

Leadership Brief: Loving Justice National Plan vs. Canada's Plan for FNCFS Long-Term Reform



On August 20, 2025, the Canadian Human Rights Tribunal issued [2025 CHRT 80](#), ordering Canada, the First Nations Child and Family Caring Society, and the Assembly of First Nations (AFN) to submit plans and remedies for long-term national reforms to First Nations Child and Family Services (FNCFS), with the goal of permanently ending discriminatory practices. Canada, the Caring Society and AFN had to file their submissions with the Tribunal by December 22, 2025, either jointly or separately. The Caring Society and AFN were further ordered to collaborate with the National Children's Chiefs Commission and ensure the voices of young people were included. As Canada refused to collaborate, two distinct plans were submitted to the Tribunal, the First Nations led [Loving Justice Plan](#) and [Canada's National Plan](#).

Loving Justice is a Stronger Rights-Based Approach

Loving Justice represents the gold standard for ending discrimination, preventing its recurrence and upholding the rights of First Nations children, youth and families. Loving Justice is a generational First Nations-led framework designed to permanently end discrimination in FNCFS and prevent its recurrence. It is grounded in over two decades of First Nations resolutions, Tribunal findings, evidence, expert reports, and the recent national engagement with First Nations, youth, Elders and technical experts.

1. Governance and Decision-Making

Loving Justice places First Nations at the helm through First Nations-led governance structures with real authority:

- (1) A National Oversight Council
- (2) Regional Secretariats to support implementation
- (3) Child rights impact assessments of ISC conduct and policy prior to application
- (4) Required participation of youth in governance, oversight and accountability

- (5) Elders embedded at the center of governance structures

Canada's plan retains federal control and discretion. Canada's plan contemplates regional agreements; however, negotiations are limited to program implementation rather than funding levels or core policy authority.

2. Funding Certainty and Durability

Loving Justice is durable, utilizes needs-based funding, with protections of statutory or special purpose allotment mechanisms, which aligns with the Tribunal findings that discretionary, short-term funding contributes to systemic discrimination.

Under Canada's plan, funding is formulaic and largely based on the same formula as the Ontario Final Agreement. Canada retains decision-making authority on funding levels, formulas, timelines and minimum standards. Canada's plan commits \$27B over seven years and \$4.4B ongoing in 2034-35, however further clarity is required to ensure the funding will adjust for population, inflation and changes in need and context.

3. Accountability, Transparency and Enforcement

Loving Justice establishes multi-layered accountability mechanisms:

- (1) Public reporting requirements
- (2) Mandatory review of any ISC policy affecting FNCFS
- (3) "Measuring to Thrive" outcomes tracking
- (4) Application of OCAP principles
- (5) Independent enforcement mechanisms, continued Tribunal oversight, First Nations-grounded dispute resolution processes and a litigation support fund

Canada's contains comparatively weak and vague accountability measures, including enforcement mechanisms that are dependent on enabling legislation, limited oversight

measures and allotting First Nations advisory roles only.

4. Prevention, Capacity and Regional Equity

Loving Justice establishes multi-layered accountability mechanisms: Loving Justice emphasizes prevention-focused services, capacity building and regional flexibility to reflect cultural differences, while maintaining national standards that protect equity among First Nations. Regional governance is First Nation-led, with Chiefs, Elders, youth and technical experts in decision-making roles.

Canada's plan offers regionalization within a Canada-defined National framework, with First Nations primarily in advisory roles subject to federal approval. Canada outlines a preference for rapidly concluding regional agreements by September 2026 which risks duress to reach an agreement to avoid defaulting to a national framework. Canada's plan does not include a plan to ensure Free Prior and Informed Consent.

Canada's plan encourages First Nations to submit funding proposals to participate in regional negotiations, however it does not clearly guarantee funding for legal, technical and negotiation support. Additionally, the absence of dedicated capacity funding risks increasing inequalities within and amongst regions such as what happened with the [Enhanced Prevention Funding Approach](#).

Overall Comparative Assessment

	Loving Justice	Canada's National Plan
Core Approach	Rights-based; children and youth are rights holders	Program-based; children and youth as beneficiaries
Governance	First-Nations-led with real authority	Federal discretion; regional implementation only
Funding	Statutory, needs-based, flexible, capacity funding, funding at actuals as backstop	Formulaic, based on the same formula as OFA; federal discretion, no dedicated capacity funding
Accountability	Enforceable, independent accountability, transparent, multilayered, reciprocal, First Nations-led oversight with robust dispute resolution mechanisms	Vague accountability with limited mechanisms, dependant on enabling legislation, regional oversight and program assessment but Canada retains control
Regional Variations	First Nations set regional variations on national minimum standards to end Canada's discrimination	Regional variations exist within a Canada-defined framework, regional agreement only touch implementation