

Reclaiming Childhood

Indigenous Child Welfare, Bill C-92, and Canada's
Shadows of Colonialism

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Abstract

This thesis explores the evolution of Canadian child welfare policies through a historical lens, focusing on the impact of colonial legacies on Indigenous communities. By analyzing the key parameters of education, healthcare, child labour, and child protection across different historical periods, the study reveals how universalist narratives rooted in Eurocentric norms have systematically marginalised Indigenous practices and perpetuated structural inequalities. The implementation of Bill C-92, aimed at promoting Indigenous self-governance in child welfare, is critically examined within this context. Despite its intentions to create a more culturally relevant and equitable framework, Bill C-92 struggles to overcome the deeply rooted colonial ideologies and systemic biases that have long shaped Canadian child welfare policies. Through a social constructivist and historical institutionalist approach, this research highlights the persistent challenges of reconciling universalist child welfare standards with the cultural specificity required to meet the needs of Indigenous communities. The thesis concludes by calling for a fundamental shift in policy design that respects Indigenous self-determination and incorporates culturally sensitive practices. It also suggests areas for future research, emphasising the need to explore Indigenous-led initiatives further and develop frameworks that support meaningful reconciliation.

Keywords: Indigenous child welfare, Bill C-92, colonial legacies, universalist narratives, and historical institutionalism.

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1. Introduction

Canada's Bill C-92, enacted in 2019, marks a significant shift towards recognizing Indigenous communities' right to self-governance in child welfare. This legislative move departs from centralised policies, emphasising Indigenous jurisdiction over child and family services, aiming to address the lasting effects of colonialism, such as chronic poverty and systemic inequality. Bill C-92 underscores the birthright of First Nation children to grow up rooted in their cultural identity, establishing commitments for federal and provincial governments to reduce the number of Indigenous children in care (Yellowhead Institute, 2019).

However, the implementation of Bill C-92 has unveiled numerous significant challenges and complexities. The Yellowhead Institute points out that introduced exceptions within the bill create ambiguity around Indigenous authority, and universal policies perpetuate structural problems rooted in historical trauma. One critical issue is the 'Best Interest of the Child' (BIOC) doctrine, derived from the UN Convention on the Rights of the Child (United Nations, 1989), which still plays a significant role in Bill C-92. The bill's consistency clause suggests that the BIOC doctrine should align with Native American law. However, this alignment is only required 'when possible,' leading to potential conflicts where Canadian jurisdictions might override Indigenous law-making (Yellowhead Institute, 2019).

This ambiguity allows the Canadian government to continue practices such as forcibly removing Native American children from their communities under the guise of the BIOC doctrine, undermining the bill's promise of cultural continuity (First Nations Child & Family Caring Society of Canada, 2019). Currently, Indigenous children make up 53.8% of children in foster care, a situation exacerbated by historical abuses like residential schools (Government of Canada, 2024). The central puzzle of this research thus lies in balancing the preservation of Indigenous cultural ties and familial bonds with ensuring the safety and welfare of Indigenous children, a challenge compounded by the structural issues and intergenerational trauma perpetuated by existing policies.

1.1 Research Aim & Question

In this research, I aim to examine the construction of child welfare policies in Canada, focusing on the Eurocentric institutions and legacies of the BIOC doctrine and its contrast with Indigenous perceptions of children's needs and development. It seeks to elucidate the complexities of combining Indigenous law with Eurocentric-based jurisdiction within Bill C-92, given Canada's historical context. The impact of Eurocentric diffusionism and the imposition of universality within Western human rights discourse accentuates the suppression of non-Western approaches, particularly surrounding child welfare policies. By exploring these differences, this study seeks to promote and provide insights into Indigenous perspectives in developing inclusive and effective child welfare policies, shedding light on critical barriers that impede Indigenous autonomy.

The following research question has been developed to guide the above research aim:

How do Indigenous communities and the Canadian government construct narratives of the 'Best Interest of the Child,' and how have they been institutionalised to form part of Canada's historical legacy?

1.2 Significance & Justification of Research

The importance of this research lies in its timely examination of Bill C-92, a recent legislative development crucial for addressing long-standing inequities in child welfare and the evolving nature of Indigenous self-governance. By analysing how Bill C-92 interacts with entrenched Eurocentric norms and systemic issues, this study provides valuable insights into the effectiveness of these reforms and the challenges they face. It addresses a critical gap in the literature by offering a contemporary perspective that incorporates recent developments in Canadian child welfare policies and their impact on Indigenous communities. This research also contributes to broader development discourse by emphasising the importance of Indigenous self-determination and cultural preservation, demonstrating how historical legacies and systemic barriers must be addressed to achieve sustainable and inclusive progress. Ultimately, the study

aligns with post-colonial development frameworks, highlighting the need to empower marginalised communities for sustainable development.

1.3 Limitations

The effort to codify Indigenous laws inevitably aligns with a Eurocentric framework, as it involves imposing Western standards of legal codification and categorization onto traditionally oral and context-specific systems. This approach, deeply rooted in Western legal traditions, risks reducing the dynamic and holistic nature of Indigenous laws to static elements that conform to a Westernised schema. By attempting to fit Indigenous legal frameworks into this structured format, the research may inadvertently distort or oversimplify these laws, thus perpetuating a form of epistemic colonialism.

1.4 Structure

The following section outlines the structure of this thesis: Chapter two, the background, discusses the impact of colonialism on Indigenous child welfare in Canada, focusing on systemic inequities and assimilation policies. Chapter three reviews literature on Canadian child welfare, with an emphasis on Indigenous perspectives, colonial impacts, and a critical analysis of Bill C-92. Chapter four presents the theoretical framework, incorporating social constructivist and historical institutionalist perspectives to examine the BIOC doctrine and its influence on current policies. Chapter five outlines the methodology, including the qualitative case study approach and data collection. Chapter six analyses the impact of universal and collectivist child development principles on Canadian child welfare policies. Chapter seven concludes while Chapter eight discusses the influence of colonial legacies on the effectiveness of Bill C-92 and emphasises the need for systemic reforms.

2. Background

2.1 Legacy of Colonialism: Impact on Indigenous Child Welfare in Canada

Colonialism in Canada began in the early 16th century as European explorers and settlers established control over Indigenous lands and communities, leading to profound and lasting disruptions to Indigenous ways of life. The subjugation of control took place through armed conflict and biological warfare, through which diseases such as smallpox and influenza caused significant population declines and disrupted social structures among Indigenous populations (Matheson et al., 2022). Its impacts were so severe that it lowered Canada's pre-colonised Indigenous population from up to 500,000 to 125,000 by 1867 (Matheson et al., 2022).

Child protection systems in Canada have a complex history of disproportionate interventions to remove Native American children from their families, applying non-Indigenous constructs of child development to Indigenous families, and perpetuating inequalities (OHRC, 2018). Despite Canada's adoption of an official multiculturalism policy in 1978, numerous minority groups remain marginalised in national discourses concerning multiculturalism, social transformation, and political participation (Syed, 2010). Indigenous groups in Canada are especially vulnerable to systemic injustices within legal and political frameworks, struggling to maintain their cultural identity and agency following centuries of colonialism (Smye et al., 2023, p.1). These historical injustices have significant impacts on Indigenous children today, underscoring the enduring repercussions of Eurocentric practices within child protection systems that disproportionately affect their families, perpetuating cycles of cultural disconnection and systemic inequality.

The contrasting perspectives on child development between Indigenous groups and long-standing Eurocentric policies exemplify diverging cultural values, highlighting the disparities between traditional community-centric practices and dominant Western ideologies of childcare. Eurocentrism is the “multidimensional attempt to restore Western cultural practices as universal” (Sayyid, as cited in Saghayeb-Biria, 2018, p.285). It reinforces that Western culture is superior and should be the standard against which all other cultures must be judged (Mutegi &

Aikenhead, 2001). In the mid-19th century, assimilation policies emerged, aiming to civilise Indigenous communities in Canada. Education played a pivotal role in this agenda, leading to the establishment of the Indian Residential School System. Residential schools were built to "civilize and Christianize the Aboriginal children" (Arsenault, 2015, p. 5), removing Indigenous children from their communities. Colonisers believed the sociocultural differences between themselves and Indigenous people served as proof that Canada's initial inhabitants were "ignorant, savage, and ... in need of guidance" (Hanson et al., 2020).

Similarly, the extensive removal of Indigenous children from their communities to non-Indigenous families during the 1960s and 1970s represented a continuation of discriminatory policies aimed at assimilating Indigenous youth into Western culture, severing their ties to their heritage and community (Sinclair & Dainard, 2024). The current framework of child welfare policies in Canada reflects the lasting impact of colonialist policies, contributing to a legacy of systemic oppression and cultural diminishment that continues to exert a passive influence on Indigenous children today.

Today, Indigenous communities in Canada experience pronounced social and economic disparities. Almost half of all Indigenous children in Canada live in poverty, emphasising intersectional inequalities that disproportionately affect marginalised children and families (Macdonald & Wilson, 2013, p.6). Poverty among Indigenous children is closely connected to the legacy of colonialism and plays a significant role in their high rates within Canada's foster care system (Macdonald & Wilson, 2013, p.10). Despite government efforts to reverse these damages, as seen in Bill C-92, the lasting effects of colonial institutions are difficult to combat.

3. Literature Review

Child welfare policies have been at the forefront of national discussions in Canada, highlighting the contrasting perspectives between Canada's government and Indigenous communities on child development and their best interests. The primary focus of this research is Bill C-92, a relatively recent enactment, resulting in limited specific academic literature. To address this, the literature review begins by discussing broader academic articles on Indigenous autonomy and child welfare policies in Canada (sections 3.1 and 3.2), before integrating the few available academic sources on Bill C-92 with practical reports from Indigenous rights groups on the shortcomings of the bill (section 3.3).

3.1 Perceptions of Indigenous Autonomy in Canada

Addressing Indigenous rights issues in Canada involves reconciling significant cultural disparities between Indigenous perspectives and Eurocentric understandings across various domains. Scholars such as Will Kymlicka and Charles Taylor have provided distinct viewpoints on Indigenous autonomy and self-governance within the Canadian context. Kymlicka, known for his advocacy of liberal multiculturalism, argues for the recognition of Indigenous peoples' collective rights within the framework of liberal democratic societies (Kymlicka, 1999). He supports policy measures that facilitate Indigenous self-governance, enabling communities to assert control over crucial aspects of their affairs, including land rights and resource management.

In contrast, Taylor, drawing inspiration from communitarian principles, underscores the imperative of recognizing Indigenous cultural distinctiveness and addressing the historical injustices they have endured. His approach emphasises the need for a deeper comprehension of Indigenous worldviews and traditions, advocating for a more substantive form of autonomy that extends beyond mere legal recognition to encompass meaningful participation in decision-making processes. Kymlicka and Taylor, in their respective approaches, highlight the multifaceted nature of addressing cultural disparities and historical injustices in Canada (Newman, 2019). Blackstock (2019) and Ciftci (2016) add to this discourse by emphasising the

need for policies that support Indigenous collaboration and control. They argue that universal child welfare policies often fail to accommodate the collectivist values central to Indigenous cultures, which emphasise community involvement and the role of extended families in child-rearing.

3.2 Reflections on Past Child Welfare Policies in Canada

Exploration of the historical involvement of Indigenous children within Canada's welfare system is crucial to understanding the complications within current child welfare legislation. Multiple scholars have addressed the atrocities of residential schools and their long-term impacts on child development and familial ties. Residential schools, once considered to be in the best interest of Indigenous children, are now unanimously known to have been damaging to First Nations communities, as Native American children were subject to attempted cultural eradication and multiple forms of abuse (Wilk et al., 2017). Their forcible displacement and exploitation had lasting effects on their substance abuse, suicide rates, criminal activity, domestic violence, and disintegration of families and communities (Wilk et al., 2017). According to the Manitoba Regional Health Survey, contemporary reports of Indigenous child abuse are associated with having a parent or grandparent who had attended a residential school at any point in their lives (Bombay et al., 2014). Children of survivors, therefore, adopted the same damaging coping mechanisms, severing intergenerational family structures and creating a legacy of traumatised Indigenous individuals unable to function in mainstream society (Cowan, 2020).

The historical context of structural discrimination against Indigenous communities is critical in understanding current child welfare challenges. Colonial policies, such as the residential school system and the Sixties Scoop, aimed to assimilate Indigenous children into settler society, causing long-term trauma and disruption of cultural identities (Roxburgh & Sinclair, 2024; Sinha et al., 2021). These practices have created intergenerational trauma and socio-economic disadvantages that persist today, contributing to the overrepresentation of Indigenous children in the child welfare system.

Canada's foster care system has also been heavily criticised for its disproportionate removal of Indigenous children from their families and communities over recent decades. The Canadian

Broadcasting Corporation described the foster-care system as the "modern-day residential schools" (Wright, 2021), highlighting the overly high volume of Indigenous children in these systems and their connection to prior colonial institutions. The removal of Indigenous children from their homes also became recognised as ‘whitestreaming’ them away from their identities, hindering a reconnection to their culture (Choate et al., 2021). It was further noted that child welfare policies are racist such that they “apply standards that are not culturally relevant to Aboriginal peoples,” drawing attention to the “racist bias from which judicial interpretations of the best interests of the child test are reached” (Crichlow, as cited in Sinclair, 2016, p.13). This persistence of child removal over centuries is recognised to have destroyed the trust of Indigenous people towards dominant white populations. The ongoing relationship continues to prioritise the dominance of mainstream society over the well-being and future prospects of Indigenous children, perpetuating a system rooted in power imbalances and domination (Choate et al., 2020).

3.3 Responses to Bill C-92

Recent Indigenous responses to Bill C-92 highlight various concerns regarding its implementation and the persistence of structural problems rooted in historical trauma. Given the bill's recent enactment, academic literature on Bill C-92 is limited. Therefore, this section combines the available academic sources with practical reports from Indigenous rights groups to provide a comprehensive analysis.

Indigenous Rights Organizations and community leaders have systematically assessed the bill's outcomes, voicing apprehension regarding the lack of meaningful engagement in the legislative process. They further express their dismay towards the bill’s heavy reliance on the foster care system and the BIOC doctrine. The Chiefs of Ontario emphasised that the universal rules in Bill C-92 are a "one-size-fits-all solution" that do not fit the diverse needs and choices of Indigenous communities (Miller, 2019).

Similarly, the Nishnawbe Aski Nation tribe criticised the legislation for enforcing a “status quo system that can override First Nation jurisdiction” (Forester, 2020). They argue that in the name of the BIOC doctrine, the child welfare system has continued to traumatise Indigenous

communities by separating children from their families and cultures. The First Nations Leadership Council (2021) also highlights Bill C-92's inability to fully recognise and respect Indigenous jurisdiction, noting that the bill's minimum standards often prevail over Indigenous laws regarding child welfare.

Blackstock (2019) argues that Bill C-92, despite its intentions, may undermine specialised services developed over decades by imposing a homogenised legislative framework that fails to address the unique needs of different Indigenous groups. Couchie (2023) and Grammond (2018) add that without robust funding and enforcement mechanisms, the bill risks perpetuating the same structural issues it aims to resolve. The critique extends to the bill's overarching reliance on the BIOC doctrine, which can continue to justify the removal of Indigenous children from their communities under the guise of their best interests rather than addressing the root causes of such issues, such as poverty and historical trauma.

3.4 Literature Gap

While there has been substantial criticism of the limitations of Bill C-92, particularly from Indigenous rights organisations and scholars focusing on colonial legacies and Indigenous child welfare policies in Canada, there remains a significant gap in academic literature specifically linking these limitations to historical legacies of discrimination against Indigenous peoples. This study aims to address this gap by examining how these historical legacies have shaped the development and implementation of Bill C-92. Moreover, there has been limited exploration of the social construction of universal and collectivist principles within Canada's child welfare system through a historical institutionalist lens. By investigating the imposition of Eurocentric values and the marginalisation of Indigenous perspectives, this research will offer deeper insights into the structural barriers that continue to challenge Indigenous self-determination and cultural preservation within the system. This study will contribute to a more comprehensive understanding of the interplay between historical dynamics and contemporary policy challenges, specifically in the context of Bill C-92.

4. Theoretical Framework

This chapter outlines the theoretical foundation of the thesis, focusing on the interplay between social constructivism and historical institutionalism in analysing Canadian child welfare policies. Social constructivism is applied to deconstruct narratives surrounding the Best Interest of the Child (BIOC) doctrine, examining how Eurocentric norms shape its application within the child welfare system from both universalist and collectivist perspectives. This approach illuminates the contrasting cultural contexts and the implications of these narratives for Indigenous communities. Historical institutionalism adds a critical temporal dimension, analysing how child welfare policies and paradigms have evolved over time. Specifically, it examines how narratives from one historical period - universalist or collectivist - have carried over, influenced, and reshaped narratives in subsequent periods. By integrating these two perspectives, the research offers a deeper understanding of the complex interplay between historical legacies, institutional structures, and social constructions in shaping Canada's child welfare policies, with significant implications for future policymaking concerning Indigenous children.

4.1 Social Constructions of Canada's Child Welfare Policies

4.1.1 Constructivist Epistemology

Social constructivism highlights that language and culture shape human experience, communication, and understanding of reality. Vygotsky (1968) emphasised the pivotal roles of language and culture in human intellectual development and perception of the world. According to this theory, learning concepts are conveyed through language, interpreted through experiences, and shaped by interactions within cultural contexts (Akpan et al., 2020, p.50). Constructivism acknowledges the existence of a real world but contends that this world can never be fully known or understood through a singular perspective (Vrasidas, 2000, p.7). Constructivists do not claim objectivity or believe in one truth. Instead, they acknowledge their subjectivity and the emergence of knowledge within a specific context, rejecting the generalizability of their research findings (Denzin, as cited in Thompson, 2017).

4.1.2 Social Constructivism and Welfare Policies

Social constructivism posits that perceptions and labels applied to social groups significantly influence policy design. Policies emerge not only from power dynamics but also from how target groups are socially constructed as ‘deserving’ or ‘undeserving.’ This framework suggests that pre-existing social constructions influence the design of policies before any evaluative judgments are made (Barbehön, 2020). It emphasises that individuals make decisions subjectively, prioritising information consistent with their beliefs, values, motivations, and interests (Legido-Quigley et al., 2019, p.4). Consequently, policy designs often reproduce prevailing institutional culture, power structures, and social constructions (Ingram et al., 2007).

Policy narratives are pivotal in shaping and interpreting child welfare policies, particularly when examining the tensions between collectivist and universalist approaches. Social constructivism asserts that our understanding of reality is constructed through social processes and interactions, primarily mediated by language and narrative (Berger & Luckman, 1966). These narratives, which include the stories and frameworks used by policymakers, stakeholders, and communities, are vital for advocating specific policy decisions (Roe, 1994). They highlight the differences between Indigenous-specific policies, which emphasise cultural identity and community-based approaches (Kirmayer et al., 2003), and universalist policies, which advocate for standardised solutions based on general principles of child welfare (Denburg et al., 2021). Constructivist perspectives reveal how these narratives shape perceptions, influence policy decisions, and affect resource allocation (Hajer, 2004). Analysing these narratives, particularly the dichotomy between collectivist and universalist views, reveals the complexities of policymaking in a multicultural society and underscores the need for policies that respect diverse social and cultural realities.

4.1.3 Social Constructivism within the BIOC Doctrine

Universal values, often rooted in European culture and framed as human rights, reflect the historical dominance of European perspectives over the past five centuries. Eurocentric individualism emphasises individual autonomy and inherent rights, whereas Indigenous collectivism stresses group rights for the common good. In the Native American cultural context,

children are seen as integral members of their larger communities (Choate et al., 2021). The social constructivist perspective highlights that universal policies, shaped by a Western-dominated lens, may not serve the best interests of diverse populations. When applied cross-culturally without adaptation, these policies reinforce colonial assimilation by imposing a Eurocentric worldview on Indigenous communities (Ife & Tascon, as cited in Douglas, 2022). This imperialist approach to policy development in child welfare will continue to cause immense intergenerational harm if left unaddressed (Blackstock, as cited in Douglas, 2022).

The BIOC doctrine is Canada's main standard for child welfare in legal and social contexts. From a social constructivist perspective, this doctrine is linked to how children are perceived and treated in welfare policies. It acknowledges that decisions about child welfare policies are influenced by social constructs rather than purely scientific or technical criteria (White, 1999). Constructivist analysis examines how the concept of 'the child's best interest' is shaped and applied in policymaking, emphasising the need to balance children's psychological, emotional, and developmental needs with their agency and autonomy. By analysing the BIOC doctrine through this lens, we gain insight into the complexities and subjectivity involved in policy implementation and the determination of children's welfare outcomes.

4.2 Historical Institutionalism

4.2.1 Conceptualizing Historical Institutionalism

Temporal processes and events play a significant role in shaping the emergence, continuity, or evolution of institutions governing political, social and economic relations, a principle central to historical institutionalism. Historical institutionalism, an approach to political analysis, primarily addresses outcome-based questions regarding political phenomena, centering on institutions and employing historical and conjectural explanations (Amenta et al., 2012, p.47). It underscores the larger political and social processes that sustain the emergence of institutions, depicting their origin as a product of conflict and contestation (Streeck & Thelen, 2005). Despite changing circumstances, these institutional establishments solidify and become irreversible. This perspective emphasises how past choices often constrain future policy development and institutional change (Wilsford, 1994).

4.2.2 Path Dependency

Time is undeniably a cornerstone of historical institutionalism. More specifically, particular sequences of events, or the temporal order, play a significant causal role. The concept of path dependency suggests that initial policy decisions made during the formation of an institution or the initiation of a policy set the course for subsequent policy choices (Peters, 2012, p.70). Consequently, early decisions shape the trajectory of future policy development through a sequential process. In essence, policies adhere to a particular pattern and constrain actors in the future. Should political circumstances change, they tend to align with the established pattern and move away from alternative paths (Amenta et al., 2012, p.50).

4.2.3 Historical Legacies within Bill C-92

Bill C-92 exemplifies the difficulties of implementing new institutional frameworks into once-colonised countries as colonial ideologies carry on, requiring large-scale changes in government to overturn persistent, discriminatory practices. It helps identify the reasoning behind the new legislation's clause and the obscurity surrounding policymaking and Indigenous authority, which is linked to preserving governmental power and their political agendas. It also underlines the effects of various historical events, such as the establishment of residential schools and increased governmental interventions on Native American communities, perpetuating cycles of poverty and intergenerational trauma, only incorporating surface-level solutions to deeply-rooted problems (Cowan, 2020).

5. Methodology

This chapter provides a thorough examination of the methodological choices made in order to answer the research question. It opens with an overview of the research design and continues with the data collection method, followed by critical evaluation of the research collection framework in terms of validity and reliability. The subsequent section outlines the data analysis process, highlighting how it was used to derive insights from the collected information. Ethical considerations, particularly regarding positionality and potential biases, are also discussed to ensure the integrity of the methodology.

5.1 Research Design

The research employs a qualitative case study as the main strategy, defined by Lamont as “in-depth studies of a single unit or historical episode in order to explain or understand other units or episodes” (Lamont, 2015, p. 131). Additionally, Punch (2013, p. 234) argues that case studies are a powerful research tool because they offer a detailed understanding of a specific case, which can then be applied to broader contexts within the research field. This approach is well-suited for examining Bill C-92, as it provides a detailed understanding of how long-standing historical issues, particularly within the Best Interest of the Child (BIOC) doctrine, have contributed to the legislation's challenges. By analysing the evolution of Canadian child welfare policies, the study reveals how entrenched colonial legacies shape the current policy landscape, offering broader insights into child welfare.

Rather than an in-depth analysis of Bill C-92 itself, whose limited success is well-documented, this research explores the underlying reasons for its challenges, such as persistent colonial legacies and structural power dynamics between the Canadian state and Indigenous communities. These "why" questions make a case study approach ideal, allowing for a detailed, contextual exploration of the specific factors involved (Yin, as cited in Ridder, 2012).

My case study of Bill C-92 aligns with Lund's (2014) four dimensions by providing a nuanced exploration that traverses specific, general, concrete, and abstract levels of analysis. On the

specific dimension, the study examines the unique challenges and limited success of Bill C-92 within the context of Indigenous child welfare. The general dimension is addressed by situating these challenges within the broader historical and institutional legacies of colonialism in Canada. The concrete dimension is reflected in the detailed examination of real-world policies, practices, and their direct impact on Indigenous communities. Finally, the abstract dimension is engaged through the theoretical exploration of how structural power dynamics and colonial legacies continue to shape contemporary policy outcomes, offering insights that extend beyond the immediate case.

5.2 Data Collection

The qualitative research strategy for this study is primarily desk-based, relying on secondary data sources for analysis. Given the study's aim to analyse Canadian child welfare policies over an extensive timeframe, secondary sources are particularly relevant. Relying on primary sources would have required selective choices about which policies to include, potentially introducing significant selection bias that could limit the generalizability of the findings. In contrast, secondary sources enable a broader analysis of child welfare policies across time. However, this approach may limit the extent to which I can directly shape the analysis. To address this, I developed a framework to guide the analysis, which is detailed in the following section.

I collected three types of secondary sources for this research: academic journal articles, reports from Indigenous rights organisations, and online articles from official government websites and other reputable sources. The academic journal articles were sourced from digital library databases, including Lund University Libraries, the University of British Columbia Library, and Google Scholar. I used keywords such as 'Bill C-92,' 'Child welfare policies,' 'Canada,' 'Best interest of the child,' and 'Indigenous child welfare' to retrieve relevant and credible materials. Additionally, I utilised the Canadian Encyclopedia as a foundational resource to explore each historical period relevant to my research, as well as to investigate specific themes such as child labour, child protection, healthcare, and education. This approach helped me identify and select specific academic articles and reports that provided deeper insights into these areas. To ensure a comprehensive analysis, I initially focused on articles published between 2010 and 2024 to

capture the most recent research and developments in the field. Additionally, I included key works from the 1990s onwards, which were critical for analysing the evolution of child welfare policies in Canada. Foundational theoretical texts from the 1960s and earlier were also incorporated to provide the necessary context and to understand the theoretical underpinnings that have influenced later literature. This systematic approach was guided by the principle of avoiding selection bias, ensuring that the sources selected reflected both recent trends and significant historical developments in Canadian child welfare policies.

Reports from Indigenous rights groups and online web articles were gathered through citations found in these academic articles, as well as from government websites. Additional searches using the same keywords were conducted through Google to identify relevant sources. This approach ensured a comprehensive understanding of child welfare policies, with Canadian databases and various reports providing more detailed and localised data that enriched the analysis.

To contextualise the findings from these secondary sources, I also used some primary sources, including The United Nations Convention on the Rights of the Child (UNCRC) (1989) and Bill C-92 (Parliament of Canada, 2019). These primary sources are valuable as they provide authoritative, first-hand accounts and direct evidence, offering a benchmark for evaluating changes in child welfare policies over time. The UNCRC, with its embedded BIOC doctrine, serves as a key reference point for assessing how policies have evolved and how they compare against established standards, highlighting variations in their implementation across different historical periods.

5.2.1 Strengths and Weaknesses

The data collection strategy for this research has several strengths, particularly in its use of peer-reviewed scholarly articles, which provide credible and reliable information essential for understanding Indigenous child welfare policies and their evolution. These sources add validity and depth to the analysis. Additionally, incorporating reports from Indigenous organisations and articles from sources like the CBC adds valuable context and contemporary viewpoints that academic literature may not fully capture, offering insights into real-time community experiences and grassroots perspectives.

However, this strategy also has weaknesses. There is a risk of subconscious bias in source selection, potentially skewing the analysis towards particular perspectives. While secondary sources are valuable for covering extensive historical periods and providing broad context, they distance the research from primary evidence, limiting the originality and depth of the findings. The desk-based nature of the study can also make it challenging to capture the full complexity of historical contexts, possibly leading to oversimplification or omission of critical details.

5.3 Data Analysis

To conduct this desk-based research, the analysis is guided by a structured framework that systematically compares and contrasts the variations between universal policies and collectivist practices in Canadian child welfare (see Table 1 in Chapter 6 below). This framework draws on key elements from the UNCRC's BIOC doctrine, which are compared with principles of Indigenous child-rearing practices identified in scholarly articles. This comparison helps to reveal the broader patterns and ideologies in both perspectives, offering a clear understanding of the conflicting narratives within Canadian child welfare policies.

The research involves a thorough review of secondary data, including scholarly articles, reports from Indigenous organisations, and relevant online sources. Using the framework, the study traces the influence of Western, universal policies on Canadian child welfare across different historical periods. This includes mapping the development and institutionalisation of these policies within historical frameworks and understanding the processes that have shaped them. By examining how these policies evolved over time, the research identifies patterns of change, continuity, and the forces that have influenced modern child welfare practices. This approach provides insights into the long-term impact of these constructions, highlighting the complex interplay between Indigenous and governmental perspectives and their outcomes.

5.4 Ethical Considerations

When conducting qualitative research, ethical considerations are crucial, even in desk-based studies where direct participant involvement is absent. Although concerns about participant

treatment are not applicable in this case, the researcher's subjectivity must still be acknowledged (Punch, 2013). Transparency and accountability are key ethical principles in this context. Transparency involves clearly outlining the research process, while accountability requires considering the potential impact of the findings, especially if the research influences practice or policy (Braun & Clarke, 2012).

In analysing Canadian child welfare policies, I recognise that my approach is inherently subjective, and the interpretations I draw from policy documents and other sources are open to debate. As a non-Indigenous researcher, I am conscious that my perspective influences how I interpret the intersection between Indigenous and government viewpoints on child welfare (Braun & Clarke, 2012). My goal is to provide a nuanced analysis while being mindful of how my positionality may shape the interpretation, ultimately contributing to a deeper understanding of the policy landscape.

6. Analysis

The analysis consists of two main sections. The first section seeks to deconstruct universal and collectivist child welfare policies using the social constructivist framework. I begin by analysing four principles on which the Best Interest of the Child (BIOC) doctrine is formed, deconstructing the claims that they make and the ideologies on which they were based. I then do the same with four principles on which Indigenous, collectivist child-rearing ideologies are built.

Understanding how these actors construct these two different narratives allows one to understand the conflicting perspectives at play between Indigenous communities and government welfare, shedding light on the intricate dynamics shaping policy discourse and societal perceptions. This framework, presented in Table 1 below, informs the second section of the analysis, where I conduct a historical examination of Canadian child welfare policies. I explore how these universal and collectivist perspectives have not only influenced and reshaped policies over time but also affected Indigenous communities, perpetuating structural inequalities. By tracing how these dynamics have been carried forward, the analysis provides insights into Bill C-92's ineffectiveness in addressing the deep-rooted structural issues shaped by these long-standing universal and colonial child welfare narratives.

6.1 Deconstructing Universal and Collectivist Child Welfare Policies

Bill C-92 exemplifies the difficulties of implementing new institutional frameworks into once-colonised countries as colonial ideologies and social constructions persist, requiring large-scale changes in government to overturn persistent, discriminatory practices. The Western model of childhood advocated as a universal standard by international organisations, treaties, and laws, has dominated throughout centuries, failing to adequately encompass the diverse experiences of children and the varying conceptions of childhood in minority communities (Qamar, 2022, p.611). The BIOC doctrine is based on Eurocentric parenting theories, as well as long-standing universal policies, contradicting Indigenous child-rearing practices centred on collective parenting and cultural teachings (Choate et al., 2021). As a result, child protection assessments

disproportionately target Indigenous communities for family intervention, imposing a foreign system of parenting standards on Indigenous families.

6.1.1 BIOC Doctrine and Indigenous Child-Rearing Practices

Social constructivism asserts that child welfare policies are not a “one size fits all” approach to addressing the needs of children but are instead competing “conceptualizations” or viewpoints of how best to support children throughout their life cycle. The narrative theory further emphasises that these viewpoints are framed within broader policy narratives that seek to legitimise them and are influenced by the socio-cultural context in which they are created. This section seeks to debunk two opposing viewpoints on child welfare policy that are historically present in Canada, i.e., the universal BIOC doctrine versus the collectivist child-rearing practices.

The BIOC doctrine is based on defining features of universal principles and Eurocentric norms, which prioritise individual rights, autonomy, and Western-centric perspectives on child welfare and development. Bill C-92 (2019) addresses its compliance with the UNCR, reinforcing Canada’s predominantly universal approach to child welfare, which is long-standing and constant. The following principles are derived from this convention; however, they have existed even before its ratification in 1989, stemming from Christian values that were brought to Canada in the 1820s (Canadian Unitarian Council, n.d.). Meanwhile, the following collectivist child-rearing categories are based on a series of academic articles and books that have outlined key elements of Indigenous upbringing, reconciling Indigenous perspectives and highlighting the crucial importance of preserving cultural traditions within child welfare practices.

Table 1 below presents universal versus collectivist child welfare narratives, comparing them across four parameters: education, healthcare, child labour, and child safety. These will be discussed in the following sections.

Table 1: Deconstructing Elements of the BIOC Doctrine and Collectivist Child-Rearing Practices

Parameter	BIOC Doctrine	Collectivist Child-Rearing Practices
Education Standards	Universal teaching standards: Compulsory education and the promotion of ‘modern teaching methods’.	Indigenous teaching standards: Emphasising a connection to the natural world, with art and rituals central.
Child Healthcare	Universal healthcare for children: Prioritising primary healthcare and the elimination of traditional practices deemed harmful.	Traditional healthcare practices: Focusing on the integration of ‘mind, body, and spirit,’ through ceremonies and the use of plant, animal, or mineral-based medicines.
The Working Child	Universal view of child labour: Perceived as exploitative and detrimental to a child’s education and well-being.	Collectivist view of child labour: Valued as an integral part of child-rearing, with shared responsibilities across the community.
Child Protection	Child protection standards: Emphasising safeguarding against all forms of physical or mental violence, injury, or abuse under parental care (paternalism).	Collective child protection: Fostering love, safety, trust, and responsibility within the community.

Educational Standards

Article 28 of the UNCRC emphasises the right of the child to education. It states that "states parties recognize the right of the child to education, and with a view to achieving this right progressively and on the basis of equal opportunity, they shall, in particular...make primary education compulsory and available free to all" (United Nations, 1989). It highlights the importance of making primary education compulsory and accessible to all, as well as taking measures to promote regular attendance at schools and reduce drop-out rates. Its aim to

“eliminate ignorance and illiteracy throughout the world” is claimed to be achieved through creating sufficient access to scientific and technical knowledge and modern teaching methods, reinforcing standards that reflect Western cultural values and norms as well as Eurocentric ideals of progress and development. This upholds the universalist perception that Western science and technology are superior, using education to enforce change in those societies found deficient in having a Eurocentric notion of science (Battiste, 2011).

Indigenous child welfare policies prioritise holistic approaches to education and development, rooted in the interconnectedness of all aspects of existence. Indigenous teaching emphasises communication across various domains, including language, social relationships, nature, art, play, and ritual. Central to this approach is the concept of reciprocal service, where teaching and learning are seen as mutual acts of giving and receiving (Cajete, 1994, p.217). Children are encouraged to develop a profound connection to the natural world, with spiritual development considered integral to fulfilling their destinies. Literacy within Indigenous communities encompasses proficiency in native languages, environmental navigation, and the ability to shape the landscape for their well-being. This includes practical engagement in customary livelihoods in various natural settings, such as fields, forests, and seas; in the presence of families and the broader community. In collectivist cultures, the responsibility for raising children extends beyond immediate family to include teachers and the broader community (Larsen, 2003). Moreover, the group’s collective success is esteemed even higher than the success of individual achievement within Indigenous communities, fostering a sense of shared responsibility and communal well-being (Cortina et al., 2017).

Child Healthcare

Article 24 of the UNCRC focuses on the universal right of children to enjoy the highest attainable standard of health (United Nations, 1989). According to the World Health Organization (n.d.), health is “a state of complete physical, mental, and social well-being, and not merely the absence of disease or infirmity.” It stipulates that state parties must take appropriate measures to ensure access to healthcare services, including preventive healthcare, treatment of illness, and rehabilitation services. It further emphasises the importance of promoting health education and the prevention of accidents while also recognizing the right of

children with disabilities to access healthcare services on the same terms as other children. It aims to guarantee that all members of society, especially parental figures, have access to education and are able to utilise basic knowledge of child health and nutrition, the prevention of accidents, and environmental sanitation. Within universalism, health has economic value, as investments in health bring financial returns (Wong et al., 2014). According to this view, improving health outcomes is not just a moral imperative but also a pragmatic economic decision with the potential to increase productivity and reduce healthcare costs.

Contrarily, the collectivist healthcare system is represented as more integrated than the universal, modern healthcare system, as Indigenous people's concept of health is more connected to social, cultural, spiritual, and environmental factors (Nicholas & Baer, as cited in Wong et al., 2014). In Indigenous communities and cultures, wellness is perceived as achieving balance and harmony, which commonly contrasts with North American treatment approaches that focus more on individuals, separate from their community. Indigenous culture is closely intertwined with the land and place, fostering a collective sense of community and self rooted in this understanding. Resilience within Indigenous communities is also deeply tied to their connection to space and place. As McGuire (2010) elucidates, a strong sense of identity and origin provides a stable foundation in life, serving as a source of nurturing and healing. 'Traditional healing' is especially widespread among collectivist health practices, reflecting unique holistic approaches that incorporate First Nations healing and wellness. These practices include using ceremonies, plant, animal or mineral-based medicines, energetic therapies and physical or hands-on techniques. Indigenous youth who maintain a connection to their culture exhibit superior psychosocial outcomes compared to those who do not, as evidenced by various studies (Canadian Mental Health Association, n.d).

The Working Child

Article 32 of the UNCRC highlights the child's right to be protected from labour, economic exploitation, and any work that is likely to be physically dangerous or intervene in the child's education (United Nations, 1989). Research by organizations such as the International Labour Organization (ILO) has shed light on the adverse effects of child labour on children's physical and psychological health, education, and overall well-being (ILO, 2017). Studies have

documented how exposure to hazardous working conditions can lead to illnesses, injuries, and even fatalities among child labourers, underscoring their urgency to protect children from these practices (ILO, 2013). This article, therefore, underscores the importance of establishing a clear division on childhood and economic maintenance as well as its commitment to promoting and protecting children's rights by safeguarding them from harmful labour practices. It does so by providing a minimum age for admission to employment as well as appropriate sanctions to guarantee the enforcement of the article. Nevertheless, implementing these universal rights may overlook the local customs and beliefs surrounding child labour, underscoring the necessity for a nuanced approach that respects cultural diversity while upholding children's rights and well-being (White, 1999).

Within collectivist cultures, children's engagement in work is often regarded as more than mere labour; it is viewed as an essential aspect of child-rearing. This involvement is believed to foster skill development, socialization, and a sense of responsibility from an early age, rejecting the notion that child labour violates human rights (Baland & Robinson, 2000). Moreover, in various Indigenous groups in Canada, economic responsibilities are not solely shouldered by adults but are shared by the entire family unit. Practices such as intergenerational care, pastoralism, and hunting traditions underscore the collective effort to ensure family sustenance and preserve cultural heritage. As a result, the distinction between childhood and economic participation becomes blurred, reflecting the interconnectedness of familial and communal life (ILO, 2006). These prevailing beliefs, which hold that children's active involvement in family and community activities contributes to their holistic development and strengthens familial bonds, directly challenge the conventional Western perspective that strictly segregates childhood from labour. This contrast underscores the cultural diversity in perceptions of child labour and the complexities inherent in interpreting it within various sociocultural contexts.

Child Protection

Article 19 of the UNCRC emphasises the right of every child to be protected from all forms of physical or mental violence, injury, or abuse while in the care of their parents or caregivers (United Nations, 1989). It underscores the importance of ensuring a safe and nurturing

environment for children, where they can grow and develop free from fear and harm. This article recognises that children are particularly vulnerable to abuse and violence, especially within the family setting, and therefore places a strong emphasis on safeguarding their well-being. Article 19 also calls for effective measures to prevent and respond to instances of child abuse and violence, including through the provision of support services for victims, as well as the prosecution of perpetrators. Universalism in the context of Article 19 entails recognizing that children everywhere have the same basic need for safety and protection from harm. This principle is supported by research findings and international consensus on the detrimental effects of violence and abuse on children's physical, emotional, and psychological well-being (Hillis et al., 2016; UNICEF, 2014). Studies have shown that exposure to violence in childhood can have long-lasting consequences, including increased risk of mental health disorders, substance abuse, and future involvement in violence (UNICEF, 2014; Felitti et al., 1998).

Within collectivism, “ensuring safety, expressing love, and fostering trust and responsibility are at the core of child-rearing practices” (Ullrich, 2019). Tolerating abuse has no part in First Nations values (Government of Canada, 2021). Throughout history, Indigenous cultures have relied on the contributions of individuals of all ages - men, women, elders, and children - recognizing and cherishing the unique place each held within the community circle. According to this perspective, it is crucial that children’s contributions and talents are acknowledged and valued and that their community cares about them in order to reflect the best interests of the community (Ullrich, 2019). By fostering a nurturing and respectful environment, Indigenous communities reinforce a deeply rooted tradition of mutual support and interconnectedness, thereby ensuring the collective well-being and resilience of the group.

6.2 The Development of Canada’s Child Welfare Policies Throughout Centuries

Upon having provided an account of the differing narratives behind universal and collectivist child welfare policies, I now seek to trace the construction and evolution of these policies across key historical periods preceding Bill C-92, using a historical institutionalist lens. This

exploration will cover the colonial era marked by the imposition of residential schools, the Sixties Scoop, the subsequent Millennium Scoop, and the contemporary legislative framework under Bill C-92. The historical institutionalist perspective highlights how entrenched policies and practices create path dependencies that reinforce existing power structures, leading to persistent structural challenges. These challenges, rooted in the universalist application of child welfare policies, have systematically marginalised Indigenous collectivist approaches, perpetuating cycles of trauma and disenfranchisement among Indigenous communities and creating enduring barriers to systemic change.

6.2.1 Child Welfare Policies During Colonialism

Education Policies during Colonialism

During the implementation of the residential school system, European colonisers utilised and weaponised Western education as a means of colonial domination (Sunday, 2020). In 1884, amendments to the 1876 Indian Act were adopted for the creation of Indigenous residential schools, which were operated by the Government of Canada as well as the Roman Catholic and Presbyterian churches (Union of Ontario Indians, 2013). These schools were introduced with the objective of assimilating Indigenous children into Canada's dominant Eurocentric culture, 'civilizing' these children while removing them from the cultural, educational, and spiritual influences of their communities (Miller, 2024). The implementation of various strategies, such as compulsory attendance, led to the removal of 150,000 First Nations children as they were placed in these perpetually-underfunded institutions (Sunday, 2020).

The Indian Act formalised Western educational practices to "protect and cherish this helpless race" (Carr-Stewart, 2001, p.127), confident that their education system was crucial for Indigenous people's social, economic, and cultural advancement. They believed Eurocentric skills and values were more modern and advanced because they aligned with their notions of progress, civilization, and cultural superiority (Government of Canada, n.d). Colonial education policies, therefore, justified state intervention in children's education, influencing modern conceptions of education as a public good and responsibility of the state.

Colonial education policies further promoted uniformity and standardisation in education, at the expense of eradicating Indigenous languages, cultures, and knowledge systems. The Western prejudice embedded in curriculum produced and continues to produce a “cognitive imperialism,” validating Western belief systems that structure institutions and standardise curricula, reproducing settler-colonial ideologies (Battiste, 2011). Due to academia’s treatment of Western education as superior, the legitimacy of Western knowledge became internalised, both by the coloniser and the colonised, leading to its universality. Contrastingly, during colonialism, Indigenous knowledge became dismissed as folklore, consisting of rituals, beliefs, and myths, which, based on Western epistemology, is considered non-knowledge (Thésée, as cited in Masta, 2019, p.182). Therefore, while contemporary universal education policies strive to promote diversity and inclusivity, they also reflect a long-standing and persistent tension between the desire for standardised educational outcomes and the recognition of cultural and linguistic diversity.

Healthcare Policies during Colonialism

Health services for Indigenous peoples during colonialism were used as a tool of control, predominantly serving the settler population and military personnel in North America. This approach reinforced the belief that Indigenous people deserved less medical attention and that the government should spend the least amount of money on their healthcare services (Gunn, n.d.). The federal Department of Indian Affairs assumed management of healthcare for First Nations in the late 19th century, marking the start of a persistent disparity in healthcare administration between Indigenous and non-Indigenous populations. The healthcare system imposed on Indigenous communities focused more on assimilation than on respecting or integrating traditional Indigenous medical practices. Disruption of Indigenous knowledge systems and the banning of spiritual and medicinal practices further undermined Indigenous health, while non-Indigenous communities benefited from resources once used to sustain Indigenous peoples (Gunn, n.d.). Jurisdictional complexities in service availability for First Nations, both on and off reserve, underscore the bureaucratic challenges and the enduring legacy of a paternalistic system overseeing Indigenous communities (Gunn, n.d.).

Residential schools, framed in colonialist narratives as rescuing Indigenous children from unhealthy environments and serving to transform communities, distributed newsletters urging parents to adopt Euro-Western medical practices (Kelm, as cited in McKenzie et al., 2016). Despite these efforts, conditions in many of these schools - characterised by overcrowding, poor sanitation, and limited access to medical care - resulted in high rates of infectious diseases. These conditions significantly contributed to enduring health challenges among Indigenous populations. Malnutrition and inadequate living conditions in these institutions further exacerbated health problems, while the separation from families and cultural dislocation caused profound long-term psychological impacts (Gunn, n.d.).

Conceptualization of the Working Child during Colonialism

In colonial Canada, children worked at a young age, whether it was an official employment placement or support for the family (Belshaw, 2020). As Indigenous cultures have always emphasised the importance of collectivism and comprehensive contribution of labour efforts, Aboriginal children have been hunting, gathering, and completing other simple, productive processes for centuries (Belshaw, 2020). Similarly, European settler families saw children as economic assets rather than liabilities during the 19th and early 20th century, assisting parents and seeking paid employment outside the home (Barman, 2022). This was because age was not the primary criterion for ordering lives for these communities. However, the separation of the workplace from the home during industrialization led to the creation of child-focused institutions such as paediatrics and mandatory schooling. These Eurocentric institutions began to monitor, organise, and define childhood (Blakely & Hemphill, 2015). From these structures, a discourse emerged that viewed childhood as a vulnerable and temporary stage, necessitating various protective services. Although childhood is now widely seen as a "natural" stage of life, it is indeed a historical invention shaped by modernist binaries such as maturity and immaturity (Blakely & Hemphill, 2015). The naturalisation of these binaries and the modernist view of subjectivity have essentially made childhood distinct from adulthood.

The introduction of Eurocentric age-based institutions profoundly disrupted Indigenous communities' traditional practices and views of childhood. These institutions imposed a new child-focused discourse that portrayed childhood as a period of vulnerability, which conflicted

with Indigenous values that emphasised the active role of children in supporting their families and communities. This shift marginalised traditional roles, undermining the interdependent social fabric. However, despite the modernist establishment of childhood ideals for white children in Canada, Indigenous children within the same institutions were subjected to covert forms of child labour. For instance, due to limited funds, residential schools relied on forced labour from their students under the guise of vocational training, such as agriculture and domestic work (Miller, 1996). This exploitation highlights a broader pattern of colonial paternalism where policies ostensibly aimed at protecting children's rights were selectively applied, further disadvantaging Indigenous children.

Fostering Child Safety during Colonialism

The first Child Protection Act, introduced by the Parliament of the United Kingdom in Canada in 1893, was the act for the 'Prevention of Cruelty to and Better Protection of Children.' This was the first act that made child abuse an indictable offence (Albert & Herbert, 2024). Within the Act, "any person...having the custody, control, or charge of a child, being a boy under the age of fourteen years, or being a girl under the age of sixteen years, wilfully ill-treats, neglects, abandons, or exposes such child, or causes or procures such child to be ill-treated, neglected, abandoned, or exposed, in a manner likely to cause such child unnecessary suffering, or injury to its health, shall be guilty of a misdemeanor" (Parliament of the United Kingdom, 1889). The vagueness of terms such as "ill-treatment," "neglect," "abandonment," and "exposure" allowed for significant interpretative flexibility, which meant that the interpretation of these terms was left to powerful figures within the colonial system (Albert & Herbert, 2024). Their understanding and enforcement of these terms were influenced by their own cultural norms and values, which differed significantly from those of Indigenous communities.

During this time in Canada, Eurocentric perspectives distorted the concept of child safety by portraying Indigenous cultures as inherently harmful to their children. Although residential schools today are recognised as having misused the vulnerability of these Indigenous children, they were formerly justified as being in the best interest of the child, claiming to have saved these children from what they perceived as a harmful, aggressive civilization that would produce "dangerous elements in society" (Scott, as cited in the Truth and Reconciliation Commission of

Canada, 2012, p.13). This justification not only overlooked the strengths of Indigenous community support systems but also reinforced damaging stereotypes, accounting for the erasure of Indigenous languages, traditions, and identities within the residential school system. Therefore, while the goal was to assimilate Indigenous children by removing them from their homes during colonialism, the portrayal of Indigenous communities as savage and cruel further justified these actions in the public eye under the guise of a child-saving narrative.

6.2.2 Child Welfare Policies During the Sixties Scoop

Approaching the 1960s, the narrative on Indigenous children's needs shifted from an emphasis on establishing a higher civilising mission to a concentrated effort on addressing the socio-economic challenges intensified by earlier assimilation efforts. This shift, exemplified by the Sixties Scoop, represented a continuation of colonial-era policies aimed at controlling Indigenous populations. The intention behind these efforts was to intervene and shield Indigenous children from the impacts of colonial policies, such as the implementation of residential schools, which profoundly disrupted familial and community structures (Albert & Herbert, 2024). However, the implementation of these universal child welfare policies during this time failed to address the deep-seated intergenerational trauma inflicted by colonial practices. This oversight perpetuated the harmful practice of removing children from their homes, neglecting to provide culturally appropriate community resources and support. Thus, these policies continued to uphold colonial ideals and systematically disadvantage Indigenous communities.

Education Policies during the Sixties Scoop

The phasing out of residential schools began in the 1950s, as a growing awareness surrounding their impacts on Indigenous children, families and communities emerged. Still, the assimilation program did not cease during that period; instead, it was argued to have adopted a different approach (McKenzie et al., 2016). The Canadian government believed that Indigenous children would receive a superior education if they were put into the public school system (Indigenous Corporate Training Inc., 2014). The Indian Act of 1951 was therefore reformulated to allow provincial governments to provide new services for Indigenous communities, including child protection and continuing the “regulation of...teaching, education, inspection and discipline in

connection with schools” (Government of Canada, 1951, Chapter 149, p.37). These services further solidified Eurocentric educational content, which marginalised Indigenous knowledge and cultural practices. This, combined with the policy of the mass removal of Indigenous children from their homes and their placement with white families, left little room for them to reconnect with their Indigenous heritage (McKenzie et al., 2016). The shift from residential schools to public school integration thus perpetuated the systemic erasure of Indigenous identities, reinforcing colonial domination through educational policies and family separation.

This formal education system, however, proved to have limited benefits for Indigenous children (McCue, 2023). Many struggled academically, often repeating elementary school grades, and only a small fraction proceeded to high school graduation. By 1967, despite efforts to assimilate Indigenous youth, only 200 were enrolled in Canadian universities out of a total Indigenous student population of about 60,000, while the majority struggled to finish high school (McCue, 2023). Therefore, these educational policies not only severed Indigenous children from their cultural roots but also failed to achieve their intended goal of integrating them into Western society. This left Indigenous children in a precarious position between two worlds, denied by both universal educational standards and the cultural grounding for their identity formation.

Healthcare Policies during the Sixties Scoop

During the Sixties Scoop, healthcare policies in Canada expanded to achieve universal coverage; however, their implementation predominantly resulted in adverse effects on Indigenous communities. In 1961, the Canadian government introduced the first publicly funded medical insurance system, and in 1966, expanded this initiative nationwide with the Medical Care Act, extending universal healthcare coverage across the country (Musée Canadien de l’Histoire, n.d.). By the mid-1960s, many First Nations reserves received some form of primary healthcare services, administered by federally employed nurses and interpreters (Gunn, n.d.). However, these advancements in primary universal healthcare were “characterized by oppressive treatment” when applied to Indigenous people (Gouldhawke, 2021), hindering their healthcare outcomes through inadequate culturally sensitive care, lack of access to traditional medicines, and insufficient support for Indigenous health practitioners. This systemic neglect not only perpetuated historical injustices but also deepened the disparities in health outcomes between

Indigenous and non-Indigenous children, highlighting the broader impacts of colonial policies on Indigenous communities

Mental health is one area that was profoundly affected by these policies, alongside the lasting impacts of residential schools and colonial practices. Colonial and assimilation practices hindered Indigenous communities from developing effective coping mechanisms for past trauma, leading to a decline in mental health. Bombay et al. (2014) suggest that youth with parents or grandparents who attended residential schools “experience higher rates of suicidal thoughts and attempts” (p. 324). This ongoing issue of suicide within Indigenous communities illustrates the concept of intergenerational trauma and the resulting mental health disparities. Historical data on depression and mental health in these communities often overlooked the impact of intergenerational trauma and the social problems affecting Indigenous families within the following decades (Cowan, 2020). The Sixties Scoop further exacerbated these challenges, as the removal of Indigenous children from their homes was often based on parents' and grandparents' mental health and coping mechanisms - a topic that will be explored in greater detail in the following sections.

Conceptualization of the Working Child during the Sixties Scoop

During the 1960s, Canada saw continued efforts to enforce and strengthen existing child labour laws, which had been enacted earlier in the 20th century. These efforts were focused on stricter enforcement and ensuring children attended school rather than working. In 1959, The United Nations General Assembly adopted the Declaration of the Rights of the Child, which acknowledged children's entitlement to education, play, a nurturing environment, and healthcare, thus safeguarding the well-being of every child globally (UNICEF, n.d.). Therefore, this period saw a further decline in child labour, particularly in urban areas, as societal attitudes shifted towards recognizing the importance of education (Brown et al., 2002).

Despite the establishment of universal policies aimed at protecting children, these measures often failed to account for the specific circumstances of Indigenous communities (Kaspar, 2014). As systemic poverty remained one of the most harrowing legacies of Canada's residential schools,

Indigenous children still faced unique challenges due to systemic socio-economic disparities and the lingering effects of colonial policies, unable to benefit from these universal policies (Kaspar, 2014). Generational trauma and high unemployment rates from the inadequate education provided in residential schools often led to poverty among many Indigenous families, requiring children to contribute to household labour (Indigenous Corporate Training Inc., 2023). As a result, these children had fewer chances for education themselves, perpetuating a cycle of poverty and marginalisation. As a result, instead of providing these communities with the proper resources and support, provincial governments removed Indigenous children from their homes under the guise of child welfare, addressing reasons of poverty, limited education, and child labour (Hanson, n.d.). These systemic issues created a cycle where Indigenous families were penalised for conditions imposed upon them by historical injustices, perpetuating their marginalisation.

Fostering Child Safety during the Sixties Scoop

During the Sixties Scoop, the safety of Indigenous children was severely compromised by widespread domestic violence and substance abuse, which were direct consequences of the traumatic experiences imposed by residential schools. According to the Manitoba Regional Health Survey, later reports of Indigenous child abuse were linked to having a parent or grandparent who attended a residential school (Bombay et al., 2014). Consequently, children of survivors frequently adopted the same harmful coping mechanisms, disrupting intergenerational family structures and perpetuating a legacy of “traumatized Indigenous individuals unable to function in mainstream society” (Cowan, 2020, p.29). However, the forced separation of these children from their families and their cultural ties only intensified these issues, as they correlated with high rates of “homelessness, incarceration...sexual exploitation, substance use and abuse” (The Alberta Teachers’ Association, 2020, p.17), perpetuating the cyclical trauma.

Furthermore, rather than addressing the root causes of violence and substance abuse in Indigenous communities during this time, prevailing societal narratives exploited these issues to perpetuate harmful, racist stereotypes and justify the mass removal of Indigenous children from their homes. Media and government policies reinforced the colonial image of 'the drunken Indian,' reinforcing that alcohol is an “inherent part of Indian culture,” rather than a coping

mechanism for all the trauma endured (McKenzie et al., 2016, p. 9). This portrayal not only stigmatised Indigenous communities but also obscured the systemic issues driving these problems, making it easier for policies to continue displacing Indigenous peoples. Therefore, while universal child welfare policies are designed to keep children safe by applying the same standards to all, in this case, they failed to account for the significant material and social disparities that marginalised groups face. Policies during the Sixties Scoop would have benefited by addressing the underlying structures, as it is these processes that perpetuate inequalities and must be addressed to protect these children and break cycles of chronic poverty (Sandberg, 2012).

6.2.3 Child Welfare Policies During the Millennium Scoop

Parallel to the residential schools and the Sixties Scoop, the contemporary child welfare system, known as the Millennium Scoop, continues to impact Indigenous communities, bringing to light the importance of new legislative reform (CBC Radio, 2018). Ranging from the early 1980s until now, the Millennium Scoop highlights ongoing issues of systemic bias and discriminatory practices within child welfare, thereby underscoring the critical role of Bill C-92 in addressing these injustices. Following colonial-era conceptions of child-rearing, the BIOC doctrine in the UN Convention on the Rights of the Child guides Canada's current foster care system, a continuation of practices established after the Sixties Scoop. Despite its intention to uphold universal standards, this approach has struggled to address the unique needs of Indigenous communities, highlighting the enduring historical institutions that continue to perpetuate outdated frameworks that fail to address deeply-rooted and culturally specific issues.

Education Policies during the Millennium Scoop

During Canada's Millennium Scoop, the introduction of the UN Convention on the Rights of the Child (UNCRC) marked a significant step in establishing universal human rights standards, particularly in ensuring compulsory and free primary education for all children (United Nations, 1989). However, this policy, rooted in Western educational frameworks, fails to address the unique cultural and educational needs of Indigenous communities. This oversight perpetuates the marginalisation of Indigenous knowledge and practices, echoing the criticisms of earlier

educational policies such as those from the residential school era and the Sixties Scoop, which similarly enforced a standardised model at the expense of Indigenous identities and cultures.

Kline (1992) argues that modern Canadian child welfare law, based on BIOC doctrine, is deeply rooted in a liberal ideology that prioritises individualism over the preservation of cultural identity for First Nations children. These standards, often described as "reinforcing the status quo" and "not culturally relevant to First Nations" (Monture, as cited in Kline, 1992, pp. 380–381), function as a form of "colonialist regulation" that can be "coercive and destructive" to Indigenous families (Kline, 1992, p. 389). Choate (2019) further asserts that the imposition of Eurocentric values through the child welfare system perpetuates systemic oppression rooted in colonialism, undermining the core principles of social justice espoused by social workers.

While efforts leading up to Bill C-92, such as the United Nations Declaration on the Rights of Indigenous Peoples (2007), sought to ensure that Indigenous children receive appropriate care, the Canadian government made slow progress in achieving these goals. Although Canada, alongside the USA and Australia, initially rejected the Declaration in 2007, it adopted it in 2010. However, due to disagreements with several provisions, Canada treated the Declaration as “an aspirational document rather than a document of customary international law” (Mitchell & Enns, 2014, p.2). Consequently, progress toward implementing its principles was minimal, and the government evaded critical steps necessary for respecting Indigenous autonomy and addressing the rights of Indigenous children. This led to a neglect of the Declaration's educational mandates, which affirm that “Indigenous peoples have the right to...control their educational systems and institutions” (United Nations, 2008, p.7), falling back on universal policies.

Healthcare Policies during the Millennium Scoop

The first initiative by Indigenous people in Canada to influence the Western medical system occurred in 1978, leading to the ‘Three Pillar Policy’ in 1979 (O’Neil, 1995). This policy aimed to restore Indigenous health through community development, the incorporation of traditional medicine, and greater Indigenous involvement in the delivery of medical services. It sought to address long-standing disparities by empowering Indigenous communities to manage their own healthcare and ensuring they had a meaningful role in shaping healthcare services. However,

Indigenous people criticised these initiatives for having limited funding, insufficient training resources, and failing to address the broader socio-economic determinants of health (O’Neil, 1995). Furthermore, they argued that the initiatives were overly rooted in the Western medical model, “maintain[ing] relations of power over Indigenous people” (O’Neil, 1995, p.562).

Despite the policies’ intent, enduring institutional biases contribute to persistent funding issues, power struggles and barriers to integrating traditional practices, resulting in ongoing disparities in health outcomes. The persistence of Western medical dominance, even with attempts to grant medical authority to Indigenous people, demonstrates this institutional rigidity. Moreover, in the lens of path dependency, high setup costs and accumulated knowledge reinforce an institution's existing path, making it increasingly costly to shift direction over time (Hansen, 2010).

Therefore, criticisms regarding insufficient financial support, lack of essential resources and training, and failure to address broader socio-economic factors exemplify the significant costs and resistance involved in deterring established practices, hindering progress in transforming healthcare systems (O’Neil, 1995). As a result, Indigenous people, especially children, continue to face disproportionately high rates of illnesses, inadequate access to healthcare facilities, and barriers to culturally sensitive medical treatments, perpetuating a cycle of health inequity (Gunn, n.d.).

Conceptualization of the Working Child during the Millennium Scoop

In the aftermath of the Sixties Scoop, Canada began supporting UN resolutions on children's rights, with a strong focus on preventing child exploitation and child labour, as highlighted in Article 32 of the UNCRC (United Nations, 1989). The recognition that reducing poverty through development aid and cooperation is developing into a major component of the Canadian government’s efforts to prevent and reduce child labour, underscoring the country's commitment to tackling the root causes of child exploitation through comprehensive international strategies (Government of Canada, n.d.). Levels of child labour and exclusion of education amongst Indigenous children remain high compared to other groups of children (ILO, 2023).

Leading up to the 21st century, Indigenous children became increasingly vulnerable to sex trafficking and exploitative labour as a result of intergenerational trauma, socio-economic

marginalisation, and limited access to safe employment opportunities (Canadian Women's Foundation, 2015). These forms of vulnerability are further rooted in historical patterns and institutional practices that have long imposed barriers on Indigenous communities. The human trafficking faced by Indigenous people today in North America further "reflect[s] the living legacy of systemic racism and colonization" (U.S. Department of State, 2021, p.1). Despite various efforts to address these issues, deeply ingrained structures from earlier policies continue to shape current conditions, hindering significant progress in eradicating exploitation and improving overall conditions. In response, Canada contributed to drafting and ratifying the International Labour Organization's Convention 182 in 2000, aiming to prohibit the use of children in illicit activities and hazardous work, marking a step toward tackling these enduring problems (ILO, 2023).

Fostering Child Safety during the Millennium Scoop

Ensuring child safety is at the forefront of the UNCRC's goals, aiming to achieve safe child development by protecting children from all forms of abuse and harmful practices (United Nations, 1989). Leading up to this universal policy implementation, Canada established the Child and Family Services Act in 1985, which maintained that authorities are responsible for the administration and delivery of child protection services (Child and Family Services Act, 1985). While this piece of legislation aimed to improve social workers' preparation to address neglect concerns within families effectively, it reinstated that "abuse reports do not account for the dramatic over-representation of Aboriginal children in care" (Blackstock, 2010, p.4). In fact, during this time, it was reported that 78% of Indigenous children coming to the attention of child welfare were not facing physical or emotional harm; however, they were assumed to be in these positions due to overarching structural issues within the families, such as poverty (Blackstock, 2010).

Furthermore, shortly after the United Nations adopted the Convention on the Rights of the Child in 1989, the Canadian Council on Children and Youth held a consultation to discuss its implications for Canada. Landon Pearson, the Council's chair, acknowledged in the consultation's proceedings that Canada fell short in areas such as child care and economic support, especially in Indigenous households (Friendly, 2006), recognizing the importance of

addressing structural issues in order to effectively tackle immediate concerns like child abuse. This indicates that while child abuse remains a significant issue, with 19% of Indigenous children facing neglect and abuse (Fallon et al., 2021), the root causes of most Indigenous child welfare cases, as well as cases of abuse, are still linked to systemic issues. Addressing these structural problems through comprehensive support and resources, rather than solely focusing on individual cases of abuse, is crucial for reducing the over-representation of Indigenous children in the welfare system. Effective measures must involve tackling the broader social determinants that put families at risk, ensuring that interventions are holistic and supportive rather than punitive.

7. Conclusion

The historical analysis of Canadian child welfare policies demonstrates how deeply entrenched universalist narratives, rooted in Eurocentric norms, have systematically marginalised Indigenous communities. These policies, from the colonial era through the Sixties Scoop and Millennium Scoop, have not only disrupted Indigenous cultural continuity but have also entrenched structural inequalities that continue to impact these communities today. Universalist approaches in education, such as compulsory schooling and the promotion of modern teaching methods, were used to assimilate Indigenous children, eroding their cultural identities and severing their ties to traditional knowledge systems. In healthcare, the imposition of Western medical practices and the suppression of Indigenous healing traditions created disparities that persist in the health outcomes of Indigenous populations. Similarly, the universalist perspective on child labour, which views it as exploitative, ignored the cultural significance of children's work within Indigenous communities, further marginalising their practices and values. Child protection policies, guided by paternalistic assumptions, justified the removal of Indigenous children from their families, perpetuating cycles of trauma and disenfranchisement.

These universalist narratives have been carried over and reinforced through different historical periods, creating deeply rooted structural inequalities that are challenging to reverse. The implementation of Bill C-92, while a step towards addressing these injustices, has been hampered by the same systemic barriers established over centuries of colonial policymaking. The bill's attempt to reconcile these deeply embedded narratives with Indigenous practices has proven difficult, as the historical legacies of exclusion and marginalisation continue to influence contemporary policy outcomes. Despite its aims to provide a more culturally sensitive and equitable framework, Bill C-92's effectiveness has been limited by the persistence of these structural inequalities.

This analysis underscores the need for future child welfare policies in Canada to move beyond a one-size-fits-all approach, recognizing the diversity of cultural contexts and partnering with Indigenous communities to dismantle entrenched power dynamics. To create a more equitable and culturally responsive child welfare system, it is essential to address the deep-rooted historical

and systemic issues that have long prevented meaningful progress in Indigenous child welfare. Only by confronting and overcoming these legacies can Canada hope to create a child welfare system that truly reflects the needs and realities of all its communities, ensuring that policies like Bill C-92 can fulfil their intended goals of justice and reconciliation.

8. Discussion

The implementation of Bill C-92 represents a critical effort to shift towards Indigenous self-governance in child welfare. Nevertheless, the persistence of colonial ideologies and the continued application of universalist policies, such as the Best Interest of the Child (BIOC) doctrine, pose significant barriers to this goal. The analysis demonstrates that to achieve meaningful change, child welfare policies must go beyond a one-size-fits-all approach, instead respecting and integrating Indigenous cultural practices and parenting methods.

A key challenge lies in balancing the preservation of Indigenous cultural ties and familial bonds with ensuring the well-being and safety of Indigenous children. This requires a fundamental shift in policy design, one that recognises and actively addresses the historical and structural inequities that have long marginalised Indigenous communities. To this end, developing child welfare practices that are culturally relevant, community-based, and rooted in the principles of Indigenous self-determination is essential.

The broader implications of this analysis extend beyond the specifics of Bill C-92, offering insights into the challenges of decolonizing public policy in a post-colonial state. The Canadian experience highlights the difficulties inherent in reconciling universalist policies with the cultural specificity required to meet the needs of Indigenous communities. This challenge is not unique to Canada but is also relevant to other nations grappling with similar colonial legacies.

Future Research

Further research is needed to explore how Indigenous knowledge and values can be effectively integrated into existing child welfare policies and practices. Specifically, future studies could investigate the development of frameworks for implementing culturally sensitive practices within

the current legal structures, as well as the impact of Indigenous-led initiatives on child welfare outcomes. Additionally, research could focus on comparative studies between Canadian Indigenous child welfare and those in other postcolonial states, such as Australia, Greenland, or the United States, to identify best practices and successful models of reconciliation and decolonization. Understanding the barriers to implementing these policies, such as institutional resistance or lack of resources, would also be a critical area of study. By building on this research, scholars and policymakers can better address the systemic inequalities that continue to affect Indigenous communities and move closer to achieving a truly equitable child welfare system.

Finally, the transition from policy to practice presents its own set of challenges. Bureaucratic inertia, lack of political will, and resistance from within non-Indigenous communities may all hinder the implementation of necessary reforms. Addressing these challenges will require not only strong leadership and advocacy but also a genuine commitment to reconciliation and the empowerment of Indigenous voices in the policymaking process.

In conclusion, while Bill C-92 marks a significant step towards addressing historical injustices, its success will ultimately depend on a concerted effort to dismantle the deep-seated colonial legacies and systemic biases that continue to shape Indigenous child welfare. Only by embracing a truly inclusive and culturally sensitive approach can Canada hope to build a child welfare system that serves the best interests of all its children.

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