

Indian people see these practices as interference by the provinces in Indian affairs, contrary to the special relationship between Indian people and the federal government.

We have had problems in the past dealing with child welfare and the fact that provincial [authorities] have always had the jurisdiction to come to Indian lands and apprehend any child, if they thought that child was being abused in any way within the band. . . . Taking charge of our own Indian government would mean that we should also be able to control our child welfare, and also eliminate the problem of having the MHR [provincial Ministry of Human Resources] come into our reserve to apprehend any children. (Treaty 8 Tribal Association, Special 21:35)

Others saw these policies and practices as means of assimilation.

We want to see an end to federal policies which take away our children from their parents and from our communities. In British Columbia where I come from, 35 per cent of all children apprehended are from Indian or native families, and we comprise only 1 per cent of the population. (Native Women's Association of Canada, Sub 4:6)

Each time an Indian child is spirited away from our reserves, family unity is being destroyed and we are being deprived of our future great leaders. . . . Indian children. . . have an inalienable right to keep their parents. They have an inherent right to retain their language and culture. We do not condone the system that pirates away our children and even exports them to foreign lands. . . . We are saying this planned process of cultural genocide must cease. (Alberta Council of Treaty Women, Sub 10:19)

Jurisdiction over Indian child welfare has been the subject of much debate. As the *Indian Act* does not refer specifically to the delivery of child welfare services, and as the provinces normally have jurisdiction over child welfare matters, section 88 of the *Indian Act*, which refers to provincial laws of general application, comes into play. The federal government has also encouraged the provinces to deliver child welfare services.

Witnesses before the Committee discussed a number of interim arrangements that have been worked out under the existing legal framework. For example, in 1980 the Spallumcheen Band passed a by-law giving itself exclusive jurisdiction over any child custody proceeding involving an Indian child. In some cases, Indian bands or organizations have been able to reach agreements with the federal and provincial governments to share administration of child welfare services.

One of the first tripartite agreements relating to child welfare was signed by Canada, Alberta and the Blackfoot Band. Under its terms, the band administers the child welfare programs of the Alberta Department of Social Services and Community Health. Social services are delivered to band members by employees of the band's social services unit. A valuable component of the tripartite agreement is its provision of training programs.

In February 1982 the Canada-Manitoba Indian Child Welfare Agreement was signed establishing "the broad framework by which Indian communities in southern and central Manitoba will acquire authority and responsibility for child welfare".\* This is a master agreement setting out a general structure. Subsidiary agreements will be signed that detail specific administrative and financial arrangements.

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\* Johnston, *op. cit.*, p. 110.