

Loving Justice Plan & Canada's Plan

2025 CHRT 80

Governance, Accountability & Enforcement

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Dr. Amber Johnson
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Hosted by the Our Children Our Way Society



STANDING TOGETHER FOR A BETTER FUTURE



UNIS POUR UN AVENIR MEILLEUR



First Nations Child & Family
Caring Society of Canada

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

Speakers

- **Iskwew kapaw apih Musqua**, Federation of Sovereign Indigenous Nations
- **Judy Red Hummingbird Wilson**, OCOW Elder Advisor
- **Kukpi7 Helen Henderson**, Tsq'ésceŋ' First Nation
- **Dr. Cindy Blackstock**, Caring Society
- **Dr. Amber Johnson**, Expert Advisory Committee
- **Stephanie Wellman**, Caring Society

Outline

- Welcome and Opening
- Overview of Governance, Accountability & Enforcement
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- Departmental Reform
- Q&A

Upcoming webinars

- Addressing Regional Realities: February 27
- Funding Models Compared: March 13
- Accountability in Service Level Agreements: March 27

Governance, Accountability & Enforcement

- Detect any ongoing/reoccurring discrimination
- End unilateral decision-making to address discrimination
- Ensure compliance

communities. The Tribunal found that Canada racially discriminated against First Nations children on reserve and in the Yukon in a systemic way not only by underfunding the First Nations Child and Family Services Program (FNCFS) but also in the manner that it designed, managed and controlled it. One of the worst harms found by the Tribunal was that

Governance

Loving Justice – National Oversight Council

- Mandated by Rights Holders
- Oversee all aspects of the design, management & control of FNCFS
- Canada required to implement recommendations

Canada Plan – Regional Governance Bodies

- Advisory role
- Canada retains decision-making authority

Accountability

Loving Justice – multiple layers of accountability

- Regional & National secretariats
- Regional & National technical tables
- Child & Youth Rights Impact Assessments
- Public Funding Reviews
- Reporting requirements for Canada
- Strong Expert Advisory Committee

Canada Plan – deflection of responsibility


Enforcement

Loving Justice – retain CHRT for 5+ years

- Alternative Dispute Resolution
- Litigation Fund

Canada Plan – Replace orders, end CHRT

- National Dispute Resolution Tribunal



All First Nations children,
youth and families have the
right, individually and
collectively, to be free of all
forms of discrimination and
have access to effective
remedies.

(Loving Justice Plan, p. 13)

This Plan begins with children because the work of ending Canada's discrimination in First Nations Child and Family Services must be guided by the sacred place children hold in First Nations law, knowledge systems, languages, cultures—and in our hearts.

~ Honouring Statement from the National Children's Chiefs Commission

AT THE HEART OF LOVING JUSTICE



Let us begin where Loving Justice begins, at its very center, with children.

The Plan makes clear that this reform concerns children, and that children and families are entitled to remedies that are real and lasting.

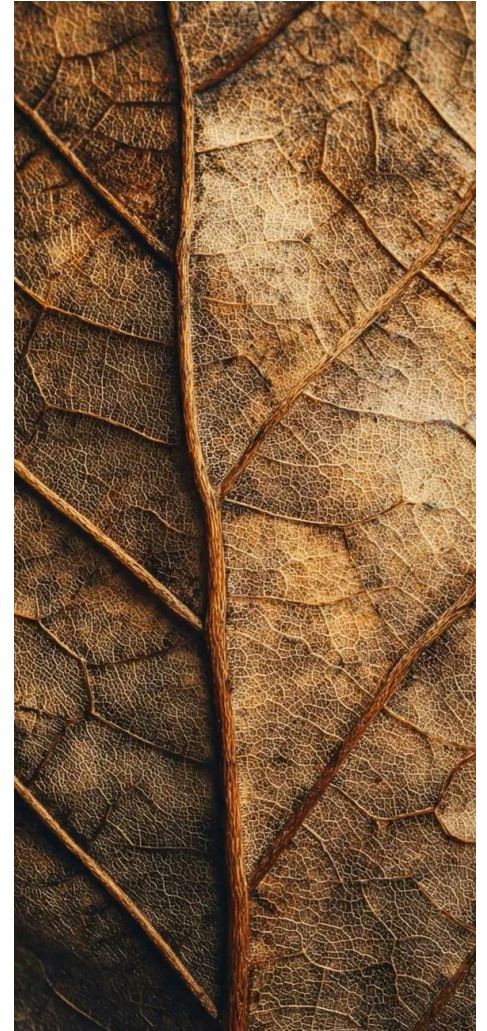
The EAC recommendations were developed alongside that commitment and in full alignment with it.

They are part of the same collective effort to ensure that the Plan's commitments and framework, especially around governance, accountability, and enforcement, are implemented in ways that remain durable, transparent, and strong over time.

OUR SHARED GOAL

The goal of the EAC is to ensure that the long-term reform framework eliminates discriminatory structures, prevents recurrence, and establishes a sustainable system grounded in substantive equality, First Nations authority, and child rights–based decision-making.

(Expert Advisory Committee Recommendations on Long-Term Reform and Accountability, December 15, 2025)





WHAT THIS MEANS IN PRACTICE

- Reform must address structural causes, not only symptoms.
- Systems must be designed to prevent discrimination from re-emerging.
- Governance must reflect First Nations authority in decision-making.
- Funding and accountability must be durable and predictable.
- Children's rights must guide every operational choice.

WHY IT MATTERS

Short-term adjustments cannot meet the standard set by a permanent injunction.

Durability must be intentionally built into governance structures, funding arrangements, and accountability mechanisms.

A rights-affirming system cannot rely on administrative discretion or temporary policy measures; it must be anchored in predictable authority, transparent decision-making, and stable funding commitments.

Substantive equality must be operationalized in how decisions are made, how resources are allocated, and how disputes are resolved — not simply articulated in principle.

Reform succeeds only when discriminatory structures are dismantled at their source and replaced with systems capable of preventing recurrence over time.



PERMANENT INJUNCTION & INTERGENERATIONAL EQUITY



The Loving Justice Plan grounds reform in the Tribunal's permanent injunction.

That foundation is central.

A permanent injunction calls for systems that function consistently and reliably over time.

The EAC recommendations sit within that same framework, supporting governance and accountability mechanisms that reflect the Plan's intergenerational commitments.

Together, this work strengthens implementation so that permanence is not only stated but embedded in how the system operates.

SHARED FOUNDATIONS

The Loving Justice Plan and the EAC recommendations are grounded in the same foundational commitments.

- Substantive equality.
- Cultural continuity.
- The best interests of the child rooted in Indigenous culture, identity and authority.

They reflect a shared understanding of what reform must protect and uphold. The EAC recommendations sit within that same framework, helping to shape the governance and accountability structures that allow those principles to remain steady over time.

Together, they reinforce a single direction: a system grounded in rights, culture, and the well-being of First Nations children.



GOVERNANCE AS SHARED AUTHORITY



The Loving Justice Plan establishes governance mechanisms to guide and oversee reform.

The EAC recommendations align with that direction, emphasizing shared decision-making in areas such as capital prioritization and funding revisions.

This reflects a shared commitment to partnership and substantive equality in how reform is carried forward. Binding shared authority brings clarity, predictability, and stability to implementation.

In this way, the recommendations support the governance approach set out in Loving Justice.

GOVERNANCE & THE EAC



Issue	Loving Justice Plan	Canada's National Plan
Governance Orientation	Linked to proving discrimination has stopped and will not recur	Structured through national framework implemented via regional agreements
Oversight Logic	Governance tied to permanence and Tribunal jurisdiction	Governance tied to implementation architecture
Treatment of EAC	Positioned within accountability ecosystem informing "stopped" and "non-recurrence"	Discussed under ISC reform; mandate and structure described as subject to adjustment

TRANSPARENCY IS NOT OPTIONAL

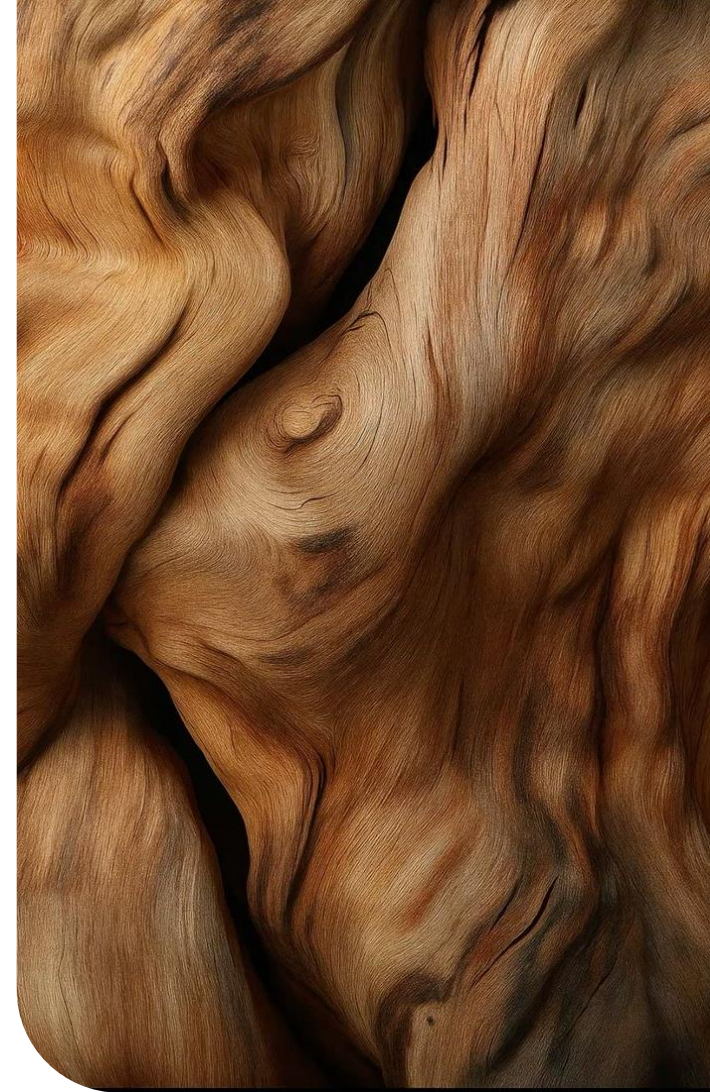
Transparency strengthens trust and accountability.

The EAC recommendations emphasize the importance of clear disclosure of funding methodologies and written reasons for decisions.

The Loving Justice Plan includes reporting mechanisms and accountability measures that reflect these same principles.

Together, they reinforce the importance of clarity, consistency, and open decision-making in the implementation of reform.

This alignment helps operationalize accountability in practical and concrete ways.





DISPUTE RESOLUTION & ENFORCEMENT

The Loving Justice Plan includes dispute resolution mechanisms grounded in accountability.

The EAC recommendations emphasize that such mechanisms should reflect substantive equality and human rights standards, including UNDRIP.

These shared commitments ensure that dispute processes remain rights-based and capable of addressing systemic issues.

Together, they strengthen the enforcement dimension of the reform framework.

ENFORCEMENT, ACCOUNTABILITY & EAC PLACEMENT



Issue	Loving Justice Plan	Canada's National Plan
Enforcement Model	Linked to proving discrimination has stopped and will not recur	National Dispute Resolution Tribunal identified as reform element
Accountability Standard	Rights-based; substantive equality; systemic discrimination prevention	Audits, reporting, funding reviews; agreement compliance
EAC Positioning	Embedded within oversight logic tied to permanence	Positioned within ISC reform; not directly embedded in enforcement tribunal

INDIGENOUS DATA SOVEREIGNTY

The Loving Justice Plan addresses outcomes, reporting, and measurement.

The EAC recommendations similarly affirm that accountability and data governance should align with OCAP[®] principles and Indigenous data sovereignty.

These aligned commitments reinforce Indigenous authority and cultural continuity within the reform structure.

Together, they support accountability systems grounded in community-defined measures of success.





DURABILITY & INTERPRETIVE INTEGRITY

The Loving Justice Plan includes an interpretive safeguard requiring alignment with substantive equality.

The EAC recommendations emphasize structural stability and shared authority in governance arrangements.

These aligned commitments help ensure that interpretive safeguards remain meaningful and durable over time.

INSTITUTIONAL REFORM & DURABILITY



Issue	Loving Justice Plan	Canada's National Plan
Institutional Reform	Structural accountability linked to preventing recurrence	Departmental reform framed within ISC restructuring
Funding Durability	Stability framed as preventing recurrence	Funding framed within negotiated regional agreements
Role of EAC in Reform	Contributes to systemic accountability architecture	Referenced in context of stalled progress and potential restructuring

CONCLUSION



The Loving Justice Plan sets out the reform framework grounded in a permanent injunction and intergenerational commitments.

Established by order of the Canadian Human Rights Tribunal, the Expert Advisory Committee operates within its mandate to provide expert advice grounded in substantive equality and the prevention of recurrence. While the Committee's structural independence remains a matter under discussion in the broader reform process, its advisory role is clear.

CONCLUSION



We stand ready to contribute that expertise in support of an Agreement grounded in accountability, shared governance, and child rights protections — offering analysis and recommendations to help translate the reforms envisioned in Loving Justice into durable, rights-based systems..

Our shared objective is to build a structure rooted in First Nations authority, capable of protecting children and families not only today, but for generations to come.

More Information

Next Webinar: February 27

Previous Webinars:



Webinar Recordings
(OCOW YouTube)