

First Nations Leadership Decision-Making Guide

COMPARING LOVING JUSTICE AND CANADA'S PLAN

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This guide is designed to help First Nations leadership assess which approach best:

- Ends discrimination,
- Protects children across generations,
- Ensures real enforcement, and
- Respects First Nations decision-making and rights.

For each element, the guide highlights **what leadership should look for**, **what Loving Justice provides**, and **what risks remain under Canada's Plan**.

1) Ending Canada's Discrimination

a) Leadership Question

Does this approach actually end discrimination—or does it risk allowing it to continue in new forms?

b) Loving Justice – What Leadership Should Note

- Grounded directly in **Canadian Human Rights Tribunal findings**, not discretionary policy.
- Targets the **structural causes** of discrimination (funding incentives, system design).
- Uses **rights-based standards as the minimum**, not optional goals.
- Focuses on **preventing harm before children are affected**, rather than fixing damage afterward.

c) Leadership implication

This approach reduces the risk of future discrimination and limits Canada's ability to redefine compliance unilaterally.

d) Canada's Plan – Key Risks for Leadership

- Relies on **policy adjustments**, not structural change.
- Allows Canada to **define compliance internally**, increasing the risk of relabelled discrimination.
- Weak connection to **independent human rights enforcement**.
- Focuses on administrative reform rather than removing discriminatory incentives.

e) Leadership caution

Discrimination may persist under new frameworks without effective external control.

2) Safeguarding Children for Multiple Generations

a) Leadership Question

Will this approach protect children not just today, but for generations to come?

b) Loving Justice – What Leadership Should Note

- Designed to protect **current and future generations** of First Nations children.
- Invests in **upstream supports** that strengthen families before crises occur.
- Includes **long-term accountability mechanisms** that outlast political cycles.
- Treats children’s wellbeing as a **continuing obligation**, not a temporary program.

c) Leadership implication

This model creates durable protections that cannot be easily undone by future governments.

d) Canada’s Plan – Key Risks for Leadership

- **Time-limited and government-defined**, vulnerable to shifting priorities.
- Emphasizes **system management** rather than long-term child outcomes.
- Lacks safeguards if funding or political will changes.
- Does not guarantee protection against renewed discrimination over time.

e) Leadership caution

Children’s protections may weaken as governments, budgets, or policies change.

3) Enforcement

a) Leadership Question

If things go wrong, who has the power to fix them—and how fast?

b) Loving Justice – What Leadership Should Note

- Anchored in **enforceable legal standards and human rights obligations**.
- Includes **independent oversight** with consequences if discrimination reemerges.
- Enforcement **does not depend on Canada’s goodwill or discretion**.
- Prioritizes **real-world outcomes for children**, not just reporting.

c) Leadership implication

There are clear tools to compel correction when children are at risk.

d) **Canada's Plan – Key Risks for Leadership**

- Relies primarily on **self-monitoring by government**.
- Enforcement mechanisms are **weak or indirect**.
- No independent authority with clear power to compel change.
- Risk that problems are identified but **not fixed in time to protect children**.

e) **Leadership caution**

Without independent enforcement, accountability may fail when it matters most.

4) **First Nations Decision-Making and Rights**

a) **Leadership Question**

Are First Nations truly leading—or mainly implementing someone else's plan?

b) **Loving Justice – What Leadership Should Note**

- **First Nations lead** the design, implementation, and evaluation.
- Respects **inherent and human rights**, including self-determination.
- Decision-making authority is **substantive and binding**, not advisory.
- Positions First Nations as **rights-holders**, not program recipients.

c) **Leadership implication**

This approach strengthens governance, authority, and longterm self-determination.

d) **Canada's Plan – Key Risks for Leadership**

- First Nations primarily implement a **federally designed framework**.
- Core decision-making authority remains with Canada.
- Participation is often **consultative or conditional**.
- Does not fully recognize First Nations as equal decision-makers.

e) **Leadership caution**

Authority remains centralized with Canada, limiting true self-determination.

5) **Funding Stability, Control, and Human Rights Alignment**

a) **Leadership Question**

Does the funding structure permanently end discriminatory incentives and protect services regardless of political change?

b) Loving Justice – What Leadership Should Note

- Funding flows from **human rights obligations**, not discretionary programs.
- Funding safety valves are built into the system to adapt to higher needs.
- Designed to eliminate **structural underfunding incentives** identified by the Tribunal.
- Funding is **ongoing and enforceable**, aligned with longterm child wellbeing.
- Reduces Canada’s ability to delay, withhold, or redefine commitments.

c) Leadership implication

Funding supports rights and outcomes, not federal leverage or short-term compliance.

d) Canada’s Plan – Key Risks for Leadership

- Funding is **time-limited and policy-based**, not rights-anchored.
- Canada largely retains **control over release, conditions, and continuation**.
- Exposes First Nations to funding pauses, redesigns, or claw-backs if priorities shift.
- Risk that services expand and then collapse when agreements or political will change.

e) Leadership caution

Even well-designed systems fail if Canada controls the funding tap.

6) Summing Up

a) Loving Justice

- Ends discrimination at its roots,
- Protects children across generations,
- Provides real enforcement, and
- Places First Nations leadership at the centre of decision-making.

b) Canada’s Plan

- Manages the system Canada controls,
- Limits First Nations Leadership to implementing Canada’s Plan
- Offers limited enforcement,
- Leaves key decisions with Canada, and
- Risks allowing discrimination to continue over time