

First Nations Child and Family Caring Society of Canada,
Assembly of First Nations and Canadian Human Rights
Commission v. Attorney General of Canada
March 7, 2013



Allegation before the Canadian Human Rights Tribunal

On February 25, 2013, Canada appeared before the Canadian Human Rights Tribunal to face allegations that it is racially discriminating against First Nations children by providing flawed and inequitable funding and policies for First Nations child and family services on reserves. Canada's own documents, and significant independent evidence, suggest that record numbers of First Nations children are being removed from their families as a result of the inequity. It is the first time in history that Canada is held to account for its current treatment of First Nations children before a body with the power to make enforceable orders to remedy the discrimination.

History of the Case and Evidence of the Discrimination

In 2007, The Assembly of First Nations (www.afn.ca) and the First Nations Child and Family Caring Society of Canada (the Caring Society) (www.fncaringsociety.com) filed a complaint pursuant to the Canadian Human Rights Act, after Canada failed to implement either of the solutions to remedy the discrimination that it had jointly developed with First Nations over the previous ten years.

Canada's Response to the Case

Canada has spent over 3 million dollars in legal fees in their unsuccessful attempts to have the case dismissed on legal technicalities arguing that child welfare services delivered to First Nations should not be compared to those delivered to all other Canadians (known as the comparator argument) and that where discrimination occurs it is the service delivery agency, not the funder (Canada), who should be held accountable even when inequitable funding is the source of the discrimination (known as the funding is not a service argument). Canada also failed in its attempts to block public broadcasting of the case by the Aboriginal Peoples Television Network.

Meanwhile, during Canada's periodic review before the UN Committee on the Rights of the Child on September 27, 2012, it suggested that its enhanced prevention focused funding approach launched in 2007 is addressing the problem. However, Canada failed to mention the pending human rights tribunal nor did it advise the Committee that the Auditor General of Canada (2008) and the Standing Committee on Public Accounts (2011) reviewed the enhanced prevention focused approach and found it to be flawed and inequitable.

Implications

Over 11,800 people and organizations are following the case on line (www.fnwitness.ca). The case is testing to see if discrimination arising from Canada's inequitable services to First Nations peoples in areas such as education, health and water can be addressed through the Canadian Human Rights Act. It is also questioning Canada's commitment to international human rights treaties as Canada has repeatedly argued against their use as leading interpretive tools by the Tribunal and Courts.

For more information visit www.fnwitness.ca or contact the First Nations Child and Family Caring Society of Canada at Suite 401, 309 Cooper Street, Ottawa, ON, Canada. Email: info@fncaringsociety.com