Information and Discussion Regarding Métis Custom Adoption And the Case of BC Métis Federation Member SS

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Table of Contents

Métis Child SS Should Return to her Métis community

The Métis child formerly known as SS who was adopted according to Aboriginal custom and who was subsequently forcibly removed to a non-Aboriginal foster home in another province by the Ministry for Children and Family Development (MCFD) should be taken back by her Métis community. Returning her to her community would be in keeping with the Supreme law of Canada and the United Nations Declaration on the Rights of Indigenous Peoples, both of which protect Custom Adoption as an Aboriginal right.

The adoptive parents have been making an exhaustive effort in court fighting the injustices brought to their daughter because of Government interference and infringement in customary laws.

Following notice to the Province of British Columbia a letter was received from Minister Konroy stating that none of the ministers could discuss the issue while it was before the court, that the MCFD Director was sole guardian, and that the best interest of the child had been determined by the MCFD Director.

The available evidence which supports all of the statements made within, proves otherwise.

This case study demonstrated the challenges and examines international, national and Province of BC policies and legislation that support our positions that SS must be immediately returned to our Métis community and adoptive family.

BC Métis Federation strongly encourages members to read this case study carefully to examine the injustice that remains unresolved today.

International Law - United Nations Declaration on the Rights of Indigenous Peoples

Article 3

> Indigenous peoples have the right to self-determination.

Article 4

> Indigenous peoples, in exercising their right to self-determination, have the right to autonomy or self-government in matters relating to their internal and local affairs.

Article 7 (2)

> Indigenous peoples have the collective right to live in freedom, peace and security as distinct peoples and shall not be subjected to any act of genocide or any other act of violence, including forcibly removing children of the group to another group.

Article 8

(1) Indigenous peoples and individuals have the right not to be subjected to forced assimilation or destruction of their culture.
(2) States shall provide effective mechanisms for prevention of, and redress for;

(a) Any action which has the aim or effect of depriving them of their integrity as distinct peoples, or of their cultural values or ethnic identities;
(b) Any action which has the aim or effect of dispossessing them of their lands, territories or resources;
(c) Any form of forced population transfer which has the aim or effect of violating or undermining any of their rights;
(d) Any form of forced assimilation or integration

Article 11

1. Indigenous peoples have the right to practice and revitalize their cultural traditions and customs. This includes the right to maintain, protect, and develop the past, present and future manifestations of their cultures.
2. States shall provide redress through effective mechanisms, which may include restitution, developed in conjunction with indigenous peoples, with respect to their cultural, intellectual, religious and spiritual property taken without their free, prior and informed consent or in violation of their laws, traditions, and customs.

Article 12

1. Indigenous peoples have the right to manifest, practice, develop and teach their spiritual and religious traditions, customs and ceremonies;

Article 18

Indigenous peoples have the right to participate in decision-making in matters which would affect their rights, through representatives chosen by themselves in accordance with their own procedures, as well as to maintain and develop their own indigenous decision-making institutions.

Article 19

States shall consult and cooperate in good faith with the indigenous peoples concerned through their own representative institutions in order to obtain their free, prior and informed consent before adopting and implementing legislative or administrative measures that may affect them.

Article 33

Indigenous peoples have the right to determine their own identity or membership in accordance with their customs and traditions.

Article 34

> Indigenous peoples have the right to promote, develop, and maintain their institutional structures and their distinctive customs, spirituality, traditions, procedures, practices and, in the cases where they exist, juridical systems or customs, in accordance with international human rights standards.

Article 40

> Indigenous Peoples have the right to access to and prompt decision through just and fair procedures for the resolution of conflicts and disputes with States or other parties, as well as to effective remedies for all infringements of their individual and collective rights. Such a decision shall give due consideration to the customs, traditions, rules and legal systems of the indigenous peoples concerned and international human rights.

Article 43

> The rights recognized herein constitute the minimum standards for the survival, dignity and well-being of the indigenous peoples of the world.

Article 45

> Nothing in this Declaration may be construed as diminishing or extinguishing the rights indigenous peoples have now or may acquire in the future.

Would the action to return the child to her Métis community be legal? Yes

Constitution Act, 1982 section 35

(1) The existing aboriginal treaty rights of the aboriginal peoples of Canada are hereby recognized and affirmed.

(2) In this Act, "aboriginal peoples of Canada" includes the Indian, Inuit and Métis peoples of Canada.

The court processes over the past three years have shown us that there is little respect for the law concerning custom adoption and very little understanding of our customs by both the legal system and the MCFD Director. Preference is continually shown to the Director regardless of indisputable proof that an aboriginal custom adoption occurred prior to the custody claimed by the Director.

Continued litigation against a Machiavellian system with endless access to tax payer dollars will only lead to more frivolous lawsuits and wasted tax payer dollars leaving the young Métis child SS without permanence and in foster care far away from her adoptive family and Métis community.

The Director has proven that she will stop at nothing to protect MCFD's system that facilitates the removal of Aboriginal children to non-Aboriginal homes and hires legal teams to initiate narrow and innovative procedural statutory arguments to fight Aboriginal rights. Our new government has sworn to protect these rights but in contrast continues this litigation against one of our own families, believing only what they have been told by MCFD workers and refusing to meet with the adoptive family or our Métis community to discuss the situation.

The best interest of the child must be first and foremost and in the case of SS and many other Métis children, this is given short shrift by the director. Many Aboriginal children and families are at risk because of the actions of the MCFD who is spending millions fighting adoption placements while crying out publicly for more funding.

A recent **Freedom of Information Request** for information regarding how many tax payer dollars the provincial government had spent fighting the adoption of this Métis child was denied by the Provincial office of the Attorney General.

It is time to force public recognition through action. Action that is legal and upholds the supreme law of Canada.

Contrary to statements made by the Director of MCFD, she is not the sole guardian of SS. The child has been adopted by custom.

1998 CarswellBC 3025, [1998] 4 C.N.L.R. 7, 45 R.F.L (4th) 458

Para. 18 - The design of the Adoption Act makes it clear that Adoption results in the assumption of guardianship by the adoptive parent or parents.

Para. 19 – Coincident with the assumption of guardianship, there is a ceding of the existing relationship by anyone standing as a parent or guardian to the child prior to the adoption; at least to the extent that such a relationship cannot co-exist with the legal effect of an adoption under the Act.

Para. 22 - …the criteria for registration of an adoption by aboriginal custom set out in Tagornak, Re have been satisfied and that relationship created within the aboriginal community by this adoption is not inconsistent with, and in fact fundamentally conforms to the legal relationship created under the usual provisions of the Act.

~ J. Grist

The return of SS would be consistent with the laws of BC. This is an above board, public return of a Métis child to her Métis community. The move would be in keeping with the laws of BC, the United Nations Declaration on the Rights of Indigenous Peoples, and the Constitution of Canada.

The Métis child would be returned to her Métis community from non-Aboriginal foster care in Ontario where she has been held by the BC Ministry for Children and Families despite their knowledge that the child had been adopted by custom. The child would be returned to her community by the authority of the Supreme Law of Canada, *section 35* of the *Constitution of Canada Act, 1982.*

> *BC Supreme Court of Appeal, October 23, 2017*
>
> *Para. 19 – There is currently an order from the Supreme Court of the Northwest Territories recognizing the adoption. (Of the child SS)*

Although court recognition is not necessary for a custom adoption, the child's adoptive parents hold a legal court order of adoption which, according to the BC Supreme Court ruling on October 23, 2017, is an existing court order. The adoption nullifies the purported custody order previously held by the Director. The BC Director has no authority to maintain care and control of a child who has been adopted, particularly an Aboriginal child.

Regardless of this fact, there is no requirement for a court to officially recognize a custom adoption in order for it to be legally protected under the *Constitution Act, 1982.*

> *"No declaration by this court is required to permit internal self-regulation in accordance with aboriginal traditions…"*
>
> *~ Casimel v. Insurance Corp of British Columbia, para. 18, BC Court of Appeal, 1993*

Neither of the adoptive parents have ever been found unwilling or unable to care for the child. There has never been any concern of neglect or harm coming to the child while in their care. (In fact, the child's physicians warned that the child should never have been removed from the home of the Métis adoptive family - a home where she was happy and thriving.) Likewise, neither of the adoptive parents have ever given consent to the Director for custody of their child.

Why does the Director refuse to give up control of this Métis child?

The simple answer is that, although the Ministry for Children and Families (MCFD) will vehemently deny it, it is actively continuing with the 60's scoop and cultural genocide that has been practiced by governments for several decades. (This is confirmed by the office of Representative for Children and Youth in the article, "*Forum for Change")*. The Aboriginal department of the MCFD has put into place a very strategic system to allow this practice to continue operating quietly in the background while, on the surface, giving the appearance of working toward keeping Aboriginal children within their communities and families. (Some of these strategies are outlined later in this discussion). The ideology behind the 60's scoop is to take Aboriginal children (First Nations, Inuit, and Métis), remove them from their parents, make it near to impossible for the parents to get their children back, and then send the children to non-Aboriginal homes, claiming that there are no Aboriginal homes available. Over time this systematic removal and dismantling of families and communities has contributed to well documented effects of these traumas. The perpetuation of these actions of cultural genocide will persist unless there are real and substantial actions of resistance which uphold the laws of this country.

In the case of the Métis child SS, there is evidence that before the child was born the plan was already under way to take the child and send her to the same non-Aboriginal home of her previously adopted siblings outside of the province. The birth parents were not happy with this plan and made an alternate decision (a custom adoption) many months prior to the Director obtaining purported custody of the child. This decision was made in order to preserve the child's culture and relationship with her birth parents and the adoptive parents with whom she had lived since birth.

The Director did not acknowledge the decision of the birth parents and has refused to step aside, preferring instead to keep the child in foster care out of province where there is no opportunity for her to see either her birth parents or her adoptive parents and where she has had no contact with her Métis culture. (Any contact with her Métis culture will be scant at best and will not compare to the opportunity of growing up immersed in her cultural community.)

Supreme Court of Canada, R. v. Sparrow

The governments of Canada have a fiduciary relationship with Aboriginals under section 35 of the Constitution Act, 1982. Any denial of Aboriginal rights under section 35 must be justified, and Aboriginal rights must be given priority.

What does the BC Adoption Act say?

According to the *Adoption Act of British Columbia* section 24 (1) (a) and (2), the Director must step aside as Guardian when an adoption occurs. She has refused to do so, not because of protection concerns, but because she has refused to acknowledge the custom adoption. Instead she has used the court process to vehemently fight for the protection of her rights, not those of the child.

BC Adoption Act

Section 24 (1) (a)

…the director or the administrator becomes the sole guardian of the child until an adoption order is made.

Section 24 (2)

When the Director or Administrator becomes the sole personal guardian of a child under subsection (1), the Public Guardian and Trustee becomes the sole property guardian until, as set out in subsection (1) (a) to (c), the director or administrator, as the case may be ceases to be the sole personal guardian of the child.

Instead of stepping aside, the Director is persistently bringing court action to attempt to have the custom adoption order quashed and strikes down any attempts to have the custom adoption declared in British Columbia or through the court of any other province or territory.

Again, for clarification, the custom adoption does not require declaration in a court for it to be a legal adoption. Whether or not a court chooses to record the event does not determine the legality of the Aboriginal custom which is protected by the *Constitution Act, 1982 and UNDRIP*. The purpose of the courts is to record the adoption that has already occurred so that birth registrations can be appropriately changed for the benefit of the child. The court's purpose is not to approve or create the adoption which can only be created through Aboriginal custom.

"There has been no intention by either the British Columbia Legislature or Parliament to regulate or qualify the right of Aboriginal people to continue their adoption custom in accordance with their customs, traditions and practices which form an integral part of their culture."

~ Justice Lambert, 1993 British Columbia Court of Appeal

Representative for Children and Youth in BC

According to a December 2017 CBC Radio interview with Bernard Richard, (Representative for Children and Youth), since *Section 46* of the BC *Adoption Act* came into effect in 1996, which affirms that custom adoptions have the same effect in law as statutory adoptions, there have been no custom adoptions registered in BC. It is time for the MCFD to act within the spirit of the law that it claims to uphold. The United Nations Declaration on the Rights of Indigenous Peoples clearly speaks to this and MCFD websites claim to honor custom adoptions. Why then, according to B.C's Representative for Children and

Youth, has there not been a single custom adoption registered in BC in 22 years, that is, until the registration of the custom adoption of SS which MCFD continues to fight?

> *BC Adoption Act Section 46*
>
> *On application, the court may recognize that an adoption of a person effected by the custom of an Indian band or aboriginal community has the effect of an adoption under this Act.*

What is a Custom Adoption?

A custom adoption is a voluntary verbal agreement between two families who are First Nations, Métis, or Inuit which allows for preservation of parental, community, and cultural ties. The agreement allows for a child or children to be raised with another parent or set of parents who the child knows and who is of the same culture. The relationship with the child's birth parents is preserved, not severed. It is a protected custom and tradition that has gone on for centuries before Canada existed in its present form.

This custom is protected under the *Constitution of Canada Act, 1982* and allowed for under BC Provincial law in the *Adoption Act section 46.* It is important to note that Custom adoption is legal and protected whether or not it is officially recorded as such in a court. The adoption is complete, according to custom, when the agreement is made between the families involved. This is according to Aboriginal custom which is protected law and has never been abrogated. The MCFD Director is not now, nor has she ever been consulted prior to the exercise of an Aboriginal custom. She is simply a creation of statute and holds no authority in aboriginal customs and traditions.

The Director was, however, informed of the adoption as soon as it occurred, several months prior to the purported custody order to the Director. The comment made by the Director at that time was that they could willfully ignore it and the family was instead advised to hire a lawyer.

> *BC Supreme Court of Appeal Delgamuukw v. British Columbia, 1993*
>
> *"The right to practice these traditions has not been extinguished."*
>
> *~ Justice Hutcheon*

November 2016 Report by Grand Chief Ed John "From Root Causes to Root Solutions"

In the November 2016 final report by Grand Chief Ed John on Indigenous Child Welfare in BC, "*Connections and Reunification-From Root Causes to Root Solutions"*
(a report that of which MCFD promised to fully implement all recommendations), Grand Chief Ed John:

- Directly mentioned the case involving three-year-old Métis child SS and the concerns expressed by the Indigenous community and the Representative for Children and Youth. (P. 134)
- states that parents and communities are not receiving the necessary information that the custom adoption process is an option. (This action is mandated for Social workers in BC in their *Practice Standard 31* but was not followed in the case of Métis child SS)
- In the article at p. 134 Grand Chief Ed John quotes the Representative for Children and Youth in the Final Report - "*A Forum for Change*" at page 10 where the Representative states, "*MCFD, while holding private all information about children, is seen to be* ***continuing a practice of removal and reassignment of children into a non-Aboriginal family system****, thus raising significant alarm for Aboriginal families and leaders*."
- He comments that MCFD staff are not adequately educated on Custom Adoption and do not understand its cultural and legal nuances and states that this requires urgent attention.
- He states that, "Custom adoptions are legally recognized. Therefore, going to BC Supreme Court should not be an additional step Indigenous families looking to adopt feel they need to take, and yet so many described the reasons they chose to go to court. Going to court is onerous, costly and time consuming for all involved. Implementing a formal mechanism where custom adoptions could be registered should be considered in BC to address the perceived need to go to court."
- On page 135 of his report he says, "A custom adoption registrar recognizes, and provides a record of, custom adoptions that have occurred in Indigenous communities. Both Nunavut and the Northwest Territories have a system for recording custom adoptions, which appoints a custom adoption commissioner that is responsible for maintaining a record for the community or region in which they reside. In BC, implementing a registry of custom adoptions would help to facilitate the recognition of custom adoptions that have occurred, and help to simplify the process of allocating post adoption assistance to custom adoptive parents. (The family of SS have not asked for any post adoption assistance)
- The article suggests that once a child is in the care of the Director, a custom adoption agreement cannot occur. (In the case of SS, there is sufficient evidence including an expert report to show that the custom agreement had taken place prior to the Director obtaining her purported Continuing Custody Order (CCO) but that counsel misrepresented the situation to the court by neglecting to mention this important fact before the presiding justice, in order to fraudulently obtain a custody order, thus coloring all future decisions by the court. The Director removed a legally adopted child by refusing to acknowledge her custom adoption when both the birth parents and the adoptive parents came to her with this information, months before the sole guardianship was granted to the Director.)
- Grand Chief Ed John states that Custom adoptions are allowed under *s. 46* of the *BC Adoption Act*, and have been recognized by the courts in cases, such as in the *Casimel* case from the Supreme Court of Canada. (The *Casimel* case is cited toward the end of this discussion with the decision on Custom Adoption by Justice Lambert along with the unanimous support of the panel of judges.)

What happened in court?

The sad thing is this custom adoption never needed to be before the courts, other than to declare it for the sake of the child's birth registration, if the family chose to do so. It was, in fact, the mandate of the social workers to advise the birth parents of the legislative term "custom adoption" and its legal force. They neglected to perform this duty. (Custom adoption is a legislative term which is not used by Aboriginal groups to name our custom. The Michif word used for this Métis cultural tradition is ka oopkitmashook'.) The families did not know that there was a legislative term that was equivalent in law to ka oopkitmashook' because the Director did not inform them as was her mandate. This Métis adoption agreement should have been immediately respected by the workers who instead chose to fight the adoption because they had already promised the child to a non-Aboriginal family.

After several court appearances in BC that were dismissed on procedural grounds that did not consider the child's best interest or her cultural heritage, and after many meetings with social workers and attempted meetings with government representatives to attempt to resolve the issue, the adoptive family moved to Yellowknife where they learned of the simplified legislation for respecting and registering custom adoptions in the Territories. The adoptive family and birth parents were quick to register their custom adoption of their daughter SS and hoped for her swift return. This was over a year ago. Still the Director has refused the return of the child from out of province and fights now in Yellowknife to infringe upon this adoption recognition by the courts in an effort to quash the recording of the adoption, so that the Director can instead place the child for adoption in a non-Aboriginal family. Again, claiming only issues of procedure and jurisdiction and still wrongfully claiming custody of a child who has already been adopted. Whether or not the Director quashes the order which recognizes the adoption in Yellowknife does not affect the validity of the custom adoption that occurred many months prior to the Director fraudulently claiming custody of the child.

> *R.A. v. S.K. And D.K. 2017 NUCJ5*
>
> *Para. 59 – Over time the case law regarding custom adoptions developed so that while Courts provided declaratory relief in recognizing a custom adoption, the nature and legal consequences of an aboriginal custom adoption were not to be determined by reference to the legislation pertaining to adoptions but rather, to Aboriginal custom.*

Evidence would support suspicions that there has been pressure applied to the Adoption Commissioner in Yellowknife who recorded the adoption. This is not the first time this behavior has occurred. On at least two other occasions during the court cases involving the child SS, there is evidence that the Director has coerced altering of evidence and has also contracted someone to fabricate an "expert" report designed to bolster her case which was not based on evidence but simply on inaccurate and bias hearsay from the very social workers who were behind the move. This absurd and desperate behavior by the Director shows to

what lengths this department is willing to go in order to protect the regime that has been created within the MCFD, instead of allowing an innocent Métis child to remain in the only home she had ever known.

What is going on behind closed doors? (What MCFD doesn't want you to know)

One might wonder if the BC MCFD has so much money that it can afford to fight a good, healthy adoption placement for a Métis child in a Métis home within BC, where the child was healthy, thriving and bonded. Are there not enough Aboriginal children who need homes? Are there too many Aboriginal families who can adopt these children? It would appear that the real reason, as stated by the Representative for Children and Youth at page 10 in "*Forum for Change*," is that the MCFD is still operating on the mandate of the 60's scoop, whereby they are 'providing' Aboriginal children to non-Aboriginal families. They are in fact, taking children from Aboriginal homes, manipulating the system through Exceptions Committees that meet monthly and through contracted Métis agencies that do not speak for our community, and using them to systematically traffic Aboriginal children for the purposes of fulfilling the parental needs of non-Aboriginal parents.

Designated Indigenous agencies are paid under contract (protocol agreements and Memorandums of Understanding) to approve these moves and are instructed "not to fetter the decision of the Director." This gives the public appearance that the Métis people have approved the move when actually it is certain contracted agencies and other communities with whom we have no affiliation who are being paid to sign away our children. In this way our communities are left out of the decision-making process which does not respect the spirit of the law. Métis children are particularly vulnerable as they can often "pass" for non-Aboriginal children so are more highly sought after by non-aboriginal families. This contributes to the cultural genocide of our communities which is clearly forbidden in International law. This also helps to explain why the public is often confused by one Métis group supporting the move while the other opposes it. The one who supports it is under contract with the government and the one who opposes it is speaking for the community. Métis groups who speak for the government may "think" they are acting on what is best for the child based solely on information given to them by the very workers who have been found to have frequently declared false witness to achieve their goal.

MCFD Policy

You will hear the argument from the MCFD director that it is their "policy" to place children with siblings. While in theory this is a good idea, particularly for siblings who had grown up together, a "policy" cannot take the place of sound judgment. This "policy" in the case of SS did not consider the best interest of the child. Instead of considering the warnings of the child's doctors and other professionals and extensive research on attachment disorders, the Director went ahead with her predetermined plan to send the child across the country to a non-Aboriginal family who she had never met and instead of heeding the warnings of long term trauma to the child, described the process as "magical".

(There is evidence that there was a previous personal relationship with the Adoption Team Leader and the foster family in Ontario.)

It is the determination of the BC Métis Federation that placement with Métis siblings who have no idea that they are Métis and are being raised in a non-Aboriginal home without daily Métis cultural influence is not in any way preserving the child's culture.

LM and RB, on several occasions attempted to initiate a relationship with the siblings in Ontario for the sake of their daughter but were denied the opportunity by MCFD social workers. It was the sincere belief of the adoptive parents that the best interest of the child was to know her siblings while maintaining her bonded relationships she had established since birth, including those of her birth parents and Métis community.

There was no need to move and traumatize this child because of a "policy" that did not balance with the best interest of the child.

> *BC Adoption Act*
>
> *Section 29 (3) – Who may apply to adopt a child?*
>
> *"Each applicant must be a resident of British Columbia."*

There is an order of Adoption of SS

There is now an existing adoption order from the Supreme Court of the Northwest Territories, where the custom adoption of SS was recognized and registered, stating that the adoptive parents, LM and RB, have adopted the child formerly known as SS as of October 2013 according to Aboriginal custom.

This order did not create the adoption. The order simply recorded the adoption that had already occurred in British Columbia, according to Aboriginal custom, and rightly registered it, as should have occurred in BC, so that the child's birth registrations could be properly changed to accurately reflect the adoption.

Take a close look at the dates. There had not even been a court order for Interim custody for the Director until January 2014 and the purported Continuing Custody (sole custody) of the Director was not obtained until the summer of 2015, several months after the Custom Adoption had taken place. Therefore, any claim of sole custody by the Director is mischaracterized as the child had been already adopted and, in any event, the Director must step aside when an adoption occurs.

The only reason the Director was able to obtain an order for custody was because her counsel concealed information from the court regarding the custom adoption agreement, and actively misrepresented the wishes of the birth parents. Court transcripts from that hearing prove this to be the case. There was no written consent from either of the birth parents to give the Director custody of their child who had already been adopted by custom.

According to the child's doctors and all who know her, there are no protection concerns for this child with her adoptive family. On the contrary, there is attachment, love, and proven exceptional care.

The adoptive family is concerned and has tried for the past year to convince the Director that a smooth and careful transition back to them would be in the child's best interest and that they would work in the best interest of the child to facilitate that. But there has been no cooperation from the Director. Instead the Director has refused any meetings with the family and while she states publicly that she is doing all she can to respect Métis culture and protect our children, she refuses to acknowledge the recommendations of Grand Chief Ed John regarding Custom Adoption.

The Métis adoptive family has, on several occasions, offered to and is committed to establishing and maintaining a relationship with the child's siblings who were incorrectly placed in a non-Métis family and will do so as soon as possible and as soon as the child is settled again with her Métis community and when all litigation has ceased.

Adoption and Guardianship go hand in hand

According to Justice Grist of the BC Supreme Court, "Along with adoption is the assumption of guardianship". But the BC Ministry for Children and Families (MCFD) has acted outside of the law by standing in the way of this adoption and has used tax payer money to finance lengthy court battles to try to quash a legal and protected adoption; all the while keeping the child away from her loving adoptive parents and community. Could it be that the MCFD is worried that if this adoption is recorded in the courts that the door would be open to many more? What would that do to their system that has been working like a "well oiled machine" for so many years with no accountability? What is the real motive for fighting this placement with such vigorous intent?

What about Foster Parents?

And what about foster parents adopting? Many do, but in this case, the Director used the fact that the Métis adoptive family was initially fostering the child as a tool to deny the family standing in BC Court. The fact that the adoptive family was initially fostering the child has no impact on the rights of the two families to exercise their protected Métis tradition of adoption. But once again the MCFD Director found a loophole to use the court system to infringe on the rights of the families and the child. They managed to successfully deflect from the real issue; that of the best interest of the child and the right of the birth parents to place their child for custom adoption before the Director had obtained a custody order. Instead the courts were debating an issue of whether a foster parent had standing to bring a court application. Thus, in case after case the applications by the parents were thrown out of court with no regard to the Custom Adoption agreement that had already occurred.

Quoted by the Vancouver Sun on July 4, 2015, Executive Director of Guardianship, Adoption, and Permanency, Anne Clayton, stated:

"The ministry could streamline the process first for foster parents who want to adopt, because they already have a relationship with the ministry. Also, whether the ministry officials like it or not, the fact that you are Métis should carry a lot of weight in decisions re placement."

Instead, using narrow procedural arguments, the MCFD again plans to try to overturn recognition of the adoption of this Métis child through a Judicial Review in the Northwest Territories, so that they can place a child who is already adopted, for adoption with a non-Aboriginal family out of province. Although they have many convoluted explanations for their behavior it does not excuse the outright denial and infringement of an adoption that the Director was aware had already taken place, was and remains protected by law, and which was exercised when the birth parents were well within their right to act. This is not reconciliation. This is the 60's scoop defined.

Whether or not the Director is successful in quashing the recognition of the adoption in the NWT does not and cannot quash the custom adoption itself which has already occurred and is a protected legal right. This adoption does not require a court declaration to make it legal. Therefore, the litigation by the Director against the family is a frivolous attempt to keep them from their child and is wasting tax dollars and valuable court time.

Does the Government have genuine intention of following *Section 35 of the Constitution Act, 1982?*

A recent BC Public Service job posting for legal counsel Level 3 stated the following, "Aboriginal law in Canada has developed at a considerable pace since the enactment of the Constitution Act, 1982 and its inclusion of section 35, which constitutionally recognizes and affirms the existing Aboriginal and treaty rights of the Aboriginal Peoples of Canada."

The job posting goes on to explain, "You will be expected to develop an expertise in Aboriginal law, to keep current and identify trends in the law and 'innovative responses' to new and evolving claims against the Crown."

The Director continues to spend tax payer dollars fighting custom adoptions while the system is overloaded with Aboriginal children in care. Government counsel skillfully uses these 'innovative responses' to manipulate the courts and create such narrow procedural arguments that the full scope of the truth is never adjudicated by the courts. They subsequently make sure that their actions are covered by a

shroud of secrecy by immediately placing publication bans and sealing orders on every action, claiming it is for the benefit of the child.

This money could be better used to help children and families in our province. It begs the question, does MCFD really have any desire to reduce the number of children in their care or is there another motive in play? If one were to witness the counsel and clients of the Public Guardian and Trustee (PGT) and the Director laughing together after court appearances and during court intermissions it would create the impression that this is more of a game to be won than a group of people coming together to seriously consider what is in the best interest of a child. The Public Guardian and Trustee claims to be Guardian ad litem for the child but claims it does not have the necessary staff to do independent research on the case. Neither has he met the child or families involved. The PGT has simply parroted the ideologies and claims of the Director while claiming to act on behalf of the child. He has not, in the case of SS, acted in the best interest of the child.

What is the Best Interest of the Child?

The *BC Adoption Act and the Child Family and Community Services Act (CFCSA)* both have a list of items that must be considered in the child's best interest before determining placement of the child.

At the heart of adoption is trust that the worker providing adoption services will act in the child's best interests, for the child's benefit, and with the child's safety and well-being as paramount.

In the case of SS, there is evidence that the MCFD had already determined a placement before the child was born and had already accepted an application for adoption from a non-Aboriginal family before even obtaining an Interim custody order for the child. After the child had lived for three years and thoroughly bonded to her Métis adoptive family since birth, no change was made in the Director's plan and no balanced approach to best interest was considered.

The adoption guardianship worker for the child had not even met the child or read her file before announcing her intention to place her with the non-Aboriginal family out of province.

Below is a list of best interest factors that must be considered, given a balanced approach, with no one item having more weight than another. **All** the factors pointed to the child remaining with her Métis adoptive family. The MCFD Director has stated falsely that she has put the best interest of the child first.

BC Adoption Act section 3 (1)

All relevant factors must be considered in determining the child's best interests, including for example:

a) The child's safety
b) The child's physical and emotional needs and level of development
c) The importance of continuity in the child's care
d) The importance to the child's development of having a positive relationship with a parent and a secure place as a member of a family
e) The quality of the relationship the child has with a parent or other individual and the effect of maintaining that relationship
f) The child's cultural, racial, linguistic and religious heritage
g) The child's views
h) The effect on the child if there is a delay in making a decision

(2) If the child is an aboriginal child, the importance of preserving the child's cultural identity must be considered in determining the child's best interest.

What is the motivation?

The adoptive parents of SS have fought for two and a half years with the full support of the birth parents and have spent more than $800,000 dollars in court fighting what amounts to procedural arguments brought by the director. Did the adoptive parents do this out of some sort of selfish ambition? Certainly, if their motive had been to simply add another child to their family there would be easier and more inexpensive ways to accomplish this. No, they acted selflessly to protect an innocent Métis child and to preserve a family through an adoption that had already occurred according to Custom; an adoption which is supposed to be protected by law in Canada. The family acted out of love and great concern for their daughter. This adoption did not require a court hearing to be legal. The court hearings were made necessary because of the resistance of the Director to acknowledge the custom adoption when she was first told of the placement decision when it occurred. The Director, not only did not fulfill her mandated duty to inform the parents of Practice Standard 31, but actively infringed on the rights of these individuals to exercise their protected custom. The families have used every avenue possible to bring peaceful resolution, to work within the system and to contact the parties involved, including many members of the legislature and members of parliament.

Members of parliament refuse to get involved, stating it is a provincial matter. (It is a Federal matter when it concerns the *Constitution Act, 1982*) The members of the legislature, our elected representatives, refuse to get involved because in their words, "it is before the courts."

But it is the provincial government who is bringing it before the courts. The elected representatives appear to be using this phrase as an excuse to avoid meeting with the adoptive parents and to avoid a

possible peaceful resolution outside of the courts. Members of the Green Party have been more responsive.

Taking back the child is an action of last resort by the Métis community to protect the child who is languishing unnecessarily in foster care and to provide her with permanence and to bring attention to the problems within the BC justice system and the MCFD in their recognition of custom adoptions.

Does this need to be in the courts?

No. Nor should it be. No provincial law has the right to overturn a law that is protected by the *Constitution of Canada*. (The Supreme Law of Canada) (See Section 52 of the *Constitution Act, 1982*)

Again, it is not necessary for a court to register a custom adoption for it to be a valid adoption protected and enforceable by law. The adoption occurs when the agreement between the families takes place. Social workers removed this child from her adoptive home where she had lived and bonded since birth, causing unnecessary trauma to the child, for no reason other than they felt it unnecessary to acknowledge the adoption by custom and were pressing forward with their own plan to place the child for adoption elsewhere. The social workers did not follow their mandated balanced approach and consider the needs of the child. In fact, evidence exists that the adoption placement by social workers was determined prior to the birth of the child and further evidence exists that the social worker ultimately involved in decision making had not even met the child, the family, or read the child's file before making her final determination.

Who is the Director of Child and Family Services?

According to the *Child, Family and Community Services Act, (CFCSA), at section 92* (1) the Director is permitted to name "any person" to act as Director at any time. Therefore, when dealing with ministry workers, regardless of their education or experience, it is common to find that they all consider themselves to be acting as the director and therefore have more authority than the Supreme Court or medical professionals etc. In this way, it is easy for these workers to in one instance claim ultimate authority and in another to escape responsibility, claiming that someone "above their pay grade" makes all the decisions. This is a situation that requires attention.

In court hearings reference will be made to "the director" who often has only periphery knowledge of the child and would not know the child if she was passed on the street.

Often the public is misled when the media announces that the Director of Child Welfare has decided in the best interest of the child. The person acting as Director is often a young social worker with little experience and is being told what to do by an older social worker who has been directly and actively engaged in the 60's scoop for most of his or her career and may or may not know the child.

In the case of SS, no social worker even entered the home in which she lived for a full year and much of the required paper work was incomplete or omitted entirely and not updated as required. There was only one annual home inspection completed in three years.

The Director is not Aboriginal. What role does she have in a custom adoption and how is it different than a private adoption?

In the event of a Custom Adoption, the statutory Director is informed but not involved and notification or approval prior to the adoption is not required. Why would it be? These traditional adoptions have been occurring for millennia. There was not then nor has there ever been a statutory creature notified prior to the exercise of an Aboriginal traditional custom. This is in contrast to a statutory private adoption which requires notification to the Director. The Director has overstepped her statutory authority by demanding that she required notification prior to the custom adoption of SS which took place many months before the purported custody by the Director. The traditional adoption agreement had been made separate and apart from the statutory authority of the Director; according to Aboriginal custom.

The Statutory Director has no authority in Aboriginal custom adoptions.

What happened in the Northwest Territories?

The registry of the adoption which took place in the Supreme Court of the Northwest Territories, where the family has lived for the past year and a half, was simply a recognition and recording of the custom adoption that had occurred in BC. The Director was informed that this had occurred but, again, it was not necessary to seek her prior approval for an Aboriginal custom adoption that had already occurred for it to be legally and properly recorded for the sake of the child's permanent birth record.

The family had informed the Director of their custom adoption while in BC and had attempted to have their custom adoption recorded in BC, with notification to the Director, but the Director had infringed upon their right to have it heard before any court in British Columbia.

> *BC Adoption Act - Section 47*
>
> *An adoption that has, under the law of another province or of a jurisdiction outside Canada, substantially the same effect in that other jurisdiction as an adoption under this Act has the same effect in British Columbia as an adoption under this Act.*

After moving to Yellowknife, the adoptive family learned of the *Aboriginal Custom Adoption Recognition Act* that allows for the simple recognition and recording of custom adoptions, so they can be

properly registered and recognized as an order of the Supreme Court so that birth registrations can be appropriately changed in any jurisdiction across Canada.

What is the role of the court?

The role of the court is to register custom adoptions that have occurred for the benefit of the child so that birth registrations can be altered to reflect the child's parentage. It is not the role of the court to determine whether a custom adoption has occurred. **Aboriginal custom dictates the occurrence of the adoption.** The role of the court is simply to register the adoption that has already occurred according to Aboriginal Custom.

Again, Custom Adoptions do not involve the Director. The statutory Director has no role in Aboriginal Custom. Therefore, no authority to permit or deny the adoptions. These traditional adoptions were taking place since long before the creation of the Director as a statutory creature and the Constitution recognizes that these traditional adoptions are a protected right. Nevertheless, the Director had been informed of this adoption on multiple occasions prior to the Continuing Custody hearing and instead of honoring the adoption, chose to leave this child in limbo in foster care with a non-Aboriginal family and fight the protected adoption agreement in court.

> *Casimel v. Insurance Corp of British Columbia*
>
> *"No declaration by this court is required to permit internal self-regulation in accordance with aboriginal traditions, if the people affected are in agreement."*
>
> *~ Justice Macfarlane and Justice Taggart*

What is Adoption Practice Standard 31 and how did it impact the case of SS?

The adoption of SS is a legal adoption and became enforceable on the day that the agreement was made between the two families. Since the term custom adoption is not used in Aboriginal circles to define this transfer of guardianship, the families did not know the legislative term for the adoption and the social workers neglected to exercise their mandate to explain the legislative term and rights of custom adoption under *section 31 of the Practice Standards for Adoption.*

The Director then willfully ignored the instructions from the birth parents and obtained a purported Custody Order in which the facts were mischaracterized by counsel and no mention was made to the presiding judge of the existing Métis adoption agreement. A transcript of the court hearing evidences this fact.

Practice Standards for Adoption - Standard 31

When the birth parent(s) of an Aboriginal child are voluntarily planning adoption under the Adoption Act, in addition to providing information on adoption and its alternatives as described in Practice Standard 30, ***you must****:*

- *inform the birth parent(s) that custom adoption may be recognized by the court as having the same effect as an adoption under the Adoption Act."*

At no time was the information in Practice Standard 31 brought forward by any one of the workers involved with SS.

What is the Supreme Law of Canada?

Constitution Act, 1982
Section 52

The Constitution of Canada is the supreme law of Canada, and any law that is inconsistent with the provisions of the Constitution is, to the extent of the inconsistency, of no force or effect.

The Constitution is the Supreme Law of Canada and **any law** that comes into conflict with it is of **no force or effect.**

Therefore, the adoptive parents of SS would like not to be attending any more frivolous court cases or wasting any more money or occupying valuable court time in defending an adoption created by custom and protected by law. The MCFD Director's goal of this Judicial review in the Northwest Territories, is to overturn the registration of a custom adoption. But at its pith, the goal is to quash the custom adoption agreement itself, which cannot be accomplished as it is protected by the *Constitution Act, 1982* and has never been abrogated or extinguished. This custom agreement is protected by law whether it is registered in a court. This adoption agreement itself cannot be quashed by a court. The two Métis families agree. The adoption has already taken place according to protected custom. We recommend that the government of BC not waste more tax dollars fighting placement of a Métis child in a good Métis home and that they instead choose to honor the Supreme Law of Canada and the *BC Adoption Act section 46 and 47.* In fact, the adoptive family finds no reason to continue fighting expensive court battles just to have their daughter's adoption registration recorded. If the Province refuses to step up and do the right thing and

recognize the adoption for the sake of the child's birth registration, the adoption according to custom still stands. No more wasted court time is necessary. It is the sincere hope of the Federation that the government will see fit to maintain the child's adoption registration for the sake of the child.

Tactics used by some MCFD staff

There is strong evidence that not only have some MCFD staff taken it upon themselves to act as trolls, using pseudonyms on facebook. They have also entered chat lines on the BC Métis Federation website and on the internet to do their best to spread malicious gossip and made up facts concerning the case. They have also spent considerable time and effort looking for facebook information to discredit the families involved. Are some of these social workers not busy enough? Are they bored? Perhaps they have every child so well looked after that they can take time to surf the web and manufacture false impressions to bolster their case. And, if they are telling the truth, why is there a need to manufacture stories and "alternative facts?"

(Sincere apologies to the workers who tirelessly and with integrity care for children and go to work each day working for the betterment of children and families. Unfortunately, we have been told that many of these workers either leave or are burned out because of what they have described as a "toxic" environment within the MCFD.)

In case there is any doubt created by these trolls, the Métis heritage of the adoptive family and the child and birth parents has been verified by Métis experts across Canada and the BC Métis Federation. Any errors in paper work or record keeping by the MCFD are no reflection on the cultural heritage of these individuals.

Children are precious and sacred gifts

Children are a precious gift given by the Creator and are not to be used as pawns in games of power. This child deserves the right to grow up preserving her relationship with her birth parents and Métis community. She deserves to grow up with her culture so firmly a part of who she is that she never has to doubt or wonder. She can only learn this through daily exposure to these values and through daily learning from adult caregivers who understand and share her culture. We are saddened that her sisters did not have the same chance. We do not hold their adoptive parents accountable for that. They are doing the best they can in a difficult circumstance. But we do hold the Ontario department of child welfare accountable for not placing the siblings in a Métis home. It is unacceptable that the BC Minister for Children and Families would follow this practice in this age of reconciliation when there was an adoptive Métis home in BC that had raised the child since birth, had already adopted the child through custom, had been specifically chosen by her birth parents, and where the child's doctors had recommended that she remain for her long term well-being. This family had also made it a priority to develop a relationship with the child's siblings and continue to hold this as a priority.

Although it is not necessary for a custom adoption, this Métis adoptive family had also completed the necessary MCFD home studies for both Adoption and Foster care placement and had completed all the necessary classes and other paper work required by MCFD.

It's time to stop the litigation

The adoptive family and birth family have asked to be left in peace to focus on raising their daughter and on helping her adjust without further trauma as they work with her to try to limit the damage that has already been caused by her unnecessary and illegal removal. They ask also that their parents, children, and extended family and community members would be left at peace without harassment or government interference. It is recommended that the Government of BC **cease all litigation** regarding this adoption and take a sober look at restructuring the MCFD in BC, so this never happens again. The recommendations of Grand Chief Ed John regarding custom adoption could be easily and quickly implemented.

To underscore the unanimous decision in *R. v. Sparrow* in the Supreme Court of Canada, "any denial of Aboriginal rights under section 35 must be justified, and Aboriginal rights must be given priority."

What can be done?

This entire situation was avoidable had MCFD followed the law and adhered to their standards of practice.

There is evidence available that social workers have acted outside of their legislated authority, have neglected to follow proper procedures, and have colluded to commit perjury in the case of this child and possibly many others. Therefore, going forward it is suggested that:

- The Exceptions Committee which meets monthly and allows aboriginal children to be systematically moved to non-Aboriginal homes with inadequate and unenforceable cultural plans needs to be immediately restructured to consist of Aboriginal members only who are not under contract by the ministry. (Presently the committee consists of three MCFD Directors and two Aboriginal members who are under contract with the director not to "fetter the decision of the director".)

- Protocol agreements with Aboriginal agencies should be amended to remove any obligation to capitulate to the statutory director regarding their children and families.

- Social workers who remain in the employ of the province who were involved in the scoop of Aboriginal children should be offered retirement or mandatory re-educating, making way for new and evolved ethical and unprejudiced practices within the system.

- A Custom Adoption Registry needs to be immediately established in line with the *Constitution of Canada Act, 1982*, so that Custom Adoptions can be properly and simply registered, without the perceived need for court appearances, for the benefit of the children involved.

- First Nation, Métis, and Inuit communities must be given first priority and authority to determine placement for children within their communities.

- To bring accountability to the MCFD, The Representative for Children and Youth must be given the authority to intervene in situations which cause concern to the office.

- All social workers within the MCFD must be required to be registered and accountable to the BC College of Social Workers.

- All workers must be required to take a course in ethics and responsibility and the importance of truthful swearing of oaths in a court proceeding to prevent purposeful obstruction of justice.

These are but a few recommended changes. Grand Chief Ed John has done a thorough investigation which the government has accepted and promised to change which includes some of these suggestions.

In the meantime, it is recommended that anyone who is involved with MCFD social workers in the Province of BC not be intimidated but make careful recordings of phone calls, meetings, and conversations of which they are involved and keep emails and careful notes regarding dates and events.

Can we count on our elected representatives?

The elected representatives have an obligation to lead and correct the public servants within their ministries and to serve the constituents by whom they were elected. To ignore and allow these actions to continue makes them complicit. We join with the BC Government and all Indigenous groups and other concerned citizens within the province of BC to bring an end to corruption and to protect the children and families of this province. We begin with SS.

BC Court of Appeal, Casimel, 1993

"I think that the conclusion which should be drawn from the decision of the court…is that none of the five judges decided that aboriginal rights of social self-regulation had been extinguished…Of course, if the aboriginal right had not been extinguished before 1982, it is now recognized, affirmed and guaranteed by s. 35 of the Constitution Act, 1982, not in its regulated form but in its full vigor"

"I concluded that there is a well established body of authority in Canada for the proposition that the status conferred by aboriginal custom adoption will be recognized by the courts for the purposes of application of the principles of the common law and the provisions of statute law to the persons whose status is established by the customary adoption."

Casimel continued…

" Adoption was not known at common law. It is a creation of statute. The first Adoption Act in British Columbia was passed in 1920 as S.B.C., 1920 c.2. There is nothing in that Act or in any amendment to that Act or in the present Adoption Act, R.S.B.C, 1979, c.4, as amended, which could be thought to have qualified or regulated either before or after the constitutional amendment of 1982, the right of aboriginal people to continue their custom of adoption in accordance with their customs, traditions, and practices which form an integral part of their distinctive culture.

"The right to practice customary law still exists and is protected by section 35 of the Constitution Act, 1982."

"…customary laws of self-government and self-regulation have continued to the present day and are now constitutionally protected by s.35 of the Constitution Act, 1982."

~ Justice Lambert

What does the MCFD Adoption Policy Manual state?

In their own manual, MCFD states:

- when an adoption order is granted, a legal parent-child relationship is established between the child and the adoptive parents
- The birth parent or guardian of the child ceases to have any legal rights or responsibilities with respect to the child.

There is no legal right for the Director to maintain care and control of adopted Métis child SS. She no longer has the right to legal custody.

Summary

A voluntary custom adoption agreement for SS occurred prior to the purported sole custody of the Director. There is sufficient evidence to support this fact. The social workers were negligent in their duties to inform the families of their legal rights to custom adoption (*Adoption Standards of Practice standard 31*) and instead actively infringed upon this protected adoption. (*Constitution of Canada Act, 1982, United Nations Declaration on the Rights of Indigenous Peoples)*

Petitions to strike the Custom Adoption in BC were not decided on facts that considered Aboriginal culture and tradition and there was a basic misunderstanding by the court of the events as they occurred. The court did not allow for anyone from the Federation to speak in order to explain our culture and traditions. Incorrect assumptions were made and blatant disregard to the Constitution was evident which has contributed to the unjust trauma brought to the child.

The director, even today, continues to use tax payer dollars to fight this legal adoption of a Métis child into a Métis home where she was raised from birth to age three and who her birth parents had voluntarily chosen for her when it was their legal right to do so.

There is sufficient evidence that the Director and her staff have acted unethically; misrepresenting under oath, misleading the court system, infringing on Constitutional rights, ignoring the warnings of the child's doctors, incorrectly completing and filing paper work, manufacturing fictional reports and presenting as fact, spreading rumors of malicious intent over the internet, removing the child from a home where she was thriving against the wishes of her Métis community, and using exceptions committees and other means of coercion and collusion to maintain the ideologies and practices of the 60's scoop.

All this evidence exists but because of the narrow procedural arguments brought forward by the director, none of the evidence is before the courts. This amounts to grave misrepresentation by the director and a manipulation of the justice system where the welfare of a child is at stake. **There is a significant breach of public trust within this office.**

The Director has refused to meet with the families involved to discuss the situation and has refused to allow them to visit their child. Instead, she has pressed ahead with petitions against the family to try to dissolve an adoption that cannot be quashed and is protected by the Supreme Law of Canada.

The Director provides no reason for this other than to use the term so often fallen back on but so rarely implemented, "the best interest of the child."

Once again, there are no protection concerns with the adoptive family who have no criminal record and are upstanding and respected citizens within the community. The family has proven their quality care for their daughter over the first three years of her life.

The Director has refused to step aside, as mandated by law, when an adoption has occurred.

A custom adoption is a legal and binding agreement between two families. This adoption does not require a court to make it legal. It is legal as soon as it occurs. The court system is in place to give recognition to the adoption for the sake of changing the birth registration for the child. This agreement cannot be overturned and is protected by law.

Would the return of the child be lawful? Yes

It is absolutely within the law and appropriate for the child to be immediately returned to her Métis community without further government interference. It is not lawful for the Director to maintain control of a child who has been legally adopted as stated in the BC Adoption Act section 24 (1)(a) and (2).

Was the Custom Adoption order obtained fraudulently? No

The adoption agreement took place voluntarily between the two Métis families as is required by Aboriginal custom. Evidence reveals that this agreement took place many months prior to purported custody by the Director and that she was notified of this.

Though not being familiar with the legislative term, custom adoption, the adoptive and the birth families have been consistent in their testimony that they had made this agreement.

The Director was negligent by not exercising *Practice Standard 31* which demands that they inform the families of their legal rights determined through custom adoption.

Instead, the Director hid this terminology and associated rights and then also did not reveal the adoption agreement to the provincial court. This led to the Director claiming ultimate control over the child when, if fact, the child had already been adopted. This colored the judgments of every subsequent court case.

Several court petitions were brought by lawyers for the families who did not understand the traditional adoption that the families attempted to convey to them. This underlines a need for more education and training for lawyers who are only trained to understand and argue statutory adoptions pursuant to the *Adoption Act* and have no idea concerning the legal rights which rise from custom adoptions.

Because of the negligence of the Director to bring forward the information concerning the legal force of custom adoption and the inability to have both the legal profession and the justices understand the agreement that had taken place between these two Métis families, case after case was thrown out of court with preference given to the Director and the best interest of the child never considered.

When the adoptive family moved to Yellowknife and found that they could have their custom adoption recognized, they quickly moved to do so, to have their daughter returned to them as soon as possible.

It has now been over a year since that occurred and the family and their daughter have been kept apart by the Director who still claims that she is guardian when the law is clear that she must cede.

It is the sincerest hope of the Federation that the Director of MCFD and the Department of Justice, with their seemingly endless pocket books, would not continue with their pursuit of this frivolous case. The

safety and protection of this child and all of the other children within our communities is our utmost concern and the only motivation behind this action. All can be assured that the child, formerly known as SS, would be safe and secure and any further legal action to overturn the adoption can only be seen as a frivolous attempt to impoverish or punish this family for challenging the system.

This is not a case of foster parents who could not give up their foster child as the MCFD would have the public believe. This is a case that highlights the corruption within an organization that claims to honour Indigenous custom adoptions but in practice has carefully orchestrated a system in which not a single custom adoption has been respected in BC within the last 22 years.

Should the child be with her siblings?

The question should be, "Why were the siblings not placed in a Métis home?" Two wrongs don't make a right. Just because a mistake was made by the Ontario child welfare system does not mean it is okay for the British Columbia Child Welfare System to continue this wrong-doing. It was unacceptable to ignore the custom adoption of SS and sever her connection to her family and cultural community when the child was not at risk of harm within her family and was, by all reports, healthy and thriving emotionally and physically and firmly attached to her Métis adoptive family.

A report issued by the Métis Nation of Ontario on March 30, 2012 and submitted to Ontario's Minister of Children and Youth Services, The Honourable Dr. Eric Hoskins, explains this serious issue within the Children's Aid Society of Ontario in which Métis families are not respected by the workers and Métis children are placed inappropriately in non-Aboriginal homes. At page 3 it states,

> *"What MNO has heard repeatedly from our Métis citizens as well as from our staff who serve Métis across the province, is that in the client's experience during the child welfare intake process, children's aid society (CAS) workers routinely fail to ask about Aboriginal identification, and furthermore, even if they do ask, the client's cultural identity as Métis is usually then ignored."*

Why did the Public not know about this?

Through publication bans and sealing orders the Ministry for Children and Families hides the evidence, insisting it is in the best interest of the child, when in actuality, it is hiding the truth regarding malpractice, deceit, coercion, forging of documents, threats, paying people to compose false reports, lying under oath, and in the case of adoptive parents LM and RB, using blackmail to separate them from their daughter and subsequently force them to sign a transition agreement if they wanted to see her again and then warning them that if they spoke to the media they would never see their daughter again.

There is evidence that proves every statement made in this discussion but the public and the courts never have a chance to hear it. In the meantime, the MCFD continues to get away with these practices and readily takes anyone to court who would question them or threaten to expose what is going on.

This discussion has made every effort to follow court ordered publication bans on names and has not directly quoted any affidavit material so as to follow the sealing orders. However, it is in the public interest to be informed of this breach of public trust by a department which is claiming that they cannot find homes for approximately 1000 children in foster care while they spend millions fighting good permanent adoption placements of these very children.

It is very dangerous when there is a situation in which when the justice system condemns the MCFD for acting illegally outside of their own laws, the department simply changes the legislation to cover their actions. (This occurred in March of 2017 after the A.A.A.M. decision when MCFD was "caught" acting illegally by sending children out of province for adoption when the Adoption Act clearly states that only residents of BC can adopt a child born in BC. The MCFD counsel knowingly misrepresented the often-stated intentions of adoption by claiming an interprovincial transfer under the CFCSA rather than the Adoption Act, and then changed the legislation behind closed doors and without consultation with Aboriginal communities. Even the changed Adoption Act still makes the adoption illegal).

Citizens of BC should be incensed that their tax dollars are being spent fighting a healthy and legal custom adoption placement for an Aboriginal child within a government system that is crying out for more funding and is claiming they do not have enough Aboriginal families who want to adopt.

Power unchecked leads to corruption and that corruption, boldly forges ahead with greater and greater force if there is no action to stop it.

Today we must rally together and challenge government sanctioned power. We do this for all Indigenous children of the province.

Knowledge without action is futile. Words without actions mean nothing. We have tried diplomacy. It is time for action.

Our sincerest appreciation to those within the Government of British Columbia, the Representative for Children and Youth and concerned citizens everywhere who genuinely and bravely step forward to bring about change through action. It is our hope that 2018 will be a year of positive change for our children who can find permanence through a government system that facilitates and respects custom adoptions.

This family is not asking for money. (Though the financial hardship to them has been great due to the malfeasance of the Director). The family asks only to be left alone to raise their daughter in peace and to try to restore what will be broken within her after this traumatic separation. They wish that if something good could come of this it would be to restore integrity to the child welfare system and to immediately put into place a process by which custom adoptions can be respected and recorded without the perceived need for costly court appearances or interference by the Director, as was recommended by Grand Chief Ed John in his report.

In a public statement in August 2017 the BC Green Party said, "A foundational piece of the agreement between our two caucuses is our mutual support of the adoption of the UN Declaration on the Rights of Indigenous Peoples, the Truth and Reconciliation Commission calls-to-action and the Tsilhqot'in Supreme Court Decision. Indigenous rights and interests are clearly an important part of the Provincial and National interest and I am proud that our Provincial Government is recognizing that. Together we can build a province where the government is finally accountable to all of the people it serves."
BC Métis Federation continues to demand that the BC Government put their words into action and start by dropping the frivolous law suits against LM and RB, who have customarily adopted their daughter SS and wish only to provide her with the best of care, preserving her cultural ties and preserving her relationship with her birth parents and siblings. We do not need photos with politicians. We need action and leadership from them.

The MCFD is continuing to break its own laws, spin "truths" to the public, and is using tax dollars to defend their malfeasance. Immediate change is required to defend the lives of innocent children and to prevent the cultural genocide of our communities.

Through respect of all, we all benefit.

BC Métis Federation Department of Child Welfare