

**“FOR THE PEACE OF THE COMMUNITY AND THE GOOD ORDER OF  
SOCIETY:” REGULATING ABORIGINAL MARRIAGE RELATIONS IN  
BRITISH COLUMBIA, 1870-1940**

by

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## ABSTRACT

Primarily using missionary and Department of Indian Affairs records, this thesis explores the confluence of interest of three different groups of men who were united in their efforts to reform aboriginal marriage and sexual relations in British Columbia. Between 1870 and 1940, missionaries, government agents, and Indian men lobbied the federal government to initiate reforms that would regulate the relationships between Native men and women. Although these groups had different objectives to reforming the sexual relations of Indian people, they agreed that the intimate relations of aboriginal people were fundamentally tied to the betterment of society as a whole.

These moral reformers believed that the state of marriage relations was highly reflective of the state of society in general. In this way, the family was regarded as a microcosm of society. Not only did the institution of marriage regulate the sexual, gender, economic, and/or rank and status relations between the specific parties involved, but moral reformers of the late nineteenth and early twentieth century believed that the institution of marriage regulated “larger” societal values. Because of this conviction, missionaries, government agents, and Indian men – all hoping to improve their society and community – appealed to the state for greater intervention into the sexual relations of Indian people.

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## Introduction

In the late nineteenth and early twentieth century, those concerned with nation-building were also highly concerned about the institution of marriage. These individuals believed that the state of marriage relations was reflective of the state of society in general. Missionaries, government agents, private citizens, and aboriginal peoples understood that the regulation of marriage was closely linked to the social and economic structure of society. Ultimately, marriage was significant in regulating not only the gender, sexual, economic, and status/rank relations between the families directly involved, but also in regulating "larger" societal values and prescribed gender and age-related roles. In this way, the family was regarded as a microcosm of the nation and carried important symbolic functions.<sup>1</sup>

Because of this, the institution of marriage received increasing attention once settlement in the west began in earnest. Indian marriages, almost always discussed in missionary writing prior to settlement, began to garner attention from other parties around the 1870s. This thesis examines the confluence of interest of three different groups of men – missionaries, government officials, and Indian men – who agreed that Indian marriages needed reforming in one way or another. Despite their different objectives for reforming Indian marriages, these men were united in their concern for controlling the sexuality of Native men and, particularly, Native women. This concern was attached to their other concern for building viable societies.

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<sup>1</sup> Carolyn Strange discusses the connections that moral reformers made between sexuality and the moral state of the city of Toronto. The incidence of sexual vice represented to progressive reformers all that they perceived to be wrong about city life. See "From Modern Babylon to a City Upon a Hill: The Toronto Social Survey Commission of 1915 and the Search for Sexual Order in the City," Patterns of the Past: Interpreting Ontario's History, ed. Roger Hall (Toronto: Dundurn Press, 1988), 255.



Building viable societies and strengthening communities was very much on the minds of some aboriginal men across British Columbia as the twentieth century approached. Experiencing the effects of contact and settlement, Indian groups dealt with displacement and marginalization in different ways, although they usually turned some attention towards family life. As their communities were undergoing economic and social disruption due to disease, the collapse of the clan system in the interior,<sup>2</sup> Euro-Canadian settlement, and the loss or diminishment of resources, some nations turned to more European ways of regulating marriage, while other groups experienced a revitalization of their traditional ways of regulating marriage relations. For example, in the interior of British Columbia, the Lillooet and Shuswap used the apparatus of the Oblate Durieu system to establish some semblance of order over sexual relations between men and women. Their accommodation of the Oblate system was also important in gaining more power both in their community and in the white community. In contrast, the Kwakiutl and Bella Coola on the west coast experienced an increase in material wealth due to trade and industry, and older members invested this wealth towards the elaboration of traditional practices such as marriage regulation.

Although the modes of regulating marriage differed between Indian nations before contact and in response to social changes after contact, there was a growing movement among some Indian men to regulate the sexuality and married life of Indian people through legislation. Along the west coast, younger Native men seemed to want greater government intervention to prevent women from marrying older Native men according to traditional

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<sup>2</sup> Elizabeth Furniss, "Resistance, Coercion, and Revitalization: The Shuswap Encounter with the Roman Catholic Missionaries, 1860-1900," *Ethnohistory* 42, no. 2 (Spring 1995), 250. Also see Furniss' *Victims of Benevolence: The Dark Legacy of the William's Lake Residential School*, (Vancouver: Arsenal Pulp Press, 1992), 42.

marriage practices. In the interior, the “problem” of Native women’s sexuality carried greater urgency as younger and older men were united in their efforts to establish sexual order as they defined it. The movement of Indian women off the reserves and into either white or other Indian communities was a source of social and economic disruption for some of these Native groups.

Increasing Euro-Canadian settlement of British Columbia placed other pressures on Native families. The Department of Indian Affairs sent Indian agents into the field to facilitate its mandate to protect, civilize, and assimilate aboriginal peoples. The agents were instructed to advise and educate Indians about economic development, yet many questioned whether an advisory role on such issues would be enough to bring the Indians into “civilization.” Some agents objected to the ways aboriginal communities regulated the sexuality of their members, suggesting that Native traditional marriage practices were not consistent with the values of Euro-Canadian society. These agents argued that moral intervention was necessary – and more explicitly, that the government should be involved in regulating the sexuality and family life of Native people.

From the 1870s to the 1930s, the Department received a blizzard of complaints from individuals I refer to as moral reformers: namely, Indian agents, some private citizens, and numerous missionaries, who all believed that the sexuality of Native people required greater state regulation and intervention. These reformers were alarmed by the sexual practices of some Indian groups. Reformers were critical of betrothals, early marriages, potlatch marriages, the exchange of bridal payments, the “repurchase” practice, cohabitation arrangements, and easy separations. Some of these practices, like the potlatch marriage, were traditional and other problems such as the prostitution of Native women at

work camps or in larger cities like Victoria or New Westminster resulted from contact and settlement. Among their various suggestions, reformers made two general recommendations: prohibit certain aspects of traditional marriage practices and/or create legislation that would validate or legitimate unions between Native men and women. By doing one or a combination of these things, reformers hoped to decrease the incidence of poverty, illegitimacy, and crime, and in the process elevate the status of Native women and protect the character of marriage.

In response to their concerns, the Department agreed that it also wanted to eliminate the incidence of poverty, illegitimacy, and crime, prevent the abuse of Native women, and protect the sanctity of marriage. However, DIA provided a plethora of excuses for doing nothing that would entail increased state regulation into Native family life or sexuality. Policy makers and high-ranking bureaucrats downplayed the incidence of certain problems like the potlatch marriages or child betrothals, or they argued that existing legislation dealing with issues like seduction, prostitution, and infant marriages was sufficient to protect Native women. These were excuses and reformers recognized them as such.

Despite its mandate to assimilate, protect, and civilize the Indians, the Department avoided pursuing any legislative means of regulating aboriginal family life. It was not only costly and physically difficult to intervene in the private sphere, but for a liberal democratic state, intervention into what was considered the more private domain of morality was to be avoided. On a more practical, administrative level, the Department was reluctant to declare Indian marriages illegal because doing so would increase the number of illegitimate Indians; the determination of band membership and the allocation of intestate property would thus

become difficult. Because of these objections, the Department supported a gradualist approach to assimilation, one that did not require the Department to administer the explicit moral regulation of Native sexuality. The DIA, however, was more amenable to relying upon the efforts of missionaries and Indian agents to provide the explicit moral direction and intervention that the government would not undertake itself.

In addressing the attention that reformers gave to Indian marriages – and Native women’s sexuality in particular – my work has benefited from the writing of various historians on moral regulation. Borrowing from some post-structuralist theories, historians of moral regulation emphasize that processes such as state development and gender regulation involve dynamic struggles and negotiations between parties. Moral regulation differs from theories such as social control or political economy models that suggest that gender relations and state formation are reproduced along class lines. Mariana Valverde has argued that gender and sexual regulation are important social processes in their own right, intertwined with but not necessarily an effect of either the economic or the political.<sup>3</sup> Moral regulation also sees the process of regulation as much more complex, involving the state and non-state institutions, and not necessarily always working. Tina Loo and Carolyn Strange have suggested that regulation is a pattern of organization that “has no single sponsor, such as state or hegemonic groups.”<sup>4</sup>

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<sup>3</sup> Mariana Valverde, *The Age of Light, Soap and Water: Moral Reform in English Canada, 1885-1925*, (Toronto: McClelland and Stewart, 1991), 165.

<sup>4</sup> Tina Loo and Carolyn Strange, “The Traveling Show Menace: Contested Regulation in Turn-of-the-Century Ontario,” *Law and Society Review*, 29, no. 4 (1995), 642.

Joan Sangster's work on the legal and medical regulation of Canadian women,<sup>5</sup> and Valverde's work on the development of state formation and the social reform movements in English Canada,<sup>6</sup> have demonstrated how the regulation of gender and sexual relations often takes place "in a helter-skelter manner and through complicated relations to other types of regulation." Thus, the regulation of sexual relations may often be inconsistent with the race or class values of a particular society. Valverde's and Sangster's work further suggests that individuals do not have only one relationship to the state, but, rather, relationships to the state depend upon the context and the negotiations and struggles involved. Carolyn Strange's research on rape prosecutions in Toronto further underlines how the regulation of sexuality depends so much on context and the interaction of different factors such as the character, race, gender, and class of the parties involved. Strange found that, despite patriarchal notions of gender, some men were convicted of rape. She argues that rape trials were as much assessments of male character as they were of female character.<sup>8</sup> Thus, through their work, Sangster, Valverde, Strange, and Loo demonstrate that regulation is a complex process and not simply a reproduction of values dictated by those with power and transposed upon those without.<sup>9</sup> Challenging top-down

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<sup>5</sup> Joan Sangster, "The Legal and Medical Regulation of Nineteenth-Century Women," The Journal of Canadian Studies, vol. 28, no. 1 (Spring 1993) 199.

<sup>6</sup> Lykke de la Cour, Cecilia Morgan, and Mariana Valverde, "Gender Regulation and State Formation in Nineteenth-Century Canada," Colonial Leviathan: State Formation in Mid-Nineteenth Century Canada, ed. Greer and Radforth (Toronto: University of Toronto Press, 1992), 168. Also see Valverde's The Age of Light, Soap and Water: Moral Reform in English Canada, 1885-1925 (Toronto: McClelland and Stewart, 1991), 168.

<sup>7</sup> De la Cour et al, 164.

<sup>8</sup> Carolyn Strange, "Patriarchy Modified: The Criminal Prosecution of Rape in York County, Ontario, 1880-1930," Essays in the History of Criminal Law, Vol. 5: Crime and Criminal Justice, eds. Jim Phillips, Tina Loo, and Susan Lewthwaite (Toronto: University of Toronto Press, 1994), 208.

<sup>9</sup> De la Cour, 168. Also see Loo and Strange, "The Traveling Show Menace," 642, 665.

accounts, these authors suggest that there are multiple and "dissonant sources of control," of which the state is only one player and certainly not always the most important one.<sup>10</sup>

The struggle over how Indian marriages would be regulated also entailed a process dependent upon many factors. First, the Department of Indian Affairs had to weigh both the practical administrative costs of declaring traditional Indian marriages illegal, and its ideological hesitancy to intervene in the private sphere against its desire to assimilate Native people and have them adopt Christian or civil ways of marriage. In the end, the costs of intervening and the ideological difficulties of regulating sexuality far outweighed the government's desire to assimilate Indians rapidly. Gradual assimilation through the education of children was the route that seemed to bridge the gap. Even an explicitly stated policy of assimilation did not determine sexual relations. Thus, we cannot confuse a desire to reform with actual enforcement.

Moreover, on the ground and away from the bureaucracy, the regulation of Native sexuality was dependent on the cultures and the local personalities involved.<sup>11</sup> Because of the tenacity of the Kwakiutl in maintaining most aspects of their traditional marriage practices, agent George Ward DeBeck and his successor William Halliday pushed for greater authority to intervene in Native peoples' lives. A more complacent personality than DeBeck's might not have aggressively pestered Indian Superintendent A. W. Vowell into arranging to have him appointed a Registrar of Marriage. In the interior of British Columbia on the other hand, after increased contact with whites, the regulation of sexuality among many interior nations acquired a different character than that experienced by the

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<sup>10</sup> Loo and Strange, 665.

<sup>11</sup> Jean Barman, Yvonne Hebert and Don McGaskill also suggest this in "The Legacy of the Past: An Overview," Indian Education in Canada, vol. 1 (Vancouver: UBC Press, 1986), 7.

Kwakiutl. The social structure of groups like the Lillooet and Shuswap had been devastated by disease, and these nations were more open to Oblate missionary influences because the Oblate Durieu system offered a clearly defined social structure.

The term regulation is a suitable one because it describes not only a process, but suggests how reformers were less concerned about repression than they were about shaping individuals and building society. As Loo and Strange write, regulation is creative, dynamic, and capable of making identities.<sup>12</sup> Valverde is also particularly insightful on this point.<sup>13</sup> Although many reformers hoped that the law would change to prohibit traditional Indian marriages and thus repress certain customs, they were ultimately driven by their desire to protect and enhance Native communities. Indian men who supported the use of corporal punishment against women who deserted their husbands believed that repressive measures were necessary to create a more orderly community. As well, some of the Indian agents and private citizens like Judge Matthew Baillie Begbie and Alexander Caulfield Anderson, who wanted to regulate cohabitation arrangements involving Native women, hoped that such “improvements” in the conditions of Native communities would strengthen Canadian society. The elimination of poverty and illegitimacy would make a better society in general.

In the struggle to build a better society, moral reformers regarded the law as a highly effective instrument to bolster family relations.<sup>14</sup> Indian agents, middle-class citizens, missionaries, and Indian men believed that state interference in Native sexuality

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<sup>12</sup> Loo and Strange, 665.

<sup>13</sup> Valverde, *The Age of Light, Soap and Water*, 33.

<sup>14</sup> James G. Snell and Cynthia Comacchio Abeele, “Regulating Nuptiality: Restricting Access to Marriage in Early Twentieth-Century English - Speaking Canada,” *Historical Perspectives on Law and Society in Canada*, eds. Tina Loo and Lorna R. McLean, (Toronto: Copp Clark Pitman, 1994) 140.

and family life was justified due to the serious social consequences that arose from broken marriages and illegitimacy. As James Snell and Cynthia Comacchio Abeele suggest, just as the law is a major means of organizing social relationships and values, the family also operates as a way of conceptualizing social relationships.<sup>15</sup> When the two are combined, a “particularly powerful force is produced.”<sup>16</sup> Constance Backhouse’s work on rape law and divorce laws suggests that by the late nineteenth century, the law was widely accepted as an appropriate tool to regulate marriage and sexual relations.<sup>17</sup>

Thus, in their efforts to reform Indian marriages through legislative means, moral reformers were part of a larger national social movement that recognized the ability of law to regulate morality and order society. Building a strong nation required inculcating the proper morals among citizens. In her essay on the development of the seduction law in Ontario, Karen Dubinsky describes how a “peculiar form of moral boosterism” was common when people reflected on the incidents of sexual crime in their midst.<sup>18</sup> Finding similar connections between nation-building and moral regulation, Backhouse, in discussing nineteenth-century Canadian marriages, found that commentators on the character of Canadian marriages typically prided themselves on the sanctity of Canadian marriages, comparing them to British and American divorce records.<sup>19</sup> Thus, as the twentieth century approached, moral reformers, obsessed with the notion of marriage as the structural

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<sup>15</sup> *Ibid*, 154.

<sup>16</sup> *Ibid*.

<sup>17</sup> Constance Backhouse, “Nineteenth-Century Canadian Rape Law, 1800-92,” *Essays in the History of Canadian Law*, ed. David H. Flaherty, Vol. II (Toronto: University of Toronto Press, 1983), 235. Also see Backhouse, “‘Pure Patriarchy’: Nineteenth-Century Canadian Marriage,” *McGill Law Journal*, 31 (1986), 264-312.

<sup>18</sup> Karen Dubinsky, “‘Maidenly Girls or Designing Women?’ The Crime of Seduction in Turn-of-the-Century Ontario,” *Gender Conflicts: New Essays in Women’s History*, ed. Franca Iacovetta and Mariana Valverde (Toronto: University of Toronto Press, 1992), 33.

<sup>19</sup> Backhouse, “‘Pure Patriarchy’: Nineteenth-Century Canadian Marriage,” 265.



underpinning of a healthy and stable society, hoped to nation-build through moral regulation.<sup>20</sup>

This thesis explores how three groups of individuals, with different objectives in mind, were united in their calls for increased government intervention in regulating the sexuality of Native women. Armed with the conviction that legislation was needed to bolster the family, missionaries, Indian agents, and Indian men believed that the regulation of Native married life was fundamental to their goals of building a new society, although their visions of such vastly differed.

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<sup>20</sup> *Ibid*, 266.

## Chapter One

### Traditional Native Marriage Customs and Some Euro-Canadian Reactions

All societies have ways of regulating the relationships between men and women, and the aboriginal populations of British Columbia were no different. One of the most common ways of regulating these relationships was – and still is – through marriage. Just as pre-contact cultures varied from nation to nation, traditional marriage practices of Native Indian groups in British Columbia were also varied and numerous.

Not only did marriage customs vary from nation to nation, so did the reasons for regulating marriage. Overall though, marriage was a means of regulating economic arrangements, sexual relations, or clan membership. (Often the distinctions between these motivations cannot be separated easily). Wealthier Indian nations generally had a more complex social structure which required greater marriage regulation. Among such groups, marriage acquired greater significance and tended to be characterized by elaborate ceremonies. For example, for the Kwakiutl and the Bella Coola on the Northwest coast, marriage was the main vehicle for enhancing one's status and rank and gaining social prerogatives.<sup>1</sup> The families of the bride and groom had much at stake in the union, and consequently, there was great consideration invested in choosing the appropriate marriage partner. Arranged marriages were common among the Kwakiutl and Bella Coola and were usually done without the knowledge of either the bride or the groom.

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<sup>1</sup> Douglas Cole and Ira Chaikin, An Iron Hand Upon the People: The Law Against the Potlatch on the Northwest Coast, (Seattle: University of Washington Press, 1990) 65.

In contrast to these societies, interior groups such as the Chilcotin, Shuswap, Thompson, Lillooet, and the Kootenay in south-eastern British Columbia had a more fluid social structure and there were no ranks or classes.<sup>2</sup> There were few restrictions on marriage, other than prohibiting sexual relations between near relations.<sup>3</sup> When parents arranged marriages for their children, as was common among many tribes like the Thompson, Chilcotin, Kootenay, and the Chilliwack,<sup>4</sup> they were guided by considerations of finding a family that would provide economic stability and personal compatibility for their children, rather than by considerations of status or prestige.

For most interior groups, the groom often gave presents to the relatives or guardians of the woman he wanted to marry. If the marriage proposal was accepted, the families of both the bride and groom exchanged gifts with each other.<sup>5</sup> Some individuals were also betrothed, and these two forms – betrothals, and/or the giving of presents – were the most honourable means of marriage among interior groups. Marriage by claiming or touching a girl during the religious or ghost dance had also been popular. Ethnographer James Teit described the touching dance for Lillooet youth:

...all the young unmarried men and women went out, formed a circle, and danced in single file. When the dance chief or speaker shouted "Take hold!" the dancers beat time for two or three minutes; and any man who wished a certain girl ran up to her and seized her belt or the loose end of her sash. If the girl did not want him, she pushed him off, or snatched the

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<sup>2</sup> Wendy Wickwire, "Women in Ethnology: The Research of James A Teit," *Ethnohistory* 40, no.4 (Fall 1993) 539-62, 13. For information on the Chilcotins refer to Robert B. Lane's work entitled "Chilcotin," in *Handbook of North American Indians*, vol. 6, ed. William C. Sturtevant (Washington: Smithsonian) 402-412. Before contact with the whites, the Chilcotin had had no formal chiefs or leaders, except for those who had gained the confidence of others through their talents or skills. Intense Roman Catholic missionary work in the 1870s instilled the idea of chiefs and the formation of a semi-theocratic local government.

<sup>3</sup> Teit, *The Jesup North Pacific Expedition: Part V – The Lillooet Indians*, ed. Franz Boas, (New York: Leiden and Brill, 1906), 268. See also *The Salish People: The Local Contribution of Charles Hill-Tout Vol. 1, The Thompson and the Okanagan*, ed. Ralph Maud, (Vancouver: Talon Books, 1978), 48.

<sup>4</sup> Wickwire, "Women in Ethnology," 13. Also see Oliver Wells, *The Chilliwacks and Their Neighbours* (Vancouver: Talonbooks, 1987), 56.

<sup>5</sup> Charles Hill-Tout, "Ethnological Report of the StEelis and Sk-Aulits Tribes of the Halkomelem Division of the Salish of B.C." (London: Anthropological Institute: 1895), 318.

end of her sash from his hands. Then he had to desist. If she favored him, he danced with her, holding her by the belt or sash....If the girl did not then shake the man off, they were considered husband and wife. If she pushed him aside, the chief called out, "So and so [mentioning the man's name] has been 'thrown off' or rejected," and the girl was free.<sup>6</sup>

In other traditional Lillooet practices, if a woman and a man had sexual intercourse, or if she proposed to a certain man and he accepted the proposal, the two were considered married without further ceremony.<sup>7</sup> There had been no restrictions regarding marriages between members of different classes, families and villages, although there were prohibitions against close intermarriage.<sup>8</sup>

In the Kwakiutl, Bella Coola, and some other coastal communities, however, marriage regulated more than sexual relations. For these groups, marriage was an essential means of maintaining or increasing one's status, prestige and social prerogatives. Marriage practices played a fundamental role in establishing the lines of clan membership and hereditary rank before the community. The Kwakiutl, Bella Coola, and some Carrier groups had an ambilineal structure;<sup>9</sup> therefore, status and prerogatives concerning resources could be conferred through both parents. For this reason, serial marriages among the Kwakiutl were encouraged and desired. They considered four to be the optimum number of marriages to enter into.<sup>10</sup>

For the Bella Coola, the ancestral family was the most important unit of social organization. Having the rights to a family name meant that one shared the knowledge of that name's particular origin myth, as well as the rights to use that family's resources.<sup>11</sup>

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<sup>6</sup> Teit, The Lillooet Indians, ed. Boas, (JesupNPEX), 268.

<sup>7</sup> *Ibid.*

<sup>8</sup> Kootenay: BC Heritage Society (Victoria: Provincial Archives, 1952), 32-33.

<sup>9</sup> Margaret L. Tobey, "Carrier," Handbook of North American Indians, Vol. 6, 422.

<sup>10</sup> Cole and Chaikin, 65, 78.

<sup>11</sup> T. L. McIlwraith, The Bella Coola Indians, vol. 1 (Toronto: University of Toronto Press, 1948), 137-138.

The potlatch ceremony was central in validating customary marriage ceremonies for the Bella Coola. The potlatch was the occasion whereby status, rank, and hereditary privilege were claimed through dances, speeches, and the distribution of wealth. Marriage was a community event; many witnesses had to be present in order to validate the occasion.<sup>12</sup>

Almost all contemporary observers of Kwakiutl and Bella Coola customary marriages – and even those of Northwest Coast groups in general – noted how the ceremony was characterized by a “purchase” and a “repurchase.”<sup>13</sup> Referring specifically to the Kwakiutl and Bella Coola, Boas believed that the marriage was essentially a “purchase;” however, the object was not the woman. The exchange of gifts to the bride’s family ensured her future children’s membership in the family.<sup>14</sup> Importantly, the object of the marriage was neither solely economic, nor was marriage regarded as a means of regulating sexuality; rather, marriage established the future children’s claims to ancestral rights and privileges of the contracting parties. During the courting process, the man presented gifts to the bride’s family. If the gifts were accepted, then the bride’s family agreed to the union. However, once the woman’s family repaid the gifts after the wedding ceremony – over the course of a few months or years – the woman was free to leave since “the obligations of the contracting parties were complete and the marriage was ended.”<sup>15</sup>

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<sup>12</sup> Cole and Chaikin, 5.

<sup>13</sup> Sylvia Van Kirk, in “The Custom of the Country:” An Examination of the Fur Trade Marriage Practices,” *Canadian Family History: Selected Readings*, ed. Bettina Bradbury (Toronto: Copp Clark Pitman, 1992) 71, discusses the Nor’Westers’ adaptation to Native marriage practices, including the practice of offering a “bride price,” which she describes as a mutual exchange of gifts. Unfortunately, she doesn’t identify which particular nation(s) she is dealing with.

<sup>14</sup> *Ibid*, 77. See also Margaret A. Stott, *Bella Coola Ceremony of Art*, Canadian Ethnology Service, Paper No. 21, (Ottawa, 1975) 23-24. McIlwraith is the most comprehensive source for this custom among the Bella Coola.

<sup>15</sup> *Ibid*, 78.

If a wife stayed, she was thought to “stay for nothing,”<sup>16</sup> since the custom held that she should be trying to enhance her prestige by arranging another marriage. After four marriages a Kwakiutl woman’s rank was established and she was expected to stay with her latest husband, although he was under no obligation to keep her, unless he too had already been married four times. McIlwraith found that the Bella Coola did not have serial marriages like the Kwakiutl, although, they did have a “repurchase” custom. The Bella Coola referred to the custom as “repurchase” and that every ambitious wife hoped to be “re-bought” several times over by the same husband.<sup>17</sup>

Unlike the Kwakiutl and Bella Coola whose social structure was ambilineal, the Tsimshian, Tlingit and Haida were organized according to matrilineal descent and had fairly fixed marriage pattern rules. For these groups, marriages did not involve a change in one’s status, nor was the validation function of the potlatch as significant to their customary marriage ceremonies.<sup>18</sup> The purpose of marriage was the consolidation of the family unit and its wealth. Because of the matrilineal social structure, Haida women played an extensive role in distributing and controlling property among the both families, as well as determining marriage partners for their children.<sup>19</sup>

For other coastal groups in general, the type of marriage ceremony depended upon one’s rank. Poorer classes had very simple and informal arrangements made between men and women who wished to become married. Some courting procedures involved the exchange of gifts, whereby gifts could be returned to the suitor if the parents of one of the

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<sup>16</sup> *Ibid.*

<sup>17</sup> McIlwraith, 406-415.

<sup>18</sup> Cole and Chaikin, 7.

<sup>19</sup> *Ibid.*, 51.

youths did not approve of the proposed union. Methodist missionary Caroline Tate described one Clayoquot father who demonstrated his rejection of his daughter's male suitor by pulling out the pole of gifts and throwing it on the beach where the young man and his friends had landed their canoe.<sup>20</sup> Higher classes had more elaborate rituals. In one particular ceremony, a youth of rank would visit the house of the girl he wished to marry. The man would sit outside her door for four days fasting. In the meantime, the woman's parents would ridicule him and remind him of his defects of character. He would have to bear this in silence. On the fourth day, if the parents accepted him, they would offer him a mat to sit on. They would then ask the chief or head of the household to invite the man inside to sit by the fire. Both families provided a large feast and gave long speeches. The bride then went to the husband's village to live. If the marriage was successful and both partners were compatible with each other, the bride would finalize the union by giving presents to her husband's family, and the contract would be considered complete. Conversely, if the marriage was not working out, the headmen of the village would return the wife to her own family.<sup>21</sup>

Thus, the ways that Native societies regulated marriage and the forms that those customs took were closely linked to the priorities of that tribe and its social structure. We see this relationship most clearly with the highly ranked Kwakiutl and Bella Coola societies. In contrast, for groups like the Lillooet, Chilcotin, and the Kootenay who inhabited areas with less natural wealth and a hostile climate, survival was the main task at hand. A more fluid and flexible social structure meant that those with leadership skills gained authority

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<sup>20</sup> Diary of Caroline Tate, 13 January, 1898. Add. Mss. 303, Box 3, BCARS.

<sup>21</sup> Coast Salish: Heritage Series, vol. 2 (Victoria: Provincial Archives, 1952), 41-42.

and prestige within the clan. Parents arranged marriage unions for their children with the object of ensuring that the couple and their offspring would be physically strong and economically viable.

When missionaries first began arriving in British Columbia in the late 1830s they observed that the Indian nations regulated marriage and sexuality in ways that differed from their own codes of regulation. Most missionaries, and later government agents, were startled by Native customs, and hoped to reform Indian cultures which had different understandings of how gender and wealth were to be organized.

After contact with whites, many Indian nations began to choose Christian forms of marriage and traditional forms fell into disuse. As the social structures organizing Indian communities rapidly changed due to disease, white settlement, and missionary involvement, marriage practices and the reasons for regulating marriage also changed. For most interior groups, traditional forms of marriage were beginning to wane by the end of the nineteenth century. Teit claimed that by the time of his research, nearing the end of the nineteenth century, most of the customary forms of marriage had been altered to "conform to the rites of the Roman Catholic Church."<sup>22</sup>

In contrast to this trend, the Kwakiutl and Bella Coola were most notable in their resistance to European forms of marriage. The presence of greater material wealth generated from trade enhanced the practice of traditional marriages and potlatching. Wealth was easier to attain; thus, more people were able to provide potlatches and advance socially through marriage. Reports from missionaries and Indian agents at the time indicate

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<sup>22</sup> Teit, The Jesup North Pacific Expedition, ed. Franz Boas, vol. 2, part VII (New York: AMS Press, 1909), 590. Also see Teit, The Thompson Indians of British Columbia, ed. Franz Boas (New York: AMS Press, 1900), 325.



that potlatch marriages were frequently occurring on the coast into at least the 1930s, and continued after that time. Historians Cole and Chaikin suggest that by the 1920s, the Kwakiutl had modified the potlatch and no longer practiced the features which caused the most alarm, such as arranged marriages and child betrothals to middle-aged or elderly men.<sup>23</sup> The Kwakiutl continued to practice their marriage traditions despite government and missionary efforts to reform them. In the 1920s, agent William Halliday glumly reported that most of the Indians in the Alert Bay district were married and separated according to Indian customs. After visiting Alert Bay the Anglican Bishop of Columbia reported in 1930 that "a potlatch was held and two marriages were supposed to be taking place."<sup>24</sup> The main features of Kwakiutl and Bella Coola traditional marriage customs continued to thrive on the west coast because marriage was the primary means of establishing one's status and wealth within the community.

In addition to changes in the form of marriage ceremonies, there were other transformations in how sexuality was regulated after contact. Prior to contact, most Indian nations in British Columbia practiced or accepted polygamy to some extent. After contact, however, most of these groups became monogamous. Also, in pre-contact times, young people usually married shortly after puberty. But with missionary involvement and increased settler pressures on traditional Native resources, marriages tended to be postponed until couples were in their twenties. Moreover, pre-marital intercourse with a prospective marriage partner had usually been tolerated more than intercourse with partners

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<sup>23</sup> Cole and Chaikin, 182.

<sup>24</sup> R.H. Pooley, Attorney General of BC to D.C. Scott, DSGIA, 8 November 1930. RG 10 Black Series, vol. 7978, file 1/18-26.

who were not potential marriage companions.<sup>25</sup> Pre-marital intercourse became less tolerated after increased contact with Euro-Christian settler society. Thus, one of the significant effects of contact between whites and Indians was that the relations between Native men and women changed. Traditional modes of regulating sexuality, gender, and marriage relations were altered.

**"Marriage...the thorn at the side of the Missionary:"<sup>26</sup> Perceptions of Tribal Marriages and Justifications for Regulating Gender Relations**

Despite the logic of Native marriage customs and the significance and meanings of those customs for the various aboriginal cultures, most Euro-Canadian observers were appalled by tribal marriage practices. Reflecting in 1976 on his past missionary experience, Oblate missionary Francois Marie Thomas commented on Shuswap marriage practices: "Naturally, all their marriages were not in order and their children had received little or no religious instruction."<sup>27</sup> Compared to what many of his colleagues and contemporaries had to say, Thomas's comments were one of the milder descriptions of Native marriage practices. In striking contrast to the tone used by ethnographers in describing customary marriage traditions among the various aboriginal nations in British Columbia, missionaries and Indian agents provided some of the most critical accounts of Native marriage practices. To them, marriage carried different cultural meanings and was regulated differently from

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<sup>25</sup> Daughters of chiefs, however, were raised under stricter terms; a long, chaste engagement was preferred for it was thought to enhance the status of the union and the future children. Among the Bella Coola for example, a long engagement usually resulted in more presents for the bride's family. McIlwraith, 386.

<sup>26</sup> Bishop E. M. Buno, "Catholic Action and Bishop Durieu's System," Archives of the Oblates of Mary Immaculate, (Vancouver, B.C.), Oblate microfilm reel #6, 1941, 1-25.

<sup>27</sup> Francois Marie Thomas, O.M.I., "An Account of the Missionary Work Done by the O.M.I. in St. Joseph's District, Cariboo B.C.," unpublished typescript 1976, BCARS, Add. Mss. 567.

Native customary marriages. Missionaries and Indian agents generally expressed great concern over aboriginal marriage practices while Department of Indian Affairs bureaucrats tended to downplay the seriousness of the effects of Native marriage practices. Thus, there was no unanimity of opinion regarding how to reform Indian sexuality and married life. In this section I discuss the kinds of concerns that these reformers had about Indian marriages, and their attempts to convince authorities of the serious repercussions arising from customary marriage practices. Towards the end of this chapter I will explore how reformers hoped to change sexual relations through education.

Critics of customary marriages objected to polygamy, payments between the bride and groom's families, betrothals, relatively easy separations, and infant marriages. The connection of traditional marriages to the potlatch ceremony was particular cause for alarm; Euro-Canadians regarded the customary marriages of certain coast tribes, especially those of the tenaciously conservative Kwakiutl, as particularly odious because the distributive and validating function of the potlatch represented an "outmoded" economic and political system. Critics who did not characterize the potlatch in exactly those terms generally regarded the potlatch as wasteful and destructive of property. Also, some of those who worked among Native groups were concerned with social problems that had been created or exacerbated upon contact with whites: namely, the proliferation of prostitution, particularly among west coast women. Various moral reformers as well as Native men were alarmed by the number of Native women traveling to work camps and towns such as Victoria to prostitute themselves in order to earn money for potlatch purposes.<sup>28</sup> Reformers also argued that the easy separation practices of most tribes

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<sup>28</sup> Cole and Chaikin, 75.

destabilized Native families, encouraged illegitimacy, and resulted in poverty for many Native women. Similar claims were made by some Native men.

Missionaries, Indian agents, and other observers argued that these features of customary marriages and separations degraded Native women. Reformers believed that the moral status of Indians in general was dependent upon the morality of Indian women.<sup>29</sup> Their position as mothers necessitated their education in the mores of "civilization." It was thought that if Indian women were educated in Christian morality, they would influence the character of their husbands and children.<sup>30</sup> Conversely, if women were ignorant of the ways of "civilization" they would never be able to properly educate their children. Moreover, since secular and religious reformers considered the family to be the cornerstone of civilization as they defined it, Native marriage customs, which in effect regulated family life (and all the economic, sexual, and status relations attached), attracted reformers' attention. In one of his speeches to fellow missionaries, Methodist Charles Montgomery Tate justified increased intervention in Native family life, explaining: "the laxity of their [Native] marriage customs [was] destructive alike of home life and religious education..."<sup>31</sup>

Reformers were also concerned about the exchange of payments between families. Individuals like Indian Superintendent I. W. Powell who had observed the purchase practice often misunderstood it; like many others, he did not understand the significance of

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<sup>29</sup> Mary E. Young discusses this attitude at length in her study of nineteenth-century Cherokee and missionary relations. See "Women, Civilization, and the Indian Question," *Clio was a Woman: Studies in the History of American Women*, ed. Mabel E. Deutrich and Virginia C. Purdy (Washington: Howard University Press, 1980), 99.

<sup>30</sup> *Ibid.*

<sup>31</sup> "The Marriage Question in Indian Circles," speech given by C.M. Tate, at the Sixth Annual Conference of Workers among the Indians, New Westminster, B.C., 15 May 1923. RG 10, vol. 6816, file 486-2-8 pt.1.

the purchase in ensuring a couple's future children's claims to a family name and prerogatives. Rather, Powell regarded the exchange of gifts between the groom-to-be and the bride's father as evidence that the Native woman was being purchased and sold as in a simple transaction. Roman Catholic missionary Charles Ludwig Moser, who spent thirty years working among the west coast tribes from 1900-1930, referred to the Hesquiat custom of laying down gifts as "Tse-as" – significantly, when he translated Tse-as into English it meant "buying a wife."<sup>32</sup>

Church and legal authorities who questioned the treatment of Native women were furious over the widespread custom of payments. When discussing traditional marriage customs, reformers argued that Native women were treated as passive objects, debased and degraded by Native men. One report from Vancouver Island in 1872 stated:

The Nanaimos...the Euclatores [Yuklata], and on the main land [sic] the Scychelles [Sechelts], but a very small number of the Indians are Christians, and their morals are excessively lax. They sell their wives and daughters to the first comer.<sup>33</sup>

Decades later, many non-Natives insisted that Native women were treated like chattel under traditional marriage customs. In ruling on the legality of marriages by tribal custom, Judge Gregory at the Vancouver Fall Assizes in October 1921 described Native women at Kingcome Inlet as being treated like "chattel and upon payment of a certain amount of money or goods or chattels by the bridegroom, [the woman] was handed over by her father or guardian, or whoever had control over her, to the bride-groom."<sup>34</sup> Although Gregory portrayed Indian marriages as exploitative, he found customary marriages valid

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<sup>32</sup> Diary of Charles Moser, O.S.B., 27 May 1912. Add. Mss. 2172, BCARS.

<sup>33</sup> Sessional Paper No. 10, 1872, Report by H.L. Langevin, C.B., Minister of Public Works, 29.

<sup>34</sup> British Columbia Supreme Court, Gregory J., 20 October 1921, in Brian Slattery and Linda Charlton, Canadian Native Law Cases (Saskatoon: University of Saskatchewan Native Law Center, 1986), vol.4, 1911-1930.

nonetheless, as long as both parties had consented to the union. Even though the Native woman had the power of ending the marriage, her position as chattel was reinforced, he suggested, because she still had to pay back the amount she was initially purchased for by the husband. Missionaries at Kingcome Inlet in the 1930s were of the same impression as Gregory and claimed that Native women in traditional marriage practices were bought and sold like chattel.<sup>35</sup>

The perception that Native women were sexually and economically exploited under Indian marriages was reinforced by reports that Native women and girls were often coerced into marrying. From the west coast, the Methodist Reverend Joseph Schindler reported two cases where Indian girls were married against their will.

Agnes, the young wife, it seems went through the marriage ceremonies against her will which she manifested by constantly refusing to cohabit with the boy although he lived in the same house with her trying to gain her will till last fall...

Another case which is certainly beyond the limit occurred about a week before...A boy from Ehattisaht, Harry P[ \_\_\_\_\_ ], about fifteen years of age or less was married to M[ \_\_\_\_\_ ] of Clayoquot, a girl of only twelve years old. This seems to have been done against the will of the girl for I was told that she cried all that day while the marriage ceremonies were gone through.<sup>36</sup>

Schindler's concerns were echoed by fellow missionary C. M. Tate who headed the Clayoquot mission from 1898-99. Tate described his impressions of customary early marriages in a poetic sermon:

A more painful scene now calls  
Our attention; compared with which  
The past seems trivial, and  
Scarce worthy of notice. An  
Innocent girl who has barely  
Reached her teens, is seized  
By two of the village crones,  
And dragged from her childish play  
To be made the wife of some stranger.

<sup>35</sup> A. W. Neill, M.P., Alberni, to T.A. Crerar, Minister, DMR, 5 January 1937; RG 10 BS, vol. 7978, file 1/18-26.

<sup>36</sup> Joseph Schindler, O.S.B. to C. A. Cox, Indian Agent, 16 May 1913, RG 10 C-8538, vol. 6816, file 486-2-5 pt.1.

What matter! Though he be young,  
Or old; bring he but a present  
Sufficient to satisfy the base desire  
Of he, who calls himself father; --  
For such is the custom.<sup>37</sup>

Critics also vehemently objected to betrothals and early marriages that occurred among the Kwakiutl. Some critics of Native marriages claimed that girls as young as seven and eight were betrothed or sold as chattel. "Infant marriages," as they were called, came under discussion in the Kwakiutl Agency in 1897. Methodist missionary Mrs. Hall who ran the Alert Bay Girls Home referred to Indian girls being "mortgaged off by their fathers."<sup>38</sup> According to Indian agent R.H. Pidcock early marriages among the Kwakiutl were traditional:

... the custom is nothing new, but has always been the case as long as they can remember, or their fathers before them. A girl, directly she arrives at the age of puberty is married, and girls arrive at this state at a very early age among the Indians; generally between the ages of 12 and 15 years. In regard to the mortgaging of Indian girls, I find that it is done occasionally...<sup>39</sup>

Pidcock directed his concerns toward the attention of Indian Superintendent A. W. Vowell. Vowell, however, disagreed with Hall's and Pidcock's assessment of the prevalence of early marriages. In an effort to stave off further requests from Hall and Pidcock to legislate against tribal marriages, Vowell stated that:

The practices complained of by Mrs. Hall and which she appears to misunderstand as far as the girls are concerned were at one time prevalent amongst all the Indians on this coast and have largely fallen into disuse as the Indians have become more civilized. The term "mortgaged" used by Mrs. Hall and Mr. Pidcock is misapplied in this case.<sup>40</sup>

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<sup>37</sup> C.M. Tate, n.d. 1898-99, Add. Mss. 303, BCARS.

<sup>38</sup> R.H. Pidcock, Indian agent, to A.W. Vowell, Indian Superintendent, 11 December 1894, RG 10, C-8538, vol. 6816, file 486-2-5 pt.1

<sup>39</sup> *Ibid.*

<sup>40</sup> A. W. Vowell to the Secretary of Indian Affairs, 27 December 1897, RG 10, C-8538, vol. 6816, file 486-2-5 pt.1.

He suggested further that Hall's and Pidcock's characterization of traditional marriages as being a matter of "mortgaging" was a result of misinterpreting Kwakiutl culture.

Indians have great affection for their children and are far from considering them mere chattels, where an Indian girl attains a marriageable age her sentiments are given every consideration and if she strongly objects to the man to whom she had been espoused by her father the marriage is generally broken off and any gifts which happen to have been made in regard thereto are either returned or compromised for.<sup>41</sup>

Vowell's dismissal of these reports as "hearsay"<sup>42</sup> requires further attention and should be questioned. Although it is possible that the Kwakiutl, during 1896-97, when Hall and Pidcock were raging against tribal marriage customs, may have temporarily stopped practicing traditional marriage customs, it seems unlikely – regardless of how "civilized" they had become. The Kwakiutl were conservative in their marriage practices; evidence suggests that despite efforts to reform them, the Kwakiutl maintained their traditional practices well into the twentieth century. It seems more likely that Vowell, in dismissing Hall's and Pidcock's complaints, may have wanted to minimize the "problem" in order to avoid having to do anything about it. Despite mounting pressure from reformers such as agent Pidcock and missionaries like Hall, Department of Indian Affairs officials had difficulties with the concept of regulating family life and were reluctant to intervene. Thus, by minimizing the incidence of marriage payments among the Kwakiutl, Vowell could justify DIA's laissez-faire policy regarding marriage reforms.<sup>43</sup> As well, by claiming that infant marriages and "mortgaging" had fallen into disuse as the Indians "became more

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<sup>41</sup> *Ibid.*

<sup>42</sup> *Ibid.*

<sup>43</sup> In discussing prostitution in Victorian England, Judith Walkowitz describes the conundrum that liberal states were in when it came to moral reform. On the one hand, the "cultural paranoia" that gripped the middle class led to efforts to remake working class culture; yet at the same time, the state was often



civilized,” Vowell could point to the wisdom of DIA policy, which favored gradual civilization and assimilation over intervention.

Vowell’s efforts to downplay the “abhorrent” features of tribal marriages failed to alter the impressions of various agents and missionaries who continued to argue that customary marriages degraded Native women, and that traditional marriages needed to be eradicated. In 1902 Indian agent G. W. DeBeck requested E. A. Bird, missionary teacher at Gwayasdurus school, to report what he knew of marriage customs among the natives around Alert Bay. Bird reported that Kwakiutl marriage customs were linked closely to the “unsavory” potlatch system.

In reply to your question as to my knowledge of the marriage custom existing amongst the Indians, it really is a serious evil and is I believe the foundation on which the “Potlatch” is built. When a man gives say 500 Blankets [sic] for a girl or woman it is only the first step of a business transaction and often a gigantic one for the father or whoever is the near relative of the girl in effect mortgages her; if the girl stays with her husband for a year the father or relative pays back to the man who buys her 1000 blankets which is the usual rate of interest viz. 100% .... When the mortgage has been paid off the outcome is the “Potlatch,” the husband on that day gives away to all the tribe various things blankets, shawls, grease, cups, basins etc. to the value of the mortgage. Is not this pure and simple trading and the girl is the great factor in the whole business....<sup>44</sup>

Aside from his characterization of Kwakiutl marriage practices as “evil,” Bird’s descriptions of the practices and customs were basically accurate. Bird’s observation that traditional marriage practices had caused some disruption and divisions amongst the Kwakiutl themselves was also astute. He noted that “the young men for the most part cannot get wives because as a rule they have no blankets or money...they have to compete

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reluctant to explicitly intervene in the morality of its citizens. See Walkowitz in Prostitution and Victorian Society: Women, Class and the State, (Cambridge: Cambridge University Press, 1980), 42.

<sup>44</sup> E.A. Bird, T.P., teacher at Gwayasdurus, Alert Bay, to G.W. DeBeck, 23 June 1902, RG 10, C-8538, vol. 6816, file 486-2-5 pt.1.

with the older men who hold the property.”<sup>45</sup> By this time, many Native men from nations around the province were looking to reform Native marriages and family life.

Non-Native reformers, meanwhile, continued their efforts to convince the authorities that Indian marriages needed to be reformed. Following Bird’s observations about the sale of young Indian women, De Beck collected statements from Native men who had recently been married according to Indian custom. DeBeck hoped to show that mortgaging was indeed occurring and that Native women were being exchanged like chattel. A man named Metsa from Alert Bay reported to a Provincial Constable that he had given 1165 blankets to the father of the woman he had married;<sup>46</sup> during their marriage, his wife’s father made a deal with another Alert Bay man to purchase his daughter. The first marriage was dissolved and Metsa’s wife went to live with the second man.<sup>47</sup> As with most of DeBeck’s complaints, the department filed DeBeck’s correspondence on this matter along with the statements collected.

The issue of child-marriages in the Kwakiutl agency continued to be troublesome to many observers up until the inter-war years. The *Victoria Daily Times* reported for May 14, 1919 that members of the Lady Douglas charities group “Hears Plea for Indian Children:”

Miss Nixon, of the mission school at Alert Bay, gave a moving story of the lot of the Indian girls, many of whom were married at ten years of age and had more than one ‘husband’ before they reached the age at which the average white girl left school.<sup>48</sup>

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<sup>45</sup> E.A. Bird, T.P., teacher at Gwayasdurus, Alert Bay, to G.W. DeBeck, 23 June 1902, RG 10, C-8538, vol. 6816, file 486-2-5 pt.1.

<sup>46</sup> Statement by Metsa at Alert Bay, 21 January 1903, RG 10, C-8538, vol. 6816, file 486-2-5 pt.1.

<sup>47</sup> Statement by Quothlelas at Alert Bay, 22 January 1903, RG 10, C-8538, vol. 6816, file 486-2-5 pt.1.

<sup>48</sup> Article from the *Victoria Daily Times*, Wednesday, 14 May 1919. RG 10, C-8538, vol. 6816, file 486-2-5 pt.1.

The age discrepancy between partners involved in early marriages was another source of contention for missionaries and agents. According to agents and missionaries in the Kwakiutl agency, early marriages typically occurred between young pubescent Native girls and much-older and wealthier Native men who could afford to pay what was sometimes thousands dollars for the marriage. Regarding the issue of early marriages, agent De Beck once again wrote a series of complaints to his department superiors.<sup>49</sup> He was concerned about the demographic consequences of early marriages, since there appeared to be a large number of single, marriageable young men. In order to preserve the punch of De Beck's construction of the problem and to illustrate to readers how some reformers viewed customary marriages and were deeply troubled by their practices, I have reproduced his entire letter below:

The old men [have] a monopoly of the young girls, as they have the most money, and the young men have to put up with some old worn out girl or wring in on some other man's wife. And again it is next to impossible for a girl 13 or 14 years of age to live with & be faithful to an old brute of a Siwash 60 or 70. This I believe to be the principal cause of so much immorality among these Indians. As it often happens, the girl gets tired of the old man and leaves with some other fellow without taking the trouble to pay back the blankets; then the trouble begins, and the old man makes a bee line for the Indian Agent to try & get his assistance in getting back his wife, blankets generally preferred. If the Indian form of marriage is not legal, I think they should be compelled to adopt some method that was. On the other hand if it is legal, it seems to me to be a bad mess, & there is not much hopes of improvement, morally or otherwise, among these Indians....It looks cruel to me to see a child 13 or 14 years of age put up & sold just like sheep or a nanny goat, to a bleary eyed siwash old enough to be her grand-Father [sic], for a pile of dirty blankets, which will in turn be Potlached [sic] to the rest of the band, and all to make the proud Father, a big Ingun [sic]. As far as Government interference causing any trouble by breaking up their old custom is concerned, I think we need have no fear on that account, as all the young men are very much dissatisfied with the present state of affairs and would gladly welcome almost any change.<sup>50</sup>

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<sup>49</sup> DeBeck's superiors considered him somewhat of a loose canon. He clashed with Vowell's laissez-faire approach to a number of issues, most notably that of the potlatch. DeBeck lasted only four years in the Department before he resigned in 1906. See Cole and Chaikin, 71.

<sup>50</sup> G.W. DeBeck to A. W. Vowell, Indian Superintendent, RG 10, C-8538, vol. 6816, file 486-2-5 pt.1.

Further south across the island, Reverend Joseph Schindler reported to Indian agent C.A. Cox on the practice of early marriages in his agency. Although his reports were not heavily laden with racist language like DeBeck's accounts were, Schindler still placed Native marriage customs beyond the pale of civilization.

I feel obliged to report to you a few things which interfere with the progress in the education and civilization on the West Coast and particularly at Clayoquot. It is in regard to the early marriages of the Indians for they seem to be making efforts to revive their ancient customs in this matter. About Christmas time or shortly after in 1911 a boy and girl...both about fourteen years of age, were married according to the custom of the tribe. I allowed this case to pass with a few remarks to the Indians showing my disapproval, thinking it to be an unusual occurrence for I had been told that the Indians have abandoned the practice of early marriages.<sup>51</sup>

Like marriage customs, customary separation procedures also received criticism from non-Natives, although not to the same degree. As ethnographers Teit, Swanton, and Hill-Tout observed, traditional separations for most nations were generally informal arrangements whereby the marriage was considered dissolved once one partner left the other. Judge Gregory of the B.C. Supreme Court described the traditional divorce practices of the Alert Bay people.

The Indian woman...could... redeem herself. She redeemed herself by paying back to her husband a stipulated amount, usually two or three times the amount he gave for her [as a marriage present to her guardian], and upon this being paid she was free to leave him and the marriage, according to this Indian custom, was then dissolved....<sup>52</sup>

The subsequent correspondence generated from the Kwakiutl agency regarding customary separation procedures suggests the trouble that some non-Natives had with the apparent ease and informality with which Native marriages could be terminated. To outside

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<sup>51</sup> Reverend Joseph Schindler, O.S.B., in Alberni, to C.A. Cox, Indian Agent, 16 May 1913, RG 10, C-8538, vol. 6816, file 486-2-5 pt. 1.

<sup>52</sup> R.H. Pooley, Attorney General of BC to D.C. Scott, DSGIA, 8 November 1930, RG 10 Black Series, vol. 7978, file 1/18-26.

observers, Kwakiutl separation procedures involving the apparent exchange of money for "freedom" only served to reinforce the chattel-like subordination of Native women.

According to agent Halliday, customary separations were fairly easy to undergo because Natives organized their lives according to different principles of morality. In 1929 he wrote:

It will take more than one generation to cure the Indians of these habits as to them it is not a matter of offense at all. Nothing in the marriage is regarded as sacred to them and there being no principal [sic] evolved [sic] in their minds they feel free to break any bonds that may be entered into and it makes the question of morality a very difficult one to handle....<sup>53</sup>

Because there seemed to be less formality involved in separations, some Indian agents, like Halliday, described divorces as "throwing off a wife."<sup>54</sup> Halliday believed that separation procedures had become increasingly lax among the Kwakiutl Indians.

They themselves do not consider their marriages, if they can be called such, as binding. Until recently it was obligatory on the woman's part to return the property which was given with the woman before she was considered free to marry again but even that does not hold at the present time.<sup>55</sup>

Some reformers who objected to Native marriage and separation practices interpreted the exchange of property at the commencement or dissolution of a marriage to mean that profit – and not procreation or emotional commitment – was at the center of marriage arrangements. Native women, some believed, were not valued as mothers or wives in the European sense, but as a form of property to be exchanged for the purpose of furthering men's socio-economic status in the tribe. Informal separation arrangements further

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<sup>53</sup> W.H. Halliday to Secretary DIA, 9 January 1926, RG 10, Black Series, vol. 11150, file C.R. 25 pt.B -- Kwawkweth Agency, 1914-1944.

<sup>54</sup> W.M. Halliday to Duncan Campbell Scott, Deputy Superintendent General of Indian Affairs, 23 February 1914, RG 10, C-8538, vol. 6816, file 486-2-8, pt1.

<sup>55</sup> *Ibid.*

suggested to them the lack of commitment to a monogamous, life-long marriage. Some reformers used cultural explanations to account for Native marriage customs. Missionary educator Reverend Gunn stated that many Native languages, “while rich in combinations and names of material things, are poor or absolutely without such abstract words as faith, hope, and love.”<sup>56</sup> The implications of such ideas were clear: it was thus up to whites to spread the word – and more to the point – the language of “civilization” through education.

Perceptions of Native women being treated as chattel by their fathers and husbands who sold them and then “threw them off” when no longer interested was consistent with the image of Native women as “squaws.” According to Daniel Francis, Native women were typically regarded as debased, immoral, and a sexual convenience who lived a life of servile toil, mistreated by her men.<sup>57</sup> Such images appear in some of the writings of early pioneers. Anglican cleric Alexander David Pringle, who headed a mission in Hope in the 1860s noted the heavy physical work that Fraser River Indian women were expected to carry out. His assessment on the progress of Native women was that they were:

Beginning to build better homes, a little cleaner, women learnt to sew, wash, and iron --  
Accustomed to carry giant “pack” loads on their backs – A women will pack 100 lbs flour &  
a child on her back.<sup>58</sup>

Charles Montgomery Tate, who began working as a missionary in 1870 and spent most of his career among the Lower Fraser, Cowichan, and West Coast Indian tribes, also believed that Native women were beasts of burden. In an undated essay entitled “Indians,” Tate commented:

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<sup>56</sup> Valverde, *The Age of Light, Soap, and Water*, 115.

<sup>57</sup> Daniel Francis, *The Imaginary Indian: The Image of the Indian in Canadian Culture*, (Vancouver: Arsenal Press, 1992), 121.

<sup>58</sup> Alexander David Pringle to relatives in England, 1860-1863, vol. 1-2. Add. Mss. 369 BCARS.

As is customary in all heathen bands, men and women seldom eat together. He is lord and master while she is the servant and slave, and after his repast is finished she will partake of hers, if there be any left.<sup>59</sup>

The images of Native women as debased and mistreated became significant for it lent reformers motivation and justification for intervening in aboriginal communities. As Karen Dubinsky has argued in her work on moral regulation, “protection, especially of the powerless, slid easily into surveillance.”<sup>60</sup> Intervention and surveillance were significant aspects of moral reformers’ efforts to educate Native women. In addition to the view that Native women were treated as chattel by their “primitive” culture, there were other ideological reasons why many reformers were motivated in regulating Native marriages and family life. Missionaries and Indian agents believed that Native marriages and family life needed to be regulated because the customs of Native communities violated the appropriate gender roles that women were to have if they were to lead a moral, Christian existence. The role of women in the household was thought to be pivotal in reproducing Christian families. In her work on the changing dynamics of femininity and masculinity following colonization in the Tongas, Christine Gailey has noted that the status of women – as described by missionaries – served as a justification for their interference in the family life of the aboriginal population. She explains, “One of the major justifications presented by the first missionaries for their activities in Polynesia was the ‘depravity’ or ‘degradation’ of the

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<sup>59</sup> “Indians,” by C.M. Tate, Add. Mss. 303 Box 1-3. BCARS.

<sup>60</sup> Karen Dubinsky, “‘Maidenly Girls’ or ‘Designing Women?’ The Crime of Seduction in Turn-of-the-Century Ontario,” *Gender Conflicts: New Essays in Women’s History*, Ed. Franca Iacovetta and Mariana Valverde, (Toronto: University of Toronto Press, 1992), 57.

women. Missionaries blamed the women's moral weakness, their climate-induced indolence, or chattel-like subordination to men."<sup>61</sup>

This is not to suggest, however, that reformers were not genuinely concerned for the protection of aboriginal women, for most reformers certainly were. When it came to the regulation of Native family life, protection and education were difficult to separate. Reformers' attempts to protect Native women – and also Native men who lost their wives due to easy separation procedures – usually resulted in some level of education. In other words, reformers' efforts to protect Native women and men ultimately reflected their attempts to reproduce what they believed were appropriate values about family life, gender, and sexuality.

In British Columbia, missionaries also made femininity the focus of their commentary on Native women. Because women's place was thought to be entrenched within the home, the morality and protection of Native women were considered of fundamental importance. Catholic priest Father Charles Moser, who worked among the Clayoquot and Hesquiat on the West Coast, provided one particularly revealing anecdote showing how he and the Indian agent reinforced appropriate feminine ideals among Native girls:

On Sunday after church I had a visit from an Indian girl known as "Brave Katie" she had been at a Fraser River Camp all summer, and whilst there had been given public praise for her quick action in regard to a man who annoyed her. The man came to her cabin and made suggestions to Katie which annoyed her very much, but instead of showing her annoyance she asked the man if he had any whiskey, he replied that he would get some. When he came back Katie pointed to cabin 23. The man went in, expecting to be followed by Katie, who shut the door and locked him in, and then went for the police. It cost the man 100.00 dollars, and Katie was given much praise and was told she would get a letter from the King, which turned out to be merely a letter from the Indian agent who represents the King...<sup>62</sup>

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<sup>61</sup> Christine Ward Gailey, *Kinship to Kingship: Gender Hierarchy and State Formation in the Tongan Islands* (Austin: University of Texas Press, 1987) 153.

<sup>62</sup> *Diary of Charles Moser*, n.d. October 1912, 64, Add. Mss. 2172, BCARS.



Anglican missionary William Duncan sought to protect Native girls by taking girls into his household as boarders. He was concerned about protecting them from the work camps and early sexual exploitation and experimentation before marriage. He also hoped to foster domesticity by teaching sewing classes for the girls at Fort Simpson. His goal was to make them good homemakers and desirable Christian wives for upstanding young men.<sup>63</sup>

Education and protection were thus entwined.

The education of girls was considered vital if Native societies were to be shaped in such a way that would make them compatible with a predominantly white, Christian, propertied society. Missionaries often placed the education of girls at the center of the civilizing project. Eagerly awaiting the arrival of fellow missionaries to open schools for Native children in the Cariboo, Oblate Father James Maria McGuckin wrote to Bishop D'Herbomez in 1866:

I would consider a school for the Indian girls a far greater benefit than a school for the boys. Both would be required – But the girls' school is undoubtedly the most required. In vain shall we teach the boys so long as the girls are ignorant and wicked. Let us have two or three Sisters for this school and, with your Lordship's permission, I shall undertake to raise the money to support the establishment. It is really deplorable to behold the state of the Indian girls in this country. I am confident if you establish a school to remedy this evil, that Divine Providence will provide for it.<sup>64</sup>

Eight years later McGuckin found that still no missionaries were forthcoming to his Cariboo parish. His disappointment was evident in the correspondence sent to D'Herbomez:

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<sup>63</sup> Murray, 158.

<sup>64</sup> Father McGuckin in South Deep Creek, Cariboo B.C., to Bishop D'Herbomez, 15 November 1866, Archives of the Oblates of Mary Immaculate, (Vancouver, B.C.), Oblate microfilm reel #4, frame 4995.

It is really too bad that the Sisters are not coming. Our wooden houses will be rotten before they are made use of and the children that we baptized will be made prostitutes of. All for the want of carrying out what has been already begun with in many sacrifices.<sup>65</sup>

Notably, McGuckin's desire for a girls' school was still motivated, almost a decade later, by the same understanding of the role of women in the family, as well as the importance that female sexuality played in reflecting societal values in general. The Christian education of Native girls was essential to reinforce their appropriate gender roles with Native men. However, education, as most reformers recognized, entailed a gradualist approach, and many considered that quality to be its greatest limitation.

In conclusion, prior to Euro-Canadian settlement, aboriginal nations in British Columbia had their own culturally specific ways of regulating marriage in their communities. Due to the pressures of disease, settlement, and missionary involvement, some Native groups began to adopt new ways of regulating the relations between men and women. Other Indian societies were able to maintain and even increase the practice of traditional marriage ceremonies because of their wealth.

In the midst of these social and economic changes, missionaries and Indian agents paid particular attention to the marriage and family relations of Native groups. They were critical of traditional marriage practices and were concerned about the social consequences if many of the features of customary marriages were left unchecked. Polygamy, bridal payments, betrothals, relatively easy separations, and infant marriages raised the ire of religious and secular reformers. Reformers believed that in the long-term, education would counteract these practices. Education, however, was just one strategy employed by

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<sup>65</sup> J.M. McGuckin at St. Joseph's Mission, Williams Lake B.C. to Bishop D'Herbomez, 16 August 1874, Archives of the Oblates of Mary Immaculate, (Vancouver, B.C.), Oblate microfilm reel #4, frame 5349.

missionaries and Indian agents attempting to regulate Native married life. Not entirely satisfied with a gradualist approach, they directed their efforts towards convincing the Department of Indian Affairs of the urgency for legislative reform to regulate Native family life according to the dictates of "civilized" society.

## Chapter Two

### The Moral Reformers and their Strategies to Reform Traditional Marriages

Both aboriginal communities and Euro-Canadian reformers regarded marriage as an important means of regulating the relationships between men and women, regardless of whether those relations organized sexuality, economic relations, and/or status and rank relations. However, agents of reform disagreed amongst themselves how appropriate regulation was to take place. While I have already discussed how various Indian groups around British Columbia traditionally regulated marriage in their own communities, the first part of this chapter will examine how two agents of reform – the Department of Indian Affairs and missionaries – sought to transform Native family life. Although Protestant and Catholic missionaries and the federal government agreed that Native sexuality was unacceptable in its customary forms, these reformers did not agree on the level of intervention necessary for change. Within the Department itself, Indian agents, those employed on the field, were often in conflict with higher-ranking officials and policy-makers over how to regulate Native family life. While Indian agents, missionaries, and high-level DIA bureaucrats may have had their own ideas about how best to regulate Indian marriages, Indian men did too. The latter half of the chapter will then explore how, within the colonizing context, a movement among Native men from all over the province began to develop, as aboriginal men looked towards reforming marriage and sexuality within their own communities.

As missionaries and Indian agents consistently complained to higher levels in the bureaucracy of the Department about the ill-effects of customary marriages, three general

approaches to deal with the issue of regulating Native family life emerged: legislative reforms that would either legalize traditional marriages or prohibit them altogether; legislative efforts to make civil and Christian marriage ceremonies more readily accessible to Native bands; and eventual assimilation left to the efforts of Indian agents and missionaries. Moral reformers (sometimes under the advisement of Native men) and DIA policy-makers debated the merits of these strategies and were, ultimately, unable to resolve the issue of what constituted the best means of regulation.

Many reformers argued that legislation was the appropriate strategy for transforming traditional Native marriage practices, either to make customary marriages legally binding or to abolish them altogether. Indian agents and missionaries repeatedly requested that the Department enact strict legislation making customary marriages legally binding for both parties involved. In 1902 agent George Ward De Beck proposed drafting marriage contracts that would have to be signed by Native partners getting married according to tribal custom. He believed that the presence of a contract would make Native men and women think twice before abandoning a marriage.<sup>1</sup> DIA filed his suggestions. In 1911, Kwakiutl agent William Halliday – perhaps influenced by the arguments posed by his predecessor De Beck and by the persistence of Kwakiutl marriage practices – suggested that legislation be enacted forcing Native couples living together or about to cohabit, to purchase a marriage license.

I would not suggest making it difficult for them to marry, but that before they live together they should take out a marriage license at a nominal expense, and then be married either by a clergyman, Justice of the Peace, or Indian Agent and in any event have a record of the marriage kept in the Indian Agent's Office. If they choose in addition to this to be married

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<sup>1</sup> G.W. DeBeck to A.W. Vowell, 24 December 1902, RG 10, C-8538, vol. 6816, file 486-2-5 pt.1.

according to the Indian custom I can not [sic] see any valid objection, as anything that would make the marriage absolutely binding is all that is required.<sup>2</sup>

Over the next few years Halliday regularly corresponded with his superiors in the Department, demanding the government "enact drastic legislation,"<sup>3</sup> but to little avail.

Other reformers also suggested that legislation be put in place that would prohibit customary marriage traditions. Miss Nixon of the Alert Bay Mission was concerned about the "barter in girls" that she described taking place among many of her ex-students once they had graduated from school. She too, was convinced that legislation would be the most effective way to prevent customary marriages. According to her:

...mission workers were anxious to help the Indian girls and boys after they left school, but as matters were at present were unable to wield any influence while the law permitted such things as described to take their course.<sup>4</sup>

While sympathetic to such pressures, the Department refused to outlaw customary marriages outright, and instead, chose to follow a more indirect course of action. Until the 1930s, the Department of Indian Affairs' policy was to tolerate Indian customary marriages as long as the parties to the marriage had consented to the union and remained monogamous while married. Individuals who attempted to marry another party while still married to their previous spouse could be prosecuted for bigamy or polygamy. However, I have found little evidence indicating that many aboriginal individuals were ever prosecuted for this.<sup>5</sup>

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<sup>2</sup> W.M. Halliday, to J.D. McLean, Secretary of DIA, 6 April 1911, RG 10, C-8538, vol. 6816, file 486-2-5 pt.1.

<sup>3</sup> Halliday to Scott, DSGIA, 23 February 1914, RG 10, C-8538, vol. 6816, file 486-2-8 pt.1.

<sup>4</sup> *Victoria Daily Times*, Wednesday, 14 May 1919, RG 10, C-8538, vol. 6816, file 486-2-5 pt.1.

<sup>5</sup> I found a reference to one case that the Department of Justice was considering in 1941, whereby an Indian man was charged with bigamy after being married once by the church and three times according to Indian custom. No effective action could be taken to prosecute him because "the marriage according to tribal custom did not constitute bigamy as defined by the sections...in the Criminal Code." RG 10, Vol. 6816,

While Indian marriages were considered valid, customary separation procedures on the other hand, were never officially considered legitimate. Native individuals who wished to end their marriages had to abide by provincial law and seek out the legal services of individuals endowed with provincial authority to dissolve marriages.<sup>6</sup> During the 1930s, once Indian agents had been given the power to act as Registrars of Marriage,<sup>7</sup> the Department began to have less tolerance for customary marriages, yet still stopped short of declaring customary marriages illegal.

According to the Department, its policy of tolerating tribal marriages followed the courts. In a circular letter to Indian agents in 1916, the Department stated: "The validity of marriages between Indians contracted in accordance with the customs of their tribe has been established by the Courts."<sup>8</sup> However, court rulings on the validity of tribal marriages were far from consistent. From the Department's perspective, case law on the question of Indian marriages happened to be conveniently vague.

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File 486-2-8 Pt. 1. In 1912, Attorney General of British Columbia W.J. Bowser informed agent Halliday that it was his opinion that "no jury would convict an Indian of bigamy as their customs were very loose and allowance would be always made for that fact." Halliday to J.D. McLean, 1 February 1912. The charge of bigamy was difficult to lay because in most cases, as far as administrators could determine, there was no kind of second marriage, "only a going and living together immorally." See McLean to Halliday, 17 February 1912. RG 10, vol. 3832, file 64, 535, C-10193.

<sup>6</sup> In one case, Dan Cranmer was refused a legal marriage by agent Halliday because his custom-married wife was still alive. He eventually "repurchased" his first wife (through a celebratory potlatch) and customarily married a second wife. This marriage was then solemnized by the Church. Therefore, in this instance, the customary separation ceremony was recognized as legitimate. Halliday to J.D. McLean. 1 February 1912, RG 10, vol. 3832, file 64,535.

<sup>7</sup> In 1902-03, Vowell made arrangements with the provincial government of B.C. to have agent DeBeck appointed as Registrar of marriage. See Vowell to DeBeck, 7 January 1903, RG 10, C-8538, vol. 6816, file 486-2-5 pt.1. Around 1912, the DIA also made special arrangements to have agent William Halliday appointed Registrar of Indian marriages for the Kwakiutl Agency. Halliday reported however, that "very few have taken advantage of this matter, although it has been urged upon them." Halliday to Scott, DSGIA, 23 February 1914, RG 10, vol. 6816, File 486-2-8 pt.1.

<sup>8</sup> C. C. Perry, Assistant Indian Commissioner for BC, to Secretary of DIA, 12 December 1932, RG 10 Black Series, vol. 11296, file 117 pt D.

The precedent- setting case of *Connolly v. Woolrich* was often cited in Department correspondence as a point of law regarding the validity of customary and country marriages. The case was decided in 1867 in Lower Canada, and held that the marriage of a white man with an Indian woman contracted according to Indian custom was a valid and legal marriage, even though the marriage had occurred on the frontier without the presence of a minister, priest, or Justice of the Peace. Justice Monk ruled that mutual consent between the two parties determined that their marriage was legally valid.<sup>9</sup> In the Northwest Territories Supreme Court in 1889, Justice Wetmore upheld the decision in *Connolly v. Woolrich* ruling once again that “consent coupled with Indian custom is sufficient to establish a legal and binding marriage.”<sup>10</sup> Based on these two rulings, the B.C. Supreme Court further decided that marriages by Indian custom were legally valid in *Rex. v. Williams*, heard in 1921.<sup>11</sup> On the issue of whether Indian marriages by tribal custom were legitimate under English law, Judge Matthew Baillie Begbie had invariably ruled that a woman married by Indian custom was indeed a wife and that evidence given by her was inadmissible to trial.<sup>12</sup>

However, other cases before the courts did not always validate customary marriages. In the case of *Robb v. Robb*, heard in 1891 before the Ontario Court of

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<sup>9</sup> *Connolly v. Woolrich*, (1867) 11 Lower Can. Jur. 197; 3 U.C.L.J. 14; 1 Lower Can. L.J. 253. Brian Slattery and Linda Charlton, *Canadian Native Law Cases*, (Saskatoon: University of Saskatchewan Native Law Center, 1986), 371.

<sup>10</sup> *Regina v. Nan-E-Quis-A-Ka*, (1889), 1 Terr. L.R. 211 (also reported: 1 (no.2) N.W.T.R. 21). Northwest Territories Supreme Court, Richardson, MacLead, Rouleau, Wetmore and McGuire JJ., 7 December 1889. Brian Slattery and Linda Charlton, *Canadian Native Law Cases* (Saskatoon: University of Saskatchewan Native Law Center, 1986), 368.

<sup>11</sup> *Rex v. Williams*, (1921), 30 B.C.R. 303 (also reported: 37 C.C.C. 126), British Columbia Supreme Court, Gregory J., 20 October 1921. Brian Slattery and Linda Charlton, *Canadian Native Law Cases* (Saskatoon: University of Saskatchewan Native Law Center, 1986), 448.

<sup>12</sup> David R. Williams, “The Man for a New Country.” *Sir Matthew Baillie Begbie* (Sidney: Gray’s Publishing Ltd., 1977), 108.



Common Pleas, a widow contested the legitimacy of her son's daughter in order to show that the daughter was not entitled to be an heir to the plaintiff's deceased husband's estate. The son, William, had left Ontario for British Columbia in 1869 and married an Indian woman from the Comox tribe according to Indian custom. He paid \$20 to the woman's father "in half-dollar pieces."<sup>13</sup> The woman's father gave a feast in honor of the marriage. Justice Robertson commented: "The giving of presents to her father and the relations of the woman, and the acceptance thereof by him, and the cohabitation by the man and woman is, according to the Indian custom, a marriage."<sup>14</sup> However, Robertson found that the daughter of this union was the legitimate offspring and legal heir of William and Supul-Catle, *not* because they had been married according to Indian custom, for he did not "base [his] judgment on that ceremony at all,"<sup>15</sup> but rather because their marriage was consensual, followed by cohabitation and the birth of a child. That is, according to the judge, their marriage corresponded to the form of a Christian marriage. He disregarded the fact that most Native customary marriages also followed this pattern. Robertson's judgment implicitly undermined the validity of Indian marriages and recognized only those marriages that were consistent with Christian doctrine. Thus, his judgment was not a true recognition of cultural differences. In another case, *Smith v. Young*, heard in the B.C. Supreme Court in 1898, the judge found the customary marriage between a white man and Native woman of the Cowichan tribe to be invalid. At the time of the marriage both parties considered themselves Christians, and had the opportunity of being married in a Christian ceremony,

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<sup>13</sup> *Robb v. Robb*, (1891), 20 O.R. 591, Brian Slattery et al. *Canadian Native Law Cases*, vol. 3 1891-1910, (Saskatoon: University of Saskatchewan, 1985), 614.

<sup>14</sup> *Ibid.*, 615.

<sup>15</sup> *Ibid.*, 624.

yet had decided on a customary wedding instead. Based on these considerations, the judge found the customary marriage invalid because he felt that they should have known better as Christians.<sup>16</sup>

Although the federal government accepted the validity of customary marriages and separations, provincial governments set the laws on marriage. The province of B.C. declared that “the only marriages legal in this Province are those solemnized by a clergyman or performed by a Registrar under the Marriage Act.”<sup>17</sup> The Provincial Marriage Act of 1929 required the registration of all clergymen and others who were entitled to solemnize marriages. The Department supported this legislation, but stopped short of declaring Native marriages illegal. DIA advised Indian agents to encourage Native couples to have church marriages, or a civil service failing that.<sup>18</sup> DIA could not declare outright that Native marriages were illegal. One significant reason why the Department recognized Indian marriages was that doing so ensured the legitimacy of most Natives. In other words, were Indian marriages not recognized, most Indians would then be considered illegitimate. There were compelling economic and legal reasons to avoid such a scenario. Some Department officials were concerned that a rise in illegitimacy would make it more difficult for DIA administrators to ensure that the fathers of illegitimate children met their financial obligations in supporting their offspring and the woman to whom they were

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<sup>16</sup> *Smith v. Young*, (1898), 34 C.L.J. 581, in Slattery et al, vol. 3, 656.

<sup>17</sup> C. C. Perry, Assistant Indian Commissioner for BC, to Secretary of DIA, 12 December 1932, RG 10 Black Series, vol. 11296, file 117 pt D.

<sup>18</sup> Scott to R.H. Pooley, 8 November 1930, and Pooley to Scott, 19 August 1933, RG 10 BS, vol. 7978, File 1/18-26. Also see C. C. Perry to E.G. Newnham, 4 November 1932, in RG 10 BS, vol. 11150, File C.R. 25 pt. B – Kwawkewlth Agency.

married according to Indian custom.<sup>19</sup> Harold McGill, Deputy Superintendent General in 1933, explained that the Department ideally supported provincial marriage laws because such legislation would help organize the transfer of property between Indians.<sup>20</sup> Legitimacy was an important factor in determining band membership and in distributing the property of deceased Indians.

The Department also recognized the validity of Indian marriages because it ultimately wanted to encourage monogamous relations among Indians, and customary marriages could be consistent with such values. Since Native communities were not clamoring for civil ceremonies legitimizing marriage unions, customary practices potentially functioned to achieve the same effects – from DIA’s point of view. Were the Department to declare customary marriages illegal, Natives would not necessarily seek out civil or Christian ceremonies in place of customary ceremonies. Duncan Indian Agent Alfred H. Lomas reported in 1928 that a large majority of B.C. Indians continued to “look upon their tribal marriage customs as sacred and binding.”<sup>21</sup> Moreover, very little would be achieved through legislation that would be difficult to enforce,<sup>22</sup> unenforceable laws would only undermine the legitimacy of the law. Ultimately, legislation outlawing customary practices would require a level of regulation that the Department was unwilling to undertake.

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<sup>19</sup> Memorandum to Deputy Superintendent General, 24 February 1908, RG 10, vol. 3990, file 180,636. Memorandum to Mr. Jackson [position unknown], 15 April 1941, RG 10, C-8538, vol. 6816, file 486-2-8 pt. 1.

<sup>20</sup> Harold McGill to C. C. Perry Assistant Indian Commissioner for BC, 4 October 1933; RG 10 BS, vol. 7978, file 1/18-26.

<sup>21</sup> Lomas to Duncan C. Scott, Deputy Superintendent General, DIA, 20 February 1928, RG 10, vol. 6816, file 486-2-8 pt.1.

<sup>22</sup> In a letter to agent DeBeck, Indian Superintendent A.W. Vowell explained that any new regulations restricting traditional Indian marriage practices would be difficult to enforce because “the time alone consumed in which would be very great, and which we could ill afford to spare from other equally important duty [sic].” 6 January 1903, RG 10, C-8538, vol. 3816, file 486-2-5 pt.1.

Repressive legislation would not only be difficult to enforce, but would further point to the failure of DIA policy which favored gradual civilization and assimilation.

Of course, missionaries and Indian agents tended to see things differently. Positioned in the field, their work acquired an immediacy that was removed from the bureaucratic machinery of DIA. For missionaries and Indian agents, “gradual assimilation” could represent an eternity, not only for the people with whom they worked, but also for themselves. Missionaries and Indian agents often saw their efforts to “educate and civilize” stymied by the absence of legal authority and frustrated by the persistence of Native traditions.

In response to these challenges, many of these reformers requested the Department press for changes in the law that would clarify the status of Indian marriages and clearly define the boundaries of “moral” living for Native people. Alert Bay Indian agent R. H. Pidcock believed that the problem of dealing with customary marriages was compounded “because the law in regard to Indian marriages has never been defined in the Indian Act...”<sup>23</sup> Pidcock, however, may have been one of the few Indian agents to question whether legislation would have any effect on Indian marriages. He believed instead that “religious teaching and the civilization which follows, are the only means of putting an end to the practices complained of.”<sup>24</sup> Unlike Pidcock, most Euro-Canadians who worked among the Indians regarded legislation as the best strategy for undermining traditional marriage practices. In 1912, Reverend T. Albert Moore, who worked among Native communities in Alberta, requested legislation that would strictly apply to Native marriages.

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<sup>23</sup> R. H. Pidcock to A. W. Vowell, Indian Superintendent, 11 December 1897. RG 10, Vol. 6816, file 486-2-5 pt.1, C-8538.

<sup>24</sup> *Ibid.*

The Reverend had been concerned about promoting what he called "moral living" among the Indians in his mission. In a letter to the Assistant Deputy and Secretary of DIA J. D. McLean, he argued that legal divorce was impractical for the Indians at his mission because of the time and expense the procedure entailed. Because of the difficulty of obtaining legal divorces in remote locations, Moore suggested that the government make cohabitation and adultery illegal for aboriginal peoples, arguing that such measures would decrease the incidence of illegitimacy.<sup>25</sup> Predictably, Moore's recommendation was not adopted.

McLean informed him:

We can scarcely hope to get adultery made a crime for Indians alone; but if the Temperance and Moral Reform Departments of the Churches succeed in their agitation to this end, the Indians will be reached as well as others.<sup>26</sup>

The Department's position on the issue of moral reform was clear: It did not consider legislation the best way to regulate sexuality. Although McLean suggested that regulating Native peoples' sexuality was desirable, the route to achieving that end would have to be indirect. Specifically, it would be up to private groups – not the state – to regulate sexuality. In her book on the development of the moral reform movement in English Canada, The Age of Light, Soap, and Water, Mariana Valverde discusses moral reformers' desire for greater social regulation and the difficulties such intervention posed for liberal democratic states committed to a policy of laissez-faire. While moral reform groups from 1880 to 1920 pressured the state repeatedly for increased intervention in the family life of its citizens, the state had a vested interest in withdrawing from any explicitly moral campaign, for its

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<sup>25</sup> McLean, Assistant Deputy and Secretary of DIA, to Reverend T. Albert Moore, 3 July 1912, RG 10, C-10193, vol. 3816, file 57,045-1.

<sup>26</sup> *Ibid.*

legitimacy rested on the separation of church and state.<sup>27</sup> Valverde's thesis can certainly be applied to the movement among missionaries and various Indian agents to expand the federal government's role in reshaping the sexuality and family lives of Native people, and the government's lack of response to those pressures.

Throughout the '20s and '30s, reformers continued to ask DIA to broaden its mandate to include moral regulation, and the government was fairly consistent in expressing its reluctance. West Coast Indian agent E. E. Frost requested that legislation be brought against Native men and women who left their "legitimate" families to live with others. Frost was concerned about the economic consequences that often resulted from separations or abandonment.

...There are frequent family troubles caused by men and women leaving their homes and families and cohabiting with others than their wives and husbands....In one such case the Department was asked for permission to prosecute the offender for deserting his wife an family and leaving them chargeable on the Department. My point is that these separations occur far too often and in many cases without any logical reason or cause and are adding considerably to the cost of relief.<sup>28</sup>

At a 1923 conference for Methodist missionaries, Rev. Tate, acting on behalf of other mission workers, also asked the federal government to amend the Indian Act to make seduction and desertion crimes punishable by imprisonment.<sup>29</sup> Reformers seemed to suggest through their pleas that special legislation was needed because it was more difficult for Indians to overcome the poverty and illegitimacy that often resulted from desertion and seduction.

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<sup>27</sup> Valverde, 20, 25.

<sup>28</sup> E. E. Frost, Indian agent, West Coast Agency, to C.C. Perry, Assistant Indian Commissioner for B.C., 13 January 1934, RG 10 Black Series, vol. 11296, file 117 pt. D – Indian Commissioner for B.C. – Vital Statistics.

<sup>29</sup> "The Marriage Question in Indian Circles," speech given by C.M. Tate, at the Sixth Annual Conference of Workers among the Indians, New Westminster, 15 May 1923. RG 10, vol. 6816, file 486-2-8 pt.1.

Tate's and Frost's requests were denied by the Department. Duncan Campbell

Scott, Deputy Superintendent General, argued that:

...as a matter of principle it is not considered advisable to make a distinction between Indians and other residents of the country with respect to the Criminal Law...With respect to desertion, I may point out that sections 242 to 242c of the Criminal Code provide for the punishment of any one who as head of a family neglects to provide for his wife and children and accordingly a wife who has been deserted by her husband can take criminal proceedings against him.

With respect to seduction, I have to point out that the Criminal Code already provides for imprisonment for such under certain conditions. Sections 211-214.<sup>30</sup>

The Department also dismissed requests from missionaries like Miss Nixon who suggested that customary marriages should be prohibited by law because many of them involved infants. Scott repeated his message that the laws governing infant marriages were the same for whites as they were for Natives:

I may point out that even under the Christian marriage, the marriage of a girl under the age of 14 years would appear to be quite regular provided the girl had the consent of her parents or guardian. I am not advised as to whether a clergyman would be legally justified in refusing to perform the marriage of so young a girl in the absence of any legal impediment.<sup>31</sup>

Uncomfortable with directly intervening in family life and sexual relations, the Department relied upon existing legislation to set the boundaries – however vague those boundaries may have appeared to reformers like Moore, Frost, Tate, and Nixon. DIA claimed that laws prohibiting infant marriages, desertion, and seduction would be as adequate in defining gender relations for Natives as they were for whites. However, the Department never attempted to enforce these laws within its jurisdiction, or to get the province to do so either, since enforcement was a provincial responsibility and the province was not

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<sup>30</sup> Duncan Campbell Scott, D.S.G., D.I.A., to Reverend T. Ferrier, Brandon Industrial School, Manitoba, 25 January 1924, RG 10, vol. 6816, file 486-2-8 pt.1.

<sup>31</sup> Scott to J.G. Shearer, Superintendent of the Social Service and Evangelism of the Presbyterian Church in Canada, 31 May 1916. RG 10, C-8538, vol. 6816, file 486-2-5 pt.1.

concerned about these issues or willing to undertake the effort involved to enforce morality. Thus, for the DIA, existing legislation was an excuse to do nothing.

While the Department clearly refused to adopt repressive legislation, it was more amenable to creating legislation that would encourage, but not force, Indians to have civil marriage ceremonies. Noting that by the turn of the century traditional marriages among the West Coast nations were certainly not on the wane, some wondered whether the costs involved in purchasing a marriage license discouraged Native people from obtaining civil ceremonies. In an effort to encourage Indians to have civil ceremonies, Superintendent Vowell tried to eliminate the fees required to purchase a marriage certificate for "pure-blooded Indians."<sup>32</sup> Further efforts were made to make civil ceremonies more accessible to Natives who lived outside of Victoria or the Lower Mainland. In accordance with Provincial marriage law in 1929, the Department gave Indian agents the authority to perform marriage ceremonies and keep a register of all marriage contracts.

Referring to the repeated requests to clarify the Department's position on the regulation of Native family matters, Duncan Campbell Scott in 1934 provided one gruff response: "The Department is not responsible for the morals of the Indians!"<sup>33</sup> Scott's statement is puzzling in light of his previous record as Deputy Superintendent General from 1913 throughout the twenties, when he waged battle against Indian marriages and the potlatch until "paternalism...became oppression."<sup>34</sup> By 1934 Scott had retired from the Department and was no longer a reformer. His statement, although inconsistent with his

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<sup>32</sup> Vowell to De Beck, 7 January 1903. RG 10, C-8538, vol. 6816, file 486-2-5 pt.1.

<sup>33</sup> C. C. Perry, Assistant Indian Commissioner for B.C., to H.W. McGill, DSGIA, 16 January 1934, RG 10 Black Series, vol. 11296, file 117 pt.D.

<sup>34</sup> Cole and Chaikin, 93.



own personal record as a reformer, was consistent with the general non-interventionist stance taken by DIA regarding Native sexual and familial relations. The “solution” to the “problem” of customary marriages would come with time and the efforts of other colonizers. Other Department officials explained this strategy more fully:

...the true remedy must come from the gradual civilization of the Indians and more especially by the inculcation into their minds of the views which prevail in civilized communities as regards woman's [sic] true position in the family, and of the Christian doctrine of the sanctity of marriage.<sup>35</sup>

Superintendent Vowell was of the same impression.

Many of the alleged irregularities complained of by some missionaries can be better and more effectively remedied by the teaching of the missionaries and the Agents than by special legislation. The Indians although fully believing in the efficacy of Indian marriages are nevertheless rapidly adopting on such occasions the ceremony established by the different religious denominations and in a very few years I am inclined to think that the old tribal form of marriage will have become obsolete....To attain improvement requires many years of patient exhortation on the part of their teachers, and experience has proved that no people can be made good, or what we consider good, by acts of Parliament of a too arbitrary nature.<sup>36</sup>

Vowell's commentary offers insight into what is perhaps another explanation as to why DIA chose not to prohibit Indian marriages outright. His words “alleged irregularities,” “what we consider good,” and “too arbitrary a nature,” suggest that at least he recognized the fluid definition of marriage, and that the concept of moral marriages itself was a cultural construction. Because of the definitional problem of marriage, the state could not satisfactorily attempt to regulate Native marriages.

Although the federal government was reluctant to create legislation directly regulating Native family life, it did so indirectly through the law against the potlatch. The potlatch prohibitions of 1884 and 1895 had the potential to affect the practice of Native

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<sup>35</sup> S. Stewart, DIA, to the Secretary of DIA, 11 January 1892, RG 10, C-8538, vol. 6816, file 486-2-5 pt.1.

<sup>36</sup> A. W. Vowell to the Secretary of DIA, 20 January 1898, RG 10, C-8538, vol. 6816, file 486-2-5 pt.1.

marriage customs since many west coast Indian marriages, as discussed in Chapter One, were accompanied by a potlatch ceremony. Indian agent Halliday of the Kwakiutl agency looked favorably upon such legislation because of its potential to prevent potlatch marriages.

I am exceedingly glad that the Department is taking steps to prosecute Indians for engaging in the potlatch, and if this is rigorously enforced it will make a great difference in the marriage customs of itself as the property exchanged in marriages is one fruitful source of income to the potlatch, and if no longer needed will have an effect...<sup>37</sup>

While Halliday may have looked optimistically upon prohibitions against the potlatch as a method of undermining customary marriage traditions, twenty years later R.H. Pooley, Attorney General of B.C. in 1933 was cautious about singing praises about the potlatch ban. In a letter to the Department, he expressed his frustration with the DIA for not enforcing the legislation to the full extent of the law:

The province [has gone] as far as we possible can to assist in making the ceremony of marriage as easy as possible between Indians, and we again ask the cooperation of your Department with the view of wiping out the pot-latch [sic] ceremony altogether.<sup>38</sup>

Cole and Chaikin have concluded that the potlatch law, which was largely unenforceable after 1927 and eventually dropped in the 1951 Indian Act, may have carried greater symbolic importance than it actually affected individuals.<sup>39</sup> Most administrators avoided coercive interference with the potlatch for reasons that were very similar to their avoidance of regulating Native family life: first, because of remote locations and lack of police manpower, it was difficult to physically enforce such laws; secondly, by having to adopt or

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<sup>37</sup> W. M. Halliday to Duncan Campbell Scott, DSGIA. 23 February 1914, RG 10, C-8538, vol. 6816, file 486-2-8 pt. 1.

<sup>38</sup> R.H. Pooley to D.C. Scott, 19 August 1933, RG 10 Black Series, vol. 7978, file 1/18-26.

<sup>39</sup> Cole and Chaikin, 176.

enforce greater interventionist legislation, authorities would have to admit the limitations of current “laissez-faire” policy and they were reluctant to do that; and finally, when it came to the subject of marriage and sexuality, there was an ideological lack of interest in getting involved in what was considered to be the more private domain of morality. Thus, it was difficult to intervene in general, but particularly in intimate relations – the most private aspect of the private sphere.

Just as the state’s role in regulating aboriginal family life was never clearly articulated through federal legislation, the role of the Indian agent in doing so was ambiguous. When it came to family life, the Indian agent, according to the Department, was to play an advisory role. Agents were expected to use their discretion in exercising moral suasion to the degree they thought necessary. Many Indian agents, however, questioned whether simply giving advice would have any effect.

Like Vowell, Secretary of Indian Affairs J. D. McLean believed that the best way to regulate marriage was not through legislation, but rather through the efforts of Indian agents and missionaries to educate and persuade. With such measures, it was believed that time would eventually witness the waning of traditional practices. Throughout the first half of the twentieth century, officials regarded the industrial and residential schools as potentially effective instruments of cultural assimilation. As Sarah Carter’s work on the File Hills Colony in Saskatchewan suggests, DIA officials tirelessly promoted what it believed to be the wisdom of the industrial and residential school policy.<sup>40</sup> Designed to effect change upon Native children away from the influence of their parents, the schools,

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<sup>40</sup> Sarah Carter, “Demonstrating Success: The File Hills Farm Colony,” *Prairie Forum*, 16, no. 2 (Fall 1991), 157.

operated by missionaries, taught a rudimentary mixture of academic, industrial, and moral training. It was thus through the “success” of the industrial and residential schools whose graduates were to give the outward appearance of conformity to mainstream society, and not through explicitly moral legislation that reform was to occur.

Although DIA policy-makers acknowledged the concerns voiced by various Indian agents and appeared sympathetic, they advised their agents to use moral suasion instead of pressuring for legislative reforms that would increase their powers of coercion. When Indian agent C.A. Cox argued that legislation was necessary to prohibit early customary marriages, McLean informed Cox in 1913 that it was “your duty and that of all missionaries to strongly advise the Indians against permitting the marriages of children. They are most unseemly...”<sup>41</sup> An advisory position would be the extent of agents’ and missionaries’ regulatory powers in the realm of sexual relations. Despite constant reminders of their advisory capacity, there were repeated calls from Indian agents throughout this time for measures increasing their authority to intervene in Native family life. Agent DeBeck wrote to Secretary McLean:

An Indian Agent’s authority should be very much enlarged, and he should have the absolute weight of authority and the backing of the Department behind him and then the matter [of making native marriages “absolutely” binding] would be easy.<sup>42</sup>

DeBeck’s opinion that the Indian agent was to play a central role in regulating morality was shared by many agents whose work in the field was to ensure that Indians were to be successfully assimilated. The most outspoken of these agents included, at various times from the 1870s to the 1930s: Halliday, Cox, West Coast agent E. E. Frost, Kamloops and

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<sup>41</sup> J. D. McLean to C.A. Cox, 30 May 1913, RG 10, C-8538, vol. 6816, file 486-2-5 pt.1.

<sup>42</sup> W. M. Halliday, to J. D. McLean, Secretary of DIA, 6 April 1911, RG 10, C-8538, vol. 6816, file 486-2-5 pt.1.

Okanagan agent J. W. MacKay, New Westminster agent P. McTiernan, and Lillooet agent William Laing Meason.<sup>43</sup>

The Annual Reports submitted by Indian agents to the Superintendent each year reflect that, at least officially, agents understood that their primary responsibilities centered around advising Natives on their economic activities, "protecting them in the possession of their farming, grazing and woodlands fisheries or other rights, and preventing trespass upon or interference with the same,"<sup>44</sup> preventing the use of alcohol, and advising the Indians against potlatching. The reports contain very little commentary on the family life of Native people. Discussions on morality usually involved some cursory comment on the prevalence of alcoholism or temperance for each band.

Although moral regulation was not explicitly at the forefront of their duties, it was not entirely clear to what extent agents could intervene in family matters. The three page directive entitled "Instructions to Indian Agents" issued to every Indian agent at the beginning of his term was ambiguous on this point.

The Agent should discourage and as far as possible prevent the promiscuous intercourse of the sexes, and the organized prostitution of Indian girls.<sup>45</sup>

The phrase "as far as possible prevent" gave agents the latitude to intervene and advise according to their own discretion. With the fluid definition of marriage, and the often easily misunderstood customary separation practices of some groups, confusion sometimes abounded when agents misunderstood serial monogamy for "promiscuous intercourse."

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<sup>43</sup> A variety of files can be perused for this information. For the most significant files on MacKay and McTiernan (1880s) see RG 10, Vol. 3842, File 71,799; for William Laing Meason (1880s) see RG 10, Vol. 3658, file 9404; and for Frost, refer to RG 10, BS, Vol. 11296, file 117, pt. D.

<sup>44</sup> "Instructions to Indian Agents," RG 10, Vol. 3658, file 9404

<sup>45</sup> *Ibid.*

Even when Indian agents understood the customs of the people among whom they worked, many still believed that customary marriages and separations led to immoral living.

Those Indian agents who interpreted their instructions with the greatest possible latitude, felt that their mandate "to discourage *as far as possible*...promiscuous intercourse..." was limited by the lack of legislation supporting state intervention into Native sexuality. In 1929, Indian agents were given the powers of Justices of the Peace to conduct civil marriages and separations. Many agents, however, still believed that greater intervention was necessary. They were willing to try to persuade but they wanted to be backed up by the law. As indicated in the flurry of correspondence generated throughout the 1930s, Indian agents and other officials who worked with Indian bands found this contradiction frustrating and understood it as an impediment to their work.<sup>46</sup> C. C. Perry, Assistant Indian Commissioner for B.C., found Scott's attitude in the 1930s disconcerting. He had been pressing Scott for some legal authority to ensure that Indians who deserted their wives and husbands would still be financially responsible for their children from previous relationships. Upon getting little support from Scott, Perry wrote:

Many of the Indians have failed to discharge their reasonable obligations to their families and the Department has paid for it in increased relief to destitute families. It is my view that if the idea were to get abroad among the Indians that the Department is not concerned whether the Indians live morally or not, there will be no use of our Agents and Constables going around and warning the Indians to comply with the law...<sup>47</sup>

In the same letter Perry also mentioned that he had received complaints from Indian agents regarding the lack of support being given by the Department in regard to measures

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<sup>46</sup> C.C. Perry to H.W. McGill, DSGIA, 16 January 1934, RG 10 Black Series, vol. 11296, file 117 pt. D. Agent Collison, who expressed confusion about the degree of regulation acceptable, was joined by DeBeck, Halliday, Cox, and Frost (all at different times, of course) in his frustration over this matter.

<sup>47</sup> C.C. Perry to H.W. McGill, DSGIA, 16 January 1934, RG 10 Black Series, vol. 11296, file 117 pt. D.

increasing the agents' authority to regulate Indian family matters.

As indicated in their daily journals and outgoing correspondence, some Indian agents were extensively involved in monitoring the behaviour of parents and spouses. The actions of many agents suggest that – although never explicitly directed – they believed that the regulation of family life was a fundamental aspect of their duty to assimilate Native people into society. John Freemont Smith, who was Kamloops Indian agent between 1912 and 1915, spent many days “reconciling” husbands with wives who had “deserted” their families.<sup>48</sup> In one particularly revealing incident, Smith tracked down a Shuswap woman who had been separated (in the customary fashion) from her husband for twenty-five years and had been living in another village miles away. After he located her, he sent her back – with the help of police constables – to her husband in North Thompson.<sup>49</sup>

Despite pressures from Indian agents and missionaries to clarify the law regarding customary marriages, the Department of Indian Affairs opted to avoid promoting any explicitly moral legislation. Although bureaucrats desired an end to traditional practices, they hoped to appear neutral in the face of various reformist pressures.<sup>50</sup> Although their mandate to assimilate Native populations was certainly not neutral, such a policy was more palatable because it was not connected with any particular interest group nor did it necessarily entail intervention into the private sphere. More importantly, perhaps, the state did not want to initiate legislation that would be difficult to enforce and which might lead aboriginal groups to further question the legitimacy of the law. When it came to the

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<sup>48</sup> Diary and Daily Journal of J. F. Smith, RG 10, Vol. 1325.

<sup>49</sup> Daily Journal, 27 January 1915, RG 10, Vol. 1325.

<sup>50</sup> Valverde also discusses this. See p. 25.

question of regulating the family life and sexuality of Native people, federal policy makers favoured an indirect approach. They chose the process of gradual civilization. If Indian agents took the responsibility upon themselves to intervene and regulate, that was acceptable to DIA, provided that agents did not become bothersome in their demands for greater regulatory powers. DeBeck's short career in the Department suggests that successful agents had to be "tolerant of the ambiguities of discretion" if they were to work effectively within the DIA bureaucracy.<sup>51</sup>

While the Department was reluctant to intervene in the private sphere, Protestant, Anglican, and Catholic missionaries, who operated under different constraints, had no qualms about intervening in the private sphere.

### Missionary Strategies to Reform Native Marriages

The Anglicans, Methodists, and Catholics were the three most involved missionary groups in British Columbia, their presence having been established in British Columbia before the settlement frontier opened. Whereas the fur traders had arrived to the west coast willing to accommodate themselves to Native cultures, missionaries arrived with programs for complete acculturation. Although the methods of acculturation may have varied somewhat across denominations, all missionaries attempted to enforce – some more stringently than others – Christian, monogamous, "moral" unions between Native men and women. Their means of doing so involved modes of regulation that the state itself could never undertake.

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<sup>51</sup> Cole and Chaikin, 71. It is unclear whether DeBeck was fired, or whether he resigned on his own initiative. Cole and Chaikin make the point that DeBeck was impatient with the oft-times ambiguous policies of DIA and was ill-suited to the politics of the bureaucracy.



The watchman system of regulation was one of the most common methods of moral regulation used by missionaries. Anglican, Methodist, and Catholic missionaries each relied on Native individuals to police their neighbours. Native watchmen usually enforced the prohibition on alcohol and generally tried to prevent "sin." Anglican missionary William Duncan in Metlakatla and Methodist Thomas Crosby who worked among the Port Simpson, both used Native policemen to help enforce "moral" living.<sup>52</sup> Methodist missionary Agnes Knight, who was sent to work as a teacher in the Bella Bella school noted in her diary that a watchmen system was heavily relied upon in that village:

We have two watchmen to help keep our little world in good order, & peace, & their duties take much of their time and bring them in nothing – so it was proposed that each house owner should give a bitt [sic] a month towards paying the watchmen for their good service...<sup>53</sup>

Some watchmen systems were more tightly organized than others. Duncan's, Crosby's and Knight's missions had the assistance of watchmen who were appointed to act on a "full-time basis." However, Catholic missionary Charles Moser appointed Native men on an ad hoc basis to act as policemen whenever the situation warranted it. Reporting on an incident at his mission in Hesquiat in 1911, Moser wrote:

I was informed that an old heathen had stolen another man's woman, so after Mass I announced that I wanted four men to act as policemen to go and fetch the culprits back from the Inlet where they had gone. They were soon brought back, and I lectured them on the wrong they had done, and insisted that the woman return to her former home. This she agreed to do, and all was well.<sup>54</sup>

The Oblate Durieu system was perhaps the most well-organized of these watchmen systems, and it was certainly the most systematic attempt at moral regulation. Designed by

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<sup>52</sup> Robin Fisher, *Contact and Conflict*, (Vancouver: UBC Press, 1992), 134.

<sup>53</sup> *Journal of Agnes Knight*, 29 July 1885, 23. F/7/W15r, BCARS.

<sup>54</sup> *Diary of Charles Moser*, 21 January 1911, Add. Mss. 2172, BCARS.

Oblate missionary Paul Durieu while working among aboriginal groups in Oregon in the 1850s, the system attempted to regulate Native morality by instituting a rigid hierarchy in the Oblate Indian communities. The priest and his appointed chief were at the top of the hierarchy, followed by the watchmen, or councilmen, the catechists, and the "bell-ringers." To reinforce their ideas about monogamous families, and in reconstructing Native femininity and masculinity, Oblate missionaries relied heavily upon the Durieu system and most priests instituted some form of it in their missions. The Durieu system played a fundamental role in reshaping Native gender relations and redefining the power structure within aboriginal communities.

Oblate missionary activity among the Shuswap, Okanagan, Thompson, and Lillooet groups in the interior illustrates how moral reformers considered the regulation of sexuality and family relations to be vitally significant to the enterprise of "civilizing" the Indians. The Oblates recognized that the regulation of sexuality and family life – according to their principles – would not come from state-initiated legislation. The Durieu system attempted to restructure Native communities in such a way that the priest, with his appointed watchmen, could tightly monitor and direct the moral behaviour of Indian villages. Writing in 1941 in memory of the contributions of Bishop Durieu to missionary work in the province, Oblate Bishop E. M. Bunož explained Paul Durieu's motivations for designing the system:

Bishop Durieu...knew that the state legislation made for the white people was not sufficient for Indian communities where special regulations were required as in a college for the maintenance of the discipline.... He boldly created as it were an Indian state ruled by the Indian, for the Indians, with the Indians, under the direct authority of the bishop and the local priests or supervisors.<sup>55</sup>

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<sup>55</sup> Bishop E. M. Bunož, "Catholic Action and Bishop Durieu's System," Archives of the Oblates of Mary Immaculate, (Vancouver: B.C.), Oblate microfilm reel #6, 1941, 1-25.

Some of these "special regulations" included such things as curfews, full attendance at Church, observance of all Catholic holidays and celebrations, and the prohibition of swearing, gambling, and alcohol consumption within the village. But the Oblates also hoped to reform the gender relations among Native men and women. In relatively egalitarian societies like the Lillooet or Shuswap, where traditionally, both men and women could assume leadership positions, Oblates appointed only men to serve in "public" positions of authority. Women were excluded from the "Indian state" run by the watchmen, catechists, cloche-men (those who rang the church bells), and councilmen.

In the process, sexual relations were also reformed. Hoping to protect Native women from sexual exploitation, Oblate priests along with the chiefs restricted the activities of women. Bunoz explained:

.... A woman was not allowed to go alone to Vancouver to sell her berries or wares. They had to be three or at least two together, and improper familiarities on the part of the clerks, etc., if any, had to be reported to the chief.<sup>56</sup>

Under the Oblate system, young girls and boys were not allowed to play together. Older youth were also restricted from associating with the opposite sex. Sexual experimentation could be punished severely. Married couples had to resolve any disputes in front of the priest and council; and separations were not tolerated. Oblate missionaries would attempt to enforce the Durieu system by encouraging peer pressure from recent converts, by withholding sacraments from those Church members who violated certain codes of behaviour,

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<sup>56</sup> *Ibid.*

and in some cases, issuing physical punishments against stubborn “perpetrators.”

The level of moral regulation suggested by the Durieu system formed a striking contrast to the regulation that the Department of Indian Affairs was willing to undertake. Although the Department granted much latitude to missionary groups like the Oblates, DIA was compelled to intervene in their projects when missionary activities to “civilize” the Indians undermined the legitimacy of the law. In one such case, Oblate efforts to regulate the sexuality of Native women and men went beyond what the federal government considered to be acceptable modes of regulation. In the spring of 1892, during the height of missionary activity in central British Columbia, an incident in the Lillooet village of Fountain threatened not only the mission of one Oblate priest named Father Chirouse, but also potentially undermined the credibility of the entire Oblate mission in British Columbia. Chirouse and five Indian laymen were charged and convicted of assaulting a Lillooet woman they were punishing for having pre-marital sex.

The flogging of Lillooet Lucy is important for other reasons as well. In the next section, my focus will turn to the Lillooet men who initiated the punishment and who seemed the most motivated to teach Lucy a lesson. The participation of Lillooet men in the flogging suggests that these Native men regarded the regulation of gender and sexual relations as highly significant to their position as men, and also as *Indian* men, both within their community and outside of it as well. The regulation of marriage and sexuality was not only significant to white colonizers, but also to Native communities struggling to build their own nationhood.

### The Flogging of Lillooet Lucy

One night, at the close of evening catechism, Lillooet watchman Cultus Johnny reported to a gathering of chiefs and fellow councilmen that he had witnessed a young Lillooet girl and her boyfriend "having connections."<sup>57</sup> The two delinquents were brought into the village courthouse where the Lillooet leaders were gathered, and a discussion ensued as to how the two would be punished. The men agreed that Lucy and her friend should be whipped, but they were uncertain as to the number of lashes.

One of the chiefs appointed a spokesman to consult Oblate Father Eugene Chirouse about an appropriate punishment. Chirouse, who was working in his cabin a short distance away, asked who the witness was. Upon hearing that it was the watchman Cultus Johnny – and respecting his reputation – the priest advised the council: "Whip them both fifteen lashes each."<sup>58</sup>

Seventeen year old Lucy and her boyfriend were stripped to their undergarments and held down by the watchmen while the chief whipped each of them fifteen times with a raw-hide whip tipped with lead. Father Chirouse remained in his cabin while the two were punished.

The next day, Chirouse and his assistant Father Emile Bunoiz prepared to leave Fountain to continue their mission in nearby villages. According to evidence later taken from Chief Killapmut Kin, "the priest told me when he left Fountain to whip that girl if she did anything wrong."<sup>59</sup>

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<sup>57</sup> Archives of the Oblates of Mary Immaculate, (Vancouver, B.C.), Oblate microfilm reel No. 1, 705, 1101.

<sup>58</sup> *Ibid.*

<sup>59</sup> *Ibid.*, 1098.

Within a few hours after Chirouse's departure, Lucy, still recovering from her flogging the night before, declared that she wanted to visit some Lillooet boys who had recently arrived in town. Hearing this, Chief Killapmut Kin told his four watchmen to "Bring her back and whip her."<sup>60</sup>

Lucy was interviewed by a provincial investigator a few days after the floggings. Her testimony was fragmented (most likely due to language barriers), but she was able to provide details that revealed the severity of her ordeal. Lucy reported that many villagers had been present for the floggings. She said that after the second whipping, she "lost her breath,"<sup>61</sup> which probably meant that she lost consciousness since she had to be carried to her bed by two women. Lucy told the investigator that some witnesses thought she was going to die.<sup>62</sup>

News of the incident traveled quickly, and Chirouse's role in the matter received much attention from Protestants and the Department of Indian Affairs. Local residents and Protestant missionaries working in the area were enraged. The *Victoria Daily Colonist* reported that:

...in the country around the La Fontaine reservation the white people are, to some extent, bitterly prejudiced against the Indians and the priests, and there are, many of them who openly scoff at the morality existing among the tribes.<sup>63</sup>

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<sup>60</sup> *Ibid.* 1102.

<sup>61</sup> *Ibid.*

<sup>62</sup> Newspaper accounts of the incident provided by the *Victoria Daily Colonist* minimized Lucy's injuries after the first whipping. The *Victoria Daily Colonist* of May 6, 1892 reported: "The evi,'ence showed that the girl had not been at all injured by the first whipping..." The same newspaper reported a few days later that after the first whipping, Lucy cheerfully greeted Father Chirouse in church the next day (12 May 1892, *Victoria Daily Colonist*). Although accounts tend to agree that with the second whipping the chief and watchmen "showed no mercy" and "exactd a severe chastisement" upon Lucy, they mentioned that "even after the second [whipping], women who examined her said she was not marked." See *Victoria Daily Colonist*, 6 May and 12 May 1892.

<sup>63</sup> *Victoria Daily Colonist*, 6 May 1892.

DIA was also critical of Chirouse for over-stepping his authority. Lucy's transgressions may have been against Catholic codes, but were not illegal. On the other hand, Father Chirouse had "abetted, counseled, and procured the commission of a misdemeanor."<sup>64</sup> They suggested that the priest was responsible for the actions of the Chief and watchmen. Over the weeks that followed, Chirouse, the Chief, and the four watchmen involved in the floggings were tried and convicted of assault. The sentences meted out by the court reveal it considered Chirouse to have been primarily responsible for the whole affair. Chirouse was sentenced to one year; Chief Killapmut Kin was given six months; Etwal, Cultus Johnny, Charley, and Joe, as they are referred to in the records, the four watchmen who whipped and held Lucy down in both flogging sessions, were given two months each. Their sentences, however, were all eventually remitted.<sup>65</sup> According to Father Bunoz, Chirouse's assistant, Chirouse and the Lillooet men were "condemned by sectarianism but acquitted by public opinion."<sup>66</sup> Other commentators at the time also expressed shock over the initial verdict. DIA had previously tolerated Indians administering justice to each other and the use of whippings to punish certain crimes. Bishop Lemmens, interviewed by the *Colonist*, remarked:

For many years it has been a recognized thing that the Indian should be allowed to keep their strict moral code and the punishments inflicted for infraction of the same. The idea of whipping for certain offenses is also very common, and I know that Dr. Powell has tacitly approved of it as has the Indian department here also.<sup>67</sup>

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<sup>64</sup> Archives of the Oblates of Mary Immaculate, (Vancouver, B.C.), Oblate microfilm reel No. 1, 705, 1101 and 1095.

<sup>65</sup> Under-Secretary of State to the Deputy Superintendent General of Indian Affairs, 6 July 1892, RG 10, C-10193, vol. 3875, file 90,667-2.

<sup>66</sup> Archives of the Oblates of Mary Immaculate, (Vancouver, B.C.), Oblate microfilm reel No. 1, 705, 590.

<sup>67</sup> *Victoria Daily Colonist*, 6 May 1892.

Whippings were regularly and openly carried out in Oblate missions until well into the twentieth century. Oblate Fathers Morice and Coccola were well-known for their use of the whip at the Stuart Lake Mission.<sup>68</sup> Traditionally, the Lillooet themselves had used the whip to punish serious crimes like theft or murder.<sup>69</sup> Interviewed in jail, seventy-six year old Chief Killapmut commented, "Before the white man came into the country, we were punished by whipping."<sup>70</sup>

Following the convictions of Father Chirouse and the Lillooet Indians, Church and DIA officials were concerned about the potential for violence among Native communities. Bishop Durieu, for instance, believed that the Interior Indians resented local police and Indian agents for arresting the priest and interfering in their administration of justice. The Lillooet themselves also suggested violence was possible. Chief Killapmut Kin told a reporter, "If we are not taken out [of jail], I do not know what will happen."<sup>71</sup> In the months following the arrest of Chirouse and the Lillooet men, the Roman Catholic Church discouraged any large gatherings of Indians in the Interior for fear of rioting.<sup>72</sup> While Durieu believed that the Interior Indians fiercely resented the prosecution of the priest, William Laing Meason, the local Lillooet Indian agent, suggested that the Lillooet were more concerned about the convictions of their chief and the four watchmen.<sup>73</sup> Without dismissing Meason's suggestion, evidence suggests that the Interior Indians were largely

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<sup>68</sup> David Mulhall, Will to Power: The Missionary Career of Father Morice, (Vancouver: UBC Press, 1986), 123, 134, 172.

<sup>69</sup> Teit, The Lillooet.

<sup>70</sup> Victoria Daily Colonist, 12 May 1892.

<sup>71</sup> *Ibid.*

<sup>72</sup> Kamloops Indian agent J. W. MacKay to Vowell, Indian Superintendent of B.C., 16 May 1892, RG 10, C-10193, vol. 3875, file 90, 667-2.

<sup>73</sup> Lillooet Indian agent William Laing Meason to A. W. Vowell, 14 May 1892, RG 10, C-10193, vol. 3875, file 90, 667-2.



sympathetic towards the Oblates and that their loyalty to Chirouse throughout the crisis was unflagging. In a letter to the editor of the *Victoria Daily Colonist*, Chief William of Sugar Cane Reserve and Chief Phillip of Alkali Lake Reserve wrote:

... We are of the opinion that the missionary priests have done more towards our advancement to civilization and Christianity than anyone else, and it is chiefly to them we owe being in our present good and prosperous condition. Therefore, we hope and pray... they will get a new trial and everything will be made right.<sup>74</sup>

Other reports at the time suggest that many of the Interior Indians supported the Oblates, and that the above letter was generally representative of their sentiments.<sup>75</sup>

Lucy's story is interesting for a number of different reasons. Her flogging illustrates how the Oblates, along with Native watchmen, tried to regulate sexuality; also, we see how the anti-Catholicism of Indian agents and Protestant missionaries motivated the prosecution of Chirouse and their attempts to discredit the Durieu system. Further, the prosecution of Chirouse, the chief, and the watchmen demonstrates how the state had grown increasingly less tolerant of the free hand that missionaries had previously been given in their work among Native communities.<sup>76</sup> But what most interests me here, are the actions of the chief and his four watchmen led by Cultus Johnny. How do we explain their involvement and motivation in punishing Lucy?

Cultus Johnny was the one who witnessed Lucy's transgressions. He reported to his fellow councilmen that he had witnessed Lucy and her boyfriend having sex. While it is possible that Cultus Johnny bore a personal grudge against Lucy or her boyfriend, personal

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<sup>74</sup> *Victoria Daily Colonist*, 27 May 1892.

<sup>75</sup> Also see *Victoria Daily Colonist* for 6 May 1892, and 15 May 1892; and refer to Agent MacKay to Vowell, 24 May 1892, RG 10, C-10193, vol. 3875, file 90,667-2.

<sup>76</sup> Elizabeth Furniss, "Resistance, Coercion, and Revitalization: The Shuswap Encounter with the Roman Catholic Missionaries, 1860-1900," *Ethnohistory* 42, no. 2 (Spring 1995), 250.

motivations cannot explain why the other watchmen and the chief agreed with him that a serious crime had been committed and that a severe punishment was in order. Moreover, we have to explain why Lucy was singled out for punishment the second time – a decision that was made solely by the chief after a verbal exchange between Lucy and himself.

Lucy's own actions also require an explanation. For no sooner had the wounds closed when she declared she wanted to go visit the boys – a declaration that was met with a swift application of the whip for a second time. It is puzzling that Lucy had seemingly missed the point of her first whipping. Perhaps in expressing her wishes, she was testing the limits. To what extent was her sexuality going to be limited? It appears that Lucy did not understand that for the male leaders of her band, the implications of her visiting the boys were serious. Contrary to the views of the chief and watchmen, Lucy might have believed that having premarital sex and visiting the boys were two different things. Moreover, had Lucy been caught "having connections" two years earlier, or even two years later, she might not have been punished the way she was. Sexual relations among the Lillooet could have been in so much flux that Lucy was confused as to what exactly constituted appropriate sexual behaviour.

In the midst of the dramatic social and economic upheaval that was occurring among the Interior Salish at this time, Chief Killapmut Kin, Cultus Johnny and the other watchmen were trying to enforce a new sexual order among the Lillooet. Within the course of a few decades, gender and sexual relations between Lillooet men and women had changed, possibly many times over. Importantly, the gendered and sexual relations that the chief and watchmen were enforcing were neither those of traditional Lillooet society nor, it seems, entirely inspired by the Oblates either.

According to ethnographer James Teit, Lillooet men and women in traditional society were usually married by the time they were in their late teens.<sup>77</sup> This differed in later years when the Lillooet, influenced by the economic changes and Oblate involvement, were postponing marriage until couples were in their twenties. Also, in traditional Lillooet society young people having pre-marital sex were seen as engaging in “marriage by touch.”<sup>78</sup> Even in those cases where “having connections” or “touching” did not constitute a marriage promise, the youths were not punished for their actions. Unfortunately Teit, rather uncharacteristically, does not provide many details on this subject, and it is difficult to know exactly how the Lillooet handled pre-marital sex in different contexts. But, considering how the daily organization of labour separated Lillooet men and women, it seems possible that unmarried Lillooet youth may not have had many opportunities to engage in sexual activities. Young women for instance, would have been under the constant supervision of their mothers and aunts while they worked. Similarly, young men would have spent much of their working days with their male relatives.

While Lucy’s transgression of “having connections” certainly would have violated the Catholic sensibilities of Chief Killapmut Kin and Cultus Johnny, Lucy’s sexuality also threatened the masculinity of the Lillooet men. Lucy had to be whipped as an example to other Lillooet women. Although the chief, Cultus Johnny, and his fellow watchmen may have internalized Oblate values to some extent, Lillooet men had their own reasons for wanting to control the sexuality of Lillooet women.

The flogging of Lillooet Lucy in 1892 represents a flash point in Lillooet gender

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<sup>77</sup> James Alexander Teit, *The Lillooet Indians*, (New York: 1906), 265.

<sup>78</sup> *Ibid*, 268.

relations. In the years preceding Lucy's story, Lillooet men were behind the initial drive by Native men all over the province to pressure the federal government into legislating reforms that would prevent the movement of Native women off the reserves. Many Native men wanted to prevent Native women from leaving their "legitimate" families, or in the case of non-married Native women, from engaging in activities – such as cannery work or travel to big cities – that could potentially lead to extra-marital sexuality.

Throughout the 1880s and '90s, Indian chiefs and hundreds of Native men from around British Columbia signed petitions in which they argued that a "great evil" threatened Indian communities.<sup>79</sup> Spousal desertion was their main complaint. They also suggested that illegitimacy – long associated with extra-marital sex – further eroded the economic and social esteem of Native communities. The chiefs claimed they were powerless in preventing Native women from leaving their legitimate husbands or the homes of their fathers and moving off the reserves to live with other men: whites, Chinese men, and Native men from other Indian bands were all referred to in the petitions as part of the problem. Interestingly, although the petitioners recognized that women who left the reserves often chose to live with Native men from other Indian bands, the chiefs suggested that the pressures of non-Native settlement were largely to blame for undermining their control over Native women.<sup>80</sup>

Nearly all of the protests launched by Native men against the movement of Native women off the reserves alluded to recent changes in the socio-economic system, which

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<sup>79</sup> Petition from the Lower Frazer [sic] Indians to the Governor General of Canada, 28 December 1885. RG 10, volume 3842, file 71, 799. Chief Killapmut Kin signed a similar petition in September 1890. See RG 10, vol. 3842, file 71, 799. In the same file, also see letter n.d. 1887 from a Lillooet Indian named Louis to the DIA.

<sup>80</sup> *Ibid.*

they argued weakened the stability of aboriginal families. With the formation of Indian policy and the advent of missionary activities in the west, some Native men suggested they were losing their ability to control what happened to their families. In a report to DIA on the Cariboo Indians, Oblate Father McGuckin described how Native men in the district had consulted with him and wanted legislative change so that they could prevent Native women from leaving their legitimate native husbands.<sup>81</sup> According to McGuckin – these men argued that the impact of “civilization” (my word) complicated matters for their families when Native women were exposed to negative, outside influences that resulted from such things as cannery work or when “traveling on public steamers.”<sup>82</sup> During this time, Native men from all over the province were expressing similar sentiments.<sup>83</sup> In the decades following the Lillooet crisis, Native men continued to lobby the federal government for greater regulatory controls over family life. Their most common request was to allow Native men to forcibly return women who had left the reserve to live, unmarried, with other men. The Indian Rights Association was one of the leading organizations that continued, well into the twentieth century, to lobby for such measures. This growing movement will be explored in greater detail in the next chapter.

In summary, then, the actions of the Lillooet chief and his watchmen grew out of their attempts to assert a new kind of control over “their women.” Given what we know about traditional Lillooet society, Lillooet women had had more equitable sexual and gender relations with men than they had in Lucy’s time. Motivated by the social and

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<sup>81</sup> Extract from report of Father McGuckin, O.M.I. Rector, St. Joseph’s Mission, to DIA, 9 January 1875. RG 10, C-10108, vol. 3621, file 4780.

<sup>82</sup> Indian Rights Association of B.C. to Dr. Roche, Minister of the Interior, 15 December 1913, RG 10, C-10193, vol. 3816, file 57, 045-1.

<sup>83</sup> G. W. De Beck, to A. W. Vowell, Indian Superintendent of B.C., 23 January 1903, RG 10, C-8538, vol. 6816, file 486-2-5 pt.1.

economic problems that were happening within their community – disease, massive depopulation, the collapse of the clan system,<sup>84</sup> the loss of traditional lands and resources to settlement, and the resulting inability of the Lillooet to be self-sufficient – the Lillooet men used the apparatus of the Oblate Durieu system to try to resolve some of these problems. Elizabeth Furniss, in her work on the Shuswap, has described how these people, who were in many ways culturally similar to the Lillooet and shared many of the social and economic experiences of the Lillooet, were in need of social revitalization during this time.<sup>85</sup> Many Native communities around this time were looking towards the Durieu system for some stability.

In the Lillooet community, Chirouse, like many of his Oblate contemporaries elsewhere, supported the chief and watchmen in their administration of “tribal” justice. The hierarchical and patriarchal structure of the Durieu system suited the Lillooet men in the pursuit of their immediate concerns. Lucy’s case represented to them a breakdown of sexual order within the Lillooet community, a breakdown that would lead to the “spiritual and temporal ruin of their tribe...”<sup>86</sup> With a limited number of options available, the Durieu system provided the Lillooet men with a means of regulating sexuality, in a time when sexual and gender relations were perhaps ambiguous, and traditional modes of behaviour and ways of regulating that behaviour were no longer viable.

Thus, while government officials and missionaries had ideas about how best to

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<sup>84</sup> In their works noted above, both Teit and Furniss discuss the implications of the collapse of the clan system for many indigenous cultures.

<sup>85</sup> Furniss.

<sup>86</sup> Lower Frazer [sic] Indian to the Governor General of Canada, 28 December 1885, RG 10, vol. 3842, file 71,799.

regulate Native sexuality, Native men did too. The story of Lillooet Lucy illustrates how the regulation of sexuality was connected to concerns about Lillooet national identity. The presence of the Oblates in the Interior was significant to the development and articulation of an Indian men's movement towards the end of the nineteenth century. This movement represented itself in petitions and lobby groups, and strove to redefine the sexual relations between Native men and women in an attempt to consolidate aboriginal rights in general.

## Chapter Three

### The Regulation of Inter-Racial and Inter-Cultural Unions

For the two main agents of colonization – the Department of Indian Affairs and missionaries – civilizing the Indians included regulating their sexuality through marriage. Although these reformers disagreed over how much regulation was necessary, they did agree on what to regulate. Marriage was a key component of Canadian society. If society was to be orderly, sexual relations also had to be in order. The story of Lillooet Lucy further suggests that the control of women's sexuality, in particular, was significant not only to missionaries, but to Native men as well, as they tried to establish order in their communities, communities that had been disrupted by disease and settlement. Thus, there was a confluence of male interest. Three groups of men had an interest in controlling Native women's sexuality, although they had different reasons for wanting control.

While aboriginal marriages and sexuality drew reformers' attention, inter-racial and international<sup>1</sup> unions elicited the most concern from all quarters. For some Indian agents, missionaries, and Native men, the existence of inter-racial, international, and extra-marital sexuality intensified the need for greater marriage regulations. As we have seen in Chapter Two, these parties approached the issue of marriage reform from different perspectives and with different agendas. This chapter will explore why many viewed mixed relationships between Natives and non-Natives as so troublesome. As well, I will examine why many

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<sup>1</sup> I have chosen this word to describe the relationships that occurred between Native people from different bands and communities. This term becomes particularly useful in discussing the protests directed by Native men against the movement of Native women off their reserves to live with other men – including *other* Native men. In their petitions and complaints, I interpreted their reference to “other Indian men” as meaning men from off the Reserve, thus from other bands or nations.



Native men viewed relationships between Indians from different nations as also problematic.

Until the mid-nineteenth century when the fur trade declined and agriculture became more significant, relationships between Native or "half-breed" women and European men were an accepted part of fur-trade society in what is now Western Canada. As historians Sylvia Van Kirk and Jennifer Brown have argued, Cree, Ojibwa, Assiniboine, Blackfoot, Carrier, Chinook women, as well as women of other nations, played a significant role in developing the society that formed around this staple economy.<sup>2</sup> West coast Native women also formed ties with fur traders that facilitated trade with their communities. Jo-Anne Fiske and Carol Cooper have documented the trade activities of Tsimshian and Nootkan women, for instance.<sup>3</sup> Whether on the coast or on the plains, one of the central features of fur-trade society was marriage *a la facon du pays*, or country marriages, that blended Indian and European marriage customs in a way that was practically suited to the traditions, customs, and the economic and political interests of both parties.

At a time when European fur-traders relied upon Native peoples for survival, the socio-economic role played by Native women was critically important to the fur trade. Not only did some Native women provide the cultural link between European and Indian traders – as translators and mediators – but they also produced valuable items for survival like mocassins, clothing, and food. However, as Van Kirk has pointed out, fur trade

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<sup>2</sup> Refer to Sylvia Van Kirk, *Many Tender Ties: Women in Fur-Trade Society in Western Canada, 1670-1870* (Winnipeg: Watson & Dwyer, 1980); also see Jennifer Brown *Strangers in Blood: Fur Trade Company Families in Indian Country* (Vancouver: University of British Columbia Press, 1980).

<sup>3</sup> Carol Cooper, "Native Women of the Northern Pacific Coast – An Historical Perspective, 1830-1900," *Journal of Canadian Studies*, 27, no. 4 (Winter 1992-93) 44-76. Also see Jo-Anne Fiske, "Colonization and the Decline of Women's Status: The Tsimshian Case," *Feminist Studies* 17, no. 3 (Fall 1991), 509-535.

society was not static.<sup>4</sup> As the western economy shifted from furs to agriculture, and European women entered the frontier in greater numbers, the dynamics between Native women and white men changed. Many fur-traders began to sever their ties with their Native or Metis families and return to the social and material comforts of white society.<sup>5</sup>

While historians such as Van Kirk, Brown, and Constance Backhouse have studied the changing dynamics in marital relations between Native women and white men, not much work has been done on the dynamics between non-married couples (those without the marriage *a la facon du pays*), and whether European and Native traders considered their unions illegitimate. Although we still do not know enough about these relationships, it is likely that Native women and white men who lived together unmarried in fur-trade society probably did not receive the same degree of moral condemnation that these unions attracted once fur-trading society began to change (excluding, of course, the attitudes of missionaries who mostly objected to cohabitation before marriage). Van Kirk's research seems to support this. She has suggested that Native women who lived with white fur traders, without having undergone a country marriage ceremony, were considered wives by both their Indian families and the white fur-traders. Van Kirk has argued that, from the Indian point of view, these unions might have conformed to Native customs. Furthermore, the appearance of phrases such as "father-in-law" and "son-in-law" in the fur-traders' journals indicates that white fur-traders also acknowledged the legitimacy of these common-law unions.<sup>6</sup>

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<sup>4</sup> Van Kirk, 5.

<sup>5</sup> Constance Backhouse, *Petticoats and Prejudice: Women and Law in Nineteenth-Century Canada* (Women's Press: Osgoode Society, 1991), 14.

<sup>6</sup> Sylvia Van Kirk, "'The Custom of the Country': An Examination of Fur Trade Marriage Practices," *Canadian Family History*, ed. Bettina Bradbury, (Toronto: Copp Clark Pitman, 1992), 69.

By the 1870s, however, white society's attitudes towards such unions had changed noticeably, coinciding with major transformations in the economy, namely the shift away from the fur trade and towards agriculture which brought more white women to the frontier. At this time too, some Native men also began to object to the movement of Native women away from aboriginal communities and into the homes of white men. Their objections will be discussed later on in this chapter.

While most missionaries had disparagingly referred to these unmarried couples as living in "concubinage,"<sup>7</sup> it is clear from government correspondence that other Euro-Canadian citizens also believed that common-law, inter-racial unions between Native women and white men should be discouraged. Around the 1870s the term "concubinage" began to appear in non-missionary sources to describe relationships between Native women and white men. Notably, "concubinage," with its censorious overtones, was used to describe any type of non-marital cohabitation involving Native women, whether it was with Native or non-Native men. Inter-racial concubinage tended to elicit the strongest reactions from critics. A study of these inter-racial unions is valuable for many reasons. First, by studying reformers' responses to unmarried couples, we can see how reformers tried to enhance the sanctity of the institution of marriage by tightening the reins on what was considered a legitimate union. James Snell explains how early twentieth century reformers were growing increasingly convinced that the family institution needed protecting and that it was being eroded by the pressures of industrialization and urbanization.<sup>8</sup> In British

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<sup>7</sup> *Ibid.*, 80-81. Van Kirk describes how Catholic missionaries Father Blanchet and Father Demers were probably two of the few notable exceptions to this. Blanchet and Demers, who traveled through B.C. in 1838 and spent a few years working among the Indian populations, had a conciliatory attitude towards inter-racial couples who lived together unmarried, or married according to the custom of the country.

<sup>8</sup> Snell, "The White Life for Two," 381. Also see the article by Snell and Cynthia Comacchio Abeele entitled "Regulating Nuptiality: Restricting Access to Marriage in Early Twentieth-Century English-

Columbia, reformers' attacks on inter-racial, common-law unions suggested a desire to strengthen and regulate the institution of marriage.

Moreover by studying inter-racial unions, we see how the issue of race complicated matters for reformers who regarded marriage as a means of fortifying society. If common-law marriage represented a form of disruptive sexual behaviour, then inter-racial cohabitation was even more disruptive. Extramarital sexuality between mixed couples violated the sanctity of marriage, and the possibility of miscegenation increased reformers' concerns about the development of a social underclass. Many reformers associated such illicit sexual activity with a world of poverty, crime, and illegitimacy, all of which, they believed, created "a gross national stigma."<sup>9</sup>

Lastly, from the point of view of Native men who challenged inter-racial and inter-cultural unions, these relationships threatened the ability of Native communities to withstand colonizing pressures. The protests of these men indicate that they hoped to also enhance the quality and character of aboriginal family life, with the ultimate goal of strengthening their communities. Overall, the various reactions to inter-racial and inter-cultural cohabitation suggest the extent to which Native and non-Native reformers at this time regarded the regulation of marriage as highly significant to the project of building a society and defining the values of that society.

While missionaries usually opposed cohabitation under any circumstances, inter-racial cohabitation seemed especially problematic for some. Recalling his work as a missionary in the early twentieth century, Francois Marie Thomas, O.M.I., described how

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Speaking Canada," *Historical Perspectives on Law and Society in Canada*, ed. Tina Loo and Lorna R. McLean (Toronto: Copp Clark Pitman, 1994), 140.

<sup>9</sup> Alex C. Anderson to Sir Francis Hincks, M.P., 16 April 1873, RG 10, C-10115, vol. 3658, file 9404.

he and his fellow missionaries dealt with concubinage and enforced appropriate gender relations:

....a certain number of the women, most of them pagans, cohabited with white men. This and certain other faults gave the Chilcotin a bad reputation. That had to be corrected and we corrected it by following Bishop Durieu's system which was a sort of Catholic Action and which had Bishop Dontenwill's hearty approval. Our watchmen and policemen never refused to bring them back again when that was necessary. These women were finally converted, induced to return to their villages with their half-breed children and, after the customary year of probation, were baptized. Far from bearing me any grudge, the men who had cohabited with these women as well as the good white men helped me by their influence.<sup>10</sup>

Community intervention was thus instrumental in Oblate efforts to regulate Native sexuality. Education was another component. From St. Joseph's Mission in 1867, Father J.M. LeJacq told Bishop Durieu that:

...I always preach that one who is baptized cannot marry one who is not baptized, not to mention the mixed couples who already live together....I also tell them to separate, it being a great evil to live together. The good Lord does not like Indians who take one wife then rejects her in order to take another, just like the animals... You know the number of mixed couples is very considerable in this mission of St. Joseph's, more than in Lake Stuart.<sup>11</sup>

LeJacq's correspondence connected miscegenation with savagery. Moreover, his comment that the Indians in St. Joseph's mission were "just like the animals," more so than in Lake Stuart, was significant for it suggested the overall moral and social "depravity" of St. Joseph's mission. Thus, LeJacq suggested the state of sexual relations at St. Joseph's was reflective of the state of the community in general.

Missionary stories of the death-bed conversions of concubines attained almost mythical proportions in missionary lore. Such stories show up repeatedly throughout Catholic missionary records, where the priest, usually at some odd hour in the night, is

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<sup>10</sup> Francois Marie Thomas, O.M.I., "An Account of the Missionary Work Done by the O.M.I. in St. Joseph's District, Cariboo B.C.," unpublished typescript 1976, 40. BCARS, Add. Mss. 567.

<sup>11</sup> Father J.M. LeJacq to Bishop Durieu, translated from French, n.d. 1867, Archives of the Oblates of Mary Immaculate, (Vancouver, B.C.), Oblate microfilm reel # 3, frame 4181.

called frantically to a distant village where a concubine lies dying and ready to repent for her life of sin. Father Thomas, who spent sixty years working amongst the Cariboo recalled a story of Father LeJacq. LeJacq had been called to work in the interior in 1868, and was asked to baptize a dying Indian woman at Soda Creek. "Agatha" had been living unmarried with a white man and it was not until she was on her deathbed that LeJacq decided to visit her to see if she was repentant, and if so, to administer last rites to her. Delayed by harsh winter weather, by the time he arrived, the sick woman was apparently already dead. "Agatha! Amota!" [Agatha! Get Up!] LeJacq shouted. Thomas describes how Agatha then resurrected herself, repented, and was hence saved from eternal damnation.<sup>12</sup> According to Thomas, the story made an impression among the Cariboo Indians.

The missionaries suggested that inter-racial cohabitation was worse than other types. They did not always elaborate on why that was, although they linked miscegenation to savagery and suggested that those white men who cohabited with Indian women were governed by their passions. We get a better sense of their objections through non-missionary sources. One of the earliest non-missionary references to inter-racial cohabitation is provided by I.W. Powell in 1872, who was then Superintendent of Indian Affairs.

The custom among the lower classes of white men in this Province, of purchasing Indian women (the Indian form of marriage), and keeping them for a time, is another of the obstacles in the way of their [the Indians] social and moral advancement.<sup>13</sup>

Although one could argue that inter-racial unions could actually encourage or guarantee

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<sup>12</sup> Francois Marie Thomas, "Memoirs," Manuscript, BCARS, 16. Margaret Whitehead, in The Cariboo Mission, 50, also tells of this incident.

<sup>13</sup> "Report of the Superintendent of Indian Affairs for B.C. 1872-73," I.W. Powell to J.C. Aikens, Secretary of State, *Sessional Paper No. 23, 1872-73*, 29.

assimilation, many people like Powell considered these unions to be obstacles to the civilization of Natives. His use of the phrase "keeping for a time..." suggests his problem with these relationships. Reformers believed there to be a strong connection between what they sometimes labeled "concubinage" and the social problems of illegitimacy, poverty, and prostitution that often resulted. Powell suggested that white men of the "less respectable," lower classes engaged in this activity and were partly responsible for impeding the progress of Native people; at the same time, however, he hinted that their lack of respectability was confirmed by their association with Native women and their participation in Indian marriage customs. A few years later, Chief Justice Matthew Baillie Begbie described the type of men who lived with Indian women. His description was more charitable than Powell's, although both men agreed that it was poorer white men who usually lived with Indian women.

There is in this Province a large class of very useful, hardworking, but not highly educated or refined lot of men who form as it were the van of the settlers. They generally pre-empt land far up the country, and employ themselves in stock raising or other agricultural pursuits: sometimes in mining in isolated localities, or packing, sometimes in a combination of these or other occupations according to the season of the year, but generally have a log house which they consider their home, and generally an Indian concubine whom they consider and treat in all respects as the wife of a man in similar circles of life would be considered and treated by him in Great Britain.<sup>14</sup>

In discussing inter-racial relations between white men and Native women, both Powell and Begbie commented on the social class of the men involved and suggested that social class was highly relevant to the discussion of unmarried couples. Many reformers of their day blurred the distinctions between morality and poverty. Historians have suggested that the increasingly assertive middle class that was developing in the late nineteenth and

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<sup>14</sup> Begbie, n.d. 1885, RG 10, C-10104, vol. 3599, file 1520.

early twentieth centuries perceived there to be growing social and economic turmoil, and moved to moral reform in response to those perceptions. In her discussion of prostitution and Victorian society, Judith Walkowitz argues that reformers associated social “evils” such as prostitution with the working class, and shows how middle class reformers hoped to root out the traditional social and sexual habits of the lower classes in an effort to reform them.<sup>15</sup> James Snell, in his work on marriage reform in Canada, also points out that certain “problematic” aspects of marriage – such as desertion and non-support – were attacked vigorously because they were associated with the lower-class.<sup>16</sup> In effect, for middle class reformers like Begbie and Powell, the regulation of marriage and sexuality became a way of establishing social order amidst “chaos.” Those who wanted to prevent the occurrence of inter-racial unions between white men and Native women in British Columbia (or in Begbie’s case, to legitimize and protect those unions) also suggested the threat of social disorder if inter-racial relations were allowed to persist unregulated. Their discussions of problems such as poverty, illegitimacy, and prostitution in association with these unions showed the connections between marriage and social order. In the process, reformers associated poverty with race.

Although it had been common for high-ranking officers in the HBC to live unmarried with Native women, in later years a stigma became attached to inter-racial unions. Some reformers looked upon the presence of children who were the offspring of inter-racial parentage as perpetuating the problems of illegitimacy, poverty, and crime. In

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<sup>15</sup> Judith Walkowitz, *Prostitution and Victorian Society: Women, Class, and the State* (Cambridge: Cambridge University Press, 1980), 251.

<sup>16</sup> James Snell, “The White Life for Two’: The Defense of Marriage and Sexual Morality in Canada, 1890-1914,” *Canadian Family History*, ed. Bettina Bradbury, (Toronto: Copp Clark Pitman, 1992), 396.



1873 Alex. C. Anderson, a Justice of the Peace, launched an aggressive protest against non-married, inter-racial couples. Writing to his Member of Parliament, Anderson requested him to exercise his influence with the Dominion Government to bring forth legislation discouraging or regulating illegitimate inter-racial unions.

In my private capacity I respectfully ask the attention of the Government to the serious question of the intercourse subsisting between certain of the settlers in the Province and the Native women. A system of concubinage is openly carried on, unrestrained by any law. Hence a class of half-breed children is rapidly increasing in numbers, who [with] the brand of illegitimacy, and deprived of all incentives to self-respect, will in course of time become dangerous members of the community. On all grounds, both of morality and public expediency, the interference of the Government to regulate in some way the nature of these unions, which it is impossible, were it indeed politic, to prevent, seems to be urgently called for.<sup>17</sup>

For Anderson to have referred to concubinage as “a system” was an exaggeration, although he was probably sincere in stating his concern over the matter, and what he believed were the serious social consequences of concubinage. Anderson had been on the coast since 1832, some forty years before writing this letter to his M.P., so he was certainly not uninformed about the conditions of aboriginal people. Anderson was dissatisfied with M.P. Sir Francis Hincks’ response. Although agreeing with Anderson that concubinage was “an admitted evil,” Hincks doubted that legislation would ever be passed against it, explaining only that the question of inter-racial concubinage was one “of greatest difficulty.”<sup>18</sup>

Anderson’s main argument for regulating concubinage grew out of his concern over miscegenation, the physical mixing of different races. It is significant that Anderson referred to the half-breeds as a “class” – and in a later letter, “a gross national stigma”<sup>19</sup> – who, by their illegitimacy and probable poverty would represent a potential threat to social

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<sup>17</sup> Alex C. Anderson to Sir Francis Hincks, M.P., 16 April 1873, RG 10, C-10115, vol. 3658, file 9404.

<sup>18</sup> Hincks to Anderson, 11 July 1873, RG 10, C-10115, vol. 3658, file 9404.

<sup>19</sup> Anderson to Hincks, 26 August 1873, RG 10, C-10115, vol. 3658, file 9404.

order. He suggested that illegitimate half-breeds would be stigmatized by white and Native society; marginalized, these individuals would be poor and most likely turn to crime.

Anderson did not refer to poverty specifically, but his references to illegitimacy, lack of self-respect and absence of incentives for improvement suggested a life of marginalization and poverty. Kamloops Indian agent J.W. MacKay expressed similar sentiments in spelling out the connection he thought existed between concubinage and poverty. According to him, "prompt remedial measures" needed to be taken against concubines who with their half-breed children to support "out of their scanty means" were an affront to the "well-being of society in general."<sup>20</sup> Poverty was a social stigma in a society that valued a strong work ethic.<sup>21</sup> Moreover, and perhaps more disturbing to them, they were witnessing the beginnings of a social problem that was new to their society.

Despite a discouraging response from Hincks, Anderson continued his efforts to prohibit concubinage. In 1878, Anderson appealed to the Superintendent General to lobby for legislation against concubinage. He suggested that British Columbia, like the neighbouring Territories, apply "stringent prohibitory laws...[so that] persons who ha[ve] previously cohabited with Indian women be compelled to separate from them, under risk of very severe penalties, or to legalize their unions by marriage."<sup>22</sup> His appeals on this matter were unsuccessful.

Anderson was not the only government official concerned about the social implications resulting from concubinage. Chief Justice Matthew Baillie Begbie also hoped

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<sup>20</sup> J.W. MacKay to I.W. Powell, 2 May 1886, RG 10, vol. 3842, file 71, 799.

<sup>21</sup> Tina Loo, *Making Law, Order, and Authority in British Columbia, 1821-1871*, (Toronto: University of Toronto Press, 1994). Refer to the chapter on "Bute Inlet Stories" for a discussion of how a valued work ethic affected the construction of the Chilcotin Indians as "other."

<sup>22</sup> Alex C. Anderson to the Superintendent General of Indian Affairs, 12 February 1878, RG 10, C-10115, vol. 3658, file 9404.

to enact legislation that would alleviate social pressures. Begbie was concerned about the economic welfare of unmarried Native women living with white men. His foremost concern with inter-racial unions had to do with the problems unmarried women and illegitimate children posed to the transmission of property in cases where the deceased died intestate. Since “concubinage” was not legitimized by law, Begbie proposed that measures be put in place to safeguard the financial security of these Native women and children. He argued that such legislation – were it drafted to provide for families left destitute by such circumstances – was within the powers of the province because property and civil rights were within provincial domain:

Whereas in the (Province of British Columbia) or (remoter parts of diverse Provinces in the Dominion), it sometimes happens that diverse persons die intestate and possessed of considerable property and without any legal relatives in the Province but leaving Native Indian women their concubines and children the issue of such concubines, or of other concubines and children and of the assets of the deceased and such concubines and children being thrown on the charity of their neighbours for support, the community are put to undue expense and the children are exposed to physical and moral deterioration to the further enquiry of the community....It is just and reasonable that [some provision shall in some] cases be made out of the assets of the intestatee for the maintenance and education of such concubines and offspring...<sup>23</sup>

Unfortunately, Begbie’s proposals were never instituted. In correspondence regarding his proposals, Begbie implied that many legislators had objected to his measures because legitimizing concubine relationships under the law would “insult their Christian morality.”<sup>24</sup>

In the minds of some, “half-breeds” symbolically straddled two different social and economic worlds. To some government officials, their presence in the late nineteenth century represented the older days of the fur trade, when European traders would invariably seek the companionship of Native women. A.W. Vowell, in 1875, argued that

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<sup>23</sup> I.W. Powell to O’Mara, Secretary of State for the Province, 8 March 1875, RG 10, C-10104, vol. 3599, file 1520.

<sup>24</sup> Begbie to the Secretary of State for the Province, n.d. 1875, RG 10, C-10104, vol. 3599, file 1520.

special legislation protecting half-breed women from sexual exploitation was unnecessary because this segment of the population would eventually disappear, as white men would increasingly seek out the company of the growing number of white women in the province.

...certainly owing to the changed conditions in the Province from what it was in early days, when there were scarcely any white women in the country the advent of these illegitimate halfbreeds [sic] should rapidly diminish.<sup>25</sup>

Vowell's response is interesting for other reasons as well. When pressured to support special legislation regulating the sexuality of a portion of the population, Vowell provided a similar response to the one given years later in 1898 (page 49). Reluctant to intervene in the "private" domain of sexuality, Vowell maintained that with time, the half-breed population would grow smaller and with it, so would the incidence of illegitimacy. Just as Vowell refused to regulate Native marriages, opting instead for a gradualist approach, so too did he decline to regulate mixed marriages, believing that with time the mixed blood population would disappear. Lillooet Indian agent William Laing Meason was of the similar opinion that the illegitimate half-breed population would eventually disappear because of the pressures of "civilization" and social "progress." In 1884 he wrote to Powell, Indian Superintendent of B.C.:

...The practice of white men taking Indian women with them as temporary wives [his emphasis] is still prevalent in this part of my agency. The Indians have complained to me about this matter and much desire that it be stopped. Of those who are living with Indian women since the Pioneer days of the Province and who have raised families by them – I say nothing; but it seems to me advisable that, with the present state of civilization in the country, and the abundance of white and educated halfbreed [sic] women – such a practice should be put a stop to in future.<sup>26</sup>

Interestingly, Meason suggested that it was more acceptable for white men to raise families with half-breed women rather than with Native women. Perhaps being more "white," the

children of these unions would be better able to assimilate into white society and less likely be marginalized.

Once the west ceased to be a frontier, people became more concerned about morality. Poverty and illegitimacy garnered greater attention. Illegitimacy, with its associations with poverty and social displacement, was a stigma that some members of Euro-Canadian society connected with the half-breed population. Referring to the progeny of inter-racial unions, Powell declared with certainty: "Invariably, the children of such parentage grow up to be the most disreputable characters."<sup>27</sup> An Indian agent reporting from Battleford Saskatchewan in 1885 went one step further to suggest not only that illegitimacy was a social problem that was difficult to deal with effectively, but also that Native cultures did not lend themselves to the laws that governed civilized society. Moreover, he suggested that the categories of legitimacy and illegitimacy did not really work for Natives.

...with reference to legislation re: connection with the subject of illegitimate children and polygamy and in reply I beg to say that the subject seems to me a most difficult one to deal with by legislation. In the present state of the Indians generally, the extreme laxity of their ideas and practices in the matter renders it difficult to draw the line between legitimate and illegitimate children....With regards to polygamy, prohibiting enactments might do some good, but until the Indians are raised by Christian civilization above their present low state of morals, it appears to me that legal restraints will fail...<sup>28</sup>

Thus, Powell argued that the laws could only work if the people they applied to were civilized. In the minds of some reformers, civilization and savagery – whereby white Christian society was civilized and Indians were savages – were diametrically opposed.

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<sup>25</sup> *Ibid.*

<sup>26</sup> Meason to Powell, 25 March 1884, RG 10, vol. 3658, file 9404.

<sup>27</sup> I. W. Powell to the Superintendent General of Indian Affairs, 28 March 1884, RG 10, vol. 3658, file 9404.

<sup>28</sup> J.G. MacKay, Indian agent to Indian Commissioner of Regina, 20 October 1885, RG 10, C-10104, vol. 3600, file 1590.

Tina Loo has written how the Bute Inlet stories about the Chilcotin massacre of 1864 were animated with this dichotomy between civilization and savagery.<sup>29</sup> The social and economic problems experienced by the illegitimate served only to illustrate what reformers constructed as the moral consequences of miscegenation.

Commentators discussing miscegenation in the 1880s probably felt justified in linking "half-breeds" to the criminal element. In 1879, three McLean brothers, along with a friend, murdered a Kamloops Constable and another settler. While the McLeans were eluding arrest, there were rumours throughout the interior of a mass Indian uprising possibly involving the Chilcotin and Lower Fraser Indians inspired by the McLean massacre.<sup>30</sup> Henry Crease, the judge presiding in *Regina vs. McLeans and Hare*, explicitly connected crime with being "mixed blood."

We are brought face to face with the condition of our numerous and growing half-breed population through the country. What is their future? Sons of the hardy pioneers... allied themselves to the native tribes who surrounded them. So long as civilization kept away from them, or they from civilization, all was well... Many a trapper owes his life to the fidelity and sagacity and courage of his Indian wife. The offspring of these marriages, a tall, strong, handsome race combined in one the hardihood and quick perceptions of the men of the woods, with the intelligence and some of the training and endurance of the white man which raised them into a grade above their mother's but not yet up to the father's grade....

So long as the white father lived, the children were held in some sort of subjection, but the moment he was gone they gravitated towards their mother's friends and fell back into nature's ways... Is it any wonder then that, remaining unchecked and uncared for, they should at last adopt the predatory Arab life which in a scattered country is fraught with such danger to the state?<sup>31</sup>

Crease's speech to the courtroom suggested, among other things, that the presence of the half-breed population threatened the stability of society and posed a danger to the developing state.

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<sup>29</sup> Loo, *Making Law, Order, and Authority in British Columbia, 1821-1871*, (Toronto: University of Toronto Press, 1994), 148.

<sup>30</sup> Mel Rothenburger, *The Wild McLeans*, (Victoria: Orca Book Publishers, 1993), 129, 147.

<sup>31</sup> *Ibid*, 167-168.

As we have seen, some Euro-Canadians like Anderson, Begbie, Powell, Crease, and South shared a variety of concerns about poverty, crime, and illegitimacy, that led them to believe that unmarried, inter-racial unions undermined social order. First, they associated cohabitation with poverty. Those who engaged in these unions were often characterized as belonging to the lower classes. Moreover, reformers suggested that cohabitation perpetuated poverty. For example, women and children who lived with men dying intestate were usually left without any legal entitlement to the man's property. Similarly, in cases of desertion, there were no legal protections for the women or their children. Secondly, most of the objections against "concubinage" concerned the children who resulted from these relationships. Reformers argued that illegitimate children were usually poor, or were limited to a life of poverty and marginalization which invariably led to crime as the McLean case suggested. Finally, as Indian agent Meason implied, being visibly "half-breed" exacerbated the problems for illegitimate children even more. They were more marginalized because they were visibly "half-breed," and thus faced greater challenges at assimilating into a society that privileged white faces.

At the same time, many aboriginal men also opposed inter-racial and inter-cultural relationships. They too spoke of social disorder and objected to Native women moving off the reserves to live with other men. However, their concerns suggested that the implications of mixed unions were potentially more threatening to their worlds than they would ever be to white men.

**“The Great Evil Springing up Amongst our People...” Objections to the Movement of Native Women off the Reserves**

In the spring of 1885 twenty-eight Indian chiefs from around British Columbia scrawled their “X marks” in support of a petition forwarded to the Department of Indian Affairs.

The chiefs argued that a crisis was transforming Indian communities:

...We beg to lay before your Excellency our present grievances and pray that our petition may meet your view and approval.

1. A great evil is springing up amongst our people and if not checked in due time will without doubt cause the spiritual and temporal ruin of our tribe.
2. It has occurred that when there had been a dispute between a married couple the wife leaves her husband and goes off the Reservation and takes up with either a bad whiteman, a chinaman [sic], or other Indian and live together in an unlawful state.
3. If in case of a married couple one of whom becomes afflicted by sickness of long-standing or of blindness, the other goes off the Reservation deserting the afflicted one and leaving their offspring in a sad state of destitution.
4. We have many times appealed to our Agent who is appointed by the Government as our guardian to aid us. We have also appealed to the Magistrates to assist us in bringing back if necessary by force, the erring ones; and their reply to our appeal has been they would help us if they could, but they had no power to act in such cases.
5. Had we the power of following our own ancient customs as we have had before civilization dawned upon us, we would bring back the erring ones, by force if necessary. Were we to do so now, we are threatened with a breach of law, and make ourselves liable to fine and imprisonment. Therefore, We, your Petitioners, pray that your Excellency may take our case into consideration, and order a remedy for our grievances above enumerated, by causing power to be invested in the hands of our agent, and in the hands of our chiefs, where instructed to act by said agent in bringing back, if necessary by force, the erring ones without subjecting ourselves to fine and imprisonment.<sup>32</sup>

Supported by over two-hundred men from various bands, this petition was one of a series of complaints concerning Native family life that continued well into the twentieth century. My examination of missionary and DIA documents revealed these two parties received complaints from Native bands into the 1940s.

In their 1885 petition, the chiefs listed the gender-neutral problem of spousal desertion and the gender-specific issue of the movement of Native women off the reserves

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<sup>32</sup> Lower Frazer [sic] Indians to the Governor General of Canada, 28 December 1885, RG 10, volume 3842, file 71, 799.



to live with "other" men, as their main concerns. The chiefs wanted to return to the old order. They argued that doing so would prevent Native families from disintegrating. However, it is not entirely clear whether the chiefs were rejecting "white man's ways" altogether, or whether they simply objected to the law as it stood regarding the regulation of family life. Their desire for the old order may have been limited to a return to traditional practices (or what they claimed were traditional) of regulating sexual relations. This interpretation may be more fitting. The petition was strongly supported by the Lillooet and Shuswap peoples who had accommodated the Oblates to some extent; the men who signed the petition of 1885 were most likely Catholic, and had more to gain from being Catholic than from rejecting the presence of the Oblates outright.<sup>33</sup> Nonetheless, whatever we read their calls for "ancient customs" to mean, the petitioners opted for modern measures to attain their conservative objectives. As we have seen, their desire for and trust in legislative reform was consistent with the means chosen by other reformers who also wanted to enhance the quality of family life.

The protests and petitions such as the one above that began appearing throughout the 1880s grew out of the many changes that had been happening within Native communities. Many of the protests launched by Native men against common-law unions made reference to recent socio-economic changes that affected their influence over their families. With the formation of Indian policy and the advent of missionary activities in the west, some Native men argued that they were losing control over what happened to their families. In the 1885 petition shown above, the chiefs declared: "Had we the power of

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<sup>33</sup> Elizabeth Furniss discusses how Shuswap men during this time used the apparatus of the Oblate Durieu system to gain authority within their tribe, whereas without the Durieu structure, they would have had little authority or status within the community, because the clan system had been devastated by the influx of

following our own ancient customs as we have had before civilization dawned upon us, we would bring back the erring ones, by force if necessary.”<sup>34</sup> They contrasted this previous power with their current predicament: “Were we to [return the women to their “legitimate” families] now, we are threatened with a breach of law, and make ourselves liable to fine and imprisonment.”<sup>35</sup> These Native men argued that the law in its current state was a disabling factor for them. They claimed that legislative reforms would return their old powers of regulating sexuality. Such reforms, if in place, would guarantee that they would not be prosecuted if they tried to bring back “their” women.

As Native men were agitating for greater legislative controls to regulate their marriages, missionaries were trying to restructure Native communities along different political and moral lines. Although arriving with different agendas, some Indian men often colluded with missionaries in seeking greater regulations over their families. Native men sometimes turned to missionaries for a voice to the outside world. In a report to DIA on the Cariboo Indians, Father McGuckin argued on behalf of the men in his district who had consulted with him about gaining greater legislative controls over their families, in the hopes of preventing Native women from leaving their “legitimate” Native husbands.

I strongly recommend the passing of a law by which Indians who are lawfully married may be able to take summary proceedings either by themselves or through the Commissioners of Indian Affairs, before a local Justice of the Peace or a County Court Judge, against those white men or others who by seduction or otherwise induce a married woman to leave her legitimate husband. The Catholic Indians have made enormous sacrifices in giving up their own customs and habits and in adopting the laws of Christianity (this is especially true in all that regards Christian marriages) hence the law of the land should protect them not only from the wickedness of bad men, but also as far as it is possible from the dangers of

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gold-diggers and cattle-ranchers in the 1850s and ‘60s. See her article, “Resistance, Coercion, Revitalization...”

<sup>34</sup> Petition, 28 December 1885, RG 10, volume 3842, file 71, 799.

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

separation during their lifetime. The women will become a disgrace to her sex and a plague in society and the man will very likely become a murderer.<sup>36</sup>

McGuckin's use of the phrase the "wickedness of bad men..." to describe the "other" men with whom Native women went to live demonstrated his support for the Native men in his district. McGuckin suggested that the Christian Cariboo men felt betrayed by white society when their families were being sundered by the very "civilization" into which they were pressured to assimilate. The impact of "civilization" complicated matters for Native families when Native women were exposed to outside influences. By the turn of the century on the coast, Agent DeBeck reported that Native women were leaving their aboriginal husbands with increasing frequency. From Alert Bay, De Beck reported in 1902 that Native men were also appealing to him for help in bringing back wives who had deserted them and were now living with other men.

With regard to the number of cases where the deserted husband had come to me to assist him to get his erring wife back; as I said before, it is a common occurrence, although I have kept no record of the names or number of cases, I would have no hesitation in saying that there has been at least forty since my arrival in April last.<sup>37</sup>

Indian men argued that their duty to safeguard their marriages was being undercut.

In another petition a few years later, aboriginal men again expressed their inability to control their families. The men who signed the petition to stop international/ inter-racial cohabitation suggested that their inability to control their own family life was inextricably tied to their position as Natives in a "white" society, as they pointed to the failure of laws

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<sup>36</sup> Father McGuckin, O.M.I. Rector, St. Joseph's Mission, to DIA, 9 January 1875, RG 10, C-10108, vol. 3621, file 4780.

<sup>37</sup> G. W. De Beck, to A. W. Vowell, Indian Superintendent of B.C., 23 January 1903, RG 10, C-8538, vol. 6816, file 486-2-5 pt.1.

against seduction to protect "Indian cases."<sup>38</sup> The petition, supported by over fifty-eight Indian bands along the Lower Fraser River and the Kamloops Agencies in 1890, noted the circumstances experienced by the aboriginal population:

We are much aggrieved and annoyed of the fact that our wives, sisters, and daughters are frequently decoyed away from our Reserves by ill-designing persons. That we have no adequate protection against this evil from the law now in force, for instance. How can the law against seduction and the procurer be successfully applied to Indian cases? As far as we can see, the said law is a dead letter to us, in as much that the only slight remedy we have is that our Indian Agents in some cases restores [sic] these erring women to their Reserves but in most cases these women are induced to return again to their seducers.<sup>39</sup>

While protesting inter-cultural cohabitation a few decades later, the Indian Rights Association in 1913 suggested that the outside, rapidly developing industrialized economy was hostile to Native families. They argued that in such a world, Native women were abused and Native fathers and husbands were unable to prevent such abuse from happening. Native women, they wrote, were often abused by "bad men" when they went to work in canneries, or when "traveling on public steamers."<sup>40</sup> Although the protection of Native women was the over-riding concern in the petition, the men's inability to safeguard their families was implied: "The bad men...bring sorrow into our homes and...break up our families."<sup>41</sup> The Indian Rights Association argued that legislation needed to be enacted that would ensure the protection of Native families, and most significantly, provide a legitimate role for themselves in protecting "their women." They argued that legislation was an essential reform because current laws, as they stood, inhibited Native men from effectively exercising authority over "their" women.

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<sup>38</sup> Indian Bands from the Lower Fraser River and Kamloops Agencies to the Governor General of Canada, 30 September 1890, RG 10, vol. 3842, file 71,799.

<sup>39</sup> *Ibid.*

<sup>40</sup> Indian Rights Association of B.C. to Dr. Roche, Minister of the Interior, 15 December 1913, RG 10, C-10193, vol. 3816, file 57, 045-1.

<sup>41</sup> *Ibid.*

As international, unmarried relationships became an issue for Native men, their calls for regulation were based on certain representations of the parties involved in these unions. Whites, Chinese, and Native men from other bands and tribes were portrayed as “wicked” or “bad men.” However, the behaviour and character of Native women garnered more attention from Indian men. In appealing for legislation to further regulate the sexuality of Native women, Native men usually portrayed their daughters or wives as either victims or vixens. As we have seen, the phrase “erring women” arose repeatedly throughout the protests. But at the same time, aboriginal women were shown in the petitions to be sexually vulnerable, easily seduced, undisciplined when it came to refusing sexual advances, and basically unequipped to deal with the outside world where “bad men” roamed. Therefore, the petitions suggested that Native women needed male protection that would be ensured through legislation.

Indian male representations of Native women paralleled the discourse in white society regarding white women. The period saw an increase in protective legislation to protect women and girls from the designs of men. In discussing nineteenth-century Canadian rape law, Constance Backhouse describe how legislators were interested in expanding the role of the state in protecting more women from sexual crimes. Although courts were reluctant to convict those who raped a woman of “questionable character,” women were generally regarded as passionless, corruptible, and vulnerable, and rape laws were designed to protect these types of women.<sup>42</sup> In the appeals for greater regulations into Native sexual relations, Native women were represented (by Native men) in similar ways to the representations of white women.

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<sup>42</sup> Backhouse, “Nineteenth-Century Canadian Rape Law 1800-92,” 218, 228, 236.

In appealing to the authorities for greater control over their family life, Native men often claimed ownership over Native women. A sense of entitlement to female loyalty emerged from the various petitions, as well as suggestions of outrage that a "wife leaves her husband"<sup>43</sup> without apparent consequence. As if to emphasize their sense of entitlement, the chiefs suggested they were within their rights to request the authority to "bring back if necessary by force the erring ones."<sup>44</sup> In the petition of 1885, they implied that, under the circumstances, physical force could justifiably be used in order to prevent the break-up of their families. Whether the chiefs and Native men truly internalized attitudes of male entitlement is open to interpretation. What can be said is that, at the very least, the chiefs wanted greater power invested in them for the purpose of regulating Native marriages in a way they thought befitting of their community; accordingly, they framed their petition in a manner that they thought would most appeal to the authorities.

The petitions and letters written on behalf of Native men usually referred to the protection of Native women as a motivation for securing greater legislative authority to enforce marriage unions within Native communities. A discourse of female protection was consistent with a patriarchal society, as well as with a paternalistic administrative body like the Department of Indian Affairs. One petition in particular, drafted by the Indian Rights Association in 1913, engaged the argument that Native women were in need of dire protection. The title of the petition was "The Better Protection of Indian Women:"

Whereas a number of our women and girls whilst working at the canneries, or traveling on the public steamers, have been seduced and betrayed by bad men, not only bringing sorrow into our homes, but in many cases breaking up our families: Therefore, be it resolved, that

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<sup>43</sup> Petition, 28 December 1885, RG 10, volume 3842, file 71, 799.

<sup>44</sup> *Ibid.*

we respectfully request the Dominion Government to enact such legislation as will protect our women against such demoralization.<sup>45</sup>

The petition did not suggest what type of legislation was deemed necessary. Clearly however, Native women were portrayed as weak and feeble-minded, easily seduced and eventually betrayed. They were described as gullible, and it is suggested that these women were incapable of acting responsibly or having a non-exploitative relationship with non-Natives. As other studies on moral regulation indicate, reformers' representations of women were highly significant to state responses to their pleas for greater intervention. In her study of prostitution in the Victorian era, Judith Walkowitz argues that reformers accentuated the helplessness of prostitutes in order to garner support for state intervention to prevent prostitution.<sup>46</sup> They portrayed them as children who were stolen or seduced by white slavers. Canadian parliament was soon faced with a similar lobby organized by Montrealer D. A. Watt. Between 1885 and 1890, parliament passed a number of statutes in response to pressures to protect "vulnerable" young girls from the white slave trade.<sup>47</sup> Thus, in a similar fashion, the representation of Native women was significant to the appeals for legislation to prevent inter-racial sexuality.

Recognizing that gender relations within their communities had shifted due to the influx of settlers, Native men sought to increase their power and authority through legal channels. For Native men dissatisfied with the status of family relations, the law became a potential tool of empowerment. Their petitions specifically requested that legislation make

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<sup>45</sup> Indian Rights Association of B.C. to Dr. Roche, Minister of the Interior, 15 December 1913, RG 10, C-10193, vol. 3816, file 57, 045-1.

<sup>46</sup> Walkowitz, *Prostitution and Victorian Society: Women, Class, and the State* (Cambridge: Cambridge University Press, 1980), 250.

<sup>47</sup> Backhouse, "Nineteenth-Century Canadian Rape Law," 228.

exceptions for Native men wishing to exert physical authority over community members who had transgressed family responsibilities and expectations. For example, Kamloops Indian chiefs desired: "a law by which [people living common-law] would be compelled to return to their legal husbands and wives."<sup>48</sup> Perhaps more striking and to the point was the request voiced a few years later by the same Kamloops bands, the Lillooet, and the Lower Fraser:

The remedy for these great evils...is to enact a law authorizing the infliction of corporal punishment by the lash. This we believe would be the only way of protecting us against the procurer, the seducer, and the intoxicant seller...<sup>49</sup>

Notably, the petitions did not explicitly indicate upon whose bodies the lash would be applied. The request by Native men to use the lash without fear of legal constraints lends added significance to the flogging of Lillooet Lucy that was to happen only two years later. We have to place the Lillooet crisis in the context of the overall political tensions that were happening in Native communities, and the attempts by Native men to regulate their own family life. The Department of Justice was opposed to creating any special legislation that would pertain only to Indian women.<sup>50</sup> Moreover, both the Department of Justice and DIA were opposed to the principle of "redressing an evil by violence."<sup>51</sup> In its response to the 1885 petition, the DIA stated that it wanted to avoid the potential for violence.<sup>52</sup>

In many of their petitions, Native men expressed a willingness to accept greater

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<sup>48</sup> Kamloops Indian agent to unknown recipient, 25 March 1886, RG 10, vol. 3842, file 71,799.

<sup>49</sup> Indian Bands of Lower Fraser River and Kamloops Agencies to the Governor General of Canada, 30 September 1890, RG 10, vol. 3842, file 71,799.

<sup>50</sup> L. Vankoughnet to A.W. Vowell, Indian Superintendent, 26 December 1890, RG 10, vol. 3842, file 71,799.

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

<sup>52</sup> Acting Deputy Minister of Justice to L. Vankoughnet, Deputy Superintendent General of Indian Affairs, 14 October 1887, RG 10, vol. 3842, file 71,799.



authority given to the Indian agents, if not to themselves, to enforce legislation were it designed to prevent Native women from leaving their Native husbands or from choosing to live with men from outside the reserve. Many Indian agents agreed with appeals for such legislation; one even drafted proposed legislation. Agent MacKay suggested the following, "draft of a Regulation proposed to be added to the Indian Act – and for the better prevention of immorality on the part of Indian women:"

My opinion is that the required result [where Natives living in adultery would be compelled to return to their legal husbands and wives] might be obtained by the following – or some law – which would also provide against cases – very rare I am happy to state – where white men are living in adultery with Indian women: 'Any person or Indian living with, or harboring, or conniving at any one harboring an Indian woman who is legally married to an Indian, or to a person of Indian blood who is living by permission of the Agent in a Reserve and inscribed on the Census as one of the band of said Reserve – shall – on conviction before a J.P. if other than an Indian be liable to a fine of not less than \$100 – nor more than \$300 – with costs – and in default, to imprisonment for not less than two nor more than six months, or to both. And if an Indian, to \$25 to \$100 with costs and in default to imprisonment from two to six months or to both.'<sup>53</sup>

According to this draft, Indian men who were charged with this crime would not be required to pay as large of a fine as white men would; however, they could receive a longer jail term than whites under this legislation. In drafting this proposal, MacKay apparently modified suggestions made by the chiefs who wanted more stringent measures – namely, the authority to physically separate cohabiting couples where one party was already married. MacKay informed his superior:

The proposed law [by the Indian chiefs], giving authority to Indian agents and chiefs 'to take and bring back to' would assuredly, if put in force, be attended with serious consequences. Many Indian women, in my agency, are living with white men, and have families by these men, and are looked upon by both Indian and whites as being virtually if not legally, the wives of those men. These women are the first against whom the chiefs would enforce the law, causing much unhappiness, and in no doubt, serious trouble.<sup>54</sup>

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<sup>53</sup> Kamloops Indian agent to unknown recipient; 25 March 1886, RG 10, vol. 3842, file 71,799.

<sup>54</sup> *Ibid.*

Many Indian agents also favoured changes to the law to increase their own powers to enforce monogamous, contractual relationships. The agents' request for legislation to regulate inter-racial marriages was an extension or was consistent with their desire to be given the power to regulate Native marriages. Lillooet agent William Laing Meason in the 1880s, who supported the chiefs in their petitions,<sup>55</sup> Joseph William MacKay, and West Coast agents E. E. Frost and agent Collison in the 1930s were the most vocal about this issue.<sup>56</sup> In this regard, their interests were aligned with those of the chiefs, which were themselves aligned with the missionaries. Their motivations, however, may have been different. The chiefs wanted authority within their families. The Indian agents were generally in favour of the chiefs' position, provided that the chiefs' actions could not potentially undermine government authority. Some Indian agents opposed the idea of investing chiefs with powers that could potentially disrupt a peaceable transition into white society. MacKay, for instance, would not agree to giving chiefs unmitigated authority to punish errant wives, not because doing so might be detrimental to the well-being of the women involved, but because relations between white settlers and Native communities might become antagonistic.<sup>57</sup> In such an event, his own position of authority would be seriously undermined and questioned, just as Father Chirouse's authority and mission were questioned a few years later.

In summary, three very different groups of men were united in their opposition to the movement of Native women off the reserves to live with "other" men. Of course, the

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<sup>55</sup> Indian Bands to Governor General, 28 December 1885, in RG 10, vol. 3842, file 71,799.

<sup>56</sup> Frost to C. C. Perry and C.C. Perry to H.W. McGill, DSGIA, RG 10, BS, vol. 11296, file 117 pt. D.

<sup>57</sup> Kamloops Indian agent to unknown recipient, 25 March 1886, RG 10, vol. 3842, file 71,799.

missionaries, government officials, and Native men objected to this issue for vastly different reasons. However, their objections all stemmed from a recognition that sexuality and marriage were significant to the project of building orderly societies. Missionaries were concerned about morality, and cohabitation undermined the sanctity of the family. Government agents and private citizens associated common-law unions with the socio-economic problems of poverty, illegitimacy, and crime. Moreover, in addition to the obstacles of poverty and illegitimacy, half-breed children would have increased difficulties assimilating because they were visible minorities. Thus, the offspring of common-law unions would be marginalized from white society. Meanwhile, Native men hoped to prevent common-law unions because their presence threatened to destabilize aboriginal communities which had already been disrupted through disease, white settlement, and missionary and government involvement. They regarded family life as fundamental to a viable future. Like other reformers, they looked to the available apparatus in order to achieve their interests. It was probably no coincidence that their petitions to the authorities were framed in the often patriarchal language of the missionaries. Colonization reconfigured gender relations, the brunt of which was arguably borne by Native women.

## Conclusion

Between the 1870s and the 1940s, the Department of Indian Affairs received a flurry of requests to increase its role in regulating the marriages of aboriginal peoples. A number of different players had a stake in controlling the sexuality and family life of Indian men and women. Indian agents, Native men, and missionaries believed that state intervention in intimate relations was justified in order to prevent what they argued would be the social consequences if the status quo of Native sexual relations was allowed to continue.

Prior to contact with whites, Indian communities had their own culturally distinct ways of regulating the gender and sexual relations between men and women. Marriage “codes” were the primary means of regulating these relationships. In response to increased contact and settlement of the west, the marriage customs of Indian nations altered to adapt to the economic and social changes that transformed their communities. The devastating effects of disease, depopulation, loss or depletion of natural resources destabilized many communities. Indian groups responded in a variety of ways, depending upon their culture and social and economic structure. Some groups witnessed an elaboration of traditional customs while others turned to newer strategies – such as those offered by the missionaries – for ordering their communities. Inevitably, the relations between Native women and men were also affected.

Throughout this time, members of Indian nations were attentive to the state of family life within aboriginal communities. Their correspondence and political activities suggest that they believed that Native family life needed to be strengthened in order to withstand the growing pressures of white settlement. In the interior of British Columbia, hundreds of men signed petitions calling for legislative reforms that would make it difficult

for Native women to leave their aboriginal families and move off the reserve. At the same time, they collaborated with missionaries and Indian agents to pressure the government to do the same. Some Native men took matters into their own hands and applied corporal punishment to women whose sexuality undermined social order as they defined it.

Meanwhile, the missionaries and Indian agents who worked among aboriginal communities were also paying attention to the state of marriage relations. Critical not only of many traditional Indian marriage customs, these reformers also hoped to change some of the newer developments in sexual relations. Changes in the economy and transportation meant that Native women had increased mobility and contact with outside influences. Cohabitation arrangements made between Native women and men – either white, Chinese, or Indian men from off the reserve – were of particular concern to many reformers. They argued that desertion and illegitimacy often characterized these informal unions, and contributed greatly to poverty and crimes like prostitution, not to mention the general debasement of Native women.

In response to reformers' protests and demands for action, policy makers from the Department of Indian Affairs generally acknowledged the validity of their concerns. DIA's preferred course of action, however, infuriated reformers to no end. Gradual assimilation primarily through education was the chosen course. The regulation of Native women's and men's sexuality would be indirect and not through additional explicitly moral legislation. The policy of gradual assimilation best accommodated all of the state's interests. The department would tolerate Indian marriage practices and avoid explicitly regulating sexual relations because in the long run, that was the least complicated way of administering Indian affairs. First of all, gradual assimilation was consistent with the Department's desire

to avoid intervening in the private sphere; moreover, meddling in intimate relations would be costly and administratively difficult. Second, were the state to declare Indian customary marriages illegal, an administrative nightmare would emerge with the sudden rise in the illegitimate population. Finally, since assimilation of the Native populations was the government's goal, a policy of gradual assimilation met that end while still accommodating the Department's financial and ideological objections to regulating Native sexuality.

While the Department may have been satisfied to take this course of action, reformers continued to question gradual assimilation and pointed to its limitations. By the 1940s, though, the Department seemed to be receiving fewer and fewer complaints from reformers concerning marriage reforms. In my research of DIA files I found that, for one reason or another, the Department did not receive many requests from reformers to reconsider its policy on marriage regulation. Perhaps with international crises like the Second World War, concerns over marriage regulation, although still present, no longer took center stage.

Perhaps a more significant factor in explaining the decline in reformers' calls for legislative change to regulate Native sexuality, however, was that, by the second half of the twentieth century, Indian policy and the relationship between the DIA and moral reform groups like the missionary societies began to change. As J. R. Miller explains, "the people responsible for the policy of the 'Bible and the plough' began to have doubts even before the Great War."<sup>1</sup> Miller argues that administrators began to acknowledge the failure of nineteenth-century policies to bring about economic and social change as they had wanted;

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<sup>1</sup> J. R. Miller, *Skyscrapers Hide the Heavens: A History of Indian-White Relations in Canada*, rev. ed. (Toronto: University of Toronto Press, 1991), 211.

moreover, with the rise in the Indian population, it was apparent that Native peoples were not going to disappear, and policies predicated on this assumption were no longer suitable. The Department's policy of keeping children for prolonged periods in residential schools was also growing more expensive.<sup>2</sup> While the DIA was reconsidering its policies, the emergence of political pressure from Indian groups was the final factor that influenced a change in Indian policy. The new Indian Act of 1951 allowed for Indian attendance at public schools, and this marked the beginning of the end of residential schools.<sup>3</sup> The number of church-owned residential schools rapidly diminished by 1965. The administration of Indian education became more regulated and professionalized, and missionary control lessened as the federal government increasingly took over more functions from church authorities.<sup>4</sup>

Thus, as the federal government took steps to reform the Department of Indian Affairs and the policies governing Indian education were altered in the process, the department's relationship with missionary groups receded. Indian education relied less upon missionary involvement. Moreover, the duties of the Indian agent were also limited with regards to education and more clearly defined. A direct line of authority – starting with the appointment of a Superintendent of Education – was established within the bureaucracy, removing previous ambiguities in Indian agent's duties.<sup>5</sup> The newly professionalized bureaucracy of the DIA, itself reformed, was probably even less likely

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<sup>2</sup> *Ibid.*, 213.

<sup>3</sup> Celia Haig-Brown, Resistance and Renewal: Surviving the Indian Residential School, (Vancouver: Tallicum Library, 1989), 28.

<sup>4</sup> The Education of Indian Children in Canada: A Symposium Written by Members of Indian Affairs Education Division with Comments by the Indian Peoples, ed. L. G. P. Waller, (Toronto: Ryerson Press, 1965), 21, 24.

<sup>5</sup> *Ibid.*, 24.

than before to entertain moral reformers' calls for greater moral regulation. By the second half of the twentieth century, the relatively independent role that Indian agents and missionary societies had once played in the "civilizing" project had ended.



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