

**INDIGENOUS CHILD WELFARE IN BRITISH COLUMBIA:  
TRAINING AND PRACTICE SHIFTS IN CHILD PROTECTION**

By

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## List of Acronyms:

<b>NAME</b>	<b>ACRONYM</b>
Delegated Aboriginal Agency	DAA
Ministry of Children and Family Development	MCFD
Aboriginal Operational and Practice Standard Indicators	AOPSI
Child, Family and Community Services Act	CFCSA
Canadian Human Rights Tribunal	CHRT
Truth and Reconciliation Tribunal	TRC
Aboriginal Policy and Practice Framework	APPF
First Nations Child and Family Services	FNCFS
Vancouver Aboriginal Child and Family Services Society	VACFSS
Fraser Valley Aboriginal Child and Family Services Society	FVACFSS
Scw'exmx Child and Family Services Society	SCFSS
Okanagan Nation Alliance	ONA
Delegation Enabling Agreement	DEA
Scw'exmx Child and Family Nlaka'pamux Framework of Practice	The Framework

### Abstract

In the Province of British Columbia there is an alarming over-representation of Indigenous children in the foster care system. An extensive literature review revealed there are policy and practice changes designed to address this problem. There are currently 24 Delegated Aboriginal Agencies throughout the province, each with varying levels of delegated authority. As well there are frameworks of practice, such as the Aboriginal Policy and Practice Framework created by the Ministry of Children and Family Development, the Nlaka'pamux Framework of Practice created by Scw'exmx Child and Family Services Society and the Syilx Child and Family Plan created by Okanagan Nation Alliance. These frameworks encourage child welfare practices that are more aligned with and culturally sensitive to Indigenous community(s) being served. There are also legislative changes such as Bill C-92 which was passed in June 2019; this is a Federal *Act with the respect to First Nations, Inuit and Metis children, youth and family* that encourages increased Indigenous jurisdiction over child welfare for Indigenous communities. The findings are that although there have been policy and practice changes made there remains to be an over-representation of Indigenous children in Foster Care and in fact in some cases the number of Indigenous children has risen.

*Keywords:* Indigenous child welfare, British Columbia, Delegated Aboriginal Agencies, AOPSI, CFCSA, Frameworks, Federal Legislation.

## **Introduction**

Indigenous children have been and currently are overrepresented in the Child Welfare system in British Columbia (Blackstock, 2016; Okanagan Nation Alliance, 2014; Scw'exmx Child and Family Services Society, 2018). As a result of the overrepresentation of Indigenous children in Foster Care there have been changes made to child welfare social work practice and training and in the development of specialized frameworks. Practice changes include the development of Delegated Aboriginal Agencies (DAA). Training changes include delegation training that incorporates the Aboriginal Practice and Standard Indicators (AOPSI). Specialized frameworks have been developed by agencies or organizations to ensure culture, language and ceremony are built into daily practice (Ministry of Child and Family 2015; Okanagan Nation Alliance, 2014 & Scw'exmx Child and Family Services Society, 2018). There are also legislative and funding changes resulting from the 2016 Human Rights Tribunal decision on inequitable funding for Delegated Aboriginal Agencies. These changes should lead to fewer Indigenous children and youth entering the foster care system as well as more Indigenous children being returned to their Indigenous communities.

The intention of this research is to review the history of Indigenous child welfare, including residential school and the sixties scoop which recently has been renamed the millennial scoop (Carriere & Richardson 2009). This review is to help bring understanding to how they impact the present state of Indigenous Child Welfare in British Columbia. For the present state of Indigenous Child Welfare, this paper will review any practice and training shifts in use by current Delegated Aboriginal Agencies (DAA) that are designed to address the over-representation issue.



There are currently twenty-four Delegated Aboriginal Agencies (DAAs) in British Columbia with varying levels of delegation. Depending on which level the DAA is designated, Ministry of Children and Family Development may still be involved in providing delegated services to some Indigenous communities and families. The various levels of delegation are discussed in detail below (Representative for Children and Youth, 2017).

For Social Workers in the field of Indigenous Child Welfare in British Columbia, there are additional training requirements when employed by the DAAs. The training for staff employed by Delegated Aboriginal Agencies includes the *Child, Family and Community Services Act (CFCSA 2020)*, the Aboriginal Operational Practice and Standards Indicators (AOPSI 2005), any new legislation as well as any frameworks of practice. In particular three frameworks will be highlighted: two used by a Delegated Aboriginal Agency and one from the Ministry of Children and Family Development.

In terms of the legislative changes designed to address the over-representation issue there is relatively new legislation passed in June 2019 that took effect on January 01, 2020. This is the first federal legislation since the Residential Schools and is titled an *Act respecting First Nations, Inuit, Metis children, youth and families* (formerly known as Bill C-92). Finally, this research will discuss the concerns around funding and its contribution to the problem of over-representation.

## **Method**

### **Locating Self**

I am Gitxsan from Northwestern British Columbia. I grew up for most of my young life living in a small village about twenty kilometers northwest of New Hazelton, called Kispiox. During my late teens my family relocated to the southern interior of British Columbia where I

completed high school and later completed post-secondary. For the past ten years I have worked for a Delegated Aboriginal Agency. I began as a child protection worker and transitioned into a team lead position. Although I have spent all of my adult life away from my home, I am rooted in my culture and return home for regular visits. As a social worker working with two distinct Indigenous nations I honor and respect the culture of the Indigenous peoples' that I have worked with for the past ten years. I have come to realize just how important it is to know and understand the history and culture of the people that I work with as a foundation for my practice. Culturally and historically informed practice is one way to work towards reducing the over-representation of Indigenous children within the foster care system.

### **Literature Review**

The method of research utilized for this paper is based on conducting an extensive literature review focusing on British Columbia and Canada. The main sources of information have been gathered through the University of the Fraser Valley online library. Search criteria was based on training and practice standards limited to Indigenous Child Welfare in British Columbia. A large portion of the research was gathered through this method. Publications were limited to 2003 until present and limited to journal articles and textbooks specific to Indigenous child welfare.

Additional research was completed by reviewing the Canadian Child Welfare Portal and both the Provincial and Federal government websites. Literature review also included frameworks of practice used by two local First Nations communities. The Scw'exmx Child and Family Services Society, a Delegated Aboriginal Agency in Merritt, British Columbia, has two frameworks of practice that are utilized by the agency when working with the communities that are within the service area of Scw'exmx Child and Family Services Society. One is the Sylix

Child and Family Plan, which was created by Okanagan Nation Alliance. The second framework is the Nlaka'pamux Framework of practice that was created between Scw'exmx Child and Family Services Society and four of the Nlaka'pamux communities (Coldwater, Lower Nicola, Nooaitch and Shackan Bands).

### **Thematic Findings**

#### **Theoretical Approach**

There are three theoretical approaches that ground this research: anti-oppressive, strength-based and trauma-informed practice. These three approaches are utilized in light of the oppressive history that has contributed to the over-representation of Indigenous children in foster care (Auger, 2012; Blackstock, 2016). Historically, the focus of Indigenous child welfare has typically been based on weakness as opposed to strengths of children, families and communities. In working to understand the changes that need to be made and how these changes will take place in the area of Indigenous child welfare in British Columbia, it is important to understand these theoretical approaches to effect change and guide the recommendations moving forward.

According to Bains (2017), anti-oppressive is an “umbrella term for a number of social justice-orientated approaches to social work including feminist, Marxist, critical postmodernist and Indigenous” (p.5). Bains explains “these approaches draw on social activism and collective organizing as well as a sense of the social problems and human behavior” (Bains, 2017, p. 5). Anti-oppressive practice applies to child welfare in relation to Indigenous children and families by understanding the history of oppression Indigenous people have experienced throughout history and the current over-representation of Indigenous children in foster care.

The fact that Indigenous children are so grossly overrepresented within the system points to systemic issues (Blackstock, 2016). There has been a fair amount of documentation on how

the system is oppressive (Auger 2012; Blackstock, 2016) and acknowledging this is key to making positive changes for Indigenous children, families and communities. There is also an anti-oppressive legislative stance in the development of frameworks of practice that facilitate anti-oppressive social work. Complementing the anti-oppressive theoretical approach are strength based and trauma-informed practice.

Strength-based social work rejects a deficit-focused response to the challenges faced by people and communities, believing instead “that it is possible to over-come difficult and stressful situations, even growing and developing through them” (Hutchinson, 2019, p. 117). Although Hutchinson’s work is focused on young women in Mozambique, the strength-based approach has been found to be useful in relation to social work that focuses on the strengths of Indigenous children, families and community (Hutchinson, 2019). Strength-based practice includes a range of characteristics that include empowering the abilities of parents and emphasizing the development of supportive and collaborative relationships between children, families, communities and the social workers (Kemp, Marcenko, Lyons, & Kruzich, 2014).

Overall the foundation of strength-based approach is rooted in the notion that families have the ability and capacity to make positive changes (Kemp, et al. 2014). Focusing on the strengths of Indigenous peoples and understanding the history of Indigenous children, families and communities is important in order to address the over-representation of Indigenous children in the foster care system. Strength-based child welfare assesses and reinforces the strengths of clients (Oliver, 2017).

Trauma-informed practice is based on the understanding that everyone has the potential to experience trauma and trauma influences one’s life in a variety of ways (Klinic Community Health Center, 2013). Trauma can be explained as an event that involved a single or repeated

experience that completely “overwhelmed a person’s ability to cope or integrate the ideas and emotions involved in the experience” (Klinic Community Health Center, 2013, p.9). There have been some significant historical factors, such as residential school and the sixties scoop that have contributed to trauma experienced by many Indigenous children, families and communities.

Trauma-informed practice ensures that staff understand the impact of trauma on children and families, and the potential trauma triggers (Conners-Burrow, Kramer, Sigel, Helpstill, Sievers & McKelvey 2013). In fact approaches devoid of understanding trauma-informed service delivery can add to the effects of trauma (Conners-Burrow, et al. 2013). When working with Indigenous people there is value in understanding their trauma and knowing how to navigate this trauma so to not cause further harm.

### **History of Indigenous Child Welfare in British Columbia**

Indigenous child welfare in British Columbia has a long history that demonstrates an oppressive past. This history is by no means limited to just the experiences of children, families and communities in British Columbia, but for Indigenous communities throughout Canada. Both the residential schools and the sixties scoop, which is now referred to as the millennial scoop, have contributed to the current state of Indigenous child welfare of Indigenous children, families and communities throughout Canada (Carriere & Richardson, 2009). Both residential school and the foster care system paint a bleak history of Indigenous child welfare and the dismal if not complete failure on the part of Provincial and Federal governments (Blackstock, 2016; Kozlowski, Sinha, & Lucas 2011; Muir & Bohr, 2019). When looking at the present and future of Indigenous child welfare in British Columbia acknowledgment of the governmental failure is important if we are sincere in addressing the over-representation of Indigenous children in the foster care system.

### ***Residential School***

Throughout Canada residential schools were created to assimilate Indigenous children to the western ways of thinking and being (Muir & Bohh 2019). These schools were funded by the Federal Government and often run by churches. Residential schools took away children's connection to family, where they would have been able to grow up learning their traditional ways of raising children. The children who were forced to attend residential schools grew up and became parents and then grandparents.

Between the years 1879 until 1949 Residential schools were used as the “primary mechanism for First Nations child welfare in Canada” (Kozlowski, Sinha, & Lucas. 2011, p.2). Indigenous children were taken from their families and brought to schools where they were not allowed to speak their language or practice their culture, and often through use of violent and abusive methods. The intention of the residential schools was to “assimilate Aboriginal peoples into Anglo-European culture by separating Aboriginal children from their families and placing them into residential school” (Kozlowski, Sinha, & Lucas. 2011, p.2). In recent years there have been steps to understand the impacts of residential school and acknowledge the abuse and neglect that occurred at the residential schools.

The Truth and Reconciliation Commission (TRC 2015) has documented reports of abuse and neglect Indigenous children experienced while being forced to attend residential school (Lightman and Lightman 2017). The TRC reported that 150,000 children attended residential school over the one-hundred years that residential schools operated within Canada (Lightman and Lightman, 2017). The TRC lists 37,939 claims that include abuses such as physical and sexual abuse and the preventable death of over 3000 children (Lightman and Lightman, 2017). However, the deaths of Indigenous children as a result of attending residential schools may have

been much higher than 3000. For example Doctor Bryce provided a report to the Government of Canada that suggested that “twenty-five per cent of children were needlessly dying each year because the Government of Canada’s refusal to provide them with adequate tuberculosis treatment” (as cited in Blackstock 2016, p.287). As well it is not known how many children were sent home with tuberculosis to die and therefore their deaths were not officially recorded by the schools (Tang, 2015).

The TRC also brought forward a report that includes ninety-four calls to action (Lightman and Lightman 2017). The 94 Calls to Action are directed at addressing the issues caused by the government and the residential school system (Lightman and Lightman 2017). Some key areas that the calls to action address are inequalities that continue to exist for Indigenous Canadians in education, language and culture, health and in the justice system (Lightman and Lightman 2017). As a result of the work done by the TRC, there has been public acknowledgement of the negative outcomes of the residential school system and it had brought forward recommendations on how to address the negative outcomes.

The TRC has documentation of 37,939 claims of injury resulting from an array of conditions that Indigenous children, families and communities have experienced because of policies created by the Canadian Government. For social work it especially becomes important to understand that the system of residential school has caused harm and trauma. It is important that social work understands that not only did the children who attended the residential schools endure abuses, they were also taken from their families and often placed in schools great distances from their homes. By its name the TRC seeks truth and relationship building between the Canadian Government and Indigenous people throughout Canada.

### ***Millennial Scoop***

The next wave of child welfare with respect to Indigenous children was the sixties scoop which is now referred to as the millennial scoop (Carriere and Richardson 2009; Sinclair, 2007). In 1951 the Federal Government of Canada made amendments to Section 88 of the *Indian Act*. Prior to 1951 the Government of Canada assumed responsibility of Indigenous children through the *Indian Act*. Amendments to Section 88 allowed provincial law to apply to Indigenous people (Kozlowski, Sinha & Lucas, 2011). This means each province could enforce provincial laws on reserve. The result was that more and more Indigenous children began to enter the Foster Care system. As cited by Kozlowski, Sinha and Lucas, prior to the introduction of Section 88 of the *Indian Act* “less than one percent of the children in care in British Columbia were Aboriginal; by the early 1960s approximately 34% of children in care were Aboriginal” (2011, p.2).

Jo-Ann Episkenew writes “colonial officials planned to save Indigenous children from their families and communities by relocating them to White homes where they could learn White behaviors, norms and mores” (Episkenew, 2009, p. 66). Much the same as with the residential schools, the aim was assimilation. This created a situation where parents who had attended residential school then experienced their children being removed during the sixties which continued into following decades, hence now referred to as the millennial scoop. The layers of colonial trauma as a result of residential school and the foster care system are still being felt today. Some Indigenous families are currently in their third and even fourth generation of child removal by the government (Varley, 2016).

### **Current Statistics**

Within the Province of British Columbia, the Ministry of Children and Family Development (MCFD) has statistics posted on their web page. The data available as of February 17, 2020 begins with 2002 and ends with the statistics from 2018. According to the information



printed on February 17, 2020, in 2002 there was a total of 10,049 children in care (Government of British Columbia, 2020). Of the 10,049 children and youth in care 4,273 of the children and youth were identified or registered as Indigenous. This means 42.5% of the children in care in 2002 were Indigenous. In 2018 there were a total of 6,698 children and youth in care, of that 63% or 4,252 were Indigenous (Government of British Columbia, 2020). So in the sixteen-year time period from 2002 to 2018 the number of non-Indigenous children in care declined by over 57% (3330 children) while the number of Indigenous children in care declined by 0.5% (21 children). These statistics require further analysis; however they clearly demonstrate that the overrepresentation of Indigenous children and youth in the care is an ongoing concern and so far responses put forward have not addressed the issue. It is notable that during this time period in the early 2000’s there were more Delegated Aboriginal Agencies (DAA) providing services to Indigenous children, youth, families and communities in British Columbia.

**Delegated Aboriginal Agencies**

The Ministry of Children and Family Development statistics also provide statistical information with regards to Delegated Aboriginal Agencies (DAA). At the end of March 2017 based on children and youth spending at least two months in foster care 1,864 Indigenous children and youth were in care of a DAA in British Columbia. A year later in March 2018 there was a decline of 164 Indigenous children and youth no longer in foster care for reason not related to aging out of (Government of British Columbia, 2020). What this indicates is that between March 2017 and March 2018 164 Indigenous children or youth were either returned to their family or adopted.

**Table 1-Delegated Aboriginal Agencies**

Name	Level of Delegation	Region
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Haida Child and Family Services Society	C3	Northwest-Old Masset and Skidegate
Heiltsuk Kaxla Society	C3	Coast North Shore-Bella Bella
K'wak'walat'si ('Namgis) Child and Family Services Society	C3	North Vancouver Island-Alert Bay
Ayas Men Men Child and Family Services (Squamish Nation)	C4	Coast North Shore-West Vancouver
Carrier Sekani Family Services	C4	North Central-Prince George, Burns Lake, Vanderhoof
Denisiqi Services Society	C4	Thompson Cariboo-Williams Lake
Gitxsan Child and Family Services Society	C4	Hazelton
Nezul Be Hunuyeh Child and Family Services Society	C4	Fort St. James, Prince George
Niltu,O Child and Family Services Society	C4	South Vancouver Island-Sannichton
Surrounded By Cedar Child and Family Services	C4	South Island-Victoria
Fraser Valley Aboriginal Children and Family Society (Also known as Xyolhemeylh CFSS)	C6	East Fraser-Chilliwack, Mission, Agassiz, Abbotsford and Langley
Knucwentwecw Society	C6	Thompson Cariboo-Williams Lake
Ktunaxa/Kinbasket Child and Family Services	C6	East Kootenays-Cranbrook, Creston and Windermere
Kw'umut Lelum Child and Family Services	C6	North Vancouver Island-Nanaimo
Lalum'utul' Smun'eem Child and Family Services	C6	South Vancouver Island-Duncan
Lii Michif Otipemisiwak Family and Community Services	C6	Thompson Cariboo-Kamloops
Metis Family Services (also known as La Societe de les Enfants Michif)	C6	South Fraser-Surrey
Nisga'a Child and Family Services	C6	Northwest-Prince Rupert and Terrace
Nlha'7kapmx Child and Family Services Society	C6	Lytton
Northwest Inter-Nation Family and Community Services Society	C6	Northwest-Terrace, Prince Rupert
Nuu-Chan-Nulth Tribal Council Usma Family and Child Services (Usma Nuu-Chan-Nulth)	C6	North Vancouver Island-Port Alberni
Scw'exmx Child and Family Services Society	C6	Merritt

Secwepemc Child and Family Services Agency	C6	Kamloops
Vancouver Aboriginal Child and Family Services Society (VACFSS)	C6	Vancouver

Delegated Aboriginal Agencies were developed as a response to the over-representation of Indigenous children entering into the foster care system (Kozlowski, A., Sinha, V. & Lucas, L. 2011). Based on the statistical information there clearly has not been a decrease in the over-representation of Indigenous children in foster care. Table 1 provides a list of each DAA, the level of delegation and location of each agency. Not all nations have a DAA to provide them with child welfare services and not all DAAs are delegated to a level that is needed to offer child protection. Therefore some Indigenous communities still receive their services or portions of services from the Ministry of Children and Family Development (MCFD). Therefore it is important to include MCFD and their continued service delivery to Indigenous children, youth and families who are on and off reserve.

***List of Delegated Aboriginal Agencies***

Throughout the Province of British Columbia there are currently twenty-four Delegated Aboriginal Child and Family Services Agencies (DAA). Not all DAAs are on reserve. Some are in urban settings such as Vancouver Aboriginal Child and Family Services Society (VACFSS) and the Ayas Men Men Child and Family Services in North Vancouver. Two of the DAAs are specific to Metis children and families, such as Lii Michif Otipemisiwak Family and Community Services in Kamloops and Metis Family Services in Surrey (Province of British Columbia, 2019).

Fraser Valley Aboriginal Children and Family Services Society (FVACFSS), also known as Xyolhemeylh Child and Family Services provides services to children and families located in

the East Fraser region, with offices in Chilliwack, Mission, Agassiz, Abbotsford and Langley (Province of British Columbia, 2019). Ktunaxa/Kinbasket Child and Family Services is located in the East Kootenay region of British Columbia.

On Vancouver Island there are a few different agencies. Kw'umut Lelum Child and Family Services is located in Nanaimo. In the southern part of Vancouver Island there is Lalum'utul' Smun'eem Child and Family Services in Duncan (Province of British Columbia, 2019). Additionally, there are other DAAs, such as Nuu-Chan-Nulth Tribal Council Usma Family and Child Services in Port Alberni, Nul Tu,O Child and Family Services in Sannichton and Surrounded by Cedar Child and Family Services in Victoria and K'wak'walat'si ('Namgis) Child and Family Services in Alert Bay (Province of British Columbia, 2019). North of Vancouver Island there is Heiltsuk Kaxla Society in Bella Bella.

In Northern British Columbia there are six DAAs. Nisga'a Child and Family Services Society in Terrace and Prince Rupert, Northwest Inter-Nation Family and Community Services also in Terrace and Prince Rupert, Carrier Sekani Family Services in Prince George, Burns Lake and Vanderhoof. Gitxsan Child and Family Services Society in located in Hazelton, Nezul Be Hunuyeh Child & Family Services located in Fort St. John with a satellite office in Prince George and Haida Child and Family Services Society located Skidegate (Province of British Columbia, 2019).

The interior of British Columbia has Scw'exmx Child and Family Services and Secwepemc Child and Family Services Agency (Province of British Columbia, 2019). In Williams Lake there are two DAAs, Knucwentwecw Society and Denisiqi Services Society, each providing services to specific communities with different levels of delegation (Province of British Columbia, 2019).

Each of the Delegated Aboriginal Agencies mentioned above provides services to a variety of Indigenous nations. Some of the Delegated Aboriginal Agencies are only able to provide services on reserve, whereas some agencies operate on and off reserve. There are some agencies that provide services only in urban settings. Not all of the agencies are able to provide the same level of services and this is based on delegation level. Below is a description of the delegation levels as it relates to each of the Delegated Aboriginal Agencies. When an agency is not fully delegated the communities are provided child welfare services from MCFD.

### ***Defining Level of Delegation***

There are three levels of delegation that the Delegated Aboriginal Agencies can acquire. These levels are referred to as C3, C4 and C6; the “C” stands for category and C5 is not used by DAAs (Representative for Children and Youth, 2017). The level of delegation that a DAA receives from MCFD dictates the range of services it is mandated to perform under the Child, Family and Community Services Act (CFCSA) and which of the Aboriginal Operational and Practice Standards and Indicators (AOPSI) and ministry standards the agency will be audited (Representative for Children and Youth, 2017).

Each level of delegation is attached to specific responsibilities. For example C3 delegation is responsible for the provisions of voluntary services as well as the recruitment and retention of residential resources (foster homes). This includes authority to provide support services to families, voluntary care agreements, special needs agreements and to establish residential resources for children in care (Representative for Children and Youth, 2017). According to the Delegated Aboriginal Child and Family Services Agencies Status, there are three agencies throughout the Province of British Columbia that are delegated to C3 (Government of British Columbia, 2020). These agencies include Haida Child and Family

Services Society, Heiltsuk Kaxla Society and K'wak'walat'si ('Namgis) Child and Family Services.

The next level of delegation is C4, which includes all the responsibilities of C3 along with the additions of “guardianship duties for children and youth on continuing custody. These include permanency planning, transitions out of care and managing Care Plan” (Representative for Children and Youth, 2017). There are seven agencies that are delegated to C4. The list of C4 delegated agencies include Ayas Men Men Child and Family Services, Carrier Sekani Family Services, Denisiqi Services Society, Gitxsan Child and Family Services Society, Nezul Be Hunuyeh Child and Family Services, Niltu,O Child and Family Services Society and Surrounded by Cedar Child and Family Services Society. These agencies span across the Province of British Columbia.

Child Protection delegation is referred to as C6 delegation. As with C4 delegation, C6 includes the responsibilities of C3 and C4 along with additional responsibilities. The additional responsibilities include “full authority for child protection duties, including investigation of child abuse or neglect reports, placing children in care, obtaining court orders and developing safety plans” (Representative for Children and Youth, 2017). There is a lot more responsibility for C6 delegation in terms of assessing safety and creating safety plans. There are ten DAAs with C6 delegation (see Table 1).

There are Indigenous Nations that are not represented by Delegated Aboriginal Agencies. Some of these nations include Okanagan, with the exception of Upper Nicola who falls within the service delivery of Scw'exmx Child and Family Services Society, and nations in the Lillooet area. The communities who do not have Delegated Aboriginal Agencies fall under the service delivery of the Ministry of Children and Family Development. Also, there are ten DAAs

delegated at levels C3 and C4. This means that they do not have C6 delegation to provide child protection responses. In these cases the Ministry of Children and Family Development will respond to any work that requires C4 and/or C6 delegation.

### ***Ministry of Children and Family Development***

When an Indigenous community does not have a DAA they are provided delegated services through MCFD. MCFD's service delivery includes "child protection, foster care, adoption, mental health, youth justice, and disability services to children and their families in British Columbia" (Rousseau, 2015, p. 45). Still today an Indigenous child is eight times as likely as a non-Indigenous child to live in foster care often due to "the long history of oppressive and inappropriate systems intervention in Aboriginal communities" (Rousseau, 2015, p. 45). From as early as the 1980s it has become clear MCFD would have to make changes in their policy and practice standards to address the overrepresentation of Indigenous children in the foster care system. Yet as cited by Rousseau "despite commitments by MCFD to transform services, there appears to have been very little progress towards shifting control of services to Aboriginal groups and communities, let alone significant internal policy and practice change to improve services the Ministry provides to Aboriginal children, families and Communities" (Rousseau, 2015, p. 46). The same year Rousseau's article was published in 2015 the Aboriginal Policy and Practice Framework (APPF) in British Columbia: Pathways Towards Restorative Policy and Practice That Supports and Honors Aboriginal People's System of Caring, Nurturing Children and Resiliency was also published (Ministry of Children and Family Development, 2015).

From the continued and increasing over-representation issue and the TRC call for reconciliation and changes, it is clear there is still much work needed to be done by MCFD.

According to Auger, reconciliation is defined as “a dynamic process with an overall goal of peacemaking, whereby everyone’s history and reality are validated and respective rights are recognized” (2012, p.23). Based on this definition, moving forward there needs to be acknowledgement, acceptance and understanding of the history that Indigenous people have in relation to Child Welfare. Along with the acknowledgement, acceptance and understanding there also needs to be shifts in how delegated child welfare services are offered to or imposed on Indigenous children, families and communities.

### **Social Work Training**

In order to become a delegated social worker there is specific training that includes the Child, Family and Community Services Act (CFCSA) and the Aboriginal Operational Practice Standard Indicators (AOPSI). Shifts in frameworks of practice developed by some of the DAAs and MCFD and social work training are meant to move towards a practice that takes into account the culture and traditions of the Indigenous children, family and communities being served. Three such frameworks were reviewed along with how they are designed to create practice shifts in order to reduce the overrepresentation of Indigenous children and youth in the foster care system. The Aboriginal Policy and Practice Framework (APPF) is utilized by MCFD. Scw’emx Child and Family Services Society (SCFSS) in Merritt has two frameworks. The first framework is the Scw’emx Child and Family Nlaka’pamux Framework of Practice. The second Framework is the Syilx Child and Family plan created by Okanagan Nation Alliance (ONA).

Common throughout the APPF, Scw’emx Child and Family Nlaka’pamux Framework of Practice and the Syilx Child and Family Plan are the importance of shifting practice to include culture and language. The practice shift of incorporating culture is an important shift as it helps to create an understanding of the unique needs of Indigenous people. Despite residential school,



the sixties scoop and the millennial scoop, Indigenous people have continued to maintain their culture and Indigenous worldviews and ways of being. Shifting child welfare practice that respects and incorporates Indigenous culture and worldview is a step towards reconciliation and reducing the over-representation of Indigenous children in foster care.

### ***Child, Family and Community Services Act***

*The Child, Family and Community Services Act (CFCSA)* is British Columbia's legislation with respect to children and families. The *CFCSA* contains one hundred sections that are designed to guide the work that social workers do when there are reports of child abuse and neglect. All sections of this document are important, however there are a few that need to be reviewed as they pertain to Indigenous child welfare. These sections include section 4, 13, 70 and 71 (Province of British Columbia, 2020). Section 4 is the best interest of a child, section 13 is when protection is needed, 70 is the rights of children in care and section 71 is out-of-home living arrangements (Province of British Columbia, 2020).

Section four of the *CFCSA* is titled the best interest of the child:

Where there is a reference in this Act to the best interests of a child, all relevant factors must be considered in determining the child's best interests, including for example: (a)the child's safety; (b)the child's physical and emotional needs and level of development; (c)the importance of continuity in the child's care; (d) the quality of the relationship the child has with a parent or other person and the effect of maintaining that relationship; (e)**the child's cultural, racial, linguistic and religious heritage**; (f)the child's views; (g)the effect on the child if there is delay in making a decision. (2) **If the child is an Indigenous child**, in addition to the relevant factors that must be considered under subsection (1), the following factors must be considered in determining the child's best interests: (a)the importance of the child being able to learn about and practise the child's Indigenous traditions, customs and language; (b)the importance of the child belonging to the child's Indigenous community' (emphasis added CFCSA, 2020).

Under *CFCSA* legislation it has been determined that the “best interest of the child” in relation to Indigenous children must include the importance of the child’s culture (4(2)(a) and the importance of the Indigenous child’s community (4(2)(b). It is important to acknowledge the ways in which child welfare practice has failed to follow this. Knowing the history is important because the intention of child welfare through residential school and then the millennial scoop, was to assimilate Indigenous children into the western way and to take away culture, values, customs and traditions that Indigenous people had prior to contact by the Europeans. The fact that there is legislation designed to protect the culture and connection to Indigenous community of Indigenous children in care is important, however the “how’s” are often still confusing.

Section 13 is titled “when protection is needed.” This section is made up of four subsections. Section 13(1) is a list that defines protection. These definitions include if there has been harm, could be harm or is harm in terms of abuse and neglect. According to Blackstock “protection” is often defined according to white middle class standards and fails to take into account important Indigenous culture and child rearing differences (2016). The over-representation of Indigenous children in foster care can “attributed to neglect fueled by poverty, poor housing, and parental substance abuse related to the multi-generational trauma arising from residential school and other colonial experiences” (Blackstock, 2016, p. 287). It is also notable that prior to contact Indigenous people throughout Canada were able to ensure the safety and wellbeing of their children as “children were viewed as important and respected members of an independent community and ecosystem” (Bennet, 2002, p. 1). There would have been no need to have sections of legislation to determine the safety and wellbeing of children within any Indigenous community.

Section 70 is the rights of children in care and is highlighted to demonstrate the specific rights with respect to Indigenous children and youth who are in care. Within this section there are fifteen specific rights for all children in foster care. In terms of additional rights pertaining to Indigenous children, the following are included in section 70 in addition to the rights set out in subsection (1), Indigenous children have the right to (a) receive guidance, encouragement and support to learn about and practise their Indigenous traditions, customs and languages, and (b) belong to their Indigenous communities (CFCSA, 2020).

The fourth section of the *CFCSA* is section 71, out-of-home living arrangements. This section of the *CFCSA* relates to Indigenous Child Welfare in that it details the priority of placement for children who are in foster care. The first two subsections of section 71 are related to all children in foster care. The third subsection is specific to Indigenous children. Section 71(3) states the following, “if the child is an Indigenous child, the director must give priority to placing the child as follows: (a) with the child's extended family or within the child's Indigenous community; (b) with another Indigenous family, if the child cannot be safely placed under paragraph (a); (c) in accordance with subsection (2), if the child cannot be safely placed under paragraph (a) or (b) of this subsection” (Province of British Columbia, 2020). What this translates to is that placement of Indigenous children is with family or within community and if these two options are not a possibility then Indigenous family outside of the child's community. This is an important section of the *CFCSA* when working in Indigenous Child Welfare in British Columbia.

As noted, these four sections are only four of 108 sections of the *CFCSA* and were selected as they pertain to Indigenous children, youth and families. So, while there have been changes in legislation the number of Indigenous children in care continues to increase. The way

social work is being done reflects that although there are changes in legislation there is still room for growth, and this is demonstrated by the fact that there are more Indigenous children in foster care now than ever before. Some of these changes are being done through the frameworks of practice. In *Wrapping our Ways Around Them: Aboriginal Communities and the CFCSA Guidebook*, it is stated “exercising exclusive jurisdiction over child welfare remains the goal for Aboriginal peoples: Restoring Aboriginal ways of doing things, especially caring for children” (Walkem, 2015, p. 3). Although there have been changes within legislation there needs to be changes in practice.

### ***Aboriginal Operational and Practice Standards and Indicators***

There are two versions of the Aboriginal Operational and Practice Standards and Indicators (AOPSI). The first is The Aboriginal Operations and Practice Standards and Indicators from 2005 (Ministry of Children and Family Development, 2005) and the second is a revised version for 2009. This is a manual that is designed to provide practice standards that align with the *CFCSA* with respect to Indigenous children, youth and families. The AOPSI provides operational and practice standards. In terms of the operational standards Indigenous communities seeking to create their own DAA must meet standards of operation (Ministry of Children and Family Development, 2005). The purpose of the operational standards are to assist DAAs and MCFD to establish “criteria for the delegation of authority for child welfare services under the *CFCSA*.” (Ministry of Children and Family Development, 2005, p. 2). What this means is Delegated Aboriginal Agencies (DAA) are required to meet MCFD’s operational standards. These standards are then audited to ensure the DAA is meeting or surpassing MCFD operational standards.

In terms of the practice standards provided through the AOPSI, these are standards that are put into place to ensure that agencies are following the *CFCSA* in a way that reflects Indigenous culture and connection to community. Having “standards are the foundation for providing child and family services and represent minimum expectations of performance.” (Ministry of Children and Family Development, 2005, p. 3). The AOPSI standards create an accountability to ensure that DAAs are meeting the standards of service delivery and case documentation.

The revised version of 2009 titled Aboriginal Operational and Practice Standards: Operational Standards (Ministry of Children and Family Development, 2009) is a set of standards that guide the operations of DAA. This differs from the 2005 version in that the 2005 version is about the service delivery and accountability and the 2009 version is focused on the operations of the DAA. In terms of the development of DAAs “the delegation of authority to provide child welfare services flows from the *Child, Family and Community Service Act (CFCSA)*. When Aboriginal communities seek to develop their own delegated child and family service Agencies, they must meet operational standards and requirements” (Ministry of Children and Family Development, 2009, p. 6). The Operational Standards from 2009 would set a standard that new agencies will need to meet in order to attain delegation. To attain delegation “the standards establish the operational readiness criteria that an Agency must meet in order to sign a Delegation Enabling Agreement (DEA) and/or to receive funding from Indian and Northern Affairs Canada (INAC)” (Ministry of Children and Family Development, 2009, p. 6). For agencies already delivering services, it sets operational standards for the agency and establish “criteria for the delegation of authority for child welfare services under the *CFCSA*.” (Ministry of Children and Family Development, 2009, p. 6). The operational standards are also

important “tools for the financial review, operational review and practice audit of Aboriginal Child and Family Service Agencies” (Ministry of Children and Family Development, 2009, p. 6).

The Aboriginal Policy and Practice Framework for MCFD, Scw’emx Child and Family Nlaka’pamux Framework of Practice and the Syilx Family Plan are three frameworks that are being utilized to work towards shifting practice. These three documents have differences and similarities. One of the main similarities is the focus on meaningful inclusion of culture, language and ceremony into the day-to-day practice when working with Indigenous children, families and communities. These three documents alone will not change the over-representation of Indigenous children in foster care. The intention however is to create changes in the way work with Indigenous people is conducted through creating understanding of Indigenous culture and worldviews.

### ***Aboriginal Policy and Practice Framework in British Columbia***

The Aboriginal Policy and Practice Framework in British Columbia (APPF) was implemented in 2015 and is a framework designed to ensure that when working with Indigenous children, youth, families and communities the work reflects the culture of the people being serviced (Ministry of Children and Family Development, 2015). This ‘framework applies to all policy and practice involving Aboriginal children, youth and families in British Columbia, living on reserve or in urban communities, who receive services from a Delegated Aboriginal Agencies (DAA) or the Ministry of Children and Family Development (MCFD)’ (Ministry of Children and Family Development, 2015, p. 3). The focus of the APPF is to create a focus on Indigenous peoples’ “cultural systems of caring and resiliency” (Ministry of Children and Family

Development, 2015, p. 3). Building on the cultural systems of caring and resiliency, it is important to remember Indigenous peoples have been through a cultural genocide (e.g., residential schools and the child welfare system) set up to dismantle Indigenous systems of caring.

The APPF embraces the circle as a restorative process. The intention of “the circle process, which is grounded in our shared context, our values and our foundations, provides a pathway towards improved outcomes for Aboriginal children, youth, families through restorative policy and practice” (Ministry of Children and Family Development, 2015, p. 4). When considering the shared context, values and foundations, it is important to acknowledge this circle process will look different within different communities and within different nations. As part of the circle process there needs to be relationship building between MCFD and/or Delegated Aboriginal Agencies and the Indigenous communities being served. Grounding the work being done in the Circle process will lead to a model that is centered around children, family and expanding to community and culturally based (Ministry of Children and Family Development, 2015). One of the main aspects to take away from this, is that the focus according to this framework is on recognizing and supporting the importance of Indigenous cultures in the day to day work with Indigenous children, family and community. Acknowledgment and acceptance of Indigenous worldviews, culture, language and connections is a step towards ameliorating the overrepresentation of Indigenous children within the foster care system.

Implementing the APPF into practice the APPF includes a few key points. These key points are shared context, values, foundations and collective responsibility (Ministry of Children and Family Development, 2015). In terms of shared context there needs to be understanding of the impact of colonial history and its ongoing influence on the present to support changes in day-

to-day practice (Ministry of Children and Family Development, 2015). Values in the context of the APPF include upholding support to build an inclusive community which supports positive outcomes for all children, youth and families (Ministry of Children and Family Development, 2015). The APPF explains foundations or key educational objectives that must be understood to effectively incorporate the circle process and ensure policy and practice are restorative (Ministry of Children and Family Development, 2015). Finally, ensuring there is responsibility and accountability for improved outcomes for Aboriginal children, youth and families through changes in practice and policy (Ministry of Children and Family Development, 2015). In terms defined key points it is important to note that each one is specific to improving policy and practice with respect to Indigenous children, youth, families and communities. What each individual circle looks like will be determined by the family and community and will vary from community to community.

Throughout the APPF there are images of four circles, that are connected and overlapping and in the center of the connection is policy and practice (see Table 2 below). The four other circles represent youth, family and community center; culture centered; inclusive, collaborative and accountable; resiliency, healing and focus on wellness (Ministry of Children and Family Development, 2015). The circle at the center, policy and practice, is the circle that guides the work that is being done with Indigenous children, youth, family and community. The four circles represent areas that the policy and practice need to be focused on when working with Indigenous children, youth, families and communities.

**Table 2-Aboriginal Policy and Practice Framework**





Overall, the APPF is a framework that is designed to shift practice and policy when working with Indigenous children, youth, families and communities. The intention is to create a relationship that is built on respecting culture and traditions. Frameworks like this should help to reduce the overrepresentation of Indigenous children in the foster care system in British Columbia by shifting practice to be inclusive of Indigenous culture and awareness of the history of colonization. Overtime there should be a decrease in the overrepresentation of Indigenous children in care.

***Scw'exmx Child and Family Nlaka'pamux Framework of Practice***

The Scw'exmx Child and Family Nlaka'pamux Framework of Practice (The Framework) was created by the Nlaka'pamux communities to which the Scw'exmx Child and Family

Services Society (SCFSS) provides services. The Nlaka'pamux communities are Coldwater, Lower Nicola, Nooaitch and Shackan (Scw'exmx Child and Family Services Society, 2018). Work done to gather the information for The Framework was done through community based meetings, an elder's advisory group and a conference titled "Baskets of the Nicola Valley" (Scw'exmx Child and Family Services Society, 2018). Through these meetings and the conference, information was gathered that reflected what each of the four Nlaka'pamux communities wanted to bring forward in terms of how service would be delivered to the Nlaka'pamux communities in regard to the delegated and non-delegated services offered by SCFSS. One of the important pieces of this Framework is the "metaphor of making coiled cedar root baskets to hold our families safely together" (Scw'exmx Child and Family Services Society, 2018, p. 10). The metaphor of the basket stands out because baskets are built to last, they take time and care to build, they are durable, and they serve a purpose. This framework sets out to guide the work that Scw'exmx CFSS provides to the communities.

There are five sections that make up The Framework. Each section identifies specific components of The Framework. Section one is titled "what are we making?" This section describes the work being done. It is "a way of articulating Nlaka'pamux teachings about nk'seytkn (family) systems and moving towards a communal and ceremonial way of working with Indigenous people in Nlaka'pamux territory" (Scw'exmx Child and Family Services Society, 2018, p. 7). This demonstrates the intention to bring to the forefront an understanding of the Nlaka'pamux systems that communities had in place for caring for their children and community members. The Framework brings forward the Nlaka'pamux teachings as a way to address concerns within the community as opposed to being provided with eurocentric services that exclude and often contradict culture and ceremony. The long terms goal is to build up

healthy and strong families through the utilization of strengths within the culture of the communities (Scw'exmx Child and Family Services Society, 2018).

Section two is gathering the materials and outlines in detail the process that was taken to gather the information that makes up the Framework. As mentioned, the method of gathering the information was done through the Baskets of the Nicola Valley Conference, Nlaka'pamux Elder's Advisory Committee, Community Meetings in each of the four Nlaka'pamux communities, Nlaka'pamux children's artwork and reflections and Nlaka'pamux Elders were interviewed about nk'seytkn practices (Scw'exmx Child and Family Services Society, 2018). Overall, there were a series of community-based meetings that were held that gathered the information to generate the Framework. Having the communities, elders and children involved in creating this framework is a shift to inclusive practice and it allows for the community to voice how they want to receive services from SCFSS moving forward.

The third section of the Framework is titled Core Standards. In keeping with the metaphor of the coiled cedar basket, the core standards are described as "the root is split into four strands in the middle and these become the inner coil. These four strands are at the core of the basket" (Scw'exmx Child and Family Services Society, 2018, p. 7). The four strands each have a purpose. Nk'seytkn (family), language, ceremony and connection to the land are the core standards of the framework (Scw'exmx Child and Family Services Society, 2018). Throughout the framework it is identified what the key priorities are including language, ceremony, connection to the land and the Nlaka'pamux family system (Nk'seytkn). These core values are the starting point of including culture in the day to day work when delivering both non-delegated or delegated services to Nlaka'pamux children, families and community.

Coiling out Nk'seytkn Basket, the fourth section details the work that needs to be done by community and agency to work towards building healthy families where there is no need for delegated services within the communities (Scw'exmx Child and Family Services Society, 2018). This section is broken down into two specific sections, the community and the agency. In terms of one of the identified needs for the community, it is stated there is a need for a "parenting academy" as a result of the parented not knowing how to be parents (Scw'exmx Child and Family Services Society, 2018, p. 34). For the agency, one of the things detailed within the framework is that there is a need for the Social Workers to be visible in the community. Within the Framework it is stated that "if you work with our children, you need to be seen by our people. Families need to see workers in good times" (Scw'exmx Child and Family Services Society, 2018, p. 36). Being out in the community at events, such as family fun day or to celebrate Aboriginal Day, are example of events that social workers can attend that help to build trusting relationship, which in itself builds trust between the social workers and the community.

The final section is section five and is titled Moving Forward. Section five stipulates the important action steps that communities have identified to strengthen our families and keep children safe (Scw'exmx Child and Family Services Society, 2018). One of the action steps identified is the Nlaka'pamux communities contribution to the creation of the Framework of Practice. Additional steps include meeting with the parents where they are at and having the community support of all the people involved such as the parents, children, Grandparents and extended family. This section lists what is needed in order to continue moving forward with SCFSS and the communities to attain the goal of building healthy families and communities. This is to ensure that there are no longer delegated services being provided to the communities as, more families will seek help when situations are at a stage of prevention.

### *Syilx Child and Family Plan*

The Syilx Child and Family Plan was created by Okanagan Nation Alliance (ONA). Much like the method used for gathering the information for the Nlaka'pamux Framework the ONA gathered information through ongoing community-based meetings that helped to guide the creation of the Syilx Child and Family Plan. The Syilx Child and Family Plan places emphasis on “the nation’s inherent rights and responsibilities extended to our lands and resources, and also to our people and culture” (Okanagan Nation Alliance Wellness, 2014, p. 6). Also, the Syilx Child and Family Plan was created as part of the process of negotiating with MCFD for Okanagan Nation to “take control of Indigenous child and family services in our territory” (Okanagan Nation Alliance Wellness, 2014, p. 6). Another similarity between the Nlaka'pamux Framework and the Syilx Plan is utilizing culture as a way to represent each aspect, for example the Framework used the baskets whereas the Syilx Plan used their story of the four food chiefs. Within the Syilx Plan each of the food chiefs are defined and are related to specific tasks and responsibilities to move toward taking back their inherent right to their children and families. The four food chiefs are Black Bear, Bitter Root, Saskatoon Berry and Salmon.

The section titled Black Bear, describes the background. Words used to describe this section include “the perspective of wise reflections, customs and culture” (Okanagan Nation Alliance Wellness, 2014, p. 13). Some of the key points made are that “support for the development of child and family services are founded in Syilx cultural practices” (Okanagan Nation Alliance Wellness, 2014, p. 13). Currently the child welfare is not designed to address concerns such as addiction, poverty and trauma. The position taken by ONA is that families need to be supported and have access to prevention programs. ONA further recognizes these areas tend to be “notoriously underfunded and instead a paternalistic approach is taken that focuses on

removing children from their homes and leave the family out of the process except as the recipient of services” (Okanagan Nation Alliance Wellness, 2014, p. 14). This section focuses on the need for change and identifies specific areas in need of change. The need for practice/services delivery to be rooted in culture and for there to be an ability to provide prevention programs in order to reduce the number of Indigenous children and youth entering the foster care system.

Bitter Root is the perspective of inter-connectedness and relationship and is the second section. This section details the work done to listen to the people and communities that are part of the Okanagan Nation. A perspective taken here was “local knowledge equals local authority” (Okanagan Nation Alliance Wellness, 2014, p. 24). This section focuses on hearing the communities and creating plans based on what the community members identify as needs. Included is the identification that a “holistic approach should be taken and should be based on Syilx laws and customs” (Okanagan Nation Alliance Wellness, 2014, p. 24). The importance of working with children, family and community with Syilx culture being embedded into practice is evident throughout the Syilx Plan.

Saskatoon Berry is the third food chief and is the perspective of creativity, vision and innovation. This section is focused on decolonization and creating a plan that is inclusive of cultural safety and is strength-based (Okanagan Nation Alliance Wellness, 2014). One of the highlights in this section is that “ONA has designed and implemented a number of indigenized approaches to service delivery that create a culturally safe environment and work across sectors” (Okanagan Nation Alliance Wellness, 2014, p. 34). Creating a space that is safe and culturally based is important to making the changes needed to improve child welfare with Indigenous children, family and community. In doing so it creates a sense of understanding a shared history

and like the goals in Scw'exmx CFSS's Framework, would create a trusting relationship that could lead to the ability to trust the agency and/or staff. This trust would lead to children, families and communities being able to come forward when they need supports as opposed to not coming forward and the situation escalating to a protection concern.

The final section is the food chief Salmon, the perspective of action. The vision detailed in this section is that of reclaiming and strengthening Syilx family systems (Okanagan Nation Alliance Wellness, 2014, p. 39). This section it is clearly stated that "full jurisdiction over our children is the vision that has inspired and guided the development of the Syilx Child and Family Plan" (Okanagan Nation Alliance Wellness, 2014, p. 39). For the Syilx it is not enough to just have delegated authority over their children and family services, they want their inherent right to full jurisdiction of their children to be recognized.

In the meantime the goal is to ensure that Syilx culture and language are embedded into the work that is being done when working with Syilx children, youth, families and community. Ensuring that culture and language are included in social work practice is one step towards building healthy families and communities.

From the information gathered from the three frameworks it is evident that there is a need for further change within Indigenous child welfare. This change has to reflect the Indigenous communities and their rights to their children, culture, language and ceremonies. Despite the work being done with the creation and training of the frameworks and the Syilx plan, there is still an ongoing overrepresentation of Indigenous children and youth in foster care.

Each of the three frameworks were created by specific agencies, MCFD, Scw'exmx Child and Family Services Society and Okanagan Nation Alliance. The frameworks are further responses to the over-representation of Indigenous children in the foster care system. Although

the Delegated Aboriginal Agencies were created as a response to the over-representation of Indigenous children in foster care, Indigenous children remain over-represented. The three frameworks are intended to create shifts in the practice of the respective agencies that include ensuring that work is done in a way that reflects the culture of the communities with whom the agencies work. At this time the three frameworks are relatively new and it is yet to be determined if they are effective in decreasing the over-representation of Indigenous children in the foster care system in British Columbia.

***An Act Respecting First Nations, Inuit and Metis Children, Youth and Families (formerly known as Bill C-92)***

On June 21, 2019 Bill C-29 *An Act respecting First Nations, Inuit and Metis Children, Youth and Families* became law. According to Metallic, Friedland, and Morales “the bill is a huge and unprecedented step forward in Canada” (2019, p4). This is a recent and significant part of history with respect to Indigenous child welfare in British Columbia and throughout Canada. According to Metallic et al “it is the first time the federal government has exercised its jurisdiction to legislate in the area of Indigenous child welfare” (2019, p.4) however the Residential schools were also legislated by the Government of Canada through the *Indian Act* which is known to be oppressive. In 1951 the federal government amended section 88 of the *Indian Act*, which signed authority over to each province with respect to Indigenous child welfare (Kozlowski, Sinha, & Lucas, 2011). For sixty-eight years the Federal government allowed the Provinces to provide child welfare to Indigenous children, families and communities, which has not always been done in a way that reflects culture, language and traditions of the Indigenous nations.



Bill C-92 is a response to the Truth and Reconciliation Commission's (TRC) call to action number four which "calls, upon the federal government to enact Aboriginal child-welfare legislation that establishes national standards for Aboriginal child apprehension and custody cases" (Government of Canada, 2020). This call to action expresses the need for there to be changes to Indigenous child welfare throughout all of Canada. Bill C-92 is intended to recognize the jurisdiction Indigenous People maintain over child and family services as part of an inherent right (Metallic, Friedland and Morales 2019). As Indigenous people never gave up the jurisdiction of their children a bill that recognizes this can be transformative.

However some suggest this new legislation may come with problems. Metallic, Friedland and Morales address five key problem areas, national standards, jurisdiction, funding, accountability and data collection (2019). In terms of national standards and best interest of the child, the standards "set a floor, not a ceiling, and if implemented may make a difference in the lives of some Indigenous children and families currently involved in provincial child welfare systems" (Metallic, Friedland and Morales 2019, p.5). What this suggests is as good intentioned as the best interest of the child is meant to be there are concerns. These concerns are that rather than making lasting positive changes to the over-representation of Indigenous children in foster care the over-representation will continue. These concerns include the possibility to "maintain the status quo in almost all circumstance, especially for those children currently in the system" (Metallic, Friedland and Morales 2019, p.5).

The second point of concern is jurisdiction. Firstly though it must be noted that there is a lack of recognition "of the inherent jurisdiction of Indigenous peoples" (Metallic, Friedland and Morales 2019, p.7). Indigenous communities have never given up their jurisdiction over their children. However jurisdiction has been assumed by the crown through legislation such as the

*Indian Act*. The second part of the concern brought forward regarding jurisdiction a result of section 88 of the Indian Act and the “ongoing quagmire between federal and provincial governments” (Metallic, Friedland and Morales 2019, p.7). This is explained by “a concurrent law model where federal, provincial and Indigenous laws could potentially all apply at the same time to a given situation” (Metallic, Friedland and Morales 2019, p.7). The complexities this could create in terms of determining which law applies to any given case and which law or laws supersede other law or laws. These are important concerns to consider as the Federal Act is new and only time will tell how effective it is at actually reducing the overrepresentation of Indigenous children and youth in the foster care system.

Funding is the third concern that is detailed. The concerns with funding are related to the “lack of commitment for Canada to fund child and family services to Indigenous peoples” (Metallic, Friedland and Morales 2019, p.8). In this concern it is brought forward that the history of the federal government and the provincial governments ongoing disagreements regarding funding and the substantiated claim that the federal government had a history of underfunding Indigenous child welfare (Metallic, Friedland and Morales 2019). Based on this, each nation able to develop their own Indigenous child welfare law would have to negotiate with both the provincial and federal government. As mentioned, the federal government has a history of underfunding. Should this underfunding be an issue into the future it could inevitably impact preventative services. This brings about the question that if Indigenous communities that chose to abide by their own Indigenous law, would they be able to negotiate adequate funding to provide services that would prevent a child from entering into care, or a child or youth who is currently in permanent care of MCFD or a DAA to be returned to either the family or

community? This is a question that will be answered once Indigenous communities are able to establish their laws and begin to negotiate equitable funding for service delivery.

Accountability and data collections are the fourth and fifth concerns that are addressed within the report completed by Metallic et al. In “submissions to both the House and Senate we emphasized the need for the creation of an independent dispute resolution mechanisms in the Bill as well as mandatory data collection” (Metallic, Friedland and Morales 2019, p.9). Further it was identified that these amendments were not included in the legislation (Metallic, Friedland and Morales 2019). When considering data collection, regardless of Indigenous child welfare being provided by MCFD, DAA or an Indigenous community once they establish their laws, it is important to know and understanding the rates of Indigenous children in foster care. By ensuring that data is collected it would enable reporting to confirm or disprove that the Federal Act is assisting in reducing the overrepresentation of Indigenous children and youth entering foster care or exiting care to their family or community if they are already in the care of MCFD or a DAA.

Additional concerns are highlighted by Cindy Blackstock. She asks the very pointed and real question “will it really build healthy families, and over time, reduce the over-representation of First Nations children in care or is it another colonial paper tiger?” (Blackstock, 2019, p.5). Blackstock explains that “red flags are already flying, such as the pan-Indigenous approach, the lack of clear funding base and a lack of attention to the child welfare needs among and between First Nations, Metis and Inuit” (Blackstock, 2019, p.5). These concerns reflect on the over-representation of Indigenous children in the foster care system and various needs of each group recognized within the Federal Act.

Another point made by Blackstock with regards to the Federal Act is the proposal is for ‘Indigenous’ legislation not ‘First Nations’ legislation. The problems with this approach are not

just nomenclature, there are vast differences in the way First Nations, Metis, and Inuit child welfare are structured, legislated and funded (Blackstock 2019 p.5). This concern considers the vast differences between First Nations, Metis and Inuit peoples. Additionally, there are many different First Nations communities throughout Canada and their child welfare would look different. A nation from the Northwest Coast of British Columbia's Indigenous child welfare laws would likely be substantially different than a nation from Nova Scotia for example. In considering differences aside from culture and traditions it would also be important to know and understand differences in funding, service delivery and if the nation has the supports needed to not only to re-establish their own laws, but to also enforce the laws.

Lastly, Blackstock (2019) brings to the forefront the systemic issues that are not mentioned within the Federal Act. These systemic issues consist of poverty, addictions and housing, which require culturally based approaches to address. Although each "Province and territorial child welfare laws already require social workers to exhaust all least disruptive measures and poverty is not listed as a reason to remove a child" (Blackstock, 2019, p.6). The systemic concerns would also look different depending on the region of Canada. For example, housing in an urban setting like Edmonton, Alberta would be different than housing on reserve in a small northern community such as Kispiox, British Columbia.

The Federal Act is a major change in the child welfare system. Only time will tell how the Federal Act contributes to the overall reduction of Indigenous children and youth entering into foster care or exiting foster care to return to their communities. There are aspects of the Federal Act that have been questioned as a result of some of the wording and the of potential of over generalization as each nation has the right to reclaim their own laws based upon their respective cultures. In addition to the complexities is the funding and how that may be

negotiated. There is fear this may undo the work of the human rights tribunal which ordered Canada to provide funding that was equitable for Indigenous children and families (Blackstock, 2019).

### **Funding**

Lastly and perhaps most important there is an issue of inequitable funding with respect to Indigenous child welfare. The Canadian Human Rights Tribunal (CHRT) ruled in January 26, 2016 that the “Government of Canada’s flawed and inequitable provisions for First Nations child welfare services to be discriminatory on the prohibited grounds of race and national or ethnic origins” (Blackstock, 2016, p.288). The CHRT “linked discriminatory funding to the growing number of First Nations children coming into the care of Child Welfare” (Blackstock, 2016, p.288). Indigenous child welfare has been underfunded and had created a system that continually has an over-representation of Indigenous children and youth in the foster care system. The Government of Canada had knowledge that the funding provided to Indigenous child welfare was not adequate (Blackstock, 2016). Government of Canada also has the ability to make changes for equitable funding but chose not to make the changes needed. This inaction by the Government of Canada created a nine-year legal battle between the Government of Canada and the Caring Child and Family Society of Canada (Blackstock, 2016). This legal battle resulted in the acknowledgement that the Federal Government of Canada has been knowingly underfunding Indigenous child welfare throughout Canada. Rather than to address the issue of underfunding Indigenous child welfare the Federal Government of Canada fought against providing equitable funding for nine years (Blackstock, 2016).

Underfunding and the impact on Indigenous children being overrepresented in the foster care system it is thought to be caused by “poverty, poor housing, and parental substance abuse

related to the multi-generational trauma arising from residential schools and other colonial experiences” (Blackstock, 2016, p.290). Furthering the causes of overrepresentation of Indigenous children and youth in the foster care system there is also a lack of services that Indigenous families can utilize to address the concerns when they are living on reserve. In an article by Cindy Blackstock she shares her experience as a front-line child protection worker for MCFD and then moving to a DAA that was basically right across the street in North Vancouver (Blackstock, 2016). The differences of services available to families on and off reserve were substantial and services offered off reserve tend to not be accessible to families residing on reserve. This is often due to misconception that the Federal Government is adequately funding the services (e.g., counselling and housing) for children and families residing on reserve which in reality is not the case (Blackstock, 2016).

The actual funding structure that was provided to Indigenous agencies from the Federal Government, which was known as Directive 20-1 and was a rigid formula (Blackstock, 2016). This funding formula based on funding being provided based on apprehensions and resulted in led funding being provided for an apprehended child living on reserve compared to an apprehended child living off reserve despite the needs of an on-reserve child being much higher (Blackstock, 2016). Despite the chronic underfunding there has been the expectation for DAAs in British Columbia to meet or beat service delivery standards set out by MCFD. When it comes to funding the challenges are that the “formula featured two funding streams: an operational allocation to cover the cost of operating FNCFS [First Nations Child and Family Services] agencies including a negligible amount for prevention and a maintenance allocation to reimburse the costs of maintaining children in care” (Blackstock, 2016, p.291). Concerns arising from this funding structure are that each delegated agency in the various provinces is required to follow

the provincial legislation and in British Columbia are expected to meet or beat the standards laid out by MCFD, but funding is based on a Federal funding formula that fails to take into consideration variations from province to province (Blackstock, 2016).

A final key point regarding the underfunding of DAAs is the funding was not designed to take into account the needs of Indigenous children, families and communities with regards to colonization. The funding structure “offered no funding to support culturally-based practices and failed to account for the higher client needs of First Nations children, which stem from the multi-generational trauma arising from residential school” (Blackstock, 2016, p.291). Considering all of the above information, addressing the multi-generational trauma through inclusion of culturally-based programs is an important step towards reducing the number of Indigenous children in foster care, yet the funding was not being provided. The ruling made on 26 January 2016 was a step towards improved funding for Indigenous child welfare, and it will be important to ensure that communities reclaiming their Indigenous laws negotiate funding in a way that will support the creation of culturally based prevention programs.

## **Conclusion**

Over the years there have been significant changes in Indigenous child welfare. Residential schools were utilized as a way to strip Indigenous children of their Indigenous culture and identity. The sixties scoop and mass removal of Indigenous children from their families has continued and is now referred to as the millennial scoop. The practice of removing Indigenous children at higher rates than non-Indigenous children continues today despite the creation of Delegated Aboriginal Agencies (DAA). Delegated Aboriginal Agencies were created in the early 1990s as a response to the over-representation of Indigenous children in foster care. There are currently twenty-four Delegated Aboriginal Agencies throughout British Columbia

offering one of three levels of delegated services to Indigenous communities. As a response to the over-representation of Indigenous children in care despite the intention of Delegated Aboriginal Agencies there have been Frameworks of Practice created to shift practice. These include the Aboriginal Policy and Practice Framework (APPF), which is for both MCFD and DAAs identifies the importance of practicing the circle process which is based on holistic, equality and openness. Scw'exmx Child and Family in collaboration with four of the Nlaka'pamux communities created a framework of practice rooted within the Nlaka'pamux culture, language and ceremony.

Yet another response to the overrepresentation of Indigenous children and youth in foster care was the implementation of the Federal Act on January 01, 2020. This act has been praised and criticized by scholars. Some of the criticism are the unclear language and the potential for Indigenous child welfare to be underfunded due to Indigenous communities having to negotiate funding for their child welfare. Substantial changes have been made within the child welfare system in British Columbia yet Indigenous children remain over-represented in foster care. Indigenous children are at risk of entering foster care or who remain in foster care despite the changes in legislations, policy, practice and implementations of frameworks. The Federal Act is new and will take time for Nations to create their laws so it is too early to tell if this legislation will have the intended impact of reducing the overrepresentation of Indigenous children in foster care. Underfunding has also been an ongoing concern for Indigenous child welfare. The funding was not set up to be inclusive of meaningful culturally based child welfare and did not meet the needs of Indigenous people in relation to the intergenerational trauma. With recent changes there are hopes the over-representation of Indigenous children in foster care can decrease.



Throughout the review of literature there are common themes that support the continuation of Indigenous children being over-represented in the child welfare system. Based on this common theme there clearly needs to be meaningful shifts in social work practice in the area of Indigenous child welfare to reduce the disproportionate rates of Indigenous children in care. There have been attempts throughout the thirty years in terms of creating Delegated Aboriginal Agencies, the training of social workers employed by Delegated Aboriginal Agencies and more recently the development of Frameworks of practice by some Delegated Aboriginal Agencies and the Ministry of Children and Family Development. Even more recently the *Act respecting First Nations, Inuit and Metis Children, Youth and Families (formerly known as Bill C-92)* which is further response to the over-representation of Indigenous children in foster care and the calls to action from the Truth and Reconciliation Commission.

At the time of concluding the review of literature the APPF, Scw'exmx Child and Family Framework of Practice and the Syilx Child and Family Plan, as well as the *Act respecting First Nations, Inuit and Metis Children, Youth and Families (formerly known as Bill C-92)* are relatively new responses to the over-representation of Indigenous children in foster care. Over time there will be a need to review the frameworks and the *Act respecting First Nations, Inuit and Metis Children, Youth and Families (formerly known as Bill C-92)* and updated statistics to assess whether or not the practice shifts are creating the changes intended.

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