

Canadian Human
Rights Tribunal



Tribunal canadien
des droits de la personne

Ottawa, Canada, K1A 1J4

October 3, 2025

By e-mail

(See Distribution List)

Dear Parties,

Re: First Nations Child and Family Caring Society et al. v. Attorney General of Canada
Tribunal File: T1340/7008

The Panel wishes to advise the parties of the following:

Dear Parties,

In advance of the upcoming case management conference, the Tribunal conveys the following comments and reiteration of the scope of the matter, with a view to advancing these proceedings in a timely, orderly and constructive manner.

Scope of the Matter Before the Tribunal

The Tribunal is of the view that the parties must have clarity on the scope of the case to be resolved so as to properly direct their efforts.

The complaint and record before the Tribunal that led to the Merit Decision and subsequent rulings did not include the Northwest Territories or First Nations children living off-reserve. This was not the Tribunal's choice; it was a choice made by the co-complainants, the Caring Society and the AFN, when they filed their complaint and reaffirmed it over the years. Further, the sole exception with respect to off-reserve children was their inclusion under Jordan's Principle within the parameters explained in the Tribunal's rulings and orders.

The resolutions of the Chiefs-in-Assembly filed in the record for the hearing on the merits and subsequent rulings did not extend to off-reserve children (outside of Jordan's Principle) or to the Northwest Territories.

The Tribunal further clarified the scope of the matter in 2019 CHRT 39.

The Tribunal has the utmost respect for the Chiefs and the National Children's Chiefs Commission and for the objective that off-reserve First Nations children and First Nations children in the Northwest Territories live free from discrimination (the Tribunal is not making a finding here). While the Tribunal respects any resolution of the Chiefs to now include such children, such resolutions cannot confer additional jurisdiction upon the Tribunal—particularly when raised nearly a decade after the decision on the merits.

Resolutions of the Chiefs-in-Assembly

Insofar as the Chiefs-in-Assembly resolutions may be supporting motions for interested party status before the Tribunal, this development is proving to be problematic. While the Chiefs-in-Assembly have every right to pursue any legal recourse they see fit, encouraging additional First Nations to now participate in these proceedings does not assist the Tribunal in fulfilling its mandate. On the contrary, it risks undermining the work of all parties within the dialogic process established before the Tribunal. On numerous occasions, the Tribunal has stated that it cannot hear directly from every First Nation community or region, and has instead relied upon the AFN to assist in this respect at the National level. The Tribunal has always recognized that the AFN is not itself a rights holder and that funding and services must be tailored to the unique circumstances of each First Nation.

The Tribunal reiterates that it does not have jurisdiction to impose obligations on First Nations rights holders as part of these proceedings.

The Tribunal looks forward in discussing the matter with the parties at the next CMCC.

Should you have any questions, please do not hesitate to contact the Registry Office by e-mail at registry.office@chrt-tcdp.gc.ca or by fax at 613-995-3484.

Yours truly,

Judy Dubois
Registry Officer

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