

**THE KING'S BENCH
Winnipeg Centre**

BETWEEN:

MANITOBA MÉTIS FEDERATION and MANITOBA MÉTIS FEDERATION INC.

Plaintiffs

- and -

THE GOVERNMENT OF MANITOBA and
ATTORNEY GENERAL OF CANADA

Defendants

STATEMENT OF CLAIM

FILED NOV 18 2025

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TO THE DEFENDANTS

A LEGAL PROCEEDING HAS BEEN COMMENCED AGAINST YOU by the plaintiffs. The claim made against you is set out in the following pages.

IF YOU WISH TO DEFEND THIS PROCEEDING, you or a Manitoba lawyer acting for you must prepare a statement of defence in Form 18A prescribed by the *King's Bench Rules*, serve it on the plaintiffs' lawyer or where the plaintiffs do not have a lawyer, serve it on the plaintiffs, and file it in this court office, WITHIN TWENTY DAYS after this statement of claim is served on you, if you are served in Manitoba.

If you are served in another province or territory of Canada or in the United States of America, the period for serving and filing your statement of defence is forty days. If you are served outside Canada and the United States of America, the period is sixty days.

IF YOU FAIL TO DEFEND THIS PROCEEDING, JUDGEMENT MAY BE GIVEN AGAINST YOU IN YOUR ABSENCE AND WITHOUT FURTHER NOTICE TO YOU.

IF YOU PAY THE PLAINTIFF'S CLAIM, and \$100,000 for costs, within the time for serving and filing your statement of defence, you may move to have this proceeding dismissed by the court. If you believe the amount claimed for costs is excessive, you may pay the plaintiff's claim and \$100,000 for costs and have the costs assessed by the court.

Date November 18, 2025 Issued by "E. Pérez"
Deputy Registrar

TO: **THE GOVERNMENT OF MANITOBA**
104 Legislative Building
450 Broadway
Winnipeg, MB R3C 0V8

AND TO: **THE ATTORNEY GENERAL OF CANADA**
Prairie Regional Office – Winnipeg
Department of Justice Canada
400 St. Mary Avenue, Suite 601
Winnipeg, ON R3C 4K5

CLAIM

1. The Plaintiffs claim:
 - (a) a declaration that, as a consequence of the Sixties Scoop, the Defendants breached and continue to breach their constitutional, fiduciary, and/or common law duties owed to the Red River Métis;
 - (b) a declaration that, as a consequence of the Sixties Scoop, the Defendants breached and continue to breach their obligations to the Red River Métis under international conventions and covenants, including the *United Nations Declaration on the Rights of Indigenous Peoples*;
 - (c) a declaration that, as a consequence of the Sixties Scoop, the Defendants breached and continue to breach the linguistic and cultural rights of the Red River Métis, including those rights as they are protected by provincial acts, the *Constitution Act, 1867*, the *Constitution Act, 1982*, and international conventions and covenants;
 - (d) a declaration that the Defendants' breaches of their legal duties and obligations to the Red River Métis have caused and continue to cause irreparable cultural, linguistic and social harm and damage to the Red River Métis as an Indigenous collectivity;
 - (e) a declaration that the Defendants are jointly and severally liable for the collective harms and damages suffered by the Red River Métis as set out in this Statement of Claim;

- (f) non-pecuniary and pecuniary damages in respect of the Defendants' breaches for which they are liable jointly and severally, including amounts for restoring, protecting and preserving the exercise of the linguistic and cultural rights of the Red River Métis;
- (g) punitive and exemplary damages;
- (h) pre-judgment and post-judgment interest pursuant to *The Court of King's Bench Act*, C.C.S.M. c. C280;
- (i) costs of the action on a full indemnity basis; and
- (j) such further and other relief as this Honourable Court deems just and appropriate.

OVERVIEW

2. For several decades during the 20th century, the Government of Manitoba ("**Manitoba**") and the Government of Canada ("**Canada**") caused and/or allowed Indigenous children in Canada to be forcibly removed from their families and placed with non-Indigenous parents, often out of province or in the United States. This period in history has been called the "Sixties Scoop".

3. In 2017, Canada entered into a settlement in a class proceeding relating to the Sixties Scoop and openly acknowledged its role in and its liability for perpetrating the Sixties Scoop and the considerable harms it caused. In announcing the settlement, the former Minister of Crown-Indigenous Relations and Northern Affairs called the Sixties Scoop a "dark painful chapter in Canada's history".

4. The Red River Métis, however, were excluded from that settlement. More than eight years later, no level of government has addressed the harms that were suffered by the Red River Métis as a consequence of the Sixties Scoop.
5. The Manitoba Métis Federation (“**MMF**”) seeks redress on behalf of the Red River Métis for the distinct harms and damages that the Red River Métis suffered as a collectivity because of the Sixties Scoop.
6. The Sixties Scoop resulted in the erosion of Indigenous culture, traditions, language and communities, including that of the Red River Métis. Red River Métis children were seized from their families and placed with non-Indigenous parents, often with families in other provinces or in the United States. These actions broke the connection between Red River Métis children and their families, communities and culture. Their Red River Métis identities were suppressed by their new families and they grew up with little or no connection to their Red River Métis roots.
7. The result was that people were lost to the Red River Métis as a collectivity. The ability to pass on traditional and distinct Red River Métis cultural practices was, for many, irreparably destroyed. The damage caused by the Sixties Scoop to the collective identity and rights of the Red River Métis continued a long history of cultural assimilation and eradication perpetrated by government institutions against Indigenous peoples.
8. Manitoba owed fiduciary and common law duties to the Red River Métis in the context of the Sixties Scoop as a consequence of the central role it played in designing, funding, delivering, and overseeing child welfare services. Manitoba breached those

duties by funding, directing, and overseeing forced apprehensions that placed Red River Métis children outside their communities, and failing to implement standards and exercise oversight to safeguard the preservation of Red River Métis identity and culture.

9. Canada owed the Red River Métis fiduciary and common law duties in the context of the Sixties Scoop as a consequence of its historical relationship with Indigenous peoples and its exclusive jurisdiction under s. 91(24) of the *Constitution Act, 1867*. Canada breached those duties by abandoning its historical and constitutional responsibility to protect Indigenous peoples, pursuing assimilationist policies, and establishing funding arrangements that enabled and encouraged the apprehension of Indigenous children, including Red River Métis children.

10. Canada knew or ought to have known that the provinces, including Manitoba, and their child welfare agencies were removing Red River Métis children from their communities but did nothing to prevent those actions. Canada did nothing because the provinces' actions advanced Canada's policy of assimilating Indigenous peoples, including specifically the Red River Métis, into Euro-Canadian society.

11. The harms and damages experienced by the Red River Métis, as an Indigenous collectivity, are distinct from the harms experienced by the individuals who were subject to the Sixties Scoop and those individuals' families and descendants. A separate action, *Varley v Canada (Attorney General)* ("**Varley**"), is a class proceeding in the Federal Court that seeks redress as against Canada for the individual interests of "non-status Indians" and Métis people who were subject to the Sixties Scoop. This action seeks

redress for the collective harms and damages experienced by the Red River Métis that are separate and distinct from any individual interests.

THE PARTIES

(i) The Red River Métis and the Manitoba Métis Federation

12. The MMF is the national government of the Red River Métis, a recognized rights-bearing Indigenous collectivity.

13. The Red River Métis, also known as the Manitoba Métis, is an “aboriginal people of Canada” within the meaning of section 35 of the *Constitution Act, 1982*.

14. The Red River Métis refers to the historic and modern-day collectivity which emerged from and lived in the historic Northwest. Its territory is commonly referred to as the Red River Métis Homeland. Red River Métis Citizens are individuals who are in the MMF Citizenship Registry.

15. The Red River Métis is a distinct Indigenous people. The Red River Métis has a long history of asserting and protecting its collective rights and identity as a self-governed people.

16. The MMF is the representative body of the Red River Métis. The MMF is a democratically elected national Indigenous government. The MMF is mandated to provide responsible and accountable self-government through its governance systems and institutions as set out in the MMF Constitution, applicable laws, policies, procedures, practices, customs, and traditions, as amended from time to time. It engages with third parties, including governments at all levels, on behalf of the Red

River Métis. The MMF provides community and support programs to Red River Métis Citizens.

17. The collective claims, rights, and interests of the Red River Métis are represented by the MMF. The MMF has legal standing to bring and prosecute claims for harms to these collective Red River Métis claims, rights, and interests.

18. On July 6, 2021, the MMF and Canada executed the *Manitoba Métis Self-Government Recognition and Implementation Agreement* (the “**Self-Government Agreement**”), which immediately recognized the MMF as the democratic representative government of the Red River Métis. It also recognized that Red River Métis Citizens and those that are entitled to become Citizens are “today located within what is now Manitoba as well as elsewhere inside and outside Canada”.

19. The Self-Government Agreement provided for the continued negotiation and conclusion of a Red River Métis Treaty and the passage by Parliament of implementation legislation to give the Treaty the force of law and constitutional protection.

20. The Self-Government Agreement also reflects the MMF’s jurisdiction with respect to child and family services. Paragraph 32 states that “the inherent right of self-government of the Manitoba Métis includes the jurisdiction of the MMF in relation to child and family services, including legislative authority in relation to those services and authority to administer and enforce laws made under that legislative authority”.

21. On November 30, 2024, the MMF and Canada executed the Red River Métis Self-Government Recognition and Implementation Treaty (the “**Treaty**”). The Treaty affirms and builds on the provisions of the 2021 Self-Government Agreement. Once the Treaty has been formally ratified by Canada through federal implementation legislation, it will receive constitutional protection and will replace the 2021 Agreement.

22. The Treaty recognizes and affirms the right of the Red River Métis to self-government. Its preamble states that the “MMF is the recognized government of the Red River Métis and deals with the rights and interests of the Red River Métis”.

23. In paragraph 1, the Treaty defines the MMF as, among other things, “the democratic representative government of the Red River Métis” and notes that the “Red River Métis acts exclusively through the MMF in... exercising its collectively held rights, powers, privileges, Jurisdictions, and other interests, in particular its right to self-determination, including its inherent right of self-government”.

24. The Treaty also provides, at paragraph 65, that the “inherent right of self-government” of the Red River Métis recognized and affirmed by section 35 of the *Constitution Act, 1982* extends to “jurisdiction in relation to child and family services, including legislative authority in relation to those services and authority to administer and enforce laws made under that legislative authority”.

25. Manitoba Métis Federation Inc. (“**MMF Inc.**”) is a body corporate formed out of necessity. It was incorporated in 1967 pursuant to the *Manitoba Corporations Act*, R.S.M. 1987, c. C225, as a company without share capital and subsequently continued in 2023 under the *Canada Not-for-Profit Corporations Act*, S.C. 2009, c. 23. The MMF

was required to incorporate MMF Inc. because, at the time, the federal government and other institutions refused to deal with the MMF unless it was incorporated. The MMF currently includes MMF Inc. Unless otherwise stated, all references to the MMF include reference to MMF Inc.

26. This claim is brought on behalf of the Red River Métis collectivity for the collective harms it suffered due to the Sixties Scoop.

(ii) Manitoba

27. The Government of Manitoba is the entity against which proceedings against Manitoba are brought pursuant to *The Proceedings Against the Crown Act*, C.C.S.M. c. P140. Accordingly, references to Manitoba in this Statement of Claim include the provincial Crown, the Government of Manitoba, and employees and servants of the provincial Crown and the Government of Manitoba.

28. During the period of the Sixties Scoop, Manitoba had constitutional, legislative, and *de facto* jurisdiction and control over child welfare and adoption within the province, including provincial Children's Aid Societies or related agencies ("**CASs**").

29. Manitoba is vicariously liable and/or has legal responsibility for the acts and omissions of its employees, servants and agents. This includes the actions of CASs under Manitoba's jurisdiction and control that were operating in Manitoba during the period of the Sixties Scoop.

30. At all times, Manitoba owed the Red River Métis fiduciary, constitutional, statutory, and common law duties.

(iii) Canada

31. The Attorney General of Canada is the entity against which proceedings against Canada are brought pursuant to the *Crown Liability and Proceedings Act*, R.S.C. 1985, c. C-50. References to Canada in this statement of claim include the federal Crown, the Government of Canada, and employees and servants of the federal Crown and the Government of Canada.

32. Canada is vicariously liable and/or has legal responsibility for the acts and omissions of its employees, servants and agents.

33. At all times, Canada owed the Red River Métis fiduciary, constitutional, statutory, and common law duties.

THE SIXTIES SCOOP AND THE RED RIVER MÉTIS**(i) The Sixties Scoop was carried out by provincial CASs**

34. For several decades during the 20th century, it was common practice for CASs – in Manitoba and across Canada – to remove Indigenous children from their homes and place them for adoption or foster care with non-Indigenous families, and often families outside of their home province and/or in the United States. That practice is now referred to as the Sixties Scoop, although in Manitoba that practice started in the 1950s, and potentially earlier.

35. For example, in the 1950s, the Manitoba government and provincial CASs directly engaged with American Catholic welfare agencies in Minnesota to make arrangements for placing Indigenous children in care in Manitoba in American homes.

In correspondence with the Minneapolis Catholic Welfare Association, the Manitoba Supervisor of Child Welfare Services referred to children that were “part Indian” and of “part Indian origin” and “with varying degrees of Indian characteristics”. The correspondence also stated that the “larger percentage” of these children were Catholic. Given Red River Métis are of mixed ancestry and predominantly Catholic, the children referred to in these letters were almost certainly Red River Métis.

36. CASs across Canada, including in Manitoba, continued the practice of “scooping” Indigenous children throughout the 1960s, 1970s and into the early 1980s.

37. The removal of Red River Métis children from their families was due to a mixture of factors including:

- (a) government policy aimed at assimilating Indigenous people and their children into Euro-Canadian culture;
- (b) CAS caseworkers and government policymakers who held the discriminatory belief that Red River Métis families, values and culture were inferior to Euro-Canadian families, values and culture, particularly with respect to child-rearing practices;
- (c) provincial child welfare legislation that intentionally and unfairly targeted Indigenous families;
- (d) the impoverished circumstances of many Red River Métis families caused by historical wrongs committed against the Red River Métis; and
- (e) the impact of residential and day schools.

38. Manitoba and other provincial CASs justified seizing Red River Métis children based on Euro-Canadian assumptions about appropriate child-rearing practices. For instance, there were instances of social welfare agents assuming Red River Métis children were left unattended because they failed to recognize traditional Red River Métis community-based child-rearing in which the extended family would share responsibility for raising children.

39. The effect of the Sixties Scoop was the significant loss of Red River Métis traditional identity, culture, and language.

(ii) Manitoba knew or ought to have known about the Sixties Scoop

40. Throughout the period of the Sixties Scoop, social services for the Red River Métis in Manitoba were funded and delivered by the province. Child welfare services in Manitoba were delivered by the province through CASs, and the Red River Métis were always included in the population to whom those services were delivered.

41. Throughout the period of the Sixties Scoop, CASs in Manitoba were under the jurisdiction, control, and direction of Manitoba. They reported to and were accountable to Manitoba.

42. Accordingly, Manitoba at all relevant times knew or ought to have known that its provincial CASs were removing Red River Métis children from their homes and placing them outside of their communities, and that the removed children and the Red River Métis collectivity as a whole were suffering harms as a result.

(iii) Canada's role in the Sixties Scoop in relation to the Red River Métis

43. Since Confederation, Canada has consistently refused to provide social services to the Red River Métis, although it had the jurisdiction to do so under s. 91(24) of the *Constitution Act, 1982*. Instead, Canada left the delivery of social services, including child welfare services, to the provinces.

44. Canada's refusal to provide social services to Red River Métis people, including child welfare services, was one method employed by the federal Crown to implement its long-standing policy of assimilation and integration. Canada believed that Indigenous people, and particularly the Red River Métis because of their European ancestry, were better served and would benefit from assimilating with Canadian society, adopting Euro-Canadian culture, practices, identity, and way of life, and, in turn, abandoning their traditional way of life. By leaving the delivery of services to the provinces, Canada was imposing its view that the Red River Métis should be treated "the same" as other Canadians and did not need, and would not benefit from, distinct treatment.

45. In some cases, the scooping of Indigenous children was undertaken by provincial CASs pursuant to bilateral agreements between Canada and the provinces, including Manitoba. In exchange, Canada reimbursed the provinces the *per diem* costs of these "services".

46. While the bilateral agreements did not explicitly apply to Red River Métis children, the agreements encouraged Manitoba and other provincial CASs to scoop Indigenous children—including Red River Métis children—at disproportionately high

rates. CASs, supported by Canada's funding, apprehended Indigenous children without distinguishing between First Nations and Red River Métis children.

47. Canada's actions and omissions caused or contributed to the Sixties Scoop, including specifically the scooping of Red River Métis children, and the harms suffered by those children and, in turn, the Red River Métis collectivity.

(iv) Manitoba ends out of province adoptions and orders inquiry

48. In the 1970s, Indigenous activists began actively opposing the practice of scooping Indigenous children and placing them outside of their home community.

49. For example, in 1971, Métis activists called the "Métis Society" undertook a public campaign to make known that non-Indigenous foster parents failed to accept Métis identity. They argued that adoption programs were detrimental to the Métis community, and that the child welfare system was repressive and discriminatory towards the Métis.

50. In response to public pressure, provinces began terminating out of province adoptions for Indigenous children. Manitoba, however, ignored this activism and call to action, and Manitoba's CASs continued to seize Indigenous children at disproportionate rates.

51. As of 1982, Manitoba was the only province in Canada that still allowed Indigenous children to be adopted outside of Canada. That year, the Manitoba government finally ordered a stop to out of province adoptions of Indigenous children. At the same time, the province appointed Associate Chief Judge Edwin Kimelman of

the Provincial Court, Family Division, to lead an inquiry into the treatment of Indigenous people within the child welfare system.

52. By the time Manitoba finally put an end to out of province adoptions of Indigenous children, thousands of Red River Métis children had fallen victim to the Sixties Scoop.

53. The precise number of Red River Métis children who were scooped, however, is impossible to know. Unlike First Nations children, Red River Métis children were not recognized by the defendants as distinct and instead viewed and treated as simply another minority group within the broader provincial population. As a result, the CASs made no effort to track or document the removal and placement of Red River Métis children separate and apart from other children.

(v) The Kimelman report: Sixties Scoop was “cultural genocide”

54. Justice Kimelman’s inquiry was lengthy and extensive. He released his final report, *No Quiet Place*, in 1985. The report made numerous observations and conclusions, including:

- (a) the decades-long practice of removing Indigenous children from their communities was “cultural genocide”;
- (b) “All available information would indicate that the Indian people were correct in their assertions that once their children entered the child care system they were not likely to ever be returned to their own families. The evidence would indicate they were correct in their claim that not only were

those children lost to their own communities, the lives of the individual children were seriously and permanently impaired”;

- (c) “The Director of Child Welfare had the authority to develop standards for child welfare services and to ensure agencies are acting accordingly but the Director has not exercised that authority”;
- (d) “The Children’s Aid Society of Winnipeg had no positive characteristics that could be identified. There was no evidence of cost efficiency or program effectiveness. Staff tensions were evident and morale low. Relationships with the client and the professional communities had not been developed or were negative”;
- (e) “In 1982, no one, except the Indian and Métis people, really believed the reality—that Native children were routinely being shipped to adoption homes in the United States and to other provinces in Canada. Every social worker, every administrator, and every agency or region viewed the situation from a narrow perspective and saw each individual case as an exception, as a case involving extenuating circumstances. No one fully comprehended that 25% of all children placed for adoption were placed outside of Manitoba. No one fully comprehended that virtually all those children were of Native descent. No one comprehended that Manitoba stood alone amongst all provinces in this abysmal practice”.

THE SIXTIES SCOOP CAUSED PROFOUND HARM TO THE RED RIVER MÉTIS COLLECTIVITY

55. Manitoba and Canada knowingly allowed, funded, directed, oversaw and otherwise contributed to the Sixties Scoop to promote their own racist, colonial, Euro-Canadian values. Among other things, the Sixties Scoop was intended to, and did:

- (a) erase Red River Métis identity, culture, and language and replace them with Euro-Canadian identity, culture, and language;
- (b) reduce the number of individuals identifying as Red River Métis, which would commensurately reduce Manitoba's and Canada's obligations to Red River Métis people and communities; and
- (c) break the connection between Red River Métis children and the community, and to weaken the Red River Métis by removing Red River Métis children from their Indigenous community.

56. The Sixties Scoop caused, and continues to cause, profound harm to the Red River Métis.

57. For the Red River Métis, its language, cultural practices, songs, dances, oral histories, and stories are an integral part of its culture and society. The preservation and cultivation of Red River Métis culture requires the Red River Métis to be able to pass these important elements down to its children.

58. Language was and remains an especially critical part of the intergenerational transfer of Red River Métis culture. Michif is the language that historically was primarily

spoken by Red River Métis, and is a means by which the cultural, ecological and historical knowledge and experience of the Red River Métis is understood and conveyed between generations. Red River Métis Elders have traditionally transmitted cultural knowledge to younger generations through oral tradition.

59. The Sixties Scoop disrupted the process of intergenerational cultural transfer. By breaking the connection between Red River Métis children and their Red River Métis families and community, the Sixties Scoop made it difficult or impossible to teach Red River Métis children vital components of Red River Métis culture, including Michif, government practices, harvesting, trapping, cooking, fiddling, jigging, weaving, and beadwork.

60. As a result of the Sixties Scoop, Red River Métis Elders were precluded from, among other things, sharing their stories with young Red River Métis children, teaching them Michif, and passing on the rich oral tradition contained within Michif. Michif is now an endangered language. Most Red River Métis are unable to converse in Michif, and it is at serious risk of permanent loss.

61. As a result of the Sixties Scoop, generations of Red River Métis people were unable to hand down and teach Michif and Red River Métis cultural practices to their children, which has created a lasting, permanent and on-going harm to the Red River Métis.

62. Red River Métis children who were subject to the Sixties Scoop were disconnected from their Red River Métis identity. The Manitoba and other provincial CASs placed these Red River Métis children in non-Métis households, where they were

denied the opportunity to learn and practice Red River Métis culture, speak Michif, or foster their connection with their community. Red River Métis children placed in non-Métis households were often unaware of their Red River Métis identity or taught to reject their identity.

63. The targeted actions of the CASs during the Sixties Scoop pushed the Red River Métis to hide their identity out of fear. Identifying as Métis increased the likelihood of interference in families by the CASs. As a result, the Red River Métis suppressed their identity, refraining from practicing Red River Métis culture and traditions, speaking Michif, or passing Red River Métis culture and traditions and Michif to their children. This suppression of Red River Métis identity caused or contributed to a collective loss of language and culture.

MANITOBA AND CANADA APOLOGIZE FOR SIXTIES SCOOP

64. On June 18, 2015, the Government of Manitoba formally apologized for its role in the Sixties Scoop. Then-Premier Greg Selinger acknowledged that the impact of the Sixties Scoop continues today:

The Sixties Scoop must now be recognized for the harm it caused and continues to cause. Many of the adoptees experienced profound shocks as they lost their heritage, language, families and their identity. Many of those who later returned to their communities as adults found it equally challenging trying to rebuild their relationships and connect with their culture.

Today, as Premier, I would like to apologize on behalf of the Province of Manitoba for the Sixties Scoop – the practice of removing First Nation, Métis and Inuit children from their families and placing them for adoption in non-Indigenous homes, sometimes far from their home community and for

the losses of culture and identity to the children and their families and communities.

...

It was a practice that has left intergenerational scars and cultural loss. With these words of apology and regret, I hope that all Canadians will join me in recognizing this historic injustice. I hope they will join me in acknowledging the pain and suffering of the thousands of children who were taken from their homes.

In closing, I would like to once again apologize, on behalf of the Province, to the innocent children and their families for this practice that in the words of the Truth and Reconciliation Commission removed thousands of Aboriginal children from their families and communities and placed them in non-Aboriginal homes without taking steps to preserve their culture and identity.

65. That same week, Manitoba opened up its provincial adoption records “to ensure they are more accessible to survivors of the Sixties Scoop along with other adoptees”.

66. On February 1, 2017, the Honourable Carolyn Bennett, serving at the time as the federal Minister of Crown-Indigenous Relations and Northern Affairs, announced the launch of negotiations towards a national resolution of Sixties Scoop litigation. In a statement, Minister Bennett acknowledged that the Sixties Scoop “is a dark and painful chapter in Canada’s history”.

MANITOBA AND CANADA OWED FIDUCIARY DUTIES TO THE RED RIVER MÉTIS

67. In *Manitoba Métis Federation v Canada (Attorney General)*, the Supreme Court of Canada confirmed that the relationship between the Red River Métis and the Crown, viewed generally, is fiduciary in nature.

68. Both Manitoba and Canada owed fiduciary duties to the Red River Métis collectivity with respect to the actions and omissions that gave rise to the Sixties Scoop. Both Manitoba and Canada (i) assumed discretionary control over an Aboriginal interest of the Red River Métis collectivity, namely its collective interest in preserving and continuing Red River Métis identity and culture; and (ii) undertook to protect and preserve Red River Métis identity and culture.

(i) Manitoba assumed discretionary control over Red River Métis identity and culture through its control over child welfare services

69. The Red River Métis had a specific, cognizable Aboriginal interest in raising Red River Métis children according to Red River Métis traditions and in Red River Métis families and communities, keeping Red River Métis people connected to the broader Red River Métis community, and in preserving, protecting, and promoting Red River Métis identity and culture.

70. Manitoba assumed discretionary control over those Aboriginal interests through its legislated authority over child and family services and its direction and control of the CASs that carried out those services. It was Manitoba, through its employees, officers, and agents, that made decisions regarding the apprehension, placement, and adoption of Red River Métis children throughout the period of the Sixties Scoop that resulted in their exclusion from Red River Métis communities and that caused harm to the Red River Métis collectivity.

(ii) Manitoba undertook to protect the Red River Métis' collective interest in identity, culture and language

71. Manitoba also undertook, expressly or impliedly, to protect the collective interests of the Red River Métis to identity, culture, and language. That undertaking arises out of, among other things, Manitoba's long-standing historical and constitutional relationship with the Red River Métis, its obligations pursuant to the honour of the Crown, and the legal obligations of the province and its agents to act in the best interests of the child in the delivery of child welfare services, which necessarily included preserving their connection to their traditional community.

(iii) Canada undertook to protect the lives of Indigenous peoples, which necessarily includes protection of their identity and culture

72. The federal Crown undertook to protect Indigenous peoples' culture, identity and way of life. That undertaking dates back to before Confederation. In the *Royal Proclamation* of 1763, the Crown affirmed that Indigenous peoples "live under [the Crown's] protection and that they "should not be molested or disturbed" in the possession of their traditional lands.

73. The federal Crown's self-imposed mandate to protect Indigenous peoples informed and was brought forward in subsequent constitutional enactments, including the following:

- (a) section 91(24) of the *Constitution Act, 1867* which gave the federal Crown jurisdiction over "Indians", the purpose of which was, among other things, to protect Indigenous peoples against local settlers and provincial governments;

- (b) the *Manitoba Act, 1870*, which was passed, in part, to resolve the armed conflict that arose as a result of the influx of settlers who sought to settle the area inhabited by the Red River Métis and who threatened their traditional way of life; and
- (c) section 25 of the *Constitution Act, 1982* which expressly affirms the *Royal Proclamation*.

74. The federal Crown's undertaking to protect the lives of Indigenous peoples included the protection and preservation of Indigenous culture and identity. Culture and identity go to the core of personhood. Canada could not fulfil its undertaking to protect the lives of Indigenous peoples without protecting their culture and identity.

(iv) Canada assumed discretionary control over Red River Métis identity and culture through its policy of assimilation

75. Canada assumed discretionary control over Red River Métis interests in culture and identity through its long-standing policy of assimilation. Canada, since the earliest days of Confederation, pursued assimilation under the mistaken belief that it was in the best interests of Indigenous peoples, and in particular the Red River Métis, to subsume them into European culture and eliminate their pre-existing Indigenous culture, identity, and way of life.

76. Prime Minister Sir John A. MacDonald made numerous public statements declaring Canada's dogged commitment to assimilation:

- (a) “These impulsive half breeds have got spoilt by their émeute, and must be kept down by a strong hand until they are swamped by the influx of settlers” (1870, referring to the Red River Resistance);
- (b) “...Indian children should be withdrawn as much as possible from the parental influence, and the only way to do that would be to put them in central training industrial schools where they will acquire the habits and modes of thought of white men” (1879, referring to the creation of industrial/residential schools); and
- (c) “The great aim of our legislation has been to do away with the tribal system and assimilate the Indian people in all respects with the other inhabitants of the Dominion as speedily as they are fit to change” (1887, referring to residential schools).

77. Over the years, Canada pursued its assimilationist agenda in a variety of ways, including by intentionally leaving the provision of social services to the Métis, including child welfare services, to the provinces. Canada knew or ought to have known it had jurisdiction under s. 91(24) of the *Constitution Act, 1867* to involve itself in the supply of child welfare services to the Métis but deliberately chose not to exercise that jurisdiction. Instead, Canada sought to assimilate the Red River Métis by leaving them to the care of the provinces to be treated like “other Canadians” without recognizing them as having any distinct status.

MANITOBA AND CANADA OWED DUTIES OF CARE TO THE RED RIVER MÉTIS**(i) Manitoba's duty of care to the Red River Métis collectivity**

78. Manitoba owed a duty of care to the Red River Métis collectivity with respect to:
- (a) the delivery of child welfare services;
 - (b) the removal/apprehensions of children from their families and communities;
 - (c) the placement of apprehended children with non-Red River Métis adoptive parents and foster homes; and
 - (d) addressing the impact of removal and placement for the affected children and families and the Red River Métis collectivity.
79. Manitoba funded, controlled, supervised and was ultimately responsible for the delivery of child welfare services to the Red River Métis. The provincial CASs who delivered child welfare services to the Red River Métis, and who carried out the removal of Red River Métis children from their homes and communities, were operated under Manitoba's direction and control, reported to Manitoba and were ultimately accountable to Manitoba.
80. Manitoba knew or ought to have known, and it was reasonably foreseeable, that apprehending Red River Métis children from their families and communities and placing them with non-Red River Métis adoptive or foster families carried the significant risk of a loss of language, culture and identity for the children, their families and the Red River Métis collectivity.

81. In fact, Manitoba intended for that outcome to occur, as it was part of Manitoba's view that Indigenous people and children were better off assimilating into Euro-Canadian society and abandoning their traditional culture, customs, traditions, and way of life. Alternatively, even if Manitoba did not expressly intend for that outcome, Manitoba showed reckless disregard for the consequences of the actions of its CASs because it was indifferent to the continuation and growth of Red River Métis culture and way of life.

(ii) Canada's duty of care to the Red River Métis collectivity

82. Canada similarly owed a duty of care to the Red River Métis collectivity with respect to:

- (a) the delivery of child welfare services;
- (b) the removal/apprehensions of children from their families and communities;
- (c) the placement of apprehended children with non-Red River Métis adoptive parents and foster homes; and
- (d) addressing the impact of removal and placement for the affected children and families and the Red River Métis collectivity as a whole.

83. Canada's duty of care is based on, among other things:

- (a) Canada's jurisdiction over Indigenous peoples, including the Red River Métis, under s. 91(24) of the *Constitution Act, 1867*. One of the purposes

of s. 91(24) was to protect Indigenous peoples from the provinces.

Canada knew or ought to have known that it had the power to legislate and take action regarding the delivery of child welfare services and to prevent or mitigate the harms caused by the actions of provincial CASs during the Sixties Scoop;

- (b) Canada's obligations pursuant to the honour of the Crown; and
- (c) Canada's long-standing historical and constitutional relationship with Indigenous peoples, which has already been recognized as establishing a relationship of proximity between Indigenous peoples and the federal Crown, and which includes Canada's commitment and undertaking to protect the lives of Indigenous people.

MANITOBA AND CANADA BREACHED THEIR DUTIES TO THE RED RIVER MÉTIS

84. As a result of Manitoba's and Canada's fiduciary and common law duties owed to the Red River Métis, Manitoba and Canada were and remain:

- (a) obligated to act with the utmost loyalty to and in the best interests of the Red River Métis;
- (b) responsible for the health and welfare of the Red River Métis;
- (c) obliged to uphold the honour of the Crown in all of their dealings with the Red River Métis;

- (d) required to consult with the MMF on matters relevant to the interests of the Red River Métis;
- (e) required to be aware of policies and practices of provincial and territorial governments that may cause harm to the Red River Métis;
- (f) required to prevent policies and practices of provincial and territorial governments that may cause harm to the Red River Métis; and
- (g) required to remediate harms suffered by the Red River Métis that were caused by the policies and practices of provincial and territorial governments.

85. In the context of the Sixties Scoop, these duties meant that Manitoba and Canada had the additional duties and responsibilities to:

- (a) preserve and protect family units, including those of the Red River Métis;
- (b) preserve and protect the culture of the Red River Métis, including the Michif language, traditional foods, harvesting, trapping, songs, dances, clothing, and artistry;
- (c) monitor, safeguard, secure and otherwise protect the vital interests of vulnerable Red River Métis children and, in particular, their cultural identity, which is fundamental to the security, welfare and survival of Red River Métis persons and the Red River Métis itself;

- (d) respect the Aboriginal rights of the Red River Métis, including but not limited to its right to engage in and practice its traditional way of life; and
- (e) take corrective and remedial steps to restore and rehabilitate Red River Métis language and culture, and to assist the Red River Métis in doing so.

86. These duties are owed by Manitoba and Canada to the Red River Métis collectivity, and are distinct, separate and apart from any duties owed by Manitoba and Canada to individual Red River Métis persons.

87. Manitoba and Canada breached their fiduciary and common law duties to the Red River Métis collectivity by, among other things:

- (a) directing, permitting, and/or failing to prevent the removal of Red River Métis children from their families and communities;
- (b) directing, permitting, and/or failing to prevent the placement of those children with non-Red River Métis adoptive parents or foster care families;
and
- (c) failing to take any steps to prevent or mitigate the collective harms suffered by the Red River Métis collectivity caused by the apprehension and placement of Red River Métis children, including:
 - (i) disruption to, and in many cases the destruction of, Red River Métis family units;

- (ii) irreparable damage to the intergenerational transfer of Red River Métis culture and traditions, including the Michif language, traditional foods, harvesting, trapping, songs, dances, clothing, and artistry;
- (iii) the permanent loss of Red River Métis people from the Red River Métis collectivity; and
- (d) failing to take remedial steps to restore and rehabilitate Red River Métis language and culture, and failing to assist the Red River Métis in doing so.

DEFENDANTS BREACHED INTERNATIONAL LAW OBLIGATIONS TO THE RED RIVER MÉTIS

88. Manitoba and Canada have, at all material times, committed themselves to honour international law in relation to the treatment of their people. These obligations form minimum commitments to the Red River Métis, which have been breached.

89. Manitoba's and Canada's conduct in respect of the Sixties Scoop includes the failure to comply with the terms and spirit of the *Convention on the Prevention and Punishment of the Crime of Genocide*, 78 U.N.T.S. 277, entered into force January 12, 1951, and the *United Nations Declaration on the Rights of Indigenous Peoples*, G.A. Res. 61/925, U.N. Doc. A/RES/61/295 (September 13, 2007), 46 I.L.M. 1013 (2007) ("**UNDRIP**").

90. Article II of the Convention on the Prevention and Punishment of the Crime of Genocide states:

In the present Convention, genocide means any of the following acts committed with intent to destroy, in whole or in part, a national, ethnical, racial or religious group, as such:

...

(b) Causing serious bodily or mental harm to members of the group;

(c) Deliberately inflicting on the group conditions of life calculated to bring about its physical destruction in whole or in part;

...

(e) Forcibly transferring children of the group to another group.

91. The Sixties Scoop satisfies the definition of genocide. Manitoba and Canada intended, caused, allowed, facilitated, and/or contributed to the forcible removal of Red River Métis children from Red River Métis families and placement of them with non-Indigenous families.

92. By engaging in the intentional destruction of the culture of Red River Métis children and communities, Manitoba and Canada caused profound, permanent and on-going cultural injuries to the Red River Métis. The Sixties Scoop deliberately inflicted on the Red River Métis conditions of life calculated to bring about its physical destruction. It did so by intentionally interfering with the ability of the Red River Métis as an Indigenous collectivity to share its culture with its children and by creating an atmosphere of fear that resulted in Red River Métis hiding their collective Indigenous identity.

93. Manitoba and Canada also breached various Articles of UNDRIP, including, but not limited to, Article 7(2) which states:

Indigenous peoples have the collective right to live in freedom, peace and security as distinct peoples and shall not be subjected to any act of genocide or any other act of violence, including forcibly removing children of the group to another group.

94. Manitoba and Canada allowed the forcible and intentional removal of Red River Métis children from Red River Métis families, and the placement of those children with non-Indigenous families, breaching their international law obligations under UNDRIP.

95. The MMF also pleads and relies on the Preamble and Articles 1-15, 17-28, 31, 33-46 of UNDRIP.

96. Manitoba's and Canada's obligations under international law inform their common law, statutory, fiduciary, constitutionally mandated and other duties, and a breach of the aforementioned international obligations is evidence of, or constitutes on its own, a breach under domestic law.

97. On June 21, 2021—National Indigenous Peoples Day—the *United Nations Declaration on the Rights of Indigenous Peoples Act*, S.C. 2021, c. 14 (the "**Act**") received royal assent incorporating UNDRIP into the country's domestic positive law.

98. Section 4(a) of the Act states that one of its purposes is to "affirm the Declaration as a universal international human rights instrument with application in Canadian law".

99. Article 8(2)(d) of UNDRIP requires states, including Canada, to provide effective mechanisms for redress for "any form of forced assimilation or integration". Canada has not fulfilled, and continues to fail to fulfil, this obligation for the harms perpetrated on the Red River Métis as an Indigenous collectivity by the Sixties Scoop.

100. In *The Path to Reconciliation Act*, C.C.S.M. c. R30.5, Manitoba confirmed its “commit[ment] to reconciliation”, which “will be guided by the calls to action of the Truth and Reconciliation Commission and the principles set out in the United Nations Declaration on the Rights of Indigenous Peoples and the calls for justice of the National Inquiry into Missing and Murdered Indigenous Women and Girls”. *The Path to Reconciliation Act* defines “Reconciliation” as “the ongoing process of establishing and maintaining mutually respectful relationships between Indigenous and non-Indigenous peoples in order to build trust, affirm historical agreements, address healing and create a more equitable and inclusive society”.

DEFENDANTS BREACHED THE ABORIGINAL RIGHTS OF THE RED RIVER MÉTIS

101. The Red River Métis has exercised its own laws, and practiced its own customs and traditions integral to its distinctive society prior to European control. The Red River Métis has sustained its distinctive culture by speaking Michif and practicing its customs and traditions.

102. As a result of Manitoba’s and Canada’s roles in the Sixties Scoop, the Red River Métis was denied the ability to exercise and enjoy its Aboriginal rights in the context of its collective expression, some particulars of which include, but are not limited to:

- (a) cultural and traditional activities have been lost or impaired;
- (b) traditional social structure has been lost or impaired;
- (c) Michif has been impaired;
- (d) traditional family structures have been lost or impaired; and

- (e) Red River Métis skills for gathering, harvesting, trapping and preparing traditional foods have been lost or impaired.

103. Manitoba and Canada have at all material times had, and continue to have, a duty to respect, honour and protect the collective Aboriginal rights and interests of the Red River Métis, and an obligation not to undermine or interfere with these rights and interests. Manitoba and Canada failed in these duties, without justification, through their role in the Sixties Scoop. Manitoba and Canada therefore breached the collective Aboriginal rights and interests of the Red River Métis and caused the Red River Métis cultural, linguistic and social harm.

DAMAGES SUFFERED BY THE RED RIVER MÉTIS

104. As a consequence of Manitoba's and Canada's breaches of their duties and obligations to the Red River Métis, the Red River Métis has suffered injury and damages, including but not limited to:

- (a) deprivation of Red River Métis culture, customs, traditions, and language;
- (b) deprivation of Red River Métis identity;
- (c) forced cultural assimilation;
- (d) deprivation of family and familial relations;
- (e) deprivation of one's ability to pass one's culture and identity on to one's children;
- (f) social dysfunctionality and alienation from family, spouses and children;

- (g) harm to the Red River Métis collective consciousness as a result of physical, sexual and psychological abuse and trauma suffered by the Red River Métis survivors of the Sixties Scoop;
- (h) pain and suffering; and
- (i) deprivation of the ability to fully exercise the Red River Métis' collective Aboriginal rights.

105. Manitoba and Canada are liable to the Red River Métis, jointly and severally, for compensation in respect of these collective injuries and damages suffered by the Red River Métis.

PUNITIVE AND EXEMPLARY DAMAGES

106. Manitoba and Canada deliberately participated in, directed, funded and/or planned the policies and practices that gave rise to the Sixties Scoop, and supported the policies and practices developed by CASs that gave rise to the Sixties Scoop. They knew or ought to have known that these policies and practices would lead to the eventual eradication of Red River Métis identity, culture and language.

107. Manitoba's and Canada's actions in connection with the Sixties Scoop were malicious and intended to cause harm, or they were wilfully ignorant and showed reckless disregard for the harms caused by their actions and omissions. In the circumstances, punitive and exemplary damages are appropriate and necessary.

RELEVANT LEGISLATION AND REGULATIONS

108. The Plaintiffs plead and rely upon the:

- (a) *Constitution Act, 1867*, 30 & 31 Victoria, c. 3 (U.K.);
- (b) *Constitution Act, 1982*, being Schedule B to the *Canada Act 1982* (UK), 1982, c. 11;
- (c) *Manitoba Act, 1870*, S.C. 1870, c. 3;
- (d) *Crown Liability and Proceedings Act*, R.S.C. 1985, c. C-50;
- (e) *Indigenous Languages Act*, S.C. 2019;
- (f) *Crimes Against Humanity and War Crimes Act*, S.C. 2000, c. 24;
- (g) *United Nations Declaration on the Rights of Indigenous Peoples Act*, S.C. 2021, c. 14;
- (h) *The Proceedings Against the Crown Act*, C.C.S.M. c. P140
- (i) *The Path to Reconciliation Act*, CCSM c R30.5;
- (j) *The Aboriginal Languages Recognition Act*, C.C.S.M. c. A1.5;
- (k) *An Act respecting Child and Family Services (Indigenous Jurisdiction and Related Amendments)*, S.M. 2023, c. 26;
- (l) *An Act respecting Child and Family Services (Indigenous Jurisdiction and Related Amendments)*, S.M. 2024, c. 36; and
- (m) such further and other legislation and regulations as counsel may advise.

109. The Plaintiffs therefore claim the relief described in paragraph 1.

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