us here to share our views regarding the workings of the current Indian Child Welfare Act and the proposed amendments in S.-1976. When the ICWA was enacted in 1978 it represented a major attempt to recognize and involve the sovereign Indian governments in child welfare proceedings concerning Indian children. We do believe that the ICWA was a progressive development, one that was necessary due to the unique U.S. - Indian relationship. That we are here today highlighting some inadvertent effects of the ICWA and calling for some amendments to the ICWA should not be seen as a condemnation of the ICWA. After ten years of experience, it is to be expected that improvements in the Act would be necessary. As is clear from our comments we do not believe that the improvements are to be found in the direction taken by S. 1976. We do hope however that the Select Committee will examine the issues that we have raised and take action to address them in order to make the ICWA a law that indeed works for Indian children and their parents.

TESTIMONY ON S. 1976,

AMENDMENTS TO THE "INDIAN CHILD WELFARE ACT OF 1978"

MAY 11, 1988

BEFORE THE SENATE SELECT COMMITTEE ON INDIAN AFFAIRS

Submitted by:

Cindy Darcy and Mary Parks, Friends Committee on National Legislation

Ovanah Anderson, Staff Officer, Native American Ministries, Episcopal Church

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Testimony on
S. 1976, AMENDMENTS TO THE "INDIAN CHILD WELFARE ACT OF 1978"

The Friends Committee on National Legislation (FCNL) is a Quaker lobbying organization which seeks to represent the concerns of the Religious Society of Friends and other like-minded people on issues of peace and justice under consideration by the U.S. Congress. Among the issues on which the FCNL has worked during some of our 45 years in Washington, DC, is Native American affairs -- specifically the protection of treaty rights, the empowerment of Indian communities to self-determination, and the fulfillment of the federal government's legal and moral "trust responsibility" to Indian nations.

FCNL staff member Cindy Darcy is joined in presenting this testimony by Mary Parks, who from 1980 to 1987 was the legal counsel for the foster care and adoption program at the Seattle Indian Center in Seattle, Washington. Our testimony also represents the support of representatives of the National Episcopal Church and the Evangelical Lutheran Church in America. In addition, we understand that a number of individuals involved in Indian child welfare work, like those listed at the end of our statement, would like to associate with the views presented in our testimony. We ask the Committee that their letters of association be included as part of the hearing record.

Grim statistics and saddening stories presented in the mid-'70s to the Senate Select Committee on Indian Affairs, then under the leadership of Senator Abourezk of South Dakota, prompted Congress in 1978 to pass the "Indian Child Welfare Act" (ICWA). As many as 2,000 Indian children per year were being separated from their natural families by non-tribal public and private agencies, and placed in non-Indian foster and adoptive homes. A minimum of 25 percent of all Indian children are either in foster homes, adoptive homes, and/or boarding schools. Some 25% of all Indian children taken from their natural homes was in contrast to 2% for the general population. About 85% of those Indian children were placed with non-Indian families. Whereas non-Indian children were taken out of their natural homes at a rate of 1 of every 51 children, Indian children were being removed at rates from 5 to 25 times higher.

The major thrust of the "Indian Child Welfare Act" is to decrease the number of children removed from Indian homes by providing services designed to increase family stability and strengthen those families, and to place decision-making about child placements within the traditions, value systems and cultures of the child, family and tribe. Under the Act, if it is necessary to remove a child from his or her parents, he or she is to be placed with the extended family, with members of that tribe, or with other Indians, in a home which will reflect and encourage the values of Indian culture, in order to maintain a sense of tribal identity. While the Act does not prohibit the adoption of Indian children into non-Indian families, that placement is allowed only after the failure of efforts to address any temporary problems of the immediate family, and to place the child in a culturally appropriate home. The role of the tribe -- especially tribal courts -- rather than the state or the federal government, is affirmed as the primary authority over the welfare of Indian children. The Act seeks to strengthen tribes' handling of legal matters of parent-child adoption and foster care proceedings, and to ensure that the child's family and tribe are included in procedures.

Acting in the best interests of a child means chiefly providing a stable and loving environment for the child to grow up in. In the case of an Indian child -- and we would broaden this to suggest, in fact, the case of any child of color or of a minority group -- special consideration needs to be made to provide for that child as Indian. Native Americans are people who have traditionally identified themselves as a community; to be an Indian is to be a member of a tribe. Therefore, acting in the best interests of an Indian child means ensuring that his or her community is involved in that child's life to a great extent. Furthermore, the extended family and tribe are closest to that child, and therefore have the best sense for making decisions about the child's welfare. The tribe, in passing on the rich history, language and traditions of that community, is vital in building self-esteem and helping the Indian child know who he or she is. And it is the children who ensure that those traditions and that culture continue.

Instability in Indian families is not inherent to the families themselves, but a product of federal and other policies which have sought to deny or obliterate tribal structures, value systems and cultures, and assimilate Indian people into the "mainstream" of society. Especially for this reason, we see S. 1976 as part of a journey toward true recognition of and self-determination for Indian communities. We appreciate the other several initiatives in the 100th Congress which also seek to address the conditions which lead to family instability and social problems in Indian country: economic development, housing, Indian health care, education. Because these measures, like S. 1976, represent solutions which come from the people, brought to Congress by tribal representatives, or developed with significant input from Indian country, we feel that these initiatives have the best opportunity to benefit the people.

Many of the additions S. 1976 would make to the original Act make sense from the standpoint of good social work practice, and are already in effect in some states, for example, in Washington. These states have followed the spirit rather than the letter of the Act, even where certain things have not been required under an exact reading of the original Act. However, given that different states perceive and interpret the Act differently, we appreciate the thoroughness of the Amendments to make the Act clearer and more consistent throughout. Secondly, in a number of instances, S. 1976 revises the original Act to make it clear that responsibility and authority clearly rests with the tribe.

Findings: One point, which in a way becomes a sort of statement in the Amendments, is "Finding 6," which points out the Bureau of Indian Affairs' failure both to advocate for tribes in adoption and foster care placements, and to seek adequate funding for the implementation of the Act. This is a sad commentary on ten years of administering a very significant piece of Indian affairs legislation.

Declaration of Policy: We appreciate Congress' intent to protect the interests of Indian children not just in the "removal of Indian children from their families and the[ir] placement in foster or adoptive homes," but indeed from any interference in that child's relationships with parents, family and tribe. It is as though in the Amendments, Congress truly takes off on what was the spirit of the 1978 Act, but not so explicitly said: that in Indian cultures, "family" is more broadly defined than in the dominant society; that children

are vital to their tribal societies, and tribal governments have both the right and responsibility to be involved in adoptive and foster care placements at every step of the process; and that the survival of the tribe and the wholeness and identity of the children themselves depends on the keeping of strong ties to that Indian community.

Definitions: We appreciate that under the Amendments, "domicile" and "residence" would be defined according to tribal law or custom. Here also it is recognized that a "qualified expert witness" best able to provide information for decisions surrounding a child's placement might not possess the "credentials" the mainstream society looks for, but be known and respected by the tribe for their wisdom. This new language, and other new sections throughout the Amendments, intends to do two things: One, to make the Act relevant and "fitting" for the people it was enacted to serve, rather than make the people fit the dominant society's set of laws and definitions and customs, and two, to underscore the primacy of tribal jurisdiction. The manner in which these two principles are applied throughout the Amendments makes S. 1976 an exciting and empowering piece of legislation.

We are pleased to see that the definition of "Indian" here explicitly includes members of terminated tribes, who often have found themselves in an unclear status as a result of federal policy experimentation during the "termination" era.

TITLE I

Section 101 (a): Here we note a small but significant word change from the 1978 Act: the addition of the word "concurrent." Here again is the primacy of tribal authority. The tribal view and the prevailing view has been that the the state never does have and never has had exclusive jurisdiction over any tribal matters. The situation has been in need of clarification, however, and the addition of the word "concurrent" in the Amendments is an attempt to make clear that when Public Law 280 vested jurisdiction in the state over certain areas of law, it was concurrent and not exclusive jurisdiction. Tribes, of course, originally had exclusive jurisdiction over all matters of concern to them; they lost exclusive jurisdiction over certain areas of law when legislation was enacted giving states concurrent jurisdiction over those areas. The Act provides a mechanism for <u>retrocession</u> to the tribes of exclusive jurisdiction over those areas.

(c): The Act held up and affirmed the rights of the child's custodian, parent and tribe to intervene in state child custody proceedings and placement review proceedings. While we feel that this was intended under the 1978 Act, language to expand that intent and to emphasize participation and Indian parties' rights will serve to ensure Indian control in the process. Enabling a tribe to authorize another tribe or Indian organization to intervene on its behalf makes meaningful a right of intervention/participation that otherwise has little meaning to a tribe that may be geographically far removed from the state court where proceedings are taking place, and/or may have limited resources.

(d): This language affirms a tribe's involvement at the early stages, even when no court hearing is scheduled or anticipated, e.g., if a case file has been opened in regard to a family and the family is being monitored and investigated because of a complaint filed with Child Protective Services. This

can be an extremely crucial stage in providing (or not providing) services and efforts needed to keep the family together and help it to function well.

(e): The thrust of this language here is to ensure that tribes are not penalized for their differences -- such as practice and procedure of a tribe surrounding Indian child custody proceedings. Again, while we regret that such must be spelled out in the legislation, we are grateful for Congress' efforts to protect the uniquenesses of Indian communities, and their right to do things according to their own value systems and leadings.

Section 102 (a): Clarifying language here serves to make the notice requirements more specific and comprehensive, and to insure that the notice required by the Act "reminds" all parties of the underlying right to have proceedings transferred to tribal court. While some states have operated under a procedure whereby the notices sent out inform tribes and parties of their right to petition for transfer of jurisdiction, the Amendments incorporate such good practice and makes it universal. We appreciate the thoroughness of the Amendments to close up possible loopholes under which this important provision of the original Act can be avoided.

(d): It is indeed appropriate that not only active but "<u>culturally appropriate</u>" efforts, which will involve the tribal or an Indian community, are undertaken to strengthen or restore family ties. The thrust of this legislation must be on keeping Indian families together. This section sets this principle forth by requiring that such efforts be made to the satisfaction of the court first, before any other proceedings may be begun. Again, this is in our estimation the heart of the Act: providing services to prevent the need for out-of-home placement respects that the family is of ultimate value.

(g): One issue we particularly applaud for being addressed in the Amendments is the strengthening of the "evidence" section. Because of poverty and discrimination, Indian families face many difficulties, but there is no reason or justification for believing that these problems make Indian parents unfit to raise their children. Furthermore, as has been stated in congressional hearings, irrespective of the physical or mental condition of the child's parents, the trauma caused to a child by removal from their natural family is far worse.

Children have been taken from their homes on the basis of vague standards such as deprivation, neglect and poverty, rather than on the basis that these children are suffering emotional or physical damage at home. Under past attitudes, if children on some reservation lacked adequate food and clothing, rather than bring food and clothing to them, they were taken away to the food and clothing.

Welfare workers, and those making decisions in child welfare matters, might misinterpret conditions found in an Indian home, looking through the eyes of middle class or dominant society standards -- Is there plumbing? What is the home's square footage? What is the family income? -- without a proper understanding of the cultural and social premises underlying Indian home life and childraising. For example, seeing a young child being cared for by an older brother or sister, or an aunt, is interpreted as neglect, rather than a cultural pattern of sibling responsibility or the extended family.

Furthermore, there have often been cultural differences in removing children from their homes for placement elsewhere. The concept of adoption is not generally accepted by Indian people because children are always provided for, if not by the "immediate" family, then by the extended family and the tribe that Indian people consider their family. Furthermore, Indian children are received as a gift, to be treated well and cared for by everyone. Like the earth, children cannot be owned by anyone. Then, if a family is served papers about a adoption proceeding, how is paper able to terminate parents' rights? Indian parents have sometimes signed papers giving up their children, not understanding what the effect of the signing is, because it is so foreign to their way of thinking that one can "own" or "give up" a child through paperwork.

Just as it was not clear in 1978 that conditions of poverty, etc., were harmful to a child, we are pleased that language now spells out that harm must clearly be shown. Different cultural standards are not sufficient reason to take a child from his or her home, and neither is poverty. We are pleased to see that fact laid forth in the Amendments. Evidence must show the "direct causal relationship" between conditions in the home and harm to the child. This is a crucial point that needed clarification. We hope that this language will have the effect of lessening interference with the Indian family.

(h): Even after the '78 Act, state courts have been set up to shroud adoption and foster care proceedings in secrecy, in the name of "protecting" the child. For the following reasons, we support this provision which allows a child to learn about his or her identity and tribe to the "extent possible and appropriate."

Again going back to a value traditional in Indian that a child cannot be "owned," we recall the words of the poet Kahlil Gibran, in a famous passage from The Prophet:

> "Your children are not your children. They are the sons and daughters of Life's longing for itself. They come through you but not from you, And though they are with you yet they belong not to you. You may give them you love but not their thought, For they have their own thoughts. You may house their bodies but not their souls, For their souls dwell in the house of tomorrow, which you cannot visit, not even in your dreams."

Therefore, no child should ever be cut off completely from his or her heritage, from the past that does so much to enrich his or her life. Not only does this honor a traditional value of Indian culture, but makes good practical sense, so that there are remaining ties to re-connect with the natural family in the vent that the adoption fails, as sometimes does happen.

Section 103 (a): One would hope that in explaining consent proceedings, the "Indian Child Welfare Act" would also be explained. However, it seems wise to have "safety" language added, as has been done here.

(2), (3) and (4): These new sections around voluntary proceedings make clear the provision of notice to the tribe, the right to intervene and transfer to tribal court, and requires "culturally appropriate" efforts to keep the family together. In addition, the language of the Amendments

recognizes that an Indian parents' motive in consenting to a child's placement may constitute nothing like "abandonment." Furthermore, this section allows for revocation of the process and the withdrawal of consent to foster care placement, termination of parental rights or adoptive placement at any point, and immediate return of the child to the parent or Indian custodian, except where return would cause harm to the child. This is important, because consenting to voluntary placement is not necessarily an indication of bad parenting, nor is it evidence that a child is in danger of harm. Sometimes, giving consent to placement indicates parents' responsibility in recognizing when things are over their head, when they need help. Families may be unable to care for their children for a temporary period, only, and problems may be correctable. This section seeks to protect above all the primary family relationship, and the right to restore that relationship, rather than making the process of the proceedings sacrosanct.

Section 104: This provision has been broadened from the Act so that it sets forth specific remedies and procedures for vacating decisions and proceedings that do not confrom to the requirements of the Act. The original Act provides no remedy when the placement standards are not adhered to. The Amendments correct this very serious oversight.

Section 105 (a): This language establishes the tone of the placement section by putting up front that the child's and the communities' rights as Indians are the fundamental rights to protect. The elimination of the phrase "absent good cause to the contrary" closes a huge loophole which has permitted state courts to ignore the placement standards entirely for any reason they choose. We appreciate the substitution for that vague, wide-open language of the specifics set for in (d) and (e), which give courts useful direction in carrying out the intent of the Act.

(b) and (c): As elsewhere in the Amendments, the primacy of the tribe is recognized by giving priority to an order of placement established by a tribe, without the tribe being required not to pass a resolution regarding such.

(e): The issue of confidentiality is an important one. We support the new language which recognizes that a tribe is able to handle a request for confidentiality, understanding that in some cases a parent who is a tribal member might not wish it to be generally known that they had placed a child up for placement. This language respects the rights of the individual while also honoring those of the community -- and the primary relationship of a child to his or her tribe. A request for confidentiality is not a matter in which an individual's rights can become paramount to the child's and tribe's interest in maintaining a child's connection and ties to that community.

(f): Rather than require tribes to fit into state law and process, this language requires states to recognize the uniqueness of foster homes serving Indian children. This recognizes that the state may not be the most appropriate party to determine standards, but places authority in the community's hands, by allowing tribes to set their own culturally-relevant and specific standards.

(g): It is often not enough to tell an agency "You must make an effort to do this or that," but it is necessary to spell out just what minimally constitutes such an "effort." We appreciate the clarity of the language here, and believe that it will result in better compliance with the order of

placement.

Section 106 (a) and (c): Another example of thoroughness of these Amendments is language providing that if a child who has been adopted is later placed in foster care, or when a child is removed from foster care for another placement, the tribe will be notified, and has the right to intervene. This language recognizes the rights of the biological parents and the tribe anew, after adoption, and that those rights are continuing ones which need to be respected at every stage of the proceedings concerning the child.

The provision in (a) for notice to be given to the biological parents, prior Indian custodians and tribe when an adoption fails is new and makes much more meaningful the existing right to petition for return of custody. The same is true in (c) in regard to making existing rights meaningful. We appreciate the recognition the Amendments give to the crucial importance of the notice requirements.

Section 108: We appreciate how the addition of the word "concurrent" here makes very clear that under the 1978 Act, tribes had concurrent jurisdiction with states over their children.

(b)(2): The term "referral jurisdiction" is a flaw in the existing Act. Tribes already have concurrent urisdiction even in P.L. 280 states, and the Act already provides a clear mechanism for cases to be transferred/referred to tribes by state courts in 101(b). So Section 108 (b)(2) as it now stands with its reference to "referral jurisdiction" is confusing and redundant. The Amendments state that in cases where full retrocession of exclusive jurisdiction is not feasible, then the Secretary can retrocede to tribes exclusive jurisdiction over limited community or geographic areas.

Section 109 (a): This clarifying language assures that in entering into an agreement with the state, a tribe's powers will in no way be decreased. Given the skittish attitude of many tribal governments with regard to state government, we believe that this language may provide assurance for tribes to enter into such agreements. While federal law and policy is important, we also recognize the need for solutions around implementation of ICWA to come from the local level, where, as in the case of the Washington state-tribal agreement, the partnership generated by problem-solving together laid the groundwork for the success of the agreement. We are pleased to see this new section.

Section 112 (b): This section is necessary to address an imminent danger. In some states it is possible for a social worker to go to court and obtain a "pick up order," which allows the worker to remove a child from his or her home without a hearing. Specifics of language offered in the Amendments would tighten what has been a big loophole in procedure. We would question, however, whether or not the language is specific enough.

This language would assure that if a child taken from his or home family because of emergency placement, state court proceedings will begin within ten days if the child is located off-reservation, or the child will be transferred to the jurisdiction of the appropriate tribe if he or she is located on a reservation. This assures that the child is not in a limbo for a long period of time, and that active efforts to end that out-of-home placement begin as soon as possible.

Section 114: The creation of Indian Child Welfare committees is another example of how the Amendments recognizes tribal authority and facilitates opportunities for community initiative, without requiring it. While the language of the Amendments does not say what the make-up of the committees will be, because the membership will be chosen from a list submitted by tribes themselves, we assume that such committees will have relevance to the people they are designed to serve. Testimony at the November, 1987, oversight hearing indicated that the issue of compliance is one that needs addressing, so we are pleased that the Amendments provide such a monitor, and draws in resources from the community involved.

Section 115: This new section builds in a mechanism for enforcement of the Act, by requiring private child placment agencies to comply with the Act if they are to continue to be licensed. Again, while some states have honored the letter and spirit of the "Indian Child Welfare Act," testimony indicates that some states, perhaps most notably Alaska, have used unclear language and loopholes in the Act to avoid compliance.

Especially given the problem in Alaska, even though Alaska Natives are included in the definition of "Indian," we would like to suggest that this section be amended to include specific reference to Alaska Natives, which extend beyond "Indian tribe" and "Indian population" to Aleuts and Eskimos. We only suggest this clarifying language because the Amendments so carefully seeks to close any ambiguities or loopholes in the '78 Act.

Section 116: Native peoples travelled the breadth and width of their Native homelands freely before international borders were imposed on those lands. We appreciate the new section that addresses the unique situation of Canadian Indians, and acknowledges that "our" borders may not necessarily be "their" borders. Tribes who were signators to the Jay Treaty and tribes who live along what is now the U.S.-Canada border should not be denied either services or the right to benefit from the spirit of the Act because of an external boundary imposed on them.

TITLE II

Again, we would like to note that the provision of Indian child and family programs is designed to prevent the breakup of families so that removal of a child from his or her home is done only as the last resort. Adequate time must be spent searching for and considering options to adoption and foster care.

Section 201 (a)(3): We note here the inclusion of new and very appropriate language to include "cultural activities" among the family service programs. We support this language which recognizes the vital, unifying and strengthening place of culture in Indian communities.

(c): This language recognizes that just because tribal programs and standards are different from state or other agency programs, they can in no way be interpreted as inferior. To judge them so, and insist on tribes adopting another modus operandi is discriminatory at best, and racist at worst. We appreciate the addition of language in this section which recognizes the appropriateness of tribal standards for monitoring and reviewing the programs under this section.

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Section 203 (b): Finding Number 6, mentioned earlier, highlights the issue of the need for adequate funding for implementation of the "Indian Child Welfare Act." We are concerned not to find this later section of the Amendments statutorily addressing this concern in a more substantive way. We noted at the November oversight hearing on ICWA that witnesses one after another mentioned the problem of funding. There has never been enough money to carry out the purposes or programs of the "Indian Child Welfare Act." Witnesses for the Bureau of Indian Affairs commented that the BIA funds only half of the total number of tribes and organizations which request funds, and only monitors some 10% of its ICWA grantees. We also recall that Chairman Inouye pressed witnesses for what an adequate funding level would be, and regret to see no specific authorization level laid forth in the bill. When FCNL presented testimony before this committee in 1977, one of our chief concerns then was funding level.

We applaud the added emphasis in S. 1976 on tribal courts being the place for cases to be considered. However, we realize that this may well result in an increased work load, and urge that congressional appropriations provide adequately for technical assistance, child and family services and other programs. The lack of adequate funding has hampered tribal, state and private agencies in providing the best protection for Indian children.

While we are critical that funding is not addressed more comprehensively, we think it most appropriate that additional funds may be provided for training, as provided here, given the importance of education and training about the provisions of the '78 Act, and the need for such training especially among non-Indian employees, as tribal workers have indicated.

TITLE III

Section 301: Here, as elsewhere in our testimony, we remark gratefully on the consistency of the Amendments in assuring tribal notice of a states final adoption decree, disclosure of information by the Secretary about a child's parentage for purposes of tribl membership, and an annual listing from each state of all Indian children in placement, which will be provided to that tribe.

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In closing, we would note the attention the Indian child placement issue has gotten recently in the case of a young Navajo mother who wished for her daughter to be raised by a non-Indian couple. It is our feeling that Indian people who wish they were not identified as Indians, because they themselves do no identify with their tribe or as a tribal member, and who therefore do not want their child to be raised as part of an Indian culture, may present a unique situation under ICWA. Does a child "belong" to his or her community? We feel now, as ten years ago, that it is only wise to recognize tribes' authority and role in the welfare of their citizens, even though there may be times when such authority is a problem for a parent, rather than allow the state to assume control. Tribal courts are better able than state courts to consider and weigh all the factors that affect the Indian child, and to make decisions that are in the be longterm interests of the child.

11

The reflection of Calvin Isaac, tribal chief of the Mississippi Band of Choctaw, offered at a hearing before Sen. Abourezk's Committee 10 years ago on legislation which became the "Indian Child Welfare Act," still rings true: that the chance for Indian peoples to survive, and the continuing ability of tribes to govern their own communities, rests with the children -- to whom tribal heritage is transmitted -- being nurtured by their own people and brought up in the ways of their people. S. 1976 seeks to provide further strengthening of Indian family and communities. We strongly support this legislation, and look forward to its consideration by the full Senate.

Indian Child Welfare Act:

May 21, 1988

Sign-up Sheet

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Susan Paulino	3440 E Grant #B Fresno, Ca 93702	
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Law

The Battle over Baby K.

Native Americans resist adoption of their children by non-Indians

Not all custody battles involve contending parents. The fight over a nine-month-old girl named Allyssa is a classic clash of cultures. The mother, Patricia Keetso, 21, is an unwed Navajo Indian who would like her daughter to be adopted by Rick and Cheryl Pitts of San Jose, who have been caring for the baby since birth. But tribal officials, fearing that the flow of Indian foster children to non-Indian homes threatens their survival as a people, are seeking to rear the baby on their Arizona reservation. The emotional case has become a symbol of tribal resistance to the baby drain.

Keetso and the Pittses were brought together through San Jose lawyers who arrange adoptions. She lived at the couple's home for three months before giving birth last July. But in April, Navajo officials, who refer to the child as Baby K., convinced a California judge that any decision about custody should rest with the tribal courts. At a hearing last week, a tribal judge in Tuba City returned Allyssa temporarily to the Pittses, but a final decision is still pending.

Keetso, right, a Navajo, wants the Pittses to adopt Allyssa

But on the reservation, there are fears of a baby drain.

The case has produced its share of wild scenes, charges and countercharges. At a Phoenix airport two weeks ago, a hysterical Cheryl Pitts chased after Navajo social workers who she claims seized the child and spirited her away to the reservation. Keetso and the Pittses charge that Navajo officials violated an understanding that Allyssa would be placed solely in the care of her maternal grandmother until the hearing. Instead, they say, the child was left in the home of a stranger, where she was neglected and quickly fell ill. Tribal authorities deny that such an understanding existed and contend that the baby's illness was due to a change of formula.

The battle over Allyssa is in part a legacy of the 1978 Indian Child Welfare Act, a federal law that has been invoked in thousands of custody disputes. It empowers tribal courts to make custody and foster-care decisions in most cases involving American Indian children. A large proportion of such youngsters are in the care of adoptive or foster parents, a situation that results partly from a high incidence of teenage pregnancy, parental alcoholism and out-of-wedlock births on the impoverished reservations. Before the 1978 law, it was common for state courts and child-welfare agencies to place Indian children with foster and adoptive parents who were not Native Americans.

The outflow led some tribes to fear for their cultural survival. Studies conducted in 1969 and 1974 found that between 25% and 35% of American Indian children were placed in institutions or in adoptive or foster care, mostly in non-Indian households. It was not unheard of for social workers to take children away from their parents "simply because their homes had no indoor plumbing," says David Getches, an expert on Indian law at the University of Colorado. Because it has discouraged such abuses and kept more Indian families together, says Getches, the legislation is a "success story."

But an imperfect one, say some Indians. State courts can retain decision-making power in custody cases by invoking a "good cause" provision—for instance, if there is reason to believe the child might be neglected or abused on the reservation. That provision is interpreted too freely, says Attorney Jacqueline Agtuca, an Indian advocate at the Legal Assistance Foundation in Chicago.

On the other side, non-Indian critics of the law charge that it permits tribal courts to remove Indian children from foster homes where they have lived happily for years. They complain that it allows tribes to lay claim to children who have never lived on a reservation, simply because one of their parents is part Indian.

Ironically, the would-be adoptive father of Baby K. is one-quarter Indian, of the Tarascan tribe of Mexico. He claims that he would see to it that Allyssa is not entirely deprived of her heritage. But for Rick Pitts, when he imagines the child growing up on the reservation, the images of poverty blot out the virtues of cultural identity. "Look at the houses, look at the shacks," he says. "Most likely she'd grow up, get disgusted, leave and never come back." Last week Allyssa awaited her fate wearing a layer of sweet powder. A Navajo medicine man had covered her with it during a ceremony performed to expel evil spirits. Perhaps it will protect her from the injuries of a bitter custody fight. —*By Richard Lacayo.*

Reported by Scott Brown/Tuba City and Elizabeth Taylor/Chicago

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isco Chronicle Thursday, April 21, 1988

1978 Indian Child Law Evolved From a 'Horrible Situation'

By Michael McCabe
Chronicle Staff Writer

The anguish and confusion surrounding the custody case of a Navajo baby was born out of a controversial 1978 law aimed at halting the breakup of Indian families.

After thousands of Native American children were taken from their families and placed in foster care or put up for adoption, Congress passed the Indian Child Welfare Act, which allows tribal courts to decide custody cases involving Indian children.

"All kinds of Indian children were being placed in foster homes or adopted because their parents' rights were being terminated," said Rick Dauphinais, deputy director of the Native American Rights Fund in Boulder, Colo. "They were being taken to places like Los Angeles and Seattle, and Congress said we need to get them back to the tribe, if possible."

Adoption Statistics

According to a House committee report leading up to passage of the Indian Child Welfare Act, in 1974 up to 35 percent of all Indian children were separated from their families and put in foster homes, adoptive homes or other institutions.

In some states, such as Minnesota, 90 percent of adopted Indian children in 1978 ended up with parents of other races, according to a congressional report.

"The law was in response to a horrible situation," said Stephen Pevar, an American Civil Liberties Union lawyer in Denver and author of the book, "The Rights of Indians and Tribes."

"Congress held months of hearings and found that thousands, if not tens of thousands of Indian children were being taken off the reservation and placed in non-Indian homes, sometimes for well-intentioned reasons, sometimes not."

Quality of Life

Indian children often were removed by local welfare agencies for what Pevar said were "racist" reasons — the assumption that the quality of life off the reservation was always superior.

"Sometimes that is true, but if that is the standard, then the government can remove every ghetto child in the United States and put that child elsewhere," said Pevar, who teaches Indian law at the University of Denver Law School. "The standard has never been where the child will get the best care, but rather whether the child's health and welfare is being threatened by staying on the reservation."

Many who testified before Congress in support of the Indian Child Welfare Act cited case after case in which Indian child-rearing practices were often misinterpreted.

What is labeled "permissiveness," for example, may often in fact simply be a culturally different but effective way of disciplining children, said William Byler, in the book, "The Destruction of American Indian Families."

"Ironically, tribes that were forced onto reservations at gunpoint and prohibited from leaving without a permit are now being told that they live in a place unfit for raising their children," Byler said.

Behind the Adoptions

Why are so many Indian children put up for adoption?

Many young Indian women — and men — do not want their children raised in a poverty-stricken environment that all too often is "predictive of failure," said William Pierce, executive director of the National Committee for Adoption, a nonprofit education and research group based in Washington, D.C.

Since the law was passed, Indian tribal leaders have increasingly resisted allowing children — part of the tribe's extended family — to be adopted.

Under the law, the general criteria is not where the child was born, but whether the mother or the father has lived on a reservation.

Law's Critics

Not surprisingly, the 1978 law has many critics, including Pierce of the National Committee for Adoption.

"It is a terrible disaster," Pierce said yesterday. "This is the kind of thing that could destroy all transracial adoptions if you have this precedent that the child belongs to the minority group.

"The reason this whole issue is so damned sensitive is that there's this tremendous empathy for the plight of the Native Americans in our society. It's very unappealing for anybody to be on the other side — you know, 'First we steal their land, now we steal their kids.' "

Allyn Stone contributed to this report

Arizona Republic
Saturday April 23, 1988

Child law tries to fathom tribes

By Chuck Hawley
The Arizona Republic

A cultural gulf divides Indians and their Anglo neighbors like the still spaces between stone pillars in Monument Valley.

Within that gulf are thousands of children who have been born into one culture and thrust into a second, only to be pulled upon by forces from both.

Babies born to American Indian mothers have been removed from their families at a higher rate — 25 to 35 percent — than any other group.

Of those babies, 85 percent were adopted by non-Indian families, according to information compiled by the Indian Justice Center in Petaluma, Calif., in 1985.

It was such testimony before congressional subcommittees that led to passage of the Indian Child Welfare Act of 1978, which gives tribal governments the final word on placement of Indian children.

"There is no resource that is more vital to the continued existence and integrity of Indian tribes than their children," the law says.

Craig Dorsay, a lawyer in Portland, Ore., helped draft the Indian Child Welfare Act. He has written a textbook on its operation, handled related court cases in 26 states and has conducted more than 100 training sessions for tribal workers and social-service agencies.

Asked if the law works, Dorsay acknowledged there have been "mixed results."

"There are some states that are very good with the act, such as Arizona, and others that are not," Dorsay said.

"It's no different from laws against baby-selling which are common in every state. But in this case, the figures leading up to the act show that Indians were losing more than a quarter of their children."

Dorsay said that how well the law works is dependent on the background of the participants and the willingness of non-Indian judges to recognize tribal rights in determining the placement of Indian children.

Some lawyers who go to court for Indian adoptions have never even heard of the law, he said.

"You'd be surprised the number of times I get calls from lawyers who say they are going into court in five minutes with a case," he said. "They say they just heard of the law and ask me to explain what it is and how it works."

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Attempts to enlighten people unfamiliar with tribal customs seem almost impossible.

Sociologists describe two basic kinds of families: nuclear and extended.

In non-Indian society, the traditional family is nuclear; in Indian society, it is extended.

A nuclear family consists of parents, children and sometimes grandparents, but the unit generally is limited to those people directly related by blood and living under one roof.

In a nuclear family, parents are perceived as the ultimate authority for their offspring. Even close relatives attempting to interfere with that authority are met with stony stares or sometimes curtly told to mind their own business.

Tim Rogers/The Arizona Republic

Cheryl Pitts (left) takes baby Allyssa from the child's natural mother, Patricia Keetso. Keetso, a Navajo, wants Cheryl and Rick Pitts to adopt the baby, but a Navajo court will make the final decision on permanent custody, as the case falls under the Indian Child Welfare Act.

Indian adoption, placement facts

- 25 to 35 percent of Indian children are removed from their families.
- 85 percent of Indian children removed from their homes are placed with non-Indian families.
- There are 2.7 times as many Indian children in foster-care homes as non-Indian children.
- Federal law requires that tribal courts be notified about any adoption proceeding involving an Indian child.
- A tribal court may intervene in a custody proceeding at any point, under federal law.
- By tradition and tribal law, an Indian grandmother has rights equal to a mother's in child-custody questions.
- "Indians raised in non-Indian homes tend to have significant social problems in adolescence and adulthood," to the American Academy of Child Psychiatry said in a 1975 report.

Source: National Indian Justice Center at Petaluma, Calif.

The extended family is a larger concept that involves aunts, uncles, cousins and almost everyone else related by blood.

An Indian child, for instance, could move in with a cousin for an extended period of time if necessary, without fear of creating an imposition.

Such an occasion may arise when the child's immediate family has experienced a crisis.

The Navajo language, in which Navajos call themselves Dineh, or "the people," provides a clue to the difference.

The Navajo phrase for "my mother" is shima. The phrase for "my aunt" is shima yahzi, or "little mother." The added yahzi implies the role of an adjunct mother who can be called upon by other family members.

The closeness of the words leaves little doubt that the parental authority of a mother can readily be extended to an aunt when needed, according to Navajo tradition.

In many tribal societies, the concept of the extended family is further broadened to include the legal authority of tribal elders or officials to intervene when children are involved.

The reasoning is based on the assumption that family members also are part of a larger tribal family that has a right to maintain its cultural integrity.

Dorsay said that infant-adoption cases sometimes receive publicity because well-to-do, non-Indian families seem to be providing material things that are unavailable in some poorer Indian communities.

"Everyone says they accept the principles behind the law, but then they add, 'But in this case, there should be an exception,' " he said.

Those exceptions ignore tribal beliefs that a grandmother or aunt "all have equal legal right and responsibility for the child," he said.

"That's a concept that is very difficult to get across in the courts," he added.

It is equally difficult for non-Indian society to come to grips with the idea that a tribe may exercise rights that override parental rights, Dorsay said.

"The parent has the right to give some idea of where he or she wants to place a child, but the law says that desire shall not outweigh the right of a child to grow up as an Indian," he said.

Dorsay said that greater authority given to tribal governments also brings a greater responsibility.

Along with the authority to make decisions for minor children, tribes have responsibilities to conduct background investigations, handle paper work, appear in court and establish social-service agencies, he said.

Unfortunately, "resources are really a difficult subject" in carrying out provisions of the Indian Child Welfare Act and tribal governments "often do not have the funding to carry out those responsibilities," Dorsay said.

With or without proper funding, he said, "the law is real clear now."

"The tribes clearly have the jurisdiction to oversee this adoption or placement process of their children," he said.

Dorsay added that the standards of Angio society should not be imposed on Indian society.

Yvette Joseph is a professional staff member in Washington, D.C., for Sen. Daniel Evans, R-Wash., vice chairman of the Senate Select Committee on Indian Affairs. Joseph said the panel is drafting amendments for reauthorization of the law and will hold hearings on the changes May 11.

Among those amendments are provisions to protect family rights, monitor the implementation of the law and provide additional funding for tribal governments, she said.

Joseph agreed that when the law was passed in 1978, not enough money was allotted to make it work as well as envisioned. More importantly, she said, even the people who use the law do not fully understand it.

"Through the years, the act has really not had a chance to evolve to full utility because of that lack of understanding," she said, citing a high turnover rate among social-service workers and a constant need to retrain tribal officials.

"I've heard it described as a schizophrenic law — legalistic issues on the one hand and the humanistic issues on the other," she said. "It's one of those laws that deals with social and legal issues simultaneously.

"How those two are integrated creates the difficulty in applying the law."

Phyllis Bigpond, executive director of the Phoenix Indian Center, agreed that the law is not fully understood and said there are "differing views about how it should work."

"It's not an easy thing to work with, but I agree with the intent," Bigpond said. "It seems to me that the benefit is worth the difficulties."

She said that each year, her agency works with about 100 families "in which there is a child at risk which could lead to some kind of placement."

Navajo leaders criticize media on child custody battle

By Joan Smith
OF THE EXAMINER STAFF

Navajo tribal officials called reporters to the capital of their Arizona reservation Tuesday to criticize coverage of the story of Allyssa Kristian Keetso, a Navajo infant at the center of a child-custody dispute that has drawn national attention.

"The present situation is not one that the tribe enjoys being in," said Anselm Roanhorse of the tribe's attempt to assert jurisdiction over the future of "Baby K," whom a San Jose couple is attempting to adopt.

Roanhorse, director of the Navajo Indian Nation Department of Social Welfare in Window Rock, Ariz., told reporters "the issue of child custody is a very heated and difficult one to deal with. People get hurt."

Allyssa was taken from Cheryl and Rick Pitts and the baby's natural mother, Patricia Keetso, in a nationally televised confrontation at the San Jose airport Thursday.

Although Keetso wants the Pittses to adopt Allyssa, a Santa Clara County Superior Court judge ruled that a federal law, the Indian Child Welfare Act, gives Navajo courts jurisdiction over the child's custody.

The Pittses and Keetso were ordered to hand Allyssa over to tribal authorities.

Patricia Keetso's mother, Susie Keetso, and two Navajo officials took custody of Allyssa in San Jose. Then during a stopover in Phoenix, the three drove off with the baby in a van. Patricia Keetso, Cheryl Pitts and Cheryl's mother-in-law, Mary Ellen Pitts, followed the group to the reservation and met Susie Keetso on Saturday.

Roanhorse said Tuesday that the social worker decided to take the baby in Phoenix because she was the target of a lot of "verbal abuse" and wanted to get away from the Pitts family.

He said the emotional scenes at the airports were "unfortunate." He also said the Pitts couple and the mother violated an agreement when they called the press to both airports.

Navajo officials also said the family's story that Allyssa was found sick, neglected and lying in her own vomit in a Navajo woman's home Sunday was "ridiculous."

Roanhorse said the unidentified woman had worked as a foster mother for his department for nine years "and has experience dealing with young children."

A report issued in Window Rock from the administrator of the Tuba City, Ariz., Indian Hospital said a pediatrician, Dr. Stephen Hoive, had determined the child was doing well, showed no evidence of any respiratory distress, that her asthma "was felt to be stable" on the medication she receives and that there was no evidence of dehydration.

Cheryl Pitts said Tuesday that Allyssa was with the Keetsos for a daylong healing ceremony performed by a Navajo medicine man.

Many Navajos, though angry about how the tribe has been portrayed in media reports, said they were furious with tribal officials over how the affair has been handled.

"I think they're jumping into this whole situation without taking to heart the interests of the child," said Erna Pahe, who grew up on the Navajo reservation and now lives in San Francisco.

"In the Navajo way, it is up to the mother to make the choice about the child. We are upset because it wasn't up to an outsider like the social service department of the Navajo tribe to interfere with this Navajo family and tell them what they are doing is wrong," Pahe said.

"And we are upset because the media is involved in a family feud it doesn't understand," she said.

Pahe said Bay Area Indians resent the media coverage of Baby K because there are more pressing problems that need attention.

"We don't even have needles to give shots in our clinics," she said. "So we hate to see something like this splattered all over the front page."

But Pahe, who moved from the reservation to San Francisco 18 years ago to support and educate her baby son, said there is a lot of local sympathy for Patricia Keetso.

"I know it took a lot for her to decide she couldn't afford to bring up this child and a lot to convince her parents about it," Pahe said.

"The Navajos have a very strong family unit, and the mothers carry the clan. The father's position basically is to teach the ceremonies, chop the wood, shear the sheep and stuff like that.

"But the mother is the guardian of the household. She's even the one with the authority to declare divorce. All she does is take whatever she wants him to have — one horse and a pair of boots maybe — and set them outside the hogan."

Giving up Allyssa would be especially painful for the Keetso family because, as the first female of her generation, she is the "clan bearer."

Dottie Ventura, a friend of the Keetso family who lives in Tuba City on the Hopi reservation, which is surrounded by the Navajo lands, said local Indians are generally outraged by the Navajo tribe's interference in Allyssa's adoption.

"Patricia and I talked for a long time before she decided to give up the baby," Ventura said. "I advised her not to because I gave up a son 2[illegible] years ago and have always regretted it. It was a very difficult decision for Patricia to make.

"What I hear people saying is that the mother should be able to decide what to do with her own baby without the tribe interfering," Ventura said.

Allyssa's temporary fate is expected to be decided in tribal court

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Commentary

Adoption law would put culture above children

SHE'S just a baby. Not a fragment of the Navajo nation. Not a unit of cultural property. Just a baby.

The story of Baby Allyssa ended in anticlimax when a Navajo judge gave custody to Rick and Cheryl Pitts of San Jose, who promised to drop adoption plans.

It was a decent compromise. The wishes of the biological mother, Patricia Keetso, were respected. Allyssa will not be cut off from her Navajo heritage. And she'll remain with the parents who have raised her since her birth nine months ago.

Despite some dumb behavior by Navajo social workers, in the end, the judge treated Allyssa like a baby.

But other babies of Indian ancestry may not be so lucky. An amendment proposed to the Indian Child Welfare Act, the 10-year-old law which gave the Navajos jurisdiction over Allyssa's fate, would require that an Indian baby up for adoption be placed with an Indian family "whenever possible" and include a child with any trace of Indian ancestry who was "certified by the tribal community to be eligible for membership." Current law covers a child if one parent is a tribe member.

In effect, the law would put the tribe's political and cultural preservation first, ahead of the mother's rights and the child's needs.

Joanne Jacobs

A hearing on the amendment, introduced by Sen. Daniel Evans, R-Washington, is set for May 11 before the Senate Select Committee on Indian Affairs.

"It's a civil rights nightmare," says Jill Linder of Danville, the adoptive mother of a 6½-month-old daughter.

The Linders sent letters to 5,000 obstetricians across the country; one woman picked them to adopt her baby, but was not allowed to sign the papers because, Linder says, "The mother said she thought her grandfather might have been Cherokee or Choctaw."

The Linder adoption eventually was allowed to proceed, because the mother was not enrolled in any tribe.

"But this new law would give carte blanche jurisdiction to the tribe," Linder says. "The biological parent would have no right to place the child herself."

With the advent of open adoption, a woman of black or Mexican or Italian or Korean ancestry can pore over essays by would-be adoptive parents, interview the best prospects, weigh ethnicity and race and culture with other factors and decide which couple would be best for her child.

Imagine the outcry if a Greek Orthodox woman was not allowed to give her child to a Protestant couple, or a woman whose grandfather came from Mexico had to have the adoption of her baby approved by a Mexican court.

"No other American child has to endure that kind of regulation over their development," says Travis Kinsley of the Urban Indian Child Resource Center in Oakland, which tries to find Indian foster homes for Indian children.

"If one identifies oneself as an Indian person, one has a responsibility to the group" to keep the heritage and the tribe alive, Kinsley says. "If the mother gives up her Indian claim, then OK."

I can understand the desire to keep a child "with her own people," to preserve a threatened cultural heritage. I can understand why an impoverished and isolated group deeply resents the adoption of "their" children by relatively wealthy white couples.

And, certainly, it's easier for an adopted child to feel part of her acquired family and confident of her identity if she grows up with parents of her own racial and ethnic background.

> This is not South Africa, where a drop of non-white blood determines a child's place.

But this is not South Africa, where race is everything, and a drop of non-white blood determines a child's place.

American culture places a high value on the individual rather than the community, in part because most of us are Irish-Italian or Anglo-German-Dutch or Spanish-Indian-Portuguese or Armenian-Greek or African-Scottish-Irish-Cherokee or, like one guy I knew, Polish-Chinese-Hawaiian.

It's not unusual in California, says Kinsley, for a Navajo to marry a Sioux or a Pomo, producing a child that blends very different cultures. He himself is part Papago, part Hopi.

The law assumes the child's Indian identity is the most important factor in choosing a home, but there many other things a mother might decide are more important.

Suppose the mother was a Mormon and wanted her baby in a Mormon home.

Suppose the mother lived in San Jose, said wanted the child raised by San Jose parents who would allow her to visit regularly, not on a distant reservation.

Suppose the mother wanted her child to have the advantages of a comfortable home and a good education, and decided that could best be provided by a middle-class white couple.

Suppose the mother was half-Indian and half-black, the father was black, and they wanted the child raised by a black couple who could expose her to her predominant heritage.

Suppose the mother got to know a particular couple, thought they were terrific people, and wanted them to be the ones to raise her child.

Maybe a tribal judge would decide an Indian family wasn't "possible," and respect the mother's wishes. Maybe not.

I don't think there should be a special law for Indian babies that treats them like cultural property.

Whatever the color or culture of her mother's relatives, it is not a baby's job to carry on that heritage or to dwell the ranks of that tribe or to do anything but drool, coo, spit up and grow up.

A baby is a baby. Just a baby.

Joanne Jacobs, whose column appears on Mondays and Thursdays, is a member of the Mercury News editorial board.

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Anglo Adoptions of Native Americans: Repercussions in Adolescence

Irving N. Berlin, M.D.

Abstract. Native American children who are placed in foster homes outside of their tradition suffer an estrangement during their adolescence when the foster care comes to an end. Attention must therefore be paid to long-term as well as immediate developmental needs. In the case of the native American child, and perhaps for all minority children, cultural ties should be preserved.

When Goldstein et al. (1973) wrote *Beyond the Best Interests of the Child,* it became a milestone in the application of developmental knowledge on behalf of children in courts being placed in foster homes, given up for adoption, or being placed in the custody of one or another divorced parent: the overriding issue was that time did not stand still for the child and that the courts had to look at the developmental needs of a child to make attachments to parental figures in their determinations of child placement. The term "psychological parent" came to have special meaning in some courts. The disruption of these longstanding relationships could and did have serious repercussions for the child's subsequent development.

However, the use of these developmental principles involving early childhood needs did not take into account the long-term impact of placement and ignored the special cultural values of some children. The Bottle Hollow conference, the first conference on the mental health of native American children called by the Academy, focused precisely on this issue.

The current concerns appear to affect over 10,000 native American children, as estimated at the conference. The data presented, as well as the many clinical vignettes from the many tribes represented, were devastating in their portrayal of what happens to the Indian child placed outside of his culture. It was also clear historically that some poverty-stricken Indian parents had given up their children for placement to white churches to ensure a child's physical sustenance and to provide some

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relief from the burden of feeding another child on a nonexistent income. Many of the children who needed foster placement and were placed with white families until they were 18 often developed good relationships in the foster setting. Then, at age 18 when foster care was terminated, the adolescent found that, to the world, he was still an Indian discriminated against in employment and higher education. Unfortunately, attempts then to return to his tribe were devastating. Many of these adolescents lost an understanding of their native language and had no memory or comprehension of tribal history, culture, customs, and strivings. They became strangers among their own people. The adolescent could not make it either among his people as an anglicized Indian, nor could he make it as an Indian in the white world where he had no family supports and nothing to hang onto or no one to return to. Further, adolescent crime, drug abuse, suicide, and alcoholism, important problems on the reservations, were found to be even more pervasive for the Indian child brought up in white foster homes (Topper, 1974, 1977).

Thus, a new critical issue emerges. What may be advantageous developmentally for the small child may rob him of his cultural heritage and be devastating to him in his later development.

To correct this situation, many tribes are now attempting to secure from state authorities and social services the power to make foster placements within the tribe, or at least among native Americans. This is the beginning of a movement to redress the many years of foster placement of thousands of native American children in white foster homes. Current efforts in some tribes to obtain state financial aid to help these parents avoid such ultimately destructive placements form an important part of this movement.

Our native American mental health colleagues asked us how to reeducate judges and courts to become aware of the long-term effects on the Indian adolescent of placement outside of their culture. Judges must learn to recognize that loss of ties with their tribal customs and culture leaves these children without an identity and can result in an adult life of estrangement from both worlds.

We must now, as developmentalists, approach our short-term goals with greater clarity about long-term effects, at least in the case of the native American child, and probably for other minority children as well.

References

Goldstein, J., Freud, A., & Solnit, A. J. (1973), *Beyond the Best Interests of the Child.* New York: Free Press.

Topper, M. D. (1974), Drinking patterns, culture change, sociability, and Navajo adolescents. *Addictive Diseases: An International Journal,* 1:97–116.

——— (1977), Mormon placement: survival strategy or a finger in the dike? Read at American Academy of Child Psychiatry Conference on American Indian Child. Bottle Hollow, Utah.

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EXECUTIVE SUMMARY

INDIAN CHILD WELFARE: A STATUS REPORT

Final Report of the Survey of
Indian Child Welfare and
Implementation of the Indian Child
Welfare Act and
Section 428 of the Adoption Assistance
and Child Welfare Act of 1980

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Indian Child Welfare: A Status Report

EXECUTIVE SUMMARY

Indian Child Welfare: A Status Report, is the report on the first systematic national examination of the effects of the Indian Child Welfare Act (Public Law 95-608) enacted by Congress in 1978. Commissioned by the Administration for Children, Youth and Families and the Bureau of Indian Affairs, the study examined the prevalence of Native American children in substitute care and the implementation of the Indian Child Welfare Act and portions of the Adoption Assistance and Child Welfare Act of 1980 as they affect Indian children and families. The study was conducted by CSR, Incorporated and its subcontractor, Three Feathers Associates.

BACKGROUND

Passage of the Indian Child Welfare Act was prompted by deep concern among Indians and child welfare professionals about the historical experience of American Indians and Alaska Natives with the country's child welfare system. Causes for this concern included:

- the disproportionately large number of Indian children who were being removed from their families;
- the frequency with which these children were placed in non-Indian substitute care and adoptive settings;
- a failure by public agencies to consider legitimate cultural differences when dealing with Indian families; and
- a severe lack of service to the Indian population.

To address this situation, Congress enacted the Indian Child Welfare Act of 1978. The Act:

- removes sole authority for the protection of Indian children and the delivery of child welfare services from the States;
- re-establishes tribal authority to accept or reject jurisdiction over Indian children living off of the reservation;
- requires State courts and public child welfare agencies to follow specific procedural, evidentiary, dispositional and other requirements when considering substitute care placement or termination of parental rights for Indian children;

- provides for intergovernmental agreements for child care services; and
- authorizes grants for comprehensive child and family service programs operated by tribes and off-reservation Indian organizations.

In 1980, Congress passed the Adoption Assistance and Child Welfare Act (Public Law 96-272). Provisions of this law regarding child welfare casework practices apply to all children served by public child welfare agencies. The law also provides, in Section 428, that Title IV-B grants for child welfare services may be made directly to Indian tribes.

In combination, the Indian Child Welfare Act and the Adoption Assistance and Child Welfare Act provide a number of safeguards and procedures to ensure that Indian children are not separated from their families and the jurisdiction of their tribes unnecessarily, and that they receive child welfare services focused on achieving permanency.

QUESTIONS ADDRESSED BY THIS STUDY

To assess the extent to which the Indian Child Welfare Act and the Adoption Assistance and Child Welfare Act are being implemented with respect to Indian children and families, this study addressed the following questions.

1. What is the prevalence and flow of Indian children in substitute care? What are the characteristics of these children and their placements? How does the current situation compare to previous points in time? To the general substitute care population?
2. To what extent are the minimum Federal standards for removal and placement of Indian children, as specified in the Indian Child Welfare Act, being followed? What factors are promoting and undermining full implementation of these standards?
3. What services are provided to Indian families whose children are in substitute care? How uniformly are the casework protections and practices prescribed in the Adoption Assistance and Child Welfare Act applied to Indian cases?
4. How long do Indian children stay in substitute care? What are the outcomes of their cases?
5. What resources, including funds, training, and technical assistance, are available to tribes to operate child welfare programs? What types of programs are operated by tribes and Indian-run organizations that receive Federal and other assistance? What factors are supporting and inhibiting the delivery of services by these programs? What are the programs' current and projected needs?

METHODOLOGY

The study of Indian child welfare had two parts:

- a nationwide survey of State, tribal, Bureau of Indian Affairs and off-reservation Indian-operated child welfare programs regarding the number and flow of Indian children in substitute care; and
- a field study of public, tribal, BIA and off-reservation program child welfare practices affecting Indian children in Arizona, Minnesota, Oklahoma and South Dakota.

FINDINGS

Study findings related to the five general research questions are summarized here.

1. **What is the prevalence and flow of Indian children in substitute care? What are the characteristics of these children and their placements? How does the current situation compare to previous points in time? To the general substitute care population?**

The nationwide mail survey of programs providing substitute care services for Indian children and families provides information including the following.

- There were 9,005 Native American children in substitute care on June 30, 1986, under the supervision of public agencies, tribes, BIA agencies, and off-reservation Indian programs. Of these, 52 percent were served by public programs, 35 percent by tribes, 9 percent by the BIA, and 5 percent by off-reservation programs. (Numbers are rounded.)
- Indian children make up 0.9 percent of the total child population but represent 3.1 percent of the total substitute care population. They are placed in substitute care at a rate that is 3.6 times greater than the rate for non-Indian children.
- Over 9,300 Indian children entered care during 1986, while only 6,258 left care.
- The number of Indian children in care has risen from about 7,200 in the early 1980s to 9,005 in 1986. In contrast, there has been a decrease in the number of children of all races in substitute care during that time period.
- Native American children in care are younger than the overall substitute care population. The median age is 9.9 years for Native American children, compared to 12.6 years for all children.

- Seventy-seven percent of Indian foster children live in family settings (related or unrelated foster homes and unfinalized adoptive homes), while ten percent reside in institutions. These percentages are similar to those for foster children of all races.
- Of the Indian children in foster homes, 63 percent are in homes in which at least one parent is Indian. Indian foster children are most likely to be in Indian homes if they are in tribal, BIA or off-reservation care and least likely if in public care.
- Sixty-five percent of the Indian children in substitute care have a case goal that would place them in a family setting (return home, relative placement, guardianship, or adoption). Indian children are slightly more likely than all foster children to have a goal of return home or relative placement (56 vs. 51 percent) and less likely to have a goal of adoption (9 vs. 14 percent).

2. **To what extent are the minimum Federal standards for removal and placement of Indian children, as specified in the Indian Child Welfare Act, being followed? What factors are promoting and undermining full implementation of these standards?**

The Indian Child Welfare Act (ICWA) establishes requirements for State courts and public child welfare agencies that are considering placing an Indian child in substitute care or terminating parental rights to an Indian child. Interview and case record data from the 4-state field study provide indications of the extent to which these requirements are being implemented.

- According to the ICWA, parents and tribes are to be notified when an Indian child is at risk of being removed from the home. In the public program case records reviewed, between 65 and 70 percent had some evidence that parents had been notified of the proceedings. About 80 percent of these records contained evidence of the tribe's notification.
- Tribes have the right to assume jurisdiction over Indian children involved in State court child custody proceedings if they wish. Case record data suggest that requests for transfer of cases from State to tribal jurisdiction are honored in the majority of cases. Some requests apparently are denied because of socioeconomic conditions on reservations and perceptions of the adequacy of tribal social services or judicial systems, which is contrary to the BIA's Guidelines for States Courts for implementing the ICWA.
- The ICWA specifies that a child cannot be removed from the home unless it is demonstrated that active efforts have been made to provide services designed to prevent removal. However, preventive efforts were documented in only 41 percent of the case records of Indian children in public care. These efforts usually involved counseling by the caseworker.

- The ICWA requires testimony from expert witnesses in substitute care placement and termination of parental rights (TPR) cases. This requirement had been met in the limited number of recent TPR cases heard by the State court judges who were interviewed. In substitute care cases, however, the proportion of each judge's recent cases in which expert witnesses had appeared ranged from none to all.

- The ICWA gives priority for substitute care placements to relatives or tribally approved foster homes. In the field study, 47 percent of children in public care were placed in relative or Indian non-relative placements.

- The ICWA also prescribes preferences for adoptive placements that give priority to placement with relatives, other members of the tribe, or Indian families from other tribes. In the field study, adherence appears to be fairly high, although the number of cases is very small.

- Factors that promote implementation of the Indian Child Welfare Act, in the opinion of public and tribal officials, include:

  - Passage of a State Indian child welfare law that makes the Federal law more explicit and reinforces compliance by State courts and public agencies.

  - Hiring of Indian staff members in State and local public agencies to help inform policy decisions and strengthen casework practices related to Indian families.

  - State-Tribal agreements that provide support for substitute care placements and for child welfare services.

  - Judges' education on and awareness of the Act.

  - Cooperative relationships between public agencies and Indian tribes and organizations.

  - Training and technical assistance to help develop tribal child welfare services.

- Factors that respondents believe deter or undermine implementation of the Act include:

  - Unfamiliarity with or resistance to the Act.

  - Lack of experience in working with tribes.

  - Turnover of public agency staff.

  - Concern about tribal accountability for providing services and caring for children.

  - Lack of sufficient funding for tribal child welfare services and proceedings.

  - Absence of tribal courts with the authority to assume jurisdiction over proceedings involving tribe members.

3. What services are provided to Indian families whose children are in substitute care? How uniformly are the casework protections and practices prescribed in the Adoption Assistance and Child Welfare Act applied to Indian cases?

Field study interviews and case record reviews investigated the staffing and services of public, tribal, BIA and off-reservation child welfare programs, and the adherence of the first three types of programs to sound casework practices such as those specified in the Adoption Assistance and Child Welfare Act.

- Public programs provide the standard range of child welfare services that are available to all families. Because of funding limitations, the range of core services provided directly by tribal, BIA and off-reservation programs is more limited. Other services are provided through frequent referrals.

- The proportion of staff with a Bachelor's or Master's degree in social work is higher in tribal programs than in public programs visited for the study. On the other hand, tribal staff have fewer average years of experience in child welfare compared to staff in the other types of programs. Eight of the twelve public programs have at least one Native American staff member.

- Recruitment of Indian homes poses difficulties for agencies across all types of programs. Except for agencies located on reservations, public programs have very few Indian foster families. State and local agency recruitment efforts range from nothing to multi-strategy campaigns. There has been limited exploration of outreach methods that build on Indian norms and traditions.

- Over 80 percent of the children whose case records were reviewed for the field study were in foster homes. The others were in group settings.

- A case goal that will place the child in a permanent family setting (return home, relative placement, or adoption) was assigned to 75 percent of reviewed cases in public programs, compared to 70 percent of tribal cases and 31 percent of BIA cases.

- Written case plans appeared in the majority of public and tribal case records (74 and 65 percent, respectively), but in less than one-quarter (23 percent) of BIA case records. Few records contained plans that were signed by the parent (21, 12, and 0 percent, respectively).

- Among those case records with information on the last administrative or judicial review, 80 percent of the public and tribal cases and 55 percent of the BIA cases had been reviewed in the last six months, usually by the court.

4. How long do Indian children stay in substitute care? What are the outcomes of their cases?

Both the mail survey and case record data from the field study provide information on these measures of program effectiveness. Survey findings are the following.

- The median length of time in care is 12 to 23 months for public, tribal, and off-reservation programs and 36 to 59 months for BIA programs. The proportions of children in care for three years or more are 24 percent for public programs, 18 percent for tribal programs, 57 percent for BIA programs, and 34 percent for off-reservation programs.

- Outcomes for children discharged from care show family-based permanency (return home, relative placement, adoption, or guardianship) for 79 percent of the children. Children are more likely to be discharged to families if they are in off-reservation Indian center care (86 percent) or tribal care (83 percent) than in public (78 percent) or BIA care (72 percent).

5. What resources, including funds, training, and technical assistance, are available to tribes to operate child welfare programs? What types of programs are operated by tribes and Indian-run organizations that receive Federal and other assistance? What factors are supporting and inhibiting the delivery of services by these programs? What are the programs' current and projected needs?

Reviews of annual funding data of existing grant programs and interviews with public, tribal, BIA and off-reservation Indian center officials provide information concerning resources for Indian-operated child welfare services.

- Tribal child welfare programs rely most heavily on Federal monies available through "638" contracts and ICWA Title II grants. Title IV-E funds help support foster care payments for some tribes through agreements with States. In the field study sites, State funds or support in the form of access to services and provision of training and technical assistance have been made available to some tribes.

- Applicants compete against each other annually for the limited Title II funds available. There have been an average of 150 awards each year. About three-quarters have been to tribes; the remainder have been to off-reservation Indian centers. The average grant is around $55,000. Programs often have been funded one year but not the next,

both because funds are lacking and because their score in the competitive award process is too low.

- Title IV-B grants, authorized in Section 428 of the Adoption Assistance and Child Welfare Act, have provided an average of about $7,000 per tribe to about 35 tribes per year.

- Off-reservation child and family service programs in the field study sites have been developed with the support of Title II grants. They are multi-purpose programs that provide a range of preventive, remedial, and advocacy services to Indian families, including families involved in public and tribal child welfare programs. As a function of their location in urban areas, they tend to have access to an established social services network in the community for referrals.

- Training and technical assistance resources include other Indian professionals in the community and in private organizations that specialize in child welfare matters (e.g., American Indian Law Center, Three Feathers Associates), State child welfare agencies, the BIA, and local university staff.

- Child protection, substitute care, pre-adoption and aftercare services are offered by all tribal programs, but the range of services is limited. Referrals to other social services are the norm. Availability of these services from tribal programs depends upon other resources the tribe has been able to marshall (e.g., grants for substance abuse treatment, physical health facilities, support services). The high caseloads carried by many tribal child welfare workers hamper efforts to deliver needed services to clients.

- Among the current and projected needs of tribal programs are family-based services, mental health and substance abuse counseling and treatment services, day care, youth/adolescent homes and services, and emergency shelters. More staff, training and technical assistance in preventive and protective services, and procedural manuals would be beneficial.

- In identifying their needs, off-reservation program respondents named services such as day care, early warning and crisis intervention programs, and family therapy by Indian professionals. They also spoke of legal service and child advocacy needs in child welfare matters.

CONCLUSIONS

There has been progress in implementing the Indian Child Welfare Act enacted in November 1978. In many localities, public agencies and State courts are making significant efforts to comply with the procedural, evidentiary, dispositional and other requirements of the ICWA. Some States have supported the intent of the law through the passage of State Indian child

welfare legislation and the negotiation of State-Tribal agreements and service contracts.

However, Federal-level efforts to communicate performance standards and monitor or enforce compliance have been limited. As a result, implementation of the Act has been uneven across geographic areas and governmental levels, and with regard to specific provisions. In some localities, non-compliance is quite pronounced.

The Act has not reduced the flow of Indian children into substitute care. In fact, the number in care has increased by roughly 25 percent since the early 1980s. The greatest increase is occurring in tribally operated child welfare programs, with public programs actually showing a decrease of about 1½ percent from 1980 to 1986.

The public agencies studied are providing Indian children with the permanency planning and case review safeguards required by Public Law 96-272. Some are making efforts to hire Native American staff. However, public agencies are failing to provide Indian placements for a significant number of Indian foster children.

Based on data from their case records, the tribal programs visited for this study are doing a very creditable job of following standards of good casework practice and achieving family-based permanency for out-of-home children. This is particularly noteworthy in light of the inadequate and unstable funding arrangements under which they work. The substantial increase in tribal substitute care caseloads nationally indicates a need for expanded preventive services to children whose needs currently cannot be met in their own homes because of a lack of such services.

Off-reservation Indian-operated programs are important service resources for urban Indian families. They perform well in the provision of permanency-based foster care services and the placement of Indian children in Indian foster homes. They also serve as valuable links between public agencies and tribes.

Mail survey and case record data suggest that permanency planning in BIA agencies is not being practiced as well as in other programs. Children in BIA care are less likely to have case plans and case reviews than in other programs. They remain in care longer and are less likely to be discharged to family settings. Given the severe understaffing that characterizes most BIA social service programs, the declining child welfare caseloads in these agencies is a beneficial trend for both clients and staff, and the effort to shift child welfare responsibilities from BIA agencies to tribal programs should continue.

With the exception of 638 contracts from the BIA, which generally continue from year to year, funding for tribal child welfare programs comes from a hodge-podge of sources that requires tribes to scramble and compete annually for small and unreliable grants. This funding pattern makes continuity in services nearly impossible and the delivery of the quality services observed

in this study obtainable only through the professionalism and dedication of program staff. It also limits the provision of the comprehensive services needed to prevent placement and re-entry.

In conclusion, progress has been made. Indian children are being protected and served better than in the past, but Federal, State and local efforts still are needed to continue to improve the provision of child welfare services to Indian children and families.

ETHNIC IDENTITY PROBLEMS AMONG TEN INDIAN PSYCHIATRIC PATIENTS

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SUMMARY

Identity problems in general are probably no more common among American Indian people than in the general population. However, some Indian people do have an uncommon type of identity problem: negative or ambivalent feelings regarding their own racial and ethnic identity.

This study is based on ten intensive case studies of Indian psychiatric patients seen at University of Minnesota Hospitals. These data are supplemented by information from Indian people who were not patients, and from other Indian patients besides these ten.

These ten Indian patients are not markedly different with regard to demographic or clinical characteristics from other Indian patients without such problems. Five of the patients, aged 15 to 23, were going through a crisis with regard to their identity; emotional and behaviour disturbances were prominent. The remaining five, aged 27 to 45, had negative identities which were ego-syntonic; they were 'loners' with chronic social disability.

Ethnic identity problems commonly ensue in Indian and other ethnic groups following migration into social settings where they assume a 'minority' social identity. Therapeutic strategies should be based on enhancing ethnic identity. Ultimate prevention will depend upon the Indian community members' ability to determine their own destiny.

INTRODUCTION

IDENTITY problems are not peculiar to urban American Indians. They are commonly encountered in clinical practice among people of diverse ethnic and racial groups, both sexes, all ages and socioeconomic groups. Generally such difficulties involve negative feelings regarding one's sex, bodily or facial attributes, behaviour, or personality characteristics. However, the identity problems referred to herein are uncommon among White patients. They involve negative feelings which some American Indian psychiatric patients have regarding their racial and ethnic identity.

Identity is defined, for purposes of this paper, as a sense of one's self. In developmental terms, identity evolves as a result of relationships with people whom the individual regards highly and wishes to emulate. While identity development is usually conceived as a process which continues over a lifetime, most students of this phenomenon concur that identity issues give way to the adult's lessened dependency and greater self reliance.

Various identity problems can be distinguished conceptually, though in practice they often overlap. *Identity crisis* occurs during a momentous life change, as during adolescence, and entails considerable emotional discomfiture regarding who one is or ought to be. Emotional or behavioural distress often accompanies the crisis. As a result of chaotic child raising or repeated failure experiences, an individual may acquire a *negative identity* involving behaviours or personality characteristics which are eschewed on a moral or intellectual level but seemingly cannot be altered. Such a negative identity may cause anguish for a person who does not like oneself, or such an identity may relieve distress by providing an imagined role as a powerfully evil or dangerous person. *Ethnicity* here refers to one's values, attitudes and preferred behaviours, while *race* refers to one's genetic inheritance.

METHOD

This paper grew out of clinical experience among urban Indian people in the Twin Cities over the last seven years. Ten patients with prominent ethnic identity problems served as the nucleus of this study. Ethnic and racial identity problems were encountered in more than these ten patients, but were not a major part of their clinical problem. It should be emphasized that most Indian patients did not have racial and ethnic identity problems: they successfully integrated a Siouan or Chippewayan or mixed White-Indian identity and felt positively about their ethnicity and race.

In addition to clinical work, data regarding identity were also obtained from several Indian acquaintances and colleagues who were not patients. A few exemplary quotes from these people have been included here to highlight certain issues and to demonstrate that such identity problems also occur among Indian people who are not psychiatric patients.

FINDINGS

Demographic Characteristics. These patients tended to be male and young (see Table 1). The frequency of marriage was low: of six patients over the age of twenty-one, only two men had been married. One of these two were divorced and the other had been separated from his wife for some weeks prior to hospitalization.

Racial and Ethnic Characteristics (see Table 2). The patients' tribal affiliation and percentage Indian blood resembled that of the general Indian population in the Twin City area. They had initially moved from the reservation to an urban setting at various times ranging from less than one year to twenty-eight years prior to admission. Nine of them had made at least one trip to their home reservation during the two years prior to admission.

Clinical and Childhood Characteristics (see Table 3). These patients did not manifest psychotic problems. Instead, a mixture of depression, self destructive behaviour, and behavioural problems prevailed. Five of them had lost a parent before the age of 18; all of this group had lived in one or more foster homes.

Five People with Identity Crisis. Five patients were in conflict about their Indian identity and about what 'being Indian' actually meant. They ranged in age from 12 to 23 years. All were students and were economically dependent on others.

Two of these five adolescents, both young men aged 15 and 23, had been in a series of foster homes since early childhood. One had been in nine foster homes, and the other in fourteen. They had been raised socially and culturally as ethnically White children in families that were ethnically and racially White. During childhood this presented no particular difficulties. In describing this period one of them stated, 'I felt like I belonged to the middle class Protestant majority.' For a time in their earlier childhood, both believed they were racially White. As teenagers and young adults, however, they found that their peers and their peers' parents began to assign an 'Indian' racial and ethnic identity to them, though they had never been enculturated into the lifeways of Indian people. Parents of White girls did not want them dating their daughters, and they began to be excluded from mixed

male-female parties. Some peers referred to them as 'buck' or 'Chief Sitting Bul and warned them that they would become 'drunken Indians' if they used alcoh Though raised apart from Indians in childhood, they were pressured into conta with Indian peers in group homes during adolescence. Both presented with se related problems:

Case 1 was referred because of a suicide attempt after another youth in an Indian youth program had rejected his homosexual advances. He had begun homosexual activity some years previously with a foster parent and had continued homosexual activities with schoolmates and other foster children. Once in an Indian youth program (after expulsion from his fourteenth White foster family), he had felt alienated from the other members and had used the 'homosexual' role to retaliate against the group and further isolate himself.

Case 5 was referred because while drinking he had raped a White girl, the best friend of his own White girl-friend. The patient lived with two male White room-mates and felt more at ease with Whites than with Indians, though he was employed by an Indian youth group and received Indian scholarship funds. He felt a mission 'to help the Indians,' wanted to be 'a Jesus Christ for the Indians,' and hoped to accomplish the latter by becoming a teacher. Much of the time he felt depressed, confused, and frustrated, but was unable to share these feelings with anyone. He believed that his girlfriend was 'using their relationship to rebel against her parents.

The remaining three adolescents, aged 12 to 18, were all female. They ha also been in foster homes, but for much shorter periods of time. Two of them ha White fathers. In two cases, the Indian parents had expressed anti-Indian attitud throughout their childhood.

Case 2 was seen in consultation because of repeated runaway, truancy, and intoxication with glue and solvents. Both her biological father and her present step-father were White, and she was the only child out of the ten whose appearance was not conspicuously Indian. She began running away because her full-blood Indian mother objected to her Indian girlfriends and boyfriend, criticized her beadwork and costume making for pow-wows, and repeatedly warned her that Indians were 'dirty' and 'will get you into trouble.' Two month's placement in a White foster home had exacerbated her problematic behaviour.

Case 3 was seen in consultation because of a suicide attempt. Following the death of her Indian mother two years before, she had lived with her White father and six siblings for one year. At one point the father sent the children to the Indian maternal grandmother to live because he could not both support them and look after them. The patient began to use drugs and had problems with her White school teachers. Upon being sent by a White welfare worker to a White foster home, she attempted suicide. In the hospital she continued to gesture suicide, rip her clothes, and attempt to run away. At one point she stated 'I'm the only Indian here and I hate everybody like they hate me.' She had a recurrent dream in which she gave birth to a 'baby girl with big blue eyes'; she loved this baby but also felt compulsed to strike and injure her.

Case 4 was referred following multiple suicide attempts during several months in various foster homes, and four admissions to various psychiatric facilities. One year prior to admission her Indian mother had died of cancer, and nine months before admission her Indian father had died in a car accident. Following placement in a White foster home, she began to run away and abuse drugs. Prior to their deaths, her adoptive parents (who lived in a White suburb) had cut off all ties with their relatives and forbade the children to go to the Minneapolis 'Indian' neighbourhood. Unlike her more attractive and sociable elder married sisters, the patient felt ugly and unlovable – and attributed this to her 'Indian' features. In addition, she found life in White foster homes quite unlike her own upbringing and wanted to live with Indian relatives, but had been thwarted from this by her White welfare worker.

Five People with Negative Identity. Unlike the first five cases, the last five men had no ambivalence or questions regarding their identity. All saw themselves as Indian, both racially and culturally. They were older than the first group, ranging from 26 to 45 years; and all were male. None had ever been in foster homes; two spent part of their adolescence in Indian boarding schools and one had been imprisoned for 12 years on a burglary conviction.

This group had two elements in common. First, they were estranged from their Indian family members. Second, they lived as lower class individuals mostly away from other Indian people on the periphery of the majority society. The following vignettes demonstrate their similarities and differences:

Case 6 was admitted for hallucinations and paranoid delusions at the end of a weekend drinking binge. He had multiple psychiatric admissions and had long been a psychiatric out-patient at the student health service where he attended school. In the abstract he supported Indian activism but avoided Indian people because he felt estranged from them and had little respect for them. Instead he belonged to Jewish student and activist groups which he admired. He found a sense of purpose among Jewish people and liked to think that his Indian tribe might be 'the lost tribe of Israel.' He identified himself as a 'Zionist.'

Case 7 was hospitalized for acute and chronic alcoholism. He lived in a 'loner a deux' relationship with his Winnebago wife. Both of them avoided other Indian people whom they felt 'take advantage of us' and 'always lead us astray.' During his childhood his father forbade Chippewa to be spoken in the home.

Case 8 was seen as an outpatient for evaluation of 'depression.' A 'loner' since childhood, he felt ill at ease among Indian people and preferred to visit his girlfriend, a divorced black woman and mother of nine. At times he felt 'militant' and thought he might want to associate with Indian people, while at other times he reported 'not feeling Indian at all.'

Case 9 was admitted to the hospital for alcoholism. He worked at a solitary job and lived alone. He never invited Indian relatives or his Indian drinking companions to his small apartment because he did not trust them. In his cosmology, 'All us Indians are drunks.' Indeed, he rationalized his own alcoholism as due to the fact that 'I'm an Indian.'

Case 10 became depressed during one year of abstinence following treat-

ment for chronic alcoholism. 'When I was drinking I could always just be another drunken bum instead of an Indian.' Bereft of his 'drinking' identity, he again felt about himself the same way he had felt during his adolescence (i.e. that he was 'no good' because he was Indian). Twenty years of heavy drinking had ameliorated, but not resolved his negative identity. He was also a 'loner' who could tolerate only a few hours with his relatives.

DISCUSSION

Ethnic Identity Crisis. All five young Indian people were struggling for a viable identity with which to enter adulthood. The two males were raised to assume a White middle class identity, but found that this identity was socially denied to them by White people because of their markedly Indian racial characteristics (both were full-blooded). Pressured to associate with Indians, each settled on a different strategy. One chose to attempt isolation from Indians by acting out a sexual role which he knew would alienate others. The second preferred the company of Whites, but found he could obtain funds by 'being Indian;' he planned to become a Messiah for 'the Indians' (whom he always referred to in the third person, rather than in the first person).

The three female patients were raised throughout childhood by Indian mothers who themselves rejected their own Indian-ness. Their identity crises were exacerbated by other factors including recent parental loss, White father, a consistent criticism of Indian people by the Indian parents, and recent removal to a White foster home. Anger toward their parents prevailed among these young women: anger over abandonment by their White fathers, anger for the criticism of Indian culture by their Indian parents, and anger at their Indian parents whose absence or impotence led to their placement in White foster homes. This anger, coupled with loss of the parent in two cases, led to frustration, depression, and behaviour problems. Social workers managed these three problems by viewing the Indian extended family complex as 'pathological,' and then placed the young women in White foster homes. In all three cases, the placement precipitated even more severe problems (suicide attempts, runaway, truancy).

Negative Ethnic Identity. The second five cases had personal and interpersonal problems of major proportions for a long time. Among these five men the negative identity as Indian served several useful psychodynamic purposes. These can be stated as follows:

Projection: If my Indian relatives do not like me or want anything to do with me, it is not because I am bad but because they are no good. It is better anyway to live among non-Indians, who are nicer people.

Irresponsibility: Essentially I am a bad person. However, my badness is not due to anything for which I am responsible or which I can change. It is solely due to the fact that I am Indian. I did not make myself this way, and nothing or no one can change me from being this way.

Depression: I have made a mess of my life, and I do not amount to much. This has come about because I am Indian. Indians are no good and I am no good.

Denial: Being an Indian is basically a bad deal. But if I cannot change my skin or my relatives, at least I can control my behaviour. I will agree with myself not to remind myself that I am Indian, and will devote myself to a non-Indian identity.

These psychodynamic interpretations infer that the 'negative identity as Indian' becomes merely a convenient excuse or rationalization for feelings of rejection and low self esteem, paranoid feelings, failure experiences, and inability to integrate one's racial make-up (i.e. one's genes) and one's ethnicity(i.e. one's raising from childhood) into a coping, adult identity. But if this be so, why do Irish and Norwegian patients not demonstrate a similar phenomenon? This important point will be addressed later in the discussion.

The Ethnic Identity Issue. These observations were shared with several Indian acquaintances and colleagues. Most knew of similar cases, but could not identify similar identity problems within themselves either now or during their adolescence. However, several informants said they understood the issue well as a result of their own life experiences. Their own words carry the message well:

Case A. (Chippewa male, administrator, married, age 35.) When I was a boy I thought there were three kinds of people: good and bad people of my own race, and good White people. I saw the White doctors, White teachers, White nurses, White social worker, White storekeeper. They were able people and led good lives.

I grew up and drank a lot. I didn't take care of my family and came to hate myself for being what I was. I wished I was White and dreamed about being White.

But my thinking was unbalanced, like a three-legged chair. Finally I found that fourth leg when I discovered there were bad White men, too. Then my thinking became like that four-legged chair: it became more stable and didn't tip over so easy.

Prior to discovering that there were also 'bad' Whites, this man equated goodness with race. In an intellectual exercise of reverse racism, he blamed the faults which he perceived in himself on his 'being Indian.' Robbed of this phantasy by his later life's experiences, he decided eventually he was responsible for his own actions, whether 'good' or 'bad.'

Case B. (Chippewa male, academician, single, age 27.) During my teen-age years I began to avoid direct sunlight so my skin wouldn't become darker. Even on hot days I'd wear a hat and long sleeves. I'd even pull up my shirt collar. Once when I was drunk I raked my arms with a broken glass hoping that the scars would turn them white. I used to day-dream about what it was like to be White until I became active in community development work with my people. Then the day dreams stopped, and I was content to be Indian.

Unlike the former man in A, this man did not employ his Indian-ness as an excuse for undesirable behaviour. Instead, he had negative feelings about his body and his personality, and he did not respect Indian people as a group. As he attained successes, he felt better about himself. And as he came to understand the social history and culture of his people, he felt better about them also.

Experiences with achievement and attainment are necessary for the development of a positive self-image. However, living as they do within a majority social milieu often inimical to their own lifeways, many Indian people commonly encounter failure and frustration. One patient (not included among this series of ten) expressed it in these words as he was explaining how he had come to be a 'chronic psychiatric patient' though he had no symptoms of major mental illness:

Case C. (Chippewa male, unemployed, single, age 37.) What if I can

survive on failure? What if my God is failure? There's all kinds of ways to survive. It's pretty hard to accept failure. But we're not all perfect. We'll always be stupid. We're not even starting to find ourselves. What if my God is failure?

In one way or another, Indian people in their thirties or older seemed to have settled on some concept of what 'being Indian' meant to them personally. For some younger people it was often not so clear. One of the teenaged patients expressed her quandry about what it meant to be Indian in a winsome fashion. As she was feeling better about herself and her future, she remarked quite seriously one day, 'When I grow up, I'm going to be an Indian.'

Urban Indians as Part-time Immigrants. The vast majority of Indian people in the Twin Cities were born on the reservation. They first came to the city within the last decade or two, and – unlike White or Black Americans – they migrate back to the reservation frequently. In the city Indian people encounter a physical environment, social organizations, accepted behaviours, attitudes and values that are markedly different from what they knew on the reservation.[1-5] From both psychological and social perspectives (if not from legal or geographic perspectives), urban Indians are part-time immigrants in the land of their ancestors.

Among the several immigrant groups thus far studied, first generation migrants have experienced high rates of mental health problems.[4-6] Identity problems and associated emotional disturbances may persist for two or three generations following migration.[7] Given the social, economic and communication barriers facing Indian people in cities,[1-3,8] the urban Indian is not only an immigrant, but a lower socioeconomic class person also. Thus, it would be extraordinary if Indian people were to come into large, complex urban areas and not experience both identity problems and increases in mental health problems of all kinds.

Ethnic and Racial Identity Problems. Similar observations to those in this paper have been made in the past among other racial and ethnic groups. They have been observed among Black people in the United States and in Colonial Africa, by both Black and White observers.[9-11] Identity problems have also been observed among American Jewish people, probably due in part to their social status as a minority in Europe.[7]

Suffice it to say that these ethnic identity problems are not bizarre or limited to Indian people. They commonly occur among minority groups, lower socio-economic groups, and recent immigrants. However there has so far not been a professional focus on Indian identity problems similar to that which Fanon[9] initiated for Black identity problems.

Proposed Remedial Measures. Much can be done to ameliorate or prevent ethnic identity crises among Indian adolescents. Courses on Indian culture, history, language, and family life can be taught in grade school and high school in collaboration with Indian parents (as some schools now do). In times of family turmoil, social helpers should employ Indian homemakers, the extended kin group (in the method described by Atteneave[12]), alcoholism services, and mental health resources in order to keep families intact. Foster placement in White homes exacerbates the identity crisis for Indian children and adolescents taken from their own homes. Part-time employment can aid Indian adolescents garner success experiences, learn economic survival skills needed in the city, and alleviate the financial burden on their parents. Vocational programs and contact with Indian people employed at a variety of skilled and professional tasks can provide hope that a lower class socio-

economic existence is not inevitable. In one location, Indian adolescents have been hired and trained to provide assistance to other Indian adolescents in crisis. Indian adolescents also need Indian role models: Indian coaches, teachers, police, counselors, health workers from whom they can acquire a positive identity. Non-Indian psychiatric, health, or social workers can work closely with Indian community aides and health aides, thus compensating for their own cultural blinders, while at the same time involving Indian helpers in problem resolution among their own people and providing an Indian role model for the patient.[13] Involvement in Indian youth groups and political movements is often therapeutic for the Indian patient with an identity problem.

Identity problems among Indian people aged thirty or older occur within a context of repeated social and economic failure over many years. In addition to poverty and social isolation, this group of people commonly have chronic alcohol and drug abuse problems. Perhaps the best approach for these people is prevention and early case finding: adequate programs for adolescents and young adults would impede the evolution of this syndrome in adulthood. For those already entrenched in this lifestyle, halfway houses, job opportunities, and support from Indian counselors (who can serve as role models) can aid in social rehabilitation. This group also needs successes in their lives, as well as contact with Indians who are outside of the day-labour/bar/jail circles to which they have become accustomed.

The linchpin in addressing this ethnic identity problem is Indian role models: Indian professionals, school or community aides, law enforcement officers or other Indian helpers who work with Indian people in trouble or crisis. As Indian patients and clients encounter coping Indian helpers, it becomes more and more awkward for them to maintain the image of Indians as 'bad,' 'irresponsible,' or 'incompetent.' They are ever more forced to see 'being Indian' as an asset in their lives rather than a liability, and to take responsibility for their own decisions and behaviour.

REFERENCES

1. Leon, R. L.: Maladaptive interaction between Bureau of Indian Affairs staff and Indian clients, *Amer. J. Orthopsychiatry* 35:723-728, 1965.
2. Westermeyer, J.: Absentee health workers and community participation, *Amer. J. Publ. Health* 62:1364-1369, 1972.
3. Westermeyer, J.: Indian powerlessness in Minnesota, *Society* 10:45-52, 1973.
4. Roberts, B. H., Myers, J. K.: Religion, national origin, immigration, and mental illness, *Amer. J. Psychiat.* 110:759-764, 1954.
5. Bloom, J. D.: Migration and psychopathology of Eskimo women, *Amer. J. Psychiat.* 130: 446-449, 1973.
6. Hallowell, A. I.: Values, acculturation and mental health, *Amer. J. Orthopsychiatry* 20: 732-743, 1950.
7. Sanua, V. D.: Differences in personality adjustment among different generations of American Jews and non-Jews in *Culture and Mental Health*, M. K. Opler (ed), (New York: Macmillan, 1959), p. 443-466.
8. Weppner, R. S.: Socioeconomic barriers as assimilation of Navajo migrants, *Human Organization* 31:303-314, 1972.
9. Fanon, F.: *Black Skin, White Masks* (New York: Grove, 1967.
10. Comer, J. P.: *Beyond Black and White* (New York: Quadrangle, 1972).
11. Ventress, C. E.: Self-hatred in Americans of African descent. Paper presented at Amer. Assn. Annual Meeting, New Orleans, 1972.
12. Atteneave, C.: An analysis of therapeutic roles in tribal setting and urban network intervention, *Family Process* 8:192-210, 1969.
13. Westermeyer, J.: Clinical guidelines for the cross-cultural treatment of chemical dependency, *Amer. J. Alcohol and Drug Abuse* 3:313-322, 1976.

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APPENDIX 1
DEMOGRAPHIC AND CLINICAL CHARACTERISTICS TEN AMERICAN INDIAN PATIENTS UNIVERSITY OF MINNESOTA HOSPITALS

Number	Sex	Age	Marital Status	Tribe	Percentage Indian	Left Reservation at age:	Presenting problem	Significant history
1.	Male	15	single	Chippewa	8/8	2 years	Suicide attempt	14 foster homes since age 2.
2.	Female	12	single	Chippewa	4/8	5 years	Truancy, runaway, drug use	White father; Indian mother teaches children Indians are 'dirty;' 2 mo. in White foster home.
3.	Female	14	single	Chippewa	4/8	14 years	Suicide attempt	Death of Indian mother 2 yrs. ago; White father; 4 mo. in White foster home.
4.	Female	18	single	Chippewa	6/8	6 years	Suicide attempt	Recent death of both Indian parents, who had kept patient from Indian relatives and community; 6 mo. in various White foster homes and institutions.
5.	Male	25	single	Sioux	8/8	2 years	Forensic evaluation for rape offense	9 foster homes since age 2.
6.	Male	27	single	Chippewa	7/8	11 years	Alcoholic hallucinosis	A 'loner;' active as a 'Zionist.'
7.	Male	34	married	Chippewa	7/8	17 years	Acute and chronic alcoholism	Father forbade spoken Chippewa and Indian customs in home.
8.	Male	26	single	Chippewa	8/8	14 years	Withdrawal seizure from drug abuse	A 'loner;' estranged from Indian kin group.
9.	Male	42	single	Chippewa	8/8	18 years	Acute and chronic alcoholism	A 'loner;' sees all Indians as 'drunks.'
10.	Male	37	divorced	Sioux	8/8	18 years	Depression	A 'loner;' cannot tolerate Indian relatives for more than a few hours.

TABLE 1
DEMOGRAPHIC CHARACTERISTICS

Characteristic	Number of Patients
Sex	
Male	7
Female	3
Age	
less than 20 years	4
20-29 years	3
30-39 years	2
over 40 years	1
Marital status	
single	8
separated	1
divorced	1
Occupation	
student	6
truck driver	1
laborer	3

See Appendix 1 for tabulation of ten patients.

TABLE 2
ETHNIC AND RACIAL CHARACTERISTICS

Characteristic	Number o
Tribe	
Chippewa	
Sioux	
Percentage Indian Blood	
100%	
7/8	
3/4	
1/2	
Age at leaving reservation	
0-5 years	
5-10 years	
11-15 years	
over 15 years	

TABLE 3
CLINICAL AND CHILDHOOD CHARACTERISTICS

Characteristic	Number
Presenting problem	
Chemical dependency	
Suicide attempt	
Depression	
Truancy, runaway	
Forensic evaluation	
Parental loss before age 18	
None	
Parent(s) died	
Parent(s) divorced or eloped	
Foster placement during childhood	
No	
Yes	