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# Reimagining Child Welfare Systems in Canada (Part I)

Janet Mosher

*Osgoode Hall Law School of York University*

Jeffery Hewitt

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## Reimagining Child Welfare Systems in Canada

JANET MOSHER & JEFFERY HEWITT

Can you tell me where my real home is? I'd really like to know,  
All my life I been a foster child with no place in mind to go...<sup>1</sup>

The removal of children from their families and communities has long-lasting and often devastating consequences. The breaking of the bonds that connect children to family and community erodes the transmission of culture, of language, of belonging, and of identity. There is no doubt that there are circumstances in which the well-being of a child requires that changes be made in who is to be entrusted with the responsibility for care. However, there is equally no doubt that child welfare systems across the country are plagued by serious shortcomings: bonds are broken unnecessarily; structural failings undermine parents' well-being and their capacity to provide adequately for their children; children, once removed, have limited or no access to their cultural roots; and racism is embedded in structures, practices, and individual encounters.

The scale upon which Indigenous and African Canadian children have been taken from their families continues to generate deep impacts in a variety of ways. Some examples: the number of murdered and missing Indigenous women and girls; human trafficking of Indigenous youth; the over-policing of neighbourhoods with concentrations of predominately African Canadian or Indigenous peoples. In these ways, and others, the larger legal infrastructure supports the taking of Indigenous and African Canadian children by first breaking apart families, then devaluing cultures, language, identity, and lives, and subsequently cycling their lives through the justice system. The taking of Indigenous children in disproportionate numbers is an active tentacle in the ongoing colonial project. Removing African Canadian children from their families takes aim against the community to the advantage of the existing power structure. All aided by law. Therefore, though more will be required, it is necessary that law, which provides the authority for state child welfare systems to continue to take Indigenous and African Canadian children in disproportionately high numbers, must change because the harm—too often dressed up as “justice”—continues to oppress Indigenous and African Canadian children, families, and communities from cradle to grave.

On 21 October 2016 the Journal of Law and Social Policy (JLSP) co-hosted a symposium, together with the First Nations Child and Family Caring Society of Canada, the African Canadian Legal Clinic, and the Action Group on Access to Justice of the Law Society of Ontario. Called *Reimagining Child Welfare Systems in Canada*, it brought together community members, practitioners, academics, and students to explore how state child welfare systems have failed Indigenous and African Canadian communities and to share alternatives that communities have implemented, planned, and/or imagined. With the exception of the article by Kate Bezanson, the contributions to this Issue of the JLSP—and another that will follow in the coming months—arise from the symposium and the conversations during a day-long workshop for presenters that followed the public event.

Awareness of the overrepresentation of Indigenous children in child welfare systems across the country has existed since the 1980s and has increased sharply since the release of the Final Report of the Truth and Reconciliation Commission of Canada, the launching of several class

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<sup>1</sup>April Isadore, “Kokum’s House,” this volume, at 182.

action lawsuits dealing with the Sixties Scoop, and the 2016 decision of the Canadian Human Rights Tribunal in the *First Nations Child and Family Services Caring Society* case, in which Canada was found to have engaged in discriminatory practices, including by underfunding child welfare services on reserve and by creating a funding structure that perversely encouraged the removal of children.<sup>2</sup> Aboriginal children are dramatically overrepresented at every stage of child protection intervention across Canada.<sup>3</sup> The present-day removal of children from Aboriginal families and communities is a contemporary manifestation of state practices of cultural genocide and racial discrimination, including the government policy of removing Aboriginal children from their families and placing them in Indian Residential Schools, and the Sixties Scoop. The United Nations Committee on the Rights of the Child has joined First Nations, Métis, and Inuit organizations in repeatedly calling attention to the urgent need to address the dramatic overrepresentation of Aboriginal children in care.<sup>4</sup>

There is a lack of national data on the situation of African Canadian children and child welfare in Canada. However, various reports examining local jurisdictions have identified overrepresentation as a matter of grave concern. In Ontario, the *Because Young People Matter* panel reviewed research findings that indicate that “Black Youth are overrepresented in child welfare and youth justice services particularly in large urban areas” and are often placed in residential group home programs, programs the panel characterized as the most intrusive and constraining type of service.<sup>5</sup> The panel lamented the “lack of action to celebrate and enrich the cultural and racial strengths and opportunities embedded in being a Black Youth”<sup>6</sup> and called for fundamental change, emphasizing the importance of good data and research. The recently launched Practice Framework and Research Report of the *One Vision One Voice* project in Ontario cites data showing that “while African Canadians make up 8.5% of the population of Toronto, they constitute 40.8% of the children in care of the Children’s Aid Society of Toronto,”<sup>7</sup> a finding that highlights the “long-standing disproportionalities and disparities for African Canadian and Indigenous communities” that are rooted in “an historical context of white supremacy, colonialism,

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<sup>2</sup> See this volume, Vandna Sinha, Ashleigh Delaye & Brittany Orav-Lakaski, “Reimagining Overrepresentation Research,” Sebastien Grammond, “Federal Legislation on Indigenous Child Welfare in Canada,” and Kate Bezanson, “*Caring Society v Canada*: Neoliberalism, Social Reproduction, and Indigenous Child Welfare.” See also *Honouring the Truth, Reconciling the Future: Summary of the Final Report of the Truth and Reconciliation Commission of Canada* (Truth and Reconciliation Commission of Canada, 2015), and *First Nations Child and Family Caring Society of Canada et al v Canada (Minister of Indian Affairs and Northern Development)*, 2016 CHRT 2 [*Caring Society*].

<sup>3</sup> Nico Trocmé, Della Knoke & Cindy Blackstock, “Pathways to the Overrepresentation of Aboriginal Children in Canada’s Child Welfare System” (2004) 78 *Social Service Review* 577.

<sup>4</sup> United Nations Committee on the Rights of the Child, Sixty First Session, “Concluding Observations Canada,” 5 October 2012 [UNCRC, “Concluding Observations”], online:

<[www2.ohchr.org/english/bodies/crc/docs/co/CRC-C-CAN-CO-3-4\\_en.pdf](http://www2.ohchr.org/english/bodies/crc/docs/co/CRC-C-CAN-CO-3-4_en.pdf)> [perma.cc/46WH-CJNH].

See in particular paragraphs C32(a) and (d), noting the significant overrepresentation of Aboriginal children in out-of-home care and the lack of action in responding to the Auditor General’s findings related to the underfunding of child welfare services on reserve, and paragraphs C33(a) and (d), calling on the government of Canada to take urgent action to address these matters.

<sup>5</sup> Report of the Residential Services Review Panel, *Because Young People Matter* (February 2016) at 77, online: <[children.gov.on.ca/htdocs/English/documents/childremsaid/residential-services-review-panel-report-feb2016.pdf](http://children.gov.on.ca/htdocs/English/documents/childremsaid/residential-services-review-panel-report-feb2016.pdf)> [perma.cc/X9QY-WUFL].

<sup>6</sup> *Ibid.*

<sup>7</sup> *One Vision One Voice: Changing the Ontario Child Welfare System to Better Serve African Canadians, Practice Framework 1: Research Report* (Ontario Association of Children’s Aid Societies, September 2016) at 4, online: <[oacas.org/wp-content/uploads/2016/09/One-Vision-One-Voice-Part-1\\_digital\\_english.pdf](http://oacas.org/wp-content/uploads/2016/09/One-Vision-One-Voice-Part-1_digital_english.pdf)> [perma.cc/E3VU-ZT6V].

and anti-Black racism.”<sup>8</sup> The level of overrepresentation of African Canadian children in care has led the United Nations Committee on the Rights of the Child to express concern about this phenomenon.<sup>9</sup>

The Truth and Reconciliation Commission of Canada has called all of us to action, naming adequate resources, the resolution of jurisdictional disputes, the education of social workers, the creation of national standards for Aboriginal child apprehension and custody, and the gathering of data as measures that are essential to reconciliation.<sup>10</sup> The *One Vision One Voice* project has similarly identified the need to adequately resource African Canadian Child and Family Services agencies, collect race-based data, establish training to address anti-Black racism across sectors, and implement its practice framework.<sup>11</sup> The contributions in this volume take up many of these calls, offering poignant insights into the root sources of overrepresentation, and into experiences of racism, stigmatization, and discrimination, pointing to the research that is needed, and offering ways forward through attention to the voices of children and youth, jurisdictional change, service innovations, and education.

## I. OVERREPRESENTATION AND BEYOND

In the first article in this volume, “Reimagining Overrepresentation Research,” authors Vandna Sinha, Ashleigh Delaye & Brittany Orav-Lakaski take up and critically interrogate the concept of overrepresentation. They begin with the observation that overrepresentation is used to refer to two distinct concepts: disproportionality (the percentage of children of a particular race or ethnic group in the child welfare system as compared to their percentage in the population; *e.g.*, “First Nations children make up 4.6% of the general child population in Canada, but 39.6% of the foster child population”<sup>12</sup>) and disparity (the comparison between the rates at which children of different races or ethnic groups experience the same event; *e.g.*, “the rate of First Nations children in foster care was fifteen times higher than the rate of non-Aboriginal children”<sup>13</sup>). Although the data generated and available to illustrate these concepts has improved in Canada over the past few decades, as the authors point out, it remains quite limited. While the authors stress the importance of expanding data on overrepresentation, they are also clear that overrepresentation research has important limitations. Their plea to move “beyond research that documents the fact of overrepresentation and towards research that identifies and advances the systemic reforms needed in order to reduce the overrepresentation of racialized and minority children in child welfare systems”<sup>14</sup> is echoed in a recent admonition from Senator Murray Sinclair that there has been “[e]nough talk about the over-representation of Indigenous kids in the child welfare system—it’s time for action.”<sup>15</sup>

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<sup>8</sup> *Ibid* at Preamble.

<sup>9</sup> UNCRC, “Concluding Observations,” *supra* note 4 at para C32(a) and 33(a), noting the significant overrepresentation of African Canadian children in out-of-home care and calling on the government of Canada to take urgent action.

<sup>10</sup> Truth and Reconciliation Commission of Canada, *Calls to Action* (Winnipeg: Truth and Reconciliation Commission of Canada, 2015).

<sup>11</sup> *One Vision One Voice*, *supra* note 7 at 91-93.

<sup>12</sup> Sinha et al, *supra* note 2 at 14.

<sup>13</sup> *Ibid*.

<sup>14</sup> *Ibid* at 19.

<sup>15</sup> Kristy Kirkup, “Get on with tackling outstanding issues with Indigenous child welfare: Sinclair,” *CBC* (24 January 2018), online: <[cbc.ca/news/politics/sinclair-child-welfare-1.4501935](http://cbc.ca/news/politics/sinclair-child-welfare-1.4501935)> [perma.cc/SZ54-AHLC]. Here Kirkup is paraphrasing Senator Sinclair’s remarks.

Sinha et al outline six lessons or cautions regarding the research on overrepresentation. While we do not propose to rehearse each of these here, we do want to highlight three that speak clearly to the empty spaces left by this research, before turning to the work of other contributors whose methodologies and analyses begin to fill in these spaces. First, as Sinha et al illustrate, research on overrepresentation is inherently quantitative, revealing nothing at all about the lived experiences of those children, families, and communities who become entangled in child welfare systems, or why it is that overrepresentation occurs. Second, in comparing children from one particular group to the general child population, overrepresentation research tends to obscure the reality that children from other ethno-racial minority groups are also overrepresented. Focusing on the overrepresentation of more than one group and recognizing the reality that children from particular ethno-racial minority groups are overrepresented in other countries, broadens “the scope for theorizing/contextualizing the systemic and structural factors” contributing to these outcomes.<sup>16</sup> Third, is the potential that a focus on overrepresentation may obscure the need for systemic reform. As David Rothwell, Jaime Wegner-Lohin, Elizabeth Fast, Kaila de Boer, Nico Trocmé, Barbara Fallon & Tonino Esposito observe in their article, “Explaining the Economic Disparity Gap in the Rate of Substantiated Child Maltreatment in Canada,” maltreatment is substantiated at much higher rates for families experiencing economic hardship, and Aboriginal families are more likely to experience such hardship.<sup>17</sup> In only 2.9% of cases involving First Nations children is physical harm documented.<sup>18</sup> Maltreatment takes the form of “neglect” associated with inadequate housing, the lack of social supports, and mental health and addiction disabilities.<sup>19</sup> As Sinha et al conclude, these factors “suggest a pattern in which the overrepresentation of First Nations children is driven by cases involving chronic family needs, rather than urgent child protection cases.”<sup>20</sup> This is, of course, tremendously important, and should push us to interrogate the antecedents to the high rates of poverty in Aboriginal communities. But Sinha et al suggest that our analysis should not stop here; again, were we to broaden our lens and consider that overall more families are involved due to neglect and these numbers have increased, the need for systemic reforms—within and beyond child welfare systems—would be brought more sharply into focus.

## **II. EXPERIENCES WITHIN CHILD WELFARE SYSTEMS AND THEIR STRUCTURAL ROOTS**

The contributions by Reina Foster, Karla Kakegamic, and April Isadore speak powerfully to the experiences of Indigenous youth in state child welfare systems. Reina Foster, former Youth Chief of Lac Seul First Nation in Treaty #3, describes how these systems failed her and her brother, frustrating their attempts to secure safety and justice. The summary provided by Karla Kakegamic, a Youth Amplifier with Feathers of Hope, an initiative to bring together First Nations youth in

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<sup>16</sup> Sinha et al, *supra* note 2.

<sup>17</sup> See David Rothwell, Jaime Wegner-Lohin, Elizabeth Fast, Kaila de Boer, Nico Trocmé, Barbara Fallon & Tonino Esposito, “Explaining the Economic Disparity Gap in the Rate of Substantiated Child Maltreatment in Canada,” this volume. As Rothwell et al explain, “[c]hild maltreatment is an overarching term that encompasses physical abuse, sexual abuse, emotional maltreatment, exposure to intimate partner violence, and neglect,” at fn 5.

<sup>18</sup> Sinha et al, *supra* note 2 at 24.

<sup>19</sup> Rothwell et al, *supra* note 17 and Sinha et al, *supra* note 2.

<sup>20</sup> Sinha et al, *supra* note 2 at 24.

northern Ontario to articulate issues of concern and to develop action plans, makes clear that the experiences of Reina Foster and her brother are not isolated ones. And April Isadore shares with Reina Foster and her brother the experience of being removed from her family, her reserve, and her community—albeit decades earlier. As Isadore movingly observes, little has changed in the past forty years. The sadness she describes of being separated from siblings, from family, and from culture and of not knowing where or what is her “home” is still shared by so many. Indeed, Reina Foster points out that,

[m]any people consider the child welfare system the ‘millennial scoop.’ By 2002, over 22,500 Indigenous children were in foster care across Canada, but as of 2010, it is estimated that approximately 27,000 Indigenous children were in care. This number of Indigenous children is higher than the number of children that were taken into Residential schools and in the 60s Scoop.<sup>21</sup>

Saara Greene, Allyson Ion, Gary Dumbrill, Doe O’Brien Teengs, Kerrigan Beaver & Mary-Elizabeth Vaccaro’s article, “‘*It’s Better Late Than Never*’: A Community-Based HIV Research and Training Response to Supporting Mothers Living with HIV Who Have Child Welfare Involvement,” brings to the foreground the experiences of mothers living with HIV in their encounters with the child welfare system. Their community-based project, in which mothers living with HIV were co-investigators, utilized surveys and focus groups with child welfare workers and social work students to assess knowledge of HIV pre- and post-delivery of training on HIV and child welfare. Significantly, at the pre-training phase, neither workers nor students possessed current and accurate information about HIV transmission, prevention, or treatment. Among workers, there was little awareness that there were mothers living with HIV in their caseloads. Workers’ outdated and limited knowledge meant that the focus was often on guardianship plans and the surveillance of mothers—a focus that resulted in stigma and discrimination. As the authors emphasize, “a disclosure of HIV can often make an already tense relationship with their child welfare worker that much more challenging for a mother, especially if the worker has little understanding of HIV and enacts HIV stigma in the casework relationship and case plan.”<sup>22</sup> While this holds true for all women living with HIV, for Indigenous and African Canadian mothers the stigma and discrimination related to their HIV status is compounded by experiences of discrimination based on race. Not surprisingly, the mothers in their study, especially the Indigenous mothers, expressed reluctance to disclose their status for fear of negative impact on interactions. While their study helps fill one of the voids identified in overrepresentation research by focusing on the experiences of mothers living with HIV as they navigate their relationship with child welfare workers, it also adds two new and illuminating threads to the overrepresentation discussion. First, it shifts the focus from the overrepresentation of children to the overrepresentation of mothers, and second, it reveals the correlation between the overrepresentation of Indigenous and African Canadian mothers in child welfare systems and as women impacted by the HIV epidemic in Canada. The broadening of the lens in this manner invites, as Sinha et al have argued, additional questions about the structural roots of overrepresentation, and here more particularly, about gender, and social constructs of mothering.

<sup>21</sup> Reina Foster, “‘Reimagining’ the Child Welfare System,” this volume, at 174.

<sup>22</sup> Saara Greene, Allyson Ion, Gary Dumbrill, Doe O’Brien Teengs, Kerrigan Beaver & Mary-Elizabeth Vaccaro, “‘*It’s Better Late Than Never*’: A Community-Based HIV Research and Training Response to Supporting Mothers Living with HIV Who Have Child Welfare Involvement,” this volume, at 73-74.

Doret Phillips & Gordon Pon's article, "Anti-Black Racism, Bio-Power, and Governmentality: Deconstructing the Suffering of Black Families Involved with Child Welfare" speaks powerfully of the "social suffering" experienced by Black families in their encounters with state child welfare systems. Social suffering, they explain, is the "collective experiences of structural violence and the resulting pain it inflicts among classes of people."<sup>23</sup> They draw from, and build upon, the experiences shared during the community consultations for the *One Vision One Voice* project: the suffering caused by systemic surveillance, discipline, punishment, humiliation, discrimination, and lack of access to culturally relevant services. Phillips & Pon trace the sources of this social suffering to white supremacy, colonialism, and anti-Black racism—each of which is embodied in the child welfare system. To uncover and explore this embodiment, they turn to the rise of the welfare state (which they argue is "inseparable from the exigencies of white supremacy and settler colonialism"<sup>24</sup> and in which the profession of social work is deeply implicated, including racialized social workers who are themselves regulated by scripts of whiteness), anti-Black racism ("a virulent form of racism that is directed against Black people and their resistance to such oppressions"<sup>25</sup> and a central component of which is fear of Blackness), bio-power (the operation of power on individual bodies to "optimize its capabilities, efficiency, usefulness, and docility"<sup>26</sup>), and governmentality ("how everyday legislative, social, economic, political, and cultural practices and policies exert control over the actions of individuals"<sup>27</sup>).

### III. PATHWAYS TO TRANSFORMATION

Together, the contributions to this Issue of the JLSP offer much wisdom, insight, and guidance. If there is one unifying message, it is that the communities impacted and harmed by existing child welfare practices must be the ones to lead; it is within these communities that the experience of inter-generational trauma is lived daily, and where sources of culturally relevant knowledge have been sustained and nurtured. Reina Foster's and Karla Kakegamic's contributions also make clear that adults need to create safe spaces for children and youth to talk about their experiences of child welfare and that they need learn to listen.

Karla Kakegamic summarizes the changes envisioned by the Indigenous youth delegates in the Feathers of Hope child welfare forum: acceptance of different beliefs, values, and their own cultures; support from elders; support from their social workers and foster parents in accessing their culture; education about their rights and how the child welfare system works; to be listened to; and to know that they are genuinely cared for.

April Isadore reminds us of what is possible when even one person acts. Concerned that child welfare systems continue to fracture families, rather than supporting them through difficult times and life translations, and wanting to ensure that children remain connected to their communities and to their culture, she created her own alternative, Kokum's House, on the Driftpile

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<sup>23</sup> Doret Phillips & Gordon Pon, "Anti-Black Racism, Bio-Power, and Governmentality: Deconstructing the Suffering of Black Families Involved with Child Welfare," this volume, at 83.

<sup>24</sup> *Ibid* at 85.

<sup>25</sup> *Ibid* at 84.

<sup>26</sup> *Ibid*, here citing AS Chambon, A Irving, & L Epstein, eds, *Reading Foucault for Social Work* (New York: Columbia University Press, 1999) at 85.

<sup>27</sup> *Ibid* at 94.

First Nation. Kokum’s House, honouring April Isadore’s mother, is designed to ensure that siblings are not separated and that families are supported in their healing.

Nancy Stevens, Rachel Charles & Lorena Snyder, in their contribution, “Giidosendiwag (We Walk Together): Creating Culturally Based Supports for Urban Indigenous Youth in Care” share the concern raised by youth in the Feathers of Hope forum about the struggle to access culturally based supports. They describe a disturbing practice among some child welfare service providers where access to cultural programming is used within a system of rewards and punishments, rather than being understood as an integral right. Its absence, they suggest, may itself be a form of child maltreatment. Nijkiwendidaa Anishnaabekwewag Services Circle’s Anishnaabeg Youth Transition Program seeks to foster Indigenous identity development, both by learning Indigenous histories and through cultural reconnection. Establishing relationships with elders and participating in ceremony are among the critical elements of their culturally grounded programming that enable youth to “understand the sacredness they hold within themselves,” and foster awareness of “their gifts, and the roles and responsibilities they have to their home communities or community of choice.”<sup>28</sup> Using the words and drawings of program participants, they illustrate the profound difference that access to cultural supports makes in the lives of Indigenous youth.

The importance of education as a critical site for change—as both the Truth and Reconciliation Commission and the *One Vision One Voice* reports identified—is illustrated in the contributions by Greene et al and Phillips & Pon. Greene et al, as noted above, identified the lack of current knowledge about HIV among workers and the consequential surveillance, stigma, and discrimination experienced by mothers living with HIV. Significantly, the training developed included a module with case scenarios designed and delivered by mothers living with HIV—an approach that acknowledged their expertise and leadership. The post-training focus groups and surveys give reason for hope and optimism that properly designed education can lead to practices that, “support[ ] mothers living with HIV in ways that ameliorate rather than exacerbate their experiences of HIV-related stigma.”<sup>29</sup> Like Greene et al, Phillips & Pon underscore the importance of education, and their work highlights in particular the need to foster understanding of colonialism, anti-Black racism, bio-power, and governmentality.

The contributions by Sébastien Grammond and Kate Bezanson address, in different ways, the implications of the decision of the Canadian Human Rights Tribunal in the *Caring Society* case. Both speak to the importance of jurisdiction, of moving control over the care of Indigenous children to Indigenous communities. Grammond, in “Federal Legislation on Indigenous Child Welfare in Canada,” builds on the Tribunal’s finding of discrimination in the failure to provide adequate funding and to ensure culturally relevant services. Drawing from Article 4 of the Declaration on the Rights of Indigenous Peoples, he argues that reform must be guided by self-determination.<sup>30</sup> He challenges the assumption of a “provincial paradigm,” arguing instead that the federal government has the constitutional competence, with proper consultation, to pass legislation implementing a new Indigenous child welfare system in Canada. Such legislation—a draft of which is included with his article—would recognize First Nations jurisdiction and would afford

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<sup>28</sup> Nancy Stevens, Rachel Charles & Lorena Snyder, “Giidosendiwag (We Walk Together): Creating Culturally Based Supports for Urban Indigenous Youth in Care,” this volume, at 118.

<sup>29</sup> Green et al, *supra* note 22 at 65.

<sup>30</sup> Grammond, *supra* note 2. Grammond points out that Article 4 of Declaration on the Rights of Indigenous Peoples recognizes the right to autonomy or self-government in internal or local affairs which, he argues, “surely includes child welfare,” at 133.



First Nations a variety of options as to how they would exercise that jurisdiction. Envisioned is the potential for First Nations to gradually, over time, assume greater jurisdiction. In addition, the legislation he has drafted includes a commitment regarding the proper funding by the federal government of First Nations child welfare. Consistent with the commitment to self-determination, Grammond observes that “[i]t goes without saying that a proposal such as this one should be the object of extensive consultation with Indigenous peoples before it is adopted.”<sup>31</sup> Rather, its aim is to “stimulate discussion over Indigenous child welfare reform and liberate those discussions from the provincial paradigm in which the system is currently bogged down.”<sup>32</sup> Grammond reminds us that similar legislation has existed in the United States for close to forty years, that certain Treaties explicitly recognize the power of specific First Nations to legislate in relation to child welfare or to create their own child welfare systems, and that there have been several Canadian experiments in the exercise of jurisdiction—all sources for helping to craft a way forward. And, as several presenters during the Symposium described, specific Indigenous cultural practices around caring for and rearing children have survived colonization and are being practiced, renewed, and revitalized within Indigenous communities.

In her contribution, “*Caring Society v Canada: Neoliberalism, Social Reproduction, and Indigenous Child Welfare*,” Kate Bezanson examines the *Caring Society* decision through the lens of social reproduction—broadly speaking, the “daily and generational work that is needed in any society to ensure social, cultural, and economic survival.”<sup>33</sup> While the jurisdictional disputes and wrangling between the provinces/territories and the federal government over responsibility for the provision of child welfare (and other services) on reserve are familiar to many, Bezanson reframes these as contests and crises over the provision of care: “what constitutes care, who pays for it, in what amounts, provided by whom, with which words, in which language, with what kind of memory, and in which kinds of families?”<sup>34</sup> A significant insight Bezanson offers is to illustrate the temporal linking of the roll out of the First Nations Children and Family Services program by the federal government and the escalation in the neoliberalization of social and economic policy. As she notes, neoliberalization has “dovetailed positively with greater community/First Nations based control of service provision, and negatively with a broader trend toward a downloading and individualizing of social risks.”<sup>35</sup> Her work highlights how contests over care are shifted between levels and branches of government, among service providers, and within families.

## IV. CONCLUSION

Following the fourth compliance order by the Canadian Human Rights Tribunal—and two years after the Tribunal’s decision in the *Caring Society* case—the Indigenous Services Minister, Jane Philpott, announced on 1 February 2018 that the federal government will move to increase funding for First Nations child welfare. In issuing its fourth compliance order, the Tribunal admonished Canada, pointedly finding that it was, “incorrect for Canada to say it did everything that it could do and everything that was asked of it in the immediate term, which has now become the mid-

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<sup>31</sup> *Ibid* at 147.

<sup>32</sup> *Ibid*.

<sup>33</sup> Bezanson, *supra* note 2 at 153.

<sup>34</sup> *Ibid*.

<sup>35</sup> *Ibid*.

term.”<sup>36</sup> And, while the announcement from Minister Philpott is a positive one, it bears observing that the Tribunal’s decision and the multiple compliance orders were the culmination of a multi-year battle in which the federal government aggressively defended against the claim brought by the First Nations Child and Family Caring Society of Canada and the Assembly of First Nations. In other words, it fought hard to continue its discriminatory underfunding of services to children on First Nations reserves. Additionally, as the Association of Iroquois and Allied Indians Grand Chief Joel Abram pointed out, the announced funding increase is a short-term measure. What is needed is a “long-term plan to bring our children back to their communities and back to their families.”<sup>37</sup> The many contributions to this Issue of the JLSP and the second to follow have much to say about what is necessary to bring children back to both Indigenous and African Canadian families and communities. No child should have to ask, as April Isadore’s poem set out at the beginning of this Introduction does, “Can you tell me where my real home is? I’d really like to know, All my life I been a foster child with no place in mind to go... .”

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<sup>36</sup> Jorge Barrera, “Ottawa to increase funding for First Nations child welfare services,” *CBC* (1 February 2018), online <[cbc.ca/news/indigenous/ottawa-fnchildwelfare-tribunal-1.4513951](http://cbc.ca/news/indigenous/ottawa-fnchildwelfare-tribunal-1.4513951)>[\_perma.cc/EF4B-BCH5].

<sup>37</sup> *Ibid.*