



RESEARCH TO PRACTICE NETWORK

Disproportionate Representation and First Nations Child Welfare in Canada

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Disproportionality in child welfare is disturbing for many reasons, not least of which is that it reveals major structural fractures in the social contract of our country. When any identifiable group has disproportionate numbers of children coming into state care, the underlying issues that may give rise to problems in family functioning warrant examination. Alas these underlying problems are not typically addressed in conventional approaches to service in behalf of families at risk of disruption. Indeed it is quite common for interventions to focus on the 'problem' family while ignoring significant contributors to the family problems. This paper seeks to identify some of the patterns that may illuminate structural concomitants of disproportionality and to review some approaches that go beyond the limits of traditional responses within residual social welfare systems.

Canada is not alone in experiencing racial disproportionality in child welfare. Jill Worrall (2001) has written about the over-representation of Maori children in care in New Zealand and how the use of kinship care agreements reduced their numbers at least temporarily. As in Canada, however, the use of kinship care sought to address at least two different agendas including cost reduction and cultural continuity. Success in relation to these different objectives must be

measured separately and success in one domain is no guarantee of success in the other. New Zealand's efforts brought about a substantial reduction in the number of Maori children in care initially, but within a few years the numbers began to rise again in part because kith and kin found themselves unable to meet the needs of troubled children and youth without additional resources. In the absence of the needed resources, both sets of objectives were compromised.

Impoverished resources, secondary to structural inequality, are not alone in explaining disproportionality. Terry Cross (2008), Director of the National Indian Child Welfare Association, situated in Portland Oregon, has argued that the fears and stereotypes of well-meaning social workers intending to "rescue" children from perceived dire circumstances may also be implicated. We believe that in the absence of clear and structured guidelines for child protection intervention there can be a tendency to bring children into state care based upon the individual worker's definition of 'risk'. This leaves the decision making process more open to culture, class and gender bias.

We have enough examples in Canada of child 'rescue' movements targeting poor and marginalized children for us to worry about the removal of a structured approach to decision making. The tens of thousands of 'Children of the Empire' who were shipped to Canada from the United Kingdom on 'orphan boats' between the 1880's and 1930's are one example (Charles & Gabor, 2006; Kohli, 2003). These young people, often but not always orphans, were 'rescued' from poverty and sent to Canada to live with 'good' families. Rather than becoming family members, they served as farm hands and servants. The stories of abuse and exploitation of these children rival those of the people sent to residential schools.

The residential schools are another example of a 'rescue' movement gone terribly wrong (Charles & Gabor, 2006). There can be no doubt of the racist and assimilation underpinnings of the placement of Aboriginal youth in the residential schools. However, it was also justified as an attempt to give these young people a 'better' life (MacDonald & MacDonald, 2007). Even in a racist society most 'helpers' are not openly racist. They can usually justify their actions as contributing to what they consider the common good. As we have seen in this country time and again with marginalized people, this justification of 'helping' has led to horrific consequences.

Another example is the ‘Sixties Scoop’ in which large numbers of Aboriginal youth were taken into care and subsequently adopted by non-Aboriginal families (Sinclair, 2007). Again, as with the residential schools, the racist underpinnings of these actions are obvious. What is often ignored is this that this ‘scoop’ took place during the much vaulted ‘War on Poverty’ that occurred in the 1960’s. The ‘War on Poverty’ was the name given to a number of federal and local initiatives to eliminate poverty in Canada and the United States (Morris, 2004). This ‘war’ was widely supported by social work and the other helping professions.

One of the outcomes of the ‘war’ was a temporary drop in the poverty rate. The other, often ignored, outcome was a significant increase in the number of children coming into care. For example, in British Columbia there was approximately a fourfold increase in the number of children in care between 1950/51 and 1970/71 with much of this occurring during the height of the “War on Poverty” (Foster, 2007). Some of this increase can be explained by a proportional increase in the number of children born during this period. However, this accounts for only about half of the overall increase in the number of children coming into government care. A disproportionate number of these young people came from ‘poor’ families. Since there were high rates of poverty on the reserves, a high proportion of these children in Canada came from Aboriginal communities (Foster, 2007; MacDonald & MacDonald, 2007) . Indeed, the ‘War on Poverty’ can be said to have been a war on the poor and another phase in the ‘war’ on Aboriginal people in Canada.

Again, while acknowledging both the race and class undertones of the ‘war’, it was able to occur because child protection workers lacked the guidelines needed to determine real risk. Instead, workers were allowed to make their decisions based upon their own class, culture and gender bias. We are not arguing that bias can be eliminated simply through the use of structured decision making models. However, we believe it can be decreased by reducing the bias of individuals working in protection.

Recent research on the implementation of structured decision making in Alameda County, California may support this contention. While structured decision making and risk assessment have been criticized for putting standardized procedures ahead of relational familiarity as the basis for decision making in child welfare (Parton, 1998), Alameda County saw a significant reduction in the

number of African American children admitted to care following implementation of face to face risk assessment and a standardized, structured approach to decision making (Clancy & Uldricks, 2008). Presumably, while this reduces the scope of professional discretion, it may also reduce the role of unexamined and hence unaccounted personal perceptions and judgments.

Qualitative research in Texas, pursuant to a reform of the Texas Department of Family & Protective Services (DFPS) intended in part to reduce disproportionality, drew conclusions that provide some insight into the connection between worker perceptions and community and agency characteristics (Detlaff and Rycraft, 2008). Focus groups in two communities most affected by disproportionate admissions to care among African American children included community members (parents, grandparents and other kinship carers), legal professionals and DFPS staff. Data analysis identified three domains wherein factors contributing to disproportionality were most notable: the agency, the community, and shared factors including cultural misunderstanding that extended to inappropriate or restrictive policies, lack of community engagement and collaboration, inadequate resources, and mutually disadvantageous perceptions. Agency factors included caseworkers' fear of liability for subsequent harm to children left in their own homes, inexperience, inadequate training, inconsistent and incomplete assessments, and unmanageable caseloads. Community factors included a decline in intergenerational parenting, very young mothers, absent fathers, lack of community cohesion and social supports, extreme poverty and associated crime and substance use. Stakeholders suggested that workers' fear of the communities in which they were working, combined with fear of reprisal or nonsupport if they did not err on the side of safety in their decision making, compounded problems of engagement and the consideration of possibilities beyond removal. While the authors emphasized the localized specificity of their findings and cautioned against overgeneralization, the intersectionality of the domains under consideration in their study is in itself notable.

Canadian research based in a national incidence study of child maltreatment (Lavergne, Dufour, Trocme' & Larrivee, 2008) found that child vulnerability, parental factors and housing conditions explain higher substantiation rates of maltreatment in the case of aboriginal children whose assessed risks in these areas were appreciably higher than other identified groups. Their communities evidence some of the same characteristics as those discussed by Detlaff and Rycraft (2008) including young mothers living in extreme poverty. Neglect and

multiple forms of maltreatment reported co-terminously were substantiated disproportionately for aboriginal children. Asian children, on the other hand, were more often reported and substantiated to have experienced physical maltreatment, suggesting that cultural factors may be implicated in both parenting practices and their interpretation by caseworkers. In an earlier analysis of the first wave of national incidence data from 1998, Blackstock and Trocme (2005) noted that socioeconomic factors and parental problems explained the overrepresentation of aboriginal children admitted to care following reported instances of maltreatment, whereas child characteristics and maltreatment characteristics were not strongly associated with either substantiation or admission rates. There can be no question that the history of family disruption brought about by the residential schools system is implicated in the intergenerational problems that many aboriginal parents face in their parenting roles.

Disproportionality in aboriginal child welfare may well need to be reconceptualized as cumulative disproportionality in order to capture the intergenerational effects of family disruption (Magruder and Shaw, 2008). Studies of disproportionality have thus far employed cross-sectional data collection methods in order to understand a problem in constant motion. Disproportionality among aboriginal children may require different strategies inasmuch as it is both quantitatively and qualitatively different than in other populations. .

Findings from the 2003 Canadian Incidence Study of Child Maltreatment (Trocme et al., 2005) indicate that differential rates of substantiation in child welfare investigations are driven primarily by neglect which is associated with poverty. Aboriginal children were approximately three times more likely to reside in public housing or to live in unsafe and overcrowded accommodations and twice as likely to have experienced frequent moves and to have unemployed parents. Their parents were also almost twice as likely to have experienced maltreatment in their own childhood compared with other investigated parents, and almost three times as likely to have problematic substance involvement. And despite the fact that informal care arrangements were made subsequent to investigation for more than three times as many aboriginal children, twice as many still came into care (MacLaurin et al., 2007). Disproportionality actually increased during the period between the 2003 and 2008 phases of the Canadian Incidence Study and aboriginal children now make up 51% of the children in care in B.C. while representing only 8% of the provinces children (MacDonald, 2008).

During this same time frame there have been significant budget cuts in social welfare spending related to child and family services and the provincial government has stalled in its many attempts at reorganization over the past decade. In its efforts to manage the political risks associated with this portfolio, the government has sought to devolve to five regional authorities with separate aboriginal authorities to govern their own child and family services. In his 2006 review of the British Columbia child protection system, Justice Ted Hughes cautioned that this course must not constitute a case of downloading responsibility without a corresponding commitment to adequate funding. Interim Aboriginal authorities were established (since abandoned) on Vancouver Island, the Fraser Valley and Vancouver but these are delegated authorities constrained to “conduct their operations and financial activities in a manner consistent with the legislative, regulatory and policy framework established by the Government.” (MacDonald, 2008. p. 21) As Justice Hughes and others have noted, historical evidence does not incline one to optimism concerning segregated or “separate but equal” arrangements. The provincial Auditor General (Doyle, 2008) and the Representative for Children & Youth (Turpel-Lafond, 2007) have both expressed concern about the future of these arrangements.

Funding for services needs to match the requirements of the policies and also support the delivery of services that are culturally appropriate which is known to take more time and resources. Current funding practices do not lead to equitable funding among Aboriginal and First Nations communities. (Doyle, 2008 quoted in MacDonald, 2008. p.27)

Not surprisingly, aboriginal leaders have not been positive in their response to either the proposed delegated service model or funding prospects. Mary Ellen Turpel-Lafond has been particularly articulate in her criticism.

The durable consensus essential to moving forward has not yet been reached, perhaps because governance models under discussion are not clearly linked to community and self-government rights and processes, or do not appropriately build on the experience of delegated agencies. Moreover, very little work has been done to link any discussion of governance models or options to specific improvements in the lives of the most vulnerable Aboriginal children. Indeed clear expectations are lacking in this regard. (Turpel-Lafond, 2007, quoted in MacDonald, 2008. p. 24)

Later in her report on the implementation of the recommendations of the Hughes Report, Turpel-Lafond addressed some of the conditions relevant to community engagement discussed by other investigators including Detlaff and Rycraft (2008).

Drafting or crafting legislation to pass to Aboriginal peoples a child welfare system or an interim authority structure that lacks clear performance measures, prevention resources, modern information technology, and capacity to secure better outcomes for children is not adequate. This may result in few — if any — improvements to the lives of these children and youth. While recent discussions are positive, there is not enough agreement or planning to meet these important conditions for an effective and responsive system for Aboriginal children and youth. (Op. Cit. p.25)

Among the central problems to be resolved before there can be effective movement forward are funding formulae and jurisdictional arrangements. The Assembly of First Nations (2006) has noted that irrespective of provincial budget cuts, admissions to care are driven by legislative mandates that do not expire when budget projections are surpassed. Thus while there are deficient resources to support family efforts to remain together, the funds to support aboriginal children in care are seemingly inexhaustible. The situation in reserve communities is particularly dire. Ball (2008) summarizes the findings on the relationship between jurisdiction and resources as follows.

Ensuring the well-being of these children is a federal responsibility, and therefore Indian and Northern Affairs Canada (INAC) must fund child welfare services. Shortfalls in funding for prevention and early intervention programs within on-reserve child welfare services have been acknowledged by INAC (Blackstock, Bruyere and Moreau 2005). In addition, there is no program within INAC that actively supports and monitors the range of prevention and early intervention services (McDonald and Ladd 2000; Blackstock, Bruyere and Moreau 2005) — services that are available to other Canadian children through the provincial system.

The 2005 Wen:de Report¹⁰ draws on evidence from the Canadian Incidence Study of Reported Child Abuse and Neglect to demonstrate the need to improve the funding formula for First Nations-delegated child and family service agencies to support primary, secondary and tertiary intervention services in on-reserve First Nations communities (First Nations Child and Family Caring Society of Canada 2005b). Such improvement would enable a policy of least-disruptive measures related to children at risk of maltreatment or neglect. Examples of least-disruptive measures include: in situ rather than out-of-community foster placement or adoption; support for improved parenting; more supervision of children through daycare placement; local access to services for children and parents; and supplementary food resources. (Ball, 2008, p. 11).

We would add to Ball's observations that other types of resources are also needed if we are to successfully address the issue of disproportionality. We believe that in addition to the supports identified by her that there also needs to be access to adequate health care and quality educational opportunities. Additional attention

also has to be paid to other contributors to social and physical health such as clean water and community safety. Piecemeal approaches that address one or two or even several contributors to disproportionality will not be enough to deal with the issue. A multi-leveled, multi-system approach has to be developed or we will continue to try to 'help' people without ever dealing with the underlying causes. This is difficult given the lack of funding currently available to Aboriginal communities.

An immediate solution to under funding caused by jurisdictional disputes lies in implementing Jordan's Principle whereby "when a jurisdictional dispute arises between or within governments regarding services for a status Indian child — services that are available to other Canadian children — the government of first contact must pay for the service without delay or disruption and resolve the jurisdictional dispute later." (Op. cit. p.11). While the House of Commons passed a resolution endorsing this principle on December 12, 2007, implementation at the provincial level has been less than encouraging.

What is clear from all of the reports reviewed here is that an entirely different approach to funding is necessary. This has been acknowledged by the House of Commons own Standing Committee on Public Accounts (2009) which has recommended that funding for child and family services on reserve be effectively determined on the basis of need since they are currently funded at approximately 22% less per capita than comparable off-reserve services while facing problems that are often compounded by deep structural poverty, diminished community capacity, social isolation and inaccessibility. The Committee also recommended implementation of processes for the development of culturally appropriate approaches to service delivery. These recommendations will doubtless fuel arguments for off-reserve aboriginal service development to follow a similar course.

Resistance to parallel or delegated aboriginal authorities in British Columbia is based in these similar arguments about the use of quasi-colonial apparatuses to manage rather than solve the problem of disproportionality. Affected aboriginal communities are historically conditioned to distrust such approaches. Their engagement will likely be contingent on both funding formulae and the development of service delivery and community support strategies in which they have a determining role. Derezotes et al. (2008) have reported some promising

preliminary findings from a multisystemic approach to disproportionality at key points in child welfare decision making processes with American Indians in Woodbury County, Iowa. Efforts included community consultations and information dissemination to improve native families' understanding of the processes involved in child protection so as to enhance their negotiation of the system where necessary; similar efforts to improve protective service workers interpretation of native families' functioning and enhance communication; and referral to more culturally appropriate placement prevention strategies. Evaluation of efforts in Woodbury County also included an assessment of community collaboration through a social network analysis and community survey (Richardson et. al., 2006). Recommendations for ongoing development included the avoidance of reproducing existing structures and the use of reconciliation and healing processes that acknowledge past harm as foundational to moving forward.

James et al. (2008) report on a similar effort in Texas geared to achieving engagement in black communities affected by disproportionate child welfare involvement and emphasize the importance of child welfare administrators' involvement in anti-racist training in changing institutional culture and developing local leadership. Consistent with Turpel-Lafond's recommendations for clear performance measures in British Columbia, Child Protective Services (CPS) in Texas is employing an ecological evaluation model focused on four primary areas: case factors, worker factors, organizational factors and community factors. James and her colleagues advocate the development of "a cultural assessment to determine what CPS values, behaviors, and outcomes have changed as a result of the statewide disproportionality efforts." (James et al., 2008 p.294)

B.C. is developing the capacity to undertake comparable evaluation strategies. The Human Early Learning Partnership between the BC Ministry for Child & Family Development and the post secondary sector has produced noteworthy research to date, including the provincial atlas of child development (Kershaw, 2005). Research is now underway to understand some of the community characteristics associated with better and worse developmental outcomes than would be predicted by socio-economic variables alone. Similarly, aboriginal agencies are making use of community elders and other cultural informants to develop approaches that are more congruent with the heritage of those they serve. These approaches can serve as models for community engagement across the social service sector. Federally, Aboriginal Head Start and B.C.'s own Aboriginal

Infant Development Program have shown promise in enhancing development and cultural continuity among aboriginal children. A 2001 Aboriginal Peoples' Survey conducted under the auspices of Stats Canada noted a fourfold increase in the number of off-reserve aboriginal children enrolled in preschool programs intended for them over an eight year period (cited in Ball, 2008), owing largely to the federal investment in Aboriginal Head Start. Other programs have fared less well, particularly those founded on "soft money". "Tenuous and attenuated funding does not create sustainable community capacity or confidence among community members that their children's needs will be reliably met." (Op. Cit. p.15)

Rationalizing resistance to needs based budgeting on the grounds that these are difficult times constitutes a further form of privileging the status quo. The relative poverty of aboriginal children and the circumstances of their communities would not be tolerated by the Canadian majority if it were happening to them. Given the comparative demographics of aboriginal and non-aboriginal communities, the urgency of an adequate response to the needs of aboriginal children is only likely to grow more pressing. Aboriginal communities have known economic hard times that make the present recession look like something akin to running short of spending money the day before payday. Delay is neither ethically nor fiscally prudent.

Disproportionality in aboriginal child welfare, on the other hand, signifies a breach of the oldest covenant of all – to do no harm to future generations by our actions in the present. We need to develop approaches that minimize if not eliminate class, cultural and gender bias. We also need to fight a true war on poverty rather than one against the poor. We also have to move beyond our traditional approaches to deal with disproportionality to one that attempts to address the issue from a broader systemic orientation. The approaches reviewed here suggest the threads of a new safety net. Weaving them together will take careful precision and ongoing collaborative evaluation. What it cannot take is more time.

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