

“Because our law is our law”:  
Considering Anishinaabe Citizenship Orders through  
Adoption Narratives at Fort William First Nation

by

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## Abstract

This dissertation argues that inherent Anishinaabe (Ojibwe) citizenship law exists, and can be seen through adoption practices used by Anishinaabe families. For more than 165 years, Indigenous citizenship orders have been targeted by Canadian society through its laws. Canada's Indian Act and its pre-cursor legislation sought to regulate Indigenous peoples as "Indians"; whereas Indigenous citizenship orders determine belonging based on a number of factors, Canadian Indian law reduced these orders to gendered and racialized categories – to belong with "Indians" meant one had to trace their genealogy primarily along patrilineal lines.

As I argue in this dissertation, however, inherent Anishinaabe citizenship law is based on more than just sexual relations and tracing bloodlines. It is based on the authority of Anishinaabe families to discern who belongs. By focusing on adoption narratives carried by thirteen knowledge holders from Fort William First Nation (an Anishinaabe community in Ontario, Canada), this dissertation shows that, when seen through adoption stories, Anishinaabe citizenship is based on values of full inclusion, accountability to community, non-essentialism, and decentralized decision making.

This study uses a Biskaabiiyang research methodology to identify and validate Anishinaabe citizenship law. It treats adoption narratives as a source of such law. These narratives and the principles they reflect, I argue, hold valuable pieces of inherent Anishinaabe citizenship law and governance. The intent of this dissertation is to put some of those pieces back together so that they can be used in broader, on-going work being done to complete the picture of what inherent Anishinaabe citizenship law looks like today.

In addition to analyzing Anishinaabe knowledge holders' stories in ways mentioned above, the dissertation also provides a critical review of both Indian status and lineal descent as methods of determining who belongs with Anishinaabeg. I use adoption as a lens through which to make these critiques.

Finally, this dissertation was written primarily for and with the people of Fort William First Nation, and is intended to inform internal community discussions about what it means to be a Fort William citizen.

**Dedication:**

*For Marlene*

## Acknowledgements

No writing happens in a vacuum. I therefore wish to thank the following people:

First and foremost, *chi-miigwetch* to the thirteen knowledge holders who shared their stories with me. This dissertation would not have been possible without you. I am especially grateful to Gichimanidoo-giizis, whose insights helped to structure this work in important ways, including the very title of this thesis; the words “Because our law is our law” are yours.

Thank you to my PhD advisor, Dr. Kiera Ladner. You believed in me from the start. To my dissertation committee members, Marlene Pierre, Dr. Michael Hart, Dr. Chris Trott: your kindness and focus on my work was humbling. I learned an incredible amount from each of you along this journey. And to my external examiner, Dr. John Borrows: thank you for your kind feedback on this project.

Thank you, again, Marlene Pierre, for your deep engagement with this project from start to finish. One of the greatest things that came out of this project for me is our friendship. *Miigwetch* to you for all you have given me, and to your family for sacrificing time with you so that you could spend it with me and this project.

Thank you to my family, Sarah Werner, Squid MacLaurin, Emmett Werner and Rusty Lee-Werner. I recognize that each of you made sacrifices so that I could complete this dissertation. Much love. I also want to thank my parents, Art and Mari Jo MacLaurin. Your support over the years – and the support you offered me through the last several in particular – made this project possible. And to Ruth Mead: thank you for your support and guidance throughout my whole life. You’ve always believed in me, and that helped me to believe in myself. You kept me grounded in what matters most.

Thank you, as well, to Al Hunter for your assistance with some of the Anishinaabemowin used in this dissertation, and for welcoming me into your sweat lodge over the past years.

To my colleagues: thank you to Dr. Elizabeth LaPensée for giving me permission to use your work on the Anishinaabe *Giizisoog*. To Dr. Zoe Todd: thank you for sharing your time and energy to discuss ideas around co-constitution and the labour of belonging with me.

My thinking on identity and belonging has been shaped profoundly through conversations with *gdigaabzhiw*, *Waziyatawin*, and *Jana-Rae Yerxa*. I am grateful for the time and energy you invested in me. *Miigwetch*.

Finally, I would like to thank those that supported me financially through my doctoral degree. Thank you to the Social Sciences and Humanities Research Council (SSHRC), Joseph-Armand Bombardier Canada Graduate Scholarships Program; the Manitoba Graduate Scholarship program; the C.D. Howe Memorial Foundation Fellowship, Creative Writing and Oral Culture (University of Manitoba); the Aboriginal Issues Press Scholarship (Clayton H. Riddell Faculty of Environment, Earth, and Resources, University of Manitoba); and the J.G. Fletcher Graduate Research Award in Arts (University of Manitoba). Your support has been invaluable.



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## First Words

Decolonization is the essence of our new world. In this document, we are engaged as a reader and indeed, as a participant in this process. The author has made situational portrayals of our lives and reality chime with the truth, pain and suffering in a way which prompts new knowledge and thereby a great need to reconcile with each other's societal differences. As one who has lived and practiced 'wenidjanissingin' with three children, our lives are stronger and fulfilling as Ojibwe people knowing that we belong together and to our community.

In working with the author as he developed and wrote this dissertation, I asked him to make sure it would be relevant to the people of Fort William First Nation, our community. It was important to me that he did this by writing it in accessible language, which included not only the terms used but also the tone. At times the writing is informal, and other times it is highly academic. While this approach may or may not be appropriate to academic audiences, it is appropriate for community-based readership. Without such accessibility, this work might miss its mark, which is to benefit the people of Fort William above all else.

I wish to extend many thanks to Damien Lee for this great piece of work which will serve to bring more to the Fort William First Nation and other Nations.

Miigwetch,  
Marlene Pierre, Order of Ontario  
Elder and Knowledge Holder  
Fort William First Nation  
Anishinaabe Aki

# Chapter 1

## Introduction

### 1.0 Self-Introduction: Zoongde N'dishnikaaz

Meeting someone new in my community is usually done through the language of tracing family connections. Questions such as *Who are your parents?* or *Do you know so-and-so?* work to open conversations and new relationships on good footing. The “goodness” in this approach is based on knowing how to carry one’s responsibilities in relation to others. Is this person I just met a family member? Is she connected in some way to a good friend? Do they have any connection to my community at all? Knowing the answers to these questions will influence what conversations I will allow myself to have, and what information I will share. In turn, they allow my new acquaintance to decide for themselves how they want to interact with me.

Following this protocol, I open this dissertation with an explanation of who I am in relation to others. I am from the Waase clan (bullhead catfish). My name is Damien Lee (Zoongde). I was adopted into Fort William First Nation as an infant in 1980. My father’s name is Arthur MacLaurin (Art).<sup>1</sup> My mother’s name is Mari Jo MacLaurin (nee Lee). My paternal grandparents are Geraldine MacLaurin (nee Bannon) and Donald MacLaurin. My maternal grandparents are Jim Lee and Elaine Lee (nee McMahan). I am the oldest of four siblings; their names are Becky Lee, Jake MacLaurin, and Janine MacLaurin. I am uncle to Becky’s children: Krista Lee, Heather McLaurin [*sic*], Brett McLaurin [*sic*], and Jarred Renaud-Lee, and to Jake’s children: Donald MacLaurin and Odin MacLaurin. My best friend is my cousin, Eugene Bannon Jr.; he is married to Jenelle Bannon (nee Spence), and I am godfather to their eldest son, Caleb

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<sup>1</sup> When I use the term “dad” and “father” in life and in this proposal, I am speaking about Art MacLaurin (a.k.a. McLaren) unless otherwise stated.

Bannon. I am also godfather to Becky's eldest child, Krista. My partner's name is Sarah Werner, originally from Cobourg, Ontario. Over the years, I have learned a great deal from Marlene Pierre (Dog Lake and Fort William First Nation, Ontario), Doug Williams (Curve Lake First Nation, Ontario), and Al (Bert) Hunter (Manitou Rapids, Ontario); some would call these three people "elders," but I call them knowledge holders.<sup>2</sup> In 2011, Doug gave me the name Zoongde, meaning "strong heart." I have many other family members, both Anishinaabeg and settler, but the people named here constitute the core of my relations.

In the chapters that follow, I explore what Anishinaabe citizenship law and governance look like through adoption narratives in my community. There are very specific reasons for this that I must share with you, which I explain in this introductory chapter. Below, I will explain why I have chosen to focus on Anishinaabe approaches to discerning belonging, and why I have chosen to consider Anishinaabe citizenship law through adoption narratives specifically. Later, I will also define the terms I use throughout the dissertation; terms such as "citizenship," "Anishinaabe citizenship law," "Anishinaabe citizenship governance," and "legal orders" appear many times throughout these chapters. I will also introduce you to the individuals who were gracious enough to share their stories with me. You will meet them in a few minutes. In short, this chapter sets the stage for the interrogations, reflections, and resurgences that follow.

## **1.1 The Purpose of this Work**

The primary purpose of this dissertation is to inform discussions about belonging at Fort William First Nation (Fort William). Belonging at Fort William is most often discussed in the language of

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<sup>2</sup> By "knowledge holders," I am referring to the individuals who shared their knowledge with me through research conversations held for the purposes of preparing this dissertation. I discuss my choice to use this terminology below (see section entitled "Introducing the Knowledge Holders: Anishinaabe Giizisoog"). Also see Chapter 3 for more information on how I engaged the knowledge holders.

“band membership” and whether one is registered as an Indian under the *Indian Act* (i.e. whether someone has “status”). This is not surprising considering the fact that Indigenous identities in Canada have been regulated by the *Indian Act* and pre-cursor legislation for more than 165 years.<sup>3</sup> Such regulation has influenced how Indian Bands and First Nations communities think about Indigeneity itself.<sup>4</sup> For some individuals, federal recognition as a “status Indian” has become the pre-requisite for belonging.<sup>5</sup> At Fort William, things are even more complicated by the fact that the Fort William Indian Band has a membership code that it has opted not to use,<sup>6</sup> at least until recently.<sup>7</sup> The 1987 Fort William band membership code separates Indian status from band membership, yet the band has opted to make membership dependent on whether a person has Indian status.<sup>8</sup> In addition – the Fort William Indian Band has begun developing a new code governing belonging, i.e. the Fort William First Nation Citizenship Code, a code I had the honour in writing alongside seven other community members.<sup>9</sup> Yet, despite all of this, there is a

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<sup>3</sup> Thomas Isaac, ed., “An Act for the Better Protection of the Lands and Property of the Indians in Lower Canada, 1850,” in *Pre-1868 Legislation Concerning Indians: A Selected & Indexed Collection* (Saskatoon: Native Law Centre, University of Saskatchewan, 1993), 40–41.

<sup>4</sup> Bonita Lawrence, *“Real” Indians and Others: Mixed-Blood Urban Native Peoples and Indigenous Nationhood* (Vancouver: UBC Press, 2004), 25. Lawrence notes: “The Indian Act [*sic*] ... is more than a body of laws that for over a century has controlled every aspect of status Indian life. It provides a conceptual framework that has organized contemporary First Nations life in ways that have been almost entirely naturalized, and that governs ways of thinking about Native identity. [The Indian Act] has *produced* the subjects it purports to control, and ... has therefore indelibly ordered how Native people think of things “Indian.””

<sup>5</sup> *Ibid.*, 221.

<sup>6</sup> Kyle MacLaurin, “Facebook Post,” accessed February 2, 2017, <https://www.facebook.com/kyle.maclaurin>. Kyle MacLaurin is a member of the Fort William Indian Band chief and council for the term running May 2015 until April 2017.

<sup>7</sup> Damien Lee, “Briefing Note: Fort William Band Council Resolutions Re 1987 Membership Code,” *Zoongde*, 2016, <https://zoongde.com/2016/12/01/bcrbriefing/>.

<sup>8</sup> Ken Ogimaa (FWFN Chief Executive Officer) and Fort William First Nation Chief and Council, *Agenda Items 10a and 10b, Fort William First Nation Chief and Council Meeting, 30 November* (Fort William First Nation, 2016), <http://bit.ly/2gzouj8>.

<sup>9</sup> Fort William First Nation, “Fort William First Nation Citizenship Code: Renewal, Resurgence, Re-Membering - Draft for Community Comment,” April 7, 2015, [http://fwfn.com/wp-content/uploads/2015/07/FWFN\\_Citizenship\\_Code\\_DRAFT\\_April-7-2015.pdf](http://fwfn.com/wp-content/uploads/2015/07/FWFN_Citizenship_Code_DRAFT_April-7-2015.pdf).

clash between legal systems. The Fort William Indian Band has opposed the use of inherent Anishinaabe citizenship law in determining its membership. Instead, it upholds Indian status and a strict blood-lineage approach to discerning band membership. I know these things because I've applied for membership in the band, and these were the answers I was given. I therefore enter into this context bearing in mind the complex and contested nature of how belonging is discerned in my community.

My reason for writing this dissertation in the way that I have can be traced to what I believe to be a clash between citizenship governance systems. Through my personal experiences and through listening to the stories of others, it became clear to me that Anishinaabe citizenship law is still practiced at Fort William First Nation. Yet it is actively resisted by the leadership of the community. Others have come to the same conclusion. For example, as one person shared with me during the research conversations underpinning this study noted:

It would be great ... if the people at Fort William understood Anishinaabeg law. But, because they don't, and we're forging a new path with the people, there's limited understanding. But there's not a wide enough net to accept what the function is and the true purpose of Nishnaab [*sic*] custom adoption. So, therein lies the task.<sup>10</sup>

This observation fits with my own experiences over the years. Many people at Fort William *do* Anishinaabe law, but some do not recognize it as a form of law. Adoption is a case in point: many Fort William families adopt children but do not see it as anything out of the ordinary. It is just something we do. However, as I argue in this dissertation, the adoptees then go through a process in which they are given a chance to belong according to Anishinaabe law.<sup>11</sup> Through this

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<sup>10</sup> Conversation with Gichimanidoo-giizis, November 1, 2015.

<sup>11</sup> I discuss this in Chapter 6.



process, they either are recognized by other families as fully belonging, or they might be recognized as people who do *not* belong. In either case, families play a key role in deciding who belongs in ways that do not always match up with the ways that the Fort William Indian Band, its chief and council, or even the Government of Canada would recognize.

This unwillingness on the part of the Fort William Indian Band to recognize the authority of families to decide who belongs became clear to me in my own case. In 2012, I had applied to become a member of the Fort William band using our 1987 band membership code. I had not known about the code before late 2010. Apparently, though it became law in 1990 and was given retroactive force to extend back to when it was originally written (i.e. to June 1987),<sup>12</sup> few people in the community knew about it by the 2000s.<sup>13</sup> After finding out about it while preparing a research paper, I applied for membership on the grounds of adoption. I had applied for membership in the band prior to this as well, but at that time was told that I had to apply for Indian status first. I do not want to be a status Indian, even if I am entitled to it, because I do not believe the federal government should have any power in discerning who belongs with Indigenous nations, including Anishinaabeg. Thankfully, the code does not stipulate that membership in the band was contingent on an applicant being registered as an Indian under the *Indian Act*.<sup>14</sup> Anyhow, after finding out about the membership code, I requested a copy from the

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<sup>12</sup> Tom Siddon to Christi Pervais, June 26, 1990, <http://bit.ly/2g62xsq>.

<sup>13</sup> Conversation with Namebini-giizis, October 18, 2015; Conversation with Abitaa-niibini-giizis, October 18, 2015. Both Namebini-giizis and Abitaa-niibini-giizis spoke about how the 1987 Fort William First Nation membership code seemed to be hidden from the community, as this bit of transcript shows from our October 18, 2015 conversation:

Namebini-giizis: I didn't even know: was there always a band membership code? Like, people we talked to over the years at the band office, should they know the code themselves?

Abitaa-niibini-giizis: A lot of people didn't know about [the code] until we gave copies to two other people.

<sup>14</sup> Fort William First Nation, "Band Membership Code," 1987, <http://fwfn.com/wp-content/uploads/2015/02/FWFn-Membership-Code.pdf>.

band office. My request was denied since I was not a band member. Subsequently, my mother made the same request and was furnished with a copy, but was told that the document was not to be redistributed or republished.<sup>15</sup> It was only after this that a friend informed me that a copy of the code was available online through a third party.<sup>16</sup>

In July 2012, I had traveled home to meet with my chief and council about my application for membership. Earlier that month I had submitted an application under the 1987 Fort William membership code, on the grounds of adoption. When my name was called, my father and I went into the council chambers and spoke to my request; I said I was applying under the membership code, and my dad explained how he used Anishinaabe custom to adopted me as a baby. Two Fort William elders supported my request by signing off on my application letter. After council debated my application for some time, the chief spoke up. He turned to his administrative assistant who was sitting at the table with her computer, and asked her to search the Internet for precedent on adoption as a basis for band membership. Half of a minute later he reported that they could not find evidence that Fort William or any Indian Band could make a band member out of someone through adoption. I was stunned. How could an Internet search be the process for discerning belonging at Fort William First Nation? How could my father's use of Anishinaabe customary law be ignored so easily? Moreover, Fort William First Nation has a long history of making people belong through adoption, some of whom are formally recognized

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<sup>15</sup> Fort William First Nation, "Copy of 1987 Fort William Band Membership Code given to 'Mari-Jo McLaurin' [sic]," May 3, 2012, <http://bit.ly/2iMv48a>.

<sup>16</sup> Pamela Palmater, "Band Membership," Archived Webpage, *Indigenous Nationhood*, accessed December 20, 2016, <https://web.archive.org/web/20141125113532/http://www.indigenousnationhood.com/identity/membership/default.htm>.

by the band in public displays of claiming.<sup>17</sup> The chief's words did not reconcile with reality or practice.

The impetus for this dissertation was born that day. I knew quite well that Fort William families had a long history of claiming people through adoption. But what I didn't know is why I had been refused when the 1987 membership code made it so clear that I was entitled to membership in the band. In some ways, therefore, this dissertation is a response to this conversation that took place in July of 2012. In the chapters that follow, I show that adoption is a thick site of Anishinaabe citizenship governance. It is a space in which settler colonial approaches to regulating Indianness clash with Anishinaabe sovereignties to discern who belongs. Adoption is an expression of Anishinaabe self-determination, and it does not have to play by the rules foisted onto Indigenous communities through the *Indian Act*. It is also a space in which internalized notions of Indianness are exposed: many Ontario Indian Bands have instituted methods of discerning band membership that marginalize adoption as a basis for belonging.<sup>18</sup> In some cases, adoption is a valid basis for band membership if the adoptee is already recognized as status Indian. Indigenous nations across North America are reclaiming control over their citizenship and membership, and many are turning to lineal descent approaches

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<sup>17</sup> See Figure 8 and Figure 9 in Chapter 4.

<sup>18</sup> Stewart Clatworthy, "Estimating the Population Impacts of the E-Dbendaagzijig Naaknigewin" (Winnipeg: Four Directions Project Consultants, 2010), 9, <http://fwfn.com/wp-content/uploads/2015/02/Population-Impacts-of-the-E-Dbendaagzijig-Naaknigewin.pdf>. As Clatworthy's research shows, only five out of the then 40 UOI member Indian Bands were using an "Unlimited One Parent" rule to determine band membership. The other 35 were using either Indian Act (or Act Equivalent) rules, or Blood Quantum rules of either 50% or 25% Indian blood. However, as I will show in Chapter 5, while one parent rules might suggest adoption is recognized as a basis for Band membership, this might not always be the case depending on how Band membership codes or other citizenship instruments define "parent."

to discerning belonging.<sup>19</sup> Others have relied directly on blood quantum.<sup>20</sup> Adoption is marginalized in these approaches since they rely on a formation of belonging that centres (hetero) sexual relations between Indians or, as the case was in Canada for a long time, at the very least a *male* Indian. Adoption is also marginalized in such contexts to the extent that bands do not respect the self-determination of families in discerning who belongs.

As I argue in this dissertation, however, Anishinaabe citizenship governance is based on more than just sexual relations and tracing bloodlines. It is based on the authority of Anishinaabe families to discern who belongs. Families decide belonging according to criteria that differ from the positivist approaches taken in the *Indian Act* and its derivative logics, such as band membership. Families pay close attention to the ways in which the adoptees behave, and move through a process of establishing a “provisional consensus.”<sup>21</sup> Belonging is fluid rather than permanent, and it is renewed through fulfilling mutual responsibilities between adoptee and community. As my case and others have shown, however, the sovereignty of families is marginalized under band membership and Indian status approaches to discerning belonging since, most often, such approaches rely on settler colonial theorizations of Indigeneity that position Indianness is something found *strictly* in the blood. This dissertation challenges that notion by arguing that belonging with Anishinaabeg is not only a matter of luck in terms of birth family and bloodline, but also a result of political and legal orders that rely on a person’s behaviour and families’ authority to discern citizenship.

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<sup>19</sup> Kirsty Gover, *Tribal Constitutionalism: States, Tribes, and the Governance of Membership* (New York: Oxford University Press, 2010), 111, 131.

<sup>20</sup> *Ibid.*, 114.

<sup>21</sup> *Ibid.*, 11.

## 1.2 Addressing the Settler's Move to Innocence

In addition to the information above, it is important for you to know about the social locations I occupy.<sup>22</sup> I engage with this dissertation from the position of a heterosexual, cis-gendered racially-white man who was adopted into an Anishinaabeg family and community. If I were to describe my positionality using the troublesome language of blood quantum, I would tell you that I have 0% Indian blood. My biological mother, Mari Jo, and my biological father were born to white settler families of two southern Ontario farming towns. She left him before I was born.<sup>23</sup> Shortly thereafter, she left me with her sister and moved to Thunder Bay, Ontario, a city located immediately next to Fort William First Nation. She met and fell in love with Art, and I was sent for. Within two months, my dad adopted me according to the customary Anishinaabe law that his mother, Geraldine, carried with her. From there, I grew up in the Fort William reserve as a member of the MacLaurin clan. I consider Fort William to be my home.

However, my positionality will raise some questions by those who are aware of the ways in which white people have claimed Indigenous identities. Indeed, adoption has been used as a way for white settlers to avoid the hard work of challenging settler colonialism and white supremacy in Canada.<sup>24</sup> I do not identify as a settler or as an ally, though my whiteness does produce and is produced by a settler subjectivity. By this I mean that my whiteness, cis-male gender, physical abilities and sexual orientation all work to give me access to social, political, and financial power that is not as readily available to people racialized as non-white, or to women, or to people who occupy various other intersectional positionalities. However, for

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<sup>22</sup> Kathy Absolon and Cam Willet, "Putting Ourselves Forward: Location in Aboriginal Research," in *Research as Resistance: Critical, Indigenous, and Anti-Oppressive Approaches*, ed. Leslie Brown and Susan Strega (Toronto: Canadian Scholars' Press Inc., 2005), 97–126.

<sup>23</sup> I was born on April 21, 1980 in Oshawa, Ontario.

<sup>24</sup> Eve Tuck and K. Wayne Yang, "Decolonization Is Not a Metaphor," *Decolonization: Indigeneity, Education & Society* 1, no. 1 (2012): 11–17, <http://decolonization.org/index.php/des/article/view/18630>.

reasons I share below, I identify as someone who belongs with Anishinaabeg. This claim does not mean my experience or perspectives are representative of all Anishinaabe communities or of all people from Fort William; nor does it mean that every person from Fort William claims me. I do not assume that (my) adoption alone is powerful enough to dismantle white supremacy or settler colonialism, even if I believe it is a tool Anishinaabeg use to assert political self-determination. That said, settler claims to being adopted by Indigenous nations have facilitated settler colonialism so often that they now form their own trope.<sup>25</sup> It has been used as a tool by both settler governments to eliminate Indigenous nations, such as the way in which it was used in the “60’s Scoop.”<sup>26</sup> Given this weight, I therefore need to explain how my own adoption, positionality and, indeed, this entire dissertation account for and resist perpetuating settler colonialism.

As Eve Tuck and K. Wayne Yang have argued, adoption can be and is used as a “settler move to innocence” whereby settlers release themselves of guilt and the responsibility of benefitting from settler colonialism “without giving up land or power or privilege” in the process.<sup>27</sup> When settlers do this work, Tuck and Yang argue, they turn decolonization into a

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<sup>25</sup> Audra Simpson, “Captivating Eunice: Membership, Colonialism, and Gendered Citizenships of Grief,” *Wicazo Sa* 24, no. 2 (2009): 107. Adoption has been wrapped up in settler colonial narratives of belonging with Indigenous peoples, especially through a literary genre known as “captivity narratives.” As Audra Simpson writes, “[c]aptivity narratives are read as a literary and historical tradition that is vital to the construction and maintenance of an American “self” (vis-à-vis otherness) because they select which stories and histories will authorize dominance or the always precarious power of a dominant group (re: settlers).”

<sup>26</sup> Jeannine Carrière, “Personal Location and Context,” in *Aski Awasis / Children of the Earth: First Peoples Speaking on Adoption*, ed. Jeannine Carrière (Halifax: Fernwood, 2010), 18. Carrière writes: “One cannot present some historical facts on adoption and Indigenous peoples ... without the mention of the “sixties scoop,” which is perhaps the most comprehensive assault on Indigenous families following that of sending Indigenous children to residential school. ... [Adoption was used] as a systematic removal of First Nation and Métis children from their families and home communities. The history of adoption and Indigenous communities is fraught with painful separations and belonging. To date, adoption is not looked upon favourably by Indigenous [peoples].”

<sup>27</sup> Tuck and Yang, “Decolonization Is Not a Metaphor,” 10, 13–17.

metaphor that “recenters whiteness, ... resettles theory, ... extends innocence to the settler, [and] entertains a settler future” thereby “[killing] the very possibility of decolonization.”<sup>28</sup> At the centre of this thrust is the settler’s need to assuage guilt and anxiety over living within Indigenous territories while actual Indigenous peoples are still alive and living within those same spaces.<sup>29</sup> As several scholars have argued, these moves to innocence are done through settlers Indigenizing themselves and even Indigenizing whiteness.<sup>30</sup> Indeed, white settlers in Canada and the United States have laid claims to Indigenous communities, and to Indigeneity, in order to “play Indian”<sup>31</sup> or to “Indigenize”<sup>32</sup> themselves. Canadian law has historically enabled white individuals to belong with Indian Bands while simultaneously barring Indigenous individuals from the same communities.<sup>33</sup> Scholars have shown that such phenomena work to replace Indigenous nations with settler societies.<sup>34</sup> In such contexts, whiteness often claims and consumes Indigeneity as its own.<sup>35</sup> These are forms of settler colonial violence in that they erase actual Indigenous peoples and historical Indigenous struggles against colonialism.

Drawing on the respective works of Sarah Ahmed and Sherene Razack, Tuck and Yang implicate adoption specifically as one way in which settlers avoid doing the work of

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<sup>28</sup> Ibid., 3.

<sup>29</sup> Philip Deloria, *Playing Indian* (New Haven: Yale University Press, 1998), 37; Patrick Wolfe, “Settler Colonialism and the Elimination of the Native,” *Journal of Genocide Research* 8, no. 4 (2006): 389 also see:

<sup>30</sup> Deloria, *Playing Indian*; Terry Goldie, *Fear and Temptation: The Image of the Indigene in Canadian, Australian, and New Zealand Literatures* (Montreal: McGill-Queen’s University Press, 1993), 13.

<sup>31</sup> Deloria, *Playing Indian*.

<sup>32</sup> Goldie, *Fear and Temptation*, 13. As Goldie writes: “The importance of the alien within cannot be overstated. In their need to become “native,” to belong here, whites in Canada, New Zealand, and Australia have adopted a process which I have termed “indigenization [*sic*].” A peculiar word, it suggests the impossible necessity of becoming indigenous [*sic*].”

<sup>33</sup> Lawrence, “*Real*” *Indians and Others*.

<sup>34</sup> Wolfe, “Settler Colonialism and the Elimination of the Native.”

<sup>35</sup> Deborah Root, *Cannibal Culture: Art, Appropriation, and the Commodification of Difference* (Boulder: Westview Press, 1996).

restructuring relationships in ways that promote just relations and humanization. Quoting Ahmed, they argue that adoption is a convenient way for settlers to “become without becoming [Indian],” thereby enabling settler individuals to lay claim to Indigenous identities, belongings, and lands without challenging the systems of power that award them unearned privileges at the expense of Indigenous peoples. They argue that

[t]hese fantasies can mean the adoption of Indigenous practices and knowledge, but more, refer to those narratives in the settler colonial imagination in which the Native (understanding that he is becoming extinct) hands over his land, his claim to the land, his very Indian-ness [*sic*] to the settler for safe-keeping. This is a fantasy that is invested in a settler futurity and dependent on the foreclosure of an Indigenous futurity.<sup>36</sup>

I do not dispute the fact of my whiteness, nor do I dispute the argument that I benefit from settler colonial dispossession because of it.<sup>37</sup> I am read on a daily basis as just another white Canadian. It is in this anonymity – this ability to be neutral – that the very power of whiteness lies.<sup>38</sup> Much like the monster under your bed in childhood, whiteness maintains its power by staying “out of sight.” In this way, I occupy a settler subjectivity; I benefit from the unearned power of racialized (white) anonymity, no matter how often I disclose my family history and allegiances to my community. Furthermore, no matter how much I work to divest myself of the power of whiteness, settler society will always give me more of it. Giving unearned power to white strangers is in settler colonialism’s interests because, in my opinion, settler societies

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<sup>36</sup> Tuck and Yang, “Decolonization Is Not a Metaphor,” 14.

<sup>37</sup> Peggy Smith, “White Privilege: Unpacking the Invisible Knapsack,” 1988, <http://ted.coe.wayne.edu/ele3600/mcintosh.html>; c.f.: George Lipsitz, “The Possessive Investment in Whiteness: Racialized Social Democracy and the ‘White’ Problem in American Studies,” *American Quarterly* 47, no. 3 (1995): 369–87.

<sup>38</sup> Smith, “White Privilege: Unpacking the Invisible Knapsack”; Audra Simpson, “The State Is a Man: Theresa Spence, Loretta Saunders and the Gender of Settler Sovereignty,” *Theory & Event* 19, no. 4 (2016), [muse.jhu.edu/article/633280](http://muse.jhu.edu/article/633280).



maintain dominance through the gut feelings of white people. Power equals comfort, and people tend to protect the comfort they have become used to.<sup>39</sup>

However, I also do not see myself as a settler, at least not in the status quo sense. I belong with Fort William because the families and people of the community claim me. My adoption took place when I was an infant, providing me with the opportunities to spend a life time of building genuine, reciprocal relationships with the people of Fort William First Nation. There is no question as to whether I experienced racialized oppression – I do not. However, racialization is not the ultimate measure of being Anishinaabeg, though I recognize that racism, patriarchy and heteronormativity have come to co-construct Indigeneity itself.<sup>40</sup> Indeed, I have a funny relationship with this word “Indigenous”: I do not claim to be Indigenous, as I feel the term ties a person to the land through generations of descent that I just do not have. That said, many Fort William people claim me. I belong with Anishinaabeg because I am claimed by Anishinaabeg.

During the review and editing phase of this dissertation, one of my PhD committee members asked me how I will get past my whiteness in this work. By this I understood them to be asking about what the steps will I take to make this dissertation does not become a metaphor and a tool for settler colonialism. How will I avoid re-centering whiteness? After some thought, I’ve come to the conclusion that I will never be able to get past my whiteness completely. It will always be there, thereby always creating the potential for my work to be harnessed by settler colonialists (my work should therefore be critiqued for how it reproduces whiteness in addition to other critiques). I therefore engage in a process of unsettling (my) whiteness through this work; this unsettling can never be complete because I will always bring with me blindspots

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<sup>39</sup> David Garneau, “Extra-Rational Aesthetic Action and Cultural Decolonization,” *FUSE*, Decolonial Aesthetics, 36, no. 4 (2013): 16–21.

<sup>40</sup> Lawrence, “*Real*” *Indians and Others*; Martin Cannon, “The Regulation of First Nations Sexuality,” *Canadian Journal of Native Studies* XVIII, no. 1 (1998): 1–18.

created by my whiteness. Rather, what I can do, however, is to re-centre Anishinaabe self-determination as I see it, and to demonstrate the ways in which I work towards being accountable to my community. By this, I mean disclosing my positionality as I've done here, but also demonstrating that I am ultimately accountable to my family and community. Whereas Tuck and Yang rightfully argue that adoption has been used to enable white people to become innocent (i.e. unaccountable), I am very much accountable to the people who claim me. This accountability has been built over decades and through various stages of my life, and will never be complete, but will always be up for inspection. I turn to explaining this now.

### 1.2.1 Being Accountable

My accountability to Anishinaabeg of Fort William First Nation is contextualized by Anishinaabe self-determination and three decades of relationship building.<sup>41</sup> My earliest memories are of growing up in a house my grandmother bought for us on the reserve (see Figure 1). She bought this house because she knew my parents were making a family and that therefore we would need our own space. The house had no plumbing – some of my earliest memories include going across the road with an axe in the dead of winter and chopping holes through three-foot thick Lake Superior ice to get our water for the day; and of a toilet my dad made out of a large orange-yellow bucket with an actual toilet seat screwed to the top of it. We took in dogs that people from town would abandon on the reserve – six of them at one point. We had chickens in the back yard that these same dogs massacred one day in the mid-1980s. We never had chickens again. My dad built me a tree fort in the back yard and called it “Fort Wiggy” because my nickname at the time was Wiggins. I remember being scared one morning because a bear was stuck in the tree next to it – my mom and I watched from our kitchen window as our dogs

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<sup>41</sup> See Figures 1, 2, and 3.

harassed that poor bear for an hour. And there was that time my sister, Becky, who by then was five years old, disappeared from our front yard. Hours later we found her walking out of the blueberry patch side-by-side with a black bear, both of whom were covered in blueberries.



**Figure 1: Family Photo on Couch.** L-R: Damien Lee, Art MacLaurin, Jake MacLaurin (newborn), Becky Lee. Photo taken at Fort William First Nation by Mari Jo MacLaurin, October 1984.



**Figure 2: All Gussied Up.** L-R: Damien Lee, Art MacLaurin, Jake MacLaurin. Photo taken at high school graduation ceremony for Krista Lee, Thunder Bay, Ontario by Sarah Werner, June 2014.

I learned a lot about self-discipline from my dad through growing up in that house. From chopping and stacking firewood all spring, to shoveling off the mountains of lake-effect snow from our long driveway all winter. Poverty taught me lessons about what it meant to run out of firewood in the middle of winter; we didn't have money to buy more, so we had to wade through waist-deep snow up into the mountains to find what dry wood we could. I share none of this for sympathy, but because these experiences are foundational to who I am. My dad and these experiences taught me to go the extra mile in taking care of my work. This is something I've carried with me in all that I do.

However, my family was anything but stable. Through the years, my parents would move back and forth between Fort William First Nation and Lindsay, Ontario – a distance of about 1,400 kilometers. I was in nine different schools by the time I was in grade nine. Most of those moves were a result of my parents looking for work – neither had graduated high school, and my dad experienced racism in the work place both in Thunder Bay and in Lindsay. But occasionally those moves were a result of my parents breaking up. They would always get back together after some time, but not before us kids were already enrolled in a new school.

Moving back and forth so often enabled me to meet my biological father. My story about him is not a good one overall, mostly because of his racism towards people of colour and especially Indigenous peoples (and my dad in particular). For these reasons, I will not use his real name – I will call him "Fred" for the purposes of explaining my positionality. My earliest memories of Fred had to do with special events; he would show up with presents around Christmas or my birthday. I assumed he was my uncle.

In 1989, we were living in Lindsay. I was in grade four. I remember walking around the house and thinking for the first time that my skin looked different than my brother's and my two sisters'. Oddly enough, it was within weeks after this self-reflection that my mom and dad sat me down at the table with Fred. What happened next changed everything.

After a few moments of heavy air, I remember those words coming out of someone's mouth: "Fred is your real dad."

Stop.

Everyone looking at me for a response.

I felt as though I had been punched in the stomach.

Hurt.

Nine-year old Damien had no control over his situation. Reality had now shifted beyond anything I was expecting. I cried uncontrollably.

I don't know what happened next, but I remember having a conversation with my dad in the basement a few days later. Initiating the conversation, I told him: “Dad, I still think you're my real dad, even if Fred is my dad.”

“I'll always be your dad,” was his response.

Being told about my biological relatedness to Fred changed a lot of things. It established more weight to my relationship with him, and after that day I began to be invited to his house in Toronto.<sup>42</sup> I will return to explaining what came of that relationship, as it introduced me to the rhetorics of mainstream white Canadian racism, and thus is important to explaining my positionality. However, I need to reflect further on my relationship with my dad before I can move on.

Regardless of what we said to each other, my relationship with my dad did change that day. It presented me, for example, with an argument to be used whenever I didn't like what I was being told to do; I could now say “You're not even my real dad.”

This knowledge established a distance that he would remark on decades later. One winter's night in the late 1990s, while driving to town from our home on the reserve, he told me that, for one reason or another, he has lost a closeness he initially held with all of his kids. This conversation was embedded into my memory because it was so clear to me that he mourned this distance. This is not to say he abandoned us (his children), nor is it to say that he was a bad father. In fact, he is the best dad I could ask for. Rather, it is to say that relationships are tender things; they can be crushed, can disappear, can change, become distant in some ways while still

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<sup>42</sup> I have changed the name of the actual city in order to protect Fred's anonymity.

being close in others. I think this is what my dad meant that night. Revealing my paternity no doubt would have established a distance based on the confusion a nine-year old child would reasonably experience after receiving such news, even though this did not mean that the relationship was lost or broken. I say “no doubt” because I do not remember how our relationship regrounded itself in the years that followed. For me, this regrounding was just a natural part of my growing up; for him, I suppose he would have been more conscious about the distance that had to be covered to regain our closeness over those years.



**Figure 3: Fun at the Fair.** L-R: Jake MacLaurin, Damien Lee, Art MacLaurin, Janine MacLaurin (on Art's lap), Mari Jo MacLaurin, Becky Lee. Photo taken at Canadian Lakehead Exhibition, Thunder Bay, Ontario, c. 1992.

The revelation of my paternity presented me with a choice that I hadn't been aware of beforehand. I was made fully aware of having the choice to weaponize my whiteness at the expense of Indigenous peoples and people of colour within Canadian settler colonial society. Having this choice underscores the fact of my whiteness.<sup>43</sup> I can choose to disappear into white society, which, in my mind, would require relinquishing my responsibilities to my community and family. This choice is not available to my dad, who is visibly racialized as "Indian."

This development had massive effects on my identity formation. I was traumatized by the news of my paternity. What I didn't think about at the time, however, was how my whiteness conferred to me access to resources, successes and recognition that would not be offered to my dad, brother or two sisters. For example, throughout my early 20s, non-indigenous individuals who heard stories about what it's like to grow up on an Indian reserve would always ask me: "How did you turn out so different?," which, by this they meant why hadn't I developed an addiction or how did I avoid becoming a teen dad. My response was always that I didn't know the answer, other than maybe I was just "wired this way." Clearly, there was more to that question and even more to that answer: neither accounted for settler colonialism or whiteness. It was beyond my understanding and language at the time for me to say "Well, my whiteness plays a huge role in why I've been so successful. It has opened doors for me that were not opened for others in my family." Today, my identity is bound up in being "a doer," or someone who gets things done. But that, I believe now, is in part due to being given drastically more access to recognition and resources throughout my life due to my whiteness.

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<sup>43</sup> Smith, "White Privilege: Unpacking the Invisible Knapsack"; Kim TallBear, *Native American DNA: Tribal Belonging and the False Promise of Genetic Science* (Minneapolis: University of Minnesota Press, 2013), 139; Circe Sturm, *Becoming Indian: The Struggle over Cherokee Identity in the Twenty-First Century* (Santa Fe: School for Advanced Research Press, 2011), 57, 185.

It was through my relationship with Fred that I first became aware of my whiteness. He often worked to reinforce negative stereotypes about Indigenous peoples. Over the years I knew him, he asked me on countless occasions: "Is Art still drinking?" By "Art," of course, he was referring to my dad. This question always made me feel very uncomfortable. I had never seen my dad drink any alcohol throughout my entire childhood. He's never had a problem with alcohol, period. Yet, Fred's approach begged the question: "Is Art *still* drinking" works to create doubt and confusion. It attacks credibility and questions integrity. It is intended to paint my dad with the stereotype of the drunken Indian, and quite honestly, I can only surmise that Fred asked this question because he only saw my dad's Indianness. Over the years, I began to tell Fred to stop asking that question because my dad has never had a problem with alcohol. I ended my relationship with him in 2009 due to this and other problematic behaviour.

How does one prove accountability in written form? Simply stating I am accountable to the people for Fort William means nothing without proof, and a statement such as this without proof can indeed be a move to innocence. There is no such thing as an Anishinaabe "status card," and even if there was, does a status card prove accountability? Rather, accountability is something best proven through actions over time. Though I do not live close to Fort William at the time of submitting this dissertation, I continue to give back to the community in various ways. In 2006, I established a community-driven environmental non-profit organization there,<sup>44</sup> and in 2014-2016 I worked with my cousins to re-start our community maple syrup operations.<sup>45</sup>

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<sup>44</sup> Damien Lee, "Anishinabek of the Gitchi Gami Podcasts," 2007, <http://agg-podcasts.blogspot.com/>; Canada, Environment and Climate Change Canada, "Disclosure of Grant and Contribution Awards Over \$25,000: Anishinabek of the Gitchi Gami Environmental Programs," February 27, 2014, <http://www.ec.gc.ca/gc-sc/index.cfm?lang=en&state=detail&id=1036&quarter=2&fiscal=2007/2008>; "Area Group Gets Cleanup Grant," *Chronicle Journal*, July 5, 2008.

<sup>45</sup> Damien Lee and Stephanie MacLaurin, "The Resurgence of the Sugar Bush," *The Walleye*, April 4, 2016, <http://www.thewalleye.ca/the-resurgence-of-the-sugar-bush/>.



In 2014-2015, I lead the development of a new official Fort William First Nation citizenship code.<sup>46</sup> These points aside, the only way I can prove my accountability is by leaving it to my community to decide as to whether I am demonstrating it. This dissertation is one more thing I contribute to the on-going political life of Fort William First Nation, and only they (and time) will tell whether I have remained accountable through this work. Thus, bound up in my positionality is the process of constantly challenging myself to be aware of the blind spots and unearned power I have due to my whiteness as well as my gender, sex and sexual orientation. An important blind spot I have come to be aware of is the fact that though adoption may be an expression of Anishinaabe self-determination, it does not in and of itself dismantle settler colonialism, white supremacy or heteropatriarchy. I proceed with this in mind.

Today, I am positioned in Fort William First Nation as someone who belongs according to Anishinaabe law, yet I remain effectively barred from fully participating in my community according to Canadian law and according to the way the Fort William Indian Band administers its band membership code. At present, I am refused official membership in the band despite being entitled to it.<sup>47</sup> But partly because of this refusal, I look to other sources of governance where the mutual claiming manifests, including how and where my community and I engage in mutual labour of caring for each other, even when such caring takes the form of challenging leadership. I carry a number of responsibilities within my community – including caring for our sugar bush alongside my peers,<sup>48</sup> and familial responsibilities such as caring for my nephew in a near full-time manner. The people of my community know my personal story, and claim me all

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<sup>46</sup> Fort William First Nation, “Citizenship Code (Draft).”

<sup>47</sup> Fort William First Nation, “Band Membership Code.”

<sup>48</sup> Lee and MacLaurin, “The Resurgence of the Sugar Bush.”

the same. Ultimately, it is up to the people of Fort William to decide whether I am being accountable to them and whether I belong.

#### **1.4 My Intentions and Goal**

My intention in writing this dissertation is to inform conversations happening within Fort William First Nation community about the breadth and nature of inherent Anishinaabe citizenship laws. I do not presume to know everything about said laws. Instead, through this dissertation, I intend to contribute perspectives on what it means to belong in ways not dependent on the *Indian Act* and its status logics and/or its normative control over band membership practices. I have chosen to focus on what Anishinaabe citizenship law looks like through adoption narratives held by people of my community, as these narratives unsettle common sensical approaches to discerning belonging that centre bloodlines, gender and Indian status above all else. Instead, they center the ways in which families exercise their self-determination to claim those they deem to rightfully belong.

My goal in writing this dissertation, therefore, is to see citizenship governance at Fort William practiced in nuanced ways that respect Anishinaabe values, practices and political orders. As I discuss later, I do not believe that Anishinaabe law should be subsumed into a band membership framework, as band membership is something ruled ultimately by the *Indian Act*. I believe belonging should be discerned according to Anishinaabe law on its own, regardless of settler state law. While some have pointed to a future where Canadian law might respect inherent Indigenous citizenship orders (e.g. through the Canadian Constitution and/or the *Charter of Rights and Freedoms*), those same scholars recognize that such an idea is not yet a reality.<sup>49</sup> My

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<sup>49</sup> Gordon Christie, "Aboriginal Citizenship: Sections 35, 25 and 15 of Canada's Constitution Act, 1982," *Citizenship Studies* 7, no. 4 (2003): 481–95, doi:10.1080/1362102032000134994.

goal in this dissertation, therefore, is not so much about contributing to the reform of Canadian Aboriginal law, but rather to contribute to the resurgence of inherent Anishinaabe law on its own terms. My focus is my community, but I welcome the idea of others using this dissertation in work meant to develop better relationships between Indigenous peoples and the Canadian state. Like a drop in a maple sap collection bucket, this dissertation is only a small part what my community can draw on to decide its future. Like making maple syrup, the process of rendering that future is a collective one, and something that can only be done through hard work.

Finally, two points of caution before proceeding: First, given that I am focused first and foremost on how Anishinaabe citizenship law manifests in adoption stories in Fort William First Nation, others should be careful to not over-generalize my findings to their communities, or to Indigenous communities more generally. This dissertation might resonate with how Anishinaabe citizenship law is practiced elsewhere, but further study would be required to understand how said law operates on the ground in different communities. The findings of this study are shaped by specific historical experiences at Fort William First Nation, and are therefore limited by such experiences. Second, this dissertation is also limited by federal Indian law in some ways; Indian bands exist in Canadian law as a matter of federal recognition, and therefore do not reflect Indigenous communities' sense of geo-political formation. In some ways, then, this dissertation reproduces Canada's circumscription of Indigenous nationhood to the extent that my focus area was my First Nation rather than the larger Anishinaabe political community in northern Ontario (and, for that matter, Minnesota). My decision to focus on Fort William First Nation was a result of needing to make the scope of this project manageable; a larger, more nuanced research project dealing with the same subject matter might consider widening the scope to move beyond Indian reservations. Such scope would not only allow one to engage more knowledge holders, but also

would create the conditions for emphasizing Anishinaabe geo-political orders over and above lands/communities circumscribed by federal, settler colonial law. In short, my goal with this dissertation is not to speak about *all* Anishinaabe citizenship law, but to point to ways my own community uses it today.

### **1.5 Introducing the Knowledge Holders: Anishinaabe Giizisoo**

In addition to engaging archival and published materials, this dissertation relies on stories about adoption shared with me by thirteen people of Fort William First Nation. This section introduces the reader to these individuals.

I refer to those who shared their stories with me as “knowledge holders” instead of research participants or informants. This intentional choice has to do with the fact that I am a knowledge seeker; if I already knew everything about adoption and Anishinaabe citizenship orders, I would not have conducted this research project. I therefore regard the people from my community who chose to share their stories with me as holders of a specific type of knowledge that was useful to my learning journey.

Knowledge holders in this study included adoptees, adopters, people related to adoptees (such as siblings, aunts, uncles, etc.), and descendants of people who were adopted in the community. While all the knowledge holders in this study belonged with Fort William First Nation in one way or another, they were nonetheless a diverse group: two were racialized as white, eleven were racialized as native; four men, nine women; one was a non-band member and was also not registered as an Indian under the *Indian Act*, while the remainder (twelve) were both band members and status Indians.<sup>50</sup> In terms of their relationship to adoption specifically, two

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<sup>50</sup> See Appendix A of this dissertation.

were adoptees, three were adopters (i.e. someone who had adopted a child and brought them into Fort William as someone who belongs under their/their family's name), five were descendants of someone who was adopted into Fort William, two were direct family members of someone who was adopted into the community, and one occupied the position of both a descendant of an adoptee and an adopter (see Table 1).

When I entered the “interview” phase of my dissertation research, I began asking people in my community to share their stories. I did not have a fixed number of people in mind – my only plan was to continue asking people to refer me to others, and that I would continue with this method until I basically ran out of people to talk to (either due to refusal or due to having heard all the stories that people were willing to share).<sup>51</sup> As it turned out, I ended up holding research conversations with thirteen people. Unlike the Roman calendar, which has twelve months, the Anishinaabe calendar has thirteen months, referred to as *giizisoog* (moons). Each moon reflects a different season, as seen in Figure 4 below.<sup>52</sup> Once I realized the significance of the number thirteen, I wanted to honour it in this dissertation. I chose to do so in a way that reflects Anishinaabe ontology while also respecting anonymity. Therefore, in this dissertation, I refer to the knowledge holders by the names of the thirteen moons of the Anishinaabe calendar.

The thirteen *giizisoog* (moons) of the Anishinaabe calendar have their own meanings within Anishinaabemowin (the Anishinaabe language). Figure 4 provides the names of the Anishinaabe *giizisoog* with direct English translations, and provides the corresponding month according to the Roman calendar:

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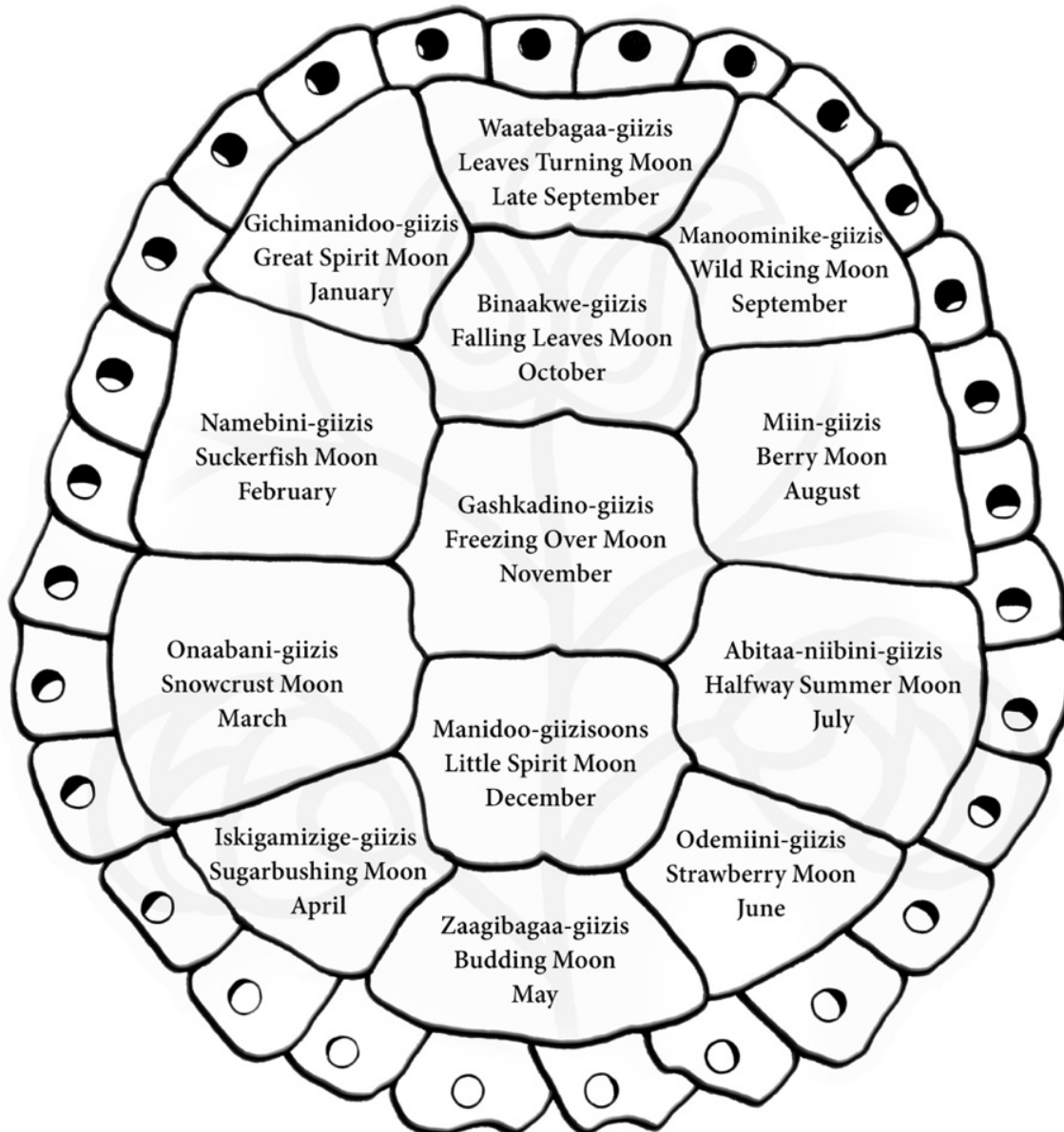
<sup>51</sup> I discuss how I went about selecting knowledge holders in Chapter 3. See section 3.4 therein.

<sup>52</sup> Elizabeth LaPensée, *Anishinaabe Moons Posters: Black and White Poster with Western Anishinaabemowin*, 2016, <http://www.elizabethlapensee.com/#/anishinaabemowin>. Used here with permission from the artist – see copyright permission in Appendix B.

# Anishinaabe Giizisoog

## Anishinaabe Moons

*Western Dialect*



**Figure 4: Anishinaabe Giizisoog: Anishinaabe Moons.** Created by Dr. Elizabeth LaPensée. Used here with permission from the artist. See copyright permission in Appendix B.

For the convenience of English speakers and/or those unfamiliar with Anishinaabeg calendars, a chronological listing of the Anishinaabe giizisoog is as follows:

Gichimanidoo-giizis (Great Spirit Moon)	January
Namebini-giizis (Suckerfish Moon)	February
Onaabani-giizis (Snowcrust Moon)	March
Iskigamizige-giizis (Sugarbushing Moon)	April
Zaagibagaa-giizis (Budding Moon)	May
Odemiini-giizis (Strawberry Moon)	June
Abitaa-niibini-giizis (Halfway Summer Moon)	July
Miin-giizis (Berry Moon)	August
Manoominike-giizis (Ricing Moon)	September
Waatebagaa-giizis (Leaves Turning Moon)	Late September
Binaakwe-giizis (Falling Leaves Moon)	October
Gashkadino-giizis (Freezing Over Moon)	November
Manidoo-Giizisoons (Little Spirit Moon)	December <sup>53</sup>

It is important to note, however, that there are several different versions Anishinaabe calendars, as the names of months depend on the location of dialect. The Western Anishinaabemowin dialect noted above is common to the Fort William First Nation area.<sup>54</sup>

I used the names of the thirteen giizisoog to protect the identities of the knowledge holders. In regards to the knowledge holders that I already knew, I assigned names based on my perspectives on the knowledge holders' personalities. For those I met through the process of completing research for this dissertation, I assigned names based on my first impressions of them. Thus, while I assigned names without prejudice, they were not assigned at random. Rather, they reflect my relationship with each person. See Chapter 3 for more information on how I approached working with the knowledge holders.<sup>55</sup>

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<sup>53</sup> Ibid. I drew this list from LaPensée's Black and White Poster with Western Anishinaabemowin. See Figure 4, above.

<sup>54</sup> Al Hunter. Personal communication. May 2016.

<sup>55</sup> Specifically, see section 3.4 in Chapter 3 of this dissertation.

For convenience, I provide selected demographic information about each of the thirteen knowledge holders in Table 1, below. However, detailed demographic information on the knowledge holders can be find in Appendix A.

**Table 1: Basic Demographic Information regarding the Thirteen Knowledge Holders** (Listed in the order in which I met with them)

<b>Knowledge Holder</b>	<b>Adoption Status</b>	<b>Racialized as</b>	<b>Sex</b>	<b>Age Range</b>
Onaabani-giizis	Adoptee	White	Woman	20-29
Abitaa-niibini-giizis	Family of Adoptee	White	Woman	50-59
Namebini-giizis	Adopter	Native	Man	50-59
Gichimanidoo-giizis	Adopter	Native	Woman	70-79
Zaagibagaa-giizis	Adoptee	Native	Woman	30-39
Odemiin-giizis	Descendant of Adoptee	Native	Woman	50-59
Manoominike-giizis	Descendant of Adoptee	Native	Woman	50-59
Miin-giizis	Descendant of Adoptee	Native	Man	50-59
Manidoo-giizisoons	Descendant of Adoptee	Native	Woman	30-39
Waatebagaa-giizis	Descendant of Adoptee	Native	Woman	50-59
Iskigamizige-giizis	Adopter and Descendant of an Adoptee	Native	Woman	50-59
Gashkadino-giizis	Family of Adoptee	Native	Man	60-69
Binaakwe-giizis	Adopter	Native	Man	50-59

## 1.6 Dissertation Outline

This dissertation is organized into seven chapters. The first chapter introduces the dissertation and provides information on my positionality and how I work to avoid centering whiteness and



settler colonialism in this study. The second chapter provides rationales on why this study is needed at this time. Chief among these is an explanation as to why this study is relevant to Fort William First Nation specifically, and how it addresses gaps in the academic literature more generally. The third chapter describes the theoretical frameworks grounding this study, its methodology, and the methods I used to complete the research. As discussed there, this is an Indigenist research project in that it centres Anishinaabe worldviews and legal orders, and because decolonization through resurgence is my highest goal throughout this work.

Chapters 4 through 6 depart from describing the dissertation, and go into detail on content. Throughout these chapters, I use adoption as a lens through which to analyze Indian status and lineal descent for ways in which both marginalize inherent Indigenous/Anishinaabe citizenship orders. The fourth and fifth chapters provide a review of how Anishinaabe adoption has been acted upon as a means of regulating Anishinaabe citizenship orders. Chapter 4 considers what Canadian Indian law looks like through the lens of adoption. There, I show that settler society targeted adoption specifically as a means to prevent Indians from making Indians under Canadian law. Between 1851 and 1951, adoption was absent from the *Indian Act*, therefore suggesting an approach to regulating Indigenous citizenship orders based strictly on bloodlines and gender. Since 1951, however, adoption has been present in the *Indian Act*. Chapter 4 makes the point that regardless of whether it is included in the *Act* or not, settler bureaucrats fear(ed) the semiotic and practical power adoption offers Indigenous families, namely, the power to self-determine who belongs according to inherent citizenship orders.

Chapter 5, on the other hand, traces this settler anxiety for ways that it has been internalized by Anishinaabe communities today. In my approach here, I again use adoption as a

lens through which to assess current efforts by an Ontario-based political organization<sup>56</sup> to reclaim control over citizenship and belonging. Said organization is relying heavily on lineal descent-based approaches to discerning belonging. This, I argue therein, reflects a settler colonial approach to discerning belonging in that it denies families the ability to self-determine who belongs through choice, and instead perpetuating a form of belonging based on (hetero)sexual relations. Drawing on archival documents written by Ontario provincial bureaucrats, I provide an “uncomfortable juxtaposition” between historical settler attempts to regulate adoption and present day Anishinaabe political attempts to reclaim control over citizenship.

The sixth chapter shifts focus from how adoption and Anishinaabe citizenship orders have been acted upon, to focusing on how Fort William families use it to act upon the world. The purpose of this chapter is to show that adoption is a valid basis upon which citizenship is practiced at Fort William First Nation. Establishing this, I then provide an analysis of the knowledge holders stories to show how families at Fort William discern who belongs and who does not. While the knowledge holders’ narratives are woven throughout all chapters of this dissertation, Chapter 6 is based heavily on their voices.

Finally, I conclude the dissertation in the seventh chapter. In taking steps to make sure this dissertation resonates with the people of Fort William First Nation, I provide easily digestible “take away” points that are based on what I learned through conducting this work.

### **1.7 A Note on Terms and Terminology**

I use the English language and English terms in this dissertation to discuss belonging at Fort William First Nation. Terms such as “citizenship” and “adoption” may seem odd choices given

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<sup>56</sup> The Union of Ontario Indians. See Chapter 5 for more detail.

my focus on inherent Anishinaabe law and governance. Indeed, there is a direct relationship between inherent Anishinaabe law and governance, and the Anishinaabe language – Anishinaabemowin. Moreover, Anishinaabe scholars have discussed Anishinaabemowin terms that speak to these very concepts. However, the majority of people at Fort William do not speak Anishinaabemowin, nor am I fluent in the language. As I explain in Chapter 3, I have been asked to ensure this dissertation resonates with the people of Fort William in meaningful ways.<sup>57</sup> For these reasons, I have opted to use the English language to theorize about Anishinaabe citizenship law in this dissertation.

The following key terms are used throughout this dissertation:

#### 1.7.1 Adoption

The term “adoption” is used throughout this dissertation to mean the claiming of someone by a family that is not their birth family. There are many types of adoption, including customary adoption, jural adoption, de facto adoption, political, and legal adoption.<sup>58</sup> Each of these terms have different meanings. However, this dissertation is focused on Anishinaabe law and governance at Fort William First Nation. The knowledge holders spoke of adoption taking various forms, most commonly “legal adoption” and “customary adoption.”

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<sup>57</sup> See section entitled “First Words” prefacing this dissertation.

<sup>58</sup> Darin Keewatin, “An Indigenous Perspective on Custom Adoption” (Unpublished Master’s Thesis, University of Manitoba, 2004), <http://hdl.handle.net/1993/16299>; Canada, Indian and Northern Affairs Canada, “Entitlement Officer’s Manual (Draft),” 1994, <http://bit.ly/2gh21r7>; Jeannine Carrière, ed., *Aski Awasis/Children of the Earth: First Peoples Speaking on Adoption* (Halifax: Fernwood, 2010); Norman Zlotkin, “Judicial Recognition of Aboriginal Customary Law in Canada: Selected Marriage and Adoption Cases,” *CNLR* 4, no. 1 (1984); Larry Gilbert, *Entitlement to Indian Status and Membership Codes in Canada* (Scarborough: Carswell, 1996), 67–88; Anna De Aguayo, “Background Paper on Customary Adoption” (Toronto: Royal Commission on Aboriginal Peoples, 1995), <http://www.bac-lac.gc.ca/eng/discover/aboriginal-heritage/royal-commission-aboriginal-peoples/Pages/item.aspx?IdNumber=476>.

It should be noted that the term “adoption” does not necessarily resonate within Anishinaabemowin. As Donald Auger writes:

In the Ojibwe language there are no terms for “adoption” or “adopted brother or sister.” The terms that come closest to these meanings are the terms godfather (*taataaikawin*), godmother (*maamaaikawin*), godchild (*onidjaanissikawinan*), my godson (*ningwissikawin*), and my goddaughter (*nindaaisikawin*). In all of these terms the suffix *kawin* is added which [*sic*] means “no.” Adding this suffix indicates in the case of a boy, for example, that the godmother is not his mother. There are also no terms to describe step-parents, step-children, step-brother, or step-sister. People who were cared for were referred to by the standard kinship terminology, including terms such as mother, father, grandmother, grandfather, sister, brother, aunt and uncle, etc. However, the Ojibwe phrase *wenidjanissingin* is translated as “like one’s own child” and is used in reference to other children who came to visit for a while, or who play with the children of a home. So a mother might say of a visiting child that he is *wenidjanissingin*, or “like her own child.”<sup>59</sup>

Thus, my use of the “adoption” in this dissertation represents a limitation that must be noted. I decided to use this term due to the fact that Fort William First Nation is an English-speaking community. Using this term was the best way for me to communicate effectively with the knowledge holders through this study. Moreover, I am not a fluent Anishinaabemowin speaker, and therefore I do not have the ability to use Anishinaabemowin terms in nuanced ways. Given the limitations noted in this sub-section, therefore, it should be noted that further study could

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<sup>59</sup> Donald Auger, “The Northern Ojibwe and Their Family Law” (Unpublished Dissertation, Osgoode Hall Law School, York University, 2001), 180–81, <http://www.collectionscanada.gc.ca/obj/s4/f2/dsk4/etd/NQ67938.PDF>.

take place to more deeply understand the intersections between adoption and Anishinaabe citizenship orders, specifically within and through Anishinaabemowin and Anishinaabe-izhitwaawin (culture, teachings, customs).<sup>60</sup>

### 1.7.2 Family

Much like the term “adoption,” the term “family” is both of critical importance to this dissertation while also adding a certain amount of distortion to the ways in which Anishinaabeg organize kinship bonds. In English, “family” often refers to “the nuclear structure of parents and children or may be used synonymously with “household” to signify co-residency.”<sup>61</sup> However, studies on Anishinaabe family structure and law challenge this definition, and include extended forms of family formation. Extended family might include the nuclear unit – i.e. a father, mother and their unmarried children – but it extends outward to include other nuclear families, aunts, uncles, grandparents, and cousins.<sup>62</sup> In short, while Anishinaabe family structures have been affected by colonialism in that they have come to take on a more nuclear formation, they resist that formation as well through social relations that give responsibilities for family members’ wellbeing to those outside the nuclear unit. In this sense, Jennifer Brown and Laura Peers’ definition of family resonates well in this dissertation; for them, the Anishinaabe family “encompasses not only marital and parental ties among the members of multiple households, but also a wider set of kin and relations that arose from [Anishinaabe] life circumstances.”<sup>63</sup>

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<sup>60</sup> See: Wendy Makoons Geniusz, *Our Knowledge Is Not Primitive: Decolonizing Botanical Anishinaabe Teachings* (Syracuse: Syracuse University Press, 2009), 11. Geniusz defines Anishinaabe-izhitwaawin as culture, teachings and customs.

<sup>61</sup> Laura Peers and Jennifer Brown, “‘There Is No End to Relationship among the Indians’: Ojibwa Families and Kinship in Historical Perspective,” *The History of the Family* 4, no. 4 (1999): 531, doi:10.1016/S1081-602X(99)00023-8.

<sup>62</sup> Auger, “The Northern Ojibwe,” 88.

<sup>63</sup> Peers and Brown, “‘There Is No End to Relationship among the Indians,’” 531.

The knowledge holders did point to definitions of “family” that corroborate Brown and Peers’ definition. They spoke of family formations that included nuclear households, but extended family structures that, to them, were valid definitions of what family meant. For example, Abitaa-niibini-giizis spoke about how her children were accepted by their adoptive father’s family on the reserve: “Namebini-giizis’s family, his parents, accepted [the adoption]. They called everybody “aunt,” “uncle,” “cousins.” Everybody accepted them.”<sup>64</sup> Later in the conversation, Abitaa-niibini-giizis’s daughter confirmed this claim, noting “me and my cousins grew up together. There’s a couple age differences between us, but we all grew up really close. And everyone accepted us like we were “blood.””<sup>65</sup> This acceptance was narrated through a form of caring for each other that extended responsibilities for children to people other than their parents. For example, Manidoo-giizisoons, explained that she carries responsibilities to care for her cousin’s children, no matter how closely related genealogically:

Manidoo-giizisoons: Like, even when you go to the powwows; even when you go to any of our community meetings: kids are running everywhere. And so-and-so’s cousin will give your kid heck if they see them doing something wrong. And you don’t get mad! It’s like “Thank you for stopping my kid from sticking their finger in that outlet.” [Damien laughing] You know what I mean? Whereas, I’ve been to birthday parties that aren’t native birthday parties, and its everybody for them self. Its “I’m watching my kids, and you better watch your kids.”

Damien: What happens when you tell somebody’s else’s kids what to do [in a non-Anishinaabe context]?

Manidoo-giizisoons: *You don’t!*<sup>66</sup>

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<sup>64</sup> Conversation with Abitaa-niibini-giizis.

<sup>65</sup> Conversation with Onaabani-giizis, October 18, 2015.

<sup>66</sup> Conversation with Manidoo-giizisoons, January 6, 2016. Emphasis original.

Here, Manidoo-giizisoons is pointing to a form of extended caring relationships that is entirely accepted and practiced within Fort William First Nation today, which resembles Brown and Peers' definition of the Anishinaabe family.

Therefore, while this study is not focused on family structure per se, I employ Brown and Peers' and definition of family when speaking about Fort William families. Specifically, families at Fort William First Nation are not confined to the nuclear household framing so prevalent in the English language, but go beyond it to include extended family members. For me, the contour of "family" is defined by where one's responsibilities end.

### 1.7.3 Citizenship

I am cognizant that there is debate regarding using the term "citizenship" to describe belonging in Indigenous contexts. Gordon Christie, for example, has pointed to the "Euro-centric [*sic*] overtones" of this term, suggesting that it imports non-Indigenous concepts into discussions about inherent Indigenous political and legal orders.<sup>67</sup> Elsewhere, James Sákéj Youngblood Henderson, John Borrows, Scott Lyons, and Audra Simpson embrace the term respectively,<sup>68</sup> noting variously that Indigenous peoples have their own, valid legal and political orders that they use to determine who belongs with them. As Borrows argues, since "Indigenous peoples have historic rules for adopting others into their community, they could build upon these principles to grant people citizenship in the present day."<sup>69</sup> Therefore, though not without its detractors, the

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<sup>67</sup> Christie, "Aboriginal Citizenship," 483.

<sup>68</sup> James Sákéj Youngblood Henderson, "Sui Generis and Treaty Citizenship," *Citizenship Studies* 6, no. 4 (2002): 415–40, doi:10.1080/1362102022000041259; John Borrows, *Recovering Canada: The Resurgence of Indigenous Law* (Toronto: University of Toronto Press, 2002), 155; John Borrows, *Canada's Indigenous Constitution* (Toronto: University of Toronto Press, 2010), 157–58; Scott Lyons, *X-Marks: Native Signatures of Assent* (Minneapolis: University of Minnesota Press, 2010), 170–89; Audra Simpson, *Mohawk Interruptus: Political Life across the Borders of Settler States* (Durham: Duke University Press, 2014).

<sup>69</sup> Borrows, *Canada's Indigenous Constitution*, 158.

term “citizenship” is nonetheless a fitting word to discuss Anishinaabe laws concerning belonging.

I use the term citizenship in this study for three reasons. The first is to signal a type of belonging that lies beyond mere familial claiming. The knowledge holders spoke of adoptees belonging with families, but also going through a process of belonging with the entire community beyond the sphere of the immediate or extended family.<sup>70</sup> The term citizenship resonates with this first meaning in that it links adoption to communal belonging in a general sense. As I show in Chapter 6, the link between familial and community belonging is forged through adoptees carrying out responsibilities to the community, and demonstrating allegiance. I speak of belonging in the language of citizenship, then, because this term connotes a form of belonging that relies on actively giving back to community rather than merely being claimed by a single family. Citizenship connotes responsibility.<sup>71</sup>

Second, I use term “citizenship” herein because this is the term the Fort William community and the Fort William Indian Band are moving towards in discussions about belonging.<sup>72</sup> Citizenship marks a departure from the term “band membership.” Band membership structures a way of thinking about belonging that positions individuals as members of a club (i.e. membership), where belonging is based on receiving benefits of some type. Citizenship, on the other hand, connotes reciprocity between individuals and the collective community.<sup>73</sup> Citizenship in this sense means giving back to community through fulfilling responsibilities and otherwise maintaining good relations. The knowledge holders’ narratives position adoptees as going

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<sup>70</sup> Conversation with Odemiin-giizis, November 9, 2015. “When adopting, however, that’s your kid – that’s how they belong with the community.”

<sup>71</sup> Borrows, *Recovering Canada*, 142.

<sup>72</sup> Fort William First Nation, “Citizenship Code (Draft).”

<sup>73</sup> Borrows, *Canada’s Indigenous Constitution*, 142.



through a process of learning to give back to the community over time, thus promoting an active citizenship rather than mere expectation of access to resources.

It should be noted that the Anishinaabemowin term *dibenjigaazowin* has been used to describe inherent Anishinaabe citizenship. As John Borrows notes:

Freedom is an embodied experience and is evidenced in public settings. It is relational. In Anishinaabemowin, such freedom can more particularly be described as *dibenindizowin*, which can mean a person possesses liberty within themselves and their relationships. Freedom has, *sui generis*, property-like connotations within the Ojibwe language. It implies that a free person owns, is responsible for, and controls how they interact with others. The same root word can be used to describe a person who is a member of a group; thus the Anishinaabemowin term for citizen is *dibenjigaazowin*: he or she who owns or controls their associations.<sup>74</sup>

Borrows' usage of *dibenjigaazowin* resonates well with how the knowledge holders spoke of discerning belonging through adoption. They spoke of claiming people collectively through adoption, which I understand to be another way of saying they own or control their associations. I therefore use the meanings of Dr. Borrows' theorization, but continue to use the word "citizenship" in this dissertation to ensure maximum resonance within internal discussions at Fort William First Nation.

#### 1.7.4 Fort William First Nation ("Fort William")

When used in this dissertation, "Fort William First Nation" refers to the community of people who live in and are connected to Fort William First Nation. I use this term in a social sense; it emphasizes the community rather than the political entity of the band (see "Fort William

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<sup>74</sup> John Borrows, *Freedom and Indigenous Constitutionalism* (Toronto: University of Toronto Press, 2016), 6–7.

Indian Band,” below). I use the shortened version – “Fort William” – to refer specifically to Fort William First Nation in the ways defined in this sub-section.

That said, my focus on Fort William First Nation brings with it some limitations that should be noted. Fort William First Nation is a creation of the *Indian Act* and the Robinson-Superior Treaty of 1850 to the extent that its boundaries (social, political, geographical) have been constituted over time through Anishinaabe interactions with settler society, where settler society has sought to circumscribe Fort William’s territoriality over time.<sup>75</sup> Settler colonialism as expressed in northern Ontario has resulted in the establishment of community boundaries that might not necessarily taken the same shape if the Anishinaabeg of what became Fort William had full control over their territory and political agency.<sup>76</sup> Thus, this dissertation is impacted by addressing concepts springing from Anishinaabe political orders (i.e. adoption and inherent expressions of citizenship) while doing so by using a community circumscribed by the *Indian Act* and the Robinson-Superior Treaty as the framework for understanding inherent Anishinaabe law. It should be noted that Fort William First Nation does not encompass all Anishinaabeg of northern Ontario, and that therefore this dissertation has limited import. The points raised herein resonate within Fort William First Nation specifically, and may or may not resonate elsewhere.

#### 1.7.5 Fort William Indian Band

I use the term “Fort William Indian Band” to refer to the band governance structure of Fort William First Nation. I do so to draw connections to the fact that the Fort William Indian Band is a construction of Canadian law, and therefore is not a manifestation of inherent

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<sup>75</sup> See: Fort William First Nation, “Traditional Territory and the Duty to Consult,” accessed June 17, 2016, <http://fwfn.com/traditional-territory-the-duty-to-consult/>.

<sup>76</sup> For example: CBC News, “Fort William First Nation, Canadian Government Finalize Land Claim Settlement,” *CBC News*, December 23, 2016, <http://www.cbc.ca/news/canada/thunder-bay/fort-william-land-claim-1.3911281>.

Anishinaabe governance systems. The Fort William Indian Band consists of the Fort William chief and council and the band administration.

#### 1.7.6 “Laws,” “Governance,” Orders”

The terms law, governance, orders are used frequently throughout this dissertation in relation to discussing Anishinaabe approaches to determining citizenship. Examples include “Anishinaabe citizenship laws,” “Anishinaabe citizenship governance,” and “Anishinaabe citizenship orders.” I use the word “law” in a general sense to reference the rules for guiding behaviour. I use the word “governance” to mean “the way in which a people lives best together.”<sup>77</sup> I use the word “orders” to reference Indigenous nations’ *sui generis* constitutional frameworks.

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<sup>77</sup> Kiera Ladner, “Governing Within and Ecological Context: Creating an AlterNative Understanding of Blackfoot Governance,” *Studies in Political Economy* 70 (2003): 125, <http://spe.library.utoronto.ca/index.php/spe/article/view/12078>.

## **Chapter 2**

### **What Others Have Said**

#### **2.0 Introduction**

In preparing to consider how the practice of adoption can inform the resurgence of Anishinaabe citizenship law today, it will be useful to explore what others have said on the topic of Anishinaabe citizenship orders, and adoption. Indeed, as I will show below, some scholars have suggested that there is a link between adoption and Anishinaabe citizenship law, but have not gone beyond this other than to say a suggestion might exist. With this in mind, pausing to consider what such scholars have said on this topic will help to make sure that this dissertation addresses gaps in the literature. Moreover, the knowledge holders have also identified specific knowledge and information needs within Fort William First Nation on the topic of citizenship resurgence. In this chapter, therefore, I identify the gaps in knowledge that this dissertation sets out to address. I do so specifically by reviewing relevant literature, and by reviewing what the knowledge holders have said.

There are a number of reasons why this dissertation is needed at this time. Among the most important is the fact that Fort William First Nation is currently in the process of renewing the way it governs band membership.<sup>78</sup> As I show below, however, the knowledge holders reported experiencing stigma towards adoptees and the practice of adoption itself vis-à-vis how belonging is imagined within the community. I and others believe that the values underpinning adoption should be accounted for if Fort William is to renew its membership practices in ways

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<sup>78</sup> Fort William First Nation, “Citizenship Code (Draft)”; Ken Ogimaa (FWFN Chief Executive Officer) and Fort William First Nation Chief and Council, *Agenda Items*; Fort William First Nation, “Call for Applications (Membership Committee & Membership Court Positions),” *Fort William First Nation Weekly Newsletter*, December 25, 2016, <https://fwfn.com/wp-content/uploads/2016/12/December-25-January-1.pdf>.

the centre Anishinaabe citizenship law and governance.<sup>79</sup> I discuss these values and practices in Chapters 6 and 7.

Additionally, there are a number of initiatives afoot outside of Fort William First Nation that might affect how the community manages and imagines belonging. Two in particular hold significant importance. First, the Union of Ontario Indians (UOI) is in the process of establishing a citizenship law that might affect how the Fort William Indian Band determines band membership.<sup>80</sup> The UOI is an Anishinaabe organization representing the political interests of its member communities, of which Fort William is a part.<sup>81</sup> As I argue in Chapter 5, the draft UOI citizenship law is based on a lineal descent-based approach to belonging that marginalizes Anishinaabe families' self-determination in determining citizenship. Adoption does not appear within it.<sup>82</sup> The draft law is nearing ratification at this time. Second, the federal government is now engaging in a process to reform how Indian status is conferred under the *Indian Act*. In response to a 2015 Quebec Superior Court decision known as *Descheneaux v. Canada*,<sup>83</sup> Indigenous and Northern Affairs Canada (INAC) is preparing to amend the *Act* to address how it perpetuates sex-based discrimination in Indian registrations.<sup>84</sup> However, INAC has announced that also it intends to “examine the broader issues relating to Indian registration and band

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<sup>79</sup> Conversation with Odemiin-giizis; Conversation with Gichimanidoo-giizis; Conversation with Waatebagaa-giizis, March 4, 2016; Conversation with Manoominike-giizis, November 9, 2015.

<sup>80</sup> Anishinabek Nation, “E’Dbendaagzijig - Those Who Belong: Anishinabek Nation Citizenship Law (Draft)” (n.d.), <http://bit.ly/1tsAlDp>.

<sup>81</sup> Union of Ontario Indians, “About Us,” 2016, <http://www.anishinabek.ca/about-us/>.

<sup>82</sup> Anishinabek Nation, E’Dbendaagzijig - Those Who Belong: Anishinabek Nation Citizenship Law (Draft).

<sup>83</sup> *Descheneaux c. Canada (Procureur Général)*, No. 500-17-048861-093 (QCCS August 3, 2015).

<sup>84</sup> Canada, Indigenous and Northern Affairs Canada, “The Government of Canada’s Response to the Descheneaux Decision,” decision; report, (June 29, 2016), <https://www.aadnc-aandc.gc.ca/eng/1467227680166/1467227697623>; c.f.: Standing Committee on Indigenous and Northern Affairs, “Meeting No. 39 INAN” (2016), <http://bit.ly/2iU6XjL>.

membership” as part of this reform process.<sup>85</sup> Canada expects that “issues relating to adoption” will be one of a number of priority areas to be discussed as part of this process.<sup>86</sup> This dissertation is therefore timely considering these two initiatives, which may affect how belonging is imagined and practiced at Fort William.

Regardless of its timeliness, however, this dissertation is a worthwhile project in that it addresses gaps in knowledge and literature. In the sections that follow, I locate said gaps as a means to justify the remaining chapters of this dissertation. Popular media such as news articles show that, while Indigenous peoples claim individuals as citizens of their nations through adoption, such claiming is rarely discussed *as* inherent citizenship law or governance. Yet, the families and adoptees and leaders often speak about adoption creating citizenship with their *nations*. There is a gap between how public consciousness deals with adoption and the ways in which Indigenous peoples speak of it. Addressing this gap in a localized way, this dissertation argues that claiming people through adoption is a citizenship-making practice rather than only a practice of creating familial bonds. I therefore begin with an exploration about how this dissertation will make a contribution to the literature by showing how Anishinaabe citizenship can benefit from adoption narratives. I then situate the need for this study within Fort William First Nation directly. Drawing on the knowledge holders’ experiences, I show that a dissertation such this can inform discussions within Fort William in decolonizing ways by ensuring families’ self-determination is included in how belonging is discerned within the community. I do so by showing that adoption centres familial self-determination rather than approaches that rely strictly

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<sup>85</sup> Canada, Indigenous and Northern Affairs Canada, “The Government of Canada’s Response to the Descheneaux Decision.” Note: This quote is actually a sub-title of in the Response webpage referenced in this footnote. I changed the capitalization of the sub-title for readability.

<sup>86</sup> Ibid.

on sexual reproduction. Adoption, I argue, demonstrates that Indigenous citizenship orders are political in nature rather than only sexual.

## 2.1 Literature Review: Linking Adoption and Indigenous Citizenships

In February 2015, CBC News reported on the story of Josiah Wilson, a Haitian-born man who was refused entry into an all-native basketball tournament because he did not meet a minimum blood quantum requirement.<sup>87</sup> Wilson was adopted into the Heiltsuk nation in British Columbia as an infant, a fact that his family and community asserted made him fully Heiltsuk.<sup>88</sup> However, as if looking for real proof of Wilson's belonging, the national media relentlessly pointed out that Wilson is also registered as an Indian under Canada's *Indian Act*.<sup>89</sup> This, it seemed, was the quintessential confirmation that he should be allowed to play. It was as if Heiltsuk citizenship law was not enough. In addition to challenging racialized stereotypes about Indigenous peoples (Wilson is racialized as black), Wilson's story presents us with a foundational question: Who decides who belongs with Indigenous nations in Canada?

Stories like Wilson's register at a variety of levels both inside and outside of Indigenous communities in Canada. Within Indigenous circles, stories about adoption make space for discussions about what Indigenous citizenship orders might look like outside the *Indian Act* and

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<sup>87</sup> Betsy Trumpener, "Status Indian Player Barred from All Native Sports Event," February 10, 2016, <http://www.cbc.ca/news/canada/british-columbia/black-status-indian-barred-from-event-over-bloodlines-1.3442490>; Josiah Wilson, "Basketball Is My Life: Why Was I Barred from Playing in a First Nations Tournament?," *The Globe and Mail*, February 17, 2016, <http://www.theglobeandmail.com/opinion/basketball-is-my-life-why-was-i-barred-from-playing-in-the-all-native-tournament/article28783393/>.

<sup>88</sup> Trumpener, "Status Indian Player Barred from All Native Sports Event." Don Wilson, Josiah's father, was quoted: "We as the Heiltsuk Nation accept my son as one of us."

<sup>89</sup> Ibid.; Charlie Smith, "Status Indian of Haitian Descent Barred from B.C.'s All Native Basketball Tournament," *Georgia Straight Vancouver's News & Entertainment Weekly*, February 11, 2016, <http://www.straight.com/news/636691/status-indian-haitian-descent-barred-bcs-all-native-basketball-tournament>. Other examples exist as well; the two cited here are indicative.

its histories.<sup>90</sup> Being neither racially or genealogically Indigenous, yet being fully Heiltsuk, Wilson's belonging challenges how Indigeneity is understood after more than 165 years of Canadian legislation regulating who is and who is not an Indian.<sup>91</sup> To be Indigenous and to belong with an Indigenous nation according to settler common sense means to prove one's genealogical connection to Indigenous peoples of past and present, where such connections are gendered, raced, and restrict citizenship-making heterosexual pairings.<sup>92</sup> Adoption troubles this common sense because it inherently suggests that a variety of individuals belong in ways that challenge settler colonial stereotypes of Indianness. Josiah Wilson, for example, is black and adopted, and thus could not belong within the mindset of the basketball tournament organizers – a claim made in the language of lacking sufficient blood quantum.<sup>93</sup> As such, while adoption narratives are important to the resurgence of Indigenous peoples' child care traditions,<sup>94</sup> they also have a political dimension. As a practice of family making, adoption enlarges and renews Indigenous nations, but does so by centering the self-determination of Indigenous families and

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<sup>90</sup> By "histories," I am referring to the fact that the *Indian Act* has changed multiple times over the course of its life. At times, adoption is included in the *Act* as grounds for entitlement to be registered as an Indian and to therefore be entitled to membership in an Indian Band. Other times, adoption was removed from the entitlement sections of the *Act*. Since this dissertation is concerned with inherent Anishinaabe citizenship law on its own terms, I provide only contextual information regarding the *Indian Act* and adoption as basis for belonging. Others have interrogated adoption and the *Indian Act* more directly. See: Allyson Stevenson, "Intimate Integration: A Study of Aboriginal Transracial Adoption in Saskatchewan, 1944-1984" (Unpublished Dissertation, University of Saskatchewan, 2015), <http://hdl.handle.net/10388/ETD-2015-04-2021>; Gilbert, *Entitlement to Indian Status*, 67–88; Carrière, *Aski Awasis/Children of the Earth*.

<sup>91</sup> Isaac, "An Act for the Better Protection of the Lands and Property of the Indians in Lower Canada, 1850."

<sup>92</sup> Cannon, "The Regulation of First Nations Sexuality"; Bonita Lawrence, "Gender, Race, and the Regulation of Native Identity in Canada and the United States: An Overview," *Hypatia* 18, no. 2 (2003): 3–31, doi:10.1111/j.1527-2001.2003.tb00799.x.

<sup>93</sup> Trumpener, "Status Indian Player Barred from All Native Sports Event."

<sup>94</sup> Carrière, *Aski Awasis/Children of the Earth*.



communities rather than external entities such as the Canadian government.<sup>95</sup> Indeed, by March 2017, Josiah Wilson’s family and community proved their authority to make him Heiltsuk by forcing the basketball organizers not only to let him play ball, but also to recognize inherent Heiltsuk law.<sup>96</sup> As adoption stories can reveal, then, adoption is a political act that, as I argue in this dissertation, challenges Canada’s regulation of who belongs with Indigenous nations. In other words, adoption has “subversive potential.”<sup>97</sup>

For more than a century Canada has forced Indigenous nations to internalize the gendered, biologized state-defined Indian as *the* pre-requisite for determining who belongs.<sup>98</sup> This has resulted in a discourse that co-constructs Indigeneity itself.<sup>99</sup> It is a discourse that speaks of the elimination of Indigenous nationhood – that “natural” order of things that settler colonialists imagined for Indigenous peoples and then put into motion through law such as the *Indian Act* and its pre-cursor legislation.<sup>100</sup> Put simply, Indigenous peoples in Canada were to die out either physically or through legal assimilation. The locus of such constructions is found within a Canadian mindset that has a deep history about what counts as Indigenous authenticity.<sup>101</sup> Within this mindset, Indigeneity is imagined as confined to bloodlines and

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<sup>95</sup> Allyson Stevenson, “The Adoption of Frances T: Blood, Belonging, and Aboriginal Transracial Adoption in Twentieth-Century Canada,” *Canadian Journal of History* 50, no. 3 (2015): 471, doi:10.3138/CJH.ACH.50.3.004.

<sup>96</sup> David Ebner, “Indigenous Basketball Player Josiah Wilson Wins Human-Rights Case,” *The Globe and Mail*, March 6, 2017, <http://www.theglobeandmail.com/news/british-columbia/indigenous-basketball-player-josiah-wilson-wins-human-rights-case/article34227744/>. As All Native Basketball Tournament organizer Peter Haugan noted in a written statement, “We acknowledge and affirm that Josiah is native under Heiltsuk and Canadian Law.”

<sup>97</sup> Stevenson, “The Adoption of Frances T.,” 471.

<sup>98</sup> Lawrence, “Gender, Race”; Pamela Palmater, *Beyond Blood: Rethinking Indigenous Identity* (Saskatoon: Purich Publishing, 2011), 39–43; Simpson, *Mohawk Interruption*, 56–59.

<sup>99</sup> Lawrence, “*Real*” *Indians and Others*, 25–26.

<sup>100</sup> Palmater, *Beyond Blood*, 39–43.

<sup>101</sup> Olive Patricia Dickason, *The Myth of the Savage and the Beginnings of French Colonialism in the Americas* (Edmonton: University of Alberta Press, 1984).

paternity – a convenient mix that not only enables the settler state to police Indigenous identities, but also to force Indigenous nations towards legal extinction simply by instituting the belief that Indian blood will be diluted through intermarriage with settler society over time.<sup>102</sup> Put differently, Indianness comes to overwrite Indigeneity in the Canadian settler state’s law, and such Indianness is prone to disappearing simply by Indigenous families renewing themselves through birthing and marriage.<sup>103</sup> Canadian law hijacks family making as a means to get rid of the Indians it has imagined.<sup>104</sup>

Canada has used law to target Indigenous women and their children for removal from their communities and nations. Such gendered targeting has had devastating effects not only on the individuals affected, but on Indigenous peoplehood more generally. Moreover, settler colonial bureaucrats, both federal and, at times, provincial, have deployed racialized imaginings of what an Indian is in order to remove Indigenous peoples from their communities as a means to save money. At various points through history, Canadian bureaucrats targeted mixed-raced individuals from “Indian” communities under the *Indian Act* and its various pre- and post-confederation iterations. That said, while settler governments have also used adoption to undermine Indigenous families, communities, and nations, most notably in the 60’s Scoop, little is published on how these same governments targeted Indigenous adoption practices as a matter of eliminating Indigenous citizenship orders.<sup>105</sup> While much has been published about said gendered and racialized removals, little has been written about how settler colonialists targeted

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<sup>102</sup> “Indian Act,” § c. I-5 (1985), <http://laws-lois.justice.gc.ca/eng/acts/i-5/FullText.html>. Also see Palmater, *Beyond Blood*.

<sup>103</sup> Indian Act; Damien Lee, “In the Shoes of the Other: Indigenous Authenticities and Colonial Logics of Difference,” in *Critical Inquiries: A Reader in Studies of Canada*, ed. Lynn Caldwell, Darryl Leroux, and Carriane Leung (Halifax: Fernwood, 2013), 154–55.

<sup>104</sup> Palmater, *Beyond Blood*.

<sup>105</sup> Stevenson, “The Adoption of Frances T.” Allyson Stevenson’s work is an exception.

Indigenous peoples' adoption practices to achieve the same goal. Gendered approaches targeted women not only because women were seen as being capable of reproducing Indigeneity, but also because, for many Indigenous nations, women were/are political leaders.<sup>106</sup> Targeting women then served the dual purpose of reducing the number of Indigenous individuals to whom the state had/has a fiduciary relationship, but also worked to replace Indigenous governance institutions with, for example, the Chief and Council system of Indian Band governance.<sup>107</sup> Racialization of Indianness works to achieve similar goals: by regulating who is an Indian according to a notional blood quantum, Canada again aims to eliminate those it recognizes as "Indian." At the core of these gendered and racialized removals, what Pamela Palmater has referred to as "legislated extinction,"<sup>108</sup> is a settler colonial anxiety about Indigenous peoples renewing their nations on their own terms when, as I will discuss, the reigning belief was/is that Indigenous peoples are dying out. As Patrick Wolfe has argued, elimination such as this within a settler society such as Canada situates control of land as its irreducible element.<sup>109</sup> Indigenous peoples have to disappear physically and politically to fully realize this control.<sup>110</sup>

Against this backdrop, adoption as a basis for citizenship emerges as a threat. When Indigenous nations use their legal orders to claim people on their own terms, the state, settler society, and even some Indigenous leaders react in defence of the status quo.<sup>111</sup> As Allyson

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<sup>106</sup> Simpson, "The State Is a Man: Theresa Spence, Loretta Saunders and the Gender of Settler Sovereignty."

<sup>107</sup> Ibid.

<sup>108</sup> Palmater, *Beyond Blood*, 48.

<sup>109</sup> Wolfe, "Settler Colonialism and the Elimination of the Native," 388.

<sup>110</sup> Wolfe, "Settler Colonialism and the Elimination of the Native."

<sup>111</sup> Robert Alexander Innes, *Elder Brother and the Law of the People: Contemporary Kinship and Cowessess First Nation* (Winnipeg: University of Manitoba Press, 2013), 146–47. In this example, Innes recounts that the "National Indian Brotherhood (NIB, the precursor to the Assembly of first Nations) was leery of eliminating sexual discrimination from the *Indian Act*" out of concerns over an influx of people onto already reserves already short on resources.

Stevenson's work has shown, the renewal of an Indigenous nation, especially through the form of adoption, was held suspect by settler colonial bureaucrats. As she argues, Indigenous adoption practices have "subversive potential," or the ability to upset the colonial ordering of things in Canada.<sup>112</sup> "[A]doption posed a serious threat to the longstanding policy of Indian assimilation," she notes, "and called into question the racial and gender hierarchy that was being established through [the] Indian Act."<sup>113</sup> Adoption thus challenges state presumed authority to decide who belongs with Indigenous peoples. If Indigenous nations are supposed to die out, the practice of adoption speaks not only to Indigenous futurities, but also to the existence of Indigenous citizenship orders beyond state control. As I show in Chapter 5, this is something that some settler bureaucrats "feared."<sup>114</sup>

Canadian bureaucrats reacted to this subversive potential by changing the *Indian Act* so that adoption did not confer Indian status.<sup>115</sup> I take this up in greater detail in Chapter 4 of this dissertation, but it is sufficed to say here that such reactions were due to the ways in which settler Canadian bureaucrats perceived Indigenous adoption practices as a means of making citizens of Indigenous nations. Such a possibility triggered the creation of legislation that hijacked adoption as a tool of settler colonialism:

With the goal of eliminating Indigenous legal and kinship forms, the Indian Act [*sic*] colonized adoption so it could be used as a method of assimilation rather than as a traditional form of Indigenous alliance creation and childcare. ... [By doing so, Indian

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<sup>112</sup> Stevenson, "The Adoption of Frances T.," 471.

<sup>113</sup> Stevenson, "Intimate Integration," 63.

<sup>114</sup> See section 5.2 in Chapter 5 of this dissertation.

<sup>115</sup> Stevenson, "The Adoption of Frances T.," 471.

Affairs] officials ensured that legal adoptions with Indian parents and children would conform to Euro-Canadian racialized understandings of Indigenous identity.<sup>116</sup>

Such policy has normative dimensions that effect how the public – including some First Nations – think about belonging.<sup>117</sup> Belonging becomes something based on a lowest common denominator – (notional) blood quantum – rather than an expression of familial self-determination. Adoption narratives speak to the existence of inherent Indigenous citizenship orders that have not only withstood the assertion of Canadian sovereignty and Canadian law,<sup>118</sup> but also that are seated squarely within Indigenous nations’ self-determination. Adoption narratives are therefore politically relevant to those Indigenous nations working to reclaim control over their citizenships.

Moving east, Anishinaabeg<sup>119</sup> of the northern shores of the Great Lakes face the same tensions that arose in Wilson’s story: the imposition of the *Indian Act* and its gendered and racializing logics of discerning Indian status have had an impact politically and materially on how belonging is imagined and practiced. Anishinaabe citizenship orders were *and are* expressed in treaties, by families, and in communities that make citizens through processes not dependent on the status sections of the *Indian Act*, or its band membership mode of thinking. Yet, as some of the media reaction to Josiah Wilson’s story suggests, Anishinaabe citizenship orders have become hidden in plain sight. Indigenous legal and political orders have, in many

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<sup>116</sup> Ibid., 469, 470.

<sup>117</sup> Chris Andersen, *“Métis”: Race, Recognition, and the Struggle for Indigenous Peoplehood* (UBC Press, 2015).

<sup>118</sup> Sidney Haring, *White Man’s Law: Native People in Nineteenth-Century Canadian Jurisprudence* (Toronto: Osgoode Society for Canadian Legal History, University of Toronto Press, 1998); Gover, *Tribal Constitutionalism*, 4.

<sup>119</sup> The plural form of Anishinaabe, or Ojibwa. Here, I am referring to Anishinaabeg nations.

cases, been “lacerated” by Canadian settler colonialism.<sup>120</sup> This laceration has forced some legal and political orders, which include citizenship making, underground rather than destroy them.<sup>121</sup> In other cases, principles, values, and inherent citizenship orders themselves have been marginalized by First Nations leaders that have internalized the oppression learned from the colonizer.<sup>122</sup> Such cases are complicated because, in action, such leaders might be expressing self-determination while at the same time reproducing gendered and racializing approaches to belonging that work to exclude some people for the benefit of others arbitrarily.<sup>123</sup> As such, promoting the resurgence of Anishinaabe citizenship orders becomes all the more difficult.<sup>124</sup> As I discuss in Chapter 3, this dissertation addresses this difficulty by locating and validating said citizenship orders as a matter of supporting their resurgence.<sup>125</sup>

In the remainder of this section, I review published literature as it relates to Indigenous citizenship orders and adoption. As I show in the sub-sections below, Indigenous adoption practices have what Allyson Stevenson has called a “subversive potential”<sup>126</sup> in that they have

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<sup>120</sup> Audra Simpson, “The Chiefs Two Bodies: Theresa Spence and the Gender of Settler Sovereignty” (Unsettling Conversations, Unmaking Racisms and Colonialisms: R.A.C.E. Network’s 14th Annual Critical Race and Anticolonial Studies Conference, University of Alberta, Edmonton, 2014), <https://vimeo.com/110948627>.

<sup>121</sup> George Manuel and Michael Posluns, *The Fourth World: An Indian Reality* (Don Mills: Collier-Macmillan Canada, 1974), 78–79; Edward Benton-Banai, *The Mishomis Book: The Voice of the Ojibway* (Hayward: Indian Country Communications, 1988), 91–93.

<sup>122</sup> By internalization, I am referring to Indian Bands investing in band membership codes that centralize Canadian law and its underlying legal ethos regarding who is an Indian at the expense of inherent Anishinaabe legal principles of discerning belonging. I unpack this argument further in Chapter 5 of this dissertation.

<sup>123</sup> Val Napoleon, “Aboriginal Discourse: Gender, Identity and Community,” in *Indigenous Peoples and the Law: Comparative and Critical Perspectives*, ed. Benjamin J. Richardson, Shin Imai, and Kent McNeil (Oxford: Hart Publishing, 2009), 233–55.

<sup>124</sup> Lawrence, “Real” *Indians and Others*, 25–26.

<sup>125</sup> See section 3.2 in Chapter 3.

<sup>126</sup> Stevenson, “The Adoption of Frances T.,” 471. As Stevenson notes elsewhere, “adoption posed a serious threat to the longstanding policy of Indian assimilation and called into question the racial and gender hierarchy that was being established through Indian Act membership codes.” See: Stevenson, “Intimate Integration,” 63.

the ability to upset the ways in which Indigenous identities and belongings have been interpellated through Canadian Indian law. In the first subsection, I provide a review of the literature linking adoption and Indigenous citizenships in a general sense. Many Indigenous nations use adoption to renew their nations, yet, as my review shows, adoption is in some ways marginalized by these same nations. I provide this review with an eye to justifying this dissertation in a general sense. Narrowing my scope, in sub-section 2.1.2 I provide a justification as to how this dissertation will contribute to Anishinaabe-specific discussions concerned with the resurgence of inherent citizenship orders. I then summarize my justifications in sub-section 2.1.3.

### 2.1.1 Adoption and Indigenous Citizenships

Many Indigenous nations across North America are now engaged in reclaiming control over their citizenships. As Kirsty Gover's work has shown, Indigenous nations in Canada, the United States, Australia and New Zealand are concerned about controlling their citizenships and are developing membership laws to do so. In a review of over 737 tribal constitutions and membership codes, Gover shows that Indigenous nations located within the confines of settler states are asserting their own conceptualizations of indigeneity in rules governing who belongs.<sup>127</sup> "Membership rules give shape to an indigenous concept of indigeneity and an indigenous–non-indigenous boundary," she writes.<sup>128</sup> Yet, such rules rely heavily on forms of tribal blood quantum or lineal descent.<sup>129</sup> In such cases, belonging is traced sexually rather than politically. For example, Gover discusses lineal descent as a form of "tribal blood quantum" in that it positions bloodline connections to a given community as the basis for citizenship in that

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<sup>127</sup> Gover, *Tribal Constitutionalism*, 6, 11.

<sup>128</sup> *Ibid.*, 11.

<sup>129</sup> Kirsty Gover, "Genealogy as Continuity: Explaining the Growing Tribal Preference for Descent Rules in Membership Governance in the United States," *American Indian Law Review* 33, no. 1 (2009 2008): 243–309, doi:10.2307/20455382.

community.<sup>130</sup> Lineal descent marginalizes adoption as a political act by centering sexual self-determination (or, sex in other ways)<sup>131</sup> as the only means through which citizenship can be produced.<sup>132</sup> Sex is not the only political act available to Indigenous citizenship orders.<sup>133</sup> As a result, tribal blood quantum requirements and lineal descent centre (hetero)sexual relations.<sup>134</sup> Such a framing of citizenship and belonging positions (hetero)sex as the only self-determining act Indigenous peoples can draw on to reconstitute their nations.<sup>135</sup> This has had implications for inherent Indigenous citizenship orders to the extent that tribal/band citizenship governance marginalizes adoption practices, whether through informal stigma or barring adoption as a basis for poetical belonging in the form of membership or citizenship.<sup>136</sup> As Gover has shown, as more and more U.S. tribes have since the 1970s been instituting a tribal blood quantum or lineal

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<sup>130</sup> Gover, *Tribal Constitutionalism*.

<sup>131</sup> I recognize that not all sex is consensual, which would mean it is not necessarily self-determining. Sexual violence including rape can result in pregnancies. I should not be interpreted here as meaning Indigenous citizenships result only from consensual sex, as, indeed, children born out of instances of rape may still be claimed by their nation. For further commentary on sexual violence and Indianness, see Mary Eberts, “Victoria’s Secret: How to Make a Population of Prey,” in *Indivisible: Indigenous Human Rights*, ed. Joyce Green (Halifax: Fernwood, 2014), 156–57.

<sup>132</sup> Gover, “Genealogy as Continuity,” 247. Gover notes here that in the era of tribe-specific lineal descent and blood-quantum rules (i.e. from 1970 until the time of her writing in 2008), “[t]ribes are less likely to expressly allow the incorporation of persons into the tribe via tribal adoption.”

<sup>133</sup> For example: Trumpener, “Status Indian Player Barred from All Native Sports Event”; Maggie Wilson, *Rainy River Lives: Stories Told by Maggie Wilson*, ed. Sally Cole (Lincoln: University of Nebraska Press, 2009); Carrière, *Aski Awasis/Children of the Earth*; Keewatin, “An Indigenous Perspective on Custom Adoption”; Peers and Brown, ““There Is No End to Relationship among the Indians””; Mark Rifkin, *When Did Indians Become Straight?: Kinship, the History of Sexuality, and Native Sovereignty* (New York: Oxford University Press, 2011), 99–142; De Aguayo, “Background Paper on Customary Adoption,” section 4.e; J. Kēhaulani Kauanui, *Hawaiian Blood: Colonialism and the Politics of Sovereignty and Indigeneity* (Durham: Duke University Press, 2008), 47–49.

<sup>134</sup> Cannon, “The Regulation of First Nations Sexuality”; Scott Lauria Morgensen, “Theorising Gender, Sexuality and Settler Colonialism: An Introduction,” *Settler Colonial Studies* 2, no. 2 (January 2012): 11, doi:10.1080/2201473X.2012.10648839.

<sup>135</sup> Rifkin, *When Did Indians Become Straight?*, 2011.

<sup>136</sup> Steve Bonspiel, “‘Short-Sighted’ New Kahnawake Law Excludes Mohawks Adopting Non-Indigenous Kids,” March 25, 2016, <http://www.cbc.ca/news/aboriginal/new-kahnawake-membership-law-adoptive-parents-could-lose-rights-1.3502759>; Simpson, *Mohawk Interruptus*, 161; For example: Jacobs v. Mohawk Council of Kahnawake, 3994 CHRT (n.d.).



descent-based rule for tribal membership, they are “less likely to expressly allow the incorporation of persons into the tribe via tribal adoption.”<sup>137</sup> Thus, for those concerned with centering contemporary Indigenous citizenship practices on inherent legal and political orders, subscriptions to lineal descent that do not account for the ways in which families and clans make people belong through adoption may be missing important principles that could guide the resurgence of said citizenship orders.

Many scholars have shown that Indigenous nations in North America are working to reclaim control over their citizenship practices in ways that at least reference adoption.<sup>138</sup> For

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<sup>137</sup> Gover, “Genealogy as Continuity,” 247. Gover argues that tribes have refashioned blood quantum to meet their own needs of tracing genealogical connections to specific communities, noting a significant increase of tribal blood quantum logics in tribal constitutions after 1970.

<sup>138</sup> Gerald R. Alfred, *Heeding the Voices of Our Ancestors: Kahnawake Mohawk Politics and the Rise of Native Nationalism* (Toronto: Oxford University Press, 1995), 49, 74; Beattie v. Aboriginal Affairs and Northern Development Canada, No. T1441/6709 (CHRT January 10, 2014); Carrière, *Aski Awasis/Children of the Earth*; Larry Chartrand, “A Commentary on Métis Identity and Citizenship from an International Perspective,” *Justice as Healing* 6, no. 2 (2001), <http://papers.ssrn.com/abstract=2339245>; Jill Doerfler, “A Philosophy for Living: Ignatia Broker and Constitutional Reform Among the White Earth Anishinaabeg,” in *Centering Anishinaabeg Studies: Understanding the World through Stories*, ed. Jill Doerfler, Heidi Kiiwetinepinesiik Stark, and Niigaanwewidam James Sinclair (Winnipeg: University of Manitoba Press, 2013), 173–89; Eva Marie Garrouette, *Real Indians: Identity and the Survival of Native America* (Berkeley: University of California Press, 2003), 119; Gilbert, *Entitlement to Indian Status*, 76n18; Gover, “Genealogy as Continuity”; Innes, *Elder Brother and the Law of the People*, 39–40–140; Wilbur R. Jacobs, *Diplomacy and Indian Gifts: Anglo-French Rivalry Along the Ohio and Northwest Frontiers, 1748–1763* (Stanford: Stanford University Press, 1950), 30–31; Harold Johnson, *Two Families: Treaties and Government* (Saskatoon: Purich Publishing, 2007), 27–29; Kauanui, *Hawaiian Blood*, 47–49; Keewatin, “An Indigenous Perspective on Custom Adoption”; Damien Lee, “Getting over the ‘Indian Status Hangover’: Let Josiah Play,” accessed June 6, 2016, <http://www.cbc.ca/news/aboriginal/getting-over-indian-status-hangover-1.3453427>; Fred Lomayesva, “Indian Identity-Post Indian Reflections,” *Tulsa Law Journal* 35, no. 1 (1999); Palmater, *Beyond Blood*, 179–80, 202–3; Mark Rifkin, *When Did Indians Become Straight?: Kinship, the History of Sexuality, and Native Sovereignty* (New York: Oxford University Press, 2011), 99–142; Samson Cree Nation v Canada (Registrar of Indian and Northern Affairs), ABQB 372 (2005); Simpson, “Captivating Eunice”; Stevenson, “Intimate Integration”; TallBear qtd. in Linda Geddes, “There Is No DNA Test to Prove You’re Native American,” February 5, 2014, <https://www.newscientist.com/article/mg22129554-400-there-is-no-dna-test-to-prove-youre-native-american>; TallBear, *Native American DNA*, 4; Robert Williams, *Linking Arms Together: American Indian Treaty Visions of Law and Peace, 1600–1800* (New York: Routledge, 1999), 64; Zlotkin, “Judicial Recognition of Aboriginal Customary Law in Canada: Selected Marriage and Adoption Cases.”

example, adoption is often discussed as a part of traditional forms of belonging,<sup>139</sup> but is also seen as a circumspect practice due to the ways it provides families with the power to discern belonging rather than centralized governance systems. This, despite the fact that “adoptions have always been an integral part of the culture and heritage of every aboriginal group in Canada since time immemorial.”<sup>140</sup> In other cases, adoption is discussed as part of the treaty making order, where Indigenous nations such as the nehiyaw make treaties through the language of family making and adoption specifically.<sup>141</sup> Research that reviews Indigenous citizenship orders through the lens of adoption customs is therefore useful in that it re-centres a family making practices and values that many peoples already recognize as important but may not be using to guide citizenship decisions due to the ways in which settler colonialism has harnessed it.

Adoption is one way in which we can see these values at play. As Scott Lyons has argued, basing Indigenous citizenships on tradition might force Indigenous communities to reproduce what an Indian is, rather than what Indians do.<sup>142</sup> “Lost in these disputes,” he argues, is the recognition that Indian identities are constructed; that they do not come from biology, soil, or the whims of a Great Spirit, but from discourse, action, and history; and finally, that this thing is not so much a thing at all, but rather a social process. Indian identity is something people do, not what they are, so the real question is, what should we do?<sup>143</sup>

Basing Indigenous citizenships on what Anishinaabeg value, believe and want to promote reorients citizenship discussions away from what is “authentic” in an anachronistic sense – e.g.

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<sup>139</sup> Doerfler, “A Philosophy for Living”; Wilson, *Rainy River Lives*.

<sup>140</sup> Gilbert, *Entitlement to Indian Status*, 69.

<sup>141</sup> Johnson, *Two Families*, 27–29.

<sup>142</sup> Lyons, *X-Marks*, 40; 50-66.

<sup>143</sup> *Ibid.*, 40.

what an Indian is, and how to live up to that standard – towards what a future *can* look like in terms of how the nation wants to perform its sovereignty in things like determining who belongs on its own terms.<sup>144</sup> The values mentioned above and discussed later in this dissertation support a vision of Anishinaabe citizenship orders that refuse essentialism in the name of self-determination. As I will argue in Chapters 6, adoption narratives at Fort William First Nation claim individuals in ways that do not always make sense within the status quo logics of what makes an Indian. These unsettlements open a door to resurgence in the form of freeing us to think about citizenship and belonging in ways that centre familial agency and self-determination above the *Indian Act* and its values of fiscal expediency and vanishing Indians.<sup>145</sup> In short, adoption narratives show that Anishinaabeg can claim whomever they want as Anishinaabeg rather than relying on the state or essentializing Indian stereotypes for permission.

The link between adoption and Indigenous citizenships can be made between how adoptees take on roles within their families and communities. On this point, Lyons offers a useful definition of citizenship; drawing on Herman Van Gunsteren, Lyons argues that citizenship has a “dual role.” It answers the questions: “Who are you?” and “What should you do?”<sup>146</sup> This dual character of citizenship “[is] oriented toward promoting the nation’s good health.”<sup>147</sup> In other words, citizenship defines not only one’s identity but also one’s roles within the collective. Lyons theorizes the dual role of citizenship in this way:

[T]here is something rather powerful about the nature of citizenship: namely, it produces other things. First, *political identity*: your national identity, like “American” or

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<sup>144</sup> Ibid., 174.

<sup>145</sup> See: Palmater, *Beyond Blood*, 47.

<sup>146</sup> Lyons, *X-Marks*, 173.

<sup>147</sup> Ibid.

“Haudenosaunee,” which may or may not connect to an *ethnie* but either way is modern and new. It is through political identity that citizenship tells you who you are. Second, *roles*: social functions that legitimate the nation through the actions taken by active citizens, like “voter,” “clan mother,” “patriot,” or for that matter, “traitor”... It is through roles that you are taught what to do (and not to do) in relation to the nation. ...

Citizenship is the engine of national identities, the distributor of political functions, and the maker of the nation itself.<sup>148</sup>

I would argue that adoption is one basis upon which roles the roles of citizenship are established. In Lyons’ formation, citizenship is both the “engine of national identity” but also the roadmap that tells those who belong how they can promote the health and strength of their nation. Indeed, others have drawn similar conclusions about the importance of responsibilities and roles when linking adoption and Indigenous citizenships, as Leanne Simpson notes:

People wishing to immigrate into our nation were granted full citizenship responsibilities, as long as they were willing to live as Nishnaabeg. While our ways did not require them to give up their identity, the expression of that identity was modulated within the web of *mino-bimaadiziwin*. This is also where our customary adoption practices come from – children were and are readily adopted into our community and raised as Nishnaabeg citizens when individual families choosing [*sic*] to extend nurturing relationships to them. They are able to carry this citizenship and the responsibilities embedded within that citizenship through their adult lives if they so chose [*sic*].<sup>149</sup>

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<sup>148</sup> Ibid., 174.

<sup>149</sup> Leanne Simpson, *Dancing on Our Turtle’s Back: Stories of Nishnaabeg Re-Creation, Resurgence and a New Emergence* (Winnipeg: Arbeiter Ring, 2011), 90.

The knowledge holders in this study speak to this through their adoption narratives; adoptees that truly belong with the community are those who give back to it in meaningful ways. By “caring for” the people of Fort William, adoptees are claimed over time. Their belonging is thus bound up in part by fulfilling the roles given to them. Some fulfill those roles and responsibilities while others did/do not and this impacted whether Fort William families claim(ed) them. For those who did/do fulfill their roles, they become more than just adoptees of a specific family, but become claimed as citizens of the community. I discuss this again in Chapter 6.

Thus, given the importance assigned to roles, and therefore behaviour, it is worth noting that Indigenous peoples’ approaches to their respective citizenship-making practices may not resemble the definitions of citizenship we are used to. As Audra Simpson argues in relation to Kanien'kehá:ka citizenship-making at Kahnawà:ke, such practices “may not be institutionally recognized, but are socially and politically recognized in the everyday life of the community.”<sup>150</sup> As she notes in *Mohawk Interruptus*, her research suggests three findings that might be helpful when exploring issues of belonging today, namely:

... (1) an alternative form of citizenship is being worked out [at Kahnawà:ke] through the everyday lives of community members, (2) historical memory is important, if not critical to this alternative form of citizenship, and (3) colonialism and “traditionalism”... coalesce into these frames of reference within and beyond the boundaries of the reserve.<sup>151</sup>

In building on Simpson’s question regarding how citizenship processes might be being worked out and relevant in my own community, I explore the ways in which an “alternative form

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<sup>150</sup> Simpson, *Mohawk Interruptus*, 175.

<sup>151</sup> *Ibid.*, 188.

of citizenship” is being worked out at Fort William First Nation, doing so through the specific lens of adoption narratives. As Simpson argues, belonging at Kahnawà:ke is a “narrated” process, one that “references personal and collective pasts while making itself over ... in a lived present.”<sup>152</sup> Taking up this approach, I centre the knowledge holders’ narratives as expressions of inherent Anishinaabe law. I discuss my methodology for doing so in Chapter 3.

Finally, inherent Indigenous citizenship orders are intellectually and politically “thick” concepts. They encompass complexities that include racialization, family-making through marriage, birthing and adoption, state (mis)recognition (i.e. interpellation), resource regulation, etc. Adoption narratives are but one thread through which inherent Indigenous citizenships can be understood in the present because they establish a relationality within the “stop the clock” mode of identifying who belongs (and who doesn’t) summed by Audra Simpson in the following way: “this is who I am, to you.”<sup>153</sup> I do not mean to suggest that adoption stories describe the *totality* of inherent Indigenous citizenship orders, nor are they the *only* narratives to consider within citizenship discussions. Rather, they offer one perspective that can then, I would argue, be combined with other perspectives – such as narratives about birth, marriage, and those found in sacred stories – to see said legal orders more clearly.

### 2.1.2 Adoption and Anishinaabe Citizenship

A review of the literature demonstrates a need for research that discusses the resurgence of Anishinaabe citizenship in ways informed by adoption practices.<sup>154</sup>

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<sup>152</sup> Ibid., 171.

<sup>153</sup> Ibid., 15.

<sup>154</sup> For example: Assembly of First Nations-Indian and Northern Affairs Canada Joint Technical Working Group, “First Nations Registration (Status) and Membership Research Report,” 2008, 24, [http://fngovernance.org/resources\\_docs/First\\_Nations\\_Registration\\_and\\_Membership\\_Research\\_Report.pdf](http://fngovernance.org/resources_docs/First_Nations_Registration_and_Membership_Research_Report.pdf); Borrows, *Canada’s Indigenous Constitution*, 158; Wilson, *Rainy River Lives*; Jill Doerfler, Heidi Kiiwetinepinesiik Stark, and Niigaanwewidam James Sinclair, eds., *Centering Anishinaabeg Studies*:

Anishinaabeg have always adopted people.<sup>155</sup> Whether within extended families, across Indigenous nations, and/or – at least since colonization in North America – across racialized lines, Indigenous nations have used adoption to strengthen and renew their nations.<sup>156</sup> As such, adoption has always been a core part of Anishinaabe citizenship law as a means of extending families, communities and nations.<sup>157</sup> At times it has been used to quell friction between disputing families. Other times it has been used to cement trade relationships. Adoption is also a means to fulfill obligations to care for others, such as taking care of children whose parent or parents have passed away.<sup>158</sup> It is an important component of inherent Anishinaabe citizenship law; as noted by in 2008 by Anishinabek Nation Grand Chief John Beaucage, “[w]e must determine the guiding principles of [Anishinaabe] citizenship. We have to talk about adoption.”<sup>159</sup> As noted in the previous subsection, “[p]eople wishing to immigrate into [the Nishnaabeg] nation were granted full citizenship responsibilities, as long as they were willing to live as Nishnaabeg. ... [C]hildren were and are readily adopted into our community and raised as Nishnaabeg citizens when individual families choosing [*sic*] to extend nurturing relationships to them.”<sup>160</sup> Adoption, therefore, is a part of Anishinaabe citizenship law.

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*Understanding the World through Stories* (Winnipeg: University of Manitoba Press, 2013). Other relevant works are discussed in this section.

<sup>155</sup> Simpson, *Dancing on Our Turtle's Back*, 90.

<sup>156</sup> Auger, “The Northern Ojibwe,” Chapter 6; Stevenson, “The Adoption of Frances T.”; Simpson, “Captivating Eunice”; Borrows, *Canada's Indigenous Constitution*, 158; John Tanner, *The Falcon* (New York: Penguin Books, 2000); Doerfler, “A Philosophy for Living”; Wilson, *Rainy River Lives*, xxxiv, 47; Gilbert, *Entitlement to Indian Status*, 68–69.

<sup>157</sup> John Beaucage, “Opening Remarks,” in “*Those Who Belong*”: *E-Dbendaagzijig (Final Report)* (2-day Conference on Indian Status and Anishinabek Citizenship Law, Garden River First Nation: Anishinabek Nation, Restoration of Jurisdiction, 2008), 8–12, <http://bit.ly/24rFjvc>.

<sup>158</sup> Auger, “The Northern Ojibwe,” 178–79.

<sup>159</sup> John Beaucage, “Opening Remarks,” in “*Those Who Belong*”: *E-Dbendaagzijig (Final Report)* (2-day Conference on Indian Status and Anishinabek Citizenship Law, Garden River First Nation: Anishinabek Nation, Restoration of Jurisdiction, 2008), 10–11, <http://bit.ly/24rFjvc>.

<sup>160</sup> Simpson, *Dancing on Our Turtle's Back*, 90.

In whatever way it is used, adoption manifests a control over discerning belonging in ways that extend beyond the sphere of the family.<sup>161</sup> Adoption is political, an extension of governance that embodies self-determination of families and communities.<sup>162</sup> Adoption stories – those narratives about what it means to belong with a family and/or community through political rather than purely biological means – therefore contribute important perspectives that are worth considering within larger discussions about Anishinaabe citizenships.

A number of scholars have written on Anishinaabe approaches to adoption, while others have written on Indigenous peoples' approaches to citizenship more generally. Scholars such as Leanne Simpson, Jill Doerfler, John Borrows and Larry Gilbert have explicitly stated that adoption practices provide a framework for how belonging with Anishinaabe nations can be discerned in anti-colonial ways.<sup>163</sup> The stories arising from such practices offer us lenses through which we can see underlying Indigenous constitutional orders at play.<sup>164</sup> As Doerfler has put it, kinship-making practices suggest that “family might be a starting point for considering how citizenship should be regulated today.”<sup>165</sup> However, these scholars have, at this point, only pointed out the pathway; this dissertation seeks to build from where they left off.

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<sup>161</sup> Beaucage, “Opening Remarks,” 8.

<sup>162</sup> Jeannine Carrière, “Connectedness and Health of First Nations Adoptees” (Unpublished Dissertation, University of Alberta, 2005), 24, <http://icwrn.uvic.ca/wp-content/uploads/2013/11/Carriere.pdf>; Royal Commission on Aboriginal Peoples, *Final Report of the Royal Commission on Aboriginal Peoples*, vol. 2, *Restructuring the Relationship* (Ottawa: Canada Communication Group, 1996), 128.

<sup>163</sup> Gilbert, *Entitlement to Indian Status*, 67–69; Simpson, *Dancing on Our Turtle’s Back*, 90.

<sup>164</sup> James Sákéj Youngblood Henderson, *First Nations Jurisprudence and Aboriginal Rights: Defining the Just Society* (Saskatoon: Native Law Centre, University of Saskatchewan, 2006), 117, 120–21; Nickolas Xumthoult Claxton, “ISTA SCIANEW, ISTA SXOLE ‘To Fish as Formerly’: The Douglas Treaties and the WSANEC Reef-Net Fisheries,” in *Lighting the Eighth Fire: The Liberation, Resurgence, and Protection of Indigenous Nations*, ed. Leanne Simpson (Winnipeg: Arbeiter Ring, 2008), 47–58; Ladner, “Governing in an Ecological Context.”

<sup>165</sup> Doerfler, “A Philosophy for Living,” 184; c.f.: Rifkin, *When Did Indians Become Straight?*, 2011, 15.



For his part, Anishinaabe legal scholar John Borrows states that Anishinaabeg can draw on adoption practices to re-strengthen Anishinaabe citizenship laws.<sup>166</sup> However, he does not provide further detail on how this might take shape. Instead, Borrows argues that we can look to Anishinaabemowin and our relationships with the land to find citizenship principles.<sup>167</sup> He states that Anishinaabe citizenship laws are based in the concept of “freedom” and “owning” our relationships and responsibilities. As he puts it, “Our word for 'citizenship' ... is dibenjigaazowin, the sense of almost a property-like type of responsibility, but not a western notion of property law where you alienate land or people from you, but a notion of Anishinaabe property law, which is about relationships and how we take responsibility for our relationships.”<sup>168</sup> This notion of Anishinaabe citizenship is not delimited by race.<sup>169</sup> Rather, dibenjigaazowin can twin with the concept of adoption to produce a citizenship order based on making relatives and citizens through claiming and re-claiming our associations in a self-determining manner.

Adoption narratives have a lot to offer to the resurgence of Anishinaabe citizenship law. As this dissertation will show, embedded within adoption narratives and practices are principles and values that can be of use in broader citizenship discussions. Adoption is guided by values such as inclusion, non-interference, caring for others, and fulfilling responsibilities to family and collective.<sup>170</sup> It enables families to renew the nation by bringing people into it, and in doing so it

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<sup>166</sup> Borrows, *Canada's Indigenous Constitution*, 158.

<sup>167</sup> John Borrows, “Who Are We and How Do We Know?” (Tribal Constitutions Seminar, Native Nations Institute for Leadership, Management, and Policy, University of Arizona, April 2, 2014), <https://nnidatabase.org/db/video/john-borrows-who-are-we-and-how-do-we-know>.

<sup>168</sup> Ibid.

<sup>169</sup> Royal Commission on Aboriginal Peoples, *Final Report*, 1996, 2, Restructuring the Relationship: 176–77.

<sup>170</sup> Auger, “The Northern Ojibwe,” Chapter 6.

manifests familial self-determination.<sup>171</sup> Adoption thus promotes a *productive unsettlement* in the context of discerning who belongs; as we will see in the chapters that follow, pinning down the “essential” elements of belonging at Fort William First Nation is an elusive project that, quite simply, cannot be fully answered. Adoptees might be status Indians, or they might not be; they might be Métis, Anishinaabeg, nehiyawak; they might be white, black, or racialized in other ways. This diversity within adoptees is matched by diversity in adopters. Adoptive families might be mixed race; they might be all-Anishinaabeg, or of mixed Indigenous peoples; they might be based on heterosexual pairings of parents, or be based in queer unions. These configurations of family may be different in legal status, colour, or orientation, but they share the values of inclusion, non-interference, caring for others, and fulfilling responsibilities to family and collective.

We can see the nexus of adoption and citizenship in Don Auger 2001 dissertation, *The Northern Ojibwe and Their Family Law*. Within Auger’s work, some Anishinaabeg of northern Lake Superior discuss the claiming associations and relations in terms of “caring for others.”<sup>172</sup> In his discussion about Anishinaabe approaches to adoption, he writes: “[O]ne of the most important aspects of life among the members of the study group was the concept of sharing. This concept imposed obligations on every person within the Ojibwe world, whether human, other-

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<sup>171</sup> Doerfler, “A Philosophy for Living”; Auger, “The Northern Ojibwe” Chapter 6. A point to consider here is whether familial self-determination in the realm of citizenship is the same as Anishinaabe or community-self-determination. As Doerfler and Auger’s respective works have shown, Anishinaabe citizenship orders embrace the ethic of non-interference in that when a family adopts a child, other families defer to their authority to bring that child into the community. However, a family’s claim to an individual through adoption might not necessarily create a duty upon other families or Anishinaabe communities/nations to accept an adoptee as a citizen. This broader form of acceptance (i.e. citizenship) is worked out co-constitutively and re-constitutively, and therefore suggests that Anishinaabe citizenship is “nested” and negotiated. See Chapter 6 of this dissertation for more discussion on these concepts.

<sup>172</sup> Auger, “The Northern Ojibwe,” Chapter 6.

than-human, or a spirit.”<sup>173</sup> Sharing thus created a duty on the Anishinaabeg individuals and families that Auger worked with in that one was expected to help others in need. It is in meeting this duty to help others in need that the concept of sharing and caring intersect. On this point, Auger notes that “[c]aring for others was seen as an essential part of the concept of sharing. Caring for others was seen as a sharing of services that could be provided to someone in need. All that was required to trigger the mechanism was an individual who had a need, and another individual or group who was able to meet that need and was willing to do so.”<sup>174</sup> This obligation to care for others was extended to meeting the needs of children through adoption.<sup>175</sup> However, whereas Auger stops short of explicitly stating that "caring for others" or adoption is a form of citizenship law, this dissertation uses his broader discussion to do just that.

Jill Doerfler's work, on the other hand, locates caring for others and adoption in the context of Anishinaabeg citizenship-making. For example, her review of Anishinaabe author Ignatia Broker's work shows us that stories about adoption unfold and centre tenets that work to claim people through the self-determination of the family; in discussing Broker's account of Wa-wi-e-cu-mig-go-gwe's adoption, Doerfler writes that “[t]he family never questioned [her] about her past; they fully accepted and integrated her into their community. [Wa-wi-e-cu-mig-go-gwe] was a fellow human being in need of help, and Oona's grandfather and the rest of the community took her in and made her a part of their family.”<sup>176</sup> This, to me, reflects Auger discussion of caring for others while also reflecting Borrows' discussion about *dibenjigaazowin* as

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<sup>173</sup> Ibid., 178.

<sup>174</sup> Ibid., 179.

<sup>175</sup> Ibid. On this point, Auger writes: “This idea of caring for, as a branch of the obligation to share, buttressed the obligations provided by kinship. ... This concept of sharing also extended to people in other communities, and to strangers. ... In relation to children who were being looked after on a long term basis, the notions of foster care and adoption are used to described the relationship.”

<sup>176</sup> Doerfler, “A Philosophy for Living,” 183.

making/claiming Anishinaabe citizens. In Doerfler's/Broker's example, through being claimed by a family, Wa-wi-e-cu-mig-go-gwe came to fully belong with a new Anishinaabe community.

To better understand how adoption can make citizens, Darin Keewatin's work has proven key. To put it directly, Keewatin shows that adoption, as a way of meeting an obligation to share and care for others, makes people belong with the land.<sup>177</sup> In the words of elder Bluestone Yellowface, the main person Keewatin interviewed for his thesis, “[adopted children] are called Mother Earth’s children.”<sup>178</sup> Keewatin shows that adopted children become rooted in the land of their adoptive families, enabling them to fully belong through taking on responsibilities to care for others and the land.<sup>179</sup> We can see this element of adoption making people belong with land expressed in Auger work as well; there, Anishinaabe adoption law was powerful enough to make even a white stranger fully belong: “After he died, [this stranger] was buried in the same area that other [members of his adoptive] family ... had been buried in.”<sup>180</sup> The unnamed person in Auger work literally became a part of the land as a result of being claimed by Anishinaabeg. That said, it would be prudent to remember that in the case of Fort William – a community circumscribed by the *Indian Act* and settler society’s interest in controlling Indigenous lands –an adoption does not necessarily create a right for an adoptee to belong with all Anishinaabe communities or even to all Anishinaabe lands. As this dissertation will show in Chapter 6, an adoptee’s acceptance by broader Anishinaabe nations is contingent on relationships. Some communities or families will not recognize an adoptee’s claim to anything other than belonging with their adoptive family. In terms of belonging with the land through adoption, therefore, one

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<sup>177</sup> Keewatin, “An Indigenous Perspective on Custom Adoption,” 85, 101.

<sup>178</sup> Yellowface qtd. in *ibid.*, 85.

<sup>179</sup> *Ibid.*

<sup>180</sup> Auger, “The Northern Ojibwe,” 197.

should not assume that an adoption by a single family in a single community equates somehow to an adoptee's claim to all Anishinaabe land. This would negate the importance of relationship in Anishinaabe citizenship orders – something I address in Chapter 6. Adoption does not create a “blanket” citizenship, but a nested citizenship whereby adoptees' belonging to land is mediated by the self-determination of other Anishinaabe families and communities.

In developing a theory of Anishinaabe citizenship law that is informed by adoption, it is also helpful to consider the ways in which Anishinaabe values inform both adoption and citizenship. Indeed, Doerfler's work on developing new Anishinaabe citizenship law demonstrates that values are important in moving away from settler colonial laws put in place to get rid of Indians through blood-quantum.<sup>181</sup> Adoption is based on the values of love, renewal and an obligation to care. In picking up where Doerfler left off, Scott Lyons's work provides justification for informing Anishinaabe citizenship with these same values. He argues that “citizenship criteria say a great deal about the nation's character: what it values, what it believes, and what it promotes [and that therefore] *[c]itizenship criteria produce the meanings of the nation.*”<sup>182</sup> Such values of love, renewal and obligation to care are important in that they construct the meaning of Anishinaabe nations in positive ways. This differs from the meaning created for Indigenous communities by Canada's Indian law; Anishinaabeg citizenship, I would argue, is about continuous renewal, not the fiscal expediency of the state.<sup>183</sup>

While the literature reviewed in this section makes a good case for considering how Anishinaabe citizenship law can be informed by adoption stories, there are nonetheless some

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<sup>181</sup> Jill Doerfler, “No Easy Answer’: Citizenship Requirements,” in *Tribal Constitutions Seminar* (Native Nations Institute for Leadership, Management, and Policy, University of Arizona, 2013), <https://www.nnidatabase.org/files/jill-doerfler-“no-easy-answer”-citizenship-requirements>.

<sup>182</sup> Lyons, *X-Marks*, 174. Emphasis original.

<sup>183</sup> See, for example: Palmater, *Beyond Blood*, 46.

limitations in what is currently published. For example, Borrows' work discusses Anishinaabe citizenship law as being found in the land and in the language.<sup>184</sup> While I agree with him, adoption stories can build on this theorization. Not only do such stories show that families renew the nation through claiming people as Anishinaabeg, they also challenge us to think about citizenship in a cyclical sense. If *dibenjigaazowin* is about owning one's responsibilities and associations, what does such "ownership" look like in terms of continuous renewal of the nation? In the adoption stories from Fort William First Nation, it is clear that adoptees claim the community while the community claims them back not on a "once and for all" basis, but through re-affirmations where the decision to (re)own each other is performed. This, I argue, describes a citizenship order that is based on the continuous renewal of relationships. This dissertation theorizes this and other points to add to what Borrows and other scholars have published.

### 2.1.3 Summary

This dissertation aims to contribute to the literature. While a number of studies have discussed the resurgence of inherent Indigenous citizenship orders, few have viewed them through the lens of adoption narratives. None, as far as I have seen, have assigned adoption narratives as much weight as this study does.

This dissertation explores how Anishinaabe citizenship is "narrated"<sup>185</sup> through adoption stories. It does so by making the argument that Anishinaabe adoption practice not only *can be* used to discern citizenship within Anishinaabe nations, but that in fact *it is already doing so*. As I show in Chapter 6, families at Fort William have never stopped making people belong through adoption, and continue to do so today. With this in mind, I develop the argument that

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<sup>184</sup> Borrows, "Who Are We and How Do We Know?"

<sup>185</sup> Simpson, *Mohawk Interruptus*, 171.

Anishinaabe citizenship law is being practiced in how families in my community use adoption to make individuals belong. Central to this work is that Anishinaabeg, as an Indigenous peoples, have valid constitutional orders that survived the assertion of Canadian sovereignty.<sup>186</sup> To show this, the dissertation situates adoption narratives in my community as manifestations of an inherent citizenship order that is both family-based and *sui generis*, meaning it exists on its own terms without requiring recognition from Canadian legal systems to be valid.

This dissertation therefore contributes to the literature by centering families above band offices; inherent law above status logics flowing from the *Indian Act*. This is not to say that families perfectly execute Anishinaabe citizenship orders; some knowledge holders in this study admitted that, at times, they reproduced the very gendered and racializing logics of the *Indian Act* when deciding for themselves if adoptees in the community belong or not. But perfection and purity are not my threshold for including the narratives in this study. I am more interested in validating the threads of Anishinaabe law still present in Fort William and weaving them together in a way that honours familial self-determination.

## **2.2 Addressing Knowledge Gaps at Fort William First Nation**

The knowledge holders have identified gaps in how citizenship is discerned at Fort William First Nation. This section foregrounds such gaps as a means to identify how this dissertation will be of practice use to the people of Fort William.

Belonging is spoken of most often within Fort William in the language of band membership, where the pre-requisite for membership is recognition as an Indian under the *Indian Act*. This represents a state of confusion due to the fact that band membership at Fort William

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<sup>186</sup> Henderson, *First Nations Jurisprudence*, 144–77; Borrows, *Canada's Indigenous Constitution*, 21; Haring, *White Man's Law*.

First Nation is not dependent on Indian status.<sup>187</sup> In 1987, Fort William established its own membership code.<sup>188</sup> This was made possible by changes to the *Indian Act* in 1985; the *Act* was amended then in such a way that allowed Indian Bands to control their own membership lists.<sup>189</sup> According to section 10(8) of the *Act*, once approved by the Minister of Indian Affairs, a band's membership code becomes the law governing membership decisions at a respective Indian Band "from the day on which notice is given to the Minister."<sup>190</sup> According to the 1987 Fort William band membership code, Indian status is not a prerequisite for membership in the band, and adoption is grounds for membership.<sup>191</sup> However, the chief and council, band administration, and broader community have not had a solid grip on how band membership works at Fort William for the past 30 years;<sup>192</sup> instead of using the code, the band and its leadership have opted to ignore it and rely on Indian status when making membership decisions. One Fort William Indian Band chief and council member noted publicly that by not using the band membership code, the Fort William Indian Band is breaking the law:

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<sup>187</sup> Fort William First Nation, "Band Membership Code."

<sup>188</sup> Ibid.

<sup>189</sup> Jack Woodward, *Native Law* (Toronto: Carswell, 1989), 38–42. Section 10(1) of the *Act* provided that a band may control its membership list by meeting three criteria: 1. it writes its own membership code; 2. it gives appropriate notice to the Minister of Indian and Northern Affairs Canada that the band wishes to assume control over its membership (this includes sending the code to the Minister for review); and, 3. a majority of the electors of the band consent to the band taking control of its membership list.

<sup>190</sup> *Indian Act*, ss.10(8).

<sup>191</sup> Fort William First Nation, "Band Membership Code," n.p. The membership code as written in 1987 does not have page numbers and each section, though numbered, re-starts its own numbered clauses. However, sub-sections are identified by titles. For example, see the sub-section entitled "Adoption by Band Members."

<sup>192</sup> Ken Ogimaa (FWFN Chief Executive Officer) and Fort William First Nation Chief and Council, *Agenda Items*; Conversation with Namebini-giizis; Conversation with Abitaa-niibini-giizis. Both Namebini-giizis and Abitaa-niibini-giizis spoke about how the 1987 Fort William First Nation membership code seemed to be hidden from the community, as this bit of transcript shows from our October 18, 2015 conversation:

Namebini-giizis: I didn't even know: was there always a band membership code? Like, people we talked to over the years at the band office, should they know the code themselves?

Abitaa-niibini-giizis: A lot of people didn't know about [the code] until we gave copies to two other people.



In June of 1987 FWFN ratified its own membership code which was given Ministerial approval in June of 1990... This code (law) lays out the process of becoming a FWFN member, and under this code no Chief and Council has the authority to make decisions on membership, rather that authority is given to the people via a membership committee, membership appeals court and ratification vote on membership requests. Somewhere along the way FWFN had stopped using its code ... and in doing so began going against its own law by Chief and Council making decisions on membership. I as a [Band] councilor cannot make a decision on membership, as the ratified 1987 Membership Code gives that authority to the people of FWFN via the membership committee and ratification process. ... If I do end up making decisions on membership absent of the code, I am essentially breaking the law set out by the people of FWFN. This code has been around for 30 years, and in that time has not been updated and for some years not followed, this cannot happen.<sup>193</sup>

Instead of following the 1987 membership code, the Fort William Indian Band chief and council have taken it upon themselves to decide who is a member of the band. Not only does this contravene the membership code and therefore Canadian law, but it also reasserts Indian status as the most important criteria for determining membership in the Fort William Indian Band.<sup>194</sup> Thus, despite there being no requirement to centre Indian status in membership decisions, it is still the main basis upon which membership in the band is decided by the band leadership.<sup>195</sup>

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<sup>193</sup> MacLaurin, "Facebook Post."

<sup>194</sup> Fort William First Nation, "Citizenship Code (Draft)," 1. As I wrote in the preface for the draft Fort William First Nation Citizenship Code: "For decades, membership here [at Fort William] has been determined by whether a person has enough "Indian blood" to be considered an "Indian" under Canada's *Indian Act*."

<sup>195</sup> Conversation with Zaagibagaa-giizis, November 1, 2015. As she put it: "It's just hard because you've gotta prove the blood quantum." Also see: MacLaurin, "Facebook Post."

Indian status is a problematic way to discern who belongs with Indigenous nations. Not only does it decentre inherent Indigenous citizenship orders by locating the federal government as the authority for deciding who belongs, it is also predicated on the “legislative extinction” of Indians.<sup>196</sup> As Pamela Palmater has shown, the registration provisions of the *Indian Act* are a “legislated form of population reduction based on the [federal government’s] previous goal of assimilation. The ultimate effect of [this] legislation ... is to reduce the number of people the government must be accountable to in terms of protection, treaty obligations, land rights, self-government, and other Aboriginal rights...”<sup>197</sup> For the Fort William Indian Band to have spent the last three decades basing band membership on Indian status when it was not required to under its membership code is incredibly concerning given Palmater’s analysis of the function of Indian status. It has not taken the opportunity to regulate belonging in ways that centre community self-determination. Instead, band membership at Fort William has continued to reflect essentialized settler colonial visions of Indianness. While adoption is now valid grounds of conferring Indian status,<sup>198</sup> status itself carries semiotic power that re-figures Indianness as a matter of bloodline and cis-male gender.<sup>199</sup> As I show in this section, the knowledge holders spoke of this semiotic power in the form of experiencing stigma: band membership practices at Fort William have considered adoption and adoptees as burdens on the band rather than an expression of citizenship-making based on renewing the nation.

The knowledge holders identified four gaps in how the Fort William community and Indian Band imagine and practice citizenship making. Some argued that the band does not

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<sup>196</sup> Palmater, *Beyond Blood*, 48.

<sup>197</sup> *Ibid.*, 47.

<sup>198</sup> *Indian Act*, s.2.

<sup>199</sup> Lawrence, “Gender, Race.”

understand inherent Anishinaabe law. Others told me that they or their families experienced stigma about adoption, and that this stigma transfers intergenerationally. I discuss these points in turn.

First, Onaabani-giizis – an phenotypically white adoptee – spoke of experiencing stigma in this way:

Ya, that’s why I’m always fighting tooth and nail for [adoption as a basis of belonging at Fort William], because people don't understand it. They don't realize that it’s not, we didn't get adopted to take away from other people, or to live the “perks.”<sup>200</sup>

In this narrative, adoption is spoken of as a zero-sum game. Adoptees are seen as “tak[ing] away from other people,” by which Onaabani-giizis means resources allotted to the Fort William Indian Band by the federal government.<sup>201</sup> In short, adoptees become a burden, and adoption becomes a dirty word.

Second, Waatebagaa-giizis – a descendant of an adoptee – spoke of adoption stigma as well, but identified it as being able to move down through generations. She told me a story about trying to work with the Fort William Indian Band to get her niece registered as a status Indian.<sup>202</sup> During that conversation, she said, band personnel revealed a latent belief that Waatebagaa-giizis’s family members do not legitimately belong with Fort William because of her father’s adoption into the community eight decades earlier:

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<sup>200</sup> Conversation with Onaabani-giizis.

<sup>201</sup> Such resources might include, for example, land, education funding, and other programs and services.

<sup>202</sup> Clarification: While Indian registration can only be conferred through the federal government through Indigenous and Northern Affairs Canada pursuant to the *Indian Act*, often Fort William community members will get assistance from the Fort William Indian Band personnel on navigating the Indian status application process. Waatebagaa-giizis is not suggesting here that the Fort William Indian Band has the authority to register individuals as Indians under the *Indian Act*.

So, around the time that [my niece] was 16-years old – 15 or 16-years old – I was doing some paperwork for my dad on his status. And a comment came to me from the reserve: “Well, we’re still having a little bit of trouble because of your dad’s adoption.” And I thought “Are you frickin kidding me? Because we’re talking 80 years, you know, or 78 years at the time of my dad’s life.”<sup>203</sup>

Clearly, both Waatebagaa-giizis and Onaabani-giizis felt that the band and/or community have trouble understanding how belonging could be possible through adoption alone.

One possible reason for this adoption stigma is the Fort William Indian Band’s de facto subscription to Indian status and its underlying gendered blood quantum principles. This represents the third gap identified by the knowledge holders. In sharing a story about the troubles she is experiencing in having her own children registered as band members at Fort William, for example, Zaagibagaa-giizis cited blood quantum as one of the reasons the band will not include her children on the membership list. “It’s just hard because you’ve gotta prove the blood quantum,” she noted.<sup>204</sup> To me, this problem stems from the Fort William Indian Band’s practice of centering Indian status in its membership decisions. Zaagibagaa-giizis’s children have a proven bloodline connection to Fort William, but lack Indian status due to paternity issues.<sup>205</sup> I discuss Zaagibagaa-giizis’s case in greater detail in Chapter 5, but I flag it here to show that belonging at Fort William suffers from a lack of understanding about the importance of adoption. Zaagibagaa-giizis was adopted through Anishinaabe law as an infant by Gichimanidoo-giizis. Later, Gichimanidoo-giizis adopted both of Zaagibagaa-giizis’s children under the same law.<sup>206</sup>

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<sup>203</sup> Conversation with Waatebagaa-giizis.

<sup>204</sup> Conversation with Zaagibagaa-giizis.

<sup>205</sup> Ibid.

<sup>206</sup> Conversation with Gichimanidoo-giizis.

Yet, the children are not members of the band because, according to Zaagibagaa-giizis, they do not have an appropriate degree of “blood quantum,” by which she is referring to the federal government’s unwillingness to recognize her children as status Indians. Why should such federal recognition matter? If the Fort William Indian Band was honouring Anishinaabe law, Gichimanidoo-giizis’s decision to adopt her own grandchildren would be enough to make them members of the band. This dissertation therefore argues that adoption is a valid practice of Anishinaabe citizenship law and governance and should be recognized as such in discussions about who belongs at Fort William. Indeed, doing so would enable Zaagibagaa-giizis and Gichimanidoo-giizis’s children to participate fully in the community.

Finally, the knowledge holders identified concerns over financial resources to be a major contributor to why the Fort William Indian Band has historically restricted band membership to those already recognized as Indians under the *Indian Act*. One reason for this is that the federal government allots funding to Indian Bands based on the number of status Indians associated with a given band.<sup>207</sup> In this scenario, accepting individuals without Indian status as members of a band creates a financial disincentive in that they do not bring federal funding support with them.<sup>208</sup> This disincentive, I would argue, goes beyond merely the individual, but extends also to disincentivizing Indigenous citizenship orders to the degree that they do provide funding allocations to Indian Bands. Families’ self-determination is ignored in this scenario; as Odemiin-giizis noted:

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<sup>207</sup> Royal Commission on Aboriginal Peoples, *Final Report of the Royal Commission on Aboriginal Peoples*, vol. 1, Looking Forward Looking Back (Ottawa: Canada Communication Group, 1996), 304.

<sup>208</sup> Ibid. “The federal government, which normally funds bands through a formula based on the number of status Indian Band members, does not generally provide funds to bands for persons who are not status Indians. Band that allow people without Indian status to become members are therefore penalized financially, since they then have to provide housing and other services to these new band members without offsetting federal payments. This is a strong disincentive for many bands...”

[T]here seems to be a struggle for resources. Belonging gets caught up in whether the band has money, land, etc. to support people. When adopting, however, that's your kid – that's how they belong with the community. We need to stop resource- or competition-based approaches to belonging. We need to accept all who belong. Firstly, it should always be the family that decides. Everyone should follow suit.<sup>209</sup>

Contributing to this is the fact that Indian Bands are notoriously underfunded in Canada,<sup>210</sup> and subject to intense financial accountability scrutiny.

However, this history fails to resonate with the current financial state of the Fort William Indian Band. Fort William has enjoyed incredible success over the last decade in its land claims dealings with the federal government. The band has received compensation for land expropriations in the form of lands returned to the community and in terms being compensated financially.<sup>211</sup> Between 2011 and 2016 alone the Fort William Indian Band secured at least \$270 million through successful land claims negotiations.<sup>212</sup> Such money is not tied to Indian status, but can be used at the discretion of the community through mechanisms such as a trust.<sup>213</sup> This represents a drastic turn of events for Fort William in that it is less dependent on federal transfer funding associated with Indian status.

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<sup>209</sup> Conversation with Odemiin-giizis. Odemiin-giizis noted:

<sup>210</sup> Royal Commission on Aboriginal Peoples, *Final Report*, 1996, 1, Looking Forward Looking Back:304.

<sup>211</sup> For example: CBC News, “Fort William First Nation, Canadian Government Finalize Land Claim Settlement.”

<sup>212</sup> Ibid.; Tanya Talaga, “\$154 Million Goes to Fort William First Nation in Land Claim Settlement | Toronto Star,” *Toronto Star*, December 16, 2011, [https://www.thestar.com/news/canada/2011/12/16/154\\_million\\_goes\\_to\\_fort\\_william\\_first\\_nation\\_in\\_land\\_claim\\_settlement.html](https://www.thestar.com/news/canada/2011/12/16/154_million_goes_to_fort_william_first_nation_in_land_claim_settlement.html); Fort William First Nation, “Fort William First Nation Community Report (Dagwaagin),” 2014, 11, [https://fwfn.com/wp-content/uploads/2015/02/FWFN\\_Newsletter\\_Fall2014\\_WEB.pdf](https://fwfn.com/wp-content/uploads/2015/02/FWFN_Newsletter_Fall2014_WEB.pdf).

<sup>213</sup> For example: Fort William First Nation, “Fort William Boundary Claim Settlement Trust Agreement,” November 15, 2010, <https://fwfn.com/wp-content/uploads/2015/02/Boundary-Trust-Agreement.pdf>.

That said, the knowledge holders felt that this new financial era would not have an effect on how the band determines band membership. In their words, they felt that “‘greed’ and ‘self-interest’” would continue to restrict band membership to bloodline connection to Fort William.<sup>214</sup> The following transcript of my conversation with Iskigamizige-giizis highlights this point:

Iskigamizige-giizis: I think if the government – if it wasn’t so stringent now as to what’s going down financially – the misappropriation of funds on reserves, or whatever they claim is happening – [centering Indian status in Fort William membership decisions] would not be an issue today. You know what I mean? I mean, how many misappropriations of [government] funds do bands [and] chiefs and councilors do? We know it happens; we know it happens. So it fucks up the rest of us. Or the future. The future. Our future kids, right.

Damien: Here’s a question: If we weren’t so screwed up over money – let’s just say we had our own money – do you think this whole thing with blood quantum would be a big deal? Do you think the whole like, well, these adoptees – whether they’re white or not, right; like, even your kids – do you think they’d have such a hard time?

Iskigamizige-giizis: Yes. I still think they would.

Damien: They would? Ok. How?

Iskigamizige-giizis: Because, money is the root of all evil. Greed. Right?

Damien: Sure.

Iskigamizige-giizis: I honestly do. I believe that if we had our own money, now if we didn’t have to follow the [federal] guidelines of expenditures and whatever like now, I

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<sup>214</sup> Conversation with Gichimanidoo-giizis; c.f.: Conversation with Iskigamizige-giizis, January 25, 2016.

think [the band would] be cautious as to who [they accept as members], and I think that it'd be selective. You know what I mean? I don't think that you'd<sup>215</sup> get the same amount as, say, someone else. You know what I mean?

Damien: Yes. Still that thing at play; greed would still be there.

Iskigamizige-giizis: Yes. Still that greed. Ya, I do think, because of money nowadays being...being the almighty dollar.

Damien: What you're saying – just so I understand – is that money is still kind of dictating who gets to belong and who doesn't?

Iskigamizige-giizis: Yep.

Damien: Ok.

Iskigamizige-giizis: I believe that it does. I believe it does. Because, I mean, we have our own money right – say we have billions of dollars and we're proficiently running our own government, and self-governed, and you know, we're doing really well – I still don't think that they'd share. You know what I mean? Unless you were a band member.<sup>216</sup>

In sum, Iskigamizige-giizis and others suggest that the practice of discerning belonging through entitlements to Indian status is an established practice at Fort William that will be hard to shake. This practice, as I show in this section, marginalizes adoption and, by extension, Anishinaabe citizenship law and governance under the practice of tying belonging to antiquated notions of Indian essentialisms taught through generations of living under the *Indian Act*.

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<sup>215</sup> Here, Iskigamizige-giizis is referencing Damien Lee specifically.

<sup>216</sup> Conversation with Iskigamizige-giizis.



Overall, as the quote below shows, Gichimanidoo-giizis summed up the need for this dissertation as a matter of supporting the resurgence of inherent Anishinaabe citizenship law and governance. In doing so, she refocuses our attention away from discerning belonging in terms of who has access to resources, and instead as a matter of practicing Anishinaabe law and governance. Anishinaabe citizenship law, she noted, would be less of a contentious issue if people understood what it is rather than centering Indian status-based approaches to band membership. She linked this knowledge gap to a need to better understand Anishinaabe adoption practices:

It would be great ... if the people at Fort William understood Anishinaabeg law. But, because they don't, and we're forging a new path with the people, there's limited understanding. But there's not a wide enough net to accept what the function is and the true purpose of Nishnaab custom adoption. So, therein lies the task.<sup>217</sup>

In an attempt to contribute to completing this “task,” this dissertation addresses the knowledge gaps identified in this section by demonstrating how families at Fort William use(d) adoption to make people belong with the community and Anishinaabe nation.

### **2.3 Conclusion**

My rationale for researching Anishinaabe citizenship law through adoption narratives stands on five foundations. The first is based in my concern for the future of my own community. As Pamela Palmater has shown, Canada's *Indian Act* is designed to lead to what she calls “legislated extinction” of Indians, a situation where Indigenous peoples still exist but no longer recognized

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<sup>217</sup> Conversation with Gichimanidoo-giizis.

by the state in law.<sup>218</sup> A recent demographic study led by Stewart Clatworthy has shown that if Anishinaabe communities in Ontario, including Fort William First Nation, continue to define belonging and membership using Canada's definitions of who is an Indian, they will be nearly extinct in (Canadian) law within the next 50 to 100 years.<sup>219</sup> This "extinction" is based largely in the way the *Indian Act* constructs Indianness as being stronger in the male line.<sup>220</sup> Clatworthy found that Anishinaabeg communities in Ontario have high rates of "intermarriage," which includes both marriage between Indigenous and non-Indigenous people as well as marriage between an Indigenous person and another Indigenous person who might not be recognized as an Indian under the *Indian Act*.<sup>221</sup> This dissertation therefore centres inherent Anishinaabe citizenship law in the hope that my community can draw on it to address the impending crisis of legislative extinction at Fort William First Nation in ways that do not merely reproduce "the devil we know"<sup>222</sup> – namely, the *Indian Act*'s logics of exclusion – in the process.

Second, in recognition that said legal extinction is imminent if Indigenous communities continue to base their citizenship/membership on Canada's definitions of who is an Indian, some Anishinaabe political organizations are now actively working to develop an Anishinaabe citizenship law. Here, I am thinking about the work that the Union of Ontario's is doing on its draft citizenship law, discussed above.<sup>223</sup> However, despite best efforts, the work being done in this area is constructing Anishinaabe citizenship in ways that might actually reproduce *Indian Act* logics in the process, possibly making citizenship purely a matter of heteronormative

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<sup>218</sup> Palmater, *Beyond Blood*, 48-9.

<sup>219</sup> Clatworthy, "Estimating the Population Impacts."

<sup>220</sup> Palmater, *Beyond Blood*; Lawrence, "Gender, Race."

<sup>221</sup> Clatworthy, "Estimating the Population Impacts."

<sup>222</sup> Lawrence, "Gender, Race," 21.

<sup>223</sup> I take this up in Chapter 2.

descendency.<sup>224</sup> Adoption stories are a powerful intervention in this arena in that they challenge the heterosexist nature of *Indian Act*-based logics of belonging and its overemphasis on bloodlines and paternity; put simply, inherent Anishinaabe citizenship is more fluid than a narrow focus on biologized descent.<sup>225</sup> This dissertation, therefore, is crafted to demonstrate this power so that Anishinaabeg communities do not reproduce *Indian Act* logics in the very initiatives meant to reclaim control over belonging from the *Act* itself.

Third, at the personal level, adoption stories unsettle conversations about who belongs, and why. The knowledge holders found themselves sometimes struggling to reconcile the fact that some people fully belong with Fort William First Nation despite having little or no “Indian blood,” whereas others who are born directly to the community were sometimes seen as having only a tenuous belonging due to their behaviour and life choices.<sup>226</sup> Exploring the fluidity around belonging vis-à-vis narrow foci on genealogical proximity is important work, therefore, in that it challenges the status quo thinking that we at Fort William First Nation have inherited, especially as the community now seems to be in a state of constitutional renewal.<sup>227</sup> Adoption narratives are important at this time as they identify creases in the colonial narrative that require prudence if we

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<sup>224</sup> Anishinabek Nation, Restoration of Jurisdiction, “Anishinaabe E’Dbendaagzijig Naaknigewin,” accessed June 6, 2016, <http://www.anishinabek.ca/governance/governanceactivities/eDbendaagzijig/>. While the *E’Dbendaagzijig Naaknigewin* (citizenship law) notes that citizenship in the Anishinabek Nation is passed down through a one-parent rule, the word “adoption” does not appear in a definition of parent or child within the law. This raises questions about the role of adoption in renewing the Anishinabek Nation, entitlements to citizenship, and whether or not queer families or families that otherwise chose not to/cannot have children will be included in renewing the nation. I take this up in Chapter 5.

<sup>225</sup> Royal Commission on Aboriginal Peoples, *Final Report*, 1996, 2, Restructuring the Relationship:166.

<sup>226</sup> Conversation with Iskigamizige-giizis. Also see Chapter 6 of this dissertation.

<sup>227</sup> Fort William First Nation, “Notice to All Members of Fort William First Nation,” *Fort William First Nation Weekly Newsletter*, September 12, 2016, <https://fwfn.com/wp-content/uploads/2016/09/Sept-12-18.pdf>.

are to “get it right.” Much work is needed in order to do so. On this point, it is worth repeating Gichimanidoo-giizis’ words on why projects like this dissertation are important:

It would be great ... if the people at Fort William understood Anishinaabeg law. But, because they don’t, and we’re forging a new path with the people, there’s limited understanding. But there’s not a wide enough net to accept what the function is and the true purpose of Nishnaab custom adoption. So, therein lies the task.<sup>228</sup>

This work may therefore be important to those interested in understanding the nature of Anishinaabe citizenship on its own terms, while also contributing to other studies focused on the nature of Anishinaabe belonging and identity formation.<sup>229</sup> When seen through the lens of adoption narratives, I argue (in Chapter 6) that Anishinaabe citizenship law at Fort William First Nation is based on a mutual claiming of each other that is never “done” but rather is narrated in the labour of continuously re-claiming each other. In short, citizenship is not permanent; it is renewed.

Fourth, as noted above in sub-section 2.1.1 (i.e. “Adoption and Indigenous Citizenships”), other Indigenous nations are engaged in reclaiming control over their citizenship orders. In such work, accounting for adoption and the citizenship-making principles that undergird it might be important to other peoples and nations. This dissertation therefore might be of interest to other Indigenous nations and scholars actively working to decolonize their nations’ citizenship practices.

Finally, seeing Anishinaabe citizenship law through adoption narratives holds a “subversive potential” that registers in larger Indigenous treaty-making political traditions. Here,

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<sup>228</sup> Conversation with Gichimanidoo-giizis.

<sup>229</sup> C.f.: Jill Doerfler, *Those Who Belong: Identity, Family, Blood, and Citizenship among the White Earth Anishinaabeg* (East Lansing: Michigan State University Press, 2015).

I am thinking of the role adoption narratives might play in developing non-state citizenships between Indigenous nations and immigrants as discussed by Amar Bhatia, and, respectively, Howard Johnson's framing of Treaty 6 as an adoption ceremony where the nehiyaw (Cree) of the prairies adopted the Queen of Great Britain and her descendants.<sup>230</sup> In discussions about decolonization that focus on removing the Canadian state from relations between peoples, Indigenous adoption laws tie directly to processes and possibilities for non-state citizenships of immigrants and migrants who are refused Canadian citizenship for various reasons. Such non-state citizenships might be informed by adoption's inherent potential to make people belong to/with Indigenous territories in ways outside Canadian law and the nation-state. Perhaps it is this "spectre" of Indigenous citizenship law that has at times forced policy change in Canada, such as when the *Indian Act* was changed in 1951 to reinforce Indian belonging as strictly something determined only by the federal department of Indian Affairs along attendant racialized and gendered lines.<sup>231</sup> On this note, adoption as a basis for Indigenous citizenship-making holds both great opportunity (in terms of strengthening Indigenous citizenship laws) and great challenge (in terms of the settler state retrenching its regulation of both citizenship and Indianness).<sup>232</sup> This dissertation situates adoption and citizenship making within these tensions.

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<sup>230</sup> Amar Bhatia, "Are We All Here to Stay? Indigeneity, Migration, and 'Decolonizing' the Treaty Right to Be Here," *Windsor Yearbook of Access to Justice* 31, no. 2 (2013): 39–64; Johnson, *Two Families*.

<sup>231</sup> Stevenson, "The Adoption of Frances T.," 471.

<sup>232</sup> Regarding the latter point, see: Teresa Smith, "Welcome to the Family: Algonquian People Adopt Haitian Canadians," *Ottawa Citizen*, November 19, 2012, <http://www.ottawacitizen.com/Algonquian+people+adopt+Haitian+Canadians+what+does+really+mean/7567922/story.html>. Richard Van Loon was paraphrased by Smith in the following way: "Canada has given aboriginals special rights ... but the government has believed those rights cannot be given freely to any other group."

## **Chapter 3**

### **How I Went About Doing this Work**

#### **3.0 Introduction**

This chapter outlines how I went about doing the research behind this dissertation. In graduate school, Indigenous Studies students are often required to complete courses that prepare them to conduct research of a variety of types, including research with Indigenous individuals and/or Indigenous communities. A “methodology” describes how that research is done. It often identifies concepts the researcher is relying on to conduct research. It can also identify the values, intentions and processes that are happening “behind the scenes” of a research project. Overall, explaining one’s methodology tells the reader how she went about developing new insights.

In explaining how I went about doing my research here, this chapter unpacks the theoretical framework in which the dissertation is located. As I explain below, this dissertation is framed by an “Indigenist” approach to research. After defining what this means, I then explain more clearly the research methodology I used to organize and make sense of the research data. I then identify the instruments I used to collect data (i.e. the “methods”), and the ways in which I analyzed that data. I also provide a description of how I related to the knowledge holders behind this study, as well as how I engaged with preparing and writing this dissertation.

#### **3.1 Theoretical Framework**

This section provides insight into the theoretical foundations I have used to frame, do and think through this research project.

When I think about theory, I think of sunglasses. When one puts on a pair, certain features of the world come into relief. A pair of sunglasses with yellow lenses, for example, will brighten up light coloured objects, thereby drawing one's attention to them. The person wearing those glasses can then talk about the objects she sees with more clarity; she may even be able to draw connections between objects that those without sunglasses might be missing. Sunglasses lenses come in many different colours. Blue lenses will allow the viewer to see something different than yellow lens, green lenses, etc. The metaphor takes on even more meaning when we add other types of vision-aids to the mix, such as night-vision goggles. Each set of glasses allows the viewer to see the world in unique ways. Thus, like sunglasses, there are many theories to choose from.

Others have discussed theory differently. Linda Smith, for example, writes that “at its most simple level, [theory] ... helps make sense of reality. It enables us to make assumptions and predictions about the world in which we live. ... If it is a good theory, it also allows for new ideas and ways of looking at things...”<sup>233</sup> Elsewhere, Leanne Simpson notes that theory is more than just about seeing the world, but is also an “explanation for why we do the things we do.”<sup>234</sup> It “contains within it a method or methods for selecting and arranging, for prioritizing and legitimating” how one goes about research.<sup>235</sup>

Bound up in “why we do things the way we do”<sup>236</sup> are the beliefs and values (the “axiologies”) that researchers bring to the research process. Each theory reflects different combinations of beliefs about what counts as useful research, and each reflecting differing goals.

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<sup>233</sup> Linda Tuhiwai Smith, *Decolonizing Methodologies: Research and Indigenous Peoples* (London: Zed Books, 1999), 38.

<sup>234</sup> Simpson, *Dancing on Our Turtle's Back*, 39.

<sup>235</sup> Smith, *Decolonizing Methodologies*, 38.

<sup>236</sup> Simpson, *Dancing on Our Turtle's Back*, 39.

Feminist theories, for example, are often concerned with diagnosing gendered power imbalances in society as they positively and negatively affect individuals. Many feminist theories value knowledges and lived experiences of differently gendered individuals, and situate liberation as their goal (specifically, liberation from patriarchy in its various expressions).<sup>237</sup> Fanonian decolonization theory, as another example, sees value in a “humanizing violence” meant to re-establish symmetrical power relations between peoples and amongst people.<sup>238</sup> The list could go on. My point here is that while there are many theoretical frameworks to work with, *why* someone chooses a particular one is important: it reflects the researcher’s values and goals, thereby in turn influencing what the project looks for, what its goals are, where and how it will look for data, and, ultimately, how that data will be analyzed to produce new knowledge.<sup>239</sup> Choosing a theoretical framework might be partly unconscious, or it may be fully intentional; maybe a person just happens to like the colour yellow, and chooses her sunglasses based this preference without knowing it. Or, alternatively, maybe she chooses night vision goggles on purpose because, well, sunglasses do not work so well at night (unless you’re trying to make a style statement). My point here is that explaining “why we do things the way we do” in research is an exercise in explaining why and how we arrive at certain conclusions.

Following this, the sub-sections below the theoretical frameworks that guide this dissertation. I have opted to use an “Indigenist” research framework to complete this study. Like

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<sup>237</sup> Joyce Green, *Making Space for Indigenous Feminism* (Black Point: Fernwood, 2007); Lester-Irabinna Rigney, “Internationalization of an Indigenous Anticolonial Cultural Critique of Research Methodologies: A Guide to Indigenist Research Methodology and Its Principles,” *Wicazo Sa Review* 14, no. 2 (1999): 109–21, doi:10.2307/1409555.

<sup>238</sup> Frantz Fanon, *The Wretched of the Earth*, trans. Richard Philcox (New York: Grove Press, 2004), 61; See also: Zeus Leonardo and Ronald Porter, “Pedagogy of Fear: Toward a Fanonian Theory of ‘safety’ in Race Dialogue,” *Race Ethnicity and Education* 13, no. 2 (2010): 139–57, doi:10.1080/13613324.2010.482898.

<sup>239</sup> Smith, *Decolonizing Methodologies*, 38. “[Theory] contains within it a method or methods for selecting and arranging, for prioritizing and legitimating what we see and do.”



any theory, Indigenist research emphasizes certain values and goals, and therefore influenced how I imagined and conducted this research. I believe strongly that the resurgence of Anishinaabe citizenship law can be informed by the unsaid values guiding adoption practices. This is a values statement in that it is my personal belief, one based on my lived experience.<sup>240</sup> To add more context to my theoretical approaches, I then explain how I see adoption narratives being used to promote the resurgence of Anishinaabe citizenship law and governance, and how I approached the knowledge holders to learn about this knowledge (i.e., I approached them as an “apprentice”). These influences all worked to shape my research questions, which I include in the final sub-section.

### 3.1.1 Indigenist Theory

Indigenist theory is a specific theory among many available research frameworks. As I show here, it emphasizes certain goals and values in research. Overall, Indigenist research is meant to benefit Indigenous communities in decolonizing ways.

Indigenist research is libratory in nature, and values and embraces knowledge gained through lived experiences of Indigenous peoples and their communities. As Lester-Iribanna Rigney notes, “[such] lived experiences of Indigenous Peoples [*sic*] enable Indigenous researchers to speak on the basis of these experiences and are powerful instruments by which to measure the equality and social justice of society.”<sup>241</sup> As Rigney goes on to point out, Indigenist research has no intention of remaining politically neutral, but centres emancipation and resistance to colonialism as its primary goals:

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<sup>240</sup> See section 1.2 in Chapter 1 of this dissertation.

<sup>241</sup> Rigney, “Internationalization of an Indigenous Anticolonial Cultural Critique of Research Methodologies,” 116.

Indigenist research is undertaken as part of the struggle of Indigenous Australians for recognition of self-determination. It is research that engages with the issues that have arisen out of the long history of oppression of Indigenous Australians, which began in earnest with the [colonial] invasion of Australia in 1788. It is research that deals with the history of physical, cultural, and emotional genocide. It is also research that engages with the story of the survival and the resistance of Indigenous Australians to racist oppression. It is research that seeks to uncover and protest the continuing forms of oppression confronting Indigenous Australians. Moreover, it is research that attempts to support the personal, community, cultural, and political struggles of Indigenous Australians to carve out a way of being for ourselves in Australia in which there can be healing from past oppressions and cultural freedom in the future.<sup>242</sup>

To me, Rigney's formation of Indigenist research centres the voices of Indigenous communities in research projects that aim to promote a decolonized future for Indigenous peoples first and foremost.

However, Indigenist research also raises questions not only about goals to be reached and who's voices are centered, but also about what intellectual systems will be given weight in the research process. Margaret Kovach emphasizes this point in her discussion about Indigenous methodologies, which are connected to Indigenous theories:

The infusion of Indigenous knowledge systems and research informed by the distinctiveness of [Indigenous] cultural epistemologies transforms [intellectual and academic] homogeneity. It not only provides another environment where Indigenous

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<sup>242</sup> Ibid., 116–17.

knowledges can live, but changes the nature of the academy itself. *Indigenous methodologies disrupt methodological homogeneity in research.*<sup>243</sup>

In other words, research that centres Indigenous peoples' experiences does not have to rely on western research methodologies, though doing so is not necessarily wrong.<sup>244</sup> Rather, my point in citing Kovach here is that Indigenist research creates the opportunities to centre Indigenous peoples' intellectual orders in research projects.

Leanne Simpson argues that addresses centering Indigenous intellectual orders in research is a critical component of Indigenist theory. In an article entitled "Advancing an Indigenist agenda: Promoting Indigenous intellectual traditions in research," she provides a list of principles that can root Indigenist research into such orders.<sup>245</sup> The 14-point list is not meant to be an exhaustive. However, it provides useful guidance on how Indigenist research projects can disengage from western theoretical frameworks. While the entire list is important to this project, I quote here 11 points that have influenced the design of this dissertation. Indigenist research

- privileges Indigenous ontologies, epistemologies and axiologies in research and highlights Indigenous voices and perspectives;
- adheres to the protocols of a particular Indigenous nations' intellectual traditions;
- draws primarily on Indigenous Knowledge systems, [and] may use a mix of interdisciplinary and emancipatory tools to support work;

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<sup>243</sup> Margaret Kovach, *Indigenous Methodologies: Characteristics, Conversations and Contexts* (Toronto: University of Toronto Press, 2009), 12. Emphasis mine.

<sup>244</sup> Manulani Aluli Meyer, "Mo'olelo & Palapala - Native Hawaiian Epistemology," in *Ho'oulu: Our Time of Becoming: Collected Early Writings of Manulani Meyer* (Honolulu: 'Ai Pōhaku Press, 2003), 83–84.

<sup>245</sup> Leanne Simpson, "Advancing an Indigenist Agenda: Promoting Indigenous Intellectual Traditions in Research," in *Sacred Landscapes*, ed. Jill Oakes et al. (Winnipeg: Aboriginal Issues Press, University of Manitoba, 2009), 141–54.

- challenges the authority of colonial institutions over Indigenous research;
- contests colonialism as its starting point, confronts colonialism in all facets, and acknowledges the colonial context within which Indigenous research takes place;
- articulates visions for decolonizing and for Indigenous resurgence;
- is anti-colonial in nature, but does not stop at just critiquing colonialism;
- is decolonial in nature, but also emphasizes visions for resurgence based on Indigenous traditions;
- promotes fluid, dynamic and *Indigenous* understandings of Indigenous Knowledge rather than a rigid, “fundamentalist” approach to traditions;
- advances the inclusion of women and children and a fluidity around gender promoted in many Indigenous cultures;
- places the decolonizing aspirations of Indigenous nations particularly in terms of Indigenous conceptualizations of “nationhood,” “sovereignty,” “self-determination,” and “treaties” as an essential political priority, but balances with the colonial reality our people face at the community level.<sup>246</sup>

The preceding points have influenced the design and implementation of this dissertation in crucial ways. Taking guidance from Simpson’s reflections on Indigenist research, this dissertation first diagnoses ways in which colonialism has attacked Anishinaabe citizenship law, specifically by targeting Anishinaabe adoption practices. However, I am not content to merely diagnose, but rather seek to propose a vision for how to replace colonialism and its hold on the way belonging is discerned at Fort William First Nation. Specifically, Chapters 4 and 5 diagnose how colonialism affects Anishinaabe citizenship practice historically and in the present, whereas

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<sup>246</sup> Ibid., 144–45.

Chapters 6 and 7 “[emphasize] visions for resurgence based on Indigenous traditions.”<sup>247</sup> This dissertation therefore goes beyond diagnosis by articulating how Anishinaabe families enact and perform Anishinaabe citizenship-making on their own terms.

### 3.1.2 Balloon Approach to Decolonization

Implicit within Indigenist theory is a model that I wish to emphasize here. In addition to the points I mentioned in the previous sub-section, this dissertation is framed by a model for decolonization I have developed over the last several years. I refer to this model as a “Balloon Approach to Decolonization.” I explain what I mean by this in this sub-section, as it will help to understand why I have constructed Chapters 4 through 7 in the ways that I have done.

The Balloon Approach to Decolonization is a model I developed to think through resurgence and decolonization. I began developing this model in 2011 while completing my Master’s degree in the Indigenous Governance program at the University of Victoria. As students, we had been asked by our professor whether there was a difference between acts of resistance and acts of resurgence. For example, we were asked to consider whether the armed resistance at Kanehsatake in 1990 could be explained as resurgence of Kanien'kehá:ka nationhood in the same way that language revitalization could be explained as a resurgence of culture and worldview. As a cohort of students, we discovered that one difference between resistance and resurgence was the level of violence associated with a given act; armed conflict at Kanehsatake could be described as “resistance” because it exposed Kanien'kehá:ka individuals to extreme physical violence.<sup>248</sup> Language revitalization, by contrast, is today a relatively safe act. While in the past speaking one’s Indigenous language could result in corporal and other types of

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<sup>247</sup> Ibid., 145.

<sup>248</sup> Alanis Obomsawin, *Kanehsatake: 270 Years of Resistance*, 1993, [https://www.nfb.ca/film/kanehsatake\\_270\\_years\\_of\\_resistance/](https://www.nfb.ca/film/kanehsatake_270_years_of_resistance/).

punishment,<sup>249</sup> today many language revitalization programs take place in loving and fun spaces. However, I argued that both acts – i.e. armed resistance and language revitalization – were simultaneously acts of resistance-resurgence. The resistance at Kanehsatake in 1990 was resistance for the reasons mentioned above, but it was also a resurgence of Kanien'kehá:ka territoriality and nationhood; language revitalization, too, is resurgence, but it is also resistance to a violent history in which Indigenous peoples in Canada were physically harmed for speaking their languages. These examples demonstrate that processes of decolonization in Canada are those that simultaneously resist colonialism and restrengthen Indigenous presence.

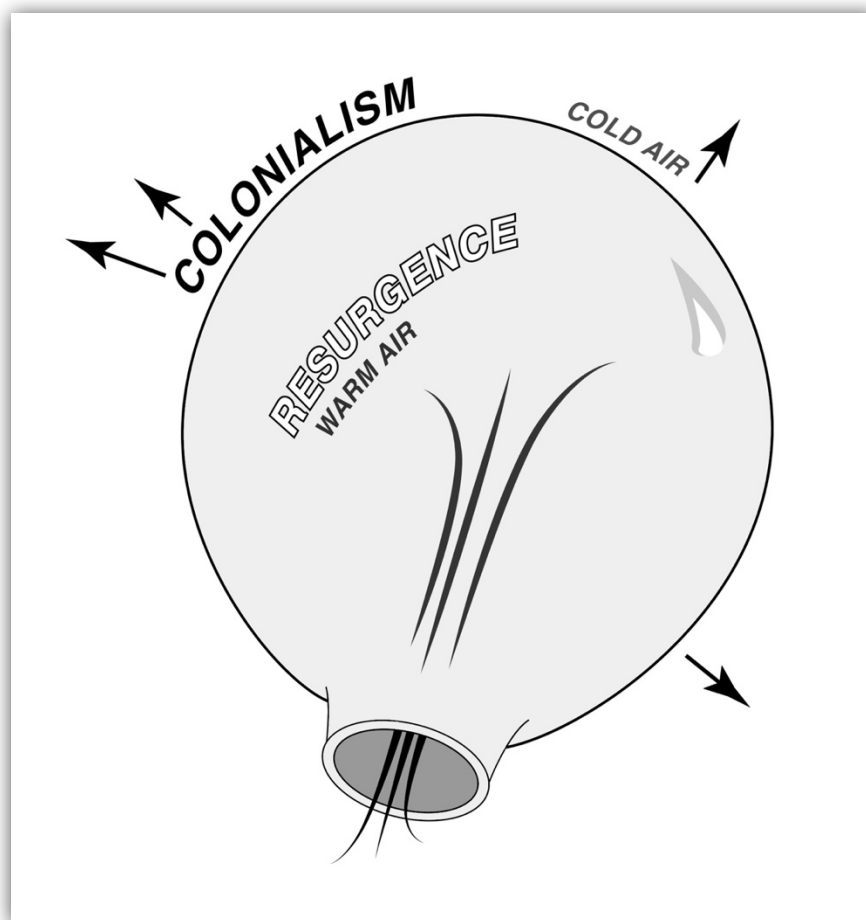
Over time, I found that this approach to explaining the relationships between resistance and resurgence was useful to conceptualizing decolonization more broadly. Its utility is found in its ability to avoid binary thinking. There are many definitions of decolonization. Some define it as pushing back against colonial power and colonial actors; others define it as taking back space from colonizing societies for Indigenous presence. Defining decolonization in these ways, however, can lead to an intellectual trap that reproduces colonialism in projects meant to undermine it. By this, I mean that establishing decolonization as a project of *either* pushing back on colonial power *or* taking space for Indigenous presence sets up a tension that scholars and community members then go about debating. I do not mean to suggest that such debates are a waste of time; however, when they revolve around a binary energy can be wasted when it could be invested in doing the work of decolonization itself.

I would argue that the Balloon Approach to Decolonization avoids this trap. My definition of the balloon approach embraces *both* the pushing back and the taking of space as a

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<sup>249</sup> Truth and Reconciliation Commission of Canada, *Canada's Residential Schools: The Final Report of the Truth and Reconciliation Commission of Canada.*, vol. 1, The History, Part 1: Origins to 1939 (Montreal: McGill-Queen's University Press, 2015), 617, 623–24.

dual approach to decolonization. For me, decolonization is like a balloon: it necessitates pushing back on the cold air of colonialism (outside of the balloon), while *simultaneously* filling up the inside of the balloon with the warm air of Indigenous presence (see Figure 5). In this metaphor, the “pushing back” is decolonization, and the “filling up” is resurgence.<sup>250</sup> When filling up a



**Figure 5: The Balloon Approach to Decolonization.** Designed by Damien Lee for use in this dissertation. Digitized by Kelsea Pelletier.

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<sup>250</sup> Marie Battiste and Sa 'ke'j Henderson, “Indigenizing the Academy: Indigenous Perspectives and Eurocentric Challenges” (University of Winnipeg, April 13, 2016), <https://youtu.be/Hnw-G-D4wG8>. Marie Battiste refers to something similar in the presentation referenced in this footnote. According to Battiste, decolonization requires both “deconstruction” and “reconstruction” much in the same way I am referring to “pushing back” and “filling up” here.

balloon, both phenomena happen at the same time; one pushes the cold air away through the action of filling up the centre with warm air. There is no need to debate which action is more important, as they both happen as part of the same function of filling up the balloon. The point is to fill the balloon with the most beautiful features of Indigenous intellectual, political, and legal orders.

Building on Simpson's list above, I would argue that the Balloon Approach is one way to conduct Indigenist research. It helps to organize research so that it is "decolonial in nature, [while] also emphasiz[ing] visions for resurgence based on Indigenous traditions."<sup>251</sup> Said visions imagine "other existences outside of the current ones by critiquing and analyzing the current state of affairs, but also by dreaming and visioning other realities."<sup>252</sup> This dissertation embraces these elements of Indigenist research by employing the Balloon Approach. Chapters 4 and 5 offer critiques of how Canadian settler colonialism have undermined Indigenous and Anishinaabeg citizenship orders through targeting adoption. However, in heeding Simpson's point that Indigenist research is "anti-colonial in nature, but does not stop at just critiquing colonialism," Chapters 6 and 7 demonstrate how Anishinaabe citizenship law is still being used by Anishinaabeg, and how these it can be strengthened. In other words, Chapters 4 and 5 "push back" on the cold air of colonialism while Chapters 6 and 7 "fill up" the spaces created by doing so. In this framing of things, the centre if filled with the warm air of resurgence.

### 3.1.3 Community Research

As an Indigenist study, this dissertation centres the Fort William First Nation community in several ways. First, it is written for use by the people of Fort William above all other

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<sup>251</sup> Simpson, "Advancing an Indigenist Agenda," 145.

<sup>252</sup> Simpson, *Dancing on Our Turtle's Back*, 40.



audiences. Second, it makes the claim that the people of Fort William have the knowledge needed to promote the resurgence of Anishinaabe citizenship orders. Because of these two points, I situate the people of Fort William as being the arbiters as to whether this dissertation is of any worth. This sub-section ties these points to literature on theoretical frameworks.

There are many definitions of “community.”<sup>253</sup> Communities might consist of groups of people with the same interests and positionalities, such as Indigenous women, “indigenous rights workers, indigenous artists and writers, indigenous health workers and indigenous researchers [sic].”<sup>254</sup> Communities might include “ethnic groups and neighbourhoods, church congregations and ceremonial societies, labor [sic] unions and activist organizations, fraternities and sororities, book clubs and basketball leagues.”<sup>255</sup> Of course, this dissertation is concerned with a specific Anishinaabe community and how citizenship is discerned by the people within it. Thus, the community I speak of here is not an interest group but a political community with its own conventions. In this sense, I situate Fort William First Nation in this study as its own community.

However, this does not mean that the of Fort William “ends” at the reservation border. Fort William is only one layer of a larger Anishinaabe community along the northwestern shores of Lake Superior. People who belong with Fort William live both on- and off-reserve; some are recognized as status Indians, others are not; some are members of the Fort William Indian Band while others are not. In this dissertation, therefore, the Fort William community I speak of is quite fluid but not without a gravitational centre. That centre is the allegiance people hold to the other people who belong with Fort William, and is traced through political criteria such as

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<sup>253</sup> Smith, *Decolonizing Methodologies*, 126. “Defining community research is as complex as defining community.”

<sup>254</sup> Ibid., 127.

<sup>255</sup> Lyons, *X-Marks*, 172.

familial bonds, ways of speaking, and ways in which they position Fort William as *their* self-determining community.<sup>256</sup>

Following this, Fort William definitions of citizenship and belonging not only guide this study, but will also be the measures that validate its findings. The study is concerned with the ways in which Anishinaabe citizenship is practiced by the people of Fort William, as seen specifically through the lens of adoption narratives. Citizenship in this sense will take on Fort William-specific connotations and is not meant to be universal (i.e. not meant to be prescriptive for all Anishinaabeg, and definitely not prescriptive for other Indigenous nations/communities). Such community-specific approaches are acceptable within community-based Indigenist research. “What community research relies on and validates is that the community itself makes its own definitions,” writes Smith.<sup>257</sup> Such definition-making is key to the resurgence of Indigenous political orders: if citizenship speaks to belonging with a political community, how that belonging is discerned, and what responsibilities come with it,<sup>258</sup> Fort William’s definitions will be valid in their own right.

Community research a useful approach to the completing the research of this study, therefore, because it centres the people of Fort William as both knowledge holders and arbiters of validity. Some have referred to community research as community action research in that it situates community members as active participants in research, and active leaders in their own lives and futures. Drawing on the work of Ernest Stringer, Smith discusses community research and community action research interchangeably:

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<sup>256</sup> Smith, *Decolonizing Methodologies*, 127.

<sup>257</sup> Ibid.

<sup>258</sup> 174 Lyons, *X-Marks*, 170.

Community action research ... “is a collaborative approach to inquiry or investigation that provides people with the means to take systematic action to resolve specific problems.” These approaches not only enable communities but enable indigenous [*sic*] researchers to work as researchers within their own communities. Community action approaches assume that people know and can reflect on their own lives, which can enhance (or undermine) any community-based projects.<sup>259</sup>

As Leanne Simpson argues, situating people as having this knowledge is key to promoting the resurgence of Anishinaabe ways of being:

In terms of resurgence, our Creation Stories tell us that collectively and intellectually we have access to all of the knowledge we need to untangle ourselves from the near destruction we are draped in, because Gzhwe Mnidoo transferred all of her/his thoughts into our full bodies.<sup>260</sup>

As an Indigenist scholar, I position the people of Fort William as having the knowledge needed to comment on Anishinaabe citizenship law and governance.

Finally, while this study is taking place within the academy, and is therefore required to meet certain benchmarks of rigour and design, it is also accountable to the people of Fort William. This accountability is measured in part by recognizing that the people of my community have the final say on whether my findings are valid. Centering Indigenous communities as arbiters of research validity is acceptable in Indigenous research.<sup>261</sup> This is due

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<sup>259</sup> Smith, *Decolonizing Methodologies*, 127.

<sup>260</sup> Simpson, *Dancing on Our Turtle's Back*, 44.

<sup>261</sup> Kovach, *Indigenous Methodologies*, 44. Kovach writes: “Will a framework representing a tribal methodology be recognized and respected in and of itself? The response to that question will depend largely on the assessor’s ideology.”

in part to Indigenous individuals themselves knowing what is best for their communities.<sup>262</sup>

Addressing this notion elsewhere in metaphorical terms, has Charlie Blackman noted:

On any given day, if you ask me where you might go to find a moose, I will say, “If you go that way, you won’t find a moose. But if you go that way, you will.”

So now, you younger ones, think about all that. Come back once in a while and show us what you’ve got. And we’ll tell you if what you think you have found is a moose.<sup>263</sup>

I have been hunting moose for the past six years.<sup>264</sup> And though I think I have finally got one,<sup>265</sup> it will be up to the people Fort William First Nation to tell me if this is so.

#### 3.1.4 Apprenticeship

Centering my community as the arbiter of determining the validity of this study affects how I imagined and positioned myself as a researcher. As noted in Chapter 1, I position “research participants” in this study not as informants, but as knowledge holders. This intentional choice has to do with the fact that I am a knowledge seeker; if I already knew everything about adoption and Anishinaabe citizenship orders, I would not have conducted this research project. Politically, the choice to frame my research relationships in this way recognizes the knowledge holders from my community as not only the experts on the relationship between adoption and Anishinaabe citizenship law as practiced at Fort William First Nation, but also as individuals who have a responsibility to carry and protect such knowledge(s) for future use by the

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<sup>262</sup> Charlie Blackman qtd. in Joseph E. Couture, “Native Studies and the Academy,” in *A Metaphoric Mind: Selected Writings of Joseph Couture*, ed. Virginia Margaret McGowan and Ruth Couture (Edmonton: AU Press, 2013), 160; Rigney, “Internationalization of an Indigenous Anticolonial Cultural Critique of Research Methodologies”; Simpson, “Advancing an Indigenist Agenda.”

<sup>263</sup> Charlie Blackman qtd. in Couture, “Native Studies and the Academy,” 160.

<sup>264</sup> I began my PhD studies in the Department of Native Studies at the University of Manitoba in September 2011.

<sup>265</sup> This dissertation is my “moose.”

community and other Anishinaabeg. Conversely, this means that neither I nor the University of Manitoba are in a position to judge the validity of the ways in which Anishinaabe citizenship is determined through adoption in their stories. Rather, my role is one of interpreting the stories shared with me in ways that respect Anishinaabe intellectual traditions,<sup>266</sup> that protect familial and community knowledges,<sup>267</sup> and respect my own sense of perspective.<sup>268</sup> Such a framing to the relationship between knowledge holder(s) and knowledge seeker(s) is key to Indigenist research; “the authority for how Indigenist research proceeds lies with those Indigenous Knowledge Holders, not with western experts,” writes Leanne Simpson.<sup>269</sup> Structuring my research relationships in this way, therefore, enabled me to simultaneously honour the knowledge holders’ authority as arbiters of Anishinaabe adoption and citizenship knowledge, and to decentre the authority given to me by the academy (and the academy itself).

In thinking through this knowledge holder-seeker relationality, Simpson’s framing of “apprenticeship” was helpful. Simpson points out that “apprenticeship with Elders” is an

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<sup>266</sup> Simpson, “Advancing an Indigenist Agenda,” 150. Simpson writes: “Keeping with Indigenist principles, [the] information is collected and “analyzed” using Indigenous theories, philosophical understandings and privileging Indigenous voices.”

<sup>267</sup> Simpson, *Mohawk Interruptus*, 111. Simpson connects the protection of collective knowledge with a contour of belonging, in which the researcher has a responsibility to respect knowledge holders’ refusal to share further information. This respect, she notes, is in part a demonstration of a researcher’s belonging with or allyship to an Indigenous community. She notes: “And although I pushed [a research participant], hoping that there might be something explicit said ... it was enough that he said what he said. Enough is most certainly enough. Enough, I realized, was when I reached the limit of my own return and a collective arrival. ... The ethnographic limit, then, was reached not just when it would cause harm (or extreme discomfort). The limit was arrived at when the representation would bite all of us and compromise the *representational* territory that has been gained in the past hundred years...” Emphasis original.

<sup>268</sup> James Dumont, “Journey to Daylight-Land Through Ojibwa Eyes,” in *The First Ones: Readings in Indian/Native Studies*, ed. David Reed Miller (Piapot Indian Reserve #75: Saskatchewan Indian Federated College Press, 1992), 75. Dumont emphasizes that subjectivity is critical to seeking knowledge. “[As] a necessary... step, we must make an attempt to ‘participate’ in [Indigenous ways of seeing the world]. The implications of this are very serious. Quite simply, if we are not willing to consider another way of ‘seeing the world,’ and take it seriously, we limit ourselves critically or eliminate entirely our chances of ever really appreciating North American Native mythology and legend.”

<sup>269</sup> Simpson, “Advancing an Indigenist Agenda,” 152.

important in research concerned with Indigenous communities and Indigenous knowledges.<sup>270</sup>

“For the researcher or one who is learning about the Aboriginal culture,” she writes, “it is essential to begin a relationship as well as dialogue with the Elders.”<sup>271</sup> Such relationship building is important because “Elders are recognized as historians or keepers of particular Aboriginal world views with the knowledge of culture, spirituality, social structure, they were the historians, philosophers, leaders and teachers of the community.”<sup>272</sup> Engaging Elders, then, is important when doing work that concerned with Indigenous communities.

While Simpson uses the word “Elder,” I take her to mean a person who holds culturally-based knowledge about a specific community and nation. The word Elder can sometimes be confused with a person who is old. However, not all who hold culturally-based knowledge are old people. Thus, I prefer the term “knowledge holder” because it avoids confusion about who can hold knowledge; it makes space for people of a variety of ages to be seen as knowledgeable about the world works and as holders of visions for decolonized future. In this way, the term “knowledge holder” resonates within an Indigenist theoretical framework that is in part based on “the inclusion of ... children” in research.<sup>273</sup> The term “knowledge holder” thus “promotes fluid, dynamic ... understandings of Indigenous Knowledge rather than a rigid, ‘fundamentalist’ approach to traditions.”<sup>274</sup>

The term “knowledge holder” also establishes a more respectful relationship between me as a researcher and the people I seek to learn from. I consider myself a “knowledge seeker.” If I

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<sup>270</sup> Leanne Simpson, “Anishinaabe Ways of Knowing,” in *Aboriginal Health, Identity and Resources*, ed. Jill E. Oakes et al. (Winnipeg: Departments of Native Studies and Zoology and Faculty of Graduate Studies, University of Manitoba, 2000), 177.

<sup>271</sup> Ibid.

<sup>272</sup> Ibid., 176.

<sup>273</sup> Simpson, “Advancing an Indigenist Agenda,” 145.

<sup>274</sup> Ibid.

knew everything there was to know about Anishinaabe citizenship, I would not have had to speak to anyone else about it. Quite simply, this is not the case. I know hardly anything about the topic of this dissertation. Framing my relationship with the “research participants” in a knowledge seeker-knowledge holder relationality is thus more reflective of the fact that they hold knowledge I wish to learn from. As noted in Chapter 1 (and in Appendix A), the knowledge holders of this study are of a variety of ages. Yet, they all have specific knowledge about adoption and belonging at Fort William First Nation that I seek to learn about.

Simpson’s use of “apprenticeship” is therefore an apt approach to framing my relationship with the knowledge holders for two reasons. First, it enables one as knowledge seeker to co-develop the research project with the help of knowledge holders, thereby emphasizing equality within the research relationship rather than emphasizing a top-down approach where the researcher is positioned as omniscient. This is reflective of the approach to community research that positions “people [as those who] know and can reflect on their own lives, which can enhance (or undermine) any community-based projects.”<sup>275</sup> Second, apprenticeship also provides a community-driven method for selecting knowledge holders as participants in this study; knowledge holders are aware of other knowledge holders within the community, and therefore can direct a knowledge seeker to others as needed.<sup>276</sup> I explain this second point more clearly in sub-section 3.4.1 below, where I explicate how I selected knowledge holders to speak to for this study. For the remainder of this sub-section, however, I will describe how apprenticeship effected the design of this dissertation research.

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<sup>275</sup> Smith, *Decolonizing Methodologies*, 127.

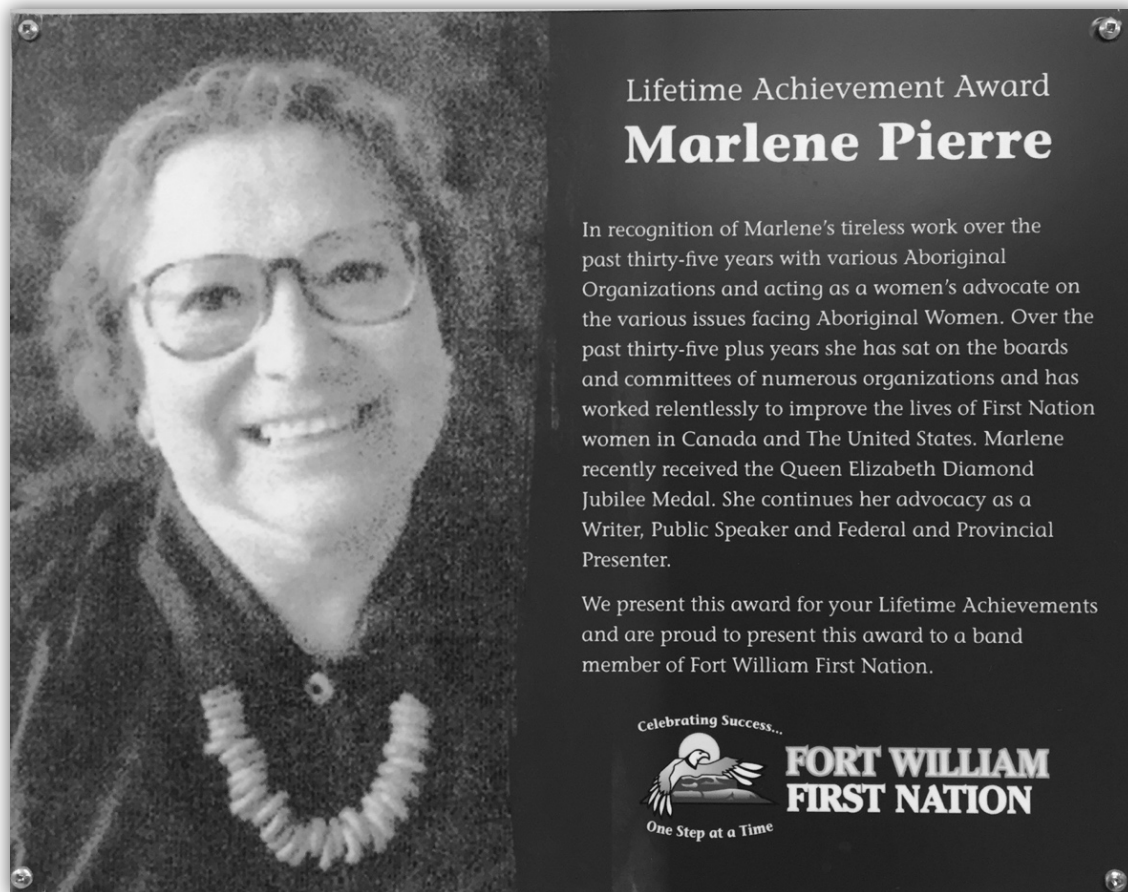
<sup>276</sup> Simpson, “Anishinaabe Ways of Knowing,” 177.

This dissertation is based on a research proposal that I defended in November 2014. The research proposal outlined the goals, theoretical approaches, methodology, and context for the dissertation research. In this sense, dissertation research proposal is critical part of the PhD degree process, as it sets the course of research, learning and, potentially, how the project will affect an Indigenous community.

Given the weight assigned to the research proposal, therefore, I felt it imperative that I meet with a Fort William First Nation knowledge holder *before* I began writing it. To me, this was a way to avoid tokenizing knowledge holders in my research design; I did not want to have something pre-written/pre-designed and then add a knowledge holder's insights to it only where they might fit within my existing plans. Rather, I wanted this research project to be structured in such a way that it resonates within Fort William beyond just what I thought would be relevant. I therefore reached out to a person named Marlene Pierre to assist me in planning this project.

Marlene Pierre is recognized as an adoption practitioner and Anishinaabe knowledge holder from Fort William First Nation (see Figure 6). At the outset of preparing my research proposal, I offered her tobacco with a request to be involved in this research project. She accepted the tobacco and agreed to work with me throughout the duration of this project. As an apprentice, I sought to learn from Marlene in genuine ways. To me, this meant more than just co-developing the research proposal with her, but extended to developing a genuine friendship between us. I did not do this because I "had to" for the research project to work, but because I wanted to and because I felt it was important to learn more about her and about where our relationship could go.





**Figure 6: Lifetime Achievement Award, Marlene Pierre.** Marlene’s plaque is included in the Fort William First Nation Community Achievement Awards “Hall of Fame,” located in the main hall of the Fort William First Nation Community Centre. Photo taken by Damien Lee, May 29, 2016.

Working with Marlene ensured my attention was focused on aspects of adoption and Anishinaabe citizenship that I may not have thought of beforehand. Marlene and I spent a lot of time together in 2014, preparing of this work. We met at least eight times between April and November that year to discuss the design of this project. Each meeting lasted several hours, and took place at a variety of formal and informal locations (i.e. the Lakehead University Library in Thunder Bay; at her house over tea; at a favourite local coffee shop). During and between our visits, time was dedicated to allow Marlene to read, reflect upon and critique the ideas that were

being laid out in the proposal. We also took the time to converse about my visions for this project, and how they might relate to her own. She shared her critiques and direction with me in written form (i.e. comments on my proposal; in emails) and verbally (over the phone and in person). This collaboration enriched this study in ways I will take years for me to fully appreciate. In sum, the research proposal, like this dissertation, then, reflects Marlene's valuable instruction to me as her apprentice in Anishinaabe customary adoption and citizenship laws.

Therefore, I see this dissertation as a partnership between Marlene and I and, to a different extent, between us and the knowledge holders who participated in the research conversations. While I position my relationship with Marlene as one of apprenticeship (where I am the apprentice knowledge seeker), I see this relationality extending to all thirteen knowledge holders as well. I believe that through this apprenticeship-based approach to research design and implementation, this dissertation is reflective of what Fort William First Nation adoption and belonging knowledge holders see as needed within the community at this time.

### 3.1.5 Research Questions

The points discussed in the preceding subsections have helped to shape the research questions guiding this study. This dissertation is focused on developing an understanding about Anishinaabe citizenship law specifically as it is seen through adoption narratives at Fort William First Nation. It is therefore less concerned with how Anishinaabe citizenship is practiced through other means, whether through family-making practices such as marriage or parenting, or other methods. That said, I believe that all family-making practices are guided by principles and values that guide Anishinaabe citizenship law and governance. This dissertation therefore contributes perspective on these principles and values, namely, a view of Anishinaabe citizenship law through the lens of adoption stories.

This study is guided by three research questions meant to focus my work and the knowledge holders' attention on the links between adoption and Anishinaabe citizenship. In order to ensure the knowledge holders could co-direct the research conversations (see subsection 3.3.1), the research questions guiding this work are necessarily broad. First and foremost, I ask: What does Anishinaabe citizenship law look like when seen through the lens of adoption narratives at Fort William First Nation? This overarching question allowed me to consider both positive and negative histories as they relate to adoption and citizenship-making practices. For example, in Chapter 4 and 5 I discuss the ways in which adoption has been derogated as a basis of belonging with Anishinaabeg; in this iteration, I find that adoption "looks like" a dirty word in some parts of Fort William's history. Yet, in Chapter 6 I then show that Fort William families use adoption as a form of self-determination in discerning citizenship with the community. In this sense, this research question shows that adoption is also seen as positive – or, not a dirty word – by the individuals and families that use it to renew the nation.

Going a bit deeper, this research question also allows me to show that Anishinaabe citizenship laws is both co-constitutive and re-constitutive, points I take up in Chapter 6. When Anishinaabe citizenship law and governance is looked at through adoption narratives, it is clear that there is a citizenship system in place at Fort William whereby individual families and adoptees negotiate the adoptee's belonging with broader families in the community. I argue in Chapter 6 that Anishinaabe citizenship is not simply a matter of one family adopting a child; rather, other families have a say in establishing consensus on whether that child is accepted by the broader community. I explain this further in Chapter 6. However, in developing this point, two further questions were useful. Thus, my second research question: How has adoption been discussed in reference to including/excluding people at Fort William First Nation? This question

piqued knowledge holders' interest in explaining why some individual adoptees belonged with the community, and why others did not. This was incredibly valuable to this dissertation; stories shared in relation to this question showed that an adoptee's belonging was contingent on whether she was accountable to the people of Fort William. Those adoptees that *were* claimed were those that demonstrated allegiance to the community; those excluded were those that chose not to take on responsibilities to care for the community in a reciprocal manner. I explain this further in Chapter 6.

Third and finally, given that the purpose of this dissertation first and foremost is to inform discussions about citizenship at Fort William First Nation (see section 1.1 in Chapter 1), it was important to also foreground elements of Anishinaabe citizenship law and governance that the community can access. Chapters 4 through 6 provide in-depth reviews of how Anishinaabe citizenship law has been attacked and how Fort William families continue to use it to practice self-determination. However, it was also important to emphasize what principles of Anishinaabe citizenship law were present in the knowledge holders' stories. To this end, the following question also guides this dissertation: What citizenship principles arise through adoption narratives as told by the people of Fort William First Nation? As I show in Chapters 6 and 7, several principles emerged through this work that I believe to be important to future citizenship discussions at Fort William. These include the principles of full inclusion, accountability to community, non-essentialism, decentralized decision-making, and *mino-bimaadiziwin* (continuous renewal). Combined with the first two research questions, then, this final research question enabled me to reach my overall goal, namely, to offer a perspective on Anishinaabe citizenship law through Fort William adoption narratives.

### 3.2 Methodology

Whereas a theoretical framework explains why we do the things we do, a “methodology” explains how a particular research project was conducted. Theoretical frameworks and methodology are not necessarily discrete concepts; components of both flow into each other. Thus, a methodology can also explain what a research values and what her goals are within a project. And like theoretical frameworks, there are many types of methodologies to choose from. This dissertation is framed by Indigenist theory, and its methodology is more specifically guided by an approach to research based in Anishinaabe intellectual traditions known as “Biskaabiiyang,” which I explain below.

Methodology has been defined in a number of ways. In her groundbreaking 1999 book, *Decolonizing Methodologies: Research and Indigenous Peoples*, Linda Tuhiwai Smith draws on Sandra Harding’s work to define methodology in this way: it is an explanation of the “theory and analysis of how research does or should proceed.”<sup>277</sup> Smith continues:

Methodology is important because it frames the questions being asked, determines the set of instruments and methods to be employed and shapes the analyses. Within an indigenous [*sic*] framework, methodological debates are ones concerned with the broader politics and strategic goals of indigenous [*sic*] research. It is at this level that the means and procedures through which the central problems of the research are addressed.<sup>278</sup>

In this sense, methodology is similar to theoretical framework in that frames the research and shapes how it will be done.

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<sup>277</sup> Sandra Harding qtd. in Smith, *Decolonizing Methodologies*, 143.

<sup>278</sup> Ibid.

However, I would argue Indigenous research methodologies also place an emphasis on transformation through the production of something new (i.e. new knowledge). For example, Cora Weber-Pillwax has defined Indigenous research methodologies as “those that enable and permit Indigenous researchers to be who they are while engaged actively as participants in research processes that creates new knowledge and transform who they are and where they are.”<sup>279</sup> To remain “who they are” while doing research that transforms them through the process does not mean researchers do not change; instead, I read Weber-Pillwax’s definition as incorporating a fluid approach to self-identity. Remaining who you are in research is, paradoxically, bound up in changing your perceptions through coming to know new knowledge. Coming to know new knowledge can change how one thinks and acts, in essence, who they are. To me, Weber-Pillwax’s definition gives researcher permission to change who they are through the research process; “to be who they are while engaged ... as participants in research processes that ... transform(s) who they are” is a call to personal transformation rather than rigid adherence to authenticity.

I point this out because I want to emphasize the transformative element of Indigenous methodologies. Kathleen Absolon has described methodology as a flower where both person and the world are transformed through research. “Our re-search [*sic*] is a learning journey, not always easy and sometimes scary,” she writes.”<sup>280</sup> A learning journey is transformative in that it brings a person to a new “location,” or perspective on things.<sup>281</sup> Drawing on the metaphor of the flower,

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<sup>279</sup> Cora Weber-Pillwax, “What Is Indigenous Research?,” *Canadian Journal of Native Education* 25, no. 2 (2001): 174.

<sup>280</sup> Kathleen Absolon, *Kaandossiwin: How We Come to Know* (Halifax: Fernwood, 2011), 85.

<sup>281</sup> *Ibid.*

Absolon notes that the leaves represent transformation.<sup>282</sup> They are the place in which sun, water, and nutrients are turned into something new: energy.

When I think about research methodology, then, I think about it not only in terms of why we do things the way we do, but how it promotes transformation. To me, methodology can be discussed metaphorically through making maple syrup. The goal of making maple syrup is to enjoy the taste of the syrup. When I make maple syrup with my friends and family at Fort William First Nation, I value the relationship renewal that comes with the process. Tapping the tress with spigots and using buckets to collect the same would be part of our “methods.” But the process of taking maple sap and boiling it down to syrup is the methodology: it transforms the watery sap into thick syrup. Bound up in this process is the how: we boil the sap over an open fire. However, transformation is the key to the whole process; if boiling sap did not result in syrup, we would not do this hard work. But because transformation is possible, my friends, family and I are willing to come together and put the work in to make something beautiful for the rest of the community to enjoy. Transformation is what drives the process.

In this section, therefore, I explain the ways in which this dissertation seeks to promote transformation. This is a methodological question in that how I went about doing the research matters. To draw on the maple syrup metaphor again, the quality of the syrup depends on the processes, tools and knowledges used; there is a big difference in quality between syrup that has been burned to a caramelized ash, and a syrup that one can pour into pancakes. In terms of this dissertation, the processes I used to produce new knowledge also matter. In the sub-sections that follow, then, I discuss my use of an Anishinaabe approach to research known as “Biskaabiiyang,” and how this methodology enabled me collect the “drops” of Anishinaabe

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<sup>282</sup> Ibid., 86.

citizenship law found in adoption narratives. Then, in my discussion on data analysis, I show how I transformed these “drops” into “syrup,” or how I produced new citizenship knowledge out of the knowledge holders’ stories.

### 3.2.1 Biskaabiiyang Methodology

This dissertation is guided by an Anishinaabe-centric Indigenist research framework known as Biskaabiiyang methodology. Biskaabiiyang is defined as “an approach to research that attempts to decolonize the Anishinaabeg and anishinaabe-gikendaasowin.”<sup>283</sup> Similar to the narrative metaphor of “pick[ing] up the things we were forced to leave behind,”<sup>284</sup> Biskaabiiyang methodology is focused on reconstituting Anishinaabe knowledge systems for Anishinaabe communities. It is about “returning to ourselves.”<sup>285</sup>

Wendy Makoons Geniusz discusses Biskaabiiyang methodology as a process of rebuilding Anishinaabe presence through collecting information that is hidden in plain sight. For Geniusz, she approaches this rebuilding in part by finding Anishinaabe botanical knowledge in archival documents. Often Indigenous knowledges can be found in archives, but the processes that they passed through in becoming archived were often steeped in racism and settler colonialism.<sup>286</sup> Such processes have denigrated Indigenous knowledges in the archive. However, as part of “find[ing] what was left by the trail,”<sup>287</sup> Geniusz argues that the pieces of information that are found should not be thrown away, but recontextualized in Anishinaabe knowledge systems and in conjunction with language speakers and/or knowledge holders.<sup>288</sup> “In order to use

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<sup>283</sup> Geniusz, *Our Knowledge Is Not Primitive*, 191.

<sup>284</sup> Simpson, *Dancing on Our Turtle’s Back*, 50.

<sup>285</sup> Anishinaabe Wordlist qtd. in Geniusz, *Our Knowledge Is Not Primitive*, 9. Geniusz translates anishinaabe-gikendaasowin as “knowledge, information, and the synthesis of our personal teachings.” See page 11.

<sup>286</sup> *Ibid.*, 97–104.

<sup>287</sup> Benton-Banai, *The Mishomis Book*, 91–93.

<sup>288</sup> Geniusz, *Our Knowledge Is Not Primitive*, 105.



this information to revitalize izhitwaawin,” she writes, “we need to decolonize it by taking usable information out of these texts, making additions where necessary, and leaving behind the degrading, ethnocentric comments made by their authors.”<sup>289</sup>

This dissertation employs a Biskaabiiyang methodology to find and rebuild/re-contextualize Anishinaabe citizenship law by listening for it in adoption narratives. I did this by positioning adoption narratives as manifestations of Anishinaabe citizenship law and governance, and then listened to them for principles that speak to how Anishinaabe citizenship law works. This enabled me to theorize adoption narratives as a legitimate part of Anishinaabe citizenship orders. Indeed, like the archives that Geniusz writes of, narratives about belonging at Fort William First Nation also face colonized attributes. Belonging is often first spoken of through the language of having Indian status, for example. Indian status is a settler colonial approach to determining belonging. In this context, as I discuss in Chapters 4 and 5, adoption is marginalized as *not* a form of citizenship-making. Biskaabiiyang challenges this state of affairs; it enabled me to speak to the knowledge holders about adoption in ways that revealed an entire citizenship governance system at play within Fort William in terms of how families decide amongst themselves who belongs (see Chapter 6).

Biskaabiiyang methodology also answers an authenticity conundrum that needs to be noted. As a methodology predicated on “returning to ourselves,” Biskaabiiyang could be misread as a call to have Anishinaabe citizenship practices emulate a frozen-in-time sense of Indigeneity. Blood quantum, for example, is based on exactly this idea, namely, that being Indigenous is a matter of assessing one’s degree of “genealogical proximity” to a supposedly pure gene pool of

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<sup>289</sup> Ibid. Geniusz translates “izhitwaawin” as “anishinaabe culture, teachings, customs.” See page 11.

Indians found at the time of contact.<sup>290</sup> This would be a false reading of what Biskaabiiyang is meant to do.<sup>291</sup> Rather, Biskaabiiyang, like Indigenist theory, embraces fluidity and transformation. As Leanne Simpson notes:

Within Nishnaabeg theoretical foundations, Biskaabiiyang does not literally mean returning to the past, but rather re-creating the cultural and political flourishing of the past to support the well-being of our contemporary [Nishnaabeg] citizens. It means reclaiming the fluidity around our traditions, not the rigidity of colonialism; it means encouraging the self-determination of individuals within our national and community-based contexts; and it means re-creating an artistic and intellectual renaissance within a larger political and cultural resurgence.<sup>292</sup>

In the context of this dissertation, I understand Simpson's take on Biskaabiiyang here to mean that Anishinaabe citizenship can be established in a number of ways. For example, while I critique lineal descent as way in which colonialism is perpetuated in Anishinaabe communities today,<sup>293</sup> I do not mean to suggest that birthing and parenting choices are "colonial" practices of renewing the nation. Indeed, both are incredibly important parts of national renewal. Rather, such an approach is colonizing when it becomes the *only* way in which belonging is discerned, to the point of excluding other aspect of Anishinaabe citizenship law, such as adoption. To me, this narrowing of belonging is reflective of the "rigidity of colonialism" Simpson writes of in the

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<sup>290</sup> Palmater, *Beyond Blood*, 119.

<sup>291</sup> For example: Simpson, *Dancing on Our Turtle's Back*, 52–53. As Simpson writes: "When viewed through a cultural lens, Biskaabiiyang is far from promoting an essential Nishinaabeg identity; instead, it promotes a diversity of political and cultural view points within the Nishinaabeg worldview. There are many good ways to be Nishinaabe, but those ways are constructed and exist within our knowledge and in our language."

<sup>292</sup> *Ibid.*, 51.

<sup>293</sup> See Chapters 4 and 5 of this dissertation.

quote above. It defines citizenship criteria, but in one ways (i.e. through sex) when several criteria exist.

A Biskaabiiyang methodology, by contrast, embraces a number of bases of citizenship making. While this dissertation focuses on adoption, I recognize that birthing customs and marriages protocols will also hold important citizenship principles given they are practices families use to renew the nation. I would argue that Anishinaabe citizenship governance would include all of these family making practices. This fluidity does not mean Anishinaabe citizenship law as seen through adoption narratives is any less an “authentic,” but rather makes room for ways in which Fort William First Nation families are going about discerning belonging on their own terms. Indeed, given that Indigenous citizenship orders are not always recognized by the settler state,<sup>294</sup> it is imperative that research on Anishinaabe citizenship orders be flexible enough to validate citizenship practices established by Anishinaabeg themselves. This dissertation embraces the Biskaabiiyang methodology and its acceptance of fluidity precisely for this reason.

### 3.2.2 Reading Between the Lines

Part of challenge in promoting the resurgence of Anishinaabe citizenship law at Fort William First Nation is, well, to find it. After generations of living under the *Indian Act*, Indian status has become the threshold proof of belonging in commonsensical ways. To have a “Status card” has, for many people, become the pre-requisite of affirming their belonging to/with a First Nation.<sup>295</sup> While this is understandable considering the fact that Canada has historically tied

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<sup>294</sup> Simpson, *Mohawk Interruptus*, 171, 175. As Audra Simpson notes, respectively, “the narratives of membership may work to build a sense of nationhood not from the sign and symbols of the state, but rather from the words and interactions of the people;” and that “[Mohawk citizenships] may not be institutionally-recognized, but are socially and politically recognized in the everyday life of the community...”

<sup>295</sup> Lawrence, *“Real” Indians and Others*, 221.

resources to Indian status and legally removed those without it from their communities,<sup>296</sup> it also presents a challenge when looking for evidence to point to about the continued existence of inherent Anishinaabe citizenship orders. As one person put it during the conversations that underpin this dissertation, “Is there Anishinaabe law, though? ... [U]nless people can see it ... it won’t fly with anybody.”<sup>297</sup> She was right.

The Biskaabiiyang methodology enabled me to locate Anishinaabe citizenship law without having to assess whether it measured up to some sort of external notion of authenticity.<sup>298</sup> The knowledge holders spoke of values that animated adoption, and why the community adopted certain individuals and not others. Anishinaabe citizenship values persist over time but change shape as needed.<sup>299</sup> Values such as love and truth, for example, can take on many expressions over time, but can animate both adoption and citizenship law.<sup>300</sup> Biskaabiiyang thus allowed me to “read into” the knowledge holders’ stories in ways that identified and validated the values families use to make people belong (I discuss these in Chapter 6). In order to better flesh out how such narratives can do this, however, I want to take a moment to reference John Borrows’ approach to spotting Anishinaabe citizenship law that is otherwise hidden in plain sight.

In a talk entitled “Who Are We and How Do We Know?,” Borrows points out that “[m]any of our debates that we’re having about citizenship throughout Indian Country don’t

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<sup>296</sup> Lawrence, “*Real*” *Indians and Others*; Simpson, “Captivating Eunice,” 118. Indigenous women who married men not recognized by the federal government as Indians were/are disproportionately affected by this system of identity regulation.

<sup>297</sup> Conversation with Iskigamizige-giizis.

<sup>298</sup> Simpson, *Dancing on Our Turtle’s Back*, 52–53.

<sup>299</sup> Doerfler, *Those Who Belong*, 37–38.

<sup>300</sup> John Borrows, “Seven Generations, Seven Teachings: Ending the Indian Act” (National Centre for First Nations Governance, 2008), 13–15, 30, [http://fngovernance.org/resources\\_docs/7\\_Generations\\_7\\_Teachings.pdf](http://fngovernance.org/resources_docs/7_Generations_7_Teachings.pdf).

fully involve our teachings as drawn from the earth and from our relationships or drawn from our language and we find ourselves talking about blood and we find ourselves talking about cutting off our relations.”<sup>301</sup> With this in mind, he moves through his thoughts in such a way that helps us to see law that is present right before our eyes. He notes that in reclaiming law in ways that re-centering Anishinaabe legal orders, we can “look to our own lands, our own territories, our people and our own relationships to try to construct, to try to revive our understanding of who we are and how we should be appropriately relating to one another.”<sup>302</sup>

In exploring this, Borrows draws on a common tenet of treaty-making language, namely, the idea that treaties are to last “as long as the rivers flow and the grass grows and the sun shines.” He moves through each of these three concepts, explaining how each can help us see Anishinaabe citizenship law. But for the sake of brevity, I will quote him only on the first motif, namely, “as long as the rivers flow.” He reads citizenship law in the nature of rivers in this way:

In Anishinaabemowin the word for the mouth of the river is Zaageen. At mouths of rivers you find a place of great life. This is where all the energy comes off of the land by way of organic matter and it feeds the vibrancy of life that would gather there and then, as the people of course come to use the plants and the fish and the animals and the birds in that place, this idea of Zaageen, the mouth of the river, is a place of nourishment, of growth, of abundance. And in Anishinaabemowin the word for 'love' is Zaagi'aa, (animate), or Zaagi'toon (inanimate). This is a constitutional principle that in the behaviour of the river, the abundance, the nourishment, the flow, the energy, the creation, the sustenance of life, is also how we should think about love. Our citizenship codes, at least as

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<sup>301</sup> Borrows, “Who Are We and How Do We Know?”

<sup>302</sup> Ibid.

Anishinaabe people, should look to those lessons and that language to think about what we might be able to do as Anishinaabe people to encourage that flow, to encourage that energy, to see that nurture and that nourishment flow to all our relations and not see them cut off by some artificial channeling that we might choose to put into that place.<sup>303</sup>

Borrows refocuses our attention away from the logics of discerning belonging put onto Anishinaabe communities by the state – in his words, “some artificial channeling” – and rather to look for those sources of laws that Anishinaabeg would have used for generations before being “Indian” became being more important than being Anishinaabeg. Borrows finds principles of citizenship law in Anishinaabemowin in the same way that this dissertation finds them in adoption narratives: he reads into it to identify and validate values within the word for “river” that resonate within Anishinaabe citizenship practices. This dissertation applies the same approach to read for principles of Anishinaabe citizenship in adoption narratives.

### 3.2.3 Analyzing the Data

The data collected throughout this project was analyzed in a number of ways. As noted in the my section on Methods, below (i.e. section 3.4), I collected data through literature reviews, a review of archival documents, and research conversations with the knowledge holders. In terms of analyzing data from the literature review and archival documents, I read and re-read the documents several times over the course years 2014, 2015 and into 2016. This approach allowed me to gain better insights into the written data, and enabled me to see how it connected with the knowledge holders’ narratives, and how it told a story of both settler colonial domination of

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<sup>303</sup> Ibid.11:38-14:13. This quote has been edited for readability. I did not use conventional editing techniques to signify where I made changes. Please review the transcript of Dr. Borrows’ talk for accuracy.

Indigenous citizenship orders, and how Indigenous peoples challenged this history (see Chapter 4 and 5 for my discussion on these points).

However, when it came time to analyze the research conversations, I did so by using a computer program called NVivo. NVivo is a qualitative data analysis program that provides researchers with robust analytical tools, including tools that enable a researcher to review data thematically. My goal in learning from the knowledge holders was to understand how they used stories to make sense of adoption and belonging. As Bryman, Teevan and Bell note, "narrative analysis" is a process of analyzing research data that is "concerned with the search for and analysis of stories that people tell to understand their lives and the world around them."<sup>304</sup> Using NVivo, I developed themes that reflected the ways in which the knowledge holders used stories to make sense of how adoptees belong with Fort William. Indeed, nearly all knowledge holders shared stories that, at times, suggested that adoption and adoptees did not fit into the status quo approaches to discerning belonging (e.g. if an adoptee did not have Indian status or a bloodline connection to the community, but were regarded as belonging nonetheless), yet they also demonstrated that Fort William families were including people into the community in ways not circumscribed by external forces such as the *Indian Act* or the concept of blood quantum. NVivo helped me to understand how the knowledge holders were making sense of this; in contexts where Indian status or blood quantum have become pre-requisites for Indigenous belonging, focusing on values can help communities and scholars to see how Indigenous peoples subvert colonizing approaches to belonging.<sup>305</sup> These values are not always evident in a single story, but can be found in listening for what stories *do* rather than how they try to make sense of belonging

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<sup>304</sup> Alan Bryman, Edward Bell, and James Teevan, *Social Research Methods*, 2nd Canadian Edition (Don Mills: Oxford University Press, 2009), 271–72.

<sup>305</sup> Doerfler, *Those Who Belong*, 37–40.

through externally imposed criteria for belonging such as Indian status.<sup>306</sup> Using NVivo, I was able to develop themes that focused on the unsaid values at play across all of the research conversations. Others have used NVivo when conducting research with Indigenous peoples, doing so in ways that required close collaboration with research participants to generate knowledge collectively.<sup>307</sup> Importantly, NVivo has certain limitations within Indigenist research; for example, it functions by distilling themes out of a broad range of qualitative data. Such distillation runs counter to Indigenous knowledge systems, which otherwise embrace holistic approaches to understanding data and information.<sup>308</sup> However, I chose to use NVivo as a tool because it enabled me to hone my understanding about what the thirteen knowledge holders shared with me. It helped me to see the structural elements of Anishinaabe citizenship law at play within the stories they shared with me. Evidence of this structure was strewn across the stories – often under the surface. This dissertation is primarily concerned with the structures that guide behaviour in discerning belonging through adoption, and it is this guidance that speaks to the existence law. In turn, NVivo enabled me to refine a vision about how adoption narratives could inform the resurgence of Anishinaabe citizenship law at Fort William First Nation.<sup>309</sup> In

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<sup>306</sup> I was less concerned, therefore, with exact dates and times, or, say, the year someone was adopted and whether that adoption took place in accordance with Anishinaabe or settler law. Instead, I was more interested in hearing how the knowledge holders narrated the ways in which adoptees were claimed by the community (or not).

<sup>307</sup> Lynn Lavallée, “Practical Application of an Indigenous Research Framework and Two Qualitative Indigenous Research Methods: Sharing Circles and Anishinaabe Symbol-Based Reflection,” *International Journal of Qualitative Methods* 8, no. 1 (2009): 21–40.

<sup>308</sup> Deborah McGregor, “Coming Full Circle: Indigenous Knowledge, Environment, and Our Future,” *The American Indian Quarterly* 28, no. 3 (2004): 385–410, doi:10.1353/aiq.2004.0101.

<sup>309</sup> Lavallée, “Practical Application of an Indigenous Research Framework.” I acknowledge the work of Lynn Lavallée here. Lavallée suggests that using NVivo within an Indigenist research framework is best done if the themes generated through the computer program are brought back to the knowledge holders before they are incorporated into the research findings; this allows the knowledge holders to re-constitute the themes rather than leaving such a responsibility to the knowledge seeker/researcher. I had not known about Dr. Lavallée’s work during the research conversation and analysis phases of this research project; had I known about it, I would have accounted for it in my research design. That said, all knowledge holders in this study were given the opportunity to review and amend their respective conversation



this sense, NVivo's limitation (i.e. its distillation approach) simply allowed me to find pieces of knowledge that I then re-built into a holistic form of information (i.e. this dissertation) that could then be given back to my community. Like a drop of maple sap into a bucket, this dissertation is merely one voice in a larger circle of discussion between me and my community, where I have been asked to identify themes that can be reintroduced into our collective discussions. Once themes were identified with the help of NVivo, I was then able to go deeper into them by looking for quotes and passages that represented a given theme, idea, or law. Such quotes and passages were then brought into this dissertation.

To me, using NVivo in this way fits within Biskaabiiyang research methodology. As mentioned in sub-sections 3.2.1 and 3.2.2 above, Biskaabiiyang methodology enables knowledge seekers to read between the lines of colonized text and contexts to find pieces of Anishinaabe intellectual orders. I would argue that basing belonging and identity on such things as Indian status is not dissimilar to a colonized text: it overwrites Anishinaabe citizenship orders with a Eurocentric vision of belonging where the threshold is belonging is discerned by the Canadian status.<sup>310</sup> By contrast, listening to the knowledge holders demonstrated that another legal order is at play at Fort William when it comes to families claiming people through adoption; adoptees came to belong with the community for reasons not hinging solely on Indian status or blood quantum. Rather, they came to belong through a legal system that I describe in Chapter 6. However, at times the knowledge holders could not break free of the language imposed on them through the *Indian Act*, meaning they used terms like "blood" and "status" to make sense of how they claimed adoptees. NVivo helped me move past these terms, and to focus on the values

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transcripts before I imported the transcripts into NVivo. (Of the thirteen knowledge holders, only one requested changes be made to their transcript, which I happily amended based on their direction)

<sup>310</sup> Indian Act, s.6.

animating the knowledge holders' actions. Using NVivo enabled me to see the pattern of values emerging across the all research conversations, which I might not have seen so readily had I focused on identifying values in individual conversations. A complete list of themes and sub-themes that emerged through my use of NVivo is included in Appendix C.

This approach was “grounded” in that I used NVivo to develop themes as they emerged. A researcher can develop new themes in NVivo as she read the transcript text; once established, the themes then act as a lens through which to view all transcript lines assigned to a given theme. With a click of a button, one can see every sentence across all research conversations relating to, for example, “negative attitudes towards adoptees.” Moreover, one can group and rename similar themes into a larger theme as the coding progresses, thus providing more clarity over time on what are the major themes of a research project. I took two instructional courses offered by NVivo's parent company,<sup>311</sup> to ensure I was using the software properly. The process of using NVivo to find themes took me approximately three months (June-August 2016), during which time I was fully immersed in the data.

In terms of understanding the knowledge holders' stories, I took an approach to data analysis that was immersive. I transcribed each research conversation personally. This enabled me to re-listen to the conversations and to establish new reflections that I may have missed during the actual conversations. I kept a journal during this process, making notes on themes that emerged as I transcribed. Such themes sometimes stood on their own, and other times connected to similar themes across the conversations. I made notes of these and set them aside for future use. I immersed myself in the data again by developing themes in NVivo.

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<sup>311</sup> Namely, QSR International. See: <http://www.qsrinternational.com/>

Once all the conversations were transcribed, I met with the knowledge holders again so that they could review the transcript for accuracy. After the knowledge holders confirmed accuracy of their respective transcript, I then loaded the transcripts into NVivo. These approaches enabled me to find themes across the research conversation transcripts to a much deeper degree. I compared these themes to those I had initially identified in my research journal. This helped to ensure validity – cross referencing the initial themes found through NVivo analysis with the initial themes identified in my journal reassured me that the NVivo analysis was staying true to my original experience in the research conversations.

Of final note, NVivo also provides the opportunity to represent raw data in vision form. NVivo's "Word Frequency" function, for example, can produce a "Word Cloud" based on the frequency of all words entered into NVivo (in my case, in transcript form). Figure 7 a visual representation of a Word Frequency query based on this project. It considers the top 1,000 words used by all thirteen knowledge holders.<sup>312</sup> As shown in Figure 7, words used more often appear in larger font. Word Clouds like this were useful in pointing me in different directions as I developed inferences based on the transcript data. Word Frequencies could be applied to all research conversations, or they could be focused based on participant attributes, grouping, for example, adoptees together to see what words they uttered most often during the conversations. This dissertation does not report on the results of those Word Frequency queries, but I used them to develop the themes that ultimately emerge in Chapters 6 and 7.

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<sup>312</sup> This Word Frequency query was limited to words that were at least three letters in length.



method is a technique for (or way or proceeding in) gathering evidence,” which differs from a methodology in that it does not explain the theory in why certain approaches were taken. A method is quite simply a “tool” a researcher uses.

This dissertation engaged six methods to gather data. These were: research conversations, mini sharing circles, a literature review, a review of archival documents, journaling, and ceremony. The sub-sections below explain my use of each of these in turn.

### 3.3.1 Research Conversations

At the centre of this dissertation are adoption narratives from my community. Rather than approaching the knowledge holders in an interview format, I opted to meet with them in a conversational format. Margaret Kovach writes that “conversation is a non-structured method of gathering knowledge.”<sup>313</sup> “An open-structured conversation method shows respect for the participant’s story and allows research participants greater control over what they wish to share with respect to the research question.”<sup>314</sup> Conversation differs from a research interview in two key ways. First, as Kovach writes, it is “unlike standard structured or semi-structured interviews that place external parameters on the research participant’s narrative.”<sup>315</sup> Such an approach recognizes the fluidity of storytelling,<sup>316</sup> which is important to this dissertation considering I am interested in understanding what Anishinaabe citizenship law looks like through adoption *narratives* at Fort William First Nation. Second, conversation levels the playing field in terms of power differentials.<sup>317</sup> When working with narratives, then, a conversation method is useful because

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<sup>313</sup> Kovach, *Indigenous Methodologies*, 51.

<sup>314</sup> *Ibid.*, 124.

<sup>315</sup> *Ibid.*

<sup>316</sup> *Ibid.*, 125.

<sup>317</sup> *Ibid.*, 124.

[r]esearch participants accustomed to the oral tradition of sharing through story will self-regulate their response to ensure that the question is being respected and answered. They will also provide the necessary contextual detail. It becomes less about research participants responding to research questions, and more about the participants sharing their stories in relation to the question. They may do this in a direct or indirect fashion.<sup>318</sup>

Indeed, research conversations offer knowledge holders *more* power in the research process since it allows them to decide what I needed to know.<sup>319</sup> This, I would argue, meets part of the criteria of Indigenist research that asks scholars to decentre the authority of the academy,<sup>320</sup> and especially the authority the academy awards to them (i.e. the researcher) in research relationships.

I used conversation as a data gathering method in this dissertation. As noted in Chapter 1, I met with a total of thirteen knowledge holders from Fort William First Nation who carry stories about adoption and citizenship. Conversation was a useful approach to gathering information about adoption narratives in that it allowed the knowledge holders to tell me whatever they felt important on this topic. While I had prompting questions in mind if the conversation stagnated, I rarely had to use them. The knowledge holders had many stories to tell; conversation enabled them to take me where ever they had to go.<sup>321</sup> Embedded in their personal stories are values, motifs, and, ultimately, I argue, legal precepts that speak to how adoption can inform the re-strengthening of Anishinaabe citizenship practices.<sup>322</sup> Since I do not know everything there is to know about Anishinaabe citizenship law, therefore, it was important for me to not control the

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<sup>318</sup> Ibid., 124–25.

<sup>319</sup> Ibid., 125. “The power lies with the research participant, the storyteller.”

<sup>320</sup> Simpson, “Advancing an Indigenist Agenda,” 145. Namely: Indigenist research “challenges the authority of colonial institutions over Indigenous research.”

<sup>321</sup> Kovach, *Indigenous Methodologies*, 124–25.

<sup>322</sup> See Chapters 6 and 7 of this dissertation.

conversations for fear of steering them away from important information. In short, if I do not know everything about Anishinaabe citizenship law, how could I have properly determined where the conversations could go? Turning control over to the knowledge holders enabled *them* to tell *me* what is/was important.

For example, one knowledge holder spent a great deal of time explaining why her biological mother and her biological family could not care for her. At first, I did not understand why we were spending so much time on this part of her life. But according to the conversation approach, I did not have to understand why they were going in certain directions.<sup>323</sup> “The onus is upon the researcher to honour this more exploratory approach and try not to interrupt a story through redirectional prompting.”<sup>324</sup> Conversation positioned this and the other knowledge holders as being in the “driver’s seat” of the research conversation. They were telling me what *they* needed me to know about adoption and belonging.<sup>325</sup> As the knowledge seeker, it was up to me to reflect on what she said and to make sense of it in the context of this dissertation.<sup>326</sup>

All conversations were recorded with an audio recording device, and then transcribed by me. The knowledge holders were given a chance to review their respective transcript for accuracy and/or to add or remove elements from them if they wished.<sup>327</sup> Once approved, the transcripts were then imported into NVivo and analyzed thematically, as discussed in sub-section 3.2.3, above.

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<sup>323</sup> Kovach, *Indigenous Methodologies*, 125.

<sup>324</sup> Ibid.

<sup>325</sup> Ibid., 124–25. Conversation “becomes less about research participants responding to research questions, and more about the participants sharing their stories in relation to the question.”

<sup>326</sup> Ibid., 125.

<sup>327</sup> Of the thirteen knowledge holders, only one person requested changes be made to their respective conversation transcript. I amended the transcript as requested and then presented the amended version to them for review. They approved the amended version for use in this dissertation.

### 3.3.2 Mini Sharing Circles

When possible, I met with several knowledge holders from the same immediate family at the same time – including adoptees, adopters, and siblings – as this helped to toggle collective memories/stories about how adoption creates family members who fully belong with Fort William First Nation. I refer to these groupings as mini sharing circles, as they consisted at most of three people at a time (but most often only two).

Like conversations, mini sharing circles foster open structured interactions between the knowledge seeker and the knowledge holder(s).<sup>328</sup> In such spaces, the knowledge seeker is not seen as the “expert” but as a participant in a conversation about a specific type of knowledge or experience.<sup>329</sup> In this way, sharing circles “engender story” and differ from structured methods (e.g. “focus groups”) in that they recognize the authority of the knowledge holders to co-determine where the conversations go.<sup>330</sup>

Mini sharing circles worked well for this dissertation. The knowledge holders did in fact toggle memories for each other that led to deeper conversations. However, I experienced some limitations with this method in reality. Due to individual schedules, and intra-family dynamics, at times I had to meet with three of the thirteen knowledge holders in one-on-one format,<sup>331</sup> the remaining ten knowledge holders met in mini-sharing circles. In all cases, I used conversation as method (see sub-section 3.3.1, above).

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<sup>328</sup> Kovach, *Indigenous Methodologies*, 124.

<sup>329</sup> Fitznor qtd. in *ibid.* “Everybody gets a chance for input.”

<sup>330</sup> *Ibid.*

<sup>331</sup> I met with three knowledge holders one-on-one, and the remaining ten knowledge holders in mini focus group format with two to three people meeting with me at a time. The three knowledge holders I met with one-on-one were: Miin-giizis, Manidoo-giizisoons, and Waatebagaa-giizis.



### 3.3.3 Reviewing Archival Documents

In addition to the methods noted elsewhere in this section, this dissertation engaged archival documents pertaining to how settler colonial bureaucrats targeted Anishinaabe citizenship law by denigrating adoption practices.<sup>332</sup> Despite suffering from colonizing biases,<sup>333</sup> the archival record holds information about how settler governments targeted Anishinaabe adoption practices as a way to undermine their inherent citizenship orders.<sup>334</sup> Reviewing them allows me to show the colonialists' attacks on Anishinaabe citizenship orders. With this in mind, I collected primary documents from Archives of Ontario (AO) pertaining to how settler bureaucrats went about doing this work. As I explain in Chapter 5, the Province of Ontario found itself in legal proceedings with the Dominion of Canada in the decades after confederation. At the core of these proceedings was a debate over whether the provincial or federal governments were liable for treaty annuity payments arrears under the Robinson-Superior and Robinson-Huron Treaties of 1850. The archival documents show that provincial bureaucrats developed a strategy to reduce the province's financial liability specifically by targeting Anishinaabe adoption practices. My rationale for choosing to include this information is based on two facts: first, Fort William First Nation is a signatory party to the Robinson-Superior Treaty,<sup>335</sup> and thus has an historical and present interest in how these treaty annuities are paid. That provincial bureaucrats targeted adoption in these matters is significant considering the ways in which

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<sup>332</sup> See Chapter 5 of this dissertation.

<sup>333</sup> Geniusz, *Our Knowledge Is Not Primitive*, 92–112.

<sup>334</sup> For example: E.B. Borron to Æmelius Irving, 7 May, 1895, Irving Fonds, 1027-1-2, MS 1780, Archives of Ontario, <http://bit.ly/25HszGT>; c.f.: Stevenson, "The Adoption of Frances T." Also see Chapter 5 of this dissertation.

<sup>335</sup> Canada, Indigenous and Northern Affairs Canada, "Copy of the Robinson Treaty Made in the Year 1850 with the Ojibewa Indians of Lake Superior Conveying Certain Lands to the Crown," accessed June 16, 2016, <http://www.aadnc-aandc.gc.ca/eng/1100100028978/1100100028982>.

adoption is seen as suspect at Fort William today.<sup>336</sup> Second, the Fort William Indian Band's band membership practices may be influenced by the citizenship reclamation work being conducted by the Union of Ontario Indians (UOI) (discussed in Chapter 5). Many UOI First Nations are the very communities that said provincial bureaucrats targeted to save money on treaty arrears. Reviewing the primary documents archived at the AO thus enabled me to trace the ways in which adoption has become a "dirty word" in terms of discerning belonging within First Nation generally. I do not argue that the provincial bureaucrats' theorizations had a direct impact on band membership practices today; rather, by comparing their work next to the ways in which the UOI citizenship law marginalizes adoption, I am able to draw out an "uncomfortable juxtaposition" that, I argue in Chapter 5, can help Anishinaabeg communities avoid reproducing mistakes of the past.

#### 3.3.4 Journaling

Indigenist research makes space for the researcher's self in the research process and in the findings. Indeed, including one's self in the research assists readers in locating the researcher's positionality, thereby creating opportunities for accountability and relationship between reader and researcher.<sup>337</sup> Journaling is one method researchers can use to trace how their thoughts develop or transform through the research process, thereby providing a source of data that can be drawn on and included in the research write-up.<sup>338</sup>

Margaret Kovach discusses the importance of keeping a journal in her research work, noting the difference between journaling and "field notes":

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<sup>336</sup> See Chapter 5 of this dissertation.

<sup>337</sup> Absolon and Willet, "Putting Ourselves Forward: Location in Aboriginal Research."

<sup>338</sup> Kovach, *Indigenous Methodologies*, 50.

Closely related to the issue of self-location in research is purpose. ... As a means of capturing personal reflections throughout the research journey, I elected to record my thoughts in a journal during the course of research. Unlike field notes, which I understand to be recording of observations made during field study, this journal captured reflections on thoughts, relationships, dreams, anxieties, and aspirations in a holistic manner that related (if at time only tangentially) to my research. It offered a means for tracing personal analysis and discoveries of the research that were emerging in narrative. It became a tool for making meaning and showed evidence of process and intent.<sup>339</sup>

In other words, journaling helps to root a researcher in the project by ensuring he is self-aware about his transformation as a result of the research and the relationships that come with it, and self-aware about why he is doing the project.

I used a research journal during the research phase of this study. Like Kovach, my journaling practice during this research focused on “tracing personal analysis and discoveries”<sup>340</sup> during the research process. This was achieved in two ways. First, I kept my journal close at hand throughout the entire research process so that I could find it easily when a new connection was made in my mind. Often, between interviews or while reviewing written material my mind would make connections between what the knowledge holders were saying or connections between the knowledge holders’ narratives and the literature. These connections were insights that emerged through the research process. When made, they felt important and I did not want to forget about them. I therefore stopped whatever I was doing and wrote the idea into a journal entry so that I could go back to it later on. My journal, therefore, has many small entries of

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<sup>339</sup> Ibid.

<sup>340</sup> Ibid.

epiphany-type thoughts. Some of these thoughts turned out to be insignificant, while others turned out to be critically important to this dissertation. For example, the connection between Anishinaabe citizenship being “re-constituted” over time at the Fort William First Nation Remembrance Day ceremony, as discussed in Chapter 6, appeared to me in just this way.

The second way I traced personal analysis and discovery was by journaling specifically about the research conversations. After every conversation held with the knowledge holders, I made time to sit by myself so that I could reflect on the time I just shared with my relations. This journaling practice was useful in that it provided me with a written record of my initial reactions to the research conversation. This offered an alternative source of information on each conversation; all conversations were recorded with an audio recording device and later transcribed, thus providing an accurate record of what was said. However, journaling provided me with a way to capture my thoughts on what was *not* said: i.e. my feelings, and the connections I made between what one knowledge holder said and maybe what another knowledge holders had said from an entirely separate research conversation. This practice was important because it identified common themes between the knowledge holders’ narratives that I experienced as real-time insights that I could go back to when I was transcribing the conversations and, later still, during the thematic analysis stage (see my discussion on using NVivo in sub-section 3.2.4, above). For example, my discussion on Anishinaabe citizenship being re-constitutive in nature, as discussed in Chapter 6, emerged originally through journaling in this way.

Begele Chilisa’s thoughts on research journaling helped to organize my post-conversation journaling practice. Chilisa provides a journaling framework that is useful to focus researchers’ reflections on specific elements of post-interview journaling. She suggests researchers reflect on

the tone of the conversation/interview, its difficulty, the relationship between research and interviewee/knowledge holder, whether any embarrassing moments occurred, surprises, and any ethical dilemmas that might arise.<sup>341</sup> I used this framework to structure my post-conversation journal entries after each meeting with the knowledge holders.

Chilisa's journaling framework was helpful in my self-reflective practice. For example, my post-conversation journal entries note important insights that were missing from the conversation transcripts. My journal entries note that the conversations were full of laughter, indicating a level of intimacy that I felt was important to the research process in that it reflected and/or established trust between me and knowledge holders. I felt that this trust, in combination with the protection of anonymity, fostered an environment where the knowledge holders felt comfortable telling me not only about themselves, but also about how they felt about other people's adoption practices. As the following journal entry shows, this level of sharing was directly associated with laughter: "We also laughed at times, and [she] felt comfortable enough ... to talk about other people."<sup>342</sup> This observation reminded me about how this knowledge holder in particular wanted to tell me about how the community claimed other adoptees, but they needed to do so by talking about other people. Such could be seen as "gossip;" if her discussion about others was misread by me *as* gossip, her relationships might be thrown out of balance. Laughter indicated she was comfortable enough with me to talk about others in the way she needed to. This was not gossip: it was a description about how other Fort William families perform citizenship governance from her perspective.

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<sup>341</sup> Bagele Chilisa, *Indigenous Research Methodologies* (Thousand Oaks: SAGE, 2012).

<sup>342</sup> Damien Lee, post-conversation research journal entry. I chose not to include the date here in order to protect this knowledge holder's anonymity.

I also made journal observations about the tone of the conversations. In my conversation with Iskigamizige-giizis, for example, there was a drastic shift in tone at one point during our meeting that turned out to be very significant to this dissertation.<sup>343</sup> Iskigamizige-giizis became unsettled when trying to reconcile while she accepts certain adoptees and not others.<sup>344</sup> My post-conversation journal entry captured this unsettlement:

There was a change in tone about 3/4 of the way thru [*sic*], when she reconciled the fact that she was critical of some adoptees, and not others. She felt confused, and unsettled, and described this feeling [*sic*]. She was perplexed, and I couldn't help but wonder if she wasn't feeling a bit hypocritical. This was productive overall because it opened a space for us to talk about how we have all internalized blood quantum/racialized logics of belonging.<sup>345</sup>

To me, this shift in tone signaled a disruption in common sensical approaches to discerning and understanding belonging. She struggled to make sense of why some adoptees belong and some do not. As I argue later in this dissertation, Iskigamizige-giizis's unsettlement in regards to how she feels about adoption at Fort William First Nation reflects Indigenous adoption practices' "subversive potential" as discussed by Allyson Stevenson.<sup>346</sup> I draw these connections out in Chapter 6.

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<sup>343</sup> She expressed unsettlement about how she thinks about belonging through adoption narratives. This significance is taken up in Chapter 6 of this dissertation. See section 6.1 therein.

<sup>344</sup> See section 6.1 in Chapter 6 of this dissertation.

<sup>345</sup> Damien Lee, post-conversation research journal entry. Here, I am reflecting on my conversation with Iskigamizige-giizis, held January 25, 2016,

<sup>346</sup> See: Stevenson, "The Adoption of Frances T.," 471. This connection is better drawn out in Chapter 6 of this dissertation.

### 3.3.5 Ceremony

I used ceremony to prepare myself for this research project. Before reaching out to the knowledge holders, I gave tobacco to my friend Al (Bert) Hunter of Manitou Rapids (Rainy River First Nations, Ontario), and asked if I could join a sweat lodge ceremony so that I could ask for guidance on how to complete this research project. Al agreed and I joined him and several other people for the sweat. During this ceremony, I asked for guidance on how to proceed with the research.

Indigenous scholars have written about the importance of using ceremony in research. Margaret Kovach, for example, associates ceremony with nehiyaw epistemology, noting that “[f]rom a traditional Cree perspective, seeking out Elders, attending to holistic epistemologies, and participating in cultural catalyst activities (dream, ceremony, prayer) are all means for accessing inward knowledge.”<sup>347</sup> Kovach notes that paying attention to this inward knowledge is “not optional” in nehiyaw epistemology because it is part of preparing one’s self to be of use to their community.<sup>348</sup> Elsewhere, Michael Hart has highlighted the importance of ceremony in research, noting his use of giving tobacco, fasting, pipe ceremonies, and sweat lodge ceremonies in his dissertation research process.<sup>349</sup> In describing the significance of ceremony in his own research process, Hart notes that

ceremonies prepared me for this research, supported me during this research, and supported me in my reflections, analysis, and synthesis. They helped me to ground my mind and heart in Cree culture. This grounding helped me to keep focused on the Cree

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<sup>347</sup> Kovach, *Indigenous Methodologies*, 49–50.

<sup>348</sup> Ibid.

<sup>349</sup> Michael Anthony Hart, “Cree Ways of Helping: An Indigenist Research Project” (Unpublished Dissertation, University of Manitoba, 2007), 158–59, <http://hdl.handle.net/1993/8028>.

aspect of the study, as opposed to such discourse as postmodern and critical theories and theorists which had initially captivated my attention.<sup>350</sup>

To me, Kovach and Hart's respective works suggest that ceremony is important because it helps individuals researchers centre themselves in relation not only to the research, but to the communities they are working with during the research process. To me, this emphasizes the importance of researcher accountability.

Elsewhere still, Umeek (Richard Atleo) notes that ceremony is important to research concerned with Indigenous peoples' and communities because it emphasizes that coming to know new knowledge is a highly personal process. In his books *Tsawalk: A Nuu-Chah-Nulth Worldview* and *Principles of Tsawalk: An Indigenous Approach to Global Crisis*, Umeek presents us with a culturally-based method of inquiry known as *oosumich*. *Oosumich* refers literally to a vision quest – often associated with establishing a whale hunter's relationship with a specific whale that he will hunt.<sup>351</sup> In its ceremonial form, it is “a secret and personal Nuu-chah-nulth spiritual activity that can involve varying degrees of fasting, cleansing, celibacy, prayer, and isolation.”<sup>352</sup> In this way ceremony requires a subjective approach to learning because only the individual can know how to meet the responsibilities given to her from the spirit world. In other words, *oosumich* makes knowledge seekers active participants in coming to know new knowledges.

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<sup>350</sup> Ibid., 159.

<sup>351</sup> Charlotte Coté, *Spirits of Our Whaling Ancestors: Revitalizing Makah and Nuu-Chah-Nulth Traditions* (Vancouver: UBC Press, 2010), 23–26; Umeek (E. Richard Atleo), *Principles of Tsawalk: An Indigenous Approach to Global Crisis* (Vancouver: UBC Press, 2012), 97–102.

<sup>352</sup> Umeek (E. Richard Atleo), *Tsawalk: A Nuu-Chah-Nulth Worldview* (Vancouver: UBC Press, 2004), 17.



As a method, *oosumich* allows a knowledge seeker to access information from the spiritual realm that can address a variety of challenges in the physical and social world.<sup>353</sup>

Umeek discusses the practicality of *oosumich*-as-method in discussing his great grandfather's intellectual accomplishments, not all of which had to do with whale hunting:

Keesta was not only a whaling chief, but also an *ushdaxyu* (Nuu-chah-nulth doctor). He acquired medical knowledge about how to cure illnesses in the same way that he acquired knowledge about how to bring a great whale into his community in order to provide for its collective wellbeing – that is, by utilizing the *oosumich* method. Keesta's successful *oosumich* practice opened the storehouse of knowledge that is assumed to be common to both the spiritual and physical realms since both are creation of a single source: Qua-ootz [creator or the great mystery].<sup>354</sup>

What I take from this is that *oosumich* requires one to enter into a relationship with the ecology, done by actively participating in fasting, cleansing, celibacy, prayer, isolation, in ways that respect Nuu-chah-nulth protocols found in storytelling.<sup>355</sup> The personality of the land differs from place to place, requiring active participation in relationships that have distinct forms, and produce localized knowledge.<sup>356</sup> Knowledges concerned with successful whale hunts on the Pacific Ocean might not help a person successfully maintain manoomin (rice) beds in the Great Lakes region because the nature of the land and its beings differ between these places. Methodologically, this suggests that producing new information is less about producing

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<sup>353</sup> Ibid., 84.

<sup>354</sup> Ibid., 94.

<sup>355</sup> Ibid., 17–22.

<sup>356</sup> Henderson, *First Nations Jurisprudence*, 152.

information with universal applicability, although some values may have broad resonance,<sup>357</sup> and is more about producing knowledge that addresses localized needs first and foremost.

I used ceremony for in this study for all the reasons listed above. It helped me prepare for the research by reminding me about why I was doing it: I began this research project in order to meet needs as found in Fort William First Nation, above all others, thus reminding me of who I was accountable to. It reminded me that, though it may have broader resonance, what I found and theorized through this research is specific to Fort William Anishinaabeg. While I participated in only one sweat lodge ceremony at the beginning of this project, I used ceremony throughout the study to muster the power to face the work at hand; I laid tobacco down every time that I needed to. This reminded me of my purpose, and about what was said in the sweat lodge. Laying tobacco down also recentered Marlene Pierre's visions in my mind, thus refocusing my attention on why I was doing this work. Furthermore, I saw the writing of this dissertation to be a ceremony in and of itself; it required transformation of me in order to come to new knowledge. Similar to Umek's description of *oosumich*, which required sacrifice in the form of fasting and isolation, for example, writing this dissertation required me to sacrifice comfort, entertainment, and, if I'm honest, physical health, mental balance, and quality time with my dogs and the people I care about most. Sacrifice is a pre-requisite for transforming the world.<sup>358</sup> I do not mean to say writing *is* ceremony, but for me there are similarities, as noted here. In moving through this writing and research process, then, ceremony has helped to move me along while doing so in ways that constantly refocused my attention on my community and how I am demonstrating accountability to it.

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<sup>357</sup> Vine Deloria Jr. and Daniel R. Wildcat, *Power and Place: Indian Education in America* (Golden: Fulcrum Pub, 2001), 21–22.

<sup>358</sup> Simpson, *Dancing on Our Turtle's Back*, 68–70. Note the sacrifice Zhaashkoonh makes in order to transform the world for the betterment of everyone else.

### **3.4 Working with the Thirteen Knowledge Holders**

As discussed in Chapter 1, this dissertation relies in part on research conversations with thirteen knowledge holders from Fort William First Nation. While section 1.5 in Chapter 1 introduces the thirteen knowledge holders, this section provides more detail on how I went about finding and working with the them, and the steps I took to protect their anonymity. The purpose of this section, then, is explain the methodology I used to identify and engage the knowledge holders.

#### 3.4.1 Selection Process: Apprenticing with Knowledge Holders

As noted in sub-section 3.1.3 above, I position myself in this study as an apprentice. Leanne Simpson notes that “[f]or the researcher or one who is learning about the Aboriginal culture, it is essential to begin a relationship as well as dialogue with the Elders.”<sup>359</sup> She suggests that apprenticeship allows a knowledge seeker like myself to approach knowledge holders in ways that recognize them as the authority knowledges they carry. Following this, Simpson suggests that knowledge holders also exist within a community of other knowledge holders:

Part of an apprenticeship with an Elder(s) involves the Elder directing the learner to other members of the community who are experts in areas other than the area of expertise the Elder possesses. These may include other Elders, community leaders, resource users, youth and spiritual leaders. Those experts will in turn refer the learner to other community members and thus, the learner or researcher works her or his way through the community crossing over factions, ages and genders.<sup>360</sup>

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<sup>359</sup> Simpson, “Anishinaabe Ways of Knowing,” 177.

<sup>360</sup> Ibid., 178.

When seeking people to speak with for a research project concerned with Indigenous knowledges, then, reaching out through an apprenticeship relationship makes sense to find people to engage with in the research.

To find knowledge holders to participate in this study, I used two approaches. First, I used the apprenticeship approach discussed by Simpson above. Using my existing relationships, I asked people I knew if they had information on customary adoption and Anishinaabe citizenship law. Sometimes they did, at which point I asked whether they would like to participate in this research project. Some did and some did not. However, in all cases, I asked if they knew others who might have this knowledge as well. On several occasions, this process led me to connecting with people I had never met before. From there, the process repeated itself.

The second approach I used was a general call for research participants in the Fort William Indian Band weekly newsletter (a copy of this posting is available in Appendix D). The weekly newsletter is delivered to all Fort William Indian Band members either in hard copy form or electronically through email. My call for research participants was included in the September 18-24, 2015 edition.<sup>361</sup> People interested in participating as a knowledge holders in this research project were encouraged to either phone or email me using the contact details listed in the call for research participants. Despite this, no one contacted me in this way; rather, knowledge holders suggested names of other potential knowledge holders for me to contact (which I did), or they contacted me by sending messages through intermediaries, such as mutual friends or family.

Finally, it is important to note how I arrived at working with thirteen people specifically. While I was developing this project's research proposal, I had a ballpark figure in mind for how many knowledge holders I hoped to engage; I had hoped to speak to between five and fifteen

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<sup>361</sup> Damien Lee, "Research Participants Wanted," *Fort William First Nation Weekly Newsletter*, September 18, 2015, <http://bit.ly/2ixiRUY>.

people. My reason for this was based on my pre-existing knowledge of my community; at the time of planning this dissertation, I knew of six Fort William families that used adoption to bring individuals into the community. These families were to be the first that I would contact once the research conversations phase began. However, in reality, three things happened that affected the number of knowledge holders I ended up speaking with. First, three families that I already knew to have experience with adoption respectfully declined my invitations to participate in this study. They had their own reasons for doing so, which they did not share with me. At the same time, however, my friends and family put me in touch with other Fort William families that, until then, I did not know to have experience with adoption. This was the second factor that influenced the number of knowledge holders I worked with in this study. I reached out to these additional families, and they agreed to participate. Finally, as suggested by Simpson's note on apprenticeship above, the families I worked with also provided me with names of additional knowledge holders that they felt I should invite to participate in this research, which I did. This third method resulted in several more people sharing their stories with me. I decided to stop seeking additional participants by the time I reach thirteen knowledge holders because a) this number (i.e. thirteen) was within my original range (i.e. between five and fifteen knowledge holders), and b) because I had exhausted all avenues available to me. In my mind, the only way this study could have engaged more Fort William knowledge holders would have been if those families that declined my original invitation changed their minds, which I would have gladly have done. Given that this did not happen, this study relies in part on the thirteen knowledge holders who were willing to share their stories with me.

### 3.4.2 Ensuring Anonymity: The Thirteen Giizisooq

As noted in Chapter 1, I ensured the thirteen knowledge holders' anonymity by assigning each of them a unique moniker based on the Anishinaabe calendar.<sup>362</sup> The Anishinaabe calendar recognizes thirteen months, known as giizisooq (i.e. "moons").<sup>363</sup> I assigned each knowledge holder a unique name based on the Anishinaabe calendar. Given that I had arrived organically at thirteen knowledge holders, and that the Anishinaabe calendar is based on the number thirteen, I wanted to honour the significance of this confluence. Using the names of the giizisooq was more fitting than assigning random monikers, such as "Participant 1," "Participant 2" etc., as they referenced Anishinaabemowin (i.e. the Anishinaabe language), and also spoke to a key element that emerged through this study: continuous renewal.<sup>364</sup> The Anishinaabe calendar tracks the cyclical renewal of the seasons and of life; likewise, the knowledge holders' stories also demonstrate a continuous renewal of the nation through citizenship-making. Assigning the names of the giizisooq to the knowledge holders seemed a fitting way to honour this value.

I therefore assigned monikers to the knowledge holders based on my perspectives on personalities. For those I met through the process of completing research for this dissertation, I assigned names based on my impressions of them as they emerged through our research conversations. For example, I assigned the name Waatebagaa-giizis to the knowledge holder I did because she came across as a very powerful woman; Waatebagaa-giizis has been translated to English as "Leaves Turning Moon," which to me speaks to a powerful force. Elsewhere, I assigned the name Gichimanidoo-giizis to the person I did because this is a very powerful name as well; Gichimanidoo-giizis has been translated to English as "Great Spirit Moon," and the

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<sup>362</sup> See section 1.5 in Chapter 1 of this dissertation.

<sup>363</sup> See section 1.5 in Chapter 1 of this dissertation, and Figure 4 therein.

<sup>364</sup> See Chapters 6 and 7 of this dissertation.

knowledge holder to whom I assigned this name was very wise. For those I already knew before this study, I assigned names in ways that reflected their persona or actions. For example, I assigned Iskigamizige-giizis to the person that I did because I knew that she was involved with the Fort William First Nation maple syrup operations. Iskigamizige-giizis has been translated to English as “Sugarbushing moon,” and thus seemed appropriate for this particular knowledge holders. I assigned names to the remaining knowledge holders using these methods. In other words, I did not assign monikers to knowledge holders at random or in chronological order.<sup>365</sup> Rather, the names assigned to them reflect my relationship with each person.

### **3.5 Including My “Self” in the Research**

Jim Dumont has argued that Anishinaabe knowledge production requires a researcher to embed herself into the research.<sup>366</sup> Including one’s self subjectively important within Indigenist and biskaabiiyang approaches to research because it reflects the concept that all knowledge arises out of relationships.<sup>367</sup> Leanne Simpson has argued for subjectivity in research as well, noting that

All Nishnaabeg people are theorists in the sense that they hold responsibilities to making meaning for their own creation and their own life. This happens in the context of Nishnaabeg Knowledge, their name, their clan, their community, their own personal gifts and attributes and their own life experience.<sup>368</sup>

Accounting for this self-knowledge and knowing the world through subjectivity is therefore an important part of Indigenist research methodologies.

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<sup>365</sup> By chronological order, I mean assigning names to the knowledge holders in successful from those I met with first to those I met with last based on the chronological ordering of the giizisog themselves.

<sup>366</sup> Dumont, “Journey to Daylight-Land,” 75.

<sup>367</sup> Henderson, *First Nations Jurisprudence*, 153–54.

<sup>368</sup> Simpson, *Dancing on Our Turtle’s Back*, 43.

However, while positioning one's self in a research project is one thing, including one's self in a study where the research is concerned with one's own community raises issues of navigation. Scholars have referred to this type of situation as insider/outsider research.<sup>369</sup> How should a researcher go about conducting research with the people of her own community? What consequences will the research project have in these situations? While I explain my relationship to this research project in my discussion on positionality in Chapter 1, this section better explains how I navigated issues of engaging with the project subjectively.

As Linda Tuhiwai Smith writes, "insider researchers have to have ways of thinking critically about their processes, their relationships and the quality and richness of their data analysis. So too do outsiders, but the major difference is that insiders have to live with the consequences of their processes on a day-to-day basis for ever more, and so do their families and communities."<sup>370</sup> Addressing this, she notes, requires researchers to define clear research goals which may be different than the goals of their families and communities, and their work must be based in honesty, humility, and trust.<sup>371</sup>

Margaret Kovach offers two additional insights on how to address insider/outsider research complexities. Whereas Smith notes that reflexivity is also an important part of navigating insider/outsider positionalities,<sup>372</sup> Kovach positions it more prominently. She notes that

Qualitative research ... is built upon an interpretative presumption, and assumed that subjectivity within research will be a constant. The supposition of subjectivity and the

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<sup>369</sup> Smith, *Decolonizing Methodologies*, 137–40; Kovach, *Indigenous Methodologies*, 30–36; Robert Alexander Innes, "Wait a Second. Who Are You Anyways? The Insider/Outsider Debate and American Indian Studies," *American Indian Quarterly* 33, no. 4 (2009): 440–61.

<sup>370</sup> Smith, *Decolonizing Methodologies*, 137.

<sup>371</sup> *Ibid.*, 137–40.

<sup>372</sup> *Ibid.*, 139.



interpretive nature of qualitative research imply a relational approach to research.

*Reflexivity* is the term often utilized within a variety of qualitative research approaches to reference the relational. Reflexivity is the researcher's own self-reflection in the meaning-making process.<sup>373</sup>

Kovach goes on to explain that navigating the insider/outsider positionality requires researchers to explain both their process and their content.<sup>374</sup> Both need to be explained, she notes, and one way to assess process "is to see the inclusion of story and narrative by both researcher and research participant."<sup>375</sup>

### 3.5.1 How I Navigated the Insider/Outsider Positionality

Taking heed of Smith and Kovach's respective work on the insider/outsider researcher, I took steps in this project to honour my relationships with my community while also staying true to my research goals. I offered tobacco to all knowledge holders when originally asking if they would like to participate in this research. No research conversations took place unless they accepted the tobacco and agreed to participate. Furthermore, I honoured my relationships with the knowledge holders by offering them the chance to review the written transcript of their respective recorded conversation. This ensured they remained in control of what they shared. Only one person out of the thirteen knowledge holders asked me to make changes to the transcript; I obliged. I then offered this person a chance to review the amended transcript, which she did and then approved it for use in this dissertation. Throughout this process, I made it clear what my research goals were.

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<sup>373</sup> Kovach, *Indigenous Methodologies*, 32. Emphasis original.

<sup>374</sup> *Ibid.*, 34–35.

<sup>375</sup> *Ibid.*, 35.

However, some of the knowledge holders refused to let me remain an outsider during the research interviews. To me, this was further demonstration of an Indigenist approach to researching Anishinaabe citizenship law; the knowledge holders were not only *talking* about claiming people through adoption, but at times were *performing* this claiming during the interviews. As noted in Chapter 1, I am an adoptee that was brought into Fort William as an infant. Knowing about my adoption story, some of the knowledge holders decided to re-assert their claim over me as someone who belongs during the research conversations. To me, this demonstration of performing citizenship-making was expressed in part by their refusal to let me remain an “outsider” during the research conversations.

The knowledge holders’ refusal to let me remain an outsider was demonstrated in two ways. Some asked me to share my own thoughts on the matter of Anishinaabe citizenship law as seen through adoption narratives. Others asked me during the research conversations to help them with their own struggles to have their family members registered as Indians under the *Indian Act*. I recount two such instances below. I do so to show that despite me being cognizant of how to navigate the insider/outsider positionality, my community *refused* to let me play that game from time to time. To me, such instances are reflective of the subject matter of this dissertation – they demonstrate the ways in which Fort William families determine who belongs by asking adoptees to take on responsibilities for the community.

First, the following transcript demonstrates how one knowledge holders refused to let me be an observer of how Fort William includes or excludes adoptees. Binaakwe-giizis knew that I have experience with the very topic of belonging with Fort William through adoption, and wanted to know my thoughts on the matter:

Damien: Well, overall, what do you think makes the community accept people [like] Frankie? What is it overall that the community does to accept [them]?

Gashkadino-giizis: I think it's just, it was just – I think if anything at that time – it was a need. You know? You weren't given a choice, really. You had to take in your family. You just had to. You were expected to, and that's the way it was.

Damien [speaking to Binaakwe-giizis]: What do you think?

Binaakwe-giizis: I think that's basically it. It's the way you were raised. You didn't know when you were actually going to meet a person, whether you were going to accept that or throw it [*sic*] away and say “You know what? You're not living here. Sorry.” It just never crossed your mind. “You need a place? Stay there if you want.”

Gashkadino-giizis: I think we're less tolerant than what we used to be. I can see that. I'm not too sure if it has anything to do with the fact that – because we're a small reserve, we have so little, we've never had a lot that, you know, when you see somebody coming in sometimes you want to hang on to what's yours.

Binaakwe-giizis: So, what do *you* think? You were there. You experienced it.

Damien: What do I think?

Binaakwe-giizis: Ya.

Damien: Well...<sup>376</sup>

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<sup>376</sup> Conversation with Gashkadino-giizis, March 12, 2016; Conversation with Binaakwe-giizis, March 12, 2016. This transcript has been edited slightly to make my point about Binaakwe-giizis refusing to let me remain an “outsider.” I removed several statements to make this point quicker; no wording here was changed otherwise.

Here, Binaakwe-giizis requested that I participate in the research conversation with honesty and in ways that could inform or enrich our collective understanding about adoption as a basis of belonging with the Fort William community.

Elsewhere, Gichimanidoo-giizis also refused to let me remain an outsider. However, in her case, she exercised this refusal through commissioning my help. Gichimanidoo-giizis knew that I had been thinking about not only Anishinaabe adoption practices for years, but she also knew that I was critically reviewing Indian status and band membership approaches to discerning belonging at Fort William. In the following transcript, she is trying to figure out how to have her grandchildren registered as status Indians, and asks me to help her navigate that process:

Zaagibagaa-giizis: What if you customarily adopted both of them?

Gichimanidoo-giizis: Well, that's what I was on my way to do. But then we got stopped.

Zaagibagaa-giizis: Well, do you want to do that? Is that pretty much the only way?

Gichimanidoo-giizis [speaking to Damien]: That's got more chance, right? Would you think?

Zaagibagaa-giizis [speaking to Damien]: But, do they<sup>377</sup> take into account custom adoptions?

Damien: Yep. They do. Yep, they do [*sic*]. You can confer status through custom adoption.

Zaagibagaa-giizis: Well, let's do that then.<sup>378</sup>

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<sup>377</sup> Here, she is referring to Indigenous and Northern Affairs Canada.

<sup>378</sup> Conversation with Zaagibagaa-giizis; Conversation with Gichimanidoo-giizis.

It is important to note that Gichimanidoo-giizis had *already* adopted her grandchildren while they were young children, using Anishinaabe custom to do so. What she and Zaagibagaa-giizis are discussing here was having the Indigenous and Northern Affairs Canada recognize those pre-existing adoptions. I quote this passage here because both Gichimanidoo-giizis and Zaagibagaa-giizis refused to let me remain an outsider, and instead asked me to play an insider roll in their family's work on claiming grandchildren in the eyes of the government. Other knowledge holders made similar requests for my help during the research conversations as well.<sup>379</sup>

I did not resist when the knowledge holders chose to break down the insider/outsider framing. To me, to do so would have felt disrespectful. Instead, the nature of my participation in the conversations become more active during these moments; while the use of conversation as a research method positioned me already as an active participant in the research, in these moments when knowledge holders refused to let me keep distance were akin to a crossroads in relationality where the nature of my own belonging with the community became exposed. Helping is part of earning the responsibility to carry knowledge,<sup>380</sup> and carrying community knowledge is part of what it means to belong at Fort William.<sup>381</sup> To remain neutral or distant during these moments would have been to neglect the knowledge holders' expectations that I act in a certain way (i.e. to demonstrate allegiance to the community). In most cases, we already knew each other, and to refuse to answer their questions when they were answering mine would have made me feel pretentious, and would have inserted an artificial distance into my relationships. The pre-existing relationships trumped the need to remain an outsider.

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<sup>379</sup> Conversation with Waatebagaa-giizis. For example, Waatebagaa-giizis asked me to help her understand on-reserve matrimonial real-property laws.

<sup>380</sup> Henderson, *First Nations Jurisprudence*.

<sup>381</sup> Conversation with Iskigamizige-giizis.

Furthermore, these interactions took place in a conversational approach to research, which implicates the knowledge seeker as an active participant in where the conversation goes.<sup>382</sup> Moreover, I also understood their questions as acts of claiming me. I too am an adoptee, after all. That the knowledge holders extended responsibilities to me in the form of questions and requests for help was an illocution: it performed the very thing we were talking about. I therefore made journal entries about such instances and tried to understand how they were in themselves expressions of the ways in which Fort William families claim people.<sup>383</sup>

### **3.6 Summary**

This chapter was devoted to revealing the theory, methodologies, and methods at play behind this dissertation. Such explanations are important in that they will help the people of Fort William First Nation understand how I went about doing this work, why I emphasized certain things above others, and how I approached this work overall. With these explanations in place, I now turn to the content of this dissertation research. Chapter 4 begins that journey.

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<sup>382</sup> Kovach, *Indigenous Methodologies*, 124–25.

<sup>383</sup> See Chapter 6 of this dissertation. There, I argue that Fort William families claim people, in part, through asking adoptees to take on responsibilities and then assess whether they fulfill them or not.

## Chapter 4

### Indigenous Citizenship Orders in the Face of Canadian Colonization

*With the goal of eliminating Indigenous legal and kinship forms, the Indian Act colonized adoption so it could be used as a method of assimilation rather than as a traditional form of Indigenous alliance creation and childcare.<sup>384</sup>*

#### 4.0 Introduction

“Frankie was adopted, too.” My grandmother<sup>385</sup> said this in passing one day while teaching me how to make moccasins. She was talking about her brother, Frankie Banning, who was adopted as an infant into her family at Fort William First Nation in the 1930s. While I didn’t take the time then to ask her more questions about this due to the moccasin work at hand, I learned a great deal more about Frankie and his sister, Lyla Bannon, in the subsequent years. Frankie was born in 1929 to an Italian-Canadian family living in the town of Port Arthur, what would later become part of the city of Thunder Bay, Ontario. He and Lyla were taken in as young children by my great grandfather, Jacob Bannon. In turn, my grams grew up understanding that adoption could make someone belong at Fort William First Nation.

With her use of the word “too,” my grams was aligning Frankie’s story with my own in more ways than one. Like me, Frankie was non-native by birth, and like me, he was adopted into Fort William First Nation by Anishinaabe law. On a deeper, more political level, however, my grams was suggesting a normalcy and a link between adoption and belonging with Anishinaabeg. In short, she positioned adoption as a basis of Anishinaabe citizenship.

Stories about adoption strike deep cords both historically and politically when it comes to making Anishinaabeg citizens for a number of reasons. For one, adoption points to the possibility

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<sup>384</sup> Stevenson, “The Adoption of Frances T.,” 469.

<sup>385</sup> Geraldine MacLaurin was born November 6, 1933, and passed away May 29, 2011. She grew up in and spent her whole life at Fort William First Nation.

that a person can be made to belong with a given Indigenous nation regardless of familial bloodlines. This can challenge the belief held by some that belonging with a given First Nation community is inherently limited by essentialized biology. This is not to say that genealogy is not important; rather, it is to say that adoption is important, too. For another reason, adoption stories can scare those willing to protect the power allotted to the chief and council governance system. The notion that families, and not an Indian Band, can discern who belongs questions the power of the band system itself. This notion has given rise to adoption stigma in some cases.<sup>386</sup> The knowledge holders I worked with to develop this dissertation told me about me stories about how their families at times experienced exclusion and lateral violence from the Fort William Indian Band and from the Fort William community more generally. Frankie's family was forced to leave the community in the 1960s for just this reason; despite being claimed by the community throughout his life, he and his family were made to feel unwelcome. His children were called "white kids" and the school bus stopped picking them up.<sup>387</sup>

That said, adoption narratives can also strike harmonious cords. They show that Anishinaabe citizenship law is still alive at Fort William First Nation and that it has never disappeared despite at times being hidden in plain sight. Adoption is a powerful basis of citizenship law: it empowers families to claim those who rightfully belong regardless of the ways in which Canadian Indian law has taught us to play by *Indian Act* rules. Indeed, Anishinaabe citizenship is not limited by blood and gender, as *Indian Act* logics would have us believe.<sup>388</sup> Rather, it is shaped by kinship, genealogy, claiming, and allegiance building.<sup>389</sup> Frankie and

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<sup>386</sup> Conversation with Waatebagaa-giizis; Conversation with Onaabani-giizis.

<sup>387</sup> Conversation with Waatebagaa-giizis; Conversation with Odemiin-giizis. Also see section 2.2 in Chapter 2 of this dissertation.

<sup>388</sup> Borrows, *Canada's Indigenous Constitution*, 3.

<sup>389</sup> These points are taken up in Chapters 6 and 7 of this dissertation.



Lyla's stories offer cases in point: they legitimately belonged with Fort William First Nation as a result of their adoption, yet neither had a bloodline connection to Fort William. Both went on to become celebrated community elders before passing away in 2010 because of the ways they cared for the community and carried responsibilities given to them.<sup>390</sup> Frankie was claimed not only as a member of an individual family, but as a citizen of Fort William and the broader Anishinaabe nation; Fort William's claim over Frankie is declared in a plaque hanging in the Fort William First Nation community centre today (see Figure 8 and Figure 9, below). Lyla's story is a little more complicated because she was a woman rather than a man, which I return to in this chapter.

These narratives of harmony and discord provide an important lens through which to understand Anishinaabe citizenship law. While later chapters of this dissertation address ways in which such narratives unfold Anishinaabe law, this chapter uses adoption as a lens to show how Anishinaabe citizenship laws were attacked by the Canadian government over time. Adoption narratives trace the existence of Anishinaabe citizenship law in the face of Canadian colonial history. They show that, sometimes, individuals who belong according to Anishinaabe law might not belong according to Canadian law, whereas the reverse is also true.<sup>391</sup> In the case of Frankie, there are many time periods in which, according to Canadian law, he could have *or should have* been barred from belonging with Fort William First Nation. Neither of his biological parents were Indians at the time of his birth, after all. Yet through his customary adoption in the 1930s he was claimed by Fort William and his children and grandchildren continue be claimed by the community today (see Figure 9). Frankie's customary adoption also made him an "Indian"

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<sup>390</sup> The Chronicle Journal, "Frank Fasano Banning (Obituary)," 2010, <http://bit.ly/2aFl5t3>; Blake Funeral Chapel, "Lyla Bannon: 1924-2010 (Obituary)," 2010, <http://www.blakefuneralchapel.com/Bannon%20Lyla.htm>.

<sup>391</sup> Conversation with Iskigamizige-giizis.

within the purview of Canadian law.<sup>392</sup> Had he been adopted after 1951, however (a year in which the *Indian Act* underwent a major overhaul), it is unlikely that his customary adoption would not have resulted in being registered as an Indian,<sup>393</sup> therefore denying him the possibility to become a member of the Fort William band under (Canadian) law in effect at that time.<sup>394</sup> This would have been a major loss for the community; not only would we<sup>395</sup> have lost a man renowned for his kindness and love of the people, but it is likely that we would have lost entire families that are otherwise today recognized as valued citizens.

More broadly, stories about adoption such as Frankie and Lyla's can trace fissures in Indigenous citizenship laws caused by decades of identity regulation along racialized and gendered lines. They reveal conflicts between how Anishinaabeg and Canadian settler society think about who does and who does not belong with Indigenous nations. For example, out of fear that Indians could make more Indians through adoption, the Canadian government changed the *Indian Act* in 1951, making entitlement to Indian status through adoption possible only when the child was already an Indian.<sup>396</sup> In this scenario, Frankie and Lyla might have been barred from becoming members Fort William First Nation because they were not status Indians by birth. They were Italian-Canadian by birth. Adoption narratives thus bring into relief ways in which Canadian governments have attempted to regulate Indigenous citizenship orders for their own benefit – something I attend to with more depth in this chapter.

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<sup>392</sup> Conversation with Waatebagaa-giizis.

<sup>393</sup> *Beattie v. Aboriginal Affairs and Northern Development Canada*. I write “unlikely” here because though he may not have been recognized as an Indian, contemporary legal decisions are retroactively re-assigning weight to custom adoptions as bases for Indian status in previous iterations of the *Indian Act*. See *Beattie v. Aboriginal Affairs and Northern Development Canada* referenced in this note.

<sup>394</sup> Palmater, *Beyond Blood*. Between 1951 and 1985, band membership was based solely on whether one was registered as an Indian under the *Indian Act*.

<sup>395</sup> By my use of “we” in this chapter, I am speaking to the people of Fort William First Nation in the voice of someone who belongs with the community.

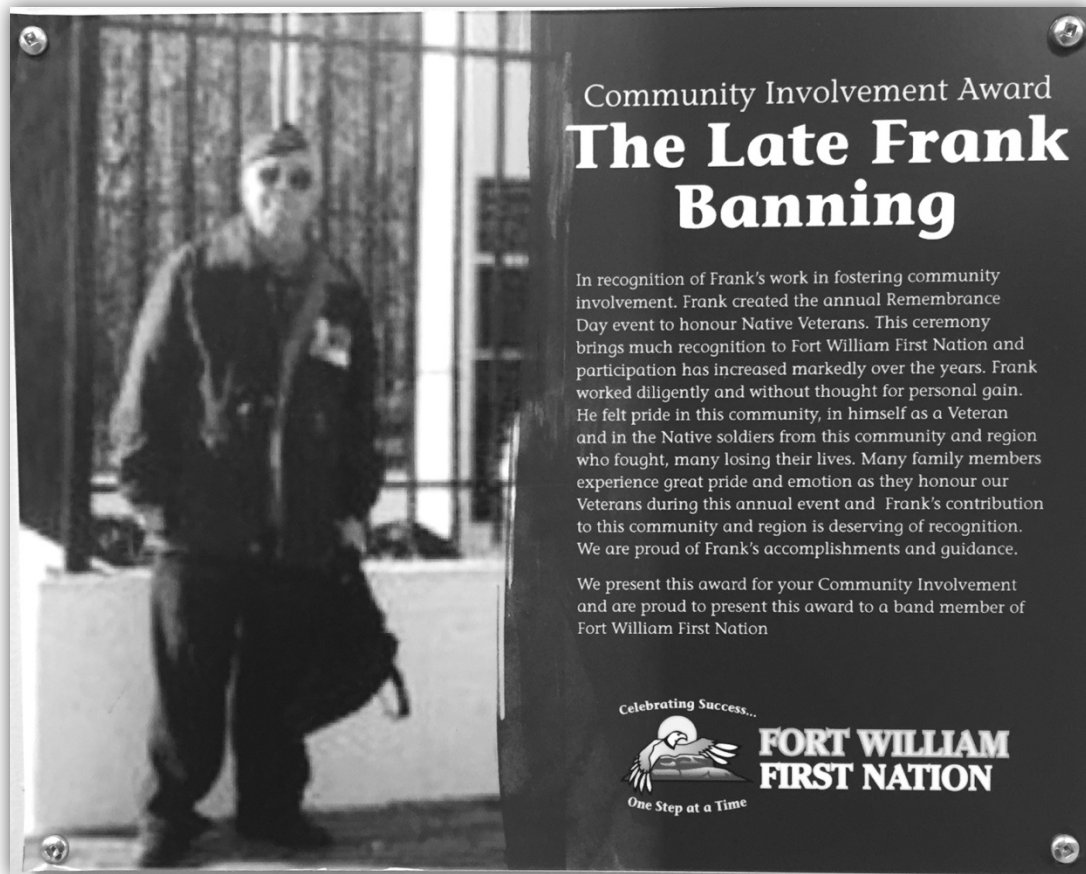
<sup>396</sup> Stevenson, “The Adoption of Frances T.”



**Figure 8: Fort William First Nation Community Achievement Awards “Hall of Fame.”** Frankie Banning’s plaque is located in the bottom row, furthest to the left. The Hall of Fame can be found in the main hall of the Fort William First Nation community centre. Photo taken by Damien Lee, May 29, 2016

Why would governments target adoption in this way? What need did it serve? In answering such questions, it will make sense to see adoption for what it does politically rather than understanding it solely as the establishment of social and familial bonds between parents and children. As Jeannine Carrière writes, adoption is an assertion of Indigenous self-determination.<sup>397</sup> It enables families to play a role in renewing the nation on their own terms, rather than terms dictated by Canadian governments. Moreover, adoption traditions can be drawn on to inform the resurgence of Indigenous citizenship practices in ways that emulate the values

<sup>397</sup> Carrière, “Connectedness and Health of First Nations Adoptees,” 24.



**Figure 9: Lifetime Achievement Award, The Late Frank Banning.** Frank Banning's Plaque in the Fort William First Nation Community Achievement Awards "Hall of Fame." Photo taken by Damien Lee, May 29, 2016. See Appendix E for a full reproduction of this plaque's inscription.

underpinning inherent legal orders,<sup>398</sup> which is something I attend to in Chapter 6. But there is more to answering such questions than this. Adoption practices manifest a form of renewal that is beyond the control of Canada's Indian laws. Canada required the regulation of Indigenous peoples to assert its own sense of self as a progressive liberal state.<sup>399</sup> As Keith Smith has argued, federal surveillance of Indigenous peoples was part of the assimilative process as well as

<sup>398</sup> Borrows, *Canada's Indigenous Constitution*, 158.

<sup>399</sup> Keith D. Smith, *Liberalism, Surveillances and Resistance: Indigenous Communities in Western Canada, 1877-1927* (Edmonton: Athabasca University Press, 2009), 18.

a way to gauge progress of colonial rule.<sup>400</sup> The possibility of Indians making Indians created anxiety within settler society because it suggested the endurance of Indigenous legal orders that could upset the “[colonial] binary” that justified claims to Canadian civility.<sup>401</sup> As could be seen in the actions of some settlers in influential positions, Indigenous legal orders broadly were “ignored, devalued, and, often, forcibly swept away” by Canadian law makers.<sup>402</sup> As I will show shortly, it was believed that the Crown and its legal systems were supposed to be supreme;<sup>403</sup> in instances where Indigenous laws were found to be strong enough to supersede the settler legal order, settlers found themselves questioning not only the legitimacy of their laws, but their very sense of superiority.<sup>404</sup> Targeting adoption is thus bound up in a broader settler colonial project intent on sweeping away Indigenous legal and political orders as a means to assert settler legal supremacy. Indigenous laws, including family-based citizenship orders, had to be subdued.

The findings in the 1864 *Connolly v Woolrich and Johnson et al.* court decision offer a case in point. William Connolly, a wealthy trader whom married Susanne Pasde-nom according to Cree marriage law, essentially abandoned his wife and children upon retirement from the Hudson’s Bay Company in 1831.<sup>405</sup> Connolly re-married to a Montreal woman named Julia almost immediately and without divorcing his first wife. Upon Julia’s death, Susanne’s children (i.e. from the first marriage) intervened on the estate inheritance, which was set to go to Julia’s

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<sup>400</sup> Ibid., 18–19.

<sup>401</sup> Ibid., 19. As Smith writes: “If the boundary [between Indians and white Canadians] was threatened by the exposure of some contradiction in policy or its application, by the emergence of a successful economic or political adaptation on the part of an Indigenous person or nation, by the cultural accommodation of a particular community, or by the presence of an individual or family who appeared or acted “White,” the boundary was shifted in order to maintain the exclusion of these people and so keep the White/Indian binary intact.”

<sup>402</sup> Haring, *White Man’s Law*, 8.

<sup>403</sup> Ibid., 169–73.

<sup>404</sup> Ibid., 173.

<sup>405</sup> Ibid., 169–73.

children (i.e. from the second marriage). Susanne's children brought the matter to court. At issue was whether Cree marriage law – the law governing the first marriage – was valid. The judge found that, indeed, it was; in finding for the children of the first marriage, Judge Monk noted that not only did Susanne's children have the right to inherit William's estate, but also that “the second marriage was void, thereby making Julia's children ... illegitimate.”<sup>406</sup> The lawyer for Julia's children, Mr. Alexander Cross, had pinned his argument on the Eurocentric notion that Cree marriage law was barbaric and not actually law. In response, the court found that “these ‘infidel laws’ not only carried the day but left two children of Quebec's elite as poverty-stricken bastards, an outrageous result by the standards of Victorian Canada.”<sup>407</sup> This case thus brings to the fore a settler anxiety about the power of Indigenous law. A decision that found Cree marriage law to be strong enough to make “bastards” out of an elite settler family by redirecting a wealthy estate into the hands of Indigenous children shook settler colonial legal minds to the core.<sup>408</sup> To maintain their sense of being “the civilized,” settlers needed Indigenous legal orders to remain barbaric for purposes of contradistinction.<sup>409</sup> Indeed, something had to be done to reassert settler supremacy for fear of the settler sense of the “civilized self” crumbling away. In making sure to reassert Eurocentric legal dominance, Alexander Cross later went on to “correct” the natural (read: colonial) order of things. Some years later in a “parallel, but unrelated, case,” Cross, who

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<sup>406</sup> Ibid., 171–72.

<sup>407</sup> Ibid., 172.

<sup>408</sup> Ibid., 172–73.

<sup>409</sup> Smith, *Liberalism, Surveillances and Resistance*, 18; c.f.: Edward Said, *Orientalism* (New York: Vintage Books, 1979). As Keith Smith writes, “...similar way to what [Edward] Said has said of the ‘Orient,’ the surveillance of Indigenous peoples in the Canadian west was never able to produce simple innocent reflections of Indigenous reality. What appeared as the ‘Indian’ was a collage of images that were often contradictory, but always inferior to Anglo-Canadians. The ‘Indian’ was not mere fantasy, though, but an enduring political, economic, and social instrument. It was a device that bolstered the colonizers’ images of themselves as benevolently superior while at the same time ensuring the advancement of their material interests.”

by this time had joined the Quebec Court of Queen's Bench, made sure to put Indigenous law back into an inferior place. In deciding on this later case, "Cross completely denied the legality of marriages under First Nation law, even between Indians," citing eurocentrism as the basis of what should count as law.<sup>410</sup> Cross's reasoning was eventually upheld by the Supreme Court of Canada.<sup>411</sup>

Like other modes of Indigenous citizenship renewal, adoption is powerful enough to challenge Canadian Indian law in the same way the *Connolly v Woolrich* case did.<sup>412</sup> As we will see here, the specter of Indigenous adoption practices having the ability to assert Indigenous legal orders – and what it meant in for maintaining settler legal dominance over Indigenous citizenship orders – caused changes in Indian law on at least three occasions since 1850.<sup>413</sup> I read these changes as manifestations of settler anxiety not dissimilar to that enacted cathartically by Alexander Cross, glossed above. Indian populations had to be controlled, and settler legal orders needed to be held as supreme. This was just the settler colonial order of things.

The purpose of this chapter is to show that Indigenous adoption practices have historically brought out an anxiety within Canadian society about the renewal of Indigenous nationhood that then manifests in Indian law and policy. In preparing the ground for a discussion on what adoption narratives at Fort William First Nation can contribute to the resurgence of Anishinaabe citizenship law, it will help to first consider the ways these orders have been undermined historically, both in terms of federal Indian law and in ways more specific to the context of Fort William. For Anishinaabeg, adoption is predicated on expanding the circle of the

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<sup>410</sup> Haring, *White Man's Law*, 173.

<sup>411</sup> Ibid.

<sup>412</sup> Stevenson, "The Adoption of Frances T."

<sup>413</sup> I will review these changes in context later in this chapter. I consider changes to 1851, 1951, 1985 Indian legislation.

nation. This family-making practice, in addition to marriage and birthing, seeks to continuously renew the nation indefinitely into the future. As I show below, Anishinaabe adoption practices thus resonate within the settler colonial imagination as a threat, since, like all “Indians,” Anishinaabeg were presumed to be disappearing. Adoption questions the Canadian nation-building project itself in that it threatens settler notions of superiority. If anyone could be made Indian through adoption, the sturdiness of settler civility could be shown to be a fiction (or simply Eurocentric).<sup>414</sup> Because of this, adoption, like marriage, had to be surveilled by the state. This chapter therefore demonstrates ways in which Canadian Indian law reacted to the possibility of Indigenous peoples renewing themselves. The idea that Indians could make Indians through adoption was something that had to be regulated through law.<sup>415</sup> At the core of such regulation, I argue here, is a need to sooth the settler soul: if Indians could make more Indians beyond the control of the state, something had to be done to protect Canadian civility and cultural superiority. Through enacting and implementing Indian law, settlers soothed their anxieties about the presence of Indigenous peoples. Indian law, in my reasoning then, has a cathartic quality.

Following this, in the sections below I discuss two ways in which settler anxieties about Indigenous adoption practices were assuaged. First, I discuss the “status logics” that underpin registration as a status Indian under Canada’s *Indian Act*, but do so vis-à-vis adoption narratives. By “settler logics,” I am referring to the beliefs that underpin the making and regulation of Indianness. Indianness was a product of gendered, racialized, and heteronormative imaginings that, at times, viewed adoption as suspect because it could result making an Indian out of just

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<sup>414</sup> By way of example from a different context, Stoler argues that European senses of civility depended in part on maintaining difference between colonialists and Indigenous nations. This difference had to be enforced through law as Europeans and Indigenous peoples began to parent mixed-race children in the colonies. See: Ann Laura Stoler, *Race and the Education of Desire: Foucault’s History of Sexuality and the Colonial Order of Things* (Durham: Duke University Press, 1995), 95–136.

<sup>415</sup> Stevenson, “The Adoption of Frances T.,” 478–80.



about anyone (whether Métis individuals, non-Indigenous individuals, and even those who should have been Indian but were not at the time of their adoption because they had lost Indian status through earlier incarnations of the *Indian Act*).<sup>416</sup> The cumulative effect of these logics is an imagining of Indianness that is not only androcentric, but also centers heteronormativity.<sup>417</sup> Indians had to be made by (male) Indians through (hetero) sex.<sup>418</sup> Focusing on the period of 1850-1951, I show that the nature of Indianness was imagined along Victorian ideals of family and citizenry, and was patrolled by Indian agents and other federal bureaucrats.<sup>419</sup> Adoption becomes a dirty word against this backdrop because it inherently suggests that Indigenous families can choose who belongs with them. It expresses a self-determination in citizenship making beyond the control of the state.<sup>420</sup> It makes space for non-Indian children to *become Indian*, while also enabling two-spirited families to participate in renewing the nation if they so choose. Targeting Indigenous adoption practices is thus one way in which settlers soothed their anxieties over the fact that Indigenous peoples were separate political entities and they were not going away. As Allyson Stevenson's work has shown, this mattered more or less at various times in history, most notably in 1951 when the *Indian Act* was amended to prevent Indians from making Indians through adoption.<sup>421</sup> These "status logics" are therefore important to identify since they enact a discourse that has come to co-construct how belonging is thought of today.<sup>422</sup> Depending on the time period, they would have either barred or enabled Frankie Banning's

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<sup>416</sup> For example, see: Stevenson, "The Adoption of Frances T."; Beattie v. Aboriginal Affairs and Northern Development Canada.

<sup>417</sup> Eberts, "Victoria's Secret."

<sup>418</sup> Rifkin, *When Did Indians Become Straight?*, 2011; Eberts, "Victoria's Secret," 151–55.

<sup>419</sup> Smith, *Liberalism, Surveillances and Resistance*, 111; see also: Sarah Carter, *The Importance of Being Monogamous: Marriage and Nation Building in Western Canada to 1915* (Edmonton: University of Alberta Press, 2008); Eberts, "Victoria's Secret."

<sup>420</sup> Carrière, "Connectedness and Health of First Nations Adoptees," 24.

<sup>421</sup> Stevenson, "The Adoption of Frances T.," 480.

<sup>422</sup> Lawrence, "Real" *Indians and Others*, 25–26.

belonging with Fort William First Nation, and as such I review them alongside his story. Indeed, such logics affected how Lyla Bannon's belonging was narrated by the knowledge holders included in this study – she may or may not have been an “Indian” due to Jacob Bannon taking her in as his own, but she was narrated as being Indian only after she married an Indian. Therefore, similar to the ways in which marriage in general and *Connolly v Woolrich* in particular provided a glimpse of the anxiety within the settler colonial mind regarding the validity of Indigenous legal orders,<sup>423</sup> adoption provides a useful lens through which to read settler colonialists' anxieties in the rise of Canadian Indian law.

Second, I show that this anxiety switches from ignoring adoption before 1951 to regulating it after the *Act* was amended that year. Adoption reappears in the 1951 *Indian Act*, though in racialized form. By 1985, the Canadian federal government welcomed it as grounds for entitlement to Indian status.<sup>424</sup> Why did the federal government come to embrace the idea that Indians can make Indians through adoption, when for so long it sought to prevent this practice? In the sections dealing with this below, I argue that the federal government now assuages its anxiety about Indians making Indians through surveillance. Rather than stepping back from identity regulation and letting Indigenous nations decide who is “Indian” for their own intents and purposes, the federal government maintains jurisdiction over Indian status, including entitlement to such status through adoption. In other words, the power to define still sits with Canada;<sup>425</sup> adoption is merely now wrapped in the state's presumed authority to recognize who is an Indian. To show this, I examine an internal Indigenous and Northern Affairs Canada

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<sup>423</sup> See: Eberts, “Victoria's Secret.”

<sup>424</sup> See Table 3, below.

<sup>425</sup> Stephanie Irlbacher-Fox, *Finding Dahshaa: Self-Government, Social Suffering, and Aboriginal Policy in Canada* (Vancouver: UBC Press, 2009), 31. This is reflective of Irlbacher-Fox's discussion on the dysfunctional theodicy. Canada continuously positions itself as the neutral arbiter of Indigenous legal issues.

document for how it asserts federal influence over how Indigenous peoples perform adoption and, therefore, perform citizenship decisions. Known as the *Adoption Officer's Manual*, this document provides detail to the adoption officers and adoption specialists<sup>426</sup> that process applications for Indian status based on adoption. The *Adoption Officer's Manual* has received no scholarly attention to date. Yet, it governs how applications for Indian status on the grounds of adoption are processed, and thus has impact on people's lives. This chapter does not explore these implications, but rather reviews the *Manual* as a tool of state surveillance. I do this work here because intelligence gathering is not culturally neutral.<sup>427</sup> As Smith argues, Indian Affairs surveillance in Canada projects cultural values through the process of gathering information, using discourse to do so.<sup>428</sup> Focusing specifically on collecting detailed information on Indian adoptees, the *Adoption Officer's Manual*, I argue below, assuages settler anxiety about the renewal of Indigenous nationhood within the lands Canada claims for itself through *knowing the other*. Reading the *Manual* in this way allows one to trace settler anxiety about Indigenous citizenship orders through time regardless of changes in the way Canadian law treats Indian adoptions.

#### **4.1 Status Logics and Settler Anxiety**

Reading various iterations of Indian law such as the *Indian Act* and its pre-cursor legislation for ways in which it treats Indigenous adoption practices reveals a settler colonial anxiety that is

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<sup>426</sup> Adoption officers conduct research on applicants' grounds for registration as an Indian under the *Indian Act*, and can confirm entitlement or deny Indian status. An adoption specialist "enters data into Client Services and Adoption Modules" for Indian registrations. See: Canada, Indian and Northern Affairs Canada, "Adoption Officer's Manual (Draft)," N.D., 38, <http://bit.ly/1tcYeyH>.

<sup>427</sup> Smith, *Liberalism, Surveillances and Resistance*, 16.

<sup>428</sup> *Ibid.*, 17.

axiomatic in nature. Settlers and their governments believed that “Indians” were a dying race.<sup>429</sup> The transit of this death was not so much or only physical, but one of an inherent inability to enter “modernity.”<sup>430</sup> The hallmark of modernity was civility, which was imagined to be Eurocentric: to be civilized was to be European.<sup>431</sup> This myth positioned Indigenous peoples as locked in a state of nature, inherently unable to adapt to modernity, and therefore eventually but assuredly vanishing.<sup>432</sup> On the other hand, Canadian Indian law also took an approach to making Indians disappear through “enfranchisement,” or the removal of legal difference between Indians and Canadians.<sup>433</sup> Issues such as enfranchisement have been dealt with by the Royal Commission on Aboriginal Peoples, and scholars such as Pamela Palmater, Bonita Lawrence, and others,<sup>434</sup> so I will not address them here. Whatever the case may be, however, whether through a physical death or an administrative one, Indians were simply supposed to disappear. Indian law worked to make this belief a self-fulfilling prophecy.

With the coverage given to enfranchisement and other forms of disappearance imagined for Indians already available in the literature, this section will focus more on the logics underpinning the construction of the Indian in Canadian law, and how they manifest a settler colonial anxiety about the presence of Indigenous peoples. Regulating Indigenous peoples as Indians through raced, gendered, and heteronormative logics each reveal a great deal about settler colonial mindsets. Codified in law, they reimagine Indigenous peoples as “Indians,” a

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<sup>429</sup> Royal Commission on Aboriginal Peoples, *Final Report*, 1996, 1, Looking Forward Looking Back:264.

<sup>430</sup> See: Irlbacher-Fox, *Finding Dahshaa*, 31–33.

<sup>431</sup> James M. Blaut, *The Colonizer’s Model of the World: Geographical Diffusionism and Eurocentric History* (New York: Guilford Press, 1993).

<sup>432</sup> Irlbacher-Fox, *Finding Dahshaa*, 31.

<sup>433</sup> Royal Commission on Aboriginal Peoples, *Final Report*, 1996, 1, Looking Forward Looking Back:271–73.

<sup>434</sup> *Ibid.*; Palmater, *Beyond Blood*; Lawrence, “*Real*” *Indians and Others*, 31–32; Eberts, “Victoria’s Secret”; Standing Committee on Indigenous and Northern Affairs, Meeting No. 39 INAN.

point along a spectrum between supposed barbarism and European civility. Indigenous peoples were to become, for all intents and purposes, “Canadian,” and Indian law was to protect them along this assimilatory transit. Gaining an appreciation for this mindset, then, will help us understand why certain changes in the *Indian Act* took place, and why settler governments constructed arguments that attacked Indigenous citizenship orders by targeting adoption; if it was axiomatic that Indians were to disappear, their presence and, more importantly, their *growth* in populations over time, then, caused anxiety in settler colonial society and politics.

Settler bureaucrats became concerned at various points in time when evidence arose showing Indian communities were in fact growing rather than disappearing. In the late 19<sup>th</sup> century, for example, it was found that the number of treaty annuitants in the Robinson Treaties territory was increasing rather than decreasing. Such findings stirred anxiety amongst bureaucrats who were busy finding ways to assert Euro-Canadian dominance; as one bureaucrat announced, “between those Indians who would (so to speak) die out and those that would become absorbed in the dominant race by marriage, there was certainly *no probability of any increase* in the number of bona fide Indians.”<sup>435</sup> The reasons for said anxieties were at least twofold. Not only did settler governments find themselves on the hook for increased expenditures – paying annuities to more people than originally budgeted for at the time of treaty signing, for example, or in allotting reserve lands<sup>436</sup> – they also faced an axiomatic crisis. If Indians were supposed to disappear, why were they increasing in numbers? What did this mean for Canadian nation building, given colonialists’ presumption that lands formerly “occupied” by Indians would eventually be free of Indigenous peoples?

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<sup>435</sup> E.B. Borron to Æmelius Irving, 7 May, 5. Emphasis original.

<sup>436</sup> Palmater, *Beyond Blood*, 47; Eberts, “Victoria’s Secret.”

A key point to understand before moving forward lies in Patrick Wolfe's theorization of settler colonialism. Wolfe argues that settler colonialists did not seek Indigenous labour, but Indigenous lands.<sup>437</sup> Reaching this goal was to be brought about through what he refers to as a logic of elimination. As he puts it, settler colonialism "destroys to replace."<sup>438</sup> The way I read this in the context of this chapter is that Indian identities and belonging had to be regulated in ways that always positioned the settler governments in charge of deciding who is an Indian and who is not. Replacing Indigenous peoples with Canadians – even Canadians who were once Indians – required legislation that could oversee the process. Thus, when evidence arose suggesting Indians were not disappearing, their replacement would have been harder to envision within the settler mindset.

The regulation of Indigenous identities through Indian law reaches to the core of Canadian settler colonialism. As Wolfe shows, settler colonialism requires Indigenous presence in contained (read: safe) doses so that settler society can draw meaning from it.<sup>439</sup> An example will help to flesh this out. While the U.S. and Canada have taken their own trajectories in constructing and then dealing with "the Indian problem," some similarities exist.<sup>440</sup> As settler colonies, both exist on a basis in which settlers come to stay,<sup>441</sup> thereby requiring the displacement of Indigenous peoples as individuals and as political entities. Coming to stay required not only land, but also the fomentation of a psychological state that integrated Indianness, or at least settler colonial stereotypes about Indians into a new identity: "American."

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<sup>437</sup> Wolfe, "Settler Colonialism and the Elimination of the Native," 387–88.

<sup>438</sup> *Ibid.*, 388.

<sup>439</sup> *Ibid.*, 389.

<sup>440</sup> Lawrence, "Gender, Race."

<sup>441</sup> Wolfe, "Settler Colonialism and the Elimination of the Native."

Wolfe sums this up succinctly in discussing settler colonialism in the Australian context, but the same would apply to the United States and Canada.<sup>442</sup>

On the one hand, settler society required the practical elimination of the natives in order to establish itself on their territory. On the symbolic level, however, settler society subsequently sought to recuperate indigeneity in order to express its difference – and, accordingly, its independence – from the mother country.<sup>443</sup>

Elsewhere, Terry Goldie offers a cogent framing of this same phenomenon:

...Canadians have, and long have had, a clear agenda to erase this separation of belonging [with Britain or the United Kingdom]. The white Canadian looks at the Indian. The Indian is Other and therefore alien. But the Indian is indigenous and therefore cannot be alien. So the Canadian must be alien. But how can the Canadian be alien within Canada?<sup>444</sup>

Indigenous peoples were needed – as consumable Indians in a semiotic sense<sup>445</sup> – to separate settlers from “The Old World,” which in a classic United States sense normally meant Great Britain. To destroy them completely therefore, would undermine said consumption.

Unpacking this reveals clues as to why Indigenous citizenship orders were undermined in Canada. Indigenous peoples were in North America before colonization. Because of this, they represented a difference between America and Europe. As Philip Deloria argues, this sense of difference came to be regarded as quintessential “Americanness” by settlers seeking to assert differences between themselves and the mother country.<sup>446</sup> The events at the Boston Tea Party,

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<sup>442</sup> For example: Deloria, *Playing Indian*.

<sup>443</sup> Wolfe, “Settler Colonialism and the Elimination of the Native,” 389.

<sup>444</sup> Goldie, *Fear and Temptation*, 13.

<sup>445</sup> Root, *Cannibal Culture*.

<sup>446</sup> Deloria, *Playing Indian*, 28–35; 184.

for example, were enacted by settlers dressed up as “Indians” to assert in semiotic forms what the throwing of tea meant in economic terms: Americans were independent from Europe.<sup>447</sup> To maintain this semiotic usefulness, Indianness in settler colonial societies such as the United States and Canada had to be regulated by settlers. While this regulation often gets discussed in the form of elimination, it also is a part of Wolfe’s recuperative argument: Indians had to exist in prescribed places so that settlers could consume their semiotic power.

Yet, an anxiety arose within the collective consciousness of nascent Americans: if Indians still existed, how could Americans claim to be American? Indeed, Indigenous peoples were (and in many cases, still *are*) living in their territories, and as such they (the settlers) could only claim a tenuous American identity. Put differently, since settler colonialism “destroys to replace,”<sup>448</sup> settlers had to regulate Indigenous peoples as Indians to alleviate their anxiety as they (as settlers) become Americans, Canadians, etc. This recuperative element of settler colonialism thus produces a need to regulate Indigenous populations to calm settler fears.<sup>449</sup>

This same anxiety plays out in Canada as well. Canadians, too, need(ed) Indigenous symbols to separate themselves from Europe,<sup>450</sup> though less so than Americans south of the border. Doing so enabled Canadians to foment their identity while simultaneously nullifying the threat of Indigenous sovereignties. But the nascent Canadian settler colony also needed to separate itself from the United States. English speaking Canadians did not want to be seen as Americans just as they needed an identity that was differentiated from Great Britain, though to a lesser degree than their American neighbours.<sup>451</sup> In part, this difference was established in the

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<sup>447</sup> Deloria, *Playing Indian*.

<sup>448</sup> Wolfe, “Settler Colonialism and the Elimination of the Native.”

<sup>449</sup> Ibid.

<sup>450</sup> Lee, “In the Shoes of the Other.”

<sup>451</sup> French speaking Canadians, on the other hand, felt abandoned by France.



way Canadian governments treated Indigenous peoples. Indians had to be assimilated through law (i.e. a peaceful elimination), but they should not be destroyed completely in order to still provide semiotic value to the establishment of a Canadian identity.

It is between this need for semiotic recuperation and the removal (or elimination) of Indigenous peoples that Canadian Indian law is located. Indigenous peoples had to be regulated enough to be moved out of the way of settlement – onto reserves or other margins of society<sup>452</sup> – yet still permitted to exist to feed the settler’s need for difference. In working to achieve this “balance,” Canadian Indian law established who was and who was not an Indian. Underpinning this are logics that enable(d) the settler state to control who belonged with Indigenous nations. But this regulation did so by inculcating Victorian ideals into Indian law. Beginning in 1850, settlers in what would become Canada started regulating Indianness through laws written by non-Indigenous peoples,<sup>453</sup> to which I return in a moment. Such Indian laws reflected Eurocentric imagining of what an Indian *should* be. They were not based on reality, but on stereotypes that reflected what settlers wanted Indians to become – i.e., Euro-Canadians. As I write elsewhere, Canadian Indian law acts as a mirror, reflecting settler images projected on to it while obfuscating what/who stands behind it, namely, Indigenous peoples.<sup>454</sup> Because of this, Indianness favoured patrilineal descent; the Indianness of an Indian child was deemed stronger if her father was also an Indian rather than her mother.<sup>455</sup> Children whose mothers were the only Indian within the parental unit for generations were not entitled to be recognized as Indian

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<sup>452</sup> Royal Commission on Aboriginal Peoples, *Final Report*, 1996, 1, Looking Forward Looking Back:265–67.

<sup>453</sup> Isaac, “An Act for the Better Protection of the Lands and Property of the Indians in Lower Canada, 1850.”

<sup>454</sup> Lee, “In the Shoes of the Other,” 154.

<sup>455</sup> Palmater, *Beyond Blood*, 102–3, 118–19; Eberts, “Victoria’s Secret.”

according to Canadian law. This gender discrimination continues today.<sup>456</sup> Furthermore, in keeping with Victorian sensibilities, Indianness was also imagined in misogynistic and heterosexist ways.<sup>457</sup> Producing an Indian child required heterosexual relations between a woman and a man – especially an Indian man.<sup>458</sup> To be “Indian,” and therefore to be permitted to live in and/or visit their communities, Indigenous women had to submit to being the property of Indian men.<sup>459</sup> Indianness therefore was preparing Indigenous peoples to join a patriarchal, heterosexist society.

Adoption figures into this backdrop in troubling ways. Victorian sensibilities required not only the nuclear family, but also “legitimacy.”<sup>460</sup> Children who found themselves up for adoption were problematic in that they did not fit the ideal mold of the imagined future household. As Mary Eberts points out, settlers targeted First Nations women and families for assimilation specifically by enforcing Victorian modes of nuclear, monogamous families, and this enforcement was codified in the *Indian Act*.<sup>461</sup> Canada’s Indian laws, including pre-confederation laws dealing with Indians, took aim at adoption in addition to gender because it accorded Indigenous peoples too much power in deciding who is and who is not “Indian,” thereby challenging Canada’s presumed authority to regulate Indianness. Indians could only be made sexually by (especially male) Indians, requiring the elimination of Indigenous citizenship orders that might make someone belong in ways that settler society refused to accept. Indians making Indians through adoption therefore questions the colonial order of things.<sup>462</sup> Thus, just as

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<sup>456</sup> Palmater, *Beyond Blood*, 131–41; Canada, Indigenous and Northern Affairs Canada, “The Government of Canada’s Response to the Descheneaux Decision.”

<sup>457</sup> Cannon, “The Regulation of First Nations Sexuality”; Carter, *The Importance of Being Monogamous*.

<sup>458</sup> Eberts, “Victoria’s Secret,” 156.

<sup>459</sup> *Ibid.*, 151–52.

<sup>460</sup> Eberts, “Victoria’s Secret.”

<sup>461</sup> *Ibid.*

<sup>462</sup> Stevenson, “Intimate Integration,” 63.

Alexander Cross did in the years after the *Connolly v. Woolrich* decision, settler governments worked to assuage their anxiety about Indians making Indians, using law to do so. As I will show in the pages that follow, Indian law shifted over time in whatever way was needed to assuage settler anxiety,<sup>463</sup> including laws regarding Indigenous adoption.

#### **4.2 Settler Anxiety and Changes to the *Indian Act*: 1850-1951**

Sitting with my grams that day in 2010, I did not realize how important her statement about Frankie Banning would be to the next six years of my life. *Frankie was adopted, too* resonated with me as I continued into graduate studies, where I was trying to navigate the differences between Canadian Indian law and Anishinaabe law, and how these can have overlapped to create confusion about what legal system validates belonging. Through these years of thinking it through, my grams' off the cuff statement started brought into focus ways in which Canadian Indian law treats individuals differently over time, in addition to different treatment due to gender, racialization and adoption status. Two examples will help clarify what I mean. First, were I to be born and adopted by my father before the *Indian Act* was overhauled in 1951, there is a good chance that I would have been registered as an Indian under the *Act*.<sup>464</sup> After all, this was Frankie's experience. However, as I was born in 1980 and adopted that year, I was not made an Indian; the definition of child in the *Indian Act* in effect at the time included a limited (i.e. racialized) definition of adoption.<sup>465</sup> Nor was I made an Indian in 1983, when my biological

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<sup>463</sup> James Sákéj Youngblood Henderson, "Postcolonial Ghost Dancing: Diagnosing European Colonialism," in *Reclaiming Indigenous Voice and Vision*, ed. Marie Battiste (Vancouver: UBC Press, 2000), 58. Henderson refers to this Eurocentric shifting as the "anti-trickster."

<sup>464</sup> *Beattie v. Aboriginal Affairs and Northern Development Canada*; Stevenson, "The Adoption of Frances T."

<sup>465</sup> Sharon Venne, ed., *Indian Acts and Amendments, 1868-1975: An Indexed Collection* (Saskatoon: University of Saskatchewan, Native Law Centre, 1981).

mother married my father. On the other hand, were Frankie or I born and adopted after 1985 (when the *Act* was overhauled again), he/I would have been eligible to be registered as an Indian.

Second, in order to better understand the complexities of adoption and Indian status, and therefore how settler anxiety constructs Indianness over time, a gendered lens is required. As Christine Sy has argued, “[i]f we continually centre and recall only men’s versions of history or look only at men in history, we generate limited and distorted narratives lacking in nuance and multiple realities. Anishinaabe history is not – cannot be – only ever about what men say, said, do or did.”<sup>466</sup> I was reminded of this as well by the knowledge holders I spoke with while preparing this dissertation. I was told specifically: “We can’t forget about auntie Lyla.”<sup>467</sup> Indeed, Lyla’s story refracts in different ways the logics of the *Indian Act* and how settler anxieties treated the adoption of women and girls. While having similar experiences as her brother Frankie, who was seen as Indian, Lyla was not seen as an Indian until she married an Indian.<sup>468</sup> Frankie and Lyla’s belonging were narrated differently because of their sex.

This was the case despite Lyla already fully belonging with Fort William First Nation through Anishinaabe citizenship law. As mentioned at the beginning of this chapter, Lyla was Frankie’s sister and was also adopted by my great grandfather in the 1930s. Lyla grew up on the reserve, and was brought into various families where she was taught community- and family-specific knowledges.<sup>469</sup> She was also (pro)claimed as belonging with Anishinaabeg publicly.<sup>470</sup> For example, Iskigamizige-giizis shared the following story with me about Lyla’s belonging:

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<sup>466</sup> Christine Sy, “Indigenous Histories Through a Gendered Lens,” *Anishinaabewiziwin*, 2016, <https://giizismoon.wordpress.com/2016/11/12/indigenous-histories-through-a-gendered-lens/>.

<sup>467</sup> Conversation with Waatebagaa-giizis; Conversation with Iskigamizige-giizis.

<sup>468</sup> Conversation with Iskigamizige-giizis.

<sup>469</sup> Ibid.

<sup>470</sup> Blake Funeral Chapel, “Lyla Bannon: 1924-2010 (Obituary).”

So, she said when she was little, too, that my grandma would teach her – that’s how she learned the language. They’d talk Ojibwe to her. And they taught her how to cook, and make frybread. But she knew her place, too: she always said that unless she was invited into something, she’d stay back. Most of the time she was always told to come in and be a part of whatever, eh.

I remember her telling me – this is interesting – I remember her telling this story about them going to berry picking when she was small. Younger. And, my grandmother and them taking her berry picking with her kids. And they were going into a different territory – I think was Kenora area, where there was lot of jeeski<sup>471</sup> back in there – and my grandmother told her “Don’t you talk. Unless they ask you something, you say nothing. You mind your own business. You pick your berries.” And I remember her telling me that when they got to where they were going, the area that they were going to, on another piece of land – native land – I’m sure it was near Kenora area, or somewhere – they had to tell the people in Ojibwe, or in the language, that she was white, just so that they wouldn’t put jeeski on her, I guess. You know?<sup>472</sup>

Here, Lyla’s belonging is narrated through stories of teaching and protection rather than Indian status. Indeed, while she may or may not have been a status Indian due to Jacob Bannon bringing her into his family, her Indianness was narrated as being established only through marriage.<sup>473</sup>

This haziness around Lyla’s pre-matrimonial status exemplifies in part the gendered element of Indianness: Frankie was understood to be an Indian for most of his life, whereas in keeping with

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<sup>471</sup> I asked Iskigamizige-giizis what “jeeski” meant. She said it referred to “bad medicine.”

<sup>472</sup> Conversation with Iskigamizige-giizis.

<sup>473</sup> Ibid.

the gendered logics of Indianness,<sup>474</sup> Lyla's Indian status seems to arise only through her marriage to another status Indian.

Unpacking Lyla's story here will provide a deeper appreciation for how Anishinaabe families continue to struggle to assert their citizenship jurisdiction today. The authority for families to decide who belongs with Anishinaabeg does not flow from human-based laws such as the *Indian Act* or band membership codes. Rather, it flows from the "implicate order" of Creation.<sup>475</sup> As James Sákéj Youngblood Henderson writes, Creation is the basis of all power, including human authority. Familial jurisdiction and authority to decide who belongs, then, is merely an extension of Creation's power. "[T]he Creator established or inspired various types of relationships of blood relatives, relatives by marriage, and relatives through traditional adoption. *In other words, the kinship structure of First Nations society is given by the Creator and made by choices with others.*"<sup>476</sup> Thus, belonging is a collaborative enterprise between the Creator and the people; humans are empowered to renew the nation, and do so by making choices with others where such power to decide flows from Creation itself. Adoption is but one way such choices are made; marriage and procreation are also valid ways of renewing the nation. All three methods of renewal fall within the jurisdiction of families. Band offices are not accorded such authority because they do not reproduce human beings.

In terms of adoptees like Lyla, the community claims her through the jurisdiction of the family. Jacob Bannon had the authority to do this, because he, like other Anishinaabeg, was empowered to renew the nation through adoption. While Frankie's story offers important messages for how to reclaim control over Anishinaabe citizenship practices in decolonizing

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<sup>474</sup> Eberts, "Victoria's Secret."

<sup>475</sup> Henderson, *First Nations Jurisprudence*, 150. Henderson refers to Creation in terms of "the implicate order."

<sup>476</sup> *Ibid.*, 150–51. Emphasis mine.

ways,<sup>477</sup> Lyla's does as well but for different reasons. Lyla belonged with Fort William First Nation before even though some of the knowledge holders said she only became an Indian later in life. The narration of her belonging before status offers a way to see the power of Anishinaabe citizenship law and the jurisdiction of families to decide who belongs. Indeed, Lyla belonged with Fort William before marriage because of Anishinaabe law rather than the *Indian Act*. This can be seen in the "nested" nature of how her belonging was narrated. By nested, I mean that her belonging was strongest at the level of her family, but emanated outwards.<sup>478</sup> As Iskigamizige-giizis noted, Fort William families incorporated Lyla into the community by sharing knowledge with her, by protecting her, by identifying where she fit into the community, and by explaining to her how to interact with Anishinaabeg outside of Fort William. This tutelage was thus nested: she was taught family-specific knowledge (i.e. how to make frybread), she was taught her place in the community, she was taught Anishinaabemowin (the Anishinaabe language), and she was taught how to act when in other Anishinaabeg territories (i.e. "Don't you talk. ... You mind your own business. You pick your berries."<sup>479</sup>). Each of these levels of knowledge sharing act like concentric rings that nested Lyla into the nation, starting from the level of the family then moving outwards into community and, ultimately, into other Anishinaabe communities. As Leanne Simpson writes, this nested approach to Anishinaabe citizenship speaks to ever-increasing presence. Belonging is strongest at the centre, where one is connected to a specific family and land. "As someone moves away from the centre of their territory – the place they have the strongest and most familiar bands and relationships – their knowledge and relationship

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<sup>477</sup> I return to Frankie's story in Chapter 6 of this dissertation.

<sup>478</sup> Simpson, *Dancing on Our Turtle's Back*, 89. Simpson describes this nested nature: "As someone moves away from the centre of their territory – the place they have the strongest and most familiar bands and relationships – their knowledge and relationship to the land weakens. This is ... a zone of decreasing Nishnaabeg presence as you move out from the centre of the territory."

<sup>479</sup> Conversation with Iskigamizige-giizis.

to the land weakens. This is ... a zone of decreasing Nishnaabeg presence as you move out from the centre of the territory.”<sup>480</sup> Lyla’s presence, like that of other adoptees, was strongest in the centre, at the family, where the authority given to humans by Creation was most pronounced; but the broader community claimed her as well by teaching her how to live like other Fort William Anishinaabeg. The combination of familial claiming and tutelage produces a sense of belonging for adoptees that is itself an expression of Creation’s power.<sup>481</sup>

This system of claiming is different than the way the *Indian Act* constructs belonging through Indian status. The *Act* bases belonging on positive recognition of gendered Indian blood rather than familial jurisdictions. Like the other adoption narratives discussed in this dissertation, Lyla’s belonging was narrated through the language of familial claiming. That claiming was not passive: it was established through teaching her specific knowledges and ways to behave. These principles of familial claiming, knowledge sharing, and teaching how to behave are important to understanding what Anishinaabe citizenship law looks like through adoption narratives, which I return to in Chapter 6. For now, however, it is important to emphasize what these principles signal: they establish the jurisdiction and authority of Anishinaabe citizenship law. Sharing knowledge and declaring that an adoptee belongs vests citizenship jurisdiction in Anishinaabe families themselves rather than in the *Indian Act*. Having Indian status alone, for example, does not mean an adoptee will be taught how to make frybread – that knowledge comes from families making the decision to share it with a specific person. Likewise, having Indian status alone does not mean an adoptee will be publicly claimed in front of other Anishinaabeg. In Lyla’s case, when traveling in other Anishinaabeg territory near Kenora, she was protected from bad

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<sup>480</sup> Simpson, *Dancing on Our Turtle’s Back*, 89.

<sup>481</sup> Henderson, *First Nations Jurisprudence*, 122. As Henderson writes: “[Indigenous law] is a normative vision, a produce of shared thoughts and consciousness, of a community’s belief and imagination. It is shared consciousness that makes people feel as if they belong to a community.”



medicine due to the jurisdiction her family asserted to claim her as Anishinaabeg. Recall that, fearing bad medicine, the older Fort William women told the Kenora Anishinaabeg that Lyla belonged.<sup>482</sup> Indian status was not mentioned as the reason why Lyla should be kept safe on these outings because, according to Iskigamizige-giizis, Lyla was not seen as “Indian” until she married a status Indian man from Fort William later in life. In other words, between Anishinaabeg of Fort William demonstrated their jurisdiction to claim someone that they determined to belong, regardless of what Ottawa or other Anishinaabeg felt about her.

While Frankie was claimed through similar narratives that reveal the presence of Anishinaabe law and familial jurisdiction, which I will return to later in this dissertation,<sup>483</sup> the knowledge holders also confirmed his belonging symbolically by telling me that he was a status Indian. Lyla’s belonging was not confirmed in the same way. She became “Indian” only when she married an Indian.<sup>484</sup> Lyla’s story shows that she while she was claimed by the community through Anishinaabe citizenship law, she was not seen as an “Indian” until her Indianness was established through a male Indian. On the other hand, the genesis of Frankie’s Indian status was narrated in uncertain terms as well, but for different reasons than Lyla’s. Frankie’s Indianness was discussed as flowing either from his adoption by Jacob,<sup>485</sup> or because he chose to enlist for the second World War.<sup>486</sup> In other words, according to the narratives shared with me, Frankie became a status Indian either because Jacob Bannon adopted him as a child, or because of his behaviour (i.e. his choosing to go to war). The gendered nature and history of Canadian Indian law thus influences how the people of Fort William think about belonging. Frankie was more

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<sup>482</sup> Conversation with Iskigamizige-giizis. “[T]hey had to tell the people ... that she was white, just so that they wouldn’t put jeeski on her...”

<sup>483</sup> See Chapter 6 of this dissertation.

<sup>484</sup> Conversation with Iskigamizige-giizis.

<sup>485</sup> Conversation with Waatebagaa-giizis.

<sup>486</sup> Conversation with Manidoo-giizisoon.

readily recognized as an Indian by Canadian law, and thus more readily situated in the community as someone who always belonged; Lyla, on the other hand, clearly belonged according to familial claiming, but had to marry an Indian in order to achieve the same semiotic belonging accorded to Frankie through Indian status. Adoption narratives thus offers a way to track not only the gender of Indian status, but the way gender and Indian status move through time: had Lyla been born, and adopted by an Indian after 1985, for example, she would have been eligible for Indian status and maybe spoken of differently as a result.

Stories about adoption provide evidence of status logics challenging Anishinaabe citizenship orders in complex ways. As this section will now show, in addition to sex and racialization, the validity of Anishinaabe adoption in the eyes of Canada's Indian laws varies depending on time period. As I will argue, this regulation reveals more about settler anxieties than it does about Anishinaabe citizenship law. In attempting to assert a Canadian identity, settler society needed to position Indigenous peoples as Indians in ways that did not disrupt their self-narrative as a civilized nation. Adoption was a threat to this ordering of things because, as Frankie and Lyla's stories show, Indians could make more Indians through adoption, though in gendered ways.

The possibility of adoption being used to make more Indians was thwarted through changes various changes to Indian law, most notably in 1851 and then again in 1951. Consider, for example, the colonial Crown's passage of *An Act for Better Protection of the Lands and Property of the Indians in Lower Canada* in 1850. Constructing belonging as a means of determining who has rights to Indian lands as "property," the *Act* defined four bases for determining who belongs, these being: blood, intermarriage, people residing with "Indians" whose parents were also "Indians," and, finally, "All persons adopted in infancy by and such

Indians, and residing in the Village or upon the lands of such Tribe or Body of Indians, and their descendants.”<sup>487</sup> Taken at face value, these bases aren’t all that bad. They tend to *defer* to Indigenous authority to the extent that family-making in general was recognized as the way in which Indigenous citizenships were discerned by Indigenous peoples. However, the evidence suggests that the possibility that Indians could make Indians through adoption elicited a quick legislative reaction. Just one year after the passage of this *Act*, it was amended to remove adoption from as a basis of belonging with Indians.<sup>488</sup>

Adoption as a basis for entitlement to Indian status took a 100-year hiatus from Canada’s Indian law, reappearing again in 1951. But it appeared again not for the reasons one might first think. While I discuss some of the reasons for this in detail below, I flag here that said legislative changes were not about benevolence in, say, recognizing the self-determination of Indigenous families to renew their nations. Rather, it had more to do with assuaging settler anxieties. Allyson Stevenson has argued that Indigenous adoption practices carried with them the potential to upset the “standard order of things,” by which she is referring to the settler belief that Indians were to assimilate into the settler society rather than reproducing more Indians outside of it.<sup>489</sup> Transracial adoptions like Frankie Banning’s held “subversive potential” because they “posed a serious threat to the longstanding policy of Indian assimilation and called into question the racial and gender hierarchy that was being established through [Indian law].”<sup>490</sup> Indian Affairs officials thus grew concerned over the meaning of adoption when those adoptions if those adoptions

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<sup>487</sup> Isaac, “An Act for the Better Protection of the Lands and Property of the Indians in Lower Canada, 1850,” 41.

<sup>488</sup> Thomas Isaac, ed., “An Act to Repeal in Part and to Amend an Act, Intituled, An Act for the Better Protection of the Lands and Property of the Indians in Lower Canada, 1851,” in *Pre-1868 Legislation Concerning Indians: A Selected & Indexed Collection* (Saskatoon: Native Law Centre, University of Saskatchewan, 1993), 47.

<sup>489</sup> Stevenson, “Intimate Integration,” 63.

<sup>490</sup> Stevenson, “The Adoption of Frances T.,” 471; Stevenson, “Intimate Integration,” 63.

could enable Indians to make more Indians, especially when they were transracial in nature.<sup>491</sup> Indeed, if Indians could make more Indians by choice *as well as* by heterosexual pairings, the colonial order of things would be at risk of collapse.

Stevenson points to one story in particular to demonstrate the anxieties elicited within the Canadian federal bureaucracy by Indigenous adoption. Drawing on the case of Frances T. – a Métis girl adopted by Indians at Fort Chipewyan in 1937 – Stevenson shows that in fact adoption could be used to make non-Indians “Indians” under the *Indian Act* of 1927. The adoption of Francis T. reverberated through the Indian Affairs bureaucracy, both administratively and ideologically, and had to be addressed swiftly.<sup>492</sup> After extensive legal deliberations, Frances became an Indian legally as a result of her adoption by parents who were recognized as Indians under the *Indian Act*. Interestingly, adoption’s 100-year absence in federal Indian law may have helped to make this so. In examining this matter, law makers had to look to provincial adoption statutes because adoption was not included in the *Act* in effect at the time. Instead, they established Frances’ Indian status through legal amalgam, combining federal and provincial law. Stevenson recounts:

After failing to obtain the desired result from officials in Alberta, the [Indian Affairs] Branch referred the matter to the federal Deputy Minister of Justice, E. Miall, for his legal opinion. On 19 July 1940 he provided the final word. Based on his analysis of the 1927 Indian Act, Alberta’s child welfare law, and the way in which the term *child* had been defined in past cases, Miall stated clearly and unequivocally that Indian status could be created through adoption. ... Since the [1927 Indian Act] did not cover the issue of

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<sup>491</sup> Stevenson, “The Adoption of Frances T.”

<sup>492</sup> *Ibid.*, 473.

adoption, it was then necessary to define the meaning of child. He then looked to both provincial and federal legislation. The Alberta Adoption of Infants Act, section 45(i), stated that “an order of adoption shall b) make such child, for the purposes of the custody of the person and filial and paternal duties and rights, for all intents and purposes the child of the adopting parent; c) give the child the same rights to claim for nurture, maintenance and education upon his adopting parent that he would have were the adopting parent his natural parent.”<sup>493</sup>

In short, without a definition of “child” in the *Indian Act*, adoption could be used to make Indians under federal law by relying on provincial statutes where adoption was defined.<sup>494</sup>

Indian Affairs’ response in 1951 belied settler anxieties. It created a definition of “child” that reasserted the colonial ordering of things. “Child” now included a legally adoption *Indian* child.<sup>495</sup> By limiting entitlement to Indian status to a racialized construction of Indigeneity, Indian Affairs bureaucrats re-asserted the idea that Indians were a dying race that had to be assimilated through careful population control. “With the goal of eliminating Indigenous legal and kinship forms,” Stevenson argues, “the Indian Act [*sic*] colonized adoption so it could be used as a method of assimilation rather than as a traditional form of Indigenous alliance creation and childcare.”<sup>496</sup> I would argue that this worked to soothe settler anxieties about their own sense of self; it re-centered settler colonial whiteness in how Indians could discern who belonged with them, i.e. it reinforced the boundaries between (“civilized”) white society and (“barbaric”) Indigenous nations by “keep[ing] the white/Indian binary intact.”<sup>497</sup> Frances T., though Métis,

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<sup>493</sup> Ibid., 478.

<sup>494</sup> C.f.: Beattie v. Aboriginal Affairs and Northern Development Canada.

<sup>495</sup> Stevenson, “The Adoption of Frances T.,” 480.

<sup>496</sup> Ibid., 469.

<sup>497</sup> Smith, *Liberalism, Surveillances and Resistance*, 19.

was legally recognized at the time as “white,” since she was not “Indian.” But Given Miall’s reasoning that she could be made “Indian,” the line between the civilized and the savage blurred, putting the colonial order put into question.<sup>498</sup> Such is a common trope within settler colonial societies.<sup>499</sup> Indigenous citizenship orders therefore had to be regulated if Canada’s sense of civility was to be protected.

Tying this back to Fort William First Nation, were Frankie born and adopted in 1850, he would have been seen as an Indian according to settler colonial law at the time. But he and Lyla were born within the same *Indian Act* era as Frances T. (i.e., the *Indian Act, 1927* was in effect at the time). Whether Frankie and Lyla were registered as Indians upon their customary adoption or afterwards is unclear within the narratives the knowledge holders shared with me. Some say Frankie was made an Indian and a band member shortly after his adoption, while others say he was made a band member and an Indian because of his service in World War II.<sup>500</sup> Without pouring over archival records, it would be difficult for me to know how he became a status Indian, but he was one nonetheless.<sup>501</sup> The same could be said for Lyla. Was she a status Indian her whole life but narrated as non-Indian until married because of the way (male) Indianness is assumed to be the pre-requisite for belonging?<sup>502</sup> It is difficult to know without further investigation. Regardless, Frances T.’s story demonstrates that Indian Affairs had less control over Indigenous citizenship orders than it may have thought, and definitely less than it wanted.

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<sup>498</sup> Stevenson, “The Adoption of Frances T.”

<sup>499</sup> Stoler, *Race and the Education of Desire*, 105–7.

<sup>500</sup> Conversation with Manoominike-giizis.

<sup>501</sup> Conversation with Odemiin-giizis; Conversation with Waatebagaa-giizis.

<sup>502</sup> See: Eberts, “Victoria’s Secret,” 151–55.

In the years after 1951, however, adoption as a basis for determining entitlement to Indian status created new paradoxes that continued to reveal settler anxieties regarding Indigenous citizenship orders. I turn to exploring those intersections now.

### **4.3 Settler Anxieties 1951 to Present**

With the 1951 changes to the *Act*, a new era of regulating Indigenous belonging through adoption was established. As just mentioned, adoption as a basis for entitlement to Indian status after 1951 was recognized by the federal government, though for the most part in racialized form. Adoption had taken a one hundred year hiatus from Canadian Indian law (1851 to 1951), but then re-appeared in 1951 to reassert settler dominance. However, a shift occurred during this period in how federal law treated Indigenous adoption as a basis for Indian status. Whereas the one hundred year hiatus suggests that Indian Affairs bureaucrats attempted to nullify Indigenous adoption practices simply by disregarding them, the *Indian Act, 1951* suggests that adoption now sat squarely in the gaze of Indian regulation.

This section explores ways in which Canadian settler anxiety about Indigenous citizenship orders continues to express itself in Indian law. I argue that adoption's re-appearance in the *Indian Act* since 1951 should be read not as federal benevolence or sympathy towards Indigenous citizenship orders, but rather as a neo-liberal approach to Indian regulation that seeks to re-assert Canadian dominance through knowing the Other. I make this point by reading Indigenous and Northern Affairs Canada's (INAC) *Adoption Officer's Manual* as an instrument of surveillance that gathers information about (that "knows") Indigenous adoptions in the name of assessing entitlement to Indian status. A post-1985 *Indian Act* document, the *Adoption Officer's Manual* (the *Manual*) builds on an history in which adoption and "Indian custom"

found themselves in the purview of the *Indian Act* in, at times, odd ways (especially between the mid-1950s until the *Act* was overhauled again in 1985). I provide this context below. Ultimately, though adoption – both “legal” and through “Indian custom” – is now a basis for entitlement to Indian status, its regulation as a part of federal Indian law belies an on-going settler anxiety about Indians making Indians. Adoption as an Indian practice must be known, (mis)recognized, and processed administratively if it is to be “valid” in Canadian law. While I focus on adoption here as a lens through which Canada attempts to regulate Indigenous citizenship orders, others have reviewed this same settler regulation of Indigeneity through gendered and heteronormative lenses.<sup>503</sup>

In my review of Allyson Stevenson’s work in the previous section, I showed that Indian Affairs bureaucrats reacted to the reality that Indians could make Indians through adoption. Stevenson argues that due to cases like that of Frances T., where a Métis girl became a status Indian through adoption, the 1951 *Indian Act* was amended to include an essentialized (i.e. racialized) definition of adoption. Asserting control over adoption, Indian Affairs conflated adoption’s validity as a basis for Indian status only when the child adoptee was already an Indian. As I just showed, whereas it had been found that the 1927 *Indian Act* could be used to make Indians out of non-Indians through a mix of provincial and federal laws, the 1951 *Indian Act* closed this loophole. Now, Indians could not make Indians through adoption. In this way, Indian Affairs re-asserted not only regulatory control over who could belong with Indian Bands, but also the racial hierarchy itself. Indian adoption could not breach that most basic element of the settler colonial ordering of things: the races should not mix.

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<sup>503</sup> Lawrence, “Gender, Race”; Palmater, *Beyond Blood*; Cannon, “The Regulation of First Nations Sexuality,” 10–13; Carter, *The Importance of Being Monogamous*.



However, in the years after the 1951 overhaul to the *Act*, two peculiar things happened with the definition of “child” in the *Act*. The first is that it appears twice: once in the definitions section (i.e. section 2), and again in a section dealing with the descent of Indian property, or inheritance (i.e. sub-section 48(16)).<sup>504</sup> In both of these sections, the definition of child includes “a legally adopted Indian child.”<sup>505</sup> The emphasis on the words “legally” and “Indian” are not surprising here considering Stevenson’s work, noted above, in which one can read these words as the state clamping down on the possibility of Indians making Indians due to cases like that of Frances T. I do not contest Stevenson’s reading.

But then a second peculiar thing happened in a smaller 1956 amendment; with no change to section 2 of the *Act*, “Indian custom” became part of the definition of “child” in sub-section 48(16); it now read “In this section, “child” includes a legally adopted child *and a child adopted in accordance with Indian custom.*”<sup>506</sup> In other words, “child” and adoption are defined in two different ways in the *Act*. The discrepancy over legal vs. custom adoption remained a part of the *Indian Act* for 29 years, or until section 2 was amended again in 1985, at which point Indian custom became a federally recognized basis for conferring Indian status (see Table 2).<sup>507</sup>

Little explanation exists in the literature as to why this near three-decade discrepancy exists per the definition of adoption (i.e. legal vs. custom) in the *Act*.<sup>508</sup> However, the discrepancy is significant in that it signals a shift in how the federal government addressed settler anxiety over Indians making Indians. This shift, I argue in this section, belies a new era of assuaging settler anxiety, one based on surveillance over adoption rather than an outright denial

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<sup>504</sup> See: Venne, *Indian Acts and Amendments, 1868-1975*. Also note, until 1985 Indian status was the basis for band membership. See: Palmater, *Beyond Blood*, 145.

<sup>505</sup> Venne, *Indian Acts and Amendments, 1868-1975*.

<sup>506</sup> Ibid. Emphasis mine.

<sup>507</sup> See: Gilbert, *Entitlement to Indian Status*, 75.

<sup>508</sup> C.f.: *ibid.*, 75n18.

of it. Larry Gilbert has argued that the shift in sub-section 48(16) entitled non-Indian adoptees (regardless of whether they are Indigenous or not) to registration as Indians under the *Act*, despite section 2 of the *Act* not mentioning customary adoption before 1985.<sup>509</sup> Between 1956

**Table 2: Definitions of “Child” in the *Indian Act*, 1951 to 1988.**

<i>Year</i>	<i>s.2</i>	<i>ss.48(16)</i>
1951	“Child” includes legally adopted Indian child	In this section, “child” includes a legally adopted child.
1952	Same	Same
1956	Same	In this section, “child” includes a legally adopted child and a child adopted in accordance with Indian custom.
1970	Same	Same
1985	“Child” includes a legally adopted child and a child adopted in accordance with Indian custom.	Same
1988	Same	Repealed

and 1988, then, it was possible under sub-section 48(16) of the *Indian Act* for adoptions taking place “in accordance to Indian custom” to entitle an adoptee to the descent of property of an Indian. Gilbert argues that this entitlement to inheritance became an entitlement to Indian status

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<sup>509</sup> *Ibid.*, 76. “...between the years 1956 and 1988, when subsection 48(16) of the *Indian Act* included a definition of a child as including a child adopted by Indian custom for descent of property, it is a matter of law. When those children inherited land reserved for Indians, the law transformed them into legitimate heirs of Indians. The same law entitled them to band membership, entitled them to hold, use or enjoy the lands and other immovable property belonging to or appropriated to the use of the relevant tribe, band or body of Indians.”

when the adoptee inherited land reserved for Indians.<sup>510</sup> This inconsistency has led Gilbert to argue that “custom adoption relating to the issue of entitlement to registration [as an Indian] existed before 1985 because the rules regarding descent of property created a basis for entitlement to registration through the custom adoption and through the transfer of lands reserved for Indians.”<sup>511</sup> Gilbert’s argument seems to be held up by courts of law.<sup>512</sup>

The significance of 1956 sub-section 48(16) amendment is that it signals the opening of an adoption surveillance era. This surveillance was focused on more than regulating Indigenous citizenship orders rather than individual adoptions. “Indian custom” is a legal order unto itself, and is something that cannot be invented by the federal government or even Indian Bands.<sup>513</sup> It is *sui generis*, or of its own kind.<sup>514</sup> Thus, including the term “Indian custom” in the *Indian Act* is a way of talking about Indigenous constitutional orders that lie beyond the descriptive capabilities of Canadian Aboriginal rights and jurisprudence.<sup>515</sup> Canadian law cannot fully describe Indigenous legal orders.<sup>516</sup> In place of this description it assigns labels such as “Indian custom” and *sui generis*. When it comes to “adoption in accordance with Indian custom” as found in the *Indian Act*, then, much more is happening than simply statutory recognition of entitlement to Indian status. As Gilbert puts it: “When a statute [such as the *Indian Act*] recognizes custom adoption and the Constitution protects that aboriginal right, the aboriginal right includes not only the right to adopt children, but, more important, the right to do so *in accordance with the laws of*

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<sup>510</sup> Ibid., 76.

<sup>511</sup> Ibid., 76.

<sup>512</sup> Ibid., 75n18.

<sup>513</sup> Ibid., 73–4; 80.

<sup>514</sup> John Borrows, “Constitutional Law From a First Nation Perspective: Self-Government and The Royal Proclamation,” *UBC Law Review* 28, no. 1 (1994): 5n14.

<sup>515</sup> Henderson, *First Nations Jurisprudence*, 120.

<sup>516</sup> James Sákéj Youngblood Henderson, “Treaty Governance,” in *Aboriginal Self-Government in Canada: Current Trends and Issues*, ed. Yale Belanger, 3rd ed (Saskatoon: Purich, 2008), 22.

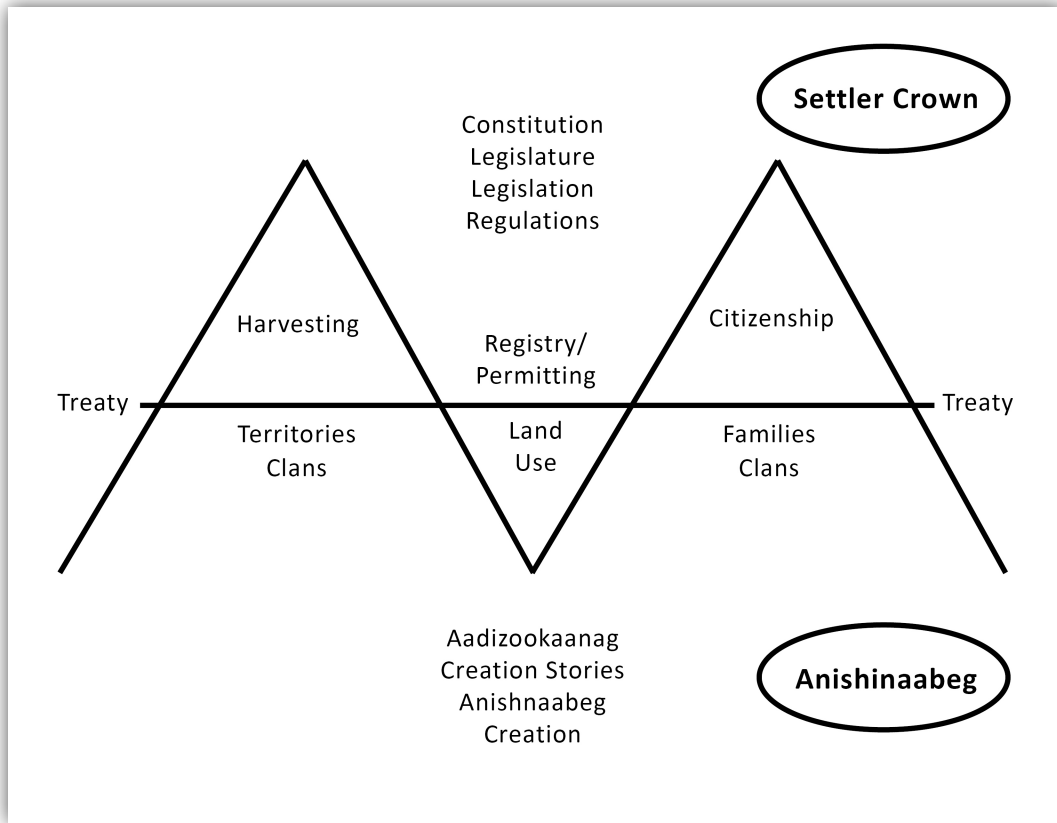
*those people.*<sup>517</sup> In other words, Indian custom adoptions are merely the tip of Indigenous constitutional ice bergs that can ultimately call into question Canada's presumed sovereignty over Indigenous territories. It is worth unpacking what I mean by this.

As can be seen in Figure 10, treaty constitutionalism can be used as a tool for identifying unseen constitutional orders at the interface between settler Canadian society and Indigenous nations. The tips of the ice bergs are but the visible portion of a deeper constitutional order. For settlers, writing resource exploitation clauses into various treaties necessitated a settler political order that would oversee and regulate land use activities such as settlement occupation, forestry, mining, etc. These are the visible practices animated by an invisible constitutional order that itself rests on legal and political systems that have their own axiologies. Conversely, Figure 10 shows that Anishinaabeg brought their own constitutional orders to the treaty as well. For example, Anishinaabe harvesting and citizenship practices are also guided by invisible legal and political orders. Anishinaabeg harvesting practices, for example, are regulated by families working within Anishinaabeg governance systems. On the one hand, Crown land use activities are regulated in part by the Crown's own legal and constitutional basis; on the other hand, so too are those of Anishinaabeg. The treaty merely establishes a shared boundary; it does not

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<sup>517</sup> Gilbert, *Entitlement to Indian Status*, 80. Emphasis added.

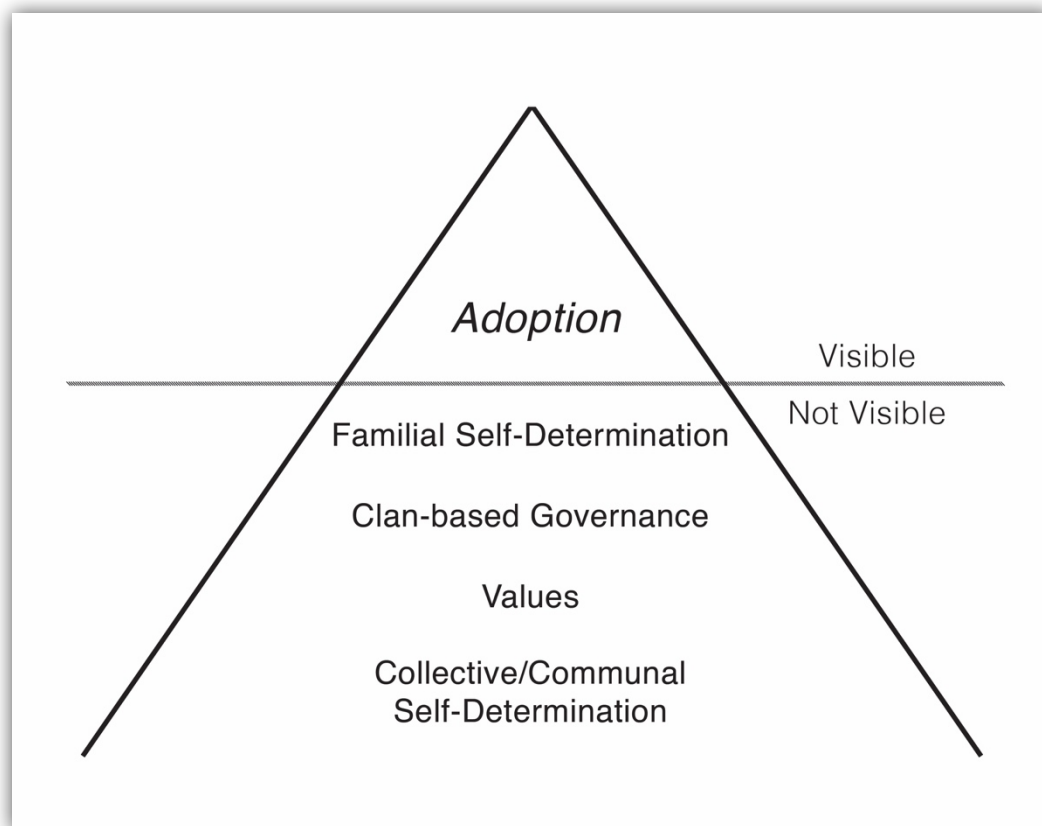
relinquish one party's constitutional basis for governing itself in shared territory. The visible activities of one are not regulated by the invisible constitutional orders of the other.



**Figure 10: Treaty Constitutionalism.** Schematic designed by Damien Lee for this dissertation. Digitized by Kelsea Pelletier.

Applying a treaty constitutionalism approach to reading adoption as a basis citizenship-making, then, Figure 11 demonstrates that adoption and belonging are regulated by a deeper invisible constitutional order as well. Adoption is merely the visible practice (i.e. children joining families) that takes its form from underlying, invisible constitutional orders (see Figure

11). Again, this citizenship order is *sui generis*: it does not rely on Canadian Indian law for its function or legitimacy.<sup>518</sup>



**Figure 11: Adoption-Citizenship Constitutionalism.** Schematic designed by Damien Lee for this dissertation. Digitized by Kelsea Pelletier.

For the *Indian Act* to recognize adoption “in accordance with Indian custom,” then, raises serious questions about the role of the Canadian state within Indigenous constitutional orders. How were adoptions going to be verified as according to “Indian custom”? What *is* “Indian custom”? I would argue that the inclusion of “Indian custom” in the *Indian Act* – buried though it was in a sub-section midway through the *Act* for the years 1956 to 1985 (and 1988) – reveals a

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<sup>518</sup> James Sákéj Youngblood Henderson, “Empowering Treaty Federalism,” *Saskatchewan Law Review* 58 (1994): 292.

shift in how Canadian bureaucrats approached the regulation of Indian identity. Rather than an act of benevolence, sub-section 48(16) and, section 2 after 1985, reflect a neo-liberal approach to Indian regulation that remains with us today. It establishes a need for Indian Affairs bureaucrats to weigh in on Indigenous citizenship orders when assessing applications for Indian status on the basis of adoption. I devote the remainder of this section to addressing Indian Affairs' need to weigh in on such matters. As I show below, the shift towards recognizing "Indian custom" in adoption-based Indian status applications belies a continued anxiety within the federal government about the possibility of Indians making Indians: rather than removing adoption from Indian law outright (as was done between 1851 and 1951), or regulating it in racialized form (as it was from 1951-1985 according to section 2 of the *Act*), sub-section 48(16) and, section 2 after 1985, surveilled it.

#### 4.3.1 Surveilling Indigenous Citizenship Orders

Whereas adoption was outright absent from the *Indian Act* and its precursor legislation for a century, its re-appearance in 1951 was couched in greater federal interest in the verification of entitlement to Indian status.<sup>519</sup> Before 1951, the Department of Indian Affairs' record keeping on who was an Indian was shoddy at best.<sup>520</sup> It relied on a hodge-podge of records relating to bands, irregular bands,<sup>521</sup> treaty annuities lists, and a general list of Indians.<sup>522</sup> This approach to record keeping created confusion over who were Indians.<sup>523</sup> Addressing this need for knowing,

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<sup>519</sup> Stevenson, "The Adoption of Frances T."

<sup>520</sup> Gilbert, *Entitlement to Indian Status*, 15–6; 15n12.

<sup>521</sup> See s.2 of the Indian Act 1876 in Venne, *Indian Acts and Amendments, 1868-1975*. There, "irregular band" is defined as "any tribe, band or body of persons of Indian blood who own no interest in any reserve or lands which the legal title is vested in the Crown, who possess no common fund managed by the Government of Canada, or who have not had any treaty relations with the Crown."

<sup>522</sup> See, for example: Canada, Indian and Northern Affairs Canada, "Adoption Specialist Manual (Draft)," n.d., 363, <http://bit.ly/2hd7ZXv>; C.f.: Gilbert, *Entitlement to Indian Status*, 15–16.

<sup>523</sup> See Minister of Indigenous and Northern Affairs, Carolyn Bennett's, comments in: Standing Committee on Indigenous and Northern Affairs, Meeting No. 39 INAN. Here, Bennett traces present

the 1951 *Indian Act* amendment provided two statutory instruments that enabled the federal government to gain better control over keeping track Indians recognized by the *Act*. It established an Indian Register – a general list of names of Indians that remained in paper form until 1984<sup>524</sup> – and a Registrar.<sup>525</sup> The Registrar was made responsible for “[maintaining] an accurate, up-to-date Indian Register containing the names of those persons entitled to be registered as Indians under the provisions of the Indian Act [*sic*].”<sup>526</sup> In so doing, Indianness and who was entitled to it, was something that had to be and *could be* “known” with ever increasing precision.

To exemplify this exacting focus over time, one can look to the way in which the state monitored and counted Indians, and how this exercise focused on Indians made through adoption. Beginning in 1951, the Indian Register took the form of a list of names kept on paper.<sup>527</sup> Known as the General List, this paper-based record keeping system was maintained until 1984. At that point, and with the increase of stable computer power, the paper list was entered into a computerized record keeping program referred to as the Indian Membership System (IMS).<sup>528</sup> Given that the 1985 *Indian Act* enabled some Indigenous women and some of their descendants to regain Indian status if they (the women) had married a non-Indian before April 16, 1985,<sup>529</sup> a new computer program was developed to “track the influx of applicants

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challenges in eradicating sex discrimination in the *Indian Act* back to poor record Departmental keeping before 1951. As she noted during this INAN meeting, “Unfortunately, there wasn't even [an Indian] registry pre-1951.”

<sup>524</sup> Canada, Indian and Northern Affairs Canada, “Adoption Specialist Manual (Draft),” 363.

<sup>525</sup> See the Indian Act, 1951 in: Venne, *Indian Acts and Amendments, 1868-1975*.

<sup>526</sup> Canada, Indian and Northern Affairs Canada, “Adoption Specialist Manual (Draft),” 363.

<sup>527</sup> Ibid.

<sup>528</sup> Ibid.

<sup>529</sup> Mary Eberts provides a description of how specific sub-sections of the *Indian Act, 1985* treat women who regained Indian status after losing it upon marriage in previous iterations of the *Act*, and their children. See: Eberts, “Victoria’s Secret,” 155–56. Also see Indian Act, s.6.



wishing to register in the Indian Register” after the 1985 amendment took place.<sup>530</sup> These and other tracking systems were amalgamated in 1989 under a new program entitled the Indian Registry System (IRS). These systems included an “Adoption Sub-system containing information about adoption which had previously been recorded manually.”<sup>531</sup> The sophistry of the IRS system can be seen in part through the way in which Entitlement Officers are asked to process applications for Indian status by adoptees using a 23-page processing schematic,<sup>532</sup> and a 236-page *Adoption Specialist’s Manual* outlining how adoptions should be processed using in-house software.<sup>533</sup> While a variety of adoption types are recognized as bases for registration as an Indian, the justification for such infrastructure is most evident when applications for Indian status are made on the basis of customary adoption: “The Registrar will consider the evidence received [by applicants for Indian status] to determine whether it is reasonable to conclude that the custom adoption took place as claimed.”<sup>534</sup> In other words, the visible practice of adoptions taking place within Indigenous communities according to their own constitutional orders become subject to the invisible constitutional orders of another through Indigenous and Northern Affairs Canada’s regulation of Indianness. It is in this context of increasing sophistry and precision that the state comes to “know” what forms of adoption “count” as bases for entitlement to Indian status.

In his book, *Liberalism, Surveillance, and Resistance: Indigenous Communities in Western Canada, 1877-1927*, Keith Smith reads the Department of Indian Affairs’ information gathering techniques as a form of surveillance co-constitutive with the rise of liberalism in what is currently Canada. Canada had to maintain the boundaries between Indians and non-Indians,

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<sup>530</sup> Canada, Indian and Northern Affairs Canada, “Adoption Specialist Manual (Draft),” 363.

<sup>531</sup> Ibid.

<sup>532</sup> Canada, Indian and Northern Affairs Canada, “Adoption Unit Process Overview,” 2011, <http://bit.ly/2hcXJyF>.

<sup>533</sup> Canada, Indian and Northern Affairs Canada, “Adoption Specialist Manual (Draft),” 376–533.

<sup>534</sup> Ibid., 361.

not only as part of its civilizing mission, but also to protect the sense of civility amongst its citizens.<sup>535</sup> To do so, Indians had to be watched.<sup>536</sup> While concerned specifically with Western Canada from confederation until 1927, Smith shows that a major part of Indian Affairs' role during this period was to police Indigenous peoples' so-called progress. "The slightest deficiency, aberration, or stubborn endurance of "Indianness" as singled out for ... corrective action."<sup>537</sup> This surveillance, argues Smith, is important not only for the assessment of civilizing programs, but also because it provided a snapshot of the progress of colonial rule.<sup>538</sup>

While this chapter is not concerned with the focus of Smith's work, several of his points can be applied here to answer why Canada recognized adoption according to "Indian custom" as a basis for Indian status more centrally in the 1985 *Indian Act*. From the mid-1980s onwards, adoption as a basis for entitlement to Indian status needed to be better understood by the Canadian government. INAC could now receive applications for status based on legal and customary adoptions. While the "legal" adoptions – referring to adoptions taking place according to provincial adoption orders – were relatively easy to assess, "Indian custom"-based adoptions required more thought. To assist INAC bureaucrats in processing such applications, the federal government developed further infrastructure to move this process along. One such development was the establishment of an "Adoption Module," a sub-set of the IRS that tracked adoption information through various sources.<sup>539</sup> The purpose of these instruments was and is to "track all

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<sup>535</sup> Smith, *Liberalism, Surveillances and Resistance*, 17; c.f.: Stoler, *Race and the Education of Desire*, 107.

<sup>536</sup> Smith, *Liberalism, Surveillances and Resistance*, 97.

<sup>537</sup> *Ibid.*, 18. This policing also took on gendered form, where Indigenous women were surveilled for ways in which they did not conform to Victorian ideals of womanhood. See: Eberts, "Victoria's Secret."

<sup>538</sup> Smith, *Liberalism, Surveillances and Resistance*, 17.

<sup>539</sup> Canada, Indian and Northern Affairs Canada, "Adoption Officer's Manual (Draft)," 13. These sources are divided by time frame. Before 1984, all information on adoptions as basis for Indian status were kept in paper form in "Black Binders"; between 1990 and 2003, an "Adoption Correspondence Tracking

adoption related correspondence and to produce statistical information related to applicants.”<sup>540</sup>

To assist INAC entitlement officers more directly, however, two manuals were created outlining how applications for Indian status on the basis of adoption are to be processed: the *Adoption Officer’s Manual* and the *Adoption Specialist’s Manual*. Both provide similar information, with the *Specialist’s Manual* including a detailed tutorial on how to use software meant to process adoption-based applications.<sup>541</sup> For sake of clarity here, however, I discuss the shorter *Adoption Officer’s Manual*.

The *Adoption Officer’s Manual* (subsequently, the *Manual*) discusses six forms of adoption as bases for entitlement to Indian status. In accordance with section 2 of the *Indian Act, 1985*, entitlement officers can assess applications for Indian status based on legal adoption, private adoption, stepparent adoption, *de facto* adoption, custom adoption, and adoptions taking place in accordance to the Northwest Territories’ *Aboriginal Custom Adoption Recognition Act*.<sup>542</sup> The majority of these are straight forward in the *Manual*. Legal adoption refers to adoptions taking place according to provincial or territorial legislation. Private adoption means adoptions arranged by third parties; these are often “open” adoptions or adoptions taking place between family members. Stepparent adoption is just that: an adoption by a stepparent. Adoptions taking place according to the Northwest Territories’ *Aboriginal Custom Adoption Recognition Act* look for evidence of adoption in accordance with that *Act*. However, the more interesting types of adoption discussed in the *Manual* are based in the language of *de facto* adoption and custom adoption.

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system” was in place to track adoptions; and after 2003, an Adoption File was put in place to do the same. See page 13 of the *Adoption Officer’s Manual*.

<sup>540</sup> Ibid., 19.

<sup>541</sup> Canada, Indian and Northern Affairs Canada, “Adoption Specialist Manual (Draft).”

<sup>542</sup> Ibid.

According to the *Manual*, *de facto* adoptions refer to children adopted as minors whose legal or formal adoptions do not take place until after they are adults.<sup>543</sup> The *Manual* is concerned with guiding entitlement officers as they assess applications for Indian status. In this context, *de facto* adoption is important because it enables adoptees to become Indians after the age of majority if they were “adopted in accordance with Indian custom in all practical senses while still a minor but the official custom adoption ceremony or process did not take place until after the adoptee attained the age of majority.”<sup>544</sup> Such adoptions can also describe situations where a child is raised by Indians and is adopted through provincial or territorial law after they become an adult.<sup>545</sup> In either case, the entitlement officer must also look for “proof that a *de facto* adoption occurred,” namely, affidavits by the adoptive parents, friends and relatives stating they raised the child as their own.

Where the basis for an application for status is custom adoption – whether on its own or as part of a *de facto* adoption application – the burden of proof requires a little more colonial magic. What I mean by “colonial magic” here is that custom adoptions as the basis for Indian status must be accompanied by a Band Council Resolution (BCR) approved by the Indian Band council in addition to affidavits by birth parents, adoptive parents, and two elders of the band “confirming the existence of a custom adoption” and that the adoption took place in accordance with it.<sup>546</sup> Indian Bands are inventions made by the Canadian government.<sup>547</sup> They did not exist in Canadian law before 1857.<sup>548</sup> *Sui generis* adoption laws are based on collective interests of

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<sup>543</sup> Canada, Indian and Northern Affairs Canada, “Adoption Officer’s Manual (Draft),” 9.

<sup>544</sup> Ibid.

<sup>545</sup> Ibid.

<sup>546</sup> Ibid., 11.

<sup>547</sup> Gilbert, *Entitlement to Indian Status*, 73.

<sup>548</sup> Ibid., 74.

Indigenous communities,<sup>549</sup> and are therefore held collectively (by the people) rather than by the Indian Band. How can an Indian Band recognize a custom adoption, through BCR or otherwise, if it is itself an invention of Canadian Indian law?

It is here that Smith's work on surveillance helps us to read the *Adoption Officer's Manual* as an instrument for quelling settler anxieties over Indigenous citizenship orders. In short, the *Manual* is a way not only to assess reality but also to produce a new one through discourse. As Smith argues, information gathering is not a culturally- or politically-neutral exercise. Drawing on Peter Baskerville and Eric Sager's work on the Canadian census, Smith argues instead that surveilling Indians in Canada sought to instill certain values within Indigenous societies.<sup>550</sup> One of the values apparent to me in the *Manual* is that of nuclear family-making as the basis for Indian status through adoption. Affidavits must include those from adoptive parents and natural parents, thereby suggesting a separation between families along nuclear lines. Anishinaabe adoption law is not limited by such lines; families might care for children on a permanent or fluid basis, meaning children may move back and forth between families as they see fit and so long as there is no abuse happening in their family of origin.<sup>551</sup> This is the case at Fort William First Nation as well, where the knowledge holders made clear that people have an obligation to care for children even when those children are not their own through genealogy.<sup>552</sup> Yet, through the emphasis on discreet families (in the form of the affidavits needed to prove a custom adoption took place), the *Manual* works to instill nuclearity

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<sup>549</sup> Ibid., 79.

<sup>550</sup> Smith, *Liberalism, Surveillances and Resistance*, 17.

<sup>551</sup> Auger, "The Northern Ojibwe," 199–200.

<sup>552</sup> For example: Conversation with Gichimanidoo-giizis. "You know, one of the principles of our way – Nish way – is these children that are walking the earth, they belong to all of us. We are only given that responsibility to raise them in the best way, close to the creator. And, so, it's like, it's an overall responsibility."

as a value that Indigenous families need to reflect if they want their adopted children to be recognized as Indians.

Another value instilled through the *Manual*, I would argue, is that of centralization. I already mentioned the “colonial magic” of the BCR above. But in addition to that is the fact that Indian Bands centralize political power in Indigenous communities that otherwise (in many cases) have decentralized governance systems. Indigenous citizenship law is marginalized in this scenario. For Anishinaabeg, at least, citizenship governing authority is decentralized in Anishinaabe families.<sup>553</sup> This is problematic in that it marginalizes clan- or family-based citizenship governance systems that are decentralized in nature – something I return to in Chapter 6.

The most concerning thing to me, however, in regards to the *Adoption Officer’s Manual* is its ability to normalize colonial control over Indigenous citizenship orders. If we see the *Manual* as an instrument of surveillance requiring certain types of “proof” of adoption depending on the type an applicant for Indian status is standing on, it becomes tied to a system of observation that centres the Canadian state and its legal system at the expense of Indigenous citizenship laws. It repositions the Canadian state as arbiter over who belongs. It is a part of creating the colonizer’s body of “knowledge” about Indigenous peoples,<sup>554</sup> which simultaneously instills certain values while observing their infusion within the target society. While from a different era of the *Indian Act*, we can look to Lyla’s story to explain such infusion: if Indianness was to reflect the Victorian values of patriarchy, the surveillance of marriage and trans-racial adoption was one way to convince my community to see Lyla as not-Indian until she married an

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<sup>553</sup> Simpson, *Dancing on Our Turtle’s Back*, 90. Also see Chapter 6 of this dissertation.

<sup>554</sup> Smith, *Liberalism, Surveillances and Resistance*, 17.

Indian. More contemporarily, the surveillance perpetuated through the *Adoption Officer's Manual* works to instill the Canadian notion that Indian Bands can arbitrate inherent Anishinaabe citizenship law. This is incorrect, since Indian Bands are creations of the Canadian federal government rather than creations of inherent Anishinaabe constitutional orders.<sup>555</sup> However, through knowing Indigenous peoples in these ways – i.e. through knowing Indigenous adoption through the ways prescribed by the *Manual* – settlers “normalize colonial power relations ... to mitigate against the emergence of any other way of knowing First Nations people.”<sup>556</sup> The *Adoption Officer's Manual* is bound up in this context as a tool of extending settler colonial control over Indigenous citizenship orders through not only surveillance, but also as a tool that infuses Canadian ideals into Indigenous communities.

However, it is in this knowing of the Other that settler anxiety about Indigenous citizenship orders is revealed. I argued earlier that settler society needed (and needs) to maintain control over Indigenous peoples as Indians in order to define themselves in contradistinction. “If Indigenous people were dishonest, simple, lazy, prone to violence, promiscuous, and self-indulgent,” writes Smith, “then non-Indigenous Canadians were honest, intelligent, hard-working, reserved, morally upright, and generous.”<sup>557</sup> With the recognition of adoption as a basis for Indian status since 1951, one could argue that the contemporary *Indian Act* is bound up in a new form of Indian regulation that embraces *some* parts of *sui generis* Indigenous legal orders in distorted form as a means to re-assert colonialism dominance. The way in which the *Act* treats adoption, with its ever increasing sophistry leading up 1985 and afterwards, offers a window into understanding settler anxiety over Indigenous citizenship orders, and how surveillance worked to

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<sup>555</sup> Gilbert, *Entitlement to Indian Status*, 73–74.

<sup>556</sup> Smith, *Liberalism, Surveillances and Resistance*, 18.

<sup>557</sup> Ibid.

assuage it. “Knowing” Indians through adoption becomes a part of normalizing colonial power to, paradoxically, protect settler fears about Indians making Indians. INAC has done its job well: as of May 2011 it had tracked more than 4,200 adoptions relating to Indians.<sup>558</sup> Subjugating Indian adoptions to statutory recognition in the *Indian Act* and information gathering through the *Adoption Officer’s Manual* gives away a little power (in the form of accepting Indians’ abilities to make Indians) in the short term to secure control over Indians in the long term (legitimizing the Registrar as the authority on whether adoptions are legitimate).<sup>559</sup> In other words, situating INAC as the arbiter of Indian identity and belonging alleviates settler anxieties about Indians making Indians through a politics of recognition that affirms Canadian cultural and legal dominance.

#### 4.4 Conclusion

Thinking back to how Alexander Cross reasserted Eurocentric legal dominance in the years after *Connolly v Woolrich* case of 1864, one can see how, over time, settler colonialists in what is currently Canada struggled to make sense of the existence of Indigenous legal orders. At times, Cross was successful in subduing Indigenous law in his work.<sup>560</sup> One could argue that he had to be: the Canadian sense of (civilized) self depended on it. Looking over the history of adoption as a basis of Indians making Indians in Canadian Indian law, one can see a similar trajectory; as I showed above, adoption appears in Indian law in 1850, then is removed in 1851, not to return until 1951. In my mind, the reasons for this disappearance are the same as Cross’s: settler anxiety

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<sup>558</sup> Andy Doraty, “Adoption Related Events for Your ATIP Request,” May 2, 2011, <http://bit.ly/2g70LTT>. The total number of adoptions tracked by INAC as of 2011 was 4,283. This number included adoption of non-Indians (1,519), adoptions by non-Indians (982), custom adoptions (488), and other adoption events (1,384).

<sup>559</sup> Canada, Indian and Northern Affairs Canada, “Adoption Specialist Manual (Draft),” 361.

<sup>560</sup> Haring, *White Man’s Law*, 173.



about Indigenous legal orders – whether marriage law, adoption practices, or otherwise – had to be assuaged. Non-recognition provided this catharsis for a time. However, with the reappearance of adoption in the 1951 *Indian Act* then again in its 1985 iteration signal a different trajectory in how settler colonialists dealt with its “subversive potential.”<sup>561</sup> While one could argue that its inclusion in the *Act* since 1951 signals a more accepting or benevolent approach to Indigenous legal orders on Canada’s part, I do not see it this way. As I argued in this chapter, the infrastructure developed by Indigenous and Northern Affairs Canada devoted to defining, tracking, and *surveilling* Indigenous adoption practices offers an alternative theory. I argued in this chapter that this infrastructure and surveillance merely bely the same settler anxieties about Indians that existed before 1951. In my analysis above, I argued that though this anxiety might manifest differently today, it nonetheless still expressive of a fear over Indigenous citizenship orders. Adoption now has to be surveilled rather than barred outright.

It is important to note, however, that law can influence processes and opinion beyond its own realm.<sup>562</sup> The power of law is not restricted to guiding and directing behaviour within the institution of law, but extends into society. Indian law, for example, co-constitutes how Indigenous peoples and communities themselves think about Indigeneity.<sup>563</sup> For some, being “Indian” as defined by the *Indian Act* has become the pre-requisite for being Indigenous.<sup>564</sup> Thus, this dissertation now changes course to examine some of the ways in which the status logics described above have been internalized by Indigenous communities themselves. Such self-

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<sup>561</sup> Stevenson, “The Adoption of Frances T.,” 471.

<sup>562</sup> Andersen, *Métis*, Chapter 1.

<sup>563</sup> Lawrence, “*Real*” *Indians and Others*, 25.

<sup>564</sup> *Ibid.*, 221.

regulation is the ultimate power of discourse,<sup>565</sup> Indian discourse included.<sup>566</sup> In Chapter 5, I will examine the ways in which status logics play out today within Anishinaabe First Nations in Ontario, of which Fort William First Nation is a part.

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<sup>565</sup> Smith, *Liberalism, Surveillances and Resistance*.

<sup>566</sup> Lawrence, *“Real” Indians and Others*.

## Chapter 5 Lineal Descent and Adoption as Burden

### 5.0 Copy and Paste: Internalizing Status Logics

The interview phase for this dissertation project began with an invitation by one of the knowledge holders. After posting a call for research participants in the Fort William First Nation newsletter,<sup>567</sup> a young woman from the reserve reached out to me and asked if I would be interested to hear the story about how she was adopted into the community, and her experiences as an adoptee living there throughout her life. Excited to get started with this part of my research, I met with her, and her mother and father on the reserve on a warm October night in the fall of 2015.

Onaabani-giizis was adopted into Fort William First Nation as a child. She is non-native by birth, but was taken in by an Anishinaabe man<sup>568</sup> as a young child. At that time, she moved to the reserve with her mother so that they could live with Namebini-giizis and his extended family. Some years later, Namebini-giizis married Onaabani-giizis's biological mother, Abitaa-niibini-giizis. When Onaabani-giizis was in high school, her father adopted her using the laws of the Province of Ontario. "We made sure it was by the book," she noted, "because, unfortunately, we were dealing with lawyers and that kind of thing,"<sup>569</sup> by which she was referring to formalizing parental custody issues. Among other things, this formal adoption was used as grounds to apply for Indian status, upon which she was successful. However, as they were clear in telling me, the formal adoption did not change anything in terms of the familial bonds established years

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<sup>567</sup> Fort William First Nation, "Weekly Newsletter," September 18, 2015, [https://issuu.com/fortwilliamfirstnation/docs/weekly\\_newsletter-september\\_18-24](https://issuu.com/fortwilliamfirstnation/docs/weekly_newsletter-september_18-24).

<sup>568</sup> Namebini-giizis.

<sup>569</sup> Conversation with Onaabani-giizis.

earlier;<sup>570</sup> “[T]o me, [the formal adoption] wasn’t a necessity: we already had the sense of belonging.”<sup>571</sup> According to her family’s narrative, she already belonged with Fort William First Nation because Namebini-giizis had cared for her for most of her life.

However, despite her adoptive father and his family claiming her, and despite being a member of the band and being registered as an Indian under the *Indian Act*, Onaabani-giizis ran up against walls when dealing with the Fort William chief and council. Her belonging was seen as suspect. As she put it:

I don’t know how many chief and council meetings I went to, telling my story, and telling my story, and re-telling it, and re-telling it, where it was like the same format on my computer, just copied and pasted. It was having to re-inform and re-live that. I mean, I swear, every time I got emotional it was more because I had to; it felt like everybody was against me, and that feeling of being excluded. It’s just exclusion.<sup>572</sup>

This exclusion, she and her family felt, was because she did not have an Indian bloodline, something the Fort William Indian Band has insisted on as a primary determinant of band membership eligibility for the last 30 years.<sup>573</sup> This, despite the Band’s 1987 band membership code citing adoption is a basis for membership in the band.<sup>574</sup>

For some, adoption has become a dirty word at Fort William First Nation. The knowledge holders spoke of times when the Fort William Indian Band or the community viewed it as an illegitimate basis of belonging. Throughout the history of Canada’s Indian law, being Indian and belonging with Indians was regulated through status logics that favoured Eurocentric notions of

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<sup>570</sup> Ibid.; Conversation with Abitaa-niibini-giizis; Conversation with Namebini-giizis.

<sup>571</sup> Conversation with Onaabani-giizis.

<sup>572</sup> Ibid.

<sup>573</sup> Ken Ogimaa (FWFN Chief Executive Officer) and Fort William First Nation Chief and Council, *Agenda Items*; MacLaurin, “Facebook Post.”

<sup>574</sup> Fort William First Nation, “Band Membership Code,” n.p.

Indian blood and male Indianness. Resources such as funding held in trust by the federal government have become tied to this gendered and racialized identity.<sup>575</sup> While adoption has since 1985 been a basis of entitlement to be registered as an Indian under the *Indian Act*,<sup>576</sup> it carries with it baggage from a previous time. Indian Affairs bureaucrats feared the possibility of Indians making Indians because it questioned the dominant narrative that Indians were dying out, and because it seated Indian renewal with Indigenous families rather than the federal government.<sup>577</sup> Adoption has “subversive potential”<sup>578</sup> in this context because it inherently suggests the possibility of children belonging based on the political self-determination of families, thus disrupting an entire way of thinking about Indianness. The Fort William Indian Band has had to contend with these logics of Indianness for generations, through which it has had to learn to “play the game” of restricting belonging to those with Indian status, not least of which for accessing federal dollars that flow with it.<sup>579</sup> As a result, I would argue, belonging “officially”<sup>580</sup> with the Fort William Indian Band has come to be reconfigured along lines that favour the logics underpinning Indian status and its historical suspicion of adoption. We can see this at play at Fort William and within the knowledge holders’ stories.<sup>581</sup> While the *Indian Act* now recognizes adoption as a basis for Indian status and the federal dollars that come with it, the Fort William Indian Band views it with suspicion.<sup>582</sup> As Namebini-giizis observed, “the band

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<sup>575</sup> Simpson, “Captivating Eunice,” 118.

<sup>576</sup> *Indian Act*, s.2.

<sup>577</sup> Stevenson, “The Adoption of Frances T.” Also see my discussion in Chapter 4 of this dissertation.

<sup>578</sup> *Ibid.*, 471.

<sup>579</sup> Royal Commission on Aboriginal Peoples, *Final Report*, 1996, 1, Looking Forward Looking Back:304.

<sup>580</sup> Here I am referring to band membership. The Fort William Indian Band controls its own band membership list under s.10 of the *Indian Act*, 1985. I name and discuss band membership as a form of belonging later in this chapter.

<sup>581</sup> See Chapter 6 of this dissertation.

<sup>582</sup> Conversation with Onaabani-giizis; Conversation with Namebini-giizis; Conversation with Abitaa-niibini-giizis; Conversation with Gichimanidoo-giizis; Conversation with Waatebagaa-giizis;

office knew [that adoption is a basis for band membership], and they've been denying these kids all these years. You know?"<sup>583</sup>

About a month after meeting with Onaabani-giizis and her family, I met with another Fort William family that has experience with adoption, though in different ways. While having tea one rainy November afternoon, Gichimanidoo-giizis told me about how she adopted her daughter, Zaagibagaa-giizis, as an infant using Anishinaabe customary law. Now an adult, Zaagibagaa-giizis shared with me the many ways in which her family claims her, which I will return to in this dissertation.<sup>584</sup> She told me about how she had a bloodline connection to Fort William through her biological family, and how she became a member of the Fort William Indian Band through her adoptive mother. Moreover, Gichimanidoo-giizis told me about how she also adopted Zaagibagaa-giizis's two children; the two boys grew up with Gichimanidoo-giizis just as their mother did years earlier. But despite having a bloodline connection to Fort William through their mother (Zaagibagaa-giizis),<sup>585</sup> the grandchildren are not status Indians due to reasons having to do with their paternity.<sup>586</sup> And this is where the problem enters.

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Conversation with Manidoo-giizis. As Onaabani-giizis noted, "I don't know how many chief and council meetings I went to, telling my story, and telling my story, and re-telling it, and re-telling it, where it was like the same format on my computer, just copied and pasted. It was having to re-inform and re-live that. I mean, I swear, every time I got emotional it was more because I had to; it felt like everybody was against me, and that feeling of being excluded. It's just exclusion."

<sup>583</sup> Conversation with Namebini-giizis.

<sup>584</sup> See Chapter 6 of this dissertation.

<sup>585</sup> Conversation with Gichimanidoo-giizis.

<sup>586</sup> Conversation with Zaagibagaa-giizis. Zaagibagaa-giizis informed me that one of her children's fathers is a non-status Indian, while the father of the other child did not list his name on his child's birth certificate. Zaagibagaa-giizis is considered a "6(2) Indian" under s.6 the *Indian Act, 1985*, which means her ability to pass on entitlement to Indian status is hindered. For a 6(2) Indian woman to pass entitlement on to her children, she would need to parent with another status Indian (whether a "6(1) Indian," considered "full status," or a 6(2) Indian, considered "half status"). In addition, the Department of Indigenous and Northern Affairs Canada assumed children with "unstated paternity" to be non-status. As a result, neither of Zaagibagaa-giizis' children are status Indians due to these paternity issues. For more on 6(2) status transmission and unstated paternity, see, respectively: Chelsea Vowel, *Indigenous Writes: A Guide to First Nations, Métis & Inuit Issues in Canada* (Winnipeg: Portage & Main Press, 2016), 28–30; Palmater, *Beyond Blood*, 43.

Gichimanidoo-giizis told me that the Fort William Indian Band refuses to put her grandchildren on the membership list because of their lack of Indian status.<sup>587</sup> According to her, the band has said that her grandchildren must apply to be recognized by Canada as Indians before the Band will recognize them as members.<sup>588</sup> Indian status, therefore, is being favoured by the Band over not only bloodline, but also Anishinaabe law that would otherwise see these grandchildren fully belong through adoption.

I open this chapter by citing parts of Onaabani-giizis and Gichimanidoo-giizis's respective stories because doing so starts to unpack ways in which the status logics discussed in Chapter 4 have become internalized within Anishinaabe communities, including Fort William First Nation. Onaabani-giizis is claimed by a Fort William family as "blood" through her adoption.<sup>589</sup> But, according to her and her family's perspective, she experiences exclusion by the Fort William Indian Band because she lacks bloodline to the community.<sup>590</sup> On the other hand, Gichimanidoo-giizis's grandchildren, who are connected to Fort William through bloodline, are not band members because they (the grandchildren) do not have Indian status.<sup>591</sup> While these two stories may seem unrelated, they speak to the same issue. The degree to which Onaabani-giizis must fight to have her belonging recognized by the chief and council is mirrored by Gichimanidoo-giizis's struggle to have her grandchildren made members of the band. These two stories therefore demonstrate that the Fort William Indian Band has internalized a settler colonial politics of recognition when determining band membership. For the Band, Indian status is the

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<sup>587</sup> Conversation with Gichimanidoo-giizis.

<sup>588</sup> Ibid.

<sup>589</sup> Conversation with Onaabani-giizis.

<sup>590</sup> Ibid.

<sup>591</sup> Conversation with Gichimanidoo-giizis.

most important pre-requisite for membership, followed by bloodline. Were it upholding Anishinaabe law, the adoptees in both cases would be accepted as members of the band.<sup>592</sup>

Conflict, tension and exclusions are nothing new when it comes to First Nations and belonging.<sup>593</sup> Canadian Indian law has worked to exclude many people from First Nations who rightfully belong, especially women.<sup>594</sup> Indeed, conflict is common to all societies and can be found throughout them – it is not limited to belonging and citizenship. The role of effective law is “not to prevent conflict or even to resolve it, but rather, to effectively manage it so that it does not paralyze people.”<sup>595</sup> However, effectively managing conflict regarding questions of belonging is complicated by issue of internalization. In terms of belonging, Anishinaabeg no longer only fight against an external actor, such as the Government of Canada and its *Indian Act*, but also against ideas held by their elected Indian Band leaders and even their own fellow community members.<sup>596</sup> Reflecting on the way in which the *Indian Act* can twist Anishinaabe against their own people, John Borrows writes that “there are too many in our own communities who have also learned how to dominate others by mastering its intricate rules.”<sup>597</sup> Following this, it is important to think about current laws effecting Fort William First Nation not as “neutral,”

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<sup>592</sup> See Chapter 6 of this dissertation.

<sup>593</sup> Lawrence, “*Real*” *Indians and Others*, 1. “Identity, for Native people, can never be a neutral issue.”

<sup>594</sup> Eberts, “Victoria’s Secret”; Lawrence, “Gender, Race.”

<sup>595</sup> Val Napoleon, “Ayook: Gitksan Legal Order, Law, and Legal Theory” (Unpublished Dissertation, University of Victoria, 2009), iii, <http://hdl.handle.net/1828/1392>.

<sup>596</sup> Borrows, “Seven Generations, Seven Teachings,” 5–6. Writes Borrows: “[The] *Indian Act* also captivates some people at home. ... [T]here are too many in our own communities who have also learned how to dominate others by mastering [the *Indian Act*’s] intricate rules. They may not even be our leaders; they may be band employees, aunties or so-called friends. The *Indian Act* gives them a great deal of influence over us, including matters related to: where we live, whether we think we belong, how we elect leaders, how we live under them, and how we learn, trade and attend to spiritual matters. These strictures allow others to avoid the harder work of having to engage real participation and consent. Their addictive compulsions to power must end. Those intoxicated by the *Indian Act*’s need to change, both in Ottawa and at home. This change will require healing. It will require us to all be better people.”

<sup>597</sup> *Ibid.*, 5.



even when these laws are ostensibly being put in place or enforced by the band itself, but as carrying baggage that can work to decenter Anishinaabe law.

First Nations have internalized the logics of Canadian Indian law to varying degrees. As Bonita Lawrence has argued, “bodies of [settler] law defining and controlling Indianness have for years distorted and disrupted older Indigenous ways of identifying the self in relation not only to collective identity, but to the land,” and in so doing have come to co-constitute how many First Nations think about what it means to be Indigenous.<sup>598</sup> Canadian law has the power to refigure Indigenous identity and belonging because of the ways it ties Indian status to resources that Indian Bands rely upon to function.<sup>599</sup> To belong officially is to meet not only the Indian status threshold but also, at times, to meet the stereotypes underwriting status itself, such as being male and having Indian blood.<sup>600</sup> The distortions Lawrence speaks of have come to reframe how Indian Bands and First Nations communities think about belonging, often resulting in the exclusion of those who might otherwise belong according to inherent Indigenous legal orders.

The knowledge holders spoke about such internalization at Fort William. They shared stories about experiencing exclusion because of their association with adoption, whether as adoptees,<sup>601</sup> children an adoptee,<sup>602</sup> or as adopters.<sup>603</sup> At times, such acts of lateral violence originated in the Band office, or the chief and council, or other families within the community,

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<sup>598</sup> Lawrence, *“Real” Indians and Others*, 1, 25.

<sup>599</sup> Simpson, “Captivating Eunice,” 118; C.f. Andersen, *Métis*.

<sup>600</sup> Eberts, “Victoria’s Secret,” 151–55.

<sup>601</sup> Conversation with Onaabani-giizis.

<sup>602</sup> Conversation with Waatebagaa-giizis; Conversation with Odemiin-giizis.

<sup>603</sup> Conversation with Namebini-giizis.

and in many cases persisted over decades. Each act brought the same message, namely, that adoption is not a legitimate grounds for belonging. As one knowledge holder told me:

I was doing some paperwork for my dad on his status. And a comment came to me from the [Band office]: “Well, we’re still having a little bit of trouble because of your dad’s adoption.” And I thought “Are you frickin kidding me?” Because we’re talking 80 years, you know, or 78 years at the time of my dad’s life.<sup>604</sup>

In this specific situation, the knowledge holder was speaking about her father, a non-native adoptee who became a band member when adopted into Fort William as a child seven decades earlier. Yet, in the minds of the Band office employee she was speaking with, suspicion persists as to the legitimacy of his belonging. This problem is endemic to Indian law being played out at the Indian Band level generally; as Pamela Palmater has shown, Canada used Indian status as the benchmark of recognition to *misrecognize* thousands of First Nations individuals as non-Indians, particularly through gendered discrimination,<sup>605</sup> and Indian Bands have come to internalize these very logics. Her research shows that some Bands have turned settler Indian law against their own communities in order to save money and conserve reservation land.<sup>606</sup> As Palmater writes, “[some Bands] exclude people based on lack of Indian status, choice of spouse, lack of residency on a reserve, ill health, poor finances, and/or inadequate blood quantum,” and women have borne the brunt of these exclusions.<sup>607</sup> To borrow from Onaabani-giizis’s quote above, the narratives in this study suggest that the Fort William Indian Band has at times “copied and pasted” the

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<sup>604</sup> Conversation with Waatebagaa-giizis.

<sup>605</sup> Palmater, *Beyond Blood*, 20.

<sup>606</sup> Ibid.

<sup>607</sup> Ibid.

exclusionary logics of the *Indian Act* when making decisions about who belongs and who does not,<sup>608</sup> a state of affairs I suggest is indicative of the internalization Palmater discusses.

Given the potential for this internalization, it should be pointed out that a number of Indian Bands in Ontario have been actively working to reclaim control over how belonging is imagined and administered in their communities. Such work, while important, should be approached reflexively. It too can reproduce the very logics of exclusion it is meant to address. In addition to resisting Canadian control of their band membership throughout the history of the *Indian Act* and its pre-cursor legislation, many Ontario Indian Bands have worked to assert their jurisdiction over belonging using any means necessary, including by using various Canadian Indian laws. Since 1985, when the *Indian Act* was amended ostensibly to end gender discrimination (something it ultimately failed to do),<sup>609</sup> Indian Bands have had the opportunity to take control over their membership lists, something that previously was controlled solely by the federal government.<sup>610</sup> Using section 10 of the *Indian Act, 1985*, many Ontario Indian Bands have enacted membership codes in an attempt to reclaim formal control over band membership.<sup>611</sup> The Fort William Indian Band took advantage of this opportunity as well, enacting a Band membership code through community referendum in June 1987 and receiving Ministerial approval in 1990.<sup>612</sup> However, as a demonstration of said internalization, the Fort William Indian Band has refused to use its own membership code – something Namebini-giizis observes when he states that “the band office knew [that adoption is a basis for band

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<sup>608</sup> Conversation with Odemiin-giizis; Conversation with Waatebagaa-giizis; Conversation with Abitaa-niibini-giizis; Conversation with Namebini-giizis; Conversation with Gichimanidoo-giizis.

<sup>609</sup> Palmater, *Beyond Blood*, 43; Eberts, “Victoria’s Secret.”

<sup>610</sup> Palmater, *Beyond Blood*, 43.

<sup>611</sup> Woodward, *Native Law*, 500–536. For example, a number of Indian Bands in Ontario took advantage of the 1985 amendments to the *Indian Act* to establish band membership codes.

<sup>612</sup> Fort William First Nation, “Band Membership Code”; Howard Bannon to Gene Bannon, June 24, 1987, <http://bit.ly/2g8a6gd>; Tom Siddon to Christi Pervais.

membership], and they've been denying these kids all these years," as cited above.<sup>613</sup> The 1987 Fort William Band membership code separates Indian status from band membership, meaning one does not have to be registered as an Indian to be a member of the band.<sup>614</sup> Furthermore, the 1987 code removes all the chief and council from the majority of membership decisions, delegating that authority instead to a Membership Committee and a Membership Court.<sup>615</sup> Yet, the Fort William chief and council has opted to contravene the membership code in two ways. First, it has opted to make Band membership dependent on a two part test that centres status: one must first and foremost be a status Indian, and, second, one must also have a bloodline connection to the Band before their name can be added to the membership list. This would explain why Onaabani-giizis and Gichimanidoo-giizis's grandchildren experience exclusion by the Fort William Indian Band, albeit in different forms. Second, the chief and council has made itself the decision making body for all new applications for band membership for Fort William.<sup>616</sup> Such decisions are not within the purview of the chief and council; they are the domain for the Membership Committee and Membership Court.<sup>617</sup> An Indian Band chief and council cannot change its membership code simply by passing a band council resolution.<sup>618</sup> Yet, despite affirming the 1987 membership code in November 2016,<sup>619</sup> the Fort William Indian Band

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<sup>613</sup> Conversation with Namebini-giizis.

<sup>614</sup> Fort William First Nation, "Band Membership Code."

<sup>615</sup> Ibid.

<sup>616</sup> MacLaurin, "Facebook Post." Mr. MacLaurin, a member of the Fort William Chief and Council, noted: "Somewhere along the way FWFN had stopped using its code ... and in doing so began going against its own law by Chief and Council making decisions on membership. ... This code has been around for 30 years, and in that time has not been updated and for some years not followed, this cannot happen."

<sup>617</sup> Fort William First Nation, "Band Membership Code."

<sup>618</sup> *Omeasoo v. Canada (Minister of Indian Affairs and Northern Development) and Buffalo et al.*, 1 CNLR 110 (FC 1988).

<sup>619</sup> Ken Ogimaa (FWFN Chief Executive Officer) and Fort William First Nation Chief and Council, *Agenda Items*.

opted to not use it for an indeterminate amount of time.<sup>620</sup> This raises questions about the accuracy of the current Fort William band membership list and the good administration of the Band.<sup>621</sup> As a federal court judge noted in a case dealing with a different Indian Band, “[t]he voters list for Band elections is based on the membership list. If this list is inaccurate, election results may be compromised.”<sup>622</sup> Applying this logic to the Fort William Indian Band’s membership practices, one could question the validity of chief and council elections and land claims referenda where a voters’ list was generated from the band’s membership list, to the extent that the construction of that list did not conform with the 1987 membership code.<sup>623</sup>

On a different level, Indian Bands across Ontario have also been organizing collectively to further their interests in controlling belonging outside of the framework of the *Indian Act* and band membership. For example, Anishinaabe Indian Bands have organized under the umbrella of a political territorial organization known as the Union of Ontario Indians (UOI) to write a citizenship law that attempts to regain control over belonging in ways outside of the *Act*.<sup>624</sup> Using the federal government’s “Inherent Rights” policy,<sup>625</sup> the UOI has been negotiating a self-government agreement with Canada, which includes provisions for citizenship and a

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<sup>620</sup> As Namebini-giizis observed, “the band office knew [that adoption is a basis for band membership], and they’ve been denying these kids all these years.” Conversation with Namebini-giizis. Also see: MacLaurin, “Facebook Post.”

<sup>621</sup> Cameron v. Canada (Indian Affairs and Northern Development), 579 CanLII (FC 2012) at 65 and 103.

<sup>622</sup> Ibid. at 65.

<sup>623</sup> Ibid.

<sup>624</sup> Anishinabek Nation, E’Dbendaagzijig - Those Who Belong: Anishinabek Nation Citizenship Law (Draft).

<sup>625</sup> Union of Ontario Indians, “Citizenship Overview,” accessed January 28, 2017, <http://www.anishinabek.ca/governance/governanceactivities/eDbendaagzijig/>. “The [UOI] has been negotiating with the Government of Canada under the federal Aboriginal Self-Government policy also known as the “Inherent Right” policy, to restore jurisdiction in several areas including, but not limited to: governance, education, social services, justice, economic development and health. The Anishinabek Nation has been negotiating with the Federal Government of Canada for over eighteen (18) years.”

constitution.<sup>626</sup> Before becoming law, the UOI citizenship law will go through a process of review, then a process of being proclaimed through resolution by the UOI Chiefs in Assembly.<sup>627</sup> Finally, it will then become law when the UOI and Canada conclude a “Final Agreement” on self-government, and only when Canada “passes settlement legislation that gives effect to the Final Agreement and renders it valid.”<sup>628</sup> The benefit of this process is that citizenship decisions will be made on the authority of the self-government agreement rather than through the band membership provisions of the *Indian Act*. I return to explaining the intricacies of this proposed law later in this chapter. For sake of overview, however, I point out here that neither band membership codes nor the UOI citizenship law are beyond critique for ways in which they might reproduce internalized status logics. Band membership codes can, for example, reproduced status logics by making membership dependent on having Indian status and/or blood quantum.<sup>629</sup> On the other hand, the UOI citizenship law, as I will argue below, can also reproduce status logics by making citizenship a matter of lineal descent, a formation of belonging that while heralded by some as a move towards asserting Indigenous self-determination, limits the resurgence of inherent citizenship orders to the degree that it excludes adoption as a valid basis of belonging. This chapter unpacks these complexities.

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<sup>626</sup> Canada, Indian and Northern Affairs Canada and Anishinabek Nation, “Anishinabek Nation Agreement-in-Principle with Respect to Governance,” 2007, <https://www.aadnc-aandc.gc.ca/eng/1309200193324/1309200275975>.

<sup>627</sup> I draw this conclusion based on how the UOI proclaimed the Anishinabek Nation Constitution, which is also part of said self-government negotiations. For example, see: Anishinabek Nation Grand Council Assembly, “Proclamation of the Anishinaabe Chi-Naaknigewin,” Resolution 2012/21 § (2012), <http://bit.ly/23if6QQ>.

<sup>628</sup> Canada, Indigenous and Northern Affairs Canada, “Final Agreements and Related Implementation Matters,” accessed January 28, 2017, <https://www.aadnc-aandc.gc.ca/eng/1100100030583/1100100030584>.

<sup>629</sup> E.g.: Nipigon Ojibway First Nation, “Band Membership Code,” n.d., Article 1.b, <http://bit.ly/2eTA75s>.

Whereas Chapter 4 demonstrated how settler Indian law essentialized Indigenous belonging – making belonging more about having the right blood, gender and family formations rather than inherent law – the purpose of this chapter is to show that Anishinaabeg Indian Bands and political organizations are at times reproducing these same essentialisms in discerning who belongs today. Stories like those carried by Onaabani-giizis and Gichimanidoo-giizis suggest that, at the level of the Fort William Indian Band, for example, recognition by the federal government in the form of Indian status is taking precedence over Anishinaabe law. In its place are logics that flow from Canadian Indian law, such as the notion that Indian status is a pre-requisite to being Anishinaabe, that band membership is the ultimate form of belonging, or the notion that an Indian Band and/or a centralized political organization like the Union of Ontario Indians have the authority to decide citizenship of Anishinaabe nations, when in fact that authority lies with families. Neither an Indian Band nor an incorporated not-for-profit organization have such jurisdiction, since their authority flows from sources other than inherent or *sui generis* Indigenous constitutional orders. An Indian Band’s source of authority is the Parliament of Canada, which created the *Indian Act*. A not-for-profit’s source of authority is the legislature which writes not-for-profit corporation law, whether federal or provincial.<sup>630</sup> Anishinaabe law and governance gain their authority from Creation, not federal statute or provincial statute.<sup>631</sup> I unpack the issue of inherent Anishinaabe authority and jurisdiction below. However, it is important to tease out ways in which Anishinaabe Indian Bands and political

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<sup>630</sup> Canada, Justice Laws, “Canada Not-for-Profit Corporations Act,” c.23 § (2009), <http://laws.justice.gc.ca/eng/acts/c-7.75/>. Not-for-profits incorporated in the Province of Ontario are created through Ontario-based legislation, see: Government of Ontario, “Not-for-Profit Corporations Act,” c.15 § (2010), <https://www.ontario.ca/laws/view>.

<sup>631</sup> Henderson, *First Nations Jurisprudence*, 122. Note: Here, Henderson is writing about *sui generis* Indigenous constitutional orders in general, not Anishinaabe constitutionalism specifically. I am interpreting his work and applying it to the specific context of Anishinaabe law and governance.

organizations might be reproducing status logics if this dissertation is to have any impact on the resurgence of Anishinaabe law at Fort William or elsewhere. Such reproductions are limitations on the resurgence of Anishinaabe citizenship law to the degree that they do not recognize familial or clan-based jurisdiction and authority in discerning who belongs.<sup>632</sup> This chapter therefore reviews recent efforts to reclaim control over belonging in ways that could impact Fort William, and assesses them for ways in which they might reproduce status logics. Given that the knowledge holders included in this study are speaking about belonging at Fort William First Nation, I situate this chapter within a specific political and historical context; Fort William is a community within the Robinson-Superior Treaty territory, and is also a member band of the Union of Ontario Indians.<sup>633</sup> Adding to my brief review of how Fort William exercises band membership, discussed above, I will examine the UOI's work on establishing a citizenship law that could curtail the resurgence of Anishinaabe citizenship law at Fort William by instituting a citizenship order based on lineal descent. Using adoption narratives as a lens, I show here that a problem common to the Fort William Indian Band's approach to band membership and the method of lineal descent is that both, as currently imagined, make belonging a burden on Anishinaabe First Nations rather than seeing people as resources for the community's future. In tracking this logic, I dig deep: I will look at ways in which settler bureaucrats targeted adoptees for removal from the annuities lists in the Robinson-Superior Treaty territory, and suggest that the UOI's draft citizenship law might be taking on these logics today. This chapter shows that adoptees are historically re-imagined as burdens on Anishinaabe Indian Bands, including Fort William, and potentially continue to be imagined as such through current efforts that are meant

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<sup>632</sup> I return to and unpack this argument in Chapter 6 of this dissertation.

<sup>633</sup> Union of Ontario Indians, "About Us."



to reclaim control over belonging within Anishinaabe communities, such as the UOI's work on citizenship.

A note on terminology before proceeding: This chapter discusses terms that may be confusing to a reader not familiar with Anishinaabe politics in northern Ontario or in Ontario more broadly. Here, I use the term “Anishinaabe” (note the double-“a” in the second half of the word) in a peoplehood sense of national identity and presence. The Anishinaabe are a peoples of the Great Lakes and prairies and have inherent legal and governance systems that do not rely on the Canadian and United States governments' recognition for their validity. Whereas Anishinaabe is an inherent identity, Anishinaabeg (note the “g” added to the end) refers often in a plural sense to the people of Anishinaabe communities; for example: the Anishinaabeg of Fort William First Nation have always adopted people. Both terms differ from the Anishinabek Nation (note the single-“a” and the “k” that replaces the “g” at the end), which is represented by an incorporated political organization known as the Union of Ontario Indians (UOI). The UOI is not an inherent political entity; rather, it is a not-for-profit corporation.<sup>634</sup> To avoid confusion of terms in this chapter, then, I refer to the Anishinabek Nation by the name of its secretariat, the Union of Ontario Indians or UOI. When I use Anishinaabe/Anishinaabeg, therefore, I am referring to Anishinaabeg in a peoplehood sense.

### **5.1 Union of Ontario Indians and the *E'Dbendaagzijig Naaknigewin***

This section explores the Union of Ontario Indian's (UOI) draft citizenship law known as the *E'Dbendaagzijig Naaknigewin*, and provides a critique of this draft law. Given the importance of

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<sup>634</sup> Dwayne Nashkawa, “Anishinabek First Nations Relations with Police and Enforcement Agencies” (Union of Ontario Indians, August 30, 2005), 1–2, <http://www.anishinabek.ca/wp-content/uploads/2016/06/Enforcement.pdf>.

the UOI to this chapter, it will help to first provide some background on the organization and to locate the *E'Dbendaagzjig Naaknigewin*'s source of authority. I do this work in the first sub-section below. I then move into another sub-section to review and a critique of the draft citizenship law with an eye towards exploring its limitations as a tool in promoting the resurgence of Anishinaabe citizenship law. As I argue below, the *E'Dbendaagzjig Naaknigewin*'s potential to assert Anishinaabe inherent jurisdiction over citizenship is limited to the degree that it does not recognize the political self-determination of families to decide who belongs with Anishinaabeg through adoption. I begin, however, by located it in the political context of the UOI.

#### 5.1.1 Bases of Authority

The Union of Ontario Indians is a not-for-profit organization incorporated under the *Ontario Not-for-profit Corporations Act*,<sup>635</sup> and acts as a secretariat representing 40 Anishinaabe Indian Bands in Ontario.<sup>636</sup> With its head office located in North Bay, Ontario, the organization provides leadership on issues related to governance, education, health, economic and social development, and lands and resources.<sup>637</sup> According to available documentation, the UOI was incorporated in 1949 after Anishinaabeg veterans returned from World War II and found their

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<sup>635</sup> Mark Blumberg, "List of Ontario Not-for-profit Corporations Finally Released by Ontario Government to Blumberg Segal LLP," March 20, 2014, n.p., [http://www.globalphilanthropy.ca/images/uploads/List\\_of\\_Ontario\\_Not-for-profit\\_Corporations\\_finally\\_released\\_by\\_Mark\\_Blumberg.pdf](http://www.globalphilanthropy.ca/images/uploads/List_of_Ontario_Not-for-profit_Corporations_finally_released_by_Mark_Blumberg.pdf).

<sup>636</sup> Union of Ontario Indians, "Ipperwash Inquiry - Examining the Relationship" (Chiefs of Ontario Special Assembly, Forest, Ontario, 2006), n.p., [https://www.attorneygeneral.jus.gov.on.ca/inquiries/ipperwash/policy\\_part/projects/pdf/Chiefs\\_of\\_Ontario-Union\\_of\\_Ontario\\_Indians\\_Presentation.pdf](https://www.attorneygeneral.jus.gov.on.ca/inquiries/ipperwash/policy_part/projects/pdf/Chiefs_of_Ontario-Union_of_Ontario_Indians_Presentation.pdf); Union of Ontario Indians, "About Us." According to the Union of Ontario Indians website: "The Anishinabek Nation incorporated the Union of Ontario Indians (UOI) as its secretariat in 1949. The UOI is a political advocate for 40 [*sic*] member First Nations across Ontario. The Union of Ontario Indians is the oldest political organization in Ontario and can trace its roots back to the Confederacy of Three Fires, which existed long before European contact."

<sup>637</sup> Union of Ontario Indians, "About Us."

communities in no better condition than before leaving for the war.<sup>638</sup> As a not-for-profit organization, the UOI has a board of directors that oversees its work.<sup>639</sup>

However, the UOI is more than just a not-for-profit corporation in the traditional sense. Whereas not-for-profits tend to be governed only by a board of directors, the UOI takes direction from a Grand Council of chiefs.<sup>640</sup> The Grand Council “meets two to three times per year to decide on matters of “national” importance to the Anishinabek.”<sup>641</sup> In this sense, the UOI acts as a secretariat for a larger, unincorporated political entity that self-describes as the Anishinabek Nation. In describing the history of the UOI, for example, Dwayne Nashkawa writes that “[the] Union of Ontario Indians (UOI) roots trace back hundreds of years to the Three Fires Confederacy of the Ojibway, Odawa and Pottawatomi Nations.”<sup>642</sup> In its own words, the UOI describes itself as “the oldest political organization in Ontario and can trace its roots back to the Confederacy of Three Fires, which existed long before European contact.”<sup>643</sup> As an inherent Indigenous political confederacy, the Three Fires Confederacy does not rely on provincial or federal recognition for its authority or validity. As a not-for-profit corporation, on the other hand, the UOI will depend on recognition by settler law for its incorporation. As an incorporated not-for-profit, the UOI will be able to hold a bank account, hire staff, enter into contracts, and make decisions at the level of the board of directors. However, the same might not be said about the Anishinabek Nation itself, which gains its authority through inherent Anishinaabe legal orders.<sup>644</sup>

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<sup>638</sup> Nashkawa, “Anishinabek First Nations Relations with Police,” 4.

<sup>639</sup> Ibid.

<sup>640</sup> Union of Ontario Indians, “Ippeewash Inquiry - Examining the Relationship,” n.p.

<sup>641</sup> Ibid.

<sup>642</sup> Nashkawa, “Anishinabek First Nations Relations with Police,” 1.

<sup>643</sup> Union of Ontario Indians, “About Us.”

<sup>644</sup> Union of Ontario Indians, “Anishinaabe Chi-Naaknigewin,” 2012, 5, <http://www.anishinabek.ca/wp-content/uploads/2016/05/Anishinaabe-Chi-Naaknigewin-modified.pdf>. Article 5.1 of the Anishinaabe Chi-Naaknigewin provides the following: “The Anishinabek Nation has the inherent right bestowed by

Thus, while some refer to the Anishinabek Nation and the UOI interchangeably, doing so can cause confusion in terms of where their political power is coming from. The former's source is inherent, while the latter's is based in recognition by settler law. This is not to say that either the UOI or Anishinabek Nation are illegitimate; rather, it is to point out that different bases of political authority exist, and that their sources can differ.<sup>645</sup> This is a significant difference in the context of this dissertation; as I will address shortly, the *E'Dbendaagzjig Naaknigewin* finds its authority in only one of these bases of authority, namely, settler (federal) law.

Since 2007, the UOI has been developing a citizenship law that would take back control over belonging from the federal government in terms not only of who belongs, but also in terms of who would have support in the form of funding.<sup>646</sup> Entitled the *E'Dbendaagzjig Naaknigewin* (Those Who Belong), this law asserts that the Anishinabek Nation and Anishinaabe First Nations whom are a part of the Anishinabek Nation have the right and the jurisdiction to determine who are citizens.<sup>647</sup> *E'dbendaagzjig* has been translated into English in more than one way.

*Naaknigewin* translates as "law," and has been used in the Anishinabek Nation's work on developing the *Anishinabek Chi-Naaknigewin*, or the constitution of the Anishinabek Nation.<sup>648</sup> However, *e'dbendaagzjig* has been translated to mean "people who belong" (plural), whereas

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the Creator to enact any laws necessary in order to protect and preserve Anishinaabe culture, languages, customs, traditions and practices for the betterment of the Anishinabek."

<sup>645</sup> Kiera Ladner, "(RE)creating Good Governance Creating Honourable Governance: Renewing Indigenous Constitutional Orders" (Annual Conference of the Canadian Political Science Association, Ottawa, 2009), 2, <https://www.cpsa-acsp.ca/papers-2009/Ladner1.pdf>. See Ladner's discussion of treaty constitutionalism.

<sup>646</sup> Anishinabek Nation Grand Council Assembly, "Anishinabek Citizenship Law," Resolution No. 2007/03 § (2007), <http://bit.ly/2gxIZyS>.

<sup>647</sup> Ibid.

<sup>648</sup> Anishinabek Nation Grand Council Assembly, Proclamation of the Anishinaabe Chi-Naaknigewin. The Anishinabek Chi-Naaknigewin was ratified on June 6, 2012.

e'dbendaagzid (singular) translates to “person who belongs” (singular).<sup>649</sup> Elsewhere, it has been translated as the sanction and acceptance of belonging.<sup>650</sup> As then Grand Chief of the Anishinabek Nation John Beaucage put it in 2008, the term describes a “sense of belonging,” a feeling of “we all had a place.”<sup>651</sup> E-dbendaagzijig, then, expresses an approach to belonging based on the values of acceptance, inclusion, and an intentionality to produce the “feeling” of togetherness.

The impetus for developing an UOI citizenship law is well founded. Like other Indigenous communities across Canada, Anishinaabe Indian Bands in Ontario face an impending existential crisis. As Indian Bands recognize by the *Indian Act*, their existence is tied a population of status Indians that is designed to die out through loss of status over time.<sup>652</sup> While Canada exercised more material approaches to this goal in the past (such as relocating Indian communities, placing children in residential schools, etc.), today it relies on the *Indian Act* to conduct what Pamela Palmater refers to as a “legislated extinction.”<sup>653</sup> “The ultimate effect of [Canada’s] legislation,” she writes, “despite changes in official policy with regard to assimilation, is to reduce the number of people the government must be accountable to in terms of protection, treaty obligations, land rights, self-government, and other Aboriginal rights, including a whole series of culturally specific programs and services that are provided today.”<sup>654</sup>

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<sup>649</sup> Canada, Indigenous and Northern Affairs Canada and United Anishinaabeg Councils, “Anishnaabe Government Agreement-In-Principle,” 1998, <https://www.aadnc-aandc.gc.ca/eng/1100100032104/1100100032106>.

<sup>650</sup> Beaucage, “Opening Remarks,” 8.

<sup>651</sup> Ibid.

<sup>652</sup> Palmater, *Beyond Blood*, 47.

<sup>653</sup> Ibid., 48.

<sup>654</sup> Ibid., 47.

Getting rid of Indians through legal misrecognition is therefore a key “cost reduction”<sup>655</sup> measure for the state, while challenging the future of existence of Indian Bands.

Of course, misrecognizing Indigenous individuals as non-Indians whom otherwise would be Indians has had devastating effects on First Nations communities for a number of reasons. For one, First Nations rely on funding held in trust for them by the Government of Canada, and this funding is tied to per capita payments contingent on Indian status.<sup>656</sup> Among other ways, monies held in trust for First Nations follow status Indians to the First Nations band offices, which then are used in community services and programs.<sup>657</sup> The less status Indians associated with a band means less money in this scenario; losing people who otherwise would be status Indians has direct financial consequences.<sup>658</sup> Another reason to link the loss of Indian status to devastation is that Indian Bands are dependent on having Indians. From the purview of Indian law, First Nation reserves are lands held in trust for Indians; if there are no more Indians associated with a given First Nation, its reserve would cease to exist.<sup>659</sup> Thus, there is an incentive for Indian Bands to want to center Indian status in the way they determine their membership. Indian status is thus not dissimilar to Plato’s concept of the pharmakon: both poison and medicine,<sup>660</sup> the *Indian Act*

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<sup>655</sup> Ibid.

<sup>656</sup> Royal Commission on Aboriginal Peoples, *Final Report*, 1996, 1, Looking Forward Looking Back:304.

<sup>657</sup> Woodward, *Native Law*, 187–88; Royal Commission on Aboriginal Peoples, *Final Report*, 1996, 1, Looking Forward Looking Back:304. Indian status is not the only method for discerning Indian Band funding. The federal government also uses transfer payments and a variety of funding agreement models to transfer money to Indian Bands, Tribal Councils, Inuit, and Métis communities. See: Canada, Indigenous and Northern Affairs Canada, “Transfer Payments,” accessed January 28, 2017, <https://www.aadnc-aandc.gc.ca/eng/1100100010035/1100100010036>.

<sup>658</sup> Royal Commission on Aboriginal Peoples, *Final Report*, 1996, 1, Looking Forward Looking Back:304.

<sup>659</sup> Palmater, *Beyond Blood*.

<sup>660</sup> Jacques Derrida, “Plato’s Pharmacy,” in *Dissemination* (London: The Athlone Press, 1981), 103.

seeks to kill off First Nations communities through legislative extinction, while keeping Indians alive enough to provide meaning to Canadian sense of self.<sup>661</sup>

Indian status is no way to fall in love, however. Research suggests that Anishinaabeg in Ontario are parenting at high rates with people whom are not recognized as status Indians, regardless of whether they are Indigenous.<sup>662</sup> In demographic research commissioned by the UOI, Steward Clatworthy found that UOI member communities in Ontario had an exogamous parenting (commonly referred to as “out marriage”) rate of 58% between 2003-2008, which was higher than other First Nations in Ontario and the national average.<sup>663</sup> While Clatworthy does not provide an analysis on how this number accounts for or does not account for children born as a result of sexual violence,<sup>664</sup> it does suggest that Anishinaabeg marry and raise children with those they fall in love with regardless of whether their partners are recognized as Indians by Canada. However, under a system that associates funding and reserve status with Indian status, exogamous parenting is cause for concern. Clatworthy found that many of UOI member communities are on track to legislative extinction so long as Indian status remains the centerpiece of discerning band membership.<sup>665</sup> For example, after an initial bump in children born entitled to registration as an Indian, Clatworthy projects a steady decline over the next century, noting that “[by 2108], the population entitled to registration [as a Indian] is projected to

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<sup>661</sup> See Chapter 4 of this dissertation.

<sup>662</sup> Clatworthy, “Estimating the Population Impacts.”

<sup>663</sup> *Ibid.*, 11–12. Clatworthy reports that the rate of exogamous parenting for Ontario First Nations for the same time period was 46%, while the national average for First Nations was 44%.

<sup>664</sup> Mary Eberts, on the other hand, does provide some context on how status Indian populations might not reflect children born from rape and other forms of sexual violence. See: Eberts, “Victoria’s Secret,” 156.

<sup>665</sup> Clatworthy, “Estimating the Population Impacts,” 21–22.

fall to about 26,800 individuals, about 30,000 individuals (or 53%) lower than the 2008 population [i.e. 56,915].”<sup>666</sup> This number represents both on- and off-reserve populations.

Recognizing the implications of this, the UOI set out to reclaim control over citizenship for its member communities in a way that seated control over funding and federal protections with Anishinaabeg First Nations themselves rather than through the federal government or the *Indian Act*. As I will argue shortly, however, through working to re-assert control over belonging, the UOI’s draft citizenship law has been shaped over time to actually reproduce some of the very aspects it intends to challenge.

However, before going further into the structure of the *E’Dbendaagzijig Naaknigewin*, it is important to locate its source of authority. As noted above, the Anishinabek Nation Grand Council chiefs assert that the Anishinabek Nation has jurisdiction over discerning citizens of the Anishinabek Nation. The basis of this authority is rooted in inherent Anishinaabe citizenship orders that do not depend on federal or provincial law for their validity.<sup>667</sup> As part of the UOI’s larger constitutional development process, however, the *E’Dbendaagzijig Naaknigewin*’s authority is bound up in recognition from the federal government as part of its Self-Government Policy.<sup>668</sup> The UOI is actively working towards finalizing a self-government agreement with Canada under this policy.<sup>669</sup> At present, progress in this self-governance negotiation process is listed as being at the second of three stages, namely the “Agreement-in-Principle” stage.<sup>670</sup> In

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<sup>666</sup> Ibid.

<sup>667</sup> Henderson, *First Nations Jurisprudence*, 122.

<sup>668</sup> Anishinabek Nation, Restoration of Jurisdiction, “Anishinaabe E’Dbendaagzijig Naaknigewin.”

<sup>669</sup> Canada, Indian and Northern Affairs Canada and Anishinabek Nation, “Anishinabek Nation Agreement-in-Principle with Respect to Governance.”

<sup>670</sup> Canada, Indigenous and Northern Affairs Canada, “Agreements under Negotiation,” 2010, <https://www.aadnc-aandc.gc.ca/eng/1100100031846/1100100031847>. In order, the three stages of negotiation are “Framework Agreement,” “Agreement-in-Principle,” and “Memorandum of Understanding.” These stages pre-empt the Final Agreement stage.



regards to citizenship jurisdiction, the *Anishinabek Nation Agreement-in-Principle with Respect to Governance* notes that the “Participating First Nations Governments” (i.e. the individual First Nations communities potentially involved if a Final Agreement of self-governance is achieved) have “[j]urisdiction with respect to the determination of its citizenship.”<sup>671</sup>

While finalizing a self-government agreement might sound like a positive step forward, such a process is not without contention. Russ Diabo, for example, has referred to Self-Government Agreements as part of Canada’s attempted termination of Indigenous sovereignties.<sup>672</sup> As Diabo argues, First Nations stand to lose significant aspects of their self-determination through the process of finalizing such agreements. These include, among others, the extinguishment of Aboriginal Title, converting reserve lands into land held in fee simple, accepting federal and provincial orders of government as the ultimate expression of Canadian federalism (i.e. precluding Indigenous orders of government), accepting authority the *Canadian Charter of Rights and Freedoms* over all matters, and otherwise converting Indigenous nations into domesticated municipalities (i.e. removing the nation-to-nation relationship).<sup>673</sup> In addition to Diabo’s concerns, however, I am also concerned with what self-government agreements do to the source of political authority within First Nations contexts. Such agreements presume that Canada is the arbiter of discerning political authority within Indigenous nations.<sup>674</sup> They rest on the notion that governance authority can be delegated from the state through a politics of recognition.<sup>675</sup> Such a framing assumes that Indigenous nations do not have valid political

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<sup>671</sup> Canada, Indian and Northern Affairs Canada and Anishinabek Nation, “Anishinabek Nation Agreement-in-Principle with Respect to Governance,” s.5.9.

<sup>672</sup> Russ Diabo, “Idling Some More: AFN & 100’s of Chiefs Capitulate to Harper’s Termination Plan,” *First Nations Strategic Bulletin*, Vol.11, Issues 1-9, September 2013, 1–2, <http://bit.ly/2jVDmbu>.

<sup>673</sup> Ibid.

<sup>674</sup> Irlbacher-Fox, *Finding Dahshaa*, 111.

<sup>675</sup> Glen Coulthard, “Subjects of Empire: Indigenous Peoples and the ‘Politics of Recognition’ in Canada,” *Contemporary Political Theory* 6, no. 4 (2007): 437–60, doi:10.1057/palgrave.cpt.9300307.

systems unto their own. As such, vesting the UOI's citizenship jurisdiction in a self-government agreement such as the *Anishinabek Nation Agreement-in-Principle with Respect to Governance* runs the risk of marginalizing inherent Anishinaabe constitutional orders. Anishinaabe law and governance are *sui generis*; they do not require recognition from Canada for validity.<sup>676</sup> Thus, while in some ways it makes sense for the UOI to use all available tools to assert Anishinaabe self-determination, the *E'Dbendaagzijig Naaknigewin*, as currently framed, risks legitimizing the Canadian state's presumed authority over Anishinaabeg. I will return to the issue of citizenship jurisdiction below and then again Chapter 6; my discussion in this sub-section is meant only to identify sources of political authority for consideration as we move forward.

#### 5.1.2 *E'Dbendaagzijig Naaknigewin* and Lineal Descent

In addition issues of authority and jurisdiction, one can also review the *E'Dbendaagzijig Naaknigewin* for ways in which it might limit the resurgence of inherent Anishinaabe citizenship law. Indeed, it is my contention that this draft law does not break free from the status logics I named in Chapter 4. Through its use of a "one-parent rule," which I describe below, I argue that the draft *E'Dbendaagzijig Naaknigewin* reproduces status logics in subtle yet persistent ways. Drawing on research from the United States concerned with the pros and cons with "lineal descent" – a form of tracing identity and belonging that I would argue is the same as a "one-parent rule" – this section shows that a one-parent rule approach to reclaiming control over citizenship re-centers biologically essentialist modalities of discerning belonging at the expense of inherent Anishinaabe law that honours the political fluidity of familial self-determination. The

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<sup>676</sup> Henderson, *First Nations Jurisprudence*, 122. As Henderson writes, "First Nations jurisprudences are conceptually self-sustaining and dynamically self-generating. They are legal systems with a life of their own derived from relationships and experiences with families and the ecology, with no need of a sovereign, the will of a political state, or affirmation or enactment by a foreign government to be legitimate."

purpose of this sub-section, therefore, is to demonstrate that UOI's *E'Dbendaagzijig Naaknigewin* may actually marginalize inherent Anishinaabe citizenship law to the extent that it does not recognize familial self-determination in discerning who belongs. Adoption is one lens through which to see such self-determination.<sup>677</sup> This is important to this dissertation because, as a member of the Union of Ontario Indians, the Fort William Indian Band might one day have the opportunity to adopt the *E'Dbendaagzijig Naaknigewin* as the law governing official belonging with the band.<sup>678</sup>

Through its work on developing the *E'Dbendaagzijig Naaknigewin*, the UOI gave codified form to the "sense of belonging" that Grand Chief John Beaucage spoke of in 2008.<sup>679</sup> Section 3 of the draft *E'Dbendaagzijig Naaknigewin* provides the bases upon which citizenship within the nation will be determined. It notes:

A person [will be] entitled to be an Anishinabek Nation citizen provided that the person:

- a) can trace their descendency through at least one-parent to the original people of an Anishinabek First Nation; or
- b) has at least one-parent who is a member currently registered with an Anishinabek First Nation; or
- c) the person can trace their descendency through at least one-parent to a status Indian who is registered or entitled to be registered with an Anishinabek First Nation.<sup>680</sup>

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<sup>677</sup> Other lenses exist and include marriage customs, birthing customs, and treaty-making customs, among others. This dissertation focuses on adoption for scope, but further research on Anishinaabe citizenship orders could employ other family-making practices as theoretical lenses.

<sup>678</sup> N.B.: At the time of writing this dissertation, the *E'Dbendaagzijig Naaknigewin* remains in draft form, and is awaiting formal ratification by the Anishinabek Nation Grand Council.

<sup>679</sup> Beaucage, "Opening Remarks," 8.

<sup>680</sup> Anishinabek Nation, *E'Dbendaagzijig - Those Who Belong: Anishinabek Nation Citizenship Law (Draft)*.

A person could also become a citizen of the nation if she is granted citizenship by First Nation resolution.<sup>681</sup> Other sections provide for loss of citizenship, and for the establishment of administration bodies to administer citizenship practice. Under sub-section 4.(a) of the draft law, a person can renounce their citizenship if they choose to.<sup>682</sup>

At the centre of the *E'Dbendaagzijing Naaknigewin* lies the concept of the “one-parent rule.” This can be seen in the section 3 text noted above; a person is a citizen of the UOI if she “has at least one-parent who is a member currently registered with [a UOI] Anishinabek First Nation.”<sup>683</sup> A “one-parent rule” refers to just that: if one can trace their belonging to a UOI-member First Nation or the broader UOI through at least one-parent, then they are a citizen according to the *E'Dbendaagzijing Naaknigewin*. The UOI imagines citizenship in two ways through this method: one can be a citizen of the Anishinabek Nation generally (i.e. without being a citizen of a specific Indian Band) if one has at least one-parent who is entitled to citizenship, or if one has at least one-parent entitled to citizenship in a specific Indian Band that is a member of the UOI. The establishment of a one-parent rule in the draft *E'Dbendaagzijing Naaknigewin* arose out of the demographic research conducted by Clatworthy, both in his work commissioned by UOI and in his broader research.<sup>684</sup> It is positioned by UOI as a means for UOI Indian Bands to

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<sup>681</sup> Anishinabek Nation, “‘Now Is the Time’ Conference Report” (Anishinabek Nation, December 13, 2011), 16, <http://www.anishinabek.ca/uploads/EDbendaagzijingConferenceReport2011.pdf>.

<sup>682</sup> Anishinabek Nation, *E'Dbendaagzijing - Those Who Belong: Anishinabek Nation Citizenship Law (Draft)*.

<sup>683</sup> Ibid.

<sup>684</sup> Stewart Clatworthy, “Indian Registration, Membership and Population Change in First Nations Communities” (Winnipeg: Four Directions Project Consultants, 2005), <http://publications.gc.ca/collections/Collection/R2-430-2005E.pdf>; Clatworthy, “Estimating the Population Impacts.”

“retain [their] members.”<sup>685</sup> Elsewhere, UOI has stated that the one-parent rule is “the only way to ensure we continue to exist and that we protect the lands we now occupy.”<sup>686</sup>

A one-parent rule approach to reclaiming control over Indigenous citizenship has a broader reach than Ontario-based Anishinaabeg communities. For example, it has been explored by tribes in the United States for quite some time, thus providing Indigenous intellectuals whose work focuses in the American context more time to think through its implications. For example, in the case of White Earth Anishinaabe Nation in Minnesota, the one-parent rule has been discussed in the language of “lineal descent” since at least 1941.<sup>687</sup> Lineal descent includes a one-parent rule in this context due to the way it is described in draft *Constitution of the White Earth Nation*: “Citizens of the White Earth Nation shall be descendants of Anishinaabeg families and related by linear descent to enrolled members of the White Earth Reservation Nation...”<sup>688</sup> Though not a seamless transition, this framing of belonging resonates with section 3 of the Anishinabek Nation *E’Dbendaagzijig Naaknigewin* (quoted above): both trace belonging through descendency, with the *E’Dbendaagzijig Naaknigewin* merely making explicit that descent is found through “at least one-parent.”<sup>689</sup> These similarities aside, however, there are important differences between Canada and the United States in terms of how Indigenous identity and belonging have been impacted by settler colonial law and logics of Indianness, therefore

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<sup>685</sup> Anishinabek Nation, Restoration of Jurisdiction, “Chiefs Committee on Governance Report,” 2007, n.p.

<sup>686</sup> Fred Bellefeuille, “Consultations and the Anishinabek Nation Citizenship Law” (“Now is the Time”: Anishinaabe E’Dbendaagzijig Naaknigewin Conference, Munsee-Delaware Nation, December 13, 2011), <http://bit.ly/28UwBQO>.

<sup>687</sup> Doerfler, *Those Who Belong*, 41.

<sup>688</sup> White Earth Nation, “Constitution of the White Earth Nation,” in *Those Who Belong: Identity, Family, Blood, and Citizenship among the White Earth Anishinaabeg* (East Lansing: Michigan State University Press, 2015), 114 (Chapter 2, Article 1).

<sup>689</sup> Anishinabek Nation, *E’Dbendaagzijig - Those Who Belong: Anishinabek Nation Citizenship Law* (Draft).

causing lineal descent to resonate differently within the two nation-states. As some have shown, tribes in the United States have reworked blood quantum from a pan-Indian approach to determining Indianness and belonging to a tribal-specific approach to determining tribal belonging.<sup>690</sup> The latter produces a lineal descent approach to tribal membership, which some tribes are using to assert control over determining who belongs with them specifically rather than simply who is an Indian.<sup>691</sup>

Kirsty Gover shows that while blood quantum is a relatively recent phenomena in the U.S., it arose out as a system of control meant to regulate Indians' abilities to make Indians through family making-practices (she cites both parenting choices and adoption as giving rise to race-based federal recognition legislation).<sup>692</sup> After a period of tribal people being forced to leave reservations in order to find work in large urban centres, many returned home, though with more mixed blood children or mixed themselves. Parenting and residence were key criteria for citizenship/membership/enrollment before this time, but, after it, tribes needed a way to properly trace who was from where. Citing a need to regulate belonging in an era of mixed parenting, Gover argues that "blood quantum rules were only to be deployed as a stand-in where a two-parent [tribal] enrollment rule or a residency rule could not be used."<sup>693</sup> Thus, Gover argues that tribes deployed blood quantum rules themselves, changing its focus away from the federal approach (tracing a pan-Indian quanta of blood) to tracing a tribal-specific quantum of blood – a way of "counting ancestors."<sup>694</sup>

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<sup>690</sup> Gover, "Genealogy as Continuity."

<sup>691</sup> Ibid.

<sup>692</sup> Ibid., 263–64.

<sup>693</sup> Ibid., 264.

<sup>694</sup> Gover, *Tribal Constitutionalism*, 115.

As Jill Doerfler shows in relation to citizenship and the Minnesota Chippewa Tribe (MCT), lineal descent emerges as a way to challenge blood quantum logics in determining who belongs. Not unlike the Union of Ontario Indians, the Minnesota Chippewa Tribe is a “umbrella government” established in 1936 to represent six Anishinaabe communities (the UOI was formed in 1949).<sup>695</sup> Doerfler provides an intricate account of how the MCT worked to resist blood quantum logics forced onto Minnesota Anishinaabeg by settler governments, a history we need to know exists but might not require in-depth exploration for the purposes of this chapter.<sup>696</sup> Rather, what is important to note here is that Anishinaabeg resisting a blood quantum approaches to discerning belonging in this context did so by asserting their self-determination through the language of descent. At one point in a longer history of MCT officials challenging settler governments on the point of blood quantum vs. lineal descent, the MCT governing body insisted that

the [Indian] agency treat all MCT citizens the same ... with no preference for those who were born on a reservation or had higher degree of “blood.” They asserted the authority of the tribe to decide on matters of citizenship and to do so in a way that followed Anishinaabe values. ...[A] resolution [put forward by MCT at that time] only required individuals to prove descent from [at least one] citizen of the tribe in order to become a citizen.<sup>697</sup>

The resolution discussed by Doerfler in this case was rejected by the U.S. government because it avoided the use of blood quantum.<sup>698</sup> After another decade and a half of resisting the U.S.

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<sup>695</sup> Doerfler, *Those Who Belong*, 31; Union of Ontario Indians, “About Us.”

<sup>696</sup> For more on this history in context, see: Doerfler, *Those Who Belong*, Chapter 2.

<sup>697</sup> *Ibid.*, 48.

<sup>698</sup> *Ibid.*, 68.

government on this matter, the MCT was forced in 1963 to adopt a ¼ blood quantum requirement for citizenship in MCT bands.<sup>699</sup>

When juxtaposed next to blood quantum, lineal descent appears to respect Indigenous communities' self-determination. Blood quantum has been described as a system of control meant to lead to the legal extinction of Indians – a critique applied equally in the United States as it is to the “notional blood quantum” sections of Canada's *Indian Act*.<sup>700</sup> Blood quantum centres a racialized logic of Indianness that presumes Indigenous authenticity is locked in the past, traced through heterosexual pairings, promulgating the idea that today's Indigenous peoples are but diluted remnants of their ancestors as they were when Europeans arrived in North America. By contrast, Indigenous peoples are not racial groups, but polities tied to specific lands and that include adoptees and people of mixed descent,<sup>701</sup> where in fact “there is no timeless trait, characteristic, custom, or idea that is categorically fundamental to being Indigenous. ... Indigeneity does not *necessarily* reside in any particular blood...”<sup>702</sup> Lineal descent thus speaks to this more fluid definition of what it means to be Indigenous, which I would argue includes what it means to belong with an Indigenous nation. Lineal descent enables those with minimal or “not enough” blood quantum to claim and be claimed by their tribe or First Nation.<sup>703</sup> Whereas I would argue that blood quantum bleeds the nation to death through focusing on excluding those of mixed descent, lineal descent provides more fluidity in discerning belonging. As Doerfler's

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<sup>699</sup> Ibid., 53–54.

<sup>700</sup> Palmater, *Beyond Blood*, 29; Doerfler, *Those Who Belong*, xxvi–xxviii; Borrows, “Seven Generations, Seven Teachings,” 14.

<sup>701</sup> Royal Commission on Aboriginal Peoples, *Final Report*, 1996, 2, Restructuring the Relationship:166, 251; Henderson, *First Nations Jurisprudence*, 150–51; Kiera Ladner, “When Buffalo Speaks: Creating an Alternative Understanding of Traditional Blackfoot Governance” (Carleton University, 2001), 283–84, <https://curve.carleton.ca/1ad6db21-9e4f-472a-b767-0cc5e8d93173>.

<sup>702</sup> Borrows, *Freedom and Indigenous Constitutionalism*, 3. Emphasis original.

<sup>703</sup> Doerfler, *Those Who Belong*, 37–40.



coverage of how White Earth came to develop its constitution shows, lineal descent was favoured over blood quantum precisely because it better reflects Anishinaabe values of inclusion and continuous renewal: “lineal descent ... includes all family members and is also a way of taking care of our families. [Furthermore,] lineal descendants would go on forever, [whereas] if blood quantum were to continue [as the basis for citizenship] White Earth’s sovereignty would be in jeopardy because the day would come when no one would have the required one-quarter blood quantum.”<sup>704</sup> In this light, I like what lineal descent has to offer. Its focus on Anishinaabe families and their responsibility to care for those they bring into this world is a beautiful source of Anishinaabe citizenship law. There is no doubt in my mind that this is already much better than blood quantum approaches to citizenship.

At this point, I would like to pause and apply some of these concepts back to Fort William First Nation and the knowledge holders discussed in this chapter. How would lineal descent effect membership decisions at Fort William with respect to Onaabani-giizis and Gichimanidoo-giizis’s grandchildren? As noted, Onaabani-giizis is a status Indian and a member of the Fort William band, but has no Indian blood or Fort William-specific bloodline. On the other hand, Gichimanidoo-giizis’s grandchildren are not status Indians because of issue with their paternity, and subsequently are not members of the Fort William Indian Band, despite having a bloodline connection to the community. A one-parent lineal descent rule would clearly *include* Gichimanidoo-giizis’s grandchildren. This is important because it would trump Canadian Indian law’s *misrecognition* of said grandchildren, making them members of the band through their maternal line rather than being blocked due to paternity. Gichimanidoo-giizis informed me that such having her grandchildren put on the Fort William membership list would be considered

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<sup>704</sup> Ibid., 73.

a win for her family because they know that they belong there but are struggling to find that recognition.<sup>705</sup> A one-parent lineal descent rule would thus help bring those children home in the sense of band recognition, which would bring with it important material benefits and political opportunities.<sup>706</sup>

On the other hand, it is not so clear whether a one-parent lineal descent rule, such as that animating the *E'Dbendaagzjig Naaknigewin* and White Earth's citizenship provisions, would be strong enough to respect and incorporate Onaabani-giizis's family's decision to bring her into the nation. To refresh our memories: Onaabani-giizis was adopted by her father, Namebini-giizis, both through Anishinaabe custom and, years later, through provincial adoption law. But since she does not have Indian blood or a bloodline connection to Fort William, her belonging might be questioned within a one-parent lineal descent logic. This would be unfortunate. I do not mean to suggest that it would be unfortunate because she is a white person, and that all white people should have the "right" to belong with Indigenous nations. Such an argument would suggest Anishinaabe adoption is but a tool of Indigenizing settler people, or a "move to innocence."<sup>707</sup> Rather, I mean that the exclusion of Onaabani-giizis would be unfortunate in that it would marginalize inherent Anishinaabe law to the extent that Namebini-giizis's familial self-

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<sup>705</sup> Conversation with Gichimanidoo-giizis.

<sup>706</sup> It is important to note that Band membership is not only about material benefits. Section 4.1 of the *Indian Act, 1985* lists entitlements available to non-status members of Indian Bands. Rights of non-status Band members include the right to be a part of a Band, to benefit from trust funds held by for Indians by the Crown, the right to be compensated for lands expropriated from a Band, to participate in Band elections, among others (see: Woodward, *Native Law*, 44–47.). However, in addition to these limited benefits, Band membership at Fort William also brings with it opportunities to run for election to political office of the chief or councilors of the Band. Band membership also brings with it a normative acceptance by other band members, making one's voice on political issue seem more valid. While I would argue that band membership is not the only form of such validity (i.e. I argue in this dissertation that recognition through Anishinaabe inherent law is another form), Band membership nonetheless has significance and should be not underestimated in terms of community acceptance.

<sup>707</sup> Tuck and Yang, "Decolonization Is Not a Metaphor," 11–17.

determination is ignored. Lineal descent centres both the sexual self-determination of Indigenous peoples and centralized tribal governments over the political self-determination families enact in discerning belonging, which is a decentralized or “horizontal” approach to governance.<sup>708</sup> In effect, this approach is resulting in the marginalization of adoption as a basis for citizenship-making,<sup>709</sup> thus undermining familial self-determination. As I will argue later in this dissertation,<sup>710</sup> Anishinaabe citizenship governance is not centralized in Indian Band structures. Rather, it is decentralized across families exercising authority to claim those who belong. Band offices do not make Anishinaabeg; families do.

Part of the reason that I say that Onaabani-giizis’s case is “not so clear” under a one-parent lineal descent rule has to do with how the words “parent” and “descendency” are (not) defined in the draft *E’Dbendaagzijig Naaknigewin*. You will recall that section 3 of the UOI’s citizenship law describes entitlement to citizenship through three pathways: through “descendency” (i.e. descent) from at least one-parent traced to an original “Anishinabek First Nation;” through at least one-parent currently a member of such a First Nation; and through descendency from a status Indian who is registered or entitled to be registered with such a First Nation.<sup>711</sup> Despite relying so heavily on parentage and descendency, these terms are not defined in the draft law. Does “parent” include adoptive parent? Is “descent” limited to a biological relationship between parent and child? Or is it flexible enough to recognize families’ self-

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<sup>708</sup> I discuss “horizontal” governance and political authority in the pages below. However, see: Ladner, “When Buffalo Speaks,” 291–92.

<sup>709</sup> Gover, “Genealogy as Continuity,” 246. As Gover points out, Indigenous constitutions taking this approach are “less likely to expressly allow the incorporation of persons into the tribe via tribal adoption.”

<sup>710</sup> See Chapter 6 of this dissertation.

<sup>711</sup> Anishinabek Nation, *E’Dbendaagzijig - Those Who Belong: Anishinabek Nation Citizenship Law (Draft)*, s.3.

determination to include whom they discern to rightfully belong? At the time of writing this dissertation, these questions remain unanswered.

However, it is possible to draw inferences on how such question might play out. While the *E'Dbendaagzijig Naaknigewin* remains in draft form and is *not* currently the law governing belonging in the UOI member communities, I can compare its underlying premise of lineal descent with the ways lineal descent has been deployed by tribes in the United States. I recognize that, at best, such an exercise can only result in an inference, considering the differences between the Canadian and U.S. legal and historical contexts as they pertain to Indigenous issues, and given the fact that the *E'Dbendaagzijig Naaknigewin* is still only a draft. However, I argue that this is an inference worth making if Anishinaabe citizenship law is to be better understood through adoption narratives. Based on my review of the literature, lineal descent seems poised to marginalize any adoptee that is not biologically related to an existing member of a respective tribe or band. As Gover has shown, as more and more U.S. tribes have since the 1970s been instituting a tribal blood quantum or lineal descent-based rule for tribal membership, they are “less likely to expressly allow the incorporation of persons into the tribe via tribal adoption,”<sup>712</sup> thus centering strict genealogical belonging over the political self-determination of families.<sup>713</sup> While lineal descent is a useful way to ensure that those who belong with Indigenous nations have a place within those communities, it also raises questions about the role, place, and importance of familial sovereignty within Indigenous governance orders. Is Indigenous citizenship governance enacted only through sexual self-determination? Or, does it also include the political decisions of families to include those whom they deem valuable members of their

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<sup>712</sup> Gover, “Genealogy as Continuity,” 247. Gover argues that tribes have refashioned blood quantum to meet their own needs of tracing genealogical connections to specific communities, noting a significant increase of tribal blood quantum logics in tribal constitutions after 1970.

<sup>713</sup> *Ibid.*, 246.

communities? More specifically, is Anishinaabe familial sovereignty valid only when it is exercised to adopt children of pre-existing tribal/band members?

Returning to the U.S. context for a moment, recall that Gover noted many tribes there are now deploying their own form of blood quantum to trace belonging to specific tribes. “[T]ribes are not simply replicating the federal category of Indian blood [when writing their own tribal membership rules], but instead are refashioning it as a genealogical measure. This is achieved by using the concept of tribal blood, in which only tribe-specific descent is relevant, or using Indian blood in tandem with lineal descent, in which case Indian blood serves to qualify a tribe-specific descent rule.”<sup>714</sup> By this reasoning, Gover argues that framing tribes as “perpetuat[ing] ... racial categories imposed on them by a hegemonic colonial power” is a “standard liberal theoretical explanation.”<sup>715</sup> Following Gover, Kim TallBear has suggested that lineal descent has become a new blood quantum, or a stand-in for it. “Where the [U.S.] federal policy project of the nineteenth century was to *detritalize*,” TallBear writes, “what has happened in effect is a *retribalization* of Native Americans in blood fractions and through bloodlines.”<sup>716</sup> TallBear is concerned with the ways in which language of blood is becoming synonymous with DNA – a proposition she refutes<sup>717</sup> – but in so doing she reviews the relevance of blood within tribal belonging. While the scientific study of Indians as a race specifically through the modes of blood and body has largely gone out of style, she argues that blood continues to have semiotic power for discerning who is and who is not Indigenous, only now in the iteration of DNA.<sup>718</sup> In this context, lineal descent takes on important meanings. It becomes a “symbolic blood [that] remains

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<sup>714</sup> Ibid., 252.

<sup>715</sup> Ibid.

<sup>716</sup> TallBear, *Native American DNA*, 37. Emphasis original.

<sup>717</sup> TallBear, *Native American DNA*.

<sup>718</sup> Ibid., 64.

very much at play in twenty-first-century sociopolitical formations of the Indian.”<sup>719</sup> In other words, lineal descent refashions blood quantum to enable tribes greater control over boundary maintenance and discerning who belongs.<sup>720</sup> Gover and TallBear see this refashioning as an assertion of tribal agency in discerning belonging through the use of their own form of (tribal) blood quantum (i.e. lineal descent). Again, while I see lineal descent as an important step in asserting tribal and First Nations’ control over belonging, I question what is being exchanged in the process. What does lineal descent say about the role of families in citizenship governance? In this context, exploring whether or not familial sovereignties are being respected through lineal descent or tribal blood quantum rules can begin with one question: Where does adoption fit?

It is at this point that I would question whether lineal descent can define inherent Anishinaabe citizenship law. Inherent Anishinaabe citizenship orders are based on the freedom to own one’s relationships.<sup>721</sup> The knowledge holders in this study made clear that Anishinaabe familial sovereignty is not confined to adopting children of Indian blood, or of those with bloodline connections to Fort William First Nation.<sup>722</sup> Rather, they showed that what was more important than blood was familial self-determination and authority, or a family’s responsibility to care for others (whomever those others were). To be sure, those with Indian status, Anishinaabe blood, and/or bloodline connection to Fort William were more readily accepted by the community, but none of these elements defined the limitations on who could be adopted *and* fully belong.<sup>723</sup> The knowledge holders narrated a belonging over children based not exclusively

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<sup>719</sup> Ibid., 47.

<sup>720</sup> TallBear, *Native American DNA*; Gover, *Tribal Constitutionalism*.

<sup>721</sup> Borrows, *Freedom and Indigenous Constitutionalism*, 6.

<sup>722</sup> See Chapter 6 of this dissertation.

<sup>723</sup> Conversation with Iskigamizige-giizis; Conversation with Waatebagaa-giizis; Conversation with Onaabani-giizis. I unpack these points further in Chapter 6.

on bloodlines, but on love and the authority of the family (and families)<sup>724</sup> to incorporate individuals into Fort William and into the larger Anishinaabe nation. As I show in Chapter 6, when seen through adoption narratives, Anishinaabe citizenship-making is nested in its structure; an individual family's decision to adopt someone does not guarantee that the broader community will claim that adoptee. The jump from belonging with a single family to being claimed by an entire community and nation is more complicated than that. It depends on the behaviour of the adoptee, and whether she demonstrates allegiance to the community. It also depends on whether broader families claim their individual. As I argue in Chapter 6, then, adoption narratives describe an Anishinaabe citizenship order that is both co-constitutive and re-constitutive: the community decides collectively who belongs, and for adoptees that belonging is renewed through their actions rather than being established in a "once and for all" sense reminiscent of how Indian status works. However, returning to Gover's work, a problem common to both blood quantum and lineal descent is that they marginalize (or at least regulate in racializing ways) adoption as a political act, or an act of self-determination Indigenous communities and families can use to decide who belongs.<sup>725</sup> As Gover has shown, adoption is being marginalized under lineal descent citizenship or enrollment rules.<sup>726</sup> Tribal bloodline is more important than pan-Indian blood and non-native ancestry in this scenario. Sex is not the only political act available to

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<sup>724</sup> In Chapter 6 of this dissertation, I argue that when seen through adoption narratives, belonging at Fort William First Nation is discerned through an interplay between adoptive family, adoptee, and the adoptee's interactions with other families in the community over time. Adoption by one family alone is not necessarily enough.

<sup>725</sup> Gover, "Genealogy as Continuity," 247. Gover notes here that in the era of tribe-specific lineal descent and blood-quantum rules (i.e. from 1970 until the time of her writing in 2008), "[t]ribes are less likely to expressly allow the incorporation of persons into the tribe via tribal adoption."

<sup>726</sup> Ibid. Gover argues that tribes have refashioned blood quantum to meet their own needs of tracing genealogical connections to specific communities, noting a significant increase of tribal blood quantum logics in tribal constitutions after 1970.

Indigenous citizenship orders.<sup>727</sup> Yet tribal blood quantum requirements and lineal descent centre (hetero) sexual relations.<sup>728</sup> They position (hetero) sex as the only self-determining act Indigenous peoples can draw on to reconstitute their nations. While lineal descent might perform an important role in boundary maintenance, what does it do to familial self-determination? Is such self-determination confined only to choices on sexual partners for the purpose of reproduction? How does lineal descent curtail familial self-determination? What does this do to inherent citizenship governance more broadly?

The knowledge holders' stories suggest answers to these questions. Over and over again, the knowledge holders told me that families are the political institutions that decide who belongs and who does not. They placed the Fort William Indian Band second in this decision making matrix. To me, the knowledge holders are speaking about a decentralized system of citizenship governance on these points. Like the clan system in inherent Anishinaabe governance more generally, each family has its own sphere of jurisdiction, including deciding who belongs with it. There is no centralized governance authority, but rather a system of governance where power is diffused. Thus, the knowledge holders' stories can help us work through questions relating to the role of families in discerning citizenship vis-à-vis centralized governance systems, such as Indian Bands. Reconfiguring a decentralized inherent governance system to a system where power is centralized or consolidated into one central body is more than just assimilation; it is also a form of liberalism that demands a series of surrenders. Families, clans, and individuals are required to enter into a "social contract" whereby they surrender some self-determination to the centralized

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<sup>727</sup> For example: Trumpener, "Status Indian Player Barred from All Native Sports Event"; Wilson, *Rainy River Lives*; Carrière, *Aski Awasis/Children of the Earth*; Keewatin, "An Indigenous Perspective on Custom Adoption"; Peers and Brown, "There Is No End to Relationship among the Indians"; Rifkin, *When Did Indians Become Straight?*, 2011.

<sup>728</sup> Cannon, "The Regulation of First Nations Sexuality."



governance institution in exchange for order and political stability. Along with this surrender, though, comes other reconfigurations, including establishing a split between “public” and “private” affairs. Family matters become private affairs (read: not political), whereas the only legitimate form of governing power is that of the centralized political institution.<sup>729</sup> The knowledge holders stories challenge this framework by demonstrating how families continue to decide who belongs with Fort William.

More specifically, some have argued that lineal descent itself is not a form of liberalism or assimilation, but rather is merely a form of tribal empowerment. For example, Gover argues that framing tribes as “perpetuat[ing] ... racial categories imposed on them by a hegemonic colonial power” is a “standard liberal theoretical explanation.”<sup>730</sup> However, to me, this takes for granted the broader liberalist framework that is required to enact a lineal descent-based approach to citizenship governance in the first place. Adoption narratives offer two useful responses to Gover’s point, showing that lineal descent requires a liberalist reframing of Indigenous governance systems that undermine decentralized governance. First, contrary to Gover’s points, seeing the move towards lineal descent through adoption narratives suggests that this argument is itself a form of liberalism: the separation of power between family and government in the language of rights and electoral democracy at the expense of decentralized governance is itself quintessential to a liberalist framework.<sup>731</sup> Indeed, many Indigenous governance systems do not separate family from governing authority.<sup>732</sup> “First Nations [have] legal systems with a life of their own derived from relationships and experiences with families and the ecology,” writes

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<sup>729</sup> Alan Freeman and Elizabeth Mensch, “The Public-Private Distinction in American Law and Life,” *Buffalo Law Review* 36 (1987): 237–57.

<sup>730</sup> Gover, “Genealogy as Continuity,” 252.

<sup>731</sup> Freeman and Mensch, “The Public-Private Distinction.”

<sup>732</sup> Henderson, *First Nations Jurisprudence*, 122.

James Sákéj Youngblood Henderson, “with no need of a sovereign, the will of a political state...”<sup>733</sup> Gover’s critique regarding liberal theorization does not account for familial sovereignty or Eurocentrism. Methodologically, her study relies on tribal administrative governance systems, thereby reflecting only those systems that the settler state will recognize, i.e. tribal governments. I would argue that this tribal administrative governance itself relies on Eurocentric, liberalist notions of government that emphasizes a public/private split, where issues of “true” governance are confined to “public” institutions, such as tribal or band councils. This centralization of decision-making power establishes a public/private dichotomy where Indian Bands become the authority on belonging and families are relegated to private matters such as reproduction. In this scenario, familial self-determination becomes decontextualized from citizenship-making while the authority to define citizenship gets claimed by centralized governance systems such as an Indian Band or a political organization like the UOI. The public/private split dichotomy has limited utility in understanding inherent Anishinaabe law and governance. Anishinaabe citizenship governance is an expression of familial jurisdiction, itself an expression of Creation rather than state law.<sup>734</sup> Governing power is decentralized within Anishinaabe political orders.<sup>735</sup> Its validity as law does not depend on a public/private split, but on the freedom it allows people to own their responsibilities and relationships.<sup>736</sup> For example, where one clan might decide to adopt an individual, it is within that clan’s jurisdiction to do so. This decision does not require the other clans to accept the individual, as all that is required is that they respect the adopting clan’s self-determination. While liberalist theories of

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<sup>733</sup> Ibid.

<sup>734</sup> Ibid., 150–53. “

<sup>735</sup> Benton-Banai, *The Mishomis Book*, 74–78; Basil Johnston, *Ojibway Heritage* (Toronto: McClelland and Stewart, 1987), 59–79; Borrows, *Freedom and Indigenous Constitutionalism*, 6.

<sup>736</sup> Borrows, *Freedom and Indigenous Constitutionalism*, 6–7.

governmentality would suggest that decentralization of power – such as with a clan-based or family system – is a key marker of liberal society, such a position presumes that Anishinaabeg or other clan-based Indigenous societies were liberalist before colonization of Canada. Such would be a Eurocentric reading of Anishinaabe governance. Inherent Anishinaabe political systems are not based in liberalism, feudalism, or any other European tradition. They are *sui generis*.

Anishinaabe political systems are of their own kind; they emphasize decentralized power, as well as an integrated form of governance where families and individuals retain their political power rather than surrendering it to a centralized governing institution.<sup>737</sup> Within inherent Anishinaabe governance systems, then, citizenship is not a “public” matter to be decided by a centralized, administrative body, but rather it is decided by a decentralized mode of governance, through families.<sup>738</sup>

Second, adoption narratives describe a system of citizenship governance that exists outside of the realms of liberalism yet can be misrecognized as a liberal formation of government. As was noted in Chapter 4, it is families that renew the nation, not tribal governments. Such an argument raises questions, therefore, about where authority and jurisdiction come from in terms of citizenship-making, especially in terms of the Union of Ontario Indians’ authority in their realm. What happens to the citizenship-making authority of Anishinaabe families if the *E’Dbendaagzijig Naaknigewin* becomes the law governing Anishinaabe citizenship, given the *E’Dbendaagzijig Naaknigewin* finds its authority in federal government legislation? Indeed, as I show in Chapter 6, familial self-determination needs to be respected in work being done to reclaim control over citizenship if such work is to promote the

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<sup>737</sup> Benton-Banai, *The Mishomis Book*, 74–78.

<sup>738</sup> I explain how families at Fort William perform this decentralized citizenship governance in Chapter 6 of this dissertation.

resurgence of inherent Anishinaabe law. Adoption offers one way to “test” for whether such work promotes resurgence in that inherent law remains unrealized to the extent that citizenship is dependent on sexual rather than political self-determination. I return to this point in the following chapter.

Against this backdrop, I would argue that the formation of lineal descent structuring the *E'Dbendaagzijig Naaknigewin* runs counter to the resurgence of inherent Anishinaabe legal orders. While it is true that deploying lineal descent and/or refashioned forms of blood quantum to maintain boundaries is a form of self-determination, I question what is being marginalized through such approaches, namely, decentralized familial self-determination. For example, if Indigenous political orders are not hierarchical and do not separate familial authority from inherent governance orders,<sup>739</sup> how does the UOI's existence as a centralized political organization figure into inherent Anishinaabe legal orders? Importantly, within Indigenous political orders, families are not removed from citizenship governance, and therefore demand a form of governance that is decentralized. As James Sákéj Youngblood Henderson notes, Indigenous peoples “comprehend the territorial orders as an interrelated order rather than one associated with a centralized government that stands apart from or above the families.”<sup>740</sup> Citizenship laws that centre decision-making power in a centralized body – such as an Indian Band or a political territorial organization – thus reproduce liberalism in that they cast a public/private split of governmentality as timeless and universal and then work to slip decentralized clan- or family-based citizenship orders into the “private” side of the dichotomy while upholding the centrality of Indian Bands as ahistorical. Moreover, drawing on the work of

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<sup>739</sup> Henderson, *First Nations Jurisprudence*, 156; Ladner, “When Buffalo Speaks,” 291–92; Taiaiake Alfred, *Peace, Power, Righteousness: An Indigenous Manifesto*, 2nd ed. (Don Mills: Oxford University Press, 2009), 72.

<sup>740</sup> Henderson, *First Nations Jurisprudence*, 156.

Walter Miller, Kiera Ladner notes that Indigenous peoples' authority to govern themselves is not hierarchical but rather is spread across families, clans, and societies in a "horizontal" manner.<sup>741</sup> Speaking about Siiksikaawa (Blackfoot) governance, Ladner describes horizontal authority in the form of collective decision making: "Although [clan leaders] may have guided the decision-making process (substantively and ceremonially), the decision itself and the ability to forge and implement the decision depended on their ability to achieve "one mind" through the continuous involvement of individuals."<sup>742</sup> This guards against liberalism and Eurocentrism, as there is no centralized authority to which families defer power.<sup>743</sup> Families at Fort William perform this decentralized decision making authority by using adoption, marriage and birthing to determine who belongs with the community, which I return to in the following chapter.

Taking my cue from the ways in which Gover shows U.S. tribes to use lineal descent as a means to harden their membership laws, I now turn to exploring ways in which the *E'Dbendaagzijig Naaknigewin* actually reproduces essentialisms originating in settler governments while also marginalizing inherent Anishinaabe law. In Canada, at least, negative connotations assigned to adoption narratives suggest a hardening of First Nation citizenships in which the essentialized notions of Indianness established by settler bureaucrats are now reproduced in ways that again marginalize inherent Anishinaabe/inherent citizenship orders. Indeed, as the next section will show, the *E'Dbendaagzijig Naaknigewin* originated as a broad approach to citizenship that initially included familial sovereignties in the form of adoption, but eventually arrived at its present formation of lineal descent that, arguably, favours a "tribal" blood quantum formation of citizenship reflective of what Gover discussed in United States

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<sup>741</sup> Ladner, "When Buffalo Speaks," 291–92.

<sup>742</sup> Ibid., 293.

<sup>743</sup> Alfred, *Peace, Power, Righteousness*, 72.

tribal contexts. This narrowing of citizenship, I argue, demonstrates an internalization of settler colonial Indian logics to the extent that it marginalizes decentralized familial sovereignties in the realm of discerning belonging.

## 5.2 An Uncomfortable Juxtaposition

Whereas the previous section showed that a one-parent rule approach to reclaiming control over citizenship re-centers a blood quantum modality of belonging at the expense of inherent Anishinaabe law, this section provides a clearer look at the footing of this claim. Interestingly, the *E'Dbendaagzijig Naaknigewin* was not originally imagined as a lineal descent-based law; it has narrowed its scope over time since first discussed publicly in 2008. Not dissimilar to Kirsty Gover's observation that tribal membership rules in the United States have come to marginalize adoption due to a narrowing that replaced familial and residency criteria with tribal blood lineage measurements, the Anishinabek Nation seems to be following suit, moving from broader to narrower visions of citizenship – a process I trace below. However, in unpacking the footing for this in the Fort William First Nation context, this section also asks where such thinking comes from. Did the Anishinabek Nation take its cue from tribes in United States, or are there local examples that could have informed this transition? I offer one explanation here in the form of an uncomfortable juxtaposition:<sup>744</sup> I show that Ontario bureaucrats in the 1890s targeted adoption in Anishinaabe First Nation communities, including Fort William, as a way to reduce the number of people entitled to treaty annuities.

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<sup>744</sup> Warren Cariou, "Foreword: Going to Canada," in *Across Cultures/Across Borders: Canadian Aboriginal and Native American Literatures*, ed. Paul Warren De Pasquale, Renate Eigenbrod, and Emma LaRocque (Peterborough: Broadview Press, 2010), 17–24. I explain this term below.

The Province of Ontario enters this discussion in for reasons that may seem askew at first sight. For this reason, it is important to note why it is important to a discussion about inherent Anishinaabe citizenship law when, more commonly, it is the federal government that impacts Indigenous peoples' identities and systems of discerning belonging. Nevertheless, in the later 19<sup>th</sup> century, Ontario developed arguments meant to undermine Anishinaabe citizenship orders specifically by targeting adoption. In the late 19<sup>th</sup> century, a dispute between Ontario and the Dominion government arose regarding the payment of outstanding treaty arrears to Anishinaabeg of the Robinson Treaty territories. Before confederation in 1867, the British Crown had agreed to increase treaty annuities payments if the Robinson Treaty territories produced more wealth than originally assumed. As it turns out, the territories did, and Anishinaabe petitioned for the annuities increased stipulated in the Robinson Treaties.<sup>745</sup> However, by the time such petitions came forward, Great Britain had passed the *British North America Act, 1867*, effectively establishing and dividing power between a federal and provincial governments. James Morrison recounts how the Province of Ontario became liable for back-dated treaty annuities despite annuities being a federal responsibility:

In the fall of 1870, the chiefs from Lakes Huron and Superior petitioned the Governor-General of Canada, objecting that certain provisions of their treaty – namely, the augmentation clause – had not been carried out. Their complaint was endorsed by cabinet, after which the Secretary of State – the federal cabinet minister responsible for Indian Affairs – referred the issue to his provincial counterpart for discussion. Under Section 109 of the British North America Act [*sic*], the provinces of the new Dominion of

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<sup>745</sup> James Morrison, “The Robinson Treaties of 1850: A Case Study” (Haileybury: James Morrison, Legal and Historical Research, 1993), 171–72, <http://www.bac-lac.gc.ca/eng/discover/aboriginal-heritage/royal-commission-aboriginal-peoples/Pages/item.aspx?IdNumber=431>.

Canada had become responsible for *public* lands and the resources within their boundaries. Since Ontario was the beneficiary of past and future land and resources development [within its borders], Canada argued that Ontario was liable for payment of the increased annuities.<sup>746</sup>

As suggested here, since the Robinson Treaties are located in what became Ontario, the questions that arose as to which level of government – either federal or provincial – should be held liable for payment of backdated arrears eventually went to arbitration with Anishinaabeg (and Anishinaabe citizenship law) caught up in the middle.<sup>747</sup>

However, in working through this process of sorting out liability, Ontario developed an argument meant to save money should it be found liable for treaty payments to the very communities that make up the majority of Union of Ontario Indians member bands. Limiting the degree to which Province of Ontario might be liable for annuities under the Robinson Treaties required Anishinaabeg citizenship law to be challenged.<sup>748</sup> Seeking to protect itself financially, therefore, the Ontario began developing arguments that would reduce the number of annuitants, and therefore the amount of money to be paid to them, if in fact it (the Province) was found to be liable through an arbitration process that would unfold near the end of the 19<sup>th</sup> century.<sup>749</sup> This process created a centrifuge in which settler politicians began using gender, race and eventually adoption against Anishinaabeg for the Province's own purposes. I return to the intricacies of Ontario's arguments later in this section.

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<sup>746</sup> Ibid., 174.

<sup>747</sup> Ibid., 178–81.

<sup>748</sup> Janet Chute, "Moving on Up: The Rationale For, and Consequences Of, the Escalation Clause in the Robinson Treaties.," *Native Studies Review* 18, no. 1 (2009): 63.

<sup>749</sup> Morrison, "The Robinson Treaties," 176–83.



The details of how the Province of Ontario strategized to reduce its costs by targeting adoption in this matter generates an uncomfortable juxtaposition when compared to the way in which the *E'Dbendaagzjig Naaknigewin* was narrowed over time to marginalize adoption. As Warren Cariou uses it, the term “uncomfortable juxtaposition” is not about drawing direct linkages between two separate events or situations, but about unsettling questions about one situation by comparing it to a similar one.<sup>750</sup> An uncomfortable juxtaposition is meant to promote self-reflection. In Cariou’s usage, hard lessons learned from the Holocaust are reapplied to rethinking Canada’s treatment of Indigenous peoples; he applies lessons from one situation as a lens to rethinking a completely separate situation. When placed next to each other (i.e. when *juxtaposed*) the similarities between the two otherwise discrete situations come into view and elicit a response in the viewer which can then be used to rethink present actions and future plans. After visiting the Nazi concentration camp at Birkenau, where he saw a building named “Canada,” Cariou offered this unsettled reflection:

Today, Canadians often think of themselves as peacekeepers, as people of justice and civility and freedom and generosity. That was why I assumed the prisoners of Birkenau must have named the building “Canada” – because I thought they must see my nation in the way I had been taught to see it. But, of course, that version of Canada is simply a product of those cover-up stories that almost always come after violence. They are the stories we prefer to tell ourselves because they sound so much more attractive than the older narratives that attended the rise of colonialism.<sup>751</sup>

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<sup>750</sup> Cariou, “Foreword: Going to Canada,” 21.

<sup>751</sup> Ibid.

While neither this chapter nor this dissertation is about the Holocaust, I borrow Cariou's usage of "uncomfortable juxtaposition" as a device to help us better understand the UOI's draft citizenship law. In the remainder of this section, then, I argue that placing the strategies developed by the Province of Ontario in the late 19<sup>th</sup> century mimic the *E'Dbendaagzijig Naaknigewin*'s treatment of adoption in uncanny and unsettling ways, something that I believe should be cause for concern. Thus, while I do not draw a direct line from said bureaucrats to the thinking behind band membership or the *E'Dbendaagzijig Naaknigewin*, I nonetheless argue that belonging with Anishinaabe First Nations now suffers from the same logics underwriting these bureaucratic strategies. This section therefore works to explain why *some* of "those who belong" might be excluded from official belonging: adoptees are seen as *burdens* on communities rather than assets to the nation.

The Anishinabek Nation's *E'Dbendaagzijig Naaknigewin* has a long history, one that began in the 1970s with Indigenous women challenging Canada over sexual discrimination in the *Indian Act*.<sup>752</sup> For example, after losing her Indian status by way of marrying a non-status man, Sandra Lovelace took a case to the United Nations Human Rights Commission, "claiming that Canada had violated the International Covenant on Civil and Political Rights by preventing recognition of federal status when an Indian married a non-Indian."<sup>753</sup> The Commission found in her favour, and forced Canada to amend the *Indian Act* in such a way as to end gender discrimination,<sup>754</sup> which Canada attempted to do with the 1985 amendments to the *Indian Act*.<sup>755</sup>

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<sup>752</sup> Many Anishinaabe and Indigenous women were involved in bringing forward challenges to the gender discrimination. Jeannette Corbiere Lavell and Sandra Lovelace are often credited with making this possible, but many women fought the state in this regard. Marlene Pierre, personal communication, December 10, 2016.

<sup>753</sup> Innes, *Elder Brother and the Law of the People*, 145.

<sup>754</sup> *Ibid.*, 147.

<sup>755</sup> Palmater, *Beyond Blood*, 103. As Palmater points out, Bill C-31 did not achieve its goal of ending gender-based discrimination in the *Indian Act*.

Bill C-31 provided that Indian Bands could write their own membership rules (codes) if they chose to, thus opening the space for discussions about Band membership under the control of Indian Bands. Riding this momentum and that established by Canada's Inherent Rights policy, the UOI began negotiations on a self-government agreement with Canada, which included the development of a citizenship law (the *E'Dbendaagzijig Naaknigewin*). In 2007, the Anishinabek Nation Chiefs in Assembly passed a resolution rejecting Canada's control over who belongs with Indian Bands, noting "[we] assert that our Aboriginal rights include jurisdiction of Anishinabek Nation citizenship, which rests solely with the Anishinabek Nation."<sup>756</sup> This was an important statement, one that Indigenous women's struggles and victories from decades earlier, and one that established a sense of justice for people excluded from fully participating in their First Nations by the federal government's politics of recognition.

The literature shows that this excitement translated into discussions about the resurgence of inherent Anishinaabe citizenship orders in a broad sense. Indian status was no longer going to be the threshold for belonging, and so the options for deciding who belonged were wide open. In this time of excitement, the Anishinaabe clan system was discussed as being important to reclaiming control over belonging.<sup>757</sup> The clan system, being a decentralized form of citizenship governance, renews the nation through marriage, birth and adoption in ways that do not rely on centralized decision-making. In his opening remarks at a 2008 conference addressing the development of what would become the *E'Dbendaagzijig Naaknigewin*, then Grand Council Chief John Beaucage included adoption as part of the analysis about what citizenship means through Anishinaabeg approaches to belonging. "We must determine the guiding principles of

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<sup>756</sup> Anishinabek Nation Grand Council Assembly, Anishinabek Citizenship Law.

<sup>757</sup> Beaucage, "Opening Remarks."

citizenship,” he announced. “We have to talk about adoption.”<sup>758</sup> Earlier in his remarks, he ties adoption to Anishinaabeg inherent citizenship orders more centrally:

It was through the Clan System that citizenship was determined. Each clan knew exactly who belonged. Each child was borne into a clan... Adoptions were usually done within each clan, and as such, their clans would remain the same. When intermarriage or adoptions took place from other Nations – Waabsheshii, the Marten Clan – stepped forward to welcome these new citizens. Once you were accepted into a clan, you belonged with that family. As such, you belonged to that community, that Band, and this Nation.<sup>759</sup>

Here, then, at the earliest imaginings of what an Anishinabek Nation citizenship law could entail, adoption shows up front and centre.

As time progresses, however, adoption as a basis for citizenship seems to become muddled. At times, it is front and centre, while other times, such as today, its legitimacy as a basis for belonging is ambiguous at best.<sup>760</sup> Through the years 2008 to 2011, the Anishinabek Nation held up to 18 sessions to engage Anishinaabeg on the development of the *E'Dbendaagzijig Naaknigewin*.<sup>761</sup> During these consultations, it was reported,<sup>762</sup> adoption was discussed in terms of process: some felt that citizenship applications on the basis of adoption should be review by community-based registrars should be established for this purpose.

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<sup>758</sup> Ibid., 10.

<sup>759</sup> Ibid., 8.

<sup>760</sup> Anishinabek Nation, *E'Dbendaagzijig - Those Who Belong: Anishinabek Nation Citizenship Law (Draft)*, s.3.

<sup>761</sup> Bellefeuille, “Consultations and the Anishinabek Nation Citizenship Law”; Anishinabek Nation Grand Council Assembly, “Final Report of the Anishinabek Nation Citizenship Commissioner and Draft Anishinabek Nation *E-Dbendaagzijig Naaknigewin*,” Resolution No. 2009/05 § (2009), <http://bit.ly/2gh2ZUR>.

<sup>762</sup> Bellefeuille, “Consultations and the Anishinabek Nation Citizenship Law.”

Elsewhere, people agreed that a one-parent rule be used to determine eligibility for citizenship on the basis of adoption.<sup>763</sup> Here, it seems “parent” was being defined to include an adoptive parent.

There seems to always have been a tension between adoption and lineal descent within the development of the *E'Dbendaagzijig Naaknigewin*, however. Since its formal beginnings, the process leading up to this citizenship law saw bloodline-based arguments take centre stage in how leaders talked about reclaiming control over citizenship in ways that remind of status logics. For example, during plenary introduction to the 2008 two-day conference just mentioned, Chief Patrick Madahbee (then Chair of the Chiefs Committee of Governance) and Jeannette Corbiere-Lavell (who was appointed Anishinabek Nation Commissioner on Citizenship during this conference)<sup>764</sup> “stressed the importance of preserving our history and culture through our lineage.”<sup>765</sup> While the term “lineage” in and of itself does not connote a racialized understanding of Indigenous belonging, it nonetheless reminds me of the language of the *Indian Act*, where Indianness is imagined as flowing mainly through male lines.<sup>766</sup> Furthermore, though birthing is of course a part of inherent Anishinaabe citizenship law,<sup>767</sup> such a statement puts the validity of adoption as a basis for citizenship into question. Inside the logic of this statement, adoption becomes a valid basis of citizenship only when an Anishinaabe child is adopted by Anishinaabe citizens. Such an approach to defining identity and belonging can “draw a line around [a First Nation] on the bases of descent and the abstraction of blood,” reflecting the idea that authenticity is found in only a few families.<sup>768</sup> What of the reality that Anishinaabeg adopt children from

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<sup>763</sup> Anishinabek Nation, “2-Day Conference on Indian Status and Anishinabek Citizenship Law,” May 27, 2008, 6.

<sup>764</sup> *Ibid.*, 22–24.

<sup>765</sup> *Ibid.*, 5.

<sup>766</sup> Palmater, *Beyond Blood*, 101–42; Lawrence, “*Real*” *Indians and Others*, 45–63; Simpson, *Mohawk Interruptus*, 56–63; Eberts, “Victoria’s Secret.”

<sup>767</sup> Beaucage, “Opening Remarks,” 8.

<sup>768</sup> Napoleon, “Aboriginal Discourse,” 251.

other Indigenous nations, such as Métis children?<sup>769</sup> What of the reality that Indigenous peoples can adopt children that are raced differently than themselves?<sup>770</sup> More to the point: what does an approach to adoption that draws an essentialized line around a First Nation do to Anishinaabe citizenship governance? Despite the intentions of the wording, and given the U.S. tribal examples of lineal descent and tribal blood quantum discussed earlier, it could be argued that these discourses about adoption and the one-parent rule reproduce a heteronormative, racializing approach to citizenship, or a citizenship imaginary that is “straight” and genealogically essentialist.<sup>771</sup> Anishinaabeg are reimagined not as fluid political nations, but as a biologized group of people whose political boundary is defined by (hetero) sexual intercourse.

A trajectory towards developing a citizenship law in which adoption appears and then, I would argue, disappears, raises questions about internalizing status logics. As Allyson Stevenson has argued, adoption was targeted by settler colonial bureaucrats in the first half of the 20<sup>th</sup> century because it was shown that Indians could use it to make more Indians.<sup>772</sup> I discussed this aspect of Stevenson’s work and Canada’s history in Chapter 4, but it is worth noting again here. Indianness and Indian Affairs bureaucrats enforced a method of belonging based on “status logics,” namely, the notion that an Indian was someone who could trace their Indianness through the male line, thus remaking Indigenous citizenship orders into reflections of Victorian familial ideals that centered sexism and patriarchy. In this approach, belonging with Indians was a matter

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<sup>769</sup> Stevenson, “The Adoption of Frances T.”

<sup>770</sup> See, generally: Trumpener, “Status Indian Player Barred from All Native Sports Event”; Lee, “Getting over the ‘Indian Status Hangover’”; Damien Lee, “Adoption Is (Not) a Dirty Word: Towards an Adoption-Centric Theory of Citizenship,” *First Peoples Child & Family Review* 10, no. 1 (2015): 86–98; Simpson, *Mohawk Interruptus*, 161.

<sup>771</sup> Rifkin, *When Did Indians Become Straight?*, 2011, 51. Rifkin raises an important question in regards to the homogenization of Indigenous citizenships under norms acceptable the settler state: “How does conflating racial Indianness and full participation in native collectivity work as a way of disavowing the Seneca kinship system as a mode of governance and geopolitics, installing U.S. legal norms in its stead?”

<sup>772</sup> Stevenson, “The Adoption of Frances T.”

of (patrilineal) bloodline, or marriage to a male Indian. Adoption subverts such an approach in that it inherently suggests non-Indians can be made Indian<sup>773</sup> – which might include non-First Nations Indigenous peoples such as Métis, or Indigenous children born of women who lost their Indian status in one way or another, or white, black, and other racialized non-Indigenous children. Thus, adoption's appearance and disappearance in Canadian Indian law over time suggests that status logics constrict or narrow the grounds of belonging, from political grounds where Indigenous peoples decide through consensus who belongs with them, to a gendered and genealogical approach where belonging a) is discerned through sex, and b) is determined by an external power, i.e. the Canadian federal government. Against this backdrop, one could ask: Why is adoption not present in the *E'Dbendaagzijig Naaknigewin*? How might this narrowing of law be explained? If Indigenous citizenships should be considered political rather than biologized legal orders,<sup>774</sup> why would adoption be excluded from a law that is ostensibly meant to restore Anishinaabe political order?

As it turns out, there is a good deal of precedent to draw on within the Robinson Treaties territory for the exclusion of adoption as a basis for belonging with Anishinaabe communities. In his report submitted to the Royal Commission on Aboriginal Peoples entitled *The Robinson Treaties of 1850: A Case Study*, James Morrison finds that settler government bureaucrats attacked Anishinaabe citizenship law by specifically targeting Anishinaabe adoption practices. This targeting arose out of a complex legal battle between Ontario, Quebec and the Dominion (federal) government, which I will explain shortly.

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<sup>773</sup> Stevenson, "Intimate Integration," 63; Stevenson, "The Adoption of Frances T.," 471.

<sup>774</sup> Borrows, *Freedom and Indigenous Constitutionalism*, 42; Borrows, *Canada's Indigenous Constitution*, 158–59.

It is important to provide some context on why *Ontario* found itself liable for treaty annuities payments to Anishinaabeg when, normally, such payments were/are the responsibility of the Canadian federal government, however. Such context will explain why Ontario bureaucrats invested so much energy into targeting Anishinaabe citizenship laws through adoption. As part of the Robinson-Superior and -Huron Treaties, the British Crown promised Anishinaabeg an annuity to be paid each year on a per capita basis. Moreover, the Treaties also included an “escalator clause”<sup>775</sup> that allowed for an increase in annuities payments, from time to time, if the Treaty lands produced revenues that would enable the Crown to raise annuities “without incurring loss.”<sup>776</sup> At confederation in 1867, Canada West became the Province of Ontario, and Canada East became the Province of Quebec. The newly established federal government presumed Indians and Indian affairs matters of federal jurisdiction,<sup>777</sup> leaving Ontario to deal with matters not related to Indians, which did not include paying treaty annuities. However, as time progressed and settler society exploited more and more resources from the Treaty territories, it was clear to Anishinaabeg that the province and Canada were benefitting from their lands far more than they (the settlers) had originally estimated.<sup>778</sup> For example, as

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<sup>775</sup> Chute, “Moving on Up,” 54; J. R. Miller, *Compact, Contract, Covenant: Aboriginal Treaty-Making in Canada* (Toronto: University of Toronto Press, 2009), 117.

<sup>776</sup> Canada; Indigenous and Northern Affairs Canada, “Copy of the Robinson Treaty Made in the Year 1850 with the Ojibewa Indians of Lake Superior Conveying Certain Lands to the Crown,” (2008), <http://www.aadnc-aandc.gc.ca/eng/1100100028978/1100100028982>. It is worth reproducing this section of the Robinson-Superior Treaty for reference:

The said William Benjamin Robinson on behalf of Her Majesty, who desires to deal liberally and justly with all Her subjects, further promises and agrees that in case the territory hereby ceded by the parties of the second part shall at any future period produce an amount which will enable the Government of this Province without incurring loss to increase the annuity hereby secured to them, then, and in that case, the same shall be augmented from time to time, provided that the amount paid to each individual shall not exceed the sum of one pound provincial currency in any one year, or such further sum as Her Majesty may be graciously pleased to order.

<sup>777</sup> Canada, “British North American Act” (1867), ss.91(24), <http://laws-lois.justice.gc.ca/eng/CONST/FullText.html>.

<sup>778</sup> Morrison, “The Robinson Treaties,” 174, 176.



early as 1870, the chiefs had petitioned the Governor-General of Canada to point out that treaty annuities were not increased in accordance with the Robinson Treaties and that, in their view, the treaty territories had produced nearly \$1-million since 1850.<sup>779</sup> At issue was not whether treaty annuities were being paid; indeed, Anishinaabeg continued to receive their basic annuity payment as originally promoted in the Robinson Treaties. Rather, the issue was whether the annuity should be increased as per the escalator clause found in the Treaties. Anishinaabeg felt that they were owed an increase in annuities based on the wealth being generated in their lands by settlers.

Seeking to address Anishinaabe claims for increased annuities, the federal government increased the annuity payments in 1874, but then sought repayment from the provinces of Quebec and Ontario. The mechanisms for how such liabilities are created were bound up in the *British North America Act, 1867*, and had to do with the way the *Act* organized the transition of fiscal issues and liabilities post-confederation. With the splitting of the Province of Canada into Ontario and Quebec came questions around debts of the old Province of Canada, including debts owed to Indian through treaty annuities.<sup>780</sup> Since Anishinaabeg had asserted claims to an increase in annuities, the question became *Who should pay?* The result was a complicated set of legal proceedings in which arrears were sought for three distinct periods of time,<sup>781</sup> the details of

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<sup>779</sup> Ibid.

<sup>780</sup> Province of Quebec v. Dominion of Canada. In re Indian Claims, 30 SCR 151 (1898); The Judicial Committee of the Privy Council, “The Attorney General for the Dominion of Canada v The Attorney General for the Province of Ontario and The Attorney General for the Province of Ontario (Canada),” December 9, 1896, 2–3, [http://www.bailii.org/uk/cases/UKPC/1896/1896\\_51.html](http://www.bailii.org/uk/cases/UKPC/1896/1896_51.html); The Province of Ontario v. The Dominion of Canada and the Province of Quebec; In Re Indian Claims, 25 S.C.R. 434 (1895); Brian Slattery and Linda Charlton, *Canadian Native Law Cases: With Comprehensive Subject Index*, vol. 3: 1891-1910 (Saskatoon: University of Saskatchewan, Native Law Centre, 1985), 365–482.

<sup>781</sup> Morrison, “The Robinson Treaties,” 176–83. Morrison sums up the situation as clearly as is possible: “The federal government claimed (a) against the former Province of Canada arrears of augmented annuities from 1851 to 1867, (b) against the provinces of Ontario and Quebec jointly – as successors to the province of Canada – \$95,200 arrears of augmented annuities from 1867 to 1873; and (c) against

which need not detain us.<sup>782</sup> By 1890-91, the Dominion and the two provinces involved – namely, Ontario and Quebec – had agreed to enter arbitration, which ultimately resulted in Ontario agreeing to pay certain treaty annuity arrears.<sup>783</sup> Ontario, after all, was previously Canada West before 1867, and therefore had benefitted most from the Robinson Treaties financially.<sup>784</sup> By 1895 the arbitrators agreed with Canada finding that “the property covered by treaty had passed to Ontario under Section 109 [of the *British North America Act, 1867*].”<sup>785</sup> Ontario eventually paid a settled amount for arrears in 1896.<sup>786</sup> The arrears finally made their way to signatory Anishinaabe communities in 1904.<sup>787</sup>

While this legal dispute was external to Anishinaabe relationships with Canada, it nonetheless created impacts on Anishinaabeg citizenship law and governance. It put the Province of Ontario in a position where it had to develop strategies to save money in the event it was found to be liable for outstanding arrears. As the archives show, it did just that, and specifically targeted adoption as a way to save money.

An Ontario bureaucrat by the name of Edward Barnes Borron engaged himself heavily in developing arguments that could be used to reduce the number of treaty annuitants. Borron was a Scottish-borne immigrant who became the Liberal MP for Algoma for the Dominion government

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Ontario and Quebec jointly \$389,106.80 increased annuities actually paid by the Dominion to the Ojibways since 1874.”

<sup>782</sup> The Judicial Committee of the Privy Council, “The Attorney General for the Dominion of Canada v The Attorney General for the Province of Ontario and The Attorney General for the Province of Ontario (Canada).” Here, the Privy Council provides an in-depth explanation of liabilities created before confederation, during the intermediate years that the liabilities were being sorted out, and for how the liabilities were to be addressed after its 1896 decision. In my mind, this situation was as much about clarifying how the new federation would exercise its constitutional powers.

<sup>783</sup> Morrison, “The Robinson Treaties,” 176–77.

<sup>784</sup> *Ibid.*, 174.

<sup>785</sup> *Ibid.*, 176–78, 181–83.

<sup>786</sup> Chute, “Moving on Up,” 63.

<sup>787</sup> Morrison, “The Robinson Treaties,” 182–83.

during the 1870s, was later appointed stipendiary magistrate for the District of Nipissing – a post within the provincial bureaucracy which was given to him largely because of his federal Liberal connections.<sup>788</sup> Fort William and the majority of Robinson Treaties communities fell within Borron’s district. From 1879 until the late 1890s, Borron reported directly to the Premier of Ontario – Sir Oliver Mowat.<sup>789</sup> By his own account, he had an influential relationship with Mowat,<sup>790</sup> a point of significance considering historians credit him (Mowat) as being the key voice in interpreting the *British North America Act, 1867* in ways that asserted provincial sovereignty in the federal-provincial relationship.<sup>791</sup> Mowat thus wielded considerable political power during this time. Placed as such, Borron’s views are important to this chapter; he was “obsessed by [Indian] band population numbers” and believed Anishinaabeg were a dying race.<sup>792</sup> Furthermore, as Janet Chute notes, he refused to admit that Anishinaabeg had rights to their lands. “To do so,” writes Chute, “would have undermined one of his principal contentions that Ojibwa bands lacked internal mechanisms capable of regulating their membership.”<sup>793</sup>

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<sup>788</sup> Anna Margaret Evans, *Sir Oliver Mowat* (Toronto: University of Toronto Press, 1992), 152.

<sup>789</sup> Morris Zaslow, “Edward Barnes Borron, 1820-1915: Northern Pioneer and Public Servant Extraordinary,” in *Aspects of Nineteenth Century Ontario; Essays Presented to James J. Talman*, ed. James John Talman et al. (Toronto: University of Toronto Press in association with the University of Western Ontario, 1974), 303.

<sup>790</sup> *Ibid.*, 301, 307; E.B. Borron to Oliver Mowat, 31 December, 1891, Irving Fonds, 1027-1-2, MS 1780, Archives of Ontario, <http://bit.ly/1WB8DAf>; E.B. Borron to Æmelius Irving, 7 May; Borron qtd. in Evans, *Sir Oliver Mowat*, 152–53. Evans quotes Borron as follows: “Sir Oliver [Mowat] allowed me much greater latitude in regard to the treatment of the subjects on which it seemed to me – in the interest of the province [of Ontario] – that information and advice was necessary – than is usually allowed the most trusted public servants: and from the time of my appointment in 1879 until ... 1896 all my reports, whether public or confidential, were carefully read and considered by him.”

Note: The Honourable Sir Oliver Mowat was the Premier and Attorney General of Ontario from October 25, 1872 to July 25, 1896.

<sup>791</sup> Evans, *Sir Oliver Mowat*, 142.

<sup>792</sup> Chute, “Moving on Up,” 63.

<sup>793</sup> *Ibid.*

Borron had access to the power centre of the Ontario government during the very time that Ontario and Quebec were engaged in arbitration with Canada regarding the question of Robinson Treaty annuity arrears discussed above. In addition to having access to the Premier, he was engaged in communications with a decorated lawyer representing Ontario and Quebec in arbitration regarding the annuity arrears, namely Æmelius Irving.<sup>794</sup> Drawing on interviews he had commissioned with people of Sault Ste. Marie regarding who, by his definition,<sup>795</sup> was considered to be a “bona fide” Indian for purposes of enjoying treaty annuities,<sup>796</sup> Borron developed arguments that would have been seductive to Irving’s legal strategies. For example, by 1895, Irving was co-representing the Province of Ontario at the Supreme Court of Canada in a case against the Dominion of Canada meant to sort out financial liabilities for the Robinson Treaty arrears.<sup>797</sup> In his respective communications with both Mowat and Irving, Borron deployed many of the common arguments for regulating Indigenous identity and belonging at the time. He argued that “Indians” were not only dying out, but were only those people who could

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<sup>794</sup> Jamie Benidickson, “Irving, Sir Æmelius,” *Dictionary of Canadian Biography*, accessed November 23, 2016, [http://www.biographi.ca/en/bio/irving\\_aemilius\\_14E.html](http://www.biographi.ca/en/bio/irving_aemilius_14E.html); The Judicial Committee of the Privy Council, “The Attorney General for the Dominion of Canada v The Attorney General for the Province of Ontario and The Attorney General for the Province of Ontario (Canada)”; E.B. Borron to Æmelius Irving, 7 May; c.f. *Province of Quebec v. Dominion of Canada. In re Indian Claims*, 30 SCR 151; E.g.: “Ontario Answer Re Annuities Claim under the Huron Superior Treaties of 1850 in Arbitration,” n.d., Irving Fonds, F 1027-3, MS 6493, Archives of Ontario.

<sup>795</sup> Borron believed a “bona fide” Indian was a person who could trace their Indian bloodline through the father, and who was born within a Robinson Treaty territory.

<sup>796</sup> John Driver to E.B. Borron, “John Driver Letters,” 1893-1891, Irving Fonds, F 1027-1-2, MS 1780, Archives of Ontario, <http://bit.ly/1WOUqzU>.

<sup>797</sup> *The Province of Ontario v. The Dominion of Canada and the Province of Quebec*; *In Re Indian Claims*, 25 S.C.R. 434; This case is published in: Slattery and Charlton, *Canadian Native Law Cases*, 3: 1891-1910; see p.400 for Irving’s involvement. This case was also only one in a long series of cases between Ontario, Quebec and the Dominion of Canada that lasted for years. For example, aspects of the arrears issue were still being argued in 1909, in *Province of Ontario v. Dominion of Canada*, 42 S.C.R. 1 (1909); Slattery and Charlton, *Canadian Native Law Cases*, 3: 1891-1910:221. For a short summary of these cases, see: David MacMartin, “D.G. MacMartin’s 1905 Diary, Intergovernmental Conflict and Ontario’s Treaty 9 Role” (University of Calgary, 2015), 107–9, <http://hdl.handle.net/11023/2597>.

trace their Indigenous heritage through the male line.<sup>798</sup> Those who's "Indian blood" traveled through the maternal line were at best "halfbreeds" and/or regarded as white.<sup>799</sup> Halfbreeds,<sup>800</sup> Borron argued, had no right to treaty annuities except in very rare cases.<sup>801</sup> These arguments would have been useful fodder for developing ways to save money on arrears payments should Ontario be found liable during arbitration. Others targeted for removal from the treaty annuities pay lists included Indians living outside the treaty territories – such as those living in the north of the height of land, those living on Manitoulin Island, and/or those living in the United States.<sup>802</sup>

However, more important to this chapter is the fact that Borron developed an argument to undermine adoption specifically as a way to reduce the number of annuitants to whom the Province might owe money. If Indians were dying out, then the only way one could explain the increase in treaty annuitants by the 1890s (with 5,231 annuitants listed by 1890) was by targeting adoption. Borron's mathematics reveal a stunning self-fulfilling prophecy. Using his racialized, gendered and anti-adoption approach to counting treaty annuitants, he found that there was actually *a decrease* in "bona fide Indians" between the 40-year period from when the Robinson Treaties were signed in 1850 and when the provincial-federal arbitration process was underway

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<sup>798</sup> E.B. Borron to Oliver Mowat, 31 December, 43.

<sup>799</sup> E.B. Borron, "Report by E.B. Borron Relative to Annuities Payable to Indians in Terms of the Robinson Treaties and to the Outstanding A/Cs and Claims of the Dominion Government and Indians Arising out of the Same," December 31, 1892, 3–4, Irving Fonds, F 1027-1-2, MS 1780, Archives of Ontario, <http://bit.ly/211tf2W>.

<sup>800</sup> Halfbreeds in the context of the Robinson Treaties meant, at various times, those Anishinaabeg of mixed parentage, as well as Métis from the Red River territory which may or may not have been present in locales such as Sault Ste. Marie at various times. See Chris Andersen's review of the expert testimony delivered at the Supreme Court of Canada in the *R. v Powley, 2003*: Andersen, *Métis* Chapter 4 generally, and page 150 in particular.

<sup>801</sup> E.B. Borron, "Report by E.B. Borron Relative to Annuities Payable to Indians in Terms of the Robinson Treaties and to the Outstanding A/Cs and Claims of the Dominion Government and Indians Arising out of the Same," 5–9.

<sup>802</sup> E.B. Borron, "Report by E.B. Borron Relative to Annuities Payable to Indians in Terms of the Robinson Treaties and to the Outstanding A/Cs and Claims of the Dominion Government and Indians Arising out of the Same"; Morrison, "The Robinson Treaties."

in the 1890s. By December 1892, he demonstrated that the number of treaty annuitants paid in 1890 could be reduced by about half – from 5,231 persons paid to 2,337, if his logics were applied.<sup>803</sup> This number – 2,337 – is eerily similar to the number of Indians William Robinson counted in while visiting Lakes Superior in Huron for pre-treaty discussion in May of 1850. Borron picks this up in his 1892 calculations to argue that the number of “bona fide Indians” within the Robinson Treaty territories had not increased.<sup>804</sup> According to Robinson’s count, there were a total of 2,662 Indians and halfbreeds within what would become the Superior and Huron Treaty territories in 1850.<sup>805</sup> However, Robinson also noted that of this number, by his count, 284 were halfbreeds, meaning that the number of “bona fide Indians” counted was actually only 2,376, or just slightly more than the number Borron calculates 40 years later.<sup>806</sup> Such a calculation “fits” with Borron’s dying race axiom.<sup>807</sup> More important to the purpose of this chapter, though, is Borron’s methodology: if there was no way that Anishinaabeg could be increasing in numbers, adoptees therefore were to blame for the increase in treaty annuitants. In the end, he did his work well: by targeting adoptees, he notes, the Province of Ontario could save upwards of \$231,520 in treaty annuity arrears,<sup>808</sup> which at the time was not an insignificant sum.

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<sup>803</sup> E.B. Borron, “Report by E.B. Borron Relative to Annuities Payable to Indians in Terms of the Robinson Treaties and to the Outstanding A/Cs and Claims of the Dominion Government and Indians Arising out of the Same,” 52.

<sup>804</sup> Ibid.; E.B. Borron to Oliver Mowat, 31 December, 20, 39; E.B. Borron to Æmelius Irving, 7 May, 5.

<sup>805</sup> Robinson qtd. in Alexander Morris, *Treaties of Canada with the Indians of Manitoba and the North-West Territories Including The Negotiations on Which They Are Based, and Other Information Relating Thereto* (Toronto: Willing & Williamson, 1880), 19.

<sup>806</sup> Robinson qtd. in Morris, *Treaties of Canada*; E.B. Borron, “Report by E.B. Borron Relative to Annuities Payable to Indians in Terms of the Robinson Treaties and to the Outstanding A/Cs and Claims of the Dominion Government and Indians Arising out of the Same,” 52.

<sup>807</sup> E.B. Borron to Oliver Mowat, 20 January, 1892, Irving Fonds, 1027-1-2, MS 1780, Archives of Ontario, <http://bit.ly/1Y1EE3u>; E.B. Borron to Æmelius Irving, 7 May, 5.

<sup>808</sup> E.B. Borron, “Report by E.B. Borron Relative to Annuities Payable to Indians in Terms of the Robinson Treaties and to the Outstanding A/Cs and Claims of the Dominion Government and Indians Arising out of the Same,” 52–54.

Borron subsequently targets the practice of adoption as a way to disqualify treaty annuitants from the pay lists. He develops a narrative arch over four years of research and strategizing that increasingly targets Anishinaabe citizenship orders by specifically targeting adoption as a citizenship-making practice. His argument reaches full maturity by 1895, as can be seen in striking clarity in this 7 May 1895 letter to Æmelius Irving:

There has been, in my opinion, no legitimate increase in the number of Indians included in the Robinson Treaties. On the contrary, a correct census taken of all those Indians who were in the first instance properly included in the Treaties, and of their descendants in the male line will, I believe, show that the numbers have rather decreased than increased. It is the wholesale *adoption* of Halfbreeds, and of Indians other than those justly entitled, into the bands, from time to time, since the Treaties were concluded, that has really occasioned the enormous increase in the number of Annuitants now entered on the Pay lists of the [federal] Indian Agents. *If this right therefore of the tribes to adopt Dick, Tom and Harry as members and the right of these members – not simply to share of the property and funds of the band – but thereafter to claim perpetual Annuities amounting to Four dollars per capita from the Crown, be upheld, such a ruling ... will, it is to be feared, impose a heavy and as I view it, an unjust burden on the Provinces, and should be modified, if possible.*<sup>809</sup>

With this logic in mind, Borron began developing an argument to sooth settler “fear” about the possibility that Anishinaabeg could increasing in numbers, with adoption (as a matter of Anishinaabe citizenship governance) being put in the crosshairs.

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<sup>809</sup> E.B. Borron to Æmelius Irving, 7 May, 5–6. Emphasis mine.

So, why is all this important? One could argue that there was nothing new about settler colonialists developing and using dying race theories to guide Canadian Indian law and policy by the time Borron was writing in the 1890s. Indeed, several federal Indian laws were on the books by then that were already attempting to regulate Indigenous identities and belonging.<sup>810</sup> But in all of this, Borron contributes a novel argument that is important to recognize. Indeed, concerns about adoption show up throughout Borron's writing on the subject of limiting Ontario's treaty annuities liabilities,<sup>811</sup> but *how* he rationalizes it is important to this discussion. In his 1894 report on treaty annuities, he concedes that adoption has "long been and still continues to be a general custom among the Indians,"<sup>812</sup> but that this custom does not in itself make a right of claim against the Crown for treaty annuities.<sup>813</sup> Rather, he argues that adoption creates a right of claim "*against the Band itself* – but not ... against the Crown, the Dominion or the Province."<sup>814</sup> Borron develops this line of argument through his review of William Robinson's 1850 post-treaty report, in which Robinson notes that he informed the Anishinaabeg chiefs that the halfbreeds would not be recognized as having an annuity right against the Crown, but that they (the chiefs) could share their annuities with halfbreeds as they saw fit.<sup>815</sup> Borron takes this a step further. Adoption, he rationalizes, creates a financial burden on Anishinaabe communities

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<sup>810</sup> See generally: Venne, *Indian Acts and Amendments, 1868-1975*.

<sup>811</sup> E.B. Borron to Oliver Mowat, 31 December, 40–41; E.B. Borron to Oliver Mowat, 11 October, 1892, 40–41, Irving Fonds, F 1027-1-2, MS 1780, Archives of Ontario, <http://bit.ly/24p3eeH>; E.B. Borron, "Supplementary Report On the Right of Half Breeds to Participate in the Benefits of the Robinson Treaties," October 27, 1894, 1, 5, 7, Irving Fonds, F 1027-1-2, MS 1780, Archives of Ontario, <http://bit.ly/211tew2>; E.B. Borron to Æmelius Irving, 7 May, 5–9, 13.

<sup>812</sup> E.B. Borron, "Report by E.B. Borron Relative to Annuities Payable to Indians in Terms of the Robinson Treaties and to the Outstanding A/Cs and Claims of the Dominion Government and Indians Arising out of the Same," 40–41.

<sup>813</sup> E.B. Borron, "Supplementary Report On the Right of Half Breeds to Participate in the Benefits of the Robinson Treaties," 1, 5.

<sup>814</sup> *Ibid.*, 5. Emphasis original.

<sup>815</sup> Robinson qtd. in Morris, *Treaties of Canada*.



themselves *and not the Crown* because only individuals born to Indian families in the treaty territory, and who can be traced through the male (blood)line, have an entitlement to treaty annuities.<sup>816</sup> This argument addressed two concerns at once: it could save the province money in arbitration awards because it would mean less names included on an arrears payroll, and, second, it suited Borron’s belief that Anishinaabeg did not have political systems capable of governing membership (e.g. Indians could not make Indians through adoption).<sup>817</sup> It must be remembered that removing or eliminating Indigenous individuals also an act meant to eliminate Indigenous constitutional orders.<sup>818</sup> Settler colonialism attempts to “eradicate [not only] the physical signs of Indigenous peoples as human *bodies*, but [also] to eradicate their existence as *peoples* through the erasure of the histories and geographies that provide the foundation for Indigenous cultural identities and sense of self.”<sup>819</sup> This dual removal is gendered: targeting Indigenous women has been used by Canadian settler society to eliminate Indigenous constitutional orders.<sup>820</sup> Likewise, the marginalization of adoption has been used as a way to eliminate Indigenous citizenship orders. Adoption does not exist in a political vacuum, but rather is a manifestation of Anishinaabe citizenship governance (see Figures 10 and 11 in Chapter 4). Recall that, elsewhere, Canadian law conducted exorcisms to rid itself of the specter of Indians making Indians through adoption.<sup>821</sup> Indians making Indians through adoption was especially problematic if it were to cost the Province of Ontario money – in Borron’s words, it was to be “feared.”<sup>822</sup> Borron’s work

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<sup>816</sup> E.B. Borron, “Supplementary Report On the Right of Half Breeds to Participate in the Benefits of the Robinson Treaties.”

<sup>817</sup> Chute, “Moving on Up,” 63.

<sup>818</sup> Taiaiake Alfred and Jeff Corntassel, “Being Indigenous: Resurgences against Contemporary Colonialism,” *Government and Opposition* 40, no. 4 (2005): 598, doi:10.1111/j.1477-7053.2005.00166.x.

<sup>819</sup> Ibid.

<sup>820</sup> Simpson, *Mohawk Interruptus*; Simpson, “The State Is a Man: Theresa Spence, Loretta Saunders and the Gender of Settler Sovereignty.”

<sup>821</sup> Stevenson, “The Adoption of Frances T.”

<sup>822</sup> E.B. Borron to Æmelius Irving, 7 May, 5.

on this subject, therefore, re-figures adoption as a financial disincentive for Anishinaabeg of the Robinson Treaties. Adoption becomes a dirty word.

I find myself thinking again about the Anishinabek Nation's *E'Dbendaagzijig Naaknigewin*. Given the history above, where adoption is targeted to render adoptees not entitled to treaty benefits, I find it interesting that it (adoption) was winnowed out of the development of the draft citizenship law over time. Several similarities exist between this process and Borron's work. In both, Anishinaabeg communities expressed and performed adoptions to claim people, and in both instances adoption was marginalized at more formal levels. Borron notes that adoptions might be within the jurisdiction of Anishinaabeg communities, but says it counts for nothing in terms of who the Crown will recognize. By comparison, the Anishinabek Nation starts out by stating that adoption is a key part of Anishinaabe citizenship law,<sup>823</sup> but then removes it as a basis for citizenship recognition by the time the *E'Dbendaagzijig Naaknigewin* is made public in draft form.<sup>824</sup>

I should not be understood to be suggesting that Borron had a direct influence over the *E'Dbendaagzijig Naaknigewin*. Nor should I be understood to mean Anishinaabeg within the Anishinabek Nation have been "duped." I recognize that a great deal of energy has been put into the development of the *E'Dbendaagzijig Naaknigewin*, stretching back decades. I also recognize that the research has shown that a one-parent, lineal descent rule is a far stronger approach to ensuring federal recognition of Anishinaabeg than Indian status provisions would allow.<sup>825</sup> But the similarities between Borron's work and that of the Anishinabek Nation suggest that adoption is seen as illegitimate in a way of thinking about belonging that is hyper focused on gendered

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<sup>823</sup> Beaucage, "Opening Remarks."

<sup>824</sup> Anishinabek Nation, *E'Dbendaagzijig - Those Who Belong: Anishinabek Nation Citizenship Law (Draft)*.

<sup>825</sup> Clatworthy, "Estimating the Population Impacts," 14–47.

bloodlines. As others have shown, colonized peoples in a colonial relationship can internalize the power logics – or the “structural relations”<sup>826</sup> – of the colonizing society. “[C]olonized populations tend to internalize the derogatory images imposed on them by their colonial ‘masters’, and ... as a result of this process, these images, along with the structural relations with which they are entwined, come to be recognized (or at least endured) as more or less natural [by colonized peoples themselves].”<sup>827</sup> For this reason, I suggest that the *E'Dbendaagzijig Naaknigewin* has several limitations that should be made clear in discussions about the resurgence of inherent Anishinaabe citizenship governance, including discussions that take place at Fort William First Nation. Such limitations include marginalizing familial self-determination in the context of citizen-making; fostering the centralization of citizenship governance into the UOI and/or Indian Band administrative governance systems at the expense of decentralized familial (or clan) governance; re-imagining politics itself, where citizenship-making is something Indian Bands do while relegating families to private (i.e. non-political) entities that engage in sexual self-determination rather than political self-determination; and, through its usage of lineal descent, reinforcing the status logic that belonging is narrowly discerned through strict adherence to bloodline rather than a citizenship order based on claiming those who belong. As is the nature of uncomfortable juxtapositions, I leave these comparisons here – floating in midair, unsettled – with the intention of promoting reflective thought.<sup>828</sup>

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<sup>826</sup> Coulthard, “Subjects of Empire,” 444.

<sup>827</sup> Ibid.

<sup>828</sup> See: Cariou, “Foreword: Going to Canada.”

### 5.3 Conclusion

As I think about the points made above, I am reminded of Onaabani-giizis, and Gichimanidoo-giizis's grandchildren. In both cases, Canadian Indian law is being given supremacy in terms of how they are treated officially by Fort William First Nation. Onaabani-giizis might have the funding that comes with Indian status, but she experiences foot dragging by a chief and council that, in her and her family's view, does not accept her due to her being non-native by birth and adopted.<sup>829</sup> On the other hand, Gichimanidoo-giizis's grandchildren are not recognized as status Indians yet have a bloodline connection to Fort William through their mother. Despite multiple requests, the band has not put their names on the membership list. Adoption and, consequently, the self-determination of these families and, more broadly, inherent Anishinaabe citizenship law, is not respected in either case.

The purpose of this chapter was to show that Anishinaabeg communities and political organizations are at times reproducing essentialized settler colonial logics in their approaches to citizenship governance. I reviewed the Anishinabek Nation's *E'Dbendaagzijig Naaknigewin* for ways in which it has, in my opinion, reproduced an anti-adoption logic. I drew this out in two ways. First, I compared its one-parent rule method of discerning citizenship to lineal descent and tribal blood quantum logics being used by some tribes in the United States. I argued that this set the *E'Dbendaagzijig Naaknigewin* in line with a new type of blood quantum that normatively remakes citizenship into a form of belonging based on heterosexual parenting that lends itself to marginalizing adoptees. Citizenship is imagined as based on sexual self-determination rather than political self-determination in this scenario. I also argued that lineal descent and tribal blood quantum rules work to centralize inherent Indigenous governance systems that are otherwise

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<sup>829</sup> Conversation with Onaabani-giizis; Conversation with Namebini-giizis; Conversation with Abitaa-niibini-giizis.

decentralized in nature; families decide who belongs, not a centralized governance structure such as an Indian Band. Second, I juxtaposed the *E'Dbendaagzijig Naaknigewin* against a deeper history in the Robinson Treaties territory that saw adoption specifically targeted by settler government bureaucrats as a means of undermining Anishinaabe citizenship jurisdiction. By way of comparison, I suggested that both the Anishinabek Nation draft citizenship law and settler initiatives of the 1890s have a lot (and maybe too much) in common to ignore. Both marginalize adoption, either explicitly or implicitly. Moreover, while settler bureaucrats imagined adoption as a burden on Anishinaabe communities rather than financial resources of the Crown, by not including adoption in its sections, the *E'Dbendaagzijig Naaknigewin* runs the risk of doing the same. More concerning, both fail to recognize the political (rather than merely sexual) self-determination of Anishinaabe families in discerning citizenship. We live in a moment where the only legitimate form of belonging with First Nations is imagined as having the right to be a burden rather than having the responsibility to build community. Such approaches imagine people not as resources for the future of Anishinaabe communities, but as burdens that Indian Bands must manage with already over-taxed resources. Such a “deficiency” approach to citizenship produces fear of familial self-determination; in the name of managing financial resources, Indian Bands will come to see familial self-determination as suspect or, worse, as not in the interest of Indian Band governance. Such a situation would be a failure of leadership, as it would require Indian Band chief and councils to contest inherent Anishinaabe law in the name of governance.

Moving forward, what if discussions about citizenship *start from* the assumption that Anishinaabeg have their own citizenship governance system, and that these systems are still intact? How would this affect future discussions not only at Fort William First Nation? One of

the problems that arises after adoption becomes a dirty word is that it no longer is seen as a valid basis of belonging. Instead, it becomes a private matter that has no bearing on political processes. I refute this. Adoption is an expression of Anishinaabe citizenship governance. It is a part of – and therefore reveals – an inherent Anishinaabe citizenship order that finds its jurisdiction in families, and that emphasizes values of inclusion, accountability, non-essentialism, and decentralized governance. When seen through adoption narratives at Fort William First Nation, Anishinaabe citizenship emphasizes collective decision making and continuous renewal of good relations. In short, it speaks to a citizenship order that requires people care for their communities, rather than merely taking from them much like “membership” in a club connotes. In the next chapter, I explore how Fort William First Nation knowledge holders narrate these values and systems of governance when discussing Anishinaabe citizenship law through adoption stories.

**Chapter 6**  
***“If you mess with me, you mess with the Mission”:***  
**Narrating Belonging at Fort William First Nation through Adoption Stories**

**6.0 Introduction**

“I might as well say she gave birth to me.”<sup>830</sup>

These words were said as I sat drinking tea with Gichimanidoo-giizis and her daughter, Zaagibagaa-giizis in November 2015. Zaagibagaa-giizis was telling me about how her mother adopted her through Anishinaabe custom more than two decades earlier, and how, as a result, she felt fully claimed by her family. Zaagibagaa-giizis invested a great deal of energy explaining to me how her biological family was unable to care for her when she was born. She loved her biological mother, but, as she learned later in life, she was not in a position where she could care for Zaagibagaa-giizis in a good way. Seeing that Zaagibagaa-giizis’s mother was struggling, Gichimanidoo-giizis approached her with an offer to raise her daughter for her. Gichimanidoo-giizis used Anishinaabe law to adopt Zaagibagaa-giizis at the age of three months old. For her, caring for Zaagibagaa-giizis in her time of need was an obligation: “I didn’t even ask myself, ‘Oh, what do you want to adopt for?’ It was just like a natural feeling that I should take care of her; [that] little baby.” As Zaagibagaa-giizis told me her story, it became clear that she felt no difference between Gichimanidoo-giizis’s biological children and herself. “They feel like my real family; they *are* my real family. It feels like I was born into this family.”<sup>831</sup> Gichimanidoo-giizis confirmed this sentiment as we went through another pot of tea.<sup>832</sup>

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<sup>830</sup> Conversation with Zaagibagaa-giizis.

<sup>831</sup> Ibid.

<sup>832</sup> Conversation with Gichimanidoo-giizis.

I open this chapter with the brief narrative above because it turns our attention towards how Fort William First Nation families claim people using Anishinaabe citizenship law. Through adoption, Zaagibagaa-giizis became a “real” part of Gichimanidoo-giizis’s family. For Gichimanidoo-giizis, adoption was an obligation she felt in order to care for others; it was a part of Anishinaabe law that required her to act in certain ways that her family then emulated. Everybody accepted Zaagibagaa-giizis as someone who fully belongs because of this legal order. “[Adoptees are] not treated any differently from the rest of the family,” noted Gichimanidoo-giizis as she lit up a cigarette. “That’s what makes [Anishinaabe] custom really good.”<sup>833</sup> It is this ability of adoption to make people fully belong that lies at the heart of Anishinaabe citizenship laws.

Like any good story, narratives enable people to subvert restrictions imposed upon them; they allow us to imagine new worlds.<sup>834</sup> Indeed, the world is in constant flux, and new realities are always possible.<sup>835</sup> In terms of belonging and citizenship, narratives are one way that Indigenous peoples make sense of those who belong even when those who belong are not recognized by the Canadian state.<sup>836</sup> They allow people to claim others regardless of whether those claimed are recognized as “Indians” in Canadian law.<sup>837</sup> On the other hand, narratives also enable people to understand why some people who *should* belong according to Canada actually

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<sup>833</sup> Ibid.

<sup>834</sup> Eva Marie Garrouette and Kathleen Deloris Westcott, “The Story Is a Living Being: Companionship with Stories in Anishinaabeg Studies,” in *Centering Anishinaabeg Studies: Understanding the World through Stories*, ed. Jill Doerfler, Niigaanwewidam James Sinclair, and Heidi Kiiwetinesiiik Stark (Winnipeg: University of Manitoba Press, 2013), 68–76.

<sup>835</sup> Henderson, *First Nations Jurisprudence*, 153–54; Borrows, *Freedom and Indigenous Constitutionalism*, 9. As Borrows writes, “Anishinaabe intellectual traditions remind us that we do not have to accept the world as we find it; we can challenge and change how and where we live, think, and speak, at least to a degree.”

<sup>836</sup> Simpson, *Mohawk Interruptus*, 175.

<sup>837</sup> Ibid., 171.



*do not* belong according to community standards. Knowledge holders in this study show that what matters most is that adoptees take on responsibilities to care for the community. Adoption narratives such as those offered by Gichimanidoo-giizis and Zaagibagaa-giizis offer a way to understand how Anishinaabe families and communities come to “know” who belongs and who does not within an everyday reality made complicated by colonial politics of recognition.

Knowing who belongs and why is anything but easy when Indian status has made *some* belong officially with First Nations while barring *others* whom otherwise might rightfully belong according to Indigenous citizenship orders. As Bonita Lawrence has argued, Indian status has come to co-construct Indigeneity itself; “[the *Indian Act*] provides a conceptual framework that has organized contemporary First Nations life in ways that have been almost entirely naturalized, and that governs ways of thinking about Native identity.”<sup>838</sup> Such “ways of thinking” about Indigenous identity and belonging then become naturalized through the power of Canadian law to structure thought and meaning in society,<sup>839</sup> making Canada’s visions of Indianness seem natural and timeless. Nonetheless, maintaining boundaries between Indigenous nations and Canadian settler society remains important. With belonging comes responsibilities, allegiance, and the enjoyment of participating in respective Indigenous societies. But with Indigeneity being co-constructed with Canada’s version of it (i.e. Indianness), maintaining said boundaries becomes conflicted. Which foundations of belonging should be emphasized above others? As is shown in the literature, contours around Indigenous communities have come to be drawn with lines made of blood quantum, patrilineal descent, heteronormativity, and, increasingly, DNA.<sup>840</sup> None of these speak of responsibility or allegiance, but instead reduce belonging from a matter

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<sup>838</sup> Lawrence, “*Real*” *Indians and Others*, 25.

<sup>839</sup> *Ibid.*, 26; Andersen, *Métis*, 32–33.

<sup>840</sup> Napoleon, “Aboriginal Discourse”; TallBear, *Native American DNA*.

of political self-determination to a matter of (hetero) sex.<sup>841</sup> In this is the case, then, we face a conundrum: how can Anishinaabeg communities promote the resurgence of their inherent citizenship orders when the very criteria of belonging have been dominated by status logics for so long? Adoption stories, I argue in this chapter, provide a way of thinking about belonging in ways that resist (but at time do not totally escape) this predicament. They do this, I argue, by offering narratives of belonging that challenge the colonial politics of recognition that have now become the status quo at Fort William First Nation.

Facing this conundrum, I turn to the concept of “narrating citizenship” to explain how families determine belonging and non-belonging on their own terms. As Audra Simpson has argued, narrating citizenship is a useful approach to understanding how First Nations navigate issues of belonging vis-à-vis the normalizing effects of settler colonial politics of recognition.<sup>842</sup> In the case of her own community, Simpson shows that some people are claimed through narratives of familial relationships. Such individuals are not status Indians, but are nonetheless *recognized by the people of that community* as those who belong. Without status card or some other “evidence” of belonging, their belonging is “proved” by the ways in which it is narrated. “[M]embership within a political community is more than a consequence of locations, a matter of luck and birthplace,” writes Simpson. “[It] is a social, historical, and ... *narrated* process that references personal and collective pasts while making itself over ... in a lived present. [Such] narratives of membership may work to build a sense of nationhood not from the signs and symbols of the state, but rather from the words and interactions of the people.”<sup>843</sup> In this chapter, I show that Fort William families claim people as citizens regardless of whether they are status

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<sup>841</sup> Cannon, “The Regulation of First Nations Sexuality.”

<sup>842</sup> Simpson, *Mohawk Interruptus*, 171.

<sup>843</sup> *Ibid.* Emphasis original.

Indians or fit any other of the molds created by the settler colonial state. As Kirsty Gover has argued, Indigenous nations assert their own constitutional orders, of which citizenship is a part, through developing “provisional consensus within community, emerging from political processes of debate and contestation. ... [These] give shape to an indigenous [*sic*] concept of indigeneity and an indigenous–non-indigenous boundary.”<sup>844</sup> In other words, belonging is forged through the interplay of people and families claiming individuals, individuals claiming communities, and the tensions that come within this matrix of relationships. Adoption narratives, I argue here, offer a way to see such citizenship law at play despite the history of Canada’s Indian politics of recognition; they enable me to track the ways in which Fort William First Nation families work towards establishing “provisional consensus” on who belongs and who does not. I apply Simpson’s take on narrated citizenship and Gover’s concept of “provisional consensus” below to do just that.

Until now, this dissertation has reviewed the ways in which adoption has been acted upon as a means to regulate Indigenous/Anishinaabe citizenship orders. Chapter 4 explored how settler colonial anxieties about Indians making Indians were expressed in laws that sought to carefully regulate adoption practices. Chapter 5, on the other hand, examined how the logics developed by settler colonialists to regulate Indigenous citizenship orders have been internalized to some degree within contemporary efforts by Anishinaabeg seeking to reclaim control over how belonging is discerned within their communities. These chapters provided context; by demonstrating the lengths to which adoption was targeted for regulation and marginalization, I meant to add to the claim that it has “subversive potential” to upset the settler colonial order of

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<sup>844</sup> Gover, *Tribal Constitutionalism*, 11.

things in which Indigenous nations were supposed to disappear.<sup>845</sup> In Allyson Stevenson’s usage of this term, Indigenous adoption practices have the subversive potential to upset the colonial ordering of things in Canada.<sup>846</sup> As she put it, “adoption posed a serious threat to the longstanding policy of Indian assimilation and called into question the racial and gender hierarchy that was being established through [the] Indian Act...”<sup>847</sup> In turn, settler bureaucrats considered adoption as something to be “feared.”<sup>848</sup> This chapter now departs from diagnosis and turns inwards towards adoption stories carried by people of Fort William First Nation. These narratives offer a glimpse of what Anishinaabe citizenship law and governance looks like.<sup>849</sup> By focusing on them and validating them *as* citizenship law, I aim to foster their resurgence, much like one inflates a balloon with the warm air from their lungs. Following Audra Simpson’s work in her own community, I argue here that Anishinaabe citizenship law continues to be practiced at Fort William First Nation, and that it can be seen in narrative form through stories about adoption. Indeed, using adoption to claim people at Fort William First Nation has a long history, a history that the knowledge holders are proud of.<sup>850</sup> This chapter therefore places far more emphasis on the knowledge holders’ narratives than published literature to recount how citizenship and belonging are discussed at Fort William through lived experiences with adoption.

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<sup>845</sup> See: Stevenson, “Intimate Integration,” 63.

<sup>846</sup> Stevenson, “The Adoption of Frances T.,” 471.

<sup>847</sup> Stevenson, “Intimate Integration,” 63.

<sup>848</sup> E.B. Borron to Æmelius Irving, 7 May, 5–6; Stevenson, “The Adoption of Frances T.” Also see my discussion on Indigenous and Northern Affairs Canada’s *Adoption Officer’s Manual* in Chapter 3.

<sup>849</sup> Because this chapter views Anishinaabe citizenship law and governance through adoption narratives, it does not intend to describe said law and governance fully. This chapter is meant to add to discussion rather than define it.

<sup>850</sup> Conversation with Gichimanidoo-giizis; Conversation with Binaakwe-giizis; Conversation with Namebini-giizis; Conversation with Miin-giizis, November 17, 2015. In speaking about an adoptee in his family, Miin-giizis noted that “I feel proud of him. “Proud” is a good word.” Elsewhere, Gichimanidoo-giizis noted “So, when I [adopted Zaagibagaa-giizis], I felt so proud of myself. . . . And I’m proud of my family, too, because nobody ever, as far as I know, my ears never heard them, they never said anything about [her] being adopted or.”

The purpose of this chapter is to show that adoption is a valid basis upon which citizenship is practiced at Fort William. I argue here that adoption is a key part of Anishinaabe citizenship law because it centers families in claiming whomever they decide rightfully belongs. Relying on the knowledge holders' stories, I show that people belong with Fort William regardless of their bloodline status, and regardless of whether they are recognized as Indians by Canada. Rather than such status quo approaches to discerning belonging, the knowledge holders show that people belong because they are claimed by families and carry/fulfill their responsibilities to the community in ways that foment allegiance. Indeed, for some knowledge holders such conversations were unsettling,<sup>851</sup> which I discuss below. This unsettlement is important because it shows that families determine belonging in ways that do not always fall in line with the settler state's essentialist approaches to regulating Indian identities. In my analysis of the knowledge holders' stories, it was evident that Fort William families engage in establishing "provisional consensus"<sup>852</sup> when discerning belonging. While a family might adopt someone, ultimately the adoptee's belonging is decided over time through an unspoken collaborative process.<sup>853</sup> Based on this, I argue that Anishinaabe citizenship law is co-constitutive; belonging is established not simply because an adoptee's family claims them, but because other families do too. The way in which this co-constitution happens, however, requires a continuous renewal of relationships where adoptees continuously renew their responsibilities to

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<sup>851</sup> Conversation with Iskigamizige-giizis; Conversation with Manidoo-giizisoons.

<sup>852</sup> Gover, *Tribal Constitutionalism*, 11.

<sup>853</sup> Conversation with Odemiin-giizis; Conversation with Waatebagaa-giizis. Indeed, one can read this process in the tension established between the following two statements. As Odemiin-giizis noted: "Firstly, it should always be the family that decides. Everyone should follow suit." In a different conversation, however, Waatebagaa-giizis noted: "So it's like a cross group of all the different families that ... determines who's brought into the community." These two perspectives, I argue, establish the two main spheres of authority of discerning belonging when considering Anishinaabe citizenship governance through adoption narratives I return to this point below.

family and community. This *re-constitution* was narrated as taking place in social spaces where the fulfillment of intra-community responsibilities is demanded and fulfilled (or not). I show this below by drawing on narratives about how said responsibilities are developed and fulfilled on the reservation school bus, on school yards, and during annual community events such as the Fort William First Nation Remembrance Day ceremony. Overall, I argue here that when seen through adoption stories, Anishinaabe citizenship law is based on families deciding who belongs with the nation, where such decisions rest on whether the adoptee shows allegiance to the community through their decisions and actions.

I begin, however, by locating adoption's "subversive potential." It had the power to unsettle the knowledge holders and common sensical approaches to talking about belonging at Fort William. Experiencing such unsettlement, they then turned to Anishinaabe law to re-ground how they made sense of belonging, using narratives as a proof along the way.

## **6.1 Finding the Footing**

As I nodded towards in the introductory section above, some First Nation communities today face a conundrum in discerning belonging due to the normative power of Indian status and its status logics. Indian status has come to co-construct the boundaries that separate Indigenous nations from each and from Canadian settler society,<sup>854</sup> making it difficult to find footing when talking about and discerning belonging without reproducing the very discourses engineered to get rid of Indians.<sup>855</sup> Thus the conundrum: How can communities affected by colonization, such as Fort William First Nation, reclaim control over who belongs without reproducing status logics

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<sup>854</sup> Lawrence, "*Real*" *Indians and Others*, 25–26.

<sup>855</sup> These include but are not limited to Indian status, (notional) blood quantum, patriarchal versions of Indianness, etc.

and without reproducing colonized iterations of “authenticity” in the process? As Val Napoleon has argued, logics such as blood quantum and patrilineal descent have come to “draw a line around” First Nations communities in the name of protecting identity and resources. Others have shown that heteronormativity, too, has been deployed for similar purposes.<sup>856</sup> Such logics have been deployed by First Nations communities and individuals to maintain boundaries between themselves and settler society.<sup>857</sup> Boundary maintenance is important, but it can also reproduce colonizing logics that undermine Indigenous nationhood.<sup>858</sup> As a result, locating inherent Indigenous citizenship orders can be a challenge. They might be hidden in plain sight,<sup>859</sup> and the process of locating them might foster cognitive dissonance within individuals who find themselves thinking about belonging beyond the “devil they know”<sup>860</sup> – i.e. status logics.

As this section will show, some knowledge holders in this study experienced such cognitive dissonance when discussing Anishinaabe citizenship law as practiced at Fort William First Nation. When faced with explaining why some adoptees belong and some do not, they discovered that the logics governing Indian status and even band membership could not fully describe how some people belong(ed) with the community. Some adoptees were narrated as fully belonging with Fort William despite not having Indian status or band membership, while others *with* status and membership were narrated as decidedly *not* belonging. Some force other than the *Indian Act* and its status logics was at play here. That force, I argue later in this chapter, is

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<sup>856</sup> Cannon, “The Regulation of First Nations Sexuality”; c.f. re United States context: Se-ah-dom Edmo, “The Problems of Modern Indian Identity: Intersectionality, the American Dream, the Myth of Scarcity, Disenrollment, and Belonging,” in *American Indian Identity: Citizenship, Membership, and Blood*, ed. Se-ah-dom Edmo, Jessie Young, and Alan Parker (Santa Barbara: Praeger, 2016), 25–47.

<sup>857</sup> See: Lawrence, “Gender, Race”; Edmo, “The Problems of Modern Indian Identity”; Cannon, “The Regulation of First Nations Sexuality”; Rifkin, *When Did Indians Become Straight?*, 2011; Morgensen, “Theorising Gender, Sexuality and Settler Colonialism.”

<sup>858</sup> Lawrence, “*Real*” *Indians and Others*, 220–26.

<sup>859</sup> Borrows, “Who Are We and How Do We Know?”

<sup>860</sup> Lawrence, “Gender, Race,” 21.

Anishinaabe citizenship law. It was powerful enough to change some knowledge holders' ideas about belonging during the research conversations. Foregrounding this unsettlement, this section therefore demonstrates adoption's subversive potential when talking about how belonging is imagined and practiced through adoption. Emphasizing this unsettlement provides further evidence that Indigenous citizenship orders exist and effectively challenge the normative effects of Canada's Indian regulation history.

As I will show in this section, the knowledge holders addressed their unsettlement by turning to the language and jurisdiction of families to make sense of who belongs. As I noted in Chapter 4, James Sákéj Youngblood Henderson argues that familial jurisdiction over citizenship flows from Creation itself. According to Henderson, families play a role in determining who belongs by making choices (on whom to parent with, whom to marry, and/or on whom to adopt), and are given the authority to do so from Creation.<sup>861</sup> Indigenous laws “are legal systems with a life of their own derived from relationships and experiences with families and the ecology, with no need of a sovereign, the will of a political state, or affirmation of enactment by a foreign government to be legitimate.”<sup>862</sup> Within Indigenous legal orders, humans work to fulfil their responsibilities as beings within an ecological context through interpreting the natural laws of creation the best they can (which, of course, is subject to constant flux and transformation over time). Families interpret Creation's forces in ways that promote continuous renewal.<sup>863</sup>

Familial citizenship-making authority was enshrined in the Robinson Treaties. Signed in 1850 between Anishinaabeg and the British Crown, the Robinson-Superior and Robinson-Huron Treaties extended Anishinaabe sovereignty by permitting settlers to live in and use land around

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<sup>861</sup> Henderson, *First Nations Jurisprudence*, 122–23.

<sup>862</sup> *Ibid.*, 122.

<sup>863</sup> *Ibid.*, 122–23.



the northern shores of Lake Superior and Lake Huron, respectively. As I argued elsewhere, however, Anishinaabeg jurisdiction over citizenship was embedded in the Robinson Treaties and not relinquished to the Crown.<sup>864</sup> While the Treaties address a number of points regarding the sharing of land, it also provides that Anishinaabeg agree to maintain their populations. For example, the Robinson-Superior Treaty is very clear that “the Indians” will receive annuities only so long as

the number of Indians entitled to the benefit of this Treaty shall amount to two thirds of their present numbers (which is twelve hundred and forty) to entitle them to claim the full benefit thereof, and should their numbers at any future period not amount to two thirds of twelve hundred and forty, the annuity shall be diminished in proportion to their actual numbers.<sup>865</sup>

To me, the population clause above not only asserts and protects Anishinaabe jurisdiction over citizenship making, but also centres familial authority over determining who belongs with Anishinaabeg. As noted in Chapters 4 and 5 of this dissertation, families make Anishinaabe citizens, not Indian Bands or the Government of Canada. The Robinson Treaties protect familial self-determination in discerning Anishinaabe citizenship as it is families and clans that decide who belongs rather than a centralized government such as an Indian Band, which did not exist before the *Indian Act*.<sup>866</sup>

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<sup>864</sup> Damien Lee, “Robinson-Superior Treaty Supports Nationhood,” in *Nation to Nation: A Resource on Treaties in Ontario*, ed. Union of Ontario Indians (North Bay: Union of Ontario Indians, 2013), 55–56.

<sup>865</sup> Canada, Indigenous and Northern Affairs Canada, “Copy of the Robinson Treaty Made in the Year 1850 with the Ojibewa Indians of Lake Superior Conveying Certain Lands to the Crown.”

<sup>866</sup> Gilbert, *Entitlement to Indian Status*, 73–74. “The “band” of the idea of a stationary body of Indians is an invention of the Government of Canada. The concept was part of the Indian policy of keeping Indians under control.”

The adoption stories shared by the knowledge holders narrate familial jurisdiction over citizenship. Families use adoption to regulate citizenship by *intentionally* bringing new citizens into the nation while also by deciding who does not belong. As one knowledge holder from Fort William told me, “it should always be the family that decides [who belongs with the community]. Everyone should follow suit. Even for those who don’t belong, families should make such decisions.”<sup>867</sup> As with other aspects of Indigenous legal orders, familial jurisdiction over citizenship can be both “implicit and explicit.”<sup>868</sup> The act of citizenship making, taking various forms, can be expressed in visual form of adopting a child, but this is animated on underlying layers of law that are invisible (see Figures 10 and 11 in Chapter 4). Familial jurisdiction over citizenship, then, is performative, but is not confined to sexual self-determination. Anishinaabe citizenship law is vested in families as political organs of the nation that make political decisions; in this context, these decisions determine who belongs and who does not, where belonging is affirmed through the action of families and communities claiming individuals, and individuals, in turn, demonstrating allegiance to their community. Such a system of affirmation is different than a Certificate of Indian Registration (i.e. a “status card”) in that it requires collective action rather than merely individual self-identification. As Gichimanidoo-giizis put it, “that’s why [Anishinaabe] custom is good: there’s no having to go sign papers, get lawyers, go to the white man’s court. Nothing. Because our law is our law.”<sup>869</sup>

For many of the knowledge holders, however, Indian status and band membership were points where discussions about belonging began. Discussing belonging at Fort William often started with narratives about who is a status Indian, who is member of the band, and who is

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<sup>867</sup> Conversation with Odemiin-giizis.

<sup>868</sup> Henderson, *First Nations Jurisprudence*, 122.

<sup>869</sup> Conversation with Gichimanidoo-giizis.

neither of these things. This makes a lot of sense considering the *Indian Act*'s grip on interpellating Indigeneity as Indianness, as discussed in Chapter 4. Band membership, on the other hand, is somewhat trickier at Fort William because of its history. Indeed, the chief and council, band administration, and broader community have not had a solid grip on how band membership works at Fort William for the past 30 years.<sup>870</sup> "Somewhere along the way," noted one member of the Band council, "FWFN had stopped using its code ... and in doing so began going against its own law by Chief and Council making decisions on membership."<sup>871</sup> In 1985, the *Indian Act* was amended in such a way that allowed Indian Bands to control their own membership lists.<sup>872</sup> According to section 10(8) of the *Act*, once approved by the Minister of Indian Affairs, a band's membership code becomes the law governing membership decisions at a respective Indian Band "from the day on which notice is given to the Minister."<sup>873</sup> Fort William First Nation took advantage of the 1985 amendment and, in 1987, developed its own membership code. The electors of the band accepted this code through referendum in June of that year.<sup>874</sup> According to the 1987 Fort William band membership code, Indian status is not a

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<sup>870</sup> Ken Ogimaa (FWFN Chief Executive Officer) and Fort William First Nation Chief and Council, *Agenda Items*; Conversation with Namebini-giizis; Conversation with Abitaa-niibini-giizis. Both Namebini-giizis and Abitaa-niibini-giizis spoke about how the 1987 Fort William First Nation membership code seemed to be hidden from the community, as this bit of transcript shows from our October 18, 2015 conversation:

Namebini-giizis: I didn't even know: was there always a band membership code? Like, people we talked to over the years at the band office, should they know the code themselves?

Abitaa-niibini-giizis: A lot of people didn't know about [the code] until we gave copies to two other people.

<sup>871</sup> MacLaurin, "Facebook Post."

<sup>872</sup> Woodward, *Native Law*, 38–42. Section 10(1) of the *Act* provided that a band may control its membership list by meeting three criteria: 1. it writes its own membership code; 2. it gives appropriate notice to the Minister of Indian and Northern Affairs Canada that the band wishes to assume control over its membership (this includes sending the code to the Minister for review); and, 3. a majority of the electors of the band consent to the band taking control of its membership list.

<sup>873</sup> *Indian Act*, ss.10(8).

<sup>874</sup> Howard Bannon to Gene Bannon; Tom Siddon to Christi Pervais; Fort William First Nation, "Band Membership Code." On June 26th, 1987 the majority of the electors approved the a Fort William membership code (see Howard Bannon to Gene Bannon letter cited in this footnote). It was then sent to

prerequisite for membership in the band, and adoption is grounds for membership.<sup>875</sup> Yet, in a perfect example of how status logics co-construct identity and belonging, the Fort William Indian Band and its leadership have for the past three decades opted to ignore the code and rely on Indian status instead when making membership decisions, recognizing membership claims only by those individuals already status Indians according to Canada.<sup>876</sup> This practice has effectively re-instituted Indian status in the Band's membership practices where there was no obligation to do so.<sup>877</sup> It was as if the membership code did not exist. However, when an Indian Band that has opted to control its own membership list makes membership decisions outside its own membership code, it "act[s] outside of its jurisdiction and contrary to the rule of law."<sup>878</sup> In November 2016, the Fort William Indian Band recognized this failure and moved to implement

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the Minister of Indian Affairs in July 1988. On June 26, 1990, after some correspondence between Fort William and the federal government, the Minister of Indian Affairs, Mr. Tom Siddon, gave notice to Fort William that "pursuant to subsection 10(7) of the Indian Act ... the Fort William Band has control of its membership effective June 26, 1987."

<sup>875</sup> Fort William First Nation, "Band Membership Code," n.p. The membership code as written in 1987 does not have page numbers and each section, though numbered, re-starts its own numbered clauses. However, sub-sections are identified by titles. For example, see the sub-section entitled "Adoption by Band Members."

<sup>876</sup> Fort William First Nation, "Citizenship Code (Draft)," 1. As I wrote in the preface for the draft Fort William First Nation Citizenship Code: "For decades, membership here [at Fort William] has been determined by whether a person has enough "Indian blood" to be considered an "Indian" under Canada's *Indian Act*."

<sup>877</sup> Damien Lee, "Understanding Fort William First Nation's 1987 Membership Code" (Fort William First Nation, December 1, 2014), <https://fwfn.com/wp-content/uploads/2015/02/Understanding-1987-FWFn-Membership-Code-Dec12014.pdf>; c.f.: Fort William First Nation, "Citizenship Code (Draft)," 1. Note: From May 2014 to September 2015, Damien Lee was employed by the Fort William Indian Band in the position of Governance Coordinator, where he worked with the Fort William Governance Committee to develop constitutional instruments for the Band. This work included reviewing the history of the 1987 Fort William Band membership code. See documents referenced in this footnote.

<sup>878</sup> *Cameron v. Canada (Indian Affairs and Northern Development)*, 579 CanLII at 103.

its membership code as originally written and ratified in 1987.<sup>879</sup> Yet, confusion over band membership criteria abounds.<sup>880</sup>

Given the way band membership has been practiced by the Fort William Indian Band for the past three decades, it is no wonder that complexities exist regarding what criteria the knowledge holders use to determine belonging in both a formal and informal sense. To recount, there were at least three logics at play outside of Anishinaabe citizenship law. First, Indian status has long been accepted as the threshold for determining who belongs and who does not. It showed up consistently during the research conversations as the knowledge holders made sense of belonging. For example, Zaagibagaa-giizis questioned why her own children could not be status Indians: “[A]ll my aunties have status. All their kids have status. [And all of] their kids have status. So why can’t my kids have status? You know? They’re entitled, too.”<sup>881</sup> Elsewhere, in trying to place me in relation to her at the beginning of our research conversation, Waatebagaa-giizis asked me: “Do you have a status card?”<sup>882</sup> Clearly, Indian status is a key formation through which belonging at Fort William is imagined and narrated. Second, band membership appeared during the conversations as well. As Gichimanidoo-giizis shared about her grandchildren, “I’ve consistently sent letters to Fort William to get them registered as members. [I’m going to the] band council meeting [this month], just to do [this] membership thing.”<sup>883</sup> Yet, much confusion exists over what band membership means given the fact that the band has not used its own membership code. As Namebini-giizis noted, “I didn’t even know: was there always

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<sup>879</sup> Ken Ogimaa (FWFN Chief Executive Officer) and Fort William First Nation Chief and Council, *Agenda Items*, 12:14-12:45.

<sup>880</sup> MacLaurin, “Facebook Post”; Ken Ogimaa (FWFN Chief Executive Officer) and Fort William First Nation Chief and Council, *Agenda Items*; Conversation with Namebini-giizis.

<sup>881</sup> Conversation with Zaagibagaa-giizis.

<sup>882</sup> Conversation with Waatebagaa-giizis.

<sup>883</sup> Conversation with Gichimanidoo-giizis.

a band membership code? Like, people we talked to over the years at the band office, shouldn't they know the code themselves?"<sup>884</sup> Thus, band membership is an important way to talk about belonging, but it is also a site of confusion for reasons mentioned above. And third, bloodline appeared throughout the conversations as criteria for discerning belonging with the band. Many spoke of blood as a key element of belonging at Fort William. This was reflected in the words of the Fort William Indian Band's chief during the November 30, 2016 chief and council meeting, where he suggested that only people with bloodline lineage to Fort William should be allowed to participate in band membership decisions.<sup>885</sup> This is not to say that these three bases are not important. I do not wish to suggest that these do not have real effects on people's lives and/or how belonging is discerned today at Fort William. Rather, my point is that through their over-emphasis, they have come to marginalize Anishinaabe citizenship law to the point that when asking the knowledge holders to explain why some people belong and others do not, they experienced emotional and intellectual unsettlement.

For several of the knowledge holders, Indian status, band membership and even bloodline-based logics of belonging began to fall apart as they tried to make sense of the adoption narratives they were carrying. While this unsettlement was evident in a number of conversations carried out in support of this dissertation, one knowledge holder in particular was especially articulate on these matters. One morning in late January 2016, I sat with Iskigamizige-giizis talking about her family history as it pertains to adoption. Iskigamizige-giizis is recognized within Fort William as someone who carries community oral histories.<sup>886</sup> It should be noted as

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<sup>884</sup> Conversation with Namebini-giizis.

<sup>885</sup> Ken Ogimaa (FWFN Chief Executive Officer) and Fort William First Nation Chief and Council, *Agenda Items* (9:38-9:58 of audio recording).

<sup>886</sup> Conversation with Gashkadino-giizis. Gashkadino-giizis suggested that I should speak with Iskigamizige-giizis precisely because of her knowledge about adoptions and Fort William families.

well that Iskigamizige-giizis occupies a unique place amongst the knowledge holders engaged with this project. She is the only person I spoke with that is both the daughter of an adoptee and an adopter herself. Years later, she adopted several children of her own. Hearing about the research I was conducting for this project, she had invited me to her house to talk, and to pick up some coffee on the way. We ended up sitting and talking for more than two hours in her living room on the reserve. Given her grasp on Fort William families, their histories, and her experiences with adoption, I felt I had to pay close attention when she began to struggle with articulating why some people belonged through adoption and others did/do not.

At one point in our conversation, Iskigamizige-giizis began comparing her own feelings about her mother's adoption, and the adoption of other children she knew in the community – including me. She was unsettled because, in some adoption cases, children belonged with Fort William without a bloodline connection, yet she regarded other children with bloodline connections to the community as only tenuously belonging. How could it be that some people came to belong with the community over the years even if they did not have a blood lineage connection to Fort William? This unsettlement appeared several times, including in the following monologue:

I find it really hard because I'm loyal to my family. I love my family. And [my mother] grew up here, whatever. [She identified] as native. So, I mean, in a sense, [she does] belong here, right. It's hard to say because, I don't look at things like that. I don't delve deep; I know other people do and they get mad, and they say "Oh they shouldn't be on our band list," and stuff like that; "They don't even have native blood in them anymore," and "Its all run out," or whatever. I could see people's thoughts on that. But then there's still my family, too. So, I just find it hard to say "They should" and "They shouldn't

[belong].” I know there’s dispute, but in my opinion, it’s – I don’t know – it’s a 50/50 kind of thing for me. You know. I can’t say that they shouldn’t identify themselves as First Nations from Fort William because they actually do belong here. ... But, I mean really [name of someone] was adopted here, so. I don’t know. That’s a tough question. That is a tough question [*sic*]. And it’s kind of like a Catch 22 a little bit. Because, ya, you wanna talk about First Nations blood being “full” but... I remember my mom talk about how they never – back in the olden days, you know, if you were out here, you were like part of the family. You were brought in. You would take someone’s name and not be even legally adopted. You’d just end up being Joe Blow Whoever, same as their name. So, I don’t know, it’s hard to say. You know? I mean, eventually, obviously, the blood line runs out if its, you know, you’re not marrying into your people. Right? But, ya, [adoption is] a hard question. Like, I mean, I understand in your case,<sup>887</sup> too – you know, you were raised out here also, and, you know – but you were always, to me, you were always taken in as family. ... But I guess you could say, it could go both ways. I don’t know. I’m still unsure.<sup>888</sup>

Clearly, something is not sitting well with her. As seen here, Iskigamizige-giizis was struggling to reconcile the concept that some people could belong while others could not due to their blood status (i.e., whether an adoptee was known to have Indian blood or not). Yet, she was aware of her self-contradiction – her own “Catch 22” – where she would accept some adoptees yet have a hard time accepting others.

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<sup>887</sup> Here, Iskigamizige-giizis is speaking about the researcher, Damien Lee.

<sup>888</sup> Conversation with Iskigamizige-giizis.



In the end, Iskigamizige-giizis works through her own unsettlement by upholding the sovereignty of the family, specifically referencing her claim to me through family relations:

Iskigamizige-giizis: Well, they get too, for a better word, “technical.” I mean, it’s not technical, but, they start to dissect everything. Start saying “K, well, we gotta look at it this way: If, blah blah blah, he’s got no native blood.” Like, you know? And I’m guilty of this myself. [Like those other adopted] kids, raised out here. [Name of person] adopted them. And I’m guilty of saying those kids shouldn’t have been entitled to our things. And I am guilty of it, because I have said that. You know? I mean, they too were raised out here. I don’t know.

Damien: Well, what’s the difference?

Iskigamizige-giizis: Ya! What is the difference? That’s a good question. Its making me think now, right. What is the difference? You know? But maybe the difference, is, for you – for me to accept you<sup>889</sup> – the difference is you’re my family. [Damien laughing] You know what I mean? You’re family. That’s why. I would fight harder for *you* than for *them*.

Damien: Right.

Iskigamizige-giizis: You know what I mean?

Damien: Ya.

Iskigamizige-giizis: So, there’s that loyalty coming back into play again. I would be more loyal to you in getting your, for you to have your status, adoption, whatever, than I would be for *those* kids.

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<sup>889</sup> Iskigamizige-giizis is speaking about the belonging of the author, Damien Lee.

Damien: Right. Because of family?

Iskigamizige-giizis: Because family. Because family [*sic*]. I mean, you may not be blood, but you're *blood*, because you're family. I mean, you're my cousin's son. Right? So, that's the difference.<sup>890</sup>

Clearly, making sense of how some people can belong with the community through adoption required Iskigamizige-giizis to work through her own implicit beliefs about the importance of status logics, making an appearance above in the form of blood quantum.

Iskigamizige-giizis's narrative also shows how she moved past the cognitive dissonance associated with recognizing the belonging of some adoptees and not others. Instead of deferring to Indian status or band membership, for example, she instead re-grounds herself in families' ability to claim individuals. Her statement "you're my cousin's son" and its connection to the sovereignty of the family was how Iskigamizige-giizis made sense of my belonging, despite me not being a band member, not having Indian status, and having not bloodline connection to the community. For her, many individuals adopted by Fort William families legitimately belong with the community; this is something that has happened since "olden days." She was not the only person to work through unsettlement in this way. In a separate conversation, Manidoo-giizisoons also spoke to this same unsettlement in regards to an adoptee in her extended family, and worked through it by centering the sovereignty of families as well. In making sense of her adopted nephew's belonging, Manidoo-giizisoons summed things up this way: "But at the same time, too,

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<sup>890</sup> Conversation with Iskigamizige-giizis. Emphases original.

he's not blood. But he's a Banning. He is *us*. But he's not blood, but he's lived in the community, and knows nothing else."<sup>891</sup>

I would argue that the unsettlements expressed by Iskigamizige-giizis and Manidoo-giizisoons are important when locating Anishinaabe citizenship law as practiced at Fort William First Nation. They demonstrate that belonging is contingent on more than just external recognition in the form of Indian status, for example, or immutable characteristics such as bloodlines. Rather, such narratives work to make space for families and their ability to claim individuals. Anishinaabe legal scholar John Borrows discusses Anishinaabe "citizenship" law in ways that resonate with such familial claiming. As he puts it, Anishinaabe citizenship orders are based in the idea of having the freedom to own one's relationships. "Our word for 'citizenship'," he notes, "is *dibenjigaazowin*, the sense of almost a property-like type of responsibility, but not a western notion of property law where you alienate land or people from you, but a notion of Anishinaabe property law, which is about relationships and how we take responsibility for our relationships."<sup>892</sup> The unsettlements observed above speak to this responsibility to own one's relationships because they evince the freedom to do so beyond normative status quo logics. Iskigamizige-giizis was clearly unsettled by the possibility that belonging could be discerned outside of status and bloodline. But, if these logics were not hard and fast rules, then what bases should she use to determine belonging? Such unsettlements therefore act as sign posts, drawing our attention to some other force at play.

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<sup>891</sup> Conversation with Manidoo-giizisoons. Emphasis original. Note: I opted to take further steps to protect the identity the minor Manidoo-giizisoons is referring to. This quote has been edited slightly for this reason.

<sup>892</sup> Borrows, "Who Are We and How Do We Know?", 9:19-10:38; also see: Borrows, *Freedom and Indigenous Constitutionalism*, 6-7.

The concept of dibenjigaazowin resonates with how citizenship is being discerned through adoption at Fort William. As I understand it, dibenjigaazowin speaks to the ownership of one's associations, and the ability to decide who belongs on self-determining terms. A number of knowledge holders made this clear; Iskigamizige-giizis, Manidoo-giizisoons and Gichimanidoo-giizis' respective narratives all show that adopting children made those children fully belong with their families. Elsewhere, Manoominike-giizis put it plainly: "[w]hen adopting ... that's your kid – that's how they belong with the community. ... Firstly, it should always be the family that decides. Everyone should follow suit. Even for those who don't belong, families should make such decisions."<sup>893</sup> The children in question were not seen as "adopted" – their belonging at the family level was narrated in the language of seamless ownership. Adoptees became "ours;"<sup>894</sup> they became "us."<sup>895</sup>

This is how the knowledge holders verbalized their claims to adoptees. They did not use Anishinaabemowin, nor did they use the terms "citizen" or "citizenship" to claim adoptees as individuals who belonged with the community. Rather, they used terms such as "ours," "us," and, elsewhere, "blood," and "family." All these terms lay claims over those who belong. Importantly, they narrate a shift in the genealogy of the adoptees in order to match that their adoptive family. This is how Manidoo-giizisoons' nephew became "us."

Two examples with help to flesh this out. First, Zaagibagaa-giizis narrated her own connection to her (adoptive) family in the form of becoming the natural child of her (adoptive) mother. In this sense, she narrated her belonging in the ability of adoption to align her with her new family in a genealogical sense. She verbalized this shift as such:

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<sup>893</sup> Conversation with Manoominike-giizis.

<sup>894</sup> Conversation with Waatebagaa-giizis.

<sup>895</sup> Conversation with Manidoo-giizisoons.

They feel like my real family; they *are* my real family. But it feels like I was born into this family. Like, sometimes it feels like I don't have that other [family] – like, the biological part of it. Because all my brothers, they've never turned me away. They've always protected me, and guarded me. [Gesturing to Gichimanidoo-giizis] She's protected and guarded me and has done everything. She's bent over backwards for me I don't know how many times. Like, she gave birth to me. I might as well say she gave birth to me. She had gotten me at three-months old. Still a baby. You know?<sup>896</sup>

For Zaagibagaa-giizis, her adoptive mother – Gichimanidoo-giizis – *became* her birth mother through the narrative and lived experiences of her being claimed through adoption. This narration of adoptees becoming the “real” children of their adoptive families subverts a whole array of status quo approaches to discerning belonging. Indian status, band membership, and bloodlines, though having material effect on determining who belongs, were challenged by the knowledge holders when they were telling me about how their families laid claim to adoptees. In their eyes, these criteria ultimately did not determine whether an adoptee belonged. Rather, for them, belonging was forged through narratives that used biology as a metaphor.

Second, the knowledge holders spoke about a families' self-determination to claim adoptees in the language of blood. For example, I asked Manoominike-giizis and Odemiin-giizis to tell me about their father's adoption. Their father was adopted as a child by someone from the community and, through this, grew up in the community. In their view, his adoption resulted in him becoming an Indian not only through the recognition of federal legislation (the *Indian Act*), but also through blood. As Manoominike-giizis put it, “[as a result of my] dad being adopted, the

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<sup>896</sup> Conversation with Zaagibagaa-giizis. Emphasis original.

band gave him 50% blood.”<sup>897</sup> Other’s made reference to blood in their adoption narratives as well. For example, Onaabani-giizis – an adoptee, whose biological parents are non-Indigenous – spoke of her relationship with her adopted family in terms of blood relations.<sup>898</sup> Onaabani-giizis was adopted by Namebini-giizis at a young age, became a status Indian and a band member at Fort William, and spent the rest of her life on the reserve where she continues to live today. According to these narratives then, familial claiming made (or maybe *re-made*) an adoptee a real part of an adoptive family. In their eyes, adoptees *became* the natural children of their families as a result of their adoption.

Narratives about biological shifting are not without precedent in how Anishinaabeg have conceptualized belonging. For example, in *Those Who Belong: Identity, Family, Blood, and Citizenship among the White Earth Anishinaabeg*, Anishinaabe scholar Jill Doerfler shows that Anishinaabe conceptualizations of blood at White Earth Anishinaabe Nation in the 1800s depended on one’s way of life. Those who biologically might be termed “full bloods” by government perspectives were at times seen by Anishinaabeg themselves as being “half bloods” if they lived their lives like white people.<sup>899</sup> On the other hand, those seen as “half bloods” by external actors were sometimes seen as “full bloods” by the people of White Earth.<sup>900</sup> The knowledge holders in this study seem to reaffirm what Doerfler found in her research. Though separated by 600 km and by the United States-Canada border, the Fort William adoption narratives reflect the ways White Earth Anishinaabeg conceptualized blood and belonging a

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<sup>897</sup> Conversation with Manoominike-giizis.

<sup>898</sup> Conversation with Onaabani-giizis. “...everyone [in the family] accepted us like we were ‘blood’.”

<sup>899</sup> Doerfler, *Those Who Belong*, 11–28. Doerfler’s research into how blood is/was conceptualized at White Earth involved opens with a review of numerous archived transcripts of interviews government officials held with Anishinaabeg of White Earth from as early as 1908.

<sup>900</sup> Ibid.

century before.<sup>901</sup> For example, Iskigamizige-giizis used the term blood to reaffirm her claim to me as someone who belongs with her family, stating: “I mean, you may not be blood, but you’re *blood*, because you’re family.”<sup>902</sup> Other knowledge holders narrated claims to adoptees in similar ways, whether by stating adoptees were “like blood” or by narrating their familial relationships with adoptees/adoptive families in the language of biological connectedness.<sup>903</sup> The language of blood, I argue then, was used by the knowledge holders as a proxy for Anishinaabe citizenship and belonging: they appropriated the common sense language learned<sup>904</sup> after more than a century of living under the *Indian Act* and redeployed it to lay claim to people in ways that make sense to otherwise within the community. Doing so allowed the knowledge holders to re-ground themselves when working through their unsettlements regarding belonging. Iskigamizige-giizis, Manoominike-giizis and Odemiin-giizis all used the language of blood to lay claim to those they deemed as people who belong(ed) with Fort William, even where no genealogical connection existed. Doing so allowed them to make sense of a puzzle that would otherwise bar their adopted family members from belonging with the community.

The assertion that adoption makes the adoptee the biological child of the adopter has a number of important consequences when considering Anishinaabe citizenship orders. As a result of colonialism, biology and blood have become points of obsession for many First Nations and for Canadian governments when trying to make sense of who belongs and who does not. As discussed in Chapters 4 and 5, blood emerged in Canadian policy as an expedient tool through

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<sup>901</sup> The interviews for my dissertation were conducted between October 2015 and March 2016.

<sup>902</sup> Conversation with Iskigamizige-giizis. Emphasis original.

<sup>903</sup> Conversation with Onaabani-giizis; Conversation with Zaagibagaa-giizis; Conversation with Waatebagaa-giizis; Conversation with Manidoo-giizisoons.

<sup>904</sup> Lawrence, *“Real” Indians and Others*, 25. As Lawrence argues, “blood” has become part of the discourse of not only regulating Indigenous identities, but also has come to produce understandings of Indigeneity itself.

which settler governments could regulate Indians. Many First Nations have internalized this blood surveillance as a means to protect already meagre financial and other material resources which are ultimately controlled by the state.<sup>905</sup> Thus, when knowledge holders speak of adoption in terms of making real or biological family, they also are challenging this history by flipping it back onto itself. The statement “I might as well say she gave birth to me,”<sup>906</sup> for example, re-orders the body and the very politics of belonging through which bodies move. In the speaker’s view, the adoptee’s body becomes related to the adopter’s through the adopter’s choice to claim the adoptee and the relationship that unfolds as a result. Within this, the goalposts of the politics of belonging move as well, from a form of inclusion and exclusion based on biologized notions of blood, to a politics of inclusion and exclusion based on socio-political constructions of blood. Blood has semiotic power both in how it has been used to include some while excluding others.<sup>907</sup> It is a site thick with politics of recognition. Yet, it is also fluid: the knowledge holders used the language of blood and biology to make sense of their social claims over each other. Unlike Canadian approaches to Indian blood, which promotes its disappearance through a supposed thinning over time as a result of inter-racial parenting, Anishinaabe approaches to blood allow for it to be made through family ties. In short, blood was narrated at times as a malleable or contrapuntal concept, one shaped at will by the speaker to lay claim to adoptees and families as needed.

This approach to blood allowed the knowledge holders to refigure families as the authority for discerning belonging. Whereas band membership as practiced at Fort William for

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<sup>905</sup> Simpson, “Captivating Eunice,” 118. Also see Chapter 5 of this dissertation.

<sup>906</sup> Conversation with Zaagibagaa-giizis.

<sup>907</sup> OmiSoore Dryden, “The Complexity of Blood: Canadian Blood Donation and the Queerness of Blackness (Unpublished PhD Dissertation)” (Ontario Institute for Studies in Education, University of Toronto, Forthcoming).



the past 30 years has centered Indian status and, therefore, notional blood quantum in how belonging is discerned, the knowledge holders narrated belonging as established by familial claims over individuals. Much like a band office can recognize those it claims through band membership regardless of their biology, families too recognized those they claimed, but with different bases of proof (i.e. narratives). Such claims were not limited by Indian status or blood quantum, but in fact were facilitated through the language of blood. Indeed, the fluid approach to biology and blood mentioned above was therefore important to the knowledge holders because it gave them a way to confirm their ownership over adoptees in ways that resonates with the status quo: i.e. through the language of blood. Gichimanidoo-giizis emphasized this fluidity exactly when explaining how adoption decisions are made according to Anishinaabe law:

[When adopting, you] look at the biological connections of the immediate family, how that works out. The ancestral relationships. But not limited to that. Because, if you're able to raise a child who isn't biologically related, so be it. You know, one of the principles of our way – Nish way – is these children that are walking the earth, they belong to all of us. We are only given that responsibility to raise them in the best way, close to the creator. And, so, ... it's an overall responsibility. It's not just to the biological relationship. It's our responsibility to the community.<sup>908</sup>

To me, Gichimanidoo-giizis' statement builds on Borrows' formation of *dibenjigaazowin*. It centres families and specific values as key to discerning who belongs. But just as importantly, adoption is a form of citizenship-making: "It's our responsibility to the community" suggests that families have an obligation not just to their family members, but to all of Fort William. This

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<sup>908</sup> Conversation with Gichimanidoo-giizis.

responsibility is triggered by a need to care for “biological connections” but is not “limited to that.”<sup>909</sup> Families claim whom they deem to belong and make them a part of the community.

However, while the knowledge holders often spoke about their claims to adoptees within their own families, this did not necessarily mean that all adoptees were recognized as belonging with Fort William. The knowledge holders revealed that there is more to Anishinaabe citizenship governance than simply one family’s decision to adopt someone. The adoption narratives shared with me as part of this research project spoke to a larger system of discerning belonging at Fort William First Nation, one that exists beyond the internal jurisdiction of families. At times, the knowledge holders spoke of a negotiation process between adoptees and the broader community. While families may view their adoptees as fully belonging, the other families were more hesitant and assessed the adoptee over time for signs of allegiance to the community. By this reasoning, belonging is discerned not *only* by the adoptive family, but through relationship between adoptee, their family and other families in the community. This intra-familial authority, I argue in the next section, establishes what Kirsty Gover has called “provisional consensus” where belonging is established through an emergent process of deliberation.<sup>910</sup> I turn now to unpacking this relationship between adoptees, their families, and other families as it demonstrates how Anishinaabe citizenship governance is a collaborative process based on fluidity and the continuous renewal of good relations.

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<sup>909</sup> Ibid.

<sup>910</sup> Gover, *Tribal Constitutionalism*, 11.

## 6.2 Provisional Consensus

One of the things I liked most about holding research conversations with the knowledge holders in this project was the fact that, at times, I was meeting extended family members for the first time. Having grown up in the Fort William reserve, I was aware of people who I was related to but had never met. The reserve may be small, but this does not mean one will know everyone else, even cousins of varying degrees. This was the case with Waatebagaa-giizis. She is my father's first cousin, and though I had attended elementary and high school with one of her children, I had never met her directly. Having heard about this research project through her family members, she had agreed to meet with me to share parts of her family's stories about adoption at Fort William. But she did not do so before assessing who I was in relation to her. We spent the first twenty minutes of our conversation tracing our connections to each other. Not surprisingly, we found that we are related through my dad and grandmother. But more importantly, she noted that while preparing to meet with me, she had connected with other people in the community to confirm who I was, to assess if I was actually from Fort William. From there, we delved deep into her family histories, going through a few cups of coffee along the way.

This synopsis of how I met Waatebagaa-giizis provides a useful grounding for the points covered in this section. It demonstrates the collective nature of discerning belonging at Fort William First Nation. By this, I mean that an informal system of corroboration is in place through which community members can ask about others who potentially belong. Waatebagaa-giizis checked with others about who I was and whether I belong with Fort William, meaning that she knew she could call on people for this reason. This is made all the more complicated when the person in question is an adoptee; adoptees may or may not have a genuine connection

with the community depending on a number of factors.<sup>911</sup> What is their relationship with and to the community? Do they engage in the labour of maintaining good relations? Or do they belong only when it is convenient for them to do so? Are they accountable to the community? As alluded to in the previous section, adoption by a single family within the community is not enough for a person to fully belong, despite what that family might say or feel. Rather, belonging, I argue, is discerned through collective deliberation. When I met Waatebagaa-giizis, for example, we began by tracing familial connections. But once these connections “checked out,” we moved then to corroboration: other families had confirmed my belonging for her, thus suggesting my connection to the community is more than just a tenuous thread established by a single family or, even more vaguely, simple self-identification. To put it bluntly, others vouched for me, and this mattered. Indeed, it was only after we established who I was in relation to her – both familially and collectively – that Waatebagaa-giizis began sharing intimate details about her family’s history.

Whereas the previous section demonstrated that knowledge holders grounded their claims over adoptees in familial sovereignties above all else, this section now explains some of the ways in which adoptees actually came to belong with Fort William despite, at times, lacking some of the more status quo criteria for belonging. As I show below, not all people adopted by a Fort William family are accepted by the broader community. This has less to do with recognition by the Fort William Indian Band (in the form of band membership) or recognition by Canada (in the form of Indian status) than it does with inter-family recognition and acceptance. Regardless of

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<sup>911</sup> Conversation with Iskigamizige-giizis. For example, Iskigamizige-giizis noted that age might be important in terms of whether the community would accept an adoptee. “And age does matter. I think, in some ways. Like I said, it came up for me, with [name of a man who adopted children]. And not just [that guy], but [another man] adopted two [white] boys who were, I think, were even older; 16 and 17. You know what I mean? Like, they’re almost adults... Its different.”

these more status quo forms of recognition, Fort William families also decide *amongst themselves* who belongs. This intra-family recognition sometimes overlaps with band membership and Indian status forms of recognition, but not always. Some adoptees who are band members and status Indians were ultimately rejected by the knowledge holders, while they accepted others whom did not have membership or status.<sup>912</sup> But if people are narrated as belonging or not belonging within this context, what establishes acceptance and why? The remainder of this chapter unpacks this question. Throughout the following pages, I argue that, when seen through adoption narratives, Anishinaabe citizenship law as practiced at Fort William relies on adoptees continuously renewing their relationships with others in the community. This allows for the people of Fort William to discern who belongs over time. Two processes are at play: co-constitution and re-constitution. Belonging is confirmed by a cross section of families that make their determinations based on a person's demonstrated allegiance through maintaining relationships. Thus, not unlike the process Waatebagaa-giizis and I went through when we first met, an adoptee's belonging is contingent on more than just being accepted by a single family, but relies *also* on positive acceptance by other families.

If belonging is co-constituted across families, however, there exists a potential for tension. It is worth considering this tension before moving forward as it will help to explain why families collectively decide who belongs. There is little doubt that the majority of families that adopt someone will feel that their child fully belongs with the community. Indeed, the knowledge holders in this study often shared such a sentiment.<sup>913</sup> Some felt, for example, that it

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<sup>912</sup> Conversation with Onaabani-giizis; Conversation with Odemiin-giizis; Conversation with Manoominike-giizis; Conversation with Gichimanidoo-giizis; Conversation with Manidoo-giizisoons; Conversation with Gashkadino-giizis; Conversation with Binaakwe-giizis.

<sup>913</sup> Conversation with Onaabani-giizis. Onaabani-giizis, an adoptee, exemplified this sentiment well with the following statement: "Like, there is so much exclusion based on people knowing our story. And it's

was not the business of other families to play a role in discerning belonging of someone within a given family. This was verbalized as resentment when community members inquired about them from time to time.<sup>914</sup> Onaabani-giizis spoke of this quite clearly, stating “I don’t feel obligated to tell people my story, but *I feel like everybody feels like they are obligated to know it.*”<sup>915</sup> She referred to this interest as a negative experience for her and her family: “Like, there is *so much* exclusion based on people knowing our story. And it’s really none of their damn business. ... [T]hey just pass this judgement ... before they even know the whole story.”<sup>916</sup> This process of others knowing her story was narrated as a source of uncertainty, akin to a “roller coaster” in that “no matter how much you push, its two steps forward, five steps back.”<sup>917</sup> Yet, people from the community continued to ask nonetheless. This function of other families “checking in” on the other families’ decision to adopt someone should not be overlooked. It nods towards a system of discerning belonging that goes beyond and challenges a neoliberal split between public and private spheres. Under a neoliberal political framework, a family’s decision to adopt would be seen as a private matter; opinions of other families would have little bearing on the jurisdiction of a family to incorporate a new person into their clan. However, according to Onaabani-giizis’s statement above, Fort William families clearly refuse to accept this public-private binary.<sup>918</sup> They want to know her story.

I read Onaabani-giizis’s experience with other families looking into her “business” as a function of collective or intra-familial citizenship making. While she experienced this in a

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really none of their damn business. ... [They just pass this judgement and this bias based on [adoption], before they even know the whole story.”

<sup>914</sup> Ibid.; Conversation with Abitaa-niibini-giizis; Conversation with Namebini-giizis; Conversation with Gichimanidoo-giizis; Conversation with Odemiin-giizis; Conversation with Manoominike-giizis.

<sup>915</sup> Conversation with Onaabani-giizis. Emphasis added.

<sup>916</sup> Ibid. Emphasis original.

<sup>917</sup> Ibid.

<sup>918</sup> Ibid. As she put it: “[E]verybody feels like they are obligated to know [my story].”

negative sense, I wondered what it means in the context of Anishinaabe citizenship law. What was its function? Indeed, citizenship itself is at stake. Other families want to know if she is “us.” As I see it, other families are performing a function that is not available through band membership and Indian status-based approaches to discerning belonging. In the system Onaabani-giizis describes, families are checking to see if she is carrying herself in a good way. How can families define “us” in ways that do not rely on the band or *Indian Act* if they not to look into the matter themselves?

My point here is not to single-out Onaabani-giizis. Indeed, she shared many stories about how her extended family and other Fort William families claim her as someone who rightfully belongs. Rather, my point is to highlight a tension between families, adoptees, and other families in the community. This tension is important because it demonstrates the self-determination of Anishinaabe families in discerning who belongs. The decision of one family to adopt does not mean other families relinquish their authority to determine who belongs collectively. Self-determination is messy, but what matters is how families work through it. Discerning the “us” is messy business. Who decides? Which criteria matter? Once selected, what do these criteria say about Fort William as a community?<sup>919</sup> On the one hand, some feel that an adoptee’s family is the arbiter of determining who belongs with the community, no questions asked. On the other hand, there is recognition that discerning belonging is a collective or intra-familial enterprise. Indeed, this tension can be seen by juxtaposing the following two statements with each other:

Firstly, it should always be the family that decides. Everyone should follow suit. Even for those who don’t belong, families should make such decisions.<sup>920</sup>

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<sup>919</sup> Lyons, *X-Marks*, 174. As Lyons argues, “*citizenship criteria define the meanings of the nation*” (emphasis original). I engage Lyons’ work again in the “Discussion” section of this chapter.

<sup>920</sup> Conversation with Odemiin-giizis.

How do you come to consensus? ... [It's] like a cross group of all the different families ... that determines who's brought into the community.<sup>921</sup>

This tension is a part of an overall communal process of discerning who belongs, and resolving it, I argue below, is absolutely key to understanding what Anishinaabe citizenship law looks like through adoption narratives.

In understanding how Fort William families work through this tension as a “cross group,” Kirsty Gover’s usage of the term “provisional consensus”<sup>922</sup> proves useful. According to her research on Indigenous peoples’ membership governance within Canada, the United States, Australia, and New Zealand, Indigenous communities engage in asserting boundaries between themselves and settler nation states in ways that assert community agency rather than merely accepting the politics of recognition forced upon them by settler societies. One of the key ways they are doing this, according to Gover’s review of 737 tribal constitutions and membership codes from the four countries mentioned above, is by asserting their own conceptualizations of indigeneity in rules governing who belongs.<sup>923</sup> “Membership rules give shape to an indigenous concept of indigeneity and an indigenous–non-indigenous boundary,” she writes.<sup>924</sup> Indigenous concepts about indigeneity are anything but static.<sup>925</sup> According to John Borrows, there no hard cores of Indigenous identities.<sup>926</sup> Rather, Indigenous identities and belonging are “context-dependent”<sup>927</sup> and based on sets of relationalities and practices that emphasize worldviews,

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<sup>921</sup> Conversation with Waatebagaa-giizis.

<sup>922</sup> Gover, *Tribal Constitutionalism*, 11.

<sup>923</sup> *Ibid.*, 6, 11.

<sup>924</sup> *Ibid.*, 11.

<sup>925</sup> Borrows, *Freedom and Indigenous Constitutionalism*, 3.

<sup>926</sup> *Ibid.* “It is misleading to claim that Indigenous societies possess an unalterable central essence or core.”

<sup>927</sup> *Ibid.*



beliefs and values systems above those of other peoples.<sup>928</sup> As Scott Lyons argues, Indigenous identities are what “people do, not what they are,” and like other identity formations they are socially produced through “discourse, action, and history.”<sup>929</sup> Indigenous concepts of indigeneity are thus deliberative; they “[emerge] from political processes of debate and contestation,” both within Indigenous communities and at their interfaces with settler societies.<sup>930</sup> It is this process of deliberation that results in “provisional consensus”: communities decide for themselves what (and therefore *who*) counts as Indigenous.<sup>931</sup> Finding such provisional consensus is a process of turning inwards towards what Indigenous communities want for themselves. Being “provisional,” this accounting is always subject to change.

Gover’s usage of “provisional consensus” has some limitations that should be addressed before proceeding. She is concerned with how such intra-Indigenous definitions of Indigeneity can impact politics of recognition between Indigenous nations and the nation states occupying their lands.<sup>932</sup> While this is important work, especially today in Canada,<sup>933</sup> it differs from the focus of this dissertation. Similar to Gover, I am focused on how Anishinaabeg conceptualize citizenship on their own terms. But I am less concerned about putting this to work to reform how the state recognizes Indigenous peoples. My reason for this is quite simple: reforming how Canada recognizes Indigenous peoples as Indians still vests the state with the power to (mis)recognize.<sup>934</sup> I do not dispute that such recognition is important in material terms, but it is not where I want to put my energy. Canada is engaged in reforming the *Indian Act* as a result of

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<sup>928</sup> Lyons, *X-Marks*, 40.

<sup>929</sup> Ibid.

<sup>930</sup> Gover, *Tribal Constitutionalism*, 11.

<sup>931</sup> Ibid.; c.f.: Borrows, *Freedom and Indigenous Constitutionalism*, 3; Lyons, *X-Marks* Chapter 1.

<sup>932</sup> Gover, *Tribal Constitutionalism* Chapter 1.

<sup>933</sup> Canada, Indigenous and Northern Affairs Canada, “The Government of Canada’s Response to the Descheneaux Decision.”

<sup>934</sup> Coulthard, “Subjects of Empire”; Andersen, *Métis* Chapter 1.

recent court decisions that are forcing the federal government to amend it. The 2015 Descheneaux case is a primary example – the government plans to amend the *Indian Act* in ways that better account for “issues relating to adoption” and “same-sex parents and non-cisgender identities as they relate to eligibility for Indian registration and band membership.”<sup>935</sup> As part of this process, Canada is consulting with Indigenous peoples.<sup>936</sup> This dissertation is not a part of that or any other federal consultation process; first and foremost it is for the use and benefit of those who belong with Fort William First Nation and for other Anishinaabeg. I leave the work of reforming federal law and policy to others or for a later time. Moreover, by borrowing Gover’s “provisional consensus” here, this dissertation exposes a problem with her methodology. Gover’s work is based off of a reading of constitutions and membership codes available as of 2008. As I showed above, written membership codes might not always reflect the ways in which First Nations leaders make membership decisions “off the books.” In the Fort William Indian Band’s case, it had been making membership decisions in ways that contravened its 1987 membership code for up to 30 years,<sup>937</sup> causing not only confusion but, arguably, wrongful inclusion/exclusion of individuals in regards to its membership. This, of course, is not Gover’s fault. However, in moving forward here with Gover’s “provisional consensus” theme, I remind that this dissertation is based on the narratives of knowledge holders rather than published membership codes, and is meant to support the resurgence of *sui generis* Anishinaabe citizenship law within Fort William First Nation above all else.

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<sup>935</sup> Canada, Indigenous and Northern Affairs Canada, “The Government of Canada’s Response to the Descheneaux Decision.”

<sup>936</sup> Ibid.

<sup>937</sup> Ken Ogimaa (FWFN Chief Executive Officer) and Fort William First Nation Chief and Council, *Agenda Items*; Conversation with Namebini-giizis; Conversation with Abitaa-niibini-giizis.

### 6.3 Collaboration and Renewal

In my analysis of the knowledge holders' stories it was evident that Fort William families engage in establishing provisional consensus when discerning belonging. They spoke about evidence of belonging in different ways, but each time it had to do with intra-familial recognition rather than simply band membership or Indian status. For example, Iskigamizige-giizis noted that belonging is evinced by having knowledge of the inner workings of the community.<sup>938</sup> For her, this applied to both adoptees and those born into the community – even her own nephews.<sup>939</sup> According to her, belonging could only be established through the work of establishing and maintaining such relationships: “you have to be enveloped into your surroundings ... to be accepted. Be in the hub [of the community]. *Know*.”<sup>940</sup> She refused to recognize certain adoptees (and non-adoptees) who showed no interest in building genuine relationships with the community. For those who refused to “know” the community or put the work in to developing and maintain good relationships, Iskigamizige-giizis questioned their belonging.

While the knowledge holders discussed a number of ways in which provisional consensus is established, two themes arose in particular. First, as noted above, it was established co-constitutively where families individuals and families decide jointly though indirectly on whether someone belongs. This way of discerning belonging was based in decentralized decision making, vesting authority in a “cross group” of families and individuals that assessed adoptees for whether they carried their responsibilities to the community in a good way. Second, the knowledge holders showed that provisional consensus is also a cyclical process. The adoption narratives shared with me suggest that adoptees had to renew their relationships with individuals

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<sup>938</sup> Conversation with Iskigamizige-giizis.

<sup>939</sup> Ibid.

<sup>940</sup> Ibid. Emphasis original.

and the community on a continual basis. Again, belonging was not necessarily guaranteed simply because a family adopted someone. Rather, the knowledge holders spoke of some adoptees having to prove themselves over and over to the broader community for their acceptance to be solidified.<sup>941</sup> If they did so in a way deemed acceptable by the community, things got better over time.<sup>942</sup> In short, belonging is renewed, not permanent.

The narratives in the following two sub-sections provide clarity on these points. My focus in this chapter is to show what Anishinaabe citizenship law looks like through adoption narratives at Fort William First Nation. As I show below, the narratives suggest that it is a process of socializing adoptees into the norms of the community in ways that foment allegiance to Fort William. The following two narrative threads unpack this process. First, belonging through co-constitution was discussed in relation to riding the reservation school bus and going to school more generally. Indeed, the reservation school bus *burst through* the knowledge holders' stories on its own terms. In all cases except one,<sup>943</sup> the knowledge holders who spoke of the school bus brought it up on their own volition. As Binaakwe-giizis put it, it was on the school bus that the "pecking order" of social relations within Fort William was discerned.<sup>944</sup> Yet, others

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<sup>941</sup> Conversation with Onaabani-giizis; Conversation with Waatebagaa-giizis. Both Onaabani-giizis and Waatebagaa-giizis discussed this point indirectly. Onaabani-giizis, a woman adopted as a child into FWFN and who is racialized as white, noted that things have "gotten better as I've gotten older" in terms of the community accepting her. By contrast, Waatebagaa-giizis, a woman in her 50s, racialized as native, and a daughter of an adoptee (who was racialized as white), noted that the community has roughly an equal positive and negative attitudes towards her father. Combined, these two perspectives suggest that acceptance in Fort William First Nation for adoptees racialized as white is something that takes time and, as I will argue below, relies on adoptees and the community negotiating their cohesiveness through the labour of the adoptee, namely, her willingness to engage in genuine relationship building within the community.

<sup>942</sup> Conversation with Abitaa-niibini-giizis; Conversation with Waatebagaa-giizis.

<sup>943</sup> Conversation with Binaakwe-giizis. In my conversation with Binaakwe-giizis I asked specifically about the reservation school bus because we were already talking about school and the relations generated there.

<sup>944</sup> Ibid.

showed that the school bus was also a site of where they and their families felt exclusion because someone in their family was adopted. The school bus is thus a “thick” site in which belonging is jointly discerned at Fort William. Second, the theme of re-constitution was discussed through annual community events such as Christmas parties, summer camps, and the like.<sup>945</sup> Remember: Onaabani-giizis spoke of having to prove her connection to the community over and over;<sup>946</sup> this cyclical formation speaks to a larger framework of belonging in which families and the community in general assess an adoptee as to his/her willingness to affiliate with the community in genuine ways. To unpack the re-constitutive theme, I focus on the Fort William First Nation Remembrance Day ceremony – an annual event established by an adoptee that has now, in part, come to define Fort William’s identity as a community. Together, these themes reveal ways in which the people of Fort William reach provisional consensus on who belongs.

### 6.3.1 Belonging is Co-Constitutive: The Reservation School Bus

Narratives about the reservation’s school bus refused to remain silent in the knowledge holders’ stories about adoption and belonging at Fort William First Nation. Several people spoke of the school bus (or, more accurately, *busses*, as there are several) in very important ways. It was discussed as a space in which the belonging status of adoptees was/is established. In short, one’s belonging was/is highly influenced by whether an adoptee – or other children for that matter<sup>947</sup> – participated in the social relations playing out within the school bus. Indeed, the importance of the school bus extended beyond discerning the belonging status of adoptees. Descendants of adoptees spoke of being excluded from the reserve because, at times, the

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<sup>945</sup> Conversation with Waatebagaa-giizis; Conversation with Onaabani-giizis.

<sup>946</sup> Conversation with Onaabani-giizis.

<sup>947</sup> Conversation with Iskigamizige-giizis; Conversation with Binaakwe-giizis; Conversation with Gashkadino-giizis.

community viewed their adopted parent as not Indian enough to belong.<sup>948</sup> In other instances, knowledge holders questioned the belonging of children who were born to the community (who otherwise belong through bloodline) because they were not taking the school bus.<sup>949</sup> I return to these points in this sub-section, but for now I emphasize that the reserve's school bus produced a physical and social space in which children mutually claimed each other, or not.

It is important to explain the reason why reservation school bus resonated for many knowledge holders regardless of their age. Fort William is located immediately next to the city of Thunder Bay, Ontario, separated only by the Kaministiquia River. This landmark – or watermark – serves to separate my community from settler society both geographically and metaphorically. We are from “the Mission” – the colloquial name for Fort William First Nation, a name given by a Jesuit Mission placed in our community to convert Anishinaabeg to Christianity in the early 1800s. We have internalized this name today. As far as I know, when asked, few people from Fort William would say they are from “Fort William.” The majority would say they're from the Mission.

While today there is an Internet-based high school located on the reserve,<sup>950</sup> the majority school aged children attend a variety of schools in the city. The closest elementary school is within a five-minute drive from the reserve, as is the closest high school. Yet, despite this physical closeness, there exists considerable social and political distances between the two communities. Thunder Bay is not devoid of anti-Indigenous racism,<sup>951</sup> and this racism plays out

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<sup>948</sup> Conversation with Odemiin-giizis; Conversation with Manoominike-giizis; Conversation with Waatebagaa-giizis.

<sup>949</sup> Conversation with Iskigamizige-giizis.

<sup>950</sup> Keewaytinook Internet High School, “Fort William KiHS Classroom,” accessed December 14, 2016, <http://kihs1.knet.ca/node/13>.

<sup>951</sup> Libertarian Party of Ontario, “Tamara Johnson’s Election Platform (Full Page Ad),” *The Chronicle Journal*, June 10, 2014, <http://bit.ly/2aFBn56>; Tamara Johnson, Conversation with CBC Thunder Bay Reporter Jody Porter regarding Tamara Johnson’s June 10, 2014 Libertarian Party of Ontario ad in the

at school as well as in other levels and spaces of society. Indeed, some knowledge holders spoke of children from Fort William not being allowed off the bus by city-based parents who did not want “Indians” going to their children’s schools.<sup>952</sup> Others spoke of needing to stick together on the school yard for safety.<sup>953</sup>

In this context, the school bus becomes more than a physical space in which children develop friendships with each other. It is a space in which fraternity is built in the face of needing to stick together to face a common threat: settler colonial racism and gendered violence.<sup>954</sup> The result of this fraternity-building is a cohesiveness – a claiming of each other – that serves to increase the safety of the reserve’s children in spaces that have proven to not always be safe of Indigenous individuals. Such claiming manifests in a verbalized motif that resonates with many people at Fort William today: as Binaakwe-giizis put it when describing his experiences riding the school bus as a child, the saying “If you fight me, you fight the Mission” were words to live by while attending school in Thunder Bay.<sup>955</sup> This phrase is coded with meaning about claiming those who belong and thus deserves close consideration here.<sup>956</sup>

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Chronicle Journal, June 20, 2014, <http://www.cbc.ca/superiormorning/episodes/2014/06/20/tamara-johnson/>; Lee, “Burning Bridges”; Jody Porter, “Police Accused of Verbal Assault during Training Session on Missing, Murdered Indigenous Women,” *CBC News*, September 13, 2016, <http://www.cbc.ca/news/canada/thunder-bay/thunder-bay-police-mmiw-training-1.3758791>.

<sup>952</sup> Conversation with Miin-giizis; Conversation with Waatebagaa-giizis. As Waatebagaa-giizis noted: “At the schools – when they closed the schools on the reserve and they bussed the kids into the city – city moms ... wouldn’t let the Indian kids off the bus. For weeks, they drove around without being able to get off the bus.”

<sup>953</sup> Conversation with Binaakwe-giizis.

<sup>954</sup> It is important for me to note here that, as cis-gendered man who is phenotypically white, I have not experienced racialized and gendered violence directed at me specifically. Many of my family members, however, have experienced these forms of violence in the past and continue to experience them today.

<sup>955</sup> Conversation with Binaakwe-giizis.

<sup>956</sup> I should not be understood to be suggesting that Anishinaabe citizenship law manifests only through traumatic experiences such as those associated with facing white supremacy on school yards. Indeed, Anishinaabe citizenship law is based on love and caring for others. That said, I write about said law through these stories here because these were some of the narratives the knowledge holders shared with me when I asked about how belonging is discerned at Fort William. The formation of Anishinaabe citizenship is not limited to traumatic experience.

A motif, defined as a “recurring salient thematic element [or, especially] a dominant idea or central theme”<sup>957</sup> acts as a truism that resonates broadly with a given community/group of people. When uttered, it conjures understanding without further explanation. The saying *If you fight me, you fight the Mission*, and its alternate forms,<sup>958</sup> is a motif that resonates throughout Fort William social relations. Indeed, even while developing this dissertation, it was suggested that I use this phrase to explain how we think about claiming each other.<sup>959</sup> When uttered, the phrase connotes a sense of belonging through fraternal relations. It suggests a togetherness and a strength in numbers that, when said, reminds its audience that the person speaking is claimed by the people of the reserve, and that the people of the reserve will make their presence known upon request. I have both used this phrase myself, and witnessed its power when used by others. When uttered, the speaker *is* the reserve in a certain sense, because they are speaking in collective voice. The saying simultaneously claims a person’s relations and attests that their relations claim them back. The phrase *If you fight me, you fight the Mission*, then, speaks to an active presence that is hidden in plain sight: by the speaker claiming to be a part of the Mission, the listener is put on notice that there are people behind him/her who will show themselves in solidarity and even go into the fray with/for them if a fight breaks out.<sup>960</sup> This active presence goes beyond immediate family, and extends to the fraternity of relations that is developed through the spaces

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<sup>957</sup> Merriam-Webster, “Definition of Motif,” accessed December 14, 2016, <https://www.merriam-webster.com/dictionary/motif>.

<sup>958</sup> A common alternate is “If you mess with me, you mess with the Mission.” It connotes the same meaning as the phrasing cited in-text here.

<sup>959</sup> The individuals that suggested this were not a part of my formal research conversations, and thus did not sign a consent form to participate in this study. I therefore do not attribute this statement to them, but speak to this as a matter of my own lived experience as a researcher from Fort William conducting research there. For more on the complexities of “insider/outsider research,” see: Smith, *Decolonizing Methodologies*, 137–40; Innes, ““Wait a Second. Who Are You Anyways?” The Insider/Outsider Debate and American Indian Studies.”

<sup>960</sup> Conversation with Binaakwe-giizis.



of co-constitutive claiming, such as the school bus. It is a verbalization of claiming and belonging that exists outside of and challenges Indian status and band membership frameworks: only those who belong through mutual claiming get to use this phrase and have it mean something. In using it, then, the belonging of the speaker is both renewed and affirmed, partly because it connotes connectivity to the Mission, and partly because one will be expected to show up as “the Mission” the next time someone else uses it.



**Figure 12: The Mission Bus.** Photo taken by Olivia Pelletier, December 20, 2016. Used here with permission.

While there are other spaces in which such fraternity-building takes place, the school bus was discussed as a primary location for its fomentation (see Figure 12). This might be the case due to the visceral realness of being on school bus together, leaving the reservation together, crossing the Kaministiquia River together, and then exiting the bus and heading into the school yard together year after year. I make this observation as someone who spent years doing just this, and as someone who eventually *drove* the Mission bus as an adult. These life experiences matter in the lives of children who are coming to understand their own identities, relationships, and sense of belonging. To borrow from Audra Simpson, the school bus is one space in which the relationality of “this is how I am to you” is resolved.<sup>961</sup> As such, one cannot discount the effects that the school bus and its collectively lived experiences have on discerning belonging at Fort William First Nation.

Given the importance of the school bus and its role in building fraternity and social cohesion, it is no wonder then that some of the knowledge holders assigned considerable weight to it when explaining who belongs and who does not. Indeed, this is why so many knowledge holders brought up the bus without being prompted – as a motif itself, riding the bus (or not) is loaded with meaning that requires little explanation in terms of assessing someone’s belonging. Whether one rode the reservation school bus or not had a direct impact on how the belonging of individuals was narrated, as the following stories make clear.

The school bus was a site in which some of the knowledge holders sorted out which adoptees truly belong(ed) with Fort William, and which one’s do/did not. Indeed, not all adoptees are claimed as rightfully belonging by the broader community.<sup>962</sup> The adoptees that

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<sup>961</sup> Simpson, *Mohawk Interruptus*, 15.

<sup>962</sup> Conversation with Iskigamizige-giizis.

were seen to belong were those who rode the school bus and did other types of work to develop genuine relationships. The emphasis here is on the building of relationships, or what Iskigamizige-giizis called being “enveloped” in the community,<sup>963</sup> and the bus is one way to speak about how relationships could be built in a genuine way. It is through building these relationships that one *knows* their place in the matrix of belonging in the community, or not. For example, Iskigamizige-giizis questioned the belonging of her own extended family members on these very grounds: “I mean, my brother’s kids lived out here all their lives, but are they in the hub? Well, [my cousin] might be now, right, because now she lives out Anishinaabekwe Bay. But are her boys? See? *Because, they don’t catch the bus.*”<sup>964</sup> The school bus serves not only as a site of fomentation, but as a frame through which knowledge holders assessed who was being accountable to the community and who was not.

The importance of the school bus in confirming and mediating belonging was also shown in how access to it was regulated by the community. Odemiin-giizis, Manoominike-giizis and Waatebagaa-giizis all spoke about the bus as a site of exclusion, a violence that had very real impacts on their lives for decades. They spoke of families in the community targeting them as children because their father was an adoptee. These knowledge holders recalled getting barred from the school bus because they were seen as too white on account of their father being non-native.<sup>965</sup> Their father was adopted in Fort William as a child and grew up there fully accepted as someone who belongs. However, at some point, Fort William families decided to marginalize

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<sup>963</sup> Ibid.

<sup>964</sup> Ibid. Emphasis added.

<sup>965</sup> Conversation with Waatebagaa-giizis; Conversation with Odemiin-giizis; Conversation with Manoominike-giizis.

him and his family.<sup>966</sup> At that time, they were living on the reserve, but their house was farther from town than most of the other children. The way in which they were targeted for exclusion from the community was through the school bus: it just stopped picking them up.<sup>967</sup> They then had to rely on their older brother to give them a ride to and from town/school. This caused problems because their brother had to drop them off and pick them up from school according to his work schedule, which meant they were standing in the cold of winter for sometimes more than an hour after school.<sup>968</sup> Odemiin-giizis and Manoominike-giizis made it clear that this exclusion was a result of their father being adopted, and that the exclusion was exercised by removing access to the school bus.<sup>969</sup> This attitude towards their family persists in today in some ways. Waatebagaa-giizis recounted what the band told her when she was applying for her niece's band membership. According to her, the band responded by saying “‘Well, we’re still having a little bit of trouble because of your dad’s adoption.’ And I thought ‘Are you frickin kidding me? Because we’re talking 80 years, you know, or 78 years at [that point in] my dad’s life.’”<sup>970</sup>

Finally, it is also important to note that just riding the school bus did not/does not automatically mean one was claimed by others. A process of negotiation took/takes place in and around the bus in which children, through their labour of building relationships, claim each other (or not). “I’ll use my brother as an example,” noted Iskigamizige-giizis on this point. “His kids stayed over on [the other] side [of the reserve], didn’t come to any of the programs, or didn’t associate. The only association they did was, well, hockey – and they went on the bus – but they

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<sup>966</sup> Conversation with Waatebagaa-giizis. Waatebagaa-giizis was clear on this point. She emphasized it was *families*, and not the Fort William Indian Band that instituted said marginalization and barring from the reservation school bus.

<sup>967</sup> Ibid.; Conversation with Odemiin-giizis; Conversation with Manoominike-giizis.

<sup>968</sup> Conversation with Waatebagaa-giizis.

<sup>969</sup> Conversation with Odemiin-giizis; Conversation with Manoominike-giizis.

<sup>970</sup> Conversation with Waatebagaa-giizis.

were never totally enveloped into the community. Like, they were always considered, kind of ‘stuck up.’ You know?”<sup>971</sup> In this sense, the bus is a metaphor for genuine relationship building, or a tool for assessing accountability to community. That said, the bus is important to the degree that it allowed the knowledge holders to describe a person’s belonging through their interest in relationship building. One could ride it while still being seen as only nominally belonging if they were also seen as “stuck up,” or disinterested in Fort William.

The school bus is therefore a tool with which the work of building provisional consensus is resolved in regards to particular adoptees and other children. Riding the bus is not an absolute indicator of citizenship, but it demonstrates what the knowledge holders felt most important when determining belonging: allegiance to the people of Fort William. The school bus enabled the knowledge holders to make assessments without looking to external validation from the Fort William First Indian Band, the band’s membership code, or the *Indian Act*. Indeed, as if to demonstrate the importance of the school bus in discerning belonging, at the time of writing this dissertation the Fort William Indian Band announced a new level of control regarding access to the school bus. As of autumn 2016, children must now register with the band to be picked up by the Mission bus.<sup>972</sup> The reservation school bus thus continues to be a site of debate and contestation in terms of who belongs, and one in which families continue to intervene on as they work to control who has a chance to “know” the community.

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<sup>971</sup> Conversation with Iskigamizige-giizis.

<sup>972</sup> Fort William First Nation, “2016-2017 Fort William First Nation School Bus Registration Form,” *Fort William First Nation Weekly Newsletter*, August 1, 2016, <https://fwfn.com/wp-content/uploads/2016/07/August-1-7.pdf>. As the form states: “[Families] must complete this form and return it to us or there will be no school bus service provided!” Exclamation original.

### 6.3.2 Belonging is Re-Constitutive: Remembrance Day and Frankie Banning

While the knowledge holders used the reservation school bus to explain why some people belong and others do not, they also spoke about events in the community where belonging is renewed on a cyclical basis. To me, the school bus represents a space in which belonging is co-constituted through relationship building. However, leaving the discussion there would suggest the belonging is established immediately or to say that simply riding the bus once is enough to say someone belongs. This would be inaccurate because such a framing would obscure the importance of behaving in ways that demonstrate accountability to community. Indeed, the knowledge holders spoke about adoptees having to prove their allegiance to the community *over time*. This suggests to me that *renewal* is also important in terms of discerning who belongs. The knowledge holders shared stories through which the belonging of adoptees was renewed over and over again. This sub-section, therefore, considers such renewal. Here, I focus on one event in particular, namely, the Fort William Remembrance Day ceremony where this same adoptee is claimed over and over again every year. This event, I argue, provides the people of Fort William the chance to decide whether to renew their claims over a this person on a cyclical basis and, in turn, provides that same adoptee the opportunity to renew his claims to the community. Renewal in this sense is about claiming mutual ownership over time.

As noted in Chapter 4, my great grandfather, Jacob Bannon, adopted Frankie and Lyla Fasano as young children in the 1930s. Jacob took them in as his own children when he married their mother, May Bannon (nee Humby). May was English, whereas Frankie and Lyla were from an Italian family living in across the river from the reserve in the city of Thunder Bay, Ontario.

From the date of their adoption, Frankie and Lyla lived in the Fort William reserve. Both passed away in 2010 as recognized elders within the community.<sup>973</sup>

As a war veteran, Frankie noticed that Anishinaabe veterans had no place of their own to commemorate war service. Frankie had noticed that Anishinaabeg always had to squeeze into the Remembrance Day ceremonies off reserve, in spaces devoid of recognition tailored to Indigenous vets.<sup>974</sup> So, in 1995, he began a new tradition – he instituted an annual Remembrance Day ceremony near the Fort William pow wow grounds atop of Anemki Wadjiw – a sacred site within Anishinaabe Aki. Frankie invited Anishinaabeg and other Indigenous veterans and their families to attend, though all were welcome.<sup>975</sup> Today, Fort William continues this tradition, despite the fact that Frankie passed away some years ago.<sup>976</sup>

The way I read this, is that Frankie – someone who wasn't Anishinaabe at birth, but who came to belong with Anishinaabeg through adoption – renews his claim to Fort William First Nation every year on November 11th, even though he is no longer with us. The Remembrance Day ceremony acts as an opportunity where the broader community and Frankie come together to renew their relationship. Each year, this space enables both to express their agency, to decide whether they want to renew their ownership over each other. This ownership is never guaranteed, even for someone like Frankie who spent his life caring for (and being cared for by) the community. It is not guaranteed because both the community and Frankie – though now passed

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<sup>973</sup> The Chronicle Journal, “Frank Fasano Banning (Obituary)”; Blake Funeral Chapel, “Lyla Bannon: 1924-2010 (Obituary)”; Conversation with Waatebagaa-giizis; Conversation with Iskigamizige-giizis.

<sup>974</sup> Conversation with Waatebagaa-giizis.

<sup>975</sup> Ibid.; Conversation with Manidoo-giizisoons.

<sup>976</sup> The Chronicle Journal, “Frank Fasano Banning (Obituary)”; Nicole Dixon, “Remembrance Day Honours Fallen Soldiers,” *TBNewsWatch*, November 11, 2016, <https://www.tbnewswatch.com/local-news/remembrance-day-honours-fallen-soldiers-462022>.

on – can always decide to not renew their claims to each other, thus respecting the self-determination of both parties as a result.

As it happens, Fort William *does* (re)claim Frankie each year at this event. While this was more readily understood in years Frankie was alive and attending the ceremony,<sup>977</sup> this (re)claiming is still present today. Knowledge holders in this study spoke about this continued (re)claiming in terms of affirmation. They told me stories about Frankie attending the ceremony in the form of an eagle or eagles. As Manidoo-giizisoons put it:

So, this year [i.e. 2015], we were up the mountain and, same thing – because the last year, seeing the six eagles, I’m up the mountain this year, and I’m looking around, looking around [*sic*], and I don’t see nothing. And I’m kind of disheartened a little bit. I’m like “Awe.” And then I looked over my shoulder, and there was one eagle, sitting there on the edge of the cliff at the very top [of Anemki Wadjiw]. And he sat there for two or three minutes. It wasn’t the whole time, but he sat there for a while and the eagle just sat there and watched. And was literally sitting there looking down and going like this [gestures with head]. You could see him doing this. And then he flew away, around ... to the back side [of the mountain], right. And I didn’t see him again. And I looked around, and I see everybody else, and they’re all looking, and they were watching. You *know* that they saw it. And then everybody said “That must have been [Frankie].” That was everybody’s feeling; that he was watching over; he’s looking down, right.<sup>978</sup>

This sense of spiritual affirmation of Frankie’s presence was important not only to Manidoo-giizisoons, but to others as well.<sup>979</sup> Indeed, of the knowledge holders I spoke to regarding

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<sup>977</sup> Namely, 1995-2010.

<sup>978</sup> Conversation with Manidoo-giizisoons. Emphasis original.

<sup>979</sup> Conversation with Miin-giizis; Conversation with Waatebagaa-giizis.



Frankie and the Remembrance Day ceremony, nearly all spoke of eagles showing up and their connection to him.<sup>980</sup>

I would argue that such affirmation is a continuation of a cyclical renewal process between Frankie and the broader community. The Remembrance Day ceremony is a space where Frankie's belonging is renewed. This event enables the community to reclaim Frankie on a perennial basis, even after he has passed on. As was reported in November 2016, for example, "[e]ach Remembrance Day, [Fort William chief Peter] Collins takes a minute to remember his uncle, Frank Banning, who kept the spirit and the commitment of the war veterans alive on Mount McKay for 21 years, even though he has gone onto the spirit world."<sup>981</sup>

Think about it in this way: a person who came to belong with Anishinaabe through adoption instituted a *new* tradition that my entire community now comes to identify with. This is affirmed in ways beyond the presence of eagles and statements by the chief; the band has dedicated annual funding *exclusively* for the ceremony, constituting thousands of dollars for equipment and providing lunch for hundreds of people each year.<sup>982</sup> Furthermore, collectively, the community is intensely proud of this tradition.<sup>983</sup> Through all of these measures, the community collectively (re)claims Frankie each at the Remembrance Day ceremony and the traditions that run alongside it. This is also the time that knowledge holders narrated his reciprocal claim to the community; whether in the form of stories about him starting the ceremony and attending it while he was alive, or about him continuing to attend it in the form of eagles now, Frankie still re-affirms his claim to Fort William in the minds of some of the

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<sup>980</sup> Conversation with Miin-giizis; Conversation with Waatebagaa-giizis; Conversation with Manidoo-giizisoons.

<sup>981</sup> Dixon, "Remembrance Day Honours Fallen Soldiers."

<sup>982</sup> Conversation with Waatebagaa-giizis.

<sup>983</sup> Conversation with Miin-giizis. See also Figure 4 and Figure 5 in Chapter 2 of this dissertation.

knowledge holders. Indeed, as noted in Chapter 4, the Fort William Indian Band expressly claims Frankie today by honouring him in the Fort William First Nation Community Achievement Awards hallway in the reserve's community centre (see Figure 8 and Figure 9). There, Frankie is narrated officially as a "band member of Fort William First Nation" without mention to his adoption status.<sup>984</sup>

But perhaps the most solid confirmation of the community's claim to Frankie Banning comes in the form of how his relationship with the community is narrated by the people of Fort William. Waatebagaa-giizis argues that Frankie's position as someone who belongs with Fort William is indisputable because so many leaders over the years have accepted the Remembrance Day ceremony:

Well, I think that the recognition that the chiefs – because it's been on for so many years, the 20 years of the service – there's been multiple changes in chiefs. They've all, I think, embraced [the Remembrance Day ceremony]. Some of them more so than others. But they've all accepted it and embraced it. And so, that tears down the barrier that there was ever any dispute about whether [Frankie] belonged or not.<sup>985</sup>

While the Remembrance Day ceremony does not encapsulate all of Frankie's life experiences, and while he cared for the community in many other ways,<sup>986</sup> it nonetheless demonstrates a space where he and the community work through their claim to each other on a cyclical, perennial basis.

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<sup>984</sup> Fort William First Nation, *Community Involvement Award: The Late Frank Banning*, Plaque, n.d., Fort William First Nation Community Centre, Community Achievement Awards Wall. Also see Figure 8 and Figure 9 in Chapter 4 of this dissertation.

<sup>985</sup> Conversation with Waatebagaa-giizis.

<sup>986</sup> Conversation with Miin-giizis; Conversation with Waatebagaa-giizis. Miin-giizis shared stories with me about Frankie cutting firewood for people when he was younger, and bringing people food. On the other hand, Waatebagaa-giizis told me about him helping to build roads and other infrastructure in the community.

## 6.4 Discussion and Insights

What do adoption stories reveal about the nature of Anishinaabe citizenship governance as practiced at Fort William First Nation? The narratives above suggest a number of possibilities, all of which centre families in discerning citizenship in various ways. In this final section, I share some of my insights on what I believe to be at play here. I offer these comments as a means to inform future work on reclaiming control over belonging in whatever form that takes.

In discussing this, it will be helpful to think about what citizenship means. As Scott Lyons has argued, citizenship is important in that it holds various meanings about a given nation. No single nation does citizenship better than another; citizenship is not about making comparisons but about knowing who one's self is in relation to others. Rather, as he puts it, "[c]itizenship is the engine of national identities, the distributor of political functions, and the maker of the nation itself."<sup>987</sup> Throughout this dissertation I have been concerned with adoption's role in discerning who is the "us" behind citizenship at Fort William First Nation. The adoption narratives above suggest that this "us" has various meanings that construct Anishinaabe nationhood. Such meanings are key to citizenship according to Lyons.<sup>988</sup> Thus, if citizenship reflects and produces the meanings of a nation, what do adoption narratives reveal about the meaning of Fort William First Nation?

Based on the narratives above, I would argue that Anishinaabe citizenship reflects four major, positive values, namely, full inclusion, community accountability, non-essentialism, and decentralized decision-making, all of which are expressed in the sovereignty of families to self-determine who belongs. The following sub-sections flesh out these points.

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<sup>987</sup> Lyons, *X-Marks*, 174.

<sup>988</sup> Ibid. "Citizenship criteria define the meaning of the nation."

#### 6.4.1 Full Inclusion

In terms of inclusion, the knowledge holders made clear that adoption does not make second-class family members or second-class citizens. As I showed above, they considered adoptees to fully belong in every sense of the word, and even went so far as to say that adoption can change people's blood and biology in a metaphorical sense. These are strong words considering the semiotic power ascribed to Indian blood historically (see Chapter 2 and 3). I do not believe the knowledge holders were concerned with blood per se, but rather in emphasizes how embraced and adoptees were/are. As Odemiin-giizis noted, "[a]doption teaches us about acceptance. We see our adopted niece as *ours*."<sup>989</sup> This value of full inclusion demonstrates a power element of Anishinaabe citizenship law: families can lay claim to individuals in an ownership sense, and recognize them people who fully belong.

#### 6.4.2 Accountability to Community: The Gravitational Centre

Adoption narratives are one lens through which to see how Anishinaabe citizenship is based on remaining accountable to community. The knowledge holders' stories suggest that in order for adoptees to be claimed beyond merely their adoptive families – i.e. to be claimed by the Fort William community – they needed to demonstrate allegiance and accountability to the people of Fort William. For example, Frankie Banning cared for the community throughout his entire life; both the people and the Fort William Indian Band claim him because of this. In this sense, accountability is like gravity: it draws in those who respond to it appropriately.

Discerning belonging in this way is different than some of the more status quo approaches. For example, being accountable to the *Indian Act* through discerning belonging in ways that centre Indian status is not the same as placing community relations at the centre of

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<sup>989</sup> Conversation with Odemiin-giizis.

citizenship. This is point regarding accountability is crucial: one can hold a status card and not be accountable to the people of Fort William. The knowledge holders questioned the belonging of those who did not show such accountability, regardless of whether they were adoptees or not. While such individuals might belong in the sense of being members of the band, they may not belong according to Anishinaabe law as used by families. Iskigamizige-giizis discussed this scenario when talking about adopted children who, though they have Indian status and are members of the band, are not regarded as “really” belonging with the community because they were not seen to be engaging with the people of Fort William. For these children, their “gravitational centre” was outside of the community.

It is through demonstrations of accountability that the people of Fort William claimed adoptees. Adoptees that showed they cared for the community were claimed over time. As noted above, such “caring for” was demonstrated in various ways, including on the reservation school bus, on the school yard, and in the establishment of the annual Fort William First Nation Remembrance Day Ceremony. Other demonstrations were discussed as well. Accountability is therefore important in that it drew in those the community deemed to rightfully belong. This guards against adoptees merely self-identifying as belonging without any actual substance to the claim. As Chris Andersen argues, in terms of contemporary Indigenous identity and belonging claims, it is not who you say you are, but who claims you that matters.

#### 6.4.3 Non-Essentialism

In terms of non-essentialism, the knowledge holders demonstrated that belonging is dependent on more than Indian status, band membership, and bloodlines. They based their sense authority as families to claim individuals on this non-essentialism. Indeed, adoption inherently suggests that a child is made to belong through social ties rather than direct biological ones.

Adoption is about claiming a person in need, regardless of their genealogy. The knowledge holders embraced this fluidity in establishing their connections to adoptees. To me, this speaks to the freedom element of *dibenjigaazowin*: the freedom to choose belongs with you. This is such a freeing thought; after generations of being told who is and who is not and Indian by the federal government, and therefore who can belong and who cannot under the *Indian Act*, the practice of families claiming people through adoption opens important possibilities. It manifests self-determination in the action of claiming people, and is thus a part of Anishinaabe political order. While this is not to suggest that adopting non-Indigenous people is the only way that Anishinaabe citizenship law is valid, the knowledge holders' stories at the very least trouble the notion Anishinaabeg are a people frozen in time. Anishinaabeg, like anyone, change over time; adoption inherently embraces such possibilities in terms of citizenship-making.

#### 6.4.4 Decentralized Decision-Making

The three points above – full inclusion, accountability to community, and non-essentialism – speak to families' authority to claim those who belong. As I argued above, families claim individuals co-constitutively, meaning that more than one family is actively discerning the belonging of one individual over time. This is crucial in that it not only recognizes the jurisdiction of an adopting family to bring someone into the community, but it also does not interfere with other families' sovereignties to decide who belongs. Everyone has a say, and belonging is worked out through provisional consensus, as discussed above.

However, in this I also read an important value that should be foregrounded: adoption stories narrate a citizenship order that is decentralized in nature and in function. Families collectively co-constitute who belongs, and they do not need the band office or the *Indian Act* to

help them along the way. While indeed the band office and the *Act* influence(d) the knowledge holders' stories, they showed that families discern belonging in their own ways.

Decentralization, then, is important in promoting the resurgence of Anishinaabe citizenship governance because it questions the role of band offices and the federal government in what is a *sui generis* Indigenous constitutional order. If Indigenous adoption practices have “subversive potential” as Allyson Stevenson argues, it is demonstrated at this political level in addition to the ways in which people think about Indigenous identities. Decentralized citizenship governance will be an unsettling thought for many Indian Bands. Some have verbalized a fear over “floodgates” opening if membership is not controlled in ways that protect those who already belong.<sup>990</sup> By this, they mean that they would lose control over who belongs, with presumably dozens or hundreds of new people becoming members or citizens of a given community, thereby reducing access to finite resources. I believe “the floodgates” is a fallacy for one simple reason: where communities have the power to say “yes” to some people who express an interest in citizenship, within this same power is the authority to say “no.” Moreover, the knowledge holders in this study discussed ways to incorporate those who belong into existing resources. Adoptees were not brought into families in a free-for-all sense, but in ways that did not push the families past their carrying capacity. Decentralizing citizenship governance in the ways demonstrated by the knowledge holders in this study suggests that Anishinaabe families have the wherewithal and authority to discern belonging in ways that will not lead to the end of the Anishinaabe nation. Foregrounding this practice in future efforts to reclaim and practice inherent

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<sup>990</sup> TallBear, *Native American DNA*, 61. Writing about the tribal context in the United States, TallBear notes that “Monitoring biological connections is bureaucratically difficult and costly enough; the fear is that floodgates would fly open with the possibility of cultural conversation.”

citizenship governance, however, will require Indian Bands to face any fears they may have over giving up power.

#### 6.4.5 Summary: The Meaning of the Nation

If, as Lyons argues, citizenship defines the meanings of a nation, the four values noted above should be celebrated and embraced. Full inclusion, the political sovereignty of families, and a citizenship order based not on essentialism and Indian stereotypes but on genuine connections and allegiance to community are values that make sense to me as someone who belongs with Anishinaabeg through adoption. If citizenship criteria have the power to define the meaning of the nation, the values noted above will help to foster communities based on balance, continuous renewal, and self-determination. These, in my opinion, can support work already taking place to guide the resurgence of Anishinaabe citizenship governance in ways promote the best parts of Anishinaabe ways of being rather than the fiscal expediencies of the state. Can the meaning of being Anishinaabeg be summed up in protecting meagre resources allotted to Fort William through an Indian politics of recognition? I would argue that such is not a part of inherent Anishinaabe citizenship law. Rather, a citizenship order based on the freedom to choose who belongs and who does not means something more than that. To me, it means being a self-determining nation that decides for itself who belongs.

### **6.5 Conclusion**

In this chapter, I set out to relay how the knowledge holders conceptualize inclusion and exclusion at Fort William First Nation through the lens of adoption. The chapter establishes two points that must be considered when thinking about inherent Anishinaabe citizenship law. First, families have their own sovereignty in discerning who belongs and they will protect this



sovereignty by claiming and protecting their children. The families made it clear that they have a familial jurisdiction when it comes to claiming individuals not only with them *as families*, but also with Fort William First Nation and the larger Anishinaabe nation. This authority or jurisdiction was noted liked this: “Firstly, it should always be the family that decides. Everyone should follow suit.”<sup>991</sup> Second, belonging for adoptees at Fort William was narrated as ultimately being worked out through provisional consensus. This intra-familial authority to discern belonging was reflected in the statement: “So it’s like a cross group of all the different families that ... determines who’s brought into the community.”<sup>992</sup>

What this tells me is that belonging is not dependent solely on politics of recognition centered in the state or its legal frameworks, but rather that the community actively engages in discerning belonging as well through an interplay between families, individual adoptees, and broader community processes. I argued above that this interplay establishes a “provisional consensus” on determining who belongs, and that this consensus is not limited to essentialized notions of Indianness. Rather, I argued that this consensus rests on whether adoptees demonstrate accountability to community in an on-going basis. Moreover, the adoption narratives shared here show that within Anishinaabe citizenship orders, no one person or entity has ultimate power to discern who belongs. Instead, belonging is discerned in a decentralized sense where claims to owning community and adoptee are renewed over and over and where the behaviour of the adoptee factors into whether they are narrated as someone who belongs.

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<sup>991</sup> Conversation with Odemiin-giizis.

<sup>992</sup> Conversation with Waatebagaa-giizis.

## Chapter 7 Conclusion

### 7.0 Making Maple Syrup

One of the my best memories of childhood was making maple syrup with my parents at our home at Fort William First Nation. We would go into the community sugar bush up on the mountain in the middle of the reserve, collect sap, bring it home, and boil it in our driveway. It was hard work; to make one litre of finished syrup requires 40 litres of raw sap, and this has to be boiled down over a hot fire for many hours. In the end, however, we produced thick, smoky maple syrup, the memory of which was strong enough bring me back to the sugar bush 30 years later.

Reclaiming inherent Anishinaabe citizenship law is like making maple syrup. As this dissertation showed, Anishinaabe citizenship law was fragmented as a result of settler colonialism in Canada. The process of making maple syrup starts with collecting thousands of drops of sap, and transforming them into something special. Each one of those drops holds the essence of maple syrup. Likewise, the process of reclaiming and using Anishinaabe citizenship law at Fort William First Nation begins with collecting the stories that people carry. We need many buckets. We need many helpers. And we need many stories. There is a lot of work to do in order to transform those stories into laws that undo the *Indian Act*'s grip on how we think about belonging. However, like the maple trees, stories about Anishinaabe citizenship are still here. Our job is to collect them and make them into something new and beautiful (see Figure 13).



**Figure 13: Making Maple Syrup.** Stephanie MacLaurin enjoying freshly made Fort William First Nation maple syrup. Photo by Damien Lee, April 2016.

## 7.1 Beyond Common Ground

In preparing to close this dissertation, I am reminded of the notion of Anishinaabe legal orders being hidden in plain sight. Using a *biskaabiiyang* approach, I discussed this element at various points in the preceding chapters. I showed that Anishinaabe citizenship law is still being practiced at Fort William First Nation, even while people speak of belonging readily in terms of band membership and Indian status. The actions of families show that Anishinaabe citizenship

law is still very much alive. The adoption narratives shared in this dissertation offered one way to see those laws and the jurisdiction of families to perform decision making according to them.

However, when it comes understanding the links between adoption narratives and Anishinaabe citizenship, further emphasis is needed. In my experience, when I talk about adoption it is often assumed by others that I am speaking about social welfare. Social welfare in the context of Indigenous adoption is important and well-theorized in the literature. In other cases, adoption is a point of political contention between many Indigenous peoples and the Canadian state, since it was weaponized as a part of eliminating Indigenous peoples through such things as the 60's Scoop, the millennial-scoop, and on-going forced foster care programs that are now being critiqued by many Indigenous scholars and social welfare practitioners. Such work is important, and this dissertation is not meant to critique or disparage it. Rather, this dissertation set off in its own direction. I wanted to make the point that adoption practices and narratives themselves are an *expression* of inherent Anishinaabe citizenship law and governance. Like the "tip of the iceberg" metaphor, adoption is the visible practice of an invisible legal order. The claiming of individuals is what is seen, but how those individuals come to belong is based on a performative sovereignty that is given expression through narratives and normative practice. How does one identify self-determination other than through action?

As I have argued in this dissertation, families at Fort William First Nation claim individuals, and those individuals then engage in a process of negotiating with the broader community through the language of accountability and relationship building. I have argued that through this process, adoptees are ultimately either claimed as someone who belongs, or refused that belonging.

Given this, adoption can centre and express constitutional principles that stand on their own. As I have argued in Chapter 6, such principles include the continuous renewal of mutual ownership claims, decentralized authority, non-essentialism, and a view towards citizenship making based on seeing the inclusion of people as a strength rather than a burden. These are constitutional principles in that they produce normative ways of defining who belongs and who does not. Some have described this as clan-based governance while others have described it as kinship and kin-making. At Fort William First Nation, though, the terms “clan” and “kinship” do not necessarily resonate at this time, which is why I have avoided using such words in this study. Instead, belonging is discussed at Fort William in terms of band membership, Indian status, and blood. The knowledge holders’ stories challenged this terminology; they showed that adoption can make someone “family” in a genealogical sense, where “blood” was reimagined in ways that expressed their self-determination in discerning who belongs. Indeed, adoption was discussed as a form of blood making. Regardless of what it is called, my point in this dissertation has been to foreground citizenship principles arising out of adoption narratives so they can inform on-going discussions about belonging both in my community and across Anishinaabe Aki.

The principles and narratives I have foregrounded here can be used to challenge and rethink status quo approaches to discerning belonging imagined at Fort William First Nation today. Presently, Indian status and band membership reign supreme as the official frameworks through which belonging is spoken of in my community. If one is not a band member and/or don’t have Indian status, one’s claim to belonging with the community exists in a grey zone. This has been further confused by the Fort William Indian Band’s practice of not following its own membership code,<sup>993</sup> opting to centre Indian status rather than familial self-determination.

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<sup>993</sup> Ken Ogimaa (FWFN Chief Executive Officer) and Fort William First Nation Chief and Council, *Agenda Items*; MacLaurin, “Facebook Post.”

Knowledge holders such as Gichimanidoo-giizis, Onabanii-giizis and Iskigamizige-giizis all spoke about belonging in ways that, at times, were road blocked by Indian status or band membership. At times, status or membership seemed to take precedence over adoption and Anishinaabe citizenship governance, while other times the reverse was true. To me, this ambiguity is a dot on a map: it marks where discussions are right now about the resurgence of Anishinaabe citizenship law at Fort William. In short, while Indian status and Band membership are important, people at Fort William have shown that families have the authority to discern belonging as well. The narratives shared in this dissertation therefore show that another legal system is at play within Fort William First Nation. I argued here that this alternative system is based in inherent Anishinaabe law as seen through adoption narratives.

In realizing this, a new challenge emerges: Should the band membership framework be re-imagined in ways that better reflect inherent Anishinaabe citizenship principles? Or should they remain separate? Part of answering such a question will undoubtedly be bound up in trying to find out how inherent Indigenous laws can fit into or inform band membership or other state-recognized forms of discerning belonging. For some, such work might take the form of finding “common ground” between two legal systems – Anishinaabe and Canadian. However, something is lost in such an approach. Focusing on how they are the same erases how they are separate.<sup>994</sup> Anishinaabe constitutionalism is pre-existing and inherent. It exists alongside and in competition with settler legal orders in the same geographic space.<sup>995</sup> This is not to say it hasn’t been effected by, borrowed from, or assimilated for its own use aspects of settler legal orders and attendant

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<sup>994</sup> Aimée Craft, *Breathing Life into the Stone Fort Treaty: An Anishinabe Understanding of Treaty One* (Saskatoon: Purich Publishing, 2013), 11–13.

<sup>995</sup> *Ibid.*, 68–69; Ladner, “(RE)creating Good Governance Creating Honourable Governance: Renewing Indigenous Constitutional Orders,” 2.

philosophies.<sup>996</sup> Like any peoples' legal orders, Anishinaabe constitutionalism is fluid and changes over time.<sup>997</sup> Despite this, Anishinaabeg have separate legal orders outside of the space where Anishinaabe law and Canadian law meet and because of this, have their own interpretative frameworks; such frameworks can be limited if we assume that that automatically have to conform to Canadian legal frameworks.<sup>998</sup>

In 2014, I spent a year working alongside community members developing a new Fort William First Nation band membership code.<sup>999</sup> During that process, I came to question whether we were doing more harm than good by trying to adapt Anishinaabe legal principles to what is essentially a document governed by the *Indian Act* and its legal interpretative system (Canadian courts). I realized that in fact, the two are different and should remain separate so long as the *Indian Act* governs band membership codes. It would be damaging to have Anishinaabe citizenship law adjudicated by the *Indian Act* or by Canadian courts.<sup>1000</sup> Furthermore, having one's name on a band membership list is not necessarily the same thing as being claimed according to Anishinaabe law, although the two can and do intersect. The adoption narratives I reviewed in this dissertation demonstrated this point. The knowledge holders demonstrated that some people without band membership and/or Indian status belong with Fort William while others *with* these forms of recognition are rejected by Fort William families. I argued in Chapter 6 that coming to these conclusions was something families did through a process of establishing "provisional consensus," where the behaviour of the adoptee mattered.

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<sup>996</sup> Borrows, *Canada's Indigenous Constitution*, 43.

<sup>997</sup> Borrows, *Freedom and Indigenous Constitutionalism*, 3.

<sup>998</sup> Craft, *Breathing Life into the Stone Fort Treaty*, 107–8.

<sup>999</sup> See: Fort William First Nation, "Citizenship Code (Draft)."

<sup>1000</sup> Henderson, *First Nations Jurisprudence*, 118–222.

To me, this suggests that Anishinaabe law operates on its own trajectory. This trajectory sometimes intersects with band membership and Indian status approaches to imagining and affirming belonging, but ultimately finds its authority elsewhere. The knowledge holders who participated in this study talked ways in which adoptees are claimed by the community (or not); they showed that adoptees had to engage in the work of building genuine relationships with community. Only then did their belonging move from the level of family to the level of community. For some of the knowledge holders, having one's name on the Fort William Indian Band membership list was not necessarily the same thing as being claimed by the community. Thus, while there is a need to navigate spaces where legal "common ground" is a reality, it is also important to consider Anishinaabe law on its own terms if we are to interpret belonging in ways that do not centre Canadian laws in how belonging is decided. Stories about how some band members are regarded as not actually belonging with Fort William First Nation speak to this point. In this sense, the adoption narratives shared with me herein demonstrate that Anishinaabe constitutional law not only exists, but in fact it continues to be practiced in imperfect ways. It would be a shame to lose sight of this fact.

Regardless of its imperfections, Anishinaabe citizenship law is something practiced by Anishinaabe families to continuously renew the nation. Continuous renewal is a critical concept when considering the relationship between Anishinaabeg and the settler state historically. As I showed in Chapters 4 and 5, settler society feared the possibility of Indigenous peoples renewing themselves indefinitely into the future. Drawing on the literature, I showed that settler bureaucrats exerted great effort to control the possibility of Indians making Indians. In Chapter 4, for example, I demonstrated how the *Indian Act* has been used by federal bureaucrats and politicians to assuage their anxieties about the presence of Indigenous nations. Indians had to



disappear one way or another, and thus had to be regulated if the settler colonial ordering of things was to be maintained. Indigenous adoption practices became a primary target in this mix. If Indians could make Indians through adoption, then *anyone* could become an Indian and, maybe worse, Indians were less likely to disappear. As others have shown, the *Indian Act* was amended to address adoption in several ways over the decades. It was, for example, changed in 1951 in such a way that adoption by an Indian parent could not transfer Indian status to a child.<sup>1001</sup> However, when the *Act* was amended again in 1985, adoption shifted gears again: now, Indians could make Indians through the practice of adoption. I contributed to this literature by arguing that, whether by barring it or embracing it, federal bureaucrats remain highly concerned about adoption as a basis for making Indians. Demonstrating this in the post-1985 *Indian Act* era requires one to read for settler anxieties through the lens of surveillance rather than the categorical barring of adoption. Chapter 4 makes these points.

In Chapter 5, on the other hand, I argued that the status logics that arose to address settler colonial fears about Indians making Indians have, to a certain degree, been internalized by Anishinaabe communities. I argued that said logics have impacted the Union of Ontario Indians' draft citizenship law (i.e. the *E-Dbendaagzijig Naaknigewin*). I showed this by tracing the development of this draft law. It began with a broad concept of what Anishinaabe citizenship meant, which included adoption as a basis for citizenship.<sup>1002</sup> Bases for citizenship according to the draft law then narrowed over time to reflect a more standard lineal descent formation of citizenship. I showed that this process marginalizes adoption again, just as settler bureaucrats had done in the 19<sup>th</sup> and early 20<sup>th</sup> centuries. I argued that this adoption's marginalization in the draft

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<sup>1001</sup> Stevenson, "The Adoption of Frances T."

<sup>1002</sup> Beaucage, "Opening Remarks."

*E-Dbendaagzijig Naaknigewin* eerily resembles Ontario bureaucrats' arguments meant to save the province money in a treaty arrears despite that took place in the late 19<sup>th</sup> century: adoption is not seen as a legitimate way to belong with Anishinaabeg First Nations because it inherently challenges a strict bloodline approach to discerning who is an Indian of specific territories. Adoption thus becomes a dirty word in this scenario; it created a burden on Indian Bands directly rather than the settler governments that control First Nations funding. I argued in Chapter 5 that adoption remains a dirty word in how Anishinaabe communities and the Union of Ontario Indians imagines citizenship today.

Whereas Chapters 4 and 5 demonstrated how Anishinaabe citizenship law has been acted upon by Canadian settler society through the targeting of adoption, Chapter 6 switched gears to show how Anishinaabeg still use adoption to discern belonging. This discussion was limited to how families at Fort William First Nation use adoption to do so, and was not meant to be prescriptive or universal. My point in Chapter 6 was to show that, rather than essentialized notions of Indianness or being recognized by Canada as an Indian, self-determination of families and adoptees' accountability to community were critical elements of Anishinaabe citizenship law. This is of critical importance today where many people want to "play Indian" and where Canadian law continues in its attempt to regulate who is Indian and who is not.<sup>1003</sup> It is not simply enough for one to self-identify as an Indian and have that mean they belong with a First Nation. This centres the individual outside of collective decision making. Furthermore, it is not simply enough for one to have their name included on a band membership list and/or to be recognized as a status Indian by Canada. This centres an external politics of recognition that vests the centralized nature of Indian Bands and Indigenous and Northern Affairs Canada as the

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<sup>1003</sup> Canada, Indigenous and Northern Affairs Canada, "The Government of Canada's Response to the Descheneaux Decision."

arbiters of belonging. Rather, when families decide who belongs, accountability to (or allegiance to) community is what mattered above all else. The knowledge holders argued in their own ways that this accountability had to be demonstrable; if adoptees were to belong with the *community* rather than just their *family*, some argued, they had to “know” what was happening in the community on an intimate basis. This “knowing” could not be achieved through passive connection to Fort William, but rather required adoptees to engage in genuine relationships based on maintaining mutual responsibility. In other words, Anishinaabe citizenship law is about who claims you as much as it is about who you say you are.<sup>1004</sup>

Continuous renewal is at the centre of all of this. As the narratives in Chapter 6 showed, adoptees that fully belong with Fort William were not simply claimed once and for all by one family, but went through a process of showing the rest of the community that they took their opportunity to belong seriously. This could not simply be shown in a day, week, or even a year. Allegiance was developed over decades and, for some, over lifetimes. Anishinaabe citizenship law in this sense, then, was not linear. It was not a simple equation of Family A adopting Person B and all families accept that decision. Rather, adoption only created the *conditions* for Person B to demonstrate that they claimed the community back. The knowledge holders spoke of this claiming back in the language of labour:<sup>1005</sup> that is, doing the work to fulfill one’s responsibilities to the community and to individuals within the community. From there, I argued, citizenship

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<sup>1004</sup> Andersen, *Métis*. Andersen is not writing about Anishinaabe citizenship law, but about issues concerned with Métis belonging and identity. I found his framing of belonging as a matter of “who claims you” to be important to this discussion because it centres familial and communal self-determination over mere self-identification.

<sup>1005</sup> I would like to thank Dr. Zoe Todd for sharing her time and thoughts with me on this point. Before I began writing this dissertation, Dr. Todd and I discussed the importance of individuals engaging in the labour of building and maintaining good relationship as part of inherent Indigenous citizenship orders. Dr. Todd’s insights were invaluable as I thought through the construction of this dissertation and the arguments I make herein.

became a possibility where the jump from familial claiming to community claiming took place (or did not) based on how the adoptee performed her responsibilities over years. Based on this, I argued that Anishinaabe citizenship when seen through adoption narratives is based on the renewal of relationships on a cyclical basis. Much like humans renew their relationships to, say, maple trees each year during maple sugar season, where they are required to give thanks to the trees and honour their relationship to them in good ways, adoptees had to demonstrate on a cyclical basis that they, too, honoured their relationships to Fort William in good ways. This cyclical, or continuous renewal is a constant process.

Indeed, continuous renewal is a central feature of living Anishinaabe *mino-bimaadiziwin*. *Mino-bimaadiziwin* refers to the art of living the good life.<sup>1006</sup> As Winona LaDuke has noted, continuous rebirth is a key element of *mino-bimaadiziwin*.<sup>1007</sup> Building on this, Leanne Simpson has theorized *mino-bimaadiziwin* to mean “living a good life in a way that promotes rebirth, renewal, reciprocity and respect.”<sup>1008</sup> The adoption narratives shared in this dissertation speak about Anishinaabe citizenship in ways that centre these interpretations of *mino-bimaadiziwin*. The knowledge holders made clear that adoption is about renewing the nation in ways based on mutual reciprocity, and in ways that require adoptees to respect the community. The *Indian Act*, on the other hand – with its centralization of power into Indian Bands and its regulation of Indian identities along racialized, gendered and heteronormative lines – is not a part of *mino-bimaadiziwin*. The *Indian Act* does not support the continuous renewal of Anishinaabeg.<sup>1009</sup> Rather, more than anything it is concerned with saving Canada money.<sup>1010</sup> An Anishinaabe

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<sup>1006</sup> Simpson, *Dancing on Our Turtle's Back*, 26n9.

<sup>1007</sup> Winona LaDuke, *All Our Relations: Native Struggles for Land and Life* (Cambridge: South End Press, 1999), 132.

<sup>1008</sup> Simpson, *Dancing on Our Turtle's Back*, 27n18.

<sup>1009</sup> Borrows, “Seven Generations, Seven Teachings.”

<sup>1010</sup> Palmater, *Beyond Blood*, 47.

citizenship order based on *mino-bimaadiziwin* stands in stark contrast to the *Indian Act*. To me, *mino-bimaadiziwin* is focused on renewing Anishinaabeg nations seven generations into the future. Adoption is one tool Anishinaabe communities use to do this; the adoption narratives shared in the preceding chapter show that Anishinaabe families renew their nations through self-determination. As I showed in Chapters 4 and 5, this is what settler bureaucrats targeted in their quest to regulate Indianness.

Thus, adoption is implicated in the tension around discerning who belongs with Anishinaabeg. It has been targeted because of its inherent political potential. Today, many continue to see it as suspect because of the ways in which the *Indian Act* has taught Anishinaabeg to think about belonging. However, many families continue to use it as a political tool to renew the nation. Anishinaabe citizenship is politically determined, not merely sexually determined. Anishinaabeg at Fort William First Nation have always used adoption as a political tool to renew the nation. The purpose of this dissertation has been to foreground this fact and reclaim adoption as a valid citizenship-making practice within inherent Anishinaabe legal order.

## **7.2 Relating What I Learned**

As noted in Chapter 3, this dissertation was co-developed with Fort William First Nation knowledge holder Marlene Pierre. Marlene and I sat together many times to discuss ways to ensure this study would resonate in discussions about inherent Anishinaabe citizenship law and governance at Fort William specifically. Marlene was adamant that I relate what I learned in ways that the people of Fort William might find accessible. I agree that doing so is important; it meets part of the purpose of Indigenist research and Biskaabiiyang research approaches, namely,

that research must directly benefit Indigenous/Anishinaabe communities.<sup>1011</sup> In this closing section, then, I relate what I have learned through completing this study. I share my insights with four audiences in mind:<sup>1012</sup> the people of Fort William First Nation generally, the people working for the Fort William Indian Band, the knowledge holders who participated in this study, and finally, the people working for the Union of Ontario Indians. To me, relating what I learned in this way fulfills Marlene's request that this dissertation be used to inform discussions about the resurgence of Anishinaabe citizenship law, specifically at Fort William First Nation.

### 7.2.1 Relating my Learning to the People of Fort William First Nation

Adoption teaches us that belonging is based on more than just who you have sex with. It's based on the political self-determination of families to decide who belongs. Fort William families have shown me over and over that they have the authority and jurisdiction to claim who they want, including people who have been wrongfully removed from the community, or children who we know to belong but do not have Indian status. Anishinaabe citizenship law exists. This study demonstrates that it lies in families and not the band office. The work ahead includes validating family-making practices as a part of an Anishinaabe governance system. This study provides one method of doing this. See Chapter 6.

### 7.2.2 Relating my Learning to the Fort William Indian Band

The motto of the Fort William Indian Band is "Respecting the Past, Embracing the Future." Yet, the Band's practice of centering Indian status in its membership decisions does not respect Anishinaabe citizenship law. Adoption is a part of Anishinaabe citizenship law, as is the

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<sup>1011</sup> Geniusz, *Our Knowledge Is Not Primitive*, 51–52; Rigney, "Internationalization of an Indigenous Anticolonial Cultural Critique of Research Methodologies," 117.

<sup>1012</sup> Hart, "Cree Ways of Helping," 281–91. In this section, I adopt Hart's dissertation summary approach whereby he provides targeted messages to specific audiences. I felt this was a useful approach to making the results of a dissertation digestible to a wide range of people, including non-academic audiences.

self-determination of families. As this dissertation has shown, Fort William families have a long history of adopting individuals and having those individuals belong with the community as citizens. In my mind, future citizenship or membership practices at the Fort William Indian Band must account for these facts. This means that Band employees and elected leaders must stop treating adoptees as second class citizens. It means that the Band must recognize the authority of Fort William families to decide who belongs. To assist in making this shift, Band employees and leaders might be interested in reviewing Chapter 4 through 7 of this dissertation.

### 7.2.3 Relating my Learning to the Knowledge Holders

You are the leaders. Indian Bands are not capable of defining inherent Anishinaabe citizenship law.<sup>1013</sup> Furthermore, discerning citizenship at Fort William is your treaty responsibility. The Robinson-Superior Treaty of 1850 clearly states that Anishinaabeg must maintain populations for the treaty to remain valid. As families, you are the political institutions that make Anishinaabe citizens, whether through birthing, marriage, and/or adoption. This study is my interpretation of what you told me. What I heard in your stories is this: you are practicing inherent Anishinaabe law. In my opinion, it is time for you to name these practices *as law* and *as governance*. You do not need permission from the band or Canada to do so.

### 7.2.4 Relating my Learning to the Union of Ontario Indians

While I recognize that a great amount of effort has gone into the draft *E-Dbendaagzijig Naaknigewin*, the work is not done yet. My review of this draft law in the context of lineal descent suggests that it may still marginalize families' self-determination in determining who belongs. As I showed in Chapter 5, basing citizenship on a one-parent role, while promoting fluidity in citizenship recognition, does not escape settler colonial baggage. It imagines

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<sup>1013</sup> Gilbert, *Entitlement to Indian Status*, 73–74.

citizenship as merely sexual self-determination rather than political self-determination. Based on the knowledge holders' narratives included in this dissertation, including adoption into the draft *E-Dbendaagzijig Naaknigewin* might be a good way to honour the self-determination of Anishinaabeg families.

### **7.3 Closing**

Like a drop of maple sap, I offer this dissertation as but a small part of what is needed to reclaim control over Anishinaabe citizenship law in decolonizing ways. The goodness of maple syrup is found in the fact that everybody wants it to be a part of their lives. How can inherent Anishinaabe citizenship law enjoy the same interest today? With that question in mind, I offer this dissertation as a small part of the larger process of Anishinaabe political resurgence.



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## **List of Conversations**

*Listed in chronological order:*

- Conversation with Abitaa-niibini-giizis, October 18, 2015.
- Conversation with Namebini-giizis, October 18, 2015.
- Conversation with Onaabani-giizis, October 18, 2015.
- Conversation with Gichimanidoo-giizis, November 1, 2015.
- Conversation with Zaagibagaa-giizis, November 1, 2015.
- Conversation with Odemiin-giizis, November 9, 2015.
- Conversation with Manoominike-giizis, November 9, 2015.
- Conversation with Miin-giizis, November 17, 2015.
- Conversation with Manidoo-giizisoons, January 6, 2016.
- Conversation with Iskigamizige-giizis, January 25, 2016.
- Conversation with Waatebagaa-giizis, March 4, 2016.
- Conversation with Binaakwe-giizis, March 12, 2016.
- Conversation with Gashkadino-giizis, March 12, 2016.

**Appendix A**  
**Detailed Demographic Information, the thirteen knowledge holders**

### Detailed Demographic Information, the thirteen knowledge holder

<b>Knowledge Holder</b>	<b>Adoption Status</b>	<b>Racialized as</b>	<b>Sex</b>	<b>Indian Status?</b>	<b>Band Member at FWFN?</b>	<b>Location</b>	<b>Age Range</b>
Onaabani-giizis	Adoptee	White	Woman	Status	Member	On-reserve	20-29
Abitaa-niibini-giizis	Family of Adoptee	White	Woman	Not Status	Not a member	On-reserve	50-59
Namebini-giizis	Adopter	Native	Man	Status	Member	On-reserve	50-59
Gichimanidoo-giizis	Adopter	Native	Woman	Status	Member	Off-reserve	70-79
Zaagibagaa-giizis	Adoptee	Native	Woman	Status	Member	Off-reserve	30-39
Odemiin-giizis	Descendant of Adoptee	Native	Woman	Status	Member	On-reserve	50-59
Manoominike-giizis	Descendant of Adoptee	Native	Woman	Status	Member	Off-reserve	50-59
Miin-giizis	Descendant of Adoptee	Native	Man	Status	Member	On-reserve	50-59
Manidoo-giizisoons	Descendant of Adoptee	Native	Woman	Status	Member	Off-reserve	30-39
Waatebagaa-giizis	Descendant of Adoptee	Native	Woman	Status	Member	On-reserve	50-59
Iskigamizige-giizis	Adopter and Descendant of Adoptee	Native	Woman	Status	Member	On-reserve	50-59
Gashkadino-giizis	Family of Adoptee	Native	Man	Status	Member	On-reserve	60-69
Binaakwe-giizis	Adopter	Native	Man	Status	Member	On-reserve	50-59

**Appendix B**  
**Copyright Permission from Dr. Elizabeth LaPensée**

**From:** Elizabeth LaPensée <elizabethlapensee@gmail.com>  
**Subject: Re: Copyright permission request for Anishinaabe Giizisoog: Anishinaabe Moons**  
**Date:** February 10, 2017 at 4:41:34 PM CST  
**To:** Damien Lee <leedca@myumanitoba.ca>  
**Cc:** "odamino@msu.edu" <odamino@msu.edu>

Dear Damien Lee,

Please consider this as permission to use the following work in your dissertation:

Elizabeth LaPensée. (2016). *Anishinaabe Giizisoog: Anishinaabe Moons (Black and White Poster with Western Anishinaabemowin)*. <http://www.elizabethlapensee.com/#/anishinaabemowin>

Miigwech,  
Dr. LaPensée

--

Elizabeth LaPensée, Ph.D.  
Assistant Professor, Michigan State University  
Media & Information | Games for Entertainment and Learning Lab  
Writing, Rhetoric, & American Cultures | American Indian and Indigenous Studies  
<http://www.elizabethlapensee.com>

On Fri, Feb 10, 2017 at 4:40 PM, Damien Lee <[leedca@myumanitoba.ca](mailto:leedca@myumanitoba.ca)> wrote:  
Dear Permissions Manager,

I am a researcher at the University of Manitoba (Canada) and am requesting permission to use in my dissertation the following work:

Elizabeth LaPensée. (2016). *Anishinaabe Giizisoog: Anishinaabe Moons (Black and White Poster with Western Anishinaabemowin)*. <http://www.elizabethlapensee.com/#/anishinaabemowin>

With your permission, this work will be used in my dissertation, tentatively entitled "*Because our Law is our Law*": *Considering Anishinaabe Citizenship Orders through Adoption Narratives at Fort William First Nation*. My intention is to use the thirteen Anishinaabe Giizisoog to anonymize the names of the thirteen knowledge holders who participated in my dissertation research conversations. The above mentioned poster will act as a tool for my readers to better understand the Anishinaabe Giizisoog while helping to root my work within Anishinaabemowin. Once defended, my dissertation will be posted the University of Manitoba Libraries' theses and dissertations repository, known as MSpace (<http://mspace.lib.umanitoba.ca/xmlui/>). MSpace is publicly accessible, meaning anyone will be able to access my dissertation.

Please confirm if you are the copyright owner of the work and if permission is granted to use it. If so, I will include a citation and permission statement with the work.

If you do not control the copyright on the above-mentioned work, I would appreciate any contact information you can provide regarding the proper rights holder.

Thank you for your consideration. If you require further information, please don't hesitate to contact me.

Sincerely,  
Damien Lee

—

PhD Candidate  
Dept. of Native Studies  
U of Manitoba



**Appendix C**  
**Themes and Sub-Themes from NVivo**

The following themes and sub-themes were produced in NVivo using a grounded approach.

Theme	Sub-Theme	Number of Sources	Number of References
<b>Attitude</b>			
Negative Attitude		13	81
	Protectionism	6	33
Positive Attitude		14	47
<b>Colonialism</b>			
Assimilation		2	3
Colourblind		6	10
Politics of Recognition		10	54
	Band Membership	9	35
	Racialization	7	20
	Refraction	5	11
	Sex and Gender	4	10
	Indian Status	6	18
<b>Contour of Belonging</b>			
Age		1	6
Belonging		7	20
Biology but Beyond		2	5
Blood		5	18
Common Sense (Separation)		11	89
	Affirmation	5	16
Feeling of Belonging		8	18
<b>Anishinaabe Law</b>			
Acceptable Behaviour		11	24
Caring for Others		7	29
Choice-Agency		11	49
Claiming		16	119
Co-constitutive		18	89
Collective Ownership of Kids		5	13
Culture		2	7
Families decide		12	64
Legal		10	34
Love		8	24
Making Blood		13	67
Need		4	10
Non Nuclear		2	4
Openness		1	14
Responsibility		5	13
	Obligation	5	21
Self-Actualization		5	10
Socialization		12	71
	Labour	16	74
	School Bus	9	18
	The Seen Face	6	9
<b>Miscellaneous</b>			
Quotes		16	42
Unsettlement		6	23

**Appendix D**  
**Call for Participants**



## Research Participants Wanted

You are invited to participate in a research study concerning how Anishinaabe citizenship is conceptualized at Fort William First Nation.

Damien Lee is currently seeking families that have experience in adopting people, and who are willing to share these stories. This research is a part of Damien's PhD dissertation research. He is focusing on stories about Anishinaabe custom adoption not only because he belongs with Fort William First Nation through customary adoption, but also because he believes stories about adoption hold a great deal of information about what it means to make citizens of the larger Anishinaabe nation in ways that align with Anishinaabe law. For clarity, this research project is not related to Fort William First Nation's current efforts to renew its band membership code.

If you are interested in participating in this research project, please email or call Damien at:

Email: [damien\\_lee@umanitoba.ca](mailto:damien_lee@umanitoba.ca)

Phone: [REDACTED]

This research is being completed after receiving permission from the University of Manitoba Joint-Faculty Research Ethics Board, and with the support of Damien Lee's dissertation committee through the Department of Native Studies, University of Manitoba.

**Appendix E**  
**Plaque Inscription Text: The Late Frank Banning**

The following is a verbatim reproduction of the inscription included on Frank Banning's Community Involvement Award. See Figure 9 in Chapter 4 for more details:

Community Involvement Award  
The Late Frank Banning

“In recognition of Frank’s work in fostering community involvement. Frank created the annual Remembrance Day event to honour Native Veterans. This ceremony brings much recognition to Fort William First Nation and participation has increased markedly over the years. Frank worked diligently and without thought of personal gain. He felt pride in this community, in himself as a Veteran and in the Native soldiers from this community and region who fought, many losing their lives. Many family members experience great pride and emotion as they honour our Veterans during this annual event and Frank’s contribution to this community and region is deserving of recognition. We are proud of Frank’s accomplishments and guidance.

“We present this award for your Community Involvement and are proud to present this award to a band member of Fort William First Nation.”

(Fort William First Nation Logo)

**Appendix F**  
**Consent Form**



UNIVERSITY  
OF MANITOBA

Department of Native Studies

204 Isbister Building  
Winnipeg, Manitoba  
Canada R3T 2N2  
Telephone (204) 474-  
9266

Research Project Title: *Dibenjigaazowin*  
Principal Investigator: Damien Lee, [damien\\_lee@umanitoba.ca](mailto:damien_lee@umanitoba.ca)  
Research Supervisor: Dr. Kiera Ladner, [kiera.ladner@umanitoba.ca](mailto:kiera.ladner@umanitoba.ca)

This consent form, a copy of which will be left with you for your records and reference, is only part of the process of informed consent. It should give you the basic idea of what the research is about and what your participation will involve. If you would like more detail about something mentioned here, or information not included here, you should feel free to ask. Please take the time to read this carefully and to understand any accompanying information.

My purpose in conducting this research is to develop a vision of citizenship at Fort William First Nation that challenges bloodline and gender-based limitations on band membership that we have been taught after living more than 150 years under the *Indian Act*. It is my belief that in order to move beyond the *Indian Act*, we need to think about how families make people belong with our community.

I plan to do this by interviewing families that have adopted people, where the adoptees and adopters are included regardless of their age. I am focusing on Anishinaabe customary adoption specifically because I was adopted into our community as a toddler through the customs that my grandmother carried from her childhood; I believe stories about adoption hold a great deal of information about what it means to make citizens of the Anishinaabe nation.

If you decide to participate, I will ask to meet with you and your family on a total of two occasions. During these two meetings, I will ask you and those members of your family who also agree to participate, to share stories about how Anishinaabe customary adoption has affected how you think about what it means to belong at Fort William First Nation.

Each of the two meetings will last between two (2) and three (3) hours, and will be recorded using a digital audio recorder. All audio files will be returned to you once the research is complete. In the meantime, your name and information will be stored in my home office at [REDACTED], in a locked filing cabinet to which only I have a key. At the end of the project, all documentation that could link you to this research will be destroyed, and I will give to your family the audio record of our interviews. Afterwards, I will securely delete my copies of your audio recordings.



This project could provide you with the benefit of knowing your experiences have gone on to imagine a way of thinking about Anishinaabe citizenship that centres Anishinaabe law. Your stories about adoption hold within them principles and values that could help Fort William First Nation realign its citizenship practices with Anishinaabe law instead of the *Indian Act*. Thus, your participation might benefit not only you and your family through proudly celebrating how adoption has affected your family, but it may also benefit Fort William First Nation as a whole by helping to replace the *Indian Act* with Anishinaabe law, even if only in some small way.

However, as with many research projects, there are also some risks associated with this project. First, the distinct status of band membership and registration as an Indian under the *Indian Act* mean a great deal to many individuals. It is important to note that many people rely heavily on programs meant only for members of an Indian band, or for those registered as an Indian under the *Indian Act*. It is not my place to risk your access to these valuable resources. And as such, any information you share with me will be kept confidential and, at the appropriate time, destroyed, as noted above.

Second, since Damien will be asking you to share personal and private stories about adoption and its meaning to you and your family, there is also a risk that participating in this project may trigger some disturbing or negative memories. In light of this risk, Damien has included with this consent form a list of Indigenous peoples-focused counsellors located in Thunder Bay and Fort William First Nation; you are encouraged to reach out to these service providers if you experience any negative emotional or psychological reactions as a result of participating in this project. Please keep the attached Mental Health Resources list for your records.

Every participating family will received a \$50 gift card for both meetings, totalling \$100 per family. Gift cards will be spendable at a Thunder Bay-based grocery store.

At any time, if you decide to withdraw from this research, you may do so by informing Damien Lee verbally or in writing. You may also contact his supervisor, Dr. Kiera Ladner, at the email address listed at the top of this form, or by contacting the University of Manitoba's Human Ethics Coordinator at the phone number below. There are no negative consequences for withdrawal. You and you family are welcome to keep any gift cards given to you before the withdrawal.

You will also have a chance to verify the information you and/or your family shares with Damien before he begins to write his dissertation. The second meeting discussed above is meant to provide you with a chance to do this. Damien Lee will provide you with a hard copy transcript of what was said during the first meeting. You can use this transcript to provide feedback, and may ask to have any part of it changed or omitted without negative consequence. Damien Lee will comply with any request you make for certain information to be removed.

Finally, please be informed you that federal law requires Damien to report any disclosure of child abuse that may be shared with him. And since he may have some contact minors in this project, the Thunder Bay Police have conducted a Police Vulnerable Sector Check on Damien, and that check came back showing that he does not have any criminal offences involving minors.

The findings of this research project will be disseminated at a public community meeting held at Fort William First Nation once the dissertation is complete and defended. The Fort William First

Nation band will be given a hard copy of the dissertation, and it will be available for on-going download through the University of Manitoba's library website (<http://mspace.lib.umanitoba.ca>). However, you will also be given a one to three-page summary of the research results no later than three months after our last meeting together.

Your signature on this form indicates that you have understood to your satisfaction the information regarding participation in the research project and agree to participate as a subject. In no way does this waive your legal rights nor release the researchers, sponsors, or involved institutions from their legal and professional responsibilities. You are free to withdraw from the study at any time, and/or refrain from answering any questions you prefer to omit, without prejudice or consequence. Your continued participation should be as informed as your initial consent, so you should feel free to ask for clarification or new information throughout your participation.

The University of Manitoba may look at your research records to see that the research is being done in a safe and proper way.

This research has been approved by the Joint-Faculty Research Ethics Board at the University of Manitoba's Fort Garry Campus. If you have any concerns or complaints about this project you may contact any of the above-named persons or the Human Ethics Coordinator (HEC) at 204-474-7122. A copy of this consent form has been given to you to keep for your records and reference.

Participant's Signature \_\_\_\_\_ Date \_\_\_\_\_

Researcher's Signature \_\_\_\_\_ Date \_\_\_\_\_

Parent/Guardian's Signature (if required):

\_\_\_\_\_ Date \_\_\_\_\_

## Indigenous Peoples-focused Adult Mental Health Resources in Thunder Bay, Ontario

The following is a list of resources that are available to Indigenous individuals in and around Thunder Bay, Ontario. This list is being made available to those participating in Damien Lee's PhD research project, *Dibenjigaazowin*, and can be used to find support in the event that participation in this project triggers negative emotional and/or psychological responses.

<p><b>Anishnawbe Mushkiki Thunder Bay Aboriginal Community Health Centre</b>                  29 Royston Court                  Thunder Bay ON                  Phone: (807) 343-4843                  Clinic Department:                  Phone: (807) 343-4819  <a href="http://www.mushkiki.org">www.mushkiki.org</a></p>	<p><b>Dilico Child and Family Care: Adult Mental Health Program</b>                  200 Anemki Place                  Fort William First Nation, ON                  Phone: (807) 623-8511                  Toll-Free: 1-855-623-8511  <a href="http://www.dilico.com/article/adult-services-120.asp">http://www.dilico.com/article/adult-services-120.asp</a></p>
<p><b>Ishaawin Family Resources</b>                  132 May St. South                  Thunder Bay                  Telephone: (807) 622-5790  <a href="http://www.ishaawin.ca/">http://www.ishaawin.ca/</a></p>	<p><b>Ontario Native Women's Association (ONWA)</b>                  380 Ray Blvd.                  Thunder Bay, ON                  Telephone: (807) 623-3442                  Toll-free: 1-800-667-0816  <a href="http://www.onwa-tbay.ca">www.onwa-tbay.ca</a></p>
<p><b>Resolution Counselling Centre - St Joseph's Heritage</b>                  63 Carrie St                  Thunder Bay, ON                  Telephone: (807) 344-1944                  Toll-Free: 1-800-339-5211</p>	<p><b>Thunder Bay Counselling Centre</b>                  544 Winnipeg Ave                  Thunder Bay, ON                  Phone: (807) 684-1880  <a href="http://www.tbaycounselling.com">http://www.tbaycounselling.com</a></p>
<p><b>Thunder Bay Indian Friendship Centre</b>                  401 Cumberland St. North                  Thunder Bay ON P7A 4P7                  Telephone: (807) 345-5850  <a href="http://www.tbifc.ca">www.tbifc.ca</a></p>	