

Positive Experiences of First Nations Children in non-Aboriginal
Foster or Adoptive Care: De-Constructing the “Sixties Scoop”

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Saskatoon

By

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ABSTRACT

Positive Experiences of First Nations Children in non-Aboriginal
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The character of Indian child welfare discourse in Canada is highly polemic and politically charged. The relationship between First Nations and the child welfare system has been described through an explanatory framework known as the “Sixties Scoop.” As an extension of the colonial model, the Sixties Scoop refers to the period during the 1960s and 1970s when child protective services were first extended to First Nations people on reserve and there were high numbers of First Nations children entering substitute care. The predominance of this model has resulted in an overwhelming focus on negative consequences and experiences with the child welfare system. Those First Nations people who had positive experiences in substitute care have not been addressed. Through an examination of these perspectives, this thesis seeks to expand the parameters within which Indian child welfare issues are discussed.

Due to the extreme contrast between the central tenets of the Sixties Scoop model and the perspectives of those who shared their positive experiences in substitute care, it was also necessary to provide some form of reconciliation to the existing discourse. This reconciliation process was undertaken through an examination of the context within which the Sixties Scoop model developed and attained such widespread acceptance. Through a sociological perspective known as “Claims-Making,” the development, legitimization and impact of the Sixties Scoop model was examined. Upon demonstrating the influence of the larger political relationship upon the existing discourse, it was then possible to de-construct the Sixties Scoop model, which helped to reduce some of its conceptual hegemony and make room in the discourse for the perspectives of those individuals who participated in this study.

By integrating these perspectives into the discourse in this manner, this thesis validates the voices of those First Nations people whose perspectives have been obscured by the dominant model while also demonstrating their significance to the discourse. Within this process, some of the inadequacies and weaknesses of the Sixties Scoop (as an explanatory framework for the relationship between First Nations and the child welfare system) are also identified.

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Introduction

In Canada, the provision of child welfare services to First Nations represents a fairly new but highly controversial dimension of the government-First Nations relationship. As an Aboriginal person who grew up in the foster care system, I was naturally drawn to the research and developments that were occurring in the field. However, when it came time to seriously consider a specific area of focus for my graduate work, there were a number of additional factors that influenced my decision to choose Indian child welfare. Admittedly, my own childhood was an unstable period in my life characterized by placements in a total of seven foster homes, which included a mixture of both horrific and satisfying experiences. Nevertheless, I did not decide to engage in this work as part of a personal or therapeutic healing process of any kind. As someone who returned to school as a mature adult, I had already enjoyed several years of positive life experience including the blessings of a wonderful family of my own. Consequently, any sense of childhood issues or trauma had long since been replaced by many fulfilling years of adult development.

Although my initial interest in considering further research in this area was at first motivated by my own familiarity and personal experience in the child welfare system, as I began to delve more into the existing literature, I found the developments in Indian child welfare practices and the theoretical debates to be very fascinating. Ultimately, it was a critical assessment of those developments that became the most influential factor in my decision to probe more deeply into the field. After an initial review of the literature, it immediately became very clear that the discourse has been framed almost exclusively within the paradigm of colonialism. Yet, after some careful consideration of the primary assertions within this paradigm, some troubling questions began to surface concerning the almost universal acceptance of and

unquestioned adherence to this model. These concerns were based on what appeared to be significant weaknesses in the model's basic premise as well as the perpetuation of several unsubstantiated assumptions within its framework.

Within Indian child welfare discourse, adherence to the colonial model is expressed through the use of the term, "the Sixties Scoop."¹ This label is commonly used to describe the time period during the 1960s and 1970s when child protective services were first extended to First Nations people on reserve and there were high numbers of First Nations children entering substitute care. Because of the way in which it portrays a sense of victimization felt by many First Nations people, the "Scoop" as it is sometimes referred to, has also been described as a symbol of Native peoples' discontent with the child welfare system.² Framed in this way, child protective services that have resulted in the removal of First Nations children from their homes and communities is typically characterized as the extension of colonial control designed to carry out the process of assimilation. As a term frequently used to express this colonial characterization of the child welfare system, "the Sixties Scoop" has become ubiquitous to the literature.

The predominance of this explanatory model is reflected in an overwhelming focus on negative consequences and outcomes arising from First Nations peoples' involvement with the child welfare system. Not surprisingly, then, this focus has generated considerable emotional and political tensions which have had the effect of silencing the voices of those First Nations people

¹Patrick Johnston, *Native Children and the Child Welfare System* (Toronto: Canadian Council on Social Development in association with Lorimer & Company, 1983).

²Joyce Timpson, "Four Decades of Child Welfare Services to Native Indians of Ontario: A Contemporary Attempt to Understand the "Sixties Scoop" in Historical, Socio-Economic and Political Perspective," (PhD diss., Faculty of Social Work, Wilfrid Laurier University, 1993).

who had satisfying or positive experiences within the child welfare system. Consequently, the potential impact of these perspectives within the historical development of the literature has never been taken into account. Moreover, the politicized character of the discourse that has since developed has tended to further preclude any assessment of positive experiences. In this way, the entrenchment of the colonial paradigm has led to a rather significant exclusionary bias within the literature. Taken together, both the exclusionary bias and the hegemonic quality of the Sixties Scoop model have been greatly supported by the political context in which they have emerged. As a result, there has been a general unwillingness and reluctance to question or even acknowledge some of the model's more troubling aspects or to address potentially conflicting areas of analysis.

The goal of this study, then, is to expand the parameters within which First Nations child welfare issues are discussed. One direct way to accomplish this task is to give expression to some of those experiences that have not been discussed within the literature. By doing so, the perspectives of those First Nations people who lived these realities will be given some validation. At the same time, however, because of the extreme contrast they represent in comparison to the central tenets of the dominant Sixties Scoop model, validation of these experiences will not be meaningful without some kind of reconciliation to the existing discourse. Failing to do so may otherwise lead to a simple dismissal of these positive experiences as mere exceptions to the standard colonial assertions within the Sixties Scoop framework. Additionally, because of the highly politicized nature of the discourse, some might view a critical analysis of the Scoop as tantamount to minimizing or denying the impact of child welfare intervention on First Nations people. However, as the diametrically opposed character of these two perspectives does not lend

itself to a simple reconciliation, it will be necessary to gain some insight into the context within which the Sixties Scoop model developed and attained such widespread acceptance. Thus, the purpose of this thesis is to not only evaluate the positive substitute care experiences of First Nations people who spent time in non-Aboriginal homes, but to also ‘de-construct’ the Sixties Scoop model in order to integrate these experiences into the discourse in a meaningful way. Overall, it is hoped that this study may contribute toward building a theoretical framework that allows for a more informed and comprehensive analysis of Indian child welfare issues in Canada.

1.1 Methodology

1.1.1 ‘Claims Making’: Contextualizing the Entrenchment of the “Sixties Scoop” Model

The process of integrating positive substitute care experiences into the larger discourse will be undertaken through the application of a theoretical framework known as “Claims Making.” As a social constructionist framework, Claims Making denotes an interactive process between social actors and is premised upon the idea that social problems do not intrinsically exist as such, but, rather first come to be identified as problems and then are either accepted or rejected as such. Societal acceptance or rejection of these claims is evident in the type of response they engender. The principles of this interactive process are particularly relevant to the present study because they provide tremendous insight into the way that the Sixties Scoop colonial model emerged and became the dominant framework used to explain the relationship between First Nations and the child welfare system in Canada. In this context, the social problem at issue was the disproportionate numbers of First Nations children entering substitute care and the identification of that problem as one of ongoing colonial control. Due to the political influence

the Sixties Scoop model has exerted within the larger arena of Indian-White relations, it is of paramount importance to understand the process through which it became widely accepted as a credible model.

The emotional and polemic nature of the negative assessments associated with the Sixties Scoop paradigm have been very influential in terms of supporting the development of self-government initiatives, particularly the creation of First Nations controlled child and family services agencies;³ therefore, it is expected that there might be considerable reluctance to re-evaluate some of the major assumptions upon which it is based. However, as will be discussed, this analysis is in no way intended nor designed to counter the position of First Nations' rights to self-government. By examining the development of the Sixties Scoop model within the framework of Claims Making and gaining some insight into its political influence, it will become possible to de-construct the model and reconcile some of the polarity between its central tenets and the perspectives shared by the participants in this study. A reconciliation of this polarity is not possible without understanding this political context and the impact it has had upon the creation of barriers to a meaningful exchange of dialogue within the discourse. The resistance to integrating any opposing positions that have occasionally been presented in the literature as well as the exclusion of perspectives like the ones presented in this study are examples of such barriers.

The application of Claims Making will provide an effective lens through which to view the development of Indian child welfare literature as well as its impact upon the relationship

³Joyce Timpson, "Four Decades of Literature on Native Canadian Child Welfare: Changing Themes," *Child Welfare* 74, no.3 (May-June 1995): 532.

between First Nations people and the child welfare system. Through this framework and its role in de-constructing the Sixties Scoop, it will become possible to reconcile the major contradictions between the perspective of the participants in this study and those represented by the Sixties Scoop model. Providing such a reconciliation is extremely important in countering possible tendencies to immediately dismiss these perspectives as simple exceptions to the rule or perhaps as an attempt to minimize the impact of child welfare interventions to First Nations (particularly given the politicized context). Consequently, the utilization of Claims Making will ultimately provide a basis upon which the positive substitute care experiences from this study can be more meaningfully integrated into the discourse.

1.1.2 Research with First Nations Participants who had Positive Experiences in non-Aboriginal Care

The participants chosen to take part in this study were all First Nations individuals.⁴

Selection was limited to this group of people both because of the nature of their relationship with the federal government as well as their more obvious statistical visibility in the child welfare literature dealing with Aboriginal peoples. While acknowledging the need for studies which deal specifically with the experiences of Metis and Inuit peoples with the child welfare system, such inquiry was beyond the scope of this project.

Upon obtaining permission from the University of Saskatchewan Ethics Review Board, participants were recruited through a process of poster campaigning as well as a referral system.

⁴Within the context of this study, 'First Nations' is used to denote individuals who would qualify as status Indians. Some individuals in this study were in the process of becoming re-instated as status Indians or believed they could meet the necessary requirements to do so upon initiating the process. On this basis, all participants met "First Nations" qualifications as participants in this research.

Each candidate was asked to sign a consent form which outlined the details of the study and which also gave them permission to withdraw from the study at any time. They were also given follow up access to their transcribed interviews. In order to ensure a meaningful context for the use of these narratives in this study, certain criteria dictated the selection of research participants.

The selection criteria included the following:

1. The minimum age requirement was 19 years with at least a one year period during which the participant had not been a ward of the court. This time spent on their own was considered a reasonable period within which to have gained some life experience and some reflective distance from their substitute care experience.
2. In cases where participants had been placed in multiple home settings, their expression of positive placement outcomes needed to be generally applicable to their overall experience within substitute care. In some cases, negative experiences were included but selection criteria remained focused on the participant's expressed perception of an otherwise positive placement outcome in general.
3. To ensure that participants had a meaningful base from which to gauge their experience, they were required to have spent at least two years or more in a non-Aboriginal foster or adoptive home setting. All the participants in this study far exceeded this minimum standard in this regard.

In total, 13 participants shared their personal stories and experiences about the time they spent in non-Aboriginal foster or adoptive homes. In order to ensure anonymity and confidentiality, the names of each participant along with other identifying criteria have been changed or omitted.

Data was gathered through the use of a semi-structured interview guide. Participants were asked to describe their experience in substitute care in a way that brought out the day to day aspects of living while also thinking about the various aspects that contributed to their sense of a

positive experience overall. In addition to the inclusion of questions designed to probe for more information or clarity of meaning, specific questions were developed according to the assumptions of the “Sixties Scoop” and these were also posed to the participants in order to compare their experiences and opinions with the major themes contained in the “Sixties Scoop” paradigm.⁵

Upon transcription, the text of these interviews became the data set that was analyzed according to the principles of a Grounded Theory content analysis. In order to ensure that the categories used for a content analysis were effectively grounded in the data, the development of such categories were determined both inductively and deductively.⁶ This approach allowed for meaningful themes to emerge that were specific to the participants’ own perspectives but also well suited for the categorization of themes that were linked to the theoretical perspective of the “Sixties Scoop” paradigm. As a result, this analytical design not only created an opportunity to give expression to the positive experiences of the participants as they themselves perceived them but also to examine the impact of such experiences against the assumptions of the dominant “Sixties Scoop” model.

1.3 Thesis Overview

Following this introduction, Chapter Two of this thesis provides a look at the history of the relationship between First Nations and the child welfare system in Canada. A simultaneous literature review covers developments up to the 1980s including the introduction of both

⁵Please see the Interview Guide in Appendix B.

⁶For a discussion of Content Analysis based on Grounded Theory, see Bruce L. Berg, *Qualitative Research Methods for the Social Sciences*, 3rd ed. (Boston: Allyn and Bacon, 1998), 223-252.

culturally sensitive child welfare legislation and Aboriginal controlled Child and Family Services Agencies. In Chapter Three, the development and entrenchment of the Sixties Scoop model is examined within the framework of the “Claims Making” perspective. This chapter also introduces the three major areas of impact related to the validation of Sixties Scoop claims making which are: the ongoing polemic and politicized character to the discourse; the development and perpetuation of significant forms of bias within the discourse; and, the subsequent impact upon the operational policies and practices of both mainstream and First Nations Child and Family Services Agencies.

An overview of the more recent period of literature is then undertaken and the first area of impact flowing from the legitimization of Sixties Scoop claims is also addressed. Chapter Four then provides a discussion of the positive experiences as perceived by the research participants who took part in this study and outlines the manner in which these experiences will be reconciled to the Sixties Scoop claims. In Chapters Five, Six and Seven, each of the three components of the Sixties Scoop are reviewed in greater detail. This examination also provides an opportunity to review the second area of impact noted above: the development and perpetuation of significant biases within the discourse. In Chapter Eight, the general process of claims making is again re-introduced and the third area of impact concerning First Nations child welfare policy and practice is discussed. Chapter Nine concludes the study by providing a brief overview of the direction of the thesis and then discussing the implications of re-integrating positive experiences into the discourse after having critiqued and de-constructed the dominant model.

Chapter Two

The History of Indian Child Welfare in Canada

2.1 The Early History of the Relationship between First Nations People and the Child Welfare System

In Canada, provision of child welfare services falls under the jurisdiction of the provinces. In this regard, the relationship between First Nations people and the child welfare system is relatively new. Before the 1951 amendments to the *Indian Act*, the federal government retained full jurisdictional responsibilities for First Nations people. However, as part of the revisions of 1951, all provincial laws not contrary to federal law were made applicable to First Nations on reserve through the implementation of Section 88 of the *Indian Act*.¹ Although this amendment opened the way for the delivery of provincially mandated services, there was no provision or requirement to transfer accompanying fiscal obligations from the federal government to the provinces. As a result of these jurisdictional uncertainties, the extension of services did not take place for a number of years.

Prior to this time, child welfare issues were primarily addressed through the use of the residential school system. In some cases, Indian agents took control over child welfare concerns in their local areas by making private arrangements for substitute care through informal or customary adoption practices.² However, following the end of the Second World War, as attention began to turn toward the relationship between Aboriginal peoples and other Canadians,

¹Andrew Armitage, "Family and Child Welfare Standards in First Nations Communities," in *Rethinking Child Welfare in Canada*, ed. Brian Wharf (Toronto: McClelland and Stewart Inc., 1993), 133.

²H.B. Hawthorn, editor. *A Survey of the Contemporary Indians of Canada: A Report on Economic, Political, Education Needs and Policy*, vol.1 and 2 (Ottawa: Department of Indian Affairs and Northern Development, 1966).

public concern began to mount over the availability and accessibility of social services for Aboriginal peoples. In 1947, a submission by the Canadian Welfare Council and the Canadian Association of Social Workers to the joint parliamentary committee considering possible changes to the *Indian Act* represented one of the earliest commentaries to call attention to such concerns for First Nations peoples. The brief outlined the inadequacies of various social services provided to First Nations communities in comparison to the quality of those provided to the non-Aboriginal sector.³ However, the revisions to the *Indian Act* did not take place until 1951 and as a result of the jurisdictional uncertainties which followed, the provision of services was not immediately forthcoming. Also, because each province had to negotiate with the federal government in order to work out an agreement for shared fiscal responsibilities, the implementation of services across the country took place in a very ad hoc fashion.⁴ This disparate and inadequate level of services was harshly criticized in the 1966 Hawthorn Report, a federal government inquiry commissioned to review the status of social services provided to Indians. In its strongly worded recommendations, the Hawthorn Report stressed the urgency and importance of encouraging provincial governments to extend their services onto reserves.⁵

In the immediate years following the initial extension of child welfare services, there was only a very small body of literature dealing with Indian child welfare issues. The few accounts that emerged during this period described some of the major barriers and challenges affecting the

³Canadian Welfare Council and Canadian Association of Social Workers, "Joint Submission to Special Joint Committee of the Senate and the House of Commons Appointed to Examine and Consider the Indian Act" (Ottawa: Canadian Welfare Council, 1947).

⁴Johnston, 20.

⁵H.B. Hawthorn, ed., *A Survey of the Contemporary Indians of Canada*.

delivery of services to First Nations peoples. For example, in a 1974 study undertaken for the Union of B.C. Chiefs, a problematic area identified by the research committee was differences in the value systems between First Nations groups in B.C. and non-Aboriginal child welfare personnel.⁶ Difficulties were mostly attributed to the poor relationship that had developed between the Department of Human Resources (the provincial child welfare authority in B.C. at that time) and the province's First Nations people, due to a general lack of involvement by the communities themselves. Expressing similar concerns, a study of the provision of child welfare services to Indian people within the district of Sudbury and Manitoulin, also criticized the lack of culturally appropriate services.⁷

On the other hand, some of the complexities involved in an attempt to incorporate culturally relevant services was discussed in a 1976 study by Graham Andrewartha.⁸ The first study of its kind, Andrewartha reviewed the complex process of integrating indigenous peoples into existing administrative structures responsible for the provision of social services to Aboriginal peoples in the far north. Through his examination of indigenous worker's perceptions about their roles within the delivery of social service programs in their own communities, Andrewartha found a positive assessment of their ability to act as cultural brokers. However, these workers also expressed their concern over difficulties that arose in circumstances where they had been in the uncomfortable role of acting as a service provider when dealing with

⁶Gene Elmore, Sharon Clark and Sharon Dyck, *A Survey of Adoption and Child Welfare Services to Indians of B.C.* (n.p.:Union of British Columbia Indian Chiefs, February 18, 1974).

⁷Neil Stuart, "Study of Child Welfare Services Provided to Indian People in the Sudbury and Manitoulin Districts" (Master of Social Work thesis, Carleton University, 1978).

⁸Graham P. Andrewartha, "The Training of Indigenous non-Professionals: An Analysis of Eskimo Welfare Workers' Perception of Their Role," *The Social Worker* 44, no.1 (Spring 1976): 2-6.

personal acquaintances or family members.

The issue of transracial adoption also began to surface in this period. In the Canadian context, a 1975 report by the British Columbia Royal Commission on Family and Children's Law was the first to criticize the transracial adoption of Indian children.⁹ This particular study found fault with the *Adoption Act* for its role in alienating Indian children from their heritage and furthering the destruction of Indian culture. During this same period, the issue of transracial adoption had also become a growing concern in the U.S.; although, the early literature dealt primarily with African-American children.¹⁰ Nevertheless, within a very short period of time, similar debate over the transracial adoption of Indian children also began to appear in the literature and its influence soon became apparent in Canada as well.

David Fanshell's *Far From the Reservation* represented the sole attempt to systematically study the developmental progress of transracially adopted American Indian children, including the characteristics of the adoptive parents.¹¹ Limiting his study to only the first five years after placement, Fanshell concluded that while such adoptions could be viewed as successful placements overall, he was unable to offer any conclusions or insight into such concerns as racial identity.

At the same time, those who were adamant detractors of the transracial adoption of

⁹British Columbia, Royal Commission on Family and Children's Law, *Native Families and the Law: Tenth Report of the Royal Commission on Family and Children's Law* (Vancouver: author, May 1975).

¹⁰See for example, Margaret G. Sellers, "Transracial Adoption," *Child Welfare* 47, no.6 (June 1969): 355-356, 366; Laurence L. Faulk, "Identity and the Transracially Adopted Child," *Lutheran Social Service* 9, no.2 (Summer 1969): 18-25; Laurence L. Falk "A Comparative Study of Transracial and Interracial Adoption," *Child Welfare* 49, no. 2 (February 1970): 82; Leon Chestang, "The Dilemma of Biracial Adoption," *Social Work* 17 (May 1972): 100-105.

¹¹David Fanshell, *Far From the Reservation: The Transracial Adoption of American Indian Children* (Metuchen, N.J.: Scarecrow Press, 1972).

American Indian children became quite vociferous in the literature. A blunt critique of the American Indian child welfare system was put forth in what came to be a well known collection of essays entitled *The Destruction of American Indian Families*.¹² The predominant message within this collection was that the child welfare system was an inherently racist structure that promoted destructive policies, which in themselves were contributing to the social breakdown in American Indian communities. Another influential work in this regard was James Shore's "Destruction of Indian Families: Beyond the Best Interests of Indian Children."¹³ Shore's critique of transracial adoption policies was also premised on the argument that existing practices of 'removing' Indian children from their homes and placing them with non-Indians were contributing to the breakdown of American Indian families.

This scathing criticism of the child welfare system was extremely influential in the enactment of the United States *Indian Child Welfare Act* of 1978.¹⁴ Passed by Congress as a means of stemming the flow of American Indian children from their communities, the Act addressed three primary areas of concern. It specified the right of the Tribal courts to preside over their own child welfare cases, it set policy regarding placement preferences for Native American children being taken into substitute care, and it specified the need to prove beyond a reasonable doubt that Indian children needed to be taken into protective care.

The Canadian literature which followed this time period appears to have been heavily

¹²Steve Unger, ed. *The Destruction of American Indian Families* (New York: Association on American Indian Affairs, 1977).

¹³James H. Shore, "Destruction of Indian Families: Beyond the Best Interests of Indian Children," *White Cloud Journal* 1, no. 12 (1978): 13-16.

¹⁴For a review of the passage of the Indian Child Welfare Act in the U.S., see E. L. Glanchar and R. L. Barsh, "What is Best for Tribal Children? : A Response to Fischler," *Social Work* 25, no. 5 (1980): 350-357.

influenced by these developments taking place in the U.S. The highly critical tone within the literature that equated transracial adoption and the extension of protective child welfare services with the destruction of American Indian families, began to see a replication in the Canadian context. Beginning in the early 1980s, the Canadian child welfare literature also reflected similar themes of colonial domination, racism, oppression and the wrongful removal of Aboriginal children from their home communities.

Prior to the barrage of polemic works, one important study which was the first to provide some insight into the disproportionate numbers of First Nations children entering the child welfare system was Philip Hepworth's *Foster Care and Adoption in Canada*.¹⁵ Although his work involved a national survey of child welfare services in general, Hepworth devoted a chapter specifically to the situation of Aboriginal children. While more conservative in tone than what was to follow, Hepworth was also critical of the jurisdictional wrangling between the two levels of government that created an uneven and ambiguous extension of services. These circumstances meant that child welfare services were usually provided in extreme situations only, which increased the likelihood that First Nations children were not only older than other children entering care, but that they were also more likely to be suffering from emotional disturbances related to their original need for protective services. In addition to their disproportionate representation in care, Hepworth argued that these factors also greatly decreased their chances for adoption.¹⁶ It also became apparent in Hepworth's work that as the federal government began to

¹⁵Philip Hepworth, *Foster Care and Adoption in Canada* (Ottawa: Canadian Council on Social Development, 1980).

¹⁶*Ibid.*, 115.

work out its jurisdictional difficulties with the provinces, child welfare services were extended exclusively in the form of child protection services. With the focus on protective care, there was a corollary relationship reflected in the exceedingly high numbers of First Nations children entering substitute care placements. It was this situation that would become the focal point of intense scrutiny and debate.

2.2 Developments in the Literature Leading to Greater Aboriginal Control of Child and Family Services Agencies

By the early 1980s, a number of other studies began to emerge, and, similar to the themes expressed in the previous decade, there remained a general concern with the quality of child welfare services being provided to First Nations children. However, as mentioned above, a key difference with the character of this newer era of literature is that it began to take on the polemic nature of the U.S. literature that had begun to dominate in the mid to late 1970s. For example, in a 1981 article, Brad McKenzie and Pete Hudson not only criticized the high numbers of Aboriginal children in care, but they also claimed that the statistics were clearly indicative of an ongoing colonial relationship.¹⁷ In 1985, they again reiterated the argument that the relationship between Aboriginal peoples and the child welfare system had to be considered within the framework of a historical relationship based on colonization.¹⁸ Due to the assertions of ongoing colonialism, this argument was closely aligned with the political ideals of Aboriginal peoples

¹⁷Brad McKenzie and Pete Hudson, "Child Welfare and Native People: The Extension of Colonialism," *Social Worker* 49, no.2 (1981): 63-66, 87-88.

¹⁸Brad McKenzie and Pete Hudson, "Native Children, Child Welfare and the Colonization of Native People," in *The Challenge of Child Welfare*, ed. Kenneth L. Levitt and Brian Wharf, 125-141 (Vancouver: University of British Columbia Press, 1985).

who were fighting for recognition of self-government during this period. Thus, criticism of the child welfare system was also heavily supported and vocalized by Aboriginal activists and political leaders as well. The support of the Aboriginal community is very apparent in McKenzie and Hudson's statement that "because these practices contribute directly to the destruction of native culture and community, they have been correctly labeled by native leadership as examples of 'cultural genocide.'"¹⁹

One of the most influential works that grounded the discourse firmly within a colonial framework was the 1983 landmark study by Patrick Johnston.²⁰ In this province by province analysis of child welfare practices involving Aboriginal children specifically, Johnston's work confirmed that there were indeed disproportionate numbers of Aboriginal children being taken into care and placed into non-Aboriginal homes. Like Hepworth, Johnston also criticized the jurisdictional dispute between the provinces and the federal government that often resulted in the extension of services in "life or death"²¹ situations only. However, despite recognizing this situation, Johnston also went on to place particular emphasis on the colonial argument that had become prominent in the U.S. literature and which was now gaining momentum in Canada. Situating his findings within a colonial framework that suggested the existence of a policy dictating the deliberate removal of Indian children from their homes, Johnston titled the second chapter of his book "The Sixties Scoop."²² This was the first time the Sixties Scoop label had

¹⁹Ibid., 126.

²⁰Johnston, see Introduction, note 1.

²¹Ibid., 67.

²²Ibid., 23.

been applied to the statistical picture that was just emerging, and the impact of Johnston's findings would ensure the future popularity of this term.

It is Johnston's work which appears to have had the most significant impact upon the subsequent changes to social policy, especially the rapid movement toward Aboriginal controlled family and child care agencies. In fact, the Penner report, a major parliamentary inquiry charged with the mandate to make recommendations on Indian self-government, drew heavily upon the statistical and summary findings of Johnston's work and concluded that, as part of the recommended self-government initiatives, child welfare was an area of "critical concern."²³ However, as policy changes and other developments began to take place, there were additional research projects that also presented a genocidal characterization of the child welfare system, and these provided additional impetus to some of the major changes that were beginning to occur. For example, a 1984 study by Bradford Morse was highly critical of the child welfare system. Echoing the sentiments of earlier works which focused on colonial domination, Morse also used the label of 'victims' to summarize the treatment of Aboriginal people by child welfare agencies.²⁴ Similarly, a particularly scathing report was also presented in the work of a review committee set up to investigate the high numbers of Indian and Metis adoptions that had taken place in Manitoba. The review primarily consisted of hearing testimony from several Native people and organizations and was also greatly influenced by the U.S. literature referred to earlier. Following the investigation, the Chairman of the Review Committee, Judge E.C. Kimmelman,

²³Keith Penner, ed. *Indian Self Government in Canada: Report of the Special Committee* (Ottawa: Queen's Printer, 1983).

²⁴Bradford Morse, "Native Indian and Metis Children in Canada: Victims of the Child Welfare System," in *Race Relations and Cultural Differences: Educational and Institutional Perspectives*, ed. K. Gajendra and Verna and Christopher Bagley, 259-277 (New York: St. Martens Press, 1984).

also concluded that a systematic removal of Aboriginal children from their homes had been taking place.²⁵ Indeed, Kimmelman's report emphatically linked the high numbers of First Nations children in care to the colonial argument of assimilation and genocide, thereby solidifying the apparent credibility of this perspective within the discourse.

This overwhelming critique of the child welfare system influenced major changes related to policy and practice, and by the mid 1980s there was a significant transition process well underway in the area of Indian child welfare. It was this era that began the process of "claims making" activities related to child welfare services for First Nations. Before examining the "claims making" aspect, we will first review some of the specific developments that occurred in First Nations child welfare services.

2.3 Development of Culturally Sensitive Child Welfare Legislation and Aboriginally Controlled Agencies

By the early to mid 1980s, the ongoing criticism of existing child welfare practices had resulted not only in the enactment of more culturally sensitive legislation, but also in a movement toward Aboriginal controlled child and family service agencies. While a detailed description of the developments that took place is beyond the scope of this study, a brief overview of the nature of the changes is warranted.

Even before this transition period was well under way, one British Columbia Band had taken matters into its own hands. In 1980, the Spallumcheen Indian Band enacted a by-law under

²⁵Associate Chief Judge E.C. Kimmelman, chairman, Review Committee on Indian and Metis Adoptions and Placements, *Final Report to the Honourable Murial Smith, Minister of Community Services: No Quiet Place* (Winnipeg: author, 1985).

Section 81 of the *Indian Act*, thereby giving the Band full jurisdiction over child custody proceedings. Despite questions as to its constitutional validity, the Minister of Indian Affairs chose not to exercise his power of disallowance.²⁶ The Band immediately undertook a campaign to persuade the Provincial Ministry of Human Resources to respect the authority of the Band to provide its own child welfare services.²⁷ As noted by Judy Kiyoko Nutley, the Spallumcheen Band was successful in achieving the right to develop its own preventive child and family services; however, in the area of protective child welfare services, provincial jurisdiction remained in effect.²⁸

Elsewhere, Manitoba was one of the first provinces to delegate child welfare services to First Nations or other Aboriginal agencies. In 1981, under the authority of a section within the provincial *Child Welfare Act* (now the *Child and Family Services Act*) the province was allowed to transfer control over the delivery of the child welfare services to the Dakota Ojibway Tribal Council.²⁹ As the first mandated Aboriginal child welfare agency in Canada, the Dakota Ojibway Child and Family Services Agency was able to provide child welfare services to eight separate Bands within the Tribal Council's territory. This agreement was reached after the Dakota Ojibway Tribal Council signed separate agreements with both levels of government. The

²⁶John A. MacDonald, "The Child Welfare Programme of the Spallumcheen Indian Band in British Columbia," in *The Challenge of Child Welfare*, eds. Kenneth L. Levitt and Brian Wharf, 253-265 (Vancouver: University of British Columbia Press, 1985).

²⁷*Ibid.*, 255.

²⁸Judy K. Nutley, "The Squamish Indian Band Family and Child Services Program - A Study of the Evolution of a Band-Based Child Welfare Program," (Master of Social Work thesis, University of British Columbia, 1989).

²⁹Secretariat to the Federal/Provincial/Territorial Working Group on Child and Family Services Information, *Child Welfare in Canada 2000: The Role of Provincial and Territorial Authorities in the Provision of Child Protection Services* (Hull, Quebec: Author, March 2002), 101.

development of other agencies soon followed and, “as of September 2002, there were a total of 19 child and family service agencies mandated to provide services under the *CFS Act* and the *Adoption Act*.³⁰ More recently, in November of 2003, Manitoba expanded the jurisdictional authority and reach of Aboriginal child welfare authorities when it enacted new child welfare legislation that greatly enhanced the availability and the autonomy of Aboriginal controlled child welfare services throughout the province.³¹

In 1965, Ontario was the first province to negotiate a bi-lateral agreement with the federal government to provide child and family welfare services to First Nations on reserve. Subsequent changes to child welfare policy and practice have continued to flow from the parameters of this original agreement because, as noted by Johnston, “the Ontario government has no plans to renegotiate the 1965 agreement.”³² Within those parameters, the changes that took place more recently, began with legislative reform. In 1984, the Ontario government made changes to the *Child and Family Services Act* that called for due consideration of a child’s cultural identity as one of the areas to be considered when making a decision based on the best interests of the child.³³ Thereafter, the development of Aboriginal child and family services agencies occurred according to Sections 208-213 of the *Child and Family Services Act*, which permit the Minister to designate agencies and to enter into agreements with them for the purposes of the Act. A total

³⁰Ibid.

³¹Aboriginal Justice Inquiry – Child Welfare Initiative, “Summary of the Detailed Implementation Plan (DIP) for Restructuring the Child and Family Services System in Manitoba,” Detailed Implementation Plan, <http://www.aji-cwi.mb.ca>.

³²Johnston, 12.

³³Ontario Ministry of Community and Social Services, *Tentative Policies for Indian Provisions of the Child and Family Services Act, Parts I-IX* (Toronto: Author, 1985), 2.

of five designated First Nations child welfare agencies currently operate in Ontario.³⁴

While the provinces of Manitoba and Ontario took the lead in initiating an overhaul to the child welfare system as it applied to First Nations, other provinces also underwent similar adjustments. In Saskatchewan, for example, the first Aboriginal controlled agency was created in 1993, and currently there are 17 First Nations Child and Family Services Agencies in operation in the province. Today, most of the other provinces have cooperated in either the development of First Nations Child and Family Services agencies or in the development of legislative reform designed to ensure the delivery of culturally sensitive services.³⁵

While the first phase of the literature was concerned with critiquing First Nations child welfare services, these subsequent changes in the relationship naturally saw a corresponding shift in the literature. Following this time, the literature began to focus upon an examination of the various aspects related to the integration of both these new agencies and the culturally relevant legislation into the Canadian child welfare services sector. However, the change in the literature primarily represented a corresponding shift in the locus of critique; rather than lamenting the extension of protective care, there was explicit concern expressed over the more theoretical aspects of child welfare services. Criticism became heavily focused upon the differences in basic beliefs and values between First Nations and non-Aboriginal peoples as they are related to child welfare concerns. So, although significant changes to child welfare policy and practice had already begun, this perceived dichotomy in values and beliefs justified demands for greater levels

³⁴Secretariat to the Federal/Provincial/Territorial Working Group on Child and Family Services Information, *Child Welfare in Canada, 2000*, 86.

³⁵For a complete province by province review of the separate provisions for Aboriginal peoples in the delivery of child and family services, see the report by the Secretariat to the Federal/Provincial/Territorial Working Group on Child and Family Services Information.

of autonomy over First Nations child and family services. Thus, while this secondary phase of the literature retained its polemic character, it also represented some key points of departure from the earlier era. To appreciate the significance of each phase and their respective role in the development and entrenchment of the Sixties Scoop ideology, it is important to introduce the concept of claims making. After an introduction to the dynamics of claims making and its role in the first phase of the literature, we can then continue with a review of this next era in the discourse which became heavily focused on the articulation of difference.

Chapter Three

“Claims Making and the Sixties Scoop Model”

3.1 The Dynamics of “Claims Making”

As discussed in the introduction to this study, the social constructionist framework known as “claims making” will be applied to the development of the “Sixties Scoop” model and its role in becoming the symbol of Native peoples’ discontent with the child welfare system. This theoretical perspective will be used to examine the dynamics of the interactive process which resulted in the acceptance of the statistically high numbers of First Nations children in care as a valid social problem that required a specific kind of amelioration. By providing some insight into this process, it will then also become easier to understand the full impact of its outcome upon the discourse in general and also upon the policy developments related to it. This insight will allow for a better understanding of the reasons behind the extreme polarity between the Sixties Scoop perspective and those shared by the participants in this study. As a result, the experiences of those First Nations people who had positive outcomes in non-Aboriginal homes can be more meaningfully integrated into the general discourse.

Sociologists Malcolm Spector and John Kitsuse have developed the concept of claims making as a way to understand the interactive process whereby social problems actually come to be accepted as social facts in society.¹ They contend that social problems do not intrinsically exist; rather, they must first come to be identified and promoted as social problems by social actors who either have a vested interest as claimed victims of the conditions resulting from the

¹Malcolm Spector and John I. Kitsuse, *Constructing Social Problems* (New Brunswick, N.J.: Transaction Publishers, 2001).

alleged problem or who act as supporters having an interest due to the alignment of their own values with the expressed nature of the problem. Rick Ponting, a sociologist who has written extensively on First Nations issues, has successfully applied this framework to various aspects of the relationship between Aboriginal peoples and the Government of Canada or between Aboriginal peoples and other groups in general.² In spite of the fact that this framework considers social problems to be created by social actors, it should be noted that it does not outwardly deny the serious nature of various situations that have come to be labeled as problems. As explained by Ponting, the idea here is to recognize and understand the dynamics of the actual interaction process and to examine the ways that societal acceptance or rejection of the defined problem occurs.³ This interaction process is particularly relevant to the present study because it provides tremendous insight into the way that the First Nations' child welfare claims making discourse has been successful in bringing about responses that legitimized the claims as reasonable. The goal of this particular section, then, is to examine the dynamics of this specific process without making a judgement as to the strengths or weaknesses of these claims themselves.

3.2 The "Sixties Scoop" and the Process of Claims Making within First Nations' Child Welfare Discourse

One of the most crucial aspects of claims making activities is the communication style that is adopted to facilitate acceptance of the definition of the problem in question. To ensure that certain issues will come to be accepted as legitimate social problems, social actors must typically

²Rick Ponting, ed. *First Nations in Canada: Perspectives on Opportunity, Empowerment and Self-Determination* (Toronto: McGraw-Hill Ryerson, 1997).

³Ponting, 7.

work to create an awareness of the problem by utilizing a certain language of communication. In order to be able to resonate with the values of the target audience, the language associated with claims making activities must necessarily be couched in a vocabulary of discomfort.⁴ In this way, as noted by Spector and Kitsuse, values can be viewed “as linguistic devices that participants use to articulate their claims or to persuade others to legitimize them.”⁵ So, to achieve the definition of a given issue as a legitimate social problem, the language needs to be both strong and uncomfortable so as to ensure the attention of other people while also generating the desired impact. As an interactive process, there will then be certain responses to the claims making activity which can either validate the claim as reasonable or as deviant in some way.⁶

In concert with the above requirements, a key feature of the claims making activities reflected within the “Sixties Scoop” discourse was the negative vocabulary that became a standard part of the critique of the child welfare system and its relationship with First Nations in Canada. In terms of having an impact on the intended audience, the language within the Sixties Scoop discourse definitely fulfilled the criteria for ‘a vocabulary of discomfort.’ The choice of the metaphor “Sixties Scoop” itself clearly had a profound impact in this regard. In Patrick Johnston’s influential study where the phrase was first coined, he explains that the term was first mentioned to him by a social worker from British Columbia who suggested that “social workers would quite literally, scoop children from the reserves on the slightest pretext.”⁷ This

⁴Ponting, 6.

⁵Spector and Kitsuse, 74.

⁶Ibid.

⁷Johnston, 23.

terminology was subsequently adopted in another well known inquiry, the 1985 Kimmelman Report, which chastised the child welfare system for what it considered to have been the systematic removal of Indian children from their homes and communities.⁸ In addition, the Report also utilized some blunt, value infused language of its own. Kimmelman not only accepted the basic premise of the Sixties Scoop, but his own inquiry also spurred him to characterize the child welfare system's treatment of First Nations children as "cultural genocide."⁹

During this era in the literature, accusations of "cultural genocide" quickly became the standard way to criticize the child welfare system for its role in the Sixties Scoop. The impact of this guilt and shame inducing vocabulary cannot be underestimated as it was a prominent feature of several influential works during this period.¹⁰ This same language was also being featured in articles within the mainstream news media.¹¹ Through the strong language that was used to depict the particular claims being made, a vivid portrayal of Aboriginal peoples as victims of the child welfare system quickly emerged.

As purported by the claims making perspective, the purpose behind the polemic character

⁸E.C. Kimmelman, *No Quiet Place*.

⁹E.C. Kimmelman, *No Quiet Place*, 59.

¹⁰For example, see Brad McKenzie and Pete Hudson, "Child Welfare and Native People: The Extension of Colonialism," *Social Worker* 49, no. 2 (1981): 63-66, 87-88; Brad McKenzie and Pete Hudson, "Native Children, Child Welfare and the Colonization of Native People," in *The Challenge of Child Welfare*, ed. Kenneth L. Levitt and Brian Wharf, 125-141 (Vancouver: University of British Columbia Press, 1985); Patricia A. Monture, "A Vicious Circle: Child Welfare and the First Nations," *Canadian Journal of Women and the Law* 3 (1989): 1-17; Emily F. Carasco, "Canadian Native Children: Have Child Welfare Laws Broken the Circle?" *Canadian Journal of Family Law* 5 (1986): 111-138; Donna J. Goldsmith, "Individual vs Collective Rights: The Indian Child Welfare Act," *Harvard Women's Law Journal* 13 (1990): 1-12.

¹¹For example, see, "Indians Call Adoption Genocide," *Saskatoon Star Phoenix*, September 11, 1981, A3.

of such claims is to resonate with the values of a target audience, which, in this case was the general public as well as the state. If we consider the context of the social and political environment in which there was a growing awareness of Aboriginal issues, the particular values being appealed to by the use of vocabulary such as 'assimilation,' 'colonization,' 'cultural genocide,' and the 'Sixties Scoop,' becomes quite evident. During the era in which much of this polemic literature was being produced, the larger political and social environment of the later Trudeau years had not only created a tremendous awareness of issues such as racism, but it was also the era that became the watershed years in terms of significant developments related to Aboriginal rights. It was during this time that Canada had found a definite source of pride in its declarations of a "just society" premised on the notion of equal rights, multi-cultural inclusiveness and growing acceptance of the unique position and rights of Aboriginal peoples. Within the context of this environment, ongoing claims of assimilation and colonial control would not only have been extremely uncomfortable at the national level, but the global prominence of indigenous peoples' rights overall, also ensured a growing condemnation of colonial and racist attitudes at an international level. To be sure, contributing to an act of cultural genocide is not a description that Canada would have wanted attached to its international reputation as a fair and just nation that welcomed and respected diversity.

At the same time, the specific political ideals of First Nations were also reflected in the the claims making process of the Sixties Scoop discourse and these values or ideals were also intrinsically linked to this larger socio-political context. Indeed, owing to their function as part of the process of appealing to the values of a target audience, these political ideals were perhaps even more important because recent developments in the area of Aboriginal rights definitely

provided both a moral and a legal context to which the substance of these claims could be directed. In other words, within the larger political environment, the increasing recognition and acceptance of Aboriginal rights provided the moral and legal values to which these claims could appeal.

The developing context for the recognition of Aboriginal rights was evident in the trend toward positive responses to First Nations' political activism that followed the failure of the 1969 White Paper.¹² During this time, First Nations went on to achieve several important victories.¹³ For example by 1972, the National Indian Brotherhood successfully sought greater Indian control over the education of Indian peoples. Significantly, the claims of "cultural genocide" and "assimilationist policies" of the residential school era that were effective in First Nations' arguments for greater control over education were the same claims predominant in the Sixties Scoop critique of the child welfare system. However, by the 1980s, as First Nations had continued to gain political momentum and influence, there was even greater receptivity to the politicized nature and appeal of such claims.

A significant milestone occurred in 1973 when the outcome of the Calder Case led to the recognition of Aboriginal title to land and the subsequent establishment of the Indian Claims

¹²The White Paper was essentially a government discussion paper which proposed a revamped Indian policy which would dismantle Indian status provisions and promote the integration of Indian peoples into Canadian society as individuals with the same rights as other Canadians.

¹³It is important to note that while the political activism of First Nations peoples became more unified and pronounced after the 1969 White Paper, this era does not represent a sudden surge of resistance to colonial policy. The longstanding political activism of First Nations is a well documented fact. Some specific examples can be found as follows: John Tobias, "The Subjugation of the Plains Cree, 1879-1885" *Canadian Historical Review*, XLIV, no. 4 (1983): 519-48; Paul Tennant, "Native Political Organization in British Columbia, 1900-1960: A Response to Internal Colonialism," *B.C. Studies*, 55 (1982): 3-49.

Commission to deal with outstanding land claims.¹⁴ And, even more importantly, by 1982, the intense lobbying efforts of Aboriginal peoples had resulted in the entrenchment of Aboriginal rights within Section 35 (1) of the new Constitution. In addition to these developments, the courts also continued to have a highly visible role in the ongoing recognition of Aboriginal rights. It was the additional legal recognition of these rights that appear to have resulted in a significant shift in political attitudes concerning the regulation of the relationship between First Nations and the Canadian government. For example, according to historian Olive Dickason, the 1987 *Sparrow* decision was one of the first important legal cases to “have been widely viewed as representing a turning point in the Canadian legal approach to Aboriginal right.”¹⁵ Further, legal scholar Patricia Monture-Angus states, “in the same way that political attitudes changed after *Calder*, winds of change that swirled following the release of the *Geurin*¹⁶ judgement also brought change. The Department of Indian Affairs began to actively follow a policy of ‘devolution,’ the process whereby Indian bands are facilitated in assuming greater administrative

¹⁴Peter R. Grant and Neil J. Sterritt, “The *Delgamuukw* Decision and Oral History,” in *Expressions in Canadian Native Studies*, ed. Ron Laliberte et al. (Saskatoon: University of Saskatchewan Press, 2000), 291-312. These authors explain that in *Calder v. Attorney General of British Columbia*, six of seven Supreme Court judges ruled that the Nisga’a (whose Aboriginal title was at issue in this case) had Aboriginal title. Although the judges were split over whether colonial land enactments had since extinguished their title, this case established that the Royal Proclamation was not the sole source of Aboriginal Title, which meant that the Government of Canada had to reverse its former position and began negotiating treaties with Aboriginal peoples who had not yet entered into treaty.

¹⁵Olive P. Dickason, *Canada’s First Nations: A History of Founding Peoples From Earliest Times*, 3rd ed. (Don Mills: Oxford University Press, 2002), 337. Dickason explains that the *Sparrow* case found Aboriginal rights such as fishing, hunting and ceremonial and land rights to have priority over later restrictive legislation.

¹⁶The *Calder* and *Geurin* case took place in 1973 and 1985 respectively. While the outcome of the *Calder* case led to the recognition of Indian title to land, the *Geurin* case placed an obligation on the federal government to act in the best interests of First Nations. For further discussion, see J.R. Miller, *Skyscrapers Hide the Heavens: A History of Indian-White Relations in Canada*, 3rd ed. (Toronto: University of Toronto Press, 2000).

control over their affairs.”¹⁷

By appealing to the values that were reflected in the government’s recent acceptance of Indian self-government as both a moral and legal obligation, the politicization of the Sixties Scoop discourse was an effective part of the claims making process. The impact of the relationship between the uncomfortable language within the Sixties Scoop discourse and the politicization of the claims embedded within it can be seen as a strategic form of appeal to the perceived responsiveness and willingness of the government to work toward at least partial fulfillment of the Aboriginal right to self-government. The embodiment of this particular aspect of the claims making process is quite clear in the Federation of Saskatchewan Indian Nations’ *Act Respecting First Nations Government Control Over the Standards, Management and Services Relating to Indian Child or Families in Care*, where it states that the “principle reason for high numbers of children in care [was a] lack of Indian control.”¹⁸ Another direct example reflecting the connection between the Sixties Scoop discourse and the larger political environment is found in the work of Judge Murray Sinclair, Donna Philips and Nicholas Bala, who note that “Indian Bands have the objective of complete control over their child welfare services and policies, as part of their goal of Indian self-government.”¹⁹

Certainly, it needs to be understood that the position of First Nations is closely connected

¹⁷Patricia Monture-Angus, *Journeying Forward: Dreaming First Nations Independence* (Halifax: Fernwood Publishing, 1999), 83.

¹⁸Federation of Saskatchewan Indian Nations, *An Act to Establish Indian First Nations Government Control Over the Standards, Management and Services Relating to Indian Child or Families in Care* (1991).

¹⁹Judge Murray Sinclair, Donna Philips and Nicholas Bala, “Aboriginal Child Welfare in Canada,” in *Canadian Child Welfare Law: Children Families and the State*, eds. Nicholas Bala, Joseph P. Hornick and Robin Vogl (Toronto: Thompson Educational Publishing, 1991), 189.

to historical practices of oppression. Therefore, as noted in the work of Brad McKenzie, Esther Seidl and Norman Bone, this background provides an important link between assertions of colonial practices attributed to the child welfare system and an associated call for self government as the primary solution. These authors state, “political arguments are based on historical experiences with institutions of the dominant society including the child welfare system as mechanisms which oppressed and attempted to assimilate Aboriginal people.”²⁰ Of course, neither the basis of claim for the right of self-government nor the actual validity of the Sixties Scoop claims are themselves under scrutiny here. In terms of understanding the dynamics of these claims, however, it remains that overall, the political environment within which Aboriginal rights were unfolding provided an excellent context to which corresponding value-based rhetoric could be directed and also be assured of an impact.

As noted earlier, the interactive character to the claims making process also requires some form of response. Therefore, the generation of a positive response to such claims not only validated the original claims but also greatly enhanced assurances of positive outcomes to future claims as well. Indeed, the expectations of such assurances appear to be well founded. Both the success of, and the apparent expectations and motivations behind the politically infused discourse, is plainly evident in Doug Durst’s observations that as part of the process of devolution, Social Services has been the domain most frequently transferred to Aboriginal control. Further, as part of that domain, child welfare stands out as typically the first and most

²⁰Brad McKenzie, Esther Seidle and Norman Bone, “Child Welfare Standards in First Nations: A Community Based Study,” in *Child Welfare in Canada, Research and Policy Implications*, eds. Joe Hudson and Burt Galaway (Toronto: Thompson Educational Publishing, 1995), 56.

common self-government initiative to be undertaken by Aboriginal peoples.²¹ Consequently, the general method of creating links to Aboriginal rights within the claims making activities of Sixties Scoop based discourse appears to have become a very effective way of ensuring that the over-representation of First Nations children in care was recognized as a definite social problem which demanded a *particular method of resolution*, specifically, implementation of the right of self-government.

Through the response it engendered, the recognition of Sixties Scoop claims as a valid social problem signified a successful outcome to this interactive process. In this case, the nature of the response that validated the claims as a legitimate social problem included the development of culturally relevant child welfare legislation as well as the creation of Aboriginal controlled child and family services agencies mentioned earlier. As Joyce Timpson notes, “guilt inducing terminology such as ‘cultural genocide’ and the ‘Sixties Scoop,’ seemed to stimulate the rapid change.”²² Clearly, as suggested by Timpson’s observation, the response to the claims making activities indicated an overwhelming and immediate validation of the claims that were expressed. In turn, this legitimization of the claims making activities represented by the Sixties Scoop discourse has had a profound impact on the continued development of the literature as well as on related policy developments.

²¹Doug Durst, *First Nations Self-Government of Social Services: An Annotated Bibliography*, (Regina: Social Administration Research Unit, Faculty of Social Work, University of Regina, 1996), 3.

²²Joyce Timpson, “Four Decades of Child Welfare Services to Native Indians of Ontario,” 27.

3.3 Evaluating the Impact of the Claims Making Process

There are three notable areas of impact that are related to the success of the Sixties Scoop claims making discourse. The first involves the way that its legitimization has contributed to the continued extension of a highly polemic and politicized character to the literature. The remaining two are inter-related or flow from this first area. The second concerns the development and perpetuation of some important forms of bias that have been created in the literature. And, lastly, its validation has also had a significant impact upon the operational policies and practices of both mainstream and the new First Nations Child and Family Services agencies that were created. As each area is discussed in greater detail, it will become apparent that the acceptance of the Sixties Scoop claims has had far reaching consequences for Indian child welfare in terms of both practical and theoretical considerations. In this next section we will continue with a review of the secondary phase of the literature that followed the implementation of culturally relevant legislation and the development of First Nations child and family services agencies. Within this review, a simultaneous examination of the first area of impact resulting from the legitimization of the Sixties Scoop claims will also take place.

3.3.1 Successful Claims Making Activities of the Sixties Scoop Literature and its Impact upon Subsequent Developments of the Discourse

The legitimization of Sixties Scoop claims making had an immediate impact upon the phase of literature that followed the period in which changes to child welfare legislation and the development of First Nations Child and Family Services Agencies began. The validation of Sixties Scoop claims became an important foundation for the continuation of claims making that

remained grounded in the same rhetoric and principles. Earlier, the influence of child welfare developments in the United States was discussed. Specifically, it was noted that the enactment of the 1978 *Indian Child Welfare Act (ICWA)* was a profound turning point in the development of that country's child welfare policy. As such, it represents a clear response to the similar claims making activities that had been undertaken there. As noted by Brad McKenzie, the enactment of the *ICWA* had a direct impact upon the situation in Canada in terms of the resulting demands for similar legislation.²³ It will be recalled that the claims making activities reflected in the Canadian literature after this time also became increasingly polemic in nature owing to its infusion with value laden language such as "Sixties Scoop," "cultural genocide," and "colonization." However, in the years following the implementation of the *ICWA*, the ensuing debate over the effectiveness of the Act also exerted considerable influence in the Canadian context.

The post-*ICWA* literature in the U.S. demonstrated a raging debate that was centered on the effectiveness of the Act's Indian child welfare provisions and the related principles of individual versus collective rights. In principle, the Act implies that the rights of individual children are secondary to the collective interests of the tribe or Indian community. Although the policies set forth within the Act were also designed to reduce the numbers of American Indian children entering the child welfare system, a 1989 report discussing the effectiveness of the Act indicates that not only have Indian children continued to be placed into care in high numbers, the percentage of children taken into care has actually increased by over twenty five percent since the

²³Brad McKenzie, "Child Welfare: New Models of Service Delivery in Canada's Native Communities," *Human Services in the Rural Environment* 12, no. 3 (Winter 1989), 6.

Act was first introduced.²⁴ In addition, over one third of placements have remained in non-Indian homes. Subsequently, there has been a virtual plethora of works which continue to debate and assess the theoretical foundations upon which the Act was premised.

On the one hand, there are several studies which condemn the remaining state jurisdiction allowed by discretionary language within the *ICWA*.²⁵ On the other hand, although considerably less prolific in number, some scholars have expressed a concern for the protection of individual rights which may not be recognized by legislation favoring the rights of the collective.²⁶ It is this foundational premise of the debate which has greatly influenced the secondary phase of Indian child welfare literature in Canada. Despite the positive changes such as legislative reform and the development of Aboriginal controlled child and family services agencies, ongoing criticism also became focused on remaining state jurisdiction in the operations of these agencies as well as on the perceived inappropriateness of existing principles within child

²⁴E. Daniel Edwards and Margie Egbert-Edwards, "The American Indian Child Welfare Act: Achievements and Recommendations," in *The State as Parent: International Research Perspectives on Intervention with Young Persons*, eds. Joe Hudson and Burt Galaway, 37-51 (Dordrecht, Netherlands: Kluwer Academic Publishers, 1989).

²⁵Some examples are as follows: Jill E. Adams, "The Indian Child Welfare Act of 1978: Protecting Tribal Interests in a Land of Individual Rights," *American Indian Law Review* 19, no. 2 (1994): 301-51; Jennifer Nutt Carleton, "A Study in the Codification of the Ethnic Best Interests of the Child," *Marquette Law Review* 81, no.1(Fall 1997): 21-45; Donna J. Goldsmith, "Individual Rights vs Collective Rights: The Indian Child Welfare Act," *Harvard Women's Law Journal* 13 (1990): 1-12; Steven C. Hager, "The 'Existing Indian Family' Exception to the Indian Child Welfare Act," *Clearinghouse Review* 27 (December 1993): 874-83; Patrice Kunesh-Hartman, "The Indian Child Welfare Act of 1978: Protecting Essential Tribal Interests," *University of Colorado Law Review* 60 (1989): 131-167; Robert J. McCarthy, "The Indian Child Welfare Act: in the Best Interests of the Child and Tribe," *Clearinghouse Review* 27 (December 1993): 864-73; Alissa Wilson, "The Best Interests of Children in the Cultural Context of the Indian Child Welfare Act in Re: S.S. and R.S.," *Loyola University Chicago Law Journal* 28, no. 4 (1997): 839-94.

²⁶Some of these works include the following: Christine D. Bakeis, "The Indian Child Welfare Act of 1978: Violating Personal Rights for the Sake of the Tribe," *Notre Dame Journal of Law, Ethics and Public Policy* 10 (1996): 543-86; Keri B. Lazarus, "Adoption of Native Americans and First Nations Children: Are the United States and Canada Recognizing the Best Interests of the Children?" *Arizona Journal of International and Comparative Law* 14, no. 1 (1997): 255-84.

welfare legislation, which have generally been characterized as racist. Notably, within this debate, the character of the literature has remained grounded in the polemic and politicized framework of the Sixties Scoop discourse. Consequently, the legitimization of the claims making activities which validated the major claims flowing from the Sixties Scoop model, (i.e: assimilation; cultural genocide), also provided what appeared to be an acceptable conceptual framework to continue to build upon.

As will be discussed, the ongoing polemic and political nature of the discourse was also able to retain both its value and its prominence because, once again, there was a direct connection between the politicized ideals of this secondary phase of literature and the notable receptivity of the government to begin working toward the fulfillment of those ideals. However, it is apparent that the validation of the first era of claims making acted as an important catalyst to this secondary process of claims making. Therefore, the familiar role of uncomfortable language designed to resonate with the values and beliefs of a target audience also remained important. As alluded to above, then, due to the continued politicization of this second phase in the literature, the perpetuation of the assumptions within the Sixties Scoop remained a prominent feature as well.

To appreciate the dynamics of this secondary era of claims making, it is important to again understand the changing political context. Just as the 1980s represented key changes to the political environment within which the recognition of Aboriginal rights were advanced considerably, the later 1980s and early 1990s were typified by the ongoing negotiation over meaningful implementation of those constitutionally recognized rights. In the years following the repatriation of the Constitution, a series of First Ministers conferences were held with the

purpose of developing a definition of and an operational framework for Aboriginal self-government as it had been envisioned in the Constitutional amendments. The dismal failure of the First Minister's conferences to come to any workable agreement about the definition of Aboriginal self-government meant that First Nations had to remain intense in their lobbying efforts to have their inherent right to self government fully recognized. During this same time period under Prime Minister Brian Mulroney's tenure, the recommendations of the 1985 Neilson Task force also appeared suspiciously similar to the proposed policies of the White Paper because of its focus on integration and offloading various services to the provinces.²⁷ Consequently, the sense of urgency behind the political activism of First Nations retained its priority. These efforts produced some important results, when, following the failure of the Meech Lake Accord in 1990, provisions for the implementation of the right of self-government for First Nations became an integral part of the negotiations and framework of the Charlottetown Accord in 1991. Although this Accord failed to achieve enough public support to move ahead, the 1993 Liberal Red Book went on to make a commitment to recognize the inherent right to self-government as an existing right within Section 35 of the Constitution Act 1982.²⁸ Quite clearly, the overall political goal of Aboriginal peoples during this period was to carve out their own Constitutional status that reflected their sovereignty and the associated self-determining level of autonomy that went with it. It is within this context that we can see how the corresponding literature of this period was also closely aligned with the larger political environment in much the

²⁷J.R. Miller, *Skyscrapers Hide the Heavens*, 245.

²⁸James S. Frideres and Rene R. Gadacz, *Aboriginal Peoples in Canada: Contemporary Conflicts*, 6th ed. (Toronto: Prentice Hall, 2001), 251.

same way the preceding era had been.

3.3.2 Theoretical Debates: Legislative Bias, the “Best Interests of the Child” Principle and Collective Rights

Returning now to the literature itself, the two primary areas of concern that developed in this phase of the Canadian discourse clearly reflected the influence of the post-*ICWA* period in the United States. In much the same way that the U.S. literature focused on the issue of remaining state jurisdiction within the application of the *ICWA*, in Canada, there was also significant attention given to remaining state jurisdiction in the operation of the new First Nations child welfare agencies. And, like the second area of concern in the U.S. literature, which was centered on individual versus collective rights, controversy over the same theoretical principles arose in Canada with specific regard to child welfare legislation and its applicability to First Nations.

Two of the first commentaries to undertake an evaluation of the newly formed agencies under First Nations control were produced by Pete Hudson in 1986 and Brad McKenzie in 1989. Both concluded with very similar findings. Hudson found that the newly formed agencies were facing a multitude of difficulties including large caseloads and an overriding focus on political objectives of the Band over the service concerns of the agency.²⁹ McKenzie agreed that the political concerns of the Band could take precedence over service concerns but he also found that the agencies were hampered by funding constraints, jurisdictional disputes between the provinces

²⁹Peter Hudson, “Manitoba’s Indian Child Welfare Services: In the Balance,” in *Perspectives on Social Services and Social Issues*, eds. J. S. Ismael and R. Thomlison, 251-264 (Ottawa: Canadian Council on Social Development, 1986).

and the federal government, and difficulties with inadequately trained staff.³⁰ However, Hudson went on to draw more attention to the agencies' lack of full autonomy in areas of judicial involvement such as that of family courts in rendering child welfare decisions. And, in a later study in which he was also a co-author, the argument for greater Indian autonomy was again a focus. This time, in spite of the identification of some concerns that were similar to the ones contained in his earlier appraisal, Hudson and his co-author concluded that in the absence of meaningful self-government, the new child welfare agencies operated by First Nations were simply evidence of ongoing external control by non-Native governments.³¹ Overall, it is apparent that in spite of the identification of several areas of difficulty that were being experienced by these new agencies, most problems were attributed to the lack of full jurisdictional authority. In this regard, it is evident that the uncomfortable language of colonization was still embedded within these studies.

The subordination of other issues to demands for greater First Nations control was especially prominent in the recommendations of a major inquiry that took place in 1993. In response to an earlier inquiry that was held to investigate the suicide of a young Native boy in the care of a First Nations child welfare agency, a First Nations Child and Family Task Force was set up with the specific mandate of looking into the primary concerns highlighted by the original inquiry. However, the major recommendation arrived at by the Task Force was that of greater Aboriginal control over child welfare services. Further, due to its highly politically charged

³⁰McKenzie, "Child Welfare: New Models of Service Delivery in Canada's Native Communities."

³¹Peter Hudson and Sharon Taylor-Henley, "Aboriginal Self-government and Social Services: First Nations-Provincial Relations," *Canadian Public Policy*, 18, no. 1(1992): 13-26.

recommendations that were critical of remaining state control, which it considered to be evidence of ongoing colonialism, the tone of this inquiry was extremely polemic. Most significantly, it was without addressing some of the most critical concerns detailed by the first inquiry, the Task Force called for a complete transfer of jurisdictional authority over a period of five years.³²

Similar to the concern over the need for greater levels of autonomy within the agencies themselves, the second area of focus in the literature was more theoretically based and also promoted greater jurisdictional authority for First Nations. However, the locus of criticism was directed more toward legislative concerns. The expression of these concerns was based on the perception and articulation of cultural differences between First Nations and other Canadians. Commenting on the political context of the relationship between Canada and First Nations during the period under discussion, Alan Cairns takes note of the adversarial character to the discourse and states: “the adversarial politics of constitutional change - the rhetoric that appears to be necessary to carve out some distinct constitutional space...puts a premium on the identification of difference.”³³ He goes on to analyze the intent behind this style of communication, suggesting that “stress on difference is most likely to be strongest at times of making claims for separate treatment.”³⁴ Cairns uses the word “claims” but he does not articulate the actual process of claims making which is clearly at work in this example. However, he does highlight the fact that during this period, it is obvious that First Nations are attempting to move past the government’s policy

³²First Nations Child and Family Task Force, *Children First Our Responsibility: Report of the First Nations Child and Family Task Force* (Winnipeg: First Nations Child and Family Task Force, 1993).

³³Alan C. Cairns, *Citizens Plus: Aboriginal Peoples and the Canadian State* (Vancouver: University of British Columbia Press, 2000), 95.

³⁴*Ibid.*, 96.

of devolution of services, which has typically characterized self-government initiatives to this point. Thus, he also illustrates the connection between the adversarial character of the discourse in this era and the ongoing struggle for the recognition and implementation of First Nations' inherent right to self-government, which would be at least partially fulfilled through opportunities to become more autonomous or self-determining than has been the case to this point in time.

The identification of difference referred to by Cairns is very evident in some of the influential works that were characteristic of this period. A 1984 commentary by Barbara Pimento provides one of the first examples of numerous works which portray this theme of difference.³⁵ However, Pimento's work also represents some overlap between the first era of claims making and the one under discussion; she provides a general review of the Indian child welfare situation in Canada as it pertains to the high numbers of Aboriginal children in care and then argues for greater involvement of Aboriginal peoples along with solutions that are cognizant of Aboriginal cultures and values. Specifically, Pimento states that "a major contribution to the present situation has been the application of a set of standards from the dominant culture to a group with a different set of norms."³⁶ As an example, she points out the orientation toward nuclear family structures in mainstream society as opposed to the extended kinship structures of many Aboriginal peoples.

The focus on difference is also evident as we begin to see a more specific shift toward

³⁵Barbara Pimento, "Native Children in Jeopardy: The Child Welfare System in Canada," *Occasional Papers of the Centre for Women's Studies in Education*, no. 11 (Toronto: Centre for Women's Studies in Education, 1985).

³⁶*Ibid.*, 6.

legislative concerns. An influential article which provides a good example of this shift is Emily Carasco's "Canadian Native Children: Have Child Welfare Laws Broken the Circle?"³⁷ While acknowledging the earlier difficulties in child welfare services that were related to jurisdictional issues, Carasco also blames legislative biases for contributing to the removal of high numbers of native children from their families. She states that while the recognition for the importance of culture and heritage in Ontario's child welfare reforms could be seen as a positive step, it has also been the case that native people have been subjected to "the application of child welfare legislation that is inherently discriminatory in that it suffers from a very strong Euro-Canadian cultural bias."³⁸ So, despite the move to include culture as one of the considerations in determining the best interests of the child, she criticizes the ongoing emphasis on the *individual* aspects of each child's situation as opposed to the collective rights of First Nations. Carasco blames this focus on the individual for diminishing the ability of such legislative changes to adequately protect a Native child's right to his or her culture. Additionally, she also draws attention to the existence of customs which are unique to Native peoples and which are not finding expression in provincially mandated child welfare practices. In particular, as one of the key areas of such difference, she highlights communal parenting practices in Native communities as opposed to the nuclear family model of Euro-Canadian society.³⁹ Carasco's often cited commentary on the apparent clash of values between existing child welfare legislation and the cultural framework of First Nations represents a solid example of the way that perceived cultural

³⁷Emily F. Carasco, "Canadian Native Children: Have Child Welfare Laws Broken the Circle?" *Canadian Journal of Family Law* 5 (1998): 111-138.

³⁸*Ibid.*, 112.

³⁹Carasco, 127.

differences has become articulated within the realm of Indian child welfare concerns in this more recent period.

Patricia Monture also expresses similar concerns: she places the child welfare system on the same continuum as the criminal justice system, stating that legislative changes are not only merely piecemeal, but that the exercise of judicial discretion also continues to remain discriminatory.⁴⁰ The exercise of this judicial discretion is considered most damaging in relation to the “best interests of the child” principle. This principle is central to all child welfare legislation and provides a standard directive for acting in a child’s best interests when making decisions about that child’s future. However, looking at it in terms of a conflict in values between First Nations and mainstream ideology, Monture identifies the “best interest of the child” standard as one of the most racial standards in child welfare legislation because of its role in the assimilation and destruction of First Nations people.⁴¹ Monture’s rationale is based upon her characterization of the “best interests of the child” standard as a reflection of western liberal ideals. Also, similar to Carasco, upon an analysis of the application of the best interests standard to the situation of First Nations children, Monture’s conclusion that it is a racist principle, is founded on her position that “it is a belief that conceptualizes and prioritizes the rights of individuals over collective rights.”⁴² In addition to this perceived conflict in legislative standards, she further contends that there are broader areas of difference that also have to be accommodated in child welfare practice. These differences are articulated as an extreme polarity in terms of the

⁴⁰The author is now known as Patricia Monture-Angus; to refer to this article, please see Patricia Monture, “A Vicious Circle: Child Welfare and First Nations,” *Canadian Journal of Women and the Law* 3 (1989): 1-17.

⁴¹Ibid., 11-13.

⁴²Ibid.,13.

basic or core values Monture attributes to Euro-Canadian society such as force and coercion and those she attributes to First Nations peoples such as consensus and cooperation.⁴³

The rationale for this perspective is given a considerable boost in the work of yet another legal scholar, Marlee Kline. Kline, whose argument is very similar to Carasco and Monture's, also attacks the best interests of the child principle by concluding that the ideology upon which it is based is representative of the dominant group.⁴⁴ She also connects her position to the familiar theme of earlier arguments by suggesting that child welfare law has become the new modality of colonial regulation of First Nations peoples.⁴⁵ To remedy this situation, Kline asserts that a change in the level of power accorded to the institutions of the dominant group will have to take place in order to effectively transform the effects of such ideology.⁴⁶ In other words, to effectively deal with the imbalance of power that prevents a full integration of First Nations values and beliefs into existing child welfare practices, Kline also invokes the need for greater levels of autonomy.

In a comparative study of the development of the *ICWA* in the United States and Canada's approach to dealing with First Nations child welfare issues, Kerri Lazarus also focuses on an examination of cultural differences.⁴⁷ Lazarus concedes that while there are some problems

⁴³Ibid., 6.

⁴⁴Marlee Kline, "Child Welfare Law: Best Interests of the Child" Ideology and First Nations," *Osgoode Hall Law Journal* 30, no.2 (1992): 375-425.

⁴⁵Ibid., 384.

⁴⁶Ibid.

⁴⁷Kerri Lazarus, "Adoption of Native American and First Nations Children: Are the United States and Canada Recognizing the Best Interests of the Children?" *Arizona Journal of International and Comparative Law*, 14 (Winter 1997): 255-84.

inherent within the *ICWA*, she also criticizes the “Anglo cultural conception of a child’s best interest” within Canadian legislation.⁴⁸ Therefore, in addition to her concern about the jurisdictional dispute between the provinces and the federal government over the delivery of child welfare services to First Nations, Lazarus contends that the culturally biased application of the best interests of the child standard warrants a solution similar to the enactment of the *ICWA*. With a corresponding emphasis on the identification and recognition of an apparent dichotomy in the values and practices of First Nations and other Canadians, Lazarus’ work adds significantly to the stress on “difference” that characterizes the literature in this period. And, like the solution proposed to ameliorate the problems associated with the operations of First Nations agencies, the implementation of greater jurisdictional authority for First Nations in the area of child welfare legislation is also proposed as a remedy to the problems arising from such differences.

As suggested by Cairns, the claimed incommensurability between Aboriginal and non-Aboriginal values provides justification for claims to self-government.⁴⁹ So, just as the earlier era in which the extension of child welfare services was heavily critiqued and was shown to be connected to demands for self-government, this era in the literature also clearly reflects the larger political environment and the subsequent demands for greater levels of autonomy and self-determination. Consequently, building on the success of the first era of claims making activities which were effectively legitimized, the recent language also retains a highly politicized character which is expressed in a very polarized manner because of the accompanying emphasis on profound cultural differences. The value-based vocabulary has maintained much of its earlier

⁴⁸*Ibid.*, 264.

⁴⁹Cairns, 8.

character but it has also shifted its focus somewhat to further appeal to the ideals of sovereignty and self-determination which have more recently been at the heart of the relationship between First Nations and the rest of Canada. Stated another way, while earlier political demands were well aligned with the devolution process of self-government strategies at the time, the more recent period represents a struggle for more meaningful levels of self-determination; in turn, the justification for greater levels of self-determination are well encapsulated within expressions of fundamental cultural differences.

Of course there are a few exceptions to this otherwise dominant perspective. One of the only scholars to critique the demands for the enactment of legislation in Canada that is similar to the *ICWA* in the U.S. is legal scholar Christine Davies.⁵⁰ Davies argues that while the move toward autonomy has been a positive change, the primary concerns of the Band or First Nation in the preservation of its own culture and autonomy have the potential to catch children in the middle. In more specific terms, she contends that discretionary power given to Bands can create the potential for arbitrary decisions, particularly if political concerns take precedence over the immediate concerns of the child.

Finally, a commentary by Anne McGillivray while less polemic, expresses concern over the effects of child welfare law.⁵¹ McGillivray specifically examines adoption legislation and its potential effects on First Nations children. Her work is unique in that while she criticizes the lack of respect for the rights of First Nations within existing Canadian adoption laws, she is also

⁵⁰Christine Davies, "Native Children and the Child Welfare System," *Alberta Law Review* 30, no. 4 (1992): 1200-15.

⁵¹Ann McGillivray, "Transracial Adoption and the Status Indian Child," *Canadian Journal of Family Law* 4 (1985): 437-467

concerned with the rights of each status child. Although they are currently less rigid, McGillivray contends that privacy laws have been able to impinge on the rights of First Nations adoptees by preventing access to personal information that would verify their legal status as registered Indians. Thus, while her critique also centers on legislation generally, McGillivray remains focused on the ability of such legislation to prevent individual First Nations adults who were adopted as children from accessing their rights as status Indians.

Some of the above theoretical aspects under debate are also a key component within many of the most recent accounts, which can generally be characterized as either broad historical overviews of Indian child welfare in general or ongoing evaluations of the effectiveness of Aboriginal child welfare agencies.⁵² Nevertheless, similar to the exception noted in Davies' rather isolated critique, this newest phase of the literature has also seen a few radical points of departure from the conventional works discussed to this point. Although these works have been unable to generate a significant impact upon the literature due to the continuing hegemony of the Sixties Scoop model, they are particularly notable because they have identified some key areas of

⁵²Examples of such works include: Andrew Armitage, "Family and Child Welfare in First Nations Communities," in *Rethinking Child Welfare in Canada*, ed. Brian Wharf (Toronto: Oxford University Press, 1993): 131-71; John Burrows and Leonard Rotman, *Aboriginal Legal Issues: Cases Materials and Commentary* (Toronto: Butterworths, 1998); Canada, Royal Commission on Aboriginal Peoples, *Report of the Royal Commission on Aboriginal Peoples (hereinafter RCAP), Gathering Strength, Vol.3* (Ottawa: Minister of Supply and Services, 1996); Suzanne Fournier and Ernie Crey, *Stolen From our Embrace: the Abduction of First Nations Children and the Restoration of Aboriginal Communities* (Vancouver: Douglas & McIntyre, 1998); Pete Hudson, "Manitoba's Indian Child Welfare Services: In the Balance," in *Perspectives on Social Services and Social Issues*, eds. J. S. Ismael and R. Thomlison (Ottawa: Canadian Council on Social Development, 1986): 251-64. Pete Hudson and Sharon Taylor-Henley, "Aboriginal Self-Government and Social Services: First Nations -Provincial Relationships," *Canadian Public Policy* 18, no. 1 (1997): 13-26; Pete Hudson, "First Nations Child and Family Services: Breaking the Silence," *Canadian Ethnic Studies* 29, no. 1 (1997): 161-72; Judge Murray Sinclair, et al, "Aboriginal Child Welfare in Canada," in *Canadian Child Welfare Law: Children, Families and the State*, eds. Nicholas Bala, et. al (Toronto: Thompson Educational Publishing, 1991): 171-94.

weakness in the standard claims of the Sixties Scoop itself.⁵³ The assessments and contributions of these scholars will be evaluated more fully in later chapters when the de-construction of the Sixties Scoop model is undertaken.

Relative to the larger political environment, then, the most common element within the secondary phase of literature dealing with the implementation of Aboriginal child welfare agencies and legislative changes, is the overwhelming attention given to the remaining state jurisdiction in each domain. The influence of the Sixties Scoop claims making period is apparent in the sense that these calls for greater autonomy can be seen as an extension of the colonial argument and the related claim for self-government which became a well established feature of earlier Sixties Scoop vocabulary. The language has simply been adapted to reflect changes to First Nations political ideals that more recently, have emphasized sovereignty and self-determination over the earlier process of devolution of services.

To summarize, this second phase of the literature while more focused on theoretical concerns, also reflects a secondary process of claims making, which is articulated in two streams of focus. One aspect involves the evaluation of some of the newly developed agencies and the other involves an examination of existing child welfare legislation along with some of its recent changes. The particular language of both streams within this secondary claims making era also contains value-laden vocabulary that resonated with the larger political environment representing the relationship between Aboriginal peoples and the rest of Canada. Unlike the first era of claims making which was validated through the creation of newly formed First Nations child and family

⁵³Some of these works include Joyce Timpson, "Four Decades of Child Welfare Services to Native Indians of Ontario."; Pete Hudson, "First Nations Child Welfare Agencies: Breaking the Silence."

services agencies and legislative changes, this more recent period has generally not yet resulted in a particular validation of its additional claims.⁵⁴ Instead, the ongoing child welfare initiatives continue to be mostly an expansion of the original changes that began in the early 1980s.

However, in theory, the *expected* validation of the claims in this era required building upon the validation of the first era. Consequently, the claims making process of this era could not have proceeded without the positive validation of the first Sixties Scoop claims making period.

Building on the success and acceptance of the first era of claims, then, the particular character and associated assumptions of that model were further sustained and embedded in the discourse. In this way, as noted earlier, the first major impact related to the overwhelming legitimization of the original Sixties Scoop claims, was to solidify the polemic and political nature of the Indian child welfare discourse that followed.

The politicization of Indian child welfare has discouraged contradictory or conflicting accounts of child experiences in care since such accounts could be easily interpreted as opposition to the fulfillment of Aboriginal rights and, therefore, may also be considered as tantamount to the support of ongoing colonization, and by extension, as racism. This natural resistance to potentially contradictory perspectives has only added to the hegemonic quality of the Sixties Scoop model. Subsequently, in close association to the entrenchment of the model, which was identified as the first area of impact stemming from its validation process, the second major area of impact has been to perpetuate existing biases and poorly researched assumptions

⁵⁴One major exception now exists in Manitoba, where, in response to the Aboriginal Justice Inquiry - Aboriginal Child Welfare Initiative, the province introduced new legislation which provided considerable autonomy to regional agencies and empowered them to be able to develop and operate their own fully mandated child welfare agencies.

within the larger discourse. These biases will be identified and discussed more fully in upcoming chapters. In particular, this thesis is concerned with a particularly obvious exclusionary bias: the positive experiences of First Nations people in non-Aboriginal substitute care and the impact of those experiences which have never been accounted for in the literature. After reviewing the nature and character of these experiences, we can then begin to reconcile some of their prominent themes and ideas to the contrasting character of the larger discourse. The subsequent deconstruction of the Sixties Scoop model that follows, will not only then provide an indication of the exact nature of the model's biases in general, it will also provide a new conceptual basis from which these positive experiences may be integrated into the literature in a meaningful way. Finally, we can then also consider the effects of the third area of impact related to the validation of Sixties Scoop claims making. This area concerns the effects that ongoing adherence to the Sixties Scoop perspective and its central principles has had on the philosophies and practices of both mainstream and First Nations child welfare agencies and policy makers.

Chapter Four

“First Nations’ Positive Experiences in non-Aboriginal Homes”

Up to this point, we have reviewed the development of the relationship between First Nations and the child welfare system as it has unfolded within the literature, demonstrating how the legitimization of the highly politicized Sixties Scoop discourse of the early 1980s ensured that its polemic character and conceptual basis was carried forward into the later phase of the literature as well. As a result, certain biases were also entrenched within the discourse. One of the most obvious forms of bias is the exclusion of the perspectives from First Nations adoptees or foster children who had positive experiences in non-Aboriginal substitute homes. The purpose of this chapter, then, is to provide some insight into the character and substance of those experiences as they were shared by the participants in this study.

4.1 Participant Demographics

4.1.1 Age, Gender and Educational Levels of Participants:

In total, there were nine female and four male participants. Although the involvement of women was significantly higher than men, nearly one third of the participants were men, which provided some good balance and complementarity to the women’s perspectives. This group can also be described as mature adults. The youngest participant was 22 years old, while the oldest was 57. Of the thirteen participants, eight were in their thirties. In addition to the life experience reflected by their ages, this group was also extremely well educated. In fact, all participants have at least some post secondary education. Only two individuals had not completed some type of post secondary program but of these two, one is currently in the process of completing her B.A.

program, while the other also attended university for a period of time, but did not officially graduate. Four individuals have received a diploma from either a career or community college training program. One other person has completed a Bachelor's degree and is currently enrolled in a Master's program while four others have completed both undergraduate and post graduate degrees. Of this group, two went on to obtain a Master's degree and two obtained a degree in Law.

To maintain strict confidentiality and anonymity within the public presentation of this material, other demographic information such as cultural background, community of origin or identification of any First Nations languages spoken by participants, will not be included. While this information helped the researcher to gauge the fulfillment of the study's participation requirements and was also used to prevent a potential concentration of similar background characteristics (ie: several people from one community), the inclusion of this information in the current section may otherwise enable possible identification of some participants.

4.1.2 Substitute Care Background

All participants had extensive backgrounds and experience in a substitute care setting. Despite the fact that ten out of the thirteen participants had more than one substitute care placement, all of them except for one spent the majority of their childhood years in one long term placement or adoptive family. In fact, eleven of the participants spent at least ten years or more in the same home setting. Ten of the participants spoke primarily about their experiences as adopted children because most of them were adopted at birth or shortly after spending just a brief period of time in a foster home setting. Three others were in foster home settings only and two of the

three spent the majority of their childhood in a single home setting while the third individual spent a total of about two years in one foster home which was accumulated over two separate placement periods.

In combination, the life experience, education and extensive background in substitute care have provided a very strong foundation for the insightful and thought provoking stories shared by this group of research participants.

4.2 Participants' Description and Articulation of Their Positive Substitute Care Experiences in non-Aboriginal Homes

Within the participants' descriptions of their experiences, five major themes emerged as key components of their narratives. In turn, each of these themes could be categorized according to one of two basic human needs to which they corresponded, or else to their association with material comforts and advantages. In effect, the recollections of the participants' substitute care experiences were expressed primarily in terms of emotional or physical needs and also in terms of various benefits arising from financial stability. Organizing these major themes according to the above three categories will provide a broad conceptual framework through which to assess the general character and quality of the collective experiences of this group.

Before proceeding, it is prudent at this point to consider some of the multi-faceted elements and dynamics within these narratives. In spite of the relative homogeneity of this group as it relates to their shared perceptions of positive experiences in non-Aboriginal homes, it should be remembered that each individual is sharing a background and life experience that is completely unique to that person. Therefore, in spite of each person's willingness to share their

positive experience as part of this research, it is important to understand that the participant's themselves determined their own suitability for meeting this criteria. The decision to participate in this study was based on each individual's perception of what a positive experience meant to them at a personal level. For some participants, the concept of a positive experience did not discount certain negative elements or events that were also a part of their overall experience. For example, one of the participants had to deal with some sexual abuse in the substitute care setting.¹ Nevertheless, it was this individual's contention that due to several other considerations, the time spent in substitute care remained a positive experience overall. Clearly, there are a multitude of complex factors that go into an individual's assessment of his or her own reality. These particular dynamics are more amplified given the unique aspect of each person's background as well. Together, these two considerations call attention to the myriad of various factors and events that make up our everyday realities and which do not fit into categories of mutual exclusiveness. That is, the conceptualization of a positive experience will not necessarily be completely devoid of any negative incidents or unhappy aspects that may have also been a part of that experience. At issue instead, is the expression and conceptualization of what a positive experience represents for this group.

4.2.1 Emotional Needs

To help facilitate a common starting point and also to assist the participants with locating or grounding their experiences somewhere, they were asked to share their stories by beginning

¹To ensure anonymity for this person, neither pseudonym, gender or type of home placement will be revealed in relation to this particular issue.

with their earliest childhood years and memories concerning their adoptive or foster care environments. Typically, they began their description of their substitute care experiences by referring to some of the ways that their home environments somehow met the criteria for satisfying their emotional needs. Most often, this particular dimension was articulated through the use of words or expressions such as “love” or “loving” when describing their home environment or their relationship with their foster or adoptive parents. *Cindy’s* story is a good example of the way that early memories were often expressed in terms of emotional descriptors. *Cindy* was placed with her foster parents as a nine-month old baby and went on to spend a lengthy period of time in that placement despite frequent returns to her biological family. She talks about her earliest memories of her foster home placement in the following way:

Well, of course, I was really young then, but I remember believing that these were my actual parents. And I felt that they loved me and I loved them. They showed me that they loved me.

Carol, another participant who was placed into foster care for the first time at seven years of age, also refers to her foster home in much the same way.

[My foster mother] treated us like one of her grandchildren and she was very nice...it was quite warm - a warming atmosphere and a loving atmosphere.

For those participants who grew up in adoptive families, there was also a notable connection between their first memories or early years and the positive association with the fulfillment of emotional needs. For instance, *Lynn’s* childhood memories are particularly satisfying in this regard:

I was very happy. I was a very outgoing child. I was my parents’ only child for awhile till they had my sister. And, I remember lots of love. I was always hugged and cared for and lots of family were around andI was a very happy and outgoing child. I was full of love, outward and inward and I

received a lot of love back.

Denise, another adoptee, not only talks about the loving environment at home, but recalls the acceptance of the extended family as well.

Yes, I was brought up very - they were loving...They were loving, supportive - they never judged us because of the color of our skin. The rest of their families, they took us as their own....There was lots of love and support.

In addition to the themes of giving and receiving love in their home settings, some participants also made specific references to a sense of security or of feeling safe. In fact, for *Carol*, the loving environment noted above was first described as a sense of security:

It was just that - well, I don't know, I felt a lot of security being there.

Louise, an adoptee also refers to a sense of safety and security that appears to be connected to the supportive family structure she frequently refers to:

So, yeah, I think I felt - I always felt safe - like I mean, I felt safe in the sense that I had a family.

John, another foster home participant who was first placed into care at about six years old, also mentions a very specific sense of security in his first placement, contrasting it to his original family setting.

In a way - when I think about it - in a way, I think at the time, [it] served for me as a safety kind of thing. It was safety - number one It made me feel safe, right, because there was no drinking involved. There was no violence cause it was a lot better than the life I was living in the community.

As expressed by *John*, this placement was clearly a positive change in comparison to the difficult situation he had been facing in his biological home environment.

Overall, themes of love and security were typically among the first to be noted in the

participants' narratives. The frequent placement of these themes as the starting point for their stories or as the focus of their early years, clearly suggests the significance of these emotional needs to their childhood development years. For some, the positive fulfillment of their emotional needs simply included the additional sense of safety or security in their foster or adoptive home settings. However, as indicated by one participant, early references to safety and security were also of particular significance primarily because of the instability within his home environment prior to his substitute care placement. Although there were some other individual and varied expressions of emotional fulfillment, collectively, these two themes were the most prominent.

4.2.2 Physical Needs

Themes concerning the availability of basic physical needs such as food and clothing were also salient features that appeared throughout the participants' narratives. In particular, the availability of food was often a significant focal point in this regard. In fact, eight of the participants specifically mentioned food in terms of its availability, while two others also referred to food, but in a more indirect manner. Frequently, the availability of food and clothing was spoken about in the same context. For example, *Alice* recalls the following:

But we had lots of good Christmases. I also had clothes. I always had, like clothes on me - never going without any, like, food or you know - I was - we were financially really set good....I had everything at home. I had food and clothes and you know...

Lesley also makes a straightforward acknowledgment about the availability of these basic needs.

I don't remember wanting for anything either. Like if I needed clothes or the necessary things, I got that.

Adam's account is also very similar, but interestingly, he specifically makes a connection

between the availability of food and clothing and the carefree life he was able to enjoy as a result.

I would say it was a rather carefree existence in that - uh [they] weren't wealthy but they were well enough off that food and clothes and sporting stuff ...weren't an issue.

By implication, *Adam* seems to be suggesting that his life could have been much less carefree if the ability to meet those basic needs was not there.

The connection between the availability of these basic physical needs and a worry free childhood was made even more profound by the direct comparison offered in *John's* account of his first placement. In fact, he seems to express outright joy about the access to basic needs such as food, clothing and even shelter.

But it was such a good place to us - to come up and have the food - and have the new clothing and all that stuff.... All we knew was it was a home and it was a place that has breakfast and [we could] eat [and] get some good sleep.

Like *John*, *Cindy*, who was also a foster child, speaks about the transition to an environment where food was readily available in contrast to her former home environment where it clearly was *not* always available. Among her memories of her first night in a foster home that she was placed in before once again returning permanently to her long term foster home, *Cindy's* account also focuses on the availability of food. Recalling her initial arrival, *Cindy* recollects the welcome offer of food:

I remember the night we went there. Uhm, apparently we hadn't really had a whole lot - much to eat because they asked us, "What did you have for supper?" And I said "nothing." And - uhm, no, I - I told them I had opened a can of corn myself and ate the corn. And they said, "Oh, well, we'll get you something to eat." So they brought us something and they brought me some type of food. I liked some of it but I didn't like some of it. I'm not exactly sure what it was I didn't like - maybe rice. And uh - but you know, I ate it.

Another comparative framework is also directly visible in *Denise's* story. However,

unlike *John* and *Cindy*, *Denise* was adopted at a very young age and so she has no recollection of her former home life from which to draw such a comparison. Instead, her comparison is drawn from her own perception about her personal sense of good fortune in contrast to other Native children she knew and who appeared to be in a very needy situation. In the excerpt below, *Denise* was trying to articulate her sense of knowing that her adoptive parents loved her:

They clothed me. They fed me. They did everything we wanted....We always had clothes. Like I remember looking at some of the Native kids we knew and they'd be like in rags and, thinking - you know, like I betcha if I wasn't adopted, that's where I'd be.

Although other participants also mentioned food in their stories, some of these references were less obtrusive than the preceding examples. For instance, when reminiscing about some of her fondest memories, *Louise* also refers to the role that food played in some of her memorable family occasions.

But, as you look back, you remember the vacations and those kind of happy times - the Christmas days, and the, you know, cooking meals and sharing food with family and friends and that kind of stuff. So, those were the pretty, you know, major fond memories I think.

Within the participants' narratives collectively, the prominence given to this area is significant and requires some additional discussion. The visibility of this component within the narratives may be surprising in some ways, especially given the very basic nature of the needs which are at the heart of these themes. At face value, focusing on the availability of such a basic need almost seems redundant because it is quite clear that the absence of basic needs such as food and clothing would obviously represent a situation which would be exceedingly difficult to reconcile to a positive experience to begin with. In other words, it would be quite reasonable to assume that access to such basic necessities would simply be expected and therefore not

something that would necessarily be singled out as a particularly prominent feature.

Nevertheless, the tremendous visibility of this theme within the narratives precludes just a passing acknowledgment.

There are a few interrelated factors to consider which may aid in a fuller understanding of the reasons behind the frequent references to food and clothing availability. First, there is solid evidence attesting to the very low economic well being of Aboriginal peoples in general.² And, for many Aboriginal peoples, the daily experience of poverty translates into a reality of ongoing concern over the availability of basic needs such as food. In fact, in a recent survey commissioned by the Ontario Federation of Indian Friendship Centers into the daily realities of Aboriginal child poverty, researchers found that food and the related psychological effects of poverty were raised in every single interview.³

In the present study, the considerable educational levels of the participants suggest that they would be well aware of this type of knowledge. In addition, some participants had personal recollections of such realities while several also had exposure to such circumstances through their personal contact with biological family members or as a result of having re-established personal ties to their communities later in life. It is apparent, then, that the participants' own experiences concerning a carefree environment as far as their access to food and clothing was concerned, would contrast markedly to the personal exposure or knowledge they had of situations in their biological families or home communities where, often, such access was not always

²For example, see James Frideres and Rene Gadacz, "Profile of Aboriginal People II: Social Attributes," in *Aboriginal Peoples in Canada: Contemporary Conflicts*, 6th ed. (Toronto: Prentice Hall, 2001), 81-124.

³The Write Circle and Ontario Federation of Indian Friendship Centres, "Urban Aboriginal Child Poverty: A Status Report on Aboriginal Children and Their Families in Ontario," October 2000, <http://www.ofifc.org/Page/Reports/AborChilPov/default.htm>.

certain. Further, the significance of these sharp contrasts would certainly heighten the awareness of the participants' own real or potential vulnerability in the past to such an environment. (In terms of past potential, the implication whether expressed directly or indirectly, is that several of the participants may have also personally experienced the lack of such basic needs had they not been placed into care). The prominence of this issue should not be too surprising, then, because it makes sense that the emergence of these comparative elements within the narratives can be seen as expressions of that vulnerability, regardless of whether that vulnerability was actually real or simply had the potential to be real.

As we move forward, this comparative dimension will remain a prominent feature in the conceptualization of their experiences.

4.2.3 Material Comforts and Financial Benefits

Participants spoke freely and frequently about access to and availability of, various material goods or comforts. Virtually every participant made a number of both direct and indirect references to the stability of financial resources in their substitute care setting. They also spoke about the impact that the availability of these resources had on their lives in terms of certain comforts and opportunities. For many, this impact was expressed as appreciation for the advantages that financial stability provided because of the opportunities it gave them to travel or to participate in sporting or leisure activities. At other times, the perceived advantages of financial stability were more materially grounded. Themes such as having a private bedroom, a family swimming pool or an abundance of toys, were all part of this area of communication.

In addition, as noted in the themes related to food and clothing above, a comparative

framework appears to be visible in this category as well. This comparative dynamic is evident in the way that the participants connected the opportunities resulting from the financial stability in their homes to the associated position of advantage or privilege that such opportunities represented. In particular, this dynamic was most obvious when participants noted a sense of connection between these financially based advantages and the associated positive impacts upon their lives in terms of future benefits accruing to them in their adult years. Otherwise, access to some of these material comforts was typically expressed simply as just another appreciated aspect of their foster or adoptive care environments.

Travel and holiday experiences were among the most common feature in this regard. Participants spoke recurrently about their fond memories of traveling or taking holidays with their foster or adoptive families. The four excerpts below provide an indication of the special meaning and enjoyment that was recalled by most of this group.

I've really wanted and needed for nothing -uh, a good home. I've done extensive traveling throughout the world. Uhm, so I've had vast experiences with different cultures overseas and - the likes - and traveling for holidays and vacations. So, I've very much benefitted from that. [David]

And you know, we also - we went on trips And we went to Scotland, England when I was like I think 10. I went again when I was about 16. And, you know, I been there at least three times in my life. We went to California, Disneyland when I was about 16 years old. We went to Alberta, Vancouver, B.C., everywhere. Like, we did a lot of traveling. We used to go to the Rocky Mountains every summer. You know, and I got to see places a lot of people wouldn't be able to see at that age. [Alice]

Actually, we did a lot of traveling. Quite a bit of traveling! We seemed to either have a camper or motor home , uhm, always that I remember - and mom and dad and myself and my other two brothers would go out and we'd go places like Saskatchewan, Ontario, Toronto - once we went to California. Uhm, so those were good times! [Lesley]

Denise's account is similar but she also includes a direct comparison between her own position of advantage and that of the more economically disadvantaged position of other Native children in general:

They took us - like, not boasting - but uhm, not many kids of our heritage get to go to - we got to go to Ireland - four times so far. And, at a month at a time because it's so far away. And to Toronto every year to see my grandma.

Like *Denise*, *Louise* also acknowledges the sense of privilege associated with such opportunities:

Uh - we always went on holidays - like every summer we went somewhere. We did something - you know, it was always - traveling. Now that I know how much things cost, I'm always shocked by that. Oh yeah - it's like, oh my God, that must have been expensive.... And it seemed like we had more privilege and uhm, you know, like, our family had a swimming pool and nobody else had a swimming pool and that kind of thing, you know...

Within the aggregate of narratives, traveling and family holidays emerged as one of the most prominent themes overall. The prominence of this theme signifies the value placed on these experiences and the impact they had on the lives of the participants. These recollections were shared not only as fond childhood memories, but in several cases, there was also a sense of good fortune and privilege that was noted. So, even though there was a sense of simple enjoyment expressed when sharing these experiences, a general comparative dynamic was also visible in this area.

However, as alluded to above, when the participants spoke about the long term advantages of a financially stable environment, a more explicit comparative framework was evident. For example, ten of the participants made some kind of reference to their personal involvement in recreational or sporting types of activities. In addition to recognizing the financial resources required to enable such involvement, there was also direct acknowledgment of the long term impact of this involvement. These benefits are quite explicit in *Beth's* account:

So, uhm just thinking back, like since I was probably in grade 2 or grade 3, my mom put me in swimming and put me in skating lessons and - like, took us out to the lake. And uhm, just stuff like that. Like we were always in activities.

*When I went to soccer, I started playing soccer in grade 3 and, played soccer for eight years. And,she made it a point that we always would be involved in sports and stuff like that. And, for me - like I gained **so much** from playing sports.... I had so much fun and it taught me a lot about - like ethics - like work ethic and time management.*

Later, when *Beth* considers the initial decision to place her into care, she also refers to the financial resources that were involved:

...I kind of feel grateful that my mother did. Considering she was 16 years old and she probably didn't have a lot of resources to raise me. And a lot of Native reserves in Saskatchewan ,uhm, don't have a lot of resources either, like, financially....

Similarly, when explaining the impact of her involvement in a variety of activities on her adult life, *Lynn* not only describes the future role they played in certain areas of personal and professional development, but she too, also alludes to the role of financial resources in this regard:

Uhm, and I had a lot ...all the things my parents gave us...lessons and all the things that I participated in...I don't know if I would ever ...I know I wouldn't have had at least half of those options if I would have grown up with my birth family. And they taught me things such as the proper way to sit and the proper way to talk and the proper way to behave and uh - having my piano lessons is a big part too because I type very fast and I think a lot of it has to do with taking piano lessons. And the dancing taught me a lesson too, that no matter what happens, when you screw up in front of hundreds of people seeing you at a concert, you keep that smile on your face and you ...take the hard stuff. And just put a smile on your face and act like nothing happened. And that's taught me something that I always use today in my life when I deal with very awful people. And, uh - just kinda stuff like that has always helped in my life.

Leslie's account offers a very similar characterization:

Well, I was started on piano very early. Seven years old, I started playing piano. Mom bought a piano and uh, she worked out of the home. Dad stayed on the

farm to work. And I played from 7 up till my teen years. So, that was a daily activity! And became quite a - it was quite a task at times as I got into my teen years, because it takes a bit of dedication - so. But it was a lot of fun!

And, later when *Leslie* is talking about how her life might have been different had she never been placed into care, she also relates such opportunities to the availability of financial resources:

I don't think I would have had - I don't think I would have had the same opportunities. I wouldn't have been able to develop my musical abilities possibly, because piano lessons are fairly expensive....

As indicated by its prominence within this category, financial stability appears to have played a key role in the participants' perceptions of their positive experiences. And, similar to the food and clothing themes, there was also some indication of a comparative framework to the characterization of their experiences in this regard. Certainly, while none of the participants spoke of an especially lavish lifestyle, it remains very clear that they were keenly aware of both the immediate and longer term advantages of living in an environment of financial stability. Perhaps this particular dimension is best summed up by *Louise* who offers the following reflection:

Yeah, like I mean for myself - positive consequences came as a result of having a strong family. Uhm, kind of what would be considered a privileged upbringing. And, uhm, you know, I mean I have a strong value system - that even though- there was a time when it was very rigid - that I thought, I can't think outside of this, it showed me that it's okay to believe in what you - whatever it is that you believe in.... So, yeah, it gave me the ability to - it was like, I was given - uhm - the material things and it was my job to go out and find the rest. You know, so I had what I feel was a leg up because I didn't have to worry about the material side of life....

4.3 Summary of Dominant Themes and Relationship to Discourse

Assessing the character and nature of the participants' conceptualization of their positive

experience in a non-Aboriginal home was possible by first identifying the dominant themes which emerged in the participants' narratives and then grouping them into three corresponding categories of emotional needs, physical needs and material comforts/financial benefits. The similarities in the characterization of some of the positive features of their substitute care environments are very apparent as noted in the discussion related to each category. Significantly, not only were some of the features of their substitute care placements expressed in a fairly consistent manner, but the identification of a comparative framework in the narratives also revealed another element of convergence.

In terms of the three major categories [emotional needs, physical needs, material/financial comforts or advantages] that corresponded to the dominant themes emerging from the narrative, the participants' most often referred to emotional needs first. When sharing their accounts, they typically began with some reference to the themes of love, safety or security that they perceived as a child in their substitute care homes. Second, a salient feature that appeared often throughout the narratives was the availability of food and clothing. Because the criteria for participation in the study was confined to an overall positive experience, the prominence of these themes was initially somewhat surprising. One might assume that the mere fulfillment of such basic needs would not be particularly noteworthy. However, when noting the availability of food and clothing in their substitute care environments, these themes clearly emerged as a comparative dynamic in the participants' narratives. This comparative framework was also evident in the area of material comforts and financial advantages as they were expressed by the participants. As discussed, the basis for these comparisons could be discerned from either the participant's own past experiences or later experiences with their biological families or home communities. In some

cases, it was also connected to the participants' general awareness about, or personal knowledge of, the generally lower levels of economic well being in First Nations communities and populations overall. Overall, it was the participants' own personal experience or recognition of this general situation that clearly provided the stimulus for assessing and comparing their own status in this manner.

Similarly, a comparative dimension was also a key component within the themes associated with the third category, which consisted of material comforts and financial advantages. In particular, themes related to travel opportunities and family vacations were the most predominant. Although accounts of these experiences were often expressed simply as fond memories, the participants' own sense of privilege or opportunity was usually noted as well. However, the recognition of financial advantage was most explicitly acknowledged when the participants made a connection between their position of privilege and some of the positive ways that such privilege had had a positive impact upon their lives as adults.

These particular dimensions of the participants' recollections represent the most subjective viewpoint of their overall experiences. Consequently, this chapter reflects the themes and perspectives that were mostly generated from an emic perspective; that is, they were mostly expressed from the internal or subjective standpoint of the participants. In this regard, the substance of the experiences detailed in this section can provide some fresh perspectives and unique viewpoints to the existing Indian child welfare discourse. In themselves, the affirmation and articulation of this group's positive experiences with the child welfare system represents a vivid contrast to the discourse overall and also provides a small contribution toward balancing the tremendous void that currently exists in the literature.

4.4 “Reconciling Positive Experiences to Sixties Scoop Claims”

An important aspect of the positive experiences presented above is that they not only represent the articulation of those voices who have otherwise been silent in the discourse, they also stand in complete opposition to the primary assumptions of the Sixties Scoop model. And, as noted earlier, due to the legitimization of the model through the process of claims making, its central tenets have continued to be accepted as valid, which suggests that without undertaking a reconciliation process, it will not be possible to provide an effective integration of these positive perspectives into the discourse. That is, because of their contrasting character with the dominant model, they have the potential to be easily dismissed as simply exceptions to the rule or perhaps even as support for the alleged assimilationist agenda of the Sixties Scoop itself.

An effective reconciliation of the positive experiences as presented in this chapter will require some understanding of the difficulties they present to the primary contentions of the Sixties Scoop model. This can be accomplished by reviewing and critiquing some of the existing biases and weaknesses within the model, which will essentially challenge some of its current hegemony, thereby proposing some re-conceptualization of its dominant framework as well. Subsequently, after making room in the discourse through this de-construction of the Sixties Scoop model, it will be possible to integrate these positive perspectives in a more meaningful and relevant manner.

To make room in the discourse, each facet of the dominant model will be identified and examined more fully. An important dimension of this de-construction process will also involve some integration of certain aspects of the participants’ perspectives in terms of where they can be measured against and compared to, each of the central tenets of the Sixties Scoop paradigm.

Doing so will enhance our understanding of the immediate difficulties encountered in attempting to integrate such perspectives to the present discourse. Where relevant, the integration of participants' perspectives will be facilitated by the use of data gathered from some of the semi-structured and direct questions that were designed to generate a comparison of certain components of the substitute care experience as they are portrayed by the Sixties Scoop model against those of the actual experiences and/or perspectives of the participants in this study. Because it has been acquired in this manner, such data will reflect more of an etic perspective, or in the context of Grounded theory, a deductive perspective. In this regard, the integration of this material will also add to the fullness of the participants' experiences already shared in this chapter.

Chapter Five

“Reconciling Sixties Scoop Claim #1: the Indiscriminate Scooping of First Nations Children”

5.1 Claim #1: “The Scoop”

As noted earlier, the term “Sixties Scoop” was first coined by Patrick Johnston who used it as the title for the second chapter of his book, *Native Children and the Child Welfare System*.¹

Johnston used the term in reference to the high numbers of Native children entering the child welfare system. The phrase itself, was attributed to one social worker from British Columbia, who, in discussion with Johnston about the high numbers of Native children in care, suggested that “...workers would, quite literally, scoop children from reserves on the slightest pretext.”² As Johnston went on to conclude that the child welfare system represented an ongoing practice of colonial control, the use of the term provided an effective context for his findings.

Johnston’s work has remained the central authority in this regard. However, other high profile works have used the term to expand upon and concur with his theoretical position. The *Aboriginal Justice Inquiry of Manitoba* (AJI) also used the heading, “The Sixties Scoop” to introduce their discussion about the delivery of child welfare services to Aboriginal peoples in Manitoba.³ Using this model as a basis, the Commissioners of the AJI stated that “In Manitoba, the child welfare system ‘protected’ many Aboriginal children by taking them away from their families. This came to be known as the ‘Sixties Scoop.’” They went on to contend that “Child

¹Johnston, see Introduction, note 1.

²Ibid., 23.

³Associate Chief Justice A.C. Hamilton and Associate Chief Judge C.M. Sinclair, Chairs, Manitoba Public Inquiry into the Administration of Justice and Aboriginal People. *Report of the Aboriginal Justice Inquiry of Manitoba*, Vol.1 (Winnipeg: Queen’s Printer, 1991), 519.

welfare workers removed Aboriginal children from their families and communities because they felt the best homes for the children were not Aboriginal homes. The ideal home would instil the values and lifestyles with which the child welfare workers themselves were familiar: white middle-class homes in white middle-class neighborhoods.”⁴

A similar characterization is apparent in a more recent well known work where authors Fournier and Crey re-iterate the Sixties Scoop paradigm in the following way:

It was 1961, the beginning of what became known as the ‘Sixties Scoop.’ For the first time in Canada, provincial social workers were exercising the jurisdiction given them by the federal government to go into Indian homes ... and make judgements about what constituted proper care, according to non-native, middle-class values. Their mandate was ‘child protection’ which in practice meant the investigation of perceived neglect or abuse, then the apprehension of children and their placement in non-native foster homes. Poverty was the only reason many children were apprehended from otherwise caring aboriginal homes.⁵

This general view of child welfare services that was extended to First Nations children in the 1960s and 1970s has persisted right through to the present. For instance, in her 2003 doctoral dissertation, Jacqueline Maurice also critiques the child welfare system of the 1960s and 1970s from the perspective of the Sixties Scoop model.⁶ After first labeling the “Adopt Indian-Metis”⁷ program that was initiated in Saskatchewan in the late 1960s as the “Sixties Scoop,” Maurice goes on to explain that “Through federal and provincial legislation, the Sixties Scoop was the

⁴Ibid., 529.

⁵Fournier and Crey, p.30.

⁶Jacqueline Maurice, “De-Spiriting Aboriginal Children: Aboriginal Children During the 1960s and 1970s Child Welfare Era,” (PhD diss., University of Toronto, 2003).

⁷The Adopt Indian Metis program was initiated in 1967 by then provincial Dept. of Social Services as a way to find permanent adoptive homes for Aboriginal children who were in long term foster care with no prospects for permanency in their placements. At this time, there was considerable difficulty finding adoptive homes for Aboriginal children.

process by which aboriginal children were moved from their biological and cultural homes and communities and placed for adoption and/or in foster homes.”⁸

The use of the Sixties Scoop metaphor in the above works clearly portrays the idea of a sweeping and indiscriminate removal of First Nations children from their homes. This imagery has been well established within the literature due to the characterization of the “Sixties Scoop” as an extension of colonization, and which was implemented as a deliberate policy of assimilation similar to residential schools. The first major claim purported by the Sixties Scoop, then, is that as part of this policy, massive numbers of First Nations children were deliberately and unjustifiably removed from their homes by the child welfare system.

5.2 Claim #1: Assessing the “Scoop” Label

Within the child welfare system, and, according to each province’s legislation, the apprehension of children is considered necessary when the child is deemed in need of “protection.”⁹ However, as discussed above, the Sixties Scoop model suggests that First Nations children were not necessarily apprehended by social workers for reasons of protection but more for trivial concerns that facilitated an ongoing assimilationist agenda. In other words, this claim contends that protective measures provided to First Nations communities in the form of child apprehensions were generally unjustified, unwarranted and excessive.

In spite of the seemingly impervious quality of the Sixties Scoop model, one scholar in

⁸Maurice, 2.

⁹For an example of the legislative guidelines which deems a child to be in need of protection, see the *Child and Family Services Act*, Department of Social Services, Saskatchewan, provided in Appendix D.

particular has attempted to call attention to some of its more troubling aspects related to the implied “scooping” of Aboriginal children. Joyce Timpson, who earned her Ph.D. in Social Work at Wilfred Laurier University, has provided the most comprehensive and compelling critique of this aspect of the model to date. She has convincingly identified several areas of difficulty related to some of the standard assumptions concerning the disproportionate numbers of Native children who were placed into substitute care. The first area of difficulty as originally noted by Timpson, is the validity of claims purporting unjustified and over zealous apprehensions that were responsible for the high numbers of Native children entering substitute care.

A major point of contention over the validity of such claims involves the relationship between the jurisdictional disputes which took place between the federal and provincial governments at the time, and the subsequent reluctance by the provinces to provide services. The influential works of both Johnston and Hepworth include discussions about the jurisdictional difficulties that arose between the federal and provincial governments as a result of the 1951 amendments to the *Indian Act*. Even though the Act now provided jurisdiction for the provinces to provide services to First Nations on reserve, the provinces were generally not willing to assume responsibility because of the federal government’s jurisdiction over First Nations as defined by Section 91 (24) of the original *Constitution Act*. This jurisdictional wrangling resulted in an ad hoc delivery of child welfare services and a general reluctance by the provinces to provide those services. Both authors indicate that the effects of the jurisdictional uncertainties was the unwillingness of the provinces to provide services to First Nations communities except in ‘life’ or ‘death’ situations of extreme concern.¹⁰ While this point will be expanded upon later,

¹⁰Johnston, 10; Hepworth, 113.

it should be noted that there is an immediate contradiction with the notion of deliberate removals of First Nations children.

Hepworth expands on the effects of this jurisdictional uncertainty and explains its impact on child-in-care rates and outcomes. He indicates, that, owing to the crisis situation that had developed by the time these children were taken into care, many of them had developed severe emotional disturbances. As a result, many First Nations children were typically older than others when taken into care and they ended up remaining there longer as well. He also adds that due to their older ages and likelihood of emotional disturbances, there was considerable difficulty in placing them for adoption.¹¹ Both factors clearly had an impact on the disproportionately higher in-care rates. First, the longer period of time spent in care meant they were visible in the statistics for longer periods due to their position as protective wards of the Minister of Social Services and, second, they did not typically move out of that ‘temporary’ in care status because of the fact they were hard to place, which meant long term adoptive homes were not often found for them.

Despite these important considerations, Timpson notes the contradictory images prevalent in the conventional Sixties Scoop explanation, which portray an image of “zealous social workers on a child-saving mission, deliberately frequenting reserves looking for excuses to apprehend Indian children.” She goes on to add that “this depiction is unsupported by other findings of Johnston and Hepworth that refer to such factors as overworked social workers, inability to place Indian children for adoption, and provinces that refused to provide services to Indian communities.”¹²

¹¹Hepworth, 115.

¹²Timpson, “Four Decades of Child Welfare Services to Native Indians of Ontario,” 28.

There have also been associated claims which contend that poverty alone provided the impetus for removal of Native children and that middle class standards were inappropriately applied to First Nations' economically disadvantaged living conditions.¹³ While there was certainly room for the subjective position of workers to make these kinds of decisions at times, as an explanation for the high numbers of children entering care, such claims are also problematic. It is generally well known that there is a connection between families who are impoverished and the more frequent contact with the child welfare system. A 1979 report by the National Council of Welfare detailed the effects of poverty on families and the manner in which those effects increased the likelihood of future involvement with the child welfare system.¹⁴ At one point, Johnston does acknowledge some of the negative effects of this disadvantage and recognizes that children may have needed such intervention. He notes the visibility of Native peoples as an economically disadvantaged group and then suggests that the resulting stresses probably did contribute somewhat to the high numbers of in-care-rates as a consequence of those conditions. At the same time, he cautions against over reliance on this aspect of child welfare concerns because of the propensity for concluding that poor people make poor parents.¹⁵ This idea becomes the basis for his later suggestion that "...material standards may have played a significant role ...in determining whether Native parents were fit to look after their children."¹⁶

¹³See for example, Chris Bagley, "Adoption of Native Children in Canada: A Policy Analysis and Research Report," in *Intercountry Adoption: A Multinational Perspective*, eds. Howard Alstein and Rita J. Simon (New York: Praeger Publisher, 1991), 58.

¹⁴Canada, National Council of Welfare, *In the Best Interests of the Child: A Report by the National Council of Welfare on the Child Welfare System in Canada*, (Ottawa: National Council of Welfare, 1979).

¹⁵Johnston, 75.

¹⁶*Ibid*, 76.

Based on the reluctance of child welfare authorities to intervene except in emergency situations, the suggestion that material standards influenced wide scale apprehensions does not make a lot of sense. More importantly, Timpson points to the overwhelmingly high rates of unemployment for Indian people throughout the 1970s and observes that, "If poverty alone were the immediate reason for child apprehensions, many more than the estimated 4 percent of the registered Native children in care from 1960-1977 would have been in care."¹⁷

Generally, there is little documentation of the reasons for child apprehensions that took place in this period. However, one 1971 study compared reasons for apprehensions between Indian and non-Indian families in the Kapuskasing area. Neglect and desertion accounted for 55 and 44.4 percent of Indian child apprehensions respectively. In comparison, no white children in the area were apprehended for neglect but 17 percent were taken into care as a result of desertion. Notably, housing and financial considerations were listed as the reason for 3.5% of white children in-care admission rates. In contrast, no Indian children were admitted for this reason.¹⁸ Timpson subsequently asks, "While failures to provide the necessities of life prevailed and a class bias could exist in the total system, could front line workers' perceptions of poverty *per se* realistically account for a decade or more of escalating numbers of Indian children taken into care and made Crown Wards?" (emphasis in original)¹⁹

Timpson also draws attention to the existence of other realities that have not been

¹⁷Ibid, 10.

¹⁸Debbie Glenesk, "A Study of Children Taken into Care," *Journal of the Ontario Association of Children's Aid Societies* 15 (October, 1971): 16-21, as cited in Timpson, "Four Decades of Child Welfare Services to Native Indians in Ontario," 11.

¹⁹Timpson, "Four Decades of Child Welfare Services to Native Indians of Ontario," 11.

adequately considered as contributing factors to the high child-in-care rates for Indian peoples. She points out that the 1951 amendments to the *Indian Act*, which gave legislative authority for the provinces to provide services to First Nations peoples, came without any accompanying funding arrangements. With neither jurisdiction wanting to accept fiscal responsibility for the provision of services, agreements to provide services were difficult to negotiate. The resulting ad hoc delivery of services frequently meant that the provinces were only reimbursed for child-in-care rates and not other types of child welfare services such as preventive or follow up support. Consequently, the provision of child-in-care services only meant that "...provincial social workers would be called to Indian communities only when conditions had deteriorated to the point where no alternative to apprehension was possible. There would be no funds to provide follow-up services in attempts to return the child."²⁰ While this situation itself is not specifically addressed by either Johnston or Hepworth, its effects are corroborated in their discussions concerning the intervention by social workers only in extreme cases of 'life' or 'death' circumstances.

In combination, all of the above noted inconsistencies and contradictions clearly represent some incontrovertible biases and weaknesses within the most basic claim of the Sixties Scoop paradigm. Furthermore, these difficulties are all associated with the literature's focus on issues external to the Aboriginal communities. That is, the existing discourse has been concerned with the actions and effects of the child welfare system itself. Due to the politicization of the literature, problematic issues and circumstances internal to the communities have not been adequately accounted for in the discourse. Some of these factors are also highly relevant to the

²⁰Ibid., 39.

topic of child apprehensions and, as such, to fully address this particular component of the child welfare system, there remains a need to examine them in greater detail.

5.3 The Role of Internal Factors in Child Welfare Intervention

With specific regard to the high child-in-care rates for First Nations children, the explanatory capacity of the Sixties Scoop model has been shown to be both limited and biased in its focus. In reality, First Nations' contact with the child welfare system has also been greatly affected by various circumstances internal to the communities themselves. In addition to the role of voluntary adoptions, family and community breakdown has also created circumstances necessitating the extension of protective care to many First Nations children. The extension of protective measures such as taking children into care is premised on principles of a child's right to be provided with the necessities of life and to grow up in a situation free of certain personal harms such as abuse and/or failure to provide adequate care.²¹ In situations where these basic needs are not being met, children will often be taken into protective care. However, as a contributing factor to the disproportionate numbers of First Nations and other Aboriginal children in care, this aspect of child welfare concerns is rarely addressed.

Before discussing the intervention of child welfare services in the form of child apprehensions, it is important to first understand that the child-in-care rates were not solely related to the process of removing children involuntarily from their homes. An important aspect of the relationship between First Nations and the child welfare system also involves the role of voluntary adoptions through the unwed mother's program. Significantly, this particular issue has

²¹See Appendix D for definition of children deemed to be in need of protection.

not shown up in the literature at all.

A review of the 1967/68 Annual Report from Saskatchewan's Department of Welfare (as it was known at the time) provides some key insight into the relationship between child-in-care rates and the operation of this program.²² The Report indicates that the total number of Indian and Metis children entering care in this year was 534. However, there is also mention of an unwed mother's program, which indicates that about 35% of all children born to unwed mothers were voluntarily placed into care during the year in question. While there is no breakdown of the proportion of Aboriginal to non-Aboriginal children in the figures provided, it does state that there were 779 illegitimate births attributed to the combined Indian and Metis population.²³ If we assume that the Aboriginal and non-Aboriginal population experienced similar rates of placement through this program, then we can estimate that of the total 779 illegitimate births attributed to Aboriginal people this year, 273 (35% of 779) children were placed into substitute care under the unwed mother's program. Out of the total 534 Indian and Metis children admitted to care, this figure represents well over half.²⁴ While the breakdown for other years is less specific, the Annual Reports indicate that child-in-care rates included admissions from the unwed

²²This year is listed because it offers more information than other years about the specific breakdown in number. It is also the same year that the development of the AIM program commenced.

²³The higher proportion of illegitimate births attributed to the Aboriginal population needs to be considered within the context of the *Indian Act*. Prior to the enactment of Bill C-31 in 1985, when a status First Nations woman married a non-status man, she lost her Indian status. Also, at this time, the father who was listed on a child's birth certificate would confer his last name and citizenship status on that child, so there may have also been less likelihood that an Indian woman would list a non-status man as the father of her child. These reasons are important considerations in the appearance of higher numbers of "illegitimate" children within First Nations communities.

²⁴It should be noted that the report provides separate statistics for the numbers of illegitimate births for both Indian and Metis peoples; however, the numbers of children entering care fall under the category of Indian/Metis together. The higher number of Indian births suggest that the proportion of Indian children in care is also much higher than Metis.

mothers program for a period of several years.

Despite the lack of specific numbers, the significance of this program's contribution to the total number of Aboriginal children entering care is also referred to by the former director of the AIM (Adopt Indian/Metis) program²⁵ who was interviewed by Jacqueline Maurice for her Doctoral dissertation. Maurice provides the verbatim interview transcript in her work within which the former director indicates that during the time AIM was first introduced as a pilot project (in 1967), there were between 1500 and 1700 children in long term care.²⁶ He also estimates that approximately 75 percent of those children were Aboriginal. Notably, although he does not provide a breakdown of figures, he specifies that "they were singles who came into care through the unmarried parents program."²⁷ Interestingly, within this thesis, these circumstances are also evident in the backgrounds of three of the participants who entered substitute care as a result of being given up for adoption by their mothers. Two of these three individuals indicated that they were placed for adoption specifically because of the very young age of their birth mothers. So, along with the figures represented in the *1967/68 Annual Report* by Child Welfare, and the former director's explanation, there is a clear indication that a significant proportion of children admitted to care may not have been the result of apprehensions. Given the importance of this dynamic to the overall child-in-care rates, its exclusion from the literature represents another serious form of exclusionary bias.

It is well known that children also came into care due to the extension of protective

²⁵See Page 71, note 6.

²⁶Maurice, *De-Spiriting Aboriginal Children*, Appendix D, "Interview with Frank: Director of AIM 1967-1969, January 12, 200, 264.

²⁷*Ibid.*

services. However, rather than the conventional claims that children were being removed on the slightest pretext, the apprehension of children also needs to be placed into the context of family and community breakdown which was problematic in many areas. The experience of colonial practices and the subsequent oppression and marginalization of Aboriginal peoples has created severe social and economic disparity between Aboriginal peoples and other Canadians. Indicators of that disparity, such as high rates of poverty, high rates of addictions, suicides, and domestic violence and abuse, have all been well documented.²⁸ Not accounted for, though, is the link between the outcomes of these conditions and resulting contact with the child welfare system.

Specifically, key factors that appear directly connected to the apprehension of children include alcohol abuse and family violence which have been more pronounced in the Aboriginal community due to their connection with oppressive policies such as the residential school experience. Johnston, in whose work we are first introduced to the Sixties Scoop paradigm, includes both alcohol problems and residential school impacts as contributing factors to the child-in-care rates, but only briefly, and only somewhat reluctantly. He decides to include them only because "...they are mentioned frequently by Native people...."²⁹ More recently, the existence of high rates of alcohol abuse in many Aboriginal communities have since been fairly well established.³⁰ Commenting on this aspect of his research for the Royal Commission on Aboriginal Peoples, Pete Hudson contends that the role of alcohol is so pervasive that "...it

²⁸See James Frideres, Chapter 3, note2; See also, Royal Commission on Aboriginal Peoples (hereinafter RCAP), *Choosing Life: Special Report on Suicide Among Aboriginal People*, (Ottawa: Minister of Supply and Services, 1995).

²⁹Ibid., 76.

³⁰See, RCAP, *Gathering Strength*, 157-165; see also, Pete Hudson, "First Nations Child and Family Services: Breaking the Silence," *Canadian Ethnic Studies* 29, no.1 (1997): 162,163.

invariably features first on any list of community problems.”³¹

It is generally believed that the effects of residential schools have had a profound and direct link to problems associated with higher rates of both alcohol and physical and sexual abuse in many First Nations communities. Fournier and Crey provide several examples of such a link by sharing the stories of several individuals who endured abusive treatment at residential schools as children and later went on to become alcoholic and/or abusive parents themselves.³² Of course, while it appears that physical and sexual abuse were widespread in the schools, it remains that not only were there many Aboriginal people who did not attend residential schools, but not all were victims of abuse either. However, family violence against both women and children has been linked to alcohol abuse and personal and cultural stressors resulting from not only residential schools, but other oppressive features of the colonial relationship.³³ Some salient features as identified by the Royal Commission include loss of land and assimilative processes that have resulted in tremendous cultural stress and social and economic marginalization. The results have been higher rates of alcoholism and family dysfunction. Although the Royal Commission on Aboriginal People cautions that family violence is also a major social problem in the dominant society, the Commissioners concede that the effects of the colonial relationship has clearly resulted in a particularly widespread phenomenon of violence against women and

³¹Hudson, 163.

³²Fournier and Crey, *Stolen from our Embrace*.

³³RCAP, *Choosing Life*, 19-42; RCAP, *Gathering Strength*, 54-67.

children in Aboriginal communities.³⁴

There is an obvious connection between family and community breakdown and the conditions created by that breakdown which, in turn, lead to the intervention of child welfare services. In the 1960s and 1970s, the most common form of intervention was the extension of protective services for children in the form of child apprehensions. Unfortunately documentation of specific reasons for placements into care is not widely available. Nevertheless, one researcher studying the reasons for child apprehensions in northern Ontario determined that whereas other children were often admitted to care due to behavioural problems or housing difficulties, “... Native Indian children were taken into care only for ‘extreme’ reasons such as desertion and neglect.”³⁵ Taking a child into protective care for these reasons meant that child apprehensions were typically unplanned and were frequently undertaken in emergency situations due to neglect and abandonment.³⁶

This dynamic was also highly relevant to the present study where the research participants’ initial reasons for entering substitute care were often linked to emergency kinds of apprehensions. As a particularly vivid example, *John’s* account is instructive in this regard. Specifically, *John* spoke about the neglect and violence that would occur in his home as the weekend approached and drinking activities got underway. After carefully detailing the healthier

³⁴See, RCAP, *Gathering Strength*, 54-67; See also, Anne McGillivray and Brenda Comaskey, *Black Eyes All of the Time: Intimate Violence, Aboriginal Women and the Justice System* (Toronto: University of Toronto Press, 1999).

³⁵Glenesk, as cited in Timpson, “Four Decades of Literature on Canadian Native Child Welfare: Changing Themes,” *Child Welfare* 74, no. 3 (May-June 1995), 528.

³⁶Timpson, “Four Decades of Literature on Canadian Native Child Welfare,” 528.

lifestyle his birth family had lead before they lost access to their traditional lifestyles, he recalls the following:

...so they started getting into drinking and - all the things that go with it. And then you saw violence. And then there was uh - some abuse. I'm not talking necessarily just about sexual abuse but there was definitely abuse because we seen it and then, like we weren't sheltered and we were hungry most of the time. And most of the times, like we used to walk around at the nighttimes in the rains and ...we used to sleep with puppies. We used to hide underneath the house - hide in the roof cracks. And uh, you know - and like Thursdays to us was like - a - was a horror kind of day. You know, Thursday, Friday, Saturday and Sunday! ...I used to hate those days. And, because Thursdays was like to - you know - us, like we go, "oh no," you know. Sleepless nights - no food- and we don't know who is going to be in the house.

John indicates that authorities were obviously notified and that he and his siblings were taken into protective custody. He also went on to comment on the sense of relief and the security in having regular access to food, shelter and clothing.

There are also very similar circumstances involved in *Cindy's* case. *Cindy* was apprehended when she was ten months old. At the time of the initial interview for this study, she was not completely certain about the exact situation that had occurred but she knew she had been removed rather quickly. However, she went on to learn from an older sister that herself and five other siblings had been left alone for a number of days in a one room granary where they had been living for a short period of time. *Cindy* was the youngest of the group and the oldest was *Harvey*, who was eleven years old at the time. The information *Cindy* received from her older sister was that their biological mother had become heavily involved in drinking with a group of people in town and that upon noting the situation of the children in question, someone had notified the police after a few days time. *Cindy* was adamant that her best interests were met when she was taken into care and she indicated her full support of that initial decision.

Betty was also apprehended by child welfare authorities due to abandonment. She shares that when she was just a baby, she and her older sister were living with their birth mother in a basement suite. Her birth mother had had two other children who had formerly been taken into care at this time. *Betty's* older sister was four and the two of them had been left on their own for about two or three days before they were found by an upstairs neighbor. *Betty* also shared that her biological mother did not inquire about her children's whereabouts until six months had passed. When asked her opinion about the initial decision to place her into care, *Betty* acknowledged that she was in full agreement. Later, she also went on to conclude that she was also much better off because of the continued involvement of alcohol in her biological family.

Although *David* was not certain about the exact circumstances surrounding his placement into care, he suggests it was related to "alcohol" and "economics." After having met his biological family, he also found alcohol to be a central component of their lifestyle.

Well, I've met my birth family and I've seen how their lives have turned out and so, with the exception of the older sister who was also adopted and her life also different from the birth family [sic]. So, I imagine my life would have been very - uhm, chaotic - uh, probably would have had alcoholism, if not drug abuse problems. Uh- some social dysfunction for sure because of the type of people I would have been surrounded with. But...their normal is their normal and my normal is mine and seeing the contrast is - I'm happy to be where I am....uhm - they - yeah, a lot of alcohol and drugs and - just economic lifestyle pretty much dictated how they grew up.

With respect to the literature to date, both Johnston and Hepworth, have provided corroborating evidence that parallels some of the circumstances shared in these narratives. Both authors indicate that child welfare services were provided only in "life or death" circumstances. In fact, in a somewhat paradoxical prelude to his second chapter entitled "The Sixties Scoop," Johnston refers to the outcome of the jurisdictional dispute in Saskatchewan (which represented one of the

highest in-care rates in the country) and the reluctance of child welfare authorities to intervene on reserve. He writes that “the reluctance of the province, as of 1982, to become involved on reserves, except in life and death situations, is not a new position. In fact, it has been a policy since the 1960s.”³⁷ He then goes on to cite a 1980 policy statement as follows:

‘As early as 1962 a directive was issued to field staff to accept protection referrals only in extreme cases of neglect. The department’s policy on providing protection services on Indian reserves has essentially remained unchanged since the 1962 policy directive.’³⁸

Johnston then relays that “many people concerned about the welfare of children were, and still are, very concerned about Saskatchewan’s policy. One such person, Dr. Mildred Battel, worked for the Saskatchewan government from the mid-1940s to the mid-1960s and was director of child welfare at one point. She described the situation as follows:”

‘We took very few Indian children into care. Our policy was very harsh. We interfered if the social worker (Indian Affairs) thought a child was in physical danger. It was horrible because how did you know when a child was dying? But that was the policy when I left the department in 1965, and I don’t think it has changed much.’³⁹

This information not only contradicts the central premise of the Sixties Scoop model, but it also provides some fairly strong evidence to indicate family breakdown was serious enough to have resulted in emergency situations requiring the intervention of otherwise reluctant child welfare workers. It also stands in vivid contrast to standard claims of deliberate wholesale apprehension of First Nations children. Ultimately, it is quite apparent that contrary to the image of large scale

³⁷Johnston, 10.

³⁸Saskatchewan, Department of Social Services, “Policy Statement: Department of Social Services,” (Regina, 9 July, 1980), p.8 as cited in Johnston, 10.

³⁹Mildred Battel, in correspondence with Johnston, 11 March, 1982, as cited in Johnston, 10.

unchecked apprehensions, neglect and/or abuse was also a primary contributor to the high numbers of First Nations children who were placed into care.

Together, claims of unjustified apprehension and purposeful “scooping” of children make up the most prominent aspect of the Sixties Scoop paradigm. On its own, the term clearly reflects images of deliberate removals of children. However, through a critique of the model’s weaknesses in this area, it is evident that not only are there serious flaws to the basic claim of unjustified large scale apprehensions, there is also substantial evidence to indicate the existence of both contradictory and alternative perspectives. In the present study, the participants’ own circumstances surrounding their initial involvement with the child welfare system has also provided some further insight into this issue. The variety of reasons for entering care as represented by this particular group of research participants provides some examples of, and context to, other explanatory factors that have typically been absent in the discourse. In this way, the overall experiences of this particular research group can be more effectively integrated into the literature because it is now possible to view their situations in a broader context than simply as “exceptions to the rule,” which might otherwise be the case in light of the conceptual hegemony of the Sixties Scoop discourse. These considerations also remain applicable as we turn to the other two primary tenets of the Sixties Scoop model.

Chapter Six

“Reviewing the Assimilationist Agenda: The Deliberate Placement of First Nations Children into non-Aboriginal Homes?”

6.1 Claim #2: Policy of Assimilation

In concert with the first premise of the colonial framework behind the Sixties Scoop model which purports a process of wholesale removal of First Nations children, the second major claim suggests there was also a deliberate agenda to place them into non-Aboriginal homes. This position is evident in some of the documentation provided to identify the first major claim of deliberately removing children from their homes. A notable example is the contention of the *AJI* Commissioners that child welfare workers felt “the best homes for the children were not Aboriginal homes,” and that “the ideal home would instil the values and lifestyles with which the child welfare workers themselves were familiar: white middle-class homes in white middle-class neighborhoods.”¹

The implication of deliberate placements outside of Aboriginal culture by the child welfare system has been heavily influenced by the perception of similarities with the assimilationist agenda of the residential school system. The delivery of child welfare services to First Nations began at a time when residential schools were beginning to close. Consequently, the 1951 revisions to the *Indian Act* that gave provinces jurisdictional authority to provide child welfare services to First Nations are frequently viewed as a continuation of the assimilationist policy that was originally at the heart of the residential school system. For example, the findings of the *AJI* also included the opinion that “The child welfare system was doing essentially the

¹Hamilton and Sinclair, 520.

same thing with Aboriginal children that the residential schools had done. It removed Aboriginal children from their families, communities and cultures, and placed them in mainstream society.”²

Through the perceived association with this earlier policy, the placement of First Nations children into non-Aboriginal homes has been equated with a similar agenda which has resulted in claims of deliberate assimilation and cultural genocide. This view is explicitly articulated by Monture who states: “Removing children from their homes weakens the entire community. Removing First Nations from their culture and placing them in a foreign culture is an act of genocide.”³

In Saskatchewan, the Adopt Indian Metis (AIM) program, first developed in 1967, has come under heavy criticism for its role in the placement of First Nations and other Aboriginal children into non-Aboriginal homes. Due to the high numbers of First Nations children involved with the child welfare system in this province, the AIM program was developed to help find placement resources. However, the practices of this agency have been portrayed as part of the general process of removal and assimilation. For example, as mentioned earlier, in her 2003 dissertation, Jacqueline Maurice directly equates the AIM program with the Sixties Scoop as though they are one and the same. Yet, contrary to Maurice’s own primary evidence, information about the program clearly indicates that AIM was in fact developed to help find adoptive homes for Native children because of the difficulties the child welfare system was experiencing in finding long term placements for them. For all intents and purposes, it is quite clear that the AIM program itself had absolutely nothing to do with the apprehension of Native children; nor was its

²Hamilton and Sinclair, 519.

³Patricia Monture, “A Vicious Circle,” 3.

mandate to ensure placement primarily in non-Aboriginal homes.

In an interview transcript provided by Maurice, the former director of the AIM program explains the rationale behind the development of the initial project. He discusses the problems that existed with finding homes for Aboriginal children who had become government wards either due to court orders stemming from protective requirements or from the surrender of parental rights where children had been sometimes also relinquished for adoption, such as through the unwed mother's program that was discussed in the last chapter. The former director states that "because they were Aboriginal, because they were Roman Catholic they weren't able to - most of them weren't placed for adoption. They just stayed in foster care. A lot of them were in family groups."⁴ During this era, not only was racial matching still considered ideal, but religious matching was also a significant issue in the general population. However, the former director of AIM indicates that Roman Catholic families were difficult to procure because they "already had families of their own, large families of their own. . . So they were already looking after a lot of children."⁵ As a result of these difficulties in finding homes for Indian children, the former director explains that he was subsequently approached to assist with the development of a program that would help find long term and, ideally, adoptive resources for children who were otherwise destined to simply stay in the long term care of the Minister of Social Services.⁶ This latter option was less than ideal due to its lack of permanence and the resulting uncertainty of long term family stability for the children in question.

⁴Frank, former director Aim Program, as cited in Maurice, "De-Spiriting Aboriginal Children," 264.

⁵Ibid., 265.

⁶Ibid., 264.

Perhaps, if the difficulty in finding placements for Aboriginal children was the extent of the explanatory background behind the inception of the AIM program, it could still be said that AIM was possibly working in concert with the protective component of child welfare services. Despite this implication by Maurice, and indeed, by the literature in general, there is significant evidence to question such claims. As will be discussed, contrary to the idea that AIM was nothing more than an advertising program designed to facilitate the purposeful placement of Aboriginal children into non-Aboriginal homes, a review of its underlying placement principles as well as the actual strategies implemented by the agency clearly indicate otherwise.

According to Ward, placement principles during this time period were premised on both religious and “race” matching between a child and his or her prospective “family.”⁷ While today’s child welfare practices, which also promote the placement of children into their own cultural groups, may be premised on very different principles such as a child’s right to his or her own heritage, it is evident that the ideal itself was also a priority at the time. Thus, the development of the AIM program appears to have been structured to facilitate the fulfillment of these placement principles as much as possible. As conveyed by the former director, both the internal structure and the operating philosophy of the program itself clearly reflect such principles. For example, in what would be thought of as a ground breaking initiative at the time, the small staff complement included an Aboriginal resource person who was specifically hired to establish liaisons with the Aboriginal community. In addition, one of the secretarial staff was also Aboriginal, as were the Cree interpreters who were hired to help facilitate effective

⁷Margaret Ward, *The Adoption of Native Canadian Children* (Cobalt Ontario: Highway Book Shop, 1984), 9.

communication and dialogue within the Aboriginal community.⁸

The agency also undertook direct attempts to co-ordinate and advertise recruitment efforts within Aboriginal communities and organizations. The former director relates that he personally attended a meeting of the Federation of Saskatchewan Indians in Prince Albert, either in the fall of 1968 or the spring of 1969. Along with the help of a Cree interpreter, the publicity program that had been developed was shown to a total of seventy two Chiefs in attendance. This number represents virtually every First Nation in the province. At this particular event, the AIM staff made a direct appeal to the Chiefs to assist them with finding Aboriginal homes.⁹ Other recruitment strategies included the placement of ads in Native newspapers. In the later 1970s, as the program progressed, a television spot featuring a Native family who had adopted was also developed.

Unfortunately, while the program was successful in recruiting more adoptive homes overall, the participation by First Nations and other Aboriginal families was quite minimal. In terms of the numbers of adoptive parents recruited from the Native community, exact figures are not available but the former director recalls that early in the program, there were at least three or four Native families who had adopted.¹⁰ However, Ward reports with a little more certainty, that “approximately six or seven percent of the applications through the AIM program... [came] from families in which at least one parent ... [was] Indian or Metis; that ratio remained constant during

⁸Ibid., 267.

⁹Frank, former director AIM Program, as cited in Maurice, 269; see also, “Indian Couples Eligible to Adopt Children, Regina Leader Post, August 15, 1967, p. 14.

¹⁰Frank, former director AIM Program as cited in Maurice, 271.

the first five years of the program.”¹¹

Of course, Saskatchewan was not the only province attempting to utilize available resources in Aboriginal communities. After reviewing the adoption policies across Canada, Ward found that most provinces and territories had developed special programs to recruit Native homes.¹² For instance, as early as the 1950s, one agency in Ontario attempted to ensure cultural sensitivity by “...operating a special program placing Indian children with Indian families on remote reserves.”¹³ In another region of Ontario, the Brant Children’s Aid Society also created a branch office on the Six Nations reserve and planned for an all-Native staff.¹⁴ There were several recruitment initiatives in British Columbia as well. In a special report to the Union of B.C. Chiefs, authors Elmore, Clark, and Dick, found that, “During the years 1963-1969 there is considerable information to indicate the Adoption Placement Section has also made a number of attempts to encourage and facilitate the development of an increased number of Indian adoptive homes of both status and non-status orientation.”¹⁵ Ward indicates that, overall, recruitment programs did have a positive impact in recruiting Native families but that the numbers remained relatively low.¹⁶

Owing to the difficulty in finding Aboriginal adoptive families, the child welfare system also had to use available resources in the non-Aboriginal community. Sometimes adoptive homes

¹¹Ward, 9.

¹²Ibid., 19.

¹³Ibid., 16.

¹⁴Ibid., 17.

¹⁵Elmore, Clark and Dyck, 22.

¹⁶Ward, 21-24.

were found outside of the child's home province and even outside of the country. In his review of the Manitoba child welfare system, Judge Kimelman chastised the system for its seemingly methodical placement of Aboriginal children into homes throughout the United States.¹⁷ In fact, his conclusion that the child welfare system was indeed guilty of "cultural genocide" has reverberated throughout the discourse of Indian child welfare.¹⁸ He contends that "Native children were *routinely* being shipped to adoption homes in the United States and to other provinces in Canada. . . . Manitoba stood alone in this abysmal practice"¹⁹ (emphasis mine). While, Kimelman's harsh critique was directed specifically at placement practices occurring in Manitoba's child welfare agencies, his words and views have been extrapolated to the national situation. Certainly, the authority vested in the profession to which Kimelman belongs adds an expected perception of credibility to these findings. Interestingly, however, due to differences of opinion and perspectives which apparently could not be resolved among the original members of the committee first appointed to the inquiry, it became a committee of just one person, Judge Kimelman himself.²⁰ Ultimately, some of the realities discussed above, along with several other factors which will be discussed below, raise some troubling questions about the assumed veracity of Kimelman's findings.

According to national statistics, both Manitoba and Saskatchewan had the highest

¹⁷See, E.C. Kimelman, Chapter 1, note 25.

¹⁸See Geoffrey York, *The Dispossessed*, Paperback edition (Toronto: Little, Brown and Company, 1992). 214.; Hamilton and Sinclair, 524; Native Child and Family Services Toronto, Stevenato & Associates and Janet Budgell, "Aboriginal Healing and Wellness Strategy Research Project: Repatriation of Aboriginal Families - Issues, Models and a Workplan," (Toronto: Native Child and Family Services of Toronto and Stevenato & Associates, March, 1999).

¹⁹E.C. Kimmelman, 272,273.

²⁰E.C. Kimmelman, 7, 8.

percentages of First Nations children in care.²¹ Like Saskatchewan, long term placements for Native children in Manitoba were also difficult to find; but, unlike the success of the AIM program in Saskatchewan, recruitment of long term placement homes in Manitoba were more problematic, at least initially. In terms of Native families specifically, Ward reports that despite appeals to the Native community (such as a home finding project in northern Manitoba which had been sanctioned by the Bands and had been presented in both English and Cree), “in Manitoba, only about a dozen homes were available in any given year.”²² Nevertheless, as the overall adoptive situation began to improve in Manitoba, Ward indicates that “Most infants and several older children were placed within the province.” Further, she goes on to add: “Those going out of the province were older children, sibling groups, and children with special needs.”²³

While no specific year is mentioned, Kimelman notes that prior to 1982, of all children being placed for adoption, 25% were being placed outside of Manitoba.²⁴ This figure, while significant, still indicates that the majority of adoptive placements were within the province. And, more importantly, there is a clear indication that children who were placed outside the country were not exported as part of a systematic process of genocide, but rather, because homes were difficult to find due to their being older in age or having a special need. Thus, the situation at the time indicates that adoptions taking place in the United States appear to have been authorized mostly due to the difficulty in finding enough adoptive homes in Canada.

²¹Hepworth, 116.

²²Ward, 17.

²³Ibid., 16.

²⁴E. C. Kimmelman, 272.

Additionally, there were also several other contributing factors facilitating such arrangements. In 1969, the development of an international adoption resource database known as the Adoption Resource Exchange of North America (ARENA), effectively made the potential pool of adoptive families much larger.²⁵ Accessing the extra pool of cross border applicants was also practicable because of the easier communication process facilitated by north-south relations as well as the fact that children from Canada were not subject to the same rules and regulations placed on the adoption of other 'foreign' children from other countries.²⁶

Finally, given the era in which these placements were occurring, changing social values appear to have played an important role in adoptive practices. Elmore et al. indicate that "...the number of adoptable non-Indian children dropped quite significantly as a result of the availability of abortions, the pill and other contraceptive measures." They go on to say that, "In the years 1963-69 there was an upsurge of interest in racial tolerance and a desire to breakdown the barriers and disparities between the races. There was a period of intense idealism shown by concerns about civil rights, poverty and changing society."²⁷ The impact of these changing social values was further magnified by the growing numbers of Aboriginal children entering care during this period.

Aside from the contradictory evidence discussed above, which effectively refutes claims of an assimilationist agenda, the locus of analysis inherent to these claims has also been confined to factors and influences external to the communities themselves. Yet, as shown in the discussion

²⁵Ward, 8,9.

²⁶Ibid., 9,10.

²⁷Elmore , Clark and Dyck, 19, 20.

concerning reasons for the apprehension of Aboriginal children, the inability to secure adequate placement resources in the Aboriginal community is not exclusively related to external events either. Consequently, an adequate examination of the broader circumstances surrounding placement practices and options, again require some consideration of relevant issues internal to the communities as well.

6.2 The Role of Internal Factors in Child Welfare Placements

In addition to the evidence which indicates there was no underlying mandate to purposefully place First Nations children into non-Aboriginal homes, there is supplementary evidence which attests to both the existence of several initiatives undertaken in numerous locations across the country to recruit Aboriginal placement resources, and the internal strain on those resources. As we examine the role of some of the internal factors that contributed to placements outside of the Aboriginal community, the first area of consideration will be directed to that of the Aboriginal community's response to the recruitment initiatives that had been undertaken.

Although there is very little documentation about the perception of the Aboriginal community toward such programs, there is some indication of a perception of high placement standards. It has been suggested that the application of "White" middle class standards were not only responsible for the apprehension of many children, but also for the creation of barriers that prevented many Aboriginal families from meeting the criteria for acceptable home placement standards.²⁸ In other words, an existing argument is that both lower socio-economic standing and

²⁸For example, see Johnston, 99.

cultural differences resulted in unattainable child welfare standards for Aboriginal families who otherwise would have been willing to adopt. This view is articulated by Kimelman who relays that “The general community, [and] the Native community ... tend to view foster and adoptive home standards as rigid. The representatives of Native organizations expressed the view that the standards were the major barrier to the placement of Native children in Native homes.”²⁹ While the literature is unclear as to whether or not strict standards created barriers on a large scale, as noted by Kimelman, it *is* evident that local agencies were in fact able to exercise their own discretion in this area.³⁰ Indeed, several agencies appear to have shown considerable flexibility in their placement standards.

The example of the Kenora agency in northern Ontario was discussed earlier. This agency flew considerable numbers of First Nations children to remote northern reserves for placement. The priority on First Nations home placements that were sought for these children obviously does not fit the perception of middle class standards as the primary placement consideration. Similarly, even in other locales where placement numbers were much higher, there is no evidence to support the contention that rigid standards or the application of middle class values were the primary inhibiting factors to the recruitment of Aboriginal families. Due to the high numbers of Aboriginal children placed in Saskatchewan through the AIM program, an evaluation of its placement policies is particularly relevant to this discussion. In light of the heavy criticism typically directed at the AIM program, it is somewhat surprising to find that the ideals of the program included a fairly apparent and active commitment to flexible standards.

²⁹E.C. Kimmelman, 228.

³⁰*Ibid.*, 229.

In August of 1967, just a few months after the inception of the AIM program, an article featured in the Regina Leader Post proclaimed: "Indian Couples Eligible to Adopt."³¹ In terms of the program's home placement standards, the director of the program was quoted as saying that "the qualities sought are to be found in both Indian and white homes. Housing, general community standards and economic security are *definitely not* determining factors in placement"³² (emphasis mine). Further, in the interview with Maurice, the former director also provides a specific example of this willingness to exercise such flexibility. He recalls doing a home study with an Aboriginal family where the father had formerly been a severe alcoholic for many years. But, perhaps the biggest potential obstacle was that he also had a criminal record. However, at the time of the home study, the father had been dry for a lengthy period of time, had good community references and also had the appearance of a successful marriage. Consequently, the home was approved and the placement worked out well. The former director indicates that if AIM's practice had been to screen people out instead of working with them to prepare for the adoptive process, the response in this case, probably would have been one of 'get lost.'³³ It will also be remembered that the program's staff entered into direct dialogue with First Nations by going directly out into the communities, advertising in Native newspapers and featuring a Native family in one of their television commercials. It is particularly noteworthy, then, given the direct association of the AIM program with the Sixties Scoop, that this well known program made what appear to be some credible attempts to operate in accordance with its ideals of placing children

³¹Regina Leader Post, August 15, 1967, p.14.

³²Ibid.

³³Frank, former director AIM program, as cited in Maurice, 271.

within their own cultures. Of course, the possibility exists that recruitment initiatives in the Aboriginal communities may not have been as well thought out and or as effectively structured as they could have been; however, there is no convincing evidence to indicate the existence of any collusion with, or adherence to, assimilationist ideals through the deliberate placement of First Nations children into non-Aboriginal homes.

Perhaps, even in cases where flexibility existed, the perception of rigid standards may have remained simply due to a lack of awareness. For example, in the Leader Post article referred to above, the director of AIM suggested there might be a general lack of awareness about the program within the Aboriginal community. Nevertheless, as noted above, the director also showed a clear indication and willingness to work with Aboriginal communities. While an apparent lack of awareness may have still prevailed to a certain extent, there is the remaining question concerning the failure to secure a positive response by the Aboriginal community in several locales where active recruitment campaigns existed.

One area of response that has had very little attention is the issue of discriminatory attitudes that existed within the Aboriginal community itself. A relevant study from this era undertaken by anthropologist David Stymeist examined ethnic class stratification in a northern Ontario town.³⁴ Stymeist documented some of the divisive intra-group attitudes among Indian peoples living in the region. Specifically, he noted the existence of categorical divisions between those more assimilated and those whose practices remained more traditionally Aboriginal.³⁵

³⁴David H. Stymeist, *Ethnics and Indians: Social Relations in a Northwestern Ontario Town* (Toronto: Peter Martin Associates, 1975).

³⁵*Ibid.*, 74.

Ward, on the other hand, commented on the cleavages fostered by both real and perceived differences associated with the categories of status versus non-status Indians. Insofar as child welfare practices are concerned, the impact of such relationship dynamics is articulated by the former director of AIM as follows:

. . . a lot of the bands did not want to take children from other bands. And there was a sort of internal political thing within the Native community itself.. And they didn't want to take children from this band into this band because it's [sic] remedial resources or whatnot. That disappointed me in that I felt we were trying to break the barriers and I didn't count on the internal barriers.³⁶

Ward indicates that similar difficulties occurred in Manitoba on one reserve that had become a source of adoptive homes because placements were restricted to Treaty³⁷ Indian children only.³⁸

While not necessarily the most formidable barrier, this particular dynamic nevertheless, needs to be understood as one additional catalyst among several, which also contributed to placements in the non-Aboriginal community.

In the previous chapter, the effects of colonial practices and cultural change were discussed as they related to the apprehension of children for protective reasons. Similar to the reasons for the high rates of child apprehensions, the lack of a positive response in the Aboriginal community toward recruitment programs also needs to be evaluated in the context of social and economic problems in the communities. There is an obvious connection between these family and community difficulties and the associated problems with locating placement resources in the Aboriginal community. Consequently, in the same way that there has been very little

³⁶Frank, former director AIM Program, as cited in Maurice, 270.

³⁷The term "Treaty" is probably incorrectly used by this author to actually refer to "Status" Indians as registered in the Indian Act.

³⁸Ward, 17.

acknowledgment of community breakdown and the associated connection to the need for protective services, neither has there been any formal assessment of the possible impact upon adequate placement resources in those same communities. Notwithstanding the well documented effects of such family and community breakdown, the problem lies in the general unwillingness or resistance to making a reasonable connection between the effects of some of that breakdown and the resulting strain upon placement resources in many of the communities.

The former director of the AIM program recalls the issue of strained resources within the explanations offered by some of the elderly women whom he met when visiting some of the First Nations communities for recruitment consultations. He relays the following:

They told us that they already are looking after so many children from the reserve, okay, and that anyone there that had any spare psychological energy left was already looking after family members of a lot of the grandchildren or nieces or nephews or brothers. You know, in fairness to the Aboriginal community it's over taxed in terms of the balance between the families who were sort of making it, and those who were experiencing extreme difficulty.³⁹

The reality of strained healthy family resources is also highlighted in the more recent work of activist Ernie Crey and journalist Suzanne Fournier. In a poignant personal story of abuse and recovery, one First Nations woman who later became a sexual abuse therapist, recalls the effects of the abusive environment in which she grew up. She states that "a few years ago, I wouldn't have said our community was ready to take charge of its own child and family services. Hardly any reserves had a safe, sober home to take a child. Now we've made a lot of progress."⁴⁰

Louise, one of the participants from the current study, also offers a remarkably similar view:

³⁹Frank, former director AIM Program, as cited in Maurice, 269.

⁴⁰Fournier and Crey, *Stolen from our Embrace*, 134.

Yeah, because I think my community itself was - uhm - heavily affected by the residential school - it still is. And I think that it's only been within the last twenty years or so that the healing journey has begun in my community. And maybe not even - maybe only within the last ten years. And so I think that being placed with relatives in my own community at that time - *may* have done further damage. I don't know because I wasn't there at that time....But I think there was still so much damage from the residential school that - that it may have done more harm than good.

Such observations clearly indicate the inter-related dynamics between the effects of family and community breakdown that were discussed in the last chapter and the resulting impact upon the available placement resources in the affected communities.

In terms of the standard explanations flowing from the Sixties Scoop model, which most often contend that First Nations and Aboriginal children in general were deliberately removed and then placed into non-Aboriginal homes to facilitate the assimilative process, there exists substantial contradictory evidence. It is clear that the disproportionate placement of Aboriginal children into non-Aboriginal homes was influenced by numerous complex and inter-related factors. A major contradictory element to the conventional argument lies in the fact that there is documentation of numerous agencies which undertook recruitment campaigns in the Aboriginal community. Although there appeared to have been a perception in the Aboriginal community of rigid placement standards, it is also apparent that flexible standards were practiced by a number of placement agencies. In terms of successful recruitment, the generally low participation rates by the Aboriginal community may have been at least partly due to a general lack of awareness about placement options overall. However, it must be recognized that internal issues within the communities themselves also played a key role in the difficulties encountered with finding placement resources. The choice or ability to care for other First Nations children was affected in

some cases by discriminatory attitudes toward other groups or Band members as well as the prejudicial attitudes related to cleavages stemming from the divisive privileges and ranking associated with status versus non-status Indians. Finally, the family and community breakdown which became more intense within Aboriginal communities as a result of their marginalized and oppressed status, was also a fundamental impediment to locating adequate placement resources in the communities. Despite the existence and significance of all of the above factors, there has been no meaningful consideration of these issues by scholars and activists who have made otherwise sweeping generalizations about the child welfare system that include simplistic explanations such as “deliberate policies of assimilation” and practices of “cultural genocide.”

The third primary contention within the Sixties Scoop paradigm deals with the general placement outcomes of Aboriginal children who were placed into non-Aboriginal homes. The overwhelming consensus in the literature suggests that Aboriginal children typically experienced extremely negative placement outcomes due to either abuse and/or difficulties related to identity issues. However, like the first two aspects of the model, as we turn to this component, it becomes apparent that the complexity of this issue demands a much more comprehensive assessment than what has been undertaken so far.

Chapter Seven

Negative Placement Outcomes: Beyond Abuse and Identity Confusion

7.1 Claim #3: “Negative Placement Outcomes”

The third primary contention of the Sixties Scoop model is intimately connected to the claims of the first two aspects previously discussed. This component of the model further vilifies the child welfare interventions that took place by suggesting the removal of Aboriginal children and their placement into non-Aboriginal homes was not only deliberate and unjustified, but that these actions were even more atrocious because they typically resulted in overwhelmingly negative placement outcomes due to frequent experiences of abuse and/or identity related confusion. The identity issue in particular, is very closely related to the secondary claim within the Sixties Scoop of an assimilative agenda. This third contention has gained considerable support as a result of the publicized cases of three Aboriginal children who were placed into non-Aboriginal homes with tragic outcomes.

Most notable, is the case of Cameron Kerly, a young First Nations boy from Manitoba who was placed into an adoptive home in the United States, and who, after suffering years of ongoing sexual abuse, murdered his adoptive father.¹ The case of Richard Cardinal is also very tragic. Cardinal, a Metis youth from Alberta, went through several different placements in foster care before committing suicide in June 1984.² Another well documented story is that of Carla

¹Monture, “A Vicious Circle”; See also, D. Mandel, J. Clouston Carlson and C. Blackstock, “Aboriginal Child Welfare,” (School of Social Work, Sir Wilfred Laurier University, Partnerships for Children and Families Project, Conference Paper, February 2003) <http://www.wlu.ca/pcfproject/>

²Christopher Bagley, “Child Abuse in the Child Welfare System,” *Journal of Child Care* 2 no.3 (1985): 63-69; See also, Geoffrey York, “From Manitoba to Massachusettes,” in *The Dispossessed: Life and Death in Native Canada* (Toronto: Little Brown & Co. : 1992): 201-227.

Williams.³ Williams was adopted by a family who then took her to live in Holland. She too, suffered sexual abuse in her adoptive home. By the time she was 16 years old, she had had three children, two of them by her adoptive father. After becoming involved in drugs, alcohol and prostitution, Williams was successful in finding her way back to Manitoba, where, despite the anguish of finding out about the suicide of her parents, she re-established ties to her family and community.⁴

Although the experiences of a few other people have also been occasionally highlighted in this regard,⁵ these three individuals have been especially prominent in the literature because they are often presented as typical examples of the negative effects of the “Sixties Scoop” era. While these cases demonstrate very tragic circumstances, there have been very few empirical studies from which to compare positive outcomes against negative ones. In examining this particular facet of the model, it is not the intention of the author to attempt to discount or trivialize the experiences of these individuals. The story of Kerly and others who endured similar abuses while in substitute care should not be taken lightly. However, the frequent references to these particular stories do indicate that they have had a definite impact upon the resulting negative focus in the literature. In other words, buoyed by the media attention given to some of these more “sensational” stories, the literature, already polemic in character, has since ascribed the negative character of these stories in a somewhat sweeping manner to the general outcomes

³See, Native Child and Family Services Toronto, Stevenato & Associates and Janet Budgell, Chapter 5, note 18; See also, Michael Downey, Canada’s Genocide,” *Macleans*, 112, no.16 (April 26, 1999).

⁴Native Child and Family Services Toronto, Stevenato & Associates and Janet Budgell.

⁵For example, the case of Marlon Severight, a young First Nations boy from Saskatchewan who grew up in a non-Aboriginal home and then took his own life with a gun during a confrontation with the SWAT Section of the Regina police department, is also highlighted in York, “From Manitoba to Massachusetts,” 222.

and experiences of most Aboriginal people who spent time in non-Aboriginal care.

Nevertheless, the author wishes to strongly re-iterate that the issue here is not the question of whether or not foster or adoptive children suffered negative experiences in non Aboriginal care; the evidence indicates that many did. Yet, in this thesis, it has also been shown that contrary to the assumptions in the present discourse, some, and possibly many, also did not. Moreover, owing to the singularity of focus upon negative outcomes, other critical areas of exclusionary bias have also arisen. Specifically, due to its latent function as a subversive mechanism in the literature, this singular focus on negative outcomes precludes the recognition of several other alternative realities which may have also contributed to the breakdown of substitute care placements. Additionally, this perspective has also turned the non-Aboriginal substitute care home itself into a specific pathology, which poses some additional problems, the identification of which will be discussed a little later.

Even though the Sixties Scoop term itself tends to immediately reflect the process of removing children from their families, this third component is also very critical to the framework of the model and also has to be seen in the context of its politicized character and role in the claims making process. Within the process of articulating this third aspect of the model, there has been a definite and purposeful link created between known cases of negative outcomes experienced by Aboriginal people in non-Aboriginal care and the associated claims of colonization and assimilation embedded within the first two components. This extension of the first two claims (“scooping” First Nations children and then deliberately placing them into non-Aboriginal homes) and the link to the third is very apparent in York’s work on the subject. Referring to the Cameron Kerly case, he relays that “The Dakota Ojibway Tribal Council

believes the Cameron Kerly case was an example of the ‘absolute worst consequences’ of Manitoba’s long-standing policy of ‘export adoptions.’”⁶ Also, because this third primary claim is so intrinsically tied to the other two, there are few instances where it stands alone as a separate area of inquiry. Instead, it is usually added on to a discussion first denoting the broader circumstances of the model’s first two components. For example, within Kimelman’s report into the Aboriginal child placement practices in Manitoba, he states that “The literature indicates that Native children placed in non-Native homes are likely to experience identity problems during their teenage years and these problems can lead to conflict with peers, with the educational system, and with the law.”⁷ And, as part of their argument about the colonial nature of child welfare practices, Brad McKenzie and Pete Hudson also claim “There is ... evidence that native children raised in non-native homes are more likely to experience an identity crisis in adolescence, leading to acute social and psychological problems when they find they no longer fit in the society to which they have been socialized.”⁸ The impact of linking this third component to the first two is apparent in these examples because it is evident that the focus on identity problems provides an effective critique of these child welfare measures.

Within the discourse of Indian child welfare, statements such as these are typically not only connected to the first two components of the Sixties Scoop model, they also appear to be based on very little empirical evidence. It is surprising to find that the reference listed by McKenzie and Hudson, and which is also included in Kimelman’s inquiry, is a 1979 urban based

⁶York, 213.

⁷E.C. Kimmelman, 158.

⁸Brad McKenzie and Pete Hudson, “Native Children, Child Welfare, and the Colonization of Native People,” 127.

study from the U.S. by Dr. Joseph Westermeyer. After working with a group of just ten psychiatric patients who had experience with substitute care, Westermeyer found associated identity problems.⁹ Clearly, in terms of making a determination about relative outcomes in substitute care the mental health status of the study's subjects introduces a bias and makes it entirely inappropriate to simply extrapolate the findings from this small group to the general situation of Native children in care.

More frequently, this position is heavily boosted by anecdotal evidence which, admittedly, appears to be widely available. Even though anecdotal evidence has not been empirically tested, it does appear more authoritative and credible when simply added to the first two aspects of the Sixties Scoop claims. That is, when tied to the emotionally charged claims of "indiscriminate scooping" and "genocidal" practices, even an informal account of resulting negative outcomes can deliver a profound and generalized indictment against the child welfare system. Fournier and Crey cite the example provided by "Jerry Adams, a Nisga'a social worker for Vancouver's Urban Native Youth Association," who "estimates that half to three-quarters of all the habituated native street kids that he works with 'are graduates of the B.C. foster care system or runaways from adoptions that didn't work out. They're looking for the sense of identity and belonging with other aboriginal street kids....'"¹⁰

Problematic to this situation is that Fournier and Crey did not point out that "half to three quarters" does not necessarily indicate the numbers of negative outcomes for all First Nations or

⁹Joseph Westermeyer, "Ethnic Identity Problems Among Ten Indian Psychiatric Patients," *International Journal of Psychiatry* 25 (1979).

¹⁰Fournier and Crey, 90.

Aboriginal children in care; it is only an estimate of the comparative figure from within the specific population Adams is dealing with. By their own account, up to half did *not* have substitute care backgrounds. Obviously, there is no way of measuring those outcomes against the experiences of other individuals *not* suffering from such difficulties because the latter group is not visible in the comparison. They are not having the kinds of problems that would bring them to the attention of individuals like Jerry Adams, so they are not out there making their stories known through their involvement in such groups.

Additionally, First Nations people who had positive experiences may also be less visible because, in addition to the fact that they may not have the same reasons to speak that those with negative experiences do, there are also the subversive effects of the polemic discourse, which may also inhibit such perspectives. The politicization of the discourse may have also discouraged individuals from coming forward because of concern about being politically incorrect in challenging the well entrenched ideas of the Sixties Scoop model. In this study, *Carol* had some mixed feelings in this regard. While she relayed that she had had a very caring substitute care environment, at times she also expressed strong criticisms of the child welfare system and its treatment of First Nations people in Canada. Consequently, *Carol* felt some inner conflict at one point when she relayed that a second stay in her foster home was actually the result of a personal decision she had made on her own. She stopped for a few moments and then smiled and asked “Is there anything in here about honesty?” After hearing that the researcher desired complete honesty, *Carol* went on to explain that she returned to her foster home of her own accord primarily because she felt less burdened by substantial personal responsibilities that were expected of her in her birth family.

7.2 What do we know?: The Lack of Empirical Studies in the Literature

Unfortunately, empirical studies specifically examining long term outcomes of Aboriginal children adopted by white parents are almost non-existent. David Fanshell's *Far From the Reservation* has stood alone for some time.¹¹ Fanshell followed up on the adoption of American Indian children when they were about five years old and found them to be showing positive indications of adjustment. In terms of the Canadian literature, there is also a paucity of such studies. One notable exception is a 1991 study out of Alberta undertaken by Chris Bagley who compares the outcomes of various groups of adolescent adoptees, including the adjustment of Native children adopted by white parents.¹² As a preface to his study, Bagley provides a child welfare policy analysis which consists of a brief commentary on the history of colonization and the effects of child welfare practices upon the Native community. Not surprisingly, his study also concludes that, in contrast to transracial adoptions for other ethnic or cultural groups, "...disrupted relationships and significant mental health problems are common among Native adolescents adopted by white parents."¹³ Although Bagley directly states that he attempted to overcome biased results by obtaining a random sample of subjects, there is some question concerning the original sources used to provide the subject pool. Bagley notes that "Subjects were obtained from two sources: supplementary questions in a survey of child development in a

¹¹David Fanshell, *Far From the Reservation*.

¹²Christopher Bagley, "Adoption of Native Children in Canada: A Policy Analysis and Research Report." In *Intercountry Adoption: A Multinational Perspective*. eds. Howard Alstein and Rita J. Simon, 55-79 (New York: Prager Publishers, 1991).

¹³*Ibid.*, 63.

large, random sample in Calgary... and in two surveys of community mental health.”¹⁴ There is no explanation about the surveys pertaining to community mental health and whether or not this could have introduced a significant bias due to the possible problematic mental health status of the sample population. The concern is similar to the situations discussed above regarding former foster care children and adoptees who ended up on the streets of Vancouver and also the population of psychiatric patients within Westermeyer’s study. If several of the research subjects came from the sample out of the community health surveys, there may be a bias due to the fact that otherwise “healthy” people would not typically be accounted for in certain mental health survey populations.

A similar dynamic could be very important in terms of the control groups used as well. Bagley notes that the control group of non-adopted white children came from the main sample, which appears to be that of the large random sample first referred to. It is quite possible then, that this control group would be less likely to present difficulties than those individuals who were specifically recruited from the two surveys of community mental health. The control group for Native children also presents some serious difficulty. According to Bagley, “[These]Native adolescents were all residents of reserves in rural areas, and all had at least one sibling who had been removed by social services for *alleged* neglect” (emphasis mine). He also adds that “...these children, unlike their siblings, had *never* been removed from a biological parent, and all families had received social service support to from their bands to prevent further family problems”(emphasis in original).¹⁵ Given the politicized state of Indian child welfare, the

¹⁴Ibid.

¹⁵Ibid., 64.

involved Bands clearly have a vested interest in the outcome of this study. Also, due to the former involvement with child welfare services where it was noted that these families had already lost at least one child due to “alleged” neglect, it is almost certain that this control group would carry an extreme bias which would have a tremendous impact on the validity of the findings. So, in spite of Bagley’s stated desire for a randomly selected group of subjects, there remains some unanswered and potentially troubling questions about the actual degree of randomness attained.

Bagley’s findings suggested that adopted Native children were “significantly more likely than any other parenting situation to involve problems and difficulties.”¹⁶ Further, he specifies that by the age of 15, 21.6% or one-fifth of Native adoptees had separated from their parents whereas 11.9% of white adoptees had separated from their parents by the same age. Notably, none of the inter-country adoptees had endured such problems.¹⁷ However, given the difficulties discussed above, the veracity of these findings remain problematic. Notwithstanding these problems, this research has been used in the literature to affirm the more generalized claim of an overall poor placement outcome for Native children who have been placed into white homes.¹⁸

More generally, empirical studies concerning adoption and breakdown are quite numerous in the general literature. However, in spite of this availability, some of the more

¹⁶Ibid., 67.

¹⁷Ibid., 66,67.

¹⁸For example, see: Marie Adams, *Our Son A Stranger: Adoption Breakdown and its Effects on Parents*, (Montreal: McQuill-Queen’s University Press, 2002), xxv; See also, Fournier and Crey, *Stolen From our Embrace*, 90.

universal statistics on adoption breakdown are rarely brought into discussions concerning Indian child welfare. This literature clearly indicates that parent-child relationship difficulties, identity and mental health issues and significant breakdown occurrences are also a factor in mainstream population adoptions.¹⁹ While much of this literature is also U. S. based, many of the circumstances are extremely relevant to both the Canadian situation in general and also First Nations involvement with child welfare. For example, in a study by Barth and Berry, about half of the 120 children who had been adopted at older ages suffered from adoption breakdown.²⁰ This high rate of adoption break down among older children has specific parallels with First Nations circumstances. It will be recalled that Hepworth commented on the severe emotional and mental disturbances that were more prevalent among Native children because child welfare authorities frequently refused to intervene until the situation had become critical.²¹ As Native children were much more likely to be taken into care under these circumstances, it is almost certain that the prior development of emotional and mental disturbances would have played a role in some of the subsequent breakdowns in the future.

Marie Adams, an adoptive parent of a First Nations child herself, provides a lengthy discussion including references to several studies which have found numerous other factors to

¹⁹For example, see: Richard Barth and Marianne Berry, *Adoption and Disruption: Rates, Risks and Responses*, (New York: A. de Gruyter, 1988); Ken Magid and Carole A. McKelvey, *High Risk*, (New York: Bantam Books, 1987.); Brent C. Miller et al. "Adopted Adolescents' Overrepresentation in Mental Health Counseling: Adoptees' Problems or Parents' Lower Threshold for Referral?" *Journal of the American Academy of Child & Adolescent Psychiatry* 39, no. 12 (Dec. 2000):1504-1511; Diane M. Zwimpter, "Indicators of Adoption Breakdown," *Social Casework* 64 (March 1983): 169-77).

²⁰Richard Barth and Marianne Berry, "Adoption and Disruption."

²¹Hepworth, *Foster Care and Adoption in Canada*.

have a significant bearing upon adoptive outcomes.²² Besides older age at the time of adoption, susceptibility to breakdown and/or conflict during adolescence is linked to pre-natal and post-natal abuse, previous disruptions, post adoptive social environment and the nature of identity searches undertaken by adoptees. All children are affected by these factors to varying degrees. However, because of the effects of marginalization in society and their lower socio-economic status, some of these factors have a much greater impact upon First Nations and other Aboriginal children who come into contact with the child welfare system.

In the last two chapters, it was established that, while not a problem exclusive to Aboriginal peoples, family and community breakdown along with domestic violence and abuse have been of great concern to many First Nations communities. These problems have also been compounded by very high levels of alcohol abuse as well. All of these circumstances lend themselves to occurrences of both pre-natal and post-natal abusive situations. And, as noted earlier, due to a reluctance to intervene except in extreme crisis situations, the result can be a situation of having older children in care who have been greatly affected by their personal experiences and have subsequently developed some of the emotional and mental disturbances referred to by Hepworth.

Alcohol intake during pregnancy is also seen as a form of pre-natal abuse. The effects of in utero alcohol exposure can result in Fetal Alcohol Syndrome (FAS) which may be tied to any combination of varying degrees of brain damage, central nervous system disorders and behavioral and learning difficulties. Fetal Alcohol Effects (FAE) is also a condition closely related to FAS, but usually not as severe and perhaps under reported because of its more

²²Adams, 134-147.

ambiguous diagnostic criteria. Recent studies have also confirmed that FAS is a problem which is significantly more prevalent within the Aboriginal community.²³ Fournier and Crey add that

...the aboriginal incidence of FAS/FAE is much higher than the mainstream, and ... there are some communities in B. C. and the North that have FAS/FAE incidence rates as high as one in six to ten births. In the Downtown Eastside of Vancouver, a predominantly aboriginal neighbourhood, almost one in two babies is born affected by alcohol or drugs, the highest rate in North America.

Perhaps the most accurate snapshot of the aboriginal incidence of FAS/FAE can be gleaned from medical institutions. The Kinsmen's Children's Centre in Saskatchewan, which has the most comprehensive data base in Canada, has identified in the past decade more than 450 children with FAS/FAE, of whom 75 per cent are aboriginal. Vancouver's Sunny Hill Health Centre for Children, the main diagnostic centre for B.C., documented more than 440 FAS/FAE cases from 1992 to 1996, more than 50 per cent of them aboriginal.²⁴

Clearly, the direct impact of FAS is far reaching, and obviously, it can also greatly magnify other problems experienced by some adoptees and their families. However, in spite of the link between FAS and its effects on behavioral and learning problems, with the exception of Marie Adams, who was searching for answers about her own adoptive son's difficulties,²⁵ the literature has almost completely ignored the role of FAS as a contributing factor in adoption and long term placement breakdowns.

Within the framework of the Sixties Scoop, identity issues have been given an especially prominent position as a factor in poor placement outcomes. This issue is far more complex than the narrow manner in which it has been treated in the literature. Primarily, it has been viewed as a

²³Robert J. Williams and Susan P. Gloster, "Knowledge of Fetal Alcohol Syndrome (FAS) among Natives in Northern Manitoba," *Journal of Studies on Alcohol* 60, no. 6 (1999): 833-36; Robert J. Williams and Felix S. Odaibo, "Incidence of Fetal Alcohol Syndrome in Northeastern Manitoba," *Journal of Public Health* 90, no. 3 (May-June 1999): 192-194.

²⁴Fournier and Crey, 178.

²⁵Adams, *Our Son, A Stranger*.

problem that tends to occur simply because an Aboriginal child has been placed into a non-Aboriginal home. Again, however, not only have some of the other possible contributing factors not been accounted for, it should also be recognized that identity issues are often a problematic factor for many adoptees, regardless of their cultural background. Adams notes that “All adolescents seem to search for their unique identity, but for adopted children, this is even more difficult.”²⁶ She goes on to cite Fishman:

‘Adoptees are missing an important part of their identity ... Adopted adolescents are often at a disadvantage in their struggle to develop a secure identity. Lacking knowledge about their origins, including who their birth parents are, and why they were relinquished, adopted adolescents often find it more difficult to form a complete and stable sense of self.’²⁷

The experience of one of the participants in this study speaks further to this point. *Lynn* explains:

...when I found out I was adopted - because I had never known, although my mom had said she told me when I was younger but I didn't remember. And, I started to have little weird feelings and - kind of feeling, uhm, negative and upset that I wasn't like my brothers and sisters naturally born to my parents. And then when I hit my teenage years, all of that resentment came together with my rebellion as well.... I really think it was [due] to finding out I was adopted - I had a feeling of rejection ...

In this case, *Lynn's* struggle with identity represents a classic example of the issues Fishman describes. Despite *Lynn's* First Nations heritage, her difficulties were clearly a result of her personal sense of rejection at having been relinquished by her birth mother and not having the same sense of belonging as the other “natural” children. So, while it is clear that identity confusion is an important factor to be considered in terms of adoptive difficulties which may be

²⁶Ibid., 141.

²⁷Katherine D. Fishman, “Problem Adoptions,” *Atlantic Monthly* 270, no. 3 (1992): 37-57, as cited in Adams, 141.

experienced, it is not necessarily exclusively related to the shortcomings of a “transracial” home. In fact, although there has been some debate, a review of the recent literature by Frasch and Brooks on transracial adoption (including the study by Bagley discussed above) indicates that numerous studies have found “...children are not negatively affected by placement in transracial adoptive families.”²⁸ Equally pertinent to this discussion is their point that there is typically a lack of integration of theoretical perspectives in the adoptive literature when confronting the developmental processes of adoptive families.²⁹ In other words, problems and difficulties that arise within the adoptive process are not necessarily constrained to one single issue.

It should be noted that most of the studies referred to by Frasch and Brooks were concerned with the placements of African-American children. Nevertheless, the point being made is that even for First Nations children in Canada who otherwise experience identity confusion related to their background, it is highly likely that several other factors may also be involved and should be considered along with the “transracial” issues. On the other hand, the unique experience of colonization adds further complications to the issue because of the effects of assimilationist processes such as residential schools and cultural prohibitions within the *Indian Act*. These experiences have also had a considerable impact upon identity confusion and identity conflict within Aboriginal peoples overall.³⁰ When placed into this context, and specifically with

²⁸Karie M. Frasch and Devon Brooks, “Normative Development in Transracial Adoptive Families: an Integration of the Literature and Implications for the Construction of a Theoretical Framework,” *Families in Society: The Journal of contemporary Human Services* 84 (April-June, 2003), 208.

²⁹*Ibid.*, 205.

³⁰For example, see Royal Commission on Aboriginal Peoples, *Choosing Life*, 25; see also, Bernard Schissel and Terry Wotherspoon, *The Legacy of School for Aboriginal People: Education, Oppression and Emancipation*, (Don Mills, Ontario: Oxford University Press, 2003), 122-123.

regard to the actions and occurrences related to the political resurgence, greater visibility, and relative increase of power claimed by Aboriginal people in recent years, the identity concerns of transracially placed Aboriginal children may be much more intricate and interconnected to this larger context than solely to the adoptive process in isolation. Because much of this socio-political tension is played out in our popular media on a daily basis, Aboriginal adoptees are also highly likely to be affected by it.

Among several of the participants in the present study, the issue of their Aboriginal identity also became important at some point in their lives. It should be noted that when sharing their experiences, none of the thirteen participants in this study included any discussion about identity problems or difficulties they might have encountered when growing up. However, later when asked directly about whether or not their Aboriginal identity had been affected by their experience, upon reflection, eight of the participants all suggested that they had had some type of identity loss due to the lack of exposure or knowledge about their culture. For four of the participants, their darker skin tones were closely connected with their perceived sense of loss because it affected the perceptions of others who viewed them as Native when they themselves had not necessarily done so while they were growing up. Three of the participants also noted that their lighter skin tones meant that they were not “seen” as Aboriginal by others and that they did not have any difficulties with a sense of “difference” as a result. When asked whether or not these identity issues had created any difficulties for them when growing up, none of the participants indicated having experienced such problems. Significantly, however, all but one of the participants who were in long term care without exposure to their backgrounds, have since gone on to learn more about their culture or to re-connect with it in some meaningful way. For the one

participant who did not wish to do so at this point, there was some sense of guilt and pressure from external sources. In the case of three other participants for whom this was not a problem to begin with, one had been raised in close proximity to his community and had also retained his language, one had been in shorter term care with the ability to retain ties to her family, and one had had some regular exposure to his cultural background. Despite the lack of any actual identity crisis then, nearly every person made some type of effort to increase their awareness of their heritage or to facilitate a meaningful re-connection to it. Clearly, the desire to do so needs to be seen as an important element within the outcomes of their experiences.

When it comes to the issue of abusive foster or adoptive homes, many of the dynamics discussed above also need to be considered. There are no comparative studies that have been able to determine any kind of meaningful statistics in this regard. For the purposes of this study, however, the matter also needs to be placed into a broader context. That physical and sexual abuse took place in substitute care is undeniable. This fact represents a definite area of failure by the child welfare system to ensure safe, secure homes for the children involved. However, it also needs to be understood that this failure is a service issue that has not exclusively affected First Nations children, nor is it a problem exclusive to non-Aboriginal care homes. For example, in her thesis dealing with violence by Anisinabek youth, Helen Cote interviewed First Nations people who had also endured sexual abuse in their Aboriginal foster homes.³¹ While a fuller understanding of this matter requires much more attention than the present discussion can devote, the intent here is to simply contextualize the issue in relation to the way it has been incorporated

³¹Helen Cote, "Damaged Children and Broken Spirits: an Examination of Attitudes of Anisinabek Elders to Acts of Violence Among Anisinabek Youth in Saskatchewan," (Master's thesis, University of Saskatchewan, 2001), 84, 90.

as part of the Sixties Scoop dialogue. Quite simply, not only are children from *all* backgrounds susceptible to abuse in poorly screened substitute care homes, perpetrators of such abuse do not come from a single ethnic or cultural background either. The most pertinent factor here is the lack of adequate screening and follow up.

In summary, it is clear that not all First Nations people have had negative outcomes in non-Aboriginal adoptive or foster care homes. Despite the general assumptions otherwise, there is almost no literature which has examined this issue. The one or two studies which have been relied upon in the discourse to back up claims of poor outcomes or other problems are seriously compromised by methodological shortcomings or evident biases in their work. Even though there is considerable anecdotal evidence to suggest that substantial numbers of First Nations did not fare well in substitute care, we must also acknowledge the extremely restricted visibility of those who did well. These perspectives have been constrained both by the polemical nature of the discourse which has effectively silenced their voices and also because of the fact that their otherwise non-eventful experience in care has kept them in the background. Additionally, for those who did suffer conflict and/or identity problems in their teenage years, it has been well established that there is a wide array of factors which often converge in their impact upon adoption breakdown or identity confusion. However, because the issue of Aboriginal identity is such a central part of the Sixties Scoop dialogue, it has usually been applied to Indian child welfare discussions in complete isolation from the context of numerous other variables which several studies have shown can affect long term care and adoptive outcomes in general.

Besides identity concerns, negative outcomes have also been tied to abusive experiences. To be sure, when it does happen, this matter represents a critical service concern for child welfare authorities. Nevertheless, notwithstanding the seriousness of this issue, it is also important to

understand that it is a problem which neither precludes non-Aboriginal children from its practice, nor is its occurrence restricted to non-Aboriginal homes.

Having established and examined the three central tenets of the Sixties Scoop framework, we will re-visit the claims making theory and address the significance of these findings within that process.

Chapter Eight

“Claims Making: Re-visiting the Effects of Biases and Reviewing the Impact on First Nations Child Welfare Services”

8.1 Re-visiting Claims -Making

The preceding three chapters have identified several areas of weakness within the Sixties Scoop model. In each component, numerous flaws and biases have emerged. Not only is there substantial contradictory evidence to question the general validity of each primary assertion, but it is also clear that the early foundations of the initial claims were never substantiated with empirical research. Consequently, it is evident that this paradigm has been built upon unexamined assumptions about the nature of the relationship between First Nations and the child welfare system which have then become reproduced in both popular and academic literature. Yet, in spite of these obvious weaknesses and the fact that certain aspects of the model have been questioned by a couple of other authors, its hegemony has remained entrenched within the discourse. Of course, it is not uncommon to find theoretical constructs or paradigms that remain resistant to change or critique; there are frequent debates within academia about the strengths and weaknesses of various explanatory models across the disciplines. However, the ongoing dominance of the Sixties Scoop model has not remained intact because of the strength of its claims versus those in opposition; instead, it has continued unscathed because of the politicized environment in which it was originally developed.

To effectively reconcile the preceding deconstruction of the Sixties Scoop model and connect its significance to the third major area of impact related to the original validation of the claims making process, it is necessary to briefly review the general effects of the original claims

making process itself. Doing so will also provide a bridge to re-integrating the positive experiences shared earlier.

It will be recalled that the legitimization of the first era of claims making resulted in the further politicization of the discourse through a secondary phase of claims making which effectively entrenched the Sixties Scoop model, thereby creating considerable resistance or hesitation to question some of its more troubling areas. This secondary era of claims making had its appeal grounded in the context of the politically strengthened position of First Nations people in the post-Constitution years as they struggled for increasingly greater levels of autonomy and self-determination. The language and vocabulary embedded within Sixties Scoop rhetoric effectively appealed to these prevailing values and ideals. In this way, Indian child welfare discourse retained its polemical and adversarial nature because the political context of the larger relationship created a correlating focus on the perceived incompatibility between First Nations and mainstream child welfare values and principles. As a result, the literature called for greater levels of First Nations control over child welfare services. In effect, the politicization of the literature meant that the solution to the child welfare problem as defined by the Sixties Scoop model reflected the identical goal sought by First Nations in general: that of sovereignty.

The result of this heavily entrenched politicized literature has been to ensure that both the exclusionary biases (such as the positive experiences of First Nations people in non-Aboriginal care and the focus on external forces to the exclusion of factors internal to the community) and the internal biases in the model (such as the unexamined assumptions about large-scale deliberate removals and purposeful placement into non-Aboriginal homes) have remained intact. Although some scholars have questioned some of its central tenets, the existing discourse has retained the

polemical character. For this reason, without providing a critique of the model's weaknesses, a presentation of the positive experiences of First Nations people in non-Aboriginal care may have represented nothing more than an insignificant intrusion into what has now become an orthodox understanding of the nature of the relationship between First Nations and the child welfare system. As is, the discourse obscures and even discounts the realities of such experiences because there is no context within which its central paradigm can effectively encompass their existence. Thus, the presentation of these experiences on their own, may have, at worst, been labeled an apologist attempt at justifying an otherwise deliberate attempt to assimilate First Nations and to maintain the status quo, or, at best, it may have simply been taken as a minor example of some "exceptions to the rule."

Through the deconstruction process, it is now apparent that positive experiences do not necessarily represent exceptional circumstances. They can now be reconciled to the literature with much greater ease. For example, like many other children (Aboriginal and non-Aboriginal alike) who required protective services, the participants in this study who were apprehended by child welfare authorities were also taken into care for protective reasons rather than unjustifiably "scooped up" as the literature suggests. Second, while they were all placed in non-Aboriginal homes, the evidence indicates there was no deliberate mandate to do so. Aboriginal homes were sought in most jurisdictions but due to the strain on such resources in Aboriginal communities, not enough homes could be found. Finally, contrary to the assumptions in the literature, this group shared positive experiences in substitute care. However, it is now also apparent that while abuse and breakdown in placements did occur, it was not necessarily universal, and more importantly, it was not restricted to First Nations children as victims or non-Aboriginal parents as

perpetrators. Further, rather than the conventional perception of mass breakdown due to abuse or identity confusion, there should now also be some recognition of not only the greater visibility that negative outcomes have had in the literature but also the fact that other factors contributing to breakdown have frequently been excluded from Indian child welfare discussions.

Reconciling these perspectives addresses the second area of impact related to the validation of Sixties Scoop claims making, which was the entrenchment of biases and the resulting reluctance to question them. In spite of the fact that some of these weaknesses and biases have been addressed in the literature, the politicized nature of the discourse has prevented any effective reconciliation. However, an understanding of the broader implications of these experiences also requires some insight into the final area of impact arising from the Sixties Scoop claims making validation process. As identified in Chapter Two, the third area of impact concerns the effects of this validation process on the policies and practices of both mainstream and First Nations child welfare agencies. Thus, by understanding the effects that the Sixties Scoop claims making process has had in these areas, some additional implications related to the positive experiences will also become more clear.

8.2 The Third Area of Impact Related to Legitimization of Sixties Scoop Claims: Effects on First Nations Child Welfare Services

As an outcome to the Sixties Scoop claims making process, the tremendous impact upon the continued development of First Nations child welfare services has been far reaching. For example, although several First Nations Child and Family Services Agencies have continued to develop, the struggle for greater autonomy has also continued and has been successful in some

areas. On November 24, 2003, the *Child and Family Services Authorities Act* was enacted in Manitoba. The development of this legislation was the result of the Aboriginal Justice Inquiry-Child Welfare Initiative, which was undertaken to re-structure the child and family services system in Manitoba with the goal of greater autonomy for Aboriginal peoples in providing their own child welfare services. As a result of this new legislation, there has been a “delegation of responsibility for the delivery of child and family services from the Province to four new child and family services Authorities, three of which are Aboriginal authorities to service Aboriginal people in Manitoba.”¹ Although there were Aboriginal agencies in existence prior to the new legislation, this recent development ensures that Aboriginal people will be able to access services under the control of Aboriginal people regardless of where they live in the province. And, further, those agencies will have much greater levels of autonomy than before.

The creation of more autonomous agencies can be seen as a positive development in that it reflects First Nations’ inherent right to self-determination, a right that has become a fairly well established concept in Canadian political and legal spheres. Also, the development of new more culturally sensitive legislation that recognizes the distinct position of First Nations and ensures culturally relevant services is not problematic in itself either. However, these kinds of changes have taken place as part of the interactive process of claims making. The problem with these developments, then, is not in their existence, but rather in the “baggage” they have carried along in the process of their development. The assumptions within the Sixties Scoop played a crucial role in bringing about their existence, so it would be expected that the model’s central tenets

¹Aboriginal Justice Inquiry – Child Welfare Initiative, “Summary of the Detailed Implementation Plan (DIP) for Restructuring the Child and Family Services System in Manitoba” <http://www.aji-cwi.mb.ca>.

would subsequently also be reflected in some of the operating philosophies of new agencies. More specifically, due to the validation of the Sixties Scoop claims, the adoption of certain operating principles and guidelines within the practices of the new agencies remain tied to some of the model's fundamental assumptions. This thesis has already identified some of the major deficiencies in this model, so it is not difficult to recognize the resulting impact of Sixties Scoop ideology upon the operations of these new agencies and why they have not always been able to improve upon the services of their predecessors.

Sixties Scoop ideology has influenced Indian child welfare policy and practice in several areas; however, the overarching difficulty that has been recognized in the literature can be seen within the problematic area of the continued association between political and service goals. The politicization of the literature has meant a transfer of similar politicized ideals to delivery of services to First Nations children. Also, the guilt inducing vocabulary of "genocide" and "assimilation" which was also effective in stimulating the transfer of services to First Nations, has obviously had a negative impact upon government relations in this area. Therefore, according to Hudson, this atmosphere not only fails to recognize the level of protective and/or preventative types of service required in some communities, it also works to prevent the necessary separation of political and service goals in the delivery of child welfare services.²

In his analysis of such problems in the operation of First Nations controlled agencies, Hudson has explained the general nature of this problem as one of a process of liberation in which the "...group seeking liberation is handicapped by the very consequences of the past

²Hudson, "First Nations Child and Family Services."

oppression from which they seek to deliver themselves.”³ The handicap is essentially a two part problem: the first is the tendency to downplay or deny the existence of the handicaps and the second is the ongoing residue of that past oppression which not only inhibits the process of liberation but also compounds the tendency to deny the consequences of past oppression. Hudson is talking about the magnitude of problems these new agencies face in taking over the delivery of services from mainstream organizations. In Chapter Four, it was noted that contrary to the widespread assumption that children were essentially “scooped” up at the slightest pretext, protective services were often extended due to consequences of abuse or neglect and often only in extreme circumstances. However, as Hudson notes, in the process of liberation, there can be a denial of such issues. The politically charged claims making process based on the Sixties Scoop model clearly represented an ideology of liberation rather than a well founded criticism of the child welfare system. Consequently, the continued effects of mixing political and service goals has often impeded the effective delivery of services.

One of the earliest examples of a tragic outcome that reflects a mixing of political and service goals at the local level, is the case of Lester Desjarlais. Lester was a young First Nations boy who had been sexually abused and who, after being placed in numerous foster homes, eventually committed suicide while in the care of a First Nations child welfare agency. The public inquiry into his death revealed that there were serious problems with political interference within the agency in question.⁴ During the hearings, workers from several other First Nations

³Ibid., 162.

⁴In this case, political interference was defined by Associate Chief Judge Brian D. Giesbrecht as “wrongful interference by chiefs and councillors in the affairs of [a First Nations Child Welfare Agency].” For specific examples see, Associate Chief Judge Brian D. Giesbrecht, *The Fatality Inquiries Act: Respecting the Death of Lester*

controlled agencies also came forward with testimony referring to the same problem. They confirmed that in addition to Lester's case, because of the ability of people with influence in the community to interfere, other First Nations child welfare agencies are experiencing problems in exercising their mandate to provide proper care and planning for the children under their jurisdiction.

In addition to this difficulty, which often prevented workers from doing their job, another outcome of the inquiry was the exposure of several dozen cases of sexual abuse that previously had been either not reported or improperly investigated and dealt with. According to the testimony of various witnesses, there was often reluctance to acknowledge the prevalence of the problem, and frequently workers and tribal police also experienced considerable difficulty investigating suspected cases because of political interference or the fear of it.⁵ This situation was succinctly summed up by the testimony of Dr. Charlie Ferguson, the Director of the Winnipeg Child Protection Centre. Dr. Ferguson believed that the sexual abuse of Indian children was not only widespread, but that it was also basically ignored by First Nations and mainstream child welfare agencies and government officials alike. Former Winnipeg Free Press journalist, Ruth Teichrob, who authored a book on the case of Lester Desjarlais, summarized Ferguson's shocking testimony as follows:

Aboriginal child-welfare agencies were overwhelmed by the growing number of abuse disclosures and limited resources. But rather than accept help from white professionals and institutions, some agencies 'hid the kids away,' choosing to leave abused children in risky situations rather than undermine their philosophy of keeping families together. 'Leaving the home was looked upon as anathema,' [sic]

Norman Desjarlais." (Manitoba, Department of the Fatality Inquiries Act, 1992), 211.

⁵For example, see Associate Chief Brian D. Giesbrecht, *The Fatalities Inquiries Act*, 212-217.

he testified. Many of the problems emerging at the inquest, including the epidemic of sexual abuse on reserves, had been identified as far back as 1987 in a report done by the Child Protection Centre called *A New Justice for Indian Children*. To Ferguson's dismay, Aboriginal leaders had branded the report 'racist' for linking the problem of sexual abuse to their communities. At the same time, provincial and federal politicians ignored the report's long list of recommendations, including the desperate need for multidisciplinary teams to diagnose and treat victims of sexual abuse in rural areas. In the end, those who authored the groundbreaking report were seen to be opponents of Aboriginal child welfare. 'It was one of the most difficult issues I've ever dealt with,' Ferguson told the court. 'It was like walking on hot coals.' While Ferguson strongly supported Native-run child-welfare agencies, he believed they were repeating the same mistakes as the mainstream system.⁶

Dr. Ferguson's concerns about the lack of action on the part of government officials from both the Indian and mainstream political sector appears to have been well warranted. During the inquiry, internal documents from the Manitoba provincial department of Family Services were also admitted as evidence. These documents provided information related to how the province had viewed complaints about the First Nations agency in question. According to Teichrob,

...a front page story in the *Winnipeg Free Press* divulged that the documents suggested political considerations had influenced the Conservative Filmon government's response to those complaints. Senior child-welfare officials had ruled out a public review of the agency in 1988 for fear it might spark a confrontation with Aboriginal leaders during an election year. 'Any external review might be viewed as political interference into the operations of an Indian child and family service agency,' the document said.⁷

The provincial government's response in this case was similar to the "hands off" policy they had taken in response to the report on the widespread problem of sexual abuse of Indian children, mentioned earlier as noted by Dr. Ferguson's testimony. Consequently, the problematic outcomes

⁶Ruth Teichrob, *Flowers on My Grave: How an Ojibwa Boy's Death Helped Break the Silence on Child Abuse* (Toronto: HarperCollins, 1997), 142.

⁷Ibid., 139.

related to the priority of political considerations over service issues can not simply be attributed to just First Nations agencies and leaders.

As discussed earlier, the priority of political over service goals was evident in the final outcome of the Giesbrecht inquiry as well. In the follow up report by the Task Force created to look into the major areas of concern outlined in the Giesbrecht inquiry, the report went on to chastise Giesbrecht for his paternalistic attitude, while also downplaying his concerns about political interference. Moreover, in its findings, the Task Force identified the most pressing problem as a lack of complete autonomy on the part of First Nations Child and Family Services agencies and, as a result, its primary recommendation was the transfer of complete control to First Nations over a period of five years.⁸

Unfortunately, there have been numerous other cases of devastating consequences related to the politicized state of Indian child welfare practices. The case of a young girl named only as *Jane Doe* is a particularly disconcerting example of the effects of politicized operating principles and guidelines. *Jane Doe* was a First Nations child who was placed into care in order to receive specialized medical care not available on her reserve. She spent thirteen years with one foster family. In 1986, the First Nations Child and Family services agency that had taken over the delivery of child welfare services for her original Band, made a decision to remove her from her foster home against her will and return her to her biological parents. During her six months there, she was raped numerous times by various male members of the Band. She also could not communicate with her natural parents because she no longer spoke her First Nations language

⁸First Nations Child and Family Task Force, *Children First Our Responsibility: Report of the First Nations Child and Family Task Force* (Winnipeg: First Nations Child and Family Task Force, 1993).

and they did not speak English. Although the agency in charge of her care was made aware of her plight, the court report indicates there was no effort made to assist her. With the help of a doctor in whom she had confided, the child was eventually flown to a larger center for medical help where she required treatment for venereal diseases. A court order then returned her to her original foster parents despite the wishes of the First Nations agency to return her to the reserve. In the aftermath, the child not only attempted suicide twice but she was also forced to relive her ordeal through repeated requirements to testify against her assailants in court.⁹ In this case, the political ideals of repatriating First Nations children to their communities completely overshadowed the needs of the individual child in question who subsequently endured horrific experiences and nearly took her own life as a result.

The politicized ideology at work in the development and practices of some First Nations agencies can also be seen in the more recent and highly publicized Saskatchewan case of “Baby Andy”. Baby Andy was only nineteen months old when the Montreal Lake Child and Family Services Agency removed him from his foster home in Hudson Bay, Saskatchewan and returned him to his natural mother. Just over a month later, Baby Andy had to be rushed to hospital with life threatening injuries sustained at the hands of his mother’s boyfriend. Although Baby Andy lived, he will require life long care to survive. Afterward, a joint review of the case was undertaken by a review panel consisting of appointed members from both the Montreal Lake First Nations Agency and the provincial Department of Community Resources and Employment (formerly the Department of Social Services). The major findings of the review panel were as

⁹John J. Burrows and Leonard Rotman, *Aboriginal Legal Issues: Cases, Materials and Commentary*, (Toronto: Butterworths, 1998): 811-861.

follows:

1. Baby Andy had been returned to his natural mother without proper adherence to the specific policy and standards laid out in the Children's Service Manual.
2. There was inadequate communication and inadequate case files kept on Baby Andy by the provincial child services branch of the Department of Community Resources and Employment as well as the Montreal Lake Child and Family Agency, both of which had provided services to baby Andy and his family.
3. Along with other First Nations' controlled agencies, the Montreal Lake Child and Family Services agency was also found to be lacking in adequately trained personnel, accountability measures, performance improvement mechanisms, senior-level case consultation, internal appeal mechanisms and policy/program development.¹⁰

All of these shortcomings that resulted in the sad outcome of Baby Andy's case, can be seen as the consequences of three different politicized spheres of policy or practice that are related to the impact of politicized Sixties Scoop ideology within the operations of First Nations agencies.

First, without following the proper procedures of stated policy, the First Nations Child Welfare agency made an ill-fated decision to prematurely return Baby Andy to his young pregnant mother who was still struggling with addiction issues. Although it may have also been due to a lack of training and expertise on the part of agency personnel, it is also highly likely that, similar to the *Jane Doe* case, this decision may have also been influenced by political pressure to adhere to the principle of keeping children in their homes or communities. The indication is that, when making such decisions, the possible detriment to the child is not always being adequately weighed against the collective interests of the Band.

¹⁰Saskatchewan Community Resources and Employment and Montreal Lake Child and Family Agency Review Panel, "The "Baby Andy" Report: Examination of Services Provided to Baby Andy and His Family," July 2003, www.dcre.gov.sk.ca/mediaroom/pdfs/Baby%20Andy%20Report.pdf.

Second, the lack of cooperation between the First Nations and provincial child welfare agencies in question, not only reflects the divisiveness represented in the polemical character of the literature, it also indicates once again that both levels of government (First Nations and mainstream) have allowed the priorities of political considerations to overshadow necessary service concerns. For example, the review panel found that even though the provincial agency had been made aware of indications that Baby Andy's family was experiencing stress and that there was some concern about the ability of his mother to manage the care of her children, "the Department assessed the information as not requiring follow up and believing that the Agency staff were aware of the concerns, did not contact them."¹¹ Based on comments made by then Deputy Minister of Social Services, Bonnie Durnford, who subsequently spoke about the case on a Saskatchewan radio talk show, it appears that the decision to not get involved was also a result of political sensitivities. Ms. Durnford stated that even though operating standards were still in the process of development for many First Nations agencies, the provincial department had no jurisdiction in their operations.¹² There are clear parallels between this position and the politically motivated lack of action on the part of the Filmon government in Manitoba in response to complaints received about the First Nations agency in charge of Lester Desjarlais' case. Through its appearance as a "politically correct" policy, this "hands off" position tends to obscure the legal, moral and fiduciary duty of the government to ensure that First Nations children's rights to adequate care and protection are met.

¹¹Ibid., 17.

¹²Bonnie Durnford, "John Gormley Radio Talk Show," 650 CKOM, Saskatoon, SK., September, 2002. It should also be noted that according to the framework of the tripartite agreements authoring the creation of the 17 First Nations agencies in the province, the new agencies remain under the broader jurisdictional authority of the Minister of Community Resources and Employment.

The third area of policy that had an impact on Baby Andy's outcome involves the issue of government fiscal responsibility. Although First Nations child welfare agencies have essentially developed in response to the charges of ongoing colonial control by mainstream agencies, as noted by Hudson, the new agencies have basically retained the dynamics of a colonial relationship because of the handicapping effects of the government funding formula that

... contains a philosophy which explicitly denies the realities. It assumes that social problems are exceptional as opposed to endemic. The former calls for residual responses to occasionally occurring pathologies. The latter calls for culturally appropriate, community wide responses; a holistic approach involving whole communities in their own healing as opposed to 'treatment' of the individual.¹³

So, essentially, by denying the *effects* of a colonial relationship (which is definitely the case in the adoption of Sixties Scoop ideology), the expected role of the new First Nations agencies as an important part of the decolonization process has been seriously compromised due to their inability to effectively deal with the negative effects of colonization in their communities. Indirectly, then, as suggested by Hudson, the denial of such effects also tends to absolve the government of immediate responsibility to provide funding and support that would otherwise recognize the "endemic" as opposed to the "exceptional" nature of the problems. And, specific to the Baby Andy case, it was this lack of adequate funding and infrastructure support that was identified as a primary impediment to the ability of First Nations agencies to meet capacity requirements that would enable them to provide quality effective child welfare services.

Both the "hands off" policy and the inadequate funding formula on the part of the government are supported by the central tenets of the Sixties Scoop paradigm. According to the

¹³Hudson, "First Nations Child and Family Services: Breaking the Silence," 168.

principles of this model, the government was responsible for removing First Nations children from their families and communities, often without justification, and placing them into non-Aboriginal homes. Thus, the government was charged with claims of ongoing assimilation and genocide. In response to these claims, which were expressed within a framework of political rights, a “hands off” approach was adopted which also included a transfer of child welfare authority to First Nations agencies. Further, by not recognizing the effects of colonization and the endemic problems in the communities that the new agencies would have to face, there was no accompanying responsibility on the part of the government to provide necessary funding and support for the much needed holistic approach to preventive child welfare measures or for necessary capacity building that would be required in the developmental phases of the new agencies. So, to re-state, there are negative effects not just from the direct “hands off” policy by the government, but also as a result of the more indirect hands off policy that can be seen in the lack of financial and professional support required for the development of adequate care services as well as the necessary infrastructure to carry them out.

These combined effects of politicized child welfare services have not been limited to Manitoba and Saskatchewan. In another recent string of tragic occurrences that was tied to a single First Nations agency in Alberta, the provincial government of Alberta finally departed from the typical “hands off” position but only took direct measures after a seventh child, within a two year period, had died while in the care of agency in question. The day after the last death, the provincial government took away the authority of the agency to provide child welfare services. The Band, in turn, responded by refusing to allow provincial workers to examine their

files.¹⁴ However, after the standoff was over, a joint provincial review was undertaken and service deficiencies very similar to those identified in the Baby Andy report were found in this agency as well.

Due to these various and ongoing effects of a politicized child welfare environment, First Nations agencies as well as mainstream governments are failing in their mandate to protect the children involved. The potential for numerous other tragedies in the future is also very disconcerting due to the high numbers of First Nations children who continue to come into contact with the child welfare system. Recent figures indicate that between 1995-2001, there was a 71.5% increase in the number of Status Indian children entering care.¹⁵ These numbers clearly indicate a crisis situation at the national level. However, when considering comparative numbers from Saskatchewan, the dramatic disproportion in the over representation of First Nations children in care is especially alarming. According to First Nations and Metis Liason worker Beatrice Yuzicapi, who holds a position within the provincial Department of Community Resources and Employment (DCRE), there are currently 1850 First Nations children in care with DCRE and 1100 First Nations children in care with the seventeen First Nations Child and Family Services agencies in the province. Additionally, there are also 135 Metis and 52 non-status children in care.¹⁶ Overall, as noted in the 2002/2003 Annual Report of the Department of Social

¹⁴Duncan McCue, "Saving the Native Children: Death on the Reserve: The Tragedy" CBC News in Review, www.cbc.ca/newsinreview/feb03/PDF/native.pdf.

¹⁵Brad McKenzie, *Block Funding Child Maintenance in First Nations Child and Family Services: A Policy Review*, Report prepared for Kahnawake Shaktiia'takehhas Community Services, Winnipeg, June, 2000. As cited in National Children's Alliance, Cindy Blackstock and Marilyn Bennett, "Policy Paper on Aboriginal Children," www.alliancenaionaleenfants.com/nca/pubs/2003/Aboriginal_Children-Blackstock_20%Bennett.pdf.

¹⁶ Beatrice Yuzicapi, First Nations and Metis Liason Services, Department of Community Resources and Employment, E-mail communication, March 30, 2004.

Services, the average number of children in care each month was 2947.¹⁷ The current figures communicated by Yuzicappi are higher than the average monthly total of all children in care for the previous year! These numbers reflect many more children in care than the figures which prompted the claims of the Sixties Scoop to begin with and they also support the need to recognize the endemic nature of social problems described by Hudson. Also, if the politicized atmosphere of First Nations child welfare delivery continues to result in tragic consequences like the examples discussed above, these numbers indicate that the lives of many more children may be at stake.

Although the *effects* of politicized child welfare philosophies have been well publicized through their portrayal in the popular media, there is difficulty recognizing the exact nature of the problems under scrutiny because past claims of the Sixties Scoop are not easily reconciled to the problems being identified. The following synopsis in the *Globe and Mail* illustrates this point:

The issue of native adoption is both explosive and urgent. There are 22,500 native children in foster care in Canada -- more than were seized in the infamous Sixties Scoop that farmed out aboriginal kids to middle-class white families across North America. Native kids make up 5 per cent of the population under 14 but 40 per cent of all kids in foster care. Today, native adoptions are controlled by native child-welfare agencies, which have put a virtual ban on cross-racial adoptions. The trouble is, adoptive native families are in short supply. And so the kids are bounced around in foster care. Native kids are typically moved a dozen times or more before they turn 19.¹⁸

The story then goes on to continue its discussion about the frustrations of a non-Aboriginal foster mother who wants to adopt a two year old First Nations child who has been in her care since birth. According to the story, the child's Band is opposing the adoption and has informed the

¹⁷Saskatchewan, Department of Social Services, 2002/2003 Annual Report.

¹⁸Margaret Wentz, "The Best Interests of the Child?" *Globe and Mail*, 22 February 2002.

foster mother that her intention of trying to adopt the child amounts to 'cultural aggression.'¹⁹

Elsewhere, similar stories also continue to make the headlines.²⁰

It should be recognized that in addition to the Sixties Scoop claim that First Nations children were deliberately placed outside of their culture, another important consideration that supports First Nations insistence upon keeping children within their own cultural communities is the guiding principle that recognizes a child's right to his or her own culture and heritage.

According to Article 20 of the United Nations *Convention on the Rights of the Child*, to which Canada is a signatory, when a child is provided special protection by the State such as in the case of foster or adoptive care, "...due regard shall be paid to the desirability of continuity in a child's upbringing and to the child's ethnic, religious, cultural and linguistic background."²¹ However, it is also clear that this right does not hold more weight than a child's right to be protected "...from all forms of physical or mental violence, injury or abuse, neglect or negligent treatment, maltreatment or exploitation, including sexual abuse, while in the care of parent(s), legal guardian(s) or any other person who has the care of the child."²² All child welfare agencies are thus obligated to ensure that the proper safety and well being of children is the paramount consideration. However, in addition to the political focus that sometimes overrides this service

¹⁹Ibid.

²⁰For example, see: Lori Coolican, "Little Boy Lost: Heartbroken Foster Mother Denied Answers Why Frightened Five-Year-Old was ripped from Her Arms," *Saskatoon Star Phoenix*, 7 April, 2001, E1; Tiffany Crawford, "Two Aboriginal Sisters Get to Stay With B.C. Foster Family After Agreement," *CNews Canada*, 24 October, 2003, <http://cnews.canoe.ca/CNEWS/Canada/2003/10/24/236088-cp.html>; Siri Agrell, "B.C. Band Ups Ante in Foster Case: Contends Ontario Child Law Violates Its Constitutional Rights," *National Post*, 10 September, 2003.

²¹*Convention on the Rights of the Child*, Article 20.

²²Ibid., Article 19.

concern as indicated in some of the tragic examples above, First Nations child welfare workers and placement resources are already experiencing considerable strain due to the requirements for child welfare services in these communities.

It is clear that in order to provide proper care for First Nations children coming into contact with the child welfare system, there has to be some recognition of the need for partnerships between the Aboriginal and non-Aboriginal community from the standpoint of placement options as well as government and child welfare agency collaboration. But, the difficulty in recognizing the need for effective partnerships comes back to the barriers created by the politicized state of First Nations child welfare in general. If these barriers are to be broken down, it will first require some re-conceptualization of the basic problem. At the heart of this process is the recognition of the magnitude of the child welfare concerns in some First Nations communities. As explained by Hudson, there are a variety of reasons behind the reluctance of First Nations to confront these problems. These include the past pre-occupation with pathologies by non-Aboriginal peoples and also the cumulative effects of the *Indian Act* which has placed male leadership and concerns over those of women and children. Owing to the politicized process of Sixties Scoop claims making, however, perhaps the biggest obstacle to confronting such problems is the way they have often been used to discredit First Nations' aspirations of self-government.²³ So, an understanding of these problems as effects of colonization rather than as examples of unreadiness for self-government, will help First Nations communities confront them without the fear of losing some of their political rights.

By recognizing and framing these problems in this manner, it will become more feasible

²³Hudson, 164.

and palatable to expect and accept, at least temporarily, the outside expertise of non-Aboriginal agencies where it is needed during the process of building capacity in First Nations agencies. Reframing some of these problems will also re-affirm the inadequacy of child welfare funding formulas that are geared toward treatment of “individual” and “exceptional” problem cases rather than treatment in the form of holistic community wide preventative measures. However, a reframing of the problems will not be possible without recognizing the immense inadequacies of the dominant explanatory model. As it currently exists, the Sixties Scoop does not recognize the epidemic nature of child welfare concerns in some communities. It even implies, though somewhat latently, that there were no such problems. So, rather than promote the necessary partnerships that are required at this time, it has polarized the positions of Aboriginal and non-Aboriginal people where child welfare services are concerned. In addition to preventing the recognition of significant child welfare problems in First Nations communities, it has also pathologized non-Aboriginal substitute care homes. This perspective also creates additional reluctance in forming partnerships that would include consideration of non-Aboriginal homes as potentially positive and viable placement options.

In summary, the third area of impact flowing from the validation of the Sixties Scoop claims making process has been the heavily politicized delivery of child welfare services to First Nations children. The effects of this politicized state of child welfare services have been especially tragic for many children involved. In light of the extraordinarily high numbers of First Nations children coming into care, and the present strain on First Nations agencies in the area of personnel, capacity and substitute care homes, there is clearly a need for partnerships with the non-Aboriginal community to assist in dealing with the current magnitude of the problem.

Consequently, some de-politicization of Indian child welfare services must take place. As the Sixties Scoop model provided the impetus for the highly politicized claims, it is hoped that the deconstruction of the Sixties Scoop paradigm and the subsequent re-integration of positive experiences by First Nations in non-Aboriginal homes can make a contribution to some of that de-politicization process.

Chapter Nine Conclusion

9.1 “Re-integrating Positive Experiences: What are the Implications?”

The primary goal of this thesis was to expand the parameters within which First Nations child welfare issues are discussed. This was undertaken by addressing the lack of perspectives in the literature concerning First Nations people who had positive experiences in non-Aboriginal substitute care. The inability of the dominant paradigm to accommodate these experiences except, perhaps, as either “exceptions to the rule” or perhaps as an apologetic view of the Sixties Scoop era made it necessary to reconcile the nature of these experiences to the historiography of First Nations child welfare literature in Canada.

In order to understand the highly polemic and political character of the Sixties Scoop model of Indian child welfare in Canada, it was first necessary to understand the process of claims making through which it had become accepted and entrenched as the dominant model. As a result of the validation of the claims making process, there were three important areas of impact that were identified. The first was the entrenchment of the model as an accepted explanatory framework depicting the nature of the relationship between First Nations and the child welfare system in Canada. The second was closely associated with the first in that the validation of the initial Sixties Scoop claims making era also spurred a secondary era of claims making, which further maintained the existing assumptions and perpetuated the biases in the model (thereby ensuring its ongoing politicized character as well). The third was the subsequent impact upon the delivery of child welfare services to First Nations children.

After providing some insight into the difficulties with integrating these perspectives into

the existing literature, it was then possible to review the nature of the positive perspectives shared by the participants in this study. To effectively integrate these perspectives into the existing discourse, it was also necessary to reconcile their position to the otherwise contrasting assumptions within the specific claims of the Sixties Scoop model itself. By de-constructing the Sixties Scoop paradigm and examining some of its central flaws and weaknesses, the conceptual hegemony of the model was reduced, which in turn allowed for a greater understanding of the validity and impact of these positive perspectives for the literature.

Finally, by returning to the process of claims making and examining the third area of impact resulting from the Sixties Scoop validation process, a link to the wider implications of these perspectives in terms of the actual practice and delivery of child welfare services was also provided. Ultimately, it is to this issue that the perspectives of the participants in this study have the most relevance.

Overall, then, the positive experiences shared by the participants in this study have tremendous implications for both the existing discourse of Indian child welfare in Canada as well as its effective practice. Specifically, the nature of these implications can be expressed within four major categories of significance. The first addresses the overall lack of such perspectives to begin with. The second deals with the manner in which such positive experiences speak to the issue of non-Aboriginal placements. The third identifies one particular aspect of the positive experiences that can contribute to the creation of “good home” placements. Finally, the fourth deals with the connection between the examination of positive experiences and the path to critiquing the Sixties Scoop model.

9.1.1 Confronting the Bias

It has already been determined that the existing literature on Indian child welfare was completely devoid of any discussion of positive experiences in non-Aboriginal homes. The participants in this study have indicated that although we know neither the approximate numbers of successful placements nor the ratio of successful to non-successful, there are indeed First Nations people who had positive experiences in non-Aboriginal homes. Perhaps one of the most obvious areas of contribution then, would be the provision of a forum in which their perspectives were sought out and considered worthwhile as additional insight to the field. Due to the polemical character of the literature, which essentially negated or devalued their experiences, it is not hard to understand how the voices of those who experienced such “opposing” realities were silenced. In this sense, then, the inclusion of these experiences has provided an opportunity for these voices to be validated and heard. At the same time, the presentation and discussion of these experiences has also addressed a significant exclusionary bias in the literature.

9.1.2 Re-evaluating the Role and Image of a non-Aboriginal Placement

The second major area of significance concerning the broader implications of this study involves the re-evaluation of non-Aboriginal homes as a placement option. Two general areas of relevance flowing from the participants’ experiences are pertinent in this regard. The first involves the manner in which these experiences speak to the role of non-Aboriginal homes as possible substitute care placements for First Nations children. Contrary to the assumptions of the Sixties Scoop paradigm, the experiences of this group indicate that non-Aboriginal substitute care homes can not be viewed as pathological in themselves. In fact, the participants’ portrayal of

their experiences indicates that there is reason to question the general resistance in the literature to view non-Aboriginal homes as an additional positive placement option for First Nations children entering care.

It will be recalled that in addition to various financial advantages, one of the first major themes to emerge from the narratives was the sense of love and security the participants felt in their substitute care placements. They also assessed their own situation in a comparative fashion either to other siblings or relatives who had not been placed into care or to First Nations' disadvantaged position generally. In sum, the participants' view of their foster or adoptive experiences was that their placements had had significant positive benefits and outcomes. Generally speaking, the overall character of these experiences suggest that contemporary non-Aboriginal substitute care placements may also provide positive options for First Nations children requiring substitute care.

The issue of Aboriginal identity is also an important factor related to the negative assessment of non-Aboriginal substitute care homes and it was also addressed in the participant interviews. This is a highly debated and contested area and the implications flowing from the participants' perspectives in terms the effects of non-Aboriginal home placements also provide important insight into this issue. Within their narratives, Aboriginal identity as a problematic aspect of their overall experiences was not directly raised. Nevertheless, it will be recalled that upon probing with more direct questioning, a few of the participants subsequently indicated that they would consider themselves to have ultimately faced some sense of loss in terms of their Aboriginal identity. However, none of the participants indicated that their substitute care experiences included any particularly problematic difficulties related to their Aboriginal identity

even though four of them did acknowledge having to reconcile a sense of “difference” at some point in their lives due to the realization of their darker skin tones. At the same time, for all the participants who were in long term foster or adoptive care and who did not have any meaningful exposure to their cultural background during that period, all but one have since gone on to either learn about or to re-connect with their cultural background in some way. When factoring in the three others who were either in shorter term care and/or who had had more frequent contact with their families or communities while in care, the actions of these nine individuals indicate the degree of importance accorded to this issue. Subsequently, when evaluating a non-Aboriginal placement option in this context, several related factors have to be considered.

As suggested by the Sixties Scoop, identity problems and home placement breakdown is generally seen as a direct result of placing a First Nations child into a non-Aboriginal home. Although the potential for such problems certainly exists, the experiences of this group of participants suggest that such an outcome is not always the case. Furthermore, there is evidence to suggest that related problems and breakdowns that did occur in such placements, were not necessarily due to this reason alone. As discussed earlier, a multitude of other factors may contribute to identity problems and/or subsequent breakdown in substitute care placements and these have not been adequately accounted for in the present discourse. There is also evidence to indicate that some of these difficulties are more prevalent among First Nations and other Aboriginal children. Also, other than Bagley’s study, which may not be entirely reliable or accurate, there are no studies in Canada which have documented the success rate of transracially placed First Nations children. When combined with the incomplete and inaccurate assessment of the Sixties Scoop, this lack of research indicates that we really do not know much about

placement breakdown for transracially placed First Nations children, either in terms of actual rates or primary causes. The added impact of the positive experiences by the research participants in the present study, further indicates that non-Aboriginal placements may not be any more likely to result in identity related difficulties or placement break downs than any other type of setting. Such placement experiences and outcomes clearly require additional study.

However, this additional insight is not intended to obscure the argument for placing a child within his or her own cultural setting. The right of a child to his or own culture and heritage has already been discussed. From this standpoint, there is no doubt as to the obligation on the part of child welfare agencies to provide all foster or adoptive parents with the necessary training and support to ensure these specific needs of children are met. And, even though this group of participants explained their experiences in a non-Aboriginal home from the perspective of a positive standpoint, nearly all of them who did not have the exposure in substitute care went on to re-connect to their community or culture in some way. In this way, their perspectives and experiences clearly support adherence to the principle of a child's right to his or her cultural heritage. Nevertheless, notwithstanding the moral obligation to adhere to this principle, it is also noteworthy that the actions of those participants who went on to re-connect to their culture also demonstrates that when it matters to the individual, a sense of disconnection to culture can be reversed.

In very close connection with identity related problems, non-Aboriginal homes have also been pathologized because of the perception of the high incidence of abuse and so some commentary on this issue is also warranted. Similar to the lack of research on transracially placed First Nations children in Canada, there have been no studies that provide an indication of how

widespread the problem of abuse in foster or adoptive care has been. The existing literature suggests that all types of abuse was common. Significantly, even though this group obviously did not have to deal with abuse overall, it will be recalled that there was some disclosure of sexual abuse. However, regardless of the actual incidence of abuse in general, its occurrence in any measure is a serious problem that deserves ongoing vigilance to protect children at risk. For the purposes of this discussion, at issue is the fact that there is no indication that the potential for abuse is necessarily less in an Aboriginal as opposed to a non-Aboriginal placement. In other words, the existence of anecdotal evidence indicates that such experiences did occur, but that they also occurred in both Aboriginal and non-Aboriginal substitute care homes. Thus non-Aboriginal homes cannot be singled out for exclusive concern in this regard. Along with follow up, there is definitely a need for all potential substitute care homes to undergo consistent and reliable screening procedures.

Ultimately, it is clear that in adhering to practices and principles which are designed to ensure the safety, well being, and cultural needs of First Nations children are met, non-Aboriginal home placements do not have to be viewed with disdain or treated as potentially more “dangerous” than a First Nations or other Aboriginal home would be. Also, with the proper training and perhaps even networking opportunities with Aboriginal foster families, potential concerns such as cultural considerations and challenges can be positively dealt with. Certainly as an ideal, a qualified First Nations or Aboriginal home would obviously represent the best-case scenario; however, rather than labeling non-Aboriginal homes as the lowest priority placement

option in the absence or shortage of such ideal options,¹ it appears to be much more pragmatic and in the best interests of the children involved, to recognize the potential such qualifying homes can also represent for the continuing high number of troubled First Nations children presently entering substitute care. The positive experiences and outcomes of this study group also indicate that non-Aboriginal homes can continue to provide excellent placement options. To re-iterate, contrary to the way they have been negatively portrayed in general, it remains that there were non-Aboriginal homes which provided loving, caring and supportive family structures, and their role as excellent placement resources for some First Nations children within a period during which such resources were often difficult to procure, has not been adequately recognized. Moreover, in light of the continued trend of high numbers of First Nations children in care, the implications of these experiences help to re-iterate the view that while *qualified* Aboriginal homes represent valuable placement resources, qualified non-Aboriginal substitute care families can also represent valuable placement options as well.

9.1.3 The Impact of Sports and Recreation in Participants' Experiences

The participants' emphasis on the impact of their participation in sports or their involvement with other recreational types of activities represents a third major area of significance to the larger discourse and also, more directly to child welfare practices. As relayed in Chapter Three, one of the prominent themes to emerge from the participants' narratives was

¹Non-Aboriginal homes are considered a placement option for Aboriginal children only as last resort. For a prioritized list of placement options followed by Saskatchewan Department of Social Services, see: Saskatchewan Children's Advocate, *Children and Youth in Care Review: Listen to their Voices: Final Report*, (Saskatoon, Author, April, 2000), p.68.

the role of material comforts and financial benefits the participants experienced in their foster or adoptive homes. A specific area of focus within this framework was the role of the available financial resources in allowing the participants to take part in various extra-curricular and recreational activities. In particular, the focus upon childhood involvement in sports or other types of recreational activities is noteworthy because of its well recognized role in the overall healthy development of children.

Although the importance of parental time commitment and involvement was also noted by several participants, involvement with sports and/or recreational activities was primarily expressed within the context of advantages that were related to available financial resources. In this context, the opportunity to participate in sports or other recreational activities was a very notable feature of the positive aspects described by nearly all the participants. In fact, ten out of the thirteen participants made some kind of a reference to their involvement in sporting or recreational types of activities. As discussed in Chapter Three, it will be recalled that not only was such involvement seen as personally fulfilling for this group overall, several participants noted the positive benefits to their personal development and some also mentioned the extension of these benefits right through into their adult years.

Even though the positive benefits of sports and recreational types of activities for children generally has already been widely recognized for some time, the overwhelming visibility of this issue in the participants' narratives suggests there is a need to ensure that such opportunities are not overlooked within child welfare practices. Significantly, current research also suggests that social development programs which include activities like those discussed by the participants, can mitigate effects of living in a dysfunctional family or having been sexually or physically

abused.² As these are frequently the same circumstances which bring children into substitute care, the impact of exposure to regular sporting and/or recreational activities may be difficult to overstate. The added testament of these research participants highlights and re-affirms the responsibility that child welfare agencies have to remain mindful of such benefits and also to ensure that these types of needs are not being forgotten or overlooked in the case planning for children.

9.1.4 Confronting the Sixties Scoop

It has already been noted that one of the major areas of impact upon the larger discourse flowing from the presentation of positive experiences involved addressing a notable bias in the literature. However, the existing assumptions within the polemical nature of the literature not only visibly excludes such perspectives but they also implicitly contradict and oppose them. Consequently, without de-constructing the Sixties Scoop model, its conceptual hegemony suggests that the significance of these perspectives may have been easily dismissed or obscured. Therefore, the presentation of these contrasting perspectives also created a bridge to undertake a critical examination of the Sixties Scoop model. In this way, as part of the process of confronting the resistance to the presence of such positive experiences, an opportunity was also provided to propose and begin a more comprehensive examination of the historical relationship between First Nations and the child welfare system in Canada. De-constructing the Sixties Scoop involved an examination of the environment which fostered its development and it also involved a critical

²Canada, Public Safety and Emergency Preparedness, "Benefits of Social Development," www.crime-prevention.org/in/library/publications/economic/invest/benefits.html.

evaluation of its flaws and weaknesses. By exposing the structural weaknesses, one of the results has been to create room in the discourse for the integration of the positive experiences presented in this study. Perhaps, even more importantly, through a de-construction of Sixties Scoop ideology and the subsequent re-integration of positive experiences, there can be some contribution to the de-politicization of First Nations child welfare discourse, which is required in order to begin confronting several of the obstacles that prevent the delivery of effective care and protection to First Nations children.

9.2 Concluding Statement

Overall, the implications resulting from the positive experiences shared in this study indicate some valuable areas of contribution to the field of Indian child welfare, both in terms of theory and practice. It is hoped that the presentation and significance of these experiences may also contribute toward the development and adoption of a theoretical framework that allows for a more informed and comprehensive analysis of Indian child welfare issues in Canada. This thesis has clearly shown the ineffectiveness of the dominant model in this regard. In short, the highly politicized Sixties Scoop paradigm remains outdated and ineffective in terms of its ability to explain Indian child welfare issues in Canada, and its widespread influence has not only obscured the role of positive experiences in non-Aboriginal homes, it has also contributed to ineffective child welfare practices.

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APPENDIX A

Research Consent Form

Research Project: Positive Experiences of First Nations Children in non-Aboriginal Foster or Adoptive Care: De-Constructing the "Sixties Scoop."

Investigator(s): Cheryl Swidrovich
33 McLean Hall
106 Wiggins Road
University of Saskatchewan
Saskatoon, SK S7N 5E6
Campus ph:# 966-2511

Sponsor: Non-sponsored - Graduate Work

This consent form, a copy of which has been given to you, is only part of the process of informed consent. It should give you the basic idea of the what the research is about and what your participation will involve. If you would like more detail about something mentioned here, or information not included here, you should feel free to ask. Please take the time to read this carefully and to understand any accompanying information.

1. The purpose of this research is to gain a better understanding of the varied nature of experiences had by First Nations people within substitute care settings.
2. The researcher will seek to gather as much information as possible through an interview process which will last approximately 1- 1 1/2 hours and will be taped on audio cassette. Transcripts will be mad of the interview and you will be given the opportunity to review the transcripts and make any desired changes. You should remember that you are free to withdraw from the study at any time.
3. In addition to background information about yourself as well as some questions about opinions on the child welfare system in general, the focus of this interview will be on asking you to describe in as much detail as possible what life was like for you while you were in substitute care. If you were in care for longer than a three year period at one time, you will be asked to describe your experience by recalling what life was like according to each relevant life phase (for example: pre-school period, elementary period, adolescence, etc.). You will also be asked about the circumstances surrounding your initial placement into care and about the nature of any contact with your natural family. Finally, you will also be asked to give your opinion about specific child welfare issues.
4. The nature of the research may be sensitive to some individuals and in some cases may be emotionally disturbing. It is your right to refuse to answer any question you are

not comfortable with. Also, you are welcome to ask for a break, halt the interview process or exercise your right to withdraw from the study.

5. Your participation will provide very beneficial information which will assist I expanding our understanding of the many ways in which substitute care experiences have affected the lives of First Nations people. It is important that you know you are making a valuable contribution to the body of knowledge about this subject.
6. The information you provide may be written up as a research report and may also be published as part of a document to meet the requirements of a Master's Degree in the Department of Native Studies at the University of Saskatchewan. Your information will remain confidential in that the research results will not be published with names or other identifying content which would provide clues as to your identity. The interview tapes will be coded with numbers instead of names so as to protect the confidentiality of your information. In the event that you were referred to the researcher by another person, please be assured that there will be absolutely no discussion between the researcher and this person as to your participation in this study.
7. Your signature on this form indicates that you have understood to your satisfaction the information regarding participation in the research project and agree to participate as a subject. In no way does this waive your legal rights nor release the investigators, sponsors, or involved institutions from their legal and professional responsibilities. You are free to withdraw from this study at any time without jeopardizing access to service at this university or without affecting academic status if you are a student at this institution.

If you have any questions with regard to the research project which the investigator can not answer or which you do not feel comfortable asking the investigator, you may contact the Head of the Department of Native Studies in which the investigator is a student and voice your questions or concerns. Calls will remain confidential at your request.

Department of Native Studies, Head: Professor James Waldram
Office #: 966-6210

If you have further questions concerning matters related to this research, please contact:

Investigator: Graduate Student, Cheryl Swidrovich,
Office #: 966-2511

A Copy of this consent form has been given to you to keep for your records.

Interview Date: _____

Participant's Name: _____ Signature: _____

Investigator's Name: _____ Signature: _____

CONFIRMATION OF SATISFACTION WITH INTERVIEW TRANSCRIPTS

I, _____, have participated in the study entitled "Positive
(Please print name)

Experiences of First Nations Children in non-Aboriginal Foster or Adoptive Care: De-Constructing the "Sixties Scoop," conducted by Cheryl Swidrovich. I have reviewed the transcripts and am satisfied that the text correctly reflects my thoughts and views.

Date: _____

Participant: _____

Researcher: _____

APPENDIX B

Tri-Council Policy Statement-Section 6: Research Involving Aboriginal Peoples

In consideration of the policies outlined within the Tri-Council Policy statement on Research Involving Aboriginal Peoples, please refer to the following statements for an assessment of how the proposed research addresses the criteria referred to.

1. The proposed research project involving First Nations individuals does not involve the communities or groups to which these individuals belong. This assertion is made on the following bases:
 - i) that the project in question does not focus on an Aboriginal community, its subgroups or individuals in terms of their membership within a community. As such, the research is not seeking information on characteristic beliefs, values, social structures or other features by which members identify themselves as group members.
 - ii) there is no property or private information belonging to the group as a whole which will be studied or used.
 - iii) with the exception of a possible referral being generated in the form of snowball sampling there are no leaders of the group to which any of the participants belong who will be involved in the identification of potential participants
 - iv) the research is not designed to analyze or describe characteristics of the group to which the individuals belong.
 - v) individuals are not selected to speak on behalf of, or otherwise represent the group to which they belong.

Given that the proposed study does not involve an Aboriginal community or group according to the Tri-Council considerations used to determine such, there is no anticipated risk of potential harm which would require a separate process of informed consent requiring that the concepts of harm, benefits and confidentiality be informed by the perspective of the participant group.

2. Although the study in question is not deemed to be research involving Aboriginal communities, the researcher acknowledges the need to be respectful of the cultural orientations of each First Nations participant. As participants may come from several First Nations cultural groups, there may be many traditions and protocols to consider. As the researcher is not focusing on any one group or community, she will follow the protocol familiar to her own cultural orientation as an Aboriginal person and will present a small gift to each participant. In this way the researcher will express her respect and thanks for the time and information that each participant has shared with her.

3. As child welfare and related services have become important areas over which First Nations are seeking greater control and self determination, the researcher will also make

available a copy of the finished product and/or will agree to provide an executive summary of the findings to the Health Services Portfolio of FSIN for their information.

APPENDIX C

INTERVIEW GUIDE

ID# _____

Date _____

(*Name of participant*), I want to thank you again for agreeing to take part in this research project, and now, if you are comfortable, I would like to begin by asking you some basic factual questions about yourself.

#1. Sex: a. F _____
b. M _____

#2. HOW OLD ARE YOU?

#3. WHAT IS YOUR HIGHEST COMPLETED LEVEL OF EDUCATION?

#4. DO YOU WORK EITHER FULL TIME OR PART TIME RIGHT NOW?

#5. ARE YOU SINGLE, MARRIED, DIVORCED OR SEPARATED?

#6. WHICH FIRST NATION CULTURAL GROUP OR GROUPS DO YOU CONSIDER YOURSELF A PART OF?

#7. WHAT IS THE NAME OF YOUR FIRST NATION COMMUNITY?

#8. DO YOU SPEAK A FIRST NATION LANGUAGE?

a. Yes _____

b. No _____

If yes, ask: WHICH LANGUAGE?

#8 - (1). _____

HAS YOUR LEVEL OF FLUENCY CHANGED AT ALL OVER THE YEARS?

#8 - (2)a. Yes _____

(2)b. No _____

If yes, ask: HOW SO?

#8 - (3) _____

#9. AT WHAT AGE DID YOU FIRST ENTER SUBSTITUTE CARE?

#10. BEGINNING WITH THE FIRST TIME YOU WERE PLACED INTO CARE UNTIL YOU BEGAN TO LIVE ON YOUR OWN, CAN YOU RECALL HOW MANY HOMES WERE YOU IN AND HOW LONG YOU WERE IN EACH HOME?

#11. *If more than one placement in history, ask:*

GOING BACK TO YOUR FIRST PLACEMENT NOW, DO YOU RECALL OR HAVE YOU BEEN TOLD ANYTHING ABOUT THE CIRCUMSTANCES WHICH LEADING UP TO THIS TIME?

If participant was adopted in infancy, ask:

HAVE YOU LEARNED ANYTHING ABOUT THE CIRCUMSTANCES THAT LED TO YOUR ADOPTION?

#12. AT THE TIME OF YOUR PLACEMENT, DO YOU KNOW HOW MANY PEOPLE WERE IN YOUR NATURAL FAMILY? _____

#13. DID THIS NUMBER CHANGE AFTER YOU WERE PLACED INTO SUBSTITUTE CARE?

#14. DID YOU HAVE SIBLINGS WHO WERE ALSO PLACED INTO SUBSTITUTE CARE?

#15. *If participant spent a period of three years or less in just one foster or adoptive home, ask:* COULD YOU DESCRIBE IN YOUR OWN WORDS WHAT LIFE WAS LIKE FOR YOU WHILE YOU WERE IN CARE? IF YOU CAN, TRY TO INCLUDE SOME DAY TO DAY EXPERIENCES, YOUR RELATIONSHIPS WITH OTHERS IN THE HOME AND ANYTHING ELSE THAT YOU FEEL CONTRIBUTED TO A POSITIVE EXPERIENCE. _____

If participant spent time in a series of several foster homes, ask the above question for each experience.

If participant spent time primarily in just one home over a lengthy period of time, (at least three or more years), also ask: THINKING ABOUT THE EARLIEST PERIOD OF YOUR INITIAL PLACEMENT IN THIS HOME WHICH WOULD HAVE BEEN YOUR (Pre-School, elementary school, junior high or beginning of high school years), WHAT EXPERIENCES OR CHARACTERISTICS OF FAMILY LIFE IN THIS HOME STAND OUT MOST DURING THIS PERIOD?

Repeat question for every phase of life course as necessary.

To enable recall, possible probes may include:

1. WHAT WAS YOUR RELATIONSHIP LIKE WITH THE EXTENDED FAMILY MEMBERS OR RELATIVES IN THIS HOME?
2. DID YOU PARTICIPATE MUCH IN ACTIVITIES SUCH AS LESSONS OR SPORTS?
3. DID YOU HAVE ANY HEALTH CONCERNS THAT NEEDED TENDING TO DURING THIS TIME?
4. DID YOU HAVE A SPECIAL PET?
5. HOW WAS YOUR ACADEMIC PROGRESS OVER THE PERIOD OF TIME WHICH YOU SPENT IN THIS HOME?
6. DID YOU DEVELOP ANY LONG TERM FRIENDSHIPS DURING THIS TIME?
7. AS AN ADULT, IF YOU COULD VIEW A BIOGRAPHY OF YOURSELF AS A CHILD DURING THIS PERIOD OF TIME, HOW DO YOU THINK YOU MIGHT DESCRIBE YOUR PHYSICAL, EMOTIONAL AND SPIRITUAL STATE OF DEVELOPMENT?

The following questions will be asked once the participant's life experiences within substitute care have been addressed.

- #16. HOW WOULD YOU DESCRIBE YOUR RELATIONSHIP WITH THE NATURAL CHILDREN OF YOUR FOSTER/ADOPTIVE PARENTS? _____
- #17. WAS THERE A NOTICEABLE DIFFERENCE IN THE WAY THAT YOU WERE TREATED COMPARED TO THE NATURAL CHILDREN OF YOUR FOSTER/ADOPTIVE PARENTS? _____
- #18. HOW DO YOU FEEL YOUR PLACEMENT EXPERIENCES HAVE IMPACTED UPON YOUR ADULT LIFE? _____
- #19. HOW DO YOU THINK YOUR LIFE MIGHT HAVE BEEN DIFFERENT IF YOU HAD NOT BEEN PLACED INTO CARE? _____

- #20. HAVE YOU HAD ANY CONTACT WITH OTHER MEMBERS OF YOUR NATURAL FAMILY EITHER DURING YOUR TIME IN CARE OR AFTER? _____
(If yes, go to question #21. If no, go to question #22.)
- #21. WOULD YOU DESCRIBE THIS CONTACT AS A POSITIVE OR NEGATIVE EXPERIENCE? _____
- #22. DO YOU HAVE ANY SIBLINGS OR CLOSE RELATIVES WHO WERE NOT PLACED INTO CARE? _____
(If yes, go to question #23. If no, go to question #24.)
- #23. *Isolate relative most closely related who was not placed into care and ask:* HOW WOULD YOU COMPARE THEIR LIFE EXPERIENCE TO YOURS? _____
- #24. a. HOW DO YOU FEEL ABOUT THE INITIAL DECISION TO PLACE YOU INTO SUBSTITUTE CARE? _____
- b. AS AN ADULT TODAY, IF YOU WERE THE ONE MAKING THE DECISIONS ABOUT WHETHER TO PLACE YOU INTO CARE AND WHERE TO PLACE YOU, DO YOU FEEL THAT YOUR DECISION WOULD HAVE BEEN THE SAME? _____
- c. CHILD WELFARE AGENCIES AND JUDGES OFTEN MAKE DECISIONS BASED ON THEIR INTERPRETATION OF WHAT IS IN THE BEST INTERESTS OF THE CHILD. IF YOU HAD TO SPECIFICALLY DEFINE WHAT FACTORS SHOULD BE CONSIDERED IN MAKING THESE TYPES OF DECISIONS FOR FIRST NATIONS CHILDREN COMING INTO CARE, WHAT FACTORS DO YOU FEEL SHOULD BE CONSIDERED IN DETERMINING THE BEST INTERESTS OF THE CHILD? _____
- #25. a. IN A MORE GENERAL SENSE, ARE THERE ANY SPECIFIC POSITIVE CONSEQUENCES THAT YOU FEEL WOULD BE ASSOCIATED WITH THE PLACEMENT OF FIRST NATIONS CHILDREN INTO NON-ABORIGINAL HOMES? _____
- b. ARE THERE ANY SPECIFIC NEGATIVE CONSEQUENCES THAT YOU FEEL WOULD BE ASSOCIATED WITH THE PLACEMENT OF FIRST NATIONS CHILDREN INTO NON-ABORIGINAL HOMES? _____
- #26. IF YOU COULD HAVE CHANGED ANYTHING ABOUT YOUR EXPERIENCE THAT WOULD HAVE MADE IT BETTER, WHAT WOULD IT BE? _____
- #27. DO YOU FEEL THAT YOUR SENSE OF ABORIGINAL IDENTITY HAS BEEN

AFFECTED BY YOUR EXPERIENCES IN FOSTER CARE? IF SO, HOW? IF NOT, WHY DO YOU THINK THAT IS? _____

#28. IF YOU WERE ABLE, WHAT CHANGES IF ANY, WOULD YOU MAKE TO THE CHILD WELFARE SYSTEM IN TERMS OF THE PROVISION OF SERVICES TO FIRST NATIONS CHILDREN? _____

#29. MANY FIRST NATIONS HAVE BEGUN TO TAKE CONTROL OF THEIR OWN CHILD AND FAMILY SERVICES AGENCIES, DO YOU THINK THIS WILL MAKE A DIFFERENCE IN THE DELIVERY OF SERVICES? IF SO, WHAT KINDS OF DIFFERENCES? IF NOT, WHY NOT? _____

#30. COULD YOU THINK BACK FOR A MOMENT AND TRY TO RECALL SOME OF THE FACTORS THAT YOU FELT WERE IMPORTANT FOR CONSIDERATION WHEN MAKING DECISIONS BASED ON THE BEST INTERESTS OF THE CHILD. *(Remind participant of some of the key factors he/she identified in question #21 c.) If participant included cultural component, ask:* IN COMPARISON TO YOUR OWN EXPERIENCE, HOW DO YOU THINK YOUR CULTURAL CONSIDERATIONS WILL IMPACT UPON THE LIVES OF FIRST NATIONS CHILDREN WHO MAY ALSO NEED TO BE PLACED INTO CARE?

#30 - (1) _____

If participant did not include cultural component, ask: IF ANOTHER PERSON SUGGESTED THAT YOUR RECOMMENDATIONS WERE NOT ACCEPTABLE BECAUSE YOU DID NOT INCLUDE A CULTURAL COMPONENT, HOW WOULD YOU RESPOND?

#30 - (2) _____

#31. SOME PEOPLE HAVE SUGGESTED THAT THE PLACEMENT OF FIRST NATIONS CHILDREN INTO NON-ABORIGINAL HOMES MAY WEAKEN THE CULTURES AND STRENGTHS OF INDIAN PEOPLES. WHAT ARE YOUR FEELINGS ON THIS ISSUE? _____

APPENDIX D

Example of Legislation Deeming a Child to be in Need of Protection

Using the example of the *Child and Family Services Act* of Saskatchewan as an example of such legislation across Canada, a child is considered in need of protection where:

- (a) as a result of action or omission by the child's parent:
 - i) the child has suffered or is likely to suffer physical harm;
 - ii) the child has suffered or is likely to suffer a serious impairment of mental or emotional functioning;
 - iii) the child is likely to be exposed to harmful interaction for a sexual purpose, including involvement in prostitution and conduct that may amount to an offence of the *Criminal Code*.
 - iv) medical, surgical or other recognized remedial care or treatment that is considered essential by a duly qualified medical practitioner has not been or is not likely to be provided to the child;
 - v) the child's development is likely to be seriously impaired by failure to remedy a mental, emotional, or developmental condition, or;
 - vi) the child has been exposed to domestic violence or severe domestic disharmony that is likely to result in physical or emotional harm to the child;
- (b) there is no adult person who is able and willing to provide for the child's needs, and physical or emotional harm to the child has occurred or is likely to occur; or
- (c) the child is less than 12 years of age and;
 - i) there are reasonable and probable grounds to believe that:
 - A) the child has committed an act that, if the child were 12 years of age or more, would constitute an offence under the *Criminal Code*, the *Narcotic Control Act* (Canada) or Part III or Part IV of the *Food and Drug Act* (Canada); and
 - B) family services are necessary to prevent a recurrence; and
 - ii) the child's parent is unable or unwilling to provide for the child's needs.¹

¹*Child and Family Services Act (CFSA)*, Department of Community Resources and Employment (formerly Social Services), Saskatchewan.