



Essay

# Customary Care and the Anishinabek Institution of Self-Governed Child and Family Services

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## Abstract

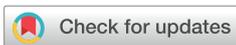
The adoption of the Anishinabek Nation Child Well-Being Law (ANCWBL) has given birth to a framework for Indigenous communities in Ontario, Canada, to exercise self-determination in governing child and family services, including service delivery and authority over policy and funding. This means an end to child and family services agencies that serve First Nations on reserves and are bound by provincial standards and legislation following a protection-based model. Instead, it begins a system of customary care that genuinely respects and supports the primary role of parent/guardian, family, and community in prevention-focused child welfare in accordance with standards based on Anishinabek cultures and the practice of consent. This conceptual essay highlights an Indigenous feminist perspective on the ANCWBL's significance and its ability to address the historical suffering stemming from colonial child welfare practices and to institute child and family services by reinstating the rights of Indigenous children and women's leadership in care as a communal responsibility.

**Keywords:** self-determination; customary care; rights of children; free, prior, and informed consent; women's leadership in Indigenous struggles; and Indigenous feminism

## 1. Introduction

In 2016, the Anishinabek Nation, led by the Chiefs-in-Assembly, adopted the *Anishinabek Nation Child Well-Being Law* (hereafter, ANCWBL). Headquartered on the Nipissing First Nation homeland in Ontario, Canada, under the protection of the Robinson-Huron Treaty of 1850, the Anishinabek Nation includes 39 member communities. The 39 First Nations of Ojibway, Chippewa, Odawa, Pottawatomi, Algonquin, Nipissing, Delaware, and Mississauga peoples that make up the Anishinabek Nation share an identity and spirituality and are united through historic origins, values, language, traditions, and culture ([Anishinabek Nation, n.d.](#)). These First Nations stretch across Ontario from Golden Lake in the east to Sarnia in the south and Thunder Bay, Lake Huron, Lake Nipigon, and Northern Superior in the north, with a combined population of about 60,000 citizens, or one-third of the Indigenous population of Ontario. The Union of Ontario Indians, as the secretariat and political advocate for member communities, is headed by the Grand Council Chief, currently Linda Debassige. It was incorporated in 1949 but is in fact the oldest political organization in Ontario, tracing its roots to the Confederacy of Three Fires, long before Europeans arrived in North America.

A total of 22 member communities have enacted the ANCWBL at the time of this writing. This means that these communities can exercise inherent jurisdiction over child welfare



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by creating a separate, publicly funded Child and Youth Well-Being System under Anishinabek law, such as the *Anishinabek Children and Youth Bill of Rights*, adopted in June 2019, that guarantees the rights of children and youth (Union of Ontario Indians, 2019). Doing so strengthens Indigenous self-government, allowing First Nations communities to exercise self-determination in child and family services, including service delivery and authority over policy and funding. This also means an end to child and family services agencies serving First Nations on reserves, bound by provincial standards and legislation following a protection-based model. This model, which dominated the colonial/state/settler child welfare systems, deprived Indigenous children of rightful communities of protection, the provision of care germane to their cultural upbringing, and participation in decisions made “in their best interest,” while Indigenous women were deprived of their rights and leadership roles in families and communities. It exposed generations of Indigenous children to abuse and violence and a life filled with poverty and ill health. Instead, the ANCWBL introduces a system of customary care that genuinely respects and supports children’s rights as well as the primary role of family unity, healing traditions like the Circle Process, and culturally grounded prevention in child and family services in accordance with community standards based on Anishinabek laws and practices of consent.

In what follows, an Indigenous feminist theoretical grounding in customary care is presented first, followed by an analysis of systematic investigations of experiences to provide evidence for the challenges and barriers faced by children and women under colonialism. This analysis contributes to an understanding of settler child welfare systems as colonizing strategies used by Canadian Eurocentric elites to control Indigenous peoples. Drawing on the literature on the decolonization and Indigenization of child welfare and recent developments in government policy, the section then offers a careful study of the changes that are reshaping the context for the Anishinabek child welfare system to grow and overcome colonial practices. The final analysis of the ANCWBL, based on the Anishinabek Nation’s organized reviews of its implementation, highlights its ability to reinstate the rights of Indigenous children and restore customary care as a communal responsibility. Although there is no data on the number of children transferring into customary care, the adoption of the ANCWBL suffices to show the significance of efforts in creating institutions, strategies, and leadership structures that reflect Indigenous cultures in which women hold highly esteemed leadership roles. These institutions and strategies promote overall well-being by emphasizing customary care for people, including children, as a collective responsibility, a public good, and a universal right and by ensuring decisions are made collaboratively.

## 2. In Pursuit of an Indigenous Feminist Perspective of Customary Care

Customary care, as defined by Chiefs of Ontario, is “. . . a model of Indigenous child welfare service that is created with each First Nation community to incorporate their unique practices, beliefs, and values into the care of the Indigenous child” (Chiefs of Ontario, 2022, p. 5). This care, according to the Anishinabek Nation, is prevention-focused and its goal is to “Reduce the number of Anishinabek children in the child welfare system and Improve the overall well-being of Anishinabek First Nations” (Koganaawsawin, 2026). Through an analysis of the ANCWBL from an Indigenous feminist perspective, this conceptual essay identifies key benefits of the application of customary care in developing community-led, culturally grounded, and individualized wrap-around child and family services, which have attracted much attention in family and child studies and social policy research.

The author, as a settler researcher originally from China, living and working on the Anishinabek Nation’s territories, has engaged for over a decade in researching Indigenous feminist scholarship and its importance for understanding child/social welfare from a decolonial perspective. This scholarship is represented by Kim Anderson, Joyce Green,

Gail Guthrie Valaskakis, Rauna Kuokkanen, Cindy Blackstock, and others who will appear later in the study. This analysis, exploring women's leadership in Indigenous systems of customary care, extends the author's dedication to feminist analysis, previously focusing on the different barriers women in China and Canada face in equitable access to resources and social services, and the challenges they encounter in achieving equality. This dedication guides the analysis in addressing the questions posed by James Clifford (Clifford, 1988, p. 25), regarding *The Predicament of Culture* in ethnographic studies that risk arbitrary interpretations of fieldwork data within established Western conceptual frameworks prone to colonial influences. This analysis is not intended to provide an account based on interpretations of fieldwork or ethnographic collections of data about what Anishinabek experience with customary care was or is currently. Nor is it about applying a mainstream, established feminist framework to conceptualizing what Indigenous experiences with colonial child welfare systems were or are now and how the experiences impacted their cultural identity formation. The analysis is an effort to center Indigenous feminist scholarship and Anishinabek Nation authorship in understanding Indigenous women's experiences with colonialism and their struggles for liberation through the reinstatement of customary care.

This approach is distinct from, but in dialogue with, existing research on child and family services, as it explicitly centers Indigenous feminist lenses in recognition of the historic sufferings of Indigenous children and women under colonial child welfare systems. It leads to the promotion of the rightful place of children in customary care under women's stewardship, cultural traditions of consent, and decolonized governance. It can also help strengthen decolonization by leveraging inherent jurisdiction and enforcement of treaties to assert Indigenous rights to land, cultural identity, and nationhood from an Indigenous feminist perspective. It, furthermore, recognizes key benefits of customary care under women's leadership in helping communities that have experienced poverty, disease, and oppression to regain strength in family integrity, cultural vitality, and community wellness.

These key benefits include Indigenous ways of customary care that cultivate healthy relationships based on mutual respect, responsibility, and consent. The practice of free, prior, and informed consent, according to Indigenous feminist scholar Rauna Kuokkanen and fellow co-authors (Kuokkanen et al., 2025, p. 20), encourages freedom of expression and collaboration without undue control. It is, hence, an important step in recognition of past sufferings so as to begin the processes of reconciliation and reparation. Moreover, healthy relationships that are built on individual consent are embedded in collective consent that prioritizes social responsibility for community well-being and relationality based on mutual respect. This consent-based relationship-building fits well with the exercise of self-determination and meaningful participation in decisions that affect Indigenous lives. It, for instance, fosters a more inclusive and effective path towards decolonization through recognizing Indigenous women's "double burden" of discrimination as both women and Indigenous people. Such recognition is, furthermore, essential for women exercising leadership in the pursuit of Indigenous rights, particularly when using gender-aware and feminist lenses to address diverse experiences with colonial oppression and violence.

These Indigenous feminist lenses are rooted in Indigenous feminist scholars' efforts to recognize women's interdependent responsibilities and their key roles in spiritual ceremonies and Indigenous governments as "nurturers of families and keepers of cultures" that they once had before these were eroded by colonial, patriarchal practices and policies (Valaskakis et al., 2009, p. 9). This recognition inspires "reconstructing Native womanhood" through identity formation at the individual level and collective thinking about restructuring social relationships today (Anderson, 2011, p. 5). Such restructuring is at the core of Indigenous feminist lenses in that colonial oppression is identified, and so too is the oppression of women by patriarchal practices and structures within Indigenous communities

imposed by colonial governments (Green, 2007, p. 23). Recently, as Kuokkanen (2025, p. 3) illuminates, centering Indigenous voices, respecting Indigenous sovereignty, and addressing the impacts of colonization that have historically marginalized Indigenous women, Two Spirit individuals, and queer peoples expand the exercise of identity formation and form a core tenet of Indigenous feminism. Highlighting the leadership roles of women and the marginalized in Indigenous communities and their contribution to Indigenous struggles constitutes a further central tenet of Indigenous feminist lenses.

A wide-ranging adoption in child and family services of these lenses, thus, helps recognize diverse intersecting forms of oppression based on race, gender, class, and colonialism, including those suppressing gender identity and women's leadership roles in traditional care systems. It is also crucial for not only understanding the decolonial perspective that has guided the adoption of the ANCWBL but also promoting Indigenous feminist efforts to center Indigenous worldviews and community-led approaches in pursuit of justice and liberation within Indigenous communities, including a recognition of the diversity and fluidity of genders and gender roles (Kuokkanen, 2025, pp. 6–9). It will, furthermore, strengthen decolonization by challenging the colonial power structures by, first and foremost, reinstating women's leadership in Indigenous resurgent governance and systems of customary care that are publicly funded with the aim to improve the overall well-being of peoples and communities.

A meaningful and incisive contribution to family sciences from this adoption of gender-aware and feminist lenses lies clearly in the treatment of the historical imposition of colonial policy and a current return to Indigenous systems of customary care as policy shifts, not as background but as central mechanisms that have actively created, or are creating, distinct conditions for family life and care provision. Evidenced by the ANCWBL, family scientists are encouraged to look beyond individual dynamics and centralize public policymaking as fundamental to, rather than external to, their conceptualization of "context" that shapes family life. Moreover, the adoption of Indigenous feminist lenses helps reveal diverse experiences with different forms of oppression and prioritizes recognition of leadership roles of women and the marginalized in struggles for justice and liberation that propel structural policy shifts and societal transformation.

One key implication is that centering Indigenous feminism in reinstating traditional systems of care shifts the understanding of care from a personal and family obligation to a collective responsibility, a public good, and a universal right. This shift positions care as an essential, gender-balanced institutional foundation of social infrastructure, rather than merely an undervalued gendered service. Under colonial and heteropatriarchal domination, caregiving is typically distributed unequally and falls on a single caregiver, usually a woman in the family, as the Eurocentric norm of gender roles determines. When this care is delivered by a paid provider, it is viewed by neoliberal economics as a tradable service that bears a "feminine virtue" (Chen, 2025, p. 1). When care is a shared responsibility, however, as the subsequent discussion of the ANCWBL demonstrates, it is intended to promote overall well-being by integrating cultural safety, holistic health, and reciprocal relationships. Its delivery follows conscious and proactive planning upon a shift from the gendered stereotype of "a homemaker" to a coordinated, team approach to caretaking as a shared responsibility. An example of this approach is the institution of community-based mechanisms, such as a Community Agreement, community standards, and a Child and Family Services Committee in the Anishinabek institution of self-governed child and family services.

This community-led institution of care, for instance, is governed by primary principles whereby First Nations exercise self-determination to achieve family unity as a sovereign priority, quality care based on consent, and recognition of claims to customary

support services as a universal right to care essential to improving overall well-being. Quality care is defined and accessed by voluntary choice, not a reactive coercive state-mandated intervention/apprehension, because consent is needed between the caretaker (such as the parent/guardian) and the care recipient (child/youth) as well as among caretakers (parent/guardian and an extended family/a First Nation/a First Nation child and family services agency). This collaborative exercise of consent is mediated through the community-led institution of care, or the Child and Family Services Committee, and is aimed at achieving accountable, transparent, ethical decisions. By following culturally grounded community standards, consent-based decisions on caretaking are delivered through a care plan to ensure the well-being of the care recipient, including their continuing ties to family unity and cultural heritage, involving elders, kinship systems, and language and ceremonies. Even when outside services are required, in case of adoption or protection, community standards are closely observed to uphold Indigenous sovereignty. This care plan is invoked in a timely manner by the mandatory order of reporting on any sign of compromise of the child/youth's rights and is revisited within 72 h to determine the return of the child/youth's well-being and family unity. Furthermore, perhaps the most transformative element of the Anishinabek community-led institution of care is the universal right to voluntary claims to customary support services that include any number of determinants of health that may be lacking. These services vary from many types of health care and parenting support, through financial, housing, and employment assistance, to mediation of disputes and drug or alcohol treatment and rehabilitation. This customary support, together with kinship ties, forms essential social infrastructure for the upkeep of overall well-being and the inherent right to belong to Anishinabek land and culture. It represents a primary item for negotiation with governments on public funding and Anishinabek sovereignty. Inadequate funding for customary support would undermine the Anishinabek institution of self-governed child and family services.

Finally, caretaking, admittedly, in the Anishinabek institution of an extended communal network is distributed based on roles that are fluid and can be performed between genders. Traditionally, mothers, grandmothers, and aunts assumed stewardship roles. Women's stewardship role is intrinsic to Indigenous feminism that sees it deeply embedded in traditional governance, political practice, and relationality, rather than a naturalized caregiving function. In other words, care under women's stewardship is shared, based on consent between mutually respected equals in the processes of making decisions, where possible, in a continuous exercise of obtaining and giving permissions from and to caretakers and care recipients and among caretakers. Care is therefore a notion of relational accountability, rather than a task or emotion, a deeply embedded, reciprocal responsibility to others that requires individuals to be answerable and responsible within the context of their relationships. Such accountability is highly political, as it is intensely embedded in decision-making and the exercise of authority over resource management. Women, traditionally, played the roles of land stewards and water carriers and have been in the forefront of Indigenous struggles against colonial oppressions and the Western imposition of gender norms (Kuokkanen, 2025). As demonstrated next, women have led in the struggles to overcome the impacts of colonial child welfare systems. Their continued leadership will be a critical factor in advancing sovereignty, securing sustainable funding, and navigating complex legal and political relationships with governments.

### **3. An Indigenous Feminist Analysis of Systematic Evidence of Colonial Impacts and the Rise of Women**

This analysis expands significantly on an effort to articulate an Indigenous feminist perspective of the impact of state child welfare to help highlight an understanding of the

adoption and implementation of the ANCWBL as a shift away from the colonial “protection” model toward a decolonial framework of community-led care and sovereignty. It, as noted in the Acknowledgments, greatly benefits from the valuable guidance of Indigenous feminist practitioners for locating crucial accessible policy documents and reports. The materials that exemplify their evidence-based guidance include the ANCWBL text and related Anishinabek policy documents, implementation guidance, organizations’ reports, and related scholarship, as well as government policy documents, analysis reports, and media investigative reports. These materials are organized to demonstrate the detrimental impacts of colonial policy on Indigenous peoples, especially children, women, and their families. They are also used by following Indigenous feminist core tenets to evidence that gender-aware and feminist lenses are required for recognizing diverse experiences with colonialism and to demonstrate women’s leadership in revitalizing the Indigenous practice of consent and building Indigenous systems of customary care.

Indigenous feminism, for a start, sees that customary care, traditionally practiced by Indigenous peoples, including the Anishinabek Nation, followed a holistic approach that embodied community and family and placed a high value on children and kinship, wherein relatives cared for one another. Women played a very significant role in this kinship support and were respected as knowledge keepers, healers, bearers of future generations, and leaders and decision makers as equals to men in both the family and community (Anderson, 2009; Johnson, 2008; Kuokkanen, 2025).

However, the *Indian Act* of 1876, which still controls many aspects of Indigenous life, disrupted Indigenous social relationships, including women’s leadership in care. The residential school system, established in the 1880s, “To kill the Indian in the child,” forcefully took Indigenous children away from their families and communities, leading to their loss of culture and language (Haig-Brown, 2012). As residential schools were phased out beginning in the 1960s, a different form of assimilation through state-run child welfare systems began, also directed at Indigenous children. Through practices associated with the “Sixties Scoop,” many children were taken from their homes or their mothers through apprehensions and “birth alerts” and placed by state child welfare agencies into foster care, often in non-Indigenous homes (Sinclair, 2007, 2016; Ives et al., 2015).

Indigenous feminists helped raise public awareness about the practice of birth alerts, which allowed children’s aid societies to alert a hospital if they believed a newborn baby might need protection from a “high-risk” mother. Like the forced sterilization of Indigenous women, it was used at the discretion of doctors and health authorities in different provinces beginning as early as the 1920s (Hassmann, 2019). It was not a legislated practice but a policy of child and family services, and it, as the following case shows, often occurred concurrently with sterilization. Sterilization procedures were generally performed after abortions or births without informed consent and under duress. According to the first Indigenous person appointed to the Senate from Ontario and feminist, Yvonne Boyer (Boyer, 2009, pp. 70–71), beginning with the *Sexual Sterilization Act* of 1928, adopted in Alberta, Indigenous women and girls were disproportionately represented among sterilization cases from 1937 to 1988. Ever since the repeal of the sterilization law in the 1970s, Indigenous women have been coerced into sterilization. In just one example, Liz underwent sterilization when she was 17 years old because her Children’s Aid Agency worker at the time, in 1977, threatened to take her baby away after delivery (Kirkup, 2018). These practices remained hidden from the public until media reports revealed that hundreds of newborn babies had been taken away by child and family services in Manitoba in a year, with or without their mothers’ permission (Frew, 2020). These media reports also helped terminate “birth alert” in several provinces, including British Columbia in 2019, Manitoba in early 2020, Ontario in July 2020, and Nova Scotia in December 2021 (Harris, 2020; Chandler, 2021).

While the birth alert and sterilization practices were ended, the overwhelming number of Indigenous children in settler child welfare continued to be an alarming concern. In 2008, for instance, “the number of Indigenous children in care outside their family home was three times the number of children in residential schools at the height of their operation” (Blackstock, 2019). In British Columbia in 2008, 51 percent of all children in foster care were Indigenous, even though Indigenous people comprised only 8 percent of the province’s population. The proportion was even higher in Manitoba and Saskatchewan, where nearly 90 percent of children in state care are Indigenous (UBC First Nations and Indigenous Studies, 2009; Edwards, 2018). In 2016, of all the children in government child welfare in Canada, 85 percent were Indigenous, although Indigenous peoples make up just 4 percent of the national population (Sinclair, 2016). Former federal Indigenous Services Minister Jane Philpott stated in 2017 that “the rate at which Canada is apprehending Indigenous kids is among the highest in the world” (Kirkup, 2017).

The high rates of Indigenous children in foster care, argues a child rights scholar, relate to the dominant practices of a colonial child welfare system built on patriarchy and paternalism, which views children as property and is reactive rather than preventative/proactive (Waldock, 2016). “It (the colonial system) focuses largely on individual responsibility and neglects collective accountability; it is punitive to parents—mothers in particular—and prefers investigative approaches (risk assessment) over supportive inclinations; it is prone to cultural insensitivity . . . and it tends to employ the formal, adversarial legal system, rather than more family-friendly approaches” (Waldock, 2016, p. 306).

For example, different funding approaches were used by the federal government and the provincial and territorial governments that distributed funds in similar ways, in favor of foster care. Ontario adopted a unique agreement with the federal government in 1965 to extend provincial child welfare services to reserves and subsidize caregivers who adopted Indigenous children, as well as child and family services, childcare, and homemaking, with the total then reimbursed by the federal government. According to the Chiefs of Ontario (2024), the 1965 Welfare Agreement between the federal and Ontario governments did not have any First Nations signatories and frequently operated without consultation or consent. Directive 20-1 applied in British Columbia, New Brunswick, Newfoundland and Labrador, and the Yukon Territory, and the enhanced prevention-focused approach applied in Alberta, Manitoba, Quebec, Saskatchewan, and Prince Edward Island (Bezanson, 2018).

Moreover, governments tend to set policies on delivering services to First Nations based on colonial child welfare standards that ignore Indigenous cultures and traditional practices (Jansen, 2014). These standards are more about management through “scientific instruments” (such as risk assessments) rather than building family relationships and community integrity in the “best interest of the child,” especially a status child on reserve. They are crafted together with sets of risk assessment measurements and procedures and set at levels that Indigenous families have difficulty meeting. Studies have found that poverty, unacceptable housing, domestic violence, and parental substance abuse are the top precipitating factors for bringing children into foster care. One study in 2001 estimated that 20 percent of children in government care in Ontario were there due to a lack of acceptable housing (Callahan & Swift, 2012). Michael Lee (Lee, 2020) reports that 47 percent of children in the Ontario foster care system were there due to domestic violence that resulted in a call to authorities. He continues: “Under the current system, children can be removed from their homes, put into the system, and never be reunited with their family—if, by the time the situation stabilizes, they are too enmeshed in the system to easily transition out.” A key reason for this is that the long-lasting negative impacts of alienating Indigenous children from their families, cultures, and languages have led to many fractured families and given rise to intergenerational trauma and violence (Blackstock, 2019, pp. 28–37).

As scholars of decolonization argue, the continuing suffering of Indigenous people on reserves, including food insecurity, substance abuse, mental health issues, disease, high rates of suicide, violence, and overrepresentation in the child welfare and prison systems, over time has created collective trauma among Indigenous peoples (Alfred, 2009; Belanger, 2008). The inability of Indigenous peoples to fulfill their cultural, social, spiritual, and traditional obligations results in a collective loss of self, community, and nation. Indigenous scholarship has identified that the colonial destruction of First Peoples' social and political institutions has not only fundamentally changed Indigenous ways of life but also created poverty and disease in Indigenous families due to lack of employment, political power, and health and social services (Alfred, 2009; Boyer, 2009).

Historically, people living on reserves have been excluded from most research and statistics concerning poverty. In 2015, Statistics Canada released its first study that indicated 44 percent of the on-reserve population lived in low-income households, compared to 14.4 percent of the total Canadian population (Statistics Canada, 2021). In 2020, the growing urban Indigenous population in Winnipeg, for example, representing the largest Indigenous population of all urban centers, experienced a poverty rate of 23.2 percent among First Nations, 10.5 percent among Metis, and 14.4 percent among Inuit, compared to 8.1 percent for all Canadians (Statistics Canada, 2022a). Indigenous peoples also suffer at a higher rate from infectious and chronic diseases such as diabetes (12 percent for First Nations compared to 8 percent for all Canadians) and tuberculosis among Inuit (33 times that of the overall Canadian population) (Statistics Canada, 2022b; Government of Canada, 2025).

Indigenous feminism highlights that the impacts of colonialism are pervasive; they are particularly felt by Indigenous women (Blackstock, 2019; Anderson, 2011). The *Indian Act* forbade Indigenous women from taking part in politics or any decision-making process and denied status rights to those who married non-Indigenous-status men. The children of these women were further denied Indian status, resulting in generations of displaced Indigenous women and children (Anderson, 2009, p. 101; Chansonneuve, 2007, p. 7). The gendered impacts of colonialism are reflected, as Jennifer Henderson and Pauline Wakeham (Henderson & Wakeham, 2009) argue, in the unique challenges Indigenous women face when they experience the loss of their children and their place within family and community. Over generations, these deprivations exposed them to physical, psychological, and sexual violence, particularly through residential schools and the colonial child welfare system (Boyer, 2009, p. 78).

Feminist researchers have long pointed out the connection between Indigenous overrepresentation in the child welfare system and the criminal justice system, as well as in human trafficking for sexual exploitation, adding to the tally of missing and murdered Indigenous women and girls (Sikka, 2010; Anupriya, 2007). A study completed in 2009 by Statistics Canada found that Indigenous women and girls were three times more likely to be victims of violence, especially trafficking and spousal violence, and eight times more likely to be murdered than non-Indigenous women and girls (Rennie, 2014; Kirkup, 2018). In August 2014, the death of Tina Fontaine, a 15-year-old member of the Sagkeeng First Nation in Manitoba, who was in Child and Family Services care at the time, incited national outrage. These realities show the crucial need to apply gender-aware and feminist lenses to family and child services to recognize Indigenous peoples' diverse experiences with colonial practices and to develop strategies capable of promoting justice and liberation by restoring the voices and rightful places of children and women in family and community through the exercise of consent.

Historical and feminist analyses of colonial practices reveal Indigenous women's leadership in the struggle against child welfare practices. Women's leadership in this struggle is part of wider efforts to regain their traditional stewardship role in family and

community and is a leading force in decolonization. Their demand for the adoption of Bill C-31, *An Act to Amend the Indian Act* (1985), resulted in many women (and their children) regaining their Indian status after having married non-status persons. “By the end of 2002, more than 114,000 individuals had been added to the Registered Indian population” (O’Donnell & Wallace, 2011).

The First Nations Child and Family Caring Society of Canada (FNCFS), led by Cindy Blackstock, Canada’s foremost Indigenous children’s rights advocate and feminist, played a crucial role in bringing Jordan’s Principle into force. Adopted by the federal House of Commons on 12 December 2007, this is known as the child-first legal rule in memory of Jordan River Anderson, a First Nations boy from Norway House Cree Nation in Manitoba, born in 1999 with special medical needs. Jordan finally died in a hospital at five years of age while waiting for a resolution of the dispute between the provincial and federal governments over who should pay for his home care on the reserve after his hospitalization. The public outcry propelled Jordan’s Principle, which is meant to place children’s needs first in response to the federal government’s refusal to cover Jordan’s care costs unless he lived off-reserve and in the care of child welfare. It also meant that governments should, in the name of Indigenous children’s safety and well-being, stop denying them government services that are routinely available to other children in Canada.

The FNCFS was also instrumental in bringing forth a landmark decision of the Canada Human Rights Tribunal (CHRT) in 2016. The decision adjudicated that intergovernmental disputes over funding continued to delay, deny, or disrupt care for children on reserve unless those children were placed into the child welfare system, especially in cases involving special medical needs (Blackstock, 2019). Apart from the CHRT decision that brought to light important reasons for the overrepresentation of Indigenous children in foster care, it also supported Indigenous complaints that the Canadian government discriminated against First Nations children on reserve. This discrimination was widespread in the provision of child welfare and related services on reserve, including funding at levels below what exists elsewhere, resulting in gaps in services that violate Jordan’s Principle.

The final CHRT ruling was the result of long and arduous efforts to follow through on an Indigenous complaint first filed by the FNCFS in 2007. These efforts began with a joint review conducted in 2000 by the Assembly of First Nations, the FNCFS, and Indian and Northern Affairs Canada (INAC, dissolved in 2019 and replaced by two departments: Crown-Indigenous Relations and Northern Affairs Canada and Indigenous Services Canada). This joint review found that First Nations children on reserve received approximately 22 percent less in child welfare funding than other children in Canada, and that there was a shortfall of funds to enable social workers to offer families less disruptive services before taking the step of removing children. As Wendy Stueck (Stueck, 2017) points out, the lack of appropriate funding for family services, including those operated by Indigenous child welfare agencies, increases the probability “that children will be placed into government care” or related foster care and group homes. First Nations communities are left with service provision that is severely underfunded and under-resourced.

In 2005, the FNCFS conducted a second review in partnership with several child rights researchers, which resulted in three reports on the shortfalls of the current funding approach, the current structure of the funding formula, and evidence-based, affordable solutions (Blackstock et al., 2006; Blackstock, 2019). The child welfare system that grew out of this approach was built on the premise that funding depended on children entering care; that is, the more children taken into care, the more funding a Children’s Aid Agency received from federal/provincial governments. Such a funding approach, as delineated by the CHRT ruling, fails to provide adequate financing to respond to variances in community needs based on size, service demand, and volume. It also fails to fund legal counsel for fam-

ily and band representation in child welfare cases involving child apprehension. Moreover, it fails to adjust cost-of-living supports to inflation and current wage levels, as required by provincial and territorial standards and protection legislation, thus discouraging on-reserve adoptions of children. The effects of these policy failures directly expose Canada's betrayal of the principles of the International Convention on the Rights of the Child to protection, provision, and participation.

The CHRT's 2016 decision to issue three compliance orders to the federal government to address discrimination against Indigenous children, including the implementation of Jordan's Principle, exemplifies Indigenous women's rise to leadership and resulted in policy changes (Fontaine, 2017). On 26 July 2023, the CHRT issued a letter-decision on a revised final settlement agreement regarding compensation for First Nations children and families totaling \$23 billion (Government of Canada, 2023). Earlier, the federal government pledged more funding, including \$679.9 million to fulfill Jordan's Principle and an increase to the FNCFS budget from \$676 million to \$1.2 billion a year (Government of Canada, 2016). On 1 February 2018, the then-minister of Indigenous Services Canada announced a six-point plan for following through on the CHRT's compliance orders, focused on prevention and collaboration on legislative and institutional development and trilateral technical tables and data, creating changes in funding and other aspects of collaboration (Tasker, 2018; Rabson, 2018). According to Mia Rabson (Rabson, 2019), the Assembly of First Nations estimates the number of children impacted at around 54,000. On 6 September 2019, the federal government announced a compensation package of \$40,000 for every First Nations child who was separated from their family by an underfunded welfare system since 1 January 2006, and another \$40,000 for each of their parents or grandparents.

The CHRT ruling allowed Indigenous families to continue working toward changes in their lives and the lives of children in their communities by building on efforts from a wellness perspective to prevent children from entering state child welfare systems. This, and other changes, signals a turning point in the colonial practices of a child welfare system that was funded in direct compliance with provincial legislation. In January 2018, the then-Assembly of First Nations Chief, Perry Bellegarde, urged communities to take it upon themselves to control child welfare by passing their own laws. The federal government announced on 14 February 2018 the creation of a Recognition and Implementation of Rights Framework to guide future relationships to be developed by October 2019 in consultation with Indigenous peoples (Government of Canada, 2024). In 2019, it co-developed, with Indigenous and provincial and territorial partners, the unprecedented Bill C-92, *An Act Respecting First Nations, Inuit and Métis Children, Youth, and Families*, to establish national principles in the best interest of the child, cultural continuity, and substantive equality in the provisioning of Indigenous child and family services. The Anishinabek Nation insisted, as part of their recommendations on Bill C-92, that First Nations should be granted the same legal status and representation as foster care providers in any proceedings. First Nations should have the right to make representations to, and have party status in, all child welfare proceedings that include their members as parties in order to ensure their full jurisdiction and authority over child welfare (Anishinabek Nation, n.d.; Government of Canada, 2019b). Also, the Anishinabek Nation proposed including funding provisions for child and family services pursuant to agreements with Indigenous governing bodies.

While Ontario First Nations Chiefs-in-Assembly ratified the draft *Final Agreement on Long-term Reform of the First Nations Child and Family Services* (FNCFS) reached in Ottawa in July 2024, they decided to also enter an Ontario-specific agreement. After months of negotiation, a provisional *Final Agreement on Long-Term Reform of the FNCFS Program in Ontario* was adopted in February 2025, whereby Indigenous Services Canada (ISC) committed \$8.5 billion over nine years beginning 1 April 2025 to reform FNCFS funding.

In addition, ISC will provide the full cost, among other items, of administrative support for the Ontario Reform Implementation Committee, cultural humility training for ISC employees, two comprehensive program assessments, and legal fees (FNCFS Reform, 2025; Barrera, 2018). This agreement commits the federal government to working with Chiefs of Ontario and Nishnawbe Aski Nation and the Ontario government on reforming the 1965 Agreement to finally reverse the long history of underfunding First Nations child welfare services.

The province's consent to review the 1965 Agreement laid the foundations for prevention services and First Nations-led institutions that build on cultural and community strengths in support of children so that they can grow up in a safe, healthy environment with a secure personal and cultural identity (Government of Canada, 2017). Ontario's current plan to reform the child welfare system accepts Indigenous communities' own programs, such as Nijjaansinaanik Child and Family Services, the 13th Indigenous children's aid society (10 in the north and 3 in southern Ontario) out of a total of 51 children's aid societies across the province (Government of Ontario, 2023). The plan also includes amendments to Ontario's *Child, Youth, and Family Services Act* to enable Indigenous children to access customary care and remain close to home and connected to their cultures and traditions through recognition of Indigenous laws as having the force of federal laws.

#### **4. Implementing the Anishinabek Nation Child Well-Being Law (ANCWBL)**

Indigenous feminism underscores women's leadership, leading to the final CHRT ruling and resulting policy changes that are now transforming federal and provincial colonial practices in Indigenous child welfare. Restoring women's traditional leadership in family and community is equally important for Indigenous feminism to be evident in the implementation of the ANCWBL, which is recognized as a way of preserving Indigenous cultures through child and family services (Ball & Benoit-Jansson, 2023). Admittedly, there are still no systematic review results for the Anishinabek operation of customary care as a public good. The following discussion of the implementation of ANCWBL points to the involvement of all members of the community in the collective responsibility to uphold children's rights and women's leadership. As indicated below, women's leadership, essential to customary care as a collective responsibility, can be achieved through public funding, cultural practices, and individual and collective consent as a key to decolonization and the reversal of settler child welfare systems.

Over a decade ago, the Anishinabek Nation started working on the ANCWBL by first forming the Anishinabek Nation Child Well-Being Working Group (ANCWBWG), comprising First Nations community members, First Nations leadership, child welfare agency directors, and child welfare frontline workers, among others (Barrios, 2018). This group continues to meet four times a year in each of the regions of the Anishinabek Nation, consulting with communities on the drafting and implementation of the ANCWBL (Plain, 2019). To draft an Indigenous-responsive law based equally on tradition and today's realities, the Working Group decided on a governance structure that treats each of the 39 First Nations as inherent individual jurisdictions that consult with the community, as well as on-reserve and off-reserve First Nations people. Elders were invited to help develop the original instructions of ancestors on *One Anishinabek Family*, especially the *Creator's gifts of spirituality and the seven sacred teachings*, as the leading principles that anchor the ANCWBL. By including ceremonies that revitalize culture and connect to spirituality, the process revived traditional practices, including prayer at all gatherings and hosting elders on-site at all times. Soon, a draft ANCWBL under the Anishinabek Constitution took shape that included standards of respect for the role of family and community in child care,

voluntary services to ensure the protection of children and youth, and requirements for First Nations and parental approval of adoptions.

A draft of the ANCWBL was shared first amongst on- and off-reserve First Nations, especially Elders, Youth, and Women's Advisory Councils ([Anishinabek Nation, n.d.](#)). A second draft was shared in 2010–2011 to gain further input and recommendations from the wider First Nations membership and leadership. To carry out the principles identified by the Working Group, including inherent jurisdiction, an implementation strategy that emphasized the child's best interest and the consent of the parent/guardian, and the community was regarded as critical to the adoption of the law. This strategy was established by the ANCWBWG over a period of three years and was first presented at the Grand Council Assembly in 2015. The final draft of the ANCWBL was amended to include this strategy on 1 April 2016 and was finally adopted by the Chiefs-in-Assembly on 1 April 2017.

The ANCWBL opens with a statement of jurisdiction: Ngo Dwe Waangizid Anishinaabe (*One Anishinaabe Family*), as a land-based guiding principle, declares that "First Nations have the inherent jurisdiction over child well-being involving our children regardless of residency" ([Anishinabek Nation, 2019](#)). This statement provides a foundation for building an alternative model of child welfare to the existing two-tiered state child welfare system. According to the *Anishinabek Nation: Jurisdictional Model for Moving Forward*, the Anishinabek Nation's inherent jurisdiction constitutes more than just decision-making power over child welfare; it is the recognition of the existence of the Anishinabek Nation as a self-governing body. Making a fundamental distinction between inherent jurisdiction and constitutional jurisdiction, the Anishinabek Nation declares that the latter was imposed arbitrarily by the federal government without their approval. Anishinabek jurisdiction is inherent and existed long before the declaration of the Royal Proclamation of 1763, in which the British crown recognized First Peoples as self-governing nations with defined land rights.

The Proclamation obliged colonial settlers to build nation-to-nation relationships with Indigenous peoples in the Great Lakes area ([Fleras, 2017](#)). Yet, the various promises made in the Proclamation to Indigenous peoples regarding protection from the "Frauds and Abuses" of colonial settlers were later abandoned in treaties negotiated between the British Crown and First Nations. These treaties included the Fort Niagara Treaty of 1764 and the Robinson-Huron Treaty of 1850 in Ontario, and beginning in 1871, the so-called Numbered Treaties (11 in total) covering vast areas from Ontario to the Rocky Mountains and into the North ([Edwards, 2018](#)). Colonial governments chose to view these treaties as "legal surrenders of aboriginal land and authority in exchange for reserves, goods and services" ([Gaudry & Lorenz, 2018](#), p. 218). Over time, however, settler betrayal of their treaty obligations deprived Indigenous peoples of their right to self-determination and ultimately their traditional ways of life. Any efforts today to build nation-to-nation relationships between Canada and First Peoples need to fulfill treaty obligations by recognizing Indigenous self-government. These obligations are also mandated by Canada's commitment to the United Nations Declaration on the Rights of Indigenous Peoples (UNDRIP).

An emphasis on Anishinabek jurisdiction is vital to the success of the ANCWBL because its implementation rests on enforcing treaty obligations toward a more equitable sharing of wealth and resources to support customary services that abide by community standards and traditional values of consent and care as a community responsibility. The ANCWBL, moreover, provides an alternative to the discriminatory funding formula imposed on First Nations communities that long operated on a year-by-year basis and therefore failed to provide the stability communities needed to develop and implement long-term strategies ([Kirkup, 2017](#)). This alternative will require changes to self-government agreements that

specifically enhance the Anishinabek Nation's ability to negotiate shared resources and revenues to expand funding for customary services focusing on First Nations families and communities. Key to this is an equitable funding formula that commits provincial and federal governments to working together to provide funds and resources to uphold mandatory standards of service on reserves, especially for child and family services. The development of mandatory standards that are germane to First Nations communities and their holistic traditions can only come from local initiatives. An examination of the adoption of the ANCWBL, its objectives, and its governing principles, including the role of the family and the involvement of all parties in the decision-making process, and its mechanisms of implementation, will shed light on the significance of the Anishinabek initiative. Such significance, especially in relation to women's leadership as well as potential challenges in practice, can be appraised through a summary of the enshrined norms of the ANCWBL on the delivery of prevention-focused and community-led customary care and a follow-up discussion of its implementation at both external and internal levels.

The ANCWBL outlines, at the outset, 15 governing principles by which it is to be administered and interpreted in relation to care respecting child and parental priorities (Article 7). Several principles ensure the well-being of a child/youth by residing with their parent/guardian, family, and First Nation. Other principles emphasize that this child/youth's well-being is accomplished by providing support to the child/youth's parent/guardian, family, and First Nation community. The child/youth's well-being, as outlined in the ANCWBL, includes their right to be cared for, which is inclusive of protection from harm, stable relationships and living arrangements, security and safety, and an environment free of violence and abuse. The family, defined in the law as "the Parents/Guardians, siblings, aunts, uncles, and grandparents of a person, including members of the person's clan"—namely, a community network of the extended family—is charged with the primary responsibility of safeguarding and promoting the well-being of the child/youth. This extended family is responsible for ensuring that the best interests of the child/youth are met and that the child/youth is brought up in their family's traditions, culture, values, and language of choice.

Under these governing principles, the best interest of the child/youth is defined as an inalienable right fundamental to customary care (Articles 15–17). Apart from adequate food, shelter, and clothing, an Anishinabek child/youth has the inherent and basic right to the protection and supervision necessary to guarantee their safety and health, as well as nurturing, suitable cultural teachings, and sufficient education and connection to their communities. While respect for traditions, culture, values, and language is a fundamental right, several factors are taken into consideration when determining the best interest of the child/youth. These are the need for protection from harm and abuse, including the ability of the parent/guardian to protect the child/youth and to provide for the child/youth's needs. Family-of-origin relationships are nurtured and encouraged while assessing the risks to the child/youth of removal from, returning to, or being allowed to remain in the care of a parent/guardian. The possible impacts of a delay in making a decision, including the wishes or views expressed by the child/youth based on their age and level of understanding, are taken into consideration. The continuity and stability of a child/youth's living arrangements are, furthermore, secured through avoiding disruptions, including separation from a parent/guardian, siblings, extended family members, or any significant others in their life, so as to maintain the child/youth's traditions, culture, values, and language.

The ANCWBL deems that a child/youth under the age of eighteen is in need of protection when at risk of physical, mental, emotional, or sexual harm by a parent/guardian, or when a parent/guardian is unwilling or unable to adequately provide care and offer protection for a child/youth (Article 25). Protection is conditioned on failure to provide the

necessities of life, risks of harm to the child/youth because of abuse by a parent/guardian, and care of orphaned children when the child/youth's extended family is unwilling or unable to provide care, or when the child/youth has killed or seriously injured another person. When a child/youth is identified as needing protection, either voluntarily or involuntarily under the ANCWBL, it is their right to be fully informed and engaged in the decision-making process (Article 18). Measures must be taken to ensure that the child/youth understands the nature of the process, has an opportunity to participate in and respond to the decision, and expresses their wishes and views freely. Assistance will be given to the child/youth to express those wishes and views, taking into account their level of maturity and understanding. The adoption of a child/youth by a First Nations family, whether of the First Nation to which the child/youth belongs or that of the parent/guardian, requires the specific consent of the parent/guardian.

Furthermore, the law outlines principles of intervention that promote family and First Nation integrity and continuity, ensuring that a child/youth is only taken from a family if there is no alternative way to safeguard their well-being. If a child/youth is removed by a child welfare agency, the child/youth must be encouraged and supported to maintain an appropriate relationship with their parent/guardian or other family members as desired. A child/youth who has been removed is to be provided with a sufficient level of care to ensure that their needs are met, and that care must be consistent with community standards. If a child/youth is to be relocated, any decision regarding the child's care must be made in a timely manner. The parent/guardian and other significant individuals will have the opportunity to participate in the ongoing decision-making process.

According to the ANCWBL, community standards determine "the level of care adequate to meet a Child/Youth's needs in the best interests of the Child/Youth section of this law; whether or not a Child/Youth needs protection under this Law" (Article 63). With the objective of ensuring the safety and overall well-being of First Nations children/youth, families, and communities, customary support services are provided to the parent/guardian in order to ensure adequate care for the child/youth (Article 21). Requests from parents/guardians to access customary support services are viewed in a positive light during any legal proceeding involving the child/youth. Customary support services are voluntary and may include the following: counseling, in-home support, respite care, parenting programs, services for improving a family's financial situation and/or housing, services to aid in supporting a child/youth or family member who is ill, mediation of disputes, and drug or alcohol treatment and rehabilitation. An offer of assistance may last up to six months at a time.

The ANCWBL affirms the clear duty to report without delay risks to any child/youth who is in need of protection. This duty to report negates confidential and privileged information, and failure to report is subject to First Nation sanctions (Article 26). Where a need for protection is determined, the child/youth protection worker, peace officer, or authorized person has several options to address the immediate needs of the child/youth. The child/youth may be taken into care, or the parent/guardian may be offered customary support services. For instance, when a child/youth is taken into care, the child/youth protection worker must follow guidelines for an investigation and assessment of the need for protection. This may include offering voluntary support services to the parent/guardian without entering into an agreement under Section 21 of the *Ontario Child, Youth, and Family Services Act* until a Plan of Care commences or there is a court order. Where no customary care arrangement is established, a Plan of Care Committee must be established within ten days to support the family and take the necessary steps to ensure that the best interests of the child/youth are met. Here, responsibility for the delivery of day-to-day child well-being programs and services is allocated to child well-being agencies in partnership with the

“First Nation community, families, local and regional social, health, educational, policing and other agencies and organizations” (Article 50). The goal is to ensure that First Nations exercise their right to provide care for and advance the social development of First Nations children, specifically within an Indigenous child welfare system.

However, if the child/youth is returned to the parent/guardian within 72 h, a Plan of Care Committee will not be established. A report is to be completed by the child/youth protection worker that presents the facts of the case, including measures taken to protect the child/youth. This report is to be presented to the director of the Customary Child Protection Service. In the event that the investigation report determines that a child/youth is not in need of protection, the Plan of Care Committee will be dissolved, the application provided to the court will be withdrawn, and the child/youth will be returned home.

The implementation of the ANCWBL is considered here on two levels: the external process of negotiating with settler governments and other outside entities, and the internal process of working with member communities and First Nations overall. Externally, the Anishinabek Nation chose to forego negotiating for a free-standing self-government and instead proposed to enter into practical agreements with settler governments in order to achieve a workable model of, and funding for, self-governance over child welfare matters—a model for First Nations to exercise jurisdiction over child welfare. The goal is to make government support truly meaningful by covering the full investment in customary services that ensure Indigenous children’s best interests and recognize care in Indigenous practices as a community responsibility and a public good accessible to all members of the community. Viewed in this light, the ANCWBL represents a momentous opportunity to help Anishinabek communities establish Indigenous child and family services and enforce treaty obligations and self-determination through its implementation.

As early as 2015, the Anishinabek Chiefs-in-Assembly decided to enter into discussions with federal and provincial governments on the ultimate goal of securing support and funding for the ANCWBL. Updates on the status of these negotiations were shared among the Anishinabek First Nations for them to review and approve any related written documents. The effort to secure funding from the federal government and ensure the implementation of the ANCWBL aimed to entitle member citizens of the Anishinabek Nation to quality, customary care in the best interest of the child and to establish the Anishinabek Nation’s independent legal status in Canadian courts. A protocol was signed with the Ontario government in April 2017 outlining a relationship agreement established in November of that year that saw the government commit to the implementation of the ANCWBL. This commitment included a collaboration agreement proposed by the Anishinabek Nation/UOI to deal with issues of prevention and balance out the existing system with the new Anishinabek system. A framework and funding agreement proposed by the Anishinabek Nation/UOI saw progress when the then-minister of INAC visited in 2019 and promised federal funding for the Anishinabek Nation Child Well-Being System, including the internal mechanism of Koganaawsawin ([Government of Canada, 2019a](#)).

Within the Anishinabek Nation, Adrienne Pelletier, then-Director of Social Development at the Anishinabek Nation/UOI, explains Koganaawsawin as the act of raising children together in community ([Plain, 2019](#)). Pelletier and Tracey O’Donnell, legal counsel for child well-being initiatives, are recognized as two leading figures in the establishment of Koganaawsawin. As a mechanism, it is the central focus of the Anishinabek Nation Child Well-Being System, meant to assist First Nations communities in adopting the ANCWBL and establishing a child welfare system ([Anishinabek Nation, 2024](#)). Implementing Koganaawsawin employs five full-time staff who support the various First Nations to achieve the level of services called for in the Law, from the repatriation of children and birth registration to setting up community standards and matching service agencies with community

needs. These services do not currently exist in many communities but are needed and important for overcoming intergenerational trauma and building healthy communities by supporting and unifying families. For example, a repatriation coordinator provides services for returning children to their homes. Another task on offer is assistance with registering a child with a birth certificate or a status identity card when members have no money or are unable to fill out the long forms required to do so.

To operate Koganaawsawin, members of the UOI Social Development Department have formed an Anishinabek Nation Child Well-Being Coordinating Body headed by a director who reports to the Chiefs-in-Assembly and works with individual communities on adopting the ANCWBL. As communities vary (some are small with fewer than 100 members, while others comprise several villages), some require the support of two-thirds of members to pass a law, while others can adopt it by approval of the band council. Often, the Koganaawsawin process involves several discussions with the members and leadership of a community, first addressing their concerns before moving forward. These concerns often revolve around the standards, cultural practices, and living conditions that a community holds but are rejected by the existing Ontario provincial government's child welfare policies and practices.

Among the services the Koganaawsawin Coordinating Body offers to First Nations, priority is given to the signing of a Community Agreement by resolution or bylaw to confirm a First Nation's participation in the Anishinabek Nation Child Well-Being System. With this agreement, the Coordinating Body proceeds with the assistance of the First Nation to establish a Child and Family Services Committee (including defining its role in the First Nation, namely, its power and duties under the Law, the terms of office of its members, and the procedures by which the Committee conducts meetings and performs its role) and to set out the procedure for establishing and amending community standards, making them widely known among community members. The Body will also help enter into an Agency Community Agreement with a child well-being agency based on assessing an agency's capacity for service so as to bridge any gaps between the First Nation community and service agencies in terms of cultural appropriateness and compliance with the community's standards.

Among the 22 First Nations that have adopted the ANCWBL, the Coordinating Body is helping communities enter into agreements with child well-being agencies for the delivery of services under a First Nations mandate, in accordance with community standards. For instance, Niijaansinaanik Child and Family Services, which incorporated as a nonprofit organization in 2018, together with Koganaawsawin, has provided child protection, prevention services, and other customary and alternative services to First Nations in the Nipissing and Parry Sound area.

Community standards that prioritize the child/youth's best interests, parental social and cultural interests, and customary and voluntary consent and care to maintain community integrity completely differ from state child welfare standards and their emphasis on individual responsibility and formal legal procedures set by Ontario law. With the objective of ensuring the safety and overall well-being of First Nations children/youth, families, and communities, the right to customary support services is important for safeguarding not only the family's standard of living and well-being and those of the child/youth, but also women's struggles against poverty and violence. Recognition of the importance of collective responsibility and informed consent supports women's equality in Anishinabek cultures and acknowledges women's contributions to the well-being of children and families.

Undoubtedly, upholding these core priority principles consistently across Anishinabek Nation communities is a complex challenge, given that many communities have varying social and economic realities and different modes of operation and organization. A critical

focus for the UOI, the political coordination of the Anishinabek Nation, has been guided by the Seven Grandfather Teachings (Love, Truth, Respect, Wisdom, Humility, Honesty, and Bravery) and the principle of Mino-Bimaadiziwin (the Good Life, focusing on balance and well-being), through consultation with the Working Group and the Elders, Youth, and Women's Advisory Councils, and consent-based decision-making processes implemented through community mechanisms to ensure unity and strength in self-governance. An explicit integration of Indigenous feminism that scrutinizes colonial patriarchy and internal community power dynamics will decisively strengthen the Anishinabek model of political coordination. The adoption of gender-aware and feminist lenses, as advocated by the Women's (Kwe-Wuk) Advisory Council, ensures that the Anishinabek institution of self-governed child and family services is a transformative, anti-oppressive project that goes beyond mere governance (Debassige et al., 2024). By combining decolonization and women's advancement, these lenses help move the transformative project beyond traditional Western political frameworks to a level of worldwide significance in promoting gender equity and substantive equality.

This understanding, more specifically, highlights the decolonizing approach to child welfare embodied in the ANCWBL, beginning with the exercise of self-determination in the institution of community-based mechanisms, such as a Community Agreement, community standards, and a Child and Family Services Committee. Such mechanisms expand on customary support services centered on the participation of the child, the consent of the parent/guardian, and the provision of care oriented towards family well-being in accordance with Indigenous values and culture. The institution of these mechanisms through the implementation of the ANCWBL, where family members care for extended families and communities, often under women's stewardship, is an act of decolonization. The potential for this approach to overcome colonial practices rests on Indigenous values based on land, care for and consent of everyone, and respect for children's rights and women's stewardship. The implementation of this system of care represents an Indigenization of child welfare, which, as Adam Gaudry and Danielle Lorenz (Gaudry & Lorenz, 2018) state, is grounded in Indigenous knowledge and experience, in the discussion of Indigenous issues, and in rebuilding and strengthening Indigenous culture, knowledge, and political orders. Specifically, the ANCWBL aids efforts to establish self-government through community development that is supportive of land-based relationships with love and care, as well as the transmission of cultural norms and public programs of socialization built on consent and free of racism. These efforts help not only promote the leading principles of protection, provision, and participation in the international Convention on the Rights of the Child (CRC), but, more importantly, establish an Indigenous system of care that is publicly funded and accessible for all members of the community who share caring as a social responsibility.

The promotion of care as a social responsibility will encourage recognition of Indigenous women's interdependent responsibilities, which they shoulder at home and in the community, upon which underfunded and under-resourced communities rely (Ontario Native Women's Association, 2025, pp. 10, 26–27). These responsibilities are denied value by colonial elites, who have deprived Indigenous communities of social services and quality of life due to multiple inequitable social determinants of health. Indigenous jurisdiction over child and family services is not only about decolonization but also about Indigenous women leading the way to bring their contributions to social reproduction to the forefront. In other words, decolonization helps overcome the heteropatriarchal influence that is especially detrimental to Indigenous women, who are suppressed both as Indigenous people and as women. Through upholding Indigenous holistic customs and restoring the value of women as transmitters of culture and knowledge and as caretakers rather than merely

homemakers, the application of the ANCWBL helps realize the Indigenous feminist pursuit of justice and liberation in families and communities. By centering gender-aware and feminist lenses in child and family services, this application will help reverse the impacts of colonization and advance holistic, community-led, and gender-balanced approaches. In other words, this gender-aware and feminist application will provide a model for promoting social policy and self-determination in service delivery in support of women's rights and family well-being. Women's leadership is a primary driving force towards this model of social policy and service delivery by drawing on their stewardship roles in resource management to secure sustainable public funding and effective policy support.

## 5. Conclusions and Future Direction

The ANCWBL reflects a holistic Indigenous worldview of kinship with the ultimate goal of providing community-based customary care for children and families as a community responsibility and a public good. It has the potential to help Indigenous women regain a leadership role in society. To ensure that Indigenous children remain in their own communities, cared for by their own families, this law establishes an Indigenous child welfare system that reverses previous processes that led to an overrepresentation of Indigenous children in state child welfare systems. Self-governance practices centered on Indigenous jurisdiction and customary care oriented towards family well-being promote Indigenous values and culture and Indigenous models of community development. The law upholds international commitments to protection, provision, and participation through care as a publicly funded community responsibility. The application of gender-aware and feminist lenses to the implementation of the Law establishes women's leadership by redefining care as a collective responsibility, a public good, a universal right and a cornerstone of social infrastructure, rather than an individual obligation. This shift helps recognize care, which is systematically undervalued under neoliberal economics and colonial child welfare practices because it is predominantly shouldered by women in homes and communities, essential for sustaining overall well-being and overcoming colonial and patriarchal influences. Moving toward a nation-to-nation relationship requires the recognition of Indigenous jurisdiction and the enforcement of government obligations in support of the customary care valued by this Law. This will stand as one of the most significant decolonization efforts undertaken in Canada to date. Key questions for future research include the adequacy of funding and resources for achieving consent and respect for children's rights and women's leadership in operating the Anishinabek child welfare system in accordance with Indigenous traditional caring regimes.

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