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# A Discussion Paper on Indigenous Custom Adoption Part 1: Severed Connections – Historical Overview of Indigenous Adoption in Canada

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Résumé de l'article

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## **A Discussion Paper on Indigenous Custom Adoption Part 1: Severed Connections – Historical Overview of Indigenous Adoption in Canada**

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### **Abstract**

*This paper forms Part 1 of a two-part discussion paper on Indigenous custom adoption. Zeroing in on the entangled histories of adoption and colonization, it outlines a short history of adoption in Canada, examines the impact of forced, closed, and external adoptions on Indigenous adoptees, and traces the move toward more open statutory adoptions and greater cultural connection and continuity in adoptions. This historical review sets the stage for Part 2 of our discussion paper, "Honouring Our Caretaking Traditions," where we highlight the connections between customary laws regarding caregiving and the resurgence of Indigenous authority over child welfare within a context of Indigenous self-determination and self-governance.*

**Key words:** adoption, closed adoption, Indigenous child welfare, custom adoption, cultural planning

*To continue to exist as Peoples and as Nations, the connection between Indigenous Peoples and our children must remain unbroken. (Union of BC Indian Chiefs, 2002, p. 5)*

Adoption tends to be a dirty word in Indigenous communities in Canada, and with good reason. *Adoption* is an imposed English-language, Euro-Western term that is difficult to translate into relational, kin-centred Indigenous languages and worldviews. The impacts of this deep ideological schism have played out on the backs of Indigenous communities that are struggling against hundreds of years of deliberate cultural genocide implemented through a systemic dismantling of Indigenous child-rearing, family, community, and kinship structures. Child welfare interventions and secretive external adoptions on a massive scale in what are known as the Sixties and Millennium Scoops are merely more recent iterations of colonial strategies of removal, abuse, and theft, not only of Indigenous children, but of their culture and land. The historic and contemporary adoption of huge numbers of Indigenous children into non-Indigenous homes has resulted in many Indigenous people and communities understandably viewing adoption with suspicion (de Finney & di Tomasso, 2015).

As part of this special issue on customary caregiving and adoption, we want to revisit the mistrusted word *adoption* and explore what traditional, customary adoption, caregiving and caretaking look like in Indigenous communities. We see enormous potential in community-sanctioned, culturally grounded adoptions and other relational, temporary, and permanent caretaking arrangements to address the urgent needs of Indigenous children and families today. In this paper, Part 1 of a two-part series on custom adoption, we focus on the impact of “severed connections” in adoption in order to confront the entangled histories of colonization and adoption. We begin by presenting a short history of adoption in Canada and then examine the impact of forced, external, and closed adoptions on Indigenous adoptees, families, and communities. Next, we trace the move toward more open statutory adoptions and greater cultural continuity in adoptions. The purpose of this historical review is to make the case for further Indigenous research, policy, and community discussions on adoption; it sets the stage for Part 2 of our discussion paper, “Honouring Our Caretaking Traditions,” where we explore custom adoption traditions, practices, and policies. In particular, we are interested in the connection between customary laws regarding caregiving and the resurgence of Indigenous authority over child welfare within a context of Indigenous self-determination and self-governance.

## The Historical Context of Indigenous Adoption in Canada

The *Indian Act* of 1876 rendered Indigenous peoples wards of the state and was designed to give the federal government complete control over their lives, their societies, and their territories. The passing of the Act targeted Indigenous women and children for loss of status, thus rendering them the primary targets of cultural genocide (Fournier & Crey, 1998; Thobani, 2007). The removal of Indigenous children from their families and communities through enforced residential schooling was the first chapter in a long history of removing Indigenous children from their families and communities as an intentional strategy aimed at preventing them from inheriting their language, knowledge, and culture (Milloy, 1999). Trerise (2011) refers to this pattern of targeted removal as an effort to “extinguish Aboriginality” and explains:

The government of Canada not only used the rule of law to remove the decision-making power with respect to the children of “Indians,” it also relied upon the rule of law to actually remove the children and take them into the care of Euro-Canadian society as a primary methodology to try to extinguish Aboriginal culture as a presence within the Canadian policy. (p. 72)

Even as residential schools began to close, First Nations, Métis, and Inuit children continued to be taken from their families and communities under the guise of “child protection.” In 1951, child welfare jurisdiction was significantly altered for First Nations families living on reserve; through an amendment to the *Indian Act*, the federal government transferred jurisdictional power for welfare services on reserve, including services to children and families, to provincial governments (Trerise, 2011). In practice, this meant that “from the 1950s to well into the 1980s, especially in provinces with fewer resources, there would be no preventive or supportive services available for First Nations families, but only child removal in severe situations” (Trerise, 2011, p. 29). This policy change was an important factor in sustaining the phenomenon of the “Sixties Scoop.” Between 1960 and 1990, 11,000 status Aboriginal children, and many others without status, were taken from their families by child welfare authorities (Carrière,

2008). Between 1969 and 1979, 78% of Aboriginal adoptees were adopted by non-Aboriginal families (Fournier & Crey, 1998, p. 3). When Indigenous leaders in the 1980s demanded action regarding the staggering number of Indigenous children in care and the treatment of Indigenous children as an “export product” (Kimelman, 1984, cited in Carrière, 2005, p. 26), the Manitoba government established a review committee on Aboriginal and Métis adoptions and placements (Carrière, 2005). The committee chair, Judge Kimelman, concluded that a cultural genocide had taken place (Fournier & Crey, 1998). Despite changes to policy and legislation, a disproportionate number of Indigenous children continue to be apprehended by child welfare systems across Canada, leading many to refer to the current child welfare era as “the Millennium Scoop.” Sinclair (2007) points out that the biggest difference between the Sixties Scoop era and today is that,

currently, Aboriginal children are being institutionalized through long-term foster and institutional care with little chance for adoption. This is perhaps the most deleterious outcome of the moratoria on transracial adoptions. Long-term childcare and foster care statistics for Aboriginal children have skyrocketed while transracial adoption statistics have plummeted. (p. 68)

Clearly there is a need to approach adoptions of Indigenous children differently. First, to understand how little has changed in terms of the numbers of Indigenous children removed from their families and communities, we need to look at the history of closed, external adoptions that Indigenous children have been subjected to. Statutory adoptions (i.e., adoptions through colonial/Euro-Western legal adoption standards and policies) have until very recently meant forced (i.e., against the will and wishes of Indigenous parents), external (i.e., to non-Indigenous families outside the child’s family and community), and/or closed adoptions (in which ties to birth families and communities and to cultural heritage were severed and which were often secretive). The more nuanced caretaking approaches that Indigenous children need, including customary and cultural approaches, are only now being explored and sanctioned. We discuss these historical shifts below.

The first statute concerning adoption in Canada was passed in 1871; it effectively terminated almost all of birth parents’ legal rights and obligations and handed over these rights to predominantly biological strangers (Baldassi, 2006). It was not until the 1920s that the “best interests of the child” became the primary consideration of child welfare agencies in North America (Carrière, 2010). At the time of its inception, the concept of best interests focused mainly on economic and social advantages and did not yet include an acknowledgement of cultural rights and the importance of cultural connectedness. This socioeconomic focus meant that for Indigenous children, living with their families and communities of origin was not often constructed as being in their best interest, primarily because ongoing colonial ideologies had condemned many Indigenous families to land dispossession and poverty, and the social issues resulting from intergenerational traumas and the genocidal residential school system were interpreted as failings on the part of Indigenous parents, families, and communities. These dynamics effectively stripped most Indigenous families of legal and parental claims to their children. In addition, aside from the broad colonialist belief that Indigenous children needed to be “saved” from tribal life, ideal adoptive parents were constructed as “white, middle-class couples of conventional behavior and values with good material standards” (Bagley, Young, & Scully, 1993, cited in Bertsch & Bidgood, 2010, p. 98).

Few Indigenous families were judged as meeting these criteria, and the resulting perception that adoptive Indigenous families are sparse has been pervasive. Ultimately, the adoption of Indigenous children by white families has been a form of “whitewashing” that can be seen as another way to extinguish Aboriginality.

Discriminatory child welfare and adoption practices and policies, and public attitudes all contributed to the continued harmful impact of forced, closed, and external adoptions. As noted above, Indigenous leaders in the 1980s demanded transformation of child welfare laws regarding Indigenous children. For example, in the province of Québec, “leaders of the Cree communities denounced the difficulties faced by certain of their members due to the application of the YPA [*Youth Protection Act*]” (Working Group on Customary Adoption in Aboriginal Communities, 2012, p. 12). A decade later, the First Nations of Québec and Labrador Health and Social Services Commission (FNQLHSSC) held a consultation concerning application of the YPA in their communities and noted that:

the First Nations saw the [Department of Youth Protection] as belonging to “a foreign authority and intervened following a logic which was foreign to them.” As well, a brief submitted by the Atikamekw communities raised two particular problems: one concerning the notion of abandonment and the other concerning adoption. In the first case, the Atikamekws maintained that “when parental responsibilities are shared or transferred,” it does not mean that the child has been abandoned within the meaning of the YPA and the Civil Code. In the second, they stated that anyone who assumes parental responsibilities toward a child who is not his own should be involved in all proceedings concerning that child, including his adoption. (Working Group on Customary Adoptions in Aboriginal Communities, 2012, p. 14)

As in other provinces and territories in Canada, state interventions like those detailed above “led Québec’s Aboriginal peoples to demand greater autonomy over adoption and child services” (Working Group on Customary Adoptions in Aboriginal Communities, 2012, p. 12). According to the Working Group on Customary Adoptions in Aboriginal Communities, “customary adoption is at the very centre of these demands” (p. 12). We explore a range of customary adoption and caretaking practices in Part 2 of our discussion paper. Below, we look at the impact of closed adoption on Indigenous adoptees and then trace the move toward more open adoptions and greater cultural continuity in adoptions.

## The Impact of Closed Adoption on Indigenous Adoptees

For its first one hundred years in Canada, legal, or statutory, adoption tended to be a closed practice, meaning that adoptees had no access to their adoption records and no information about their birth, birth families, cultural backgrounds, or communities of origin. Only in the 1970s, “when a small number of adoptees began demanding personal access to their background information and the identities of their birth parents,” did provinces create registries to facilitate reunions between adoptees and birth families (Baldassi, 2006, pp. 67–68). Closed adoption, which is based on the “clean break” theory, runs counter to many Indigenous peoples’ values and customs, in which “natural laws of interconnection prevail” (Carrière, 2005, p. 179). The closed adoption of Indigenous children into non-Indigenous families during the Sixties Scoop and beyond, effectively ruptured the transfer of ancestral knowledge, culture,

and language. Not only did this rupture destabilize the strength and vitality of Indigenous communities, it led to a palpable sense of loss in the lives of Indigenous adoptees (Sinclair, 2007; Trocmé, Knoke, & Blackstock, 2004). Children were separated from their families, often when they were very young. Their names were changed, and they were sent outside of the community, province, country, or even continent, barring any possibility for adoptees to reconnect with their cultural identities, ancestral relations, and land. An Elder quoted in Keewatin's (2004) study of adoption from an Indigenous perspective, referring to the adoption of children during the Sixties Scoop, explained that "one of the reasons that a lot of those children get lost is because the white people change the child's name and they give them different names. They don't remember their real names" (p. 76).

The severed connections that resulted from closed and external adoptions continue to impact generations of Indigenous survivors. In her study with adult Indigenous adoptees, Carrière (2005) found that "the broken connection to one's ancestors, birth family and land of origin creates a profound sense of loss for First Nation adoptees, who descend from a tribal background" (p. 179). Carrière (2005) and others (Locust, 2000; Nordlund, 1993; Sinclair, 2007; Sindelar, 2004; Stevenato & Associates & Budgell, 1999) have found that feelings of loss, shame, disconnection, and abandonment surrounding identity and kinship were particularly salient for Indigenous adoptees placed in non-Indigenous homes. These feelings can be exacerbated by non-Indigenous adoptive parents' failure to recognize and engage with Indigenous realities and cultural systems in ways their adopted children can relate to.

Due at least in part to these issues, the breakdown rate of adoptions of Indigenous children into non-Indigenous families tends to be high. For example, when reviewing the population served by Native Child and Family Services of Toronto, its director, Kenn Richard (2004), noted that a significant number had experienced adoptive breakdowns (p. 106). An adoption is considered to have broken down if the placement is unsuccessful and custody of the child is transferred back to the government authority, particularly when the adoptee/adoptive parent relationship is severed before the age of majority (Richard, 2004). The Toronto organization provides child welfare, treatment, and healing services to about 300 women at a time. Richard estimates that "almost 200 of these women will have been raised in places other than their own home or community. Of these 200 women, at least half have experienced breakdowns in their placement" (p. 107).

While estimates of breakdown rates vary greatly, Sinclair (2007) points out that "adoptions that do not break down are going to be a hidden statistic since a forum for those statistics to be compiled has not yet been created" (p. 65). However, in a study with 37 Indigenous youth living with non-Indigenous families, Bagley (1993) concluded that "the extreme marginalization of Native people in Canada means that there is little possibility for a Native child to adapt successfully in a white family" (p. 237, cited in Keewatin, 2004, p. 84). Many studies (e.g., Carrière, 2005; Locust, 2000; Nordlund, 1993; Sinclair, 2007; Sindelar, 2004; Stevenato & Associates & Budgell, 1999) highlight identity issues among Indigenous adoptees adopted into non-Indigenous families. Sinclair (2007), however, argues that adoption breakdowns are less about identity issues and more to do with intrafamilial and social racism. She asserts that "by defining racism as an adoptee identity issue, the burden for the problem is placed upon the already-burdened Aboriginal child, adolescent and adult" (p. 105). Given that racism and colonialism are prevalent features of Canadian

legal, child welfare, and other systems, we believe it is important to emphasize that the responsibility to effectively challenge processes of colonialism such as systemic discrimination and racialization extends far beyond individual adoptive parents. It must be noted, however, that adoptive parents have a role to play in countering the social racism Sinclair discusses. However, their willingness and capacity to do so depends in large part on the child welfare system—how adoptive parents are matched with adoptees, support for family members to enter into customary arrangements, training provided to non-Indigenous parents, and so on. Therefore, individual adoptive parents and broader systemic issues are inextricably linked.

Due to the advocacy of Indigenous leaders, practitioners, and scholars, as well as the publication of two sobering reports in the early 1980s on Indigenous children and child welfare policy (Johnston, 1983; Kimelman, 1985), several provinces and territories passed moratoria on Indigenous adoption. Most provincial and territorial legislation now stipulates that preserving an Indigenous child's cultural identity must be considered in determining the child's best interests, and most legislation also includes provisions for notifying the child's community of any child protection orders and prioritizing the child's placement with extended family or within the community. In the case of the potential adoption of a First Nations child, most provinces and territories now require consultation with the child's band (Bunting, 2004). Despite these policy changes, however, external factors such as funding limitations and flawed Eurocentric notions of attachment and stability usually override the preservation of identity and cultural connectedness in cases where custody is disputed. Funding limitations may impact every aspect of adoption planning, such as limiting how much is invested in connecting with the child's extended family and community in terms of funds for travel and visitations or financial assistance for extended family who would be available to adopt but may lack financial resources to manage post-adoption care, particularly when a child has special needs. Furthermore,

the “superficially neutral” (*R. v. Sparrow*, 1990) time limits on foster care and the requirement of permanent life plans imposed by provincial law bring de facto risks of First Nations' children being frequently adopted into non-Aboriginal homes (pursuant to the provincial regime) outside of their communities and consequently becoming permanently cut off from their family, extended family and heritage. (Working Group on Customary Adoptions in Aboriginal Communities, 2012, pp. 79–80)

For these reasons, we believe that Indigenous children need a wide range of permanency options that include more openness and greater cultural continuity, as we discuss briefly below and in greater detail in Part 2 of our discussion paper.

## Moving Toward Open Adoptions and Cultural Continuity in Adoptions

Since the 1970s, policy and legislation have increasingly acknowledged the importance of openness, extended family, connection to cultural heritage, and the role of Indigenous communities in child welfare decisions and custom adoptions (see, for example, Kozlowski, Sinha, & Levi, 2011, for the New Brunswick context; Kozlowski, Sinha, Petti, & Flette, 2011, for the Manitoba context; Ontario Ministry of Children and Youth Services, 2013; Province of British Columbia, 2013; (Québec) Working Group on Customary

Adoption in Aboriginal Communities, 2012). It must be noted, however, that the term *open adoption* encompasses a spectrum of openness, from birth parents selecting adoptive parents from profiles that contain identifying information, to “full ongoing contact” between birth and adoptive families after the adoption has been completed (Baldassi, 2006, p. 68). Although the move toward open adoption records set the stage for changes in adoption policy and public discourse, open records and open adoption are not the same thing. Whereas an open record allows adoptees to access information about their adoption at a certain age, an open adoption usually involves the birth family’s input into the adoption process itself (Carrière & Scarth, 2007). In addition, open adoption does necessarily mean ongoing or frequent contact with one’s birth family.

Despite movement toward more open statutory adoptions in Canada, openness is not enforceable by law and openness agreements may be breached, often by the adoptive family (Baldassi, 2006). Baldassi (2006) writes: “The usual scenario is that the member of the birth family has been exercising access, or was promised post-adoption access and therefore consented to the adoption expecting to receive access to the child” (p. 94). Openness agreements, even those made in good faith, can fall apart due to a number of factors, including underlying racial discrimination and cross-cultural disconnect, a family’s relocation, a lack of communication or commitment, failure of the relationship to thrive, or lack of follow-up on the part of one side or the other. The on-the-ground realities of adoption are much more difficult and fraught with tension than is acknowledged in theory and policy.

The move toward open adoptions has initiated a broader dialogue about how the everyday realities of racism and colonialism come to bear in individual adoptions. This dialogue, in turn, is part of a move toward greater cultural continuity in adoptions and in permanency planning for Indigenous children and youth in care. Cultural planning, like openness, is intended to mitigate adopted or foster children’s separation from their community, culture, and territorial affiliations. When it is conceptualized from an Indigenous perspective, cultural planning is rooted in relational and kin-based identity formation, which are understood as requiring relationships with Elders and other knowledge holders, whose “stories are our identity statements” (Graveline, 1998, p. 64).

In child welfare practice, a cultural plan is an agreement made by (typically non-Indigenous) foster or adoptive parents who commit to maintaining the child’s cultural roots and supporting the development of the child’s cultural identity. These agreements vary significantly and range from basic education and exposure to information, to attendance at cultural activities, to something much more comprehensive that evolves during the life of the child. For example, a cultural plan might include visits to the child’s territory, participation in traditional ceremonies, and maintaining relationships with members of the extended family and/or community. Carrière (2010) asserts that meeting a child’s cultural needs can have a positive impact on the likelihood of adoption success.

One of the primary limitations of cultural planning is that, by its very process, it invites reduction and essentialism. We have heard this criticism in our own research on Indigenous adoption. Too many cultural plans, even when they are developed in good faith, focus on limited, stereotypical information about First Peoples’ cultural practices that do not represent the child’s ancestry or community, including items such as “plastic totem poles made in China,” “a book about Indians from Mexico when this child was

Cree,” and “native music from a pow wow they got online” (personal communication, NONG SILA urban adoptions, 2012). The concern is that prescriptive, stereotypical cultural planning can actually serve to amplify disconnection and shame in foster and adoptive placements by trivializing the child’s Indigenous culture and disregarding diversity within and among Indigenous societies.

In addition to the limitations of packaging and appropriating cultural traditions, the scope, expectations, and legal enforceability of the agreements made as part of a cultural plan vary greatly depending on the province/territory and the type of agreement (e.g., kinship care, foster care, adoption). Furthermore, cultural planning involves navigating multiple challenges, including identifying and connecting with family members in a meaningful way, covering travel costs for family and community visits, reconciling varied levels of commitment and availability, and lacking information, resources, and supports to develop and execute a cultural plan. These limitations are significant and are compounded by the difficulty of adapting a plan as the child ages and/or when life conditions change (e.g., when a family moves for work), the complexity of devising a cultural plan for a child who may have mixed Indigenous and non-Indigenous ancestry and/or Indigenous ancestry in two or more separate communities, and the resources and commitment required to build relationships with birth families and home communities, particularly if the adoption involves non-Indigenous families (or, in some cases, Indigenous families) who possess little to no knowledge of Indigenous history and culture.

While cultural plans increasingly form part of foster care arrangements, they are much more difficult to plan, implement, enforce, and evaluate in the realm of adoption. This limitation is at the heart of the difficulties of ensuring cultural continuity in adoptions. While child welfare legislation in most provinces makes reference to the importance of cultural continuity, adoptive parents are not legally obliged to implement a plan, and they are typically provided few, if any, resources to do so. Furthermore, it may be that cultural planning only begins during the adoption phase, which can be confusing for a child who has lived in care for several years without exposure to their culture or traditions (Carrière, 2005). Kenn Richard (2004) of Native Child and Family Services of Toronto points out that in the context of non-Indigenous adoption of Indigenous children, cultural planning efforts may make it more difficult for the child or youth to form a sense of Indigenous identity:

Adoptive parents of Aboriginal children inevitably agree to make efforts towards nurturing the child’s cultural self as an Aboriginal person. While well intended this is almost impossible to achieve and may in fact exacerbate the problems of identity. Culture is complex but its transmission is simple. Put a child within a certain cultural milieu and an organic process of acculturation occurs. It is through everyday living that the values, beliefs and culturally prescribed behaviors are learned. This immersion in culture is the vehicle of acculturation. The agents of it are primary relationships in the child’s life, parents, relatives, educators and the like. (p. 106)

Many of these tensions can be addressed through more holistic, relational approaches to cultural continuity. One promising approach in this regard is the notion of culturally safe adoption practice, which increasingly involves more critical and decolonizing frameworks of cultural safety planning than the traditional essentialized cultural planning approach. The National Aboriginal Health Organization (2006) explains that cultural safety “moves beyond the concept of cultural sensitivity to analyzing

power imbalances, institutional discrimination, colonization, and relationships with colonizers” (p. 1). A culturally safe planning approach is uniquely suited to the histories and needs of individual children and their families. A holistic, integrated conceptualization of culturally safe planning avoids an essentialist approach to *learning* culture and focuses instead on *living* culture as an integrated part of life—as a way of being instead of a “thing” that can be “practiced” at special events or through resources such as books or crafts. One caveat to this approach is that cultural safety plans are typically conceived in a bounded time period, at the time and age when a child or youth first comes into care, during a significant transition to a new care setting, and/or at the point of adoption. It may be difficult or overwhelming for both parent and child to invoke cultural safety plans during a significant and often stressful transition period (like the point of adoption). Further, a child’s needs will likely change over time, so cultural safety plans must be flexible and evolutionary rather than static. It is important to integrate holistic, flexible understandings of cultural identity development at every stage of our work with children and families rather than only during adoption planning.

To avoid one-off plans, cultural safety needs to be intimately entwined with the idea of cultural continuity and customary caregiving. As we explore in Part 2 of this discussion on custom adoptions (di Tomasso & de Finney, 2015), cultural planning can become something more comprehensive, more deeply embedded in community customary laws and systems. Custom adoption “is a complex institution by which a variety of alternative parenting arrangements, permanent or temporary, may be put in place to address the needs of children and families in Aboriginal communities” (Trerise, 2011, p. 2). It presents Indigenous alternatives to the wholesale separation of families and communities that has been perpetrated throughout colonial settler states through enforced residential schooling and the apprehension of children through child welfare interventions. Custom adoptions strengthen relationships and can provide opportunities to address gaps and tensions openly before they threaten the adoption placement. They also follow customary law and foreground access to land as well as self-governance and resurgence—goals that are at the centre of these discussions.

Rather than focusing on formulaic plans, a strong vision for a child’s cultural continuity can expand and grow along with the child, along the continuum of customary caregiving practices and principles upheld by a community. In cases of transracial adoption of Indigenous children, custom adoptions can also be meaningful, in that they take a family- and community-oriented approach instead of simply focusing on the child as an isolated component. This inclusive approach goes far beyond the content of many of the cultural plans currently being conceptualized in adoption policy and practice. A more holistic approach to customary cultural planning in adoption requires the supporting agency and stakeholders to invest time in building and nurturing sustained relationships, providing meaningful cultural supports, and being present to assist children, families, and communities in enacting connections through the child’s life. Complicating this task, however, are several limitations. Cultural practices and protocols vary from one community to the next and overlap greatly in urban areas, making it difficult to develop meaningful plans, particularly for children in urban settings and of mixed backgrounds. Also, the feasibility of holistic cultural planning is severely threatened by chronic underfunding, jurisdictional disputes and limited resourcing and training, among other structural limitations. Further, current provincial and territorial adoption policies do not even begin to fully integrate the cultural practices of distinct First Peoples—even

though such practices would strengthen the provision of cultural planning in adoption services and serve the best interests of Indigenous children, families, and communities.

## Conclusion: Moving Toward Our Customary Laws in Adoption

It is evident from the experience of Indigenous agencies (see, for example, Carrière, 2015; di Tomasso & de Finney, 2015; de Finney & di Tomasso, 2015) combined with a review of the literature that supporting Indigenous families and communities to have control over the care of their own children is best for Indigenous children, families, and communities. Indigenous communities can play an important role in supporting the ongoing connectedness of a child to land, community, and family. For instance, some bands have culturally adopted both Indigenous and non-Indigenous adoptive families into their community; some communities provide language and cultural classes and events for the whole family; some agencies travel with families to the child(ren)'s community and set up open adoption meetings and ceremonies with the extended family. All of the approaches detailed above fall under a customary caretaking banner because they work to facilitate more flexibility, creativity, and opportunities to follow good practices that are community centred and culturally congruent. Unfortunately, while these approaches work well, they too often fall outside the scope of legal adoption policies and funding formulas. These vital practices are also drastically underresearched in adoption research.

In Canada, Indigenous Nations and delegated agencies seeking to support custom adoptions and cultural permanency planning urgently need information about how to integrate such frameworks into their current programs and policies. In Part 2 of our discussion, "Honouring Our Caretaking Traditions," we explore these traditional forms of adoption and caretaking and summarize international, Canadian, and provincial legislation regarding them. We hope that this historical overview of external, closed, and statutory adoption of Indigenous children in Canada has provided context for moving toward more culturally grounded adoptions and other caretaking arrangements that honour and preserve the vital connection between Indigenous communities and our children.

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