



First Nations Child & Family  
Caring Society of Canada

Société de soutien à l'enfance  
et à la famille des premières nations  
du Canada

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## **Canada Fails to Grasp the “Emergency” in First Nations Child Welfare: Canadian Human Rights Tribunal Finds Federal Government Non-Compliant with Relief Orders**

OTTAWA, ON (February 1, 2018, 9:00 a.m.) – The Canadian Human Rights Tribunal (“the Tribunal”) has issued a fifth legal order (2018 CHRT 4) against the Federal government in an ongoing case for equity for First Nations children and families. A landmark ruling by the Tribunal in January 2016 found Canada to be racially discriminating against 165,000 First Nations children. In a decision released today, the Tribunal admonishes Canada for its continued reliance on the incremental approach to equality that fostered the discrimination and spurred the initial complaint.

Dr. Cindy Blackstock, Executive Director of the First Nations Child and Family Caring Society of Canada (“the Caring Society”) calls it “another complete victory” for First Nations kids. “The Tribunal found that Canada’s focus has been on financial considerations and not the best interests of children. The Government has treated some of the Tribunal’s rulings like recommendations. They are not recommendations; they are legally binding.”

As stated by the Tribunal, while accounting for public funds is necessary, “it becomes troubling when used as an argument to justify the mass removal of children rather than preventing it...The Panel finds the seriousness and emergency of the issue is not grasped with some of Canada’s actions and responses” (para 121).

The Panel also raised concern about Canada’s “over-emphasis” on tripartite meetings, the role of the provinces and consultation (para 57). “Today’s ruling makes clear that consultation should not stop, replace or prevent Canada from addressing urgent needs and providing immediate relief,” says David Taylor, legal counsel for the Caring Society. “The Tribunal recognizes that consultation is necessary for long-term reform, however Canada has a history of using ‘the need to consult’ or ‘lack of information’ as an excuse for inaction.”

Today’s ruling also calls on Canada to cost out the extent of the underfunding and identify actual needs. This finding by the Tribunal is consistent with the *Spirit Bear Plan to End Inequities in Federally Funded Public Services for First Nations Children, Youth and Families* (“the Spirit Bear Plan”). Proposed by the Caring Society and endorsed by the Assembly of First Nations, the Chiefs of Ontario and others, the Spirit Bear Plans calls on Parliament to ask the Parliamentary Budget Officer to cost out the shortfalls in all federally funded public services provided to First Nations children (education, health, water, child welfare, etc.) and propose solutions to fix it. More information about the Spirit Bear Plan is available at: [www.fncaringsociety.com/spirit-bear-plan](http://www.fncaringsociety.com/spirit-bear-plan)

The Tribunal has retained jurisdiction over the case to ensure that its orders are

meaningfully implemented. The Panel states: “It took years for the First Nations children to get justice. Discrimination was proven. Justice includes meaningful remedies. Surely Canada understands this” (para. 84). The Tribunal will retain jurisdiction over the orders until December 2018, with the possibility of extension.

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**About:** The First Nations Child and Family Caring Society of Canada is a national non-profit organization dedicated to the wellbeing of First Nations children and their families.

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**Background:** In January 2016, the Canadian Human Rights Tribunal found that the government’s provision of First Nations child welfare services to over 165,000 children created perverse incentives to place First Nations children in foster care and failed to reflect their distinct needs and circumstances. The Tribunal also found Canada’s narrow interpretation of Jordan’s Principle, a measure to ensure First Nations children can access government services on the same terms as other children, was discriminatory on the basis of race and national ethnic origin. The Tribunal ordered Canada to cease its discriminatory conduct immediately, reform First Nations child welfare programming and implement Jordan’s Principle in compliance with the order. Since the January 2016 decision, the Canadian Human Rights Tribunal has issued four non-compliance orders against Canada: 2016 CHRT 10; 2016 CHRT 16; 2017 CHRT 14; and 2018 CHRT 4.

To read the Tribunal orders and for more information on the case: [www.fnwitness.ca](http://www.fnwitness.ca)