



Opening Statement of the First Nations Child and Family Caring Society of Canada Canadian Human Rights Tribunal

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IT is a great honour to be here on the territory of the Kitigan Zibi First Nation in a country with a name gifted by First Nations peoples – Canada. Canada means village and sadly for far too long there have been two villages for children in Canada – the one for non-Aboriginal children and the village for First Nations children where there are fewer opportunities to grow up safely with your families and be proud of who you are.

There are times in the history of all great countries that the young call on the country to rise up and be as good and great as they believe it to be. This is one of those moments and while the coming weeks will be filled with legal arguments this moment, this day is for the children because in the end this case is about them and for them. Children are the keepers of the possible and they are experts in love and fairness so when a weary country cannot find its way forward, it need only grasp the hand of the young children to be guided lovingly and firmly forward.

This moment is for the children separated from their families and placed in residential schools, the many who tragically never came home and the many who are still searching for the childhoods they lost there. This moment is for Jordan River Anderson from Norway House Cree Nation, founder of Jordan's Principle, who languished in a hospital for over two years before

tragically passing away at the age of 5 years old because the Government of Canada and the Government of Manitoba argued over who should pay for his at-home care rather than putting the needs of the child first. It is for Jordan's father, Ernest Anderson, who upon witnessing the passage of Jordan's Principle, a child-first principle to ensure no child is ever again denied or delayed receipt of government services because they are First Nations, unanimously in the House of Commons on December 12, 2007 said, "do not let the good being done today in my son's name just be a moral victory." It is for Shannen Koostachin from the Attawapiskat First Nation, an inspiring young leader who fought for "safe and comfy schools" and equitable education for her entire life before tragically passing away at the age of 15 the night before the motion to dismiss this case brought by the Government of Canada was heard by the Tribunal in 2010. Shannen, like Jordan, never knew what it was to be treated equally by the government of Canada.

This moment is also for the adults who grew up in foster care with memories like this one: "I still remember the days I spent in foster care ... too many homes for a small child to endure ... here I am at 58 still moving forward ... many of my friends did not make it ... all I can say at this point is that I am grateful for this upcoming hearing."

It is about non-Aboriginal children too and the dream they have of growing up in a country where "all kids are treated fairly."

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GROWING UP AT HOME. It is something most of us take for granted. Home shapes us, comforts us, teaches us and helps us remember where we come from and who we are meant to be. It is the place of favourite teddy bears, of hearing the stories about the day you were born, and of the ceremonies that bring people together in common value, teaching and celebration. For children it is a place where families fill baby books with the growing up memories and guide a new life with stories handed down through the generations. These books and these stories are the ones we share with our own children when they ask, “what was it like when you were little?”

This basic and important part of being human is something too many First Nations children were denied by successive Canadian Governments who – first in residential schools and now through the compound hardship of flawed and inequitable provision of child and family service contribute to the separation of First Nations children from their families. And while there are times that children of all cultures need to be removed from their families for their own safety, it must be a last resort because the State is not a good parent and life for children in foster care is very difficult. As a woman who grew up in foster care once said to the child welfare system, “you promised me a better life and you did not deliver.” Children in child welfare care are less likely than other children to graduate from high school and get the job of their dreams, and are more likely to have physical, mental and spiritual challenges as adults.

For too many First Nations children, their first memory or clearest memory of their childhood is the day they were taken away from their families to grow up somewhere else. That is why, Elliott a non-Aboriginal child, says we must do everything in our power to make sure First Nations children “don’t have to go somewhere else to grow up.”

There are times when children call on us to be better than what we thought we could be as a people and as a country. This is one of those moments. This is about children and the type of Canada they want to grow up in. It tests if the powerful adults in the Government of Canada can put the interests of First Nations children before their own – something that parents across this

nation do as a matter of moral course. It brings into focus the question of whether governments do better for First Nations children when they know better – something that adults expect of each other and raise their children to do. In this way, with these questions, this case reaches into the conscience of the nation – does the Government of Canada do better for children when it knows better? Is discrimination against children a legitimate public policy or a legitimate fiscal restraint measure? For questions like these and times like these when a government full of good people cannot end discrimination, history around the world has taught us that a great leader must emerge. Leaders like Martin Luther King, Mahatma Ghandi and Nelson Mandela who guide us, gently but firmly forward, to be a country worthy of our children’s dreams. Absent a great leader, the children will rise.

Canada has wasted six precious years and millions of dollars trying to avoid this day of justice for children arguing jurisdictional questions that do nothing to improve the lives of children and their families. I wish the Canadian Government had spent that effort into making children’s lives better instead. It saddens me – I expect better from the Canadian Government – I always have and so do First Nations youth from the Algonquin territory we find ourselves in like Caitlin who says:

The reality is in Canada that we are currently facing a crisis with regard to the gap between Canadians and Indigenous Peoples in child welfare continues to increase. For Canada is it’s not about the lack of funds – they do have the money. It is about the lack of will.

Some have said this is a complicated case but really it is not. The issue of whether it is right for First Nations children to get less benefit under child welfare laws than what all other children receive is something everyone can understand – including children. They understand that when one child gets less because of who they are, it is unfair. Thierry, an elementary school child writes to the Government of Canada “you are breaking the laws of the UN Convention on the Rights of Children. The Convention says that children have a right to be raised by their parents.” Another child named Randy writes:

I am Randy. I feel disappointed in the government. I think this is a bad idea that the government is doing. I dream that this would stop. I hope that Canada would be a better place. I demand that First Nations be treated fairly. I am Randy.

When we filed this case in 2007 there were only a handful of people who knew about it and came that day to witness it. As I stand here, close to 12,000 people are watching this case on line or here in this Tribunal room. People have come as far away as British Columbia, the United States and in previous hearings, Australia. People are learning, they are listening and together they hold the power to ensure this generation is the first generation of First Nations children who know what it is to be treated fairly by the Government of Canada. Instead of me standing here, we were hoping to share a video of children and young people who wanted to share with the Tribunal and the world why this case matters to them and the country they live in but the Government of Canada objected. So we premiered the video in Parliament last week during a briefing for Members of Parliament on the case. On that occasion, one of the children, Elliot, shared this letter:

My name is Elliot H. I am 12 years old and I am a student. I have been involved with Shannen's Dream and Have a Heart Day for more than a year, and I was very pleased to be invited to make a statement for the I am a Witness video. This has all been a very meaningful experience for me.

I know I am very lucky. I have a home and a doctor and I attend a great school. When Shannen's Dream was introduced at my school I became aware that a lot of young people are not quite so lucky. Of course I know that people live in poverty, but it was an eye opening experience for me to learn that this happens here in Canada, in our own backyard.

I felt this was shocking and I believe it is actually something that we should be ashamed of – that in the midst of wealth, Aboriginal people should live in such catastrophic poverty and lack what I think, most would agree, are pretty fundamental rights.

I felt driven to tell people about this; to be part of this movement that is saying this is not right. I believe children can and should have a voice. So here I am, lending my voice and saying this must stop!

Tonight's event is called "History is Coming." I don't think we often have a chance to be part of history. But as the First Nations Child & Family Caring Society and the Assembly of First Nations present their case to the Canadian Human Rights Tribunal, we can all be there, by their side, to show our support and say the federal government must not discriminate against First Nations communities and First Nations children. The Tribunal can change that and by doing so, can rectify this disgraceful situation and change the course of the lives of Aboriginal people in Canada. That's history, and it's coming right at us." —Elliot



I AM THE FIRST WITNESS and I am here to do what must be done but I am not the first voice calling for the equality of First Nations children. I come from a long line of First Nations and caring Canadians and experts, including the United Nations Committee on the Rights of the Child and the Auditor General of Canada, who have called on the Government of Canada to undertake all measures to fully address the inequities in the Government's First Nations child and family services program to ensure First Nations children have every opportunity to be protected from harm and to grow up with their families and communities.

Let there be no doubt that if the Government of Canada wins this case, justice and equality and all Canadians lose. If the children win this case, we all win as Canada rises up to be the country worthy of our children's dreams – a place where every child matters.

The time for justice has arrived – a generation of children are waiting on all of us to act in ways worthy of their dreams.

NOTE: Elliot's letter has been modified to remove any identifying information but otherwise remains as he wrote it.