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Lessons Learned from the Yellowhead Tribal Services Agency Open Custom Adoption Program

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Résumé de l'article

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Lessons Learned from the Yellowhead Tribal Services Agency Open Custom Adoption Program¹

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Abstract

Following a historic meeting of staff with Alberta Children's Services and the Yellowhead Tribal Services Agency (YTSA), a pilot program, the YTSA Open Custom Adoption, was developed. The agency initially researched existing adoption models in the Northwest Territories, British Columbia and in the Cheyenne Nation in the United States. An advisory committee, comprised of one Elder from each member First Nation community, was asked to provide guidance and direction throughout the project. From 2000 to 2010, YTSA placed over a hundred children in adoptive homes without any adoption breakdowns (Peacock & Morin, 2010). Although the agency has now closed its doors, there are lessons to be learned from the YTSA Open Custom Adoption program which is still viewed as an advanced model of adoption service inspired by traditional First Nation teachings and child caring. This article is a review of lessons learned from this agency and in particular, the importance of connectedness to family, community culture and nationhood for Indigenous children and adoption.

The YTSA Open Custom Adoption Program

The Yellowhead Tribal Services Agency (YTSA) Open Custom Adoption program was the first of its kind in Canada in which First Nation parents adopted First Nation children from the five communities of the Yellowhead Tribal Council in Alberta. It was the first agency to combine customary First Nation adoption practices with provincial adoption in order for families to receive post-adoption services from the federal government. The adoptions were celebrated with local community ceremonies officiated by Chiefs and Elders and many guests who were invited to witness this event. Because this was the first agency in Canada to undertake this process of combining customary and provincial laws, there were many stakeholders in First Nations adoption that wanted to know about the outcomes for children who

¹ This article is an adaptation (with permission) of chapters from *Aski Awasis/Children of the Earth* published by Fernwood Publishing in 2010.

were adopted in this manner. In response, we published a book regarding these developments. This article is adapted from the book which is still available through Fernwood Publishers. Although they are unfortunately no longer providing services, YTSA had a long and successful history with their Open Custom Adoption program and I am pleased to share some of their story in this article.

Terminology for Custom Adoption²

The adoption of children by customary protocol has been a practice of Indigenous people since time immemorial (Arsenault, 2006; Baldassi, 2006; Carrière, 2005; Jourdain, 2002; Keewatin, 2004; Littlechild in Glode, Macdonald and Wien, 2005; Lomax, 1997; National Indian Child Welfare Association, n.d.; Quebec Native Women Inc., 2007; Ward, 1984). Customary adoption is generally defined as the cultural practices of Aboriginal peoples to raise a child by a person who is not the child's parent according to the customs of the First Nation and/or Aboriginal community of the child (Arsenault, 2006; Baldassi, 2006; Jourdain, 2002; Keewatin, 2004; NWT Health and Social Services, 2006; YTSA Open/Custom Adoption Policy Manual, 2001).

There is evidence in the literature that custom adoption was practiced for many reasons including: caring for children whose parents had died; providing a child to a couple who were unable to have their own children; replacing a child that had been lost to death; or providing a child to elderly relatives who needed support (Arsenault, 2006; Auger, 2001; Keewatin, 2004; Kimmelman, 1985; Lomax, 1997; Rideout, 2000). This body of literature also indicates that customary adoption practices served to strengthen the existing relationships in the child's life and at no time were secrets kept about the child's situation. Fostering a sense of identity was critical to custom adoptions. As Keewatin (2004) notes, "Identity was also identified as playing a part in custom adoption as children who were part of a ceremony were given special status as Mother Earth's children" (p. ii).

Custom adoption can lessen the impact of racism. Being raised in their own First Nations or Aboriginal communities by other Aboriginal people enables children to learn how to survive the racism perpetrated in Canadian society. Bagley, Scully and Young (1993) state 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).

Although limited, the literature indicates that custom adoption was practiced by many Indigenous groups in Canada such as, the Anishinaabe, Mi'kmaq, Inuit, Cree, Tlingit, Nisga'a, Gitksan, Nuu-chah-nulth, and Haida. In what little has been written down from oral tradition, there is agreement that the process of custom care/kinship care/custom adoption started with a need and that the concept of care did not just refer to children (Auger, 2001; Keewatin, 2004; Lomax, 1997). For example the Nuu-chah-nulth tradition provided for a child to be adopted to fill a position or carry on a name (Arsenault, 2006, p. 16). There is also consensus that the caring created no boundaries, limitations or secrets (Auger, 2001; Carrière, 2005; Carrière, 2010, p. 48); and that the practice of custom adoption resulted in the "making of relatives"

2 Adapted from Chapter 3 of *Aski Awasis* by Atkinson, G.

(Auger, 2001; Carrière, 2010, p. 48). The ceremony or recognition of the adoption differs among cultural groups but the intent and outcome is the same.

In Ojibway culture, there is no word for adoption but the phrase “wenidjanissingin” translates to “like one’s own child” (Auger 2001, p. 181). This provides an example of where the process was very informal and a ceremony would not necessarily have been conducted. Auger (2001) writes:

In some circumstances the family would acknowledge the relationship at a feast, and in others, through a “welcoming ceremony.” In instances where the child was young, there might be a more formal acknowledgement in a naming ceremony, which was usually done by an Elder in the community. During ceremonies such as these, the man and woman would acknowledge the child as their own, the community would recognize the relationship, the child would be given a name which it would thereafter be known by and all people would refer to the child by that name and as the son or daughter of those particular parents (p. 182).

The Mi’kmaq used the word *ankweak* meaning “to take care of, to bring up as your own” (Glode, MacDonald & Wien, 2005, p. 21). The name for an adopted child in Inuktitut is *Tiquak*. Cowichan tribes on Vancouver Island have a tradition of a ceremony to celebrate and recognize the adoption. The Hul’quimi’num words for this ceremony is *imushs Kwun’s stsuy’elh* meaning “adoption, a journey of honour.”

The Ojibway and Cree in the Treaty 9 area of Ontario are incorporating what they call, “Mamow Obiki-Ahwahsoowin,” which is a Native child welfare service model through Tikinagan Child and Family Services. *Mamow Obiki-Ahwahsoowin* is an Ojibway/Oji-Cree term that means “everyone working together to raise our children” and incorporates the care for children according to traditional values and customs (Brubacher, 2006, p. 36).

In his study of the Ojibwe in Northwestern Ontario, Auger (2001) found that a term “fictive kinship” was used to describe a system of: “caring for” other people, which included a concept similar to the European-Canadian concept of adoption. In the process of caring for children, there was usually no distinction made between biological children and the children being cared for. In other words, caring for “creates a set of relationships between the adoptive parents and child [or the parents and a child they are caring for] that have all of the expectations of relationships that are in fact based on either descent or marriage” (Ferraro, 1995 as cited in Auger, 2001, p. 151).

Auger (2001) also found that “the only concept that was consistently used across the study group was that of caring for others ... it was used to describe a permanent relationship where children were raised by a person related through kinship or marriage,” and that “caregivers looked after people whether they were young or old, healthy or sick, related through kinship, or strangers. The length of care varied from a few days to a lifetime” (p. 179; p. 180).

Keewatin (2004) asserts that culture is passed on to First Nations children who are adopted through custom adoption:

Whether allowed by law or practiced without legislative authorization, custom adoptions are the primary means by which Native people are able to ensure the continued cultural exposure

of their adopted children. Custom adoptions are not a foreign construction of family formation. Issues of ownership and the denial of biological heritage, which are seen by Native groups to be imposed by non-Natives, are avoided through the use of rituals that have been part of Native culture for millennia' (Daly & Sobel, 1993 as cited in Keewatin, 2004, p. 106).

Similarly, Arsenault (2006) writes, "custom adoption has existed in many Aboriginal communities. It is based on the Aboriginal tradition of viewing the child as a member of a caring community, not just the sole responsibility of the parents" (p. 14).

Criteria for customary adoptions are identified by Justice Marshall in *Re: Tagornak* (as cited in Auger, 2001, p. 45) and certify that an adoption following Native custom had taken place by confirming:

- a) that there is consent of natural and adopting parents;
- b) that the child has been voluntarily placed with the adopting parents;
- c) that the adopting parents are indeed native or entitled to rely on native custom, and
- d) that the rationale for native custom adoptions is present.

In addition, Judge Morrow in *Re Deborah* (as cited in Sissons, 1961) outlined four essential criteria for recognizing the existence of a custom adoption:

- a) There must be evidence that the custom extended back in time as far as living memory;
- b) The custom must be reasonable;
- c) The custom must be certain in respect of its nature generally, as well as in respect of the locality where it is alleged to obtain and the persons whom it is alleged to affect; and

The custom must have continued without interruption until the present.

In his conclusions about the various judgments reviewed, Auger (2001) writes,

The recognition of Aboriginal law in these cases arose as a result of a judicial belief in the existence of Inuit and Indian laws which had been used by Indian and Inuit people since time immemorial and had served them well; and that their laws had not been abrogated by any legislation and should be recognized and held to be as valid as any legislation (p. 46).

There is concern regarding the practice of involving the courts in making decisions regarding customary laws. Fiske (1995) questions the right of the court to define customary rights and the central contradictions of the court's power. First Nations have the right to customary regulation of family relations however the courts have denied the First Nations the power to be the final authority for disputes regarding how to interpret, enforce or adapt customary law (p. 193). Carrière (2005) makes the point that:

Canadian provinces continue to administer adoption programs with little or no consideration to the inherent rights of First Nation children. Canadian policy places the issue of adoption and First Nation children within a context of cross-cultural adoption, failing to recognize the

contradictions in this practice. The issue is not about race, colour or national origin; it is about the preservation of First Nation self-determination within a continuing colonial context (p. 24).

Regardless of the term used to describe traditional practices in contemporary society, the aim is the same: *to recover and reclaim traditional practice*. First Nation children growing up in adoptive Aboriginal homes are not likely to have the “happy ever after” story. These children are going to experience all of the challenges that come with being Aboriginal people in Canada because “being First Nation already places them in a societal position where they are part of a marginalized population” (Carrière, 2005). What they are not going to have to struggle with, and what will provide them with the resilience to handle the bigger societal issues, is knowing who they are. These children know they are First Nation/Aboriginal people as well as they know where they fit with their families, extended families (both birth and adoptive), communities and cultures. These children do not have the “long road home” that children raised “away” in non-Aboriginal homes have. There is no road to pave for these children. They are already home where they belong. These children will not have to undergo the “search for [themselves] that led to some dangerous places” (Carrière, 2005). Hopefully these children do not feel like they are being raised in the homes of strangers. Hopefully these children know that their biological families, the Elders and the Creator blessed their placements. The fact that there have been no placement disruptions in the YTSA custom adoption program is testimony to the strength of family placement.

It is unfortunate that such a sacred traditional practice has to be so regimented by legislation and standards. Reclaiming a traditional practice and inherent right would not be attempted on the backs of children. Trusting that people are working in a good way, according to traditional custom and protocol, is a first step to decolonizing the relationships in child welfare and adoption in particular.

What Elders Have Taught Us

In Chapter 4 of *Aski Awasis/Children of the Earth* (2010) the Elders at YTSA often discussed the fact that customary adoption was our way of caring for our own.

I don't know everything but the old folks a long time ago used to take their grandchildren or other kids and raise them as their own. There were no legal ties or anything, just the goodness of their heart. Sam Burnstick, Alexander First Nation Elder (Peacock & Morin, 2010, p. 69).

The Elders wanted to see the paper trail simplified from the ministry process. Program policies were developed with the assistance of the British Columbia Ministry of Children and Family Development's (MCFD) legal counsel, Trish Kumpf. The adoption homestudy process was drafted with the support of Anne Scully from the Adoptions Regional Office and Jeannine Carrière, past Associate Director for Aboriginal Child Welfare of Alberta Children's Services. The intent was to have a process that would encourage nation members of the five Yellowhead Tribal Council nations to apply and become open custom adoption families and to reduce the numbers of children in foster care.

It's difficult to have children being born today and knowing that they could be in a foster home for the next eighteen years. I'd like to see them have a Native family, in our communities, to call their own. We have quite a few kids still in placements that are not Native. Some of them

are very young. It's hard for me as a worker. Maybe some of the talk amongst the Elders will help me understand. Is it this generation? Do we just leave it be the way the last generation was, or do we help these children find homes in their communities? Frieda Peacock, Custom Care Worker, Enoch Cree Nation (Peacock & Morin, 2010, p. 70).

YTSA supported the operation of a Child and Family Services program in each member First Nation. Each program had a Child and Family Services Advisory Committee that worked under the guidance of the Elders. They ensured that a family was found for a child in need of a permanent home and that the family shared tribal culture and history with the child. YTSA, in turn, worked closely with the Nation's programs to meet the ever-changing needs of the children, families and communities through Elder involvement and community input.

A long time ago adoption was a common practice of our people. Children were gifts from the Creator. They gave meaning to life, these children, teaching us about unconditional love, bringing joy and laughter. To a man, a child should never go without food, clothing and shelter. To a woman, a child is a responsibility whose priorities come before their own. Together a man and woman were responsible for the well-being of the child mentally, emotionally, physically and spiritually. Relatives helped in bringing up these children. Grandparents, uncles, aunts and the whole community helped each other to enhance the lives of children. These were our ways, what happened to our people. Francis Alexis, Alexis Nakoda Sioux Nation (Peacock & Morin, 2010, p. 71).

Historically, non-Native families adopted a majority of Aboriginal children through a closed adoption process that essentially severed the child's ties to birth family, culture and community of origin.

I personally know many First Nation people that are lost from culture, identity and belonging. Many of my friends have no idea who their relatives are or where they came from. They were adopted by non-Aboriginal families and some were raised in twenty-five to thirty different foster homes. Louise Russell, O'Chiese First Nation (Peacock & Morin, 2010, p. 71).

Withholding birth information from adopted children was a misguided bureaucratic attempt at integrating them into the adoptive family. The children were thought to be too young to understand the truth, and were often told that their family was deceased. Today, many of these children, now adults, are finding their way home to their roots and families. However, the quest to reconnect with birth families or communities of origin has not been an easy journey for some. The YTSA Open Custom Adoption program originated from the customary practice of Aboriginal families keeping and/or raising a child in need and essentially changed the adoption process for First Nation children in the Province. The Elders encouraged and supported the agency in seeking traditional customs around these practices.

One of our tribal customs, when you see a kid that has no parents it was customary to bring these kids into your home and look after them as your own. You feed them, you clothe them. You don't get Child Welfare involved you don't get Social Services involved. Francis Alexis, Alexis Nakoda Sioux First Nation (Peacock & Morin, 2010, p. 74).

YTSA also faced a number of obstacles during the evolution of the Open Custom Adoption program. The one constant throughout was that it was no longer acceptable for non-First Nation organizations to decide what

was in the best interest of First Nation children. Residential schools, the sixties scoop and a child welfare system that supports stranger care over family care for First Nation children are all testaments to this fact.

For years and years, the white people have taken our children from us through apprehension and adoption without our permission or even notifying the families. So because of this, many of our children have lost their identity. My heart breaks for each child who has gone through this tragic thing. It is about time we did something, like opening our hearts and homes to our children. The Open Custom Adoption program is there to protect and ensure our children's future. We must never give up on our precious children. O'Chiese Caregiver (Peacock & Morin, 2010, p. 74).

The Agency began its journey into program development by following the cultural protocol of offerings of tobacco and print to the Elders to ask for their prayers and guidance. In return, the Elders gave the teachings of the Medicine Wheel that formed the basis for all programs that were yet to come. Open custom adoption offered opportunities for children to develop a sense of connection, family belonging, and community ties.

Custom adoption provides opportunities for the child to receive family, culture, community, values, beliefs and practices. Adoption is accepting the child and extended family no matter what happens, it is the same as raising your own biological child. Louise Russell, O'Chiese First Nation (Peacock & Morin, 2010, p. 76).

Over time YTSA became a pioneer in the development of First Nation specific programs such as Custom Care that offered an alternative to provincial foster care. The Caring for Our Own Community Support Services offered preventative and family support services while the Permanency Planning and Family Enhancement used alternative approaches for strengthening families while planning for permanency for children in care. The Open Custom Adoption program was venturing into uncharted waters and a major leap of faith for all involved.

Back in the old days all you had to say was that you were going to take this child and were going to keep him and the Creator heard us. Today we have this custom adoption. We went through that, we adopted this little girl. To go through the ceremony, to use the pipe, to choose our own Elder to pray for us, that was very unique. To say we are going to raise this child till she grows up, for me that was important cause traditionally I grew up that way. I guess for us, First Nations people, that's our way of life, to care for our children. It's been handed down from generation to generation. Edwin Frencheater, O'Chiese First Nation (Peacock & Morin, 2010, p. 76).

The spirit of openness pervades custom adoption: the biological parents stay in touch with the children and the children benefit by keeping a connection to their birth family and who they are. The community is involved in supporting and affirming the important roles of the biological, adoptive and extended families. Traditional teachings from the Elders are available to the children and families who wish to learn the history of their respective community. For YTSA, this also meant returning to ceremony to honor these practices.

Open Custom Adoption Ceremony

In the past there were ceremonies to determine every aspect of life for the four Yellowhead Tribal Council member First Nations. These ceremonies included processes for every celebration. These processes were passed down from generation to generation and the passing of knowledge was carried out in a manner dictated by the old ones.

I guess how we started it was, I was talking to some Elders and they said, we should just do it the old way. There was adoption a long time ago when it was a universal ceremony that Native people practiced. It was common and it's still common today. My sister Bluestone got the information for us and we just took it from there. We did what we were supposed to do the traditional way. It wasn't hard actually and it wasn't information that was inaccessible. Anybody could have done it because the Elders have it. Cindy Yellowface, Sunchild First Nation (Peacock & Morin, 2010, p. 78).

The YTSA Open Custom Adoption Ceremony was a cultural event that was held annually since 2000. YTSA was required to follow provincial policy and legislation, fulfilling the legal process but also incorporating traditional ways by involving the Elders and spiritual keepers of the member Nation communities. YTSA had to earn the right to be the keeper/facilitator of the Custom Adoption Ceremony. It took four years for this honour to be bestowed upon the agency. The inaugural ceremony was held on November 10, 2000 at the Enoch Cree Nation. Three families adopted three children with Permanent Guardianship Order status. This was a very monumental day as it was the first and only time in Canadian history that the Alberta Court of Queen's Bench was convened on-reserve to finalize an adoption and witness the sacred adoption ceremony. These celebrations bring together Elders, family, community, staff, children and the many other resources it takes to complete the adoption. Over the years it was always an honour to witness and participate in such a special event.

Until the agency closed its doors in 2013 the YTSA Open Custom adoption program had a 100 percent success rate as none of the adoptions were dissolved or broke down. The Elders and staff of the agency attributed this success to the reconnection of family ties and how adopted children and youth felt supported in their family and communities. I believe the Elders were a critical source of strength for this program and their vision of bringing back customary child caring practices was the backbone of the success this program attained.

Bluestone Yellowface, the O'Chiese Elder who got the information about the Custom Adoption Ceremony and passed it on to the Yellowhead Tribal Services Agency, passed away in 2007. Her sister Cindy spoke of her contributions to the Agency.

Well I think she is still with us all the time. I feel her here, we all do. All the things she wanted for children, we are trying to do that and will probably be doing it for as long as we exist. That is what she wanted for children to keep them within their families, their community and their culture. Her actions spoke louder than words. She raised and adopted five children for various reasons. She also raised some of her grandkids but never went around asking people to give her money for them. She just did it out of her own heart, her own love. So she lived what she

preached and talked. I think we have a lot of her teachings. We're lucky for her to have been a part of Child and Family Services all these years. She taught us lots. Cindy Yellowface, O'Chiese First Nation (Peacock & Morin, p. 83).

What Some of the Youth from the YTSA Program Said

Some of the youth interviewed for the book sat with their parents and talked about their experiences adopted through the Open Custom Adoption program. I want to share some of their comments as important gems to inspire us to strive forward in making these adoption practices available for all First Nation children and youth.

It was great that we were all together, my little brother and sister and I. When we went to the ceremony we were all there with our grandma and excited to be a family. What I liked the most was the blanket and they gave me sweet grass.

I grew up happy knowing both my parents—knowing all four of my parents, all four of my parents. At the ceremony it was cool I had my mum there and I had my mum there [describing both his moms]. My favourite part was when they put the blanket on all of us. I felt safe. (Carrière, 2010, p. 111).

One of the youth said that after a near death experience through an accident, he dreamed of his daughter:

I was in a big open field and a girl came up to me and asked me if I was [youth's name]. I said, "yes," and then this little girl came running up to me really fast and calling me dad and wanting me to go along with her. This other girl wanted to me follow her too but I told her, "No I can't go with you—I gotta take care of something." Now I think about this dream and if I did go with her I would not be here. (Carrière, 2010, p. 112).

As Indigenous peoples we know that our dreams are another way of knowing and that often our spirit guides offer us teachings through our dreams. This young person believes that he had a spiritual teaching about his upcoming responsibilities as a parent and returned to the world to carry out that spiritual instruction. He is a young parent who feels supported in a large extended family network of relatives and friends. This is the symbol of connectedness to the spirit of First Nation people and that "Children are Gifts from the Creator" (YTSA 2005).

Adoption Options in Alberta Today for Indigenous Children

With the end of the YTSA Open Custom Adoption program came the end of custom adoption programs in Alberta. Alberta Children's Services continues to try and recruit Aboriginal adoptive families through their website and regional delivery systems. The mistrust of provincial adoption programs is historic and certainly influences the lack of First Nation participation in the delivery of adoption services however; limited funding is also a factor. "The Wen:de report of 2005 concluded that the main reason for the high rates of First Nation children in state care was due to the federal government not funding child welfare intervention and prevention programs or support services to First Nation families. Wen:de also revealed that First Nation child welfare agencies receive approximately 22% less funding than provincial agencies,

yet they carry a higher case load of child welfare files” (Assembly of First Nations, 2013, p. 1). In 2010 the First Nation Caring Society of Canada prepared a Submission to the Standing Committee on Human Resources, Skills and Social Development and the Status of Persons with Disabilities on adoption and First Nation children. In this publication Dr. Cindy Blackstock writes, “any efforts to collaborate across agencies must be taken from already stretched child welfare budgets or from First Nations. Clearly these are not viable resource options for the majority of First Nations in Canada” (First Nations Child and Family Caring Society of Canada, 2010). Bertsch and Bidgoodg (2010) discuss the need for government ministries to make adoption a friendlier process for Indigenous families interested in adoption (p. 102). I propose that these collaborative efforts and community involvement should extend to private adoption agencies that remain fairly independent in the administration of adoption of First Nation or Indigenous children.

The Alberta *Child, Youth and Family Enhancement Act* requires private adoption agencies to consult with the band if the Director “has reason to believe that a child who is being placed for adoption is an Indian and a member of a band” (Alberta Children’s Services, 2014, Section 67 (2)). However, if the guardian who is surrendering custody of the child is not a resident of a reserve, the director or officer shall “request the guardian who is surrendering custody of the child to consent to the involvement of a person designated by the council of the band in decisions relating to the adoption of the child” (Alberta Children’s Services, 2014, Section 67 (2)). This discretionary policy may place some undue stress for the birth parent, usually a birth mother who may choose to withhold that information or disagree to any band consultation and eventually may cause some challenges to the adoptee who wants to pursue repatriation with their nation.

Policy and legislative directions stem from provincial and federal government bureaucrats and may eventually find their way to some consultative process with First Nation agencies and communities where there remains a desperate need for changes that keep First Nation children connected to their families and communities. We know how disconnection has impacted our peoples and none of us wish to return to how child welfare systems were administrated in the 1950’s or 60’s. The truth remains, however, that our children are the largest representative group involved in child welfare services today. Rising numbers are evident across the country (Kozlowski, et al., 2012). Custom adoption may not be the answer to all child welfare needs but it is a community based traditional approach that requires the will of a community and the love of a family. I keep hoping that more First Nation agencies will step forward and follow what YTSA began in this country and that we can include this approach in the continuum of options that are necessary to address the needs of connectedness for First Nation and other Indigenous children in Alberta and across Canada.

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