



## Canadian Human Rights Complaint: Equity for First Nations Children Briefing Note I: Background to the Complaint

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### Child Welfare On-Reserve: What You Should Know

- **First Nations children are drastically over represented in child welfare care.** In 2008, the Auditor General of Canada reported that First Nations children living on-reserve were 5 times more likely to be placed in care than children living off-reserve.
- **The Federal Government requires First Nations child welfare agencies to apply provincial laws and standards, but Federal funding is not linked to the legislation or the needs of the children.** The provinces fund child welfare services off-reserve but the Federal Government is responsible for funding child welfare on-reserve. When the Federal Government (through the Department of Aboriginal and Northern Affairs, referred to as INAC) funds services at a lesser level, or not at all, the provinces typically do not top up the difference. The result is a two tiered system where First Nations children on-reserve receive inequitable services as compared to other children in Canada.
- **The over-representation of First Nations children is not due to abuse.** The 2003 Canadian Incidence Study on Reported Child Abuse and Neglect found that the over-representation of First Nations children in child welfare care was due to neglect driven by structural issues of poverty, poor housing and caregiver substance misuse.
- **Repeated studies have found Federal funding levels, and thus benefit to children, to be inequitable. Funding levels do not support First Nation agencies to respond in culturally based and adequate ways to reports of neglect.** See for example reports by the Auditor General of Canada in 2008 and 2011, and the Standing Committee on Public Accounts in 2009.

### The First Nations Solution: Culturally-Based Equity in Child Welfare

- **First Nations worked with the Federal Government for over 10 years to develop two research based solutions, but Canada failed to fully implement either option.**
- The National Policy Review in 2000 found that **First Nations children receive 22 percent less funding for child welfare services than other children.** The study called for greater emphasis on prevention and support services to keep children safely in their homes. Despite a detailed action plan, INAC did little to implement the recommendations.
- **There are solutions.** In 2005, INAC and the Assembly of First Nations commissioned the First Nations Child and Family Caring Society to oversee a team of more than 20 leading researchers, almost half with PhD credentials, to review INAC's child and family services policy and make recommendations. The study set out a new funding formula to eliminate the discrimination and achieve a basic level of equity comparable to what other Canadian children receive. INAC did not implement this solution.

## What about INAC's Enhanced Prevention Focused Approach?

- Canada has showcased the Enhanced Approach as resolving the inequity in child welfare for First Nations children. Yet in 2008, **the Auditor General found this 'new' approach to be inequitable as well.**
- Canada evaluated the implementation of Enhanced funding in Alberta and noted that although there appeared to be some improvements, **75 percent of all First Nations agencies reported that funding levels were insufficient to fully implement the model.**
- The new approach **does not address differing needs and relies on provincially driven models that have often not proven effective for First Nations children.**
- The Enhanced Approach is now in effect in Alberta, Saskatchewan, Nova Scotia, PEI, Quebec and Manitoba. INAC hopes to implement the new model across Canada by 2013; however there was no new funding in the 2011 Federal budget to support the Enhanced Approach.
- Only some First Nations in the above provinces are covered by the new approach. **Most First Nations living on-reserve are still funded under 'old' funding formulas.**

## A Historic Step: Canadian Human Rights Tribunal Hearing

- **In 2007, the First Nations Child and Family Caring Society and the Assembly of First Nations filed a human rights complaint against the Government of Canada.** The complaint alleges that the Federal Government's failure to provide equitable and culturally based services to First Nations children on-reserve amounts to discrimination on the basis of race and ethnic origin.
- **The case is ongoing.** Canada has filed numerous legal challenges in an attempt to avoid a full hearing. The case is now in Federal Court, with a hearing scheduled for February 2012.

*"Our view is that if Canada will not do what it should do voluntarily, then it will do so under court order."*

- Dr. Cindy Blackstock, Executive Director of the First Nations Child and Family Caring Society

## I Want to Help! How Can I Get Involved?

- **Sign up to be a witness at [www.fnwitness.ca](http://www.fnwitness.ca).** As a witness you commit to following the case, either in person or through local media. Anyone can sign up - it is free and takes under two minutes!
- **Buy an 'I Am a Witness' button and spread the word! Hold a brown bag lunch** at your workplace, school or neighbourhood to raise awareness about the Tribunal and I Am a Witness campaign.
- **Encourage your local paper and television news to cover the hearings.**
- **Write to your Member of Parliament and to Prime Minister Harper** to demand equity for First Nations kids! Please copy us on any emails or letters at [info@fncaringsociety.com](mailto:info@fncaringsociety.com).
- **Make a donation** to support our work for First Nations children.

**For more information, including the date and time of the upcoming court dates, visit I Am a Witness at: [www.fnwitness.ca](http://www.fnwitness.ca).**