First Nations Child & Family Caring Society of Canada

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LOOKING FOR CLARITY IN CANADA'S FUNDING POSITIONS ON C-92
Part II – Canada's Child Welfare Funding History

Canada's Child Welfare Funding History:

Funding structure and amounts are both critical in the development of funding approaches that are culturally, and needs based, substantively equal and that account for the distinct circumstances of the communities. It is an expert area that requires significant demonstrated and multi-disciplinary expertise, meaning that a team approach is needed. As per Part 1, it is important to note that the agency experience is that it takes 5 years to develop the agency and services and a further 10 years to achieve any predictability in funding levels. Therefore, settling on a fixed funding amount without compulsory increments from Canada to reflect changing needs and circumstances is perilous for most communities.

Residential Schools: As early as 1895, Canada issued warrants for the removal of "Indian" children because they were "not properly cared for." Residential schools were the earliest form of child welfare placement, and Canada used a per capita funding formula to reimburse the churches. This funding was not based on the needs of children, and the "not properly cared for" provision did not account for the structural discrimination that was putting children at risk or Canada's assimilative aims. There were repeated calls to end the inequities arising from Canada's funding formulas, including from the National Association of Social Workers in the 1940's and a team of researchers headed by George Caldwell (1967) who were commissioned by INAC to review the situation of children in residential schools in Saskatchewan. Caldwell found that 80% of the kids in residential schools were "child welfare" placements, and he called for more prevention services to the "Indian family." Canada did not act.

Pre-Directive Agencies: In the 1970's and 1980's, Canada signed funding agreements with First Nations child and family service agencies (called pre-directive agencies) that were highly variable. The only consistent thing is that Canada insisted First Nations use provincial child welfare laws. First Nations with more experience and capacity and a good relationship with the region struck better deals.

Directive 20-1: The inequalities in pre-directive agency agreements led to the development of Directive 20-1 in 1989, which came into effect in 1991. It included two funding streams: 1) maintenance for children in care and 2) operations (that allegedly included agency operations and prevention). Canada again insisted that First Nations use provincial laws as a condition of funding. The Directive was highly flawed, as it was based on arbitrary bureaucrat assumptions unrelated to the needs of children. The prevention element of 20-1 was not updated for 29 years in some cases, was not adjusted for changes in practice or technology, and the inflation index was stopped. This formula was the subject of two reviews that INAC commissioned and participated in: 1) The Joint National Policy Review and 2) the Wen:de series of reports. Both found serious shortfalls in the funding levels and structures, and denials, delays and disruptions related to jurisdictional disputes (Jordan's Principle). Both provided

remedies and affirmed the need for First Nations jurisdiction with adequate resources.

Canada proposed the use of the Final Domestic Demand Implicit Price Index (FDIPI); however this was discredited in 2005 for use as a cost-of-living adjustment for First Nations child and family services.

EPFA: The Enhanced Prevention Focused Approach (EPFA) was slowly rolled out in 6 regions beginning with Alberta in 2007. Canada entered agreements with First Nations leadership without involvement of agencies. This approach meant that leadership was not aware that EPFA incorporated some of the flaws of 20-1 and, even when the Auditor General of Canada ruled EPFA flawed and inequitable in 2008, Canada continued to roll it out largely unchanged.

CHRT Funding: In January of 2016, the CHRT ordered that Canada cease its discriminatory conduct and reform the FNCFS Program. Canada took no action until Budget 2016 when it increased FNCFS funding by 71 million (of which a portion went to INAC). This amount was not based in evidence and indeed was prepared by the previous government before the Tribunal ruled. The Caring Society and National Advisory Committee on First Nations Child Welfare (NAC) were advocating for funding at actuals from 2016, but Canada refused, claiming it was "impossible." That changed in 2018 when Canada was ordered to fund prevention, legal, building repairs, intake and assessment and small agencies at actual costs pending long term reform of the FNCFS program. The impossible was suddenly possible, once backed by a legally binding order. The Tribunal included a provision that its orders could be supplanted if First Nations signed agreements that "improved" upon its orders. The Caring Society continued to press Canada to revise the terms and conditions of the FNCFS program to include First Nations jurisdiction. Canada refused; thus it was and is unclear what safeguards are in place to avoid inequalities. Meanwhile, INAC Ministers were repeatedly making disparaging comments about First Nations agencies to undermine their credibility, even going so far as to call them "child abductions" before a House of Commons Standing Committee reviewing C-92 in 2019, whilst taking little responsibility for Canada's longstanding discriminatory funding.

Institute of Fiscal Studies and Democracy (IFSD): This work was initiated in response to the CHRT orders and under the supervision of NAC. The goal was to come up with an evidence-informed funding approach that provided flexibility to adapt to different service delivery environments, children's needs and service providers. This approach provides a hopeful departure from ISC's previous funding methodologies, in that it drives funding toward community-based child wellbeing indicators versus arbitrary funding assumptions. It also addresses the drivers of child maltreatment. Research on this evidence-based and performance-based budgeting work is ongoing and will provide First Nations and First Nations child and family service agencies an opportunity to model what their funding would look like under this approach versus other alternatives.

C-92: Canada is entering into agreements with First Nations governments for self-determination in child welfare and negotiating funding. Canada's expectation is that First Nations governments will "know what they need" for funding and that the provinces will pay their portion for off-reserve service delivery. There is no funding envelope or apparent methodology to pay for service development or delivery post-jurisdiction. There is also no clarity about what is going to happen off reserve other than Canada assumes the provinces will maintain their current level of funding; yet, there are no agreements in place to secure that commitment. Canada points to committees it established with National Aboriginal organizations and provinces/territories to discuss C-92, but there is no public

sharing of minutes from these committees.

Early indications are that Canada is proposing increased funds for prevention, which is positive, but providing it in a fixed amount adjusted for population and inflation. Experience shows that this model will not work for most communities, as it fails to address child maltreatment drivers and changing circumstances over time. The discriminatory EPFA was, in fact, based on this type of model.