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Bill C-31: A Study of Cultural Trauma¹

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Introduction

In 1985 Canada amended the *Indian Act* in respect to the criteria regulating registration under the *Act*. Among other provisions, the amendments allowed women formerly stripped of Indian status due to marrying non-Indians to be restored to the Indian Register and to membership in their natal First Nation.² Known as Bill C-31, these amendments created new classes of registration: section 6(1) designates individuals who have two parents with Indian status, while section 6(2) lists individuals with only one registered parent. Children with two parents registered under either 6(1) or 6(2) are registered under section 6(1) and can transmit status to their children. The denial of status to children of a single parent with 6(2) registration is commonly referred to as the second-generation cut-off rule.

In order for women to register their children they are now required to disclose the father's identity and to prove his Indian status. Mothers who fail to do so cannot register their children under the same section as to which they themselves are entitled to. That is, the child of a mother registered under 6(1) but whose father is not identified as a Registered Indian is designated 6(2), while a child of a mother registered under 6(2) whose father is not proven to be registered is excluded from the Registry and becomes known as a Non-Registered or Non-Status Indian. Without status the child cannot share in the rights and privileges protected by the *Indian Act* and enjoyed by her/his mother and her registered kin. Across Canada, Indian women have protested Canada's policy demanding disclosure of paternity. They object on a number of grounds, not the least of which is the state's intrusion into their personal lives. Disclosure of paternity can place them in social jeopardy, perhaps endanger them, and at the very least cause social conflicts where a man either denies paternity or refuses to acknowledge it to authorities.

While section 4 (1) of the *Indian Act* does allow some exceptions, these are not guaranteed for everyone in this situation. If a band takes control of its membership it can include members who do not have status. Under these terms, section 4.1 permits these members to be deemed "Indian" for specified sections of the *Act*. For example, such members could receive an individual allotment of reserve land from the band council.

In 2003, Stewart Clatworthy reviewed the demographic outcome of this policy for Indian and Northern Affairs Canada (INAC). Clatworthy (2003a) reported high

levels of non compliance with the policy pressure to disclose paternity. Overall Clatworthy found that from 1985–1999, 37,300 births to women holding 6(1) status were registered with unstated paternity. Young mothers in particular do not disclose paternity. Thirty percent of births with unreported paternity were born to this age group, with the highest percentage to mothers under fifteen. Smaller First Nations feel the greatest effects of this practice; out-marrying is more common because in communities of fewer than 100, residents are too closely related to permit high rates of endogamy (marriage within the community). Out-marrying, or exogamous parenting as Clatworthy terms it, threatens the future of First Nations as fewer individuals are registered under the *Indian Act* and increasing numbers of families experience disruption through generations as non-status children and grandchildren lose ties with their cultural community.

Although Bill C-31 was designed to repair the harm done to women and their communities when women lost status upon marriage to a non-Indian or lost membership upon marriage to a member of another First Nation, the repercussions of Bill C-31 have been painful and contradictory because the amendments also offered First Nations some control over their membership while requiring them to recognize certain “acquired rights” to membership. This has placed some women in conflict with those First Nations that deny them membership rights provided by the Act, limit or refuse access to housing and other services, and marginalize them in social life. In light of these conflicts and the effects of the second generation cut-off, studies of Bill C-31 have traditionally focused on three issues: gender conflicts arising from the reinstatement of women who lost status through out-marriage to their natal community (Bear 1991; Green 1985, 2000, 2001), issues of conflict between individual and collective rights (Macklem 2001, Schouls 2003), and questions of identity arising from distinctions made between Status and Non-Status Indians (Lawrence 2004; Miskimmim 1996). In this paper, we shift the focus from these established discourses to consider Bill C-31 and the attendant policy requiring disclosure of paternity as cultural trauma.

Embedded in the late-twentieth-century discourse of trauma, new perspectives on disruption of intergenerational cultural continuity came to be construed within the metaphor of wounding. The idea of cultural trauma is not used uniformly. Anthropologists and sociologists use the idea of cultural trauma to speak to slow, insidious disruptions of well-being that are collectively claimed although individually experienced. By labelling these insidious interruptions of cultural trauma, human experience is exposed in terms of immediate and delayed suffering and located within specific historical and social contexts. Alexander (2004, 44) asserts cultural trauma constitutes a threat to collective identity and exists within a context of continuous and recurrent struggle. Responses to cultural trauma include a multiplicity of defenses and coping mechanisms, such as contested responses within the membership group, denial, scapegoating (projection), and rationalizing (46–47).

Here we apply the notion to three different processes: trauma to culture, collective stigmatization or rejection by one’s own culture, and historic trauma. Trauma

to a culture is experienced collectively. Sztompka (2000) suggests trauma to a culture occurs when social change results in disruption of “the very central assumptions of a culture, or more precisely is interpreted as fundamentally incongruent with the core values, bases of identity, foundations of collective pride etc.” (2000, 453). He includes in his example “delegalization of traditional family forms” (453). Thus, Bill C-31 generally, and most specifically through its imposition of patrilineal identity with respect to children of reinstated women and the unstated paternity policy and its discontinuity of intergenerational membership, constitutes trauma to a culture, and radically so to matrilineal cultures. The trauma generated by Bill C-31 arises not from an unexpected event of horrific consequences but rather from a persistent destruction of individual well-being and collective continuity. Bill C-31 is experienced as traumatic within a cultural process shaped by continuing fragmentation of First Nations identity and sovereignty resulting from colonization. Fragmentation continues today in new and often subtle ways. Current power hierarchies exist within an historic legacy that is marked by paternalism and patriarchal assumptions that are imposed upon First Nations women without regard to cultural differences.³

The Context

Bill C-31 entered the lives of First Nations women after centuries of colonial displacement and historic traumas. These included patriarchal and sexist practices that disrupted family relations, diminished women’s economic autonomy, and eroded community well-being and collective identity. In addition, First Nations people mark the residential school as an experience that wounded their societies more deeply than any other colonial intrusion in their collective memories. Traumatic consequences of a schooling regime that led to the deaths of children in institutional epidemics, estrangement of grandchildren from grandparents, and immeasurable losses to language, cultural knowledge, spiritual wellbeing, and social cohesion are now conceded by Canada to have left legacies “of personal pain and distress that continue to reverberate in Aboriginal communities to this day.” (IRSRC 2007). The social disruption and family suffering from loss of children nurtured in First Nations’ cultures were exacerbated by the “sixties scoop,” a period during the 1960s when children were apprehended by the state and placed in residential schools, adopted by non-Aboriginal families, and even shipped to foreign countries (Johnston 1983). The frustrations wrought by the failure of Euro-Canadian society to meet the needs of First Nations families and to honour Aboriginal rights have led to emotional despair and abiding mistrust that continue to shape perceptions of the *Indian Act* in all its manifestations.

The first point of reference of colonialism for many women was imposed gendered concepts of Indian identity, which date from 1857. From 1876–1985 the federal *Indian Act* discriminated against women by denying them rights to Indian status by virtue of marriage to a non-Indian. Insofar as the law constitutes family,

as Cott (1995) has argued, the *Indian Act* has displaced the core social structures of First Nations—kin, corporate, and extended family groups—with the patriarchal, patrilocal nuclear family. By legally constituting women as “Non-Status” upon marriage to non-Indians, Canada asserted its control over an entire population through delegitimization (and non-recognition) of customary kin relations. With this assault on First Nation concepts of kin relations the very essence of the imaginary construct of family in First Nations terms was denigrated. Imposed patriarchy carried with it dualistic conventions of the public/private divide that privilege men as men, not as kinsmen, and subordinate women as kinswomen to men and as citizens (cf Pateman 1988). Women acquired and lost citizenship through men; at birth through their father at marriage through their husband. Bill C-31 locates women who married-out prior to 1985 in an inferior position to men who did the same by allowing these men to retain their Indian status and extending full Indian status to their non-Indian wives and their children. Under the 1985 amendments to the *Indian Act*, the descendants of Indian men who married-out are deemed to have two Indian parents regardless of the “race” of the mother, thus constituting the children as 6(1), a benefit denied children whose mothers married-out. Subordination of such women within their kin networks seeps into their subordination within the public realm, as they and their descendants are marked as different in terms of the *Act*. Women and children whose status was reinstated have come to be known as “C-31s” or “C-31ers” and viewed as outsiders to a community of authentic members (Fiske and George 2006; Lawrence 2004; Macklem 2001). Subordination of women through state imposed concepts of family and identity, we will now argue, constitutes a wounding of individuals and communities that shapes not only personal identity but contextualizes the impact of the policy demanding disclosure of paternity.

Trauma to the Culture

In a study we conducted in 2004, women of three First Nations with traditional matrilineal organization gave voice to the pain of subordination and their helplessness in the face of Bill C-31.⁴ They addressed questions of geographic and cultural alienation from their home communities, tensions within their families, fear of the second-generation cut-off rule, and discriminatory practices within their communities. The imposition of patrilineal rules for transferring Indian status and/or band membership essentially delegitimizes traditional family structures grounded in kin corporate status. The women identified this as the most compelling evidence of trauma to their cultures. Historically, matrilineal descent in these nations conferred membership in clans, that is to say a social group sharing economic rights, obligations, land, and other privileges. Through the clan system, children were never dependant solely upon a nuclear family for nurture and sustenance. All children would have two clans active in their lives—the mother’s and the father’s clans—each bearing particular obligations to nurture

and provide for the child. If a father was outside of the community or unknown, the mother's father's clan assumed the paternal obligations to the child. For a girl, this meant women of the father's clan would take an especially close interest in her development and well-being, not only in youth but as she matured and became a mother. Boys also turned to the paternal clan for care and guidance. The roles of the father's clan were formalized in rites of passage and clearly defined obligations reciprocated with the mother's clan. Reciprocal obligations were, and continue to be, acknowledged through feasting and gift exchanges known as the *balhats*. Today the state's focus on nuclear two-parent family denies the traditional roots of identity and the matrilineal kin structures that locate each child as a community member. Although social and cultural engagement in the community through the clan system remains vibrant at a personal level, because traditional kin authorities have been delegitimized, only the state can transmit full membership and attendant privileges defined within the *Indian Act*.

Women frame their experiences of Bill C-31 in terms of collective loss and ensuing community and kin tensions. They describe how their communities suffer, as they, their children, and their female kin are forced to live away from the home community. Language knowledge is lost. Highly skilled and capable individuals migrate to urban centres. Traditional forms of governance are weakened and matrilineal lines of succession disrupted. The desire to "be Indian" intensifies as government regulation of personal life leads to resentment that erupts into retaliation. As tensions ripple through families and communities, traditional principles of respect and generosity are undermined. Children are cast adrift from their culture when alienated by distance or status identity. A woman who had experienced this in her childhood stated,

I believe it takes a community to raise a child and without the support and help of the community the child does not learn the culture and the language. As a result these children are lost, confused and end up on the streets.

Another described the long-term cultural impact when traditions of respect are not taught to the young. In response to being asked if traditions are meaningful today, a young woman responded with the following:

I think the traditions still work for us especially for those who follow them strictly. These are the ones who do not get into trouble because our traditions are based on respect. Respect includes everything from animals to plants. If we base everything on respect then there would not be anyone feeling they don't belong. All people will belong where they were meant to be. We need to get back to our traditional ways and no government.

In the words of one woman, a leader in her community,

there has been a lot of mistrust, lack of respect, manage[ment] and control issues. There is loss of historical identity, language and cultural traditions. Confusion between the Western way of doing things and the Indian way, and at times those two clash, and leaves unnecessary wounds.

She goes on to say that while the matrilineal traditions endure for residents or those living sufficiently close to learn the ways of their people through participation in the balhats,

the indirect impact is for individuals coming back from outside the community not prepared and/or having lost touch with their teachings whereby [they try] to introduce protocols and/or principles that do not fit the traditional ways.

Her experience in administration and governance has led her to realize that

there seems to be a lot of misconceptions as to their entitlements. They seem to think that as leaders, previous leaders, we were responsible for the choices their parents made. Show how they feel that we as a Nation owe them for any possible wrong doing that happened at the hands of the government.

Her observations are supported by personal experiences of leaders and office workers in a second of the communities. Here the elders are just now feeling the effects of Bill C-31 in their own families and coming to recognize the implications for a nation with fewer than 300 members. Elders pressure their First Nation to include non-registered children in services and to provide homes for reinstated women and their families. Office workers and elected councillors feel the impact as they explain,

members who fall under Bill C-31 become ... lost in space because they don't have any benefits. So we are losing our numbers because of Bill C-31 and the ones that we are losing don't understand why and get pretty upset with us because we have no choice but to refuse them services.

Women's experiences substantiate observations of elected leaders and officer workers. Individuals' narratives illustrate the depth of trauma the cultures have experienced as families are divided by the regulations of Bill C-31. Women describe the pain of being raised outside of the community and the conflicts between cousins as young children in extended families become aware that some of them will have rights to inherit family property while others will not. Within families, some of the women who are cultural leaders either do not have status or are listed as 6(2) and their children do not have status. This creates uncertainty for the future of the community. A young girl of a large family whose members are fluent speakers of their language and are skilled in the traditional economic cycle described her anxieties.

As I said my aunties are Bill C-31. There are not in my community but we go out to our summer village where we are from, it is there that they are in the community. I think they belong to that community and it is there that they practice their traditional skill and their cultural ways. This is good because they pass the tradition to us. It is in the community that they were taught this tradition. Our traditional ways are being lost and if these women are willing to be in our community and pass these traditional skills on then this is a good thing.

Her cousin, whose adoptive mother lost and then regained status, shares her fears for the future. This young girl is raised with a brother who is registered 6(2) while

she is 6(1). She realizes all too well the possibility that her family will be further torn asunder by the second-generation cut-off rule and the demand for disclosure of paternity.

I would like to go to my summer home and not worry that some day that house would be taken away from me or even the following generation of my family. I fear ... the effects of Bill C-31. [for] my children's children or any of my following generations ... and wonder if they may not get their education because of C-31. I would like for every native in the Act of Bill C-31 to be able to live on their homeland despite that they did not choose a native person to be their partner.

Others in this large extended family are torn with emotion as the aunts come to recognize that their grandchildren are not registered and under the current rules will be unable to inherit property or engage in traditional economic practices such as netting salmon.⁵ Under the rules of the *Indian Act*, customary laws that establish resource use rights through clan membership offer no protection for individuals denied Indian status, in consequence non-status family members are vulnerable to federal laws regulating First Nations access to and use of natural resources.

Exogamous parenting is perceived to be the greatest threat small First Nations face. A number of participants spoke of the conflict between Bill C-31 and local patterns of marriage in remote communities where most residents are related. Generations have been taught that out-marriage is necessary to avoid violating social rules governing incest within clans and marriage to close relatives. In consequence, women were often encouraged to marry non-Indians in customary marriages. Communities were unaware of the implications of the *Indian Act* for matrilineal First Nations. As long as the married couple maintained harmonious relations with the community and the Indian Agent failed to intervene, children were registered and integrated fully in their natal community. In some cases, the children were raised by a non-biological father from the community, a practice that placed them beyond intervention by the Indian Agent. With this practice matrilineal descent remained undisrupted and children's birthright in the community unquestioned. In small communities, this is extraordinarily significant. Out-marrying is a necessity to avoid marrying kin relations or clan members. As Clatworthy and others have indicated, out-marriage and potential loss of future members is highest in communities under 100 members.

Bill C-31 is particularly felt as an assault on customary law and is experienced as a contraction to more progressive policy gestures whose purpose is to strengthen the extended family and bridge generations. Adoption and foster care within extended families is now encouraged by Canada and the province, a stance compatible with matrilineal practice. In the cultural tradition of the three First Nations we are studying here, a grandmother routinely adopts children. Elderly women are the source of wisdom. A child raised by a grandmother is viewed as special, in the eyes of some a child gifted by the spirits. As adults these children will be primary caregivers to their aging kin members. If they are denied access to First Nations land and resources, they will not be able to fulfill their traditional

obligations in a meaningful way. Without sufficient support from federal funding, small First Nations are currently unable to provide for their citizens. Denial of status to the third generation in the small communities means the First Nations will not have funds to support children who in the future would be supporting the elders. Whatever customs of reciprocity and obligation may have prevailed in the past, adherence to legal custom of care for adoptive parents within kin and clan networks is not now constituted as legal grounds for granting status. The very basis of customary law—reciprocal obligations—has been delegitimized and in consequence the foundation of social relations disrupted.

This rupture of family is seen as a most serious violation of Aboriginal rights. Community members recall the 1993 court decision, *Casimel v. ICBC* that upheld the rights of First Nations to follow customary adoption.⁶ However, insofar as customary adoption by grandmothers is recognized under Bill C-31, children adopted by widowed grandmothers and/or unmarried grandmothers are denied 6(1) status even when this is the category of the adopting mother, and adoptions by grandmothers registered as 6(2) have not conferred status in all instances. Participants were unable to explain why this was occurring but they worry that adoption by a widowed grandmother is viewed as a one-parent family if no father is registered in these circumstances. In the words of one grandmother, “They [INAC] just don’t want our clan system.” When probed she reiterated that under customary law the child would be adopted into a father’s clan and “doesn’t need to say anything more.”

Women, in particular elders and hereditary chiefs, do not view Bill C-31 in isolation but in the context of other government interventions into family life. Apprehension of grandchildren by social services is particularly problematic and this issue dominated all the discussions we had with interviewees in the three communities. When daughters and granddaughters do not disclose paternity, the rift within communities intensifies when elders beseech their elected governing councils and administrative staff to intervene. In these communities the full impact of Bill C-31 comes as a shock as elders struggle to comprehend the reality that is facing their families. With their new understanding of government policy comes the recognition that grandchildren and great grandchildren are not eligible to inherit lands and cannot pass inheritance rights to future generations. “What is to become of us?” asked one distraught grandmother, a sentiment commonly shared by young and old alike.

Bill C-31 constitutes a trauma to culture as it threatens to drastically reduce the future status population (Clatworthy 2003b). As women came to recognize their personal grief over the exclusion of their grandchildren they turned to the question: How many of our nation’s babies are not registered? They asked: “Why is the government doing this to us?” And they answered their own question in terms of racialized gender discrimination. As they live with the repercussions of Bill C-31 and the administrative policy that requires disclosure of paternity they

recognize that the state intrudes into their private lives and sense of identity in a way that no other women in Canada face.

When asked how they would like to deal with the crises caused by Bill C-31, the participants were at a loss for words. Bill C-31 is but one of several assaults on their culture that has left First Nations powerless to control their destiny. In keeping with customary law, the women emphatically repeated that the answer must lie in matrilineal membership: time honoured recognition of women as family leaders and grandmothers' customary practices of adoption were raised repeatedly as the solution to cultural continuity and family strength.

Collective Trauma: Stigmatization and Rejection

Collective stigmatization or rejection by one's own culture forces individuals away from cultural foundations that should offer coherent expressions of identity. By its very nature, the *Indian Act* sets the terms of this stigmatization. Socio-legal distinctions give rise to social disparities: C-31 has become a state of being. INAC commonly refers to persons as "C-31s." In their daily talk⁷ Aboriginal people ask such questions as "Who *is* C-31?" Indeed in our own research this was a continuous expression as researchers and participants alike signaled social distinctions by labelling who was and was not C-31, which communities had residents who were C-31, who had C-31 mothers, etc. Stigmatization and rejection are insidious forms of trauma; they reflect the internalization of colonial biases and create marginalized minorities within minorities. In this way, a collective trauma is felt; a shared suffering emerges to mark a common purpose with others who have endured moral and social violation. Identity, contrary to liberal notions of choice and multiple identities, is coercively imposed in negative terms: to *be* C-31 is to be outside full community membership. It is to be displaced to community margins without relocation in any community as a fully belonging member.

Reinstated women related common experiences of reinstatement. Whether returning home for a short period, seasonally or permanently, they found themselves stigmatized and often rejected. Few have had the opportunity to move onto the reserve and become permanent community members living in their own homes. Because the region is sparsely settled and long distances separate off-reserve "white" communities, reinstated women find it difficult to live near their home communities. Isolation from reserve communities compounds stigma. Financial and geographical barriers block regular participation in community events. In the words of one young woman whose father is registered and whose mother is non-native, "You really don't consider yourself Indian ... It is easier to live in urban areas because on-reserve you are discriminated from those that live there." Echoing her experience, a second woman from the same community described what she had lost in her childhood as a consequence of not having status in her mother's nation.

Because of Bill C-31 I did not gain status until my early teens, so I lost out on many things. I lost out on many benefits because of the patrilineal ways of thinking. I also experienced racism from those who were status who thought that as a Bill C-31 I—we—were infringing on their rights.

A son of a woman who lost status through marriage was fortunate to spend his summers in the fishing village with his extended family. However, he recalls the difficulties his parents faced from the economic burdens of medical and dental costs others did not have to carry. Despite these differences he is now a resident band member—registered as 6(2)—and defends the cultural rights defined by the matrilineal lineage against government intrusion. He points out that by marriage to a registered band member his children are protected under 6(1) registration. The irony that his children have “full status,” as many refer to 6(1) registration, as a consequence of their mother being 6(1) does not escape him. “That’s the matrilineal way,” he smiles, “they are 6(1) just like their mom and I’m only 6(2).”

Community members express a range of conflicting views over the residential choices of reinstated women. Some felt that rules and resources were needed to aid the women in reestablishing themselves in First Nations lands, others thought reinstated women and young adults registered as 6(2)

prefer not to live on the reserve, because I know the ones who fall under Bill C-31, rather than move to the reserve, move to large urban cities or Prince George, or they move to other provinces and try to find work. They may even find it easier to survive over there with the mainstream, rather than they do at home ... everyone knows who’s who and they might lose out on fishing and hunting. They don’t get to have hands on, but they do receive fish and moose ... they request it.

These views conflicted with personal experiences of young adults who grew up away from their home communities. Young adults expressed a sense of frustration and social loss, caught between their own desire for community membership and a felt need to build social ties outside reserve communities in the interests of their children.

Stigmatization and conflicting needs of mothers and children did not deter all the participants in their quest to return home. The desire to live in their home community led these women to endure the ongoing struggle for acceptance. They were “willing to face any situation just to be home.” However, the failure of the government to provide the necessary resources, in particular housing, left the women feeling cheated. Government discrimination had set them apart from their families and communities and compounded the insult by denying them benefits that they felt were a right.

Socio-legal divisions that have been created between mothers and children are a constant source of personal and collective trauma. Women who have fought the stigma of not belonging must now guide their children through the same maze of humiliating experiences. In small communities that are marked by tensions between Aboriginal and non-Aboriginal residents, this is no easy task. Mothers face the dilemma of teaching their children to be proud of their First Nations

culture even as the children come to know that they are different than their on-reserve family and friends.

Just as the residential schools were constituted as an assault on Aboriginal identity and were meant to remold the First Nations people in the image of Euro-Canadians, denial of status to women marrying-out was intended to reconstitute their identity. And like the residential schools, the *Indian Act* failed.

Clinical psychologists disagree with sociologists and political scientists who see identity as adaptable to changing public definitions and interpersonal relations. In their eyes identity is neither as discursively malleable as some would claim, nor as easily reconstituted through positive cultural praxis as many hope. Rather, clinical psychologists have found that developmental traumas not only emerge from childhood sexual trauma but also arise from “the abuses of a racist, sexist, heterosexist society” (Layton 1995,120; also see Brown 1991). The participants in this study narrate their own and their families experiences of these abuses. A woman from Lake Babine Nation has observed the stresses her relatives suffer because Bill C-31 categorizes family members differently.

I want to be able to live on the reserve and have what rightfully belongs to me. I do not want to be classed differently. Everyone always segregates the First Nations people. This is another example of segregation. We have always wanted to just belong where we come from and the government is always trying to change us.

Another woman who lost status and her right to reserve residency describes the devastation felt by her entire family.

At the time I was enfranchised my mom and dad were very upset that I would not be considered henceforth. Undue stress and misery I'm sure was felt by my whole family. It was bad enough to my family that I was marrying a non-native (in those days it was almost taboo to marry out of our race), but to lose my status over him was completely devastating to my whole immediate family ... As you are aware I am living on the reserve now, but when I was not and considered non-Indian I felt very alone in that old non-Native world. I felt like I did not belong anywhere and yet I had historical roots in the Lake Babine Nation. It was a very disconcerting time for me. I used to long to be able to return home and live next to Mom and Dad.

The impact of disrupted social and cultural relations and imposed notions of changing identity are felt strongly by women who experience rejection in their First Nation community and in the mainstream society. Before her reinstatement, a woman recalls that her family

had to live off the reserve in town. Therefore I grew up across the tracks away from the reserve. We dealt with racism from both non-Natives and Natives. The non-Natives did not like us because we were Natives and the Natives did not like us because they thought that we were acting better than them just because we grew up off the reserve ... I know a few that are Bill C-31 and yes I do think this affects them in a major way. They are not able to learn the culture and the language.

The desire for acceptance is very strong among women and their children who struggle to integrate into cultural life after reinstatement. When they do not feel

accepted they find it hard to practice their tradition. A young woman explained that “to participate in the ballhats they need to feel they are accepted” by the entire community.

Questions of identity and the experiences of fragmentation arise as well from government bureaucratic processes that assign numbers on the register and place names in vital statistics records. The son of an out-marrying woman experienced stress at finding he has been registered under two different family names: the non-native father’s surname and his mother’s surname. He uses humour to deal with his feelings, “So I got two birth certificates so maybe you have a split personality you don’t know about.” However, his pain surfaces as he reflects on the implications of this. He continues saying, “That could be white on the outside and native inside, half and half. Half and half is better than nothing.” Thus, he reiterates stereotypes that reflect concerns over fragmented identity. He speaks within the perspective shared by other participants who use terms “full status” and “half status” to label community members whose identity has been defined after registering under section 6. As this man listens to the researcher who is interviewing him he comes to recognize the broad significance of C-31 and the struggles women are having with respect to their children and grandchildren.

Holy! I didn’t know that! Bill C-31 is a lot bigger than just women marrying a white man. It is bigger, it’s just what we’ve been told ... when we come into problems with our children is where women are starting to stand up and look into the bill especially when we’re told that oh yeah, your child is not going to have any part of the status. Your grandchildren, that’s when it hurts.

To fully understand this process as traumatic, one must appreciate the conflicting constructions of identity that emerge as individuals and communities struggle against internalizing racial distinctions foisted upon them. Bill C-31 exacerbates tensions of identity that arise from intermarriage as children of mixed parentage are cast into denigrating categories, C-31ers or “half status,” that are articulated within state discourses and personal conversation. Racial stereotyping implicit in the term C-31 is explicitly raised within stigmatizing labels. One young man’s experience exemplifies this. Although others in his family are registered, he is not. Because he “looks white” he is taunted as “white wash” and “puppy face white wash.” In these circumstances, government-imposed definitions of identity do not offer coherence or stability but situate children and adults as victims of culturally imposed trauma that shatters identity, and reflect back to individuals and communities negative, fragmented images of identity and social well-being. The above speaker sees the solution as the government creating a new situation where

everything [is] equal. Like just ‘cause a woman marries a white guy you know that doesn’t give the government the okay to say “Well you’re no longer Native.” You were born Native. How could the government ... come and say “Well you got to be white now ‘cause you got married.”

Perhaps more damaging than any other disruption of identity was the act of stripping women of their cultural identity upon marriage. As Sandra Lovelace

proved before the international courts, women and their children were alienated from their ethnic and cultural rights (Silman 1987).⁸ In the process there is no doubt that they and their children were stripped of the cultural coherence that is the foundation of stable, healthy identity formation and maintenance. For one family participating in this study, fragmented identity of their mother led to multiple traumas for the entire family. The speaker was born to a mother whose status was reinstated under Bill C-31 and to a non-status father. In this circumstance the speaker would normally be registered as 6(2). However, she was adopted by a father with status and thus achieved registration as 6(1). Through adoption the speaker feels she is entitled to live in her mother's natal community and as a result has achieved a higher quality of living than any of her sisters. Because her sisters were not adopted by a status father they did not achieve parity in being registered. Without a father on the reserve they did not feel they could make their home there. During the mother's period of not being registered, she disassociated herself from her Nation because she was ineligible for benefits. When her status was restored there was no housing on the reserve and she could not return. In her daughters' words:

I think my mother kinda found out her benefits were gone ... she slowly stopped being dependent on the ... Nation for anything, like to the point where she was disability and she was on white welfare instead of coming home to her native nation to be happier. She stayed in Vancouver and stayed on her disability and I think that the result of her alcoholism causing her death. So because she was Bill C-31 she was unable to come home. Well, theoretically, she would of come home but she wouldn't have got the benefits the white government was able to provide her because of her status ... Eventually we [the speaker and her sisters] followed mom to Vancouver and we all didn't survive...I got two sisters with HIV and I've got two sisters that died of overdosing along with my mother drinking and overdosing, she died herself ... I've got two nieces and a nephew in foster care ... they have heart conditions so they are considered disability....

Clearly the social and cultural alienation of this family led to oppressive situations in which sustaining good mental health became impossible. In crisis, the family members become entrapped in negative stereotypes in a complex situation that has been termed "ethnostress." This occurs

when the cultural beliefs or joyful identity of a people are disrupted. It is the negative experience they feel when interacting with members of different cultural groups and themselves. The stress within the individual centres around the self-image and sense of place in the world. Beginning on an individual basis, the effects of the ethnostress phenomena are analyzed and then applied to the collective groups of family, community and nation. (Antone, Miller and Myers 1986, 7).

Ethnostress carries with it a sense of helplessness and powerlessness, what women describe as "having their hands tied behind their back" as they confront the pain of their families and the future impacts of the second generation cut-off and unstated paternity. Having suffered themselves and watched their children suffer, they worry about the grandchildren to come. The disclosure of paternity mandate will inevitably alienate more of their grandchildren. Stresses of identity,

alienation from family and community, and mixed messages of racialization and marginalization are bound to affect the future generations in the same ways as the women and children initially alienated by section 12(1)(b) of the old act and by section 6 of the current act.

Women and men alike express a sense of helplessness that spills over from personal anguish to shared feelings. They share the view that their lives are not theirs to live freely. Through seeking to control intimate relations and reproduction, they see the government as not only telling women with whom they should have children but also constraining communities in how and to whom they pass down tangible and intangible resources and teachings. The impact of the cultural and collective trauma will continue to be felt through the generations as children of today are forced to cope with disruptions in identity in the future. In this way, Bill C-31 will come to resonate as an historic trauma as the direct experiences of racist, sexist, and cultural oppression today come to shape the meaning of personal experiences and identity in the future.

Historic Trauma

Historic trauma is initially experienced directly. Over time it is experienced indirectly by subsequent generations in consequence of the meaning the traumatic event carries in historic narratives. Maria Yellowstone Braveheart defines the term as “collective and compounding emotional and psychic wounding over time . . . [it is] multi-generational and is not limited to [an individual’s] life span” (1996, 6). Historic trauma is experienced across wide networks of people and is transferred through generations just as lived experiences of descendants of the original trauma victims are shaped by the past. The complexity of historic trauma lies in relations of power; identities constituted through the dominating powers’ view of the traumatized community force themselves into identity formation. Bill C-31 emerges from colonial distortion of identity and belonging, and exists within current cultural disruption that denies individuals access to a coherent culture from which the wisdom and skills necessary for community survival are drawn. Within this context to *be* C-31 can erode self-esteem and cause a depression of estrangement whereby one feels alienated and pushed to the margins of community.

Community members are well aware of the historical prejudices against them because of their matrilineal organization. They see state imposed patrilineal laws as a deliberate attack on matrilineal peoples that has humiliated women and has left First Nations governments powerless to control their destinies and women powerless in their personal lives. They do not view the impact of the *Indian Act* over the past century in isolation but within the historical context of colonization by church and government. Categorization of First Nations individuals under Bill C-31 is understood as being interwoven with the traumatic consequences of the residential schools and the ongoing dilemma of child apprehension. Participants’ narratives speak to three themes of historic trauma: colonially imposed arranged

marriages that stigmatized and forced young women from their families, forced removal of women who married out, and disruption of family ties through the generations as women and men were treated differently upon marriage.

From the time of contact with Europeans through to the present, colonial biases have stigmatized matrilineal traditions and the women who asserted their autonomy and individuality. In the early fur trade years, customary marriages with European men took women from their home communities. All too often, the foreign men did not hold their wives in high regard. Traders are known to have abandoned the women or to have passed the women among themselves as property (Fiske and Patrick, 2000, 148–49). While Catholic missionaries were critical of individual abuses by European men, they justified government interventions into family life as a means of undermining matrilineal family formations and the *balhats* and clan system. They chastised women whose sexual behaviours and personal actions differed from Catholic expectations of female subordination and chastity and stigmatized women who refused to abide by missionaries' rules against marital separation. Catholic missionaries and Indian agents also objected to customary forms of adoption and the strategies used by families to ensure collective well-being in ways that may now stigmatize families for their forebears' actions (Fiske and Patrick 2000, 153–155).

These sexist and racist sentiments have influenced present day perceptions of family histories. One family's history illustrates the impact of racist attitudes toward historic marriage practices, as these become shaped by meanings arising from Bill C-31. Up until the mid-twentieth century, families arranged marriages for young women. Families sometimes did so in order to meet economic needs, such as alleviating debts or bringing into an extended family men who could earn wages and/or provide by hunting and other unpaid labour. Several decades ago, when this family faced an economic and social crisis, they followed tradition and arranged a marriage between a daughter and a non-Indian. Following Bill C-31, the children of this marriage were able to regain status in the 6(2) category. But, today their own children and grandchildren have been denied status. Through four generations this family is doubly traumatized: Family members fight to override the Euro-Canadian social stigma associated with the "forced marriage" of their mother/grandmother and the perception that the bride was "sold" either out of heartless action or from desperate poverty. Currently, the generations denied status seek to assert their cultural identity through social and economic affiliation within the feasting system and other community ties of reciprocal obligation. However, they carry the sense of being outside and remain anxious for the social and cultural future of their grandchildren.

Under the 1951 amendments to the *Indian Act*, the forced removal of out-marrying women left communities feeling helpless in the face of government actions. By denying out-marrying women community membership and cultural identity, the *Indian Act* has continuously signaled to First Nations peoples—and matrilineal peoples in particular—disregard, if not contempt, for cultural practices

that differ from Euro-Canadian sentiments and values. To the extent that these views have been internalized, they are reflected in community practices and individual sentiments. Thus community members may hold individual women responsible for their decisions to marry-out. And under the legislation, the First Nations themselves have no power to redress the current situation. The result is the alienation of out-marrying women's descendants who now feel "punished" for the mothers' personal choices as they find themselves unwelcome in the community and denied the benefits their close kin enjoy.

Families suffer from a complex of having been "divided and conquered." Some participants in this research, for example, spoke of family turmoil and personal pain resulting from the sexist biases of Bill C-31. A sister and brother born to unwed parents, Status Indian father and non-Indian mother, now have different entitlements. The brother is 6(1) because his entitlement comes from being registered prior to 1985 when patrilineal rights were bestowed on "illegitimate" sons. The sister is categorized 6(2) because she could only be registered after 1985 and can claim only one registered parent.⁹ Imposed sexist biases leave female kin vulnerable to low esteem and mistrust as they witness their male kin benefiting while they endure feelings of isolation and rejection.

The traumatic impact of Bill C-31 is felt most strongly in the demands for disclosing paternity. Few participants wished to discuss this issue, and those who did were not mothers directly affected by the policy. Grandmothers wept and trembled as they learnt for the first time that grandchildren and great grandchildren were not, and apparently could not be, registered. Many, however, would only speak privately. In the presence of each other, their grief consumed them. Younger women were often too stressed to address the issue in focus groups.

Most troubling is the lack of awareness regarding rules for stating paternity. Some community members shared views reported by Clatworthy (2003a) that naivety, ignorance, and the complication of registering babies can explain why young mothers are not identifying fathers. But older women were far more concerned about young mothers, who they thought were remaining silent for important reasons of safety. One woman pointed out that when she was young women did not speak out and name the father if they were not married. She described teenage mothers raising their babies in an extended family setting, where customary adoption was never questioned. Grandmothers simply took in the baby and "everyone knew" the child was being adopted. To her, disclosing the father's name breached rules of respect and personal dignity. Silence, not disclosure, she suggested, is the way to respect everyone where naming a father could shame others.

Speaking quietly after one focus group, an elder raised a troubling violation of her culture. Like many others, she accepts principles of reincarnation. She sees the demand to reveal a father as a misunderstanding of life. People "come back" she explained, and we can never be sure that the babies the government refuses

are not ones who have “come back” to be with their families. By not registering babies because their fathers are not named, communities lose continuity through generations.

The impact of unstated paternity constitutes historical trauma. It is shaped by colonial history and shapes the future. The policy implicitly reintroduces the historic Euro-Canadian repugnance for matrilineal societies and moral judgments against “illegitimate” births. It reinforces the very biases against “mixed heritage” that resonate in the multiple categorizations listed in section 6 of the *Indian Act*. More specifically, by enforcing patrilineal notions of descent, and implied measures of blood quantum, this rule disregards the very essence of cultural difference: The sacred social and psychological meanings of birth are swept aside by imposing a universal means by which to construct identity and to constrain defining characteristics of First Nations membership. By dividing families at the time of birth, it inflicts trauma on mothers whose children will be alienated in the future. If carried into the future it will place burdens of proof on the children whose paternity is unstated, creating social distress for those who cannot determine their fathers’ identities, and for those who can and cannot register in consequence. Knowing the depth of misery felt today as a result of the *Indian Act*, it is impossible to view a coherent and stable future for children and families divided by unstated paternity. Concern for the future creates genuine and deep anguish across communities of First Nations.

Like families, communities also struggle with a sense of having been “divided and conquered” as they confront the emotional conflicts resulting from Bill C-31 and individuals’ demands that First Nations leaders take action. A member of the Nee Tahi Buhn First Nation described the continuing impact of the *Indian Act* as a “silent crime.” Community fractures from the initial discrimination of 12(1)(b) in the 1951 Act through to the impact of C-31 on extended family today, she says, have not been addressed publicly by either the government or First Nations leaders. In her eyes there has been no accountability and without public apologies the community will remain divided. She describes the situation today as one in which the Nee Tahi Buhn First Nation is “like two separate bands ... Bill C-31 feel separate. Nee Tahi bun is a small band of 128 and we shall see the impacts very heavy in the future generation.” Similarly, a member of the much larger Lake Babine Nation calls for healing of historic wrongs. She contextualizes her criticism of the *Act* within the need to “decolonize people.” In her view,

some people are conditioned to this new [*Indian Act* regime] era ... We need to heal from the impacts of colonization, the residential school and child welfare system and look at things holistically, where by we can make informed decisions and move our nations forward in a progressive manner.

She also views the need to heal in historical context: First Nations must move beyond the history of government control to a point where they can take their destiny in their own hands and act on their responsibility for future generations. In sum, the *Indian Act*, and Bill C-31 in particular, must be understood as historic trauma.

Conclusion

Any understanding of Bill C-31 needs to be placed within the colonial circumstances that have wrought historic trauma on First Nations women, families and kin networks. The historic, multilayered impact of state-imposed identity constructs is the root of contemporary experience of Bill C-31. Women experience Bill C-31 within their collective articulation of what has happened to women and children in the past, in the present and within their shared apprehension of the future, as fewer and fewer children carrying 6(1) status are born into their First Nations communities.

Bearing in mind the axiom “laws make persons,” it follows that where law and force of the state delegitimizes established forms of family, kin, and identity, law remakes identity. To the extent that this imposes cultural discontinuity and social disruption, the ensuing process is one of multilayered trauma that encapsulates individuals and communities. With respect to Bill C-31 and the demands for disclosure of paternity, the trauma has and will continue to reverberate through kin relations as communities are depleted of registered members and grandmothers struggle with the loss of grandchildren whom they can never know on their own terms.

Endnotes

- 1 This study is funded by Policy Research Directorate, Status of Women Canada. A fuller account of this research can be found in the report *Seeking Alternatives to Bill C-31: An investigation of matrilineal models of First Nations citizenship and community membership policies*, published by Status of Women Canada (2006).
- 2 Sexist discrimination in the *Indian Act* has been documented in numerous studies. Under Section 12(1)(b), a woman who married a man who was not a Registered Indian was stripped of her Indian status, removed from Indian band registration and denied all the privileges and protections of the *Indian Act* including rights to residency, inheritance of property on the reserve, burial on the reserve, and access to traditional resources through fishing and hunting. Efforts to eliminate these stipulations and achieve equality with Indian men led to protracted political and legal struggles that continue to this day. For histories of the struggles in the 1970s that led up to the 1985 amendments see Jamieson (1978), Silman (1987) and Hartley, this volume.
- 3 A number of terms are used to describe families organized around male authority and social and economic privileges. The patriarchal nuclear family is the conventional family form of Europe: a married couple and dependent children with the husband/father carrying privileges of authority and rights denied to the wife/mother. In keeping with preferences for patriarchal family organization, colonial authorities enforced patrilineal rules, or descent through the father, to determine Indian status. Married women were expected to reside in the home community of their husbands, a practice known as patrilocal residence. Paternalism is the assumption that male authorities within the family and state are best able to define the needs of others. All of these practices undermined traditional membership in extended groups of kin who shared property and resource rights. These groups, known as kin corporate groups, protected women's access to resources through descent and through marriage.
- 4 This study was conducted with three First Nations of central British Columbia: Cheslatta Carrier First Nation, Lake Babine First Nation and the Nee Tahi Buhn First Nation. In this work, three community researchers, each familiar with the communities, held focus groups and individual interviews. Seventy-five participants were involved. Community researchers who are well known in the First Nations communities conducted the interviews and focus groups. The researchers have personal experiences with Bill C-31 either through their own marital relationships or through the splintering impact of the Bill on members of their families. The meetings were held on-reserve where possible and where not possible in meeting halls the communities regularly use. The meetings were tape-recorded. Throughout, notes were placed on flip charts for the participants' reference. Private interviews were held at a location of the participant's choice. Some agreed to be tape-recorded, others did not. Family narratives are intensely personal; none can be told without spilling into the narratives of other families with whom the storyteller is linked. The sensitive nature of asking questions about the impact of Bill C-31 and the division of family and community through the distinctions of 6(1), and 6(2) led researchers to adopt flexible approaches to interviewing in order to best serve the individual participant's needs.
A detailed account of the Lake Babine Nation's social organization and complex system of customary law is provided in *Cis Dideen Kat: When the Plumes Rise, The Way of the Lake Babine Nation*. (Fiske and Patrick 2000).
- 5 The speaker is from a First Nation that has followed the *Indian Act* rules and excludes non-status individuals from its membership code. The First Nation is engaged in debate on membership but is reluctant to alter membership codes at the present time.
- 6 This case arose in the neighbouring Stellate'n First Nation, whose laws and social practices are grounded in principles of matrilineality and reciprocal obligations. In this case a young man had been adopted by his maternal grandparents, Francis and Louise Casimel. When he was killed in a vehicle accident the parents anticipated receiving the dependent parent allowance from the Insurance Company of British Columbia. The company denied them benefits and the Casimels turned to the courts for redress. In 1993, the Appeal Court of British Columbia ruled in their favour and upheld customary family law. The case was not appealed to the Supreme Court.
- 7 We have recorded use of "C-31" as a term of identity at public talks, at conferences, and in meetings between INAC officials and First Nations.

- 8 Sandra Lovelace took the issue of discrimination to the United Nations Human Rights Committee. In 1981 it declared the *Indian Act* provision discriminatory with respect to the alienation of women from the culture and natal community. This brought international embarrassment for Canada and helped to pave the way for Bill C-31.
- 9 Section 11(1)(c) of the *Indian Act* provided status to male persons in direct descent of the male line. The issue of illegitimate children was raised in the Martin Case heard by the Supreme Court in 1983; the court ruled that because section 11(1)(d) dealt with legitimate children, section 11(1)(c) applied to male descendants in general. As a result of the Martin case, male children of entitled Indian males were eligible for registration whether or not they were legitimate. The legitimate male and female children of Indian men and non-Indian women were registered under section 11(1)(d).

References

- Alexander, Jeffery C. 2004. "Toward a theory of cultural trauma." In *Cultural Trauma and Collective Identity*. Jeffery C. Alexander, Ron Eyerman, Bernhard Giesen, Neil J. Smelser, and Piotr Sztompka (eds). Berkeley: University of California Press. 1–30.
- Antone, Robert, Diane Miller, and Brian Myers. 1986. *The Power within People*. Deseranto: Peace Tree Technologies.
- Bayefsky, Anne F. 1982. "The Human Rights Committee and the case of Sandra Lovelace." *Canadian Yearbook of International Law*. 20: 244–265.
- Bear, Shirley. 1991. "You can't change the *Indian Act*?" In *Women and Social Change: Feminist Activism in Canada*. Jeri Dawn Wine and Janice L. Ristock (eds). Toronto: James Lorimer and Company. 98–220.
- Braveheart, Maria Yellowhorse. 1995. *The Return to the Sacred Path: Healing from Historical Unresolved Grief among the Lakota and Dakota*. PhD Dissertation. Smith College, Northampton, Mass.
- Casimel v. I.C.B.C. (1993), 82 B.C.L.R. (2d) 387 at 394–95, 18 C.C.L.I. (2d) 161 (C.A.).
- Clatworthy, Stewart. 2003a. *Factors Contributing to Unstated Paternity*. Ottawa: Indian and Northern Affairs Canada.
- Clatworthy, Stewart. 2003b. "Impacts of the 1985 amendments to the *Indian Act* on First Nations populations." In *Aboriginal Conditions*. Jerry White, Paul S. Maxim, and Dan Beavon (eds). Vancouver: UBC Press. 3–90.
- Cott, Nancy. 1995. "Giving character to our whole civil polity: Marriage and the public order in the late nineteenth century." *United States History as Women's History: New Feminist Essays*. Linda Kerber, Alice Kessler-Harris, and Kathryn Kish Sklar (eds). Chapel Hill: UNC Press. 107–24.
- Fiske, Jo-Anne and Evelyn George. 2006. *Seeking Alternatives to Bill C-31: An investigation of matrilineal models of First Nations citizenship and community membership policies*. Ottawa: Status of Women Canada.
- Fiske, Jo-Anne and Betty Patrick. 2000. *Cis Dideen Kat: When the Plumes Rise, The Way of the Lake Babine Nation*. Vancouver: UBC Press.
- Green, Joyce. 1985. "Sexual equality and Indian government: An analysis of Bill C-31 amendments to the *Indian Act*." *Native Studies Review* 1(2): 81–95.
- Green, Joyce. 2000. "Constitutionalizing the patriarchy: Aboriginal women and Aboriginal government." *Expressions in Canadian Native Studies*. Ron F. Laliberte, Priscilla Settee, James B. Waldram, Rob Innes, Brenda Macdougall, Lesley McBain, and F. Laurie Barron (eds). Saskatoon: University of Saskatchewan Extension Press. 28–354.
- Green, Joyce. 2001. "Canaries in the mines of citizenship: Indian women in Canada." *Canadian Journal of Political Science*. 34: 715–738.
- Indian Residential Schools Resolution Canada. 2007. Statement of Reconciliation, 1998. Ottawa: Indian Residential Schools Solution Canada. <www.irsr-rqpi.gc.ca/english/reconciliation.html> Date accessed: April 11, 2007.
- Jamieson, Kathleen. 1978. *Indian Women and the Law in Canada: Citizens Minus*. Ottawa: Minister of Supply and Services.

- Johnston, Patrick. 1983. *Native Children and the Child Welfare System*. Ottawa: Canadian Council on Social Development.
- Lawrence, Bonita. 2004. "Real" Indians and Others: Mixed-Blood Urban Native Peoples and Indigenous Nationhood. Lincoln: University of Nebraska Press.
- Layton, Lynne. 1995. "Trauma, gender identity and sexuality: Discourses of fragmentation." *American Imago*. 52(1): 107–125.
- Macklem, Peter. 2001. *Indigenous Difference and the Constitution of Canada*. Toronto: University of Toronto Press.
- Miskimmin, Susanne E. 1996. "Nobody took the Indian blood out of me": An analysis of Algonquian and Iroquoian discourse concerning Bill C-31. PhD Dissertation. University of Western Ontario, London.
- Pateman, Carole. 1988. *The Sexual Contract*. Stanford: Stanford University Press.
- Schouls, Timothy A. 2003. *Shifting Boundaries: Aboriginal Identity, Pluralist Theory, and the Politics of Self-government*. Vancouver: UBC Press.
- Silman, Janet. (1987). *Enough is Enough: Aboriginal Women Speak Out*. Toronto: The Women's Press.
- Sztompka, Piotr. (2000). "Cultural trauma: The other face of social change." *European Journal of Social Theory*. 3(4): 449–466.