

Spirit Bear and Children Make Child Rights Happen

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On October 21, 2019, the Honourable Justin Trudeau became Prime Minister of Canada after promising to compensate First Nations children for what the Canadian Human Rights Tribunal called “wilful and reckless” discrimination in a “worst-case” scenario, contributing to the deaths of some children and unnecessary family separations of many others.

These election promises run counter to legal documents filed by the federal government appealing the Tribunal’s decision and seeking to quash any financial compensation orders. Moreover, they miss the most important finding by the Canadian Human Rights Tribunal: that Canada continues to provide inequitable and discriminatory public services to First Nations children and families.

The case resulting in the Tribunal’s decision was filed by the First Nations Child and Family Caring Society (Caring Society) and the Assembly of First Nations nearly 13 years ago. The discrimination was substantiated in 2016, yet 10 legal orders have followed to try to press Canada into ending the discrimination. This shows how deeply embedded structural discrimination is in the federal government despite its ratification of the *United Nations Convention on the Rights of the Child* (Convention) in 1991.

Non-discrimination is one of the four pillars of the Convention, along with best interests of the child, survival and development, and child participation. Child rights organizations monitoring Canada’s implementation of the Convention often operate on shoestring budgets, forcing them to make difficult choices such as choosing to focus on all children or the most disadvantaged children. The children who rallied around First Nations children during the Tribunal hearings have showed me that there is another choice – engaging all children in addressing the most flagrant child rights violations.

Traditionally, the engagement of all children in child rights has been limited to learning about the Convention in school or community clubs. Education is vital, but insufficient. Developmentally, most children understand the concept of fairness at age two. This presents an opportunity to develop child rights activism from the earliest ages and to set in place the building blocks of critical thinking that will begin to take hold in earnest in the pre-teen years.

When the human rights case versus Canada was filed to end inequitable First Nations child welfare and other services, the Caring society launched a campaign called “I am a witness,” whereby all court documents were loaded onto a website and the public was encouraged to follow the case and make up their own minds regarding the alleged discrimination. The public, if you like, was a jury in this systemic child rights case. A key demographic of the public was children, who were invited to attend the hearings in person or to watch online.

For the first few years, very few people attended the hearings, but that changed in 2009 when high school students started to attend. They saw the unfairness and came back to the next set of hearings with their friends wearing “I am a witness” t-shirts that they had designed. By 2012, there were so many children attending the hearings that they had to take shifts watching. Unlike adults in Canada (including many in the child rights community), these children had not normalized Canada’s use of racial discrimination as a fiscal policy and did not believe there was any excuse for giving First Nations children an inferior public service offering because of their race.

The children began writing letters to elected officials to express their views and even developed educational videos for other children so they could learn about the case and how they could get involved to help fix the unfairness.

By the time Canada appeared before the Committee on the Rights of the Child for its periodic review in 2012, children had become key actors in the monitoring process. They wrote letters to the Committee, which were carried to Geneva by six First Nations youth who shared their views of Canada’s implementation of the Convention with respect to First Nations children and young people. Many of the issues raised by the children and the First Nations youth found their way into the Committee’s concluding observations for Canada.

The children also adopted a mascot, Spirit Bear. He was gifted to me in 2007 by Carrier-Sekani Family Services and has been present at every hearing to represent First Nations children and all of the other children who stood with them for justice. Over the years, the children would take him, dress him and talk to him, and he became a character in his own right.

When the Tribunal substantiated the complaint, I decided that Spirit Bear should tell the story of how children of all diversities came together to stand up for the rights of First Nations children. This gave rise to “Spirit Bear and Children Make History” and the sequel “Spirit Bear: Fishing for Knowledge, Catching Dreams.” The books are accompanied by learning guides and will soon be available in stop-motion animation.

Spirit Bear has captured the hearts of many adults, too. He has received honorary degrees from Osgoode Law School, the University of Victoria and McMaster University and was admitted as the first and, to date, only, mem-“bear” of the Indigenous Bar Association.

His popularity has sparked the Reconciliation *Ambearrister* program, where child and youth groups can host one of Spirit Bear’s relatives in their community and work through a year of free activities to implement the Truth and Reconciliation Commission’s Calls to Action. *Ambearrister* hosts are also expected to read to the bear in the local First Nations language, work with Elders to hold a naming ceremony for the bear and keep Spirit Bear updated on all the reconciliation and child rights work the bear and its new friends are doing. There are now *Ambearristers* across Canada and as far away as Australia, where one of our bears recently learned how to throw a boomerang!

Over the years, the children have had a significant and positive impact. First, their presence in the courtroom and efforts to write letters and host *Ambearristers* let First Nations children know that they are not alone anymore in this struggle. Second, the government had to hire additional staff just to manage the volume of letters from kids and senior elected officials would regularly have to field questions from them about what they were doing to fix the inequities First Nations children experienced. Third, all children learned peaceful and effective child rights advocacy skills that many of them deployed to address other child rights violations.

Through their work with Spirit Bear, the children moved from a tradition of charity in their schools to learning how to express their views to the powerful people who could make things better for all children.

By monitoring and implementing child rights *with* children, instead of *for* children, we raise a generation equipped with both the knowledge and skills to ensure Canada fulfills its child rights obligations domestically and abroad.

To learn more about the human rights case and Spirit Bear visit: www.fncaringsociety.com