

CURRICULUM VITAE

PERSONAL DATA

Name: Harold Franklin MCGEE, Jr.
Date of Birth: 5 June 1945
Place of Birth: Miami, Florida, U.S.A.
Citizenship: Canadian [1975]

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Areal Interests:

Micmac/Maliseet
Atlantic Canada
Canada
American Southwest

Topical Interests:

Native Peoples
Expressive Culture
Culture History and Reconstruction
Games / Play
Gender Studies
Political Anthropology

Education [all degrees in Anthropology]:

Florida State University B.A. April 1966
Florida State University M.A. June 1967
Southern Illinois University (C'dale) Ph.D. June 1974

Awards [other than research grants]:

1967-1969 National Defence Educational Act Fellowship (U.S.A.),
Southern Illinois University (last year declined).

PROFESSIONAL EXPERIENCE

Teaching:

Primary Affiliation:

66.09 - 67.04	Museum Assistant	Florida State University
67.01 - 67.04	Teaching Assistant	Florida State University
68.09 - 69.04	Teaching Assistant	Southern Illinois University
69.09 - 70.06	Lecturer	St. Francis Xavier University
70.06 - 73.07	Assistant Professor	St. Francis Xavier University
73.07 - 74.07	Assistant Professor	University of Waterloo (Ont.)
74.07 - 75.07	Assistant Professor	Saint Mary's University
75.07 - 83.07	Associate Professor	Saint Mary's University
83.07	-present Professor	Saint Mary's University

Summer School Employment (other than home institution):

1971	Lecturer, Anthropology	University of Western Ontario
1977	Lecturer, Education	University of New Brunswick
1978	Lecturer, Atlantic Canada Institute	University of Prince Edward Island
1983	Instructor, Anthropology	University of New Brunswick

Other Teaching Employment:

1972	Lecturer, Transition Year Programme (TYP)	Dalhousie University
1974	Lecturer, Native Counsellor Aide Programme	Saint Francis Xavier University
1984	Instructor, TYP	Dalhousie University
1984-present	Research Associate, School of Education	Dalhousie University
1985	Instructor, Micmac Bachelor of Social Work Programme, Maritime School of Social Work	Dalhousie University
1988	Instructor, Micmac Bachelor of Social Work Programme, Maritime School of Social Work	Dalhousie University

Thesis Committee Memberships:

1976	Anthropology Department, Saint Mary's University. Member of John Connolly's Honours thesis committee.
1979	Anthropology Department, Saint Mary's University. Thesis advisor of Robert W. Heber's Honours thesis committee.
1980	Anthropology Department, Saint Mary's University. Thesis advisor of Jutta Dale's Honours thesis committee.
1981	Anthropology Department, McMaster University. External reader of David A. Meyer's doctoral dissertation.
1983	Anthropology Department, Saint Mary's University. Member of Judy MacIntyre's Honours thesis committee.
1984-present	Education Department, Dalhousie University. Member of Marial Mosher's doctoral committee.
1985	School of Architecture, Technical University of Nova Scotia. External reviewer of theses by four honours students.
1985	Anthropology Department, Saint Mary's University. Thesis advisor of Cheryl Tingley's Honours thesis committee.

- 1986 School of Architecture, Technical University of Nova Scotia. External reviewer of theses by seven honours students.
- 1986-1989 Education Faculty, Saint Mary's University. Master of Arts thesis advisor to Marilyn O'Hearn.
- 1988 Anthropology Department, Saint Mary's University. Thesis advisor of Susan McIlquham's Honours thesis committee.
- 1988-present Atlantic Canada Studies, Saint Mary's University. Master of Arts thesis advisor to Sharon Ingalls.
- 1989-present Education Department, Dalhousie University. Member of Marilyn O'Hearn's doctoral committee.
- 1989-present Atlantic Canada Studies, Saint Mary's University. Member of Master of Arts thesis committee to Peter Twohig.

Consulting:

- 1975 National Museum of Man -- Display Division. Atlantic Canada Museumobile.
- 1978 Federation of Newfoundland Indians (Conne River). Review of lands claim research.
- 1980 Nova Scotia Department of Education. Mi'kmaq television project (3 years).
- 1981 Social Sciences and Humanities Research Council. Native Studies Programme Workshop (Winnipeg).
- 1982 National Film Board (Montreal). Production of four sound filmstrips concerned with Micmac Aboriginal culture. First prize award in educational filmstrip category, New York Film Festival.
- 1982 Ragweed Press (Charlottetown). Manuscript reviewer and technical consultant for grade six textbook authored by Douglas Baldwin.
- 1983 Fitzhenry and Whiteside. Editorial assistant for book about the Micmac authored by Robert Leavitt.
- 1984 Grand Council of the Crees (James Bay). Curriculum development, Cree School Board.
- 1984 Lavlin Offshore, Inc. Evaluation of pipeline impact on heritage resources in pipeline corridor.
- 1986 Maritext, Ltd. Editorial assistant and curriculum development.
- 1987 Dalhousie University. External Evaluator for unit review of the Transition Year Programme.
- 1987 Indigenous People's Education, World Congress. Delegate (8-13 June, Vancouver).

Manuscript and Research Grant Proposal Review:

- 1976 Current Anthropology; article referee.
- 1977 Institute of Public Affairs, Dalhousie; book manuscript referee.
- 1978 Social Sciences and Humanities Research Council (SSHRC); grant proposal referee.
- 1978 Canadian Ethnic Studies; article referee.
- 1978 National Endowment for the Humanities (USA); grant proposal referee.
- 1979 Acadiensis; article referee.
- 1979 Canada Council; grant proposal referee.
- 1980 International Education Centre, Saint Mary's University; book manuscript referee.
- 1981 Culture; article referee.
- 1982 Culture; article referee.
- 1982 Nelson Publishers; book manuscript referee.
- 1983 Acadiensis; referee for two articles.
- 1983 SSHRC; referee for two research grant proposals.
- 1983 National Museum of Man; referee for article in Oracle series.
- 1984 SSHRC; grant proposal referee.
- 1984 Culture; article referee.
- 1984 National Endowment for the Humanities (USA); grant proposal referee.
- 1986 National Science Foundation (USA); grant proposal referee.
- 1986 Acadiensis; article referee.
- 1987 National Science Foundation (USA); grant proposal referee.
- 1987 Acadiensis; article referee.
- 1988 The Gladys and Merrill Muttart Foundation (Alberta); grant proposal referee.
- 1988 Acadiensis; article referee.
- 1988 Canada Council; grant proposal referee.
- 1988 National Science Foundation (USA); grant proposal referee.
- 1989 Canadian Review of Sociology and Anthropology; referee for two articles.
- 1989 SSHRC; grant proposal referee.
- 1989 Paqta'tek; article referee.
- 1990 Oxford University Press. Manuscript reviewer for junior high textbook (chapter concerned with Micmac Indians).

Board Memberships:

- 1976 Canadian Ethnology Society; Member-at-Large.
- 1977 Canadian Ethnology Society; Annual Meeting Co-Chairperson.
- 1987 Native Studies Committee, University College of Cape Breton.
- 1989 Micmac Native Learning Centre (Halifax); Advisory Board.
- 1990 Micmac Native Learning Centre (Halifax); Advisory Board.

Funded Research:

- 1967 Isleta factionalism. (research assistant) National Institutes of Mental Health (USA).
- 1969 Micmac political organization. St. Francis Xavier University funding.
- 1973 Maliseet religion. National Museum funding.
- 1973 Non-psychotic aspects of windigo phenomenon. Canada Council funding.
- 1974 Maliseet religion (continued). National Museum funding.
- 1975 The apple basket industry in the Annapolis Valley. Saint Mary's University funding.
- 1978 Oral history of St. Margaret's Bay. Saint Mary's University funding.
- 1981 Sabbatical travel grant. Saint Mary's University funding.
- 1987 Expressive culture and cultural identity in Maritime Canada. SSHRC funding.
- 1988 Sabbatical research grant. Saint Mary's University funding.
- 1988 Beaver incisor wear patterns. Saint Mary's University funding.

Publications:

Books:

- 1974 (editor) Native Peoples of Atlantic Canada; a reader in regional ethnic relations. Toronto: McClelland and Stewart; 211pp.
- 1983 (editor) Native Peoples of Atlantic Canada; a history of Indian-European relations (2nd edition). Ottawa: Carleton University Press.

- 1983 (co-author with Ruth Whitehead) The Micmacs: How they lived 500 years ago. Halifax: Nimbus; 60pp..
- 1989 (illustrator) Six Micmac Stories by Ruth Whitehead. Halifax: Nova Scotia Museum.

Journal Articles and Book Chapters:

- 1969 On anthropological research in complex societies. Current Anthropology 10: 231.
- 1970 Factions. Man 5: 520.
- 1972 Windigo psychosis. American Anthropologist 74: 244-246.
- 1974 White encroachment of Micmac reserve lands in Nova Scotia, 1830-1867. Man in the Northeast 8: 57-64.
- 1975 The windigo down-east, or, the taming of the windigo. Ottawa: National Museum of Man -- Ethnology Division, Mercury Series 28: 110-132.
- 1976 A note on Wabanaki kinship. Man in the Northeast 10: 78-80.
- 1977 The case for Micmac demes. Actes du huitieme congres des Algonquinistes; Ottawa: Carleton University Press, pp. 107-114.
- 1978 The Micmac Indians: the earliest migrants. In, Banked Fires -- Ethnics of Nova Scotia edited by Douglas Campbell. Port Credit, Ont.: Scribblers' Press, pp. 15-42.
- 1979 Culture and ethnicity at the Canadian Centre for Folk Culture Studies. American Anthropologist 81: 331-334.
- 1980 Mi'kmaq. Your World 2: 3.
- 1980 No longer neglected; a decade of writing concerning the native peoples of the Maritimes. Acadiensis 10(1): 135-142.
- 1980 Reply to Paul MacIntyre. American Anthropologist 82: 564.
- 1981 The Micmac people, their life-cycle and material culture (with Ruth Whitehead). Mi'kmaq Teacher's Manual. Halifax: Nova Scotia Department of Education and CBC; pp.21-32.
- 1985 Micmac. New Canadian Encyclopedia. Edmonton: Hurtig; p.1129.
- 1985 Playing at knowing; patol and Pueblo world view. In, Contributions to Archaeology and Ethnology of Greater Meso-America edited by William Folon. Carbondale, Ill.: Southern Illinois University Press; pp. 261-292.
- 1986 Words are not enough. Teaching Maritime Studies edited by P. A. Buckner. Fredericton: Acadiensis Press; pp. 51-54.

- 1987 The use of furbearers by Native North Americans after 1500. In, Wild Furbearer Management and Conservation in North America edited by M. Novak et als. Toronto: Ontario Ministry of Natural Resources; pp. 13-20.
- 1987 Stewardship of the earth and the Gitksan-Wet'suet'an law suit. Between the Issues 5(6): 1.
- 1987 A sense of place. In, The Maritimes: tradition, challenge, and change edited by C. MacGregor, G. Peabody, and R. Thorne. Halifax: Maritext Ltd.
- 1989 Four centuries of borderland interaction: it depends upon who draws the line and when. In, The Northeast Borderlands: Four Centuries of Interaction edited by S. Hornsby, V. Konrad, and J. Herlan. Fredericton: Canadian-American Center, University of Maine and Acadia Press; pp. 140-148.

Papers Read:

- 1970 Factionalism: structure vs organization. Tenth Annual Meeting of the Northeastern Anthropological Association, Ottawa.
- 1971 The processes of information control and political leadership. Sixth Annual Meeting of the Association of Atlantic Sociologists and Anthropologists, Halifax.
- 1974 The windigo down-east, or, the taming of the windigo. Second Annual Meeting of the Canadian Ethnology Society, Winnipeg.
- 1976 The case for Micmac demes. Eighth Algonquian Conference, Montreal.
- 1977 Art and science in anthropology; the meaningful distortion of reality. Institute of Human Values, Halifax.
- 1977 Poppies, politics and the process of national unity. University of New Brunswick Anthropology Society, Fredericton.
- 1977 Discussant, The Micmacs of Nova Scotia and Newfoundland Symposium. Canadian Historical Society, Fredericton.
- 1978 Configurations of Micmac kin relations as revealed by myth. Fifth Annual Meeting of the Canadian Ethnology Society, London, Ont.
- 1978 Folklore and the development of folk sociology. Canadian Studies Programme, Mount Allison University, Sackville, N.B.
- 1979 Task scheduling and the reconstruction of proto-historic Micmac social organization (with Ruth Whitehead). Eleventh Algonquian Conference, Ottawa.

- 1979 Indian - European contacts. Chignecto Regional History Programme, Mount Allison University, Sackville, N.B.
- 1980 Changes in Micmac-White interaction patterns in the 18th century. Eighth Annual Meeting of the Atlantic Society for 18th Century Studies, Sydney, N.S.
- 1980 Archaeological requirements for an adequate ethnology of the Native Peoples of the Maritimes. The Future of Archaeology in the Maritime Provinces Conference, Halifax.
- 1981 The making of "Mi'kmaq" (with Ruth Whitehead). Eighth Annual Meeting of the Canadian Ethnology Society, Ottawa.
- 1982 Changes in Micmac settlement patterns. Thirteenth Algonquian Conference, Quebec.
- 1985 The question of ethics in ethnic research. Society for the Study of Ethnicity in Nova Scotia, Halifax.
- 1987 Culture. Plenary Address, Maritime Studies Workshop, Fredericton.
- 1987 Performance and identity in the Maritimes. Ninth Biennial Conference of the Canadian Ethnic Studies Association, Halifax.
- 1987 Four centuries of borderland interaction; it depends upon who draws the line . . . and when. Symposium Address to commemorate the Twentieth Anniversary of the Canadian-American Center, Orono, Maine.
- 1989 Fringe dwellers in two hemispheres: games of chance and making a living in two worlds. Australian Institute of Aboriginal Studies, Canberra, Australia.
- 1989 Poker, waltes, and continuity in Wabanaki world view. The Australian Museum Society, Sydney, N.S.W., Australia.
- 1989 Poker, waltes, and continuity in Wabanaki world view. Algonquian Conference, St. John's, Nfld.

Media Presentations:

- 1976 Review of Helen Creighton's A Life in Folklore. Halifax CBC-Radio.
- 1977 Interview concerning the New Hebrides artifact collection of the Nova Scotia Museum. Halifax CJCJ-Television.
- 1981 Interview with Christopher Moore concerning early contact between Micmacs and Europeans for three-hour Ideas programme. Toronto CBC-Radio.
- 1981 Interview with William March, "Slowboat to Shelburne more than 2,000 years ago? Halifax, Chronicle-Herald 29 June.
- 1982 Interview concerning Micmac games. Halifax CBC-Radio.

- 1985 Interview concerning Micmac history for a six part television series titled Indiens de la Mer. St. Olmer, Quebec Radio-Quebec.

Book Reviews:

- 1974 Alliance in Eskimo Society by Lee Guemple. Canadian Review of Sociology and Anthropology 11: 266-267.
- 1976 Hunters in the barrens by Georg Hendriksen. American Anthropologist 78: 157.
- 1976 The people's land by Hugh Brody. Atlantic Provinces Book Review (March) p. 4.
- 1976 Canada's Indians; contemporary conflicts by J. S. Frideres. Canadian Review of Sociology and Anthropology 12: 116-119.
- 1977 Friend and foe; aspects of French-Amerindian cultural contact in the 16th and 17th centuries by C. J. Jaenen. American Anthropologist 79: 740.
- 1979 Children of Aataentsic: a history of the Huron people to 1660 (2 vols) by Bruce Trigger. American Indian Culture and Research Journal 3: 88-90.
- 1980 Elitekey: I fashion things by Ruth Holmes Whitehead. Gazette (summer/fall) pp. 65-69.
- 1981 Micmacs and colonists by L. F. S. Upton. Canadian Ethnic Studies 13: 151-152.
- 1983 Changing economic roles for Micmac men and women; an ethnohistorical analysis by Elice Gonzalez. American Indian Culture and Research Journal 7: 100-101.
- 1984 Socioeconomic characteristics of the Micmac in Nova Scotia by Fred Wein. The Atlantic Provinces Book Review 11(1): 12.
- 1984 Micmac quillwork by Ruth Holmes Whitehead. Canadian Ethnic Studies 16: 163-164.
- 1984 Home and native land: aboriginal rights in Canada by Michael Asch and Native people in Canada: contemporary conflicts (2nd ed.) by James S. Frideres. International Journal of Comparative Sociology 25: 286-288.
- 1984 Political anthropology; an introduction by Ted C. Lewellen. Canadian Review of Sociology and Anthropology 21: 244.
- 1986 Voices: a guide to oral history by Derek Reimer. MUSE 4(1): 53-54.
- 1986 A narrow vision: Duncan Campbell Scott and the Administration of Indian Affairs in Canada by E. Brian Titley. American Indian Culture and Research Journal 10(3): 103-106.

- 1987 Rebuilding the economic base of Indian communities: the MicMac in Nova Scotia by Fred Wein. Atlantic Provinces Book Review 14(1): 3.
- 1987 Indian education in Canada (vol. 2); the challenge edited by J. Barman, Y. Hebert, and D. McCaskill. Atlantic Provinces Book Review 14(3): 10.
- 1987 The quest for justice: aboriginal peoples and aboriginal rights edited by M. Boldt and J. A. Long. Canadian Review of Sociology and Anthropology 24: 456-457.
- 1988 Let the past go: a life history narrated by Alice Jacob by Sarah Preston. Anthropologica 30.
- 1990 Atlas of the North American Indian by Carl Waldman (maps and illustrations by Molly Braun). Canadian Review of Sociology and Anthropology [in press].

Other Scholarly Activity:

- 1967 The development of cooperative groups in rural England and Japan. MA thesis, Florida State University, Tallahassee.
- 1974 Ethnic boundaries and strategies of ethnic interaction: a history of Micmac-White relations in Nova Scotia. Ph.D. dissertation, Southern Illinois University, Carbondale.
- 1974 Filmscript for "The story of Asdiwal". Manuscript.
- 1975 Ethnographic bibliography of Northeastern North America. In, Three Atlantic Bibliographies compiled by H. McGee, S. Davis, and M. Taft. Halifax: Occasional Papers in Anthropology No. 1, Saint Mary's University Department of Anthropology.
- 1975 Comment on, Social borders; definitions and diversity, by Jennie-Keith Ross. Current Anthropology 16: 67-68.
- 1976 Comment on, The cult of the serpent in the Americas, by Balaji Mundkur. Current Anthropology 17: 444-445.
- 1977 Comment on, Anthropology in the American South, by Carole E. Hill. Current Anthropology 18: 318-319.
- 1977 Brief to the National Museum of Man (Ottawa) concerning the goals and priorities of the Ethnology Division; 15 pp.
- 1977 Foreword to, Cognitive kinship organization among the Northeast Algonkians by Jack A. Frisch. Halifax: Occasional Papers in Anthropology No. 2, Saint Mary's University Department of Anthropology.
- 1978 Micmac material culture inventory; preliminary catalogue of the artifact collections outside Canada (with Ruth Whitehead). Manuscript, 125 pp.

- 1979 Foreword to, Eastern Algonquian relationships to "Proto-Algonquian" social organizations by James Wherry. Halifax: Occasional Papers in Anthropology No. 5, Saint Mary's University Department of Anthropology.
- 1980 Micmac residence patterns. Report prepared for Parks Canada, Halifax, 18 pp., illus.
- 1980 Guest curator, Ai Bilong Niugini (New Guinea artifacts, private collection). Halifax: Saint Mary's University Art Gallery.
- 1982 Comment on, Windigo psychosis: the anatomy of an emic-etic confusion, by Lou Morano. Current Anthropology 23: 401.
- 1988 Foreword to, Micmac, Maliseet, Beothuk collections in Great Britain by Ruth Holmes Whitehead. Halifax: Nova Scotia Museum Curatorial Report No. 62.



Since it is undoubted matter of fact, that the missionaries openly employed all their arts, and all the influence of religion, to inveterate the savages against us. Thence, besides a number of horrid cruelties, the most treacherous and base murder of captain Hax, at a conference, by some savages they set on, was perpetrated it within sight of the French forces. The publishing, however, of the foregoing memorial may have this good effect, that it will apprise the English of the matter of accusation against them, and enable them to counter-work those holy engines of state, and engines of ambition. It is also certain, that this very memorial was drawn up by a French priest, purely to furnish the French ministry, a specious document to oppose to the most just representations of the British government. Besides the fictions with which it abounds, he has taken care to suppress the acts of cruelty committed, and the atrocious provocations given by the savages, at the instigation of his fellow-laborers in sedition and calumny.

L E T-

L E T T E R
FROM
MONSIEUR DE LA VARENNE,
TO HIS
FRIEND at ROCHELLE.

Louisbourg, the 8th of May, 1756.

THOUGH I had, in my last, exhausted all that was needful to say on our private business, I could not see this ship preparing for France, especially with our friend *Moreau* on board, without giving you this further mark of how ardently I wish the continuance of our correspondence. It will also serve to supplement any former deficiencies of satisfaction to certain points of curiosity you have stated to me; this will give to my letter a length beyond the ordinary limits of one: and I have before-hand to excuse to you, the loose desultory way in which you will find I write, as things present themselves to my mind, without such

L method

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de la Varenne

[80]

these rarely fall upon any living creatures; the sheep, oxen, and cows, are turned out into the woods or commons, without any fear for them. Partridges are very common, and are large-sized, with flesh very white. The hares are scarce, and have a white fur. There are a great many beavers, elks, cariboux, (moose-deer) and other beasts of the cold northern countries.

The original inhabitants of this country are the savages, who may be divided into three nations, the *Mickmakis*, the *Mari-cheets*, or *Abenakis*, (being scarcely different nations) and the *Canibats*.

The *Mickmakis* are the most numerous, but not accounted so good warriors as the others: but they are all much addicted to hunting, and to venery; in which last, however, they observe great privacy. They are fond of strong liquors, and especially of brandy: that is their greatest vice. They are also very uncurious of paying the debts they contract, not from natural dishonesty, but from their having no notion

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tion of property, or of meum or tuum. They will sooner part with all they have, in the shape of a gift, than with any thing in that of payment. Honors and goods being all in common amongst them, all the numerous vices, which are founded upon those two motives, are not to be found in them. Yet it is true, that they have chiefs to whom they give the title of *Sagamo*; but all of them almost, at some time or other, assume to themselves this quality, which is never granted by universal consent, but to the personal consideration of distinguished merit in councils, or in arms. Their troops have this particularity, that they are, for the most part, composed of nothing but officers; insomuch that it is rare to find a savage in the service that will own himself a private man. This want of subordination does not, however, hinder them from concurring together in action, when their native ferocity and emulation stand them, in some sort, instead of discipline.

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B. Individualism
and Central
governing

They are extremely vindictive, of which I shall give you one example. *Monf. Daunay*, a French captain, with a servant, being overset in a canoe, within sight of some savages, they threw themselves into the water to save them, and the servant was actually saved. But the savage, who had pitched upon *Monf. Daunay*, seeing who it was, and remembering some blows with a cane he had a few days before received from him, took care to soufe him so often in the water, that he drowned him before he got ashore.

It is remarked, that in proportion as the Europeans have settled in this country, the number of the savages considerably diminishes. As they live chiefly upon their hunting, the woods that are destroyed to cultivate the country, must in course contract the district of their chace, and cause a famine amongst them, that must be fatal to them, or compel them to retire to other countries. The English, sensible of this effect, and who seemed to place their policy

policy in exterminating these savage nations, have set fire to the woods, and burnt a considerable extent of them. I have myself crossed above thirty leagues together, in which space the forests were so totally consumed by fire, that one could hardly at night find a spot wooded enough to afford wherewithal to make an extempore cabin, which, in this country, is commonly made in the following manner: Towards night the travellers commonly pitch upon a spot as near a rivulet or river as they can; and as no one forgets to carry his hatchet with him, any more than a Spanish don his toledo, some cut down wood for firing for the night; others branches of trees, which are stuck in the ground with the crotch uppermost, over which a thatching is laid of fir-boughs, with a fence of the same on the weather-side only. The rest is all open, and serves for doer and window. A great fire is then lighted, and then every body's lodged. They sup on the ground, or upon some leaved branches, when the season admits

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of it; and afterwards the table serves for a bed. The savages themselves rarely have any fixed hut, or village, that may be called a permanent residence. If there are any parts they most frequently inhabit, it is only those which abound most in game, or near some fishing-place. Such were formerly for them, before the English had driven them away, *Artigoncesch*, *Beaubassin*, *Chippody*, *Chipnakiy*, *Toodayck*, *Mirtigueesh*, *La Hève Cape Sable*, *Miramocky*, *Fistigoisch*, *La Baye des Chaleurs*, *Pentagony*, *Medocbtek*, *Hekepack*, and *Kibi-beki*.

At present these savage nations bear an inveterate antipathy to the English, who might have easily prevented or cured it, if instead of rigorous measures, they had at first used conciliative ones: but this it seems they thought beneath them. This it is, that has given our missionaries such a fair field for keeping them fixed to the French party, by the assistance of the difference of religion, of which they do not fail to make the most. But lest you may imagine

gine I am giving you only my own conjectures, take the following extract from a letter of father Noel de Joinville, of a pretty antient date.

“ I have remarked in this country so
 “ great an aversion in the convert-savages
 “ to the English, caused by difference of
 “ religion, that these scarce dare inhabit
 “ any part of Acadia but what is under
 “ their own guns. These savages are so
 “ zealous for the Roman Catholick
 “ church, that they always look with
 “ horror upon, and consider as enemies
 “ those who are not within the pale of it.
 “ This may serve to prove, that if there
 “ had been *priests* provided in time, to
 “ work at the conversion of the savages
 “ of New-England, before the English
 “ had penetrated into the interior of the
 “ county as far as they have done, it
 “ would not have been possible for them
 “ to appropriate to themselves such an
 “ extent of country as, at this day,
 “ makes of New-England alone the most
 “ mag-

" • magnificent colony on the face of the
" earth."

But with this good father's leave, he attributes more influence to religion, though as the priests manage it, it certainly has a very considerable one, than in fact belongs to it. Were it not for other concurring circumstances that indispose the savages against the English, religion alone would not operate, at least so violently, that effect. Every one knows, that the savages are at best but slightly tinged with it, and

• This pompous epithet might have yet been more just, if the improvement of that colony had been enough the care of the state, to have been pushed all the length of which it was so susceptible. Few Englishmen will, probably, on reflexion deny, that if but a third of those sums ingulphed by the ungrateful or slippery powers on the continent, upon interests certainly more foreign to England than those of her own colonies, or lavished in a yet more destructive way, that of corrupting its subjects in elections: if the third, I say, of those immense sums, had been applied to the benefit of the plantations, to the fortifying, encouraging, and extending them, there would, by this time, have hardly been a Frenchman's name to be heard of in North-America especially.

have

have little or no attachment to it, but as they find their advantage in the benefits of presents and protection, it procures to them from the French government. In short, it is chiefly to the conduct of the English themselves, we are beholden for this favorable aid of the savages. If the English at first, instead of seeking to exterminate or oppress them by dint of power, the sense of which drove them for refuge into our party, had behaved with more tenderness to them, and conciliated their affection by humoring them properly, and distributing a few presents, they might easily have made useful and valuable subjects of them. Whereas, disgusted with their haughtiness, and scared at the menaces and arbitrary encroachments of the English, they are now their most virulent and scarce reconcilable enemies. This is even true of more parts in America, where, though the English have liberally given presents to ten times the value of what our government does, they have not however had the same effect. The
reason

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reason of which is clear: they make them with so ill a grace, and generally time their presents so unjudiciously, as scarce ever to distribute them, but just when they want to carry some temporary point with the savages, such, especially, as the taking up the hatchet against the French. This does not escape the natural sagacity of the savages, who are sensible of the design lurking at bottom of this liberality, and give them the less thanks for it. They do not easily forget the length of time they had been neglected, slighted, or unapplied to, unless by their itinerant traders, who cheat them in their dealings, or poison them with execrable spirits, under the names of brandy and rum. Whereas, on the contrary, the French are assiduously caressing and courting them. Their missionaries are dispersed up and down their several cantonments, where they exercise every talent of insinuation, study their manners, nature, and weaknesses, to which they flexibly accommodate themselves, and carry their
points

points by these arts. But what has, at least, an equal share in attaching the savages to our party, is the connivence, or rather encouragement the French government has given to the natives of France, to fall into the savage-way of life, to spread themselves through the savage nations, where they adopt their manners, range the woods with them, and become as keen hunters as themselves. This conformity endears our nation to them, being much better pleased with seeing us imitate them, than ready to imitate us, though some of them begin to fall into our notions, as to trafficking and bartering, and knowing the use of money, of which they were before totally ignorant. We employ besides a much more effectual method of uniting them to us, and that is, by the intermarriages of our people with the savage-women, which is a circumstance that draws the ties of alliance closer. The children produced by these are generally hardy, inured to the
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him to go amongst the savages. The young *Delorme* would, indeed, sometimes return home just on a visit to his family; but always expressed such an impatience, or rather pining to get back again to them, that, though reluctantly, the father was obliged to yield to it. No representations in short, after some years, could ever prevail on him to renounce his connexions, and residence amongst the *Abenakis*, where he is almost adored. He has learned to excel them all, even in their own points of competition. He outdoes them all in their feats of activity, in running, leaping, climbing mountains, swimming, shooting with the bow and arrow, managing of canoes, snaring and killing birds and beasts, in patience of fatigue, and even of hunger; in short, in all they most value themselves upon, or to which they affix the idea of personal merit, the only merit that commands consideration amongst them. They are not yet polished enough to admire any other. By this means, however, he perfectly

reigns amongst them, with a power the greater, for the submission to it not only being voluntary, but the effect of his acknowledged superiority, in those points that with them alone constitute it. His personal advantages likewise may not a little contribute thereto, being perfectly well-made, finely featured, with a great deal of natural wit, as well as courage. He dresses, whilst with the savages, exactly in their manner, ties his hair up like them, wears a tomby-awk, or hatchet, travels with *rackets*, (or Indian shoes) and, in short, represents to the life the character of a compleat savage-warrior. When he comes to *Quebec*, or *Louisbourg*, he resumes his European dress, without the least mark appearing in his behaviour, of that wildness or rudeness one would naturally suppose him to have contracted by so long a habit of them with the savages. No body speaks purer French, or acquits himself better in conversation. He takes up or lays down the savage character with equal grace and ease. His friends

friends have, at length, given over teasing him to come and reside for good amongst them; they find it is to so little purpose. The priests indeed complain bitterly, that he is not overloaded with religion, from his entering so thoroughly into the spirit of the savage-life; and his setting an example, by no means edifying, of a licentious commerce with their women; besides, his giving no signs of his over-respecting either their doctrine or spiritual authority. This they pretend hurts them with their actual converts, as well as with those they labor to make; though, in this conduct, he is not singular, for the French wood-rangers, in general, follow the like course in a greater or lesser degree. These representations of the priests would, however, have greater influence with our government, if the temporal advantage they derive from these rovers, undisciplined as they are, did not oblige them to wink at their relaxation in spirituals.

But it is not only men that have taken this passion for a savage life; there have been,

been, though much rarer, examples of our women going into it. It is not many years since a very pretty French girl ran away into the woods with a handsome young savage, who married her after his country fashion. Her friends found out the village, or rather ambulatory tribe into which she had got; but no persuasions, or instances, could prevail on her to return and leave her savage, nor on him to consent to it; so that the government not caring to employ force, for fear of disobliging the nation of them, even acquiesced in her continuance amongst them, where she remains to this day, but worshipped like a little divinity, or, at least, as a being superior to the rest of their women. Possibly too she is not, in fact, so unhappy, as her choice would make one think she must be; and if opinion constitutes happiness, she certainly is not so.

There are not wanting here, who defend this strange attachment of some of their countrymen to this savage life, on principles independent of the reason of state,

those luxuries of life, that are not well to be had without the sacrifice in some sort of it.

It is more difficult to find an excuse for the shocking cruelties and barbarities, exercised by the savages on their unhappy captives in war. The instances, however, of their inhumanity, are certainly not exaggerated, nor possible to be exaggerated, but they are multiplied beyond the limits of truth. That they put then their prisoners to death by exquisite tortures, is strictly true; but it is as true too, that they do not serve so many in that manner as has been said. Numbers they save, and even incorporate with their own nation, who become as free as, and on a footing with, the conquerors themselves. And even in that cruelty of theirs, there is at the bottom a mixture of piety with their vindictiveness. They imagine themselves bound to revenge the deaths of their ancestors, their parents, or relations, fallen in war, upon their enemies, especially of that nation by whom they have fallen. It is

is in that apprehension too, they extend their barbarity to young children, and to women: to the first, because they fear they may grow up to an age, when they will be sure to pursue that revenge of which the spirit is early instilled into them; to the second, lest they should produce children, to whom they would, from the same spirit, be sure to inculcate it. Thus, in a round natural enough, their fear begets their cruelty, and their cruelty their fear, and so on, *ad infinitum*. They consider too these tortures as matter of glory to them in the constancy with which they are taught to suffer them; they familiarize to themselves the idea of them, in a manner that redoubles their natural courage and ferocity, and especially inspires them to fight desperately in battle, so as to prefer death to a captivity, of which the consequences are, and may be, so much more cruel to them. Another reason is also assignable for their carrying things to these extremities: War is considered by these people as something very sa-

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cred, and not lightly to be undertaken; but when once so, to be pushed with the utmost rigor by way of terror, joining its aid towards the putting the speediest end to it. The savage nations imagine such examples necessary for deterring one another from coming to ruptures, or invading one another upon slight motives, especially as their habitations or villages used to be so slightly fortified, that they might easily be surprised. They have lately indeed learned to make stronger inclosures, or pallisades, but still not sufficient entirely to invalidate this argument for their guarding against sudden hostilities, by the idea of the most cruel revenge they annex to the commission of them. It is not then, till after the maturest deliberation, and the deepest debates, that they commonly come to a resolution of *taking up the hatchet*, as they call declaring of war; after which, there are no excesses to which their rage and ferocity do not incite them. Even their feasting upon the dead bodies of their enemies, after putting them to death with the most

most excruciating tortures they can devise, is rather a point of revenge, than of relish for such a banquet.

That amidst all their savageness they have, however, some glimmering perception of the *laws of nations*, is evident from the use to which they put the *calumet*, the rights of which are kept inviolate, thro' especially the whole northern continent of America. It answers nearest the idea of the olive-branch amongst the antients.

As to your question, Sir, about the English being in the right or wrong, in their treatment of the *Acadians*, or descendants of the Europeans first settled in Acadia, and in their scheme of dispersing them, the point is so nice, that I own I dare not pronounce either way: but I will candidly state to you certain facts and circumstances, which may enable yourself to form a tolerably clear idea thereon.

But previously I shall give you a succinct description of these people: They were a mixed breed, that is to say, most of them proceeded from marriages, or
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HAROLD MCGEE

NEW RELATION OF GASPESIA

With the Customs and Religion of the
Gaspeian Indians

BY

FATHER CHRESTIEN LE CLERCO

TRANSLATED AND EDITED, WITH A REPRINT
OF THE ORIGINAL, BY

WILLIAM F. GANONG, PH.D.

PROFESSOR IN SMITH COLLEGE

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together. Consequently they cannot understand how one can submit to the indissolubility of marriage. "Dost thou not see," they will say to you, "that thou hast no sense? My wife does not get on with me, and I do not get on with her. She will agree well with such a one, who does not agree with his own wife. Why dost thou wish that we [398] four be unhappy for the rest of our days?" In a word, they hold it as a maxim that each one is free: that one can do whatever he wishes: and that it is not sensible to put constraint upon men. It is necessary, say they, to live without annoyance and disquiet, to be content with that which one has, and to endure with constancy the misfortunes of nature, because the sun, or he who has made and governs all, orders it thus. If some one among them laments, grieves, or is angry, this is the only reasoning with which they console him. "Tell me, my brother, wilt thou always weep? Wilt thou always be angry? Wilt thou come nevermore to the dances and the feasts of the Gaspesians? Wilt thou die, indeed, in weeping and [399] in the anger in which thou art at present?" If he who laments and grieves answers him no, and says that after some days he will recover his good humour and his usual amiability,—“Well, my brother,” will be said to him, “thou hast no sense; since thou hast no intention to weep nor to be angry always, why dost thou not commence immediately to banish all bitterness from thy heart, and rejoice thyself with thy fellow-countrymen?” This is enough to restore his usual repose and tranquillity to the most afflicted of our Gaspesians. In a word, they rely upon liking nothing, and upon not becoming attached to the goods of the earth, in order not to be grieved or sad when they lose them. They are, [400] as a rule, always joyous, without being uneasy as to who will pay their debts.

They have the fortitude and the resolution to bear bravely the misfortunes which are usual and common to all men. This greatness of spirit shows grandly in the fatigues of war,

hunting, and the fishery, in which they endure the roughest labours with an admirable constancy. They have patience enough in their sicknesses to put Christians to confusion. In case there is shouting, blustering, singing, and dancing in the wigwam, it is very rarely that the sick one complains. He is content with that which he is given, and takes without repugnance whatever is presented to him, for the purpose of [401] restoring him to his original health. Also they endure with patience the severest punishments when they are convinced that they have deserved them, and that one has reason to be angry against them. They even make considerable presents to those who punish them severely for their misbehaviour, in order, say they, to remove from the hearts of the former all the bitterness caused by the crime of which they are guilty. They always allege, as their usual excuse, that they had no sense when they had committed such and such actions. When they are convinced at length of their fault, one may threaten to break their bones with blows of clubs, to pierce their bodies with swords, or to break their heads with guns, and they present themselves to [402] submit to these punishments. "Strike me," say they, "and kill me if thou wilt; thou art right to be angry, and as for me I am wrong to have offended thee."¹

It is not the same, however, when they are ill-treated without cause, for then everything is to be feared from them. As they are very vindictive against strangers, they preserve resentment for the ill-treatment in their hearts until they are entirely avenged for the injury or for the affront which will have been wrongly done them. They will even make themselves drunk on purpose, or they will pretend to be full with brandy, in order to carry out their wicked plan, imagining that they will always be amply justified in the crime which

¹ Compare an incidental confirmation of this spirit and speech related by our author at page 317 of his book. The spirit is also confirmed by Diéreville in his *Relation du Voyage du Port Royal* (Amsterdam, 1710), 171.

They have committed [403] if they but say to the elders and heads of the nation, that they were tipsy, and that they had no reason or judgment during their drunkenness.

They do not know what it is, as a rule, to give up an enterprise which they once have formed, especially if it is public and known to their fellow-countrymen; for they fear to incur the reproach that would be made to them that they had not heart enough to carry out the design.

They are so generous and liberal towards one another that they seem not to have any attachment to the little they possess, for they deprive themselves thereof very willingly and in very good spirit the very moment when they know that their friends have [404] need of it. It is true that this generous disposition is undergoing some alteration since the French, through the commerce which they have with them, have gradually accustomed them to traffic and not to give anything for nothing; for, prior to the time when trade came into use among these people, it was as in the Golden Age, and everything was common property among them.

Hospitality is in such great esteem among our Gaspeians that they make almost no distinction between the home-born and the stranger. They give lodging equally to the French and to the Indians who come from a distance, and to both they distribute generously whatever they have obtained in hunting and in the fishery, giving themselves little concern if the strangers remain among [405] them weeks, months, and even entire years. They are always good-natured to their guests, whom, for the time, they consider as belonging to the wigwam, especially if they understand even a little of the Gaspeian tongue. You will see them supporting their relatives, the children of their friends, the widows, orphans, and old people, without ever expressing any reproach for the support or the other aid which they give them. It is surely necessary to admit that this is a true indication of a good heart and a generous soul. Consequently it is truth to say

that the injury most felt among them is the reproach that an Indian is *Medousaouëk*,¹ that is to say, that he [406] is stingy. This is why, when one refuses them anything, they say scornfully: "Thou art a mean one," or else, "Thou likest that; like it then as much as thou wishest, but thou wilt always be stingy and a man without heart."

They are nevertheless ungrateful towards the French, and they do not, as a rule, give anything for nothing. Their ingratitude reaches even to a point that, after having been supported and provided with the necessaries of life in their needs and their necessities, they will demand of you a compensation for the least service they will render you.²

They are fond of ceremony, and are anxious to be accorded some when they come to trade at the French establishments; [407] and it is, consequently, in order to satisfy them that sometimes the guns, and even the cannon, are fired on their arrival. The leader himself assembles all the canoes near his own and ranges them in good order before landing, in order to await the salute which is given him, and which all the Indians return to the French by the discharge of their guns. Sometimes the leader and chiefs are invited for a meal in order to show to all the Indians of the nation that they are esteemed and honoured. Rather frequently they are even given something like a fine coat, in order to distinguish them from the commonalty. For such things as this they have a particular esteem, especially if the article has been in use by the commander of the French. [408] It was, perhaps,

¹ This word is obviously Micmac, and is evidently identical with the word given by Rand in his *English-Micmac Dictionary* (page 253) for "stingy," namely, *Mëdoojdwäc*. Since, aside from the additional *k* of our author's form, the two words differ practically only in one letter, I infer that the *s* of Father le Clercq's form is a misprint for *j*.

² An example of a closely related trait, the demanding of a great reward as a condition of helping the French in distress, is given by our author from his personal experience at page 230 of his book.

for this reason that a good old man who loved me tenderly was never willing to appear in any ceremony, whether public or private, except with a cap, a pair of embroidered gloves, and a rosary which I had given him. He held my present in so much esteem that he believed himself something more grand than he was, although he was then all that he could be among his people, of which he was still the head man and the chief at the age of more than a hundred and fifteen years.¹ This good man gloried in the fact, and boasted everywhere, that he was my brother, and said that we were so closely bound together in friendship that his heart and mine were one and the same thing. The affair went even to this extent [409] that he wished to accompany me everywhere I went, perhaps much to profit by whatever was given me among the French to gratify his friendship.

The Gaspesians, however, are so sensitive to affronts which are offered them that they sometimes abandon themselves to despair, and even make attempts upon their lives, in the belief that the insult which has been done them tarnishes the honour and the reputation which they have acquired, whether in war or in hunting.

Such were the feelings of a young Indian who, on account of having received by inadvertence a blow from a broom, given to a servant who was sweeping the house, imagined that he might not to survive this imaginary insult [410] which waxed greater in his imagination in proportion as he reflected upon

“What,” said he to himself, “to have been turned out in a manner so shameful, and in presence of so great a number of Indians, my fellow-countrymen, and after that to appear again before their eyes? Ah, I prefer to die! What shall I look like, in the future, when I find myself in the public assemblies of my nation? And what esteem will there be for my courage and my valour when there is a question of

¹ On the probable exaggeration of their age by the Indians, consult an earlier note under page 230 of this volume.

going to war, after having been beaten and chased in confusion by a maid-servant from the establishment of the captain of the French. It were much better, once more, that I die." In fact he entered into the woods singing certain mournful songs [411] which expressed the bitterness of his heart. He took and tied to a tree the strap which served him as girdle, and began to hang and to strangle himself in earnest. He soon lost consciousness, and he would even infallibly have lost his life if his own sister had not happened to come by chance, but by special good fortune, to the very place where her miserable brother was hanging. She cut the strap promptly, and after having lamented as dead this man in whom she could not see any sign of life, she came to announce this sad news to the Indians who were with Monsieur Denys.¹ They went into the woods and brought to the habitation this unhappy Gaspesian, who was still breathing [412] though but little. I forced open his teeth, and, having made him swallow some spoonfuls of brandy, he came to himself, and a little later he recovered his original health.

His brother had formerly hung and strangled himself completely, in the Bay of Gaspé, because he was refused by a girl whom he loved tenderly, and whom he sought in marriage. For, in fact, although our Gaspesians, as we have said, live joyously and contentedly, and although they sedulously put off, so far as they can, everything which can trouble them, nevertheless some among them fall occasionally into a melancholy so black and so profound that they become immersed wholly in a cruel despair, and even make attempts [413] upon their own lives.

The women and the girls are no more exempt than the men from this frenzy, and, abandoning themselves wholly to

¹ This incident evidently occurred at Petite Rivière (Barachois), since the Monsieur Denys of our author was Pierre Denys, Sieur de la Ronde, whose habitation was at that place, not Richard Denys of Miramichi, who is always called in this book by his title of Fronsac.

grief and sadness caused either by some displeasure they may have received, or by the recollection of the death of their relatives and friends, they hang and strangle themselves, as formerly did the wives and daughters of the Milesians, whom only the apprehension of being exposed wholly nude in the public places, according to the law that was made expressly for this purpose, kept from committing like cruelties. Nothing, however, has been effective up to the present in checking the mania of our Gaspesian women, of whom a number would miserably end their lives, if, at the time when [414] their melancholy and despair becomes known through the sad and gloomy songs which they sing, and which they make resound through the woods in a wholly dolorous manner, some one did not follow them everywhere in order to prevent and to anticipate the sad effects of their rage and their fury. It is, however, surprising to see that this melancholy and despair become dissipated almost in a moment, and that these people, however afflicted they seem, instantly check their tears, stop their sighs, and recover their usual tranquillity, protesting to all those who accompany them, that they have no more bitterness in their hearts. "*Ndegouche*," say they, "*apche mou, adadaseou, apche mou oüahga-* [415] *hi, apche mou kedoukichtonebilchi.*"¹ "There is my melancholy gone by; I assure thee

¹ The Micmac roots and modern equivalent of this sentence are fairly plain. The thrice repeated words *apche mou* are without question *apch*, meaning "again" or "more," and *moo*, meaning "not." *Ndegouche* is evidently closely equivalent to *Nügooch*, meaning "now"; *adadaseou* evidently includes the root *ajedasoo*, found in the Micmac words for "grief," "melancholy," and "sorrow," and perhaps is misprinted from *ajadaseou*; *oüahgahi* evidently includes the root *akayë* in words for "lament" and "weep" (compare *akahie* of page 148); *kedoukichtonebilchi* evidently includes *kedoo*, an inseparable prefix meaning "I am about to," and the equivalent of *këstoonäpilse*, meaning "to choke." The entire expression could therefore be literally expressed, so far as its roots are concerned, "Now! again no melancholy, again no lamenting, again no intention to hang." But this ignores, of course, all the participles, &c., upon which so much of the exact shade of meaning depends. All of the above roots are from Rand's Dictionaries, where they may readily be found under their respective headings.



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EDUCATION:

- 1989 Bachelor of Social Work - Part-time, Maritime School of Social Work, Dalhousie University, Halifax, N. S.
- 1985 Bachelor of Arts with a Major in Sociology, St. Mary's University, Halifax, Nova Scotia
- 1965 Diploma (one year) in Social Development from Coady International Institute of St. Francis Xavier University, Antigonish, Nova Scotia
- 1957 Success Business College, Truro, Nova Scotia
Accounting, Bookkeeping, Canadian Law (torts and contracts), Filing, Business English, Typing and Spelling.
- 1956 Grade 12, Adult Education, Ottawa, Ontario.

MILITARY:

- 1951-1957 Enlisted in the Canadian Armed Forces (Army) and served in Canada, United States, Japan and Korea.

WORK EXPERIENCE:

- 1989 Director, Micmac Native Learning Centre, Halifax, N.S.
- 1988 Life Skills Instructor, M.N.L.C., Halifax, N.S.
- 1987-1988 Support Service Officer (Instructor), Cambrian College, Ontario
- 1986-1987 Curriculum Development Officer, Native Alcohol and Drug Abuse Counselling Association, Sydney, N.S.
- 1984-1986 Education Liaison Officer, Union of Nova Scotia Indians, Sydney, Nova Scotia
- 1972-1984 Cultural Development Officer, Micmac Association of Cultural Studies, Sydney, Nova Scotia
- 1975 (summer) Human Rights Officer, Nova Scotia Rights Commission, Halifax, Nova Scotia
- 1970-1972 Instructor in Communications, Nova Scotia Department of Education, B.T.S.D, Micmac Reserve, Nova Scotia

EMPLOYMENT (con't):

1957-1970 Nova Scotia Department of Finance and Economics and
Nova Scotia Department of Highways, Motor Vehicle
Branch

1957 Welfare Officer, Department of Indian Affairs

WORK EXPERIENCE:

As of August of last year (1988), I was hired by the Micmac Native Learning Centre as the Director. Prior to that, I was employed as a Life Skills Instructor for the M.N.L.C..

In 1989, as the Director of the Micmac Native Learning Centre, I initiated contact with the Royal Bank, and together with Ms. Shirley Trottier, we began to work on the Job Equity Legislation. Since we were already involved in sending our students on work experience, it would only be relevant that we work together on the placement of students on the work force. See article in the magazine, "Interest", a Royal Bank Publication.

In the 1970's, I was selected by the Micmac Band to be the Chairman for the Reserve's Education Committee. In that capacity, I negotiated the First Tripartite Agreement to have native Para-professionals hired in the school systems.

In 1975, I was employed as a Human Rights Officer for the Nova Scotia Human Rights Commission investigating formal complaints on racial discrimination. At that time, I've negotiated some settlements but expended much of my time in Native Cultural Awareness, reservation life, and aboriginal rights. At that time, I was on loan to the Commission from the Union of Nova Scotia Indians.

When I held the position of Cultural Officer, I've researched the Micmac history, culture, and traditions, and was asked by Dean Ted Marriot, to design a program of studies for Natives in their Transitional Year Program (T.Y.P.). After developing the curriculum, I worked for Dalhousie University for approximately seven years in the delivery of the Program. At the same time, I was a part time student at Saint Mary's University.

Locally on my Reserve, I initiated the First Economic Development Committee on the Micmac Indian Reservation. Prior to that, I drew up Band Council Resolution # 1, to have the Band operate under a Section of the Indian Act (self-administration). Today, Native people are in control of about 90 % of their Programs.

WORK EXPERIENCE (con't):

In the summer of 1976, I was hired by Clive Linklater Associates to assist them in the evaluation of the Native Alcohol and Drug Programs in Canada which were founded by National Health and Welfare. We did the evaluation and made recommendations to Parliament to continue funding to Native Alcohol and Drug Awareness across Canada.

During the time span of 1980-1983, I worked for the Native Alcohol and Drug Abuse Counselling Association. There, I developed a Provincial Curriculum (Native Schools) on Alcohol and Drug Education, from grade Primary to grade VIII.

In both Military and work experiences, I have developed the ability to plan, manage, coordinate, and supervise others. I'm also able to analyse, evaluate, identify problems and suggest solutions. Having some negotiations skills, I can communicate effectively in both written and oral interpersonal relations.

I sit on the Grand Council of the Micmac Nation and hold the honoured title of Spiritual Medicine Man. That is a life-time appointment and I am responsible to the Grand Chief.

OTHER SKILLS:

Counselling in alcohol related problems, violence in the home, battered women, incest. Public speaking, organizing people, writing, editing, conducting meetings, planning & promotion, researching, estimating, monitoring and motivating.

During the period between 1975 to 1983, I was given the opportunity to personally develop the curriculum for T.Y.P. (Transitional Year Program) at Dalhousie University. I also taught the course as an Instructor. Being a part-time student at Saint Mary's University, I received a B. A. with a major in Sociology.

AFFILIATION:

Veterans Association (Native)
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EMPLOYMENT:

Assistant Professor
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Courses: Public and Constitutional Law
July 1, 1989 - June 30, 1990.

Research Consultant
Projects Include: Task Force on Federally Sentenced Women (Solicitor General, Canada); Native People and the Police; Native Female Offender Rights; Women in Conflict with the Law; Native People and Education; Insurance Litigation, and Pornography.
September 1986 to present.

Editorial Assistant
Canadian Journal of Women and the Law
Queen's University
Kingston, Ontario
January 1988 to June 1988.

Teaching Assistant, Sociology
Queen's University
Kingston, Ontario
1983 - 1985, 1988.

Immigration Officer
Employment and Immigration Canada
Lansdowne, Ontario
Summer 1986.

Probation Officer
N'Amerind Friendship Centre
London, Ontario
Summer 1983.

Career Placement Officer
 The University of Western Ontario
 London, Ontario
 1982 to 1983.

Supervisor
 Native Youth Employment Programme
 The University of Western Ontario
 London, Ontario
 Summer 1982.

Student Placement Officer
 Canada Employment Centre
 London, Ontario
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APPOINTMENTS &
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Indigenous Bar Association
 Ottawa, Ontario
 October 1989 to Present.

Native Brotherhoods, Native Sisterhood
 Correctional Service of Canada
 Kingston, Ontario
 1983 to Present

Canadian Indian and Native Studies
 Association (C.I.N.S.A.)
 Edmonton, Alberta
 1985 to Present

Critical Legal Studies Association
 Buffalo, New York
 1987 to present.

Kingston Anishnabequew
 Kingston, Ontario
 1983 to November 1989

Board Member
 Ontario Native Council on Justice
 Toronto, Ontario
 September 1988 to November 1989

1st Vice President
 Ontario Native Women's Association
 Thunder Bay, Ontario
 June 1988 to November 1989

Editorial Board (Native Women's Issue)
Canadian Woman Studies
Toronto, Ontario
May 1988 to October 1989.

Native Law Students Association
Saskatoon, Saskatchewan
1985 to 1988

National Association of Women and the Law
Queen's University Caucus
Kingston, Ontario
1986 to 1988.

EDUCATION:

J.L.M. Candidate
Osgoode Hall Law School
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Thesis Topic: 'Section 35(1) and the Sovereignty of
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LL.B.
Queen's University
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1983-1984

B.A. Honours, Sociology
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AWARDS:

Duff-Rinfret Scholarship
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Book Prize in Law, Gender and Equality
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Queen's Faculty of Law
1984- 1985.

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1980 - 1981; 1981 - 1982.

PUBLICATIONS:

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No. 2, Volume 1, 1987, 159.

"A Vicious Circle: Child Welfare and the First
Nations", Canadian Journal of Women and the Law, Vol.
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A Vicious Circle: Child Welfare and the First Nations

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Patricia Monture analyse l'impact qu'ont pour les autochtones (Premières Nations) les lois canadiennes sur la protection de l'enfance. Soulignant combien ils sont attachés à leur culture et à leurs traditions, et l'importance qu'elles revêtent à leurs yeux, elle dénonce notre peu de respect à leur endroit et l'ignorance dans laquelle elles sont tenues à l'intérieur de nos structures et de nos institutions en matière de garde d'enfant. Elle démontre en quoi il y a incompatibilité et comment cette incompatibilité peut générer des pratiques racistes. Elle démontre aussi comment lors des réformes récentes, le problème a été escamoté. Patricia Monture s'exprime comme femme et autochtone.

Patricia Monture explores the implications of Canadian child welfare law for Native (First Nations) children. Focusing on the importance of culture and traditions to First Nations individuals, she documents the failure of the structures and institutions of the dominant society to respect and recognize these ways in matters of child custody. She demonstrates how this conflict forms the basis for racist practices in child welfare law, and how contemporary reforms of child welfare legislation fail to reach the real issues. Patricia Monture writes in the way of her people and as a woman.

I

At the age of nineteen, Cameron Kerley brutally murdered his adoptive father. The murder followed years of sexual abuse. The child welfare systems of both Canada and the United States had clearly failed this First Nations child. Before he was taken into "care" by child welfare officials, and before he was placed for adoption in the United States, Canadian social workers took no preventive measures to keep Cameron with members of his own extended family. After he was placed in the United States, no social workers assessed his placement, nor the suitability of his adoptive father, nor completed a progress summary of Cameron's adoptive home despite a marked decline in his school achievements. No one in authority ever questioned the placement of a Cree child who resided in

Canada across an international border — until a man was dead. The judge and lawyers who participated in his trial never got to the bottom of the matter. They never knew about the sexual abuse, nor of the frustration of being an "Indian"¹ in a foreign environment.

It is only Cameron Kerley who must bear the legal and moral responsibility for the life he took. Today, he sits in his prison cell, alone:

Cameron Kerley looks older than twenty-two, and wearier than a young man should. On bad days he wishes he'd never been born. On good days he dreams of another life, "a house, a job, a car, some quiet place in the country." He's convinced that someday, somehow, he'll find a place where he belongs.²

When social institutions and legal processes fail, where do we place the responsibility? This is only the first question that must be asked about the Cameron Kerley case. Who stops to ask how many other First Nations children there are like Cameron Kerley?

Statistical data indicates clearly that the situation for First Nations children in Canada is bleak. The most recent comprehensive data available was collected in 1977. It is estimated that there are 15,500 First Nations children (this includes status Indians, non-status Indians, and the Metis people) in the care of the child welfare authorities. Twenty per cent of the total number of children in care in Canada are First Nations children. The First Nation population in the western provinces is larger, and the over-representation of children in care is also greater. Thirty-nine per cent of the children in care in British Columbia are First Nations children; the figures are 44 per cent in Alberta, 51.5 per cent in Saskatchewan, and 60 per cent in Manitoba.³ In contrast, the First Nations population of Canada is approximately 3.5 per cent of the total population.⁴ First Nations children are

I would like to acknowledge the assistance I received in preparing this paper for publication: Beverley Baines gave me the initial incentive to publish this paper, Kent McNeil gave me generous feedback, and Fran Sugar has given me courage and inspiration.

1. The 1982 Constitution Act defines Aboriginal peoples as the Indian, Inuit, and Metis. Tracing the linguistic roots of the word *aboriginal* indicates that one meaning of *abo* is "away from." (This was brought to my attention by Professor Nicholas Deleary of the University of Sudbury). We are not people who are away from the original. We are the original — the First Nations of this land. *Indian* has a strictly legal definition as it is found in the Indian Act. However, as I grew up the word we used was "Indian." Shortly after I began my academic studies, I learned that even deciding what to call myself was a dilemma in itself. Am I Aboriginal, Native, Indian? As a matter of personal preference, I will use "First Nations" or "original peoples." This dilemma is not only symptomatic of the "divide and conquer" colonial mentality (with Columbus "discovering" America), but also illustrates the dimensions of our struggle, even, to be.
2. Ray Aboud, "A Death in Kansas," *Saturday Night Magazine* (April 1986): 39.
3. H. Phillip Hepworth, *Foster Care in Canada* (Ottawa: Canadian Council on Social Development, 1980), 112. It was impossible to locate complete statistics more recent than 1980 on the issue of First Nations and child welfare. Is this an indication, in itself, of the importance Canadian social agencies place on this problem?
4. Michael Asch, *Home and Native Land: Aboriginal Rights and the Canadian Constitution* (Toronto: Methuen, 1984). As Michael Asch indicates, this is a difficult figure to calculate. Not only is there confusion as to the definitional limits of who is Native, as indicated above, but

clearly over-represented within the child welfare system. There are no indications that the situation is improving.

Not only are First Nations children more likely to be apprehended, but, once they are taken into care, First Nations children are less likely to be either returned to their parents or placed for adoption. If a First Nations child is placed for adoption or placed in a foster home, it is unlikely that such a home will be a First Nations home. Only 22 per cent of such placements are with the First Nations.⁵ The effect of the child welfare process is to remove and then seclude First Nations children from their cultural identity and their cultural heritage.

The historical failure of legislative bodies and the courts to protect or respect the cultural identity of First Nations children has been identified in the literature as a disregard of the "indigenous factor." The unique character of First Nations' children as members of a specific class is underemphasized, undervalued, or ignored in child welfare matters. This situation requires a response that is particular to the needs of First Nations children, rather than one that is general to the needs of all children.⁶ The disregard of the "indigenous factor" within the Canadian child welfare system is merely a reflection of the position of First Nations within Canadian society. The pressure to assimilate (i.e., to disregard the importance of the "indigenous factor" in your own life) is immense. This places tremendous psychological burdens on First Nations children, families, and communities. First Nations communities believe that their future and the survival of the traditional ways depends on children. When children of original ancestry are removed from their homes and communities:

The traditional circle of life is broken. This leads to a breakdown of the family, the community, and breaks the bonds of love between the parent and the child. To constructively set out to break the Circle of Life is destructive and is literally destroying Native communities and Native cultures.⁷

Removing children from their homes weakens the entire community. Removing First Nations children from their culture and placing them in a foreign culture is an act of genocide.⁸

census figures only recently (1981) included questions regarding Native ancestry. Michael Asch relies on figures provided by the Secretary of State and claims that the two per cent figure determined by the 1981 census is too low. He estimates that there are approximately 840,000 Native people in Canada.

5. Patrick Johnston, "The Crisis of Native Child Welfare," *Native People and the Justice System in Canada* (C.L.A.B., 1982), 176.
6. Emily Carasco, "Canadian Native Children: Have Child Welfare Laws Broken the Circle?," *Canadian Journal of Family Law* 5 (1986): 111. Emily Carasco introduced the term "indigenous factor." I am indebted to her work on race discrimination in the child welfare system.
7. Jessica Hill, *Remove the Child and The Circle is Broken* (Thunder Bay: Ontario Native Women's Association, 1983), 55.
8. Genocide is a crime in international law. See the Convention on the Prevention and Punishment of the Crime of Genocide, 78 UNTS 277. The convention was adopted by the United Nations General Assembly, 9 December 1948. It was entered into force on 12 January 1961. Canada signed this convention on 28 November 1949. The United Nations definition of

II

The failure to recognize the importance of the "indigenous factor" is not limited to the child welfare system and the corresponding legal decisions. The "indigenous factor" is ignored throughout the entire judicial system in matters which involve First Nations people or issues. First Nations people are also overrepresented within the criminal justice process. Criminologists have long recognized the relationship between family breakdown and delinquency. Troubled children get involved in the criminal justice process. In a study of a single community where probation and court records were examined, it was found that 39 percent of the sample were First Nations children, even though the total First Nations population in the area was only 10 percent.⁹ The overrepresentation of Native people does not end with juvenile justice statistics. In Kenora, Ontario, the waiting list of fine defaulters convicted of liquor offences could fill up the local jail four times over.¹⁰ Sixty-six percent of fine defaulters are of original ancestry, and First Nations people are twice as likely to default on fines as Euro-Canadian people.¹¹ The incarceration of First Nations people is reaching crisis proportions. Quite expectedly, studies of the federal penitentiaries reveal that 10 percent¹² of inmates are of original ancestry.¹³

Indeed, the overrepresentation of First Nations peoples within institutions of confinement — be they child welfare institutions, provincial jails, or federal prisons — is part of a vicious cycle of abuse. Cameron Kerley was trapped in this vicious cycle, and he is but one example of how the dominant culture in Canada is grinding down the people of the First Nations.¹⁴

This vicious cycle of abuse is the subject of the Canadian Bar Association's report entitled *Locking Up Natives in Canada*.¹⁵ The report does not focus

genocide requires there to be an intent to destroy the culture of a people before an act of genocide is recognized. That lack of intention completely excuses this offence in the eyes of the law, is completely unsatisfactory. Genocide is a situation where a people's way of life has been destroyed. This is the reality that justice must now begin to address. This is also the position of the British Columbia Native Women's Society. See Johnson, *Child Welfare System*, 62.

9. Carol Pitcher LaPrairie, "Native Juveniles in Court: Some Preliminary Observations," in *Deviant Designations: Crime, Law and Deviance in Canada*, ed. Thomas Fleming and L.A. Lisano (Toronto: Butterworths, 1983), 343.

10. Stan Jolly, *Ananabe Debtors' Prison* (Toronto: Ontario Native Council on Justice, 1983), 58.

11. John Hagan, *The Disreputable Pleasures* (Toronto: McGraw-Hill Ryerson Limited, 1977), 172.

12. Personal experience indicates that this figure is probably low. In the Ontario region, the federal penitentiary population may be as high as 20 to 25 percent original ancestry. About thirty of the one hundred and twenty women in the Prison for Women are First Nations women. Statistics cited are likely low due to the failure of the court process to regularly consider the "indigenous factor" and cultural identity as relevant factors at trial or sentencing. Thus First Nations people are not identified. Secondly, once in prison, being a First Nations individual carries additional costs, and many choose not to identify themselves officially to prison authorities as First Nations people. The common difficulties with collecting data on First Nations people also operate here.

13. James S. Frideres, *Native People in Canada: Contemporary Conflicts* (Scarborough: Prentice Hall Canada, 1983), 182-83; J. Rick Ponting and Roger Gibbins, *Out of Irrelevance: A Sociopolitical Introduction to the Indian Affairs in Canada* (Toronto: Butterworths, 1980), 58.

14. The degree of harm being inflicted on First Nations citizens as our plight is made visible is to effectively make invisible the private lives of those individuals who bravely speak out. We must make public our private lives. No amount of social change discounts the pain those particular individuals carry who become the symbols of our struggle. To Cameron Kerley, an apology for this further invasion into his private life.

15. Michael Jackson, *Locking Up Natives in Canada* (Toronto: Canadian Bar Association, 1988).

principally on criminal justice institutions or even on First Nations prisoners. It is a detailed analysis of the models available to establish tribal courts. The conclusion of this report is simply that the jurisdiction and the control over matters of criminal justice must be meaningfully assumed by First Nations. It is when control is assumed by First Nations that the systemic discrimination reflected in the over-representation of First Nations citizens in Canadian incarceration rates will be alleviated. The report traces the problem of incarcerating First Nation's citizens to a failure to recognize the sovereignty of the First Nations in any meaningful way.

I am deliberately connecting child "welfare" law with the criminal "justice" system. From the perspective of a traditional First Nations woman, I see the child welfare system as being on a continuum with the criminal justice system. Both institutions remove citizens from their communities, which has a devastating effect on the cultural and spiritual growth of the individual. It also damages the traditional social structures of family and community. Both the child welfare system and the criminal justice system are exercised through the use of punishment, force, and coercion.

As a First Nations woman, my worldview¹⁶ does not revolve around the acceptance of punishment or the validation of force and coercion. Instead, it revolves around balance. The spiritual ceremonies and traditional teachings given by the Elders¹⁷ involve instruction about who we are as individuals and as members of a nation. These holistic teachings involve education, spirituality (you say, religion), law (we say, living peacefully), family, and government. Holistic means to be connected. The earth is mother. The sky is father. Woman is earth and earth is woman. They are inseparable. The traditions in no way involve a hierarchical ordering. There exists a natural balance between women and men in the way of creation. It is the woman who stands at the centre of the nation because women are the caretakers of children. They are women's responsibility. Before this can be understood, the role and meaning of caretaker must be understood.¹⁸ Women are more fortunate than men, especially in this modern society where the role of provider has substantially dwindled in importance through social welfare programs and women's developing economic power.¹⁹ As

16. I recently attended a workshop where I had the opportunity to discuss philosophy, tradition, and culture with Lee Maracle, the author of *I am Woman* (Vancouver: Write-On Press Ltd., 1988). In her view, culture is the way we do things. Philosophy is what we carry around inside us (the values of consensus and cooperation) that shapes our culture. This philosophy is what First Nations individuals are born with. This points then, to the fallacy of the assertion that one's culture can be destroyed or one can be truly assimilated. A select bibliography has been provided at the end of this article for readers who wish to pursue further an understanding of our culture and traditions.

17. It is impossible to capture the essence of traditional ways in a moment or on paper. It is a lifelong commitment to learn these ways. For fear of being misunderstood or worse, it is with great hesitancy that I speak of ceremonies. What I have given is a simplistic rendition of ceremonies because I have not earned the right to conduct any ceremony. What is given are my views and feelings.

18. The way in which First Nations see our relationship to land is very different from western concepts. Land is not "owned" — the creator put the people of the First Nations here to be the caretakers of the land. Considering our relationship to land will help bring a simple understanding of women's role as caretakers.

19. In today's society our roles and responsibilities as given to our nations have become confused and forgotten as we become more involved in the structures of the dominant society where sex roles have become de-gendered. My comments are not intended to de-value the important,

women, we know who and what we will be when we grow up. We will be mothers, and mothers have even today primary responsibility for children.²⁰

The structure of First Nation's society is based on cooperation and consensus. When difficulties arise within a community, the community responds by attempting to bring the person who is the source of the difficulty back into the community. This process naturally involves all parties — the parents, the child, the relations, and the Elders. In a criminal matter, the offender, the victims, and the Elders are all naturally involved. The aim and the result is to restore balance in the community. In the case of child welfare, no parent is left believing he or she is a "bad" parent. Nor is any child alienated from the family or community. In a community which operates on norms of consensus and cooperation, the collective's rights are the focus. By contrast, the structures of the dominant society operate with the individual as the problem-solving unit. In this type of society, where the philosophy of punishment is paramount and force and coercion are validated, there are winners and losers. As the dispossessed people of this land, First Nations citizens will continue to be the losers.

Whatever the issue, be it child welfare, criminal justice, family violence, alcohol and drug abuse, lack of education or employment, the same path can be traced to a conflict in the basic values of the two societies — force and coercion versus consensus and cooperation. This realization, then, can take us to only one conclusion: First Nations demands for self-determination (sovereignty)²¹ must be realized. Drastic reforms are necessary both within the legal system and child welfare policy regimes as they affect First Nations citizens. What is not generally recognized is that to accept and advocate only legislative changes to the laws of child welfare is not the final solution.²² To advocate only piecemeal changes to

20. positive, and necessary accomplishments of women in this country.

This is a source of political conflict between First Nations women and the larger women's movement, which in my experience tends (I am generalizing) to minimize the role of mother as well as the responsibilities of women. I do recognize that the distance between the contemporary women's movement and First Nation's women has narrowed as the women's movement has begun to grapple with the concept of white privilege. Black women were instrumental in forcing this shift. See Bell Hooks, *Ain't I a Woman: Black Women and Feminism* (Boston: South End Press, 1981).

21. Traditional Mohawk people assert that we have never lost our sovereignty. Sovereignty has a meaning that is not synonymous with the western definition. To be sovereign is one's birthright. It is simply to live in a way which respects our tradition and culture. Sovereignty must be lived, and that is all. The traditional Mohawk perspective on sovereignty cannot be simply understood and accurately explained in a few words. For further insight, see Akwesasne Notes, *A Basic Call to Consciousness*, (New York: Akwesasne Notes, 1986); Oren Lyons, "Traditional Native Philosophies Relating to Aboriginal Rights," in *The Quest for Justice: Aboriginal Peoples and Aboriginal Rights*, ed. Menno Boldt and J. Anthony Long (Toronto: University of Toronto Press, 1985), 19-23; and Tom Porter, "Traditions of the Constitution of the Six Nations," in *Pathways to Self-Determination: Canadian Indians and the Canadian State*, ed. Leroy Little Bear, Menno Boldt, and J. Anthony Long (Toronto: University of Toronto Press, 1984), 14-21.

22. There are two levels at which change must be effected. Legislative changes over the last decade which legitimize the First Nations' control of child welfare have begun to alleviate the suffering of our First Nations children, families, and communities. But the long term picture has not changed. The structural effects of the systems of the dominant society on First Nations must become part of our analysis and solution. For an examination and discussion of the child welfare initiatives which have taken place, see David R. James, "Legal Structures for Organizing Indian Child Welfare Resources," *Canadian Native Law Reporter* 2 (1987): 1-20; Johnston, *Child Welfare System*; John A. MacDonald, "Child Welfare and the Native Indian Peoples of Canada," *Windsor Yearbook of Access to Justice* 5 (1985): 284-305.

legislative structures is to effectively accept that the lives of First Nations individuals who fall prey to the instruments of the child welfare system will not substantially change. There has been only nominal change in the statistics reflecting the involvement of First Nations citizens in both child welfare processes²³ and the criminal justice system²⁴ over recent decades. The failure to fundamentally shift the situation is the first indicator that piecemeal legislative reforms are not the singular solution. Failure to meet this challenge will continue to result in piecemeal legislative reforms. The inevitable consequence will be the genocide of First Nations people.

III

If the premises presented thus far are correct, and I believe they are, they necessitate a reconstruction of the way in which we understand. We must peel back the layers of misunderstanding of both the dominant culture and First Nations culture which currently shape our cross-cultural communications. This requires an extensive examination of the meanings underlying dominant social structures, including legal institutions and their traditions.²⁵ It is also necessary to recognize how the concepts of the dominant society conflict with or contradict those of First Nations social structure as well as where there is common ground. If individuals who belong to a specific group are unable to accept the underlying values — such as force and coercion — of the dominant social system, they will never be able to participate fully in it.

Inviting people of the First Nations to the table to discuss the definitional structures and assumptions which underpin the dominant social systems is not a new idea. In 1966, the Hawthorne Report examined the plight of First Nations people in Canada in a search for a solution. "The public concern about the Indians and the public knowledge of their problems that would demand a change

23. In discussions with a representative of the Child Services Branch of the Ministry of Community and Social Services, it was agreed that recent statistics on child welfare are not available or accessible. For status Indian children who are crown wards, the number of adoptions has decreased from 86 in 1980 to 35 in 1987. It cannot be assumed this is a clear indicator that the situation is improving, because these figures do not include Metis, Inuit, and non-status adoptions. Adoptions of non-crown wards (i.e., those adoptions informally arranged between consenting parties) are also excluded. The Ministry provides that there is "no guarantee that what happened." The proportion of status Indian children adopted into status Indian families has increased from 27 percent in 1980 to 37 percent in 1987. The Ministry is not satisfied with this increase, claiming it is still not a satisfactory situation. The same cautions to the interpretation of these statistics also apply.

24. The disproportionality of First Nation's federal prisoners is increasing and the situation is expected to intensify given the higher birth rate in First Nations Communities. See Correctional Law review, *Correctional Issues Affecting Native People* (Working Paper No. 7) (Ottawa: Solicitor General, 1988), 3.

25. Our teachings advocate that we must understand where we have come from (past), who we are (present), and where we are going (future), before we as individuals or nations can be complete. In striving to understand meaning we must encompass these three states or processes. A similar position is now being advanced by a few feminist writers. See Kathleen A. Lahey, "Feminist Theories of (In)equality," in *Equality and Judicial Neutrality*, ed. Sheilah L. Martin and Kathleen E. Mahoney (Toronto: Carswell, 1987), 71-85. Because my analysis involves on its periphery a glimpse at ideologies of law, see also Shelley A.M. Gavigan, "Law, Gender and Ideology," in *Legal Theory Meets Legal Practice*, ed. Anne F. Bayefsky (Edmonton: Academic Printing and Publishing, 1988), 283-295.

are scanty and uneven. Public knowledge does not even match public misconception. Not enough is known of the problems to create a call for their solution.²⁶ In 1980, a conference on social development cited as a "national tragedy" the plight of First Nations children within the child welfare system. Further, the situation of First Nations children was cited as the single greatest problem confronting the child welfare system in Canada in the 1980s. Federal government officials also agree, calling the access to child welfare and preventive services for First Nations people as "being grossly inadequate by any recognized standard."²⁷

Between the 1960s and the 1980s, little meaningful change has been accomplished. More than twenty years of First Nations children continue to suffer. That truth is a reality that First Nations women carry, for we are the ones who continue to watch the children suffer. If we have not yet arrived at a place where there can be an appeal to the general public for a solution, then education of the general public must be part of the solution. Education of the general public is only part of the solution. We must also educate all individuals employed within the field or reach of the child welfare system. This must include, at a minimum, lawyers, judges, social workers, policy makers, academics, scholars, and politicians. It is not just for First Nations that this commitment is necessary. It is for all of us in this society.²⁸

I can best participate in this process by exposing the racism²⁹ inherent in our legal systems. This is a massive undertaking, because racism extends across all our legal relations. Yes, racism is a hard word. But racism is woven into our legal system. I have chosen to start with child welfare because First Nations people are taught that our children are our future. It is also the logical starting place for me, as a woman who accepts responsibility for the traditional teachings which show us that we are responsible for seven generations yet to come.

IV

Through the late 1970s and early 1980s, a great deal of the child welfare literature focused on the grave situation of First Nations children. This academic impetus reflected the lobbying efforts of First Nations coalitions and political

26. H.B. Hawthorne, *A Survey of the Contemporary Indians of Canada* (Ottawa: Indian Affairs and Northern Development, 1966), 6.
27. Johnston, "The Crisis of Native Child Welfare," in *Native People and the Justice System in Canada, Part II* (Ottawa: C.L.A.B., 1982), 175.
28. An example which is easily understood and demonstrates this point is the environmental crisis the world now faces. All nations must work together for its resolution or we will all face destruction. If First Nations teachings that all life is to be valued (the trees, animals, birds, plants, are all my sisters and brothers) had been followed, we would not be facing the potential destruction of the earth, our mother.
29. The devaluation of the "indigenous factor" in child welfare cases has already been mentioned. What has not been said is that the "indigenous factor" is a soft way of referring to the racism inherent not only in child welfare structures, but in the laws and cases regarding child welfare. It is necessary to understand the racism identifiable in legal processes and institutions. The case law of child welfare is only one example. Piecemeal reforms to legislative structures without changing the fundamental racist notions which underpin these laws only allows for a significant change in the *manner* which racism is constituted and implemented within legal structures — it cannot eliminate it.

bodies (undertaken within the larger society) to effect change in child welfare regimes. The cumulative efforts of these First Nations individuals were successful in securing a number of initiatives meant to address the crisis in child welfare. The Spallumcheen Indian Band By-Law is the most well known of the initiatives secured by the hard work and dedication of members of that specific Band.³⁰ Both the federal government and numerous provincial governments have been involved in the negotiation of bipartite and tripartite agreements which primarily resolve disputes between levels of government and their respective financial and constitutional responsibilities.³¹ These negotiations and agreements secured by the lobby of First Nations principally addressed the complete void of prevention services available to First Nations. The services secured by these efforts had been made available to all other Canadian parents and their children for many years. The history of child welfare and First Nations has been shaped by the jurisdictional disputes between provincial and federal governments. The resolution of the jurisdictional dispute merely released First Nations children who were trapped in a void between the federal government and individual provincial governments as they argued over legislative and financial responsibilities. It did not, however, improve services for First Nations children.

The outright denial of child welfare services to the First Nations except in "life threatening"³² situations precipitated the outcry which is reflected in the literature of the 1970s and early 1980s. The outcry was further fueled by the removal of children from their cultural community when they were deemed children in need of protection — children such as Cameron Kerley. The denial of services except in emergency was sustained by the "jurisdictional dispute."³³ "Indians and Lands Reserved for Indians" is a head of federal authority under section 91(24) of the Constitution Act, 1867. Child welfare is a responsibility of provincial governments.

Both levels of government have historically exploited the contradictory distribution for their legislative powers to avoid responsibility of child welfare

30. A discussion of the by-law is contained in John A. MacDonald, "The Spallumcheen Indian Band By-Law and Its Potential Impact on Native Indian Child Welfare Policy in British Columbia," *Canadian Journal of Family Law* 1 (1983): 75-95.

31. The most rigorous source which examines the situation in each province is Johnson, *Child Welfare System*. For an example of a tripartite agreement, see the Canada-Manitoba-Indian Child Welfare Agreement, [1982] 2 C.N.L.R., 1-33.

32. Carasco, "Broken Circle," 116.

33. The resolution of the jurisdictional dispute required judges to interpret and finalize the legal meaning of section 88 of the Indian Act, R.S.C. 1970, c. 1-6. Section 88 states that provincial laws of general application apply to status Indians, subject to exceptions which give precedent to treaty guarantees and the provisions of the Indian Act. The case of *Natural Parents v. Superintendent of Child Welfare* (1975), 60 D.L.R. (3d) 148, provides a detailed discussion of the possible interpretations of section 88 and its potential ramifications on the situation of First Nations child welfare. This case, however, did not finally resolve the interpretation of that specific provision. The Supreme Court of Canada in *Dick v. The Queen* (1985), 23 D.L.R. (4th) 33, provides that section 88 incorporates provincial laws which would otherwise not be applicable to status Indians because it touches on their "Indianness," which would otherwise be a head of power under federal authority. This issue is already adequately presented in the literature. See Carasco, "Broken Circle," 115-121; Johnston, *Child Welfare System*; and Kent McNeil, *Indian Child Welfare — Whose Responsibility* (Saskatoon: Legal Information Service, University of Saskatchewan Native Law Centre, 1984), 1-2, 4-11. Kent McNeil's article also contains a useful and comprehensive review of the jurisprudence on child protection and adoption of First Nations children.

services to the First Nations. In some provinces, individual judges³⁴ have been effective in resolving the unwillingness of either levels of government in initiating responsibility. In a Manitoba decision, Judge Garson is explicit in citing the provincial government as the body responsible for Native child welfare. He lays the foundation for his judgment with this quotation from the Hawthorne Report:

An evaluation of Indian status and the consequences which have been attached to it by governments make crystal clear that there is a remarkable degree of flexibility or play in the roles which have been, and in the future could be, assumed by either level of government. For the entire history of Indian administration, this play has been *exploited to the disadvantage of the Indian*. The special status of Indian people has been used as a justification for providing them with services inferior to those available to the Whites who established residence in the country, which was once theirs.³⁵

Judge Garson follows the strong words of the Hawthorne Report with strong words of his own:

[T]he court would fail in its special responsibilities if it did not bring to public attention and scrutiny action or conduct by government allegedly justified by constitutional law that is *in reality, in truth and in law, unfair, discriminatory and unlawful*.³⁶

Judge Garson concludes that it is absolutely clear that child welfare services to treaty Indians are a provincial service which must be offered to all other residents of Manitoba.

This case demonstrates that First Nations people will indeed turn to the judiciary for resolution of issues when the political process and Canadian governments willfully fail to address them. With the entrenchment of Aboriginal rights in section 35(1) of the Constitution Act, 1982,³⁷ the role of judges will be of

34. The manner in which the British Columbia Courts resolved this issue, as discussed by the Supreme Court of Canada, can be found in *Natural Parents v. Superintendent of Child Welfare* (1975), 60 D.L.R. (3d) 148 (S.C.C.).

35. H. B. Hawthorne, *Contemporary Indians*, 253, cited in *Director of Child Welfare for Manitoba v. B.*, [1979] 6 W.W.R. 229 (Man. P.J.C.), 238.

36. *Director of Child Welfare for Manitoba v. B.*, [1979] 6 W.W.R. 238 (Man. P.J.C.) (emphasis in original).

37. The Supreme Court of Canada has yet to provide any clear guidelines which assist lawyers and legal scholars with the meaning of section 35(1) of the 1982 Constitution Act. In *Simon v. The Queen* (1985), 24 D.L.R. (4th) 390, 413, the Supreme Court of Canada declined the opportunity to speak to the meaning of section 35(1) because it was not essential to their decision. A British Columbia hunting and fishing case, *Sparrow v. R.*, [1987] 2 W.W.R. 577 (B.C.C.A.) will present the next opportunity for the Supreme Court to give meaning to this section of the Constitution. A number of provincial attorneys general propose narrow interpretations of section 35(1). In response to the intervenor Attorney General of Saskatchewan, the appellant's lawyers have

even more importance. Assuming that judicial intervention will be fair, will it be enough? Ironically, the strong position that Judge Garson took on the jurisdictional issue in this case did not return the children to the care of their mother. The mother's parenting skills were so deficient that not even preventative child welfare counselling and parental skill development would now help. One wonders whether this would have still been the case if the jurisdictional dispute had not prevented the provision of services since the birth of the child.

A second irony becomes apparent when the Manitoba case is put into historical perspective. The Hawthorne Report, commissioned by the federal government, was published in 1966. It condemned government policies which effectively precluded the First Nations from receiving child welfare resources that are available to all other Canadians. Some thirteen years later when this Manitoba case was decided, the jurisdiction issue was still not resolved and First Nations still did not receive child welfare services. This failure to provide child welfare services is an important historical fact which should not be easily forgotten or brushed aside. It would be a mistake to ignore the negative manner in which the jurisdictional dispute has shaped our present. In reality, it will take child welfare authorities many years to heal the damage created by the denial of jurisdiction by both levels of government, in both the minds of the First Nations and in the real lives of First Nations children.³⁸

stated: "It is disturbing that yet another Attorney General argues that s. 35(1) means virtually nothing. This appeal should involve more than just a contest of legal ingenuity: the interpretation of s. 35(1) is a matter which engages the honour of the nation." Appellant's Factum, paragraph 93. "If the governments across this country are so opposed to constitutional protection for aboriginal and treaty rights, a protection that they created, then let them take the proper course and repeal s. 35(1) through the amendment process, a process which provides for their political accountability." Ibid., paragraph 96. Given the way the Supreme Court avoided substantive discussion of section 35(1) in the *Simon* judgment and the position taken by various attorneys general in the *Sparrow* case, it is no wonder that First Nations people are skeptical of the adjudication process.

Simon and *Sparrow* are only two of the possible section 35(1) cases which demonstrate the same point. In a disappointing judgment, *Manitoba Metis Federation v. AG of Canada*, Manitoba Court of Appeal, June 17, 1988 (unreported), the Metis struggle for recognition of their land rights was disrupted by the Attorney General of Canada's motion to have the legal challenge struck down as a matter of academic interest only. Two points of significant interest are raised in this case. First, the court decided not to accommodate the First Nation's view which is based on collective rights. Canadian legal principles develop upon the rights of individuals. The dissenting judgment provides an excellent discussion of the conflict between individual rights and collective rights and the legal system's inability to accommodate collective rights. Secondly, the real issue of Metis land rights is not addressed in the case. Procedural rules were used to block the substantive discussion of the land claims issue. The use of procedural rules has been used in child welfare matters to block Indian bands from intervening in child welfare matters.

For a similar type of analysis involving hunting and property cases, see Louise Mandall, "Native Culture on Trial," in *Equality and Judicial Neutrality*, ed. Shellah L. Martin and Kathleen E. Mahoney (Toronto: Carswell, 1987), 358-365. Perhaps the most eloquent rendering of the First Nations understanding of law and legal relations is found in Oren Lyons, "Traditional Native Philosophies Relating to Aboriginal Rights," in *The Quest for Justice: Aboriginal Peoples and Aboriginal Rights*, ed. Menno Boldt and J. Anthony Long (Toronto: University of Toronto Press, 1985), 19-23. It is interesting in child welfare matters to note that notwithstanding the jurisdictional dispute, provincial governments have very willingly asserted their authority under section 88 to limit the hunting and fishing rights of the First Nations. This contradictory position has not previously been commented on in the legal literature, but it has not been missed by First Nations.

First Nations distrust the child welfare system because it has effectively assisted in robbing us of our children and of our future. The distrust is further complicated by the adversarial process itself, which is antithetical to the First Nations consensus method of conflict resolution. Judicial decisions on child welfare reinforce the status quo by applying standards and tests which are not culturally relevant.³⁹ This is a form of racism.⁴⁰

These racist standards and tests of child welfare law were developed by judges. The most important test is the "best interests of the child." The racist content of this test is not difficult to see. In *Racine v. Woods*,⁴¹ Madame Justice Wilson wrote for the Supreme Court of Canada: "the law no longer treats children as the property of those who gave them birth but focuses on what is in their best interests."⁴² The case of *Racine* involved a status Indian child who was made a ward of the Children's Aid Society of Manitoba with the consent of the mother. At the time of trial, the child was seven years old, and the non-Indian foster parents had applied for her legal adoption — against the mother's will. Since the time the mother had given custody of her child to the CAS, she had left an abusive relationship, recovered from alcoholism, re-educated herself, established a home on her reserve, and begun a teaching career. The mother believed that her daughter should grow up within her own culture and tradition.⁴³ The Supreme Court of Canada effectively refused to take this belief seriously, and based their decision on the best interests of the child test.⁴⁴

Psychological evidence was presented at trial. The position of the adoptive parents was advanced by testimony which concluded the child's best interests are met by the bonding which occurs with parents and the security of the established home. The natural mother's position was bolstered by psychological testimony which indicated the importance of cultural ties, especially during adolescence. After balancing both sets of interests, Madame Justice Bertha Wilson concluded:

In my view, when the test to be met is the best interests of the child, *the significance of cultural background and heritage as opposed to bonding abates over time*. The closer the bond that develops with the prospective adoptive parents the less important the racial element becomes.⁴⁵

39. A similar preliminary analysis of Aboriginal property rights is provided by Mandell, "Native Culture."

40. This article is not intended to be an ideological analysis of racism. I do not view racism as behaviour or attitudes which require intent or ill-will. Allegations of racism do not call into question the integrity of the individuals involved, but merely reflect a state of not knowing. My purpose is to expose racism and secure personal examinations of the privilege conferred by merely having white skin.

41. [1983] 2 S.C.R., 173.

42. [1983] 2 S.C.R., 174.

43. [1983] 2 S.C.R., 175-77.

44. Similar reasoning and reliance on the best interests test is followed in *Nelson v. Children's Aid Society of Manitoba*, [1975] 5 W.W.R. 45 (Man. C.A.), although no specific reference is made to the children's race (it is totally ignored) in relation to the best interests test.

45. [1983] 2 S.C.R., 188.

There is evidence that the importance of heritage does not abate over time.⁴⁶ The assertion that the importance of heritage abates over time really reflects a belief in the value and possibility of the assimilation of racial minorities — particularly in a racist environment. This belief is not grounded in First Nations tradition and culture, but is a reflection of government policy and "white" values.⁴⁷ It is a belief that conceptualizes and prioritizes the rights of individuals over collective rights. And it is a test that effectively forces the assimilation and destruction of First Nations people. That is racism.⁴⁸

The evidence relied on in the *Racine* case to resolve the issue of race is instructive. Madame Justice Wilson relies on the expert testimony of Dr. McCrae to validate her position; the words she chose to rely on are very telling:

I think this whole business of racial and Indian whatever you want to call it... It doesn't matter if Sandra Racine was Indian and the child was white and Linda Woods was white... It has nothing to do with race, absolutely nothing to do with culture, it has nothing to do with ethnic background. It's two women and a little girl, and one of them doesn't know her. It's as simple as that; all the rest of it is extra and of no consequence, except to the people involved, of course.⁴⁹

In her Supreme Court judgment, Madame Justice Wilson said essentially the same thing:

I believe that interracial adoption, like interracial marriage, is now an accepted phenomenon in our pluralist society. The implications of it may have been overly dramatized by the respondent in this case. The real issue is the cutting of the child's legal tie with her natural mother... While the Court can feel great compassion for the respondent, and

46. See for example, Ann McGillivray, "Transracial Adoption and the Status Indian Child," *Canadian Journal of Family Law* 4 (1985): 437-467.

47. See, for example, Sally M. Weaver, *The Hidden Agenda* (Toronto: University of Toronto Press, 1981).

48. Mr. Justice Martland took a similar approach in a British Columbia case, *Natural Parents*, which involved the legality of inter-racial adoption. Not only did the Supreme Court rule that these adoptions are permissible, but Mr. Justice Martland actually seemed to suggest that they ought to be valued: "I do not interpret section 91(24) as manifesting an intention to maintain a segregation of Indians from the rest of the community in matters of this kind and, accordingly, it is my view that the application of the Adoption Act to Indian children will only be prevented if parliament, in the exercise of its powers under this subsection, has legislated in a matter which would preclude application." This position also amounts to racism. *Natural Parents v. Superintendent of Child Welfare* (1975), 60 D.L.R. (3d) 148, 164 (S.C.C.) (emphasis added). It is important to note that the best interests test as applied in the *Racine* and *Natural Parents* cases affects all children, regardless of their racial heritage. The test was developed in two cases which involve First Nations children and the unique circumstances they face. It is possible that a test developed on facts unique to First Nations children could also impact on non-First Nations children in a negative way, because the factual basis of the test is not shared. The test may therefore affect other children negatively as well.

49. [1983] 2 S.C.R., 188 (emphasis added).

respect for her determined efforts to overcome her adversities, it has an obligation to ensure that any order it makes will promote the best interests of her child. This and this alone is our task.⁵⁰

The *Racine* case is not an isolated instance of the suppression and misinterpretation of First Nations culture. In *Re Eliza*,⁵¹ the court benevolently recognized the importance of recognizing "community differences." But the judge used ethnocentric stereotypes of the "drunken Indian" to shape the definition of "community differences." Provincial Court Judge Moxley referred to habits such as "acceptance of widespread drinking and even drunkenness" and "tolerance to violence while drunk."⁵² These are not "habits" that are "tolerated" by First Nations communities — they are some of the *realities* of racial oppression. Value judgments such as these reinforce the "blame the victim" approach to First Nations people. Yet judges treat these value judgments as self-evident truths.

Another scathing example of the devaluation of the First Nations tradition and the willingness to blame the victim is found in *John v. Superintendent of Child Welfare*.⁵³

Here we have a young Indian girl, born and brought up among her people. She became pregnant. She was upset, confused and worried. One would expect that she should be entitled to feel that she could turn to her own people for help, or at least for some understanding and compassion. But what happened? Her own mother was not interested. Her father did not lift a finger to help her. Her own sister gave no assistance. MacDonald's sister came to see her, but offered her no help. The father of the child was indifferent or worse. That was the time for him to show that he had fatherly instincts. There is no evidence that one single member of the Indian community offered her a helping hand. Not a relative, nor a counsellor, not an Indian chief, no one. One has to feel very sorry for the girl.

If her plight is an example of what happens when one is in trouble, it leaves one considerably unimpressed with the value in such circumstances of the togetherness of the Indian community.

If it is true that an Indian child has a better chance in life by living among his relatives and among others of his race, then I should have thought that it ought to be possible to demonstrate that this is so, by way of some cogent evidence, with particular reference to this child.⁵⁴

50. *Ibid.*

51. [1982] 2 C.N.L.R. 53.

52. *Ibid.*, 54.53. *John*, [1982] 1 C.N.L.R. 47.54. *Ibid.*, 49.

The racism in the *John* case hopefully requires no comment or clarification. It stings.

A further line of cases applies the best interests test to justify the removal of special needs children from the reserve community when those needs cannot be met fully there. These children were found to be in need of protection simply because they had "special needs."⁵⁵ The health or educational needs of children should not be denied on the basis of race. However, both medical and educational needs are responsibilities of the federal government under aboriginal rights, treaty rights, and section 91(24) of the 1867 Constitution Act. What is omitted from these discussions is any comment on the requirement of the federal government to meet these children's real needs, which would include the right to reside in their home community.

Judges seem to "regret" removing First Nations Children from their communities.⁵⁶ They express "compassion and sympathy" for the mother.⁵⁷ Judges feel compelled to indicate that in previous cases they have ruled "that it was in the best interests of the native child to be raised with his or her own native people."⁵⁸ But these comments do not reach the real harm that is being done by forced assimilation. Instead, they are patronizing⁵⁹ and are sure flags of racism.

VI

Possibly because disproportionate numbers of First Nations children have been removed from their homes, legislative initiatives in Ontario have attempted to reconstruct the best interests of the child test.⁶⁰ The legislative reform is described in a discussion paper published by Ontario government as follows:

The Child and Family Services Act also represents a significant and historic break through in services to Indian children and families in Ontario. There are many provisions in the Act specific to Indian children and families. These are unparalleled by any other jurisdiction in Canada. No other province has so clearly recognized the importance of maintaining the cultural environment of children coming into care. The Act provides clear instructions to the court and other persons making orders or determinations in the best interests of the child, that where the child is an Indian person, the person making the order or determination shall take into consideration the importance of

55. *McNeil v. Superintendent of Family and Child Services*, [1983] 4 C.N.L.R. 41; S.A.L. and G.I.L. v. *Legal Aid of Manitoba*, [1982] 6 W.W.R. 260, [1983] 1 C.N.L.R. 157; *Wilson and Wilson v. Young and Young* (1983), 28 Sask. R. 287, [1984] 4 C.N.L.R. 185.56. *Tom v. Children's Aid Society*, [1982] 1 C.N.L.R. 172.57. *John*, [1982] 1 C.N.L.R. 47.58. *Re C.J.W.S.*, [1982] 1 C.N.L.R. 47.59. I suspect there is a relationship between the patronizing tone of this judgment and the ideologies of the legal system (white, male, and middle class). The doctrine of *parens patriae* (the state as father) also contains the common elements of male superiority and protector of the common good.60. See *Child and Family Services Act*, S.O. 1984, c. 55., section 37(2)-(4).

preserving the child's cultural identity. The Act also explicitly instructs the court and children's aid societies to place the child, if the child is an Indian person and removal from the home is necessary, with a member of the child's extended family, a member of the child's band, or another Indian family, unless there is a substantial reason for placing the child elsewhere.⁶¹

This is an innovative provision. It is also intrinsically problematic. Certain protections are offered to "Indian" children and their families. But this definition⁶² adopts the Indian Act definition, which excludes Metis, urban, and disenfranchised people.⁶³ This is the now familiar strategy of divide and conquer: First Nations peoples are separated from each other and are thereby unable to put forth a common political front. This is another way of perpetrating racism.

Under the auspices of the Ministry of Community and Social Services, Children's Services Branch, the provincial government is currently soliciting the comments of First Nation's groups on proposed amendments to the Child and Family Services Act.⁶⁴ One of the suggested amendments will bring the definition of "Indian and Native" into line with section 35 of the 1982 Constitution Act. Other amendments suggested by the Ministry include funding, band representation,⁶⁵ and status reviews.⁶⁶ This Ministry has taken some initial positive steps, but further reviews of the implementation of this legislation, especially in the absence of reported court decisions, need to be conducted.

Legislative enactments require the cooperation of judges to facilitate the implementation of the intent of legislative reforms. The existence of the reforms alone is insufficient to secure change. This is illustrated in the only reported case involving the amendments to the Child and Family Services Act, the provincial court judgment in *Re Catholic Children's Aid Society of Metropolitan Toronto and M*.⁶⁷ In that decision, the judge merged sections 53(4) and 53(5) of the legislation in order to emphasize the alternative of wardship over adoption in the case of Indians and Native children.⁶⁸ This has effectively shifted the burden in the best interests test⁶⁹ from bonding and forced it directly onto racial heritage. On appeal, the district court⁷⁰ set aside this wide reading of the child protection

61. Ontario Ministry of Community and Social Services, *Tentative Policies for Indian Provisions of the Child and Family Services Act, Parts I-IX* (Toronto: Ministry of Community and Social Services, 1985), 2.

62. Child and Family Services Act, S.O. 1984, c. 55, section 2(15).

63. Interestingly, the academic literature does not discuss this issue or the new Indian provisions in detail. Personal experience and informal discussions with Native family court workers indicate that a concern that non-reserve individuals are being excluded from the interpretation of these new provisions is valid.

64. S.O. 1984, c. 55.

65. In future this person will not be required to be a First Nations individual.

66. Ministry of Community and Social Services, *Amendments Proposed to the Indian and Native Sections in the Child and Family Services Act, 1984* (Toronto: Ministry of Community and Social Services, September 1988), 1-4.

67. (1986), 57 O.R. (2d) 551.

68. (1987), 57 O.R. (2d) 553-54.

69. There are no reported cases which review the meaning of sections 37(3) and 37(4) of the Act.

70. *Re Catholic Children's Aid Society of Metropolitan Toronto and M* (1987), 62 O.R. (2d) 535.

provisions even though it affirmed the decision of the lower court on the facts.⁷¹

If the legislative intent behind these amendments was to shift the balance in the best interests test, this judgment nonetheless relies on the old standards and thereby reaffirms the status quo. As such, it is just one in a long line of examples of a pattern familiar to First Nations people. Judicial reaffirmation of the status quo not only nullifies the intent of the new legislative regime, but also emphasizes that legislative reform is not, in itself, sufficient to solve problems that have been caused by centuries of domination.

71. (1987), 62 O.R. (2d) 538.

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Cultural Transmission and Survival In Contemporary Micmac Society

The study of cultural transmission of a variety of cultural systems has made important contributions to understandings of how cultural systems survive in light of great adversity. Such is the case among the Native American tribal societies, who have remained a distinct racial entity as well as a distinct political entity, despite the hundreds of years of attempted cultural genocide, segregation, isolation, poverty, and coercive assimilation by the federal government and dominant society.

In the face of their adversity, the Native American tribal societies have developed strong adaptive strategies for dealing with their environment and their conditions of life, in order to insure not only their personal survival but their cultural survival as well. This has not been merely a natural process of acculturation or assimilation that occurs when two systems collide and one assumes dominance over the other. These

Marie Battiste

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Cultural adaptive strategies are inherently a part of the cultural system of the tribal peoples to meet changes in their environment, whether there be a change of diet due to the fickleness of nature or the change in daily living due to the imposition of another cultural system.

Some Native American societies have had a longer contact with the European nations and have adapted to both Christianity and to American or Western civilization, while remaining loyal to traditional beliefs, habits, customs, language and culture. Such is the case among the Micmac peoples of the Maritime Provinces of Canada. The annual St. Ann Mission is

not only a reaffirmation of their religious beliefs; it is an illustration of the adaptive strategies these Micmacs acquired in dealing with non-Indian societies, and concrete evidence of the way in which Micmac culture is sustained and maintained.

Historical Considerations

The annual assembly of Micmacs of Nova Scotia to Chapel Island has been a custom for as long as can be remembered and told. Its roots, however, were not initially with Christian ceremony; but rather this assembly occurred each year for the purpose of friendship, and treaties for the common good. The Grand Council, which is made up of the chiefs of each band, met annually in the summer, and their followers joined them in assemblage to hear what had transpired and discussed among the chiefs. Biard, in *Jesuit Relations*, spoke of these councils:

"It is principally in summer that they pay visits and hold their state councils; I mean that several sagamores come together and consult among themselves about peace and war, treaties of friendship and treaties for the common good. It is only these sagamores who have a voice in the discussion and who make the speeches, unless there be some old and renowned *Autamains*, who are like their priests, for they respect them very much and give them a hearing the same as to the sagamores... Now in these assemblies, if there is some news of importance, as that their neighbors wish to make war upon them, or that they have killed some one, or that they must renew the alliance, etc., then messengers fly from all parts to make up the more general assembly, that they may avail themselves of all confederates, which they call *Ricamanen*, who are generally those of the same language... In these assemblies so general, they resolve upon peace, truce, war or nothing at all..." (Biard, 1616, JR Vol. 3 p. 87).

These assemblies of Micmacs have served an important function for cultural survival and maintenance, and despite the Christian overtones of today, the assembly or mission has not lost its meaning or value to Micmacs. It is an annual ceremony which provides many instrumental linkages sanctioned by the tribe of how one becomes and remains a good Micmac. It reinforces the beliefs of the people, not only towards God but also towards their total culture. It further serves to renew kinship ties, alliances, introduces new allies and new people, makes truces. But most of all, this event becomes the scene of the transmission of, recruitment to, and maintenance of the Micmac person; it reaffirms one's roots, confirms an identity, and develops a common mental experience — a kind of moral communion.

The feast of St. Ann occurs annually in the last week of July, and culminates on Sunday with a general mass performed in open air, followed by a procession of all those assembled to the place where the first

missionary priest preached. The church bell rings and the people renew the steps taken by their ancestors for as long as is remembered and told. The prior to this Sunday procession, people are arriving, unloading their week's supplies into a boat to go over to the island, setting up their camps, and visiting with relatives and friends.

The island is secluded from non-Indians, since located on the reserve, thus breaking all ties with modern civilization. There is no running water, no electricity, no modern European houses, no post office, only a church, a "gleep" house, which was once a rectory for priests (now open to all), and a few rows of constructed tar paper camps and outhouses. On the island there are no laws, regulations, policemen. Only the traditions, customs, and habits adhered to internally by all. Thus St. Ann begins.

Micmac Social Network

Micmacs evolve relationships according to patrilineal descent. The father retains property, gives to his son whose family he brings in. Daughters move to their husbands' side and property is shared in common under the husband's band number. A child born to a family assumes the band number (Indian Act) of the father; at the age of fifteen the child receives a separate number from the father, which if the child is male, he will have for life. The female retains this separate number until marriage, when she takes her husband's band number.

At the annual St. Ann's, the families set up their "camps" around patrilineal lines, although there may be some deviations to this, where the young married girls may choose to live near their father's line and move to her husband's family. Each year the camps are set up in the same location as in the previous years, with little actual deviation of spots. New families live with existing families, until their family size requires separate arrangements. When a family member dies, the descendants of the person take over the deceased member's location. Usually in these arrangements, there will be an elder woman who manages the household and establishes and regularizes contacts made among the people in her camp. The patterns of regularity provide needed continuities in the culture.

The establishment of alliances, renewal of friendships, and reaffirmation of one's place in this culture at St. Ann's provide a reciprocal network of specific obligations that insure the survival of the people. These alliances insure a wide range of home base



Passamaquoddy woman and child,
watercolor by F.B. Wright, Webster Col-
lection of Pictorial Canadiana. Courtesy
The New Brunswick Museum.



in different locales, where one can expect the generous and open hospitality for short or long periods of time, depending on the closeness of the relationship. For example, as a child I remember that our home was a base for many Micmacs who travelled through Maine to work in the potato or blueberry fields, or who were just passing through on their way to Boston, where there is a large off reservation Micmac community. At certain times of the year, such as harvest time, our home was filled constantly. A person at our doorstep was the beginning. If the person was not known, he or she would identify himself in relationship to the alliances his family had with my family. Conversations would start what reserve the person was from, and connections would be made as to who this person was. Gradually a whole network of relationships would be established, and there would be much talk of how everyone was and what news there was from that area.

Meanwhile, we prepared food, beds, and whatever else was needed for the person for his/her short or long stay and/or journey. Whenever anyone came to our house, there was always food to prepare and other amenities in order to provide the best hospitality possible. Such hospitality would guarantee reciprocal arrangements for my family if and when it became necessary. Sharing of food and resources were important to the survival of the people, and has remained an important custom among the Micmac. Hospitality always engendered mutual hospitality and reciprocal arrangements when one was in need. One's home was open to all, and an invitation to eat was not necessary. A person at your door was sufficient cause to feed and provide for the guest. This open hospitality marked one as a good person, a good Micmac.

Reciprocating by being a guest was equally important. For example, my family traveled frequently as well, travelling back to the reserve, especially during important events. It is especially important to attend funerals of deceased friends and relatives to aid the spirit in its journey to the land of the souls. After three days of the wake, when people stay with the family and the body, a funeral takes place on the fourth day, followed by an auction of goods brought by the people. The money is used to defray the costs of the family. At these times when we return to the reserve, the favors of hospitality would be returned. There was never any anxiety of where we would stay or what we would eat. In fact there was more discussion of who we would visit or stay with. Usually we had to stay in several places in order to give people an opportunity to return favors, as well as to renew friendships. One's visit was extremely important. The assemblage and visiting done at St. Ann similarly enables one to ex-

tend friendship, favors, and develop alliances one cannot travel frequently to all households the year, this reunion provides the necessary a reinforce and maintain these kinship relationsh

St. Ann mission further provides for the nuance of cultural identity, by reinforcing the importance of being Micmac. One important way to retain the language. Language is more than a means of communication; it is an important transmitting of the culture. It establishes a common and recognizable identity, that makes Micmacs distinct from all others. To them they are the "people" and non-Micmacs are the "others." Language is important to the Micmac to identify their set. Perhaps this reason it has remained strong despite the hundreds of years (approximately 500 years) of contact with the white man. The Micmacs continue to be a distinct cultural and linguistic group, as well as a distinct political group. They maintain their distinctness further, by limiting their contact with the world to shopping, bingo, hospital and church even in these social situations. Micmacs generally avoid intermingling with the non-Indians, despite friendliness shown on both sides. The young Micmac may have several non-Indian acquaintances, but for the most part they tend to socialize primarily with another. Young Micmacs may marry non-Indians, but this is not actively encouraged. Micmac parents still prefer their children to marry other Micmacs, and they encourage them to reinforce intragroup relationships. The annual events at Chapel Island provide people with alliances and relationships across reserves, which result in marriage between Micmac people and bridging of gaps in social ties. There is a lot of laughter, teasing, and talk that goes with finding a partner at St. Ann, and all unmarried persons are reminded of their single or widowed status. Finding a partner does not contribute to large social networks. Finding a Micmac partner is not only a consideration for the persons involved, for any relationship developed must be observed and sanctioned by all social networks involved. Incest is one of the many taboos and thought to be bad medicine in the family. Marriage between cousins can contribute to any number of bad events in the family. Because of this, and because of the importance of ties in kinship, it is important that one knows who one's cousin or relative and who is a potential partner. St. Ann's mission serves as an arena for the people to develop important relationships and select appropriate partners under the watchful and scrutinizing eye of the tribal community.



Indians making baskets, watercolor
by John Stanton. From the Webster Col-
lection of Pictorial Canadiana. Courtesy
The New Brunswick Museum.

Spirits, Magic, and Fairies

The humble living arrangements on the island at St. Ann is never begrudged, for this is part of the reaffirmation of one's roots. Chapel Island has been the sacred burial ground of thousands of Micmacs. White tombs mark some burial spots, although most people can identify the ground or area where their close relatives were buried. To the Micmacs, this island has many powerful spirits of their ancestors who look after their people while they are there. Children are allowed to play freely with their peers and siblings around the island, without close adult supervision. It is said of the island that the spirits are so good, no one need fear danger there. They are quick to point out that there has never been a drowning there despite the many Micmac children and adults who have fallen into the water as a result of fooling around or heavy drinking. The world of spirits and supernatural magic or power is very real to the Micmacs. Many stories have been told of the spirits of their ancestors, and it is not unlikely that every adult has had some experience with the spirits or can relate old stories once told to them. Despite the churches' attitudes toward these "superstitions," their beliefs persist. For example, it is said that when one dies, there usually is a succession of deaths that occur, generally in threes. Their experiences reaffirm this belief.

While their ideas of God have been greatly modified by Christianity, their faith in fairies and magic seems unshaken. The islands surrounding Chapel Island are said to be inhabited by the Wigguladummooch or the Little People, who live in the forests like the Micmacs of long ago. The Little People are legends to some, and real life people to others. Some people have seen them along the shores early in the morning; others have had less direct experiences with the Little People, while at least all have heard of them and continue to talk of them. My experience has been less direct. For example, my cousin has seen them, and another cousin knows of people who have seen them. But there is a story of a Micmac woman in Eskasoni Reserve who looks after the Little People in the winter by setting food out for them on her doorstep, which during the night or early morning is taken by the Wigguladummooch. I have heard stories of another woman who has a moccasin of one of the Little People, and another woman who has an intricately braided ribbon done by the Little People for her bathrobe. To me the Little People are real.

Child Rearing

Child rearing among the Micmacs is casual and natural. It is not considered any more than a natural process of life, so that children are not given any special treatment or experiences that will prepare them for adulthood. Activities are adult centered, not child centered, and wherever the adults are, there too the children will be found. At St. Ann, children are everywhere. They are allowed to run free and explore their environment. Only the smallest babies are found in the camps with the adults. While babies are given a great deal of attention by all, they are still not encouraged to be the spotlight, or to intrude on adult conversations. Parents give their children a great deal of love and independence, and while on the island usually all rules of the household will be relaxed. Bedtime will probably occur when the adults have had enough noise for a day. They put the children to bed, and an elder woman will look after all the children while all others go out in search of friends and partners. The autonomy given to children is important to Micmac survival. All must develop physical strength, physical and mental hardiness, and an independence which will enable each person to take care of himself in case of any adversity. Adulthood and its responsibilities come early to Micmacs. Fifteen years old is considered old enough for one to assume control over one's self, and it is around this age that young adults begin travels to Maine and Boston in search of excitement, employment or change of residences. Usually their own personal resources are needed to make these journeys.

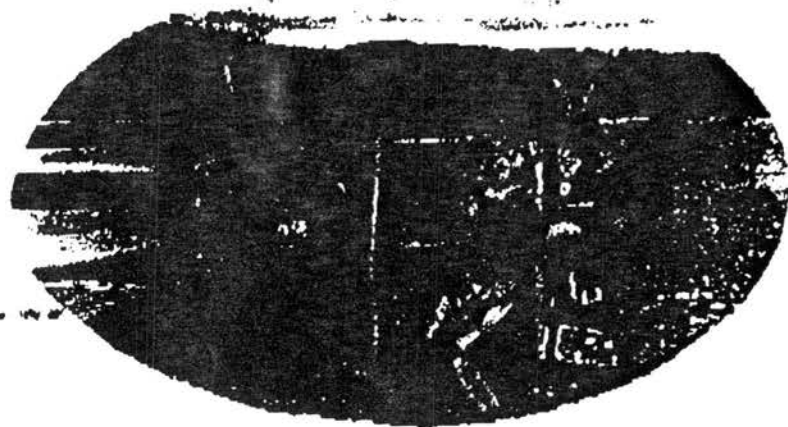
Few limits are placed on children, except where their safety may be threatened. They are not pampered. It is more important for them that they be strong in will and body, developing appropriate instincts to meet the challenges of modern society. As they approach adulthood, they cannot depend on others for those instincts; they must be natural responses. Furthermore, each person must assume total responsibility for those instincts and accept the consequences of those decisions. Even an untimely pregnancy demands that the girl assume responsibility for her child. She may move back into an extended family network, but her child is hers to look after financially and physically. In some cases she may be absolved of physical responsibility if she contributes financially for her child.

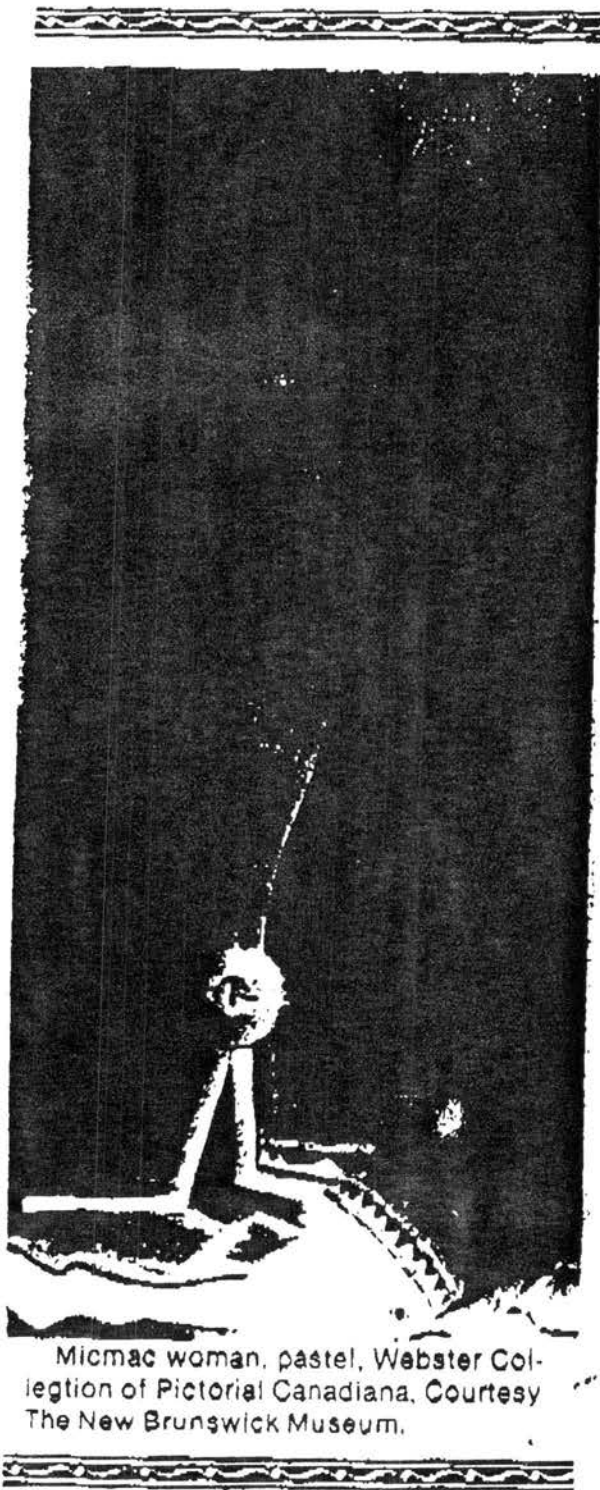


New Brunswick Indians going to market, watercolor by John Stanton, Webster Collection of Pictorial Cana-

diana, Courtesy The New Brunswick Museum.

A postcard titled "Indians on the Reservation near Fredericton, N.B., showing five Indians near a riverbank, Courtesy The New Brunswick Museum.





Micmac woman, pastel, Webster Collection of Pictorial Canadiana, Courtesy The New Brunswick Museum.

Individual autonomy is also important to the survival of the people. The ability to take care of one's self physically and financially is highly valued. Since money and jobs are scarce on the reserve, one cannot be a dependent in an extended family for long, for one must earn his own money, look after one's own needs, and help the extended family to the extent possible. Since the families are usually in need of money, many "boarders" will be taken in to support the family. While I was growing up, there were many uncles, aunts, cousins and relatives who helped contribute to the family income by working and sharing their resources. Sharing of food and resources is carried over to St. Ann, where all relatives in one social network contribute to the central food supplies, for this is usually all that is needed to support the families while on the island.

Social Control

Indian reserves in Canada are distinct territorial boundaries, where local provincial laws do not apply. Likewise, Provincial law enforcement is not applicable on Indian reserves. Without this form of social control, the tribal community must have its own inner social control mechanisms to insure some order in their lives and in their communities. While there are currently Indian constables hired by the Indians themselves, this alone does not assure the order and stability of the group.

Among the Micmac, gossip may be the greatest form of social control. Since the people's central social life and entertainment is based on visiting one another, where the center of the talk is upon people and human relationships, no one person is exempt from gossip, which is not necessarily entirely malicious, just constant. In the long hours of social contacts, all behaviors of all people known within the social network will be related with the greatest of detail and expression. All that transpires on and off the reserve, even as far away as Boston, will be discussed. In these discussions, families will gain honor, respect, prestige, or disgrace and shame through the actions of their family. Hence it is necessary to keep one's own in line. Scolding and reproach by the heads of families is the key to social control, and in more drastic conditions a person may be asked to leave the household and not return. In some cases the offender may "run away" to the states or back to Canada, to avoid reproach and scolding by elders in the community as well as by local authorities. If one does wrong, he is not allowed to forget what he



Miemac coat, ca. 1830 formerly on display in the Provincial Gallery of the New Brunswick Museum. Courtesy The New Brunswick Museum.

has done for a long time, though gradually one will be allowed to return to the social network. Shunning by community people is considered a drastic measure, reserved for only the most serious offences, but in a community that depends on large social networks, alliances, visiting, and friendship with favors, this social control mechanism is quite powerful.

Power and Prestige

Over the hundreds of years of contact with the white man, the role of women has changed very little. They are still the social regulators, forming the stability and core of the tribe. They take care of the household and the children, giving support and stability to the family and their alliances. However, the role of men has changed significantly in Micmac society. He is no longer the sole physical survival agent; he no longer needs to hunt, fish, and gather food for the family. He does not even need to work, but only to augment what is already obtained by the family, since the government provides annuities to the family for children. He is not necessarily the disciplinarian of the family either, although his position is used as a threat to children who go out of line. The changing roles of men may be the underlying cause of alcoholism that is rampant among the Micmac men. While there are also women alcoholics, there are fewer numbers of these since there is a constant threat that alcoholic families will lose their children to the government if both are irresponsible.

As a result of the changes that have occurred in their society, new roles and honoring practices have developed. A man who causes no trouble, stays sober for the most part, works steadily in or outside of the reserve, and looks after his family, is accorded respect and prestige. These are the decision makers, potential chiefs and councilmen of the tribal community. The elders provide a vital link to their ancestors and are accorded the respect of all. They are called "Uncle" or "Aunt" in the native language, showing respect for their tribal soul. The feast of St. Ann provides a time for the tribal community to honor these men, and the elders who have done well for the Micmac people. There is a natural hierarchy in the procession, which signifies their world views. The statue of St. Ann is led from the church, supported by selected respected men in the community. Some men are selected to "police" the crowd, to make way for the procession. While physical strength is one criterion important to carry the heavy statue, one is honored by being selected as part of this group of men. These men carrying the statue lead the procession, followed by



Micmac woman with child in baby carrier and baskets, watercolor. From Webster Collection of Pictorial Canadiana. Courtesy The New Brunswick Museum.

the priests of each reserve in their Christian dress, the chiefs in tribal regalia, and the elders who sing the traditional songs honoring St. Ann. Following them are young children dressed in white. These are children who have made their first communion in that year. Following them are the whole assembly of Micmacs who have come to the mission. This hierarchical arrangement gives respect and honor to those they feel are important to their culture. The tribal warriors, the spiritual leaders, the elders, and the children, are important people who maintain linkages with their past and have a special function, role, and importance to the stability, maintenance, and continuance of the Micmac culture.

Conclusion

In a time when other Indian tribes across Canada and the United States are in such diverse states of transition and adaptation, questions arise regarding how a tribal culture will survive. Sometimes there is a question of whether they will survive at all. But little is known of the tribal soul that stands resilient in times of great adversity. What we do know is that some tribal cultures have stood the impact of western civilization and have adapted to the outward forms of Christianity and western civilization, while not losing the essence of traditional tribalism. Such is the case among the Micmac people. For tribes whose contact with white civilization has been only a couple of hun-

dred years, it is important for them to look at those tribes which have been faced with white contact for a period of approximately five hundred years. The adaptive strategies that they have developed are important to their survival, not just as individuals but as a cultural and political entity. Despite the fact that the Micmac reserves appear at first glance to be acculturated into modern society having cars, houses, furniture, clothing, and religion similar to their white neighbors, they have not truly assimilated into white society. They are distinct cultural and linguistic entities who have survived the torture, rigors, and challenges of Christianity and civilization, while remaining loyal to their traditional customs, traditions, language, beliefs, values and attitudes. The events surrounding the feast of St. Ann is only one example of how this is done.

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