

Jordan's Principle Advocacy Needed Soon

Jordan's Principle: Where a jurisdictional dispute arises between two government parties (provincial/territorial or federal) or between two departments or ministries of the same government, regarding payment for services for a Status Indian child which are otherwise available to other Canadian children, the government or ministry/department of first contact must pay for the services without delay or disruption. The paying government party can then refer the matter to jurisdictional dispute mechanisms. In this way, the needs of the child get met first while still allowing for the jurisdictional dispute to be resolved.

First Nations Child & Family Caring Society of Canada (2011)

Jordan's Principle is a child-first principle intended to ensure that First Nations children do not experience denials, delays or disruptions of public services ordinarily available to other children due to jurisdictional disputes. It is a response to service funding and delivery systems which treat First Nations children differently from other children in Canada. The principle was developed by First Nations advocates and named in honour of a First Nations child. It is necessary in order to address the unique challenges that First Nations children face in accessing services that are ordinarily available to other children. There is widespread recognition that Jordan's Principle is an essential mechanism for protecting the human, constitutional, and treaty rights of First Nations children. A motion endorsing Jordan's Principle was unanimously adopted by the House of Commons in 2007. However, Jordan's Principle has never been fully implemented.

Complainants in *First Nations Child and Family Caring Society of Canada and the Assembly of First Nations v. Attorney General of Canada (Caring Society v. Canada)* at the Canadian Human Rights Tribunal (CHRT) have called attention to the inadequate government response to Jordan's Principle. They have asked the Tribunal to mandate the development and implementation of a governmental response to Jordan's Principle which is consistent with the vision advanced by First Nations and endorsed by the House of Commons. The Truth and Reconciliation Commission of Canada has recently called on all levels of government to fully implement Jordan's Principle, and also makes it clear that effort and action are required by all sectors of society, by each and every one of us. The release of a decision in *Caring Society v. Canada* by the CHRT, expected by early Fall 2015, will be an important moment for Jordan's Principle advocacy. Whether or not the Tribunal finds that mandating full implementation is an appropriate remedy in *this* case, Jordan's Principle is desperately needed. Advocacy will be required to ensure that implementation becomes a government priority, and that governments work with First Nations to fully implement child-first protections. Preparation for this advocacy should start now.

What Your Organization Can Do To Help

A growing number of organizations, including the Assembly of First Nations, the Canadian Paediatric Society, the Canadian Association of Paediatric Health Centres (CAPHC), and UNICEF Canada, have called on federal and provincial/territorial governments to work with First Nations to develop a governmental response that reflects the true spirit of Jordan's Principle.

Your organization can play a role:

- ✓ **Make Jordan's Principle an election issue** – include a call for Jordan's Principle implementation in your election-related advocacy efforts

What Your Organization Can Do To Help

✓ **Launch an advocacy effort linked to the upcoming Canadian Human Rights Tribunal decision.**

➔ Things to do now:

- Follow **#witness4FNkids** on Twitter, to get breaking news about the case;
- Compile the background information needed for advocacy/education materials. (Pages 3 and 4 of this document may help you get started!)

➔ Things to do once the decision is announced:

- **Retweet** information from **#witness4FNkids**;
- Issue a **press release** in support of Jordan's Principle;
- **Update members/stakeholders** on the Canadian Human Rights Tribunal ruling;
- Write an **op-ed** in support of Jordan's Principle

✓ **Consider seeking intervenor status** under Rule 109 of the *Federal Court Rules* to make written or oral arguments before the Federal Court if the Tribunal's decision is challenged.

Key Messages to highlight in advocacy/education efforts

- ✓ All levels of government must work with First Nations, as true partners in all stages, to develop and implement a response to Jordan's Principle.
- ✓ Jordan's Principle must apply to every Status – and Status eligible – First Nations child, regardless of place of residency, severity of needs, or number of service providers.
- ✓ Jordan's Principle must apply to all public service domains.
- ✓ Jordan's Principle must apply both to disputes between different levels of government, and to disputes between different departments within a single level of government.
- ✓ Jordan's Principle must apply to any situation in which jurisdictional ambiguity or underfunding prevents a First Nations child from receiving services in accordance with provincial/territorial practice norms and legislated standards.
- ✓ Children must come first: services must be delivered without delay or disruption, and disputes over funding can be settled later.
- ✓ There must be clear and consistent standards and procedures to compensate any service provider that delivers services in accordance with Jordan's Principle.
- ✓ There must be measures of accountability and transparency at both the case level and the level of implementation in order to ensure compliance with responsibilities to First Nations children under international, national, provincial/territorial, and First Nations law and agreements.
- ✓ All levels of government must work together with First Nations to systematically identify and address the jurisdictional ambiguities and underfunding that give rise to each Jordan's Principle case. By clarifying jurisdictional responsibilities and eliminating the underfunding identified in individual cases, governments can *prevent* denials, delays, and disruptions in services for other children in similar circumstances.

Follow **#witness4FNkids** on Twitter for breaking news on the Canadian Human Rights Tribunal case and Jordan's Principle