Challenges Faced by Practitioners Accessing Jordan's Principle: A Commentary

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A Commentary

Commentaries are reflection pieces prompted by a HRA or CHRA, and either provide background information or respond in some way to conclusions reached in a HRA or CHRA.

1   COMMENTARY

The implementation of Jordan's Principle occurs through a decentralized federal bureaucracy that operates differently within each province and territory in Canada, through different structures and mechanisms that are accessed by First Nations and Inuit families as well as front-line practitioners. The request for this study was put forward by the Canadian Association of Occupational Therapists' (CAOT) Occupational Therapy and Indigenous Health Network (OTIHN) and approved by the Occupational Therapy Truth and Reconciliation (OT TRC) Task Force. Members of the OTIHN pediatric subgroup, who represent Indigenous and non-Indigenous occupational therapists, identified that the barriers that they face accessing Jordan's Principle as requestors has not been well documented, and that it is necessary to identify and address these challenges.

A study led by Zafran and supported by Valavaara and Phenix as co-chairs of the OT TRC Task Force took place between 2021 and 2022. The research team explored Indigenous Services Canada's (ISC's) administrative functioning at the locus where front-line clinical and administrative practitioners apply for funding through the federal bureaucracy of Jordan's Principle to identify challenges and propose improvements (Bhanji et al. 2023). An anti-colonial lens framed the study, "recogniz[ing] colonialism as a continuing process of imposed and dominating relationships that needs to be both critiqued and resisted" (Lewis 2012). That is, the systemic problems leading to the creation of Jordan's Principle are directly tied to the intentions and consequences of colonization, and the barriers in implementing Jordan's Principle need to be understood in the context of an ongoing settler-colonial structure.

This lens guided the interpretive description of the perspectives of 40 front-line practitioners and one manager who were predominantly occupational therapists residing in Alberta, British Columbia, Manitoba, New Brunswick, Quebec, Northwest Territories, Ontario, and Yukon; there was no representation from the Atlantic provinces. The practitioners' everyday responsibilities include applying to Jordan's Principle for individual- and program-level services and equipment for First Nations families. Data collection involved 17 interviews and eight storytelling groups with 9-24 participants per group. The themes were triangulated with nine relevant Canadian Human Rights Tribunal and First Nations Child and Family Caring Society documents and orders.

The stories shared by front-line practitioners illustrate that the Canadian federal administrative processes underlying Jordan's Principle are determined by settler colonial practices that maintain a colonial logic of attempted erasure (Ray 2022). The bureaucratic requirements are a significant barrier to services that promote health, quality of life, and social participation. This colonial logic is operationalized in two ways: obscurity and gatekeeping. Deliberate obscurity is a passive absence of clarity, information, or support that withholds the necessary knowledge for successful applications. Practitioners stated that accessing information requires post-secondary literacy levels as well as digital know-how and resources. Study participants shared feedback such as:

> "I was like, this is Greek to me, I literally print off the instructions and I'm like, okay follow step one like every time because there's just ... a lot of nuances to it."

> "Given that historically, Indigenous peoples in Canada have had serious difficulty with educational systems ... you give them a government form and they're ... I've seen people literally cry."

Of note, it took a graduate student research team member several days of searching the ISC Jordan's Principle website, downloading new software, and multiple trials to access the basic forms to submit for Jordan's Principle as part of the preparatory work for the study. There is also a lack of timely or clear support to practitioners navigating ISC bureaucracy, with "community health professionals telling families to not even try with Jordan's Principle because of all the barriers and the red tape." This is compounded by an absence of accountability with ISC not transparently providing justifications for decisions transparently.

The second way in which colonial logic is operationalized is by gatekeeping, which actively maintains control within the hands of a settler-colonial system and decision-makers. Gatekeeping poses an excessive burden to access services and poses risks to both practitioners and First Nations families. ISC information requirements are onerous and culturally unsafe in the context of a lack of transparency about who receives the information and what is done with it.

> "[There are] a lot of barriers in place that are not effective and not reasonable, like not culturally safe ones, like suddenly they need these 22-page applications put in place for children to receive service for things that they're asking for."

> "It made me very uncomfortable that we were compiling people's names in a document and having all their personal information ... their status number or their diagnosis, anything that you can imagine was ... in this document."

> "They [ISC] would be calling up families to ask about their rehab goals and if they have been met, and it is out of context to ask about that without understanding the whole picture. And, what about patient confidentiality?"

Practitioners also report gatekeeping with ISC pulling funding or denying requests if practitioners complain about delays or challenge decisions.

> "I don't really want anybody to be identified ... If you voice discontent with Jordan's Principle to ISC, they either stop funding your clients or decline all your applications. That has happened to me."

The administrative processes are imposed in a way that is not tailored to local social and logistical realities. The demand to engage in culturally unsafe practices to access services

include: ISC requirements for standardized assessments that are regionally unavailable, lack validation with First Nations groups, and negate the work of community-based practitioners who have built trusting relationships. The available infrastructure limits the availability of public transport, Internet, and cell service, making it difficult to apply for and complete the required documentation. Processing an application often requires that the family makes phone calls and fill out forms requiring software, which is, in some cases, impossible.

> "[T]hey're [ISC] gatekeeping their application system and saying: 'we're only going to say that this child is approved for funding if they have completed a psych ed assessment,' which is a three-year wait. Or they will ask for yet another evaluation by third-party in your discipline, and there is only one practitioner in that discipline in the region who already saw the child and put in the application for Jordan's Principle. In the past there were never those barriers. Now it's a nightmare."

These bureaucratic barriers in the requesting process of Jordan's Principle represent a climate of colonial continuity, where ideologies and practices of a colonial state continue to operate as legacies of power hierarchies, despite purported policies to the contrary (Barra 2016). One front-line practitioner conveyed a striking metaphor to describe their experiences of (counter)navigating the colonial logic of the ISC bureaucracy: "Even though on one hand you can say 'oh all you need to do is fill in this form,' getting the information, like knowing the information to fill in the form, is sometimes... burying in itself." The image of burial refers to information and decisions being placed out of sight and unfindable, of practitioners and families having to clamber out of impossible holes and digging over and over to find what is needed.

This embodied metaphor reveals the "bureaupathology" of the federal government. That is, in a government originally designed to uphold colonialism, the bureaucracy becomes an expanding empire with an inordinate amount of inflexible red tape, conflict between various parties with dead ends, duplication, or the requirement to repeat processes, thus wasting time and human resources, and the implementation of rules as the outcome rather than a focus on human experiences (Graber 2013). This bureaucratic imperialism maintains a federal system of harming Indigenous children (Neu and Therrien 2003). Statistics concerning the number of children who were not provided services or how many children have died due to inequality in service provision is also 'buried' and not available, as a Management Control Framework has yet to be released since its announcement in the 2020 federal government audit of the implementation of Jordan's Principle (Government of Canada 2019, Section 2.3).

Based on the challenges faced by front-line practitioners, the priorities of improving accessibility, efficiency, and accountability are highlighted. ISC should develop an understanding of how to define and flexibly administer substantive equality within each province and territory by considering unique features and barriers: e.g., geography, access to health

care professionals and Jordan's Principle navigators and coordinators, and overall infrastructure. ISC should understand the variability in resources and lived experiences present across Canada and adapt requirements and standards according to each province and territory's unique demands. Some practical examples of actions to improve the application process include:

- Accounting for the digital divide and health literacy levels in relation to the accessibility of the application process by simplifying and eliminating the need for specific software, having paper forms available, and free provincial or community contact points by email or telephone.
- Providing long-term reliable resourcing of Jordan's Principle coordinators to help families and practitioners throughout the application process.
- Removing the requirements for culturally unsafe standardized assessments and unnecessary or unavailable third-party evaluations (e.g., neurocognitive assessments provided by educational psychologists).
- Supporting practitioners in the application process by facilitating communication with ISC and the creation of evidence-informed knowledge translation materials such as video presentations openly available on government websites, ISC provided local workshops and training, and regular information sessions for communities and families.

Finally, and most importantly, community-defined accountability measures are needed to ensure First Nations children are receiving services in a timely and culturally safer manner. There is a large disparity between how western governments and First Nations communities understand and practice shared accountability (Moncrieff 2011). To make the systems implemented by the ISC equitable with and for the communities it serves, First Nations must lead the process. There needs to be a shared understanding of meaningful indicators and culturally relevant accountability mechanisms that evaluate the comparative achievement of substantive equality based on access, fund timing and allocation, harm reduction, and the specific successes and effectiveness of services provided to families with success defined by recipients of services. Establishing mechanisms that align with the United Declaration on the Rights of Indigenous Peoples to support Indigenous Peoples' self-determination and governance is an imperative, alongside the implementation of external auditing structures and processes to be able to sanction ISC when failures occur.

This project revealed several easy next steps, such as improving the accessibility and legibility of administrative processes that could quickly simplify and improve clarity and success of applications. It is hoped that ISC's forthcoming Management Control Framework meets some of the concerns identified herein, particularly in relation to transparency and the establishment of Indigenous led accountability indicators and mechanisms. Instead of "burying in itself," ISC should reveal itself and fulfill the promises of Jordan's Principle to advance substantive equality- and in doing so, finally honour the legacy of Jordan River Anderson.

2   ACKNOWLEDGEMENTS

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