunal. It may be amended in writing at any time by mutual consent of the parties, and the amended version will be reported to the Tribunal.

26. The Protocol may be amended by agreement of the Parties provided such amendment is produced in writing.

Non-derogation and Signing

27. The Parties agree that nothing in this Agreement will be construed as abrogating, limiting or derogating in any way from First Nation's constitutionally protected Aboriginal and treaty rights. For greater certainty, this Agreement is not intended and shall not be construed to create, define, recognize, affirm, suspend, limit, deny, derogate or abrogate any Aboriginal or treaty rights of First Nation which may exist or be acquired in the future within the meaning of sections 25 and 35 of the *Constitution Act, 1982*.

28. The Protocol may be signed in counter-parts. If signed in counter-parts, the Protocol becomes effective on the date of the last signature.

THIS CONSULTATION PROTOCOL HAS BEEN EXECUTED BY REPRESENTATIVES OF CANADA, AFN, CARING SOCIETY, COO, NAN AND THE CHRC ON THE 2ND DAY OF MARCH, 2018.

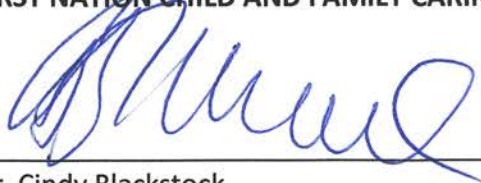
CANADA


The Honourable Jane Philpott

ASSEMBLY OF FIRST NATIONS


National Chief Perry Bellegarde

FIRST NATION CHILD AND FAMILY CARING SOCIETY OF CANADA



Dr. Cindy Blackstock

CHIEFS OF ONTARIO



Regional Chief Isadore Day

NISHNAWBE ASKI NATION



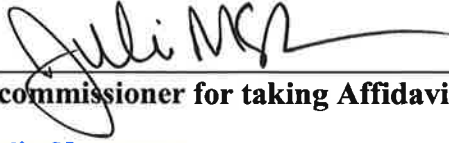
Grand Chief Alvin Fiddler

CANADIAN HUMAN RIGHTS COMMISSION



Per: Marie-Claude Landry
Chief Commissioner

**This is Exhibit "J" referred to in the
Affidavit of Jonathan Thompson,
Affirmed before me, on this 8th day of
November, 2019.**

A handwritten signature in black ink, appearing to read "Julie McGregor", written over a horizontal line.

A commissioner for taking Affidavits

**Julie McGregor
Barrister & Solicitor
LSO# 49076P**

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AFN Secures Major Victory and Compensation for First Nations Children and Families at Human Rights Tribunal

on September 6, 2019

September 6, 2019

(Ottawa, ON): Assembly of First Nations (AFN) National Chief Perry Bellegarde said today's ruling by the Canadian Human Rights Tribunal (CHRT) is a major victory for fairness and justice that must be respected by Canada. The decision secures compensation for First Nations children unnecessarily apprehended and those denied essential services.

“The AFN will always stand up and fight for First Nations children and families. This ruling is another important victory,” said AFN National Chief Bellegarde. “This is about our children, their safety, the right to be with their families, kin and communities and their right to quality of care. No government should be fighting these fundamental values. We have to work together to give life to this ruling, just as we worked together to secure First Nations control over child welfare with the passing of Bill C-92 in the last session of Parliament. This is about forging a brighter future for First Nations children, and that’s good for all Canadians.”

The Canadian Human Rights Tribunal decision follows a hearing on April 25 and 26, 2019. The CHRT agreed with the AFN’s submissions and has ordered Canada to provide compensation of up to \$40,000 to:

- all First Nation children who were unnecessarily apprehended on or after January 1, 2006
- all parents or grandparents of children unnecessarily apprehended on or after January 1, 2006
- all children denied an essential service (Jordan’s Principle) between December 12, 2007 and November 2, 2017

It is estimated that approximately 54,000 children could benefit from this ruling. Individuals can opt out of the compensation scheme, and a process is to be established to provide compensation for minors upon reaching the age of majority. The CHRT has ordered Canada to begin discussions with the AFN and the First Nations Child and Family Caring Society, partners in the joint complaint at the CHRT, to establish an independent process for distributing compensation to the children and parents or grandparents covered by this decision.

AFN Manitoba Regional Chief Kevin Hart, who oversees the Child Welfare portfolio for AFN, said Canada’s response to the ruling will indicate whether or not there is commitment to reconciliation and justice for First Nations children and families: “We are urging Canada not to seek a judicial review of this ruling, and to work with us to implement it. The CHRT has issued seven compliance orders against Canada since its original ruling in January 2016. It is time for Canada to stop obstructing fairness and justice for First Nation children and provide them the care and opportunity they deserve. Today is a good day for First Nations children and we will continue to protect and stand up for them.”

Bill C-92, *An Act respecting First Nations, Inuit and Métis children, youth and families*, affirms First Nations jurisdiction over First Nations child welfare and creates space for First Nations laws and practices regarding their families. Jordan’s Principle is a child-first principle ensuring First Nations children get necessary services when they need them, and that these services are not denied because of jurisdictional disputes. It is named in memory of Jordan River Anderson, a First Nations child from the Norway House Cree Nation in Manitoba.

The AFN is the national organization representing First Nations citizens in Canada. Follow AFN on

Twitter @AFN_Updates.

Learn More (<https://www.afn.ca/policy-sectors/social-secretariat/jordans-principle/#CHRT39>)

For more information please contact:

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📁 Latest News (<https://www.afn.ca/category/news-media/latest-news/>), Social Development (<https://www.afn.ca/category/policy-sectors/social-secretariat/>)

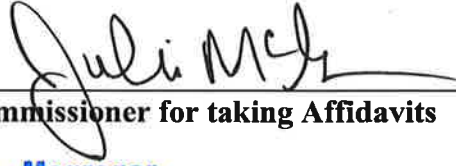
◀ Previous (<https://www.afn.ca/2019/09/04/assembly-of-first-nations-convenes-its-first-ever-national-cannabis->
<https://www.afn.ca/2019/09/09/the-afn-launches-honouring-promises-2019-election-priorities-for-first-nations-and-canada/>)

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Q

**This is Exhibit "K" referred to in the
Affidavit of Jonathan Thompson,
Affirmed before me, on this 8th day of
November, 2019.**

A handwritten signature in black ink, appearing to read "Julie McGregor", written over a horizontal line.

A commissioner for taking Affidavits

**Julie McGregor
Barrister & Solicitor
LSO# 49076P**



**Consultation Committee on Child Welfare
Assembly of First Nations (AFN)
55 Metcalfe, Ottawa, ON (16th Floor Boardroom)
September 9, 2019 (1:00pm –3:30pm)**

DRAFT RECORD OF DECISIONS

In Attendance:

Mr. Elder Thomas Louttit
Dr. Cindy Blackstock, Caring Society, Co-Chair
Mr. Jonathan Thompson, Assembly of First Nations, Co-Chair
Mr. Martin Orr, Assembly of First Nations
Dr. Valerie Gideon, PhD, Senior Assistant Deputy Minister (FNIHB-ISC)
Ms. Joanne Wilkinson, Assistant Deputy Minister, Children & Families Branch (ISC)
Ms. Lisa Legault (ISC)
Ms. Georgia Livadiotakis, Policy Advisor (ISC)
Mr. Rob Frater, Q.C., Chief General Counsel, Department of Justice
Mr. Bobby Narcisse, Director of Social Services, Nishnawbe Aski Nation (NAN)
Ms. Molly Churchill, Legal Counsel, Nishnawbe Aski Nation (NAN)
Ms. Maggie Wente, Counsel for Chiefs of Ontario
Mr. David Taylor, Legal Counsel, Caring Society
Ms. Sarah Clarke, Legal Counsel, Caring Society
Mr. Brian Smith, Canadian Human Rights Commission
Ms. Jessica Walsh, Canadian Human Rights Commission
Ms. Stephanie Wellman, Assembly of First Nations
Mr. Stuart Wuttke, Legal Counsel, Assembly of First Nations
Ms. Kara Kennedy, Assembly of First Nations
Ms. Lorna Martin, Assembly of First Nations

Via Teleconference:

Ms. Ruby Miller, Director of Social Services (COO)

1. Opening Remarks and Introductions

Prior to officially calling the meeting to order, Elder Thomas Louttit offered an opening prayer. Co-Chair Thompson welcomed members and ISC observers in attendance to the CCCW meeting.

2. Review of Agenda (September 9, 2019)

An overview of the agenda was provided. Tabs containing documents corresponding to each agenda item were included in the meeting package. Following ISC updates, it was requested and agreed to discuss prevention services vs. least disruptive measures, obtain an update on IFSD, and deliberate on the compensation order and CWJI.

3. Review of Record of Decisions (April 2, 2019 and June 17, 2019)

The April 2nd ROD are now finalized. The Chair dispensed with the review of the June 17th ROD. CCCW members were requested to forward editorial comments on the ROD to Martin's attention for final approval at the next meeting.

4. ISC Updates

Multi-Year Plans: As a new element within the Funding Agreement template, the draft Program Directive has introduced a multi-year plan. Substituting the 5-year business plan, the multi-year plan is intended to assist FNCFS agencies and communities to connect in the delivery of prevention services, support them in developing a planned approach to achieving long-term outcomes and ensure essential elements included in the Directive are covered. Agencies who have already created multi-year plans are under no obligation to change their existing plans.

In consideration of IFSD's ongoing work to produce evidence-based and measurable outcomes, the CCCW deemed this initiative to be premature. Consequently, ISC was asked to reconsider the timeframe until such time in order to allow communities to work on the integration of these outcomes, transition from the existing reporting requirements and develop a comprehensive plan. In addition, ISC was requested to consider developing an annual framework indicating how outcomes will be measured, as well as explicitly convey these are not evidence-based and furthermore, funding cannot be determined on that basis.

2019-2020 Recipient Guide: Terminology in the Draft Recipient Guide was realigned whereby most substantive changes pertained to the transfer of information, providing additional information related to the Terms and Conditions, and provide clarity on advances, claims submission for advances as opposed to retroactive claims.

Comments by CCCW members indicated the need for the Recipient Guide to reflect a wider scope of what is considered 'prevention' and to include the definition delineated by the Tribunal in 2016.

Action Item: *ADM Wilkinson to forward the Track Changes version document by the end of the following week and CCCW members were petitioned to forward additional comments to her attention by September 20th*

CHRT Claims Tracking: Amendments to the Claims Form were applied to include information not available in the weekly report. ISC will consider developing a monthly report based on the new form and is receptive to suggestions for improvements.

IFSD: ISC confirmed work is underway and the data request will be fulfilled next week.

CWJI in relation to C-92: Despite its limitations, CWJI is the vehicle by which work associated with C-92 would be funded, and ISC is exploring other federal sources of funds that can also be employed to support additional communities.

Action Items: *ADM Wilkinson was requested to forward exact outstanding figures of what has not been committed from the \$80M, provide timeframes and further expand on the funding details for ongoing work. In addition, she was requested to inform the CCCW via email prior to the next meeting whether reimbursement to the Saskatoon Tribal Council will be made*

Compensation Order: Canada was urged to reflect on the following matters:

- Examine each class of victims and identify available data sources to aid in the identification of those victims, data gaps along with the reliability of that data (*e.g.: maintenance reports*)
- Map out existing data on retroactive cases
- Investigate cost issues related to registration of children and inquire into the status of the class action
- Provide assurances that any legal fees related to forming trusts for children in agencies' care will be covered and approved
- Canada to convey its position on the section of the Tribunal order urging that the compensation order not result in a reduction of social assistance benefits
- Expeditiously facilitate a conference call between the CCCW and provincial and territorial representatives to discuss the location of the data and pinpoint available information on families/children in care covered under Jordan's Principle during the intervening years when the Order was not in effect
- Provide assurances that through the CCCW, advice received from former youth in care and First Nation youth on the distribution of these funds will be compensated (*specifically the National Youth in Care Network A7G*)
- Identify mechanisms to accommodate families without bank accounts
- Canada was reminded of its obligation to exert the Reallocation Order by the Tribunal and was requested to provide assurances that none of the funds will be removed from programs earmarked for FN children and families
- Notwithstanding that the Order was initiated in 2006, children that have been denied services prior to that date and entered into care on the day should become eligible for compensation

Action Items: *ISC to follow up on the above requests and report back to the CCCW. In addition, Dr. Gideon was requested to forward copies of communications broadcasted to government personnel related to the Order released Friday*

5. Caring Society (Updates)

In response to Dr. Blackstock's inquiry to participate as an observer on the CFS Appeals Committee, ADM Wilkinson conveyed that the position of the Department is this is not currently feasible due to the fact that decisions are made by public servants in accordance with the Terms and Conditions. The official response will be re-submitted to the CCCW.

Jordan's Principle Concerns Document: A couple of transversal issues with CFS and Jordan's Principle arose. Firstly, the ostensible request from the Department for additional professional endorsements subsequent to a letter requesting service submitted by a licensed and certified entity. Effectively this amounts to additional administrative procedures resulting in decisions overridden by a third party that has not had the benefit of examining a child may not even be fully competent in that domain. Consequently, further rigor is being sought when a request is being submitted for additional professional notices.

The other issue relates to the lapsing of timeframes by the Department for addressing urgent Jordan's Principle cases. On that point, Dr. Gideon confirmed that while the escalated volume and demand has become a barrier, consequences for non-compliance with timeframes are in place and the Department is continuously striving to meet those deadlines.

C-92 Regulations: To date, no discussions on governance configuration has taken place and there's been no pre-conceived notion on the CCCW and the NAC's role in the formulation of the regulation. ISC is open to recommendations and is currently working with other representative organizations to determine the optimal way to frame the governance structure to ensure issues are appropriately dealt with at the regional level.

CHRT Funding Claims: NAN Director of Social Services Bobby Narcisse alluded to several ongoing frustrations and challenges experienced at the community level, mainly related to the interpretation of the CHRT Order by the Ontario regions, band rep workplans, accessing band rep funding, reimbursements, the definition of children at risk and prevention etc.

6. Jordan's Principle Update

Implementing CHRT Rulings: A step-by-step approach on actions to be undertaken by ISC related to the CHRT orders was presented on August 29th at the JPOC meeting.

Letter to CFS agencies: The purpose of the is to specify to CFS agencies the opportunity to access Jordan's Principle. As suggested, language around the Compensation Order and on Bill S-3 will be reflected.

Action Item: *CCCW members were requested to submit feedback to Dr. Gideon's attention two weeks following receipt of the document*

Clinical Case Conferencing: The last version of the Policy dated April 2nd incorporated feedback received by the Caring Society. With AFN's assistance, a process to consult more associations was streamlined and a proposal to undertake the engagement process was tendered. Through continuous collaborative work with AFN, the next steps will consist of scheduling time and extending invitations to the 21 professional associations identified. A separate meeting in the areas of education and health social funds will be held to gather feedback on the Clinical Case Conferencing Policy and Procedures and obtain input on the professional scope of practice. In addition, a short reference document related to the most commonly received requests has been developed for focal points. A recommendation was put forth to include an override statement indicating that in the event professionals within the community are unavailable, in order to approve a request for aid/services, the Department is prepared to cover travel expenses in order that children may receive assessments.

Service Coordinator Fund: The amount of available funding in regional offices was increased from \$23M to \$40M. Several options for the increased levels were presented to the JPAT. The decision was made to pursue with the 3rd option, which places greater emphasis on the number of eligible children and less on the number of requests. Once all the data has been compiled and analyzed, the objective will be to focus effort towards refining the formula.

Staff Training: The Expert Advisory Committee on policy lens training is scheduled to meet at the end of the month. An update was forwarded to the members on July 25th, during which time the survey was condensed and revamped to include comments from Dr. Bombay and the HR Communication Department, and focus groups were conducted during the summer to seek feedback on the survey questions. Results of this exercise along with the draft mandatory training policy were presented last week at the Sr. management and departmental level with ADMs and deputies. Also shared was a draft 'Children Policy Lens' document based on safeguarding the best interest of the child. Learning materials are being developed. To ensure full compliance, Dr. Gideon will be collaborating with the HR Department to develop a tracking mechanism around the completion of the training.

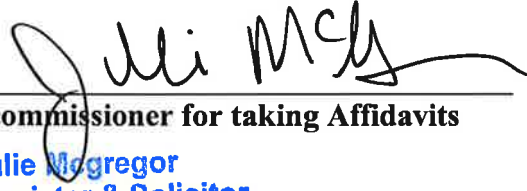
7. Closing Remarks / Next meeting date

The next CCCW meeting was tentatively scheduled for November 8th and October 22-23 dates were slated for the next NAC meeting.

Meeting Adjournment

Elder Thomas Louttit closed the meeting with a final prayer. The CCCW meeting adjourned at 3:20 p.m.

**This is Exhibit "L" referred to in the
Affidavit of Jonathan Thompson,
Affirmed before me, on this 8th day of
November, 2019.**

A handwritten signature in black ink, appearing to read "Julie McGregor", written over a horizontal line.

A commissioner for taking Affidavits

**Julie McGregor
Barrister & Solicitor
LSO# 49076P**

Assembly of First Nations

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October 24, 2019

Via Email: Robert.Frater@justice.gc.ca

Mr. Robert Frater, Q.C.
Department of Justice Canada
National Litigation Sector
500-50 O'Connor Street
Ottawa, ON K1A 0H8

Dear Mr. Frater:

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

Further to the above-noted matter and with respect to the upcoming case management conference, please be advised that the AFN will be opposing Canada's motion for a stay of the Panel's Decision, 2019 CHRT 35, issued on September 6, 2019 ("the Decision"). But rather than litigating this matter, we strongly urge Canada to immediately engage in discussions with AFN and the Caring Society, in consultation with the Commission and other parties, to develop options for a process to distribute the compensation to the victims/survivors.

It is our understanding that Canada does not take issue with the need to pay compensation. Indeed, the Prime Minister has said throughout the campaign and repeated in his news conference yesterday that Canada agrees with the need to pay compensation to First Nation child welfare victims. From your motion materials, it would appear that your most pressing concern is the impending December 10, 2019, date given by the Panel, for Canada, AFN and the Caring Society to report back to the Tribunal on "propositions", once we have had the opportunity to engage in discussions on options for a process for the distribution of compensation to victims/survivors.

To be clear, the Panel made no final determination on the process for compensation in the decision. It simply ordered Canada to engage in discussions with AFN and the Caring Society and directed all of us to report back. The concern with the December 10th deadline is one which is self-inflicted by Canada as a result of its failure to engage in

meaningful discussions with us. Canada should not be able to obtain a stay in such circumstances. The AFN takes the position that Canada ought to have engaged in such discussions from the outset of the order and that the election is no excuse for defying a Tribunal order. Nevertheless, AFN is prepared overlook this if Canada takes immediate steps to begin the engagement in good faith, and if after such discussions, we need more time, AFN would be prepared to return to the Tribunal to ask for more time.

In the decision, at paragraph 269, the Panel recognized the need for a culturally safe process to locate the victims and survivors referred to in the decision, to ensure one is created that protects their rights and privacy. The Panel also recognized in the decision that certain means currently exist to assist locating victims and survivors, and that the AFN and Caring Society are ready, willing and able to assist in this regard. It is in the interests of all parties, especially the victims/survivors, that we take a cooperative approach in the distribution of compensation.

We would appreciate your earliest response and want you to know that we will be providing a copy of this correspondence to Justice Favel and all parties at the case management conference.

Sincerely,



Stuart Wuttke
General Counsel

Cc: Jonathan Tarlton, Patricia MacPhee, Kelly Peck, Max Binnie and Tara DiBenedetto
Counsel for the Respondent, Attorney General of Canada

David Taylor and Sarah Clarke
Counsel for the Co-Complainant, First Nations Child and Family Caring Society of Canada

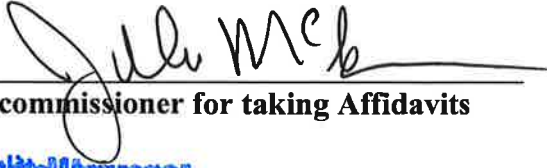
Brian Smith and Jessica Walsh
Counsel for the Canadian Human Rights Commission

Julian Falconer and Molly Churchill
Counsel for the Interested Party, Nishnawbe Aski Nation

Maggie Wente and Sinead Dearman
Counsel for the Interested Party, Chiefs of Ontario

Justin Safayeni and Ben Kates
Counsel for the Interested Party, Amnesty International

**This is Exhibit "M" referred to in the
Affidavit of Jonathan Thompson,
Affirmed before me, on this 8th day of
November, 2019.**

A handwritten signature in black ink, appearing to read "Julie McGregor", written over a horizontal line.

A commissioner for taking Affidavits

**Julie McGregor
Barister & Solicitor
LSO#49076P**



[Home](#) > [Indigenous Services Canada](#) > [Social programs](#)

> [First Nations Child and Family Services](#)

> [Canada's actions since the January 2016 CHRT decision](#)

The Government of Canada's assessment of the Canadian Human Rights Tribunal's ruling on compensation

On September 6, 2019, a Canadian Human Rights Tribunal (CHRT) ruling was released awarding compensation to First Nations children living on reserve and in the Yukon, who were:

- unnecessarily removed from their homes, family and communities
- necessarily removed from their homes, families and communities and placed in care outside of their families and communities
- denied essential services and placed in care outside of their homes in order to receive those essential services during the period December 12, 2007 to November 2, 2017
- not removed from their homes, but who were denied essential services, or who experienced delay in the provision of such services during the period December 12, 2007 to November 2, 2017

The CHRT also awarded compensation to the caregiving parents or grandparents of those children. However, parents or grandparents who abused children are not eligible to get compensation.

According to the ruling, discussions between the Government of Canada, the Assembly of First Nations and the First Nations Child and Family Caring Society are needed to determine the process for distributing the compensation to the victims. The CHRT, after hearing from the parties by December 10, 2019 would then make a determination on the appropriate process to identify victims and to distribute compensation. It would also

continue to oversee the process until it is satisfied that the compensation has been addressed.

This is a significant ruling that raises important questions and considerations, such as who is to be compensated, the role of the CHRT, the impact on standing CHRT decisions, significant dedicated resources and other issues.

It is from that perspective that the government filed a judicial review and a stay on October 4, 2019.

Facts and figures

Indigenous Services Canada supports First Nations children, their families and communities, and has been addressing injustices identified by the Tribunal.

Investments and actions taken in recent years include:

1. From July 2016 to August 31, 2019 more than 358,000 products, services and supports were approved for First Nations children under Jordan's Principle. This included a review of past denied requests under Jordan's Principle and reimbursements for expenses incurred by families since April 2007.
2. Implementation of the orders issued since 2016 and prior to September 2019 included significantly increased investments for child and family services, nearly doubling the program's budget to \$1.2 billion annually.
3. The enactment of the *Act respecting First Nations, Inuit and Métis children, youth and families*, which will come into force on January 1, 2020, recognizes the jurisdiction of Indigenous peoples in relation to child and family services and provides a framework Indigenous peoples can use to exercise jurisdiction at a pace they choose. Provinces and territories will be able to work with Indigenous governing bodies and the

department towards coordination agreements related to the exercise of jurisdiction by Indigenous groups over child and family services.

Through the act, national principles such as the best interests of the child, cultural continuity, and substantive equality have been established to help guide the provision of Indigenous child and family services. The principles established in the act represent minimum standards. Nothing precludes Indigenous groups or communities, as well as provincial and territorial governments, from offering greater protection through their child and family services legislation.

What you need to know

Does the stay and judicial review impact Indigenous Services Canada (ISC)'s day-to-day operations such as paying on actuals, evaluating claims?

ISC continues to implement previous rulings from the CHRT, including paying actual costs of First Nations child and family services agencies, including for prevention, and determining requests submitted to Jordan's Principle within the ordered timeframes.

Is the Government expecting additional rulings from the CHRT?

The CHRT is expected to issue further rulings regarding:

- compensation for small agencies
- major capital
- the definition of First Nations child for the purposes of Jordan's Principle
- ISC's ability to establish deadlines for band representative services

What is ISC's record on addressing the orders issued since 2016 and prior to September 2019?

Jordan's Principle

- Jordan's Principle is an ongoing legal obligation, which Canada will

continue to uphold

- Jordan's Principle is available to all First Nations children, anywhere in Canada, including those in care
- Jordan's Principle makes sure all First Nations children can access the products, services and supports they need, when they need them. It can help with a wide range of health, social and educational needs
- From July 2016 to August 31, 2019 more than 358,000 products, services and supports were approved for First Nations children under Jordan's Principle. This includes mental health supports, medical equipment, speech therapy, educational supports, and more
- Information about Jordan's Principle, how to submit a request and how to contact a regional representative is available at [Jordan's Principle](#)

Child and family services reform

- The enactment of *An Act respecting First Nations, Inuit and Métis children, youth and families*, which will come into force on January 1, 2020, affirms the jurisdiction of Indigenous peoples in relation to child and family services and provides a framework Indigenous peoples can use to exercise jurisdiction at a pace they choose
- An Emergency Meeting on First Nations, Inuit and Métis Nation Child and Family Services was held in January 2018 with Indigenous partners, provincial and territorial ministers, youth representatives (including youth with lived experience), experts and advocates
 - Canada committed to [6 points of action](#) to reform First Nations, Inuit and Métis Nation child and family services
- The systemic remedies previously ordered by the CHRT, between 2016 and prior to September 6, 2019, are being fully implemented to ensure that First Nations children, families and communities have access to essential services and supports required
- ISC has nearly doubled the First Nations Child and Family services

budget since 2016 from \$676 million to \$1.2 billion annually

- Budget 2018 provided an additional \$1.4 billion over 6 years, starting in 2017 to 2018, to address funding pressures facing First Nations Child And Family Services agencies, while also increasing prevention resources for communities so that children are safe and families can stay together

Related links

- [Reducing the number of Indigenous children in care](#)
- [Jordan's Principle](#)
- [First Nations Child and Family Services](#)
- [Definition of Jordan's Principle from the Canadian Human Rights Tribunal](#)

Date modified: 2019-10-04

**This is Exhibit "N" referred to in the
Affidavit of Jonathan Thompson,
Affirmed before me, on this 8th day of
November, 2019.**

A handwritten signature in black ink, appearing to read "Julie McGregor", written over a horizontal line.

A commissioner for taking Affidavits

**Julie McGregor
Barrister & Solicitor
LSO# 49076P**



Seamus O'Regan  @SeamusORegan · 21m

The CHRT ruling touches on issues of great importance to our government. We agree that "what has been lost cannot be recovered".

We agree with many of the findings of the CHRT including the recognition of discrimination and mistreatment and the need for compensation.

 2  4  8



Seamus O'Regan  @SeamusORegan · 21m

Furthermore, we agree that compensation should be part of the healing process for those who have experienced significant wrongs – that's exactly why our Government moved forward on resolving similar issues including the Sixties Scoop and Day School settlements.

 2  2  5



Seamus O'Regan  @SeamusORegan · 21m

The recent CHRT ruling is significant and raises important questions and considerations. In order to give us both clarity on the ruling and time to have these conversations with our partners, which are not possible during an election, we are seeking a judicial review and stay.

 2  2  5



Seamus O'Regan  @SeamusORegan · 21m

We believe that collaboration, rather than litigation, is the best way to right historical wrongs and advance reconciliation with Indigenous peoples, and the Government has committed to engaging in discussions around compensation for the benefit of those individuals impacted.

 1  2  6



Seamus O'Regan 

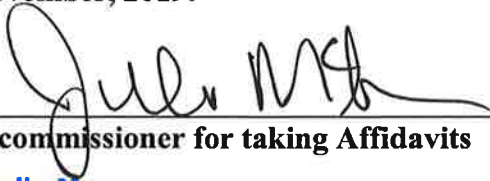
@SeamusORegan

[Follow](#)

And, if re-elected, we will continue the conversation on compensation in a fair and equitable way that focuses on bringing healing and recognition of the harms suffered for First Nation children.

10:24 AM - 4 Oct 2019

**This is Exhibit "O" referred to in the
Affidavit of Jonathan Thompson,
Affirmed before me, on this 8th day of
November, 2019.**

A handwritten signature in black ink, appearing to read 'Julie McGregor', is written over a horizontal line.

A commissioner for taking Affidavits

**Julie McGregor
Barrister & Solicitor
LSO# 49076P**

[Politics](#)

Federal leaders debate 2019: Full transcript

Everything you missed from the 2019 English federal leaders debate. Find the full transcript here.

by [Maclean's](#)

Oct 8, 2019



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THEME ONE: LEADERSHIP IN CANADA AND THE WORLD

Lisa LaFlamme: Welcome to the 2019 leaders debate. I'm Lisa LaFlamme from CTV News, and I am one of the moderators tonight. Our audience is made up mostly of undecided voters gathered here in the round so they're right at the heart of this important night. One note, however: we have asked them to hold back their applause throughout the debate so we can keep things moving. And just a couple of more things to know before we get started. We're going to tackle five major themes tonight based on the questions Canadian voters want asked and debated. There were more than 8000. So the themes tonight reflect those questions. The leaders will answer them based on an order selected in a random draw. We all want a meaningful debate tonight. Viewers want answers, so the leaders have all agreed to respect the time they are allowed tonight. And believe me, we will all make sure they do.

Our first theme is leadership in Canada and the world, and our first question is from Reagan Lee (ph) right here in the audience. Regan.

Question: Good evening, leaders. Sorry. Many Canadians have felt the implications of a divided world, more so than 2015, from US protectionism to Brexit to our growing tensions with China. As Prime Minister, how would you effectively defend both the interests and values of Canadians on the world stage? Thank you.

Lisa LaFlamme: Reagan, thank you for that. And Mr. Trudeau, you are first to respond tonight. You have 45 seconds.

Rt. Hon. Justin Trudeau: Thank you, Reagan, for being here tonight, and thank you all for joining us in this important moment to talk about the future of our country and compare and contrast the various plans that we have.

We know we live in a very challenging time right now, from protectionism to fear-based politics to the transformative technological change people are facing. We need to make sure that Canadians are equipped and tooled to be able to succeed in an uncertain world, and that's why, over the past four years, we've invested directly in Canadians, helped people be optimistic about their future, have the tools to succeed and the tools to see their kids succeed. We know the environment is a massive and pre—pressing challenge, and building a stronger economy for the future means protecting the environment for the future as well. These are the things we're going to be talking about tonight.

Lisa LaFlamme: Mr. Trudeau, thank you for that. Mr. Bernier, your opportunity to respond.

Hon. Maxime Bernier: Thank you. We are the People's Party, and we put Canada first. The other leaders on this stage are globalist. They spend your money to buy a seat at the UN Security Council, and also, they are giving your money to other countries to fight climate change in Asia and build roads in Africa. The UN is a dysfunctional organization, and we must be able to fight

for our country. Actually, we are the only party that will have a foreign policies that is based on our security and prosperity for our country.

Lisa LaFlamme: Mr. Bernier, thank you. The next opportunity for Mr. Singh to respond.

Jagmeet Singh: Thank you very much, Lisa. Thank you very much, Reagan, for your question. It's – I know it's tough to ask questions in front of a big crowd, so thanks for doing that. And thanks to Canada for joining and taking part in this discussion.

To me, leadership is about who you're fighting for, the choices you make, and whether you're doing what's right for people. And whether it comes to international affairs, standing up to Trump, making sure we fight to build better trade agreements that actually put Canadians first, for me, the question really comes down to do you have the courage to stand up to the powerful and wealthy interests, the corporations that are having too much influence of Canada. And I've seen so far in Ottawa, whether it's Liberal or Conservative governments, they haven't had the courage to stand up and fight for people. We're different. We're in it for you. I don't work for the rich and powerful; I work for people.

Lisa LaFlamme: Mr. Singh, thank you. Mr. Scheer, your opportunity to respond.

Hon. Andrew Scheer: Well, thank you very much. And of course I will always stand up for Canada and Canadians' interests and promote free trade and defend our interests all around the world. But Justin Trudeau only pretends to stand up for Canada. You know, he's very good at pretending things. He can't even remember how many times he put blackface on. Because the fact of the matter is he's always wearing a mask. He puts on a reconciliation mask and then fires the Attorney General, the first one of Indigenous background. He puts on a feminist mask and then fires two strong female MPs for not going along with his corruption. He puts on a middle class mask and then raises taxes on middle class Canadians. Mr. Trudeau, you are a phoney and you are a fraud, and you do not deserve to govern this country.

Lisa LaFlamme: There will be an opportunity later, during the open debate, to defend each other. First of all, Ms. May, if you'd like to answer mi—Reagan's question.

Elizabeth May: I would actually like to answer Reagan's question, in contrast to what we just heard. But I want to start by acknowledging that we're on the traditional territory of the Algonquin peoples, and, to them, megwitch.

Canada's role in the world is an enviable one. We have a historic reputation for being an honest broker, for being a country that stands up for multilateralism. We have a commitment as a nation to meet the Sustainable Development Goals, which means our future as a world is built on ending poverty and encouraging the education of women and girls. That's a cornerstone. On top of that, we really need to renegotiate the World Trade Organization and make it an organization that promotes climate action. We need a World Trade and Climate Organization. We need to support the rule of law and human rights around the world because we are world leaders.

Lisa LaFlamme: Ms. May, thank you. Again, the question: how would you, as Prime Minister, protect Canadian interests and values on this changing world stage. Mr. Blanchet.

Yves-François Blanchet: Prime Minister is a bit unlikely. However, first, good evening, everybody, and thank you for having me in – on behalf of the Bloc Québécois.

Having leadership, or showing leadership, sometimes mean not making mistakes. And arresting the Chief Financial Officer of Huawei might have been a big mistake, for which farmers growing soya or those doing pork or beef might have paid the price. When you're facing a powerful foe like China, you don't try to show biceps if you have only tiny biceps. and this is something that has to be learned. And we would support somebody with real leadership, not making mistakes.

Lisa LaFlamme: Mr. Blanchet, thank you for that. Continuing with our theme, leadership in Canada and the world, it's now my opportunity to ask a question on behalf of Canadians, again to a leader chosen by a random draw. So this question is for People's Party Leader Maxime Bernier. Every other leader will then have the opportunity to debate him. But Mr. Bernier, you like to tweet, so let me read some of your tweets back to you. You called diversity in Canada a cult and extreme multiculturalism. You've used the words ghetto and tribes to describe newcomers whom you say bring distrust and potential violence. On Greta Thunberg, the 16-year-old climate change activist, you called her, quote, clearly mentally unstable. Are these the words of someone with the character and integrity to lead all Canadians and represent us on the world stage?

Hon. Maxime Bernier: First of all, thanks for the question. You must tell the truth to Canadians if you want to be the leader of this country. And what I'm saying about extreme multiculturalism, it is not the way to build this country. Yes, this country is a diverse country, and we must be proud of that, but we don't need the legislation like the Multiculturalism Act to tell us who we are. We are a diverse country, and we are proud of that.

What I'm saying, because it's in line with the immigration, I'm saying that we must have fewer immigrants in this country to be sure for these people to participate in our society. So it is a great country, but it's time to have a discussion about the immigration. We don't want our country to be like other countries in Europe, where they have a huge difficulty to integrate their immigrants. And I'm a proud Canadian, and that's why I love this country, and I'm on – the only leader on this stage who wants to have a discussion about the level of immigration.

Lisa LaFlamme: So we're definitely going to have a lively debate tonight because now it is Mr. Singh's opportunity to debate Mr. Bernier on that very question, the temperament required for a good leader.

Jagmeet Singh: I mean, Mr. Bernier, after hearing what was just said, you could have just said hey, man, I messed up. Because those are pretty horrible tweets that you made. And really, for me, I mean, it should come as no surprise to you I believe a leader is not someone who tries to divide people or to pit people against each other. A true leader is someone who tries to find bridges, bringing people together. That's what a leader does. And a leader works for the

people who need help, not helping those at the very top, which we've seen with governments in Ottawa for far too long. They've been working to make life easier for the multi-billionaires. They get massive corporate tax cuts. Billions of dollars go towards them. We see offshore tax havens continue. This is not the way to build a country.

Jagmeet Singh: The way to build a future is to help Canadians (crosstalk) need help. (Crosstalk).

Hon. Maxime Bernier: (Crosstalk) you want to help – if you want to help Canadians (crosstalk) you won't be able to help Canadians with your socialist policy. It will –

Jagmeet Singh: It's not going to help anybody.

Hon. Maxime Bernier: — it will hurt everybody.

Lisa LaFlamme: Mr. Singh.

Jagmeet Singh: It's not going to help anybody.

Hon. Maxime Bernier: It will hurt everybody. It's not the way to –

Jagmeet Singh: What you're going to do is not going to help anybody.

Hon. Maxime Bernier: Weal—wealth and growth in this country. You must believe in people.

Jagmeet Singh: Mr. Bernier —

Hon. Maxime Bernier: You must give back their money in their own pockets.

Jagmeet Singh: Mr. Bernier, you're not (crosstalk) people. What you're saying is not helpful.

Lisa LaFlamme: I'm just – I'm just going to remind everyone this is a debate, and the viewers do have a difficult time even hearing anything if you're talking over each other. So this is a portion where the leaders can debate Mr. Bernier, and it is now the opportunity of Mr. Scheer to debate Mr. Bernier on the question of leadership.

Andrew Scheer: Well, what Mr. Bernier fails to understand is that you can absolutely be proud of Canada's history, you can be proud of our identity, you can be proud of the things we've done and accomplished in the world, while at the same time welcoming people from all around the world. And that is something that has made Canada strong. People come to Canada because of our freedom – our freedom to do what we want —

Hon. Maxime Bernier: Absolutely, Andrew, you're right. You're right.

Hon Andrew Scheer: — to be – to – to believe what we want, and freedom of speech.

Hon. Maxime Bernier: And that's why I want people to come to share our values, our Canadian values.

Hon Andrew Scheer: But you know, this —

Hon. Maxime Bernier: Equality before the law —

Hon Andrew Scheer: — this —

Hon. Maxime Bernier: — equality between man and woman.

Hon Andrew Scheer: But you – this —

Hon. Maxime Bernier: The separation of (crosstalk) —

Hon Andrew Scheer: Mr. Bernier, you have —

Hon. Maxime Bernier: — and the (crosstalk) —

Hon Andrew Scheer: — you have changed – you have changed from someone who used to —

Hon. Maxime Bernier: — who have support it. We want people to come here to share our values —

Hon Andrew Scheer: — believe – who used to believe —

Hon. Maxime Bernier: — (crosstalk).

Lisa LaFlamme: Mr. Bernier, we'll —

Hon Andrew Scheer: — in an immigration system —

Lisa LaFlamme: — we'll let Mr. Scheer —

Hon. Maxime Bernier: Yeah.

Lisa LaFlamme: — ask you question.

Hon Andrew Scheer: You have gone from someone who used to believe in a immigration system that was fair, orderly, and compassionate, and now you are making your policy based on —

Hon. Maxime Bernier: No.

Hon Andrew Scheer: — trying to get likes and retweets —

Hon. Maxime Bernier: No.

Hon Andrew Scheer: — from the darkest parts of Twitter.

Hon. Maxime Bernier: Absolutely not.

Hon Andrew Scheer: We can be a country that —

Hon. Maxime Bernier: Absolutely not.

Hon Andrew Scheer: — celebrates the contribution from people from all around the world.

Hon. Maxime Bernier: That's what I want to do. I want to celebrate what —

Hon Andrew Scheer: It's important – it's important —

Hon. Maxime Bernier: — unite us. I don't want to celebrate (crosstalk) —

Hon Andrew Scheer: You can do that.

Hon. Maxime Bernier: — on diversity.

Hon Andrew Scheer: You can do that without —

Hon. Maxime Bernier: We need to celebrate (crosstalk) —

Hon Andrew Scheer: — insulting people —

Hon. Maxime Bernier: — to celebrate who we are —

Hon Andrew Scheer: — people who have come to this country.

Hon. Maxime Bernier: — and we're not doing that (crosstalk).

Hon Andrew Scheer: That is the difference between Mr. Bernier and myself on this issue. We believe – we believe in making Canada stronger by welcoming people, adding it to our country, and celebrating the things that have made us great as a nation.

Lisa LaFlamme: Now we're going to hear from Ms. May and Mr. Bernier, on the same question.

Elizabeth May: As I understand the question, Lisa. It was also about the characteristics of leadership. So let me just say up front I think leadership is service. I think the things that – that make a good Prime Minister is recognizing that we're public servants. We

haven't won some kind of lotto. We don't get to lord it over everybody. We're here as your employee, and we want to work. And I have a little quibble with our introduction tonight saying who will get invited back. It's not to be invited to go to Parliament; it's to sign up to work and to be a public service. I believe in service leadership.

That said, I find the things that – that Maxime Bernier has said to be completely appalling, and – and he knows that I feel that way about the things he says in the House. We used to sit together. And generally, when he said anything —

Hon. Maxime Bernier: Elizabeth – Elizabeth –

Elizabeth May: — I'd have to put my head in my hands —

Hon. Maxime Bernier: Elizabeth —

Elizabeth May: — because it was so horrific. But —

Hon. Maxime Bernier: I – I appreciate you, but you know, I don't share your policies.

Elizabeth May: I knew that.

Hon. Maxime Bernier: I don't share your socialist policies because, you know, we – we won't be able to create any wealth with your policies. You have the same kind of policies in socialist countries like Venezuela. That won't create any wealth.

Elizabeth May: Well —

Hon. Maxime Bernier: You must admit that.

Elizabeth May: No (crosstalk) —

Hon. Maxime Bernier: You will spend —

Elizabeth May: — the climate crisis —

Hon. Maxime Bernier: — \$60 billion.

Elizabeth May: — is the single biggest —

Hon. Maxime Bernier: That's your promises —

Elizabeth May: — economic opportunity —

Hon. Maxime Bernier: — \$60 billion (crosstalk) —

Elizabeth May: — in a generation or more.

Hon. Maxime Bernier: — that's not responsible.

Elizabeth May: And supporting immigration is what we need for this economy.

Hon. Maxime Bernier: And I'm support immigration. I support —

Elizabeth May: I'm proud of the fact that the European Greens —

Hon. Maxime Bernier: You are not (crosstalk) —

Elizabeth May: — are the only party that would grow immigration, and so are we.

Lisa LaFlamme: Thank you, Ms. May. Now it is Mr. Blanchet's opportunity to debate with Mr. Bernier.

Yves-François Blanchet: How many seconds will we – will you leave me before you jump in? Somebody invoking the truth should not be somebody denying climate change. And the use of socialism seems to come a little bit too easy.

Hon. Maxime Bernier: I don't deny climate change.

Yves-François Blanchet: Oh, you make —

Hon. Maxime Bernier: I don't —

Yves-François Blanchet: — ten seconds. (Laughter). Immigration —

Lisa LaFlamme: See? And we worried they wouldn't pay attention.

Yves-François Blanchet: Immigration is not that much a matter of number; it's a matter of resources. We invest in it in order to have those persons welcome as well in Canada as they are in Quebec, with our desire for them to share our language, to share some of our values. And if we do have enough resources invested in that, this is workable. And you do not do it by saying or sending the message that they are not welcome —

Hon. Maxime Bernier: No, everybody is —

Yves-François Blanchet: — here in Canada or in Quebec.

Hon. Maxime Bernier: — welcome in – everybody is welcome in this country. And you know, 49 percent of all population believe that we must have fewer immigrants. They're not racist, they're not radical. So what you are saying, because I'm in line with the majority of our population, that I'm supposed to be a radical?

Yves-François Blanchet: Did anybody tell you —

Hon. Maxime Bernier: No. We have the right – we have the right in this country —

Yves-François Blanchet: Did anybody tell you that your ancestors —

Hon. Maxime Bernier: — to debate ideas, and that's what I'm doing.

Yves-François Blanchet: — were immigrants also?

Hon. Maxime Bernier: We have the right —

Yves-François Blanchet: We all are immigrants.

Hon. Maxime Bernier: Absolutely. And we are proud. We are proud Canadians.

Lisa LaFlamme: OK, and the final debate on this subject goes to Mr. Trudeau, to Mr. Bernier: again, the temperament required for a good leader.

Rt. Hon. Justin Trudeau: I think it's important to recognize that we're in a world right now where these discussions, this polarization, this fear of the other, has become easy currency for politicians who do want to strike up uncertainty in people's hearts and lift those anxieties and try to get people to vote against things.

Hon. Maxime Bernier: No.

Rt. Hon. Justin Trudeau: Unfortunately, Mr. Bernier on this stage is playing that role of trying to – to make people more fearful about the migrations that are happening in the world and the opportunities around globalization and our ability to continue to redefine every single day what it is to be Canadian, what it means to be Canadian. And yes, it will evolve.

Hon. Maxime Bernier: Monsieur Trudeau —

Rt. Hon. Justin Trudeau: It will transform itself as we – as we —

Hon. Maxime Bernier: Mr. Trudeau —

Rt. Hon. Justin Trudeau: — take leadership, as we move forward. And the values (crosstalk) —

Hon. Maxime Bernier: You always (crosstalk) —

Rt. Hon. Justin Trudeau: — are universal values (crosstalk) —

Hon. Maxime Bernier: — diversity.

Rt. Hon. Justin Trudeau: — people around the world (crosstalk) —

Hon. Maxime Bernier: We must celebrate our history. We must celebrate who we are. And I'm proud Canadian like you. And you know, we built this country together, and we want this country to be like that in 25 years. We love this country, and it's not because I want to have a discussion about immigration that I'm a radical.

Rt. Hon. Justin Trudeau: Mr. Bernier —

Hon. Maxime Bernier: Only six percent —

Rt. Hon. Justin Trudeau: — your role on this stage tonight seems to be —

Hon. Maxime Bernier: — only six perc—

Rt. Hon. Justin Trudeau: — to say publicly what Mr. Scheer thinks privately.

Hon. Maxime Bernier: No. Only six percent of our — six percent of Canadians wants more immigration, only six percent. So when you don't want to have a debate about that, you're not in line with the population. You just have unask—an unasked debate on that subject.

Lisa LaFlamme: OK. And on that, we want to hear from another Canadian tonight. There are obviously so many layers to the issue of leadership. So this question is coming from Susan Fernando (ph), who asks her question from Calgary. Again —

Question: Hi. I'm Susan Fernando in Calgary. More often than not, the provincial governments and federal government are on different wavelengths, no matter what the political party. Cooperation is key when it comes to issues of pensions, workers' rights, to education and health care. As Prime Minister, how would you demonstrate strong leadership when working with the provinces and territories?

Lisa LaFlamme: OK, thank you, Susan Fernando from Calgary. Again, based on a random draw, this goes to Mr. Bernier first, and then every other leader will have the chance to answer. Mr. Bernier.

Hon. Maxime Bernier: First of all, I will respect the Constitution. I will respect provinces, and that's very important. And I won't interfere in provincial jurisdiction. I won't interfere in health care because it is a provincial jurisdiction. And you know, we cannot in Ottawa solve the challenges that we're having for health care. And what we can do, we can transfer the money to the provinces. And what I will do, I will let provinces being able to deal with health care and with education. That's our Constitution. We'll transfer the GST so provinces will have the money to deal with that and they will be able to answer to your challenges.

Lisa LaFlamme: Mr. Bernier, thank you. It's now Mr. Singh's opportunity to respond to Susan's question.

Jagmeet Singh: Thank you. I want to thank Susan for the question. Really she's touched on a lot of concerns that Canadians have. Things are getting harder than ever before, and

she touched on a whole host of issues: pensions and – and health care. I want to talk – I want to single in on health care. To me, that's one of the biggest concerns I hear about when I meet with people across this country. And I think of the people that I meet, you know, the young boy that I met that has a chronic illness and has to pay for – his family has to pay for medication and injections and blood work. And he told me he's not worried about the illness but he is worried about being a burden to his mom and dad. So that young person, Mr. Trudeau is saying, you know, you're not worth universal pharmacare, that the big pharmacare companies – the big pharmaceuticals are more important. I want to say to that young person, with a New Democratic government, we will bring in universal pharmacare for all. You would use your health card, not your credit card, for medication.

Lisa LaFlamme: Mr. Singh, thank you. Mr. Scheer, it's your opportunity now.

Hon Andrew Scheer: Well, Conservatives have always recognized the importance of working with provinces. We respect provincial jurisdiction. But we also understand that it will take federal leadership to get certain things done, like interprovincial free trade, something that Mr. Trudeau has failed to accomplish.

But one thing I can promise voters across the country is that Premiers won't have to take a Conservative government to court to fight things like the carbon tax. And Mr. Trudeau has imposed his carbon tax on provinces that don't want to go along with his high-cost scheme. This carbon tax is increasing the cost of everyday essentials like gasoline, home heating, and groceries, and it will only go up after the next election. He is refusing to tell Canadians how high his carbon tax will go if he's re-elected. The Conservative government under my leadership will scrap the carbon tax.

Lisa LaFlamme: Mr. Scheer, thank you. Ms. May.

Elizabeth May: Yeah, thank you, Susan, for the question. It's very important. And as Greens, cooperation is in our DNA. None of the problems we solve are going – we face are going to be solved if we keep arguing and fighting with each other, whether it's within Parliament in our different parties or between the federal government, the provinces and the territories.

The Greens are proposing a reinvigorated form of federalism. Modelled after what has been done in Australia, we want a council of Canadian governments. So the federal government, provincial, territorial, municipal, and the local orders of government need a seat at the table; so too do Indigenous leadership – First Nations, Métis, and Inuit – around the same table, finding common ground on urgent issues like health care, on the climate emergency, and working together in the public interest.

Lisa LaFlamme: OK, Ms. May. Thank you. Mr. Blanchet, your opportunity.

Yves-François Blanchet: Thank you. If I remember well, I've seen a study today about – from Mr. Eric Montigny saying that this campaign is not about federal issues but about provincial and Quebec issues. And this is not a surprise. If you want cooperation with provinces or Quebec, you

need to respect the jurisdiction. And something that you have to stop doing – and this is one of the demands of the Government of Quebec in many – on many issues – is giving a hand to this – to s—our money being held hostage by the federal government and giving back to us with conditions. The money that has to be given to provinces in their own fields of jurisdiction should be given back without conditions.

Lisa LaFlamme: Mr. Blanchet, thank you. Mr. Trudeau, your opportunity now.

Rt. Hon. Justin Trudeau: In ten years of Stephen Harper's government, he chose to stop meeting with Premiers in First Ministers' meetings. And we restarted that when we took office in 2015. We were able to strengthen the CPP for a generation. We were able to sign historic health accords with massive investments in – in home care and in mental health. We were able to invest in infrastructure like housing and public transit across the country, and we continue to work with provinces on renegotiating a NAFTA that in—had everyone playing on one Team Canada.

But yes, with certain provinces right now, we are fighting on the defining issue of our time because Jason Kenney and Doug Ford and other Conservative Premiers don't want to do anything on climate change. And we need a government in Ottawa that is going to fight them and fight for Canadians on climate change, and that's exactly what we're going to do.

Lisa LaFlamme: We will have the open debate coming up very shortly. We are going to switch gears now, though, and give a leader a chance to ask any other leader a question on any topic they choose. Again, the order of this was chosen by random draw. The first leader this time is NDP Leader Jagmeet Singh. Mr. Singh, you have 30 seconds.

Jagmeet Singh: Thank you. My question is to Mr. Trudeau. You know, you talk often about how Conservatives cut taxes for the wealthy and cut education and health care and other services. I'd agree with you, and I've heard you say this often. So my question is you criticize Mr. Harper on his climate targets but you failed to achieve them. You criticize Mr. Harper on the fact that he cut health care funding; you also cut them. You criticize Mr. Harper and Conservatives on giving billions to billionaires and corporations, but you gave \$14 billion more. My question is this. Why do you keep letting down the people that voted for you?

Rt. Hon. Justin Trudeau: First thing we did was cut taxes for the middle class and raise them for the wealthiest one percent. And on climate change, after ten years of Stephen Harper doing nothing, in just four years we've reached three-quarters of the way to our 2030 targets, which we will meet and surpass. But we know that's not enough. We're going to continue to do more, like planting two billion trees, like moving forward on giving money up front so people can retrofit their homes, on making Canada net-zero by 2050. We know how important it is to move forward, and right now Mr. Scheer has promised that the first thing he would do is rip up the only real plan to fight climate change that Canada has ever had.

These are the things we're going to be moving forward on because Canadians expect us to. We lifted 900,000 people out of poverty with our investments in families, with the Canada Child Benefit, and things that actually, Mr. Scheer and Mr. Singh, the NDP voted against. We will

continue to invest in families because it's creating jobs and helping people out of poverty because that's what Canadians expect, and that's what we will continue to do.

Lisa LaFlamme: Now the leaders have an opportunity to have the open debate on this question. It's for four minutes. Mr. Singh, you may begin.

Jagmeet Singh: Thank you. I just wanted to say, I mean, we look at the track record of this government, and in reality Statistics Canada points out in 2017 the wealthiest actually paid less in tax and gained more in wealth. And when we look at one of the biggest problems that we're faced with as a country is offshore tax havens. Now, not only did your Finance Minister use offshore – offshore tax havens, but also the President —

Rt. Hon. Justin Trudeau: That's not (crosstalk).

Jagmeet Singh: — of the Treasury Board. She also used offshore tax havens. So how can you tell Canadians we don't have the money to fund things like universal pharmacare when your top two cabinet ministers don't pay their fair share?

Rt. Hon. Justin Trudeau: Mr. Scheer, you might remember that – Mr. Singh, you might remember that summer (crosstalk) —

Jagmeet Singh: I'm very (crosstalk) Mr. Scheer.

Rt. Hon. Justin Trudeau: Our – we – you – we had a huge fight with the wealthiest Canadians and the Conservatives when we closed tax loopholes that Mr. Scheer is going to reopen and give tax breaks worth —

Hon Andrew Scheer: So let's – let's —

Rt. Hon. Justin Trudeau: — \$50,000 —

Hon Andrew Scheer: — let's dive deep in that.

Rt. Hon. Justin Trudeau: — to the wealthiest Canadians.

Hon Andrew Scheer: You —

Rt. Hon. Justin Trudeau: We're going to keep moving forward —

Hon Andrew Scheer: — you (crosstalk) —

Rt. Hon. Justin Trudeau: — in a way that invests in Canadians. And that (crosstalk) —

Lisa LaFlamme: Mr. Trudeau, we'll give Mr. Scheer an opportunity to respond.

Hon Andrew Scheer: You called small business owners tax cheats. You called entrepreneurs who've created jobs and opportunities in our society tax cheats, all the while protecting your trust fund and those of your billionaire friends. What we are doing is lowering taxes for all Canadians. We've got a universal tax cut —

Rt. Hon. Justin Trudeau: And cutting services.

Hon Andrew Scheer: — that will lower the first bracket that will save (crosstalk) for the average income couple. We are going to bring in —

Lisa LaFlamme: Mr. Bernier —

Hon Andrew Scheer: — tax credits for kids' sports —

Lisa LaFlamme: — would you like to interject?

Hon. Maxime Bernier: Yes, for sure. What they are doing, they are spending, spending, and spending.

Hon Andrew Scheer: Tax cuts are not spending.

Hon. Maxime Bernier: Everybody here on this stage —

Hon Andrew Scheer: Ta—tax cuts are (crosstalk) —

Lisa LaFlamme: Mr. Scheer.

Hon. Maxime Bernier: Everybody here on this stage —

Hon. Maxime Bernier: — are spending more money. And you know, you cannot create wealth when the government is spending money. You must have the right policies for the entrepreneur, actually. We want the private sector to be able to invest. The private sector works quite well.

Hon Andrew Scheer: That's why we're going to undo his tax hikes.

Hon. Maxime Bernier: No, you won't — you won't balance the budget. You — nobody will balance the budget —

Hon Andrew Scheer: We're going to undo his tax hikes.

Hon. Maxime Bernier: I cannot understand —

Lisa LaFlamme: Ms. May, you'd like the opportunity.

Elizabeth May: Thank you. At the beginning of this segment, Mr. Singh pointed out that Mr. Trudeau has not changed the climate targets from those of Mr. Harper. It needs to be said very clearly, and I'm so disappointed because I believed the Liberals in 2015 that they would go with science-based, evidence-based policies. But the target —

Hon Andrew Scheer: Trudeau: not as advertised.

Elizabeth May: — that Mr. Trudeau is saying he will hit by 2030 is a target for losing the fight against climate change because it ignores the science, it ignores the IPCC advice. On this stage tonight, the Green Party's the only party with a plan, mission possible, that will —

Elizabeth May: — actually protect us —

Jagmeet Singh: You know that's not true.

Elizabeth May: It is true.

Jagmeet Singh: You know that's not true.

Elizabeth May: Yours is 38 percent —

Jagmeet Singh: (Crosstalk plan) —

Elizabeth May: — below 2005.

Jagmeet Singh: Our plan is to stay in line — in line with science. Our plan is this.

Elizabeth May: Which science did you find that (crosstalk) target?

Jagmeet Singh: (Crosstalk). Our plan is in line with the IPCC report —

Elizabeth May: Yes.

Jagmeet Singh: It's going to require the courage to fight big polluters. It's going to take the courage to stand up to the (crosstalk) lobbyists that Mr. Trudeau has caved in to and the reason why we continue to pay subsidies to the fossil fuel sector.

Rt. Hon. Justin Trudeau: Mr. — Mr. Singh.

Jagmeet Singh: We would immediately end those subsidies —

Rt. Hon. Justin Trudeau: Mr. Singh, Ms. May —

Jagmeet Singh: — if (crosstalk) government.

Rt. Hon. Justin Trudeau: — (crosstalk) the experts are agreed that what a climate plan needs to do is to be ambitious and doable. And of the plans that are forward here on this stage, there's only one plan that the experts have qualified as both ambitious and doable, and that is the plan that we have begun to put in place over the past four years.

Lisa LaFlamme: (Crosstalk) last word.

Hon Andrew Scheer: Mr. Trudeau's plan is failing. It is making everything more expensive for hardworking Canadians, and he has granted a massive exemption to the country's largest emitters.

Rt. Hon. Justin Trudeau: That's not (crosstalk).

Hon Andrew Scheer: Our plan takes the climate change fight global, recognizing that Canada can do more to fight climate change by exporting our clean technology and helping other countries —

Hon Andrew Scheer: — lower their emissions —

Lisa LaFlamme: And that concludes — that is all the time we have for the open debate. That concludes this segment. (Laughter). You had an opportunity, you've got to jump right in. So thank you all very much for the conclusion of that segment.

THEME TWO: POLARIZATION, HUMAN RIGHTS, IMMIGRATION

Althia Raj: Hello. I'm Althia Raj from HuffPost Canada, and the theme of this segment is polarization, human rights, and immigration. And we'll begin with my question to NDP Leader Jagmeet Singh. Mr. Singh, I want to ask you about Bill 21. Your campaign is about courage, but you have not shown the courage to fight Quebec's discriminatory law. It bars individuals who, like yourself, wear religious symbols from some provincial employment. If you were Prime Minister, would you stand back and allow another province to discriminate against its citizens? Aren't you — and, frankly, the other leaders on the stage — putting your own parties' interests in Quebec ahead of your principles and the equality rights of all citizens? You have a minute to answer.

Jagmeet Singh: Sure. It's probably pretty obvious to folks that I am obviously against Bill 21. It is something that hurts me, makes me feel sad. I think about all the times I grew up being told that I couldn't do things because of the way I looked, and I think about all the people in Canada that grow up being told they can't achieve more because of their identity or who they are. And I think about the people in Quebec right now that are being told, just because they wear hijab, that they can't be a teacher, or, if they wear a yarmulke, they can't be a judge, and that's hurtful and it's wrong.

And it probably comes as no surprise that I'm opposed to laws that divide people. What I do every single day when I go to Quebec is I say hey, I'm here, I'm someone that believes in

fighting climate – the fli—fighting the climate crisis. I’m someone that believes in, firmly and unequivocally, the rights of women, the right of women to choose and to build more access to abortion services. I believe firmly in making sure we tackle the powerful corporations that are – that are influencing government and that are not allowing – that are challenging our ability to ensure that we build services that lift up people.

Althia Raj: Thank you.

Jagmeet Singh: I’m doing that every single day.

Althia Raj: Thank you. Mr. Scheer, you and Mr. Singh may debate this question.

Hon Andrew Scheer: Well, Mr. Singh, I just want to start off by congratulating you on the way that you have handled so many issues around race and identity. As someone who has been the victim of these types of – of racist acts in the past, I certainly believe you have handled it with a lot of class, especially as it relates to some of the scandals that have come out during this campaign.

I believe it’s very important for – for people to understand that, while we will not intervene in this court case as a Conservative government, we do recognize, and the Conservative Party always stands for freedom and equality and individual liberty, and we —

Jagmeet Singh: Mr. Scheer, if I —

Hon Andrew Scheer: — make sure that this does —

Jagmeet Singh: I – I appreciate that.

Hon Andrew Scheer: — and we will not pursue this type of bill —

Jagmeet Singh: I appreciate that.

Hon Andrew Scheer: — at the federal level.

Jagmeet Singh: I want to just touch on – on one of the themes of this discussion is polarization. And while Bill 21 is going to single out people because of the way they look, another thing that’s happening in our country right now is that people are being pit against each other. And what’s happening is people are – who are – can’t find a home, can’t afford their bills, can’t get the medication or health care they need are being told that it’s not the fault of powerful corporations and those who are not paying their fair share, but it’s the fault of new Canadians, it’s the fault of a twelve-year—12-year-old refugee or an immigrant who’s breaking his back working 12 hours a day. And that’s why it’s so important for us to tackle economic insecurity if we want to tackle the polarization.

Althia Raj: Thank you, Mr. Scheer and Mr. Singh. Ms. May, you may debate Mr. Singh on this question.

Elizabeth May: Yeah, if – I want to also echo Andrew's comments because I think that Jagmeet has done, as we all have done through this rather strange period of an election campaign, confronting issues of – of privilege. And anyone with white skin has privilege. But when we look at Bill 21 in Quebec, I think it challenges all of us. Like the NDP, the Green Party opposes Bill 21. And then we're left with the question of what is the best way for a federal government to protect human rights within Quebec – Quebecers are fighting this out within Quebec. Quebec groups are going to court to say that Bill 21 discriminates.

Jagmeet Singh: Elizabeth —

Elizabeth May: And as that goes forward —

Jagmeet Singh: — thank you very much.

Elizabeth May: — we are, frankly, looking at a situation where we don't want to do anything that hurts —

Jagmeet Singh: I understand.

Elizabeth May: — that debate within Quebec.

Jagmeet Singh: I understand. But you know, what I – what I want to also just touch on, while Bill 21 is of course polarizing, on that point, I know you agree with me on this, that we've got to tackle those – the powerful corporations that are not paying their fair share, and that's part of the reason why people aren't able to earn a good living and part of the reason why people can't find housing or they can't get the medication they need, because those at the top aren't paying their fair share —

Elizabeth May: It's not even about paying their fair share.

Jagmeet Singh: — (crosstalk) we can't build in —

Elizabeth May: I think we'll agree on this —

Jagmeet Singh: — we can't even build in the services we need.

Elizabeth May: — they have —

Althia Raj: OK, thank you very much.

Elizabeth May: — they have improper access —

Althia Raj: Ms. May, thank you.

Elizabeth May: — (crosstalk).

Althia Raj: Ms. May, thank you. Mr. Blanchet, your turn —

Yves-François Blanchet: Yes.

Althia Raj: — to debate Mr. Singh.

Yves-François Blanchet: With 70 percent —

Jagmeet Singh: I'll give you more than ten seconds.

Yves-François Blanchet: You're nice. With 70 percent of the population of Quebec supporting the Bill 21, and 70 percent of the Members of Parliament in Quebec supporting Bill 21, it's not really a polarization issue in Quebec. That's the problem. The problem is that – and in English tonight it will be quite clear everybody here has problems with the very idea of, I will say, *laïcité* because there's no exact translation for that word in English. Everybody has a problem with it, but say in best of cases that they would tolerate it. But Quebec does not need to be told what to do or what not to do about its own value —

Jagmeet Singh: But Monsieur Blanchet —

Yves-François Blanchet: — nor its language —

Jagmeet Singh: But Monsieur Blanchet —

Yves-François Blanchet: — nor themselves as a nation.

Jagmeet Singh: — this – this is a bill that just says to people, because of the way they look, that they can't do a job. That's —

Yves-François Blanchet: You know this is —

Jagmeet Singh: — that's wrong.

Yves-François Blanchet: — not true.

Jagmeet Singh: And instead – instead of that —

Yves-François Blanchet: Madame, we know this is not true. And your tweet that —

Jagmeet Singh: — instead – instead of that —

Yves-François Blanchet: — that said (crosstalk) —

Jagmeet Singh: — instead of that, Monsieur Blanchet, what we should be doing —

Yves-François Blanchet: — (crosstalk) the way people look was wrong.

Jagmeet Singh: Monsieur – Monsieur Blanchet, instead of what we should be doing is let's protect women's rights. Let's build up more —

Yves-François Blanchet: (Crosstalk) —

Jagmeet Singh: — protections for —

Yves-François Blanchet: — (crosstalk)

Jagmeet Singh: — a woman's right to choose.

Yves-François Blanchet: — (crosstalk) in the context I used it.

Jagmeet Singh: Let's – let's build up more protections for the LGBTQ community. Let's build up more protections in society to build a society —

Yves-François Blanchet: (Crosstalk) —

Jagmeet Singh: — where is the separation —

Althia Raj: OK, thank you —

Jagmeet Singh: — of church and state.

Althia Raj: — Mr. Blanchet, thank you. Mr. Singh. Mr. Trudeau and Mr. Singh can debate this question.

Rt. Hon. Justin Trudeau: Mr. Singh, you have spoken very eloquently about discrimination and fought against it all your life. And that's why it's so surprising to have heard you say, like every other leader on this stage, the federal government under you would not intervene in the kest—question of Bill 21 in Quebec. It's a question where, yes, it's awkward politically because, as Mr. Blanchet says, it is very popular. But I am the only one on this stage who has said yes, a federal government might have to intervene on this because the federal government needs to protect minority rights, needs to protect language rights, needs to protect women's rights —

Jagmeet Singh: Of course.

Rt. Hon. Justin Trudeau: — and needs to do that right across the country. You didn't say that you would possibly intervene.

Jagmeet Singh: But Mr. Trudeau, I mean —

Rt. Hon. Justin Trudeau: You didn't even leave the door open —

Jagmeet Singh: — (crosstalk) —

Rt. Hon. Justin Trudeau: — and that's not (crosstalk).

Jagmeet Singh: Let's be honest for a second here. Every single day of my life is fighting a bill like Bill 21.

Rt. Hon. Justin Trudeau: So why won't you —

Jagmeet Singh: Every single day of my life —

Rt. Hon. Justin Trudeau: — fight it if you form government?

Jagmeet Singh: — is — every single day of my life is challenging people who think that you can't do things because of the way you look. Every single day of my life I channel the frustrations of people who feel that as well, that many people across our country who are told that they can't achieve what they want because of how they look.

Rt. Hon. Justin Trudeau: So why not act on your —

Jagmeet Singh: I'm running to become Prime Minister of this country —

Rt. Hon. Justin Trudeau: — convictions —

Jagmeet Singh: — and I'm going to Quebec —

Rt. Hon. Justin Trudeau: — and leave the door open —

Jagmeet Singh: — and telling people I want to be your Prime Minister.

Rt. Hon. Justin Trudeau: — to challenging it?

Althia Raj: OK. Thank you, Mr. Trudeau, Mr. Singh. Mr. Bernier, your chance to go head to head with Mr. Singh.

Hon. Maxime Bernier: Yes. About the Bill 21, we must respect the Constitution. And we won't interfere at the federal level. That's the decision from the federal — from the provincial government. And that's what we must do. But also, Mr. Singh, you said that you didn't want me to be here on the stage to have a discussion with you. So you're for diversity, but what about diversity of opinion? I have the right to have another opinion about immigration, and I don't know why you're not — you — you are a leader and you must be — try to have everybody on your side, but are you believing in free speech —

Jagmeet Singh: Let me answer that question. I can answer that question.

Hon. Maxime Bernier: — are you believing in free speech only when people are saying things that you want to hear?

Jagmeet Singh: You're asking the question; let me answer it. After a couple of minutes of this debate tonight, I think people can clearly see why I didn't think you should deserve a platform. The comments that you're making, the type of things you say – it's one thing to say that you disagree with somebody, that's fine, but when you incite hatred —

Hon. Maxime Bernier: No, I don't. No, I don't.

Jagmeet Singh: — when you incite division —

Hon. Maxime Bernier: It's not – you cannot say that.

Jagmeet Singh: — when you saying things (crosstalk) you insult a young girl —

Hon. Maxime Bernier: I just – I just want to have a debate.

Jagmeet Singh: — and ask about her mental stability, it shows a lack of judgment. You don't deserve a platform, and I'm happy to challenge you on that because your pl—your ideas are hurtful to Canada. I will always work to build unity and bring people together, unlike you —

Hon. Maxime Bernier: (Crosstalk) for people who agree with you.

Althia Raj: OK, thank you very much. Merci, Monsieur Bernier. Thank you, Mr. Singh. Continuing with our theme of polarization, human rights, and immigration, we have people watching this debate right across the country, including a big crowd at the Student Union building at the University of British Columbia. And our next question comes from Paige McDicken (ph), who joins us from Vancouver. Please go ahead, Paige.

Question: Hi, good evening. (Cheers). Hi, good evening. My name is Paige McDicken, and I'm here tonight at UBC but I live in Cold Stream, British Columbia. My question is along the lines of polarization. And to me, Canada feels more divided than ever before. If diversity is our strength but division is weakness, how will your leadership seek to provide a unified vision for Canada, and how will you ensure that all voices across the political spectrum are heard and considered? Thank you.

Althia Raj: Mr. Singh, you may begin. You have 40 seconds.

Jagmeet Singh: Sure. Paige, thank you so much for the question. I appreciate getting a chance to – to chat with you, and thanks for tuning in. When we talk about the divisions that we have in our – in our country, there are a lot of divisions, and – and they're growing. And I point to a lot of reasons for it: there's radicalization; there's – there's hateful discourse; there's a climate which allows people to be emboldened. But the other reason why people are being exploited into hating one another is because they're worried about the future. There's a lot of

people that can't get the basic things that they need, like housing, like the health care they need, and it's really the neglect of federal governments that have brought us to this position. And I think the way we tackle a lot of the polarization is making sure people get the basic things they need, like housing —

Althia Raj: Thank you very much —

Jagmeet Singh: — health care —

Althia Raj: — Mr. Singh.

Jagmeet Singh: — and a good job.

Althia Raj: Mr. Scheer, your turn.

Hon Andrew Scheer: Well, it's very important that we understand why Canada is a country of such diversity. And it is because people come from all over the world to take refuge here, to build a better life here. It is because of our freedom. That is the common ground that everyone who has come here, no matter what generation, no matter from what part of the world, can agree on. And it's important that we remember that, promote that, and ensure that people who come here embrace that aspect that makes our country so great.

But what is very dangerous is when you have a Prime Minister like Justin Trudeau, who uses legitimate issues like racism and hateful – hateful language to demonize anyone who disagrees with him. Calling people un-Canadian for disagreeing with his failure on the border —

Althia Raj: Thank you very much —

Hon Andrew Scheer: — does more to create —

Althia Raj: — Mr. Scheer. I'm sorry. Ms. May, your turn.

Elizabeth May: Thanks, Paige, and hey to UBC. Thank you. I raise my hands to the Musqueam, Squamish, and Tsleil-Waututh territory. We need the kind of leadership that lifts people up, that doesn't make people feel as if politics is rather disgusting and they'd rather not look at it. We have to restore the idea of real democracy, where every citizen has agency and power to work together. Mission possible for climate action we call all hands on deck. We're going to need everybody. And to have the kind of democracy that really reflects everyone, we need fair voting. We need to get rid—rid of first past the post because it creates each political party as rival, warring camps, even when the elections are over. We need to —

Althia Raj: Thank you very much —

Elizabeth May: — (crosstalk) democracy.

Althia Raj: — Ms. May. Monsieur Blanchet.

Yves-François Blanchet: Yes. I believe that democracy grows on information. So translating

“voter pour des gens qui vous ressemblent” by “vote for people who look like you” is at best dishonest. May I remind you that in 2011 the exact same phrase was said by Michael Ignatieff and that in 2015 the exact same sentence was said by Thomas Mulcair. So people may recognize themselves into a party —

Althia Raj: Thank you very much, Mr. Blanchet. I’m sorry, you’re out of time. Mr. Trudeau.

Althia Raj: It’s 40 seconds for each leader.

Althia Raj: I’m sorry. It has moved on to 40, sorry. Everybody has the same time. It’s Mr. Trudeau’s time, thank you.

Rt. Hon. Justin Trudeau: Thank you, Paige, for your question. It’s great to see everyone at UBC, one of my alma maters. It’s really important to recognize that, yes, we’re in a time of polarization and differences that get highlighted by the kind of debate going on at this stage and in this campaign about how we’re moving forward.

The reality is Canadians agree on most things. We want to raise our kids in a world that is getting better for them. We want to be able to pay for their futures. We want to be able to retire in comfort. We want to create opportunities for our neighbours as well. This is something that binds Canadians together right around the country. The fact that there is politics of fear and division that is continuing to dominate here underlies what we’re actually doing together —

Althia Raj: Thank you very much Mr. Trudeau. Monsieur Bernier.

Hon. Maxime Bernier: Speaking about immigration it is not polarization. Actually Canada receives more immigrants per capita than any other western country, three times higher than the US, so we must have a discussion about that. It is the equivalent of one Nova Scotia every three years, like the population of Nova Scotia every three years here in Canada. There are for mass immigration. I’m for a sustainable immigration, and that’s why we must have fewer immigrants, a maximum of 150,000 a year, with more economic migrants for our country.

Althia Raj: Thank you very much, Mr. Bernier. We are moving on to a one-on-one format, followed by an open debate. We start with Conservative Leader Andrew Scheer. You may pick any leader of your choice and ask any question of your choosing. (Laughter). You have 30 seconds.

Hon. Andrew Scheer: Mr. Trudeau, you broke ethics laws twice. You interfered in an ongoing criminal court proceeding. You shut down parliamentary investigations into your corruption, and you fired the only two people in your caucus who were speaking out against what you were trying to do just for telling the truth. Tell me, when did you decide that the rules don’t apply to you?

Rt. Hon. Justin Trudeau: Mr. Scheer, the role of a Prime Minister is to stand up for Canadians' jobs, to stand up for the public interest, and that's what I've done and that's what I will continue to do every single day. The way I have worked for Canadians is around investing in them, unlike the vision that you're putting forward of giving tax breaks that help people who are making \$400,000 K a year, \$400,000 a year more than someone making \$40,000 a year. You're offering a \$50,000 tax break, which is more money than most Canadians earn, to the wealthiest Canadians with your plan. Of course we don't entirely know your plan because you haven't released your costed platform yet, which I think is a disrespect to every Canadian watching.

Hon. Andrew Scheer: Where is your costed platform?

Rt. Hon. Justin Trudeau: Our costed platform came out two weeks ago.

Althia Raj: Mr. Scheer, you'll have a chance to rebut.

Rt. Hon. Justin Trudeau: Our platform came out weeks ago and it is work—we worked with the Parliamentary Budget Officer, and we have a vision, but it is a different vision than yours because we're choosing to invest in people. You're choosing, just like Doug Ford did, to hide your platform from Canadians and deliver cuts and – cuts to services and cuts to taxes for the wealthiest. That's not the way to grow the economy.

Althia Raj: Mr. Scheer may begin to rebut, and anybody is free to join him.

Hon. Andrew Scheer: You know you are making things up again. Half of your platform isn't even costed. You are making announcements without any details and without any numbers and –

Rt. Hon. Justin Trudeau: That is entirely untrue, Mr. Scheer.

Hon. Andrew Scheer: You aren't telling Canadians how you're going to pay for it.

Rt. Hon. Justin Trudeau: You're the one who's hiding your platform.

Hon. Andrew Scheer: You aren't telling Canadians how you're going to pay for it, but we know that taxes will go up under your government if you are re-elected.

Rt. Hon. Justin Trudeau: (Crosstalk) we lowered taxes for the middle class and raised them on the wealthiest one percent, and you voted against that.

Hon. Andrew Scheer: (Crosstalk) you looked Canadians in the eye and you said that the allegations in The Globe and Mail were false. You said Jody Wilson-Raybould never came to you.

Rt. Hon. Justin Trudeau: They were false.

Hon. Andrew Scheer: You said you never put pressure on her. We now know that those were all lies. You have failed to tell the truth in this corruption scandal.

Rt. Hon. Justin Trudeau: Mr. Scheer, the responsibility of any Prime Minister is to stand up for jobs, and what you're saying is you would have (crosstalk).

Hon. Andrew Scheer: (Crosstalk) the CEO of SNC-Lavalin said they never threatened jobs or (crosstalk).

Jagmeet Singh: What we have here is Mr. Trudeau and Mr. Scheer arguing about who's worse for Canada. Really we've got to start presenting who is going to be best for Canada. (Laughter).

We think about what Canadians are going through, Mr. Scheer, your small tax cuts are not going to help a family that's struggling with the cost of child care, which costs thousands of dollars a month. Your small taxes aren't going to help out a family struggling with the cost of medication that can cost of hundreds of dollars a month.

Hon. Andrew Scheer: Canadians are struggling to get by, and we're going to put more money in their pockets.

Jagmeet Singh: (Crosstalk) what we're providing is this, a plan to make sure families save money –

Hon. Andrew Scheer: (Crosstalk) \$850 with the universal tax credit.

Jagmeet Singh: Let me finish my point here. We're going to save families money by investing in pharmacare for all, which is going to save families over \$500 a month.

Hon. Maxime Bernier: (Crosstalk) pharmacare is a provincial jurisdiction, Mr.

Singh, it's a provincial jurisdiction.

Jagmeet Singh: We'll invest in child care – let me finish my point here. We'll invest in child care, which is going to save families thousands of dollars a month, and we're going to make sure that those families that earn less than \$70,000 get dental care. That's going to save families at least \$1,240 a month.

Hon. Maxime Bernier: Where will you find the money? Where will you find the money?

Jagmeet Singh: This is a Conservative spin. Where we are going to find the money is this. We're going to ask the wealthiest Canadians, the wealthiest Canadians –

Hon. Maxime Bernier: In our pockets.

Jagmeet Singh: — those who have wealth of over \$20 million, those who have fortunes of over \$20 million, we're going to ask them to pay a bit more. Yes, we think they should. That's only going to apply to a small number of —

Elizabeth May: You know what's fascinating about this, Jagmeet? You know what's fascinating about that proposal, because we have the same proposal in our budget. When the Parliamentary Budget Officer reviews them, guess what they find is the single biggest uncertainty when we go for revenues from the wealthiest. They're worried that they will hire lawyers and avoid paying that tax. If you go look at the Parliamentary Budget Office reviews, people said oh, well, the Green Party is proposing to spend a lot of money, yes, on pharmacare; yes, on child care; abolishing tuition. The weakness, they say, in our revenue sources is that wealthy Canadians will continue to hire lawyers and evade their taxes. I think that's shocking. I think we need to say to people this is the most beautiful, blessed country on Earth, and if you have wealth you have obligation. You have responsibility. Pay your taxes.

Yves-François Blanchet: If I may I seem to remember that —

Jagmeet Singh: Everyone's got to contribute their fair share. It makes sense.

Yves-François Blanchet: I seem to remember that Mr. Scheer referred to the SNC-Lavalin scandal. I want to speak for 3,400 innocent people that did nothing wrong. When Mr. Trudeau tried to find a solution, he did it the wrong way and he admitted it. What you are doing, Mr. Scheer, is playing this old card. You're trading the idea that Quebec is corrupt. Those 3,400 people have done nothing wrong. Now the value of their shares are going down. Employees are leaving. Clients are leaving and we are losing it all because —

Hon. Andrew Scheer: Mr. Blanchet, with all due respect, there is never an excuse for a Prime Minister to interfere in an independent court case. We do not want to live in a country where someone —

Yves-François Blanchet: — (crosstalk) —

Hon. Andrew Scheer: — can abuse the power of their office to reward their friends and punish their enemies, and it is essential that we preserve —

Yves-François Blanchet: — (crosstalk) innocent people pay the price for that.

Hon. Maxime Bernier: I just want to add I knew that I was the only leader who said no corporation is above the law. I was the only one who said that.

Hon. Andrew Scheer: That's not true.

Elizabeth May: I think I said that too, Max. (Laughter). It may be the only thing on which we agree, that no corporation is above the law, and we need an the inquiry into what went on in the SNC-Lavalin —

Hon. Maxime Bernier: It's a nice beginning.

Althia Raj: What a wonderful show of unanimity on this wonderful topic. (Laughter). That wraps up this topic and this segment. Thank you very much.

THEME THREE: INDIGENOUS ISSUES

Susan Delacourt: I'm Susan Delacourt from The Toronto Star. Welcome, leaders. I'm moderator for the next theme, which will be Indigenous issues. We're going to begin this segment, which was also chosen by random draw, with my question to Conservative Leader Andrew Scheer. Here it is. Mr. Scheer, you've said that a Conservative government would focus on practical things in its relationship with Canada's Indigenous people. As you pursue your promised energy corridor, practically speaking, how will you consult, accommodate, and obtain consent from Indigenous peoples? What will you do when your plans come into conflict with Indigenous rights and interests?

Hon. Andrew Scheer: Thank you very much for the question. As someone who has 12 First Nations reserves in his riding, I understand the importance of balancing treaty rights and also the ability for Indigenous Canadians to participate in the economy. That really is the key. What I have said is that a Conservative government will ensure that the proposal for the national energy corridor takes into account Indigenous concerns by ensuring that a cabinet minister is responsible specifically for Indigenous consultations. Unlike the court ruling that found that the current government mishandled the consultations under the TMX pipeline, we will ensure that it is dynamic, that is more than just ticking a box and listening to concerns. It's actually addressing those concerns. But we have to remember that we have to get to a place in this country where big things can get built again. Duty to consult means that concerns are heard and addressed, but that – also that we find a path to letting things get built in this country

Susan Delacourt: Ms. May.

Elizabeth May: Thank you. I am appalled by the fact that Mr. Scheer has forgotten that there was a duty to consult under the Harper government as well and that they also violated it in the findings of the court, identical to Trans Mountain on the case of Enbridge. The UN Declaration on the Rights of Indigenous Peoples needs to come into force of law in this country. I know you oppose it because of the debate we had at Macleans, but the reality of it is Section 35 of the Constitution already requires consultation, and it does not boil down to we will consult with Indigenous people until we get them to agree with us.

Hon. Andrew Scheer: No, but it also means –

Elizabeth May: It's about respect nation to nation of Indigenous territorial rights are inherent

Hon. Andrew Scheer: So what does free, prior, and informed consent mean for every single Indigenous community?

Elizabeth May: It means free, prior, informed consent –

Hon. Andrew Scheer: What about the dozens and dozens of Indigenous communities who want these projects to go ahead?

Elizabeth May: Why are you prepared to set aside the decision of the Human Rights Tribunal, to fight it in court just as Mr. Trudeau is, when they actually found as a matter of fact that our government committed acts that were reckless and willful in the violation of the rights of Indigenous children –

Hon. Andrew Scheer: There are dozens of Indigenous communities who want –

Elizabeth May: We must live up to that decision.

Hon. Andrew Scheer: There are dozens of Indigenous communities who want these projects to go ahead because they know that is the key to prosperity on their reserve.

Elizabeth May: The territory is a question of their fishing rights.

Hon. Andrew Scheer: They know that is the way for their young people to get jobs.

Elizabeth May: Territorial rights are inherently local.

Hon. Andrew Scheer: You and others cannot define what free, prior, and informed consent is.

Elizabeth May: I don't want to argue, I'll let you talk, but –

Susan Delacourt: Mr. Blanchet, it is now your turn.

Yves-François Blanchet: You say, Mr. Scheer, that you want to respect provinces and Quebec jurisdiction – jurisdiction, sorry. But when it comes to this pipeline of yours and this corridor énergétique, which translates – the French translation, I'm sorry, in English is pipeline – you don't fear the idea of expropriating territories belonging to provinces and saying the Constitution – yours, not mine – the Constitution says that I have the right to go through provinces, through Quebec, without their approval.

Hon. Andrew Scheer: Yes (crosstalk).

Yves-François Blanchet: May I remind you that Quebecers and the Prime Minister of Quebec said clearly that he does not want it.

Hon. Andrew Scheer: So that's completely false. What we're talking about here is addressing the environmental concerns and the Indigenous concerns up front, getting that out of the way so that there can be a geographic space where big projects can get built again, including Quebec sharing its hydro electrical energy –

Yves-François Blanchet: Now it belongs to Quebec and then it would not belong to Quebec.

Hon. Andrew Scheer: We're talking about the regulatory environment around it, and you know as well as I do that Quebecers purchase a huge percentage of their energy from the United States. I've made my choice. I believe Quebecers should get energy de chez nous, not buying energy from the United States. I've made my choice, Mr. Blanchet.

Yves-François Blanchet: (Crosstalk) you have done and Quebec will make his.

Susan Delacourt: Mr. Bernier, I remind you this is about how will we respect Indigenous rights – oh, Mr. Trudeau, sorry.

Rt. Hon. Justin Trudeau: Thank you. We all remember ten years of Stephen Harper, who did not respect Indigenous rights, did not respect Indigenous peoples, and, Mr. Scheer, you're putting forward exactly the same plan that didn't just fail Indigenous peoples, didn't just fail Indigenous communities and their kids, but they also failed to get important energy projects built. We need to keep moving forward in a way that respects Indigenous peoples, respects that there's going to be a range of views, but is grounded in the UN Declaration on the Rights of Indigenous Peoples that you have consistently blocked through your party's actions. That is not respect for Indigenous peoples.

Perry Bellegarde, the Grand Chief – the head of the Assembly of First Nations, has said that no government has done more for Indigenous peoples than this government, and he's one of your constituents Mr. Scheer.

Hon. Andrew Scheer: That's right. He comes from Little Black Bear in my riding. He's got my phone number.

Rt. Hon. Justin Trudeau: He'd love to talk to you. He asked me to give you a phone call.

Hon. Andrew Scheer: (Crosstalk) I have nothing to learn from Mr. Trudeau, who fired the first Indigenous Attorney General for doing her job. She said she would do politics differently, and you fired her when she did. You want to talk about getting pipelines built? You've cancelled two pipelines, and the one you bought you can't build. You've let tens of thousands of people in Alberta and Saskatchewan down, and you have failed to recognize that Indigenous communities are hurt by this –

Rt. Hon. Justin Trudeau: I am accepting the fact that I'm going to be attacked for not building pipelines from some and for building pipelines from others, and the balance we need to take is (crosstalk).

Hon. Andrew Scheer: (Crosstalk) you're doing nothing.

Susan Delacourt: Mr. Bernier.

Hon. Maxime Bernier: Mr. Scheer, you said that you're ready for building pipelines all across this country by the private sector, but at the same time you said you know Quebecers are ready to buy oil and gas from Canada. I agree with that. I agree that Quebecers know that it's safer to transport oil and gas by pipelines than by trains. But at the same time, the Quebec government said there is no social acceptability for a pipeline in Quebec. What will be your position on that? Do you think that you'll be able to use the Constitution, because after consultation, if we don't have any agreement, we must be able to use the Constitution Section 92.10 to be able to build a pipeline?

When you do that, the federal government will have the full authority, the full jurisdiction to approve pipelines, but what you're saying you're for pipelines but you don't have the courage to use the Constitution to be sure that we'll have pipelines in this country for the unity of our country and the prosperity of our country.

Hon. Andrew Scheer: That's just not the case at all. I've always said that the federal government must stand up for federal jurisdiction. We respect provincial jurisdiction, and when you've got the best idea, I am convinced that I can get support for this project because Quebecers prefer Canadian energy –

Hon. Maxime Bernier: You don't have the support in Quebec. You don't have the support in BC.

Hon. Andrew Scheer: Quebecers know that it's better to take energy from western Canada than the tanker after tanker of foreign oil coming up the St. Lawrence or oil and gas coming from Donald Trump's economy. I know Quebecers will support this project because it will also allow them to share their hydro electrical power with other provinces as well.

Susan Delacourt: Mr. Singh.

Jagmeet Singh: I want to talk about a recent decision. The Human Rights Tribunal of Canada found that the Harper government and Mr. Trudeau's government wilfully and recklessly discriminated against Indigenous kids. These are kids that weren't getting equal funding. There's a landmark decision that said these kids should get equal funding, and it was received as finally some justice for those kids. Then Mr. Trudeau and his government are going to appeal that decision. He wanted to fight hard to keep SNC-Lavalin out of the courts, but he's going to drag Indigenous kids to court. That is wrong. How could someone do that? How could someone do that?

Hon. Andrew Scheer: This decision will have massive – huge ramifications for several aspects of the way the federal government provides services to Indigenous Canadians. It also is a very large, significant settlement amount, and I believe when you're dealing with these types of important public policy issues that it is legitimate to say that it should be reviewed – have a judicial review.

Jagmeet Singh: I disagree of course, but I want to talk about one other issue. We're talking about Indigenous issues. I went to Grassy Narrows again just recently. We've got a

community impacted by mercury poisoning, and an Indigenous activist went to a private fundraiser where Mr. Trudeau mocked that Indigenous activist, saying thank you for your donation. Living with mercury poisoning, what kind of Prime Minister does that?

Hon. Andrew Scheer: Because he's phony.

Jagmeet Singh: Living with mercury poisoning, what kind of Prime Minister does that?

Hon. Andrew Scheer: Because he's a fraud. I wish I had that answer, but one that doesn't deserve to be re-elected.

Susan Delacourt: That's time for this section of the debate. The open debate is over, but we continue on our theme of Indigenous affairs. We have a question from an audience member here in Gatineau, Natasha Beatty. Go ahead, Natasha.

Question: Good evening. As a member of Beausoleil First Nation, my question is this. If elected, how would your parties work with provinces and territories on recognizing and affirming Indigenous rights, specifically noting the UN Declaration on the Rights of Indigenous Peoples, the Truth and Reconciliation Commission's calls to action, and the calls for justice in the recent Missing and Murdered Indigenous Women and Girls Inquiry? Megwitch.

Susan Delacourt: The leaders will all have a chance to answer this question – thank you, Natasha – starting with Mr. Scheer.

Hon. Andrew Scheer: Thank you very much for the question. Of course there's a lot there for just 40 seconds. There are many areas in the Missing and Murdered Indigenous Women report that Conservatives have been calling for for quite a while, including combating human trafficking, something that is very important. Also, we support preserving Indigenous languages by ensuring that the federal government does what it can to prevent some of these languages that are at risk of being lost, to preserve them. When we're talking about the UN Declaration on the Rights of Indigenous Peoples, we need to remember that when you talk about free, prior, and informed consent, that leaves a great deal of uncertainty about what that means. There are large numbers of Indigenous communities who want these energy projects to succeed, and we need certainty and clarity around that.

Susan Delacourt: Alright. We will now go to Ms. May.

Elizabeth May: Natasha, megwitch. It's an extremely important question, and Greens across the country are united in this. We will honour the UN Declaration on the Rights of Indigenous Peoples. It must be brought into law in this country, and our existing web of laws and regulations, which were properly described by the Inquiry on Missing and Murdered Indigenous Women as constituting structural violence, must be reviewed and brought up to the standard of the UN Declaration. We must bring in the recommendations of the Inquiry into Missing and

Murdered Indigenous Women and Girls and the calls to action of the Truth and Reconciliation Commission. It is not a short-term project. It is on us as settler Canadians to bring justice.

Susan Delacourt: Monsieur Blanchet.

Yves-François Blanchet: We also support the Declaration of the United Nations on the Rights of Indigenous People. I do believe and I've spent the most beautiful moments of this campaign with people from the First Nations. They are nations as well as Canada is a nation and Quebec is a nation. A nation does not put its culture, its language, its heritage in the hands of another nation. So what they ask for – and they have to ask because we are no better than they are to represent themselves – is that all those reports and inquiries and declarations bring something real and respectful for them.

Susan Delacourt: Mr. Trudeau.

Rt. Hon. Justin Trudeau: Thank you, Natasha, for your question. We have moved forward on reconciliation in ways that no previous government has been able to, but I am the first to recognize there is much more to do. We lifted 87 long-term boiled water advisories and we are on track to lifting 50 more, but we are continuing to invest in communities.

On the issue of child and family services, we recognize the tribunal's ruling that says that children need to be compensated, and we will be compensating them. But we've also moved forward to end the tragedies by moving forward on legislation that keeps kids in care in their communities with their language, with their culture.

We also want to move forward with Grassy Narrows, with the community, on a treatment centre, and money is not the objection to investing in what they need in that treatment centre.

Susan Delacourt: Thank you. Mr. Bernier.

Hon. Maxime Bernier: No other leader is ready to build a new relationship with our First Nations. They all support the status quo, but the system is broken. We still have extreme poverty on reserve. We need a bold reform, and we are the only party that will try to implement property rights on reserve and also establish a new relationship based on self-reliance for these communities. We need to build a new system, working with them, but that's not what they want because we cannot fix the system right now if we don't do a bold reform, and we are ready for that.

Susan Delacourt: Mr. Singh.

Jagmeet Singh: (Off microphone) thank you so much for your question. Really it's a matter of respect and dignity. All of the issues that you've raised come down to that basic question of respect and dignity. One of the first things we would do, we wouldn't take Indigenous kids to court and challenge a decision that says they were wilfully and recklessly discriminated against. We wouldn't do that. We would immediately address issues of justice. That means implementing all the recommendations from the reports that are so powerful and

have a guideline towards solving the problems. We'd make sure there's clean drinking water. I don't accept any excuses why we can't in 2019. We'd make sure that we implement clean housing, good quality housing and education and welfare services. We can do these things.

Susan Delacourt: Thank you. So now we have time for another leader-to-leader debate on any topic. Leading this one off will be Green Party Leader Elizabeth May. Elizabeth May, you have, I believe, one minute.

Elizabeth May: Thank you, Susan. My question is to Justin Trudeau. Picking up from this very fractious discussion on Indigenous issues, but let's face it, right now Indigenous peoples, the Assembly of First Nations are telling us their number one concern is the climate emergency. We need to focus on real solutions. It's not good enough to have better rhetoric than Mr. Scheer, with all respect to Mr. Singh. It's not about rhetoric. It's about a target that's grounded in science and to do with 60 percent reductions by 2030, not Mr. Singh's 38 percent, not your 30 percent. Will you, Mr. Trudeau, join with all of us in an inner cabinet that gets rid of the partisanship and says after this election we move to protect our children's future together?

Susan Delacourt: Mr. Trudeau. Mr. Trudeau, your answer.

Rt. Hon. Justin Trudeau: We recognize that targets are important, and we're going to be surpassing the targets we inherited, but targets are not a plan. We have a real plan that has delivered over the past four years on our way to banning single-use plastics, on putting a price on pollution right across the money – the country – in a way that returns money to Canadians, that actually makes, unlike what Mr. Scheer is saying, most Canadians better off, 80 percent of Canadians better off, with a price on pollution than they will be when he rips up our climate change if he were to form government after this election.

We will continue to do the things that need to be done and bring Canadians along with it. Our plan is realistic and ambitious and doable. That is what Canadians need because the danger of not acting on the environment is tremendous. The danger of not having a plan for our future, either the environment or the economy, is going to be borne by our kids.

Susan Delacourt: Ms. May, you may now begin open debate. There is three minutes and forty-five seconds.

Elizabeth May: The science is clear. Your target is a commitment to failure. That's why it's so doable and achievable, because it doesn't do what the IPCC says we must do. We must go off fossil fuels as quickly as possible, and you bought a pipeline. You can't be a climate leader and spend ten to \$13 billion more on a project that by itself blows through our carbon budget. We have to –

Rt. Hon. Justin Trudeau: A slogan is not a plan, Ms. May.

Elizabeth May: No, we have a plan, get rid of fossil –

Rt. Hon. Justin Trudeau: A slogan is not a plan. It is an unrealizable plan. Canadians need that action —

Elizabeth May: Not, it has been assessed by (crosstalk) —

Rt. Hon. Justin Trudeau: — that is going to actually make us better, fight climate change, protect the environment, and build a stronger economy for our kids. We have done more over the past four years than any government in the history of Canada —

Elizabeth May: No, that's not true. Paul Martin did more, but that's alright. No one remembers the Paul Martin plan in 2005. It was better. But the reality is if you have a fire —

Rt. Hon. Justin Trudeau: There's much more to do. There's much more to do. He didn't deliver on that plan. Over the past four years we delivered on it.

Elizabeth May: If you have a fire in a four-storey building, getting a one-storey ladder doesn't do it.

Susan Delacourt: Can we get some other leaders in there? Mr. Scheer.

Hon. Andrew Scheer: That is completely false, and just because you say something over and over and over again doesn't make it true. There is no Canadian —

Rt. Hon. Justin Trudeau: It would be nice for you to learn that, Mr. Scheer. (Laughter).

Hon. Andrew Scheer: There is no Canadian that believes they're going to be better off by paying a carbon tax. You have given a massive exemption to the country's largest polluters, and your plan is already failing.

Rt. Hon. Justin Trudeau: The economists, the experts, the Parliamentary Budget Officer points out 80 percent of Canadians are better off under our climate incentive.

Hon. Andrew Scheer: (Crosstalk) because he had to trust the numbers you gave him. Nobody believes your numbers, Justin, because you have this —

Susan Delacourt: One at a time. Mr. Singh and Mr. Bernier.

Jagmeet Singh: I want to say this directly to Canadians. You do not need to choose between Mr. Delay and Mr. Deny. There is another option. (Laughter). There is another option out there. We are committed to a real plan that's going to take on the biggest polluters. It's going to take on the powerful interests because that's what we need to do. If we want to build a better future, it's going to mean taking on the powerful.

Elizabeth May: What is your target?

Jagmeet Singh: That means we're going to have to cut our emissions by half.

Elizabeth May: You can take on the powerful, but you need to have a plan that is rooted in the target that saves our kids' future.

Jagmeet Singh: It means we're going to have to reduce our emissions by more than half. You've got to take on the powerful at the top. We're prepared to do that.

Hon. Maxime Bernier: I just want to say (crosstalk). People must know that, Mr. Scheer and Mr. Trudeau, you're the same on climate change.

Hon. Andrew Scheer: That's false.

Hon. Maxime Bernier: You want to impose a carbon tax on Canadians and you want to impose more costly –

Rt. Hon. Justin Trudeau: I think that's the most offensive thing you've said all night, Max, that we're the same on climate change.

Hon. Maxime Bernier: You want to impose also a big tax on the big emitters, so you're the same on climate change and you won't be able to achieve your target.

Yves-Francois Blanchet: (Crosstalk) I'd like a few seconds with Mrs. May, please. I think you and I have to find some common grounds when we get into that House of Commons –

Elizabeth May: I don't think it will be on JNL Quebec and the fact that you're supporting a project that blows through more of the carbon budget against the will of many Quebecers and threatens the St. Lawrence River.

Yves-Francois Blanchet: This is not what I had in mind, and I have provided answers to that. I think the goal should be down to almost nothing, not 30 percent, not 60 percent, almost nothing. What do you think about this idea of an equalization based on gas emissions? Those who are over the average emissions of Canada pay, and those who are under the average emissions get the money. The (inaudible) is for both parts.

Elizabeth May: What we have to do is work together. And with all due respect, that was the question I asked Mr. Trudeau. Are any of you prepared to accept the notion of changing status quo decision making so we form an internal cabinet based on (crosstalk)?

Yves-Francois Blanchet: (Crosstalk) does not help.

Susan Delacourt: Ladies and gentlemen, that's all the time we have. That concludes this round. Thank you very much, and on to the next one.

THEME FOUR: AFFORDABILITY AND INCOME SECURITY

Dawna Friesen: Hello. I'm Dawna Friesen from Global News, and I'm moderating this segment on affordability and income security. Before I begin, I just want to say you've all been very vigorous in your debate. Some of your comments have gone a little long, so we're going to have to trim a bit in terms of time, but we will make sure that we keep those trims fair and equal.

On this topic, Ms. May, I have a question to you. Canadians are carrying \$2 trillion of household debt. That means the average Canadian owes about \$1.79 for every dollar of income he or she earns per year after taxes. It's never been this high. We are borrowing to live, something my parents told me was a terrible idea. You have made a bold promise to balance the federal budget in five years. How do you do that without causing more financial pain for Canadians and putting people further into debt? What's the single biggest thing in your policy, in your platform, that will reduce household debt?

Elizabeth May: Thank you for the question. I'm very pleased that we are the party standing on stage today that has a full platform, has the budget numbers publicly accessible and approved as a budget that passes muster by Kevin Page and the Institute for Fiscal Studies and Democracy.

The way to bring more public service, to bring more help to Canadians, child care, banning tuition, investing in post-secondary education, pharmacare, dental programs for low-income Canadians, all things that make life more affordable, is not to have cuts but to go after places where there is revenue, offshore money that's being hidden, a financial transaction tax, going after one percent tax on people who have more than \$20 million in wealth, and a series of moves to increase the revenue coming into the Government of Canada. That is all of course based on the current economic situation. If we hit a recession, we would not slavishly or ideologically balance the books, but right now we think we'll have a balanced budget in five years.

Dawna Friesen: Mr. Blanchet, your opportunity to debate Ms. May on this topic.

Yves-Francois Blanchet: It is really a bad idea to borrow to live. It is a no better idea to cut too strongly into services to people that mainly need it. What about the idea of cutting all subsidies to oil, as we propose to do, bringing a law on the floor about that? How about this idea we have, this green equalization, which brings money to the government? How about cutting into those foreign tax shelters, including the two new ones created by Mr. Trudeau? What about taxing and perceiving taxes from those giants on the web that steal the money from our advertizing companies?

Elizabeth May: D'accord. In our platform we call for taxes on the e-commerce companies, the virtuals, the Amazons and the Googles and the Facebooks that mine billions of dollars out of this country and pay virtually no tax. We agree with you, we have to cut all fossil fuel subsidies. As a matter of fact, that was a promise made by Mr. Harper in 2009, by Mr. Trudeau in 2015, but they've increased because we're subsidizing LNG, which I'd like to hear you answer where you are on JNL Quebec. We need to get rid of fossil fuels, and right now we're still giving public funds to pipelines.

Yves-Francois Blanchet: You know what, I was the Minister responsible for the —

Dawna Friesen: I'm going to move you on, I'm sorry. Mr. Trudeau, your chance to debate Ms. May on household debt.

Rt. Hon. Justin Trudeau: We made a very different decision that Stephen Harper had in the previous ten years when we decided to invest in Canadians instead. That decision to invest in the middle class and people working hard to join it lifted 900,000 people out of poverty, including 300,000 kids. We gave more support for students going to school; we made more supports for seniors, and what that has done has actually grown our economy, more than a million new jobs created, most of them full time, over the past four years at the same time as we have reduced poverty, exceeding any targets that we had even set forward.

Elizabeth May: Can I —

Rt. Hon. Justin Trudeau: We've done that in a way that is responsible. The international (crosstalk).

Elizabeth May: This is a 40-second debate with eight seconds left for me.

Dawna Friesen: Ms. May, Ms. May.

Elizabeth May: Can I respond?

Dawna Friesen: Let's give the floor to Ms. May.

Elizabeth May: The concern I have about all these debates, by the way, and I'm sure a number of other leaders on stage share it, we don't have any section on health costs or health care in the course of two debates. I want to turn this to the affordability issue and how much more affordable life would be for Canadians with full, universal, single-payer pharmacare. It's in our platform, it's partially in yours. It's in Mr. Singh's. We need to deliver health care.

Rt. Hon. Justin Trudeau: We've actually taken concrete actions towards that.

Elizabeth May: But where is the national health accord?

Rt. Hon. Justin Trudeau: Lowering health prices, lowering prices for (crosstalk).

Elizabeth May: Are you prepared to accept Eric Hoskins' recommendation for universal, single-payer health care?

Rt. Hon. Justin Trudeau: We have, we have accepted —

Dawna Friesen: I'm afraid time's up for you. Mr. Bernier, your chance to debate Ms. May on household debt.

Hon. Maxime Bernier: Absolutely. I look at your platform, Elizabeth, and you know you will spend \$60 billion. Spending won't create any wealth. You cannot spend your way to prosperity. We need to have more private sector investment, and at the end you know that our national credit card is full. We still have a deficit, and Mr. Trudeau just added \$70 billion on our debt, and you'll add another \$60 billion on our debt. It is not responsible. Our children will have to pay for that.

Elizabeth May: But you have your famous private sector having got massive tax cuts when you were in Mr. Harper's cabinet based on being told these were the job creators and it would be great when they got tax cuts. They have not invested in the economy. They're sitting on piles of cash. Mark Carney calls it the dead money. We need to get that money and do public sector infrastructure investments, like a national grid that will bring renewable energy from one part of the country to the other, no pipelines by the way, but we need an electricity grid that serves the needs of every province and every Canadian.

Hon. Maxime Bernier: What I like from you, Elizabeth, you don't want any subsidies to the oil and gas industry, and I don't believe in corporate subsidies, also in corporate welfare, so we can agree on that.

Dawna Friesen: Alright, let's move on to Mr. Singh, your opportunity.

Jagmeet Singh: Thank you. Ms. May, I actually really appreciate that you wanted to shift the discussion towards health care. I think it's one of the biggest concerns that families have. When we look at Canadians across this country, they can't get the medication they need. They can't get the dental care they need. They're struggling. I met a woman in my office in Burnaby who was covering up her mouth because she was embarrassed she had lost her teeth because she couldn't get the care she needed. That, to me, is heartbreaking in a country as wealthy as ours. I know, Ms. May, you're prepared to do this, but the problem is Mr. Trudeau does not have the courage to take on the insurance and the pharmaceutical lobbyists that don't want this to happen.

I'm going to make it happen. If you vote New Democrats, we're going to make sure we make these things happen because we don't work for the powerful and wealthy. We don't meet with pharmaceutical companies and then listen to them. We work for you. We work for Canadians. We're going to deliver on these things.

Elizabeth May: We have to have – I hope you'll agree with me that we need to renegotiate a new health accord. It's been left alone for too long. We need to get back at the table. The constituents in my riding – I just did eight debates with the local candidates in my riding.

By the way, all of you guys can be proud, except for your Mr. Blanchet, all of you can be proud of the candidates you have running locally because I've been in eight debates with them in the last week. One thing we heard from every constituent in every town hall meeting is we are suffering from a lack of family doctors. We need an investment in our health care. The wheels are falling off the bus. We need to invest.

Jagmeet Singh: Mr. Trudeau has continued the same cuts brought in by the Conservatives.

Dawna Friesen: Mr. Scheer, your opportunity.

Hon. Andrew Scheer: The question was about affordability and household debt, and the entire theme of our platform is leaving more money in the pockets of Canadians so they can get ahead. It's time for Canadians to have a break. Our universal tax cut will mean \$850 in the pocket of a hardworking, average-income Canadian. We're going to bring back the children's fitness tax credit to make raising children more affordable. We're going to bring back the green public transit credit to make taking the bus or the train more affordable as well. We're going to help fight climate change by bringing in the green home renovation tax credit, which will put money in the pockets of Canadians and help lower emissions, and we're going to pay for that –

Elizabeth May: It won't lower emissions. It will cause them to go through the roof.

Hon. Andrew Scheer: The way we're going to pay for those is by cutting corporate welfare and reducing Canada's foreign aid budget by 25 percent. We're going to stop sending money to the relatively well-off countries. We're going to bring that money back home so that Canadians can get ahead.

Elizabeth May: Mr. Scheer, that may be the worst idea in your whole non-platform is the cutting of foreign aid. I wear this little pin. This is the Sustainable Development Goals of the United Nations, to which this country is committed.

Hon. Andrew Scheer: I believe it's time for Canadians to get a break.

Elizabeth May: Ending poverty within the next decade within Canada and globally is actually possible, but not if we ever have the misfortune of having your short-term, misguided, greedy and selfish policies.

Hon. Andrew Scheer: I believe we should take that money and bring it back home so that Canadians can get ahead. It's not greedy to put money in the pockets of Canadians, Ms. May. I fundamentally disagree with you.

Elizabeth May: It destabilizes the world, what you're proposing.

Dawna Friesen: We're going to stop you there so that we can hear from another Canadian, please, on the theme of affordability. One of the many places Canadians are watching tonight is in Yellowknife, Northwest Territories. Here is the scene at the Copper House Restaurant, and earlier we heard a question on affordability from Scott Marsden.

Question: I'm Scott Marsden from Yellowknife. My question is what is your government going to do about the growing crisis of income inequality and affordability in Canada.

Dawna Friesen: Ms. May, first to you.

Elizabeth May: I've been in that restaurant. Hello, Yellowknife. Good to see you again. Look, we must act for income equality. We need to look at the fact that, over the years, the gap between the various wealthy, wealthiest Canadians and the average Canadians is continuing to expand. We're calling for a tax commission. We haven't had a proper tax commission since the 1960s to examine our tax code to see if it's still progressive, to find out if all these corporate boutique tax cuts that have piled up over one after the other after successive governments is taking money away from those Canadians who need it most and allowing those who really have massive income to continue, as many Auditor Generals have found, to be treated by Canadian Revenue Agency as if they have special status and don't have to pay their taxes.

Dawna Friesen: Ms. May, thank you. Mr. Blanchet.

Yves-François Blanchet: First, I must say that if saying untrue things at the end of time is your way to do things, collaboration might be done already. However, about the issue, if the federal government was to respect jurisdiction of provinces, it would take less time, it would take less time, it would cost less money, and provinces and Québec could do what they have to do about health care, bringing the money that is owed to Québec and provinces. This is what has to be done. Lodging (ph) the buney—the money should be given to provinces and Québec because it is mostly, if not only, their jurisdiction that helps people.

Dawna Friesen: Mr. Trudeau, to you. The question is about income inequality and what you would do.

Rt. Hon. Justin Trudeau: We recognize that we need to help people more directly. That's why the first thing we did was lower taxes for the middle class and raised them on the wealthiest one percent. We're moving again forward with a tax break for low- and middle-income Canadians and nothing for the wealthiest, unlike Mr. Scheer's universal tax credit. We're also moving forward by increasing the Canada Child Benefit, which has lifted hundreds of thousands of families out of poverty, by 15 percent for kids under one. We're increasing the Old Age Security for seniors over 75. We're making sure that students have an easier time paying back their student debts by not having to pay back until they're making \$35,000 a year. We're investing in Canadians.

Dawna Friesen: Mr. Trudeau, thank you. Mr. Bernier, your turn.

Hon. Maxime Bernier: First of all, I think it is important to be able to have a discussion about what is important for Canadians. We are the only party that will balance the budget in two years. All the other parties on the stage will spend and spend and spend. That is not a solution. The credit card is full. But we will do that without cutting services. We will cut corporate welfare, all the corporate welfare; \$5 billion that we can save there. All these political parties, the only promise that they do to, they do everything to get your votes. I'm promise you [sic] to do nothing except balancing the budget and after that, lower your taxes. That's the only responsible policy.

Dawna Friesen: Mr. Bernier, thanks. Mr. Singh, to you.

Jagmeet Singh: I want to thank Scott for the question. Income inequality is massive. There's also massive wealth inequality. And these are not just esoteric academic discussions. When those at the very top do not pay their fair share, when 87 families in Canada have the combined wealth of three provinces, it hurts families. It means we don't have the funds to invest in health care. It means we don't have the money to invest in things like dental care. So while Mr. Trudeau likes to talk a nice game, and I admit he says nice words, but what he's done is he's given \$14 billion to the richest corporations to buy private jets and limousines in the last Fall Economic Statement. We would instead invest in people, ask the super wealthy to pay their fair share and invest in programs to relieve the costs on families.

Dawna Friesen: Mr. Singh, thank you. Mr. Scheer, your turn on income inequality.

Hon. Andrew Scheer: Well, actually, Mr. Trudeau has his facts wrong again. Our universal tax cut drastically is – is much better for middle-income Canadians than his proposal. And he thinks that someone earning \$47,000 a year is somehow too rich for a tax cut. I disagree. We also recognize that you don't need to tear some people down to lift others up. Justin Trudeau's attack on small businesses, threatening them, making it harder for them to grow and expand and offer the types of opportunities that lead to the jobs that have much higher income earnings was precisely part of the problem over the last four years, all the while protecting people who have inherited trust funds. We will take a different approach. We will ensure that our entrepreneurs have the support they need to grow and succeed.

Dawna Friesen: Mr. Scheer, thank you. We're going to move on now. I have a question for the Bloc Québécois leader, Yves-François Blanchet, after which each one of the leaders will have a chance to debate him one on one. Mr. Blanchet, Quebec is one of five provinces to receive federal equalization payments in 2019. It received \$13.1 billion, the highest amount of any province. That's a benefit of being part of a federal system where wealth is shared. You've referred to the money as an assistance cheque. Premier Legault has said he wants to wean Quebec off equalization payments. Do you agree with that, and if so, what would, how would that make life more affordable for Canadians?

Yves-François Blanchet: Thank you for the question. First, the very system called equalization is based on some flawed reasonings [sic], flawed ways to analyze things, and this is why we propose something else that would progressively replace it. Oil provinces are very wealthy and have developed those resources with money from all across Canada, including Quebec. And today, they are using it as a threat over Quebec, which citizens do not want to be a passage for this oil through their territory because they rely on clean energy and believe this is the only responsible way to do things.

We propose a kind of equalization that would be based without any constitution change on how provinces perform in fighting climate change. Those who are over the average pay, those who are under the average receive the money, giving a strong encouragement for everybody to reduce

Dawna Friesen: Alright.

Yves-François Blanchet: — GHG emissions.

Dawna Friesen: Mr. Blanchet, thank you. Let's go — the leaders will all have a chance to debate this one on one, one minute each, beginning with you, Mr. Trudeau.

Rt. Hon. Justin Trudeau: Thank you, Dawna. Equalization exists so that every Canadian across the country, regardless of the province they're born into or live in, accesses the same quality of services right across the country. It is not a perfect system, but it is a system that ensures as much as we can equality of opportunity across Canada. We've continued to engage with provinces across the country on updating the equalization formula in ways that are fair, and it is something that continues to bind this country together.

Unfortunately —

Yves-François Blanchet: (Crosstalk) avenues —

Rt. Hon. Justin Trudeau: — you, Mr. Blanchet, as a sovereigntist, —

Yves-François Blanchet: It's not entirely your money.

Rt. Hon. Justin Trudeau: — are always looking for opportunities to create fights between Quebec and the rest of Canada to advance your separatist —

Yves-François Blanchet: Now, we have paid for development —

Rt. Hon. Justin Trudeau: — agenda. Unfortunately, that's not something —

Yves-François Blanchet: — of oil in western Canada —

Rt. Hon. Justin Trudeau: — that Canadians want.

Yves-François Blanchet: — and you make us pay again with this idea of buying a pipeline over there. And tell me something, what can a Canadian do that a Quebecker cannot do? Why would you, would we need from Canada —

Rt. Hon. Justin Trudeau: I think by definition, a Quebecker can do anything a Canadian can do because a Quebecker is a Canadian —

Yves-François Blanchet: — that we can do ourselves (crosstalk) no less typical (crosstalk) —

Rt. Hon. Justin Trudeau: — and will remain a Canadian under my watch, Mr. Blanchet.

Yves-François Blanchet: — do our own thing.

Dawna Friesen: Gentlemen, thank you. Mr. Bernier, you now have the opportunity to debate Mr. Blanchet.

Hon. Maxime Bernier: Yes, speaking about the equalization, I'm the only leader who's ready to look at the equalization formula for being sure that the formula will be less generous and fair for every province. Let me explain. It is not fair to tax people out west and also in Quebec because Quebeckers, you know, are proud and they want to live in a richer province. So what we must do, we must give the right incentive to provinces to develop their own natural resources. That's so important to have a, to have a discussion about the equalization, and they don't want to have the discussion.

Yves-François Blanchet: You —

Hon. Maxime Bernier: Let's be less generous and fair for every province.

Yves-François Blanchet: — we share this idea. We share this idea.

Hon. Maxime Bernier: Why? Why? Because it is important when you have people in a, when you have people —

Yves-François Blanchet: What's the time? What's the time?

Hon. Maxime Bernier: — in Alberta, 20, yeah —

Yves-François Blanchet: Fifteen seconds.

Hon. Maxime Bernier: — 20 percent of people —

Yves-François Blanchet: Fourteen seconds.

Hon. Maxime Bernier: — (crosstalk) once to have the discussion. And let's —

Yves-François Blanchet: Ten seconds.

Hon. Maxime Bernier: — have the discussion.

Yves-François Blanchet: Okay. Quebeckers receive less money from equalization per capita than anybody else who receives it in Canada. Do you mind about stopping those lines?

Dawna Friesen: Alright. Mr. Blanchet. Mr. Singh, your opportunity to debate.

Jagmeet Singh: Yes, I was thinking about ways we can make life more affordable, and this is where I think we can do a lot if we work together. This is one of the things I believe that we can, we can build a better Canada if we tackle some of the challenges that people are facing. One of the things that we hear about a lot in Quebec is the cost of health care and that it's not there for them when they need. If we work together, the universal pharmacare plan is one

where we use the buying power of all Canadians, it's still delivered provincially, but we can actually buy medication for lower cost and it will —

Yves-François Blanchet: Actually, it is, it is —

Jagmeet Singh: — help out Quebec and (crosstalk) people.

Yves-François Blanchet: — delivered, it is delivered provincially, and dental care would be if we wanted to finance it a provincial jurisdiction. You have good ideas, but your ideas always interfere and infringe into jurisdictions which are those of provinces —

Jagmeet Singh: (Crosstalk) I want to work together.

Yves-François Blanchet: — and Quebec. So if you want to do that —

Jagmeet Singh: We got to work together.

Yves-François Blanchet: — do it for Canada. Take our part of the money, as the Constitution allows —

Jagmeet Singh: We can do that. (Crosstalk).

Yves-François Blanchet: — and send it to Quebec.

Jagmeet Singh: The other thing we need to do is, when we want to tackle the problems, is housing. Housing is something that's concerning a lot of people. Federal money used to be invested in building, in partnership with provinces to build housing. We want to do that again.

Dawna Friesen: Mr. Scheer, thank you. Mr. — Mr. Singh, pardon me. Mr. Scheer, over to you.

Jagmeet Singh: I don't know how people are getting me mixed up. (Laughter) (Off microphone) on purpose today. (Laughter). What does it take?

Hon. Andrew Scheer: I'm slightly taller than you, Mr. Singh. (Laughter). That must be it.

Jagmeet Singh: And stop running that (crosstalk) —

Dawna Friesen: Mr. Scheer, please continue the debate.

Hon. Andrew Scheer: It's important for Quebeckers to realize that, on so many issues, Mr. Blanchet agrees with Justin Trudeau. He will support Justin Trudeau's higher taxes, he'll support massive deficits that will continue to put pressure on Canadian taxpayers, meaning more and more of their dollar goes to pay the interest on —

Yves-François Blanchet: I just, I just (crosstalk) —

Hon. Andrew Scheer: — the debt. And we know —

Yves-François Blanchet: — had to raise more money without —

Hon. Andrew Scheer: — and we know – sorry, if I could continue, Mr. Blanchet —

Yves-François Blanchet: — raising taxes so you didn't listen or you didn't understand.
(Laughter).

Hon. Andrew Scheer: — we know, we know that Mr. Blanchet's priority is working with the Parti Québécois on sovereignty. So we know that if votes for Bloc Québécois MPs mean that Justin Trudeau stays Prime Minister. Avec le Bloc, le plus ça change, le plus ça reste le même.

Yves-François Blanchet: And you know what? Do you remember that all those —

Hon. Andrew Scheer: We know that, that Mr. Blanchet —

Yves-François Blanchet: — all tho—all that you say you did for Quebeckers was done —

Hon. Andrew Scheer: — he prefers, he prefers to purchase his oil and gas —

Yves-François Blanchet: — when Harper was in a minority government —

Hon. Andrew Scheer: — from the United States.

Yves-François Blanchet: — all those changes were (crosstalk) by Bloc Québécois.

Hon. Andrew Scheer: You prefer sending consumers' dollars to the United States to support that economy. I per—I pe—prefer —

Yves-François Blanchet: You have a strange picture of reality.

Hon. Andrew Scheer: — Canadian energy (crosstalk).

Dawna Friesen: You've talked over each other and you're both out of time.
(Laughter). Thank you, Mr. Scheer. Ms. May, it's your turn.

Elizabeth May: Forgive me, Dawna, but Yellowknife, Rylund, I see you.
Congratulations for being elected MLA. I'm just so excited.

Now, turning to equalization payments, we need equalization in Canada because we're a country, we're a family. We need to think like a family. Your proposal, Mr. Blanchet, would be to put an extra burden on those parts of Canada like Alberta that have the toughest challenge to meet the

climate crisis. We're concerned as Greens that we work together, that we not alienate Alberta, that we —

Yves-François Blanchet: I had noticed that you had a strong sensibility for Alberta since your previous positions on oil were quite nice to them.

Elizabeth May: No, they're not. They're —

Yves-François Blanchet: However, however, in a family —

Elizabeth May: — we're shutting down the oil sands —

Yves-François Blanchet: — sometimes, in a family sometimes —

Elizabeth May: — by 2030. They don't find it nice.

Yves-François Blanchet: — in a family sometimes —

Elizabeth May: That's why they deserve fairness.

Yves-François Blanchet: — in a family sometimes one does not agree with others and he doesn't have to be forced to do what others say.

Elizabeth May: We are facing a climate emergency, and anyone who understands the science – and I hope you do because we all —

Yves-François Blanchet: And this is, this is a world —

Elizabeth May: — marched with Greta.

Yves-François Blanchet: — issue, and only countries do international affairs, provinces don't.

Elizabeth May: We have to pull our weight —

Dawna Friesen: Alright.

Elizabeth May: — as provinces and as nations and we do it together.

Dawna Friesen: We have to move along. Thank you for that. We will end this segment with another open debate. Yves-François Blanchet, it is your turn to ask any other leader a question on the topic of your choice. (Laughter).

Yves-François Blanchet: I wonder (inaudible). Mr. Scheer, you said in English a few months ago that you were strongly against the very idea of Bill 21 about laïcité of the state in Quebec. Then you said in French in Quebec that you would do nothing against that law. But your very close collaborator, Mr. Alain Rayes, said the day before yesterday that you would protect the Bill

21. He said that in French, I must admit. You would, you were the only one that would protect the Bill —

Dawna Friesen: Can you – can you get to the question, please?

Yves-François Blanchet: — 21. Please, how will you do that?

Hon. Andrew Scheer: It's very – this – the answer to this question is very simple, Mr. Blanchet, and you know that I've always been very clear on this issue. We will not intervene in the court case that is currently before the courts. The elected officials of Quebec have taken this decision and now it is before the courts —

Yves-François Blanchet: Mr. Rayes said that you would protect —

Hon. Andrew Scheer: — and the courts, and the courts will —

Yves-François Blanchet: — protect the law.

Hon. Andrew Scheer: — decide. That is —

Yves-François Blanchet: (Crosstalk) the law?

Hon. Andrew Scheer: — exactly what I've always said, in English —

Yves-François Blanchet: What will you do to protect this law?

Hon. Andrew Scheer: — and in French. It's very important that a federal government respects and protects individual liberties and individual human rights. We will not pursue this court of action at a federal level.

Yves-François Blanchet: Your definition —

Dawna Friesen: Mr. Scheer has the floor.

Yves-François Blanchet: — (crosstalk) in the law.

Hon. Andrew Scheer: It's quite simple.

Yves-François Blanchet: (Crosstalk) go in the same direction.

Hon. Andrew Scheer: I just answered the question, Mr. Blanchet.

Dawna Friesen: Mr. Blanchet, Mr. Scheer has the floor.

Hon. Andrew Scheer: La même chose en français. M. Blanchet. It's the same thing in French. We will not intervene in this court case.

Yves-François Blanchet: That's not (crosstalk).

Hon. Andrew Scheer: The court case will – will decide this.

Yves-François Blanchet: You should talk to Mr. Rayes. He does not say the same thing as you do.

Hon. Andrew Scheer: It's exactly the same position, Mr. Blanchet. You're trying to create division, confusion where it doesn't —

Yves-François Blanchet: (Crosstalk) everything and not doing something against the law —

Hon. Andrew Scheer: — where it doesn't exist.

Yves-François Blanchet: — does not mean that you will protect it. I would protect it. You would not —

Dawna Friesen: So we are open —

Hon. Andrew Scheer: You won't be in a position to —

Dawna Friesen: — we are going to have an open debate. That was Mr. Scheer's time to answer, I apologize.

Yves-François Blanchet: Oh, I'm sorry. I will leave you some (crosstalk). (Laughter).

Dawna Friesen: We will now have the open debate. Mr. Blanchet, you may begin.

Yves-François Blanchet: OK.

Hon. Andrew Scheer: Can I speak now, because you spoke during my answer?

Yves-François Blanchet: Please go ahead. (Laughter). We're still nice people.

Hon. Andrew Scheer: The issue on this has been exactly the same from the beginning. And Mr. Blanchet, I think you're trying to create confusion where there doesn't exist confusion. I have always been very clear, both in English and French, the – the answers have always been the same. This is something that at the federal level we will not pursue. The Conservative Party has always stood for individual liberty, for fundamental human rights. It was a Conservative Prime Minister that brought forward the Bill of Rights. The last Prime Minister from Saskatchewan —

Rt. Hon. Justin Trudeau: Except, of course, Mr. Scheer —

Hon. Andrew Scheer: — John Diefenbaker, and —

Rt. Hon. Justin Trudeau: — you won't defend a woman's right to choose.

Hon. Andrew Scheer: — we won't allow these types —

Rt. Hon. Justin Trudeau: You – you dismissed LGBT —

Hon. Andrew Scheer: — that is completely false.

Rt. Hon. Justin Trudeau: — LGBT protections.

Hon. Andrew Scheer: — it is completely false.

Rt. Hon. Justin Trudeau: You haven't apologized —

Hon. Andrew Scheer: Millions, millions —

Rt. Hon. Justin Trudeau: — against LGBT Canadians years ago.

Hon. Andrew Scheer: — millions of Canadians —

Rt. Hon. Justin Trudeau: Will you – will you recognize and apologize for that?

Hon. Andrew Scheer: — millions of Canadians, Mr. Trudeau, millions of Canadians have a different position on this issue. And like millions of Canadians, I am personally pro-life. It is OK in this country to have a difference of opinion, something you do not recognize.

Rt. Hon. Justin Trudeau: Yes, but Canadians need to know —

Hon. Andrew Scheer: (Crosstalk) it's not OK for a man —

Rt. Hon. Justin Trudeau: — Canadians need to know that their Prime Minister —

Hon. Andrew Scheer: — (crosstalk) when a woman's going to be deciding.

Rt. Hon. Justin Trudeau: — Canadians need to know that their Prime Minister —

Hon. Andrew Scheer: The laws and access on this issue —

Dawna Friesen: One at a time, please. One at a time, please.

Hon. Andrew Scheer: — the laws and access on this issue have not changed for 30 years under Liberal Prime Ministers, under Conservative Prime Ministers. It will not change —

Unidentified Male: Mr. Scheer, let me (crosstalk) —

Rt. Hon. Justin Trudeau: Canadians need to know —

Hon. Andrew Scheer: — once I am Prime Minister.

Rt. Hon. Justin Trudeau: — that their Prime Minister will be there —

Hon. Andrew Scheer: That is my position.

Rt. Hon. Justin Trudeau: — to defend them. And you have been —

Hon. Andrew Scheer: I have just answered that question.

Rt. Hon. Justin Trudeau: — you have been not —

Dawna Friesen: Let me, let's, let's allow Mr. Singh —

Rt. Hon. Justin Trudeau: — unequivocal on defending (crosstalk).

Dawna Friesen: — a moment.

Rt. Hon. Justin Trudeau: You're signing (crosstalk) papers of people who want to take away (crosstalk) —

Hon. Andrew Scheer: What about your misogynist, racist candidate in Nova Scotia?

Rt. Hon. Justin Trudeau: OK.

Dawna Friesen: Can we – can we (crosstalk) no, nobody, nobody can hear what you're saying anymore.

Rt. Hon. Justin Trudeau: You will be signing the nomination papers for people who have pledged —

Jagmeet Singh: A man has no place (crosstalk) —

Rt. Hon. Justin Trudeau: — to take away rights from (crosstalk).

Jagmeet Singh: — around (crosstalk). (Laughter). (Applause).

Dawna Friesen: It's, I know, you're having a mini debate over here. Can we bring in Mr. Singh?

Jagmeet Singh: A man has no position in a discussion on a woman's right to choose. Let's be very clear on that.

Elizabeth May: How about a woman's right to speak in a debate? (Applause). I – it's been really interesting for most of this campaign to hear a lot of men arguing about what a woman's rights should be, but having all of you, except for Max, participated in the TVA debate where you were perfectly happy to keep women out, off the stage. I'm the only woman leader of a party. You participated in a debate which did not let our little girls see that there's a chance for

a woman in this country to be Prime Minister, to run as the leader of a party. We must be clear as all leaders, and you are not clear, Andrew, that we will never allow a single inch of retreat from the hard-earned rights of women in this country, not one inch. (Applause).

Jagmeet Singh: This says to me that you're open to working with Mr. Scheer —

Elizabeth May: Sure. I would —

Unidentified Male: — and your own MPs could come up with a law against abortion and you said that you will tolerate it.

Hon. Andrew Scheer: This is – this is a typical Liberal —

Elizabeth May: No. No, I – I said we don't allow anyone to run —

Hon. Andrew Scheer: — tactic. It's right out of the Liberal playbook.

Elizabeth May: — in our party who doesn't hold a pro-choice position.

Hon. Andrew Scheer: When they are in danger of losing an election —

Elizabeth May: We don't, sorry.

Hon. Andrew Scheer: — they bring forth these types of (crosstalk).

Dawna Friesen: This clearly needs more time. I'm afraid we don't have more time.

Elizabeth May: (Crosstalk) unlike all the rest of you.

Dawna Friesen: Ms. May, thank you very much. We're going to have to move on. Thank you. That concludes our segment.

THEME FIVE: ENVIRONMENT AND ENERGY

Rosemary Barton: Hi. everyone. I'm Rosemary Barton from CBC News. Our next theme – we've already talked about it a little bit, but now we will for real – the environment and energy. And we will start with a question from another Canadian. We're going to go to a gathering of people watching the debate, this time at the Halifax Central Library. We'll talk to Brittain Bancroft of Minto, New Brunswick is there and has this question. Over to you.

Question: Hi. My name is Brit Bancroft, and I'm from Minto, New Brunswick, and I believe we live in an age of climate crisis and this is the last election we have before point of no return is reached. Furthermore, I believe that for many larger corporations that pollute, the current system of fines and penalties associated with that polluting is just the cost of doing business. What concrete plans does each leader have to address big business polluting?

Rosemary Barton: Thank you, Brit. And the first answer goes to —

Yves-François Blanchet: That is —

Rosemary Barton: — Mr. Blanchet.

Yves-François Blanchet: — very interesting. What is considered as the most progressive system to find climate change so far is this agreement between California and Quebec, this trade exchange system that forces businesses to lower their emission through time, and it works very well. And I was — I had the privilege of completing the negotiation of such a system and signing it. And it should be used elsewhere. Simple taxes that return into the pockets of people without any change in incentive are not the solution. Doing nothing, hoping that, you know, some spirit will come and solve the problem, is no solution either.

Rosemary Barton: That's it, Mr. Blanchet. Mr. Trudeau, over to you.

Rt. Hon. Justin Trudeau: As Mr. Blanchet said, Quebec and other provinces like BC have moved forward with putting a price on pollution. We've ensured that that price is put in right across the country because it is a mechanism that will both lower emissions and ensure that Canadians can afford this transition. The choice tonight is very clear between two parties that have very different views on climate change. Mr. Scheer wants to rip up the only serious plan on climate change Canada has ever had the day after the election, and we will continue to do more. We recognize we need to do more to fight climate change. That's why we're going to be surpassing our targets. That's why we're going to get to net zero by 2050.

Rosemary Barton: Mr. Bernier.

Hon. Maxime Bernier: At the People's Party, we are the only real environmentalists party. Why? First of all, we want to do things that are possible. We want to do things that are possible to protect our health, our air, our environment, our water. All the other leaders claim to save the world and to save the climate. They cannot. Canada represents only two, 1.6 percent of the green gas emission [sic], and they claim also to be able to achieve the Paris Accord target; they cannot. They have to impose a carbon tax of \$300 a tonne to do that and they won't do it, they don't do it. They're hypocrites. We won't have a tax on carbon and we —

Rosemary Barton: Time's up. Time's up. Mr. Singh.

Jagmeet Singh: Thank you very much. Thank you, Brit, for your question. We are faced with a climate crisis; there's no question about it. We've got massive forest fires, which make it hard to breathe in some parts of Canada, in the west. We've got massive flooding, which means people are losing their homes, in the east. This is a serious crisis. Now, while Mr. Trudeau has said a lot of nice things, let's look at what he's done. He said that he's for the environment, but then he continues to exempt the biggest polluters from his price on pollution. He says he wants to fight the climate crisis and what does he do? He continues to subsidize oil and gas massively. He says he's a climate leader. What does he do? He buys a pipeline. There's a big gap between what Mr. Trudeau says —

Rosemary Barton: OK.

Jagmeet Singh: — and what he does.

Rosemary Barton: And Mr. Scheer, over to you next.

Hon. Andrew Scheer: I find myself agreeing with you again, Mr. Singh. On the environment, like so many issues, Justin Trudeau says one thing and then does something completely different. He's talking about hitting 2050 targets. He can't even meet 2030 targets. He talks about ripping up a real plan; his plan has been proven to fail. He has given – he has given a massive exemption to the country's largest polluters. They – and they were able to negotiate themselves up to a 90 percent exemption from his carbon tax. Meanwhile, hardworking commuters, moms and dads taking their kids to school or driving to work, they have to pay the full brunt of that.

Our plan is a real plan that takes the climate change fight global, recognizing that we could shut everything down here tomorrow

Rosemary Barton: That's it, Mr. Scheer. I'm dropping the hammer, coming to the end of the show. Ms. May.

Elizabeth May: Brit, thank you for the question. You, unlike everyone else on this stage, clearly understand that we're up against a real climate emergency. The Intergovernmental Panel on Climate Change has given us hard timelines, challenging targets. If we're going to do what's required, it isn't easy. We don't grade on a curve and say because a plan is less ambitious, it's therefore more doable. If it fails to meet the goal of holding global average temperature to no more than 1.5 degrees Celsius, we fail to give our kids a livable world.

Greta Thunberg is right. The house is on fire. Grownups then stand up and say kids, get to safety, we've got this. We'll take care of this for you.

Rosemary Barton: That's it, Ms. May. My turn now to ask a question, and this one goes to Mr. Trudeau, and the question is this, Mr. Trudeau. Last fall, the United Nations International Panel on Climate Change stressed the need to act quickly to limit further global warming. A report from Environment Canada says this country is warming twice as fast as the global average. You say you are committed to combating climate change, but your government still proceeded with the purchase and approval of a new pipeline to the west coast. Given the timeline, and given what is at stake, should Canada not be moving more quickly away from further development of the oil and gas sector? And to that end, should the Trans Mountain Expansion be Canada's last pipeline?

Rt. Hon. Justin Trudeau: We absolutely have to move faster. We absolutely have to do more, and that's why we put forward an ambitious plan to continue that is reasonable, that is, that is doable and is going to make sure that we get to not just surpass our 2030 targets, but go beyond it. We're banning single-use plastics, we're putting a price on pollution right across the country, and we are fighting those Conservative Premiers who do not want to do their part to fight climate

change. We recognize that transition to clean energy will not happen overnight. While we do, we should have less oil by rail and we need to get to new markets so we can invest all the — all the resources, all the money coming in from this pipeline into that green energy transition, into fighting climate change.

I know that's a big piece of the way we move forward, how we invest in the new economy in that transition, and that's what we've done. The choice tonight is do we pick a government that doesn't believe in climate change or in fighting it or do we continue on the track we are —

Rosemary Barton: OK, we've got to end it.

Rt. Hon. Justin Trudeau: — and be even more ambitious.

Rosemary Barton: I noticed you didn't answer the last part of that question, whether we were on our last pipeline. Mr. Bernier, your turn to debate Mr. Trudeau for one minute.

Hon. Maxime Bernier: Mr. Trudeau, I think we agree that we don't agree on climate change. I believe that there's no climate emergency. You believe the opposite. But you won't be able to achieve the Paris Accord target. I'm not saying that. That's the UN who said that. You need to impose a carbon tax over \$300 a tonne and you don't do that.

Rt. Hon. Justin Trudeau: In four years, Mr. Bernier —

Hon. Maxime Bernier: Elizabeth May, just what — let me finish.

Rt. Hon. Justin Trudeau: — we got three-quarters of the way there.

Rosemary Barton: Mr. — Mr. Trudeau, let Mr. Bernier finish.

Hon. Maxime Bernier: Elizabeth, she's right and you're right. She has a radical plan to fight climate change. It will destroy the economy, but what about you?

Rosemary Barton: OK.

Hon. Maxime Bernier: You won't be able to —

Rt. Hon. Justin Trudeau: In four years —

Rosemary Barton: Mr. Bernier, Mr. Trudeau (crosstalk) time.

Rt. Hon. Justin Trudeau: — we made it three-quarters of the way to reaching those 2030 targets, and over the next 11 years, including by planting two billion trees, we're going to get there. But Mr. Sch—Mr. Bernier, what you don't understand, what Mr. Scheer doesn't understand, is you cannot build a plan for the future of our economy if you are not building a plan that protects the environment and fights climate change. That's where both of you are completely wrong.

Rosemary Barton: OK. Mr. Scheer, it's not your turn. Mr. Singh, your time to debate Mr. Trudeau.

Jagmeet Singh: Mr. Trudeau, I know that you say a lot of nice things and you've been saying a lot of great things on the stage today. But the problem is that you said a lot of these things in 2015 and you made it sound like you were going to make climate a big priority, but the reality is you did all these things, you bought a pipeline, you continue to subsidize oil and gas, and you continue to exempt the biggest polluters. So what's it going to take now for Canadians to believe that you're actually going to follow through on your promises? What's it going to take for you to follow through on these commitments, because your words are not good enough anymore?

Rosemary Barton: OK. Mr. Trudeau.

Rt. Hon. Justin Trudeau: Mr. Singh, we have reached three-quarters of the way to achieving our 2030 targets and we're going to surpass them. And Mr. Singh, Canadians might be surprised to discover that your plan is to build a massive refinery in Alberta. And the only way to do that is with federal subsidies because there's no private business case for it. Your plan to build a refinery in Alberta is worse for the environment —

Jagmeet Singh: It's not our plan at all. That was not our plan.

Rt. Hon. Justin Trudeau: — than building a pipeline to the (crosstalk) better place for our, our —

Jagmeet Singh: I don't know — that's no way our commitment —

Rosemary Barton: OK. Mr. Singh, Mr. Singh.

Jagmeet Singh: — not our plan. I don't know where you got that from. It's not our plan. We would immediately end fossil fuel subsidies, we'd immediately invest in clean energy —

Rosemary Barton: That's it.

Jagmeet Singh: — we'd immediately do what's needed.

Rosemary Barton: That's time. Mr. Scheer, it's your turn to debate Mr. Trudeau. Same question.

Hon. Andrew Scheer: When Justin Trudeau took office, there were three major pipeline projects ready to go. Under his watch, all of them have failed. He had to take \$4.5 billion of Canadian tax money to put the Trans Mountain Pipeline on life support, and he did that by sending \$4.5 billion of taxpayers' money to another country, to the United States, to be invested in the oil and gas sector there instead of here in Canada. His answer for his rationale for having

two campaign planes was that he bought carbon offsets, which is just a thing that privileged people can do —

Rt. Hon. Justin Trudeau: No. Mr. Scheer —

Hon. Andrew Scheer: — to keep polluting.

Rosemary Barton: OK. Mr. Trudeau, Mr. Trudeau's chance to respond.

Rt. Hon. Justin Trudeau: (Crosstalk) I did not —

Hon. Andrew Scheer: (Crosstalk) have to keep paying more.

Rosemary Barton: Mr. Scheer, Mr. Scheer, Mr. Trudeau's chance to respond.

Rt. Hon. Justin Trudeau: Mr. Scheer, you did not buy carbon offsets for your transport because you don't believe that climate change is real. You need to —

Hon. Andrew Scheer: (Crosstalk)

Rosemary Barton: Mr. Scheer, no one can hear you. Please.

Rt. Hon. Justin Trudeau: — actually act in — you need to act in a way that is responsible, Mr. Scheer, and your plan is to rip up the only serious plan to fight climate change —

Hon. Andrew Scheer: Your plan is failing.

Rt. Hon. Justin Trudeau: — that Canada has ever had. Canadians know —

Rosemary Barton: OK. Time is up for you as well, Mr. Trudeau.

Rt. Hon. Justin Trudeau: — how important this is.

Rosemary Barton: Ms. May, over to you.

Elizabeth May: To avoid catastrophic levels of global warming, we must double our current target, we must listen to science. We must not build the Trans Mountain Pipeline. It's not the last because it gets cancelled if we're serious. You can't negotiate with physics. You can't, as Prime Minister, you can't as leader of the Liberal Party. There's a carbon budget, it doesn't budget. And that's why it's so heartbreaking for me to look at you today and know you could have done so much more the last four years. Please God you don't get a majority this time around because —

Rt. Hon. Justin Trudeau: From the Rockies —

Elizabeth May: — you won't keep your promises.

Rt. Hon. Justin Trudeau: — from the Rockies to the Bay of Fundy, Conservative Premiers have gotten elected on promises to do nothing on climate change, and we need a strong federal government to fight them to make sure that we are moving forward on protecting the future generations from the impacts of climate change.

Elizabeth May: But your goal is a target for failure. When you hang on to Harper's target of 30 percent by 2030, you are —

Rt. Hon. Justin Trudeau: We are going to pass that target.

Elizabeth May: — pre-destining us. Well, you better get to double that target or you never get to carbon neutrality by 2050.

Rosemary Barton: Time is up, Ms. May.

Elizabeth May: This is (crosstalk).

Rosemary Barton: Time is up, Ms. May. Mr. Blanchet, you can talk to Mr. Trudeau.

Yves-François Blanchet: Mr. Trudeau, you claim to have done a lot, but Canada is the worst emitter of GHG in the G20 per capita. So that's not much of a success. But I have two questions from Quebec. First, will you agree with the demand of the Prime Minister of Quebec, Mr. Legault, that Quebec overview and environmental issues will have precedence over Canada's overview? Second question, do you promise, after this judgment in British Columbia to not ever try to have a pipeline cross Quebec, ever?

Rt. Hon. Justin Trudeau: After ten years of Mr. Harper's failures to get things built because he did not understand you have to work with Indigenous peoples, you have to work with local communities, you have to respect environmental science, we brought in a process that does exactly that. And we work with the provinces on ensuring that there's not —

Yves-François Blanchet: Please answer. It's ten seconds.

Rt. Hon. Justin Trudeau: — a duplication of environmental – environmental oversight. That's what Bill C-69 is all about. We know that the way we move forward is responsible and will be done —

Yves-François Blanchet: No answer.

Rt. Hon. Justin Trudeau: — in partnership.

Rosemary Barton: And that's the time. Mr. Trudeau, it's now your chance to ask a question of any other leader. You have one minute to do so, sir.

Rt. Hon. Justin Trudeau: We cut taxes for small businesses to nine percent. We cut taxes for Canadians. We know that tax breaks for wealthy do not work to grow the economy. Ten years of

Mr. Harper's failure has done that. Yet Mr. Scheer's platform, what we've seen of it because most of it is still secret and will remain secret apparently, like Doug Ford – that didn't work out so well for Ontarians – is to reduce taxes for the wealthiest Canadians, the multimillionaires, by \$50,000, which is more money than most Canadians make in a year.

Rosemary Barton: Wrap it up.

Rt. Hon. Justin Trudeau: Why the \$50,000 —

Rosemary Barton: Mr. Scheer, you have one minute to respond.

Rt. Hon. Justin Trudeau: — tax break for the wealthiest?

Hon. Andrew Scheer: First of all, Mr. Trudeau, you seem to be oddly obsessed with provincial politics. There is a vacancy for the Ontario Liberal leadership, and if you are so focused on provincial politics, go and run for the leadership of that party, Mr. Trudeau. (Applause).

Secondly, your tax hikes, your tax policy has meant that 80 percent of Canadian families pay higher taxes today than when —

Rt. Hon. Justin Trudeau: That's not true.

Hon. Andrew Scheer: — you first took office. That is exactly true.

Rt. Hon. Justin Trudeau: (Crosstalk) the Canada Child Benefit in that, the one measure —

Hon. Andrew Scheer: That was a Conservative principle —

Rt. Hon. Justin Trudeau: — that has lifted 300,000 people —

Hon. Andrew Scheer: — that Liberals fought against, that you fought against.

Rt. Hon. Justin Trudeau: And that you voted against, Mr. Scheer.

Hon. Andrew Scheer: Your signature achievement was taking a Conservative idea to send support directly to —

Rt. Hon. Justin Trudeau: So why did you vote against it, Mr. Scheer?

Hon. Andrew Scheer: — parents. I voted against your tax hikes on Canadians, Mr. Trudeau.

Rt. Hon. Justin Trudeau: You voted against the Canada Child Benefit that lifted 300,000 (crosstalk) —

Hon. Andrew Scheer: No, I did not. We are committed —

Rosemary Barton: OK. Gentleman, one at a time, one at a time.

Hon. Andrew Scheer: — we are committed to protecting the — that benefit because it is based on a Conservative principle.

Rt. Hon. Justin Trudeau: You're offering (crosstalk).

Hon. Andrew Scheer: But we are going to lower —

Rosemary Barton: Mr. Trudeau, this is supposed to be Mr. Scheer's answer. We're going to move into open debate.

Hon. Andrew Scheer: — taxes for all Canadians, with a universal tax cuts. We're going to bring back the children's sports —

Rosemary Barton: That's it.

Hon. Andrew Scheer: — and fitness tax credit as well.

Rosemary Barton: That's it, Mr. Scheer. We've got three minutes on this, open debate.

Rt. Hon. Justin Trudeau: Starting with me.

Rosemary Barton: Yes, that's right, sir.

Rt. Hon. Justin Trudeau: OK.

Rosemary Barton: Off you go.

Rt. Hon. Justin Trudeau: Mr. Scheer, you did not answer the question —

Rosemary Barton: Mr. Trudeau first.

Rt. Hon. Justin Trudeau: — on why you were lowering taxes by \$50,000 for multimillionaires in this country. Maybe you'll answer it tomorrow in the press conference, but you haven't answered it tonight.

Hon. Andrew Scheer: That is just not true. You haven't answered a question your entire time as Prime Minister. I've sat across you. You never answer —

Rt. Hon. Justin Trudeau: I answered more questions —

Hon. Andrew Scheer: — a question. I'm answering —

Rt. Hon. Justin Trudeau: — in — in the House of Commons —

Hon. Andrew Scheer: — your question very, very (crosstalk).

Rt. Hon. Justin Trudeau: — than any other Prime Minister (crosstalk).

Rosemary Barton: Mr. Trudeau, let Mr. Scheer finish, please. Mr. Trudeau.

Hon. Andrew Scheer: I am rolling back your tax hikes on entrepreneurs, on small business. You called them tax cheats. These are the people in our community —

Rt. Hon. Justin Trudeau: They're tax breaks for the wealthiest and cuts for services for everyone else.

Hon. Andrew Scheer: — they are saving up money to open up a (crosstalk), investing in people's training —

Rt. Hon. Justin Trudeau: That's what you're offering.

Hon. Andrew Scheer: — and education. You raised the taxes and called them tax cheats.

Rosemary Barton: Gentlemen, no one can understand anything. Mr. Blanchet wants in, Mr. Scheer. Mr. Blanchet.

Yves-François Blanchet: You two should agree that you're both experts in multimillionaire. However, I have a suggestion for you. How about this idea which has been asked unanimously by Assemblée nationale du Québec of a single tax refund? That would save about \$400 million to our combined states. Is that not a great way to save money, make things simpler for people, companies, businesses and even government?

Hon. Andrew Scheer: So you're talking about the single income tax return for Quebeckers?

Yves-François Blanchet: Yes.

Hon. Andrew Scheer: I am the only federal party leader that can deliver on that, Mr. Blanchet. That is something that I am committed to.

Yves-François Blanchet: You might find yourself in a position where you need me to do that. (Laughter).

Hon. Andrew Scheer: I am committed to simplifying the lives of Quebeckers by ensuring that they only have to fill out one single income tax.

Jagmeet Singh: I want to clear up on something with Mr. Scheer.

Rosemary Barton: Mr. Singh. Mr. Singh. Yes, go ahead.

Jagmeet Singh: You know, Mr. Scheer, you talk a lot about tax cuts, but this is the reality. The thing is — is that Canadians can look across this country and see what the impacts of a Conservative tax cut means. Translation: cuts to education, cuts to health care, vicious cuts to the most vulnerable people in society. That's what you do. And the thing is, Mr. Trudeau, you sound a lot different, you sound a lot better, but you've done much of the same. You're giving billions —

Rt. Hon. Justin Trudeau: Nine hundred thousand people out of poverty.

Jagmeet Singh: — of dollars to the wealthiest and your —

Rt. Hon. Justin Trudeau: It's not nothing. We have —

Jagmeet Singh: — (crosstalk)

Rosemary Barton: Mr. Trudeau.

Rt. Hon. Justin Trudeau: Three hundred thousand kids out of poverty is not nothing, Mr. Singh.

Rosemary Barton: Mr. Trudeau.

Jagmeet Singh: (Crosstalk) cabinet ministers use tax havens.

Rosemary Barton: Mr. Scheer, you can respond, then Mr. Bernier.

Hon. Andrew Scheer: So under Trudeau's policy, Canadians are working harder and harder but they're barely getting by or falling behind. Our policy will leave more money in their pockets, and we're going to do that, Mr. Singh, by protecting services like health care and education. We're going to get the money to pay for it by cutting corporate welfare and reducing Canada's foreign aid budget by 25 percent. That is going —

Jagmeet Singh: (Crosstalk) the same thing and he didn't do it.

Hon. Andrew Scheer: — to pay for our tax cuts for all Canadians to leave more money in their pockets so that they can get ahead.

Jagmeet Singh: Not going to work.

Rosemary Barton: Mr. Bernier.

Hon. Maxime Bernier: Mr. Scheer and Mr. Trudeau, it's all the same. It's all boutique tax credits. They won't cut tax for every Canadian. We have a platform with only two tax rates that would be fair for everybody so everybody will save. The cost of our tax reform would be \$35 billion, but we will do that only after balancing the budget. We'll use our (inaudible). It's the only responsible way to give more money —

Rosemary Barton: Ms. —

Hon. Andrew Scheer: I got a question.

Rosemary Barton: No. You had your chance. Ms. May wants in. Ms. May.

Elizabeth May: With two weeks left in this election campaign, Canadians can know one thing. At this point, Mr. Scheer, with all due respect, you're not going to be Prime Minister. The question is going to be on a seat count —

Hon. Andrew Scheer: I'll put — I'll put a bet on that, Ms. May.

Elizabeth May: — if we have Mr. Trudeau in a minority or Mr. Trudeau in a majority, voting for Green MPs is your very best guarantee, Canada, that you don't get the government you least want.

Rosemary Barton: Mr. Scheer can respond to that and then we'll wrap it up.

Hon. Andrew Scheer: Well, I'm going to prove you wrong on that, Ms. May. You just watch on October 21st.

Elizabeth May: Well, I'll — I'll lay you bets right now.

Hon. Andrew Scheer: Mr. Bernier said something that's completely untrue. Under Justin Trudeau, we will see endless deficits, meaning more and more Canadian tax dollars goes to pay the interest on that debt. We'll balance the budget while still preserving —

Rosemary Barton: Time, time is up.

Hon. Andrew Scheer: — core services.

Rosemary Barton: And it's Maxime Bernier's chance to lead this part of the debate. You can ask one question to any other leader. Thirty seconds, please.

Hon. Maxime Bernier: Yes. (Laughter). Andrew —

Hon. Andrew Scheer: Déjà vu.

Hon. Maxime Bernier: — you are, you are calling yourself a Conservative, but you don't want to balance the budget in two years. You will have \$70 billion on our debt. You support the cartel in mill, dairy, and poultry, knowing that the Canadian family is paying more than \$400 a year for that. Andrew, are you a real Conservative? No. I think you are a Liberal. Why are you pretending to be something that you're not?

Rosemary Barton: Mr. Scheer.

Hon. Andrew Scheer: You want to talk about pretending to be something that you're not. I'm not sure which Maxime Bernier I'm debating tonight. Was it the Maxime Bernier from the 1990s who was a separatist or is it the Maxime Bernier who was minister responsible for handing out corporate welfare? Was it the Maxime Bernier who defended supply management when it suited him? The fact of the matter is —

Hon. Maxime Bernier: I'm the messenger.

Hon. Andrew Scheer: — sorry, it's my — it's my time to respond to that question — the fact of the matter is there's a clear contrast in this election: Justin Trudeau's endless deficits and tax hikes to pay for it, or a Conservative plan that will leave more money in your pocket. We will lower taxes for all Canadians. We'll bring back popular tax credits like the kids' sports and fitness tax credit, we'll boost the RESP, we'll raise the age credit for seniors, and we'll bring in a green home renovation tax credit. That, all the while cutting corporate welfare and Canada's foreign aid budget to bring that money back home so that Canadians can get ahead.

Rosemary Barton: Nine seconds. Well, let's do open debate. Off you go. You're starting that too. (Laughter).

Hon. Maxime Bernier: Thank you very much. I'm the Maxime Bernier who's there for Canadians, and I'm the Maxime Bernier who does not care about having real debates on real issues that are important for Canadians. You don't want to have debates —

Hon. Andrew Scheer: Maxime Bernier that says things on Twitter that immigration —

Hon. Maxime Bernier: — you don't want to have debates on immigration.

Hon. Andrew Scheer: — (crosstalk) for your life.

Hon. Maxime Bernier: You don't want to have debates to help every Canadian and abolishing that cartel in supply management. You don't want to be able to cut foreign aid. You don't want to cut foreign aid.

Hon. Andrew Scheer: It's a signature part of our plan.

Rosemary Barton: Let's let Mr. Scheer respond, please.

Hon. Maxime Bernier: Yeah, it would be important to balance the budget —

Rosemary Barton: Mr. Scheer, then Mr. Singh. Mr. Scheer.

Hon. Maxime Bernier: — and we can do that.

Hon. Andrew Scheer: That's precisely not the case. We've said that, I've said that we'll cut Canada's foreign aid budget by 25 percent to pay for the tax cuts that we are going to bring in —

Hon. Maxime Bernier: You can save \$5 million there in balancing the budget.

Hon. Andrew Scheer: — we're bringing in important tax cuts so that Canadians can get ahead.

Jagmeet Singh: I want to just put in what this election's all about. This election's all about who's going to fight for you, who's going to stand up for you. And we've seen with Mr. Trudeau, he says nice words, but he gave \$6 billion in corporate loan write-offs last year, \$14 billion to the richest corporations. He keeps tax havens open, he keeps loopholes open. He hasn't closed them in four years. We're in it for people. We're not in it for the rich. We're going to deliver universal pharmacare for all, we're going to deliver dental care programs, we're going to invest in housing, we're going to fight the climate crisis like we need to win it.

That's what you get with New Democrats. I ask people to support New Democrats —

Rosemary Barton: Mr. — Mr. Trudeau can respond. Mr. Trudeau can respond. Sir.

Jagmeet Singh: — to hold to account this government, to form government in the next election.

Rt. Hon. Justin Trudeau: We have invested in Canadians. We made a very different choice than Stephen Harper did, very different choice than Andrew Scheer is proposing. We lifted 900,000 people out of poverty, we lifted seniors out of poverty, we're putting more money in the pockets of students, and we're seeing over a million jobs created, most of them full time, over the past year. But there is so — over the past four years — but there is so much more to do. And that is what we have to stay focused on because the fight against climate change, the fight for the future of our economy matters, and that's the choice —

Rosemary Barton: Ms. May wants in. Then Mr. Blanchet.

Rt. Hon. Justin Trudeau: — Canadians need to make.

Rosemary Barton: Yes, go ahead.

Elizabeth May: We have completely mischaracterized our response to the climate emergency as something that somehow doesn't help the economy. You have the biggest global economic opportunity in the history of humankind —

Rt. Hon. Justin Trudeau: I agree.

Elizabeth May: — in moving all fossil fuels as quickly as possible.

Rt. Hon. Justin Trudeau: I agree.

Elizabeth May: But then you're keeping fossil fuels going because your target is exactly half of what's required. If this election is anything, it's about trust and ethics, and we are in a climate emergency. We need grownups in the room to take responsibility.

Rosemary Barton: Mr. Blanchet.

Yves-François Blanchet: Mr. Singh said that he wants to fight for Canadians, and that's a good point. Who do we want to fight for? I want to fight for Quebeckers and Quebeckers only. If we agree with the Canadian government, then let it be. If we don't agree, we're going to fight, and this is what Bloc Québécois has always done and I can't wait pour avoir ces gens-là dire en français ce qu'ils ont dit en anglais jeudi.

Rosemary Barton: Ils vont le faire. Mr. Scheer.

Hon. Andrew Scheer: The fact of the matter is under Justin Trudeau, life will continue to get more expensive. He will continue to raise taxes. His carbon tax will go up. He's afraid to tell you how much it will go up by. Under the Conservative plan, we'll balance the budget, protect core services, and lower taxes for all Canadians.

Rosemary Barton: Mr. Trudeau, Mr. Trudeau, five seconds to respond.

Rt. Hon. Justin Trudeau: Our price on pollution helps Canadians more than – than removing it does.

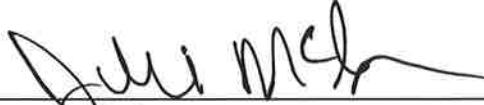
Rosemary Barton: OK.

Elizabeth May: Climate emergency —

Rosemary Barton: That's it. Thank you. That brings us to the end of this segment and to the end of this debate. We want to thank all of you, of course, for taking the time, our questioners tonight and all of you for watching live, in person, and on your various screens.

Just a reminder, as Mr. Blanchet hinted at, that French language debate is later on this week, Thursday at 8:00 p.m. Eastern. On behalf of all my wonderful moderators and everyone here, have a good night.

**This is Exhibit "P" referred to in the
Affidavit of Jonathan Thompson,
Affirmed before me, on this 8th day of
November, 2019.**

A handwritten signature in black ink, appearing to read 'Julie McGregor', written over a horizontal line.

A commissioner for taking Affidavits

**Julie McGregor
Barrister & Solicitor
LSO# 49076P**

6:18 ↗

📶 LTE 🔋

🔒 mobile.twitter.com

← **Tweet**



Adam Vaughan 🇨🇦 ✓
@TOAdamVaughan



Replying to @SaronGeb

We agree that there must be compensation , but we are asking for a judicial rule of the HRC decision because it either requires clarifying or should be struck down and a new one written. There will be be compensation but it can't acted on until after an election.

5:03 PM · Oct 13, 2019 · [Twitter for iPhone](#)

2 Likes



Kristin Roe @Kristin_Roe · 1h



Replying to @TOAdamVaughan and @SaronGeb
Delay delay delay.

💬 1



❤️ 1





Adam Vaughan   @TOAdamVaug... · 1h 

We can't act during a writ period.

 2



Saron Gebresellassi @SaronGeb · 42m 

Yes you can.

 1



 3



Saron Gebresellassi @SaronGeb · 42m 

This is really troubling to me.

 1



 1



**This is Exhibit "Q" referred to in the
Affidavit of Jonathan Thompson,
Affirmed before me, on this 8th day of
November, 2019.**

A handwritten signature in black ink, appearing to read "Julie McGregor", written over a horizontal line.

A commissioner for taking Affidavits

**Julie McGregor
Barrister & Solicitor
LSO# 49076P**



YICC FN Advisors Gathering

Summary

On October 25, 2019, fifteen First Nation Youth Survivors of the Child Welfare System from across Canada, gathered in Ottawa, which located on Unceded Algonquin Territory, for the first time to discuss common experiences and concerns with the Child Welfare System as well as the Canadian Human Rights Tribunal Compensation Ruling and Jordan's Principle. These topics ultimately led to a general conversation about Child Welfare Reform.

The following report outlines the methodology used to navigate through tough conversations, the outcomes and solutions that the youth in attendance arrived at and their recommendations and next steps moving forward.

Context

Now

The current realities and systemic problems with the child welfare system have been documented in several reports and supreme court rulings.

RCAP Report

Jordan's Principle

Supreme Court Rulings

Who's Settlement Is It Anyways?

Dr Peter Bryce's Report on Res Schools

The Roadmap on TRC 66 (Re: cultural restitution)

Youth Voice: Feathers of Hope: Child Welfare Youth Forum

<http://digitalcommons.osgoode.yorku.ca/cgi/viewcontent.cgi?article=1303&context=jlsp>

Youth Voice: Reimagining the Child Welfare System

<https://digitalcommons.osgoode.yorku.ca/cgi/viewcontent.cgi?article=1302&context=jlsp>

Media Voice: Death as Expected: Inside a child welfare system where 102 Indigenous kids died over 5 years <https://aptnnews.ca/2019/09/25/inside-a-child-welfare-system-where-102-indigenous-kids-died-over-5-years/>

MMIWG Report - Chapter 5, The Need for a Systems-Level Approach to Transforming Child Welfare

Major reports have called for change to Indigenous child welfare, including TRC Calls to Action 1 - 5 and the MMIWG Calls for Justice, 12.1 - 12.15. However, to this day Canada continues to fight Indigenous youth in court and deny them basic services. First Nations youth in care are no exception: Canada appealed the Canadian Human Rights Tribunal Order #39, which had directed Canada to provide financial compensation to certain First Nations child welfare survivors given their wilful and reckless discrimination in providing services, and Canada is reportedly gearing up to fight Xavier Moushoun (Moushoun v. Canada), who is suing the federal government on behalf of First Nations children in care from 1991 onwards.



Canada fighting Indigenous youth in court:

1. Appeal of CHRT Order #39
2. Talks of taking *Moushoun v. Canada* to court

Methodology

For this gathering, Youth Survivors created group norms as a way to honour and respect each other while discussing lived experiences and navigating through new and tough decisions around Child Welfare Reform.

The conversations and discussions were also led through a facilitation technique called PATH (Planning Alternative Tomorrows with Hope). This facilitation focuses on positive outcomes and solutions which was especially important for First Nations youth that have experienced abuse and trauma at the hands of the Child Welfare System.

The most important part of bringing Youth Survivors together was ensuring that they felt supported in culture and felt safe. Having the event led by Indigenous organizers and facilitators was key as well as having a Knowledge Keeper/Elder that had knowledge of the Child Welfare system and was recommended by the community. Having cultural supports such as songs, prayer and medicines was key to safety and comfortability.

Lastly, creating an environment free from bias and government interference was vital. Youth were able to share their lived experiences and recommendations from these experiences without judgement or control.

Pre-Meeting

Group Norms (Guiding Principles of the Gathering)

The following are values and guidelines for the YICC First Nations Youth Gathering:

Respect

Be Friendly and Kind

Be Mindful of Different Experiences

Consent

- What's said in the room, stays in the room
- Don't touch without permission/asking

Stay Engaged

Brave Space/Safe(r) Space

- Courage to know that personal information will stay confidential

You Are Not Alone



PATH

The Youth Survivors led their discussions with the Vision Statement : “Indigenous youth will feel heard and feel important when...”

Youth Survivors were asked to complete this Visions Statement with responses that were positive and achievable in 10 years.

Child Welfare Reform quickly became the main focus. While the CHRT Compensation and Jordan’s Principle are milestones of justice and accountability, the Youth were very vocal that an Overall Child Welfare Reform must happen to prevent ongoing issues, to stop ongoing issues and to reconcile past injustices.

The Youth Survivors saw Child Welfare Reform in 3 simultaneous pieces which are Justice and Accountability, Equity and Cultural Revitalization and Restitution.

Justice and Accountability means Indigenous children and youth treated with love by their foster parents, social services have an obligation to nurture culture, children and youth have access to files, there is adequate compensation for services and individuals (also a part of Equity), there are adequate screening for families, social workers believe children and youth, when there are spaces they can express mental health concerns and there are immediate services and that there is adequate training and education for social services.

Youth Survivors were very clear that Justice and Accountability means that the needs and wants of Indigenous children and youth in care must be prioritized. Currently, Indigenous youth-in-care face systemic racism in many layers which has led to recent cases on human rights violations. Systems and institutions that continue to oppress the most vulnerable segments of society must be held accountable and justice must be served to past wrongdoings.

(Ex See Human Right Violations, RCAP Report and Dr Peter Bryce’s reform quote)

Specific indicators of Justice and Accountability are:

- Cultural Competency of social services and follow-up audit of competency led by Indigenous youth in care
- Accountability for foster families not treating youth well and accountability for abuse
- More social workers and less caseloads per social worker
- Community notary (trusted elder/person in community) to help mediate family issues/tensions instead of relying on restraining orders
- More engagement with youth by social workers
- There are more preventative measures not just reactive or crisis management (Re: RCAP report)



Equity means there are needs assessments for individuals (children and youth) instead of a one-size fits all formula, affordable housing, accessible to mortgages, accessible education and accessible services in general for First Nation youth-in-care to acquire for them to live a happy and full life.

Investments and funding should be focused on the following:

- Livable wages
- Livable disability wages and supports
- Funding for post-secondary
- Funding to support grassroots, youth-led cultural healing and supports
- Funding for Native CFS

Cultural Revitalization and Restitution means that Indigenous culture is nurtured, Indigenous youth are taught traditional teachings and coming of age ceremonies/rites of passage, Indigenous youth are taught the ways of their ancestors, there is more grassroots, youth programming/supports for youth (programming can often become too rigid or institutionalized but supports are always needed), Cultural teachings such as medicine wheel, drumming, dancing, rites of passage are encouraged and respected and that there are more wholistic approaches (spirit, mind, body) to programming/supports and even a wholistic lens is placed on policy and government.

Cultural Revitalization and Restitution should have the following criteria and focuses:

- Grassroots, youth-led cultural healing and supports
- Inclusive
- Non-judgemental
- Building healthy communities
- Support for transitions
- Land based
- Safe(r) spaces to open up
- Supports and programs to work on breaking cycles of trauma
- Progress supports for parents and families
- Wholistic/Elder guidance

A few examples of the types of programming and supports that could happen are:

- Revitalization of Indigenous economies
- Oskapewis/Oshkabewis training
- Hunting and Harvesting

These 3 avenues of Child Welfare Reform would be to ensure the well-being of all Indigenous children and youth in care are nurtured and that the most marginalized children and youth are able to present themselves how they want to the world and will be accepted by communities.



Recommendations

Youth Survivors would like to have more time to learn about the CHRT Compensation Ruling. While many have much lived experience from being in-care, many felt they do not have the lived experience or knowledge of how trusts or foundations could be utilized however based on their lived experiences they were very clear about the following:

1. There must be safety around compensation.
 - a. Healing circles, sweat lodge ceremonies, support for counselling or therapy, etc
2. There must be support to help youth apply.
 - a. Talking to lawyers or government employees can be very triggering for First Nation Youth Survivors therefore having support on how to apply or support to fill out forms is important
3. There must be continued support for survivors after compensation.
 - a. Ex 1 year of counselling or therapy covered, INAC coverage is limited and not all youth-in-care are status
4. There must be a resolution for children that have passed away in-care or due to the impact of Child Welfare System.
 - a. Compensation to go to parents, grandparents or a larger trust

It is important that Indigenous ways to decision making are respected and understood in this process (ie consensus, wholistic approaches, time). Most of the Youth Survivors felt that they did not want to make an uneducated position on the CHRT Compensation.

Next Steps

- Become A Collective of First Nation Youth-In-Care Advisors
 - Share best practises
 - Share updates
 - Continue advocating for reform
 - Host more policy round tables across the country
 - To advise on court rulings, policy development, testimonies, etc
- To Continue to Meet About Compensation
 - Would like to learn more about the options ie trust, individual pay out, hybrid

This was the first national level gathering of First Nation Youth-In-Care Survivors of its kind. It's important that these young leaders have the time and space they need to discuss important and pressing events.

TAB 4

FEDERAL COURT

B E T W E E N:

ATTORNEY GENERAL OF CANADA

APPLICANT

- and -

**FIRST NATIONS CHILD AND FAMILY CARING SOCIETY OF CANADA, ASSEMBLY
OF FIRST NATIONS, CANADIAN HUMAN RIGHTS COMMISSION, CHIEFS OF
ONTARIO, AMNESTY INTERNATIONAL
and NISHNAWBE ASKI NATION**

RESPONDENTS

**AFFIDAVIT OF RACHELLE METATAWABIN
(Affirmed October 30, 2019)**

I, RACHELLE METATAWABIN, of the City of Ottawa, in the Province of Ontario, AFFIRM:

1. I have personal knowledge of the matters to which I hereinafter affirm, unless the matters are stated to be on my information and belief, in which case, I verily believe them to be true.
2. I was born in Timmins, Ontario, in March 1992. I am a member of Fort Albany First Nation. I currently reside in Ottawa, Ontario and I work part time as a writer and I work in the restaurant service industry.
3. I was apprehended from birth and was placed in foster homes on and off until I turned 17 years old. My siblings and I were placed into care and would return home to live with my mother occasionally during my childhood. I was placed in several

foster homes in Timmins, from 1992 to 2002 and in two foster homes in Ottawa from 2002 to 2007, after which I was declared a Crown ward.

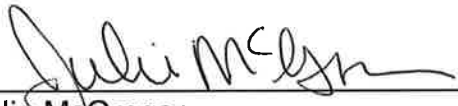
4. My mother suffered from addiction issues which made her unable to care for me and resulted in my apprehensions from our home. However, there were times throughout my childhood in which I did stay with my mother and I also spend some of my summers until the age of 6 years old, staying with my grandparents in Fort Albany First Nation.
5. Growing up in Timmins and being placed in foster homes was an awful experience. In Timmins, I was placed in approximately 10 foster homes where I suffered physical and sexual abuse. The care and the services I received in Timmins was very basic. My siblings and I never received funding support for physical or after school activities. I had very little freedom, in one of the homes I stayed in there was no bedroom door and I was not allowed to make private phone calls which made it difficult for me to contact my family members. I had minimal contact with my social worker who often failed to properly check on or evaluate the foster homes I was placed in.
6. The foster homes I was placed into in Ottawa were slightly better, however I did suffer emotional abuse and trauma at the last home I was placed in before becoming a Crown ward. When I was in foster care in Ottawa, I was denied dental braces, which I was told I would benefit from having. When I was approximately 16 years old, I was also denied corrective eye surgery which I required. I was told that I could instead purchase contact lenses.
7. At the age of 17, I left my foster home and advised my social worker that I was prepared to sign myself out of care. However, I remained in care and signed a special contract and was provided an independent living allowance. My foster parent at the time co-signed the agreement.
8. Following high school, I applied and was accepted into a hairstyling program at Algonquin College in Ottawa. My social worker advised me that in order to pay my tuition, I would have to take out a loan from the Child Welfare Agency and pay it

back using my independent living allowance or with my child tax benefit money. My social worker never inquired about education funding or services from my First Nation. I also never received any support or help from the Child Welfare Agency in Ottawa when I needed to apply for my Indian Status Card in order to access services as a First Nation person.

9. I left Algonquin College after 10 months due to the stress of trying to earn enough money to live and maintain my course schedule. Since leaving college I have worked continually to support myself. I also do a lot of volunteer work. I have volunteered with the Ontario provincial Child Advocates Office, the Adoption Council of Canada and other organizations to help advocate for children and youth in care. I am also a current member of the Canadian Roots Exchange-Youth Reconciliation Initiative and a member of the National Poverty Reduction Strategy Council.
10. It is my goal to pursue a degree in social work and to one day to start a foundation or business to help youth in care transition once they age out of the child welfare system. I believe that such a foundation could help the many First Nations youth who have had to grow up without parents, especially those near Fort Albany First Nation.

11. I am aware of the of the Canadian Human Rights Tribunal's compensation order and if I were provided compensation for my experience in the child welfare system, I would use the compensation to help me achieve my educational goals. I would also use the compensation to obtain my driver's license, pay off debts I incurred once I aged out of the child welfare system, and I would invest a portion of the money for my future.

AFFIRMED BEFORE ME at
Ottawa, in the Province of Ontario, on
30th day of October, 2019


Julie McGregor
LSO #49076P
Notary Public, Commissioner of Oaths.

Julie McGregor
Barrister & Solicitor
LSUC# 49076P


Rachelle Metatawabin

TAB 5

FEDERAL COURT

B E T W E E N:

ATTORNEY GENERAL OF CANADA

APPLICANT

- and -

**FIRST NATIONS CHILD AND FAMILY CARING SOCIETY OF CANADA, ASSEMBLY
OF FIRST NATIONS, CANADIAN HUMAN RIGHTS COMMISSION, CHIEFS OF
ONTARIO, AMNESTY INTERNATIONAL
and NISHNAWBE ASKI NATION**

RESPONDENTS

**AFFIDAVIT OF ERICKSON OWEN
(Affirmed October 25, 2019)**

I, ERICKSON ANDREW OWEN, of Poplar Hill First Nation, in the Province of Ontario,
AFFIRM:

1. I have personal knowledge of the matters to which I hereinafter affirm, unless the matters are stated to be on my information and belief, in which case, I verily believe them to be true.
2. I was born in Sioux Lookout, Ontario in 1998. I lived with my mother, Sarah Owen and my father Gordie Owen from my birth until the age of 11 years old (1998-2009) in Poplar Hill First Nation. I am one of 11 children in my family currently. When I was placed into care, I lived with my 2 sisters and 5 brothers, we were 8 children in total in 2009.

3. In 2009, my father was incarcerated and I along with my siblings entered the child welfare system. My siblings and I were taken into care by Tikinagan Child and Family Services. My brother Eric and I were placed with my uncle Gary Owen in Poplar Hill First Nation. My other brothers and sisters were placed in other homes within Poplar Hill First Nation and outside of my First Nation as well. I lived with my uncle Gary for 6 years from 2009 to 2015. During the time I lived with my uncle Gary I was able to visit with family members and I had regular contact with some of my siblings.
4. I attended elementary school in Poplar Hill First Nation until grade 8. I then attended Pelican Falls First Nation School from grade 9 to grade 12. I was a top student in my class, achieving high marks and I excelled in many of my classes throughout high school. Because I was placed with my uncle and had regular contact with my family members, I am able to speak my Ojibway language.
5. The time I spent in foster care has deeply impacted my life. It was very painful to be taken away from my family and to be placed into foster care. I felt that my family had been ripped apart and that I was robbed of my childhood. At 11 years old, I wanted to remain a child for a bit longer, but I was forced to make a decision to be my own parent and take responsibility for my own care.
6. During this time, my life became very regimented and I also experienced loneliness and isolation because I missed my parents and siblings who were placed in other foster homes. I had to accept that my life would never be the same again and that my siblings and I would never be together again. I missed having my father in my life and as I became a teenager, I very much needed a father figure to give me guidance.

7. In 2015, at the age of 17, I advised my social worker from Tikinagan Child and Family Services, that I wanted to live with my father. I told my social worker that if I could not live with my father, I would sign myself out of foster care. My social worker then arranged a meeting between my father, my uncle and myself and it was decided that I would enter into a special contract arrangement.
8. Under the special contract, I could remain in care but also live with my father. The special contract ended in 2016 when I turned 18. I was also provided an independent living allowance from the age of 18 until this past March when I turned 21. Since turning 21, I haven't received any support from Tikinagan Child and Family Services.
9. I graduated from high school in 2016. Since then I have worked as a security guard and I have also worked in a post office and at a local grocery store. For the past 2 years, I have been employed as a Community Telemedicine Coordinator in Poplar Hill First Nation. However, it is my intention to continue my education and become a certified public accountant. In order to further my education, I have applied to the Business - Accounting program at Algonquin College in Ottawa, Ontario.
10. I am aware of the of the Canadian Human Rights Tribunal's compensation order and if I were provided compensation for my experience in the child welfare system, I would use the compensation to help me achieve my educational goals. Specifically, I would use the compensation to help me pay for the costs of moving to Ottawa and my living expenses and learning materials while attending college.

11. I believe that if First Nations children and youth in care were provided compensation, it would serve as an acknowledgement of the harms that they have suffered while in the child welfare system. It could provide these individuals with the opportunity to turn over a new leaf, especially those who are struggling with addictions. It could also give hope for a better life for First Nations children and youth who are currently in the child welfare system and provide much needed financial help to those who have aged out the system.

AFFIRMED BEFORE ME at
Ottawa, in the Province of Ontario, on
25th day of October, 2019



Julie McGregor
Notary Public, Commissioner of Oaths.

Julie McGregor
Barrister & Solicitor
LSUC# 49076P

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Erickson Owen

TAB 6

FEDERAL COURT

BETWEEN:

ATTORNEY GENERAL OF CANADA

Applicant

- and -

FIRST NATIONS CHILD AND FAMILY CARING SOCIETY OF
CANADA, ASSEMBLY OF FIRST NATIONS, CANADIAN HUMAN
RIGHTS COMMISSION, CHIEFS OF ONTARIO, AMNESTY
INTERNATIONAL and NISHNAWBE ASKI NATION

Respondents

CROSS-EXAMINATION OF SONY PERRON
on his affidavit sworn October 3, 2019,
held at the offices of ASAP Reporting Services Inc.,
100 Queen Street, Suite 940, Ottawa, Ontario,
on Thursday, November 14, 2019, at 10:00 a.m.

APPEARANCES:

Mr. Robert Frater, Q.C. on behalf of the Applicant
Mr. Max Binnie

Mr. David P. Taylor on behalf of the Respondent/
Ms. Barbara McIsaac First Nations Child and
Family Caring Society of
Canada

Mr. Stuart Wuttke on behalf of the Respondent/
Mr. Thomas Milne Assembly of First Nations

Ms. Jessica Walsh on behalf of the Respondent/
Canadian Human Rights
Commission

Ms. Sinéad Dearman on behalf of the Respondent/
Chiefs of Ontario

Ms. Molly Churchill on behalf of the Respondent/
Nishnawbe Aski Nation

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(613) 564-2727 (416) 861-8720

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1 how this should go about. In the past, however,
2 there has been orders where the Tribunal was very
3 precise in terms of date and these timeline were
4 really, really short. So I cannot presume where
5 the Tribunal would go, but this is where we would
6 know more about how this would proceed.

7 36 Q. Right. But you will
8 agree with me that no money actually has to be
9 paid out to anybody until the compensation process
10 has been either agreed on by the parties or
11 ordered by the Tribunal.

12 A. There is no payments that
13 are required at this time until we have a future
14 ruling from the CHRT based on the September 6th
15 decision.

16 37 Q. Now, in paragraph 5(a),
17 you refer to one of the categories of individuals
18 who are entitled to compensation as being:

19 "First Nations children
20 living on reserve and in
21 the Yukon who were
22 removed from their
23 families or communities,
24 necessarily or
25 unnecessarily."

1 this needs a mandate that is given by Cabinet that
2 say, here is the parameter under which you can
3 negotiate or develop a plan. And this is, in both
4 case, there is a need for a mandate.

5 91 Q. Yes. And you would agree
6 that the order right now is not the final
7 settlement order?

8 A. My understanding is that
9 the order is very specific about some of the
10 dimension of the compensation, but there is an
11 indication from the Tribunal that they want -- or
12 they expect submissions from the parties. And
13 then they will -- the panel will plan an issue,
14 likely a new order to define what will be the
15 compensation approach.

16 There is even a component of
17 the order from September 6th that invite the
18 parties to submit additional request for other --
19 I don't have the language, exactly. Other class
20 of recipients or claimants that should be
21 considered.

22 92 Q. Would you agree though
23 that the order speaks to the parties essentially
24 working together to develop a compensation scheme,
25 if possible?

1 A. The order talks about
2 both, working together to develop a process to
3 implement, but the parameter of the order in terms
4 of what the compensation is to be about, in term
5 of who should be compensated, the amount, some of
6 the high-level criteria, are already defined by
7 Tribunal.

8 93 Q. Would you agree that
9 meetings with respect to compensation have
10 occurred in several occasions in the past between
11 the department and the parties?

12 A. There is in the past,
13 before the Tribunal order there was an attempt to
14 try to advance work on several outstanding issues,
15 trying to do it collaboratively. And in some
16 places we were successful, but I understand we
17 haven't reached a common ground on compensation.

18 94 Q. But it was brought up at
19 previously meetings?

20 A. It was discussed between
21 the parties, yes.

22 95 Q. And would you also agree
23 that since the Tribunal made its decision in 2016,
24 and to basically January 2016, compensation has
25 been an outstanding item?

1 A. Yeah, it was identified
2 by the Tribunal as an element that will be subject
3 of a future decision.

4 96 Q. I'm sorry to jump back.
5 At paragraph 6, you mention the December 10th
6 date. You state that:

7 "Canada is required to
8 report back to the
9 Tribunal by December
10 the 10th on a
11 compensation process
12 agreed by the
13 complainants. Failure to
14 reach an agreement will
15 result in a panel
16 ordering one of its own
17 creation."

18 Now, with respect to that, has
19 Canada contemplated asking for an extension of
20 that December 10th deadline?

21 A. Yes, this was part of the
22 initial assessment to determine how we can
23 proceed. The understanding, however, was that
24 going to an extension will not be sufficient. We
25 needed -- if there was concern about the decision

1 final decision on that, it's probably preferable
2 to wait for a final decision before we initiate
3 outreach to the potential claimants, so we don't
4 create false expectation or disappointment in the
5 long run.

6 106 Q. You would agree, though,
7 that the communications in those plans is a
8 process that would normally be developed in your
9 communications discussions with the Caring Society
10 and Assembly of First Nations?

11 A. Obviously this is -- the
12 best way to proceed is to do it in partnership
13 with the parties interested and probably other
14 groups, because in such a process we would
15 probably need the participation of Child and
16 Family Services agencies themselves, because they
17 have some of the recourse and some of the
18 information. So it will involve a large group of
19 people.

20 My comments earlier was on the
21 claimants, their families, but there is also all
22 the other parties that will have to contribute to
23 such of a process.

24 107 Q. Yes, but you would agree
25 that an actual notice plan will have to be

1 developed, provided by the Tribunal, before any
2 communications are made to the claimants?

3 A. The Tribunal already by
4 the order communicates some information about what
5 will be the process. But we need, according to
6 the order of September 6th, to get back to the
7 Tribunal to get the panel to vet and issue a
8 following order about the compensation process.
9 You are right.

10 108 Q. Paragraph 44 of your
11 affidavit, you state -- you basically mention that
12 if the process was stopped due to a judicial
13 review, if the process of compensation was
14 stopped, this would be very damaging to ISC's
15 relationship with First Nations people. Can you
16 please explain what you mean by this statement?

17 A. We are working with First
18 Nation people with communities with various group
19 all the time on various subject. And one thing
20 that we are asking our staff and our teams is to
21 be very transparent and truthful and try to stay
22 course when they make commitments. Here we are in
23 a situation where there is a potential through a
24 judicial review in future court decision that some
25 of the parameter or the engagement process might

1 be on solid ground and limited risk that
2 parameters change over time.

3 113 Q. Would you agree that the
4 claims process, the applications form, all
5 parameters with respect to having sensitivities to
6 ensure that victims are not re-victimized by the
7 process is an element that would have been
8 addressed in your consultations with the AFN and
9 Caring Society?

10 A. It's the kind of element
11 that are being addressed through developing a
12 compensation process, you are right. However, in
13 that case some of the parameter are already
14 defined, so we have to work from there. It's not
15 like we are doing consultation and there is no way
16 of starting from a clean page. There is some
17 parameters and rules that have been set by the
18 Tribunal, and these are the ones that if a future
19 decision of the Federal Court was to change that,
20 would that have an impact on the individual parts
21 getting to the process.

22 And this is, the only purpose
23 of the affidavit here was to say if these are to
24 change in the future, we might be better to take a
25 pause and wait for certainty before we start this.

TAB 7

FEDERAL COURT

B E T W E E N:

ATTORNEY GENERAL OF CANADA

APPLICANT/MOVING PARTY

- and -

**FIRST NATIONS CHILD AND FAMILY CARING SOCIETY OF CANADA,
ASSEMBLY OF FIRST NATIONS, CANADIAN HUMAN RIGHTS
COMMISSION, CHIEFS OF ONTARIO, AMNESTY INTERNATIONAL
and NISHNAWBE ASKI NATION**

RESPONDENTS/RESPONDING PARTIES

**MEMORANDUM OF FACT AND LAW OF THE RESPONDENT/RESPONDING PARTY
ASSEMBLY OF FIRST NATIONS**

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PART I – OVERVIEW AND STATEMENT OF FACTS

1. Overview

1. The Assembly of First Nations (“AFN”) is responding to two motions now before this Honourable Court. First, these submissions will address the Applicant/Moving Party’s, Attorney General of Canada (representing the Minister of Indian and Northern Development Canada)(“Canada”), motion to stay the enforcement and execution of the Canadian Human Rights Tribunal’s (“CHRT”) Orders contained in 2019 CHRT 39 (the “Compensation Decision”).¹ Secondly, the AFN will address the Respondent/Moving Party’s, First Nations Child and Family Caring Society of Canada (“Caring Society”), motion to put the judicial review in abeyance until the CHRT has issued a final Order on compensation.
2. The AFN opposes Canada’s motion for stay. The AFN agrees with Canada that it is legally obligated to comply with the Orders in the Compensation Decision, but disagrees that Canada or the public interest will suffer any irreparable harm if the Orders are not stayed by this Honourable Court. The AFN submits Canada’s motion should be dismissed.
3. It is important to add the AFN will be opposing Canada’s application for judicial review on the bases that include the Tribunal had authority to order as it did with respect to monetary compensation, the process for compensation, in finding that discrimination is ongoing, and retaining jurisdiction over the matter, in consideration of the context, evidence, and nature of the claim.
4. The AFN supports the Caring Society’s motion for abeyance.

¹ *First Nations Child and Family Caring Society of Canada et al. v. Attorney General of Canada (Minister of Indian and Northern Affairs)*, 2019 CHRT 39 dated September 6, 2019 (the “Compensation Decision”).

2. Statement of Facts

A. Panel's Decision on the Merits

5. In a landmark ruling, 2016 CHRT 2,² the Tribunal made extensive findings and providing very detailed reasons against Canada and ruled that Canada was found to have engaged in a discriminatory practice contrary to section 5 of the *Canadian Human Rights Act* ("CHRA").³
6. Specifically, Canada was found to discriminate in the provision of child and family services, on the basis of race and/or national or ethnic origin, by denying equal child and family services and/or differentiating adversely in the provision of child and family services, against First Nations children and families living on reserve and in the Yukon.⁴ Where a complaint is substantiated, such as in this case, the Tribunal has considerable statutory discretion⁵ and broad remedial powers⁶ in fashioning an appropriate remedy, which includes compensation for any pain and suffering the victims experience as a result of the discriminatory practice pursuant to s. 53(2)(e) and 53(3).
7. The Tribunal adopted a phased approach to remedies. The relief ordered against Canada in the Main Decision was categorized as immediate, mid- and long-term relief. Compensation was categorized as long-term relief as it involved further consideration on the part of the parties and Tribunal. In the Main Decision, compensation formed part of the Panel's remedial order at paragraph 485-490.⁷
8. Later, in the Compensation Decision (2019 CHRT 39), the CHRT relied on its findings in the Main Decision and carefully considered and found that it had sufficient evidence to find that Canada's conduct was wilful and reckless resulting in what they "have referred to as the

² *First Nations Child and Family Caring Society of Canada et al. v. Attorney General of Canada (for the Minister of Indian and Northern Affairs Canada)*, 2016 CHRT 2 (hereinafter the "Main Decision").

³ Affidavit of Jon Thompson (affirmed November 8, 2019), paras 1-12.

⁴ *Main Decision*, paras 456-467.

⁵ *Canada Post Corp. v. Public Service Alliance of Canada*, 2008 FC 223, para 44. See also, *Public Service Alliance of Canada v. Canada Post Corporation*, 2010 FCA 56, para 301.

⁶ *Canada (AG) v. Mowat*, 2009 FCA 309, para 25.

⁷ *Main Decision*, paras 485-490.

worst-case scenario under our Act.”⁸ The CHRT also held that Canada’s racial discrimination was one of the worst possible cases warranting the maximum awards.⁹ The CHRT awarded \$40,000 to each child and their parents or grandparent (where they were the primary caregiver) where an apprehension or placement occurred for reasons other than sexual, physical or psychological abuse.

9. Based on uncontradicted evidence, the CHRT made clear findings of fact and ruled that, in creating a perverse incentive to encourage the removal of First Nations children from their homes, Canada placed lives at risk and purposefully targeted a vulnerable and disadvantaged group. Canada had intentionally set out to make their young lives even more difficult, perpetuating historic disadvantage and continue colonial policies to “kill the Indian in the child”. Granting the applicant’s stay motion would perpetuate this harm through a lengthy appeal process.

B. Subsequent Rulings of the CHRT with respect to Remedies

10. Following up to the Main Decision above, the Tribunal issued another decision (*FNCFCSC, et al. v. AGC*, 2016 CHRT 10) on April 26, 2016 wherein the Panel reiterated and emphasized certain findings and adverse impacts from the Main Decision and ordered Canada to take measures to address those findings and adverse impacts immediately.¹⁰
11. It is important to acknowledge that Canada accepted the Main Decision and did not seek judicial review of the Tribunal’s findings or general orders.¹¹
12. In this decision, the Tribunal reiterated some of the remedial principles in order to foster a common understanding on the Panel’s goals and authorities in crafting a remedy in response

⁸ 2019 CHRT 39 (hereinafter the “*Compensation Decision*”), para 243.

⁹ *Compensation Decision*, paras 13, 225, 242, 245, 247, 249, 250, 251, and 253.

¹⁰ *First Nations Child and Family Caring Society of Canada et al. v. Attorney General of Canada (for the Minister of Indian and Northern Affairs Canada)*, 2016 CHRT 10, para 3. (“2016 CHRT 10”)

¹¹ 2016 CHRT 10, para 6.

to its findings in the Main Decision.¹² Particularly, to ensure Canada complied with and implemented the Panel's orders effectively and meaningfully.¹³

13. The main thrust of the Panel's continuation of the remedial order is the beginning of the reporting requirement placed on Canada to ensure the Panel's orders were effectively and immediately implemented, and so as to ensure Canada avoided repeating historical and discriminatory patterns of the past and its "old mindset" with respect to child and family services to First Nations children and families.
14. Canada had been found to essentially be in non-compliance with the Panel's immediate relief orders. By imposing the reporting requirement, the Panel chose to play a supervisory role over Canada with respect to the implementation of its orders. The parties were provided the opportunity to provide submissions on Canada's reports if they choose to do so,¹⁴ which included the opportunity to cross-examine on any affidavits that formed part of Canada's reports.
15. The Panel chose to retain jurisdiction over the implementation of its remedial orders given that constructive and meaningful remedies to resolve a complex dispute, such as the one in this case, is an intricate task that may require ongoing supervision, and because the Panel still needed to rule on outstanding remedial requests, such as compensation.¹⁵
16. With respect to making progress in the immediate and long-term remedial orders, such as compensation, the Panel believed at this early stage in the relief proceedings that dissemination of relevant and timely information was of utmost importance in rebuilding trust between the parties and avoiding conflicts and delays going forward.¹⁶

¹² 2016 CHRT 10, para 3.

¹³ 2016 CHRT 10, paras 10-19.

¹⁴ 2016 CHRT 10, paras 22-25, 34, 35, 37.

¹⁵ 2016 CHRT 10, paras 13-15, 36-37.

¹⁶ *First Nations Child and Family Caring Society of Canada et al. v. Attorney General of Canada (for the Minister of Indian and Northern Affairs Canada)*, 2016 CHRT 16, para 8. ("2016 CHRT 16")

17. Later that same year in 2016, the Tribunal issued a third decision (*FNCFCSC, et al. v. AGC*, 2016 CHRT 16) on September 14, 2016 wherein the Panel updated its orders addressing the findings in the Main Decision, particularly those orders with respect to immediate relief.¹⁷

18. In this decision, it is important to acknowledge a preliminary remark by the Panel regarding Canada consulting with Indigenous peoples across Canada as a priority:

[10] INAC has also recognized the CCI Parties [‘Complainants, Commission and Interested Parties’ or ‘CCI Parties’] as partners in the reform process and identified a need to consult Indigenous peoples across Canada to obtain their input on reforms. While this is necessary and consistent with the federal government’s duty to consult Indigenous peoples, again, improved communication surrounding such endeavours would greatly assist the Panel in understanding INAC’s strategy to address the [Main] *Decision* and would help build the trust necessary to establish a partnership between the parties. It is also unclear if or who has been consulted among the Indigenous community at this point, including if any social workers or other experts in the field of child welfare have been consulted. On this last point, INAC has previously acknowledged that it does not have expertise in the provision of child and family services to First Nations. Therefore, the need to consult with experts in the field, including the Caring Society, should be a priority.¹⁸

19. The above is important because the Panel returns to the significance of consultation in a subsequent decision, namely with respect to the correct definition and processes surrounding Jordan’s Principle¹⁹, and with respect to the eliminating the discrimination substantiated in the Main Decision.²⁰ Canada’s consultation with the parties has been identified by the Tribunal as an appropriate method to ensure compliance of its Orders, and to ensure its Orders are meaningfully and effectively carried out.

20. With respect to compensation, an in-person case management meeting was scheduled on November 8, 2016 following the release of this decision. At this meeting, the parties were requested to prepare to begin discussions on mid to long-term relief orders, including

¹⁷ 2016 CHRT 16, para 160.

¹⁸ 2016 CHRT 16, para 10.

¹⁹ *First Nations Child and Family Caring Society of Canada et al. v. Attorney General of Canada (for the Minister of Indian and Northern Affairs Canada)*, 2017 CHRT 14, paras 113-120.

²⁰ 2018 CHRT 4, paras 395-400.

compensation.²¹ Thus, Compensation has been a topic of relief since the Main Decision and a topic of discussion among the parties, including Canada, since at least the Fall of 2016.

C. Compensation Decision

21. The Compensation Decision concluded that while systemic remedies are required to address systemic issues, individual compensation is also required given the nature of harms on First Nation families.²² The CHRT determined it had the jurisdiction to Order compensation to the victims of Canada's discriminatory action based on its home statute, the *CHRA*.

22. The CHRT Ordered compensation for pain and suffering and for willful and reckless discrimination as follows:

- a) \$40,000 to each First Nations child unnecessarily apprehended after January 1, 2006;
- b) \$40,000 to each First Nations parent or grandparent of children unnecessarily apprehended after January 1, 2006;
- c) \$40,000 to each First Nation child necessarily apprehended but placed outside of their families and/or communities after January 1, 2006;
- d) \$40,000 to each First Nations child that was unnecessarily removed to obtain essential services or wasn't apprehended but experienced gaps or delays of services that would have been available under Jordan's Principle between December 1, 2007, and November 2, 2017;
- e) \$40,000 to each First Nations parent or grandparent who had their child removed and placed in care to access services or wasn't apprehended but experienced gaps or delays of services that would have been available under Jordan's Principle between December 1, 2007, and November 2, 2017.²³

23. The CHRT found the unnecessary removal of children from their homes, families and communities qualifies as a "worst case scenario"²⁴ and amounted to a breach of the

²¹ 2016 CHRT 16, para 163.

²² *Compensation Decision*, paras 13, 14. Also, Affidavit of Mary-Ellen Turpel-Lafond (Volume 1 & 2)(affirmed November 7, 2019), paras 7-42.

²³ See also, Affidavit of Jon Thompson (affirmed November 8, 2019), paras 27-31.

²⁴ *Compensation Decision*, paras 13, 225, 242, 245, 247, 249, 250, 251, and 253.

fundamental rights of the children and their caregiving parents and/or grandparents.²⁵ An unnecessary apprehension is due to symptoms of poverty, lack of housing, neglect, or substance abuse, where a child is placed in care outside of their home, family or First Nation, and did not benefit from prevention services or least disruptive measures to allow them to stay in their home safely.²⁶

24. A necessary apprehension is a result of abuse or harm to a child, where a child is placed in care outside of their home, family or First Nation, and did not benefit from prevention services or least disruptive measures to allow them to stay in their home safely.²⁷ Had funding been non-discriminatory for on-reserve child and family services, child welfare agencies would have been able to provide programs and services to allowed children to remain in their homes.²⁸

25. The Tribunal also found that every child who was denied access to a medical and other service, experienced an unreasonable delay in accessing a service, or was taken into care to receive services due to Canada's discriminatory approach to Jordan's Principle was also entitled to the maximum amount of compensation under the CHRA, along with the caregiving parents or grandparents.²⁹

26. The CHRT ordered a global compensation model after full and careful consideration of all options put before it. Much like the Indian Residential Schools Settlement Agreement, the CHRT held that the full range of harms are to be redressed irrespective of whether a child suffered separate harms generated by acts of sexual, physical or severe emotional abuse. The FNCFS Programs was based on federal policy that was based on racial identity. The policy created a perverse incentive and created conditions to require child welfare agencies to removed children from their families and communities. The FNCFS program was extensively

²⁵ *Compensation Decision*, para 13.

²⁶ *Compensation Decision*, para 245.

²⁷ *Compensation Decision*, para 249.

²⁸ Affidavit of Rachele Metatawabin (affirmed October 30, 2019), paras 1-11. Also, Affidavit of Erickson Owen (affirmed October 25, 2019), paras 1-11.

²⁹ *Compensation Decision*, paras 214, 250-251.

criticized. The consequences of this policy were devastating to individuals and communities alike, and they have been well documented.

27. Rather than opting for a civil sliding scale model of compensation that requires a case-by-case assessment of degrees of pain and suffering for each child, parent or grand-parent, the CHRT opted to Order a global award of sufficient significance to each person who fell victim to Canada's discrimination.³⁰ Such a global award will provide a small modicum of relief for the victims losses and would signify and compensate for the seriousness of the injuries inflicted and the life-long harms caused. The trigger for compensation in regard to this matter is the apprehension of a First Nation child. That is the harm the CHRT is providing compensation for.

28. The CHRT did not make a final order on compensation. The CHRT noted that there are a number of outstanding administrative requirements, including the eligibility of potential claimants, that need to be addressed. The CHRT ordered Canada to engage in discussions with any interested Respondents about how the compensation process would work, and return to the Tribunal with "propositions".³¹

29. The CHRT stated the following in the Compensation Decision:

[269] Additionally, the Panel recognizes the need for a culturally safe process to locate the victims/survivors identified above namely, First Nations children and their parents or grand-parents. The process needs to respect their rights and their privacy. The Indian registry and Jordan's Principle process and record are tools amongst other possible tools to assist in locating victims/survivors. There is also a need to establish an independent process for distributing the compensation to the victims/survivors. The AFN and the Caring Society have both expressed an interest to assist in that regard. Therefore, Canada shall enter into discussions with the AFN and the Caring Society on this issue. The Commission and the interested parties should be consulted in this process however, they are not ordered to participate if they decide not to. The Panel is not making a final determination on the process here rather, it will allow parties to discuss possible options and return to the Tribunal with propositions if any, no later than **December 10, 2019**.

³⁰ *Compensation Decision*, paras 258 and 259.

³¹ Affidavit of Jon Thompson (affirmed November 8, 2019), paras 32-35.

[270] As part of the compensation process consultation, the Panel welcomes any comment/suggestion and request for clarification from any party in regards to moving forward with the compensation process and/or the wording and/or content of the orders. For example, if categories of victims/survivors should be further detailed and new categories added.³² [emphasis added]

30. To date, Canada has not approached the AFN or Caring Society to discuss the joint development of a compensation scheme.

D. Panel's Earlier Decision on Canada's Non-Compliance with Orders

31. In 2018 CHRT 4,³³ the Panel considered this ruling to be essentially the continuation of immediate relief while dealing with some compliance to previous orders made by the Panel.³⁴ In this ruling, the Panel dealt with the remaining issues and allegations of non-compliance and related requests for further orders with respect to immediate relief. This decision is of particular importance because it bears weight with respect to Canada's motion for stay of proceedings and it satisfying the three-stage test in *RJR-MacDonald* under Rule 398. As well, this decision lead to the Consultation Protocol wherein compensation continues to be discussed with the intent of coming to a final determination on the matter as between Canada and the Parties.

32. As mentioned above, the Panel makes a number of statements throughout the decision that bear weight with respect to Canada's motion at issue. Summarized below are a few of these important points.

33. Firstly, the Panel stated that the direction of this case must always proceed in the best interests of the children impacted by Canada's discrimination, which ought to guide the determination of Canada's motion by this Honourable Court. As well, the Panel emphasizes the importance of this particular case because it concerns the mass removal of children:

[46] It is also important to reiterate that this case is about Indigenous children, families and communities who have been recognized by this Panel and the Courts,

³² *Compensation Decision*, paras 269 and 270 [emphasis added].

³³ *First Nations Child and Family Caring Society of Canada et al. v. Attorney General of Canada (for the Minister of Indian and Northern Affairs Canada)*, 2018 CHRT 4. (hereinafter "2018 CHRT 4").

³⁴ 2018 CHT 4, para 10.

including the Supreme Court, as a historically disadvantaged group. The best interest of children is not advanced by legalistic positions such as Canada's. It is also sending a message that the Tribunal has no power and human rights can be violated and are remedied only if Canada finds money in their budget. This is in our view, a misapplication of the *CHRA*

[47] More importantly, this case is vital because it deals with mass removal of children. There is urgency to act and prioritize the elimination of the removal of children from their families and communities.³⁵ [Panel's emphasis]

34. Secondly, the children impacted are First Nations children which has significance with respect to the principle of the best interests of the child:

[131] The Panel understands this to be the usual and reasonable process for any financial request. It is to be expected and followed in normal circumstances. This is not the case here. Canada was found liable under the *CHRA* for having discriminated against First Nations children and their families. Canada has international and domestic obligations towards upholding the best interests of children. Canada has additional obligations towards Indigenous children under UNDRIP, the honor of the Crown, Section 35 of the Constitution and its fiduciary relationship, to name a few. All this was discussed in the *Decision*.³⁶

35. And, thirdly, the long-standing nature of the context surrounding all matters of relief and the prejudice that can result to First Nations children and families if the Tribunal's order are not carried out, as well as the option available to Canada to end the relief process at any time with a settlement on compensation:

[385] There is no unfairness to Canada here. The Panel reminds Canada that it can end the process at any time with a settlement on compensation, immediate relief and long-term relief that will address the discrimination identified and explained at length in the *Decision*. Otherwise, the Panel considers this ruling to close the immediate relief phase unless its orders are not implemented. The Panel can now move on to the issue of compensation and long-term relief.

...

[387] It took years for the First Nations children to get justice. Discrimination was proven. Justice includes meaningful remedies. Surely Canada understands this. The Panel cannot simply make final orders and close the file. The Panel determined that

³⁵ 2018 CHRT 4, 46-47.

³⁶ 2018 CHRT 4, para 131. See, *Main Decision*, paras 87-110.

a phased approach to remedies was needed to ensure short term relief was granted first, then long term relief, and reform which takes much longer to implement. The Panel understood that if Canada took 5 years or more to reform the Program, there was a crucial need to address discrimination now in the most meaningful way possible with the evidence available now.

[388] Akin to what was done in the *McKinnon* case, it may be necessary to remain seized to ensure the discrimination is eliminated and mindsets are also changed. That case was ultimately settled after ten years. The Panel hopes this will not be the case here.

[389] In any event, any potential procedural unfairness to Canada is outweighed by the prejudice borne by the First Nations' children and their families who suffered and, continue to suffer, unfairness and discrimination.³⁷

E. Consultation Protocol

36. The AFN submitted to the Tribunal in 2018 CHRT 4 that it requested Canada establish a protocol, in consultation with the AFN, Caring Society, NAN and the Commission, grounded in the honour of the Crown, for engaging in consultations with First Nations and FNCFS Agencies that are affected by the Panel's Main Decision and remedial orders.³⁸
37. Using a protocol, the concern to be addressed with the protocol was to ensure Canada was not using consultation with its partners and FNCFS Agencies as a delay tactic to avoid complying with the Tribunal's orders.³⁹
38. The Panel ordered Canada to enter into a protocol with the AFN, Caring Society, Chiefs of Ontario (COO), Nishnawbe Aski Nation (NAN) and the Canadian Human Rights Commission (Commission) on consultations to ensure that consultations are carried out in a manner consistent with the honor of the Crown and toward eliminating the discrimination substantiated in the Main Decision.
39. On March 2, 2018, a *Consultation Protocol* was entered into between Canada and the parties above that included compensation be addressed as a subject area of consultation and

³⁷ 2018 CHRT 4, paras 385-389.

³⁸ 2018 CHRT 4, 85.

³⁹ 2018 CHRT 4, para 395.

collaboration (para 4 of Protocol), and as part of the consultations on mid to long-term relief (para 18 and 20 of Protocol).⁴⁰

F. Class Proceeding in Federal Court: Xavier Moushoom vs. AGC

40. The claim for this class proceeding (Court File No. T-402-19) was filed on March 4, 2019. It is important to acknowledge that at this time this class proceeding remains in its initial stages and is uncertified.

PART II – POINTS IN ISSUE

41. The AFN submits the issues to be determined are:

- i. Has the Attorney General has satisfied the test for a stay of enforcement and execution of the Tribunal's Orders pending the disposition of the judicial review?
- ii. Should the judicial review be put in abeyance until the CHRT makes a final ruling on compensation?

PART III – STATEMENT OF SUBMISSIONS

42. For the following reasons below, the AFN respectfully submits that Canada has not meet the test for a stay of enforcement. Subject to any further motions, the Caring Society's request for an abeyance should be endorsed.

1. Canada has not met the test for a stay of enforcement

43. At the outset, it is important to acknowledge that no decision from this Honourable Court has been made with respect to the merits of Canada's application for judicial review. Accordingly, the fact a judicial review has been filed should not be factored into the legal analysis regarding the stay of proceedings.⁴¹ The likelihood of success in the judicial review is speculative, and

⁴⁰ Affidavit of Jon Thompson (affirmed November 8, 2019), paras 22-26, and 36-45.

⁴¹ *Canada (AG) v. Northrop Grumman Overseas Services Corporation*, 2007 FCA 336, para 21.

it should be acknowledged that the AFN (and we understand all respondent parties to Canada's motion) will be opposing Canada's application for judicial review.

44. Section 50⁴² of the *Federal Courts Act* permits this Honourable Court to grant a stay of proceedings, which is a discretionary remedy and an extraordinary form or relief⁴³, and a Court's discretion should be exercised sparingly and only in the clearest of cases.⁴⁴

45. Stays are an interim order this Honourable Court may grant on an application pending the final disposition judicial review proceedings under section 18.2 of the *Federal Courts Act*. Rule 398 of the *Federal Courts Rules* establishes the procedure to be followed for stay applications.⁴⁵

46. Compelling circumstances are required to justify the intervention of the CHRT's Order and its exercise of discretion. Canada solely bears the burden to demonstrate that the conditions of this extraordinary remedy are met. In *Janssen*⁴⁶, Mr. Justice Stratas emphasized that the *RJR-MacDonald* test "is aimed at recognizing that the suspension of a legally binding and effective matter – be it a court judgment, legislation, or a subordinate body's statutory right to exercise its jurisdiction – is a most significant thing".⁴⁷ The CHRT's Order is legally binding, is an aspect of the rule of law.

47. The test used in deciding whether or not to grant a stay of proceedings is set out in *RJR-MacDonald Inc.*⁴⁸ The three-stage test reads as follows:

- i. The applicant must demonstrate a serious question to be tried;

⁴² *Federal Courts Act*, R.S.C., 1985, c. F-7, s. 50 (Stays of Proceedings Authorized).

⁴³ *Apotex Inc. v. Merck & Co.*, [2006] F.C.J. 786, para 5. Also, *Pearson v. Canada*, 1999 CanLII 8631 (FC), para 19, and *Aic Limited v. Infinity Investment Counsel Ltd.*, 1998 CanLII 8433 (FC), para 20, both referring to *Canada (Ministry of Citizenship & Immigration) v. Tobiass*, [1997] 3 SCR 391 (SCC).

⁴⁴ *Kent v. Universal Studios Canada Inc.*, [2008] FCJ No. 1129, para 16, referring to *Mugesera v. Canada*, [2005] 2 SCR 91, para 12, *Safilo Canada Inc. v. Contour Optik Inc.*, (2005), 48 CPR (4th) 339, para 27, *Compulife Software Inc. v. Compuoffice Software Inc.*, (1997), 77 CPR (3d) 451 (FCTD), para 16.

⁴⁵ *Federal Courts Rules*, SOR/98-106, Rule 398 (Stay of Order).

⁴⁶ *Janssen Inc. v. Abbvie Corporation*, 2014 FCA 112. ("*Janssen*")

⁴⁷ *Janssen*, at para 20.

⁴⁸ *RJR-MacDonald Inc. v. Canada (AG)*, [1994] 1 SCR 311 ("*RJR-MacDonald*").

ii. The applicant must establish that it will suffer irreparable harm if the stay is not granted; and

iii. The balance of convenience favours granting the stay.

48. The public interest, as an aspect of irreparable harm to the interests of the government, is considered in the second stage of the test, but more so in the third stage when the harm to the applicant is balanced with the harm to the respondent.⁴⁹

49. To succeed, the applicant must satisfy the Court that the facts submitted into evidence ensure that the three tests are met. All three questions must be answered in the affirmative.⁵⁰

2. Serious Question

50. The test of a serious issue in a stay motion is whether there is an issue in the underlying application that is neither frivolous nor vexatious. This is a very low standard.

51. With regard to the first test, the Supreme Court states in *RJR-MacDonald* that:

[55] Once satisfied that the application is neither vexatious nor frivolous, the motions judge should proceed to consider the second and third tests, even if of the opinion that the plaintiff is unlikely to succeed at trial. A prolonged examination of the merits is generally neither necessary nor desirable.⁵¹

52. Canada sites two issues to justify the stay of execution, namely: (i) individual compensation was not an appropriate remedy for this complaint; and (ii) the compensation ordered was disproportionate as between individuals and in light of Canada's prior remedial actions.

53. While Canada purports to raise two genuine issues, the AFN submits that Canada's motion for a stay is both vexatious and frivolous based on the continued delay to implement the CHRT orders, continuous negotiations between the Parties, and furthers harm caused to First Nation' children who continue to be denied compensation.

⁴⁹ *RJR-MacDonald*, pgs 342-347.

⁵⁰ *Janssen*, para 14.

⁵¹ *RJR-MacDonald*, pgs 337-338.

54. Throughout the hearing of this complaint, Canada has a history of using procedural tactics to derail the merits of this case, frustrating the implementation of CHRT Orders and misapplying/misinterpreting rulings. The hearing on the merits of this case was delayed three years through Canada's procedural tactics. Canada challenged the CHRT's jurisdiction to hear this complaint which was heard by this Honourable Court and the Federal Court of Appeal. Since the CHRT's landmark decision in 2016, there have been twelve additional decisions of the CHRT. Five of these Orders dealt directly with Canada's non-compliance of the CHRT Orders (2016 CHRT 10, 2016 CHRT 16, 2017 CHRT 14, 2018 CHRT 4, and 2019 CHRT 7).

55. The AFN submits that Canada's assertion the Tribunal has no jurisdiction to order individual compensation has no merit. Section 53(2)(e) and (3) of the CHRA specifically allows for compensation to be paid to individuals. The section reads:

(e) that the person compensate the victim, by an amount not exceeding twenty thousand dollars, for any pain and suffering that the victim experienced as a result of the discriminatory practice.

(3) In addition to any order under subsection (2), the member or panel may order the person to pay such compensation not exceeding twenty thousand dollars to the victim as the member or panel may determine if the member or panel finds that the person is engaging or has engaged in the discriminatory practice wilfully or recklessly.

56. The CHRA specifically allows for a representative body to file a complaint alleging discrimination. Canada appears to confuse AFN's and the Caring Society's role in bringing forward this specific representative complaint of systemic discrimination against an identifiable group. In essence, Canada argues that those children who were apprehended and separated from their families, as well as the suffering inflicted on his/her parents are not entitled to compensation because the discrimination was systemic in nature.⁵²

57. The CHRT was provided ample evidence that First Nations children were unnecessarily or necessarily apprehended or denied medical treatments and other services as a result of Canada's discriminatory policies and funding practices. Canada had knowledge of the

⁵² Affidavit of Jon Thompson (affirmed November 8, 2019), paras 13-21.

vulnerabilities these First Nation children had and horrific abuse, including sexual abuse, they could suffer while under state care.

58. In *Canadian Human Rights Commission v. Canada (Attorney General)*, this Court held that CHRT has broad discretion with respect to the admissibility of evidence and it need not hear testimony from all alleged victims of discrimination in order to compensate them for pain and suffering. The Court held:

[72] The Attorney General argues that the Tribunal rightly concluded that awards of pain and suffering cannot be made *en masse* based on representative evidence, but, rather, must be made based on evidence of individual complainants.

[73] I disagree. The Tribunal held that it could not award pain and suffering damages without evidence that spoke to the pain and suffering of individual claimants. This does not, however, mean that it necessarily required direct evidence from each individual. As the Commission noted, the Tribunal is empowered to accept evidence of various forms, including hearsay. Therefore the Tribunal could find that evidence from some individuals could be used to determine pain and suffering of a group.⁵³

59. Canada's assertion that an award of \$40,000 is disproportionate is without merit. The CHRT carefully considered all options presented before it. In its wisdom, the CHRT opted for a universal harm in which to compensate individuals for Canada's discriminatory practices, the apprehension or removal of children from their home and placed into state care, or the denial of medical treatments or other services.

60. The AFN submits that removing a vulnerable child from their home due to a discriminatory policy of the Federal Government is far worse than an adult being called degrading names at work. The CHRT has awarded \$40,000 in cases where individuals called inappropriate names or was the recipient of negative comments at work.⁵⁴

⁵³ *Canadian Human Rights Commission v. Canada (Attorney General)*, 2010 FC 1135, para.73

⁵⁴ See, *Alizadeh-Ebadi v. Manitoba Telecom Services Inc.*, 2017 CHRT 36.

3. Irreparable Harm

61. The second branch of the test in *RJR-MacDonald* requires evidence on a balance of probabilities that the applicant would suffer irreparable harm were the motion for a stay of enforcement be denied. This requires that harm flowing from a refusal to grant the stay cannot be remedied at a later date if the decision is overturned on appeal.⁵⁵ The onus rests on the applicant. The Supreme Court states that irreparable harm is harm which either cannot be quantified in monetary terms or which cannot be cured, usually because one party cannot collect damages from the other.⁵⁶
62. The Federal Court of Appeal clarified elements of the second part test in *United States Steel Corp.*⁵⁷

[6] *RJR* described the central question regarding irreparable harm as “whether a refusal to grant relief could so adversely affect the applicants’ own interests that the harm could not be remedied if the eventual decision on the merits does not accord with the result of the interlocutory application”: paragraph 63. Irreparable harm refers to the nature of the harm, not the magnitude. The nature of the harm must be such that it cannot be quantified in monetary terms or cannot be cured: paragraph 64.

[7] The jurisprudence of this Court holds that the party seeking the stay must adduce clear and non-speculative evidence that irreparable harm will follow if the motion for a stay is denied. It is not sufficient to demonstrate that irreparable harm is “likely” to be suffered. This alleged irreparable harm may not be amply based on assertions: *Syntex Inc. v. Novopharm Ltd.* (1991), 36 C.P.R. (3d) 129, 126 N.R. 114 (F.C.A.), leave to appeal refused 39 C.P.R. (3d) v, 137 N.R. 391n; *Centre Ice Ltd. v. National Hockey League* (1994), 53 C.P.R. (3d)-34 (F.C.A.); *Canada (Attorney General) v. Canada (Information Commissioner)*, 2001 FCA 25.

⁵⁵ *RJR-MacDonald*, para 57-58.

⁵⁶ *RJR-MacDonald*, para 59.

⁵⁷ *United States Steel Corp. v. Canada (Attorney General)*, 2010 FCA 200.

63. In *Canada (Attorney General) v. Amnesty International Canada*, this Court held that the burden is on the party seeking the stay to adduce clear and non-speculative evidence that irreparable harm will follow if their motion is denied.”⁵⁸
64. Canada asserts that it will suffer the following irreparable harms: (1) conflicting decisions as a result of the Tribunal’s retained jurisdiction over the Compensation Decision and the Federal Court’s review of this ruling; (2) an unwarranted devotion of resources to setting up and implementing the compensation process; and (3) the unrecoverable loss of compensation paid out to certain individuals during the course of the judicial review.
65. The AFN submits that Canada has failed to adduce the required evidentiary burden required by the second branch of the *RJR-MacDonald* test. Canada has not put any evidence forward other than bald statements made by its affiant, who is in the employ of Canada, to support Canada’s assertion of irreparable harm.
66. In this regard, the Mr. Sonny Perron states that “based on the department’s interpretation of the Orders” implementation would require a significant investment of human and financial resources.⁵⁹ He states his belief that commencing the “compensation process before the Tribunal’s decision can be judicially reviewed is unfair to the claimants, to ISC and the government more generally, and so is not in the public interest”.⁶⁰ Mr. Perron also balks at the potential scale of what the Tribunal has ordered, the difficulty of identifying potential claimants and the amount of resources required to comply.⁶¹
67. Mr. Perron also takes issue with the fact that the CHRT has not made an Order on the process that will be used to pay the compensation or identify and classify claimants.⁶² Again he states his belief that the payment process “would require a significant infrastructure investment

⁵⁸ *Canada (Attorney General) v. Amnesty International Canada*, 2009 FC 426, para 29.

⁵⁹ Affidavit of Sony Perron (sworn October 3, 2019), para 7.

⁶⁰ Affidavit of Sony Perron, para 8.

⁶¹ Affidavit of Sony Perron, para 32.

⁶² Affidavit of Sony Perron, para 33.

either inside or outside the federal government”.⁶³ He notes that it would take more than three months to develop a compensation scheme and set up the necessary infrastructure.⁶⁴

68. Despite these concerns, Mr. Perron acknowledges that no compensation is required to be paid to the victims at this time.⁶⁵ Mr. Perron also acknowledges that the development of the compensation scheme, the notice plan, development of the applications requires discussion and negotiations between Canada, the AFN and Caring Society. However, Canada has taken no steps to reach out with these parties to jointly develop a compensation scheme.⁶⁶ Mr. Perron also concedes that Canada had an option to seek an extension of the December 10th, 2019 deadline to report back to the CHRT by way of consent with the Parties, but chose not to avail itself to this option.⁶⁷

69. Canada’s speculation that it would suffer irreparable harm is not based on fact. Canada assumes that payments may start as early as December 10, 2019. However, this belief is not shared widely. In cross-examination, Mr. Perron stated the following:

Q. All right, thank you. And has the department received any inquiries about the compensation at this time?

A. I'm aware of some inquiries coming to the phone line for Jordan's Principle, but the number has not been very high. Initially we were concerned that staff that are supposed to answer calls from individual that needs services will be impacted by people calling to know how they can be compensated. But the number of them fairly low, according to the report I received a couple of weeks ago.

70. It is also important to note that many of the potential claimants are under the age of majority and a trust fund will need to be established to hold their funds until they become an adult. In *Thwaites*,⁶⁸ this Court dismissed an application for stay pending judicial review of an order of the CHRT requiring payment of money to a respondent. This court noted that irreparable harm is damage that cannot be repaired by money. There was no evidence that the damage

⁶³ Affidavit of Sony Perron, para 35.

⁶⁴ Affidavit of Sony Perron, para 38 and 40.

⁶⁵ Transcription of the cross-examination of Sony Perron, p. 16, lines 7-15.

⁶⁶ Transcription of the cross-examination of Sony Perron, p. 49 line 6 through p. 50, line 9; p. 56 lines 3-12.

⁶⁷ Transcription of the cross-examination of Sony Perron, p. 42, line 18 through p. 43 line 22.

⁶⁸ *Canada (Attorney General) v. Thwaites*, (1993) 68 F.T.R. 153 (TD).

award, if paid to the respondent, would be dissipated in the event the judicial review application was successful.⁶⁹

71. The AFN adds Canada's irreparable harm is self-inflicted due to (i) Canada's unresponsiveness to calls for engagement from the parties with respect to the process for compensation, (ii) Canada not considering or requesting an extension of time with the parties or with the Tribunal regarding the December 10, 2019 reporting date, and (iii) Canada not considering or requesting an extension of time regarding its application for judicial review pursuant to Section 18.1(2) of the *Federal Courts Act* and Rule 8 in the *Federal Courts Rules* that authorizes the Federal Court to extend the time for filing an application for judicial review.⁷⁰
72. Also, there is no order with respect to allocating any resources from Canada or implementing a compensation process at this time, and there is no order regarding any payment of any compensation at this time so there is no unrecoverable loss.
73. On the basis of hypothetical and/or general assertions of an imprecise harm, Canada cannot claim it will suffer harm as defined in the case law. According to the evidence as submitted by Canada, the applicant is asking the Court for a stay of the execution of the CHRT's Order because if it failed to engage in discussions with the AFN and Caring Society on a possible compensation scheme within the timeframe set by the CHRT. Canada is the sole architect of its failure to comply. This is not the type of harm contemplated by the second test. It is an attempt to change the course of the CHRT proceedings to suit Canada's preference to pay compensation akin to a sliding scale found in tort law.
74. In *Commissioner of Competition*,⁷¹ the Competition Tribunal held that harm must be established on clear and not speculative evidence which demonstrates how such harm will occur if the relief is not granted. The Tribunal stated:

⁶⁹ *Thwaites*, para 10.

⁷⁰ *Canada (Minister of Human Resources Development) v. Gattelerio*, 2005 FC 883, para 8. See also, *King v. Canada (AG)*, 2000 CanLII 14974 (FC), para 2. Also, *Wenham v. Canada (AG)*, 2018 FCA 199, paras 41-42.

⁷¹ *Commissioner of Competition v. HarperCollins Publishers LLC and HarperCollins Canada Limited*, 2017 CACT 14.

[58] The FCA has also frequently insisted on the attributes and quality of the evidence needed to establish irreparable harm. The evidence must be more than a series of possibilities, speculations or general assertions (*Gateway City Church v Canada (National Revenue)*, 2013 FCA 126 (“*Gateway City Church*”) at paras 15-16). “Assumptions, speculations, hypotheticals and arguable assertions, unsupported by evidence, carry no weight” (*Glooscap Heritage Society v Canada (National Revenue)*, 2012 FCA 255 (“*Glooscap*”) at para 31). It is not enough “for those seeking a stay [...] to enumerate problems, call them serious, and then, when describing the harm that might result, to use broad, expressive terms that essentially just assert – not demonstrate to the Court’s satisfaction – that the harm is irreparable” (*Stoney First Nation v Shotclose*, 2011 FCA 232 (“*Stoney First Nation*”) at para 48). Quite the contrary, there needs to “be evidence at a convincing level of particularity that demonstrates a real probability that unavoidable irreparable harm will result unless a stay is granted” (*Gateway City Church* at para 16, citing *Glooscap* at para 31).

[59] In *Janssen 1*, the FCA stated that a party seeking a suspension relief must demonstrate in a detailed and concrete way that it will suffer “real, definite, unavoidable harm – not hypothetical and speculative harm – that cannot be repaired later” (*Janssen 1* at para 24). In that decision, Mr. Justice Stratas added that “[i]t would be strange if a litigant complaining of harm it caused itself, harm it could have avoided or repaired, or harm it still can avoid or repair could get such serious relief [...] [or] if vague assumptions and bald assertions, rather than detailed and specific evidence, could support the granting of such serious relief” (*Janssen 1* at para 24). In that case, Janssen was seeking an order from the FCA suspending the remedy phase of proceedings before the Federal Court, pending its appeal of that Court’s infringement finding. Janssen was arguing that it would suffer irreparable harm if the remedy phase of the proceedings went ahead prior to its appeal being determined and that the Federal Court’s process should therefore be suspended. The FCA refused to suspend the Federal Court’s proceedings as there was not sufficient probative evidence of irreparable harm.

4. Balance of Convenience

75. The balance of inconvenience is analyzed essentially on a case-by-case basis, depending on the parties. In general, the applicant’s personal interests are weighed against the respondents. *RJR-MacDonald* provides some direction:

“The third test to be applied in an application for interlocutory relief was described by Beetz J. in *Metropolitan Stores* at p. 129 as: a determination of which of the two parties will suffer the greater harm from the granting or refusal of an interlocutory injunction, pending a decision on the merits. In light of the relatively low threshold of the first test and the difficulties in applying the test of irreparable

harm in Charter cases, many interlocutory proceedings will be determined at this stage.”⁷²

76. Canada suggests that the issues of the irreparable harm that would accrue to Canada if it complies with the Orders in the absence of the stay, which includes the potential for conflicting judgments, the devotion of resources to commence and implement a process that may be set aside, and the potential loss of billions of dollars overwhelmingly exceeds any harm to the Respondents if the stay is granted.

77. Canada also argues that the public interest in this case favours interference by the courts in the CHRT’s decision-making process. Canada refers the Federal Court of Appeal in *Canada v Canadian Council for Refugees*⁷³, which states that the issue of public interest will be considered at both the second stage as an aspect of irreparable harm to the government’s interests and the third stage as part of the balance of convenience. Canada also argues that she will not be able to recover any funds paid to claimants who live on reserve or recover this money from the complainants. Thus, Canada asserts the harm to Canada and the public interest is irreparable.

78. The AFN submits that Canada’s assertions do not have merit. Mr. Sony Perron acknowledged that no compensation is required to be paid at this time⁷⁴. Rather, the only obligation that is in force at this time is the requirement that Canada negotiate with the AFN and Caring Society in developing a viable compensation scheme for the CHRT’s consideration.⁷⁵

79. Unlike the harm proposed by Canada, there is nothing speculative about the harm that will be suffered by the Respondents if a stay is granted. After years of preparation, and much cost to the Respondents the Tribunal has determined that INAC’s FNCFS Program is discriminatory and insufficient to support child welfare services at a level comparable to services provided off-reserve in provincial and territorial jurisdictions. To deprive the Respondents of the relief

⁷² *RJR-MacDonald*, pg 342.

⁷³ *Canada v Canadian Council for Refugees*, 2008 FCA 40, para 18.

⁷⁴ Transcription of the cross-examination of Sony Perron, p. 16, lines 7-16

⁷⁵ Transcription of the cross-examination of Sony Perron, p. 41, lines 22-25 through p. 42, lines 1-7

granted by the Tribunal on the basis of a stay after years of advocacy, research and negotiation would irreparably prejudice the Respondents.

5. Caring Society's Motion for Abeyance

80. The AFN submits Canada's application for judicial review should be stayed pending the outcome of the Tribunal's complete determination of the compensation issue. The Courts jurisdiction to stay the application is founded in its plenary jurisdiction to manage and regulate its own proceedings⁷⁶ and Section 50(1)(b) of the *Federal Courts Act*, which provides the Court with the power and discretion to stay an application where the Court determines that "it is in the interests of justice that the proceeding be stayed."

81. The test for whether a matter should be put into abeyance is found in the Federal Court of Appeal's decision in *Mylan Pharmaceuticals ULC v. AstraZeneca Canada Inc.* ("*Mylan*") Justice Stratas, J.A. reviewed the considerations that apply when the Court is evaluating whether to delay the exercise of its jurisdiction until a later time, comparing it to an exercise of jurisdiction that is not unlike scheduling or adjourning a matter. He noted that:

Broad discretionary considerations come to bear in decisions such as these. There is a public interest consideration – the need for proceedings to move fairly and with due dispatch – but this is qualitatively different from the public interest considerations that apply when we forbid another body from doing what Parliament says it can do. As a result, the demanding tests prescribed in *RJR-MacDonald* do not apply here. This is not to say that this Court will lightly delay a matter. It all depends on the factual circumstances presented to the Court. In some cases, it will take much to convince the Court, for example, where a long period of delay is requested or where the requested delay will cause harsh effects upon a party or the public. In other cases, it may take less.

82. Further to *Mylan*, we can distill that a Court has broad discretion in staying an application for judicial review. Although it will not lightly delay a matter, it can do so if the factual circumstances presented to the Court warrant same.

⁷⁶ *Coote v. Lawyers' Professional Indemnity Company*, 2013 FCA 143.

83. These principles were affirmed by the Federal Court of Appeal in *Coote v. Lawyers' Professional Indemnity Company*. As per the Court:

Whether this Court will issue a stay to refrain from exercising its own jurisdiction over a pending appeal – *i.e.*, to suspend or delay it – depends on the factual circumstances presented to the Court, guided by certain principles. These principles include securing “the just, most expeditious and least expensive determination of every proceeding on its merits”: *Federal Courts Rules*, SOR/98-106, Rule 3.

Additional principles guide this Court in the exercise of its plenary jurisdiction to manage and regulate proceedings. As long as no party is unfairly prejudiced and it is in the interests of justice – vital considerations always to be kept front of mind – this Court should exercise its discretion against the wasteful use of judicial resources. The public purse and the taxpayers who fund it deserve respect. As well, cases are interconnected: one case sits alongside hundreds of other needy cases. Devoting resources to one case for no good reason deprives the others for no good reason.⁷⁷

84. The AFN submits the circumstances of the case clearly demonstrate that Canada’s application for judicial review ought to be held in abeyance pending the Tribunal’s final determination, namely: (1) the Tribunal process has not run its course giving rise to the potential for duplicity of proceedings; and (2) the prejudice and harm to First Nations Children, Youth and their Families awaiting the final determination from the Tribunal

A. The Tribunal process has not run its course and will likely give rise to duplicative proceedings

85. The AFN submits that Canada is attempting to circumvent the Tribunal process, which has yet to run its course. It is clear from the terms of the Tribunal’s Compensation Order that it felt that there was a need to establish an independent process for distributing compensation to victims/survivors, and that the Orders as to compensation provided for therein were contingent on the establishment of a satisfactory compensation scheme. As per the Tribunal:

86. There is a need to establish an independent process for distributing the compensation to the victims/survivors. The AFN and the Caring Society have both expressed an interest to assist

⁷⁷ *Ibid* at paras 12-13.

in this regard. Therefore, Canada shall enter into discussions with the AFN and the Caring Society on this issue. The Commission and the interested parties should be consulted in this process however, they are not ordered to participate if they decide not to. The Panel is not making a final determination on the process here rather, it will allow parties to discuss possible options and return to the Tribunal with propositions if any, no later than December 10, 2019. The Panel will then consider those propositions and make a determination on the appropriate process to locate victims/survivors and to distribute compensation.”⁷⁸

87. The Tribunal specifically stated within the preface of the Order section of its Decision that the orders as to monetary compensation would only take effect once the compensation scheme was finalized. As per the Tribunal:

All the following orders will find application once the compensation process referred to below has been agreed to by the Parties or ordered by the Tribunal.⁷⁹

88. It is clear that the administration of the complaint has not been finalized by the Tribunal as the compensation scheme has not been completed. The finalization of this scheme is a condition precedent to the Tribunal's orders as to compensation becoming effective.

89. The AFN submits that judicial review is a remedy of last resort and allowing Canada to proceed with judicial review of the matter would be premature in light of the fact that there is no final Decision from the Tribunal and the fact that Canada can still address issues it has with the terms of the Decision within the scope of the Tribunal process. As per the Federal Court in *Louie v. Ts'kw'aylaxw First Nation*:

“The general rule is that a judicial review brought in the face of adequate, effective recourse elsewhere or at another time cannot be entertained, subject to unusual or exceptional circumstances supportable in the case law. This principle is justified by the fact that judicial review remedies are remedies of last resort, and improper or premature recourse to judicial review can frustrate specialized statutory schemes enacted by Parliament and cause delay: *JP Morgan* at paras 84-85.”

⁷⁸ *Compensation Decision*, para 269.

⁷⁹ *Compensation Decision*, para 244.

90. The specialized nature of the Tribunal was addressed within a 2008 application for judicial review and stay of proceedings by Canada in response to referral of the Complaint to the Tribunal. The Tribunal determined that the matter should not be determined in a summary way given the serious and complex subject matter of the proceedings as there was a special interest “in allowing a full and thorough examination in the specialized forum of the Tribunal, of issues which may have impact on the future ability of aboriginal peoples to make discrimination claims.” This was upheld on appeal.
91. Canada’s also still has the ability to raise concerns that it has with the Tribunal’s decision both through discussions on the Compensation Process and by taking up the Tribunal’s invitation to make “any comment/suggestion and request clarification [...] in regards to moving forward with the compensation process and/or the wording and/or content of the orders.”
92. The AFN therefore submits that allowing the Canada to proceed with its application would frustrate the specialized forum of the Tribunal, lead to undue delays with respect to the Tribunal’s final determination regarding financial compensation and would amount to a waste of value judicial resources.
93. There also remains the risk of duplicative/conflicting decisions by allowing Canada to proceed prior to completion of the Tribunal administration of the Complaint, as the Tribunal may make further orders in its administration of the compensation scheme. This may ultimately impact the existing orders as to compensation and the courts review of the reasonableness of same. Further, Canada could very well decide to proceed with an application for judicial review once the Tribunal issues a Decision with respect to the final compensation scheme, leading to potentially duplicate judicial reviews on substantially the same issues.
94. The AFN submits that Canada’s proposed approach, being parallel proceedings (Tribunal/Federal Court) and the possibility of two separate judicial reviews, will result in greater cost, time and resources for the parties, while addressing the same issue, being the financial compensation for the victims of the Complaint. In the interest of avoiding the prejudice that would occur should these parallel proceedings take place and the duplicative

costs associated with same, the parties should await the Tribunal's final compensation order, incorporating a final compensation scheme prior to proceeding with judicial review.

B. Prejudice and Harm to First Nations Children, Youth and their Families Waiting for a Final Determination

95. The AFN submits that allowing the judicial review to proceed while the administration of the Complaint by the Tribunal is incomplete will cause confusion. Said confusion may include the following:

- i. The Tribunal may take a variety of steps while the judicial review is proceeding while it contemplates the final determination regarding the Compensation Process. These public steps taken by the Tribunal, in conjunction with the Federal Court's parallel proceeding, will almost certainly cause confusion and mixed message to the victims for whom the Complaint is intended to compensate and lead to harm; and
- ii. The uncertainty surrounding the Federal Court's review of the Tribunal's preliminary determinations in the Compensation Entitlement Order will almost certainly cause confusion to First Nations children, youth and families who have been waiting for nearly thirteen years for a resolution. It is in the best interests of the victims in this case that the process be transparent and clear.

96. The AFN ultimately submits that the confusion and prejudice to First Nations Children, Youth and families awaiting the final determination, as well as the waste of judicial resources associated with parallel and potentially duplicative proceedings, supports the Court placing Canada's application for judicial review in abeyance pending the final Compensation Order from the Tribunal, including a comprehensive compensation scheme. The exercise of the courts discretion is warranted as it is in the interests of justice and will not prejudice Canada.

PART IV – ORDER SOUGHT

97. The AFN requests that this Honourable Court dismiss Canada's stay motion with costs on a solicitor-client basis.

98. In the alternative, the AFN requests that the Court grant the Caring Society's abeyance motion.

ALL OF WHICH IS RESPECTFULLY SUBMITTED

November 19, 2019



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PART V – LIST OF THE AUTHORITIES

1. Appendix A – Statute or Regulation

<i>Federal Courts Act</i> , R.S.C., 1985, c. F-7	ss. 50, 18.2
<i>Federal Courts Rules</i> , SOR/98-106	Rule 398

2. Appendix B – Authorities

<i>First Nations Child and Family Caring Society of Canada et al. v. Attorney General of Canada (Minister of Indian and Northern Affairs</i> , 2019 CHRT 39 (September 6, 2019) (“Compensation Decision”)	13, 14, 214, 225, 242, 243, 245, 247, 249, 250, 251, 253, 258, 259, 269, 270
<i>First Nations Child and Family Caring Society of Canada et al. v. Attorney General of Canada (for the Minister of Indian and Northern Affairs Canada)</i> , 2016 CHRT 2 (January 26, 2016) (“Main Decision”)	87-110, 456-467, 485-490
<i>Canada Post Corp. v. Public Service Alliance of Canada</i> , 2008 FC 223	44
<i>Public Service Alliance of Canada v. Canada Post Corporation</i> , 2010 FCA 56	301
<i>Canada (AG) v. Mowat</i> , 2009 FCA 309	25
<i>First Nations Child and Family Caring Society of Canada et al. v. Attorney General of Canada (for the Minister of Indian and Northern Affairs Canada)</i> , 2016 CHRT 10	3, 6, 10-19, 13-15 22-25, 34-37
<i>First Nations Child and Family Caring Society of Canada et al. v. Attorney General of Canada (for the Minister of Indian and Northern Affairs Canada)</i> , 2016 CHRT 16	8, 10, 160, 163
<i>First Nations Child and Family Caring Society of Canada et al. v. Attorney General of Canada (for the Minister of Indian and Northern Affairs Canada)</i> , 2017 CHRT 14	
<i>First Nations Child and Family Caring Society of Canada et al. v. Attorney General of Canada (for the Minister of Indian and Northern Affairs Canada)</i> , 2018 CHRT 4	10, 46-47, 85, 131, 385-389, 395-400
<i>Canada (AG) v. Northrop Grumman Overseas Services Corporation</i> , 2007 FCA 336	21
<i>Apotex Inc. v. Merck & Co.</i> , [2006] F.C.J. 786	5

<i>Pearson v. Canada</i> , 1999 CanLII 8631 (FC)	19
<i>Aic Limited v. Infinity Investment Counsel Ltd.</i> , 1998 CanLII 8433 (FC)	20
<i>Canada (Ministry of Citizenships & immigration) v. Tobias</i> , [1997] 3 SCR 391 (SCC)	
<i>Kent v. Universal Studios Canada Inc.</i> , [2008] FCJ No. 1129	16
<i>Mugesera v. Canada</i> , [2005] 2 SCR 91	12
<i>Safilo Canada Inc. v. Contour Optik Inc.</i> , (2005), 48 CPR (4 th) 339	27
<i>Compulife Software Inc. v. Compuoffice Software Inc.</i> , (1997), 77 CPR (3d) 451 (FCTD)	16
<i>Janssen Inc. v. Abbvie Corporation</i> , 2014 FCA 112	14, 20
<i>RJR-MacDonald Inc. v. Canada (AG)</i> , [1994] 1 SCR 311	57-58, 59, 342, 337-338, 342-347
<i>Canadian Human Rights Commission v. Canada (Attorney General)</i> , 2010 FC 1135	73
<i>Alizadeh-Ebadi v. Manitoba Telecom Services Inc.</i> , 2017 CHRT 36	
<i>United States Steel Corp. v. Canada (Attorney General)</i> , 2010 FCA 200	
<i>Canada (Attorney General) v. Amnesty International Canada</i> , 2009 FC 426	29
<i>Canada (Attorney General) v. Thwaites</i> , (1993) 68 F.T.R. 153 (TD)	10
<i>Canada (Minister of Human Resources Development) v. Gattelero</i> , 2005 FC 883	8
<i>King v. Canada (AG)</i> , 2000 CanLII 14974 (FC)	2
<i>Wenham v. Canada (AG)</i> , 2018 FCA 199	41-42
<i>Commissioner of Competition v. HarperCollins Publishers LLC and HarperCollins Canada Limited</i> , 2017 CACT 14	
<i>Canada v Canadian Council for Refugees</i> , 2008 FCA 40	18

	FEDERAL COURT
	MOTION RECORD OF THE RESPONDENT/RESPONDING PARTY ASSEMBLY OF FIRST NATIONS
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