

ANADIAN HUMAN RIGHTS TRIBUNAL TRIBUNAL CANADIEN DES DROITS DE  
LA PERSONNE

**FIRST NATIONS CHILD AND FAMILY CARING SOCIETY**

**AND ASSEMBLY OF FIRST NATIONS**

**Complainants**

**- and -**

**CANADIAN HUMAN RIGHTS COMMISSION**

**Commission**

**- and -**

**ATTORNEY GENERAL OF CANADA**

**(REPRESENTING THE MINISTER OF THE DEPARTMENT OF INDIAN AFFAIRS  
AND NORTHERN DEVELOPMENT)**

**Respondent**

**and -**

**CHIEFS OF ONTARIO AND AMNESTY INTERNATIONAL**

**Interested Parties**

**RULING**

MEMBER: Shirish P. Chotalia 2010 CHRT 7  
2010/03/24

[1] The Tribunal has considered the motion by the Mushkegowuk Council ("proposed interested party") for interested party status in this proceeding, as well as the submissions made in response, and the proposed interested party's reply, and has considered the legal authorities cited by the parties.

*Discretionary Remedy*

[2] Section 50 of the *Canadian Human Rights Act (CHRA)* allows the Tribunal, on a discretionary basis, to grant interested party status at the inquiry to governments, organizations and persons.

[3] Section 48.9(1) of the *CHRA* requires that proceedings before the Tribunal be conducted as informally and expeditiously as the requirements of natural justice and the rules of procedure allow.

[4] Rule 8 of the Canadian Human Rights Tribunal *Rules of Procedure* allows for the bringing of motions for interested party status.

*How Does Expertise Assist the Tribunal?*

[5] The proposed interested party's asserted interest in the proceeding appears to stem principally from a separate ongoing *CHRA* proceeding in which it is involved, arising from different facts-namely, the funding and delivery of policing (the "policing complaint").

[6] The Canadian Human Rights Commission ("CHRC") decided to deal with the policing complaint and that decision is currently the subject of a judicial review application initiated by the Respondent.

[7] The present proceeding, involving child and family services, currently involves 6 participants, including the CHRC, two complainant organizations, and two interested parties. As well, the proposed motion for interested party status was filed significantly later than the motions by the current interested parties.

[8] The position of the proposed interested party on the "services" and "comparator" issues" is already well represented by the two complainant organizations. The filing of the policing complaint does not equate to expertise that will be of assistance to the Tribunal beyond the expertise currently being provided to the Tribunal by the parties and the existing interested parties. Based on the materials filed the Tribunal is not satisfied that the proposed intervention will add significantly to the position of the current parties. Its position will be adequately addressed by the parties to the case.

*Potential for Prolonging the Proceedings*

[9] The present proceeding requires the Tribunal to assimilate vast quantities of factual material, even for the purposes of determining the Respondent's jurisdictional motion.

[10] The proposed interested party's participation would broaden the scope of the facts under consideration in the present proceeding.

[11] The making of written submissions by the proposed interested party without personal appearance raises its own set of logistical challenges and associated delays: e.g. the Tribunal would be unable to question counsel and would have to seek written responses and then provide concomitant time for the parties and current interested parties to respond; all of which will necessarily further prolong the proceedings and a decision in the matter.

[12] The present proceeding already poses significant and exceptional case management challenges for the parties and the Tribunal; granting status to an additional interested party could not but increase these challenges.

[13] Further, any alleged benefit is outweighed by the reasonably anticipated delay in the preliminary hearings and any substantive hearing.

[14] The Tribunal, in view of the above, denies the motion for interested party status.

"Signed by"

Shirish P. Chotalia, Q.C.

OTTAWA, Ontario

March

24,

2010

PARTIES OF RECORD

TRIBUNAL FILE:	T1340/7008
STYLE OF CAUSE:	First Nations Child and Family Caring Society and Assembly of First Nations v. Attorney General of Canada (representing the Minister of the Department of Indian Affairs and Northern Development)
RULING OF THE TRIBUNAL DATED:	March 24, 2010
APPEARANCES:	
Paul Champ	For the Complainants First Nations Child and Family Caring Society
Valerie Richer	For the Complainant Assembly of First Nations
Daniel Poulin / Samar Musallam	For the Canadian Human Rights Commission
Jonathan Tarlton / Karen Cuddy / Heather Wilson	For the Respondent
Michael Sherry	For the Chiefs of Ontario
Owen Rees	For Amnesty International