

**Liberating our Children Revisited:  
What did the Aboriginal Community ask for in 1992  
And what did they get?**  
by

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## ABSTRACT

In 1992, the Province of British Columbia published the *Report of the Aboriginal Communities Panel Review of the Family and Child Service Act: Liberating Our Children Liberating Our Nations*. The report was the result of the panel's review of the 42 submissions from Aboriginal communities throughout B.C. The submissions represent the only clearly documented source of Aboriginal views that have been gathered for the change of British Columbia child welfare legislation. This thesis is a re-examination of the contents of the submissions in the context of core principles of self-determination that are developed from the literature using a framework of conflict resolution. Applying principles of self-determination provides a new reading of the interests expressed in the submissions and constructs a set of goals for Aboriginal Child Welfare. This thesis is meant to invoke a vision of a First Nations perspective of a child welfare system using a framework of conflict resolution and characteristics of self-government. The purpose of this thesis is to build a model to advance Aboriginal child welfare and create a baseline for a Nisga'a Child and Family Services Act under the Nisga'a treaty. Any change in the level of education and awareness brought to policy decision makers is a highly political act.

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**DEDICATION**

I dedicate this thesis to my brother Bryan W. Squires (Ts'ooda) 1949-2000

## **Chapter One - Thesis Organization**

In keeping with First Nations protocol for public speaking, I begin Chapter One with an introduction of myself and the context for this presentation of my thoughts. I follow this introduction with a section that outlines the purpose of my research, and then move on to delineate my research question. I conclude this chapter with an overview of the organization of my thesis.

### **Who am I**

As a First Nations person, it is important for me to preface this piece of writing with a contextualizing statement that defines my own cultural and social location. By enunciating the place I have come to in my life's work so far, I am paying homage to my ancestors and demonstrating my respect for those who may encounter these words. This is what I have been taught to do, and it is from this place of appropriate respect that I approach all of the work that I do, including the writing of this thesis.

My name is Maurice Squires. I was born in North-western British Columbia and received both my formal and informal education in the Northwest. I live in the Nisga'a Village of Gitwinksihlkw in the Nass Valley. The Nass Valley is located in North-western British Columbia and stretches from the headwaters of Ksi Lisims (Nass River) to the Pacific Ocean.

I am a member of the Nisga'a Nation, a wolf from the House of Spismax (the Bear's Den) - one of 60 houses or bloodlines in the Nass Valley. My house chief is Jacob Nyce - Simogit Bak Kap. My ancestral name is Nii Kap and my professional and personal experiences stem from the roots of my home. As I look out my window, I see the wolf clan territory, the mountains, trees and the Nass River, which have been in our family for hundreds of generations. I have returned home and have lived here for thirty years of my life.

I have 25 years of cumulative social work experience, two years of which were outside the Nass Valley, supervising a sheltered workshop for the mentally challenged adults in Port Moody B.C. and as a street worker for youth in Terrace B.C. For seven years I was

employed as a Home School/ Adult Education coordinator for B.C. School District #92 - Nisga'a, and Northwest Community College. For 10 years, I was employed as the Band Social Development Worker in my home community of Gitwinksihlkw. I have worked for the past seven years as a social worker for the pre-treaty Nisga'a Tribal Council, and since 2000, the post-treaty Nisga'a Lisims Government. I am currently employed as the Director for Nisga'a Child and Family Services, a delegated First Nations child and family service agency serving the members of the Nisga'a Nation in British Columbia.

Over my professional career, the Nisga'a Lisims Government has encouraged and supported my efforts to try to change the conditions, which we endure, not only the Nisga'a but also all First Nations. Accordingly, I have also been involved in a number of professional social work organizations in a variety of capacities.

I was a founding member and president of the Northwest Band Social Worker Association, an affiliation of 24 Indian bands in Northwest British Columbia that were confronted with common social issues. With the Northwest Band Social Workers, I helped to negotiate a service agreement for a sexual abuse intervention program, and a protocol with the University of Victoria for the delivery of a decentralized Bachelor of Social Work and Master of Social Work programme in North-western British Columbia. I currently sit as a director for a non-profit Aboriginal Child Care Society, which created 58 daycare centres (750 new daycare spaces) in First Nations Communities throughout British Columbia by providing capital and operational resources using Federal funding. I also am the president of the Caring for First Nations Children Society, a non-profit organization that provides standards-based child welfare training for employees of Aboriginal Child and Family Service Agencies throughout British Columbia.

I was closely involved with the creation of the Aboriginal Operational and Practice Standards now used by all British Columbia Aboriginal Child and Family Service Agencies. I also participated with a Provincial committee charged with creating a tool for practice audits and accreditation for British Columbia Aboriginal Child and Family Service Agencies. For six years, I was a member of the Board of Governors of the University of Northern British Columbia, and I also had two years experience with the (now defunct) British Columbia

Children's Commission.

My personal interest in the topic of First Nations child welfare stems from three sources that I have encountered from personally experiencing forces in action. They were the Social Policy Advisory Committee (SPAC), the Nisga'a Child and Family Services Delegation Enabling Agreement (DEA) and the Nisga'a Treaty.

In 1986, I first became involved in child welfare as a member of the Social Policy Advisory Committee (SPAC), which was a subcommittee of the Tribal Forum which itself was a forerunner of the organization now known as the British Columbia First Nations Summit. The role of the SPAC was to recommend revisions to social policies established by the Federal and Provincial governments. At that time a moratorium had been placed on the adoption of Aboriginal children into non-Aboriginal families by the Province of British Columbia, and a Federal moratorium on the development of new First Nations child and family service agencies was in place. SPAC gradually became involved in the area of child welfare policy up until 1992.

The Delegation Enabling Agreement (DEA) was the tool used to create Nisga'a Child and Family Services, a First Nations child welfare agency operating under the auspices of the Nisga'a Tribal Council. The Delegation Enabling Agreement is a structured relationship between the Nisga'a Nation, Canada and the Province of British Columbia, which sets the parameters and resourcing necessary for the administration of Nisga'a Child and Family Services (NCFS). The NCFS Delegation Enabling Agreement was the first such agreement negotiated under the terms of the British Columbia *Child, Family and Community Services Act* that was enacted in 1996. The initial DEA for Nisga'a Child and Family Services expired with implementation of the *Nisga'a Final Agreement* (treaty) in 2000.

The child and family services components of the Nisga'a Treaty were based on the DEA framework as the starting point for the resumption of self-governance in the area of child welfare for the Nisga'a Nation. Under the treaty, the Nisga'a Lisims Government now has the legal authority to escape from the restrictions of the delegated authority model of service delivery and to create our own legislation in the areas of child welfare and adoptions that

have paramouncy over Provincial legislation.

I must say that with the 17 years experience I have gained since first becoming involved in the politics of First Nations child welfare policy with the Social Policy Advisory Committee comes an emotional investment in understanding the environment that we as First Nations live in - not only the negative social factors, but also the strength, courage, tenacity and resiliency of the human spirit.

### **Purpose of the Research**

The purpose of this research is to conduct an in-depth re-examination of the public record data that were submitted to the Province of British Columbia by the Aboriginal community in 1992 (the submissions). These submissions were provided in response to a call for input from the Aboriginal community by the majority New Democratic Party Government of British Columbia. The stated terms of reference for the Aboriginal Community Panel were:

1. To ensure that legislation relating to the protection of children serves the best interests of all children and their families.
2. To enable the public to engage in a broad discussion about the role of child welfare services in a rapidly changing society.
3. To inform the public about child protection issues in B.C.
4. To ensure that legislation relating to Aboriginal children and families does not create or perpetuate impediments to Aboriginal communities assuming responsibility for their children and families in accordance with the aspirations of those communities.

(Aboriginal Community Panel, 1992 ix)

The submissions received from the Aboriginal Community were intended to be used in the formulation of the Aboriginal elements of new Provincial child welfare legislation to replace the *Family and Child Service Act* (1980). Through a consultation process initiated by the Aboriginal Community Panel, written submissions were received from 42 Aboriginal communities throughout the province of British Columbia. Of the 42 Aboriginal briefs received by the Aboriginal Community Panel, 37 were released into the public domain. The data gathering process of the Aboriginal Community Panel led to the publication by the Province of British Columbia Ministry of Social Services of a document entitled *Liberating our*

*Children Liberating Our Nations* in 1992, which to date is the only report generated from the 37 public domain submissions to the Aboriginal Community Panel in 1992.

In June 1994, the Government of British Columbia enacted the *Child, Family and Community Services Act (CFCSA)*, which replaced the 1980 *Family and Child Service Act*. The Provincial government introduced the *CFCSA* to create a new paradigm for child welfare, and several sections of the legislation incorporated recommendations that had been made to the Aboriginal Community Panel in 1992. Although the *CFCSA* adopted a more conciliatory, inclusive, and less intrusive approach than the previous legislation had permitted, many of the regulations, policies, and practice standards still do not address the specific needs related to the unique qualities and characteristics of First Nations values, beliefs, and community practices. Despite the promised new paradigm for child welfare represented by the *CFCSA*, many of the operational and practice problems that the Aboriginal Community identified in their 1992 submissions to the Aboriginal Community Panel have not been ameliorated. I believe that by re-examining the 37 public domain submissions to the 1992 Aboriginal Community Panel, using a conflict resolution analytic framework and an Aboriginal research lens, I will be able to demonstrate that the Aboriginal community did not fully receive what they had requested in their 1992 submissions.

In conducting this research, I believe that I am carrying forward the torch lit by the Aboriginal Panel in 1992:

... we have not been appointed as spokespersons for the First Nations of British Columbia, nor do we pretend to that role. ...We can only hope, therefore, that our report will assist in focusing discussions. We do not see our report as finalizing a discussion on the jurisdiction for, and the provision of, services to Aboriginal families and children. Rather we see our report as the beginning of those discussions.

(Jacobs and White, 1992)

### **Problem Statement**

The central question that this thesis seeks to answer is:

### **What did the 37 Aboriginal communities ask for and what did they get?**

The Carrier Sekani Tribal Council stated in their submission that: “The best interest of the children is a fundamental responsibility of the community and tribe.” (Northern Native Family Services, 1992), but has that objective been met?

The Cold Water Band stated that: “Our concept is not only to look at the one aspect of child welfare, but to integrate the whole community in the overall development of the children.” (Coldwater, 1992) - Did they get what they want?

In answering this central question, my research also answers several secondary questions, including: “What was the intent of the submissions by the Aboriginal Communities?” and “In what frequency were the common themes identified?”

In order to answer these questions, this research takes a second look at the publicly released Aboriginal submissions from a conflict resolution perspective through an Aboriginal research lens. The re-examination process identifies the types of conflict evident in the submissions and formulates the identified conflicts into a series of themes. This information is then juxtaposed against Provincial legislation and policy to determine whether or not the theme area was incorporated into Provincial child welfare practice.

My research reveals the scope and depth of the salient issues using the data from the Aboriginal Community submissions. As a result of my research, I believe that the metaphor of “The Emperor’s New Clothes” would be a good illustration of the progress the Province of British Columbia has made in dealing with Aboriginal Child Welfare. The changes have been slow, and child welfare practice under the *CFCSA* has been exempt from evaluation from a First Nations perspective.

Linked to these policy and practice questions are questions of a more conceptual order. Are the fundamental human rights of Aboriginal people now being respected? Has the genocide by default directed towards Aboriginal people stopped? Has colonialism been replaced or does it continue in a neo-colonial form in policies and standards now being brought into

effect?

## **Thesis Organization**

Chapter One of this thesis is comprised of four sections. The first section delineates the organization of this research paper. The second section locates my cultural and personal experience as a First Nations researcher, and this sets the tone for my research. The third section describes the purpose of this research. The fourth section outlines the Problem Statement and Research Question and introduces the intent of the submissions to the Aboriginal Panel, the intensity of issues in conflict, and the efficacy of the submissions.

Chapter Two is a treatment of the historical and legislative context in which the rights of Aboriginal people to care for their children have been made subject to the Indian Act (Canada), the policy and funding directives of the Department of Indian Affairs and Northern Development Canada (DIAND), and to the statutory authority of the Province which are stoking the fires of post-colonialism.

Chapter Three is a review of the literature related to models of conflict resolution, First Nations self-governance and Aboriginal child welfare are explored. Particular attention is given to the model of conflict resolution developed by Dr. Chris Moore, which forms the analytic framework utilized in the first stage analysis of the submissions to the Aboriginal Panel. This chapter also explores the concepts of colonization, human rights and genocide in relation to Aboriginal child welfare practice.

Chapter Four introduces the methodology, research design, research context and ethical considerations associated with this research. A qualitative content analysis is described in which the thirty-seven submissions are sorted into five categories, and themes are drawn from the issues and elements from each of the five categories.

Chapter Five presents the categorized data upon which this research is based. The categorized data are presented in a manner that demonstrates the frequency of commonality

of concepts across the 37 submissions using a conflict resolution analytic framework. The analysis introduces a number of themes that emerged from the research. Some of the themes are: new family centered concept needed, traditional structures, and web of authority, service provision issues, industry of despair.

Chapter Six is an in-depth analysis of the submission that I presented to the Aboriginal Panel on behalf of the Gitwinksihlkw Band Council. This analysis serves to tie together the historic elements necessary for the traditional upbringing of young Nisga'a with the themes identified in the data analysis of the collected submissions to the Aboriginal Panel. This chapter will conclude with my summary remarks on the nature of Aboriginal Child Welfare practice.

## Chapter Two- Ripples and Fires

In this chapter, I present the historical context for Aboriginal child welfare in order to demonstrate the changes that have occurred within Aboriginal child welfare as a result of colonization and oppression. However, before I situate the effects of colonization within the context of Nisga'a history, I introduce my understanding of what were the traditional family responsibilities towards children.

Following the discussion of traditional responsibilities, and utilizing traditional Nisga'a communications processes, I utilize a series of metaphors to illustrate my analysis of Aboriginal child welfare from Colonial times to the present. Within the Nisga'a worldview, metaphors are often used as tools for expressing a message. Within the Nisga'a culture there are many metaphors used in the feast hall (*Yuuik*). For example, the metaphor of a canoe capsizing in a storm and the passengers subsequently making it ashore safely means that tragedy has struck the family and with the settlement and support from the community, things will return to normal. To honour and validate my Nisga'a culture, I have taken the liberty of using two metaphors to guide my thoughts for this chapter of my thesis. The two metaphors I refer to in this chapter are the ripple effect and the feast hall fire.

The references I make to Ripples and Fires acknowledge the holistic nature of First Nations culture and demonstrate the interconnectedness between the natural world and humanity. Using the metaphor of the ripple effect, I describe a chronology of inappropriate legislation that has created cumulative consequences within First Nations and I describe how a model of First Nations' value driven social work can counteract the oppressive ripple effect. By drawing upon the Fires metaphor, I speak to the notion of the feast fires to establish a parallel between the process of making a written submission to a panel versus that of oral traditional governance found in a Nisga'a feast hall. I also use this fire metaphor to counterpoise the disempowerment of Indigenous governance systems through the self-serving colonialistic actions undertaken by mainstream society through the entrenchment of the Canadian democratic institutions - specifically the Band Councils created by the *Indian Act*, the Provincial and Federal governments.

The four main elements that I identify in this historic analysis are: the accumulative effect of inappropriate legislation and policies, the emergence of negative social facts affecting First Nations, the cumulative consequences of intergenerational exposure to a destructive social environment, and the naming of the problems and identification of the actions necessary for problem resolution.

### **Traditional Nisga'a Child Welfare**

To fully understand what child welfare means to First Nations today, one must first understand traditional child rearing practices. In the times when the water was calm, before the ripple effects of colonialism, the responsibility of raising children to become physically, mentally, emotionally and spiritually healthy, was not the parents' responsibility alone but that of the whole community.

From conception to death, through each stage of development, the role of the grandparents, aunts and uncles, extended family, clan members and the community as a whole played important roles in the best interest of the child. Each member of the community had an obligation to themselves, their family, clan, community and Nation. This ensured that every individual child had a sense of belonging and acceptance within their families and community.

Traditionally, during the stage from birth to toddler, it was the parents' and grandparents' role to develop a strong, healthy bond with the child. This gave the child nurturing from four primary caregivers instead of one. They developed the child through traditional counselling from the family. They taught the child to experience values, to create direction and character. As the child grew, he or she learned self-discipline. Through this practice, the child developed strong morals, cultural values and learned basic survival skills.

When the individual emerged from childhood, they took their place within their family, clan and community. Nisga'a citizens have a responsibility and obligation to family, clan and community and these responsibilities were emphasized for the ultimate purpose of

traditional child rearing practice was to teach the individual to be a healthy, productive adult who could be a strong community leader, a role model and future hereditary leader, a matriarch or chief.

The next phase of traditional child rearing was the giving of a name. The Hereditary Chiefs from the Mother's clan chose a name. Clan members considered the child's ancestors and what the child's ultimate destiny was thought to be in life. When they gave a name to the child, it was with respect to the person the family had named him or her after.

If the natural parents were unable to care for their child for any reason (such as an illness), the child would not be removed from the family home. Instead, an appropriate member from the family, clan or community would be chosen to come into the home and not only provide care for the child but also for the healing of the parents. In traditional times, the child's physical, mental, emotional and spiritual well-being was achieved within their family, clan and community.

### **The Ripple Effect**

Since time immemorial, we as First Nations have lived hand in hand with this great land. We took care of the land, respected it, and it cared for us. Many things have changed over time. When you take a stone and throw it into the water, the impact will create a series of ripples from the centre outwards. This is called the ripple effect.

The many problems First Nations children, adults and families experience in contemporary North American society are the symptoms of a historic battle that began over 300 years ago. Many of the negative social facts, which afflict us today have been inherited from the residual rippling effects of scores of inappropriate legislation and statutes. The legislative acts of the governments have impacted our lives as First Nations much like stones do when they hit the still surface of a pool of water.

The inappropriate legislation has disempowered the individuals, families, and clans of our Nations. Their ripples have affected and continue to impact the values of our families,

communities and Nations. When the values of Nisga'a culture or any First Nations culture get carved away, the people lose self-respect and self-determination. And when our traditions and beliefs are intentionally repressed, this invalidation gets directed inwards, leading inevitably to depression and confusion.

This impact is evident in the fact that First Nations people have suicide rates that are three times as high as the rest of Canada. The social facts of over-representation in the justice, child welfare, and health systems combined with the low levels of employment, education and social class further magnify the impact of this ripple (Manitoba, 1991). When looking at the bigger picture this way, it is evident the foreign and imposed laws and policies have had a cumulative consequence on the people, families, and Nations.

Residential schools greatly affected the outlook and lifestyles of all First Nations. For those students who were not beaten nor subjected to an array of abuses and managed to survive, just the separation from their families, culture, community and the land was devastating.

The legislation for residential schools lasted five generations. It took four generations before First Nations were allowed to vote in British Columbia elections, and five generations before voting privileges were given in Canadian elections. Another law stated that First Nations people could not practice our cultures for a period of thirty years - criminal convictions resulting in imprisonment and fines were the consequence of breaking this law (*Indian Act* 1927 s.140). The fact that First Nations were not legally allowed to talk about land claims and self-government also had a dramatic outcome on the family, community and Nations.

One by one, each successive ripple has led to the current situation where First Nations people find ourselves faced with the consequences of a tidal wave not of our own making. The social statistics for First Nations are on a par with third world levels, and should be unacceptable in a so-called Western civilization. Only when the mortality, suicide, and employment statistics reflect equality with the rest of Canada will there be a balance for First Nations. The Governments must put as much influence in restoring and reinforcing the values and traditions concerning language, land use, housing, identity, and education as they did in trying to take them out.

Too many stones have created too many ripples already.

### **Ripples have Cumulative Consequences**

The initial ripple that arose with the establishment of the first European settlements in North America was propelled by formal policy that emerged on October 7, 1763, when a Royal Proclamation was issued by England's King George III that recognized Aborigines as having inherent rights to deal with their internal affairs and to make treaties or agreements with British Crown (Royal Proclamation, 1763). When the *British North America Act* (was proclaimed in 1867 and the Dominion of Canada came into being, one of its earliest actions was to pass *An Act to Amend and Consolidate the Laws Respecting Indians* in 1876. This was the beginning of the assimilation process using education, social policy and economic development as the tools of genocide. This *Act* undermined the existing traditional First Nations governance system by creating status and non-status Indians, residential schools and Band councils. This colonialist action was the genesis of the negative social facts that Aboriginal people experience today.

Without a venue for self-determination, the self-reliance, economic independence and traditional values of First Nations were put to sleep. With the disintegration of the traditional system came the need for greater government intervention. In 1951, the "*Indian Act*" was amended to allow provincial laws of general application to apply to Indian peoples:

Subject to the terms of any treaty and any other Act of the Parliament of Canada, all laws of general application from time to time in force in any province are applicable to and in respect of Indians in the province, except to the extent that such laws are inconsistent with this Act or any order, rule, regulation or by-law made here under, and except to the extent that such laws make provisions for any matter for which provisions is made by under this act.

(Canada, 1951)

In 1955 in British Columbia there were about 3,500 children in care of which less than 30 children (less than 1%) were of Aboriginal ancestry. Within 10 years, the number of Aboriginal children in care had risen to about 1500 children or 35% of the total British Columbia child in care population during a dark period known as the "60's Scoop"

(Aboriginal Community Panel, 1992. p. 20). And with the 60's Scoop came the symbiotic Aboriginal child welfare jurisdictional quagmire, characterized by provincial authority with federal fiscal responsibility. In addition there came the mainstream dominant culture from which, child welfare policy and practice had developed. Policies and practices, which did not comprehend the values, traditions or cultures of the First Nations. This also was the climate that led to the Spallumcheen Indian Band Bylaw #3 in 1980, and to federal and provincial negotiation of delegation enabling agreements with First Nations Child and Family Service Agencies. With these changes came the Canadian Assistance Plan transfer payment and the Memorandum of Understanding between the Province of BC and the Federal government, through which a contribution to status Indians living off reserve and not being self reliant was included. However this was changed in 1996 with a new Memorandum of Understanding, which limited payment for status children living on a reserve. (Canada, 1996) At that time the Federal government had established a moratorium on the development of First Nation child welfare agencies due to escalating costs.

The basic structure of agreements for the delegation of child and family services from Provinces to First Nations had been set in 1991 in Federal Policy Directive 20.1 (Canada, 1991). The system created through this Policy Directive was of a symbiotic nature, with the funding tied to reactive intervention services, thus the more children in care, the more funding the delegated Agency received. The foundational principles of Policy Directive 20-1 relate to a level of comparable service to that in mainstream communities, but with a derogation of Aboriginal rights, a self-determined structure, limited funding and provincial child welfare legislation prevailing. This approach to policy and practice has divided First Nations into two camps - those prepared to accept Provincial legislation and those who are not.

In 1997, the Department of Indian Affairs stated that 63% of B.C. First Nations communities receive resources for child welfare from the Federal government. (Youngman, 1997) Unfortunately, the percentage of children in care from Aboriginal family involvement in child welfare from 2003 are not much different from those of 1965.

### **Fanning the Friendly Fire**

In this part of this chapter, I invoke a vision of a feast hall and the fire that is lit for the occasion. The governance business that occurs within the feast hall is a parallel to the written words that were submitted to the Aboriginal Community Panel in 1992 that gave voice to the aspirations, hopes, fears and conflicts of the Aboriginal Communities. Within the feast hall, these actions are viewed in terms of respect, accountability and responsibility from a Nisga'a perspective. My standpoint for this analysis is as an observer of the final stage, of the *Yuuuk* (feast). During the final stage, the associated actions serve as an integration of the business that has been conducted through counselling and enunciating and validating the work that has been concluded. But this stage is not work pre se, but rather a labour of love, which not only comforts the family and clan in need, but also binds the community through individual actions that I describe as a combination of symmetry and synergy. The process is a system as old as the Nisga'a people themselves.

I make reference to five separate fires that have been lit since the time of colonization. Each fire is a reflection of the light and darkness associated with the actions and choices made by the participants. The first reference is to the fire of integrity that teaches respect for culture and the importance of self-determination. The second reference is to the family fire, which lays out the structure, roles and responsibilities of the community participants. The last three references are to the three fires associated with the levels of colonial/post-colonial governance - the band council fire, the Provincial fire and the Federal fire.

### **The Fire of Integrity**

Just as in mainstream society, every First Nations individual maintains a number of disparate roles in relation to their family, community, and Nation. Parents, children, brothers, nephews, uncles, cousins, elders-in-training, role models, workers, learners, ambassadors, leaders, guardians and citizens are all parts of the Nation. The kinship ties that bind us to each other are codified through tradition and respect for individual capacity. The training for these roles begins at birth and ends at death. With integrity, lessons are quickly learned and committed to memory so that the traditions of the culture can be carried onwards, thereby earning the respect of those who are always watching. This constant observance is

not conflict, but rather is an evaluative tool, which the community participates in to ensure that the integrity of the culture is not tarnished. In First Nations communities, every action by every individual is visible.

The issue of standards is not alien to Aboriginal cultures, nor should one make the mistake of assuming that Aboriginal cultures were any less structured than any contemporary Euro-Canadian society or that sanctions were any less rigorously imposed upon individuals who violated those standards. However, the homogeneous and cohesive character of First Nations prior to contact did not require the elaborate codification of standards and the bureaucratisation of enforcement procedures for their maintenance.

(ICFS p.2).

There have always been cultural standards and ethical codes which could govern relationships with others - whether immediate family, clan, Nation, or even visitors to our homelands. These standards were based upon respect for cultural traditions, self-determination, and individual integrity. The traditions invoked systems of justice, which would see transgressors sanctioned in a culturally appropriate manner. It was a form of civil law, with neither legal specialists nor confidentiality provisions. Everyone knew what every decision was, and sanctions were swift and effective. No one could 'get off on a technicality,' nor could their reputation escape tarnishing if they were adjudged to be in the wrong.

Because of the success of the Federal governments' national interest based goal of marginalization of traditional governance structures, the traditional justice systems of First Nations are in a state of shambles. For many First Nations, the combined influences of the *Canadian Charter of Rights and Freedoms* as codified in the *Constitution Act, 1982* and several hundred years of oppression have eroded the traditional justice systems to the extent that the values First Nations originally sought to protect are no longer seen as being viable for modern life. Traditional systems were based upon the notion of personal integrity, and many forces have come into our modern lives that challenge our abilities to recognize and maintain that integrity which is the basis of our culture.

Individual freedom of choice has become fundamental as the catalyst for personal conflict. Critical letters are regularly written to the Band Councils and the editors of newspapers, and

no forum is available to counteract the damage produced by this reckless mudslinging. Gossiping and character assassination are other forms of communication, which lead to personal conflict and intimidation in Aboriginal communities. Other powerful personal weapons of influence include the many forms of abuse and intimidation that some individuals use in their relationships with others - ranging from physical, to mental, to spiritual, sexual, and financial victimization. Even the incidence of financial elder abuse is increasing. Despite the epidemic of personal abuses evident in Aboriginal communities, most people recognize that financial success is not the only criteria for leading a worthy life, as it seems to be, judging from the messages we are bombarded with in the advertising of mainstream society. When all one has is integrity in a world turned upside down, integrity like the bubbles rising from a stone dropped into the water, will always rise to the top.

### **Traditional Governance and Family Fire**

The idea of First Nations cultural integrity in the 21<sup>st</sup> Century is problematic. For First Nations, which were essentially, self-governing less than one hundred years ago to be faced with so many impositions, the cultures are in a state of turmoil. Technologies, legal systems, individual value shifts, dislocation from the resources necessary for self-sustenance - all have impacted First Nations who are striving to maintain our own uniqueness and integrity when faced with so much change. The old values, which used to be taught, are not always suited to life in a modern economy and democratic political climate.

Individuals now need to earn incomes to support their own nuclear families, let alone their extended families, and the skills necessary to fill the positions available in the modern economy are not always directly transferable from the customary skill set, which has been practiced for generations. Traditional healers cannot fill the roles now held by doctors or therapists and thus have less financial earning potential. Spiritual leaders have been supplanted by the organized religions that demand conversion and training before the individual can become officially sanctioned to practice. Some hereditary chiefs are granted little political status in the democratic political hierarchy. The bureaucratization of the natural resources calls for specialists in forestry, fishing, and mining industries, which have alienated many First Nations from their traditional relationships to the land. Ecologically

sensitive global consumers now refuse to buy the furs, which have historically been important components of First Nations economies.

The voices of elders are often not respected by the younger citizens, as they once were, because the opinions and experiences they speak of seem outdated for a modern economy and world. And the concordant loss of influence that has occurred is very disturbing to them. As governmental programs supplant the traditional social safety net, it has come to the point in many communities today where elders now must pay cash to acquire traditional foods such as fish and meat. Everything is a commodity to be bought and sold, and if the historic cultural traditions cannot translate into economic benefits for individuals, then their value can lose relevance with the people who are more pre-occupied with meeting their most basic needs.

But many of the people still believe in the inherent value of the culture as the glue which holds their communities together. Hereditary chieftains still muster considerable influence at the community level - influence that can be exerted over individuals to ensure that their power is maintained, especially if someone has laid a criminal charge against one of their own clan members, thereby bringing the family's reputation into question. And if the allegation is for child abuse, then the pressure that may be brought to bear against the child or child's family to retract can be enormous.

The child and family making the allegations will likely be shunned and ostracized at social functions. The child's friends will be told to have nothing to do with the victim. This ostracism will also rub off on any worker (and their family) who is seen as supporting the victim. Often, the pressure to retract may be so great that the child may be forced to relocate to another community, disrupting school schedules, friendships, and extra-curricular activities such as sports. This cultural influence is real, and because the legal system is now premised on innocence until proven guilty, outright denial by the alleged abuser is usually the first line of defence.

The legal right of the individual has supplanted the traditional civil law based value of immediately accepting responsibility for ones' wrongdoings, and paying whatever the cost as stated by the community. The focus is now based on beating the charges by using all possible means available, rather than by acting with integrity and taking responsibility for any harm that your actions may have caused others. And because the need for culture is so strong in First Nations communities, cultural interference can be exerted in many ways.

People may use the cultural threat of bad medicine or black magic to intimidate and coerce individuals to keep a blanket over the situation. The use of gossip and the inappropriate use of the traditional language may be used as pressure tactics against the victim and their family when an individual with influence is threatened. Overt signs of disrespect may be implemented, as too may be the convenient use of tradition - using it only as a mystical blanket to hide behind publicly, rather than as the guide to everyday living which culture is meant to be. These tools of influence are endemic in many geographically isolated First Nations communities, which lack the resources and programs necessary to counterbalance the power of individuals who hold positions of influence both in the culture, and in the contemporary system of governance.

### **Band Council Fire**

When the Government of Canada amended the *Indian Act* in 1951, they were responding to both the assimilationist mandate of the National Interest and their own need to distance themselves from the egregious actions of their predecessors in relation to the Indians of Canada. By empowering the Band Councils in this manner, the Government of Canada created a standard platform suitable for the delegation of powers, which were always conditional upon the Ministers' approval. If Band Councils followed the rules set out by the Department of Indian Affairs, they would be rewarded as progressive Bands and would become eligible for the economic benefits, which would flow to them as they assumed greater responsibility for their own affairs.

Section 88 of the *Indian Act* deemed that the democratic rights of the individual were more appropriate for life in the 20<sup>th</sup> Century than were the traditional governance structures, which

had served First Nations for millennia. Band Councils were empowered to become the only official representatives for the people living on Reserve, and a culturally destructive system of elections was foisted upon us in the name of democracy. This unbidden extension of rights introduced new fuel to stoke the fire of sovereignty by our own people, further fanning the flames of this fire.

Government officials would subvert the traditional system of leadership by channelling essential goods and services to bands/tribes through such compliant Indian families, thus empowering them to disproportionately benefit themselves and their kinfolk and followers. (Boldt, 1993 p.120)

The disruption of traditional First Nations economies, compounded with the alienation from the resources of the land has led to such high unemployment in First Nations communities has ensured that the awarding of every job is a political decision. The power which has been vested in the Band Councils to appoint people to positions, has led to rampant nepotism. Not that this practice is new, it is just that the old criteria for advancement culturally through individual commitment to traditional learning and role modeling a healthy lifestyle are not now considered in the hiring process. Instead, decisions more are often based on whom you are related to and how much political influence you can muster when decisions are made to offer employment.

In lieu of salaries, DIAND has encouraged Band Councillors to grant themselves honoraria for the provision of their services. Often meeting grants apply whether serving on Council or as a Director of a Board, which they been appointed to by virtue of their position on Council, including child welfare committees. Because of the one person, one vote system of democracy forced upon us, the largest families resident on Reserve largely control representation on the Band Councils. Consequently, through the electoral franchise, they can be very powerful, and with that power comes influence. But, if these Councillors/Board members alienate themselves from their families through unpopular decision-making, they may very likely become unseated from their financially lucrative positions at the next Council election. Every decision made by a Band Councillor is scrutinized publicly, and any decision which they make which may have negative consequences for a constituent can become a nail in their own coffin - unless they come from a family so large that it controls the entire election for the village thereby guaranteeing re-election for the Councillor. If that is the case,

as it is in some First Nations communities, the Councillor is then free from ANY reproach and may exert their influence in ANY way without fear of repercussion.

A childcare agency that cannot stand up to interference cannot do its job, and is not entitled to a mandate. An Indian leadership that cannot discipline itself is not worthy of governing.

(Giesbrecht, 1992 p. 232).

If someone in a politically powerful family has victimized a child, the workers in the social service agency can face much threatening and coercion in an effort to avoid political alienation of the family through the actions of the workers. The safety and health of the children may be sacrificed for political and economic reasons. As long as the governing Boards of Directors of these agencies are comprised of people with personal vested interests by having to maintain their positions, objective decisions cannot be expected in the planning for children at risk.

Conflict of interest as defined includes political interference and involves actions to interfere or appear to be interfering in the policies and practices of the Agency in order to gain personal or financial benefits for themselves, family, friends or other First Nations members.

(McKenzie 1997, p. 140)

Decisions pertaining to the planning for children in care must be handed over to the professionals who can act in the best interests of the child within the context of the culture.

### **Provincial Jurisdictional Fire**

The Hawthorne report of 1966 stated that the special status of Indian people had been used as a justification for providing them with services inferior to those available to the whites who had established residence in the country which was once theirs (Johnston, 1983 p.3). This report indicated that the limited child welfare services provided by the Provincial governments to on-Reserve communities were substantially inferior to those provided in the mainstream. It spoke to the double standards in the levels of service, which could be expected by citizens residing in the same territory depending upon their residency and ancestry. First Nations people living on Reserve were not eligible for those services which their off-Reserve, non-First Nations neighbours took for granted. For a progressive country such as Canada aspired to become renowned for worldwide, the public acknowledgment of

its own internal political inconsistencies as suggested in the Hawthorne Report demanded that some new policy must be embarked upon.

But when the *British North America* was passed in 1867, the creation of Provinces created a jurisdictional problem for the Canadian government in regards to the provision of services to First Nations. The National Interest dictated that the Federal government maintains an assimilationalist agenda in regards to First Nations. But when the Federal government was forced to review its dismal social programming on-Reserve, the challenge for them became finding a way to further the National Interest in such a manner that would not infringe upon the Provincial government's jurisdiction, while at the same time improving living conditions in First Nations communities. If the Federal government were to continue its policy of assimilating First Nations peoples, then the jurisdictional barricades to integration would need to be cleared aside through the exertion of political influence on those Provincial politicians who heretofore had little to gain from the inclusion of on-Reserve citizens into their electoral territories.

The government of British Columbia was unique in Canada in that it had become established before the Indian Question had been resolved as it had been elsewhere in Canada through the prescriptive tool of treaty making. In 1871 an Order in Council was signed stating in the Terms of Union between the Dominion of Canada and British Columbia that the Dominion government would be given "charge of Indians, and the trusteeship and management of lands reserved for their benefit." (Canada, 1871) But when the 12,000 white residents of B.C. agreed to enter the Dominion of Canada in 1871, the voice of the estimated 25,000 Indians already resident in the colony at the time was never heard (Robinson, p.226). Indeed, until the establishment of the B.C. Treaty Commission in 1992, the Province had denied the existence of any Aboriginal rights, and refused to join into any process which acknowledged First Nations jurisdiction on any land other than the Reserves set aside for our use. This denial of jurisdictional responsibility formed the basis for the ideology which guided British Columbia child welfare law and enabled the development of a new modality of colonialist regulation of First Nations in the post-Second World War period (Kline, 1992).

The Provincial government argued that according to the *Terms of Union* all matters pertaining to Indians were a Federal responsibility. Conversely, the Federal government argued that s.92 (13) of the *Constitution Act*, 1867 defined social services as a Provincial matter, and therefore that the provision of child welfare services to First Nations must be a Provincial responsibility. In order to skirt this jurisdictional dispute, a political mechanism, which would allow the Provinces to extend their legislative authority over Reserve lands without incurring any extra costs upon themselves, was needed.

The Federal government already had the legal authority necessary to extend jurisdiction to the Provinces under Section 88 of the *Indian Act* (1951), which stated that:

All laws of general application from time to time in force in any Province are applicable to and in respect of Indians in the Province.

(Canada, 1951)

This law applied whether resident on or off Reserve. Additionally, the Treasury Board of Canada had issued Treasury Board Minute # 627879 in 1964, which stated that Provincial standards and procedures were to apply in service delivery to First Nations (Canada, 1964). The Federal government built upon this combined legislative and administrative foundation to negotiate a draft Memorandum of Understanding with the Province of British Columbia for financial compensation for the delivery of child welfare services on-Reserve. No First Nation was ever consulted during the negotiation of this secret MOU which went unsigned by either party until 1996 (thereby maintaining its informal legal status), but it managed to provide a link lucrative enough to allow the Province to extend its child welfare services to First Nations communities. In the 1994-95 fiscal year alone, the Federal government transferred over \$80 million to the Province of British Columbia for the provision of child welfare services. (Canada, 1996)

The administrative agreement of this Memorandum of Understanding effectively allowed the Government of Canada to meet its own self-defined fiduciary obligations to First Nations, while establishing a mechanism wherein the provinces could recoup their expenses incurred through the extension of the services to the on-Reserve population. The impact of this agreement was extremely detrimental to traditional First Nations cultures. The bounty hunting aspect that it introduced into the arsenal of Provincial child protection workers was

a contributing factor in the historical phenomena known as the Sixties Scoop, as the Province of B.C. extended its authority into Reserve communities under the *Family and Child Services Act*. The Ministry of Social Services began to bill the Federal government for each status Indian child brought into care by its own social workers that were applying their standards and values when apprehending children on Reserve. Accordingly, the percentage of First Nations children in care as compared to non-First Nations has consistently increased since the implementation of the Federal/Provincial Memorandum of Understanding.

The power to interfere in a nation, community, or family in order to protect one of its members by an external force is one of the most powerful responsibilities vested in any government (ICFS, 1992). However, when this power is not wielded responsibly, its impact will affect the cultural values and communal responsibilities of the individuals within that society, and any intervention becomes a form of interference. Because of Section 88 of the *Indian Act*, the Province of British Columbia has the power to set standards for child welfare practice. But the values, which inform their standards, are not First Nations values, nor are they consistent with First Nations cultures and traditions. The challenge now faced by the First Nations who are establishing Family and Child Service Agencies is to translate the intent of the *Child, Family and Community Service Act* through our own cultural lenses. We need to be able to set our own standards, which maintain the baseline values of safety and protection for our children without compromising the values of our cultures, nor exposing our children to the structural interference of influential individuals in the case planning process.

The codification of these standards is important because these standards offer a base to examine and measure practice, the premise from which it has developed, and the performance of the child welfare agencies and their current services.

Standards can be used in the planning, organizing, and administering of services and in determining the requirements for accreditation. Standards provide content for teaching and training the workers in the child welfare agencies, for in-service training and staff development programs, and in the orientation of the Boards of Directors. They can also help to explain and justify expenditures and budget requests to funding bodies. Finally, standards can promote understanding of how the service may more effectively meet the needs of children, what it should be expected to do, and how it can be used.

(Child Welfare League of America, 1988 p.viii)

An equivalent standard for First Nations practice could be based upon the United Nations Convention for the Rights of the Child, of which Canada is a signatory:

Parties shall take all appropriate legislative, administrative, social and educational measures to protect the child from all forms of physical or mental violence, injury or abuse, neglect or negligent treatment, maltreatment or exploitation, including sexual abuse, while in care of parent(s), including guardian(s) or any other person who has care of the child.

(United Nations, 1989)

But the Province still maintains the power to withhold the transfer of delegation to First Nations agencies, and is still being subsidized by the Department of Indian and Northern Affairs through their Memorandum of Understanding regarding billing back for services rendered to First Nations. Until the inherent right of First Nations to govern ourselves is recognized, the authorities and powers, which are delegated to us, will always be conditional upon the values, objectives, and standards of those who set the conditions for the delegation. One of the most important messages from the Liberating Our Children Liberating Our Nations report as stated in the recommendations is: "Interim measures requiring a non-Aboriginal legal sanction cannot be interpreted as consent by our Nations and communities to the extension or Provincial legislative jurisdiction into Aboriginal family life." (Aboriginal Community Panel, 1992 p. 64)

The fire created by Provincial jurisdiction is still being felt even as First Nations assert our own sovereignty over the provision of services to our youngest citizens.

### **National Sovereignty Fire**

Prior to contact with Europeans intent on colonizing North America, the First Nations already established in the territories here had complex processes governing their internal and external relationships. Complex systems governed trade, jurisdiction, dispute resolution, resource allocation, and other external affairs in a manner mutually understood by the participating Nations (Little Bear, et al, 1984 p.xv).

In historic times, the prime motivator driving the National interest of each First Nation was the survival of the people. Overexploitation of resources was not a viable strategy for long-term survival. Only through co-operation could individuals and Nations maintain a harmonious balance among themselves and the land. The formalized agreements, which did exist between First Nations governments, were based upon respect and reciprocity. Neighbouring Nations were acknowledged as legitimate simply by virtue of their continuing survival and existence.

After contact, the European colonizers sought to impose their assimilative ideology upon the original inhabitants of the North American territories. Their philosophy demanded that the First Nations people residing here be viewed simply as tenants, with no inherent rights to the resources of the land (de Tocqueville, 1945.) The land could then be legitimately alienated from its historic users. The European governments decided among themselves how the vacant" lands of the Americas would be divided at the Treaty of Paris in February 1763 (Sewid-Smith, 1991 p.21). This decision, and the ensuing decisions made by politicians who had been schooled in European values and beliefs during the 16<sup>th</sup>, 17<sup>th</sup>, 18<sup>th</sup>, and 19<sup>th</sup> Centuries has had, and continues to have a significant impact upon the current status of the First Nations within the Nation of Canada.

*The Act for the Gradual Civilization of the Indian Tribes in the Canadas* that was passed by the legislature of Canada in 1857 was a combination of the assumptions of the past and the objectives for the future. The statute's preamble indicated that the legislation was built on the aspirations of the missionaries and the conclusions of the Bagot Commission:

Whereas it is desirable to encourage the progress of the Indian Tribes in this Province, and the gradual removal of all legal distinctions between them and her Majesty's other Canadian Subjects, and to facilitate the acquisition of property and of the rights accompanying it, by such individual Members of the said Tribes as shall be found to desire such encouragement and to have deserved it

(Canada, 1857)

To that end, the statute established ways in which Indians might become enfranchised, thereby becoming full citizens with no further claim to legal status (Leslie and Maguire, 1983 p.22). This was one of the first official fires created in the home of First Nation sovereignty

by the fledgling government of Canada, and it led to many more as the *Gradual Civilization Act* became the foundation of the *Indian Act* and its successive amendments.

The traditional First Nations governments recognized that they were being deliberately denied and stripped of their autonomous powers of self-governance because of the European colonizers plans for the lands, which the original citizens had been occupying. The life sustaining resources of the territories had become over exploited, and many of the First Nations people normally resident there had either died of disease or starvation or had migrated into the more isolated territories of other First Nations. Only when the sovereignty of the First Nations of an area had become weakened through the exploitive actions of the colonizers was the Federal government prepared to negotiate treaties, the terms of which they could dictate to meet their own political interests.

When faced with this political interference cloaked as the National interest of Canada and sold as the only practical option for First Nations to ensure their very survival, many First Nations were forced to surrender their claims to their own lands and resources. The Federal goals of marginalization of the traditional governance structures and the general assimilation of Indians as just another ethnic minority were advanced greatly through the coercive exercise of political interference in the treaty making process.

Assimilation has been a key motivating force driving the National interest of the Government of Canada in its relationships with First Nations. This imperative is informed by and continues to be reinforced by racism, classism, evangelism, and humanism. It seeks to deny traditional knowledge and cultural authority, and it can be detected in every piece of legislation and policy they have sought to foist upon us.

From the passage of the Indian Act in 1876 until the 1960's child welfare for First Nations people in Canada was dominated by the policy of assimilation, which used education methods to change the culture and character of their children.... When the policy of assimilation was replaced by the policy of integration, the residential schools were replaced by the child welfare strategy in a second attempt to ensure that the next generation of Indian children was different from their parents. Children separated from parents considered by child welfare authorities to be negligent and abusive were raised in foster care or adopted.

(Armitage, 1993, p.131)

When the *Indian Act* was amended in 1951, the elected Band Council system of governance was changed in an effort to reduce the more coercive methods, which had been imposed upon the Reserves in earlier versions of the *Indian Act*. The ability of the Indian agent to interfere politically was reduced somewhat, but the general outlines of the assimilationalist policy remained unchanged (Miller, 1991 p.222). The Band councils became further empowered as the preferred organizational structures for the delegation of authorities. First Nations traditional systems of governance were not respected, and the political balance in the communities shifted to a democratic system, which favoured people from larger families over individuals who had earned communal authority through their own integrity and training.

Concurrent with the changes to Indian policy and law, another venue for assimilation practice was being implemented. During the period from the late 1800's to the 1980's, there was a process of institutional assimilation occurring through the church administered residential school system.

Indians language, dress, and customs were forbidden, and children often didn't see their parents for 10 months of the year. The schools were run on a shoestring per capita grant, so they were always overcrowded with insufficient food supplies... Conditions were so bad that in 1907 a special investigation reported that as many as two-thirds of those discharged from a particular boarding school died from diseases contracted at the school.

(Hull 1988).

The Federal government's Residential School policy of institutional assimilation anticipated that a thorough indoctrination in European values would encourage Indian people to enfranchise. This experiment in social engineering generally failed to encourage individuals to renounce their cultures, however, it was successful in undermining the traditional governance structures of the First Nations, and it proved to be an excellent tool for the destruction of parenting skills for generations of children, the ramifications of which will be felt for years to come (Kovach, 1992 p.23).

Since the time of the Hawthorne Report, Canadian official social policy towards First Nations has sought to transform itself as successive Federal governments looked for ways to divest themselves of their obligations to the First Nations. The path has led from the White Paper of 1969, past the Nielsen Report of 1983, to the current drive for devolution through Health Transfers, Local Education Agreements, Financial Transfer Agreements and Indian Family and Child Service Agency development. But the values underlying these policies has always remained consistent as the Federal and Provincial governments have sought to further disempower the traditional First Nations governance structures through coercion, co-optation, and bribery. The terminology has changed, but the foundation of the National Interest as initially laid in the *Act for the Gradual Civilization of the Indian Tribes of Canada* is still clearly visible in the policies of today.

### Chapter Three - Literature Review

Chapter three examines a number of articles that address the issues associated with Aboriginal self-government, self-determination and operational and practice issues associated with Aboriginal child welfare. This chapter is also used to demonstrate how the concepts of colonization, human rights and genocide are pertinent to the discussion of Aboriginal child welfare. The purpose of this literature review is to identify similar Aboriginal interests, discussions and themes within existing Aboriginal child welfare research. The elements within the literature review establish what I consider to be the key principles of Aboriginal child welfare. These literature based key principles also serve to contrast and validate the themes which emerged through my analysis of the submissions to the Aboriginal Community Panel.

First Nations must be empowered, politically, and otherwise to develop their own child welfare services outside the framework of exiting provincial legislative schemes. This approach would be considered with the current, long-term strategies of many First Nations communities which are developing child welfare services with the more general goal of self-government... The current crisis in First Nations child welfare will only be effectively resolved if addressed in conjunction with and intersecting social, economic and political goals of First Nations.

(Kline, 1992, pp. 424-425)

For the purpose of this thesis, I examined and synthesised six different perspectives on Aboriginal child welfare, based on literature sources available at the time. The articles I reviewed were:

1. "Aboriginal Self-Government and Social Services: Finding the Path to Empowerment - An Annotated Bibliography" (Durst, 1995)
2. "Aboriginal Government of Child Welfare Services: Hobson's Choice?" (Durst, 1995)
3. "Towards an Aboriginal Model of Social Work Practice" (Morrissette, et al, 1993)
4. "Child Welfare Law, 'Best Interest of the Child' Ideology, and First Nations" (Kline, 1992)
5. "Proposed Plan of Action for the Prevention of Child Abuse and Neglect in Aboriginal Communities" (Secretariat National Aboriginal & Islander Care, 1996)

6. "Best Interests in Child Protection Proceedings: Implications and Alternatives".  
(Bala, et al, 1995)

I reviewed two articles by University of Regina professor Douglas Durst: *Aboriginal Government of Child Welfare Services: Hobson's Choice?* (1995) and *Aboriginal Self-Government and Social Services: Finding the Path to Empowerment - An Annotated Bibliography* (1995). The purpose of Durst's research in both articles was to identify models that promoted the notion of self-determination and self-government of social services.

The first article was published as a chapter in *Child Welfare in Canada: Research and Policy Implications*, edited by J. Hudson and B. Galaway. The second Durst article was jointly sponsored by Miawpukek Mikamaway Mawi'omi Council of the Conne River Micmac from Newfoundland and the Innu Nation Board of Directors Sheshatshit, Nitassinan/ Labrador. It was funded through the National Welfare Grant Program of Human Resources Development Canada. The Micmac community of 650 people are Indians as defined by the Indian Act, and they control most social services through local control mechanisms. The Innu community of 900 had no treaty at the time of writing, and exercised control of community health care and the delivery of social programs through Provincial programming.

In the Durst articles, the key themes related to improved delivery of Aboriginal child welfare services were:

- 1) Increased control and decision-making;
- 2) Recognition of diverse needs and cultures;
- 3) Accountability to locally elected persons.

The third article I reviewed was written by Vern Morrisette, Brad Mackenzie and Larry Morrisette and was published in 1993 in the *Canadian Social Work Review Journal*. In the *Towards an Aboriginal Model of Social Work Practice* article, the authors identify the elements necessary for the creation of an Aboriginal model of Social Work practice. The themes identified in this article that have relevance to Aboriginal child welfare practice were:

- 1) Recognition of an Aboriginal worldview that approaches problem identification and solving from a different context than mainstream conceptualizations;
- 2) Acknowledgement of the impacts of colonialism on First Nations ;
- 3) Affirming the use of cultural knowledge and traditions;
- 4) Utilizing intervention strategies that emphasize empowerment.

The fourth article I reviewed was Child Welfare Law, 'Best Interest of the Child' Ideology, and First Nations by Marlo Kline that was published in 1992 in the Osgoode Hall Law Journal. In this article, Kline locates Aboriginal child welfare within a political context that demonstrates that the need for solutions to the problems facing Aboriginal children and families must occur within a politically charged environment.

To transform ideology substantially, it is necessary to work on changing the material conditions and power relations responsible for it's production and reproduce. In a child welfare context, this means addressing directly the power according to institutions of the dominant society to impose destructive child welfare regimes on First Nations in the first place. First Nations must be empowered financially, politically, and otherwise to develop their own child welfare outside the existing framework of existing provincial legislative regimes. This approach would be consistent with the current long-term strategies of many First Nations communities, which are developing child welfare services with the more general goal of self-government.

(Kline 1992)

The elements that Kline identifies as being critical to the development of an Aboriginal child and family service delivery system are:

- 1) The necessity of an autonomous, self-governing administration;
- 2) The recognition that the environment for the work must include social, economic and political goals.

The fifth article that I reviewed was a report from Australia entitled Proposed Plan of Action for the Prevention of Child Abuse and Neglect in Aboriginal Communities. This paper was prepared by Secretariat National Aboriginal & Islander Care in 1996. This report examines the impacts of colonization on the Indigenous peoples of Australia and makes recommendations for legislative and policy changes in regards to Aboriginal child welfare. The principles of service delivery and design identified in the report were:

1. Recognition of the right to self-determination;
2. Community control over the design and delivery of services;
3. Holistic view of child abuse and neglect;
4. Affirmation of the importance of the role of kinship groups;
5. Acknowledgement and recognition of the cultural, linguistic, experiential and geographic diversity that exists amongst Aboriginal people.

The sixth article that I examined was co-written by N. Bala, J. Isenegger and B. Walter and published in the Canadian Journal of Family Law in 1995. Best Interests in Child Protection Proceedings: Implications and Alternatives explored the discretionary power wielded by the judiciary and child welfare worker when determining the best interests of Aboriginal Children.

A child's being reared with, or at least having the exposure to his/her own cultural, linguistic, social and religious heritage is a critical factor in his/her identity formation, and hence is important to that child's healthy development... Some would argue that it is the system that is the culprit by removing the children from their culture...

For Aboriginal children brought into the child welfare system for the first time, decision makers need to make every reasonable effort to support the family or extended family in their efforts to properly care for the children. When children cannot be adequately protected within the parental home, an exhaustive search for a secure, culturally compatible placement within the child's extended family or community is required.

(Bala, et al. 1995)

The principle within this report that has relevance for the delivery of services to Aboriginal children and families was the importance of the recognition of the 'Indigenous factor' in the determination of the best interests of Aboriginal children who come before the courts.

By reviewing these academic resources, I familiarized myself with the writings of a variety of scholars who were considering Aboriginal child welfare issues at the time. I focussed primarily on Aboriginal academics with experience in the social work field, but I also drew upon the experience and knowledge of authors working in the field of family law. In order

to broaden my knowledge, I also sought out information from other countries that have indigenous populations who have experienced colonialism and who are struggling to provide culturally appropriate solutions to child and family services issues.

The information that I gleaned from my review of the literature revealed to me a series of themes that helped to frame my analysis of the submissions to the Aboriginal Community Panel. These themes are a synthesis of the key points made by the various authors in the articles that I reviewed. The major Aboriginal child welfare themes that I identified from the sources I reviewed are as follows:

- a. Recognition of an Aboriginal worldview;
- b. Acknowledgement of the damaging impact of colonialism;
- c. Affirming the use of cultural knowledge and traditions;
- d. Utilization of intervention strategies that emphasize culturally appropriate empowerment;
- e. Need for an Aboriginal definition of best interests;
- f. Necessity of having local accountability and governance;
- g. Recognition of the diversity of Aboriginal peoples and cultures;
- h. Holistic problem solving and identification;
- i. Rebuilding a positive Aboriginal self-image;
- j. Persistence of institutionalized racism;
- k. Citizenship and capacity-building barriers.

These 11 themes form the foundation of what I believe are the key principles for Aboriginal child welfare practice and are the main components of the Aboriginal lens that I used to focus the next stages of my research.

## Chapter Four – Methodology

In Chapter four, I present the elements of my thesis related to the following areas: rationale, research context, methodology, research design, and ethical considerations. I conclude this chapter with a précis of the submission that I personally made to the Aboriginal Community Panel in 1992, on behalf of the Gitwinksihkw Band Council in order to demonstrate a snapshot of what I considered to be the relevant issues associated with Aboriginal child welfare practice in 1992.

In the rationale section, I introduce the purpose of my research. In the research context section, I explore whether or not the power dynamics associated with the Panel process contaminated the data that was produced and I question the level of commitment the Province has for Aboriginal child welfare. I also identify the elements of my research that I consider to be outside the scope of legislation and counter to the Provincial position that was reflected in the published report of the Aboriginal Community Panel in 1992. In the methodology section, I describe the analytic framework I utilized to conduct my research into the 37 submissions. In the research design section, I introduce the framework of conflict types that I used to analyse the 37 submissions made to the Aboriginal Community Panel, and I describe the multi-phased analysis that I conducted on the submissions. In the final section of this chapter I address the ethical considerations I faced in conducting this research.

### Rationale

The intent of research on the submissions made to the British Columbia Review Committee on the *Family and Child Services Act*, Aboriginal Community Panel by 37 Aboriginal communities in 1992 (Appendix 1) is fivefold:

1. To analyse the submissions using a conflict analysis lens in order to determine the types of conflict that were articulated in the submissions, and whether these conflicts were based on values, structures, interests, relationships or information;

2. To formally articulate the aspirations of the 37 Aboriginal communities who made submissions to the Aboriginal Community Panel;
3. To identify issues in the submissions that appear to be systemic in nature and therefore outside the bounds of the proposed legislation;
4. To create a principled framework for the future development of a Nisga'a Child Services Act, pursuant to the Nisga'a treaty.
5. To develop a baseline for an Aboriginal focussed evaluation tool for contemporary child welfare practice.

In the 12 years that have elapsed since the Aboriginal Community Panel received these submissions in 1992, I had hoped that a review of *Child, Family and Community Service Act* would have occurred. Although this has not happened yet, I believe that such an evaluation could empower First Nations if it were based on the key principles articulated in the Aboriginal Community Panel submissions. It is my fear that because the *CFCSA* is not inclusive of the aspirations of Aboriginal communities, contemporary child welfare practice has evolved into a new and improved form of assimilation by default. My fear is that the legislation has taken colonization to a new level - one child and one family at a time.

### **Research Context**

I conducted my analysis of the 37 Aboriginal community submissions in 2000. At that time, in my position as the Director of Nisga'a Child and Family Services, I was observing that the issues and conflicts that I had spoken to in my 1992 submission to the Aboriginal Community Panel had not been substantially resolved. From my perspective, Ministry for Children and Family social work practice in 2000 was not substantially different than it had been in 1990, despite the publication of the Report of the Aboriginal Community Panel – *Liberating Our Children Liberating Our Nations* in 1992, the *Report of the Gove Inquiry into Child Protection in British Columbia* in 1995, the proclamation of the British Columbia *Child, Family*

*and Community Service Act* in 1996, and the production of a *Ministry for Children and Families Strategic Plan for Aboriginal Services* in 1999. Everyday in my practice, I was seeing examples of institutionalized racism, cultural arrogance, historical denial, and dysfunctional professional relationships illustrated among some of my contemporaries employed by the Province of British Columbia. On the cusp of the implementation of the Nisga'a treaty, I was struggling with the question, "How can one change the attitude of a system that has traditionally been opposed to the notion of Child welfare as an Aboriginal right or inherent right?"

In reflecting on that question, I determined that it would be useful for me to establish a baseline of the aspirations of the Aboriginal communities that had been reiterated to the Provincial and Federal governments over the years. This need to establish a baseline led me back to the raw data that I knew had been produced by the Aboriginal Community Panel in 1992. By re-examining the data, I felt that I might obtain a clearer insight into why Aboriginal child welfare problems continued to exist in 2000. By seeking to articulate the issues contained in the submissions to Aboriginal Community Panel, I hoped to evaluate whether or not the Ministry for Children and Family Development and the *CFCSA* have facilitated the desired aspirations of the Aboriginal communities of British Columbia.

At the outset of my analysis of the 37 submissions, I reflected upon my own experience as a presenter to the Panel, and I realized that the content of the submissions that I was to look at had been influenced by the power dynamic that existed in the Aboriginal Community Panel presentation process. I knew from first hand experience that the very act of making a submission to a quasi-governmental Panel influenced the content of my submission, due to the history of First Nations/government interaction over the past 100 years. The broken promises, misinterpretations, and outright denial of Aboriginal positions that has occurred since First Nations began advocating for our own rights still colours every interaction that First Nations have with Canadian governments.

### **Methodology**

In order to analyse the submissions made to the 1992 Aboriginal Community Panel by the 37 Aboriginal communities, I utilize a qualitative content analysis process based on a conflict

analysis framework that was developed by Dr. Chris Moore of CDR Associates in Boulder Colorado. The data obtained from the content analysis is presented in two tables.

The initial presentation of the data in Appendix 2 illustrates the identified themes contained in the data and the frequency with which these themes appear in the submissions. Appendix 3 adds to the initial presentation of the data another layer of analysis that indicates whether or not the theme area was represented in the final report of the Aboriginal Community Panel and also whether or not the theme is reflected in the contemporary practice of the Province of British Columbia.

### **Research Design**

The research approach I utilized for this thesis was a modified content analysis process, which enhanced my Aboriginal research lens by using a framework of conflict resolution and principles of self-determination. I began the development of my research lens with a review of academic literature to focus the research. The results of the literature review are included as Chapter 3 of this thesis.

The second stage of my research process was to review the data received by the British Columbia Review Committee on the *Family and Child Services Act*, Aboriginal Community Panel in 1992. The source for this research was the 37 publicly released submissions out of the 42 Aboriginal community submissions received by the Aboriginal Community Panel (Appendix 1), each submission having been assigned a numeric label (e.g., 023 – Penticton Indian Band). Five submissions to the Aboriginal Community Panel were not released to the public domain, however the data from the 37 Aboriginal Community submissions that were released is fully in the public domain.

The second stage of my research had several phases of analysis. In the first phase of my analysis of the submissions, I identified five emphasis areas for my research. I extracted the issues contained in each of the 37 submissions into the five emphasis areas that were based on the five types of conflict detailed in the 1986 Dr. Chris Moore book entitled *The Mediation Process*. The five emphasis areas identified in Moore's work are: Interests, Structure,

Relationship, Values and, Data. Moore defines these categories as follows:

Interests - the desires, needs, concerns, fears and hopes of each party to a dispute.

Structures - When physical limits prevent everyone from getting what they want, issues on structure are a problem. Parties may be in conflict because of the structure or system within which they operate. If they cannot change something in the situation, the problem will occur again and again.

Relationships - When one party questions the trustworthiness, integrity, mental acuity or reliability of another party, relationship dynamics are a source of disputes.

Values - Disputes involving values are characterized by efforts to define what is "right" in some moral sense and to determine which party's values should have priority in the dispute.

Data - Often recognized in questions as such as "How many?" or "What's best?", data disputes result from different sources, analyses or interpretations of information.  
(Moore, 1986)

I first encountered Dr. Moore's work in 1998 while serving on the British Columbia Children's Commission. As an Aboriginal person, I gravitated to the universal holistic perspective that his approach to conflict resolution embraces. Although the mainstream approach to conflict resolution is often presented as a linear process, Dr. Moore's work brought to my mind the conflict resolution process utilized in the Nisga'a feast hall. I immediately embraced the multi-dimensional principles identified by Dr. Moore, recognizing their utility as a framework for conflict resolution that is consistent with an Aboriginal worldview.

In analysing the raw data from the submissions using the multi-dimensional principles articulated by Dr. Moore, I believe that my analysis in no way discounts the reliability and validity of the data. The five elements of Dr. Moore's analysis enabled me to synthesize the attributes of the 37 Aboriginal community submissions in order to directly transpose raw data from the Aboriginal submissions into a series of goals to measure the aspirations of the Aboriginal communities. I believe that the grouped elements from the submissions painted a picture of the aspirations of the Aboriginal communities.

At the end of the first phase of my analysis of the 37 submissions, I had produced for each submission a breakdown of the five emphasis areas. Each emphasis area was comprised of a series of statements taken from the submission that linked back to the definition of the emphasis area.

In the second phase of my analysis of the submissions, I brought together from all 37 submissions all of the statements I had associated with each discrete emphasis area during phase 1 of the analysis. I then sequentially numbered each statement within each emphasis area. At this point, the statements that I had partialized out of the 37 submissions were no longer associated with the original submission from which they were taken, but rather were grouped into one of the five emphasis areas identified by Moore.

In the third phase of my analysis, I reviewed the numbered list of statements within each emphasis area, looking for statements that were of a similar nature. By re-examining the grouped statements in this way, I identified a number of themes within each emphasis area. This result of the thematic grouping of statements is illustrated in Appendix 2. In the column titled “Total number of instances” the numbers are not weighted and the “Key Concepts” are also a list in no sequential order

In the final phase of my analysis of the submissions, I add a final layer of analysis that indicates whether or not the theme identified during the previous phases of analysis was represented in the final report of the Aboriginal Community Panel and also whether or not the theme is reflected in the contemporary practice of the Province of British Columbia as of June 2000.

### **Ethical Considerations**

Having myself been a presenter to the Aboriginal Community Panel in 1992, I am personally aware of the political context within which research on Aboriginal communities takes place. In 1992, there were only a handful of First Nations organizations with the knowledge, skills and resources to have input into the Aboriginal Community Panel process. The intent of the Community Panel at that time was to revise the existing child welfare legislation of the

Province of British Columbia. It was not directed towards developing an Aboriginal model of child welfare practice, nor was it directed to creating an evaluation tool for Provincial child welfare practice.

Regardless of the rationale for the information gathering process that the Aboriginal Community Panel embarked on, I decided to draw upon the collective Aboriginal wisdom that was amassed in 1992, in order enhance service delivery to Nisga'a children and families. The data received in the form of submissions by the 37 Aboriginal communities was released to the public domain, and my re-examination of the data is both respectful and appropriate.

In accordance with University of Victoria policy, I presented my research proposal to the Human Subjects Review committee and received an exemption from having to complete a human subjects review procedure because my research was a review of documents already in the public domain.

Additionally, I feel that it is important for me to disclose that I have presented the original submission that I made to the Aboriginal Community Panel in 1992 on several additional occasions. In 1994, I presented my submission to Judge Thomas Gove at the Terrace session of the Gove Inquiry into Child Protection in British Columbia. In 1996, I presented my submission as a guest speaker for the Aboriginal Training Conference in Squamish. I again presented my submission as a guest speaker at the 1999 Child, Family and Community Conference in Prince George.

I have included the submission I made on behalf of the Gitwinksihlkw Band Council to the Aboriginal Community Panel as Appendix 4 of this paper. The first paragraph of my submission speaks to the issues of looking at the best interests of our children from the First Nations communities. The second paragraph speaks to the issues of the industry of despair that existed where culture and communities were not part of the legislation at that time. The third paragraph refers to the fact that at time of the Review, I was the president of the Northwest Band Social Workers' Association and that the presentation included the seven First Nations, which were members of the NWBSWA at that time. The fourth paragraph stated that in order for change to happen in the communities, identification of the

oppressions of First Nations peoples must occur. Paragraph five speaks to the negative social facts have that created the environment for First Nations children. In the final paragraph, I spoke to the erosion of the traditional systems of child welfare.

I conclude my submission with the following 12 recommendations:

1. Transferring authority.
2. Recognition of cultural needs.
3. The child is a citizen of the nation.
4. Use of extended family and community.
5. Increase the number of first Nations foster parents
6. Equity for statutory and non-statutory services.
7. Holistic resolution.
8. Training for Ministry social workers to better understand First Nations peoples and cultures.
9. Increases number First Nations employed in the ministry system.
10. Stability of Ministry work force in the North region.
11. Custom adoptions congruent with the child's culture.
12. Courts be the last resort.

(Gitwinksihlkw Band, 1992)

## **Chapter Five – What the Aboriginal Community Asked for.**

In Chapter five, I present my analysis of the data. The information I present is the result of my multi-phased content analysis of the 37 publicly released submissions to the 1992 Legislative Review of the Family and Child Services Act Aboriginal Community Panel. The data upon which this information has been produced is detailed in Appendices 1 and 2.

In keeping with my analytic framework that was based on the conflict resolution model produced by Dr. Chris Moore, I present my grouped findings as emphasis areas that I observed through my research process. I believe that presenting my findings in this manner preserves the integrity of the data, especially as it relates to the aspirations of the Aboriginal communities that made submissions in 1992. The five key analytic categories articulated in Dr. Chris Moore's conflict resolution model are:

1. Interests
2. Structures
3. Relationships
4. Values
5. Information

At the beginning of each section, I reference Moore's definition of the analytic category of conflict that informed my categorization of the data. I also present an abbreviated version of the data which functions as a matrix to track the partialized panel submissions. I then draw in direct citations from the submissions that serve to illustrate and exemplify the identified theme area.

### **Analysis of Submissions - Interests**

Interests are the desires, needs, concerns, fears and hopes of each party to a dispute. Because there are many ways to satisfy various interests, interest disputes can be resolved. (Moore, 1986)

Analytic Category: <b>Interests</b>		Total number of instances
1	New family centred concept needed	16
2	Holistic service model needed	17
3	Acknowledgment of structural conditions	8
4	Authority still with province (should be with local people)	11
5	Recognize Native Wisdom	3
6	Meet children's needs	5
7	Use courts as last resort	2
8	Improve operation of current system	9
9	Legislative changes (needed)	37
10	Building capacity (needed)	8
11	Equity of Services (needed)	10
12	Cultural values and practices (needed)	31

Figure 1

Examples and discussion on each of these 12 emphasis areas within the analytic category "Interests" are illustrated below.

### **Interest 1 - New Family Centred Concept Needed**

Under the emphasis area: New Family Centred Concept Needed, I identified 16 interest based statements of conflict in the data that speak to the issues associated with the issues surrounding the inadequacy of the existing model of service delivery.

From the start, let us be clear the primary issue is a simple one. Representatives of the Ministry of Social Services have in the past and continue to do so to this day to ride shot-gun over the lives of our families and our communities. We would like to state from the start that we do not recognize the right of this Ministry to continue its practice of breaking up our families and destroying our people.

(FNFCWA, 1992)

This statement clearly identifies and names the issue for what it is, and the FNFCWA statement is a direct confrontation to the Ministry's jurisdiction to interfere in the lives of Aboriginal families. What is required is a change in focus from reactionary protective services to a model based on prevention services.

Change concept to Family Protection Act... focus on preventions and support services before intervention... empower clients rather than disempower.

(Hey-Way'-Noqu' Healing Circle, 1992)

This notion of providing preventative services to keep families together was also expressed by the Kitsumkalum Band.

Preventative services should be offered to the families before apprehensions take place. Apprehension should be done as a last resort. Every effort should be made to keep the families together. The families should be taught how to care for their children, budget their money efficiently, get counselling for their problems, get alcohol and drug treatment and be counselled by a drug and alcohol worker.

(Kitsumkalum Band, 1992)

This emphasis on prevention does not negate the need to pay attention to the child's needs within the family unit, however.

Real efforts need to be made to protect the basic security of children that is so critical to healthy development, especially when children cannot speak for themselves. Family is so prevalent, and family break-up so frequent that the systems dealing with these situations often lose sight of the needs of the children.

(Pauquachin Band Council, 1992)

It is only through the provision of preventative services that many of the needs beyond the basic security of the child can be met. And if all of the needs of the child were being met, the apprehension of Aboriginal children away from their families and communities would be greatly reduced. The St. Mary's Indian Band remarked on the possible elimination of the need for apprehension through the provision of preventative services.

...preventative services are necessary in the area of Child Welfare and Family Services. Through prevention, the need for apprehension of children from their natural parents would be eliminated.

(St. Mary's Indian Band, 1992)

This preventative theme is also articulated by the Interior Indian Friendship Centre submission that calls for a new family centred and community based team model to be developed to address the needs of the family and children.

Focus on preventive, a child care team comprised of a representative from the native health centre, alcohol and drug counsellor, child care worker, youth worker would work with the total family. Should the family agree, their own respective community would be contacted and their resources could be accessed. This would be extremely important should a temporary placement be required while the parent /parents are dealing with their dysfunction.

(Interior Indian Friendship Centre, 1992)

This view of programs that would focus on prevention and be responsive and accountable to local communities is expanded on later in the Interior Indian Friendship Centre submission.

Community based family treatment programs would be developed. This would allow for the family to stay united and the programming and timing of their program would allow for the total family to stay in their home community while constructively working on their problems.

(Interior Indian Friendship Centre, 1992)

The importance of a community approach to healing is also reflected in the Coldwater Indian Band submission.

The reactive approach towards solving social ills will never reach the core of the problems. We need to establish community based social programming where we involve the whole community in the healing processes.

(Coldwater Indian Band, 1992)

The Gitwinksihlkw Band takes the concept of community intervention one step further by defining the geographic scope that a community based program should consider.

We have no divisions between on and off reserve, the child is still part of the family, extended family, clan and nation. We ask that placement of the children be in their own community or within native families in our nation. The use of extended families is a traditional value for community based child care...

(Gitwinksihlkw Band, 1992)

This is further reinforced by the Spallumcheen by-law that asserts Spallumcheen responsibility for all Spallumcheen children, regardless of place of residency (Spallumcheen, 1980).

The importance of having Aboriginal children in care maintain contact with their extended family, community and culture is also reflected in the Cowichan Band submission.

...Aboriginal children in care be granted the right to maintain contact with their family and where this is not possible their extended family, and that greater efforts be made in finding placements within their extended family. And policy for the reunification of Aboriginal children in care with their family of origin or extended family be developed.

(Cowichan Band Council, 1992)

The interest the Cowichan Band, at the time a newly operational child and family service agency, acknowledge as being associated with the child's right to be with his or her family is

restated later in their submission.

We need to point out that we operate from the premise that when we are considering the rights of children, we believe that one of the most basic rights of children is the right to live with their own family if that is at all possible. However, that right for children is not directly acknowledged in the current legislation and past methods of practice would indicate that right, and the implications of that right were never considered.

(Cowichan Band Council, 1992)

The submission of the Lax Ghels Community Law Centre speaks to the issue of the rights of the child and the inability of the existing court system to address the cultural needs of the child. They put forward the idea of a community panel review process as an alternative to the current legislative model based on the use of the cumbersome Provincial Court and legal systems.

The Honourable Thomas R. Berger under the last New Democratic Provincial Government conducted a Royal Commission on Family and Child Services. It was his recommendation that a Unified Family Court system be put in place. This involved placing child protection matters in front of a community panel that has as its object the preservation of the family unit. It is our office's recommendation that this be a more adequate form to deal with our children. When native children are apprehended, the panel should consist of a majority of native persons, who could be employed in an administrative tribunal capacity.

(Lax Ghels Community Law Centre, 1992)

This inability of the Provincial system to understand the complexity of Aboriginal family dynamics, and the capacity for change is also reflected in the Kitsumkalum Band submission.

Once the children are made permanent wards, the Ministry does not consider the changes that the parents have made in their lives. In fact, they don't seem to care at all. They worry more about how the foster parents will feel if they reunite the children with their parents.

(Kitsumkalum Band, 1992)

But changes to the practice model will require additional resources and cost more money. This issue is addressed in the Cowichan Band submission that identifies the interest that more appropriate resources are needed if society wants to address the best interests of Aboriginal children, families and communities.

The primary implication of that basic premise is that if society is to truly serve the best interests of the child, appropriate resources must be made available to the family of the child to assist it in growing into a healthy family that can raise strong, healthy,

happy children

(Cowichan Band Council, 1992)

Also on the issue of resourcing a new model of service delivery, the Kitsumkalum Band states that a family centered model would be cost effective if the model could avoid the child ever coming into care. They suggest that the federally funded Guardian Financial Assistance program could be an important resource to reducing Federal costs for children in care.

I really feel that it is time for INAC to wake up too. They scream about us being Guardian Financial Assistance on the reserve but they don't mind paying the Ministry a per diem of \$55.50 for a Foster Home, \$183/day for a Group Home and \$384/day for Institutional Care. INAC should be glad that we do use GFA rather than have the children apprehended - this would save them a lot of money.

(Kitsumkalum Band, 1992)

The final statements of conflict on the New Family Centered Model Needed emphasis area were in relation to the need to maintain family contacts. It is within the family unit that cultural knowledge is transmitted, and the importance of the family unit is reflected in the following statement of interest made by the St. Mary's Indian Band.

...a holistic approach must be taken when dealing with child welfare. Simply taking the children away from the parents or the problem is not enough. The family unit must be maintained and in order to ensure this, intervention in the form of counselling for the whole family and dealing with the root of the problem, not just the symptoms, is necessary.

(St. Mary's Indian Band, 1992)

The Pauquachin Band Council also recognized that the need to maintain family contacts is an important interest in the education and holistic development of all citizens. Placement principles and policy must be developed and followed for those situations when children are seriously at risk off-reserve. The model they suggest indicates five placement priority levels for when a child may need to be brought into care.

Whenever possible, the child should be able to remain with the parent. If they must be removed from their homes they should be placed with extended Family. If a relative cannot be found then a native foster home would be the next alternative. Placement in a Native group home. The last alternative should be a Non-native foster home.

(Pauquachin Band Council, 1992)

An important question that must be answered in the context of the interests especially for

the First Nations regards the placement of a child into an extended family when there are diverse and converging cultural interests from blended families. An example would be a child with paternal relatives who are from the Nuuchahnulth Nation and maternal relatives from Nisga'a Nation. One Nation is patrilineal and the other is matrilineal, and the cultural interests of both Nations are equally valid. Which culture has paramouncy in this situation? These are not new questions and the answers are within the generations of coexistence that have benefited many Nations through the millenniums. As First Nations, we would be able to sort this out, just as our ancestors did if we were given the authority and resources to do so, and it is my opinion that the whole child welfare practice model would shift if First Nations were empowered to meet these interests in a substantive way.

### **Interest 2 - Holistic Service Model Needed**

Within the Holistic Service Model needed emphasis area, I identified 11 points of interest that could enable communities to create a holistic child welfare service delivery model. This conditional ability to create a more holistic program is limited by many issues, not the least of which is the lack of resources to undertake program planning in a systematic way. This is especially an issue for Aboriginal groups that are not reserve based. The Metis Council of Albany succinctly raised the issue in their submission to the Aboriginal Community Panel.

...organizations are expected to address and articulate an area of such importance without the government of the day making sufficient funding available in order for Aboriginal organizations to properly study and plan our directions and goals.

(Louis Riel Métis Association, 1992)

The importance of not limiting program development within the arbitrarily imposed geographic limits of Indian reserve lands or municipal boundaries was also raised in the Lax Ghels Community Law Office submission.

Native organizations on and off reserve should be funded to put into place support services.

(Lax Ghels Community Law Centre, 1992)

If, as many First Nations claim, children are the future of the Nation, the notion of geographic rationalization of services practiced by the Ministry and Canada is not in keeping with principles of Aboriginal people. This issue is illustrated when looking at the Ministry placement for Aboriginal children in care, and the artificial dichotomy between on-reserve

and off-reserve residency.

First Nations people need to be recognized for our social and cultural needs. When a child is placed in a non-native environment, she/he loses its ability to be a First Nation by the socialization of a foreign culture. We have no divisions between on and off reserve, the child is still part of the family, extended family, clan and nation. We ask that placement of the children be in their own community or within native families in our nation.

(Gitwinksihlkw Band, 1992 ).

This idea of maintaining cultural integrity across geographic boundaries is an important element in the development of a holistic service delivery model. Another important element is the idea of working across artificial funding and policy boundaries that have specialized the social programming for First Nations into discrete units rather than working as a whole for the benefit of the child.

It is important to include or combine Social services, Education and Health; they are all related or inter work related.

(Kwaqitl District Council, 1992)

Another arbitrary distinction that needs to be cleared aside to allow a holistic service delivery system to emerge is the legislative foundation that categorizes different program areas into discrete silos, rather than dealing with the whole person.

As the province has other legislation that provide supportive and preventative services, this recommendation may be specific for Aboriginal child welfare agencies who are not affected by other Provincial Acts mandating such services (i.e., GAIN and the Day Care Act).

(Cowichan Band Council, 1992 )

This silo approach and professionalization of social services is an affront to the traditional holistic practice of First Nations who have had functional community helping systems in place for hundreds of generations. Professionalization does not encourage social workers or other professionals and para-professionals to act in culturally appropriate ways, and this theme was addressed in several submissions.

The Ministry needs to increase their Native staffing, and needs to provide cross-cultural awareness and training to non-Native staff. The Bands, and other Native advocacy agencies need to be involved in the policy and decision making in terms of the development of legislation that is culturally specific. The Ministry needs to fund and encourage the development of services in the area of Child Welfare, both on and off reserve.

(Kamloops Indian Band, 1992 )

A concerted effort is required to encourage native foster parenting. Access to native day care where there exists a culturally relevant program.

(Interior Indian Friendship Centre, 1992 )

This lack of culturally appropriate services also is reflected in the call for healing that many First Nations made. The need for counselling and healing services for children are extreme as stated by the words of the Kitsumkalum Band so the children will become healthy and functional adults within the community:

The children who come from these dysfunctional homes should be counselled too - not just pushed to the back. They also need to be healed so that they will grow up to be healthy adults quite capable of looking after their own children and homes.

(Kitsumkalum Band, 1992)

This is a call for an increased investment in healing programs for Aboriginal people. The Coldwater Indian Band goes farther down this path of interests when stating their aspiration for capacity building and financial support for healing services.

The centre is one of the healing places for our people and we strongly believe that the province should seriously consider providing stronger financial assistance towards our operating and capital costs through its Child and Family Service programming.

(Coldwater Indian Band, 1992)

On a final note, although the issues of healing and training and funding are important considerations in the development of a holistic service delivery system, the administrative element must also be addressed. This means that government needs to respect that Aboriginal people can manage our own social programs, just as we did in the past.

The argument that native people are not capable of handling their own child welfare matters should not be a consideration.

(Lax Ghels Community Law Centre, 1992)

The Provincial and Federal governments must abandon their patronizing and paternalistic approaches to First Nations before solutions to the tremendous social problems can be developed.

### **Interest 3 - Acknowledge Structural Conditions**

This emphasis area has nine elements of interest, which require validation in order for

change to occur. Primary among these issues was the inequity of services that existed at the time of the Aboriginal Community Panel. Government funded services to non-Native populations in urban areas were simply not accessible by Aboriginal clients due to jurisdictional, cross-cultural, historic, and geographic factors.

Inequality of services to Indian Communities versus those provided to non-reserve communities need to be addressed. The lack of day care, special needs and preventative services on reserve communities are blatant examples of the gaps in services, which exist because of Federal/Provincial jurisdictional disputes and deadlocks.

(FNFCWA, 1992)

In response to the inequality of service delivery in regards to non-statutory services, the Gitwinksihlkw Band requested equitable services be developed.

We ask for the same services that are extended to the rest of the province, the non-statutory or discretionary services such as Interconnect and Preventative services for family support systems. The funding and training that is needed to make the new legislation a success. We ask that the needs of the family be served whether it be overcrowding, alcoholism, job training or employment. By serving the needs of the family and not the state you will be returning the family back on the road the self-determination.

(Gitwinksihlkw Band, 1992)

Past policies rooted in colonialism and paternalism have had a tremendous impact on First Nations and Aboriginal people. This historic fact colours social programming for Aboriginal people to this day. The Cowichan Band addressed this issue directly in their submission.

In Aboriginal communities appropriate treatment resources must take into consideration several historical factors. First is the psychological, social, economic, political effects of colonization or the domination of one culture by another. The dynamics of this phenomena are fairly well documented in many sociological studies and are not limited to the Aboriginal community.

(Cowichan Band Council, 1992)

Cowichan goes on to identify the instrument of oppression that created the most devastating effects for First Nations communities – the residential school system.

We now must accept that the personal, family and cultural disintegration that has taken place in the Aboriginal community was predestined by their treatment in the colonization process. Second factor is the role of the residential schools in this process. Perhaps the least traumatic but nevertheless extremely destructive result of residential schools is that in the Aboriginal community there are now several generations of parents who grew up in residential schools so did not have the opportunity to learn family and parenting skills in the manner in which most people

learn them, that is using their parents as role models. They were deprived of the experience of normal family affection, communication and organization so do not have those skills to pass on to their children. And in the extreme we have parents, who in residential school experienced the pain and degradation of extreme physical and sexual abuse and are now passing the results of those on to their children.

(Cowichan Band Council, 1992)

The oppression created in Aboriginal communities by the forces of colonialism has been enormously devastating.

There are two oppressions that First Nations live with and if you happen to be a female there are three. They are racism, sexism and social class.

(Gitwinksihlkw Band, 1992)

And the impact of these oppressions have had persistent and tragic impacts on the social fabric of First Nations communities.

First Nations people live in a world where the majority live in poverty. Unemployment can be as high as 80%; this is partially due to an education system that has failed them. Why is this when the province and national averages are less than 15 percent?

The suicide rate is four to five times higher than the Canadian average. This is unacceptable for any race.

Sixty percent of the prisoners are First Nations and yet we comprise only 6 percent of the population. Why is this so?

The housing standards on our reserves are not only substandard and inadequate but over crowded. What does this have to do with child welfare? This is the environment which many First Nations children have to look forward to.

(Gitwinksihlkw Band, 1992)

Seen in this light, it is easy to understand the reasons why the level of individual dysfunction created by the systemic oppression of Aboriginal peoples has been so persistent. The Residential schools, institutional racism, systematic destruction of traditional governance, criminal victimization, and sexism set the environmental context for Aboriginal child welfare practice today. Is it any wonder that Aboriginal people turned to whatever coping mechanisms they could reach, regardless of the impact it might have on their body, spirit, family or Nation?

The effects of those childhood conditions on all adults' ability to parent are now being well documented. Thirdly, the two previous factors have led to a very high

incidence of alcohol and drug abuse within the Aboriginal community.  
(Cowichan Band Council, 1992)

This is not to say that government has not noticed the problems of Aboriginal people and taken steps to minimize their own liability by creating programs and services that normalize the artificial distinctions they themselves signed onto in the 1867 Constitution Act. The jurisdictional issues that colour service provision to on-reserve First Nations, off-reserve Aboriginals, urban Indians and Métis people is a structural issue created through colonialism. This has led to a polarization between Aboriginal peoples and a competition for scarce resources that is fed by continuing Federal/Provincial collusion to avoid fiscal pressures.

The issue of urban dominance has a dramatic effect on the services and practice for Aboriginal peoples in the Province of British Columbia. This urban focus is in direct contradiction to the position of many First Nations regarding their desire to service their own citizens in their own culturally appropriate way, wherever they reside in the province. This position is noticeable in the submission by the Interior Indian Friendship Centre,

Friendship Centres are valid service providers for the off-reserve Aboriginal community. They are stable community based Societies... the Aboriginal population in British Columbia is 150,000 - 42, 000 living on-reserve; 108,000 living off-reserve.  
(Interior Indian Friendship Centre, 1992)

The inappropriateness of jurisdictional positioning was also addressed in the submission of one of the two Métis organizations that made presentations to the Aboriginal Community Panel.

I would like to state on behalf of our organization that we have some concerns as to this entire process. First of all this is an issue whose remedies are stark and apparent. Secondly, we have grave concerns with a process such as this whereby primarily urban Native and Métis organizations are expected to address and articulate an area of such importance...

(Louis Riel Métis Association, 1992)

#### **Interest 4 - Authority Still With Province**

This emphasis area has 11 points of interest associated with the jurisdiction for the provision of child welfare services being vested with the Provincial government rather than with First Nations or the Federal government. The administrative dependency created by this non-

recognition of First Nations rights to self-government in the area of child welfare illustrates the paternalistic nature of the relationship that Province of British Columbia has with Aboriginal people who continue to reside in their homelands that pre-date the establishment of colonial rule in these territories.

The Coldwater Indian Band submission illustrates the nature of the relationship between the Province and many First Nations at the time of their presentation to the Aboriginal Community Panel in 1992.

Our concerns for the models are as follows:

- Self government legislation as it now stands, is only a glorified Indian municipality;
- Band By-Laws are only applicable as long as no one challenges them in a court of law;
- Transfer of provincial authority to corporate entities by-passes the elected leadership of Indian Bands;
- Government operated Native Child Welfare units are still run by the province under provincial jurisdiction, and they can be perceived as tokenism;
- Protocol arrangements demean the whole concept of Indian self government; and
- Partial transfer or delegation indicates that Indians are not capable of handling and governing their own affairs.

(Coldwater Indian Band, 1992)

The First Nations Family and Child Care Workers Association recommended that a new relationship be structured between Indian communities and the Provincial government.

What we are recommending this is a form of involvement, which would place more control, responsibility and resources to the local communities, their agencies and their personnel. Let's empower Indian communities, both rural and urban, to take full responsibility for Indian children. Delegation of Provincial authority to recognized Native agencies and/or Bands. Input from Native groups in the form of Advisory Committees, modelled after the Diversion Committee approach in the corrections field.

(FNFCWA, 1992)

The necessity for a new direction in child welfare practice was illustrated in many submissions. The poor practice of the Ministry was frequently cited as a concern that needed to be addressed in a new model of Provincial child welfare practice.

The following issues have been identified within our community as concerns that need to be addressed:

- There is a high M.S.S. staff turnover;
- Cross cultural sensitivity with native children in care; Definition of emotional abuse needs to be addressed;
- Access to resource/services that are available off reserve;
- Foster Parent training/in-depth orientation is needed;
- Permanent Wards Hearing Notices;
- Placement retention for foster children;
- Clients need to be aware of their rights.
- Children need protection from convicted sex offenders.

(Nimpkish Health Centre, 1992)

To add insult to the injury of the years of poor practice by Ministry staff, the cultural slights occurring with Ministry social workers not having to bother with the issue of communication with Chief and Council before providing services in their community was raised by the Kwaquitl District Council.

There is a lot of taking away from the family or protecting the family from the system. The process of taking children away from their parents for their own good - as is considered by the Ministry - is still going on without consultation with the Band Social Worker or the Chief and other extended family.

(Kwaquitl District Council, 1992)

The Cowichan Band submission recognized this issue and called for a change to the legislation to specifically address the unique circumstances of First Nations.

The Cowichan Band welcomes the legislative review both for the purpose of reviewing the Family and Child Services Act's effectiveness in carrying out its mandate and also for the purpose of examining the relevance of the Act for Aboriginal people. What will become clear to the panel is that recommendations from Aboriginal groups are specific and will not necessarily reflect the needs of the general population. Serious consideration must be given to include a separate section in the Family and Child Services Act that will address the concerns of the Aboriginal people.

(Cowichan Band Council, 1992)

Along with their proposed amendments to the existing legislation, the Cowichan Band also recommended the following administrative changes that would facilitate practice within the delegated child welfare agency model of service delivery.

The present Family and Child Services Act section dealing with delegation of authority (Section 3, Subsection 4, Persons or Class of Persons), be reviewed to clarify a more appropriate arrangement for delegating authority to an Aboriginal controlled child welfare agency.

Delegated authority come from the Ministry of Social Services to the Board of the Aboriginal child welfare agency rather than the Superintendent of Family and Child Services to individuals within the Aboriginal agency and the power to delegate authority to individuals as it relates to case work within the Aboriginal child welfare agency be placed with the Board of Directors.

(Cowichan Band Council, 1992)

These administrative changes reflected the nature of the relationship the Cowichan Agency had structured with the Province in 1992, which was not the same model that other First Nations saw themselves ascribing to.

...do we hope to maintain the status quo and perhaps enhance or improve services or methods of administration or completion of them? Do you as a panel understand that First Nations in the exercise of the right to self determination and are entitled to develop and implement child and family service programs that address our distinct rights and freedom, needs, and that incorporate their history and traditions, their knowledge, their value systems and social, environment, cultural, and spiritual development?

(Kwaquilt District Council, 1992)

This view of child welfare service delivery as an inherent right of First Nations rather than a delegated or contracted service was repeated in the submission of the St. Mary's Indian Band.

In conclusion, total control and authority of Child Welfare and Family Services is needed and desired by the community in order to provide an environment for the healthy growth, development, safety and well-being of children and families. We don't simply want to be 'involved' in the planning of the child's case; we want to be making the decisions for the care of that child. Without this control and authority our program is hindered.

(St. Mary's Indian Band, 1992)

In 1992, a number of self-government agreements were progressing (e.g., Sechelt, 1986, Nisga'a Treaty Negotiations) as land claims and Aboriginal resource rights issues were being addressed in the Supreme Court of Canada (e.g., Sparrow, 1990). Many Aboriginal groups saw the door to self-government that had been closed for them for many years under the post-colonial regime of the Province of British Columbia begin to open. Correspondingly, some First Nations approached the issue of a new approach to child welfare legislation with the aspirations of full self-governance in their minds, while other groups such as the Cowichan and Nuu-Chah Nulth who already had a form of autonomy in child welfare

service delivery approached the issue from a slightly different stance.

Regardless of the stance they took in their submissions, all of the Aboriginal Communities recognized that the status quo for child welfare service delivery to Aboriginal people in British Columbia must change to become more inclusive of First Nations and Aboriginal aspirations, rights, and social dynamics.

One logical component of local community services is the adequate care of families and their children. While Self Government agreements are on the verge of being signed, authority and resources for the care of Indian children requiring protection remains with the Provincial government. This must change.

(FNFCWA, 1992)

### **Interest 5 - Recognize Native Wisdom**

Within the Recognize Native Wisdom emphasis area, I identified three points of interest that are important considerations for Aboriginal child welfare practice, and which stood out from the 11 other emphasis areas I identified in my research into the submissions made to the Aboriginal Community Panel in 1992.

The First Nations Family & Child Care Workers Association introduce their position regarding the issue of ensuring an Aboriginal review process for legislation, regulations, standards and policies that are developed by the Province of British Columbia.

Making available a Native ombudsman type resource charged with the responsibility of reviewing regulations, social worker practices and agency procedures. ...Seek information from, and respond to Native community concerns.

(FNFCWA, 1992)

This statement reflects an interest in the oversight by First Nations of Federal and Provincial policy development in the area of Aboriginal policy that previously had been developed without appropriate Aboriginal community consultation.

All Federal/Provincial communications to be declared invalid if without the participation of Indian representatives as an equal third party. It is after all our children's care that is at issue. Through education, promote the inclusion of authority for Family and Child Care Services as part of the Self-Government negotiations.

(FNFCWA, 1992)

I believe that these statements speak to the perspective that the voice of Native wisdom can

bring to policy development and practice audit processes. First Nations have utilized traditional knowledge and ways of conducting relations between various factions in order to maintain community harmony for millennia, but the exclusion of the voices of Aboriginal people from the formal policy development process guarantees that the uptake of the policy by Aboriginal people will be handicapped from the outset.

The submission by the Gitwinksihkw Band points to the utilization of custom adoption as a traditional conflict resolution process, as well as a way of achieving culturally appropriate permanency for a child. This is a more inclusive and public process than the mainstream model of adoption, and the process itself serves several ends towards creating balance for the child, family and community.

In my Nation, there are several levels of custom adoptions. There are feasts and healing that are enacted with each adoption. They deserve just as much respect as the system that justifies the non-native adoption.

(Gitwinksihkw Band, 1992)

The same wisdom that guides the custom adoption practice for First Nations who practice this method could significantly influence governmental policy making, if only this voice was included to the table as an equal partner in the discussions and decision-making.

### **Interest 6 - Meeting the Child's Needs**

Meeting the child's needs is the sixth emphasis area that I identified in my research into the submissions. Four submissions specifically mentioned the issues associated with meeting the needs of the child, both while in care and when residing with their family.

With sexual abuse disclosures increasing, and more and more families dealing with long term alcohol abuse and family dysfunction, more attention will be needed to stabilize the emotional environment for children.

(Pauquachin Band Council, 1992)

The Pauquachin Band Council submission articulates one element of the needs of the child - physical safety needs.

Real efforts need to be made to protect the basic security of children that is so critical to healthy development, especially when children cannot speak for themselves. Family is so prevalent, and family break-up so frequent that the system dealing with these situations often lose sight of the needs of the children.

(Pauquachin Band Council, 1992)

But the physical safety of the child is not the only need identified in the submissions to the Aboriginal Community Panel. The Hay-Way'-Noqu' Healing Circle submission points to the need for the child to live in an environment that respects the child's cultural needs.

Improved screening of foster families for Native children by Special Committees of Native, Métis and culturally aware individuals - Possible governing body of Aboriginal people. A need for cross-cultural training for foster parents of Native and Métis children.

(Hey-Way'-Noqu' Healing Circle, 1992)

The submission of the Interior Indian Friendship Centre references the legal needs of the child, which are another important element in maintaining the child's connectedness to their community and culture.

Many of their children who are in care may not be aware of their right to status, specifically the children of Bill C-31's. At the time of apprehension the parent would be non-status; however, they would have been reinstated later. That the Ministry do an in depth search to ensure that all of the children in care who are entitled to Indian status apply for it.

(Interior Indian Friendship Centre, 1992)

### **Interest 7 - Court as a Last Resort**

My analysis of the submissions led me to identify the interest held by many Aboriginal communities that the court system be utilized only when all other alternative courses of action had been exhausted. The Cowichan Band Council expressed their thoughts on the use of the court system as follows:

The court system be used as a last resort only after parents have refused to enter into short-term custody (Section 4), and special care agreements (Section 5), where it has been established that a child must be brought into care.

(Cowichan Band Council, 1992)

This same sentiment is asserted by the Squamish Nation.

...use the court as a last resort and to formalize and authorize case conferences.

(Squamish Nation, 1992)

The Gitwinksihlkw Band submission takes this issue one step further in its' submission where it recommends bringing the accountability of the court system back into the First Nations community by drawing upon local resources such as community elders in decision

making associated with a family or child of the Nation.

We recommend that your court system be a last resort the final net. That the community resources are empowered to aid the legal system by using elder councils or community boards.

(Gitwinksihlkw, 1992)

The Interior Indian Friendship Centre looks at the issue of the accountability of the court system, from a different angle from that expressed by Gitwinksihlkw.

That the courts consider native panel members to sit with Judge on child apprehension cases. The courts could also sit on the reserve - if it is an urban native child, they could sit at the friendship centre.

(Interior Indian Friendship Centre, 1992)

### **Interest 8 - Improve Operations of Current System**

The following elements are points of conflict which can be seen as areas of improvement or recommendations to improve the current system. The suggestions from the Aboriginal submissions range from the need for improving the screening and training for Aboriginal foster parents through to the creation of a statistically reliable database of information that can be used to track, evaluate and plan the effectiveness of services being provided.

We request that the Ministry of Social Services and Housing provide training to understand First Nations people and their cultures. We ask that they be sensitive to the families and their problems as they are still part of the First Nation.

(Gitwinksihlkw Band, 1992)

This need for better trained Ministry staff is augmented by the Hay-Way'-Noqu' Healing Circle submission that details their interest in having cross-cultural training for foster parents.

A need for cross-cultural training for foster parents of Native and Métis children.

(Hey-Way'-Noqu' Healing Circle, 1992)

They also recommended the need to ensure notice and planning available the bands children to include the member living away from their home community. Also is to ensure through legislation that agency practice has requirements to provide appropriate culturally and relevant services.

In addition, the submissions of the Nadleh Whut'en and Stoney Creek Bands express the potential for conflict that happens when Ministry staff and foster parents come into contact

with the child's extended family members at cultural events such as a wedding or funeral, or even in more mainstream settings such as a community workshop. This group also points out that the relationship between the Ministry and the children and families that it serves as clients is marked by dependency, rather than fostering independence. (Nadleh Whut'en and Stoney Creek Bands, 1992)

An additional suggestion to improve the operations of the Ministry comes from the Interior Indian Friendship Centre. In the submission of this group to the Aboriginal Community Panel, they speak to a conflict regarding the notifications received by First Nations Bands for children who are not Band members or members of that Nation. They recommend that the Friendship Center be contacted about representing non-Band member Aboriginal people when the Ministry is looking for assistance in planning for the child.

A final recommendation from the Cowichan Band Council suggests that the child welfare system could be greatly improved if the Ministry invested in better data collection techniques than they were using at the time of the Aboriginal Community Panel process.

The Province must compile statistical data on the reasons why Aboriginal children are brought into care, the services offered, the outcome of service implementation and other pertinent activities. The data that results from this to be used in tailoring more appropriate intervention to Aboriginal families by both mainstream and Aboriginal child welfare agencies.

(Cowichan Band Council, 1992)

### **Interest 9 - Legislative Changes Needed**

The conflict between the aspirations of Aboriginal communities and measures of the *Family and Child Service Act* were addressed in all 37 submissions to the 1992 Aboriginal Community Panel. At the outset of my research, I anticipated that this would be the case, given that the focus of the Panel, as outlined in the terms of reference was:

To ensure that legislation relating to Aboriginal children and families does not create or perpetuate impediments to Aboriginal communities assuming responsibility for their children and families in accordance with the aspirations of those communities.

(Aboriginal Community Panel, ix)

### **Interest 10 - Building Capacity**

The need to build capacity is mentioned in eight submissions. An overview of the issue

conceptualizes the term 'capacity' as describing the contribution of human and financial resources to develop both the structure and infrastructure of the community. Whether it is program development for support services for long-term placements or the creation of a community and family support program, the capacity is still needed. Other communities describe their need for healing or crisis centres and programs that can provide with culturally appropriate services to the clientele. The need for formal training to develop the human resources is also a capacity issue, so that qualified, culturally informed staff can facilitate the goals of programs that are developed by Aboriginal communities to meet their own self-identified needs.

Development of human resources is important to the development of the Saanich First Nations community. It is imperative that individuals receive proper, formal training in the appropriate mental health fields in order to effectively help the survivors of family violence.

(Saanich Indian Band School, 1992)

### **Interest 11 - Equity of Services**

Section 15 of the Constitution of Canada articulates the promise of equity as a protected right for all Canadians. (Canada, 1982) Perhaps this is true and equity is measured differently by the Federal and Provincial governments. Whatever the case, the notion of equity should be a primary principle in the transposition of any Provincial or Federal service. In my analysis of the submissions, I identified nine interests-based statements that speak to the issue of equity of services.

In order to provide the most effective service to children and their families we have identified the services still needed as: Infant Development Program; Childcare Workers; Family Support Services. We feel that by providing these services we would provide the highest level of protection and the family would benefit from the best supportive services possible.

(Nimpkish Health Centre, 1992)

### **Interest 12 - Cultural Values and Practice in Conflict**

The need for culturally sensitive services is voiced many times in the submissions. Squamish states the need to shop around which may be redundant if resources are not available and supports systems in place.

The Ministry cannot provide the unbiased support network and encouragement which the parent needs to 'get going', and too often, the parent has no sober, healthy support system to draw upon. This means permanent loss, not only of the child to parent but also of parent to child. Overall, this indicates both inadequacy and failure

to meeting a child's healthy need for permanence and growth within his/her own family system.

(Squamish Nation, 1992)

The relationship between community responsibility and extended family should be structured in legislation. This is illustrated further in the Squamish Nation submission.

Because First Nations communities will be required to provide alternative permanent family resources for children, there should be a process to facilitate recruitment, appropriate training and support for permanent alternative caregivers. Children requiring permanent care should be considered special needs children, and caregivers should be trained and prepared to respond to their needs.

(Squamish Nation, 1992)

**Analysis of Submissions - Structure**

When physical limits prevent everyone from getting what they want, issues on structure are a problem. Parties may be in conflict because of the structure or system within which they operate. If they cannot change something in the situation, the problem will occur again and again.

(Moore, 1986)

Analytic Category: <b>Structure (Authorities)</b>		Total number of instances
1	The web of authority (Government authorities)	24
2	Traditional Structure	7
3	Self Government and Authority	37
4	Practice of Traditions (Traditional Practices)	11
5	Barriers (Jurisdictional problems)	8
6	Funding structure	3

Figure 2

The genesis of this section of my analysis comes from the points from the data submitted to the Aboriginal Community Panel that I have determined are associated with structural issues using the research framework described in Chapter 4.

**Structure Emphasis Area 1 – The Web of Authority**

Whatever befalls the earth befalls the sons of the earth. Man didn't weave the web of life; he is merely a strand in it. Whatever he does to the web; he does to himself.

(Chief Seattle 1784)

In keeping with the metaphor established by Chief Seattle in 1784, I have adapted the principles underlying Chief Seattle's web of life into a framework I refer as 'The Web of Authority - legislation structured history'. The notion of the Web of Authority speaks to the range of issues I identified in the timeline of events that I described in more detail in Chapter 2 of this thesis. The official actions of the colonial and post-colonial administrators of Canada and British Columbia that led to the oppressions of First Nations under the guise of assimilation, enfranchisement, National Interests, and jurisdictional buck passing all come together as the Web of Authority. These issues were referenced 24 times in the submissions made to the Aboriginal Community Panel in 1992, most frequently in the Squamish Nation submission.

### **Structure Emphasis Area 2 - Traditional Structure**

Within the Province of British Columbia, there are many traditional and cultural structures unique to each First Nation. They are not right or wrong but just different, just as the Irish, Scottish and English are different peoples who all claim the British Isles as their homelands.

The life of Squamish peoples prior to European contact was socially and politically determined by the longhouse system. The longhouse protocol had strict checks and balances in place and is considered to be the original legal system.

(Squamish Nation, 1992)

Each First Nation had protocols for how things were to be done within the community and with neighbouring tribes in order to maintain the harmony of the community. These protocols determined how problems would be dealt with in a way that made sense to and conformed with the expectations of the citizenry of the Nation. The Squamish Nation submission speaks to the role of these protocols as tools to guide the practice of the Squamish Longhouse.

The extended family played a significant role in the development of children and when problems arose such as neglect or abuse it was brought to the Longhouse. The people with their ancestral names would achieve accountability through their presence and would voice their opinion and concerns to the issues.

(Squamish Nation, 1992)

The use of protocol as a tool for conflict avoidance and resolution were being practiced by many First Nations at the time of the Aboriginal Community Panel, although the nature of the protocols had been revised in some cases. Some First Nations had even extended their

protocols to manage their relationships with the institutions of mainstream society.

Protocols are tools which can enable groups to work together in understanding of each other's mandates, skills, values and priorities. They define the responsibilities of each party to the client group, as well as to other professionals. The interests of children and families are best served when there is trust and understanding between the professionals involved. A protocol contains balanced relations between the parties; each party to the agreement has control (self-determination) over their input, and their actions, their systems. They must each understand their own system's values and goals, and interpret them through the protocol so that other parties to the agreement understand them. Legislation must allow for flexibility so that communities can describe the local protocols which best serve their members.

(Hazelton Child and Youth Committee, 1992)

The Spallumcheen submission indicates the success of their by-law as a tool for meeting the needs of their community members.

Our By-Law has worked for our people. It is a simple document which sets out a logical way to maintain responsibility for children within the community. Paperwork is simple, access for parents, children, and extended family members is assured. Staff attempt to be objective, creative, and flexible. Decisions are open to review by parents or other community members. We are able to change our services to meet the changing needs of the community.

(Spallumcheen Family Services, 1992)

This aspiration to build a legislation based service delivery model that accommodates traditional ways of relating within the community was reflected in the submission by the Hazelton Child and Youth Committee.

Legislation must enable our community participation. Communities must be empowered to have input. Policies and regulations must be community-based, and reflect community values. There must be recognition that communities are able to apply legislation to the needs of the community.

(Hazelton Child and Youth Committee, 1992)

The Spallumcheen speak to the accomplishment where many of the other First Nations are striving to achieve. Their service delivery model was developed by the community using the traditional processes of the community for all community members regardless of place of residence.

Spallumcheen Family Services operates under the authority of Spallumcheen Indian Band By-Law #3 - A By-Law for the Care of Our Indian Children. The By-Law was developed by the Spallumcheen People under the leadership of Chief Wayne Christian. In consultation with the Elders, the Band members developed the By-Law based on the traditional laws of the Spallumcheen People. Under the By-Law, Spallumcheen Band Council and persons authorized by Spallumcheen Band Council,

have the authority to take children into the care of the Band. Spallumcheen Band Council become the legal guardians of the child. Family Services staff recommend placements and discharges from care to Spallumcheen Band Council for their approval. Parents are included in these decisions and have the right to appeal any Spallumcheen Band Council decision to a Band meeting. The Bylaw's jurisdiction includes all children who are Band members or who are entitled to Band membership and includes children who live both on and off the Reserve.

(Spallumcheen Family Services, 1992)

### **Structure Emphasis Area 3 - Self Government and Authority**

Among the aspirations enunciated to the Aboriginal Community Panel, the notion of self-government and autonomy was listed as a primary objective in many submissions.

Any legislation regarding the care and protection of Aboriginal children should address the issues of self-government and the inherent right to self-government by First Nations.

(Squamish Nation, 1992)

This position was also reflected in the submission of the Nicola Valley Tribal Council.

The working committee would like to see our communities take greater control over the Family and Child services. It has been our experience that the MSSH does not have the cultural and community awareness; but it certainly has the power and authority to carry out its mandate. We feel that it would be more advantageous if that authority and responsibility be taken on by our communities that are ready for such a program.

(Nicola Valley Tribal Council, 1992)

The Carrier Chilcotin Tribal Council expressed a different approach, one that called for the Federal government to exercise its Constitutional responsibility for Indians and Lands Reserved for Indians so that child welfare for First Nations could fall under Federal jurisdiction, thereby eliminating part of the jurisdictional dichotomy that existed.

That the Federal Government has a fiduciary obligation to pass legislation affecting Indian and Lands reserved for Indians in regards to a "Federal Aboriginal Child and Family Services Act". That the Federal Government in the absence of a Federal Aboriginal Child and Family services act shall entrench in legislation (or other) the rights of Band Councils to assume jurisdiction over the provision of services to the children and families which constitute their communities.

(Carrier Chilcotin Tribal Council, 1992)

The Carrier Chilcotin Tribal Council submission goes on to articulate the five additional statements that apply to the Self Government and Authority emphasis area: Provincial child welfare law is an interim measure; there needs to be a transfer of authority not just

delegation; culturally appropriate services must be developed; placement priorities must be re-ordered so that Aboriginal children remain in Aboriginal homes; and the need for a recognition of the inherent rights of First Nations children.

Not to be lost in the jurisdictional issues associated with Federal fiduciary responsibilities for status Indians, the Métis submission expresses their interest in exerting self-governance.

As individuals and as a Nation we must take control over the force required to heal our Communities.

(Pacific Métis Association, 1992)

And reinforce the notion by identifying control of social service and adoptions as an attribute of self-government. The Haisla also suggest a tool to engage delivery of child welfare services to First Nations communities. This process would ensure and protect the best interest of the First Nations children and families when determining the destiny of the child and would enable the First Nation people to regain their inherent right in the traditional and cultural perspective.

Kamloops was one of 10 submissions that also addressed the issue of adoption being transfer or being culturally appropriate.

Many adopted children may not even be aware of their Indian ancestry. Non-status Indian children may not be aware of their entitlement to status under Bill C-31. At present Indian children can, upon reaching the age of majority, apply to the Registrar in Ottawa for information about their Indian status.

(Kamloops Indian Band, 1992)

They also go on to recommend two major issues regarding adoptions, authority and efforts be put forward to identify children all entitled to Indian status.

Indian Bands should be given the authority to handle their own adoptions. The Indian Act should be amended to reflect this. The Ministry should relinquish any involvement, other than in an advisory capacity, in status Indian adoptions. If there is a possibility that a non-status Indian is entitled to status, every effort should be made to attain this.

(Kamloops Indian Band, 1992)

The Nicola Valley Tribal Council speaks again to the notion of active involvement in policy making:

What we would like is to be on the same level of discussions dealing with these

matters. This would help towards timely transfer of authority to the First Nations. We would like to see a mechanism in-place to allow for this kind of dialogue between Feds./Prov./First nations.

(Nicola Valley Tribal Council, 1992)

#### **Structure Emphasis Area 4 - Practicing Traditions**

Practicing traditions reinforces the structural integrity of the culture. I see culture as a continuum and when values are affirmed and tradition used, the vibrancy of the culture changes. There are six elements submitted regarding practice of traditions: counselling; planning; involvement; a community context for child welfare; best interest of the child family and nation; the use of traditional knowledge. One of the traditional systems or structures for insuring change was counselling within the context of the culture. Openness to the problem or issues is the first step in over coming denial, next was the notion of accountability and transparency to the community.

The individuals would be called by their ancestral names to witness and speak to the issue. The speaker would then notify the people of the problem and what the family, usually grandparents, had decided in regards to the child's well being. It was there that the decision to remove a child from a harmful environment would be decided. The parents would have to abide by decisions made and witness would then speak to the grandparents, parents, and children (if they are old enough to understand) to rectify the situation.

(Squamish Nation, 1992)

#### **Structure Emphasis Area 5 - Structural Barriers**

There are many structural barriers that face Aboriginal children, families, communities and nations. Many are reflections of the systems that were originally intended to create a positive change. This is a prime example of a system gone amuck. These practice and policy barriers create more problems that are solved:

In reality, parents who are in need of drug or alcohol counselling and treatment, are not prepared to address their addiction upon the apprehension of their child. The apprehension usually results in greater addictive behaviour, and a withdrawal from child protection agencies. This is particularly so for Aboriginal parents who feel not only the loss upon a child apprehension, but also a tremendous shame and inadequacy.

(Squamish Nation, 1992)

This is further exacerbated by the structures that are imposed by the Ministry's system and their social workers' apparent addiction to arbitrary timelines.

Although the need for alcohol treatment is clear, parents must be stable enough to recognize the need for treatment first. Two years can easily pass with limited headway toward implementation of a stabilization process. But within that time frame the parent will likely lose the child permanently. Ministry workers understand the relentless ticking of a permanent committal clock and are also aware that a parent with drug or alcohol problems without an adequate support system will inevitably lose their child. The parent who requires support, treatment and a focused involvement to establish parental capability will lose because more time is needed.

(Squamish Nation, 1992)

Another type of barrier identified is the lack of role clarification and jurisdictional problems arising from lack of direction.

The First Nations community in Saanich experiences jurisdictional problems not only between the provincial and federal governments, but also between Band workers and off-reserve workers. There is no clear and distinctive policy on who is supposed to do what, when, how and in what time frame when dealing with family violence. This lack of policy and mandate has resulted in survivors and offenders falling between the jurisdictional cracks and a fragmented and sporadic service delivery.

(Saanich Indian Band School, 1992)

The lack of involvement at the community level resulted in one-sided case planning, which further isolates the child from the community:

Because of the lack of involvement of Native people and organizations in the case planning and decision making, many decisions are made which conflict with cultural values and norms, and which Native elders would feel is not in the best interests of the child.

(Spallumcheen Family Services, 1992)

The Northern Native Family Services submission mentions the barriers regarding the validation of Aboriginal people, the lack respect given to Aboriginal leaders and workers, the lack services available on reserve and the need to structure a less intrusive practice for First Nations.

Communities have a responsibility to promote the best interest of their children and families and have the right to participate in services of their children and families. First Nation Bands are recognized as distinct societies and are entitled to the provision of child and family services in a manner which respects their unique status as Aboriginal people.

(Northern Native Family Services, 1992)

### **Structure Emphasis Area 6 – Funding Issues**

In this emphasis area, I identified several submissions that spoke to issues questioning the

commitment of the Province to resources, jurisdiction, and human resource development through the reallocation of existing resources to programs and services that could heal families.

Attention must be paid to resources, jurisdiction, human resource development, reporting and funding issues in order for the Saanich First Nations communities to heal from family violence. We ask the government to demonstrate (its commitment) that it is listening by making a significant re-allocation of funds to programs and services addressing First Nations violence of children and their families.

(Saanich Indian Band School, 1992)

The Saanich Indian Band School submission goes on to speak of the issues regarding the specific needs of communities and the lack of resources. The Nimpkish Health Centre goes on to suggest standards for placing children to spare them from further victimization. Lax Ghels Community Law Centre speaks to the poor practice standards and harm caused by the lack of diligent towards social work practice. Spallumcheen Family Services states a model, which is open the scrutiny of the family, extended family and community. Kamloops Indian Band recommends more single parents be recruited for foster care because most children in the system come from a single parent home. Kamloops also mentions the need to construct a Child Advocate program independent of the government.

One structure for funding was created by the Spallumcheen in a negotiated five year funding agreement with the federal government from 1981-1986 and yearly since then with a protocol sign in 1991.

A five-year funding agreement was negotiated with the Federal Government for the period of April 1981 to April 1986. Subsequent funding has been provided on a yearly basis. On October 11, 1991 a protocol was signed between the Ministry of Social Services and the Spallumcheen Band Council. The protocol outlines a procedure for dealing with protection concerns involving Spallumcheen children.

(Spallumcheen Family Services, 1992)

The financial structure of the Federal and Provincial administrations creates the lack of financial resources for services, programs and capital for facilities. The submission by Spallumcheen calls for the Native child welfare system to be appropriately resourced by federal and provincial governments:

We feel that it is imperative that this be a parallel system; that it be adequately funded by both the federal and provincial governments; that Native people continue to have access to the Ministry programs that they now have access to; that Native people be

able to access other Ministry programs that they presently have been denied access to; and that the legislation be amended to reflect these changes.

(Spallumcheen Family Services, 1992)

This is also true for the funding of smaller agencies where the funding is structured solely from within the Federal jurisdiction. Both levels of government need to recognize the specific needs of the Aboriginal family and provide resources to fill the needs, such as educational and community development workshops for family violence, anger management life skills and preventative services which keep the family and child together. The lack of resources also creates a bottleneck in the court system, which has children in the system longer.

### Analysis of Submissions - Relationships

When one party questions the trustworthiness, integrity, mental acuity or reliability of another party, relationship dynamics are a source of disputes.

(Moore, 1986)

Analytic Category: <b>Relationships</b>		Total number of instances
1	Trustworthiness	16
2	Integrity	15
3	Holistic view	13

Figure 3

My analysis of the submissions using the analytic framework I described in Chapter 4 revealed conflicts based on relationships in a number of the submissions made to the Aboriginal Community Panel. I categorized these relationship conflicts into three areas: trustworthiness, integrity, and a holistic worldview. The issues associated with the relationship issues raises much passion among Aboriginal peoples, as exemplified by the emotion contained in words of the submission made by the Louis Riel Métis Association.

...from this go we have heard two words thrust at our communities on a repetitive basis – PATIENCE and COOPERATION. As for patience we believe we have been very patient, but when faced with inaction and broken promises, our patience begins to grow very, very thin. As for cooperation, we are still waiting to see some gesture of a genuine intent to include and cooperate with Aboriginal communities.

(Louis Riel Métis Association, 1992)

### **Relationship Emphasis Area 1 - Trustworthiness**

Trustworthiness is the foundation of all positive relationships where understanding and respect are mutual, and is a house post (or cornerstone in mainstream architectural and metaphoric terminology) of Aboriginal relationships. The very act of making a submission to a community panel that was funded by and reporting to the Provincial government was itself a huge exercise in trust for the Aboriginal communities that made submissions.

Despite decades of colonial and post-colonial broken promises, First Nations and Aboriginal people still retain a huge capacity to trust outsiders because that is how we relate with one another within our communities. It is a strength of our people.

Many submissions noted the power dynamic associated with the Aboriginal Community Panel process, and whether or not the very action of making a submission was only serving to further the post-colonial ambitions of the Provincial government.

Our intent on being here is not to validate your process but to express what we believe is in the best interest of our children.

(Gitwinksihlkw Band, 1992)

This notion is also referenced as being raised by a Métis Elder in the submission of the Métis Council of Alberni submission.

One of our elders wondered why does the government want parents input into an act, which never adequately meets the needs of families? Or why do governments have such a desire to interpret family values?

(Métis Council of Alberni, 1992)

As a direct example of the history of the experience of First Nations in their interactions with the institutions of the Provincial government, the Lax Ghels Community Law Office submission offered the following:

Time and time again, I have observed Indian people giving evidence. They are soft-spoken, sometimes hesitate because they are thinking about the question. This type of appearance to a judge amounts to not being credible and believable. On many occasions a judge would say, "I've observed the demeanour of the witness and where the evidence of the witness conflicts with that of the social worker, I believe the evidence of the social worker."

(Lax Ghels Community Law Centre, 1992)

It seems to me that the nature of mainstream social work practice creates an environment incapable of trust. Another example is given regarding counselling services for the mother when it is the father who was violent toward his spouse and children.

She then moved to the local transition house with all three children. The following day the social worker showed up at the transition house and forcefully removed the child from her mother. The child was crying and trying to hang on to her mother. The other two children were not apprehended. There does not seem to be any rationale for this. The child was removed from her mother at a time when she needed her most. The child was subsequently returned by order of the court.

(Interior Indian Friendship Centre, 1992)

### **Relationship Emphasis Area 2 - Integrity**

Important elements in a relationship are the presents of integrity, reliability and cooperation. These are needed when dealing with child welfare in a serious a genuine manner.

Relationships are strained when misunderstandings and fear of the system becomes the status quo. The conflict of supporting a child over the parents hinders the integrity of the relationships. The lack of supports for the relationship value that holds the family together is devalued by mainstream practice and the family values and relationships disintegrate.

At present, Aboriginal relatives who care for a child receive much less assistance than a non-native foster parent. Pensioners may have to partially support teenage children out of their meagre income. This may lead to resentment on both sides. Teenagers feel deprived and prefer to go to a non-native foster home where they can get clothes, sports equipment and special help and grandparents may find that they have to go without food themselves to provide for their growing grandchildren.

(Indian Homemakers Association, 1992)

### **Relationship Emphasis Area 3 – Holistic View**

In the development of a relationship between the child welfare system and Aboriginal families, the understanding and sensitivity to the culture needs to be paramount. This can be observed in those situations where the child has been placed in a non-Native home and with the clash of cultural values between the caregiver and the child, the child is seen as being developmentally delayed.

Cross cultural sensitivity and responsiveness has implications for the entire child protection service process. For example, when native children are in care, attention is not always given to verbal and non-verbal cues. This is sometimes misinterpreted as the child being labelled developmentally delayed in the area of social, cognitive and language development. Placing a child in a home of a different background adds

greatly, in a variety of ways, to the trauma the child experiences.

(Nimpkish Health Centre, 1992)

The trauma of the placement has a tremendous effect on the relationships of the child. To be displaced from one's culture and then to be taught a different culture hinders the reintegration into the child's original culture. With the denial of the child's original culture comes the conflict between the new and old culture.

First Nations people need to be recognized for our social and cultural needs. When a child is placed in a non-native environment she/he loses its ability to be First Nation by the socialization of a foreign culture.

(Gitwinksihlkw, 1992)

From a holistic view, the submissions pointed out that the values of mainstream legislation and policy were out of touch with the values of Aboriginal communities. Ministry practice seemed to be based on the individualized value of the child, rather than the collective value of the family within the First Nation. By intervening in the collective child rearing practices of First Nations and superimposing the importance of the rights of the child onto the situation, the traditional values of parenting were becoming eroded. But when the placement of an Aboriginal child into a non-Native home broke down because of these value based conflicts, the locus of blame was placed on the child rather than the culturally insensitive Ministry system of practice, leaving the perception of that it is the child who is the source of the problem, and that no one wants them.

### **Analysis of Submissions on Values**

Disputes involving values are characterized by efforts to define what is "right" in some moral sense and to determine which party's values should have priority in the dispute.

(Moore, 1986)

The moral issues of Aboriginal child welfare as defined in the submissions are separated into seven emphasis areas. My analysis of the submissions using the analytic framework I described in Chapter 4 revealed a number of conflicts based on values in the submissions made to the Aboriginal Community Panel. I categorized these value conflicts into seven distinct areas.

Analytic Category: Values		Total number of instances
1	Appropriate governance	2
2	Homogenization of Aboriginal peoples	7
3	Resourcing to rebuild families (Healing)	15
4	Cultural practices	12
5	Community members wherever you are	5
6	Positive change through moral choice	2
7	(An end to) institutional racism	2

Figure 4

### Values Emphasis Area 1 – Appropriate Governance

Appropriate governance sets the direction for good child and family service practice. It acts as a compass for the decision making when there are many competing interests and possible courses of action available. By always pointing in a consistent direction that is based on culturally appropriate values, cultural integrity can be maintained. Appropriate governance counteracts the insidious impacts of colonialism that have conspired to undermine traditional Aboriginal values. The post-colonial models of governance that have been imposed on First Nations are reinforced as ‘normative’ by Federal and Provincial policy makers, and vigilance is required of First Nations to avoid being coerced or co-opted into accepting culturally inappropriate models of dealing with one another.

Because of the lack of involvement of Native people and organizations in the case planning and decision making, many decisions are made which conflict with cultural values and norms, and which Native elders would feel is not in the best interests of the child.

(Kamloops Indian Band, 1992)

Appropriate governance can sustain the values of a community in decision making, whether that relates to program issues, staff management, or individual case planning. The mainstream models are not the only ways of doing things, and this must be recognized by mainstream policy makers as they enter into agreements with First Nations to provide services to our children, families and communities.

Overall, we do not find the provincial legislation acceptable to our First Nations people, and the Federal government should be entering into direct agreements with the Bands to provide a full range of services for family and child care needs.

(Shackan-Nooaitch Administration, 1992)

## Values Emphasis Area 2 – Homogenization of Aboriginal Peoples

Section 35 of the *Constitution of Canada* (1982) affirms certain rights for the Aboriginal peoples of Canada. All First Nations are Aboriginal, but all Aboriginal people are not First Nations. This fundamental dichotomy is more than just semantic. The sovereignty of individual First Nations as distinct Nations – whether they be Nisga'a, Sto:lo, Ktunaxa or any other First Nation – becomes minimized when these distinct Nations are lumped together under the broader term “Aboriginal.” The idea being that all Aboriginal people can be portrayed as an undifferentiated group where the sins of one may be generalized over the entire group supports the values of mainstream policy makers who have vested interests in maintaining the destabilization of First Nations identities and forms of governance. The objective of post-colonial rule is to maintain the alienation of resources from their rightful owners, through whatever means possible. The values of post-colonialism strive to ensure that inherent rights, the seeds of self-governance/determination, are never given an opportunity to germinate.

Let us not forget that much of the debris and fallout that is currently occurring within Aboriginal communities stems directly from abuse and a deliberate attempt by "White" governments to eradicate and destroy our culture, history and ways of life. Tearing families apart with no compassion or concern to have those families heal and get back together. The main thrust being to dilute the Aboriginal community by spreading our children all over North America and denying them access to their families and roots.

(Louis Riel Métis Association, 1992)

This impact of generations of colonial and post-colonial rule has created a situation where the needs of First Nations individuals are not being met through self-allocation of the products of our own natural resources. Because the needs of our peoples are not being fulfilled in a culturally appropriate manner, whether by default or by design, a form of assimilation has been created. By addressing First Nations needs using the tools developed by and for mainstream populations, a form of assimilation that normalizes the values inherent in the mainstream methods into Aboriginal communities has been created.

First Nations people need to be recognized for our social and cultural needs. When a child is placed in a non-native environment she/he loses its ability to be First Nation by the socialization of a foreign culture.

(Gitwinksihlkw Band, 1992)

Much work is required to undo the insidious and damaging effects of post-colonial policy

that has been introduced into First Nations communities.

### **Values Emphasis Area 3 – Resourcing to Rebuild Families**

Conflicting values surrounding the notion of family has been and continues to be a source of conflict between First Nations and mainstream policy makers. It was the very structure of the First Nations family system that was targeted by the residential school system, as designed by mainstream Canadian zealots who propelled their ideologically driven processes of social engineering into the heart of First Nations communities. The mainstream notion of the ‘nuclear family’ is anathema to a traditional First Nations idea of family, however many of the values associated with this mainstream ideal have attached themselves to First Nations individuals like burrs to a sweater. Consequently, the healing of families is required.

It is the belief of this community that we must preserve and strengthen the Ktunaxa culture and identity of our people. A large part of that culture was an extended family system that was almost totally eradicated by the Residential School System and the Governments attempts to assimilate Indian people into the non-native culture and society. St. Mary’s relies on this extended family system when dealing with Child Welfare issues.

(St. Mary’s Indian Band, 1992)

Child welfare legislation has been pivotal in creating divisiveness within First Nations families. Mainstream conceptions of the child as being the property of their biological parents only, as opposed to the First Nations concept of the child as the responsibility of the community have led to many court battles where extended family members have been excluded from exercising their traditional responsibilities to their family members.

Any legislation addressing the protection and care of aboriginal children should also address the need for and facilitate community and family development within the child’s First Nation community. Maximum community-based care and family and child support resources and program and operational funding should be available in the best interest of aboriginal children and their families.

(Squamish Nation, 1992)

The notion of traditional First Nations family values has been altered, and culturally appropriate resources are needed to re-establish and reconstruct family values, if our communities are to maintain our cultural integrity into the future.

The primary implication of that basic premise is that if society is to truly serve “the best interests of the child” appropriate resources must be made available to the family of the child to assist it in growing into a healthy family that can raise strong, healthy, happy children.

(Cowichan Band Council, 1992)

#### **Values Emphasis Area 4 – Cultural Practices**

Every society has cultural practices associated with it. Rites of passage, celebrations, and mourning rituals are all carried out in ways that fit within societal norms. Some individuals have so integrated these practices within their own personalities and regular activities, that they may see the different practices of strangers that are associated with the same activity as being abnormal – not the Right way of doing things. It is when the practices of one culture conflict with those of another that clashes occur, especially when one individual or group seeks through force to exert their own practices over the other group. This is the case with First Nations cultural practices. Residential schools, legislative bans on cultural ceremonies, entertainment industry stereotypes, and mainstream educational indoctrination methods have all negatively impacted First Nations cultural practices.

As an ideal we firmly believe that Aboriginal children belong in their communities. That any issue of child welfare is one that should be administered and controlled by us. We see no value in simply replacing "white-faces" for "brown-faces". What must be achieved is a system of childcare and healing of our families where our traditions and cultures become the primary guideline and the base from which all programs and/or treatment springs.

(Louis Riel Métis Association, 1992)

As a result of the multi-pronged attack on First Nations cultures, the baseline for cultural practice has been now redefined. First Nations adults, whether they accept it or not, now have a choice as to whether or not they will exercise culturally appropriate methods for dealing with everyday situations. This same choice is not available to children in care, especially First Nations children who are placed in non-Aboriginal foster homes. Through the exposure to non-Native values that is continuously reinforced within the walls of mainstream educational and foster home environments, psychologically vulnerable First Nations children soon learn that the values of their culture are not in step with those expressed as normal through the actions of the adults around them.

Children in care require enriched opportunities. This will take an extra effort, needs to be addressed in policy, and enabled by the legislation. Children need:

- to understand who they are and where they 'belong'
- access to culturally appropriate counselling
- access to appropriate life skills training
- support from a 'family' who is aware of the child's needs, including culture
- to be nurtured

(Hazelton Child and Youth Committee, 1992)

This raises the question that if a child in care was actually receiving culturally appropriate care, would that service be counter to the “best interest of the child” argument, especially when the best interests test is predicated on the values of the mainstream legal system.

It is a cultural aspect of our people that history, wisdom and knowledge of our ways is passed down orally to our children in order for our traditions and our culture to survive. However, the Family and Child Services Act of the Province of British Columbia is seen as a direct threat to our survival because of the way it has affected our children. I would question whether or not it is always in the best interest of a child to be removed from his parent.

(Lax Ghels Community Law Centre, 1992)

### **Values Emphasis Area 5 – Community Members wherever you are**

The division of Federal and Provincial powers that occurred with the 1867 Constitution Act created a problem for First Nations. For the most part, the granting of exclusive jurisdiction over Indians and lands reserved for Indians (s. 91.24) to the Federal government alleviated the Provinces of their responsibility to enter into relationships with First Nations. The exception was when First Nations citizens took up residence outside a reserve community. For administrative purposes, the Province considers First Nations citizens who do not reside on a reserve to be members of a geographically defined Aboriginal community. This is in direct contrast to the position of First Nations who consider registered members to be citizens of the Nation, regardless of where they reside in the Province. This value conflict becomes apparent when the issue of culturally appropriate service provision emerges in case management for children in care or in service planning for agency development.

The conviction that once a Ktunaxa (Kootenay), always a Ktunaxa no matter where you may happen to live. The issue of jurisdiction of Native Child Welfare programs outside of traditional territories is an issue that is not for the non-native bureaucracies to decide. It is an issue to be dealt with by First Nations and then, on a government to government relationship between the First Nation and the Federal and Provincial Government.

(St. Mary’s Indian Band, 1992)

First Nations recognize that in order to strengthen their cultures, culturally appropriate services must be available to their citizens, regardless of where they live. Programs and services that are based on Generic Aboriginal or pan-Indian principles, are not culturally appropriate to any First Nation. For citizens residing outside of a reserve community who

can only access generic mainstream value based Aboriginal programming, their own traditional culture continues to be eroded rather than maintained or strengthened. The Province can claim that they are attempting to act in a more culturally sensitive manner by the funding of generic Aboriginal programs, but this does not replace culturally specific programs. .

There is and always has been a problem with jurisdiction regardless of residence; will the bands and/or the tribal councils be able to prepare guidelines of what they know is important and unique to their area.

(Kwaqitl District Council, 1992)

### **Values Emphasis Area 6 – Positive Change through moral choice**

It is the standpoint of a Ktunaxa, along with many other First Nations that it is imperative to preserve and strengthen the culture as the basis for identity, whether a member of a family, community or nation. The protection of a child as a moral issue is where the goal of the service is to aid the parent to exercise their responsibility as a community member and the responsibility for the child is with the community. It is important to understand the context to how an oral society passes on knowledge and wisdom and without this ability the culture will not survive and the children will be changed forever.

First Nations people were assimilated which lead to the eradication of Aboriginal people as a distinct people. It is believed that abuse and violence resulted from colonization and through the imposition of residential schools created a “ripple” effect of abuse, violence and virtually a lack of parenting skills. This assimilation produced a lot of pain and anger in the majority of First Nations people who began to take their emotions out on their families.

(Saanich Indian Band School, 1992)

The moral issues of child welfare practice must balance with the traditional values, which created an environment conducive to Aboriginal culture.

### **Values Emphasis Area 7 – Institutional Racism**

The value conflict that occurs with institutional racism is based on racist assumption that First Nations are inferior and not capable of managing their own affairs. Systemic barriers are established to ensure that attempts by First Nations to exercise their inherent responsibilities to their family members can never succeed within the existing administrative structure. This is not to say that the Province is not willing to enter into contracts and agreements with First Nations for service delivery, it is just that these programs will always

be handicapped at the outset. Insufficient resourcing and soft funding practices combined with moving goalposts for service delivery accountability set Aboriginal service providers up for failure.

We don't have funds for child care workers, travel, special needs, GFA. Sure they give us a few bucks but not enough that we have now are not a part of a culture but a part of what we have inherited from the non-native society.

(Gitanmaax Health and Child Care Committee, 1992)

Institutional racism also affects individuals who are victimized by a system that operates based on values that are inconsistent with their own values. In the First Nations worldview, children are not resources to be exploited for individual gain such as what happens when a foster parent is paid for housing a First Nations child. In such circumstances, a decision to return a First Nations child to his home goes against the financial interests of the foster parent, who loses their livelihood when their beds are empty. This exploitation of children for individual financial gain is repugnant to First Nations.

First Nations people have become a commodity to the non-native society. Our people represent only a small fraction of the larger society, yet our people continue to be over represented in suicide rate, the court system, prisons, and in the child welfare system. The emotional well being of our children in the system is not of paramount concern. The bottom line is money, the funds that the province can receive for a registered child with in the definitions of the Indian Act. Meanwhile the cultural needs of the child, the family, and the community are not relevant concerns of the legislation and the Ministry of Social Services and Housing.

(Gitwinksihlkw, 1992)

### Analysis of Submissions on Information

Often recognized in questions as such as "How many? or What's best?", data disputes result from different sources, analyses or interpretations of information. Fortunately, as most technical knowledge is based on the ability to objectively measure or quantify, there are many techniques to resolve data disputes.

(Moore, 1986)

Analytic Category: <b>Information</b>		Total number of instances
1	What is best	13
2	Residue from colonization	4
3	Resources – what resources?	6
4	What should Aboriginal Practice be?	26

Figure 5

One conclusion we can draw from the present statistics regarding involvement of Aboriginal people in child welfare is that: child protection issues are not incidental in Aboriginal communities; Aboriginal child welfare services is a vital resource component that is constrained by provincial legislation that was developed as a measure of last resort in mainstream society. The intent of present Provincial legislation does not meet the needs of Aboriginal communities because it is a residual service that does not legislate the service components so desperately needed by Aboriginal families who require child protection services.

(Cowichan Band Council, 1992)

### **Information Emphasis Area 1 - What is best?**

Saanich states inequities create the environment for family violence, with the lack of resources, inability to access services, jurisdictional issues, and human resource underdevelopment. They also state child abuse or family violence is not a traditional value and goes on point out that colonization created the climate and environment for family violence. To enhance a child's and family's capacity to adjust child care workers are needed to aid in times of unbalance. The Songhees provide an informative insight where there is a parallel between foster homes and residential schools. And the Gitksan state negative social effects disassociated the child from their parents and community along with an education system that failed them and creates the cycle of dysfunctional families. Pauquachin Band Council, 1992 promote the issues of being accountable to the community. Waglisla offers the advice the community must be involved with the solution and extreme isolation compounds and drives practice. Elders in the community using tradition should drive child welfare. The community must have control of services, input by the community and advise the panel that more benefits are needed to stay in the north communities and community needs to be involved in development and delivery of service.

### **Information Emphasis Area 2 - Residue from colonization**

The Cowichan Band Council speak to the resilience of First Nations people in surviving the aftermath of colonization and the resources to overcome the impact of colonization. Many Aboriginal families that live away from the natural helping units are impoverished socially, economically and politically in short more poverty creates vulnerability for children.

### **Information Emphasis Area 3 - Resources, what Resources?**

The Gitksan speak to self-determination for practice of child welfare using traditional values and the need to be less dependency on government. The Songhees point out the fact that the current agreement between the federal and provincial government imposed the child welfare system without consultation. The Ktunaxa speak to the self-determination of the community to develop services, programs and policy and that they are responsible for all community member not just band members. The Songhees wish to receive information for all their for all members not just the members living in the First Nations communities. The St. Mary's Band sets a goal of self-sufficiency and the need to control of child welfare system. The Songhees point out the notion of inherent right to child welfare and that the provincial and federal government should transfer authority to First Nations. The Songhees take offence to the federal policy, which limits the scale of organization of an agency through population of 1000 children. They go on to state resources need for the community to have a representative in court, the is legislation is clear on representation but no there a no resource allocated for the community to have representation in court. The need of a provincial child welfare system for First Nations to develop their own system is stated again by the Songhees, along with settling land question.

The lack of resources are stated time and time again. This constant seems to be a major barrier to the healing process as stated by the Gitksan in their aspirations to create an adolescent healing center. They go on to point out the fact that resources are limited.

We are recommending that a general policy guidelines for child welfare be outlined but that the Aboriginal peoples be given funding to develop their own policy guidelines and administration of the program for their own areas/territories

(Gitanmaax Health and Child Care Committee, 1992)

In 1990, there were only four child welfare agencies functioning with funding from the federal government Spallumcheen, Sechelt, Cowichan and Nuu Chah Nulth Tribal Council.

### **Information Emphasis Area 4 - What should Aboriginal practice be?**

With so many Aboriginal children in care and adopted there is a need for a repatriation service. With the migration to the towns and cities comes being displaced from the culture, the loss of traditional problem solving methods and traditional systems not being validated

out of the Aboriginal community. Within the non-Native community, the systems try to replace the traditional roles which create conflict with cultural values and practices and the new imposed values. The loss of cultural identity and lack of cultural values create negative social impacts. Also the counter-cultural interventions stop cultural growth. There is a need to develop tools to capture First Nations statistics, tools to evaluate the existing system. Aboriginal practice needs a commitment to integrated case management, and a commitment to place First Nations children in First Nations homes. There needs to be an Aboriginal process for setting protocols for practice standards. Self-determination is a key in the development of roles and responsibilities with accountability committed to a First Nation Welfare model. In the Aboriginal community there are many conflicts in values and child welfare practice that need to be addressed in order to achieve a level of childcare that is equal to the rest of the nation.

If the Native Bands are empowered to create their own child welfare services for each of their reserves, this will be start in the healing process for native communities to regain their cultural heritage through the children. The Province and the Federal Governments would be recognizing "Indian Law" and the inherent right of Native people to care for their own children.

(Songhees Indian Band, 1992)

## **Chapter 6 – What the Aboriginal Community Received.**

In Chapter Four, I described the rationale for my research on the submissions made to the British Columbia Review Committee on the *Family and Child Services Act*, Aboriginal Community Panel by 37 Aboriginal communities in 1992. Much of the information presented in previous chapters of this thesis speaks to my research rationale points 1 - 4. I believe that the previous information addresses the first part of the question raised in the title of this thesis: **What did the Aboriginal Community ask for in 1992, and What did They get?**

In Chapter Six, I will answer the second part – the “What did They get?” – question from the title of this thesis. I will demonstrate how my beginning my qualitative research process motivated me to consider whether or not any real change had occurred in the intervening years between my submission to the Aboriginal Community Panel in 1992 and my re-analysis of the submissions in 2000. In doing so, I will show how the factors that I observed through my research into the “What did They ask for?” sections established a number of factors that I believe form a baseline for contemporary child welfare practice. This baseline will then be used to assess whether or not the aspirations have actually come to fruition. I will end Chapter 6 with my concluding thoughts on my research.

### **What did They get?**

As stated previously, in 2000 I initiated the main component of my research for this thesis by categorizing the aspirations of the Aboriginal communities that had been expressed to the Aboriginal Community Panel in 1992 using an adapted conflict resolution model based on the work of Dr. Chris Moore. At that time, I was employed as the Director of Nisga’a Child and Family Services and was serving in a voluntary capacity as the president of the First Nations Child Care Workers’ Society and as the treasurer of the Caring for First Nations Child and Family Society. My direct experience in the administration of front-line child welfare practice combined with my ongoing committee work provided me with a unique vantage point from which I could observe the dynamics that were occurring in local and provincial child welfare practice at the time. I had also recently completed my literature

review, which had heightened my awareness of the principles that academics had identified as necessary for Aboriginal self-determination in child welfare practice and administration. With this context as the background for my analysis of the 1992 submissions, I began to notice that many of the themes that were brought forward by the Aboriginal communities in their 1992 submissions still had not been substantially resolved by 2000.

Using the same categories that I had established as a matrix for my analysis of the submissions, I subjectively reviewed the document that was eventually produced by the Province of British Columbia as a result of the Aboriginal Community Panel information gathering process. My review of the document entitled *Liberating our Children. Liberating our Nations* is by no means intended to be taken as a comprehensive document analysis, and is only included in this research paper to illustrate the process I used to answer the “what did they get” component of my research question.

As illustrated in Appendix 3, I took the identified emphasis areas – Interests, Structure, Relationship, Values, Information - that I had identified in Appendix 2 and subjectively considered whether or not each submission analysis theme showed up within the *Liberating our Children. Liberating our Nation* document. Initially I thought that my categorization could be nominal – was the theme area addressed, yes or no – but I soon recognized that some categories seemed to fall into both yes and no category. For this reason, I created another subjective category that I identified as ‘partial’. Each submission analysis theme area is categorized using the ‘yes – partial – no’ designation in relation to whether the concept was referred to in *Liberating our Children. Liberating our Nation*.

This subjective classification is by no means meant to be a critique of the published work of the Aboriginal Community Panel, but is rather a demonstration of the initial step I took towards juxtaposing my emerging findings against existing practice. This procedure was solely my own – my subjective analysis only. It is in no way meant to be interpreted as a definitive or rigorous statement of finding, nor was it ever intended to be; this process only facilitated the next step of my answering the question, “What did they get?”

For the second step of my child welfare practice analysis into whether or not the 1992

aspirations of the Aboriginal communities had been actualized by 2000, I utilized the same process that I had used for my subjective review of the *Liberating our Children. Liberating our Nations* document. I took the emphasis areas that had emerged from my re-examination of the submissions and looked at whether each theme area had been adopted by the Province either in whole (yes), not accepted (no), or neither totally accepted nor rejected (partial). This information is also observable as the final column represented in Appendix 3.

As reference points for this analysis of Ministry practice, I identified the various positions on child welfare practice that had been issued by the Province of B.C. between 1992 and 2000. Some of the formal and informal statements of Provincial positions that I accessed were:

- *Child, Family and Community Service Act*
- *Adoption Act*
- Ministry for Children and Families Strategic Plan for Aboriginal Services
- Report of the Gove Inquiry into Child Protection in British Columbia
- Memorandum of Understanding (For the Funding of Child Protection Services for Indian Children) Between Her Majesty the Queen of the Province of British Columbia, as represented by the Minister of Social Services, and Her Majesty the Queen in Right of Canada.
- Ministry of Child and Family Services Policy Manual, Volumes 2 and 2A
- Aboriginal Operational and Practice Standards and Indicators
- Practice Standards for Child Protection
- Practice Standards for Guardianship
- various MCFD practice bulletins
- various Ministry staff training curriculum and resources
- First Nations Child and Family Services Joint National Policy Review report.

These legislative and administrative statements guide the practice of child welfare workers within the province and I believe they reflect the public and institutional interests and positions of mainstream child welfare practice. I considered these documentary sources as well as my own lived experience as a First Nations child welfare practitioner/administrator as I undertook the task of categorizing each submission analysis theme into whether or not it had been adopted by the Province after it had been suggested to them in 1992.

In the emphasis area 'Interests', I had observed 12 distinct themes through my documentary analysis of the submissions. When considering to what extent the concept had been adopted by the Province, I determined that the majority of the occurrences could be categorized as being partially adopted or not adopted. It is my belief that these interests still exist today because they have not been dealt with, and they will continue to be points of conflict until they are addressed in a mutual, honest and respectful manner.

In regards to the second emphasis area 'Structure', Dr. Chris Moore indicates that until structural barriers are removed between two parties, conflicts will continue to occur again and again. I observed six distinct themes within the submissions that fall within the structural emphasis area, and I categorized 5 out the six theme areas as being partially met, and one as being adopted. I believe the overall positive changes in the structural area occurred as a direct result of a series of Supreme Court decisions such as Van der Peet, Delgamuukw, and Corbiere that forced the Province to adopt a more conciliatory approach to First Nations than had previously existed. This new approach recognized the inherent rights of First Nations and was reinforced by the generally successful practice that was occurring within emergent First Nations Child and Family Service Agencies at the time.

My data analysis of the third emphasis area 'Relationship' identified four separate themes. I categorized half of these themes as being not adopted by the Province and the other half as being only partially accepted. It is my observation that neither the trustworthiness nor the integrity of the Province substantially improved between 1992 and 2000. Where progress was made was in the area of reliability and acceptance of a holistic worldview. The development of Practice Standards did much to counter the 'moving goalposts' of Ministry policy in regards to First Nations services that had been the case before the somewhat objective benchmarks associated were developed. A recognition of an Aboriginal worldview as a valid consideration for Ministry policy makers was reflected in their haltingly embraced emphasis on applying an "Aboriginal lens" to new policy, standards and legislation development.

In the 'Values' emphasis area, my research indicated the existence of seven distinct themes.

My categorization of these theme areas indicated that four had not been adopted, two partially adopted and one had been adopted. It was my observation that the themes that conflict the least with mainstream values in regards to First Nations and Aboriginal people appear to have seen the most acceptance by mainstream policy makers. The need for healing of Aboriginal people through programs that incorporate cultural practices and which are self-administered by Aboriginal people fits well within the erroneous mainstream notions of Aboriginal communities that are rife with epidemic levels physical, sexual and substance abuse that can be 'cured' by implementing well-intentioned mainstream-model programs with minimal resources and inadequate staffing. Actual self-determination, including recognition of First Nations as sovereign socio-cultural entities with rights to serve our own people in ways that are appropriate to our own Nations is still not visible anywhere on the radar screen of mainstream Provincial policy makers and service providers.

The final emphasis area of Information contained four theme areas according to my re-interpretation of the data from the 1992 Aboriginal community submissions. When categorizing to what extent each of these theme areas had been adopted by the province, my analysis indicated that all four themes had been partially adopted by the Province. Given Moore's (1986) assertion that information conflicts can be easily resolved through the use of mutually agreed upon reclassification procedures for technical knowledge, and the technological advances made in the field of electronic information management between 1992 and 2000, many of the information conflicts voiced by the Aboriginal communities in 1992 were being addressed by Provincial policy makers by 2000.

Using this process of categorization, I determined that of the 33 submission themes that emerged through my research into the documentary submissions to the 1992 Aboriginal Community Panel, only 3 (9%) had been substantially adopted by the Province, 22 (66%) had been partially adopted, and 8 (24%) had not seen any movement in regards to legislation, policy, standards or practice. It is my assertion that 90% of the recommendations made to the Aboriginal Community Panel in 1992 still had not been substantially addressed by the Province of British Columbia by the year 2000.

## Conclusion

There were a number of lessons I learned through the completion of this thesis research and writing process. First, my thesis helped me to develop my skills and knowledge in areas and ways that enhanced my ability to negotiate the elements of child welfare and social devolvement for the Nisga'a Treaty. This to me was a tremendous accomplishment, because the repercussions of the treaty will be felt for generations to come, and I believe that the child welfare aspects have been negotiated into this agreement will stand the test of time, and lead to the strengthening of my Nation.

Additionally, my review of the data gave me a broader picture of what the issues are that other First Nations and our Métis brothers and sisters are having to deal with as they strive for self-determination.

I learned a new appreciation for the amount of vigilance and diligence will be needed maintain the intent and integrity of the Treaty, just as vigilance and diligence are needed to interpret the issues of the aboriginal community.

The final lesson that I encountered from this process was that the well being of each Aboriginal child is necessary in order for his or her Aboriginal community to function at its full potential. This is not to be lost sight of, and should guide all program and policy development in order for the adults to not lose track of what it is that they have been put into positions to do what they can today. This is no accident.

In conclusion, I draw upon my experience as a Nisga'a social worker/ program manager/ treaty negotiator/ community member who undertook to re-examine the submissions made to the Aboriginal Community Panel in 1992. My conclusions for Aboriginal people are as follows:

- Hold the Ministry responsible for their actions, define the meaning of consultation.
- Strive for self-government and self-determination.
- Practice and honour your cultures.

- Take responsibility for the children in your family, extended family and community.
- Reinforce positive role modelling.
- Develop more foster homes.
- Maintain family contact with children in care.
- Develop additional resources for healing the past.
- Strive for equity of services.
- Promote the notion of citizenship of the child to the culture and nation.
- Understand and learn from the ramifications of residential school.
- Understand the Aboriginal elements of Provincial child welfare legislation and build on the strengths and resist change to these elements
- Advocate for resourcing for Band Councils to respond to *CFCSA* applications that they are notified of.

My conclusion regarding areas of additional research is that, just as it happened with the Aboriginal Community Panel in 1992, anytime there is a public hearing involving Aboriginal people, the data should be captured for future research. By having the submissions of the 1992 Panel available in the public domain as these were, I personally have benefited from the wisdom of the submitters at that time, and I believe that my community has also benefited through the Nisga'a Treaty provisions for child welfare that were negotiated based on the principles of Dr. Moore and the Aboriginal communities.

Research can be transposed into social action with the education system, and community based research can be a change agent for the promotion of freedom and social justice.

## Appendix 1

	Aboriginal Community	Submission #	Length
1	Northern Native Family Services	001	7
2	Carrier Chilcotin Tribal Council	003	1
3	Coldwater Indian Band	004	10
4	Nicola Valley Tribal Council	005	5
5	Shackan-Nooaitch Administration	006	5
6	Interior Indian Friendship Centre	007	10
7	Kamloops Indian Band	008	24
8	Spallumcheen Family Services	009	28
9	Songhees Indian Band	010	10
10	Ktunaxa/Kinbasket Tribal Council	011	6
11	St. Mary's Indian Band	012	8
12	Lax Ghels Community Law Centre	013	8
13	Nadleh Whut'en & Stoney Creek Bands	015	5
14	Kitsumkalum Band	017	5
15	Gitwinksihlkw Band	018	7
16	Northwest Band Social Workers	019	4
17	Hazelton Child and Youth Committee	020	11
18	Gitanmaax Health and Child Care Committee	021	9
19	Heiltsuk Band Council	022	9
20	Penticton Indian Band	023	7
21	Interior Indian Friendship Society	024	9
22	Kitimaat Village Council	025	5
23	Gwa'Sala'-'Nakwaxda'xw Council	026	5
24	Kwaquiltl District Council	027	5
25	Nimpkish Health Centre	028	11
26	Cowichan Band Council	029	14
27	Songhees Band Council	030	7
28	Pauquachin Band Council	031	7
29	Saanich Indian Band School	032	12
30	Indian Homemakers Association	033	4
31	Hey-Way'-Noqu' Healing Circle	034	3
32	First Nations Family & Child Care Workers Association	035	7
33	Métis Council of Alberni	037	5
34	Louis Riel Métis Association	038	9
35	Usma Nuw Chah Nulth Family Services	039	17
36	Pacific Métis Association	040	60
37	Squamish Nation	042	29

## Appendix 2

Analytic Category	Key Concept from Submission Analysis	Total number of instances
Interests	New family centered concept needed	16
	Holistic service model needed	17
	Acknowledgment of structural conditions	8
	Authority still with province (should be with local people)	11
	Recognize Native Wisdom	3
	Meet children's needs	5
	Use courts as last resort	2
	Improve operation of current system	9
	Legislative changes (needed)	37
	Building capacity (needed)	8
	Equity of Services (needed)	10
	Cultural values and practices (needed)	31
Structure (Authorities)	The web of authority (Government authorities)	24
	Traditional Structure	7
	Self Government and Authority	37
	Practice of Traditions (Traditional Practices)	11
	Barriers (Jurisdictional problems)	8
	Funding structure	3
Relationship (issues)	Trustworthiness	16
	Integrity	15
	Holistic view	13
	Reliability	3
Values	Appropriate governance	2
	Homogenization of Aboriginal peoples	7
	Resourcing to rebuild families (Healing)	15
	Cultural practices	12
	Community members wherever you are	5
	Positive change through moral choice	2
	(An end to) institutional racism	2
Information	What is best	13
	Residue from colonization	4
	Resources – what resources?	6
	What should Aboriginal Practice be?	26

## Appendix 3

Emphasis Area	Submission Analysis Theme	Total number of instances	Concept referred to in LOC LON <sup>1</sup> ?	Concept adopted by Province <sup>2</sup> ?
			Yes, partial, no	Yes, partial, no
Interests	New family concept needed	16	yes	partial
	Holistic service model needed	17	yes	no
	Acknowledgment of structural conditions	8	partial	partial
	Authority still with province (should be with local people)	11	yes	partial
	Recognize Native Wisdom	3	partial	partial
	Meet children's needs	5	yes	partial
	Use courts as last resort	2	no	no
	Improve operation of current system	9	partial	partial
	Legislative changes (needed)	37	yes	yes
	Building capacity (needed)	8	partial	partial
	Equity of Services (needed)	10	yes	partial
	Cultural values and practices (needed)	31	partial	partial
Structure (Authorities)	The web of authority (Government authorities)	24	yes	yes
	Traditional Structure	7	partial	partial
	Self Government and Authority	37	yes	partial
	Practice of Traditions (Traditional Practices)	11	partial	partial
	Barriers (Jurisdictional problems)	8	partial	partial
	Funding structure	3	yes	partial
Relationship (issues)	Trustworthiness	16	no	no
	Integrity	15	no	no
	Holistic view	13	partial	partial
	Reliability	3	yes	partial

Values	Appropriate governance	2	yes	partial
	Homogenization of Aboriginal peoples	7	yes	no
	Resourcing to rebuild families (Healing)	15	yes	yes
	Cultural practices	12	yes	partial
	Community members wherever you are	5	yes	no
	Positive change through moral choice	2	no	no
	(An end to) institutional racism	2	no	no
Information	What is best	13	partial	partial
	Residue from colonization	4	yes	partial
	Resources – what resources?	6	yes	partial
	What should Aboriginal Practice be?	26	yes	partial

## Appendix 4

### Legislative review of the Family and Child Services Act Written Submission

File Number            Pre 018

Submitters Name: Maurice Squires, Gitwinksihlkw Band, Nass River B.C.

April 3, 1992

#### CHILD WELFARE LEGISLATIVE REVIEW PANEL

#### **OPENING STATEMENT**

Our intent on being here is not to validate your process but to express what we believe is in the best interest of our children. We as First Nation Communities can care for our children. They are not commodities. They are our greatest resource. They have the right to be protected in their culture. We are the ones who can make the best decision for the well-being of our children, not by outside standards but by our standards.

First Nations people have become a commodity to the non-native society. Our people represent only a small fraction of the larger society, yet our people continue to be over represented in suicide rate, the court system, prisons, and in the child welfare system. The emotional well being of our children in the system is not of paramount concern. The bottom line is money, the funds that the province can receive for a registered child with in the definitions of the Indian Act. Meanwhile the cultural needs of the child, the family, and the community are not relevant concerns of the legislation and the Ministry of Social Services and Housing.

There is a need for change in legislation, there is a correlation between the care of the First Nations' children and the oppression, which they endure. There are two principles surrounding the dealings with oppression. First, identifying the oppression and second if it is up to oppressed to over come the oppression. There are two oppressions that First Nations live with and if you happen to be a female there are three. They are racism, sexism and social class.

First Nations people live in a world where the majority live in poverty. Unemployment can be as high as 80%, this is partially due to an education system that has failed them. Why is this when the province and national averages are less than 15 percent? The suicide rate is four to five times higher than the Canadian average. This is unacceptable for any race. Forty percent of the prisoners are First Nations and yet we comprise only 6 percent of the population. Why is this so? The housing standards on our reserves are not only substandard and inadequate but over crowded. What does this have to do with child welfare? This is the environment which many First Nations children have to look forward to.

When education forced assimilation upon us the First Nations by way of the residential school system the First Nations traditional community base child welfare system was dismantled and disempowered. The federal government gave little value to the family values ceased to be.

## **RECOMMENDATIONS**

We request that the legislation review recommend changes the following areas:

- We as First Nations are delegated the authority by the superintendent of family and child services to our bands and tribal councils to carry out child welfare services.
- First Nations people need to be recognized for our social and cultural needs. When a child is placed in a non-native environment she/he loses its ability to be First Nation by the socialization of a foreign culture.
- We have no divisions between on and off reserve, the child is still part of the family, extended family, clan and nation.
- We ask that placement of the children be in their own community or within native families in our nation.

- The use of extended families is a traditional value for community based child care and the obstacles that are put upon the families need to be removed or replaced so that natural helping system can function properly.
- We ask for the same services that are extended to the rest of the province, the non statutory or discretionary services such as Interconnect, Preventative services for family support systems. The funding and training that is needed to make the new legislation a success.
- We ask that the needs of the family be served whatever it be overcrowding, alcoholism, job training or employment. By serving the needs of the family and not the state you will be returning the family back on the road the self-determination.
- We request that the Ministry of Social Services and Housing provide training to understand First Nations people and their cultures. We ask that they be sensitive to the families and their problems as they are still part of the First Nation.
- We request that more First Nations people be employed with the Ministry of Social Services and Housing.
- It is important in the administration of the legislation that the field workers are not trained in the North and used in the South. We are a training ground for M.S.S.H. social workers concerning protocol, community standards and First Nations' issues. Part of the problem is the workers that are coming to our communities are in the North to establish themselves, gain experience and move to the Lower Mainland.
- We recommend that the culture of the child be a major factor with adoptions. In my nation there are several levels of custom adoptions. There are feasts and healing that are enacted with each adoption. They deserve just as much respect as the system that justifies the non-native adoption. The imposition of non-traditional government structure on native communities has severally undermined traditional laws. Decisions

about adoption or foster care in some native communities are governed by community child welfare bylaws. These may be derived from a combination of traditional law and that of the dominant society, or they may consist only of principles borrowed from provincial child welfare societies.

- We recommend that your court system be a last resort - the final net. That the community resources are empowered to aid the legal system by using elder councils or community boards.

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