

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 Services Canada)**

Respondent

- and -

**CHIEFS OF ONTARIO,
AMNESTY INTERNATIONAL,
NISHNAWBE ASKI NATION,
TAYKWA TAGAMOU NATION and
CHIPPEWAS OF GEORGINA ISLAND**

Interested Parties

AFFIDAVIT OF DR. DEAN NEU

I, **Dean Neu**, of the City of Toronto, in the Province of Ontario **SOLEMLY AFFIRM THAT:**

1. I am a full time Professor at the Schulich School of Business at York University, where I also serve as Co-Director of the CPA Ontario-Schulich Digital Financial Information Centre. A copy of my curriculum vitae is attached hereto as **Exhibit “A”**.

2. I have been engaged by the First Nations Child and Family Caring Society of Canada to provide evidence in relation to these proceedings. I understand and acknowledge that, as an expert witness, I have the duty to assist the Canadian Human Rights Tribunal in an impartial, objective and independent manner.

3. In addition to my role as a full-time professor at York University and Co-director of the CPA Ontario-Schulich Digital Financial Information Centre, I also hold a PhD in Accounting from Queen's University, and I am a Chartered Professional Accountant (CPA, Alberta).

4. Prior to joining the faculty at Schulich School of Business, I was the Director of the Centre for Public Interest Accounting and Future Fund Chair of Accounting at the University of Calgary. I have also been a visiting professor at the University of Alberta, the University of Toronto, and the Universidad de Autonoma del Estado de Morelos in Mexico.

5. My academic expertise focuses on how financial accounting and funding mechanisms are used by governments and international organizations—including the World Bank—to shape economic and social domains such as healthcare, education, and federal–Indigenous relations. My expertise has centred on accounting power and how governments, international organizations and corporations use accounting to control and administer less powerful members of society.

6. I have authored over 90 peer-reviewed journal articles and three books. My recent work on federal government–First Nations financial relations is featured in the 2026 documentary *The Good Canadian*, which premiered on September 30, 2025, as part of CBC's Truth and Reconciliation Day coverage. I am also the co-author of *Accounting for Genocide: Canada's Bureaucratic Assault on Aboriginal People* (2003). I am also currently a co-investigator on a research grant issued by the Social Sciences and Humanities Research Council of Canada (2020-2025) on accounting inscriptions and social media-based social accountability processes.

My knowledge of these proceedings

7. In August 2025, I was contacted by the First Nations Child and Family Caring Society to provide an analysis of the proposed Ontario Final Settlement Agreement on the long-term reform of the First Nations Child and Family Services Program ("**Ontario Final Agreement**") with a focus on the financial accounting, financial reporting and funding mechanisms on which it relies.

In particular, my report identifies some of the risks of the approaches set out in the Ontario Final Agreement, which replicate and carry forward funding structures and mechanisms historically imposed on Indigenous communities. My report also identifies, in light of these risks, financial practices that would better align with the Purpose and Principles of the Ontario Final Agreement. A copy of my report is attached hereto as **Exhibit "B"**.

AFFIRMED before me at the City of Toronto,
in the Province of Ontario, October 2, 2025



Commissioner for taking Affidavits
Sarah Clarke
LSO #57377M

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DEAN NEU

This Exhibit "A" to the Affidavit of Dean
Neu affirmed before me this 2nd day of
October 2025



A Commissioner for taking Affidavits etc.
Sarah Clarke
LSO#57377M

DEAN E. NEU (PhD CPA)

Professor of Accounting
Schulich School of Business
York University
Toronto, Ontario

Research Achievements

- 28 publications in FT pinnacle journals (Accounting, Organizations and Society; Contemporary Accounting Research; Journal of Business Ethics)
- Winner 2016 Canadian Academic Accounting Association Award for Distinguished Contribution to Accounting Thought

ACADEMIC PUBLICATIONS

- *#93 “Vultures, vampires, and necro-waste in the oil and gas industry”. (with Minqi Liu, Kieran Taylor-Neu, Greg Saxton, Abu Rahaman & Jeff Everett) Journal of Business Ethics (2025) in press.
- #92. “Indigenous peoples, environmental accountability, and the semantic meaning of resource extraction firm disclosures”. *Accounting*, (with Minqi Liu, Kieran Taylor-Neu, Greg Saxton, Abu Rahaman & Jeff Everett) Auditing & Accountability Journal, (2025) 38, 1375-1404.
- #91. “Tone at the top, corporate irresponsibility and the Enron emails”. (with Kieran Taylor-Neu, Abu Rahaman & Greg Saxton) Accounting, Auditing & Accountability Journal (2024) 37(9), pp.336-364.
- #90. “Accounting artifacts and the reformation of a national healthcare system”. (with Abu Rahaman & Jeff Everett) Critical Perspectives on Accounting, (2024) 99, p.102719.
- #89. “Letters to the editor, institutional experimentation, and the public accounting professional”. (with Jeff Everett, Greg Saxton, & Abu Rahaman). Critical Perspectives on Accounting (2024) 99, 102725.
- #88. “Twitter bots, democratic deliberation, and social accountability: The case of #OccupyWallStreet”. (with Greg Saxton) Accounting, Auditing & Accountability Journal (2023) online before print, DOI: 10.1108/AAAJ-01-2023-623.
- #87. " The Ethical CPA: Journal of Accountancy Letters to the Editor" (with Greg Saxton, Abu Rahaman & Kieran Taylor-Neu). Accounting History (2023) accepted September 2023.
- #86. " Critical Accounting Research in Mesoamerica: Accountable to whom?" (with Elizabeth Ocampo & Leiser Silva). Critical Perspectives on Accounting (2023) accepted March 2023.
- #85. “The Tone from the Top: editorials within the Journal of Accountancy”. (with Greg Saxton, Abu Rahaman & Kieran Taylor-Neu). Accounting History (2022) accepted December 2022.

- *#84. "Twitter-Based Social Accountability Callouts". (with Greg Saxton) Journal of Business Ethics (2022) accepted December 2022.
- #83. "Fragile Assets: Street Gangs and the Extortion Business". Critical Perspectives on Accounting (2022) accepted July 2022.
- *#82. "Building Ethical Narratives: The Audiences for AICPA Editorials". (with Greg Saxton) Journal of Business Ethics (2021) accepted November 2021.
- *#81. "Twitter-Based Social Accountability Processes: The Roles for Financial Inscriptions-Based and Values-Based Messaging". (with Greg Saxton). Journal of Business Ethics (2021). <https://doi.org/10.1007/s10551-021-04952-8>
- *#80. "Social Accountability, Ethics, and the Occupy Wall Street Protests". (with Greg Saxton and Abu Rahaman) Journal of Business Ethics (2021) <https://doi.org/10.1007/s10551-021-04795-3>
- #79. "The centrality of ethical utterances within professional narratives". (with Greg Saxton, Jeff Everett, and Abu Rahaman) Accounting History (2021) <https://doi.org/10.1177/10323732211040272>
- #78. "Critical Accounting in Latin America: Paths, Interactions, and Dialogues between the North and the South". (with Mauricio Gomez-Villegas and Elizabeth Ocampo-Gomez) Innovar (2021) 31(82), pp. 1-24.
- #77. Missionary Work and the World Bank: the diffusion of financial practices. (with Elizabeth Ocampo). (2021), 203 pages. ISBN 978-958-794-320-7. Bogota: Universidad Nacional de Colombia.
- *#76. "Speaking Truth to Power: Twitter Reactions to the Panama Papers". (with Greg Saxton, Jeff Everett, and Abu Rahaman) Journal of Business Ethics (2020) 162(2) 473-485.
- #75. "Twitter and social accountability: Reactions to the Panama Papers". (with Greg Saxton, Jeff Everett, and Abu Rahaman) Critical Perspectives on Accounting (2019) 61 (1) 38-53.
- *#74. "Accounting for Extortion". Accounting, Organizations and Society (2019) 76 (1) 50-63.
- *#73. "We Have Never Been Secular: Religious Identities, Duties, and Ethics in Audit Practice". (with Jeff Everett, Constance Friesen, and Abu Rahaman) Journal of Business Ethics (2018) 153 (4) 1121-1142.
- #72. "Ethics in the eye of the beholder: A pluralist view of fair-trade". (with Jeff Everett and Abu Rahaman) Business and Professional Ethics Journal (2017) 36(1) 1-40.
- #71. "Praxis, Doxa and research methods: Reconsidering critical accounting". (with Jeff Everett, Abu Rahaman, and Gajindra Maharaj) Critical Perspectives on Accounting (2015) 32(1) 37-44.
- #70. "Preventing Corruption within Government Procurement: constructing the disciplined and ethical subject." (with Jeff Everett and Abu Rahaman) Critical Perspectives on Accounting (2015) 28(1) 49-61.

- *#69. "Accounting and Sweatshops: Enabling Coordination and Control in Low-Price Apparel Production Chains." (with Jeff Everett and Abu Rahaman) Contemporary Accounting Research (2014) 31(2) 322-346.
- *#68. "Accounting and networks of Corruption." (with Jeff Everett, Abu Rahaman, & Daniel Martinez) Accounting, Organizations and Society (2013) 38 (6-7) 505-524.
- #67. "Trust, Morality, and the Privatization of Water Services in Developing Countries," (with Jeff Everett & Abu Rahaman) Business and Society Review. (2013).
- #66. "Les Vérificateurs Internes 'Sur la Crête': Idéologie, Politique, Éthique et Lutte Contre la Fraude et la Corruption." (with Jeff Everett & Abu Rahaman) Télescope, 18(3), 131-156.
- *#65. "Internal Auditing and Corruption within Government." (with Jeff Everett & Abu Rahaman) Contemporary Accounting Research (2013) 30 (3) 1223-1250.
- *#64. "Accounting and Undocumented Work." Contemporary Accounting Research (2012) 29 (1): 13-37.
- *#63. "Accounting for Social Purpose Alliances: confronting the HIV/AIDS pandemic in Africa" (with Abu Rahaman & Jeff Everett) Contemporary Accounting Research (2010) 27 (4): 1093-1129.
- #62. "The Sign Value of Accounting: IMF structural adjustment programs and African Banking Reform" (with Abu Rahaman, Jeff Everett & Akin Akindayomi) Critical Perspectives on Accounting (2010) 21 (5): 402-419.
- #61. "Accounting Assemblages, desire and the body without organs: a case study of international development lending in Latin America" (with Jeff Everett & Abu Rahaman) Accounting, Auditing and Accountability Journal (2009) 22 (3): 319-350.
- #60. "Management Education and Market Discipline" (with Claudia Quintanilla) Journal of Management Education 32 (2008) pp. 697-715.
- #59. "Multi-Stakeholder Labour Monitoring Organizations: Egoists, Instrumentalists, or Moralists?" (with Jeff Everett and Daniel Martinez) Journal of Business Ethics 81 1 (2008) pp. 117-142.
- #58. "Diffusing Financial Practices in Latin American Higher Education" (with Elizabeth Ocampo and Leiser Silva) Accounting, Auditing and Accountability Journal) 21 1 (2008) pp. 49-77.
- #57. "Doing Missionary Work" (with Elizabeth Ocampo) Critical Perspectives on Accounting 18 3 (2007) pp. 363-389.
- #56. "Accounting and the move to privatize water services in Africa" (with Abu Rahaman and Jeff Everett) Accounting, Auditing, Accountability Journal 20 5 (2007) pp. 637-670.
- #55. "Social Responsibility Accounts" (with Elizabeth Ocampo) Advances in Public Interest Accounting 12 (2007) pp. 81-113.
- *#54. "Accounting and the Global Fight Against Corruption" (with Jeff Everett and Abu Rahaman) Accounting, Organizations and Society 32 6 (2007) pp. 513-542.

- #53. "Auditor and Audit Independence in the Age of Financial Scandal"(with David Cooper) Advances in Public Interest Accounting 12 (2006) pp. 1-15.
- #52. "A Canadian Accounting Perspectives Special Issue on Accounting History: Applied and Policy Perspectives"(with Harjinder Deol) Accounting Perspectives 5, 1 (2006).
- *#51. "Informing Technologies and the World Bank" (with Cameron Graham, Elizabeth Ocampo, Monica Heincke) Accounting, Organizations and Society 31, 7 (2006) pp. 635-662.
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- *#49. "The Global Fight against Corruption: A Foucaultian, Virtues-Ethics Framing" (with Jeff Everett and Abu Rahaman) Journal of Business Ethics 65, 1 (2006) pp. 1-12.
- *#48. "Birth of a Nation: Accounting and Canada's First Nations" (with Cameron Graham) Accounting, Organizations and Society 31, 1 (2006) pp. 47-76.
- #47. "The Ethics of World Bank Lending" (with Elizabeth Ocampo) Accounting Forum (2006) pp. 1-19.
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- #45. "Financial Scandals, Accounting Change and the Role of Accounting Academics: A perspective from North America" (with David Cooper and Jeff Everett) European Accounting Review 14, 2 (2005) pp. 373-382.
- #44. "Accounting and the Holocausts of Modernity" (with Cameron Graham) Accounting, Auditing and Accountability Journal 17, 4 (2004) pp. 578-602.
- #43. "Standardized Testing and the Construction of Governable Persons" (with Cameron Graham) Journal of Curriculum Studies 36, 3 (2004) pp.295-319.
- #42. "Independence, Objectivity and the Canadian CA Profession" (with Jeffery Everett and Duncan Green) Critical Perspectives on Accounting 16, 4 (2005) pp. 415-440.
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- #40. "Globalisation and its Discontents: A Concern about Growth and Globalization" (with Christine Cooper and Glen Lehman) Accounting Forum 27, 4 (2004) pp. 359-364.
- #39. "Accounting and Empire: An Introduction" (with Marcia Annisette) Critical Perspectives on Accounting 15, 1 (2004) pp. 1-4.
- #38. "The Subaltern Speaks: financial relations and the limits of governmentality (with Monica Heincke) Critical Perspectives on Accounting 15, 1 (2004) pp. 179-206.
- #37. "Research Productivity Measurement and the Field of Academic Accounting" (with Jeffery Everett and Duncan Green) Canadian Accounting Perspectives 2, 2 (2003)

- #36. The changing internal market for ethical discourses in the Canadian CA profession (with Jeffery Everett and Connie Frieson) Accounting, Auditing and Accountability Journal 16, 1 (2003).
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- #34. "Technocratic Control and Financial Governance: the case of two school districts" (with Alison Taylor and Frank Peters) Educational Administration and Management 30, 4 (2002) pp. 469-487.
- #33. "Responding to Discrediting Events: annual report disclosures" (with Hussein Warsame and Cynthia Simmons) Accounting and the Public Interest (2002) <http://aaahq.org/ic/browse.htm>
- #32. "School District Deficits and Program Spending in Alberta" (with Alison Taylor and Elizabeth Ocampo Gomez) Canadian Journal of Educational Administration and Policy 21 (2002) pp. 1-17.
- #31. "Financial Reforms in Alberta: the impact on school districts" (with Frank Peters and Alison Taylor) Journal of Education Finance 27, 4 (Spring 2002) pp.1067-1084.
- #30. "Accounting Interventions." (with David Cooper and Jeff Everett) Critical Perspectives on Accounting 12, 6 (2001) pp. 735-762.
- #29. "Accounting for Canada's Indigenous Peoples." translated as "Buchhaltung, Rechenschaftspflicht und die eingeborenen Völker Kanadas." (with Richard Therrien) Zeitschrift für Genozidforschung (Journal of Genocide Studies) 3, 1 (2001) pp. 59-80.
- #28. "Banal Accounts: Subaltern Voices." Accounting Forum 25, 4 (2001) pp. 319-333.
- *#27. "Ethical Discourse and Canadian CAs: 1912-1997." Journal of Business Ethics 30, 3 (2001) pp. 291-304.
- #26. "Locating Accounting." Accounting, Auditing and Accountability Journal 13, 3 (2000) pp. 268-288.
- #25. "Funding Mechanisms, Cost Drivers and the Distribution of Education Funds in Alberta." (with Alison Taylor) Alberta Journal of Educational Research XLVI, 3 (October 2000) pp.214-232.
- *#24. "Presents for the 'Indians': Land, Colonialism and Accounting in Canada." Accounting, Organizations and Society 25 (2000) pp 163-184.
- #23. "Discovering Indigenous Peoples: Accounting and the Machinery of Empire." Accounting Historians Journal 26, 1 (June 1999) pp.53-82.
- #22. "Environmental Accounting and the Limits of Ecological Modernization" (with Jeff Everett) Accounting Forum 24, 1, (2000) pp. 5-29.
- #21. "Remembering the Past: Ethics and the Canadian Chartered Accounting Profession, 1911-1925." (with Richard Therrien), Critical Perspectives on Accounting 11, 2 (1999) pp. 193-214.
- *#20. "Managing Public Impressions: Environmental Disclosure in Annual Reports." (with Kathryn Pedwell & Hussein Warsame), Accounting, Organizations and Society 23, 3 (1998) pp. 265-282.

- *#19. "Re-Presenting the External: Canadian CA's 1936-1950." (with Cynthia Simmons), Accounting, Organizations and Society 22, 8, (1997).
- *#18. "The Diagnosis Related Group-Prospective Payment System and the Problem of Government of Rationing Health Care to the Elderly." (with Alistair Preston & Wai Fong Chua) Accounting, Organizations and Society 22, 2 (1997) pp.147-164.
- #17. "Positive Accounting Theory: A Pragmatic Assessment" Accounting Forum 21, 1 (1997) pp. 53-62.
- #16. "Canadian CAs and the Emergence of Ethical Codes." (with Lubna Saleem), Accounting Historians Journal 23, 2 (December 1996) pp. 35-68.
- #15. "Discursive Formations and the Practice of Auditing" (with Cynthia Simmons, Murray Davis and Michael Wright) Accounting Forum 20, 2 (1996) pp 163-183.
- #14. "Managing Social Disclosure: the "cost of social responsibility report." (with Cynthia Simmons) Journal of Applied Accounting Research (1996) pp. 35-58.
- #13. "Accounting and the Politics of Divestment." (with Alison Taylor), Critical Perspectives on Accounting 7, 4 (1996) pp. 437-460.
- #12. "Reconsidering the 'Social' in Positive Accounting Theory: The Case of Site Restoration Costs." (with Cynthia Simmons) Critical Perspectives on Accounting 7, 4 (1996) pp. 409-435.
- #11. "Regulating the New Stock Issue Process." (with Cynthia Simmons) Advances in Public Interest Accounting (1995) pp. 287-313.
- #10. "Intermediary Independence and the Strategic Use of Accounting Numbers." (with Cynthia Simmons) Critical Perspectives on Accounting (1995) pp. 29-47.
- #9. "The Accuracy of Canadian and New Zealand Earnings Forecasts: A Comparison of Voluntary Versus Compulsary Disclosures." (with Kathryn Pedwell & Hussein Warsame), Journal of International Accounting and Taxation (1994) pp. 221-236.
- *#8. "A Note on the Association between Audit Firm Size and Audit Quality." (with Ron Davidson) Contemporary Accounting Research (1993) pp. 479-488.
- #7. "Reading the Regulatory Text: Regulation and the New Stock Issue Process." Critical Perspectives on Accounting (1992) pp. 359-388.
- *#6. "Bank Failures, Stigma Management and the Accounting Establishment." (with Michael Wright) Accounting, Organizations and Society (1992) pp. 645-666.
- *#5. "The Social Construction of Positive Choices." Accounting, Organizations and Society (1992) pp. 223-238.
- #4. "Trust, Impression Management and the Accounting Profession." Critical Perspectives on Accounting (1991) pp. 295-313.

- *#3. "New Stock Issues and the Institutional Production of Trust." Accounting, Organizations and Society (1991) pp. 185-200.
 - *#2. "Trust, Contracting and the Prospectus Process." Accounting, Organizations and Society (1991) pp. 243-256.
 - #1. "Exit, Voice, Loyalty and Neglect as Student Responses to Dissatisfaction." (with Tom Mahaffey and Alison Taylor) The Canadian Journal of Higher Education (1991) pp. 71-89.
- * Financial Times list of pinnacle administration journals.

CURRENT RESEARCH GRANTS

- Social Sciences and Humanities Research Council of Canada (2020-2025), Accounting inscriptions and social media-based social accountability processes (\$194,000). Greg Saxton (co-investigator)

This Exhibit "B" to the Affidavit of Dean
Neu affirmed before me this 2nd day of
October 2025



A Commissioner for taking Affidavits etc.
Sarah Clarke
LSO#57377M

To: First Nations Child and Family Caring Society
From: Dr. Dean Neu
Re: Ontario Final Settlement Agreement, on the long-term reform of the
First Nations Child and Family Services Program ("Ontario Final
Agreement"),
Date: October 2, 2025

To understand the basis of my expert opinion in relation to the Ontario Final Settlement Agreement, on the long-term reform of the First Nations Child and Family Services Program (Ontario Final Agreement), it is necessary to briefly review the existing academic literature and prior government reports that inform my understandings and opinion.

Section 1: Understanding Funding Mechanisms

1. Funding mechanisms as systems of practices

Funding mechanisms are not neutral financial tools, but systems of practices built around documents, procedures, and interactions informed by an underlying worldview. They are designed to distribute resources, set priorities, and enforce accountability by enlisting accounting techniques, external agents, and if/then contingent arrangements. Viewed this way, they shape not only Indigenous Peoples–government relations but also the everyday realities of Indigenous children and families.

2. Resource dependence and governmental dominance

Governments can deploy funding mechanisms precisely because they occupy a dominant position (Pfeffer & Salancik, 1978). Indigenous organizations and communities are often resource dependent, relying heavily on state-controlled funds. This asymmetry gives governments leverage to require compliance with reporting rules, impose formulas, and condition ongoing support on specified targets.

3. Governmentality as the lens for analysis

Recognizing this asymmetry aligns with governmentality research, which conceives government as the attempt to “arrange the conduct of conduct.” Starting from Foucault’s

analysis of governmentality (1991), Miller and Rose describe governmentality as the “ensemble formed by institutions, procedures, analyses and reflections, calculations, and tactics” that enable power over populations (Miller & Rose, 1990, p. 8). Government works less through sovereign command than by creating conditions under which actors act predictably (Foucault, 2007, p. 312). Funding practices achieve this by structuring incentives, imposing reporting requirements, and embedding assumptions about legitimate activity.

4. Objectives, mentalities, and practices

Miller and Rose (1990) emphasize three interlinked dimensions of government: objectives, the mentality or worldview that guides them, and the practices that enact them. Technical practices such as funding formulas cannot be separated from governmental objectives—efficiency, cost containment—and worldviews about the Indigenous populations they govern (Greer & McNicholas, 2017).

5. Funding, budgeting, accountability, and auditing as enactments

Funding and accountability practices operationalize governmental objectives and mentalities. Per capita funding formulas in areas such as education, for example, assume children’s needs can be reduced to standardized numbers, privileging quantification over lived need (Neu, 2006). Accountability premised on written reports from agencies to bureaucrats assumes one-directional accountability and that documentation alone captures actions and lessons. In these ways, practices like funding mechanisms surreptitiously embed objectives and worldviews into daily operations.

6. Hierarchical/egalitarian and enabling/coercive forms of accountability

Accountability can take different forms. Roberts (1991) distinguishes between hierarchical accountability, which isolates actors through compulsory visibility and comparison, and socializing accountability, which fosters mutual recognition. Ahrens and Chapman (2004) distinguish enabling systems, which adapt to local needs, from coercive systems, which emphasize compliance. Funding arrangements reflect these

choices: hierarchical and coercive regimes subordinate organizations, while enabling and egalitarian arrangements support local adaptation and problem-solving.

7. The rationing and discriminatory effects of calculation

Funding mechanisms also function as rationing and discriminatory devices. Preston et al. (1997, p. 153) show that, in the healthcare context, Diagnosis Related Group calculations in ration services based on the classifications of patients treated in hospitals (see also Rahaman et al., 2024). Similarly, cost-per-child formulas reduce diverse needs to ratios that privilege some families and disadvantage others, while census-based allocations may appear equitable but undercount certain communities. Foucault noted that government is about arranging things “so as to lead to a *convenient* end” (1991, p. 93, emphasis added)—however these are ends defined by governments, not communities. Funding mechanisms presented as impartial thus reproduce inequities by privileging what accounting systems see and obscuring what falls outside them.

8. Summary

Funding mechanisms are ensembles of calculations, documents, and procedures that embody governmental objectives and mentalities. They are enacted through budgeting, accountability, and auditing (Miller & Rose, 1990), can assume hierarchical or socializing forms (Roberts, 1991), and can be enabling or coercive (Ahrens & Chapman, 2004). Calculations ration and discriminate, privileging some needs while rendering others invisible (Preston et al., 1997). They are powerful precisely because they are routine, calculative, and tied to governmental worldviews, producing material effects on services and symbolic effects on identities.

Section 2: Previous Indigenous Peoples-Focused Research

9. Overview

Research highlights how funding mechanisms and their associated accounting techniques have shaped Indigenous Peoples–government relations for over 150 years. From residential school financing in Canada, to herd reduction tables in the United States, to wage trust accounts and inspection regimes in Australia, governments have

repeatedly used these practices to govern Indigenous populations. These were not simply administrative conveniences but systems of practice that structured relationships, rationed resources, and inscribed governmental objectives and worldviews into everyday life. Building on the previous section, this review examines how prior research has demonstrated the operation of funding mechanisms as systems of practice, the mentalities and objectives that guided them, their hierarchical and coercive orientation, their discriminatory and rationing effects, and, more recently, possibilities for more enabling uses of accounting and budgeting.

10. Objectives, Mentalities, and Assimilation

In Canada, the residential school system was underpinned by an assimilationist objective that sought to eliminate Indigenous cultures while minimizing costs to the state. As the Truth and Reconciliation Commission (2015) documents, officials viewed residential schools as a means of “emancipation from tribal government” and eventual “absorption into the general community,” justifying this strategy in terms of cultural transformation and fiscal efficiency (Truth and Reconciliation Commission, 2015, pp. 55–60). The emphasis was not on Indigenous well-being, but on cost containment (Truth and Reconciliation Commission, 2015, p. 95) and the devaluing of Indigenous lives—evident in the chronic underfunding of food, health, and instruction. In the United States, herd reduction tables had similar fiscal underpinnings (Preston & Oakes, 2001), while in Australia, inspection and placement regimes aimed to instill “civilized” habits in the cheapest possible fashion (Greer & McNicholas, 2017). These examples show how assimilation and cost minimization operated as a distinct governmental mentality, in which Indigenous well-being was secondary to other objectives.

11. Hierarchical and Coercive Orientation

These systems were not only assimilationist and cost-driven; they were infused with a hierarchical and coercive orientation that structured everyday encounters between Indigenous peoples and government bureaucrats, including inspectors, agents, and church officials. In Canada, the per capita grant set by Indian Affairs produced widespread hunger as students were underfed and schools under-resourced (Truth and

Reconciliation Commission, 2015). Former students recalled being always hungry (Truth and Reconciliation Commission, 2015, p. 267), while inspectors admitted that rations were “barely sufficient” (Truth and Reconciliation Commission, 2015, p. 86). More recently, Baker and Schneider (2015, pp. 124–125) show how funding mechanisms supported by accounting requirements continued this pattern by tying support to compliance with externally imposed categories and reporting templates. These were coercive systems in Ahrens and Chapman’s (2004) sense: rigid, surveillance-oriented, and designed to discipline conduct rather than enable community-defined solutions. They also exemplify Roberts’ (1991) notion of hierarchical accountability, compelling agencies to account “upwards” to distant authorities who controlled categories and resources, while offering no reciprocal capacity to hold those authorities accountable.

12. Discriminatory and Rationing Effects

These funding and accounting practices also had discriminatory and rationing effects. Funding systems consistently allocated fewer resources to Indigenous children than to non-Indigenous children in comparable institutions, normalizing inequity. In 1937, for example, Indian Affairs provided \$180 per year per residential school student, compared to over \$600 per student at the Manitoba School for the Deaf (Truth and Reconciliation Commission, 2015, p. 59). As Preston et al. (1997) show, such seemingly neutral calculations functioned as rationing devices that invisibly determined who received care and at what level. The 2016 CHRT 2 ruling further illustrates that government formulas, presented as objective, systematically devalued Indigenous children and families and resulted in lower levels and quality of care than for other children (para. 458).

13. Alternatives and Enabling Practices

Although much literature emphasizes coercion, rationing, and assimilationist mentalities, there is also evidence of more enabling approaches. Jayasinghe (2020) documents how participatory budgeting, when genuine, creates space for communities to deliberate and set priorities, counteracting the invisibility of local needs in standardized formulas. Finau

(2022) shows that Indigenous communities in the Pacific, when able to embed cultural values into accounting, used these systems to safeguard collective interests and assert control over land and resources. Similarly, Finau (2023) demonstrates how Indigenous groups developed accounting practices that reinforced cultural connections to land, challenging colonial logics of dispossession. These cases suggest that while funding systems are often coercive, they can be reconfigured toward egalitarian and enabling ends if Indigenous communities are allowed to shape them.

14. Toward a Critical Question

Prior research demonstrates that funding mechanisms are not neutral but constitute systems of practice infused with governmental objectives and mentalities. Historically, they assimilated Indigenous peoples while minimizing expenditures, enforced hierarchical and coercive relations, rationed resources in ways that normalized inequity, and reshaped organizational practices through accounting and reporting. Yet studies also highlight the possibility of enabling practices—participatory budgeting, community-led reporting, hybrid accounting—that adapt tools to local contexts rather than impose external categories. These insights set up a critical question for evaluating contemporary reforms: **do new initiatives perpetuate hierarchical and coercive past practices or create space for community-driven action and accountability?** Prior studies show that governments have historically positioned Indigenous Peoples as less entitled to resources and services and used practices that left bureaucratic discretion unchecked: discretion that was often guided by cost-containment priorities and that downplayed impacts on Indigenous well-being (Truth and Reconciliation Commission, 2015). Unless explicitly addressed, these tendencies risk being reproduced in new arrangements, perpetuating the previously noted negative outcomes for Indigenous children and families.

Section 3: The Proposed Ontario Final Agreement Before the CHRT

15. Preamble

The following analysis evaluates the systems of practice adopted in the proposed Ontario Final Agreement for the purpose of identifying the likely outcomes given the funding and accounting mechanisms used. The analysis utilizes previous research to guide my interpretation rather than relying on aspirational statements. The assessment focuses on four areas that, in my opinion, have the greatest consequence for outcomes: the continued overlay of the 1965 Canada-Ontario Agreement, capital funding, per capita funding formulas for prevention, and dispute resolution. The assessment also provides suggestions for improving the proposed Ontario Final Agreement.

16. Overlay on the 1965 Canada-Ontario Agreement

16a. Agreement Provisions

The proposed Ontario Final Agreement does not repeal or replace the 1965 Canada–Ontario Agreement which, as the Ontario Special Study (Chiefs of Ontario, 2019, p. 83) notes, is “an agreement between Canada and Ontario that sees Canada reimburse Ontario for its eligible child welfare expenses.” Instead, it explicitly acknowledges its continued operation and that baseline and operations funding remain tied to Ontario’s expenditures and reimbursements under the 1965 Canada-Ontario Agreement (para. 18(a)). What the proposed Ontario Final Agreement does, therefore, is to layer new funding streams (e.g., prevention, capital, post-majority, housing) on top of the 1965 Canada-Ontario framework.

16b. Risks of Layering

This layering not only creates jurisdictional complexity but also carries forward previously identified negative outcomes. The Ontario Special Study, for example, shows that “multiple funding envelopes complicate funding administration....as funds currently flow to either Indigenous agencies or First Nations communities through at least 44 different programs located in multiple departments across 2 levels of

government” (Chiefs of Ontario, 2019, p. 83). The resulting serious and documented risks include:

Duplication of oversight – First Nations and their agencies are answerable to both Ontario and Canada, often in different formats, timelines, and performance metrics. Such duplicative oversight creates administrative burdens that larger agencies can absorb but smaller ones cannot.

Funding and Service gaps – If Ontario classifies a cost as ineligible under the 1965 Canada-Ontario Agreement and Canada adopts that decision without adjustment, essential services can and often will go unfunded. The Ontario Special Study states that “the highly limited list of ‘eligible’ prevention activities contributes to service gaps (Chiefs of Ontario, 2019, p. 91). Phil Digby’s testimony to the CHRT corroborates this finding, stating that the federal government *relies entirely on the province’s definition of eligible Children’s Aid Society (CAS) costs* and that it is not the federal definition of eligible expenditures but the expenditure categories included in the provincial accounts that determine what the federal government will fund (Digby Evidence, May 8, 2014, Vol. 60, p. 45). This is structural deference. The result of such deference is that if Ontario excludes a cost, Canada does not correct it—even when exclusion results in substantive inequity.

Finger-pointing – If prevention or operations are underfunded, Canada can point to its compliance with the proposed Ontario Final Agreement, while Ontario can claim it met its 1965 Agreement obligations. Neither accepts responsibility for ensuring substantive equality.

The net effect is that the inequitable scaffolding of the 1965 Canada-Ontario Agreement remains intact, cloaked in new administrative language. In my opinion, the tying of federal contributions to provincial calculations entrenches inequities rather than eliminating them.

16c. Concrete Improvements

Including the following safeguard techniques in the proposed Ontario Final Agreement could partially mitigate these serious and documented risks:

1. Federal Responsibility for Gaps – The proposed Ontario Final Agreement would be strengthened by establishing a mechanism to identify funding differences that result when Ontario excludes a cost from its accounts. For example, tax systems such as the *Canadian Income Tax Act* routinely reconcile differences between eligible expenses for financial accounting purposes and eligible expenses for income tax purposes on corporate T2 returns, requiring that the tax return preparer create a reconciliation schedule. In this case, a similar reconciliation can be prepared, and in the case of identified differences, responsibility would fall back on the federal government to ensure the expenditure is funded. Such a safeguard would address the proposed Ontario Final Agreement's deference to provincial definitions that allows the gaps to persist. By way of illustration, Phil Digby's testimony highlighted how the mentality of ISC has been to abrogate its responsibility by claiming that Ontario is responsible: "*It's not a federal program ... it is a provincial program that the federal government uses its spending power to help subsidize*" (Digby Evidence, May 8, 2014, Vol. 60, p. 10). This mentality could be neutralized if the proposed Ontario Final Agreement requires ISC to assume ultimate responsibility for ensuring substantive equality.
2. Independent Complaint Tribunal – Alternatively, a binding complaint mechanism could be created in which First Nations and agencies can bring disputes forward where ISC has attempted to abrogate responsibility for costs or services delegated to Ontario. A tribunal with authority to order Canada to fund excluded costs, regardless of Ontario's accounting treatment, would help prevent inequitable outcomes. Unlike the Dispute Resolution Process set out in paragraphs 191–211 of the proposed Ontario Final Agreement, which is confined to enforcing Canada's obligations "as set out in the Agreement" and explicitly

bars systemic remedies (para. 211), the proposed Independent Complaint Tribunal would directly address funding gaps created by Ontario's exclusions.

17. Capital Expenditures

17a. Agreement Provisions

The proposed Ontario Final Agreement introduces a dedicated capital funding stream for First Nations child and family services. The agreement states that “ISC will assess, *rank*, and fund proposals based on such factors as the link between the proposed project and the Reformed FNCFS Program's funded services and activities and the *availability* of existing ISC-funded capital assets for use by the First Nation or FNCFS Service Provider” (para 44(e)(ii), *emphases added*). It also states that “Funding for approved requests and proposals and the timing of that funding are subject to annual and overall availability of funding from the Final Agreement's total capital funding of \$455 million” (Appendix 11).

17b. Risks undermining the objective of substantively equal services

The creation of a capital stream is a practice that recognizes that infrastructure is necessary to provide child and family services. However, the process established in the proposed Ontario Final Agreement leaves bureaucratic discretion largely unchecked. The practice of ISC assessing and ranking proposals potentially fosters competition among First Nations groups and agencies for scarce funds. The serious and documented risks include:

Discretion – ISC retains authority to assess, rank, and fund projects, which in practice allows it to determine the feasibility of proposals and to defer or stage approvals. As Baker and Schneider (2015, pp. 124–125) note, such arrangements reward groups that comply with bureaucratic templates and discipline those that advance their own visions of what facilities are needed, curtailing autonomy.

Contingent Funding – Allocations are contingent on federal appropriations. As the proposed Ontario Final Agreement states: “Any and all funding commitments by

Canada or amendments agreed to by the Parties in this Final Agreement remain subject to annual appropriation by the Parliament of Canada, or other necessary approval processes required by the Government of Canada” (para. 297, emphasis added). The inclusion of this clause permits political considerations to override the needs of First Nations children and families. It transforms what should be firm, reciprocal contractual commitments into agreements always subject to political discretion, positioning First Nations as subjects of governmental convenience rather than partners in binding obligations. *In this way, the entire proposed Ontario Final Agreement—and its stated goal of substantive equality—is undermined by the clause.*

Inequity and competition – Proposal-driven allocations pit communities against one another for scarce funds, advantaging larger or better-resourced First Nations communities while disadvantaging smaller or remote First Nations. As the 2011 Auditor General of Canada’s status report notes, many “First Nations are small, consisting of communities that often have fewer than 500 residents. There are more than 600 First Nations across Canada. Many of them are hampered by the lack of expertise to meet the administrative requirements for delivering key programs within their reserves” (Auditor General of Canada, 2011, p.5). These disparities in administrative resources are exacerbated by proposal-based capital expenditure funding mechanisms.

17c. Concrete Improvements

The following safeguards could mitigate these serious and documented risks:

1. Remove clause 297 and introduce guaranteed funding – The requirement that all commitments remain “subject to annual appropriation by the Parliament of Canada” (para. 297) could be deleted. Instead, capital funding, as well as all other funding envelopes included in the proposed Ontario Final Agreement, would be guaranteed through multi-year, statutory-style commitments insulated from political cycles. Without such guarantees, substantive equality will always remain vulnerable to political discretion. Guaranteed funding represents a decisive break from the cost-containment logic that has historically undermined services for First Nations children and families.

2. Strengthen Joint Governance Beyond Recommendation – While the proposed Ontario Final Agreement establishes the Ontario Reform Implementation Committee (paras. 120–122) to oversee and monitor implementation, this body only holds recommendatory powers. It cannot make binding decisions, alter allocations, or compel ISC to act, leaving ultimate discretion with ISC. To ensure capital funding reflects Indigenous-defined needs rather than bureaucratic templates, the Agreement could be revised to create a Joint Selection and Sequencing Body with determinative authority over project prioritization and sequencing. This body would include representatives from diverse First Nations (small, remote, and urban communities) and be empowered to direct—not merely recommend—capital allocations, thereby limiting unilateral bureaucratic discretion. Additionally, the entire proposed Ontario Final Agreement could be strengthened by giving the Ontario Reform Implementation Committee the authority to make binding decisions, alter allocations, or compel ISC to act in cases where capital expenditure funding processes are contributing to inequitable outcomes.
3. Mandatory Transparency Protocols - ISC could be required to disclose all inputs, assumptions, and calculations used in determining which proposals to fund, along with the reasons for approving, deferring, or denying each project. Disclosures would be made in real time to affected First Nations and published publicly within fixed timelines. This recommendation recognizes that delays and opacity in ISC’s decision-making directly undermine the provision of child and family services, where timely action and clear information are essential.

18. Prevention Funding

18a. Agreement Provisions

The proposed Ontario Final Agreement introduces a prevention funding stream that was agreed to in the 2022 CHRT 8, in the amount of \$2500 per person resident on reserve and in the Yukon (para. 172(7) of 2022 CHRT 8), with this funding stream being framed as a way to support First Nations child and family well-being by addressing needs before they escalate into protection or placement.

The proposed Ontario Final Agreement states that “total funding for prevention services in fiscal year 2025-2026 shall be calculated by multiplying the amount of \$2,655.62 by the total population of all First Nations in Ontario eligible to receive funding under the Reformed FNCFS Program, according to the approach for determining population as set out in paragraph 36, plus the amount necessary to provide to each First Nation a minimum of \$75,000.” These amounts are adjusted for inflation in subsequent years and upwardly adjusted for remote communities (Appendix 10). Under the proposed Ontario Final Agreement, prevention funding can be fully allocated to the First Nation (para. 44(d)). The prevention funding attributable to an individual First Nation is calculated by multiplying its population by the per capita amount for that year (para. 24).

Population itself is defined in paragraph 36: for all components of the funding approach calculated on a per capita basis, the population of a First Nation is its on-reserve or on-Crown land population, drawn from the Indian Registration System (IRS) as of September 30 of the preceding fiscal year.

18b. Risks of Prevention Funding Approach

While the recognition of prevention funding represents a shift away from crisis-only models, the proposed Ontario Final Agreement embeds structural funding assumptions that risk perpetuating past inequities.

To understand these risks, it is important to note that proposed Ontario Final Agreement borrows from the 2019 IFSD Report and the 2020 follow-up IFSD Report but the proposed Ontario Final Agreement does not acknowledge that the 2020 IFSD Report explicitly moves away from a per capita funding mechanism and instead recommends a block funding needs-based mechanism (IFSD, 2020, p. XIX).

The 2019 IFSD Report conducted a benchmark analysis to estimate costs and highlight gaps. It noted that the costs for prevention ranged “from \$800–\$2,500 per person” and “prevention program costs estimates for 2019 range from \$224 million to \$708 million”

(IFSD, 2019, p. 10). The 2019 IFSD Report concludes that: “It is recommended that prevention be funded on a *per capita basis* for the total population served by the agency (not only children) at a rate of \$800–\$2,500 per person” (IFSD, 2019, p. 11, *emphasis added*). The rate included in the proposed Ontario Final Agreement is similar to the upper end of the IFSD range.

The subsequent 2020 IFSD Report moves beyond a per capita prevention funding mechanism, instead recommending a block funding approach where “resources are allocated based on a combination of previous financial data (to fund maintenance and protection) and need (e.g. population size, geography, poverty level, etc.)” (IFSD 2020, p. XIX). The IFSD 2020 Report justifies a block funding approach by stating that a block funding needs-based approach is in the best interests of First Nations children and families (IFSD, 2020, p. XXI).

While the 2020 IFSD Report recommends a bottom-up needs-based block funding approach, the report *makes the assumption that such an approach might not cost more, on a per capita basis, than the actual expenditures for prevention identified in the 2019 IFSD Report*. For example, the 2020 Report states: “For each of the funding components, i.e. poverty, geography, capital, information technology (IT), and prevention, a range of cost estimates will be presented” (IFSD, 2020, p. 140). It then continues to acknowledge that “as with any cost estimation or modelling exercise, there is no single answer, but a variety of scenarios that stakeholders may wish to consider” (IFSD, 2020, p. 140). The report then reiterates that “the most important element is the needs-based architecture built from the bottom-up” (p. 140). In my opinion, it is extremely important to recognize that the 2020 IFSD Report *is not* recommending a per capita prevention funding mechanism but rather is *trying to estimate* how much a needs-based prevention funding block might cost.

Given this context, the use of a per capita funding mechanism for prevention services within the proposed Ontario Final Agreement risks perpetuating existing inequities:

Per capita inadequacy – The proposed Ontario Final Agreement fixes prevention funding at \$2,655.62 per person on reserve. If this figure proves too low, prevention will be structurally underfunded across all communities, regardless of actual need.

Population counts as flawed baselines – By tying funding to IRS counts of on-reserve or on-Crown land residents, the proposed Ontario Final Agreement risks undercounting actual service populations. When the denominator is understated, inequity is embedded at the starting point.

One-size-fits-all logic – The formula assumes that per capita metrics capture prevention needs across communities. However, calculating a funding amount by multiplying together two potentially problematic numbers—a fixed per capita rate by population counts—compounds the weaknesses of both inputs. High-cost communities are particularly disadvantaged.

Obscured community needs – By relying on a per capita formula, the proposed Ontario Final Agreement obscures the requirement for detailed, community-based assessments of prevention needs. As the 2019 Ontario Special Study notes, “First Nations have not had the opportunity, nor funding that meets or exceeds substantive equity to develop a consistent method to assess current well-being services and supports, including gaps” (Chiefs of Ontario, 2019, p. 47). In the absence of such assessments, the per capita approach risks locking inequities into place by treating all communities as interchangeable, rather than recognizing and resourcing their distinct prevention priorities.

Arbitrary floor adjustment – The \$75,000 minimum floor is presented as a safeguard for smaller communities, but it is not needs-based and does not appear to be supported by empirical costing. Without a rationale tied to the real prevention costs for smaller communities, the floor may mask inequities instead of correcting them.

Cost-containment orientation – Because both the per capita rate and the fiscal framework are set in advance, the proposed Ontario Final Agreement risks reproducing

a cost-containment logic. What appears as neutral calculation normalizes underfunding by presenting budgetary limits as objective measures of need, prioritizing fiscal discipline over substantive equality.

18c. Concrete Improvements

To address the above limitations, the proposed Ontario Final Agreement could be revised to include:

1. Adopt a needs-based funding model – Prevention resources could be allocated through a block funding approach that reflects community-based needs and community-based differences. This aligns with the 2020 IFSD recommendation that funding be built “from the bottom up” on demonstrated need, rather than abstract per capita counts and is consistent with the 2019 Ontario Special Study recommendation #7 (Chiefs of Ontario, 2019, pp. x-xi). A needs-based model would better capture the real costs of prevention and mark a decisive break from the cost-containment logic. Within a needs-based funding model, it is important that the authority to evaluate these needs not rest solely with ISC but rather that assessment is carried out through joint mechanisms with First Nations to ensure that community-defined priorities drive the allocation process. As noted in the discussion of the capital expenditure process, a body like Ontario Reform Implementation Committee could be used, albeit with decision-making authority.

19. Dispute Resolution

19a. Agreement Provisions

The proposed Ontario Final Agreement creates a formal dispute resolution process (Part XIX). A “Claimant Dispute” includes ISC decisions to deny in whole or in part a First Nation’s or service provider’s request, including for capital funding (paras. 199(d)–(e)). Under Part XVI, if ISC does not make a determination within 30 days after meeting with a First Nation following a completed submission, the Nation can access dispute resolution (paras. 170–173) via an Arbitration Tribunal. Where disputes proceed to arbitration, the Arbitration Tribunal can and often does order interim measures (para.

209(d)), require Canada to provide funding ‘as set out in the Agreement’ (para. 209(f)), and award costs and interest (paras. 209(g)–(h)). However, the Arbitration Tribunal *cannot increase global funding envelopes or impose systemic changes* (para. 211).

19b. Risks of the Current Approach

The dispute resolution framework, like the capital and prevention provisions analyzed above, is built on a top-down orientation that places the onus on First Nations to demonstrate conformity with government-defined categories. Under this framing, ISC and ultimately Canada are not required to justify why it withholds, defers, or limits funding. This framing is significant because dispute resolution, as written, becomes less of a mechanism to hold ISC accountable than a forum in which First Nations must continue to argue for recognition of its vision for child and family services.

This structure reflects and *perpetuates the historical practice and mentality* in which ISC and Canada always retain the last word. Even when disputes move to arbitration, the Arbitration Tribunal is confined to enforcing obligations “as set out in the Agreement” (para. 211), meaning the scope of review is defined by Canada’s own terms. In practice, this ensures that ISC can exercise discretion without having to fully account for its reasoning, while First Nations remain in the position of supplicants whose proposals must fit government templates. Such an arrangement leaves the underlying hierarchy intact: ISC decides, and First Nations respond. Within this frame, the proposed Ontario Final Agreement embeds several serious and documented risks.

Administrative Delays – ISC can defer decisions, approve “in principle” while postponing funding, or stage approvals. Because the proposed Ontario Final Agreement only recognizes outright denials as arbitrable, such delays fall into a grey zone, enabling services to be rationed without triggering review.

Opacity of reasoning – The proposed Ontario Final Agreement does not require ISC to provide detailed written reasons for deferrals, staged approvals, or modifications. Without access to the underlying rationale and criteria, First Nations face significant barriers to challenging discretionary decisions.

Limited scope of relief – The Arbitration Tribunal’s powers are strictly limited to enforcing obligations already set out in the Agreement (para. 211). It cannot increase global envelopes, even if capped funding perpetuates inequities. Nor can the Arbitration Tribunal order systemic changes. As a consequence, the dispute resolution process is narrow and technical, being limited to tinkering at the margins of the proposed Ontario Final Agreement rather than dealing with substantive equity concerns.

19c. Concrete Improvements

To reduce the risks identified and to shift the balance of authority away from unilateral federal control, the proposed Ontario Final Agreement could be revised to include the following safeguards:

1. Expand Tribunal authority to address substantive inequities – The Arbitration Tribunal could be empowered not only to enforce obligations already “set out in the Agreement” but also to order adjustments to structural funding levels and systemic practices where inequities are identified. Without this scope, dispute resolution remains narrow and technical rather than a mechanism to secure substantive equality.
2. Deemed decisions with burden on ISC – Any funding determination not issued within fixed timelines could be deemed a denial and thus arbitrable. In such cases, the burden would rest on ISC to justify its refusal, deferral, or delay against evidence of community-defined need and the proposed Ontario Final Agreement’s stated objectives.
3. Mandatory reasons and automatic referral – ISC could be required to provide detailed written reasons and supporting documentation for all adverse determinations, including deferrals and staged approvals. Where ISC refuses or defers funding, the matter would be automatically referred to a First Nations–ISC review body that has the authority to issue a binding ruling within a short, fixed period.

20. Summary of Deficiencies in the Current proposed Ontario Final Agreement

In my expert opinion, the proposed Ontario Final Agreement represents an improvement but does not go far enough to remedy the structural and documented risks of unequal and inequitable treatment identified by the Truth and Reconciliation Commission (2015) and confirmed by the 2016 CHRT 2 decision and subsequent CHRT decisions. Although Canada can be expected to argue that the principles set out in the proposed Ontario Final Agreement—such as transparency, equity, meaningful First Nations involvement, and accountability—are already embedded, the proposed Ontario Final Agreement incorporates these principles in largely aspirational and advisory terms rather than as binding, enforceable commitments. As drafted, it leaves intact the very practices that historically produced inequitable outcomes.

More specifically, the proposed Ontario Final Agreement fails to address two core deficiencies that lie at the heart of past inequitable practices. First, the funding mechanisms do not adequately acknowledge the real needs of First Nations children and families. By relying on fixed per capita formulas, population counts, and fiscal ceilings, the proposed Ontario Final Agreement risks adopting “one-size-fits-all” logic. These practices normalize underfunding by privileging cost predictability over the actual conditions of children’s well-being. Second, the systems of practices included in the proposed Ontario Final Agreement do not sufficiently enable First Nations peoples to enact their own vision of child- and family-centered services. Instead, authority mostly remains centered in ISC, where discretion over approvals, timelines, and definitions is exercised invisibly and largely unchecked. Indeed, para 320 of the proposed Ontario Final Agreement gives ISC the discretion to change Appendix 2 on Performance Measurement Indicators and Appendix 8 on First Nations Child and Family Services Terms and Conditions with ‘consultation’, but never-the-less almost unilaterally change them. These examples highlight why I think that, what is presented as partnership, continues to operate as hierarchical control, curtailing autonomy and reinforcing an orientation in which Canada retains the last word.

To remedy these deficiencies, the proposed Ontario Final Agreement could be revised to:

1. Build needs-based funding mechanisms – Formulas could be grounded in empirically verifiable cost drivers—remoteness, caseload intensity, socio-economic pressures, and cultural programming—and applied in an enabling manner that supports Indigenous-defined solutions, rather than as rationing devices. In my opinion, the work by the IFSD (2020) provides a starting point.
2. Guarantee stable, statutory-style funding – The proposed Ontario Final Agreement could move beyond “subject to appropriations” clauses (para 297) and adopt multi-year guaranteed funding commitments insulated from political cycles. Stability of resources for capital expenditures, prevention and all other funding mechanism envelopes is essential if equitable outcomes for First Nations children and families are to be sustained. I am particularly worried that current-day federal government budget cutting concerns could significantly undermine substantive equality (cf. Forester, 2025).
3. Break the hierarchical practice that ISC always decides – Governance and dispute resolution bodies could be given determinative authority, ensuring that decisions about funding, program design, and prioritization reflect First Nations-defined needs and not unilateral ISC discretion.
4. Make discretion visible and sometimes curtail it as well as shift the onus – All parts of the proposed Ontario Final Agreement that gives ISC unilateral discretion (i.e., para 320) could be removed. Furthermore, ISC could be required to provide written reasons for all adverse or delayed decisions and to demonstrate how its actions align with substantive equality. Oversight and review processes could be enabling, not coercive, with ISC held accountable in real time through binding joint mechanisms.

In short, the proposed Ontario Final Agreement could do more than just acknowledge substantive equality in its principles (para. 2): it could adopt a needs-based approach, provide guaranteed stable funding, dismantle the hierarchical mentality where ISC

always has the final say, and ensure that discretion is visible, reviewable, and accountable. Without these revisions, First Nations children and families will continue to receive unequal and inequitable treatment.

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