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Alberta is Engaging With Sixties Scoop Survivors

By Brian Giesbrecht

The government of Alberta has announced that it is working together with what is called the Sixties Scoop Indigenous Society of Alberta. They will hold "engagement" sessions in six locations across the province. The purpose is to "help inform a meaningful apology" to Indigenous adults placed as children in non-Indigenous homes from the 1960s to the 1980s.

The announcement does not say so, but it seems clear that after the apology has been officially made, discussions will immediately turn to compensation. If the federal government's very expensive 60s' Scoop apology is a precedent, the amounts will be significant.

The federal government announced its plan recently to award between $25,000 and $50,000 (depending on how many people apply) to every Indigenous person who was placed as a child with a non-Indigenous family, regardless of whether or not the placement was successful.

It does not seem to be clear at this point whether or not a person can claim compensation from both the federal and the provincial governments, but it seems quite possible. In fact, some people have already launched lawsuits claiming damages. Conceivably, a person who qualifies might be able to claim awards from both levels of government plus suing in court for damages.

What will the total compensation cost to the taxpayer be? The answer is unknown – but the bill will undoubtedly be in the billions.

Given the fact that the federal government established a precedent by making an apology, and announcing an intention to make monetary awards, the decision by the Alberta government is not surprising. In fact, it is probable that the other provincial governments will soon find themselves under great pressure to do the same.

But, they should be careful.

In order to form an opinion on the advisability of making an apology and offering compensation, it is necessary to understand what happened in The 60s' Scoop.

In the 1960s, provincial child welfare workers entered Indian reserves for the first time with a mandate to protect children who were considered to be neglected or in danger. Until that time the federal

government had often used residential schools as a place for children from inadequate homes. Many reserves had, in fact, been ravaged by alcohol abuse and in too many cases alcohol abusing parents were not providing adequate parental care for their children. With the phasing out of residential schools, new arrangements to help and protect these children had to be made, and the federal government made the arrangement with their provincial counterparts that required provincial social workers to assume child care responsibility.

The philosophy at the time was to encourage adoption. Then, as now, there were very few indigenous couples willing to adopt, and the child care workers turned to non-Indigenous couples – first in Canada, then in the United States.

Some of these adoptions broke down. The federal government has now accepted that the cause of the breakdowns was a loss of culture, but the reality is more complicated. In many cases the apprehended children suffered from Fetal Alcohol Spectrum Disorder (FASD), and that was indeed a cause of many of the adoption failures. Be that as it may, the adoption of Indigenous children by non-Indigenous people is now considered to be something that should not have happened. Thankfully, the practice was discontinued by the 1970s and the adoption of Indigenous children by anyone is now largely an historical issue.

If the federal and provincial governments had not acted to protect neglected children, it is certain that they would have faced lawsuits for failure to honor their commitments to Indigenous children. There probably would have been wrongful death lawsuits as well. With hindsight, it can be seen that both levels of government made mistakes. But, it is also clear that they had a fiduciary responsibility to these neglected children and they had to act.

That is what is called The 60s' Scoop

But what is less well known is that the "Scoop" never stopped. In fact, there are more Indigenous children in care now than during the height of the 60s' Scoop. Manitoba, for instance, has over 10,000 Indigenous children in care. That represents almost 100% increase since 1985. Those children have been "scooped" by child welfare workers who have an honest belief that a failure to apprehend would place the children's well-being in jeopardy. But now, Indigenous child care workers operate under the same sense of duty to the children as did the non-Indigenous social workers of yesterday.

The date 1985 is significant because around that time Indigenous child welfare agencies began assuming control of Indigenous child welfare services in most provinces. Indigenous advocates promised that if Indigenous philosophy and Indigenous workers and agencies were in control of child welfare responsibilities, the number of Indigenous children in care would be drastically reduced. The governments was desperate to find a way to deal with the continuing flow of neglected Indigenous children who were swamping their child welfare systems, irresponsibly accepted this plan even though there was no evidence to support it.

The plan failed. The flow of neglected children who had to be apprehended continued–and then accelerated. Today, the situation is worse than it was at the time of the 60s' scoop.

The only difference is that adoption by non-Indigenous parents is no longer an option for these children. Non-Indigenous couples are not allowed to adopt, and Indigenous couples very seldom adopt. Most of the Indigenous children who are apprehended in Manitoba are placed in non-Indigenous foster homes.

And are the Indigenous “Survivors” of the child welfare system of today any better off than were the children in the 1960s? The answer is “no”.

It is a sad fact that most of the survivors of today’s system do not do well. Too many turn 18, leave their foster homes, and have a dismal future as adults. A life of dependence on the street, or in jail, is all too often the case. It is not at all clear if these people who were apprehended as children are any better off than if they had simply been left in their inadequate homes.

So, the Alberta government, as well as the federal government, might have set a very expensive precedent. If they decide to pay large amounts to survivors of the 60s Scoop, they might be committing themselves to pay similar amounts to the children who were “scooped” in every decade after the 1960s.

Other provincial governments should be following what Alberta decides to do very carefully. It is certain that many lawyers are watching what is going on.

About the Author

Brian Dale Giesbrecht received his education at United College and The University of Manitoba, where he obtained his LLB in 1972. He worked with Walsh, Micay and Co., and then joined Legal Aid Manitoba in 1975 to become Senior Attorney and the first Area Director for western Manitoba in Brandon. Appointed to The Provincial Court (Family Division) in 1976, he heard child welfare cases and general family matters until he transfered to the Criminal Division in 1989. During his career he served on the National Family Court Committee, and various provincial court committees. He was an Associate Chief Judge from 1991 to 2005, and he became Acting Chief Judge in 1993. Among the notable cases he heard was the Lester Desjarlais Inquiry. His report strongly criticized the government’s decision to devolve child welfare responsibilities to racially based child-care agencies. Following his retirement from the Bench in 2007, Mr. Giesbrecht has written extensively for various publications. His main theme has been the need to abolish The Indian Act and the separate systems of government that exist in Canada.

