

# Canada's Ongoing Racial Discrimination Against 165,000 First Nations Children and Their Families

REPORT TO THE  
HUMAN RIGHTS COMMITTEE  
Periodic Report of Canada



Submitted on May 21, 2021 by



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## Executive Summary

These submissions are made on behalf of the First Nations Child & Family Caring Society of Canada (“Caring Society”), a national, non-profit organization that works to ensure the safety and well-being of First Nations children, youth and their families through education initiatives, public policy campaigns and providing quality resources to support communities.<sup>1</sup> The Caring Society provides opportunities for people of all ages to make a difference for First Nations children, youth and families through activities that foster reconciliation and support culturally based equity.<sup>2</sup> We believe that everyone can take peaceful and respectful action to help make a better Canada for First Nations children and their families.

The Caring Society submits that Canada has failed to respect its obligations set out in the *International Covenant on Civil and Political Rights* (“the Covenant”).<sup>3</sup> In particular, Canada is violating the rights of First Nations children and their families guaranteed by articles 2(1) (right to have rights in the Covenant recognized without discrimination), 2(3)(a) (the right to an effective remedy for the violation), 18(4) (the right to education of their children in conformity with their own convictions), 24 (right to non-discrimination of children), and 26 (right to equality for all persons) of the Covenant. The Caring Society wishes to highlight three main issues of concern.

The first relates to Canada’s ongoing legal battle against First Nations children and their families. In 2016, the Canadian Human Rights Tribunal (“CHRT”) found the Government of Canada’s First Nations Child and Family Services Program (“FNCFS”) to be discriminatory on the basis of race and national ethnic origin. In 2019, the CHRT found Canada’s discrimination to be “wilful and reckless” contributing to the deaths of some children and the unnecessary family separations of many others. Canada was ordered to provide \$40,000, the maximum amount allowable under the *Canadian Human Rights Act*, to certain First Nations children, their parents or grandparents who were affected by the government’s discriminatory treatment in child welfare services or who were denied equitable and culturally appropriate services to compensate them for the wilful and reckless discrimination they experienced. In 2020, Canada was also found to be placing “undue emphasis” on colonial concepts like *Indian Act* status and reserve boundaries when determining whether to provide culturally appropriate and equitable services to a First Nations children. Canada filed a judicial review seeking to quash these decisions. Discrimination remains ongoing, with at least ten further orders under reserve at the Tribunal.

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1 The Caring Society wishes to thank law students Emma Runzer-Boucher and Maggie Sainty, from the University of Ottawa’s Faculty of Law, for their generous assistance with these submissions.

2 According to the federal government’s definition of Indigenous People’s in Canada, there are three Indigenous groups in Canada: Inuit, Métis et First Nations.

3 *International Covenant on Civil and Political Rights*, 19 December 1966, 999 UNTS 171 arts 2(1), 2(3)(a) 18(4), 24 and 26 (entered into force 23 March 1976, accession by Canada 19 May 1976) [*Covenant*].

The second issue relates to Canada's failure to take proactive measures to identify and remedy systemic discrimination against First Nations children and their families in all government services and programs. The Spirit Bear Plan proposes to promote substantive equality for First Nations children by having the Parliamentary Budget Officer publicly cost out the shortfalls in all federally funded public services provided to First Nations children, youth and families (education, health, water, child welfare, etc.) and propose solutions to fix it.<sup>4</sup> The Plan also calls for government departments providing services to First Nations children and families to undergo a thorough, independent and public 360° evaluation to identify any ongoing discriminatory ideologies, policies or practices and address them. Canada has refused to implement the Spirit Bear Plan.

Third, Canada is discriminating against First Nations children in the context of education. Shannen Koostachin, a youth from the northern community of Attawapiskat First Nation, led a movement for "safe and comfy" schools and quality, culturally-based education for First Nations children called the Attawapiskat School Campaign. Shannen passed away in May 2010 and the campaign was renamed Shannen's Dream in her honour.<sup>5</sup> Ten years later, the Government of Canada has yet to honor her legacy by providing culturally-based education to First Nations children in Canada, despite independent reports by Canada's Auditor General and the Parliamentary Budget Officer confirming the disparity.

The following submissions are divided into four parts. Part I provides a contextual overview from a few different domestic perspectives of the discrimination currently experienced by First Nations children in Canada. Part II supports the contextual overview by providing concerns expressed by international counterparts. Part III proposes questions to ask Canada during the review. Part VI presents the Caring Society's proposed recommendations for Canada's upcoming review before the Human Rights Committee (HRC).

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4 "Spirit Bear Plan", online: First Nations Child & Family Caring Society: <[fncaringsociety.com/spirit-bear-plan](http://fncaringsociety.com/spirit-bear-plan)>.

5 "Shannen's Dream", online, First Nations Child & Family Caring Society: <<https://Shannensdream.ca>>.

## PART 1 – Background

### a) Canada's Historical and Ongoing Racial Discrimination Against First Nations Children

Canada has a longstanding history of discrimination against First Nations children and youth. This claim is supported by findings of discrimination by Canada's own domestic human rights body. On January 26, 2016, the Canadian Human Rights Tribunal ("CHRT") issued a landmark ruling in which the Government of Canada was found to be racially discriminating against 165,000 First Nations children and their families. The CHRT found the government's provision of the First Nations Child and Family Services Program to be discriminatory on the basis of race and national ethnic origin, contrary to section 5 of the *Canadian Human Rights Act* which prohibits discrimination in the context of the provision of services.<sup>6</sup> While the Government of Canada did not seek a judicial review of this decision, it has nonetheless failed to comply with the CHRT's orders to cease its discriminatory behavior, provide immediate relief, and further outline a process for determining more specific remedies. As such, the CHRT has been forced to issue a series of non-compliance orders. For instance, on May 26, 2017, the CHRT ruled that "Canada has repeated its pattern of conduct and narrow focus with respect to Jordan's Principle,"<sup>7</sup> a child-first principle<sup>8</sup> which ensures First Nations children receive equitable and culturally appropriate public services when they need them. As stated above, the CHRT has also linked Canada's unlawful conduct to the deaths of some First Nations children and the unnecessary family removals of others. Despite this finding, as recently as February of 2020, the Minister of Indigenous Services Canada continues to refer to the discrimination as "in the past", raising serious questions as to whether Canada will undertake the reform needed to cease its discriminatory conduct. This positioning of Canada's discrimination as "in the past" is particularly egregious given its direct role in the Indian Residential Schools and the 60s Scoop, which both caused mass removals of First Nations children from their families and communities and continues to impact First Nations in the form of intergenerational trauma, as well as the now ten (10) non-compliance orders the Tribunal has issued since its 2016 decision ordering Canada to cease its discriminatory conduct.

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6 *First Nations Child and Family Caring Society of Canada et al v Attorney General of Canada (for the Minister of Indian and Northern Affairs Canada)*, (26 January 2016), 2016 CHRT 2, online: CHRT <<https://canlii.ca/t/gn2vg>>.

7 *First Nations Child & Family Caring Society of Canada et al v Attorney General of Canada (representing the Minister of Indigenous and Northern Affairs Canada)*, 2017 CHRT 14, online: CHRT <<https://canlii.ca/t/h4nqt>>.

8 "Jordan's Principle", online, First Nations Child & Family Caring Society: <<https://jordansprinciple.ca>>.

Canada is currently fighting two rulings of the CHRT relating to the racial discrimination complaint that was upheld in 2016. Firstly, Canada is challenging the 2019 decision in which the CHRT ordered the Government of Canada to provide \$20,000 to First Nations children, their parents or grandparents who were affected by inappropriate child welfare removals, or who were denied equitable and culturally appropriate services, to compensate them for the discrimination they experienced (akin to damages for pain and suffering).<sup>9</sup> In addition to this, Canada was also ordered to pay \$20,000 to every victim/survivor because its discrimination was found to be “wilful and reckless”. Canada created confusion among victims/survivors and Canadians by making public statements that they were committed to “compensation” and wanted to “get it right,” yet had no good answer when asked why their legal strategy was completely at odds with their rhetoric.<sup>10</sup> The CHRT compensation order is consistent with international human rights law and, in particular, the right to remedies for victims of human rights violations.

Secondly, Canada is also challenging a 2020 decision of the CHRT in which it was held that Canada cannot use its racist and colonialist *Indian Act* to determine which children are eligible to receive culturally appropriate and equitable services through Jordan’s Principle. The CHRT found that First Nations children who are recognized as members of their Nations ought to be eligible for Jordan’s Principle requests. This is consistent with Canada’s international human rights law obligations and, in particular, the right to self-determination recognized under UNDRIP.

## **b) Spirit Bear Plan**

While the CHRT has ordered Canada to cease its discriminatory funding of child welfare services, many other federally funded public services for First Nations, such as health care, housing, education, infrastructure, and safe water are also underfunded and insufficient.<sup>11</sup> Government funding structures are inequitable because they fail to take into account cultural needs, historical disadvantage caused by colonization and Indian Residential Schools, and geographical circumstances. As a result, First Nations peoples across Canada have significantly lower socio-economic well-being than other Canadians. In 2018, the Auditor General of Canada found that Canada had failed to take even the preliminary steps necessary to eliminate the socio-economic gaps between First Nations people and other Canadians and improve lives on First

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9 *First Nations Child & Family Caring Society of Canada et al v Attorney General of Canada (representing the Minister of Indigenous and Northern Affairs Canada)*, 2019 CHRT 39, online: CHRT <<https://canlii.ca/t/j3n9j>> [CHRT 2019].

10 See “Minister of Indigenous Services Mandate Letter” (13 December 2019), online: Justin Trudeau, Prime Minister of Canada <[pm.gc.ca/en/mandate-letters/minister-indigenous-services-mandate-letter](https://pm.gc.ca/en/mandate-letters/minister-indigenous-services-mandate-letter)> and Indigenous Services Canada, “Joint Statement by the Minister of Indigenous Services and the Minister of Justice and Attorney General of Canada on compensation for First Nations children” (25 November 2019), online: Government of Canada <[canada.ca/en/indigenous-services-canada/news/2019/11/joint-statement-by-the-minister-of-indigenous-services-and-the-minister-of-justice-and-attorney-general-of-canada-on-compensation-for-first-nations.html](https://canada.ca/en/indigenous-services-canada/news/2019/11/joint-statement-by-the-minister-of-indigenous-services-and-the-minister-of-justice-and-attorney-general-of-canada-on-compensation-for-first-nations.html)>.

11 “Spirit Bear Plan” *supra*, note 4.

Nations reserves. The Auditor General urged Canada to gather and use data to comprehensively measure and report on the overall socio-economic well-being of First Nations people on reserves compared with that of other Canadians.<sup>12</sup>

The Spirit Bear Plan, unanimously supported by the Assembly of First Nations (AFN),<sup>13</sup> proposes a series of actions which would end inequalities in public services for First Nations children, youth and families.<sup>14</sup>

The Spirit Bear Plan calls on:

- CANADA to immediately comply with all rulings by the CHRT ordering it to immediately cease its discriminatory funding of First Nations child and family services. The order further requires Canada to fully and properly implement Jordan's Principle ([jordansprinciple.ca](http://jordansprinciple.ca)).
- PARLIAMENT to ask the Parliamentary Budget Officer to publicly cost out the shortfalls in all federally funded public services provided to First Nations children, youth and families (education, health, water, child welfare, etc.) and propose solutions to fix it.
- GOVERNMENT to consult with First Nations to co-create a holistic Spirit Bear Plan to end all of the inequalities (with dates and confirmed investments) in a short period of time, sensitive to children's best interests, development and distinct community needs.
- GOVERNMENT DEPARTMENTS providing services to First Nations children and families to undergo a thorough and independent 360° evaluation to identify any ongoing discriminatory ideologies, policies or practices and address them. These evaluations must be publicly available.
- ALL PUBLIC SERVANTS, including those at a senior level, to receive mandatory training to identify and address government ideology, policies and practices that fetter the implementation of the Truth and Reconciliation Commission's Calls to Action.<sup>15</sup>

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12 Office of the Auditor General of Canada, *Report 5—Socio-economic Gaps on First Nations Reserves—Indigenous Services Canada*, 2018 Spring Reports of the Audit General of Canada (29 May 2018), online: Office of the Auditor General of Canada: <[https://www.oag-bvg.gc.ca/internet/English/parl\\_oag\\_201805\\_05\\_e\\_43037.html](https://www.oag-bvg.gc.ca/internet/English/parl_oag_201805_05_e_43037.html)>.

13 The Assembly of First Nations (AFN) is a national advocacy organization representing First Nation citizens in Canada, which includes more than 900,000 people living in 634 First Nation communities and in cities and towns across the country.

14 Perry Bellegarde, "Support the Spirit Bear Plan to End Inequities in all Federally Funded Public Services for First Nations Children, Youth and Families" (Ottawa: Special Chiefs Assembly, 7 December 17), online (pdf): First Nations Child and Family Caring Society of Canada <[fncaringsociety.com/sites/default/files/2017%20AFN%20Resolutions%2092%20SB%20Plan.pdf](http://fncaringsociety.com/sites/default/files/2017%20AFN%20Resolutions%2092%20SB%20Plan.pdf)>.

15 *Spirit Bear Plan*, *supra* note 4.

### **c) Shannen's Dream**

With the support of her family, peers, and community, Shannen Koostachin of Attawapiskat First Nation led a movement for "safe and comfy" schools and quality, culturally-based education for First Nations children called the Attawapiskat School Campaign.

Shannen knew just how hard it was to learn in an on reserve school that was under resourced by the government. The only elementary school for the 400 children in Attawapiskat was closed in the year 2000 due to a diesel leak that contaminated the ground under the school. The federal government put portable trailers on the playground of the contaminated school as a "temporary school" until a new one was built. Nine years later there was still no sign of a new school.

Shannen never got the chance to go to a proper school in her community. As the children waited for a new school, the portables became more run down over time. The heat would often go off, the children had to walk outside in the cold (Attawapiskat is a northern community) to go from one portable to another, and the doors were warped. The children of Attawapiskat launched the Attawapiskat School Campaign to educate people about what was happening and ask non-Indigenous children across Canada to write to the federal government and demand a new school for Attawapiskat.

Thousands of children answered the call and wrote letters to the government. Three Ministers of Indian Affairs promised a new school and then broke their promise.<sup>16</sup> The children kept writing. When then Minister of Indian Affairs Chuck Strahl wrote to Attawapiskat in 2008 to say the federal government could not fund a new school, the grade 8 class canceled their graduation trip to Niagara Falls and used the money to send three youth, including Shannen, down to meet with Minister Strahl to demand a new school.

Minister Strahl met with the youth and told them the government could not afford a new school. Shannen said she did not believe him. She told the Minister that she would never give up because the younger children in her community deserved a proper school.

Shannen kept her promise. She spoke to thousands of people asking for their help to ensure every child got a good education and a "comfy" school. She was an inspiring speaker because she talked from the heart. One of her most compelling speeches was at an education rights conference hosted by the children of Attawapiskat and attended by 500 other children at the University of Toronto in 2009.

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<sup>16</sup> Now Indigenous Services Canada.

Shannen's leadership was remarkable and she was nominated, as an ambassador for all the children of Attawapiskat, for the International Children's Peace Prize given out by the Nobel Laureates. In May of 2010, Shannen Koostachin tragically passed away in an automobile accident. With the support of her loving family, friends, and community, the Attawapiskat school campaign became Shannen's Dream ([shannensdream.ca](http://shannensdream.ca)). Named in her memory, Shannen's Dream is a campaign to make sure all First Nations children across Canada have "safe and comfy schools" and receive a good quality education that makes them proud of who they are. In 2015, the Truth and Reconciliation Commission also called upon Canada to provide culturally-based education for First Nations children.<sup>17</sup>

Eleven years after Shannen's death, the Government of Canada has still not taken adequate measures to ensure safe and comfy schools and equitable and culturally-appropriate education services and programs to First Nations children. First Nations children across the country continue to experience discrimination in education and limited access to education in their First Nations languages.<sup>18</sup>

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17 "Calls to Action" (2015), online: Truth and Reconciliation Commission of Canada <[nctr.ca/assets/reports/Calls\\_to\\_Action\\_English2.pdf](http://nctr.ca/assets/reports/Calls_to_Action_English2.pdf)>.

18 Tamsin McMahon, "Why fixing First Nations education remains so far out of reach" *MacLeans* (22 August 22 2014), online: <<https://www.macleans.ca/news/canada/why-fixing-first-nations-education-remains-so-far-out-of-reach/>>. See also Jean-François Nadeau, "Commission Laurent: des jeunes Autochtones tenus à l'écart de l'école par la bureaucratie", (6 February 2020), *Le Devoir*, online : <<https://www.ledevoir.com/societe/education/572305/du-yoga-plutot-que-l-ecole-pour-des-centaines-de-jeunes-autochtones>>.

## **PART 2 – Canada's Failure to Meet its International Obligations**

### ***a) Violation of the Covenant***

Canada is violating the Covenant on Civil and Political Rights in the following ways:

- Article 2(1) provides that all rights within the Convention must be ensured, free from any discrimination.<sup>19</sup> Moreover, article 26 provides equal treatment and protection in front of the law to all persons.<sup>20</sup> More specifically, article 24 ensures that every child shall have, without any discrimination as to race, or national or social origin, the right to such measures of protection as are required by his status as a minor, on the part of his family, society and the State.<sup>21</sup> The CHRT found Canada to be engaging in unlawful discrimination against 165,000 First Nations children, and their families, on the basis of race and ethnic origin. The CHRT also found Canada to have engaged in wilful and reckless discrimination, contrary to the Covenant, because it was aware of the detrimental impacts on First Nations children and their families as a result of inequities First Nations Child and Family Services Program and failed to take measures to stop the harm. Similarly, Canada's failure to implement the Spirit Bear Plan in order to proactively identify and remedy inequities in all government services and programs also amounts to discrimination. This is contrary to article 2 (1), article 24 and article 26 of the Covenant.
- Article 2(3)(a) of the Covenant stresses the importance of effective remedies in the case of a violation.<sup>22</sup> Canada claimed to have accepted the findings of the CHRT that its services to First Nations children are discriminatory. It does not deny that this discrimination causes harm and trauma. Despite this, Canada is currently challenging the CHRT's order requiring it to compensate certain victims of its discriminatory conduct before the Federal Court. This is contrary to its international human rights law obligations to provide an appropriate remedy for human rights violations, such as discrimination.
- Article 18(4) provides that a State's shall have respect for the liberty of parents and, when applicable, legal guardians to ensure the religious and moral education of their children in conformity with their own convictions. Canada has failed to bring Shannen's Dream to life by providing equitable and culturally-appropriate educational services, programs and infrastructure to First Nations children. This is contrary to article 18(4).

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<sup>19</sup> *Covenant*, *supra* note 2, art 2(1).

<sup>20</sup> *Ibid*, art 26.

<sup>21</sup> *Ibid*, art 24.

<sup>22</sup> *Ibid*, art 2(3)(a).

**b) Concerns Expressed by Other International and Regional Human Rights Bodies**

Numerous international and regional treaty bodies have expressed concerns regarding Canada's racially discriminatory conduct against First Nations children and their families. These include, by way of example:

- In 2009, UNICEF expressed concern regarding the underfunding of child welfare services provided to First Nations children in Canada.<sup>23</sup>
- In April 2012, the UN Committee on the Elimination of Racial Discrimination recommended that Canada discontinue the unnecessary removal of Aboriginal children from their families and that it provide sufficient funding for Aboriginal family and childcare services.<sup>24</sup>
- In December 2012, the UN Committee on the Rights of the Child expressed concern regarding the significant overrepresentation of Aboriginal children in out-of-home care and recommended that Canada "take urgent measures" to address the problem.<sup>25</sup>
- In the 2014 report on the situation of Indigenous Peoples in Canada, the UN Special Rapporteur on the Rights of Indigenous Peoples pointed to Canada's child welfare system as one a cause of "significant concern" for the health and well-being of Indigenous Peoples in Canada.<sup>26</sup>
- In August 2015, the UN Human Rights Committee expressed further concern regarding the insufficient funding of child welfare services provided to Indigenous children in Canada. It urged Canada to provide sufficient funding for family and childcare services on reserves.<sup>27</sup>
- In March 2016, the UN Committee on Economic, Social and Cultural Rights expressed concern that the inadequate funding of child welfare services for Indigenous Peoples living on-reserve exacerbated the already high likelihood that Indigenous children be placed in childcare institutions. It recommended that Canada increase its funding of child welfare services for Indigenous Peoples.<sup>28</sup>

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23 UNICEF, *Aboriginal children's health: Leaving no child behind. Canadian Supplement to the State of the World's Children, 2009*. Ottawa, ON, online, UNICEF Canada: <<http://www.nccah-ccnsa.ca/docs/nccah%20partner%20documents/UNICEF%20Report,%20English.pdf>>.

24 Committee on the Elimination of Racial Discrimination, *Consideration of reports submitted by States parties under article 9 of the Convention*, UNCERDOR, 8th Sess, UN Doc CERD/C/CAN/CO/19-20 (2012) at para 19.

25 Committee on the Rights of the Child, *Concluding observations on the combined third and fourth periodic report of Canada*, UNCRCOR, 61st Sess, UN Doc CRC/C/CAN/CO/3-4 (2012) at paras 32, 33.

26 *Report of the Special Rapporteur on rights of indigenous peoples*, James Anaya : The situation of indigenous peoples in Canada, UNHRHOR, 27th Sess, Addendum, Agenda Item 3, UN Doc A/HRC/27/52/Add.2 (2014) at para 31.

27 Human Rights Committee, *Concluding observations on the sixth periodic report of Canada*, UNHRCOR, 2015, UN Doc CCPR/C/CAN/CO/6 at para 19.

28 Committee on Economic, Social, and Cultural Rights, *Concluding observations of the sixth periodic report of Canada*, UNESCO, 2016, UN Doc E/C.12/CAN/CO? at para 35.

- In December 2016, the Inter-American Commission on Human Rights convened a hearing on the human rights situation of Indigenous children in Canada.
- In September 2017, the UN Committee on the Elimination of Racial Discrimination (“CERD”) stated that it was “alarmed” that despite its previous recommendation and multiple decisions by the Canadian Human Rights Tribunal, “less money is reportedly provided for child and family services for Indigenous children than for children in other communities, and that this gap continues to grow.”<sup>29</sup> Additionally, the CERD also expressed concern that “the federal Government has adopted an overly narrow definition of the Jordan’s Principle, as stated in the Canadian Human Rights Tribunal decision [...] in 2016, and has failed to address the root causes of displacement, while tens of thousands of children are needlessly removed from their families, communities and culture and placed in State care (arts. 1–2 and 5–6).”<sup>30</sup>
- In 2018, at the third universal periodic review of Canada, the United Nations Human Rights Council presented several recommendations to Canada aimed at protecting the rights of First Nations children. In particular, the UNHRC urged Canada to:
  - > take steps to ensure that all Canadian children have equal access to government services such as health, education and welfare, and address the disparities in access to these services for [I]ndigenous children in particular;<sup>31</sup>
  - > provide adequate needs-based funding for all social programmes for children and families of First Nations and [I]ndigenous communities;<sup>32</sup>
  - > remove all discriminatory practices against First Nations children in access to health, educational and social support and services; and<sup>33</sup>
  - > strengthen and enlarge its existing programmes and take more and specific measures towards improving the situation of [I]ndigenous persons, in particular with regard to the improvement of housing, employment and education opportunities especially after elementary school, and better safeguard women’s and children’s rights, in consultation with civil society.<sup>34</sup>

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29 Committee on the Elimination of Racial Discrimination, *Concluding observations on the combined twenty-first to twenty-third periodic reports of Canada*, UNCERDOR, 2017, UN Doc CERD/C/CAN/CO/21-23 at para 27.

30 *Ibid.*

31 *Report of the Working Group on the Universal Periodic Review*, UNHRCOR, 39th Sess, Annex, Agenda Item 6, UN Doc A/HRC/39/11 (2018) at para 142.139.

32 *Ibid* at para 142–144.

33 *Ibid* at para 142–145.

34 *Ibid* at para 142–243.

## **PART 3 – Proposed Questions**

The Caring Society requests that the following questions to asked to Canada during its upcoming Review.

1. The Government of Canada should be asked for a detailed account on the steps it will take to appropriately compensate each child and family who has been a victim of racial and national ethnic origin discrimination through the First Nations Child and Family Services Program and as a result of Canada's failure to properly implement Jordan's Principle. This should include a precise timetable, as well as the type and number of resources which will be allocated to support victims entitled to compensation.
2. The Government of Canada should be asked for a detailed account on the steps it will take to implement the Spirit Bear Plan to ensure equity and culturally-appropriateness of all services and programs provided to First Nations children, including a timetable for implementation.
3. The Government of Canada should be asked for a detailed account on the steps it will take to implement Shannen's Dream by funding education for First Nations children in ways that are equitable and culturally-appropriate, including a timetable for implementation.

## PART 4 – Proposed Recommendations

In light of the submissions made above, the Caring Society urges the OHCHR to make the following recommendations to the Government of Canada:

1. Immediately withdraw its judicial review of the decision of the CHRT's order relating to compensation and take steps to begin to compensate the First Nations children, parents and grand-parents for the pain and suffering they experienced as a result of Canada's "wilful and reckless" discriminatory practices in accordance with the 2019 CHRT ruling.
2. Immediately withdraw its judicial review of the decision of the CHRT's order relating to Jordan's Principle and immediately apply the definition of Jordan's Principle provided in the 2020 CHRT rulings throughout all government departments and in all services provided to First Nations children, youth and their families.
3. Undertake immediate measures to relieve the children's suffering by substantially increasing culturally-based prevention services intended to keep children safely in their homes and communities and implementing other reforms to relieve the deep inequality in service provision, while First Nations and the Government of Canada negotiate a more robust solution.
4. Fully implement the Spirit Bear Plan and cease discrimination in other services to First Nations children such as health care, clean water and housing. Ensure that all children, on and off reserve, have equitable access to all services available to other children in Canada.
5. Fully implement Shannen's Dream by funding education for First Nations children in a way that is equitable and culturally appropriate.
6. In partnership and meaningful consultation with the Assembly of First Nations, the Caring Society and the Canadian Human Rights Commission, develop an independent expert structure with the authority and mandate to ensure that Canada maintains a non-discriminatory and adequately funded First Nations Child and Family Services Program to ensure that First Nations communities are able to deliver culturally appropriate services that meet the needs of First Nations children, youth and families
7. Implement a Jordan's Principle Ombudsperson to oversee Jordan's Principle at the national level.