March 30, 2026

THE CANADIAN HUMAN RIGHTS TRIBUNAL CONFIRMS CANADA'S PERMANENT OBLIGATION TO END DISCRIMINATION AGAINST ALL FIRST NATIONS CHILDREN

Today, the Canadian Human Rights Tribunal (Tribunal) released a letter decision approving the Ontario Final Agreement (OFA) while preserving its injunctive orders and only as interpreted by the Tribunal, with full reasons to follow. The Tribunal made clear that its approval flows from binding clarifications, safeguards, and interpretations secured through the OFA hearing process to protect First Nations children from the continuation and recurrence of discrimination by Canada. Critically, the Tribunal confirmed that Canada remains bound by the permanent cease and desist order issued in the landmark decision (2016 CHRT 2), and that this injunction-like order is permanent and non-negotiable. This finding preserves the Tribunal's core remedial protection directing Canada to cease its discriminatory conduct and explicitly rejects Canada's position in its filing documents, which sought to have the OFA supersede and replace all the Tribunal's orders. The Tribunal reaffirmed that Canada's obligation to cease discrimination against First Nations children is not optional, negotiable, or time-limited.

The Caring Society's participation in these proceedings was grounded in its mandate to promote the rights of all First Nations children to live free from discrimination by Canada. Through the litigation before the Tribunal, the Caring Society raised serious concerns about Canada's request that the Tribunal end its jurisdiction and allow the OFA to override existing orders—including the permanent cease and desist order specifically designed to prevent Canada from repeating discriminatory practices that harm children. The Tribunal expressly addressed these concerns by confirming that:

- the OFA satisfies the Tribunal's orders only as interpreted by the Tribunal, not solely as advanced by Canada;
- Canada's obligations under the Canadian Human Rights Act (CHRA) are permanent and ongoing, not time-limited or extinguished by agreements; and
- the Tribunal's original cease and desist order remains fully in force and continues to bind Canada, now and forever.

A central issue before the Tribunal was whether Canada could use the OFA to lawfully extinguish or replace the Tribunal's order to permanently cease its discriminatory conduct. The Tribunal rejected this approach, finding that the OFA cannot be read to displace the permanent injunction prohibiting discrimination and that Canada remains legally obligated to cease and refrain from discriminatory conduct on an ongoing basis, regardless of the OFA's term or Canada's administrative preferences.

These findings matter because Canada's discrimination is not abstract—it has real, immediate, and harmful effects on children. Funding delays, jurisdictional manoeuvring, and attempts to narrow accountability place First Nations children at risk of service gaps, instability, and preventable harm. Canada must now act without delay. The Caring Society again calls on Canada to immediately release the funding approved through this decision and to stop placing First Nations children in a position where access to essential services is contingent on administrative or political timing. Children's rights are not negotiable, and remedies ordered to address discrimination must flow promptly and fully.

The Caring Society recognizes the vital contributions of Taykwa Tagamou Nation and the Chippewas of Georgina Island First Nation in relation to the remedies they sought. Through the litigation, both First Nations demonstrated that Canada's approach under the OFA failed to address their distinct circumstances, exposing children to continued inequities. The Tribunal agreed, ordering that the OFA not apply to either Nation and requiring Canada to work with them to establish interim solutions that are no less generous.

In the case of the Chippewas of Georgina Island First Nation, the Tribunal found—based on the evidence before it—that Canada's funding approaches failed to account for the Nation's real and lived remoteness barriers. The Tribunal emphasized that substantive equality for children cannot be achieved through abstract definitions, formulas, or administrative convenience, and ordered Canada to work with Georgina Island First Nation to implement an adequately funded interim solution while longer-term arrangements are pursued.

The process to permanently end Canada's discrimination in First Nations child and family services nationally remains subject to a separate process. Nothing in this decision determines or predetermines the outcome of national reform. However, what is now clear is that any national approach must be grounded in binding minimum human rights standards already articulated by the Tribunal, including substantive equality, non-discrimination, and meaningful enforcement mechanisms capable of preventing the recurrence of discrimination against First Nations children, consistent with the Canadian Human Rights Act and the Tribunal's jurisprudence.

For these reasons, Canada must immediately, and fully, adopt the First Nations-led Loving Justice National Plan and set aside its own approach, as Loving Justice is the only plan before the Tribunal that fully operationalizes the minimum, non-negotiable human rights standards Canada is already legally bound to meet. Loving Justice preserves meaningful enforcement, centers the lived needs and rights of First Nations children, and ensures that Canada's discrimination is permanently ended rather than administratively managed.

The Caring Society will carefully review the Tribunal's full reasons once released. What is already clear is that the Tribunal preserved its core human rights protections for First Nations children despite Canada's efforts to have them displaced. The litigation ensured that Canada remains legally restrained from repeating discriminatory conduct that harms children.

The Caring Society remains committed to honouring the voices of Indian Residential School Survivors and their call for justice through the Truth and Reconciliation Commission's Call to Action 1. This commitment is made not only to the past, but to the future: that the protections affirmed and preserved through this litigation will live on as real, immediate, and enforceable supports for First Nations children today and for generations yet to come.