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Re-Membering Our Nations: Indigenous Custom Adoption and Determining Belonging Beyond the Indian Act

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Re-Membering Our Nations:

Indigenous Custom Adoption and Determining Belonging Beyond the Indian Act

by

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A THESIS

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Abstract

This is a study and analysis of Indigenous membership and belonging. Specifically, this thesis takes up the historical and contemporary harms of colonialism and the Indian Act (1876) have had on First Nations band membership codes and Indigenous practices of determining belonging. The central task of this study is to determine how Indigenous nations can determine membership and belonging beyond colonial confines. I draw on literature on Indigenous nationhood and peoplehood to develop a framework that outlines pathways for belonging that are embedded within networks of kinship and relationality, rather than the arbitrary boundaries of colonial legislation. Throughout the thesis, I argue that Indigenous custom adoptions, in the way they occur within Indigenous legal, political, and kinship systems, are inherently acts of self-determination and as such, provide insight into how Indigenous nations can move beyond the Indian Act.

Keywords: membership codes; belonging; custom adoption; nationhood; peoplehood; kinship; relationality

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For my family and all of my kin (past, present, and future)

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Introduction

Overview

This thesis is a study and analysis of Indigenous membership, citizenship, and belonging. Specifically, this thesis takes up the historical and contemporary harms colonialism and the Indian Act (1876) have had on Indigenous (First Nations¹) band membership codes and Indigenous practices of determining belonging. My research questions are:

1. Considering the legacy of Indian Act governance, how can Indigenous nations revitalize their membership codes?
2. Can the traditions and laws of custom adoption be deployed in membership code renewal and what impact does this have on Indigenous governance and self-determination?
3. What does it mean to be a member or citizen of an Indigenous nation? In other words, what does it mean to “belong”?

I take up this research from multiple lenses. First, a personal lens, as these questions of membership and belonging directly connect to my own and my family’s lived experiences. Second, I take this work up from the lenses of kinship and relationality. Specifically, I take up Indigenous custom adoption practices and how these intersect with broader networks of kinship and relationality (and what that means) in Indigenous contexts. Third, I take up membership and belonging from the lens of Indigenous nationhood and peoplehood, and how nationhood and peoplehood connect with Indigenous governance and self-determination. Membership and belonging, and the ability to decide who can and should belong to the collective, are fundamental to Indigenous governance and self-determination.

I argue that custom adoption practices shed light on the inherently kinship-based and relational nature of Indigenous nationhood and peoplehood. In order to explore my research questions, I develop the nationhood + peoplehood framework, which is a framework that

¹ The terms Indigenous and First Nations can be used interchangeably in my thesis. However, the analyses in this thesis draw predominantly on First Nations contexts because the Indian Act has not been imposed in the same way on Inuit and Métis peoples in Canada.

emphasizes the “web of relationships” that make up an Indigenous nation and informs the nation’s expressions of self-determination (Gish Hill 2013; Hancock 2021). Ultimately, I draw on the nationhood + peoplehood framework to inform my analysis of the current landscape of membership and belonging, including the effects of heteropatriarchy on questions of belonging. I provide an analysis of the Heiltsuk membership code to put my theory and critiques into action with a concrete example. This analysis works to show the strengths of the Heiltsuk code in light of my analytical framework, but also shows how the code promotes Indian Act governance in problematic ways. Further, I argue that thinking beyond imposed Indian Act policies and stereotypes about Indigenous identity is necessary and contributes to the revitalization of Indigenous governance and self-determination. Horn-Miller (2018, 355) argues that the Indian Act has created degrees or categories of Indianness that “... worked to distance Indigenous peoples from traditional notions of identity and belonging”, which aptly summarizes the urgency associated with addressing questions of membership and belonging in Indigenous contexts.

Situating Myself in My Research

My father (Donald Wilson Jr.) is Heiltsuk, and my mother (Liette Wilson, nee Wight) is white. My father was born in Bella Bella, British Columbia to Donald Wilson Sr. and Elizabeth Wilson (nee Tite). Bella Bella is a community and reserve located on the central coast of British Columbia and is in the heart of Heiltsuk territories, the territories that we, the Heiltsuk people, have been stewarding for over 14,000 years. As a white woman, my grandmother received Indian Status upon her marriage to my grandfather in 1968. However, she too was born in Heiltsuk territories (Bella Bella) and lived and worked in Bella Bella her entire adult life. She is and has been embedded within the Heiltsuk community her whole life and is a mother, auntie, and grandma to many Heiltsuk people. By receiving Status, she also became a registered member

of the Heiltsuk Nation as the Heiltsuk membership code confers membership to people with Status, including non-Heiltsuk women that married in prior to the 1985 Indian Act amendments.

My parents met in 1986 and got married in 1992. After getting married, they moved to Deschappelle, Haiti to work. In Haiti, they met two kids that would eventually become their children. Following their move back to Canada in 1995, they finalized the legalities of the adoptions of my older two siblings, Mariah and Josiah Wilson, in 1997. My younger brother, Tévan Wilson and I, were then born in 1999 and 2002, respectively. Myself, and my three siblings are all Heiltsuk Nation band members and Status Indians. My older siblings, following their adoption under Canadian common law, were also accepted into the community through Heiltsuk custom adoption practices at a feast. They were recognized and uplifted by our *Yímás* (hereditary leaders), the band council (elected leaders), and the broader Heiltsuk community. Heiltsuk *Gvilás* (laws) are what underpin the custom adoption of my older two siblings into the Heiltsuk Nation. The *Gvilás* are what affirm their membership and belonging. Our *Gvilás* are also what underpin the public way in which their adoption was conducted because a key tenet of our culture and politics is the expectation that we conduct the nation's business in public and transparent ways, usually in a potlatch with witnesses.² Importantly the recognition and affirmation of Josiah and Mariah goes beyond a single event. Rather, the affirmation and recognition of their belonging is an ongoing process.

My siblings and I were all raised in Calgary, Alberta. While we never had any questions about who we were as Indigenous peoples and our connections to the Heiltsuk Nation, we were raised in an urban context and do not have the lived experience(s) of being raised on reserve. We did, however, make trips back to Bella Bella when possible and maintained our familial and

² Witnessing is a key tenet of the Heiltsuk (and many coastal First Nations) political practices. See Chapter 3 for more about the importance of witnesses and witnessing.

kinship connections as we grew up. I state all of this to situate who I am, how I am connected to the Heiltsuk Nation, and the context that informs my research. My experience growing up in a multi-racial, Indigenous, and adoptive family greatly inform the way I understand the world and this research. My older siblings, being Black adoptees, have experienced consistent questioning from others about their relationship to my family and their connections to the Heiltsuk Nation. I have lost track of the number of times I have been asked, “But they’re not, like, your ‘real’ siblings, right?” in reference to Mariah and Josiah, or “Well what percentage of Native are you?” in reference to each of our Indigenous identities. These questions serve to delegitimize our connections to each other and perpetuate static understandings of Indigenous identity. These types of questions are part of what inform my thesis. Why are people so adamant that only one way of making family is “legitimate”? Why is it that Indigenous identity continues to be posited as a purely biological or racial identity rather than a political and cultural one? A desire to unpack these questions forms a large part of why I have chosen this thesis topic.

Defining Adoption: Indigenous vs Euro-Canadian Adoption Practices

In Indigenous contexts, adoption can be a site of relationality, kinship, renewal, and governance. However, adoption in Indigenous contexts can also be a site of violence, appropriation, and harm. These two truths are the starting point of my thesis. Indigenous nations have been practicing traditional or custom forms of adoption since time immemorial. There is no singular definition of custom adoption, rather, it is a broad term used to refer to the traditions and practices associated with adoption in diverse Indigenous nations (di Tomasso and de Finney 2015b). With that said, the Royal Commission on Aboriginal Peoples (RCAP) commissioned a background paper on custom adoption in 1995. In this background paper, De Aguayo (1995, 2) concluded that Indigenous custom adoption in Canada can be understood as “transactions in

kinship” that reflect the community’s cultural, political, and economic values. Notably, De Aguayo (1995, 2) determined that custom adoptions are embedded within “networks of generalized reciprocity” – meaning adoptions occurred within pre-existing kinship relationships that prioritized the wellness and kin relationships of the entire community. In contrast to Indigenous custom adoption, Euro-Canadian adoption models historically emphasized the “giving up” of a child and the severing of the child’s connection to their birth parents. Di Tomasso and de Finney (2015b), point out that Euro-Canadian statutory adoption is, “...marred by a history of disconnection, forced assimilation, secrecy, and shame” (22). Keewatin (2004) underlines that adoption has often been considered an “aberration” in Euro-Canadian culture, largely because of its associations with contexts such as the inability to bear a child and/or the birth of a child outside of wedlock.

Di Tomasso and de Finney (2015b) argue that both Indigenous and Euro-Canadian adoption practices are rooted in specific worldviews. Indigenous worldviews largely conceptualize childhood, parenthood, and relationships completely differently than Euro-Canadian worldviews. In Euro-Canadian contexts, adoptions are usually situated in “...Western notions of rights, attachment, permanency, and the ‘best interests of the child’” (di Tomasso and de Finney 2015b, 24). In contrast, di Tomasso and de Finney (2015b, 24) argue that Indigenous custom adoptions are largely informed by three values: honouring children, kinship, and fluidity. These values indicate a very different understanding of child rearing. Drawing on Little Bear’s (2000) definition of kinship as a “spider-web of relations,” di Tomasso and de Finney (2015b) point out that custom adoptions are situated in “...complex arrangements of rights and obligations that surpass the boundaries of Western notions of the nuclear family” (25). Indigenous adoption practices, in the way that they are embedded in distinct kinship, relational,

and political systems can be seen as a beautiful site of self-determination and governance for Indigenous nations. However, in contrasting Indigenous and Euro-Canadian worldviews regarding adoption, it is evident that these practices clash. Further, colonization impacted Indigenous kinship systems and disrupted these communal networks of relationality. This impact continues to tear families and nations apart.

Colonization, and policies enacted in the name of civilizing and assimilating Indigenous peoples, directly target(ed) Indigenous families and kinship networks. Di Tomasso and de Finney (2015a) describe this pattern of targeted removal, as an “effort to extinguish Aboriginality” (8). First, Indigenous children were taken from their homes to residential schools in an effort to violently prevent them from inheriting their cultures and languages (di Tomasso and de Finney 2015a). Next, even as the residential school system was winding down, Indigenous children were taken from their families and communities in large numbers in the name of “child protection” (di Tomasso and de Finney 2015a). This pattern of removal became known as the “Sixties Scoop” wherein thousands of Indigenous children were removed from their families and placed in predominantly non-Indigenous homes (di Tomasso and de Finney 2015a). Fournier and Crey (1997, 3) point out that between 1969 and 1979, 78% of Indigenous adoptees were adopted by non-Indigenous families. Contemporarily, the child welfare system continues to disproportionately target and affect Indigenous children and families. The current child welfare era is often referred to as the “Millennium Scoop” indicating that policies have not changed much since the 1960s (di Tomasso and de Finney 2015a). In all, colonial adoption and child welfare policies have had a profoundly negative effect on Indigenous children and nations by stealing the next generation of members and leaders from their communities and families. Moreover, di Tomasso and de Finney (2015a), point out that many Indigenous adoptees placed in

non-Indigenous homes suffer from, "...feelings of loss, shame, disconnection, and abandonment surrounding identity and kinship" (11). Thus, while adoption within Indigenous communities is a longstanding practice embedded in networks of care and relationality, adoption outside of Indigenous communities has been a site of colonial violence and assimilation. With that said, my thesis intentionally focuses on the powerful nature of Indigenous custom adoption practices, rather than the ongoing effects of colonial adoption and child welfare policies. This is not to say that child welfare is not an important and urgent area of research. Rather, my goal is to think through the empowering possibilities of custom adoption, rather than focus on the violence and trauma of colonial child welfare. Shifting our attention towards Indigenous forms of adoption, and particularly the way adoption has been a powerful function of Indigenous legal, political, economic, and kinship systems since prior to colonization, allows us to consider new avenues to assert Indigenous agency and self-determination.

We've Got a Problem: Adoption, Identity Fraud, and Self-Determination

Now that I have situated myself in the research and defined and contrasted Indigenous and Euro-Canadian adoption practices, I will now explain the events and problem(s) that led to this research. As I previously explained, my siblings and I have participated in our community to the best of our abilities given our geographical distance from our homelands (Heiltsuk territories). Playing for the Heiltsuk Nation's basketball team at the All-Native Basketball Tournament (ANBT) which occurs annually and brings together basketball teams from all over British Columbia, is one way that my older brother Josiah remained connected to our nation and community growing up. In 2016, after playing in the tournament two years in a row in the Junior division, Josiah received a letter in the mail from ANBT organizers stating that he could not play

in the 2016 tournament because he did not have the “blood quantum” required. The letter from the ANBT committee read:

Our committee was approached by a resident of Bella Bella that did mention Josiah was adopted the rules indicate a player must have aboriginal ancestry/bloodlines in order to participate in the annual basketball tournament... Josiah, we are very happy that you have been adopted by the Wilson Family into the Heiltsuk Nation; unfortunately at this time we regret to inform you that you are ineligible to play in the 2016 ANBT with the Bella Bella Intermediate Team. ³

Blood quantum regulations are colonially imposed rules that work to strip Indigenous nations of their traditional forms of determining belonging. As Palmater (2011) argues, blood quantum regulations as they pertain to the Indian Act and Indian Status, are “...designed to assimilate all Indians through legislative extinction” (29). Further, Palmater (2011) aptly summarizes the way Canadian policies regarding Indigenous membership and belonging conflate ancestry and blood to connection and identity. Palmater (2011, 29) writes, “Canada makes the presumption that blood quantum or remoteness of descent from one’s Indian ancestor equates with one’s level of connection to both and individual and communal Indigenous identity and culture.” However, relying on biology alone to determine Indigenous identity and belonging is harmful. This is clear in the example of my siblings, who have no Indigenous “blood,” but have been accepted Heiltsuk members since the announcement of their adoption 25 years ago. In attempting to ban Josiah from playing, ANBT disrespected the governance and authority of the Heiltsuk Nation to determine who their members are. Their choice to exclude him based upon genocidal, colonial policies adds even more insult to injury given that the tournament is a site of gathering and joy for Indigenous peoples across the province.

Following the letter he received, my father launched a human rights complaint with the British Columbia Human Rights Tribunal, claiming that Josiah was discriminated against based

³ See Appendix A for a full copy of the letter.

on, “race, place of origin, colour, and family status” which is not allowed based on Section 8 of the BC Human Rights Code (Jang 2016). In 2017, the case was settled outside of court. The terms of the settlement included: a public apology, the Heiltsuk Nation being allowed to perform a washing ceremony for Josiah at the next tournament, Josiah being allowed to play in all future ANBT tournaments, and an amendment (removal) of blood quantum rules (Hamilton 2017). The whole process reaffirmed my siblings’ belonging to the Heiltsuk Nation, created a public conversation about Indigenous identity and the impacts of colonization on the rights of Indigenous self-determination when it comes to membership and belonging. Further, this event triggered my desire to pursue research into Indigenous custom adoption, membership and belonging because it became increasingly clear to me that Indigenous identity is misunderstood, overly legislated, and largely thought of as purely a racial or biological category, rather than a political and cultural one.

While Josiah’s case created positive change and sparked conversations about Indigenous identity and who can “belong” in Indigenous nations, the question of Indigenous belonging is still not straight forward. For example, there have recently been conversations about “Pretendians” (“pretend Indians”), and the impact they have on Indigenous nations and self-determination. There have been multiple high-profile cases in which peoples’ identity claims have been questioned such as Michelle Latimer (a prominent filmmaker) and Carrie Bourassa (prominent a professor) (Dowling 2020; Vincent 2021). These cases have brought scrutiny and sparked conversations and debate about Indigenous identity because of the way Latimer and Bourassa relied on their Indigenous identity claims to advance their careers. Bourassa’s case is particularly relevant to the questions I explore in my thesis. In late 2021, CBC released an article claiming that Bourassa’s self-proclaimed “Métis, Anishinaabe, and Tlingit” identity is fraudulent

(Leo 2021a). CBC's investigation determined that all of Bourassa's ancestors were of Russian, Polish, and Czechoslovakian descent (Leo 2021a). In Bourassa's 2019 TedTalk⁴, she walks onto the stage wearing a Métis sash and holding a feather. She introduces herself as, "Morning Star Bear" and states that she is "Anishinaabe Métis from Treaty 4 territory" (CBCSaskatchewan 2021). In another talk, she claims her great-grandmother is Tlingit. She emphasizes the intergenerational trauma, addiction, and violence she grew up with. Everything in her TedTalk from the feather and sash to the claims of addictions and intergenerational trauma, serve to legitimize the claims she is making to her Indigenous identity. While this may not seem all that out of the ordinary if she did have a valid claim to Indigenous identity, her reliance on overt Indigenous stereotypes to validate her identity become particularly disturbing knowing the truth about her family tree. Her reliance on stereotypes is not so much an expression of her Indigeneity but a performance for the settler gaze and the institutions that legitimize her claims.

With all this said, it is not really Bourassa's false claims in and of themselves that are relevant to my work and research. Rather, it is her response to having her identity claims questioned and called out. Following the original CBC article by Geoff Leo, both Bourassa and an anonymous "Indigenous collective" released statements in response. In the anonymous collective's response, the authors wrote, "The current investigation has become a national issue of debate and the discussion appears to be setting precedence for quantum criteria for Nationhood, challenging the communities' right to claim and custom adopt" (Leo 2021b). In her personal response⁵, Bourassa doubled down on her claims, but completely changed her story and stated that she claimed Métis identity because she was adopted via custom adoption in her early

⁴ Bourassa's TedTalk has now been made private on YouTube.

⁵ Bourassa's own written response has also now been removed from the Morning Star Lodge (Indigenous health lab) webpage.

20s (Bourassa 2021; Pannett 2021). Further, she stated that Indigenous custom adoptions are, “... more meaningful and have stronger bonds than colonial adoptions” (Bourassa 2021; Pannett 2021). Notably, Bourassa’s response said nothing about her claims to Anishinaabe or Tlingit identity.

With all this in mind, Bourassa’s case is connected to my work because of her claim to “custom adoption” and her emphasis on the right of nations to determine belonging beyond blood quantum are identical to the arguments made by the Heiltsuk Nation and my family when it came to Josiah and the decision to exclude him from the ANBT. However, while Bourassa tried to use the same logics used in Josiah’s court case to justify her identity claims, there are notable differences. First, Bourassa’s claim to adoption came *after* being called out for fraudulently constructing her Indigenous identity. Second, the adoption she claims to have occurred was conducted with no witnesses by a man that has since passed on. The lack of witnesses to validate her adoption is troubling because no one can confirm that this adoption took place. Third and finally, her identity claims have directly served her economically and socially within academic institutions. In contrast, my siblings and my family have always been transparent about my siblings’ adoptions. My siblings’ adoptions occurred publicly within the Heiltsuk Nation and there are witnesses to their adoption. Moreover, my siblings maintain their claims to Indigenous identity occur despite difficulties, anti-Black racism, and ongoing questioning (from people within and outside of Indigenous communities). They do not simply affirm their claims to receive financial compensation and/or social capital. In comparing Josiah’s case to the case of Joseph Boyden (another alleged Pretendian that claimed adoption after being questioned), Lee and Horn-Miller (2018) wrote, “...adoption is contentious precisely because it can be (and has been) used by anyone, whether it be an Indigenous family or community laying

claim to someone on their own terms, or by a settler wanting to play Indian” (294). In stating this, Lee and Horn-Miller (2018) articulate why thinking through questions of adoption, membership, and belonging are fraught but important. Lee and Horn-Miller (2018) conclude by writing,

While race seems to be conveniently fluid for settlers wanting to Indigenize, Indigenous families are castigated when they use their citizenship governance orders to claim someone who might not fit the mould of settler societies’ definition of Indigeneity...it is as if adoption is only valid when it serves settler colonial interests. (296)

Ultimately, the goal of my thesis is to develop a robust theory of belonging that does not perpetuate settler colonial interests, definitions, or policies. As is evidenced above, the landscape of Indigenous identity and belonging is fraught and complex, and folks like Bourassa, Boyden, or Latimer have used this complexity to advance questionable identity claims. To address this, my thesis works to articulate the particular form of colonial violence imposed on Indigenous nations in removing the agency and self-determination of nations to determine who belongs. Ultimately, my goal is to think through and express new ways of determining belonging beyond the colonial ordering of things, and ultimately, demonstrate that while adoption has been used to undermine Indigenous authority (e.g., Bourassa) it can also legitimize and assert Indigenous legal and political orders (e.g., Josiah).

Chapter Layout

Chapter 1: Theoretical Framework

This chapter lays out the theoretical framework that informs my thesis. Specifically, drawing largely on the work of Christina Gish Hill (2013), Chris Andersen (2021), and Rob Hancock (2021), I develop the nationhood + peoplehood framework as a theory of belonging. I argue that peoplehood can be understood to be the way Indigenous nations imagine and express themselves internally whereas nationhood is the way Indigenous nations imagine and express

themselves externally. Nationhood and peoplehood come together as the nationhood + peoplehood framework to create a theory of belonging that draws on kinship and relationality, while maintaining necessary boundaries to belonging. Further, the nationhood + peoplehood framework emphasizes behaviour as a key tenet of membership and belonging. Chapter 1 works to uncover what it means to “belong” or be a “member” of an Indigenous nation and works to move away from colonial processes and policies (namely the Indian Act) when thinking through questions of membership and belonging.

Chapter 2: Heteropatriarchy and Indigenous Membership and Belonging

Chapter 2 takes up the ways in which the structure of heteropatriarchy is fundamental to the structure of colonialism. I argue that any analysis of Indigenous membership and belonging must be attuned to questions of gender and sexuality due to the inherently gendered nature of the Indian Act, the nuclear family, and the colonization of Indigenous kinship systems. I argue that gender and sexuality are connected to questions of Indigenous membership and belonging in three ways. (1) The imposition of the Indian Act has created a distinctively gendered landscape re: membership by disconnecting Indigenous women and their descendants from their nations. (2) The settler state has imposed a highly specific (and limited) definitions of family rooted in heteropatriarchy and heteropaternalism and delegitimizes all other family forms. (3) Heteropatriarchy continues to be embedded and perpetuated in Indigenous nations and shapes the way legal and political decisions, including decisions about membership and belonging, get made. I conclude by arguing that the nationhood + peoplehood framework can interrupt these gendered effects by emphasizing kinship and relationality and by moving away from masculinist forms of decision making.

Chapter 3: Membership Code Renewal

In Chapter 3, I articulate why current membership codes (including Section 10 codes) are not adequate in addressing ongoing issues regarding membership and belonging and outline the consequences of continuing to rely on Indian Act and/or other restrictive band membership codes (e.g., double-parent codes). Next, I take up the Heiltsuk membership code and outline the way it both promotes Heiltsuk values and *Gvilás*, yet still problematically upholds Indian Act governance. I draw on the nationhood + peoplehood framework to demonstrate how the code could be improved to draw on Heiltsuk values. Moreover, I draw on Garneau's (2016) notion of "Irreconcilable Space of Aboriginality" to think beyond colonial limitations and consider how belonging might look beyond the current constraints and issues present within Indian Act membership codes. Finally, I outline the process of "witnessing" as a tenet of Indigenous self-determination and a way to maintain communal and individual accountability. In all, this chapter is an exercise in "thinking beyond" colonial restrictions, stereotypes, and expectations.

Conclusion

In my conclusion, I bring each chapter together through my discussion and analysis section. I provide a summary of my arguments and outline the key takeaways of this research. Moreover, I outline avenues for future research and outline some of the questions I was not able to be attentive to in this thesis. I conclude by emphasizing the importance of reclaiming Indigenous ways of determining belonging, as they are key to securing Indigenous futures. Having now set out the context, goals, questions, and overview of my thesis, I will now move on to my theoretical framework, which guides my argumentation throughout this work.

Chapter 1

The Nationhood + Peoplehood Framework

The question of Indigenous identity, membership, and belonging has been widely debated. Processes of colonialism have disrupted kinship networks, cultural practices, and other communal or national webs that connect Indigenous peoples to each other. Scholars have considered the question of membership and belonging in many ways, two of these being through the lens of peoplehood and nationhood. Peoplehood and nationhood can be understood as frameworks through which to understand the way nations make decisions, including decisions about belonging (Hancock 2021; Andersen 2021). Much has been drawn out about the differences, similarities, and usefulness of both frameworks. These concepts have at times been taken up in opposition to each other and scholars have debated which one of these concepts is the better framework for understanding the way Indigenous nations express themselves legally, politically, and socially (Holms et. al. 2003; Andersen 2021; Hancock 2021). However, I argue that peoplehood and nationhood are intrinsically interconnected concepts that need to be taken up together when addressing questions of membership and belonging. Specifically, I posit that peoplehood can be understood to be the way Indigenous nations imagine and express themselves internally whereas nationhood is the way Indigenous nations imagine and express themselves externally. In other words, peoplehood (the internal expression) is largely expressed through things such as language, history, place, ceremonial cycles, kinship systems, etc. (Holms et. al 2003; Hancock 2021). On the other hand, nationhood (the external expression) is expressed through such things as inter-nation relationships, sovereignty, and national boundaries (Cornell 2015). While they can be defined and analyzed separately, there is significant overlap between each concept and both need to be considered to unpack questions of membership and belonging.

Taken together, they can create a robust theory of belonging that is useful in a contemporary context.

I argue that Native or Indigenous nationhood and peoplehood, when expressed in ways that (1) emphasize kinship and relationality rather than strict boundaries, (2) does not perpetuate masculinist and patriarchal expressions of the nation (see chapter 2), (3) includes space for various and fluid expressions of identity, (4) emphasize one's behaviours and actions as requisites for belonging, and (5) allows for forms of belonging that rest on mutual recognition and responsibility, are fundamental to the formation of a robust theory of belonging. In this chapter develop the nationhood + peoplehood framework, which can be used to unpack and think through membership and belonging in Indigenous contexts in new ways. Drawing on examples of the Heiltsuk Nation and the Métis Nation, I will demonstrate how this framework can be used in concrete ways. The nationhood + peoplehood framework will later be used to analyze the Heiltsuk membership code in a way that actions all the critiques that I have drawn out regarding membership and belonging in Indigenous nations (see chapter 3).

Defining Indigenous Nationhood and Peoplehood

Indigenous nationhood and peoplehood have been debated, defined, and re-defined multiple times. Murphy (2004) argues that the language of nationalism has been increasingly used by Indigenous nations to assert their claims to self-determination and challenge the authority of nation-states. In contrast, some scholars posit that nationhood is inappropriate *because* of its connections to modern teleological concepts of nationhood and the nation-state and suggest that peoplehood is a more fruitful and appropriate way to approach understanding and expressing Indigenous sovereignty (Holms et. al. 2003). Andersen (2021), however, suggests that rather than taking up these concepts in opposition to each other, taking up nationhood and

peoplehood in tandem allows Indigenous communities to conceptualize and assert their sovereignty holistically. Andersen (2021) argues that by choosing to focus on just one of these concepts, scholars are not exploring the full extent of Indigenous expressions of sovereignty and self-determination. Despite debates on the definitions and applications of nationhood and peoplehood, there is a widespread consensus that Indigenous peoples hold valid claims to the language and expressions of nationhood and peoplehood (Murphy 2004; Andersen 2021). However, what do these terms refer to and how are they expressed?

Nationhood

The existing literature provides multiple overlapping understandings of Indigenous nationhood. Cornell (2015) highlights five features of Indigenous nationhood that are prominent in CANZUS states⁶ (Canada, New Zealand, United States, and Australia). First, the role of place is fundamental to claims of Indigenous nationhood. Specifically, Indigenous peoples hold present and historical links to specific lands and places that illuminate their claims to nationhood (Cornell 2015, 4). Second, Indigenous nations are connected through “bonds of culture and kinship” which have survived processes of colonialism (Cornell 2015, 4). Third, the narratives of “nation” and “nationhood” is “... a story about a collective ‘we’ that articulates and justifies distinction” (Cornell 2015, 4). Fourth, Indigenous nations hold the objective of being recognized as sovereign. Fifth and finally, Indigenous nationhood is distinct from the claims of other minority populations in CANZUS states (Cornell 2015). Beyond these five general features, Cornell (2015, 5) also argues that Indigenous nations in CANZUS states are involved in three

⁶ I have chosen to draw on literature focused on CANZUS states because they share similarities that allow for comparison: (1) they are all English-settler democracies that share similar legal and political heritages, (2) they share histories of sustained efforts to eliminate and replace Indigenous populations (genocide and settler colonialism), (3) each of these countries led to massive loss of Indigenous populations, lands, languages, cultures, etc. and (4) Indigenous populations in all four CANZUS states are engaged in processes of reclaiming their rights to self-determination, self-government, and sovereignty (Cornell 2015, 1).

core processes (1) identifying as a nation, (2) organizing as a nation, and (3) acting as a nation – that allow them to express their nationhood *within* Western nation states.

Gish Hill (2013) argues that Indigenous nationhood is distinct from Western definitions of nationhood that are based on the existence of the nation-state. In particular, Gish Hill (2013) illuminates the difference between nation-state sovereignty and Native nationhood in the following way. A nation-state exercises sovereignty by “enforcing boundaries on territories and persons through legal and social contracts and determines national and international political and economic actions in relation to those boundaries” (Gish Hill 2013, 3). On the other hand, Native nations exercise sovereignty by maintaining a “web of kin-based relationships and strategically activating these relationships to take political and economic action and to access territory” (Gish Hill 2013, 3). By highlighting these differences, Gish Hill (2013) demonstrates that Indigenous sovereignty is not purely a response to colonialism and does not depend on the confines of the state. Rather, Indigenous nationhood has been embedded and expressed in a multitude of ways throughout time. The definition of Native nationhood often relies on the fact that Indigenous nations are shaped by a distinct language, shared history, religion, culture, and landscape. With that said, considering these shared aspects of identity without understanding what activates these shared identity markers into the expression of sovereign nationhood risks reducing Indigenous nations into cultural minority groups which ultimately leads to the removal of Indigenous peoples’ legal and political claims *as a nation*. To avoid this problem, Gish Hill (2013) argues,

A Native nation [...] must be seen as not simply shaped by a distinctive language, sacred history, religion, and landscape, but instead as shaped by *a matrix of relationships* with a language, sacred history, religion, and landscape that are developed, exercised, and maintained through kinship. Furthermore, the term Native nation refers not only to an autonomous cultural identity, but an entity that exercises political autonomy through channels created by kin networks.⁷ (23)

⁷ Emphasis added.

This highlights that there is something about being *actively in relation* with others that activates the concept of Indigenous nationhood and ultimately, sheds light on how nationhood and belonging intersect. Thus, kinship is a concept and action that is central to the expression of Native nationhood (Gish Hill 2013). Overall, nationhood, in Indigenous contexts is connected to both the distinct claims Indigenous peoples hold within settler colonial states (Cornell 2015) and is connected to the ways in which Indigenous nations organize themselves both as a legal and political entity that is animated via a matrix of relationships that activate their identities and legal and political claims (Gish Hill 2013).

Peoplehood

The concept and expression of peoplehood, while similar to nationhood, is not exactly the same. Holms et. al. (2003) argue that peoplehood is animated by four equal and interacting elements: language, sacred history, place, and ceremonial cycles. Core to their argument is that Indigenous peoplehood allows for cultural continuity and change that is not permitted in the same way within expressions of nationhood. Further, the authors argue that nations (and by extension nationhood) are ephemeral. They argue,

Nations – which are primarily viewed as the territorial limits of states that encompass a number of communities – do not necessarily constitute a people nor do they have the permanency of peoplehood...Nations may come and go, but peoples maintain identity even when undergoing profound cultural change (Holms et. al. 2003, 17).

Ultimately, the main difference observed between nationhood and peoplehood by Holms et. al. (2003) is that peoplehood is a flexible concept that is more reflective of the way Indigenous peoples have organized themselves throughout history and in response to colonialism. Peoplehood (in Holms et. al.'s understanding), in contrast to nationhood, allows for adaptation, boundary shifting, and different expressions of the group throughout time. The work of Holms et. al. (2003) is consistently referenced in the literature on Indigenous peoplehood. However,

Andersen (2021) critiques their argument as incomplete. While Andersen (2021) acknowledges the important contributions of Holms et. al. (2003) to the field of Indigenous studies, he argues that their argument is diminished by their dismissal of Indigenous nationhood. Andersen (2021), in reference to Holms et. al. (2003) states, “The implicit juxtaposition of peoplehood and nationhood is especially strange insofar as nationhood has come to stand as a core analytical concept during the last two decades of growth in Indigenous studies...” (22). Ultimately, Andersen (2021) draws out that peoplehood and nationhood need to be taken up in tandem to generate a robust theoretical exploration of Indigenous politics.

Hancock (2021) also takes up peoplehood as an alternative to nationhood and nationalism. Specifically, Hancock (2021, 44) sees peoplehood as an alternative lens to nationhood that is useful in Indigenous communities “as we come to terms with our own identities and aspirations, both individual and collective, and our relationships among ourselves and with other Indigenous groups.” In comparing nationhood and peoplehood, Hancock (2021) argues that peoplehood does not require a specific political structure in the same way nationhood does and has more emphasis on kinship-based identification. Ultimately, Hancock (2021) argues,

By thinking relationally, focusing on kinship and alliances rather than descent, peoplehood models shift the discourse from the past to the present to the future and change emphasis from citizenship in terms of abstract rights and responsibilities to *embodied participation* from the family to the community.⁸ (52)

In sum, peoplehood is considered by Holms et. al. (2003) and by Hancock (2021) to be a more flexible, kinship-centred, and relational lens through which to understand expressions of Indigenous politics and self-determination.

From Nationhood *or* Peoplehood to Nationhood *and* Peoplehood

⁸ Emphasis added.

While there are some differences between the concepts of nationhood and peoplehood, scholars have yet to fundamentally separate these concepts and convincingly argue that one is a stronger framework than the other. While nationhood does have an association with western nation-state models in contemporary contexts, it is possible – as demonstrated by Gish Hill (2013) – for Indigenous nations to assert their own form of nationhood expressed through networks of kinship and relationality. Further, as has been seen in recent history, Indigenous peoples have successfully adopted the language of nation and nationhood (for example: First Nations and/or the Métis Nation) to assert themselves politically within settler colonial contexts. Asserting that the language of nationhood is purely Western, colonial, and non-applicable to Indigenous peoples is to erase the history of Indigenous peoples choosing to use that terminology and ignores their agency in deciding how to express their political claims. On the flip side, scholars have argued in favour of peoplehood because of its relational, flexible, and kinship-based focus (Holms et. al 2003; Hancock 2021). However, even that as a “difference” between peoplehood and nationhood is blurry and unclear. For example, Gish Hill (2013, 23) argues that a Native Nation is shaped by a matrix of relationships and is an entity that exercises political autonomy through channels created by kin networks. Thus, when conceived and expressed in an Indigenous context, Indigenous nationhood must still answer to the demands of the community and be drawn from kin networks and relationality.

Andersen (2021) convincingly argues that nationhood and peoplehood must not be considered either/or. Rather he argues,

Perhaps another way to think about this is to understand that the interconnected components of the peoplehood matrix positioned as central to Indigenous peoplehood – language, history, ceremony, and territory – are actually more fruitful for explaining the analytical components of Indigenous nationhood. (Andersen 2021, 26)

In essence, Andersen (2021) states that the difference between peoplehood and nationhood is that nationhood is what produces internal norms of a community whereas peoplehood is what governs a community's interactions and expressions of self vis-à-vis other groups or communities. Ultimately, Andersen (2021, 30) sums up that peoplehood is the external manifestation of Indigenous nationhood.

In a similar way to Andersen (2021), I argue that peoplehood and nationhood are not completely distinct from one another and that they need to be considered together in Indigenous contexts. However, in a different way than Andersen (2021), I see peoplehood as the internal manifestation of Indigenous nationhood. In the definitions of nationhood above, it is clear that scholars consider nationhood to be a concept that expresses certain boundaries of a group and clearly expresses sovereignty (Gish Hill 2013; Cornell 2015). Further, considering the colonial context in which the language of nation and nationhood is expressed, it is impossible to completely divorce the concept from the western conceptions of the nation-state in which territorial (and other) boundaries are important to the expression of nationhood. This is not to say that Indigenous peoples' claims to nationhood only emerged as a response to colonialism. It is important to remember that Indigenous nations had distinct legal and political systems that expressed self-determination prior to settlement or the existence of the state (Mcneil 2016). With that said, Indigenous expressions of nationhood are different than western expressions in that they are derived from kinship, relationality, as well as shared history, language, etc. Specifically, Gish Hill (2013) argues that kinship is central to the expression of a strong sense of nationhood because members of the community are "caught in a net of interpersonal responsibility" which organizes how people interact and bind them together through "reciprocal obligations and duties delineated by kin relationships" (26).

Similarly, Hancock (2021) argues that kinship is central to the expression of peoplehood. Citing Justice (2008) Hancock (2021) argues that Indigenous communities are “shaped by principles of kinship, and kinship itself is a delicate web of rights and responsibilities” (53). To summarize, Hancock (2021) argues that “kinship is the glue that binds a people together” and that “Nationhood is the political extension of the social rights and responsibilities of peoplehood” (54). Thus, both nationhood and peoplehood are useful and necessary concepts in the study of Indigenous politics.

The Nationhood + Peoplehood Framework

To tie these two concepts together, I posit that peoplehood can be understood to be the way Indigenous nations imagine and express themselves internally whereas nationhood is the way Indigenous nations imagine and express themselves externally.⁹ In my understanding, peoplehood emanates outwards through kin-based relationships and responsibilities and creates the foundation or core through which communities express their claims to nationhood. Importantly, I argue that the external expression (nationhood), creates some boundaries to belonging because it is ultimately tied to the abovementioned kin-based relationships and responsibilities. However, those boundaries are permeable and flexible because nationhood is a political structure that exists only through its connection to peoplehood that is put into action via the matrix of relationships and kinship. If relationships are fundamental to the expression of the nation and the people, the boundaries must be flexible to adapt to new relationships between and among a people. As Gish Hill (2013) argues in her conception of inter-nation interactions,

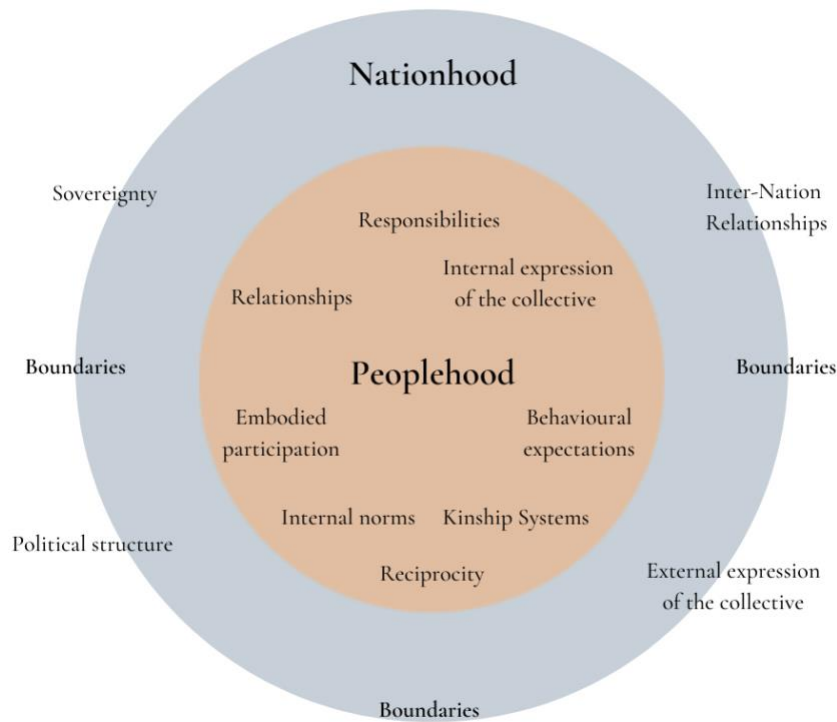
...Each party drew on shared understandings of kin roles and requisite expectations to build the relationship. Everywhere one had a responsibility to his or her family – by blood,

⁹ Note here that my understanding is different than that of Andersen (2021) who posits that peoplehood is the external manifestation of nationhood and vice versa.

by marriage, or by adoption. Although the specifics of these responsibilities were played out in distinctive ways in different communities in all Native nations, reciprocal obligations established internal solidarity and opened channels between nations based on kin. (28)

Figure 1, creates a visual representation the nationhood + peoplehood framework that I am positing. Together, nationhood and peoplehood create a flexible, kin-based system of community belonging.

Figure 1: The Nationhood + Peoplehood Framework



To summarize, nationhood and peoplehood are not as different as the scholarly debate posits them to be. Figure 1 is a visual representation of my argument, that nationhood and peoplehood need to be considered in tandem to generate a robust theory of belonging. Peoplehood is the core of the framework and can be understood as the way nations both imagine and organize themselves internally. This includes the way members are expected to behave, the internal norms of the community, and the responsibilities that a member holds to the nation. This internal expression emanates outwards and is inherently connected to the

external expression of the collective (i.e., nationhood). Nationhood, as is evidenced in Figure 1, is expressed through the boundaries a nation upholds as well as the relationships the nation has with outsiders – i.e., other nations, non-members, the colonial state, etc. Notably, while nationhood upholds necessary boundaries, I argue that these boundaries are semi-permeable. This permeability is necessary because of the connection nationhood has to peoplehood whereby one can demonstrate their connection or belonging through kinship (including outsiders via processes such as marriage and adoption). Further, this permeability encourages the self-determination of nations to decide who can belong and how. This stands in direct contrast to colonially imposed understandings of belonging that uphold rigid boundaries and erase Indigenous ways of determining membership. Importantly, both peoplehood and nationhood draw on the fundamentals – shared language, culture, religion, land-base, history, etc. – and are politically activated by the network or matrix of relationships and kinship.

The Nationhood + Peoplehood Framework and Determining Belonging

The membership and belonging debate in Indigenous contexts has a long, complex, and fraught history. Multiple factors have contributed to Indigenous expressions of identity being disrupted, including but not limited to, the imposition of the Indian Act, the residential school system, the sixties scoop, and imposed stereotypes of indigeneity. The Indian Act has created scarcity when it comes to identifying with and belonging to an Indigenous nation. The Indian Act uses blood quantum and patriarchal clauses to determine who is and is not an “Indian” rather than concepts of kinship, relationality, and Indigenous nations’ citizenship orders. Further, certain people claiming Indigenous identity fraudulently (e.g., Bourassa, Latimer...), create a more complex landscape when it comes to determining belonging. Their alleged identity fraud encourages Indigenous nations to want to set up stricter boundaries to

belonging to protect themselves from “Pretendians” who steal scarce resources and opportunities from actual members of Indigenous nations. In a context already characterized by scarcity and a long history of colonial theft and trauma, this adds layers to these questions that are difficult to address.

With that, there are certain things that are not in the best interest of Indigenous nations and peoples when it comes to questions of identity and belonging. First, concrete steps need to be taken to eliminate the current reliance on blood quantum in the determination of belonging. Blood quantum is a colonially imposed notion that taken to its logical conclusion, leads to the elimination of Indigenous peoples (Palmater 2014). Second, Indian Act band membership code regulations also perpetuate genocidal logics and do not empower communities to use their own understandings of belonging when making decisions about membership (Palmater 2011). While many First Nations rely on the Indian Act because of limited resources, infrastructure, and disrupted political systems (thanks to colonialism), continuing to rely on these codes are detrimental to the revitalization of Indigenous understandings of citizenship and belonging. Third, any understanding of identity and belonging that does not account for adoption and marriage is incomplete and discriminatory. In many nations, adoption and marriage have been fundamental social and political practices since time immemorial (Lee 2015; Horn-Miller 2018). Fourth and finally, Indigenous nations have a right to make their own decisions regarding membership and belonging. External interference (for example through the imposition of the Indian Act) are a violation of

Indigenous self-determination¹⁰. With these in mind, how can the nationhood + peoplehood framework contribute to creating a renewed theory of belonging?

The Nationhood + Peoplehood Framework: Determining Who Belongs

The nationhood + peoplehood framework that I have set out (figure 1), can be used to as a tool to address ongoing questions about Indigenous belonging. Specifically, the way in which the framework positions peoplehood as the core that emanates outwards towards the external expression of nationhood (which determines the boundaries) creates space for fluidity, and a reliance on kinship and relationality to determine who belongs. A fundamental difference between the nationhood + peoplehood framework and existing frameworks (largely derived from the Indian Act) is that belonging in the nationhood + peoplehood framework draws on participation, reciprocity, and relationality rather than relying on biology alone. The nationhood + peoplehood framework creates certain markers or requirements for belonging, but these are largely derived from actively being in relation with others. As is expressed by Hancock (2021), switching the focus from colonially imposed notions of Indigenous identity, creates the space for Indigenous nations to focus on “those whom we choose to include, rather than those whom we choose to exclude” (55).

Ultimately, I argue that the nationhood + peoplehood framework creates multiple pathways to belonging (which is in direct contrast to the Indian Act). By multiple methods or pathways, I mean there is no one definition or one set of fixed criteria for determining if an individual belongs or not. Rather, nations can rely on a number of markers of belonging – for

¹⁰ The emphasis on not allowing external interference is not to be confused with allowing nations to implement discriminatory and exclusionary membership codes (e.g., by having the Charter of Rights not apply to membership codes). For example, as will be evidenced in chapter 2, Indigenous women and 2SLGBTQ+ peoples have been faced with violence and exclusion by their own communities. The assertion that nations should be able to make decisions for themselves is a way to express the inherent right nations have and is not to remove the need for nuance and accountability in these sorts of decisions.

example, ancestry, kinship, relationality, and the embodiment of the nation's values, among other criteria. This flexibility is vital because of the number of people disconnected by no fault of their own (e.g., the sixties scoop). Further, it creates room for nations to exercise their self-determination and accept people who may not have any Indigenous ancestry into the community (e.g., adoptees). What matters is that individuals are ultimately willing to exercise their rights and responsibilities to the community and live out their relationships in ethical ways. Kinship and relationality in Indigenous contexts are actions, not things. This means belonging is not reduced to things like "blood", but rather the way people live out the prescribed patterns of behaviour laid out by the nation (Hancock 2021).

To provide a real-life example, I will draw on my own family and identity as a Heiltsuk person. The word Heiltsuk means "to speak and act correctly." Therefore, to identify as a Heiltsuk person means you must abide by the expectation that you speak and act correctly because it is fundamentally embedded in your identity claim. I see this as being key to determining who belongs to the Heiltsuk Nation. Rather than relying on ancestry alone, the Heiltsuk Nation relies on evidence that you are speaking and acting in a way that embodies our values and worldview and exercises your responsibilities to the community. Being Heiltsuk, as is expressed in our language, is fundamentally tied to your actions. This ties back into the nationhood + peoplehood framework in many ways. The nation can assert boundaries because there are expectations about how a Heiltsuk person will behave and carry themselves (in other words, there is an expectation that you will be a good citizen). This indicates a permeable boundary because your claim to belonging relies on whether you embody our values and act in a way that is in the best interest of the community. On the other hand, not upholding the value and expectation of "speaking and acting correctly" can be grounds for not

belonging. The expectation that you will “speak and act correctly” is the responsibility you hold as a Heiltsuk person. In exchange, you hold the rights that come with being a Heiltsuk person. Similarly, Hancock (2021) draws on the principle of Wahkootowin – a concept that prescribes the expectations and behaviour of the Métis people. MacDougall (cited in Hancock 2021) argues, “Wahkootowin conceptualizes how relationships were intended to work within Metis society by defining and classifying relationships, prescribing patterns of behaviour between relatives and non-relatives, and linking people and communities in a large, complex web of relationships” (55). Thus, abiding by the expectations of behaviour in the community (being a good citizen by upholding Wahkootowin) is important for belonging.

Another way that the nationhood + peoplehood framework is relevant here, is that it creates space for kinship ties (whether they be through birth, marriage, or adoption) to be pathways to belonging. This is fundamental to the self-determination of nations because not seeing beyond blood in determining belonging ultimately obscures the full range of Indigenous political orders that can be used in the membership process (Lee 2015). One’s connection to the community does not necessarily need to be through birth or ancestry. Further, this flexibility upholds longstanding custom adoption practices that have been used to assert self-determination and accept new members into the community since pre-colonization. Kinship in this instance is not simply to be biologically related, but rather emphasizes relationships that are built through mutual recognition and reciprocity. Ultimately, the nationhood + peoplehood framework creates multiple overlapping pathways or criteria for belonging. These criteria are flexible, and an individual does not need to hold all the criteria to be able to become a full member of the community. Rather, a nation can use its discretion – largely drawing on how an individual embodies and upholds their responsibilities in the web

of relationships that makes up a self-determining nation – when determining belonging based on these multiple possibilities.

Framework Caveats: A Note on Who Decides and How

Thus far I have developed a framework that can be used as a tool in determining belonging. However, it is important to note some nuances and caveats regarding the framework and the way it is actioned. A question that cannot be ignored is that of *who* decides if someone belongs to the community and can become a member (or not). The layers and complexities of colonialism have created a messy landscape in many Indigenous nations when it comes to leadership and decision-making. The Indian Act, having displaced traditional forms of governance and replaced them with the band council system has been a large part of this messiness as many nations continue to operate under band council governance. There are also added layers of inter-personal relationships and issues such as lateral violence, ongoing scarcity, and other conflicts such as the inherently unequal and gendered nature of membership and belonging (see chapter 2). Thus, the question remains: who gets to make the decisions regarding membership and belonging? Is it band councils and elected leadership? Hereditary leadership? Community members themselves?

Rather than bringing forth a fixed answer, I argue that each nation will have to be attuned to these questions and come up with a way of addressing them. With that said, I argue that the nationhood + peoplehood framework can help to address issues of arbitrary decision making, such as those based in lateral violence or heteropatriarchy. The nationhood + peoplehood framework intentionally emphasizes multiple pathways to belonging that can be attuned to the messiness of Indigenous identity and belonging. The flexibility and fluidity inherent in the framework is useful because it requires the decision makers – be they the

elected council, hereditary chiefs, community members, or a combination thereof – to think through a multitude of pathways to belonging when considering each individual member or member-to-be. Rather than basing decisions on fixed criteria, decision-makers will have to think through many factors: How does a potential member live up to their responsibilities (e.g., do they speak and act correctly?). What are the kinship or relational connections this potential member has? How have colonial processes (e.g., sixties scoop) affected this potential member's connection and how can they learn to live up to the responsibilities of membership? These are just a few of the nuanced questions that nations can and should be attuned to in determining membership and belonging. In the end, by deploying the nationhood + peoplehood framework, decision-makers are responsible for exploring multiple ways in which one can become a member of the community rather than dismissing potential members for not fitting colonial constructions of identity and belonging.

Conclusion

Peoplehood and nationhood are concepts that have long been debated, defined, and re-defined in Indigenous studies. For some, peoplehood is a better framework for understanding Indigenous governance systems and expressions of sovereignty (Holms et. al. 2003; Hancock 2021). For others, nationhood is the framework that best expresses Indigenous sovereignty (especially in colonial contexts) (Gish Hill 2013; Cornell 2015). Rather than take these concepts up in opposition, I argue that nationhood and peoplehood are inherently connected concepts that rely on each other to express Indigenous sovereignty. Specifically, I argue that peoplehood can be understood as the way Indigenous nations define and express themselves internally and nationhood is the way Indigenous nations define and express themselves externally. Each of these concepts draw on the other and contribute to a holistic expression of

Indigenous governance and self-determination. I argue that kinship and relationality are the threads (so to speak) that weave nationhood and peoplehood together. Weaving, as a practice, is the action of forming a single fabric by interlacing threads. A single thread, on its own, does not form a strong or stable structure. However, threads, tied together through the action of weaving creates a strong, connected final product. To sum, kinship and relationality are what weave nationhood and peoplehood and generate a strong, self-determining structure and process for Indigenous nations. The nationhood + peoplehood framework is activated in the *action* of being in relation with others and creates a multitude of pathways to belonging in Indigenous nations. Having set out my theoretical framework, I will now turn to some of the nuances and complexities within questions of Indigenous membership and belonging. Specifically, I will take up the role of sexism and heteropatriarchy as structures that shape the current context regarding membership practices.

Chapter 2

Inherent Inequality: Heteropatriarchy and Indigenous Membership and Belonging

Issues of gender and sexuality are central to questions of Indigenous membership and belonging. The heteropatriarchal context in which questions of membership and belonging unfold urgently needs to be addressed to develop renewed theories of belonging that do not center the Indian Act and/or other colonial policies in the process of determining membership. In other words, failing to address the sexist and heteropatriarchal context that currently shapes membership and belonging would result in an incomplete argument and analysis. As Native feminist scholars have demonstrated, heteropatriarchy and heteropaternalism have been key components of settler colonialism (Arvin et. al. 2013). By restructuring gender and communal relations, heteropatriarchy and heteropaternalism have worked to transform fluid and inclusive Indigenous kinship processes (i.e., the systems that determine belonging) into organizational structures that prioritize the nuclear family and serve the interests of the settler state (Arvin et. al. 2013).

I outline three ways in which gender and sexuality are linked to questions of adoption, membership and belonging. First, in the Canadian context the imposition of the Indian Act has created a complicated landscape when it comes to determining band membership because of the way it has disconnected Indigenous women and their descendants from their nations and created hierarchies of belonging through the differentiation between Status and non-Status Indians (Cornet 2007; Palmater 2011). Second, the settler state has imposed a very specific (and limited) definition of family rooted in heteropatriarchy and heteropaternalism. This limited definition of family has generally excluded families that choose adoption and created a hierarchy of parenthood to prioritize those that have biological children over those that become parents in

other ways. Not only does this affect individual families but has also reshaped Indigenous kinship systems and systems of communal care that previously transcended the nuclear family. Third and finally, heteropatriarchy continues to be embedded within Indigenous nations and shapes the way legal and political decisions, including decisions about membership and belonging, get made. Further, a heteropatriarchal lens has been adopted in many Indigenous expression of nationhood and nationalism, which is particularly apparent in the ways nationalist movements force women into the position of "...producers and reproducers of a 'pure' national culture" (Sunseri 2000, 144).

I argue that each of these gendered issues contribute to the continued colonization of Indigenous kinship and "dis-membering" of nations (Lee 2015). Further, my central research question asks: considering the legacy of Indian Act governance, how can Indigenous nations revitalize their membership codes? The Indian Act imposed and continues to sustain male-centric and biological power that removes both the agency of Indigenous women and 2SLGBTQ+ peoples and targets their right to belong to their nations. Thus, heteropatriarchy as a system of organization and of colonization needs to be at the forefront of any analysis of Indigenous membership and belonging. Drawing on Simpson (2014), De Finney et. al. (2019) point out, "Because Indigenous bodies contaminate the white settler social order, Indigenous land, reproduction, kinship and governance are always targeted by settler modes of capture. These necropolitics are significantly gendered and sexualized" (80). Understanding the inherent and necessary connection between the heteropatriarchal targeting of Indigenous women and 2SLGBTQ+ peoples and settler colonialism is important to addressing the ongoing issues of membership and belonging.

Finally, I argue that the theory of belonging outlined in the nationhood + peoplehood framework can be a tool to think through the gendered impacts of colonization and the Indian Act on Indigenous membership and belonging. Specifically, nationhood + peoplehood can help to address these issues by (1) emphasizing kinship and relationality rather than strict biological boundaries emphasized by the Indian Act and the nuclear family structure, and (2) moving away from masculinist and patriarchal expressions of the nation by centering the “web of kin-based relationships” that make up a nation rather than hierarchical and male-centric power imposed via the Indian Act. The chapter unfolds as follows. First, I describe the three ways in which gender and sexuality shape questions of membership and belonging. Second, I outline why heteropatriarchy is fundamental to settler colonialism and how heteropatriarchy continues to structure Indigenous identity and belonging. Third, I conclude by applying the nationhood + peoplehood framework to these issues to demonstrate how the framework can be a tool to re-assert Indigenous kinship and political systems in the process of determining belonging rather than maintaining the exclusionary and sexist practices and policies.

Definitions

Three concepts, (1) heteropatriarchy, (2) heteropaternalism, and (3) the nuclear family are core to this analysis. Arvin et. al. (2013) define heteropatriarchy as “...the social systems in which heterosexuality and patriarchy are perceived as normal and natural, and in which other configurations are perceived as abnormal, aberrant, and abhorrent” (14). Further, they define heteropaternalism as “...the presumption that heteropatriarchal nuclear-domestic arrangements, in which the father is both center and leader/boss, should serve as the model for social arrangements of the state and its institutions” (Arvin et. al. 2013, 14). Both definitions point to the fact that both heteropatriarchy and heteropaternalism make up an overarching system of

power that fundamentally shapes society. This means that heteropatriarchy shapes the current context in both Indigenous nations and broader Canadian society. The nuclear family is a form of social organization that is rooted in heteropatriarchy and heteropaternalism. The nuclear family can be simply defined as being a family group that consists only of parents and children. Until very recently in North America, this definition could be further specified as: a family group that consists only of a mother, father, and their children – indicating the way heterosexuality has been embedded in the settler state’s understanding of what or who counts as a family. Ultimately, Smith (cited in Arvin et. al 2013) points out that heteropatriarchy and heteropaternalism have functioned to interrupt Indigenous nations’ very “sense of being a people” (16) which succinctly summarizes why gender and sexuality are inextricably linked to questions of adoption, membership, and belonging in Indigenous contexts.

The Indian Act, Indigenous Self-Determination, and Transformed Relations

The first way gender and sexuality are connected to questions of membership and belonging is through the imposition of the Indian Act and the sexist provisions within the Act that continue to be sustained. The Indian Act has functioned to eliminate and replace Indigenous governance and kinship systems, as well as remove Indigenous nations’ ability to determine community membership and belonging (Poucette 2018; Stevenson 2015; Palmater 2011). Indigenous communities continue to have their own understandings of community, culture, kinship, and belonging. However, these understandings and expressions have been deeply shaped by colonial policy (the Indian Act) that sets “boundaries to Indianness” (Lawrence 2004, 14). The Indian Act created a definition of “Indian” that perpetuated the myth that Indigenous identity is a racial one and imposed blood quantum regulations on Indigenous nations (Cornet 2007; Palmater 2011). Another effect of the Indian Act is the way it imposed a form of legislated

patriarchy on Indigenous communities. Specifically, when the Indian Act was imposed on Indigenous nations, it imposed a "...patrilineal, patrilocal, and patriarchal kinship-based system involving various forms of gender-based discrimination" (Cornet 2007, 145). For example, until 1985, when Indigenous women married non-Indigenous (and/or non-Status) men, they lost their status and band membership rights, as well as their ability to transfer status and band membership to their descendants. Conversely, men who married non-Indigenous (or non-Status) women, not only kept their Status and band membership rights, but transferred those rights to their spouse and children (Cornet 2007). The effects this had on membership and belonging are clear: rather than relying on traditional methods of determining belonging, membership was simply transferred patrilineally and women lost their rights to their nations, cultures, and communities if they chose to "marry out."

The removal of so many Indigenous women and their descendants from their communities has created a messy landscape – especially as these women and their children work to reconnect and regain recognition as "Indians" and as members of their nations. Despite gender inequality being obvious, there has been resistance from Indigenous nations themselves as Indigenous women regained status post-1985 (thanks to Bill C-31) because of limited resources (i.e., funding) granted to bands to provide for the influx of new members (Green 2017; Canadian Encyclopedia 2020). A landscape of scarcity shapes Indigenous nations' ability to accommodate a higher number of Status Indians which led to Indigenous women bearing the brunt of the effects of the scarcity (Green 2017; Canadian Encyclopedia 2020). Moreover, Palmater (2011) points out, "While Bill C-31 was meant to address discrimination against Indigenous women under the Indian Act, 1951, all they did was delay the disenfranchisement process by one generation" (43). Thus, even proposed solutions to ongoing gendered discrimination were

inadequate and perpetuated the continued disenfranchisement of Indigenous women's descendants.

When Indigenous women have fought gender-based discrimination, they have been accused by their communities of threatening Indigenous sovereignty in their pursuit of equality (Huhndorf and Suzack 2010). More specifically, Indigenous women who have chosen to adopt the language and practice of feminism to achieve their goals have been accused of adopting a colonial ideology that is harmful to Indigenous sovereignty (Green 2017). Green (2017) writes,

Even where contemporary social relations are understood to be shaped by colonial or patriarchal practices, Indigenous women are reluctant to use a gendered analysis to critique Indigenous men. Indeed, feminist analysis is widely considered to be divisive, corrosive of family and community, culturally inappropriate and even colonial. (13)

This line of thinking is largely derived from the false assumption that patriarchy and gendered inequality is a colonial problem alone. The consequences of the assumption that gendered inequality and patriarchy are purely imposed and colonial constructs are twofold. First, this line of thinking romanticizes the past and assumes Indigenous peoples lived in a gendered utopia prior to colonization. Second, it results in the concerns of Indigenous feminist being dismissed as “women's issues” that can be solved once the more important questions of community self-determination, autonomy, and decolonization are solved (Huhndorf & Suzack 2010; Green 2017). However, Redbird (cited in Huhndorf & Suzack 2010) states,

Stereotyping, misconceptions and abuse of Indian women come from the fact that they were not allowed to speak for themselves, express their own identities or participate in the development of policies which affected them...If the erosion of sovereignty comes from disempowering women, its renewed strength will come from re-empowering them (6).

This demonstrates that “women's issues” are not separate from the broader legal and political goals of Indigenous nations. Rather, addressing issues of heteropatriarchy are central to achieving Indigenous self-determination.

Ultimately, while continuing to rely on the Indian Act to determine membership and belonging is not a long-term solution, the fact remains that the Indian Act is so deeply embedded in the current legal, political, and economic context of Indigenous nations makes it extremely difficult to get rid of. While the Indian Act is evidently a violent and colonial piece of legislation, it also is what shapes the current organizational and administrative structure of the First Nations bands in Canada, which means that eliminating it requires an overhaul of the entire system that currently exists. Moreover, many of the streams of funding that First Nations receive from the federal government are reliant on the number of Status Indians within the community, which is an added layer of difficulty when it comes to eliminating the Act (AFN 2019). With that said, addressing issues of membership and belonging will require a rejection of Indian Act governance in favour of Indigenous governance systems that prioritize kinship and relationality over the scarcity and inequality created by the Indian Act, the Status/non-Status dichotomy, and arbitrary boundaries to belonging that are deeply shaped by colonial policies.

Defining Family: Heteropaternalism, the Nuclear Family, and the Elimination of Indigenous Kinship Systems

Defining the Nuclear Family and its Effects

The nuclear family is a social institution imposed and defined by the settler state that has deeply impacted Indigenous forms of social organization, including custom adoption practices, band membership codes, and the recognition of who “counts” as family. The nuclear family is composed of two parents (until very recently, a mother and a father) and their children. Phillips (2009) argues that,

Nuclear families played a central part in the constitution of colonial power and the production of colonial geographies... The nuclear family has been accorded a privileged place in histories and historical geographies of colonialism in Canada and other resettlement societies. (240)

This indicates that the construction of the family is not value neutral. Rather, the nuclear family creates and perpetuates a key set of values and structures such as heteropatriarchy, heteropaternalism, and individualism (among others) that advance settler colonial interests. Further, Phillips (2009) points out that rather than being seen as a system of complex power relations, the nuclear family is now (mistakenly) considered a natural and inevitable social arrangement that delegitimizes and erases other social formations such as Indigenous kinship systems and systems of social organization. In sum, the imposition of the nuclear family displaced Indigenous kinship systems that emphasized networks of communal care and more fluid understandings of family.

The imposition of the nuclear family affected Indigenous custom adoption, membership, and belonging in a multitude of ways. Stevenson (2015) argues that with the rise of adoption practices in Euro-Canadian society, adoption became a tool of colonization. Stevenson (2015) points that, “While there undoubtedly were cases of adoption that served the best interests of Indigenous children, for the majority, transracial adoption was merely the expression in intimate life of the larger administrative and political goal of integration and elimination” (490). On the one hand, adoption of Indigenous children out of their nations became common place through projects such as the Adopt Indian and Métis (AIM) project and the sixties scoop (British Columbia Representative for Children and Youth 2015). On the other hand, Indigenous custom adoption practices were not considered legitimate and/or legal, which justified the continued removal of Indigenous children by the state and impacted Indigenous ways of determining belonging. Stevenson (2015) argues that during this period, “...the Euro-Canadian home and the intimate domain of the nuclear family were recruited for the project of establishing new forms of intercultural relations through the colonization of Indigenous kinship” (490).

The colonization of Indigenous kinship is clearly visible in the way that the settler state refused to recognize children that were adopted within and/or into Indigenous families and communities as members of their families and communities (Stevenson 2015). A prime example of this is the case of Frances T – a child adopted into a “legally Indian” family in the 1930s. Once adopted, Frances legally became an “Indian person”, in the sense that Frances received status and was added to the federal government’s Indian registry (Stevenson 2015). However, Frances’ redesignation as a “legal Indian” was met with resistance by the Canadian state. Stevenson (2015) argues, “Frances’ adoption and re-designation as legally Indian posed a serious threat to the longstanding policy of Indian assimilation and called into question the racial and gender hierarchies that were being established through the Indian Act (1876) membership codes” (471). This demonstrates that questions of Indigenous kinship are a primary concern to the settler colonial state because the family is a central means of control. Further, the nuclear family serves as a way to erase a diversity in family formations across cultures and society. Stevenson (2015) points out, “Through the ongoing colonization of Indigenous kinship systems, including adoption, the Indian Act has sought to individualize tribal people and discipline the wide variation of Indigenous gender relations and kinship practices into the Euro-Canadian nuclear family norm” (471). Overall, the imposition of the nuclear family as the only “acceptable” form of social organization has had longstanding impacts on Indigenous nations and their ability to exercise self-determination regarding questions of membership and belonging.

The Nuclear Family and Hierarchies of Parenthood

The nuclear family reinforces heteropatriarchy and promotes discrimination against and the erasure of other family forms. The nuclear family, and particularly the *ideal* nuclear family according to colonial standards (heterosexual, white, upper middle-class...) infiltrates all aspects

of society even today. Patton-Imani (2002) argues that these understandings of family are made visible through adoption practices and in the narratives that are told about adoption in day-to-day life. One example of this is the narratives of “legitimacy” and “illegitimacy” in adoption stories – whereby “legitimate” parents (i.e., the straight, white, middle-class) are granted the power to choose their child and save it from an “illegitimate” mother (usually poor, unwed, and making “poor” decisions) (Patton-Imani 2002). Another layer to this is added when we study it from the lens of child welfare policies in Canada such as the sixties scoop and we see the way the state intentionally delegitimized Indigenous parents (usually mothers) and removed their ability to care for their children. In contrast to the European nuclear family, Indigenous peoples have relied on broader networks of community care and kinship to raise children (Keewatin 2004; National Collaborating Centre for Aboriginal Health 2017). However, the state has often chosen to ignore these cultural contexts and removed Indigenous children if their immediate family cannot adequately care for them (Keewatin 2004; National Collaborating Centre for Aboriginal Health 2017). As Patton-Imani (2002) points out, “The state has historically reinforced some family forms while discouraging others, and this has been manifested in public policies and social attitudes that treat women differently based on their race and the race of their children” (816). The uneven view of women and who can be considered a “good” mother shaped adoption and child welfare policies and reinforced the nuclear family structure by disciplining anyone that had a child outside the confines of the nuclear family institution.

Contrary to Indigenous custom adoption practices in which adoption is considered honourable and is used to address social needs, colonial adoption practices and nuclear family norms promote social shame and secrecy in adoption practices (di Tomasso and de Finney 2015a). As Patton-Imani (2002) draws out,

...the adoption system that was institutionalized in the post-World War II United States served to aide the “sexual deviance” of women who became pregnant outside marriage, as well as the “sexual deviance” of infertility during the postwar baby boom. Secrecy in adoption was one of several developments in the adoption system that contributed to the silence of birth mothers’ voices in public understandings of adoption. (820)

This shame and secrecy was experienced by all people involved in the adoption practices because adoption was seen as something that came out of the perceived deviance of women on both ends of the adoption. In essence, anyone who wants to parent outside the confines of the nuclear family (especially mothers) is disciplined into silence through the shame associated with making that choice. In cases where adoption is necessary and for the best, the shame and secrecy associated with adoption creates an unspoken understanding that being an adoptive parent is a lesser way to parent. This unspoken narrative emphasizes the idea that a “real” and “legitimate” family (read nuclear family) is one that is connected biologically (Wilson 2021). Ultimately, the creation of arbitrary hierarchies of parenthood in a settler colonial context is a means of social discipline and functions to continuously uphold the institution of the nuclear family and the erasure of other forms of social organization. Next, I will explore the connection between heteropatriarchy, sexism, and Indigenous governance and membership practices.

Indigenous Nations, the Nuclear Family, and Heteropatriarchy

Embedded Discrimination: The Kahnawake Law on Membership

Indigenous nations had and continue to have forms of social organization that do not reflect the nuclear family structures imposed by the settler state. These forms are typically more fluid and communal. Further, they are based more on broader kinship systems that emphasize communal responsibilities rather than more distinct, individualized conceptions of family (Keewatin 2004; Cuthbertson 2019). However, as I have outlined, Indigenous nations are not immune to the centering of the nuclear family structure as a form of social organization. While

Indigenous nations have not lost their traditional conceptions of kinship and belonging, the nuclear family and heteropatriarchy have impacted the way nations decide who belongs and who does not. The Kahnawake Law on Membership is an example of this. While the Mohawk of Kahnawake are not the only Indigenous community to engage in these types of discriminatory practices, they provide a clear-cut example of the way heteropatriarchy has been adopted and sustained in Indigenous contexts. Moreover, as will be outlined below, the tensions and debates regarding membership, belonging, and the Mohawk of Kahnawake provide an example of the tensions and interplay between nationhood and peoplehood and the need to consider both the internal and external expressions of the nation when developing theories of belonging.

In the fall of 2016, the Kahnawake Community Decision Making Process revised the Kahnawake law on membership with regard to adoption. The revision made it so that any non-Indigenous child adopted by a Kahnawake family after 2003 would not be eligible to be recognized as a Kahnawake members or as approved residents (Horn-Miller 2018). Further, any parents who, as Horn-Miller (2018, 354) puts it, “committed the offense” of adopting a non-Indigenous child would no longer be allowed be eligible to reside in Kahnawake either. The membership law is supposed to protect the boundaries of their nation. However, it was touted as short sighted, unfair, and even as a violation of Kahnawake membership traditions. For example, Bonspiel (cited in Horn-Miller 2018) stated, “Adoption, quite frankly, is woven into the fabric of the Mohawk identity” (354). This demonstrates that adoption is a part of who the Kahnawake/Mohawk are as a people and is a practice that has always existed in Kahnawake society (Horn-Miller 2018). These strict, limited membership criteria are greatly shaped by the Indian Act and draw on imposed notions of Indigenous identity. Usually, they are touted by leadership as ways to protect the nation from outsiders and strengthen the nation’s “bloodline”

(Lee 2015; Horn-Miller 2018). Ultimately, however, there are deeply gendered and heteropatriarchal consequences to rejecting adoptees in Indigenous communities and these consequences result in the opposite of “strengthening” the nation.

The first gendered effect the refusal to recognize adopted children and adoptive families has is that it continues the colonization of Indigenous women’s bodies. The imposition of racialized Indigenous identity created arbitrary boundaries around who “counts” as an Indian. The imposition of blood quantum regulations not only functioned to reduce the number of (legal) Indians, but it also replaced traditional forms of determining belonging with a racialized understanding that does not reflect the practices of nationhood and self-determination that Indigenous peoples have (Palmer 2011). Blood quantum and the way blood quantum policies are upheld by laws such as the Kahnawake adoption law creates a difficult landscape for parents and especially for women. The expectation that Indigenous (Kahnawake) women give birth to children with the appropriate amount of “Indian blood” reduces women’s choices and agency if they are to maintain their connections to their community. As Horn-Miller (2018) writes, “Our bodies are not our own if we have to birth blood and/or lineage identified babies to belong or remain on a band list. It brings to mind the rights of women who cannot give birth and want to adopt children instead” (355). The expectation that women uphold the nation’s bloodline(s) is unfair, unsustainable, and essentialist. Further, it ostracises any women who want to become mothers without having to give birth (e.g., through adoption).

The second effect this has is that it ostracizes 2SLGBTQ+ couples looking to parent outside the heteronormative nuclear family structure. For many 2SLGBTQ+ people, parenthood is only accessible through adoption. However, for Indigenous 2SLGBTQ+ members, the Kahnawake Adoption rule forces them to choose between parenthood and continued membership

in and access to their communities. While the rule may not be explicitly demanding that members of the Kahnawake community uphold the heterosexual nuclear family mould, the consequences of this results in discrimination against 2SLBTQ2S+ members that may be unable and/or unwilling to birth children. Ultimately, however, Horn-Miller (2018) points out:

The Kanien'kahá:a of Kahnawà:ke Law does not allow for a diverse membership. According to its implied function, the Law protects existing culture for future generations, as if to say culture is static and as if its authenticity is dependent on preservation... A culture's "authenticity" is found not in its rigidity per se, but in its ability to meet its peoples' needs. (356)

This indicates that the strength of Indigenous nations regarding the continuation of their culture and national identity is not related to a "pure" bloodline or a static conception of culture. Rather, nations that are able and willing to adapt to a changing context and include diverse ways of strengthening the nation's numbers, will likely do better when it comes to self-determination and cultural preservation. This includes being inclusive of all forms of family formations, including adoption. Horn-Miller (2018) sums this up in the following way,

...the values embedded in our culture guide decisions on how to move forward, and in doing so reshape what culture looks like on the surface. We may adopt children with or without Indian status, for example, but the values leading us to adopt remain the same: we care for those who we decide belong with us. (356)

This reiteration of self-determination regarding belonging and the emphasis on the choice to adapt to changing, contemporary circumstances while upholding the nation's cultural values is key to moving away from both imposed notions of identity (i.e., the Indian Act) and discriminatory practices that target LBTQ2S+ parents and women. With that said, however, revitalizing self-determination practices and drawing on cultural values must not be done in an essentialist way that over emphasizes "tradition" and "nationalism" at the expense of women and 2SLGBTQ+ members of communities.

Nationalism and Heteropatriarchy: A Word of Caution

As I have noted, some Indigenous nations such as the Mohawk of Kahnawake have adopted strict criteria regarding membership and belonging that have placed an unfair burden on Indigenous women to birth blood/lineage-identified babies to continue the nation's "bloodline." This logic can be tied back to the way in which Indigenous nations have adopted the language of nationalism in masculinist, exclusionary ways as a response to colonialism and genocide. Native feminists have argued that these masculinist understandings of nationhood and nationalism in Indigenous contexts has perpetuated patriarchal control over women's bodies and has continued to relegate women to symbolic roles in nationalist movements. Sunseri (2000) points out that through nationalist movements, "...women are often seen as the producers and reproducers of the national culture, and can acquire prestige and status as the bearers of 'pure' culture" (144). The flip side of this is that women's status as the bearers of the nation can lead to increase patriarchal control over women's bodies and sexuality, which leads to the confinement of women to reproductive and domestic roles (Sunseri 2000). Beyond that, the relegation of women's social and political contributions as purely tied to reproduction, perpetuates national identities that are "uni-dimensional and biological" which "marginalizes those who do not fit the strict categories of belonging" (Sunseri 2000, 144). One example of this is written into the Heiltsuk Women's Declaration. The Heiltsuk Women's Declaration (2015) begins by stating: "We are Heiltsuk women. We are as strong as cedar trees. We are the mothers who give birth to nations. We are the mothers who bring future generations into being. We are the lifeblood of our people." I am not aiming to dismiss the power that some may feel comes through motherhood and the importance of the work of mothers for the Heiltsuk Nation. However, the language embedded the declaration associates women's power to motherhood and birthing children for the nation in a

way that can be problematic. Voth (2020) summarizes the problem associated with this type of language and rhetoric by writing,

One of the most important lessons from these feminist critiques of nationalism is that the symbolism of women variously as the progenitors, mothers, and life-givers of the nation is found to be a feature of many nationalist movements, but rarely, if ever, is it accompanied by actual political empowerment for women. (101)

Thus, while the Heiltsuk Women's Declaration does important and empowering work, it also (problematically) emphasizes women's power as being derived by their ability and willingness to give birth and remain in their gender-appropriate roles (as mothers and homemakers). This emphasis is problematic in the way it can grant women symbolic and/or discursive "empowerment" without equally granting equal power to make political decisions and be involved in the governance of the nation.

The "unidimensional and biological" national identity that Sunseri (2000) problematizes also connects to the example of the Kahnawake Membership Law. Imposing membership rules that perpetuate strict blood quantum regulations and refuse to acknowledge alternative family forms (e.g., adoption) limits Indigenous nation's ability to be truly self-determining because they are stuck in the confines of their own exclusionary criteria. Horn-Miller (2018) argues that by abiding by these criteria, Indigenous peoples are upholding the very policies that lead to Indigenous genocide. Horn-Miller (2018) writes,

The Kanien'kahá:a a of Kahnawà:ke Law remakes Kanien'kahá:a citizenship into a reconcilable space of Aboriginality, one that accords with settler notions of Indigenous authenticity, cultural stasis, and ultimately, dying race theories. Protecting biological enclaves until they die out, after all, is what the Indian Act has always been about. (356)

Ultimately, these exclusionary and heteropatriarchal clauses that are promoted under the guise of promoting a strong Indigenous nationalism end up contradicting robust expressions of Indigenous nationhood.

Another concern of feminists when it comes to nationalism is that nationalist movements place women in symbolic positions and deny women access to national agency (McClintock 1993; Voth 2020). McClintock (1993) argues that all nations rely on powerful constructions of gender and no nation provides the same access to rights and resources of the nation-state to both men and women. McClintock (1993) writes,

All too often in male nationalisms, gender difference between men and women serves to symbolically define the limits of national difference and power between men. Excluded from direct action as national citizens, women are subsumed symbolically into the national body politic as its boundary and metaphoric limit. (62)

In Indigenous contexts, the relegation of women to symbolic positions in current nationalist struggles is common and harmful. As Sunseri (2000) points out, colonization transformed all structures of Indigenous communities – including gender relations. Pre-contact, Indigenous women in many Indigenous nations held high levels of status and power and it is processes of colonialism that removed women’s power and agency. With that said, current nationalist struggles in Indigenous contexts are not doing enough to understand the embedded harms of heteropatriarchy within Indigenous communities and within struggles for national liberation. Sunseri (2000) argues that while anti-colonial nationalist struggles have provided opportunities for the mobilization of women, male nationalists have argued that “colonialism and/or capitalism has been the cause of women’s problems” (145). The consequence of this way of thinking is that women’s struggle for liberation is seen as an afterthought or a problem that will be solved once decolonization, self-determination, etc. is achieved. It also functions to remove responsibilities of Indigenous men in the process of dismantling heteropatriarchy and removes accountability for their roles in perpetuating patriarchal oppression in Indigenous communities. In sum, while masculinist expressions of nationhood are often accepted as “necessary” to advance the legal and

political goals of Indigenous nations (i.e., self-determination), continuing to rely on masculinist and patriarchal expressions of the nation ends up doing the opposite.

The Inherently Gendered Nature of Settler Colonialism

The arguments made in this chapter draw on the fact that settler colonialism, and by extension, the colonization of Indigenous kinship, identity, and belonging, is inherently connected to gendered oppression and heteropatriarchy. As is argued by Whyte and Meissner (2017), "...a person's racial, social, cultural, and political identities as a member of an Indigenous people or community, that is, their Indigenous identities, are mediated by heterosexual and patriarchal gender oppression" (1). In particular, Whyte and Meissner (2017, 4-5) argue that the settler state¹¹ worked to impose their own definitions of Indigeneity and replace existing Indigenous identity and gender systems in four primary ways: (1) marriage and ancestry, (2) language, (3) sexual violence, and (4) children. The imposition of the heteropatriarchal nuclear family and the erasure of Indigenous women as ancestors (for example, through the removal of women who "marry out") are fundamental to settler colonialism (Whyte and Meissner 2017). The removal and attempted erasure of Indigenous languages (through residential schools, etc.) also functioned to perpetuate the heteropatriarchal structures of colonialism by replacing "...the ancestral languages with languages that do not afford spaces for non-patriarchal gender roles, or of non-male/female gender states" (Whyte and Meissner 2017, 9). Further, regarding sexual violence, Whyte and Meissner (2017) point out that,

Indigenous women are leaders, integral components of extended kin networks, life-givers, and cultural keepers. As part of the settler project to successfully indigenize settlers and their descendants as rightful owners and occupants of stolen land, settlers destroy and redefine the identities of Indigenous women...Indigenous women's identities become marked by features that render their rape as excusable and acceptable. Colonial logic codes Indigenous lands and bodies as objects for the taking. (10)

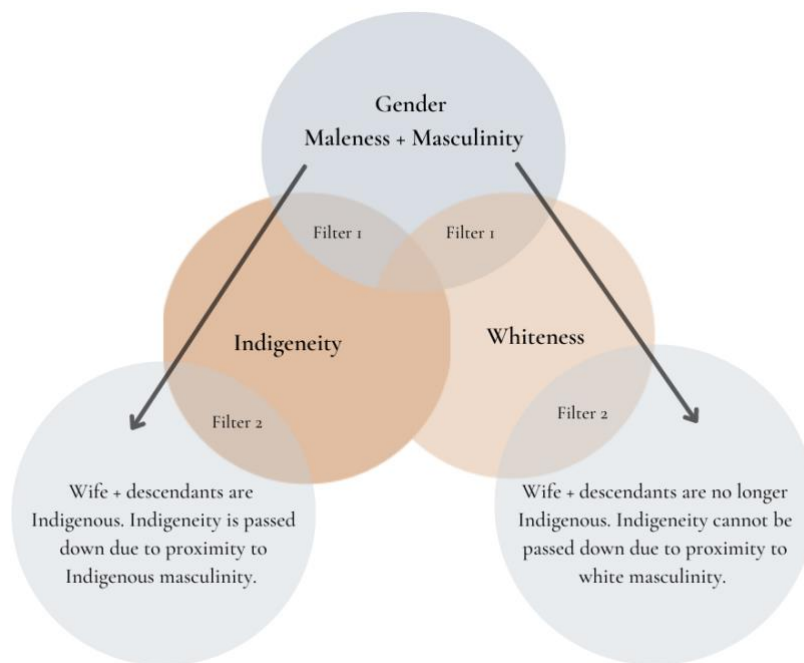
¹¹ The authors draw on the American context specifically. However, as is outlined in chapter 1, CANZUS states are comparable and therefore similar arguments can be drawn out and applied across contexts.

Colonialism relies on the dehumanization and removal of agency of both Indigenous nations as political entities and of individual Indigenous peoples, with a specific focus on the agency and power of Indigenous women and 2SLGBTQ+ people through processes of violence. Finally, Whyte and Meissner (2017) argue that the kidnapping and violence committed against Indigenous children (through residential schools and European adoption processes) were key tools in the imposition of heteropatriarchy because these schools imposed strict gendered protocols and practices of compulsory heterosexuality (12). Each of these processes demonstrate the way the settler colonial processes, and the perpetuation of the settler state, rely on ongoing heteropatriarchal violence.

The gendered and heteropatriarchal processes of colonialism have not only targeted Indigenous nations, but to some extent, have been integrated within Indigenous nations themselves. The deliberate restructuring of Indigenous gender relations and kinship systems has functioned to create systems of distrust, lateral violence, and division within Indigenous communities. Further, heteropatriarchy, alongside racialized logics of colonialism, have created filters of belonging that have been embedded and accepted in many Indigenous communities and membership codes. This is present in two primary ways. First, settler colonialism has created hierarchies of both race and gender, with white men present at the top of the hierarchy. This filters into Indigenous systems of belonging and filters the way some people are seen as gaining proximity to civility and whiteness (or not). On the one hand, Indigenous women who married out prior to 1985– and specifically married a white man – lost their status because they

automatically became more “civilized¹²” due to their proximity to white masculinity (i.e., they moved closer to the top of the gendered and racialized hierarchy). On the other hand, white women who married First Nations men pre-1985, gained Indian Status. This automatic re-categorization demonstrates that a white woman’s proximity to Indigenous masculinity re-classified her as more “savage” and she lost (to a certain degree) the privilege and respectability she was granted via her whiteness. In both cases, women’s legal identities are automatically changed, but the filter through which they are seen is determined by the racial identities of their husbands. Figure 2 is a visual representation of these patriarchal and racialized filters to belonging. On the one hand, the filter of white masculinity removes Indigenous women’s rights to continue belonging to their communities. On the other hand, Indigenous masculinity grants the right to non-Indigenous women to belong to Indigenous communities.

Figure 2: Racial and Gendered Filters of Identity and Belonging



¹² I have chosen to use the language of “civilized vs savage” because these terms and concepts have been key to processes of colonization. The goal of the colonization processes has been to “civilize the savages” and assimilate them into the white settler state. In this context, white men are the epitome of “civilization” and Indigenous women and LGBTQ2S+ individuals are the opposite. While we know that this language is not reflective of the differences between Indigenous and non-Indigenous peoples, it speaks to the dichotomies created through colonization that have ongoing effects today.

Ultimately, settler heteropatriarchy shapes the identities of both Indigenous and non-Indigenous women and their descendants, especially as it relates to their chosen partners (husbands). These filters continue to shape who is and is not considered Indigenous in contemporary contexts because the gendered effects of the Indian Act are ongoing and because many nations continue to legitimize and promote this filtering system.

The second way we see the integration of heteropatriarchy in Indigenous communities is in instances where new or recently imposed heteropatriarchal governing systems have become understood or considered “traditional” by members of said communities. Whyte and Meissner (2017) draw out an example of this. They argue, “Settler patriarchy breeds distrust in that arbitrary male privilege creates circumstances in which men are more likely to assume their privilege is natural or traditional and have stakes in protecting their privilege ahead of any imperatives to dismantle patriarchy” (14). As I have previously outlined, Indigenous women fighting for gender equality have often been met with hostility or had their advocacy seen as going against the broader fight of Indigenous nations for increased self-determination (Huhndorf and Suzack 2010; Green 2017). Rather than being understood as a goal that inherently disrupts settler colonialism and therefore contributes to Indigenous nations’ mobilization efforts, the integration of settler patriarchy has led to a landscape in which gender equality and self-determination are seen as part of a zero-sum game. Further, many Indigenous men – due in part to their higher position in the colonial hierarchy (granted to them via patriarchy) – continue to perpetuate inequality and violence in their communities. Kuokkanen (2015) argues that there has been a de-politicization of violence against women in Indigenous communities. Particularly, Kuokkanen (2015) writes, “Internalization and adoption of colonial policies and practices designed to regulate and discriminate against Indigenous women by Indigenous leadership and

institutions has resulted in reluctance and refusal to deal with gendered violence” (272).

Ultimately, Kuokkanen (2015) points to the way predominantly male leadership within Indigenous communities see Indigenous women’s contestation to their own oppression as a threat to the “security and unity of their nations” (274).

All of this indicates the way that questions of Indigenous membership and belonging need to contend with the inherently heteropatriarchal structure of colonization. In chapter 1, I argued that part of what determines one’s belonging to an Indigenous community is their participation in and embodiment of the nation’s culture and values. However, I also drew out the importance of not perpetuating masculinist and patriarchal expressions of the nation through the nationhood + peoplehood framework. Kuokkanen (2015) provides the example of the Sawridge Band of Alberta, that argued following the implementation of Bill C-31 that the bill constituted “an unjustifiable limitation on its right to determine its own band membership” (274). The band responded to Bill C-31 by enacting its own membership code that functioned to block the re-enrollment of disenfranchised women. Kuokkanen (2015) writes,

Invoking the cultural vulnerability of the community, the band constructed the women as outsiders and excluded them on the basis of their “weak cultural affiliation.” Although directed at women forced to relocate upon marriage, the Sawridge code also has ramifications for those still living in the community. Due to the band-defined demands of cultural authenticity and affiliation, women who experienced violence may feel pressured not to report abuse for fear of being labeled as engaging in “culturally inappropriate behaviour” and hence being disciplined for speaking out. (276)

This demonstrates that invoking self-determination, cultural revitalization, and community participation without being attuned to the real, gendered consequences of these processes fails to consider the range of impacts heteropatriarchal systems continue to have. This shows that the discourse that assumes that “what is good for the nation is good for women” needs to be

disrupted (Kuokkanen 2015). Understanding and speaking to the inherently gendered and heteropatriarchal nature of colonialism is the first step in doing so.

Dismantling Heteropatriarchy: The Nationhood + Peoplehood Framework

Evidently, membership and belonging are deeply embedded in gendered systems of power (heteropatriarchy) and social organization (the nuclear family). I argue that the nationhood + peoplehood framework can help address these issues in two ways. First, by emphasizing kinship and relationality rather than strict biological boundaries to belonging and second, by centering the “web of kin-based relationships” that make up a nation rather than the male-centric, biological power imposed via the Indian Act.

First, as is outlined in my previous chapter, an important way the nationhood + peoplehood framework helps to think through questions of belonging is through the way it promotes a kinship-centred and relational way of understanding belonging. This flexible, relational focus is useful trying to address a context where membership and belonging is so shaped by sexism and heteropatriarchy. Many women still have not been able to reconnect and/or regain recognition in their communities following their disenfranchisement due to the Indian Act. Those that have, have not been able to pass that recognition to their children. In emphasizing relationality and kinship, the nationhood + peoplehood framework makes room for nations to recognize and affirm disconnected women who have kinship relationships with their nations regardless of whether they are federally recognized “Indians” or not. Kinship and relationality makes space for people to be welcome into the nation regardless of their blood quantum or whether they have Status. Essentially, kinship and relationality decentres strict, patriarchal boundaries based on imposed notions of identity and belonging and re-centres the fluidity and flexibility inherent in Indigenous governance systems.

Moreover, an emphasis on kinship and relationality de-centres the nuclear family structure and re-centres broader networks of communal care. This is important because it allows for a move away from the individualistic and heteropatriarchal understanding of family and allows for multiple family forms to be considered valid and important to the functioning of society. Di Tomasso and de Finney (2015b) drawing on Little Bear (2000), define kinship as: "...a 'spider-web of relations' that includes humans and the natural world and necessitates complex arrangements of rights and obligations that surpass the boundaries of Western notions of the nuclear family" (25). What this indicates is that the nuclear family as a form of social arrangement is much more restrictive than Indigenous understandings of family and kinship. While the nuclear family is fixed and does not grant fluidity of form, prioritizing kinship allows for multiple expressions of family to exist and be considered valuable. In a kinship-focused worldview, it is not how the family comes together that matters but rather how the members of that family or kin-relation uphold their responsibilities to each other that matters. Lee and King (2020) provide an example of this in their analysis of two-spirit family making. They argue that two-spirit family making, in the way it re-prioritizes kinship over the biological and essentialized criteria associated with belonging, challenges the imposed heteropatriarchy perpetuated in Indigenous communities. Lee and King (2020) write,

Given the fact that Indianness and band membership were contingent on essentialized biological criteria for so long.... two-spirit kinships challenge the very criteria of "authentic Indianness" that have been inherited from the Indian Act. Put another way: they are challenging the commonly held (and in some cases imposed) belief that Indigeneity is something that can only be produced heterosexually. (2)

I argue that the nationhood + peoplehood framework, in emphasizing kinship and relationality, makes space for kinship forms that do not reflect compulsory heterosexuality and/or the nuclear family. Moreover, the kinship-focus of nationhood + peoplehood makes room for multiple

family forms by defining belonging beyond biology. Therefore, a kinship-focused and relational lens allows for all people, including 2SLGBTQ+ people, to contribute to the “renewal of their nations” (Lee and King 2020).

Perhaps the most important contribution of the nationhood + peoplehood framework to the dismantling of heteropatriarchy is the way that it creates pathways to eliminate the male-centric and biological power imposed by the Indian Act. The issues I have outlined thus far regarding heteropatriarchy, sexism, the nuclear family, etc. are problems because they are mechanisms that hold Indigenous autonomy and self-determination back. The structures set up via the Indian Act and the current heteropatriarchal context hold nations back from being able to fully articulate their autonomy and self-determination because rather than drawing on the “web of kin-based relationships and responsibilities” that make up a Native nation (Gish Hill 2013), power is being derived from a sexist piece of legislation. The nationhood + peoplehood framework offers a way to reject those notions by prioritizing decision-making that is not restricted by sexist and heteropatriarchal confines set out by the Indian Act. For example, the focus on responsibilities and behaviour that is outlined in the nationhood + peoplehood framework is a direct move away from the strict categories of belonging imposed by the Indian Act. Further, the flexibility and permeability embedded in the nationhood + peoplehood framework is a direct move away from the rigid, exclusionary, and heteropatriarchal forms of decision-making imposed on Indigenous nations. In relying on the web of kin-based relationships and responsibilities, the framework allows power and decision making to be distributed in more even ways and empowers all members of the community to participate in decision making. Ultimately, this helps to address the inherent messiness and intangibility of belonging in more informal, yet equally relevant ways (see chapter 3).

Moreover, what the nationhood + peoplehood framework offers is a way to think through gendered issues in a holistic way and consider the way exclusion based on gendered discrimination and/or heteropatriarchy does not allow both nationhood and peoplehood (and by extension, self-determination) to be expressed in full. The Kahnawake Law on Membership provides an example of what occurs when there is a too much of a focus on the nationhood aspect of self-determination (i.e., strict boundaries to “preserve” the nation) and not enough focus on the peoplehood aspect which is derived from the nation’s values, kinship systems, and responsibilities. Basically, what the nationhood + peoplehood framework provides is a way maintain the necessary boundaries while remaining cognizant of the harms caused by gendered and heteropatriarchal discrimination. The framework asks nations to consider the “why” of their boundaries and articulate the full reasoning behind the boundaries they are maintaining. In other words, the framework requires that nations explore and articulate why they are choosing to draw certain boundaries where they are and asks them to consider what would happen if they boundaries were drawn elsewhere. Moreover, the framework asks: how does the nation articulate its values and how do those values inform their politics? How was belonging determined prior to imposed definitions? What is best for the longevity of the nation? In sum, what the nationhood + peoplehood framework provides is the space to think through questions of power, autonomy, and self-determination in ways that are completely divorced from imposed expectations. This “divorce” makes space for new forms of decision-making, new avenues for determining belonging, and allows power and decision-making to be expressed by all members of the community rather than the select few outlined in the Indian Act (i.e., straight men). Ultimately, while the nationhood + peoplehood framework is not a fix-all solution to these issues, it is a *tool* for nations to think through the gendered and heteropatriarchal context that currently exists and

the way that it impedes expressions of self-determination by setting out rigid definitions of power and belonging.

Conclusion

Understanding and addressing the ways that heteropatriarchy informs and affects questions of identity, belonging, nationhood, and self-determination is fundamental if Indigenous nations are going to move forward with revitalizing Indigenous citizenship and legal orders. Heteropatriarchy impacts everything from the way Indian Status has been passed down through generations to the family formations deemed acceptable to the settler state and even Indigenous nations. Addressing questions of Indigenous identity and belonging require an explicitly gendered approach because of the gendered ways in which identity and belonging have been shaped. Heteropatriarchy has been a foundational tool in the settler state's attempts to limit and manage Indigenous peoples' claims to land and sovereignty (Arvin et. al. 2013). Further, the imposition of the nuclear family structure has played a key role in the control of Indigenous peoples. As Phillips (2009) outlines, the nuclear family is not a natural, inevitable, and value-neutral structure. It is a structure and system that has shaped colonial geographies by devaluing and delegitimizing other forms of social organization (Phillips 2009). Structures such as heteropatriarchy and the nuclear family have also been adopted in harmful ways in Indigenous communities. As is evident in the example of the Kahnawake, the imposition of these structures has created a landscape of scarcity that led to policies such as their law on membership that ultimately go against Kahnawake values in an attempt to protect the nation from outsiders and maintain a "pure" national culture (Horn-Miller 2018). The effects of heteropatriarchy on Indigenous nations are far reaching and devastating because heteropatriarchy functions to "interrupt Indigenous nations' 'very sense of being a people,' with serious material consequences

for Indigenous nations' futures" (Arvin et. al. 2013, 15). With that said, the nationhood + peoplehood framework, by emphasizing kinship, relationality, and the importance of inclusive forms of governance and decision-making is a tool that can be used in moving away from heteropatriarchal and exclusionary governance practices and to revitalize nations' sense of autonomy and self-determination. Ultimately, the revitalization of Indigenous self-determination, especially regarding membership and belonging, relies on the rejection of heteropatriarchal values and structures. Having set out some of the inherent nuances and complexities of membership and belonging, I will turn to the question of membership code renewal and the importance of moving beyond the current confines and limitations set around these questions and issues.

Chapter 3

Thinking Beyond: Membership Code Renewal in Irreconcilable Space

Thus far, I have outlined the questions associated with membership and belonging in First Nations communities and developed the nationhood + peoplehood framework as a theory of belonging. The question remains: how can this framework and the critiques I have outlined of the current landscape of membership and belonging be deployed in membership code renewal? Part of the difficulty in answering this question is that it is deeply complex and inherently messy. Belonging (and by extension, membership), as a concept in Indigenous contexts is both intangible yet materially relevant. It is intangible in the sense that there is no single definition, and the experience of belonging can look different on a case-by-case basis. Ask any Indigenous person how they know they belong to a community and each person's answer will be different. Moreover, belonging, is informal in a lot of ways. For example, beyond my status card and band registration, I know I belong to the Heiltsuk nation because my "belonging" has been ingrained into my identity since birth and when I visit Bella Bella people know who I am and know who my parents and grandparents are. Yet, while belonging is intangible in many ways, it is materially significant in the sense that there are tangible rights associated with to belonging, such as access to community and culture, political rights (e.g., voting and running for council), and access to certain services such as healthcare benefits (to name a few). Therefore, there are consequences to not belonging either. Understanding this inherent messiness is important to the process of thinking through questions of membership and belonging. With that said, by drawing on the nationhood + peoplehood framework from chapter two, this chapter will provide an analysis of existing membership codes and will consider how membership codes can be renewed in ways that promote Indigenous self-determination.

The goal of this chapter is to outline how and why most current band membership codes – including ones that have been adopted under section 10 of the Indian Act – do not contribute to the revitalization of Indigenous governance and the re-assertion of Indigenous self-determination. Further, the goal of this chapter is to provide an example of a membership code that works to revitalize traditional forms of determining membership while remaining mindful of the ways in which conditions of colonialism have impacted notions and expressions of “tradition” and Indigenous identity. I will be taking up the Heiltsuk membership code, unpacking the way it maintains colonial ideologies while simultaneously demonstrating the way it problematizes and disrupts certain colonial expectations and norms. The purpose of providing an analysis of the Heiltsuk band membership code is two-fold. First, it puts the nationhood + peoplehood framework into action and provides a concrete example of how the framework can be deployed. Second, it is an exercise in thinking beyond the current limits and confines set by colonial constructs (identity stereotypes, notions of authenticity, etc.) and policies (specifically, the Indian Act). I posit that the process of “thinking beyond”¹³ is necessary because of the harmful policies that are continuously maintained in membership codes in ways that ultimately do a disservice to Indigenous governance and self-determination practices. One of the ways scholars have contributed to the exercise of “thinking beyond” is through the concept of “Irreconcilable Spaces of Aboriginality” (Garneau 2016; Horn-Miller 2018). Irreconcilable Spaces of Aboriginality are, in short, “... where Indigenous laws and ways of being exist while disengaged from settler colonial demands” (Horn-Miller 2018, 255). Thus, the process thinking

¹³ I take-up the concept of “thinking beyond” throughout this chapter. In my argument, I understand “thinking beyond” as being a way for Indigenous peoples to think past colonial limitations, stereotypes, imposed definitions, and other factors restraining Indigenous peoples’ self-definition and self-determination. For example, as a way to “think beyond” I actively choose not to consider potential financial ramifications of changing band membership codes. Instead, in this context, “thinking beyond” is an intellectual process that allows us to consider Indigenous futurity beyond colonial constraints.

beyond is a process of thinking past colonial limitations, stereotypes, imposed definitions, etc. that limit Indigenous peoples' self-definition and self-determination. The concept of Irreconcilable Space is also applicable to understanding Indigenous citizenship and membership. Horn-Miller (2018) argues,

This [Irreconcilable Spaces of Aboriginality] allows rethinking of Indigenous citizenship orders in a way that avoids the trap of needing external validation like membership codes or the Indian Act, but does so while enabling Indigenous political orders to do the work they need to do. (255)

While Horn-Miller (2018) posits that even membership codes are a way of receiving the external validation irreconcilable space divests from, I argue instead that membership codes that draw on the nationhood + peoplehood framework demonstrate a move away from that need for recognition because the codes draw on Indigenous ways of knowing and being in determining belonging. Moreover, by providing an analysis of the Heiltsuk membership code, I will demonstrate that codes derived from the principles outlined in the nationhood + peoplehood framework are able to uphold boundaries to the nation that allow insiders (members) to recognize and affirm each other, rather than relying on the recognition and affirmation provided by colonial policies.

Ultimately, by drawing on the nationhood + peoplehood framework, this chapter demonstrates the way Indigenous nations can revitalize their membership and belonging practices and deploy the traditions and laws of custom adoption in membership code renewal. More specifically, I argue that membership can and should be from a nation's core principles and values, rather than rigid rules for entry. This chapter is organized as follows. First, I will provide an explanation of section 10 band membership codes and breakdown why existing section 10 codes are problematic. Next, I will discuss the importance of "thinking beyond" as a way to address the inherent messiness of membership and belonging. Third, I will provide a close

reading of the Heiltsuk membership code and apply the nationhood + peoplehood framework to unpack what the code does well and where the code fails to move away from colonial policies. I posit that Heiltsuk laws and values should be a guiding factor in the process of determining belonging. Finally, I will discuss the practice of “witnessing” as a theory of accountability and a form of collective self-determination in questions of Indigenous membership and belonging. In sum, this chapter will demonstrate the way nations can exercise self-determination through their membership codes by drawing the codes out of existing networks of relationality and kinship.

Outlining the Problems: Existing Codes and Continued Colonialism

First, it is imperative to outline how and why current codes (including Section 10 codes) are not adequate in addressing issues of membership and belonging. The 1985 Indian Act amendments created two ways in which band membership could be managed in First Nations communities under sections 10 and 11 of the Act. Section 11 codes are managed by the federal Indian registrar, which results in Indian Status and band membership remaining equivalent (if you have Status, you are a band member and vice versa). On the other hand, section 10 allowed First Nations to take over control of their band membership codes, which means that Indian Status does not always result in membership and membership does not always result in having status. In order to adopt a new membership code under Section 10 of the Indian Act, a band needs to (a) give notice to its electors and write a new code, (b) give notice to the minister of Crown-Indigenous relations and provide the minister with a copy of the new code, and (c) get consent from its electors in the form of a “double majority” (AFN 2020).¹⁴ (AFN 2020). As of 2018, only 37% of eligible First Nations have chosen to adopt a new code under Section 10 of the Indian Act (AFN 2020). 57% of bands continue to rely on Section 11 (or Indian Act) rules to

¹⁴ A double majority means that the majority of eligible voters participated in the vote regarding adopting a new membership code, and of that majority, the majority of voters voted in favour of adopting a new membership code.

determine membership, and the remaining 6% are First Nations that have signed a modern treaty and are therefore considered self-determining (i.e., do not draw any rights or benefits from the Indian Act) (AFN 2020).

The connection between band membership and Indian Status largely comes down to the financial constraints that bands are faced with. First Nations receive funding from the federal government and most band funding is calculated based on the number of members with Indian status (AFN 2019). This is a major deterrent to moving away from Indian Act membership rules because it opens the possibility of a First Nation taking on more members than they can provide for financially (AFN 2019). With ongoing issues such as housing shortages on reserve and limited infrastructure among other issues, many First Nations simply do not have the capacity to accept more members without a correlated increase in support revenue (AFN 2019). This creates a double bind in which First Nations must either continue to rely on Indian Act policies to receive funding or risk moving away from the Indian Act but not being able to financially support their members. With that said, there is a risk to sticking to Indian Act rules as well. As Clatworthy (2007) points out, “The number of survivors and descendants *ineligible* for registration and membership in First Nations that base membership on the rules governing Indian registration (Indian Act or equivalent membership rules) is expected to increase sharply throughout the period” (113).¹⁵ Clatworthy (2007) goes on to point out that relying on the Indian Act results in the disenfranchisement of approximately 316,000 Indigenous individuals in the next 75 years (113), meaning 316,000 Indigenous peoples will no longer be eligible for Status or band membership. Table 1 demonstrates the way status is passed down (or not) through generations.

¹⁵ Emphasis added.

Table 1: Indian Status

First Parent	Second Parent			
		6(1)	6(2)	No status
6(1)	Child has status under 6(1)	Child has status under 6(1)	Child has status under 6(1)	Child has status under 6(2)
6(2)	Child has status under 6(1)	Child has status under 6(1)	Child has status under 6(1)	Child does not have status
No status	Child has status under 6(2)	Child does not have status	Child does not have status	Child does not have status

In sum, Indian Act rules are harmful to the survival of Indigenous peoples because the rules result in the disenfranchisement and eventual elimination of Indians, or at the very least “legal” Indians (Clatworthy 2007). In other words, when we take Indian Act rules to their logical conclusion, “Indians” will eventually cease to exist according to Canadian law.

With the introduction of section 10, bands were given the opportunity to move away from Indian Act rules when determining membership.¹⁶ This effectively separated band membership lists from the list of status Indians kept by the federal government for the Nations that chose to implement their own codes. Of these newly written codes, there are four main categories of codes: (1) Limited One Parent (or Indian Act equivalent) rules (covered above), (2) Unlimited One Parent rules, (3) Two-Parent rules, and (4) Blood Quantum rules (Clatworthy 2007).¹⁷ Each of these types of codes have different demographic consequences and considerations. With unlimited one parent rules, membership requires that a person (potential member) has at least one parent who is a member regardless of the person’s entitlement to Indian status (Clatworthy 2007). These rules are the most open because all descendants of First Nations that use the unlimited one parent rules keep their eligibility for membership. However, projections indicate

¹⁶ Of course, this does not indicate a complete “move away” given the fact that Section 10 is, itself, embedded in the Indian Act. However, it did give First Nations more control over their membership codes and band list.

¹⁷ These are general trends in the categories, not set rules. However, the vast majority, if not all, section 10 bands fall into one of these categories.

that the number of members ineligible for status increases quickly throughout the generations which opens the door to potential financial problems for the First Nations down the road (Clatworthy 2007; AFN 2020b). Two parent rules require that *both* parents of any potential member be members themselves. With two parent rules, projections estimate that the population eligible for membership will decline rapidly and that within 25 years, those ineligible for membership will make up most of the descendant population. With that said, those that do not qualify for membership will likely continue to qualify for status (Clatworthy 2007). Two parent rules are some of the most restrictive and harmful given that the membership is estimated to sharply decline and that they severely limit who people can choose to parent with if they would like to pass down membership. Finally, blood quantum rules base a person's eligibility for membership on the amount of "Indian blood" that the person possesses and maintains a minimum standard of "blood" to acquire membership (Clatworthy 2007). Blood quantum rules largely fall into two categories, First Nations that require a minimum of 50% blood quantum to be eligible for membership and First Nations that require 25% blood quantum to be eligible for membership. For Nations that require 50% blood quantum, most of the descendant population is expected to lack membership eligibility in the next 75 years (Clatworthy 2007). Of the First Nations that use a 25% blood quantum rules, most descendants of the First Nations are expected to retain eligibility within the next 75 years, however, a quarter of those members will not be eligible for Indian status (Clatworthy 2007). Importantly, each of these abovementioned section 10 code categories are decided upon by First Nations bands themselves. Thus, First Nations that choose to develop a new code through section 10 do have the flexibility to fundamentally disrupt imposed notions of membership and belonging and implement their own forms of belonging. Unfortunately, the difficulties inherent in the financial and material issues that bands must

contend with in developing their code have discouraged that type of disruption of the status quo through the implementation of truly re-imagined codes.

It is a fundamental right for First Nations and Indigenous peoples to regulate and assert membership and citizenship. However, the existing landscape, and in particular the consequences of blood quantum and two parent rules, are dividing nations. As Doerfler (2017) draws out regarding blood quantum and the Anishinaabe people, "...many Anishinaabe families have been literally divided by blood quantum with some family members recognized as citizens and others excluded" (43). Historically, First Nations were not concerned with the amount of "blood" their membership had but rather on factors such as the way they upheld their responsibilities as citizens, and their connections and contributions to the community (Doerfler 2017). Moreover, First Nations accepted new members through processes of inter-tribal adoption, supported intermarriage with other groups, and were not concerned with the genetic or biological makeup of their citizens (Lee 2019; Lee and Horn-Miller 2018). It is the imposition of colonial policies and the associated scarcity that has encouraged restrictive rules that ultimately perpetuate Indigenous genocide. A change in the current landscape is required to address these problems. I argue that "thinking beyond" the current confines (such as financial and material considerations) allows us to unpack questions of belonging beyond the scarcity landscape that currently exists. To think beyond is to think past the money and think towards the ways First Nations citizenship and belonging practices have been exercised since time immemorial.

Thinking Beyond: Moving Past Colonial Constraints and Legibility

I argue that the practice of "thinking beyond" (such as by envisioning and engaging in Irreconcilable Spaces of Aboriginality) is a powerful one when considering ways to implement renewed membership and belonging practices. The practice and process of thinking beyond

invites the thinker to consider scenarios and possibilities that are unconstrained by colonially imposed problems, definitions, and expectations. It is a process that invites creativity and encourages the thinker to think idealistically. As Garneau (2016) argues, "...while decolonization and Indigenization is collective work, it sometimes requires occasions of separation – moments where Indigenous peoples take space and time to work things out among themselves..." (23). This demonstrates the need for Indigenous nations to explore possibilities and solutions to problems, such as problems relating to membership and belonging, in ways that are untouched and unaffected by settlers and ongoing colonialism. The exercise I am engaged in here in taking up and analyzing the Heiltsuk membership code, is one where I am aiming to think within this irreconcilable space. As Garneau (2016) sums up,

Irreconcilable Spaces of Aboriginality are gatherings, ceremony, *nêhiyawak* (Cree)-only discussions, kitchen table conversations, email exchanges, etc. in which Blackfootness, Métisness, and so on, are performed without settler attendance. It is not a show for others but a site where people simply are, where they express and celebrate their continuity and figure themselves to, for, and with one another without the sense that they are being witnessed by people who are not equal participants. (27)

Ultimately, Irreconcilable Spaces of Aboriginality are spaces in which Indigenous peoples can simply "be" without conforming to any settler expectations (Garneau 2016). As I move forward in analyzing the Heiltsuk code, I am working to move away from colonial stereotypes, expectations, definitions, and the settler gaze in general. In deploying the nationhood + peoplehood framework, my goal is to provide a way of thinking through membership codes that can be used by and for all Indigenous peoples. Further, my goal is to keep the interests of Indigenous peoples at the forefront of my analysis. While I cannot speak on behalf of individual nations, including my own nation, this exploration of the Heiltsuk code is meant to be an example of the way we (Heiltsuk and Indigenous peoples) can assert our own cultures, politics, and kinship systems in processes of determining belonging. Through my analysis of the Heiltsuk

code I aim *to* speak to my nation, and to other nations facing similar problems. This thesis thus far has outlined countless problems that pertain to the current membership context (discriminatory practices, attempted elimination of Indigenous peoples, a reliance on colonial policies, etc.). Thus, in speaking *to* my nation, I am hoping to emphasize the urgency of these problems for the futurity of our people and our nation. Finally, in my exploration of this code, I will not consider constraints such as financial considerations or Indian Act constraints. Instead, I am thinking through these questions in a way that defies colonial limitations and the landscape of scarcity that currently exists. This analysis is my contribution to irreconcilable spaces and thinking beyond colonial confines when it comes to membership and belonging.

Unpacking the Heiltsuk Membership Code

The Heiltsuk band membership code is a section 10 code and was adopted following the 1985 amendments to the Indian Act.¹⁸ The code was written and maintained by the band council, meaning it is administered and maintained by the elected leadership of the Heiltsuk Nation. The elected leadership (band council) is the leadership structure imposed via the Indian Act in 1876. The band list is maintained by the Band Registrar, which is responsible for tracking, adding, and deleting names as needed. In my analysis of the Heiltsuk code I argue that while the code attempts to draw on and apply Heiltsuk values and processes, it further embedded Indian Act policies in problematic ways. Essentially, while the code has certain aspects to it that promote Heiltsuk ways of knowing and being in determining belonging, it does not “think beyond” the financial constraints of membership and is exclusionary by nature of relying on Indian Act regulations. However, I argue that in applying the nationhood + peoplehood framework to re-

¹⁸ See Appendix B for a complete copy of the membership code.

think the code, there is potential to prioritize kinship and relationality over static and exclusionary criteria for belonging that result in the eventual elimination of Heiltsuk people.

Sustaining the Indian Act: Section 3 of the Heiltsuk Code

Section 3 of the Heiltsuk band membership code is the section that outlines entitlement to registration as a band member and determines who is even allowed to apply for membership.

Section 3.1 outlines the right to automatic entitlement. There are two categories of people that have automatic entitlement. They are outlined as follows:

3.1(a) any person who is entitled to be registered as an Indian under the Indian Act and whose name appears or is entitled to appear on the band list maintained in the Department for the Band pursuant to the Indian Act immediately prior to these Membership Rules having effect...

3.1(b) any person who is entitled to be registered as an Indian under the Indian Act and who:
(i) is the child of parents at least one of whom is, at the time of birth or adoption of such child, entitled to have his name registered on the band list, and (ii) is not a member of any other band. (3-4)

To summarize, any person who was already a band member (*and* Status Indian) prior to the adoption of the new code is entitled to maintain their membership and any person who is entitled to Indian Status and is the child of someone who is already a band member is automatically entitled to registration on the band list. Notably, automatic entitlement is linked to Indian Status – meaning automatic entitlement is inherently linked to recognition by the federal government as an “Indian.” To get on the band list through automatic entitlement, a member simply needs to submit an application form and provide documentation (their status card) for approval to be added to the list. Section 3.2 of the membership code outlines “Discretionary Entitlement,” or in other words, those who have a right to *apply* for membership if they are not automatically entitled to it. Section 3.2 reads as follows:

Any person who is entitled to be registered as an Indian under the Indian Act may apply for membership in the Band and his entitlement to registration in the band list shall be determined in accordance with the provisions Parts 4 and 5 of these Membership Rules. (4)¹⁹

Those entitled to apply for membership under section 3.2 have a few more steps to follow in their application process in comparison to those who have automatic entitlement because they have to further “prove” their connection to the Heiltsuk Nation since their parents are not members. Sections 4 and 5 of the membership code rules outline enrollment requirements, procedures, and criteria for membership – and are where Heiltsuk values and cultural practices are more evident (see below). Unfortunately, to even be considered for membership under sections 4 and 5, individuals already need to be a Status Indians. Therefore, the Heiltsuk membership code, rather than disrupt Indian Act regulations and policies, has further embedded the Indian Act into the process of determining membership and belonging in the community.

Upholding or Denying Heiltsuk *Gvilás* and Values?: Section 4 of the Heiltsuk Code

Section 4 of the Heiltsuk Membership code outlines the process applicants need to follow to apply for registration on the band membership list. For those that apply under section 3.2 (discretionary entitlement), the applicant needs to submit an application form, accompanied by two letters from at least two band members supporting their application. Further, their application must include a written commitment to: “...obey the laws of the Band, and in his way of life, to promote the customs, traditions and culture of the Heiltsuk and the well-being of the Heiltsuk community” (5). This requirement to commit to uphold the laws of the Heiltsuk Nation and promote the well-being of the Heiltsuk Nation indicates a commitment to promoting

¹⁹ Section 1 of the Heiltsuk Code outlines definitions and interpretation. Section 1.3 states: “In these membership rules words importing the singular number only include the plural and vice versa, words importing the masculine gender include the feminine gender and vice versa.” Thus, while the language upholds the gender binary and does not make space for non-binary members, the language of “his” is not meant to imply the exclusion of women.

Heiltsuk values and *Gvilás* (laws) in the membership process. While it is unfortunate that potential members are already excluded based on their eligibility for Indian Status, the membership code does reflect a level of understanding that the right to membership and belonging includes a level of responsibility and reciprocity to the broader community.

In applying the nationhood + peoplehood framework to the Heiltsuk membership code, it is evident that the expressions of nationhood and peoplehood are in tension with one another in the membership process. The requirement that one be a Status Indian before having a right to apply for membership demonstrates that the Nation is concerned with the maintenance of national boundaries (i.e., expressing nationhood). The requirements in section 4 that applicants demonstrate a commitment to the laws, customs, traditions, and well-being of the band as well as the requirement that applicants have support from other band members in their application is an example of the Nation attempting to prioritize peoplehood through the emphasis on behaviour, responsibilities, and mutual relationships. With that said, the disconnect or tension is evident in the way peoplehood (behaviour, responsibilities, relationships) does not inform nationhood (boundaries, external expression of the collective) in this context. Rather, the expectation or requirement that all potential members be Status Indians is what disconnects nationhood and peoplehood by creating pre-set boundaries to belonging. Rather than allowing participation, kinship relationships, reciprocity, etc. to emanate outwards and inform the nation's boundaries and political structures, the Heiltsuk band membership is pre-determined by colonial policies and the fear that allowing non-Status Indians to become members may either (a) hinder the Nation's ability to provide economically for their members, or (b) dilute the Nation's "authenticity" by allowing non-Status people in.

Section 4.4 of the code outlines considerations for the membership committee to consider in determining whether someone be granted membership if they have discretionary entitlement. This section outlines certain considerations that do reflect the principles outlined in the nationhood + peoplehood framework and certain considerations that directly contradict the nationhood + peoplehood framework. For example, the following considerations are ones that promote the principles of the nationhood + peoplehood framework by emphasizing behaviour, participation, and reciprocity:

- (a) the applicant has significant knowledge of and commitment to the Band, its history, language, customs, traditions, and culture;
- (b) the applicant is prepared to seek and maintain employment, providing employment is available and providing he or she is in good employable health;²⁰
- (d) the social, cultural, family and marital ties of the applicant to the Heiltsuk;
- (f) the applicant follows a way of life consistent with the common good of the band and whether... his residence on the Reserve would be likely to be compatible with the culture, society and community of the Heiltsuk and the welfare of the community members already resident on the reserve;
- (h) any other consideration that in the opinion of the Membership Committee is relevant to the health, safety, good order and advancement of the Band... (5-6).

These considerations and criteria for membership directly correlate with those outlined in the nationhood + peoplehood framework in the way these considerations overwhelmingly focus on behaviour and participation in the broader community. Essentially, these demonstrate what Hancock (2021) states is a change of emphasis from “citizenship in terms of abstract rights and responsibilities to embodied participation from the family to the community” (52). If the requirement for Indian Status was not embedded into the Heiltsuk Membership Code, these criteria would demonstrate an understanding of membership and belonging that de-center

²⁰ I have chosen to include this criterion as one that reflects the nationhood + peoplehood framework because it emphasizes participation and reciprocity. However, I believe there are other ways to demonstrate a commitment to the community and participation within the community beyond employment (e.g., participates in cultural events, etc.) that are not explicitly outlined in the membership code.

colonial stereotypes and expectations and re-centres more flexible, kinship-centred understandings of belonging.

On the flip side, there are criteria and considerations outlined in Section 4 of the membership code that perpetuate static and problematic understandings of membership and belonging. These criteria are as follows:

- (c) the length of time the applicant has resided on the reserve;
- (e) the availability of suitable land, housing and ancillary services on the reserve;
- (g) the degree of Heiltsuk blood of the applicant. (6)

The emphasis in (c) that a potential member have resided on reserve is problematic because it de-legitimizes the identity and rights of Heiltsuk people that may live elsewhere. This, understood in the context of a housing crisis on the reserve, serves to exclude people who likely have valid claims to Heiltsuk membership because of scarcity. Similarly, the availability of housing and other services on reserve (criteria e) being a core consideration of whether one should be a member or not does not reflect Heiltsuk values or *Gvilás*. Rather, this consideration reflects a landscape shaped by financial constraints imposed via the Indian Act and colonialism writ large. While these are very real, practical considerations given the fact that the Nation (band) is responsible for rolling out services to band members, membership and belonging should be shaped by one's kinship relationships, participation, and behaviour rather than one's ability to live on reserve or the Nation's financial situation. Finally, the criteria that requires that the Membership Committee consider an applicant's blood quantum directly contradicts the nationhood + peoplehood's considerations for belonging. Considering applicants' "blood quantum" as a core consideration for membership ultimately undermines the Heiltsuk Nation's expressions of politics and governance *as a nation*. In promoting a race-based or biological understanding of belonging, the Heiltsuk Nation is ultimately de-legitimizing its rights as a

nation and perpetuating the idea that Indigenous identity is above-all a racial one, and not a political one. Palmater (2011) summarizes how and why the federal government emphasized race-based definitions of Indigenous identity in the following way:

...the government viewed Indigenous peoples as a race; it therefore developed administrative criteria based on biological conceptions of who formed part of that race. Blood quantum often determined not only their identity, but also their legal rights and entitlements... The amount of Indian blood one was thought to have was therefore directly tied to one's entitlements, and with this Act, the government directly involved the chiefs in the exclusion of their citizens in sharing the resources provided by Canada. It is not hard to make the link from this Act to what happens today with some band membership codes, where Indian identity becomes associated with monetary and other entitlements. (41)

This summarizes the way through which colonial governments invalidated First Nations' claim to nationhood and by extension their legal and political rights as nations. Further, it demonstrates how colonial structures (e.g., band governance) were complicit in this process because of the associated entitlements to resources. Ultimately, the reliance on both Indian Status and blood quantum in determining Heiltsuk identity, membership, and belonging demonstrates the grasp colonialism and a lack of resources continues to have in this context. Rather than working to disrupt colonial ideas of belonging, the Heiltsuk membership code continues to promote race-based, exclusionary criteria that will lead to the eventual elimination of our people if it is not addressed. These problems found within the Heiltsuk membership code really draw out the tensions present between nationhood and peoplehood. Further these problems indicate the urgency of "thinking beyond" financial considerations. Thinking beyond would allow the Heiltsuk Nation to implement and promote Heiltsuk identity and belonging based in Heiltsuk ways of knowing and being, rather than promoting an identity shaped and created by colonial policies and government money.

Membership Code Renewal: The Heiltsuk Membership Code in Irreconcilable Space

Evidently, the Heiltsuk membership code has further reified the Indian Act in the process of determining membership and belonging. While the membership code does reflect Heiltsuk values and *Gvilás* to a certain extent, the requirement that members also be Status Indians is problematic and will ultimately have negative consequences because as has been evidenced previously, the reliance on Indian Act regulations leads to the eventual elimination of Indigenous peoples (Clatworthy 2007; Palmater 2011). This section unpacks the question: what would the Heiltsuk membership code look like if there were no financial constraints or material scarcity to consider (e.g., housing was not an issue)?²¹ In other words, what would a code look like if it there was no disconnect between nationhood and peoplehood in our understanding of belonging? I argue that in thinking beyond these considerations, Heiltsuk values and *Gvilás* can do the work they are meant to do in our legal, political, and kinship systems. Further, in thinking beyond, Heiltsuk membership would be more process-based and reliant on kinship rather than on blood, biology, or other arbitrary boundaries to belonging.

Heiltsuk Membership Beyond the Indian Act: Heiltsuk Values and Relationality

In a context where the Indian Act and finances did not shape membership, the Heiltsuk Nation would be able to rely on our laws and values to determine belonging. I believe Heiltsuk laws and values would demonstrate process and behaviour-based understandings of belonging that are embedded within what Gish Hill (2013) calls a “net of interpersonal responsibility” which emphasizes “...reciprocal obligations and duties delineated by kin relationships” (26). This fundamentally disrupts the current code because it does not rely on the Indian Act to pre-determine belonging. While, as is evidenced above, the membership code attempts to draw on

²¹ It is beyond the scope of this thesis to address *how* to move beyond financial constraint because my research is focused on questions of membership and belonging, and not the economic landscape in First Nations communities. The exercise of “thinking beyond” allows me to think through these questions outside of the current economic constraints placed on First Nations’ communities.

Heiltsuk values and laws in some of the considerations for membership, the requirement that members be Status Indians cuts those values and laws off at the knees and does not allow them to do the work they are meant to do. I argue that in irreconcilable space, a Heiltsuk membership code would emphasize Heiltsuk values and laws rather than colonial limitations and expectations. In particular, it would center the expectation that Heiltsuk members “speak and act correctly” as an ethic of belonging. Ultimately, in drawing on the nationhood + peoplehood framework, I argue that a membership code that in re-centers Heiltsuk ways of knowing and being would allow the Heiltsuk Nation address the inherent messiness and intangibility of belonging, while asserting self-determination.

The nationhood + peoplehood framework asserts that nationhood and peoplehood are inherently interconnected concepts that inform each other and provide a theory of belonging. Specifically, peoplehood is the core and determines the way nations imagine and organize themselves internally (e.g., sets out behavioural expectations, internal norms, and responsibilities that members hold to the nation and each other). On the flip side, nationhood is the way the nation imagines and expresses itself externally (e.g., through boundaries and inter-nation relationships or interactions). Both concepts are entrenched within networks of kinship and relationality that activate belonging. Drawing on the nationhood + peoplehood framework and thinking beyond colonial limitations, I argue that a renewed Heiltsuk membership code would rely on the expectation that Heiltsuk members “speak and act correctly” when determining belonging. This expectation puts the nationhood + peoplehood framework into action by detailing the behavioural expectations and responsibilities of a Heiltsuk member. As is outlined in my theoretical framework, this would also allow the Heiltsuk Nation to uphold boundaries to belonging because to “belong” requires that you embody Heiltsuk values and abide by a Heiltsuk

ethic of “speaking and acting correctly.” Beyond behaviour, relying on Heiltsuk values emphasizes kinship over blood or other arbitrary identity markers. Kinship as an activator of belonging makes room for multiple pathways to belonging to be expressed. In particular, it leaves room for adoptees (like my siblings), people who have married in, and/or individuals that have been actively participating in and contributing to the Nation regardless of their ancestry or biological background.

To summarize, the guiding factors for belonging I am positing, draw on the nationhood + peoplehood framework in a way that explicitly draws on Heiltsuk values and principles. Using Heiltsuk values and principles over rigid rules and regulations to determine belonging contributes two key things to questions of membership. First, contrary to rigid rules, drawing on values allows for an inherent flexibility and possibility of change through time in a membership code. In other words, a code that is value and process-based, can be changed and adapted when and if needed while maintaining the nation’s core principles to determine membership. Second, a reliance on Heiltsuk values allows for membership processes to be determined more collectively. Heiltsuk values are shared, collective principles in the context of our nation and can be understood to envelop (and to a certain degree, transcend) individual opinions. Thus, by “buying in” to our collective values, members (the collective) grant legitimacy to membership decisions that are derived from our *Gvilás* and Heiltsuk values in general (e.g., the principle that members speak and act correctly).

Finally, deriving membership decisions from Heiltsuk values means that membership choices are not based out of scarcity and a lack of resources because these are not core values of belonging. In a world where the Indian Act and financial issues were not a problem, a Heiltsuk membership code would not detail blood quantum, housing, and residing on reserve as criteria

for belonging. Further, it would not expect members to be Status Indians. Instead, in a world beyond these issues, Heiltsuk membership and belonging could be understood and affirmed through networks of kinship and relationality. For example, in my introduction to this chapter I stated that part of the way I know I am Heiltsuk beyond my status card, is that when I go back to Bella Bella people know who I am and who my parents and grandparents are. When I walk down the street, someone will inevitably say something like, “You’re Dr. Don’s kid” or “Ohhh you’re Liz and Donald’s granddaughter” – usually followed by a story of how they grew up with my dad or used to work with my grandparents. This is an example of the way kinship networks and relationality are manifested in daily life. This is in part how processes of belonging work. There is a practice of mutual recognition and kinship without any question about my blood quantum or whether I have status. To me, this demonstrates the process of determining belonging can be quite simple and informal. Yes, there are politics and legalities to consider, but being recognized and affirmed by fellow Heiltsuk people goes a long way. Ultimately, this demonstrates both the inherent messiness and intangibility of membership and belonging while emphasizing the way these processes still assert self-determination and national boundaries through a reliance on behaviour, kinship, and relationality.

Public Affirmation: Witnessing as Accountability

While membership and belonging are messy and often intangible, there are still concrete legal and political practices that can affirm belonging. I argue that witnessing – as a key tenet of potlatching (and therefore, Heiltsuk legal and political systems) – provides an example of a practice of accountability and public affirmation when it comes to Heiltsuk membership and belonging. A practice of accountability and public affirmation is important for many reasons. First, it provides a way to practice collective decision making and is a way to “claim” members

beyond arbitrary criteria like the ones in the Indian Act. Second, accountability and public affirmation provides a way to exercise boundaries to the nation or to belonging in ways that are not embedded in problematic stereotypes, gendered discrimination, blood quantum, etc. As I outlined in my introductory chapter, Bourassa's claim to Métis identity via custom adoption (with no witnesses) is problematic because there is no mechanism of accountability or process through which to affirm her claims. Thus, I argue the practice of witnessing is a way to put the matrix of relationships that help determine belonging into action and is a way to assert national boundaries in ways that do not maintain the harms caused in current band membership codes and the Indian Act.

Public affirmation and witnessing are key components of many First Nations cultural and political practices and provide a public record of the acceptance of new members. Hunt (2018) describes the act of witnessing during potlaches. Hunt (2018) writes,

During each potlach, payment is given to witnesses for their role in validating what they have seen. Their role of "communal acknowledgement," too, is dependent on them being present, watchful, and involved. Witnessing is part of a larger system of maintaining an oral culture, and just as the role of a dancer or a singer is embodied, so too is the role of the witness...Witnesses can then be called upon to verify what has taken place, particularly if any business or ceremony is questioned in the future. In this way, cultural and political knowledge is kept alive in the bodies, spirits, and minds of everyone who makes up the potlach, including witnesses. (282-283)

The act of witnessing, as is outlined by Hunt, is used in Kwakwaka'wakw potlatch traditions and in many other coastal First Nations (including the Heiltsuk Nation). I argue the act of witnessing (in whatever form that may take place depending on the nation) the acceptance of new members is a way to further legitimize the belonging of new members. In particular, the assertion that witnessing is a safeguard for moments when the nation's business or ceremonies are questioned in the future, is the vital or core component of this public affirmation and witnessing.

Specifically, this safeguard can be used to prevent fraudulent claims whereby one can claim

belonging via the “wild card” of adoption such as in the case of Carrie Bourassa (Lee and Horn-Miller 2018). Hunt (2018) summarizes the importance of witnessing by stating, “Witnessing entails creating knowledge not as solitary actors, but within a network of reciprocal relations” (289). This emphasizes the way witnessing the acceptance of new members directly correlates to the matrix or web of relationships intrinsic to both nationhood and peoplehood, and their combined power within the nationhood + peoplehood framework (Gish Hill 2013; Hancock 2021). In sum, witnessing provides a way to exercise nationhood + peoplehood by activating the network of reciprocal relations that informs a nation’s boundaries, kinship and political systems. Further, witnessing provides a way to ensure the accountability of nations and members in the processes of claiming belonging and being claimed back.

Bridging Theory and Practice: My Family, Adoption, and Belonging

To bring this full circle, I am bringing all of these questions and issues back to my family and the context that informs this thesis. As I outlined in my introduction, my family’s situation is a unique one. With that said, every Indigenous family I know is impacted in some way by these issues of membership and belonging – whether it be through having lost status due to intermarriage, blood quantum, or gendered discrimination, or through other processes such as the sixties scoop or residential schools. The current context regarding membership is dividing families and dis-membering nations (Lee 2015). I spent time outlining my family’s connection and claim to the Heiltsuk Nation. I have outlined the way that the Heiltsuk Nation has leveraged its kinship and political systems to claim by siblings and assert my siblings’ belonging despite the fact that they do not have “Heiltsuk blood.” However, at the same time, the current Heiltsuk membership code will divide my family’s ability to claim membership in the Heiltsuk Nation in the coming generation. My sister, whose fiancé is Heiltsuk and a Status Indian, will be able to

pass on Heiltsuk membership to her children. For myself and my brothers, unless we have children with Status Indians (“preferably” Heiltsuk ones), we will not be able to pass on membership under the current code. This is a stark reminder of the current landscape. While I do not feel that if I choose to have children with a non-Indigenous person that my children will not be Heiltsuk, it is difficult to conceive of the fact that they will not be offered the same legitimacy *as Heiltsuk* as my sister’s children under the current membership code.

With that said, I have witnessed in my siblings’ adoption, in the continuing affirmation of their belonging, and in the strong statements made by Heiltsuk leadership and community members in support of my family that another way of doing things is possible. In enacting a strong understanding of peoplehood and emphasizing our relationships to one another and the responsibilities we hold as members within the kinship networks that make up our Nation, it is clear that belonging and membership does not need to be derived from colonial legislation. In enacting our nationhood through processes such as that of public affirmation in a potlatch or feast, we can maintain boundaries and assert our self-determination in deciding who belongs. My siblings’ claims to belonging and the broader affirmation of their belonging that has been unfolding over the course of their entire lives, shows me that this theory of belonging can be enacted in real, practical ways.

Essentially, in thinking beyond the limitations imposed on us by colonial policies and economic scarcity, Heiltsuk people can simply “be” without needing to abide by stereotypes or settler expectations (Garneau 2016). Adoption is one way of practicing this because adoption activates these networks of relationality and kinship in ways that are not essentialized by blood, biology, or colonial stereotypes of Indigenous identity. Moreover, adoption has been a longstanding legal and political practice that allows nations to care for their own through

networks of communal care. There is a different way of doing things and my family's experience demonstrates a concrete example of this. While I often feel pressure explain myself and my family to every non-Heiltsuk person, we do not have to do that among Heiltsuk people because they simply know and affirm our validity. To me, this is how we can determine belonging through nationhood + peoplehood. This is what it is like to exist in irreconcilable space. And, this is what it means to "re-member" our nation.

Conclusion

The process of determining membership and belonging in First Nations has been corrupted through colonization and the imposition of the Indian Act. Despite attempts to re-assert control over membership and belonging through policies such as Section 10 of the Indian Act, many First Nations continue to promote exclusionary practices when it comes to determining who does and does not belong. For example, two-parent and blood quantum regulations that have been adopted under the guise of regaining control over questions of membership and asserting self-determination, ultimately do a disservice to nations as they lead to the eventual reduction (and taken to the conclusion, the elimination) of their membership. In analyzing the Heiltsuk membership code, I argued that the code adopted under section 10, further entrenched the Indian Act policies into our membership processes rather than disrupting them. However, I drew out certain criteria that work to assert Heiltsuk values and *Gvilás* into the code in determining membership. The emphasis on kinship and responsibilities in the membership code (despite it being highly constrained by the requirement that members be Status Indians) demonstrates the possibility of moving away from colonial policies in the Heiltsuk membership code process.

Next, drawing on the process of "thinking beyond", I explored other ways of understanding membership and belonging. Rather than remaining stuck in what can be perceived

as impossible obstacles to overcome so-long as First Nations remain reliant on federal funding, the exercise of thinking beyond is a way to engage with Irreconcilable Space of Aboriginality and think about what membership and belonging would like in an ideal situation. Garneau (2016) argues that colonization has worked to assume control over all aspects of Indigenous contexts, objects, and spaces. Garneau (2016) writes, “The colonial attitude, the state of mind required to assume control over the space, bodies, objects, trade, and imaginaries of others, begins by refusing the living, relational values of those entities” (25). Garneau (2016) goes on to argue that Irreconcilable Spaces of Aboriginality are one way to refuse this assumed control and reassert Indigenous epistemologies in a way that refuses recognition and legibility in colonial contexts. In thinking beyond the confines of colonial understandings of Indigeneity, and emphasizing the living, relational, and ongoing process that is belonging within an Indigenous nation (the Heiltsuk nation), I have worked to demonstrate that we (Indigenous peoples) do not need to live up to any sort of external expectations or stereotypes for our membership to be legitimate.

Finally, I outlined the process of witnessing (as it is understood in many coastal First Nations’ contexts, including the Heiltsuk context) to demonstrate the importance of accountability and collective affirmation in the process of determining belonging. The membership process is a site of renewal and self-determination. It is where important decisions are made. It is where Indigenous peoples and nations configure themselves, their identity, and their boundaries. Witnessing is one way to maintain legitimacy and national boundaries in the membership process. When membership codes are asserted and understood in a way that does not centre colonial policies and stereotypes, the membership process is a space in which Indigenous peoples can simply “be” without having to abide by continued colonization of their identities and their political and kinship systems.

Conclusion

Processes of colonization have intentionally targeted Indigenous modes of determining belonging, disrupted Indigenous understandings of identity, and dis-membered nations by removing Indigenous nations' agency via the imposition of the Indian Act. This thesis asked: (1) How can Indigenous nations revitalize their membership codes in light of the legacy of the Indian Act? (2) In what ways can the traditions and laws of custom adoption be deployed in membership code renewal? (3) What does it mean to belong (i.e., be a citizen or member) of an Indigenous nation? Each of these questions are deeply interconnected and tie back to the overarching theme of this thesis which is the role of determining belonging in the practice of self-determination and the assertion of autonomy by Indigenous nations.

In my analysis of Indigenous custom adoption, band membership, identity, and belonging, I drew on a personal lens, a lens of kinship and relationality, and a lens of nationhood and peoplehood. Each of these lenses contributed to the development of a theory of belonging that centers Indigenous ways of knowing and being. To briefly summarize, I argued that the nationhood + peoplehood framework is a tool that can be applied to think through processes of determining belonging by shedding light on the internal and external expressions of the nation. Next, I argued that heteropatriarchy as a system of oppression and organization is a primary mechanism through which Indigenous women and 2SLGBTQ+ peoples (and their descendants) are disenfranchised and removed from their communities. Finally, in analyzing the Heiltsuk band membership code, I posited that the code further embedded Indian Act governance. However, I pointed out that in applying the nationhood + peoplehood framework, a more robust

understanding of belonging could be applied and developed. I concluded by drawing out “witnessing” as a mechanism of accountability in questions of membership and belonging. Throughout each of these analyses I drew out the way custom adoption practices demonstrate another way of doing things. In other words, custom adoption practices make these self-determination practices visible and disrupt colonized definitions of Indigenous identity (and membership), by remaining firmly grounded in Indigenous political and kinship systems. Finally, through all of this I aimed to demonstrate that the current landscape surrounding membership and belonging is not inevitable and necessary. Rather, thinking through these questions, despite the difficulties and complexities, is necessary if Indigenous nations are to assert self-determination and revitalize membership and belonging practices.

Discussion and Analysis

So, what are the takeaways of this thesis and analysis? Firstly, the most important conclusion that can be derived from this work is that kinship and relationality are the animating features of belonging and self-determination. It is evident that the continued reliance on external, exclusionary, and colonial policies and definitions are extensions of the genocidal practices of settler colonialism. Each of the issues I have outlined above are derived from membership and belonging practices that are not rooted in traditional ways of determining belonging and are not animated by kinship and relationality. Rather, they are rooted in a landscape of scarcity and colonial violence. When decisions regarding membership and belonging are animated by kinship and relationality they move beyond false dichotomies, fear over financial constraints and resources, and stereotypes about what it means to be “Indigenous” or a member of a First Nation. Kinship and relationality as animating forces allow belonging to be derived from the “matrix of relationships” that makes up a Native nation (Gish Hill 2013, 23). Further, kinship and

relationality as animating features of belonging allow actions to determine belonging through the expectation that members uphold responsibilities, engage in “embodied participation” (Hancock 2021). Essentially, kinship and relationality are the revitalization of processes that colonization attempted to remove via the imposition of the Indian Act and static definitions of Indigeneity. They offer a way to re-assert a national identity and practices of belonging that reject colonized perspectives and legislation by revitalizing kinship as the “glue that binds a people together” (Hancock 2021, 54).

The second key takeaway of this work is that another way of doing things is possible. Often, the issues, messiness, nuances, and complexity of these questions are immobilizing. It is extremely difficult to think beyond what feel like impossible barriers to overcome and consider how we can shift this discourse, these policies, and the continued attacks on Indigenous self-determination vis-à-vis membership and belonging. With that said, every Indigenous person and nation is affected by these issues. Colonization benefits from Indigenous nations not being able to define themselves and determine their membership. Therefore, allowing the complexity to prevent us from thinking through these things ultimately works in favour of the settler state. In drawing on my own family as a form of case study, I demonstrated that it is possible to navigate questions of membership and belonging beyond colonial legislation and colonial legibility. Indigenous nations do not always need to justify questions of membership and belonging to outsiders. The example of my brother and the ANBT shows that it is nations themselves that get to decide who belongs, why they belong, and how they belong. Ultimately my siblings’ adoption and custom adoption writ large are a way to make Indigenous kinship and political systems visible, assert self-determination over belonging beyond colonial criteria, and prioritize kinship and relationality over other boundaries to belonging.

Third and finally, this research should not be taken to mean that boundaries and accountability when it comes to Indigenous identity and belonging are not important. The example of Carrie Bourassa and other “Pretendians” are a stark reminder of the importance of both boundaries and accountability. With that said, I assert that First Nations do not need the exclusionary and problematic colonial definitions and legislation that have been imposed to maintain boundaries and accountability. The nationhood + peoplehood framework demonstrates that it is possible (and necessary) to maintain boundaries to the nation, but that these boundaries can be permeable, flexible, and can adapt to changing circumstances. Further, I brought forth “witnessing” as a theory and practice of accountability. Witnessing, especially witnessing as a tenet of potlach cultures provides a way to uphold boundaries and accountability by offering a safeguard for moments when the nation’s business or ceremonies (e.g., an adoption) are questioned. Moreover, rather than drawing boundaries from external legislation, witnessing is derived from a process of knowledge creation and decision making that exists within a “network of reciprocal relations” (Hunt 2018, 289). Ultimately, this too demonstrates that self-determination can be practiced in a myriad of ways *beyond* colonial legislation and expectations.

Avenues for Future Research

Of course, this short thesis could not be attentive to all of the issues and questions that are relevant to identity, membership, belonging, and custom adoption. This really only touches the surface of these deep-seated and complex issues. The first avenue of future research that was outside the scope of this work is addressing the financial constraints First Nations are faced with when it comes to membership and belonging. How can this issue be eliminated? Why does it continue to be a problem? Are certain nations more affected by financial constraints and why is that the case? Ultimately, figuring out ways to eliminate economic issues as an inherent barrier to

addressing membership codes is imperative to making progress with these issues. Second, this thesis was not attentive to the role of land and non-human kin within the matrix of relationships that make-up a nation. How does considering land and non-human kin shape questions of belonging? What role do land and non-human kin have in animating the nationhood + peoplehood framework? Should membership and belonging include the membership and belonging of non-humans and how would that shape the responsibilities one holds as a member of a nation? Answering these questions would provide a deeper understanding of membership, belonging, and Indigenous nationhood in general. Third, the experiences of two-spirit people and LGBTQ+ individuals with processes of membership and belonging should be further explored. How are two-spirit and LGBTQ+ peoples differently impacted by these issues? Do they face different problems when it comes to membership and passing on membership to their children? In what ways are communities advancing specific forms of queer exclusion? On the flip side, how is queer family making contributing to the revitalization of Indigenous membership and belonging and how do they contribute to the “refusal of heteropatriarchal family formations” (Lee and King 2020, 3)? Fourth and finally, a further exploration of the experiences of Black-Indigenous peoples, membership, and belonging is important. In what ways do Black-Indigenous peoples experience belonging differently? How does anti-Black racism shape their access to community, culture, and membership? Research and discussions around Blackness and Indigeneity are emerging but are important questions to further explore in the context of membership and belonging. These are only a few of the important questions and issues that require further research and analysis in the exploration of band membership and belonging in Indigenous contexts. However, they provide an idea of where this field and topic of study is currently going and what questions still need answers.

Conclusion

I would like to conclude this thesis with a statement my aunt, Pamela Wilson, made a few years ago. Regarding membership and belonging she said: “It’s one of the last things we have left to protect, is who we are, and our way of life, and kinship... and that part of our identity is crucial to our survival” (in *One of Ours* 2021). Indigenous peoples have faced colonization, the attempted erasure of our cultures, politics, kinship systems, identity, and existence. Asserting ourselves and determining who we are on our own terms is crucial to the continuation of our nations and the flourishing of future generations. Ultimately, this is the key message of this research. The current context, the status quo is, in fact, harming our nations. The processes of determining *who we are*, are crucial to our survival, to our self-determination, and to the rejection of colonial ideologies and legislation. Determining who gets to be “one of ours” is the core of Indigenous futurities.

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Appendix A: Letter to Josiah from the All-Native Basketball Tournament²²

January 26 2016

To: Josiah Wilson

RE: **Ineligible to Play in Intermediate Division of 2016 ANBT**

Dear Josiah,

The ANBT Rules Committee unfortunately must inform you of ineligibility for the 2016 ANBT held in Prince Rupert come February 7th.

The following is the first rule for players who are looking to participate in any divisions of the ANBT:

All Players must:

A) Be of **North American Indigenous Ancestry**: i.e.: **1/8th First Nations Ancestry**

Our committee was approached by a resident of Bella Bella that did mention Josiah was adopted the rules indicate a player must have aboriginal ancestry/bloodlines in order to participate in the annual basketball tournament.

A few weeks ago I spoke with Pamela Wilson, she mentioned that Josiah was adopted by the Wilson Family when he was very young. Pamela conveyed to Peter Haugan and I that Josiah was of Haitian Descent.

Josiah, we are very happy that you have been adopted by the Wilson Family into the Heiltsuk Nation; unfortunately at this time we regret to inform you that you are ineligible to play in the 2016 ANBT with the Bella Bella Intermediate Team.

Kind Regards,



Willis Parnell

Chair. ANBT Rules Committee

²² The letter has been previously published publicly in various news sources.

Appendix B: Heiltsuk Band Membership Code

A complete copy of the Heiltsuk band membership code can be found at the following link:

<https://drive.google.com/file/d/1GmwICrm4HTTyWT1AnqY7p63VG9BsQLqP/view>