



January 2, 2020

An Open Letter

Dear Minister Lametti, Minister Bennett and Minister Miller:

I am writing this letter on behalf of the First Nations Child & Family Caring Society of Canada (the Caring Society) addendum to the letter sent by Dr. Christiane Guay, Dr. Hadley Friedland, Naiomi Metallic, et al.

In 2019, *Bill C-92: An Act respecting First Nations, Inuit and Métis children, youth and families* became the first federal statute in the area of Indigenous child and family services and first statutory recognition of Indigenous peoples' inherent jurisdiction. The Caring Society voiced, and continues to voice, the flaws of the Act including the pan-Indigenous nature of the Act, failure to recognize post majority services, the narrow construction of child welfare and the lack of funding for Nations and agencies to develop and implement their child welfare laws.

We also reiterate our concern about the use of the word "apprehension" as it is derived from a criminal law context and fails to recognize the various ways that children are brought into care. The Caring Society has been urging the federal government to breathe life into the Act's provision regarding the amelioration of socio-economic conditions by fully adopting and implementing the Spirit Bear Plan to end inequalities across public services for First Nations young people. We note, with regret, that Canada has not adopted the Spirit Bear Plan nor has it tabled a comprehensive alternative plan to end all inequalities and reform the Department of Indigenous Services so it does better for children when it knows better.

Despite the serious shortcomings of the Act, there are agencies and Nations who are in a position to move forward in taking over the jurisdiction of child welfare for their communities. We are deeply concerned that if Quebec proceeds with a reference question to the Quebec Court of Appeal as to the constitutional validity of Bill C-92, there is a serious risk that the hopes for self-government in Indigenous child welfare could be quashed.

The Caring Society would ask the federal government ask Cabinet to submit a reference question directly to the Supreme Court of Canada regarding the constitutionality of Bill C-92, as per s. 53(1)(b) of the Supreme Court Act. We would also ask the federal government to remind the public and all the stakeholders that Quebec's reference question does not affect the coming into force of the *Act Respecting First Nations, Métis and Inuit children, youth and families* on January 1, 2020.

Sincerely,

Executive Director, First Nations Child & Family Caring Society of Canada  
Professor, McGill University