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• (1105)

[English]

The Chair (Mr. John Aldag (Cloverdale—Langley City, Lib.)): Good morning, colleagues.

Good morning, guests.

I call this meeting to order. Welcome to meeting number 99 of the House of Commons Standing Committee on Indigenous and Northern Affairs.

We recognize that we meet on the unceded territory of the Algonquin and Anishinabe peoples.

Pursuant to Standing Order 108(2), the committee is meeting today for its study of the opinion of the Supreme Court of Canada on February 9, 2024, regarding An Act respecting First Nations, Inuit and Métis children, youth and families.

I would now like to welcome our witnesses.

From the Department of Indigenous Services, we have Katrina Peddle, director general, Act Respecting First Nations, Inuit and Métis children, youth and families branch, and Katrina is joined by Isabelle Quintal, acting director general, strategic policy and planning directorate. From the Department of Justice, we have Valerie Phillips, director and general counsel, aboriginal law centre, and Paula Quig, senior counsel, aboriginal law centre.

Welcome.

Colleagues, our normal rules for the committee allow for a five-minute opening statement, but the departmental officials have asked for 10 minutes, since this is a one-off study, to set the stage. I'm going to ask for unanimous consent to allow a 10-minute opening statement, and then we'll get right into the rounds of questions.

I'm seeing agreement with that.

We have 90 minutes with our officials on this one-day study that we're doing. Then we will move into committee business. We'll go into that when we get to that point in the agenda.

I'll use a handy card system. When you have 30 seconds left, I'll show a yellow card, and when your time is up, I will show the red card. Don't stop mid-sentence, but do wind up your thoughts. We'll keep things moving along that way. I'll set my timer for 10 minutes. Whenever you're ready, the floor is yours.

Welcome. Thank you.

Ms. Katrina Peddle (Director General, Act Respecting First Nations, Inuit and Métis Children, Youth and Families Branch, Department of Indigenous Services): Thank you very much, Chair.

Kwe, bonjour and good morning. Thank you for the invitation to present and to discuss An Act respecting First Nations, Inuit and Métis children, youth and families. My name is Katrina Peddle. I'm the director general for the act, as the chair has mentioned. I'm a member of the Qalipu First Nation. I'm happy to be with you this morning. I'd like to thank my colleagues for attending with me, and I appreciate your time to discuss this important piece of legislation.

In terms of my purview, I am really just the DG for the act. I'm happy to answer questions about it, but beyond that, I may have to take it back for further comments. I do appreciate any questions you may have. My Department of Justice colleagues are here to answer technical questions that you might have about the recent opinion of the Supreme Court regarding the act.

As you know, the act was really a response that was enacted with the support of all parties to respond to what was really a national crisis about the overrepresentation of indigenous children in child welfare systems across the country. This is not a new problem. This problem has existed over many generations, from residential schools and the sixties scoop to the overrepresentation now, which actually represents a huge number of children from communities from coast to coast to coast.

The real goal of the act is to address this legacy, to do things here and now to address that overrepresentation, and, importantly, to put jurisdiction back to where it has always belonged, which is in the hands of communities to direct these child and family services themselves.

I will answer in layperson's terms questions about the Supreme Court and I'll hand it over to my colleagues for technical views on things. Certainly, from where we sit at Indigenous Services, we were very happy to see that we were able to continue to do the work we've been doing over the past several years to implement the act, as it was found to be constitutionally valid in its entirety. That, as you can imagine, was welcome news from where we sit. We were also really happy to see the endorsement of the work of Parliament to affirm the indigenous communities' inherent right of self-government relating to child and family services, and that enshrining this in law is indeed constitutional.

I think for this committee, the decision really does point to the important role of Parliament in deciding to do things quickly and deciding to put a timeline for reconciliation that may move faster than traditional tools like the courts. Really, what we hope to do, and to continue to do, is address the harms of the child welfare system that are happening here today, and to work to improve the amount of reconciliation that we can do in the span of time that we have in front of us. This really is about making things move as quickly as we possibly can.

Practically speaking, from where we sit, what that means is that we continue to do the work in partnership with indigenous communities, which have already asserted jurisdiction. We're seeing some of the great success stories they're having in terms of the work they're doing on a community level. We've seen that with Peguis. We've also seen that with Splatsin and other communities across the country. It does mean that the urgent work under way doesn't have to slow down. We can work, through the model we have, to continue to get this work done as quickly as we can.

In terms of that, you'll see an attachment in your materials. I just want to talk about, in terms of *pratico-pratiques*, what it means for us when we say that communities are reasserting jurisdiction. For us, there are four key components. There is the vision, the signal, the coordination and the implementation. You can imagine that communities have been thinking about reasserting jurisdiction not just for the past several years when the act has been in force. This conversation has been happening around the country for decades. When this legislation was co-developed, many communities came ready to put their laws into place and ready to move quickly.

What we have done as part of implementing the act is provide capacity-building funding. You'll see that in the second piece of the graphic that I've shared with you. About 220 indigenous governing bodies—basically, groups that have been delegated by their communities to do this work on their behalf—have started to do that work: What will our law say? What do we want to do? What lessons have we learned, interacting with the status quo, that we want to change? What are the things that we know we want to do? At what pace do we want to do it? That work can take a year, or it can take three years. It really depends on the pace at which communities wish to proceed. It also has to happen in the context of many other things that communities are dealing with on any given day of the week.

• (1110)

Once that capacity-building work has been done, there will be a signal, which happens usually through section 20 of the act, and this signal is either “We're going” or “Can we please sit down together?” Typically, the signal is “Can we please sit down together?” About 75 indigenous governing bodies have given us that signal since the act was put into force several years ago. What that means is, “Okay, we are thinking about doing this. Let's get ready to go.”

Then, where we sit, this is where some of the most important work happens, as we have three parties—typically, the provinces, the federal government and the indigenous governing body—working together to try to map it all out. It's a hugely complex sphere. Children are in different places. Sometimes children are living in

communities. Sometimes there's no connection to community. They're trying to work all that out.

What that period of time does.... It can be an extensive period of time. We aim for 12 months, but we recognize now, with a bit of experience, that it can take longer. We are really just trying to put the pieces together, with the leadership of communities, to make sure we can get the best coordinated services and enter into a long-term funding arrangement so that the jurisdiction is assumed with the support communities need.

Once that coordination piece is complete—and it is a significant piece of work; I won't underestimate that for you—we move into the implementation phase, where communities have reassumed jurisdiction over their child and family services, and then we continue to work with them as need be. However, typically, as you would see in any other type of self-government, the community is doing that work of jurisdiction, making sure children are where they belong, which is close to home, so that families get to see the difference in the short, medium and long term in terms of the outcomes for the children but also the outcomes for the families themselves.

I would also just say that a lot of this work reflects some of the commitments that ISC and others have made to the implementation of UNDRIP, and the Supreme Court was clear that this type of work is legislative reconciliation. It does create an important emphasis on the role of parliamentarians to do this work.

I will conclude by saying that we'll continue to collaborate across different levels of government to support the work of the act. We're certainly delighted to have the opportunity to discuss it with you here today. We all care greatly about it, and we're happy to answer your questions. Certainly, the technical ones we'll refer to our justice colleagues.

Wela'liog.

The Chair: Thank you. You are ahead of the 10 minutes, so that's well done.

We're going to get into our first round of questions, which are six minutes for each of the parties.

First up I have Mr. Schmale, who has six minutes. Please start whenever you're ready.

Mr. Jamie Schmale (Haliburton—Kawartha Lakes—Brock, CPC): Thank you very much, Chair.

Thank you to our witnesses for being here today on a very important topic.

For those potentially watching or listening at home, can you quickly explain, in 30 seconds or less, how the model works? If a child is taken into custody by a provincial organization, however that goes from there, the cost, I believe, is given to the province for that child. Is that correct?

• (1115)

Ms. Katrina Peddle: That is a very good question. I will try my absolute best for 30 seconds.

It depends on which distinctions-based group you're speaking about, and it depends on whether there is a first nations agency that is working with the community or not.

Typically, funding that would come through the first nations child and family services program to fund communities will flow to a province if there are services being provided by a provincial agency. What would be different under the act is that if, for example, it's a community that has assumed jurisdiction, then it would be the community that would have that funding and decide the course of action.

The really big difference we see—and we see this elsewhere in provincial child welfare too—is a big focus on prevention. When we think of child welfare, we often think of apprehension, foster care and kids being away from home. What the act really tries to do is “front end” the other actions that can be taken to prevent that, to support families and communities and provide a different context so that apprehension doesn't need to happen and the child can stay with his or her family.

Mr. Jamie Schmale: I take it that everyone has seen the Global News article about indigenous kids in northern Ontario specifically. Given that the majority of the kids mentioned in the article were given to the provincial agency for care, are steps being put in place so that we don't have more stories with headlines that indigenous kids are being used as “cash cows”?

Ms. Katrina Peddle: I think, absolutely, you see that with the implementation of this jurisdiction. Children are being kept within communities. I think about the examples of Peguis and Wabaseemoong, where children are being kept closer to home.

Also, if a child needs to be apprehended, what is the circle of care around that child? That would start immediately with a parent or parents, or people in the role of a parent. Then you're thinking about aunts, uncles, cousins and caring folks in that child's life, and what other resources the community might have. Then you think about indigenous people outside of that circle. Then, only outside of all those concentric circles, would you think of a situation where a child would be in care, really, in that distance kind of way.

Really, the purpose of the act is to avoid exactly that.

Mr. Jamie Schmale: Many of the communities I'm speaking with are saying that they've had enough of the “Ottawa knows best” approach. It's kind of what you're saying, that the communities want control of the care of their kids. I think all of us in this room support that.

Having said that, according to this Global News article, there's a disparity in the costs. Apparently, according to this article, a for-profit group home in northern Ontario gets roughly 26% more funding for an indigenous child compared to a non-indigenous child. Has there been any accountability for that money, given that we are seeing case after case of neglect and wrongdoing in many cases? It doesn't seem like the extra money is being put into culturally appropriate care or anything like that. It just seems like the money is being paid and the children are off somewhere. According to the article, sometimes they're hundreds of kilometres away from their families or their communities.

If the indigenous communities are saying they're ready, and if this abuse is happening, how much time are we talking about until this gets corrected?

Ms. Katrina Peddle: That's a very good question. Thank you for it.

I think what we see is a problem that everyone recognizes across the board: The status quo is not working. There have been significant investments in the first nations child and family services program. That program's funding has increased by about 200% since 2006. However, taking control of those services, the jurisdictional piece under Bill C-92, does take a period of time. What we hope to see is that a community seeks to assert jurisdiction, moves through capacity building relatively quickly—it can happen in less than a year, depending on what communities wish to do and the timing of that—moves through coordination agreement discussions, and then assumes jurisdiction.

When jurisdiction has been assumed, those decisions about how the services will be run and with whom they contract are made by the community. So—

Mr. Jamie Schmale: I'm sorry to cut you off, but I am short on time.

Ms. Katrina Peddle: No, go ahead, please.

Mr. Jamie Schmale: This has been building for years. According to this Global News article, it's been going on for over a decade, and probably well before that, before some of these figures came to light. What has been done in the department? This can't be news to people in the department, that this is all of a sudden bad.

I'm not blaming anyone at the table. I'm just saying that this has been going on for decades. How is this still going on? This must have come across somebody's desk.

• (1120)

Ms. Katrina Peddle: That's a great question. Thank you.

I think there is general recognition. I think we see it in the department. The Supreme Court said it. The number of indigenous children in care in Canada is shocking. There is no doubt about that. I think what the act has tried to do over the past five years is address the fact that the system does not work as it is. There needs to be a huge, systemic change where communities take control of child and family services. The decisions relating to that are then under the control of communities.

The Chair: We're out of time. That's the six minutes.

We'll go now to Mr. Battiste for his six minutes.

Mr. Jaime Battiste (Sydney—Victoria, Lib.): Thank you, Mr. Chair.

Thank you for that presentation.

I noted that in your presentation you talked a lot about the government response to what the case said, but not a lot about what the case actually said. I'm wondering if you could give us the three big take-aways from the department on what this case said.

Ms. Katrina Peddle: Perhaps I'll defer to my Department of Justice colleagues. I can fill in at the end.

Thank you.

Ms. Paula Quig: Thank you very much for that.

If it's helpful, I can provide a summary of the main points of the opinion of the Supreme Court. On February 9, the SCC rendered its unanimous opinion on the act. The reference question before the court was quite specific, and I think that's important to recognize. The court was specifically asked whether the act, An Act respecting First Nations, Inuit and Métis children, youth and families, was ultra vires the jurisdiction of the Parliament of Canada under the Constitution Act.

The Supreme Court of Canada's answer to that question was no, it was not ultra vires. In doing so, the court, in its opinion, confirmed that the act as a whole is constitutionally valid under subsection 91(24). That includes the national standard set out in the act, the affirmation of the inherent right of self-government, which includes legislative authority over child and family services, and the incorporation by reference of certain indigenous laws into federal law, giving those laws paramountcy over provincial and territorial laws. The court, significantly, found that it was not necessary for purposes of determining the specific reference question before them to determine whether or not the right of self-government is indeed a right recognized and affirmed by section 35 of the Constitution Act.

The analysis, then, in the reference opinion concerns the act as a whole. The court applied a two-part test to determine the act's constitutional validity. It identified “the pith and substance”, or the essential character, of the act, and then it classified it by reference to the heads of power in the Constitution Act, 1867. It found that “the essential matter” of the act involves “protecting the well-being of Indigenous children, youth and families by promoting the delivery of culturally appropriate child and family services and, in so doing, advancing the process of reconciliation with Indigenous peoples.” The court found that that “falls squarely within Parliament's legislative jurisdiction under s. 91(24)”.

It also found that the three features of the act were all measures that were also within Parliament's exclusive legislative jurisdiction: the establishment of national standards and principles; the affirmation that was set out in subsection 18(1) of the act, which states that the “inherent right of self-government” is an aboriginal right “recognized and affirmed by section 35 of the Constitution”; and the framework to facilitate the implementation of indigenous laws, notably by giving paramountcy to certain indigenous child and family services laws over provincial laws.

I can go on and elaborate on those points, but I recognize there is a time limit.

Mr. Jaime Battiste: I want to take you on a different journey on this case. As a former indigenous academic who taught aboriginal and treaty rights, it was the first time I saw the Supreme Court of Canada use words like “braiding” when they talked about legal

norms and the braiding of Canadian law with the Declaration on the Rights of Indigenous Peoples and indigenous laws, and that moving forward, the law has to look at braiding these legal traditions together all in one.

Can you speak to what that potentially means for legislation moving forward in Canada? I read it as the Supreme Court giving direction to parliamentarians to say that when we look at laws, we also have to look at the indigenous laws themselves and the United Nations Declaration on the Rights of Indigenous Peoples together with those laws.

Would you agree with that summary of it? You have about two minutes left to explore this concept, which was unique to this case. I haven't seen it in any other legal case before.

• (1125)

Ms. Paula Quig: It may be most efficient in our two minutes to refer you to my colleague Valerie Phillips, who works a great deal on the UN declaration.

Ms. Valerie Phillips (Director and General Counsel, Aboriginal Law Centre, Department of Justice): Thank you for the question.

It is an interesting statement by the court. They really talk about that in terms of “legislative reconciliation”, and they talk about that in the broader role of Parliament and parliamentarians. They make reference to the ability of Parliament to have a conversation with society and the courts and how, in passing laws like Bill C-92, even if, for example, they make findings around the self-government affirmation, there's still a message being sent by parliamentarians to society and the courts.

In terms of what that means for the larger interpretation of Canadian law and the braiding of laws, I think that remains to be seen. They don't provide specific guidance, but it is certainly giving a message that the UN declaration should be considered by courts in interpreting laws and should be part of parliamentarians' consideration of laws.

The Chair: You have 20 seconds.

Mr. Jaime Battiste: I'll get back to you on a third round. I'm following up on legislative reconciliation—get ready.

The Chair: Thank you.

We'll now move to Monsieur Lemire.

When you're ready, you have six minutes.

[*Translation*]

Mr. Sébastien Lemire (Abitibi—Témiscamingue, BQ): Thank you, Mr. Chair. *Meegwetch.*

I agree with what many have said. Practices that we must condemn still exist today. The removal of indigenous children from their communities is a disturbing practice, and those children need to be better protected.

At the end of the day, the overrepresentation of indigenous children in foster care is largely due to a political system underpinned by Eurocentric ideals as well as successive governments that failed to address the root causes of poverty. Knowing indigenous peoples' stories and perspectives is paramount.

The paradigm has to fundamentally change. Living together also means codeveloping, trusting indigenous nations and providing financial predictability to support indigenous communities in their decisions. This will ensure that supports for families and children are put in place, supports developed by the communities for the well-being of their children. Indigenous communities need time to make the necessary preparations and build their capacity to deliver services.

Those are the things that stand out from my discussions with indigenous communities. Their needs have to be taken into account.

According to your graphic, more than \$200 million is being provided for capacity-building. How much of that money has actually been disbursed to indigenous communities to date?

Ms. Katrina Peddle: Thank you for that very good question.

The \$200 million-plus amount you see in the graphic is the amount that has been disbursed to support capacity-building, but a total of approximately \$1.6 billion has been disbursed for that and coordination agreements.

I agree with you that child and family services need slightly different funding. The purpose of Bill C-92 is to focus on prevention and ensure that the communities have the flexibility they need to tackle great challenges. That's one of the principles laid out in the bill. No one can say that these are not great challenges. They are significant and they are difficult. However, the communities will be able to make their own decisions about where to prioritize investments and resources. For instance, they may choose to keep children in the community as opposed to placing them in foster care outside the community.

Mr. Sébastien Lemire: The statistics are alarming. Despite making up just 8% of the child population, indigenous children are said to account for 54% of children in the child welfare system in Canada.

The ruling should be respected, but it raises questions about implementation as it relates to Criminal Code enforcement, which is generally the responsibility of the provinces, except in cases involving sentences of more than two years. Public safety, prisons and judicial appointments are provincial responsibilities.

Who will cover the cost of ensuring that indigenous peoples can assume responsibility for child protection? It is a significant responsibility that will likely require billions of dollars.

Is the federal government going to fulfill its role and step up? It has to cover those costs, because it bears the responsibility according to the ruling.

• (1130)

Ms. Katrina Peddle: Thank you for your question.

We are still reviewing the decision. There's no doubt that significant coordination will be necessary between the provinces and territories, the federal government and communities to put everything in place for the delivery of child and family services.

As for how the decision relates to funding, I'm going to ask one of my justice colleagues to answer that.

Ms. Valerie Phillips: Thank you for your question.

I'm going to answer in English to make sure the information I give you is accurate.

[*English*]

The court did not speak specifically to finance and funding of the program. I think that is what your question was. They don't speak specifically to that.

[*Translation*]

Mr. Sébastien Lemire: That is precisely the problem. It becomes a political issue. We all want to support the self-determination of indigenous peoples, but if no one steps up to pay the bill, indigenous children will end up being the ones who suffer most. Downloading costs yet again to Quebec will worsen the fiscal imbalance, and that is another major concern.

Is the federal government going to step up as per the ruling? Who is going to pay the bill?

Ms. Katrina Peddle: That's a good question.

In the past few years, we've increased program funding for indigenous child and family services by more than 200% to ensure that first nations across the country receive more funding.

The agreements we've signed to date ensure that the funding is really in line with the needs. The communities tell us what they need, what their models are and where their priorities lie. Our goal is to make sure we provide them with long-term funding. We've signed 10-year agreements with a number of communities to ensure that they benefit from this funding not just next year, but also in the coming years.

Mr. Sébastien Lemire: I'd like to hear about the consultation mechanisms that were put in place, especially with Quebec.

In the interest of transparency, are you going to make the tripartite coordination agreements available on your website or otherwise?

Ms. Katrina Peddle: Thank you for your question.

I'm going to have to ask my justice colleagues to provide more information, but the agreements are signed with the communities, so in keeping with the codevelopment model, we can't make that decision without their consent.

Mr. Sébastien Lemire: Did you consult communities in Quebec?

[English]

The Chair: I'm sorry. That's the end of your time.

We'll now go to Ms. Gazan.

Ms. Gazan, the floor is yours for six minutes.

Ms. Leah Gazan (Winnipeg Centre, NDP): Thank you very much for being here today.

For my first question, you spoke about capacity building, and I'm looking at the Government of Canada website about the funding for capacity building. Is it not proposal-dependent? Just say yes or no.

Ms. Katrina Peddle: Yes. It is proposal-dependent at this time.

Ms. Leah Gazan: Just because a community submits a proposal wanting to build capacity so that they can obtain jurisdiction, that doesn't mean they're actually going to be supported for it. Is that right?

Ms. Katrina Peddle: To date, communities are typically supported for it, yes.

Ms. Leah Gazan: Okay, but it doesn't necessarily mean they will be. Is it a guarantee when they put in a proposal that they will be provided what is needed to build capacity?

Ms. Katrina Peddle: There are certain criteria that must be met.

Ms. Leah Gazan: Okay, so the answer is no.

Moving on, the website says, "yearly maximum funding as per funding chart below" and "the number of proposals received". Let's say everybody met the criteria. It would still depend on "the number of proposals received and the total funding available".

How much funding is currently available?

Ms. Katrina Peddle: The current funding is \$100 million per year.

Ms. Leah Gazan: You can have more than \$100 million for communities, because we're talking about reconciliation and wanting to get our kids back. If it exceeds the \$100 million, there's no extra money for that. Is that right?

Ms. Katrina Peddle: At the current time.... I will say that, to date, we haven't had to turn people down. We've been able to meet those requests.

Ms. Leah Gazan: Okay, but it is a possibility.

Ms. Katrina Peddle: It's certainly a possibility.

• (1135)

Ms. Leah Gazan: Okay.

Just building on what my colleague from the Bloc was talking about on funding, one of the concerns was from the Caring Society for children and youth, from Cindy Blackstock. She said, "Now it is up to the provincial, territorial and federal governments to make sure they provide the resources and supports needed for First Nations, Métis and Inuit children and youth".

The problem is that there's a huge gap, as indigenous nations do not have the resources or, often, the capacity to do this on their own. How much funding has been allocated for child welfare services on reserve to date?

Ms. Katrina Peddle: That is a question that I'll have to return to you on with an exact number.

Ms. Leah Gazan: Yes, please do if you could.

The current federal government, after over 13 non-compliance orders, was ordered by a Canadian Human Rights Tribunal ruling to immediately stop racially discriminating against children on reserve. It ended up paying \$17 billion less than what was asked for by the Canadian Human Rights Tribunal ruling.

Although I know there's good talk about reconciliation in terms of giving our kids back, it often doesn't come with money. Is there a plan with the federal government to ensure that any child welfare system—any community assuming jurisdiction over a child welfare system—will be provided equal amounts of allocated funding as for kids off reserve? Has that been affirmed?

Ms. Katrina Peddle: That's a very good question. Thank you for that.

The agreement in principle regarding long-term reform of the child and family services program does provide that there will not be less that will be provided under the act than a first nation would receive under the agreement in principle. So yes—

Ms. Leah Gazan: It's an agreement in principle. It hasn't been agreed upon yet.

Ms. Katrina Peddle: Yes, that's correct. It has not been completed.

Ms. Leah Gazan: Where is it in the process of being agreed upon? It's one thing to provide jurisdiction, as with Peguis. I totally support that. I'm a Manitoban. Over 90% of kids currently in the child welfare system are first nations or indigenous.

I totally support that, but there doesn't seem to be a measure. Am I right? Is it just arbitrary amounts of money, or is there a measure to ensure that kids will receive funding equal to that for kids off reserve?

Ms. Katrina Peddle: I just want to make sure I understand your question. Your question is not whether you'll receive the same amount of money through the program or the act. Your question is about on reserve versus off reserve.

Ms. Leah Gazan: Yes. Will they receive the same resources as kids off reserve? Will it be the same? Has that been determined?

Ms. Katrina Peddle: I think I would have to return with a written answer to your question. I don't want to tell you something erroneously.

In terms of what the act allows, the program authorities are typically on-reserve authorities. The act authorities do allow things like prevention services to happen off reserve, absolutely.

Ms. Leah Gazan: For example, in the case of prevention services, will the same allotment per child be given to kids who are on reserve and off reserve?

Ms. Katrina Peddle: Oh, I see. I would have to return with a written answer.

Ms. Leah Gazan: I would like a written answer.

Ms. Katrina Peddle: Absolutely.

Ms. Leah Gazan: Thank you so much.

Moving on, will the allocations account for geographical differences? For example, we know that caring for kids in rural and remote communities, in terms of main necessities like milk and water, is more expensive. Will the funding allocations account for regional differences?

Ms. Katrina Peddle: That's a really important question. Absolutely, if you look at a community that's close to Vancouver or Montreal versus a community that's in northern Manitoba, of course the costs are different. Yes, it does account for that.

Ms. Leah Gazan: With all due respect, I'm asking all these questions related to financing after the current government just spent years battling in court over being found to be wilfully racially discriminating against first nations kids. We have now put forward Bill C-92. We're talking good talk about reconciliation, but we still haven't figured out the financial resources. There has been a pattern of normalized discrimination against indigenous kids in this country.

The Chair: I'm sorry. We're now half a minute over.

Ms. Leah Gazan: Oh, my goodness. I'm sorry. My bad.

The Chair: You can pick it up next time.

Ms. Leah Gazan: Okay. I'm sorry about that. Thanks.

The Chair: Thank you.

Next up in this round is Mr. Shields.

You're good for five minutes.

• (1140)

Mr. Martin Shields (Bow River, CPC): Thank you, Mr. Chair.

Thank you to the witnesses for being here today on a very crucial topic. I really appreciate it.

Yes, we received the information about the number of people who have made requests. None have been approved to this point.

Ms. Katrina Peddle: Do you mean regarding capacity building?

Mr. Martin Shields: Yes.

Ms. Katrina Peddle: No, 223 have been approved.

Mr. Martin Shields: Are they in place and working?

Ms. Katrina Peddle: Yes.

Mr. Martin Shields: In that process, the funding has gone through a different flow mechanism. Will it 100% go directly to those 223?

Ms. Katrina Peddle: Yes. We would use that money. It's called—sorry to bore you, because this is very bureaucratic—contribution money. That flows through a contribution agreement and is directly sent to the community, yes.

Mr. Martin Shields: You made reference to 10 years, so this is not one-year programming.

Ms. Katrina Peddle: Let me explain. This capacity building is like the beginning of the road. This is the visioning part. The 10-year agreement is once the coordination agreement has been executed. It depends on what the community wants to do. Several of those agreements are 10-year long-term agreements. That's the difference. Many more communities are at the beginning of the road than are exercising jurisdiction at this point.

Mr. Martin Shields: So we're a long way from that final.

Ms. Katrina Peddle: It's a huge undertaking. It will take significant work to get there, absolutely.

Mr. Martin Shields: You originally said that it was moving quickly, but, jeez, we're talking about the government here. That's an oxymoron. I mean, things don't happen quickly. This will be a long process.

Ms. Katrina Peddle: I think that's a very fair point in terms of an overall critique. In terms of what the act is trying to do—and the Supreme Court was pretty clear about that—this process allows us to expedite things that can often take a lot longer, because of the urgency. Think about two years in the life of a four-year-old. That's a very long time. The point is to enable communities to move more quickly than they have been able to do previously. However, it is still a huge undertaking.

It's also important to recognize that for first nations communities, the first nations child and family services program funding has increased. While this negotiation is happening, while these coordination discussion agreements are happening, the communities are already able to put certain things in place because of the different funding available through the program.

Mr. Martin Shields: I think it's important to make that distinction, because when we talk about “quickly”, we're talking about youth who, in a sense, are at risk, so the quicker, the better, yet there is a long process to go through to get it. When you're talking about a 10-year agreement at the end, there is a ways to go to get to that point.

Ms. Katrina Peddle: It takes time to conclude a coordination agreement, absolutely. It usually takes more than 12 months.

Mr. Martin Shields: Right, and we're not talking about program funding on a yearly basis. That's totally off the table. This is the long term we're talking about.

Ms. Katrina Peddle: Yes. First nations communities can either continue with the first nations program that exists or exercise jurisdiction under the act. Those are their options.

Mr. Martin Shields: Thank you.

Mr. Chairman, I'd like to read a notice of motion.

The Chair: Okay.

Mr. Martin Shields: I move:

Given that, the NDP-Liberal carbon tax is set to increase by 23% on April 1st, 2024, and that,

Most First Nations, Inuit, and Métis people live in rural areas that require access to affordable, stable, and reliable gas, groceries, and home heating to live, and that,

The Chiefs of Ontario have deemed the carbon tax discriminatory against First Nations, calling on the government to axe the tax, and, after the government refused to do so, filed for judicial review with support from Assembly of First Nations Chief Cindy Woodhouse and that,

The Premiers of seven provinces and the Premier of Northwest Territories have called for the government to spike the hike,

The committee:

Recognize that the carbon tax disproportionately affects First Nations, Inuit, and Métis, and

Recognize that Indigenous communities across Canada are engaged in the development of natural resource projects for the benefit of current and future generations contributing to economic reconciliation, and

Call on the Liberal Government to immediately cancel the 23% carbon tax increase on April 1 and axe the tax for First Nations, Inuit, and Métis across Canada,

And report this to the House.

Thank you, Mr. Chair.

The Chair: Thank you.

I still have 37 seconds on your time, although I have a speaking list. We'll go to the speaking list.

Mr. Schmale, you're first.

Mr. Jamie Schmale: Thank you very much, Chair, and thank you to my colleague, Martin Shields, for raising that very important motion.

As he pointed out, 133 chiefs of Ontario have come out against the carbon tax. We've had multiple premiers and territorial leaders all speaking about how the carbon tax has increased the cost of living for the people they represent.

We've been getting notices about food bank usage at record highs. We hear from farmers who talk about how the carbon tax is increasing the price of their inputs, which of course increases the cost of food. We know the carbon tax contributes to an increase in the price of home heating fuel. Even the NDP premier of Manitoba took away the provincial tax on gasoline in order to give the residents of Manitoba a break on the cost of living, which is crippling Canadians from coast to coast.

When you look at food prices—especially in the north, where they've always been high—adding this extra layer of tax onto that is increasing the cost of just living, of trying to survive, for thousands

upon thousands of Canadians. When they're struggling and when they're hurting, the idea that on April 1 the carbon tax is going to go up yet again is deeply concerning to us on this side of the House.

We often ask ourselves why this hasn't been addressed sooner. I think there could be a number of reasons. This idea that you can tax people, or tax the economy and the prosperity, isn't going to work. It just feels like those who are advocating for a more expensive way of life aren't actually impacted at all by what is going on in the real world. It seems like the speeds are big government and bigger government in terms of how this is being addressed. It's very clear that this is a tax plan. It's not an environmental plan.

Why don't we look at what's been done in the past, which is setting rules and regulations that encourage industry to do what they do best and innovate? For decades, it's been the norm that government would say that we need to either lower emissions or make cars more fuel-efficient, and companies have responded. You've seen that in different models. They use different materials. They may use aluminum instead of another material. They may get more power out of a 4-cylinder than out of a 6-cylinder car. There are a whole bunch of different ways, and then the market responds accordingly.

Right now, we have the government picking one way of doing things. Companies are of course going to jump on this because there are billions of dollars being handed out. These jobs are being created based on government innovation, but it's not necessarily what the market is demanding, nor what the technology tells us.

When you look at the life cycle of where this material is mined and how the materials come together, it's not all that environmentally friendly. Even the recycling of the batteries.... Yes, technology is coming along to that because obviously there is a government push for this, but even the options available now are extremely expensive. Many companies have started to re-evaluate how their business plans look in terms of electric vehicles. It seems that the ones that aren't overly subsidized are pulling back. There are many looking at the hybrid model, which I think is where the market seems to be going in terms of customer demand.

However, at the same time, when we are in an affordability crisis and we continue to borrow, it drives up the cost of living because of course we will very shortly be spending more on interest on the national debt than we do on transfers to the provinces for health care. We are doing a disservice to future generations and really handcuffing the future in adapting to the needs of our children.

• (1145)

When you look at the fact that emissions aren't going down and spending is out of control, I think there is a better way. In the next election, Canadians will have the opportunity to ask themselves what that better way is. I think they will find that common sense will prevail.

Thank you, Chair.

• (1150)

The Chair: Thank you.

Next I have Mr. Battiste.

Mr. Jaime Battiste: Thank you, Mr. Chair.

I'd like to get back to talking, in this committee, about first nations children and the future. I'd like to move a motion to adjourn debate so we can continue with the important work we have today.

The Chair: That's a dilatory motion. There's no debate on it.

(Motion agreed to [*See Minutes of Proceedings*])

Ms. Leah Gazan: I have a point of order, Chair.

I'm a visitor in this committee. I know this is politics here, but if they're going to talk about first nations, I'm going to talk as a first nation mother. I can tell you that the biggest issue in our community is child welfare and the fact that our kids are dying in the system. The fact is that the Conservatives in this committee today are talking about life and death and how hard it is for families. I'd like them to come to Manitoba, where 90% of the kids currently in care are from first nations, kids who are dying in the system, and where indigenous women are going missing and being murdered—and then we'll talk about urgency.

I find it disgusting—

The Chair: I'm going to stop you there. That's not a point of order. We've just—

Ms. Leah Gazan: It's just so the public knows what games are being played in this committee on the backs of the lives of our kids.

The Chair: We have voted in favour of suspending debate, so we'll now return to the questions.

Next on my list I have Mr. McLeod, who will have five minutes.

Mr. Michael McLeod (Northwest Territories, Lib.): Thank you, Mr. Chair.

Thank you to our witnesses. Thank you for joining us today and providing us with some very important information.

I understand that the Government of the Northwest Territories chose to intervene in this case before the Supreme Court in support of the Government of Quebec's challenge to Bill C-92. Their involvement in this case was strongly opposed by the Inuvialuit Regional Corporation, which has already passed its own child and family services law.

Are you able to speak to the arguments brought forward by the Government of the Northwest Territories and how the Supreme Court's ruling addresses their arguments?

Ms. Valerie Phillips: Thank you for the question.

Unfortunately, I'm not able to speak to this today, but if you'd like, we can follow up with a written response to that question.

Mr. Michael McLeod: Mr. Chair, I was hoping that we would have some very forensic, detailed information when it comes to presentations to committee. This is my riding. This is their involvement. It leaves me out in left field when witnesses come unprepared. I'll have to wait to get that information in writing, I guess.

I'll ask another question.

Can the witnesses provide an update on how indigenous governments in the Northwest Territories are moving forward with their own self-determination following Bill C-92's implementation?

Ms. Katrina Peddle: I can answer that question.

You made reference to the Inuvialuit Regional Corporation, which is in the process of negotiating a coordination agreement. That process continues. I can't speak to the confidential nature of those negotiations, certainly, but I do think that what you see for the Northwest Territories is what you see elsewhere. There's an affirmation that the work that's been happening under Bill C-92 can continue, as the act has been found to be constitutional.

• (1155)

Mr. Michael McLeod: My third question is regarding challenges that may have been observed to date with off-reserve communities. As you probably know, the Northwest Territories has a number of indigenous communities, but they're public communities and not on reserve.

How would these challenges, facing some of the modern treaty governments in the Northwest Territories, affect their ability to move forward with their own child and family services legislation?

Ms. Katrina Peddle: Absolutely, the diversity of communities across the country is recognized throughout this statute. It is a distinctions-based approach that we adopt in co-development with partners.

We are in conversations with communities that are using modern treaties. We also have colleagues on the CIRNAC side of government who work directly with modern treaty holders. There's an option that's available to those communities whether they wish to use the act or use the modern treaty process to access child and family services.

Mr. Michael McLeod: I see in subsection 22(3) of the act that indigenous laws prevail over provincial or territorial laws in case of conflict.

Could you tell us why that was important to include in Bill C-92?

Ms. Katrina Peddle: I'll defer to my Department of Justice colleagues.

Ms. Paula Quig: I can certainly comment on how that section works. I don't know that I have the background in terms of the intentionality behind the inclusion of that provision, but if it's useful, I can talk about what that provision and section 21 do.

Subsection 22(3) puts in place the legal doctrine of federal power paramountcy. Basically, it provides that provisions of a federal law will prevail over a provincial law. The combination of section 21 and subsection 22(3) means that indigenous laws become incorporated as federal laws under the act. Through that incorporation and reference process, those indigenous laws are paramount over provincial laws if there is a conflict or a situation of inconsistency. It's a significant provision in terms of ensuring that those laws are paramount over the provincial laws that could be inconsistent.

The Chair: Thank you. We're out of time.

We'll now go to Monsieur Lemire, for two and a half minutes.

[*Translation*]

Mr. Sébastien Lemire: Thank you, Mr. Chair.

Meegwetch.

Indigenous children are removed from their homes because of overcrowded and substandard housing, food insecurity and poor access to services. Their parents and communities have little power or control over those things due to a lack of resources, which have to come mainly from the federal government.

Against that backdrop, a billion dollars has been distributed. How much of that money has gone to Quebec so far? How did those negotiations take place, and which communities have benefited?

Ms. Katrina Peddle: We are in the process of negotiating a co-ordination agreement with the community of Obedjiwan, but we haven't signed an agreement yet. The resources still being allocated to the Quebec City area will be allocated once the negotiations are concluded.

Mr. Sébastien Lemire: The legislation was passed four years ago. Obviously, it's been challenged. As I understand it, instead of planning and being proactive so it could get the money out quickly, the government put everything on hold during those four years. As a result, the children are still the ones paying the price.

I'm going to switch topics. I'd like you to comment on this next question, which may be more for the justice officials. What precedent did the Supreme Court's decision set in terms of relationships between the provinces? As we know, the Government of Quebec sought to have its jurisdiction respected.

Ms. Valerie Phillips: Thank you for your question.

I'm going to answer in English.

• (1200)

[*English*]

The court found that the law was within federal legislative jurisdiction. In terms of extrapolating going forward, it's an opinion of the court; it's not a decision, so technically it's not binding, but it is treated as a precedent. Ultimately, they did find that it is within the federal Parliament's legislative jurisdiction. It's very difficult to speculate about what this means going forward. I think they were very careful to speak directly to the legislation and the question that were in front of them.

[*Translation*]

Mr. Sébastien Lemire: It's reasonable to think that—

[*English*]

The Chair: We're finished for—

[*Translation*]

Mr. Sébastien Lemire: —if it's within your jurisdiction, you're the one who'll have to pay for it.

Thank you.

[*English*]

The Chair: I'm sorry; we're out of time.

Ms. Gazan, you have two and a half minutes.

Ms. Leah Gazan: Thank you so much.

We're talking about children and reconciliation. I asked you a number of questions about Bill C-92 and monies attached.

Recently, the Conservatives put forward a bill, Bill C-318. I offered up amendments that were supported by the sponsor of the bill to include kinship and customary care in the new EI funding regime for adoption, to ensure that this government is upholding the rule of law, which now includes clause 5 of Bill C-15, which states, "The Government of Canada must, in consultation and cooperation with Indigenous peoples, take all measures necessary to ensure that the laws of Canada are consistent with the Declaration". Bill C-318 passed in committee, making the bill now consistent with articles 19, 20 and 21 of the UN Declaration on the Rights of Indigenous Peoples. It was thrown out by the Liberal government, even though they have the ability to provide royal consent. I wrote a letter, in fact, to the government on February 27, 2024. The government still has an opportunity to uphold the rule of law.

If we're talking about reunifying kids, and we know that 90% of kids in care, certainly in Manitoba, are first nations kids, often in kinship and customary arrangements, does this government have any plan to uphold the rule of law and amend that legislation?

Ms. Katrina Peddle: I would be unable to answer that question. I can certainly endeavour to provide you with a written answer. It's outside my purview.

Ms. Leah Gazan: I do think that we require a written answer, but I also think that it's very timely, because if you're not willing to change legislation when you're talking about child welfare systems that will essentially exclude 90% of the kids in care, it's probably not a very effective piece of legislation.

I know that the government currently has a bill in place—I believe it's Bill C-59—around adoptive care. I'm wondering if the government has any plans to ensure that they uphold the rule of law and make sure it's consistent with Bill C-15 and articles 19, 20 and 21 in terms of adoption care. Are there any plans for that?

The Chair: We're out of time, but if you can answer briefly, in a sentence or two, it would be appreciated.

Ms. Katrina Peddle: I'm not able to speak to that question, but I can certainly bring it back.

Ms. Leah Gazan: If you could provide a written response, that would be great.

Thanks.

The Chair: Our clerk is keeping track of all the written questions, so we'll be following up with those.

We will now move to Mr. Melillo, who will have five minutes.

Mr. Eric Melillo (Kenora, CPC): Thank you, Mr. Chair.

Thank you to the witnesses for being here for this important discussion.

I just want to quickly ask a higher-level question in terms of the process of coming to this legislation. For anyone who could speak to it, could you speak to the consultation process, how this was developed and if there were perhaps some other proposals or suggestions as to how this could be brought forward throughout that process? What led you to the framework that exists today?

Ms. Katrina Peddle: I'll start, and then I'll turn to my colleague Isabelle Quintal to answer that question.

This was the result of convening many partners to try to address what was considered a national emergency, which remains a very urgent matter, about the overrepresentation of indigenous children across the country.

For further details, I'll turn to Isabelle.

Ms. Isabelle Quintal (Acting Director General, Strategic Policy and Planning Directorate, Department of Indigenous Services): Yes, indeed, the Minister of Indigenous Services, in 2019, called an emergency meeting where indigenous partners, provinces and territories were all gathered to assess the fact that there was an overrepresentation of children in care. During that meeting, there was an agreement that six points of action would be developed and enforced.

One of those points of action was the creation of legislation that will allow indigenous groups to take care of their children. With that commitment and the desire to fulfill that point of action, Indigenous Services Canada met with over 2,000 indigenous people—elders, youth, agencies and communities—as well as provinces and territories, to gather their views on what that would look like. I think the engagement process of the development of Bill C-92 was really a co-development process, and it led to what is now the act.

• (1205)

Mr. Eric Melillo: Thank you.

How has the Supreme Court ruling, or the process of getting to the ruling, impacted not only this legislation but also, perhaps, future legislation?

Ms. Katrina Peddle: I think it's difficult to speculate.

I'll turn to my Justice colleagues for a comment.

Ms. Valerie Phillips: Could you clarify your question?

Do you mean in terms of the consultation and co-operation process in developing it?

Mr. Eric Melillo: It's in terms of the Supreme Court process and the ruling that came out of it.

Ms. Valerie Phillips: How will it influence future legislation? It is very difficult to speculate. As I mentioned before, the court was very careful to stick to the nature of this legislation and the affirmations made within it. It affirmed very positively that this kind of legislation is within federal legislative jurisdiction.

I think that's what we can take from the decision.

Mr. Eric Melillo: Thank you very much for those answers.

Very quickly, Mr. Chair, while I have the floor, I'd like to give notice of a motion. I want to be clear that I'm not moving the motion. I just want to provide notice of it while I have the opportunity.

Simply, the motion is as follows:

Given that First Nations and Inuit police services do important work to keep members of the communities they serve safe,

That, in the opinion of the Standing Committee on Indigenous and Northern Affairs, these police services provide an essential service and should be declared essential, and that this be reported to the House.

That's the entire substance of the motion.

Mr. Chair, I'd also like to briefly speak about why I'm bringing it forward.

Obviously, first nations and Inuit police services provide essential services for the residents they serve. The government has, in the past, spoken about the need for legislation to ensure there's proper designation of them as essential. Mr. Chair, that was promised in 2022. Two years later, the government still hasn't acted on it.

The Chair: I'm sorry. I'm going to jump in.

We are straying out of what's allowed right now.

Mr. Eric Melillo: Okay.

The Chair: You were giving a notice of motion. Now we're getting into debate on the motion. It's not in order at this point. I'd say we probably shouldn't be going there. There will be time to debate it when we get to it.

Mr. Eric Melillo: I understand.

The Chair: You still have about 40 seconds on your questions, if you want to go back to that.

Mr. Eric Melillo: Thank you, Mr. Chair. I appreciate that.

I'll say that I look forward to having a more wholesome discussion on that motion at the appropriate time. I hope I'll be able to get support from colleagues across the table on that, as it is very important to people across the country—first nations and Inuit, in particular. Unfortunately, we've seen tragic circumstances as a result of this underfunding and lack of proper funding from the federal government.

I think I've exhausted my time and I'll leave it at that.

Thank you.

The Chair: Perfect. Thank you.

We will now go to Mr. Battiste, who will have five minutes.

Mr. Jaime Battiste: You mentioned the Supreme Court introducing the notion of “legislative reconciliation”. Specifically, the court noted that “reconciliation is a long-term project. It will not be accomplished in a single sacred moment, but rather through a continuous transformation of relationships and a braiding together of distinct legal traditions”. Those are the court's words, not mine.

We talked a bit about UNDRIP and what this could possibly mean for the future. I'm wondering if you could talk to us about how the implementation of UNDRIP can contribute to resolving issues surrounding the overrepresentation of indigenous children in care.

Ms. Valerie Phillips: I can speak to it generally. Then my colleagues from Indigenous Services can speak about the program.

The UN declaration has been described as a “framework for reconciliation” in Canada. The court references that in its decision. As I mentioned earlier, it speaks very highly of the legislation that Parliament passed. It talks about legislative reconciliation as “the enactment of legislation 'to respect, promote, protect, and accommodate inherent rights through mechanisms or frameworks elaborated upon within the statute’”. They looked at the construction of this statute, particularly recognizing the jurisdiction of indigenous governments and the very essential character of the relationships among parents, children, families and communities. Healing and having some autonomy over those relationships are essential to reconciliation. The court certainly considered all of those different aspects of law, and the UN declaration in particular, in reaching its opinion.

In terms of the program itself, I don't know if my colleagues want to add on.

• (1210)

Ms. Katrina Peddle: I think the purpose of the act is to further UNDRIP's purpose as well, which is really to ensure that decisions that are made about the most important relationships are made by the people who are directly affected by them, the indigenous communities themselves.

The purpose is to reassert jurisdiction where it has been for thousands of years, and for that support to be a bit different from what we've seen historically in child welfare to really be prevention-based and strengths-based in terms of what a community has to offer its children.

Mr. Jaime Battiste: I want to talk a little bit about the map that was handed out here. I noticed that there are a lot of different

provinces and territories that are on here. As someone who's from Nova Scotia, I'm noticing that Nova Scotia is not one of those with a dot, as well as Nunavut. I'm wondering if you could speak to why there is seemingly no active update or progress happening in those two areas.

Ms. Katrina Peddle: I think it really depends on which communities want to do what and when. The act is one tool. There are many tools in terms of what communities are already actively doing, so if you don't see something on the map right here, it doesn't mean that there's no change happening in terms of child and family services.

I would say that I work on the act side. My colleagues who work on the program side have seen very many changes, particularly for Mi'kmaq in Nova Scotia, around preventative care, around rethinking what exactly they're trying to do, so I do think that what you see here is a partial representation of the overall area of work that's happening.

We always go at the pace at which communities wish to proceed.

Mr. Jaime Battiste: Just to be crystal clear on this, for the money that's out there—I think it's more than \$40 billion—Nova Scotia, despite having its own Mi'kmaq child and family services, will be eligible. A portion of the money that comes from this will actually be going into Nova Scotia. Is that correct?

Ms. Katrina Peddle: Absolutely.

Mr. Jaime Battiste: In my last bit of time, I just want to talk a little bit about Jordan's principle. There's a lot of discussion around some of the delays that are out there. I'm wondering if the department could talk a little bit about concerns about the delays in processing Jordan's principle claims and what this could possibly mean moving forward.

How are we remedying these delays or what is seen as non-action?

Ms. Katrina Peddle: We do work alongside colleagues in Jordan's principle. It's not our area of work. We'll get you a written answer to that question, but I do understand there's been a significant increase in requests as communities understand better what's available under Jordan's principle, and there's active work being undertaken to address any delays.

We'll provide you with a written answer to that question.

Mr. Jaime Battiste: Okay.

The Chair: That's time.

We have time for one more round of 15 minutes, so it will be five minutes, five minutes, two and a half, and two and a half.

With that, we'll jump right to it, with Mr. Shields going first for the Conservatives for his five minutes.

Mr. Martin Shields: Thank you, Mr. Chair.

I appreciate the information that you have given us, but I want to get clarity on something.

You have seven coordination agreements that have been signed. Can you define what a coordination agreement is?

Ms. Katrina Peddle: Yes, a coordination agreement is basically an agreement about the assertion of jurisdiction, what the community is going to do and what funding frameworks are built therein. Basically, it's the tripartite agreement that exists to support the exercise of jurisdiction by a given indigenous community.

Mr. Martin Shields: Three parties are at the table, then.

Ms. Katrina Peddle: Yes.

Mr. Martin Shields: What's the provincial role in this agreement?

• (1215)

Ms. Katrina Peddle: You can imagine that typically over the years—and I think you mentioned this earlier—provinces have been very active in providing child and family services, particularly off reserve. It's a coordination. The title sort of gives it all. It needs to be a coordination of services across those areas so that, for example, if a child is living off reserve but a community has asserted jurisdiction over a whole geographic area, then those two areas have spoken to each other and there is a plan about what is going to happen to support that child and that family.

All of those pieces are built into the coordination agreement. There's an incredible amount of planning, which is part of the reason why it's time-consuming.

Mr. Martin Shields: That would lead me to believe that the provincial organizations still have a large role to play in the enactment of these agreements.

Ms. Katrina Peddle: In terms of the planning, absolutely, we think that the tripartite role is very important.

Mr. Martin Shields: Once it's implemented, though, let's talk about the sense of... When we're talking about nations and the services they may provide in their nation, they may be looking to contract outside of their nation.

Is the province involved in that, in your opinion?

Ms. Katrina Peddle: In terms of what agreements may exist after a coordination agreement has been signed, that certainly depends on the given indigenous governing body and how it has developed its model. It will vary from case to case.

Mr. Martin Shields: The latitude could be for a variety of... The first nation may have an agreement to contract with the province or with an independent contractor.

Ms. Katrina Peddle: Both are certainly possible.

Mr. Martin Shields: The provincial organizations we see now, which can be fairly extensive as this program for children has been in place for a long time, could still have a significant role.

Ms. Katrina Peddle: You're putting your finger right on it. It's a different role in terms of where the jurisdiction lies and where the decision-making lies. The decision-making, when jurisdiction has been assumed, lies with the community. The different vehicles that may be necessary—for example, to provide an emergency service in the city—are for the community to determine and may involve contracting with a provincial body. However, the decision-making process lies with the community.

Mr. Martin Shields: The ultimate decision is with the nation that signs the agreement.

You don't have an agreement signed at the end yet.

Ms. Katrina Peddle: There are seven that exist now.

Mr. Martin Shields: There are coordination agreements, but you haven't signed off on a final agreement with anybody yet.

Ms. Katrina Peddle: There are seven. Those seven to which I'm referring have been finalized, and there are nations that are exercising jurisdiction, yes.

Mr. Martin Shields: Seven coordination agreements have been signed. When I asked you earlier if there are any in place that actually...I thought I got the answer "no."

Ms. Katrina Peddle: I apologize if I spoke that way.

What I meant to say is that there are seven indigenous governing bodies in Canada that are exerting jurisdiction over their child and family services.

Mr. Martin Shields: This is what I thought, so your answer confused me.

Ms. Katrina Peddle: I apologize.

Mr. Martin Shields: What is the monitoring mechanism for those agreements? Is there any role of monitoring, or are they now stand-alone? Are they totally separated from the federal and provincial government? Are they making the decisions totally?

Ms. Katrina Peddle: Well, it is a self-governing agreement, so the decision-making process, as in any self-government, lies with the community.

Mr. Martin Shields: Okay, so that process has happened and seven are totally independent nations making decisions on child welfare.

Ms. Katrina Peddle: That's right.

Mr. Martin Shields: How long have these seven been in place?

Ms. Katrina Peddle: Since 2023.

Mr. Martin Shields: Okay, so this is brand new.

Ms. Katrina Peddle: That's right.

Mr. Martin Shields: You're looking at 223 more being done. How long will that take?

Ms. Katrina Peddle: That's a very good question. It depends on the pace at which communities wish to proceed, so this is in their hands.

Mr. Martin Shields: They are the ones who move the needle.

Ms. Katrina Peddle: In section 20 of the act, there are two mechanisms for them to signal whether they wish to proceed to assert jurisdiction or whether they want to do it via a coordination agreement. They have those two mechanisms, and yes, that is under the community's control.

Mr. Martin Shields: When you say 223 plus seven, that's 230. There are some 630 nations in the country. This will take a long time. We still have two-thirds of the nations that have not entered this process.

Ms. Katrina Peddle: That's right.

The Chair: That's the end of the time.

Mr. Martin Shields: I'm done. Thank you.

The Chair: Thank you.

We'll go now to Mr. Battiste, who has five minutes.

Mr. Jaime Battiste: Thank you.

In July 2020, the Assembly of First Nations and the Government of Canada signed the protocol concerning the implementation of An Act respecting First Nations, Inuit and Métis children, youth and families. Among other things, the protocol aims to “Inform a process for collaboration and cooperation with First Nations peoples on regulations supporting implementation of the Legislation”.

I have two questions on that. First, how are we ensuring first nations' participation when we're going through the initial stages of this process? Can you also talk to us a bit about why there's a need for regulations during this implementation? When does the department anticipate that the regulations will be developed?

• (1220)

Ms. Katrina Peddle: Thank you for that.

I'll turn to my colleague Ms. Quintal.

Ms. Isabelle Quintal: Thank you for the question.

Regulations are a tool that can be used to reinforce some elements of the legislation. Other elements can also be developed outside of the regulation, whether they be guidance or policies, that will help this.

One of the elements we will be.... As you know, the legislation mentions that there is a mandatory five-year review. We will be engaging with partners at the community level, at the NIO level, and with provinces and territories to see what kinds of amendments or improvements they see for the legislation. Regulations will also be discussed in that engagement process. So far, what we have learned pertaining to regulation is that there might be a need pertaining to the minimum standards and their application, so we will see.

Once again, this is going to be co-developed, and it's what we hear from partners that will get moved forward.

Mr. Jaime Battiste: Does anyone else want to talk about the participation of first nations as part of this moving forward, the collaborative process?

Ms. Katrina Peddle: Certainly, the legislation was co-developed. The plan is to continue the co-development of its implementation. That's certainly been our approach, and that's what we'll continue to do.

Mr. Jaime Battiste: You know, we have this Supreme Court ruling. We have funding in place. However, as was pointed out, the process is slow. How can we make sure that we're getting the funding to the communities that need it right now? I know that what the federal government does is not always a process of going fast. What can we do better to ensure that we're getting the money to the communities that need it? Is there a way we can make it more flexible for communities to access this money before they have to go through this? What are the obstacles that are there, and how can we make sure that we're getting the funding to the communities more quickly?

Ms. Katrina Peddle: That's a great question.

My colleague referred to the five-year review of the legislation. I think the best answers to those questions often come from commu-

nities in terms of what they've learned along the way. Just recently, several months ago, Louis Bull Tribe hosted a forum on lessons learned about using Bill C-92 as a tool to enact jurisdiction. We are trying to make sure that we always listen to those lessons around whether capacity building is broad enough. Does it do enough? Does it answer all of our questions?

Also, we really see, as we often see with these types of initiatives, the strength of communities helping each other to figure it out—saying what they did, where they found it challenging, and what worked really well—to try to make that as smooth as possible.

Mr. Jaime Battiste: With that being said, would you say that there are some best practices out there with which nations or tribal organizations that have actually gone through this process and are now receiving the funds can help other nations along this journey?

Ms. Katrina Peddle: Yes, absolutely. I think we've really seen that communities are starting to talk about wanting to have more opportunities to share those best practices. Those conversations are happening across the country. We hear that very frequently.

Mr. Jaime Battiste: Can you name a few, just if someone is watching and asking which community is getting this right? How have they been able to access the money so quickly?

Ms. Katrina Peddle: I mean, I don't think there's any getting it wrong or getting it right. It's doing what makes sense in a given moment in time. I think we've seen huge success at Peguis First Nation around reducing the number of children coming into care. We've heard that from their leadership. I know that Louis Bull Tribe has been very happy to share its experiences around putting the act into place. I think Splatsin First Nation, as well, is doing a lot of incredible work.

Across those coordination agreements, we've seen tremendous success. What's really encouraging about it is the pace at which that change can happen when communities have been able to put this into action.

Mr. Jaime Battiste: Are we offering, with the Assembly of First Nations, the ability for those communities to pass on that knowledge to other communities interested in going down this route?

Ms. Katrina Peddle: Certainly, in terms of the capacity-building funding, we do support the Assembly of First Nations, yes.

The Chair: Thank you.

Now, we'll go to Mr. Lemire for two and a half minutes.

[*Translation*]

Mr. Sébastien Lemire: Thank you, Mr. Chair.

In its 2023-24 departmental plan, Indigenous Services Canada states the following:

...there is a risk that uncertainty on the interpretation and expectations related to An Act respecting First Nations, Inuit and Métis children, youth and families might generate frustration and compromise relationships with Indigenous partners, provinces, and territories.

For some time, we've seen significant amounts of funding being returned to the treasury. I'd like to know your plans to get the money earmarked for indigenous communities to them, so they can work on prevention and fully manage their new responsibilities. How are you going to deliver the funding in such a way that it meets communities' real needs, and is available and readily accessible to them? How are you going to make sure it is not returned to the treasury, something that happens all too often when funding is promised to indigenous peoples?

First nations need to build capacity. Capacity-building is something the Assembly of First Nations Quebec-Labrador, in particular, has been pushing hard for. The answers we've gotten on the amounts disbursed and the negotiation process have been quite vague, so as the situation stands, I worry that it's going to generate considerable frustration and compromise partnerships. I urge you to act swiftly.

What steps do you want to take to cut some of the red tape in order to meet the real needs of communities?

• (1225)

Ms. Katrina Peddle: Thank you for your question.

I would say that the legislation really seeks to address those criticisms through the provision of flexible, sustainable long-term funding that is managed by the communities that have taken over this jurisdiction. I am well aware of the criticism that the administrative burden communities face is often onerous, given their unique circumstances. Through grants, we are trying to establish another form of funding, which is still planned for the coordination agreements. These are long-term agreements with built-in flexibility so that communities can fund their priorities and focus on prevention in the programs they implement.

Mr. Sébastien Lemire: Thank you for taking a long-term approach. It's fundamental, and it's something communities have been calling for. Thank you as well for assuming your funding responsibilities. Under the decision, you have an obligation to pay for these services.

Thank you.

Ms. Katrina Peddle: Thank you.

[English]

The Chair: Thank you.

That's perfect timing.

[Translation]

Mr. Sébastien Lemire: I could go on, Mr. Chair, but I will leave it there out of respect for my fellow member, so she can have her two and a half minutes.

[English]

The Chair: We'll go now to Ms. Gazan for the final two and a half minutes.

Ms. Leah Gazan: Thank you so much.

I want to clarify. It's often said that it's at the pace at which communities want to go. I want to clarify that it's not really at that pace. I don't think we've ever not wanted jurisdiction over our kids. It's

about the funding and resources that are provided to give back our human rights and to uphold UNDRIP so that we can care for our kids.

In the fall economic statement and the 2023-24 departmental plan, sunset of funding includes that in budget 2021 for mental health and wellness, and specifically funding from budget 2019 for continued implementation of Jordan's principle and supporting Inuit children, and funding to support individual compensation, capital expenditures, and immediate reforms of first nations child and family services and Jordan's principle.

What I find odd, when we talk about Bill C-92, is that there are still no plans for money. Jordan's principle keeps kids alive in my community, even though it's not often provided or given out in a timely manner in terms of service providers. That is sunsetting.

I've put forward amendments to EI to make sure that EI regimes would be consistent with how we choose to care for our children, which is a right affirmed in the United Nations Declaration on the Rights of Indigenous Peoples. It seems there's no consistency with this government in terms of when it is or isn't going to uphold the rule of law when it comes to indigenous human rights, particularly in relation to our children, depending on what the legislation is.

What concerns me is this. If there isn't a plan for total legislative reform, is this government really serious about implementing UN-DRIP? We can't change things if people don't want to pay for that. There is a cost to violent colonization. One of the costs of that violence is the fact that we have an overrepresentation in the child welfare system.

Is there any plan to make sure legislation is consistent to affirm our right to have self-determination over the care of our children, whether in terms of EI, Jordan's principle or Bill C-92?

• (1230)

Ms. Katrina Peddle: Thank you.

I'll defer to my Justice colleagues on that.

Ms. Valerie Phillips: What I can speak to is the UN declaration action plan, which has over 180 measures. Within that, there are a number of potential legislative measures. The act itself, the UN declaration, which you mentioned earlier, as well as the first priority in the UN declaration action plan, requires the government to create a process to ensure that laws are consistent with the UN declaration.

Ms. Leah Gazan: Yes, but that was supposed to be done within two years, and it's gone well past the two years. That's the problem.

The Chair: With that, we are out of time. Thank you.

I'd like to thank our witnesses for being here with us this morning. It's been a good discussion.

Members have asked a number of questions that we have asked for follow-up on, so we'll be getting those questions to you. I would encourage you to get them back to us as soon as you can.

With that, colleagues, we are going to suspend.

For anybody online, I'll ask you to log back in, as quickly as possible, to the in camera link that was sent to you. We have committee business that we'll be turning to.

We'll suspend for a few minutes and get back in as soon as we can.

[Proceedings continue in camera]

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