



Canadian
human rights
commission

Commission
canadienne des
droits de la personne

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VIA EMAIL

March 31, 2025

Judy Dubois
Registry Operations
Canadian Human Rights Tribunal
240 Sparks Street, 6th Floor West
Ottawa, ON K1A 1J4

**Re: *FNCFCSC and AFN v AGC (T1340/7008)*
Commission response to Panel comments regarding approach to long-term reform**

Dear Panel,

The Canadian Human Rights Commission (Commission) writes in response to this Panel's letter dated February 10, 2025, requesting the parties share their respective views on the Panel's comments regarding the approach to the long-term remedial phase of these proceedings.

The Commission wishes to stress its respect for the sovereignty of First Nations communities and the rightsholders in this proceeding. Nothing in the Commission's submissions is intended as a critique or comment on the substantive remedies sought or offered by the parties, or what would be a good resolution for the rightsholders.

The Commission acknowledges the dedication and work that the parties have done using a dialogic approach, to further the goal of achieving long-term reform of the First Nations Child and Family Services Program (FNCFS Program). The Commission also recognizes the importance of long-term reform for Indigenous children and families, as well as the timeliness of this remedy to end discrimination.

The Commission's view is that it is respectfully the decision of the Tribunal to determine how to advance the long-term remedial stage. The Commission has not been involved in negotiations on long-term reform. Instead, the development of remedies on long-term reform was led by the First Nations bodies with ties to the First Nations children, families, and communities harmed by Canada's discriminatory practices.

The Commission acknowledges the Tribunal's jurisdiction over this matter. As noted by the Tribunal, the parties entered the long-term remedial phase in 2018 and committed to

reforming the FNCFS Program by March 2023. In the spirit of consultation and reconciliation, the Tribunal adopted the dialogic approach to provide the parties with an opportunity to engage in good faith negotiations to advance this matter while seeking direction from the Tribunal as needed.

While being supportive of the dialogic approach, the Commission is concerned with the amount of time it has taken to achieve long-term reform of the FNCFS Program. As explained by the Federal Court, while negotiations are a way to realize the goal of reconciliation, good will in the negotiation process must be encouraged and fostered “before the passage of time makes an impact on those negotiations.”¹ The Commission agrees with the Tribunal’s rationale that “[i]t is far better for children to complete the long-term remedial phase shortly rather than wait for long periods of time.”

As the Tribunal recently expressed, it has always hoped for a settlement on long-term reform by way of consent order requests by the parties. If this is not possible, however, the Tribunal stated that it “can make systemic long-term orders informed by the parties to eliminate the systemic discrimination found”.²

We provide the above submissions for this Panel’s consideration in determining the path forward on long-term reform.

Sincerely,

**Juyal,
Anshumala**

Digitally signed by Juyal, Anshumala
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Anshumala"
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Anshumala Juyal and Khizer Pervez
Counsel for the Commission

cc Dayna Anderson, Paul Vickery, Kevin Staska, Sarah-Dawn Norris, Sarah Bird, Jon Khan, Meg Jones, Aman Owais (Counsel for Canada)

Adam Williamson (Counsel for the AFN)

Maggie Wente, Jessie Stirling-Voss, Ashley Ash, Katelyn Johnstone (Counsel for COO)

Justin Safayeni, Stephen Aylward, Taskeen Nawab (Counsel for Amnesty International)

Julian Falconer, Meaghan Daniel (Counsel for Nishnawbe Aski Nation)

David Taylor, Sarah Clarke, Logan Stack, Kiana Saint-Macary, Robin McLeod (Counsel for the Caring Society)

¹ *Canada (Attorney General) v First Nations Child and Family Caring Society of Canada*, 2021 FC 969 at para [300](#).

² *First Nations Child and Family Caring Society of Canada v Canada (Attorney General)*, 2025 CHRT 6 at para 237 (not yet reported).