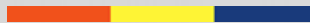


Comparing Loving Justice and Canada's regional approaches

Presentation to: National Children's Chiefs Commission

by: Cindy Blackstock, PhD

Date: February 27, 2026



First Nations Child & Family
Caring Society of Canada

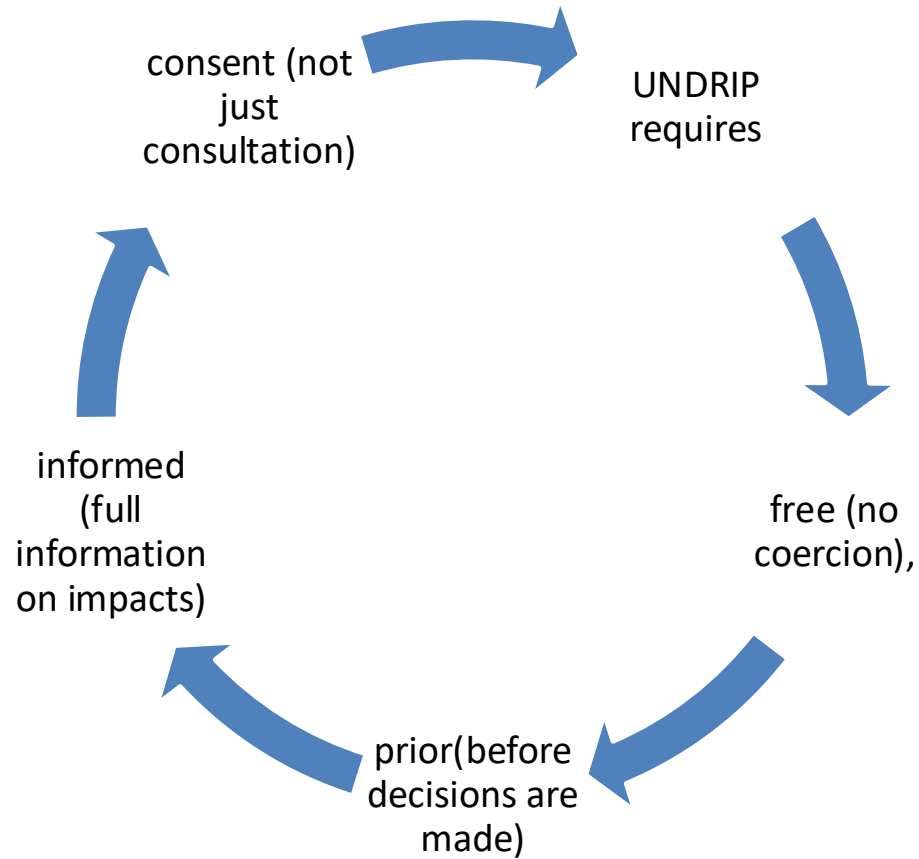
Société de soutien à l'enfance
et à la famille des Premières Nations
du Canada

Disclosure

- The First Nations Child and Family Caring Society is a co-complainant in the First Nations Child and Family Caring Society et al. v. Attorney General of Canada (T1340/7008) case.



UNDRIP





What is the CHRT case about?

Permanently stop Canada's discrimination against First Nations children, youth and families in:

First Nations Child and Family Services

Jordan's Principle

What are Loving Justice and Canada's Plan

August 2025- the Tribunal ordered Canada, the Caring Society, and AFN to file plans to permanently end Canada's discrimination in First Nations child and family services.

Canada's Plan: created by Canada with no known First Nations input by First Nations

Loving Justice: First Nations-led plan informed by over 100 submissions by First Nations and their experts. Filed by the Caring Society with support from the National Children's Chiefs Commission and AFN

Canada's Default Plan

If regional agreements are stalled or are incomplete as of April 1, 2027, Canada will impose its national framework. Likely to incentivize regional agreements and introduce negotiation pressure.

Canada will aim to negotiate one agreement per province and one agreement in the Yukon... For regions in which agreements are not reached, Canada intends to implement the elements of the National Framework as described in the sections below on April 1, 2027.”
(See page 5–6 of the National Plan)

Respecting First Nations Rights

Loving Justice National Plan

- Governance, design, and oversight led by First Nations Rights Holders
- Data sovereignty (OCAP®), public reporting, and First Nations control of funding and enforcement

Canada's National Plan

- Regional governance bodies with First Nations participation
- Consultation and negotiation referenced, but Canada retains significant control
- Regionalization may risk fragmentation

Which Plan gives the most control to First Nations?

PLAN/AGREEMENT	FIRST NATIONS CONTROL	ISC/CANADA CONTROL
Loving Justice National Plan	Very High	Limited
National Plan (Outside ON)	Moderate	High
Ontario Plan	Moderate	High

Loving Justice: Regional Variation

- Regional agreements that build upon binding national minimum human rights standards that can't be negotiated away
- Regional variations exist to strengthen, not limit, rights and funding
- Address distinct regional realities (geography, culture, service models)
- First Nations led and governed
- Rights-based negotiations aligning with Honour of the Crown and Duty of Diligent Implementation
- Remedy ongoing discrimination, not just program management

The Loving Justice Plan: First Nations Child and Family Services (Outside Ontario)

Filed pursuant to 2025 CHRT 80

December 22, 2025



Loving Justice Regional Variations: What is Off the Table



The rights floor- human rights, substantive equality, and minimum standards cannot be reduced



Funding minimum: The reformed approach cannot be reduced



Accountability: Continued CHRT jurisdiction, multi-layered First Nations mechanisms to hold Canada accountable



Governance: First Nations-led oversight

Loving Justice Regional Variations

What is on the Negotiation Table?

Regional variations to address geography, culture, capacity, service models, etc.

Strengthening funding: variations may increase or adapt funding above national standards

First Nations regional governance, technical secretariate and oversight

Canada's Regional Negotiations: What's Off the Table?

- Canada's National Plan
 - Core funding levels, terms and conditions, and formulas
 - Tribunal orders are “satisfied, superseded and replaced.”
 - Canada retains significant decision-making and discretion
 - Canada will implement its national approach on April 1, 2027 if regional agreements not reached



Canada's Regional Negotiations: What's on the negotiation Table?



Funding allocations within
the regions



Implementation, planning
and reporting



Regional
governance
bodies:

Provide advice to
ISC

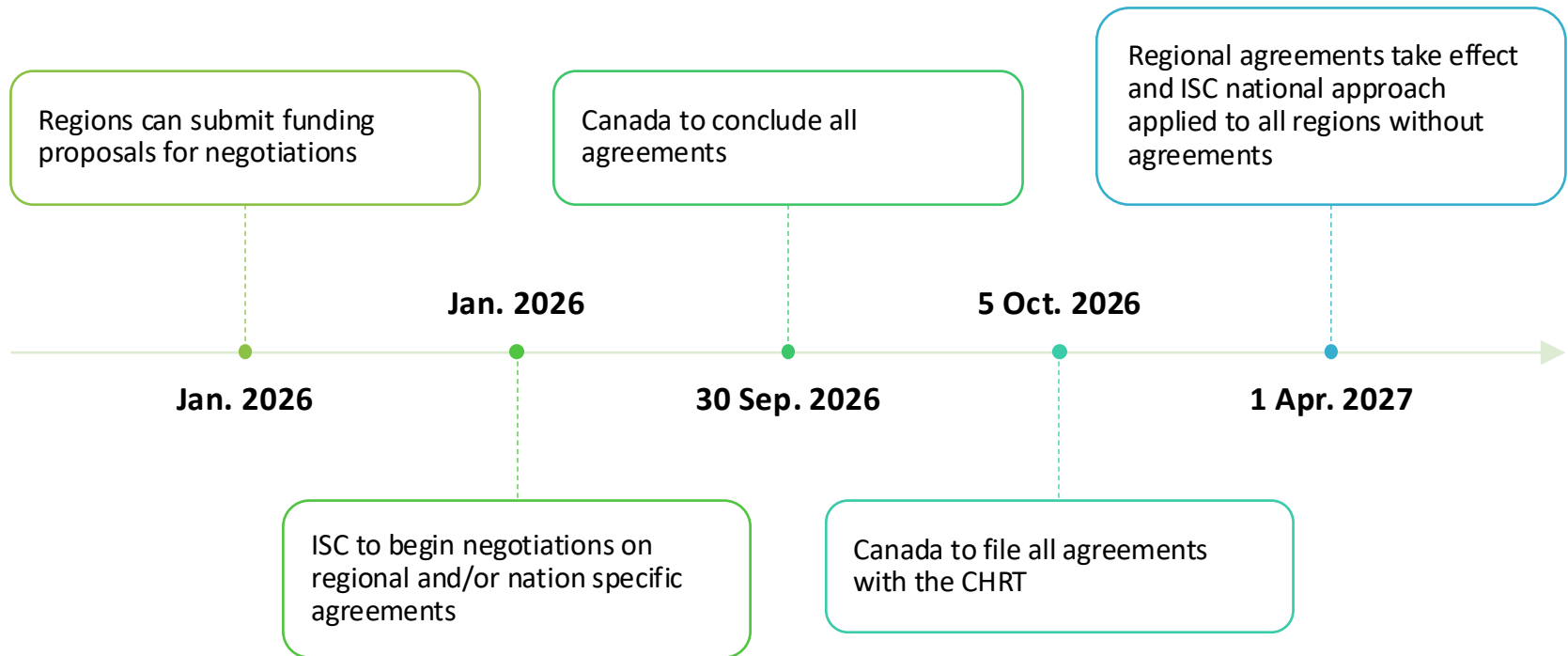
Make
recommendations

Inform program
assessments



Note: Canada retains
significant discretion on the
above

Canada's Regional Plan timeline



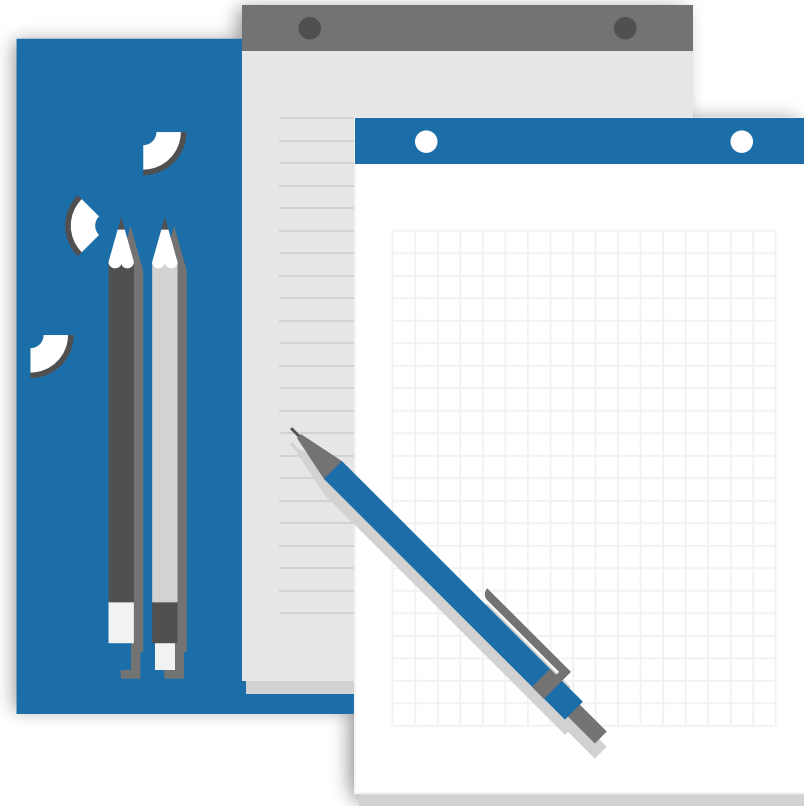
Comparing Regional Approaches

Canada's National Plan:

- Regionalization is present, but always within a Canada-defined "National Framework."
- Canada retains final say on funding formulas, timelines, and minimum standards.
- Regional First Nations governance exists, but is advisory and subject to federal approval.


Loving Justice Plan:

- Binding minimum national standards designed by First Nations to uphold child and First Nations rights
- Regional First Nations have the right to develop, propose, and implement their own regional variations.
- Regional governance is First Nations-led, with Chiefs, Elders, youth, and technical experts participating in decision-making.



Regional Approaches: Analysis

The Loving Justice National Plan offers the strongest regional approach to First Nations control, accountability, rights, and permanent discrimination remedies.



Canada's Plan provides regional input and flexibility, but ISC/Canada retains significant control and discretion.



Only the Loving Justice Plan makes regional governance, funding, and accountability truly First Nations-led and binding, with explicit mechanisms to permanently end discrimination and uphold both First Nations and child rights.

Enforcement of Regional Agreements

	Loving Justice	Canada's Plan
Legal foundation	Human-rights remedy	Federal program reform
Tribunal jurisdiction	Continues until discrimination ends	Orders are satisfied, superseded and replaced. Tribunal jurisdiction ends
Who enforces	Tribunal + First Nations-led governance	Canada (ISC)
Binding authority	Yes (orders, supervision)	No (advisory governance)
Default if Canada fails	Tribunal review; regional plans proceed if Canada does not negotiate in good faith and observe minimum standards	Canada applies its framework
Durability	Designed to be permanent	Time-limited and review-base

Enforcement of Loving Justice



National minimum standards with CHRT oversight and First Nations governance and access to justice measures



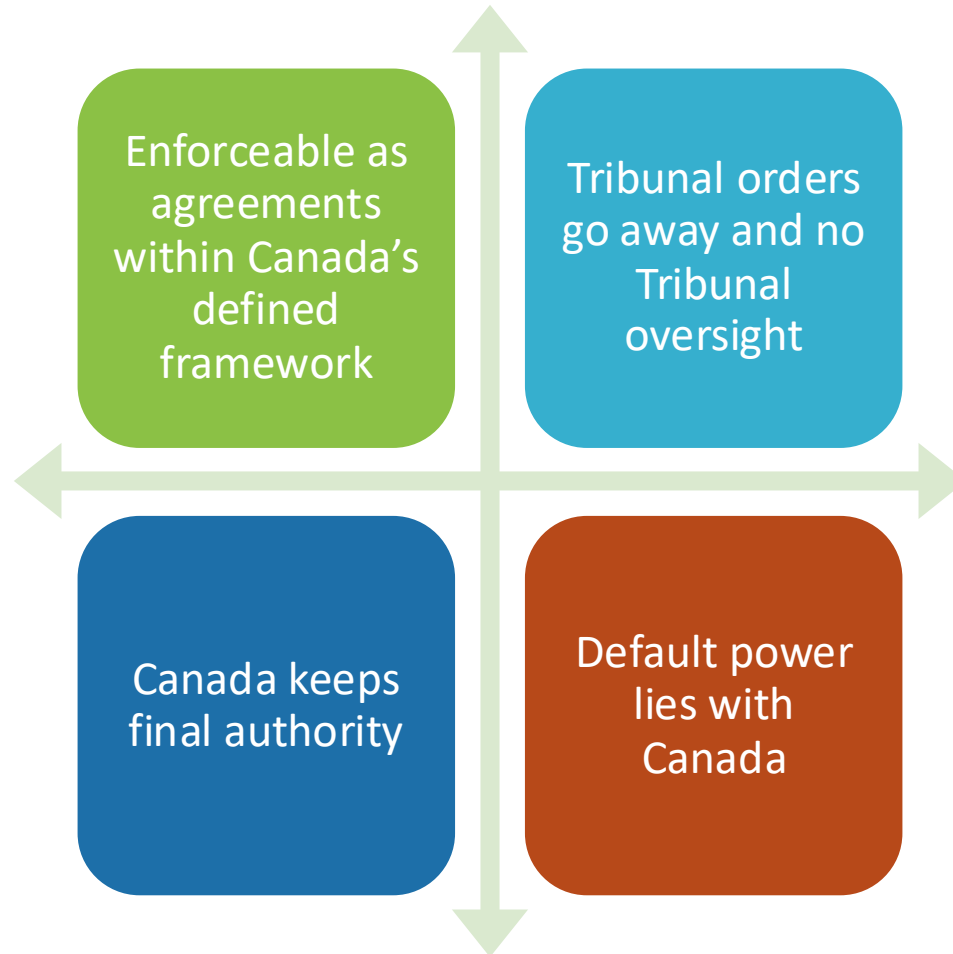
Prevents backsliding and unilateral change



Provides a real remedy if Canada does not comply

Access to Justice litigation fund
Protection from retaliation

Enforcement of Regional Agreements in Canada's plan



Summing Up



CANADA'S PLAN REGIONALIZES THE IMPLEMENTATION OF A CANADA-DEFINED FRAMEWORK AND SEEKS TO REPLACE TRIBUNAL ORDERS AND CONCLUDE TRIBUNAL OVERSIGHT.



LOVING JUSTICE ESTABLISHES FIRST NATIONS-DEFINED MINIMUM STANDARDS WITH ENFORCEABLE GOVERNANCE AND CONTINUED HUMAN-RIGHTS SUPERVISION TO PREVENT DISCRIMINATION FROM RECURRING.

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