CHILD WELFARE SERVICES IN CANADA: ABORIGINAL & MAINSTREAM

Historical context

First Nations, Inuit and Métis peoples in Canada have traditional systems of culture, law and knowledge that have provided effective protection of their children for thousands of years. Despite their diversity, Aboriginal[1] peoples continue to share a high value for children and an emphasis on the caring and teaching responsibilities of extended family and community (Gough et al., 2005).

European colonization of North America imposed foreign, and often harmful, policies on Aboriginal families (Blackstock, Trocmé & Bennett, 2004). The federal "residential schools" policy removed tens of thousands of Aboriginal children from their homes over several generations, aiming for assimilation. Many of these schools were rife with child abuse and neglect (Bennett et al., 2005).

The addition of a new section (s.88) to the Indian Act in 1951 cleared the way for provincial laws to apply to First Nations people living on reserve. Following this change, provincial child welfare authorities apprehended large numbers of Aboriginal children in the 1960s and 1970s, now known as the "60s scoop" (Bennett et al., 2005). Social workers placed some of these children in residential schools, while many others were adopted into non-Aboriginal homes. Due to federal/provincial funding disputes, apprehensions were usually the only child welfare "service" provided to Aboriginal communities (Ibid.).

Aboriginal peoples began forming their own child welfare agencies in the 1970s, and the movement towards self-government continues. However numerous challenges remain. Most disturbing is evidence that another "scoop" of Aboriginal children appears to be underway, driven by systemic disadvantages in Aboriginal communities coupled with the drastic under-funding of First Nations child welfare agencies by the federal government (Blackstock et al, 2005).

1 'Aboriginal' in this fact sheet refers to First Nations, Métis and Inuit peoples. First Nations will sometimes be subdivided by Indian Act status (status/nonstatus) or by residence on/off reserve. Comparisons in this information sheet are usually between Aboriginal and non-Aboriginal, but some are between First Nations and non-Aboriginals or among Aboriginal groups

Role of Aboriginal Communities in Child Welfare in Canada, 2007

Developed by the author with reference to: Bennett, 2004; Bala et al., 2004; Mandell et al., 2005; Gough et al., 2005

A = Aboriginal peoples
Prov. = Provincial government
Fed. = Federal government
FN = First Nations

	Governmental Authority	Lawmaker	Services	Funding Control	Potential Application
Self-Government	A	A	A	A	All
Band by-law (*one instance)	Fed.	A (Fed. approval)	A	Fed.	FN on reserve
Tripartite Agreement (*one instance)	Prov.	A (Fed/Prov approval)	A	Fed.	Most likely FN
Delegated Delivery	Prov.	Prov.	A	On reserve: Fed. Off reserve: Prov.	Usually FN
Support Services (Partially delegated service delivery)	Prov.	Prov.	A (partial)	Varies	All
Mainstream Services	Prov.	Prov.	Prov.	Prov.	All

Today's Patchwork Framework

Piecemeal progress towards self-determination for Aboriginal peoples in Canada has produced a patchwork of child welfare models serving Aboriginal children. These models can be compared by asking: Who is the government authority, makes laws, delivers services, and controls funding?

The most common models serving Aboriginal children at this time are mainstream services and one of two Aboriginal-run models: 1) partially delegated service delivery, which typically provides support services and guardianship; and 2) fully delegated service delivery, which provides support and child protection services.

Mainstream Services

Many Aboriginal children are still served by mainstream provincial child welfare services in which provinces make the legislation, mandate and regulate service delivery agencies, control funding, and act as the overall governmental authority.

Delegated Models

Delegation is when provincial and/or federal governments grant specific powers for a specified purpose, retaining overall authority. A growing number of Aboriginal child and family service agencies now provide delegated child welfare service delivery, either with full or partial mandates. Under the full delegation model, the province delegates the full range of child welfare services to the Aboriginal agency or community (on or off reserve), including prevention, family support, protection, and guardianship. Partially delegated agencies ("support services") provide only a limited range of services, most often prevention and guardianship. Generally the province delegates authority to an Aboriginal community to provide certain child welfare services pursuant to provincial child welfare law. In two unique cases (see above table), Aboriginal nations have a form of delegated authority over child welfare law and policy in addition to delegated service delivery. Most Aboriginal people see delegated models as a transition to self-government (Bala et al., 2004).

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Self-Government Models

Self-government is the framework under which most Aboriginal peoples wish to support their children (Mandell et al., 2005). It includes not only Aboriginal service delivery but also Aboriginal self-governing authority over policy and funding.

This basic typology masks significant variation in region, cultural context, urban/rural context, provincial policy, and formal structure. A few of these variations will be briefly highlighted:

First Nations

Because "Indians" are a "federal responsibility" under Canada's constitution, the federal government plays a more prominent role in First Nations child welfare, particularly in funding. In 1991 the federal government established a program known as Directive 20–1 to fund First Nations child and family service agencies on reserve.

This applies everywhere except Ontario, where agencies on reserve are funded by the province, which is then reimbursed by the federal government pursuant to an earlier agreement. There are now about 125 First Nations child welfare agencies in Canada, including both fully mandated agencies and agencies that provide partial support services (Bennett, 2004). Delegated agencies under the Directive 20–1 program are struggling with massive under-funding, receiving 22% less than mainstream agencies despite greater community needs (McDonald & Ladd, 2000).

Outside cities, First Nations families off reserve are likely to end up in mainstream services. Some First Nations child and family service agencies are expanding their service delivery to include members off reserve. However, this involves negotiating a second funding agreement with the province as the federal government will not fund services off reserve (Mandell et al., 2005).

In addition to the question of service delivery, there are two ways First Nations have been able to gain some control over child welfare law and policy short of self-government (Bala et al., 2004; Mandell et al., 2005). The Spallumcheen First Nation in B.C. established a child welfare band by-law in the early 1980s. The power to enact a band by-law is delegated by the federal government to the band under the Indian Act, and each by-law requires the approval of the federal Minister of Indian Affairs.

No other child welfare band-by laws have gained ministerial approval. Alternatively, the power to enact child welfare laws was delegated to the Sechelt First Nation in 2003 through a tripartite agreement with the provincial and federal governments.

Some First Nations, such as the Nisga'a, now have self-government agreements that include authority over child welfare, and are working to establish policies and services under this framework (Bennett et al., 2004).

Inuit

Child welfare services in Nunavut are part of the territorial government, a unique example of self-government. However, there are no Inuit delegated agencies in other areas (Bala et al., 2004).

Métis

There are several Métis child welfare agencies operating at various levels of delegation, providing fully mandated services or partial support services (Bala et al., 2004).

Urban Aboriginal Child and Family Services

Several cities in Canada have Aboriginal child and family service agencies that serve members of all Aboriginal nations. These are usually funded and delegated by the province (Mandell et al, 2005). Manitoba's Aboriginal Justice Inquiry – Child Welfare Initiative recently established a system of First Nation, Métis and non-Aboriginal

child welfare authorities that assist clients throughout the province determine the most appropriate agency to provide services (Ibid.).

The "reconciliation movement" in child welfare is bringing Aboriginal peoples and the mainstream social work profession together to acknowledge the uncomfortable truths in child welfare's past and present, and to build a new relationship based on self-determination. This movement goes hand in hand with the broader movement towards self-government, especially because the issues driving family difficulties in Aboriginal communities are systemic. They require a multi-dimensional community-based response, extending beyond individual child welfare agencies, to address economic development and holistic inter-generational healing (Blackstock et al., 2005).

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