

**BACKGROUND PAPER ON CUSTOMARY ADOPTION**

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## CUSTOMARY ADOPTION

### **Executive Summary**

The following paper reviews the limited ethnographic literature concerning Aboriginal Customary Adoption in Canada. It was written as a background paper for researchers and policy makers as they examine the broader issues of the appropriateness of existing social services legislation and policy regarding Aboriginal families and children.

From the literature review, a multi-featured description of the forms and social functions of traditional Aboriginal Customary Adoption in Canada is presented. Ethnographic examples from a number of Aboriginal nations are presented with emphasis on five broad cultural areas - the Maritimes, the Subarctic and North East Woodlands, the North West Coast, the Plains and Great Lakes Iroquoia. The Arctic was left out of the scope of this review due to the existence of already extensive anthropological analyses on Customary Adoption.

This paper establishes that there are at least five main forms of Customary Adoption in Canada as reflected in the ethnographic literature. They are:

- 1) Jural Adoption
- 2) Fosterage
- 3) Mourning Adoption
- 4) Economic Adoption
- 5) Political Adoption.

Jural adoption and fosterage are still practiced extensively while mourning adoption can still be found among those who are more traditional. The practices of political and economic adoption, due to pressure from government, missions and legal institutions have almost completely disappeared.

Customary Adoption in Canada can be understood as forms of "transactions in kinship" that reflect economic contexts and cultural values.

Customary Adoptions rarely occur outside the extended family but function to reinforce existing family ties.

Customary Adoptions are embedded in a network of pre-existing relationships of sharing and support - known as "generalized reciprocity".

Customary Adoption differs from Western adoption models by its emphasis on the needs of the "natural" family, the adoptive family and the adoptive child. The institution is, thus, not solely concerned with notions of the nuclear family, the needs of children or the "dysfunction" of adults.

In Canadian law and culture, this paper argues, adoption has been historically concerned with "moving people to resources", ie. placing children in need of homes with parents able to provide economically. Only recently with the decline in the fertility of middle class have you seen concerns voiced that "homes needed children" too. Adoption legislation is only slowly recognizing this aspect of community well being too.

The drive to legalize certain aspects of Customary Adoption will ease some of the tensions between Aboriginal and non-aboriginal child care services. The increasing emphasis on aboriginal communities developping their own codes of adoption criteria rather than the courts will ease the transition. Care will have to be taken in the development of the necessary enabling legislation so as to maintain the flexibility and family-level decision making that has made Customary Adoption such a successful mechanism for helping both parents and children cope with contemporary social and economic change. Courts can too easily become the interpreters of Customary Adoption.

With consultation and creativity, Customary Adoption will not be turned into a court-focused problem for families but will continue as a much appreciated and centuries old institution of love, support and care.

## CUSTOMARY ADOPTION

Prior to the introduction of foster care as we know it today, the native people had their own system of foster care. In the event of death to the parents of a native child, the grandparents or some other close relative would take it upon themselves to raise the orphaned youngster as one of their own. There were also instances where the grandparents adopted children from a large family and raised them as their own.

Some people devoted their entire lives to raising children, other people's in addition to their own. With the introduction of foster care organizations, the natives own system of foster care gradually diminished ...

from an editorial in Native People, publication of the Alberta Native Communications Society, Edmonton, quoted in Akwesasne Notes (n.a.: 1974: 43)

We do have our own traditional adoption system. We didn't have to sign a paper to say I was going to adopt this child. It was our tradition and way of life to accept others as our own. When there was an orphan, the orphan was taken and had parents. We learned to share that humble house where bannock and tea was our food and that is how we lived. I didn't have to have steak. We didn't have to have a bed. We lay on Mother Earth. Our bodies were strong.

Eva McKay, of the Dakota Ojibway Child and Family Services, addressing the Review Committee on Indian and Metis Adoptions and Placements, May 27, 1982 (in Kimelman: 1985:217)

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## CUSTOMARY ADOPTION

### 1. Introduction

The following paper reviews the ethnographic literature concerning Aboriginal Customary Adoption in Canada. It is written as a background paper for researchers and policy reviewers working with the Royal Commission on Aboriginal Peoples as they look at the broader issues of the appropriateness of existing social services and legislation regarding Aboriginal families and children. From the literature review, a multi-featured description of the forms and social functions of Aboriginal Customary Adoption in Canada will be presented. Ethnographic examples from a number of Aboriginal peoples, such as Miqmaq, Dene, and Anishnabe, are included to illustrate the various forms of Customary Adoption. These Customary Adoption patterns are discussed in terms of five main cultural areas - the Maritimes, the Subarctic, the North West Coast, the Plains and the Great Lakes Iroquoian. The records of Customary Adoption practices of these areas will be examined to demonstrate the close connection between Customary Adoption and other social and cultural values.

Ultimately this multi-pronged approach will allow us to draw out some of the differences that lie at the heart of European-based models of adoption and those of Aboriginal groups. This will lead to a stronger basis for understanding some of the difficulties aboriginal societies had, and are having, in their interactions with child welfare legislation and organizations.

### 2. Extent of the Literature

Customary Adoption will not be analyzed under a single analytical definition for the purposes of this ethnographic review. It is far too complex and varied an institution. Instead, a five-part model is presented. Also, a truly comprehensive definition requires a large number of carefully detailed and contextualized customary adoption reports, presenting the subtle interactions between cultural values and actual actions, between what is said and what is done. Unfortunately, such a collection of reports is simply not available from the existing Canadian ethnographic literature.

Ethnographic literature is usually defined as the published sources on a particular culture that scholars outside that culture produce. Such writings have usually been the product of social and cultural anthropologists but, due to the lack of such sources, I have used the broadest definition of ethnography possible. I consulted any publication that described or reported on Customary Adoption in Canada. This approach has meant that excerpts from newspapers, historical records, legal reports and policy papers can be found alongside anthropological analyses.

The majority of the ethnographic examples presented in this review were gleaned from passing references in works dealing with other features of aboriginal life. Inuit Customary Adoptions are the only practices that have had extensive anthropological and analytical coverage and were not included in the contracted requirements of this paper (for more on Inuit see Dufour: 1984; Dunning: 1962; Guemple:1979; Graburn:1960; Rousseau:1970; Silk:1987; Teicher:1953).

Trends in gendre preferences and the direction of long-term changes in adoption were also difficult to ascertain and the conclusions presented here should be understood to be general. This lack of specific research on Customary Adoption in Canada is disappointing, considering the long history of anthropological interest in this cultural universal in other parts of the world and its prevalence in Canadian Aboriginal communities. Research and documentation on the topic should be encouraged and supported.

### 3. Customary Adoption: General Literature Review

#### i) Defining Terms

Anthropologists and social theorists began to critique the existing models of adoption in the early 1960s. These critiques tried to widen the definitions of what constituted adoption by looking beyond written legal texts and demonstrating how adoption was understood by the participants themselves. Much anthropological analysis on customary adoption systems outside of Canada can be found in the works on Polynesia (Carroll:1970; Firth:1936; Keesing:1970; Shore:1976; Weckler:1953), Africa (Brown:1990; Cohen:1969; Etienne:1979; Goody: 1961; 1969; 1971; Lallemand:1980), Asia (Djamour:1965; Goody:1969; Massard:1983; Waltner: 1990; Wolf: 1968 & 1980) and the Caribbean (Herskovitz:1937).

Adoption is usually recognized as the process whereby one takes as one's own, a child of other parents (Carroll:1970:3). It plays a major part in the written and traditional oral law of most, if not all, societies. While most adoption arrangements involve parent-child ties, others can involve the adopting of grandparents (Rousseau:1970), of brothers or sisters (Firth:1961:191, Silverman:1970; Lambert:1970 in Brady:1976:9) and many other types of relatives. Thus, adoption is not solely an institution of parenthood but a broader one involving the change in or creation of kinship ties. It can thus be understood to be a method of reinforcing and extending family ties, part of the broader social category of fictive or quasi-kinship relationships such as fostering, god-parenthood, etc. Recognizing adoption's broader incorporative aspect, Guemple (1970:10), in her work among the Inuit, defined adoption to be:

the incorporation into a family of persons who would not otherwise have a meaningful claim to membership, whatever the age or social characteristics of the adoptee

Anthropologists usually term these incorporative social arrangements, "transactions in kinship" (see Brady:1976).

## ii) Adoption as a Universal Institution

As we noted above, it is the written laws concerning adoption that have received the greatest academic focus. The Babylonian Code of Hammu-rabi, the oldest set of comprehensive written laws, gives a prominent position to "adoption and wet-nursing" (Goody:1969:55). Ancient European and Asian written law - ie. China, Greece, Rome, Hindu India - also emphasized the importance of the institution.

Nineteenth century social analysts, such as Sir Henry Maine, in Ancient Law (1861) and Fustell de Coulanges (18 ) were particularly interested in adoption systems. Committed to the, now properly abandoned, task of ranking societies according to perceived inferiority and superiority, they postulated that adoption was a sign of "advanced civilization" since it demonstrated the ability of a culture to create "fictive" kin ties to further economic or social advancement. The ancient cases they analyzed also seemed to clearly demonstrate how adoption could serve to keep agricultural property under the control of a family line and stop it from being divided after the death of a landholder. One of adoption's earliest postulated functions was thus linked to control of property. Accumulated wealth could be kept intact by deliberately matching people to resources. Sir Henry Maine could be said to have begun the study of comparative adoption practices when he described the impact of property concerns in the rule forbidding the adoption of orphans in Hindu law (Goody:1969:55).

Oral or Customary Law on adoption, however, was rarely included in these early analyses. If Customary Law on adoption was mentioned at all, it was subsumed in the Euro-centric theories of social evolution and the development of the state. Thus the earliest models of adoption in social studies and, later our own legislative models, were derived from the analyses of written texts, usually legal texts, concerning inheritance and property in agricultural states. As shall be argued later, this concern with establishing adoption as an aspect of inheritance rather than of social ties will lead to difficulties when these models were imposed on First Nations.

The English term "adoption" actually comes from Roman usage, implying "option/choice" (Goody: 58). This Roman practice was one of the main institutions whereby the great families of the time provided themselves appropriate heirs to property and offices (Bagley:1991:1). All the Roman emperors from Julius Ceasar to Augustus adopted specially-chosen and appropriately-talented males to succeed them, even though they frequently had biological sons.

According to Jack Goody (1969), Roman adoption laws declared that an individual, almost always a male, should, once adopted, rank for legal purposes as the child of the adopter and cease to be regarded



as the child of its parents. Men could adopt females or males but women, due to their lower status, could never adopt. The types of individuals adopted were always citizens of Rome, never outsiders and never the needy. The giver of an adoptive person and receiver of the adoptee established strong ties of alliance between their respective families even though the recipient continued the family line of the adopter. The adoptee would also be expected to follow marriage taboos associated with his first family. The completeness and irreversibility of the act for giver and receiver indicates that this form of adoption was never lightly nor quickly done.

In anthropological language, this type of adoption translates as the transfer of an individual from one filial [parent-child] relationship to another, from a "natural/biological" relationship to a "fictional" one. It is a transfer of all kinship status and rights - a transaction in kinship - but one which is then made legally equivalent.

### iii) Legislative Adoption

North American Adoption legislation emerged very recently and kept much of the Roman-influenced legal language (see Kawashida:1981). Under such legislation, responsibility for an adoptee is formally transferred from "natural" parents to "adoptive" ones. The adoptee becomes a "natural" progeny as far as the law is concerned. However, at the time of the Second World War, the social and cultural motivation for adoption shifted from the needs of families to provide heirs to property to the needs of European war-orphaned children for families (Bagley:1991:3). Slowly, as the war orphans' needs were met, government and charity agencies began re-orienting adoption offices for the purposes of matching childless couples to "needy, illegitimate or orphaned" children occupying places in government or charity centers (Hepworth:1980; Bagley:1991:2).

Alongside this historic change in the goals and purposes of adoption agencies, Western European cultural values began to make an impact on the direction of adoption legislation. There was a long-standing belief in the importance of "blood", or biological aspects of personality, that could be passed on to or born with the child. This precipitated an emphasis on adopting children as young as possible, preferably as infants so as to counteract the biological influences. Thus, it was important that the adoptive parents should become "real" parents in affection as soon as possible with as little interference from the "natural" parents.

This cultural value placed great importance on the role of two young healthy heterosexual married parents in the development of healthy personality in children. Children thus should be placed permanently in one home with one set of parents, so as not to create "confusion of affect". All efforts must be made, in law and professional social services practice, to "protect" the adoptee and adoptive family from perhaps painful information about the

"natural" parents and the circumstances that lead to the adoption. Arrangements were made through and intermediary such as the courts, church or agency that would "seal" all records. This sealing of records cut short any possible establishment of alliance or ties between "natural" and adoptive families let alone the adoptee.

The insistence on rapid processing and a "clean break" from the "natural" family were also valued to protect the feelings of those concerned. There was a strong cultural association of pain, even shame, with an adoptive couple's state of childlessness and infertility. "Natural" parents also desired privacy from the emotions associated with later reconnection with the adopted. In the case of the child, there were concerns that he/she would be psychologically damaged by growing up or learning he/she had been abandoned, illegitimate or orphaned.

#### iv) Role of Classificatory Kin

The above "clean-break" adoption pattern that has influenced Canadian adoption legislation and the institutionalized care of children in need is contrary the majority of Customary Adoption patterns. In most societies, adoption is only conducted between families who trust and know each other and whose ties are made even closer following the arrangement (Guemple 1970; E. Goody: 1971; J. Goody:1969; Rousseau 1970; Shomaker:1989). The majority of Customary Adoptions are actually conducted between families who live nearby, with whom one works and/or with whom one already has ties of reciprocity [sharing]. Thus, most adoption can be understood to a form of "generalized reciprocity" (Sahlins:1965:147; Rousseau:1970:89). It is a transaction - an action that takes place within an already existing pattern of exchange or initiates a pattern of exchange (Lanari:1973:83).

In most other societies, one can usually predict that Customary Adoption rates will be highest between those that already share. The level of sharing can often be correlated to terms of address. Anthropologist have found that all societies have terms of address for each other, particularly kin. Terms, such as "cousin", "aunt", "mother", "grandfather", are "classificatory" kin terms that are frequently used in Canada. In some societies, ie. Hawaiian, all the generation of one's biological parents can be addressed with the term "my mother" or "my father". This use of terms would classify large numbers of people in a parental relationship to you; they would be known, in anthropological literature as "classificatory parents". In other kin terminology systems, ie. such as that found for millions of people in Sri Lanka and India, each of your cousins would have a different term of address depending on their age, gendre and birth order. You would also interact with each of them in a slightly different manner depending on their kin role.

The importance of adopting children from among those that are related to one can be seen analytically to be the reverse of a society's marriage taboos. In most traditions, one marries those people that one knows vaguely but does not live with, a stranger

(see Wolf:1968 for an exception). A marriage links distant families more closely. An adoption, thus, links close families even more closely. If the culture's ideal is to marry outside the village, it will ideally try to adopt and care for its children within the village.

As an example, in many patrilineal societies, the ideal life partner for a girl is her father's sister's son, also called in anthropological literature, a cross cousin. This type of cousin is biologically a relative but not socially. The possible groom was raised to consider his father's side of the family to be close kin, he worked their lands, lived in their village and, rarely visited his father's sister's home. His father's sister had, according to marriage tradition left her father's and brother's birth village to live with her husband and his kin. Thus the bride is a virtual stranger to him. However, in this same culture, should that same girl be orphaned or in need of care, her father's family - the relatives that live near by, working the same land they hold in common, would be prime candidates for adopting or fostering her.

The highest rates of adoption do not occur between all relatives with whom one shares. Adoption is usually arranged between individuals and their "classificatory" parents or grandparents and their older siblings (Guemple:1970, Lanari:1973, Rousseau:1970). Thus there is an element of age or status-ranking involved. This could be due to the fact that one's parents or older siblings feel particular responsibility towards you and your family due to sentiment and social roles. It may also be much more difficult for a parent to refuse the request of their parents or older siblings to adopt one of their children.

#### 4. Customary Adoption: The Canadian Pattern

Aboriginal North America, as with the rest of the world, have several social institutions that are described in anthropology as "transactions in kinship" (Brady: 1978). In the US, these aboriginal institutions are described as "Cultural Adoptions" (Petershaore: 1989: 21) or "Ceremonial Adoption". In Canada, they are known as "Customary Adoption".

Customary Adoption is described as an institution deeply rooted in Canadian Aboriginal community life (see Kimelman:1985:162; Ward: 1984:50). Childless couples or those whose children have grown will be given a child. A teenager might move in with a grandparent to provide needed services. Relatives will decide that a particular family needs help with a child and will assume custody of the children, rarely without the full agreement of the parents. A mother, working away from home, might leave her infant with a relative for a period of time knowing that the child will have the same care, love, and security that she herself would provide. Many of these adoption will never become legal as far as the Canadian courts are concerned.

As in the institutions of adoption reviewed in section three above, the Canadian pattern of Customary Adoption emphasizes arrangements between close relatives, particularly older "classifiatory" siblings, parents and grandparents, rather than with strangers. The needs of the adults as well as the child are taken into consideration. It is also important that the "natural" family, the child and the adoptive family do not lose contact with each other. This contrasts greatly with formal legislative adoption practices whereby agencies or the courts act as intermediaries between families. In addition, the needs of the child's natural parents are de-emphasized vis-a-vis the adoptive family's. Thirdly, the ties between the child and the "natural" parents are legally and in practice, severed.

### **i) Transactions in Parenthood**

Customary Adoption in Canada is actually a much broader social institution than many legal and social service personnel are aware. These workers are usually aware of the types of adoption that revolve around child care - practices I have termed "Transactions in Parenthood". In these arrangements, a child is cared for by individuals who take on the responsibilities usually associated with a "natural" parent. There are three variations within "transactions in parenthood": jural adoption, fosterage and mourning adoption. These three vary in the extent of the changes in the adoptee's kinship status. They also range in the amount of time for which the care arrangements were expected to last. Jural Adoptions, like most marriages, are entered into as a permanent arrangement. If it does not work out between the parties and the arrangement is terminated, termination does not diminish the fact that permanency was intended. The third variation, Fosterage, is usually entered into as a temporary arrangement. In the case of Mourning Adoption, the adoptee is expected to visit the adoptive family when ever possible.

To ease comparison, the three varieties of "transactions in parenthood" are presented below with more detailed information in note form. Differences in age, gendre, permanency of the arrangement, initiators of arrangement, category of persons involved as well as primary functions are listed. Specific ethnographic examples will be presented in the literature review in Section 5.

#### **Transactions in Parenthood**

##### **a) Jural Adoption**

- full kinship status change: name, even clan changes from that of first set of parents to second
- permanency of arrangement is assumed
- arrangement usually initiated by adoptive family

- usually occurs between close kin, adoptive parents are usually an older couple with grown children
- ties with birth family usually maintained
- creation of an heir for status and property rights can be a major motivator as can the provision of a helper to an older couple
- strong emotional ties between child and adoptive family
- usually involves infants or children. In cases of inheritance of names, property, etc., adults adopted
- gender can be very important depending upon requirements of adoptive parent, ie. girls preferred, if new parents want her to eventually increase numbers in a matrilineage; boys preferred, if new family has girls and wants to balance gendre numbers in the family, etc.

#### b) Fosterage

- kinship status (name, clan, etc.) does not change from that of birth parents
- arrangement is temporary in nature but can be transformed into an more jural adoptive one
- arrangement initiated by adoptive family due to perceived need of kin or at request of birth family
- almost always occurs between close kin, especially between birth parents and classificatory grandparents or parents
- usually a child or infant, gendre rarely a factor
- child or children transferred due to temporary needs of birth families or need of foster family for extra help

#### c) Mourning Adoption

- kinship status (name, clan, etc.) does not change from that of birth parents but gifts and visits to adoptee common from adoptive family
- highly personalized, highly emotionally motivated
- very psychologically effective mourning institution
- permanency of arrangement assumed for life of adoptive parents
- initiated by parents of a deceased child or adult

- the more militaristic societies formalized this type of adoption and integrated it with political adoption
- often present in groups with important social offices and positions which function best when all roles and status positions are filled
- adoptee is usually a young adult, can be a man or a woman but usually a man, adoptee usually was a close friend of deceased or someone with striking physical resemblance to the deceased

As noted above, the three variations in "transactions in parenthood" were conducted between relatives. Two more categories of kinship transactions can be found in the Canadian ethnographic and historic literature. These two use the idiom of kinship but usually involve establishing ties between non-relatives. Of all forms of Customary Adoption in Canada, it is only these last two, economic and political adoption, that were used when dealing with strangers to the community.

The first, Economic Adoption, can be described as a "transaction in siblingship" whereby an individual is adopted into the role of a younger or older sibling, usually a brother, to facilitate trade or resource harvesting. This is not just a trapping partner but someone with whom you use kinship terms after some form of public ceremony. Economic Adoption is frequently noted in historic records of Plains trading practices and will be discussed in more detail below.

The last category of Customary Adoption, Political Adoption, is a form of "transaction in membership" whereby adoption allows for the incorporation of strangers into the existing kinship structure. The adoptees are usually captives, refugees from war or survivors of a disaster.

#### Transactions in Siblingship

##### d) Economic Adoption

- no loss of birth ties or status but new adoptive names and titles added and used when with adoptive kin
- occurs between individuals of differing nations, especially differing language groups
- initiated by individuals, after a number of previous meetings, in order to stabilize economic ties
- rarely is equal status generated, initiator assumes role of younger brother, adoptee assumes role of older brother

- always adults, usually traders and males

#### Transactions in Membership

##### e) Political Adoption

- new kinship ties, names, clans, etc. generated
- all previous kin ties are lost, no contact with previous kin encouraged
- can be suggested by adoptee but depends completely upon initiative of adoptive group
- motivation of adoptive group can be to increase population strength after war or to incorporate conquered outsiders or refugees from disasters
- adoption frequently only technique beside marriage to incorporate outsiders
- usually women and children, rarely men
- can be whole groups or nations

#### 5. Ethnographic Examples

My review of the ethnographic literature uncovered a number of descriptions of Customary Adoption. The excerpts quoted contain contextualized examples of all five types of adoption: jural, fosterage, mourning, economic and political adoption.

##### A) SUBARCTIC AND EASTERN WOODLANDS

The geographical area of the Subarctic and Eastern Woodlands is the homeland of a number of First Nations of differing language groups; Cree, Dene, Ojibwa, Algonquin. One of the earliest published records describing Customary Adoption in this area was from the seventeenth century works by Jesuits writing back to their European mission base. The Jesuit Relations described (Kinietz: 1965:345) what must be a type of mourning adoption among the Algonquins:

{They} have a custom of resuscitating or making their friends revive, particularly if they were men of distinction among them. They make some other bear the name of the deceased; and behold the dead man resuscitated and the grief of the relatives entirely gone. Observe that to the name given in a great assembly or feast, they add a present which is made on the part of relatives or friends of the one whom they have revived, and he who accepts the name and the present is obliged to take care of the family of the deceased so well that the wards call him father.

This example emphasizes how the act of adoption allows for the perpetuation of the role and responsibilities of the deceased. This is symbolically represented in the continued use of the term of address - "father". This use of kin terms of address reiterates the rights and duties between adoptee and adoptive family.

The Fort Nelson Slavey were recorded as practicing what can be described as both jural adoption and fosterage of their kin. In the Slavey language, nieces and nephews are referred to as "children" though a Slavey woman might be more specific, calling only her sister's children, her "sons". (Honningman: 1946: 69) These children, biologically nephews and nieces, would address their aunts and uncles as "mother" or "father", indicating the closeness and duties they have toward each other. Thus when a Slavey's brother's children are in need of a home after a parent's death or illness then one of the most likely families to adopt them would be the one that is already in a classificatory relationship of "parent" to the children, thus their biological aunt or uncle.

While we know that in the 1960s, DogRib families with many children were described as giving children in adoption to related couples with none (Honningman:301). The Hare (:320) placed strong emphasis on sharing and children were easily adopted between different families. They young people were distributed to those who most needed and could best care for them. Wealthy men of the Tanaina were described (:633) as caring for orphans as part of his duties in the community. The Chipwyan guide of Samuel Hearne, Matonabee was described as having seven children, two adopted (Oswalt:40).

The Round Lake Weagamow [Oji-Cree] (Rogers:1989:59) "Fosterage Belief System" emphasized the fact that not only children needed homes but a home needs a child, particularly after a loss. There were so many cases "so readily leaping out of the notes, one wonders if very many children escaped being fostered - Some boast several fosterer - competitors " She also noted various terms that people used to describe the arrangement: "go to live with", "sent to stay with", "supported us all", "taking care of", "raising", "bringing up", "looked after by". One of Roger's informants told her "Oh yes it seems natural [to us] - part of everyday life to go live with another family for a few years".

Further south, the Chippewa [Ojibwa] (Hilger:1951:33) were described as having no formal adoption ceremonies but "all that was necessary was a clear understanding by the parties concerned. In the case of small children, the parents consent was required". Hilger also noted that "nearly all homes visited...housed non-members of families. Small children were, and are, adopted only by relatives, but also by friends. Older children and adult persons either chose a home and asked to be adopted or they were invited to do so." One of Hilger's main informants described how:

Before my mother died, she selected the relatives with whom she wanted all of us children to stay; she might had selected friends or anyone else instead of relatives. All my mother's



people talked with my mother and they decided among themselves who would take each child; we were five. If my father had been of the Chippewa tribe, he would have had something to say and could have kept all of us if he had thought he could care for us but since he's Winnebago, he was not consulted. However, if mother had had no brothers or sisters, my father could then have taken us... But as things turned out, my oldest sister was given to one of my mother's sisters; my two youngest sisters, to another sister; and another aunt raise me. I was treated just like the rest of my aunt's family; there was no discrimination shown as to food or work. At times, however, that is done; my brother was badly treated...

The important spiritual aspects of mourning adoption in the Northeast can only be tentatively reconstructed. Frank Speck (1942) described the Tutelo [now a small Siouan-speaking group living with the Six Nations near Brantford, Ontario] as having a "spirit adoption ceremony that reclothed the living in the name of the dead". Speck argued that the purpose of this ceremony was to recall the soul of a Tutelo who has died within the year and to reinstate him or her among the living by reclothing and adopting that person into the bereaved family. The person was usually the same sex and age as the deceased. At the conclusion of the ritual, accompanied by special songs, the spirit of the deceased departs on the rays of the rising sun to a permanent home.

It is important to note the flexibility associated with the Customary Adoption decisions. While the ideal adoptive home for this family were mother's relatives, close and trusted friends were also possibilities. It was the "mother's people" that made the decision. It was the best interests of all concerned that were weighed. The mother's family's consensus decision could even result in the child going to the Winnebago father's family but it was the mother's relatives decision to make.

#### B) MARITIMES

The link between rates of adoption and classificatory kin terms is particularly true of matrilineal societies, such as found among the MicMac. Micmac fondness for children, however, extends beyond their nation. At Burnt Church, as on all reserves, numerous non-Micmacs were adopted and for all social purposes, became MicMac. One of the only references to this practice, was noted by ethnographers Wallis & Wallis (1955: 21) when they found "at least two adults, MicMac in speech and culture, who were whites adopted in infancy" at each reserve. This strong incorporative value in the culture without concern for race or culture was especially the case in northern New Brunswick during the 1950s. The policy of adopting non-Status children caused the Canadian government to attempt to forbid this for fear that the numbers of new Status members on the Band lists would exhaust DIAND's allocated funds.

Micmac and Maliseet were at times described as slaveholders in the early historic and anthropological literature but this may have

been a misreading of their institution of political adoption (see Miller 1983; Donald 1985:17 and section on Iroquoian adoption below). Their practice of bringing in refugees and prisoners of war, working them and then slowly adopting or marrying them can be seen as "absorption into the society" rather than creating a permanent category of slave. Watson (1980) described this type of transaction in these societies as an "open" slavery system - slave status was able to be changed to one based on kinship.

Starna & Watkin's (1991:54) critiqued this view as part of the tendency to neutralize all negative aspects of Aboriginal culture. Classic slavery existed, they argue. My own view is that we do not have strong evidence of very marked ranking between "slave" and "owner" in the social structure of the Maritime or Great Lakes while much oral tradition exists to that effect on the North West Coast and MesoAmerica. The only people that insist on the presence of slavery among the Iroquoian- and Algonkian-speaking peoples are Europeans, particularly missionaries. Customary Adoption, particularly political adoption, does have a strong oral history among these nations. I have chosen to read the historic records in that light.

#### C) NORTH WEST COAST

The Northwest Coast Nations social organization was noted for its differences in status based on differing wealth and birth. Usually these ranks or classes were described as the elite (chiefs or nobles), their followers (the commoners) and slaves. The ranking was most pronounced among the Northern nations, such as Kwakwaka'wakw, Nuuchah-Nulth, Haida and Tsimshian. All the nations north of the Haisla organized themselves matrilineally while the rest passed property and classified their kin on both mother's and father's sides, bilaterally. (see Suttles:1990:1-15)

As has been noted previously, how kin is classified has a strong influence upon who adopts and is adopted. The north west coast matrilineages tended to adopt on the mother's side while the bilateral groups reckoned on both. They were all known to have a variety of adoption patterns. Yet, little southern bilateral material has been published. The adoption among the matrilineal groups were more frequently recorded. In particular, strong jural adoption traditions were noted. Besides general support for children of one's clan, crest or lineage, adoption on the Coast seems to have had important inheritance and alliance functions.

Frequently, records of matrilineal North West Coast adoption indicated that the adoptee changed residence from birth family to new parents with an accompanying change of name and status and even clan affiliation. It is also clear that there is a belief that some children are reincarnations of a deceased relative and must be adopted formally by the family with whom they had the closest ties prior to death. This reincarnation is usually recognized by the discovery of a physical feature, such as a mole or scar shared by the deceased and the young child. (see Mills:1985) Other times,

adoptive parents describe the child as being knowledgeable of the former territories or fishing sites of the deceased.

The traditional matrilineal adoption benefited both the children and their adoptive clans, crests or lineages. Since the welfare of the individual and the clan (also called the crest group or lineage) was mutually intertwined, the clan invested in its future well being, socially and economically, by ensuring that parentless children remained in the clan (Petershoare:1). The maternal relatives, those belonging to the same clan as the mother, were considered immediate family. The mother's clan as a whole might choose the clan member who would assume the parenting role of the child in need. This was frequently the mother's sister (Petershoare:5). Both sides might be reckoned in adoption decision-making in bilateral or ambilineal societies.

Post-marriage residence patterns might change who would assume responsibility. In some matrilineal areas, such as Tsimshian, women ideally moved into the home of her husband which was traditionally the Great House/Long House of her husband's maternal uncle's. Should anything happen to her husband, the household would marry her to his brother, etc. so as to maintain relations between the clans (Garfield:24). Traditionally, adolescent boys, often after the age of ten, whether their natural parents were deceased or not, moved into the house of their mother's brother. The maternal uncle, who shared the same matrilineal crest or clan, such as Raven, Wolf, etc., was actually the social father rather than the biological father of the boy. A great deal of importance was placed on this period of "raising". In the house of the maternal uncle, the boy became versed in the history and ceremonial traditions of his clan and lineage. The maternal uncle taught him to be a hunter, a warrior, and a family man in the tradition of their clan (Petershoare:14).

This fosterage for ritual training differs from the more transitory responsibility of "raising" a child undertaken by classificatory grandparents, aunts and uncles, etc. in a child's clan or lineage. This type of fosterage (Paige & Paige: 1981: 173) involves a change of residence for varying periods but rarely involves a change in name or ranking. The original rank is determined by the birth parents'.

The only children that were considered unadoptable in northern matrilineal societies were children whose father or mother refused to acknowledge them or children who were the products of incest. As Petershoare (:15) describes in the case of the Tlingit:

"[s]uch a child [was] incomplete as a person because he lacks the proper ancestor lines. Without the proper paternal lines, the child was such a disgrace to the mother's clan that the latter refused to acknowledge the child as a clan member and might be relegated to the category of slave."

There were varying reports that 1/20 to 1/3 of northwest coast villagers were actually not born to the resident group but were "slaves". These were people obtained through trade or warfare. Unlike MicMac, Malicite, Montagnais or Iroquoian "slaves" who were eventually adopted as full members of the society, there seems to be no indication that political or mourning adoption could erase the status of slave on the North West Coast (MacLeod:1925:375). The children, socially orphans, due to their lack of name-carrying relatives to assist them in feasts and ceremonial activities, were not adopted but remained linked to a family as a slave, marrying those in similar status. Unadoptable children, as described above, without ranked and named relatives to assist them in feasts and ceremonial activities remained attached to a family as a slave, marrying only those in a similar status.

Customary Adoption is also particularly useful in the political processes of these ranked societies. Through adoption, the power of kin groups can be increased without having to rely on the fertility of its women. It is especially useful in matrilineal societies with patrilocal residence, since husbands can not easily establish new lineages under their own leadership through their wives. (Paige & Paige:1981:173) Any child a man fathers is made a part of its mother's clan.

Such use of adoption to expand political base or followers is found among groups such as the Heiltsiuk, Haihais and Owekeeno Bella Bella. Major name holders and chiefs could jurally adopt their eldest sons who were born into their mothers crest group and thus increase their own line and pass on property, ceremonial rights and knowledge (Boas:1924; Olson:1955). Seguin also noted a feast whereby a Blackfish clan chief adopted his "natural" daughter into his clan to continue his line so that rights, names and privileges would pass on to her children (1985:90). A Haisla man with no nephew [sister's son] to inherit his chiefly title was also described as adopting his own daughter to whom he passed the title. (Driver:1969:226) It was hoped that she would pass it on to a future son.

Thomas McIlwraith (1948) provides us with the most detail on adoption practices in his general ethnography of the Bella Coola [Nuxalk]. He felt that adoption was used by rich men to increase the size of their families. The size and composition of a family would vary with the influence of the father and vice versa. The male family head would direct work on the family's land and would organize the activities at potlatches. If he was too autocratic the children would move away. Thus a man without family to help him could not rise through the political ranks. It was thus important to keep family numbers high.

If an infant died, the Bella Coola would jurally adopt another one, soon after weaning, and the child would use parent-child kin terms with the adoptive parents. The child was always adopted from one of the major family lineages never outside the ancestral family line, ie. the crest or clan group. Orphans were always adopted by their

close clan relatives. If no relatives existed, ie. such as after an epidemic, the child's fate was very hard. The child had no knowledge of names, no access to hunting grounds and would be relegated to the category of a "slave".

The Bella Coola were also known to have a form of mourning adoption - "adopt to replace" (1948:145-147). Adults were adopted if they had some physical resemblance to the deceased. They would not change abode nor lose their membership in their first family but would have to observe the incest and marriage taboos associated their second family. The adoptee must visit and take part in their second families ceremonies. If they did not they were labelled not "appreciative" and could not receive any possessions at the death of their adoptive parent.

Sometimes a child would be born that was deemed to be the reincarnation of a recently deceased elderly relative. (1948:156) The child might be addressed by kin terms appropriate to the deceased person, ie. an adult might call child "my grandmother", "my uncle", etc.

Adoption could even be used to correct a political problem among the Bella Coola. In one instance (1948:166), McIlwraith had been taught a number of songs that his teacher had thought were associated with no particular family's privileged ancestral ceremonial rights. As he sang the song at a public gathering, an elder rose and stated that the song belonged to her family. She avoided the disgrace of having the song by an outsider by adopting the writer as a "son", giving out presents and thus legalizing the adoption.

The flexibility of the institution of adoption and its use adoption as a political tool was particularly evident in the work by Margaret Seguin [Anderson] on Coast Tsimshian chiefs' cross-clan naming feasts. She notes that it is not the ordinary right of one clan to adopt a member from another clan (1985:93). It is family members that adopt usually each other in most Customary Adoptions. Seguin wrote (1985:91) that cross-clan adoption was an honour. It was made clear that few cross-clan adoptions "go all the way" to the point that "the original clan relinquishes rights in the individual". This unique form of adoption involves the passing on of old, traditionally valued, names. Usually the individuals that are adopted in naming feasts are not "necessarily being given names that are higher than those in their 'own' clan".

While Seguin was in Hartley Bay, in 1980, Chief John Clifton of the Eagle Clan, who had already been given a high-ranked Blackfish name from his own father, was adopted by the Raven clan and given a name specially made up for the adoption. This Seguin felt was due to the changing political context in the village. Inter-village and Tsimshian national ties were growing. The need for unity among the clans had grown concomitantly. Due to the uniqueness of this cross-clan adoption, the Raven Clan had to explain carefully, to all gathered, why the adoption was being done. The prime orator of the

Raven Clan had to deliver a "prologue speech", which 'made sense' of the adoption. He announced that "the new Raven would help their Clan, and he made an explicit claim that the adoption would make all the clans work together and was good for the entire village, including the Blackfish and the Eagles" (:93). The ceremony, the "putting on of his name", was performed with the assistance of members of the Eagle and the Blackfish clans, thus indicating that they were willing to share rights in Clifton with the Ravens (:93).

Again, we can see that Customary Adoption's close connection to social and cultural context - to the needs of adoptive families as well as the adoptee - render it a very adaptable institution.

#### D) PLAINS

According to the published literature, fosterage, mourning adoption and economic adoption are important elements of the Plains Culture areas' pattern of Customary Adoption. The most detailed ethnographic references sometimes refer to activities south of the border with the United States. I have decided not to ignore these sources. The high mobility of the Plains societies renders the international border somewhat irrelevant to general anthropological conclusions.

"Transactions in Parenthood" were important on the Plains. There is even in the Lakota language, a specific term, 'Ecagwaya', meaning to raise or take in a child as if it were the parent's own child. As seen in our earlier discussions on the patterns of Customary Adoption in Canada, total separation of the adoptee from the "natural" parents was unknown (Johnson:1981:439).

In the summer of 1939, Ruth Benedict and Marjorie Lismer found that of 1450 people in 280 Albertan Blood households, nearly half had children living with the that were not born into the household (Lismer:1974:27).

Lismer felt that the ease of divorce in the community sometimes left kids without a welcoming home if the new husband did not care to take in the children of former husbands. This situation was eased by fact that older people seemed to like taking the children, they felt great sympathy for children and had real desire to have them in their homes. She also noted that elders felt that these kids "know[s] what has been done for him and out of gratitude will assume more care for his foster parents"(1974:27).

Lismer felt there were three types of adoption prevalent at the time. The first was that of a child "visiting" relatives for long or short stays, varying in frequency. Slightly more permanent situations, called "raisings", were usually undertaken by grandparents who took care of the child. The child could always be taken back as there were no severing of ties with "natural" family. The child continued to call them by "grandparent" rather than "parent" terminology. The last, "adoption", had more permanence and usually followed the death, illness or overwork of parents. In this

case, the eldest child was usually taken.

Lismer also felt that there was a cultural belief that a woman who has lost children to miscarriage or early death frequently gives up a newborn child for adoption. Lismer recorded that this is done because she loves it so much and wishes to thwart the bad luck that she feels surrounds her. She also noted that some women who were having difficulty getting pregnant believe that by caring for another's child, it will increase their chances of giving birth. She found that most adoptions were of children under a year old, rarely older children, and of both genders (:29). Relatives on both mother's and father's side were the main adopters and it usually occurred between families that lived closely together and who constantly visited each other.

Blood parents giving a child in adoption usually felt that the gift of horses was appropriate to ensure the good care of the adopted child. However, should the arrangement not work out, the horses were not returned (:30). Overall, Lismer found that adopted children were exceptionally well treated, and were frequently termed 'minipuka', "a favourite child". There was even discussion among some of her informants that the adopted children were better treated than natural children. Lismer suggested that this feeling was tied to the belief that the child could always be "taken back" and that the more you invest in the care of a child the more they will be grateful to you when you age and are in need of care yourself. The adopted shared equally with "natural" kids in any inheritance. They did not, however, receive anything in inheritance at the death of "natural" parents.

The Arapaho, one of the Algonkian-speaking groups associated with the Blackfoot, Cheyenne and Gros Ventres moved into the Manitoba area in the 1790s. An ethnographer of the Arapaho, (Hilger:1952) described in detail an adoption process:

It was necessary that there be a crowd, [ie. a Sun Dance]. A man, usually the adopting father, did the announcing; it was never done by a woman. Gifts of value, such as horses and blankets were given by both of the adopting parents to visitors of other tribes who happened to be present. None were given to parents of adopted child...The child might stay or go. If it lived at home it was treated as a child. If not - [it was] given gifts occasionally. In old days parents felt honored when a child adopted - never refused a request. Now [since formal adoption] parents object since child expected to live in adopted home. Often old people adopt for sake of companionship. Often seen as a "handicap" to child, often "primitive". Adoption must be recorded and receive approval.

Mature persons were adopted publicly - not announced "you just treated a grown up well" (Hilger:51)

According to Arapaho elder Jessie Rowledge, living in Oklahoma, (:52) there were four types of adoption. These were all

transactions in parenthood. Two were cases of mourning adoption, two others, cases of jural adoption. Rowledge describes the four types as follows:

The first is of a man had a son who died, visited, saw a boy like a son - say "He is my son". Wife would see it. Invite boy and family to come to next [Sun] dance. Man announces, not wife, "my ponies, saddles, anything in my possession are his. Give away a horse, wife gives blankets but not to parents. It can be a girl. Parents flattered - boy could live with us - could be any age, any tribe.

The second, if son or daughter died, adopt chum no matter what tribe with same ceremonies and feast.

Third, if brother dies, I'd adopt his son through pity and sympathy. I would support him. If my wife's sister died, we would adopt her kids. Ceremonies the same. The child could stay or go but always had help, support.

Fourth, a child with no parents, no relatedness but must be [of Tribe]. Talk to wife, feel sorry for child - "A tender heart for this child". I was taught to sympathize with this class of people; that was the way I was trained. So we adopt that child and it lives with us.

The Blackfoot also "replaced" the deceased by look-alike friends and sealed the arrangement with the exchange of presents and the use of kin terms (Lisner:1974:27). This was also found among the Plains Crow (Lowie:1912:179), the Winnebago (Radin:1923:139) and the Plains Ojibwa (Landes 1937:10). No published references to the practice were found among the Dakota and Plains Cree however, I understand that it is likely present (Corrigan:1994: pers.comm.). Jones (1939:65,66,70) wrote that other Algonkian-speaking Plains groups, such as the Fox, etc., emphasized feasts, games and dances at "ceremonial" [mourning] adoption because "it was particularly enjoyed" by the deceased person. It also marked the end of mourning and ensured that the deceased's spirit would not become a "malevolent spirit" but could enter the land of the dead.

A form of cross-tribal mourning adoption also occurred on the Plains. William Warren, a native ethnographer, wrote of this practice in 1885:

A Dakota chief or warrior taking a fancy to an Ojibway would exchange presents with him, and adopt him as a brother. This the Ojibways would also do. These adopted ties of relationship were most generally contracted by such as had lost relations in the course of their feud, and who, in a manner, sought to fill the void which death had made in the ranks of his dearest friends.

Economic adoption was described best from the point of view of the Hidatsa who adopted Blackfoot, Crow, Sioux, Assiniboiné and Plains



Ojibwa. The Hidatsa organized economic adoption formally. They combined adoption and trading into expeditions whereby a trading leader would gather large numbers of their people together in a manner similar to the organization of a summer buffalo hunt party. On arrival, they set up camp in a circle and endeavoured to make a good display of wealth so no one would think ill of them (1965:49). The expedition leader would present good buffalo horses, complete sets of clothing, robes, guns, bows, arrows. All gifts were accumulated with the help of his relatives, his clan members and age-grade society members. He would then become the "father" in the adoption rite and adopt a "son" from the groups they visited. Trade and social ties were thus established.

Sometimes, (Bowers:1965: 91), leadership in economic adoption lead to prestige and this could well be described as verging on political adoption. All council leaders were said to have established "father-son" or "friend-friend" sibling relationships with distinguished men of other tribes. Women also occasionally adopted outsiders as "sons" or "daughters".

Interestingly, cultural borrowing (Bowers:1965:92,93) often worked along kinship ties established through adoption. Assiniboine "fathers" had used their intertribal kinship ties with their Hidatsa "sons", to "sell" the curing secrets of the Horse Ceremony. They gave them the rights to use it as their own. When the Hidatsa wanted to buy rights to the Sioux Grass Dance a sibling or "friend" adoption was set up, not "father-son" in form, so that the rights were not completely "sold" but merely duplicated.

It is important to note, in light of the current political controversy over the recognition of the right of same sex couples to adopt, that Plains groups that had the institution of berdache - men who took on the duties of women and had special religious and military roles among men - commonly adopted village orphans or other children captured as prisoners by their relatives. The men would transmit both property and ceremonial knowledge to the children (Bowers:1965:167).

#### E) GREAT LAKES IROQUOIAN

The Iroquoian-speaking societies that lived and live around the resource-rich Great Lakes have made use of the full repertoire of Customary Adoption forms. Fosterage according to mother's lineage and clan, jural adoption into positions of authority, political adoption of entire nations and outsiders, and mourning adoption were all prevalent. It is debates over the nature of Iroquoian political adoption that receives the greatest coverage in the literature.

Gabriel Sagard, (Kinietz:1965:119) on his travels to Huronia in 1623-24, noted what must be mourning adoption by the Attiouindarons (Neutrals). He felt that the Attiouindarons were attempting to bring the dead to life again. To recall my earlier point, this mourning adoption may have many therapeutic aspects to it, but it

is a classic transaction in kinship. A kinship category, of father, of brother, of son, etc. was emptied by death but, due to the kinship basis of the political structure, a crucial position of leader, councilman, etc. was also vacant. To maintain all the structures of authority and the balance of power between various clans and families, the easiest method of coping with the vacancy was to assure that new person take on all the authority and activities of the deceased. This transfer is usually represented by taking the deceased's names. Sagard writes:

...in order that the memory of illustrious and valorous men may, in some sort, live again in others, Accordingly, they convene assemblies for this purpose and hold councils at which they choose one of their numbers\ who has the same virtues and characteristics (if such a person can be found) as he whom they purpose to resuscitate, or, at least, his life must be without reproach...Proceeding to the resurrection, they all stand upright, except the one who is to raise the dead; on him they impose the name of the deceased, and all, placing their hands low down, feign to raise him from the ground - meaning that they draw out of the tomb that eminent deceased personage and bring him back to life in the person of this other man. The latter stands up, and after loud acclamations from the people, he receives the gifts offered by those who are present, who repeat their congratulations at many feast and thenceforth regard him as if he were the deceased...(Kinietz:1965:119)

The Northern Iroquois had historically developed their mourning adoption into a particularly complex form of political adoption (see n.a.:1952; n.a.:1974; Akweks:1950; Akwesasne Notes:1974; Beauchamp:1875; Keppler:1926; Lynch:1985; Speck:1942; Trigger, vol.2:1976). Adoption was seen as population replacement, motivated by warfare and a result of warfare (Fenton 1978; Lafitau:1977; Lynch 1985 as noted in Starna & Watkins:1991:36; Morgan 1962; Richter 1983; Snyderman 1948; Trigger 1976).

Seventeenth century historical records, predominantly from missionaries, indicate that Iroquoian peoples participated in what was described as "mourning wars". These hostilities were aimed at "obtaining captives at the request of a family grief-stricken by the death of a relative... by young men related by marriage to the bereaved family" (Richter 1983:529; Snyderman:1948; Trigger 1976:805-6 in Starna & Watkins: 1991:36). The captives were then run through a gauntlet of villagers, who hit and pummeled the prisoners. Physical and mental abuse were heaped on the prisoners after which they were handed over to bereaved families by the chiefs.

The bereaved families usually had the male prisoners killed. Sometimes a male prisoner was spared by the leading women of the family and he was adopted. The family would sing a song, frequently a death song and the prisoner fed. Later, a ceremony would be held

to publicly seal the adoption. Distinctive adoption dress was worn by a main singer, dances accompanied the ceremony, and a public feast given. The adoptee was given the name, rank and property of the deceased. He would then shake hands with every new relative he had acquired.

It seems likely that the majority of political adoptions were actually women or children. It is noted that captive or refugee women, after a period of service to the family concerned, were also adopted and could marry. Their children would be seen as full members of the community. (see Kinietz: 1965: 85)

Anthropologists and historians have noted that the early Jesuits regularly wrote of the presence of Neutral, Erie, Huron, Algonquian, etc. "esclaves" (translated as "slaves") in Iroquois society. However, this term was applied indiscriminantly to prisoners of war or captives, abductees and other non-natal or non-native persons residing in Iroquoian villages (Starna & Watkins: 1991: 34). Jesuits suggested that two-thirds and possibly more of the people in Iroquois villages were 'esclaves' by the mid-1660s (Jennings:1984:95 in Starna & Watkins: 37). But were they slaves?

The Tuscaroras, after a Seventeenth century war in Carolina, incorporated the Cowetas Creek (Schoolcraft (3):1969:186) and were themselves incorporated into the Five Nations confederacy through a form of political adoption. It is well known that by the 1660s, following the Iroquois-Huron wars, several thousand Huron were incorporated into Iroquois society (Trigger:1976:826).

Starna and Watkins (1991) have criticized anthropologists and historians for the wholesale dismissal of the possibility of slavery in Iroquoia. I would have to agree that political adoption, does not reflect the genuine nurturing and closeness associated with most transactions in kinship. Political adoption can also convey a subtext of "authority and subordination" (Ibid.:36). Adoptive members worked the fields and fetched wood for "free" Iroquois.

However, political adoption can only be a technique of enslavement if full social rights are not conveyed to the adoptee at adoption. Bruce Trigger (1976:830 in Starna & Watkins: 35) notes that:

The French called such prisoners slaves, in reference to the brutal manner in which they were treated. The term failed, however, to take account of the kinship basis of Iroquois society and the fact that the ultimate aim of this brutality was the assimilation of these aliens as full members of Iroquois society.

Few researchers would argue against the view that much of what was described in the early historic records may have been ethnocentric misreadings of Iroquoian Customary Adoption, particularly the institution of political adoption.

The adopted members of Iroquoian culture became active participants in Iroquoian life and frequently were described as particularly patriotic. The famous Onondaga warrior, Soiones, was actually a Huron by birth and was adopted and regarded himself as Onondaga, even leading raids on his former homeland (Trigger:1976:733). In one example, described by Bruce Trigger(:816), an Oneida, who had been adopted by the Huron and two leading Huron were loaded with gifts and were sent out to Adam Dollard des Ormeaux's fort near Montreal to negotiate with some Iroquois resident nearby. While they were there, some Huron who had been adopted by the Iroquois contacted the Huron who remained with Dollard and persuaded most of them to desert him.

These excerpts indicate that "enslavement", a word used frequently in the literature, may be the wrong term to describe the complexity of the ties established by political adoption. Though political adoption on such a vast scale is no longer evident among the Iroquoian groups today, the review makes clear the extent and the power of the institution.

## 6. Additional Theoretical Considerations

Adoption, when analyzed through the lense of legislative models and ancient Eur-Asian property laws, is a method of moving people to resources. When this approach is applied to non-State societies, adoption is also seen as a method of moving people to resources. Childless couples in hunting groups are argued to have found daily wood gathering and water fetching tasks difficult. Children are thus redistributed to others according to food production abilities. This theory has often been termed the "demographic hypothesis" (Lanari:1975:3; Guemple:1970:89; Rousseau: 1970). It has been applied by Dunning (1962) to explain Southampton Island Inuit adoption practices, argued by Rogers (1960:22) to explain Misstassini fosterage, and by Teicher(1953:36). Human fertility and dependents are made to accomodate the needs of individual family heads. Adoption, under these conditions, is a means of matching people to resouces. Adoption in aboriginal societies, like the ancient European and Asian adoption laws, must have an economic end.

The fact that more boys than girls were adopted by Inuit of Northern Quebec from 1901 to 1947 may be due to their contribution as hunters (Balicki:1960 in Rousseau:1970: 38). Yet, the theory does not explain the fact that more girls were adopted from 1948-68. Nor does it deal with the fact that half of the children were adopted at birth or before weaning, when they can make no contribution to harvesting. Adoption also does not seem to help families deal with food shortages since they usually give children to families with whom they are already sharing food and resources.

Another hypothesis deals primarily with the social rather than the economic roots of adoption. This approach posists that the reasons

for giving and receiving a child in adoption have a great deal to do with the desire of an individual to establish or re-establish their social status or role in the broader community (Lanari:1975:4). This may be true of families that can not, or can no longer, bear children and attempt to re-establish ties with younger families through a child. This status hypothesis may have some validity particularly since 60% of adopted parents asked for the child (Rousseau:1970:50). This may also be true for economic or political adoption.

This paper, in line with the findings of Guemple (1970) and Rousseau (1970) on Inuit adoption, follows what might be described as the symbolic or social emphasis in adoption practices - the "kinship hypothesis". This position emphasizes the fact that most adoption, while explained by community members as due to the need for assistance at the hunt, or for love of children, etc. follows and reinforces existing kinship lines. Customary Adoption may actually stem efforts made by outside cultural forces to emphasize nuclear families by emphasizing the actions and authority of extended families. Ties of mutual responsibility and support are being reaffirmed with every adoptive arrangement.

Grasping the underlying complexity of Customary Adoption demands a philosophical change in Western concepts of the family. Customary Adoption challenges the belief that biology is at the heart of parent-child relationships. It also reformulates our sense that a single household is the proper locus of child-rearing. Customary Adoption emphasizes the sentiment, authority structures, symbols and networks of a family rather than the procreative functions of a family. It proves that sentiment and support persist even when all the parties know they do not share a close biological link. Does this imply that ultimately all parent-child ties are best understood as a series of emotions and symbols rather than blood? (see Ho:1993)

Guemple (1979:93) argues that when we examine Inuit adoption practices, it is not a debate on biological versus non-biological ties that adoption begins but, moreso, a re-emphasis on relatives versus non-relatives. As we have seen, adoption intensifies ties within families and persons living in the local groups. It is the face-to-face cooperation that makes a real kin structure work not the biological ties.

Adoption, like marriage, can organize the local and regional groups into a social network through which cooperation can be undertaken. It also provides the lines along which resources can be distributed in order to provide at least a minimal share to all. Customary Adoption is thus, not solely a way of taking people to resources, as in Western legal models, but rather one more bridge between families over which resources can flow.

The danger of thinking of Customary Adoption as similar to European-influenced models are manifold. 1) A particularly ideal type elementary family was used rather than existing institutions

such as the extended family 2) There is an emphasis on severing contacts with the first family to get a new permanence for the child rather than on the long-term needs of the child 3) The institutionalization and bureaucratization of child care becomes tied to the legalizing of such care in the bureaucratic form 4) Emphasis on using agencies and boards as a basis for solutions even though the costs of fully bureaucratic subsidized social services would swallow most band councils' budgets (see Goody:1969 for comments on African context).

State-sanctioned legal adoption stresses one main social function 1) the welfare of children: to provide homes for orphans, deprived and illegitimate children, children of dysfunctional families. We can detect two subsidiary functions 1) to provide childless couples with social progeny 2) to provide an individual with an heir to property 3) to assure that state is not financially responsible for children. (Goody:1969)

In Customary Adoption there is an important emphasis on the welfare and needs of adults, particularly one's close relatives. Frequently, the adoption of adults ease mourning pain, the adoption of elders and older children to assist the adults is seen as important as the care of needy children and infants for childless couples. Most importantly social ties continued between adoptee and their "natural" family. Most adoptions were arranged privately and maintained within the families or resident groups but decisions were frequently publicly acknowledged in a ceremony or feast.

It is clear that the high frequency of adoption stems from values that a culture holds. With urban life, there might well be an increasing need for Customary Adoption to help families cope with changing job situations and the growing importance of reserves for child training in summer and native language immersion schools.

## 7. Directions of Change

Aboriginal families are still eager to care for their own children through the institution of Customary Adoption. Two forms of Customary Adoption - jural and fosterage - can be seen to be highly persistent in the changing circumstances of aboriginal economy and lifestyle, and might be seen as a highly successful support mechanism (Stack:1974:158; Fonseca:1986)) to deal with unpredictable, seasonal economies interspersed with minimal government assistance. Both fosterage and adoption forms of Customary Adoption can be found to be very strong in contemporary aboriginal communities.

The form of Customary Adoption that is the most useful to both men and women right now is a variation on fosterage. As Aboriginal people, particularly single parents, spend increasingly lengthy periods pursuing higher education and employment opportunities, they are turning to close relatives to assist with the care of

their young dependent children, either during the week or for a few months at a time. As in the case of traditional fosterage, fosterage to cope with increased mobility is not seen as a permanent arrangement, but as one based on temporary need.

Mourning adoption can still be found being practiced among elders and traditionalists but less frequently than fifty years ago. Political and economic adoption seem to have suffered the greatest pressure to disappear by new government and religious institutions. These two institutions have been replaced by more bureaucratized social institutions such as band membership lists or citizenship and legal contracts.

Anthropologically, it can be noted that there seems to be a diminishment in the use of the larger categories of classificatory parents or grandparents in favour of arrangements between a mother and her mother or grandmother in contemporary fosterage situations. There are also cross cutting ties between spouses families. In the past, an young Anishnabe might consider his father and his father's brother's sons as the core of his family, living and sharing with them at a communal hunting camps. In contrast, it is his mother's family who might live near him on reserve, or in the city, and they might be considered significant family. This reorganization in the use of kin categories may reflect the changing living and housing arrangements found in many communities. If formal research were conducted we might find that adoption rates will reflect these changes.

Up until the 1950s, state-sponsored inter-racial adoption was not even existent (Ward:1984:3). The majority of Canadian social services programs did not even have provincial legislation on adoptive arrangements until the 1920s (New Brunswick had brought in the first Canadian legislation in 1873). We are also seeing a number of families who set up child rearing arrangements according to the customary adoptive mode but who then are having to have it "legalized" in the courts. This has meant that birth families are "divested" of all formal ties and responsibilities for the child is transferred to the adoptive family (McGillivray:1985). This may also mean that treaty and status rights may be difficult to obtain (Ibid.:439) if the adoptive family is non-status. This could lead to an involuntary enfranchisement. As we have already described above, ties between families were never completely eliminated in most customary adoptions. Maintaining open adoption files may ease this cultural difference. Formally installing visitation-type rights to the birth families seems to be a highly awkward solution to this dilemma but one of the few compromises that legal recognition can provide.

Attempts at promoting the stability and security of Aboriginal families have been at the forefront of certain policy changes in North America. In Canada, the transfer of the administration of child welfare services from the province to Band and Community organizations, ie. Peyakawak Society work in Saskatchewan began in the early 1980s. With community-hired lawyers, court workers and

social workers administering the fostering and adoption programs, the huge drain of aboriginal children into non-native homes has lessened. This success has created a new problem, however. Community organizations and administrators are now having to decide which families qualify to receive ever diminishing funds. In many cases, a Customary Adoption can precipitate conflicts with administrators regarding Guardian Social Allowance allocations. ways.

Reports such as 'Problems with the Legislative Base for Native Child Welfare Services' (Weurschler: 1979:15) have encouraged the legal recognition of customary adoption, as has the report of the 1975 B.C. Royal Commission on Family and Children's Law (Ward:1984:50). Many of the Aboriginal nations have a long history of problems with the coexistence of Customary traditions and legalized adoption. Even when social services agencies try to adapt to aboriginal culture, the lack of legal recognition can cause many problems. An example of the kind of legal problems that can occur was demonstrated in northwestern B.C. On Dec. 2, 1983, in a case in the BC Supreme Court, a Wet'suwet'en child of Moricetown was transferred by the Superintendent of Child Welfare from provincial foster homes in the lower mainland to his aunt's - the mother's sister's - home in 1979, as was customary among the Wet'suwet'en. They practiced a clan-based system of jural adoption. The mother and sister were members of a Frog Clan lineage and the community recognized that the child had become the aunt's son. The child was killed in an accident and the aunt sued under the Family Compensation Act as the adoptive parent. However, due to the fact that BC did not recognize Customary Adoption as having any legal rights, only moral rights, the case was dismissed.

As yet there has been no comprehensive review of the judicial process to cope with Customary Adoption. The 1975 Indian Child Welfare Act passed in the U.S. Congress to assist in the maintenance of aboriginal families required U.S. tribes to submit formal definitions of the extended family, present orders of preference in placement. All adopted children were to be granted a position on the village's tribal membership lists, plus "acceptable" parenting codes. Also child protection codes had to be established which could not contradict existing government legislation (Petershoare: 23, 25). It was felt that without such formalized codes, the judges would be called upon to make decisions on child placement based on his/her interpretation of aboriginal customs. The Teslin Tlingit of the Yukon, the South Island Tribal Council (Corrigan:1994:pers.comm.), the Gitksan and the Wet'suwet'en of British Columbia are just a few Aboriginal nations that have already begun codifying their adoption and child welfare traditions.

Following the requirements of the Indian Child Welfare Act of 1978 the Sisseton-Wahpeton Sioux of South Dakota have organized their child welfare programs in an attempt to match their customary pattern. A biological parent can place a child with another family in the tribe without having to use the courts. However, once the



child has been cared for by the adoptive parents for two years, legal rights must be awarded. This is a compromise between the legal and the customary adoption but one which seems to work for the community (Johnson:1981:439).

Canadian government attempts at trying to completely incorporate Customary Adoption in the legal system may prove to be solving one sociological problem to create another. This should not stop the process but it should be taken into consideration. Legal recognition is a difficult issue to analyze slowly since formal recognition of some kind seems to be desired by both aboriginal and government agencies. Nonetheless, legal recognition almost always seems to diminish the creativity and flexibility associated with any customary institution. It also tends to hand over the interpretation of the customary practices from a community or families to the legislators and the courts.

In the 1970s, Customary Adoption, as a legal alternative to standard legislative requirements was accepted in the courts of the North West Territories (McGillvary:1985; Morrow:19 ; Zlotkin:1984) This has meant that as far as the law is concerned, the child continues to be legally transferred to the adoptive family, with no responsibilities or ties with the birth family. In the N.W.T. court of appeal case, Re Deborah (1972) an Inuit customary adoption was legally recognized. The "natural" parents then decided that they wanted their child returned to them. Rather than dealing with it between families, they went to the court for a decision. The appeal was refused because the court decided that in 248 cases of legally recognized "Customary Adoption" in the NWT no one had ever asked for a reversal (Zlotkin:1984:56). It was the court's rules of precedent that took precedence over the need for flexibility. This situation illustrates how legal recognition can turn the court into the "nexus" (McGillvary: 1985: 454) of Aboriginal adoption. The court becomes the remaker of family ties, establishing rights, judging capacity and balancing fitness of adults with the welfare of the child. While this legal role is at the heart of Western adoption models, it is not likely that this is what Aboriginal peoples were asking for when they are asked for recognition of Customary Adoption.

## 8. Conclusion

Aboriginal Customary Adoption has always been able to deal with the needs of both the families and children, and seems to be continuing to do so. It reflects the continuing commitment of people to each other, the importance of family as a model of trust and society and the continuation of the idea that shared responsibility of children.

This paper has established that there are at least five main forms of Customary Adoption reflected in the ethnographic literature. Jural adoption and fosterage are now the most prevalent and mourning adoption can still be found among certain traditionalists.

The practices of political and economic adoption, due to pressure from government, missions and legal institutions has almost disappeared.

The drive to legalize certain aspects of Customary Adoption will no doubt ease some of the tensions between Aboriginal and non-aboriginal child care services. Care will have to be taken in the development of the necessary legislation so as to maintain the flexibility and family-level decision making that has made Customary Adoption such a successful mechanism for helping both parents and children cope with contemporary social and economic change. With consultation and creativity, Customary Adoption will not be turned into a court-focused problem for families but will continue as a much appreciated and centuries old institution of love, support and care.

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