

Canada's Human Rights Tribunal condemns government's treatment of indigenous children

By Janet Browning and Roger Jordan
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The Canadian Human Rights Tribunal (HRT) has sharply rebuked the Liberal government of Justin Trudeau for its refusal to negotiate the payment of compensation to poor indigenous children and their families. The HRT's public criticism comes after the Liberals filed a legal challenge to the Tribunal's ruling that the government must pay \$40,000 in compensation to every child in the on-reserve welfare system since January 1, 2006, due to the systematic and massive underfunding of on-reserve child welfare services by successive federal governments.

The original Tribunal order, released in September, said the federal government "willfully and recklessly" discriminated against indigenous children living on reserve by failing to provide funding for child and family services equivalent to the funding provided by provincial governments to children in other areas.

Provincial governments in Canada are generally responsible for funding child welfare services. However, the federal government is responsible for funding on-reserve child welfare services. The government's failure to live up to its obligations resulted in a "worst-case scenario" under the Canadian Human Rights Act, the HRT concluded.

The Tribunal also ruled that the government knew about the damage the underfunding of the on-reserve child welfare system was having on First Nations children as far back as 2000, but willfully did nothing. The ruling declared, "Canada's conduct was devoid of caution with little to no regard to the consequences... Canada was aware of the discrimination and of some of its serious consequences... Canada focused on financial considerations rather than on the best interests of First Nations Children."

The Trudeau Liberal government responded to the ruling by refusing to enter negotiations to arrange the practicalities of the compensation payouts with the First Nations Child and Family Caring Society and the Assembly of First Nations (AFN), the two organizations that filed the initial human rights complaint in 2007. Instead, the government filed a legal challenge to the ruling in Federal Court on October 4, disputing the Tribunal's authority to order compensation payments in the case.

Although the HRT ordered all parties to present proposals for making compensation payments by December 10, the Liberals have refused to hold a single meeting on the matter with the Caring Society and the AFN.

In a letter published Tuesday announcing an extension of the deadline until January 29, 2020, the HRT said it appeared that the government intends to do nothing to fulfill its order, pending the outcome of Ottawa's Federal Court challenge.

"With the December 10, 2019 date approaching," wrote the HRT, "and the indication from parties that Canada has not entered into discussion with them... Canada has potentially opted for non-compliance with the Tribunal's order until the Federal Court has ruled on the motion... The panel viewed the process as collaborative between the parties and understands that this is not the case at the moment."

The political wrangling over the compensation payouts, which could amount to some \$8 billion if all 50,000 First Nations children are fully compensated, underscores the political elite's callous contempt for Canada's impoverished indigenous population. Despite the case's exposure of horrific social conditions both

on- and off-reserve, the Liberals are not concerned with doing anything substantive to change them.

Social conditions for indigenous people on-reserve in Canada resemble those in the world's most underdeveloped countries. Many First Nations people do not have access to clean drinking water, decent housing, and basic public services like education, healthcare, and social welfare.

Overall, 47 percent of First Nations children live in poverty, more than two-and-a-half times the national rate. That figure rises to 53 percent for First Nations children living on reserves. Those responsible for tabulating Canada's official poverty statistics do not even examine the situation on reserves except during census counts. Moreover, the Liberal government's newly adopted national poverty line, which is used to track the effectiveness of the government's poverty-reduction plan, isn't calculated on reserves.

High rates of poverty on reserves drive young indigenous people to cities, where they are vastly overrepresented among the homeless population.

In statistics reported by the federal Indigenous Services Department in 2018, it was revealed that the life expectancy of First Nations people is 15 years shorter than the population as a whole. Infant mortality is between two and three times higher, while the rate of young indigenous people graduating high school on-reserve is only half that of the general population. When they reach adulthood, indigenous people are more than twice as likely than other Canadians to die from avoidable causes, including injuries, alcohol and drug abuse, and treatable diseases like tuberculosis.

According to figures from Statistics Canada based on the 2016 census, four out of every five reserves have median incomes below the official poverty level. A total of 27 reserves reported having median incomes of less than \$10,000.

Far from expanding social and economic support for indigenous Canadians, the federal Liberals are focused on cultivating ties with a tiny privileged indigenous elite, so as to facilitate the expansion of energy projects on First Nations' land and open the reserves to capitalist private enterprise. At the same time, they are imposing social spending cuts. In a report in October, the Parliamentary Budget Office said that federal funding for off-reserve indigenous households would be slashed over the next 10 years to only half of what

was provided over the previous decade.

In its ruling, the Tribunal stated that in addition to children, parents and grandparents should be compensated if they had to leave their homes to access welfare services, or those who were denied services under the policy known as "Jordan's Principle." Under "Jordan's Principle," the needs of a First Nations child requiring a government service are meant to take precedence over jurisdictional issues over who should pay for it.

"These parents and grand-parents experienced pain and suffering of the worst kind," noted the Tribunal.

In 2003, the Caring Society carefully documented the overrepresentation of First Nations Children in Canada's child welfare system and how this neglect led to the death of many such children.

Both NDP Leader Jagmeet Singh and Green Party Leader Elizabeth May responded to the HRT ruling by saying that if they led the government it would offer compensation at the level ordered by the Tribunal. Nobody should take such bogus promises seriously. Both politicians spent the recently-concluded federal election campaign pledging to prop up a minority Liberal government and portraying the Liberals as a "progressive" alternative to the Conservatives. There could be no more damning refutation of this monumental fraud than the treatment of Canada's indigenous population by this and previous Liberal governments.

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